

**TITLE 19        NATURAL RESOURCES AND WILDLIFE**  
**CHAPTER 8      COAL MINING**  
**PART 23        SPECIAL PERFORMANCE STANDARDS - OPERATIONS IN ALLUVIAL VALLEY FLOORS**

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

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

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

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

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

**19.8.23.6        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.  
[19.8.23.6 NMAC - N, 9-29-2000; A, 1-15-2002]

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

**19.8.23.8 - 19.8.23.2299 [RESERVED]**  
[19.8.23.8 - 19.8.23.2299 NMAC - N, 9-29-2000]

**19.8.23.2300     ALLUVIAL VALLEY FLOORS: ESSENTIAL HYDROLOGIC FUNCTIONS:**

**A.** Surface coal mining and reclamation operations shall be conducted to preserve, throughout the mining and reclamation process, the essential hydrologic functions of alluvial valley floors not within an affected area. These functions shall be preserved by maintaining those geologic, hydrologic and biologic characteristics that support those functions.

**B.** Surface coal mining and reclamation operations shall be conducted to reestablish, throughout the mining and reclamation process, the essential hydrologic functions of alluvial valley floors within an affected area. These functions shall be reestablished by reconstructing those geologic, hydrologic and biologic characteristics that support those functions.

**C.** The characteristics that support the essential hydrologic, functions of alluvial valley floors are those in Paragraph (3) of Subsection B of 19.8.10.1006 NMAC and those other geologic, hydrologic, or biologic characteristics identified during premining investigations or monitoring conducted during the surface coal mining and reclamation operation.  
[11-29-97; 19.8.23.2300 NMAC- Rn, 19 NMAC 8.2.23.2300, 9-29-2000]

**19.8.23.2301     ALLUVIAL VALLEY FLOORS: PROTECTION OF FARMING AND WATER SUPPLIES:**

**A.** Surface coal mining and reclamation operations shall not interrupt, discontinue, or preclude farming on alluvial valley floors, unless:

- (1) the premining land use is undeveloped rangeland which is not significant to farming; or
- (2) the area of affected alluvial valley floor is small and provides or may provide negligible support for production from one or more farms.

**B.** If environmental monitoring shows that a surface coal mining operation is interrupting, discontinuing, or precluding farming on alluvial valley floors, the operation shall cease until remedial measures are taken by the person who conducts the operation. The remedial measures shall be approved by the director prior to the resumption of mining.

**C.** Surface coal mining and reclamation operations shall not cause material damage to the quality or quantity of water in surface or underground water systems that supply alluvial valley floors. If environmental monitoring shows that the surface coal mining operation is causing material damage to water that supplies alluvial valley floors, the mining operations shall cease until remedial measures are taken by the person who conducts the operation. The remedial measures shall be approved by the director prior to the resumption of mining operations.

**D.** Subsections A and B of 19.8.23.2301 NMAC do not apply to those lands which were identified in a reclamation plan approved by the state prior to August 3, 1977 for any surface coal mining and reclamation operation that, in the year preceding August 3, 1977:

- (1) produced coal in commercial quantities and was located within or adjacent to an alluvial valley floor, or
- (2) obtained specific permit approval by the New Mexico coal surface mining commission to conduct surface coal mining and reclamation operations within an alluvial valley floor.

[11-29-97; 19.8.23.2301 NMAC- Rn, 19 NMAC 8.2.23.2301, 9-29-2000]

**19.8.23.2302 ALLUVIAL VALLEY FLOORS: PROTECTION OF AGRICULTURAL USES:** Surface coal mining and reclamation operations shall be conducted to ensure that the agricultural utility and the level of productivity of alluvial valley floors in affected areas are reestablished.

[11-29-97; 19.8.23.2302 NMAC- Rn, 19 NMAC 8.2.23.2302, 9-29-2000]

**19.8.23.2303 ALLUVIAL VALLEY FLOORS: MONITORING:**

**A.** An environmental monitoring system shall be installed, maintained and operated by the permittee on all alluvial valley floors during surface coal mining and reclamation operations and continued until all bonds are released in accordance with 19.8.14 NMAC. The monitoring system shall provide sufficient information to allow the director to determine that:

- (1) the agricultural utility and production of the alluvial valley floor not within the affected area is being preserved;
- (2) the potential agricultural utility and production on the alluvial valley floor within the affected area has been reestablished;
- (3) the important characteristics supporting the essential hydrologic functions of the alluvial valley floor in the affected area have been reestablished after mining; and
- (4) the important characteristics supporting the essential hydrologic functions of an alluvial valley floor in areas not affected are preserved during and after mining.

**B.** Monitoring shall be performed at adequate frequencies, to indicate long-term trends that could affect agricultural use of the alluvial valley floor.

**C.** Monitoring shall be performed during operations, to identify characteristics of the alluvial valley floor not identified in the permit application and to evaluate the importance of all characteristics.

**D.** All monitoring data collected and analyses thereof shall routinely be made available to the director.

[11-29-97; 19.8.23.2303 NMAC- Rn, 19 NMAC 8.2.23.2303, 9-29-2000]

#### **HISTORY OF 19.8.23 NMAC:**

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

The material in Part 23 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 23 Special Performance Standards - Operations in Alluvial Valley Floors, filed 11-13-97, to 19.8.23 NMAC Special Performance Standards - Operations in Alluvial Valley Floors, effective 09-29-2000.