

STATE OF NEW MEXICO
NEW MEXICO MINING COMMISSION

In the Matter of Petitions to Amend
19.10.5, Part 5, NMAC,

No. 01-04

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NEW MEXICO MINING COMMISSION

STATEMENT OF REASONS

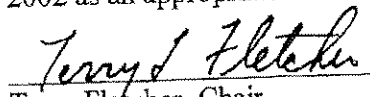
This matter is before the New Mexico Mining Commission for consideration of rulemaking. The Commission met at a regular meeting on December 14, 2001, after appropriate notice. The Energy, Minerals and Natural Resources Department, Minerals and Mining Division, Environment Department, Phelps Dodge Tyrone, Inc., Chino Mines Co. and Cobre Mining Co. filed a joint petition to amend 19.10.5.501 NMAC, in effect extending deadlines. Gila Resources Information Project, Amigos Bravos, Molycorp, Inc. and LAC Minerals (USA) LLC appeared and contributed alternatives to the petitions plus testimony and argument. After considering the information at the public meeting, a quorum being present, the Commission voted to adopt the following language to replace the current 19.10.5.501.E NMAC.

Any applicant who received an extension of time pursuant to Subsection D of 19.10.5.101 NMAC, and for which a public hearing on a closeout application has been requested but will not be held pursuant to 19.10.9.904.A NMAC prior to December 1, 2001, or for which a public hearing on a closeout application was not requested, must have the closeout plan approved by the Director no later than October 1, 2002.

Pursuant to the Commission's rulemaking guideline no. 407(D), the Commission submits the following as its statement of reasons for adoption of the foregoing rule change.

All participants in the public hearing acknowledged the necessity for more time for closeout plan finalization. The participants merely had different ideas on how much time is necessary. The Commission's statutes are its primary guide. NMSA 1978, Section 69-36-11(A), requires that permits much contain schedules for submission of closeout plans and, consequently, financial assurances, "within the shortest time practicable." This evinces a legislative intent to get closeout plans in place sooner rather than later.

The Environment Department's best estimate for submission of its Secretary's approval of proposed closeout plans is September 1, 2002. This is a mandatory step in the process pursuant to NMSA 1978, Section 69-36-7(P)(2). The Minerals and Mining Division believes it may finalize the closeout very soon thereafter. It is reasonable to allow thirty days for unforeseen contingencies. The Commission thus arrived at October 2002 as an appropriate date to which to extend the deadline in 19.10.5.501.E NMAC.


Terry Fletcher, Chair
New Mexico Mining Commission