



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, Fees. The proposed rule Increases the shellfish export certification fee; and establishes a new Diarrhetic Shellfish Poisoning (DSP) fee, combines it with the existing Paralytic Shellfish Poisoning fee and renames the combined fee to "biotoxin fee".

Hearing location(s): Department of Health
Town Center 2
111 Israel Road SE
Tumwater, WA 98501

Date: 10/27/15

Time: 2:00 p.m.

Submit written comments to:

Name: Vicki M. Bouvier
Address: Department of Health
Division of Environmental Public Health
P.O. Box 47822
Olympia, WA 98504-7822
e-mail: <http://www3.doh.wa.gov/policyreview/>
fax 360-236-3011 by (date) 10/27/2015

Assistance for persons with disabilities: Contact

Vicki M. Bouvier by 10/20/2015

TTY (800) 833-6388 or () 711

Date of intended adoption: 10/28/2015

(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 proposed export certification fee increase is to improve customer service and response times, provide for weekend issuance of certificates, ensure 24 hour turnaround for all requests, enhance the web based export system, and allow for better tracking of product. This funding request includes the costs for issuing certificates, conducting physical shellfish lot inspections, ensuring areas are cleared for arsenic, and ensuring screening is done for biotoxins.
The purpose of the proposed biotoxin fee is to reduce the risk to public health by Increasing testing for shellfish biotoxins to include DSP. Testing for DSP will also allow the department to keep shellfish harvest areas open, allowing recreational and commercial shellfishers to continue harvesting shellfish.

Reasons supporting proposal:

The export certificate fee proposal addresses requests from the commercial shellfish industry and benefits those who are currently exporting product and requesting export certificates. The shorter processing time provides an economic benefit for these companies while allowing the department to improve the export certificate process, signifying that the shellfish being exported is harvested from approved growing areas and is deemed safe for human consumption.
The proposed biotoxin fee addresses the need for a stable source of funding to provide increased testing for shellfish biotoxins.

Statutory authority for adoption:

RCW 43.70.250

Statute being implemented:

RCW 77.32.555

Is rule necessary because of a:

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: **September 23, 2015**

TIME: **9:13 AM**

WSR 15-19-155

DATE 09/22/2015

NAME (type or print)

John Wiesman, DrPH, MPH

SIGNATURE

, DrPH, MPH

TITLE

Secretary of Health

(COMPLETE REVERSE SIDE)

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..... Laura W. Johnson	111 Israel Rd SE, Tumwater, WA 98511	360-236-3333
Implementation.... Laura W. Johnson	111 Israel Rd SE, Tumwater, WA 98511	360-236-3333
Enforcement..... Laura W. Johnson	111 Israel Rd SE, Tumwater, WA 98511	360-236-3333

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 15-11-053, filed 5/15/15, effective 6/15/15)

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)) 55.00.

(4) Annual ((PSP)) biotoxin 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)) <u>353</u>
Harvester	3 or more	\$((259)) <u>535</u>
<u>Shellstock Shipper</u>		<u>\$198</u>
<u>Wholesale Company</u>		
Shellstock Shipper	≤ 2	\$((195)) <u>393</u>
0 - 49 acres		
Shellstock Shipper	3 or more	\$((292)) <u>610</u>
0 - 49 acres		
Shellstock Shipper	N/A	\$((468)) <u>961</u>
50 or greater acres		
Shucker-Packer	≤ 2	\$((354)) <u>752</u>
(plants < 2000 ft ²)		
Shucker-Packer	3 or more	\$((533)) <u>1,076</u>
(plants < 2000 ft ²)		

Fee Category

Type of Operation	Number of Harvest Sites	Fee
Shucker-Packer (plants 2000 - 5000 ft ²)	≤ 2	\$((429)) <u>882</u>
Shucker-Packer (plants 2000 - 5000 ft ²)	3 or more	\$((644)) <u>1,297</u>
Shucker-Packer (plants > 5000 ft ²)	N/A	\$((1,189)) <u>2,412</u>

(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)	\$10,670
Discovery Bay Shellfish	\$1,135
Jamestown S'Klallam Tribe	\$1,589
Lower Elwha Klallam Tribe	\$2,384
Lummi Nation	\$227
Nisqually Tribe	\$5,902
Port Gamble S'Klallam Tribe	\$1,362
Puyallup Tribe of Indians	\$8,286
Skokomish Indian Tribe	\$114
Squaxin Island Tribe	\$3,292
Suquamish Tribe	\$15,093
Swinomish Tribe	\$1,022
Tulalip Tribe	\$6,924

(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.