Reference to New Mexico Mining Act, Minimal Impact Under 10 Acres
19.10.1.M.(2) NMAC (New Mexico Administrative Code)

"To qualify for a minimal impact new operation permit, the disturbed area must be less than 10 acres in total. The project must also meet the definition of Minimal Impact in 19.10.1.M.(2) NMAC." *--from Comment matrix 7.16.15-3.pdf, Spreadsheet of Comments to [Santa Fe County DCI Ordinance, p 21.*

19.10.1.M.(2):

(2) "Minimal impact mining operation" means a mining operation or an exploration operation determined by the Director, in consultation with other state agencies, likely to have minimal environmental impact if operated and reclaimed in accordance with the approved permit. In making this determination, the Director shall, except as set forth in Subsection M, Paragraph 2, Subparagraph j of 19.10.1.7 NMAC exclude from minimal impact status operations with any of the characteristics:

(a) Located in or expected to have a direct surface impact on wetlands, springs, perennial or intermittent streams, lakes, rivers, reservoirs or riparian areas, except those excluded by 19.10.3.300 NMAC;

(b) Located in designated critical habitat areas as determined in accordance with the federal Endangered Species Act of 1973 or in areas determined by the Department of Game and Fish likely to result in an adverse impact on an endangered species designated in accordance with the Wildlife Conservation Act, Sections 17-2-37 through 17-2-46 NMSA 1978 or by the State Forestry Division for the Endangered Plants Act, Section 75-6-1 NMSA 1978;

(c) Located in an area with cultural resources listed on either the National Register of Historic Places or the State Register of Cultural Properties;

(d) Having or expected to have a direct impact on ground water that has a total dissolved solids concentration of less than 10,000 mg/l, except exploratory drilling intersecting ground water may be performed as a minimal impact operation;

(e) Expected to use or using cyanide, mercury amalgam, heap leaching or dump leaching in its operations;

(f) Located in a known cemetery or other burial ground;

(g) Located in an area designated as a Federal Wilderness Area, Wilderness Study Area, Area of Critical Environmental Concern, or an area within the National Wild and Scenic River System;

(h) Expected to result in point or non-point source surface or subsurface releases of acid or other toxic substances from the permit area; or

(i) Requiring a variance from any element of these regulations as part of the permit application.

(j) The Director may determine that an operation with any of the characteristics set forth in Subsection M, Paragraph 2, Subparagraphs a through d of 19.10.1.7 NMAC may qualify for minimal impact status, if the Director finds the operation is likely to have minimal environmental impact if operated and reclaimed in accordance with the approved permit. In making this determination, the Director shall:

(i) obtain written concurrence from the Secretary of the Environment Department for a waiver of characteristics in Subsection M, Paragraph 2, Subparagraphs a or d of 19.10.1.7 NMAC;

(ii) obtain written concurrence from the Director of the Department of Game and Fish for a waiver of any portion of characteristic in Subsection M, Paragraph 2, Subparagraph b of 19.10.1.7 NMAC that does not apply to the State Forestry Division; and

(iii) obtain written consultation from and cooperate with the Office of Cultural Affairs for a waiver of characteristics in Subsection M, Paragraph 2, Subparagraph c of 19.10.1.7 NMAC.

(k) In addition, where interrelated mining operations are located in close proximity to each other, the Director may determine to issue one permit for all the operations which may eliminate these operations from consideration as minimal impact operations. In determining whether or not the operations are interrelated, the Director shall look for common owners or operators, immediate family members as owners or operators, related corporations as owners or operators or other common, reliable indicators of interrelated operations.