

WSR 07-20-088
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 (Board of Boiler Rules)

[Filed October 2, 2007, 9:36 a.m.]

Title of Rule and Other Identifying Information: WAC 296-104-540 What are the requirements for nuclear repairs of safety devices?

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 Sally Elliott, Legislative and Rules Manager, Department of Labor and Industries, P.O. Box 44400, Olympia, WA 98504-4400, e-mail yous235@lni.wa.gov, AND RECEIVED BY December 3, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board of boiler rules recently made changes to WAC 296-104-540 regarding nuclear repairs and was not aware at the time that these revisions would impact a business in Washington.

The National Board's Pressure Relief Department stated that as long as the pressure relief valves are repaired under a documented quality program which is periodically audited by a third party, an equivalent level of safety will be maintained. Therefore, the board drafted language to allow companies to continue to repair nuclear safety relief valves.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 70.79.030, 70.79.040, 70.79.150, 70.79.290, 70.79.330, and 70.79.350.

Statute Being Implemented: Chapter 70.79 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Board of boiler rules (department of labor and industries), governmental.

Name of Agency Personnel Responsible for Drafting: Board of Boiler Rules, Tumwater, Washington, (360) 902-5270; Implementation and Enforcement: Linda Williamson, Tumwater, Washington, (360) 902-5270.

October 2, 2007

Steven E. Bacon, Chair
Board of Boiler Rules

AMENDATORY SECTION (Amending WSR 06-24-042, filed 11/30/06, effective 1/1/07)

WAC 296-104-540 Repairs—What are the requirements for nuclear repairs of safety devices? All nuclear pressure retaining items shall be safe-guarded by safety devices, as specified in the ASME Section III, Division 1, Class 1, 2, and 3.

(1) The resetting, repair, and restamping of these safety devices shall be performed only by organizations holding a valid National Board "NR" and "VR" Certificate of Authorization to repair ASME Section III Code safety devices. An owner's ASME Section XI program may be used in lieu of a "NR" Certificate of Authorization for repair activities of the owner's valves. The repair work shall be documented on the applicable NR-1/NVR-1 form or on an owner's NIS-2 form. All repair/replacement activities performed under the "NR" Certificate of Authorization or owner's Section XI Repair program must be in accordance with the provisions of the NBIC, ASME Section XI, and the rules of the jurisdiction.

(2) ~~((Nuclear plant owners with an approved ASME Section XI program, may authorize external adjustments to bring their installed safety valves and relief valves back to the stamped set pressure when performed by the owner's/user's trained, qualified, regular, and full-time employees. Refer to Appendix "J" of the National Board Inspection Code as referenced in WAC 296-104-102 for guidelines regarding training, documentation, and implementation of a quality system for the owner/user employees.~~

~~(3) All such))~~ External adjustments or repair activities performed by the owner shall be resealed with a metal tag showing the identification of the organization ~~((making the adjustments))~~ and the date.

~~((4) If any valve repairs are required, they shall be done by a qualified "VR" and "NR" certificate holder.))~~

WSR 07-20-113
EXPEDITED RULES
DEPARTMENT OF
NATURAL RESOURCES

[Filed October 3, 2007, 8:27 a.m.]

Title of Rule and Other Identifying Information: Blanket performance security - rules to obtain and maintain a blanket performance security for multiple surface mines.

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 John Bromley, Department of Natural Resources, 1111 Washington Street S.E., P.O. Box 47007, Olympia, WA 98504-7007, AND RECEIVED BY November 7, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Surface Mining Act requires the posting of reclamation performance securities for each surface mine to cover the cost of reclamation, RCW 78.44.087. In 2006, the legislature authorized surface mine permit holders or landowners to post blanket

performance securities to cover the potential reclamation cost of multiple surface mines to an amount not to exceed the sum of the reclamation security calculated for their two surface mines with the largest performance security obligations, RCW 78.44.350.

Reasons Supporting Proposal: The adoption of this rule will define standards whereby applicants and proposed surface mines must satisfy certain criteria for inclusion into the blanket reclamation performance security by way of the proposed new rule.

Statutory Authority for Adoption: RCW 78.44.350 and 78.44.040.

Statute Being Implemented: RCW 78.44.350 and 78.44.040.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of natural resources, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: John Bromley, 1111 Washington Street S.E., P.O. Box 47007, Olympia, WA, (360) 902-1452.

October 2, 2007
Vicki Christiansen
Executive Director
of Regulatory Programs

NEW SECTION

WAC 332-18-145 Blanket performance security—Rules to obtain and maintain a blanket performance security for multiple surface mines. (1) A permit holder or landowner may use a blanket performance security for multiple surface mines if authorized by DNR under RCW 78.44.-350 and this rule. The amount must equal the sum of the estimated reclamation cost calculated by DNR for the two covered surface mines with the largest performance security obligations. The process for obtaining DNR's approval includes a preliminary review, submittal of a complete request, and DNR review of a complete request.

(2) A permit holder or landowner must first request DNR's preliminary review of eligibility and the state of the proposed surface mines. The request shall identify permit holders and proposed surface mines by permit number, if any. DNR will issue a preliminary review decision on each mine indicating which mines would be eligible within sixty days. The preliminary review period may be extended by DNR with written notice to the applicant. If any requested sites are denied after the preliminary review, the DNR will state in writing why the site was denied and the applicant may request a meeting and/or reapply for preliminary review.

(a) A permit holder must meet the following conditions for it or the landowner to be eligible to submit and continue to use a blanket performance security:

(i) The permit holder must not be in violation of any final order of DNR;

(ii) The permit holder must have held at least one valid reclamation permit for longer than ten years;

(iii) The permit holder must demonstrate exemplary mining and reclamation practices that have been accepted by

DNR. For purposes of this rule, "exemplary" means that the permit holder is substantially complying with chapters 78.44 RCW and 332-18 WAC, its effective reclamation permit and plan, and department orders for each of its surface mines and that the permit holder has not received more than two enforcement orders within the most recent calendar year;

(iv) The permit holder must, before obtaining a blanket performance security and every other year thereafter, submit a sworn statement by a responsible company official under penalty of perjury for false or misleading statements that the permit holder is financially able to pay for the DNR-approved estimated reclamation cost of all covered surface mines within one year; and

(v) The permit holder must before obtaining and every other year thereafter, submit an updated reclamation cost estimate on DNR's Standard Performance Security Calculation Form (SM-10) for each covered surface mine.

(b) Proposed sites must not include metal or fuel surface mines.

(c) To determine the likelihood of approval, DNR shall consider the permit holder's current and past compliance history in addition to the state of the existing surface mines of the permit holder. DNR may deem a surface mine "inappropriate" for coverage if inconsistent with (b) of this subsection or any of the following factors:

(i) The reclamation plan for the surface mine should be appropriate for the site's conditions and chapter 78.44 RCW;

(ii) The surface mine should be in substantial compliance with its effective reclamation permit and plan;

(iii) The surface mine condition should satisfy all of the topsoil requirements stated in the applicable reclamation permit and plan.

(3) If eligible, a permit holder or landowner may request DNR's acceptance of a blanket performance security by submitting all of the following items:

(a) An acceptable and adequate performance security on a DNR-approved form that equals the sum of the reclamation security calculated by the DNR for the two covered surface mines with the largest performance security obligations.

(b) A DNR Risk of Lien Form, signed by all landowners; and

(c) The estimated reclamation cost on a DNR Standard Performance Security Calculation Form (SM-10) for each included surface mine. Thereafter, the permit holder providing the blanket performance security shall submit documentation per subsection (2)(a)(iv) and (v) of this section. DNR shall review and confirm or correct each estimated reclamation cost according to its form and RCW 78.44.087.

(4) DNR may only approve a request for a blanket performance security when the request contains all required documents, is accurate, complete, and is submitted by or on behalf of eligible permit holders. DNR shall further consider the factors identified in subsection (2)(b) and (c) of this section. DNR will provide a written decision approving or disapproving the request, which is appealable.

(5) If surface mine conditions change so that the cumulative estimated reclamation cost for any two covered surface mines is greater than the initially calculated amount, the blanket performance security must be increased. DNR may recalculate estimated reclamation costs and may require a new

blanket performance security under RCW 78.44.087 and 78.44.350.

(6) DNR may require substitute individual performance securities for all covered surface mines if the permit holder loses eligibility under subsection (2) of this section. Further, DNR may require a substitute individual performance security for each surface mine that becomes inappropriate for blanket coverage. The permit holder shall comply with the DNR written substitute performance security demand within thirty days of notice. DNR may require the substitute performance security until the permit holder regains eligibility or the surface mine is restored to an appropriate condition for blanket coverage. DNR may use the blanket security for the reclamation of any originally covered surface mine unless DNR approves cancellation of the original blanket performance security or approves a substitute blanket performance security excluding that surface mine.

WSR 07-20-125
WITHDRAWAL OF
EXPEDITED RULE MAKING
EMPLOYMENT SECURITY DEPARTMENT

[Filed October 3, 2007, 10:31 a.m.]

The unemployment insurance division requests the withdrawal of the proposed amendment to WAC 192-310-010 included in the expedited rule-making notice filed as WSR 07-14-157 on July 5, 2007. Since the original notice was published, the agency has determined that further revision to this rule is required due to 2007 legislative changes.

Juanita Myers
Unemployment Insurance
Rules Coordinator