EXPEDITED RULE MAKING

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

Name: Rochelle Goss
Agency: Department of Natural Resources
Address: 1111 Washington Street SE PO Box 47015
Olympia, Washington 98504

AND RECEIVED BY April 8, 2014

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


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

Is rule necessary because of a:
Federal Law? □ Yes □ No
Federal Court Decision? □ Yes □ No
State Court Decision? □ Yes □ No

Statute being implemented:
- Statute amended in Laws of 2006

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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

(COMPLETE REVERSE SIDE)
Name of proponent: Department of Natural Resources

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<thead>
<tr>
<th>Name of agency personnel responsible for:</th>
<th>Name</th>
<th>Office Location</th>
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<tbody>
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<td>Enforcement..............................</td>
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Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:
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.

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.