



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Health

- Preproposal Statement of Inquiry was filed as WSR ; or
- Expedited Rule Making--Proposed notice was filed as WSR ; or
- Proposal is exempt under RCW 34.05.310(4).

- Original Notice
- Supplemental Notice to WSR 10-08-040
- Continuance of WSR

Title of rule and other identifying information: (Describe Subject)
WAC 246-282-990 (4) Geoduck PSP Fees

Hearing location(s): Department of Health
Town Center 2 - Rm 139
111 Israel Rd. SE
Olympia, WA 98501

Date: July 27, 2010 Time: 1:30 p.m.

Date of intended adoption: 07/28/2010
(Note: This is **NOT** the **effective** date)

Submit written comments to:
Name: Brandy Brush
Address: Department of Health
111 Israel Rd. SE
PO Box 47824
Olympia, WA 98504-7824

Website: <http://www3.doh.wa.gov/policyreview/>
fax 360-236-2257 by (date) 07/27/2010

Assistance for persons with disabilities: Contact
Brandy Brush by 07/20/2010
TTY (800) 833-6388 or () 711

Purpose of the proposal and its anticipated effects, including any changes in existing rules:
The purpose of the proposal is to equitably assess the costs associated with commercial geoduck Paralytic Shellfish Poison (PSP) testing. The cost assessment will follow the annual redistribution formula which is based on the number of tests done in the previous year. This testing is essential to public health as it is the only means available to determine if dangerous levels of PSP exist in commercial geoduck, and ensure toxic shellfish do not reach consumers. The supplemental filing is to provide adequate time for comment on the proposed rule.

Reasons supporting proposal:
The proposal will redistribute Geoduck PSP fees based on the 2009 total cost of service for the entities that submitted geoduck tests and the number of tests done for each entity.

Statutory authority for adoption:
RCW 43.70.250

Statute being implemented:
RCW 43.70.250

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

DATE
06/22/2010

NAME (type or print)
Mary C. Selecky

SIGNATURE

TITLE
Secretary

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: June 23, 2010

TIME: 9:52 AM

WSR 10-13-176

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None

Name of proponent: (person or organization) Department of Health

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Brandy Brush	111 Israel Rd. SE, Tumwater WA	360-236-3342
Implementation.... Maryanne Guichard	111 Israel Rd. SE, Tumwater WA	360-236-3391
Enforcement..... Maryanne Guichard	111 Israel Rd. SE Tumwater WA	360-236-3391

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone

fax

e-mail

No. Explain why no statement was prepared.

A small business economic impact statement (SBEIS) was not prepared. Under RCW 19.85.025 and 34.05.310(4)(f), a SBEIS is not required for proposed rules that set or adjust fees or rates pursuant to legislative standards.

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

e-mail

No: Please explain: The agency did not complete a cost benefit analysis under RCW 34.05.328. RCW 34.05.328(5)(b)(vi) exempts rules that set or adjust fees or rates pursuant to legislative standards.

AMENDATORY SECTION (Amending WSR 09-19-067, filed 9/14/09, effective 10/15/09)

WAC 246-282-990 Fees. (1) Annual shellfish operation license fees are:

<u>Type of Operation</u>	<u>Annual Fee</u>
Harvester	\$263
Shellstock Shipper	
0 - 49 Acres	\$297
50 or greater Acres	\$476
Scallop Shellstock Shipper	\$297
Shucker-Packer	
Plants with floor space < 2000 sq. ft.	\$542
Plants with floor space 2000 sq. ft. to 5000 sq. ft.	\$656
Plants with floor space > 5000 sq. ft.	\$1,210

(2) The fee for each export certificate is \$10.30.

(3) Annual PSP testing fees for companies harvesting species other than geoduck intertidally (between the extremes of high and low tide) are as follows:

Fee Category

<u>Type of Operation</u>	<u>Number of Harvest Sites</u>	<u>Fee</u>
Harvester	≤ 2	\$173
Harvester	3 or more	\$259
Shellstock Shipper	≤ 2	\$195
0 - 49 acres		
Shellstock Shipper	3 or more	\$292
0 - 49 acres		
Shellstock Shipper	N/A	\$468
50 or greater acres		
Shucker-Packer	≤ 2	\$354
(plants < 2000 ft ²)		
Shucker-Packer	3 or more	\$533
(plants < 2000 ft ²)		
Shucker-Packer	≤ 2	\$429
(plants 2000 - 5000 ft ²)		
Shucker-Packer	3 or more	\$644
(plants 2000 - 5000 ft ²)		
Shucker-Packer	N/A	\$1,189
(plants > 5000 ft ²)		

(a) The number of harvest sites will be the total number of

harvest sites on the licensed company's harvest site certificate:

- (i) At the time of first licensure; or
- (ii) January 1 of each year for companies licensed as harvesters; or
- (iii) July 1 of each year for companies licensed as shellstock shippers and shucker packers.

(b) Two or more contiguous parcels with a total acreage of one acre or less is considered one harvest site.

(4) Annual PSP testing fees for companies harvesting geoduck are as follows:

<u>Harvester</u>	<u>Fee</u>
<u>Deep Blue Seafood</u>	<u>\$464</u>
Department of natural resources (quota tracts harvested by DNR contract holders)	\$((10,452)) <u>8,507</u>
Jamestown S'Klallam Tribe	\$((2,503)) <u>1,237</u>
Lower ((Elwha)) <u>Elwha</u> Klallam Tribe	\$((2,208)) <u>4,485</u>
Lummi Nation	\$((147)) <u>155</u>
Nisqually Indian Tribe	\$((3,091)) <u>2,011</u>
Port Gamble S'Klallam Tribe	\$((4,416)) <u>4,021</u>
Puyallup Tribe of Indians	\$((8,244)) <u>8,971</u>
Skokomish Indian Tribe	\$((1,619)) <u>155</u>
Squaxin Island Tribe	\$((1,767)) <u>618</u>
Suquamish Tribe	\$((21,198)) <u>21,189</u>
Swinomish Tribe	\$((589)) <u>619</u>
Tulalip Tribe	\$((1,619)) <u>5,568</u>
((Washington Shell Fish, Inc.))	<u>\$147</u>)

(5) PSP fees must be paid in full to department of health before a commercial shellfish license is issued or renewed.

(6) Refunds for PSP fees will be given only if the applicant withdraws a new or renewal license application prior to the effective date of the new or renewed license.