

**TITLE 19        NATURAL RESOURCES AND WILDLIFE**  
**CHAPTER 8      COAL MINING**  
**PART 21        SPECIAL PERFORMANCE STANDARDS - CONCURRENT SURFACE AND**  
**UNDERGROUND MINING**

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

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

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

**19.8.21.4        DURATION:** Permanent  
[19.8.21.4 NMAC - N, 9-29-2000]

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

**19.8.21.6        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.  
[19.8.21.6 NMAC - N, 9-29-2000; A, 1-15-2002]

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

**19.8.21.8 - 19.8.21.2099 [RESERVED]**  
[19.8.21.8 - 19.8.21.2099 NMAC - N, 9-29-2000]

**19.8.21.2100     APPLICABILITY:** A variance under this part applies only to those specific areas within the permit area that the person conducting combined surface and underground mining operations has shown to be necessary for implementing the proposed concurrent operations and that the director has approved in the permit under 19.8.10.1005 NMAC. The variance is effective for any particular portion of the permit area only for the time necessary to facilitate and to complete the authorized underground mining activities.  
[11-29-97; 19.8.21.2100 NMAC- Rn, 19 NMAC 8.2.21.2100, 9-29-2000]

**19.8.21.2101     COMPLIANCE WITH VARIANCE TERMS:**

**A.** Each person who conducts operations under a variance issued under 19.8.10.1005 NMAC shall comply with all applicable requirements of this part and the act and these rules and regulations except to the extent that:

(1) a delay in compliance with these requirements is specifically authorized by the variance issued under the permit; and

(2) the delay in compliance is necessary to achieve the purposes for which the variance was granted.

**B.** Each person who conducts operations under a variance issued under 19.8.10.1005 NMAC shall comply with each requirement of the variance as set forth in the permit.

[11-29-97; 19.8.21.2101 NMAC- Rn, 19 NMAC 8.2.21.2101, 9-29-2000]

**19.8.21.2102     ADDITIONAL PERFORMANCE STANDARDS:** In addition to the requirements of 19.8.20 NMAC, each person who conducts combined surface and underground mining operations shall comply with the following:

**A.** A 500-foot barrier pillar of coal shall be maintained between the surface and underground mining activities in any one seam. The director and the mine safety and health administration, and the state mine inspector, may, however, approve a lesser distance, after finding by the director that mining at a lesser distance will result in:

- (1) improved coal resources recovery;
- (2) abatement of water pollution; or
- (3) elimination of hazards to the health and safety of the public.

**B.** The vertical distance between combined surface and underground mining activities working separate seams shall be sufficient to provide for the health and safety of the workers and to prevent surface water from entering the underground workings.

**C.** No combined activities shall reduce the protection provided public health and safety below the level of protection required for those activities if conducted without a variance.

[11-29-97; 19.8.21.2102 NMAC- Rn, 19 NMAC 8.2.21.2102, 9-29-2000]

#### **HISTORY OF 19.8.21 NMAC:**

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

The material in Part 21 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 21 Special Performance Standards - Concurrent Surface and Underground Mining, filed 11-13-97, to 19.8.21 NMAC Special Performance Standards - Concurrent Surface and Underground Mining, effective 9-29-2000.