



The Legislature  
of the  
State of New Mexico

49th Legislature, 2nd Session

LAWS 2010

CHAPTER 20

HOUSE BILL 80

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Introduced by

REPRESENTATIVE JOHN A. HEATON

REPRESENTATIVE NICK L. SALAZAR  
REPRESENTATIVE JIM R. TRUJILLO  
REPRESENTATIVE THOMAS A. ANDERSON  
REPRESENTATIVE W. KEN MARTINEZ  
REPRESENTATIVE ANTONIO LUJAN  
REPRESENTATIVE JACK E. THOMAS  
REPRESENTATIVE RAY BEGAYE  
REPRESENTATIVE ANDY NUÑEZ  
REPRESENTATIVE WILLIAM J. GRAY  
REPRESENTATIVE DONALD E. BRATTON  
REPRESENTATIVE SHIRLEY A. TYLER



FOR THE RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE

# CHAPTER 20

## AN ACT

1  
2 RELATING TO MINING; PROVIDING FOR AN APPEAL PROCESS FOR  
3 PENALTIES FOR FAILURE TO GIVE EMERGENCY NOTICE; PROVIDING FOR  
4 A CORRECTION IN A SECTION OF THE MINING SAFETY ACT; CHANGING  
5 REQUIREMENTS FOR RECERTIFICATION OF MINE PERSONNEL.

6  
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

8 Section 1. Section 69-5-17 NMSA 1978 (being Laws 1933,  
9 Chapter 153, Section 23, as amended by Laws 2007, Chapter 301,  
10 Section 6 and by Laws 2007, Chapter 302, Section 6) is amended  
11 to read:

12 "69-5-17. FATAL AND SERIOUS MINE ACCIDENTS--  
13 ASSISTANCE--INVESTIGATION--NOTIFICATION--CIVIL PENALTY.--

14 A. The state mine inspector shall proceed  
15 immediately upon notification to the site of any mine accident  
16 causing the loss of life or requiring activation of a mine  
17 rescue team and shall assist in the rescue of persons within  
18 the mine. The state mine inspector shall participate in the  
19 accident investigation with any other federal, state and local  
20 agency and company representatives.

21 B. Whenever an accident occurs in or about a mine  
22 or the machinery connected to a mine, the operator of the mine  
23 shall give notice within thirty minutes of ascertaining the  
24 occurrence of the accident to the mine accident emergency  
25 operations center at the statewide telephone number

1 established by the state mine inspector stating the  
2 particulars of the accident.

3 C. Nothing in this section shall be construed to  
4 relieve the operator of the mine from any reporting or  
5 notification requirement under federal law.

6 D. As used in this section, "accident" means  
7 "accident" as provided in 30 C.F.R. 50.2.

8 E. The state mine inspector shall impose a civil  
9 penalty of up to one hundred thousand dollars (\$100,000) on  
10 the operator of the mine if it is determined that the operator  
11 failed to give immediate notice as required in this section.  
12 The inspector may waive imposition of the civil penalty at any  
13 time if the inspector finds that the failure to give immediate  
14 notice was caused by circumstances outside the control of the  
15 operator.

16 F. The penalties imposed by the state mine  
17 inspector for violations of this section shall be derived from  
18 criteria-based penalty points. A penalty conversion table  
19 developed by the state mine inspector shall serve as a guide  
20 for determining penalty assessments.

21 G. A person who receives a notice of violation  
22 that includes a penalty assessment under this section may,  
23 within twenty days after receipt of the notice, submit a  
24 written petition to the state mine inspector to review the  
25 notice. Within sixty days after receipt of the petition, the

1 state mine inspector shall issue a final order upholding,  
2 amending or rescinding the notice. Within twenty days after  
3 the date of notice of the final order by the state mine  
4 inspector, a person who is the subject of the notice may file  
5 a written appeal of the order with the mining safety board.  
6 The mining safety board shall adopt rules to govern the appeal  
7 process."

8 Section 2. Section 69-8-5.1 NMSA 1978 (being Laws 1986,  
9 Chapter 54, Section 1, as amended) is amended to read:

10 "69-8-5.1. TRAINING FEES.--The inspector is authorized  
11 to charge fees to mining companies for mine safety training  
12 given to their personnel. The amount of the training fees  
13 shall be arrived at by the inspector after consultation with  
14 the board. Fees collected shall be deposited in the state  
15 mine inspector fund to assist in the funding of the  
16 inspector."

17 Section 3. Section 69-14-4 NMSA 1978 (being Laws 1933,  
18 Chapter 153, Section 42, as amended by Laws 2007, Chapter 301,  
19 Section 17 and by Laws 2007, Chapter 302, Section 17) is  
20 amended to read:

21 "69-14-4. CERTIFICATION PERIOD--RECERTIFICATION--  
22 DISCIPLINE--APPEAL.--

23 A. Certification for mine personnel shall be  
24 issued for a period of five years. All mine personnel  
25 certified by the state mine inspector prior to June 15, 2007

1 shall have their certification period extended five years.  
2 Each certified person has the responsibility to notify the  
3 state mine inspector of any change in address or change in  
4 mine employment within thirty days of the change. Failure to  
5 provide current information may result in suspension of  
6 certification.

7 B. Certified persons may apply for recertification  
8 within twelve months prior to the end of the certification  
9 period. Every certification shall automatically expire on the  
10 last day of the certification period if the official has not  
11 recertified prior to that date. Recertification will require  
12 the applicant to submit an application and appropriate  
13 documentation as required by the state mine inspector. The  
14 mining safety board shall adopt rules for requirements for  
15 recertification.

16 C. The state mine inspector may refuse to certify  
17 or recertify or may suspend or revoke any certification held  
18 or applied for under Chapter 69 NMSA 1978 upon grounds that  
19 the applicant or certified person:

20 (1) gave false or forged evidence to the  
21 state mine inspector to obtain certification;

22 (2) is grossly negligent or incompetent in  
23 duties as a certified person;

24 (3) has failed to maintain certification;

25 (4) has violated or aided or abetted any

1 person in a violation of the Federal Mine Safety and Health  
2 Act of 1977 or the state mine safety laws; or

3 (5) has been disciplined in another state  
4 that certifies mine personnel.

5 D. If the state mine inspector contemplates taking  
6 any of the actions in Subsection C of this section for any of  
7 the reasons provided in that subsection, the state mine  
8 inspector shall provide written notice to the applicant or  
9 certified person. The notice shall include a statement that  
10 the state mine inspector has sufficient evidence that, if not  
11 rebutted or explained, will justify the state mine inspector  
12 in taking the contemplated action, that indicates the general  
13 nature of the evidence and that provides the applicant or  
14 person at least twenty days to submit written evidence to  
15 rebut or explain the allegations.

16 E. If, after the response period ends, the state  
17 mine inspector takes any action of a type specified in  
18 Subsection C of this section, the state mine inspector shall  
19 serve upon the applicant or certified person a written notice  
20 of the action containing a statement that the applicant or  
21 certified person may file a petition for review with the  
22 mining safety board pursuant to the Mining Safety Act."\_\_\_\_\_

*Ben Lujan*

BEN LUJAN, SPEAKER  
HOUSE OF REPRESENTATIVES

*Stephen R. Arias*

STEPHEN R. ARIAS, CHIEF CLERK  
HOUSE OF REPRESENTATIVES

*Diane D. Denish*

DIANE D. DENISH, PRESIDENT  
SENATE

*Lenore M. Naranjo*

LENORE M. NARANJO, CHIEF CLERK  
SENATE

Approved by me this 2nd day of March, 2010

*Bill Richardson*

BILL RICHARDSON, GOVERNOR  
STATE OF NEW MEXICO

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