

NEW PERUVIAN MINE CLOSURE REQUIREMENTS

By Thomas H. Furst, Ph.D. and Ann J. Pacey

The Ministry of Energy and Mines (MEM), as part of their global effort to modernize mining related legislation, has developed new legislation and guidelines for planning and financing mine closure. The primary objective of this new legislation seems to be to ensure that mines have adequate financial resources to provide for reasonable closure. This is a first in Peru. These rules, developed with the assistance of international agencies, including the Canadian mining technology institute, also define the content of closure plans and specify time lines for compliance. Sanctions for non compliance are also provided for in the new regulations. Closure plans and closure cost estimates must be prepared by a professional registered by MEM for such work. Currently there are 9 such companies registered.

Planned modifications

One of the fundamental changes in the new law is a significant increase in the required level of detail for closure planning. Two levels of plans are required: 1) a full closure plan for the majority of the mining operations at what can be considered a feasibility level of detail, and 2) a more simplified closure plan for small scale mining and exploration activities. These requirements apply to mining projects in all life cycle stages including new and existing projects as well as suspended operations.

Citizen participation

Closure plans must be made available to the public for review and comment. Once presented to MEM, a summary must be published within 15 days in the Diario Oficial as well as a leading regional newspaper. Complete copies of the plan in paper and electronic format must be made available to the newspaper, the regional president and the mayors of the towns and provinces affected, and a summary will be published online. A comment period of up to 30 days follows.

Financial guarantees

By January 15 of every year each mine will provide a renewed financial guarantee considering the ultimate closure cost, allowance for closure expenditures already made, and values of pre-existing and valid guarantees. Three classes of guarantees have been defined. The most liquid are Class I (cash deposits, letters of credit, etc) and the least are Class III (properties, capital goods, etc.). Mining companies will also be classed according to their performance and degree of past and current compliance. The current value of the assets included in the guarantees will be periodically verified by a registered professional. Failure to provide sufficient guarantees will result in the operating license being revoked. Small-scale mining producers, artisan miners and explorations projects are not obliged to establish a trust fund to cover the costs of implementing their simplified closure plans.

Implementation

Concurrent closure and reclamation is encouraged. To this end, the mine can use the guaranty funds to offset the operational and capital costs associated with the closure activities. At least two years before the cessation of mining the owner must provide MEM with a detailed schedule describing the implementation of the measures contained in the closure plan.

Regulatory jurisdiction

The General Bureau of Environmental Affairs (GBEA), part of the MEM, will approve closure plans, simplified closure plans, and amendments thereto. The MEM will issue its advisory opinion within 90 calendar days after receiving the plan, and reviewing public opinion according to the citizen participation procedure. If the GBEA fails to issue its advisory opinion within this term, it will be understood that the closure plan has been approved.

Long-term liabilities and transfer

If the owner transfers or assigns the mining concession or a mining unit, the buyer or assignee will be obliged to implement the approved closure plan. The parties must inform the MEM whether the buyer or assignee will provide a new guaranty or whether the existing guaranty will be maintained. If a new guaranty is furnished, the transferor or assignor will be entitled to a refund of the full amount of the guaranty granted.

Suspension

If operations are suspended, the owner, before suspending its operations, must file a Care and Maintenance Plan with the GBEA. This plan must be signed by an environmental consultant registered with MEM and must describe the measures to be implemented during the suspension period and to ensure the full and timely compliance with the closure plan. In the event the environmental conditions around the operation site significantly deteriorate during the temporary suspension period, the DGAA, with the prior report of the environmental auditor, must order the commencement of the corresponding closure operations or the execution of the guaranty.

Conflict Resolution

Should any conflict arise between the MEM and the titleholder regarding specific technical aspects, the titleholder can ask, at its own cost, that an independent consultant specialized in the issues to be assessed and approved by the GBEA, prepare a report. This report will be filed by the independent consultant with the MEM (term not to exceed 30 days), proposing specific guidelines or solutions to the controversy. The MEM reserves the right to accept the opinion of the consultant.

Condensed checklist of closure plan contents

- Table of contents
- Executive summary
- Closure and rehabilitation objectives
- Closure and rehabilitation programs
- Background information
- Detailed description of mining workings and facilities
- Detailed description of the closure work already performed
- Characterization of remaining reserves
- Description of the area of influence of the mining workings and facilities
- Detailed description of the closure works and final, post-mining land use
- Description of the information custody program for public purposes
- Estimated closure costs and schedule of implementation
- Amount, type and term of the financial guaranty
- Other supporting documents mentioned in the body of the closure plan
- The monitoring plan (location of stations, control frequency, parameters, etc.)

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