

# 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. 01-01

## FINAL ORDER

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. A public hearing was held on May 10, 2001, before the Commission.

On May 10, 2000, the Commission deliberated and voted to approve the regulatory changes reflected in the amended regulation 202, entitled "Annual Fees," as set forth below in recodified NMAC format.

### A. AMENDED REGULATIONS:

#### 19.10.2.202 ANNUAL FEES

A. The annual fee for an existing mining operation shall be determined by adding:

- (1) \$800.00 base fee,
- (2) \$15.00 per acre for the first 50 acres of currently disturbed surface land plus \$3.00 per acre for all disturbed land over 50 acres, and
- (3) a fee determined in accordance with 19.10.2.203 NMAC.
- (4) A surcharge of 25% shall be added to the total annual fees for existing mining operations that obtained an extension in accordance with Subsection D of 19.10.5.501 NMAC.
- (5) The annual fee shall be calculated each year based on cumulative acreage disturbed as of December 31st of the prior year, and shall be due on or before June 30, 2001, and June 30th of each subsequent year until all Mining Act requirements are met. For fees due on June 30, 2001, the permittee may elect to pay half the fees on June 30, 2001 and half the fees on or before December 31, 2001.

**B.** The annual fee for the new mining operation shall be determined by adding:

- (1) \$1,000.00 base fee,
- (2) \$30.00 per acre for the first 50 acres of currently disturbed surface land plus \$10.00 per acre for all disturbed land over 50 acres, and
- (3) a fee determined in accordance with 19.10.2.203 NMAC.
- (4) The annual fee shall be calculated each year based on cumulative acreage disturbed as of December 31st of the prior year, and shall be due on or before June 30, 2001 and June 30th of each subsequent year for the duration of the permit.

**C.** The annual fee for a minimal impact existing mining operation shall be \$250.00. This fee shall be due on or before December 31, 1995, and each subsequent year for the duration of the permit. Beginning in 2001, this fee shall be due on or before June 30th of each year.

**D.** The annual fee for a minimal impact new mining operation shall be \$250.00. This fee shall be due on or before December 31st of the year following the permit application and each subsequent year for the duration of the permit. Beginning in 2001, this fee shall be due on or before June 30th of each year.

**E.** The provisions in Subsection A through D of 19.10.2.202 NMAC and Subsection F of 19.10.2.202 NMAC shall not be applicable to any fees due after March 31, 2003.

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

(1) For the purposes of 19.10.2 NMAC, "Substantially Reclaimed" means financial assurance has been released pursuant to 19.10.12.1210 NMAC except the amount to establish revegetation pursuant to Subsection A of 19.10.12.1204 NMAC.

(2) For the purposes of 19.10.2 NMAC, 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 Subsection A of 19.10.2.202 NMAC or Subsection B of 19.10.2.202 NMAC 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:  $\text{Fee owed} = \text{Pre-reclamation Fee} - (\text{AR}/\text{AT}) * (\text{Pre-reclamation Fee})$ , where AT = Total Acreage and AR = Reclaimed Acreage.

[7-12-94, 11-15-95, 2-15-96, 5-31-97, 6-30-99, 12-29-2000; 19.10.2.202 NMAC - Rn, 19 NMAC 10.2.2.202, 05-15-2001; A, 05-31-2001]

**B. FINAL ORDER:**

This petition is HEREBY APPROVED as of May 10, 2001.

*John Pfael* Commission Clerk  
for  
Terry L. Fletcher, Chair  
New Mexico Mining Commission

Signature Permission provided by  
phone on May 17, 2001