Environmental Evaluation Guidance Document for Part 6 New Mining Operations

Title 19, Chapter 10, Part 6
New Mexico Administrative Code

Energy, Minerals & Natural Resources Department
Mining and Minerals Division
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Purpose

This guidance document was developed by the Energy, Minerals and Natural Resources Department (EMNRD) Mining and Minerals Division (MMD) to provide a framework for compliance with the New Mexico Mining Act Rules (Rules) regarding the Environmental Evaluation required in 19.10.6 New Mexico Administrative Code (NMAC). The Environmental Evaluation (EE) is based on the procedures and requirements for performing an environmental impact analysis under the National Environmental Policy Act (NEPA). The State of New Mexico does not have a standardized environmental review process. However, this EE guidance document generally follows the New Mexico Environment Department (NMED) State Environmental Review Process (SERP), which is a similar process utilized to evaluate environmental impacts from potential infrastructure construction projects.

Implementation

An EE is required to be conducted for all new mining operations under Part 6 of the New Mexico Mining Act Rules. Under this part of the Rules, it is stated that:

- The Director shall prepare a draft environmental evaluation which shall include an analyses of the reasonably foreseeable impacts of proposed activities on the pre-mining and post-mining environment and the local community, including other past, present and reasonably foreseeable future actions, regardless of the agency or persons that undertake the other action or whether the actions are on private, state or federal land. The Director may contract with, and the applicant should pay for, a third party to prepare the analysis and assessment (19.10.6.605.D NMAC)

- The Director shall, within 30 days after completion of the technical review of the application and the draft environmental evaluation, notify the applicant in writing whether the application is approvable, or, if not approvable, shall specify in detail what additional submittal or changes are required. The Director shall, upon submittal of additional information or changes, notify the applicant whether the resubmitted application is approvable or if the additional submittal or changes are not sufficient (19.10.6.605.E NMAC)
The EE will be prepared by (or on behalf of) MMD as part of the Permit Application Package (PAP). MMD will determine, based on the review of the EE and PAP, and pursuant to the other requirements of 19.10.6 NMAC, whether the PAP is approvable or not approvable.

**Existing Environmental Documents**

Existing environmental documents may be used in their entirety and/or referenced in the preparation of the EE. Information used in a previous assessment will be reviewed by MMD for appropriateness and pertinence relative to the proposed project and scope. Previous assessments conducted by other State or Federal agencies can be incorporated by reference into the EE, or can substitute for the EE. MMD will evaluate any previous assessment documents related to the Part 6 application and may require updates or supplemental information to provide information necessary for evaluation relative to this guidance document. MMD may also require updates to a previously completed assessment if the site-specific conditions at the time of the assessment significantly deviate from conditions at the time of submittal of the permit application.

**Process Summary**

**Part 6 Applications With A State or Federal Environmental Information Document**

1.) Applicant prepares the Permit Application Package (PAP) required for Phase II of the Part 6 application process including the baseline data report, a copy of the administratively and technically complete Sampling & Analysis Plan (SAP), and a mining operation and reclamation plan.

2.) If an Environmental Information Document (EID), Environmental Assessment (EA) or Environmental Impact Statement (EIS) has been prepared by (or for) a State or Federal agency, related to the Part 6 application, MMD will likely pursue an agreement to become a cooperating agency with the State or Federal agency preparing the EID, EA or EIS. Information presented in the EID, EA, or EIS may be utilized, referenced or otherwise incorporated into the EE prepared by (or for) MMD.

3.) A third party contractor may be selected by MMD, or cooperating agency, to review and comment on the EID, EA or EIS provided by the State or Federal agency and/or to prepare the EE for MMD. When a State or Federal agency EID, EA or EIS is available, the EE is anticipated to rely on the State or Federal agency EID, EA or EIS. Alternatively, the EE could be a supplemental report that evaluates environmental criteria in this guidance document that were not addressed in the State or Federal agency EID, EA, or EIS.
4.) The draft EE will be substantially completed by the end of the PAP technical review phase and will be evaluated as part of MMD’s determination as to whether the PAP is technically approvable or not technically approvable.

**Part 6 Applications Without A State or Federal EID, EA or EIS**

For projects located on State of New Mexico land, land grants, and private land where there is no known State or Federal NEPA process, development of the MMD EE may consist of the following steps:

1.) Selection of a third party contractor by MMD and development of a Memorandum of Understanding (MOU) between the applicant, MMD, and the third party contractor.

2.) Compilation of data for the EE based on proposed mining activities within the proposed permit area (soils data, climate, geological data, habitat studies, threatened & endangered species studies, archaeological and cultural resource studies, environmental justice, etc.). This information may be at least partially obtained from the baseline data report provided with the PAP.

3.) Consultation and coordination with other agencies, tribes and interested parties.

4.) Preparation and submittal of the draft EE to MMD for initial review/comments.

5.) Publication of public notice that the PAP has been deemed technically complete, that the draft EE has been prepared and that both documents are available for review and comment by the public. A notice of the public hearing or public meeting will be mailed to all agencies and all parties on the interested parties list. The notice will be posted as appropriate in the community and surrounding area, and published in a newspaper of general circulation no less than 30-days in advance of the meeting/hearing. The notice will state the purpose of the project.

6.) Perform a public meeting or public hearing if requested. A sign-in sheet will be prepared for distribution to interested parties after the public meeting or public hearing, if requested. If a public hearing is requested, a transcript, recording or video documentation of the hearing will take place. A responsiveness summary of the comments received and actions taken to address those comments will be prepared. MMD, or its third party contractor, will prepare a responsiveness summary of all comments received.

7.) Prepare a final EE for submittal to MMD for review and revision if necessary. To the maximum extent possible, the final EE will strive to mitigate concerns and impacts identified during MMD’s review, the public meeting and the consultation process. Mitigation measures will be clearly identified in the EE.

8.) The final EE will be reviewed by MMD as part of the PAP.
9.) The PAP will be deemed technically incomplete or technically complete by MMD, pursuant to 19.10.6.605.E NMAC.

The EE will follow the format and provide information addressed in the outline starting on page 5 of this guidance document. A flowchart depicting the EE process is provided on page 12 of this guidance document.
Environmental Evaluation
Table of Contents / Content

1.0 PROJECT OVERVIEW

1.1 Project Description

1.1.1 Purpose and Need for Project

*Describe the conditions that create a need for the project and how the project will meet this need.*

1.2 Project Location

*Provide a description of the proposed project location including items such as township, range and section, maps, GPS coordinates, aerial photographs, etc.*

1.3 History

*Provide a brief history of the area/county in which the proposed permit area occurs.*

1.4 Proposed mining operation and reclamation techniques

*Provide a brief description of the mine operations plan and reclamation plan, describe construction procedures, operation, and closure/reclamation plans.*

1.5 Past, Present and Foreseeable Future Actions in the Local Community

*Provide a brief analysis of past, present and reasonably foreseeable future actions in the local community, regardless of the agency or persons that undertake the action, or whether the actions are on private, state or federal land.*

2.0 ALTERNATIVES

2.1 Alternative A – No Action

*Describe the no action (baseline) alternative. Potential benefits and consequences of the no action alternative should also be generally described.*

2.2 Alternative B – The Proposed Action

*Describe the proposed action. Potential benefits and consequences of the proposed action alternative should also be generally described.*
3.0 ANALYSIS OF ENVIRONMENTAL IMPACTS & MITIGATION MEASURES OF THE PROPOSED ACTION AND PAST, PRESENT AND REASONABLY FORESEEABLE FUTURE ACTIONS ON THE LOCAL COMMUNITY

Describe the reasonably foreseeable environmental impacts of (1) the proposed action and (2) past, present and reasonably foreseeable future actions on the pre-mining and post-mining environment.

3.1 Geographical setting

3.1.1 Geology and soils

Describe the geology and stratigraphy of the proposed permit area, the nature of the targeted ore body, and the soils of the proposed permit area. Discuss how the proposed action will affect erosion and disturbance of the area, and describe any proposed mitigation measures.

3.1.2 Climate/climate change

Describe the climate of the permit area. References to the baseline data report are acceptable, however this section should still summarize the data. Describe any potential impacts of the project on climate change, and describe any proposed mitigation measures or best management practices.

3.2 Lands: Soils and Land Use

3.2.1 General land use

Discuss any zoning and land use of the proposed permit area, total land area required for the project and homes and businesses that may be affected by the proposed action. Describe any known or potential recreational uses of the proposed permit area and surrounding area. Describe any best management practices and mitigation measures proposed.

3.2.2 Land ownership

Provide a list of land owners within a ½ mile radius of the proposed permit area as well as any best management practices or mitigation measures to be implemented with respect to land ownership.

3.2.3 Important farmland/rangeland

Consult with the National Resource Conservation Service [NRCS] to determine if soils have been classified as prime farmlands, prime rangelands, or prime forest land. Discuss how the proposed project will affect these lands, and describe any proposed best management practices or mitigation measures.
3.2.4 Formally classified lands

Identify any national parks, state parks, landmarks, historic sites, wilderness areas, environmentally sensitive areas, wildlife refuges, wild and scenic rivers, grasslands, and Native American owned lands. Identify any formally classified lands that may exist in or near the proposed project area and discuss the impacts from the proposed project. Also discuss any proposed mitigation measures or best management practices to be implemented.

3.3 Floodplains

Consult with FEMA and any local administrations to determine if the project is within a floodplain and describe any potential impacts of the proposed action to floodplains. Describe any best management practices or proposed mitigation measures to be implemented.

3.4 Wetlands

Research and consult with the US Army Corp of Engineers to determine if any wetlands exist in the project area or project vicinity and/or what impacts the proposed action will have on them. Discuss any proposed best management practices or mitigation measures to be implemented.

3.5 Water Resources

3.5.1 Surface water

Consult with NMED Surface Water Quality Bureau and Drinking Water Bureau to determine stream standards and surface water quality and quantity. Also discuss any proposed mitigation measures or best management practices to be implemented.

3.5.2 Groundwater

Describe the aquifer(s) anticipated in the proposed project vicinity including approximate depth to groundwater, and anticipated quality and quantity. Consult with NMED Ground Water Quality Bureau and Drinking Water Bureau and NM Office of the State Engineer. Describe any proposed best management practices or proposed mitigation techniques to be implemented.

3.5.3 Hydrothermal resources

Research and discuss potential impacts of the proposed action to any known geothermal or hydrothermal resources within or in proximity to the permit area. Describe any proposed mitigation techniques or best management practices to be implemented.
3.6 Air quality

Consult with NMED Air Quality Bureau and/or appropriate counties. Evaluate direct and indirect emissions from the proposed action, including fugitive dust, and their impact on air quality. Describe any proposed mitigation techniques or best management practices to be implemented.

3.7 Biological resources

3.7.1 Vegetation

At a minimum, a habitat evaluation/survey must be conducted to describe and document vegetation in the proposed project area and potential effects of the proposed action to existing vegetation. Some, if not all, of this data may be able to be obtained from the baseline data report that will be provided as part of the PAP. Discuss requirements for clearing, any short and long term effects, and any future maintenance practices. Also describe any best management practices or mitigation measures to be implemented.

3.7.2 Wildlife

At a minimum, a habitat evaluation/survey must be conducted to describe and document wildlife occurrences, or the potential for wildlife occurrences, within the proposed permit area. Some, if not all, of this data may be able to be obtained from the baseline data report that will be provided as part of the PAP. Consult with NM Game and Fish Department, US Fish and Wildlife, and NM Energy, Minerals and Natural Resources Department and describe fish and wildlife resources within the proposed project area. Discuss any short and long term impacts as well as any best management practices or mitigation measures to be implemented.

3.7.3 Threatened, endangered, candidate and species of concern

At a minimum, a habitat evaluation/survey must be conducted for the proposed permit area to describe, document and evaluate potential habitat for threatened species, endangered species, candidate species, and species of concern. Consult with NM Game and Fish Department and US Fish and Wildlife Service and the Endangered Plant Program (within the EMNRD Forestry Division) to identify state and federally listed threatened, endangered, candidate, and species of concern that may occur in the proposed project area. Discuss direct impacts, impacts to designated critical habitat and impacts to any observed preferred habitat within or in proximity to the proposed permit area. Describe any proposed mitigation measures or best management practices. Depending on the results of the survey, a biological assessment may be required.

If a biological resources evaluation report is prepared separately from the Environmental Evaluation or is subcontracted to a different company from the company performing the
Environmental Evaluation, MMD requires that a complete copy of the biological resources evaluation report be included with the Environmental Evaluation.

3.8 Cultural resources

At a minimum, a site-specific survey of the proposed project area must be completed to determine if any identified sites may qualify for registration. Consult with the State Historic Preservation Office (SHPO) to identify registered sites. Conduct field studies as required, and include copies of correspondence and determinations in the Environmental Evaluation. Describe any proposed mitigation measures or best management practices to be implemented.

3.9 Socioeconomic and environmental justice

3.9.1 Socioeconomic issues

Describe present economic conditions of the proposed project area such as median income and poverty levels. Describe the demographics and population statistics and population projections of the proposed project area using available census bureau data and how the proposed project may impact the population. Describe any proposed mitigation measures or best management practices to be implemented.

3.9.2 Environmental justice

Environmental justice issues should be addressed with respect to the equitable distribution of environmental risks, hazards, and benefits across all groups of persons in the vicinity of the project area. Consult with the Environmental Protection Agency to obtain their map and environmental justice index for the proposed project area or nearest community. Based on the index, discuss any potentially disproportionate affects on minority and low income populations, provisions for the affected populations to have access to information, and provisions for participation in decision making during the environmental evaluation process. Describe any proposed mitigation measures or best management practices to be implemented.

3.10 Waste and waste disposal

Describe any solid waste, liquid waste and hazardous waste that will be generated by the proposed action and how the waste will be managed using best management practices or other mitigation measures.

3.11 Traffic

Describe the traffic and transportation effects from construction workers and transport of ore and other materials in and out of the proposed permit area using various transportation mechanisms such as roads, highways, railways, etc. Describe any proposed mitigation measures or best management practices to be implemented.
3.12 Visual impacts

Describe the visual impacts of the proposed action including affects on aesthetic resources such as scenic vistas and skylines, as well as proposed best management practices or mitigation measures.

3.13 Noise

Describe noise impacts associated with the proposed action and any proposed best management practices or mitigation measures.

4.0 SUMMARY OF ENVIRONMENTAL IMPACTS FROM THE PROPOSED ACTION AND PAST, PRESENT AND REASONABLY FORESEEABLE FUTURE ACTIONS ON THE LOCAL COMMUNITY

Enumerate and summarize the anticipated environmental impacts identified in section 3 above of the proposed action and the impacts of the past, present and reasonably foreseeable future actions on the pre-mining and post-mining environment and local community (cumulative impacts analysis).

5.0 SUMMARY OF MITIGATION MEASURES

5.1 Physical resource mitigation measures (i.e. land, water, air, hydrothermal, geothermal, soil and climate change mitigations)

Describe the proposed mitigation measures related to land, water and air impacts and how the measures will reduce the impact to less than significant levels, as well as how they will be implemented. Include descriptions of required items such as air quality permits, surface water discharge permits, groundwater discharge permits, pump and treat methods, underground or aboveground storage tank permits, storm water pollution prevention plans, Section 404 permits, radiation surveys, radon release modeling, or other best management practices.

5.2 Biological and threatened & endangered species mitigation measures

Describe the proposed mitigation measures to be implemented related to biological resources such as animal ramps, no construction during breeding season, pond nets or other best management practices.

5.3 Socioeconomic and environmental justice mitigation measures

Describe any mitigation measures to be implemented.

5.4 Archaeological and cultural resource mitigation measures

Describe proposed mitigation and best management techniques such as excavation/documentation, preservation, avoidance, etc.
5.5 Environmentally sensitive areas (land use, land ownership, farmland, classified lands, floodplains, wetlands)

Describe proposed mitigation measures such as restorative/replacement wetlands, or other best management practices to be implemented in environmentally sensitive areas and formally classified lands.

5.6 Noise, visual, traffic, and waste disposal mitigation measures

Describe proposed mitigation measures related to noise, visual, traffic and waste disposal impacts from the proposed action.

6.0 CONSULTATION, COORDINATION AND PUBLIC INVOLVEMENT

6.1 Agencies consulted

Provide a list of the agencies contacted and a copy of any responses received.

6.2 Public Involvement

Provide evidence of public notice documentation such as proofs of publication, affidavits of publication, copies of returned receipts, meeting minutes, transcripts, etc.

6.3 Responsiveness summary

Provide a summary and response to public comments received during the Environmental Evaluation process.

7.0 LIST OF PREPARERS

Identify the names and job titles of persons involved with the preparation of the Environmental Evaluation including signatures and dates.

8.0 REFERENCES

Provide a list of the references cited in the Environmental Evaluation.

9.0 APPENDIX A

Provide a abbreviated resume for the persons involved with the preparation of the Environmental Evaluation. The suggested length is no more than ½ or 1 page per person. Resumes should emphasize professional experience in the completion of NEPA studies.

Use other appendices, tables, or figure dividers as needed.
Environmental Evaluation Process Flowchart

**Application for New Mine Permit received by MMD**

- **Does the project involve BLM, USFS or other federal land?**
  - Yes
  - Federal NEPA requirements are in effect (consultation, public meeting/hearings, etc.). Has the EID/EIS been accepted by the federal agency?
    - Yes
      - MMD to review EID/EIS. Subject to review by independent 3rd party contractor (to be paid for by applicant)
    - No
      - Address comments until accepted by federal agency
  - No
    - MMD Environmental Evaluation (EE) Process

**MMD Environmental Evaluation (EE) Process**

- RFP issued by MMD for preparation of EE
- Contractor selected by MMD; MOU between applicant, contractor and MMD developed and signed
- Data compiled by contractor for the MMD EE
- Consultation with agencies and tribes (30-day comment period)
- Draft EE prepared

**Dashed portion of the EE process overlaps with the Phase II PAP process**

- Public meeting (public hearing if requested) for the PAP
- Public notice that the PAP has been deemed technically complete and Draft EE is complete (30-day minimum comment period)
- Draft EE reviewed by MMD with possible revisions requested; evaluated by MMD as part of the PAP
- Permit approved or denied by MMD

**MMD review of the EE and PAP**

**EE prepared and submitted to MMD**

**Public comments addressed**

**EE prepared and submitted to MMD**

Mining Act Reclamation Program
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