

**TITLE 19        NATURAL RESOURCES AND WILDLIFE**  
**CHAPTER 8      COAL MINING**  
**PART 3          CRITERIA FOR DESIGNATING AREAS AS UNSUITABLE FOR SURFACE COAL**  
**MINING OPERATIONS**

**19.8.3.1        ISSUING AGENCY:** New Mexico Coal Surface Mining Commission.  
[19.8.3.1 NMAC - N, 9-29-2000]

**19.8.3.2        SCOPE:** All persons subject to the New Mexico Surface Mining Act, NMSA 1978, Sections 69-25A-1 et. Seq. (1979).  
[19.8.3.2 NMAC - N, 9-29-2000]

**19.8.3.3        STATUTORY AUTHORITY:** NMSA 1978, Sections 69-25A-1 et. seq. (1979).  
[19.8.3.3 NMAC - N, 9-29-2000]

**19.8.3.4        Duration:** Permanent.  
19.8.3.4 NMAC - [N, 9-29-2000]

**19.8.3.5        EFFECTIVE DATE:** November 29, 1997, unless a later date is cited at the end of a section.  
[19.8.3.5 NMAC - N, 9-29-2000]

**19.8.3.6        OBJECTIVE:** The objective of Parts 1 - 35 of Chapter 8 is to establish regulations to implement the New Mexico Surface Mining Act as directed in NMSA 1978, Section 69-25A-5 (1979). These regulations are intended to ensure proper reclamation through permitting for operations subject to the New Mexico Surface Mining Act, in accordance with provisions and standards outlined in the New Mexico Surface Mining Act.  
[19.8.3.6 NMAC - N, 9-29-2000; A, 1-15-2002]

**19.8.3.7        DEFINITIONS:** [RESERVED]  
[19.8.3.7 NMAC - N, 9-29-2000]  
[Definitions for this part can be found in 19.8.1.7 NMAC.]

**19.8.3.8 - 19.8.3.299 [RESERVED]**  
[19.8.3.8 - 19.8.3.299 - N, 9-29-2000]

**19.8.3.300      CRITERIA FOR DESIGNATING LANDS AS UNSUITABLE:**

**A.** Upon petition an area shall be designated as unsuitable for all or certain types of surface coal mining operations, if the director determines that reclamation is not technologically and economically feasible under the act and 19.8.1 through 19.8.35 NMAC.

**B.** Upon petition an area may be (but is not required to be) designated as unsuitable for certain types of surface coal mining operations, if the operations will:

- (1) be incompatible with existing state or local land use plans or programs;
- (2) affect fragile or historic lands in which the operations could result in significant damage to important historic, cultural, scientific, or aesthetic values or natural systems;
- (3) affect renewable resource lands in which the operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products; or
- (4) affect natural hazard lands in which the operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geologic formations.

**C.** Pursuant to appropriate petitions, lands listed in 19.8.2 NMAC are subject to designation as unsuitable for all or certain types of surface coal mining operations under 19.8.3.300 NMAC.  
[11-29-97; 19.8.3.300 NMAC - Rn, 19 NMAC 8.2.3.200, 9-29-2000; A, 01-15-2002]

**19.8.3.301      LAND EXEMPT FROM DESIGNATION AS UNSUITABLE FOR SURFACE COAL**  
**MINING OPERATIONS:** The requirements of 19.8.3 NMAC do not apply to:

- A.** lands on which surface coal mining operations were being conducted on August 3, 1977;
- B.** lands covered by a permit issued under the act; or

C. lands where substantial legal and financial commitments in surface coal mining operations were in existence prior to January 4, 1977.  
[11-29-97; 19.8.3.301 NMAC - Rn, 19 NMAC 8.2.3.301, 9-29-2000]

**19.8.3.302 EXPLORATION ON LAND DESIGNATED AS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS:** Designation of any area as unsuitable for all or certain types of surface coal mining operations pursuant to Section 69-25A-26 NMSA 1978 of the act and regulations of 19.8.2 through 19.8.4 NMAC, does not prohibit coal exploration operations in the area, if conducted in accordance with the act, 19.8.1 through 19.8.35 NMAC, and other applicable requirements. Exploration operations on any lands designated unsuitable for surface coal mining operations must be approved by the director under 19.8.6 NMAC to insure that exploration does not interfere with any value for which the area has been designated unsuitable for surface coal mining.  
[11-29-97; 19.8.3.302 NMAC - Rn, 19 NMAC 8.2.3.302, 9-29-2000; A, 1-15-2002]

#### **HISTORY OF 19.8.3 NMAC:**

##### **Pre-NMAC History:**

The material in Part 3 was derived from that previously filed with the State Records Center and Archives under: SB 73-1 Regulations of the State of New Mexico Coal Surfacing Commission, filed 1-10-73 and its amendment filed 8-4-76

SB 78-1 (Rule 78-1) Regulations of the State of New Mexico Coal Surfacing Commission, filed 8-31-78

SB 79-1 (Rule 79-1) New Mexico Coal Surfacing Regulations, filed 7-11-79

CSMC Rule 80-1 (Rule 80-1) Surface Coal Mining Regulations, filed 9-24-80; and all amendments to CSMC Rule 80-1, filed 7-29-82, 11-10-83, 3-5-84, 7-19-84, filed 8-6-84, 8-23-84, 3-28-89, 6-15-90, 9-18-90, 2-15-91, 5-8-91, 8-26-91, 10-4-91, 7-28-92, 1-25-93, 11-1-94, 3-10-95, 4-12-95, 12-21-95.

##### **Other History:**

Renumbered and reformatted CSMC Rule 80-1, Surface Coal Mining Regulations, filed 9-24-80 to 19 NMAC 8.2, Coal Surface Mining, filed 11-13-97.

Renumbered 19 NMAC 8.2 Subpart 3 Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations, filed 11-13-97, to 19.8.3 NMAC Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations, effective 09-29-2000.