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Immediate Release

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## **Environment Department Requires Information from Phelps Dodge on Potential Hazardous Waste Violations**

(Santa Fe, NM) — The New Mexico Environment Department (NMED) has issued a mandatory request to Phelps Dodge Inc. for information regarding the storage, handling, and shipment of hazardous waste from the company's Tyrone and Chino mines and its Hurley Smelter, as well as information on the training of personnel engaged in hazardous waste activities at the facilities. NMED is making the information request after Phelps Dodge reported numerous violations of the Clean Water Act and the Resource Conservation and Recovery Act (RCRA) to the U.S. Environmental Protection Agency (EPA).

"Companies that operate in New Mexico have clear and simple duties to do their part to ensure the protection of our health and natural resources," NMED Secretary Ron Curry said. "It concerns me that some of these violations date back to 2001 and yet Phelps Dodge did not report them until last month. I hope that Phelps Dodge will provide all the relevant information promptly and will be fully cooperative in rectifying any deficient practices."

Phelps Dodge disclosed to the EPA in a pair of letters dated April 21 a series of violations of the federal Clean Water Act, administered and enforced by EPA, in addition to violations of RCRA, which is regulated by NMED. Phelps Dodge is requesting EPA not seek gravity-based penalties and not refer the matter to the U.S. Department of Justice for criminal prosecution because of the voluntary disclosure.

Alleged Clean Water Act violations reported by Phelps Dodge include failure to provide employees stormwater training, failure to conduct and document numerous monthly stormwater inspections, and failure visually inspect and document on a quarterly basis stormwater outfalls associated with an active or temporarily inactive mining site.

Both Tyrone Mine and Hurley Smelter are Large Quantity Generators of hazardous waste and must conduct and document weekly inspections of hazardous waste storage sites and are required to ship waste off-site within 90 days of the accumulation start date. On several occasions dating back to 2003, inspections were neither performed nor documented and on multiple occasions waste was held on site in excess of the 90-day limit. Further, Chino's Santa Rita Mine, a Small Quantity Generator of hazardous waste, became an episodic Large Quantity Generator in August 2004 and failed to notify NMED, as required. Mine officials also failed to conduct and report weekly inspections of its

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accumulation area on at least 53 occasions. Chino Mine is also unable to document any hazardous waste training for appropriate personnel, as required, for the years 2001-2003.

“Companies like Phelps Dodge should be committed to environmental stewardship, not pleading for leniency from regulatory agencies after the fact,” Secretary Curry said. “Stormwater and hazardous waste requirements are designed to protect our precious water resources and the health of citizens, especially of mine workers. The violations the company disclosed concern routine mine operation that ought to have been integrated long ago into Phelps Dodge’s daily mine management.”

Phelps Dodge has 15 days from receipt of the letters, dated May 8, to provide NMED with the following information:

- Any and all information concerning the hazardous waste stored at the Tyrone, Santa Rita and Hurley Central Hazardous Waste Accumulation Areas, including waste codes, physical form, container types and quantities, during the period(s) when weekly inspections were not performed.
- Any and all information concerning facility personnel engaged in hazardous waste activities during 2001-2003, including numbers of employees so engaged and their duties.
- Any and all documentation concerning Tyrone’s current hazardous waste training program required under 40 CFR § 265.16.
- Copies of any and all manifests for waste shipped offsite on February 11, 2005, December 8, 2005, and December 15, 2005. For each waste or waste stream, identify which items had been kept onsite for greater than 90 days.

Failure to respond fully or truthfully within the specified time may result in an enforcement action by NMED. The state Hazardous Waste Act provides for civil penalties of up to \$10,000 for each day during any portion of which a violation occurs, and RCRA provides that any person who violates one of its requirements shall be liable for a civil penalty of up to \$27,500 for each such violation. Both also provide for criminal fines and imprisonment for knowingly omitting material information or making a false statement or representation in any document used for compliance with the Hazardous Waste Act or RCRA.

For further information, contact Adam Rankin, NMED Communications Director, at (505) 827-0314.

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