

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 8 COAL MINING
PART 25 SPECIAL PERFORMANCE STANDARDS - MOUNTAIN TOP REMOVAL

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

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

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

19.8.25.4 DURATION: Permanent.
[19.8.25.4 NMAC - N, 9-29-2000]

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

19.8.25.6 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.
[19.8.25.6 NMAC - N, 9-29-2000; A, 1-15-2002]

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

19.8.25.8 - 19.8.25.2499 [RESERVED]
[19.8.25.8 - 19.8.25.2499 NMAC - N, 9-29-2000]

19.8.25.2500 MOUNTAIN TOP REMOVAL: PERFORMANCE STANDARDS: Surface coal mining activities may be conducted under a variance from the requirement of this part for restoring affected areas to their approximate original contour, if:

- A.** the director grants the variance under a permit in accordance with 19.8.10.1001 NMAC;
- B.** the activities involve the mining of an entire coal seam running through the upper fraction of a mountain, ridge, or hill, by removing all of the overburden and creating a level plateau or gently rolling contour with no highwalls remaining;
- C.** an industrial, commercial, agricultural, residential, or public facility (including recreational facilities) use is proposed and approved for the affected land;
- D.** the alternative land use requirements of 19.8.20.2073 NMAC are met;
- E.** all applicable requirements of this part, the act and 19.8.1 through 19.8.35 NMAC, other than the requirement to restore affected areas to their approximate original contour, are met;
- F.** an outcrop barrier of sufficient width, consisting of the toe of the lowest coal seam, and its associated overburden, are retained to prevent slides and erosion, except that the director may permit an exemption to the retention of the coal barrier requirement if the following conditions are satisfied:
 - (1)** the proposed mine site was mined prior to May 3, 1978, and the toe of the lowest seam has been removed;
 - (2)** a coal barrier adjacent to a head-of-hollow fill may be removed after the elevation of a head-of-hollow fill attains the elevation of the coal barrier if the head-of-hollow fill provides the stability otherwise ensured by the retention of a coal barrier; or
 - (3)** the operator demonstrates to the director, and the director determines that no outcrop barrier is necessary to prevent slides and erosion.

G. the final graded slopes on the mined area are less than 1v:5h, so as to create a level plateau or gently rolling configuration, and the out slopes of the plateau do not exceed 1v:2h except where engineering data substantiates, and the director finds, in writing, and includes in the permit under 19.8.10.1001 NMAC, that a minimum static safety factor of 1.5 will be attained;

H. the resulting level or gently rolling contour is graded to drain inward from the out slope, except at specified points where it drains over the out slope in stable and protected channels. The drainage shall not be through or over a valley fill or head-of-hollow fill;

I. natural watercourse below the lowest coal seam mined are not damaged;

J. all waste and acid-forming or toxic-forming materials, including the strata immediately below the coal seam, are covered with non-toxic spoil to prevent pollution and achieve the approved postmining land use; and

K. spoil is placed on the mountaintop bench as necessary to achieve the postmining land use approved under Paragraphs (3) and (4) of Subsection A of 19.8.25.2500 NMAC. All excess spoil material not retained on the mountaintop shall be placed in accordance with 19.8.20.2020 and 2034 through 2037 NMAC. [11-29-97; 19.8.25.2500 NMAC- Rn, 19 NMAC 8.2.25.2500, 9-29-2000]

HISTORY OF 19.8.25 NMAC:

Pre-NMAC History:

The material in Part 25 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 25 Special Performance Standards - Mountain Top Removal, filed 11-13-97, to 19.8.25 NMAC Special Performance Standards - Mountain Top Removal, effective 09-29-2000.