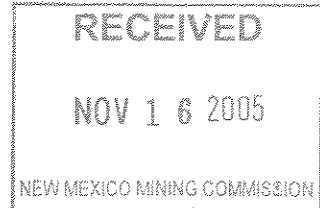


STATE OF NEW MEXICO  
MINING COMMISSION



IN THE MATTER OF PETITION NO. 05-01  
FOR THE REVISION OF REGULATIONS,  
19 NMAC 10.2 Subpart 2 - FEES

FINAL ORDER

THIS MATTER came before the New Mexico Mining Commission (the "Commission") for public hearing on a Petition for the Revision of Regulations, 19 NMAC 10.2 Subpart 2 - Fees, filed on September 14<sup>th</sup> <sup>AM</sup>, 2005 by the Mining & Minerals Division of the Energy, Minerals and Natural Resources Department ("MMD"). Notice of the subject, time and place of hearing, the manner in which any interested persons could present their views, and the method by which the public could obtain copies of the proposed revisions was published and mailed as required by NMSA 1978, § 69-36-8(C). All interested persons and the general public were provided with a reasonable opportunity to present their views and to examine witnesses testifying at the hearing. The hearing was tape-recorded and the tapes are in the custody of the Energy, Minerals and Natural Resources Department, Mining and Minerals Division.

I. Proposed Amendment

Petitioner MMD in its Petition requested that the Commission consider revising Mining Act Rule, 19 NMAC 10.2 Subpart 2 – Fees to (1) extend annual fee collections for another three years, to March 31, 2009, (2) keep a 75% surcharge for mines that have 500 or more acres of disturbed land, and (3) change the date the annual fees are due to April 30<sup>th</sup> each year, in order to ensure the continuity of the Mining Act Reclamation Program and to ensure that

MMD will be able to address the statutory and regulatory needs it is charged with administering.

**II. Statement of Reasons**

The Commission deliberated on the Petition at the close of the hearing.

The Commission found that the three-year extension was reasonable and consistent with the Mining Act, the Mining Act Rules, and MMD's ongoing role in mining permit compliance and enforcement activities, approval of closeout plans and reclamation activities, mine site inspections, permit modifications and revisions, and financial assurance oversight. The Commission found that the 75% surcharge for mining operations that have 500 or more acres of disturbed land are reasonable and necessary, based on the relative higher costs of administration, implementation, enforcement, investigation, and permitting relating to mining reclamation activities of larger mines with complicated closeout plans. The Commission further found that changing the due for the collection of annual fees to April 30<sup>th</sup> of each year was reasonable and necessary to ensure the fees are allotted in the fiscal year in which they are due.

The Commission voted unanimously to approve the amendments to 19 NMAC 10.2 Subpart 2 proposed by MMD because these are consistent with the purposes and intent of the Mining Act. The amendments approved by the Commission on November 16, 2005 are attached hereto as Exhibit A and incorporated by reference.

IT IS THEREFORE ORDERED THAT Joint Petition No. 02-05 for the  
Revision of Regulations, 19 NMAC 10.2 Subpart 2 – Fees be and is hereby  
**GRANTED.**

**NEW MEXICO MINING COMMISSION**

By:   
**GARY KING, Chairman**

Dated: November 16, 2005