



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
- Continuance of WSR

Title of rule and other identifying information: (Describe Subject)

WAC 246-282-990(5), Sanitary Control of Shellfish - Fees - Commercial Geoduck Paralytic Shellfish Poisoning Testing

Hearing location(s): Department of Health
 Town Center 3 - Room 225
 243 Israel Rd. SE
 Tumwater, WA 98501

Date: 6/12/2012

Time: 1:00 pm

Submit written comments to:

Name: Brandy Brush
 Address: Brandy Brush
 Department of Health
 Office of Shellfish and Water Protection
 243 Israel Rd. SE
 Tumwater, WA 98501
 Website: <http://www3.doh.wa.gov/policyreview/>
 fax 360-236-2257 by (date) 06/12/2012

Assistance for persons with disabilities: Contact

Brandy Brush by 06/05/2012

TTY (800) 833-6388 or () 711

Date of intended adoption: 06/13/2012

(Note: This is NOT the effective date)

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 of 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. The testing is essential to public health as it is the only way to determine if dangerous levels of PSP exist in commercial geoduck, and ensure toxic shellfish do not reach consumers.

Reasons supporting proposal:

The proposed geoduck PSP fee redistribution is based on the 2011 total cost of service for the entities that submitted geoduck tests and the number of tests done for each entity. The annual redistribution of the fees assesses each entity their proportionate amount of the total fee based on the number of tests they submitted. The regulated community is aware of, participates in, and supports this annual change.

Statutory authority for adoption:

RCW 43.70.250

Statute being implemented:

RCW 43.70.250

Is rule necessary because of a:

- Federal Law? Yes No
 - Federal Court Decision? Yes No
 - State Court Decision? Yes No
- If yes, CITATION:

DATE 05/02/12

NAME (type or print)

Gregg Grunenfelder for Mary C. Selecky

SIGNATURE

for Mary C. Selecky

TITLE

Deputy Secretary for Secretary

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
 STATE OF WASHINGTON
 FILED

DATE: **May 02, 2012**

TIME: **11:13 AM**

WSR **12-10-096**

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	243 Israel Rd. SE, Tumwater, WA 98501	360-236-3342
Implementation.... Rick Porso	243 Israel Rd. SE, Tumwater, WA 98501	360-236-3302
Enforcement..... Rick Porso	243 Israel Rd. SE, Tumwater, WA 98501	360-236-3302

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 11-19-011, filed 9/7/11, effective 10/8/11)

WAC 246-282-990 Fees. (1) The required annual shellfish operation license fees for shellstock shippers and shucker-packers due October 1, 2011, shall be reduced by twenty-five percent of the annual shellfish operation license fees in subsection (2) of this section. Beginning July 1, 2012, and for every subsequent year, the full annual shellfish operation license fees in subsection (2) of this section shall be assessed.

(2) 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

(3) The fee for each export certificate is \$20.00.

(4) 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)		

Fee Category

Type of Operation	Number of Harvest Sites	Fee
Shucker-Packer (plants 2000 - 5000 ft ²)	3 or more	\$644
Shucker-Packer (plants > 5000 ft ²)	N/A	\$1,189

(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.

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

Harvester	Fee
Department of natural resources (quota tracts harvested by DNR contract holders)	\$(9,616) <u>9,433</u>
<u>Discovery Bay Shellfish</u>	<u>\$401</u>
Jamestown S'Klallam Tribe	\$(1,221) <u>3,412</u>
Lower Elwha Klallam Tribe	\$(4,274) <u>4,817</u>
(Nisqually Indian Tribe	\$3,968)
Port Gamble S'Klallam Tribe	\$(3,053) <u>7,626</u>
Puyallup Tribe of Indians	\$(6,868) <u>6,221</u>
Seattle Shellfish	\$(1,374) <u>201</u>
Squaxin Island Tribe	\$(3,968) <u>1,605</u>
Suquamish Tribe	\$(16,026) <u>17,261</u>
Swinomish Tribe	\$(458) <u>1,003</u>
(SYS Enterprises	\$611)
Taylor Shellfish	\$(2,900) <u>602</u>
Tulalip Tribe	\$(3,663) <u>5,418</u>

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

(7) 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.