

**TITLE 19       NATURAL RESOURCES AND WILDLIFE**  
**CHAPTER 10    NON-COAL MINING**  
**PART 3        MINIMAL IMPACT OPERATIONS**

**19.10.3.1       ISSUING AGENCY:** New Mexico Mining Commission.  
[19.10.3.1 NMAC - N, 05-15-2001]

**19.10.3.2       SCOPE:** All persons subject to the New Mexico Mining Act NMSA 1978, Section 69-36-1 et. seq.  
[19.10.3.2 NMAC - N, 05-15-2001]

**19.10.3.3       STATUTORY AUTHORITY:** NMSA 1978, Section 69-36-1 et. seq.  
[19.10.3.3 NMAC - N, 05-15-2001]

**19.10.3.4       DURATION:** Permanent.  
[19.10.3.4 NMAC - N, 05-15-2001]

**19.10.3.5       EFFECTIVE DATE:** February 15, 1996, unless a later date is cited at the end of a section.

**A.** All references to the Mining Act Parts 1-13 in any other rule shall be understood as a reference to 19.10 NMAC.

**B.** The amendment and replacement of The Mining Act Parts 1-13 shall not affect any administrative or judicial enforcement action pending on the effective date of this amendment nor the validity of any permit issued pursuant to the Mining Act Parts 1-13.  
[19.10.3.5 NMAC - N, 05-15-2001]

**19.10.3.6       OBJECTIVE:** The objective of Parts 1-14 of 19.10 NMAC is to establish regulations to implement the New Mexico Mining Act as directed in NMSA 69-36-7A. These regulations are designed to ensure proper reclamation through permitting for operations subject to the Mining Act, in accordance with provisions and standards outlined in the Mining Act.  
[19.10.3.6 NMAC - N, 05-15-2001]

**19.10.3.7       DEFINITIONS:** [RESERVED]  
[19.10.3.7 NMAC - N, 05-15-2001]  
[Definitions for this part can be found in 19.10.1.7 NMAC.]

**19.10.3.8 - 19.10.3.299       [RESERVED]**  
[19.10.3.8 - 19.10.3.299 NMAC - N, 05-15-2001]

**19.10.3.300       EXCLUSION:** Prospectors, gold panners and rock collectors causing no or very little surface disturbance with their activities are excluded from the requirements of the Act and 19.10 NMAC pursuant to the definition of "Exploration," in 19.10.1 NMAC. Excavation(s) by one operator totaling greater than 2 cubic yards per year or the use of mechanized mining equipment, including mechanized sluices or dredges, are not eligible for this exclusion.  
[7-12-94, 2-15-96, 12-14-96; 19.10.3.300 NMAC - Rn, 19 NMAC 10.2.3.300, 05-15-2001]

**19.10.3.301       GENERAL PERMITS:**

**A.** Validity:

- (1) Operators must have a valid permit prior to commencing operations.
- (2) A general permit for operations not occurring in intermittent streams, perennial streams or other bodies of water is valid for a period of one year once the applicant has submitted a signed copy of the general permit application to the director.
- (3) For general permit operations occurring in intermittent streams, perennial streams or other bodies of water, the permit is valid for a period of one year once the applicant submits a signed copy of the general permit to the director and the environment department sends the director a copy of a certification from the environment department stating that water quality standards are expected to be met if the operation is conducted as described.

(4) General permits must be submitted for renewal at least 10 days prior to expiration.

**B.** Mining operations not occurring in intermittent streams, perennial streams or other bodies of water may apply to the director for a general permit if they meet the following requirements:

(1) the operation does not have any of the disqualifying characteristics listed in Subsection M, Paragraph (2), Subparagraphs (a) through (i) of 19.10.1.7 NMAC;

(2) not excavate greater than 200 cubic yards per year, with no more than 25 cubic yards and no more than 2 acres of unreclaimed surface disturbance at any time with all new disturbances including roads included in these amounts; for the purposes of this paragraph "unreclaimed" means the failure to meet the commitments of Subsection D, Paragraph (2), Subparagraphs (b) through (d) of 19.10.3.301 NMAC; and

(3) not cause a discharge of process water or drilling mud.

**C.** Mining operations occurring in intermittent streams, perennial streams or other bodies of water may apply to the director for a general permit if they meet the following requirements:

(1) the operation does not have any of the disqualifying characteristics listed in Subsection M, Paragraph (2), Subparagraphs (b) through (i) of 19.10.1.7 NMAC;

(2) not excavate greater than 2 cubic yards per day and 100 cubic yards per year;

(3) maintain a distance of at least 50 yards from other mining operations;

(4) not excavate into stream banks; and

(5) not drill.

**D.** An application for a general permit shall be on the form approved by the director and will include the following:

(1) the name and address of the operator, and location of the operation;

(2) a commitment from the applicant to comply with the following requirements:

(a) not to exceed the applicable characteristics of Subsection B of 19.10.3.301 NMAC or Subsection C of 19.10.3.301 NMAC;

(b) regrade the disturbed area to blend into and compliment the drainage pattern of the surrounding terrain upon cessation of operations;

(c) revegetate the disturbed area with a seed mix appropriate for the surrounding area upon cessation of operations;

(d) minimize erosion and sedimentation by use of best management practices;

(e) safeguard against hazards to the health and safety of humans and domestic animals;

(f) agree that the operation is subject to the inspection, enforcement and penalty provisions of 19.10.11 NMAC;

(g) provide information necessary to meet other requirements specified by the director which are necessary to meet the definition of "minimal impact mining operation" Subsection M, Paragraph (2) of 19.10.1.7 NMAC or achieve reclamation;

(h) agree to complete the requirements of Subsection D, Paragraph 2, Subparagraphs b through e of 19.10.3.301 NMAC prior to expiration of the permit; and

(i) comply with applicable state and federal requirements and standards; and

(3) a signed statement by the operator agreeing to allow the director to inspect the operation, and to follow the terms of the general permit.

**E.** Operations meeting the general permit provisions are not required to provide financial assurance. An application fee of \$50.00 is required. General permit inspections are at the discretion of the director.

**F.** Operations not excluded from the act or not eligible for a general permit must meet the requirements of the definition of "minimal impact mining operation" in 19.10.1.7 NMAC in addition to the specific requirements set forth below for each type of operation in order to be granted minimal impact status. If the operation does not meet minimal impact status it must be permitted in accordance with 19.10.4 NMAC, 19.10.5 NMAC or 19.10.6 NMAC.

[7-12-94, 2-15-96, 12-14-96, 12-29-2000; 19.10.3.301 NMAC - Rn, 19 NMAC 10.2.3.301, 05-15-2001; A, 05-31-2001]

### **19.10.3.302 MINIMAL IMPACT EXPLORATION OPERATIONS:**

**A.** A minimal impact exploration operation will not exceed 1000 cubic yards of excavation per permit. Disturbances for constructed roads, drill pads and mud pits shall be no more than 5 acres total and will not be counted in the excavated materials. The type of road construction, the number and type of drill pads, and other

disturbances when considered with site specific conditions will be major factors in determining eligibility for minimal impact status which is in the discretion of the director.

**B.** Timing of applications and deadlines for approval for minimal impact exploration operations must be in accordance with 19.10.4.401 NMAC, except that a complete application for minimal impact exploration operations shall be submitted not less than 45 days prior to the anticipated date of commencement of operations.

**C.** An applicant for a minimal impact exploration operation permit shall submit six copies of a completed application on a form provided by the director. If the proposed operation is on federal land, information submitted to the federal land management agency may be submitted with the application in lieu of providing duplicative information. Any confidential information shall be submitted separately in accordance with Subsection B of 19.10.4.402 NMAC.

**D.** The application shall include the following information:

(1) the name and address of the applicant, and if different, the name and address of the owner of the operation and the land; a statement of the basis on which the applicant has the right to enter the property to conduct the mining and reclamation;

(2) the location of the proposed operation as shown on a topographic map which indicates the proposed permit area and gives the location of the following: perennial, intermittent and ephemeral streams; springs; wetlands; riparian areas, lakes and reservoirs; residences; existing and proposed roads; other access routes; support facilities; cemeteries; burial grounds; cultural resources listed on either the *national register of historic places* or the *state register of cultural properties*; pipelines; and oil, gas and water wells on the permit area; areas and types of proposed disturbances shall be indicated; the anticipated dimensions of each proposed disturbance shall also be provided;

(3) an explanation of why the proposed operation qualifies as a minimal impact operation in accordance with 19.10 NMAC;

(4) a general description of the minerals sought and the methods of exploration; any chemicals to be used on site must be identified;

(5) an estimate of depth to ground water and total dissolved solids concentration; and

(6) a general description of how the operation will be operated and reclaimed to meet the requirements of reclamation, as defined in 19.10.1.7 NMAC.

**E.** The application must be accompanied by the permit fee as required by 19.10.2 NMAC.

**F.** If the permit area includes state or federally-owned lands, no permit will be issued unless the appropriate land management agency has approved or acknowledged the proposed operation, if such approval or acknowledgement is required by the agency's rules.

**G.** The director shall, after determining that the application is complete, deliver copies of the application (except those parts of the application designated confidential under Subsection B of 19.10.4.402 NMAC provided, however, that the director shall include with the application a list of the parts withheld and will provide such parts on specific request) to the agencies listed in Subsection F of 19.10.4.402 NMAC which shall have 20 days in which to provide comments to the director. The director shall consider comments from these agencies in making a determination of eligibility for minimal impact status.

**H.** The director shall determine if an operation is eligible for a minimal impact operation permit and may conduct a site visit in making this determination.

**I.** No permit for a minimal impact exploration operation will be issued until the director finds the following:

(1) the application is complete and demonstrates that the proposed operation and reclamation will meet the requirements of reclamation, as defined in 19.10.1.7 NMAC; reclamation of the disturbed area will be initiated as soon as possible, and will be completed within the permit term unless the disturbed area is included within a complete permit application for a new mining operation;

(2) the applicant has paid the permit fee determined by 19.10.2 NMAC;

(3) the applicant has signed a statement indicating he agrees to comply with the reclamation requirements of the permit, 19.10 NMAC, and the act and allows the director to enter the permit area, without delay, for the purpose of conducting inspections during exploration and reclamation;

(4) the applicant has certified he is not in violation of the New Mexico Mining Act or 19.10 NMAC; and

(5) the applicant has provided satisfactory financial assurance in an amount determined by the director; acceptable forms of financial assurance are limited to surety bonds, letters of credit or cash accounts described in 19.10.12.1208 NMAC.

**J.** The term of a permit for a minimal impact exploration operation is governed by Subsections A, C and D of 19.10.4.405 NMAC. Modifications to the permit are governed by 19.10.4.406 NMAC. A termination report pursuant to 19.10.4.407 NMAC is also required at the conclusion of an exploration operation not being renewed, unless the permittee has applied for a mining operation permit.

**K.** Reclamation of the disturbed area shall be initiated as soon as possible and completed in accordance with the schedule in the permit. Topsoil or topdressing material removal and stockpiling shall precede any excavation within the drill site area. All lands, including access roads or terrain damaged in gaining access to or clearing the site, or lands whose natural state has been substantially disturbed as a result of the exploration by drilling, shall be restored as nearly as possible to their original condition unless otherwise requested by the landowner and applicant and approved by the director. Where vegetation has been removed or destroyed within the permit area, vegetative cover shall be reestablished by seeding, planting, transplanting, or other adequate methods. All open mud pits shall be constructed in a manner to prevent wildlife entrapment, and shall be constructed to prevent any overflows. When drilling is completed, the mud pits shall be allowed to dry and then backfilled with native cover.

**L.** Each drill hole shall be plugged from total depth to within 2 feet of the original ground surface or the collar of the hole, whichever is lower, with a column of cement, high-density bentonite clay or other materials specified in the permit. If the approved plugging material is not cement, then the top ten feet of the column must be a cement plug. The hole shall be backfill with topdressing or topsoil from above the cement plug to the original ground surface. The hole shall be plugged as soon as practicable and satisfy the requirements of the state engineer and the New Mexico environment department for proper plugging of such holes. This plugging requirement may be waived if the state engineer issues a permit for a well for the exploration drill hole.

**M.** Financial assurance may only be released after the permittee has submitted a termination report that meets the requirements of 19.10.4.407 NMAC and the director has determined, after inspection, that the reclamation requirements of this section and the permit have been satisfied.

[7-12-94, 2-15-96; 19.10.3.302 NMAC - Rn, 19 NMAC 10.2.3.302, 05-15-2001; A, 04-30-09]

### **19.10.3.303 MINIMAL IMPACT EXISTING MINING OPERATIONS:**

**A.** An existing mining operation that continues mining operations will not be considered a minimal impact existing mining operation if it exceeds 10 acres of disturbed land, or 40 acres of disturbed land in the case of dolomite, garnet, humate, perlite and zeolite operations that: (1) are located outside Bernalillo, Dona Ana and Santa Fe counties; and (2) are committed to perform concurrent reclamation of disturbed areas to the extent practicable. Permanent roads and areas within the permit area that are reclaimed will not be counted as part of the acreage limitation for a minimal impact existing mining operation. Reclaimed, for this purpose, means all financial assurance has been released, except the amount held to re-establish vegetation pursuant to Subsection A of 19.10.12.1204 NMAC. Construction of roads and access ways, the types of disturbances, and the applicant's previous history of compliance with the act and 19.10 NMAC will be major factors in the director's determination of minimal impact status. Notwithstanding the frequency for inspections of minimal impact mining operations specified in Paragraph (4) of Subsection A of 19.10.11.1101 NMAC, if a minimal impact operation permit is issued under this subsection for more than 10 acres of disturbance, the director shall conduct on-site inspections at least once per year during the term of the permit.

**B.** A minimal impact existing mining operation that has discontinued or does not continue active mining operations may consist of unlimited acres of disturbed land; however, sites with the following characteristics will not be determined to be minimal impact operations:

- (1) sites that exceed state or federal standards for soil or water contamination from mining activities that are subject to the act;
- (2) sites likely to create acid mine drainage; or
- (3) sites where the applicant proposes to seek a waiver from the usual reclamation requirements for a pit or waste unit.

**C.** Timing of applications and deadlines for approval for minimal impact existing mining operations must be in accordance with 19.10.5.501 NMAC or 19.10.5.511 NMAC.

**D.** An applicant for a minimal impact existing mining operation permit shall submit six copies of a completed application form provided by the director. If the proposed operation is on federal land, then information submitted to the federal land management agency may be submitted with the application in lieu of providing duplicative information on the form provided by the director. Any confidential information shall be submitted separately in accordance with Subsection B of 19.10.5.502 NMAC. Any information that was submitted with the site assessment must be updated to reflect current conditions.

**E.** The application shall include the following information:

(1) the name and address of the applicant, and if different, the name and address of the owner of the operation and the land; a statement of the basis on which the applicant has the right to enter the property to conduct the mining and reclamation;

(2) the location of the operation as shown on a topographic map which indicates the proposed permit area with the existing and proposed area of disturbance and gives the location of the following: the areas to be disturbed; perennial, intermittent and ephemeral streams; springs; wetlands, riparian areas, lakes and reservoirs; residences; existing and proposed roads; other access routes; support facilities; cemeteries; burial grounds; cultural resources listed on either the *national register of historic places* or the *state register of cultural properties*; pipelines; and oil, gas and water wells on and within one-half mile of the permit area;

(3) a general description of the minerals sought, the methods of extraction, and any processing to be conducted on site; any chemicals to be used on site must be identified;

(4) an estimate of depth to ground water and total dissolved solids concentration;

(5) an explanation of why the proposed operation qualifies as a minimal impact operation in accordance with 19.10 NMAC;

(6) a closeout plan, whether submitted with the permit application or as a modification, shall include a general description of how the permit area will be reclaimed to a condition that allows for re-establishment of a self-sustaining ecosystem appropriate for the life zone of the surrounding areas following closure unless conflicting with the approved post-mining land use; each closeout plan must be developed to meet the site-specific characteristics of the mining operations and the site; the closeout plan must specify incremental work to be done within specific time frames to accomplish the reclamation; and

(7) a list of other permits required for the operation, and the anticipated schedule for receipt of these; and

(8) information necessary to meet other requirements specified by the director which are necessary to meet the definition of "minimal impact mining operation" in Paragraph (2) of Subsection M of 19.10.1.7 NMAC or achieve reclamation.

**F.** The director shall determine the amount of financial assurance appropriate for each operation based on the cost of reclaiming the site by a third party. Operations less than 2 acres total disturbance are not required to provide financial assurance.

**G.** The application must be accompanied by the permit fee as required by 19.10.2 NMAC and a proposal for the required financial assurance.

**H.** If the permit area includes state or federally-owned lands, no permit will be issued unless the appropriate land management agency has approved or acknowledged the proposed operation, if such approval or acknowledgement is required by the agency's rules.

**I.** The director shall, after determining that the application is complete, deliver copies of the application (except those parts of the application designated confidential under Subsection B of 19.10.5.502 NMAC provided, however, that the director shall include with the application a list of the parts withheld and will provide such parts on specific request) to the agencies listed in Subsection E of 19.10.5.506 NMAC which shall have 20 days in which to provide comments to the director. The director shall consider comments from these agencies in making his determination of eligibility for minimal impact status.

**J.** The director shall determine if an operation is eligible for a minimal impact operation permit. The director may conduct an evaluation or site visit which may include other agencies in making this determination for operations that do not exceed 10 acres of disturbance. In making this determination for operations with more than 10 acres of disturbance, the director shall conduct an on-site inspection which may include other agencies.

**K.** No permit for a minimal impact operation will be issued until the director finds the following:

(1) the application is complete and demonstrates the closeout plan will meet the performance and reclamation standards and requirements Paragraphs (5) and (6) of Subsection E of 19.10.3.303 NMAC or provides a schedule for submitting such a plan in the shortest time practicable;

(2) the applicant has paid the permit fee;

(3) the applicant has provided satisfactory financial assurance; and

(4) the applicant has signed a notarized statement that he agrees to comply with the requirements of the permit, 19.10 NMAC and the act and allows the director to enter the permit area for the purpose of conducting inspections.

(5) the secretary of environment has provided a written determination stating that the permit applicant has demonstrated that the activities to be permitted or authorized will be expected to achieve compliance with all applicable air, water quality and other environmental standards if carried out as described in the closeout

plan; this determination will address applicable standards for air, surface water and ground water protection enforced by the environment department or for which the environment department is otherwise responsible; the determination shall be made within the 20-day period provided in Subsection I of 19.10.3.303 NMAC, or the requirement is waived.

**L.** Modifications to a permit are allowed pursuant to 19.10.5.505 NMAC including modifications to incorporate a closeout plan. The term of a permit is governed by 19.10.5.504 NMAC. Annual reports are required for each permit pursuant to 19.10.5.510 NMAC.

[7-12-94, 2-15-96, 12-14-96; 19.10.3.303 NMAC - Rn, 19 NMAC 10.2.3.303, 05-15-01; A, 02-28-14; A, 05-31-16]

#### **19.10.3.304 MINIMAL IMPACT NEW MINING OPERATIONS:**

**A.** A minimal impact new mining operation will not exceed 10 acres of disturbed land, or 40 acres of disturbed land in the case of dolomite, garnet, humate, perlite and zeolite operations that: (1) are located outside Bernalillo, Dona Ana and Santa Fe counties; and (2) are committed to perform concurrent reclamation of disturbed areas to the extent practicable. Pre-existing roads and reclaimed acres within the permit area will not be counted as part of the acreage limitation for a minimal impact new mining operation. Reclaimed, for this purpose, means all financial assurance has been released, except the amount held to re-establish vegetation pursuant to Subsection A of 19.10.12.1204 NMAC. Construction of roads and access ways, the types of disturbances, and the applicant's previous history of compliance with the act and 19.10 NMAC will be major factors in the director's determination of minimal impact status. In determining whether a proposed operation with between 10 and 40 acres of disturbed land is eligible for a minimal impact new mining permit, the director shall conduct a site visit that may include other agencies in accordance with Subsection I of 19.10.3.304 NMAC. Notwithstanding the frequency for inspections of minimal impact mining operations specified in Paragraph (4) of Subsection A of 19.10.11.1101 NMAC, if a minimal impact operation permit is issued under this subsection for more than 10 acres of disturbance, the director shall conduct on-site inspections at least once per year during the term of the permit.

**B.** Timing of applications and deadline for approval for minimal impact new mining operations must be in accordance with 19.10.6.601 NMAC.

**C.** An applicant for a minimal impact new mining operation permit shall submit six copies of a completed application on a form to be provided by the director. If the proposed operation is on federal land, then the information submitted to the federal land management agency may be submitted with the application in lieu of providing duplicative information on the form provided by the director. Any confidential information shall be submitted separately in accordance with Subsection B of 19.10.6.602 NMAC.

**D.** The application shall include the following information:

(1) the name and address of the applicant, and if different, the name and address of the owner of the operation and the land; a statement of the basis on which the applicant has the right to enter the property to conduct the mining and reclamation;

(2) the location of the proposed operation as shown on a topographic map which indicates the proposed permit area and gives the location of the following: the areas to be disturbed; perennial, intermittent and ephemeral streams; springs; wetlands, riparian areas, lakes and reservoirs; residences; existing and proposed roads; other access routes; support facilities; cemeteries; burial grounds; cultural resources listed on either the *national register of historic places* or the *state register of cultural properties*; pipelines; and oil, gas and water wells on and within 1/2 mile of the permit area;

(3) a listing of other environmental permits held by the applicant for other mining operations within the United States and any violations issued for non-compliance with those permits;

(4) a general description of the minerals sought, the methods of extraction, and any processing to be conducted on site; any chemicals to be used on site must be identified;

(5) an estimate of depth to ground water and total dissolved solids concentration;

(6) an explanation of why the proposed operation qualifies as a minimal impact operation in accordance with 19.10 NMAC;

(7) a general description of how the operation will meet the following performance standards:

(a) the mining and reclamation operation shall be designed and operated using the most appropriate technology and best management practices;

(b) the mining and reclamation operation shall assure protection of human health and safety, the environment, wildlife and domestic animals;

(c) measures will be taken to safeguard the public from unauthorized entry into shafts, adits and tunnels and to prevent falls from highwalls or pit edges; depending on site-specific characteristics, the following measures shall be required:

- (i) closing shafts, adits or tunnels to prevent entry;
- (ii) posting warning signs, and restricting access to hazardous areas; and
- (iii) posting a sign at the main entrances giving a telephone number of a

person to call in the event of emergencies;

(d) the disturbed area shall not contribute suspended solids above background levels, or where applicable the water quality control commission's standards, to intermittent and perennial streams; and

(e) mining and reclamation operations shall be conducted to control erosion;

(8) a general description of how the operation will be operated and reclaimed to a self-sustaining ecosystem appropriate for the life zone of the surrounding areas following closure unless conflicting with the approved post-mining land use;

(9) a list of other permits required for the operation, and the anticipated schedule for receipt of these; and

(10) information necessary to meet other requirements specified by the director which are necessary to meet the definition of "minimal impact mining operation" Paragraph (2) of Subsection M of 19.10.1.7 NMAC or achieve reclamation.

**E.** The director shall determine the amount of financial assurance appropriate for each operation based on the cost of reclaiming the site by a third party. Operations less than two acres total disturbance are not required to provide financial assurance.

**F.** The application must be accompanied by the permit fee as required by 19.10.2 NMAC and a proposal for the required financial assurance.

**G.** If the permit area includes state or federally-owned lands, no permit will be issued unless the appropriate land management agency has approved or acknowledged the proposed operation, if such approval or acknowledgement is required by the agency's rules.

**H.** The director shall, after determining that the application is complete, deliver copies of the application (except those parts of the application designated confidential under Subsection B of 19.10.6.602 NMAC provided, however, that the director shall include with the application a list of the parts withheld and will provide such parts on specific request) to the agencies listed in Subsection C of 19.10.6.605 which shall have 20 days in which to provide comments to the director. The director shall consider comments from these agencies in making his determination of eligibility for minimal impact status.

**I.** The director shall determine if an operation is eligible for a minimal impact operation permit. The director may conduct an evaluation or site visit which may include other agencies in making this determination for operations that do not exceed 10 acres of disturbance. In making this determination for operations with more than 10 acres of disturbance, the director shall conduct an on-site inspection which may include other agencies.

**J.** No permit for a minimal impact operation will be issued until the director finds the following:

(1) the application is complete and demonstrates the proposed operation will comply with the performance and reclamation standards and requirements of Paragraphs (6) through (8) of Subsection D of 19.10.3.304 NMAC;

(2) the applicant has paid the permit fee;

(3) the applicant has provided satisfactory financial assurance;

(4) the applicant, the operator or owner or any persons or entities directly controlled by the applicant, operator, owner or any persons or entities that directly control the applicant, operator or owner:

(a) are not currently in violation of the terms of another permit issued by the division or in violation of any substantial environmental law or substantive regulation at a mining operation in the United States, which violation is unabated and is not the subject of appeal, and have not forfeited or had forfeited financial assurance required for any mining, reclamation or exploration permit in the United States; for purposes of this subparagraph, a substantial environmental law or substantive regulation is one which is intended to protect natural resources from degradation and does not include violations of record-keeping or reporting requirements; if a violation occurred prior to the initiation of a legal relationship between the permit applicant and the violator, it shall not be considered for this purpose; and

(b) have not demonstrated a pattern of willful violations of the act or other New Mexico environmental statutes; if a violation occurred prior to the initiation of a legal relationship between the permit applicant and the violator, it shall not be considered for this purpose; and

(5) the applicant has signed a notarized statement that he agrees to comply with the requirements of the permit, 19.10 NMAC, and the act and allows the director to enter the permit area for the purpose of conducting inspections until release of the financial assurance;

(6) the secretary of environment has provided a written determination stating that the permit applicant has demonstrated that the activities to be permitted or authorized will be expected to achieve compliance with all applicable air, water quality and other environmental standards if carried out as described in the closeout plan; this determination shall address applicable standards for air, surface water and ground water protection enforced by the environment department or for which the environment department is otherwise responsible; the determination shall be made within the 20-day period provided in Subsection H of 19.10.3.304 NMAC, or the requirement is waived.

**K.** The term of a permit is governed by 19.10.6.607 NMAC. Modifications to a permit are allowed pursuant to 19.10.6.608 NMAC. Annual reports are required for each permit pursuant to 19.10.6.610 NMAC. [7-12-94, 2-15-96; 19.10.3.304 NMAC - Rn, 19 NMAC 10.2.3.304, 05-15-01; A, 02-28-14; A, 05-31-16]

**History of 19.10.3 NMAC:**

**Pre-NMAC History:** Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

Rule 3, New Mexico Mining Act - Minimal Impact Operations, filed 07-12-94.

**History of Repealed Material: [Reserved]**

**Other History:**

Rule 3, New Mexico Mining Act - Minimal Impact Operations, filed 07-12-94, renumbered and reformatted as Subpart 3 of 19 NMAC 10.2, New Mexico Mining Act Implementation, filed 01-31-96.

19 NMAC 10.2, Subpart 3, Minimal Impact Operations, filed 01-31-96 was renumbered and reformatted to 19.10.3 NMAC, effective 05-15-2001.