

**RCW 79.135.210 Geoduck harvesting—Agreements, regulation—**

**Geoduck diver safety program.** (1) Except as provided in RCW 79.135.040, geoducks shall be sold as valuable materials under the provisions of \*chapter 79.90 RCW. After confirmation of the sale, the department may enter into an agreement with the purchaser for the harvesting of geoducks. The department may place terms and conditions in the harvesting agreements as the department deems necessary. The department may enforce the provisions of any harvesting agreement by suspending or canceling the harvesting agreement or through any other means contained in the harvesting agreement. Any geoduck harvester may terminate a harvesting agreement entered into pursuant to this subsection if actions of a governmental agency, beyond the control of the harvester, its agents, or its employees, prohibit harvesting, for a period exceeding thirty days during the term of the harvesting agreement, except as provided within the agreement. Upon termination of the agreement by the harvester, the harvester shall be reimbursed by the department for the cost paid to the department on the agreement, less the value of the harvest already accomplished by the harvester under the agreement.

(2) Harvesting agreements under this title for the purpose of harvesting geoducks shall require the harvester and the harvester's agent or representatives to comply with all applicable commercial diving safety standards and regulations promulgated and implemented by the federal occupational safety and health administration established under the federal occupational safety and health act of 1970 as the law exists or as amended (84 Stat. 1590 et seq.; 29 U.S.C. Sec. 651 et seq.). However, for the purposes of this section and RCW 77.60.070, all persons who dive for geoducks are deemed to be employees as defined by the federal occupational safety and health act. All harvesting agreements shall provide that failure to comply with these standards is cause for suspension or cancellation of the harvesting agreement. Further, for the purposes of this subsection if the harvester contracts with another person or entity for the harvesting of geoducks, the harvesting agreement shall not be suspended or canceled if the harvester terminates its business relationship with such an entity until compliance with this subsection is secured.

(3) Beginning January 1, 2015, geoduck divers licensed under RCW 77.65.410 must annually complete the geoduck diver safety program established in RCW 43.30.560 in order to be maintained on a department of natural resources' harvest agreement plan of operation. [2013 c 204 § 6. Prior: 2005 c 155 § 708; 2005 c 113 § 3; 2003 c 39 § 43; 1990 c 163 § 4; 1982 1st ex.s. c 21 § 141. Formerly RCW 79.96.080.]

**\*Reviser's note:** Chapter 79.90 RCW was recodified and/or repealed in its entirety by 2005 c 155.