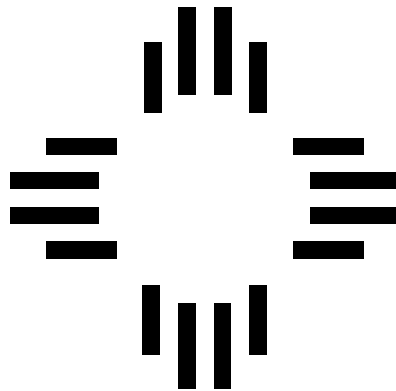


New Mexico Register

**Volume XIII, Issue Number 11
June 14, 2002**



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
2002

COPYRIGHT © 2002
BY
THE STATE OF NEW MEXICO

ALL RIGHTS RESERVED

New Mexico Register

Volume XIII, Number 11

June 14, 2002

Table of Contents

Notices of Rulemaking and Proposed Rules

Albuquerque/Bernalillo County Air Quality Control Board	
Notice of Hearing and Regular Meeting	511
Construction Industries Commission	
Notice of Regular Meeting	511
Cultural Affairs, Office of	
Museum of New Mexico	
Notice of Hearing	511
Dental Health Care, Board of	
Legal Notice	512
Education, Board of	
Notice of Proposed Rulemaking	512
Gaming Control Board	
Notice of Hearing on Amendments to Rules	513
Human Services Department	
Medical Assistance Division	
Notice of Public Hearing	513
Landscape Architects, Board of	
Public Rule Hearing	513
Livestock Board	
Notice of Rulemaking Hearing and Regular Board Meeting	514
Regulation and Licensing Department	
Construction Industries Division	
Notice of Public Hearing	514

Adopted Rules and Regulations

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

A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

Albuquerque/Bernalillo County Air Quality Control Board		
20 NMAC 11.44 R	Repeal of Emissions Trading	515
* 20.11.44 NMAC N	Emissions Trading for Emissions Subject to a Maintenance Plan	515
* 20.11.45 NMAC N	Stationary Source Conformity	518
Energy, Minerals and Natural Resources Department		
Oil Conservation Division		
* 19.15.7 NMAC Rn	Oil Proration and Allocation	520
Environment Department		
20 NMAC 5.17 R	Repeal of Underground Storage Tanks, Corrective Action Fund Administration	520
* 20.5.17 NMAC N	Petroleum Storage Tanks, Corrective Action Fund Administration	520
Environmental Improvement Board		
* 20.2.70 NMAC Rn	Operating Permits	529

Game and Fish, Department of			
*	19.31.4 NMAC	A / E	Fisheries 529
Health, Department of			
Public Health Division			
	7 NMAC 27.7	R	Repeal of Trauma Care System 529
*	7.27.7 NMAC	N	Trauma Care System 529
Human Services Department			
Medical Assistance Division			
*	8.200.510 NMAC	A	Medicaid Eligibility, General Recipient Policies, Resource Standards 554
Public Safety, Department of			
Training and Recruiting Division - Law Enforcement Academy			
*	10.29.4 NMAC	A	Instructor Certification 554
*	10.29.7 NMAC	A	In-Service Training Requirements 554
*	10.29.9 NMAC	A	Police Officer 555
*	10.29.9 NMAC	A	Police Officer 557
Social Work Examiners, Board of			
*	16.63.1 NMAC	Rn & A	Social Workers - General Provisions 559
*	16.63.3 NMAC	Rn & A	Application for Licensure 559
*	16.63.4 NMAC	Rn & A	Examinations 559
*	16.63.6 NMAC	Rn & A	Licensure by Credentials 559
*	16.63.7 NMAC	Rn & A	Provisional License 560
*	16.63.8 NMAC	Rn & A	Fees 560
*	16.63.9 NMAC	Rn & A	Baccalaureate Social Worker 560
*	16.63.10 NMAC	Rn & A	Master Social Worker 560
*	16.63.11 NMAC	Rn & A	Independent Social Worker 561
*	16.63.12 NMAC	Rn & A	Continuing Education 561
*	16.63.13 NMAC	Rn & A	Disciplinary Action 561
*	16.63.14 NMAC	Rn & A	Inactive Status 561
*	16.63.15 NMAC	Rn & A	Retirement 562
*	16.63.16 NMAC	Rn & A	Code of Conduct 562
*	16.63.19 NMAC	Rn & A	Impaired Social Worker 562
*	16.63.20 NMAC	Rn & A	Parental Responsibility Act Compliance 562
Taxation and Revenue Department			
*	18.19.1 NMAC	A	Motor Vehicle Procedures, Licenses, Permits - General Provisions 562
*	18.19.5 NMAC	A	Motor Vehicle Procedures, Licenses, Permits - Driver's License 562

Please note that the (*) entries obey the reformatting rules set forth in 1.24.10 NMAC, effective 2/29/00

The New Mexico Register
Published by
The Commission of Public Records
Administrative Law Division
1205 Camino Carlos Rey
Santa Fe, NM 87507

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

The *New Mexico Register* is published twice each month by the Commission of Public Records, Administrative Law Division. The cost of an annual subscription is \$270.00, except the first subscription from each New Mexico state agency may be ordered at \$85.00. Individual copies of any Register issue may be purchased for \$12.00. Subscription inquiries should be directed to: The Commission of Public Records, Administrative Law Division, 1205 Camino Carlos Rey, Santa Fe, NM 87507.

Telephone: (505) 476-7907; Fax (505) 476-7910; E-mail rules@rain.state.nm.us.

Notices of Rulemaking and Proposed Rules

ALBUQUERQUE/ BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

ALBUQUERQUE/BERNALILLO COUNTY AIR QUALITY CONTROL BOARD (AQCB) NOTICE OF HEARING AND REGU- LAR MEETING.

On August 14, 2002, at 5:15 PM, the Albuquerque/Bernalillo County Air Quality Control Board (Board) will hold a public hearing in the Council/Commission Chambers of the Albuquerque/Bernalillo County Government Center, 400 Marquette Avenue NW, Albuquerque, NM 87102.

The hearing will address:

* Proposed revisions to 20.11.20 NMAC, Airborne Particulate Matter.

* Proposal to incorporate a revised 20.11.20 NMAC into the New Mexico State Implementation Plan (SIP) for air quality.

The purpose of the first hearing is to receive testimony on proposed changes to the Airborne Particulate Matter regulation. Immediately after the Part 20 hearing closes a second hearing will begin during which the Board will be asked to adopt the revised regulation into the SIP.

The Air Quality Control Board is the federally delegated air authority for Albuquerque and Bernalillo County. Local delegation authorizes the Board to administer and enforce the Clean Air Act and the New Mexico Air Quality Control Act, and to require local air pollution sources to comply with air quality standards.

Hearings and meetings of the Board are open to the public and all interested persons are encouraged to participate. All persons wishing to testify regarding the subject of the hearing may do so at the hearing and will be given a reasonable opportunity to submit relevant evidence, data, views, and arguments, orally or in writing, to introduce exhibits and to examine witnesses in accordance with the Joint Air Quality Control Board Ordinances, Section 9-5-1-6 ROA 1994 and Bernalillo County Ordinance 94-5, Section 6.

Anyone intending to present technical testimony should submit a written notice of intent to: Attn: August Hearing Record, Mr.

Mike Smith, Environmental Health Department, P.O. Box 1293, Albuquerque, NM 87103, or in person in Room 3023, 400 Marquette Avenue NW, in advance of the hearing. The notice shall include:

- * Name and qualifications of each technical witness;
- * Identification of whether the witness is a proponent, opponent or interested party
- * Description of the nature of the anticipated testimony;
- * Anticipated length of each witness' presentation;
- * Identification of the specific aspects of the proposed action to which testimony will be directed and provide any alternative language proposals, where appropriate;
- * List and describe technical exhibits you anticipate submitting in connection with the witness' testimony.

In addition, written statements to be incorporated into the public record should be sent to above Post Office Box address, and must identify the individual submitting the statement. Interested persons may obtain a copy of the proposed regulation at the Environmental Health Department Office, or call Mr. Neal Butt at (505) 768-2600.

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in this meeting, please contact Mr. Neal Butt, Environmental Health Department, Room 3023, A/BCGC, 768-2600 (Voice); 768-2617 (FAX); or 768-2482 (TTY); as soon as possible prior to the meeting date. Public documents, including agendas and minutes, can be provided in various accessible formats.

NEW MEXICO CONSTRUCTION INDUSTRIES COMMISSION

CONSTRUCTION INDUSTRIES COM- MISSION

Notice is hereby given that the Construction Industries Commission will hold a regular meeting on Friday, July 26, 2002 at 9:30 a.m., at the City Council Chambers, 800 Municipal Drive, Farmington, 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 OFFICE OF CULTURAL AFFAIRS MUSEUM OF NEW MEXICO

New Mexico Office of Cultural Affairs Museum of New Mexico

Notice of Hearing

Notice is hereby Given of a PUBLIC HEARING OF THE BOARD OF REGENTS OF THE MUSEUM OF NEW MEXICO to be held at 10:00 AM, 16 July 2002, in the auditorium of the Museum of Indian Arts and Culture, 710 Camino Lejo, Santa Fe, New Mexico. This hearing is scheduled to amend, renumber, and reformat into the current NMAC requirements, 4.51.5 NMAC (formerly 4 NMAC 51.3.2): MUSEUM OF NEW MEXICO ARCHAEOLOGICAL REPOSITORY AND CULTURAL RESOURCE INFORMATION SYSTEM. The proposed amendment 1) increases certain fees to support additional ARMS services and make assessments more equitable; 2) requires participating government entities to provide equitable support to ARMS; and 3) modifies the billing system to reduce the number and size of delinquent accounts.

Copies of the proposed regulation may be obtained after 15 June 2002 by contacting the Hearing Officer by mail (ARMS Hearing Officer, c/o Tim Seaman, NM Historic Preservation Division, 228 East Palace Avenue, Room #320, Santa Fe, NM 87501), phone (505-476-1277), or e-mail (seaman@arms.state.nm.us). Comments may be provided by statement in person at the hearing, submitted in writing at the hearing, or submitted to the hearing officer in writing prior to the hearing. Hearing transcripts shall be made available on 23 July 2002 and the Hearing Officer will accept written comments through 30 July 2002. The Board of Regents of the Museum of New Mexico will consider the Hearing Officer's Report on 19 September 2002 in Santa Fe, NM. If adopted, amendments to 4.51.5 NMAC will be published in the New Mexico Register on 15 October 2002 and become effective on 1 December 2002.

If you are an individual with a disability who is 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, please contact the Hearing Officer at the address/phone/email listed above.

NEW MEXICO BOARD OF DENTAL HEALTH CARE

Legal Notice

Notice is hereby given that the New Mexico Board of Dental Health Care will convene a Rule Hearing to amend:

Title 16, Chapter 5, Part 18 **D e n t a l Hygienists Fees**

Title 16, Chapter 5, Part 33 **D e n t a l Assistants, Requirements for Certification**

Also renumber to conform to the current NMAC requirements and amend:

Title 16, Chapter 5, Part 39 **D e n t a l Assistants, Practice & Supervision**

This Hearing will be held at the St. Joseph's Northeast Heights Hospital, 4801 Montgomery NE, Conference Room B, Albuquerque, NM, July 26 & July 27, 2002 at 8:30 a.m.

Following the Rule Hearing the Dental Hygienists Committee will convene a regular meeting. The New Mexico Board of Dental Health Care will convene a regular meeting following the Dental Hygienists Committee Meeting on July 27, 2002, beginning with Executive Session. The public portion of the meeting is anticipated to begin about 11:00 a.m. and end by 5:00 p.m.

Copies of the proposed rules are available on request from the Board office, P. O. Box 25101, Santa Fe, New Mexico, 87504-5101, or phone (505) 476-7125.

Anyone wishing to present their views on the proposed rules may appear in person at the Hearing, or may send written comments to the Board office. Written comments must be received by July 12, 2002 to allow time for distribution to the Board and Committee members. Individuals planning on testifying at the hearing must provide 14 copies of their testimony.

Final action on the proposed rules will be taken during the Board meeting. Portions of the committee and Board meeting may be closed to the public while the Board and Committee are in Executive Session to discuss licensing matters. Copies of the agenda will be available 24 hours in advance of the meeting from the Board office.

Disabled members of the public who wish

to attend the meeting or hearing and are in need of reasonable accommodations for their disabilities should contact the Board Administrator at least one week prior to the meeting.

NEW MEXICO STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The New Mexico State Board of Education ("Board") will convene on Tuesday, June 18, 2002 at 4:30 p.m. The Executive Committee and the Rules of Procedure Ad Hoc Committee will meet on June 18, 2002 in Room 128 of the State Education Building, 300 Don Gaspar, Santa Fe, New Mexico. The Board will hold meetings of the Finance, Transportation & Administration Committee, Vocational Rehabilitation, Career Education & Adult Services Committee, Quality Educators Committee, and Instructional Services Committee on Wednesday, June 19, 2002. The Accountability Committee will meet on Thursday, June 20, 2002. The regular meeting of the Board will be held on Friday, June 21, 2002. Meetings scheduled for Wednesday, June 19, 2002 through Friday, June 21, 2002 will be held in the Old Senate Chambers, Bataan Memorial Building, Don Gaspar Street, Santa Fe, New Mexico. Information regarding any change in the location of the meetings, the addition of meeting days, and the agenda for the meeting, will be available at least twenty-four hours prior to the meeting from the Administrative Assistant to the State Board and on the State Board's web page of the State Department of Public Education's website (<http://sde.state.nm.us/>)

The New Mexico State Department of Public Education will recommend that the Board take action as follows:

RULE NUMBER	PROPOSED ACTION	(PROPOSED) RULE NAME
6.19.2 NMAC	Amend rule	Public School Accountability System for Schools Rated Probationary ■
6.30.2 NMAC	Amend rule	Amend <i>Standards for Excellence</i> by adopting new section 14 (Mathematics – Content Standards, Benchmarks, and Performance Standards) and replacing current section 14 ✓
6.30.3 NMAC	Amend rule	Eligibility for the GED Tests and Diploma in New Mexico ✕
6.32.2 NMAC	Repeal rule effective June 30, 2003	Guidelines for Implementing Bilingual Multicultural Programs ✓
6.32.2 NMAC	Adopt new rule effective July 1, 2003	Guidelines for Implementing Bilingual Multicultural Programs ✓
6.60.5 NMAC	Amend rule	Competency Testing for Licensure ●
6.61.9 NMAC	Amend rule	Substandard Licensure ●
6 NMAC 4.2.3.11 (Proposed 6.63.5 NMAC)	Reformat and amend rule	Licensure for School Psychologists, K-12 ●
6 NMAC 4.2.3.12 (Proposed 6.63.6 NMAC)	Reformat and amend rule	Licensure for School Counselors, K-12 ●
6.63.12 NMAC (Proposed)	Adopt new rule	School Business Official Licensure ▶

- Accountability Committee
- ▶ Finance, Transportation & Administration Committee
- ✕ Vocational Rehabilitation, Career Education & Adult Services Committee
- Quality Educators Committee
- ✓ Instructional Services Committee

Copies of the proposed rules may be obtained from the offices of the Board Committee liaisons as follows:

- Accountability Committee – Pat Rael – (505) 827-6683 or <mailto:prael@sde.state.nm.us>
- ▶ Finance, Transportation & Administration Committee – Dr. Kathleen Forrer – (505) 827-6330 or <mailto:kforrer@sde.state.nm.us>
- ✕ Vocational Rehabilitation, Career Education & Adult Services Committee – Lena Trujillo-Chavez – (505) 827-6512 or <mailto:ltrujillo@sde.state.nm.us>
- Quality Educators Committee – Dr. Susanna Murphy – (505) 827-3876 or <mailto:smur->

phy@sde.state.nm.us, James Ball – (505) 827-6587 or mailto:jbball@sde.state.nm.us

✓ Instructional Services Committee –

Toni Nolan-Trujillo – (505) 827-3876 or mailto:trujillo@sde.state.nm.us, or Steven Sanchez – (505) 827-3644 or mailto:ssanchez@sde.state.nm.us

Notice has been provided regarding public hearings and the submission of written comments regarding the proposed rulemaking. For specific information, please contact the Board Committee liaisons indicated above.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting, please contact the State Board of Education Office at (505) 827-6571 as soon as possible.

The Board attempts to follow the order and date of items as listed on the Agenda; however, the order and date of specific items are tentative and may vary from the printed Agenda.

Comments, questions, or requests for copies of the Agenda should be directed to Mary Jo Bradley, State Department of Education, Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786 or (505) 827-6571.

NEW MEXICO GAMING CONTROL BOARD

NOTICE OF HEARING ON AMENDMENTS TO RULES

The New Mexico Gaming Control Board (“Board”) will hold a public hearing at 9:00 a.m. on July 9, 2002 at the New Mexico Gaming Control Board, 6400 Uptown Blvd., N.E., Suite 100-E, Albuquerque, New Mexico 87110 to consider amendments for the following rules: **15.1.5 NMAC, Application for Licensure Under the Gaming Control Act, 15.1.5.16 NMAC, Application for Finding of Suitability; Certification, 15.1.5.19 NMAC, Application for Manufacturer’s or Distributor’s License, 15.1.6 NMAC, Premises Licensed Under the Gaming Control Act, 15.1.6.9 NMAC, Area of Licensed Premises; Restrictions, 15.1.6.10 NMAC, Area of Licensed Premises; Restrictions Applicable to Racetrack Gaming Operator Licensees, 15.1.6.10 NMAC, Ownership of Premises, 15.1.6.11 NMAC, Modification of Licensed Premises, 15.1.6.12 NMAC, Transfer of License to New Premises, 15.1.10 NMAC, Conduct of Gaming Activity Under the**

Gaming Control Act, 15.1.10.9 NMAC, Unsuitable Methods of Operation, 15.1.10.32 NMAC, Use of Gaming Receipts by Nonprofit Operator Licensee, 15.1.11 NMAC, List of Excluded Persons Under the Gaming Control Act, 15.1.11.10 NMAC, Notice of Candidacy, 15.1.14 NMAC, Enforcement Proceedings Under the Gaming Control Act, 15.1.14.8 NMAC, Public Hearings; Location; Hearing Examiner, 15.1.14.18 NMAC, Recommended Action; Final Decision, 15.1.15 NMAC, Administrative Appeal of Gaming Control Board Action, 15.1.15.8 NMAC, Public Hearings; Location; Hearing Examiner, 15.1.15.17 NMAC, Recommended Action; Final Decision, 15.1.17 NMAC, Schedule of Penalties Under the Gaming Control Act, 15.1.17.9 NMAC, Schedule of Fines and Penalties, 15.1.19 NMAC, Payment of Winnings over \$600 Under the Gaming Control Act, amendment to caption, 15.1.19.8 NMAC, Payout Restrictions, 15.1.19.9 NMAC, Verification of Winnings; Reporting Procedures, 15.1.19.10 NMAC, Distribution of Reporting Form.

Copies of the proposed amendments are available on request to the New Mexico Gaming Control Board, 6400 Uptown Blvd., N.E., Suite 100-E, Albuquerque, New Mexico 87110, or by calling (505) 841-9733. The proposed changes are also available on our website at www.nmgcb.org. The Board can provide public documents in various accessible formats.

The hearing will be held before a hearing officer appointed by the Board. All interested parties may attend the hearing and present their views orally or submit written comments prior to the hearing. Written comments should be directed to the Gaming Control Board, 6400 Uptown Blvd., N.E., Suite 100-E, Albuquerque, New Mexico 87110.

If you are an individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, please contact Loretta Chavez, Gaming Control Board, at least one week prior to the hearing at (505) 841-9711.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

NOTICE

The New Mexico Human Services Department (HSD) will hold a public hear-

ing at 1:30 p.m., on July 11, 2002, at the Board Room, Educational Services Center, Santa Fe Public Schools Administration Building, (610 Alta Vista), Santa Fe, New Mexico. The subject of the hearing will be Changes To Market Basket Index (MBI) To Intermediate Care Facilities For The Mentally Retarded (ICF/MRs).

The New Mexico Human Services Department, Medical Assistance Division currently increases ICF/MR rates annually using the Centers for Medicare and Medicaid Services (CMS) Market Basket Index (MBI) each year as the inflator. The register proposes that pursuant to budget availability and to the Department’s discretion, the inflation factor may be used to recognize economic conditions and trends. A notice will be sent out every September informing the provider if an MBI will be used for the year and what the percentage increase will be if the MBI is authorized.

Interested persons may testify or submit written comments no later than 5:00 p.m., July 11, 2002, to Robin Dozier Otten, Secretary-Designate, 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.

NEW MEXICO BOARD OF LANDSCAPE ARCHITECTS

Public Rule Hearing

The New Mexico Board of Landscape Architects will convene a public rule hearing on Wednesday, July 17, 2002. The hearing will begin at 9:00 am, at the New

Mexico State Bar, 5150 Masthead NE, Albuquerque, New Mexico. The purpose of the rule hearing is to amend Part 1, repeal Part 2, 3, 4, 5, renumbering and reformatting pursuant to NMAC and to consider adoption of new Parts 2, 3, 4, 5, 6, 7, 8 and 9.

NEW MEXICO LIVESTOCK BOARD

NEW MEXICO LIVESTOCK BOARD NOTICE OF RULE MAKING HEARING AND REGULAR BOARD MEETING

NOTICE IS HEREBY GIVEN that a rule making hearing and regular board meeting will be held on Thursday June 27, 2002, Convention Center, Tucumcari, New Mexico, at 9:00 a.m. The board will consider rules governing animal health, meat inspection, fees and other matters of general business, including setting the Mill Rate for Livestock in Accordance with Section 77-2-15.

Copies of rules can be obtained by contacting John Wortman, Executive Director, New Mexico Livestock Board, 300 San Mateo, N. E., Suite 1000, Albuquerque, NM 87108-1500, (505) 841-6161. Interested persons may submit their views on the proposed rules to the Board at the above address and/or may appear at the scheduled hearing and make a brief verbal presentation of their view.

Anyone who requires special accommodations is requested to notify the New Mexico Livestock Board office at (505) 841-6161 of such needs at least five days prior to the meeting.

NEW MEXICO REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

STATE OF NEW MEXICO REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION NOTICE OF PUBLIC HEARING

Public Meetings to receive comments regarding the adoption of the Modular Standards will be held as follows:

* Santa Fe, NM – July 16, 2002,
9:00 a.m. – 12:00 Noon At CID Conference

Room, 725 St. Michael's Drive

* Albuquerque, NM – July 17, 2002, 9:00 a.m. – 12:00 Noon At CID Conference Room, 2nd Floor, 1650 University Blvd. N.E.

* Las Cruces, NM – July 17, 2002, 9:00 a.m. – 12:00 Noon, At CID Conference Room, Loretto Towne Centre, Suite 150, 505 S. Main

* Roswell, NM – July 18, 2002, 9:00 a.m. – 12:00 Noon At City Council Chambers, 425 N. Richardson

You are invited to attend and express your opinion of the adoption of the above referenced standard. If you cannot attend the meeting, you may send your written comments to the General Construction Bureau, Construction Industries Division, 725 St. Michael's Drive, P.O. Box 25101, Santa Fe, New Mexico 87504. Telephone (505) 827-7030. FAX (505) 827-7045. All comments must be received no later than 5:00 p.m., July 19, 2002.

Copies of the Modular Standards are available at the Construction Industries Division Offices at the above address.

If you require special accommodations, please notify the Division of such needs no later than July 11, 2002.

End of Notices and Proposed Rules Section

Adopted Rules and Regulations

ALBUQUERQUE/ BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

20 NMAC 11.44, Emissions Trading, filed 10-27-95 is hereby repealed and replaced by 20.11.44 NMAC, Emissions Trading for Emissions Subject To A Maintenance Plan. The Albuquerque / Bernalillo Air Quality Control Board adopted these changes during its May 8th, 2002 hearing and regular meeting. They determined that these changes to Part 44 provide market-based incentives that are intended to keep Bernalillo County within the emissions budgets established by attainment maintenance plans approved by the United States Environmental Protection Agency.

ALBUQUERQUE/ BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

TITLE 20 ENVIRONMENTAL PROTECTION CHAPTER 11 ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD PART 44 EMISSIONS TRADING FOR EMISSIONS SUBJECT TO A MAINTENANCE PLAN

20.11.44.1 ISSUING AGENCY: Albuquerque/Bernalillo County Air Quality Control Board, P.O. Box 1293, Albuquerque, NM 87103. Telephone: (505) 768-2600.
[20.11.44.1 NMAC – Rp, 20 NMAC 11.44.I.1, 7/1/02]

20.11.44.2 SCOPE:
A. 20.11.44 NMAC establishes a system for approving, crediting, and trading emission offsets in Bernalillo County to be used in conjunction with 20.11.45 NMAC.

B. Exempt: 20.11.44 NMAC does not apply to stationary sources within Bernalillo County which are located on Indian lands over which the Albuquerque/Bernalillo County Air Quality Control lacks jurisdiction.
[20.11.44.2 NMAC – Rp, 20 NMAC 11.44.I.2, 7/1/02]

20.11.44.3 STATUTORY AUTHORITY: 20.11.44 NMAC is adopt-

ed pursuant to the authority provided in the New Mexico Air Quality Control Act, NMSA 1978 Sections 74-2-4, 74-2-5.C; the Joint Air Quality Control Board Ordinance, Bernalillo County Ordinance 94-5 Section 4; and the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque ROA 1994 Section 9-5-1-4.
[20.11.44.3 NMAC – Rp, 20 NMAC 11.44.I.3, 7/1/02]

20.11.44.4 DURATION: Permanent.

[20.11.44.4 NMAC – Rp, 20 NMAC 11.44.I.4, 7/1/02]

20.11.44.5 EFFECTIVE DATE: 7/1/02, unless a later date is cited at the end of a section.

[20.11.44.5 NMAC – Rp, 20 NMAC 11.44.I.5, 7/1/02]

20.11.44.6 OBJECTIVE: The objective of 20.11.44 NMAC is to establish a stationary source emissions trading and offset program for those criteria pollutants for which Bernalillo County is subject to an attainment maintenance plan pursuant to 40 Code of Federal Regulations Part 51. The emissions trading and offset program of 20.11.44 NMAC is intended to provide market-based incentives for emissions reductions, offsets, and transfers, which are intended to keep Bernalillo County within the emissions budgets established by attainment maintenance plans approved by the Administrator. The specific purpose of 20.11.44 NMAC is limited to providing a means to achieve verifiable and enforceable emissions offsets and transfers to meet the requirements of 20 NMAC 11.45.

[20.11.44.6 NMAC – Rp, 20 NMAC 11.44.I.6, 7/1/02]

20.11.44.7 DEFINITIONS: In addition to the definitions in 20.11.44.7 NMAC, the definitions in 20.11.01 NMAC apply unless there is a conflict between definitions, in which case the definition in 20.11.44.7 NMAC shall govern. Terms used in 20.11.44 NMAC but not defined in 20.11.44 NMAC or 20.11.01 NMAC shall have the meaning given them by the New Mexico Air Quality Control Act, the CAA, or applicable Environmental Protection Agency (EPA) regulations, in that order of priority.

A. "Bank" means the accounting repository for emission offsets, including the emission offset banking database, for those criteria pollutants for which Bernalillo County is subject to an attainment maintenance plan emission budget

pursuant to 40 Code of Federal Regulations Part 51.

B. "Bankable Emission Offsets" means the emission offsets that meet the requirements of 20.11.44 NMAC.

C. "Banking" means a system for quantifying, recording, storing, and preserving emission offset information so that the offsets may be used or transferred and used at a future date.

D. "Banking Database" means the Division database that records all emission offset transactions including deposits, withdrawals, and transfers.

E. "Department" means the Albuquerque Environmental Health Department or its successor agency.

F. "Division" means the Air Quality Division of the City of Albuquerque Environmental Health Department, or the Division's successor agency or authority, which administers and enforces the Board regulations and is staff for the Board.

G. "Emission Offsets" or "EOs" means an emission reduction that will be included in a permit for a proposed stationary source or modification of an existing source. Methods of reducing emissions to receive credit under 20.11.44 NMAC include but are not limited to, the following:

- (1) installation of add-on control equipment,
- (2) change in process(es),
- (3) permit provisions specifying a lower level of emissions accepted by the owner or operator,
- (4) shutdown of emission units or stationary sources,
- (5) production curtailment(s), and
- (6) reductions in operating hours.

H. "Emission Offset Credit" or "EOC" means an emission offset that is enforceable and quantifiable and is approved by the Division in accordance with the requirements of 20.11.44 NMAC.

I. "Emission Offset Credit Certificate" or "EOC Certificate" means a certificate documenting possession of a specified quantity and type of EOs, issued by the Division to the owner(s) identified on the certificate.

J. "Enforceable" means an emission limit that is established by a source-specific SIP revision, a limitation contained in a permit issued in accordance with 20.11.40 NMAC, 20.11.41 NMAC, or 20.11.42 NMAC, an order or other decision of a court, a final administrative decision, or an enforcement instrument such as a compliance or other settlement agreement.

K. "Potential Emission

Rate means the emission rate of a stationary source at its maximum capacity to emit a regulated air contaminant under its physical and operational design, provided any physical or operational limitation on the capacity of the source to emit a regulated air contaminant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its physical and operational design only if the limitation or the effect it would have on emissions is enforceable by the Division pursuant to the New Mexico Air Quality Act [Chapter 74, Article 2 NMSA 1978] or the federal Clean Air Act.

L. "Quantifiable" means the amount, rate, and characteristics of the emission reduction, which can be estimated through a reliable method, approved by the Division. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, process parameters, production inputs, modeling, or other reasonable measurement practices. The same method of calculating emissions shall be used to quantify emission levels both before and after the reduction, unless the Division approves another method.

M. "Transfer" means the conveyance of an emission offset from one person to another. All banking transactions shall be recorded in the emission offset banking database and shown as debits and credits for the appropriate person(s).

[20.11.44.7 NMAC – Rp, 20 NMAC 11.44.I.7, 7/1/02]

20.11.44.8 VARIANCES:
[RESERVED]

20.11.44.9 SAVINGS CLAUSE: Any amendment to 20.11.44 NMAC, which is filed, with the State Records Center shall not affect actions pending for violation of a City or County ordinance or 20.11.44 NMAC. Prosecution for a violation under prior regulation wording shall be governed and prosecuted under the statute, ordinance, Part, or regulation section in effect at the time the violation was committed.

[20.11.44.9 NMAC – Rp, 20 NMAC 11.44.I.9, 7/1/02]

20.11.44.10 SEVERABILITY: If any section, paragraph, sentence, clause, or word of 20.11.44 NMAC or any federal standards incorporated herein is for any reason held to be unconstitutional or otherwise invalid by any court, the decision shall not affect the validity of remaining provisions of 20.11.44 NMAC.

[20.11.44.10 NMAC – Rp, 20 NMAC

11.44.I.10, 7/1/02]

20.11.44.11 DOCUMENTS: Documents incorporated and cited in 20.11.44 NMAC may be viewed at the Albuquerque Environmental Health Department, 400 Marquette NW, Albuquerque, NM.

[20.11.44.11 NMAC – Rp, 20 NMAC 11.44.I.11, 7/1/02]

20.11.44.12 APPLICABLE REQUIREMENTS:

A. Emission Offset Credit Bank. The Division shall maintain a banking database that shall record all current EOC information, including applications, certificates issued, transfers, any other transactions that affect EOC ownership and totals, and all other pertinent information concerning current EOCs. The current total stationary source emissions inventory shall also be included. Except for Confidential Business Information exempt under applicable federal, state, or local law, all data in the banking database shall be available to the public upon request consistent with the New Mexico Inspection of Public Records Act.

B. Criteria for Emissions Offset Credit Trade Approval:

(1) If an offset meets all requirements of 20.11.44 NMAC, the Division shall authorize banking and use of the offset as an EOC.

(2) An EOC may be used as an offset until the earlier of either the end of the term of the applicable maintenance plan or the date the applicable maintenance plan is no longer in effect. An EOC shall be no longer available for use or transfer as an EOC when the offsets are included as allowable emissions in a permit or permit modification.

C. Procedures for Calculating a Proposed Emission Offset. To calculate a proposed emission offset credit, the applicant shall:

(1) Calculate the potential emission rate that exists before the proposed offsets is produced.

(2) Subtract the new, proposed potential emission rate from the potential emission rate. The product will be the offset that is the proposed "emission offset credit".

D. Emission Offset Credit Bank Record Keeping Requirements. All records shall be maintained by the EOC owner as long as the emission offset credit is valid, and shall be available for inspection upon request by the Division. Amounts shall be recorded in tons per year.

(1) For each pending EOC appli-

cation or approved EOC certificate, each EOC owner shall maintain records of the following:

(a) a complete description of all projects that produced or used EOCs, including the potential emission rate for the affected sources, the date of the actual emission offsets, potential emission rate or proposed potential emission rate, as appropriate, after the project (TPY),

(b) EOC deposits applied for, but not yet approved (i.e., applications),

(c) approved EOC deposits,

(d) EOCs used as offsets,

(e) EOCs transferred to another party,

(f) adjustments to the EOC balance to account for new emission offsets,

(g) The date of each transaction (for applications: the date on which the application was submitted); for deposits: the date the EOC Certificate was issued; for EOCs used: the date on which the permit was issued that included the EOCs; for transfers: the date of sale, and

(h) the current EOC balance.

(2) If transfer of an EOC is approved by the Division, the transferee shall maintain all records required in Subsection D of 20.11.44.12 NMAC, and shall make the records available for inspection upon request by the Division.

E. A person who wants the Division to approve designation of offsets as EOCs, transfer of EOCs to a new owner, or use of EOCs in a permit or permit modification shall submit to the Division an Emission Offset Credit Application on a form approved by the Division. The application, the information and the proposed use of the EOCs shall comply with 20.11.44 NMAC and all other applicable laws. The owner of an EOC shall pay the same annual emission fee per pollutant ton as an owner/operator of a permit subject to 20.11.02 NMAC.

F. Procedures for Division Review and Approval of EOCs.

(1) EOC applications not related to a permitting action. The applicant shall submit the EOC application on a form approved by the Division. The Division shall have thirty days from the date of receipt to review and rule the EOC application complete. The Division shall within thirty days after ruling the EOC application complete either: approve the EOC as submitted in the application; approve the EOC with conditions; or deny the EOC. The Division shall issue within forty-five days of ruling the EOC application complete an EOC certificate in accordance with Paragraph (3), of Subsection F of 20.11.44.12 NMAC for EOCs approved as submitted or approved with conditions. The

Division shall issue a denial letter with a statement of basis for denial within forty-five days of ruling the EOC application complete for EOCs denied.

(2) EOC applications related to a permitting action. The applicant shall submit the EOC application on a form approved by the Division. The Division shall process the EOC application in conjunction with the processing of the permitting action in accordance with the permitting action timelines specified in 20.11.41 NMAC or 20.11.42 NMAC. For a permitting action requiring public notice, the Division shall include as part of the public notice a statement that emission offsets are involved, how the emission offsets are created or utilized; and the quantity of emission offsets involved in the permitting action. The Division shall issue a final decision on the EOCs within the timelines specified for the permitting action in accordance with 20.11.41 NMAC or 20.11.42 NMAC. The Division's final decision on the EOCs include, but is not limited to: approval of utilization of the EOCs as requested, approval of utilization of the EOCs with conditions; issuance of an EOC certificate; and/or denial of the EOCs. The Division's letter of denial shall include a statement of basis of denial. The Division shall issue the EOC certificate in accordance with Paragraph (3), of Subsection F of 20.11.44.12 NMAC.

(3) Issuance of EOC Certificates.

(a) Issuance of EOC Certificates. For EOC applications not related to a permitting action, if the Division approves the EOC, the Division shall issue an EOC certificate(s) to the owner(s) within thirty days after the Division's final decision to issue the EOC certificate. For EOC applications related to a permitting action, if the Division approves the EOC, the Division shall issue an EOC certificate(s) to the owner(s) within thirty days after the Division's issuance of the permitting action. The Division shall retain a copy of the EOC certificate, and the original shall be delivered to the owner(s). The issued EOC certificate shall be recorded in the banking database, and the EOC balance(s) in the banking database shall be adjusted accordingly.

(b) At a minimum, each EOC certificate shall:

- (i) bear the date of issuance,
- (ii) be signed by the Division,
- (iii) include the owner(s)' name(s) and address(es),
- (iv) state the name and location of the stationary source where the

emission reduction occurred,

(v) describe the method of EOC creation,

(vi) state the quantity of the EOC and pollutant, and

(vii) state when the emission reduction occurred.

(4) Multiple EOC Certificates and Multiple Ownership. Single or multiple EOC certificates may be issued for a particular emission offset project. At the owner(s)' request, multiple EOC certificates shall be issued for each owner's proportional share.

(5) Transfer of EOCs. An EOC certificate may be transferred in whole or in part. The role of the Division in the transfer of an EOC certificate shall be limited to providing information to the public, documenting EOC transfers, and registering EOC certificates. After an owner of an EOC transfers all or part of EOCs to a new owner, the prior owner shall notify the Division of the transfer by a letter delivered to the Division within 30 days of the transfer. The letter shall include the name of the prior owner, the new owner and the new owner's address and contact information, the amount of EOC transferred, and the date of the transfer. The Division shall then issue a certificate documenting the new owner and the amount of the EOC transferred. In the case of a partial transfer, the Division shall issue a new certificate both to the new owner and to the owner transferring the EOCs. The certificates shall state the EOCs available to each owner. The EOC balance(s) in the banking database shall be adjusted accordingly.

(6) Request for Recalculation of EOCs. An applicant for EOC approval or an EOC owner may ask the Division to recalculate an EOC balance. For instance, an owner may ask for recalculation if more accurate emissions data (e.g., performance test data, etc.) is available. When the Division performs the review, the Division shall follow the same procedure used for reviewing an initial application for approval of EOCs.

G. Review Hearing.

(1) If an owner of an emission offset credit (EOC) or an applicant for an EOC disagrees with the Division's decision on an action regarding an EOC, the owner or applicant (requestor) may ask the Department Director to call a review hearing to review and reconsider the Division's initial decision. To obtain a review hearing, the requestor must deliver a written request for review and reconsideration to the Director within thirty days after receipt of the Division's initial decision. If the requestor does not request review by the Director within the thirty day deadline, the

requestor cannot later appeal the decision.

(2) Upon receiving the written request for review and reconsideration, the Director shall set a date, time, and place for the review hearing. The hearing shall occur not more than thirty days after the Director received the written request. No fewer than ten days before the hearing, or sooner if agreed by the requestor and the Director, the Director shall inform the requestor by facsimile or telephone of the date, time, and place of the hearing. Notice shall also be sent by mail. The Director may designate a hearing officer who was not involved in making the Division's disputed initial decision. At the hearing, the requestor has the burden of proof and must demonstrate why the Division's initial decision was not correct and what action should be taken. The hearing shall be recorded. The party requesting a written transcript or other copy of the hearing shall pay the related cost.

(3) At the review hearing, if a hearing officer is appointed, the hearing officer will provide a recommended decision to the Director. The Director may sustain, modify, or reverse the Division's disputed initial decision. The Director shall issue a written decision. The Director shall mail written notice of the decision to the requestor by certified mail no more than fifteen days after the close of the review hearing.

[20.11.44.12 NMAC – Rp, 20 NMAC 11.44.II.1, 2, 3, 4, 5, 6, 7/1/02]

HISTORY OF 20.11.44 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records – state records center and archives. Regulation No. 38, Emissions Trading, 6/3/91.

History of Repealed Material: 20 NMAC 11.44, Emissions Trading, filed 10/27/95 repealed effective 7/1/02.

Other History:

Regulation No. 38, Emissions Trading, filed 6/3/91 **renumbered, reformatted and replaced** by 20 NMAC 11.44, Emissions Trading, filed 10/27/95.

20 NMAC 11.44, Emissions Trading, filed 10/27/95 **replaced** by 20.11.44 NMAC, Emissions Trading For Emissions Subject To A Maintenance Plan; effective 7/1/02.

**ALBUQUERQUE/
BERNALILLO COUNTY
AIR QUALITY CONTROL
BOARD**

**TITLE 20 ENVIRONMENTAL
PROTECTION
CHAPTER 11**

**ALBUQUERQUE/BERNALILLO
COUNTY AIR QUALITY CONTROL
BOARD**

**PART 45 STATIONARY
SOURCE CONFORMITY**

20.11.45.1 ISSUING AGENCY:
Albuquerque/ Bernalillo County Air
Quality Control Board.
P.O. Box-1293, Albuquerque, NM 87103.
Telephone: (505) 768-2600.
[20.11.45.1 NMAC - N, 7/1/02]

20.11.45.2 SCOPE:
A. Action Applicability:

Stationary source conformity determina-
tions are required for major and minor sta-
tionary sources subject to 20.11.40 NMAC,
20.11.41 NMAC, 20.11.42 NMAC,
20.11.60 NMAC, or 20.11.61 NMAC.

**B. Geographic
Applicability:** The provisions of 20.11.45
NMAC shall apply to the area within
Bernalillo County that is subject to a main-
tenance plan for air pollutants.

(1) The provisions of 20.11.45
NMAC apply with respect to emissions of
the following criteria pollutants: ozone, car-
bon monoxide (CO), nitrogen dioxide
(NO₂), and particles with an aerodynamic
diameter less than or equal to a nominal 10
micrometers (PM₁₀), and all other air pol-
lutants identified in Section 108(a) of the
Clean Air Act (CAA).

(2) The provisions of 20.11.45
NMAC apply with respect to emissions of
the following precursor pollutants:

(a) Volatile organic compounds
(VOC) and nitrogen oxides (NO_x) in ozone
areas,

(b) NO_x in NO₂ areas, and

(c) VOC, NO_x, PM₁₀ or PM₂ in
PM₁₀ or PM₂ areas if the EPA Regional
Administrator or the manager of the
Division has made a finding that precursor
emissions within the maintenance area are a
significant contributor to the PM₁₀ and
PM_{2.5} nonattainment problem.

(3) The provisions of 20.11.45
NMAC apply to all maintenance areas with-
in Bernalillo County for 20 years from the
date EPA approves the areas' request under
Section 107(d) of the Clean Air Act (CAA)
for re-designation to attainment, unless the
applicable implementation plan specifies

that the provisions of this part shall apply
for more than 20 years.

[20.11.45.2 NMAC - N, 7/1/02]

20.11.45.3 STATUTORY

AUTHORITY: 20.11.45 NMAC is adopt-
ed pursuant to the authority provided in the
New Mexico Air Quality Control Act,
NMSA 1978 Sections 74-2-4, 74-2-5.C; the
Joint Air Quality Control Board Ordinance,
Bernalillo County Ordinance 94-5 Section
4; and the Joint Air Quality Control Board
Ordinance, Revised Ordinances of
Albuquerque 1994 Section 9-5-1-4.

[20.11.45.3 NMAC - N, 7/1/02]

20.11.45.4 DURATION :

Permanent.

[20.11.45.4 NMAC - N, 7/1/02]

20.11.45.5 EFFECTIVE DATE:

July 1, 2002, unless a later date is cited at
the end of a section.

[20.11.45.5 NMAC - N, 7/1/02]

20.11.45.6 OBJECTIVE:

This Part establishes requirements that must be
met before the Division may issue
a new or modified stationary source permit
pursuant to: 20.11.40 NMAC, 20.11.41
NMAC, 20.11.42 NMAC,
20.11.60 NMAC, and 20.11.61NMAC. The
objective of 20.11.45 NMAC is to prevent
or abate air pollution and
violation of the ambient air quality stan-
dards within Bernalillo County by ensuring
that the Division does not issue
stationary source permits that cumulatively
exceed the total maximum tons of air pol-
lutants established in any
maintenance plan applicable within
Bernalillo County.

[20.11.45.6 NMAC - N, 7/1/02]

20.11.45.7 DEFINITIONS:

In addition to the definitions in 20.11.45
NMAC, the definitions in 20.11.1 NMAC
apply unless there is a conflict between def-
initions, in which case the definition in
20.11.45 NMAC shall govern. Terms used
in 20.11.45 NMAC but not defined in
20.11.45 NMAC or 20.11.1 NMAC shall
have the meaning given them by the New
Mexico Air Quality Control Act, by the
CAA, or applicable Environmental
Protection Agency (EPA) regulations, in
that order of priority.

**A. "Ambient Air Quality
Standards or Standards"** means the
National Ambient Air Quality Standards
(NAAQS) established pursuant to Section
109 of the CAA.

**B. "Applicable
Implementation Plan"** means the plan
defined in Section 302(q) of the CAA and

means the portion (or portions) of the
implementation plan, or most recent revi-
sions thereof, which has been approved
under Section 110, or promulgated under
Section 110(c), or promulgated or approved
pursuant to regulations promulgated under
Section 301(d) and which implements the
relevant requirements of the CAA.

C. "Available Tons"
means the number of tons of an air pollutant
available for allocation to stationary sources
by the Division during a budget period,
computed by subtracting the committed
tons from the maintenance plan tons.

D. "Budget Period"
means a period of one year or longer, as
stated in an applicable maintenance plan,
that establishes the amount of an air pol-
lutant that is allocated to stationary sources.

E. "CAA" means the
Clean Air Act, as amended (42 U.S.C. 7401
et seq.).

F. "Committed Tons"
means the total number of air pollutant tons
committed to stationary sources in an appli-
cable maintenance plan and is calculated by
adding the tons of an air pollutant that:

(1) have been allocated in all
major stationary source permits, all minor
stationary source permits, and all registra-
tions that are active at the time the compu-
tation is made,

(2) are included in all major and
minor stationary source permits that have
been published for public comment, and

(3) are included in all 20.11.42
NMAC applications that were deemed com-
plete by the Division prior to January 1,
2002. Allocated tons shall not be double
counted when calculating the committed
tons.

G. "Department" means
the Albuquerque Environmental Health
Department or its successor agency.

H. "Division" means the
Air Quality Division of the City of
Albuquerque Environmental Health
Department, or the Division's successor
agency or authority, which administers and
enforces the Albuquerque/Bernalillo
County Air Quality Control Board (Board)
regulations and serves as staff for the Board.

I. "Maintenance Area"
means any geographical region of the
United States previously designated non-
attainment pursuant to the CAA
Amendments of 1990 and subsequently re-
designated to attainment subject to the
requirement to develop a maintenance plan
under Section 175A of the CAA, as amend-
ed.

J. "Maintenance Plan"
means an implementation plan approved by
the EPA pursuant to Section 175A of the
CAA, as amended.

K. "Maintenance Plan Tons" means the tons of an air pollutant allocated to stationary sources over the budget period, as established in an applicable maintenance plan.

L. "Manager" means the Manager of the Air Quality Division or its successor agency or authority, or his or her designee.

M. "Non-Attainment Area" means any geographic region of the United States, which has been designated as non-attainment under Section 107 of the CAA for any criteria pollutant for which a National Ambient Air Quality Standard (NAAQS) exists.

N. "Offset" means an equivalent or greater emission reduction that is required before an emission increase from a proposed stationary source or modification of an existing source will be included in a permit.

O. "Project" means any construction or modification subject to 20.11.40 NMAC, 20.11.41 NMAC, 20.11.60 NMAC, or 20.11.61 NMAC, and any increase in an emission limitation subject to 20.11.42 NMAC.

P. Acronyms.

(1) **CAA**=Clean Air Act, as amended

(2) **CO**=Carbon monoxide

(3) **EPA**=United States Environmental Protection Agency

(4) **NO_x**=Oxides of Nitrogen

(5) **PM_{2.5}**=Particulate matter less than or equal to 2.5 microns in diameter

(6) **PM₁₀**=Particulate matter less than or equal to 10 microns in diameter

[20.11.45.7 NMAC - N, 7/1/02]

20.11.45.8 VARIANCES :
[RESERVED]

20.11.45.9 SAVINGS CLAUSE: Any amendment to 20.11.45 NMAC that is filed with the State Records Center shall not affect actions pending for violation of a City or County ordinance, a Board Regulation or a permit. Prosecution for a violation under prior regulation wording shall be governed and prosecuted under the statute, ordinance, Part or regulation section in effect at the time the violation was committed.
[20.11.45.9 NMAC - N, 7/1/02]

20.11.45.10 SEVERABILITY: If any section, paragraph, sentence, clause, or word of 20.11.45 NMAC or any federal standards incorporated herein is for any reason held to be unconstitutional or otherwise invalid by any court, the decision shall not affect the validity of remaining provisions of 20.11.45 NMAC.

[20.11.45.10 NMAC - N, 7/1/02]

20.11.45.11 DOCUMENTS : Documents incorporated and cited in this Part may be viewed at the Albuquerque Environmental Health Department, 400 Marquette NW, Albuquerque, NM.
[20.11.45.11 NMAC - N, 7/1/02]

20.11.45.12 APPLICABLE REQUIREMENTS:

A. Tracking Stationary Source Available Tons: For each air pollutant that is included in an approved maintenance plan, the Division shall confirm the maintenance plan tons. The Division shall convert the maintenance plan tons for the budget period to tons per year, if the number of tons is not stated in tons per year in the maintenance plan.

(1) At the beginning of each budget period, the Division shall determine available tons for stationary sources by using the following equation. The available tons equals (=) the maintenance plan tons minus (-) the committed tons.

(2) Throughout each budget period, the Division shall adjust the available tons by subtracting the number of tons of the pollutant that have been allocated to permits whose applications have been published for public notice, and by adding tons of the pollutant acquired from expired, cancelled or voided permits. If an application has been published for public notice, but the permit that is issued allocates a different amount of air pollutant than the amount published, or if the permit is not issued, the Division shall make adjustments accordingly to the available tons. The Division shall promptly update the available tons, keep the computation current, and make the information available for public inspection.

B. Allocation Of Stationary Source Available Tons.

(1) If a permit application has been submitted to the Division for a project that will emit an air pollutant for which there is an applicable maintenance plan, the Division may issue a permit for up to 50% of the available tons at the time the permit is issued. If the applicant wants more than 50% of the available tons, the applicant must provide offsets for all tons in excess of 50%, consistent with the requirements of 20.11.44 NMAC, Emissions Trading. Allocation of available tons shall be based on a first-come-first-served basis, which shall be determined by comparing the dates that are thirty days after the applicants have submitted complete permit applications. The Division shall determine completeness. The earliest date computed in this manner shall have priority in obtaining 50% of the available tons. As a "tie-breaker", if two or more applications have the same 30-day date, the application for a project that uti-

lizes offsets shall have priority in being issued 50% of the available tons.

(2) A person who participated in an air quality permitting action before the Department shall be notified by the Department of the action taken and the reasons for the action. Notification of the applicant shall be by certified mail. A person who participated in a permitting action before the Department and who is adversely affected by the permitting action may file a petition for a hearing on the merits before the Board. The petition shall be made in writing to the Board within thirty days from the date notice is given of the Department's action. Unless a timely petition for hearing is made, the decision of the Department regarding the permitting action shall be final. Applicable Board regulations, including 20.11.40 NMAC, 20.11.41 NMAC, 20.11.42 NMAC, 20.11.60 NMAC, and 20.11.61 NMAC, may include additional requirements and procedures regarding hearings on the merits held by the Board.

(3) If an applicant wants a permit to be issued for more than 50% of the available tons, but has not provided offsets for the tons in excess of 50% of the available tons, the applicant may ask the Board for additional available tons at a hearing on the merits, which shall be requested as provided in the immediately preceding paragraph.

(4) At the hearing regarding an applicant's request for more than 50% of the available tons, the Board shall consider the potential effect of the requested additional emissions on the Board's obligation to prevent or abate air pollution and avoid violation of the National Ambient Air Quality Standards, and on the requirement for continued compliance with applicable maintenance plans. In addition, the Board shall give the weight the Board deems appropriate to all facts and circumstances, including, but not limited to:

(a) information submitted to the Division by the applicant justifying the request for more than 50% of the available tons,

(b) character and degree of injury to or interference with health, welfare, visibility and property,

(c) technical practicability and economic reasonableness of reducing or eliminating the air pollutant from the source involved and previous experience with equipment and methods available to control the air pollutant involved,

(d) relevant information submitted by the applicant, the Division, or interested parties, and

(e) an analysis prepared by staff which will follow the criteria then in place for analyzing permit requests accompanied by a recommendation.

[20.11.45.12 NMAC - N, 7/1/02]

HISTORY OF 20.11.45 NMAC:

Pre-NMAC History: None.

History of Repealed Material:
[RESERVED]

**NEW MEXICO ENERGY,
MINERALS AND
NATURAL RESOURCES
DEPARTMENT
OIL CONSERVATION DIVISION**

19 NMAC 15.G, Oil Proration And Allocation, filed 01-18-96, has been reformatted and renumbered to 19.15.7 NMAC to comply with the current NMAC requirements, effective 6-14-02.

**NEW MEXICO
ENVIRONMENT
DEPARTMENT**

20 NMAC 5.17, Underground Storage Tanks, Corrective Action Fund Administration, filed January 18, 2000, with the State Records Center and Archives, is repealed effective June 14, 2002, and repromulgated as 20.5.17 NMAC, Petroleum Storage Tanks, Corrective Action Fund Administration, effective June 14, 2002.

**NEW MEXICO
ENVIRONMENT
DEPARTMENT**

**TITLE 20 ENVIRONMENTAL
PROTECTION
CHAPTER 5 PETROLEUM
STORAGE TANKS
PART 17 CORRECTIVE
ACTION FUND ADMINISTRATION**

20.5.17.1 ISSUING AGENCY:
New Mexico Environment Department.

[20.5.17.1 NMAC - Rp, 20 NMAC 5.17.I.100, 6/14/02]

20.5.17.2 SCOPE: This part applies to owners and operators of storage tanks as governed by 20.5.1 through 20.5.16 NMAC and as provided in 20.5.1 NMAC and to all payments made by the department to or on behalf of storage tank owners and operators under the Ground Water Protection Act.

[20.5.17.2 NMAC - Rp, 20 NMAC 5.17.I.101, 6/14/02]

20.5.17.3 STATUTORY

AUTHORITY: 20.5.17 NMAC is adopted by the Secretary of Environment pursuant to the provisions of the Department of Environment Act, NMSA 1978, Section 9-7A-1 to Section 9-7A-14 (1991), and the Ground Water Protection Act, NMSA 1978, Section 74-6B-1 to Section 74-6B-14 (2001).

[20.5.17.3 NMAC - Rp, 20 NMAC 5.17.I.102, 6/14/02]

20.5.17.4 DURATION:
Permanent.

[20.5.17.4 NMAC - Rp, 20 NMAC 5.17.I.103, 6/14/02]

20.5.17.5 EFFECTIVE DATE:
June 14, 2002, unless a later date is indicated in the rule history note at the end of a section.

[20.5.17.5 NMAC - Rp, 20 NMAC 5.17.I.104, 6/14/02]

20.5.17.6 OBJECTIVE: The purpose of 20.5.17 NMAC is to establish the procedures for administering and making payments from the corrective action fund (fund) created by the Ground Water Protection Act (Act), NMSA 1978, Section 74-6B-1 to 74-6B-14 (2001), including procedures for (a) payment of the costs of a minimum site assessment in excess of ten thousand dollars (\$10,000), or in excess of lesser amounts as permitted by the Act, (b) payment of the costs of corrective action other than the minimum site assessment, (c) determinations of compliance with the Act, (d) determinations of eligibility of costs for payment, (e) competitive bidding for corrective action work, and (f) disposition of remediation equipment acquired through the fund.

[20.5.17.6 NMAC - Rp, 20 NMAC.5.17.I.105, 6/14/02]

20.5.17.7 DEFINITIONS:

A. Terms used in these regulations shall have the meanings given to them in the Ground Water Protection Act and 20.5.1 NMAC except as provided in Subsection B of this section.

B. As used in 20.5.17 NMAC:

(1) "cost-effectiveness" means completing tasks in a manner that is economical in terms of goods or services received for the money spent;

(2) "deductible" means the first ten thousand dollars (\$10,000) of minimum site assessment costs, or any lesser amount determined in accordance with 20.5.17.401 NMAC;

(3) "director" means the director of the environmental protection division of the New Mexico environment department;

(4) "facility" means a property location that contains storage tanks;

(5) "incurred" means billed to the owner or operator;

(6) "major remediation equipment" means any transportable unit or system which has been acquired specifically for remediation using fund monies and which the department must inventory pursuant to NMSA 1978, Section 12-6-10;

(7) "pay for performance" means payment of a previously determined amount based on completion or achievement of previously determined criteria including but not limited to a given task or set of tasks, specified reductions in contaminant levels for a given price, or achievement of other measurable milestones, as approved by the department;

(8) "phase of corrective action" means generally any one of the following activities, as required under 20.5.12 through 20.5.13 NMAC:

(a) the secondary investigation and report, tier two evaluation and report, and tier three evaluation and report;

(b) removal of non-aqueous phase liquid and contaminant saturated soil;

(c) development of the conceptual and final remediation plan;

(d) implementation of the remediation plan; or

(e) operating, monitoring, maintaining and reporting of an implemented remediation plan.

(9) "proposal" means an offer to complete work submitted in response to given specifications issued for a responsible party-lead site or for a state-lead site;

(10) "resident business" means:

(a) a business enterprise which is authorized to do and is doing business under the laws of New Mexico and which maintains its principal place of business in New Mexico; or has staffed an office and has paid applicable New Mexico taxes for two years prior to the awarding of the proposal and has five or more employees who are residents of New Mexico, or is an affiliate of a business which meets either of these two requirements. As used in this paragraph, "affiliate" means an entity that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the qualifying business through ownership of voting securities representing a majority of the total voting power of the entity; or

(b) a business enterprise, including a sole proprietorship, partnership or corporation, that: offers for sale or lease or other form of exchange, goods, commodities or services that are substantially manufactured, produced or assembled in New York state; or, in the case of construction

services, has its principal place of business in New York state;

(11) "responsible party-lead site" means a site where the owner or operator takes corrective action and applies to the fund for payment of corrective action costs, as distinct from a site where the state takes correction action;

(12) "sampling" means any routine sampling of soil and groundwater other than during an investigation as required by Sections 1212, 1213, 1215 and 1217 of 20.5.12 NMAC; 20.5.13.1308 NMAC; or during operation of a remediation system with electrical or mechanical components;

(13) "small business" means a business which receives less than two hundred thirty-five thousand dollars (\$235,000) in gross annual receipts from the facility where the tank is or was located, based upon the average annual gross receipts for the following period:

(a) if the business has been in operation for five or more fiscal years on the date the release is discovered, the five fiscal years immediately preceding the date on which the release was discovered; or

(b) if the business has been in operation for less than five fiscal years on the date the release is discovered, the total number of years the business has been in operation;

(14) "specifications" means a detailed written statement of particulars prescribing corrective action to be taken, conditions to be met, materials to be used, or standards of workmanship to which something is to be built, installed, or operated, which is provided to prospective contractors on responsible party-lead sites and state-lead sites;

(15) "technical merit" means those characteristics of a proposal including but not limited to strategies, expertise, methods, materials and procedures meeting the specifications included in a request for proposals.

[20.5.17.7 NMAC - Rp, 20 NMAC 5.17.I.106, 6/14/02]

20.5.17.8 to 20.5.17.106 [RESERVED]

20.5.17.107 CONSTRUCTION:

This part shall be liberally construed to effectuate the purposes of the Ground Water Protection Act and shall be construed, to the extent possible, so as not to conflict with the Hazardous Waste Act or 20.5.1 through 20.5.14 NMAC.

[20.5.17.107 NMAC - Rp, 20 NMAC 5.17.I.107, 6/14/02]

20.5.17.108 SEVERABILITY: If any section or application of this part 20.5.17 NMAC is held invalid, the remain-

der of this part 20.5.17 NMAC or its application to other persons or situations shall not be affected.

[20.5.17.108 NMAC - Rp, 20 NMAC 5.17.I.108, 6/14/02]

20.5.17.109 EFFECT ON OTHER REGULATIONS:

This part does not relieve any owner or operator of the obligation to comply with any federal or state laws or regulations, including 20.5 NMAC.

[20.5.17.109 NMAC - Rp, 20 NMAC 5.17.I.109, 6/14/02]

20.5.17.110 to 20.5.17.199 [RESERVED]

20.5.17.200 COMPLIANCE DETERMINATIONS : The department shall make compliance determinations in the following circumstances:

A. Minimum site assessments. When, pursuant to NMSA 1978, Section 74-6B-13, an owner or operator applies to the department for payment of minimum site assessment costs exceeding the deductible, the department shall determine prior to payment that the work performed meets the definition of a minimum site assessment provided in 20.5.1.7 NMAC. No payment shall be made unless the department determines that the owner or operator meets the requirements of NMSA 1978, Section 74-6B-13, and this part.

B. Corrective action by owner or operator. When, pursuant to NMSA 1978, Section 74-6B-13, an owner or operator applies to the department for payment of corrective action costs other than those costs associated with a minimum site assessment, the department shall determine, prior to payment, whether the owner or operator is in compliance with the requirements of Subsection B of NMSA 1978, Section 74-6B-8, as outlined in Section 201, during the owner or operator's term of ownership or operation for all storage tanks owned or operated at the site where the corrective action was or is being taken. Compliance for USTs shall be determined for the period from March 7, 1990 and every day continuously thereafter to the date the written application for a compliance determination, submitted by the owner or operator, is received by the department. Compliance for ASTs shall be determined for the period from July 1, 2001 and every day continuously thereafter to the date the written application for a compliance determination, submitted by the owner or operator, is received by the department. No payment shall be made unless the department determines that the owner or operator meets the requirements of NMSA 1978, 74-6B-8, and this part.

C. Corrective action by the

department. Prior to the time the department brings an action in district court against an owner or operator to recover expenditures from the fund incurred by the department to take corrective action at a site, the department shall determine, in accordance with 20.5.17.201 NMAC, whether the owner or operator of the storage tanks from which a release has occurred has complied with the requirements of Subsection B of NMSA 1978, Section 74-6B-8, during his term of ownership or operation for all storage tanks owned and/or operated at the site. Compliance for USTs shall be determined for the period from March 7, 1990 and every day continuously thereafter. Compliance for ASTs shall be determined for the period from July 1, 2001 and every day continuously thereafter.

[20.5.17.200 NMAC - Rp, 20 NMAC 5.17.II.200, 6/14/02]

20.5.17.201 DETERMINATION OF COMPLIANCE UNDER NMSA 1978, SECTION 74-6B-8:

A. For sites where all underground storage tanks (USTs) were removed or properly abandoned prior to March 7, 1990, and for sites where all above ground storage tanks (ASTs) were removed or properly abandoned prior to July 1, 2001, the determination of compliance required by Subsections B and C of 20.5.17.200 NMAC shall include findings as to whether the owner or operator has:

(1) paid all storage tank fees required by NMSA 1978, Section 74-4-4.4, and a two hundred (\$200) fee per site;

(2) conducted a minimum site assessment as defined in 20.5.1.7 NMAC; and

(3) cooperated in good faith with the department and granted access to the department for investigation, cleanup, and monitoring.

B. For sites where USTs were not removed or properly abandoned prior to March 7, 1990, or where ASTs were not removed or properly abandoned prior to July 1, 2001, the determination of compliance required by Subsections B and C of 20.5.17.200 NMAC shall include findings as to whether the owner or operator has:

(1) paid all storage tank fees required by NMSA 1978, Sections 74-4-4.4 and 74-6B-9;

(2) conducted a minimum site assessment as defined in 20.5.1.7 NMAC and, if contamination is found, taken action to prevent continuing contamination;

(3) cooperated in good faith with the department and granted access to the department for investigation, cleanup, and monitoring; and

(4) substantially complied with

all of the requirements and provisions of regulations adopted by the EIB under Subsection C of NMSA 1978, Section 74-4-4 listed as (a) through (f) below, for storage tanks at the site for which payment is sought. In determining whether the owner or operator has substantially complied with the regulations referenced in this subsection, the department may consider, among other things, the severity of the non-compliance, the period of non-compliance, the actions taken by the owner or operator to come into compliance, and the timeliness of the owner or operator's actions in coming into compliance.

(a) installation, upgrade, operation and maintenance of storage tanks in accordance with 20.5.4 NMAC and 20.5.5 NMAC;

(b) release detection in accordance with 20.5.6 NMAC;

(c) for any storage tanks which have been abandoned or closed at the site proper closure in accordance with 20.5.8 NMAC;

(d) reporting, investigating, confirming and remediating the release in accordance with 20.5.7 NMAC, 20.5.12 NMAC and 20.5.13 NMAC;

(e) proof of financial responsibility in accordance with 20.5.9 NMAC; and

(f) record keeping in accordance with the record keeping provisions of 20.5.1 through 20.5.13 NMAC.

[20.5.17.201 NMAC - Rp, 20 NMAC 5.17.II.201, 6/14/02]

20.5.17.202 PROCEDURES FOR DETERMINING COMPLIANCE:

A. The owner or operator shall submit a written request for a compliance determination to the department.

B. The department shall review all written submissions in the order received and shall, within 30 days of receipt, notify the owner or operator in writing of any inadequacies in the submittal. The owner or operator may then correct any inadequacies and resubmit the application. Submissions shall be determined "complete" by the department when the submissions are adequately documented or inadequacies identified by the department have been corrected.

C. The owner or operator seeking a determination of compliance has the burden of establishing each point of fact relevant to such a determination. For such purpose, the request shall state specific facts which demonstrate compliance with Subsection B of 20.5.17.201 NMAC.

D. The department shall make a compliance determination within 30 days following the department's determination of the submission as "completed."

E. The department may make a separate compliance determination for one or more phases of corrective action, other than a minimum site assessment, for which payment is requested. If the department finds an owner or operator to be out of compliance for one or more phases, the department shall state the manner in which the owner or operator has failed to comply with Section 201 of this part.

[The department provides a form that may be used to request a compliance determination.]

[20.5.17.202 NMAC - Rp, 20 NMAC 5.17.II.202, 6/14/02]

20.5.17.203 to 20.5.17.299 [RESERVED]

20.5.17.300 COMPETITIVE CONTRACTOR SELECTION FOR REMEDIATION:

A. Payments made from the fund shall be made in accordance with 20.5.17.302 NMAC and only for work performed by contractors that were selected using a competitive procedure based upon technical merit and cost-effectiveness, as defined in this part except as provided in Subsections D and E of this section. The solicitation and evaluation of proposals are required prior to workplan approval. Only proposals from firms qualified under 20.5.16 NMAC will be evaluated and selected.

B. At a minimum, the department shall obtain proposals and select contractors competitively for remediation, which encompasses the conceptual and final remediation plans, design, construction, installation, operation and maintenance, and sampling as pertains to this stage of corrective action under 20.5.12.1219 NMAC through 20.5.12.1225 NMAC.

C. Either an owner or operator may request and the department approve, or the department may require, that competitive proposals be obtained for specific remediation activities covered in a proposal in Subsection B of 20.5.17.301 NMAC if the contractor fails, in the department's opinion, to achieve technical merit or cost effectiveness standards as set forth in a workplan, proposal or contract. The department shall state the basis for obtaining the new proposals in writing to the owner or operator and the contractor.

D. Competitive contractor selection is not required for the following activities:

(1) initial abatement or emergency response under 20.5.12.1203 and 1204 NMAC;

(2) 72 hour and 14 day reports under 20.5.12.1205 NMAC;

(3) removal of non-aqueous

phase liquid (NAPL) under 20.5.12.1207 NMAC if removal is initiated within 30 days of the reporting of a release or reporting of the confirmation of a release;

(4) removal of contaminant saturated soil under 20.5.12.1208 in accordance with the bureau's guidelines for corrective action, if removal is completed within 96 hours of the reporting of a release or reporting of the confirmation of a release;

(5) investigation activities under 20.5.7.703 NMAC and 20.5.12.1209 through 1218 NMAC;

(6) work at sites for which the tank owner or operator is not seeking payment, including but not limited to federal facilities and sites determined to be out of compliance pursuant to 20.5.17.201 NMAC; or

(7) work at sites under contract as described in Subsection E of this section.

E. Work at sites with releases from USTs where the owner or operator and a contractor entered into a contract approved by the department and initiated remediation prior to October 1, 1995, shall be exempt from competitive contractor selection requirements. Work at sites with releases from ASTs at which the owner or operator and a contractor entered into a contract for and initiated remediation prior to June 14, 2002, shall be exempt from competitive contractor selection requirements. The owner or operator of a storage tank shall obtain a contractor for any subsequent site through the competitive contractor selection process in accordance with the requirements of Sections 300-399 of 20.5.17 NMAC.

[20.5.17.300 NMAC - Rp, 20 NMAC 5.17.III.300, 6/14/02]

20.5.17.301 PROCEDURES AND REQUIREMENTS FOR REMEDIATION CONTRACTOR SELECTION:

A. Within two weeks of written notification from the department that remediation is required, the owner or operator shall provide in writing to the department a minimum of five names of consultants, from which the department shall solicit proposals for remediation. The department shall follow the procedures outlined in Subsections B through F of 20.5.17.301 NMAC.

B. Specifications.

(1) The department shall develop specifications for remediation, which shall state which sections of 20.5.12 or 20.5.13 NMAC the work is intended to fulfill.

(2) The department may require that specifications including primary responsibility for operation or maintenance of remediation systems with electrical or

mechanical components contain the requirement that winning proposals shall include pay-for-performance criteria as defined in this part.

(3) Proposals shall meet all requirements outlined in the specifications, and shall include the costs for all tasks outlined in the specifications. Costs shall be provided under separate sealed cover from the technical portion of the proposal.

C. Solicitation of proposals.

(1) The department shall mail the specifications to the contractors provided by the owner or operator. However, if the owner or operator fails to provide the department with five contractors, or with the written approval of the owner or operator, the department may make the specifications available to the entire list of qualified firms.

(2) Any questions concerning the solicitation, including any requests for clarification of the specifications, shall be submitted in writing to the department, within two weeks prior to the deadline for submission of proposals. Any response provided by the department shall be provided in writing, and promptly to all contractors to whom the solicitation was sent. Each proposal shall contain a notarized affidavit signed by the contractor certifying under oath that the contractor has participated and will continue to participate in the competitive contractor selection process as described in this section and NMSA 1978, Section 74-6B-7C without misrepresentation and without collusion with other contractors during the entire solicitation, evaluation and selection process.

D. Evaluation of proposals and contractor selection.

(1) Once the department and the owner or operator have received a proposal, there shall be no further communication or discussion regarding the solicitation or any proposal received in response to the solicitation, among department staff, the owner or operator, and anyone who submitted a proposal.

(2) The department shall, and the owner or operator may, first evaluate proposals based on technical merit as defined in this part. The technical merit score shall be based on an understanding of site-specific conditions and the appropriateness of proposed remediation technology. No cost information shall be opened or evaluated during the technical merit scoring.

(a) Within 30 days of the deadline for submitting proposals, a team shall evaluate the proposals. Each team member shall independently score each proposal for technical merit. The team shall consist of the project manager for the site, one senior

technical staff member, one other project manager, and the owner or operator. After discussion the team shall select the preliminary technical merit score for each proposal.

(b) The team shall prepare a short list of proposals for further consideration consisting of the proposals with the highest preliminary technical merit scores.

(c) The team shall present the short list of proposals to a department task force for discussion to ensure consistency among team evaluation and scoring. The task force shall consist of senior department technical staff. After discussion with the task force, the team shall assign the technical merit scores.

(3) The firms whose proposals have been selected for the short list shall conduct an oral presentation outlining their proposals for the task force and the team. The department shall provide reasonable notice of the oral presentations to the owner or operator, who may attend. During the oral presentations, members of the task force and the team, may ask questions. Only the team shall assign the scores to each proposal on the short list.

(a) Any firm that does not conduct an oral presentation, after at least one week's advance notice, shall be eliminated from the short list.

(b) 24 hours prior to the oral presentations, the task force and the team shall open and review the sealed cost information submitted for each proposal on the short list.

(c) Prior to or during the oral presentations, contractors on the short list may withdraw the original cost submission and substitute a best and final offer for the cost portion of the proposal.

(4) Based on the oral presentations, the team may adjust the technical merit score, based on demonstrated general expertise, site-specific knowledge and application, or information clarified or provided.

(5) At any point in the evaluation process, if, in the team's opinion, a proposal does not substantially meet the technical merit or cost effectiveness standards set forth in the solicitation, the team may reject the proposal as non-responsive.

(6) The team shall assign a final score for each proposal on the short list, which shall be the cost effectiveness score plus the technical merit score.

(a) The technical merit score, with a maximum of 700 points shall be assigned pursuant to the procedure described in Subsection D of this section.

(b) The cost effectiveness score is the technical weight factor times the cost weight factor times 300, where the technical

weight factor is the proposal's technical merit score divided by the highest technical merit score of proposals on the short list; the cost weight factor is the lowest cost of proposals on the short list divided by the proposal's cost; and 300 is the maximum cost effectiveness score.

(7) The department shall notify the owner or operator of the highest scoring proposal within seven days of the oral presentations, and shall make available to the owner, operator, contractors and the public, all proposals submitted and their scores. The owner or operator shall enter into a contract with the selected contractor within 30 days of this notification. In order for the work to qualify for payment from the fund, the owner or operator shall use the contractor selected in accordance with this part.

(8) An owner or operator aggrieved by the department's selection may request administrative review pursuant to section 20.5.17.600 NMAC within 15 days of the notification. Contractors and others are not eligible to request administrative review.

(9) If fewer than three responsive proposals are obtained by the deadline in the solicitation, and after consultation with the owner or operator, the department shall solicit additional proposals pursuant to Subsection A of 20.5.17.301 NMAC or Paragraph (1) of Subsection C of 20.5.17.301 NMAC.

(10) If fewer than three responsive proposals are obtained after two attempts, the department may select a proposal following the procedures in this section, provided the costs are reasonable and the technical merit is acceptable for the proposed work. A responsive proposal means that the qualified firm has responded in writing to each element of the specifications and the qualified firm has provided a cost estimate for the proposal that meets the proposal specifications.

(11) For purposes of owner and operator participation in Subsection D of this section, the owner or operator may appoint a representative and who is not affiliated with anyone who submitted a proposal. Owner or operator participation in Subsection D of this section is optional and at the owner or operator's discretion. Any owner or operator representative may not later work for the contractor, the owner or the operator on any work generated by the proposal.

E. When proposals are received from nonresident businesses and resident businesses, and the proposal with the highest evaluation is from a nonresident business, the contract shall be awarded to the resident business whose technical merit is comparable and whose cost is nearest to

the cost of the high scoring nonresident business proposal if the cost of the resident proposal is made lower than the cost of the nonresident business when multiplied by a factor of 0.95.

F. Cost of proposal preparation may be eligible for payment from the fund if included in the proposal and first workplan prepared pursuant to the selected proposal and approved by the department. [20.5.17.301 NMAC - Rp, 20 NMAC 5.17.III.301, 6/14/02]

20.5.17.302 WORKPLAN APPROVAL AND CHANGE ORDERS FOR CORRECTIVE ACTION:

A. A written workplan and budget to complete any phase of corrective action shall be approved in writing by the department prior to any corrective action work being done in order for that work to be eligible for payment under this part.

B. The owner or operator shall submit the corrective action workplan and budget in a fixed-fee format unless the department determines that a time-and-materials format is appropriate.

C. If required by Paragraph (2) of Subsection B of 20.5.17.301 NMAC, a workplan including the operation and maintenance of a remediation system that includes mechanical or electrical installations shall list the performance criteria required for payment and amount of payment.

D. If a workplan is rejected after two attempts to receive approval by the department, the department may select the contractor who received the second highest evaluation, repeat the contractor selection process in accordance with Subsection B of 20.5.17.301 NMAC, or, in the case of activities which do not require competitive contractor selection under Subsection D of 20.5.17.300 NMAC, require the owner or operator to submit a workplan from a different consultant.

E. Changes to the technical approach or increases in costs beyond the approved budget shall be approved in writing by the department prior to implementation in order to be eligible for payment. Such changes may be approved if based upon a demonstration of unforeseen field conditions or other justifiable reasons.

F. The department may increase or reduce payments on work based on pay-for-performance criteria because of *force majeure* or unforeseen changes in site conditions.

[20.5.17.302 NMAC - Rp, 20 NMAC 5.17.III.302, 6/14/02]

20.5.17.303 to 20.5.17.399 [RESERVED]

20.5.17.400 CORRECTIVE

ACTION ELIGIBLE AND INELIGIBLE COSTS AND EXPENDITURES:

A. Payments shall be made only for corrective action conducted by firms qualified under 20.5.16 NMAC or in accordance with Subsection G of 20.5.12.1200 NMAC.

B. No expenditures from the fund shall be paid to or on behalf of tank owners or operators for corrective action, other than the minimum site assessment or sampling as defined in this part, where the corrective action was conducted by firms or entities that are subsidiaries, parents or otherwise affiliate firms or entities of the owner or operator.

C. For USTs, payment shall not be made for corrective action performed on or after September 22, 1992, if the owner or operator does not obtain department approval of workplans and costs prior to work being performed or costs incurred, exclusive of initial abatement measures performed in accordance with 20.5.12.1204 NMAC and 20.5.13.1303 NMAC. For ASTs, payment shall not be made for corrective action performed on or after June 14, 2002, if the owner or operator does not obtain department approval of workplans and costs prior to work being performed or costs incurred, exclusive of initial abatement measures performed in accordance with 20.5.12.1204 NMAC and 20.5.13.1303 NMAC.

D. Costs eligible for payment from the fund are all costs except those excluded by Subsections H and I of this section, and that are reasonable and necessary to confirm releases in accordance with 20.5.7 NMAC, to complete the minimum site assessment in excess of the deductible, and to complete corrective action beyond the minimum site assessment, in accordance with 20.5.12 NMAC or 20.5.13 NMAC, the department's fee schedule, and any workplan required by 20.5.17.302 NMAC and approved by the department.

E. Before making payments, the department shall determine that the owner or operator has reimbursed the department for all federal LUST trust funds expended for contractual services at the site.

F. Unpaid invoices are eligible for payment on an assignment basis from the applicant to the party who rendered the invoiced services or goods, or the party who actually made payment. Invoices resulting from assignments as described in this Subsection are not contractual between the department and the party who rendered the service or the party who actually made payment. Payments of such invoices are made pursuant to provisions of NMSA 1978, Section 74-6B-13, including being

subject to the availability of funds in the corrective action fund.

G. Before applying to the corrective action fund for payment, if the owner or operator has financial assurance coverage other than the fund, the owner or operator shall file a claim and report any proceeds paid. If the owner and operator does not have any financial assurance coverage other than the fund, the owner and operator shall so certify to the department before applying to the fund for payment.

H. For USTs, costs ineligible for payment include, but are not limited to, the following:

(1) costs incurred prior to March 7, 1990;

(2) costs incurred on or after September 22, 1992, that exceed those in the department fee schedule in effect at the time the work was performed;

(3) costs paid or reimbursed by insurance companies or any other third party as described in 20.5.17.503 NMAC;

(4) unpaid invoices, unless allowed under Subsection F of 20.5.17.400 NMAC;

(5) cost of removing, repairing, retrofitting or replacing any USTs;

(6) costs of destroying, repairing, relocating or constructing any utility line unless required for cost-effective remediation or in response to a threat to public health, safety or welfare or the environment, as determined by the department;

(7) costs of destroying any structure unless required for cost-effective remediation or in response to a threat to public health, safety or welfare or the environment, as determined by the department;

(8) insurance premiums, the loss of interest on funds used to pay for a minimum site assessment, or loss of business;

(9) attorneys' fees or other legal costs;

(10) costs of monitoring a contractor and the owner's, operator's and designated representative's participation in the contractor selection process;

(11) costs associated with real estate transactions;

(12) rush charges for laboratory or other services, unless required by the department;

(13) payment made to property owners for property access to install or place monitoring wells or other investigation-related or remediation-related equipment;

(14) economic losses and liability to third parties; and

(15) costs associated with corrective action that fails to conform with the preapproved workplan or with the requirements of 20.5.12.1206-1230 NMAC and

20.5.13.1308-1317 NMAC.

I. For ASTs, costs ineligible for payment include but are not limited to the following:

- (1) costs incurred prior to July 1, 2001;
- (2) costs incurred that exceed those in the department fee schedule in effect at the time the work was performed;
- (3) costs paid or reimbursed by insurance companies or any other third party described in 20.5.17.503 NMAC;
- (4) unpaid invoices, unless allowed under Subsection F of 20.5.17.400 NMAC;
- (5) costs of removing, repairing, retrofitting or replacing any ASTs;
- (6) costs of destroying, repairing, relocating or constructing any utility line unless required for cost-effective remediation or in response to a threat to public health, safety or welfare or the environment, as determined by the department;
- (7) costs of destroying any structure unless required for cost-effective remediation or in response to a threat to public health, safety or welfare or the environment, as determined by the department;
- (8) insurance premiums, the loss of interest on funds used to pay for a minimum site assessment, or loss of business;
- (9) attorneys' fees or other legal costs;
- (10) costs of monitoring a contractor and the owner's, operator's or designated representative's participation in the contractor selection process;
- (11) costs associated with real estate transactions;
- (12) rush charges for laboratory or other services, unless required by the department;
- (13) payment made to property owners for property access to install or place monitoring wells or other investigation-related or remediation-related equipment;
- (14) economic losses and liability to third parties; and
- (15) costs associated with corrective action that fails to conform with the preapproved workplan or with the requirements of 20.5.12.1206-1299 NMAC.

[20.5.17.400 NMAC - Rp 20 NMAC 5.17.IV.400, 6/14/02]

20.5.17.401 MEANS TEST TO DETERMINE DEDUCTIBLE:

A. An owner or operator otherwise responsible for paying the first ten thousand dollars (\$10,000) of minimum site assessment costs under NMSA 1978, Section 74-6B-13 (2001) may request that the first ten thousand dollars (\$10,000) be paid from the fund (a "zero deductible") if

the owner or operator has proven to the department that:

(1) the owner or operator owns or operates no more than one facility and has four or fewer storage tanks at that facility;

(2) the facility dispenses less than 20,000 gallons of product monthly, averaged over the last two years of operation; and

(3) the primary purpose of the facility is or was resale of petroleum products.

B. An owner or operator otherwise responsible for a ten thousand dollar (\$10,000) deductible is allowed a five thousand dollars (\$5,000) deductible if the owner or operator has proven to the department that:

(1) the owner or operator owns or operates two or fewer facilities, with four or fewer storage tanks at each facility;

(2) the facility dispenses less than 40,000 gallons of product monthly from both facilities combined, averaged over the last two years of operation; and

(3) the primary purpose of the two facilities is or was resale of petroleum products.

C. The owner or operator shall submit an application for a reduced deductible within one year of completion of the minimum site assessment. The department shall not grant extensions of this deadline. The application shall include the following:

(1) records documenting the quantity of product dispensed during the appropriate period of time in accordance with Subsections A and B of 20.5.17.401 NMAC; or

(2) if such documents are unavailable, a notarized affidavit under oath attesting, to the best of the owner or operator's knowledge, the quantity of product dispensed during the appropriate period of time in accordance with Subsections A and B of 20.5.17.401 NMAC.

D. Notwithstanding the provisions of Subsections A and B of 20.5.17.401 NMAC, an owner or operator otherwise responsible for paying a deductible shall be allowed a zero deductible if the owner or operator has proven to the department that the owner or operator is a municipality or county.

E. The department may grant variances only to Paragraphs (1) and (3) of Subsection A of 20.5.17.401 NMAC and Paragraphs (1) and (3) of Subsection B of 20.5.17.401 NMAC and only for good cause shown. Good cause shall, in most cases, be documentation verifying that the owner qualifies as a small business as defined in this part.

[20.5.17.401 NMAC - Rp 20 NMAC

5.17.IV.401, 6/14/02]

20.5.17.402 OWNERSHIP AND DISPOSITION OF MAJOR REMEDIATION EQUIPMENT:

A. The department shall be the owner of all major remediation equipment paid for by the fund, and shall be responsible for disposition of all major remediation equipment. No owner or operator shall dispose of any major remediation equipment without the written permission of the department. Disposition by the department shall be in accordance with all applicable laws and regulations, and by any of the following means:

(1) relocation to another fund remediation site, as provided in Subsections C through G of 20.5.17.402 NMAC;

(2) interim rental to a non-fund remediation site, subject to Subsection F of 20.5.17.402 NMAC;

(3) sale or salvage, subject to Subsection G of 20.5.17.402 NMAC; or

(4) when options in Paragraphs (1) through (3) of this subsection are not available, any other form of disposal consistent with state law.

B. Any major remediation equipment shall be installed, maintained and disposed of in accordance with Subsections A through G of 20.5.17.402 NMAC.

C. An owner or operator requiring the use of major remediation equipment for corrective action paid for with fund monies shall use equipment on the department's reuse list, if available and provided such equipment can be refurbished to the manufacturer's operating specifications for a cost not to exceed the original cost of the equipment.

D. For all major remediation equipment, new or used, the owner or operator shall enter into a written installation and maintenance agreement with a company qualified to install and maintain the equipment and shall furnish a copy of the agreement, executed by the company, to the department. Installation and maintenance shall be performed by factory authorized personnel or a contractor specified by the manufacturer, or as otherwise approved by the department. Complete and proper installation must be verified by both the manufacturer, or its designated representative, and the installation personnel or company. Installation and maintenance contract costs shall be stated together with the purchase price of the equipment quoted to the department in proposals, workplans and applications for payment from the fund.

E. For all new major remediation equipment and for all used

major remediation equipment under warranty when acquired, the owner or operator shall also furnish a copy of the manufacturer's warranty to the department.

F. If major remediation equipment is rented to a non-fund remediation site, a reasonable rental fee shall be paid into the fund. The department shall determine the reasonable rental fee based on the lowest price quote from three equipment renters.

G. Major remediation equipment shall be depreciated over its useful life and have a salvage value, method and schedule as approved by the department. If the equipment is sold or salvaged, the proceeds from the sale or salvage value shall be paid into the fund. Gain or loss shall be calculated based on the net book value or salvage value in accordance with generally accepted accounting principles.

H. The department shall remove all major remediation equipment from a site within 90 days after issuing a "no further action" letter for that site. [20.5.17.402 NMAC - Rp, 20 NMAC 5.17.IV.402, 6/14/02]

20.5.17.403 to 20.5.17.499 [RESERVED]

20.5.17.500 FUND APPLICATION, PAYMENT AND SUBROGATION:

A. Nothing in 20.5.17 NMAC establishes or creates any liability or responsibility on the part of the department or the state to pay corrective action costs from any source other than the fund, nor shall the department or the state have any liability or responsibility to make any payments of corrective action costs if the balance in the fund is insufficient to cover those costs.

B. Payment shall be made only for work that has been performed in accordance with 20.5.7 NMAC, 20.5.12 or 20.5.13 NMAC and 20.5.17 NMAC, subject to the provisions of 20.5.17.502 NMAC.

[20.5.17.500 NMAC - Rp 20 NMAC 5.17.V.500, 6/14/02]

20.5.17.501 APPLICATION AND PAYMENT PROCESS:

A. The owner or operator shall type or print an application for payment and submit it to the department. The application shall include:

(1) copies of or references to all investigation reports and documents submitted to the department for the site, in accordance with 20.5.12 or 20.5.13 NMAC;

(2) copies of or references to the department's compliance determination under 20.5.17.200 NMAC;

(3) copies of invoices showing the work performed for the minimum site assessment or other required corrective action for which payment is sought as well as the documentation required in Subsection B of 20.5.17.501 NMAC;

(4) a copy of the letter from the department stating the applicant's status regarding eligibility for a reduced deductible, if applicable, as determined in accordance with 20.5.17.401 NMAC, or an application which meets the requirements of 20.5.17.401 NMAC, if applicable and timely;

(5) copies of information submitted in accordance with 20.5.17.503 NMAC and copies of information about any payments received from insurance companies for costs of corrective action;

(6) the disclosure statements for verifying compliance with Subsection B of 20.5.17.400 NMAC. The owner or operator shall submit a signed and notarized original disclosure form with the first application for payment for corrective action for each release at each facility. Thereafter, anyone who has previously submitted this form and received a payment need not resubmit this form, unless the information provided earlier has changed;

(7) a statement that requirements to use a certified scientist in accordance with 20.5.16 NMAC have been met; and

(8) a copy of any and all workplan approval letters covering work for which payment is requested.

B. All applications for payment shall contain the name, address and telephone number of the contractor; the contractor's project manager for the site; the workplan identification number; the workplan approval date, the site number and the facility number; and,

(1) when work is performed on a fixed fee basis, the owner or operator shall submit the following:

(a) a description of the deliverable, if any, and the date delivered;

(b) verification that any performance criteria required for payment were achieved; and

(c) any other requirements of the workplan approval.

(2) When work is performed on a time-and-materials basis, the owner or operator shall submit the following:

(a) detailed billings of labor and equipment for each task performed. Contractor staff must be identified by name and hourly rate; equipment must be identified as owned or rented, with the hourly or daily rate; laboratory and subcontractor charges must be clearly explained;

(b) timesheets, invoices, or statements with staff name, labor category, and

description and date of work performed;

(c) copies of receipts for all equipment and supplies;

(d) travel and expense logs;

(e) invoices for all subcontractors;

(f) if work is billed on an hourly basis, timesheets, invoices or statements which include the hourly rate and number of hours billed to the nearest one-quarter hour; and

(g) any other requirements of the workplan approval.

(3) The owner or operator also shall include a certification of the truthfulness of all of the matters and facts contained in the application and stating that the invoices reflect actual costs paid or otherwise incurred. Such certification shall be made on oath or affirmation in accordance with NMSA 1978, Sections 14-3-1 and 2.

(4) No more than one application for payment shall be submitted in each quarter. The owner or operator shall not submit costs of any portion of a minimum site assessment in the same application for payment as costs for other required corrective action. An owner or operator may apply in writing for permission to submit more than one application for payment in a quarter if good cause is shown to the department.

(5) All applications for payment to the party that paid for the corrective action shall be received by the department within 24 months of the most recent date on the back of a cancelled check for payment included in the application. For applications submitted under the provision for assignment of payment in Subsection F of 20.5.17.400 NMAC, the application for payment shall be received by the department within 24 months of the date of the last invoice in the application for payment. Extensions of deadlines in this subsection shall not be granted.

C. Applications for payment shall be sent to the environmental protection division, corrective action_fund, office of finance and budget, New Mexico environment department, P.O. Box 26110, 1190 St. Francis Drive, Santa Fe, New Mexico 87502.

D. The department shall review all written submissions in the order received and shall, within 30 days of receipt, notify the owner or operator in writing of any inadequacies in the submittal. The owner or operator may correct any inadequacies and resubmit the application within 30 days of the date of the notice of inadequacies.

E. Payment for eligible costs shall occur not later than 60 days, or in accordance with 20.5.17.502 NMAC, after

the department determines the submittal complete, which includes approval for technical adequacy by the department. The department shall mail the check for payment to the person designated as payee in the application.

F. Payment under 20.5.17.501 NMAC shall not foreclose the department's right to recover excessive or illegal payments.

[20.5.17.501 NMAC - Rp 20 NMAC 5.17.V.501, 6/14/02]

[The department provides forms that may be used to comply with Subsection A and Paragraph (3) of Subsection B of 20.5.17.501 NMAC.]

20.5.17.502 ORDER OF PAYMENTS IN CASE OF INSUFFICIENT FUNDS:

A. If, after the department has determined that the owner or operator is in substantial compliance, the department determines that the fund budget and/or the fund balance is insufficient to cover the amount requested for payment, the department shall promptly notify the owner or operator. Payment for eligible costs shall occur when sufficient amounts are available in the fund budget or the fund, subject to the provisions of this section.

B. The department's determination concerning the availability of funds shall be final and not subject to appeal under this part.

C. If the fund budget and/or the fund balance is insufficient to pay all applications for payment under 20.5.17.501 NMAC but the fund remains an approved financial responsibility mechanism under Subsection L of 20.5.9.900 NMAC, the department shall pay applications for payment for approved corrective action in order of priority as established in accordance with 20.5.15 NMAC from the funds available, so long as funds are available.

D. Applications for sites of equal score based on the priorities established in 20.5.15 NMAC shall be paid in order of date of receipt of complete applications for payment. For applications for sites of equal score with the same date of receipt, the earliest date on which a corrective action was taken as evidenced by the date of the earliest invoice included in the application, shall determine the order of payment.

E. When the fund budget and/or the fund balance is insufficient to pay all applications for payment under 20.5.17.501 NMAC and the fund is no longer an approved financial responsibility mechanism, the department shall make payments according to priority rank as established in 20.5.15 NMAC and in the follow-

ing percentages, so long as funds are available:

(1) one hundred percent of all reasonable and necessary eligible costs incurred to complete a minimum site assessment in excess of the deductible.

(2) one hundred percent of all reasonable and necessary eligible costs incurred to conduct a secondary investigation in accordance with 20.5.12.1212 NMAC or hydrogeologic investigation, in accordance 20.5.13.1308 NMAC.

(3) in the case of reasonable and necessary costs incurred to complete corrective action other than the minimum site assessment and secondary or hydrogeologic investigation, according to the following formulae:

(a) for owners or operators of two or fewer facilities used for retail gasoline sales and whose facilities have less than 40,000 gallons combined total of product dispensed monthly, averaged over the last two years of operation: first priority Leaking Storage Tank (LST) ranked sites: one hundred percent; second priority LST ranked sites: ninety-five percent; third priority LST ranked sites; ninety percent;

(b) for sites owned or operated by other owners or operators: one hundred percent for first priority LST ranked sites. The percentage of payment for second and third priority LST ranked sites shall be based on the ending quarterly unencumbered balance of the fund proportional to the amount of each application for payment received in that quarter for these sites. The quarters end on June 30, September 30, December 31 and March 31. The percentage of payment equals the unencumbered fund balance on the last day of the quarter divided by the dollar amount of reasonable and necessary eligible costs of applications for payment received in the quarter, not to exceed one hundred percent.

(4) payment for remaining eligible costs shall be made pursuant to Subsection F of 20.5.17.502.

F. When the fund is reestablished as an approved financial responsibility mechanism, payment shall be made for the balance of the eligible costs previously submitted but not paid under provisions of 20.5.17.502 NMAC. These payments shall be made in the order in which sites were ranked by the department, in accordance with 20.5.15 NMAC, as funds become available.

[20.5.17.502 NMAC - Rp 20 NMAC 5.17.V.502, 6/14/02]

20.5.17.503 SUBROGATION:

A. The department has a right of subrogation to any insurance policies in existence at the time of the release to

the extent of any rights the owner or operator of a site may have had under that policy pursuant to NMSA 1978, Section 74-6B-8.D or any other law. The department's subrogation rights are limited to the extent of the department's expenditures from the corrective action fund or other sources. The owner or operator shall include with the report of the minimum site assessment a copy of any insurance policies which were in effect on the date of the report, as well as any policies which were in existence at the time the release may have occurred and which may insure the owner or operator against all or part of the costs of taking corrective action. The owner or operator shall also report to the department any claims filed against any policy identified in accordance with the section which seeks compensation for costs of taking corrective action.

B. The department has a right of subrogation against any third party who caused or also contributed to the release, pursuant to NMSA 1978, Section 74-6B-8.D. This right of subrogation shall apply regardless of any applications for payment the owner or operator may have made or intends to make for payment from the fund. The owner or operator shall report to the department the identity of any third party against whom a claim is filed and provide a copy of any claim filed against that party.

[20.5.17.503 NMAC - Rp, 20 NMAC 5.17.V.503 6/14/02]

20.5.17.504 to 20.5.17.599 [RESERVED]

20.5.17.600 ADMINISTRATIVE REVIEW:

An owner or operator of a storage tank aggrieved by a decision made by the department under 20.5 NMAC, with the exception of compliance determinations under 20.5.17.200-202 NMAC and cost eligibility determinations under 20.5.17.400-401 NMAC, may obtain review of the decision using the procedures and subject to the limitations set forth in 20.5.10 NMAC, which shall be considered incorporated in this section by reference. Compliance and cost eligibility determinations shall be appealed as provided in 20.5.17.601 and 602 NMAC.

[20.5.17.600 NMAC - Rp 20 NMAC 5.17.VI.600, 6/14/02]

20.5.17.601 REVIEW OF DETERMINATIONS OF COMPLIANCE AND COST ELIGIBILITY:

A. Any owner or operator aggrieved by a decision made by the department regarding determinations of compliance or cost eligibility under 20.5.17.200-202 NMAC or 20.5.17.400-401 NMAC

may appeal the decision by submitting a request for reconsideration of the decision to the director. Any owner or operator aggrieved by a decision made under these regulations by the director may appeal the decision by submitting a request for reconsideration to the director. The reconsideration will be based on written submittals. Any such request for reconsideration must be in writing and must specify the grounds upon which the petitioner objects to the decision being appealed. The request shall be accompanied by any and all written material and argument which the owner or operator wishes the director to consider upon reconsideration. The request for reconsideration shall be postmarked within 15 days of the date of the determination.

B. Department staff shall respond to the request for reconsideration within 15 days of receipt of the complete submittal of the owner or operator's request for reconsideration. The response of the department staff shall be sent to both the director and the owner or operator and shall be accompanied by any and all written materials and argument in support of the position of the staff on the issues raised by the owner or operator.

C. For good cause shown, the director may permit either party additional time in which to submit the supporting written materials or argument for which Subsections A and B of 20.5.17.601 NMAC provide. Any request for additional time and all evidence for good cause shall be submitted in writing prior to the end of the 15-day period described in Subsection A of 20.5.17.601 NMAC. The department shall act on the request for additional time within a reasonable period of time.

D. The director's action on the request for reconsideration shall be based on the written materials and argument submitted pursuant to this section unless the director, in the director's discretion, schedules a conference on the request for reconsideration.

E. The director's action on the request for reconsideration shall be by written decision and shall state the reason therefor. The director shall send a copy of the decision to the owner or operator and furnish a copy to department staff promptly after the decision is rendered.

F. The owner or operator may appeal the decision of the director made under Subsection E of 20.5.17.601 NMAC by requesting a hearing in accordance with 20.5.17.602 NMAC. [20.5.17.601 NMAC - Rp 20 NMAC 5.17.VI.601, 6/14/02]

20.5.17.602 REQUEST FOR HEARING ON DETERMINATIONS OF

COMPLIANCE AND COST ELIGIBILITY:

A. An owner or operator may obtain review by the secretary of a decision by the director made pursuant to Subsection E of 20.5.17.601 NMAC by filing a written request for a hearing as provided in the environment department adjudicatory procedures, 20.1.5 NMAC, within 30 days after the date the owner or operator receives the director's decision pursuant to Subsection E of 20.5.17.601 NMAC. The procedures set forth in the environment department adjudicatory procedures, 20.1.5 NMAC, shall govern the proceeding.

B. Cost eligibility determinations shall be considered compliance determinations for purposes of the environment department adjudicatory procedures, 20.1.5 NMAC, and all of the provisions of that part which apply to compliance determinations shall apply to cost eligibility determinations.

C. The complainant shall attach to the request for hearing a copy of the determination for which review is sought.

D. With the request for hearing, the complainant shall file a reply to the determination. The reply shall address each of the findings in the determination, including any facts which support complainant's position that they have complied with the requirements of Subsection B of NMSA 1978, Section 74-6B-8.

E. The secretary shall schedule the hearing for no later than 90 days after service of the notice of docketing. [20.5.17.602 NMAC - Rp 20 NMAC 5.17.VI.602, 6/14/02]

20.5.17.603 EFFECT OF APPEAL ON PAYMENT, ENFORCEMENT:

A request for hearing or other administrative review shall not delay payment for any phase of corrective action, other than that which is being contested. A request for hearing shall not affect the secretary's authority to issue compliance orders or otherwise seek enforcement of 20.5 NMAC under the provisions of the Hazardous Waste Act or relieve an owner or operator of any responsibility under 20.5 NMAC.

[20.5.17.603 NMAC - Rp, 20 NMAC 5.17.VI.603, 6/14/02]

20.5.17.604 CONTRACTOR FEE SCHEDULE:

A. Professional services.	
Hourly rate	
(1) Principal scientist.	\$ 137.50
(2) Senior scientist.	\$104.50
(3) Project scientist/engineer-manager.	\$ 82.50

(4) Staff scientist/engineer.	\$ 66.00
(5) Field technician.	\$ 63.25
(6) Draftsperson.	\$ 51.75
(7) Administrator.	\$ 63.25
(8) Secretary.	\$ 34.50
(9) Clerk.	\$28.75

B. Field equipment.

Cost per day	
(1) Carbon monoxide, sulphur dioxide oxide and oxygen meters.	\$ 50.00
(2) Water quality meter.	\$ 50.00
(3) Dissolved oxygen meter (water).	\$ 35.00
(4) Electroconductivity meter.	\$ 45.00
(5) Explosimeter.	\$ 40.00
(6) Fluid field detector.	\$ 25.00
(7) Interface probe.	\$ 65.00
(8) Organic vapor meter.	\$ 65.00
(9) Photonization detector.	\$ 65.00
(10) Flame ionization detector.	\$ 65.00
(11) pH Meter.	\$ 20.00
(12) Other. Costs shall be pre-approved by department. The department may require justification.	

C. Per diem.

Current state allowance

D. Earth-moving equipment. Costs shall be pre-approved by department. The department may require justification.

(1) Backhoe, light duty (12 feet-19 feet).	
(2) Backhoe, medium duty (14 feet-19 feet).	
(3) Trackhoe, light duty.	
(4) Trackhoe, medium duty	
(5) Trackhoe, heavy duty.	
(6) Other. Costs shall be pre-approved by department. The department may require justification.	

E. Well Supplies. Costs shall be pre-approved by department. The department may require justification.

(1) Two-inch blank.	
(2) Four-inch blank.	
(3) Two- inch screen PVC 10 feet.	
(4) Four-inch screen PVC 10 feet.	
(5) Filter pack, per 100 pounds.	
(6) Bentonite pellets, per 50 pounds.	
(7) Bentonite chips, per 50 pounds.	
(8) Bentonite gel, per 100 pounds.	
(9) Grout, per 50 pounds.	
(10) Eight-inch manhole.	
(11) 12-inch manhole.	
(12) Other. Costs shall be pre-approved by department. The department may require justification.	

F. Drilling. Costs shall

be pre-approved by department. The department may require justification.

- (1) Mobilization/demobilization.
- (2) Hollow stem auger.
- (3) Air rotary.
- (4) Sonic drilling.
- (5) Other drilling methods.
- (6) Plug and abandon.
- (7) Other. Costs shall be pre-

approved by department. The department may require justification.

G. Lab services. Costs shall be pre-approved by department. The department may require justification.

- (1) EPA methods.
- (a) 8310.
- (b) 601/8010, 602/8020.
- (c) Modified 8015.
- (d) 418.1.
- (e) 610/8100.
- (f) 624/8240.
- (g) 625/8270.
- (h) 8260.
- (i) RCRA 8 metals.

(2) Benzene, toluene, ethyl benzene, and xylenes; methyl tertiary-butyl ether.

- (3) pH.
- (4) Total organic carbon.
- (5) Geotechnical soil analyses.
- (a) Sieve analysis.
- (b) Soil moisture.
- (c) Density.
- (d) Porosity.
- (e) Fraction organic carbon.
- (6) Other. Costs shall be pre-

approved by department. The department may require justification.

[20.5.17.604 NMAC – N, 6/14/02]

HISTORY OF 20.5.17 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the commission of public records – state records and archives: NMED 92-1, Ground Water Protection Act Corrective Action Fund Regulations, 9/24/92

NMED 94-1, Corrective Action Fund Payment And Reimbursement Regulations, 2/4/94

History of Repealed Material:

20 NMAC 5.17 Underground Storage Tanks, Corrective Action Fund Payment and Reimbursement, filed 10/6/95 - Repealed, effective 1/31/00

20 NMAC 5.17 Underground Storage Tanks, Corrective Action Fund Administration, filed 01/18/00 - Repealed, effective 6/14/02

Other History: 20 NMAC 5.17, Underground Storage Tanks, Corrective Action Fund Administration, filed 1/18/00

replaced by 20.5.17 NMAC, Petroleum Storage Tanks, Corrective Action Fund Administration effective 6/14/02

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

The following rule was reformatted and renumbered to comply with current NMAC requirements:

From 20 NMAC 2.70 (Operating Permits), filed October 30, 1995, to 20.2.70 NMAC (Operating Permits).

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.31.4.19 NMAC.

19.31.4.19 EMERGENCY ORDER FOR FISH SALVAGE: Under authority of 19.31.10.18 promulgated by the State Game Commission on September 15, 1994, I, LARRY G. BELL, Director of the Department of Game and Fish, hereby declare that an emergency exists in the Pecos River in De Baca County from the Sumner Lake stilling basin downstream for one half mile to the extent that fish life will be destroyed by drying out of the river due to diminished water releases from Sumner Dam. Therefore, the method and manner of taking game fish will be relaxed to grappling, spears, gigs, bows, and seines for all licensed anglers and unlicensed juvenile anglers under the age of 12 years, with daily bag and possession limits mandated by regulation also being relaxed. Bag limits on sport fish will be unlimited. This relaxation will go into effect at 4:00 p.m., May 31, 2002, and will remain in effect through 11:59 p.m., June 30, 2002.
[19.31.4.19 NMAC - N, 5-31-02]

NEW MEXICO DEPARTMENT OF HEALTH PUBLIC HEALTH DIVISION

7 NMAC 27.7, Trauma Care System, filed November 26, 1996, is hereby repealed and replaced by 7.27.7 NMAC, effective June 14, 2002.

NEW MEXICO DEPARTMENT OF HEALTH PUBLIC HEALTH DIVISION

**TITLE 7 HEALTH
CHAPTER 27 EMERGENCY MEDICAL SERVICES
PART 7 TRAUMA CARE SYSTEM**

7.27.7.1 ISSUING AGENCY: New Mexico Department of Health, Public Health Division, Injury Prevention and Emergency Medical Services (EMS) Bureau.
[7.27.7.1 NMAC - Rp 7 NMAC 27.7.1, 6/14/02]

7.27.7.2 SCOPE: These regulations apply to all agencies providing EMS services, local EMS Medical Directors, Regional Trauma Advisory Committees, the Trauma Advisory Committee, the Injury Prevention and EMS Bureau (IPEMS), the New Mexico Department of Health and hospitals participating in the New Mexico Trauma Care System.
[7.27.7.2 NMAC - Rp 7 NMAC 27.7.2, 6/14/02]

7.27.7.3 STATUTORY AUTHORITY: These regulations are promulgated by the Secretary of Health by the authority of Section 9-7-6.E. NMSA 1978, and the Emergency Medical Services (EMS) Act, Section 24-10B-4.H. NMSA 1978 (as amended by Laws of 1993, Chapter 161). Administration and enforcement of the Act is the responsibility of the Injury Prevention and Emergency Medical Services Bureau of the Public Health Division, Department of Health.
[7.27.7.3 NMAC - Rp 7 NMAC 27.7.3, 6/14/02]

7.27.7.4 DURATION: Permanent
[7.27.7.4 NMAC - Rp 7 NMAC 27.7.4, 6/14/02]

7.27.7.5 EFFECTIVE DATE: June 14, 2002, unless a later date is cited at the end of a section.
[7.27.7.5 NMAC - Rp 7 NMAC 27.7.5, 6/14/02]

7.27.7.6 OBJECTIVE: The purpose of these regulations is to implement the trauma system provisions of the EMS Act (as amended by the Laws of 1993, Chapter 161).

A. These regulations set forth standards governing the statewide trauma system in order to:

(1) prevent unnecessary death and disability due to injury,

(2) develop a statewide trauma system to assure timely, quality, cost-efficient and definitive care through coordination of pre-hospital, hospital and post-acute care,

(3) provide optimal care for the trauma patient,

(4) study and identify the epidemiology of injury; and,

(5) pursue trauma prevention activities to decrease the incidence of trauma.

B. These regulations establish procedures for:

(1) statewide trauma system oversight,

(2) requirements for all participating facilities,

(3) the designation process of hospitals/healthcare facilities to provide trauma care services; and,

(4) the development and operation of a statewide trauma registry.

C. These regulations are not intended to constitute detailed procedures for implementation of the state trauma system. Procedures and guidelines are available upon request from the IPEMS Bureau, Trauma Section, Public Health Division, Department of Health, , PO Box 26110, Santa Fe, New Mexico, 87502-6110.

D. Trauma system design/components: the trauma system in New Mexico will be designed with the following framework:

(1) system roles and responsibilities define the organizational structure of the people and organizations instrumental to the trauma system. These include:

(a) New Mexico Department of Health

(b) IPEMS Bureau

(c) EMS Regional offices

(d) Trauma Advisory Committee

(e) pre-hospital services

(f) Regional Trauma Councils

(g) acute care facilities

(h) other state trauma systems

(i) evaluation and process improvement systems

(j) injury prevention professionals

(2) system structures are the tools, structure and processes of the trauma systems. These include:

(a) laws and regulations

(b) information systems

(c) evaluation and process improvement systems

E. System oversight:

(1) IPEMS Bureau

(2) Trauma Advisory Committee

(3) Regional Trauma Advisory

Councils

(4) system process improvement program

(5) designated trauma centers (levels I-IV)

(6) state and hospital trauma registry

(7) coordinated linkages with pre-hospital care services, rehabilitation facilities and long term care providers

(8) support programs (e.g., public education, prevention, system finance)

F. The system will emphasize an inclusive approach with optimal participation by all providers in the continuum of trauma care.

[7.27.7.6 NMAC - Rp 7 NMAC 27.7.6, 6/14/02]

7.27.7.7 DEFINITIONS: Unless a different meaning is plainly required by the context, the following words and phrases used in these regulations shall have the meanings indicated.

A. "ACLS" means advanced cardiac life support, a course developed by the American Heart Association.

B. "activation of the trauma system" means procedures whereby a pre-hospital provider of hospital/healthcare facility identifies the major trauma patient by trauma triage criteria and pre-hospital and hospital resources are mobilized to care for the patient in accordance with the regional trauma plan and the trauma center's policy and procedures for trauma team activation.

C. "approved" means approved by the IPEMS Bureau.

D. "ATLS" means advanced trauma life support, a course developed by the American College of Surgeons.

E. "board certified or board eligible" means completion of the examination and award of certification by the appropriate certifying body for the physician specialty. Eligible means meets the standards to sit for the appropriate certifying board and actively pursuing certification.

F. "BP" means blood pressure.

G. "Bureau" means the Injury Prevention and EMS Bureau of the Public Health Division of the Department of Health.

H. "certified ambulance service" means any provider of ambulance service subject to the jurisdiction of the Public Regulation Commission.

I. "continuum of care" means all services available to the population of persons either at risk of injury or

who have incurred an injury, beginning with injury prevention and progressing to long term care services and including the return to the highest level of wellness and functioning.

J. "CME" means continuing medical education.

K. "Department" means the New Mexico Department of Health.

L. "designated trauma center" means a hospital identified by the Department as a Level I, II, III, or IV trauma care services provider.

M. "designation" means a formal determination by the Department that a hospital/healthcare facility is capable of providing special resources and care as a designated trauma center.

N. "Emergency Medical Services (EMS) Provider" means Emergency Medical Technicians (EMT) or trained EMS first responders who render care in response to a need for immediate medical care to prevent loss of life or aggravation of physical or psychological illness or injury.

O. "ENPC" means Emergency Nursing Pediatric Course, developed by the Emergency Nurses Association.

P. "E-Code" means external cause code, an etiology included in the International Classification of Diseases (ICD).

Q. "ED" means emergency department.

R. "facility patient care protocols" means the written procedures adopted by the medical staff of a participating facility that directs the care of the patient. These procedures shall be based upon the assessment of the patient's medical needs and shall follow minimum statewide standards.

S. "hospital" means a facility with an emergency department and physician(s) available, licensed under state statute, or a comparable facility operated by the federal government or located and licensed in another state.

T. "hospital trauma registry" means a computerized trauma data base maintained by a hospital/healthcare facility.

U. "hospital trauma registry policy manual" means a written guideline used by New Mexico trauma data collection personnel to ensure uniform, complete and accurate trauma data.

V. "ICD" means the international classification of diseases, a coding system developed by the World Health Organization.

W. "ICU" means intensive care unit.

X. “**immediately available**” means the immediate and rapid response upon notification and the physical presence of the health professional in the stated location at the time of need by the trauma patient which is continuously monitored by the process improvement plan.

Y. “**inclusive trauma system**” means a trauma system that encourages optimal participation by all providers in the continuum of trauma care as well as injury prevention, rehabilitation and long-term care service providers.

Z. “**indicator**” means a process improvement tool or process measure used to monitor the quality of important governance, management, clinical, and support processes and outcomes.

AA. “**interfacility transfer criteria**” means the criteria established to indicate the need for a level of care for the trauma patient that is not available at the transferring facility.

BB. “**letter of intent**” means a written document executed by a hospital/healthcare facility’s administration indicating their intention to participate in the New Mexico Trauma System.

CC. “**level I trauma center**” means a hospital which is designated by the Department as having met the hospital/healthcare facility resource standards for a level I trauma center as described in the most recent version of the Resources for Optimal Care of the Injured Patient, published by the Committee on Trauma of the American College of Surgeons. A level I trauma center is capable of providing immediately available comprehensive care on a twenty-four (24) hour basis for acutely injured patients of all ages. The hospital is committed with resources for the evaluation, stabilization, and definitive care of all injured patients as well as committed to trauma-related research, training, and community outreach. A level I trauma center shall satisfy the requirements for outreach, training and public education as specified in Appendix D, Table 1, Outreach, Training and Public Education Section.

DD. “**level II trauma center**” means a hospital which is designated by the Department as having met the hospital resource standards for a level II trauma center as described in the most recent version of the Resources for Optimal Care of the Injured Patient, published by the Committee on Trauma of the American College of Surgeons. A level II trauma center is capable of providing promptly available major trauma care on a twenty-four (24) hour basis for acutely injured patients of all ages. The hospital has the capability to provide subspecialty care in most areas and is committed with resources for the evaluation, stabilization, and definitive care of all

injured patients. A level II trauma center shall satisfy the requirements for outreach, training and public education as specified in Appendix D, Table 1, Outreach, Training and Public Education Section.

EE. “**level III trauma center**” means a hospital which is designated by the Department as having met the hospital resource standards for a level III trauma center as described in Appendix D, Table 1 of these regulations. A level III trauma center is capable of providing promptly available trauma care on a twenty-four (24) hour basis, including on-call general surgery and select specialty coverage. The hospital is capable of providing evaluation, initial stabilization, limited ongoing care and for the transfer of acutely injured patients of all ages to level I or level II facilities which can provide further definitive surgical care.

FF. “**level IV trauma center**” means a hospital or other healthcare facility that is designated by the Department as having met the hospital/healthcare facility resource standards for a level IV trauma center as described in Appendix D, Table 1 of these regulations. A level IV trauma center is capable of providing physician-directed basic services for the evaluation, initial stabilization, and early transfer of acutely injured patients of all ages to a higher level of care. Such facilities may have limited on-call general surgical and subspecialty services.

GG. “**local EMS medical director**” means a physician who is responsible for all aspects of patient care of a local EMS system or EMS provider service, including providing for or ensuring the medical control of EMTs; the development, implementation, and evaluation of protocols and oversight of process improvement activities as described in the Medical Direction for Emergency Medical Services, 7.27.3 NMAC, or such other regulations as may be adopted by the Public Health Division of the Department.

HH. “**local trauma transport protocols**” means protocols, developed and approved by the Regional Trauma Advisory Councils, to define destination procedures for major trauma patients.

II. “**major trauma**” means serious injury caused by external forces which may result in death or disability.

JJ. “**mid-level practitioner**” means an advance practice nurse or physician assistant.

KK. “**New Mexico Trauma Foundation**” means an organization established to conduct trauma related research, to develop and coordinate trauma injury prevention programs, to coordinate and facilitate the financial viability activities of the designated trauma centers and trauma team

participating physicians and other trauma system related activities and purposes.

LL. “**Office of the Medical Investigator (OMI)**” means the office designated by the State of New Mexico to determine the causes of sudden or unexplained death.

MM. “**PALS**” means pediatric advance life support, a course developed by the American Heart Association.

NN. “**participating facility**” means any hospital that treats or admits trauma patients and that is an active participant in their Regional Trauma Advisory Council.

OO. “**pediatric trauma patient**” means a trauma patient known or estimated to be less than fourteen (14) years of age.

PP. “**physician**” means a doctor of medicine or osteopathy who is licensed or otherwise authorized to practice medicine or osteopathy in the State of New Mexico.

QQ. “**PI**” means process improvement, an organized method of monitoring, evaluating and improving care provided throughout the trauma system.

RR. “**pre-hospital patient care protocols**” means the written procedures adopted by the local EMS medical director or adopted by the Regional Trauma Council which directs the pre-hospital emergency care of a patient.

SS. “**promptly available**” means the physical presence of the health professionals in the stated location within a specified period of time, which is defined in the local or regional trauma plan and the hospital’s trauma center designation application.

TT. “**qualifying trauma patient**” means a patient who meets the statewide and approved regional pre-hospital trauma triage criteria and the Bureau approved criteria for statewide trauma registry inclusion.

UU. “**recognized**” means written acknowledgement by the Bureau.

VV. “**region**” means a geographic area served by local emergency medical service(s) and/or hospital(s)/healthcare facilities for the purpose of planning a local system which provides care for persons with injuries.

WW. “**Regional Trauma Advisory Council (ReTrAC)**” means a TAC and Bureau approved group from each recognized trauma region that develops and implements trauma plans that address the particular needs of the trauma service area.

XX. “**regional trauma plan**” means a document created by a Regional Trauma Advisory Council and approved by the Bureau with the advice of

the Trauma Advisory Committee that identifies goals, objectives, guidelines, and standards for the oversight, management and operation of a regional trauma program.

YY. "Secretary" means the Secretary of the New Mexico Department of Health.

ZZ. "trauma" means a major single or multi-system injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability.

AAA. "Trauma Advisory Committee (TAC)" means the subcommittee on trauma of the Statewide EMS Advisory Committee established pursuant to the EMS Act.

BBB. "trauma center" means a hospital/healthcare facility designated by the Department to receive and provide services for trauma patients under these regulations.

CCC. "trauma clinical services" means the pre-hospital coordination, hospital resuscitation, hospital inpatient treatment, rehabilitation and follow-up medical care services for trauma patients which are the responsibility of the designated trauma center and the appropriate physician specialist, as defined by these regulations.

DDD. "trauma committee" means a multi-disciplinary, hospital-sponsored committee that meets regularly to provide input to the trauma program and to the hospital's administrative and medical staff.

EEE. "trauma nurse coordinator" means a registered nurse with experience, special training and certification who is assigned by the trauma center to manage the requirements as provided for in these regulations and to provide trauma program coordination, leadership and direction according to a hospital-approved job classification.

FFF. "trauma program" means an administrative unit of a trauma center that includes the medical director, trauma nurse coordinator, and trauma program support staff, for the ongoing management and coordination of the hospital's trauma program.

GGG. "TTP" means the approved prehospital trauma transport protocols, developed by the local/regional EMS medical director, that utilize the trauma triage guidelines to determine primary and alternative transport destinations for prehospital providers.

HHH. "trauma registry" means a database which documents and integrates medical and system information related to the provision of trauma care by hospitals/healthcare facilities.

III. "trauma surgeon"

means a physician who is Board certified or Board eligible in general surgery, and who has trauma surgery privileges delineated by the hospital/healthcare facility's medical staff.

JJJ. "trauma system" means an organized approach to providing personnel, trauma centers, and equipment for the coordinated and effective treatment of patients with an injury with the potential of requiring immediate medical or surgical intervention to prevent death or disability. The trauma care system includes prevention activities, pre-hospital care, hospital care, and rehabilitation. The components of a trauma system include:

- (1) provision of manpower
- (2) training of personnel
- (3) communications
- (4) transportation
- (5) hospitals/healthcare facilities
- (6) critical care units
- (7) use of public safety agencies
- (8) use of private agencies
- (9) consumer participation
- (10) accessibility to care
- (11) transfer of patients
- (12) standard medical record keeping and reporting
- (13) public information/education and prevention
- (14) independent review and evaluation, including formal total process improvement programs
- (15) disaster linkages
- (16) mutual aid agreements

KKK. "trauma system plan" means the State Trauma Plan that develops the infrastructure needed to support an inclusive statewide trauma system that recognizes the unique geo-political attributes of the regions and empowers the Regional Trauma Councils (ReTrACs) to meet the needs of their regions.

LLL. "trauma team" means personnel assigned for involvement with trauma resuscitation.

MMM. "trauma team physician" means a physician who has been identified by the designated trauma center and its trauma surgeon(s) as a member of the center's trauma team.

NNN. "trauma triage criteria" means the parameters established to identify the high-risk patients for major injury and/or critically injured trauma patients for treatment in accordance with the local trauma transport protocols. The criteria shall include such considerations as the anatomic components, physiologic conditions, and mechanism of injury.

OOO. "triage" means the sorting of trauma patients in terms of disposition, destination, or priority requiring and identifying injury severity and patient risk, so that the appropriate care level can be

readily accessed according to patient care guidelines.

[7.27.7.7 NMAC - Rp 7 NMAC 27.7.7 & 7 NMAC 27.7.13, 6/14/02]

7.27.7.8 SYSTEM ADMINISTRATION

A. General Responsibilities of the IPEMS Bureau:

(1) the Bureau shall administer the process, to designate and re-designate hospitals/healthcare facilities to provide trauma care services in accordance with these regulations.

(2) the Bureau shall establish and manage the Statewide Trauma Registry.

(3) the Bureau shall approve and periodically review statewide and regional pre-hospital trauma triage criteria guidelines, inter-facility transfer criteria for adult and pediatric patients, trauma center standards and the trauma register data set with the advice of the Trauma Advisory Committee (TAC).

(4) the Bureau may recognize the establishment of Regional Trauma Councils (ReTrACs) as appropriate.

(5) the Bureau shall develop and update the State Trauma System Plan periodically with advice from the TAC.

(6) the Bureau shall review, recommend changes to, and approve any proposed regional plans submitted by a ReTrAC, through TAC and shall take into account recommendation from the TAC. This approval shall be based upon consideration of the needs of trauma patients whose care may require resources from more than one (1) region and/or from adjacent states.

(7) the Bureau shall provide technical assistance and support to the TAC, ReTrACs and to hospitals/healthcare facilities and EMS providers as necessary to carry out the Trauma System Plan.

(8) the Bureau shall exercise, as necessary, the right to review, inspect, evaluate and audit all trauma patient records, trauma process improvement plans and committee minutes, physical facilities, and any other documents relevant to trauma care in any designated trauma center to verify compliance with trauma center standards. The Bureau shall maintain the confidentiality of such records in accordance with state and/or federal law.

(9) the Bureau shall facilitate the establishment of a statewide "inclusive" trauma system by encouraging participation of all agencies, facilities and services that treat or admit trauma patients in the statewide trauma data collection process, or in injury prevention programs, or in ReTrAC or in any other manner deemed by the Bureau to improve trauma care.

(10) the Bureau may periodical-

ly conduct special studies on the Statewide Trauma System to determine system coverage, quality and extent of care, and financial effect of the system components.

(11) the Bureau may develop other trauma regulations, with advice from TAC, and as necessary, to ensure the quality of the Statewide Trauma System.

(12) the Bureau shall facilitate, and where necessary, develop and maintain public information/education and prevention programs as an integral component of the trauma system.

B. Trauma Advisory Committee: Trauma Advisory Committee (TAC), a subcommittee of the Statewide EMS Advisory Committee established pursuant to the EMS Act, shall:

(1) adopt guidelines, with concurrence of the Statewide EMS Advisory Committee and Bureau, for its operations, including membership, attendance, maintenance of minutes and other guidelines necessary to assure the orderly conduct of business;

(2) periodically review and comment on the Department's regulations, policies, and standards for trauma;

(3) review and comment annually on the Statewide EMS Advisory Committee's budget for the trauma system;

(4) advise the Bureau regarding trauma system needs and progress throughout the state;

(5) review and comment on regional trauma plans;

(6) periodically review local/regional pre-hospital trauma triage guidelines and inter-facility transfer criteria; and,

(7) advise the Bureau on injury prevention and public information/educational programs.

C. Regional trauma advisory councils (ReTrACs):

(1) Regional Trauma Advisory Councils (ReTrACs) may be established by application made to the Bureau.

(2) the application shall be in a manner and format prescribed by the Bureau.

(3) such applications shall be reviewed and commented on the TAC prior to approval by the Bureau.

(4) ReTrAC, in order to be recognized, shall submit to the Bureau a membership list which includes a balance of representation from EMS providers, hospital(s)/healthcare facilities and other interested parties.

(5) an approved ReTrAC shall develop, update as appropriate, and implement a regional trauma plan that identifies particular regional needs and sets goals for special regional trauma needs. Additionally,

a ReTrAC shall:

(a) seek and consider the recommendations of trauma system providers, governmental entities and consumers,

(b) consider the regional and state analyses provided by the Bureau based on trauma registry data and other appropriate sources; and,

(c) develop and implement regional trauma triage and treatment protocols bypass and diversion plans, process improvement methods and patient care protocols.

(d) the approved ReTrAC shall establish a medical review committee to conduct the regional process improvement program, as defined by the Bureau's approved process improvement plan, including the review of patient outcome and regional system issues.

(e) the approved ReTrAC shall annually, identify and analyze system and patient care trends and outcomes, based on trauma registry data provided by the Bureau, to evaluate effectiveness of regional trauma system and its component subsystems.

(f) the approved ReTrAC shall advise the Bureau and TAC on other matters relating to the delivery of trauma care within the region; and,

(g) accomplish other purposes as approved by the Bureau.

(6) an approved ReTrAC shall adopt pre-hospital patient care protocols in consultation with the local EMS medical directors, EMS providers, trauma service providers, and emergency communication centers. These protocols shall identify the level of medical care personnel to be dispatched to an emergency scene, procedures for triage of patients, the level of trauma care facility to first receive the patient, and the name and location of other trauma centers to receive the patient should an inter-facility transfer be necessary. Procedures on inter-facility transfer of patients shall be consistent with the inter-facility transfer criteria and guidelines as provided for in Appendix B.

D. Trauma System Process Improvement Program:

(1) an overall Process Improvement (PI) program shall be developed for the State Trauma System. The PI program shall include patient care outcomes and compliance with these regulations. The PI program shall consist of:

(a) an approved state PI system plan,

(b) system trauma registry,

(c) Bureau and approved ReTrAC review of:

(i) trauma system trends/needs,

(ii) key indicators ad

defined by the State Trauma PI Plan, and

(iii) patient care and other outcome issues and needs of the trauma system.

(d) trauma center review of:

(i) trends/needs,

(ii) key indicators as

defined by the trauma center PI plan, and,

(iii) patient care and

outcome studies as needed to verify compliance with standards of care and the needs of the trauma center.

(2) the Bureau shall:

(a) develop and maintain a Statewide Trauma System PI Plan with input from the TAC; and,

(b) provide guidelines for and review of regional trauma PI plans to evaluate regional trauma care delivery, patient care outcomes, and compliance with these standards.

(3) each ReTrAC shall:

(a) develop a written regional trauma PI plan, which includes policies for confidentiality of records and recordings of committee actions, including a requirement that each attendee of the trauma PI committee meeting is informed in writing of the confidentiality requirement. Information identifying individual patients shall not be publicly disclosed without the patient's consent in accordance with applicable state and federal laws;

(b) include in its regional trauma PI plan, the process for informing the Bureau of the results of the PI review;

(c) appoint, at a minimum, one member for each designated trauma center, licensed medical staff, trauma coordinator/or nurse, licensed EMS provider, a local EMS pre-hospital provider medical director, and a member of the EMS regional office to participate on the regional PI subcommittee. Other healthcare providers and hospital/healthcare facilities providing trauma care in the region, including non-designated hospital/healthcare facilities and EMS providers and pre-hospital services, may be invited to participate in the PI process.

(d) implement the written regional trauma PI plan including periodic assessment of performance of the regional EMS and trauma care system, including area training plans, based on data supplied by the trauma registry and other sources, including:

(i) trauma care delivery,

(ii) patient care outcomes, including pediatric and adult patients,

(iii) all trauma deaths,

and

(iv) compliance with

these regulations.

(e) provide assessment of data

governing all aspects of patient care; and

(f) establish the process for communication to and from the Bureau on identified trauma system issues and concerns.

(4) each designated trauma center shall:

(a) develop an internal trauma plan which, based on data supplied by the trauma registry and other sources, will provide for the ongoing assessment and improvement of performances of the trauma center, including;

(i) trauma care delivery,

(ii) all trauma deaths,

(iii) identification and analysis of injury trends, patient care outcomes, and other information,

(iv) periodic assessment of data governing aspects of patient care,

(v) policies regarding confidentiality of data elements related to identification of provider and trauma center care outcomes, in accordance with applicable state and/or federal law,

(vi) policies regarding confidentiality of records and committee minutes, including a requirement that each attendee of the trauma PI committee meeting is informed in writing of the confidentiality requirement. Information identifying individual patients shall not be publicly disclosed without the patient's consent in accordance with applicable state and federal laws.

(vii) provision for feedback to the Bureau and the approved ReTrAC on identified trauma issues and concerns, and

(viii) compliance with these regulations.

(b) implement the hospital-wide PI program in compliance with the trauma center plan to reflect and demonstrate continuous process improvement in the delivery of trauma care. The trauma center PI program shall include regular in-house, multi-disciplinary trauma conferences, which address:

(i) comprehensive review of patient care throughout the patient's stay,

(ii) participation of members of the trauma team,

(iii) participation of the person responsible for coordination of trauma registry activities,

(iv) participation of the trauma center's designated rehabilitation coordinator, as appropriate,

(v) feedback to staff and services areas that are involved with trauma care, and

(vi) provision of appropriate reports to the state and regional

process improvement program.

(c) document the trauma center's PI program proceedings, conclusions, actions taken, results of the actions taken and follow through, demonstrating that relevant findings are used to study and improve processes that affect trauma patient care;

(d) evaluate the results of the trauma PI program and include them with the trauma center's process improvement program;

(e) participate in the System Trauma Registry by:

(i) identifying a person to be responsible for coordination of trauma registry activities,

(ii) downloading required trauma data as stipulated by the Bureau,

(iii) submit aggregate reports as stipulated by the Bureau, and

(iv) participate in the trauma registry workshops.

(f) participate in the appropriate ReTrAC PI program that may be required in these regulations.

[7.27.7.8 NMAC - Rp 7 NMAC 27.7.8, 6/14/02]

7.27.7.9 TRAUMA CENTER DESIGNATION PROCESS:

A. Levels of trauma centers: the Bureau shall identify trauma centers by levels of care capability as defined in these regulations. The levels are as follows:

(1) level I trauma center

(2) level II trauma center

(3) level III trauma center

(4) level IV trauma center

B. Phases of Designation:

(1) phase one (1), letter of intent: the first phase of the designation process is an invitation issued by the Bureau to all hospitals/healthcare facilities in the State that applications for designations are initiated by a letter of intent.

(2) phase two (2), application: the hospital shall submit an application, that has been developed by the Bureau, to the Bureau identifying the desired level of trauma center designation.

(3) phase three (3), review: the third phase is the review phase which begins with the on-site review of the hospital/healthcare facility and ends with the Bureau's recommendation to the Secretary to designate the hospital/healthcare facility as a trauma center.

(4) phase four (4), final: the fourth phase is the final phase which begins with the Secretary reviewing the Bureau's recommendations and ends with a final decision as to the level of trauma center des-

ignation by the Department. This phase also includes an appeal procedure for the denial of a designation application in accordance with these regulations.

C. Application Process:

(1) the Bureau shall develop and issue an application packet to hospitals or healthcare facilities, which have submitted a letter of intent in seeking initial designation as a trauma center.

(2) the application packet shall describe the information required from an applicant to be considered for trauma center designation. Such information shall include:

(a) application requirements,

(b) system standards for the level at which the hospital/healthcare facility is applying together with the current status on each standard and category of designation sought,

(c) evaluation criteria,

(d) statement and documentation of attendance and participation in the area ReTrAC and a commitment to serve the trauma care needs of their desired trauma services area and as a partner in the Statewide Trauma System,

(e) geographic area proposed to be covered, and appropriate utilization of data, and

(f) evidence of financial viability compliance.

(3) if there is a designated trauma center or centers at the same or higher level of designation in the proposed geographical area to be served by the applicant, the applicant shall include in its application the following:

(a) a statement of the proposed role of the applicant hospital assuring that the applicant's trauma program and activities would not have a negative financial or operational impact on the existing designated trauma center(s) program or services, and

(b) a statement by the area ReTrAC that the proposed trauma program of the applicant is consistent with and addresses the needs of the regional trauma program as described in the approved regional trauma plan.

(4) the Bureau shall:

(a) conduct a review of each applicant's submitted proposal for completeness. If any proposal is incomplete, the applicant shall be notified by the Bureau and afforded the opportunity to complete the application at least within twenty (20) working days of the Bureau's notification; and,

(b) evaluate applications for potential multiple hospital designation following the same criteria as for a single-facility application. Applications for multiple hospital designation must demonstrate

that the goals of these regulations are met as defined in their applications.

D. On-Site Review for Designation:

(1) the Bureau shall conduct an on-site review of an applicant hospital/healthcare facility for levels I, II, III, and IV trauma centers, prior to designation.

(2) the Bureau shall establish multi-disciplinary on-site review teams composed of individuals knowledgeable in trauma care and systems, appropriate to the level of designation requested.

(3) for the initial designation for a level I and II trauma center, the team shall include but not be limited to a:

- (a) trauma surgeon,
- (b) emergency physician, and
- (c) trauma nurse coordinator.

(4) for the designation for a level III and IV trauma center, the team shall include a:

- (a) trauma surgeon or emergency physician, and
 - (b) trauma nurse coordinator.
- (5) the composition of subsequent survey teams shall be determined by the Bureau.

(6) such teams shall consist of professionals who do not live or work:

(a) in the same state as the applicant for the designation of levels I and II trauma centers, or,

(b) in the same county as the applicant for designation of level III or IV trauma centers.

(7) the Bureau will consider the allegation of conflict of interest of an on-site review team member if a hospital or healthcare facility can demonstrate a reasonable basis for concern as determined by the Department. Concerns accompanied by the proof upon which the hospital or healthcare facility relies on must be submitted in writing within ten (10) working days of the Bureau's announcements of proposed on-site review team members.

(8) the applicant's administration, faculty, medical staff, employees and representatives are prohibited from having any contact with any on-site review team member after the announcement of the team members and before the on-site review, except as authorized by the Bureau. A violation of this provision may be grounds for denying that applicant's proposal, as determined by the Bureau.

(9) the on-site review team shall evaluate the appropriateness and capabilities of the applicant to provide trauma care services, and validate the hospital/healthcare facility's ability to meet the responsibilities, equipment, and performance standards for the level of designation sought and to meet the overall needs of the trauma sys-

tem in that region by:

(a) familiarizing themselves with the hospital or healthcare facility's proposal;

(b) inspecting the hospital or healthcare facility's physical plant and interviewing of key staff,

(c) examining hospital or healthcare facility trauma related documents, including patient care records;

(d) interviewing other appropriate individuals;

(e) reviewing past applicant or similar proposals for the regions; and, reviewing other materials as deemed appropriate by the Bureau.

(10) the on-site review team shall:

(a) make a verbal summary of preliminary findings to the applicant upon completion of the on-site review; and,

(b) make written recommendations to the Bureau of the on-site review.

(11) the Bureau and the members of the on-site review team shall maintain confidentiality of information, records, and reports developed pursuant to on-site reviews as permitted by state and federal laws. Information obtained by the on-site team, their oral and written reports, and deliberations shall be kept confidential by the Bureau.

(12) the applicant's application will become the property of the Bureau and shall be considered public information at the end of the designation process, subject to state and federal laws.

(13) hospitals applying for level I or level II may, at their discretion, request a verification site survey by representatives of the American College of Surgeons. The Bureau will accept the findings of the verification site visit and incorporate a copy of the findings in its report to the Secretary recommending or not recommending designation at the level applied for.

E. Designation of Trauma Center:

(1) as soon as practical, but no later than forty five (45) days after receipt of the on-site report survey document, the Bureau shall make recommendations to the Secretary based on:

(a) evaluation of pre-review documentation submitted as part of the application,

(b) recommendations from the on-site review team,

(c) ability of each applicant to comply with goals of the State and regional trauma plans, and,

(d) compliance with agreements with the Bureau, including compliance with regional review criteria as applicable during the previous designation period.

(2) after completion of the on-site

review, the Bureau:

(a) may recommend to the Secretary approval at the level of designation proposed by the hospital or healthcare facility; or,

(b) may recommend to the Secretary a lower designation, if, according to the site surveyor's evaluation, the hospital or healthcare facility is unable to meet the standards of the designation for which the applicant applied; or,

(c) may require the hospital or healthcare facility to submit an application for the lower designation, to be followed by an on-site review.

(3) upon approval of the recommended level of designation by the Secretary, the Bureau shall require the hospital or healthcare facility, after receiving notification of the Secretary's decision, to respond within ten (10) working days to accept or decline the proposed designation.

(4) hospitals or healthcare facilities designated as a trauma center shall comply with applicable standards as set forth by the Bureau.

F. Categories of Designation:

(1) provisional: the Bureau may initially designate a trauma center as "provisional" for a term not to exceed one (1) year except for good cause shown as granted by the Bureau;

(a) shall require all provisional trauma centers to have a written work plan of objectives to rectify deficiencies and to demonstrate progress on the work plan throughout the twelve (12) month time period; and,

(b) shall, at the end of the provisional period, grant full designation, extend the provisional period, or suspend the trauma center for cause.

(2) full designation: the Bureau may grant full designation to any hospital or healthcare facility in full compliance with these regulations, subject to the review process described, for a period not to exceed three (3) years.

G. Agreement Process: the Bureau and the designated trauma center shall enter into a written agreement. The agreement shall:

(1) authorize the hospital or healthcare facility to function and identify itself as a designated trauma center for either provisional or full designation;

(2) identify the requirements and responsibilities of both the trauma center and the Bureau, including attendance requirements at local, regional, state and national meetings;

(3) allow the Bureau to monitor compliance with regulations and standards during the designation period, including access to:

(a) patient discharge summaries
 (b) patient care logs
 (c) patient care records
 (d) hospital trauma process improvement program records, including minutes, and,

(e) other relevant documents as determined by the Bureau, and

(4) require confidentiality of information relating to individual patient, provider, and hospital/healthcare facility's care outcomes in accordance with state and federal laws.

H. Denial, Revocation or Suspension of Designation:

(1) the Bureau may deny the application for designation if it finds that the hospital/healthcare facility:

(a) is not the most qualified applicant within a geographic area;

(b) is unable to meet the requirements of these regulations for the level of designation sought;

(c) makes a false statement of a material fact in the hospital/healthcare facility's application for designation;

(d) refuses to allow representatives of the Bureau to inspect any part of the hospital/healthcare facility, records, documentation, or files pertaining to the designation process;

(e) is unable to meet or comply with the requirements as stated in **Paragraph (5) of Subsection C of 7.27.7.8 NMAC** for participation in the activities of an area ReTrAC and the requirements of an approved regional trauma plan.

(f) engages in unauthorized contact with any on-site review team member.

(2) the Bureau may revoke or suspend a trauma center designation if the trauma center:

(a) fails, refuses to comply or violates the provisions of the State hospital licensure requirements of the State trauma regulations or provisions of applicable federal law; or the trauma center agreement;

(b) fails to provide data to the Trauma Registry;

(c) makes a false statement of a material fact in the application for designation, or in any record required by these regulations, or in a matter under investigation;

(d) prevents, interferes with, or attempts to impede in any way, the work of a representative of the Bureau in the lawful enforcement of these regulations or any other applicable state law;

(e) uses false, fraudulent, or misleading advertising, or makes any public claims regarding the hospital/healthcare facility's ability to care for non-trauma patients based on its trauma center designation status;

(f) misrepresents or is fraudulent

in any aspect of conducting business;

(g) is substantially out of compliance with the requirements of these regulations, and has been unable or refused to comply as required by the Bureau.

(3) the following procedures will be used for any investigation of a designated trauma center by the Bureau:

(a) any person or entity may communicate a complaint or knowledge of an incident of any alleged violation of these regulations to the Bureau. Complaints shall be submitted in signed written form to the Bureau. The Bureau may begin an investigation without a signed written complaint if there is sufficient cause.

(b) trauma centers being investigated shall receive written notification within ten (10) working days after a decision is made to begin a preliminary investigation.

(c) at the conclusion of the Bureau's preliminary investigation, the Bureau shall report its findings to the trauma center in written form, including any requirements for corrective action.

(d) if the trauma center does not respond, the corrective action is insufficient, or if the complaint is of such serious nature as to warrant suspension or revocation of designation, as determined by the Bureau, the Bureau shall proceed to the procedure as outlined in **Paragraph (4) of Subsection H of 7.27.7.9 NMAC below**.

(4) preliminary and further investigations shall be conducted by the Bureau.

(a) preliminary investigations shall be initiated when the Bureau receives information, which might form the basis for action against a trauma center. This fact finding/information gathering investigation will determine for the Bureau whether justification exists to initiate an action or to conduct a further investigation.

(b) further investigations shall be undertaken when additional information is required to allow the Bureau to determine if it will initiate an action. Notice will be given to the trauma center, which is the subject of the investigation unless extenuating circumstances exist which would reasonably preclude notification.

(c) the Bureau will take every precaution to ensure that preliminary and further investigations are conducted in a confidential manner.

(d) an official record is maintained for every designated trauma center in New Mexico

under these regulations. If the Bureau begins a preliminary or further investigation, a confidential record will be created containing all investigatory material. If the Bureau initiates an action, all records not exempt from disclosure under the

Inspection of Public Records Act, Section 14-2-1, et seq, NMSA 1978, will be placed in the designated trauma center's official record. Any request for records maintained by the Bureau will be processed in accordance with the Inspection of Public Records Act.

(5) the following process shall be used when designation is contemplated to be denied, revoked, or suspended:

(a) the Bureau shall notify a hospital/healthcare facility in writing of contemplated denial of designation, revocation, or suspension of designation by issuing a Notice of Contemplated Action (NCA). Such NCA shall include:

(i) the reasons for the action, and,

(ii) rights of the hospital/healthcare facility, which include a right to a hearing, and may, for contemplated suspension or revocation actions, at the discretion of the Bureau, include authorization to submit a plan of correction.

(b) the Bureau shall notify the recognized ReTrAC (if applicable) of the action taken.

(c) should a plan of correction be authorized by the Bureau pending contemplated revocation or suspension of designation of a trauma center, the following procedure shall be followed:

(i) the Bureau shall specify a deadline for submission of the plan of correction in the NCA. The plan shall include steps, which the trauma center intends to take in order to correct deficiencies and projected date of completion.

(ii) the Bureau shall approve or disapprove the plan within fifteen (15) calendar

days of receipt. If the plan is disapproved by the Bureau, the hospital/healthcare facility shall have twenty (20) days to request a hearing in accordance with **Paragraph (6) of Subsection H of 7.27.7.9 NMAC below**.

(iii) upon notification that the plan of correction is approved by the Bureau,

the trauma center shall begin implementation of the plan immediately and notify the Bureau upon completion of the plan.

(iv) upon satisfactory evidence of compliance, which may include an on-site review, the trauma center shall retain the designation status.

(6) the following process of appeal will be available to any hospital/healthcare facility which has received a Notice of Contemplated Action (NCA) to deny, suspend or revoke a trauma center designation.

(a) within twenty (20) calendar days of receipt of the contemplated action to deny, suspend or revoke a trauma center

designation,

(b) a hospital/healthcare facility may formally appeal by requesting a hearing in writing, by certified return receipt letter to the Secretary of the Department, PO Box 26110, Santa Fe, New Mexico, 87502-6110.

(c) upon receipt of a timely appeal, and request for a hearing, the Secretary shall appoint a Hearing Officer and schedule a hearing, to be held in Santa Fe, New Mexico within forty five (45) working days. If no timely request for hearing is received, the Bureau will take the action contemplated in the NCA.

(d) the Department shall notify the hospital/healthcare facility of the date, time, and place of the hearing, the identity of the Hearing Officer, and the subject matter of the hearing, not less than thirty (30) days prior to the date of the hearing.

(e) the Hearing Officer shall preside over the hearing, administer oaths, take evidence and decide evidentiary objections and rule on any motions or other matters that arise prior to the hearing.

(f) the hearing is open to the public unless requested to be closed by the hospital or the Department.

(g) the Hearing Officer shall make a written report and recommendation(s) to the Secretary containing a statement of the issue raised at the hearing, proposed findings of fact, conclusions of law, and a recommended determination.

(h) The Hearing Officer, or designee, shall record the hearing by means of mechanical sound recording device provided by the Department.

(i) The Hearing Officer's written report shall be submitted to the Secretary no later than thirty (30) working days after the close of the hearing.

(j) the Secretary shall render a final determination within ten (10) working days of the submission of the Hearing Officer's report. A copy of the final decision shall be mailed to the appealing hospital/healthcare facility by certified mail, and a copy shall be provided to the Office of General Counsel of the Department of Health.

I. Change in Trauma Center Designation Status:

(1) a designated trauma center shall have the right, with ninety (90) days notice, to withdraw as a trauma center or to request a designation lower than their current designated level.

(2) a designated trauma center shall:

(a) notify the Bureau and the approved ReTrAC within five (5) calendar days if temporarily unable to comply, and the reasons, with designation standards;

(b) notify the Bureau and the ReTrAC if it chooses to no longer provide trauma services commensurate with its designation level; and,

(c) if the trauma center chooses to apply for a lower level of designation, the Bureau, at its discretion, may repeat all or part of the designation process as described in these regulations.

J. Renewal of Trauma Centers Designation:

(1) all trauma centers shall repeat the designation process as described in these regulations every three (3) years prior to the trauma center's expiration of designation. The trauma center shall apply to the Bureau for re-designation for a period of three (3) years. A designated trauma center, in good standing, shall remain designated until the application process is completed.

(2) each level I, II, and III trauma center shall be resurveyed as described in the designation process in Section M of these regulations. Each level IV trauma center may be resurveyed, at the discretion of the Bureau.

(3) at the discretion, and for good cause, the Bureau may extend for up to one year the current designation status of any trauma center.

K. Trauma System Fees: the Bureau shall establish and publish a fee structure for trauma centers applicants for designation as a trauma center to help defray the costs associated with review of the application, the on-site review process and ongoing trauma system management.

L. Prohibition of the Use, Advertising or Marketing of Terms: to protect against public misconception of the capabilities of individual institutions and the usage of misleading terms, the following are prohibited:

(1) after January 1, 1996, no person, emergency medical service, hospital/healthcare facility shall, by any means, advertise, assert, represent, offer, provide or imply that such person, service, clinic or facility is a trauma center or use the terms; "trauma center", "trauma facility", "trauma hospital", "trauma care hospital" or similar terminology or state in any manner that the person, organization or facility has the capabilities for providing treatment to major trauma patients except as permitted within the scope of the trauma center designation as provided herein.

(2) no trauma center shall, in any manner, advertise or publicly assert that its trauma designation affects the hospital/healthcare facility's care for non-trauma patients, nor that the designation should influence the referral of non-trauma system patients.

M. Trauma Center Fiscal

Viability Requirement: in order to assure that each designated trauma center has adequate financial and facility resources and a qualified medical workforce to provide optimal care to the injured patient and to meet the requirements of these regulations, each designated trauma center shall:

(1) establish a trauma program fee and charge schedule for services rendered to qualifying trauma patients that accurately reflect the cost of services rendered to qualifying trauma patients and the financial risk associated with rendering trauma services as a designated trauma center;

(2) enter into reimbursement agreements or contracts with all third party payer organizations including, but not limited to, managed care organizations, Blue Cross and Blue Shield and preferred provider organizations. These reimbursement agreements are intended to:

(a) adequately reimburse the designated trauma center the cost for rendering emergency and in-hospital care to qualifying trauma patients, and

(b) adequately reimburse the hospital employed or contracted trauma team physicians the cost of rendering care to qualified trauma patients and the cost of trauma team alerting and trauma team activation.

(3) the designated trauma center, or an organization acting in its behalf such as the New Mexico Trauma Foundation, with the contractual authority to negotiate payment and reimbursement agreements and/or to perform other financial and collection services for the designated trauma center shall not discount or otherwise attempt to collect charges and fee less than the trauma program fee and charge schedule developed by the designated trauma center.

(4) a designated trauma center hospital may request from the Bureau a waiver of the financial viability requirements enumerated in this Section. The waiver request shall specify that the applicant's trauma program generates sufficient revenue to cover the cost of the trauma program and the financial risk associated with trauma center designation.

N. Trauma Team Physician Fiscal Viability Requirement: in order to assure that each trauma team physician participating on the trauma teams at the designated trauma centers has the financial resources needed to provide optimal care to the injured patient and to meet the requirements of these regulations, each trauma team participating physician shall:

(1) establish a trauma fee and charge schedule for physician services rendered to qualifying trauma patients that accurately reflect the cost of physician serv-

ices rendered to qualifying trauma patients and the financial risk associated with rendering trauma care services as a trauma team physician; and

(2) enter into reimbursement agreements or contracts with all third party payer organizations including, but not limited to, managed care organizations, Blue Cross and Blue Shield and preferred provider organizations. These reimbursement agreements shall adequately reimburse the physician for physician services rendered to qualifying trauma patients.

(3) the trauma team physician or, an organization acting in his or her behalf such as the New Mexico Trauma Foundation, with the authority to negotiate payment and reimbursement agreements and/or to perform other financial and collection services for the physician shall not discount or otherwise attempt to collect charges and fee less than the trauma fee and charge schedule developed by the physician.

(4) a physician participating on the trauma team at a designated trauma center hospital may request from the Bureau a waiver of the financial viability requirements enumerated in this Section. The waiver request shall specify that the physician generates sufficient revenue to cover the cost of the trauma program participation. “

O. Trauma Managed Care Patients: each designated trauma center shall:

(1) facilitate the transfer of a member of a health maintenance organization or system when the medical condition of the patient permits as defined by the patient's attending trauma physician and trauma center's trauma protocols.

(2) develop written policies, in cooperation with managed care healthcare systems and hospitals owned or contracted to provide care to the managed care providers, to:

(a) notifying the healthcare plan within forty-eight (48) hours of a trauma patient's admission,

(b) coordinate discharge planning of plan patients, and,

(c) facilitate transfer of patients.
[7.27.7.9 NMAC - Rp 7 NMAC 27.7.9, 6/14/02]

7.27.7.10 TRAUMA SYSTEMS DATA COLLECTION:

A. Bureau Responsibilities: the bureau shall:

(1) establish a statewide trauma data registry to collect and analyze data on the incidence, severity, and causes of trauma, including traumatic brain and spinal cord injury for the purposes of:

(a) monitoring and providing

information necessary to evaluate qualifying trauma patient care, outcome and cost,

(b) assessing compliance of pre-hospital providers, designated trauma centers, and other hospital/healthcare facilities with the standards of the state trauma system operation and designation,

(c) providing information necessary for resource planning and management,

(d) providing data for injury surveillance, analysis, and prevention programs, and

(e) providing a resource for research and education.

(2) establish criteria to identify patients to be included in the State trauma system data collection from:

(a) all EMS providers,

(b) hospital/healthcare facilities, both designated and non-designated,

(c) Office of Medical Investigator reports,

(d) other sources outside of the trauma system which may include, but not be limited to:

(i) death certificates,

(ii) Hospital Inpatient Discharge Data (HIDD), and

(iii) law enforcement agency records.

(3) establish, publish, and periodically review the required data elements to be submitted to provide information regarding injury, trauma care, and system operation, in the following categories:

(a) demographic,

(b) anatomic,

(c) physiologic,

(d) severity,

(e) epidemiologic,

(f) resource utilization,

(g) Process Improvement,

(h) outcome, and

(i) financial.

(4) require a case specific patient identifier common to all data sources used in the trauma registry;

(5) provide procedures and specifications for electronic and hard copy submission of data;

(6) develop a system for, and report mechanism on process improvement through:

(a) establishing protocols for quality control, consistent with the Bureau's most current data quality guidelines,

(b) completing studies to assess the completeness and accuracy of case identification and data collection, and

(c) assuring the completeness and accuracy of data submitted for each provider submitting data to the trauma registry.

(7) evaluate requests from appro-

priate ReTrAC for collection of voluntarily submitted additional data elements from agencies and facilities in that region.

B. Provider Responsibilities:

(1) all certificated ambulance services shall:

(a) provide pre-hospital run reports for inclusion of trauma patient data on:

(i) trauma victims dead at scene,

(ii) all patients meeting local/regional trauma triage criteria who are transported to a hospital or healthcare facility and,

(iii) all patients transported in accordance with inter-facility transfer policies to a higher level of care or for special resources.

(b) submit data by electronic transfer or, if authorized in writing, to the EMS database as required, on approved forms.

(c) the transporting service shall be responsible for submitting to the receiving hospital/healthcare facility data, described in Appendix A, sub paragraph B (1), on all trauma patients.

(2) designated trauma centers shall use the following patient criteria to identify trauma patients for submission of data as defined in Appendix D, Table 1 as follows:

(a) discharge diagnosis ICD-0-CM codes of 800.0-904.99, including 940.0 – 949.00 (burns) when associated with major trauma,

(b) meets local, regional or state trauma triage criteria,

(c) emergency admissions (less than twenty-four (24) hours after arrival) for traumatic injuries,

(d) transferred to another hospital for trauma evaluation and/or definitive care by a trauma service,

(e) trauma patients who are pronounced dead on arrival at a hospital/healthcare facility,

(f) all trauma patients who are pronounced dead after admission to a hospital/healthcare facility, and

(g) submit required trauma system trauma registry data as indicated in Appendix C, via electronic transfer or, if authorized, in writing by the Bureau on approved paper forms.

(3) the Office of Medical Investigator (OMI) shall submit data to the Systems Trauma Registry, and appropriate hospital facility trauma registry, on all patients with injury listed as an underlying cause or contributing factor to death on the death certificate.

C. Trauma Registry

Reports:

(1) the Bureau shall report:

(a) annually on all patient data entered into the System Trauma Registry;

(b) on trends, patient care outcomes, and other data, for each trauma region and for the state, for the purpose of regional evaluation as required in the State and Regional PI Plan; and,

(c) periodically on financial trends and needs.

(2) the Bureau shall provide:

(a) periodic reports to all providers submitting data to the System Trauma Registry;

(b) provider-specific raw data to the provider that originally submitted the data, upon request;

(c) aggregate regional data semi-annually to the appropriate ReTrAC, excluding any confidential or identifying data; and,

(d) aggregate state trauma system data for hospitals, public or private, agencies and other interested parties for prevention activities, epidemiologic/demographic studies, and education and research projects.

D. Access and Release of Systems Trauma Registry Information:

(1) data elements related to the identification of individual patient's, provider's, and hospital/healthcare facility's outcomes shall be confidential.

(2) persons with access to information collected under these regulations shall use the information for only those purposes stipulated.

(3) the Bureau may approve requests for data and other information from the Trauma Registry for special studies and analyses, consistent with requirements for confidentiality of patient and quality management records. The Bureau may require requestors to pay any or all of the reasonable costs associated with special preparation of such requests, which may be approved. In accordance with those provisions, confidential information shall not be disclosed, except:

(a) on request, to an approved regional process improvement program which is bound by the same confidentiality guidelines as the Bureau;

(b) on request, to a scientific research professional associated with a scientific research organization, providing:

(i) the research professional's written research proposal has been reviewed and approved by the Bureau with respect to the scientific merit and confidentiality safeguards;

(ii) the Bureau has given administrative approval for the proposal; and,

(c) data does not provide specific hospital/healthcare facility or patient identification.

[7.27.7.10 NMAC - Rp 7 NMAC 27.7.10, 6/14/02]

7.27.7.11 PRE-HOSPITAL TRANSPORT GUIDELINES:

A. Each pre-hospital EMS provider shall: ensure, upon arrival at the location of an injury, a trained first responder or EMT assessment of the condition of each trauma patient using the local/regional trauma triage criteria to determine the transport destination according to local trauma transport protocols (TTPs).

B. The local TTPs will take into consideration the following exceptions:

(1) EMS Air Ambulance; when transporting by ground is not appropriate due to distance, terrain, traffic or other reasons, activation of an EMS air ambulance should be considered as provided for in the local TTPs. Consideration for EMS air ambulance activation shall include:

(a) multiple trauma patients,

(b) disaster situations,

(c) poorly accessible terrain,

(d) excessive or impeding traffic,

(e) transport time greater than

thirty (30) minutes, or,

(f) potential to overload the closest hospital or EMS service.

(2) pediatric trauma: pediatric trauma patients shall be transported to the nearest designated trauma center that meets essential pediatric guidelines pursuant to these regulations, as provided for in the local TTPs.

(3) special needs: if a designated trauma center is farther from the location of the incident, has special resources that the nearest designated trauma care hospital does not have (such as burn capability), which is needed for the immediate condition of the trauma patient, the pre-hospital EMS provider may transport to the designated trauma center having the needed resource based on a specific approved local TTP. Special needs may include:

(a) burns,

(b) re-implantation,

(c) pregnancy,

(d) spinal cords/head injuries,

(e) hazardous material exposure,

or,

(f) age less than two (2) years or greater than sixty (60) years and,

(g) other medical conditions requiring specialized services that may be included in the local TTP specific and appropriate to the patient's needs.

(4) other circumstances: if a designated trauma center is greater than thirty

(30) minutes away by ground transport, a trauma patient may be transported to a hospital other than a trauma center only if the hospital is closer to the incident and the patient's immediate condition is such that the patient's life would be endangered if care was delayed by proceeding directly to the nearest trauma center. Transport of patients shall be based on approved local TTPs.

C. Pre-hospital EMS providers shall: have an approved TTP that requests alternative transport destinations as provided for in this paragraph. The local TTP shall specify specific exceptions and define the Process improvement (PI) plan to monitor protocols.

D. Where a pre-hospital EMS provider intends to transport a trauma patient to a facility, as provided for in the approved local TTPs: the pre-hospital EMS service and the medical director in collaboration with the Bureau shall ensure that the hospital meets all of the following:

(1) is staffed twenty-four (24) hours per day with a physician or at least a mid-level practitioner who is qualified in emergency airway management, ventilatory support, and control of life threatening circulatory problems which shall include, but not be limited to:

(a) placement of endotracheal tubes,

(b) establishment of intravenous access, and

(c) insertion of chest tubes.

(2) has equipment and staff to conduct chest and cervical/spinal radiological exams.

(3) has laboratory facilities, equipment and staff available to analyze and report patients blood and chemistry results;

(4) has equipment and staff promptly on call to initiate definitive care required by a trauma patient within thirty (30) minutes of the patient's arrival at the hospital, or can initiate procedures within thirty (30) minutes of the patient's arrival to transfer the trauma patient; and

(5) has written transfer agreements with a designated trauma center which identifies specific procedures to ensure the timely transfer of the trauma patient to the designated trauma care hospital.

E. A hospital/healthcare facility licensed in another state: which meets the above criteria may be identified in the local TTPs as a hospital/healthcare facility to which the EMS provider may transport a trauma patient.

F. These transport guidelines are considered in conjunction

with all applicable laws and regulations.

The Bureau may request copies of the local TTPs

[7.27.7.11 NMAC - Rp 7 NMAC 27.7.11, 6/14/02]

7.27.7.12 APPENDIX A TRAUMA PATIENT TRIAGE CRITERIA GUIDELINES

A. Trauma Patient Triage Criteria Guidelines. The following guidelines were developed by the TAC standards committee and presented to the TAC for review in January 2001. It was subsequently brought before the JOE (Joint Organization on EMS Education) and the EMS Medical Direction Committee for discussion.

(1) purpose: To present for consideration by the TAC a standardized framework of Statewide Prehospital Trauma Triage Guidelines for use by all levels of EMS providers using clear text communications. This criteria does not affect the ability of a local area to further define specific triage criteria. Rather it establishes a common language for EMS to communicate regarding patient condition. It is not meant to replace local area triage, treatment and transport guidelines.

(2) history: In the early 1990's EMS training programs adopted the definitions of critical patients as defined by University Hospital, function as the only Level I Trauma Center in the state. Level I, II and III criteria for trauma patients were subsequently taught to all New Mexico EMS providers. As local triage criteria changed and was further defined, the changes were not reflected in EMS training statewide.

(3) goal of this guideline:

(a) create a statewide minimum trauma triage criteria guideline for all EMS personnel.

(b) assist regional trauma centers with educating EMS personnel to better understand trauma patient triage criteria.

(c) use as a tool by non-designated facilities to better understand trauma patient triage criteria.

(d) adopt (and further clarify as appropriate) within area existing trauma plan(s) in conjunction with ReTrAC's.

(4) approval will require review and approval by the ReTrAC's, Statewide Trauma Advisory Committee, EMS Medical Direction Committee and the Joint Organization on EMS Education (JOE).

(5) impact: redefining of learning objectives, scenarios, test questions and educational related information for all levels of EMS providers. Current EMS providers will be taught the revised criteria during the 2001-2002 EMS refresher

cycles. New EMS providers will begin to be taught the revised criteria effective July 2001.

(6) target implementation date: July 1, 2002.

(7) patient status: based on information obtained by physical examination and history, patients are classified according to stability as follows:

(a) stable – patient is stable, with no apparent risk of developing a life threatening or disabling condition. Non-emergent transport is appropriate.

(b) serious – patient is at moderate risk of developing a life threatening or disabling condition. Most circumstances will merit non-emergent transport.

(c) Critical – Patient has a severe & acute life threatening or disabling condition. Immediate intervention is required. Emergency transport at EMS providers' discretion. Examples include penetrating and/or blunt trauma injuries to chest and/or abdominopelvic cavity with unstable vitals, or if patient presents with vitals indicating they are likely to deteriorate

(8) transport destination decisions

(a) stable status patients will be transported to the nearest appropriate facility of the patient's choice only when that destination does not compromise the patient and the destination location does not result in the transport vehicle moving outside of the established EMS response area. If the patient is a minor, incapable of making an informed decision, incarcerated, or subject to the guardianship of another, Medical Control will be contacted when the decision of the responsible party, is not, in the EMS provider's opinion, in the best interest of the patient.

(b) serious status patients will be transported to the closest appropriate facility within the transporting vehicle's service area. The destination decision process will fall on the EMS providers and in some cases Medical Control.

(c) critical status patients will be transported to the most readily accessible facility that is staffed and equipped to provide initial stabilization care upon arrival. The destination decision process will fall on the EMS providers and in some cases Medical Control.

B. Institutional Trauma Team Activation Criteria

(1) pre-hospital guidelines for requesting trauma team activation.

(a) systolic BP < 90 mm Hg with clear evidence of hemodynamic instability

(b) decreased level of consciousness secondary to trauma (GCS < 10)

(c) all non-superficial penetrating injuries to head, neck or torso

(d) evidence of airway compromise not manageable in the field

(e) significant respiratory compromise of traumatic origin

(f) suspected pelvic fracture with hemodynamic instability

(g) burns > 10% of body surface, or burns involving face and/or airway

Special considerations should be given for all patients <5 or >65 years of age, pregnancy greater than 20 weeks, or other related co-morbid factors (Coumadin, Beta Blockers, etc.)

(2) EMS notification of significant MOI: Mechanism of Injury (MOI) should be a consideration for adoption in each area trauma activation criteria. It is recognized that the inclusion of MOI has different advantages and disadvantages for urban and rural communities. As a minimum, EMS should report all incidents involving high evidence of significant MOI:

(a) falls greater than two times the patient height

(b) incidents involving rapid deceleration

(c) passenger space vehicle intrusion greater than twenty inches.

(d) death of another occupant from same vehicle.

(e) vehicle ejection

(f) high speed rollover

[7.27.7.12 NMAC - Rp 7 NMAC 27.7.14, 6/14/02]

7.27.7.13 APPENDIX B TRAUMA PATIENT INTERFACILITY TRANSFER CRITERIA

A. Transfer Criteria: All patients from the following categories are at high risk for death or disability and should be considered for transfer to a Level I or Level II Trauma Center.

(1) Central Nervous System

(a) head injury: penetrating injury or depressed skull fracture

(i) open injury with or without CSF(Cerebral Spinal Fluid) leak

(ii) Glasgow Coma Score (GCS) < 12 or GCS deterioration of 1 point or more

(iii) lateralizing signs

(b) spinal cord injury

(2) chest

(a) widened mediastinum

(b) major chest wall injury

(c) cardiac injury

(d) patients who may require protracted ventilation

(3) pelvis

(a) unstable pelvic ring disruption

(b) pelvic ring disruption with shock and evidence of continuing hemorrhage

(c) open pelvic injury

(4) multiple system injury
 (a) severe face injury with head injury
 (b) chest injury with head injury
 (c) abdominal or pelvic injury with head injury
 (d) burns with associated injuries
 (e) multiple fractures
 (5) co- morbid factors
 (a) age < 2 years or > 60 years
 (b) pregnancy
 (c) known cardio-respiratory or metabolic diseases
 (6) secondary deterioration (late sequelae)
 (a) protracted ventilation required
 (b) sepsis
 (c) single or multiple organ system failure
 (d) major tissue necrosis
B. Transfer Guidelines:
 prior to transport, the following minimal patient care standards are to be met:
 (1) establish and assure an adequate airway and ventilation.
 (2) establish and maintain adequate access routes for fluid administration.
 (3) initiate adequate fluid and/ or blood replacement.
 (4) assure that the patient's vital signs are sufficient to sustain organ perfusion.
 (5) initiate control of hemorrhage.
 (6) stabilize and splint suspect spinal and extremity fractures.
 (7) provide pain management.
 (8) establish physician acceptance of patient at receiving facility.
 (9) assure personnel are appropriately trained for level of care for transfer.
 (10) provide pre- transfer report between nursing staff.
 [7.27.7.13 NMAC - Rp 7 NMAC 27.7.15, 6/14/02]

7.27.7.14 APPENDIX C: TRAUMA DATA COLLECTION/ DOCUMENTATION CRITERIA

A. Prehospital
 (1) scene calls, first responders, licensed ground or certified air ambulance services data shall include:
 (a) pre-hospital incident run number
 (b) name or name code, when available
 (c) date of birth when available
 (d) age
 (e) sex
 (f) social security number when available
 (g) agency identification number
 (h) first agency on scene (yes/ no)
 (i) transporting agency identification

(j) level of transporting agency (BLS/ ALS)
 (k) incident county code
 (l) date of incident
 (m) time
 (i) call received
 (ii) dispatched
 (iii) arrived at scene
 (iv) departed scene
 (n) initial systolic blood pressure (if obtainable, palpable or best pulse)
 (o) respiratory rate
 (p) Glasgow coma score- (eye, verbal, and motor when applicable)
 (q) narrative description of the mechanism of injury
 (r) meets trauma triage criteria (yes/ no)
 (s) extrication required
 (t) safety restraint or device used
 (u) field interventions done
 (v) additional information if patient died at scene
 (i) patient home zip code
 (ii) patient race when available
 (2) for interfacility transfers, the transporting service shall include:
 (a) agency identification number
 (b) pre-hospital run sheet number
 (c) inter-facility transfer (yes/ no)
 (d) mode of transportation
 (e) level of transportation (BLS/ ALS)
 (f) patient name or name code
 (g) date of birth, when available
 (h) social security number, when available
 (i) age
 (j) sex
 (k) agency incident number
 (l) name of first hospital
 (m) name of receiving hospital
 (n) time
 (i) depart first hospital
 (ii) arrive at receiving facility
B. Designated Trauma Centers
 (1) for designated trauma centers, the data shall include:
 (a) *indicates a data element currently included in the HTR (Hospital Trauma Registry)
 (b) **indicates a data element to be downloaded to the STR (State Trauma Registry)
 (c) **identification of facility
 (d) **unique patient identification number assigned to the patient by the facility
 (e) level of transporting agency (BLS/ALS)
 (f) *pre-hospital run sheet num-

ber
 (g) **date of ED arrival
 (h) *time of ED arrival
 (i) **date of incident
 (j) **initial hospital
 (k) **facility patient was transferred from
 (2) for designated trauma centers, patient information shall include:
 (a) *name or name code
 (b) **date of birth
 (c) **sex
 (d) **race
 (e) **patient's trauma identification number (same as b above in section 1)
 (f) **social security number
 (g) home zip code
 (3) **mechanism of injury (narrative)
 (4) **E Code, including E Code 849
 (5) **occupational injury (yes/ no)
 (6) **safety restraint/ device used
 (7) time of patient radio report
 (8) **trauma team activated (yes/ no)
 (9) activation response times
 (a) time of activation
 (b) time of call to surgeon
 (c) *time of arrival of surgeon in ED
 (d) *time of arrival of subspecialist
 (10) initial vital signs in ED
 (a) **systolic blood pressure
 (b) **respiratory rate
 (c) first temperature
 (d) ** Glasgow coma score (eye, verbal, and motor)
 (11) **ED respiratory status (spontaneous/ intubated)
 (12) **ED procedures performed
 (13) *time of ED discharge
 (14) **ED discharge disposition
 (15) *admitting service
 (16) CT scan of head done (yes/ no)
 (a) date of head CT scan
 (b) time of head CT scan
 (17) for initial surgery
 (a) **date and time patient arrived or
 (b) date/ time operation started
 (c) **ICD-9- CM procedure code
 (d) *total cc's PRBC infused
 (18) **length of primary stay in ICU
 (19) *co- morbidity complications
 (20) disability at acute care discharge
 (a) **feeding
 (b) **locomotion
 (c) **expression

(d) **rehabilitation potential
 (21) **date of facility discharge
 (22) **discharge disposition
 (23) **extended care facility
 identification number
 (24) autopsy done (yes/ no)
 (25) **date of death
 (26) **organ/tissue donor (yes/
 no)
 (27) **final ICD-9 discharge
 code
 (28) *unplanned readmission
 (29) **payer source
 (30) **total billed charges
**C. Office of Medical
 Investigator- data may include:**
 (1) name or name code
 (2) **date of birth
 (3) **social security number
 (4) **sex
 (5) **race
 (6) **date of incident
 (7) **date of death
 (8) **place of death
 (9) home zip code
 (10) **medical examiner identifi-
 cation number
 (11) **medical examiner facility
 identification number
 (12) **autopsy done
 (13) **mechanism of injury
 (14) **organ donor
 (15) **cause of death
 (16) most recent ICD diagnosis
 code or equivalent description
 [7.27.7.14 NMAC - Rp 7 NMAC 27.7.16,
 6/14/02]

Please See Appendix D: Next Page

7.27.7.15 Appendix D Table 1

<u>STATE OF NEW MEXICO</u>		
Trauma Care System Regulations/ Standards for Designation		
Organization/ Management		
(E) Essential (D) Desirable (N/A) Not Applicable		
	<i>Level III</i>	<i>Level IV</i>
(1) A Trauma Center must demonstrate substantial medical, administrative and financial commitment for the level of designation requested. Commitment must be demonstrated and include documentation from hospital's:		
a. Board of Directors;	E	E
b. Medical Staff; and	E	E
c. Administrative team.	E	E
(2) For the purpose of administrating trauma care, a designated Trauma Center shall have a trauma program. The trauma program includes a management team, which oversees the trauma program. The trauma program shall:		
a. Be organized and directed by a trauma program medical director who is proficient in, and committed to the care of the injured. The trauma program medical director shall be:		
(i) Board certified or eligible in general surgery, or other surgical specialties or emergency medicine as justified by the applicant and approved by the State.	E	E
(ii) With training in trauma services and care.	D	D
(iii) Responsible for overall clinical direction, management and administration of the hospital's trauma program.	E	D
(iv) Currently certified in ATLS (Advanced Trauma Life Support)	E	E
(v) Demonstrate a commitment to trauma research; and	D	D
(vi) Must agree to actively participate in a defined trauma related continuing education program on an annual basis.	E	D
b. Define a program for providing care to the trauma patient to include coordination with the departments of surgery and emergency medicine and other hospital departments.	E	E
c. Provide ongoing coordination of the trauma program by a Trauma Nurse Coordinator who:		
(i) In collaboration with the trauma program medical director, monitors and coordinates trauma programs and system elements, including:		
(A) Clinical Activities;	E	E
(B) Trauma education and prevention activities;	E	E
(C) Research;	D	D
(D) Management activities per hospital needs;	E	E
(E) Trauma Registry; and	E	E
(F) Quality Improvement	E	E
(ii) Is a full-time position	E	D
(iii) Is licensed in State of New Mexico as a Registered Nurse	E	E
(iv) Has appropriate resources/staff to meet the requirements of these regulations and commitments of the hospital.	E	E
(v) Has demonstrated expertise in trauma care as identified by a minimum of 5 years recent nursing experience in one of the following areas:		
(A) Trauma systems/care	D	D
(B) Emergency department	D	D
(C) Critical Care	D	D

(D) Trauma Program	D	D
(vi) Minimum current/continuing education:		
(A) 5 hours/year trauma	E	E
(B) 2 hours/year pediatric	E	E
(C) TNCC (Trauma Nurse Core Curriculum) or equivalent	E	E
(vii) Participates in the development, implementation or continuation of trauma care systems at their appropriate ReTrAC (Regional Trauma Advisory Council)	E	E
d. Provide a multidisciplinary trauma committee, which provides input to the trauma program and to hospital administration as needed. The Trauma Committee shall demonstrate coordination between the Departments of Surgery and Emergency Medicine and be responsible for, but not limited to, the trauma program's Process Improvement process. Membership shall include:		
(i) An emergency physician;	E	E
(ii) Trauma medical director;	E	D
(iii) A neurosurgeon;	D	D
(iv) An orthopedic surgeon;	D	D
(v) A pediatrician;	D	D
(vi) An anesthesiologist/CRNA;	D	D
(vii) The trauma rehabilitation coordinator, trauma social worker and discharge planner; and input from psychiatrist; (if available)	D	D
(viii) Trauma Nurse Coordinator;	E	E
(ix) Other appropriate nursing disciplines;	E	E
(x) Radiology; and	D	D
(xi) Administration.	E	D
e. Include a trauma resuscitation team which shall be;		
(i) Directed by an emergency medical physician who is proficient in the care of the injured, and who assumes responsibility for the overall care and coordination of the trauma patient until the care is formally turned over to the trauma/general surgeon (as appropriate per Level of designation)	E	N/A
(ii) The team shall be organized and directed by an in-house ED physician	E	D
(iii) All members of the team shall be promptly available upon notification. (Trauma PI process must verify prompt availability, outcome driven)	E	D
(iv) The trauma resuscitation team shall be activated in accordance with the hospital's trauma program and consistent with the regional trauma plan.	E	E
(v) Members of the trauma team shall:		
(A) Be oriented to the trauma care system;	E	D
(B) Participate in the trauma PI (Performance/Process Improvement) program;	E	D
(C) Participate in ongoing CME/CE in trauma;	E	D
(D) Be oriented to the internal trauma patient clinical management system at the hospital;	E	E
(E) Be oriented to the trauma program policies and procedures to include all operations of the trauma program including internal written triage, treatment and transfer protocols and procedures to identify which patients are triaged in and out of trauma program's clinical service.	E	E

(3) A Trauma Center shall have an Emergency Department with established standards and procedures to ensure immediate and appropriate care for the adult and pediatric trauma patients and a designated trauma resuscitation and treatment space with the capacity to meet the needs of the expected volume.	E	E
(4) A Trauma Center shall have a surgery department, including:		
a. General surgery on call and promptly available as requested.	E	D
b. Trauma/general surgeons must be Board certified or eligible in general surgery.	E	D
c. Trauma/general surgeons must have received ATLS (Advanced Trauma Life Support) once in their career (note: if surgeon is available)	E	E
d. A minimum of 6 hours per year or 18 hours over a three year period of continuing education related to trauma. (note: if surgeon is available)	E	E
e. Neurosurgery, Board certified and promptly available on-call.	D	N/A
f. The following surgical services on-call and available promptly:		
(i) Gynecological surgery;	D	D
(ii) Hand surgery;	D	D
(iii) Microsurgery;	D	D
(iv) Obstetric surgery;	D	D
(v) Orthopedic surgery;	D	D
(vi) Otorhinolaryngologic/maxillofacial surgery and capable of managing upper airway trauma;	D	D
(vii) Plastic surgery;	D	D
(viii) Thoracic surgery; and	D	D
(ix) Urologic surgery;	D	D
(x) General surgery for trauma service backup.	D	D
(xi) Pediatric surgeon available for consultation.	D	D
(5) A Trauma Center shall have other specialties including:		
a. Anesthesiology, with an anesthesiologist or CRNA who is on-call and promptly available and current in ACLS (Advanced Cardiac Life Support).	E	D
b. The following services on-call and available promptly:		
(i) Cardiology;	D	D
(ii) Gastroenterology;	D	D
(iii) Hematology;	D	D
(iv) Internal medicine;	E	D
(v) Nephrology;	D	D
(vi) Pathology;	D	D
(vii) Pediatrics;	E	D
(viii) Pulmonology/Intensivist	D	D
(ix) Psychiatry; and	D	N/A
(x) Radiology.	E	D
c. Other physician specialists on-call and available to the trauma as defined by their protocols.	E	D
Note: Internal Trauma PI process must verify "promptly" available services; outcome driven		
(6) A Trauma Center shall have approved policies to divert/redistribute and transfer patients to other designated facilities, based on it's ability each patient at a particular time and collaborative work with their respective ReTrAC.	E	E
(7) A Trauma Center shall		

a. Have a PI program, which includes quality improvement principals and an outcome orientation as provided for in this chapter.	E	E
b. Participate in regional trauma PI programs via their respective ReTrAC	E	E
Resources and Capabilities/Interhospital Transfer Guidelines		
(1) A Trauma Center shall have an Emergency Department with:		
a. A physician director who is:		
(i) Board certified or eligible in emergency medicine; and/or	D	D
(ii) If not Board certified in emergency medicine;		
(A) Current with ATLS and PALS (Pediatric Advanced Life Support)	E	E
(B) Must have 5 years or 7,000 hours experience in emergency medicine	E	D
b. Emergency physicians;		
(i) With 50% Board certified or eligible in emergency medicine, with the remainder practicing emergency medicine as their primary practice with special competency in the care of trauma patients and Board certified in pediatrics, family practice, internal medicine, or general surgery.	D	D
(ii) In-house and immediately available upon the patient's arrival to the ED.	E	D
(iii) If not emergency medicine Board certified:		
(A) Current with ATLS;	E	E
(B) Current with PALS; or	E	E
(iv) If not Board certified in any of the above specialties, they must be/have;		
(A) Current with ATLS;	E	E
(B) Current with PALS; and	E	E
(C) Five (5) years or seven thousand (7,000) hours experience in emergency medicine.	E	D
(v) A minimum of 6 hours per year or 18 hours over a three year period of continuing education related to trauma.	E	E
(vi) Must have had ATLS once in their career	E	E
c. Trauma resuscitation/ED nurses:		
(i) In the ED 24 hours per day	E	D
(A) At least two trauma resuscitation nurses	D	D
(B) At least one trauma-trained nurse	E	D
(ii) Currently RN licensed;	E	E
(iii) TNCC provider verification or an approved equivalent;	E	E
(iv) Orientation to their nurse role (trauma resuscitation nurse)	E	D
(v) Participates in a formal trauma PI program by representation;	E	D
(vi) Minimum of 6 hours per year continuing education related to trauma which may include credit for the TNCC;	E	E
(vii) Collaborates with health care professional and families in donor identification and care, the organ and tissue procurement process and recipient care.	E	E
d. An ED nurse manager		
(i) Is currently RN licensed;	E	E

(ii) TNCC provider verification or an approved equivalent;	D, Note	D, Note
(iii) Participates in a formal trauma PI program;	E	D
(iv) Minimum of 6 hours per year continuing education related to trauma which may include TNCC	E	D
Note: The ED nurse manager who routinely staffs to provide patient care, shall meet the requirements of the trauma resuscitation/ED nurse (as described above)		
e. Equipment for resuscitation and life support of adult trauma patients, including:		
(i) Airway control and ventilation equipment including:		
(A) Airways;	E	E
(B) Laryngoscopes, including curved and straight;	E	E
(C) Endotracheal tubes of all sizes;	E	E
(D) Bag-valve mask resuscitator, with full range of mask sizes	E	E
(E) Sources of oxygen;	E	E
(F) Mechanical ventilation;	E	E
(ii) Suction devices, including:		
(A) Back-up suction source;	E	E
(B) Suction catheters; and	E	E
(C) Tonsil suction tip.	E	E
(iii) Electrocardiograph;	E	E
(iv) Cardiac monitor;	E	E
(v) Defibrillator, including internal and external paddles;	E	D N/A for internal paddles
(vi) All standard apparatus to establish central venous pressure monitoring;	E	E
(vii) All standard intravenous fluids and administering devices	E	E
(viii) Sterile surgical sets for procedures standard for ED trauma care such as thoracotomy, vascular access, chest decompression;	E	D
(ix) Gastric lavage equipment;	E	E
(x) Drugs and supplies necessary for emergency care;	E	E
(xi) Capability for the rapid infusion of fluids;	E	E
(xii) Capability for rapid fluid recovery and transfusion;	E	E
(xiii) Thermal control equipment for;		
(A) Patient;	E	E
(B) Blood;	E	E
(xiv) Two-way radio linked with prehospital vehicles;	E	E
(xv) Cervical injury immobilization devices;	E	E
(xvi) Long-bone stabilization devices.	E	E
f. Trauma social services or crisis intervention services based on an approved hospital protocol.	D	D
(2) A Trauma center shall have an Operating Room (OR) that:		
a. Assures prompt availability of an OR suite 24 hours per day; and	E	D
b. Staffs with at least one RN in-house for the anticipated volume of patients and the remainder of the OR team and support staff on-call and promptly available.	D	D
c. Has OR nurses who:		
(i) Are currently licensed as RNs;	E	E

(ii) Can demonstrate trauma preparedness for the care of the trauma patient in the OR through hospital approved competencies and/or formal training course;	E	D
(iii) Complete a structured orientation program related to the perioperative care of the trauma patient;	E	D
(iv) Minimum of 6 hours per year continuing education related to the perioperative care of the trauma patient;	E	D
(v) Participates in the multidisciplinary trauma committee by representation including patient care conferences;	E	E
(vi) Participates in trauma PI activities by representation.	E	E
d. Has a documented method for prompt mobilization of consecutive surgical teams for trauma patients;	E	D
e. Collaborates with health professionals and families in donor identification and care, the organ and tissue procurement process and recipient care.	E	E
f. Includes equipment or capabilities including:		
(i) Cardiopulmonary bypass;	D	D
(ii) Operating microscope;	D	N/A
(iii) Thermal control equipment for patients;	E	E
(iv) Thermal control for blood;	E	E
(v) Rapid infusion capability;	E	E
(vi) Rapid fluid recovery capability;	E	D
(vii) Radiology capability;	E	E
(viii) Bronchoscope in operating room;	E	D
(ix) Endoscopes available	E	D
(x) Monitoring equipment; and	E	E
(xi) Instruments for external and internal fixation of fractures;	D	D
(xii) Instruments and equipment appropriate for pediatric trauma care;	D	D
g. Designated operative treatment space with the capacity to meet the needs of the expected patient volume.	E	D
(3) A Trauma Center shall have a post-anesthesia care unit or an acceptable surgical intensive care unit designated for surgical patient recovery with:		
a. Essential personnel, including at least one nurse with critical care and post-anesthesia care training, readily available 24 hours a day;	E	D
b. Can demonstrate trauma preparedness for the care of the post-anesthesia trauma patient through approved competencies and/or formal training courses;	E	D
c. Completes a structured orientation program related to the post-anesthesia perioperative care of the trauma patient;	E	D
d. Appropriate monitoring and resuscitative equipment.	E	D
(4) A Trauma Center shall have an intensive care unit (ICU) with:		
a. A medical director who is Board certified or eligible in critical care, internal medicine, pulmonary medicine, cardiology, or surgery;	E	D
b. A physician on duty in the ICU 24 hours a day, or who is immediately available; Note: May be met by an ED physician meeting the requirements of these regulations	E	D
A physician-directed code team;	E	D

d. Intensive care registered nurses who:		
(i) Are currently RN licensed;	E	D
(ii) TNCC verified or an equivalent course;	E	D
(iii) Completes a structured orientation and competency program which includes content related to the care of a trauma patient;	E	D
(iv) Minimum of 6 hours per year continuing education related to trauma;	E	D
(v) Participates in a multidisciplinary trauma committee including patient-care conferences by representation;	E	D
(vi) Participates in trauma PI activities;	E	D
(vii) Collaborates with health care professionals and families in donor identification and care, the organ and tissue procurement and recipient care.	E	E
e. Equipment appropriate for adult including:		
(i) Airway control and ventilation devices;	E	E
(ii) Oxygen source with concentration controls;	E	E
(iii) Cardiac emergency cart;	E	E
(iv) Temporary pacemaker;	E	D
(v) Electrocardiograph-cardiac monitor-defibrillator;	E	E
(vi) Cardiac output monitoring;	D	D
(vii) Electronic pressure monitoring	D	D
(viii) Mechanical ventilator devices;	E	D
(ix) Patient weighing devices;	E	E
(x) Pulmonary function measuring devices;	D	D
(xi) Temperature control devices;	E	D
(xii) Drugs, intravenous fluids, and supplies; and	E	E
(xiii) Intracranial pressure monitoring devices.	D	D
f. Designated trauma critical care and treatment space with the capacity to meet the needs of the expected patient volume.	E	D
(5) A Trauma Center shall have a clinical laboratory immediately available based upon the expected volume of patients, including:		
a. Standard analysis of blood, urine, and other body fluids;	E, Note	E, Note
b. Coagulation studies;	E, Note	E, Note
c. Blood gases and pH determination;	E, Note	E, Note
d. Serum and urine osmolality;	E, Note	D
e. Microbiology;	E, Note	D
f. Alcohol determination;	E, Note	D
g. Drug screening; and	D	D
h. Microtechnique.	E, Note	D
Note: Shall be promptly available		
(6) A Trauma Center shall have transfusion services including:		
a. Blood and blood components available from in-house or through community services, to meet patient needs in a timely fashion;	E	D
b. Ability to have non-crossmatched blood available on patient arrival to the ED;	E	D
c. Procedures and ability to perform massive transfusions and autotransfusion; and	E	D
d. Blood storage capability;	E	D
(7) A Trauma Center shall have radiological services including:		
a. The following services in-house and immediately available:		
(i) Computerized tomography	E, Note	D
Note: Shall be promptly available		

(ii) Radiology capability;	E, Note	E, Note
Note: If not in-house 24 hours per day, must have an approved early notification process		
(iii) In-house CT technician 24 hours a day	E, Note	D
Note: Shall be promptly available		
(iv) In-house radiology technician 24 hours a day	E, Note	D
Note: Shall be promptly available		
Note: Trauma PI process must verify promptly available services, outcome driven		
b. The following services on-call and promptly available:		
(i) Angiography	D	D
(ii) Sonography	D	D
(8) A Trauma Center shall have acute dialysis capability, or a written agreement with an appropriate facility for such.	E	E
(9) A Trauma Center shall have:		
a. A physician-directed burn unit which is staffed by nursing personnel trained in burn care and is equipped to care for extensively burned patients; and/or	D	D
b. Written transfer agreement with a burn center or hospital with a burn unit.	E	E
(10) A Trauma Center shall be able to manage Traumatic Brain Injury and/or spinal cord injury; or have written transfer agreements with a facility with such capabilities. Adherence to current management guidelines shall be considered.	E	E
(11) A Trauma Center shall have a designated trauma rehabilitation coordinator.	D	D
(12) A Trauma Center shall have:		
a. A physician-directed rehabilitation medicine service which is staffed by personnel trained in rehabilitation care and is equipped to care for the trauma patient and/or;	D	D
b. Written agreements to transfer patients to a designated rehabilitation service when medically feasible.	E	E
(13) A Trauma Center shall have a heliport or helipad meeting applicable standards and any applicable Department-approved procedures and located close enough to permit the facility to receive and transfer patients by air.	E, Note	E, Note
Note: May be fulfilled through a designated landing site with supporting written protocols.		
(14) In addition to all transfer agreements in this section, designated Trauma Centers shall have additional written transfer agreements for the identification and transfer of patients with special care needs who meet inter-hospital transfer criteria, to include the following patients categories:		
a. Pediatrics	E	E
b. Obstetrics	E	E
c. Other considerations based upon the specific hospital needs	E	E
(15) Transfer agreements shall include the responsibility of the transferring hospital and the receiving hospital, and shall assign medical control during inter-hospital transfer.	E	E
(16) Transferring facilities shall use Department-approved pre-hospital services for inter-facility transfer of trauma patients.	E	E
Outreach, Training, and Public Education		
(1) A Trauma Center shall have:		
a. An outreach consultation and referral program with physicians of the community, prehospital care agencies and outlying areas regarding trauma care developed through participation with their respective ReTrAC.	E	E

b. An outreach program with other designated trauma centers and hospitals developed through participation with their respective ReTrAC to include:	E	E
(i) Agreement to participate in regional trauma monitoring and PI meetings as defined by the State IPEMS Bureau;	E	E
(ii) Monitoring of the transfers in and out of the designated trauma center;	E	E
(iii) Establishing transfer agreements and referral feedback mechanisms.	E	E
c. Training, including;		
(i) Offers or participates in a formal program of continuing trauma care education for:		
(A) Staff and community physicians;	E	E
(B) Staff and community nurses;	E	E
(C) System and trauma clinical training for all allied health care professionals throughout the continuum;	E	D
(D) Prehospital personnel;	E	D
(ii) Hospital to cooperate and make available initial and maintenance training of invasive skills for prehospital personnel.	E	D
d. A public awareness/education program, developed through collaboration with their respective ReTrAC addressing:		
(i) Injury prevention and wellness issues relevant to the region;	E	E
(ii) Problems confronting the medical and nursing professions including hospitals regarding; hospital diversion, ED saturation as well as hospital capacity and access to care within their respective regions.	E	E
e. Planning and implementation policies and procedures for Mass Casualty Incidents (MCI) developed through collaboration with their respective ReTrAC.	E	E
Educational and Certification Requirements of Designated Trauma Care Personnel		
Unless otherwise stated in these regulations, all trauma personnel educational and or certification standards shall be met within six months of employment or contract.	E	E

STATE OF NEW MEXICO		
Trauma Care Regulations/Standards for Designation		
Pediatric Guidelines for Trauma Center Designation		
(E) Essential (D) Desirable (N/A) 3. Not Applicable		
	Level III	Level IV
(1) HOSPITAL SHALL:		
1.1 Meet the requirements of a basic 24-hour emergency facility and be licensed under the New Mexico Administrative Code.	E	E
(2) PROFESSIONAL STAFF: Physician		
2.1 All full-time Emergency Department physicians' education should consist of at least 16 hours of pediatric emergency CME credit every 2 years or have an acceptable hospital plan documenting pediatric proficiency.	E	D
(3) PROFESSIONAL STAFF: Nursing		
3.1 Emergency Department: At least one Registered Nurse (RN) per shift shall have successfully completed the ENPC or PALS provider course and be designated for providing and/or monitoring pediatric nursing care.	E	D

3.2 Intensive Care Unit (Hospital without PICU): at least one RN per shift shall be currently verified as a PALS provider or equivalent pediatric critical care course and be designated for providing and/or monitoring pediatric nursing care.	E	D
3.3 Post-Anesthesia Care Unit (PACU) or designated post-recovery area: at least one RN per shift shall be currently verified as a PALS provider or have completed competency verification in the post-operative care of the pediatric patient.	E	D
3.4 All nurses assigned to each department for providing and/or monitoring pediatric care shall complete two hours of pediatric education per year.	E	D
3.5 Pediatric Liaison Nurse: one shall be designated. This nurse works in collaboration with the Trauma Nurse Coordinator to ensure and document all pediatric data for the Hospital Trauma Registry and to assist in coordination and documenting pediatric nursing education.	E Note 4	D
3.5.1 Minimum Qualifications include: Works in the ED, ICU, PICU, Pediatric or QI Minimum of one-year experience in the care of the pediatric patient. Completion of at least two hours of education in pediatric topics (in addition to ENPC) per year.	D	D
(4) EQUIPMENT STATNDARDS, EMERGENCY DEPARTMENT		
The Emergency Department shall have:		
4.1 Resuscitation area with dedicated pediatric equipment.	E Note 1	E Note 1
4.2 Airway control and ventilation equipment	E	E
4.2.1 Laryngoscope blades with handles, curved, straight for infant and child	E	E
4.2.2 Pediatric airways: endotracheal tubes postoperative, cuffed with stylets (all appropriate sizes) and lubricant; pediatric McGill forceps; pediatric airways	E	E
4.2.3 Suction device with pediatric suction catheters (all appropriate sizes)	E	E
4.2.4 Pediatric cricothyroidotomy tray with set up for needle cricothyroidotomy (all appropriate sizes)	E	SC
4.2.5 Pediatric bag-valve-mask (BVM) resuscitation device with premature infant, infant, child and adult clear mask to use with the BVM device with over-riding pop-off valve.		
4.2.6 Oxygen with oxygen-delivery device overriding for premature infant, infant, child and adult clear mask to use.	E	D
4.2.7 Pediatric chest tubes (all appropriate sizes)	E	SC
4.2.8 Pulse oximeter with pediatric and adult sensors	E	D
4.2.9 Equipment for needle thoracostomy for tension pneumothorax	E	D
4.3 Circulatory Support Equipment		
4.3.1 Pediatric IV supplies (all appropriate sizes) with IV rate-control devices	E	E
4.3.2 Appropriate fluids for pediatric resuscitation (ACLS/PALS Guidelines)	E	E
4.3.3 Intrasosseous needles or spinal needles for introsseous infusion (all appropriate sizes)	E	E
4.3.4 Monitor defibrillator and pediatric paddles with 0-400 watt/second capabilities	E	E
4.3.5 Pediatric blood-pressure cuffs; premature infant, infants, child, adult and thigh sizes	E	D
4.3.6 Doppler monitor	E	D

4.3.7 Temperature control device for IV fluids	E Note 2	E Note 3
4.3.8 Multilumen catheter (all appropriate sizes)	D	D
4.4 Special Trays		
4.4.1 Thoractomy	SC	SC
4.4.2 Thoracostomy	D	SC
4.4.3 Tracheostomy	D	SC
4.4.4 Diagnostic Peritoneal Lavage	D	D
4.4.5 Lumbar Puncture	E	D
4.4.6 Venesection	D	D
4.4.7 Obstetrical Emergency Delivery	E	E
4.5 Miscellaneous Equipment		
4.5.1 Spinal Immobilization device: backboards, head-rolls, or head immobilization devices, cervical collars to include sizes for children six years or younger	E	E
4.5.2 Pediatric patient warming devices	E Note 3	E Note 3
4.5.3 Thermometers	E	E
4.5.4 Pediatric Foley catheters (all appropriate sizes)	E	E
4.5.5 Pediatric splinting devices, femur traction device, general traction equipment	E	E
4.5.6 Casting capabilities	E	E
4.5.7 Sterile dressings for burn care	E	E
4.5.8 Nasogastric tubes/infant feeding tubes (all appropriate sizes)	E	E
4.5.9 Pediatric scales for weight measurement	E	E
4.6 Medications; all appropriate medications in pediatric dosages as required for resuscitation (ATLS/PALS recommendations)	E	E
4.7 Pediatric reference materials for drug dosage listed in kg (i.e. Broslow Tape)	E	E
4.8 Quality Management; The hospital shall:		
4.8.1 Review all pediatric deaths and transfer complications	E	E
4.8.2 Maintain a pediatric log or registry of all pediatric deaths and transfers	E	E
Notes		
<ol style="list-style-type: none"> 1. Pediatric crash carts should be utilized to maintain the proper pediatric equipment and supplies. The pediatric crash cart should be labeled or color coded for clear recognition, 2. Fluid may be warmed in standard warmer if IV fluid warming devices are unavailable so long as the appropriate temperature is maintained. 3. Warming methods may be used if devices are unavailable (warmed blankets, warmed bags of IV fluids. 4. The Trauma Nurse Coordinator may meet this standard without the need for additional personnel. 		
<p>SC Special Consideration: This term is applicable to items that are not essential or desired components for designation. However, facilities wishing to meet specific criteria must provide the appropriate documentation for certifications and ongoing training.</p>		

[7.27.7.15 NMAC - Rp 7 NMAC 27.7.12, 6/14/02]

History of 7.27.7 NMAC:

Pre-NMAC History: The Material in this part was derived from that previously filed with the State Records Center and Archives: DOH Regulation 95-01 (CHSD), Regulation Governing the New Mexico Trauma Care System, 4-12-95.

History of Repealed Material: 7 NMAC 27.7, Trauma Care System, filed 11-26-96.

Other History: 7 NMAC 27.7, Trauma Care System, filed 11-26-96 **replaced** by 7.27.7 NMAC Trauma Care System, effective 6/14/02.

NEW MEXICO HUMAN SERVICES DEPARTMENT

MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.200.510 NMAC, Section 12, which will be effective on July 1, 2002. The Medical Assistance Division amended Subsections A, B, C and G by changing the deduction amounts.

8.200.510.12 **POST-ELIGIBILITY CALCULATION (MEDICAL CARE CREDIT):** Apply applicable deductions in the order listed below when determining the medical care credit for an institutionalized spouse.

- | <u>DEDUCTION</u> | <u>AMOUNT</u> |
|--|--------------------------------------|
| A. Personal Needs Allowance for Institutionalized Spouse | [\$47.00] \$49.00 |
| B. Basic Community Spouse Monthly Income Allowance Standard (CSMIA) | [\$1,452.00] \$1,493.00 |
| (CSMIA standard minus income of community spouse = deduction) | |
| C. * Excess Shelter Allowance for Allowable Expenses for Community Spouse | [\$780.00] \$739.00 |
| D. ** Extra Maintenance Allowance | |
| E. Dependent Family Member 1/3 X (CSMIA - dependent member's income) | |
| F. Non-Covered Medical Expenses | |
| G. * The allowable shelter expenses of the community spouse must exceed for any deduction to apply. | [\$436] \$448 per month |
| H. ** To be deducted, the extra maintenance allowance for the community spouse must be ordered by a court of jurisdiction or a state administrative hearing officer. | |

I. **MAXIMUM TOTAL:** The maximum total of the Community Spouse Monthly Income Allowance and excess shelter deduction is \$2,232.

[1-1-95, 7-1-95, 3-30-96, 8-31-96, 4-1-97, 6-30-97, 4-30-98, 6-30-98, 1-1-99, 7-1-99, 7-1-00; 8.200.510.12 NMAC - Rn, 8 NMAC 4.MAD.510.2 & A, 1-1-01, 7-1-01; A, 1-1-02; A, 7-1-02]

**NEW MEXICO
DEPARTMENT OF
PUBLIC SAFETY**

**TRAINING AND RECRUITING
DIVISION
LAW ENFORCEMENT ACADEMY**

This is an amendment to 10.29.4.11 NMAC.

10.29.4.11 MASTER INSTRUCTOR: To qualify for a Master Instructor certification, an applicant shall be required to demonstrate to the director of the training center proof of skills, successful experience, and training in the related field for which they will be training new instructors, and must meet the following requirements:

A. Must be sponsored by a law enforcement agency in the state of New Mexico; this requirement may be waived by the director of the training center based on a showing of previous training/experience in the subject area for which certification is requested.

B. Must have a current certification as a specialized, technical or professional lecturer instructor in the same subject area as the request for master instructor certification.

C. Must produce documentation of successful completion of an instructor-trainer course, train-the-trainer course or master instructor course (or what other term is used to describe a course that qualifies a person to train instructors) in the same subject area for which certification is

requested or:

(1) Must have completed at least one (1) four-year certification as a specialized or technical instructor in the same subject area and:

(2) Must show documentation of additional training hours of expertise development of at least the same amount of hours as the original instructor-level certification and:

(3) Must show rosters and student evaluations from at least ten (10) training classes as the lead instructor in the same subject area.

D. Qualified applicants for a master instructor designation will be issued a certification for a period of four (4) years. An evaluation will be completed by the students subsequent to the completion of each class taught by the master instructor. The director of the training center or designee shall review the evaluations to ensure the quality of the instruction.
[10.29.4.11 NMAC - N, 6/14/02]

**NEW MEXICO
DEPARTMENT OF
PUBLIC SAFETY**

**TRAINING AND RECRUITING
DIVISION
LAW ENFORCEMENT ACADEMY**

This is an amendment to 10.29.7.8 NMAC.

10.29.7.8 2002 – 2003 TRAINING CYCLE

A. Twelve (12) hours ~~are~~

~~required~~ of maintenance training/education may apply towards the 40-hour requirement. This is training/education which insures that previously learned knowledge, skills, and abilities of a critical nature are maintained at an acceptable level of proficiency. Firearms, first aid, defensive tactics, driving, and DWI measuring devices are examples of areas where periodic maintenance is measured and/or tested.

B. ~~[Twenty]~~ A minimum of twenty (20) hours are required of advanced and specialized training/education. This is training/education which is designed to improve upon or add to the knowledge, skills, and abilities of the law enforcement officer. Any accredited advanced, specialized, departmental in-service, college, or video training would qualify.

C. ~~[Eight]~~ A minimum of eight (8) hours are required from one or any combination of the following subjects: cultural awareness, stress/anger management, domestic violence, critical incident response, ethics, legal update, and alternative force.

D. Required training may be received through the following means:

(1) The advanced training bureau will contract for course instruction at the regional training sites.

(2) Where scheduling will allow, the training and recruiting division will assign staff to instruct the course at the regional training sites.

(3) The curriculum will be developed by the training and recruiting division

and provided to individual agencies for their own certified instructors to present to their officers, provided the instructor is qualified in the subject matter.

(4) The training and recruiting division will produce instructional video tapes which can be loaned to agencies. Agency instructors will facilitate the training using the same guidelines for other video training. Facilitator guidelines and exams would accompany the video tape.

(5) Individual agencies develop curriculum for review and approval (accreditation) by the academy which meets the criteria established by the board.

E. This five-pronged approach gives all agencies the flexibility they need to address individual training needs. It also allows the board to implement a planned program of in-service training that is responsive to the changing demands placed upon law enforcement and the opportunity to have statewide consistency in certain critical areas.

F. Implementation is to begin on January 1, 2002. This two-year period consists of the twelve (12) hours of maintenance training required in Subsection A of 10.29.7.8 NMAC, the twenty (20) hours of advanced training required in Subsection B of 10.29.7.8 NMAC, and the eight (8) hours of training required in Subsection C of 10.29.7.8 NMAC.

G. Officers obtaining certification between January 1, 2002 and December 31, 2002, will be required to obtain one-half of the in-service training requirement. Officers obtaining certification between January 1, 2003, and December 31, 2003, will be required to meet the next two-year requirement which will go into effect on January 1, 2004. This policy will apply in subsequent two-year cycles. Officers transferring from one agency to another will carry with them the responsibility for in-service training. [1-30-93, 12-15-93, 1-17-94, 12-7-95, 10-1-97, 1-1-98, 1-1-2000; 10.29.7.8 NMAC – Rn, 10 NMAC 29.7.8, 7/1/01; A, 1/1/02; A, 6/14/02]

**NEW MEXICO
DEPARTMENT OF
PUBLIC SAFETY**

TRAINING AND RECRUITING
DIVISION
LAW ENFORCEMENT ACADEMY

This is an amendment to 10.29.9.8 NMAC. On March 1, 2001, the New Mexico Law Enforcement Academy Board repealed all of 10.29.9.8 NMAC (Police Officer Minimum Standards of Training) and replaced it entirely with new language;

however, the title of the section did not change. The amendment will be effective July 1, 2002. To obtain additional information contact Director Darrel Hart, New Mexico Law Enforcement Academy, 4491 Cerrillos Road, Santa Fe, New Mexico 87507, (505) 827-9255.

**10.29.9.8 POLICE OFFICER
MINIMUM STANDARDS OF TRAINING**

A. Block 1: Introduction to the Academy: 8 total block hours - This unit of instruction prepares the recruit officer for the academy experience, focusing on the responsibilities the recruit must undertake to successfully complete the academy. The subjects include:

- (1) Academy Mission: 1 hour
- (2) Overall Academy Objectives: .5 hour
- (3) Rules and Regulations of the Academy: 2 hours
- (4) Learning Skills: 2 hours
- (5) Role and Function of the New Mexico Law Enforcement Academy: .5 hour
- (6) Sexual Harassment: 2 hours

B. Block 2: Introduction to Law Enforcement in New Mexico: 29 total block hours - This unit of instruction identifies the core background, principles and expectations of being a law enforcement officer. The subjects include:

- (1) History and Principles of Law Enforcement: 2 hours
- (2) Police and the Public and Community Oriented Policing: 14 hours
- (3) Ethics and Moral Issues: 5 hours
- (4) The New Mexico Criminal Justice System: 2 hours
- (5) Criminal/Civil Liability – Standards of Performance: 6 hours

C. Block 3: Physical and Emotional Readiness: 76 total block hours - This unit of instruction will instruct the student in health and physical fitness concepts, flexibility, strength, body composition and cardiovascular endurance. The student will be expected to successfully complete both entrance and exit standards of fitness and exit standards of job-related agility. The subjects and standards include:

- (1) Physical Fitness/Wellness: 1hour
 - (a) Academy Entry Standard: This standard is based on cooper clinic studies, data and recommendations. Each academy entry student will be pre-assessed on five (5) fitness/wellness evaluations:
 - (i) 1.5 mile run (altitude adjusted);
 - (ii) 1 minute sit-up;
 - (iii) 1 minute push-up;

- (iv) sit and reach; and
- (v) 300 meter run.

Entry evaluations 1 through 5 will be measured relative to age and sex norms. Each academy entry candidate must score in the 40th percentile or better, in each of the five (5) designated fitness/wellness evaluations, to be eligible for entry into state-certified law enforcement basic training academies. (One repetition maximum bench press may substitute for the one-minute push-up.)

(b) Academy Exit Goal: For each academy student the goal, through participation in the physical fitness program, is to be able to score in the 60th percentile in each of the above five (5) fitness/wellness evaluations.

(2) Physical Performance Requirements: 72 hours

(a) Fitness Program: Each student will participate in a weekly fitness program for a minimum of one hour per session, three sessions per week.

(b) Academy Fitness Exit Standard: Complete the 1.5 mile run and 300 meter run at the 60th percentile.

(c) Academy Agility Course #1 - Pursuit and Control Exit Standard: Score passing time (3 minutes, 5 seconds) on agility course while wearing ten (10) pounds of extra weight.

(i) Officer is seated in a vehicle with seatbelt in use. As the timed exercise begins, the officer will undo the seatbelt and open the vehicle door.

(ii) Run 30 feet and open a building door.

(iii) Cross the threshold (4 feet) and run up two flights of stairs and pause for 60 seconds. (A rise and run of 7 inches by 11 inches is standard; 8 inches by 10 inches or 6 inches by 12 inches are acceptable variations. Standard floor landings are 10 feet high.) It is appropriate, if only one floor is available, to run up, run down, run up and pause. There is no restriction on how the officer negotiates the stairs.

(iv) Run down the stairs and out the door.

(v) Run 100 feet from the door to a 5-foot high platform; run up steps to the top of the 5-foot platform and jump down. A ladder or ramp are acceptable variations to getting on top of the platform.

(vi) Run 37.5 feet; turn and reverse; run 37.5 feet; turn and reverse; run 25 feet to a 6-foot high wall and scale it. The wall is constructed of cinder block, unpainted with a smooth top. If the applicant chooses, he or she may drag a rigid aid or object 10 feet from the side of the wall and use it as a platform to scale the wall. The rigid aid or object will have handles, a flat top, weigh 50 pounds and be 25

inches tall.

(vii) After scaling the wall, run 50 feet to a handcuff/arrest simulator; pull the arms down; touch the ends and hold for 60 seconds. The arrest simulator is 5 feet high with 60 pounds resistance in the right arm and 40 pounds in the left arm.

(d) Academy Agility Course #2 – Rescue Exit Standard: Score passing time (42 seconds) on agility course while wearing ten (10) pounds of extra weight.

(i) Officer is standing at starting point wearing a 10-pound weight belt around the waist to simulate a gun belt. On signal the officer will run 30 feet straight ahead and jump across a 4-foot wide barrier. The barrier is low to the ground, e.g., a ditch, highway divider, etc.

(ii) Run 12.5 feet and climb, jump or hurdle over a 3-foot high barrier. The barrier is to resemble a fence or low wall, no more than 4 inches wide and at least 8 feet long, made of metal or wood.

(iii) Run 12.5 feet to the back of a vehicle equivalent to a full-sized police vehicle and push it 30 feet on a flat surface in the direction of a clear area where a victim extraction will take place. The car is occupied by a dummy (victim) wearing a seatbelt and weighing 190 pounds plus or minus 10 pounds. The dummy must meet standards established by the New Mexico law enforcement academy.

(iv) Approach the victim's door; open the door; undo the seatbelt; pull the victim out of the vehicle and drag them 20 feet perpendicular to the direction of the vehicle.

(3) Emotional Health and Stress Management; 2 hours

(4) Nutrition; 1 hour

D. Block 4: Laws and Procedures; 44 total block hours – This unit of instruction informs the student about law and its application to the function of a law enforcement officer. The subjects include:

(1) Authority and Jurisdiction; 6 hours

(2) Constitution Law; 2 hours

(3) Criminal Law; 10 hours

(4) Criminal Procedures and Laws of Arrest; 7 hours

(5) Search and Seizure; 15 hours

(6) Civil Laws; 2 hours

(7) Liquor Laws; 1 hour

(8) Indian Country Law; 1 hour

E. Block 5: Patrol Procedures and Operations; 99.5 total block hours – This unit of instruction will cover the various types of incidents that a law enforcement officer can be expected to be involved in while on patrol, and the practices and procedures necessary to perform

the patrol function. The subjects include:

(1) Role of Patrol in Policing the Community; 1 hours

(2) Patrol Procedures; 16 hours

(3) Patrol Activities and

Incidents; 8 hours
(4) Vehicle Stop Techniques; 12 hours

(5) Roadblocks and Barricades; 2 hours

(6) Crimes in Progress; 4 hours

(7) Crowd Control and Civil

Disorder; 1 hour

(8) Crime Prevention and Fear Reduction; 1.5 hours

(9) Special Problems – Gangs and Terrorism; 10 hours

(10) Critical Incident Management; 16 hours

(11) Radio Procedures; 5 hours

(12) Patrol Response Simulations

Practicum; 13 hours

(13) Nighttime Vehicle Stops Practicum; 5 hours

(14) Nighttime Building Searches Practicum; 5 hours

F. Block 6: Principles of Criminal Investigation; 76 total block hours - This unit of instruction shall prepare the officer to effectively secure a crime scene, conduct an investigation, collect evidence, and prepare reports so suspects may be prosecuted. The subjects include:

(1) The Officer as First Responder; 6 hours

(2) Interviewing and Interrogation Techniques and Skills; 8 hours

(3) Identifying, Collecting and Processing Evidence; 16 hours

(4) Identification of Suspects; 2 hours

(5) Crimes Against People; 4 hours

(6) Crimes Against Property; 4 hours

(7) Injury and Death Cases; 3 hours

(8) Sex Crimes; 6 hours

(9) Controlled Substances; 8 hours

(10) Informants and Intelligence; 2 hours

(11) Surveillance; 2 hours

(12) Civil Complaints and Service Calls; 2 hours

(13) Technology Crimes and Investigation; 4 hours

(14) Crime Scene Investigation Practicum; 9 hours

G. Block 7: Motor Vehicle Law Enforcement; 33.5 total block hours – This unit of instruction will furnish the officer with information relating to the laws of motor vehicles and the criteria for conducting traffic enforcement oper-

ations. The subjects include:

(1) Vehicle Code and Enforcement; 2 hours

(2) Title, Registration and Vehicle Identification; 1 hour

(3) Driver Licensing; 2 hours

(4) Occupant Safety; 1.5 hours

(5) Traffic Enforcement Strategies; 1 hour

(6) Driving While Intoxicated Enforcement/Impaired Operator; 24 hours

(7) Commercial Motor Vehicle Enforcement; 4 hours

H. Block 8: Motor Vehicle Collision Investigation and Related Issues; 34 total block hours - This unit of instruction will provide the student with a basic level of competency to conduct a traffic accident investigation, to have an awareness of the risk posed by hazardous materials, and the officer's role in a hazardous materials incident. The subjects include:

(1) Collision Investigation; 24 hours

(2) Hazardous Materials; 8 hours

(3) Traffic Accident Report Forms; 2 hours

I. Block 9: Human Relations; 29 total block hours - This unit of instruction will provide the student with tools and techniques to gain greater understanding of persons unlike themselves, so they can be more effective in their duties. The subjects include:

(1) Perceptions of Human Behavior; 10 hours

(2) Cultural Diversity; 3 hours

(3) Spanish Language; 16 hours

J. Block 10: Crisis Management; 40 total block hours – This unit of instruction will prepare the officer to effectively manage high-risk incidents to a safe and successful conclusion. The subjects include:

(1) Behavior Management and Crisis Intervention; 12 hours

(2) Dispute Intervention/Conflict Management; 8 hours

(3) Handling the Mentally Ill and Other Special Populations; 12 hours

(4) Suicide, Barricaded Person, Hostage Situations and Suicide by Police; 8 hours

K. Block 11: Domestic Issues; 22 total block hours – This unit of instruction will focus on the cycle of violence, the rights of victims and the responsibilities of law enforcement, and the assistance available to victims. The subjects include:

(1) Juvenile Law and Justice; 2 hours

(2) Handling Juveniles and Their Problems; 2 hours

(3) Domestic Violence and Police Response; 8 hours

(4) Victims Assistance Laws; 2 hours

(5) Domestic Violence Simulation Practicum; 8 hours

L. Block 12: Defensive Tactics/Handling Arrested Persons; 88 total block hours - This unit of instruction will provide the student with techniques to arrest and control subjects and also how to defend themselves from physical attack. The student will learn the relationship between subject actions and the proper levels of force that can be applied. The subjects include:

(1) Use of Force Legal Issues; 7 hours

(2) Use of Force

Continuum/Judgment Issues; 7 hours

(3) Medical Implications; 1 hour

(4) Oleoresin Capsicum Spray; 3 hours

(5) Mechanics of Arrest, Restraint and Control; 68 hours

(6) Transporting Prisoners; 2 hours

M. Block 13: Report Writing; 14.5 total block hours - This unit of instruction will provide the student with the competencies to effectively communicate in written form the necessary information that is required in a police report and other official communications. The subjects include:

(1) Notetaking and Report Writing; 14.5 hours

(2) [Reserved]

N. Block 14: Case Presentation; 19 total block hours - This unit of instruction will give the student the skills for proper preparation and testimony in court, and also how to prepare and question witnesses and make objections and arguments in misdemeanor cases. The subjects include:

(1) Courtroom Testimony and Misdemeanor; 5 hours

(2) Police Officer as Prosecutor and Legal Practice Exercise; 14 hours

O. Block 15: Basic Firearms Course; 80 total block hours - This unit of instruction will familiarize the student with the operation and maintenance of a firearm, firearms safety, safety equipment and fundamentals of marksmanship. The student will successfully complete the New Mexico Firearms Standardized Qualifications Courses, and will display proper decision-making in shooting simulations. The subjects include:

(1) Basic Firearms Course; 69.5 hours

(2) Body Armor; 1 hour

(3) Deadly Force Decision-Making Practicum; 9.5 hours

P. Block 16: Operation of a Patrol Vehicle; 40 total block hours - This unit of instruction will prepare the officer for proficiently operating a patrol vehicle, the various factors that affect the operation of a patrol vehicle, procedures for emergency driving, and the legal issues related to emergency vehicle operations. The student will demonstrate their competency on a driving course. The subject include:

(1) Introduction to Emergency Vehicle Operations; 3 hours

(2) Pursuit and Legal Issues; 2 hours

(3) Emergency Responses; 3 hours

(4) Vehicle Dynamics; 2.5 hours

(5) Driving Courses; 29.5 hours

Q. Block 17: First Aid and Cardio Pulmonary Resuscitation; 16 total block hours - This unit of instruction will provide the student with skills to perform emergency care techniques to the sick and injured. The subjects include:

(1) First Aid; 4 hours

(2) Cardio Pulmonary Resuscitation; 9 hours

(3) Blood Borne Pathogens; 3 hours

R. Block 18: Academy Administration; 49.5 total block hours - This unit is for administration of the basic academy training program. This includes examinations and reviews, assessments, inspections, discretionary training time and graduations.

S. Variances to Required Subject Hours - The 800-hour standard curriculum is designed for a class size of 30-60 students. Upon request from a satellite academy commander holding a class of less than 30 students, the director may determine if a reduction of practicum hours will still meet the objectives listed for the block and then may authorize an academy to engage in fewer practicum hours. For classes of greater than 60 students, the director may require an academy to engage in more practicum hours than the standard to meet the objectives listed for the block. [5-29-86, 2-18-87, 2-19-87, 3-16-87, 5-31-97, 1-1-98, 3-1-98, 12-20-99; 10.29.9.8 NMAC - Rn & A, 10 NMAC 29.9.8, 4/30/01; A, 7/1/02]

Enforcement Academy Board amended Subsection K and L of 10.29.9.14 NMAC concerning the day and night fire course requirements. All certified officers are to qualify annually with their firearms on a day course of fire and on a night course of fire. The amendment to Subsection K only makes the failure drill mandatory, not optional, at the 7 yard line. The amendment to Subsection L only changed the time from 3 seconds to 5 seconds on the three round failure drill at the 5 yard line. These amendments will become effective on June 14, 2002. If more information is required, please contact Director Darrel Hart, New Mexico Law Enforcement Academy, 4491 Cerrillos Road, Santa Fe, New Mexico 87507, (505) 827-9255.

Continued: please see next page

**NEW MEXICO
DEPARTMENT OF
PUBLIC SAFETY**

TRAINING AND RECRUITING
DIVISION
LAW ENFORCEMENT ACADEMY

On May 16, 2002 the New Mexico Law

10.29.9.14 ENTRY LEVEL AND REQUALIFICATION FIREARMS TRAINING

K. QUALIFICATION COURSE: DAY (50 Round Course) - Range is "hot". Shooters will not be told when to reload, except when firing the reloading drill portion of the course. No "alibis" will be given for shooter errors.

YARD LINE	DESCRIPTION	ROUNDS	TIME
25	Shooter draws to a prone position and fires two rounds	2	10 sec
25	Shooter draws to a kneeling position and fires two rounds (repeat)	4	5 sec
15	Shooter draws to a standing position and fires two rounds	2	4 sec
15	Shooter draws to a kneeling position and fires two rounds (repeat)	4	5 sec
7	From a weak-hand low-ready, shooter fires two rounds, weak hand only (repeat)	4	3 sec
7	Shooter draws to a standing position and fires two rounds, reloads and fires two more rounds--may be tactical or speed (repeat)	8	10 sec
7	Shooter draws to a standing position and fires two rounds (repeat twice)	6	2 sec
7	Shooter draws to a standing position and fires a failure drill (repeat) [head shot optional]	6	5 sec
5	Shooter draws to a standing position and fires two rounds (repeat twice)	6	2 sec
5	Shooter draws to a standing position and fires two rounds, reloads and fires two more rounds--may be tactical or speed	4	10 sec
1	Shooter draws to a weapon retention or disengagement position and fires two rounds (repeat)	4	2 sec

L. QUALIFICATION COURSE: NIGHT (50 Round Course) - Range is "hot". Shooter will not be told when to reload, except when firing the reloading drill portion of the course. No "alibis" will be given for shooter errors. Low light conditions would include parking lights from vehicles, naturally existing light, or other light that is just enough to identify a threat.

YARD LINE	DESCRIPTION	ROUNDS	TIME
5 (low light)	Shooter draws from the holster and fires a three round failure drill. (repeat)	6	[3] 5 sec
5 (low light)	Shooter draws to a low ready position and fires two rounds. (repeat twice)	6	2 sec
7 (flashlight or low light)	Shooter draws from the holster and fires two rounds. (repeat twice)	6	4 sec
7 (flashlight or low light)	Shooter draws to a low ready position-and fires two rounds. (repeat twice)	6	3 sec
7 (flashlight or low light)	Shooter draws to a low ready position and fires a three round failure drill. (repeat)	6	5 sec
10 (Headlights & Overheads)	Shooter draws from the holster and fires two rounds, reloads and fires two more rounds. (repeat)	8	10 sec
10 (Headlights & Overheads)	Shooter draws to the low ready position and fires two rounds, reloads and fires two more rounds. (repeat)	8	8 sec
10 (Headlights & Overheads)	Shooter draws to a low ready position and fires two rounds. Flashlight optional.	2	3 sec
10 (Headlights & Overheads)	Shooter draws from the holster and fires two rounds. Flashlight optional.	2	4 sec

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.1 NMAC, Sections 5, and 8. This rule was also reformatted and renumbered to comply with current NMAC requirements

16.63.1.5 EFFECTIVE DATE: January 5, 1995, unless a different date is cited at the end of a section [~~or paragraph~~]. [9/8/96; 16.63.1.5 NMAC - Rn & A, 16 NMAC 63.1.5, 06/19/02]

16.63.1.8 PUBLIC RECORDS: Except as provided herein and except as otherwise provided by law, all applications, pleadings, petitions and motions are matters of public record as of the time of filing with the board. Any information covered in this section may be released to the disciplinary action reporting system ("DARS") of the American association of state social work boards [~~("AASSWB")~~] ("ASWB"). [1/1/90, 9/13/90, 5/15/91, 6/22/92, 1/5/95; 16.63.1.8 NMAC - Rn & A, 16 NMAC 63.1.8, 06/19/02]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.3 NMAC, Sections 5, 11 and 12. This rule was also reformatted and renumbered to comply with current NMAC requirements.

16.63.3.5 EFFECTIVE DATE: January 5, 1995, unless a different date is cited at the end of a section [~~or paragraph~~]. [9/8/96; 16.63.3.5 NMAC - Rn & A, 16 NMAC 63.3.5, 06/19/02]

16.63.3.11 QUALIFIED APPLICANTS: As per 16.63.4.12 NMAC "Qualified applicants who fail to obtain the minimum required score may retake the [~~(AASSWB)~~] (ASWB) or NMBSWE Cultural) exam an unlimited number of times. Applicants must pay the examination fee for each administration of the examination." Prior to the re-examination a new application must be submitted to the Board by the applicant. A non-refundable application fee must accompany the new application. Qualifications for examination will be evaluated based on the most recent application. Applications shall be valid for a period not to exceed twelve (12) months from the date of initial submission. [5/15/91, 6/22/92, 1/15/95, 5/1/99; 16.63.3.11 NMAC - Rn & A, 16 NMAC 63.3.11, 06/19/02]

16.63.3.12 EXAMINATION REQUIRED: No license, other than a provisional license, will be issued without passing exam scores for [~~AASSWB~~] ASWB at the appropriate level, and successful completion of the New Mexico Board of Social Work Examiners Cultural Awareness Examination. The scores of [~~AASSWB~~] ASWB examination may be submitted by [~~AASSWB~~] ASWB, or by the state board from which the applicant is currently licensed, directly to the New Mexico Board of Social Work Examiners. [5/15/91, 6/22/92, 1/15/95, 5/1/99; 16.63.3.12 NMAC - Rn & A, 16 NMAC 63.3.12, 06/19/02]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.4 NMAC, Sections 5, 11 and 12. This rule was also reformatted and renumbered to comply with current NMAC requirements.

16.63.4.5 EFFECTIVE DATE: January 5, 1995, unless a different date is cited at the end of a section [~~or paragraph~~]. [9/8/96; 16.63.4.5 NMAC - Rn & A, 16 NMAC 63.4.5, 06/19/02]

16.63.4.10 REQUIREMENTS: In order to sit for either the [~~AASSWB~~] ASWB or the Cultural Awareness Examination, applicants must submit, to the Board, a completed examination application and supporting documentation. [1/1/90, 9/13/90, 5/15/91, 6/22/92, 1/5/95, 5/1/99; 16.63.4.10 NMAC - Rn & A, 16 NMAC 63.4.10, 06/19/02]

16.63.4.11 PASSING SCORES: For the examinations administered by the American Association of State Social Work Boards, [~~AASSWB~~] ASWB, the Board will accept as passing, scores of 70 or higher. [1/1/90, 9/13/90, 5/15/91, 6/22/92, 1/5/95; 16.63.4.11 NMAC - Rn, & A, 16 NMAC 63.4.11, 06/19/02]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.6 NMAC, Sections 5, 8 and 9. This rule was also reformatted and renumbered to comply with current NMAC requirements.

16.63.6.5 EFFECTIVE DATE: June 22, 1992, unless a different date is cited at the end of a section [~~or paragraph~~].

[9/8/96; 16.63.6.5 NMAC - Rn & A, 16 NMAC 63.6.5, 06/19/02]

16.63.6.8 QUALIFICATION FOR LICENSURE: Applicants for licensure by credentials must possess the following:

A. A current valid social work license issued by an appropriate examining board under the laws of any other state or territory of the United States or the District of Columbia or any sovereign nation that in the judgment of the Board has substantially equivalent requirements as the State of New Mexico, as outlined in the Social Work Practice Act, at the level of licensure being sought;

B. A passing test score from the American Association of State Social Work Boards for licensure level sought. Test scores to be sent from [~~AASSWB~~] ASWB directly to the Board or from the State Board of Social Work Examiners currently holding applicant's license.

C. A Baccalaureate Degree in Social Work from a CSWE Accredited Program, if applying for the LBSW;

D. A Master's Degree in social work from a CSWE Accredited Program, if applying for the LMSW or LISW;

E. Successful completion of the New Mexico Board of Social Work Examiners Cultural Awareness Examination.

F. Have presented to the New Mexico Board documentation as required by the New Mexico Board that any other license granted to the applicant by any other state has not been suspended, revoked, voluntarily surrendered or otherwise restricted for any reason except non-renewal or for the failure to obtain the required continuing education credits.

[1/1/90, 5/15/91, 6/22/92, 5/1/99; 16.63.6.8 NMAC - Rn, & A, 16 NMAC 63.6.8, 06/19/02]

16.63.6.9 APPLICATION FOR LICENSURE: Applicants for licensure by credentials must submit or cause to be submitted the following documentation to the Board:

A. Completed application;
B. Two (2) personal character references;

C. A copy of current license.

D. A 2" x 2" photograph of the applicant taken within the preceding six months affixed to the application.

E. Completed form titled "Statement of Registration, or Certification of Licensure in Another State", to be sub-

mitted directly to the Board from the conferring agency;

F. Test scores from ~~[AASSWB]~~ ASWB and the New Mexico Cultural Exam.

G. Official transcripts mailed directly to the Board from the conferring institution;

H. Non-refundable license fee as set forth in **Part 7** to be assessed at the time of application.

[1/1/90, 5/15/91, 6/22/92, 5/1/99; 16.63.6.9 NMAC – Rn & A, 16 NMAC 63.6.9, 06/19/02]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.7 NMAC, Sections 5, and 9. This rule was also reformatted and renumbered to comply with current NMAC requirements

16.63.7.5 EFFECTIVE DATE: January 5, 1995, unless a different date is cited at the end of a section ~~[or paragraph]~~. [9/8/96; 16.63.7.5 NMAC – Rn & A, 16 NMAC 63.7.5, 06/19/02]

16.63.7.9 DURATION: The provisional license shall be valid for 3 months or until the applicant passes/fails the national examination and the New Mexico Cultural Examination, whichever comes first.

A. The provisional license shall become immediately invalid if the provisional licensee fails to submit an official transcript of certification.

B. The provisional licensee must pass the national and New Mexico Cultural Exam during this 3 month period.

C. only one provisional license will be issued for each level of licensure.

[1/1/90, 5/15/91, 6/22/92, 1/5/95, 5/1/99; 16.63.7.9 NMAC – Rn & A, 16 NMAC 63.7.9, 06/19/02]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.8 NMAC, Sections 5 and 8. This rule was also reformatted and renumbered to comply with current NMAC requirements.

16.63.8.5 EFFECTIVE DATE: June 22, 1992, unless a different date is cited at the end of a section ~~[or paragraph]~~. [9/8/96; 16.63.8.5 NMAC – Rn & A, 16

NMAC 63.8.5, 06/19/02]

16.63.8.8 EXAMINATIONS

A. The fee for the ~~[AASSWB]~~ ASWB examinations at any level of licensure is ~~[one hundred and ten dollars (\$110.00)]~~ one hundred and seventy five dollars (175.00).

B. The fee for the New Mexico Board of social Work Examiners Cultural Awareness Examination is thirty dollars (\$30.00).

[1/1/90, 9/13/90, 5/15/91, 6/22/92, 5/1/99; 16.63.8.8 NMAC - Rn & A, 16 NMAC 63.8.8, 06/19/02]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.9 NMAC, Sections 5, 8 and 9. This rule was also reformatted and renumbered to comply with current NMAC requirements

16.63.9.5 EFFECTIVE DATE: June 22, 1992, unless a different date is cited at the end of a section ~~[or paragraph]~~. [9/8/96; 16.63.9.5 NMAC – Rn & A, 16 NMAC 63.9.5, 06/19/02]

16.63.9.8 QUALIFICATION OF LICENSURE: Applicants for licensure as Baccalaureate Social Worker must possess the following minimum qualifications:

A. be at least 18 years of age;

B. possess a bachelor's degree in social work from a program accredited by the Council on Social Work Education;

C. successfully pass the American Association of State Social Work Board Examination ~~[AASSWB]~~ ASWB;

D. successfully pass the New Mexico Board of Social Work Examiners Cultural Awareness Examination.

[1/1/90, 5/15/91, 6/22/92; 16.63.9.8 NMAC – Rn & A, 16 NMAC 63.9.8, 06/19/02]

16.63.9.9 PARAMETERS OF PRACTICE

A. This is the entry licensing level. The Baccalaureate Social Worker ("LBSW") is prepared to assume the beginning level professional role in public and private social service agencies

B. LBSWs are prepared through beginning professional knowledge in human behavior in the social environment, generalist social work practice, knowledge of the history of social policy,

knowledge of how to utilize social research findings in their practice and having had supervised field practicum experience. The LBSW provides generalist services in the role of social broker, enabler, case manager, educator and mediator. LBSWs may work with individuals, families, communities, groups and organizations at a beginning level. LBSWs do not conduct clinical psycho-social evaluations but may be involved in taking social histories and/or conducting home studies.

C. The LBSW utilizes the basic problem-solving process of gathering information, assessing that information at a beginning professional level, developing an intervention plan, then assuming the roles enumerated above, implement the plan and conducts follow-up.

D. The LBSW ~~[may]~~ must not practice independently as a private practitioner.

[1/1/90, 5/15/91, 6/22/92; 16.63.9.9 NMAC – Rn & A, 16 NMAC 63.9.9, 06/19/02]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.10 NMAC, Sections 5 and 8. This rule was also reformatted and renumbered to comply with current NMAC requirements

16.63.10.5 EFFECTIVE DATE: June 22, 1992, unless a different date is cited at the end of a section ~~[or paragraph]~~. [9/8/96; 16.63.10.5 NMAC – Rn & A, 16 NMAC 63.10.5, 06/19/02]

16.63.10.8 QUALIFICATION FOR LICENSURE: Applicants for licensure as Master Social Worker must:

A. be at least 18 years of age;

B. possess a master's degree in social work from a graduate program of social work accredited by the Council on Social Work Education;

C. successfully pass the American Association of State Social Work Board Examination ~~[AASSWB]~~ ASWB;

D. successfully pass the New Mexico Board of Social Work Examiners Cultural Awareness Examination.

[1/1/90, 9/13/90, 5/15/91, 6/22/92; 16.63.10.8 NMAC – Rn & A, 16 NMAC 63.10.8, 06/19/02]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.11 NMAC, Sections 5, 8, and 10. This rule was also reformatted and renumbered to comply with current NMAC requirements.

16.63.11.5 EFFECTIVE DATE: January 5, 1995, unless a different date is cited at the end of a section [~~or paragraph~~] [9/8/96; 16.63.11.6 NMAC - Rn & A, 16 NMAC 63.11.6, 06/19/02]

16.63.11.8 QUALIFICATION FOR LICENSURE: Applicants for licensure as Independent Social Workers must:

A. be at least eighteen (18) years of age;

B. possess at least a master's degree in social work from a graduate program of social work accredited by the Council on Social Work Education;

C. complete not less than two years of post graduate social work experience (employed or volunteer), under appropriate supervision. As defined in 16.63.1.8 NMAC for the purposes of this Part, 3600 hours of post graduate social work practice is required under appropriate supervision [~~shall be deemed equivalent of two years~~]. Applicants and supervisors will engage the process of supervision in accordance with the guidelines established by the Board of Social Work Examiners.

D. successfully pass the New Mexico Board of Social Work Examiners Cultural Awareness Examination; and

E. successfully pass the American Association of State Social Work Board Examination [~~(AASSWB)~~], (ASWB) Clinical or Advanced, as determined by the Board. [1/1/90, 9/13/90, 5/15/91, 6/22/92, 1/5/95; 5/1/99, 16.63.11.8 NMAC - Rn & A, 16 NMAC 63.11.8, 06/19/02]

16.63.11.10 AREAS OF SPECIALIZATION: The areas of specialization recognized by the Board for the Licensed Independent Social Worker include but are not limited to: Clinical Social Work Practice, School Social Work, Medical Social Work, Social Work Research Practice, Social Work Community Organization, University Social Work Faculty, and Social Work Administration. Areas are designated by the Board at the time of application.

A. Licensure in the specialty/specialties requested will be granted only if applicant documents a minimum of

two years of supervised experience (3600 hours) in each specialty area indicated on the application.

B. After initial licensure, a Licensed Independent Social Worker may add new areas of specialty by submitting a request to the Board of Social Work Examiners and accompanying documentation of a minimum of two years of supervised experience (3600 hours) in that specialty. The Licensed Independent Social Worker may obtain a revised license reflecting the added specialty by submitting the required duplicate license fee. Scores from the appropriate level of the [~~AASSWB~~] ASWB examination will be required.

[1/1/90, 9/13/90, 5/15/91, 6/22/92, 1/5/95, 5/1/99; 16.63.11.10 NMAC - Rn & A, 16 NMAC 63.11.10, 06/19/02]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.12 NMAC, Section 5. This rule was also reformatted and renumbered to comply with current NMAC requirements

16.63.12.5 EFFECTIVE DATE: June 22, 1992, unless a different date is cited at the end of a section [~~or paragraph~~]. [9/8/96; 16.63.12.5 NMAC - Rn & A, 16 NMAC 63.12.5, 06/19/02]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.13 NMAC, Sections 5. This rule was also reformatted and renumbered to comply with current NMAC requirements.

16.63.13.5 EFFECTIVE DATE: January 5, 1995, unless a different date is cited at the end of a section [~~or paragraph~~]. [9/8/96; 16.63.13.5 NMAC - Rn & A, 16 NMAC 63.13.5, 06/19/02]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.14 NMAC, Sections 5 and 8. This rule was also reformatted and renumbered to comply with current NMAC requirements

16.63.14.5 EFFECTIVE DATE: January 5, 1995, unless a different date is cited at the end of a section [~~or paragraph~~]. [9/8/96; 16.63.14.5 NMAC - Rn & A, 16

NMAC 63.14.5, 06/19/02]

16.63.14.8 PROCEDURE

A. Any person licensed under the Social Work Practice Act (NMSA 1978 Sections 61-31-1 to 61-31-24) who wishes to assume inactive status in the practice of social work shall notify the Board's Administrator in writing prior to the July 1 expiration of his current license. As part of the written request for inactive status, the licensee must show proof of having completed the required continuing education hours defined in Part 12 of these rules. If the licensee has not met the continuing education requirements, inactive status may be granted but the licensee will be subject to all rules related to continuing education if reinstatement of license is requested. The Administrator shall acknowledge receipt of the request and place the request on the agenda for the next Board meeting.

B. Upon approval by the Board, the licensee shall assume inactive status. Any license in inactive status will be subject to an annual fee of fifteen dollars (\$15.00) for LBSW, twenty dollars (\$20.00) for LMSW and twenty-five dollars (\$25.00) for LISW.

C. The practice of social work in New Mexico under an inactive license is strictly prohibited.

D. Any person licensed under the Social Work Practice Act who has assumed inactive status as provided in this section, may notify the Board, in writing, of his desire to resume active practice.

E. Upon receipt of the notice required in Subsection D of 16.63.14.8 NMAC, the Administrator shall send to the licensee an application for reinstatement of license.

F. The fee for reinstatement of a license shall be in accordance with 16.63.8 NMAC, Sections 8, 9, 10 & 11.

G. The applicant must, in addition, provide satisfactory proof of:

(1) completion of no less than ten (10) hours of continuing education for each year of inactive status; such continuing education to be accumulated in accordance with Part 12.

(2) completion of all continuing education requirements determined to have been unmet at the time inactive status was granted.

H. If the Board finds the application in order and is satisfied that the applicant has fulfilled his continuing education requirements as outlined in subsection G of 16.63.14.8 NMAC, the Board shall reinstate the applicant's license.

I. No person licensed under the Social Work Practice Act who has assumed inactive status shall reactivate his

practice until he receives notification from the Board that his license is active.

J. The Board will not accept applications for inactive status from licensees who are under investigation for violations of the Social Work Practice Act or who have an active complaint pending with the Board.

K. The Board will accept applications under this section from any social worker who is impaired as further defined in this section and who is participating in a rehabilitation plan approved by the Board.

(1) For purposes of this section, impaired means inability to practice social work with reasonable skill or safety to clients by reason of one or more of the following:

(2) mental illness;

(3) habitual or excessive use or abuse of drugs, as defined in the Controlled Substances Act (NMSA Sections 30-31-1 to 30-31-40) or alcohol.

L. The Board may, in its discretion, require that an applicant for reinstatement take and pass a written or oral examination as prescribed by the Board. [6/22/92, 1/5/95, 5/1/99; 16.63.14.8 NMAC - Rn & A, 16 NMAC 63.14.8, 06/19/02]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.15 NMAC, Section 5. This rule was also reformatted and renumbered to comply with current NMAC requirements

16.63.15.5 EFFECTIVE DATE: January 5, 1995, unless a different date is cited at the end of a section [or paragraph]. [9/8/96; 16.63.15.5 NMAC - Rn & A, 16 NMAC 63.15.5, 06/19/02]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.16 NMAC, Section 5. This rule was also reformatted and renumbered to comply with current NMAC requirements.

16.63.16.5 EFFECTIVE DATE: June 22, 1992, unless a different date is cited at the end of a section [or paragraph]. [9/8/96; 16.63.16.5 NMAC - Rn & A, 16 NMAC 63.16.5, 06/19/02]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.19 NMAC, Section 5. This rule was also reformatted and renumbered to comply with current NMAC requirements.

16.63.19.5 EFFECTIVE DATE: June 22, 1992 unless a different date is cited at the end of a section [or paragraph]. [9/8/96; 16.63.19.5 NMAC - Rn & A, 16 NMAC 63.19.5, 06/19/02]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.20 NMAC, Section 5. This rule was also reformatted and renumbered to comply with current NMAC requirements

16.63.20.5 EFFECTIVE DATE: November 2, 1995, unless a different date is cited at the end of a section [or paragraph]. [9/11/96; 16.63.20.5 NMAC - Rn & A, 16 NMAC 63.20.5, 06/19/02]

NEW MEXICO TAXATION AND REVENUE DEPARTMENT

This is an amendment to 18.19.1.10 NMAC:

18.19.1.10 ~~[TAX IDENTIFICATION NUMBER ISSUED BY INTERNAL REVENUE SERVICE: A tax identification number issued by the internal revenue service to individuals not qualified to be issued a social security number will be accepted by the department in lieu of the social security number in all cases in which reporting a social security number is required under the Motor Vehicle Code, except for purposes of the New Mexico Commercial Driver's License Act]~~ [Reserved] [3/31/98; 18.19.1.10 NMAC - Rn, 18 NMAC 19.1.10, 9/14/00; Repealed, 6/14/02]

NEW MEXICO TAXATION AND REVENUE DEPARTMENT

These are amendments to 18.19.5.12 and 18.19.5.13 NMAC.

18.19.5.12 ~~[ALIENS] FOREIGN~~

NATIONALS APPLYING FOR DRIVER'S LICENSES:

A. ~~[For purposes of applying for and issuing a driver's license, other than a commercial driver's license, the motor vehicle division will consider to be residents those individuals who are not citizens of the United States but who are living in New Mexico. As a means of identifying such individuals, the division will accept passports, visas issued by the United States or the following cards issued by the United States immigration and naturalization service: I-551 "resident alien" card; I-151 "alien registration receipt" card; I-688 "temporary resident" card; I-688A "employment authorization" card; or I-688B "employment authorization" card or the document entitled "matricula consular" issued by the Mexican consulate.]~~ Persons who are not citizens of the United States (foreign nationals) and who are ineligible for a social security number may apply for a driver's license, other than a commercial driver's license, by providing proof of identity, proof they are living in New Mexico and proof they are in the United States legally or in compliance with United States immigration and naturalization service (INS) regulations.

B. ~~[Within thirty days of the date the division is authorized by law to do so, the number of the passport, visa, card or matricula consular may be accepted in lieu of the social security number when the alien does not have a social security account number.]~~ Examples of acceptable proof of the applicant's identity include but are not limited to:

(1) valid passport issued by country of citizenship.

(2) valid documentation issued by INS such as, I-551 "resident alien" card, I-151 "alien registration receipt" card, I-688 "temporary resident" card, or I-797 "notice of action" or

(3) matricula consular issued by the Mexican consulate in Albuquerque

C. ~~[Any New Mexico driver's license issued to an alien will contain an expiration date not later than the expiration of the visa or card issued by the United States immigration and naturalization service or the expiration date, if any, of the matricula consular issued by the Mexican consulate.]~~ Examples of acceptable proof that the applicant is living in New Mexico include but are not limited to:

(1) documents such as utility bills, rental agreements, current student identification cards, and employment payroll receipts, or

(2) matricula consular issued by the Mexican consulate in Albuquerque.

D. Examples of acceptable

documents proving the applicant is in the United States legally or in compliance with INS regulations include but are not limited to:

(1) valid passport issued by country of citizenship, a visa issued by the United States, and valid documentation issued by INS showing legal status, or

(2) INS document titled I-797 "notice of action".

E. In lieu of a social security number the motor vehicle division will use the applicant's unique identifying number in the document evidencing immigration status.

F. The motor vehicle division may require foreign nationals applying for a driver's license to provide a certified copy of their driving record with an English language translation of the certified copy from the jurisdiction where the foreign national is currently or was previously licensed.

G. Section 18.19.5.12 NMAC becomes effective within thirty days of the effective date of the provisions of Section 66-5-9(B) NMSA 1978.

[18.19.5.12 NMAC - N, 6/29/01; A, 6/14/02]

18.19.5.13 FOREIGN NATIONALS MAY APPLY FOR LICENSURE:

The motor vehicle division will consider persons who are not citizens of the United States but who meet the requirements of Section 18.19.5.12 NMAC as residents of this state for purposes of requiring and issuing driver's licenses, other than commercial driver's licenses.

[18.19.5.13 NMAC - N, 6/14/02]

**End of Adopted Rules and
Regulations Section**

2002
SUBMITTAL DEADLINES AND PUBLICATION DATES

Volume XIII	Submittal Deadline	Publication Date
Issue Number 1	January 2	January 15
Issue Number 2	January 16	January 31
Issue Number 3	February 1	February 14
Issue Number 4	February 15	February 28
Issue Number 5	March 1	March 15
Issue Number 6	March 18	March 29
Issue Number 7	April 1	April 15
Issue Number 8	April 16	April 30
Issue Number 9	May 1	May 15
Issue Number 10	May 16	May 31
Issue Number 11	June 3	June 14
Issue Number 12	June 17	June 28
Issue Number 13	July 1	July 15
Issue Number 14	July 16	July 31
Issue Number 15	August 1	August 15
Issue Number 16	August 16	August 30
Issue Number 17	September 3	September 16
Issue Number 18	September 17	September 30
Issue Number 19	October 1	October 15
Issue Number 20	October 16	October 31
Issue Number 21	November 1	November 14
Issue Number 22	November 15	November 27
Issue Number 23	December 2	December 13
Issue Number 24	December 16	December 30

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rule making, proposed rules, adopted rules, emergency rules, and other similar material. The Commission of Public Records, Administrative Law Division publishes the *New Mexico Register* twice a month pursuant to 14-4-7.1 NMSA 1978. For further subscription information, call 505-476-7907.