

HOUSE BILL 343

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

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AN ACT

RELATING TO COMMUNITY HEALTH; CREATING THE COMMUNITY HEALTH
STUDY FUND; IMPOSING ANNUAL COMMUNITY HEALTH STUDY FEES
PURSUANT TO THE NEW MEXICO MINING ACT; REQUIRING THE DEPARTMENT
OF HEALTH TO CONDUCT A COMPREHENSIVE HEALTH STUDY ABOUT THE
IMPACTS ON THE HEALTH OF RESIDENTS OF LOCAL COMMUNITIES
AFFECTED BY THE CONTAMINATION OF AIR, LAND AND WATER RESULTING
FROM MINING ACTIVITIES; MAKING AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] COMMUNITY HEALTH STUDY FUND--
APPROPRIATION--HEALTH STUDY.--

A. The "community health study fund" is created as
a nonreverting fund in the state treasury. The fund consists
of appropriations, fees, gifts, grants and donations. Income
from investment of the fund shall be credited to the fund. The

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1 department of health shall administer the fund, and money in
2 the fund is appropriated to the department to carry out the
3 purposes of this section. Expenditures from the fund shall be
4 made on warrants of the secretary of finance and administration
5 pursuant to vouchers signed by the secretary of health or the
6 secretary's authorized representative. Any unexpended or
7 unencumbered balance remaining at the end of a fiscal year
8 shall not revert to the general fund.

9 B. During the period beginning July 1, 2014 and
10 extending through June 30, 2017, the secretary of health shall
11 conduct, with the full cooperation of the mining commission, a
12 comprehensive study, including the opportunity for public
13 comment, to evaluate the health of persons working or living in
14 communities associated with current and historical mining
15 activities in the state, emphasizing those communities
16 associated with uranium mining and milling and federally
17 designated superfund sites related to uranium mining and
18 milling. The study shall:

19 (1) identify those communities that have
20 suffered air, land and water contamination from mining and
21 milling, both historically and currently;

22 (2) quantify the levels of contamination in
23 those communities;

24 (3) compile existing health data of persons
25 living in these communities and establish a baseline of the

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1 current health of communities in which proposed mining
2 activities may be permitted by the mining commission;

3 (4) create a health profile for these
4 communities that indicates levels or rates of cancer, birth
5 defects, mental health problems and other maladies that health
6 experts have associated with mining and milling activities; and

7 (5) propose to the mining commission
8 conditions on permits that can mitigate the health consequences
9 of permitted mining and mitigation efforts to alleviate the
10 continuing consequences of historical mining.

11 C. The secretary of health shall report to the
12 appropriate interim legislative committee no later than October
13 1 of each year regarding the total expenditures from the fund
14 for the previous fiscal year, the purposes for which
15 expenditures were made, an analysis of the progress of the
16 study funded, which shall include an estimate of whether the
17 imposition of community health study fees by the mining
18 commission needs to continue beyond June 30, 2017, and
19 proposals, if any, for legislative action in the subsequent
20 legislative session.

21 SECTION 2. Section 69-36-7 NMSA 1978 (being Laws 1993,
22 Chapter 315, Section 7, as amended) is amended to read:

23 "69-36-7. COMMISSION--DUTIES.--The commission shall:

24 A. before June 18, 1994, adopt and file reasonable
25 regulations consistent with the purposes and intent of the New

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1 Mexico Mining Act necessary to implement the provisions of the
2 New Mexico Mining Act, including regulations that:

3 (1) consider the economic and environmental
4 effects of their implementation;

5 (2) require permitting of all new and existing
6 mining operations and exploration; and

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

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

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

15 (2) recommend to the director additional
16 baseline data that may be necessary in the review of the
17 proposed mining activity;

18 (3) recommend to the director methodology
19 guidelines to be followed in the collection of all baseline
20 data; and

21 (4) review and comment on the permit
22 application;

23 C. adopt regulations that require and provide for
24 the issuance and renewal of permits for new and existing mining
25 operations and exploration and that establish schedules to

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1 bring existing mining operations into compliance with the
2 requirements of the New Mexico Mining Act; provided that the
3 term of a permit for a new mining operation shall not exceed
4 twenty years and the term of renewals of permits for new mining
5 operations shall not exceed ten years;

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

- 23 (1) comply with the regulations regarding
24 permit modifications;
25 (2) incorporate the requirements of Paragraphs

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1 (1), (2), (4), (5) and (6) of Subsection H of this section; and
2 (3) be sited and constructed in a manner that
3 facilitates, to the maximum extent practicable, contemporaneous
4 reclamation consistent with the closeout plan;

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

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

15 (2) take measures that reduce, to the extent
16 practicable, the formation of acid and other toxic drainage to
17 prevent releases that cause federal or state environmental
18 standards to be exceeded;

19 (3) meet applicable federal and state
20 environmental standards and regulations during the period of
21 standby status;

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

24 (5) comply with applicable requirements of the
25 New Mexico Mining Act and the regulations adopted pursuant to

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1 that act; and

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

4 F. establish by regulation closeout plan
5 requirements for existing mining operations that incorporate
6 site-specific characteristics, including consideration of
7 disturbances from previous mining operations, and that take
8 into account the mining method utilized;

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

25 H. establish by regulation permit and reclamation

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1 requirements for new mining operations that incorporate site-
2 specific characteristics. These requirements shall, at a
3 minimum:

4 (1) require that new mining operations be
5 designed and operated using the most appropriate technology and
6 the best management practices;

7 (2) [~~assure~~] ensure protection of human health
8 and safety, the environment, wildlife and domestic animals;

9 (3) include backfilling or partial backfilling
10 only when necessary to achieve reclamation objectives that
11 cannot be accomplished through other mitigation measures;

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

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

22 (6) require that nonpoint source surface
23 releases of acid or other toxic substances shall be contained
24 within the permit area;

25 (7) require that all waste, waste management

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1 units, pits, heaps, pads and any other storage piles are
2 designed, sited and constructed in a manner that facilitates,
3 to the maximum extent practicable, contemporaneous reclamation
4 and are consistent with the new mining operation's approved
5 reclamation plan; and

6 (8) where sufficient topsoil is present, take
7 measures to preserve it from erosion or contamination and
8 [~~assure~~] ensure that it is in a usable condition for sustaining
9 vegetation when needed;

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

12 (1) disclosure of ownership and controlling
13 interests in the new mining operation or submission of the
14 applicant's most recent form 10K required by the federal
15 securities and exchange commission;

16 (2) a statement of all mining operations
17 within the United States owned, operated or directly controlled
18 by the applicant, owner or operator and by persons or entities
19 that directly control the applicant and the names and the
20 addresses of regulatory agencies with jurisdiction over the
21 environmental aspects of those operations and that could
22 provide a compliance history for those operations [~~and~~] over
23 the preceding ten years. The operator shall assist the
24 applicant in obtaining compliance history information;

25 (3) a description of the type and method of

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1 mining and the engineering techniques proposed;

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

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

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

17 (7) cross-sections or plans of the permit area
18 depicting:

19 (a) the nature and depth of the various
20 formations of overburden;

21 (b) the location of subsurface water, if
22 encountered, and its quality;

23 (c) the nature and location of any ore
24 body to be mined;

25 (d) the location of aquifers and

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1 springs;

2 (e) the estimated position and flow of
3 the water table;

4 (f) the proposed location of waste rock,
5 tailings, stockpiles, heaps, pads and topsoil preservation
6 areas; and

7 (g) pre-mining vegetation and wildlife
8 habitat features present at the site;

9 (8) the potential for geochemical alteration
10 of overburden, the ore body and other materials present within
11 the permit area;

12 (9) a reclamation plan that includes a
13 detailed description of the proposed post-mining land use and
14 how that use is to be achieved; and

15 (10) pre-mining baseline data as required by
16 regulations adopted by the commission;

17 J. adopt regulations to coordinate the roles of
18 permitting agencies involved in regulating activities related
19 to new and existing mining operations and exploration,
20 including regulatory requirements, to avoid duplicative and
21 conflicting administration of the permitting process and other
22 requirements;

23 K. except for regulations enacted pursuant to
24 Subsection L of this section, adopt regulations that ensure
25 that the public and permitting agencies receive notice of each

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1 application for issuance, renewal or revision of a permit for a
2 new or existing mining operation, for standby status, or
3 exploration, a variance or an application for release of
4 financial assurance and any inspection prior to the release of
5 financial assurance, including a provision that no action shall
6 be taken on any application until an opportunity for a public
7 hearing, held in the locality of the operation, is provided and
8 that all interested persons shall be given a reasonable chance
9 to submit data, views or arguments orally or in writing and to
10 examine witnesses testifying at the hearing. An additional
11 opportunity for a public hearing may be provided if the
12 applicant makes substantial changes in the proposed action, if
13 there are significant new circumstances or information bearing
14 on the proposed action or if the applicant proposes to
15 substantially increase the scale or substantially change the
16 nature of the proposed action and there is public interest and
17 a request for a public hearing. These regulations shall
18 require at a minimum that the applicant for issuance, renewal
19 or revisions of a permit or a variance or an application for
20 release of financial assurance and any inspection prior to
21 release of financial assurance shall provide to the director at
22 the time of filing the application with the director proof that
23 notice of the application and of the procedure for requesting a
24 public hearing has been:

25 (1) provided by certified mail to the owners

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1 of record, as shown by the most recent property tax schedule,
2 of all properties within one-half mile of the property on which
3 the mining operation is located or is proposed to be located;

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

7 (3) published once in a newspaper of general
8 circulation in each county in which the property on which the
9 mining operation is or will be located; provided that this
10 notice shall appear in either the classified or legal
11 advertisements section of the newspaper and at one other place
12 in the newspaper calculated to give the general public the most
13 effective notice and, when appropriate, shall be printed in
14 both English and Spanish;

15 (4) posted in at least four publicly
16 accessible and conspicuous places, including the entrance to
17 the new or existing mining operation if that entrance is
18 publicly accessible and conspicuous;

19 (5) mailed to all persons who have made a
20 written request to the director for notice of this application;
21 and

22 (6) mailed by certified mail to all persons on
23 a list maintained by the director of individuals and
24 organizations who have requested notice of applications under
25 [~~this~~] the New Mexico Mining Act. If the application is

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1 determined to be administratively complete by the director, the
2 applicant shall provide to the director timely proof that
3 notice of that determination has been provided by first class
4 mail to everyone who has indicated to the applicant in writing
5 that they desire information regarding the application and to a
6 list maintained by the director of individuals and
7 organizations who have requested notice of applications under
8 ~~[this]~~ the New Mexico Mining Act;

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

14 M. establish by regulation:

15 (1) a schedule of annual administrative and
16 permit fees, which shall equal and not exceed the estimated
17 costs of administration, implementation, enforcement,
18 investigation and permitting pursuant to the provisions of the
19 New Mexico Mining Act. The size of the operation, anticipated
20 inspection frequency and other factors deemed relevant by the
21 commission shall be considered in the determination of the
22 fees. The fees established pursuant to this ~~[subsection]~~
23 paragraph shall be deposited in the mining act fund; and

24 (2) for the period beginning July 1, 2014 and
25 extending through June 30, 2017, annual community health study

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1 fees that when combined shall equal and not exceed the cost of
2 the comprehensive health study required pursuant to Section 1
3 of this 2014 act as estimated by the department of health,
4 which fees shall be deposited in the community health study
5 fund;

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

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

21 P. provide by regulation that, prior to the
22 issuance of any permit for a new mining operation pursuant to
23 the provisions of the New Mexico Mining Act, the permit
24 applicant or operator:

25 (1) shall provide evidence to the director

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1 that other applicable state and federal permits required to be
2 obtained by the new or existing mining operation either have
3 been or will be issued before the activities subject to those
4 permits begin; and

5 (2) shall provide to the director a written
6 determination from the secretary of environment stating that
7 the permit applicant has demonstrated that the activities to be
8 permitted or authorized will be expected to achieve compliance
9 with all applicable air and water quality and other
10 environmental standards if carried out as described;

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

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1 R. require by regulation that the permittee may
2 file an application with the director for the release of all or
3 part of the permittee's financial assurance. The permittee
4 shall not file an application for release of financial
5 assurance more than once per year for each mining operation.
6 The application shall describe the reclamation measures
7 completed and shall contain an estimate of the costs of
8 reclamation measures that have not been completed. Prior to
9 release of any portion of the permittee's financial assurance,
10 the director shall conduct an inspection and evaluation of the
11 reclamation work involved. The director shall notify persons
12 who have requested advance notice of the inspection.
13 Interested members of the public shall be allowed to be present
14 at the inspection of the reclamation work by the director.

15 (1) The director may release in whole or in
16 part the financial assurance if the reclamation covered by the
17 financial assurance has been accomplished as required by the
18 New Mexico Mining Act; provided that the director shall retain
19 financial assurance at least equal to the approved estimated
20 costs of completing reclamation measures that have not been
21 completed; and provided further that for revegetated areas, the
22 director shall retain the amount of financial assurance
23 necessary for a third party to reestablish vegetation for a
24 period of twelve years after the last year of augmented
25 seeding, fertilizing, irrigation or other work, unless a post-

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1 mining land use is achieved that is inconsistent with the
2 further need for revegetation. For new mining operations only,
3 no part of the financial assurance necessary for a third party
4 to reestablish vegetation shall be released so long as the
5 lands to which the release would be applicable are contributing
6 suspended solids above background levels to streamflow of
7 intermittent and perennial streams.

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

24 S. establish coordinated procedures that avoid
25 duplication for the inspection, monitoring and sampling of air,

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1 soil and water and enforcement of applicable requirements of
2 the New Mexico Mining Act, regulations adopted pursuant to that
3 act and permit conditions for new and existing mining
4 operations and exploration. The regulations shall require, at
5 a minimum:

6 (1) inspections by the director occurring on
7 an irregular basis according to the following schedule:

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

11 (b) at least two inspections per year
12 for 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 release of financial assurance; and

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

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

25 (3) when the director determines that a

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

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

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1 existing mining operations or exploration operations or the
2 portion thereof relevant to the violation. The cessation order
3 shall remain in effect until the director determines that the
4 violation has been abated; and

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

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

21 U. adopt regulations providing that the owner or
22 operator of an existing mining operation or a new mining
23 operation who has completed some reclamation measures prior to
24 the effective date of the regulations adopted pursuant to the
25 New Mexico Mining Act may apply for an inspection of those

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1 reclamation measures and a release from further requirements
2 pursuant to that act for the reclaimed areas if, after an
3 inspection, the director determines that the reclamation
4 measures satisfy the requirements of that act and the
5 substantive requirements for reclamation pursuant to the
6 applicable regulatory standards; and

7 V. develop and adopt other regulations necessary
8 and appropriate to carry out the purposes and provisions of the
9 New Mexico Mining Act."

10 SECTION 3. Section 69-36-19 NMSA 1978 (being Laws 1993,
11 Chapter 315, Section 19) is amended to read:

12 "69-36-19. FUNDS CREATED.--

13 A. There is created within the state treasury the
14 "mining act fund". All money received by the state from permit
15 applicants, permit holders, the federal government, other state
16 agencies or legislative appropriations, except as provided in
17 Paragraph (2) of Subsection M of Section 69-36-7 NMSA 1978,
18 shall be delivered to the state treasurer and deposited in the
19 fund. Disbursements from the fund shall be made upon warrants
20 drawn by the secretary of finance and administration pursuant
21 to vouchers signed by the secretary of energy, minerals and
22 natural resources. Money in the fund is appropriated to the
23 energy, minerals and natural resources department to carry out
24 the purposes of the New Mexico mining act. Any unexpended or
25 unencumbered balance remaining in the mining act fund at the

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1 end of a fiscal year shall not revert to the general fund but
2 shall remain and accrue to the benefit of the mining act fund.

3 B. There is created within the state treasury the
4 "inactive or abandoned non-coal mine reclamation fund". All
5 money received from administrative or court-imposed penalties
6 shall be delivered to the state treasurer and deposited in the
7 fund. Disbursements from the fund shall be made upon warrants
8 drawn by the secretary of finance and administration pursuant
9 to vouchers signed by the secretary of energy, minerals and
10 natural resources. Money in the fund is appropriated to the
11 energy, minerals and natural resources department to conduct
12 reclamation activities on abandoned or inactive non-coal mining
13 areas. Any unexpended or unencumbered balance remaining in the
14 inactive or abandoned non-coal mine reclamation fund at the end
15 of a fiscal year shall not revert to the general fund but shall
16 remain and accrue to the benefit of the inactive or abandoned
17 non-coal mine reclamation fund."