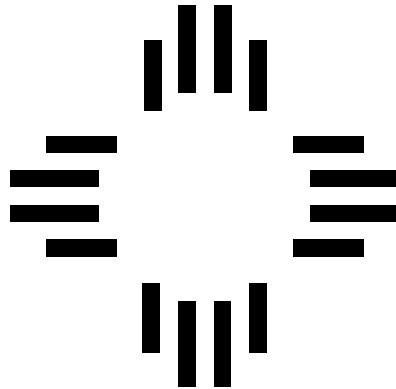


New Mexico Register

Volume XII, Issue Number 20
October 31, 2001



The official publication for all notices of rulemaking and filings of adopted, proposed and emergency rules in New Mexico

The Commission of Public Records
Administrative Law Division
2001

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New Mexico Register

Volume XII, Number 20

October 31, 2001

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Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. "No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico register as provided by the State Rules Act. Unless a later date is otherwise provided by law, the effective date of a rule shall be the date of publication in the New Mexico register." 14-4-5 NMSA 1978

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The New Mexico Register has a new web address

The New Mexico Register is now available at
<http://www.nmcpr.state.nm.us/nmregister>

Notices of Rulemaking and Proposed Rules

NEW MEXICO BOARD OF EXAMINERS FOR ARCHITECTS

PO Box 509
Santa Fe, NM
505-827-6375

Regular Meeting

The New Mexico Board of Examiners for Architects will hold a regular open meeting of the Board in Albuquerque, New Mexico on Friday, November 16, 2001. Disciplinary matters may also be discussed. The meeting will be held at the University of New Mexico School of Architecture, 2414 Central SE at 9:00 a.m. in Room 117.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the meeting, please contact the Board Office at 827-6375 at least one week prior to the meeting. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact the Board Office if a summary or other type of accessible format is needed.

NEW MEXICO CONSTRUCTION INDUSTRIES COMMISSION

Notice is hereby given that the Construction Industries Commission will hold a regular meeting on Friday, November 16, 2001 at 9:30 a.m., at the Regulation and Licensing Department, Main Conference Room, 725 St. Michael's Drive, Santa Fe, New Mexico. The Commission will consider pending agenda items and discuss such other business as may require formal action by the Commission. Anyone who requires special accommodations is requested to notify the Commission at 725 St. Michael's Drive, Santa Fe, New Mexico 87501 of such needs at least ten days prior to the meeting.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

NOTICE

The New Mexico Human Services Department (HSD) will hold a public hearing at 1:30 p.m., on November 15, 2001, at

the State Library at 1205 Camino Carlos Rey, Santa Fe, New Mexico. The subject of the hearing will be Medically Fragile Waiver.

Individuals served through the Medically Fragile (MF) Home and Community-Based Waiver programs receive a variety of services, which may include Case Management, Home Health Aide, Nutritional Counseling, Institutional Respite, and Speech Language Therapy. The proposed changes introduce In-home Respite as a new service under the Medically Fragile Waiver.

Interested persons may testify or submit written comments no later than 5:00 p.m., November 15, 2001, to Robin Dozier Otten, Deputy Secretary, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in any HSD public hearing, program or services, please contact the NM Human Services Department toll-free at 1-888-997-2583, in Santa Fe at 827-3156, or through the department TDD system, 1-800-609-4833, in Santa Fe call 827-3184. The Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

Copies of the Human Services Register are available for review at the local Income Support Division offices or by sending a self-addressed stamped envelope to Medical Assistance Division, Planning & Program Operations Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348 or on the Medical Assistance Division website at www.state.nm.us/hsd/mad.htm.

NEW MEXICO DEPARTMENT OF LABOR

JOB TRAINING DIVISION

NOTICE OF PUBLIC HEARING FOR RULE-MAKING

The New Mexico Department of Labor State Administrative Entity (SAE), State Planning, Policy and Technical Assistance (SPPTA) Bureau will hold a public hearing for rule-making on proposed SAE Workforce Investment Act (WIA) Issuances entitled:

11.2.31 NMAC POLICY REGARDING CENTRALIZATION OF LOCAL AREA ONE-STOP CENTER INITIATIVES. This provides clarification and direction regarding State Workforce Development Board decisions.

11.2.32 NMAC MODIFICATION AND REVISION GUIDELINES FOR STATE AND LOCAL WORKFORCE INVESTMENT PLANS. This provides direction and requirements in effecting modifications to the State or local plans.

11.2.34 NMAC WORKFORCE INVESTMENT ACT (WIA) INCUMBENT WORKER POLICY AND GUIDELINES. This provides guidance regarding "incumbent" worker training requirements. An incumbent worker is an employed adult but who does not necessarily have to meet the eligibility requirements for intensive and training services.

The Public Hearing will be held on Friday, November 30, 2001 at 9:00 a.m. in the Aspen Plaza conference room located at 1596 Pacheco Street, Room 201, Santa Fe, New Mexico. Interested persons who have a disability and require some accommodation in attending the public hearing or having a policy communicated to them, should submit a written request identifying the disability and the type of accommodations needed to: Ms. Carol Szpakowski, SPPTA Bureau, New Mexico Department of Labor, Job Training Division, P.O. Box 4218, Santa Fe, NM 87502. If such request is not made in advance, the availability of accommodation on-site cannot be guaranteed.

Inquiries or requests for copies of the policies, referred to above, may be addressed to the SPPTA Bureau by calling Ms. Szpakowski at (505) 827-6827 in Santa Fe.

NEW MEXICO MINING COMMISSION

NOTICE OF PUBLIC MEETING AND HEARING OF THE NEW MEXICO MINING COMMISSION

The New Mexico Mining Commission will hold a regular meeting and hearing at **9:00 A.M. Friday, December 14, 2001** in Room 326 of the State Capitol Building (the Roundhouse) in Santa Fe, NM.

During the meeting, the Mining

Commission will conduct public hearings on two petitions for rulemaking: the September 21, 2001 Joint Petition for Rulemaking (01-04) submitted by the NM Environment Department, Mining and Minerals Division, Phelps Dodge Tyrone, Inc., Chino Mines Company, and Cobre Mining Company relating to extending the current deadline in 19.10.5.501 NMAC for approval of closeout plans for certain existing mining operations from December 31, 2001 until July 1, 2002; the August 6, 2001 Department of Game and Fish Petition for Rulemaking (01-03) relating to amending Rule 205 of the Mining Act Rules which addresses fees.

Copies of the petitions are available from the New Mexico Energy, Minerals and Natural Resources Department, Mining and Minerals Division, 1220 South Saint Francis Drive, Santa Fe, NM 87505 or by calling 505/476-3400. At the conclusion of each hearing, the Mining Commission may deliberate and make final decisions on the petition.

Additionally, the Commission may discuss and possibly adopt an Open Meetings Act Resolution; listen to MMD's presentation of their Annual Report to the Commission; discuss pending litigation; and consider other issues that may come before it.

A final copy of the agenda for the meeting/hearing will be available at least 24 hours before the meeting and may be obtained by contacting Alysia Leavitt or John Pfeil at 476-3400. A copy of the petitions may also be obtained by contacting Leavitt or Pfeil. If you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Leavitt or Pfeil at 476-3400 at least 48 hours prior to the hearing. Public documents can be provided in various accessible forms. Please contact Leavitt or Pfeil if a summary or other type of accessible form is needed.

The following procedures apply to the petitions for rulemaking.

The hearing/s on the petition/s for rulemaking will be conducted in accordance with the Mining Act and the Mining Commission's Guidelines for Rulemaking. All interested persons may participate in the hearing, and will be given an opportunity to submit relevant evidence, data, views, and arguments, orally or in writing, to introduce exhibits and to examine witnesses.

Any person, including the petitioner, who intends to present technical testimony at the

hearing shall file a notice of intent to present testimony. The notice shall do the following: identify the persons for whom the witness(es) will testify; identify each technical witness the person intends to present and state the qualifications of that witness including a description of the technical witness's education and experience; summarize, or include a copy of, the direct testimony of each technical witness and state the anticipated duration of the testimony of that witness; include the text of any recommended modifications to the proposed regulatory change; and list and describe, or attach, all exhibits anticipated to be offered by the person at the hearing.

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer exhibits in connection with their testimony, so long as the exhibit is not unduly repetitious of the testimony.

A member of the general public who wishes to submit a written statement to the record proper, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing, or submit it at the hearing.

Notices of intent to present technical testimony must be received by the Clerk of the Mining Commission, C/O Mining and Minerals Division, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505 not later than 5 p.m. Thursday, November 29, 2001 and should reference the petition number and the date of the hearing.

NEW MEXICO PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

NOTICE OF P.E.R.A. RULEMAKING

PERA will consider amendments to its rules promulgated under the Public Employees Retirement Act, Judicial Retirement Act, Magistrate Retirement Act and Deferred Compensation Act. Changes are proposed for the following PERA Rules:

- 2.80.100 NMAC General Provisions
- 2.80.200 NMAC Organization and Operation of the Public Employees Retirement Board
- 2.80.400 NMAC Employee Membership
- 2 NMAC 80.500 Remittance of Contributions
- 2.80.600 NMAC Service Credit and Purchase of Service Credit
- 2.80.700 NMAC Normal Retirement

- 2.80.1100 NMAC Retired Members
- 2.80.2100 NMAC Member Contributions
- 2.83.400 NMAC Service Credit
- 2.83.500 NMAC Member Contributions
- 2.83.700 NMAC Retirement
- 2.83.1200 NMAC Remittance of Contributions
- 2.84.400 NMAC Service Credit
- 2.84.500 NMAC Member Contributions
- 2.84.700 NMAC Retirement
- 2.84.1200 NMAC Remittance of Contributions
- 2.85.100 NMAC General Provisions
- 2.85.200 NMAC Domestic Relations Orders for Division of Deferred Compensation Accounts at Divorce/Withholding of Child Support Obligations
- 2.85.300 NMAC Default

Copies of the draft rules are available for inspection in the Association's Office of General Counsel. Copies of the draft rules may be purchased for \$3.00. Written comments, inquiries or requests for copies should be directed to Tracy Hughes or Judy Olson, PERA Office of General Counsel, P. O. Box 2123, Santa Fe, New Mexico, 87504-2123, (505) 827-4768 or 1-800-342-3422. To be considered, written comments, arguments, views or relevant data should be submitted by 5:00 p.m., November 9, 2001. The PERA Board will review and consider all written comments addressing the proposed rule changes.

A formal rulemaking hearing will be held on Tuesday, November 13, 2001, at 8:30 a.m. in the PERA Board Room of the PERA Building, 1120 Paseo De Peralta, Santa Fe, New Mexico. Oral comments will be taken at the public hearing. Final action on the rules will occur at the monthly meeting of the PERA Board on Thursday, November 29, 2001, which will be held at 9:00 a.m. in Apodaca Hall of the PERA Building. All interested parties are requested to attend. Lobbyists must comply with the Lobbyist Regulation Act, NMSA 1978, Sections 2-11-1 through 9 (1999), which applies to rulemaking proceedings.

Individuals with a disability who are in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing may contact Jane Clifford at 505-827-1232 or toll free at 1-800-342-3422 seven days prior to the hearing or as soon as possible. Public documents associated with the hearing can be provided in various accessible forms.

PERA will also formally review and adopt the renumbering and reformatting of the PERA rules for the purpose of conforming to the current NMAC requirements.

NEW MEXICO COMMISSION OF PUBLIC RECORDS

NOTICE OF REGULAR MEETING

The New Mexico Commission of Public Records has scheduled a regular meeting for Tuesday, November 6, at 9:00 A.M. The meeting will be held at the New Mexico Library, Archives and Records Center Building Commission Room, an accessible facility, located at 1209 Camino Carlos Rey, Santa Fe, NM. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing, please contact the Administrative Assistant at 476-7902 by November 2, 2001. Public documents including the agenda and minutes of the meeting can be provided in various accessible formats. A final copy of the agenda will be available 24 hours before the hearing.

NOTICE OF RULEMAKING

The following record retention and disposition schedules will be presented to the Commission of Public Records for consideration and adoption:

Modifications

- | | |
|---|--|
| 1.15.2 NMAC, General Administrative Records | 1.15.3 NMAC, General (Interpretive) Administrative Records |
| 1.18.469 NMAC, State Racing Commission | 1.18.632 NMAC, Workers' Compensation Administration |
| 1.18.369 NMAC, Commission of Public Records | 1.18.665 NMAC, Department of Health |

Repeal and Replace

- 1.18.446 NMAC Board of Medical Examiners

Reformats (adoption of new structure, style, and format):

<u>New NMAC</u>	<u>Old NMAC</u>	<u>Part Name</u>
1.17.205 NMAC	1 NMAC 3.2.92.205	JRRDS Supreme Court Law Library
1.17.210 NMAC	1 NMAC 3.2.92.210	JRRDS Judicial Standards Commission
1.17.215 NMAC	1 NMAC 3.2.92.215	JRRDS Court of Appeals
1.17.216 NMAC	1 NMAC 3.2.92.216	JRRDS Supreme Court
1.17.218 NMAC	1 NMAC 3.2.92.218.03	JRRDS NM Magistrate Courts
1.17.264 NMAC	1 NMAC 3.2.92.264	Attorneys and the District Offices
1.18.606 NMAC	1 NMAC 3.2.93.606	ERRDS Commission for the Blind
1.18.644 NMAC	1 NMAC 3.2.93.664	ERRDS Division of Vocational Rehabilitation
1.19.2 NMAC	1 NMAC 3.2.94.100	LGRRDS Office of County Assessor
1.19.3 NMAC	1 NMAC 3.2.94.200	LGRRDS Office of the County Clerk
1.19.4 NMAC	1 NMAC 3.2.94.300	LGRRDS Board of County Commissioners/County Manager
1.19.5 NMAC	1 NMAC 3.2.94.400	LGRRDS Office of the County Sheriff
1.19.6 NMAC	1 NMAC 3.2.94.500	LGRRDS Office of the County Treasurer
1.19.7 NMAC	1 NMAC 3.2.94.700	LGRRDS Southern Sandoval County Arroyo Flood Control Authority

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF AN)
 INQUIRY INTO)
 ELECTRIC ENERGY) Utility Case
 POLICY PRINCIPLES.) No. 3668

NOTICE OF INQUIRY

NOTICE IS HEREBY GIVEN that the New Mexico Public Regulation Commission ("Commission") is commencing an inquiry into the subject of Electric Energy Policy Principles. This matter comes before the Commission upon its own Motion. Being fully apprised of the premises,
THE COMMISSION FINDS AND CONCLUDES:

- In view of the recent passage of Senate Bill 266 and the resulting five-year delay in restructuring of the electric industry, the Commission should begin an inquiry into the subject of Electric Energy Policy Principles. This inquiry should proceed as set out in this Notice.
- The Commission will take written comments on the draft policy principles set out in Exhibit 1 attached to this Notice. Any person wishing to file comments may do so by submitting written comments no later than October 30, 2001. All comments shall bear the caption and docket number contained at the top of this Notice. Reply comments may be filed no later than November 15, 2001. Comments shall answer the following questions: Do you agree or disagree with each of the principles? How would the principles be implemented? Is there any difficulty with implementing any of the principles? Should any principles be added to the list?

- Comments submitted in this case shall be sent to:
 Maria Brito
 New Mexico Public Regulation Commission
 P.O. Box 1269
 Santa Fe, NM 87504-1269
 Telephone: (505) 827-6940

IT IS THEREFORE ORDERED:

- An inquiry into the subject Electric Energy Policy Principles is hereby commenced as provided by this Notice.
- Interested persons and Utility Division Staff shall file their written comments as provided in this Notice.
- Staff shall cause this Notice to be published in three newspapers of general circulation and in the *New Mexico Register*, and shall provide the Notice by e-mail or by facsimile transmission to those persons who have so requested.
- This Notice is effective immediately.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 18th day of September, 2001.

NEW MEXICO PUBLIC REGULATION COMMISSION

TONY SCHAEFER, CHAIRMAN

HERB H. HUGHES, VICE CHAIRMAN

RORY McMINN, COMMISSIONER

JEROME D. BLOCK, COMMISSIONER

LYNDA M. LOVEJOY, COMMISSIONER

**NEW MEXICO
DEPARTMENT OF PUBLIC
SAFETY**

NEW MEXICO LAW ENFORCEMENT
ACADEMY
TRAINING & RECRUITING DIVISION
4491 CERRILLOS ROAD
SANTA FE, NM 87507-9721

NOTICE OF NMLEA BOARD MEETING AND PUBLIC HEARING

The New Mexico Law Enforcement Academy Board will hold a regularly scheduled Board Meeting on Tuesday, December 4, 2001, in Albuquerque, New Mexico.

In conjunction with the Board Meeting, there will be a Public Hearing on the 2002-2003 Biennium Training Requirements (Subsection C of 10.29.7.8 NMAC).

Copies of proposed plans, standards, requirements, or rules may be obtained by calling (505) 827-9255.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Darrel Hart, (505) 827-9255, as soon as possible. Public documents can be provided in various accessible formats.

Please contact Darrel Hart if additional information is needed.

**End of Notices and
Proposed Rules Section**

Adopted Rules and Regulations

NEW MEXICO STATE DEPARTMENT OF EDUCATION EDUCATION BUILDING 300 DON GASPAR SANTA FE, NEW MEXICO 87501-2786

The New Mexico State Board of Education has renumbered, reformatted, and made technical corrections to the following rules to comply with the New Mexico Administrative Code (NMAC) requirements.

NMAC I Part #	NMAC II Part #	RULE NAME
6 NMAC 4.2.4.1	6.60.2 NMAC	Definitions of "License", "Licensed", and "Licensure"
6 NMAC 4.2.4.3	6.60.6 NMAC	Continuing Licensure for Licensed Educators in New Mexico
6 NMAC 4.2.3.3	6.61.3 NMAC	Licensure in Middle Level Education, Grades 5-9
6 NMAC 4.2.3.1	6.63.2 NMAC	Licensure for School Nurses, Grades K - 12
6 NMAC 4.2.3.13	6.63.7 NMAC	Licensure for School Social Workers, K-12
6 NMAC 4.7.1.1	6.64.2 NMAC	Competencies for Entry-Level Language Arts Teachers
6 NMAC 4.7.1.2	6.64.3 NMAC	Competencies for Entry-Level Reading Teachers
6 NMAC 4.7.1.3	6.64.4 NMAC	Competencies for Entry-Level Mathematics Teachers
6 NMAC 4.7.1.5	6.64.6 NMAC	Competencies for Entry-Level Social Studies Teachers
6 NMAC 4.7.1.6	6.64.7 NMAC	Competencies for Entry-Level Health Education Teachers
6 NMAC 4.7.1.7	6.64.8 NMAC	Competencies for Entry-Level Library Media Specialists
6 NMAC 4.7.1.8	6.64.9 NMAC	Competencies for Entry-Level Information Technology Coordinators

NEW MEXICO ENVIRONMENT DEPARTMENT

20 NMAC 7.2, Wastewater and Water Supply Facilities, Rural Water Supply Infrastructure, filed 12/01/1994, is hereby repealed and replaced by 20.7.2 NMAC, effective 10/31/01.

NEW MEXICO ENVIRONMENT DEPARTMENT

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 7 WASTEWATER AND WATER SUPPLY FACILITIES
PART 2 RURAL WATER SUPPLY INFRASTRUCTURE

20.7.2.1 ISSUING AGENCY: Department of Environment.
[20.7.2.1 NMAC – Rp 20 NMAC 7.2.100, 10/31/2001]

20.7.2.2 SCOPE: All persons applying for financial assistance under the Rural Infrastructure Act, Chapter 75, Article 1 NMSA 1978.
[20.7.2.2 NMAC – Rp 20 NMAC 7.2.101, 10/31/2001]

20.7.2.3 STATUTORY AUTHORITY: NMSA 1978, Section 75-1-3, and NMSA 1978, Section 9-7A-6D.
[20.7.2.3 NMAC – Rp 20 NMAC 7.2.102, 10/31/2001]

20.7.2.4 DURATION: Permanent.

[20.7.2.4 NMAC – Rp 20 NMAC 7.2.103, 10/31/2001]

20.7.2.5 EFFECTIVE DATE. October 31, 2001. Unless a later date is cited at the end of a section.

[20.7.2.5 NMAC – Rp 20 NMAC 7.2.104, 10/31/2001]

20.7.2.6 OBJECTIVES:

A. To provide financial assistance to local authorities for the construction or modification of water supply and wastewater facilities in order to correct demonstrably hazardous or inadequate conditions.

B. To provide guidelines for the Department's rating of water supply and wastewater facility construction projects submitted pursuant to the RIA, for highest priority based on public health needs.

[20.7.2.6 NMAC – Rp 20 NMAC 7.2.105, 10/31/2001]

20.7.2.7 DEFINITIONS:

A. "Average Residential User Cost Reduction Grant" means a grant for the purpose of reducing the average residential user cost to a reasonable level as determined by the Department for an eligible financially needy loan recipient whose water supply facility serves a population of less than three thousand;

B. "Base Interest Rate" means the annual interest rate for loans to local authorities that do not qualify for average user cost reduction grants or zero percent loans;

C. "Fund" means the Rural Infrastructure Revolving Loan Fund;

D. "Local Authority" means any incorporated city, town, village, county, mutual domestic association, public water cooperative association, or sanitation district whose water supply or wastewater facility serves a population of less than 10,000;

E. "Operate and Maintain" means to conduct all necessary activities, including but not limited to replacement of equipment or appurtenances, to assure the dependable and economical function of a water supply or wastewater facility in accordance with its intended purpose;

F. "Priority Ranking System" means the system for rating water supply or wastewater facility construction projects for which loan applications have been received pursuant to the Rural Infrastructure Act;

G. "Priority List" means a list of water supply and wastewater facility construction projects rated according to the priority ranking system pursuant to the RIA;

H. "RIA" means the Rural Infrastructure Act, Chapter 75, Article 1 NMSA 1978;

I. "Water Supply Facility" includes but is not limited to the source of supply of water, pumping equipment, storage facilities, transmission lines, treatment works, and distribution systems; and

J. "Wastewater Facility" includes but is not limited to collection lines, pumping equipment, treatment works, and disposal piping or process units;

K. "Zero Percent Loan" means a loan which carries no interest for the purpose of reducing the average residential user cost to a reasonable level as determined by the Department for an eligible

financially needy loan recipient whose water supply or wastewater facility serves a population of less than 3,000.

[20.7.2.7 NMAC – Rp 20 NMAC 7.2.106, 10/31/2001]

20.7.2.8 – 20.7.2.199 [RESERVED]

[20.7.2.8 – 20.7.2.199 NMAC – Rp 20 NMAC 7.2.107 – 199, 10/31/2001]

20.7.2.200 ELIGIBILITY:

A. Grants and loans shall be made only to local authorities that:

(1) agree to operate and maintain the water supply or wastewater facilities so that the facilities will function properly over their structural and material design life, which shall not be less than twenty years;

(2) require the contractor of the construction project to post a performance and payment bond in accordance with the requirements of Section 13-4-18 NMSA 1978;

(3) provide a written assurance, signed by an attorney, that the local authority has proper title, easements, and rights-of-way to the property upon or through which the water supply or wastewater facility proposed for funding is to be constructed or extended;

(4) meet the requirements for financial capability set by the Department to assure sufficient revenues to operate and maintain the facility for its useful life and to repay the loan;

(5) pledge sufficient revenues for repayment of the loan, provided that such revenues may by law be pledged for that purpose;

(6) agree to properly maintain financial records and to conduct an audit of the project's financial records;

(7) are included on the RIA priority list;

(8) have a treasurer, clerk, secretary-treasurer, or other individual responsible for the financial aspects of the project who is bonded;

(9) employ a registered professional engineer licensed in the state of New Mexico to provide and be responsible for all engineering services on a project; and

(10) provide a written notice to the Department of completion and start of operation of the water supply or wastewater facility.

A. Loans and grants made pursuant to the RIA shall not be used by the local authority on any project constructed in fulfillment or partial fulfillment of requirements made of a subdivider by the provisions of the Land Subdivision Act, Sections 47-5-1 to 47-5-8 NMSA 1978, or the New Mexico Subdivision Act, Sections 47-6-1 to 47-6-29, and 47-5-9 NMSA 1978.

B. Plans and specifications for a water supply or wastewater facility construction project shall be approved by the Department before grant or loan disbursements to pay for construction costs are made to a local authority.

C. A local authority which receives RIA funds shall comply with all applicable federal, state, and local laws and regulations, including but not limited to those related to procurement practices, construction wage rates, and these regulations. [20.7.2.200 NMAC – Rp 20 NMAC 7.2.200, 10/31/2001]

20.7.2.201 ELIGIBLE AND NONELIGIBLE ITEMS:

A. Eligible items include but are not limited to the costs of engineering feasibility reports, contracted engineering services, archeological surveys, and contracted construction.

B. Eligible items, for loan funds only, include the costs of water rights, land, system acquisition, easements and rights-of-way. Legal costs, Fiscal agents' fees and refinancing of program loans are only eligible for loan funds.

C. Administrative costs of the local authority are ineligible. [20.7.2.201 NMAC – Rp 20 NMAC 7.2.201, 10/31/2001]

20.7.2.202 RESPONSIBILITIES OF THE DEPARTMENT; APPLICATION PROCEDURES:

A. The Department shall administer the RIA Program.

B. Applications are to be submitted on standard forms provided by the Department.

C. All applications for assistance under the RIA are due on the date(s) specified by the Department.

D. The Department shall review the application for eligibility, technical merits, and financial capability, and rate the applications based on the priority ranking system described in Section 20.7.2.300 NMAC.

E. The Department shall make loans and, if applicable, average user cost reduction grants and/or zero percent loans to local authorities in order of priority on the current fiscal year priority list and considering the following:

(1) willingness of a local authority to accept a loan;

(2) financial capability of the local authority to repay the loan, to properly operate and maintain the water supply or wastewater facility, to maintain a replacement fund and a debt service reserve fund; and

(3) readiness to proceed with the

project.

F. The Department shall establish procedures to determine when the principal and interest portion of an average residential user cost is a reasonable cost.

G. The Department shall establish procedures for the allocation and approval of average residential user cost reduction grants and zero percent loans which:

(1) shall reduce only the principal and interest portion of the average residential user cost for a recipient whose water supply or wastewater facility serves a population of less than 3,000; and

(2) shall be for financially needy local authorities receiving RIA loan funds and which comply with the conditions outlined in the RIA:

(a) the construction project is designed using the most cost-effective and dependable option;

(b) the system is designed with adequate built-in expansion capacity;

(c) other sources of grant funds have been sought and are not available in a timely manner;

(d) the project cannot feasibly be reduced in scope or phased, so as to bring it within available loan funds and within reasonable user cost; and

(e) the local authority's median household income (MHI) is less than ninety percent of the statewide non-metropolitan MHI based on the most current decennial census.

H. Loan agreements will be prepared by the Department and executed for those projects which can be financed with available funds.

[20.7.2.202 NMAC – Rp 20 NMAC 7.2.202, 10/31/2001]

20.7.2.203 LOAN AND GRANT DISBURSEMENT REQUIREMENTS:

A. Interim loan disbursements to pay for contracted engineering services and other professional services may be made prior to approval of the plans and specifications by the Department.

B. Interim and final loan and grant disbursements may be made by the Department on a monthly basis as work is progressing.

C. The above loan and grant disbursements shall be made provided the local authority receiving RIA funds has complied with the requirements of these regulations and the Department's administrative procedures.

[20.7.2.203 NMAC – Rp 20 NMAC 7.2.203, 10/31/2001]

20.7.2.204 LOAN AND GRANT LIMITATIONS:

A. The base interest rate shall be an annual interest rate of three percent.

B. No loan recipient eligible to receive a grant under the RIA shall receive a grant in any one year totaling more than \$200,000.

C. A zero percent interest loan, in any one year, may not exceed \$200,000.

D. The total of all loans in any one year may not exceed \$500,000.

E. The maximum assistance, including both loans and grants, which a local authority may receive in any one year under the RIA is \$500,000.

F. A loan under RIA shall be for a period of time not to exceed twenty years.

G. The repayment of a loan shall be in equal annual installments beginning one year after completion of the project. The repayment of the interest on the loan accumulated during the design and construction of a project may be included in the final loan amount, but it shall not be counted in determining the maximum loan amount.

H. Existing loans under the Rural Infrastructure Act may be refinanced when the annual interest rate set by the department is at least one percentage point less than the annual interest rate on the existing loan. The request for refinance of an existing loan must be submitted in writing to the department.

[20.7.2.204 NMAC – Rp 20 NMAC 7.2.204, 10/31/2001]

20.7.2.205 RATE-SETTING AUTHORITY: In the event a local authority fails to make the prescribed loan repayment, the Department is authorized to set water or wastewater user rates in the area of the local authority’s jurisdiction in order to provide sufficient money for repayment of the loan and proper operation and maintenance of the water supply or wastewater facility.

[20.7.2.205 NMAC – Rp 20 NMAC 7.2.205, 10/31/2001]

20.7.2.206 – 20.7.2.299 [RESERVED]
[20.7.2.206 – 20.7.2.299 NMAC – Rp 20 NMAC 7.2.206 – 299, 10/31/2001]

20.7.2.300 ELEMENTS OF RATING CRITERIA:

A. The Department’s rating procedures for water supply construction projects submitted pursuant to the RIA shall include evaluation of:

(1) microbiological, turbidity, inorganic, organic, radiological, secondary parameters, and any other water quality

parameters determined by the Department to be pertinent to the overall quality of the water provided by the water supply facility;

(2) components of the water supply facility, including but not limited to:

- (a) treatment;
- (b) disinfection;
- (c) storage;
- (d) distribution capacity;
- (e) reliability of the system;
- (f) potential for emergency assistance;

(g) need for expansion;
(h) age of the system; and
(i) overall condition of the system; and

(3) the number of individuals served by the local authority’s water supply facility, with a project serving a smaller number of individuals receiving a higher rating than a project serving a larger number of individuals.

B. The Department’s rating procedures for wastewater facility construction projects submitted pursuant to the RIA shall include evaluation of:

(1) stream standards, groundwater quality, quality of wastewater discharge, and any other water quality parameters determined by the Department to be pertinent to the quality of surface or ground waters of the state.

(2) components of the wastewater facility, including but not limited to:

- (a) collection;
- (b) pumping;
- (c) treatment;
- (d) disposal;
- (e) reliability of the system;
- (f) potential for emergency assistance;

(g) need for expansion;
(h) age of the system;
(i) overall condition of the system; and

(3) the number of individuals served by the local authority’s wastewater facility, with a project serving a smaller number of individuals receiving a higher rating than a project serving a larger number of individuals.

C. New systems shall be rated by evaluating only those applicable elements of the rating criteria listed in Subsection A or B of this section.

[20.7.2.300 NMAC – Rp 20 NMAC 7.2.300, 10/31/2001]

20.7.2.301 – 20.7.2.399 [RESERVED]
[20.7.2.301 – 20.7.2.399 NMAC – Rp 20 NMAC 7.2.301 – 399, 10/31/2001]

20.7.2.400 SEVERABILITY. - If any provision or application of this Part is held invalid, the remainder or its application

to other situations of persons shall not be affected.

[20.7.2.400 NMAC – Rp 20 NMAC 7.2.400, 10/31/2001]

20.7.2.401 CONSTRUCTION:
— This Part shall be construed so as to effectuate the purpose of the RIA..

[20.7.2.401 NMAC – Rp 20 NMAC 7.2.401, 10/31/2001]

20.7.2.402 SAVINGS CLAUSE.
— Repeal of 20 NMAC 7.2 shall not affect any action pending under those provisions on the effective date of this Part..

[20.7.2.403 NMAC – Rp 20 NMAC 7.2.403, 10/31/2001]

HISTORY OF 20.7.2 NMAC:

Pre-NMAC History:
Material in this part was derived from that previously filed with the commission of public records- state records center and archives as:

- Environmental Improvement Board rules: EIB 77-1, Regulations Governing Water Supplies, filed 12-12-77;
- EIB/WSR 1, Regulations Governing Water Supplies, filed 3-11-12-85;
- EIB/WSR 2, Regulations Governing Water Supplies, filed 9-12-12-88;
- EIB/WSR 3, Water Supply Regulations, filed 4-16-91.

History of Repealed Material:

20 NMAC 7.2, Waste Water and Water Supply Facilities-Rural Water Supply Infrastructure, 12-01-94.

**NEW MEXICO
DEPARTMENT OF GAME
AND FISH**

**TITLE 19 N A T U R A L
RESOURCES AND WILDLIFE
CHAPTER 35 C A P T I V E
WILDLIFE USES
PART 10 PROTECTION FOR
AMPHIBIANS AND REPTILES**

19.35.10.1 ISSUING AGENCY:
New Mexico Department of Game and Fish.
[19.35.10.1 NMAC - N, 10-31-01]

19.35.10.2 SCOPE: To prohibit, permit and regulate commercial collecting of free-ranging, native amphibians and reptiles.
[19.35.10.2 NMAC - N, 10-31-01]

**19.35.10.3 S T A T U T O R Y
AUTHORITY:** 17-1-14, 17-2-4.1, and 17-3-1 NMSA 1978 provide that the New

Mexico State Game Commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978.
[19.35.10.3 NMAC - N, 10-31-01]

19.35.10.4 DURATION:
Permanent.
[19.35.10.4 NMAC - N, 10-31-01]

19.35.10.5 EFFECTIVE DATE:
October 31, 2001.
[19.35.10.5 NMAC - N, 10-31-01]

19.35.10.6 OBJECTIVE:
Establish procedures and requirements for the take of free-ranging, native amphibians and reptiles for commercial purposes.
[19.35.10.6 NMAC - N, 10-31-01]

19.35.10.7 DEFINITIONS:

A. "Free Ranging, Native Amphibians and Reptiles" are those species and subspecies of amphibians and reptiles naturally occurring in New Mexico.

B. "Commercial purpose" shall mean for the purpose of sale, barter, or profit. For this regulation, any person in possession of the annual bag limit or more than the annual bag limit of wild-caught amphibians and reptiles shall be deemed to possess these individuals for commercial purposes. In addition, any person in possession of more than 50 individuals with unlimited take, shall be deemed to possess these individuals for commercial purposes.

C. "Take" shall mean the act of seizing, capturing, trapping, killing of free-ranging, native amphibians and reptiles.

D. "Annual bag limit" shall mean the allowed number of individual, wild-caught amphibians and reptiles taken in a license year by a licensed collector.

E. "Fish Bait" shall mean the aquatic larval stage of the tiger salamander, *Ambystoma tigrinum*, used for baiting fish.

F. "Lizard races" shall mean the organized, competitive racing of any lizard not listed as threatened or endangered.

G. "Rattlesnake Roundup" shall mean an organized public event where the purpose is to display, buy, sell, and trade rattlesnakes of the genus *Crotalus*.

H. "Captive-bred" shall mean amphibians and reptiles that are hatched or born in captivity as a result of captive breeding.
[19.35.10.7 NMAC - N, 10-31-01]

19.35.10.8 TAKE:

A. It is unlawful for any person to take free-ranging, native amphibians and reptiles in New Mexico for commercial purposes without purchasing and having in possession a valid commercial collecting permit. In addition, nonresidents must purchase and also have in their possession a nonresident hunting license listed in Section 17-3-13 NMSA 1978 required by law for the year in which the taking is done.

B. It is unlawful to take all free-ranging, native amphibians and reptiles species that are Federal or State listed as threatened or endangered.

C. Exceptions:

(1) When there is an emergency situation involving an immediate threat to human life or private property, rattlesnakes may be captured, removed, or destroyed without a permit.

(2) No permit is necessary for take of free-ranging, native amphibians and reptiles for the purpose of rattlesnake roundups, fish bait, or lizard races. A commercial collecting permit is required when these species are taken for a commercial purpose.

(3) All other species of snake (other than rattlesnakes) collected and displayed for rattlesnake roundups shall not be bought, sold, or traded unless the person collecting such snakes is in possession of a commercial take permit.

(4) Amphibians and reptiles held in captivity prior to July 1, 2001 and their progeny are not subject to these regulations.
[19.35.10.8 NMAC - N, 10-31-01]

19.35.10.9 METHODS OF LEGAL TAKE: Only the following methods shall be used for the legal, commercial take of free-ranging, native amphibians and reptiles.

A. Field collection, including the use of hand-held flashlights or spotlights, provided the collector is not in possession of a firearm or other implement whereby any big game animal or domestic animal could be killed.

B. Collection from road surfaces.

C. Lizard nooses, snake grabbers, and snake hooks.

D. Seines, cast nets, and dip nets.
[19.35.10.9 NMAC - N, 10-31-01]

19.35.10.10 ANNUAL BAG LIMITS:

A. A list of native, free-ranging amphibians and reptiles known to occur in the state of New Mexico wherein take is allowed, with the annual bag limit

for each, shall be established and maintained by the Director of New Mexico Department of Game and Fish (Director's Amphibian and Reptile List).

B. It shall be unlawful to exceed the annual bag limit of any species of amphibian or reptile listed on the Director's Amphibian and Reptile List for the current license year.
[19.35.10.10 NMAC - N, 10-31-01]

19.35.10.11 PERMIT:

A. Commercial Collecting Permit: This permit is herein established and required to be purchased and in the possession of any person prior to their attempt to take any amphibian or reptile for commercial purposes.

B. Availability and expiration: Commercial Collecting Permits will be available for purchase through the New Mexico Department of Game and Fish. Commercial Collecting Permits are valid only during the current license year for which it was purchased. License years runs from April 1 through March 31 of the following calendar year. All commercial Collecting Permits expire on March 31 of each year.

C. Nonresidents are required to purchase and have in their possession a nonresident hunting license listed in Section 17-3-13 NMSA 1978 required by law for the year in which the taking is done, in addition to the Commercial Collecting Permit.

D. FEE: Each person must pay \$50.00 to receive a Commercial Collecting Permit.
[19.35.10.11 NMAC - N, 10-31-01]

19.35.10.12 Year-End Reports: Each person who purchases a Commercial Collecting Permit is required to file a year-end report on a standardized form approved by the New Mexico Department of Game and Fish.
[19.35.10.12 NMAC - N, 10-31-01]

**NEW MEXICO
DEPARTMENT OF GAME
AND FISH**

**This is an amendment to 19.30.9
NMAC, Section 9.**

**19.30.9.9 ESTABLISHING
CERTAIN LICENSES, PERMITS,
CERTIFICATES AND FEES**

Licenses, Permit, or Certificate	Fee
Airborne Hunting	\$10.00
Call Pen	15.00
Class A Lake	101.00
Additional Class A Lake	26.00
Class A Park	501.00
Field Trial/Importation	15.00
Falconry	25.00
Game Bird Propagation	10.00
Importation	6.00
Protected Mammal	10.00
Shooting Preserve	200.00
Zoo	15.00
Scientific Collecting/Bird Banding	15.00
Bait Dealers	21.00
Transportation	0.00
Retention	1.25
Triploid Grass Carp	25.00
Commercial Fishing	25.00
Certificate of Application	6.00
Wildlife Conservation Stamp	10.00
Duplicate License	6.00
Landowner Authorization Certificate	15.00
Additional Antelope Permit Tag	25.00
Migratory Bird Permit	0.00
Big Game Depredation Damage Stamp Resident	5.00
Big Game Depredation Damage Stamp Non-resident	10.00
Public Land User Stamp	5.00
<u>Commercial Collecting Permit</u>	<u>50.00</u>

[12-20-94, 3-31-98; 19.30.9.9 NMAC - Rn, 19 NMAC 30.1.9 & A, 7-16-01; A, 10-31-01]

**NEW MEXICO
DEPARTMENT OF HEALTH**

This is an amendment to 7.27.2.10 NMAC and 7.27.2.14 NMAC:

7.27.2.10 CERTIFICATION AND LICENSURE RENEWAL:

A. Renewal Deadlines: Specific renewal requirements must be completed no later than the December 31 that occurs prior to certification or licensure expiration. A Renewal application may be submitted to the Bureau anytime after renewal requirements have been completed, up to and including, the final month of certification or licensure (March).

(1) the applicant should submit renewal paperwork to the Bureau as soon as requirements are complete, but must be postmarked no later than March 31, the final month of certification/licensure. A normal renewal fee is assessed for renewal applications postmarked anytime prior to the final month of certification/licensure.

(2) the final month of certification/licensure is historically when the Bureau processes the majority of renewal

applications. Applications received during the final month of certification or licensure (March) will be assessed a higher renewal fee due to the requirement for speedier processing.

(3) applications for renewal of certification/licensure must be postmarked no later than the last day of licensure (March 31).

(4) National Registry renewals are not accepted by the Bureau for renewal of any New Mexico certification/licensure level.

B. Downgrading to a Lower Level of Certification or Licensure: EMS Personnel may petition the Bureau to downgrade to a lower level of certification or licensure if:

~~(a)~~(1) they are in good standing at the current level of licensure; and

~~(b)~~(2) the eligibility requirements have been met for the lower EMS level, i.e., current refresher course, CE, CPR, etc.

C. Waivers: The Licensing Commission may, for good cause shown, waive portions of this Regulation pertaining to licensure renewal pursuant to Section 7.27.2.13 of this Regulation.

Persons requesting waivers for licensure renewal shall submit requests in writing to the Commission at the following address: New Mexico EMS Licensing Commission, IP & EMS Bureau, 2500 Cerrillos Rd., Santa Fe, New Mexico, 87505, Attention: Licensing Planner

D. Certified Emergency Medical Dispatcher (EMD): Renewal for a Certified EMD is required within each certification period. Documentation must show that all renewal requirements have been completed before the December 31 that occurs prior to expiration of certification. If the EMD is concurrently licensed as an EMT-B, EMT-I or EMT-P, the renewal dates for EMD certification may be adjusted by the Bureau to match the renewal dates for the EMT-B, EMT-I, or EMT-P license. The following requirements are necessary for a person to renew their certification:

(1) submit copies of course completion certificates or verification from an EMDA showing a minimum of sixteen (16) contact hours of continuing education activity; of which, at least eight (8) hours shall be medical subjects/skills of Bureau approved continuing education activity and eight (8) hours of dispatch related subjects/skills, unless the EMD is also licensed at the EMT-B, EMT-I or EMT-P level; the EMD may then use those contact hours of continuing education activity obtained during the renewal period for the EMT-B, EMT-I or EMT-P licensure toward renewal of the EMD certificate, as noted in Section 7.27.2.10; and

(2) provide evidence of current BLS CPR certification; or, if physically unable to be certified for BLS CPR, provide written documentation of current knowledge and practical applications of BLS CPR; and

(3) submit required application and payment of all certification renewal fees as required by Section 7.27.2.12 of these Regulations.

E. Certified Emergency Medical Dispatcher- Instructor: Renewal of a certified EMD- Instructor is required within each certification period. Documentation must show that all renewal requirements have been completed before the December 31 that occurs prior to expiration of certification. The following requirements are necessary for a person to renew their certification:

(1) submit verification from a Bureau approved EMD Training Program showing that the EMD- Instructor is current and in good standing with the approved EMD Training Program; and

(2) submit a copy of current licensure at the EMT-B or EMT-I or EMT-P level; and

(3) provide evidence of current Basic Life Support CPR certification; or, if physically unable to be certified for BLS CPR, provide written documentation of current knowledge and practical applications of BLS CPR; and

(4) submit the required application and payment of all certification renewal fees as required by Section 7.27.2.12 of these Regulations.

F. Emergency Medical Services First Responder: Renewal of the EMSFR license is required within each certification period. Documentation must show that all renewal requirements have been completed before the December 31 that occurs prior to expiration of certification. The following requirements are necessary for a person to renew their certification:

(1) submit a completed renewal application; and

(2) submit a copy of an EMSFR refresher course completion certificate from a New Mexico approved EMS training program; and

(3) submit a copy of the course completion certificate or verification from an EMS provider service showing a minimum of eight (8) contact hours of BLS medical subjects/skills of Bureau approved continuing education activity as noted in Section 7.27.2.10; and

(4) provide evidence of current Basic Life Support CPR certification; and

(5) submit payment of all certification renewal fees as required by Section 7.27.2.12 of these Regulations.

G. Emergency Medical Technician Basic (EMT-B): Renewal of the EMT-B license is required within each licensure period. Documentation must show that all renewal requirements have been completed before the December 31 that occurs prior to expiration of licensure. The following requirements are necessary for an EMT-B to renew their license:

(1) submit a completed renewal application; and

(2) submit a copy of an EMT-B refresher course completion certificate from a New Mexico approved EMS training program; and

(3) submit a copy of the continuing education certificates or verification from an EMS provider service showing a minimum of twenty four (24) contact hours of Bureau approved continuing education activity. A minimum of twelve (12) hours of this requirement must be concentrated on BLS medical subjects/skills, as approved by the Bureau as noted in section 7.27.2.10; and the remaining twelve (12) hours shall be any form of approved CE (BLS Medical, ILS/ALS Medical or Non-medical); and

(4) provide evidence of current Basic Life Support CPR certification; and

(5) provide a statement of verification, signed by the service Medical Director, that the applicant is competent in all skills listed in Appendix A, Section 7.27.2.14 that require Medical Direction and

(6) submit payment of all licensure renewal fees as required by Section 7.27.2.12 of these Regulations.

H. Emergency Medical Technician Intermediate (EMT-I): Renewal of the EMT-I license is required within each licensure period. Documentation must show that all renewal requirements have been met prior to the December 31 that occurs prior to expiration of licensure. The following requirements are necessary for an EMT-I to renew their license:

(1) submit a completed renewal application; and

(2) submit a copy of an EMT-I refresher course completion certificate from a New Mexico approved EMS training program; or, successfully complete a New Mexico approved EMT-P training program; or complete appropriate sections of the EMT-P training program that meet the intent of the EMT-I refresher course, as determined by the Bureau, within the past twelve (12) months; and

(3) submit a copy of continuing education certificates or verification from an EMS provider service showing a minimum of thirty (30) contact hours of Bureau approved continuing education activity. At a minimum, ten (10) hours of this requirement must be ILS/ALS medical subjects/skills, as approved by the Bureau as noted in Section 7.27.2.10; and, the remaining twenty (20) hours shall be any form of approved CE (BLS Medical, ILS/ALS Medical or Non-medical); and

(4) provide evidence of current Basic Life Support CPR certification; and,

(5) provide a statement of verification, signed by the service medical director, that the applicant is competent in all required skills. Persons who are not currently providing care through an EMS provider service and do not have a service medical director, may for good cause, petition the Commission, through the Bureau, in writing, for waiver of this requirement (see section 7.27.2.13); and

(6) submit payment of all licensure renewal fees as required by Section 7.27.2.12 of these Regulations.

I. Emergency Medical Technician Paramedic (EMT-P): Renewal of the EMT-P license is required within each licensure period. Documentation must show that all renewal requirements have

been completed before the December 31 that occurs prior to the expiration of licensure. The following requirements are necessary for an EMT-P to renew their license:

(1) submit a completed renewal application; and

(2) submit a copy of an EMT-P refresher course completion certificate from a New Mexico approved EMS training program; and

(3) submit proof of Bureau approved training which meets or exceeds the current National standards for Advanced training which is equivalent to or exceeds the Advanced Cardiac Life Support (ACLS) certification on Emergency Cardiac Care; and

(4) submit a copy of the course certificates or verification from an EMS provider service showing a minimum of forty eight (48) contact hours of Bureau approved continuing education activity, to include Bureau approved pediatric advanced life support training, i.e., PALS, PEPP or Neonatal Resuscitation Program (NRP). At a minimum, twenty-four (24) hours of this requirement must be ILS/ALS medical subjects/skills, as approved by the Bureau; and, the remaining twenty-four (24) hours shall be any form of approved CE (BLS Medical, ILS/ALS Medical or Non-medical); and

(5) provide a statement of verification, signed by the service Medical Director, that the applicant is competent in all required skills; and

(6) submit payment of all licensure renewal fees as required by Section 7.27.2.12 of these Regulations.

J. Late Renewal for all Categories: All expired New Mexico EMS personnel shall be removed from the New Mexico Registry of Emergency Medical Services Personnel on April 1, following expiration, if they failed to meet the renewal requirements in their category before the December 31 that occurs prior to expiration of certification/licensure; or, if they failed to postmark and submit renewal paperwork to the Bureau by the March 31 deadline, expiration of certification/licensure. The Bureau provides two (2) methods for expired EMD's, EMD- Instructor's, EMSFR's and EMT's to regain their certification/licensure. These are Reinstatement and Re-entry.

K. Reinstatement: Those persons who have completed the renewal requirements before the December 31 cutoff, but failed to renew certification or licensure by March 31, may renew between April 1 and May 31 of the expiration year. Renewal paperwork for reinstatement must be received at the Bureau by May 31. An increased fee will be assessed for reinstatement.

ment. See Fees, Section 7.27.2.12 of these Regulations.

L. Re-entry: A person whose certification or license is expired, and does not meet the circumstances of Section K above, and expiration of the previously held certification or license is less than three (3) years old, may re-enter EMS at the previously held level if the person left EMS in good standing; and, successfully completes the following:

(1) complete a New Mexico approved refresher training course at the appropriate level, and any other training requirements required by the Bureau at that time; and

(2) if an EMSFR, EMT-B or EMT-I applicant provide evidence of current BLS CPR training; and,

(3) if an EMT-P applicant, provide evidence of current training in advanced courses including cardiac care, pediatric care, pre-hospital care and advanced cardiac life support; and

(4) successfully complete the New Mexico State licensing examination, at the appropriate level (maximum of two (2) examination attempts allowed), if applicable; and

(5) if EMD or EMD-I applicant, provide evidence of current BLS CPR certification; and

provide verification of a minimum of sixteen (16) hours of continuing education activity, of which eight (8) hours shall be medical subjects/skills and eight (8) hours shall be dispatch related subjects/skills of Bureau approved continuing education activity.

(6) if EMD-I applicant, provide evidence of current EMT-B licensure; and

(7) submit required application and payment of certification and licensure fees as identified for the appropriate level in Section 7.2.27.12 of these Regulations.

M. Expiration of License for Greater than Three (3) Years: A person whose certification or license has been expired for more than three (3) years from the date of expiration shall be considered an initial certification/licensure applicant. To become certified or licensed, a person must complete the requirements of Section 7.27.2.9 of these Regulations.

N. Continuing Education: Continuing Education (CE) credit may be granted for any training that has been approved in advance by the State ALS Coordinator. All programs wishing to grant Continuing Education to certified EMD's, EMD-I's, EMSFRs and licensed EMT's in New Mexico shall submit the appropriate documentation to the Bureau, regardless of any National Registry review process, at least thirty (30) days in advance.

There will be no approval of CE's acquired after training except in extenuating circumstances. CE's are awarded for education accomplished after certification or licensure for those EMS personnel being certified or licensed through Equivalency or National Registry. Applications for Continuing Education approval shall be made upon the currently approved forms for CE application, and may be subject to review by the appropriate Regional EMS Office

(1) any subject that is found by the Bureau to be relevant to the education of Certified EMSFR's or EMD's and licensed EMT's may be approved by the Bureau upon submission of a complete course synopsis to the Bureau's State ALS Coordinator. This includes any outlines of annual CE training programs.

(2) CE's may be awarded for EMS articles written by EMS personnel for newspapers, magazines, journals, and other periodicals. EMS personnel shall submit a CE application form with the article attached to the State ALS Coordinator for consideration of award of appropriate CE's.

(3) Continuing Education shall be of five (5) types:

(a) Basic Life Support (BLS) Medical CE: shall be granted for those subjects which are primarily targeted at basic medical subjects/skills; and

(b) Intermediate Life Support/Advanced Life Support (ILS/ALS) Medical CE: shall be granted for those subjects which are primarily targeted toward advanced medical subjects/skills; and

(c) combination BLS and ILS/ALS medical CE: shall be granted for those subjects whose goals and objectives provide the student with additional knowledge and/or review in emergency medical skills, and is pertinent to the approved curriculum for each classification of EMS provider. These programs may include conferences, seminars, workshops or organized in-service training programs that are medical in content and apply to all levels as approved on a case-by-case basis by the State ALS Coordinator.

(d) non-Medical CE: shall be those CE's granted for any EMS related subjects/skills that are not BLS or ILS/ALS medical CE's, including subjects that are relevant to the education of EMS personnel, but are not primarily medical in content. All non-medical CE shall be approved by the State ALS Coordinator.

(e) targeted EMD CE's: shall be those CE's that specifically pertain to EMD functions. All targeted EMD CE's shall be approved by the State ALS Coordinator.

(4) a maximum of four (4) hours of BLS medical CE may be awarded for BLS CPR training during the renewal peri-

od for EMD, EMT-B and EMT-I personnel when BLS CPR has been accomplished on more than one (1) occasion during the two (2) year renewal period. Also, a maximum of eight (8) hours of ILS/ALS medical CE may be granted for ACLS refresher training during the renewal period of EMT-P personnel when taken on more than one (1) occasion during the two (2) year renewal period.

(5) A maximum of twelve (12) hours of BLS medical CE may be allowed for licensing examination skill evaluator activities.

(6) EMT's or EMD's who teach Bureau approved continuing education programs or curriculum may be credited the same number of CE hours as the students who are taking the program.

(7) A maximum of twelve (12) hours of ILS/ALS medical CE may be allowed for Paramedic preceptor activities. These CE's may only be awarded by an approved New Mexico Training Program upon approval by the State ALS Coordinator. Paramedic programs wishing to award CE credit need to apply for an approval number as outlined in Appendix E, Section 7.27.2.14 of these Regulations.

O. Non-Medical CE: Non-Medical CE shall be any EMS related subjects/skills that are not BLS or ILS/ALS medical CE's including:

(1) subjects relevant to the education of EMS personnel, but are not primarily medical in content. In general, Firefighter training may not be considered EMS related. The State ALS Coordinator shall determine those subjects that will be credited for non-medical.

(2) participation in special projects involving health promotion and/or injury prevention may be approved for non-medical CE credit. The project coordinator shall obtain pre-approval.

P. Record Keeping: Once approval of a CE program is obtained and the course is presented, records of attendance must be maintained. The EMS Bureau reserves the right to audit the records of approved CE programs, therefore it is required that records be kept for a minimum of thirty-six (36) months by the service.

(1) in order for participating EMS personnel to receive credit, each individual shall be given a certificate or letter of attendance/completion and advised to retain it until their certification or licensure renewal. Many EMD Agencies (EMDA) and EMS services have computerized records of their personnel concerning CE. The EMS Bureau will recognize CE summary documentation (on letterhead) from EMDA or EMS Service Directors, Training

Coordinators, Medical Directors, or CE Coordinators with appropriate original signatures.

(2) course completion letters or certificates shall contain the following minimum information:

- (a) location and date of the CE program
- (b) title of the program
- (c) number of actual contact hours
- (d) type of CE
- (e) name of participant
- (f) name and level of certification/licensure of CE Instructor
- (g) signature of CE Coordinator
- (h) the statement: "Reviewed and Approved by the New Mexico EMS Bureau for Continuing Education"

(i) EMS Bureau Approval Number

Q. Receipt of Certification/Licensure Renewal from the Bureau: for individuals who have submitted their complete certification/licensure renewal packet to the Bureau in a timely manner, the Bureau shall review the renewal packet in the order they are received as follows:

(1) should there be a delay in notification from the Bureau about the status of the certification/licensure renewal beyond the expiration of the certificate/license, the individual shall remain certified/licensed until:

- (a) notified by the Bureau by Certified, Return Receipt Requested mail, or
- (b) they receive their certificate/license from the Bureau;

(2) should an individual's renewal packet not be complete, the individual shall be notified by the Bureau via Certified, Return Receipt Requested mail; and

(3) An exception to (1) and (2) above is if an individual certified/licensed fails to notify the Bureau of an address change.

(4) Once notified by Certified mail that a problem exists with a certification/license, and the certification/license has expired, the individual shall not remain certified/licensed.

[7.27.2.10 NMAC - Rp 7 NMAC 27.2.10, 9/13/01; A, 10/31/01]

7.27.2.14 APPENDIX A: SCOPES OF PRACTICE FOR FULLY CERTIFIED/LICENSED EMERGENCY MEDICAL SERVICES PERSONNEL

A. Certified Emergency Medical Dispatcher (EMD):

(1) allowable skills: EMD's who are educated in an EMD training program

which has been approved by the Bureau; and, who are currently certified by the Bureau; and, who function with a New Mexico Emergency Medical Dispatch Agency (EMDA) that uses the Emergency Medical Dispatch Priority Reference System (EMDPRS), may perform the following in compliance with the protocols established by the EMDA Medical Director:

(a) process calls for medical assistance in a standardized manner, using the approved EMDPRS protocol to elicit required information for evaluating, advising, and treating sick or injured individuals, and dispatching an appropriate EMS response.*

(b) provide pre-arrival instructions to the patient through the caller when possible and appropriate to do so while functioning in compliance with the Emergency Medical Dispatch Priority Reference System (EMDPRS).*

(2) * UNDER MEDICAL DIRECTION

(3) note 1: Prior to accomplishing a new skill, technique, medication, or procedure, it shall be documented by the service director, medical director or approved EMS training institution that the EMS provider has been appropriately trained to perform those new skills, techniques, medications, or procedures.

B. Certified EMS First Responder (EMSFR):

(1) allowable skills:

- (a) basic airway management
- (b) use of basic adjunctive airway equipment
- (c) positive pressure oxygen delivery inhalation devices
- (d) suctioning
- (e) cardiopulmonary resuscitation
- (f) obstructed airway management
- (g) bleeding control via direct pressure
- (h) spine immobilization; basic splinting
- (i) administration of oral glucose in conscious patient*
- (j) scene assessment, triage, scene safety
- (k) use of statewide EMS communications systems

(l) semi-automatic defibrillation (including rhythm documentation of cardiac activity)* **

(m) emergency childbirth (normal presentation)

(n) glucometry

- (2) allowable drugs:
 - (a) oxygen
 - (b) oral glucose preparation *

~~(3) *UNDER MEDICAL CONTROL: "Supervision, provided by or under~~

~~the direction of physicians to providers by written protocols or on-line medical control, which is direct communication with a medical doctor."~~

(3) wilderness protocols: the following skills shall only be used by providers who have a current wilderness certification, from a Bureau approved Wilderness First Responder Course, who are functioning in a wilderness environment as a wilderness provider (an environment in which transport time to a hospital exceeds two (2) hours, except in the case of an anaphylactic reaction, in which no minimum transport time is required), and are authorized by their medical director to provide the treatment.

- (a) administration of epinephrine
- (b) minor wound cleaning and management
- (c) cessation of CPR
- (d) field clearance of the Cervical-spine
- (e) reduction of dislocations resulting from indirect force of the patella, digit, and anterior shoulder

(4) *under medical control: "supervision, provided by or under the direction of physicians to providers by written protocols or on-line medical control, which is direct communication with a medical doctor."

~~{(4)}~~ (5) **prior to utilizing this skill, each certified EMS First Responder must receive didactic and practical skills training on their local service's semi-automatic defibrillation equipment. Additionally, each EMSFR must have a signed authorization from the service medical director to perform semi-automatic defibrillation. This authorization shall be retained on file at the EMS service's headquarters or administrative offices.

~~{(5)}~~ (6) note 1: Prior to accomplishing a new skill, technique, medication, or procedure, it shall be documented by the service director, or approved EMS training institution that the EMS provider has been appropriately trained to perform those new skills, techniques, medications, or procedures.

C. EMT-BASIC (EMT-B)

(1) allowable skills:

- (a) all certified EMS First Responder skills
- (b) emergency procedures as taught in standard EMT-B courses
- (c) use of multi-lumen airways (examples: PTL~~{S}~~ Δ and Combi-tube)*
- (d) splinting
- (e) wound management
- (f) pneumatic anti-shock garment*
- (g) monitoring of blood glucose

with automated glucometry

(h) emergency childbirth

(i) administration of approved medications via the following routes:

(i) PO (by mouth)

(ii) subcutaneous for administration of epinephrine in anaphylaxis only, (see 2ee below)

(iii) intramuscularly for administration of Narcan*

(iv) sublingual**

(j) administer a patient's own medication under on-line medical control, when available. When on-line medical control is unavailable, administering is allowed under off-line medical control, if the EMT-B is working under medical direction using approved written medical protocols. The allowed medications are: *

(i) pre-measured inhalation devices*

(ii) pre-measured epinephrine devices* **

(k) administer a patient's own Nitroglycerine for unrelieved chest pain, with on-line medical control only**

(l) transport of patients with nasogastric tubes, urinary catheters, heparin/saline locks and PEG tubes* **

(2) allowable drugs:

(a) all allowable certified EMS First Responder medications*

(b) activated charcoal*

(c) acetylsalicylic acid, for adults with chest pain suggestive of cardiac problems*

(d) acetaminophen, for children with fever during long transports*

(e) epinephrine, pre-measured (1:1000, no single dose greater than .3cc) subcutaneous for

anaphylaxis only, under on-line medical control, when available. When on-line medical control is unavailable, administration is allowed under off-line medical control, if the EMT-Basic is working under medical direction, with approved written medical protocols.* **

(f) Narcan (IM or SQ)* **

(3) *UNDER MEDICAL CONTROL: "supervision, provided by or under the direction of physicians to providers by written protocols or on-line medical control, which is direct communication with a medical doctor."

(4) **prior to utilizing any new skill, technique, medications or procedures, it shall be documented by the service director, medical director, or approved EMS training institution that the EMS provider has been appropriately trained to perform those new skills, techniques, medications or procedures on the equipment provided by their local service. Additionally, each EMT-B shall have a signed authorization from the

service's medical director to perform semi-automatic defibrillation [~~or administration of epinephrine~~], administration of the patient's own Nitroglycerine, or administration of epinephrine. This authorization shall be retained on file at the EMS service's headquarters or administrative offices.

D. EMT-INTERMEDIATE (EMT-I)

(1) allowable skills:

(a) all EMT-Basic skills

(b) peripheral venous puncture

(c) blood drawing

(d) I.V. fluid therapy (except blood or blood products)

(e) use of multi-lumen airways (examples: PTLA and Combi-tube)

(f) administration of approved medications via the following routes:

(i) intravenous

(ii) subcutaneous

(iii) nebulized inhalation

(iv) sublingual

(v) intraosseous tibial infusions in pediatric patients. (May be used only after two (2)

peripheral intravenous attempts have failed or if there is no reasonable possibility of securing peripheral intravenous access. Limited to one (1) attempt, unless second (2nd) attempt authorized by on-line medical control at the receiving institution)

(vi) endotracheal (for administration of epinephrine only, under the direct supervision

of an EMT-Paramedic, or if the EMS service has an approved special skill for endotracheal intubation).

(vii) intramuscular injections, limited to deltoid and thigh sites only.

(g) monitoring I.V. solutions during transport which contain potassium (not to exceed 20mEq/1000cc or more than 10 mEq/hour).

(2) allowable drugs:

(a) all allowable EMT-Basic medications*

(b) 50% Dextrose-intravenous*

(c) Naloxone (Narcan)*

(d) Epinephrine (1:1000), subcutaneous for anaphylaxis and known asthmatics in severe respiratory distress (no single dose greater than 0.3cc). It may be administered from pre-measured devices (such as an EpiPen)*

(e) Epinephrine (1:10,000), in pulseless cardiac arrest for both adult and pediatric patients. In pediatric patients, may be given IO and in 1:1000 concentrations per PALS protocols. Epinephrine may be administered via the endotracheal tube in accordance with ACLS and PALS guidelines.*

(f) Albuterol via inhaled administration.*

(g) Nitroglycerin (sublingual) for chest pain associated with suspected acute coronary

syndromes. Must have intravenous access established prior to administration.*

(h) Morphine, for use in pain control with approval of on-line medical control.*

(i) Diphenhydramine (Benadryl) for allergic reactions.*

(j) Glucagon, to treat hypoglycemia in diabetic patients when intravenous access is not obtainable.*

(k) Immunizations and Biologicals (see Note 2)

(3) *UNDER MEDICAL CONTROL: "supervision, provided by or under the direction of physicians to providers by written protocols or on-line medical control, which is direct communication with a medical doctor."

(4) **prior to utilizing any new skill, technique, medication or procedure, it shall be documented by the service director, medical director, or approved EMS training institution that the EMS provider has been appropriately trained to perform those new skills, techniques, medications or procedures on the equipment provided by their local service. Additionally, each EMT-I shall have a signed authorization from the service's medical director to perform semi-automatic defibrillation or administration of epinephrine. This authorization shall be retained on file at the EMS service's headquarters or administrative offices.

(5) note 1: administration of immunizations and biologicals are only authorized under the following circumstances:

(a) immunizations are an integral part of general health maintenance. For EMT's to administer immunizations to the general public, the activity must be part of an official public health maintenance program, utilizing public health protocols, under the auspices of a district health officer. The administration of immunizations is to be under the direct supervision of a public health physician, nurse or other authorized public health provider. Individuals who receive immunizations from the EMT's must have or be referred to a primary care provider. The intent is that individuals should not receive sequential vaccinations without a primary care evaluation, unless specifically authorized by the local public health officer, in those cases the public health officer will work to arrange primary care for that individual.

(b) EMT-Intermediates (and EMT-Paramedics) may, under direct super-

vision, assist public health officials in the event of outbreaks or epidemics by administering immunizations or biologicals to affected populations. Examples of this include administering globulin during a Hepatitis A outbreak, or influenza vaccine during a flu epidemic.

(c) EMT-Intermediates (and EMT-Paramedics) may administer vaccines such as Hepatitis B, or apply and interpret TB skin tests (if they have completed appropriate training, see below), to fellow EMS and public safety personnel under the guidance of medical control.

(d) EMT-Intermediates (and EMT-Paramedics) may administer immunizations and biologicals, which are listed in the CDC Guidelines for Childhood and Adult Immunizations. TB skin tests may be applied and interpreted if the individual has successfully completed the Department of Health training course, "Principles and Techniques of Mantoux Skin Testing".

(e) in the event of disaster or emergency, the State EMS Medical Director may temporarily authorize the administration of other immunizations and biologicals not listed above. Legal basis: "The legal basis allowing the above expansion of the scope of practice for EMT's, and thereby avoiding the unauthorized practice of medicine, is found in the New Mexico Medical Practice Act. Section 61-6-17 H. (1) NMSA 1978 states that as an exception to the Act, certain tasks and procedures may be delegated. These are "any act, task or function of laboratory technicians or technologists, x-ray technicians, nurse practitioners, medical or surgical assistants or other technicians or qualified persons permitted by law or established by custom as part of the duties delegated to them by: (1) a licensed physician or a hospital, clinic or institution licensed or approved by the Public Health Division of the Department of Health or an agency of the federal government; or (2) a health care program operated or financed by an agency of the state or federal government".

E. EMT-PARAMEDIC (EMT-P):

(1) allowable skills:

(a) all EMT-B and EMT-I skills

(b) direct laryngoscopy

(c) endotracheal intubation

(d) thoracic decompression (needle thoracostomy)

(e) surgical cricothyroidotomy

(f) LMA insertion

(g) insertion of nasogastric tubes

(h) venous cannulation

(i) cardioversion and defibril-

lation

(j) external cardiac pacing

(k) cardiac monitoring

(l) intravenous and intraosseous infusions of approved fluids

(m) administration of approved medications via the following routes:

(i) intravenous

(ii) intraosseous

(iii) intramuscular

(iv) subcutaneous

(v) nebulized aerosol

(vi) topical

(vii) endotracheal

(viii) rectal

(ix) intradermal

(x) sublingual

(n) use of infusion pumps

(o) initiation of blood products with on-line medical control

(2) allowable drugs:

(a) all EMT Intermediate medications

(b) Adenosine (Adenocard)

(c) Albuterol

(d) Amioderone (Cordarone)

(e) Atropine Sulfate

(f) Benzodiaepines (Injectable Diazepam[Valium], lorazepam[Ativan], midazolam[Versed] (rectal Diazepam)

(g) Bretylium Tosylate (Bretlyol)

(h) Calcium preparations

(i) Diphenhydramine HCL

(Benadryl)

(j) Dopamine Hydrochloride

(k) Epinephrine

(l) Furosemide (Lasix)

(m) Glucagon

(n) Lidocaine

(o) Magnesium Sulfate

(p) narcotic analgesics (Meperidine[Demerol] and Morphine Sulfate)

(q) Nitroglycerine

(r) Oxytocin

(s) Promethazine (Phenergan)

(t) Phenylephrine nasal spray

(u) Sodium Bicarbonate

(v) topical anesthetic ophthalmic solutions

(w) Vasopressin

(3) drugs allowed for monitoring by EMT-Paramedics in transport:

(a) Potassium (no infusion pump if concentration not greater than 20mEq/1000cc)***

(b) Fibrolytic Drugs (i.e., tPA, streptokinase, etc.)***

(c) Procainamide***

(d) Heparin***

(e) Mannitol***

(f) blood and blood products

(g) Aminophylline***

(h) antibiotics

(i) Dobutamine (Dobutrex)***

(j) Sodium Nitroprusside (Nipride)***

(k) Insulin***

(l) Terbutaline***

(m) Norepinephrine

(Levophed)***

(n) Methylprednisolone***

(o) Diltiazem***

(p) Glycoprotein IIb/IIIa inhibitors/antagonists***

(q) Octreotide***

(r) TPN***

(4) skills approved for monitoring by EMT-Paramedics in transport: Internal cardiac pacing.

(5) medications for administration during patient transfer:

(a) Retavase (second dose only)

(b) Protamine Sulfate

(6) ***requires an infusion pump, when given by continuous infusion

(7) note 1: prior to accomplishing a new skill, technique, medication or procedure, it shall be documented by the service director, medical director, or approved EMS training institution that the EMS provider has been appropriately trained to perform those new skills, techniques, medications or procedures.

[7.27.2.14 NMAC - Rp 7 NMAC 27.2.14, 9/13/01; A, 10/31/01]

NEW MEXICO BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND SURVEYORS

16 NMAC 39.2 is being repealed in its entirety due to extensive changes throughout this part. It is being replaced with the new part 16.39.2 NMAC (Effective 12-01-2001).

NEW MEXICO BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND SURVEYORS

TITLE 16 OCCUPATIONAL & PROFESSIONAL LICENSING CHAPTER 39 ENGINEERING AND SURVEYING PRACTITIONERS PART 2 PROFESSIONAL DEVELOPMENT

16.39.2.1 ISSUING AGENCY: State Board of Licensure for Professional Engineers and Surveyors, 1010 Marquez Place, Santa Fe, NM 87505, Telephone No. (505) 827-7561

[16.39.2.1 NMAC - Rp 16 NMAC 39. 2.1, 12/01/2001]

16.39.2.2 SCOPE: Provisions for Part 2 apply to any person licensed as a professional engineer or a professional surveyor, or to anyone applying for licensure as a professional engineer or a professional surveyor in New Mexico.

[16.39.2.2 NMAC – Rp 16 NMAC 39.2.2, 12/01/2001]

16.39.2.3 STATUTORY AUTHORITY: NMSA 1978, Section 61-23-10 (B) prescribes that the board shall adopt and promulgate rules of professional responsibility for professional engineers and professional surveyors. Section 61-23-24.1 prescribes that “The board shall implement and conduct a professional development program. Compliance and exceptions shall be established by the regulations and rules of procedure of the board.”

[16.39.2.3 NMAC – Rp 16 NMAC 39. 2.3, 12/01/2001]

16.39.2.4 DURATION: Permanent.

[16.39.2.4 NMAC – Rp 16 NMAC 39. 2.4, 12/01/2001]

16.39.2.5 EFFECTIVE DATE: December 1, 2001, unless a later date is cited at the end of a section or paragraph.

[16.39.2.5 NMAC – Rp 16 NMAC 39. 2.5, 12/01/2001]

16.39.2.6 OBJECTIVE: The objective of Part 2 of Chapter 39 is to clearly define requirements of a professional development program for the renewal of professional engineer and surveyor licenses.

[16.39.2.6 NMAC – Rp 16 NMAC 39.2.6, 12/01/2001]

16.39.2.7 DEFINITIONS [RESERVED]

[16.39.2.7 NMAC – Rp 16 NMAC 39. 2.7, 12/01/2001]

16.39.2.8 CONTINUING PROFESSIONAL DEVELOPMENT - MANDATORY PROGRAM: The purpose of the continuing professional development requirement is to demonstrate a continuing level of professional development of professional engineers and professional surveyors.

A. Introduction - Every licensee shall meet the continuing professional development requirements of these regulations for professional development as a condition for license renewal.

B. Failure to Meet Requirements - Submission of Professional Development Hours (PDHs) shall be made concurrently with license renewal. Failure to meet the PDH requirements will result in rejection of renewal. Correction of the deficiency must be made by submission of the appropriate PDHs and

payment of the processing fee within 1 year of renewal date.

C. Definitions - Terms used in this section are defined as follows:

(1) Professional Development Hour (PDH) - A contact hour (nominal) of instruction or presentation. The common denominator for other units of credit.

(2) Continuing Education Unit (CEU) - Unit of credit customarily used for continuing education courses. One continuing education unit equals 10 hours of class in approved continuing education course.

(3) College/Unit Semester/Quarter Hour - Credit for course from ABET approved curriculum or other related college course approved in accordance with 16. 39.2.8.5.

(4) Course/Activity - Any qualifying course or activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee’s field of practice.

(5) Dual licensee - A person who is licensed as both a professional engineer and a professional surveyor.

D. Requirements - Every licensee is required to obtain 30 Professional Development Hours (PDH) units during a biennium. A maximum of 10 PDH units may be earned in self-directed study. If a licensee exceeds the biennial requirement in any biennial cycle, a maximum of 15 PDH units may be carried forward into the subsequent biennium. PDH units may be earned as follows:

(1) Successful completion of college courses.

(2) Successful completion of continuing education courses.

(3) Successful completion of correspondence, televised, videotaped, and other short courses/tutorials.

(4) Presenting or attending qualifying seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions or conferences.

(5) Teaching or instructing in 16..2.8.4.1 through 16. 39.2.8.4.4 above.

(6) Authoring published papers, articles, or books.

(7) Active participation in professional or technical societies and their committees.

(8) Patents.

(9) Subscription to a technical journal or trade publication during the first twelve (12) month of the biennium reporting period.

(10) Technical reviews, including articles from periodicals, books, video/audio cassettes, tutorials and other sources, which contribute to the technical or professional education or competency of

the licensee.

(11) Participation in civic or community activities, relevant to the engineering and surveying professions, as a speaker, instructor, presenter or panelist.

(12) Successful completion of an ethics exam that may be administered annually by the Board.

E. Units - The conversion of other units of credit to PDH units is as follows:

(1) 1 College or unit semester hour.....45 PDH

(2) 1 College or unit quarter hour.....30 PDH

(3) 1 Continuing Education Unit.....10 PDH

(4) 1 Hour of professional development in course work, seminars, or professional or technical presentations made at meetings, conventions, or conferences.....1 PDH

(5) For teaching apply multiple of 2 (Teaching credit is valid for teaching a course or seminar for the first time only. Teaching credit does not apply to full-time faculty.)

(6) Each published paper, article, or book10 PDH

(7) Active participation in professional and technical societies. (Each organization).....2 PDH/yr

(8) Each patent10 PDH

(9) 1 yr. subscription1 PDH (Max 2 PDH/ biennium)

(10) 1 hour of literature review.....1 PDH (Max 6PDH/biennium)

(11) Each civic or community activity.....1 PDH (Max 4PDH/biennium)

(12) Ethics Exam1 PDH (Max 1 PDH/biennium)

F. Determination of Credit - The Board has final authority with respect to approval of courses, credit, PDH value for courses, and other methods of earning credit.

(1) Credit for college or community college approved courses will be based upon course credit established by the college.

(2) Credit for qualifying seminars, workshops, professional conventions, and courses/activities may be recommended by the professional societies.

(3) Additional criteria for credit determination shall be included in the Board policy.

G. Record keeping - Licensees are charged with the responsibility of their own professional activities. The responsibility of maintaining records to be used to support credits claimed is the responsibility of the licensee. Records required include but are not limited to: 1) a log showing the type of activity claimed,

sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned; 2) attendance verification records in the form of completion certificates, paid receipts or other documents supporting evidence of attendance; 3) verification of subscription to a publication in the form of a paid receipt or proof of membership in a technical organization issuing a publication as a part of its membership fee; 4) a log indicating the medium used for a technical review, the subject of the review, the author or sponsoring organization, the date the review was conducted, a brief written summary of the contents of the reviewed material and the time spent on the review; and 5) the organization sponsoring a civic or community activity, the date and location of the activity, the subject of the activity and the licensee's involvement in the activity. These records must be maintained for a period of three years and copies may be requested by the Board for audit verification purposes.

H. Exemptions - A licensee may be exempt from the professional development educational requirements for one of the following reasons.

(1) New licensees by way of examination or comity/endorsement shall be exempt for the first year directly following the issuance of their license. PDH requirements will be prorated for any remaining portion of the licensing period beyond one year.

(2) A licensee serving on temporary active duty in the armed forces of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a calendar year may be exempt from obtaining the professional development hours required during that year.

(3) Licensees experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the Board may be exempt. Supporting documentation must be furnished to the board.

(4) Licensees who have been approved for "Retired Status" by the Board shall be exempt from the professional development hours required. In the event such a person elects to return to active practice of professional engineering or professional surveying, professional development hours must be earned before returning to active practice for the preceding biennial cycle.

I. Reinstatement - A licensee may bring an expired license to active status by obtaining all delinquent PDH units and complying with all other reinstatement requirements in the Act and the Board's rules and regulations. However, if the total number required to become current exceeds 30, then 30 shall be

the maximum number required.

J. Comity/Out-of-Jurisdiction Resident - Licensees who are residents of other jurisdictions shall meet the Continuing Professional Development (CPD) requirements of this Board. These requirements may be deemed satisfied when a non-resident licensee provides evidence of having met requirements for another state engineering/surveying licensing board that are equal to or exceed the requirements of this Board.

K. Dual Licensees - The number of PDH units required shall remain the same for persons who hold a dual license as a professional engineer and professional surveyor. Holders of dual licenses are free to utilize PDH units approved for either field at their sole discretion.

L. Forms - All renewal applications will require the completion of a continuing education form specified by the board PDH credit claimed. The licensee must sign the continuing education form, and submit with the renewal application and fee.

[16.39.2.8 NMAC - Rp 16 NMAC 39.2.8, 12/01/2001]

HISTORY of 16.39.2 NMAC

PRE-NMAC HISTORY: The material in this Part is derived from that previously filed with the State Records Center & Archives under: Rule No. 100.11 Regulations and Procedure - Continuing Professional Development - Mandatory Program, filed 10-28-94; Rule No. 100.11 Regulations and Rules of Procedure - Continuing Professional Development - Mandatory Program, filed 10-18-95.

POST-NMAC HISTORY: 16 NMAC 39.2, filed 03-31-1998 (Effective 04-15-1998); 16 NMAC 39.2, filed 10-16-1998 (Effective 12-01-1998).

HISTORY REPEALED MATERIAL: 16 NMAC 39.2 Professional Development, filed 10-16-1998, repealed (effective 12/01/01). Replaced by 16.39.2 NMAC, filed 10-16-01 (effective 12/01/01).

NEW MEXICO PUBLIC REGULATION COMMISSION

UTILITY DIVISION

This is an amendment to 17.5.410.7, 17.5.410.23, 17.5.410.31, 17.5.410.43, and 17.5.410.44 NMAC. This rule was also renumbered and reformatted from NMPUC Rule 410 to comply with current NMAC requirements.

17.5.410.7 DEFINITIONS: In addition to the definitions contained in NMSA 1978, Section 62-3-3, as used in this rule, unless otherwise specified:

A. automatic adjustment clause means the adjustment procedure approved by the Commission to recognize variations in the cost of fuel for electric generation, cost of purchased power, cost of purchased gas, or for any other cost factor approved by the Commission.

B. billing period means a utility service usage period in accordance with applicable tariff schedules.

C. chronically delinquent means the status of a residential customer who during the prior twelve (12) months has been disconnected by that utility for nonpayment or who on three (3) or more occasions during the prior twelve months has not paid a bill by the date a subsequent bill is rendered.

D. cycle billing means a system employed by a utility which results in the rendition of bills for utility service to various residential customers on different days but on or about the same day of each billing period.

E. delinquent means the status of a bill rendered to a residential customer for utility service which remains unpaid after the due date of the bill.

F. discontinuance of service means an intentional cessation of service by a utility not voluntarily requested by a residential customer.

G. estimated bill means a bill for utility service which is not based on an actual reading of the residential customer's meter or other measuring device for the period billed.

H. line extension means that part of a utility's system for the delivery of gas or electric utility service which extends and connects the utility's existing system to a residential customer, exclusive of yard lines or service drops.

I. medical professional means a licensed physician, physician's assistant, osteopathic physician, osteopathic physician's assistant or certified nurse practitioner.

J. rendition of a bill means the date of mailing or personal delivery of a bill by a utility.

K. residential customer means any person being supplied with and legally liable for the payment of an electric or gas utility service for that person's household or domestic uses.

L. residential service[~~or use~~] means the provision of or use of electricity or gas for household or domestic purposes.

M. special service means a service provided to a residential customer by a utility which is not subject to a tariff schedule.

N. utility charges means the billing or charges for the provision of utility service and other charges authorized by the Commission pursuant to approved tariffs.

[17.5.410.7 NMAC – Rn, NMPUC Rule 410.9 & A, 12-17-01]

17.5.410.23 PUBLIC NOTICE OF RESIDENTIAL CUSTOMER RIGHTS:

The utility shall prepare in both Spanish and English information subject to Commission approval which in layman's terms summarizes the rights and responsibilities of the utility and its residential customers in accordance with 17.5.410 NMAC. This information shall be displayed prominently by the utility and shall be available to the general public. The utility shall advise new residential customers of the availability of such information upon commencement of utility service and shall advise its existing residential customers of such availability on an annual basis. The information shall state that it is being provided in accordance with 17.5.410 NMAC and shall contain information concerning, but not limited to:

A. billing procedures, including estimated billing, budget payment plans, installment payment plans, and third party notification programs;

B. methods for residential customer verification of billing accuracy;

C. a description of the operation of applicable rate tariffs, automatic adjustment clauses, and cost of service indexing;

D. residential customer payment requirements and procedures;

E. security deposit and guarantee requirements;

F. procedures relating to discontinuance and reconnection of service;

G. the utility's inquiry, dispute, service request, and complaint procedures;

H. an explanation of meter reading procedures which would enable a residential customer to read his or her own meter;

I. a procedure whereby a residential customer may avoid discontinuance of service during an extended period of absence;

J. procedures for filing a complaint with the Commission;

K. the utility's policy concerning discontinuance of service to those whose lives or health may be endangered by discontinuance; and

L. the names and address-

es of state and local governmental agencies which have programs available to assist eligible persons with payment of their utility bills.

[17.5.410.23 NMAC – Rn, NMPUC Rule 410.23 & A, 12-17-01]

17.5.410.31 REQUIREMENTS PRIOR TO DISCONTINUANCE OF SERVICE PURSUANT TO SUBSECTION B OF 17.5.410.29 NMAC: Each utility shall file a tariff for its residential customer service [which] that shall include the following minimum standards for discontinuance of utility services.

[~~A. At least fifteen (15) days before a utility discontinues service to a residential customer the utility shall provide that residential customer with notice of each of the rights such residential customer may have under this rule relating to discontinuance of service, budget payment plans, and settlement agreements. Such notice shall be in writing in English and Spanish and shall be in simple language. Such notice shall be delivered to the affected residential customer in person or by depositing a copy of the notice in the U.S. Mail, postage prepaid, addressed to the residential customer at the address for the affected residential customer known to the utility. Such notice shall contain:~~

~~(1) the title(s), address, telephone number(s), and working hours of utility personnel responsible for carrying out the rights specified in this rule;~~

~~(2) the amount owed and the specific date service shall be stopped unless the residential customer pays the amount due or makes other arrangements with the utility concerning payment of the charges, including arrangements for a budget payment plan and settlement agreement. The consumption period over which said amount was incurred and the date and amount of the last payment shall be available upon request;~~

~~(3) a statement that if the residential customer pays that portion of the bill which is not in a bona fide dispute, the residential customer can obtain a review by utility personnel of the portion of the bill which the residential customer does dispute;~~

~~(4) a statement that a residential customer may file a complaint with the New Mexico Public Regulation Commission in accordance with 17.1.2 NMAC if the residential customer disagrees with the utility's determination concerning discontinuance of service;~~

~~(5) a statement that the utility will not discontinue service to any residence where a seriously ill person or a person whose life may be endangered by discontinuance of service resides if, at least two (2)~~

~~days prior to the proposed service discontinuance date indicated in the notice, the designated utility personnel receive a certificate or copy thereof from a practitioner of the healing arts on forms provided by the utility or other suitable forms stating that discontinuance of service might endanger the person's life, and the residential customer demonstrates to the designated utility personnel in writing on forms provided by the utility or other suitable forms that such residential customer does not have adequate financial resources to pay the utility charges when due whether or not the accuracy of such charges is the subject of a bona fide dispute; and that if service has been discontinued a utility shall reestablish service within twelve (12) hours of receipt of said certificate;~~

~~(6) a blank medical certificate which shall permit the practitioner to indicate the expected duration of the residential customer's serious illness or life endangering situation and a form for notifying the utility that the residential customer does not have adequate financial resources to pay utility charges when due. Such forms properly executed shall be adequate to delay discontinuance for at least thirty (30) days, and at the utility's option the utility may delay discontinuance for up to one hundred twenty (120) days or for a longer period of time. The utility shall promptly notify the residential customer in writing as to how long it deems the certificate to be valid; provided however, that should the circumstances upon which the certificate is based appear to have changed the utility may require additional certification;~~

~~(7) a statement in capital letters of the cost of reconnection;~~

~~(8) the following statement in capital letters, "If you have difficulty paying this bill, and feel you may qualify for assistance in paying your utility bill from the Low Income Home Energy Assistance Program or another assistance program in your community, contact the Community Assistance Section of the Human Services Department at 1-800-432-6217, or contact the customer service representative at this utility. Application forms for the Low Income Home Energy Assistance program and the Low Income Utility Payment Assistance program are available at the billing offices of this utility and at the Human Services Department. Application forms should be returned to the Human Services Department. The Human Services Department and not this utility administers the programs and determines your eligibility to receive assistance."~~

~~**B.** Each utility shall take reasonable steps to communicate with a residential customer by telephone or personal~~

contact at least two (2) days prior to the actual date of discontinuance of service in order to remind the customer of the pending date of discontinuance of service, advise the customer again as to the availability of financial assistance for utility payments, and to obtain payment of delinquent accounts. The utility employee who personally contacts a residential customer two (2) days prior to discontinuance and the utility employee sent to discontinue utility services shall note any information which is made known to the employee by the residential customer regarding any resident's serious illness or life endangering health condition, such as whether a resident is physically disabled, frail, or elderly. Such information shall immediately be reported in writing to a utility employee authorized to prevent discontinuance. That employee shall either delay the discontinuance order if it is apparent that the forms provided for in paragraph (5) of subsection A of 17.5.410.31 NMAC will be received or shall state in writing why such delay is not effected. The utility and utility employee's noting of the information made known by the residential customer and acting upon such information or failing to act on such information in good faith shall cause the utility and utility employee to be held harmless for error made. The utility employee sent to discontinue utility service shall be empowered to receive payment of delinquent bills, and upon receipt of payment said employee shall be empowered to cancel the discontinuance order.

C. Each utility shall offer its residential customers a third party notification program and develop adequate procedures for notification to its residential customers of the availability of the program. The third party notification program shall be extended only to residential customers who notify the utility in writing of their desire to participate in the program and designate a specific person, organization, or governmental agency who is ready, willing, and able to assist the residential customer in the payment of utility bills. Upon receipt of such notice from a residential customer the utility shall not discontinue service to the residential customer for nonpayment of past due charges without:

(1) contacting the designated person, organization, or governmental agency by phone or in writing at least fifteen (15) days prior to the proposed discontinuance of service; and

(2) determining that the designated person, organization, or governmental agency has not made a commitment to assist payment of the past due charge of that residential customer within a reasonable period of time.

D. When a residential customer has indicated to the utility an inability to pay utility charges and has not been chronically delinquent, the utility shall attempt to arrange an installment payment plan for the payment of past due utility charges pursuant to 17.5.410.41 NMAC. While an installment payment plan is being negotiated pursuant to 17.5.410.41 NMAC the utility shall not discontinue service to such residence. The utility may also maintain a list of organizations in the area which may provide assistance to customers in paying utility bills and shall make available application forms at its billing offices for the Low Income Home Energy Assistance program and the Low Income Utility Payment Assistance program. Although utilities do not administer these programs or make program eligibility determinations, utilities are encouraged to refer low income assistance inquiries to the Human Services Department consistent with paragraph (8) of subsection A of 17.5.410.31 NMAC.

E. Each utility shall provide a procedure for reviewing residential customer allegations that a proposed installment payment plan is unreasonable; that a utility charge is not due and owing; or that it has not violated an existing installment payment plan. Such procedure shall provide due notice to residential customers, shall not be conducted by the credit department of the utility, and the reviewing employee shall have authority to order appropriate corrective action. Such review shall stay the discontinuance of utility service until the review is completed.

F. Utility service to a residential customer may be discontinued only during the hours from 8:00 a.m. to 3:00 p.m. on Monday through Thursday and may not be discontinued less than twenty four (24) hours prior to a holiday or weekend unless the utility's business office is open for receipt of payment of past due charges and utility personnel are available to restore such service upon payment during said holiday or weekend.

G. Unless requested by the customer, no utility shall discontinue service to any residential customer for nonpayment during the period from November 15 to March 15 until at least fifteen days after the date scheduled for discontinuance of service if, prior to that date, the Human Services Department contacts the utility and certifies to the utility that the customer is eligible for utility payment assistance under the Low Income Home Energy Assistance Program and the Low Income Utility Assistance Act and that payment for the utility service provided to the customer will be made within the fifteen day period following the date scheduled for discontinu-

ance. Discontinuance of service may occur if the second fifteen (15) day period expires without receipt of payment for the service designated in the disconnect notice.]

A. Fifteen-day notice. At least fifteen (15) days before a utility discontinues service to a residential customer, the utility shall provide written notice to the customer stating its intent to discontinue service and setting forth the customer's rights regarding discontinuance of service, budget payment plans, and settlement agreements. The notice shall be in English and Spanish and shall be in simple language. The notice shall be delivered to the residential customer in person or by U.S. Mail, postage prepaid, addressed to the last address for the residential customer known to the utility. A fifteen-day notice shall contain:

(1) the title, address, telephone number, and working hours of utility personnel responsible for administering the procedures in this section;

(2) the amount owed and the specific date service shall be discontinued unless the residential customer pays the amount due or makes other arrangements with the utility concerning payment of the charges. Upon request, the utility shall provide information to the customer concerning the outstanding charges, including the dates of service during which the outstanding charges were incurred and the date and amount of the last payment;

(3) a statement that, if the residential customer pays the portion of the bill which the customer does not dispute, the utility shall review the portion of the bill which the residential customer does dispute;

(4) a statement that a residential customer may file a complaint with the Commission in accordance with 17.1.2 NMAC, Utility Division Procedures, if the residential customer disagrees with the utility's determination concerning discontinuance of service;

(5) a statement that:

(a) the utility will not discontinue service to a residence where a seriously or chronically ill person resides, or will reestablish service to such a residence, if, at least two (2) days prior to the proposed service discontinuance date specified in the notice:

(i) the utility receives a signed medical certification, valid for thirty (30) days, on the form prescribed by the Commission in 17.5.410.43 NMAC or a substantially similar form, from a medical professional stating that discontinuance of service might endanger the customer's life or health;

(ii) the utility receives a

signed financial certification, valid for ninety (90) days, on the form prescribed by the Commission in 17.5.410.44 NMAC or a substantially similar form, from the New Mexico Human Services Department or other organization providing charitable assistance stating that the customer qualifies for financial assistance from the organization executing the certificate; or from the customer demonstrating that the customer is currently eligible for financial assistance from the Medicaid program; and

(iii) the residential customer enters into a written settlement agreement or deferred payment plan with the utility;

(b) if service has been discontinued, the utility shall reestablish service within twelve (12) hours after the residential customer has satisfied the requirements of sub-paragraphs (a)(i) through (a)(iii) above;

(c) the residential customer will not be relieved of the obligation to pay for services rendered if utility service is continued or reestablished under the provisions of this paragraph; and

(d) timely delivery to the utility of duly executed medical certification and financial certification forms shall be adequate to delay discontinuance of service for at least thirty days and that the utility may, in its discretion, delay the discontinuance for a longer period.

(6) blank copies of the medical certification form prescribed by the Commission in 17.5.410.43 NMAC and the financial certification form prescribed by the Commission in 17.5.410.44 NMAC, or substantially similar forms;

(7) a statement in capital letters of the cost of reconnection;

(8) the following statement in capital letters, "If you have difficulty paying this bill, and feel you may qualify for assistance in paying your utility bill from the Low Income Home Energy Assistance Program, the Low Income Utility Payment Assistance program, or another assistance program in your community, contact the Community Assistance Section of the Human Services Department at 1-800-432-6217, or the customer service representative at this utility. Application forms for the Low Income Home Energy Assistance program and the Low Income Utility Payment Assistance program are available at the billing offices of this utility and at the Human Services Department. You should return the application forms to the Human Services Department which administers the programs and determines your eligibility to receive assistance."

B. Two-day notice. Each utility shall take reasonable steps to com-

municate with a residential customer by telephone or personal contact at least two (2) days prior to the actual date of discontinuance of service to remind the customer of the pending date of discontinuance of service, advise the customer again of the availability of financial assistance for utility service payments, and obtain payment of delinquent accounts. The utility employee who personally contacts a residential customer and the utility employee sent to discontinue utility services shall note any information made known to the employee by the residential customer regarding any resident's serious illness or life endangering health condition, such as whether a resident is physically disabled, frail, or elderly. Such information shall immediately be reported in writing to a utility employee authorized to prevent discontinuance. That employee shall either delay the discontinuance if it is apparent that the forms required by paragraphs (5) and (6) of subsection A of this section will be received, or state in writing why discontinuance of service will not be delayed. The utility and utility employee shall be held harmless for errors made in good faith in noting, acting upon, or failing to act upon the information made known by the residential customer. The utility employee sent to discontinue utility service shall be empowered to receive payment of delinquent bills, and upon receipt of payment, to cancel the discontinuance order.

C. Third-party notification: Each utility shall offer its residential customers a third party notification program and shall notify residential customers that such program is available. The utility shall extend the third party notification program to those residential customers who notify the utility in writing of their desire to participate in the program and designate a specific person, organization, or governmental agency that is ready, willing, and able to assist the residential customer with the payment of utility bills. Upon receipt of such notice from a residential customer, a utility shall not discontinue service to a participating customer for nonpayment of past due charges without:

(1) contacting the designated person, organization, or governmental agency by phone or in writing at least fifteen (15) days prior to the proposed discontinuance of service; and

(2) determining that the designated person, organization, or governmental agency has not made a commitment to assist with payment of the residential customer's past due charge within a reasonable period of time.

D. INSTALLMENT PAYMENT PLANS:

(1) A utility shall attempt to

arrange a payment plan for the payment of past due charges when a residential customer who has not been chronically delinquent indicates an inability to pay the charges. The utility shall not discontinue service to the residential customer while a payment plan is being negotiated. The utility may also maintain a list of organizations in the area that may provide assistance to customers in paying utility bills and shall notify customers that application forms for the Low Income Home Energy Assistance program and the Low Income Utility Payment Assistance program are available upon request and at its billing offices. Utilities are encouraged to refer low-income assistance inquiries to the Human Services Department consistent with paragraph (8) of subsection A of 17.5.410.31 NMAC.

(2) Each utility shall provide a procedure for reviewing residential customer allegations that a proposed payment plan is unreasonable, that a utility charge is not due and owing, or that the customer has not violated an existing payment plan. Such procedure shall provide due notice to residential customers, shall not be conducted by the credit department of the utility, and shall authorize the reviewing employee to order appropriate corrective action. A utility shall not discontinue service until the review is completed.

(3) If a residential customer fails to comply with a payment plan, a utility shall notify the customer at least seven (7) days before discontinuing service that service will be discontinued.

E. Timing of discontinuance of service. A utility may discontinue utility service to a residential customer during the hours from 8:00 a.m. to 3:00 p.m. on Monday through Thursday. A utility may not discontinue service less than twenty-four (24) hours prior to a holiday or weekend unless the utility's business office is open for receipt of payment of past due charges and utility personnel are available to restore service during the holiday or weekend once payment is received.

F. Discontinuance during the winter heating season. Unless requested by the customer, a utility shall not discontinue service to a residential customer for nonpayment during the period from November 15 to March 15 until at least fifteen (15) days after the date scheduled for discontinuance of service if, prior to that date, the Human Services Department contacts the utility and certifies to the utility that the customer is eligible for utility payment assistance under the Low Income Home Energy Assistance Program or the Low Income Utility Assistance Act and that payment for the utility service provided to the customer will be made within

the fifteen-day period following the date scheduled for discontinuance. A utility may discontinue service if the second fifteen (15) day period expires without receipt of payment for the service designated in the disconnect notice.

[17.5.410.31 NMAC – Rn, NMPUC Rule 410.31 & A, 12-17-01]

17.5.410.43 MEDICAL CERTIFICATION FORM:

MEDICAL CERTIFICATION

(VALID FOR 30 DAYS)

NOTE: You must complete both parts of this Medical Certification Form and a Financial Certification Form to continue receiving utility service.

I, [insert printed name of residential customer], hereby certify that I am the person responsible for the charges for utility service at [insert service address] that a seriously or chronically ill person, [insert name of seriously or chronically ill person] resides there, and that I am financially unable to pay my bill at this time. I understand that this certification does not relieve me of the responsibility to pay my bill, and that I must reapply for financial certification every ninety (90) days. In addition, I understand that I must make arrangements for a written settlement agreement with [insert name of utility] in order to continue receiving utility service.

date

customer's telephone number

customer's signature

I, [insert name of medical professional] certify that I am a licensed physician, physician's assistant, osteopathic physician, osteopathic physician's assistant or certified nurse practitioner who holds license number [insert license number] and that on [insert date] I examined [insert name of seriously or chronically ill person] who I am informed resides at [insert service address]. Said person is seriously or chronically ill with [describe condition]. Discontinuance of utility service to the above residence might endanger said person's health or life during the recovery period. This certification is valid for thirty (30) days.

signature of medical professional

office address and telephone number of medical professional

[17.5.410.43 NMAC – N, 12-17-01]

17.5.410.44 FINANCIAL CERTIFICATION FORM:

FINANCIAL CERTIFICATION

(VALID FOR 90 DAYS)

NOTE: You must complete Sections I and II or Section III of this Financial Certification Form and a Medical Certification Form to continue receiving utility service.

I. AUTHORIZATION TO RELEASE INFORMATION

I, [insert printed name of residential customer] authorize [insert name of assistance agency] to release information from my file (application, proof of income, proof of family, bills, other) to any other agency as deemed necessary for the purpose of qualifying for medical emergency utility service.

I understand that if I provide false information, I could be denied medical emergency utility services.

customer's signature

date

customer's social security number

customer's telephone number

service address

city

state

zip code

II. AGENCY FINANCIAL CERTIFICATION (VALID FOR 90 DAYS)

I, [insert printed name], an employee of [insert agency name], hereby certify that the above customer has qualified for [specify type of assistance].

employee's signature

employee's ID number, if applicable

date

III. FINANCIAL SELF-CERTIFICATION (VALID FOR 90 DAYS)

I, [insert printed name] hereby certify that I am the person responsible for the charges for utility service at [insert service address] that a seriously or chronically ill person, [insert name of seriously or chronically ill person], resides there, and that I qualify for financial assistance as demonstrated by the current Medicaid Eligibility ID, No. [insert ID number] a copy of which is attached hereto. I understand that this certificate does not relieve me of the responsibility to pay my bill, and that I must submit another Financial Certification Form every

ninety (90) days.

I understand that if I provide false information, I could be denied medical emergency utility services.

customer's signature

date

customer's social security number

customer's telephone number

service address

city

state

zip code

(ATTACH COPY OF MEDICAID ELIGIBILITY ID HERE)

[17.5.410.44 NMAC – N, 12-17-01]

**NEW MEXICO WATER
QUALITY CONTROL
COMMISSION**

Explanatory paragraph: This explanatory paragraph summarizes amendments to 20.6.2 NMAC which are described as follows:

1. 20.6.2.9, 1201, 1202, 1203 NMAC - "Ground Water Protection and Remediation Bureau" changed to "Ground Water Quality Bureau"
2. 20.6.2.7, 3104, 3105, 3106, 3107, 3108, 3109, 3110, 3111, 3112, 5101, 5102, 5103, 5104, 5206, 5207, 5209, 5210 NMAC - "Discharge plan", "approved plan", "plan" changed to "discharge permit" where appropriate to distinguish the plan submitted to the agency by the discharger from the permit issued by the agency which may incorporate all or part of the submitted plan.
3. 20.6.2.3109, 5002, 5004, 5101, 5102, 5103, 5104, 5200, 5201, 5202, 5203, 5204, 5205, 5206, 5207, 5208, 5209, 5210 NMAC - "Effluent disposal well" and "in situ extraction well" changed to "Class I non-hazardous well" and "Class III well," respectively.
4. 20.6.2.7 NMAC - Insertion of new definitions "cesspool," "drywell," "improved sinkhole," "motor vehicle waste disposal well," "subsurface fluid distribution system," and "discharge permit."
5. 20.6.2.7 NMAC - Amendment of definition "well."
6. 20.6.2.7 NMAC - Deletion of definitions "barrier well," "drainage well," "old stope leaching," "recharge well," "return flow well," "sand backfilling," "effluent disposal well," and "in situ extraction well."
7. 20.6.2.1201 NMAC - Insertion of two subsections amending notice of intent requirements.
8. 20.6.2.1201 NMAC - Amendment to closure plan requirement.
Amendments to the section titles.
9. 20.6.2.5001 NMAC - Insertion of a pur-

- pose section for underground injection control (UIC) wells.
10. 20.6.2.5002 NMAC - Insertion of a classification section for UIC wells.
 11. 20.6.2.5004 NMAC - Insertion of a prohibited wells and activities section.
 12. 20.6.2.5005 NMAC - Insertion of a pre-closure notification and closure requirements section for UIC wells.
 13. 20.6.2.5006 NMAC - Insertion of a requirements for Class V UIC wells section.
 14. 20.6.2.5101 NMAC - Amendment to requirements for Class I and III wells.
 15. 20.6.2.5209 NMAC - Amendment to closure plan requirement for UIC wells.
 16. 20.6.2.5300 NMAC moved to 20.6.2.5003 NMAC

**TITLE 20 ENVIRONMENTAL
PROTECTION
CHAPTER 6 WATER QUALITY
PART 2 GROUND AND SURFACE WATER PROTECTION**

20.6.2.7 DEFINITIONS :
Terms defined in the Water Quality Act, but not defined in this Part, will have the meaning given in the Act. As used in this Part:

- A. "abandoned well" means a well whose use has been permanently discontinued or which is in a state of disrepair such that it cannot be rehabilitated for its intended purpose or other purposes including monitoring and observation;
- B. "abate" or "abatement" means the investigation, containment, removal or other mitigation of water pollution;
- C. "abatement plan" means a description of any operational, monitoring, contingency and closure requirements and conditions for the prevention, investigation and abatement of water pollution, and includes Stage 1, Stage 2, or Stage 1 and 2 of the abatement plan, as approved by the secretary;
- D. "background" means, for purposes of ground-water abatement plans only and for no other purposes in this

Part or any other regulations including but not limited to surface-water standards, the amount of ground-water contaminants naturally occurring from undisturbed geologic sources or water contaminants which the responsible person establishes are occurring from a source other than the responsible person's facility. This definition shall not prevent the secretary from requiring abatement of commingled plumes of pollution, shall not prevent responsible persons from seeking contribution or other legal or equitable relief from other persons, and shall not preclude the secretary from exercising enforcement authority under any applicable statute, regulation or common law.

~~[E.]~~ **"barrier well"** means a well used to inject fluids into ground water to prevent the intrusion of saline or contaminated water into ground water of better quality;]

~~[F.]~~ **E. "casing"** means pipe or tubing of appropriate material, diameter and weight used to support the sides of a well hole and thus prevent the walls from caving, to prevent loss of drilling mud into porous ground, or to prevent fluid from entering or leaving the well other than to or from the injection zone;

~~[G.]~~ **E. "cementing"** means the operation whereby a cementing slurry is pumped into a drilled hole and/or forced behind the casing;

G. "cesspool" means a "drywell" that receives untreated domestic liquid waste containing human excreta, and which sometimes has an open bottom and/or perforated sides. A large capacity cesspool means a cesspool that receives greater than 2,000 gallons per day of untreated domestic liquid waste;

H. "collapse" means the structural failure of overlying materials caused by removal of underlying materials;

I. "commission" means:
(1) the New Mexico Water Quality Control Commission or
(2) the Department, when used in connection with any administrative and enforcement activity;

J. "confining zone" means a geological formation, group of formations, or part of a formation that is capable of limiting fluid movement from an injection zone;

K. "conventional mining" means the production of minerals from an open pit or underground excavation. Underground excavations include mine shafts, workings and air vents, but does not include excavations primarily caused by in situ extraction activities;

L. "daily composite sample" means a sample collected over any twenty-four hour period at intervals not to exceed one hour and obtained by combining equal volumes of the effluent collected, or means a sample collected in accordance with federal permit conditions where a permit has been issued under the National Pollutant Discharge Elimination System or for those facilities which include a waste stabilization pond in the treatment process where the retention time is greater than twenty (20) days, means a sample obtained by compositing equal volumes of at least two grab samples collected within a period of not more than twenty-four (24) hours;

M. "department", "agency", or "division" means the New Mexico Environment Department or a constituent agency designated by the commission.

N. "discharge permit modification" means a change in requirements of a discharge permit as requested by the discharger as a result of past, present or anticipated changes in the quality or quantity of effluent or the location of the discharge; or as required by the secretary.

O. "discharge plan" means a description of any operational, monitoring, contingency, and closure requirements and conditions for any discharge of effluent or leachate which may move directly or indirectly into ground water.

P. "discharge permit" means a discharge plan approved by the department;

[P.]Q. "disposal" means to abandon, deposit, inter or otherwise discard a fluid as a final action after its use has been achieved;

[Q.]R. "domestic liquid waste" means human excreta and water-carried waste from typical residential plumbing fixtures and activities, including but not limited to waste from toilets, sinks, bath fixtures, clothes or dishwashing machines and floor drains;

[R.]S. "domestic liquid waste treatment unit" means a watertight unit designed, constructed and installed to stabilize only domestic liquid waste and to

retain solids contained in such domestic liquid waste, including but not limited to aerobic treatment units and septic tanks;

{ S. "drainage well" means a well used to drain storm runoff into a subsurface formation;]

[S.] T. "drywell" means a well, other than an improved sinkhole or subsurface fluid distribution system, completed above the water table so that its bottom and sides are typically dry except when receiving fluids;

[T. "effluent disposal well" means a well which is used for the disposal of fluids which may have the potential to cause water pollution. Wells used in the following practices are not effluent disposal wells: conventional mining, old stope leaching and sand backfilling. Wells where the emplacement of fluids is limited to natural ground water seeping or flowing into conventional mine workings are not effluent disposal wells. Barrier wells, drainage wells, recharge wells, and return flow wells are not effluent disposal wells if the discharger can demonstrate that the discharge will not adversely affect the health of persons, and

(1) the injection fluid does not contain a contaminant which may cause an exceedance at any place of present or reasonable foreseeable future use of any primary state drinking water maximum contaminant level as specified in the "Water Supply Regulations" (20.7.1 NMAC) adopted by the Environmental Improvement Board under the Environmental Improvement Act; or

(2) the discharger can demonstrate that the injection will result in an overall or net improvement in water quality as determined by the secretary.]

U. "experimental technology" means a technology which has not been proven feasible under the conditions in which it is being tested;

V. "fluid" means material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state;

W. "ground water" means interstitial water which occurs in saturated earth material and which is capable of entering a well in sufficient amounts to be utilized as a water supply;

X. "hazard to public health" exists when water which is used or is reasonably expected to be used in the future as a human drinking water supply exceeds at the time and place of such use, one or more of the numerical standards of Subsection A of 20.6.2.3103 NMAC, or the naturally occurring concentrations, whichever is higher, or if any toxic pollutant affecting human health is present in the

water. In determining whether a discharge would cause a hazard to public health to exist, the secretary shall investigate and consider the purification and dilution reasonably expected to occur from the time and place of discharge to the time and place of withdrawal for use as human drinking water;

Y. "improved sinkhole" means a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface;

[Y.]Z. "injection" means the subsurface emplacement of fluids through a well;

[Z.]AA. "injection zone" means a geological formation, group of formations, or part of a formation receiving fluids through a well;

[AA. "in situ extraction well" means a well which injects fluids for mineral extraction, except 1) conventional mines, 2) old stope leaching, 3) the extraction of oil, natural gas, or gas extracted from coal gasification, 4) wells for which the discharger can demonstrate use as part of an experimental technology;]

BB. "motor vehicle waste disposal well" means a well which receives or has received fluids from vehicular repair or maintenance activities;

[BB.]CC. "non-aqueous phase liquid" means an interstitial body of liquid oil, petroleum product, petrochemical, or organic solvent, including an emulsion containing such material;

[CC. "old stope leaching" means the circulation of waters through the mined areas of conventional mines with or without the addition of chemicals, for the purpose of extraction of minerals;]

DD. "operational area" means a geographic area defined in a project [discharge plan] discharge permit where a group of wells or well fields in close proximity comprise a single [in situ extraction well] Class III well operation;

EE. "packer" means a device lowered into a well to produce a fluid-tight seal within the casing;

FF. "person" means an individual or any other entity including partnerships, corporation, associations, responsible business or association agents or officers, the state or a political subdivision of the state or any agency, department or instrumentality of the United States and any of its officers, agents or employees;

GG. "petitioner" means a person seeking a variance from a regulation of the commission pursuant to Section 74-6-4(G) NMSA 1978;

HH. “**plugging**” means the act or process of stopping the flow of water, oil or gas into or out of a geological formation, group of formations or part of a formation through a borehole or well penetrating these geologic units;

II. “**project discharge [plan] permit**” means a discharge [plan] permit which describes the operation of similar [in situ extraction wells] Class III wells or well fields within one or more individual operational areas;

~~[JJ.]~~ “**recharge well**” means a well used to inject fluids for the replenishment of ground water, including use to reclaim or improve the quality of existing ground water, or to eliminate subsidence associated with the overdraft of fresh water;]

~~[KK.]~~ **JJ.** “**refuse**” includes food, swill, carrion, slops and all substances from the preparation, cooking and consumption of food and from the handling, storage and sale of food products, the carcasses of animals, junked parts of automobiles and other machinery, paper, paper cartons, tree branches, yard trimmings, discarded furniture, cans, oil, ashes, bottles, and all unwholesome material;

~~[LL.]~~ **KK.** “**responsible person**” means a person who is required to submit an abatement plan or who submits an abatement plan pursuant to this Part;

~~[MM.]~~ “**return flow well**” means a well used to return to the supply aquifer, or to other ground water, the water used for heating or cooling for any purpose provided that the water does not receive any additional chemical or biological water contaminants other than heat or the absence thereof;]

~~[NN.]~~ “**sand backfilling**” means the injection of a mixture of water and sand, mill tailings or other solids into underground conventional mines;]

~~[OO.]~~ **LL.** “**secretary**” or “**director**” means the secretary of the New Mexico Department of Environment or the director of a constituent agency designated by the commission;

~~[PP.]~~ **MM.** “**sewer system**” means pipelines, conduits, pumping stations, force mains, or other structures, devices, appurtenances or facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal;

~~[QQ.]~~ **NN.** “**sewerage system**” means a system for disposing of wastes, either by surface or underground methods, and includes sewer systems, treatment works, disposal wells and other systems;

~~[RR.]~~ **OO.** “**significant modification of Stage 2 of the abatement plan**” means a change in the abatement technology used excluding design and operational

parameters, or re-location of 25 percent or more of the compliance sampling stations, for any single medium, as designated pursuant to Paragraph (4) of Subsection E of 20.6.2.4106 NMAC;

PP. “**subsurface fluid distribution system**” means an assemblage of perforated pipes, drain tiles, or other mechanisms intended to distribute fluids below the surface of the ground;

~~[SS.]~~ **QQ.** “**subsurface water**” means ground water and water in the vadose zone that may become ground water or surface water in the reasonably foreseeable future or may be utilized by vegetation;

~~[TT.]~~ **RR.** “**TDS**” means total dissolved solids as determined by the “calculation method” (sum of constituents), by the “residue on evaporation method at 180 degrees” of the “U.S. Geological Survey Techniques of Water Resource Investigations,” or by conductivity, as the secretary may determine;

~~[UU.]~~ **SS.** “**toxic pollutant**” means a water contaminant or combination of water contaminants in concentration(s) which, upon exposure, ingestion, or assimilation either directly from the environment or indirectly by ingestion through food chains, will unreasonably threaten to injure human health, or the health of animals or plants which are commonly hatched, bred, cultivated or protected for use by man for food or economic benefit. As used in this definition injuries to health include death, histopathologic change, clinical symptoms of disease, behavioral abnormalities, genetic mutation, physiological malfunctions or physical deformations in such organisms or their offspring. In order to be considered a toxic pollutant a contaminant must be one or a combination of the potential toxic pollutants listed below and be at a concentration shown by scientific information currently available to the public to have potential for causing one or more of the effects listed above. Any water contaminant or combination of the water contaminants in the list below creating a lifetime risk of more than one cancer per 100,000 exposed persons is a toxic pollutant.

acrolein
acrylonitrile
aldrin
benzene
benzidine
carbon tetrachloride
chlordane
chlorinated benzenes
 monochlorobenzene
 hexachlorobenzene
 pentachlorobenzene
1,2,4,5-tetrachlorobenzene
chlorinated ethanes
 1,2-dichloroethane

hexachloroethane
1,1,2,2-tetrachloroethane
1,1,1-trichloroethane
1,1,2-trichloroethane
chlorinated phenols
 2,4-dichlorophenol
 2,4,5-trichlorophenol
 2,4,6-trichlorophenol
chloroalkyl ethers
 bis (2-chloroethyl) ether
 bis (2-chloroisopropyl) ether
 bis (chloromethyl) ether
chloroform
DDT
dichlorobenzene
dichlorobenzidine
1,1-dichloroethylene
dichloropropenes
dieldrin
2,4-dinitrotoluene
diphenylhydrazine
endosulfan
endrin
ethylbenzene
halomethanes
 bromodichloromethane
 bromomethane
 chloromethane
 dichlorodifluoromethane
 dichloromethane
 tribromomethane
 trichlorofluoromethane
heptachlor
hexachlorobutadiene
hexachlorocyclohexane (HCH)
 alpha-HCH
 beta-HCH
 gamma-HCH
 technical HCH
hexachlorocyclopentadiene
isophorone
nitrobenzene
nitrophenols
 2,4-dinitro-o-cresol
 dinitrophenols
nitrosamines
 N-nitrosodiethylamine
 N-nitrosodimethylamine
 N-nitrosodibutylamine
 N-nitrosodiphenylamine
 N-nitrosopyrrolidine
pentachlorophenol
phenol
phthalate esters
 dibutyl phthalate
 di-2-ethylhexyl phthalate
 diethyl phthalate
 dimethyl phthalate
polychlorinated biphenyls (PCB's)
polynuclear aromatic hydrocarbons (PAH)
 anthracene
 3,4-benzofluoranthene
 benzo (k) fluoranthene
 fluoranthene
 fluorene

phenanthrene
 pyrene
 tetrachloroethylene
 toluene
 toxaphene
 trichloroethylene
 vinyl chloride
 xylenes
 o-xylene
 m-xylene
 p-xylene
 1,1-dichloroethane
 ethylene dibromide (EDB)
 cis-1,2-dichloroethylene
 trans-1,2-dichloroethylene
 naphthalene
 1-methylnaphthalene
 2-methylnaphthalene
 benzo-a-pyrene

~~[VV.]~~ **TT.** “**vadose zone**” means earth material below the land surface and above ground water, or in between bodies of ground water;

~~[WW.]~~ **UU.** “**wastes**” means sewage, industrial wastes, or any other liquid, gaseous or solid substance which will pollute any waters of the state;

~~[XX.]~~ **VV.** “**water**” means all water including water situated wholly or partly within or bordering upon the state, whether surface or subsurface, public or private, except private waters that do not combine with other surface or subsurface water;

~~[YY.]~~ **WW.** “**water contaminant**” means any substance that could alter if discharged or spilled the physical, chemical, biological or radiological qualities of water. “Water contaminant” does not mean source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954;

~~[ZZ.]~~ **XX.** “**watercourse**” means any river, creek, arroyo, canyon, draw, or wash, or any other channel having definite banks and beds with visible evidence of the occasional flow of water;

~~[AAA.]~~ **YY.** “**water pollution**” means introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or the use of property.

~~[BBB.]~~ “**well**” means a bored, drilled or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension; and;

ZZ. “**well**” means: (1) A bored, drilled, or driven shaft; (2) A dug hole whose depth is greater than the largest surface dimension; (3) An improved sinkhole; or (4) A subsurface fluid distribution system;

~~[CCC.]~~ **AAA.** “**well stimulation**” means a process used to clean the well, enlarge channels, and increase pore space in the interval to be injected, thus making it possible for fluids to move more readily into the injection zone. Well stimulation includes, but is not limited to, (1) surging, (2) jetting, (3) blasting, (4) acidizing, (5) hydraulic fracturing.

20.6.2.9 DOCUMENTS :
 Documents referenced in the Part may be viewed at the New Mexico Environment Department, ~~[Ground Water Protection and Remediation Bureau]~~ Ground Water Quality Bureau, Harold Runnels Building, 1190 St. Francis Drive, Santa Fe, New Mexico 87503.

20.6.2.1201 NOTICE OF INTENT TO DISCHARGE:

A. Any person intending to make a new water contaminant discharge or to alter the character or location of an existing water contaminant discharge, unless the discharge is being made or will be made into a community sewer system or subject to the Liquid Waste Disposal Regulations adopted by the New Mexico Environmental Improvement Board, shall file a notice with the ~~[Ground Water Protection and Remediation]~~ Ground Water Quality Bureau of the department for discharges that may affect ground water, and/or the Surface Water Quality Bureau of the department for discharges that may affect surface water. However, notice regarding discharges from facilities for the production, refinement, pipeline transmission of oil and gas or products thereof, the oil field service industry, oil field brine production wells, geothermal installations and carbon dioxide facilities shall be filed instead with the Oil Conservation Division.

B. Any person intending to inject fluids into a well, including a subsurface distribution system, unless the injection is being made subject to the Liquid Waste Disposal Regulations adopted by the New Mexico Environmental Improvement Board, shall file a notice with the Ground Water Quality Bureau of the department. However notice regarding injection to wells associated with oil and gas facilities as described in Subsection A of Section 20.6.2.1201 NMAC shall be filed instead with the Oil Conservation Division.

~~[B.]~~ **C.** Notices shall state:
 (1) the name of the person making the discharge;
 (2) the address of the person making the discharge;
 (3) the location of the discharge;
 (4) an estimate of the concentration of water contaminants in the discharge;

and

(5) the quantity of the discharge.

D. Based on information provided in the notice of intent, the department will notify the person proposing the discharge as to which of the following apply:

(1) a discharge permit is required;

(2) a discharge permit is not required;

(3) the proposed injection well will be added to the department’s underground injection well inventory;

(4) the proposed injection activity or injection well is prohibited pursuant to 20.6.2.5004 NMAC.

20.6.2.1202 FILING OF PLANS AND SPECIFICATIONS—SEWERAGE SYSTEMS:

A. Any person proposing to construct a sewerage system or proposing to modify any sewerage system in a manner that will change substantially the quantity or quality of the discharge from the system shall file plans and specifications of the construction or modification with the ~~[Ground Water Protection and Remediation Bureau]~~ Ground Water Quality Bureau of the department for discharges that may affect ground water, and/or the Surface Water Quality Bureau of the department for discharges that may affect surface water. Modifications having a minor effect on the character of the discharge from sewerage systems shall be reported as of January 1 and June 30 of each year to the ~~[Ground Water Protection and Remediation Bureau]~~ Ground Water Quality Bureau of the department for discharges that may affect ground water, or the Surface Water Quality Bureau of the department for discharges that may affect surface water.

B. Plans, specifications and reports required by this Section, if related to facilities for the production, refinement and pipeline transmission of oil and gas, or products thereof, shall be filed instead with the Oil Conservation Division.

C. Plans and specifications required to be filed under this Section must be filed prior to the commencement of construction.

20.6.2.1203 NOTIFICATION OF DISCHARGE—REMOVAL:

A. With respect to any discharge from any facility of oil or other water contaminant, in such quantity as may with reasonable probability injure or be detrimental to human health, animal or plant life, or property, or unreasonably interfere with the public welfare or the use of property, the following notifications and corrective actions are required:

(1) As soon as possible after learning of such a discharge, but in no event more than twenty-four (24) hours thereafter, any person in charge of the facility shall orally notify the Chief of the [~~Ground Water Protection and Remediation Bureau~~] Ground Water Quality Bureau of the department, or his counterpart in any constituent agency delegated responsibility for enforcement of these rules as to any facility subject to such delegation. To the best of that person's knowledge, the following items of information shall be provided:

- (a) the name, address, and telephone number of the person or persons in charge of the facility, as well as of the owner and/or operator of the facility;
- (b) the name and address of the facility;
- (c) the date, time, location, and duration of the discharge
- (d) the source and cause of discharge;
- (e) a description of the discharge, including its chemical composition;
- (f) the estimated volume of the discharge; and
- (g) any actions taken to mitigate immediate damage from the discharge.

(2) When in doubt as to which agency to notify, the person in charge of the facility shall notify the Chief of the [~~Ground Water Protection and Remediation Bureau~~] Ground Water Quality Bureau of the department. If that department does not have authority pursuant to commission delegation, the department shall notify the appropriate constituent agency.

(3) Within one week after the discharger has learned of the discharge, the facility owner and/or operator shall send written notification to the same department official, verifying the prior oral notification as to each of the foregoing items and providing any appropriate additions or corrections to the information contained in the prior oral notification.

(4) The oral and written notification and reporting requirements contained in this Subsection A are not intended to be duplicative of discharge notification and reporting requirements promulgated by the Oil Conservation Commission (OCC) or by the Oil Conservation Division (OCD); therefore, any facility which is subject to OCC or OCD discharge notification and reporting requirements need not additionally comply with the notification and reporting requirements herein.

(5) As soon as possible after learning of such a discharge, the owner/operator of the facility shall take such corrective actions as are necessary or appropriate to contain and remove or mitigate the damage caused by the discharge.

(6) If it is possible to do so without unduly delaying needed corrective actions, the facility owner/operator shall endeavor to contact and consult with the Chief of the [~~Ground Water Protection and Remediation Bureau~~] Ground Water Quality Bureau of the department or appropriate counterpart in a delegated agency, in an effort to determine the department's views as to what further corrective actions may be necessary or appropriate to the discharge in question. In any event, no later than fifteen (15) days after the discharger learns of the discharge, the facility owner/operator shall send to said Bureau Chief a written report describing any corrective actions taken and/or to be taken relative to the discharge. Upon a written request and for good cause shown, the Bureau Chief may extend the time limit beyond fifteen (15) days.

(7) The Bureau Chief shall approve or disapprove in writing the foregoing corrective action report within thirty (30) days of its receipt by the department. In the event that the report is not satisfactory to the department, the Bureau Chief shall specify in writing to the facility owner/operator any shortcomings in the report or in the corrective actions already taken or proposed to be taken relative to the discharge, and shall give the facility owner/operator a reasonable and clearly specified time within which to submit a modified corrective action report. The Bureau Chief shall approve or disapprove in writing the modified corrective action report within fifteen (15) days of its receipt by the department.

(8) In the event that the modified corrective action report also is unsatisfactory to the department, the facility owner/operator has five (5) days from the notification by the Bureau Chief that it is unsatisfactory to appeal to the department secretary. The department secretary shall approve or disapprove the modified corrective action report within five (5) days of receipt of the appeal from the Bureau Chief's decision. In the absence of either corrective action consistent with the approved corrective action report or with the decision of the secretary concerning the shortcomings of the modified corrective action report, the department may take whatever enforcement or legal action it deems necessary or appropriate.

(9) If the secretary determines that the discharge causes or may with reasonable probability cause water pollution in excess of the standards and requirements of Section 20.6.2.4103 NMAC, and the water pollution will not be abated within one hundred and eighty (180) days after notice is required to be given pursuant to Paragraph (1) of Subsection A of Section 20.6.2.1203

NMAC, the secretary may notify the facility owner/operator that he is a responsible person and that an abatement plan may be required pursuant to Section 20.6.2.4104 and Subsection A of Section 20.6.2.4106 NMAC.

B. Exempt from the requirements of this Section are continuous or periodic discharges which are made:

(1) in conformance with regulations of the commission and rules, regulations or orders of other state or federal agencies; or

(2) in violation of regulations of the commission, but pursuant to an assurance of discontinuance or schedule of compliance approved by the commission or one of its duly authorized constituent agencies.

C. As used in this Section and in Sections 20.6.2.4100 through 20.6.2.4115 NMAC, but not in other Sections of this Part:

(1) "discharge" means spilling, leaking, pumping, pouring, emitting, emptying, or dumping into water or in a location and manner where there is a reasonable probability that the discharged substance will reach surface or subsurface water;

(2) "facility" means any structure, installation, operation, storage tank, transmission line, motor vehicle, rolling stock, or activity of any kind, whether stationary or mobile;

(3) "oil" means oil of any kind or in any form including petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes;

(4) "operator" means the person or persons responsible for the overall operations of a facility; and

(5) "owner" means the person or persons who own a facility, or part of a facility.

D. Notification of discharge received pursuant to this Part or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except for perjury or for giving a false statement.

E. Any person who has any information relating to any discharge from any facility of oil or other water contaminant, in such quantity as may with reasonable probability injure or be detrimental to human health, animal or plant life, or property, or unreasonably interfere with the public welfare or the use of property, is urged to notify the Chief of the [~~Ground Water Protection and Remediation Bureau~~] Ground Water Quality Bureau of the department. Upon such notification, the secretary may require an owner/operator or a responsible person to perform corrective actions pursuant to Paragraphs (5) and (9) of

Subsection A of Section 20.6.2.1203 NMAC.

20.6.2.3104 DISCHARGE

[PLAN] PERMIT REQUIRED: Unless otherwise provided by this Part, no person shall cause or allow effluent of leachate to discharge so that it may move directly or indirectly into ground water unless he is discharging pursuant to a discharge ~~[plan approved]~~ permit issued by the secretary. When a ~~[plan] permit~~ has been ~~[approved]~~ issued, discharges must be consistent with the terms and conditions of the ~~[plan] permit~~. In the event of a transfer of the ownership, control, or possession of a facility for which ~~[an approved discharge plan]~~ a discharge permit is in effect, the transferee shall have authority to discharge under such ~~[plan] permit~~, provided that the transferee has complied with Section 20.6.2.3111 NMAC, regarding transfers.

20.6.2.3105 EXEMPTIONS

FROM DISCHARGE [PLAN] PERMIT REQUIREMENT: Sections 20.6.2.3104 and 20.6.2.3106 NMAC do not apply to the following:

A. Effluent or leachate which conforms to all the listed numerical standards of Section 20.6.2.3103 NMAC and has a total nitrogen concentration of 10 mg/l or less, and does not contain any toxic pollutant. To determine conformance, samples may be taken by the agency before the effluent or leachate is discharged so that it may move directly or indirectly into ground water; provided that if the discharge is by seepage through non-natural or altered natural materials, the agency may take samples of the solution before or after seepage. If for any reason the agency does not have access to obtain the appropriate samples, this exemption shall not apply;

B. Effluent which is discharged from a sewerage system used only for disposal of household and other domestic waste which is designed to receive and which receives 2,000 gallons or less of liquid waste per day;

C. Water used for irrigated agriculture, for watering of lawns, trees, gardens or shrubs, or for irrigation for a period not to exceed five years for the revegetation of any disturbed land area, unless that water is received directly from any sewerage system;

D. Discharges resulting from the transport or storage of water diverted, provided that the water diverted has not had added to it after the point of diversion any effluent received from a sewerage system, that the source of the water diverted was not mine workings, and that the secretary has not determined that a haz-

ard to public health may result;

E. Effluent which is discharged to a watercourse which is naturally perennial; discharges to dry arroyos and ephemeral streams are not exempt from the discharge ~~[plan] permit~~ requirement, except as otherwise provided in this section;

F. Those constituents which are subject to effective and enforceable effluent limitations in a National Pollutant Discharge Elimination System (NPDES) permit, where discharge onto or below the surface of the ground so that water contaminants may move directly or indirectly into ground water occurs downstream from the outfall where NPDES effluent limitations are imposed, unless the secretary determines that a hazard to public health may result. For purposes of this subsection, monitoring requirements alone do not constitute effluent limitations;

G. Discharges resulting from flood control systems;

H. Leachate which results from the direct natural infiltration of precipitation through disturbed materials, unless the secretary determines that a hazard to public health may result;

I. Leachate which results entirely from the direct natural infiltration of precipitation through undisturbed materials;

J. Leachate from materials disposed of in accordance with the Solid Waste Management Regulations (20 NMAC 9.1) adopted by the New Mexico Environmental Improvement Board;

K. Natural ground water seeping or flowing into conventional mine workings which re-enters the ground by natural gravity flow prior to pumping or transporting out of the mine and without being used in any mining process; this exemption does not apply to solution mining;

L. Effluent or leachate discharges resulting from activities regulated by a mining plan approved and permit issued by the New Mexico Coal Surface Mining Commission, provided that this exemption shall not be construed as limiting the application of appropriate ground water protection requirements by the New Mexico Coal Surface Mining Commission;

M. Effluent or leachate discharges which are regulated by the Oil Conservation Commission and the regulation of which by the Water Quality Control Commission would interfere with the exclusive authority granted under Section 70-2-12 NMSA 1978, or under other laws, to the Oil Conservation Commission.

20.6.2.3106 APPLICATION FOR DISCHARGE [PLAN APPROVALS] PERMITS AND RENEWALS:

A. Any person who, before or on June 18, 1977, is discharging any of the water contaminants listed in Section 20.6.2.3103 NMAC or any toxic pollutant so that they may move directly or indirectly into ground water shall, within 120 days of receipt of written notice from the secretary that a discharge ~~[plan] permit~~ is required, or such longer time as the secretary shall for good cause allow, submit a discharge plan to the secretary for approval; such person may discharge without ~~[an approved discharge plan]~~ a discharge permit until 240 days after written notification by the secretary that a discharge ~~[plan] permit~~ is required or such longer time as the secretary shall for good cause allow.

B. Any person who intends to begin, after June 18, 1977, discharging any of the water contaminants listed in Section 20.6.2.3103 NMAC or any toxic pollutant so that they may move directly or indirectly into ground water shall notify the secretary giving the information enumerated in Subsection B of Section 1201NMAC; the secretary shall, within 60 days, notify such person if a discharge ~~[plan] permit~~ is required; upon submission, the secretary shall review the discharge plan pursuant to Sections 20.6.2.3108 and 20.6.2.3109 NMAC; for good cause shown, the secretary may allow such person to discharge without ~~[an approved plan]~~ a discharge permit for a period not to extend beyond February 18, 1978; after February 18, 1978, for good cause shown the secretary may allow such person to discharge without ~~[an approved discharge plan]~~ a discharge permit for a period not to exceed 120 days.

C. A proposed discharge plan shall set forth in detail the methods or techniques the discharger proposes to use or processes expected to naturally occur which will ensure compliance with this Part. At least the following information shall be included in the plan:

(1) Quantity, quality and flow characteristics of the discharge;

(2) Location of the discharge and of any bodies of water, watercourses and ground water discharge sites within one mile of the outside perimeter of the discharge site, and existing or proposed wells to be used for monitoring;

(3) Depth to and TDS concentration of the ground water most likely to be affected by the discharge;

(4) Flooding potential of the site;

(5) Location and design of site(s) and method(s) to be available for sampling, and for measurement or calculation of flow;

(6) Depth to and lithological description of rock at base of alluvium below the discharge site if such information

is available;

(7) Any additional information that may be necessary to demonstrate that ~~[approval of the discharge plan]~~ the discharge permit will not result in concentrations in excess of the standards of Section 20.6.2.3103 NMAC or the presence of any toxic pollutant at any place of withdrawal of water for present or reasonably foreseeable future use. Detailed information on site geologic and hydrologic conditions may be required for a technical evaluation of the applicant's proposed discharge plan; and

(8) Additional detailed information required for a technical evaluation ~~[of effluent disposal wells or in situ extraction wells]~~ of underground injection control wells as provided in Sections 20.6.2.5000 through 20.6.2.~~[5300]~~ 5299 NMAC.

D. An applicant for a discharge ~~[plan]~~ permit shall pay fees as specified in Section 20.6.2.3114 NMAC.

E. An applicant for a permit to dispose of or use septage or sludge, or within a source category designated by the commission, may be required by the secretary to file a disclosure statement as specified in 74-6-5.1 of the Water Quality Act.

F. If the holder of ~~[an approved discharge plan]~~ a discharge permit submits an application for discharge ~~[plan]~~ permit renewal at least 120 days before the discharge ~~[plan]~~ permit expires, and the discharger is not in violation of the ~~[approved discharge plan]~~ discharge permit on the date of its expiration, then the existing ~~[approved discharge plan]~~ discharge permit for the same activity shall not expire until the application for renewal has been approved or disapproved. A discharge ~~[plan]~~ permit continued under this provision remains fully effective and enforceable. An application for discharge ~~[plan]~~ permit renewal must include and adequately address all of the information necessary for evaluation of a new discharge ~~[plan]~~ permit. Previously submitted materials may be included by reference provided they are current, readily available to the secretary and sufficiently identified to be retrieved.

20.6.2.3107 MONITORING, REPORTING, AND OTHER REQUIREMENTS:

A. Each discharge plan shall provide for the following as the secretary may require:

- (1) The installation, use, and maintenance of effluent monitoring devices;
- (2) The installation, use, and maintenance of monitoring devices for the ground water most likely to be affected by the discharge;
- (3) Monitoring in the vadose zone;

(4) Continuation of monitoring after cessation of operations;

(5) Periodic submission to the secretary of results obtained pursuant to any monitoring requirements in the discharge ~~[plan]~~ permit and the methods used to obtain these results;

(6) Periodic reporting to the secretary of any other information that may be required as set forth in the discharge ~~[plan]~~ permit;

(7) The discharger to retain for a period of at least five years any monitoring data required in the discharge ~~[plan]~~ permit;

(8) A system of monitoring and reporting to verify that the ~~[plan]~~ permit is achieving the expected results;

(9) Procedures for detecting failure of the discharge system;

(10) Contingency plans to cope with failure of the discharge ~~[plan]~~ permit or system;

(11) A closure plan to prevent the exceedance of standards of Section 20.6.2.3103 NMAC or the presence of a toxic pollutant in ground water after the cessation of operation which includes: a description of closure measures, maintenance and monitoring plans, post-closure maintenance and monitoring plans, financial assurance, and other measures necessary to prevent and/or abate such contamination. The obligation to implement the closure plan as well as the requirements of the closure plan, if any is required, survives the termination or expiration of the permit. A closure plan for any underground injection control well must also incorporate the applicable requirements of Sections 20.6.2.5005 and 20.6.2.5209 NMAC.

B. Sampling and analytical techniques shall conform with the following references unless otherwise specified by the secretary:

(1) Standard Methods for the Examination of Water and Wastewater, latest edition, American Public Health Association; or

(2) Methods for Chemical Analysis of Water and Waste, and other publications of the Analytical Quality Laboratory, EPA; or

(3) Techniques of Water Resource Investigations of the U.S. Geological Survey; or

(4) Annual Book of ASTM Standards. Part 31. Water, latest edition, American Society For Testing and Materials; or

(5) Federal Register, latest methods published for monitoring pursuant to Resource Conservation and Recovery Act regulations; or

(6) National Handbook of Recommended Methods for Water-Data

Acquisition, latest edition, prepared cooperatively by agencies of the United States Government under the sponsorship of the U.S. Geological Survey.

C. The discharger shall notify the secretary of any facility expansion, production increase or process modification that would result in any significant modification in the discharge of water contaminants.

D. Any discharger of effluent or leachate shall allow any authorized representative of the secretary to:

(1) inspect and copy records required by a discharge ~~[plan]~~ permit;

(2) inspect any treatment works, monitoring and analytical equipment;

(3) ~~[s]~~sample any effluent before or after discharge;

(4) use monitoring systems and wells installed pursuant to a discharge ~~[plan]~~ permit requirement in order to collect samples from ground water or the vadose zone.

E. Each discharge ~~[plan]~~ permit for ~~[an effluent disposal well or in situ extraction well]~~ an underground injection control well shall incorporate the applicable requirements of Sections 20.6.2.5000 through 20.6.2.~~[5300]~~ 5299 NMAC.

20.6.2.3108 PUBLIC NOTICE AND PARTICIPATION:

A. Within sixty (60) days of receipt of an application for a discharge ~~[plan]~~ permit, modification or renewal of ~~[an approved discharge plan]~~ a discharge permit, the department shall review the application for administrative completeness. To be deemed administratively complete, an application must provide all of the information required for purposes of issuing a public notice pursuant to Subsection C of Section 20.6.2.3108 NMAC. If the department determines that the application is not administratively complete, the department shall notify the applicant of the deficiencies and state what additional information is necessary.

B. Within thirty (30) days of deeming the application administratively complete, the department shall notify the applicant and the following persons:

(1) the public, who shall be notified through publication of a notice in a newspaper of general circulation in this state;

(2) those persons who have requested notification, who shall be notified by mail;

(3) any local, state, federal, tribal or pueblo governmental agency affected which shall be notified by certified mail;

(4) the Governor, Chairperson, or President of each Indian Tribe, Pueblo or

Nation within the state of New Mexico, as identified by the department, shall be notified by mail.

C. The public notice shall include:

- (1) name of the proposed discharger;
- (2) location of the discharge;
- (3) brief description of the activities which produce the discharge described in the application;
- (4) quantity, quality and flow characteristics of the discharge;
- (5) depth to and TDS concentration of the ground water most likely to be affected by the discharge;
- (6) brief description of the procedures followed by the secretary in making a final determination;
- (7) statement on the comment period; and
- (8) address and telephone number at which interested persons may obtain further information.

D. Following the public notice and prior to ruling on any proposed discharge ~~plan~~ permit or its modification or renewal, there shall be a period of at least thirty (30) days during which written comments may be submitted to the department and/or a public hearing requested in writing. All comments will be considered by the department. Requests for a hearing shall be in writing and shall set forth the reasons why a hearing should be held. A public hearing shall be held if the secretary determines there is significant public interest. The department shall notify the applicant of the decision and the reasons therefor in writing.

E. If a hearing is held, pursuant to Subsection D of this section, notice of the hearing shall be given by the department at least thirty (30) days prior to the hearing in accordance with Subsection B of this section. The notice shall include the information identified in Subsection C of this section in addition to the time, place and a brief description of the hearing procedures. The hearing shall be held pursuant to Section 20.6.2.3110 NMAC.

20.6.2.3109 SECRETARY APPROVAL, DISAPPROVAL, MODIFICATION OR TERMINATION OF ~~PROPOSED DISCHARGE PLANS~~ DISCHARGE PERMITS, AND REQUIREMENT FOR ABATEMENT PLANS:

A. The department shall evaluate the proposed discharge plan, modification or renewal based on information contained in the department's administrative record. The department may request from the discharger, either before or after

the issuance of the public notice, additional information necessary for the evaluation of the application. The administrative record shall consist of the application, any additional information required by the secretary, any information submitted by the discharger or the general public, other information considered by the department, and, if a public hearing is held, all of the documents filed with the hearing clerk, all exhibits offered into evidence at the hearing, and the written transcript or tape recording of the hearing.

B. The secretary shall, within sixty (60) days after the administrative record is complete and all required information is available, approve, approve with conditions or disapprove the proposed discharge plan, modification or renewal based on the administrative record. The secretary shall give written notice of the action taken to the applicant or permittee and any other person who participated in the permitting action who requests a copy in writing.

C. Provided that the other requirements of this Part are met and the proposed discharge plan, modification or renewal demonstrates that neither a hazard to public health nor undue risk to property will result, the secretary shall approve the proposed discharge plan, modification or renewal if the following requirements are met:

- (1) ground water that has a TDS concentration of 10,000 mg/l or less will not be affected by the discharge, or
- (2) the person proposing to discharge demonstrates that approval of the proposed discharge plan, modification or renewal will not result in either concentrations in excess of the standards of Section 20.6.2.3103 NMAC or the presence of any toxic pollutant at any place of withdrawal of water for present or reasonably foreseeable future use, except for contaminants in the water diverted as provided in Subsection D of Section 3109 NMAC, or
- (3) the proposed discharge plan conforms to either Subsection a or b below and Subsection c below.

(a) Municipal, Other Domestic Discharges, and Discharges from Sewerage Systems Handling Only Animal Wastes. The effluent is entirely domestic, is entirely from a sewerage system handling only animal wastes or is from a municipality and conforms to the following:

- (i) the discharge is from an impoundment or a leach field existing on February 18, 1977 which receives less than 10,000 gallons per day and the secretary has not found that the discharge may cause a hazard to public health; or
- (ii) the discharger has demon-

strated that the total nitrogen in effluent that enters the subsurface from a leach field or surface impoundment will not exceed 200 pounds per acre per year and that the effluent will meet the standards of Section 20.6.2.3103 NMAC except for nitrates and except for contaminants in the water diverted as provided in Subsection D of Section 20.6.2.3109 NMAC.; or

(iii) the total nitrogen in effluent that is applied to a crop which is harvested shall not exceed by more than 25 percent the maximum amount of nitrogen reasonably expected to be taken up by the crop and the effluent shall meet the standards of Section 20.6.2.3103 NMAC except for nitrates and except for contaminants in the water diverted as provided in Subsection D of Section 20.6.2.3109 NMAC.

(b) Discharges from industrial, mining or manufacturing operations.

(i) the discharger has demonstrated that the amount of effluent that enters the subsurface from a surface impoundment will not exceed 0.5 acre-feet per acre per year; or

(ii) the discharger has demonstrated that the total nitrogen in effluent that enters the subsurface from a leach field or surface impoundment shall not exceed 200 pounds per acre per year and the effluent shall meet the standards of Section 20.6.2.3103 NMAC except for nitrate and contaminants in the water diverted as provided in Subsection D of Section 20.6.2.3109 NMAC; or

(iii) the total nitrogen in effluent that is applied to a crop that is harvested shall not exceed by more than 25 percent the maximum amount of nitrogen reasonably expected to be taken up by the crop and the effluent shall meet the standards of Section 20.6.2.3103 NMAC except for nitrate and contaminants in the water diverted as provided in Subsection D of Section 20.6.2.3109 NMAC.

(c) All Discharges.

(i) the monitoring system proposed in the discharge plan includes adequate provision for sampling of effluent and adequate flow monitoring so that the amount being discharged onto or below the surface of the ground can be determined.

(ii) the monitoring data is reported to the secretary at a frequency determined by the secretary.

D. The secretary shall allow the following unless he determines that a hazard to public health may result:

- (1) the weight of water contaminants in water diverted from any source may be discharged provided that the discharge is to the aquifer from which the water was diverted or to an aquifer contain-

ing a greater concentration of the contaminants than contained in the water diverted; and provided further that contaminants added as a result of the means of diversion shall not be considered to be part of the weight of water contaminants in the water diverted;

(2) the water contaminants leached from undisturbed natural materials may be discharged provided that:

(a) the contaminants were not leached as a product or incidentally pursuant to a solution mining operation; and

(b) the contaminants were not leached as a result of direct discharge into the vadose zone from municipal or industrial facilities used for the storage, disposal, or treatment of effluent; [2-18-77]

(3) the water contaminants leached from undisturbed natural materials as a result of discharge into ground water from lakes used as a source of cooling water.

E. If data submitted pursuant to any monitoring requirements specified in the ~~[approved discharge plan]~~ discharge permit or other information available to the secretary indicates that this Part is being or may be violated or that the standards of 3103 are being or will be exceeded, or a toxic pollutant as defined in Section 20.6.2.1101 NMAC is present, in ground water at any place of withdrawal for present or reasonably foreseeable future use, or that the Water Quality Standards for Interstate and Intrastate Streams in New Mexico are being or may be violated in surface water, due to the discharge, except as provided in Subsection D of Section 20.6.2.3109 NMAC. NMAC:

(1) the secretary may require a ~~[discharger to modify a discharge plan]~~ discharge permit modification within the shortest reasonable time so as to achieve compliance with this Part and to provide that any exceeding of standards in ground water at any place of withdrawal for present or reasonably foreseeable future use, or in surface water, due to the discharge except as provided in Subsection D of Section 20.6.2.3109 NMAC. will be abated or prevented. If the secretary requires ~~[that a discharge plan be modified]~~ a discharge permit modification to abate water pollution:

(a) the abatement shall be consistent with the requirements and provisions of Sections 20.6.2.4101, 20.6.2.4103, Subsection C and E of Section 20.6.2.4106, Section 20.6.2.4107 and Section 20.6.2.4112 NMAC; and

(b) the discharger may request of the secretary approval to carry out the abatement under Sections 20.6.2.4000 through 20.6.2.4115 NMAC, in lieu of modifying the discharge ~~[plan]~~ permit. The

discharger shall make the request in writing and shall include the reasons for the request.

(2) the secretary may terminate ~~[an approved discharge plan]~~ a discharge permit when a discharger fails to modify the ~~[plan]~~ permit in accordance with Subsection E.1. of this section.

(3) the secretary may require modification, or may terminate a discharge ~~[plan]~~ permit for ~~[an effluent disposal well or in situ extraction well pursuant to the requirements of Sections 20.6.2.5000 through 20.6.2.5300 NMAC]~~ a Class I non-hazardous waste injection well, a Class III well or other type of well specified in Subsection A of Section 20.6.2.5101 NMAC, pursuant to the requirements of Subsection I of Section 20.6.2.5101 NMAC.

F. If a discharge ~~[plan]~~ permit expires or is terminated for any reason and the standards of Section 20.6.2.3103 NMAC are being or will be exceeded, or a toxic pollutant as defined in Section 20.6.2.1101 NMAC is present in ground water, or that the Water Quality Standards for Interstate and Intrastate Streams in New Mexico are being or may be violated, the secretary may require the discharger to submit an abatement plan pursuant to Sections 20.6.2.4104 and Subsection A of Section 20.6.2.4106 NMAC.

G. At the request of the discharger, ~~[an approved discharge plan]~~ a discharge permit may be modified in accordance with Sections 20.6.2.3000 through 20.6.2.3114 NMAC.

H. The secretary shall not approve a proposed discharge plan, modification, or renewal for:

(1) any discharge for which the discharger has not provided a site and method for flow measurement and sampling;

(2) any discharge that will cause any stream standard to be violated;

(3) the discharge of any water contaminant which may result in a hazard to public health; or

(4) a period longer than five years, except that for new discharges, the term of the discharge ~~[plan]~~ permit approval shall commence on the date the discharge begins, but in no event shall the term of the approval exceed seven years from the date the ~~[approval]~~ permit was issued. For those ~~[approvals]~~ permits expiring more than five years from the date of issuance, the discharger shall give prior written notification to the department of the date the discharge is to commence. The term of the ~~[approval]~~ permit shall not exceed five years from that date.

20.6.2.3110 PUBLIC HEARING PARTICIPATION:

A. The secretary may appoint an impartial hearing officer to preside over the hearing. The hearing officer may be a department employee other than an employee of the bureau evaluating the application.

B. The hearing shall be at a place in the area affected by the facility for which the discharge ~~[plan]~~ permit proposal, modification or renewal is sought.

C. Any person who wishes to present technical evidence at the hearing shall, no later than ten (10) days prior to the hearing, file with the department, and if filed by a person who is not the applicant, serve on the applicant, a statement of intent to present evidence. A person who does not file a statement of intent to present evidence may present a general non-technical statement in support of or in opposition to the proposed discharge plan ~~[proposal]~~, modification or renewal. The statement of intent to present technical evidence shall include:

(1) the name of the person filing the statement;

(2) indication of whether the person filing the statement supports or opposes the proposed discharge plan proposal, modification or renewal;

(3) the name of each witness;

(4) an estimate of the length of the direct testimony of each witness;

(5) a list of exhibits, if any, to be offered into evidence at the hearing; and

(6) a summary or outline of the anticipated direct testimony of each witness.

D. At the hearing, the New Mexico Rules of Civil Procedure, SCRA 1986, 1-001 to 1-102 and the New Mexico Rules of Evidence, SCRA 1986, 11-101 to 11-1102 shall not apply. At the discretion of the hearing officer, the rules may be used as guidance. Any reference to the Rules of Civil Procedure and the Rules of Evidence shall not be construed to extend or otherwise modify the authority and jurisdiction of the department under the Act.

E. The hearing officer shall conduct a fair and impartial proceeding, assure that the facts are fully elicited, and avoid delay. The hearing officer shall have authority to take all measures necessary for the maintenance of order and for the efficient, fair and impartial adjudication of issues arising in the proceedings.

F. At the hearing, all persons shall be given a reasonable chance to submit data, views or arguments orally or in writing and to examine witnesses testifying at the hearing.

G. Unless otherwise allowed by the hearing officer, testimony

shall be presented in the following order:

(1) testimony by and examination of the applicant or permittee proving the facts relied upon to justify the proposed discharge plan, renewal or modification and meeting the requirements of the regulations;

(2) testimony by and examination of technical witnesses supporting or opposing approval, approval subject to conditions, or disapproval of the proposed discharge plan, renewal or modification, in any reasonable order;

(3) testimony by the general public; and

(4) rebuttal testimony, if appropriate.

H. The secretary may provide translation service at a public hearing conducted in a locale where the Department can reasonably expect to receive testimony from non-English speaking people.

I. If determined useful by the hearing officer, within thirty (30) days after conclusion of the hearing, or within such time as may be fixed by the hearing officer, the hearing officer may allow proposed findings of fact and conclusions of law and closing argument. All such submissions, if allowed, shall be in writing, shall be served upon the applicant or permittee, the department and all persons who request copies in advance in writing, and shall contain adequate references to the record and authorities relied on. No new evidence shall be presented unless specifically allowed by the hearing officer.

J. The department shall make an audio recording of the hearing. If the applicant or permittee, or a participant requests a written transcript or certified copy of the audio recording, the requestor shall pay the cost of the transcription or audio copying.

K. The hearing officer shall issue a report within thirty (30) days after the close of the hearing record. The report may include findings of fact, conclusions regarding all material issues of law or discretion, as well as reasons therefore. The report shall be served on the applicant or permittee, the department, and all persons who request copies in advance in writing. The report will be available for public inspection at the department's office in Santa Fe and at the field office closest to the point of the proposed discharge.

L. The secretary shall issue a decision in the matter no later than thirty (30) days of receipt of the hearing report. The decision shall be served and made available for inspection pursuant to Subsection K of this section.

M. Any person who testifies at the hearing or submits a written state-

ment for the record will be considered a participant for purposes of Subsection 20.6.2.3113 NMAC and NMSA 1978, Section 74-6-5.N.

20.6.2.3111 TRANSFER OF DISCHARGE ~~[PLAN]~~ PERMIT: No purported transfer of any discharge ~~[plan]~~ permit shall be effective to create, alter or extinguish any right or responsibility of any person subject to this Part, unless the following transfer requirements are met:

A. Prior to any transfer of ownership, control, or possession (whether by lease, conveyance or otherwise) of a facility with ~~[an approved discharge plan]~~ a discharge permit, the transferor shall notify the transferee in writing of the existence of the discharge ~~[plan]~~ permit, and shall deliver or send by certified mail to the department a copy of such written notification, together with a certification or other proof that such notification has in fact been received by the transferee.

B. Upon receipt of such notification, the transferee shall have the duty to inquire into all of the provisions and requirements contained in such discharge ~~[plan]~~ permit, and the transferee shall be charged with notice of all such provisions and requirements as they appear of record in the department's file or files concerning such discharge ~~[plan]~~ permit.

C. Until both ownership and possession of the facility have been transferred to the transferee, the transferor shall continue to be responsible for any discharge from the facility.

D. Upon assuming either ownership or possession of the facility, the transferee shall have the same rights and responsibilities under the discharge ~~[plan]~~ permit as were applicable to the transferor.

E. Nothing in this section or in this part shall be construed to relieve any person of responsibility or liability for any act or omission which occurred while that person owned, controlled or was in possession of the facility.

20.6.2.3112 APPEALS ~~[FROM]~~ OF SECRETARY'S DECISIONS:

A. If the secretary approves, approves subject to conditions, or disapproves a proposed discharge plan, renewal or modification, or modifies or terminates ~~[an approved plan]~~ a discharge permit, appeal therefrom shall be in accordance with the provisions of Sections 74-6-5(N), (O) and (P), NMSA 1978. The filing of an appeal does not act as a stay of any provision of the Act, the regulations, or any permit issued pursuant to the Act, unless otherwise ordered by the secretary or the commission.

B. If the secretary determines that a discharger is not exempt from ~~[filing a discharge plan]~~ obtaining a discharge permit, or that the material to be discharged contains any toxic pollutant as defined in Section 20.6.2.1101 NMAC, which is not included in the numerical standards of Section 20.6.2.3103 NMAC, then the discharger may appeal such determination by filing with the commission's secretary a notice of appeal to the commission within thirty days after receiving the secretary's written determination, and the appeal therefrom and any action of the commission thereon shall be in accordance with the provisions of Sections 74-6-5(N),(O) and (P), NMSA 1978.

C. Proceedings before the commission shall be conducted in accordance with the commission's adjudicatory procedures, 20 NMAC 1.3.

20.6.2.3113 APPEALS ~~[FROM]~~ OF COMMISSION DECISIONS: An applicant, permittee or a person who participated in a permitting action and who is adversely affected by such action may appeal the decision of the commission in accordance with the provisions of Section 74-6-7(A), NMSA 1978.

20.6.2.5000 UNDERGROUND INJECTION CONTROL:

~~[20.6.2.5001 _____ 20.6.2.5100:
 [RESERVED]]~~

20.6.2.5001 PURPOSE: The purpose of Sections 20.6.2.5000 through 20.6.2.5299 NMAC controlling discharges from underground injection control wells is to protect all ground water of the State of New Mexico which has an existing concentration of 10,000 mg/l or less TDS, for present and potential future use as domestic and agricultural water supply, and to protect those segments of surface waters which are gaining because of ground water inflow for uses designated in the New Mexico Water Quality Standards. Sections 20.6.2.5000 through 20.6.2.5299 NMAC include notification requirements, and requirements for discharges directly into the subsurface through underground injection control wells.

20.6.2.5002 UNDERGROUND INJECTION CONTROL WELL CLASSIFICATIONS:

A. Underground injection control wells include the following.

(1) Any dug hole or well that is deeper than its largest surface dimension, where the principal function of the hole is emplacement of fluids.

(2) Any septic tank or cesspool used by generators of hazardous waste, or by owners or operators of hazardous waste management facilities, to dispose of fluids containing hazardous waste.

(3) Any subsurface distribution system, cesspool or other well which is used for the injection of wastes.

B. Underground injection control wells are classified as follows:

(1) Class I wells inject fluids beneath the lowermost formation that contains 10,000 milligrams per liter or less TDS. Class I hazardous or radioactive waste injection wells inject fluids containing any hazardous or radioactive waste as defined in 74-4-3 and 74-4A-4 NMSA 1978, including any combination of these wastes. Class I non-hazardous waste injection wells inject non-hazardous and non-radioactive fluids, and they inject naturally-occurring radioactive material (NORM) as provided by Section 20.3.1.1407 NMAC.

(2) Class II wells inject fluids associated with oil and gas recovery.

(3) Class III wells inject fluids for extraction of minerals or other natural resources, including sulfur, uranium, metals, salts or potash by in situ extraction. This classification includes only in situ production from ore bodies that have not been conventionally mined. Solution mining of conventional mines such as stopes leaching is included in Class V.

(4) Class IV wells inject fluids containing any radioactive or hazardous waste as defined in 74-4-3 and 74-4A-4 NMSA 1978, including any combination of these wastes, above or into a formation that contains 10,000 mg/l or less TDS.

(5) Class V wells inject a variety of fluids and are those wells not included in Class I, II, III or IV. Types of Class V wells include, but are not limited to, the following:

(a) Domestic liquid waste injection wells

(i) domestic liquid waste disposal wells used to inject greater than 2,000 gallons per day of treated domestic liquid waste through subsurface fluid distribution systems or vertical wells;

(ii) septic system wells used to emplace greater than 2,000 gallons per day of domestic liquid waste into the subsurface, which are comprised of a septic tank and subsurface fluid distribution system;

(iii) large capacity cesspools used to inject greater than 2,000 gallons per day of domestic liquid waste, including drywells that sometimes have an open bottom and/or perforated sides.

(b) Industrial waste injection wells

(i) air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling;

(ii) dry wells used for the injection of wastes into a subsurface formation;

(iii) geothermal energy injection wells associated with the recovery of geothermal energy for heating, aquaculture and production of electrical power;

(iv) stormwater drainage wells used to inject storm runoff from the surface into the subsurface;

(v) motor vehicle waste disposal wells that receive or have received fluids from vehicular repair or maintenance activities;

(vi) car wash waste disposal wells used to inject fluids from motor vehicle washing activities.

(c) Mining injection wells

(i) stopes leaching wells used for solution mining of conventional mines;

(ii) brine injection wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts;

(iii) backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined out portions of subsurface mines whether water injected is a radioactive waste or not;

(iv) injection wells used for in situ recovery of lignite, coal, tar sands, and oil shale.

(d) Ground water management injection wells

(i) ground water remediation injection wells used to inject contaminated ground water that has been treated to ground water quality standards;

(ii) in situ ground water remediation wells used to inject a fluid that facilitates vadose zone or ground water remediation.

(iii) recharge wells used to replenish the water in an aquifer, including use to reclaim or improve the quality of existing ground water;

(iv) barrier wells used to inject fluids into ground water to prevent the intrusion of saline or contaminated water into ground water of better quality;

(v) subsidence control wells (not used for purposes of oil or natural gas production) used to inject fluids into a non-oil or gas producing zone to reduce or eliminate subsidence associated with the overdraft of fresh water;

(vi) wells used in experimental technologies.

(e) Agricultural injection wells -

drainage wells used to inject fluids into ground water to prevent the intrusion of saline or contaminated water into ground water of better quality.

20.6.2.5003 NOTIFICATION AND GENERAL OPERATION REQUIREMENTS FOR ALL UNDERGROUND INJECTION CONTROL WELLS: All operators of underground injection control wells, except those wells regulated under the Oil and Gas Act, the Geothermal Resources Conservation Act, and the Surface Mining Act, shall:

A. For existing underground injection control wells, submit to the secretary the information enumerated in Subsection C of Section 20.6.2.1201 NMAC of this Part no later than September 20, 1983; provided, however, that if the information in Subsection C of Section 20.6.2.1201 NMAC has been previously submitted to the secretary and acknowledged by him, the information need not be resubmitted; and

B. Operate and continue to operate in conformance with Sections 20.6.2.1 through 20.6.2.5299 NMAC.

C. For new underground injection control wells, submit to the secretary the information enumerated in Subsection C of Section 20.6.2.1201 NMAC of this Part at least 120 days prior to well construction.

20.6.2.5004 PROHIBITED UNDERGROUND INJECTION CONTROL ACTIVITIES AND WELLS:

A. No person shall perform the following underground injection activities nor operate the following underground injection control wells:

(1) The injection of fluids into a motor vehicle waste disposal well is prohibited. Motor vehicle waste disposal wells are prohibited. Any person operating a new motor vehicle waste disposal well (for which construction began after April 5, 2000) must close the well immediately. Any person operating an existing motor vehicle waste disposal well must cease injection immediately and must close the well by December 31, 2002, except as provided in this Subsection.

(2) The injection of fluids into a large capacity cesspool is prohibited. Large capacity cesspools are prohibited. Any person operating a new large capacity cesspool (for which construction began after April 5, 2000) must close the cesspool immediately. Any person operating an existing large capacity cesspool must cease injection immediately and must close the cesspool by December 31, 2002.

(3) The injection of any haz-

ardous or radioactive waste into a well is prohibited, except as provided in this Subsection.

(a) Class I hazardous or radioactive waste injection wells are prohibited, except naturally-occurring radioactive material (NORM) regulated under Section 20.3.1.1407 NMAC is allowed as a Class I non-hazardous waste injection well pursuant to Subsection B (1) of Section 20.6.2.5002 NMAC:

(b) Class IV wells are prohibited, except for wells re-injecting treated ground water into the same formation from which it was drawn as part of a removal or remedial action if the injection has prior approval from the Environmental Protection Agency (EPA) or the department under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or the Resource Conservation and Recovery Act (RCRA).

(4) Barrier wells, drainage wells, recharge wells, ~~and~~ return flow wells, and motor vehicle waste disposal wells are prohibited, except when the discharger can demonstrate that the discharge will not adversely affect the health of persons; and

(a) the injection fluid does not contain a contaminant which may cause an exceedance at any place of present or reasonable foreseeable future use of any primary state drinking water maximum contaminant level as specified in the water supply regulations, "Drinking Water" (20 NMAC 7.1) [20.7.10 NMAC], adopted by the Environmental Improvement Board under the Environmental Improvement Act or the standard of Section 20.6.2.3103 NMAC, whichever is more stringent; or

(b) the discharger can demonstrate that the injection will result in an overall or net improvement in water quality as determined by the secretary.

B. Closure of prohibited underground injection control wells shall be in accordance with Section 20.6.2.5005 NMAC and Section 20.6.2.5209 NMAC.

20.6.2.5005 PRE - CLOSURE NOTIFICATION AND CLOSURE REQUIREMENTS:

A. Any person proposing to close a Class I, III, IV or V underground injection control well must submit pre-closure notification to the department at least 30 days prior to closure. Pre-closure notification must include the following information:

- (1) Name of facility
- (2) Address of facility
- (3) Name of Owner/Operator
- (4) Address of Owner/Operator
- (5) Contact Person
- (6) Phone Number

(7) Type of Well(s)

(8) Number of Well(s)

(9) Well Construction (e.g. dry-well, improved sinkhole, septic tank, leach-field, cesspool, other...)

(10) Type of Discharge

(11) Average Flow (gallons per day)

(12) Year of Well Construction

(13) Proposed Well Closure Activities (e.g. sample fluids/sediment, appropriate disposal of remaining fluids/sediments, remove well and any contaminated soil, clean out well, install permanent plug, conversion to other type well, ground water and vadose zone investigation, other)

(14) Proposed Date of Well Closure

(15) Name of Preparer

(16) Date

B. Proposed well closure activities must be approved by the department prior to implementation.

20.6.2.5006 DISCHARGE PERMIT REQUIREMENTS FOR CLASS V INJECTION WELLS: Class V injection wells must meet the requirements of Sections 20.6.2.3000 through 20.6.2.3999 NMAC and Sections 20.6.2.5000 through 20.6.2.5006 NMAC.

20.6.2.5007 – 20.6.2.5100: [RESERVED]

20.6.2.5101 [DISCHARGE PLAN] DISCHARGE PERMIT AND OTHER REQUIREMENTS FOR CLASS I NON-HAZARDOUS WASTE INJECTION WELLS AND CLASS III WELLS:

A. [Effluent disposal wells] Class I non-hazardous waste injection wells and [in situ extraction wells] Class III wells must meet the requirements of Sections 20.6.2.5000 through 20.6.2.[5300 NMAC] 5299 NMAC in addition to other applicable requirements of the commission regulations. The secretary may also require that some Class IV and Class V wells comply with the requirements for Class I non-hazardous waste injection wells in Sections 20.6.2.5000 through 20.6.2.5299 NMAC if the secretary determines that the additional requirements are necessary to prevent the movement of water contaminants from a specified injection zone into ground water having 10,000 mg/l or less TDS. No [effluent disposal well] Class I non-hazardous waste injection well or [in situ extraction well] Class III well may be approved which allows for movement of fluids into ground water having 10,000 mg/l or less TDS except for fluid movement approved pursuant to Section

20.6.2.5103 NMAC, or pursuant to a temporary designation as provided in Paragraph (2) of Subsection C of Section 20.6.2.5101 NMAC.

B. Operation of a [n-effluent disposal well] Class I non-hazardous waste injection well or [in situ extraction well] Class III well must be pursuant to [an approved discharge plan] a discharge permit according to the schedules in the following paragraphs:

(1) Any person who before September 20, 1982, is injecting fluids into a [n-effluent disposal well] Class I non-hazardous waste injection well or [in situ extraction well] Class III well without [an approved discharge plan] a discharge permit, may continue to inject without [an approved discharge plan] a discharge permit until December 19, 1982. No person who intends to begin discharging into a [n-effluent disposal well] Class I non-hazardous waste injection well or [in situ extraction well] Class III well after September 20, 1982 shall discharge except in conformance with a [n-approved discharge plan] discharge permit.

(2) Any person who, before December 19, 1982, has a [discharge plan approved] discharge permit pursuant to Sections 20.6.2.3000 through 20.6.2.[3114] 3999 NMAC for the injection of fluids into a [n-effluent disposal well] Class I non-hazardous waste injection well or a [n-in situ extraction well] Class III well, may inject according to the [approved discharge plan] discharge permit until the expiration of the current [discharge plan approval] discharge permit. Upon application for renewal of the [discharge plan approval] discharge permit, such person shall comply with the requirements of Sections 20.6.2.3000 through 20.6.2.[3114] 3999 NMAC and Sections 20.6.2.5000 through 20.6.2. [5300 NMAC] 5299 NMAC in the renewal application.

(3) After December 19, 1982, any person who does not have [discharge plan approval] a discharge permit pursuant to Paragraph (2) of Subsection B of Section 20.6.2.5101 NMAC shall not discharge into a [n-effluent disposal well] Class I non-hazardous waste injection well or a [n-in situ extraction well] Class III well without a [n-approved discharge plan] discharge permit meeting the requirements of Sections 20.6.2.3000 through 20.6.2.[3114] 3999 NMAC and Sections 20.6.2.5000 through 20.6.2.[5300] 5299 NMAC.

C. [Discharge plans] Discharge permits for [effluent disposal wells] Class I non-hazardous waste injection wells, or [in situ extraction wells] Class III wells affecting ground water of 10,000 mg/l or less TDS submitted for secretary approval shall:

(1) Receive an aquifer designation ~~as~~ if required in Section 20.6.2.5103 NMAC prior to ~~approval of the discharge plan~~ discharge permit issuance; or

(2) For ~~in situ extraction well~~ Class III wells only, address the methods or techniques to be used to restore ground water so that upon final termination of operations including restoration efforts, ground water at any place of withdrawal for present or reasonably foreseeable future use will not contain either concentrations in excess of the standards of Section 20.6.2.3103 NMAC or any toxic pollutant. ~~Approval~~ Issuance of a discharge ~~plan~~ permit or project discharge ~~plan~~ permit for ~~in situ extraction wells~~ Class III wells that provides for restoration of ground water in accordance with the requirements of this Subsection shall substitute for the aquifer designation provisions of Section 20.6.2.5103 NMAC. The approval shall constitute a temporary aquifer designation for a mineral bearing or producing aquifer, or portion thereof, to allow injection as provided for in the discharge ~~plan~~ permit. Such temporary designation shall expire upon final termination of operations including restoration efforts.

D. The exemptions from the discharge ~~plan~~ permit requirement listed in Section 20.6.2.3105 NMAC do not apply to ~~effluent disposal wells or in situ extraction wells~~ underground injection control wells except as provided below:

(1) Wells regulated by the Oil Conservation Division under the exclusive authority granted under Section 70-2-12 NMSA 1978 or under other Sections of the "Oil and Gas Act";

(2) Wells regulated by the Oil Conservation Division under the "Geothermal Resources Act";

(3) Wells regulated by the New Mexico Coal Surface Mining Bureau under the "Surface Mining Act";

(4) Wells for the disposal of effluent from systems which receive less than 2,000 gallons per day of domestic sewage effluent and are regulated under the "Liquid Waste Disposal Regulations" (20 NMAC 7.3) [20.7.3 NMAC] adopted by the Environmental Improvement Board under the "Environmental Improvement Act".

E. Project ~~Discharge Plans~~ permits for ~~In Situ Extraction Wells~~ Class III wells.

(1) The secretary may consider a project discharge ~~plan~~ permit for ~~in situ extraction wells~~ Class III wells, if the wells are:

(a) Within the same well field, facility site or similar unit,

(b) Within the same aquifer and ore deposit,

(c) Of similar construction,
(d) Of the same purpose, and
(e) Operated by a single owner or operator.

(2) A ~~non-approved project discharge plan~~ project discharge permit does not allow the discharger to commence injection in any individual operational area until the secretary approves an application for injection in that operational area (operational area approval).

(3) A project discharge ~~plan~~ permit shall:

(a) Specify the approximate locations and number of wells for which operational area approvals are or will be sought with approximate time frames for operation and restoration (if restoration is required) of each area; and

(b) Provide the information required under the following Sections of this Part, except for such additional site-specific information as needed to evaluate applications for individual operational area approvals: Subsection C of Section 20.6.2.3106, Sections 20.6.2.3107, 20.6.2.5204 through 20.6.2.5209, and Subsection B of Section 20.6.2.5210 NMAC.

(4) Applications for individual operational area approval shall include the following:

(a) Site-specific information demonstrating that the requirements of this Part are met, and

(b) Information required under Sections 20.6.2.5202 through 20.6.2.5210 NMAC and not previously provided pursuant to Subparagraph (b) of Paragraph (3) of Subsection F of this Section.

(5) Applications for ~~project discharge plan approval~~ project discharge permits and for operational area approval shall be processed in accordance with the same procedures provided for discharge ~~plans~~ permits under Sections 20.6.2.3000 through 20.6.2.3114 NMAC, allowing for public notice on the project discharge ~~plan~~ permit and on each application for operational area approval pursuant to Section 20.6.2.3108 NMAC with opportunity for public hearing prior to approval or disapproval.

(6) The discharger shall comply with additional requirements that may be imposed by the secretary pursuant to this Part on wells in each new operational area.

F. If the holder of a ~~non-approved discharge plan~~ discharge permit for a ~~non-effluent disposal well~~ Class I non-hazardous waste injection well, or ~~in situ extraction well~~ Class III well submits an application for discharge ~~plan~~ permit renewal at least 120 days before discharge ~~plan~~ permit expiration, and the discharger

is in compliance with his ~~approved~~ discharge plan permit on the date of its expiration, then the existing ~~approved~~ discharge plan permit for the same activity shall not expire until the application for renewal has been approved or disapproved. An application for discharge ~~plan~~ permit renewal must include and adequately address all of the information necessary for evaluation of a new discharge ~~plan~~ permit. Previously submitted materials may be included by reference provided they are current, readily available to the secretary and sufficiently identified to be retrieved.

G. Discharge ~~Plan~~ Permit Signatory Requirements: No discharge ~~plan~~ permit for a ~~non-effluent disposal well~~ Class I non-hazardous waste injection well or ~~in situ extraction well~~ Class III well may be ~~approved~~ issued unless:

(1) The application for a discharge ~~plan~~ permit ~~approval~~ has been signed as follows:

(a) For a corporation: by a principal executive officer of at least the level of vice-president, or a representative who performs similar policy-making functions for the corporation who has authority to sign for the corporation; or

(b) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

(c) For a municipality, state, federal, or other public agency: by either a principal executive officer who has authority to sign for the agency, or a ranking elected official; and

(2) The signature is directly preceded by the following certification: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

H. Transfer of ~~Effluent Disposal Well~~ Class I non-hazardous waste injection well and ~~In Situ Extraction Well~~ Class III well Discharge ~~Plans~~ Permits.

(1) The transfer provisions of Section 20.6.2.3111 NMAC do not apply to a discharge ~~plan~~ permit for a ~~non-effluent disposal well~~ Class I non-hazardous waste injection well or ~~in situ extraction well~~ Class III well.

(2) A ~~non-effluent disposal well~~ Class I non-hazardous waste injection well or ~~in situ extraction well~~ Class III well discharge ~~plan~~ permit may be transferred if:

(a) The secretary receives written

notice 30 days prior to the transfer date; and

(b) The secretary does not object prior to the proposed transfer date. The secretary may require modification of the discharge ~~[plan]~~ permit as a condition of transfer, and may require demonstration of adequate financial responsibility.

(3) The written notice required by Subparagraph (b) of Paragraph (2) of Subsection I above shall:

(a) Have been signed by the discharger and the succeeding discharger, including an acknowledgement that the succeeding discharger shall be responsible for compliance with the ~~[approved]~~ discharge ~~[plan]~~ permit upon taking possession of the facility; and

(b) Set a specific date for transfer of discharge ~~[plan]~~ permit responsibility, coverage and liability; and

(c) Include information relating to the succeeding discharger's financial responsibility required by Paragraph (17) of Subsection B of Section 20.6.2.5210 NMAC.

I. Modification or Termination of a Discharge ~~[Plan]~~ Permit for a ~~[n-Effluent Disposal Well]~~ Class I non-hazardous waste injection well or ~~[In-Situ Extraction Well]~~ Class III well: If data submitted pursuant to any monitoring requirements specified in the ~~[approved plan]~~ discharge permit or other information available to the secretary indicate that this Part are being or may be violated, the secretary may require modification or, if it is determined by the secretary that the modification may not be adequate, may terminate a discharge ~~[plan]~~ permit for a ~~[n-effluent disposal well]~~ Class I non-hazardous waste injection Well, or ~~[in situ extraction well]~~ Class III well or well field, that was approved pursuant to the requirements of this under Sections 20.6.2.5000 through 20.6.2.~~[5300]~~ 5299 NMAC for the following causes:

(1) Noncompliance by the discharger with any condition of the discharge ~~[plan]~~ permit; or

(2) The discharger's failure in the discharge ~~[plan]~~ permit application or during the discharge ~~[plan]~~ permit review process to disclose fully all relevant facts, or the discharger's misrepresentation of any relevant facts at any time; or

(3) A determination that the permitted activity may cause a hazard to public health or undue risk to property and can only be regulated to acceptable levels by discharge ~~[plan]~~ permit modification or termination.

20.6.2.5102 PRE-CONSTRUCTION REQUIREMENTS FOR CLASS I NON-HAZARDOUS WASTE INJECTION WELLS AND CLASS III WELLS:

A. Discharge ~~[Plan]~~ Permit Requirement for ~~[Effluent Disposal Wells]~~ Class I non-hazardous waste injection wells.

(1) Prior to construction of a ~~[n-effluent disposal well]~~ Class I non-hazardous waste injection well or conversion of an existing well to a ~~[n-effluent disposal well]~~ Class I non-hazardous waste injection well, an approved discharge ~~[plan]~~ permit is required that incorporates the requirements of Sections 20.6.2.5000 through 20.6.2.~~[5300]~~ 5299 NMAC, except Subsection C of Section 20.6.2.5210 NMAC. As a condition of discharge ~~[plan]~~ approval permit issuance, the operation of the ~~[effluent disposal well]~~ Class I non-hazardous waste injection well under the discharge ~~[plan]~~ permit will not be authorized until the secretary has:

(a) Reviewed the information submitted for his consideration pursuant to Subsection C of Section 20.6.2.5210 NMAC, and

(b) Determined that the information submitted demonstrates that the operation will be in compliance with this Part and the ~~[approved discharge plan]~~ discharge permit.

(2) If conditions encountered during construction represent a substantial change which could adversely impact ground water quality from those anticipated in the ~~[approved discharge plan]~~ discharge permit, the secretary shall require a discharge ~~[plan]~~ permit modification or may terminate the discharge ~~[plan]~~ permit pursuant to Subsection I of Section 20.6.2.5101 NMAC, and the secretary shall publish public notice and allow for comments and hearing in accordance with Section 20.6.2.3108 NMAC.

B. Notification Requirement for ~~[In-Situ Extraction Wells]~~ Class III wells.

(1) The discharger shall notify the secretary in writing prior to the commencement of drilling or construction of wells which are expected to be used for in situ extraction, unless the discharger has previously received a discharge ~~[plan]~~ permit or project discharge ~~[plan]~~ permit for the ~~[in situ extraction]~~ Class III well operation.

(a) Any person, proposing to drill or construct a new ~~[in situ extraction well]~~ Class III well or well field, or convert an existing well to a ~~[n in situ extraction well]~~ Class III well, shall file plans, specifications and pertinent documents regarding such construction or conversion, with the Ground Water ~~[Protection and Remediation Bureau]~~ Quality Bureau of the Environment Department.

(b) Plans, specifications, and per-

tinent documents required by this Section, if pertaining to geothermal installations, carbon dioxide facilities, or facilities for the exploration, production, refinement or pipeline transmission of oil and natural gas, shall be filed instead with the Oil Conservation Division.

(c) Plans, specifications and pertinent documents required to be filed under this Section must be filed 90 days prior to the planned commencement of construction or conversion.

(d) The following plans, specifications and pertinent documents shall be provided with the notification:

(i) Information required in Subsection C of Section 20.6.2.3106 NMAC;

(ii) A map showing the ~~[in situ extraction wells]~~ Class III wells which are to be constructed. The map must also show, in so far as is known or is reasonably available from the public records, the number, name, and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, mines (surface and subsurface), quarries, water wells and other pertinent surface features, including residences and roads, that are within the expected area of review (Section 20.6.2.5202 NMAC) of the ~~[in situ extraction well]~~ Class III well or well field perimeter;

(iii) Maps and cross-sections indicating the general vertical and lateral limits of all ground water having 10,000 mg/l or less TDS within one mile of the site, the position of such ground water within this area relative to the injection formation, and the direction of water movement, where known, in each zone of ground water which may be affected by the proposed injection operation;

(iv) Maps and cross-sections detailing the geology and geologic structure of the local area, including faults, if known or suspected;

(v) The proposed formation testing program to obtain an analysis or description, whichever the secretary requires, of the chemical, physical, and radiological characteristics of, and other information on, the receiving formation;

(vi) The proposed stimulation program;

(vii) The proposed injection procedure;

(viii) Schematic or other appropriate drawings of the surface and subsurface construction details of the well;

(ix) Proposed construction procedures, including a cementing and casing program, logging procedures, deviation checks, and a drilling, testing, and cor-

ing program;

(x) Information, as described in Paragraph (17) of Subsection B of Section 20.6.2.5210 NMAC, showing the ability of the discharger to undertake measures necessary to prevent groundwater contamination; and

(xi) A plugging and abandonment plan showing that the requirements of Subsections B, C and D of Section 20.6.2.5209 NMAC will be met.

(2) Prior to construction, the discharger shall have received written notice from the secretary that the information submitted under item 10 of Subparagraph (d) of Paragraph (1) of Subsection B of Section 20.6.2.5102 NMAC is acceptable. Within 30 days of submission of the above information the secretary shall notify the discharger that the information submitted is acceptable or unacceptable.

(3) Prior to construction, the secretary shall review said plans, specifications and pertinent documents and shall comment upon their adequacy of design for the intended purpose and their compliance with pertinent Sections of this Part. Review of plans, specifications and pertinent documents shall be based on the criteria contained in Section 20.6.2.5205, Subsection E of Section 20.6.2.5209, and Subparagraph (d) of Paragraph (1) of Subsection B of Section 20.6.2.5102 NMAC.

(4) Within thirty (30) days of receipt, the secretary shall issue public notice, consistent with Subsection B of Section 20.6.2.3108 NMAC, that notification was submitted pursuant to Subsection B of Section 20.6.2.5102 NMAC. The secretary shall allow a period of at least thirty (30) days during which comments may be submitted. The public notice shall include:

(a) Name and address of the proposed discharger;

(b) Location of the discharge;

(c) Brief description of the proposed activities;

(d) Statement of the public comment period; and

(e) Address and telephone number at which interested persons may obtain further information.

(5) The secretary shall comment in writing upon the plans and specifications within sixty (60) days of their receipt by the secretary.

(6) Within thirty (30) days after completion, the discharger shall submit written notice to the secretary that the construction or conversion was completed in accordance with submitted plans and specifications, or shall submit as-built plans detailing changes from the originally submitted plans and specifications.

(7) In the event a discharge ~~plan~~

permit application is not submitted or approved, all wells which may cause groundwater contamination shall be plugged and abandoned by the applicant pursuant to the plugging and abandonment plan submitted in the notification; these measures shall be consistent with any comments made by the secretary in his review. If the wells are not to be permanently abandoned and the discharger demonstrates that plugging at this time is unnecessary to prevent groundwater contamination, plugging pursuant to the notification is not required. Financial responsibility established pursuant to Sections 20.6.2.5000 through ~~20.6.2.5300~~ 20.6.2.5299 NMAC will remain in effect until the discharger permanently abandons and plugs the wells in accordance with the plugging and abandonment plan.

20.6.2.5103 DESIGNATED AQUIFERS FOR CLASS I NON-HAZARDOUS WASTE INJECTION WELLS AND CLASS III WELLS:

A. Any person may file a written petition with the secretary seeking commission consideration of certain aquifers or portions of aquifers as "designated aquifers". The purpose of aquifer designation is:

(1) For ~~[effluent disposal wells]~~ Class I non-hazardous waste injection wells, to allow as a result of injection, the addition of water contaminants into ground water, which before initiation of ~~[effluent disposal]~~ injection has a concentration between 5,000 and 10,000 mg/l TDS; or

(2) For ~~[in situ extraction wells]~~ Class III wells, to allow as a result of injection, the addition of water contaminants into ground water, which before initiation of ~~[in situ extraction]~~ injection has a concentration between 5,000 and 10,000 mg/l TDS, and not provide for restoration or complete restoration of that ground water pursuant to Paragraph (2) of Subsection C of Section 20.6.2.5101 NMAC.

B. The applicant shall identify (by narrative description, illustrations, maps or other means) and describe such aquifers, in geologic and/or geometric terms (such as vertical and lateral limits and gradient) which are clear and definite.

C. An aquifer or portion of an aquifer may be considered for aquifer designation under Subsection A. of this Section, if the applicant demonstrates that the following criteria are met:

(1) It is not currently used as a domestic or agricultural water supply; and

(2) There is no reasonable relationship between the economic and social costs of failure to designate and benefits to be obtained from its use as a domestic or

agricultural water supply because:

(a) It is situated at a depth or location which makes recovery of water for drinking or agricultural purposes economically or technologically impractical at present and in the reasonably foreseeable future; or

(b) It is already so contaminated that it would be economically or technologically impractical to render that water fit for human consumption or agricultural use at present and in the reasonably foreseeable future.

D. The petition shall state the extent to which injection would add water contaminants to ground water and why the proposed aquifer designation should be approved. For ~~[in situ extraction well]~~ Class III wells, the applicant shall state whether and to what extent restoration will be carried out.

E. The secretary shall either transmit the petition to the commission within sixty (60) days recommending that a public hearing be held, or refuse to transmit the petition and notify the applicant in writing citing reasons for such refusal.

F. If the secretary transmits the petition to the commission, the commission shall review the petition and determine to either grant or deny a public hearing on the petition. If the commission grants a public hearing, it shall issue a public notice, including the following information:

(1) Name and address of the applicant;

(2) Location, depth, TDS, areal extent, general description and common name or other identification of the aquifer for which designation is sought;

(3) Nature of injection and extent to which the injection will add water contaminants to ground water; and

(4) Address and telephone number at which interested persons may obtain further information.

G. If the secretary refuses to transmit the petition to the commission, then the applicant may appeal the secretary's disapproval of the proposed aquifer designation to the commission within thirty (30) days, and address the issue of whether the proposed aquifer designation meets the criteria of Subsections A, B, C, and D of this Section.

H. If the commission grants a public hearing, the hearing shall be held in accordance with the provisions of Section 74-6-6, NMSA 1978.

I. If the commission does not grant a public hearing on the petition, the aquifer designation shall not be approved.

J. After public hearing

and consideration of all facts and circumstances included in Section 74-6-4(D), NMSA 1978, the commission may authorize the secretary to approve a proposed designated aquifer if the commission determines that the criteria of Subsection A, B, C, and D of this section are met.

K. Approval of a designated aquifer petition does not alleviate the applicant from complying with other Sections of Sections 20.6.2.5000 through 20.6.2.~~5300~~ 5299 NMAC, or of the responsibility for protection, pursuant to this part, of other nondesignated aquifers containing ground water having 10,000 mg/l or less TDS.

L. Persons other than the petitioner may add water contaminants as a result of injection into an aquifer designated for ~~effluent disposal, or for in situ extraction without restoration~~ injection, provided the person receives ~~discharge plan approval~~ a discharge permit pursuant to the requirements of Sections 20.6.2.5000 through 20.6.2.~~5300~~ 5299 NMAC. Persons, other than the original petitioner or his designee, requesting addition of water contaminants as a result of injection into aquifers previously designated only for ~~in situ extraction~~ injection with partial restoration shall file a petition with the commission pursuant to the requirements of Subsections A, B, C, and D of this Section.

20.6.2.5104 WAIVER OF REQUIREMENT BY SECRETARY FOR CLASS I NON-HAZARDOUS WASTE INJECTION WELLS AND CLASS III WELLS:

A. Where a ~~an effluent disposal well~~ Class I non-hazardous waste injection well or a ~~an in situ extraction well~~ Class III well or well field, does not penetrate, or inject into or above, and which will not affect, ground water having 10,000 mg/l or less TDS, the secretary may:

(1) ~~Approve a discharge plan~~ Issue a discharge permit for a well or well field with less stringent requirements for area of review, construction, mechanical integrity, operation, monitoring, and reporting than required by Sections 20.6.2.5000 through 20.6.2.~~5300~~ 5299 NMAC; or

(2) For ~~in situ extraction wells~~ Class III wells only, ~~approve a discharge plan~~ issue a discharge permit pursuant to the requirements of Sections 20.6.2.3000 through 20.6.2.3114 NMAC.

B. Authorization of a reduction in requirements under Subsection A of this Section shall be granted only if injection will not result in an increased risk of movement of fluids into ground water having 10,000 mg/l or less TDS, except for fluid movement approved pursuant to

Section 20.6.2.5103 NMAC.

20.6.2.5105 – 20.6.2.5199: [RESERVED]

20.6.2.5200 TECHNICAL CRITERIA AND PERFORMANCE STANDARDS FOR ~~[EFFLUENT DISPOSAL WELLS]~~ CLASS I NON-HAZARDOUS WASTE INJECTION WELLS AND ~~[IN SITU EXTRACTION WELLS]~~ CLASS III WELLS:

20.6.2.5201 PURPOSE: Sections 20.6.2.5200 through 20.6.2.5210 NMAC provide the technical criteria and performance standards for ~~effluent disposal wells~~ Class I non-hazardous waste injection wells and ~~in situ extraction well~~ Class III wells.

20.6.2.5202 AREA OF REVIEW:

A. The area of review is the area surrounding a ~~an effluent disposal well~~ Class I non-hazardous waste injection well or ~~in situ extraction well~~ Class III well or the area within and surrounding a well field that is to be examined to identify possible fluid conduits, including the location of all known wells and fractures which may penetrate the injection zone.

B. The area of review for each ~~effluent disposal well~~ Class I non-hazardous waste injection well, or each ~~in situ extraction well~~ Class III well or well field shall be an area which extends:

(1) Two and one half (2 1/2) miles from the well, or well field; or

(2) One-quarter (1/4) mile from a well or well field where the area of review is calculated to be zero pursuant to Paragraph (3) of Subsection B below, or where the well field production at all times exceeds injection to produce a net withdrawal; or

(3) A suitable distance, not less than one-quarter (1/4) mile, proposed by the discharger and approved by the secretary, based upon a mathematical calculation to determine the area of review. Computations to determine the area of review may be based upon the parameters listed below and should be calculated for an injection time period equal to the expected life of the ~~effluent disposal well~~ Class I non-hazardous waste injection well, or ~~in situ extraction well~~ Class III well or well field. The following modified Theis equation illustrates one form which the mathematical model may take to compute the area of review; the discharger must demonstrate that any equation or simulation used to compute the area of review applies to the hydrogeologic conditions in the area of review.

(4) The above equation is based on the following assumptions:

(a) The injection zone is homogeneous and isotropic;

(b) The injection zone has infinite areal extent;

(c) The ~~effluent disposal well~~ Class I non-hazardous waste injection well or ~~in situ extraction well~~ Class III well penetrates the entire thickness of the injection zone;

(d) The well diameter is infinitesimal compared to "r" when injection time is longer than a few minutes; and

(e) The emplacement of fluid into the injection zone creates an instantaneous increase in pressure.

C. The secretary shall require submittal by the discharger of information regarding the area of review including the information to be considered by the secretary in Subsection B of Section 20.6.2.5210 NMAC.

20.6.2.5203 CORRECTIVE ACTION FOR CLASS I NON-HAZARDOUS WASTE INJECTION WELLS AND CLASS III WELLS:

A. Persons applying for approval of a ~~an effluent disposal well~~ Class I non-hazardous waste injection well, or a ~~an in situ extraction well~~ Class III well or well field shall identify the location of all known wells, drill holes, shafts, stopes and other conduits within the area of review which may penetrate the injection zone, in so far as is known or is reasonably available from the public records. For such wells or other conduits which are improperly sealed, completed, or abandoned, or otherwise provide a pathway for the migration of contaminants, the discharger shall address in the proposed discharge plan such steps or modifications (corrective action) as are necessary to prevent movement of fluids into ground water having 10,000 mg/l or less TDS except for fluid movement approved pursuant to Section 20.6.2.5103 NMAC.

B. Prior to operation, or continued operation of a well for which corrective action is required pursuant to Subsections A or D of Section 20.6.2.5203 NMAC, the discharger must demonstrate that:

(1) All required corrective action has been taken; or

(2) Injection pressure is to be limited so that pressure in the injection zone does not cause fluid movement through any well or other conduit within the area of review into ground water having 10,000 mg/l or less TDS except for fluid movement approved pursuant to Section 20.6.2.5103 NMAC. This pressure limitation may be removed after all required corrective action

$$r = \left(\frac{2.25 K H t}{S 10^x} \right)^{1/2}$$

Where:

- x = $\frac{4BKH (H_w - H_{bo})x S_p G_b}{2.3 Q}$
- r = Radius of the area of review for a ~~[n-effluent disposal well]~~ Class I non-hazardous waste injection well or ~~[in-situ extraction well]~~ Class III well (length)
- K = Hydraulic conductivity of the injection zone (length/time)
- H = Thickness of the injection zone (length)
- t = Time of injection (time)
- S = Storage coefficient (dimensionless)
- Q = Injection rate (volume/time)
- H_{bo} = Observed original hydrostatic head of injection zone (length) measured from the base of the lowest aquifer containing ground water of 10,000 mg/l or less TDS
- H_w = Hydrostatic head of underground source of drinking water (length) measured from the base of the lowest aquifer containing ground water of 10,000 mg/l or less TDS
- S_pG_b = Specific gravity of fluid in the injection zone (dimensionless)
- B = 3.142 (dimensionless)

has been taken.

C. In determining the adequacy of corrective action proposed in the discharge ~~[plan]~~ permit application, the following factors will be considered by the secretary:

- (1) Chemical nature and volume of the injected fluid;
- (2) Chemical nature of native fluids and by-products of injection;
- (3) Geology and hydrology;
- (4) History of the injection and production operation;
- (5) Completion and plugging records;
- (6) Abandonment procedures in effect at the time a well, drill hole, or shaft was abandoned; and
- (7) Hydraulic connections with waters having 10,000 mg/l or less TDS

D. In the event that, after approval for a ~~[n-effluent disposal well]~~

Class I non-hazardous waste injection well or ~~[in-situ extraction well]~~ Class III well has been granted, additional information is submitted or it is discovered that a well or other conduit within the applicable area of review might allow movement of fluids into ground water having 10,000 mg/l or less TDS except for fluid movement approved pursuant to Section 20.6.2.5103 NMAC, the secretary may require action in accordance with Subsection I of Section 20.6.2.5101 and Subsection B Section 20.6.2.5203 NMAC.

20.6.2.5204 MECHANICAL INTEGRITY FOR CLASS I NON-HAZARDOUS WASTE INJECTION WELLS AND CLASS III WELLS:

A. A ~~[n-effluent disposal well]~~ Class I non-hazardous waste injection well or ~~[in-situ extraction well]~~ Class III well has mechanical integrity if there is no

detectable leak in the casing, tubing or packer which the secretary considers to be significant at maximum operating temperature and pressure; and no detectable conduit for fluid movement out of the injection zone through the well bore or vertical channels adjacent to the well bore which the secretary considers to be significant.

B. Prior to well injection and at least once every five years or more frequently as the secretary may require for good cause during the life of the well, the discharger must demonstrate that a ~~[n-effluent disposal well]~~ Class I non-hazardous waste injection well or ~~[in-situ extraction well]~~ Class III well has mechanical integrity. The demonstration shall be made through use of the following tests:

- (1) For evaluation of leaks,
 - (a) Monitoring of annulus pressure (after an initial pressure test with liquid or gas before operation commences), or

(b) Pressure test with liquid or gas;

(2) For determination of conduits for fluid movement,

(a) The results of a temperature or noise log, or

(b) Where the nature of the casing used for ~~[in situ extraction wells]~~ Class III wells precludes use of these logs, cementing records and an appropriate monitoring program as the secretary may require which will demonstrate the presence of adequate cement to prevent such movement;

(3) Other appropriate tests as the secretary may require.

C. The secretary may consider the use by the discharger of equivalent alternative test methods to determine mechanical integrity. The discharger shall submit information on the proposed test and all technical data supporting its use. The secretary may approve the request if it will reliably demonstrate the mechanical integrity of wells for which its use is proposed. For ~~[in situ extraction wells]~~ Class III wells this demonstration may be made by submission of adequate monitoring data after the initial mechanical integrity tests.

D. In conducting and evaluating the tests enumerated in this Section or others to be allowed by the secretary, the discharger and the secretary shall apply methods and standards generally accepted in the affected industry. When the discharger reports the results of mechanical integrity tests to the secretary, he shall include a description of the test(s), the method(s) used, and the test results. In making an evaluation, the secretary's review shall include monitoring and other test data submitted since the previous evaluation.

20.6.2.5205 CONSTRUCTION REQUIREMENTS FOR CLASS I NON-HAZARDOUS WASTE INJECTION WELLS AND CLASS III WELLS:

A. General Construction Requirements Applicable to ~~[Effluent Disposal Wells]~~ Class I non-hazardous waste injection wells and ~~[In-Situ Extraction Wells]~~ Class III wells.

(1) Construction of all ~~[effluent disposal wells]~~ Class I non-hazardous waste injection wells and all new ~~[in situ extraction wells]~~ Class III wells shall include casing and cementing. Prior to well injection, the discharger shall demonstrate that the construction and operation of:

(a) ~~[Effluent disposal wells]~~ Class I non-hazardous waste injection wells will not cause or allow movement of fluids into ground water having 10,000 mg/l or less TDS except for fluid movement approved pursuant to Section 20.6.2.5103 NMAC;

(b) ~~[In situ extraction wells]~~ Class III wells will not cause or allow movement of fluids out of the injection zone into ground water having 10,000 mg/l or less TDS except for fluid movement approved pursuant to Section 20.6.2.5103 NMAC.

(2) The construction of each newly drilled well shall be designed for the proposed life expectancy of the well.

(3) In determining if the discharger has met the construction requirements of this Section and has demonstrated adequate construction, the secretary shall consider the following factors:

(a) Depth to the injection zone;

(b) Injection pressure, external pressure, annular pressure, axial loading, and other stresses that may cause well failure;

(c) Hole size;

(d) Size and grade of all casing strings, including wall thickness, diameter, nominal weight, length, joint specification, and construction material;

(e) Type and grade of cement;

(f) Rate, temperature, and volume of injected fluid;

(g) Chemical and physical characteristics of the injected fluid, including corrosiveness, density, and temperature;

(h) Chemical and physical characteristics of the formation fluids including pressure and temperature;

(i) Chemical and physical characteristics of the receiving formation and confining zones including lithology and stratigraphy, and fracture pressure; and

(j) Depth, thickness and chemical characteristics of penetrated formations which may contain ground water.

(4) To demonstrate adequate construction, appropriate logs and other tests shall be conducted during the drilling and construction of new ~~[effluent disposal wells]~~ Class I non-hazardous waste injection wells or ~~[in situ extraction wells]~~ Class III wells or during work-over of existing wells in preparation for reactivation or for change to injection use. A descriptive report interpreting the results of such logs and tests shall be prepared by a knowledgeable log analyst and submitted to the secretary for review prior to well injection. The logs and tests appropriate to each type of injection well shall be based on the intended function, depth, construction and other characteristics of the well, availability of similar data in the area of the drilling site and the need for additional information that may arise from time to time as the construction of the well progresses.

(a) The discharger shall demonstrate through use of sufficiently frequent deviation checks, or another equivalent

method, that a ~~[n-effluent disposal well]~~ Class I non-hazardous waste injection well or ~~[in situ extraction well]~~ Class III well drilled using a pilot hole then enlarged by reaming or another method, does not allow a vertical avenue for fluid migration in the form of diverging holes created during drilling.

(b) The secretary may require use by the discharger of the following logs to assist in characterizing the formations penetrated and to demonstrate the integrity of the confining zones and the lack of vertical avenues for fluid migration:

(i) For casing intended to protect ground water having 10,000 mg/l or less TDS: Resistivity, spontaneous potential, and caliper logs before the casing is installed; and a cement bond, or temperature log after the casing is set and cemented.

(ii) For intermediate and long strings of casing intended to facilitate injection: Resistivity, spontaneous potential, porosity, and gamma ray logs before the casing is installed; and fracture finder or spectral logs; and a cement bond or temperature log after the casing is set and cemented.

(5) In addition to the requirements of Section 20.6.2.5102 NMAC, the discharger shall provide notice prior to commencement of drilling, cementing and casing, well logging, mechanical integrity tests, and any well work-over to allow opportunity for on-site inspection by the secretary or his representative.

B. **A d d i t i o n a l** Construction Requirements for ~~[Effluent Disposal Wells]~~ Class I non-hazardous waste injection wells.

(1) All ~~[effluent disposal wells]~~ Class I non-hazardous waste injection wells shall be sited in such a manner that they inject into a formation which is beneath the lowermost formation containing, within one quarter mile of the well bore, ground water having 10,000 mg/l TDS or less except as approved pursuant to Section 20.6.2.5103 NMAC.

(2) All ~~[effluent disposal wells]~~ Class I non-hazardous waste injection wells shall be cased and cemented by circulating cement to the surface.

(3) All ~~[effluent disposal wells]~~ Class I non-hazardous waste injection wells, except those municipal wells injecting noncorrosive wastes, shall inject fluids through tubing with a packer set in the annulus immediately above the injection zone, or tubing with an approved fluid seal as an alternative. The tubing, packer, and fluid seal shall be designed for the expected length of service.

(a) The use of other alternatives to a packer may be allowed with the written

approval of the secretary. To obtain approval, the operator shall submit a written request to the secretary which shall set forth the proposed alternative and all technical data supporting its use. The secretary may approve the request if the alternative method will reliably provide a comparable level of protection to ground water. The secretary may approve an alternative method solely for an individual well or for general use.

(b) In determining the adequacy of the specifications proposed by the discharger for tubing and packer, or a packer alternative, the secretary shall consider the following factors:

- (i) Depth of setting;
- (ii) Characteristics of injection fluid (chemical nature or characteristics, corrosiveness, and density);
- (iii) Injection pressure;
- (iv) Annular pressure;
- (v) Rate, temperature and volume of injected fluid; and
- (vi) Size of casing.

C. Additional Construction Requirements for ~~In-Situ Extraction Wells~~ Class III wells.

(1) Where injection is into a formation containing ground water having 10,000 mg/l or less TDS, monitoring wells shall be completed into the injection zone and into the first formation above the injection zone containing ground water having 10,000 mg/l or less TDS which could be affected by the extraction operation. If ground water having 10,000 mg/l or less TDS below the injection zone could be affected by the extraction operation, monitoring of such ground water may be required. These wells shall be of sufficient number, located and constructed so as to detect any excursion of injection fluids, process byproducts, or formation fluids outside the extraction area or injection zone. The requirement for monitoring wells in aquifers designated pursuant to Section 20.6.2.5103 NMAC may be waived by the secretary, provided that the absence of monitoring wells does not result in an increased risk of movement of fluids into protected ground waters having 10,000 mg/l or less TDS.

(2) Where injection is into a formation which does not contain ground water having 10,000 mg/l or less TDS, no monitoring wells are necessary in the injection zone. However, monitoring wells may be necessary in adjoining zones with ground water having 10,000 mg/l or less TDS that could be affected by the extraction operation.

(3) In an area that the secretary determines is subject to subsidence or collapse, the required monitoring wells may be

required to be located outside the physical influence of that area.

(4) In determining the adequacy of monitoring well location, number, construction and frequency of monitoring proposed by the discharger, the secretary shall consider the following factors:

- (a) The local geology and hydrology;
- (b) The operating pressures and whether a negative pressure gradient to the monitor well is being maintained;
- (c) The nature and volume of injected fluid, formation water, and process by-products; and
- (d) The number and spacing of ~~in situ extraction wells~~ Class III wells in the well field.

20.6.2.5206 OPERATING REQUIREMENTS FOR CLASS I NON-HAZARDOUS WASTE INJECTION WELLS AND CLASS III WELLS:

A. General Operating Requirements Applicable to ~~Effluent Disposal Wells~~ Class I non-hazardous waste injection wells and ~~In-Situ Extraction Wells~~ Class III wells.

(1) The maximum injection pressure at the wellhead shall not initiate new fractures or propagate existing fractures in the confining zone, or cause the movement of injection or formation fluids into ground water having 10,000 mg/l or less TDS except for fluid movement approved pursuant to Section 20.6.2.5103 NMAC.

(2) Injection between the outermost casing and the well bore is prohibited in a zone other than the authorized injection zone.

B. Additional Operating Requirements for ~~Effluent Disposal Wells~~ Class I non-hazardous waste injection wells.

(1) Except during well stimulation, the maximum injection pressure shall not initiate new fractures or propagate existing fractures in the injection zone.

(2) Unless an alternative to a packer has been approved under Subparagraph (c) of Paragraph (3) of Subsection B of Section 20.6.2.5205 NMAC, the annulus between the tubing and the long string of casing shall be filled with a fluid approved by the secretary and a pressure, also approved by the secretary shall be maintained on the annulus.

C. Additional Operating Requirements for ~~In-Situ Extraction Wells~~ Class III wells.

(1) Initiation of new fractures or propagation of existing fractures in the injection zone will not be approved by the secretary as part of a discharge ~~plan~~ permit unless it is done during well stimulation

and the discharger demonstrates:

(a) That such fracturing will not cause movement of fluids out of the injection zone into ground water having 10,000 mg/l or less TDS except for fluid movement approved pursuant to Section 20.6.2.5103 NMAC, and

(b) That the provisions of Subsection C of Section 20.6.2.3109 and Subsection C of Section 20.6.2.5101 NMAC for protection of ground water are met.

20.6.2.5207 MONITORING REQUIREMENTS FOR CLASS I NON-HAZARDOUS WASTE INJECTION WELLS AND CLASS III WELLS:

A. The discharger shall demonstrate mechanical integrity for each ~~effluent disposal well~~ Class I non-hazardous waste injection well or ~~in situ extraction well~~ Class III well at least once every five years during the life of the well pursuant to Section 20.6.2.5204 NMAC.

B. Additional Monitoring Requirements for ~~Effluent Disposal Wells~~ Class I non-hazardous waste injection wells.

(1) The discharger shall provide analysis of the injected fluids at least quarterly or, if necessary, more frequently to yield data representative of their characteristics.

(2) Continuous monitoring devices shall be used to provide a record of injection pressure, flow rate, flow volume, and pressure on the annulus between the tubing and the long string of casing.

(3) The discharger shall provide wells within the area of review as required by the discharge ~~plan~~ permit to be used by the discharger to monitor pressure in, and possible fluid movement into, ground water having 10,000 mg/l or less TDS except for such ground waters designated pursuant to Section 20.6.2.5103 NMAC. This Section does not require monitoring wells for ~~effluent disposal wells~~ Class I non-hazardous waste injection wells unless monitoring wells are necessary due to possible flow paths within the area of review.

C. Additional Monitoring Requirements for ~~In-Situ Extraction Wells~~ Class III wells.

(1) The discharger shall provide an analysis or description, whichever the secretary requires, of the injected fluids at least quarterly or, if necessary, more frequently to yield representative data.

(2) The discharger shall perform:

- (a) Appropriate monitoring of injected and produced fluid volumes by whichever of the following methods the secretary requires:

- (i) Recording injection

pressure and either flow rate or volume every two weeks; or

(ii) Metering and daily recording of fluid volumes;

(b) Monitoring every two weeks, or more frequently as the secretary determines, of the monitor wells, required in Subsection C of Section 20.6.2.5205 NMAC for:

(i) Water chemistry parameters used to detect any migration from the injection zone;

(ii) Fluid levels adjacent to the injection zone; and

(c) Other necessary monitoring as the secretary for good cause may require to detect movement of fluids from the injection zone into ground water having 10,000 mg/l or less TDS except for fluid movement approved pursuant to Section 20.6.2.5103 NMAC.

(3) With the approval of the secretary, all ~~[in situ extraction wells]~~ Class III wells may be monitored on a well field basis by manifold monitoring rather than on an individual well basis. Manifold monitoring to determine the quality, pressure, and flow rate of the injected fluid may be approved in cases of facilities consisting of more than one ~~[in situ extraction well]~~ Class III well, operating with a common manifold, provided that the discharger demonstrates that manifold monitoring is comparable to individual well monitoring.

20.6.2.5208 REPORTING REQUIREMENTS FOR CLASS I NON-HAZARDOUS WASTE INJECTION WELLS AND CLASS III WELLS:

A. Reporting Requirements for ~~[Effluent Disposal Wells]~~ Class I non-hazardous waste injection wells.

(1) If a ~~[n effluent disposal well]~~ Class I non-hazardous waste injection well is found to be discharging or is suspected of discharging fluids into a zone or zones other than the permitted or authorized injection zone, the discharger shall within 24 hours notify the secretary of the circumstances and action taken. The discharger shall provide subsequent written reports as required by the secretary.

(2) The discharger shall provide reports quarterly to the secretary on:

(a) The physical, chemical and other relevant characteristics of injection fluids;

(b) Monthly average, maximum and minimum values for injection pressure, flow rate and volume, and annular pressure; and

(c) The results of monitoring prescribed under Subsection B of Section 20.6.2.5207 NMAC.

(3) The discharger shall report, no later than the first quarterly report after completion, the results of:

(a) Periodic tests of mechanical integrity as required in Sections 20.6.2.5204 and 20.6.2.5207 NMAC;

(b) Any other test of the ~~[effluent disposal well]~~ Class I non-hazardous waste injection well conducted by the discharger if required by the secretary;

(c) Any well work-over; and

(d) Any changes within the area of review which might impact subsurface conditions.

B. Reporting Requirements for ~~[In Situ Extraction Wells]~~ Class III wells.

(1) The discharger shall notify the secretary within 48 hours of the detection or suspected detection of a leachate excursion, and provide subsequent reports as required by the secretary.

(2) The discharger shall provide to the secretary:

(a) Reports on required monitoring quarterly, or more frequently as required by the secretary; and

(b) Results of mechanical integrity testing as required in Sections 20.6.2.5204 and 20.6.2.5207 NMAC and any other periodic tests required by the secretary. These results are to be reported no later than the first regular report after the completion of the test.

(3) Where manifold monitoring is permitted, monitoring results may be reported on a well field basis, rather than individual well basis.

C. Report Signatory Requirements.

(1) All reports submitted pursuant to this Section shall be signed and certified as provided in Subsection G of Section 20.6.2.5101 NMAC, or by a duly authorized representative.

(2) For a person to be a duly authorized representative, authorization must:

(a) Be made in writing by a signatory described in Paragraph (1) of Subsection ~~[H]~~ G of Section 20.6.2.5101 NMAC.;

(b) Specify either an individual or a position having responsibility for the overall operation of that regulated facility or activity, such as the position of plant manager, operator of a well or well field, superintendent, or position of equivalent responsibility; and

(c) Have been submitted to the secretary.

20.6.2.5209 PLUGGING AND ABANDONMENT FOR CLASS I NON-HAZARDOUS WASTE INJECTION

WELLS AND CLASS III WELLS:

A. The discharger shall submit as part of the discharge ~~[plan]~~ permit application, a plan for plugging and abandonment of a ~~[n effluent disposal well]~~ Class I non-hazardous waste injection well or a ~~[n in situ extraction well]~~ Class III well that meets the requirements of Subsection C of Section 20.6.2.3109 and Subsection C of Section 20.6.2.5101 NMAC and 20.6.2.5005 NMAC for protection of ground water. If requested, a revised or updated abandonment plan shall be submitted for approval prior to closure. The obligation to implement the plugging and abandonment plan as well as the requirements of the plan survives the termination or expiration of the permit.

B. Prior to abandonment of a well used in a ~~[n effluent disposal or in situ extraction]~~ Class I non-hazardous waste injection well or Class III well operation, the well shall be plugged in a manner which will not allow the movement of fluids through the well bore out of the injection zone or between other zones of ground water. Cement plugs shall be used unless a comparable method has been approved by the secretary for the plugging of ~~[in situ extraction wells]~~ Class III wells at that site.

C. Prior to placement of the plugs, the well to be abandoned shall be in a state of static equilibrium with the mud weight equalized top to bottom, either by circulating the mud in the well at least once or by a comparable method approved by the secretary.

D. Placement of the plugs shall be accomplished by one of the following:

- (1) The Balance Method; or
- (2) The Dump Bailer Method; or
- (3) The Two-Plug Method; or
- (4) An equivalent method with the approval of the secretary.

E. The following shall be considered by the secretary in determining the adequacy of a plugging and abandonment plan.

- (1) The type and number of plugs to be used;
- (2) The placement of each plug, including the elevation of the top and bottom;
- (3) The type, grade and quantity of cementing slurry to be used;
- (4) The method of placement of the plugs;
- (5) The procedure to be used to plug and abandon the well; and
- (6) Such other factors that may affect the adequacy of the plan.

F. The discharger shall retain all records concerning the nature and composition of injected fluids until five

years after completion of any plugging and abandonment procedures.

20.6.2.5210 INFORMATION TO BE CONSIDERED BY THE SECRETARY FOR CLASS I NON-HAZARDOUS WASTE INJECTION WELLS AND CLASS III WELLS:

A. This Section sets forth the information to be considered by the secretary in authorizing construction and use of ~~[an effluent disposal well]~~ a Class I non-hazardous waste injection well or ~~[in situ extraction well]~~ Class III well or well field. Certain maps, cross-sections, tabulations of all wells within the area of review, and other data may be included in the discharge ~~[plan]~~ permit application submittal by reference provided they are current, readily available to the secretary and sufficiently identified to be retrieved.

B. Prior to the ~~[approval of a discharge plan]~~ issuance of a discharge permit or project discharge ~~[plan]~~ permit allowing construction of a new ~~[effluent disposal well]~~ Class I non-hazardous waste injection well, operation of an existing ~~[effluent disposal well]~~ Class I non-hazardous waste injection well, or operation of a new or existing ~~[in situ extraction well]~~ Class III well or well field, or conversion of any well to injection use, the secretary shall consider the following:

(1) Information required in Subsection C of Section 20.6.2.3106 NMAC;

(2) A map showing the ~~[effluent disposal well]~~ Class I non-hazardous waste injection well, or ~~[in situ extraction well]~~ Class III well or well fields, for which approval is sought and the applicable area of review. Within the area of review, the map must show, in so far as is known or is reasonably available from the public records, the number, name, and location of all producing wells, injection wells, abandoned wells, dry holes, surface bodies of water, springs, mines (surface and subsurface), quarries, water wells and other pertinent surface features, including residences and roads;

(3) A tabulation of data on all wells within the area of review which may penetrate into the proposed injection zone. Such data shall include, as available, a description of each well's type, the distance and direction to the injection well or well field, construction, date drilled, location, depth, record of plugging and/or completion, and any additional information the secretary may require;

(4) For wells within the area of review which penetrate the injection zone, but are not properly completed or plugged, the corrective action proposed to be taken

under Section 20.6.2.5203 NMAC;

(5) Maps and cross-sections indicating the general vertical and lateral limits of all ground water having 10,000 mg/l or less TDS within the area of review, the position of such ground water within the area of review relative to the injection formation, and the direction of water movement, where known, in each zone of ground water which may be affected by the proposed injection operation;

(6) Maps and cross-sections detailing the geology and geologic structure of the local area, including faults, if known or suspected;

(7) Generalized maps and cross-sections illustrating the regional geologic setting;

(8) Proposed operating data, including:

(a) Average and maximum daily flow rate and volume of the fluid to be injected;

(b) Average and maximum injection pressure;

(c) Source of injection fluids and an analysis or description, whichever the secretary requires, of their chemical, physical, radiological and biological characteristics;

(9) Results of the formation testing program to obtain an analysis or description, whichever the secretary requires, of the chemical, physical, and radiological characteristics of, and other information on, the receiving formation, provided that the secretary may issue a conditional approval of a discharge ~~[plan]~~ permit if he finds that further formation testing is necessary for final approval;

(10) Expected pressure changes, native fluid displacement, and direction of movement of the injected fluid;

(11) Proposed stimulation program;

(12) Proposed or actual injection procedure;

(13) Schematic or other appropriate drawings of the surface and subsurface construction details of the well;

(14) Construction procedures, including a cementing and casing program, logging procedures, deviation checks, and a drilling, testing, and coring program;

(15) Contingency plans to cope with all shut-ins or well failures so as to prevent movement of fluids into ground water having 10,000 mg/l or less TDS except for fluid movement approved pursuant to Section 20.6.2.5103 NMAC;

(16) Plans, including maps, for meeting the monitoring requirements of Section 20.6.2.5207 NMAC; and

(17) The ability of the discharger to undertake measures necessary to prevent

contamination of ground water having 10,000 mg/l or less TDS after the cessation of operation, including the proper closing, plugging and abandonment of a well, ground water restoration if applicable, and any post-operational monitoring as may be needed. Methods by which the discharger shall demonstrate the ability to undertake these measures shall include submission of a surety bond or other adequate assurances, such as financial statements or other materials acceptable to the secretary, such as: (1) a surety bond; (2) a trust fund with a New Mexico bank in the name of the State of New Mexico, with the State as Beneficiary; (3) a non-renewable letter of credit made out to the State of New Mexico; (4) liability insurance specifically covering the contingencies listed in this paragraph; or (5) a performance bond, generally in conjunction with another type of financial assurance. Such bond or materials shall be approved and executed prior to discharge ~~[plan approval]~~ permit issuance and shall become effective upon commencement of construction. If an adequate bond is posted by the discharger to a federal or another state agency, and this bond covers all of the measures referred to above, the secretary shall consider this bond as satisfying the bonding requirements of Sections 20.6.2.5000 through 20.6.2.~~5300~~ 5299 NMAC wholly or in part, depending upon the extent to which such bond is adequate to ensure that the discharger will fully perform the measures required hereinabove.

C. Prior to the secretary's approval that allows the operation of a new or existing ~~[effluent disposal well]~~ Class I non-hazardous waste injection well or ~~[in situ extraction well]~~ Class III well or well field, the secretary shall consider the following:

(1) Update of pertinent information required under Subsection B of Section 20.6.2.5210 NMAC;

(2) All available logging and testing program data on the well;

(3) The demonstration of mechanical integrity pursuant to Section 20.6.2.5204 NMAC;

(4) The anticipated maximum pressure and flow rate at which the permittee will operate;

(5) The results of the formation testing program;

(6) The physical, chemical, and biological interactions between the injected fluids and fluids in the injection zone, and minerals in both the injection zone and the confining zone; and

(7) The status of corrective action on defective wells in the area of review.

20.6.2.5211 – 20.6.2.5299: [RESERVED]

~~[20.6.2.5300 INJECTION WELL NOTIFICATION REQUIREMENT: All operators of injection wells, except those wells regulated under the Oil and Gas Act, the Geothermal Resources Conservation Act, and the Surface Mining Act, shall:~~

~~A. Submit to the secretary the information enumerated in Subsection B of Section 20.6.2.1201 NMAC of this Part no later than September 20, 1983; provided, however, that if the information in Subsection B of Section 20.6.2.1201 NMAC has been previously submitted to the secretary and acknowledged by him, the information need not be resubmitted; and~~

~~B. Operate and continue to operate in conformance with Sections 20.6.2.1000 through 20.6.2.1220 NMAC and Sections by Sections 20.6.2.3000 through 20.6.2.3114 NMAC of this Part. [9-20-82, 12-1-95]~~

**End of Adopted Rules
and Regulations Section**

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SUBMITTAL DEADLINES AND PUBLICATION DATES

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No. 1	January 4	January 15
No. 2	January 16	January 31
No. 3	February 1	February 14
No. 4	February 15	February 28
No. 5	March 1	March 14
No. 6	March 15	March 30
No. 7	April 2	April 13
No. 8	April 16	April 30
No. 9	May 1	May 15
No. 10	May 16	May 31
No. 11	June 1	June 14
No. 12	June 15	June 29
No. 13	July 2	July 16
No. 14	July 17	July 31
No. 15	August 1	August 15
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No. 19	October 1	October 15
No. 20	October 16	October 31
No. 21	November 1	November 15
No. 22	November 16	November 30
No. 23	December 3	December 14
No. 24	December 17	December 28

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