



STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES

Prevailing Wage
PO Box 44540 • Olympia, Washington 98504-4540
360/902-5335 Fax 360/902-5300

July 15, 2013

James G. Zissler
Littler, Mendelson, P.C.
One Union Square
600 University Street, Suite 3200
Seattle, WA 98101

Re: Request for Modification to the April 8, 2013 Determination:
Scope of work question – Valve and Valve Actuator Maintenance/Repair/Refurbishment,
Energy Northwest – Crane Nuclear – Columbia Generating Station

Dear Mr. Zissler:

Thank you for your May 8, 2013 letter on behalf of your client, Crane Nuclear, requesting a modification to my April 8, 2013 determination regarding the correct prevailing wage scope of work (trade and occupation classification) to be used for certain work at Energy Northwest's Columbia Generating Station.

This response to your request is provided pursuant to WAC 296-127-060(3). See the attached document, "Prevailing Wage Determination Request and Review Process."

After careful review of your request and the April 8, 2013 determination I do not find a modification is necessary, but I do find that some aspects of the determination may need to be repeated. I think you may already have some, but not all, of what you are seeking. As you may recall, the determination indicated some work is exclusive to a particular scope of work and also some work entails an overlap between two or more scopes of work.

You may also recall that guidance on the rate of wage required under chapter [39.12 RCW](#) does not regulate **who** may or may not be employed to perform the actual work. Rather, the rate of pay is regulated. The determination stated: "Put simply, a Building Service Employee (janitor) when performing work that requires a Carpenter rate of pay can perform that work but must be paid at the Carpenter prevailing rate of pay for such work."

You ask for three (3) modifications:

1. Removing replacing or repairing a valve in a piping system is correctly compensated at the Plumbers, Pipefitters, and Steamfitters ([WAC 296-127-01364](#)) prevailing wage rate;
2. Performing electrical repairs on electric valve actuators is correctly compensated at the Inside Wireman Electrician ([WAC 296-127-01323](#)) prevailing wage rate; and
3. Performing repairs of pneumatic systems internal or external to the valve actuators is correctly compensated at the Plumbers, Pipefitters, and Steamfitter prevailing wage rate.

You provided specific requests for modification related to each of these three points.

1. Removing replacing or repairing a valve in a piping system is correctly compensated at the Plumbers, Pipefitters, and Steamfitters prevailing wage rate.

You agree that the disassembly and reassembly of the valve must be compensated at the Plumbers, Pipefitters, and Steamfitters prevailing wage rate. You ask that the component level repair, component measurement, in body machining, and component inspection be allowed at the Millwrights ([WAC 296-127-01351](#)) prevailing rate of pay.

The April 8th determination allowed the inspecting and performing precision measurements that evaluate the condition of the valve as well as the precision alignment of parts at the Millwrights prevailing wage rate. The repairing of the valve requires the Plumbers, Pipefitter, and Steamfitters prevailing rate of pay.

The Plumbers, Pipefitters, and Steamfitters scope of work includes maintenance of equipment such as the valve and the scope of work specifically includes assembling, installing, and repairing valves. For this reason, the component repair (which may include machining) must use the prevailing rate of pay for Plumbers, Pipefitters, and Steamfitters.

Please remember that the rate of pay is regulated but who may perform the work is not controlled by the prevailing wage law, chapter 39.12 RCW.

2. Performing electrical repairs on electric valve actuators is correctly compensated at the Inside Wireman Electrician prevailing wage rate.

You agree that any external or internal disconnection, repair or replacement of permanent plant or component wiring, including the installation of jumpers, must be compensated at the Inside Wireman Electrician prevailing rate of pay. You ask that the internal or external replacement of parts, disassembly, reassembly, lubrication, or mechanical preventive maintenance that involves mechanical operation of the valve actuator be allowed at the Millwrights prevailing rate of pay.

The April 8th determination allowed that after any electrical wires are disconnected applying the Inside Wireman Electrician prevailing rate of pay, the prevailing rate of wage for Plumber

Pipefitter and/or the Millwrights scope of work may be used for removing the actuator from the valve. The April 8th determination also provided that the Millwrights prevailing rate of wage may be applied to repairs on the internal components of mechanical, electric, pneumatic, or hydraulic valve actuators.

The April 8th determination allowed the described mechanical repairs using the Millwrights prevailing rate of pay.

Please remember that the rate of pay is regulated but who may perform the work is not controlled by the prevailing wage law, chapter 39.12 RCW.

3. Performing repairs of pneumatic systems internal or external to the valve actuators is correctly compensated at the Plumbers, Pipefitters, and Steamfitter prevailing wage rate.

You ask that the repair and replacement on pneumatic systems internal or external to the valve actuator be allowed at the Millwrights prevailing rate of pay.

The April 8th determination provided that the Millwrights prevailing rate of pay may be applied to repairs on the internal components of mechanical, electric, pneumatic, or hydraulic valve actuators.

Work on pneumatic systems external to the valve actuator falls within the specific language of the Plumbers, Pipefitters, and Steamfitters scope of work. The Plumbers, Pipefitters, and Steamfitters scope of work covers installation, maintenance and repair of pneumatic piping systems and equipment. The April 8th determination found some scopes overlap for the internal components of the valve actuators (which allowed the Millwrights repairs described in the previous paragraph) but the specific language in the Plumbers, Pipefitters, and Steamfitters scope will not allow use of the Millwrights prevailing rate of pay on those external pneumatic systems.

The April 8th determination did find significant amounts of work in this valve and valve actuator work that may be compensated at the prevailing rate of wage for Millwrights. This letter may draw your attention to and clarify some of that guidance. However, I am not able to modify the determination for the additional work you seek at the Millwrights prevailing rate of pay. Rather, there are some significant electrical aspects to this work that would be performed at the Inside Wireman Electrician prevailing rate of wage and also significant parts of the valve and piping work that would be performed at the Plumbers, Pipefitters and Steamfitters prevailing rate of wage because of the specific language in each of those scope of work descriptions.

As you can see, the specific facts of the situation are vitally important to the correct prevailing wage answer. If the facts vary, the answer could be different.

James G. Zissler
July 15, 2013
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I hope this information is helpful. If you have additional questions, please let me know.

Sincerely,



L. Ann Selover
Industrial Statistician/Program Manager
Ann.Selover@Lni.wa.gov
(360) 902-5330

Attachments

cc: Kirk Kelhofer, Crane Nuclear
Ron Butler, Energy Northwest
Richard Schaff, Energy Northwest
John Suing, Energy Northwest
Juan (Angel) Melendrez, Energy Northwest
Dave Rube, Pacific Northwest Regional Council of Carpenters (Millwrights)
Randy Walli, United Association of Plumbers and Pipefitters, Local 598
Pete Marsh, IBEW Local 112
Thomas McMahon, IBEW Local 77.

Prevailing Wage Determination Request and Review Process

RCW 39.12.015 is the basis for requesting a determination, since it provides:

All determinations of the prevailing rate of wage shall be made by the industrial statistician of the department of labor and industries.

If you disagree with a determination the industrial statistician provides, WAC 296-127-060(3) provides for a review process:

(3) Any party in interest who is seeking a modification or other change in a wage determination under RCW [39.12.015](#), and who has requested the industrial statistician to make such modification or other change and the request has been denied, after appropriate reconsideration by the assistant director shall have a right to petition for arbitration of the determination.

(a) For purpose of this section, the term "party in interest" is considered to include, without limitation:

(i) Any contractor, or an association representing a contractor, who is likely to seek or to work under a contract containing a particular wage determination, or any worker, laborer or mechanic, or any council of unions or any labor organization which represents a laborer or mechanic who is likely to be employed or to seek employment under a contract containing a particular wage determination, and

(ii) Any public agency concerned with the administration of a proposed contract or a contract containing a particular wage determination issued pursuant to chapter [39.12](#) RCW.

(b) For good cause shown, the director may permit any party in interest to intervene or otherwise participate in any proceeding held by the director. A petition to intervene or otherwise participate shall be in writing, and shall state with precision and particularity:

(i) The petitioner's relationship to the matters involved in the proceedings, and

(ii) The nature of the presentation which he would make. Copies of the petition shall be served on all parties or interested persons known to be participating in the proceeding, who may respond to the petition. Appropriate service shall be made of any response.

If you choose to utilize this review process, you must submit your request within 30 days of the date of the applicable industrial statistician's determination or response to your request for modification or other change. Include with your request any additional information you consider relevant to the review.

Direct requests for determinations, and for modification of determinations via email or letter to the prevailing wage industrial statistician:

L. Ann Selover
Industrial Statistician/Program Manger
Department of Labor & Industries
Prevailing Wage
P O Box 44540
Olympia, WA 98504-4540
Ann.Selover@Lni.wa.gov

Prevailing Wage Determination Request and Review Process

Direct requests via email or letter seeking reconsideration (redetermination) by the assistant director to:

Elizabeth Smith, Assistant Director
Department of Labor & Industries
Fraud Prevention and Labor Standards
P O Box 44278
Olympia, WA 98504-4278
Elizabeth.Smith@Lni.wa.gov

Direct petitions for arbitration to:

Joel Sacks, Director
Department of Labor & Industries
P O Box 44001
Olympia, WA 98504-4001

If you choose to utilize this arbitration process, you must submit your request within 30 days of the date of the applicable assistant director's decision on reconsideration (redetermination). Submit an original and two copies of your request for arbitration to the Director personally, or by mail. The physical address for the Director is 7273 Linderson Way, SW, Tumwater, WA 98501.

WAC 296-127-061 also contains the following provisions regarding petitions for arbitration:

In addition, copies of the petition shall be served personally or by mail upon each of the following:

- (a) The public agency or agencies involved,
 - (b) The industrial statistician, and
 - (c) Any other person (or the authorized representatives of such person) known to be interested in the subject matter of the petition.
- (2) The director shall under no circumstances request any administering agency to postpone any contract performance because of the filing of a petition. This is a matter which must be resolved directly with the administering agency by the petitioner or other party in interest.
- (3) A petition for arbitration of a wage determination shall:
- (a) Be in writing and signed by the petitioner or his counsel (or other authorized representative), and
 - (b) Identify clearly the wage determination, location of project or projects in question, and the agency concerned, and
 - (c) State that the petitioner has requested reconsideration of the wage determination in question and describe briefly the action taken in response to the request, and
 - (d) Contain a short and plain statement of the grounds for review, and
 - (e) Be accompanied by supporting data, views, or arguments, and
 - (f) Be accompanied by a filing fee of \$75.00. Fees shall be made payable to the department of labor and industries.



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May 8, 2013

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VIA E-MAIL AND U.S. MAIL

L. Ann Selover
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Prevailing Wage
PO Box 44540
Olympia, WA 98504-4540

Re: Request for Modification of April 8, 2013 Prevailing Wage Determination
Scope of Work Question - Valve and Valve Actuator Maintenance/Repair/Refurbishment
Energy Northwest-Crane Nuclear-Columbia Generating Station

Dear Ms. Selover:

Thank you for providing the April 8, 2013 Prevailing Wage Determination.

On behalf of Crane Nuclear ("Crane"), we submit this request for modification of the following three determinations from the April 8, 2013 Determination letter:

1. Removing, replacing or repairing a valve in a piping system is correctly compensated at the Plumbers, Pipefitters and Steamfitters prevailing wage rate;
2. Performing electrical repairs on electric valve actuators is correctly compensated at the Inside Wireman Electrician prevailing wage rate; and
3. Performing repairs on pneumatic systems internal or external to the valve actuators is correctly compensated at the Plumbers, Pipefitters and Steamfitters prevailing wage rate.

The Request for Modification is based on the following:

1. Removing, replacing or repairing a valve in a piping system is correctly compensated at the Plumbers, Pipefitters and Steamfitters prevailing wage rate.

Crane does not seek modification of the determination that disassembly and re-assembly of the valve should be compensated at the Plumbers, Pipefitters and Steamfitters prevailing wage rate.

Rather, to the extent that the determination includes component level repair, component measurement, in body machining, and component inspection, Crane seeks modification/clarification that these tasks are properly classified as Millwright.

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L. Ann Selover

May 8, 2013

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2. Performing electrical repairs on electric valve actuators is correctly compensated at the Inside Wireman Electrician prevailing wage rate.

Crane does not seek modification of the determination that that any external or internal disconnection, repair or replacement of permanent plant or component wiring including installation of jumpers would fall under the classification of Inside Wireman Electrician.

Crane disagrees and seeks modification with respect to the determination (to the extent such determination has been made) that any internal or external replacement of parts, disassembly, reassembly, lubrication, or mechanical preventive maintenance that involves the mechanical operation of the actuator be classified as Inside Wireman Electrician. Specifically, Crane seeks modification of that determination on the basis that the foregoing (any internal or external replacement of parts, disassembly, reassembly, lubrication, or mechanical preventive maintenance that involves the mechanical operation of the actuator) is properly classified as Millwright. This would include the installation and removal of the MOV operator from the valve based upon the requirements for alignment and setup for an MOV Actuator, all of which Crane asserts is encompassed within the definition of a Millwright. Crane notes that the setting of the internal limit switch and torque switch is a mechanical process not electrical. The valve is mechanically stroked and the switch is set by the turn of a mechanical screw.

3. Performing repairs on pneumatic systems internal or external to the valve actuators is correctly compensated at the Plumbers, Pipefitters and Steamfitters prevailing wage rate.

Crane seeks modification on the following basis. The repair and replacement on pneumatic systems internal or external to a valve actuator requires specific specialized training and work that is not within the Plumbers, Pipefitters, and Steamfitters classification nor within any plumbing/pipefitter training and apprentice programs. The replacement and repair of these parts are included as part of the setup and alignment of the instrumentation that controls the operation and performance of the actuator thru minute and specific signals and control pressures. This is always performed by a qualified Instrument and Control Technician. The repairs are intricate repairs and replacement of or on delicate calibrated equipment. The components worked on are control components and not fluid process or pipe system as described under the Plumbers, Pipefitters, and Steamfitters classification. This work best fits the Millwright classification and Crane seeks modification on that basis.

Sincerely,



James G. Zissler

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