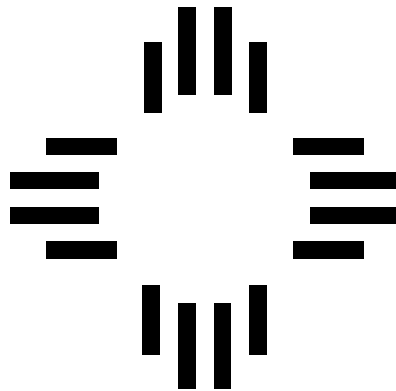


New Mexico Register

Volume XIII, Issue Number 13
July 15, 2002



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

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Administrative Law Division
2002

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New Mexico Register

Volume XIII, Number 13

July 15, 2002

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Effective Date and Validity of Rule Filings

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

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

Notices of Rulemaking and Proposed Rules

NEW MEXICO DEPARTMENT OF AGRICULTURE

Public Meeting Notice

A meeting of the Acequia and Community Ditch Fund Committee will be held to determine distribution of the 2002 Acequia and Community Ditch Fund. The meeting will be held on Monday, August 19, 2002, at 1:30 p.m., in Santa Fe, New Mexico, Room 303, State Capitol Building.

Copies of the agenda may be obtained by contacting the New Mexico Department of Agriculture, at (505) 646-5152, or by writing New Mexico Department of Agriculture, General Services, MSC-3GSD, P O Box 30005, Las Cruces, New Mexico 88003-8005.

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in this meeting, please contact the New Mexico Department of Agriculture at least three (3) days prior to the meeting, at (505) 646-5152. Disabled persons who need documents such as agendas or minutes in accessible form should contact the Department.

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT PROTECTIVE SERVICES DIVISION

NOTICE OF PUBLIC HEARING

The Protective Services Division (PSD) will hold a public hearing in Santa Fe on July 30, 2002 from 9:00 a.m. to 11 a.m. in the Public Employees Retirement Association (P.E.R.A.) Building, 1120 Paseo de Peralta, 2nd floor conference room, number 229, to take comments regarding proposed revisions to the PSD Child Placement Agency Regulations.

The PERA building is accessible to people with disabilities. Written comments are provided the same weight as comments received during the public hearing. Documents are available in different formats to accommodate a particular disability. Anyone seeking such assistance must provide two weeks notice to receive any written material in an alternative format by calling 505-827-8416. If assistance is required to attend the hearing, please call 505-827-

8400 to arrange accommodation.

The proposed policy revisions may be reviewed at any Protective Services Division county office. County office locations may be determined by calling 505-827-8400 for location information. The proposed policy revisions may also be reviewed between 8:00 a.m. - 5:00 p.m. (MST) at the PSD Director's Office, Room 254, In the P.E.R.A. building in Santa Fe, NM. Copies of the proposed policies may be obtained by contacting Kirk Rowe, Children's Section Manager, CYFD-PSD, P.O. Drawer 5160, Santa Fe, NM 87502-5160, or by calling 505-827-8416. Copies can also be requested through the use of the New Mexico relay system by calling 505-827-7586.

NEW MEXICO OFFICE OF CULTURAL AFFAIRS MUSEUM OF NEW MEXICO

NEW MEXICO OFFICE OF
CULTURAL AFFAIRS
MUSEUM OF NEW MEXICO
Board of Regents
113 Lincoln
Santa Fe, NM 87501

NOTICE OF PUBLIC HEARING

Notice is hereby given of a PUBLIC HEARING OF THE BOARD OF REGENTS OF THE MUSEUM OF NEW MEXICO to be held on Friday, July 26, 2002 at 1:15 p.m. The meeting will be held at the Hubbard Museum of the West Conference Room, Ruidoso, New Mexico. The Regents will evaluate a request to change the Collections Policy for the Museum of New Mexico.

Comments may be provided by statement in person at the hearing, submitted in writing at the hearing, or submitted to the Board in writing prior to the hearing.

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 meeting, please contact the Director's Office at least 2 (two) days prior to the meeting at 505-476-5016 (voice) or 505-476-5088 (fax).

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD NOTICE of PUBLIC HEARING TO CONSIDER PROPOSED REVISION OF 20 NMAC 7.1 *Drinking Water*

The New Mexico Environmental Improvement Board will hold a public hearing on September 13, 2002, to consider a request to repeal 20 NMAC 7.1 *Drinking Water* and replace it with 20.7.10 NMAC *Drinking Water*. The meeting will begin at 9:30 a.m. in the City/County Government Center, 9th floor Committee Room, One Civic Plaza, Albuquerque, New Mexico. The proponent of this regulatory change is the New Mexico Environment Department.

Revisions to the Drinking Water regulations are proposed for the primary purpose of retaining state primacy for the Drinking Water Program. To this end, the proposed regulations at 20.7.10 NMAC incorporate by reference, with small modifications and exceptions, all of the federal regulations found in 40 CFR Parts 141, the National Primary Drinking Water Regulations, and 40 CFR Part 143, the National Secondary Drinking Water Regulations, promulgated through September 2002. The incorporated federal regulations will replace a large portion of the existing state regulations that, for the most part, are identical in form and substance to the federal regulations.

The proposed regulations may be reviewed during regular business hours at the office of the Environmental Improvement Board, Harold Runnels Building, 1190 St. Francis Drive, Room N-2150, Santa Fe, NM. Copies of the proposed regulations may be obtained by contacting John Gillentine at (505) 827-1400, or by visiting the Department's web site at www.nmenv.state.nm.us and following the links to "Regulations and Permitting/New or Proposed Regulations." Questions or comments about the Department's proposed regulations may be addressed to: L. William Bartels, Bureau Chief, Drinking Water Bureau, 525 Camino de Los Marquez, Suite 4, Santa Fe, NM 87505.

The hearing will be conducted according to 20.1.1 NMAC *Rulemaking Procedures – Environmental Improvement Board*; the Environmental Improvement Act, Section 74-1-9 NMSA 1978; and other applicable

procedures. All interested persons will be given a reasonable opportunity during the hearing to submit relevant evidence, data, views, and arguments, orally or in writing, and to introduce exhibits and examine witnesses.

Any person wishing to present technical testimony at the hearing must file a written notice with the Board that:

- (1) identifies the person or persons for whom the witness (es) will testify;
- (2) identifies each technical witness the person intends to present, states the qualifications of that witness and describes their educational and professional background;
- (3) summarizes or attaches a copy of the direct testimony of each technical witness, and states the anticipated duration of testimony;
- (4) includes the text of any recommended modifications to the proposed regulatory change; and lists, describes or attaches a copy of all exhibits anticipated to be offered by that person during their testimony.

Notices of intent to present technical testimony at the hearing must be received in the Office of the Environmental Improvement Board no later than 5:00 p.m. on August 30, 2002, and should reference the name of the regulation and the date of the hearing. Submit notices of intent to: Hearing Officer, NMED Boards and Commissions, 1190 St. Francis Drive, Room N-2150, Santa Fe, New Mexico 87502.

Any person wishing to submit a non-technical written statement in lieu of oral testimony may do so at or before the hearing.

If you have a disability and require assistance or an auxiliary aid to participate in any aspect of this process, please contact Cliff Hawley, Bureau Chief of the NMED Program Support Bureau, at (505) 827-2844, by August 30, 2002. The Program Support Bureau is located at 1190 St. Francis Drive, Santa Fe, NM 87502. TDD users may access the Program Support Bureau via the New Mexico Relay Network: in Albuquerque call (505) 275-7333; outside of Albuquerque call 1-800-659-1779.

The Board may make a decision on the proposed regulatory change at the conclusion of the hearing or may convene a meeting after the hearing to consider action on the proposal.

NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION

NOTICE

The New Mexico Human Services Department (HSD) will hold a public hearing at 9:30 a.m., on August 7, 2002, at the New Mexico State Library, Room 2022, on the second floor, at 1205 Camino Carlos Rey, Santa Fe, New Mexico. The subject of the hearing will be Collaborative Practice Dental Hygienists as New Mexico Medicaid Providers.

Collaborative Practice Dental Hygienists who are in a Collaborative Practice as defined by the Board of Dentistry will be allowed to provide dental services to Medicaid Recipients as allowed by their scope of practice.

Interested persons may testify or submit written comments no later than 5:00 p.m., August 7, 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 on our Website at www.state.nm.us/hsd/mad.html. 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 HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION

NOTICE

The New Mexico Human Services Department (HSD) will hold a public hearing at 1:30 p.m., on August 8, 2002, in the Board Room at the Santa Fe Public Schools

Administration Building, Santa Fe, New Mexico. The subject of the hearing will be Changes to Market Basket Index (MBI) to Hospitals.

The New Mexico Human Services Department, Medical Assistance Division currently increases Hospital rates annually using the Centers for Medicare and Medicaid Services' (CMS) Market Basket Index (MBI) each year as the inflator. This register proposes that pursuant to budget availability and at the Department's discretion, the application of the MBI inflation factor will be reviewed based upon economic conditions and trends. A notice will be sent out every October 1st informing the provider whether the MBI will be used for the upcoming year and what the percentage increase will be if the MBI is authorized to be applied.

Interested persons may testify or submit written comments no later than 5:00 p.m., August 8, 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 on our Website at www.state.nm.us/hsd/mad.html. 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 HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION

NOTICE

The New Mexico Human Services Department (HSD) will hold a public hearing at 1:30 p.m., on August 14, 2002, at the State Personnel building, large conference room, Room 230, at 2600 Cerrillos Road, Santa Fe, New Mexico. The subject of the

hearing will be Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Personal Care Services.

The EPSDT Personal Care Services policy section MAD-746.5, dated September 1, 1998, will be revised to include service for individuals with cognitive impairment. The policy will also provide an explanation of when relatives can provide personal care services for individuals 18 to 21 years of age.

Interested persons may testify or submit written comments no later than 5:00 p.m., August 14, 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 on our Website at www.state.nm.us/hsd/mad.html. 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
DEPARTMENT OF LABOR
LABOR AND INDUSTRIAL
DIVISION**

NOTICE OF PUBLIC HEARING

The State Apprenticeship Council of the New Mexico Department of Labor, has set a public hearing in the matter of the State Apprenticeship Council Policy Manual and the addition of specific language to the policy manual. Public Hearing to be held as follows:

DATE: August 22, 2002

TIME: 1:30 PM

PLACE: PLUMBERS & PIPEFITTERS UNION HALL

411 ARIZONA SE
ALBUQUERQUE,
NEW MEXICO 87108

This hearing complies with Part 3, Sections 22.2.2.7 with the purpose of adopting the following language:

The numeric ratio of apprentices to journeymen consistent with established industry practices, proper supervision, training, safety and continuity of employment and applicable provisions in collective bargaining agreements except where such ratios are expressly prohibited by the collective bargaining agreements. The ratio language shall be specific and clear as to application in terms of jobsite, workforce, department or plant. For all apprenticeship programs in the building and construction industry, the maximum allowable ratio of apprentices to journeymen shall not exceed 1:1 on a job or an employer's total workforce;

Interested persons may present their views in writing to the Acting Director of the Labor and Industrial Division at 501 Mountain Rd. NE, Albuquerque, NM 87102. Written comment should be received no later than August 1, 2002.

Anyone requiring special accommodations at the hearing must contact the Director's office no later than August 15, 2002 at 827-6875.

Respectfully Submitted,

Rudy J. Maestas, Acting Director
Labor and Industrial Division
New Mexico Department of Labor

**NEW MEXICO PUBLIC
REGULATION
COMMISSION
INSURANCE DIVISION**

**BEFORE THE NEW MEXICO SUPER-
INTENDENT OF INSURANCE**

**IN THE MATTER OF
THE 2002 ANNUAL TITLE
INSURANCE HEARING**

**DOCKET
NO. 02-172-IN**

**NOTICE OF HEARING TO CONSID-
ER THE PROMULGATION
OF PREMIUM
RATES AND PROCEDURAL ORDER**

THIS MATTER comes before the New

Mexico Superintendent of Insurance ("Superintendent") upon the Superintendent's own motion, pursuant to the statutory mandate of NMSA 1978, Section 59A-30-8 (A), requiring the Superintendent to hold an annual hearing during November of each calendar year to consider promulgation of premium rates and any other matters related to the regulation of the business of title insurance deemed necessary by the Superintendent. The Superintendent, being fully advised in the premises, hereby issues the following notice and order:

1. A public hearing shall be held commencing on **Thursday, November 21, 2002, at 9:30 a.m.** and continuing on **Friday, November 22, 2002 at 9:30 a.m.**, if necessary, at the Public Regulation Commission Hearing Room, Fourth Floor, P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico. The hearing shall be held for the purpose of considering title insurance rates. The proceeding shall be a formal administrative hearing within the meaning of NMSA 1978, Section 59A-4-17. Certain provisions of the Administrative Procedures Act, specifically, NMSA 1978, Sections 12-8-10 through 12-8-13, and Section 12-8-15, shall apply to the proceeding.

2. Pursuant to NMSA 1978, Section 59A-3-6 (C), title insurance rates shall not be excessive, inadequate or unfairly discriminatory, and shall contain an allowance permitting a profit which is not unreasonable in relation to the riskiness of the business of title insurance.

3. Any person intending to file a rate proposal or otherwise participate as a party to this proceeding shall file a motion for leave to intervene on or before **Monday, July 29, 2002**. Objections to motions for leave to intervene shall be filed on or before **Friday, August 9, 2002**.

4. Techniques of pre-hearing discovery permitted in civil actions in New Mexico, such as interrogatories, depositions, and requests for production of documents, may be employed by Staff or any party commencing on or after **Monday, August 19, 2002**. The time in which to respond to interrogatories and requests for production of documents shall be shortened to 10 calendar days after service.

5. Staff of the Insurance Division Title Insurance Bureau ("Staff") and all other persons who have been granted leave to intervene ("parties") who wish to submit independent written rate proposal(s) and actuarial reports(s) relating to the rate proposals(s) shall file such proposal(s) and report(s) in this docket on or before **Friday, October 4, 2002**.

6. Staff and all parties shall file the fol-

lowing items in this docket on or before **Friday, October 4, 2002:**

a) Notice of Intent to Call Expert Witnesses, which shall include the name, address, and business association of each expert witness;

b) Witness List, which shall include addresses and telephone numbers for each witness named; and

c) Pre-filed Direct Testimony and copies of related exhibits for each lay witness and for each expert witness.

7. All lay witnesses and all expert witnesses shall file pre-filed direct testimony, appear at the hearing and submit to examination under oath.

8. Staff and all parties shall file the following items in this docket on or before **Friday, October 18, 2002:**

a) Pre-filed Rebuttal Testimony and copies of related exhibits; and

b) Objections to Pre-filed Direct Testimony and exhibits.

9. Staff and all parties shall file the following items in this docket on or before **Monday, October 28, 2002:**

a) Pre-filed Reply Testimony and copies of related exhibits, which shall be limited to the scope of rebuttal testimony; and

b) Objections to Pre-filed Rebuttal Testimony and exhibits.

10. No discovery requests or notices of taking deposition shall be served after **Friday, November 1, 2002.**

11. Staff and all parties shall file Objections to Pre-filed Reply Testimony and exhibits on or before **Monday, November 4, 2002.**

12. Staff and all parties shall meet and confer to discuss the narrowing of issues to be addressed at the hearing, stipulations regarding undisputed material facts and admissibility of all uncontested documents, and any other unresolved issues to be addressed at the hearing. The parties shall prepare and file a joint proposed hearing agenda regarding the promulgation of premium rates and any stipulations reached by the parties on or before **Monday, November 4, 2002.**

13. A pre-hearing conference shall be held on **Friday, November 8, 2002, at 9:30 a.m.** at the Public Regulation Commission Hearing Room, Fourth Floor, P.E.R.A. Building, Corner of Paseo de Peralta and Old Santa Fe Trail, New Mexico. The Superintendent or his designated hearing officer shall preside at the pre-hearing conference. The purpose of the pre-hearing conference is to narrow the issues to be addressed at the hearing, to hear all pending motions and other outstanding matters related to the hearing, and to set the agenda for the hearing.

14. An original and two copies of all proposals, reports, comments, motions, notices and other materials to be filed shall be submitted in person or by mail to the Public Regulation Commission's Docketing Office, citing the above-referenced docket. The Docketing Office is located in Room 406, P.E.R.A. Building, Corner of Paseo de Peralta and Old Santa Fe Trail, New Mexico and its mailing address is P.O. Box 1269, Santa Fe, New Mexico 87504-1269. An additional copy of all proposals, reports, comments, motions, notices and other materials filed in this docket shall be delivered or mailed to Charles G. Denton, Supervisor, Title Insurance Bureau, Insurance Division, Room 431, P.E.R.A. Building, Corner of Paseo de Peralta and Old Santa Fe Trail, P.O. Box 1269, Santa Fe, New Mexico 87504-1269.

15. All submissions shall be deemed filed as of the date and time stamped by the Docketing Office.

16. Staff shall arrange for distribution and publication of this notice pursuant to NMSA 1978, Section 59A-4-16 and other applicable law.

17. Any 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, should contact Ann Echols at (505) 827-4526 no later than **Monday, November 18, 2002.** Public documents, including the transcript, agenda or minutes, if any, can be provided in various accessible forms. Please contact Ann Echols if a summary or other type of accessible form is needed.

DONE AND ORDERED this ____ day of June 2002

ERIC P. SERNA

SUPERINTENDENT OF INSURANCE

**NEW MEXICO PUBLIC
REGULATION
COMMISSION
INSURANCE DIVISION**

**BEFORE THE NEW MEXICO SUPER-
INTENDENT OF INSURANCE**

**IN THE MATTER OF
THE 2002 ANNUAL TITLE
INSURANCE HEARING**

**DOCKET
NO. 02-172-IN**

**NOTICE OF HEARING TO ADDRESS
MATTERS RELATED TO THE REGU-**

**LATION OF TITLE INSURANCE
OTHER THAN THE PROMULGA-
TION OF PREMIUM RATES AND
PROCEDURAL ORDER**

THIS MATTER comes before the New Mexico Superintendent of Insurance ("Superintendent") upon the Superintendent's own motion, pursuant to the statutory mandate of NMSA 1978, Section 59A-30-8 (A), requiring the Superintendent to hold an annual hearing during November of each calendar year to consider promulgation of premium rates and any other matters related to the regulation of the business of title insurance deemed necessary by the Superintendent. The Superintendent, being fully advised in the premises, hereby issues the following notice and order:

1. A public hearing shall be held on **Wednesday, November 20, 2002, at 9:30 a.m.**, at the Public Regulation Commission Hearing Room, Fourth Floor, P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico. The hearing shall be held for the purpose of adopting and/or amending regulations and forms, for determining the Insurance Fraud Fund assessment for title insurers pursuant to NMSA 1978, Section 59A-16C-14 (1999), and for addressing other matters related to the business of title insurance. The proceeding shall be informal within the meaning of NMSA 1978, Section 59A-4-18.

2. Staff of the Insurance Division ("Staff") and all other persons wishing to submit proposals relating to adopting and/or amending regulations and forms, determining the Insurance Fraud Fund assessment for title insurers pursuant to NMSA 1978, Section 59A-16C-14 (1999), and other matters related to the business of title insurance shall file the following items in this docket on or before **Friday, October 11, 2002:**

a) written proposal(s); and

b) written comments and exhibits in support of their proposal(s). All written comments shall state and discuss the particular reasons for the proposal and where necessary or appropriate to effectuate the proposal, shall include specific language to implement the proposal.

3. All interested persons may testify at the hearing.

4. Interested persons who have not filed proposals, but who wish to comment on proposals filed by others in this docket, may do so by filing written comments on or before **Friday, October 25, 2002.**

5. All responsive comments shall be filed no later than **Monday, November 4, 2002.**

6. All written comments suggesting

changes to proposals shall state and discuss the particular reasons for the suggested changes and, where necessary or appropriate to effectuate the changes being suggested, shall include specific language for incorporation into the proposal. Responsive comments shall also include specific language for incorporation into the proposals where necessary or appropriate.

7. The parties shall meet and confer to discuss the narrowing of issues to be addressed at the hearing and any other unresolved issues to be addressed at the hearing. The parties shall prepare and file a joint proposed hearing agenda regarding regulation of title insurance other than promulgation of premium rates on or before **Monday, November 4, 2002**.

8. A pre-hearing conference shall be held on **Friday, November 8, 2002, at 9:30 a.m.** at the Public Regulation Commission Hearing Room, Fourth Floor, P.E.R.A. Building, Corner of Paseo de Peralta and Old Santa Fe Trail, New Mexico. The Superintendent or his designated hearing officer shall preside at the pre-hearing conference. The purpose of the pre-hearing conference is to narrow the issues to be addressed at the hearing, to hear all pending motions related to the hearing, and to set the agenda for the hearing.

9. Proposals and Comments will be available for public inspection during regular business hours at the Public Regulation Commission's Docketing Office. An original and two copies of all proposals, reports, comments, motions, notices and other materials to be filed shall be submitted in person or by mail to the Docketing Office, citing the above-referenced docket. The Docketing Office is located in Room 406, P.E.R.A. Building, Corner of Paseo de Peralta and Old Santa Fe Trail, New Mexico and its mailing address is P.O. Box 1269, Santa Fe, New Mexico 87504-1269. An additional copy of all proposals, reports, comments, motions, notices and other materials filed in this docket shall be delivered or mailed to Charles G. Denton, Supervisor, Title Insurance Bureau, Insurance Division, Room 431, P.E.R.A. Building, Corner of Paseo de Peralta and Old Santa Fe Trail, P.O. Box 1269, Santa Fe, New Mexico 87504-1269.

10. All submissions shall be deemed filed as of the date and time stamped by the Docketing Office.

11. Staff shall arrange for distribution and publication of this notice pursuant to NMSA 1978, Section 59A-4-16 and other applicable law.

12. Any 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, should contact Ann Echols at (505) 827-4526 no later than November 18, 2002. Public documents, including the transcript, agenda or minutes, if any, can be provided in various accessible forms. Please contact Ann Echols if a summary or other type of accessible form is needed.

13. Interested persons should contact the Docketing Office or Staff for confirmation of the hearing date, time and place since hearings are rescheduled on occasion. **DONE AND ORDERED** this ____ day of June 2002.

ERIC P. SERNA
SUPERINTENDENT OF INSURANCE

NEW MEXICO RACING COMMISSION

NEW MEXICO RACING COMMISSION NOTICE OF RULE- MAKING AND PUBLIC HEARING

NOTICE IS HEREBY GIVEN

that a rulemaking and public hearing will be held in the Turf Club, Ruidoso Downs Racetrack and Casino, 1461 Highway 70 West, Ruidoso Downs, New Mexico, commencing in executive session at 3:00 o'clock p.m. on Tuesday, July 16, 2002. The public session will begin at 8:30 o'clock a.m. on Wednesday, July 17, 2002. The Commission will consider adoption of proposed new/amended rules for incorporation into the Rules Governing Horse Racing in New Mexico Nos. Subsection C (regarding medication restrictions) and Subsection D (regarding penalty recommendations) of 15.2.6.9 NMAC, and other matters of general business.

Copies of these proposed rules may be obtained from Julian Luna, Agency Director, New Mexico Racing Commission, 300 San Mateo N.E., Suite 110, Albuquerque, New Mexico 87108, (505) 841-6400. Interested persons may submit their views on the proposed rules to the Commission at the above address and/or may appear at the scheduled meeting and make a brief verbal presentation of their view.

Anyone who requires special accommodations is requested to notify the Commission of such needs at least five days prior to the meeting.

Kim Ahlbom
Deputy Agency Director

Dated: June 25, 2002

**End of Notices and
Proposed Rules Section**

Adopted Rules and Regulations

NEW MEXICO BOARD OF EDUCATION

This is an amendment to 6.19.2 NMAC which adds a new section 10 and renumbers sections 10 through 16.

6.19.2.10 CORRECTIVE ACTION INITIATED BY A LOCAL SCHOOL BOARD, SUPERINTENDENT, OR THE GOVERNING BODY OF A CHARTER SCHOOL: Efforts at local corrective action, that is, corrective action taken by a local school board, a superintendent or the governing body of a charter school that directly involves a corrective action school as defined in Section 7 of 6.19.1 NMAC, shall not result in additional corrective action by the State Board or Department under 6.19.1 NMAC or 6.19.2 NMAC, provided that:

A. The local corrective action complies with 6.30.2 NMAC ("Standards for Excellence") and any other applicable rule of the State Board that relates to obtaining Departmental approval prior to closure or reorganization of a public school.

B. The authority to suspend under this rule shall be continuous and remain with the State Board through the State Superintendent, and may be invoked at any time the State Board determines that the local corrective action is not in compliance with Section 9 of 6.19.2 NMAC, any other provision of this rule, or any provision of 6.19.1 NMAC.

C. Any local corrective action is subject to being disapproved by the State Board acting through the State Superintendent where it:

(1) does not comply with the spirit or intent of this rule; or

(2) is detrimental to students enrolled in the corrective action school; or

(3) is unlikely even with best practices to take the school under consideration out of corrective action; or

(4) would result in mismanagement, misuse or waste of public funds; or

(5) is otherwise not in the best interests of students enrolled in the corrective action school.

[6.19.2.10 NMAC – N, 03-29-02; 6.19.2.10 NMAC – N, 07-15-02]

~~[6.19.2.10]~~ **6.19.2.11 SUSPENSION OF A LOCAL SCHOOL BOARD FOR PURPOSES OF CORRECTIVE ACTION:** The State Board, through the State Superintendent, may, for purposes of corrective action, suspend the authority and

responsibility of a local school board or a charter school's governing body. Where the school subject to corrective action is a charter school, the State Board, through the State Superintendent, shall have final authority over decisions of the school's governing body. As used below, "local school board" includes the governing body of a charter school.

A. The suspension may be accomplished by either partially or totally suspending the local school board's authority and responsibility.

B. A total suspension permits the suspension of all the local school board's authority and responsibility.

C. A partial suspension permits the suspension:

(1) of all the local school board's authority and responsibility as it pertains to fewer than all schools within that board's district; or

(2) of some of the local school board's authority and responsibility as it pertains to any or all schools within that board's district.

D. Whether total or partial, suspension of a local school board suspends the power, duties, authority, and responsibilities of the local school board as specified in the suspension order.

E. No suspension shall be used to bring about a consolidation or reorganization of a school district without the approval of the local board of that district.

[6.19.2.11 NMAC – N, 03-29-02; 6.19.2.11 NMAC – Rn, 6.19.2.10 NMAC, 07-15-02]

~~[6.19.2.11]~~ **6.19.2.12 DURATION**

OF SUSPENSION: Unless otherwise provided in this rule, suspension of a local school board shall continue until requirements of law, standards or rules have been met, compliance is assured, and the State Board removes the suspension. Despite suspension of their powers, duties, authority and responsibility, nothing in this rule shall in any way limit the term of office, membership, election, re-election or recall of a local school board.

[6.19.2.12 NMAC – N, 03-29-02; 6.19.2.12 NMAC – Rn, 6.19.2.11 NMAC, 07-15-02]

~~[6.19.2.12]~~ **6.19.2.13 VOLUN**

TARY SUSPENSION: The authority and responsibility of a local school board may be suspended voluntarily. Such a voluntary suspension may be either total or partial. A voluntary suspension shall be accomplished by an agreement signed as between the State Superintendent and the local board, and approved by the State Board at its next available meeting.

[6.19.2.13 NMAC – N, 03-29-02; 6.19.2.13 NMAC – Rn, 6.19.2.12 NMAC, 07-15-02]

~~[6.19.2.13]~~ **6.19.2.14 INVOLUNTARY SUSPENSION:**

The State Superintendent may commence involuntary suspension of a local school board if a school within its district has rated probationary for two out of three consecutive years, and has failed to meet the criteria for the extension of school improvement after rating probationary for two out of three consecutive years. The State Board may direct the State Superintendent to determine if total or partial suspension of a local school board would be in the best interests of school children in a school district subject to corrective action. The State Superintendent can but need not pursue involuntary suspension procedures as a pre-condition to involuntary suspension. Except for a total suspension in which case the suspension procedures set forth at Section 22-2-14 NMSA 1978 shall apply, the following procedures shall be used to accomplish a partial suspension:

A. Issuance of a notice of proposed suspension. To commence an involuntary suspension, the State Superintendent shall issue a notice of proposed suspension that:

(1) is delivered to the local school board that is the subject of the proposed suspension;

(2) identifies the public school or public schools under the authority and responsibility of a local school board that is the object of the proposed suspension;

(3) indicates the expected duration of the proposed suspension and that states it will not exceed the given duration unless extended by the State Board;

(4) identifies a date, place and time where the local school board may appear and show cause either orally, in writing, or both, why an order of suspension should not be issued;

(5) limits the amount of time that anyone including the local school board and their representative(s) and any witnesses may have, to address the State Superintendent at the show cause hearing;

(6) notifies the local district that a written recommendation to suspend or not to suspend shall be made within 10 days of the show cause hearing.

B. Issuance of a written recommendation. Within 10 days of the show cause hearing, the State Superintendent shall issue a written recommendation to suspend or not to suspend. Unless the State Superintendent has recommended non-suspension, he shall issue and

deliver a copy of the proposed suspension order to the local school board together with a copy of the recommendation to suspend.

C. Contents of the proposed suspension order. The proposed suspension order shall:

(1) identify the group, individual(s) or combination thereof who will manage and operate the school(s) subject to corrective action;

(2) identify the public school or public schools that is the object of the proposed suspension;

(3) indicate the duration of the proposed suspension and state that it will not exceed the given duration unless extended by the State Board;

(4) give a detailed reason why suspension is being ordered;

(5) set forth the specific power, duties, authority, and responsibilities of the local school board that will be affected by the proposed suspension order;

(6) be accompanied by the outline of an action plan the State Superintendent intends to follow in providing management or necessary personnel to operate the deficient public school or schools;

(7) contain a statement that the proposed suspension order shall become a final suspension order unless the local school board appeals the State Superintendent's recommendation and proposed suspension order to the State Board within 10 days of receipt of the proposed order;

(8) contain a provision that the State Superintendent or his designee shall have the authority to direct the district business office to execute an appropriate procurement document and enter into a lawful contract and/or a joint powers agreement with both the SDE and a qualified provider for management consultant services, goods, services and salaries. Also, the proposed suspension order shall contain the substance of the following provisions, where applicable. The management consultant shall have control over the fiscal resources of the individual school. In making purchases, management consultants shall purchase all required district goods and services in accordance with the provisions of the New Mexico Procurement Code. The funding available to management consultants for a charter school shall be governed by the 1999 Charter Schools Act [22-8B-1 to 22-8B-15 NMSA 1978]. For all other public schools, the following fiscal resources shall be available at a minimum:

(a) a program cost amount determined by the membership of the school subject to corrective action, using the same methodology used to calculate program cost for a school district. For the purpose of cal-

culating the school subject to corrective action's program cost, the district's training and experience index and the district's at-risk index shall be used;

(b) that portion of money from state, federal or local programs generated by students enrolled in the school subject to corrective action eligible for that aid; and

(c) any capital outlay funding designated for the school subject to corrective action;

(9) contain a provision that directs the district business office to include in that district's annual audit any public school funds used or expended by any person or entity listed at Subsection A of 6.19.2.14 NMAC who is carrying out a corrective action.

D. Appeal of Proposed Suspension Order. Only a local school board may appeal a proposed suspension order to the State Board. A final suspension order shall not for any reason be subject to appeal to, or review or reconsideration by, the State Superintendent or State Board. To appeal a proposed suspension order, the following procedures must be followed:

(1) A written notice of appeal shall be filed with the State Board within 10 days of receipt of the State Superintendent's recommendation and proposed suspension order.

(2) The State Superintendent shall schedule the matter to be heard by the State Board, after giving the local school board at least 30 days within which to submit its written reasons and documents to support its position that a suspension should not be ordered at all or in the manner proposed.

(3) The State Superintendent shall have 10 days from the receipt of the local school board's written reasons and supporting documents to submit any rebuttal reasons or documentation in support of the proposed suspension order. With the exception of provisions of law or rules, no other documents by either side shall be permitted to be submitted to or considered by the State Board.

(4) The State Board shall allow either side, including any witnesses, a total of 30 minutes to present their position.

(5) At any time prior to the end of its meeting, the State Board shall issue a decision and order which shall either:

(a) deny the State Superintendent's proposed suspension order, or

(b) allow the State Superintendent's proposed suspension order and impose any conditions on the suspension that do not violate state laws or existing State Board rules.

(6) Any decision and order of the State Board that suspends a local school

board shall order the suspension to become effective on the first day of the month following the meeting of the State Board that allowed the suspension.

(7) The decision and order of the State Board is final and shall not be subject to further appeal to, or review or reconsideration by, the State Board.

(8) Notwithstanding its decision and order, the State Board shall have continuing authority to order a modification or early termination of a suspension order, provided it justifies its action at a State Board meeting and gives both sides the opportunity to be heard.

E. Termination of Suspension. A suspension of a local school board under this rule shall terminate only upon approval by the State Board at its next available meeting convened as near as practicable to the month set for termination in the suspension order. Provided, however, that:

(1) Either the State Superintendent or a local school board may seek an earlier termination by submitting a detailed written request to the State Board.

(2) Upon termination of suspension where the local school board is for whatever reason no longer lawfully constituted, the State Superintendent shall assist in a transition capacity only, until a new school board has been duly elected and sworn.

(3) Any power, duties, authority, and responsibilities held by the State Superintendent during the suspension shall be deemed immediately transferred to the local school board upon the termination of the suspension by the State Board.

(4) The State Board may at any time on its own terminate a suspension, provided that it does so at a public meeting where it gives its reasons for the decision.

F. Enforcement of Suspension. The State Superintendent or State Board may enforce this rule by applying to the district court for an injunction, writ of mandamus or other appropriate relief.

[6.19.2.14 NMAC – N, 03-29-02; 6.19.2.14 NMAC – Rn, 6.19.2.13 NMAC, 07-15-02]

[6.19.2.14] 6.19.2.15 IMPLEMENTATION OF CORRECTIVE ACTION:

A. The State Superintendent shall prescribe a written action plan on how the corrective action school(s) will be managed and operated during the life of the suspension. The action plan need not be finalized at the time the suspension becomes effective and once completed may be modified at any time as circumstances change. The action plan

shall be maintained by the state superintendent or his designee. The action plan may encompass the use of any or all of the following groups or individuals in managing or operating the corrective action school(s):

- (1) the Department;
- (2) contracted consultants;
- (3) contracted management (e.g., another school district, individual, group, private company, university);
- (4) contracted for individuals from other school districts, educational cooperatives, educational organizations, or the state's colleges and universities;
- (5) any combination of the foregoing.

B. **Effect of Suspension on District Employees.** While it shall not be the express purpose of a suspension under this rule to terminate, discharge, or replace licensed or unlicensed district or charter school employees, the State Superintendent shall possess and execute all the legal authority and responsibility of the suspended local school board subject to the following restrictions.

(1) The object of the State Superintendent's authority and responsibility shall be limited to the school or schools identified in the suspension order.

(2) The scope of the State Superintendent's authority and responsibility shall be limited to the school or schools identified in the suspension order.

(3) The retention of existing district administrators and employees shall be considered.

(4) Any termination or discharge of district employees must be conducted in accordance with the applicable sections of the School Personnel Act [Section 22-10-1 et seq. NMSA 1978].

(5) Any adverse personnel action of any licensed or unlicensed district employee shall be limited to the authority set forth in the suspended district's policies.

(6) The State Superintendent shall not be obligated to honor any district employment plans or letters of intent issued pursuant to Section 22-10-13 NMSA 1978 that involve the hiring of an individual holding or seeking a substandard license.

C. In the event any group or individual(s) identified in the corrective action plan fails, refuses or otherwise ceases to perform in accordance with the State Superintendent action plan or pursuant to a contract entered into with a corrective action school, the authority and responsibility to manage the corrective action school under the corrective action plan shall immediately revert to the State Superintendent.

[6.19.2.15 NMAC – N, 03-29-02; 6.19.2.15 NMAC – Rn, 6.19.2.14 NMAC, 07-15-02]

~~[6.19.2.15]~~ **6.19.2.16** **ANNUAL STATUS REPORT:** The State Superintendent shall report on the progress of any local school board suspension periodically to the State Board. At a minimum, the State Superintendent shall report to the State Board on the 12th-month anniversary of the suspension of a local school board. Additionally, he shall report to the State Board upon the termination of suspension of a local school board. Modification of any action plans need not be reported unless they involve substantial changes.

[6.19.2.16 NMAC – N, 03-29-02; 6.19.2.16 NMAC – Rn, 6.19.2.15 NMAC, 07-15-02]

~~[6.19.2.16]~~ **6.19.2.17** **SEVERE ABILITY:** If any part or application of this rule is held invalid, the remainder or its application to other situations shall not be affected.

[6.19.2.17 NMAC – Rn, 6.19.2.16 NMAC, 07-15-02]

NEW MEXICO BOARD OF EDUCATION

This is an amendment to 6.30.3 NMAC, sections 2, 3, 6, 8 and 9.

6.30.3.2 SCOPE: All official ~~[GED Testing Centers]~~ general educational development ("GED") testing centers, public schools, and private schools, and individuals seeking to take the GED test in New Mexico.

[01-01-97, 07-30-99; 6.30.3.2 NMAC - Rn, 6 NMAC 3.4.1.2, 05-31-01; A, 07-15-02]

6.30.3.3 STATUTORY AUTHORITY: This regulation is being promulgated pursuant to Sections 22-2-1 ~~and 22-2-2, 22-2-8.8, 22-8-2, 22-12-2, 22-12-4, and 43-1-3.~~ New Mexico Statutes Annotated, 1978 Compilation.

[01-01-97, 07-30-99; 6.30.3.3 NMAC - Rn, 6 NMAC 3.4.1.3, 05-31-01; A, 07-15-02]

6.30.3.6 OBJECTIVE: To enable individuals who ~~were~~ are unable to graduate from high school the opportunity to demonstrate developed abilities normally acquired through completion of a high school program and thereby earn a credential equivalent to a high school diploma.

[01-01-97, 07-30-99; 6.30.3.6 NMAC - Rn, 6 NMAC 3.4.1.6, 05-31-01; A, 07-15-02]

6.30.3.8 ELIGIBILITY:
A. ~~[An individual,]~~ Any individual whether or not a New Mexico resident, who has not graduated from an accredited high school and who is not cur-

rently enrolled in an accredited high school is eligible to take the ~~[General Educational Development Tests (GED Tests)]~~ GED Tests if:

- (1) [Reserved]
- (2) The individual is a minimum of ~~[+7]~~ 16 years of age.

B. If the individual is under 18 years of age, the following conditions must also be met:

(1) ~~[A consent]~~ An underage form completed by the local superintendent (or his/her designee) [recommending] authorizing testing must be presented to the local GED Chief or Alternate Examiner.

(2) The aforementioned form shall contain the individual's birth date, date of withdrawal from school, ~~[the reason for testing,]~~ and signature from the parent or legal guardian. It shall be ~~[a triplicate form]~~ executed in triplicate form.

(3) The ~~[consent]~~ underage form (described in Subsection B, Paragraphs (1) and (2) of 6.30.3.8 NMAC) must be completed and presented to the local GED Chief or Alternate Examiner. One copy is to be kept by the local school district, one copy is kept by the local GED Chief or Alternate Examiner, the remaining part will be forwarded with the applicant's passing test scores to the state GED Testing Office.

C. Individuals ~~[residing]~~ detained at a New Mexico Juvenile Correctional Institution or a ~~[Correctional Residential Facility]~~ Juvenile Justice Division Facility operated by the children youth and family department, will be permitted to take the GED Tests at a minimum age of 16 provided that they receive ~~[a recommendation]~~ an authorization to do so from the ~~[authorized correctional official(s)]~~ warden, director or educational director of that institution or facility. He/she will receive the New Mexico High School Diploma upon successful completion of the GED Tests.

D. An individual enrolled in a state institution under the authority of the secretary of the health department will be permitted to take the GED Tests at a minimum age of 16 provided that they receive a recommendation to do so from the director of the facility where he/she is enrolled or from the educational director of that facility. No other consent to take the GED Tests is required.

E. Individuals enrolled in any other state institution will be permitted to take the GED tests at a minimum age of 16 provided that they receive a recommendation to do so from the director of the facility where he/she is enrolled or from the educational director of that facility. No other consent to take the GED Tests is required.

~~[D.] E. [The individual does not need to be a New Mexico resident to take the GED Tests.]~~ Proper identification in the form of a state or other government-issued picture ID such as a driver's license, passport, state identification card, must be presented to the GED Chief or Alternate Examiner before testing may begin in order to determine identity, ~~[age]~~ date of birth, and residency (residency ~~[is]~~ must be established in order to determine the proper state for ~~[issuance of the appropriate credential]~~ release and forwarding of the GED test scores to the state of residency). Additionally, the identification submitted by an applicant must verify either their signature or their social security number. [03-03-81, 07-20-93, 01-01-97, 07-30-99; 6.30.3.8 NMAC - Rn, 6 NMAC 3.4.1.8, 05-31-01; A, 07-15-02]

6.30.3.9 PROCEDURE:

A. Upon successful completion of the GED Tests, ~~[the local Chief or Alternate Examiner will forward the individual's scores to the State GED Testing Office]~~ GED test scores will be released in accordance with the current GED Examiners Manual. Successful completion is defined as:

(1) Obtaining a minimum standard score of ~~[40]~~ 410 on each test in the battery, and

(2) Obtaining an average standard score of at least ~~[45]~~ 450 on the tests in the battery.

B. The local Chief or Alternate Examiner will send the individual an official report of scores he/she attained on the GED Tests.

C. A New Mexico resident who has successfully passed the GED Tests and is at least 16 years of age will receive the New Mexico High School Diploma issued by the State Board of Education through the State GED Testing Office. Only New Mexico residents who have successfully passed the GED Tests will be eligible to receive the New Mexico High School Diploma. Residents of other states will have their GED test scores forwarded to their state of residency.

D. ~~[An individual]~~ A New Mexico resident who has passed the GED Tests and has also met the requirements for a local high school diploma will receive the local high school diploma instead of the New Mexico High School Diploma issued by the State Board of Education through the state GED Testing Office.

E. Except for a school age person who is detained or enrolled in a state institution, a New Mexico resident who has passed the GED tests and has received a GED certificate, may as permitted by law

enroll in any public school in New Mexico for the purpose of obtaining a school-district high school diploma, provided he/she has not yet attained the age of 21. Pursuant to Section F of 6.30.3 NMAC, the enrollment exception contained in this section shall not apply to a person enrolled in a state institution under the authority of the secretary of health.

E. Any school age individual who is a "client" as defined in Section 43-1-3 NMSA 1978 and is in a state institution under the authority of the secretary of the health department, shall have a right to attend public school in the school district in which he is a client is located if:

(1) the school age person has been recommended for placement in a public school by the educational appraisal and review committee of the district in which the institution is located; or

(2) the school age person has been recommended for placement in a public school as a result of the appeal process as provided in the special education regulations of the state board of education.

G. A State Board of Education-issued New Mexico High School Diploma awarded by reason of an individual having obtained passing scores on the GED Tests shall be equivalent to a high school diploma issued by a school district pursuant to Section 22-2-8.4 NMSA 1978. [01-31-72, 06-12-73, 01-11-78, 03-03-81, 07-20-93, 01-01-97, 07-30-99; 6.30.3.9 NMAC - Rn, 6 NMAC 3.4.1.9, 05-31-01; A, 07-15-02]

NEW MEXICO BOARD OF EDUCATION

This is an amendment to 6.60.5 NMAC, sections 2, 6, 7, 8 and 10.

6.60.5.2 SCOPE: All persons seeking teaching licensure, certain licensure endorsements, administrator licensure, and bilingual education endorsement on or after July 30, 1999; all persons who have registered to take or have taken any portion of the New Mexico Teacher Assessments; all persons whose teaching or administrative licensure have lapsed.

[12-31-98, 07-30-99; 6.60.5.2 NMAC - Rn, 6 NMAC 4.2.2.2.2 & A, 10-13-00; A, 07-01-01; A, 07-15-02]

6.60.5.6 OBJECTIVE: This regulation is adopted by the State Board of Education (hereinafter "State Board") for the purpose of establishing the New Mexico Teacher Assessments ("NMTA") as the sole acceptable examination for educator licensure in New Mexico. Although the State

Board adopts the New Mexico Teacher Assessments as the successor examination to the Core Battery of the National Teachers Examination, this regulation also provides a reasonable but limited timeline for acceptance of passing test scores from those applicants who took the Core Battery of the National Teachers Examination during a specific period of time. This regulation also establishes the New Mexico Content Knowledge Assessments ("NMCKA"), which is part of the NMTA, as the content tests required to be taken to hold certain endorsements on teaching licenses or to receive an initial elementary K-8 license. This regulation also establishes La Prueba de Español para la Certificación Bilingüe as the State Board's required Spanish language proficiency examination for persons seeking an endorsement to a teaching license in Spanish/English bilingual education. ~~[This]~~ Lastly, this regulation establishes procedures for investigating NMTA testing irregularities and taking corrective action.

[12-31-98, 07-30-99; 6.60.5.6 NMAC - Rn, 6 NMAC 4.2.2.2.6 & A, 10-13-00; A, 07-01-01; A, 07-15-02]

6.60.5.7 DEFINITIONS:

A. "NMCKA" means the New Mexico Content Knowledge Assessments, which are the teacher-tests approved by the State Board, portions of which individuals must take and pass in order to receive endorsements in language arts, reading, mathematics, science and social studies, or to receive initial licensure in elementary education from grades K-8.

~~[A.] B.~~ "NMTA" means the New Mexico Teacher Assessments, which [is the teacher test] are the teacher-tests approved by the State Board that all individuals must take and pass in order to receive initial educator licensure; the NMTA consists of the New Mexico Assessment of Teacher Basic Skills, the New Mexico Assessment of Teacher General Knowledge, the New Mexico Assessment of Teacher Competency (both at the elementary and secondary levels), and the New Mexico Content Knowledge Assessments ("NMCKA"); it shall include any test materials related to a testing applicant's taking of or registration for the NMTA.

~~[B.] C.~~ "test administrator" means the business entity, namely, the National Evaluation Systems, Inc. or NES that developed the NMTA, administers the NMTA at testing centers throughout New Mexico, scores the NMTA, and reports NMTA testing results to the State Department of Education ("SDE").

~~[C.] D.~~ "testing applicant" means a person who has filed an NMTA

registration form with the test administrator, or has yet taken a portion of the NMTA.

[D.] E. **“testing irregularity”** means any circumstance within or beyond the control of a testing applicant that, in the sole opinion of the SDE or NES raises doubts about the propriety of a testing applicant's NMTA registration, NMTA score, or conduct during an NMTA test.

[E.] F. **“withheld NMTA score(s)”** means the suspension of use by and disclosure to a testing applicant of his NMTA score(s) for up to 120 days upon a determination made by the SDE professional licensure unit director that testing irregularity is likely to have occurred.

[F.] G. **“voided NMTA score(s)”** means the cancellation, invalidation and non-disclosure of a testing applicant of his NMTA score(s) after a final determination of testing irregularity by the SDE professional licensure unit director or by a hearing officer of the State Board of Education.

[G.] H. **“rules of test participation”** means any written rules in the applicable NMTA Registration Bulletin that a testing applicant has expressly agreed to comply with as a condition of registering for or taking the NMTA.

[H.] I. **“educator licensure application”** means an application for any professional teaching or administrative license, excluding licensure for an athletic coach, educational assistant, substitute teacher, or related service providers.

[6.60.5.7 NMAC – N, 07-01-01; A, 07-15-02]

6.60.5.8 REQUIREMENTS:

[For the testing of teacher basic skills, teacher pedagogical knowledge, teacher general knowledge, and Spanish language proficiency. Beginning July 30, 1999, all applicants for initial licensure and all applicants whose prior licensure has expired for more than one year, in addition to meeting all other licensure and background check requirements of the State Board, are required to take the New Mexico Teacher Assessments, which consist of the following tests and obtain the following raw passing scores:] The NMTA consists of two generic categories of assessments. The first category is the basic knowledge, skills and competency assessments identified at Subsection A of 6.60.8 NMAC below. The second category is the content knowledge assessments, sometimes called content tests, identified at Subsection B of 6.60.8 NMAC below.

A. Beginning July 30, 1999 and except for those individuals covered by Subsections C and D of 6.60.8 NMAC below, all applicants for initial

teacher licensure and all applicants whose prior licensure has expired for more than one year, in addition to meeting all other licensure and background check requirements of the State Board, are required to take the basic knowledge, skills and competency assessments of the New Mexico Teacher Assessments, which consist of the following tests and obtaining the following passing scores:

[A.] (1) [Assessment of Teacher Basic Skills: Selected Response Score = 56 (70% correct)

Constructed Response Score = 6] Assessment of Teacher Basic Skills: Passing Score = 240; and

[B.] (2) [Assessment of Teacher General Knowledge: Selected Response Score = 55 (69% correct)]

Constructed Response Score = 6] Assessment of Teacher General Knowledge: Passing Score = 240; and either

[C.] (3) [Assessment of Teacher Competency, Elementary Selected Response Score = 43 (72% correct)

Constructed Response Score = 12 for Restricted Response 5 for Extended Response] Assessment of Teacher Competency, Elementary Level (for those seeking Early Childhood B-3 or Elementary K-8 licensure including Special Education K-12, Middle Level 5-9 and Grade K-12 licensure): Passing Score = 240, or

[D.] (4) [Assessment of Teacher Competency, Secondary Selected Response Score = 44 (73% correct) Constructed Response Score = 12 for Restricted Response 5 for Extended Response] Assessment of Teacher Competency, Secondary Level (for those seeking 7-12 licensure including Special Education K-12, Middle Level 5-9 and Grade K-12 licensure): Passing Score = 240.

B. Beginning with the September 2002 administration of the State Board's content testing and in addition to the testing requirement above, all applicants for initial licensure must take and pass a test in their content area subject to the following schedule:

(1) if they are seeking licensure in Elementary K-8, they shall take and pass the State Board's content knowledge assessment in elementary education prior to issuance of that license;

(2) if they are applying for licensure in Secondary 7-12, Middle Level 5-9 and/or Grade K-12 and are also seeking endorsement in language arts, reading, mathematics, science or social studies, or any combination thereof, they must take and pass the State Board's content knowledge assessment(s) in the respective content area prior to issuance of the endorsement(s);

(3) if they currently hold a license but seek to add an endorsement in language arts, reading, mathematics, science or social studies, or any combination thereof, they must take and pass the State Board's content knowledge assessment(s) in the respective content area prior to issuance of the endorsement(s).

(4) regardless of which of the content knowledge assessments they take, they must attain a score of 240 to pass.

C. Except as set forth in Subsection F of 6.60.5 NMAC below, a license that has been expired for more than one year shall be deemed to have lapsed. Anyone holding a license requiring the taking of the State Board's teacher test to be valid that has lapsed shall not be required to take the State Board's teacher test, provided that on a form acceptable to the professional licensure unit ("PLU") of the SDE, they submit evidence of having satisfactorily taught under their previous state license for at least five (5) complete school years. All licenses issued under this subsection shall be a level 1 license regardless of the level of the license that lapsed.

[E.] D. Applicants for an initial Spanish/English bilingual endorsement to a teaching license must, in addition to meeting all other State Board requirements for the endorsement, pass La Prueba de Español para la Certificación Bilingüe by obtaining a score of 2 or higher on any 12 of the 15 subsections. Applicants seeking this endorsement through licensure reciprocity should consult 6.60.4 NMAC for guidance. [12-31-98, 07-30-99, 02-14-00; 6.60.5.8 NMAC – Rn, 6 NMAC 4.2.2.2.8 & A, 10-13-00; A, 07-15-02]

6.60.5.10 SAVINGS CLAUSE:

[A.] Applicants described in Section 6.60.5.8 NMAC applying for licensure between July 30, 1999, and June 30, 2002, who have taken all portions of the Core Battery of the National Teachers Examination between January 1, 1996, and July 29, 1999, will be exempt from taking the basic knowledge, skills and competency assessments of the [New Mexico Teacher Assessments] NMTA provided they have obtained the following minimum scaled score associated with each test of the Core Battery of the National Teachers Examination:

[(+)] A. Professional Knowledge 630

[(+)] B. Communication Skills 644

[(+)] C. General Knowledge 645

[B.] Applicants described in Section 6.60.5.8 NMAC who have taken and passed one or two tests of the Core

Battery of the National Teachers Examination between January 1, 1996, and July 29, 1999, need only take the test(s) of the New Mexico Teacher Assessments that correspond to the remaining test(s) and obtain a score as set forth in 6.60.5.8 NMAC.

C. Applicants described in Section 6.60.5.8 NMAC who have taken but failed any of the tests of the Core Battery of the National Teachers Examination between January 1, 1996, and July 29, 1999, need only take the test(s) of the New Mexico Teacher Assessments that corresponds to the failing tests and obtain a score as set forth in 6.60.5.8 NMAC.

D. Applicants described in Section 6.60.5.8 NMAC who take any portion of the New Mexico Teacher Assessments during its initial May 22, 1999, testing and who are deemed to have failed any of the tests following the January 2000 establishment by the State Board of passing sealed scores will have the following options:

(1) To retake the failed test(s) once at the expense of the State Department of Education, or

(2) To apply for a portfolio review by the New Mexico Teacher Assessment and Alternative Licensure Review Panel pursuant to 6.2.4 NMAC, New Mexico Teacher Assessment Review Panel.] [07-30-99; 6.60.5.10 NMAC - Rn, 6 NMAC 4.2.2.2.10 & A, 10-13-00; A, 07-15-02]

NEW MEXICO BOARD OF EDUCATION

This is an amendment to 6.61.9 NMAC, section 14.

6.61.9.14 PRE-EXISTING HOLDING OF SUBSTANDARD LICENSURE: Upon the effective date of this regulation section and even if he/she has failed [or has never taken] a portion of the NMTA, anyone holding a substandard license for the [2000-2001] 2001-2002 school year, may be eligible for a renewed substandard license that would expire [June 30, 2002] July 31, 2003, provided that [he/she has complied with all] no other terms and conditions were imposed by the PLU on the previous substandard license, and provided further that their employing school district requests this one-year substandard license. After [the June 30, 2002 expiration date] July 31, 2003, should the local district or state institution seek to continue using that individual's services for another school year to perform services for which they are not appropriately licensed, a

request for renewal of substandard licensure based on lack of course work must be filed and justified in accordance with section 12 of 6.61.9. NMAC above. [After June 30, 2002, under no circumstance shall an individual who has failed any portion of the NMTA be granted a renewed substandard license.]

[6.61.9.14 NMAC - N, 07-16-01; A, 07-15-02]

NEW MEXICO DEPARTMENT OF GAME AND FISH

19.31.4.20 E M E R G E N C Y 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 Rio Grande River in Socorro County from the San Acacia Diversion downstream to the Bosque del Apache National Wildlife Refuge to the extent that fish life will be destroyed by drying out of the river due to diminished water levels below the San Acacia diversion 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 10:00 a.m., June 24, 2002, and will remain in effect through 11:59 p.m., July 31, 2002. [19.31.4 NMAC - N, 6-24-02]

NEW MEXICO COMMISSION ON HIGHER EDUCATION

This is an amendment to 5.7.16 NMAC, Section 7. This rule was also reformatted and renumbered from 5 NMAC 7.16 to comply with current NMAC requirements.

5.7.16.7 DEFINITIONS:

A. "Award letter" means official notification to a Vietnam veteran of eligibility to attend an educational institution and participate in the Vietnam veterans' scholarship program.

B. "Books" is the actual expenditure for course required books for classes in which the student is enrolled, not to exceed the amount used by the financial aid office for books in the calculation of cost of attendance for campus based programs.

C. "Commission" means the New Mexico commission on higher education.

D. "Educational institution" for undergraduate instruction means any New Mexico state supported postsecondary institution; for graduate instruction means the university of New Mexico, New Mexico state university, western New Mexico university, eastern New Mexico university, New Mexico institute of mining, and technology and New Mexico highlands university.

E. "Eligible class for reimbursement" means a course for credit included in a student's official transcript and creditable toward a [bachelor's or master's degree] certificate or degree-granting program.

F. "Master's degree course" means a class for students who hold a bachelor's degree who have been admitted to a graduate school for the purpose of pursuing a master's degree and has not yet completed a masters degree.

G. "Non-state college" means a financially independent nonprofit nonsectarian four-year college: or university located in New Mexico and accredited by the north central association of colleges and secondary schools.

H. "Required fees" are the special fee charges students are required to pay for additional services as a condition of admission to the institution. Excluded are "specific service fees" charged only to students who enroll in certain programs or courses (i.e., course specific fees), or receive specific services (transcript copy fees, graduation fees, etc.).

I. "Recipient" means a New Mexico resident for tuition purposes and Vietnam veteran as reviewed and certified by the New Mexico veterans' service commission. Any person who has been honorably discharged from the armed forces of the United States, who was a resident of New Mexico at original time of entry into the armed forces, and who has been awarded a Vietnam campaign medal for services in the armed forces of this country in Vietnam during the period of August 5, 1964 to the official termination of the Vietnam conflict as designated by executive order of the president of the United States is eligible for certification.

J. "Scholarship fund" means the Vietnam veterans' scholarship fund created in the state treasury to receive any appropriated money, grants, gifts, or bequests.

K. "Tuition" is the basic educational charge that all students are required to pay as a condition of admission and attendance for academic services or the

course fee charged for certificate programs. The actual rate per semester or year is set by each institution;

L. **"Undergraduate post-secondary student"** means a matriculated student who has been admitted to the college and has not yet completed a bachelor's degree.

[7/15/98; 5.7.16.7 NMAC - Rn & A, 5 NMAC 7.16.7, 7/15/02]

NEW MEXICO COMMISSION OF PUBLIC RECORDS

This is an amendment to 1.15.2 NMAC, Sections 304 and 305.

1.15.2.304 TEST FILES:

A. **Program:** electronic records

B. **Maintenance system:** entity preference

C. **Description:** records concerning test results for upgrades, migration or compliance. File may contain system specifications, hardware specifications, computer printouts, notes, correspondence, e-mail, electronic logs, pre and post test results, bench mark results, operating system version, application version, testing personnel name, etc.

D. **Retention:** ~~five~~ two years after system goes into production [9-30-99; 1.15.2.304 NMAC - Rn, 1 NMAC 3.2.90.10.A304, 10/01/2000; A, 1/6/2002; A, 7-22-2002]

1.15.2.305 COMPUTER SYSTEM ACCESS REQUEST:

A. **Program:** information system technology unit

B. **Maintenance system:** agency preference

C. **Description:** hardcopy input document used to request or modify a user's systems access. Record may contain user name, user number, request date, organization or unit identifier code, position title, justification, written approval, user social security number, requested login identity, system name, domain name, group name, restrictions, etc.

D. **Retention:**
(1) **Paper:** until entered and system verified

(2) **Data:** three years after no longer employed with the agency.

E. **Confidentiality:** portions of record may contain confidential per 20 CFR 401.

[1.15.2.305 NMAC - N, 7-22-2002]

NEW MEXICO COMMISSION OF PUBLIC RECORDS

This is an amendment to 1.15.3 NMAC, Sections 304 and 305.

1.15.3.304 TEST FILES:

A. **Program:** electronic records

B. **Maintenance system:** entity preference

C. **Description:** records concerning test results for upgrades, migration or compliance. File may contain system specifications, hardware specifications, computer printouts, notes, correspondence, e-mail, electronic logs, pre and post test results, bench mark results, operating system version, application version, testing personnel name, etc.

D. **Retention:** two years after system goes into production [1.15.3.304 NMAC - N, 7-22-2002]

1.15.3.305 COMPUTER SYSTEM ACCESS REQUEST:

A. **Program:** electronic records

B. **Maintenance system:** entity preference

C. **Description:** hardcopy input document used to request or modify a users systems access. Record may contain user name, user number, request date, organization or unit identifier code, position title, justification, written approval, user social security number, requested login identity, system name, domain name, group name, restrictions, etc.

D. **Retention:**
(1) **Paper:** until entered and verified into system

(2) **Data:** three years after no longer employed with the agency.

E. **Confidentiality:** portions of record may contain confidential information per 20 CFR 401.

[1.15.3.305 NMAC - N, 7-22-2002]

NEW MEXICO COMMISSION OF PUBLIC RECORDS

This is an amendment to 1.18.350 NMAC, Sections 501, 502, 503 and 506.

1.18.350.501 REAL PROPERTY FILES:

A. **Program:** general services department, property control division

B. **Maintenance System:** alphabetical by county and then facility name

C. **Description:** record documenting the acquisition or sale of real property held by the state. File may contain deeds, plats, abstracts, appraisals, title insurance, etc.

D. **Retention:** permanent [~~(Section 15-3-2A3 NMSA1978)~~], transfer to archives 10 years after disposal of property

[7-13-98; A, 1-1-2000; 1.18.350.501 NMAC - Rn, 1 NMAC 3.2.93.350.501, 4-11-2002; A, 7-22-2002]

[~~Note: transfer to archives 10 years after acquisition or sale.~~]

1.18.350.502 DEED FILES:

A. **Program:** general services department, property control division

B. **Maintenance System:** alphabetical by county

C. **Description:** record concerning the conveyance of deeds and titles to the state of New Mexico. Files may contain abstracts of title, quit claim deeds, general or special warranty, taxes, patent and other instruments of title, etc.

D. **Retention:** permanent [~~(Section 15-3-2A3 NMSA1978)~~], transfer to archives 10 years after the file is closed [7-13-98; A, 1-1-2000; 1.18.350.502 NMAC - Rn, 1 NMAC 3.2.93.350.502, 4-11-2002; A, 7-22-2002]

[~~Note: transfer to archives 10 years after file closed.~~]

1.18.350.503 CAPITAL PROJECT FILES:

A. **Program:** general services department, property control division

B. **Maintenance System:** numerical by account number and then project name

C. **Description:** record concerning capitol outlay projects executed by the state of New Mexico. Files may contain contracts, capital improvement appropriation request, enabling legislation, legislative finance committee documents, copy of land title, abstracts of bids, surveys, soil tests, cost estimates, notice to proceed, reproducible drawings, performance bonds, labor and material bonds, certificates of insurance, warranty documents, release of liens, maintenance instructions, monthly inspections reports, final punch list, voucher payments, final payment reports, project specifications, correspondence, etc.

D. **Retention:** permanent, transfer to archives 10 years after the project file is closed

[7-13-98; A, 1-1-2000; 1.18.350.503 NMAC - Rn, 1 NMAC 3.2.93.350.503, 4-11-2002; A, 7-22-2002]

~~[[Note: transfer to archives 10 years after project closed.]]~~

1.18.350.506 PLANS:

A. Program: general services department, property control division

B. Maintenance System: alphanumeric by county and then account number

C. Description: record concerning construction documents used to execute state building projects. Plans include "as built" drawings which show changes in the initial construction plan. Plans show floor plans, interior and exterior elevations, ornamental details, structural details, mechanical details, electrical details, site and landscaping plans, etc.

D. Retention: permanent ~~[(Section 15-3-2A3 NMSA 1978)]~~ transfer to archives 10 years after final disposition [7-13-98; A, 1-1-2000; 1.18.350.506 NMAC - Rn, 1 NMAC 3.2.93.350.506, 4-11-2002; A, 7-22-2002]

~~[[Note one: plans include as built" drawings which show changes in the initial construction plan. Note two: transfer to archives 10 years after project closed.]]~~

NEW MEXICO COMMISSION OF PUBLIC RECORDS

June 14, 2002

Donald L. Padilla, Records Management
Division Director
NM Commission of Public Records
1205 Camino Carlos Rey
Santa Fe, New Mexico 87505

Mr. Padilla:

You recently requested to publish a synopsis in lieu of publishing the full content of the following listed rule:

* 1.18.665 NMAC,
ERRDS, Department of Health.

A review of this rule shows that its impact is limited to the individual agency to which it pertains, and it is "unduly cumbersome, expensive or otherwise inexpedient" to publish. Therefore, your request to publish a synopsis for it is approved.

Sincerely,

L. Elaine Olah
State Records Administrator

LEO/dlp

NEW MEXICO COMMISSION OF PUBLIC RECORDS

SYNOPSIS

1.18.665 NMAC: EXECUTIVE RECORDS RETENTION AND DISPO- SITION SCHEDULE (ERRDS), DEPARTMENT OF HEALTH

1. **Subject Matter:** This rule is an amendment to the existing ERRDS, 1.18.665 NMAC, filed March 9, 2000. It is being modified as follows: in section 1.18.665.7 NMAC, the term "media," as used by the Scientific Laboratory Division has been defined; in section 1.18.665.8 NMAC, 17 new abbreviations have been added; sections 1.18.665.281 NMAC through 1.18.665.583 NMAC, have been repealed due to substantial errors; and 1.18.665.2000 NMAC - 1.18.665.2280 NMAC have been added to repair those errors and to more accurately reflect the Scientific Laboratory Division's records and record keeping system. The retention and disposition requirements on this schedule are based on the legal and use requirements of the records and on their administrative, legal, fiscal and archival values. This amendment was done at the request of the Department of Health, and legal counsel for the Department of Health has reviewed and approved the amendment.

2. **Persons Affected:** Record producing and keeping personnel of the Department of Health. Persons and entities normally subject to the rules and regulations of the Department of Health may also be directly or indirectly affected by this rule.

3. **Interests of persons affected:** Corporations, individuals, and employees of the Department of Health.

4. **Geographical applicability:** Areas within the State of New Mexico covered by the Department of Health and any person and entity outside the covered geo-

graphical area that conducts business with the Department of Health.

5. **Commercially published material incorporated:** New Mexico Statutes Annotated 1978 and the Code of Federal Regulations were used as a reference in the development of this rule; however, they are not a substantial portion of this rule.

6. **Telephone number and address of issuing agency:** New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505, telephone number: (505) 476-7900.

7. **Effective date of this rule:**
07/22/2002

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of the ERRDS, Department of Health.

Roberta D. Joe, Assistant Attorney General
Date _____

NEW MEXICO COMMISSION OF PUBLIC RECORDS

This is an amendment to 1.18.790 NMAC, Section 41.

1.18.790.41 [STUDENT] TRAIN- ING AND CERTIFICATION FILES:

A. Program: training and recruiting

B. Maintenance system: alphabetical by student last name.

C. Description: ~~[record concerning training of rookie officers]~~ record of the basic and advanced training and certification of officers from counties, municipalities, tribal and state agencies and of civilians. File may contain application for admission and certification, employment verification, medical report, psychological evaluation, fingerprint affidavit, applicant affidavit, waiver, release of information, copy of ~~[certification, diploma]~~ certifications, diplomas, transcripts, applicant affidavit of United States citizenship or proof of United States citizenship issued by an official government agency, copy of high school diploma, copy of driver license, internal memoranda, ~~[etc. Course and grade information contained on transcript]~~, 1.18.790.40 NMAC. File also includes certification by waiver, 1.18.790.42 NMAC;

~~police radio dispatcher certification, 1.18.790.44 NMAC, regional academy student file, 1.18.790.48 NMAC] advanced certification checklist, advanced certification worksheet, certification by waiver records, police radio dispatcher certification records, regional academy student records, etc.~~

D. Retention: 50 years after date of certification

E. Confidentiality: portions of record may be confidential under Section 14-6-1 NMSA 1978 and 20 USC 1232g.

[12/30/79, 7/16/96; 1.18.790.41 NMAC - Rn, 1 NMAC 3.2.93.790.30.102 & A, 7/8/2000; A, 7/22/2002]

NEW MEXICO COMMISSION OF PUBLIC RECORDS

This is an amendment to 1.18.805 NMAC, Section 351.

1.18.805.351 PARCEL FILES:

A. Program: right of way bureau, administrative section.

B. Maintenance system: numerical by control number, project number, then parcel number.

C. Description: records concerning parcels of land that are to be permanently or temporarily acquired by the New Mexico state highway and transportation department. File may contain notice of offer to purchase land, New Mexico state highway and transportation department appraisal, contracts, deeds, easements, release of mortgage, negotiator's report, title report, correspondence, etc.

D. Retention: until all acquisition is acquired and project is certified, then transfer to 1.18.805.1051 NMAC project files.

E. Confidentiality: confidential until entire project let to construction

[9/30/97; 1.18.805.351 NMAC - Rn, 1 NMAC 3.2.93.805.351 & A, 7/8/2000; A, 7/22/2002]

NEW MEXICO COMMISSION OF PUBLIC RECORDS

Notice of Renumber

On June 18, 2002 at a regular meeting of the New Mexico Commission of Public Records, the Commission approved the renumbering and reformatting of the following Records Retention and Disposition Schedules. The effective date of renumber is July 22, 2002 for the following schedules:

Renumbered

From	To
1 NMAC 3.2.91.117	1.16.117 NMAC, LRRDS, Legislative School Study Committee
1 NMAC 3.2.91.119	1.16.119 NMAC, LRRDS, Legislative Maintenance
1 NMAC 3.2.92.218.09	1.17.219 NMAC, JRRDS, Board Governing the Recording of Judicial Proceedings
1 NMAC 3.2.92.218	1.17.220 NMAC, JRRDS, Administrative Office of the Courts
1 NMAC 3.2.92.230	1.17.230 NMAC, JRRDS, New Mexico Districts Courts
1 NMAC 3.2.92.244	1.17.244 NMAC, JRRDS, Bernalillo County Metropolitan Court
1 NMAC 3.2.93.305	1.18.305 NMAC, ERRDS, Office of the Attorney General
1 NMAC 3.2.93.308	1.18.308 NMAC, ERRDS, Office of the State Auditor
1 NMAC 3.2.93.337	1.18.337 NMAC, ERRDS, State Investment Council
1 NMAC 3.2.93.341	1.18.341 NMAC, ERRDS, Finance and Administration Department
1 NMAC 3.2.93.342	1.18.342 NMAC, ERRDS, Public School Insurance Authority
1 NMAC 3.2.93.343	1.18.343 NMAC, ERRDS, Retiree Health Care Authority
1 NMAC 3.2.93.352	1.18.352 NMAC, ERRDS, Educational Retirement Board
1 NMAC 3.2.93.360	1.18.360 NMAC, ERRDS, Lieutenant Governor's Office
1 NMAC 3.2.93.378	1.18.378 NMAC, ERRDS, State Personnel Board
1 NMAC 3.2.93.418	1.18.418 NMAC, ERRDS, Department of Tourism
1 NMAC 3.2.93.419	1.18.419 NMAC, ERRDS, Economic Development Department
1 NMAC 3.2.93.516	1.18.516 NMAC, ERRDS, Department of Game and Fish
1 NMAC 3.2.93.521	1.18.521 NMAC, ERRDS, Energy Minerals and Natural Resources Department
1 NMAC 3.2.93.670	1.18.670 NMAC, ERRDS, Veterans Services Commission
1 NMAC 3.2.93.690	1.18.690 NMAC, ERRDS, Children, Youth and Families Department
1 NMAC 3.2.93.705	1.18.705 NMAC, ERRDS, Department of Military Affairs
1 NMAC 3.2.93.760	1.18.760 NMAC, ERRDS, Adult Parole Board
1 NMAC 3.2.93.765	1.18.765 NMAC, ERRDS, Juvenile Parole Board
1 NMAC 3.2.93.780	1.18.780 NMAC, ERRDS, Crime Victims Reparation Commission
1 NMAC 3.2.93.794	1.18.794 NMAC, ERRDS, Mounted Patrol
1 NMAC 3.2.93.926	1.18.926 NMAC, ERRDS, School for the Visually Handicapped
1 NMAC 3.2.93.927	1.18.927 NMAC, ERRDS, School for the Deaf
1 NMAC 3.2.93.953	1.18.953 NMAC, ERRDS, New Mexico State University
1 NMAC 3.2.93.969	1.18.969 NMAC, ERRDS, University of New Mexico Hospital
1 NMAC 3.2.95.70	1.20.2 NMAC, EDRRDS, New Mexico Public Schools
1 NMAC 3.2.95.71	1.20.3 NMAC, EDRRDS, New Mexico Colleges and Universities
1 NMAC 3.2.90	1 NMAC 3.2.90 has been incorporated into each individual part of Title 1, Chapter 15 and no longer exists as its own subpart.
1 NMAC 3.2.91	1 NMAC 3.2.91 has been incorporated into each individual part of Title 1, Chapter 16 and no longer exists as its own subpart.
1 NMAC 3.2.93	1 NMAC 3.2.93 has been incorporated into each individual part of Title 1, Chapter 18 and no longer exists as its own subpart.
1 NMAC 3.2.95	1 NMAC 3.2.95 has been incorporated into each individual part of Title 1, Chapter 20 and no longer exists as its own subpart.

**NEW MEXICO PUBLIC REGULATION
COMMISSION
INSURANCE DIVISION**

This is an amendment to 13.14.10.34 NMAC.

13.14.10.34 RESTRICTIONS, ENCROACHMENTS, AND MINERALS ENDORSEMENTS: NM Forms 50, 56, and 57 shall not be issued on residential properties with four or fewer units. The premium charge for issuance of these endorsements shall be 10% of the full basic premium rate. Agents shall receive commissions for liabilities up to \$27,000,000; agents' retention shall be zero for liabilities greater than \$27,000,000. In no case shall the premium charge for the issuance of NM Forms 50, 56, or 57 be less than \$250.00.

**NEW MEXICO PUBLIC REGULATION
COMMISSION
INSURANCE DIVISION**

This is an amendment to 13.14.17.29 NMAC.

13.14.17.29 FORM 6 – TRANSACTION REPORT:

UNDERWRITERS EXPERIENCE REPORT FORM 6 – TRANSACTION REPORT For Calendar Year Ending December 31, 19__ New Mexico Experience Only				
Name of Underwriter:				
Transaction code	Transaction Type	NMAC	No. of transactions (1)	Premiums (2)
1	Charge For Additional Chain Of Title	13.14.9.16		
2	Charge For Unplatted Tract Of Unusual Complexity	13.14.9.16		
3	Commitment To Insure, Initial Issuance (Interim Binder)	13.14.9.19A		
4	Original Owner's Policy	13.14.9.20		
5	Original Leasehold Policy – Single Issue	13.14.9.21		
6	Original First Mortgage Policy – Single Issue	13.14.9.22		
7	Owner's Policy With Bulk Rate	13.14.9.23		
8	Abstract Retirement Credit	13.14.9.24		
9	U.S. Government Policy	13.14.9.25		
10	Simultaneous Issue – Mortgagee Policy	13.14.9.30		
11	Simultaneous Issue – Leasehold Policy	13.14.9.31		
12	Simultaneous Issue – Multiple Owner's	13.14.9.32		
13.10	Owner's Policy – Reissue (10% Discount)	13.14.9.35		
13.15	Owner's Policy – Reissue (15% Discount)	13.14.9.35		
13.20	Owner's Policy – Reissue (20% Discount)	13.14.9.35		
13.25	Owner's Policy – Reissue (25% Discount)	13.14.9.35		
14.10	Leasehold Policy – Reissue (10% Discount)	13.14.9.35		
14.15	Leasehold Policy – Reissue (15% Discount)	13.14.9.35		
14.20	Leasehold Policy – Reissue (20% Discount)	13.14.9.35		
14.25	Leasehold Policy – Reissue (25% Discount)	13.14.9.35		
15	Subsequent Loan Policy	13.14.9.36		
15.40	Substitution Loan Policy (less than 2 years – 40%)	13.14.9.39		
15.45	Substitution Loan Policy (more than 2 years, less than 3 – 45%)	13.14.9.39		
15.50	Substitution Loan Policy (more than 3 years, less than 4 – 50%)	13.14.9.39		
15.55	Substitution Loan Policy (more than 4 years, less than 5 – 55%)	13.14.9.39		
15.60	Substitution Loan Policy (more than 5 years, less than 6 – 60%)	13.14.9.39		
15.65	Substitution Loan Policy (more than 6 years, less than 7 – 65%)	13.14.9.39		
15.70	Substitution Loan Policy (more than 7 years, less than 8 – 70%)	13.14.9.39		
15.75	Substitution Loan Policy (more than 8 years, less than 9 – 75%)	13.14.9.39		
15.80	Substitution Loan Policy (more than 9 years, less than 10 – 80%)	13.14.9.39		
16	Construction Loan Policy	13.14.9.40A		
17	Construction Loan Extension Endorsement	13.14.9.40B		
18	Endorsement "A"	13.14.9.40D		
19	Endorsement "D"	13.14.9.40E		

20	Pending Disbursement Clause – Subsequent Attachment	13.14.9.40F		
21	Mechanic's Lien – With Evidence Of Priority	13.14.9.40G		
22	Mechanic's Lien – Without Evidence Of Priority	13.14.9.40G		
23	Assignment Endorsement – Within 6 Months	13.14.10.8		
24	Assignment Endorsement – Beyond 6 Months	13.14.10.8		
25	Mechanic's Lien – Owner's Policy – Filing Period Expired	13.14.10.9		
26	Mechanic's Lien – Owner's Policy – Period Not Expired	13.14.10.9		
27	Survey Coverage Endorsement	13.14.10.10		
28	Additional Advances Endorsement	13.14.10.11		
29	Variable Rate, Negative Amortization Revolving Credit	13.14.10.12		
30	Manufactured Housing Endorsement	13.14.10.13		
31	Condominium Endorsement	13.14.10.14		
32	Planned Unit Development Endorsement	13.14.10.15		
33	U. S. Policy, Down Date Endorsement	13.14.10.16		
34	Correction E Endorsement	13.14.10.17		
35	Down Date (Date Down) Endorsement	13.14.10.18		
36	Renewal, Extension, Modification & Partial Release End	13.14.10.20		
37	Non-Imputation Endorsement	13.14.10.21		
38	Extension Of Commitment To Insure	13.14.9.19A		
39	Environmental Protection Lien Endorsement	13.14.10.22		
40	Pending Improvements Endorsement	13.14.10.23		
41	Owner's Leasehold Conversion Endorsement	13.14.10.19		
42	Duplicate Original Policy	13.14.9.33		
44	Replacement Owner's Policy	13.14.9.26		
45	Replacement Mortgagee's Policy	13.14.9.26		
46	ALTA U.S. Policy 9-28-91	13.14.9.25		
47	Limited Title Search Policy (LTSP)	13.14.9.27		
48	Continuation Endorsement For LTSP	13.14.10.25		
49	Revolving Credit For LTSP	13.14.10.26		
50	Owner's Creditors' Rights Endorsement	13.14.10.27		
51	Lenders' Creditors' Rights Endorsement	13.14.10.28		
52	Foreclosure Guarantee Policy (80% rate)	13.14.9.28		
53	Foreclosure Guarantee Policy (50% rate)	13.14.9.28		
54	Foreclosure Guarantee Policy Down Date Endorsement	13.14.10.18		
56	NMMFA "HELP" Program Simultaneous Issue Rate	13.14.9.34		
57	Navigable Streams, Lakes, etc. – Standard Exception 6	13.14.10.29		
58	Revolving Credit Mortgage – Increase Limit	13.14.10.30		
59	Residential Limited Coverage Junior Loan Policy	13.14.9.29		
60	Down Date Endorsement to Residential Limited Coverage Junior Loan Policy	13.14.10.32		
61	Revolving Credit/Variable Rate Endorsement to Residential Limited Coverage Junior Loan Policy	13.14.10.33		
62	Truth in Lending Endorsement	13.14.10.31		
63	Permissible Modification – Standard Exception No. 7	13.14.10.35		
65	Restrictions, Encroachments and Minerals Endorsement	13.14.10.34		
67	Land Abuts Street Endorsement	13.14.10.36		
68	Designation of Improvements, Address Endorsement	13.14.10.37		
69	Same as Survey Endorsement	13.14.10.38		
70	Contiguity of Parcels Endorsement	13.14.10.39		
71	Cancellation Fee	13.14.9.19B		
72	Conversion of Leasehold Owner's Policy to Standard Owner's Policy	13.14.10.38		
73	Condominium Endorsement to Owner's Policy	13.14.10.24		

UNDERWRITERS EXPERIENCE REPORT FORM 6 - TRANSACTION REPORT For Calendar Year Ending December 31, 20____ New Mexico Experience Only					
Name of Underwriter:					
<u>NM Form No.</u>	<u>Transaction code</u>	<u>Transaction Type</u>	<u>NMAC Rate Provision</u>	<u>No. of Transactions (1)</u>	<u>Premiums (2)</u>
none	0001	Charge for Additional Chain of Title	13.14.9.16		
none	0002	Charge for Unplatted Tract of Unusual Complexity	13.14.9.16		
none	0003	Abstract Retirement Credit	13.14.9.24		
none	0004	Loan Policy Insuring Construction Policy - Mechanic's Lien Coverage With Evidence Of Priority	13.14.9.40G		
none	0005	Loan Policy Insuring Construction Policy - Mechanic's Lien Coverage Without Evidence Of Priority	13.14.9.40G		
none	0006	Owner's Policy - Mechanic's Lien Coverage - Filing Period Expired	13.14.10.9A		
none	0007	Owner's Policy - Mechanic's Lien Coverage - Filing Period Not Expired	13.14.10.9B		
none	0008	Survey Coverage Endorsement	13.14.10.10		
none	0009	Duplicate Original Policy	13.14.9.33		
none	0010	Navigable Streams, Lakes, etc. - Standard Exception 6	13.14.10.29		
none	0011	Permissible Modification - Standard Exception No. 7	13.14.10.35		
none	0012	Waiver of Arbitration	none		NC
none	0013	Cancellation Fee	13.14.9.19B		
1	0101	Owner's Policy	13.14.9.20		
1	0102	Owner's Policy - With Bulk Rate	13.14.9.23		
1	0103	Multiple Owner's on Same Land - Simultaneous Issue	13.14.9.32		
1	0104	Replacement Owner's Policy	13.14.9.26		
1	0110	Owner's Policy - Reissue (10% Discount)	13.14.9.35		
1	0115	Owner's Policy - Reissue (15% Discount)	13.14.9.35		
1	0120	Owner's Policy - Reissue (20% Discount)	13.14.9.35		
1	0125	Owner's Policy - Reissue (25% Discount)	13.14.9.35		
2	0201	Loan Policy - Single Issue	13.14.9.22		
2	0202	Loan Policy - Simultaneous Issue -	13.14.9.30		
2	0203	Loan Policy - Second Mortgage or Subsequent Issue	13.14.9.36		
2	0204	Replacement Loan Policy	13.14.9.26		
2	0205	NMMFA "HELP" Program Simultaneous Issue Rate	13.14.9.34		
2	0240	Loan Policy - Substitution Rate (less than 2 years - 40%)	13.14.9.39		
2	0245	Loan Policy - Substitution Rate (more than 2 years, less than 3 - 45%)	13.14.9.39		
2	0250	Loan Policy - Substitution Rate (more than 3 years, less than 4 - 50%)	13.14.9.39		
2	0255	Loan Policy - Substitution Rate (more than 4 years, less than 5 - 55%)	13.14.9.39		
2	0260	Loan Policy - Substitution Rate (more than 5 years, less than 6 - 60%)	13.14.9.39		
2	0265	Loan Policy - Substitution Rate (more than 6 years, less than 7 - 65%)	13.14.9.39		
2	0270	Loan Policy - Substitution Rate (more than 7 years, less than 8 - 70%)	13.14.9.39		
2	0275	Loan Policy - Substitution Rate (more than 8 years, less than 9 - 75%)	13.14.9.39		
2	0280	Loan Policy - Substitution Rate (more than 9 years, less than 10 - 80%)	13.14.9.39		
3	0300	Construction Loan Policy	13.14.9.40A		
6	0600	Commitment for Title Insurance	13.14.9.19A		
7	0700	U.S. Policy, ALTA 1963	13.14.9.25		
9	0900	Notice of Availability of Owner's Title Insurance	none		NC
10	1000	Facultative Reinsurance Agreement	none		NC
11	none	Multipurpose Endorsement	none	none	NC per se
11	1101	Construction Loan Extension Endorsement	13.14.9.40B		
11	1102	Pending Disbursement Clause - Subsequent Attachment	13.14.9.40F		
11	1103	Pending Disbursement Clause - Simultaneous Insertion or Attachment	13.14.9.40F		NC
11	1104	Correction Endorsement	13.14.10.17		

11	1105	<u>Renewal, Extension, Modification & Partial Release Endorsement</u>	<u>13.14.10.20</u>	
11	1106	<u>Extension of Commitment for Title Insurance</u>	<u>13.14.9.19A</u>	
11	1107	<u>Conversion of Leasehold Owner's Policy to Standard Owner's Policy</u>	<u>13.14.9.38</u>	
11	1108	<u>Increase in Coverage</u>	<u>13.14.6.8D</u>	
12	1200	<u>Condominium Endorsement to Loan Policy</u>	<u>13.14.10.14</u>	
13	1300	<u>Planned Unit Development Endorsement</u>	<u>13.14.10.15</u>	
14	1400	<u>Variable Rate Mortgage Endorsement</u>	<u>13.14.10.12</u>	
15	1500	<u>Variable Rate Mortgage Endorsement (Negative Amortization)</u>	<u>13.14.10.12</u>	
16	1601	<u>Manufactured Housing Unit End. - Simultaneous Insertion or Attachment</u>	<u>13.14.10.13</u>	
16	1602	<u>Manufactured Housing Unit End. - Subsequent Attachment</u>	<u>13.14.10.13</u>	
17	1700	<u>Revolving Credit Endorsement</u>	<u>13.14.10.12</u>	
18	1800	<u>Construction Loan Policy Endorsement A</u>	<u>13.14.9.40D</u>	
19	1900	<u>Construction Loan Policy Endorsement D</u>	<u>13.14.9.40E</u>	
20	2001	<u>Leasehold Owner's Endorsement (to create policy)</u>	<u>13.14.10.19</u>	NC
20	2002	<u>Leasehold Policy - Simultaneous Issue -</u>	<u>13.14.9.31</u>	
20	2003	<u>Leasehold Policy - Subsequent Issue -</u>	<u>13.14.9.31</u>	
20	2010	<u>Leasehold Policy - Reissue (10% Discount)</u>	<u>13.14.9.35</u>	
20	2015	<u>Leasehold Policy - Reissue (15% Discount)</u>	<u>13.14.9.35</u>	
20	2020	<u>Leasehold Policy - Reissue (20% Discount)</u>	<u>13.14.9.35</u>	
20	2025	<u>Leasehold Policy - Reissue (25% Discount)</u>	<u>13.14.9.35</u>	
21	2100	<u>Leasehold Loan Endorsement (to create policy)</u>	<u>13.14.10.19</u>	NC
22	2200	<u>Pending Disbursement Down Date Endorsement</u>	<u>13.14.10.18</u>	
23	2300	<u>Pending Improvements Endorsement</u>	<u>13.14.10.23</u>	
24	2401	<u>Assignment of Mortgage Endorsement - Within 6 Months</u>	<u>13.14.10.8</u>	
24	2402	<u>Assignment of Mortgage Endorsement - Beyond 6 Months</u>	<u>13.14.10.8</u>	
25	2500	<u>Additional Advance Endorsement</u>	<u>13.14.10.11</u>	
26	2600	<u>Partial Coverage Endorsement</u>	none	NC
27	2700	<u>U. S. Policy, ALTA 1963 Down Date Endorsement</u>	<u>13.14.10.16</u>	
28	2800	<u>Non-Imputation Endorsement</u>	<u>13.14.10.21</u>	
29	2900	<u>Environmental Protection Lien Endorsement</u>	<u>13.14.10.22</u>	
30	3000	<u>Condominium Endorsement to Owner's Policy</u>	<u>13.14.10.24</u>	
31	3100	<u>Owner's Leasehold Conversion Endorsement</u>	<u>13.14.10.19</u>	
32	3200	<u>Coordinate and Proportionate Endorsement</u>	none	NC
33	3300	<u>Change of Name Endorsement</u>	none	NC
34	3400	<u>U.S. Policy, ALTA 1991</u>	<u>13.14.9.25</u>	
36	3600	<u>Limited Title Search Policy (LTSP)</u>	<u>13.14.9.27</u>	
37	3700	<u>Continuation Endorsement for LTSP</u>	<u>13.14.10.25</u>	
38	3800	<u>Revolving Credit, Variable Rate Endorsement For LTSP</u>	<u>13.14.10.26</u>	
39	3900	<u>Lenders' Creditors' Rights Endorsement</u>	<u>13.14.10.28</u>	
40	4000	<u>Owner's Creditors' Rights Endorsement</u>	<u>13.14.10.27</u>	
41	4101	<u>Foreclosure Guarantee Policy (80% rate)</u>	<u>13.14.9.28</u>	
41	4102	<u>Foreclosure Guarantee Policy (50% rate)</u>	<u>13.14.9.28</u>	
42	4200	<u>Foreclosure Guarantee Policy Down Date Endorsement</u>	<u>13.14.10.18</u>	
43	4300	<u>Insuring Around Endorsement</u>	none	NC
44	4400	<u>Revolving Credit, Increased Credit Limit Endorsement</u>	<u>13.14.10.30</u>	
45	4500	<u>Residential Limited Coverage Junior Loan Policy</u>	<u>13.14.9.29</u>	
46	4600	<u>Down Date End. to Residential Limited Coverage Junior Loan Policy</u>	<u>13.14.10.32</u>	
47	4700	<u>Revolving Credit, Variable Rate Endorsement to Residential Limited Coverage Junior Loan Policy</u>	<u>13.14.10.33</u>	
48	4800	<u>Truth-in-Lending Endorsement</u>	<u>13.14.10.31</u>	
50	5000	<u>Restrictions, Encroachments and Minerals Endorsement</u>	<u>13.14.10.34</u>	
51	5100	<u>Land Abuts Street Endorsement</u>	<u>13.14.10.36</u>	
52	5200	<u>Designation of Improvements, Address Endorsement</u>	<u>13.14.10.37</u>	
53	5300	<u>Same as Survey Endorsement</u>	<u>13.14.10.38</u>	
54	5400	<u>Contiguity of Parcels Endorsement</u>	<u>13.14.10.39</u>	
55	5500	<u>Named Insured Endorsement</u>	<u>13.14.10.40</u>	
56	5600	<u>Restrictions, Encroachments, & Minerals Endorsement-Unimproved Land</u>	<u>13.14.10.34</u>	
57	5700	<u>Restrictions, Encroachments, & Minerals Endorsement-Improved Land</u>	<u>13.14.10.34</u>	

NEW MEXICO RACING COMMISSION

This is an amendment to Section 12 of 15.2.5 NMAC, which defines a horse's ineligibility to start in a race in the state of New Mexico.

15.2.5.12 HORSES INELIGIBLE: A horse ~~may~~ **shall** be ineligible to start in a race when:

(1) it is not stabled on the grounds of the association or present by the time established by the Commission;

(2) its breed registration certificate is not on file with the racing secretary or horse identifier; unless the racing secretary has submitted the certificate to the appropriate breed registry for correction; or when the stewards are satisfied the horse has been properly identified;

(3) it is not fully identified and tattooed on the inside of the upper lip;

(4) it has been fraudulently entered or raced in any jurisdiction under a different name, with an altered registration certificate or altered lip tattoo;

(5) it is wholly or partially owned by a disqualified person or a horse is under the direct or indirect training or management of a disqualified person;

(6) it is wholly or partially owned by the spouse of a disqualified person or a horse is under the direct or indirect management of the spouse of a disqualified person, in such cases, it being presumed that the disqualified person and spouse constitute a single financial entity with respect to the horse, which presumption may be rebutted;

(7) the stakes or entrance money for the horse has not been paid, in accordance with the conditions of the race;

(8) the losing jockey mount fee is not on deposit with the horsemen's bookkeeper;

(9) its name appears on the starter's list, stewards' list or veterinarian's list;

(10) it is a first time starter and has not been approved to start by the starter;

(11) it is owned in whole or in part by an undisclosed person or interest;

(12) it lacks sufficient official published workouts or race past performance(s);

(13) it has been entered in a stakes race and has subsequently been transferred with its engagements, unless the racing secretary has been notified of such prior to the start;

(14) it is subject to a lien which has not been approved by the stewards and filed with the horsemen's bookkeeper;

(15) it is subject to a lease not filed with the stewards;

(16) it is not in sound racing condition;

(17) it has had a surgical neurectomy performed on a heel nerve, which has not been approved by the official veterinarian;

(18) it has been trachea tubed to artificially assist breathing;

(19) it has been blocked with alcohol or otherwise drugged or surgically denerved to desensitize the nerves above the ankle;

(20) it has impaired eyesight in both eyes;

(21) it is barred or suspended in any recognized jurisdiction;

(22) it does not meet the eligibility conditions of the race;

(23) its owner or lessor is in arrears for any stakes fees, except with approval of the racing secretary;

(24) its owner(s), lessor(s) and/or trainer have not completed the licensing procedures required by the Commission;

(25) it is by an unknown sire or out of an unknown mare;

(26) there is no current negative test certificate for Equine Infectious Anemia attached to its breed registration certificate, as required by statute.

[15.2.5.12 NMAC - Rp, 15 NMAC 2.5.12, 03/15/2001; A, 07/15/2002]

NEW MEXICO RACING COMMISSION

This is an amendment to Section 8 of 15.2.6 NMAC requiring all veterinarians licensed to practice on racetracks in the state of New Mexico to comply with all federal and state statutes and applicable rules regulating veterinary practices as may be promulgated by the New Mexico Boards of Veterinary Medicine and Pharmacy.

15.2.6.8 VETERINARY PRACTICES

D. VETERINARY COMPLIANCE: The official veterinarian, racing veterinarian, and each practicing veterinarian shall comply with all federal and state statutes and applicable rules regulating veterinary practices as may be promulgated by the New Mexico Board of Veterinary Medicine and the New Mexico Board of Pharmacy.

This is an amendment to Subsection C of Section 9 of 15.2.6 NMAC allowing the use of the drug substance Clenbuterol, within controlled guidelines, on race horses at New Mexico racetracks; and an amendment to the classification tables which are provided to license holders as an attachment to

Section 9 of 15.2.6 NMAC reclassifying the drug substance, Clenbuterol, from a Class 3 drug to a Class 4 drug.

15.2.6.9 MEDICATIONS AND PROHIBITED SUBSTANCES:

C. MEDICATION RESTRICTIONS:

(16) Clenbuterol: The use of Clenbuterol shall be permitted under the following conditions:

(a) Any horse to which Clenbuterol has been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of the official veterinarian to determine the quantitative level(s) and/or the presence of other drugs, which may be present in the blood or urine sample.

(b) The permitted quantitative test level of Clenbuterol shall be administered in such dosage amount that the official test sample shall test less than 5 nanograms per milliliter of urine, or its blood equivalent.

This is an amendment to Subsection C of Section 9 of 15.2.6 NMAC allowing the use of Ketoprofen a non-steroidal anti-inflammatory drug, within controlled guidelines, on racehorses at New Mexico racetracks; an amendment to add a new paragraph to Subsection C of 15.2.6.9 NMAC allowing the use of only one drug substance under specific guidelines in the official urine sample of a horse; and an amendment to Subsection D of Section 9 of 15.2.6 NMAC providing for penalties for exceeding the guidelines for the use of Ketoprofen and multiple violations of approved non-steroidal anti-inflammatory drugs; an amendment to Section 9 of 15.2.6 NMAC reclassifying the non-steroidal anti-inflammatory drug, Ketoprofen from a Class 4 drug to a Class 5 drug. Due to the amendments the entire subsection has been renumbered.

15.2.6.9 MEDICATIONS AND PROHIBITED SUBSTANCES:

C. MEDICATION RESTRICTIONS:

(1) A finding by the official chemist of a prohibited drug, chemical or other substance in a test specimen of a horse is prima facie evidence that the prohibited drug, chemical or other substance was administered to the horse and, in the case of a post-race test, was present in the horse's body while it was participating in a race. Prohibited substances include: drugs or medications for which no acceptable levels have been established; therapeutic medications in excess of established acceptable

levels; substances present in the horse in excess of levels at which such substances could occur naturally; substances foreign to a horse at levels that cause interference with testing procedures.

(2) Drugs or medications in horses are permissible, provided: the drug or medication is listed by the Association of Racing Commissioners International's Drug Testing and Quality Assurance Program; the maximum permissible urine or blood concentration of the drug or medication does not exceed the published limit.

(3) Except as otherwise provided by this part, a person may not administer or cause to be administered by any means to a horse a prohibited drug, medication, chemical or other substance, including any restricted medication pursuant to this part during the 24-hour period before post time for the race in which the horse is entered.

(4) (a) Phenylbutazone: The use of Phenylbutazone shall be permitted under the following conditions:

(a) Any horse to which Phenylbutazone has been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of the official veterinarian to determine the quantitative Phenylbutazone level(s) and/or the presence of other drugs, which may be present in the blood or urine sample(s).

(b) The permitted quantitative test level of Phenylbutazone or Oxyphenbutazone shall be administered in such dosage amount that the official test sample shall test less than 5 micrograms per milliliter of plasma.

(5) (b) Furosemide (Salix)

(a) Furosemide (Salix) may be administered intravenously to a horse, which is entered to compete in a race. Except under the instructions of the official veterinarian for the purpose of removing a horse from the veterinarian's list or to facilitate the collection of a post-race urine sample, Furosemide (Salix) shall be permitted only after the trainer enters the horse on the bleeder list by so declaring it as a bleeder on the entry card.

(b) (i) The use of Furosemide (Salix) shall be permitted under the following circumstances on association grounds where a detention barn is utilized: Furosemide (Salix) shall be administered no less than three hours prior to post time for the race for which the horse is entered. A horse qualified for a Furosemide (Salix) administration must be brought to the detention barn within time to comply with the three-hour administration requirement specified above. The dose administered in such dosage amount that the official test sample shall test less than 250 milligrams nor be less than 100 milligrams. After treatment,

the horse shall be required by the Commission to remain in the detention barn in the care, custody and control of its trainer or the trainer's designated representative under association and/or Commission security supervision until called to the saddling paddock.

(c) (ii) The use of Furosemide (Salix) shall be permitted under the following circumstances on association grounds where a detention barn is not utilized: Furosemide (Salix) shall be administered no less than three hours prior to post time for the race for which the horse is entered; the Furosemide (Salix) dosage administered shall not exceed 250 milligrams nor be less than 100 milligrams; the trainer of the treated horse shall cause to be delivered to the official veterinarian or his/her designee no later than one hour prior to post time for the race for which the horse is entered the following information under oath on a form provided by the Commission: the racetrack name, the date and time the Furosemide (Salix) was administered to the entered horse; the dosage amount of Furosemide (Salix) administered to the entered horse; the printed name and signature of the attending licensed veterinarian who administered the Furosemide (Salix).

(d) (iii) Bleeder List. The official veterinarian shall maintain a bleeder list of all horses, which have been certified as bleeder horses. Such certified horses must have been entered by the trainer as a bleeder to obtain certification.

(e) (iv) The confirmation of a bleeder horse must be certified in writing by the official veterinarian or the racing veterinarian and entered on the bleeder list. Copies of the certification shall be issued to the owner of the horse or the owner's designee upon request. A copy of the bleeder certificate shall be attached to the horse's certificate of registration.

(f) (v) Every confirmed bleeder, regardless of age, shall be placed on the bleeder list.

(g) (vi) A horse may be removed from the bleeder list only upon the direction of the official veterinarian, who shall certify in writing to the stewards the recommendation for removal and only after remaining on the bleeder list for a minimum of sixty (60) days.

(h) (vii) A horse, which has been placed on a bleeder list in another jurisdiction, may be placed on a bleeder list in this jurisdiction by entering the horse into a race by so declaring it on the entry card as a bleeder in another jurisdiction.

(i) (c) Flunixin: In addition to Phenylbutazone and Furosemide, Flunixin may be administered in such dosage amount that the official test sample shall test less

than 1.0 microgram per milliliter of the drug substance, its metabolites, or analogs, per milliliter of blood plasma.

(7) (d) Meclofenamic Acid: In addition to Phenylbutazone and Furosemide, Meclofenamic Acid may be administered in such dosage amount that the official test sample shall test less than 1.0 microgram per milliliter of the drug substance, its metabolites, or analogs, per milliliter of blood plasma.

(e) Ketoprofen: In addition to Phenylbutazone and Furosemide, Ketoprofen may be administered in such dosage amount that the official test sample shall not exceed 50 nanograms per milliliter of the drug substance, its metabolites, or analogs, per milliliter of plasma.

(4) The official urine test sample may contain one of the following drug substances, their metabolites or analogs, in any amount that does not exceed the specified levels:

(8) (a) Acepromazine: The use of Acepromazine shall be permitted under the following conditions:

(a) Any horse to which Acepromazine has been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of the official veterinarian to determine the quantitative level(s) and/or the presence of other drugs, which may be present in the blood or urine sample.

(b) The permitted quantitative test level of Acepromazine shall not exceed 25 nanograms per milliliter of urine, or its blood equivalent.

(9) (b) Albuterol: The use of Albuterol shall be permitted under the following conditions:

(a) Any horse to which Albuterol has been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of the official veterinarian to determine the quantitative level(s) and/or the presence of other drugs, which may be present in the blood or urine sample.

(b) The permitted quantitative test level of Albuterol shall not exceed 1 nanogram per milliliter of urine, or its blood equivalent.

(10) (c) Atropine: The use of Atropine shall be permitted under the following conditions:

(a) Any horse to which Atropine has been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of the official veterinarian to determine the quantitative level(s) and/or the presence of other drugs, which may be present in the blood or urine sample.

(b) The permitted quantitative

test level of Atropine shall not exceed 10 nanograms per milliliter of urine, or its blood equivalent.

(14) **(d) Benzocaine:** The use of Benzocaine shall be permitted under the following conditions:

(a) Any horse to which Benzocaine has been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of the official veterinarian to determine the quantitative level(s) and/or the presence of other drugs, which may be present in the blood or urine sample.

(b) The permitted quantitative test level of Benzocaine shall not exceed 50 nanograms per milliliter of urine, or its blood equivalent.

(12) **(e) Mepivacaine:** The use of Mepivacaine shall be permitted under the following conditions:

(a) Any horse to which Mepivacaine has been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of the official veterinarian to determine the quantitative level(s) and/or the presence of other drugs, which may be present in the blood or urine sample.

(b) The permitted quantitative test level of Mepivacaine shall not exceed 10 nanograms per milliliter of urine, or its blood equivalent.

(13) **(f) Procaine:** The use of Procaine shall be permitted under the following conditions:

(a) Any horse to which Procaine has been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of the official veterinarian to determine the quantitative level(s) and/or the presence of other drugs, which may be present in the blood or urine sample.

(b) The permitted quantitative test level of Procaine shall not exceed 10 nanograms per milliliter of urine, or its blood equivalent.

(14) **(g) Promazine:** The use of Promazine shall be permitted under the following conditions:

(a) Any horse to which Promazine has been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of the official veterinarian to determine the quantitative level(s) and/or the presence of other drugs, which may be present in the blood or urine sample.

(b) The permitted quantitative test level of Promazine shall not exceed 25 nanograms per milliliter of urine, or its blood equivalent.

(15) **(h) Salicylates:** The use of Salicylates shall be permitted under the following conditions:

(a) Any horse to which Salicylates have been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of the official veterinarian to determine the quantitative level(s) and/or the presence of other drugs, which may be present in the blood or urine sample.

(b) The permitted quantitative test level of Salicylates shall not exceed 750 micrograms per milliliter of urine, or its blood equivalent.

(16) **(i) Clenbuterol:** The use of Clenbuterol shall be permitted under the following conditions:

(a) Any horse to which Clenbuterol has been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of the official veterinarian to determine the quantitative level(s) and/or the presence of other drugs, which may be present in the blood or urine sample.

(b) The permitted quantitative test level of Clenbuterol shall be administered in such dosage amount that the official test sample shall test less than 5 nanograms per milliliter of urine, or its blood equivalent.

D. PENALTY RECOMMENDATIONS (in the absence of mitigating circumstances):

(1) A verbal warning for the first positive test within a 12-month period in the following levels:

(a) 5.0 micrograms per milliliter to 5.5 micrograms per milliliter in one drug of Phenylbutazone or Oxyphenbutazone; or

(b) 1.0 microgram per milliliter to 1.1 microgram per milliliter of Flunixin; or

(c) 1.0 microgram per milliliter to 1.1 microgram per milliliter of Meclofenamic Acid.

(d) 50.1 nanograms per milliliter of Ketoprofen.

(2) A written warning for one positive test within a 12-month period in the following levels:

(a) 5.6 micrograms per milliliter to 9.9 micrograms per milliliter in one drug of Phenylbutazone or Oxyphenbutazone; or

(b) 1.1 microgram per milliliter to 1.2 microgram per milliliter of Flunixin; or

(c) 1.1 microgram per milliliter to 1.2 microgram per milliliter of Meclofenamic Acid.

(d) 60.0 nanograms per milliliter of Ketoprofen.

(3) A fine for one positive test within a 12-month period in the following levels:

(a) \$200 for 10.0 micrograms per milliliter and above for combined total amount of Phenylbutazone and Oxyphenbutazone; or

(b) \$200 for 1.2 micrograms per milliliter of Flunixin; or

(c) \$200 for 1.2 micrograms per milliliter of Meclofenamic Acid; or

(d) \$300 for 5.0 micrograms per milliliter or more of either Phenylbutazone or Oxyphenbutazone in combination with 1.2 micrograms or more of either Flunixin or Meclofenamic Acid; or

(e) \$200 for 5.6 to 5.9 micrograms per milliliter in one drug of Phenylbutazone, or Oxyphenbutazone, and 1.0 to 1.1 micrograms per milliliter of Flunixin or Meclofenamic Acid.

(f) \$200 for 75.0 nanograms per milliliter of Ketoprofen.

(4) The penalties for a second violation within a twelve-month period are as follows:

(a) A second violation of Paragraphs (1) or (2) shall be a fine of \$200.

(b) A second violation of Paragraphs 3(a), 3(b), or 3(c) shall be a fine of \$400.

(c) A second violation of Paragraph 3(d) shall be a fine of \$600.

(d) A second violation of Paragraph 3(e) shall be a fine of \$400.

(e) A second violation of Paragraph 3(f) shall be a fine of \$400.

(5) The penalties for a third violation within a twelve-month period are as follows:

(a) A third violation of Paragraphs (1) or (2) shall be a fine of \$400.

(b) A third violation of Paragraphs 3(a), 3(b), or 3(c) shall be a \$400 fine, disqualification, and loss of purse.

(c) A third violation of Paragraph 3(d) shall be a fine of \$900, disqualification, and loss of purse.

(d) A third violation of Paragraph 3(e) shall be a fine of \$900, disqualification, and loss of purse.

(e) A third violation of Paragraph 3(f) shall be a fine of \$900, disqualification, and loss of purse.

(6) The penalties for a fourth violation within a twelve-month period are as follows:

(a) A fourth violation of Paragraphs (1) or (2) shall be a fine of \$400, disqualification, and loss of purse.

(b) A fourth violation of Paragraphs 3(a), 3(b), or 3(c) shall be a fine of \$1,000, loss of purse, disqualification, and a thirty day suspension.

(c) A fourth violation of Paragraph 3(d) shall be a fine of \$1,500, loss of purse, disqualification, and a thirty-day suspension.

(d) A fourth violation of Paragraph 3(e) shall be a fine of \$1,500,

loss of purse, disqualification, and a thirty-day suspension.

(e) A fourth violation of Paragraph 3(f) shall be a fine of \$1,500, loss of purse, disqualification, and a thirty-day suspension.

(7) For the fifth violation within a 12 month period of Paragraphs (1) or (2), shall be a fine of \$1,000, loss of purse, disqualification, and a thirty day suspension.

(8) A positive test of two permitted non-steroidal anti-inflammatory drugs found at twice the allowable level or more for two drugs shall carry the penalties of a Class IV drug positive for the trainer and attending veterinarian. Additional violations shall carry the same penalties as additional violations of a Class IV drug for the trainer and the attending veterinarian.

This is an amendment to Subsection E of Section 9 of 15.2.6 NMAC, which allows the Commission to requirement payment of testing for any drug, medication, or paraphernalia that is confiscated from a trainer licensed by the Commission once he/she has been proven to be in violation of the rules for possession of the contraband.

E. MEDICAL LABELING:

(3) Any drug, medication or paraphernalia determined to be confiscated contraband that is found on association premises which a licensed trainer occupies or has the right to occupy, or in that trainer's personal property or effects or vehicle in that trainer's care, custody or control, and is required to be tested by the official laboratory, will require payment of all costs for testing to be borne by the trainer upon final decision.

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

This Part 14.10.4 NMAC New Mexico Electrical Code filed 10-16-2000, is hereby repealed and replaced by 14.10.4 NMAC, effective 07-30-02.

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 10 ELECTRICAL**

CODES

**PART 4 STATE OF NEW
MEXICO ELECTRICAL CODE**

14.10.4.1 ISSUING AGENCY:
The construction industries division of the regulation and licensing department.

[14.10.4.1 NMAC - Rp, 14.10.4.1 NMAC, 7/30/02]

14.10.4.2 SCOPE: This rule applies to individuals doing electrical work within the state of New Mexico.

A. The provisions of this code apply to all installations of electrical conductors, wiring, conduits, fixtures, devices, appliances, or other electrical equipment or materials hereinafter defined as "electrical wiring" within or on public or private building, structures or premises, except within the boundaries of political subdivisions of this state which have:

(1) Adopted electrical codes containing requirements equal to or exceeding the requirements contained in this code as determined by the bureau, and

(2) Employ an adequate number of electrical inspectors, approved and certified by the bureau as to their competency, to enforce the provisions of the electrical codes, and

(3) Establish an appropriate system for the issuance of permits.

B. The provisions of this code include 14.10.2 NMAC, national electrical safety code, 1997 edition; 14.10.3 NMAC, national electrical code, 2002 edition and the standard for the installation of lightning protection systems, 1997 edition, as compiled and published as NFPA No. 780; and shall apply to all installations of electrical wiring within or on public or private buildings, structures or premises.

[14.10.4.2 NMAC - Rp, 14.10.4.2 NMAC, 7/30/02]

14.10.4.3 STATUTORY AUTHORITY: Pursuant to Section 60-13-9 (F) of the construction industries licensing act (1978), the construction industries division of the regulation and licensing department has adopted 14.10.4 NMAC This section provides as follows: The division shall adopt all building codes and minimum standards as recommended by the trade bureaus and approved by the commission so that the public welfare is protected, uniformity is promoted and conflicting provisions are avoided.

[14.10.4.3 NMAC - Rp, 14.10.4.3 NMAC, 7/30/02]

14.10.4.4 DURATION: Permanent, until later amended, repealed or replaced.

[14.10.4.4 NMAC - Rp, 14.10.4.4 NMAC,

7/30/02]

14.10.4.5 EFFECTIVE DATE:
July 30, 2002 unless a later date is cited at the end of a section.

[14.10.4.5 NMAC - Rp, 14.10.4.5 NMAC, 7/30/02]

14.10.4.6 OBJECTIVE: The objective of 14.10.4 NMAC is to promote the general welfare of the people of New Mexico by providing for the protection of life and property through standards that, when complied with, will result in an installation essentially free from hazards.

[14.10.4.6 NMAC - Rp, 14.10.4.6 NMAC, 7/30/02]

14.10.4.7 DEFINITIONS:
Article 100 Definitions

A. **Journeyman Electrician.** Includes any person certified by the division, having the qualifications, experience, and knowledge to install, repair and maintain any electrical wiring and equipment for light, heat, power, and other purposes, subject to the provision of this Code. A journeyman electrician is limited to working as an employee of a licensed electrical contractor. He is prohibited from engaging in electrical work on his own, either by the hour or by or through any type of contract.

B. **Qualified Person.**
Change: "One familiar with the construction and operation of the equipment and the hazards involved."

[14.10.4.7 NMAC - Rp, 14.10.4.7 NMAC, 7/30/02]

14.10.4.8 ADMINISTRATIVE:
A. **Inspectors.**

(1) Chief electrical inspector. Any person so employed shall be a competent electrician of good moral character and shall have at least eight years practical experience at the trade. A degree from an accredited school of electrical engineering may be substituted for four years of experience. He shall be well versed in the fundamentals of electricity and the approved methods of design and installation of interior electrical wiring systems for light, heat, and power and other electrical installations and construction for safety to life and property. He shall have the ability to plan and evaluate the work of others; to exercise good judgment in appraising situations and making decisions; to present oral and written comments clearly and concisely; to get along well with others and to deal tactfully with the public.

(2) Duties under the direction of the bureau chief. The chief electrical inspector shall plan, direct, and evaluate the

work of electrical inspectors; serve as field liaison between the bureau chief and the electrical inspectors, and perform related work as assigned.

(3) Electrical Inspectors. Persons so employed shall secure from the bureau chief an electrical inspector's certificate of qualification. In order to qualify for an electrical inspector's certificate of qualification, the applicant shall be a journeyman electrician; shall possess such executive ability as is required for the performance of his duties; shall have a thorough knowledge of the required standards of both materials and methods used in the installation of electrical wiring and equipment; shall have had at least three years of experience as an electrical inspector or in the installation of electrical wiring and shall pass a written examination given by the electrical trade bureau.

B. Disconnect Orders. In case of emergency, the Inspector has the authority to disconnect or to have disconnected any wire or connection devices where necessary for safety to life or property or where the wiring may interfere with the work of a fire department. The inspector having jurisdiction is authorized to disconnect or order the discontinuance of electrical service to any wire, device, appliance, or equipment found to be dangerous to life or property because it is defective or incorrectly installed, until the wiring device, appliance, or equipment and this installation is made safe and approved by the Inspector. The inspector is authorized to order the correction of the defect or of the incorrect installation that prompted the disconnection or discontinuance of electrical service.

C. Search Warrants. If the owner or occupant of any building, premises, or portion thereof refuses to allow an electrical inspector to enter the building, premises, or portion thereof at reasonable hours in the discharge of the duties imposed upon the inspector by this code, the Inspector shall proceed to obtain a search warrant from a magistrate court by filing a complaint before the magistrate court upon oath or affirmation. The complaint shall:

(1) set forth the particular building, premises, or portion thereof sought to be inspected;

(2) state that the owner or occupant of the building, structure, premises or portion thereof has refused the inspector entry;

(3) state that inspection of the building, structure, premises or portion thereof is necessary to determine whether it complies with the requirements of this code;

(4) set forth the particular provisions of this code sought to be enforced;

(5) set forth any other reason necessitating the inspection, including

knowledge or belief that a particular condition exists in the building, premises or portion thereof that constitutes a violation of this code;

(6) state that the Inspector is approved by the electrical bureau and is authorized by it to make the inspection.

D. Stop Orders. Whenever any work is being done contrary to the provisions of this code, an inspector may order the work stopped by notice in writing served on any person engaged in doing the work or causing the work to be done. The person so notified shall forthwith stop the work until authorized by the Inspector or other designated agent of the bureau to proceed.

E. Unsafe Wiring. If the Inspector determines that existing wiring constitutes a fire hazard to public safety, health or welfare because of inadequate maintenance, dilapidation, obsolescence, or abandonment or that is otherwise dangerous or is unsafe, the Inspector shall notify the owner or occupant in writing that it is unsafe and set forth the defects. The notice may require the owner or persons in charge to take the necessary steps to remove the hazards within 10 days. If necessary, a notice may be issued to require the serving agency to discontinue service until further notice.

F. Electrical Plan Review. Electrical plan review shall be required based on the following criteria:

(1) The bureau chief may require submittal of any specifications, drawings or diagrams necessary to show clearly the kind and extent of electrical work covered by the application for permit.

(2) All commercial projects that require an architect or engineer seal in accordance with the construction industries division rules and regulations shall be submitted to the electrical bureau or proper jurisdiction for review and approval.

(3) Plans, Specifications and Calculations shall comply with the following:

(a) Plans, specifications and calculations stamped by an electrical engineer licensed to practice in New Mexico (as evidenced by the voluntary electrical engineering classification in the roster of the New Mexico state board of registration for professional engineers and land surveyors, or by a declaration of the engineer that electrical is his practice area) shall be required for any installation with a calculated service capacity over 100 kVA single-phase or over 225 kVA three phase. This requirement shall NOT apply to remote installations such as irrigation pumps.

(b) Plans shall show the electrical riser, conductor size, grounding conductor

size, method of grounding (available electrodes, etc.), load calculations, available fault calculations, size and location of disconnects, panel schedules; wiring methods, site and floor plan.

(c) No permit shall be issued for the addition to, or alteration of, wiring of an existing building unless the building as it will be wired conforms to the requirements of the code for new buildings, EXCEPT that those portions of the existing wiring that have not been disturbed and are deemed safe by the inspector may remain in service.

G. Electrical Permit.

(1) Except as provided in Section 60-13-45 of the construction industries licensing act, an electrical permit shall be obtained before any electrical wiring may be installed in or on any building, structure, or premises, publicly or privately owned, or before any alteration or addition may be made in or on any existing installation.

(2) An electrical permit shall expire two (2) years after activation date or the most recent inspection date whichever is later. If the project has not been completed, a new electrical permit shall be obtained. The inspections will be based on the code edition that was in effect when the rough-in inspection was approved.

H. Electrical Inspections.

(1) The following electrical inspections shall be called for by the electrical contractor to whom the permit of record was issued:

(a) Temporary pole (if applicable)
(b) Underground or Underslab (if applicable)

(c) Rough-in (On residential projects, all wiring must be installed and connections made-up; on commercial projects, perform inspections as required).

(d) Pre-final (if applicable).

(e) Final (electrical system is complete and energized).

(2) The electrical Inspector may require any other inspections, or special inspections, or re-inspection, as deemed necessary and appropriate to determine code compliance.

(3) No work required to be visible for inspection shall be covered before the inspector grants inspection approval. Work that is covered prior to inspection may be required to be uncovered at the expense of the party responsible for the work.

(4) Failure to comply with all inspection requirements may result in the inability to obtain a Certificate of Occupancy for the structure.

(5) When the Inspector finds the installation to be in conformity with the code and these rules and regulations, he shall issue a certificate of approval, authorizing the use of the installation and connec-

tion to the supply of electricity.

(6) When a certificate of approval is issued for the connection and use of TEMPORARY work, such certificate shall be issued to expire at a time to be stated therein and shall be revocable at any time, for cause, by the electrical inspector who issued it.

(7) For electrical connections by public or municipally owed utilities, refer to Section 60-13-47C of the act.

I. Electrical Customer-Owned Distribution System Requirements. Electrical customer-owned distribution systems are subject to all adopted codes, standards, and regulations, Customer-owned distribution systems include all (non-utility owned or operated) overhead or underground primary or secondary voltage electrical power line construction, installation, alteration, repairs, or maintenance.

[14.10.4.8 NMAC - Rp, 14.10.4.8 NMAC, 7/30/02]

14.10.4.9 TECHNICAL PROVISIONS:

A. Codes and Standards. National electrical code and national electrical safety code. The 2002 national electrical code, compiled and published by the national fire protection association as pamphlet no. 70 (NFPA No. 70) and approved by the American National Standards Institute as ANSI C1-2002 and filed in New Mexico as 14 NMAC 10.3; the 1997 national electrical safety code, as compiled and published by the Institute of Electrical and Electronics Engineers and approved by the American National Standards Institute as ANSI C2-1997 and filed in New Mexico as 14 NMAC 10.2; and the 1997 standard for the installation of lightning protection systems compiled and published by the National Fire Protection Association as (NFPA No. 780), as they may be amended herein, are hereby adopted by reference and incorporated herein as fully as if set out in full. Together, they shall be known as the technical provisions of the New Mexico electrical code and shall apply to all installations of electrical wiring within or on public or private buildings, structures or premises.

B. Interpretations. The bureau adopts the interpretations as given in the 2002 national fire protection association handbook of the national electrical code.

C. More Demanding. Where, in any specific case, different sections of this code specify different materials, methods of work, or other requirements, the more demanding shall govern.

D. Standards for Electrical Wiring and Materials. Except as otherwise provided, all electrical wiring installed or

used shall be in conformity with the statutes of the state of New Mexico and this code, and with approved electrical standards for safety to life and property.

[14.10.4.9 NMAC - Rp, 14.10.4.9 NMAC 7/30/02]

14.10.4.10 AMENDMENTS TO THE 2002 NATIONAL ELECTRICAL CODE. The following amendments are made to the 2002 national electrical code. The article and section numbering is keyed to the national electrical code format.

A. Article 110. Requirements for Electrical Installations.

(1) 110.2 Add: Listing and Labeling by a nationally recognized testing laboratory as listed by the occupation safety and health administration.

(2) Electrical wiring, equipment, or material that is not listed and labeled and a (UL) safety standard exists shall be certified by a nationally recognized testing laboratory approved by the electrical bureau.

(3) Electrical wiring, equipment, or materials that is not listed and labeled and a (UL) safety standard does not exist shall be certified by an electrical engineer licensed to practice in New Mexico. The certification will verify manufacturer's safety and performance test data of the product.

(4) 110.16 Flash Protection. Delete in its entirety

(5) 110.21. Marking of Warning Signs. All equipment used on circuits over 300 volts between conductors shall have a warning sign either on or adjacent to the equipment.

(6) Signs shall be made in accordance with ANSI Z535 environmental and safety signs. The language shall read:

(a) For voltages over 300 volts – Install a 1" x 4" label that reads - "480 VOLTS."

(b) For voltages over 600 volts and there are exposed parts – "DANGER – HIGH VOLTAGE – KEEP OUT."

(c) Warning signs shall be consistent with national electrical code articles 230.203, 370.72 (e), 620.3 (a), 665.23, 490.53, and 490.55.

B. Article 210. Branch Circuits.

(1) 210.8(A)(9) GFCI Protection. Add (9) "All 15 or 20 amp receptacles installed within six (6) feet of a sink shall be GFCI protected, unless otherwise specifically allowed in the 2002 national electrical code."

(2) 210.8(B)(4) GFCI Protection. Add, "All 15 or 20 amp receptacles installed within six(6) feet of any sink shall be GFCI protected, unless otherwise specifically allowed in the 2002 national electrical

code." Add exception: Receptacles for appliances and equipment within dedicated space that in normal use is not easily moved from one place to another, and that is cord and plug connected in accordance with section 400.7(A)(6)(7)(8).

(3) 210.8(B)(5) Add: Outdoors

(4) 210.11 (A) (1). Number of Branch Circuits. Add, "In dwelling occupancies, circuits for general purpose receptacles shall be limited to a maximum of ten (10) current consuming outlets. Single and duplex receptacle outlets are considered to be one current consuming outlet. Exception: Circuits serving only lighting loads may be calculated per article 220 of the national electrical code.

(5) 210.11 (C) (1). Small Appliance Branch Circuits – Dwelling Unit. Add, "Not more than four (4) current consuming outlets shall be connected to these circuits. Single and duplex receptacle outlets are considered to be one current consuming outlet.

(6) 210.11 (C) (2). Laundry Area Receptacle. "This circuit shall provide supply to the laundry equipment receptacle only. This circuit shall not serve any other outlets.

(7) 210.12 (B) Dwelling unit Bedrooms. Change: "All branch circuits that supply 125-volt, single-phase, 15- and 20-ampere receptacle outlets installed in dwelling unit bedrooms shall be protected by an arc-fault circuit interrupter(s)."

(8) 210.19 (A). General. Voltage Drop Add, "Branch circuits shall not have a voltage drop exceeding 5 percent at the farthest outlet of power, of the nominal voltage system serving the premises. The maximum voltage drop on both feeders and branch circuits at the farthest outlet of power shall not exceed 8 percent."

(9) 210.52 (C) (3). Peninsular Counter Spaces. "At least one receptacle outlet shall be installed at each peninsular counter space with a long dimension of six (6) feet, or greater and a short dimension of one (1) foot, or greater. A peninsular countertop is measured from the connection edge."

(10) 210.52 (G) Basement and Garages. Add: "Receptacle outlets must be installed a minimum of eighteen (18) inches above finished floor, in attached or detached garages."

(11) 210.63 Heating, Air-conditioning, and Refrigeration Equipment Outlet. Add Exception: "evaporative cooling equipment on single family dwellings."

(12) 210.70 (A)(2)(D)&(C)(1) Lighting Outlets Required. Add, "At least one (1) switched lighting outlet shall be installed in all accessible attics and crawl spaces adjacent to the access point."

(13) 210.70 (A) (2)(E). Lighting Outlets Switch Locations. Add, "On single family dwellings at least one wall switch, or automatic lighting control such as a motion detector shall be installed at each entrance or exit to control exterior illumination."

C. Article 215. Feeders.

(1) 215.1. Scope. Wiring Methods for Feeders: Add, "article 334, nonmetallic-sheathed cable and article 338, service entrance cable type SER, shall be permitted to be used for feeders in dwelling units providing the cables shall not pass through or under any other occupancy. Article 340. UF cable shall be permitted to be used underground for any occupancy, and indoors only in accordance with article 334, nonmetallic-sheathed cable, providing the cable shall not pass through or under any other occupancy."

(2) 215.2 (C). General. Voltage Drop. Add, "Feeders shall not have a voltage drop exceeding five percent (5 percent) at the farthest outlet of power, of the nominal voltage system serving the premises. The maximum voltage drop on both feeders and branch circuits at the farthest outlet of power shall not exceed eight percent (8%)."

D. Article 225. Outside Branch-Circuit and Feeders.

(1) 225.19 (A) Clearance Above Roofs. Exception No. 2. Delete in its entirety.

(2) 225.32. Disconnect Location. Exception No. 1. Change, "For industrial installations under single management, where documented safe switching procedures are established and maintained for disconnection, the disconnection means shall be permitted to be located elsewhere on the premises."

E. Article 230. Services. Exception: Farm buildings served from a pole on which overcurrent protection is provided, the service entrance conductors shall be permitted to be service entrance cable. The pole meter loop, however, shall be rigid metal conduit, intermediate metal conduit, electrical metallic tubing, or schedule 80 rigid nonmetallic conduit.

(1) 230.24 (A) Clearance Above Roofs. Exception No.2: Delete in its entirety.

(2) 230.28. Service Masts as Supports. Add, "Where a service mast is used for the support of service drop conductors, it shall be a minimum two inch (2") rigid metal conduit, intermediate metal conduit or comply with local utility requirements."

(3) 230.43. Wiring Methods for 600 Volts, Nominal, or Less. Add, "Service entrance conductors shall be restricted to the following wiring methods: article 330 metal-clad cable, 338 service-entrance

cable type USE, 342 intermediate metal conduit, 344 rigid metal conduit, 352 rigid nonmetallic conduit, 358 electrical metallic tubing, 376 wireways, 368 busways, 370 cablebus, or 366 auxiliary gutters. All other methods referred to in article 230.43 are hereby deleted."

(4) 230.70 (A) Add: "The disconnecting means for each occupant of a multiple occupancy building shall be grouped at a common location."

(5) 230.70 (A)(1). General Locations of Service Disconnect. Amend paragraph to read as follows: "The service disconnecting means shall be located at a readily accessible point outside the building or structure and associated with the meter socket enclosure, or within forty eight (48) inches from the point where the service conductor raceway enter the building or structure."

Exception: Self contained pad mounted meters are not required to be associated with the disconnecting means.

F. Article 240. Overcurrent Protection.

(1) 240.24.(F) Location in or on premises. Add, Overcurrent devices shall not be located in bathrooms, cupboards, or similar locations which inhibit ready access."

(2) [Reserved]

G. Article 250 - Grounding.

(1) 250.32 (B) (2). Two or more buildings, grounded conductor. Delete in its entirety.

(2) 250.50 Grounding Electrode Systems. Add, "On single family dwellings, guest house, studios or detached garages, a concrete encased electrode shall be considered available and installed in compliance with NEC 250.52(A)(3). If a concrete encased electrode is not present, at least 20 feet of No. 2 bare copper in direct contact with the earth at a depth below the earth's surface of not less than thirty (30) inches shall be installed"

(3) 250.52 (A)(5) Rod Electrodes. Add, "Copper or copper-clad grounding electrodes shall be not less than 5/8" diameter and when in direct contact with the earth it shall be copper or copper-clad."

(4) 250.104 (A). Bonding Metal Water Piping Systems. Add, "The hot and cold metal water pipes shall be bonded together at an accessible location. The bonding jumper shall be No. 6 copper minimum. Non-metallic water pipe systems, which contain short sections of metal water pipes and are not likely to become energized, are not required to be bonded."

(5) 250.104 (B). Bonding Other Metal Piping. Delete "gas piping."

(6) 250.118. Equipment

Grounding Conductor. Add, (15) "An equipment grounding conductor shall be installed in all branch circuit and feeder raceways on or above a roof. The equipment grounding conductor shall be sized in accordance with table 250.122."

H. Article 290. Energy Conservation.

(1) 290.10. Scope. "This article sets forth minimum requirements for the design of new buildings and structures or portions thereof and additions to existing buildings that provide facilities or shelter for public assembly, educational, business, mercantile, institutional, storage and residential occupancies designed primarily for human occupancy, by regulating their illuminating systems and equipment for effective use of energy."

(2) 290.20. Exempt Buildings, Areas, and Equipment.

(a) Buildings and structures or portions thereof whose peak design rate of energy usage is less than 3.4 Btu/h per square foot or 1.0 watt per square foot of floor area for all purposes.

(b) Buildings and structures or portions thereof which are neither heated nor cooled.

(c) One and two-family detached dwellings.

(d) Dwelling portion of multi-family building.

(e) Historical buildings

(f) Residential-type space in institutions, such as hospitals, hotels, funeral homes, churches, museums, etc., other than kitchens, bathrooms, laundry areas, and public spaces including lobbies, halls, stairways, basement areas and utility rooms.

(g) Theater auditoriums, entertainment, audiovisual presentations and motion picture and television studios where the lighting is an essential technical element for the function performed.

(h) Display lighting.

(i) Local task lighting.

(j) Luminaries for specialized lighting applications (color matching, where electrical interference cannot be tolerated, etc.).

(k) Space where it is impractical to control reflectance and where a dirty atmosphere cannot be avoided.

(l) Building exteriors and exterior spaces.

(3) 290.30. Lighting Power Budget.

(a) A lighting power budget is the upper limit of the power to be available to provide the lighting needs in accordance with the criteria and calculation procedures specified herein, and shall include the load of lamps and ballasts.

(b) The lighting power budget

shall not exceed the unit power density of two watts per square foot of gross building area.

(c) In lieu of the unit power density method, the lighting power budget may be calculated in accordance with the electrical power and lighting chapter of the latest adopted edition of the energy conservation code for New Mexico.

(4) 290.40 Night Sky Protection Act. Outdoor lighting shall comply with the night sky protection act.

I. Article 300. Wiring Methods.

(1) 300.11 (A) Secured in Place. Add: "Independent support wires shall be limited to support of flexible wiring methods from the last point of support for connections within an accessible ceiling to lighting fixtures or equipment."

(2) 300.11 (A) (1). Securing and Supporting. This section shall apply to fire rated and non-fire rated ceiling assemblies.

(3) 300.11 (A) (1). Exception. Delete in its entirety.

(4) 300.11 (A) (2). Exception. Delete in its entirety.

(5) 300.14. Length of Conductors at Boxes. Add, "The six (6) inches shall be measured from the front edge of the box to the end of the conductor."

J. Article 310. Conductors for General Wiring.

(1) 310.2 (B). Conductor Material. Add the restriction: "The use of aluminum current carrying conductors shall be of the AA-8000 series and shall be limited to No. 2 or larger for aluminum or copper-clad aluminum. Exception: The equipment-grounding conductor shall be limited to No. 4 or larger if in a listed cable assembly.

(2) [Reserved]

K. Article 314. Outlet, Device Pull and Junction Boxes.

(1) 314.27(a) Exception. Delete in its entirety.

(2) [Reserved]

L. Article 334. Nonmetallic-Sheathed Cable.

(1) 334.10(C)(4) Type NMS. Add, "For smoke detector circuits in dwellings."

(2) 334.12(A)(11) Uses Not Permitted. Add (11), "Type NM, NMC, or NMS shall not be installed in buildings, or structures such as stores, professional offices, motels, hotels, and similar occupancies classified as commercial or industrial."

(3) 334.12(A)(12) Uses Not Permitted. Add (12), "In any multifamily dwelling or other structure exceeding three (3) floors above grade. For the purpose of this article, the first floor of a building shall be that floor that has fifty (50) percent or more of the exterior wall surface area level

with or above finished grade. One additional level that is the first level and not designed for human habitation and used only for vehicle parking, storage or similar use shall be permitted."

M. Article 340. Underground Feeder and Branch Circuit Cable.

(1) 340.10 (8) Uses Permitted. Add (8) "type UF cable shall be permitted to be imbedded in adobe construction."

(2) 340.10 (9) Add (9), "Type UF Cable, or an approved electrical raceway shall be installed on straw bale residential construction."

(3) 340.12 (12) Uses Not Permitted. Add (12), "Type UF cable shall not be installed in buildings or structures such as stores, professional offices, motels, hotels, or similar occupancies classified as commercial or industrial."

N. Article 348 Flexible Metal Conduit.

(1) 348.12(1) Uses not permitted. Change: In wet locations.

(2) [Reserved]

O. Article 358 electrical metallic tubing.

(1) 358.12 (7) uses not permitted. Add, "Electrical metallic tubing shall not be permitted to be installed underground or in concrete slabs which are in contact with the earth."

(2) [Reserved]

P. Article 394 concealed knob-and-tube wiring.

(1) 394.12 uses not permitted. Concealed knob and tube wiring shall not be permitted to be installed except by special written permission from the electrical bureau.

(2) [Reserved]

Q. Article 410 Luminaries.

(1) 410.4 (D) (1) Bathtub and Shower Areas. Add (1) "Wall mount luminaries (fixtures) installed in bathtub or shower space shall be marked 'suitable for wet locations' and be ground fault circuit interruption protected."

(2) [Reserved]

R. Article 422. Appliances.

(1) 422.9. Installation of appliance. Add, "Where an evaporative cooler is installed, a listed raceway shall be installed during rough-in from the control point to the evaporative cooler location. The raceway shall contain an equipment-grounding conductor from the control box to the junction box at the unit. The equipment grounding conductor shall be sized in accordance with table 250.122."

(2) [Reserved]

S. Article 550. Mobile Homes and Mobile Home Parks

(1) 550.32 (H) Mobile Home Service Equipment. Add (H) "A 125 volt 15 or 20 amp receptacle outlet shall be installed with ground fault circuit interruption protection at each mobile home or manufactured home service equipment, or the local external disconnecting means permitted in 550.32 (A)."

(2) 550.32 (I) Overhead service Add (I) "Overhead service support shall comply with the serving utility requirements or be at least six inch by six inch (6" x 6") pressure-treated timber or equivalent round poles installed to a depth not less than four (4) feet below finish grade."

T. Article 552. park trailers.

(1) 552.47(D). calculations. Add (D), minimum allowable Demand Factors. Service and feeders for park trailer sites shall be permitted to be calculated in accordance with Article 550.31 for mobile homes.

(2) [Reserved]

U. Article 700. Emergency Systems.

(1) 700.1. Scope. Add, "Refer to the latest adopted edition of the building code and the NFPA-101 life safety code for exit and emergency lighting requirements."

(2) [Reserved]

V. Article 800. Communications Circuits.

(1) 800.52(F). installation of communication cables. Add (F) "Each dwelling unit telephone outlet shall have not less than 4 pairs of No. 24 AWG communication conductors. Each 4 pair cable shall serve not more than three telephone outlets. Conductors shall terminate in a listed box or on a terminal block near the electrical service or location of telephone service. Any exterior wall penetration shall be installed in a listed raceway."

(2) [Reserved]

[14.10.4.10 NMAC - Rp, 14.10.4.10 NMAC, 7/30/02]

14.10.4.11 SMOKE DETECTORS.

For smoke detectors, refer to the latest adopted edition of the building code. Smoke detectors installed in new single family dwellings shall be served by a single source. When two (2) or more smoke detectors are required in a dwelling unit, they shall be interconnected with a multi-conductor cable assembly. Location and power back-up requirement shall be in accordance with the latest adopted edition of the building code.

[14.10.4.11 NMAC - Rp, 14.10.4.11 NMAC, 7/30/02]

14.10.4.12 ACCESSIBILITY REQUIREMENTS FOR PERSONS

WITH DISABILITIES. Add, "Electrical device installation shall comply with accessibility codes adopted for New Mexico."
[14.10.4.12 NMAC - Rp, 14.10.4.12 NMAC, 7/30/02]

HISTORY OF 14.10.4 NMAC:

Pre-NMAC History:

The material in this Part was derived from that previously filed with the State Records Center and Archives under:

CIC 71-1, 1971 National Electrical Code, filed 12-01-71

CIC71-2, 1972 New Mexico Electrical Code, filed 12-1-71

CID 78-1, 1978 New Mexico Electrical Code, filed 01-31-78

CID EB 81-3, State of New Mexico Electrical Code Revised to July 24, 1981, Technical Provision based on the 1981 National Electrical Code and Related Codes and Standards, filed 11-24-81

CID EB 84-1, State of New Mexico Electrical Code, filed 05-11-84

CID NMEB 93-1, State of New Mexico Electrical Code 1993, filed 02-25-93

Other History:

14 NMAC 10.4, Housing and Construction, Electrical Codes, State of New Mexico Electrical Code, filed 01-15-97; replaced CID NMEB, filed 2-25-93

14 NMAC 10.4, Housing and Construction, Electrical Codes, State of New Mexico Electrical Code, filed 06-01-99

14.10.4 NMAC, Housing and Construction, Electrical Codes, State of New Mexico Electrical Code, effective 12-01-00

HISTORY OF REPEALED MATERIAL:

14 NMAC 10.4, Housing and Construction, Electrical Codes, State of New Mexico Electrical Code, filed 06-01-99, repeals 14 NMAC 10.4 filed on 01-15-97

14 NMAC 10.4, New Mexico Electrical Code, filed on 06-01-99, is repealed effective 12-01-00

14.10.4 NMAC, State of New Mexico Electrical Code, filed 10-16-2000 is repealed effective 7/30/02.

End of Adopted Rules Section

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SUBMITTAL DEADLINES AND PUBLICATION DATES

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Issue Number 9	May 1	May 15
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