

NEW MEXICO MINING COMMISSION

In re matter of

PETITION FOR THE REVISION OF
REGULATIONS 19 NMAC 10.2
SUBPART 2 – FEES
NEW MEXICO MINING ACT RULES SECTION 202

No. 99-08

FINAL ORDER AND STATEMENT OF REASONS

This matter is before the New Mexico Mining Commission (the Commission) by a petition for rulemaking submitted by the New Mexico Energy, Minerals, and Natural Resources Department, Mining and Minerals Division (the Division), proposing changes to the New Mexico Mining Act Rules, 19 NMAC 10.2, relating to reducing annual mining fees for substantially reclaimed acreage. A public hearing was held on May 10, 2000, before the Commission. On May 10, 2000, the Commission deliberated and voted to approve the regulatory changes reflected in the amended regulations 202.E and 202.F set forth below, for the reasons that follow.

A. RULES 202.E AND 202.F:

202.E. The provisions in Sections 202.A, 202.B, 202.C, 202.D and 202.F shall not be applicable to any fees due after June 30, 2001.

202.F Formula for Reducing Fees for Substantially Reclaimed Acreage.

1. For the purposes of Subpart 2, "Substantially Reclaimed" means financial assurance has been released pursuant to Section 1210 except the amount to establish revegetation pursuant to Section 1204.A.
2. For the purposes of Subpart 2, the total annual pre-reclamation fee is the total annual fee calculated assuming no reclamation has taken place.

3. Base fees, disturbance fees and facility fees calculated pursuant to Section 202.A or Section 202.B shall be reduced in proportion to the area substantially reclaimed as compared to the total pre-reclamation fee but shall not be reduced to less than 60 percent of the total annual pre-reclamation fee.

Formula for fee calculation:

Fee owed = Pre-reclamation Fee - $((A_R/A_T) * (\text{Pre-reclamation Fee}))$

where A_T = Total Acreage

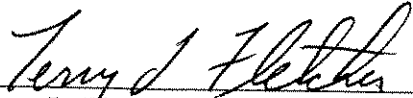
A_R = Reclaimed Acreage

B. STATEMENT OF REASONS:

1. The Commission has the authority to approve this petition.
2. The Division has met all procedural requirements necessary for the approval of this petition.
3. These revisions encourage reclamation of mining sites by creating a financial incentive for partial reclamation.
4. These revisions will make the mining fee less burdensome for operators.
5. These revisions will clarify the applicable administrative processes.
6. These revisions will provide flexibility in determining what financial assurance has to be released before an operator can get a fee reduction.
7. These revisions allow the Division to continue to cover the costs of administration, implementation, enforcement, investigation and permitting pursuant to NMSA 1978, Section 69-36-7(M).

C. FINAL ORDER

This petition is approved as of May 10, 2000.


Terry L. Fletcher, Chair
New Mexico Mining Commission