

Mining Commission Adopts Procedural Rules

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MINING COMMISSION ADOPTS NEGOTIATED PROCEDURAL RULES

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The New Mexico Mining Commission has adopted a comprehensive set of adjudicatory procedures governing appeals to the Mining Commission under the 1993 Mining Act, New Mexico's permitting scheme for hardrock mining activities and reclamation. The new rules, which became effective June 30, 1999, were jointly proposed to the Commission following a series of successful negotiations involving representatives of the mining industry, various environmental groups and several agency officials.

The adjudicatory procedures govern all aspects of the Commission's review, including petitions for review, service, preparation of the record, discovery, subpoenas, evidence and objections, hearings and the use of hearing officers. In addition, the new rules provide limited opportunities for intervention and limited involvement by interested participants and members of the general public. In general, however, most significant procedural rights are reserved for the actual parties to the particular adjudication.

Although the rules provide no automatic stay of final orders of the Commission during a subsequent judicial appeal, there are standards for seeking stays for the duration of the administrative appeal to the Commission. Where the decision being reviewed by the Commission authorizes a new activity, however, the procedure for determining whether a stay request meets the standards for obtaining a stay are expedited so that a mining company may obtain a relatively fast decision on any stay request.