

1 SENATE BILL 334

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Elizabeth "Liz" Stefanics

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10 AN ACT

11 RELATING TO MINING; PROVIDING THAT THE DIRECTOR OF THE MINING
12 AND MINERALS DIVISION OF THE ENERGY, MINERALS AND NATURAL
13 RESOURCES DEPARTMENT CONSIDER THE EFFECT ON THE ENVIRONMENT AND
14 PUBLIC HEALTH BEFORE ISSUING A PERMIT FOR A NEW MINING
15 OPERATION.

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17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 69-36-12 NMSA 1978 (being Laws 1993,
19 Chapter 315, Section 12) is amended to read:

20 "69-36-12. NEW MINING OPERATIONS--MINING OPERATION PERMIT
21 REQUIRED.--

22 A. After ~~[the effective date of the New Mexico~~
23 ~~Mining Act]~~ June 18, 1993, except as provided in Section ~~[5 of~~
24 ~~that act]~~ 69-36-5 NMSA 1978, no person shall conduct a new
25 mining operation without a permit issued by the director.

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1 Applications for permits for new mining operations operating
2 pursuant to Section [~~5 of the New Mexico Mining Act~~] 69-36-5
3 NMSA 1978 shall be received by the director by December 31,
4 1995. The director may grant one extension for the submission
5 of a permit application for a new mining operation for six
6 months for good cause shown. Prior to receiving a permit for a
7 new mining operation, an applicant shall submit an application
8 that complies with the New Mexico Mining Act and [~~regulation~~]
9 rules of the commission, including, at a minimum, one year of
10 baseline data as required by [~~regulation~~] rule.

11 B. The director shall issue the permit for a new
12 mining operation if the director finds that:

- 13 (1) the permit application is complete;
- 14 (2) the permit application fee has been paid
15 and the financial assurance is adequate and has been provided;
- 16 (3) reclamation in accordance with the
17 proposed reclamation plan is economically and technically
18 feasible;
- 19 (4) the mining operation is designed to meet
20 without perpetual care all applicable environmental
21 requirements imposed by the New Mexico Mining Act and
22 [~~regulations~~] rules adopted pursuant to that act and other laws
23 following closure; [~~and~~]
- 24 (5) the applicant, the operator or owner or
25 any persons or entities directly controlled by the applicant,

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1 operator or owner or any persons or entities that directly
2 control the applicant, operator or owner:

3 (a) are not currently in violation of
4 the terms of another permit issued by the division or in
5 violation of any substantial environmental law or substantive
6 environmental regulation at a mining operation in the United
7 States, which violation is unabated and is not the subject of
8 appeal, and have not forfeited or had forfeited financial
9 assurance required for any mining, reclamation or exploration
10 permit in the United States; provided that a violation that
11 occurred prior to the initiation of a legal relationship
12 between the permit applicant and the violator shall not be
13 considered for purposes of this paragraph; and

14 (b) have not demonstrated a pattern of
15 willful violations of the New Mexico Mining Act or other New
16 Mexico environmental statutes; provided that a violation that
17 occurred prior to the initiation of a legal relationship
18 between the permit applicant and the violator shall not be
19 considered for purposes of this paragraph; and

20 (6) in consultation with the secretary of
21 environment and other appropriate agencies as determined by the
22 director, the mining operation will not result in a hazard to
23 public health, a threat to the state's water resources or
24 wildlife or an undue risk to property or have a
25 disproportionate effect on the health, environment or economy

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1 of a particular socioeconomic group.

2 C. The permit for a new mining operation may be
3 revoked or suspended by order of the director for violation of
4 its terms or conditions, a ~~[regulation]~~ rule of the commission
5 or a provision of the New Mexico Mining Act."

6 SECTION 2. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is July 1, 2021.

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