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HOUSE BILL 466

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

MICHAEL OLGUIN

AN ACT

RELATING TO MINING; AMENDING SECTIONS OF THE NEW MEXICO MINING
ACT TO EXCLUDE CERTAIN OPERATORS, CHANGE THE MEMBERSHIP OF THE
MINING COMMISSION AND PROVIDE FOR MINING INSPECTION SCHEDULES.

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

Section 1. Section 69-36-3 NMSA 1978 (being Laws 1993,
Chapter 315, Section 3) is amended to read:

"69-36-3. DEFINITIONS. -- As used in the New Mexico Mining
Act:

A. "affected area" means the area outside of the
permit area where the land surface, surface water, ground water
and air resources are impacted by mining operations within the
permit area;

B. "commission" means the mining commission
established in the New Mexico Mining Act;

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1 C. "director" means the director of the division or
2 his designee;

3 D. "division" means the mining and minerals division
4 of the energy, minerals and natural resources department;

5 E. "existing mining operation" means an extraction
6 operation that produced marketable minerals for a total of at
7 least two years between January 1, 1970 and [~~the effective date~~
8 ~~of the New Mexico Mining Act~~] June 18, 1993;

9 F. "exploration" means the act of searching for or
10 investigating a mineral deposit, including sinking shafts,
11 tunneling, drilling core and bore holes, digging pits, making
12 cuts and other works for the purpose of extracting samples prior
13 to commencement of development or extraction operations and the
14 building of roads, access ways and other facilities related to
15 such work; however, activities that cause no or very little
16 surface disturbance, such as airborne surveys and photographs,
17 use of instruments or devices that are hand-carried or otherwise
18 transported over the surface to perform magnetic, radioactive or
19 other tests and measurements, boundary or claim surveying,
20 location work or other work that causes no greater disturbance
21 than is caused by ordinary lawful use of the area by persons not
22 engaged in exploration, are excluded from the meaning of
23 "exploration";

24 G. "mineral" means a nonliving commodity that is
25 extracted from the earth for use or conversion into a saleable

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1 or usable product, but does not include clays, adobe, flagstone,
2 potash, sand, gravel, caliche, borrow dirt, quarry rock used as
3 aggregate for construction, coal, surface water or subsurface
4 water, geothermal resources, oil and natural gas together with
5 other chemicals recovered with them, commodities, byproduct
6 materials and wastes that are regulated by the nuclear
7 regulatory commission or waste regulated under Subtitle C of the
8 federal Resource Conservation and Recovery Act of 1976;

9 H. "mining" means the process of obtaining useful
10 minerals from the earth's crust or from previously disposed or
11 abandoned mining wastes, including exploration, open-cut mining
12 and surface operation, the disposal of refuse from underground
13 and in situ mining, mineral transportation, concentrating,
14 milling, evaporation, leaching and other processing. "Mining"
15 does not ~~[mean]~~ include the exploration and extraction of
16 potash, sand, gravel, caliche, borrow dirt ~~[and]~~ or quarry rock
17 used as aggregate in construction; the exploration and
18 extraction of natural petroleum in a liquid or gaseous state by
19 means of wells or pipes; the development or extraction of coal;
20 the extraction of geothermal resources; smelting, refining,
21 cleaning, preparation, transportation or other off-site
22 operations not conducted on permit areas; or the extraction,
23 processing or disposal of commodities, byproduct materials or
24 wastes or other activities regulated by the federal nuclear
25 regulatory commission. "Mining" also does not include those

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1 operations involving less than twenty-five acres that do not use
2 chemical processing;

3 I. "new mining operation" means a mining operation
4 that engages in a development or extraction operation after [~~the~~
5 ~~effective date of the New Mexico Mining Act~~] June 18, 1993 and
6 that is not an existing mining operation;

7 J. "permit area" means the geographical area defined
8 in the permit for a new mining operation or for an existing
9 mining operation on which mining operations are conducted or
10 cause disturbance; and

11 K. "reclamation" means the employment during and
12 after a mining operation of measures designed to mitigate the
13 disturbance of affected areas and permit areas and, to the
14 extent practicable, provide for the stabilization of a permit
15 area following closure that will minimize future impact to the
16 environment from the mining operation and protect air and water
17 resources. "

18 Section 2. Section 69-36-4 NMSA 1978 (being Laws 1993,
19 Chapter 315, Section 4) is amended to read:

20 "69-36-4. INTERIM PROGRAM - LIMITATIONS - EXEMPTIONS FROM
21 ACT. --

22 A. Nothing in the New Mexico Mining Act shall
23 supersede current or future requirements and standards of any
24 other applicable federal or state law.

25 B. [~~After the effective date of the New Mexico~~

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1 ~~Mining Act and~~] Until the commission adopts regulations
2 necessary to carry out the provisions of the New Mexico Mining
3 Act, county mining laws or ordinances shall apply to mining
4 within their jurisdictions in New Mexico.

5 C. The provisions of the New Mexico Mining Act do
6 not apply to any existing mining operation abandoned as of June
7 18, 1993 or reclaimed prior to September 30, 1995 unless the
8 mining operation applies for a permit as an existing mining
9 operation by December 31, 1997.

10 Section 3. Section 69-36-6 NMSA 1978 (being Laws 1993,
11 Chapter 315, Section 6, as amended) is amended to read:

12 "69-36-6. MINING COMMISSION--CREATED--MEMBERS. --

13 A. The "mining commission" is created. The
14 commission shall consist of [~~seven~~] nine voting members,
15 including:

16 (1) the secretary of energy, minerals and
17 natural resources or his designee;

18 (2) the director of the bureau of mines and
19 mineral resources of the New Mexico institute of mining and
20 technology or [~~an academic from a mining-related field to be~~
21 ~~appointed for a four-year term by the governor with the advice~~
22 ~~and consent of the senate~~] his designee;

23 [~~(2)~~] (3) the secretary of environment or his
24 designee;

25 [~~(3)~~] (4) the state engineer or his designee;

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1 [~~(4)~~] (5) the commissioner of public lands or
2 his designee;

3 [~~(5)~~] (6) the director of the department of
4 game and fish or his designee; and

5 [~~(6) two~~] (7) three members of the public and
6 an alternate for each, all to be appointed by the governor with
7 the advice and consent of the senate. The public members shall
8 be chosen to represent [~~and to balance~~] the interests of
9 environmental groups and large and small mining [~~interests while~~
10 ~~minimizing conflicts of interest~~] operations. No more than
11 [~~one~~] two of the public members and [~~one~~] two of the alternates
12 appointed may belong to the same political party. When the
13 initial appointments are made, one of the public members and his
14 alternate will be designated to serve for two-year terms, after
15 which all public members shall serve for four years. An
16 alternate member may vote only in the absence of the public
17 member for whom he is the alternate.

18 [~~B. The chairman of the soil and water conservation~~
19 ~~commission and the director of the agricultural experiment~~
20 ~~station of New Mexico state university or their designees shall~~
21 ~~be nonvoting ex-officio members to the commission.~~

22 ~~E.]~~ B. The commission shall elect a chairman and
23 other necessary officers and keep records of its proceedings.

24 [~~D.]~~ C. The commission shall convene upon the call
25 of the chairman or a majority of its members.

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1 ~~[E.]~~ D. A majority of the voting members of the
2 commission shall be a quorum for the transaction of business.
3 However, no action of the commission shall be valid unless
4 concurred upon by at least ~~[four]~~ five of the members present.

5 ~~[F.]~~ E. No member of the commission, with the
6 exception of ~~[one]~~ two of the public members and ~~[his alternate]~~
7 their alternates, shall receive or shall have received during
8 the previous two years, more than ten percent of his income
9 directly or indirectly from permit holders or applicants for
10 permits. Each member of the commission shall, upon acceptance
11 of his appointment and prior to the performance of any of his
12 duties, file a statement of disclosure with the secretary of
13 state stating:

14 (1) the amount of money or other valuable
15 consideration received, whether provided directly or indirectly,
16 from persons subject to or who appear before the commission;

17 (2) the identity of the source of money or
18 other valuable consideration; and

19 (3) whether the money or other valuable
20 consideration was in excess of ten percent of his gross personal
21 income in either of the preceding two years.

22 ~~[G.]~~ F. No commissioner with any financial interest
23 affected or potentially affected by a permit action may
24 participate in proceedings related to that permit action."

25 Section 4. Section 69-36-7 NMSA 1978 (being Laws 1993,

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1 Chapter 315, Section 7) is amended to read:

2 "69-36-7. COMMISSION--DUTIES.--The commission shall:

3 A. ~~[within one year of the effective date of the New~~
4 ~~Mexico Mining Act]~~ before June 18, 1994, adopt and file
5 reasonable regulations ~~[consistent with the purposes and intent~~
6 ~~of the New Mexico Mining Act]~~ necessary to implement ~~[that]~~ the
7 provisions of the New Mexico Mining Act, including regulations
8 that:

9 (1) consider the economic and environmental
10 effects of their implementation;

11 (2) require permitting of all new and existing
12 mining operations and exploration; and

13 (3) require annual reporting of production
14 information to the commission, which shall be kept confidential
15 if otherwise required by law;

16 B. adopt regulations for new mining operations that
17 allow the director to select a qualified expert who may:

18 (1) review and comment to the director on the
19 adequacy of baseline data gathered prior to submission of the
20 permit application for use in the permit application process;

21 (2) recommend to the director additional
22 baseline data that may be necessary in the review of the
23 proposed mining activity;

24 (3) recommend to the director methodology
25 guidelines to be followed in the collection of all baseline

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1 data; and

2 (4) review and comment on the permit
3 application;

4 C. adopt regulations that require and provide for
5 the issuance and renewal of permits for new and existing mining
6 operations and exploration and that establish schedules to bring
7 existing mining operations into compliance with the requirements
8 of the New Mexico Mining Act; provided the term of a permit for
9 a new mining operation shall not exceed twenty years and the
10 term of renewals of permits for new mining operations shall not
11 exceed ten years;

12 D. adopt regulations that provide for permit
13 modifications. The commission shall establish criteria to
14 determine which permit modifications may have significant
15 environmental impact. Modifications that the director
16 determines will have significant environmental impact shall
17 require public notice and an opportunity for public hearing
18 pursuant to Subsection K of this section. A permit modification
19 to the permit for an existing mining operation shall be obtained
20 for each new discrete processing, leaching, excavation, storage
21 or stockpile unit located within the permit area of an existing
22 mining operation and not identified in the permit of an existing
23 mining operation and for each expansion of such a unit
24 identified in the permit for an existing mining operation that
25 exceeds the design limits specified in the permit. The

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1 regulations shall require that permit modifications for such
2 units be approved if the director determines that the unit will:

3 (1) comply with the regulations regarding
4 permit modifications;

5 (2) incorporate the requirements of Paragraphs
6 (1), (2), (4), (5) and (6) of Subsection H of this section; and

7 (3) be sited and constructed in a manner that
8 facilitates, to the maximum extent practicable, contemporaneous
9 reclamation consistent with the closeout plan;

10 E. adopt regulations that require new and existing
11 mining operations to obtain and maintain permits for standby
12 status. A permit for standby status shall be issued for a
13 maximum term of five years; provided that upon application the
14 director may renew a permit for standby status for no more than
15 three additional five-year terms. The regulations shall require
16 that before a permit for standby status is issued or renewed an
17 owner or operator shall:

18 (1) identify the projected term of standby
19 status for each unit of the new or existing mining operation;

20 (2) take measures that reduce, to the extent
21 practicable, the formation of acid and other toxic drainage to
22 prevent releases that cause federal or state environmental
23 standards to be exceeded;

24 (3) meet applicable federal and state
25 environmental standards and regulations during the period of

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1 standby status;

2 (4) stabilize waste and storage units, leach
3 piles, impoundments and pits during the term of standby status;

4 (5) comply with applicable requirements of the
5 New Mexico Mining Act and the regulations adopted pursuant to
6 that act; and

7 (6) provide an analysis of the economic
8 viability of each unit proposed for standby status;

9 F. establish by regulation closeout plan
10 requirements for existing mining operations that incorporate
11 site-specific characteristics, including consideration of
12 disturbances from previous mining operations, and that take into
13 account the mining method utilized;

14 G. establish by regulation a procedure for the
15 issuance of a permit for an existing mining operation and for
16 modifications of that permit to incorporate approved closeout
17 plans or portions of closeout plans and financial assurance
18 requirements for performance of the closeout plans. The permit
19 shall describe the permit area of the existing mining operation
20 and the design limits of units of the existing mining operation
21 based upon the site assessment submitted by the operator. The
22 permit shall contain a schedule for completion of a closeout
23 plan. The permit shall thereafter be modified to incorporate
24 the approved closeout plan or portions of the closeout plan once
25 financial assurance has been provided for completion of the

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1 closeout plan or the approved portions of the closeout plan.
2 The permit may be modified for new mining units, expansions
3 beyond the design limits of a unit at an existing mining
4 operation or standby status;

5 H. establish by regulation permit and reclamation
6 requirements for new mining operations that incorporate site-
7 specific characteristics. These requirements shall, at a
8 minimum:

9 (1) require that new mining operations be
10 designed and operated using the most appropriate technology and
11 the best management practices;

12 (2) assure protection of human health and
13 safety, the environment, wildlife and domestic animals;

14 (3) include backfilling or partial backfilling
15 only when necessary to achieve reclamation objectives that
16 cannot be accomplished through other mitigation measures;

17 (4) require approval by the director that the
18 permit area will achieve a self-sustaining ecosystem appropriate
19 for the life zone of the surrounding areas following closure
20 unless conflicting with the approved post-mining land use;

21 (5) require that new mining operations be
22 designed in a manner that incorporates measures to reduce, to
23 the extent practicable, the formation of acid and other toxic
24 drainage that may otherwise occur following closure to prevent
25 releases that cause federal or state standards to be exceeded;

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1 (6) require that nonpoint source surface
2 releases of acid or other toxic substances shall be contained
3 within the permit area;

4 (7) require that all waste, waste management
5 units, pits, heaps, pads and any other storage piles are
6 designed, sited and constructed in a manner that facilitates, to
7 the maximum extent practicable, contemporaneous reclamation and
8 are consistent with the new mining operation's approved
9 reclamation plan; and

10 (8) where sufficient topsoil is present, take
11 measures to preserve it from erosion or contamination and assure
12 that it is in a usable condition for sustaining vegetation when
13 needed;

14 I. adopt regulations that establish a permit
15 application process for new mining operations that includes:

16 (1) disclosure of ownership and controlling
17 interests in the new mining operation or submission of the
18 applicant's most recent form 10K required by the federal
19 securities exchange commission;

20 (2) a statement of all mining operations within
21 the United States owned, operated or directly controlled by the
22 applicant, owner or operator and by persons or entities that
23 directly control the applicant and the names and the addresses
24 of regulatory agencies with jurisdiction over the environmental
25 aspects of those operations and that could provide a compliance

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1 history for those operations and over the preceding ten years.

2 The operator shall assist the applicant in obtaining compliance
3 history information;

4 (3) a description of the type and method of
5 mining and the engineering techniques proposed;

6 (4) the anticipated starting and termination
7 dates of each phase of the new mining operation and the number
8 of acres of land to be affected;

9 (5) the names of all affected watersheds, the
10 location of any perennial, ephemeral or intermittent surface
11 stream or tributary into which surface or pit drainage will be
12 discharged or may possibly be expected to reach and the location
13 of any spring within the permit area and the affected area;

14 (6) a determination of the probable hydrologic
15 consequences of the new mining operation and reclamation, both
16 on and off the permit area, with respect to the hydrologic
17 regime, quantity and quality of surface and ground water
18 systems, including the dissolved and suspended solids under
19 seasonal flow conditions;

20 (7) cross-sections or plans of the permit area
21 depicting:

22 (a) the nature and depth of the various
23 formations of overburden;

24 (b) the location of subsurface water, if
25 encountered, and its quality;

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- 1 (c) the nature and location of any ore
2 body to be mined;
- 3 (d) the location of aquifers and springs;
4 (e) the estimated position and flow of
5 the water table;
- 6 (f) the proposed location of waste rock,
7 tailings, stockpiles, heaps, pads and topsoil preservation
8 areas; and
- 9 (g) premining vegetation and wildlife
10 habitat features present at the site;
- 11 (8) the potential for geochemical alteration of
12 overburden, the ore body and other materials present within the
13 permit area;
- 14 (9) a reclamation plan that includes a detailed
15 description of the proposed post-mining land use and how that
16 use is to be achieved; and
- 17 (10) premining baseline data as required by
18 regulations adopted by the commission;
- 19 J. adopt regulations to coordinate the roles of
20 permitting agencies involved in regulating activities related to
21 new and existing mining operations and exploration, including
22 regulatory requirements, to avoid duplicative and conflicting
23 administration of the permitting process and other requirements;
- 24 K. except for regulations enacted pursuant to
25 Subsection L of this section, adopt regulations that ensure that

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1 the public and permitting agencies receive notice of each
2 application for issuance, renewal or revision of a permit for a
3 new or existing mining operation, for standby status, or
4 exploration, a variance or an application for release of
5 financial assurance and any inspection prior to the release of
6 financial assurance, including a provision that no action shall
7 be taken on any application until an opportunity for a public
8 hearing, held in the locality of the operation, is provided and
9 that all interested persons shall be given a reasonable chance
10 to submit data, views or arguments orally or in writing and to
11 examine witnesses testifying at the hearing. These regulations
12 shall require at a minimum that the applicant for issuance,
13 renewal or revisions of a permit or a variance or an application
14 for release of financial assurance and any inspection prior to
15 release of financial assurance shall provide to the director
16 proof that notice of the application has been:

17 (1) provided by certified mail to the owners of
18 record, as shown by the most recent property tax schedule, of
19 all properties within one-half mile of the property on which the
20 mining operation is located or is proposed to be located;

21 (2) provided by certified mail to all
22 municipalities and counties within a ten-mile radius of the
23 property on which the mining operation is or will be located;

24 (3) published once in a newspaper of general
25 circulation in each county in which the property on which the

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1 mining operation is or will be located; provided that this
2 notice shall appear in either the classified or legal
3 advertisements section of the newspaper and at one other place
4 in the newspaper calculated to give the general public the most
5 effective notice and, when appropriate, shall be printed in both
6 English and Spanish;

7 (4) posted in at least four publicly accessible
8 and conspicuous places, including the entrance to the new or
9 existing mining operation if that entrance is publicly
10 accessible and conspicuous; and

11 (5) mailed to all persons who have made a
12 written request to the director for notice;

13 L. adopt regulations to provide for permits, without
14 notice and hearing, to address mining operations that have
15 minimal impact on the environment; provided that such permits
16 shall require general plans and shall otherwise reduce the
17 permitting requirements of the New Mexico Mining Act;

18 M. establish by regulation a schedule of annual
19 administrative and permit fees, which shall equal and not exceed
20 the estimated costs of administration, implementation,
21 enforcement, investigation and permitting pursuant to the
22 provisions of the New Mexico Mining Act. The size of the
23 operation, anticipated inspection frequency and other factors
24 deemed relevant by the commission shall be considered in the
25 determination of the fees. The fees established pursuant to

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1 this subsection shall be deposited in the mining act fund;

2 N. establish by regulation a continuing process of
3 review of mining and reclamation practices in New Mexico that
4 provides for periodic review and amendment of regulations and
5 procedures to provide for the protection of the environment and
6 consider the economic effects of the regulations;

7 O. adopt regulations governing the provision of
8 variances issued by the director, stating the procedures for
9 seeking a variance, including provisions for public notice and
10 an opportunity for a hearing in the locality where the variance
11 will be operative, the limitations on provision of variances,
12 requiring the petitioner to present sufficient evidence to prove
13 that failure to grant a variance will impose an undue economic
14 burden and that granting the variance will not result in a
15 significant threat to human health, safety or the environment;

16 P. provide by regulation that, prior to the issuance
17 of any permit for a new mining operation pursuant to the
18 provisions of the New Mexico Mining Act, the permit applicant or
19 operator:

20 (1) shall provide evidence to the director that
21 other applicable state and federal permits required to be
22 obtained by the new or existing mining operation either have
23 been or will be issued before the activities subject to those
24 permits begin; and

25 (2) shall provide to the director a written

1 determination from the secretary of environment stating that the
2 permit applicant has demonstrated that the activities to be
3 permitted or authorized will be expected to achieve compliance
4 with all applicable air, water quality and other environmental
5 standards if carried out as described;

6 Q. require by regulation that the applicant file
7 with the director, prior to the issuance of a permit, financial
8 assurance. The amount of the financial assurance shall be
9 sufficient to assure the completion of the performance
10 requirements of the permit, including closure and reclamation,
11 if the work had to be performed by the director or a third party
12 contractor and shall include periodic review to account for any
13 inflationary increases and anticipated changes in reclamation or
14 closure costs. The regulations shall specify that financial
15 requirements shall neither duplicate nor be less comprehensive
16 than the federal financial requirements. The form and amount of
17 the financial assurance shall be subject to the approval of the
18 director as part of the permit application; provided, financial
19 assurance does not include any type or variety of self-guarantee
20 or self-insurance;

21 R. require by regulation that the permittee may file
22 an application with the director for the release of all or part
23 of the permittee's financial assurance. The permittee shall not
24 file an application for release of financial assurance more than
25 once per year for each mining operation. The application shall

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1 describe the reclamation measures completed and shall contain an
2 estimate of the costs of reclamation measures that have not been
3 completed. Prior to release of any portion of the permittee's
4 financial assurance, the director shall conduct an inspection
5 and evaluation of the reclamation work involved. The director
6 shall notify persons who have requested advance notice of the
7 inspection. Interested members of the public shall be allowed
8 to be present at the inspection of the reclamation work by the
9 director.

10 (1) The director may release in whole or in
11 part the financial assurance if the reclamation covered by the
12 financial assurance has been accomplished as required by the New
13 Mexico Mining Act; provided that the director shall retain
14 financial assurance at least equal to the approved estimated
15 costs of completing reclamation measures that have not been
16 completed; and provided further that for revegetated areas, the
17 director shall retain the amount of financial assurance
18 necessary for a third party to reestablish vegetation for a
19 period of twelve years after the last year of augmented seeding,
20 fertilizing, irrigation or other work, unless a post-mining land
21 use is achieved that is inconsistent with the further need for
22 revegetation. For new mining operations only, no part of the
23 financial assurance necessary for a third party to reestablish
24 vegetation shall be released [sø] as long as the lands to which
25 the release would be applicable are contributing suspended

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1 solids above background levels to streamflow of intermittent and
2 perennial streams.

3 (2) A person with an interest that is or will
4 be adversely affected by release of the financial assurance may
5 file, with the director within thirty days of the date of the
6 inspection, written objections to the proposed release from
7 financial assurance. If written objections are filed and a
8 hearing is requested, the director shall inform all the
9 interested parties of the time and place of the hearing at least
10 thirty days in advance of the public hearing and hold a public
11 hearing in the locality of the new or existing mining operation
12 or exploration operation proposed for release from financial
13 assurance. The date, time and location of the public hearing
14 shall be advertised by the director in a newspaper of general
15 circulation in the locality for two consecutive weeks, and all
16 persons who have submitted a written request in advance to the
17 director to receive notices of hearings shall be provided notice
18 at least thirty days prior to the hearing;

19 S. establish coordinated procedures that avoid
20 duplication for the inspection, monitoring and sampling of air,
21 soil and water and enforcement of applicable requirements of the
22 New Mexico Mining Act, regulations adopted pursuant to that act
23 and permit conditions for new and existing mining operations and
24 exploration. The regulations shall require, at a minimum:

25 (1) inspections by the director occurring on an

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1 irregular basis [~~averaging not less than one inspection per~~
2 ~~month when the mining operation is conducting significant~~
3 ~~reclamation activities and one on-site inspection per calendar~~
4 ~~quarter at all other times and on a schedule to be established~~
5 ~~by the commission for mining operations having a minimal impact~~
6 ~~on the environment and exploration operations covered by each~~
7 ~~permit]~~ according to the following schedule:

8 (a) at least one inspection per month
9 when a mining operation is conducting significant reclamation
10 activities;

11 (b) at least two inspections per year for
12 active mining operations;

13 (c) at least one inspection per year on
14 inactive sites;

15 (d) at least one inspection per year
16 following completion of all significant reclamation activities,
17 but prior to the release of financial assurances; and

18 (e) on a schedule to be established by
19 the commission for exploration operations and for mining
20 operations having a minimal impact on the environment;

21 (2) inspections shall occur without prior
22 notice to the permittee or his agents or employees except for
23 necessary on-site meetings with the permittee;

24 (3) when the director determines that a
25 condition or practice exists that violates a requirement of the

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1 New Mexico Mining Act, a regulation adopted pursuant to that act
2 or a permit issued under that act, which condition, practice or
3 violation also creates an imminent danger to the health or
4 safety of the public or will cause significant imminent
5 environmental harm, the director shall immediately order a
6 cessation of the new or existing mining operation or the
7 exploration operation or the portion of that operation relevant
8 to the condition, practice or violation. The cessation order
9 shall remain in effect until the director determines that the
10 condition, practice or violation has been abated or until
11 modified, vacated or terminated by the director or the
12 commission;

13 (4) when the director determines that an owner
14 or operator is in violation of a requirement of the New Mexico
15 Mining Act, a regulation adopted pursuant to that act or a
16 permit issued pursuant to that act, but the violation does not
17 create an imminent danger to the health or safety of the public
18 or will not cause significant imminent environmental harm, the
19 director shall issue a notice to the owner or operator fixing a
20 reasonable time, not to exceed sixty days, for the abatement of
21 the violation. If, upon expiration of the period of time as
22 originally fixed or subsequently extended for good cause shown,
23 the director finds that the violation has not been abated, he
24 shall immediately order a cessation of new or existing mining
25 operations or exploration operations or the portion thereof

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1 relevant to the violation. The cessation order shall remain in
2 effect until the director determines that the violation has been
3 abated; and

4 (5) when the director determines that a pattern
5 of violations of the requirements of the New Mexico Mining Act
6 or of the regulations adopted pursuant to that act or the permit
7 required by that act exists or has existed, and if the director
8 also finds that such violations are caused by the unwarranted
9 failure of the owner or operator to comply with the requirements
10 of that act, regulation or permit or that such violations are
11 willfully caused by the owner or operator, the director shall
12 immediately issue an order to the owner or operator to show
13 cause as to why the permit should not be suspended or revoked;

14 T. provide for the transfer of a permit to a
15 successor operator, providing for release of the first operator
16 from obligations under the permit, including financial
17 assurance, following the approved assumption of such obligations
18 and financial assurance by the successor operator; and

19 ~~[U. adopt regulations providing that the owner or~~
20 ~~operator of an existing mining operation or a new mining~~
21 ~~operation who has completed some reclamation measures prior to~~
22 ~~the effective date of the regulations adopted pursuant to the~~
23 ~~New Mexico Mining Act may apply for an inspection of those~~
24 ~~reclamation measures and a release from further requirements~~
25 ~~pursuant to that act for the reclaimed areas if, after an~~

Underscored material = new
~~[bracketed material] = delete~~

1 ~~inspection, the director determines that the reclamation~~
2 ~~measures satisfy the requirements of that act and the~~
3 ~~substantive requirements for reclamation pursuant to the~~
4 ~~applicable regulatory standards; and~~

5 ~~V.] U.~~ develop and adopt other regulations necessary
6 and appropriate to carry out the purposes and provisions of the
7 New Mexico Mining Act. "

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