



# PROPOSED RULE MAKING

## CR-102 (June 2012)

(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) or 34.05.330(1).

- 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 252  
243 Israel Rd. SE  
Tumwater, WA 98501

Date: 4/15/2014

Time: 9:00 am

**Submit written comments to:**

Name: Brandy Brush  
Address: Brandy Brush  
Department of Health  
Office of Shellfish and Water Protection  
PO Box 47824  
Tumwater, WA 98501  
e-mail: <http://www3.doh.wa.gov/policyreview/>  
fax 360-236-2257 by (date) 04/15/2014

**Assistance for persons with disabilities:** Contact

Brandy Brush by 04/08/2014

TTY (800) 833-6388 or ( ) 711

**Date of intended adoption:** 04/22/2014

(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 2013 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?  Yes  No
  - Federal Court Decision?  Yes  No
  - State Court Decision?  Yes  No
- If yes, CITATION:

**DATE** 03/05/2014

**NAME** (type or print)

Jessica Todorovich for John Wiesman, DrPH, MPH

**SIGNATURE**

**TITLE**

Deputy Secretary for Secretary of Health

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE:** March 05, 2014

**TIME:** 8:58 AM

**WSR 14-06-102**

**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 or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?**

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 13-11-038, filed 5/10/13, effective 6/10/13)

**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:

Type of Operation	Annual Fee
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		
Type of Operation	Number of Harvest Sites	Fee
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 <sup>2</sup> )		
Shucker-Packer	3 or more	\$533
(plants < 2000 ft <sup>2</sup> )		
Shucker-Packer	≤ 2	\$429
(plants 2000 - 5000 ft <sup>2</sup> )		
Shucker-Packer	3 or more	\$644
(plants 2000 - 5000 ft <sup>2</sup> )		
Shucker-Packer	N/A	\$1,189
(plants > 5000 ft <sup>2</sup> )		

- (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:

<b>Harvester</b>	<b>Fee</b>
Department of natural resources (quota tracts harvested by DNR contract holders)	\$((8,310)) <u>9,140</u>
Discovery Bay Shellfish	\$((166)) <u>2,226</u>
Jamestown S'Klallam Tribe	\$((3,158)) <u>2,226</u>
Lower Elwha Klallam Tribe	\$((2,991)) <u>3,515</u>
<u>Lummi Nation</u>	<u>\$703</u>
Nisqually Tribe	\$((5,318)) <u>2,461</u>
Port Gamble S'Klallam Tribe	\$((4,653)) <u>3,749</u>
Puyallup Tribe of Indians	\$((10,470)) <u>9,257</u>
<del>((Skokomish Indian Tribe</del>	<del>\$665))</del>
Squaxin Island Tribe	\$((997)) <u>2,109</u>
Suquamish Tribe	\$((11,135)) <u>14,178</u>
Swinomish Tribe	\$((332)) <u>820</u>
Taylor Shellfish	\$((166)) <u>234</u>
Tulalip Tribe	\$((9,639)) <u>7,382</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.