

## Summary Sheet

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**Meeting dates:** April 13, 2018

**Agenda item:** Geoduck Diver License Application and Issuance Process

**Presenter(s):** Trisha Anderson, Business Analyst, Licensing Division  
Bob Sizemore, Puget Sound Shellfish Manager, Fish Program

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**Background summary:**

- The drawing process for new applicants explained in WAC 220-340-070 is ambiguous, so the Department is proposing changes to clarify the drawing and first come first serve process.
  - New applicants cannot receive a geoduck diver license unless not all 77 of the current geoduck divers renew. Therefore, the Department is proposing to keep the renewal applicant deadline for December 31<sup>st</sup> and to change the new applicant deadline to January 10<sup>th</sup>. Moving out the new applicant deadline allows them to find out if new licenses will be available before applying.
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**Staff recommendation:**

The changes clarify and improve the new applicant process.

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**Policy issue(s) and expected outcome:**

Proposing to amend WAC 220-340-070:

- Updating DFW Licensing contact information
  - Changing the deadline for new applicants
    - Current deadline is December 31<sup>st</sup>
    - Keeping December 31<sup>st</sup> for renewal applicants
    - Changing deadline for new applicants to January 10<sup>th</sup>
    - Holding a drawing 10 business days after January 10<sup>th</sup> for new applicants
  - Clarifying how we issue new licenses
    - When not all 77 licenses are renewed, new licenses become available
    - Depending on how many new licenses are available, we will hold a drawing or issue licenses 10 business days after January 10<sup>th</sup>
    - In the event that licenses remain after the initial drawing, we will issue licenses (first come first serve) or hold a drawing depending on if multiple applicants exceed available licenses
  - Improving the fee collection process for new applicants
    - Currently, fees for the application and license are collected by the Dec 31st deadline for new applicants
    - The revised Jan 10th deadline allows the new applicant to find out if new licenses will be available before applying
    - The license fee is only required if the new applicant is selected
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**Fiscal impacts of agency implementation:**

Reduces the amount of refunds on application fees and license fees we need to process, since new applicants are able to find out if new licenses will be available before applying. New applicants would also only need to pay the license fee if selected for a license.

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**Public involvement process used and what you learned:**

- Published a CR-102 on August 18<sup>th</sup>, 2017
- Sent letters to Geoduck Divers on September 22<sup>nd</sup>, 2017 about proposed WAC changes and October 27<sup>th</sup> hearing date
- Public feedback October 26<sup>th</sup>, 2017 requesting that we keep the renewal applicant deadline for December 31<sup>st</sup>
- Requested to post-pone FWC hearing for October 27<sup>th</sup>, 2017 in order to follow up with Geoduck Divers
- Held a meeting with Geoduck Divers on December 19<sup>th</sup>, 2017
- Published a Supplemental CR-102 on February 7<sup>th</sup>, 2018 with input from Geoduck Divers
- Sent letters to Geoduck Divers on February 14<sup>th</sup>, 2018 about proposed WAC changes and April 13<sup>th</sup> hearing date
- No public comments or concerns on Supplemental CR-102

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**Action requested and/or proposed next steps:**

Briefing, public hearing, and decision.

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**Draft motion language:**

I move to amend WAC 220-340-070 as presented by department staff.

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**Post decision communications plan:**

WDFW Website

**WAC 220-340-070 Commercial geoduck harvest—Geoduck diver license application and issuance process.** (1) ~~((The department will not consider incomplete applications for a geoduck diver license.))~~ The following information is required to apply for or renew a geoduck diver license:

(a) A complete, legible, and signed application form;

(b) The application and license fees as provided in RCW 77.65.440;

(i) Applicants renewing a geoduck diver license must submit the completed application, application fee and license fee by December 31;

(ii) New geoduck diver license applicants and renewing applicants who missed the December 31 deadline must submit the completed application and only the application fee by January 10. The license fee will be required within forty-eight hours if the individual is selected.

(c) ~~((Proof of))~~ Completion of the department of natural resources (DNR) geoduck diver safety program to be verified by the department of fish and wildlife (DFW) with DNR; ((and))

(d) ~~((For applications to renew only, a copy of a))~~ All applicants must be on a DNR geoduck harvest agreement plan of operation ((that lists the applicant on the agreement)) during the applicable current calendar year and be verified by the department with DNR on an annual basis; and

(e) The department will not consider incomplete applications for a geoduck diver license.

(2) No more than 77 geoduck diver licenses may be issued per calendar year.

(3) Applicants may submit applications to the department:

(a) By mailing to ~~((600 Capitol Way N., Olympia, WA 98501-1091))~~ P.O. Box 43154, Olympia, WA 98504-3154;

(b) By faxing to 360-902-2945; or

(c) In person at the ~~((WDFW))~~ DFW licensing front desk, first floor, natural resources building at 1111 Washington St. S.E., Olympia, WA 98501 during licensing window hours.

(4) ~~The department ((must receive applications to renew a geoduck diver license by December 31st of the year the licensee's current geoduck diver license expires))~~ will renew any geoduck diver license if all requirements listed in subsection (1) of this section are met by December 31. If less than 77 geoduck diver licenses have been issued after the department approves all qualifying applications to renew a geoduck diver license, then the department will issue additional licenses, up to the 77 geoduck diver license limit, to ((qualified)) new geoduck diver license applicants ((in the order they are received. If the department receives more than one application for a geoduck diver license in a calendar day, and issuing licenses to all applicants received in that calendar day would exceed 77 geoduck diver licenses, the department will conduct a random drawing among the applications received that calendar day to determine which of the applications received in that calendar day will be issued a geoduck diver license)) and renewing applicants who missed the December 31 deadline. The department will complete the following process for issuing licenses to new geoduck diver license qualified applicants and renewing applicants who missed the December 31 deadline:

(a) New geoduck diver license applicants and renewing applicants who missed the December 31 deadline will be eligible if all requirements listed in subsection (1) of this section are met by January 10. A drawing will be held ten business days after January 10 for all eligible new applicants.

(b) After the initial drawing, if there are remaining licenses available up to the 77 geoduck diver license limit, then the department will issue licenses to new geoduck diver applicants and renewing applicants who missed the December 31 deadline based on the calendar date the application is received on a first-come first-serve basis. In the event there are multiple applications received on the same calendar day that exceed the quantity of remaining licenses, a drawing will be held to issue the remaining licenses.

**Recommended Adjustments**  
**[Geoduck Diver License Application and Issuance Process]**

Amending WAC 220-340-070 Commercial geoduck harvest—Geoduck diver license application and issuance process.

1. Updating DFW Licensing contact information
2. Changing the deadline for new applicants
  - a. Current deadline is December 31<sup>st</sup>
  - b. Keeping December 31<sup>st</sup> for renewal applicants
  - c. Changing deadline for new applicants to January 10<sup>th</sup>
  - d. Holding a drawing 10 business days after January 10<sup>th</sup> for new applicants
3. Clarifying how we issue new licenses
  - a. When not all 77 licenses are renewed, new licenses become available
  - b. Depending on how many new licenses are available, we will hold a drawing or issue licenses 10 business days after January 10<sup>th</sup>
  - c. In the event that licenses remain after the initial drawing, we will issue licenses (first come first serve) or hold a drawing depending on if multiple applicants exceed available licenses
4. Improving the fee collection process for new applicants
  - a. Currently, fees for the application and license are collected by the Dec 31<sup>st</sup> deadline for new applicants
  - b. The revised Jan 10<sup>th</sup> deadline allows the new applicant to find out if new licenses will be available before applying
  - c. The license fee is only required if the new applicant is selected

**Public Comments**  
**[Geoduck Diver License Application and Issuance Process]**

**Public comments, response to comments, and consideration of comments**

1. Published a CR-102 on August 18th, 2017 for amending WAC 220-340-070
2. Sent letters to Geoduck Divers on September 22nd, 2017 about proposed WAC changes and October 27th hearing date
3. Public feedback October 24<sup>th</sup> to 27th, 2017 mainly requesting that we keep the renewal applicant deadline for December 31<sup>st</sup>
  - a. Received public comments from twelve current Washington geoduck divers; many of them have been in the business for over thirty years and are members of the Washington Harvesters Association (including the president Casey Bakker).
  - b. Main concern is with the renewal submittal timeframe changing from the 12/31 deadline to 10/1-10/31. One diver recommends moving the renewal submittal timeframe to 11/15 – 12/15.
  - c. DFWs reason for moving the renewal submittal timeframe earlier is to allow new applicants to apply and receive a license before January 1. This allows new applicants to receive their license for the full calendar year and be part of the DNR bid process.
  - d. Feedback is that many Washington geoduck divers are in Alaska for the month of October. October is a big harvesting month for geoduck divers. This makes the month of October not ideal for current geoduck divers to renew, since they are either out of state or very busy.
  - e. October being a high harvest and production month also makes this a bad month for submitting renewal applications. This means that many divers financially do not have the money to renew by October, nor have all divers been on a DNR Plan of Operations.
  - f. These current geoduck divers are asking for revised submittal timeframes, to have more than a month's notice before we push this change before the Commission, and to meet and discuss the changes with geoduck divers and the Washington Harvesters Association.
4. Requested to post-pone FWC hearing for October 27th, 2017 in order to follow up with Geoduck Divers
5. Held a meeting with Geoduck Divers on December 19th, 2017
  - a. Feedback was to keep the renewal applicant deadline for December 31<sup>st</sup>.
  - b. In order to improve new applicant process, determined to move the new applicant deadline to January 10<sup>th</sup> and hold a drawing 10 days after.
6. Published a Supplemental CR-102 on February 7th, 2018 with input from Geoduck Divers
7. Sent letters to Geoduck Divers on February 14th, 2018 about proposed WAC changes and April 13th hearing date
8. No public comments or concerns on Supplemental CR-102



# PROPOSED RULE MAKING

## CR-102 (October 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: January 22, 2018

TIME: 11:56 AM

WSR 18-03-142

**Agency:** Department of Fish and Wildlife (WDFW)

Original Notice

Supplemental Notice to WSR 17-17-106 on August 18, 2017

Continuance of WSR \_\_\_\_\_

Preproposal Statement of Inquiry was filed as WSR 17-13-085 on June 17, 2017 ; or

Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW \_\_\_\_\_.

**Title of rule and other identifying information:** (describe subject) The department is amending WAC 220-340-070 to better clarify the application process for Geoduck Diver Licenses.

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
April 13-14, 2018	8:00 a.m.	Natural Resources Building Room 172 1111 Washington Street SE Olympia, WA 98501	

**Date of intended adoption:** April 14, 2018 (Note: This is **NOT** the effective date)

**Submit written comments to:**

Name: Scott Bird, WDFW Rules Coordinator

Address: 600 Capitol Way N. Olympia, WA 98501-1091

Email: Rules.Coordinator@dfw.wa.gov

Fax: (360) 902-2155

Other:

By (date) April 12, 2018

**Assistance for persons with disabilities:**

Contact Delores Noyes

Phone: (360) 902-2349

Fax:

TTY: (360) 902-2207

Email: Delores.Noyes@dfw.wa.gov

Other:

By (date) April 12, 2018

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The department is amending WAC 220-340-070 to better clarify the application process for Geoduck Diver Licenses.

**Reasons supporting proposal:** The current process described in WAC 220-340-070 for applying for new Geoduck Divers Licenses is ambiguous and requires modification.

**Statutory authority for adoption:** RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.047

**Statute being implemented:** None

**Is rule necessary because of a:**

Federal Law?  Yes  No  
Federal Court Decision?  Yes  No  
State Court Decision?  Yes  No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None.

**Name of proponent:** (person or organization) WDFW

Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Trisha Anderson	1111 Washington Street, Olympia, WA 98501	360-902-2211
Implementation:	Peter Vernie	1111 Washington Street, Olympia, WA 98501	360-902-2302
Enforcement:	Chief Steve Bear	1111 Washington Street, Olympia, WA 98501	360-902-2373

**Is a school district fiscal impact statement required under RCW 28A.305.135?**

Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

No: Please explain: The proposed rule changes do not affect hydraulics.



**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_.

Explanation of exemptions, if necessary:

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated. \_
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

**Date:** January 22, 2018

**Name:** Scott Bird

**Title:** Rules Coordinator

**Signature:**



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