

# Permit Requirements for Energy and Minerals in New Mexico



**New Mexico Energy, Minerals and  
Natural Resources Department**

**Mining and Minerals Division**

**June 2002**

## **PUBLICATION AVAILABILITY**

Copies of this document can be viewed on the Mining and Minerals Division homepage at [www.emnrd.state.nm.us/mining](http://www.emnrd.state.nm.us/mining), or may be obtained from:

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## **ACKNOWLEDGEMENTS**

*State Permit Requirements for the Development of Energy and Mineral Resources in New Mexico* was originally prepared under the direction of the U.S. Geological Survey (USGS) in cooperation with the Four Corners Regional Commission and the State of New Mexico in 1981. In 1987, the Energy, Minerals and Natural Resources Department (EMNRD) prepared a revision of the original document titled *State Permit Requirements for the Development of Energy, Mineral and Other Selected Natural Resources in New Mexico -- Report of Investigation #2*. In 1990, this was updated as *Report of Investigation #5*. In 1992 the report was expanded to include chapters on permits for federal and Indian lands. The 1995 update included new chapters on mining permits mandated by the 1993 New Mexico Mining Act. This 2002 update adds internet resources for the most up to date information, along with a centralized contact table for quick reference. The Mining and Minerals Division was the lead agency in the compilation of this guidebook, which has been prepared with the support of Doug Bland, Director of the Mining and Minerals Division (MMD), and Betty Rivera, Secretary of EMNRD. Technical staff in each of the administering state agencies listed provided input and review for this update. Staff within each of the federal agencies listed in Chapter 11 also provided review and comments on those sections. Our sincere thanks are given to all who contributed. John Pfeil is responsible for inter-agency coordination of chapter revisions and served as project coordinator. Alysia Leavitt and John Pfeil are the co-editors.

# TABLE OF CONTENTS

<u>Chapter</u>	<u>Page</u>
INTRODUCTION.....	iii
CONTACTS TABLE .....	v
ENERGY AND MINERAL CHECKLIST .....	vii
1.0 STANDARD FORMAT FOR PERMIT SUMMARIES .....	1
1.1 Title of Activity Addressed by Permit, License or Approval.....	1
2.0 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT. 3	
Mining and Minerals Division.....	3
2.1 Coal Mine Reclamation Program – Coal Exploration Permit .....	3
2.2 Coal Mine Reclamation Program – Coal Surface Mining Permit.....	4
2.3 Mining Act Reclamation Program – Recreation Mining Permits .....	6
2.4 Mining Act Reclamation Program – Mining Exploration Permits .....	8
2.5 Mining Act Reclamation Program – Mining Permits.....	9
2.6 Mine Registration, Reporting and Safeguarding Program Services (All Mines)	12
Oil Conservation Division .....	13
2.7 Oil, Natural Gas, and Geothermal Resources Permits .....	13
2.8 Oil, Natural Gas, and Geothermal Resources Environmental Bureau – Effluent Discharge Plan .....	15
Forestry Division.....	17
2.9 Environmental Resource Assessment Bureau – Endangered Plant Species Permit.....	17
3.0 DEPARTMENT OF GAME AND FISH.....	19
Conservation Services Division .....	19
3.1 Scientific/Educational Purpose Authorizations and Permits for the Taking of Protected Wildlife.....	19
4.0 ENVIRONMENT DEPARTMENT.....	21
Water and Waste Management Division .....	21
4.1 Ground Water Quality Bureau – Ground Water Discharge Permit.....	21
4.2 Hazardous Waste Bureau – Hazardous Waste Management Requirement for Transportation, Storage and Disposal Facilities (TSD) .....	22
4.3 Hazardous Waste Bureau – Hazardous Waste Management Requirement for Handlers .....	25
Field Operations Division .....	26
4.4 Drinking Water Bureau – Drinking Water Regulations.....	26

4.5	Radiation Control Bureau – Radioactive Material Licensure and Information About Licensing of Source Material Extraction .....	28
	Environmental Protection Division .....	31
4.6	Air Quality Bureau – Air Quality Permits, Preconstruction.....	31
4.7	Air Quality Bureau – Air Quality Permits, Operations Requirements for Certain Sources .....	34
4.8	Solid Waste Bureau – Solid Waste Management Requirements.....	36
4.9	Petroleum Storage Tank Bureau – Petroleum Storage Tank Requirements.....	38
4.10	Occupational Health and Safety Bureau – Occupational Health and Safety Regulations .....	40
5.0	OFFICE OF THE STATE ENGINEER .....	42
	Water Rights Unit .....	42
5.1	Water Resource Allocation Program – Permit to appropriate the Public Surface Waters of the State of New Mexico .....	42
5.2	Water Resource Allocation Program – Permit to appropriate the Underground Waters of the State of New Mexico .....	44
5.3	Water Resource Allocation Program – Mine Dewatering Permit .....	46
5.4	Water Resource Allocation Program – Approval of Drill Hole Plugging .....	48
5.5	Water Resource Allocation Program – License for Water Well Drillers .....	50
6.0	STATE LAND OFFICE .....	52
6.1	State Trust Land Leases and Permits.....	52
7.0	HISTORIC PRESERVATION OFFICE .....	54
7.1	Office of Cultural Affairs - Permits to Conduct Archaeological Surveys and Excavations on Lands Owned or Controlled by the State of New Mexico ...	54
8.0	PUBLIC REGULATION COMMISSION .....	57
8.1	Certificate of Public Convenience and Necessity .....	57
8.2	Location Permit.....	58
9.0	NEW MEXICO BUREAU OF MINE INSPECTION.....	60
9.1	Permits & Requirements Related to Mine Safety .....	60
10.0	Local Government Land Use & Natural Resources Control Enabling Law .....	62
11.0	Federal Permit Requirements .....	64
12.0	Permits for Energy and Minerals Development on Indian Lands.....	68

## INTRODUCTION

The purpose of this guidebook is to summarize permits issued by the State of New Mexico that are required for energy and mineral resource exploration, development, production, and reclamation in New Mexico. In addition, federal permit requirements and permits on Indian lands are briefly discussed. This publication is an updated version of *Report of Investigation #8*, released in 1995 and is intended not only for private developers and interest groups, but also for regulatory officials of federal, state and local government.

The individual state agencies that have jurisdiction over permits, licenses and approvals provided the information for their own chapters. It is possible that changes in the laws, rules, regulations or regulatory personnel since the guidebook was published may alter some permit requirements. In addition, mineral ownership and surface/mineral estate status will affect agency jurisdiction. This guide should not be construed as a legal document or a final authority on regulations and permits. It is not intended to be a comprehensive reference to specific requirements, but to provide concise, easy-to-use information on regulations that govern the development of resources. Before attempting to obtain a permit or begin any activity that might require a permit, you should contact the appropriate agency for further information.

Regulatory contacts are provided at the end of each chapter for state and federal agencies, and tribal officials. Where available, links to web pages are also included. As a convenience, a master contact table has been developed and can be found on page v. Additionally, to the extent possible, all chapters provide cross-references to the relevant NMAC (New Mexico Administrative Code) title/s, chapter/s, part/s, section/s and subsection/s. Electronic access to the Code can be found at the New Mexico Commission of Public Records (NMCPR) – State Records Center and Archives website: [www.nmcpr.state.nm.us/nmac/\\_titles.htm](http://www.nmcpr.state.nm.us/nmac/_titles.htm); or their street address is 1205 Camino Carlos Rey, Santa Fe, NM 87505.

The guidebook is divided into 12 chapters. Chapter 1.0 gives the standard format used in all the following chapters, which are divided into sections indicated by decimal notation. Each chapter contains all the relevant programs within a particular agency (e.g. Chapter 2 describes programs within the Energy, Minerals and Natural Resources Department). In general, each section summarizes the permits or requirements of one program (e.g. Section 2.5 describes requirements for a hardrock mining permit). Sections provide information on a wide variety of permit requirement topics, including: land use regulation; mine registration, reporting and safeguarding; exploration and mining permitting; resource extraction; environmental quality and water management; reclamation; and historical, ecological, and archaeological preservation. Chapter 10.0 discusses local government regulatory policies. Chapters 11.0 and 12.0 address selected federal requirements and Indian reservation and allotment lands. An energy and mineral checklist for permit requirements is included to help indicate which permits may be required for various operations by agency and mineral ownership.

For further information or additional copies of the report please contact:

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[jpfeil@state.nm.us](mailto:jpfeil@state.nm.us)

## CONTACTS TABLE

Contact/Agency	Address	Phone	Fax (f)	Website
Director, Mining and Minerals Division Energy, Minerals and Natural Resources Dept.	1220 South St. Francis Drive Santa Fe, NM 87505	(505) 476-3400 f (505) 476-3402		<a href="http://www.emnrd.state.nm.us/mining">www.emnrd.state.nm.us/mining</a>
Supervisory Coal Mine Inspector U.S. Mine Safety and Health Administration	1415 W. Aztec Blvd. Suite 1 Aztec, NM 87410-1899	(505) 334-4011 f (505) 334-7522		<a href="http://www.msha.gov/">http://www.msha.gov/</a>
Supervisory Mine Inspector U.S. Mine Safety and Health Administration	2 Park Central Tower, Suite 407 300 San Mateo Blvd., NE Albuquerque, NM 87108	(505) 346-6775 f (505) 346-6776		<a href="http://www.msha.gov/">http://www.msha.gov/</a>
Director, Oil Conservation Division Energy, Minerals and Natural Resources Dept.	1220 South St. Francis Drive Santa Fe, NM 87505	(505) 476-3440 f (505) 476-3462		<a href="http://www.emnrd.state.nm.us/ocd">http://www.emnrd.state.nm.us/ocd</a>
New Mexico State Director Bureau of Land Management	P.O. Box 27115 Santa Fe, NM 87502-7115	(505) 438-7400 f (505) 438-7426		<a href="http://www.nm.blm.gov/www/newhome_2.html">http://www.nm.blm.gov/www/newhome_2.html</a>
Director, Forestry Division Energy Minerals and Natural Resources Dept.	P.O. Box 1948 Santa Fe, NM 87504-1948	(505) 476-3325 f (505) 476-3330		<a href="http://www.emnrd.state.nm.us/forestry">http://www.emnrd.state.nm.us/forestry</a>
Chief, Conservation Services Division New Mexico Department of Game and Fish	P.O. Box 25112 Santa Fe, NM 87504	(505) 476-8101 f (505) 476-8128		<a href="http://www.gmfish.state.nm.us">http://www.gmfish.state.nm.us</a>
Migratory Bird Permit U.S. Fish and Wildlife Service	P.O. Box 709 Albuquerque, NM 87103-0709	(505) 248-7882 f (505) 248-7885		<a href="http://birds.fws.gov/">http://birds.fws.gov/</a>
Chief, Ground Water Quality Bureau New Mexico Environment Department	1190 St. Francis Drive Santa Fe, NM 87503	(505) 827-2918 f (505) 827-2965		<a href="http://www.nmenv.state.nm.us/gwb/gwqbhome.html">www.nmenv.state.nm.us/gwb/gwqbhome.html</a>
Chief, Hazardous Waste Bureau New Mexico Environment Department	2905 Rodeo Park Drive East, Bldg 1 Santa Fe, NM 87505-6303	(505) 428-2500 f (505) 428-2567		<a href="http://www.nmenv.state.nm.us/HWB/hazwaste_home.html">http://www.nmenv.state.nm.us/HWB/hazwaste_home.html</a>
Chief, Drinking Water Bureau New Mexico Environment Department	525 Camino de los Marquez, Ste 4 Santa Fe, NM 87505	(505) 827-7536 f (505) 827-7545		<a href="http://www.nmenv.state.nm.us/dwb/dwbttop.html">http://www.nmenv.state.nm.us/dwb/dwbttop.html</a>
Chief, Construction Programs Bureau New Mexico Environment Department	1190 St. Francis Drive Santa Fe, NM 87503	(505) 827-2806 f (505) 827-2837		<a href="http://www.nmenv.state.nm.us/cpb/cpbtop.html">http://www.nmenv.state.nm.us/cpb/cpbtop.html</a>
Chief, Radiation Control Bureau New Mexico Environment Department	1190 St. Francis Drive Santa Fe, NM 87505	(505) 476-3236 f (505) 476-3232		<a href="http://www.nmenv.state.nm.us/nrcb/home.html">http://www.nmenv.state.nm.us/nrcb/home.html</a>
Chief, Fuel Cycle Licensing Branch Nuclear Material Safety and Safeguards U.S. Nuclear Regulatory Commission	Washington, DC 20555-0001	(301) 415-7836		<a href="http://www.nrc.gov/who-we-are/organization/nmssfuncdesc.html">http://www.nrc.gov/who-we-are/organization/nmssfuncdesc.html</a>
Chief, Nuclear Materials Licensing Branch Division of Nuclear Materials Safety U.S. Nuclear Regulatory Commission – Region IV	611 Ryan Plaza Drive, Suite 400 Arlington, Texas 76011	(817) 860-8100		<a href="http://www.nrc.gov/who-we-are/organization/rivfuncdesc.html">http://www.nrc.gov/who-we-are/organization/rivfuncdesc.html</a>
Chief, Air Quality Bureau New Mexico Environment Department	2048 Galisteo Street Santa Fe, New Mexico 87505	(505) 827-1494 f (505) 827-1523		<a href="http://www.nmenv.state.nm.us/air/index.html">http://www.nmenv.state.nm.us/air/index.html</a>

<b>Contact/Agency</b>	<b>Address</b>	<b>Phone</b>	<b>Fax (f)</b>	<b>Website</b>
Chief, SIP/New Sources Section U.S. Environmental Protection Agency - Region VI	U.S. EPA Region 6, 6PD-L 1445 Ross Avenue Dallas TX 75202-2733	(214) 665-7214		<a href="http://www.epa.gov/earth1r6/6pd/air/pd-/sip.htm">http://www.epa.gov/earth1r6/6pd/air/pd-/sip.htm</a>
Chief, Air Quality Control Division Environmental Health Department City of Albuquerque	P.O. Box 1293 Albuquerque, New Mexico 87103	(505) 768-1930 f (505) 768-2617		<a href="http://www.cabq.gov/airquality/index.html">http://www.cabq.gov/airquality/index.html</a>
Chief, Solid Waste Bureau New Mexico Environment Department	1190 St. Francis Drive Santa Fe, NM 87503	(505) 827-2775 f (505) 827-2902		<a href="http://www.nmenv.state.nm.us/NMED/env_prot.html#SWB">http://www.nmenv.state.nm.us/NMED/env_prot.html#SWB</a>
Chief, Petroleum Storage Tank Bureau New Mexico Environment Department	2044 Galisteo Street Santa Fe, NM 87504	(505) 984-1741 f (505) 984-1738		<a href="http://www.nmenv.state.nm.us/us/tustbtop.html">http://www.nmenv.state.nm.us/us/tustbtop.html</a>
Chief, Occupational Health and Safety Bureau New Mexico Environment Department	P.O. Box 26110 Santa Fe, NM 87502	(505) 827-4230 f (505) 827-4422		<a href="http://www.nmenv.state.nm.us/Ohsb_Website/ohsb_home.htm">http://www.nmenv.state.nm.us/Ohsb_Website/ohsb_home.htm</a>
Regional Administrator-Region 6 U.S. Department of Labor - OSHA	525 Griffin Street Dallas, TX 75202	(214) 767-4731 f (214) 767-4137		<a href="http://osha.gov/">http://osha.gov/</a>
Office of the State Engineer Water Rights Unit - Water Resource Allocation Program	Bataan Memorial Bldg., Rm 102 P.O. Box 25102 Santa Fe, NM 87504-5102	(505) 827-6120 f (505) 827-6682		<a href="http://www.seo.state.nm.us/">http://www.seo.state.nm.us/</a>
Commissioner of Public Lands State Land Office	P.O. Box 1148 Santa Fe, NM 87504-1148	(505) 827-5760 f (505) 827-5766		<a href="http://www.nmstatelands.org/Star.asp">http://www.nmstatelands.org/Star.asp</a>
Director Historic Preservation Division	228 East Palace Ave. Santa Fe, NM 87503	(505) 827-6320 f (505) 827-6338		<a href="http://historicpres.state.nm.us/hpd/">http://historicpres.state.nm.us/hpd/</a>
Chief of Staff Public Regulation Commission	1120 Paseo de Peralta Santa Fe, NM 87501	(505) 827-6942 f (505) 827-4387		<a href="http://www.nmprc.state.nm.us/">http://www.nmprc.state.nm.us/</a>
Utility Division Director Public Regulation Commission	Marian Hall 224 E. Palace Avenue Santa Fe, NM 87501	(505) 827-6940 f (505) 827-4402		<a href="http://www.nmprc.state.nm.us/">http://www.nmprc.state.nm.us/</a>
State Mine Inspector Bureau of Mine Inspection	New Mexico Tech 801 Leroy Place Socorro, NM 87801	(505) 835-5460 f (505) 835-5430		
New Mexico Municipal League	P.O. Box 846 Santa Fe, New Mexico 87504	(505) 982-5573 f (505) 984-1392		<a href="http://www.nmml.org/">http://www.nmml.org/</a>
New Mexico Association of Counties	613 Old Santa Fe Trail Santa Fe, New Mexico 87505	(505) 983-2101 f (505) 983-4396		<a href="http://www.nmcounties.org/main.html">http://www.nmcounties.org/main.html</a>
Regional Geologist, Lands and Minerals USDA, Forest Service - Southwestern Region	333 Broadway SE Albuquerque, NM 87102	(505) 842-3292		<a href="http://www.nm.blm.gov/www/ne/w_home_2.html">http://www.nm.blm.gov/www/ne/w_home_2.html</a>
Chief, Regulatory Branch Albuquerque District U.S. Army Corps of Engineers	4101 Jefferson Plaza NE Albuquerque, NM 87109-3435	(505) 342-3282 f (505) 342-3498		<a href="http://www.spa.usace.army.mil/re/g/">http://www.spa.usace.army.mil/re/g/</a>

# ENERGY AND MINERAL CHECKLIST

## for State Permit Requirements

JURISDICTION (Agency)	Mineral Estate				Activity Type													
	Public Domain	State	Fee (Private)	Indian*	Exploration (leasing & drilling)	Metallic					Non-Metallic							
						Mining/Milling	Smelters	Leaching, Solution Op.	Tailings Dams/Impoundments	Reclamation	Mining	Milling	Coal Exploration & Development	Reclamation	Oil and Gas	Geothermal	Mine Mouth Power Plant	
<b>EMNRD</b>																		
Mining and Minerals Division																		
Coal Mine Reclamation Program	✓	✓	✓		✓						✓	✓	✓	✓				
Mining Act Reclamation Program	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓		✓				
Mine Registration, Reporting & Safeguarding	✓	✓	✓			✓	✓	✓			✓	✓	✓					
Oil Conservation Division	✓	✓	✓													✓	✓	✓
Forestry Division	✓	✓	✓		✓	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓	✓
<b>DEPARTMENT OF GAME AND FISH</b>	✓	✓	✓			✓	✓	✓	✓		✓	✓	✓		✓	✓	✓	✓
<b>ENVIRONMENT DEPARTMENT</b>																		
Water & Waste Management Division																		
Ground Water Quality Bureau	✓	✓	✓			✓	✓	✓	✓		✓	✓	✓					✓
Hazardous Waste Bureau	✓	✓	✓			✓	✓	✓			✓	✓						
Field Operations Division																		
Drinking Water Bureau	✓	✓	✓			✓	✓	✓			✓	✓	✓					✓
Radiation Control Bureau	✓	✓	✓		✓	✓	✓	✓			✓		✓		✓	✓		
Environmental Protection Division																		
Air Quality Bureau	✓	✓	✓			✓	✓	✓			✓	✓	✓		✓	✓	✓	✓
Solid Waste Bureau	✓	✓	✓			✓	✓	✓			✓	✓	✓		✓	✓	✓	✓
Petroleum Storage Tank Bureau	✓	✓	✓			✓	✓	✓			✓	✓	✓		✓	✓	✓	✓
Occupational Health and Safety Bureau	✓	✓	✓		✓		✓	✓	✓			✓	✓		✓	✓	✓	✓
<b>OFFICE OF THE STATE ENGINEER</b>	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓
<b>STATE LAND OFFICE</b>		✓			✓	✓		✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
<b>HISTORIC PRESERVATION OFFICE</b>		✓	✓			✓	✓	✓			✓	✓			✓			
<b>PUBLIC REGULATION COMMISSION</b>																		✓
<b>BUREAU OF MINE INSPECTION</b>	✓	✓	✓				✓				✓		✓					

\*Includes Indian allotted and Indian reservation lands

This checklist is designed to be used as a guide only; permitting requirements will vary depending on individual circumstances. If there is any doubt regarding necessary permits, that agency should be contacted to see if permits are required.



## **1.0 STANDARD FORMAT FOR PERMIT SUMMARIES**

### **1.1 TITLE OF ACTIVITY ADDRESSED BY PERMIT, LICENSE OR APPROVAL**

#### **INTRODUCTION**

Description of administering agency and its role.

#### **A. NAME OF PERMIT OR APPROVAL**

- Complete name of permit or approval with notation indicating mandate by State (S), Federal (F), or City/County (C) government.

#### **B. STATUTORY AUTHORITY**

- Title of state statutes authorizing permit and the legal citations of each with notation indicating pending changes (P) to the statute(s); § - section, §§ - sections.

#### **C. TITLE OF REGULATION**

- Title of state regulation(s), which apply to permit with notation indicating pending changes (P) to the regulation(s).

#### **D. SUMMARY OF PERMIT/APPROVAL PROCESS**

- Summary of major steps involved in the permit/approval process.
  1. Applicability
    - Includes all types of activities that require the permit.
  2. General Requirements
    - Conditions which must be met by the project sponsor before a permit can be acquired, excluding submission of operations requirements.
  3. Submission Requirements
    - Types of information that the project sponsor must include in the application for the permit.
  4. Procedures for Obtaining Permit or Approval
    - Includes information on items such as submittal procedures, completeness and technical review, public notice, comment and hearing periods, preliminary and final decisions, inspections, and processing times.
  5. Operations Requirements
    - Conditions which are established by the regulatory agency following permit approval and which must be met by the project sponsor in order to continue operations.
  6. Fees
    - Costs incurred for obtaining and maintaining the permit.
  7. Appeal Process
    - Process whereby decisions concerning permit approval/denial that are made by a regulatory agency can be appealed.

**E. ADMINISTERING AGENCY**

Name of the administering agency and its head, address, telephone number, website address, and e-mail address (if applicable).

Name of the counterpart federal agency and its head, address, and telephone number, website address, and e-mail address (if applicable).

## **2.0 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT**

### **MINING AND MINERALS DIVISION**

#### **2.1 COAL MINE RECLAMATION PROGRAM – COAL EXPLORATION PERMIT**

##### **INTRODUCTION**

The Mining and Minerals Division (MMD) of the New Mexico Energy, Minerals and Natural Resources Department has responsibility for approving coal exploration plans under the authority of the New Mexico Surface Mining Act. This approval ensures proper environmental protection during initiation and completion of exploration activities.

##### **A. NAME OF PERMIT OR APPROVAL**

- Coal Exploration Plan Approval(s). (S)

##### **B. STATUTORY AUTHORITY**

- Surface Mining Act, NMSA 1978, §§69-25A-1 et seq.

##### **C. TITLE OF REGULATION**

- 19.8 NMAC, Coal Mining.

##### **D. SUMMARY OF PERMIT/APPROVAL PROCESS**

- Applicant requests copies of regulations and guidelines from MMD.
- Applicant submits application to MMD.
- Final approval by MMD.
  1. Applicability
    - Required for any person conducting coal exploration in New Mexico on state or private lands.
  2. General Requirements
    - Approval must be obtained prior to initiation of any exploration activities.
  - 3a. Submission Requirements (for less than 250 tons)
    - Name, address, and telephone number of applicant.
    - Name, address, and telephone number of person who will be present and responsible for conducting the exploration activities.
    - Period of exploration.
    - Description of practices to be followed to avoid adverse environmental impacts.
    - Description of basis for right of entry.
  - 3b. Submission Requirements (for more than 250 tons)\*
    - All requirements for less than 250 tons.
    - An operations plan including:
      - Narrative of mining method.
      - Method of complying with federal and state environmental statutes.

- Description of reclamation procedures and timetable for conducting and completing each phase of exploration and reclamation.
- 4. Procedures for Obtaining Permit or Approval
  - Applicant submits application to MMD.
  - Final review and approval by MMD.
  - Bond may be required for operations more than 250 tons and also may be required by the Director for less than 250-ton operations if significant disturbance to the environment is anticipated.
- 5. Operations Requirements
  - The operator must comply with 19.8.6 NMAC.
- 6. Fees
  - A \$50 filing fee is required for less than 250 tons.
  - A \$100 filing fee is required for more than 250 tons.
- 7. Appeal Process
  - Appeal to the Director.
  - Appeal to the Coal Surface Mining Commission.
  - Appeal to the District Court.

## **E. ADMINISTERING AGENCY**

Director, Mining and Minerals Division (S)  
 Energy, Minerals and Natural Resources Department  
 1220 South St. Francis Drive  
 Santa Fe, NM 87505  
 (505)476-3400  
[www.emnrd.state.nm.us/mining](http://www.emnrd.state.nm.us/mining)

\* Any person who extracts coal for commercial sale during exploration operations must obtain a permit for those operations under 19.8.5 NMAC through 19.8.13 NMAC.

## **2.2 COAL MINE RECLAMATION PROGRAM – COAL SURFACE MINING PERMIT**

### **INTRODUCTION**

The Mining and Minerals Division (MMD) of the New Mexico Energy, Minerals and Natural Resources Department has responsibility for issuance of permits for coal mining under the authority of the New Mexico Surface Mining Act. The purpose of this permit is to protect the environment surrounding the area, which may be disturbed during mining activities and ensure that the affected area is restored to a condition equal to or better than that which existed prior to mining.

#### **A. NAME OF PERMIT OR APPROVAL**

- Coal Surface Mining Permit. (S,F)

#### **B. STATUTORY AUTHORITY**

- Surface Mining Act, NMSA 1978, §§69-25A-1 et seq.

## C. TITLE OF REGULATION

- 19.8 NMAC, Coal Mining.

## D. SUMMARY OF PERMIT/APPROVAL PROCESS

- Submit application containing an operation/reclamation plan.
- Final review and approval by MMD with recommendations from other applicable agencies.
  1. Applicability
    - Surface coal mining, underground coal mining on state, federal or private lands.
  2. General Requirements
    - A mining and reclamation plan and reclamation bond for the mine must be submitted and approved prior to initiation of mining operations.
  3. Submission Requirements
    - Identification of interests.
    - Right of entry.
    - Environmental resources information.
    - Geology and hydrology information.
    - Climatologic information.
    - Vegetation information.
    - Soils information.
    - Land use and related information.
    - Operation plans.
    - Reclamation plans.
    - Bonding estimates.
  4. Procedures for Obtaining Permit or Approval
    - Applicant submits permit application to MMD as well as other applicable agencies designated by MMD; MMD consults with other applicable state and federal agencies as required.
    - MMD conducts technical adequacy review of application and consults with other state agencies on specific areas of the plan for which they have specific jurisdiction such as the State Historic Preservation Office.
    - MMD identifies technical deficiencies and allows applicant sufficient time to revise application.
    - A public hearing is conducted on the basis of a complete application.
    - The application is approved or denied.
    - A bond must be posted prior to issuance of the permit.
  5. Operations Requirements
    - Compliance with 19.8.9 NMAC.
  6. Fees
    - Original permit filing fee is \$1,000 plus \$15 per acre for land estimated to be disturbed in first year.
    - Annual fee is \$1,000 plus \$15 per acre for land disturbed (maximum of \$11,000 annual fee).
  7. Appeal Process
    - Appeal to Director.

- Appeal to Coal Surface Mining Commission.
- Appeal to District Court.

## **E. ADMINISTERING AGENCY**

Director , Mining and Minerals Division (S)  
Energy, Minerals and Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, NM 87505  
(505)476-3400  
[www.emnrd.state.nm.us/mining](http://www.emnrd.state.nm.us/mining)

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## **2.3 MINING ACT RECLAMATION PROGRAM – RECREATION MINING PERMITS**

### **INTRODUCTION**

The Mining and Minerals Division (MMD) of the New Mexico Energy, Minerals and Natural Resources Department has responsibility for issuance of permits for exploration for certain commodities under the authority of the New Mexico Mining Act. These commodities include all nonliving commodities that are extracted from the earth for use or conversion into a saleable or usable product, but does not include clays, adobe, flagstone, potash, sand, gravel, caliche, borrow dirt, quarry rock used as aggregate for construction, coal, surface water or subsurface water, geothermal resources, oil and natural gas together with other chemicals recovered with them, commodities, byproduct materials and wastes that are regulated by the Nuclear Regulatory Commission or waste regulated under Subtitle C of the federal Resource Conservation and Recovery Act. The purpose of these permits is to protect the environment surrounding the area, which may be disturbed during recreational mining activities.

### **A. NAME OF PERMIT OR APPROVAL**

- General Permit - Dry. (S)
- General Permit - Wet. (S)

### **B. STATUTORY AUTHORITY**

- New Mexico Mining Act, NMSA 1978, §§69-36-1 et seq.

### **C. TITLE OF REGULATION**

- 19.10.3 NMAC, Minimal Impact Operations.

### **D. SUMMARY OF PERMIT/APPROVAL PROCESS**

- Applicant requests application and copies of regulations and guidelines from MMD.
- Applicant submits application to MMD.
- Final approval by MMD.

1. Applicability
  - Required for any person conducting recreational mining activities for minerals (as defined in Introduction above) in New Mexico on state, federal or private lands.
  - Dry General Permits are those not occurring in intermittent or perennial streams or other bodies of water. Under a Dry General Permit, excavation must not be greater than 200 cubic yards per year with no more than 25 cubic yards and no more than 2 acres of surface disturbance at any time.
  - Wet General Permits are those occurring in intermittent or perennial streams or other bodies of water. Under a Wet General Permit, excavations must not be greater than 2 cubic yards per day and 100 cubic yards per year. Also, excavating into stream banks and drilling are not allowed.
2. General Requirements
  - Approval must be obtained prior to initiation of any recreational mining activities.
3. Submission Requirements
  - All applicable information outlined in Subsection D of 19.10.3.301 NMAC. This is generally done through MMD's permit application.
  - The permit fee as determined by Subsection E of 19.10.3.301 NMAC.
4. Procedures for Obtaining Permit or Approval
  - Applicant submits application to MMD.
  - All conditions identified in Paragraph 2 of Subsection M of 19.10.1.7 NMAC (Definition of Minimal Impact) and Subsection B of 19.10.3.301 NMAC (Dry General Permit) or Subsection C of 19.10.3.301 (Wet General Permit) have been met.
  - Final review and approval by MMD.
5. Operations Requirements
  - The operator must comply with the provisions of the permit.
6. Fees
  - A \$50 application fee is required for minimal impact general permits.
7. Appeal Process
  - Appeal to the New Mexico Mining Commission.
  - Appeal to the District Court.

## **E. ADMINISTERING AGENCY**

Director , Mining and Minerals Division (S)  
Energy, Minerals and Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, NM 87505  
(505)476-3400  
[www.emnrd.state.nm.us/mining](http://www.emnrd.state.nm.us/mining)

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## **2.4 MINING ACT RECLAMATION PROGRAM – MINING EXPLORATION PERMITS**

### **INTRODUCTION**

The Mining and Minerals Division (MMD) of the New Mexico Energy, Minerals and Natural Resources Department has responsibility for issuance of permits for exploration for certain commodities under the authority of the New Mexico Mining Act. These commodities include all nonliving commodities that are extracted from the earth for use or conversion into a saleable or usable product, but does not include clays, adobe, flagstone, potash, sand, gravel, caliche, borrow dirt, quarry rock used as aggregate for construction, coal, surface water or subsurface water, geothermal resources, oil and natural gas together with other chemicals recovered with them, commodities, byproduct materials and wastes that are regulated by the Nuclear Regulatory Commission or waste regulated under Subtitle C of the federal Resource Conservation and Recovery Act. The purpose of these permits is to protect the environment surrounding the area, which may be disturbed during exploration activities and ensure that the affected area is reclaimed to a self-sustaining ecosystem or approved post-mining land use.

#### **A. NAME OF PERMIT OR APPROVAL**

- Exploration Permit. (S)
- Minimal Impact Exploration Permit. (S)

#### **B. STATUTORY AUTHORITY**

- New Mexico Mining Act, NMSA 1978, §§69-36-1 et seq.

#### **C. TITLE OF REGULATIONS**

- 19.10.3.302 NMAC, Minimal Impact Exploration Operations.
- 19.10.4 NMAC, Regular Exploration.

#### **D. SUMMARY OF PERMIT/APPROVAL PROCESS**

- Applicant requests application and copies of regulations and guidelines from MMD.
- Applicant submits application to MMD.
- Final approval by MMD.
  1. Applicability
    - Required for any person conducting mineral (as defined in Introduction above) exploration in New Mexico on state, federal or private lands.
    - Excavations must be less than 1000 cubic yards and five acres in size for minimal impact operations.
  2. General Requirements
    - Approval must be obtained prior to initiation of any exploration activities.
  - 3a. Submission Requirements (for Minimal Impact Exploration operations)
    - Description of operation including explanation of how operation meets the definition of minimal impact exploration as defined in 19.10.3.302 NMAC.
    - A completed application on a form provided by MMD, which includes general operation plans.
    - The permit fee as determined by Subsection F of 19.10.2.201.

- Other requirements as outlined in 19.10.3.302 NMAC.
- 3b. Submission Requirements (for Non-Minimal Impact Exploration operations)
  - All applicable information outlined in 19.10.4.402 NMAC.
  - The permit fee as determined by Subsection E of 19.10.2.201.NMAC.
  - Prior to permit issuance, the applicant must provide financial assurance as required by 19.10.12 NMAC.
- 4. Procedures for Obtaining Permit or Approval
  - Applicant submits application to MMD.
  - All conditions identified in Subsection I of 19.10.3.302.NMAC (Minimal Impact) or Subsection B of 19.10.4.405. NMAC (Non-Minimal Impact) have been met.
  - Final review and approval by MMD.
- 5. Operations Requirements
  - The operator must comply with the provisions of the permit.
- 6. Fees
  - A \$100 application fee is required for minimal impact exploration operations.
  - A \$250 application fee is required for non-minimal impact operations.
- 7. Appeal Process
  - Appeal to the New Mexico Mining Commission.
  - Appeal to the District Court.

## **E. ADMINISTERING AGENCY**

Director , Mining and Minerals Division (S)  
 Energy, Minerals and Natural Resources Department  
 1220 South St. Francis Drive  
 Santa Fe, NM 87505  
 (505)476-3400  
[www.emnrd.state.nm.us/mining](http://www.emnrd.state.nm.us/mining)

## **2.5 MINING ACT RECLAMATION PROGRAM – MINING PERMITS**

### **INTRODUCTION**

The Mining and Minerals Division (MMD) of the New Mexico Energy, Minerals and Natural Resources Department has responsibility for issuance of permits for mining certain commodities under the authority of the New Mexico Mining Act. These commodities include all nonliving commodities that are extracted from the earth for use or conversion into a saleable or usable product, but does not include clays, adobe, flagstone, potash, sand, gravel, caliche, borrow dirt, quarry rock used as aggregate for construction, coal, surface water or subsurface water, geothermal resources, oil and natural gas together with other chemicals recovered with them, commodities, byproduct materials and wastes that are regulated by the Nuclear Regulatory Commission or waste regulated under Subtitle C of the federal Resource Conservation and Recovery Act. The purpose of these permits is to protect the environment surrounding the area, which may be disturbed during mining activities and ensure that the affected area is reclaimed to a self-sustaining ecosystem or approved post-mining land use, where applicable.

**A. NAME OF PERMIT OR APPROVAL**

- Existing Mining Permit. (S)
- Minimal Impact Existing Mining Permit. (S)
- New Mining Permit. (S)
- Minimal Impact New Mining Permit. (S)

**B. STATUTORY AUTHORITY**

- New Mexico Mining Act, NMSA 1978, §§69-36-1 et seq.

**C. TITLE OF REGULATION**

- 19.10 NMAC, Non-Coal Mining.

**D. SUMMARY OF PERMIT/APPROVAL PROCESS**

- Applicant requests copies of regulations and guidelines from MMD.
- Applicant submits application to MMD.
- Final approval by MMD.
  1. Applicability
    - Required for any person conducting mineral (as defined in Introduction above) mining in New Mexico on state, federal or private lands.
  2. General Requirements
    - Approval must be obtained prior to initiation of any exploration activities.
  - 3a. Submission Requirements (for Minimal Impact Existing Mining operations)
    - Description of operation including explanation of how operation meets the definition of minimal impact existing mining as defined in 19.10.3.303 NMAC.
    - A completed application on a form provided by MMD, which includes general operation plans.
    - The permit application fee as determined by Subsection C of 19.10.2.201 NMAC.
    - Prior to permit issuance, the applicant must provide financial assurance as required by 19.10.12 NMAC .
    - Other requirements as outlined in 19.10.3.303 NMAC .
  - 3b. Submission Requirements (for Non-Minimal Impact Existing Mining operations)
    - All applicable information outlined in 19.10.5.502 NMAC.
    - The permit application fee as determined by Subsection A of 19.10.2.201 NMAC.
    - Prior to permit issuance, the applicant must provide financial assurance as required by 19.10.12 NMAC.
  - 3c. Submission Requirements (for Minimal Impact New Mining operations)
    - Description of operation including explanation of how operation meets the definition of minimal impact new mining as defined in 19.10.3.304 NMAC.
    - A completed application on a form provided by MMD, which includes general operation plans.

- The permit application fee as determined by Subsection D of 19.10.2.201 NMAC.
- Prior to permit issuance, the applicant must provide financial assurance as required by 19.10.12 NMAC.
- Other requirements as outlined in 19.10.3.304 NMAC .
- 3d. Submission Requirements (for Non-Minimal Impact New Mining operations)
  - All applicable information outlined in 19.10.6.602 NMAC.
  - The permit application fee as determined by Subsection B of 19.10.2.201 NMAC.
  - Prior to permit issuance, the applicant must provide financial assurance as required by 19.10.12 NMAC.
- 4. Procedures for Obtaining Permit or Approval
  - Applicant submits application to MMD.
  - All conditions identified in Subsection K of 19.10.3.303 NMAC (Minimal Impact Existing), or Subsection J of 19.10.3.304 NMAC (Minimal Impact New), or Subsection F of 19.10.5.503 NMAC (Regular Existing), or Subsection B of 19.10.6.606 NMAC (Regular New) have been met.
  - Final review and approval by MMD.
- 5. Operations Requirements
  - The operator must comply with the provisions of the permit.
- 6. Fees
  - A fee determined in accordance with 19.10.2.202 NMAC and Subsection B of 19.10.2.203 NMAC is required for regular new mine applications.
    - The application fee for minimal impact new mine applications is \$350. A \$250 annual fee is required for these operations.
  - A payment determined in accordance with Subsection B of 19.10.2.203 NMAC is required for regular existing mine annual fees.
    - A payment determined in accordance with 19.10.2.202 NMAC and Subsection B of 19.10.2.203 NMAC is required for new mine annual fees.
    - Other fees as outlined in 19.10.2.201 NMAC may be assessed for permit transfers, revisions or variances.
- 7. Appeal Process
  - Appeal to the New Mexico Mining Commission.
  - Appeal to the District Court.

## **E. ADMINISTERING AGENCY**

Director , Mining and Minerals Division (S)  
 Energy, Minerals and Natural Resources Department  
 1220 South St. Francis Drive  
 Santa Fe, NM 87505  
 (505)476-3400  
[www.emnrd.state.nm.us/mining](http://www.emnrd.state.nm.us/mining)

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## **2.6 MINE REGISTRATION, REPORTING AND SAFEGUARDING PROGRAM SERVICES (ALL MINES)**

### **INTRODUCTION**

The Mining and Minerals Division (MMD) of the New Mexico Energy, Minerals and Natural Resources Department registers mines (including sand and gravel pits), mills, and smelters at start-up of the operation. The purpose of this registration is to inform the MMD of the existence of the operations. Annual production, sales, and employment data are also collected from registrants for EMNRD's use in evaluating the extractive industries. Production information on individual operations is held confidential in accordance with state law. Permanent or temporary closures, reactivations, and safeguarding after operations cease are also required to be reported. Additionally, any changes in the original registration, such as change in owner or operator, must also be reported.

#### **A. NAME OF PERMIT OR APPROVAL**

- Mine Registration (Form 1). (S)
- Change of Registration, Ownership, or Operator (Form 2). (S)
- Annual Mine Reporting (Forms 3 – 11 depending on commodity). (S)
- Notice of Intention to Suspend Operations, which includes a Description of Safeguarding (Form 12). (S)

#### **B. STATUTORY AUTHORITY**

- NMSA 1978, §§ 9-5A-4D, 69-5-16, 69-6-1, 69-11-1 through 3, 69-12-3 and 4, 69-26-1 through 3, and 69-27-3.

#### **C. TITLE OF REGULATIONS**

- 19.7.1 NMAC, Registration and Reporting.
- 19.7.2 NMAC, Safeguarding.

#### **D. SUMMARY OF PERMIT/APPROVAL PROCESS**

1. Applicability
  - All aggregate, coal, and non-coal mining, milling, and smelting operations.
2. General Requirements
  - Applicant must submit registration forms at start-up, annual reporting form every year by April 30th, and Form 12 upon suspension of operations.
3. Submission Requirements
  - Mine name and address.
  - Operator/Owner.
  - Name of person in charge.
  - Type of mine, and commodity produced.
  - Topographic location map and description.
  - Annual production and sales amounts.
  - Value of sales/production.
  - Mine employment and explosives information.

- Description and value of improvements made during the year.
  - Method of extraction (underground, open-pit, leach, etc.).
  - Production by mineral estate classification (federal, state, private, Indian).
  - Other requirements, as applicable.
4. Procedures for Obtaining Permit or Approval
    - Applicant submits registration form at start-up and annual reporting form by April 30th of each year to MMD. Notice of Intention to suspend operations is submitted to MMD, which includes a description of safeguarding procedures, materials, final slopes and timetable for completion. Based on the information the operation is prioritized for a field inspection. If field inspection indicates approved safeguarding no further action is required.
  5. Operations Requirements
    - Applicant must comply with 19.7.1 NMAC and 19.7.2 NMAC
  6. Fees
    - None.
    - Possible fine of up to \$200 for each unlawful act, or imprisonment, or both for non-compliance.
  7. Appeal Process
    - For penalties, state judicial appellate process.

## **E. ADMINISTERING AGENCY**

Director , Mining and Minerals Division (S)  
 Energy, Minerals and Natural Resources Department  
 1220 South St. Francis Drive  
 Santa Fe, NM 87505  
 (505)476-3400  
[www.emnrd.state.nm.us/mining](http://www.emnrd.state.nm.us/mining)

Supervisory Mine Inspector (F)  
 U.S. Mine Safety and Health Administration  
 2 Park Central Tower  
 300 San Mateo Blvd., NE, Ste. 407  
 Albuquerque, NM 87108  
 (505) 346-6775  
<http://www.msha.gov/welcome.htm>

## **OIL CONSERVATION DIVISION**

### **2.7 OIL, NATURAL GAS, AND GEOTHERMAL RESOURCES PERMITS**

#### **INTRODUCTION**

The Oil Conservation Division (OCD) of the New Mexico Energy, Minerals and Natural Resources Department has responsibility for issuance of permits pertaining to drilling, development, and production of oil, natural gas, and geothermal resources under the authority of the Oil and Gas Act, Geothermal Resources Act, and Water Quality Act. The purpose of

these permits is to prevent waste and protect correlative rights, and to protect oil, gas, potash, geothermal water, or other fresh waters. A publication titled "Rules and Regulations" summarizes these requirements and is available from the OCD.

**A. NAME OF PERMIT OR APPROVAL**

- Various permits and titles for drilling, production, transportation, storage, enhanced recovery, disposal of co-produced fluids, and related activities relative to oil, natural gas, carbon dioxide and geothermal resources. (S, F)

**B. STATUTORY AUTHORITY**

- Oil and Gas Act, NMSA 1978, §§70-2-1 et seq.
- Geothermal Resources Conservation Act, NMSA 1978, §71-5-1.

**C. TITLE OF REGULATIONS**

- 19.15 NMAC, Oil and Gas.
- 19.14 NMAC, Geothermal Power.

**D. SUMMARY OF PERMIT/APPROVAL PROCESS**

- Applicant submits application on appropriate OCD forms or in accordance with appropriate rules to OCD.
- Administrative and technical review by OCD staff.
- Final approval by OCD.
- Compliance of application with appropriate rules and policy.
  1. Applicability
    - Activities relative to oil, natural gas, carbon dioxide and geothermal resources such as drilling, transportation of crude product, fluid disposal, production, storage, and enhanced recovery.
  2. General Requirements
    - Each of the permits must be obtained prior to initiation of the applicable activity.
  3. Submission Requirements
    - Various, specific requirements for each permit are included in Rules and Regulations and appropriate policy memoranda.
  4. Procedures for Obtaining Permit or Approval
    - Vary according to each permit.
    - Applicant submits application to applicable agency.
    - Applications to drill in conformance with rules may be approved immediately.
      - Applications for administrative orders require a waiting period of 15 to 30 days.
      - Applications for hearing must be published 10 days in advance of the hearing.
    - Time review and approval by applicable agency.
    - Estimated processing time, 4-6 weeks.

5. Operations Requirements
  - Permittees must follow general rules and regulations, any appropriate special pool rules, and any special conditions set out in the permit.
6. Fees
  - None.
7. Appeal Process
  - Concerned parties may request a public hearing.
  - A de novo and rehearing process is provided.
  - Further action must be pursued in District Court.

**E. ADMINISTERING AGENCY**

Director, Oil Conservation Division (S)  
 Energy, Minerals and Natural Resources  
 Department  
 1220 South St. Francis Drive  
 Santa Fe, NM 87505  
 (505) 476-3440  
[www.emnrd.state.nm.us/ocd](http://www.emnrd.state.nm.us/ocd)

New Mexico State Director (F)  
 Bureau of Land Management  
 P.O. Box 27115  
 Santa Fe, NM 87502-7115  
 (505)438-7400  
<http://www.blm.gov>

**2.8 OIL, NATURAL GAS, AND GEOTHERMAL RESOURCES ENVIRONMENTAL BUREAU – EFFLUENT DISCHARGE PLAN**

**INTRODUCTION**

The Oil Conservation Division (OCD) of the New Mexico Energy, Minerals and Natural Resources Department has responsibility for approval of effluent discharge plans under the authority of the Water Quality Act. The purpose of this permit is to prevent discharge of pollutants into underground water supplies, which would cause groundwater to be contaminated.

**A. NAME OF PERMIT OR APPROVAL**

- Effluent Discharge Plan Approval. (S)

**B. STATUTORY AUTHORITY**

- New Mexico Water Quality Act, NMSA 1978, §§74-6-1 et seq.

**C. TITLE OF REGULATION**

- 20.6.2.3000 NMAC, Permitting and Ground Water Standards.

**D. SUMMARY OF PERMIT/APPROVAL PROCESS**

- Natural gas processors, crude oil refiners, and geothermal resource users, brine manufacturing facilities and oil field service companies, and users whose operations may result in a directly related effluent shall submit a discharge plan to address

remediation of ground water contaminated as a result of oil, gas or geothermal operations. Plans must be submitted in triplicate in accordance with the Water Quality Control Commission Regulations to OCD.

- Final review and approval by OCD.
  1. Applicability
    - This plan approval applies to effluent disposal that may move directly or indirectly into ground waters having total dissolved solids concentrations of 10,000 mg/l or less. (The purpose is to maintain contaminant levels at or below those set out in 20.6.2.3103 NMAC.)
  2. General Requirements
    - New applicants must obtain plan approval prior to initiation of discharge activities unless notified by OCD that a plan is not necessary. Existing facilities must submit plan for approval after OCD notification.
  3. Submission Requirements
    - The comprehensive report should contain complementary charts and diagrams outlining the methodology and processes to be used for disposing of effluent and protection of ground water.
  4. Procedures for Obtaining Permit or Approval
    - Applicant submits notice to submit a discharge plan to OCD.
    - Technical review of plan by OCD (60 days).
    - Public notice and comment period (30 days).
    - Public hearing notice, if required (30 days).
  5. Operations Requirements
    - Applicant must operate in accordance with approved discharge plan.
    - Applicant submits periodic data and results of testing as set forth in each discharge plan to OCD.
    - OCD has the right to inspect the discharge plan facilities and copy records of test data.
  6. Fees
    - Fees have been assessed since 1991 based upon size of discharge. For further information contact the OCD Environmental Bureau at 476-3490.
  7. Appeal Process
    - Discharger files written request to the Director of OCD seeking the Water Quality Control Commission's consideration and can appeal the Commission's findings to the Court of Appeals under NMSA 1978, §74-6-5.

## **E. ADMINISTERING AGENCY**

Chief, Environmental Bureau (S)  
Oil Conservation Division  
Energy, Minerals and Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, NM 87505  
(505)476-3490  
[www.emnrd.state.nm.us/ocd](http://www.emnrd.state.nm.us/ocd)

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## FORESTRY DIVISION

### 2.9 ENVIRONMENTAL RESOURCE ASSESSMENT BUREAU – ENDANGERED PLANT SPECIES PERMIT

#### INTRODUCTION

The Forestry Division (FD) of the New Mexico Energy, Minerals and Natural Resources Department administers the New Mexico Endangered Plant Species Act. The New Mexico endangered plant species list includes species of state concern as well as those considered threatened and endangered by the U.S. Fish and Wildlife Service. The FD issues permits for scientific studies and for transplanting purposes. Applications for permits can be obtained from the State Forester.

#### A. NAME OF PERMIT OR APPROVAL

- Scientific Studies (S) – A permit for collecting for scientific studies may be issued when it is necessary to take specimens from a known location that will generate new, useful knowledge about the plant species. A scientific studies permit will also be issued when it is necessary to take voucher specimens from newly discovered populations of endangered plants.
- Transplantation (S) – A permit for transplanting may be issued to an individual for the purposes of removing plants from the site of land disturbance and transporting and replanting in a new location.

#### B. STATUTORY AUTHORITY

- New Mexico Endangered Plant Species Act, NMSA 1978, §75-6-1.

#### C. TITLE OF REGULATION

- 19.21.2 NMAC, Endangered Plant Species List and Collection Permits.

#### D. SUMMARY OF PERMIT/APPROVAL PROCESS

- Applications are submitted to FD for approval.
- The State Forester issues permits.
  1. Applicability
    - The permit is required when any species on the New Mexico Endangered Species List is collected or transported. The law is directed towards prohibiting commercial exploitation and limiting scientific collection of endangered plant species. The law does not apply to the destruction of plants during land disturbances, although the Department seeks the cooperation of private industry and state and federal agencies in locating and protecting rare plant species that may be affected by such activities.

2. General Requirements
  - Applicants must demonstrate that they are competent professional biologists with the expertise to perform scientific studies and to conduct surveys of endangered plants. If a transplanting permit is requested, the applicants must demonstrate that they are competent to perform this task.
3. Submission Requirements
  - Documentation of professional qualifications (including education and experience).
  - Purpose and methods of scientific studies.
  - Justification for collection for scientific studies or survey.
  - Justification for transplantation, including site where plants will be taken from and site for relocation.
4. Procedures for Obtaining Permit or Approval
  - Applications are submitted to the State Forester for review of the need for the study and the adequacy of the study or transplantation plan.
  - After review and approval, the State Forester issues the permit.
  - The process may take 3-4 weeks.
5. Operations Requirements
  - A permittee must comply with applicable laws, regulations, and conditions of his permit; a copy of the permit must be carried on the permittee at all times during fieldwork and transportation. The permittee must inform the State Forester of the outcome of the scientific studies, new locations of endangered plant species, and of the outcome of transplantations.
6. Fees
  - None.
7. Appeal Process
  - If application for permit is denied, decision can be appealed to the Secretary, EMNRD.

## **E. ADMINISTERING AGENCY**

Director, Forestry Division (S)  
Energy, Minerals and Natural Resources Department  
1220 South St. Francis Drive  
Santa Fe, NM 87505  
(505)476-3325  
[www.emnrd.state.nm.us/forestry](http://www.emnrd.state.nm.us/forestry)

## **3.0 DEPARTMENT OF GAME AND FISH**

### **CONSERVATION SERVICES DIVISION**

#### **3.1 SCIENTIFIC/EDUCATIONAL PURPOSE AUTHORIZATIONS AND PERMITS FOR THE TAKING OF PROTECTED WILDLIFE**

##### **INTRODUCTION**

The Conservation Services Division (CSD) of the New Mexico Department of Game and Fish (NMGF) issues authorizations and permits for taking of protected wildlife, including endangered species listed under the New Mexico Wildlife Conservation Act. Consultations regarding the possible existence and potential impacts on threatened or endangered species in the areas affected by mining are encouraged. Applications for permits and other communication should be addressed to the Director of the Department of Game and Fish.

##### **A. NAME OF PERMIT OR APPROVAL**

- Scientific Collection Permit (S) – A permit for taking protected wildlife for scientific and/or educational purposes may be issued when it is necessary to take specimens to document occurrences or provide other necessary information.

##### **B. STATUTORY AUTHORITY**

- New Mexico Wildlife Conservation Act (NMSA 1978, §17-2-37 through 17-2-46) for endangered species and other statutes in Chapter 17 for other protected wildlife.

##### **C. TITLE OF REGULATION**

- 19.36.2 NMAC, Taking and Possession of Protected Wildlife for Scientific and Educational Purposes.

##### **D. SUMMARY OF PERMIT/APPROVAL PROCESS**

###### **1. Applicability**

- The permit is required when any protected wildlife species is taken. “Taking” means the capture, sacrifice, salvage, retention, transport, possession, or the attempted capture, sacrifice, salvage, retention, transport, or possession of protected wildlife. “Protected wildlife” means the following taken under this regulation:
  - 1) All wild species of mammals, birds, reptiles, amphibians, and fishes and endangered mollusks and crustaceans taken by any person that is a non-resident of New Mexico.
  - 2) The following wild species taken by any person that is a resident of New Mexico: pikas, marmots, and game, furbearing, and endangered mammals; all birds (except rock doves, European starlings, and house sparrows); horned lizards (if sacrificed, retained, and/or transported out-of-state) and endangered reptiles; endangered amphibians; game and endangered fishes; and endangered mollusks and crustaceans.

2. General Requirements
  - None.
3. Submission Requirements
  - List of qualifications of applicant and subpermittees to conduct the requested activities; a detailed outline of proposed activities including purposes, goals, rationale and methodology; information on wildlife to be taken; and disposition of specimens.
4. Procedures for Obtaining Permit or Approval
  - Applications are submitted to the Director for review of the need for taking.
  - Those requesting educational permits or authorizations should request appropriate application forms and background information from the Director.
  - After review and approval, the Director issues the permit.
  - The process may take up to 6 weeks.
5. Operations Requirements
  - A permittee must comply with applicable laws, regulations, and conditions of his permit.
6. Fees
  - A \$15 fee is required for all applications except those submitted by federal, state or local government agency employees, departmental contractor, or designated corporation, provided their activities are part of their obligations. The fee is refunded if the proposed activities are not authorized.
7. Appeal Process
  - None.

## **E. ADMINISTERING AGENCY**

Director, New Mexico Department of Game and Fish (S)  
Conservation Services Division  
P.O. Box 25112  
Santa Fe, NM 87504  
(505)476-8101  
[www.gmfsh.state.nm.us](http://www.gmfsh.state.nm.us)

U.S. Fish and Wildlife Service (F)  
P.O. Box 709  
Albuquerque, NM 87103-0709  
(505)248-7882  
[www.fws.gov](http://www.fws.gov)

## **4.0 ENVIRONMENT DEPARTMENT**

### **WATER AND WASTE MANAGEMENT DIVISION**

#### **4.1 GROUND WATER QUALITY BUREAU – GROUND WATER DISCHARGE PERMIT**

##### **INTRODUCTION**

The Ground Water Quality Bureau (GWQB) of the New Mexico Environment Department has responsibility for issuance of ground water discharge permits, other than those related to production and refinement of oil or natural gas, under the authority of the New Mexico Water Quality Act. Discharge permits related to oil and gas production and refinement are addressed in another chapter of this document. The purpose of this permit process is to prevent ground water pollution, which could result from discharges of effluent or leachate. Discharge permits are required for all discharges of effluent or leachate which may move directly or indirectly into ground water that has an existing concentration of 10,000 mg/l or less of total dissolved solids. Mill tailings, waste rock stockpiles, leach ore stockpiles, as well as other mine facilities, are regulated under this requirement. Additionally, the GWQB has primacy for non-oil and gas related underground injection wells under the Underground Injection Control Program of the federal Safe Drinking Water Act, including injection wells associated with uranium or other subsurface in situ leach mining operations. Authority for brine production wells has been assigned to the Oil Conservation Division.

##### **A. NAME OF PERMIT OR APPROVAL**

- Ground Water Discharge Permit. (S)

##### **B. STATUTORY AUTHORITY**

- New Mexico Water Quality Act, NMSA 1978, §§ 74-6-1 et seq.
- Regulations are adopted under authority of NMSA 1978, §§74-6-4 and 74-6-5.

##### **C. TITLE OF REGULATION**

- 20.6.2 NMAC, Ground and Surface Water Protection

##### **D. SUMMARY OF PERMIT/APPROVAL PROCESS**

1. Applicability
  - Discharge of effluent or leachate into ground water.
2. General Requirements
  - Discharger shall file a notice of intent to discharge with the GWQB.
  - The GWQB determines (within 60 days) if a ground water discharge permit is required.
3. Submission Requirements
  - Quantity, quality, and flow characteristics of the discharge.
  - Location of discharge.
  - Depth to and total dissolved solids concentration of ground water most likely to be affected.
  - Flooding potential of site.

- Certain geological and hydrological information.
- Operational, monitoring, contingency and closure plans.
- Corrective action plan or abatement plan for existing ground water contamination.
- Financial assurance plan, if required by the GWQB.
- 4. Procedures for Obtaining Permit or Approval
  - A discharge permit application is submitted to the GWQB.
  - Within 30 days of receiving an administratively complete application, GWQB issues a public notice.
  - Public hearing may be held if there is significant public interest.
  - Final review and approval or denial within 60 days after availability of complete information or of close of public hearing record, if one is held. Actual time needed for discharge permit approval is generally proportional to the size and complexity of the discharging facility.
  - The GWQB may, for good cause, allow discharge without an approved permit on a one-time basis for a maximum of 120 days.
- 5. Operations Requirements
  - Discharger must operate in accordance with the approved discharge permit, including conditions, if any.
- 6. Fees
  - Fees are assessed based on discharge quantity and type of facility. Please contact Program Manager of the Ground Water Pollution Prevention Section at 827-2945 for further information.
- 7. Appeal Process
  - Discharger may appeal denial or conditions imposed by the GWQB to the New Mexico Water Quality Control Commission under provisions of NMSA 1978, §74-6-5 (N).

## **E. ADMINISTERING AGENCY**

Chief, Ground Water Quality Bureau (S)  
 New Mexico Environment Department  
 1190 St. Francis Drive  
 Harold Runnels Building  
 Santa Fe, NM 87503  
 (505)827-2918  
[www.nmenv.state.nm.us/gwb](http://www.nmenv.state.nm.us/gwb)

## **4.2 HAZARDOUS WASTE BUREAU – HAZARDOUS WASTE MANAGEMENT REQUIREMENT FOR TRANSPORTATION, STORAGE AND DISPOSAL FACILITIES (TSD)**

### **INTRODUCTION**

The New Mexico Environment Department (NMED) has the responsibility for the regulation of hazardous wastes. The Hazardous Waste Bureau receives its statutory authority from the New Mexico Hazardous Waste Act, NMSA 1978, §§74-4-1 et seq. and, as the state program authorized to implement the federal program, from the Solid Waste Disposal Act, as amended

by the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6901 et seq.).

**A. NAME OF PERMIT OR APPROVAL**

- Hazardous Waste Permit (treatment, storage, disposal) (S).

**B. STATUTORY AUTHORITY**

- Environmental Improvement Act, NMSA 1978, §§74-1-1 to 74-1-10, specifically §74-1-7.A(13) and §74-1-8.A(13).
- New Mexico Hazardous Waste Act, NMSA 1978, §§74-4-1 et seq.

**C. TITLE OF REGULATIONS**

- 20.4.1 NMAC, Hazardous Waste Management.
- 20.4.2 NMAC, Hazardous Waste Fees.
- 20.4.3 NMAC, Annual Hazardous Waste Fees.

**D. SUMMARY OF PERMIT/APPROVAL PROCESS**

1. Applicability
  - Storage, treatment, and disposal of hazardous wastes in New Mexico.
2. General Requirements
  - Permits must be obtained prior to commencement of site construction, storage, treatment, or disposal of hazardous waste.
3. Submission Requirements
  - Two Parts to a RCRA permit application: Part A and Part B
  - The Part A permit application form provides for general information regarding the facility such as:
    - Type of Application (first, amendment).
    - Name.
    - Location.
    - Contacts.
    - Operator and Facility Owner Information.
    - SIC Codes.
    - Existing Environmental Permits, (include pending permits) under NPDES, PSD, RCRA, UIC, EPA, 404, and other relevant environmental permits.
    - Nature of Business.
    - Process Codes and Design Capabilities.
    - Other Processes.
    - Description of Hazardous Wastes.
    - Topographic Map(s).
    - Facility Drawing(s).
    - Photograph(s). and
    - Certification(s).
  - The Part B permit application provides detailed and site-specific information. This information includes:

- General Description of the Facility.
  - Chemical and physical analyses of the hazardous waste and hazardous debris to be handled.
  - Waste analysis plan.
  - Security procedures.
  - Required equipment.
  - Inspection schedule.
  - Contingency plan.
  - Description of procedures, structures, and equipment used.
  - Description of precautions to prevent accidents.
  - Traffic patterns and volumes.
  - Facility location information regarding seismic standards, faults, floodplain.
  - Training programs.
  - Closure Plan.
  - Closure and Post-Closure cost estimates.
  - Liability.
  - Proof of financial coverage.
  - Facility-specific topographic map.
  - Ground water monitoring data.
  - Identification of the uppermost aquifer and parameters.
  - Ground water monitoring program.
  - Specific information requirements for hazardous waste management units (containers, tank systems, surface impoundments, waste piles, incinerators, land treatment facilities, landfills, etc.).
4. Procedures for Obtaining Permit or Approval
- Applicant submits permit application to NMED.
  - New hazardous waste management facilities must submit a Part A and Part B permit application and receive a final effective permit before physical construction is begun.
  - Existing permitted facilities must submit a Part A and Part B permit application 180 days before the expiration date of the effective permit.
  - Public notices and meetings by applicant.
  - Fact sheet.
  - Hearing, if requested and is determined by NMED Secretary.
  - Hearings are held, if required.
  - Final Decision.
  - Permit issuance.
5. Operations Requirements
- Applicant must comply with all applicable requirements of the permit, rules and statutes.
  - Closure application, inspection, address of deficiencies, liability, financial assurance for closure and post-closure activities.
6. Fees
- Assessed under New Mexico Hazardous Waste Fee Regulations (20.4.2 NMAC) and Annual Hazardous Waste Fee Regulations (20.4.3 NMAC). Contact the Hazardous Waste Bureau for amounts.

7. Appeal Process
  - Administrative Appeals are filed with the Environmental Improvement Board (EIB) Hearing Clerk and governed by 20.1.5 NMAC, Adjudicatory Procedures - Environment Department.
  - Appeals are heard by the New Mexico Court of Appeals.

## **E. ADMINISTERING AGENCY**

Chief, Hazardous Waste Bureau (S)  
New Mexico Environment Department  
2905 Rodeo Park Drive East, Building 1  
Santa Fe, NM 87505-6303  
(505) 428-2500  
[www.nmenv.state.nm.us/HWB/hazwaste\\_home.html](http://www.nmenv.state.nm.us/HWB/hazwaste_home.html)

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## **4.3 HAZARDOUS WASTE BUREAU – HAZARDOUS WASTE MANAGEMENT REQUIREMENT FOR HANDLERS**

### **INTRODUCTION**

The New Mexico Environment Department (NMED) has the responsibility for the regulation of hazardous wastes. The Hazardous Waste Bureau receives its statutory authority from the New Mexico Hazardous Waste Act, NMSA 1978, §§74-4-1 et seq. and, as the state program authorized to implement the federal program, from the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C., §§6901 et seq.).

### **A. NAME OF PERMIT OR APPROVAL**

- Hazardous Waste Handlers (generators, storage, treatment, disposal) (S)

### **B. STATUTORY AUTHORITY**

- Environmental Improvement Act, NMSA 1978, §§74-1-1 to 74-1-10, specifically §74-1-7.A(13) and §74-1-8.A(13).
- New Mexico Hazardous Waste Act, NMSA 1978, §§74-4-1 et seq.

### **C. TITLE OF REGULATIONS**

- 20.4.1 NMAC, Hazardous Waste Management.
- 20.4.3 NMAC, Annual Hazardous Waste Fees.

### **D. SUMMARY OF PERMIT/APPROVAL PROCESS**

1. Applicability
  - Treatment, storage, disposal, transport of hazardous wastes in New Mexico.

2. General Requirements
  - EPA identification number must be obtained prior to treatment, storage, treatment, disposal, and transport of hazardous waste.
3. Submission Requirements
  - EPA form 8700-12 – Notification of Regulated Waste Activity with the NMED. [www.nmenv.state.nm.us/HWB/notifiers.html](http://www.nmenv.state.nm.us/HWB/notifiers.html)
  - The EPA form 8700-12 provides for information regarding the activity such as:
    - Name.
    - Location.
    - Installation Mailing Address.
    - Installation Contacts.
    - Ownership.
    - Type of Regulated Waste Activity; and
    - Description of Hazardous Waste.
4. Procedures for Obtaining Permit or Approval
  - Applicant submits EPA form 8700-12 to NMED.
  - Obtain EPA Identification Number from NMED.
5. Operations Requirements
  - Handler must comply with all applicable requirements of the rules and statutes.
  - Inspection, address deficiencies
6. Fees
  - Assessed under the New Mexico Annual Hazardous Waste Fee Regulations (20.4.3 NMAC). Contact the Hazardous Waste Bureau for amounts.
7. Appeal Process
  - Administrative Appeals are filed with the EIB Hearing Clerk and governed by 20 NMAC 1.5, Adjudicatory Procedures - Environment Department

## **E. ADMINISTERING AGENCY**

Chief, Hazardous Waste Bureau (S)  
 New Mexico Environment Department  
 2905 Rodeo Park Drive East, Building 1  
 Santa Fe, NM 87505-6303  
 (505) 428-2500  
[www.nmenv.state.nm.us/HWB/hazwaste\\_home.html](http://www.nmenv.state.nm.us/HWB/hazwaste_home.html)

## **FIELD OPERATIONS DIVISION**

### **4.4 DRINKING WATER BUREAU – DRINKING WATER REGULATIONS**

#### **INTRODUCTION**

The Environmental Improvement Board promulgates the Drinking Water Regulations. The New Mexico Environment Department (NMED) has the responsibility for enforcing the regulations under the authority of the Environmental Improvement Act and the federal Safe Drinking Water

Act. The regulations cover maximum contaminant levels (MCLs) allowed in water, reporting, public notification, record-keeping requirements and water supply construction requirements.

**A. NAME OF PERMIT OR APPROVAL**

- Approval of construction of a new public water supply system or modification of an existing public water supply system. (S)

**B. STATUTORY AUTHORITY**

- Environmental Improvement Act, NMSA 1978, §§74-1-1.
- Rural Infrastructure Act, NMSA 1978, §§75-1-1.

**C. TITLE OF REGULATIONS**

- 20.7.10 NMAC, Drinking Water
- 20.7.2 NMAC, Rural Water Supply Infrastructure

**D. SUMMARY OF PERMIT/APPROVAL PROCESS**

1. Applicability
  - Prior approval by NMED is required for construction of any new public water supply system and modification of an existing system, which will or may affect the system reliability of quality and quantity of the water supplied pursuant to Section 502 [Subsection B. of 20.7.10.500 NMAC].
2. General Requirements
  - Application must be submitted on the form provided by the NMED with all required information.
3. Submission Requirements
  - Applicant must include the application form, the engineering design summary, disinfection plan (P), water system capacity development information (when applicable), and two sets of complete plans and specifications for the project signed and sealed by a professional engineer registered in New Mexico.
  - NMED engineers must review and approve the applicant's submissions for sanitary purposes and compliance with the regulations. NMED review does not address the adequacy, feasibility, cost effectiveness or economics of the project.
  - Applications for new community water systems and new non-transient non-community water systems commencing operation after October 1, 1999 must include a capacity development analysis documenting the requirements of Subpart XII [20.7.10.1200 NMAC].
4. Procedures for Obtaining Permit or Approval
  - Applicant submits application to NMED at least 30 days prior to initiation of construction or modification. NMED must approve, approve subject to conditions, or deny the application within 30 days after filing.
5. Operations Requirements
  - Applicant must demonstrate that the proposed water system will comply with maximum contaminant levels (MCLs) stated in the current Drinking

Water Regulations before the system will be used as a potable water source or for sanitary purposes.

- All water quality sampling must comply with the sample siting plan approved by NMED.
6. Fees
- None.
7. Appeal Process
- All appeals must be made with the NMED Secretary as defined in Subpart I of the current Drinking Water Regulations.

## **E. ADMINISTERING AGENCY**

Chief , New Mexico Environment Department (S)  
Drinking Water Bureau  
525 Camino de los Marquez, Suite 4  
Santa Fe, NM 87505  
(505)827-7536  
[www.nmenv.state.nm.us/dwb/dwbtop.html](http://www.nmenv.state.nm.us/dwb/dwbtop.html)

Chief, New Mexico Environment Department (S)  
Construction Programs Bureau  
1190 St. Francis Drive  
Santa Fe, NM 87503  
(505)827-2806  
<http://www.nmenv.state.nm.us/cpb/cpbtop.html>

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## **4.5 RADIATION CONTROL BUREAU – RADIOACTIVE MATERIAL LICENSURE AND INFORMATION ABOUT LICENSING OF SOURCE MATERIAL EXTRACTION**

### **INTRODUCTION**

The New Mexico Environment Department (NMED) has responsibility for issuing and regulating radioactive material licenses under the authority of the Radiation Protection Act. The Radiation Control Bureau (Bureau) in accord with New Mexico's 1974 agreement with the United States Nuclear Regulatory Commission (NRC) to regulate radioactive materials performs control of radioactive materials. Control of radioactive material is performed to ensure that licenses conform to the requirements of the New Mexico Radiation Protection Regulations, 20.3 NMAC. Currently New Mexico's uranium and thorium extraction program is limited to certain existing operations. Licensing and regulation of all new and most existing uranium and thorium extraction operations is under the jurisdiction of the NRC. Parties interested in obtaining a milling license are directed to the contacts and addresses listed under Part E, Administering Agency.

### **A. NAME OF PERMIT OR APPROVAL**

- Uranium and Thorium Ion Exchange Extraction License (S and F)
- Radioactive Material License (S)

## **B. STATUTORY AUTHORITY**

- Uranium Mill Tailings Radiation Control Act (UMTRCA) 1978 USC 790 (F).
- Radiation Protection Act, NMSA 1978, §§74-3-1 through 74-3-16. (S).

## **C. TITLE OF REGULATIONS**

- 10 CFR (F).
- 20.3 NMAC, New Mexico Radiation Protection Regulations. (S)

## **D. SUMMARY OF PERMIT/APPROVAL PROCESS**

- Applicant submits application, and applicable fees, along with a radiation safety program and environmental impact reports (if required) to the Bureau.
- The Bureau will analyze the license application carefully. During this analysis, the application will be carefully reviewed to ensure that there are no deficiencies and that the content of the application is found to be acceptable. Once it has been determined that the applicant is qualified and that there is no reason to believe that the operation will violate any laws or regulations, the Bureau will issue a radioactive material license.
  1. Applicability
    - Requests to possess, process, handle, and/or utilize licensable quantities of: 1) source material not regulated by the NRC; 2) quantities of special nuclear material not regulated by the NRC; 3) reactor produced byproduct materials; 4) accelerator produced byproduct materials; 5) radioactive materials offered for transport; and, 5) low level radioactive waste.
  2. General Requirements
    - Completed application form in the format required or provided by the Bureau.
    - Proof that the applicants radiation protection program is adequate to ensure compliance with the New Mexico Radiation Protection Regulations (NMRPR).
    - Must provide all necessary information deemed necessary by the Bureau to process the application.
  3. Submission Requirements
    - Provide complete description of intended operations.
    - Qualifications of individuals responsible for oversight of the license. The Bureau may also require the qualifications of users.
    - Radiation protection program content and proposed methods for implementation. Must include an assessment of probable radiation doses to workers, the public, and the environment.
    - Emergency and/or decommissioning plans when required by the NMRPR.
    - Environmental reports as required by applicable regulations describing:
      - Proposed operation, including operational and emergency procedural manuals.
      - Site selection.
      - Alternatives.
      - Radiological impacts.
      - Non-radiological impacts.

4. Procedures for Obtaining Permit or Approval
  - Applicant submits application containing information required to Bureau.
  - The Bureau conducts a pre-acceptance review.
  - 60-day public notice is required for all radioactive material license applications.
  - The Bureau has 60 days to respond on adequacy and sufficiency of information.
  - Public comment period and public hearing process if there is significant public interest.
  - Site inspections during review process.
  - Estimated processing time is less than 2 months for most actions.
5. Operations Requirements
  - For major licensing actions, pre-operation inspection.
  - Prioritized periodic inspections (annually for major facilities).
  - Periodic reports of monitoring.
  - Compliance with regulation standards.
  - Demonstration of compliance.
  - License renewal each 5 years.
6. Fees
  - No fees regulation exists at this writing, however a fees schedule will be implemented beginning in mid-2002. Contact the Bureau for information.
7. Appeal Process
  - Appeal to Secretary of the Environment Department, Environmental Improvement Board, and Courts.

## **E. ADMINISTERING AGENCY**

Program Manager, Radiation Protection Program (S)  
 Radiation Control Bureau  
 New Mexico Environment Department  
 1190 St. Francis Drive  
 Santa Fe, NM 87505  
 (505) 476-3081

Licensing:  
 Uranium Recovery Branch (F)  
 Nuclear Material Safety and Safeguards  
 U.S. Nuclear Regulatory Commission  
 Washington, DC 20555  
 ATTN: Melvyn N. Leach  
 (301) 415-7836

Inspection:  
 Uranium Recovery Branch (F)  
 Region-IV  
 U.S. Nuclear Regulatory Commission  
 611 Ryan Plaza Drive, Suite 400  
 Arlington, Texas 76011  
 ATTN: Charles "Chuck" L. Cain

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## ENVIRONMENTAL PROTECTION DIVISION

### 4.6 AIR QUALITY BUREAU – AIR QUALITY PERMITS, PRECONSTRUCTION

#### INTRODUCTION

The Air Quality Bureau (AQB) of the New Mexico Environment Department (NMED), under the authority of Chapter 74, Article 2 NMSA 1978 "Air Quality Control Act", issues air quality Construction and Operating Permits. This authority applies to all New Mexico counties except Bernalillo County and Permits on Indian Lands.

The AQB administers most Federal Air Programs, which include:

- New Source Performance Standards (NSPS)
- National Emission Standards for Hazardous Air Pollutants (NESHAPS)
- Prevention of significant Deterioration (PSD)
- Title V Operating Permits
- Title III Air Toxics
- Title IV Acid Rain

The purpose of the permits is to fulfill Environmental Protection Administration mandates that states develop and implement permitting programs to ensure that air pollution sources meet applicable regulations and will not exceed ambient concentration standards for air pollutants.

#### A. NAME OF PERMIT OR APPROVAL

- Notice of Intent (NOI) - Department requests emissions information and specific source type for permit type or confirmation of permit necessity. (S)
- Construction Permit - This permit must be approved and issued before construction or modification begins. (S)

#### B. STATUTORY AUTHORITY

- Air Quality Control Act, NMSA 1978, §§ 74-2-1 through 74-2-17 (specifically, § 74-2-7).

#### C. TITLE OF REGULATIONS

- 20.2 NMAC, Air Quality (Statewide)
  - ❖ 20.2.3 NMAC, Ambient Air Quality Standards.
  - ❖ 20.2.72 NMAC, Permits (Construction or Modification).
  - ❖ 20.2.73 NMAC, Notice of Intent and Emissions Inventory Requirements.
  - ❖ 20.2.74 NMAC, Permits Prevention of Significant Deterioration (PSD).
  - ❖ 20.2.75 NMAC, Filing and Permit Fees.
  - ❖ 20.2.77 NMAC, New Source Performance Standards.
  - ❖ 20.2.78 NMAC, National Emission Standards for Hazardous Air Pollutants (NESHAP).

- ❖ 20.2.79 NMAC, Permits Nonattainment Areas (NA).
- ❖ 20.2.82 NMAC, Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants.

#### **D. SUMMARY OF 20.2.72 NMAC, CONSTRUCTION PERMIT PROCESS**

- Application packages must be obtained from the Air Quality Bureau (includes checklist, modeling guidance, fee schedules).
  - Along with a complete application, dispersion modeling and a \$500.00 application fee must be submitted for consideration.
  - If 20.2.72 NMAC is applicable, Public Notice announcement documentation must be provided and construction permit fees paid.
  - Applications meeting all requirements will be issued a construction permit with specification of conditions.
  - Applications may be denied for a variety of reasons including incompleteness.
1. Applicability = Construction Permit Threshold Requirements
    - Potential emissions are less than 10 tons per year (no permit required).
    - Potential to emit is more than 10 tons per year but less than 25 tons per year (Facility must file a Notice of Intent prior to construction).
    - Potential to emit more than 10 pounds per hour or more than 25 tons per year (20.2.72 NMAC, Minor source permit required prior to construction or modification).
    - Facilities for which New Source Performance Standards or National Emission Standards for Hazardous Air Pollutants apply, 20.2.72 NMAC, permit required prior to construction or modification.
    - Facilities subject to Prevention of Significant Deterioration standards must obtain a PSD permit prior to construction or modification.
    - Facilities with Toxic air pollutant emissions above the threshold in 20.2.72 NMAC, a permit is required prior to construction or modification.
  2. General Requirements
    - Affected sources must obtain an Air Quality Permit before beginning construction or modification.
  3. Submission Requirements
    - Completed application and checklist.
    - Dispersion modeling and checklist to show compliance with ambient concentration requirements.
    - \$500.00 application fee (subsequent fees will be assessed based on type of permit and emission levels).
  4. Procedures for Obtaining Permit or Approval
    - Application submitted to AQB.
    - 30 (+) days completeness review period. Within 30 days of receiving an application, AQB reviews package and notifies applicant of any additional information required to rule the application complete. The completeness review can take as long as applicant requires to provide the missing information.
    - 90-day evaluation period. After the application is ruled complete the AQB has 90 days to evaluate the permit, and issue it or deny it. During the evaluation period a 30-day public comment period is provided.

- Permit Fee must be paid within 30 days of the invoice. Failure to pay is grounds for permit denial.
- 5. Operations Requirements
  - Applicant must comply with all applicable emission limit regulations or the emission rates specified in the application, which ever is lower as necessary to meet ambient standards, and any other conditions placed on permit.
  - Performance tests and/or facility inspection may be required within 60 days of full production but not more than 180 days from start-up.
  - The Construction Permit does not require periodic renewal. 20.2.73 NMAC lists the emission inventory requirements.
  - A permit may be cancelled:
    - 1) If construction or modification does not begin within 2 years of permit issuance;
    - 2) If construction or modification is suspended for a total of 1 year; or
    - 3) If operation ceases for 5 years.
- 6. Filing and Permit Fees
  - 20.2.75 NMAC, Filing and Permit Fees:
    - 1) Filing Fees are nonrefundable and are deducted from the permit fee.
    - 2) Revision Fees are based on the same schedule as a new permit application.
    - 3) Permit Fees are based on the schedule in the fee regulation, which correlates to the amount of work in processing the application.
    - 4) All facilities issued a permit after March 2, 2001 are subject to an annual fee of \$220.
- 7. Appeal Process
  - 20.2.72.207 NMAC, Permit Decisions and Appeals: Applicants may appeal permit decisions/conditions to the Environmental Improvement Board, and may further appeal that decision to the Court of Appeals.

**E. ADMINISTERING AGENCIES**

Chief, Air Quality Bureau (S)  
 New Mexico Environment Department  
 2048 Galisteo Street  
 Santa Fe, New Mexico 87505  
 (505)827-1494  
 Web site: [www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)

Chief, SIP/New Sources Section (F)  
 U.S. EPA Region 6, 6PD-L  
 1445 Ross Avenue  
 Dallas, Texas 75202-2733  
 (214)655-7214

Chief, Air Quality Control Division (C)  
 Environmental Health Department  
 City of Albuquerque  
 P.O. Box 1293  
 Albuquerque, New Mexico 87103  
 (505)768-2600

## **4.7 AIR QUALITY BUREAU – AIR QUALITY PERMITS, OPERATIONS REQUIREMENTS FOR CERTAIN SOURCES**

### **INTRODUCTION**

Title V of the 1990 Federal Clean Act Amendments mandates the development of Operating Permits programs in each state. The New Mexico Environmental Improvement Board reviewed and approved 20.2.70 NMAC (Operating Permits) and 20.2.71 NMAC (Operating Permit Fees) according to the guidelines in the Code of Federal Regulations (40 CFR 70).

- The New Mexico Operating Permit Program (20.2.70 NMAC) applies to major sources and sources which emit substantial amount of hazardous air pollutants.
- Significant documentation and record-keeping requirements are incorporated in the Operating Permit Program.
- The Operating Permit will specify all regulations and limits, which apply to a source.
- Possible alternate operating scenarios, which could affect the facility, must be identified and detailed.
- No provisions for "Grandfathered Facilities".

#### **A. NAME OF PERMIT OR APPROVAL**

- 20.2.70 NMAC, Operating Permit - A much more extensive permit that includes all air quality regulations and standards affecting a source. (Title V, Clean Air Act). (S, F)

#### **B. STATUTORY AUTHORITY**

- Air Quality Control Act, NMSA 1978, §§ 74-2-1 through 74-2-17.

#### **C. TITLE OF REGULATIONS**

- 20.2.70 NMAC, Operating Permits.
- 20.2.71 NMAC, Operating Permit Emission Fees.

#### **D. SUMMARY OF 20.2.70 NMAC, OPERATING PERMIT REQUIREMENTS**

- A complete description of the facility.
- Application must identify all standards, regulations or limitations that apply to the facility.
- Application must indicate whether or not the facility is in compliance with all applicable standards, regulations or limitations that apply to the facility.
- A certification of compliance including provisions for continuing demonstrated compliance.
- Non-compliance with any regulation, standard, or limitation requires a Plan/Schedule for achieving compliance.
- The Department shall within 60 days after receiving an application notify the applicant whether the application is complete or incomplete.
- The Operating Permit once issued is valid for 5 years.

1. Applicability
  - All Major Sources (all facilities which emit more than 100 tons of a criteria pollutant per year). This will be based on the facility's permitted allowable emission conditions or if the facility is not permitted, applicability is based on the potential to emit.
  - All sources which emit or have the potential to emit 10 tons per year of any hazardous air pollutant which has been listed in Section 112 (b) of the Federal Clean Air Act or 25 tons per year of any combination of such hazardous air pollutants.
  - Acid rain sources.
  - As EPA brings other Non-major sources into the Federal Operating Permit Program, these sources will be included under 20.2.70 NMAC.
2. General Requirements
  - The owner or operator must submit a timely and complete 20.2.70 NMAC Operating Permit application, which is an expanded form of the 20.2.72 NMAC application.
3. Submission Information - Emissions Information
  - Process Flow Sheets must give a complete description of the components of the facility that are involved in routine operations and emissions of air pollutants.
  - All Calculations used to develop the application must be included and referenced.
  - Work practice standards or limitations on the operation of your source.
  - A narrative description of practices employed to minimize emissions during start-up, shut-down and upset.
  - Site diagram indicating the location of all emission elements.
  - Alternative operating scenarios must be identified.
  - A list of Insignificant Activities must be provided for the facility as defined in 20.2.70 NMAC.
4. Procedures for Obtaining Permit or Approval
  - Application will provide a citation and description of all applicable air pollution control requirements, including a verification of the requirements that are applicable to a source and applicable test methods for determining compliance with each applicable requirement, will provide an explanation of any proposed exemptions from otherwise applicable requirements, and will provide specific information necessary to collect any permit fees owed under 20.2.71 NMAC.
- 5a. Operations Requirements - Compliance Information
  - Compliance certification showing whether the facility is or is not in compliance with all applicable requirements at the time the application is submitted and signed by the company's responsible official.
  - Descriptions of all methods used to determine compliance including monitoring, testing, and record-keeping and reporting requirements.
  - Statement of continued compliance with requirements for which it is in compliance at the time of permit application.
  - A schedule for submission of compliance certifications during permit term must be submitted annually unless the applicable requirement or the Department specifies a more frequent period.

- Enhanced monitoring and compliance certification must be submitted indicating your source's compliance status with any enhanced monitoring and compliance certification requirements of the federal act.
- 5b. Operations Requirements - Compliance plan and schedule: (This group applies only to facilities which are not in compliance with all applicable requirements.)
- Compliance Plan must be submitted with a description of the means by which your facility will achieve compliance with applicable requirements with which it is not in compliance at the time you submit your permit application package.
  - A compliance schedule of the measures you plan to take to achieve compliance with applicable requirements for your source.
  - Schedule of certified progress reports must also be included in the compliance schedule. Proposed schedule must call for these reports to be submitted at least every 6 months.
6. Fees
- Operation permit fees will be assessed for a major source as defined in 20.2.70 NMAC, Operating Permits for all emission units.
  - For all other stationary sources, for emission units which cause the source to be subject to 20.2.70 NMAC.
  - The fee rate for each pollutant is \$10.25 per ton on an annual basis.
  - The fee for each Hazardous Air Pollutant is \$150.00 per ton on an annual basis for any stationary source that is only major as defined in 20.2.70 NMAC for any hazardous air pollutant.

## E. ADMINISTERING AGENCIES

Chief, Air Quality Bureau (S)  
 New Mexico Environment Department  
 2048 Galisteo Street  
 Santa Fe, New Mexico 87505  
 (505)827-1494  
 Web site: [www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)

Chief, SIP/New Sources Section (F)  
 U.S. EPA Region 6, 6PD-L  
 1445 Ross Avenue  
 Dallas, Texas 75202-2733  
 (214)655-7214

Chief, Air Quality Control Division (C)  
 Environmental Health Department  
 City of Albuquerque  
 P.O. Box 1293  
 Albuquerque, New Mexico 87103  
 (505)768-2600

## 4.8 SOLID WASTE BUREAU – SOLID WASTE MANAGEMENT REQUIREMENTS

### INTRODUCTION

The Solid Waste Bureau of the New Mexico Environment Department (NMED) oversees Solid Waste Management (including special wastes such as asbestos, ash, and infectious waste)

under the authority of the New Mexico Solid Waste Act, and the federal RCRA subtitle D provisions for municipal solid waste landfills.

**A. NAME OF PERMIT OR APPROVAL**

- Solid Waste Facility Permit (transfer over 120 cubic yards per day, processing, transformation, disposal, composting and recycling). (S)
- Registration (small transfer stations, small recycling facilities, commercial haulers). (S)

**B. STATUTORY AUTHORITY**

- New Mexico Solid Waste Act, NMSA 1978, §§74-9-1 et seq.

**C. TITLE OF REGULATION**

- 20.9.1 NMAC, Solid Waste Management

**D. SUMMARY OF PERMIT/APPROVAL PROCESS:**

1. Applicability
  - Transfer, processing, transformation, recycling, composting or disposal of solid wastes.
2. General Requirements
  - Solid waste permits must be obtained prior to construction and operation of transfer, processing, transformation and disposal facilities. Existing facilities require permit application upon request by NMED.
  - 20.9.1.108 NMAC allows for on-site disposal of domestic waste and construction and demolition waste under certain conditions.
3. Submission Requirements
  - Demonstration of compliance with site restrictions. Applies to water supply wells, wetlands, watercourses, flood plains, depth to ground water, sinkholes, seismic impact areas, airports, alluvial fans, and existing homes or institutions.
  - Topographic maps.
  - Detailed operations and development plans.
  - Characterization of geology and hydrology and demonstration of protection of the ground water and surface water.
  - Drainage and erosion control plans.
  - Control equipment plans (liners, leachate collection systems, methane, site covers).
  - Monitoring Plans (methane gas & ground water).
  - Closure & post closure care plans (for up to 30 years after closure may include monitoring).
  - Financial assurance to take care of closure, post closure, assessment monitoring, and selection of any corrective action.
  - Submittal of appropriate application fee(s).
  - Disclosure statement.

4. Procedures for Obtaining Permit or Approval
  - Application on NMED form.
  - NMED determination of completeness.
  - Public notice and hearing on each application.
  - Permit issuance or denial, or issuance with conditions.
5. Operations Requirements
  - Landfills.
  - Transfer stations.
  - Transformation facilities.
  - Recycling and processing facilities.
  - Composting facilities.
  - Commercial haulers.
  - All solid waste facilities are required to have a certified operator.
  - Handling and disposal of special waste (asbestos, municipal, combustion ash, infectious wastes, petroleum contaminated soils, sludge, and killing plant offal).
6. Fees
  - Specified in 20.9.1.1109 NMAC.
7. Appeal Process
  - Appeals are heard by the New Mexico Court of Appeals.

## **E. ADMINISTERING AGENCY**

Chief, Solid Waste Bureau (S)  
 Environmental Protection Division  
 New Mexico Environment Department  
 Harold Runnels Building  
 1190 St. Francis Drive  
 Santa Fe, NM 87503  
 (505)827-2775  
[http://www.nmenv.state.nm.us/NMED/env\\_prot.html#SWB](http://www.nmenv.state.nm.us/NMED/env_prot.html#SWB)

## **4.9 PETROLEUM STORAGE TANK BUREAU – PETROLEUM STORAGE TANK REQUIREMENTS**

### **INTRODUCTION**

The Petroleum Storage Tank (PST) Bureau oversees the installation, operation, closure, investigation, and cleanup of sites with Above-Ground Storage Tanks (ASTs) and Underground Storage Tanks (USTs). The Bureau's authority is under the New Mexico Hazardous Waste Act, which implements the provisions of RCRA Subtitle I for USTs.

### **A. NAME OF PERMIT OR APPROVAL**

- Tank Fees (Laws 1992 Chapter 64 Senate Bill 425 -- Amendments to Ground Water Protection Act). (S)
- Tank Registration, Closure, Investigation, Reclamation (Environmental Improvement Board/Petroleum Storage Tank Regulations). (S)

## **B. STATUTORY AUTHORITY**

- New Mexico Hazardous Waste Act, NMSA 1978, §§74-4-1 et seq.
- Ground Water Protection Act, NMSA 1978, §§74-6B-1 et seq.

## **C. TITLE OF REGULATION**

- 20.5 NMAC, Petroleum Storage Tanks.

## **D. SUMMARY OF PERMIT/APPROVAL PROCESS**

1. Applicability
  - Registration, installation, operation, closure of petroleum storage tank systems, and reporting, investigation, and reclamation of releases from storage tanks.
2. General Requirements
  - All existing and new storage tanks must be registered with the PST Bureau. Registration certificates must be placed on-site.
  - Annual tank fees (\$100/tank) must be paid.
  - PST Bureau must be notified 30 days in advance of new tank installation, modification of existing tank systems, and tank closure.
  - Corrective action must adhere to the technical standards and timeline in the PST Regulations.
3. Submission Requirements
  - a. Tank Registration
    - Closure - EPA form 7530.
    - New storage tanks - New Mexico PST Registration Form.
    - Fees billed annually by Bureau.
  - b. Corrective Action
    - Potential impacts.
    - Horizontal extent of soil contamination.
    - Vertical extent of soil contamination.
    - Determination of ground water impact.
    - Extent/magnitude of ground water contamination.
    - Aquifer characteristics.
    - Tier 1 and 2 risk assessment
    - Design and specification of reclamation system.
    - Reports of reclamation progress.
4. Procedures for Obtaining Permit or Approval
  - a. Tank Registration
    - Use EPA form 7530 or PST Registration Form.
    - NMED approval of completeness.
    - New installation and modification by certified tank installer.
  - b. Corrective Action
    - NMED approval of all investigations.
    - Public notice of reclamation proposal.
    - NMED approval of reclamation.

5. Operations Requirements
  - Of Storage tanks, in accordance with the PST Regulations.
  - Of reclamation systems, in accordance with the PST Regulations.
6. Fees
  - \$100 per tank annually.
7. Appeal Process
  - Administrative Review allowed in Part X of the PST Regulations. Informal review by reviewing officer. Appeal of informal review by Secretary or designate.

## **E. ADMINISTERING AGENCY**

Chief, Petroleum Storage Tank Bureau (S)  
New Mexico Environment Department  
2044 Galisteo Street  
Santa Fe, NM 87504  
(505)984-1741  
<http://www.nmenv.state.nm.us/ust/ustbtop.html>

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## **4.10 OCCUPATIONAL HEALTH AND SAFETY BUREAU – OCCUPATIONAL HEALTH AND SAFETY REGULATIONS**

### **INTRODUCTION**

The New Mexico Environment Department's (NMED) Occupational Health and Safety Bureau has the responsibility of enforcing the Occupational Safety and Health Act of 1970 within the State of New Mexico. The NMED asserts jurisdiction over all industries in the State that are not subject to the jurisdiction of any federal safety agency other than the Federal Occupational Safety and Health Administration (OSHA). In the extraction industries, the Bureau's jurisdiction begins where the Mine Safety and Health Administration (MSHA) jurisdiction ends. Generally the NMED has jurisdiction over mills and processing plants that are not on mine property. The specific areas of jurisdiction are outlined in the MSHA/OSHA memorandum of agreement dated 17 April, 1979, which is printed in the Federal Register (44 Register 22827).

MSHA noise standards applicable to mining or extractive activities may be found in the Code of Federal Regulations 30 CFR 56.5050. (See Administering Agency, sections 2.4 and 2.5, Resource Extraction Chapter.)

Noise may also be regulated on the local government level in New Mexico. Local government agencies may be contacted for information related to noise regulations, if applicable.

### **A. NAME OF PERMIT OR APPROVAL**

- No permits or approval are required.

## **B. STATUTORY AUTHORITY**

- New Mexico Occupational Health and Safety Act, NMSA 1978, §§50-9-1 through 50-9-25. (S)

## **C. TITLE OF REGULATION**

- 11.5.1 NMAC through 11.5.5 NMAC, Occupational Health and Safety Regulations. Incorporated Federal Standards 29 CFR 1910, 1926 & 1928.

## **D. SUMMARY OF PERMIT/APPROVAL PROCESS**

1. Applicability
  - No permits required.
2. General Requirements
  - No general requirements.
3. Submission Requirements
  - No submission requirements.
4. Procedures for Obtaining Permit or Approval
  - No permitting procedures.
5. Operations Requirements
  - All work must be performed in compliance with Occupational Health and Safety regulations outlined in C above in all industries and facilities not subject to direct MSHA jurisdiction.
6. Fees
  - There are no fees, but fines and penalties range up to \$70,000 for each violation of the referenced standards.
7. Appeal Process
  - Appeals of Citations and/or penalties are made to the Occupational Health and Safety Review Commission; the appeal process includes both informal review and formal hearing (if necessary). Final orders following formal hearing may be appealed to New Mexico District Courts.

## **E. ADMINISTERING AGENCY**

Chief, Occupational Health and Safety Bureau (S)  
New Mexico Environment Department  
P.O. Box 26110  
Santa Fe, NM 87502  
(505)827-4230  
[http://www.nmenv.state.nm.us/Ohsb\\_Website/ohsb\\_home.htm](http://www.nmenv.state.nm.us/Ohsb_Website/ohsb_home.htm)

Regional Administrator-Region 6 (F)  
U.S. Department of Labor - OSHA  
525 Griffin Street  
Dallas, TX 75202  
(214)767-4731  
<http://osha.gov/>

## **5.0 OFFICE OF THE STATE ENGINEER**

### **WATER RIGHTS UNIT**

#### **5.1 WATER RESOURCE ALLOCATION PROGRAM – PERMIT TO APPROPRIATE THE PUBLIC SURFACE WATERS OF THE STATE OF NEW MEXICO**

##### **INTRODUCTION**

The Water Rights Unit of the Office of the State Engineer has responsibility for issuance of permits to appropriate the public surface waters of New Mexico under the authority of NMSA 1978, Chapter 72.

##### **A. NAME OF PERMIT OR APPROVAL**

- Permit to appropriate the Public Surface Waters of the State of New Mexico (S).

##### **B. STATUTORY AUTHORITY**

- NMSA 1978, §§72-5-1 et seq., Appropriation and Use of Surface Water.

##### **C. TITLE OF REGULATION**

- 19.26 NMAC, Surface water.

##### **D. SUMMARY OF PERMIT/APPROVAL PROCESS**

1. Applicability
  - Any person, firm, or corporation or any other entity desiring to appropriate for beneficial use any of the surface waters of the State of New Mexico.
2. General Requirements
  - Engineering plans and specifications are required for any dam that exceeds 10 feet in height above the lowest natural ground surface elevation or impounds more than 10 acre-feet of water.
3. Submission Requirements
  - Name of applicant and contact information
  - Source of supply.
  - Location of point of diversion.
  - The amount of water applied for.
  - The beneficial use to which the water will be applied.
  - Description of works.
  - The place of use for which the water is desired
  - Period of use.
  - Engineering maps and plans as may be required by the State Engineer.
4. Procedures for Obtaining Permit or Approval
  - Applicant submits application to the Water Rights Unit. The date of the filing establishes the original priority date of the application.

- Initial review of the application is performed by staff of the Office of the State Engineer to ensure completeness of the application in form and content.
  - Water Rights Unit prepares Notice for Publication. The notice is required to be published once a week for three consecutive weeks in a newspaper that is published and distributed in each county affected by the diversion and in each county where the water will be placed to beneficial use. Such notice gives other water right owners the right to protest if the granting of the application would impair or be to the detriment of the person's water right or if the objector believes that the granting of the application would be contrary to the conservation of water in the State or detrimental to the public welfare of the State.
  - Applicant submits affidavit of publication from newspaper.
  - After the expiration of the time for filing protests, if no protest has been filed, the State Engineer shall, if he finds that there are unappropriated waters available and further finds that the proposed appropriation does not impair existing water rights, is not contrary to the conservation of water within the State, and is not detrimental to the public welfare of the State, grant the application and issue a permit to the applicant to appropriate all or a part of the waters applied for, subject to the rights of all prior appropriators.
  - If a protest has been filed against the application within the time prescribed in the notice, or if the State Engineer is of the opinion that the permit should not be issued, the State Engineer may deny the application without a hearing or, before he acts on the application, may order that a hearing be held.
5. Operations Requirements
- The State Engineer requires Proof of Completion of Works and Proof of Application of Water to Beneficial Use to be filed within a specified period of time, usually four years after the day on which the permit was approved.
  - An Extension of Time to file Proof of Completion of Works or Proof of Application of Water to Beneficial Use may be approved for a period of time not to exceed three years if the applicant shows diligence or if reasonable cause for delay can be shown to the satisfaction of the State Engineer.
6. Fees
- Application to appropriate surface water: \$25.00 plus \$5.00 for each cubic foot per second in excess of the initial 5 cubic feet per second.
  - For examining plans and specifications for a dam: \$10.00 plus \$2.00 for each \$1,000 or fraction thereof of the estimated cost of such dam.
  - Application for extension of time: \$50.00 per permit.
  - Certificate of Construction: \$25.00.
  - License to appropriate: \$25.00 per permit.
7. Appeal Process
- A request to set aside a decision of the State Engineer must be filed within 30 days of receipt of the State Engineer's decision.
  - A hearing before the State Engineer is required before a matter may be appealed to District Court. An appeal to District Court must be filed within 30 days of receipt of the State Engineer's decision that is being appealed.

## **E. ADMINISTERING AGENCY**

Office of the State Engineer (S)  
Water Rights Unit - Water Resource Allocation Program  
Bataan Memorial Building, Room 102  
P.O. Box 25102  
Santa Fe, New Mexico 87504-5102  
Phone: (505) 827-6120  
Fax:: (505) 827-6682  
web-site: www.ose.state.nm.us

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## **5.2 WATER RESOURCE ALLOCATION PROGRAM – PERMIT TO APPROPRIATE THE UNDERGROUND WATERS OF THE STATE OF NEW MEXICO**

### **INTRODUCTION**

The Water Rights Unit of the Office of the State Engineer has responsibility for issuance of permits to appropriate the public underground waters of the State of New Mexico under the authority of NMSA 1978, Chapter 72.

### **A. NAME OF PERMIT OR APPROVAL**

- Permit to appropriate the Underground Waters of the State of New Mexico (S).

### **B. STATUTORY AUTHORITY**

- NMSA 1978, §§72-12-1 et seq., Underground Water.

### **C. TITLE OF REGULATION**

- 19.27 NMAC, Underground Water.

### **D. SUMMARY OF PERMIT/APPROVAL PROCESS**

1. Applicability
  - Any person, firm, or corporation or any other entity desiring to appropriate for beneficial use any of the waters within an underground water basin declared by the State Engineer.
2. General Requirements
  - Artesian wells must be drilled in accordance with the State Engineer's regulations.
3. Submission Requirements
  - Name of applicant and contact information.
  - Name of declared underground water basin.
  - Location of the proposed well.
  - The amount of water applied for.
  - The beneficial use to which the water will be applied.

- Description of works.
  - The place of use for which the water is desired.
  - If the use is for irrigation, the description of the land to be irrigated and the name of the owner of the land.
  - Engineering maps and plans as may be required by the State Engineer.
  - For a well to be drilled on land not owned by applicant, the application shall be accompanied by an acknowledged statement executed by the owner of the land that the applicant is granted access across the owner's land to the drilling site and has permission to occupy such portion of the owner's land as is necessary to drill and operate the well.
4. Procedures for Obtaining Permit or Approval
- Applicant submits application to the Water Rights Unit. The date of the filing establishes the original priority date of the application.
  - Initial review of the application is performed by staff of the Office of the State Engineer to ensure completeness of the application in form and content.
  - Water Rights Unit prepares Notice for Publication. The notice is required to be published once a week for three consecutive weeks in a newspaper that is published and distributed in each county affected by the diversion and in each county where the water will be placed to beneficial use. Such notice gives other water right owners the right to protest if the granting of the application would impair or be to the detriment of the person's water right or if the objector believes that the granting of the application would be contrary to the conservation of water in the State or detrimental to the public welfare of the State.
  - Applicant submits affidavit of publication from newspaper.
  - After the expiration of the time for filing protests, if no protest has been filed, the State Engineer shall, if he finds that there are unappropriated waters available and further finds that the proposed appropriation does not impair existing water rights, is not contrary to the conservation of water within the State, and is not detrimental to the public welfare of the State, grant the application and issue a permit to the applicant to appropriate all or a part of the waters applied for, subject to the rights of all prior appropriators.
  - If a protest has been filed against the application within the time prescribed in the notice, or if the State Engineer is of the opinion that the permit should not be issued, the State Engineer may deny the application without a hearing or, before he acts on the application, may order that a hearing be held.
  - Application not requiring Notice for Publication: Any person, firm or corporation or the State of New Mexico may apply under NMSA 1978, §§72-12-1 for permit to divert up to three acre-feet of groundwater for a definite period of time not to exceed one-year for prospecting, mining, or drilling operations designed to discover and develop the natural mineral resources of the State of New Mexico. Upon the filing of such an application, the State Engineer shall make an examination of the facts and if he finds that the proposed use will not permanently impair any existing rights of others, he shall grant the application. If impairment is likely, then the State Engineer will require publication of a Notice for Publication.

5. Operations Requirements
  - As soon as practicable after completing the well and the application of water to the intended use pursuant to the permit, the applicant shall have prepared and file a Final Inspection and Report of Beneficial Use in triplicate on forms prescribed by the State Engineer.
  - An extension of time to file the Final Inspection and Report of Beneficial Use may be approved for a period of time not to exceed three years if the applicant shows diligence or if reasonable cause for delay can be shown to the satisfaction of the State Engineer.
  - Upon failure of the applicant to comply with the provisions of the permit within the time specified in such permit or to secure an extension of time within which to do so, the State engineer shall cancel the permit.
6. Fees
  - Application to appropriate groundwater: \$25.00 per well.
  - Application for extension of time: \$25.00 per permit.
  - Certificate of Construction: \$25.00.
  - License to appropriate: \$25.00 per permit.
7. Appeal Process
  - A request to set aside a decision of the State Engineer must be filed within 30 days of receipt of the State Engineer's decision.
  - A hearing before the State Engineer is required before a matter may be appealed to District Court. An appeal to District Court must be filed within 30 days of receipt of the State Engineer's decision that is being appealed.

## **E. ADMINISTERING AGENCY**

Office of the State Engineer (S)  
Water Rights Unit - Water Resource Allocation Program  
Bataan Memorial Building, Room 102  
P.O. Box 25102  
Santa Fe, New Mexico 87504-5102  
Phone: (505) 827-6120  
Fax:: (505) 827-6682  
web-site: [www.ose.state.nm.us](http://www.ose.state.nm.us)

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## **5.3 WATER RESOURCE ALLOCATION PROGRAM – MINE DEWATERING PERMIT**

### **INTRODUCTION**

The Water Rights Unit of the Office of the State Engineer has responsibility for issuance of permits for mine dewatering under the authority of NMSA 1978, Chapter 72. The purpose of the Act is to promote maximum economic development of mineral resources while ensuring that such development does not impair existing water rights. Mine dewatering is neither an appropriation of water nor waste. No water right may be established solely by mine dewatering.

**A. NAME OF PERMIT OR APPROVAL**

- Mine Dewatering Permit (S).

**B. STATUTORY AUTHORITY**

- Mine Dewatering Act, NMSA 1978, §§72-12A-1 et seq.

**C. TITLE OF REGULATION**

- 19.27 NMAC, Underground Water.

**D. SUMMARY OF PERMIT/APPROVAL PROCESS**

1. Applicability
  - The permit allows for mine dewatering and discharge of the water.
2. General Requirements
  - An applicant must submit a plan for replacement if the proposed mine dewatering will impair any owner of a valid, existing water right.
3. Submission Requirements
  - Mine dewatering plan
  - Hydrologic and engineering studies showing the effects of the proposed mine dewatering on existing water rights.
  - A plan for replacement explaining how the applicant proposes to mitigate any effects caused by the mine dewatering to valid, existing water rights.
4. Procedures for Obtaining Permit or Approval
  - Applicant submits application to the Water Rights Unit.
  - Initial review of the application is performed by staff of the Office of the State Engineer to ensure completeness of the application in form and content.
  - The Water Rights Unit prepares a Notice for Publication. The notice is required to be published once a week for 3 consecutive weeks in a newspaper that is published and distributed in each county affected by the diversion and in each county where the water will be placed to beneficial use. Such notice gives other water right owners the right to protest if the granting of the application would impair or be to the detriment of the person's water right or if the objector believes that the granting of the application would be contrary to the conservation of water or detrimental to the public welfare of the State.
  - Applicant submits affidavit of publication from newspaper.
  - If there is no timely protest, the application is considered by the State Engineer based on his record and field investigation.
  - If a protest has been filed against the application within the time prescribed in the notice, or if the State Engineer is of the opinion that the permit should not be issued, the State Engineer may deny the application without a hearing or, before he acts on the application, may order that a hearing be held.

5. Operations Requirements
  - Conditions to be set by the State Engineer to ensure that the mine dewatering does not impair any owner of valid, existing water rights.
6. Fees
  - Application fee is \$25.00 per point of diversion.
7. Appeal Process
  - A request to set aside a decision of the State Engineer must be filed within 30 days of receipt of the State Engineer's decision.
  - A hearing before the State Engineer is required before a matter may be appealed to District Court. An appeal to District Court must be filed within 30 days of receipt of the State Engineer's decision that is being appealed.

## **E. ADMINISTERING AGENCY**

Office of the State Engineer (S)  
 Water Rights Unit - Water Resource Allocation Program  
 Bataan Memorial Building, Room 102  
 P.O. Box 25102  
 Santa Fe, New Mexico 87504-5102  
 Phone: (505) 827-6120  
 Fax: (505) 827-6682  
 web-site: [www.ose.state.nm.us](http://www.ose.state.nm.us)

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## **5.4 WATER RESOURCE ALLOCATION PROGRAM – APPROVAL OF DRILL HOLE PLUGGING**

### **INTRODUCTION**

Approval of drill hole plugging is required by the Water Rights Unit of the Office of the State Engineer to ensure that water encountered during drilling activities is confined to the aquifer in which it was encountered. No specific procedures have been established for plugging drill holes with the exception of those that penetrate artesian aquifers or are located in the San Juan Structural Basin. However, a water discovery report form must be filed with the Office of the State Engineer and the State Bureau of Geology and Minerals Resources for all holes that encounter groundwater.

### **A. NAME OF PERMIT OR APPROVAL**

- Approval of Drill Hole Plugging (S).

### **B. STATUTORY AUTHORITY**

- NMSA 1978, §69-3-6.

### **C. TITLE OF REGULATIONS**

- 19.27 NMAC, Underground Water.

- Procedures for Plugging and Reporting of Drill Holes in San Juan Structural Basin, May 11, 1971.

#### **D. SUMMARY OF PERMIT/APPROVAL PROCESS**

1. Applicability
  - Any person drilling a mine lode discovery or mine drill hole to a depth of 10 feet or more, who shall encounter or whose drill shall cut into a water body or water bearing strata, shall plug or otherwise construct, maintain, and operate such holes so that any water encountered is permanently confined to the aquifer in which it is found.
2. General Requirements
  - State Engineer procedures are described in Article 4 of the State Engineer Ground Water Rules and Regulations and the San Juan Structural Basin Document (May 11, 1971).
3. Submission Requirements
  - Name of responsible party and contact information.
  - Location and depth of the hole.
  - Well record.
  - Method and materials used in plugging the hole.
4. Procedures for Obtaining Permit and Approval
  - Within 90 days from date of discovery, the responsible party shall report to the State Engineer and the Director of the State Bureau of Geology and Mineral Resources the location and depth of the hole and the method and material used in plugging the hole. The report shall be on a form prescribed by the State Engineer.
5. Operations Requirements
  - Failure to comply is subject to a fine (NMSA 1978, §69-3-9).
6. Fees
  - None.
7. Appeal Process
  - Administrative decision is subject to a hearing before the State Engineer and his decision may be appealed to the District Court.

#### **E. ADMINISTERING AGENCY**

Office of the State Engineer (S)  
 Water Rights Unit - Water Resource Allocation Program  
 Bataan Memorial Building, Room 102  
 P.O. Box 25102  
 Santa Fe, New Mexico 87504-5102  
 Phone: (505) 827-6120  
 Fax:: (505) 827-6682  
 web-site: www.ose.state.nm.us

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## **5.5 WATER RESOURCE ALLOCATION PROGRAM – LICENSE FOR WATER WELL DRILLERS**

### **INTRODUCTION**

The Water Rights Unit of the Office of the State Engineer has responsibility for issuance of license for water well drillers under the authority of NMSA 1978, Chapter 72. The purpose of this license is to regulate the drilling of water wells within underground water basins declared by the State Engineer.

#### **A. NAME OF PERMIT OR APPROVAL**

- Water Well Driller's License (S).

#### **B. STATUTORY AUTHORITY**

- NMSA 1978 §§72-12-12 et seq.

#### **C. TITLE OF REGULATION**

- 19.27 NMAC, Underground Water.

#### **D. SUMMARY OF PERMIT/APPROVAL PROCESS**

1. Applicability
  - Only those persons with a valid water well driller's license issued by the State Engineer may drill for underground water within a declared underground water basin.
2. General Requirements
  - A well driller's license is valid for a 2-year period.
3. Submission Requirements
  - Applicant's name and contact information.
  - Type of wells to be drilled (artesian/non-artesian).
  - Statement of qualifications.
  - References.
  - Description of each drilling rig including photograph of rig's side view.
  - Well driller's bond.
4. Procedures for Obtaining Permit or Approval
  - Applicant submits application on a form prescribed by the State Engineer accompanied by a filing fee of \$50.00 and a bond - with surety approved by the State Engineer - in the amount of \$5,000.
  - The application is reviewed by the State Engineer and then acted upon.
5. Operations Requirements
  - A well driller may only drill, deepen, repair, or clean a well within a declared underground water basin when the owner of such well has a valid permit from the State Engineer for the work to be performed.
  - The well driller shall keep a log of each well drilled, repaired, deepened, cleaned, or plugged, making a current record as the work progresses. A complete and properly executed well record, on a form prescribed by the

State Engineer, shall be filed not later than 10 days after completion of the well.

- Each licensee when drilling in a declared underground water basin must display a card showing his license number and the expiration date of license.

6. Fees

- \$50.00 application fee.
- Surety bond in the amount of \$5,000.
- \$20.00 renewal fee.

7. Appeal Process

- A request to set aside a decision of the State Engineer must be filed within 30 days of receipt of the State Engineer's decision.
- A hearing before the State Engineer is required before a matter may be appealed to District Court. An appeal to District Court must be filed within 30 days of receipt of the State Engineer's decision that is being appealed.

**E. ADMINISTERING AGENCY**

Office of the State Engineer (S)  
Water Rights Unit - Water Resource Allocation Program  
Bataan Memorial Building, Room 102  
P.O. Box 25102  
Santa Fe, New Mexico 87504-5102  
Phone: (505) 827-6120  
Fax: (505) 827-6682  
web-site: [www.ose.state.nm.us](http://www.ose.state.nm.us)

## **6.0 STATE LAND OFFICE**

### **6.1 STATE TRUST LAND LEASES AND PERMITS**

#### **INTRODUCTION**

State Trust Land Leases, administered by the Commissioner of Public Lands of the New Mexico State Land Office, are required of persons desiring to lease State Trust Land for exploration and development activities. The leases provide for controlled development of state property and protection of natural resources of the State of New Mexico. For different types of exploration and prospecting, various permits are required.

Construction Materials leasing is shown here as an example, but the requirements for each resource are unique; therefore, contact the Commissioner of Public Lands for detailed information.

#### **A. NAME OF PERMIT OR APPROVAL**

- State Trust Land Lease (S).
- Various permits for prospecting and exploration (S).

#### **B. STATUTORY AUTHORITY**

- State Trust Land Leasing Statutes, NMSA 1978, §§19-7-1 et seq., 19-8-1 et seq., 19-9-1 et seq., 19-10-1 et seq., 19-11-1 et seq., 19-13-1 et seq.
- 36 Stat. at Large 557, Chapter 310, as amended.

#### **C. TITLE OF EXAMPLE REGULATION**

- 19.2.5 NMAC, Relating to leases and permits for various construction materials.

#### **D. SUMMARY OF EXAMPLE APPLICATION PROCESS**

1. Applicability
  - Persons desiring to lease State Trust Land for mining of construction materials: Caliche, Gypsum, Clay, Sand, Gravel, Stone, Shale, Perlite, Volcanic Deposits, and Borrow Dirt.
2. General Requirements
  - The application form should contain all the information requested, including the correct legal description of the lands desired for lease, and be signed in the presence of a notary public, by either the individual applying for the lease or a company official authorized to sign for the company applying for the lease.
3. Submission Requirements
  - A properly signed and notarized application form with a correct legal description of the tract.
  - The required fees and payments (see below).
  - A proposed Mine Operations Plan (MOP), which provides a detailed plan for the orderly development of the mineral reserves and describes in

detail the plans for carrying out the mining operation, including where and how the mining will be done.

- The MOP developed in coordination with SLO technical staff and approved by the Commissioner of Public Lands will become part of the lease and will be enforceable in the same manner as any other term of the lease.
  - A proposed Reclamation Plan (RP), which is developed in coordination with the applicant and Land Office technical staff. Each Reclamation Plan is unique, therefore no form is provided.
    - The Land Office requires all surface area that is disturbed as part of a mining operation on State Trust land be reclaimed. Reclamation is to be integrated with the mining and carried out concurrently with mining.
    - The purpose of reclaiming a mining operation site is to protect Trust resources by erosion control, minimizing impacts to adjacent lands, protecting the remaining mineral reserves, limiting the introduction and spread of noxious weeds, revegetating all disturbed areas, and assuring viable post-mining land use.
  - A signed Mineral Lease Environmental Questionnaire.
  - A plat, drawn to scale, showing the location of the pit or the area to be mined.
4. Procedures for Obtaining Permit or Approval
    - Each element of the application package is to be included to ensure a complete application, for both new and renewal applications.
  5. Operations Requirements
    - Applicant must comply with 19.2.5 NMAC
  6. Fees - The lease application should be accompanied by a check or money order made payable to the Commissioner of Public Lands covering the following:
    - non-refundable application fee of \$50.00,
    - one year's rental payment of \$1.00 per acre, or fraction thereof, (\$40.00 minimum).
    - If the lease is not issued, the rental payment will be refunded.
    - Surface Improvement Damage/Reclamation bond is due at lease issuance.
  7. Appeal Process
    - Leases and Permits are issued at the sole discretion of the Commissioner of Public Lands.

## **E. ADMINISTERING AGENCY**

Commissioner of Public Lands (S)  
State Land Office  
P.O. Box 1148  
Santa Fe, NM 87504-1148  
(505)827-5750  
[www.nmstatelands.org](http://www.nmstatelands.org)

## **7.0 HISTORIC PRESERVATION OFFICE**

### **7.1 OFFICE OF CULTURAL AFFAIRS - PERMITS TO CONDUCT ARCHAEOLOGICAL SURVEYS AND EXCAVATIONS ON LANDS OWNED OR CONTROLLED BY THE STATE OF NEW MEXICO**

#### **INTRODUCTION**

The Historic Preservation Division (HPD) of the Office of Cultural Affairs has administrative responsibility for the issuance of permits to conduct archaeological investigations (surveys and excavations) on land owned or controlled by the State of New Mexico. The Cultural Properties Review Committee issues permits with the concurrence of the State Historic Preservation Officer and the State Archaeologist. It is the purpose of the permitting program to ensure the protection, preservation, and appropriate treatment of historic or prehistoric ruin or monument, or any object of historical, archaeological, architectural, or scientific value situated on such lands.

#### **A. NAME OF PERMIT OR APPROVAL**

- Archaeological Survey Easement (Trust Land) (S)
- Archaeological Excavation Easement (Trust Land) (S)
- Annual Archaeological Survey (Trust Land and Other State Land) (S)
- Archaeological Survey (Other State Land) (S)
- Archaeological Excavation (Other State Land) (S)
- Annual Human Burial Excavation (S)

#### **B. STATUTORY AUTHORITY**

- Cultural Properties Act, NMSA 1978, §§18-6-1 through 18-6-17 (Specifically §§18-6-5, 9, and 11).

#### **C. TITLE OF REGULATIONS**

- Regulations Pertaining to the Issuance of Permits to Conduct Archaeological Investigations (NMAC 4.10.8).
- Regulations for the Issuance of Permits to Excavate Unmarked Human Burials in the State of New Mexico (NMAC 4.10.11).

#### **D. SUMMARY OF PERMIT/APPROVAL PROCESS**

- Applicant submits permit application to HPD for initial review for completeness and accuracy of information.
- HPD submits permit application to the Cultural Properties Review Committee (CPRC) for review and approval with the concurrence of the State Historic Preservation Officer and State Archaeologist.
- When State Trust Lands are involved, concurrence of the Commissioner of Public Lands completes the approval process.

- When other State Lands are involved, concurrence of the appropriate land managing agency official completes the approval process.
  1. Applicability
    - The State reserves to itself the exclusive right and privilege of field archaeology on sites owned or controlled by the State. A permit is required for the examination or excavation of sites and the collection or removal of objects of antiquity or general scientific interest when such sites and objects are located on State Land.
    - Human burials interred in any unmarked burial ground in the State are accorded the protection of law. A permit is required for the excavation, removal, or disturbance of any human burial interred in an unmarked burial ground.
  2. General Requirements
    - Applicants must meet minimum professional standards as demonstrated by a graduate degree in archaeology, anthropology, or closely related field, or have training acceptable to the Committee and have demonstrated ability to carry research to completion. Principal investigators must have a minimum of two years professional experience, including one year in the supervision of research projects and at least 6 months of field experience in the Southwest. Supervisory archaeologists or crew chiefs must have at least one year of professional experience, including 6 months of experience in the conduct of archaeological research projects, and at least 3 months of supervised field experience within the Southwest.
  3. Submission Requirements
    - Two copies of the appropriate application form and required attachments, as described in the Committee's guidelines on archaeological survey and excavation permit applications, and the appropriate application fee. Attachments include:
      - Curricula vitae of the principal investigator and supervisory staff.
      - Archaeological Records Management System User Agreement.
      - Museum of New Mexico curation agreement.
    - Research design conforming to research design guidelines adopted by the Committee for the investigations to be conducted (for project specific survey and excavation permits only)
    - Project description including maps and legal descriptions of the location of the survey or excavation (for project specific survey and excavation permits only).
  4. Procedures for Obtaining Permit or Approval
    - Permit applications submitted to HPD to be reviewed for completeness and accuracy.
    - Permit applications reviewed and, approved by the CPRC with the concurrence of the State Archaeologist and State Historic Preservation Officer.
    - Applications for investigations on State Trust Land submitted to the Commissioner or Public Lands for concurrence. The State Land Office may conduct a field inspection of areas to be affected by excavation permits.

- Applications for investigations on other State Land submitted to the appropriate agency official for concurrence.
  - Approved permit returned to the applicant by HPD.
  - The normal processing time is 2 to 3 weeks. Depending on the nature of the application, a longer period may be required for processing excavation permits when a field inspection is required.
5. Operations Requirements
- Permittees shall comply with all rules and regulations of the state landholding agency relating to the use of land under its ownership or control and with any additional stipulations required by the Committee, the State Archaeologist, or the State Historic Preservation Officer.
  - Permittees shall submit a report on the results of the investigation within six months of completion of fieldwork.
  - All collections of artifactual material or other objects of antiquity or general scientific interest recovered during the permitted investigation will be deposited at the Museum of New Mexico, unless another repository is approved and stipulated in the permit.
  - Holders of blanket survey permits are required to notify the State Historic Preservation Officer and the Commissioner of Public Lands or other appropriate agency official, in writing, of the intent to conduct an archaeological investigation under authority of the blanket permit.
  - Holders of burial excavation permits are required to immediately notify appropriate local law enforcement authorities of any human remains encountered during an archaeological investigation.
6. Fees
- Surveys (State Trust Land) - \$30.00 filing fee for the first 3 land sections or portions of sections to be surveyed plus \$10.00 for each additional land section or portion of a section and Damage Bond, if applicable.
  - Excavations (State Trust Land) - \$30.00 filing fee plus a \$50.00 inspection fee for each site to be excavated under authority of the permit and Damage Bond, if applicable.
  - Annual Archaeological Survey Permit (State Trust Land and Other State Land) - No charge (applicant should check with the appropriate land managing agency for any additional stipulations or fees).
  - Annual Burial Excavation Permit - No Charge.
7. Appeal Process
- Any applicant whose application is denied or rejected may appeal the decision to the Cultural Properties Review Committee or to the Commissioner of Public Lands or other agency official, depending on the nature of the denial or rejection.

## **E. ADMINISTERING AGENCY**

Director, Historic Preservation Division (S)  
 228 East Palace Ave.  
 Santa Fe, NM 87503  
 (505) 827-6320  
<http://historicpres.state.nm.us/hpd/>

## **8.0 PUBLIC REGULATION COMMISSION**

### **8.1 CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

#### **INTRODUCTION**

A Certificate of Public Convenience and Necessity administered by the New Mexico Public Regulation Commission, is required of all jurisdictional public utilities desiring to operate, construct or extend any plant or system, except that a certificate is not required for an extension within or to a territory already served by it, necessary in the ordinary course of business, or to a territory contiguous to that already being served and not receiving similar service by any other utility.

#### **A. NAME OF PERMIT OR APPROVAL**

- Certificate of Public Convenience and Necessity. (S)

#### **B. STATUTORY AUTHORITY**

- NMSA 1978, §§62-3-1, et seq., (the Public Utility Act) and particularly, §§62-9-1 through 62-9-6.

#### **C. TITLE OF REGULATION**

- Rules 110, 420 and 440 of the Code of Rules and Regulations of the New Mexico Public Regulation Commission.

#### **D. SUMMARY OF PERMIT/APPROVAL PROCESS**

1. Applicability
  - A jurisdictional public utility is any person or entity not engaged solely in interstate business who owns, operates or leases a plant, property or facility furnishing gas, electricity, water, steam or wastewater treatment to the public. NMSA 1978, §62-3-3G.
  - The Public Regulation Commission does not have jurisdiction over the rates and service standards of municipally-owned utilities unless the municipality elects to come under the Commission's jurisdiction. NMSA 1978, §62-6-5.
2. General Requirements
  - A public utility applying for a Certificate of Public Convenience and Necessity must demonstrate that its proposed service is in the public interest and will not result in unnecessary duplication and economic waste.
3. Submission Requirement
  - An application for a Certificate of Public Convenience and Necessity requires a \$25 filing fee to Public Regulation Commission.
4. Procedures for Obtaining Permit or Approval
  - An application for a Certificate of Public Convenience and Necessity must be obtained before the commencement of construction or operation of the proposed plant or system.

- The utility filing the application must determine whether the requirements of Rule 440 of the Code of Rules and Regulations of the Public Regulation Commission require notification to any other utility, and if so, must serve a copy of the application on such other utility. Failure to provide the required notification may be grounds for dismissal of the application.
  - Upon receipt of the application, the Public Regulation Commission shall set a date for public hearing. Notice of the hearing must be published by the utility. The Public Regulation Commission's Code of Rules and Regulations and the statutory requirements for public hearings shall be applicable. Rule 110; NMSA 1978, §§62-10-1 through 62-10-16.
  - After hearing, the Public Regulation Commission may issue the certificate as requested, or refuse to issue it, or issue it for only a portion of the plant or system requested, and may attach such terms and conditions in harmony with the Public Utility Act as in its judgment the public convenience and necessary require.
5. Appeal Process
- Appeals from decisions related to Certificates of Public Convenience and Necessity are made directly to the New Mexico Supreme Court. NMSA 1978, §62-11-1.

## **E. ADMINISTRATIVE AGENCY**

Chief of Staff (S)  
 Public Regulation Commission  
 1120 Paseo de Peralta  
 Santa Fe, NM 87501  
 (505)827-6942  
[www.nmprc.state.nm.us](http://www.nmprc.state.nm.us)

Utility Division Director (S)  
 Public Regulation Commission  
 Marian Hall  
 224 E. Palace Avenue  
 Santa Fe, NM 87501  
 (505) 827-6940

## **8.2 LOCATION PERMIT**

### **INTRODUCTION**

A Location Permit administered by the New Mexico Public Regulation Commission is required of any person, including a municipality, prior to construction of any plant designed to generate more than 300 MW of electricity or transmission lines designed to operate at 230 kV or more.

### **A. NAME OF PERMIT OR APPROVAL**

- Location Permit (S)

### **B. STATUTORY AUTHORITY**

- NMSA 1978, §§62-3-1, et seq., (the Public Utility Act) and particularly, §§62-9-3.

**C. TITLE OF REGULATION**

- Rule 110 of the Code of Rules and Regulations of the New Mexico Public Regulation Commission. 17 NMAC 1.2.11

**D. SUMMARY OF PERMIT/APPROVAL PROCESS**

1. Applicability
  - Applies to any person.
2. General Requirements
  - Any person, including a municipality, proposing the construction of an electrical plant capable of producing 300,000 kilowatts or more and associated transmission lines of 230 kilovolts or more must apply for approval of the location of such plant and lines. The operation of such facilities must be shown to be in compliance with all existing air and water pollution control standards and regulations, as determined by the Environment Department. NMSA 1978, § 62-9-3.
3. Submission Requirement
  - An application for a Location Permit requires a \$25 filing fee to Public Regulation Commission. The application shall contain all information required by the Commission to make its determination.
4. Procedures for Obtaining Permit or Approval
  - A Location Permit must be obtained before the commencement of construction or operation of the proposed facilities.
  - Upon receipt of the application, the Public Regulation Commission shall set a date for public hearing. The Public Regulation Commission's Rules of Practice and Procedure and the statutory requirements for public hearings shall be applicable. Rule 110; NMSA 1978, §§62-10-1 through 62-10-16.
  - The Commission shall issue its order within 6 months of the filing of the application, but the order may be conditioned upon receipt of all air and water quality permits. The Commission may extend its review period by 10 months for transmission lines to determine if the location of the line will unduly impair environmental values. NMSA 1978, §§62-9-3-I.
5. Appeal Process
  - Appeals from decisions related to Location Permits are made directly to the New Mexico Supreme Court. NMSA 1978, §62-11-1.

**E. ADMINISTRATIVE AGENCY**

Chief of Staff (S)  
Public Regulation Commission  
1120 Paseo de Peralta  
Santa Fe, NM 87501  
(505)827-6942  
www.nmprc.state.nm.us

Utility Division Director (S)  
Public Regulation Commission  
Marian Hall  
224 E. Palace Avenue  
Santa Fe, NM 87501  
(505) 827-6940

## 9.0 NEW MEXICO BUREAU OF MINE INSPECTION

### 9.1 PERMITS & REQUIREMENTS RELATED TO MINE SAFETY

#### INTRODUCTION

The Bureau of Mine Inspection (BMI) issues underground mine diesel equipment permits and certificates for coal mine foremen and supervisors. Personnel certification is part of the overall program to educate miners in the health and safety aspects of aggregate, coal, metal, and non-metal mining.

#### A. NAME OF PERMIT OR APPROVAL

- Surface Coal Mine Foreman Certification (S)
- Surface Coal Mine Assistant Foreman Certification (S)
- Underground Coal Mine Foreman Certification (S)
- Underground Coal Mine Assistant Foreman Certification (S)
- Surface Mine Examiner Certification (S)
- Underground Mine Examiner Certification (S)
- Temporary Certification Under Reciprocity With Other States (S)
- Permit To Use Diesel Powered Equipment In Underground Mine Operations (S)

#### B. STATUTORY AUTHORITY

- New Mexico Statutes Annotated 1978; Chapter 69, Mines; Article 14, Qualifications and Duties of Coal Mine Officials.
  - ❖ §§69-14-1. Mine Foremen; Assistant Foremen; Mine Examiners; Shotfirers; Qualification By State Mine Inspector.
  - ❖ §§69-14-2. Methods Of Qualification; Certificates From Other States; Permits; Examinations.
  - ❖ §§69-14-3. Qualifications For Certain Positions.
  - ❖ §§69-14-4. Competency Permits – Posting – Revocation Procedure.

#### C. TITLE OF REGULATION

- New Mexico Mine Safety Code for all Mines including Open-Cut and Open-Pit; Chapter III, New Mexico Rules; Section B, Rules Governing Diesel Equipment in Underground Mines For The State of New Mexico; Paragraph 12. (Document is currently in revision; contact BMI for details)

#### D. SUMMARY OF PERMIT/APPROVAL PROCESS

- Applicant submits application or request for equipment inspection to the Bureau of Mine Inspection.
- Final approval by Bureau of Mine Inspection.
  1. Applicability
    - Various equipment and procedures that must be operated or conducted properly in order to assure the health and safety of mine personnel.

2. General Requirements
  - Each permit or approval must be obtained prior to initiation of the applicable activity.
3. Submission Requirements
  - Various specific requirements for each permit, approval, or inspection are included in the NM Mine Safety Code Book (Contact BMI).
4. Procedures for Obtaining Permit or Approval
  - Varies according to each requirement.
  - Time required for application and approval will also vary.
5. Operations Requirements
  - Permittees must follow general rules and regulations outlined in the Mine Safety Code Book for specific operations (Contact BMI).
6. Fees
  - None currently, but fees may be assessed in the future; please contact BMI.
7. Appeal Process
  - Appeal to the Safety Advisory Board.
  - Appeal to the District Court.

#### **E. ADMINISTERING AGENCY**

State Mine Inspector (S)  
Bureau of Mine Inspection  
New Mexico Tech  
801 Leroy Place  
Socorro, NM 87801  
(505)835-5460

## **10.0 LOCAL GOVERNMENT LAND USE & NATURAL RESOURCES CONTROL ENABLING LAW**

Local government land use and natural resource enabling laws specifically governing energy project development in New Mexico may vary by county or municipality. The New Mexico municipal code contains statutes conferring general ordinance-making authority. These statutes include those on Planning and Platting, NMSA 1978, §§3-19-1 et seq. (1965); Ordinances, NMSA 1978, §§3-17-1 et seq. (1965); Powers of Municipalities, NMSA 1978, §§3-18-1 et seq. (1965); Subdivision Planning and Platting, NMSA 1978, §§3-20-1 et seq. (1979); and Zoning Regulations, NMSA 1978, §§3-21-1 et seq. (1965). Municipalities and counties may also own and operate gas and electric utilities pursuant to statutory mechanisms. Utilities are subject to the municipal occupation tax. Individual municipalities and counties should be contacted to check for local ordinances.

Additional information on local government land use and natural resource control enabling laws may be obtained from the following agencies:

New Mexico Municipal League  
P.O. Box 846  
Santa Fe, New Mexico 87504  
(505)982-5573  
[www.nmml.org](http://www.nmml.org)

New Mexico Association of Counties  
613 Old Santa Fe Trail  
Santa Fe, New Mexico 87505  
(505)983-2101  
[www.nmcounties.org](http://www.nmcounties.org)

**BERNALILLO COUNTY**

1 Civic Center Plaza  
County Courthouse  
Albuquerque, NM 87102  
Ph: 505-768-4090

**CATRON COUNTY**

101 Main Street  
P.O. Box 197  
Reserve, NM 87830  
Ph: 505-533-6400

**CHAVES COUNTY**

401 North Main Street  
P.O. Box 1817  
Roswell, NM 88202  
Ph: 505-624-8107

**CIBOLA COUNTY**

515 W. High  
P.O. Box 190  
Grants, NM 87020  
Ph: 505-287-8107

**COLFAX COUNTY**

3rd & Savage  
County Courthouse  
Raton, NM 87740  
Ph: 505-445-5551

**CURRY COUNTY**

County Courthouse  
Clovis, NM 88101  
Ph: 505-763-5591

**DE BACA COUNTY**

County Courthouse  
P.O. Box 347  
Fort Sumner, NM 88119  
Ph: 505-355-2601

**DOÑA ANA COUNTY**

County Courthouse  
25 Amador Avenue  
Las Cruces, NM 88005  
Ph: 505-525-6659

**EDDY COUNTY**

County Courthouse  
Carlsbad, NM 88220  
Ph: 505-885-3383

**GRANT COUNTY**

County Courthouse  
201 Cooper Street  
Silver City, NM 88061  
Ph: 505-538-2979

**GUADALUPE COUNTY**

420 Park Avenue  
Santa Rosa, NM 88435  
Ph: 505-472-3791

**HARDING COUNTY**

P.O. Box 1002  
Mosquero, NM 87733  
Ph: 505-673-2301

**HIDALGO COUNTY**

200 S. Shakespeare Street  
Lordsburg, NM 88045  
Ph: 505-542-9213

**LEA COUNTY**

County Courthouse  
P.O. Box 1238  
Lovington, NM 888260  
Ph: 505-396-8521

**LINCOLN COUNTY**

County Courthouse  
300 Central Avenue  
Carrizozo, NM 88301  
Ph: 505-648-2394

**LOS ALAMOS COUNTY**

2100 Trinity Drive  
Mail Box 30  
Los Alamos, NM 87544  
Ph: 505-662-8010

**LUNA COUNTY**

County Courthouse  
700 South Silver  
Deming, NM 88030  
Ph: 505-546-6561

**McKINLEY COUNTY**

County Courthouse  
201 West Hill  
Gallup, NM 87301  
Ph: 505-863-6866

**MORA COUNTY**

County Courthouse  
Mora, NM 87732  
Ph: 505-387-2448

**OTERO COUNTY**

County Courthouse  
10th & New York Avenue  
Alamogordo, NM 88310  
Ph: 505-437-4942

**QUAY COUNTY**

County Courthouse  
302 South 3rd  
Box 1225  
Tucumcari, NM 88401  
Ph: 505-461-0510/461-4149

**RIO ARRIBA COUNTY**

County Courthouse  
Tierra Amarilla, NM 87575  
Ph: 505-588-7724

**ROOSEVELT COUNTY**

Courthouse Square  
Portales, NM 88130  
Ph: 505-356-8562

**SAN JUAN COUNTY**

112 South Mesa Verde  
Aztec, NM 87410  
Ph: 505-334-9471

**SAN MIGUEL COUNTY**

County Courthouse  
Las Vegas, NM 87701  
Ph: 505-425-9331

**SANDOVAL COUNTY**

County Courthouse  
Bernalillo, NM 87004  
Ph: 505-867-2209

**SANTA FE COUNTY**

101 Grant Avenue  
P.O. Box 1985  
Santa Fe, NM 87501  
Ph: 505-984-5080

**SIERRA COUNTY**

County Courthouse  
300 Date Street  
Truth or Consequences, NM  
87901  
Ph: 505-894-2840

**SOCORRO COUNTY**

County Courthouse  
200 Court Street  
Socorro, NM 87801  
Ph: 505-835-0423

**TAOS COUNTY**

South Santa Fe Road  
Taos, NM 87571  
Ph: 505-758-8836

**TORRANCE COUNTY**

County Courthouse  
P.O. Box 48  
Estancia, NM 87016  
Ph: 505-384-2221

**UNION COUNTY**

200 Court Street  
Box 430  
Clayton, NM 88415  
Ph: 505-374-9491

**VALENCIA COUNTY**

444 Luna Avenue, SE  
Los Lunas, NM 87031  
Ph: 505-865-9681

## 11.0 FEDERAL PERMIT REQUIREMENTS

In addition to permits issued by the State of New Mexico, certain federal permits may be required for energy and mineral exploration and development operations in New Mexico. This chapter is not intended to be a comprehensive listing of all possible such permits, but merely includes some of the more common requirements. Some of the agencies listed below are also referenced in previous chapters that address state permits when they apply to similar situations.

### OBTAINING THE RIGHT TO EXPLORE OR MINE ON FEDERAL LANDS

There are three different categories of energy and minerals on Federal lands. All are classified as either salable, leasable or locatable minerals. Different procedures must be followed to obtain the right to explore for and extract these commodities.

#### 1. **Salable Minerals**

Common varieties of sand, gravel, stone, pumice, pumicite, cinders and clay are salable. However, certain uncommon varieties of these minerals are classified as locatable. Federal mineral examiners determine uncommon varieties on a case-by-case basis. Title 43, Code of Federal Regulations (CFR), Part 3600 regulates disposal of salable minerals from the BLM. Salable minerals on Forest Service lands are managed under 36 CFR 228, Subpart C. Salable minerals require either a sales contract, prospecting permit, or a free use permit for exploration and extraction.

#### 2. **Leasable Minerals**

Oil and gas, oil shale, geothermal resources, potash, sodium, native asphalt, solid and semi-solid bitumen, bituminous rock, phosphate, and coal are considered leasable minerals. Sulphur is also leasable in New Mexico and Louisiana. In addition, most hardrock minerals are leasable on "acquired lands". Please contact the BLM or the Forest Service for a definition and listing of these lands. Regulations for leasable minerals are found in 43 CFR 3000-3590 for BLM lands and 36 CFR 228, Subpart E for Forest Service Lands. Leases, prospecting permits and licenses are obtained for these minerals and royalties are paid on commodities produced.

#### 3. **Locatable Minerals**

Locatable minerals (sometimes known as "hardrock minerals") include both metallic minerals such as gold, silver, copper, etc. and nonmetallic minerals including fluorspar, asbestos, mica, etc. In general, all minerals not listed above as either salable or leasable are considered locatable. The major law covering locatables is the Mining Law of 1872, as amended. By properly staking and recording a mining claim, a claimant establishes a legal right to access and remove the locatable mineral, subject to applicable rules and regulations. Once claims are staked, and if certain requirements are met such as discovery of a marketable mineral and the paying of fees, the claimant may apply for a patent on the claim(s). A patent transfers title from the federal government to the claimant, making it private land. Presently patent applications are not being accepted. Congress has passed a moratorium on new patent applications each year since 1994.

## AGENCY CONTACTS

Exploration and development of energy and minerals are permitted on several types of federal lands, including those managed by the Bureau of Land Management and the Forest Service. These agencies should be contacted for procedures that apply on their lands. Areas which are withdrawn from resource exploration and extraction activities include National Parks, National Monuments, Indian reservations, most reclamation projects, military reservations, most wildlife protection areas, scientific testing areas, and areas designated as a Wild and Scenic River or within the National Wilderness Preservation System.

### **Forest Service (U.S. Dept. of Agriculture)**

Exploration and mining activities on public domain lands administered by the Forest Service are regulated under 36 CFR 228(A). Activities on a mining claim are authorized under a notice of intent or an approved plan of operation. Any operation that could likely cause "significant disturbance of surface resources" must submit an operating plan, which describes the nature of the disturbance, including structures. The plan must describe how operations will be conducted so as to minimize adverse environmental impacts where feasible. This plan must also describe steps to reclaim the land after mining related activities have stopped. A reclamation bond is usually required. An authorized Forest Service Officer must approve the plan.

Regional Geologist, Lands and Minerals (505) 842-3153  
USDA, Forest Service - Southwestern Region  
333 Broadway SE  
Albuquerque, NM 87102  
(505)842-3292  
[www.fs.fed.us/r3](http://www.fs.fed.us/r3)

### **Bureau of Land Management (BLM)**

Exploration and mining activities on public domain lands administered by the BLM are regulated under 43 CFR 3809. There are three levels of activities. "Casual use", generally activities causing little or no disturbance and not involving mechanical earth moving equipment, requires no authorization, but must be conducted to prevent "undue and unnecessary degradation". Mining operations require a Plan. Exploration operations require a Notice, except operations disturbing 5 acres or more or involving more than 1000 tons of samples require a Plan. Both Notices and Plans describe the nature of the proposed disturbance and the steps to protect surface and water resources and reclaim the land. The regulations require certain performance and reclamation standards. Notices and Plans require financial assurance (bonding).

DSD, Resource Planning, Use, and Protection  
Bureau of Land Management  
New Mexico State Office  
1474 Rodeo Rd.  
P.O. Box 27115  
Santa Fe, NM 87502-0115  
(505) 438-7400  
[www.nm.blm.gov/www/new\\_home\\_2.html](http://www.nm.blm.gov/www/new_home_2.html)

### **U.S. Nuclear Regulatory Commission (NRC)**

The NRC has regulatory authority, in accordance with Title 10 of the Code of Federal Regulations, Part 40, over certain aspects of uranium milling and processing operations in New Mexico, including in situ mining. The NRC should be contacted prior to beginning any of these operations. Further information is available on the NRC's public web site at [www.nrc.gov](http://www.nrc.gov).

U.S. Nuclear Regulatory Commission  
Chief, Fuel Cycle Licensing Branch  
Mail Stop T-8A33  
Washington, DC 20555-0001  
(301) 415-7000  
[www.nrc.gov/who-we-are/organization/nmssfuncdesc.html](http://www.nrc.gov/who-we-are/organization/nmssfuncdesc.html)

### **U.S. Army Corps of Engineers (COE)**

Section 404 of the Clean Water Act requires that anyone proposing to discharge dredged or fill material into waters of the United States, including wetlands, must obtain a permit from the U.S. Army Corps of Engineers. Wetlands are generally defined as areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support vegetation adapted for life in saturated soil conditions. Some wetlands are dry during most of the year. Activities in waters and wetlands for which permits may be required include, but are not limited to: 1) placement of dredged or fill material; 2) ditching activities when the excavated material is sidecast into waters; 3) levee and dike construction involving fills into waters; 4) landclearing or landleveling involving relocation or channelization of waters; 5) most road construction involving water crossings, and 6) dam construction.

Contact the appropriate COE District Office for a jurisdictional determination or a determination if the activity requires a Department of the Army permit pursuant to Section 404 of the Clean Water Act.

Chief, Regulatory Branch  
Albuquerque District  
U.S. Army Corps of Engineers  
4101 Jefferson Plaza NE  
Albuquerque, NM 87109-3435  
(505) 342-3282  
[www.spa.usace.army.mil/reg/](http://www.spa.usace.army.mil/reg/)

### **U.S. Environmental Protection Agency (EPA)**

The National Pollutant Discharge Elimination System (NPDES) program requires a permit for discharge of pollutants from a point source into waters of the United States. These terms are mandated by the Clean Water Act and outlined in 40 CFR Part 122.2. The EPA issues NPDES permits in the six states (including New Mexico) that have not been authorized to issue these permits. "Pollutants" are defined as any material that is added to water, which changes the physical, chemical and/or biological nature of the receiving water. "Waters of the United States" includes most surface waters as well as adjacent wetlands, and also includes intermittent streams and arroyos associated with tributary systems. Permits may also be required for discharges comprised entirely of surface runoff from rainfall events. However,

uncontaminated runoff, as spelled out in 40 CFR Part 122.26 (c)(1)(iii) and (iv), from mining operations or oil and gas exploration, production, processing and transmission facilities, that is not associated with construction of those type of facilities, is exempted from permit requirements. An application for a NPDES permit must be filed at least 180 days before the discharge is expected to commence. The EPA will make a final determination as to whether a NPDES permit is required for a particular operation.

U.S. Environmental Protection Agency  
Region 6  
1445 Ross Avenue  
Dallas, TX 75202  
(214)655-6444  
[www.epa.gov/earth1r6/6pd/air/pd-l/sip.htm](http://www.epa.gov/earth1r6/6pd/air/pd-l/sip.htm)

## **12.0 PERMITS FOR ENERGY AND MINERALS DEVELOPMENT ON INDIAN LANDS**

The State of New Mexico does not have jurisdiction on Indian reservation or Indian allotted lands. Therefore, most of the permits and regulations outlined in this guidebook do not apply to such lands. As with state permits, individual requirements will vary widely depending on the nature and location of the activity. In some cases, the Indian tribes manage leasing, drilling and mining by themselves. However, many have not yet developed their own laws and regulations to handle these activities and the U.S. Bureau of Indian affairs may be handling these permits. In all cases the individual tribal governments or councils should be contacted prior to initiating any activities on Indian lands. Each tribe whose land is involved should be contacted separately. A list of contacts is provided.

## Permits for Energy and Minerals Development on Indian Lands

Pueblo of Acoma  
PO Box 309  
Acoma, NM 87034  
(505) 553-6604

Pueblo of Nambe  
Route 1, Box 117-BB  
Santa Fe, NM 87501  
(505) 455-2036

Pueblo of Santa Clara  
PO Box 580  
Española, NM 87532  
(505)753-7330/7326/7316

Alamo Navajo Chapter  
PO Box 383  
Magdalena, NM 87825  
(505) 854-2686

Pueblo of Picuris  
PO Box 127  
Peñasco, NM 87553  
(505)587-2519

Pueblo of Santo Domingo  
PO Box 99  
Santo Domingo Pueblo, NM 87052  
(505)465-2214/2215

Canoncito Navajo Chapter  
PO Box 3398  
Canoncito, NM 87026  
(505) 836-4221

Pueblo of Pojoaque  
Route 11, Box 71  
Santa Fe, NM 87501  
(505)455-2278

Southern Ute Tribe  
PO Box 737  
Ignacio, CO 81137  
(970)563-0100

Pueblo of Cochiti  
PO Box 70  
Cochiti, NM 87072  
(505) 465-2244

Ramah Navajo Chapter  
Route 2, Box 13  
Ramah, NM 87321  
(505)775-7130

Pueblo of Taos  
PO Box 1846  
Taos, NM 87571  
(505)758-9593

Pueblo of Isleta  
PO Box 1270  
Isleta, NM 87022  
(505) 869-3111/6333

Pueblo San Felipe  
PO Box 4339  
San Felipe Pueblo, NM 87001  
(505)867-3381

Pueblo of Tesuque  
Route 5, Box 360-T  
Santa Fe, NM 87501  
(505)983-2667

Pueblo of Jemez  
PO Box 100  
Jemez Pueblo, NM 87024  
(505) 834-7359

Pueblo of San Ildefonso  
Route 5, Box 315-A  
Santa Fe, NM 87501  
(505)455-2273

Ute Mountain Ute Tribe  
General Delivery  
Towaoc, CO 81334  
(970)565-3751

Jicarilla Apache Tribe  
PO Box 507  
Dulce, NM 87528  
(505) 759-3242

Pueblo of San Juan  
PO Box 1099  
San Juan Pueblo, NM 87566  
(505)852-4400

Ysleta del Sur Pueblo  
PO Box 17579 – Ysleta Station  
El Paso, TX 79917  
(915)859-7913

Pueblo of Laguna  
PO Box 194  
Laguna Pueblo, NM 87026  
(505) 552-6654/6655

Pueblo of Sandia  
Box 6008  
Bernalillo, NM 87004  
(505)867-3317

Pueblo of Zia  
135 Capital Square Drive  
Zia Pueblo, NM 87053-6013  
(505)867-3304

Mescalero Apache Tribe  
PO Box 176  
Mescalero, NM 88340  
(505) 671-4494/4495/4496

Pueblo of Santa Ana  
2 Dove Road  
Bernalillo, NM 87004  
(505)867-3301

Pueblo of Zuni  
PO Box 339  
Zuni, NM 87327  
(505)782-4481