

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 10 NON-COAL MINING
PART 7 STANDBY

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

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

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

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

19.10.7.5 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.
[19.10.7.5 NMAC - N, 05-15-2001]

19.10.7.6 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.
[19.10.7.6 NMAC - N, 05-15-2001]

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

19.10.7.8 - 19.10.7.700 [RESERVED]
[19.10.7.8 - 19.10.7.700 NMAC - N, 05-15-2001]

19.10.7.701 STANDBY STATUS:

A. If, due to a temporary cessation of mining operations exceeding 180 days, a permittee desires to suspend reclamation pursuant to a permit for an existing or new mining operation, the permittee shall submit an application for a permit revision for standby status pursuant to this Part and 19.10.5.505 NMAC or 19.10.6.608 NMAC.

B. An application for a permit revision for standby status shall indicate the portions of the permit to be revised, the proposed changes, and for each unit subject to the proposed revision, shall, at a minimum, provide the following:

- (1) identify the projected term of standby status;
- (2) describe the measures to be taken to reduce, to the extent practicable, the formation of acid and other toxic drainage and to prevent releases that cause federal or state environmental standards to be exceeded;
- (3) describe how applicable federal and state environmental standards and regulations will be met during the duration of standby status and provide to the Director a written determination from the Secretary of the Environment Department stating that the permittee has demonstrated that the operation will be expected to achieve compliance with all applicable air, water quality and other environmental standards of the Environment Department during standby status if carried out as described;
- (4) describe how waste and storage units, leach piles, impoundments and pits will be stabilized during the duration of standby status;

(5) describe how the applicable requirements of the Act and 19.10 NMAC will be met during the term of the standby status for the operations proposed for standby status; and

(6) provide an analysis of the anticipated future economic viability of the units proposed for standby status.

C. An application for a permit revision for standby status must contain a copy of the notices required pursuant to 19.10.9 NMAC and the permit revision fee pursuant to 19.10.2 NMAC.

D. The Director may require additional information to ensure that an operation in standby status minimizes adverse impacts to the environment and complies with applicable regulations.

E. The Director shall provide notice of receipt of the application for standby status to the Environment Department, the Office of the State Engineer, the Department of Game and Fish, the State Historic Preservation Division, the Forestry Division, other agencies he deems appropriate, and, if the operation is on state or federal land, to the appropriate state or federal land management agency.

F. An application for a permit revision for standby status will be approved if the permittee has paid the permit revision fee pursuant to 19.10.2 NMAC, and the Director finds:

(1) that the permittee agrees to take measures to reduce, to the extent practicable, the formation of acid and other toxic drainage and to prevent releases that cause federal or state environmental standards to be exceeded;

(2) that the permittee agrees to meet applicable federal and state environmental standards and regulations during the period of standby status, and the Secretary of the Environment Department has indicated environmental standards of that Department are expected to be met during the term of standby status.

(3) that the permittee agrees to stabilize waste and storage units, leach piles, impoundments and pits during the term of standby status;

(4) that the permittee agrees to comply with the applicable requirements of the Act, 19.10 NMAC and the permit during the term of standby status; and

(5) that the permittee has provided an analysis of the economic viability for each unit proposed for standby status.

G. Standby status will not be granted until the public participation requirements of 19.10.9 NMAC are met. Standby status will not be granted for an existing mining operation until a closeout plan has been approved and financial assurance provided, nor for a new mining operation until a permit has been issued and financial assurance provided.

H. Standby status will end upon revision or modification of the permit to return to operating status or expiration of the permit term or renewal period.

I. Standby status shall be granted for a maximum term of five years; the Director may renew the standby status for no more than three additional five-year terms.

J. Standby status will not be granted beyond the term of any mineral lease. Should the mineral lease terminate or the claims become invalid during the term of standby status, then standby status shall also end. [7-12-94, 2-15-96; 19.10.7.701 NMAC - Rn, 19 NMAC 10.2.7.701, 05-15-2001]

History of 19.10.7 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 7, Standby, filed 07-12-94.

History of Repealed Material: [Reserved]

Other History:

Rule 7, Standby, filed 07-12-94, renumbered and reformatted as Subpart 7 of 19 NMAC 10.2, New Mexico Mining Act Implementation, filed 01-31-96.

19 NMAC 10.2, Subpart 7, Standby, filed 01-31-96 was renumbered and reformatted to 19.10.7 NMAC, effective 05-15-2001.