

BEFORE THE NEW MEXICO MINING COMMISSION

In the Matter of Petition for Adoption
Of Amendments to the Mining Act Rules
No. 99-4

**ORDER ADOPTING AMENDMENT TO
MINING ACT RULE 501, 19 NMAC 10.2 § 501**

This matter came before the Commission a hearing held on August 25, 1999 in Santa Fe. Notice of the subject, time and place of the hearing, the manner in which interested persons could present their views and the method by which copies of the proposed amendment could be obtained were published and mailed as required by § 69-36-8(C) NMSA 1978. A quorum of the Commission was present at the hearing. All interested persons were allowed a reasonable opportunity to submit arguments and to examine witnesses testifying at the hearing. At the conclusion of the public hearing, upon a motion for adoption of the proposed amendment, which was seconded, the Commission Members voted 7⁷¹⁷ in favor and 0⁷¹⁷ opposed, to adopt the amendment.

The following provisions of the New Mexico Mining Act authorize the Commission to adopt the proposed amendment. The Commission is directed to adopt regulations that: (1) establish schedules to bring existing mining operations into compliance with the requirements of the New Mexico Mining Act (§ 69-36-7(C) NMSA 1978), (2) establish a procedure for modifications of a permit for an existing mining operation to incorporate approved closeout plans or portions of closeout plans and financial assurance (§ 69-36-7(G) NMSA 1978), (3) coordinate the roles of permitting agencies involved in regulating activities related to existing mining operations, including regulatory requirements to avoid duplicative and conflicting administration of the permitting process and other requirements (§ 69-36-7(J) NMSA

1978, and (4) establish a schedule of permit fees, which shall equal and not exceed the estimated costs of administration, implementation, enforcement, investigation, and permitting pursuant to the provisions of the New Mexico Mining Act (§ 69-36-7(M) NMSA 1978). The Commission also may adopt other regulations necessary and appropriate to carry out the purposes and provisions of the New Mexico Mining Act (§ 69-36-7(V) NMSA 1978).

After consideration of the Petition for Rulemaking and the evidence presented at the hearing, including all public comments, the Commission hereby adopts the proposed amendment. The proposed amendment is authorized pursuant to § 69-36-7 NMSA 1978. All required procedures for rulemaking in § 69-36-8 NMSA 1978 have been followed. The amendment is supported by a broad cross-section of stakeholders representing various interests relating to the Mining Act. Based upon the evidence presented at the hearing, the amendment is necessary and appropriate for protection of the environment, in consideration of the economic effects, and is a reasonable way to carry out the purposes and provisions of the New Mexico Mining Act. The evidence at the hearing supports the fees to be charged for an application based upon the estimated costs of administration, implementation, enforcement, investigation and permitting pursuant to the provisions of the New Mexico Mining Act with respect to the application.

For the foregoing reasons, and based upon the record in this matter, the Commission hereby adopts the amendment to section 501 of the Mining Act Rules, 19 NMAC 10.2 § 501, attached hereto, and directs the Mining Commission Clerk to take action in accordance with the requirements of the Public Records Act to put the amended rule into effect.

SO ORDERED this ¹¹² 20 day of August, 1999


Terry Fletcher, Chairman