



EXPEDITED RULE MAKING

CR-105 (June 2004)
(Implements RCW 34.05.353)
EXPEDITED RULE MAKING ONLY

Agency: Washington Department of Natural Resources

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

Department of Natural Resources Administrative Appeals related to Surface Mining penalties and mitigation of penalties.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

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AND RECEIVED BY April 8, 2014

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

Amend rules in Title 332-18-05005, 332-18-05006 and 332-18-05007 to incorporate provisions of the 2010 Natural Resources Reform (Laws of 2010, ch. 210) pertaining to adjudicative proceedings and changing proceedings related to mitigation of surface mining penalties.

Reasons supporting proposal:

The intent is to make Department of Natural Resources rules consistent with Washington State statutes.

Statutory Authority for adoption:
RCW 78.44.404, 34.05.220, 43.21C.135, 78.44.250

Statute being implemented:
• Statute amended in Laws of 2006

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:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: February 05, 2014

TIME: 10:45 AM

WSR 14-04-130

DATE
1/31/14

NAME (TYPE OR PRINT)
Commissioner Peter Goldmark

SIGNATURE

TITLE
Commissioner of Public Lands

Name of proponent: Department of Natural Resources

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... John Bromley	1111 Washington Street SE	(360)902-1452
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Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

AMENDATORY SECTION (Amending WSR 94-14-051, filed 6/30/94, effective 8/2/94)

WAC 332-18-05005 Calculation of penalty. Fines shall be calculated using the following steps:

(1) The base penalty shall be the minimum fine in each category as set forth in WAC 332-18-05004(~~(, unless mitigated pursuant to WAC 332-18-05007)~~).

(2) The department may adjust the fine by multiplying the Category II and III base penalties by factors specific to the incident, miner or permit holder, and/or site. The following factors shall not be imposed unless the department explains in writing how each factor was determined:

(a) Severity: The department shall adjust the penalty to reflect the extent or magnitude and difficulty of repairing the damage to lands, waters, and neighboring properties. This factor shall increase the base penalty by not more than 5.0 times the base penalty.

(b) Previous violation(s): The department shall consider whether the violator has had previous significant violations of the act, rules, permit, or reclamation plan as documented by an enforcement action. This factor shall increase the base penalty by not more than 3.0 times the base penalty.

AMENDATORY SECTION (Amending WSR 94-14-051, filed 6/30/94, effective 8/2/94)

WAC 332-18-05006 Penalties due. (1) Penalties imposed under this section shall become due and payable thirty days after receipt of a notice imposing the fine unless the miner or permit holder (~~applies for mitigation or~~) files an appeal.

(2) Thirty days after the miner or permit holder is notified that administrative review of penalties is complete, the penalty shall become due and payable.

(3) Thirty days after a penalty becomes due and payable, interest shall accrue at the maximum rate allowed by RCW 19.52.020 until the penalty is paid to the department.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 332-18-05007 Civil penalties-Mitigation, appeals.