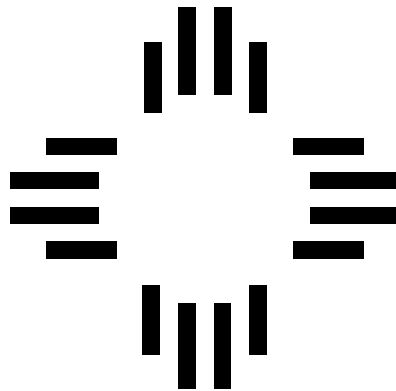


# **New Mexico Register**

**Volume XIII, Issue Number 18**  
**September 30, 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  
Santa Fe, New Mexico  
2002

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# New Mexico Register

Volume XIII, Number 18

September 30, 2002

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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](mailto:rules@rain.state.nm.us).

## Notices of Rulemaking and Proposed Rules

### ALBUQUERQUE/ BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

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

##### NOTICE OF HEARING

On November 13th, 2002, at 5:15 PM, the Albuquerque/Bernalillo County Air Quality Control Board (Board) will hold two public hearings in the Council/Commission Chambers of the Albuquerque/Bernalillo County Government Center, 400 Marquette Avenue NW, Albuquerque, NM 87102.

The hearings will address:

➤ Modification of the definition of "Major source" in air quality regulation 20.11.42 NMAC, Operating Permits.

➤ Proposal to incorporate the majority of Board Regulations recodified on May 8th, 2002 into the New Mexico State Implementation Plan (SIP) for air quality.

The purpose of the first hearing is to receive testimony on the proposal to amend 20.11.42 NMAC, Operating Permits. EPA has announced an update to the definition of "major source" in 40CFR, Part 70, subpart 2. The effective date of this change was November 27, 2001. EPA requires that each state must revise its program and submit the revisions for EPA approval by November 27, 2002. The change made by EPA corresponds to 20.11.42 NMAC.

The purpose of the second hearing is to receive testimony on the proposal to incorporate recently reformatted regulations into the SIP.

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

Hearings and meetings of the Board are open to the public and all interested persons are encouraged to participate. All persons wishing to testify may do so at the hearing and will be given a reasonable opportunity to submit relevant evidence, data, views, and arguments, orally or in writing, to intro-

duce exhibits and to examine witnesses in accordance with the Joint Air Quality Control Board Ordinances, Section 9-5-1-6 ROA 1994 and Bernalillo County Ordinance 94-5, Section 6.

Anyone intending to present technical testimony should submit a written notice of intent to: Attn: November Hearing Record, Mr. Isreal Tavarez, Environmental Health Department, P.O. Box 1293, Albuquerque, NM 87103, or in person in Room 3023, 400 Marquette Avenue NW, in advance of the hearing. The notice shall include:

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

In addition, written comments to be incorporated into the public record should be received at the above Post Office Box address, or Environmental Health Department office, before 5:00pm on November 6th, 2002, and must identify the individual submitting the statement. Interested persons may obtain a copy of the proposed regulation at the Environmental Health Department Office, or contact Mr. Isreal Tavarez at (505) 768-1965, ITavarez@cabq.gov.

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

### NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

#### NEW MEXICO ENVIRONMENTAL

#### IMPROVEMENT BOARD

### NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED REVISION OF AIR QUALITY REGULATION

#### 20.2.70 NMAC - *Operating Permits*

The New Mexico Environmental Improvement Board will hold a public hearing on November 8, 2002 at 9:00 a.m. at City County Government Center, One Civic Plaza, 9th Floor Committee Room Albuquerque, New Mexico. The purpose of the hearing is to consider proposed revisions to Sections 300 and 302 of 20.2.70 NMAC – *Operating Permits*.

The proponent of this regulatory change is the New Mexico Environment Department.

The Department's proposal revises requirements for dispersion modeling in operating permit applications, and clarifies and revises requirements for certification of compliance with New Mexico and National Ambient Air Quality Standards. Under the Department's proposal, New Mexico and National Ambient Air Quality Standards continue to be applicable requirements under 20.2.70 NMAC – *Operating Permits*.

The proposed regulation 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 revisions may be obtained by contacting Rita Trujillo at (505) 955-8024 or Lany Weaver at (505) 955-8090 or by visiting the Department's web site at [www.nmenv.state.nm.us](http://www.nmenv.state.nm.us). Follow the links to the Air Quality Bureau's page. Written comments regarding the proposed revisions may be addressed to Ms. Trujillo or Ms. Weaver at Air Quality Bureau, P.O. Box 26110, Santa Fe, NM, 87502. The deadline to submit comments or questions regarding the Department's proposed revisions is November 1, 2002.

The hearing will be conducted in accordance with 20.1.1 NMAC (Rulemaking Procedures) Environmental Improvement Board, the Environmental Improvement Act, Section 74-1-9 NMSA 1978, the Air Quality Control Act Section 74-2-6 NMSA 1978 and other applicable procedures.

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

wishing to present technical testimony must file with the Board a written notice of intent to do so. The notice of intent shall:

- identify the person for whom the witness(es) will testify;
- identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background;
- summarize or include a copy of the direct testimony of each technical witness and state the anticipated duration;
- include the text of any recommended modifications to the proposed regulatory change; and
- list and describe, or attach, all exhibits anticipated to be offered by that person at the hearing.

Notices of intent for the hearing must be received in the Office of the Environmental Improvement Board not later than 5:00 pm on October 28, 2002, and should reference the name of the regulation and the date of the hearing. Notices of intent to present technical testimony should be submitted to:

Geraldine Madrid-Chavez, Office of the Environmental Improvement Board, Harold Runnels Building, 1190 St. Francis Drive, Room N-2150, Santa Fe, NM. 87505.

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

If you are an individual with a disability and you require assistance or an auxiliary aid, e.g. sign language interpreter, to participate in any aspect of this process, please contact Cliff Hawley by October 25, 2002. Mr. Hawley's telephone number is (505) 827-2844. He is Chief of the Program Support Bureau, New Mexico Environment Department, P.O. Box 26110, 1190 St. Francis Drive, Santa Fe, NM, 87502. (TDD or TDY users please access his number via the New Mexico Relay Network. Albuquerque TDD users: (505) 275-7333. Outside of Albuquerque: 1-800-659-1779.)

Copies of the agenda and the proposed regulations will be provided in alternative forms, e.g. audiotape, if requested by October 18, 2002.

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

ss/Dr. Hilary A. Noskin, Chair

## NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

### THE NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

#### NOTICE OF PUBLIC MEETING AND NOTICE OF PUBLIC HEARING

The New Mexico Environmental Improvement Board will hold a public meeting on December 13, 2002 beginning at 9:30 a.m. at the City Government Building, One Civic Plaza, Room 9081, Albuquerque, New Mexico. Contact Geraldine Madrid-Chavez (505) 827-2425 for a copy of the proposed agenda, which will be available after December 3, 2002, at the Environment Improvement Board's office, Room N-2153, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, New Mexico 87502.

The Board will hold a public hearing during the meeting to consider In The Matter of Petition to Amend Air Quality Control Regulation 20 NMAC 2.72.219, EIB-02-01. The Petition seeks to amend 20.2.72.219 NMAC, which governs technical amendments to air quality permits, by adding provisions which would authorize certain permit revisions which incorporate air pollution control equipment or permit conditions limiting the potential emission rate for a facility to be treated as technical permit revisions. A copy of the petition and the proposed regulatory change may be obtained from the Environmental Improvement Board's office, Room N-2153, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, New Mexico 87502. Contact Geraldine Madrid-Chavez, (505) 827-2425, with questions concerning the hearing on this petition.

The hearing will be conducted in accordance with the Environmental Improvement Board's Rulemaking Procedures, 20 NMAC 1.1, the Environmental Improvement Act, Section 74-1-9 NMSA 1978, and other specific statutory procedures that may apply.

All interested persons will be given a reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Persons desiring to present technical testimony must file with the Board, a written notice of intent to do so. The notice of intent shall:

- \* Identify the party for whom the

witness will testify;

- \* Identify each technical witness the party intends to present and state the qualifications of that witness, including a description of their education and work background;

- \* Summarize or include a copy of the direct testimony of each technical witness and state the anticipated duration of the testimony;

- \* Include the text of any recommended modifications to the proposed regulatory change;

- \* List and describe, or attach, all exhibits anticipated to be offered by that person at the hearing.

The deadline for the notice of intent is December 3, 2002. Notices of intent must be filed in the office of the Board and should state the date and title of the hearing, and the case number. Any person who wished to submit a non-technical written statement in lieu of oral testimony may do so at or before the hearing.

The Board may reconvene a meeting at the end of the hearing to take action on the Petition.

If you are an individual with a disability and you require assistance or an auxiliary aid, e.g. sign language interpreter, to participate in any aspect of this process, please contact Cliff Hawley by November 13, 2002 at the New Mexico Environment Department, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, New Mexico 87502, (505) 827-2850 (TDD or TDY users please access his number via the New Mexico Relay Network. Albuquerque TDD users: (505) 275-7333; outside of Albuquerque: 1-800-659-1779.)

## NEW MEXICO HOISTING OPERATOR LICENSURE EXAMINING COUNCIL

### HOISTING OPERATOR'S LICENSURE EXAMINING COUNCIL MEETING

Notice is hereby given that the Hoisting Operator Licensure Examining Council will hold its regular meeting on Friday, November 8, 2002. The meeting will begin at 2:30 p.m. in the Construction Industries Division Conference Room, 1650-A University NE in Albuquerque, New Mexico. Council Members will consider agenda items and discuss other business that may require action. A copy of the Agenda will be available at the office of the Program Administrator prior to said meeting.

Anyone needing special accommodations is requested to notify the Program Administrator at 505-841-8020 - 1650 University NE-Suite 201, Albuquerque, New Mexico of such needs at least ten days prior to the meeting.

**NEW MEXICO  
DEPARTMENT  
OF LABOR**

EMPLOYMENT SECURITY  
DIVISION

**NEW MEXICO DEPARTMENT OF  
LABOR  
NOTICE OF PUBLIC HEARING FOR  
RULE-MAKING**

The New Mexico Department of Labor, Employment Security Division, will hold a public hearing for rule-making on proposed amendments to the Employment Security Division Rules Parts 100, 200, 300, 400 and 500 concerning the Unemployment Compensation Law and general procedures of the department. All parts have been reformatted and renumbered. Numerous grammatical and cosmetic changes have been made to provisions adopted over many years to make the style of the various sections of the rules uniform. A typical cosmetic change is replacing the term "commission" with "department." Additionally, sections have been rewritten, obsolete sections repealed or updated and new sections added. The purpose of the amendments is to generally update the rules to comply with existing laws and practices, to respond to needs of the public, to make the rules easier to read, understand and use and to provide for the use of modern electronic means of communication and the department's new computer systems.

Copies of the proposed revisions are available for review in the Office of the General Counsel of the New Mexico Department of Labor, 401 Broadway, NE, Albuquerque, NM. Persons interested in reviewing the draft may submit a request a copy by phone, mail, e-mail or telefax to Rebecca E. Wardlaw, Office of the General Counsel, New Mexico Department of Labor, P. O. Box 1928, Albuquerque, NM 87103, [rwardlaw@state.nm.us](mailto:rwardlaw@state.nm.us), phone (505) 841-8489; fax (505) 841-9024.

A Public Hearing will be held on November 1, 2002, at 9:00 a.m. in the Aspen Plaza conference room, Suite 201, located at 1596 Pacheco Street, Santa Fe, New Mexico. Interested persons may submit comments in writing prior to the hearing or may appear at the hearing and make oral presentations. The Secretary of the New Mexico Department of Labor will fully con-

sider all written and oral submissions. Unless the Secretary acts affirmatively to incorporate changes or requests received prior to or at the public hearing, the rules as described in this notice shall become effective at midnight on the fifteenth day after the public hearing, January 1, 2003. Interested persons, who have a disability or who require some accommodation in attending the public hearing or having the proposed rule communicated to them, should submit a written request identifying the disability and type of accommodation needed to Rebecca E. Wardlaw, Office of the General Counsel, New Mexico Department of Labor, P. O. Box 1928, Albuquerque, NM 87103, or fax to 505-841-9024. If such a request is not made at least 24 hours in advance of the public hearing, the availability of the accommodation on-site cannot be assured.

**NEW MEXICO PUBLIC REGULATION COMMISSION**

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF THE PETITION OF )**  
**THE UTILITY DIVISION STAFF OF THE )**  
**COMMISSION, PNM GAS SERVICES, ZIA )**  
**NATURAL GAS COMPANY, AND RATON )**  
**NATURAL GAS COMPANY FOR A RULE- ) Utility Case No. 3161**  
**MAKING TO AMEND NMPRC RULE 640, )**  
**PURCHASED GAS ADJUSTMENT CLAUSES, )**  
**AND TO RECODIFY THE RULE IN )**  
**ACCORDANCE WITH THE NEW MEXICO )**  
**ADMINISTRATIVE CODE )**

**NOTICE OF PROPOSED RULEMAKING**

**NOTICE** is hereby given that pursuant to the New Mexico Public Regulation Commission's ("NMPRC" or "Commission") Order of May 7, 2002, remanding the Recommended Decision of the Hearing Examiner issued in this case on May 15, 2000, for further proceedings, the undersigned Hearing Examiner is resuming the rulemaking proceeding in this Case for the purpose of further addressing proposed amendments to 17.10.640 NMAC, Purchase Gas Adjustment Clauses for Gas Utilities ("PGAC"), and to prescribe a form of protective order applicable to certain information that would be submitted to the Commission by gas utilities under the proposed revised rule. The proposed amended rule and form of protective order would be adopted under the authority granted the Commission by the New Mexico Constitution, art. II, Section 2, and pursuant to the Public Regulation Commission Act, NMSA 1978, Sections 8-8-4 and 8-8-15 (1999), and the Public Utility Act, Sections 62-6-4(A), 62-6-19 and 62-8-7(E) (1999).

On September 30, 1999, the Utility Division Staff of the Commission, PNM Gas Services, a division of Public Service Company of New Mexico, Zia Natural Gas Company, a division of Natural Gas Processing Company, and Raton Natural Gas Company (collectively "Petitioners") filed a Petition for Rulemaking in this docket, which included a proposed amended Rule 640 and proposed form of protective order. On October 13, 1999, the New Mexico Attorney General filed her Opposition of the Attorney General to Petition for Rulemaking. The Attorney General opposed the proposed amendments to the extent that they eliminated language contained in existing NMPRC Rule 640.4(f) (now recodified as 17.10.640.9(A)(1)(f) NMAC) and incorporated in Rule 640.5 (now recodified as 17.10.640(A)(2) NMAC), requiring that a gas utility show that "the utility's procurement policies are designed to assure that new gas supply is purchased at the lowest reasonable cost." The Attorney General requested that the Commission either reject the Petition or alternatively reinsert the existing language.

On October 19, 1999, the Commission issued its Notice of Proposed Rulemaking ("Notice") in this proceeding. In that Notice, the Commission gave notice that it was commencing a rulemaking proceeding for the purposes of addressing proposed amendments to NMPRC Rule 640, of codifying the amended rules as 17 NMAC 10.640 in accordance with the requirements of the New Mexico Administrative Code, and of prescribing a form of protective order applicable to certain information that would be submitted to the Commission by gas utilities under the proposed revised rule. The Commission appointed the undersigned as Hearing Examiner in this proceeding and specifically authorized the Hearing Examiner to rule on the merits of the Attorney General's alternative request. The Commission direct-



ed the Hearing Examiner, thereafter, to cause the Commission's Notice and the proposed rule as may be further amended by the ruling on the Attorney General's request and proposed protective order to be mailed to all persons who had made a written request for advance notice of gas utility rulemakings and to all natural gas utilities. The Commission further directed the Hearing Examiner to establish a procedural schedule for this matter and to cause mailing and publication of the Commission's Notice and the procedural schedule in accordance with the terms of the Notice and NMSA 1978, Section 8-8-15 (1999).

On November 1, 1999, the Hearing Examiner issued an Order Setting Pre-hearing Conference in which he scheduled a pre-hearing conference for November 9, 1999, to discuss procedural dates and details, including procedures for consideration of the Attorney General's alternative request.

The pre-hearing conference was held as scheduled on November 9, 1999. In attendance were representatives of Utility Division Staff, PNM Gas Services, and the Attorney General's Office. Those parties agreed to a procedural schedule.

Following the hearing, the Hearing Examiner issued a Further Notice of Proposed Rulemaking and Procedural Order ("Further Notice") on November 15, 1999. In the Further Notice, the Hearing Examiner ordered notice and publication of the amended rule as proposed in the Petition and solicited comments from interested parties on the proposed rule and the Attorney General's Opposition. Notice and publication in newspapers and the New Mexico Register was timely achieved. Written comments were filed by PNM, the Attorney General, and Zia by the December 17, 1999 deadline, and replies to comments were timely filed by Staff and PNM on January 14, 2000.

In accordance with the terms of the Further Notice, a public hearing was held at the Commission's offices in Santa Fe, New Mexico, On February 1, 2000, for the purpose of receiving oral comments and clarification of the written comments. The Attorney General, PNM, Staff and the New Mexico Industrial Energy Consumers ("NMIEC") appeared and offered comments. The Hearing Examiner thereafter expressed his concerns about the proposed rule, urged the parties to continue their efforts to resolve the differences between themselves and to revise the rule to address his concerns, and ruled that the record

would remain open until a Recommended Decision was issued.

PNM, Staff and the Attorney General resumed discussions and, at the request of the parties, the Hearing Examiner scheduled a public workshop on the proposed PGAC rule to be held at the offices of the Commission on March 27, 2000, in conjunction with a previously scheduled workshop in NMPRC Case No. 3056, a related case dealing with PNM's hedging policies and practices. That workshop was attended by representatives of Staff, the Attorney General and PNM, who expressed their agreement to further revisions of the proposed amendments to Rule 640.

On May 15, 2000, the Hearing Examiner issued his Recommended Decision recommending that the Commission order that NMPRC Utility Division Rule 640, 17 NMAC 10.640, attached as Attachment 1 to the Recommended Decision, be approved and adopted by the Commission, effective fifteen days after the issuance of the Recommended Decision and the filing of the rule in accordance with the State Rules Act, as provided in NMSA 1978, Section 8-8-15(E) (1999). The Hearing Examiner further recommended that the Commission order the existing NMPRC Utility Division Rule repealed, effective at the time that the rule adopted therein would have become effective and that the Protective Order attached to the Recommended Decision as Attachment 2 be approved and adopted by the Commission, effective immediately. The Hearing Examiner further recommended that the Commission order that no later than thirty days after the issuance of the Recommended Decision, all gas utilities operating with a PGAC mechanism file revised tariffs, to the extent necessary to conform with the rule adopted therein. The Commission took no action on the Recommended Decision.

On September 27, 2001, Staff filed a Motion for Remand requesting that the Commission remand the Recommended Decision of the Hearing Examiner for subsequent proceedings. Staff's Motion for Remand was based on NMSA 1978, Section 8-8-15(D) (1999), which provides that "the Commission shall issue a rule within eighteen months following the publication of that proposed rule or it shall be deemed to be withdrawn." More than eighteen months had passed between publication of the proposed rule the filing of Staff's Motion for Remand; therefore the proposed amended Rule 640 was deemed to be withdrawn pursuant to statute. On May 7, 2002, the

Commission granted Staff's motion and remanded the Recommended Decision to the Hearing Examiner for further proceedings.

Pursuant to NMSA 1978, Section 8-8-15B (1999), notice of this rulemaking proceeding must be mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice and to all gas utilities under the Commission's jurisdiction, and notice of this rulemaking proceeding must be published in two newspapers of general circulation in the state and in the New Mexico Register. The Hearing Examiner therefore orders herein that this Notice, including Attachment 1 to the Recommended Decision (proposed Rule), reformatted to conform with the recodification of NMPRC Rule 640 as 17.10.640 NMAC, and Attachment 2 to the Recommended Decision (proposed Protective Order), be mailed to all persons who have made a written request for advance notice of gas utility rulemakings and to all natural gas utilities under the Commission's jurisdiction, pursuant to NMSA 1978, Section 8-8-15(B) (1999). The Hearing Examiner hereby further establishes a procedural schedule in this matter.

The Hearing Examiner ORDERS as follows:

A. Notice is hereby given of this rulemaking proceeding to address the proposed amended and recodified Rule 640 (17.10.640 NMAC) attached hereto as Attachment 1, and to address the proposed Protective Order attached hereto as Attachment 2.

B. Any person wishing to comment on the proposed amended and recodified Rule 640 (Attachment 1) or the proposed Protective Order (Attachment 2) may do so by submitting written comments no later than November 1, 2002. Comments suggesting changes to the rule 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 rule.

C. Any person wishing to respond to any comments filed in this proceeding may do so by submitting written replies to comments no later than November 8, 2002. Where necessary or appropriate, replies to comments shall include specific language for incorporation into the rule.

D. All pleadings, includ-



ing comments, shall bear the caption and case number contained at the top of this notice. Additional copies of Exhibit 1, the proposed amended and recodified Rule 640, and Exhibit 2, the proposed Protective Order, can be obtained from and comments on the proposed rule and protective order, can be obtained from and comments on the proposed rule and protective order shall be sent to:

Maria Brito, Records Manager  
 NMPRC – Utility Division  
 Marian Hall  
 224 East Palace Avenue  
 Santa Fe, New Mexico 87501  
 Telephone: (505) 827-6940

E. Copies of this Notice of Proposed Rulemaking and Procedural Order, along with Exhibits 1 and 2, shall be mailed to all persons who have made a written request for advance notice and to all gas utilities under the Commission’s jurisdiction, as indicated on the attached certificate of service.

F. This Notice of Proposed Rulemaking and Procedural Order, without Exhibits 1 and 2, shall be published in two newspapers of general circulation in the state on or before September 30, 2002, and in the New Mexico Register on September 30, 2002.

G. A hearing will commence at 10:00 a.m. on November 12, 2002, at the offices of the NMPRC Utility Division, Marian Hall, 224 East Palace Avenue, Santa Fe, New Mexico, to receive oral comments and to clarify or supplement the written comments. No testimony or other evidence will be taken at the hearing, as this is a rulemaking proceeding.

**ISSUED at Santa Fe, New Mexico this 29th day of August, 2002.**

**NEW MEXICO PUBLIC REGULATION COMMISSION**

**WILLIAM J. HERRMANN**  
 Hearing Examiner

**NEW MEXICO RETIREE HEALTH CARE AUTHORITY**

**NEW MEXICO RETIREE HEALTH CARE AUTHORITY**

**NOTICE OF PUBLIC MEETING AND HEARING TO CONSIDER PROPOSED AMEND-**

**MENT TO 2.81.1 NMAC**

The purpose of this hearing is to obtain input on proposed amendments to 2.81.1 NMAC, General Provisions.

**I. SOLICITATION OF COMMENTS**

The New Mexico Retiree Health Care Authority (“NMRHCA”) is soliciting comments from the public on proposed amendments to 2.81.1 NMAC. On November 7, 2002, at 10:00 a.m., the NMRHCA will hold a public meeting to discuss proposed amendments to its general provisions rule. The meeting will be held at the offices of the NMRHCA at 810 West San Mateo, Suite D in Santa Fe. The meeting will offer interested parties an opportunity to comment on the proposed amendment to the rule. In addition, interested persons can submit written comments before October 28, 2002 to Milton Sanchez, Executive Director, 810 West San Mateo, Suite D, Santa Fe, New Mexico 87505 regarding the proposed amendment to 2.81.1 NMAC.

If an individual with a disability 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 or meeting, please contact Rosemarie Quintana at 1-800-233-2576, at least one week prior to the meeting or as soon as possible. The text of the proposed rule can also be obtained from Milton Sanchez, Executive Director NMRHCA.

**NEW MEXICO RETIREE HEALTH CARE AUTHORITY**

**NEW MEXICO RETIREE HEALTH CARE AUTHORITY**

**NOTICE OF PUBLIC MEETING AND HEARING TO CONSIDER PROPOSED AMENDMENT TO 2.81.6 NMAC**

The purpose of this hearing is to obtain input on proposed amendments to 2.81.6 NMAC, Retiree Spouse and Dependent Benefit Coverage Enrollment.

**I. SOLICITATION OF COMMENTS**

The New Mexico Retiree Health Care Authority (“NMRHCA”) is soliciting comments from the public on proposed amendments to 2.81.6 NMAC. On November 7, 2002, at 10:00 a.m., the NMRHCA will hold a public meeting to discuss proposed amendments to its benefits coverage rule. The meeting will be held

at the offices of the NMRHCA at 810 West San Mateo, Suite D in Santa Fe. The meeting will offer interested parties an opportunity to comment on the proposed amendment to the rule. In addition, interested persons can submit written comments before October 28, 2002 to Milton Sanchez, Executive Director, 810 West San Mateo, Suite D, Santa Fe, New Mexico 87505 regarding the proposed amendment to 2.81.6 NMAC.

If an individual with a disability 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 or meeting, please contact Rosemarie Quintana at 1-800-233-2576, at least one week prior to the meeting or as soon as possible. The text of the proposed rule can also be obtained from Milton Sanchez, Executive Director NMRHCA.

**NEW MEXICO RETIREE HEALTH CARE AUTHORITY**

**NEW MEXICO RETIREE HEALTH CARE AUTHORITY**

**NOTICE OF PUBLIC MEETING AND HEARING TO CONSIDER PROPOSED AMENDMENT TO 2.81.11 NMAC**

The purpose of this hearing is to obtain input on proposed amendments to 2.81.11 NMAC, Establishing Subsidy Levels on the Basis of Years of Creditable Service.

**I. SOLICITATION OF COMMENTS**

The New Mexico Retiree Health Care Authority (“NMRHCA”) is soliciting comments from the public on proposed amendments to 2.81.11 NMAC. On November 7, 2002, at 10:00 a.m., the NMRHCA will hold a public meeting to discuss proposed amendments to its subsidy rule. The meeting will be held at the offices of the NMRHCA at 810 West San Mateo, Suite D in Santa Fe. The meeting will offer interested parties an opportunity to comment on the proposed amendment to the rule. In addition, interested persons can submit written comments before October 28, 2002 to Milton Sanchez, Executive Director, 810 West San Mateo, Suite D, Santa Fe, New Mexico 87505 regarding the proposed amendment to 2.81.11 NMAC.

If an individual with a disability is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or partici-

pate in the hearing or meeting, please contact Rosemarie Quintana at 1-800-233-2576, at least one week prior to the meeting or as soon as possible. The text of the proposed rule can also be obtained from Milton Sanchez, Executive Director NMRHCA.

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**End of Notices and Proposed Rules Section**

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## Adopted Rules and Regulations

### NEW MEXICO DEPARTMENT OF AGRICULTURE

This is an amendment to 21.17.48 NMAC, Section 8.

#### 21.17.48.8 ASSESSMENT:

A. The committee assessment rate is set forth at [~~10 dollars (\$10)~~] 5 dollars (\$5) per bale of cotton for all cotton produced by producers in the control district. The assessment will be collected at the gin.

B. Payment of the assessment levied by a local control committee against a cotton producer will be due and payable when the cotton producer receives an assessment statement from the control committee.

C. Failure to comply with payment of assessment to the committee may result in the recording of a lien on the cotton crop and/or property in the County Clerk's office where the property is located. The lien will remain in effect until foreclosure or balance subject to the lien is paid in full. Interest may be assessed at a rate of 8½ percent per annum on the balance unpaid after 30 days.  
[07/31/98; 21.17.48.8 NMAC - Rn & A, 21 NMAC 17.48.8, 06/14/2001; A, 09/30/2002]

### NEW MEXICO BOARD OF DENTAL HEALTH CARE

This is an amendment to 16.5.18.8 NMAC:

#### 16.5.18.8 FEES:

A. All fees are non-refundable.

B. Application fee for licensure by examination is \$250, which includes the initial licensing period.

C. Application fee for licensure by credentials is \$300, which includes the initial licensing period.

D. An applicant who does not obtain a passing score on the jurisprudence exam must submit an additional fee of \$50 to re-take the exam.

E. [~~Triennial Renewal Fee is \$150.~~] Triennial Renewal Fees:

(1) Triennial renewal fee is \$150.  
[~~2~~] (2) Late fee for renewal applications received but not complete, or not received or post-marked by June 30 is \$100.

[~~E~~] (3) Impaired Fee: In addition to the license renewal fee, each dental hygienist subject to renewal may be

assessed a fee not to exceed \$30 per triennial renewal period.

F. [~~Repealed~~] Fees for Collaborative Practice:

(1) Application for Certification for Collaborative Practice fee is \$150

(2) Renewal of Certification for Collaborative Practice fee is \$50 at the time of each triennial license renewal. The initial fee will be prorated at \$20 per full year of certification.

G. Fees for Temporary Licenses and Application:

(1) forty-eight hour license, application fee of \$50, license fee of \$50;

(2) six month license, application fee of \$100, license fee of \$100;

(3) twelve month license, application fee of \$100, license fee of \$150.

H. Application for Certification in Local Anesthesia Fee:

(1) By examination - \$40.

(2) By credentials - \$100 for application and credential review.

[~~F~~] I. Reinstatement Fee is \$200.

[~~K~~] J. Administrative Fees:

(1) Duplicate license fee is \$25;

(2) Multiple copies of the Statute or Rules are \$10 each

(3) Copies cost \$0.50 per page, with a minimum charge of \$5.00;

(4) List of current dental hygiene licensees is \$180. An annual list of current licensees is available to the professional association upon request at no cost; and

(5) Mailing labels of current dental hygiene licensees is \$230

[3-14-73, 4-11-81, 3-7-88, 3-28-91, 5-31-95, 12-15-97, 8-16-99; 16.5.18.8 NMAC - Rn & A, 16 NMAC 5.18.8, 06-14-01; A, 9-30-02]

### NEW MEXICO BOARD OF DENTAL HEALTH CARE

This is an amendment to 16.5.33.8 NMAC:

16.5.33.8 REQUIREMENTS FOR CERTIFICATION: [~~A Licensee of the Board shall not allow dental assistants to perform oral radiography under any level of supervision that are not certified by the Board of Dental Health Care. A Licensee may not allow dental assistants to perform coronal polishing, pit and fissure sealant(s), and/or topical fluoride application under general supervision without certification by the Board of Dental Health Care. Expanded function certification offered by the New Mexico Board of Dental Health Care should not be confused with Certification as a Dental Assistant by DANB. DANB certifi-~~

~~ation gives the individual the right to use the initials C.D.A. after their name, but does not qualify the individual to perform expanded functions unless they are also certified by the New Mexico Board.] A licensee of the board shall not allow dental assistants to perform oral radiography under any level of supervision unless they are certified or in training by the Board of Dental Health Care. Dental assistants who perform coronal polishing, topical fluoride, or pit and fissure sealants under general supervision are required to be certified by the Board of Dental Health Care.~~

[9-7-84...9-30-96; 16.5.33.8 NMAC - Rn, 16 NMAC 5.33.8, 12-14-00; A, 3-29-02; A, 9-30-02]

### NEW MEXICO BOARD OF DENTAL HEALTH CARE

This is a renumbering and amendment to 16.5.39 NMAC, Sections 1, 5, 8, 9, and 10. This rule was also reformatted and renumbered from 16 NMAC 5.39 to comply with the current NMAC requirements.

**16.5.39.1 ISSUING AGENCY:**  
New Mexico Board of Dental Health Care,  
[~~725 St. Michael's Drive, Santa Fe, NM 87504, (505) 827-7165~~]  
[9-30-96; 16.5.39.1 NMAC - Rn & A, 16 NMAC 5.39.1, 9-30-02]

**16.5.39.5 EFFECTIVE DATE:**  
September 30, 1996, unless a [~~different~~]  
later date is cited at the end of a Section. [or Paragraph.]  
[9-30-96; 16.5.39.5 NMAC - Rn & A, 16 NMAC 5.39.5, 9-30-02]

**16.5.39.8 PRACTICE AND REQUIRED SUPERVISION:** Dental assistants may provide any basic supportive dental procedure, not excluded elsewhere in rule or in statute if the procedure is performed under the indirect supervision of a [licensee] dentist. The following expanded function procedures may be performed without certification under indirect supervision as long as the procedure is approved by the dentist or dental hygienist upon completion:

A. Rubber Cup Coronal Polishing

B. Application of Topical Fluoride

C. Pit and Fissure Sealant Application

[10-21-70...9-30-96; 16.5.39.8 NMAC - Rn & A, 16 NMAC 5.39.8, 9-30-02]

**16.5.39.9 PROCEDURES**

**REQUIRING CERTIFICATION:** The following procedures are allowable under ~~[indirect]~~ general supervision if the dental assistant is certified by the Board:

- A. Place and expose dental radiographs;
- B. Rubber cup coronal polishing;
- C. Application of topical fluoride; and
- D. Pit and fissure sealants. [10-21-70...5-31-95; 9-30-96, A, 12-15-97, A, 1-1-99; 16.5.39.9 NMAC - Rn & A, 16 NMAC 5.39.9, 9-30-02]

**16.5.39.10 NON-ALLOWABLE PROCEDURES:** ~~[The following procedures may not be performed by dental assistants.]~~ Licensees may not delegate the performance of the following procedures to auxiliary personnel:

- A. Removal of, or addition to, the hard or soft tissue of the oral cavity;
- B. Diagnosis and treatment planning;
- C. Final impressions for restorations or prosthetic appliances;
- D. Fitting and adaptation of prostheses;
- E. Final fitting, adaptation, seating and cementation of any fixed or removable dental appliance or restoration, including but not limited to inlays, crowns, space maintainers, habit devices or splints;
- F. Irrigation and medication of canals, cone try-in, reaming, filing or filling of root canals; and
- G. Other services defined as the practice of dentistry or dental hygiene in Section 61-5A-4, A, B, and C. [10-21-70...5-31-95; 9-30-96; 16.5.39.10 NMAC - Rn & A, 16 NMAC 5.39.10, 9-30-02]

## NEW MEXICO DEPARTMENT OF GAME AND FISH

**This is an amendment to 19.31.2 NMAC, section 9.**

### 19.31.2.9 POINT CATEGORIES:

**A. 20-Point Violations:** Any person who violates one of the following listed provisions shall accumulate twenty (20) points for each violation toward the revocation of his/her license, permit, or certificate and suspension of associated privileges:

- (1) Illegally taking, attempting to take, killing, capturing or possessing any big game species outside of hunting season

in violation of Section 17-2-7 or 17-3-33.

(2) Except as otherwise provided by Sections 17-2-37 to 17-2-46, taking, possessing, transporting, exporting, processing, selling or offering for sale, or shipping any species or subspecies of wildlife listed on the state list of endangered species or the United States' list of endangered native and foreign fish and wildlife;

(3) Signing a false statement to procure a resident hunting or fishing license when the applicant is residing in another state at the time of application, in violation of Section 17-3-6;

(4) Selling, offering for sale, offering to purchase or purchasing any game animal, game bird or protected species, in violation of Section 17-2-7;

(5) Hunting with the aid of an artificial light or spotlight, in violation of Section 17-2-31;

(6) Hunting elk outside the ranch boundaries for which a ranch-only license is issued or otherwise hunting elk in the wrong area, in violation of Section 17-2-7.

(7) Criminal trespass, in violation of Section 30-14-1, for a minimum of three (3) years;

(8) For violations of Section 17-2-29, involving hunting or boating while intoxicated (revocation for a period of one (1) year, as prescribed by Section 17-2-30).

(9) Buying of licenses, permits certificates or registration without sufficient funds to pay for same;

(10) Buying or procuring a prohibited license or registration while on revocation;

(11) flagrant violation of the provisions of any special use of wildlife permit issued by the Department pursuant to Chapter 17 and its implementing regulations.

(12) Any person whose name appears on a Human Services Department certified list of obligors not in compliance with the Parental Responsibility Act;

(13) Guiding and/or outfitting without being registered (17-2A-3);

(14) Using an outfitter or guide license issued to another;

(15) Accessory of any of the above.

(16) Any person whose name appears on the Wildlife Violator Compact Certified List or has been revoked by another Wildlife Violator Compact member state and is in accordance with 17-2-10.3.B.

(17) Any resident who fails to comply with the terms of a citation including failure to appear, from a Wildlife Violator Compact member state. However re-instatement of licenses privileges shall occur once the Department receives a certified notice from the state that initiated this

actions that the terms of the citation have been met.

### B. 15-Point Violations:

Any person who violates one of the following listed provisions shall accumulate fifteen (15) points toward the revocation of his/her license, permit, or certificate and suspension of associated privileges:

(1) Unlawful hunting in violation of Subsection (A) of 19.31.10.17 NMAC;

(2) Unlawful hunting in violation of Subsection (B) of 19.31.10.17 NMAC;

### C. 10-Point Violations:

Any person who violates one of the following listed provisions shall accumulate ten (10) points toward the revocation of his/her license, permit, or certificate and suspension of associated privileges:

(1) hunting in a closed area;

(2) exceeding the bag limit of game;

(3) using a license issued to another;

(4) illegal possession of fish;

(5) procurement or possession of additional deer license;

(6) fishing without a license;

(7) exceeding the bag limit on fish;

(8) fishing by an illegal method;

(9) illegally taking, attempting to take, killing, or capturing of any big game species during hunting season, in violation of Section 17-2-7 (1);

(10) illegal possession of any big game species during hunting season, in violation of Section 17-2-7 (2);

(11) hunting without a license.

### D. 5-Point Violations:

Any person who violates any provision of Chapter 17 and its implementing regulations, that is not specifically listed herein, shall accumulate five (5) points toward the revocation of his/her license, permit, or certificate and suspension of associated privileges except violations of Section 17-2A-3 and its implementing regulations.

### E. Guide and Outfitter:

Any registered outfitter or guide who violates provisions of Section 17-2A-3 and its implementing regulations not already addressed in this section shall be assessed points towards the revocation or suspension of their guide and or outfitting registration as follows: Guides and outfitters shall be afforded a hearing before the assessment of points.

(1) Failure to provide signed contract pursuant to Subsection A of 19.30.8.11 NMAC (5pts)

(2) Failure to provide sufficient guides pursuant to Subsection B of 19.30.8.11 NMAC (10pts)

(3) Failure to supervise pursuant



to Subsection C of 19.30.8.11 NMAC (10pts)

(4) Misconduct pursuant to Subsection D of 19.30.8.11 NMAC (20pts)

(5) Unregistered Services pursuant to Subsection E of 19.30.8.11 NMAC (10pts)

(6) Failure to report illegal activity pursuant to Subsection F of 19.30.8.11 NMAC (5pts)

(7) Failure to comply with and convicted of any local, state, or federal laws pursuant to Subsection G of 19.30.8.11 NMAC (10pts)

(8) Willfully allowing client misconduct pursuant to Subsection I of 19.30.8.11 NMAC (10pts)

(9) Breach of contract pursuant to Subsection J of 19.30.8.11 NMAC (10pts).

(10) Violation of conditions of registration pursuant to Subsection K of 19.30.8.11 NMAC (20pts).

(11) An outfitter knowingly (unlawfully) using an unregistered guide (10pts).

**F. Landowner Contracts and Agreements:** Landowner: Any landowner who breaches or violates the conditions of any Landowner Sportsman System (LOSS) agreement/contract entered into with the Department of Game and Fish shall be assessed points towards the revocation or suspension of their landowner permits as follows. Landowners shall be afforded a hearing before the assessment of points.

(1) Unit-wide option antelope: Failure to grant free, **unrestricted** and equal access, (to include vehicle access) to the ranch named on the contract only for the purpose of hunting antelope, to the licensed hunters, and some that may be accompanied with their outfitters/guides. The licenses must be valid for the same coded hunt and same management unit as the licenses authorized by the land owners contract. Hunters must carry written permission from a Department representative to move to another ranch. (20 points)

(2) Denying licensed public antelope hunters assigned to the ranch by the Department, some who may be accompanied with their registered outfitter, ~~the same access that private hunters have~~ **free, unrestricted and equal access, (to include vehicle access)** to the ranch for the purpose of hunting antelope. (20 points)

(3) Unit-wide option elk: Failure to grant free, **unrestricted** and equal access, including vehicular access, for the sole purpose of hunting elk to any legally licensed person and their companions during all corresponding public hunt periods with their sporting arms and bag-limit restrictions in the same unit as the ranch. (20 points)

(4) Discriminating against those with whom he/she negotiates for the use of the private land licenses on the basis of race, color, religion, sex and origin. (20 points)

(5) Failure to provide reasonable access to include keys and /or combinations, if necessary, to locked gates for Department personnel during the entire hunt periods for elk and antelope for the purpose to record biological data and enforce laws and regulations. (20 points)

(6) Providing false documentation, records or falsifying a landowner hunting agreement/contract in any manner. (20 points)

(7) Failure of the Landowner, Manager or Lessee to inform the Department of any changes in ownership, acreage and/or address changes, etc. (5 points)

[4-1-95, 10-31-98, 11-14-98, 1-29-99; 19.31.2.9 NMAC - Rn & A, 19 NMAC 31.2.9, 12-14-01; A, 05-15-02; A, 9-30-02]

**NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION**

**This is a change to 8.102.500 NMAC Section 8. This amendment makes the annual adjustment to gross income limits for cash assistance programs, and adds the gross income guidelines for Support Services.**

**8.102.500.8 GENERAL REQUIREMENTS**

**A. Need Determination Process:** Eligibility for NMW or Refugee cash assistance based on need requires a finding that:

(1) The benefit group's countable gross monthly income does not exceed the gross income limit for the size of the benefit group;

(2) The benefit group's countable net income after all allowable deductions does not equal or exceed the standard of need for the size of the benefit group;

(3) The countable resources owned by and available to the benefit group do not exceed the \$1500 liquid and \$2000 non-liquid resource limits;

(4) The benefit group is eligible for a cash assistance payment after subtracting from the standard of need the benefit group's countable income, and any payment sanctions or recoupments.

**B. GA Program Need Determination:** Eligibility for the GA program requires a finding that the benefit group's countable gross earned and unearned income does not equal or exceed the standard of need for the size of the benefit group.

**C. Gross Income Limits:**

The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

(1) Income eligibility limits are revised and adjusted each year in October.

(2) The gross income limit for the size of the benefit group is as follows:

- (a) One person . . . . . \$ ~~609~~ 628
- (b) Two persons . . . . . \$ ~~823~~ 846
- (c) Three persons . . . . . \$~~1,037~~ 1,064
- (d) Four persons . . . . . \$~~1,250~~ 1,283
- (e) Five persons . . . . . \$~~1,465~~ 1,500
- (f) Six persons . . . . . \$~~1,679~~ 1,719
- (g) Seven persons . . . . . \$~~1,892~~ 1,937
- (h) Eight persons . . . . . \$~~2,106~~ 2,155
- (i) Nine persons . . . . . \$~~2,320~~ 2,373
- (j) Ten persons . . . . . \$~~2,654~~ 2,591
- (k) For more than ten persons, add \$~~244~~ 218 for each additional person.

**D. Eligibility for Support Services Only:** Subject to the availability of state and federal funds, a benefit group that is not receiving cash assistance but has countable gross income that is less than 100% of the federal poverty guidelines applicable to the size of the benefit group may be eligible to receive services. The gross income guidelines for the size of the benefit group are as follows:

- (1) One person \$ 739
- (2) Two persons \$ 995
- (3) Three persons \$ 1,252
- (4) Four persons \$ 1,509
- (5) Five persons \$ 1,765
- (6) Six persons \$ 2,022
- (7) Seven persons \$ 2,279
- (8) Eight persons \$ 2,535
- (9) Nine persons \$ 2,792
- (10) Ten Persons \$ 3,049
- (11) For more than ten persons, add \$257 for each additional person.

**~~D.~~E. Standard of Need:**

(1) The standard of need is based on the number of individuals included in the benefit group and allows for a financial standard and basic needs.

(2) Basic needs include food, clothing, shelter, utilities, personal requirements and the individual's share of benefit group supplies.

(3) The financial standard includes approximately \$79 per month for

each individual in the benefit group.

(4) The standard of need for the NMW, GA, and Refugee cash assistance benefit group is:

- (a) One person . . . . . \$ 231
- (b) Two persons . . . . . 310
- (c) Three persons . . . . . 389
- (d) Four persons . . . . . 469
- (e) Five persons . . . . . 548
- (f) Six persons . . . . . 627
- (g) Seven persons . . . . . 706
- (h) Eight persons . . . . . 802
- (i) Nine persons . . . . . 881
- (j) Ten persons . . . . . 960

(k) For more than 10 persons, add \$79 for each additional person.

**[E]-[E] Special Needs:**

**(1) Special Clothing Allowance:**

In order to assist in preparing a child for school, a special clothing allowance is made each year in the amount of \$44 for the month of August only.

(a) For purposes of determining eligibility for the clothing allowance, a child is considered to be of school age if the child is six years of age or older and less than age 19 by the end of August.

(b) The clothing allowance shall be allowed for each school-age child who is included in the NMW, GA, or Refugee cash assistance benefit group for the month of August.

(c) The clothing allowance is not allowed in determining eligibility for NMW, GA, or Refugee cash assistance.

(2) **Layette:** A one-time layette allowance of \$25 is allowed upon the birth of a child who is or will be included in the benefit group. The allowance shall be authorized by no later than the end of the month following the month in which the child is born.

**[F]-[G] Shelter Home Care:** A cash payment may be made to a GA or an SSI recipient when the recipient resides in a licensed shelter care home because the recipient needs help with personal care, such as bathing, dressing, eating or taking prescribed medication.

(1) The payment shall be allowed only if the GA or SSI recipient is living in a residential shelter care facility that is licensed by the New Mexico Department of Health.

(2) **Eligibility and Payment Standard for GA Recipients:** The payment for a GA recipient living in a licensed residential shelter care facility is equal to the cash assistance payment plus \$100.

(3) **Payment to an SSI Recipient:** The payment made to an SSI recipient living in a licensed residential shelter care facility is \$100 per month.

[8.102.500.8 NMAC - Rp 8.102.500.8

NMAC, 07/01/2001; A, 10/01/2001; A, 10/01/2002]

**NEW MEXICO HUMAN  
SERVICES DEPARTMENT  
INCOME SUPPORT DIVISION**

**This is an amendment to 8.139.410 NMAC, Section 9. This amendment allows eligibility for qualified aliens who are lawfully present in the United States and receive disability benefits. This amendment also clarifies the standard for reporting undocumented aliens who are in the United States illegally.**

**8.139.410.9 CITIZENSHIP AND ALIEN STATUS:**

Participation in the Food Stamp Program is limited to individuals who live in the United States, and who are U.S. citizens or aliens with eligible alien status. Among those ineligible for participation are alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in another country.

**A. Eligibility:** No individual is eligible to participate in the Food Stamp Program unless that individual is otherwise eligible and is:

- (1) a U.S. Citizen;
- (2) a U.S. Non-Citizen National
- (3) an American Indian who is:

(a) an American Indian born in Canada who possesses at least 50 per centum of blood of the American Indian race to whom the provisions of section 289 of the Immigration and Nationality Act (INA) (8 U.S.C. 1359) apply; or

(b) a member of an Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) which is recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians;

(4) **Hmong or Highland Laotian:**

(a) A member of a Hmong or Highland Laotian tribe at the time that the tribe rendered assistance to U.S. personnel by taking part in a military or rescue operation during the Vietnam era beginning August 5, 1964, and ending May 7, 1975 who is lawfully residing in the U.S.;

(b) The spouse, or surviving spouse of such Hmong or Highland Laotian, or

(c) An unmarried or surviving dependent child who is under the age of 18 or if a full-time student under the age of 22; or an unmarried disabled child age 18 or older if the child was disabled and dependent on the person prior to the child's 18th

birthday of such Hmong or Highland Laotian.

**(5) Qualified and Eligible Alien:**

An individual who is both a "qualified alien" and an "eligible alien" as defined in Subsection B of 8.139.410.9 NMAC.

**B. Qualified and Eligible**

**Aliens:** An alien may qualify for participation in the Food Stamp Program if the alien meets at least one definition of "qualified alien" from Paragraph (1) below and one definition of "eligible alien" as defined in Paragraph (2) below.

(1) **Qualified Alien:** A "Qualified Alien" means:

(a) An alien who is lawfully admitted for permanent residence under the INA;

(b) An alien who is granted asylum under section 208 of the INA;

(c) A refugee who is admitted to the United States under section 207 of the INA;

(d) An alien who is paroled into the U.S. under section 212(d)(5) of the INA for a period of at least 1 year;

(e) An alien whose deportation is being withheld under section 243(h) of the INA as in effect prior to April 1, 1997, or whose removal is withheld under section 241(b)(3) of the INA;

(f) an alien who is granted conditional entry pursuant to section 203(a)(7) of the INA as in effect prior to April 1, 1980;

(g) an alien, an alien child's parents or an alien child who has been battered or subjected to extreme cruelty in the U.S. by a spouse or a parent or by a member of the spouse or parent's family residing in the same household as the alien at the time of the abuse;

(h) an alien who is a Cuban or Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980.

(2) **Eligible Alien:** A qualified alien, as defined in Paragraph (1) of this Subsection, must have a status of at least one of the following to be eligible to receive food stamps:

(a) An alien who is lawfully admitted to the United States for permanent residence (LPR) under the Immigration and Nationality Act, and has worked for 40 qualifying quarters of coverage as defined under Title II of the Social Security Act, or can be credited with such qualifying quarters. The definition of lawfully admitted for permanent residence under the Immigration and Nationality Act shall be based on standards issued by the U.S. Immigration and Naturalization Service.

(b) An alien admitted as a refugee under section 207 of the INA. Eligibility is limited to 7 years from the date of the alien's



entry into the U.S.

(c) An alien granted asylum under section 208 of the INA. Eligibility is limited to 7 years from the date asylum was granted.

(d) An alien whose deportation is withheld under section 243(h) of the INA as in effect prior to April 1, 1997, or whose removal is withheld under section 241(b)(3) of the INA. Eligibility is limited to 7 years from the date deportation or removal was withheld.

(e) An alien granted status as a Cuban or Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980). Eligibility is limited to 7 years from the date the status as a Cuban or Haitian entrant was granted.

(f) An Amerasian admitted pursuant to section 584 of Public Law 100-202, as amended by Public Law 100-461. Eligibility is limited to 7 years from the date admitted as an Amerasian.

(g) An alien with one of the following military connections:

(i) A veteran who was honorably discharged for reasons other than alien status, who fulfills the minimum active-duty service requirements including an individual who died in active military, naval or air service.

(ii) An individual on active duty in the Armed Forces of the U.S. (other than for training).

(iii) The spouse or surviving spouse of a veteran or active duty military alien described above provided the spouse has not remarried.

(iv) A child or surviving child of a deceased veteran (provided such child was dependent upon the veteran at the time of the veteran's death) who is under the age of 18 (if a full-time student, under the age of 22); or an unmarried disabled child age 18 or older if the child was disabled and dependent on the veteran prior to the child's 18th birthday.

(h) ~~[An individual who on August 22, 1996, was lawfully residing in the U.S., and is now]~~ A qualified alien who is lawfully residing in the U.S. and is receiving benefits or assistance for blindness or disability as defined in Paragraph (23) of Subsection A of 8.139.100.7 NMAC.

(i) An individual who on August 22, 1996, was lawfully residing in the U.S., and was born on or before August 22, 1931; or

(j) An individual who on August 22, 1996, was lawfully residing in the U.S. and is now under 18 years of age.

### (3) Quarters of Coverage:

(a) SSA reports quarters of coverage through the Quarters of Coverage History System (QCHS).

(b) An alien lawfully admitted for permanent residence under the INA who has 40 qualifying quarters as determined under title II of the Social Security Act, including qualifying quarters of work not covered by Title II of the Social Security Act, based on the sum of: quarters the alien worked; quarters credited from the work of a parent of the alien before the alien became 18 (including quarters worked before the alien was born or adopted); and quarters credited from the work of a spouse of the alien during their marriage if they are still married or the spouse is deceased.

(i) A spouse may not get credit for quarters of a spouse when the couple divorces prior to a determination of food stamp eligibility.

(ii) If eligibility of an alien is based on the quarters of coverage of the spouse, and then the couple divorces, the alien's eligibility continues until the next recertification. At that time, the caseworker shall determine the alien's eligibility without crediting the alien with the former spouse's quarters of coverage.

(c) **Disputing quarters:** If an applicant disputes the SSA determination of quarters of coverage reported by QCHS, the individual may participate for up to six (6) months pending the results of an SSA investigation. The individual or HSD must have requested an investigation from SSA in order to participate. The household is responsible for repayment of any food stamp benefits issued for such individual during the investigation if SSA determines that the individual cannot be credited with 40 quarters of coverage under Title II of the Social Security Act.

(4) **Federal Means-Tested Benefit:** After December 31, 1996, a quarter in which an alien received any Federal means-tested public benefit, as defined by the agency providing the benefit, or actually received food stamps is not creditable toward the 40-quarter total. A parent's or spouse's quarter is not creditable if the parent or spouse actually received any Federal means-tested public benefit or actually received food stamps in that quarter. If the alien earns the 40th quarter of coverage prior to applying for food stamps or any other Federal means-tested public benefit in that same quarter, the caseworker shall allow that quarter toward the 40 qualifying quarters total.

(a) Federal means-tested benefits include, but may not be limited to, benefits from:

(i) the Food Stamp Program;

(ii) the food assistance block grant programs in Puerto Rico, American Samoa, and the Commonwealth

of the Northern Mariana Islands;

(iii) Supplemental Security Income (SSI);

(iv) TANF block grant under Title IV of the Social Security Act.

(b) For purposes of determining whether an alien has or has not received a federal means-tested benefit during a quarter, the definition of federal means-tested benefit shall not include:

(i) Medical Assistance under Title XIX of the Social Security Act (Medicaid) for emergency treatment of an alien, not related to an organ transplant procedure, if the alien otherwise meets eligibility for Medical Assistance under the state plan;

(ii) Short-term, non-cash, in-kind emergency disaster relief;

(iii) Assistance or benefits under the National School Lunch Act;

(iv) Assistance or benefits under the Child Nutrition Act of 1966;

(v) Public health assistance (not including any assistance under Title XIX Medicaid) for immunizations, and testing and treatment of symptoms of communicable diseases, whether or not such symptoms are caused by communicable diseases;

(vi) Payments for foster care and adoption assistance under Part B and E of Title IV of the Social Security Act for a parent or child who would, in the absence of the restriction of eligibility for aliens contained in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, be eligible for such payments made on the child's behalf, but only if the foster or adoptive parent (or parents) of such child is a qualified alien;

(vii) Programs, services, or assistance, delivering in-kind services at the community level and necessary for the protection of life or safety, that do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided, on the individual recipient's income or resources;

(viii) Programs of student assistance under titles IV, V, IX, and X of the Higher Education Act of 1965, and titles III, VII, and VIII of the Public Health Service Act;

(ix) Means-tested programs under the Elementary and Secondary Education Act of 1965;

(x) Benefits under the Head Start Act;

(xi) Benefits under the Workforce Investment Act.

**C. Verification of Citizenship/Eligible Alien Status:** U.S. citizenship is verified only when client statement of citizenship is inconsistent with

statements made by the applicant or with other information on the application, previous applications, or other documented information known to HSD.

**(1) U.S. Citizenship:** Any member whose U.S. citizenship is questionable is ineligible to participate until proof of U.S. citizenship is obtained. The member whose citizenship is questionable shall have all of his resources and a pro rata share of income considered available to any remaining household members.

**(2) Eligible Alien Status:** Verification of eligible alien status is mandatory at initial certification. Only those household members identified as aliens with qualified and eligible alien status are eligible to participate in the FSP.

**(3) Ineligible or Questionable Alien Status:** Any household member identified as an ineligible alien, or whose alien status is in question cannot participate in the FSP. The caseworker is responsible for offering to contact the Immigration and Naturalization Service if the alien has a document that does not clearly indicate eligible or ineligible alien status.

**D. Need for Documentation:**

**(1)** Household members identified as aliens must present documentation, such as but not limited to, a letter, notice of eligibility, or identification card which clearly establishes that the alien has been granted legal status.

**(2)** A caseworker shall allow aliens a reasonable time to submit acceptable documentation of eligible alien status. A reasonable time shall be 10 days after the date the caseworker requests an acceptable document, or until the 30th day after application, whichever is longer.

**(3)** If verification of an individual's eligible status is not provided by the deadline, the eligibility of the remaining household members shall be determined. Verification of eligible alien status provided at a later date shall be treated as a reported change in household membership.

**(4)** If a caseworker accepts a non-INS document and determines that it is reasonable evidence of eligible alien status, the document shall be copied and sent to INS for verification. The caseworker shall not delay, deny, reduce, or terminate the individual's participation pending verification from INS.

**(5) Inability to Obtain INS Documentation:** If a household indicates an inability to provide documentation of alien status for any member of the household, that member shall be considered an ineligible alien. The caseworker shall not continue efforts to contact INS when the alien does not provide any documentation

from INS.

**E. Failure to Cooperate:**

If a household, or a household member, indicates an unwillingness to provide documentation of alien status for any member, that member shall be considered an ineligible alien. The caseworker shall not continue efforts to get documentation.

**F. Reporting Illegal Aliens:**

**(1)** HSD shall inform the local INS office immediately [~~whenever a caseworker determines~~] when a determination is made that any member of a household is present in the US in violation of the INA.

**(2)** A determination that an alien is in the US in violation of the INA is made when:

(a) there has been a finding or conclusion of law through a formal determination process by the INS or the Executive Office of Immigration Review (EOIR) that the alien is unlawfully residing in the US; or

(b) the alien states to the Department that he or she is in the US in violation of the INA, and the statement is supported by an INS or EOIR finding.

(c) An alien who resides in the US in violation of the INA shall be considered an ineligible alien until there is a finding or conclusion of law through a formal determination process by the INS or EOIR.

~~(2)~~ **(3)** Illegal alien status is considered reported when the caseworker enters the information on the household's computer file.

**G. Income and Resources of Ineligible Aliens:**

All the resources and a prorated share of income of an ineligible alien, or of an alien whose alien status is unverified, shall be considered in determining eligibility and food stamp benefit amount for the remaining eligible household members.

[02/01/95, 07/01/98, 02/01/99; 8.139.410.9 NMAC - Rn, NMAC 3.FSP.412, 05/15/2001; A, 02/14/2002; A, 10/01/2002]

**NEW MEXICO HUMAN SERVICES DEPARTMENT  
INCOME SUPPORT DIVISION**

**This is an amendment to 8.139.500 NMAC, Section 8. This amendment includes the annual October changes to income, maximum allotments and standards and deductions for the Food Stamp Program.**

**8.139.500.8 BASIS OF ISSUANCE**

**A. Income Standards:**

Determination of need in the Food Stamp Program is based on federal guidelines. Participation in the Program is limited to

households whose income is determined to be a substantial limiting factor in permitting them to obtain a nutritious diet. The net and gross income eligibility standards are based on the federal income poverty levels established in the Community Services Block Grant Act [42 USC 9902(2)].

**B. Gross Income Standards:**

The gross income eligibility standards for the 48 contiguous states, District of Columbia, Guam and the Virgin Islands is 130 percent (130%) of the federal income poverty levels for the 48 states and the District of Columbia. One hundred thirty percent (130%) of the annual income poverty guidelines is divided by 12 to determine monthly gross income standards, rounding the results upward as necessary. For households larger than eight, the increment in the federal income poverty guidelines is multiplied by 130%, divided by 12, and the results rounded upward if necessary.

**C. Net Income Standards:**

The net income eligibility standards for the 48 contiguous states, District of Columbia, Guam and the Virgin Islands are the federal income poverty levels for the 48 contiguous states and the District of Columbia. The annual income poverty guidelines are divided by 12 to determine monthly net income eligibility standards, (results rounded upward if necessary). For households larger than eight, the increment in the federal income poverty guidelines is divided by 12, and the results rounded upward if necessary.

**D. Yearly Adjustment:**

Income eligibility limits are revised each October 1st to reflect the annual adjustment to the federal income poverty guidelines for the 48 states and the District of Columbia.

**E. Issuance Table:**

The issuance table lists applicable income guidelines used to determine food stamp (FS) eligibility based on household size. Some amounts are increased to meet the needs of certain categorically eligible households. Some of the net income amounts listed are higher than the income limits for some household sizes. Households not categorically eligible for FS benefits must have income below the appropriate gross income limit for household size.

*Please See Table on page 735*

Household Size	Maximum Gross Monthly Income Elderly/Disabled Separate Status at 165% of Poverty	Maximum Gross Monthly Income At 130% of Poverty	Maximum Net Monthly Income At 100% of Poverty	Maximum Allotment (benefit amount)
1	<del>[\$1,182]</del> \$1,219	<del>[\$934]</del> \$960	<del>[\$716]</del> \$739	<del>[\$135]</del> \$139
2	<del>[\$1,597]</del> \$1,642	<del>[\$1,258]</del> \$1,294	<del>[\$968]</del> \$995	<del>[\$248]</del> \$256
3	<del>[\$2,012]</del> \$2,066	<del>[\$1,585]</del> \$1,628	<del>[\$1,220]</del> \$1,252	<del>[\$356]</del> \$366
4	<del>[\$2,427]</del> \$2,489	<del>[\$1,913]</del> \$1,961	<del>[\$1,474]</del> \$1,509	<del>[\$452]</del> \$465
5	<del>[\$2,843]</del> \$2,913	<del>[\$2,240]</del> \$2,295	<del>[\$1,723]</del> \$1,765	<del>[\$537]</del> \$553
6	<del>[\$3,258]</del> \$3,336	<del>[\$2,567]</del> \$2,629	<del>[\$1,975]</del> \$2,022	<del>[\$644]</del> \$663
7	<del>[\$3,673]</del> \$3,760	<del>[\$2,894]</del> \$2,962	<del>[\$2,226]</del> \$2,279	<del>[\$712]</del> \$733
8	<del>[\$4,088]</del> \$4,183	<del>[\$3,221]</del> \$3,296	<del>[\$2,478]</del> \$2,535	<del>[\$814]</del> \$838
Each Additional Member	<del>[+416]</del> + \$424	<del>[+328]</del> + \$334	<del>[+252]</del> + \$257	<del>[+102]</del> + \$105

**F. Deductions and Standards:**

(1) **Determination:** Expense and standard deduction amounts are determined by federal guidelines and may be adjusted each year. Households eligible based on income and resource guidelines, and other relevant eligibility factors, are allowed certain deductions to determine countable income.

(2) **Yearly Adjustment:** The expense and standard deductions may change each year. If federal guidelines mandate a change, it is effective each October 1st.

**(3) Expense Deductions and Standards Table:**

Standard Deduction for Household Size of 1 through 4	\$134.00
Standard Deduction for Household Size of 5	\$147.00
Standard Deduction for Household Size of 6 or more	\$168.00
Earned Income Deduction (EID)	20%
Dependent Care Deduction Limit (per dependent)	
Under age 2	\$ 200.00
All others including elderly dependent	\$ 175.00
Standard Utility Allowance (SUA)	\$185.00
Excess Shelter Cost Deduction Limit for Non-Elderly/Disabled Households	<del>[\$354.00]</del> \$367.00
Homeless Household Shelter Standard	\$ 143.00
Minimum Allotment for Eligible One-and Two-Person Households	\$ 10.00

[02/1/95, 10/01/95, 02/29/96, 10/01/96, 3/15/97, 01/15/98,11/15/98, 12/15/99, 01/01/01, 03/01/01; 8.139.500.8 NMAC - Rn, 8 NMAC 3.FSP.501, 05/15/2001; A, 10/01/2001; A, 10/01/2002]

**NEW MEXICO HUMAN SERVICES DEPARTMENT  
INCOME SUPPORT DIVISION**

**This is an amendment to 8.139.510 NMAC, Section 8. This amendment increases the Food Stamp Program resource limit for households with a disabled individual.**

**8.139.510.8 RESOURCE ELIGIBILITY STANDARDS**

**A.** The maximum allowable resources, including both liquid and non-liquid assets, of all members of a household cannot exceed:

(1) \$2,000; or

(2) \$3,000 for households consisting of or including a member ~~[age 60 or older]~~ who is elderly or disabled as defined at paragraph 23 of Subsection A of 8.139.100.7 NMAC.

**B.** The value of a nonex-

empt resource is its equity value. Equity value is the fair market value less encumbrances. The value of stocks and bonds, such as U.S. savings bonds, is their cash value, not their face value.

**C.** It is a household's responsibility to report all resources held at the time of application and any anticipated to be received, or that are later received during the certification period, that might place the household's resources above the maximum allowed.

**D. Categorically Eligible Households:** Households in which all members receive Title IV-A, GA, or SSI benefits are categorically eligible and do not need to meet the resource limits or provisions of this section.

**E. Sponsored Aliens:** For households containing sponsored aliens, a prorated amount of the countable resources of an alien's sponsor and sponsor's spouse (if living with the sponsor) are deemed to be those of the sponsored alien, in accordance

with sponsored alien provisions in 8.139.420.9 NMAC.

**F. Non-household Members:** The resources of non-household members, defined in 8.139.400.10 NMAC shall not be considered available to the household.

**G. Resources of Ineligible or Disqualified Household Members:** The resources of ineligible or disqualified household members shall be counted as available to the household in their entirety. If a resource exclusion applies to a household member, the exclusion shall also apply to the resources of an ineligible or disqualified person whose resources are counted as available to the household.

[02/01/95, 07/01/97, 07/01/98, 06/01/99; 8.139.510.8 NMAC - Rn, 8 NMAC 3.FSP.510, 05/15/2001; A, 02/01/2002; A, 10/01/2002]



**NEW MEXICO HUMAN  
SERVICES DEPARTMENT  
MEDICAL ASSISTANCE DIVISION**

This is an amendment to 8.200.400 NMAC, Section 10 which will be effective on October 1, 2002. The Medical Assistance Division amended Paragraph (3) of Subsection B of 8.200.400.10 NMAC by adding the word "uninsured" and adding language to say that there will now be co-payment requirements and additional eligibility criteria to be met under SCHIP.

**8.200.400.10 BASIS FOR DEFINING GROUP:** Individuals are eligible for Medicaid if they meet the specific criteria for one of the eligibility categories. In New Mexico, other medical assistance programs for individuals who do not qualify for Medicaid are available, such as the Children's Medical Services Program (Category 007) administered by the New Mexico Department of Health.

**A. Assistance Groups**

The HSD Income Support Division (ISD) determines eligibility for individuals applying for Medicaid.

(1) Category 002 provides Medicaid for families with dependent child(ren) for individuals who meet July 16, 1996 AFDC related eligibility criteria.

(2) Category 027 provides four (4) months of Medicaid if Category 002 Medicaid eligibility is lost due to increased child support.

(3) Transitional Medicaid (Category 028) extends Medicaid benefits up to twelve (12) months for families who lose Category 002 Medicaid eligibility due to increased earnings or loss of the earned income disregard.

(4) Category 033 provides Medicaid for individuals who are ineligible for Category 002 Medicaid due to income or resources deemed from a stepparent, grandparent, or sibling.

**B. Medical Assistance for Women and Children**

ISD offices establish eligibility for Medical Assistance for Women and Children (MAWC) categories. For these categories, Medicaid coverage does not depend on one or both parents being dead, absent, disabled, or unemployed. Children and pregnant women in intact families may be eligible for these Medicaid categories.

(1) **Category 030:** This category provides the full range of Medicaid coverage for pregnant women in families meeting AFDC income and resource standards.

(2) **Category 031:** This category provides twelve (12) months of Medicaid coverage for babies born to mothers who, at

the time of the birth, were either eligible for and receiving New Mexico Medicaid or were deemed to have been eligible for and receiving New Mexico Medicaid. To receive the full twelve (12) months of coverage, all of the following criteria must be met:

(a) The mother remains eligible for New Mexico Medicaid (or would be eligible if she were still pregnant).

(b) The baby remains with the mother.

(c) Both mother and baby continue to reside in New Mexico.

(3) **Category 032:** This category provides Medicaid coverage to children who are under 19 years of age in families with incomes under 235% of Federal Income Poverty Guidelines. Uninsured children in families with income between 185-235% of FPL are eligible for the State Children's Health Insurance Program (SCHIP). Certain additional eligibility criteria are applicable under SCHIP, as well as co-payment requirements. Native American children are exempt from co-payments.

(4) **Category 035:** This category provides Medicaid coverage for pregnancy-related services for pregnant women and family planning services for women in families whose income is below 185% of the federal income poverty level. There is no resource test for this category.

**C. Supplemental Security Income** Eligibility for Supplemental Security Income (SSI) is determined by the Social Security Administration. This program provides cash assistance and Medicaid for eligible aged (Category 001), blind (Category 003) or disabled (Category 004) recipients. ISD offices determine Medicaid eligibility for individuals who are ineligible for SSI due to income or resources deemed from stepparents (Category 034).

**D. Medicaid Extension:** Medicaid extension provides Medicaid coverage for individuals who lose eligibility for SSI due to a cost of living increase in Social Security benefits and to individuals who lose SSI for other specific reasons. Under the "Pickle Amendment" to the Social Security Act, Medicaid coverage is extended to individuals who lose SSI for any reason which no longer exists and who meet SSI eligibility criteria when Social Security cost-of-living increases are disregarded.

(1) Individuals who meet the following requirements may also be eligible for Medicaid extension:

(a) Widow(er)s between sixty (60) and sixty-four (64) years of age who lose SSI eligibility due to receipt of or increase in early widow(er)s' Title II bene-

fits. Eligibility ends when an individual becomes eligible for Part A Medicare or reaches age sixty-five (65);

(b) Certain disabled adult children (DACs) who lose SSI eligibility due to receipt of or increase in Title II DAC benefits;

(c) Certain disabled widow(er)s and disabled surviving divorced spouses who lose SSI eligibility due to receipt of or increase in disabled widow(er)s or disabled surviving divorced spouse's Title II benefit. Medicaid eligibility ends when individuals become eligible for Part A Medicare;

(d) Non-institutionalized individuals who lose SSI eligibility because the amount of their initial Title II benefits exactly equals the income ceiling for the SSI program; and

(e) Certain individuals who become ineligible for SSI cash benefits and, therefore, Medicaid as well, may receive up to two (2) months of extended Medicaid benefits while they apply for another category of Medicaid.

(2) Medicaid Extension categories include individuals who are sixty-five (65) years and older (Category 001), individuals who are less than sixty-five (65) years of age and blind (Category 003) and individuals who are less than sixty-five (65) years of age and disabled (Category 004).

**E. Institutional Care**

**Medicaid:** ISD offices establish eligibility for Institutional Care Medicaid. Individuals who are aged (Category 081), blind (Category 083) or disabled (Category 084) must require institutional care in nursing facilities (NFs), intermediate care facilities for the mentally retarded (ICF-MRs), or acute care hospitals and meet all SSI eligibility criteria, except income, to be eligible for these Medicaid categories.

**F. Home and**

**Community-Based Waiver Services:** ISD offices establish the financial eligibility for individuals who apply for Medicaid under one of the Home and Community Based Waiver programs. Individuals must meet the resource, income, and level of care standards for institutional care; however, these individuals receive services at home. The waiver programs are listed below:

(1) Acquired Immunodeficiency Syndrome (AIDS) and AIDS-Related Condition (ARC) Waiver. (Category 090).

(2) Disabled and Elderly Waiver - aged (Category 091), blind (Category 093), disabled (Category 094).

(3) Medically Fragile Waiver (Category 095).

(4) Developmental Disabilities Waiver (Category 096).

**G. Qualified Medicare**

**Beneficiaries:** Medicaid covers the pay-

ment of Medicare premiums as well as deductible and coinsurance amounts for Medicare-covered services under the Qualified Medicare Beneficiaries (QMB) program for individuals who meet certain income and resource standards (Category 040). To be eligible, an individual must have or be conditionally eligible for Medicare Hospital Insurance (Medicare Part A).

**H. Qualified Disabled Working Individuals:** Medicaid covers the payment of Part A Medicare premiums under the Qualified Disabled Working Individuals (QDs) program for individuals who lose entitlement to free Part A Medicare due to gainful employment (Category 042). To be eligible, individuals must meet the Social Security Administration's definition of disability and be enrolled for premium Part A. These individuals must also meet certain income and resource standards. They are not entitled to additional Medicaid benefits and do not receive Medicaid cards.

**I. Specified Low-Income Medicare Beneficiaries:** Medicaid covers the payment of Medicare Part B premiums under the Specified Low-Income Medicare Beneficiaries (SLIMB) program for individuals who meet certain income and resource standards (Category 945). To be eligible, individuals must already have Medicare Part A. They are not entitled to additional Medicaid benefits and do not receive Medicaid cards.

**J. Medical Assistance for Refugees:** Low-income refugees may be eligible for medical and cash assistance. Eligibility for refugee assistance programs is determined by the ISD offices. To be eligible for cash assistance and medical coverage (Category 019) or medical coverage only (Category 049), a refugee must meet the income criteria for AFDC programs. Refugee medical assistance is limited to an eight (8) month period starting with the month a refugee enters the United States. Refugee medical assistance is approved only in the following instances:

(1) Refugees meet the AFDC standard of need when the earned income disregard is applied;

(2) Refugees meet all criteria for refugee cash assistance but wish to receive only refugee medical assistance;

(3) Refugees receive a four (4) month refugee medical assistance extension when eligibility for refugee cash assistance is lost due to earned income; or

(4) Refugee spends-down to the AFDC standard of need (Category 059).

**K. Emergency Medical Services for Aliens:** Medicaid covers emergency services for certain nonquali-

fied, illegal undocumented, or non-immigrant aliens who meet all eligibility criteria for one of the existing Medicaid categories, except for citizenship or legal alien status. These individuals must receive emergency services from a Medicaid provider and then go to an ISD office for an evaluation of Medicaid eligibility. Once an eligibility determination is made, the alien must notify the servicing provider so that the claim can be submitted to MAD or its designee for a medical necessity evaluation and claim payment.

**L. Children, Youth, and Families Medicaid:** Medicaid covers children in state foster care programs (Category 006, Category 046, Category 066, Category 086) and in adoption subsidy situations (Category 017, Category 037, and Category 047) when the child's income is below the AFDC need standard for one person. Medicaid also covers children who are the full or partial responsibility of the Children, Youth, and Families Department (CYFD) such as Category 060 and Category 061). The eligibility determination for these categories is made by CYFD.

**M. Working Disabled Individuals:** The Working Disabled Individuals (WDI) program (Category 043) covers disabled individuals who are either employed, or who lost eligibility for Supplemental Security Income (SSI) and Medicaid due to the initial receipt of Social Security Disability Insurance (SSDI) and who do not yet qualify for Medicare.

**N. Breast and Cervical Cancer:** The Breast and Cervical Cancer (BCC) program (Category 052) covers uninsured women, under the age of 65 who have been screened and diagnosed as having breast or cervical cancer, including precancerous conditions by a contracted provider for the Centers for Disease Control and Prevention's National Breast and Cervical Cancer Early Detection Program (NBCCEDP) [2-1-95; 1-1-97; 4-1-98; 6-30-98; 3-1-99; 8.200.400.10 NMAC - Rn, 8 NMAC 4.MAD.402 & A, 7-1-01; A, 7-1-02; A, 10-1-02]

## NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.232.400 NMAC, Sections 11 and 12, which will become effective on October 1, 2002. The Medical Assistance Division made the following amendments: Subsection C of Section 11 of 8.232.400 NMAC was added. In Paragraph (2) of Subsection B of Section 12 of 8.232.400 NMAC a citation was changed.

## 8.232.400.11 SPECIAL RECIPIENT REQUIREMENTS

**A. Age:** To be eligible for this category, an applicant/recipient must have been born after March 31, 1976 and be under nineteen (19) years of age.

**B. Presumptive Eligibility For Children:** A child may be eligible to receive Medicaid services from the date the presumptive eligibility determination is made until the end of the month following the month in which the determination was made, a period of up to 60 days. The purpose of the presumptive eligibility is to allow Medicaid payment for health care services furnished to a child while his/her application for Medicaid is being processed. Only one presumptive eligibility period is allowed per twelve month period. The period of presumptive eligibility begins when an approved presumptive eligibility provider establishes that the child's family income is below 235% of the federal income poverty guidelines for a family of the size involved. Presumptive eligibility criteria are a simplified version of Category 32 eligibility requirements.

**(1) Processing Presumptive Eligibility Information:** The Medical Assistance Division (MAD) authorizes certain providers to make presumptive eligibility determinations. The provider must notify MAD through its claims processing contractor of the determination within 24 hours of the determination of presumptive eligibility.

**(2) Provider Responsibility:** The presumptive eligibility provider must process both presumptive eligibility as well as an application for Medical Assistance for the child(ren).

**(3) Provider Eligibility:** Entities who may participate must be a:

(a) Disproportionate Share Hospital (DSH facility), a Federally Qualified Health Center (FQHC), an Indian Health Service (IHS) facility, a Department of Health (DOH) clinic, a school, a Children, Youth and Families Department Child Care Bureau staff member. The above-listed providers may be eligible entities starting July 1998.

(b) Non-Disproportionate Share Hospital, a Primary Care Provider who is contracted with at least one SALUD! HMO, or a Head Start. The above-listed providers may be eligible entities starting January 1999.

**C. Health Insurance:** In order to be eligible for SCHIP, (i. e., category 032 with family income between 185%-235% of federal income poverty guidelines), the child cannot have other health insurance coverage. Beginning October 1, 2002, an individual whose health

insurance was voluntarily dropped will be ineligible for coverage under SCHIP for six months, starting with the first month that the health care coverage was dropped. For the purposes of determination of voluntary drop of coverage, any drop of coverage will be considered voluntary with the following exceptions:

(1) coverage was under a COBRA continuation provision and the coverage under that provision was exhausted; or

(2) coverage was not under a COBRA continuation provision and either the coverage was terminated as a result of loss of eligibility for the coverage, including as a result of legal separation, divorce, death, termination of employment or reduction in the number of hours of employment, or employer contributions toward the coverage were terminated.

[2-1-95; 4-1-95; 6-30-98; 3-1-99; 8.232.400.11 NMAC – Rn, 8 NMAC 4.KID.420, 421, 422, 426 & A, 7-1-01; A, 10-1-02]

#### **8.232.400.12 RECIPIENT RIGHTS AND RESPONSIBILITIES**

A. An applicant/recipient is responsible for establishing his/her eligibility for Medicaid.

(1) As part of this responsibility, the applicant/recipient must provide required information and documents or take the actions necessary to establish eligibility. Failure to do so must result in a decision that eligibility does not exist.

(2) An applicant/recipient must also grant the Human Services Department (HSD) permission to contact other persons, agencies or sources of information which are necessary to establish eligibility.

(3) An applicant can voluntarily withdraw an application any time prior to the determination of eligibility. The Income Support Specialist (ISS) advises an applicant that withdrawing an application has no effect upon his/her right to apply for assistance in the future.

#### **B. Assignment Of Support:**

(1) **Assignments of Medical Support:** As a condition of eligibility, an applicant/recipient must [42 CFR Section 433.146; NMSA 1978 Section 27-2-28 (G)(Repl. Pamp. 1991)]:

(a) Assign rights to medical support and payments to the Human Services Department (HSD). The assignment authorizes HSD to pursue and make recoveries from liable third parties on the recipient's behalf;

(b) Assign the rights to medical support and payments of other individuals eligible for Medicaid, for whom he/she can

legally make an assignment; and

(c) Assign his/her individual rights to any medical care/support available under an order of a court or an administrative agency.

#### **(2) Assignment of Parental Support:**

Assignment of parental support rights is required for all minor Medicaid recipients with absent or deceased parents. By signing applications and receiving Medicaid benefits, applicants/recipients have assigned support rights and agreed to cooperate with parental support requirements. See [Section MAD 425, ~~ELIGIBILITY ASSIGNMENT AND COOPERATION REQUIREMENTS~~] 8.200.430.13 NMAC, ASSIGNMENT OF SUPPORT. Medicaid benefits are not denied to an otherwise eligible applicant/recipient solely because he/she cannot legally assign his/her own support rights when the individual who is legally able to assign his/her rights refuses to assign or cooperate, as required by law.

[2-1-95; 4-1-95; 8.232.400.12 NMAC – Rn, 8 NMAC 4.KID.430, 434, 7-1-01; A, 10-1-02]

#### **NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION**

This is an amendment to 8.311.3 NMAC, Section 12 that will be effective on October 1, 2002. The Medical Assistance Division made an amendment to Paragraph (1) of Subsection C of 8.311.3.12 NMAC to reflect that the inflation factor will be used and that each October 1st notification will advise providers if the Market Basket Index (MBI) or a percentage up to the MBI will be available for that year.

#### **8.311.3.12 PROSPECTIVE PAYMENT METHODOLOGY FOR HOSPITALS:**

##### **C. Computation of Hospital Prospective Payment Rates:**

(1) **Rebasing of Rates:** Beginning October 1, 1997 the Department will discontinue the rebasing of rates every three years. Hospital rates in effect October 1, 1996 will be updated by the most current Market Basket Index (MBI) as determined by the [Health Care Financing Administration (HCFA) for rates effective October 1, 1997. Thereafter, rates will be updated every October 1 using the MBI adjusted for any past forecast corrections.] Centers for Medicare and Medicaid Services (CMS) for rates effective October 1, 1997. Thereafter, pursuant to budget availability and at the Department's discretion, the application of the MBI inflation factor will be reviewed based upon eco-

omic 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 or a percentage up to the MBI is authorized to be applied.

[2-1-95, 10-31-97, 6-30-98, 9-1-98, 1-1-99, 8.311.3.12 NMAC – Rn, 8 NMAC 4.MAD.721.D.III & A, 1-1-01; A, 10-1-02]

#### **NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION**

This is an amendment to 8.310.7 NMAC, Sections 10, 12, and 18 which will be effective on October 1, 2002. The Medical Assistance Division made amendments to reflect that 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. This rule was also renumbered and reformatted from 8 NMAC 4.MAD.716.

#### **8.310.7.10 ELIGIBLE PROVIDERS:**

A. Upon approval of New Mexico Medical Assistance Program Provider Participation Agreements by the New Mexico Medical Assistance Division (MAD), individuals and those in professional corporations, associations or other types of group dental practices licensed to practice dentistry are eligible to participate as Medicaid dental providers.

(1) Dental Hygienists certified for Collaborative Practice as defined by NMSA 1978 Section 61-5A-4(D&E) may be enrolled to provide any of those services specified for Collaborative Practice Dental Hygienists in 8.310.7.12 NMAC.

(2) Certified Collaborative Practice Dental Hygienists must be in good standing with the New Mexico Board of Dental Health Care and the New Mexico Dental Hygienist Committee and must reverify their certificate with the New Mexico Board of Dental Health Care annually.

B. Once enrolled, providers receive a packet of information, including Medicaid program policies, billing instructions, utilization review instructions, and other pertinent material from MAD. Providers are responsible for ensuring that they have received these materials and for updating them as new materials are received from MAD.

[2/1/95; 8.310.7.10 NMAC – Rn, 8 NMAC 4.MAD.716.1 & A, 10/1/02]



**8.310.7.12 COVERED SERVICES AND SERVICE LIMITATIONS:** Medicaid covers the following types of dental services with the specified limitations.

**A. Emergency Services:** Medicaid covers emergency care for all eligible recipients. "Emergency" care is defined as services furnished when immediate treatment to control hemorrhage, relieve pain or eliminate acute infection is required. Care includes operative procedures necessary to prevent pulpal death and the imminent loss of teeth, and treatment of injuries to the teeth or supporting structures, such as bone or soft tissue contiguous to the teeth.

(1) Routine restorative procedures and root canal therapy are not emergency procedures.

(2) Prior approval requirements are waived for emergency care, but the claims can be reviewed prior to payment to confirm that an actual emergency existed at the time of service.

**B. Diagnostic Services:** Medicaid coverage for diagnostic services is limited to the following:

(1) For recipients under twenty-one (21) years of age, diagnostic services are limited to one clinical oral examination every six (6) months. For recipients twenty-one (21) years of age and over, coverage is limited to one clinical oral examination per year; and

(2) Medicaid covers emergency oral examinations which are performed as part of an emergency service to relieve pain and suffering; and

**C. Radiology [Service Limitations] Services:** Medicaid [reimbursement to a provider for the performance of radiology services] coverage of radiology services is limited to the following:

(1) One (1) intraoral complete series every three (3) years per recipient. This series includes bitewing x-rays. Collaborative Practice Dental Hygienists may provide this service.

(2) Additional bitewing x-rays once every twelve (12) months per recipient[; and]. Collaborative Practice Dental Hygienists may provide this service.

(3) Panoramic films performed can be substituted for an intraoral-complete series, which is limited to one every three (3) years per recipient. Collaborative Practice Dental Hygienists may provide this service.

**D. Preventive Services:** Medicaid coverage of preventive services is subject to certain limitations.

(1) Prophylaxis: Medicaid covers one prophylaxis service per recipient per provider every six (6) months for recipients under twenty-one (21) years of age. For recipients twenty-one (21) years of age or

over, Medicaid covers one prophylaxis per recipient per year. Collaborative Practice Dental Hygienists may provide this service after diagnosis by a dentist.

(2) **Fluoride Treatment:** Medicaid covers one fluoride treatment per recipient per provider every six (6) months furnished in the office to recipients under twenty-one (21) years of age. For recipients twenty-one (21) years of age or over, Medicaid does not reimburse providers for fluoride treatments unless it is deemed medically necessary by MAD or its designee. Collaborative Practice Dental Hygienists may provide this service

(3) **Molar sealants:** Medicaid only covers sealants for permanent molars and pre-molars for recipients under twenty-one (21) years of age. Each eligible recipient can receive one treatment per tooth every five (5) years. Medicaid does not cover sealants when an occlusal restoration has been completed on the tooth. Replacement of a sealant within the five (5) year period requires prior approval. Collaborative Practice Dental Hygienists may provide this service after diagnosis by a dentist.

(4) **Space Maintenance:** Medicaid covers fixed unilateral and fixed bilateral space maintainers (passive appliances).

**E. Restorative Services:** Medicaid covers the following restorative services:

(1) Amalgam restorations (including polishing) on permanent and deciduous teeth;

(2) Resin restorations for anterior ~~[teeth only]~~ and posterior teeth;

(3) One prefabricated stainless steel crown per permanent or deciduous tooth;

(4) One prefabricated resin crown per permanent or deciduous tooth; and

(5) One recementation of a crown or inlay.

**F. Endodontic Services:** Medicaid covers therapeutic pulpotomy for recipients under twenty-one (21) years of age if performed on a primary or permanent tooth and no periapical lesion is present on a radiograph.

**G. Periodontic Services:** Medicaid covers certain periodontics surgical, non-surgical and other periodontics services subject to certain limitations:

(1) Collaborative Practice Dental Hygienist may provide periodontal scaling and root planning, per quadrant after diagnosis by a dentist; and

(2) Collaborative Practice Dental Hygienists may provide periodontal maintenance procedures with prior authorization.

**H. R e m o v a b l e**

**Prosthodontic Services:** Medicaid covers only one denture adjustment per calendar year per recipient. Medicaid also covers repairs to complete and partial dentures.

**I. Fixed Prosthodontics Services:** Medicaid covers one recementation of a fixed bridge.

**J. Oral Surgery Services:** Medicaid covers the following oral surgery services:

(1) **Simple and surgical extractions for all recipients:** Coverage includes local anesthesia and routine post-operative care; "Erupted surgical extractions" are defined as extractions requiring elevation of mucoperiosteal flap and removal of bone, and/or section of tooth and closure.

(2) Autogenous tooth reimplantation of a permanent tooth for recipients under twenty-one (21) years of age; and

(3) Incision and drainage of an abscess for all recipients.

**K. Adjunctive General Services:** Medicaid covers emergency palliative treatment of dental pain for all recipients. Medicaid covers general anesthesia and intravenous sedation for recipients under twenty-one (21) years of age. For recipients twenty-one (21) years of age and over, prior approval is required for general anesthesia and intravenous sedation. Documentation of medical necessity must be available for review by MAD or its designee. Medicaid covers nitrous oxide analgesia for all recipients.

[2/1/95; 8.310.7.12 NMAC – Rn, 8 NMAC 4.MAD.716.3 & A, 10/1/02]

### 8.310.7.18 REIMBURSEMENT RESTRICTIONS:

**A. Services Performed in violation of dental [Regulations] rules:** Providers are not reimbursed for services performed in violation of the New Mexico Dental [Practice Act] Health Care Act, or the Rules of the New Mexico Board of Dental Health Care, Code of Ethics of the American Dental Association or the American Dental Hygienists' Association or accepted principles of good dental [practice] and dental hygienist practices.

**B. Services Furnished by Another Provider:** Coverage of dental services can be restricted or limited. Dental providers must try to determine if a proposed service has already been furnished by another provider.

**C. Direct Recipient Payment for Services:** If dental providers believe that a service is medically necessary but limits or restrictions apply to the proposed service, dentists must advise recipients of the limitation. Providers can make arrangements for direct payment from recipients for noncovered or limited servic-

es. Recipients can be billed for services if:

(1) Recipients are advised by dental providers of the necessity of the service;

(2) Recipients are given options to seek treatment at a later date or from a different provider; and

(3) Recipients agree in writing to be responsible for payment.

D. Services Considered Part of the Total Treatment: Providers cannot bill separately for the services included in the payment for the examination, another service, or routine post-operative or follow-up care. See MAD-716.B [8.310.7 BI], BILLING INSTRUCTIONS FOR DENTAL SERVICES, for the list of these services.

[2/1/95; 8.310.7.18 NMAC - Rn, 8 NMAC 4.MAD.716.9 & A, 10/1/02]

## NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.323.2.9 NMAC, Sections 9 through 16, and 18, which will be effective on October 1, 2002. The Medical Assistance Division made changes to include service for individuals with cognitive impairment. It also provides an explanation of when relatives can provide personal care services for individuals 18 to 21 years of age. This rule was also renumbered and reformatted from 8 NMAC 4.MAD.746.5 to comply with NMAC requirements.

### PART 2 EPSDT PERSONAL CARE SERVICES

**8.323.2.9 EPSDT PERSONAL CARE SERVICES:** The New Mexico Medicaid program (Medicaid) pays for medically necessary personal care services furnished to eligible recipients under 21 years of age as part of the Early and Periodic Screening, ~~[Diagnosis]~~ Diagnostic and Treatment (EPSDT) program [42 CFR Section 440.167]. Services must be accessed through the ~~[Tot to Teen Health Check screen]~~ EPSDT screen. Personal Care services are delivered pursuant to an individualized treatment plan. Personal Care services provide a range of services to consumers who are unable to perform some/all activities of daily living (ADLs) or instrumental activities of daily living (IADLs) because of a disability or a functional limitation(s). A prescribed course of regular Personal Care services and daily living assistance permits a person to live in his or her home rather than an institution and allows him or her to achieve the highest possible level of independence. These services include, but are not limited to, such activities as bathing,

dressings, grooming, eating, toileting, shopping, transporting, caring for assistance animals, cognitive assistance, and communicating. An individual may be physically capable of performing ADLs or IADLs but may have limitations in performing these activities because of a cognitive impairment. Personal Care services may be required because a cognitive impairment prevents an individual from knowing when or how to carry out the task. In such cases, personal care may include cuing along with supervision to ensure that the individual performs the task properly. This section describes provider qualifications and responsibilities, recipient eligibility requirements, covered services, service limitations and general reimbursement methodology.

[9/1/98; 8.323.2.9 NMAC - Rn, 8 NMAC 4.MAD.746.5 & A, 10/1/02]

### 8.323.2.10 ELIGIBLE PROVIDERS:

Upon approval of New Mexico Medical Assistance Program Provider Participation Applications by the New Mexico Medical Assistance Division (MAD), agencies that meet the following conditions are eligible to be reimbursed for providing EPSDT Personal Care Services

A. Licensed nursing or home health agencies ~~[which]~~ that are public agencies, private for-profit agencies, or private non-profit agencies.

B. Nurses who supervise personal care attendants must be licensed as a Registered Nurse by the New Mexico Board of Nursing ~~[as a Registered Nurse]~~.

C. Certification for participation as a Medicare home health agency is not required. Personal care services may not be furnished by a member of the individual's family. In this instance, a family member is defined as a legally responsible relative, such as parents of minor children and stepparents who are legally responsible for minor children. For clients 18 to 21 years of age, parents or other relatives may provide Personal Care services if they are not legally responsible for the recipient. The parents or other relatives must be employed by an agency eligible to bill the Medicaid program for Personal Care services and must meet the training and supervision standards required by the Medicaid Program.

[9/1/98; 8.323.2.10 NMAC - Rn, 8 NMAC 4.MAD.746.51 & A, 10/1/02]

### 8.323.2.11 PROVIDER RESPONSIBILITIES:

A. Providers who furnish services to Medicaid recipients must comply with all specified Medicaid participation requirements. See Part 8.302.1 NMAC, GENERAL PROVIDER POLI-

CIES.

B. Providers must verify that individuals are eligible for Medicaid at the time services are furnished and determine if Medicaid recipients have other health insurance.

C. Providers must maintain records ~~[which]~~ that are sufficient to fully disclose the extent and nature of the services ~~[furnished]~~ provided to the recipients. See Part 8.302.1 NMAC, GENERAL PROVIDER POLICIES.

[9/1/98; 8.323.2.11 NMAC - Rn, 8 NMAC 4.MAD.746.52 & A, 10/1/02]

### 8.323.2.12 ELIGIBLE POPULATION:

Recipients of personal care services must meet all of the following eligibility criteria:

A. Be eligible for Medicaid at the time ~~[of]~~ services are furnished;

B. Be under the age of twenty-one (21);

C. Have a medical condition, established by the recipient's ~~[physician which]~~ primary care provider, that limits the recipient's physical functional or cognitive ability to such a degree that it adversely ~~[effects the recipient's physical status and]~~ affects the recipient's overall ability to meet his/her physical requirements, excluding age-specific physical developmental needs, and results in the recipient's need for assistance with personal care; and

D. Have an individualized treatment plan, developed by the case manager in conjunction with the recipient, if age-appropriate, parent(s) or guardian(s), primary care physician and other appropriate health provider(s), and approved ~~[through New Mexico Utilization Review or]~~ by the designated MAD utilization review ~~[agent]~~ contractor.

[9/1/98; 8.323.2.12 NMAC - Rn, 8 NMAC 4.MAD.746.53 & A, 10/1/02]

### 8.323.2.13 COVERAGE CRITERIA:

Personal care services are defined as medically necessary tasks pertaining to a recipient's physical or cognitive functional ability. The goal of the provision of care is to avoid institutionalization and maintain the recipient's functional level. Services are covered under the following criteria:

A. The recipient must have a need for assistance with at least two (2) physical requirements, such as eating, bathing, dressing and toileting activities, appropriate to his/her age.

B. Personal care services must be medically necessary, prescribed by the recipient's ~~[physician]~~ primary care provider and included in the recipient's indi-

vidualized treatment plan.

C. The need for personal care services is evaluated based on the availability of family members, natural supports, such as other community resources and/or friends, ~~which~~ that can aid in providing such care.

D. Personal care services must be provided with the consent of the recipient's parent(s) or guardian(s), if the recipient is under age eighteen (18) ~~years and~~, with the recipient's consent, if over age eighteen (18) years and if the recipient is able to provide consent.

E. Personal care services ~~which~~ that are medically necessary are furnished in the recipient's place of residence and outside the home when medically necessary and when not available through other existing benefits and programs such as home health, early intervention or school programs. Personal care services ~~means~~ are services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded, or institution for mental ~~disease~~ illness.

F. Personal care services ~~which~~ that are medically necessary for attending school, are furnished in partnership with the recipient's school as an alternative to the recipient's participation in a homebound program. The personal care services should foster the child's independence. Personal care services are furnished based on approval by the designated MAD utilization review ~~agent~~ contractor and only to eligible recipients and not to others in the school setting.

G. Services must be provided by a personal care attendant who is trained and has successfully demonstrated competency to provide assistance with personal care such as bathing, dressing, eating and toileting. The personal care attendant is employed by the personal care provider and works under the supervision of a registered nurse who is licensed in the State of New Mexico and employed by the personal care provider.

H. The supervisory registered nurse ~~[-who is]~~ must be employed or contracted by the personal care provider and ~~has had~~ have one (1) year direct patient care experience. The supervisory registered nurse is also responsible for conducting and documenting visits to the ~~recipients~~ recipient's residence for the purpose of assessing the recipient's progress and personal care attendants performance ~~[and to update the]~~. The care plan should be updated as indicated and in cooperation with the recipient's case manager. These visits will be conducted and documented every 62 days or ~~as often as~~ more often if the recipient's condi-

tion warrants it.

[9/1/98; 8.323.2.13 NMAC - Rn, 8 NMAC 4.MAD.746.54 & A, 10/1/02]

**8.323.2.14 COVERED SERVICES:** Medicaid covers the following personal care services:

A. Basic personal care services consist of bathing, care of the teeth, hair and nails, assistance with dressing, and assistance with toileting activities ~~and~~

B. Assistance with eating and other nutritional activities, when medically necessary, i.e., due to documented weight loss or other physical effect(s); and

C. Cognitive Assistance such as prompting or cuing.

[9/1/98; 8.323.2.14 NMAC - Rn, 8 NMAC 4.MAD.746.55 & A, 10/1/02]

**8.323.2.15 NON COVERED SERVICES:** Services ~~which~~ that are not covered under the New Mexico Medicaid EPSDT Personal Care program are as follows:

A. Any task that must be provided by a person with professional or technical training, such as but not limited to: insertion and irrigation of catheters, nebulizer treatments, irrigation of body cavities, performance of bowel stimulation, application of sterile dressings involving prescription medications and aseptic techniques, tube feedings, and administration of medications;

B. Services ~~which~~ that are not in the recipient's approved treatment plan and for which prior approval has not been received;

C. Services not considered medically necessary by MAD or its ~~designees~~ designee for the condition of the recipient~~[-and]~~.

[9/1/98; 8.323.2.15 NMAC - Rn, 8 NMAC 4.MAD.746.56 & A, 10/1/02]

**8.323.2.16 PLAN OF CARE:** The recipient's individualized treatment plan is approved by the designated MAD utilization review ~~agent~~ contractor prior to the initiation of services. The plan must include the following:

A. Statement of the nature of the specific problem and the specific needs of the recipient for personal care services;

B. Description of the physical or cognitive functional level of the recipient as evidenced by the primary care ~~physicians~~ provider clinical evaluation, including mental status, intellectual functioning and the documented medical necessity for personal care services;

C. Description of intermediate and long-range service goals ~~[-which]~~

that includes the scope and duration of service, how goals will be attained and the projected timetable for their attainment;

D. Specification of the personal care attendant's responsibilities, including tasks to be performed by the attendant and any special instructions for the health and safety of the recipient; and

E. Statement of the least restrictive conditions necessary to achieve the goals identified in the plan.

F. The plan of care is reviewed and revised, according to the individual's clinical needs, no less often than every six months.

[9/1/98; 8.323.2.16 NMAC - Rn, 8 NMAC 4.MAD.746.57 & A, 10/1/02]

**8.323.2.18 PRIOR APPROVAL AND UTILIZATION REVIEW:** All

Medicaid services are subject to utilization review for medical necessity and program compliance. Reviews by MAD and/or the utilization review ~~agent~~ contractor, can be performed before services are furnished, after services are furnished, before payment is made, or after payment is made. See Part 8.302.5 NMAC, PRIOR APPROVAL AND UTILIZATION REVIEW. Once enrolled, providers receive instructions and documentation forms necessary for prior approval and claims processing.

A. All personal care attendant services must be included in the ~~recipients~~ recipient's plan of care and must receive prior approval from MAD or its designee. Services for which prior approval was obtained remain subject to utilization review at any point in the payment process.

B. Prior approval of services does not guarantee that individuals are eligible for Medicaid. Providers must verify that individuals are eligible for Medicaid at the time services are furnished and determine if Medicaid recipients have other health insurance.

C. Providers who disagree with prior approval denials or other review decisions ~~care~~ can request a re-review and a reconsideration. See Part 8.350.2 NMAC, RECONSIDERATION OF UTILIZATION REVIEW DECISIONS.

[9/1/98; 8.323.2.18 NMAC - Rn, 8 NMAC 4.MAD.746.59 & A, 10/1/02]

## NEW MEXICO STATE LAND OFFICE

### Notice of Renumbered Rules

Ray Powell, New Mexico Commissioner of Public Lands, hereby gives notice that the following rules were renumbered and reformatted to comply with current NMAC requirements effective



September 30, 2002:

FROM	TO
19 NMAC 3.SLO3	19.2.3 NMAC
19 NMAC 3.SLO4	19.2.4 NMAC
19 NMAC 3.SLO5	19.2.5 NMAC
19 NMAC 3.SLO6	19.2.6 NMAC
19 NMAC 3.SLO7	19.2.7 NMAC
19 NMAC 3.SLO8	19.2.8 NMAC
19 NMAC 3.SLO11	19.2.11 NMAC
19 NMAC 2.SLO12	19.2.12 NMAC
19 NMAC 2.SLO13	19.2.13 NMAC
19 NMAC 3.SLO14	19.2.14 NMAC
19 NMAC 2.SLO18	19.2.18 NMAC
19 NMAC 2.SLO19	19.2.19 NMAC
19 NMAC 2.SLO20	19.2.20 NMAC

## NEW MEXICO BOARD OF LANDSCAPE ARCHITECTS

The Board of Landscape Architects repeals the following parts effective 10-5-2002:

- 16 NMAC 44.2 - Registration For Licensure
- 16 NMAC 44.3 - Complaints
- 16 NMAC 44.4 - Fees
- 16 NMAC 44.5 - Renewal and Continuing Education

## NEW MEXICO BOARD OF LANDSCAPE ARCHITECTS

### TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 44 LANDSCAPE ARCHITECTS PART 2 EDUCATIONAL AND EXAMINATION REQUIREMENTS FOR LICENSURE

**16.44.2.1 ISSUING AGENCY:** Regulation and Licensing Department, Board of Landscape Architects, P.O. Box 25101, Santa Fe, NM 87504.  
[16.44.2.1 NMAC - Rp 16 NMAC 44.2.1, 10-05-02]

**16.44.2.2 SCOPE:** The provisions in Part 2 apply to applicants for licensure.  
[16.44.2.2 NMAC - Rp 16 NMAC 44.2.2, 10-05-02]

**16.44.2.3 STATUTORY AUTHORITY:** This part is adopted pursuant to the Landscape Architect Act, NMSA 1978 Sections 61-24-B8, 61-24-B11, 61-24-B12, 61-24-B16.  
[16.44.2.3 NMAC - Rp 16 NMAC 44.2.3, 10-05-02]

**16.44.2.4 DURATION:** Permanent.  
[16.44.2.4 NMAC - Rp 16 NMAC 44.2.4, 10-05-02]

**16.44.2.5 EFFECTIVE DATE:** October 5, 2002, unless a later date is cited at the end of a section.  
[16.44.2.5 NMAC - Rp 16 NMAC 44.2.5, 10-05-02]

**16.44.2.6 OBJECTIVE:** This part established the minimum educational requirements for applicants applying for licensure.  
[16.44.2.6 NMAC - Rp 16 NMAC 44.2.6, 10-05-02]

**16.44.2.7 DEFINITIONS:** Reserved. [Refer to Part 1].

### 16.44.2.8 EDUCATIONAL REQUIREMENTS:

A. Qualifications for Registration. A person desiring to become registered as a landscape architect shall make application to the board on a written form and in such manner as the board prescribes, pay all required application fees and certify and furnish evidence to the board that the applicant: Has graduated from an accredited program in landscape architecture at a school, college or university offering an accredited minimum four-year curriculum and has a minimum of three years of practical experience acceptable to the board, at least one year of which shall be under the supervision of a landscape architect. A master's degree in landscape architecture from an accredited college or university may be accepted in lieu of one year of practical experience.

B. Has graduated from a non-accredited program of landscape architecture or a related field at a school, college or university offering an accredited minimum four-year curriculum and has a minimum of four years of practical experience acceptable to the board, at least one year of which shall be under the supervision of a landscape architect. A master's degree from a non-accredited program of landscape architecture or a related field may be accepted in lieu of one year of practical experience. Has a minimum, of ten years of practical experience in landscape architectural work that is acceptable to the board, provided that:

(1) each satisfactorily completed year of study in an accredited program of landscape architecture in an accredited school, college or university may be accepted in lieu of one year of practical experience required under this subsection;

(2) a baccalaureate degree from

an accredited college or university in a related field may be accepted in lieu of two years of practical experience required under this subsection; or

(3) a master's degree from an accredited school, college or university in a related field may be accepted in lieu of three years of practical experience required under this subsection.

[16.44.2.8 NMAC - Rp 16 NMAC 44.2.8.2, 10-05-02]

### 16.44.2.9 EXAMINATION:

A. Applicants for certificates of registration shall be required to pass the board's examination for landscape architects. To qualify for licensure, an applicant must demonstrate professional competence by passing the Landscape Architects Registration Examination (L.A.R.E.) or has previously passed the Uniform National Examination (UNE). An applicant who passes the examination may be issued a certificate of registration to practice as a landscape architect provided the applicant meets all the current requirements for licensure.

B. The board shall conduct examination of applicants at least once each year. The examination shall determine the ability of the applicant to use and understand the theory and practice of landscape architecture and may be divided into such subjects as the board deems necessary.

C. The passing score on the landscape architects registration examination is that recommended by CLARB. The examination is scored on a pass-fail basis.

D. An applicant who fails to pass the examination may reapply for the examination if the applicant complies with the rules established by the board.

E. An applicant may sit for the L.A.R.E. before or while completing the practical experience/supervision.

[16.44.2.9 NMAC - Rp 16 NMAC 44.2.8.3, 10-05-02]

### 16.44.2.10 L.A.R.E. REVIEWS:

Once an applicant has been notified of the examination results, an applicant may review the examination if the applicant was not successful in passing the examination. A standard review and a red-line review are available. CLARB provides this option to the board. An applicant may request a review as follows:

A. A standard review must be requested by September 20th for the previous June L.A.R.E. and March 20th for the previous December L.A.R.E. The fee for the review is set by CLARB. A standard review request received after September 20th for the previous June L.A.R.E. and a

request received after March 20th for the previous December L.A.R. E will be charged according to fees set by CLARB.

B. A red-line review request must be received by September 20th for the previous June L.A.R.E and March 20th for the previous December L.A.R.E. Red-line reviews request may take six (6) weeks to fulfill.

C. Candidates choosing the standard review for an examination section may not make an additional request for a red-line review of the same section. Requests for review of standard or red-line must be received in the board office by 5:00 p.m. on the dates listed above with the appropriate fees.

[16.44.2.10 NMAC – N, 10-05-02]

**16.44.2.11 RECIPROCITY:** The board may issue a certificate to practice as a landscape architect without an examination to an applicant who holds a current certificate of registration or license as a landscape architect issued by another state if the standards of the other state are as stringent or higher as those established by in the rules and regulation and if the applicants meets the qualifications required of a landscape architect in this state.

[16.44.2.11 NMAC – Rp 16 NMAC 44.2.8.4, 10-05-02]

#### **HISTORY OF 16.44.2 NMAC:**

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

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

LAB 85-1, Rules and Regulations, 11-27-85;

LAB 85-1, Rules and Regulations, 12-02-85;

LAB 89-1, Rules and Regulations, 05-05-89;

Rule 4, NMBLA, Registration, 07-08-92

##### **History of Repealed Material:**

16 NMAC 44.2, Registration for Licensure – Repealed 10-05-02

## **NEW MEXICO BOARD OF LANDSCAPE ARCHITECTS**

### **TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 44 LANDSCAPE ARCHITECTS PART 3 REGISTRATION FOR LICENSURE**

**16.44.3.1 ISSUING AGENCY:** Regulation and Licensing Department, Board of Landscape Architects, P.O. Box 25101, Santa Fe, NM 87504.  
[16.44.3.1 NMAC – Rp 16 NMAC 44.2.1,

10-05-02]

**16.44.3.2 SCOPE:** The provisions of 16.44.3 NMAC apply to all applicants for licensure.

[16.44.3.2 NMAC – Rp 16 NMAC 44.2.2, 10-05-02]

**16.44.3.3 STATUTORY AUTHORITY:** This part is adopted pursuant to the Landscape Architect Act, NMSA 1978 Sections 61-24-B4, 61-24-B8, 61-24-B9.

[16.44.3.3 NMAC – Rp 16 NMAC 44.2.3, 10-05-02]

**16.44.3.4 DURATION:** Permanent.

[16.44.3.4 NMAC – Rp 16 NMAC 44.2.4, 10-05-02]

**16.44.3.5 EFFECTIVE DATE:** October 5, 2002, unless a later date is cited at the end of a section.

[16.44.3.5 NMAC – Rp 16 NMAC 44.2.5, 10-05-02]

**16.44.3.6 OBJECTIVE:** This part is to establish the minimum requirements for applicants applying for licensure as a Landscape Architect.

[16.44.3.6 NMAC – Rp 16 NMAC 44.2.6, 10-05-02]

**16.44.3.7 DEFINITIONS:** [Reserved.] [Refer to Part 1]

#### **16.44.3.8 REGISTRATION:**

A. No person shall practice as a landscape architect or represent himself of herself as a landscape architect unless he or she has a certificate of registration issued pursuant to the New Mexico Landscape Architects Act and these rules and regulations.

B. Application Forms and Fees: To apply for licensure as a landscape architect, the applicant shall submit a completed application on the form provided by the board. The applicant shall ensure that the application is complete and that all fees are paid prior to the deadline specified by the board.

C. Letters of Reference: An applicant for licensure who is not CLARB certified from any jurisdiction shall submit three letters of reference, two of which shall be from individuals who are not members of the board. The letters of reference shall be from individuals that are not related to the applicant and who are familiar with and will speak to the applicant's professional activities

D. Related field in the statutory qualifications shall mean a field

having an impact on or affecting the field of landscape architecture, including, but not limited to, such fields as architecture, engineering, or planning.

E. Practical Experience. The applicant's practical experience shall begin after graduation from his/her landscape architect's university program as described in Part 2. To assist the board in evaluating the applicant's practical experience, the applicant shall submit evidence of his or her experience with the completed application form in one or both of the following formats:

(1) Slides or photographs of projects or drawings depicting construction, planting, irrigation, design. A minimum of six and a maximum of ten examples of work should be submitted. (Reduced to 8 ½ X 11).

(2) maximum two page summary or abstract which describes other relevant experience, such as administration, research, planning, or teaching.

F. Compliance. The applicant shall comply with the New Mexico Landscape Architects Act and the Board's rules and regulations.

[16.44.3.8 NMAC – Rp 16 NMAC 44.2.8.1 & 8.2, 10-05-02]

#### **16.44.3.9 APPLICATION AND EXAMINATION FEES**

A. A non-refundable application fee is due at the time of application. The amount of this fee will be determined by the Board. The Board will collect additional fees, as necessary, incurred by the administration of examinations.

B. If the applicant is taking the L.A.R.E., the applicant will not be scheduled to take the examination until the initial application is received.

C. Fees and requests to take the registration examination shall be due to the board according to the schedules established annually by the CLARB. All potential applicants shall be responsible for contacting the board regarding this schedule

D. Unsuccessful L.A.R. E. examination applicants electing to take the examination the next time it is offered will not be obliged to pay an additional application fee; they must, however, pay the applicable examination fees. Unsuccessful applicants electing to take the examination again are required to take only those sections that the applicants failed to pass.

[16.44.3.9 NMAC – N, 10-05-02]

#### **16.44.3.10 APPLICANTS NOT PREVIOUSLY LICENSED IN ANY JURISDICTION.**

A. Initial Application Procedure. To open an initial application

file, the candidate shall submit the following:

- (1) A completed and signed application;
- (2) Application fee as required by board;

(3) CLARB Council Record Number (See 16.44.3.11 below)

(4) L.A.R.E. request form to sit for examination (form provided by board)

B. When the initial application is completed and is reviewed and approved, the board office will notify the candidate of approval and will schedule to take the L.A.R.E. examination.

C. The written examination for licensure is the landscape architects registration examination (L.A.R.E.). The examination is given in June and in December. A candidate shall be eligible to take the examination as many times as necessary to pass each section. The initial Application file will expire in 36 months. If the candidate has not passed all sections of the examination after 36 months, the candidate will be required to complete a new application, and application fee.

D. All candidates must hold a CLARB Record in order to sit for the L.A.R.E.

[16.44.3.10 NMAC – N, 10-05-02]

#### 16.44.3.11 CLARB COUNCIL RECORDS:

The CLARB council record is a verified record of the education, experience and examination history of a landscape architect. The record provides a single, permanent location for all of the documentation required for application for the registration examination or for reciprocal registration. **Effective September 1, 2003**, all candidates who have made application to take the L.A.R. E, must hold a CLARB council record. Please contact CLARB for the requirements, fees and procedures.

[16.44.3.11 NMAC – N, 10-05-02]

#### 16.44.3.12 APPLICANTS LICENSED IN ANOTHER JURISDICTION. NOT CLARB CERTIFIED

A. Initial Application Procedure. To open an initial application file, the applicant shall submit the following:

- (1) A completed and signed application;
- (2) Verification of practical experience;

(3) The application fee as required by the board;

(4) Official transcripts directly from the institution's office of the registrar;

(5) Three letters of reference; and

(6) Verification of licensure in another Jurisdiction.

B. The board office will

notify each applicant once the application file is complete. The board will review each application at the next regularly scheduled board meeting.

[16.44.3.12 NMAC – N, 10-05-02]

#### 16.44.3.13 APPLICANTS WHO ARE CLARB CERTIFIED

A. Initial Application Procedure. To open an initial application file, the applicant shall submit the following:

(1) A completed and signed application;

(2) The application fee as required by the board;

(3) Certified Council Record received directly from CLARB;

B. Once the application file is complete the board office will notify the applicant. The board office is authorized to issue a license to the applicant.

[16.44.3.13 NMAC – N, 10-05-02]

**16.44.3.14 RECIPROCITY:** The board may issue a certificate to practice as a landscape architect without an examination to an application who holds a current certificate of registration or license as a landscape architect issued by another state if the education, and experience requirement of the other state are as stringent or higher than those established by in the rules and regulations and if the applicant meets the qualifications required of a landscape architect in this state.

[16.44.3.14 NMAC – Rp 16 NMAC44.3.8.4, 10-05-02]

#### HISTORY OF 16.44.3 NMAC:

##### Pre-NMAC History:

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

LAB 85-1, Rules and Regulations filed 11-27-85;

LAB 85-1, Rules and Regulations filed 12-02-85;

LAB 89-1, Rules and Regulations filed 05-05-89;

Rule 4 NMBLA, Registration filed 07-08-92.

##### History of Repealed Material:

16 NMAC 44.2, Registration for Licensure – Repealed 10-05-02

## NEW MEXICO BOARD OF LANDSCAPE ARCHITECTS

### TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING

#### CHAPTER 44 LANDSCAPE ARCHITECTS

##### PART 4 LICENSE EXPIRA-

## TION AND RENEWAL

**16.44.4.1 ISSUING AGENCY:** Regulation and Licensing Department, State Board of Landscape Architects.  
[16.44.4.1 NMAC – N, 10-05-02]

**16.44.4.2 SCOPE:** The provisions of Part 4 apply to all landscape architects with a license to practice in New Mexico.

[16.44.4.2 NMAC – N, 10-05-02]

**16.44.4.3 STATUTORY AUTHORITY:** This Part is adopted pursuant to the Landscape Architects Act, NMSA 1978 §61-24B11, 61-24B15.

[16.44.4.3 NMAC – N, 10-05-02]

**16.44.4.4 DURATION:** Permanent.

[16.44.4.4 NMAC – N, 10-05-02]

**16.44.4.5 EFFECTIVE DATE:** October 5, 2002 unless a later date is cited at the end of a section

[16.44.4.5 NMAC – N, 10-05-02]

**16.44.4.6 OBJECTIVE:** This Part establishes the procedures for license expiration and license renewal.

[16.44.4.6 NMAC – N, 10-05-02]

**16.44.4.7 DEFINITIONS:** [Reserved]. [Refer to Part 1].

**16.44.4.8 LICENSE RENEWAL:** Each licensee shall renew his or her license to practice landscape architecture in New Mexico annually on or before July 1 of the year by remitting to the board office a renewal fee of one hundred seventy-five dollars (\$175) with the renewal application form provided by the board. Continuing education hours shall be documented every two (2) years as described in Part 5.

[16.44.4.8 NMAC – N, 10-05-02]

**16.44.4.9 LICENSE RENEWAL DEADLINE:** A license shall be renewed on or before July 1 of each year to be considered current.

[16.44.4.9 NMAC – N, 10-05-02]

**16.44.4.10 LICENSE RENEWAL NOTICES:** Renewal application notices will be mailed to each current licensee at least forty -five (45) days prior to the expiration date of the license.

[16.44.4.10 NMAC – N, 10-05-02]

**16.44.4.11 LICENSEE RESPONSIBILITY:** Renewal application notices will be mailed to the last known address on file with the board. It is the responsibility of the licensee to keep the



board informed of any changes in address and phone numbers. Failure to receive the renewal application notice shall not relieve the licensee of the responsibility of renewing his or her license before the expiration date.

[16.44.4.11 NMAC – N, 10-05-02]

#### **16.44.4.12 RENEWAL AFTER JULY 1**

A. The board shall initiate license suspension proceedings and thereafter shall suspend a license for failure to renew if the licensee failed to renew his or her license by July 1 of any year.

B. A license suspended for failure to renew may be renewed within a period of two (2) years after the suspension upon payment of the renewal fee plus a late fee and proof of continuing education satisfactory to the board.

C. The license shall be revoked if the license has not been renewed within one (1) year of the suspension for failure to renew.

D. Any licensee whose license is revoked for failure to renew shall be required to make a new application and shall satisfy all requirements for licensure in effect at the time the application is filed.

E. Unless currently licensed to practice landscape architecture, no person shall

(1) engage in the practice landscape architecture

(2) use the title or represent himself or herself as a landscape architect, or

(3) use any other title, abbreviation, letters, signs or devices that indicate the person is a landscape architect. Any person who renders or offers to render landscape architecture while his or her license is suspended is subject to disciplinary action.

F. It is a misdemeanor:

(1) for any person not licensed under the Landscape Architects Act to practice landscape architecture or represent himself or herself as a landscape architect;

(2) for any person to practice landscape architecture during the time that his or her license as a Landscape Architect is suspended, revoked, or lapsed.

[16.44.4.12 NMAC – N, 10-05-02]

#### **16.44.4.13 APPROVAL OF RENEWAL APPLICATION:**

Upon approval of the licensee's renewal application, the board will issue a renewal to the licensee.

[16.44.4.13 NMAC – N, 10-05-02]

#### **HISTORY OF 16.44.4 NMAC:**

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

The material in this Part was derived from that previously filed with the state Records

Center and Archives under:

LAB 85-1, Rules and Regulations filed 11-27-85;

LAB 85-1, Rules and Regulations filed 12-02-85;

LAB 89-1, Rules and Regulations filed 05-05-89;

Rule 8 NMBLA, Failure to Renew filed 07-08-92;

Rule 9 NMBLA, Continuing Education filed 07-08-92

##### **History of Repealed Material:**

16 NMAC 44.5, Renewal and Continuing Education – Repealed 10-05-02

## **NEW MEXICO BOARD OF LANDSCAPE ARCHITECTS**

### **TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING**

#### **CHAPTER 44 LANDSCAPE ARCHITECTS**

#### **PART 5 CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS**

##### **16.44.5.1 ISSUING AGENCY:**

Regulation and Licensing Department, Board of Landscape Architects, P.O. Box 25101, Santa Fe, NM 87504.

[16.44.5.1 NMAC – Rp 16NMAC 44.5.1, 10-05-02]

##### **16.44.5.2 SCOPE:**

The provisions of 16.44.5 NMAC apply to all landscape architects who are applying to renew their license.

[16.44.5.2 NMAC – Rp 16NMAC 44.5.2, 10-05-02]

##### **16.44.5.3 STATUTORY AUTHORITY:**

This part is adopted pursuant to the Landscape Architect Act, NMSA 1978 Sections 61-24B11, 61-24B15.

[16.44.5.3 NMAC – Rp 16NMAC 44.5.3, 10-05-02]

##### **16.44.5.4 DURATION:**

Permanent.

[16.44.5.4 NMAC – Rp 16NMAC 44.5.4, 10-05-02]

##### **16.44.5.5 EFFECTIVE DATE:**

October 5, 2002, unless a later date is cited at the end of a section.

[16.44.5.5 NMAC – Rp 16NMAC 44.5.5, 10-05-02]

##### **16.44.5.6 OBJECTIVE:**

The objective of 16.44.5 NMAC is to establish criteria for Professional Continuing Education for Landscape Architects licensed in New Mexico.

[16.44.5.6 NMAC – Rp 16NMAC 44.5.6, 10-05-02]

**16.44.5.7 DEFINITIONS:** [Reserved.] [Refer to Part 1]

##### **16.44.5.8 PURPOSE OF CONTINUING PROFESSIONAL EDUCATION:**

A. The purpose of continuing professional education requirements for landscape architects is to ensure the licensees update and advance their skill such that the public shall benefit for the most current and effective standards of professional practice. To further the goal of public benefit, landscape architects are encouraged to fulfill a portion of their continuing education requirements in the areas of ethics, professional conduct and public protection.

B. Timeframe of Continuing Professional Education: The board will require every 2 years a minimum of 30 contact hours of professional continuing education to be completed as a condition for renewal of any certificate of registration under the Landscape Architect Act. The license renewal shall be every year, with the professional continuing education reporting every other year. The 30 hours reporting period will be July 1, 1999. (for the years of 1997-1998 and 1998-1999, and every odd year thereafter). During a biennial reporting period every registrant is required to obtain 30 continuing education hours as approved by the board. If a registrant exceeds the minimum biennium requirement in any reporting cycle, credits may not be carried forward into the subsequent biennium.

C. Recordkeeping: Each landscape architect shall maintain:

(1) a log showing the subject and type of activity claimed, the sponsoring organization, location, duration and instructor's or speaker's name;

(2) Documentation sufficient to prove completion of the activity claimed, such as attendance verification records, completion certificates or other documents;

(3) Records for at least four (4) years; and

(4) Copies of all records that may be requested by the board for audit verification purposes.

(a) a list showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and continuing education hours earned;

(b) attendance verification records in the form of completion certificates, paid receipts or other documents supporting evidence of attendance. These

records must be maintained for a period of three years and copies may be requested by the board for audit verification purposes.

(5) A form will be provided by the board in order to document your continuing education units.

(6) Introduction: Every licensee shall meet the continuing education requirements of these regulations for professional development as a condition for registration renewal.

[16.44.5.8 NMAC – Rp 16NMAC 44.5.9, 10-05-02]

#### **16.44.5.9 PREAPPROVED PROGRAM CATEGORIES:**

A. Listed below are pre-approved methods for acquiring professional continuing education hours. Hours must be relevant to the design professions which are recognized as landscape architects, interior designers, engineers, and architects. The conversion of hours or credit is as follows:

(1) Three college semester hours: 30 hours

(2) Three college quarter hours: 20 hours

(3) Each continuing education unit: 10 hours

(4) Professional development in course work, seminars, professional conventions, workshops related to design professions: Hour per hour of lecture time

(5) Teaching credit is valid for teaching a course or seminar for the first time only: 15 hours

(6) Each published professionally related paper, article, or book: 10 hours

(7) Each professional presentation when presented at a national, state, regional or municipal program for the first time only: 3 hours

(8) Serving on federal, state or municipal boards, and commissions as a design professional where one is elected or appointed: 1 hour per month of service not to exceed 24 hours per biennium

(9) Active participation in professional and technical societies and their committees: 4 hours per biennium

(10) Committee chair or elected official of a professional technical society: 8 hours per biennium

(11) Active participation in a public board specifically related to the practice of landscape architecture. Licensee must not receive a salary and is only paid pursuant to the Per Diem Act: 8 hours per biennium.

(12) Business related courses: 10 hours per biennium

(13) Self Improvement courses: 6 hours per biennium

(14) Short subjects for design

professionals, i.e. CLARB, NCARB etc.: as established by sponsor

B. Determination of Credit: The board has final authority with respect to approval of courses, credit, continuing education value for courses, and other methods of earning credit.

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

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

(3) Educational Travel/Independent Study Credit allowed shall not exceed 8 hours of occurrence with a maximum of 16 hours per biennium.

C. Exemptions: A landscape architect may be exempt, upon board review and approval from continuing education requirement in any of the following situations:

(1) The new landscape architect's first renewal period is less than one year from the original date of licensure;

(2) A landscape architect is called to active duty in the armed forces for a period of time exceeding 120 consecutive days in a calendar year. This individual may be exempt from obtaining one-half of the required continuing education during the current biennium.

(3) A landscape architect experiences physical disability, illness or other extenuating circumstances that prevents the landscape architect from practicing landscape architecture. The landscape architect shall provide supporting documentation for the board's review and approval. If the landscape architect elects to return to practice, the landscape architect shall complete all professional development hours required during the current biennium.

D. Audit: Upon request, each landscape architect shall provide proof of satisfying the continuing professional requirements. If the landscape architect fails to furnish the board or if the information is not sufficient to satisfy the requirements, the licensee shall not be renewed.

E. Disallowance: If the board disallows one or more continuing education activities claimed, the board may, at its discretion, allow the landscape architect up to 120 days after notification to substantiate the original claim or to complete other continuing education activities sufficient to meet the minimum requirements.

F. Noncompliance: A registrant who does not satisfy the continuing education requirement for registration renewal will be placed on probationary status and so notified by the board following

the renewal date. The registrant must comply within six months following the renewal date or the registration may be classified as suspended. The contact hours needed to fulfill the prior biennial period requirement shall not be included in the subsequent renewal period. Failure of a registrant to satisfy the continuing education requirement for registration renewal may be cause for the board to deny license renewal for the licensee

[16.44.5.9 NMAC – Rp 16NMAC 44.5.9,10-05-02]

#### **HISTORY OF 16.44.5 NMAC:**

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

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

LAB 85-1, Rules and Regulations filed 11-27-85;

LAB 85-1, Rules and Regulations filed 12-02-85;

LAB 89-1, Rules And Regulations filed 05-05-89;

Rule 8 NMBLA, Failure to Renew filed 07-08-92;

Rule 9 NMBLA, Continuing Education filed 07-08-92.

##### **History of Repealed Material:**

16 NMAC 44.5, Renewal and Continuing Education – Repealed, 10-05-02

## **NEW MEXICO BOARD OF LANDSCAPE ARCHITECTS**

### **TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 44 LANDSCAPE ARCHITECTS PART 6 INACTIVE STATUS AND REINSTATEMENT**

**16.44.6.1 ISSUING AGENCY:** Regulation and Licensing Department, Board of Landscape Architects  
[16.44.6.1 NMAC - N, 10-05-02]

**16.44.6.2 SCOPE:** The provisions of Part 6 apply to all licensed landscape architects who plan to place their license on inactive status, or reinstate their inactive license to active status.  
[16.44.6.2 NMAC - N, 10-05-02]

**16.44.6.3 STATUTORY AUTHORITY:** This Part is adopted pursuant to the Landscape Architects Act, NMSA 1978 Section 61-24B-9.1.  
[16.44.6.3 NMAC - N, 10-05-02]

**16.44.6.4 DURATION:** Permanent.

[16.44.6.4 NMAC - N, 10-05-02]

**16.44.6.5 EFFECTIVE DATE:** October 5, 2002, unless a later date is cited at the end of a section.

[16.44.6.5 NMAC - N, 10-05-02]

**16.44.6.6 OBJECTIVE:** This Part establishes the requirements and procedures to place an active license in inactive status or to reinstate the license to active status.

[16.44.6.6 NMAC - N, 10-05-02]

**16.44.6.7 DEFINITIONS:** [Reserved]. [Refer to Part 1].

**16.44.6.8 INACTIVE STATUS:**  
 A. A current licensee in good standing is eligible to be placed on inactive status. A licensee who failed to renew a license by June 30 of any year shall renew the license in accordance with Part 4 before the licensee can be considered for inactive status.

B. A licensee who wishes to be placed on inactive status shall notify the board administrator in writing before his or her current license expires. The administrator will acknowledge receipt of the notification.

C. A licensee shall pay the fees established by the board to be placed on inactive status.

D. Rendering or offering to render landscape architectural services or engaging in the practice of landscape architecture while on inactive status shall be considered sufficient grounds for disciplinary action by the board.

E. An inactive licensee shall comply with the continuing education requirements described in Part 5.

F. An inactive licensee shall not practice landscape architecture in New Mexico as defined in the Landscape Architects Act.

G. An inactive licensee shall not represent himself or herself as a landscape architect in public statements that include, but are not limited to, paid or unpaid advertising, brochures, printed matter, directory listings, personal resumes or *curricula vitae*, interviews or comments for use in media, statements in legal proceedings, lectures, and public oral presentations.

H. A licensee on inactive status shall at all times comply with the provisions of Part 10, Code of Conduct including, without limitation.

[16.44.6.8 NMAC - N, 10-05-02]

**16.44.6.9 REINSTATEMENT FROM INACTIVE STATUS:**

A. If the inactive licensee

requests reinstatement to active status, he or she shall:

(1) At the next renewal cycle submit the renewal application form with the appropriate fee.

(2) Provide satisfactory proof of completion of the continuing education requirements .

(3) Not have violated any rule of the Landscape Architects Act or the rules and regulations of the board.

(4) Pay the appropriate renewal fee established by the board.

(5) A licensee on inactive status can return to active status any time during the renewal cycle provided he or she pay the appropriate fees and are current with the CPE requirement.

B. A licensee on inactive status shall not render or offer to render landscape architectural services or otherwise engage in the practice of landscape architectural until he or she receives a new license issued by the board.

C. A licensee who does not meet the continuing professional education requirements may not move into inactive status.

[16.44.6.9 NMAC - N, 10-05-02]

**HISTORY OF 16.44.6 NMAC:** [Reserved]

**NEW MEXICO BOARD OF LANDSCAPE ARCHITECTS**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING  
 CHAPTER 44 LANDSCAPE ARCHITECTS  
 PART 7 CODE OF PROFESSIONAL CONDUCT**

**16.44.7.1 ISSUING AGENCY:** Regulation and Licensing Department, Board of Landscape Architects, P.O. Box 25101, Santa Fe, NM 87504.  
 [16.44.7.1 NMAC – N, 10-05-02]

**16.44.7.2 SCOPE:** This Part applies to the board, licensees, applicants for licensure, and the general public.  
 [16.44.7.2 NMAC – N, 10-05-02]

**16.44.7.3 STATUTORY AUTHORITY:** This part is adopted pursuant to the Landscape Architect Act, NMSA 1978 Sections 61-24-B1, 61-24-B3, 61-24-B6, 61-24-B7, 61-24-B10.  
 [16.44.7.3 NMAC – N, 10-05-02]

**16.44.7.4 DURATION:** Permanent.  
 [16.44.7.4 NMAC – N, 10-05-02]

**16.44.7.5 EFFECTIVE DATE:** October 5, 2002, unless a later date is cited at the end of a section

[16.44.7.5 NMAC – N, 10-05-02]

**16.44.7.6 OBJECTIVE:** This Part establishes the standards against which the required professional conduct of a landscape architect is measured. Each licensee and applicant will be governed by this Part whenever providing landscape architectural services. A violation of this Part is sufficient reason for disciplinary action pursuant to the Landscape Architect Act.

[16.44.7.6 NMAC – N, 10-05-02]

**16.44.7.7 DEFINITIONS:** [Reserved]. [Refer to Part 1].

**16.44.7.8 CODE OF PROFESSIONAL CONDUCT:**

A. This code expresses in general terms the level of professional conduct expected of registered landscape architects in the state of New Mexico. Such a code is no guarantee of moral actions on the part of the registrants but depends upon the integrity of each registrant to conduct himself or herself in a responsible and straightforward manner both in dealings with clients and other professionals.

B. Registered landscape architects should be more than a group of individuals offering a service to the public. They should comprise an entity with a bond between registrants based on mutual respect and a dedication to improving the quality of life for all persons.

C. The registered landscape architect shall:

(1) Exert every effort towards the preservation and protection of our natural resources and toward understanding the interaction of the economic and social systems with these resources.

(2) Further the welfare and advancement of the profession by constantly striving to provide the highest level of professional services, avoiding even the appearance of improper professional conduct.

(3) Serve the client or employer with integrity, understanding, knowledge, and creative ability and shall respond morally to social, political, economic, and technological influences.

(4) Make full disclosure to the client or employer of any financial interest, which even remotely bears upon the services or project.

(5) Truthfully and clearly inform the client or employer of his/her qualification and capabilities to perform services.

(6) Not make exaggerated, mis-



leading, deceptive or false statements or claims to the public about his/her professional qualifications, experience or performance.

(7) Regard as confidential any information obtained by him/her as to the business affairs and technical methods or processes to a client or employer.

(8) Not give, lend, or promise anything of value to any public official in order to influence or attempt to influence the official's judgment or action in the letting of his contracts.

(9) Refrain from lending his/her name or seal for plans or other documents for the preparation of which he/she was not directly responsible.

(10) Refrain from using the advantages of a salaried position to influence the letting of contracts.

(11) Recognize the contribution of others in the planning, design, and construction of the physical environment and shall not knowingly make false statements about their professional work nor maliciously injure or attempt to injure the prospect's practice or employment position of those so engaged.

(12) Refrain from engaging in any discriminatory practices prohibited by law in the employment of his/her professional and not-professional personnel and in the conduct of his/her business.

[16.44.7.8 NMAC - N, 10-05-02]

**HISTORY OF 16.44.7 NMAC:**  
[Reserved]

**NEW MEXICO BOARD OF  
LANDSCAPE ARCHITECTS**

**TITLE 16 OCCUPATIONAL  
AND PROFESSIONAL LICENSING  
CHAPTER 44 LANDSCAPE  
ARCHITECTS  
PART 8 FEES**

**16.44.8.1 ISSUING AGENCY:**  
Regulation and Licensing Department,  
Board of Landscape Architects, P.O. Box  
25101, Santa Fe, NM 87504.  
[16.44.8.1 NMAC – Rp 16 NMAC 44.4.1,  
10-09-02]

**16.44.8.2 SCOPE:** The provisions of 16.44.8 NMAC apply to all applicants for licensure, licensed holders for their annual renewal and anyone who requests a mailing list of Landscape Architects or copies of public records.  
[16.44.8.2 NMAC – Rp 16 NMAC 44.4.2,  
10-09-02]

**16.44.8.3 STATUTORY**

**AUTHORITY:** This Part is adopted pursuant to the Landscape Architect Act, NMSA 1978 Section 61-24B11.  
[16.44.8.3 NMAC – Rp 16 NMAC 44.4.3,  
10-09-02]

**16.44.8.4 DURATION:**  
Permanent.  
[16.44.8.4 NMAC – Rp 16 NMAC 44.4.4,  
10-09-02]

**16.44.8.5 EFFECTIVE DATE:**  
October 9, 2002, unless a different date is cited at the end of a section  
[16.44.8.5 NMAC – Rp 16 NMAC 44.4.5,  
10-09-02]

**16.44.8.6 OBJECTIVE:** The objective of 16.44.8 NMAC is to establish fees to generate revenue adequate to fund the cost of program administration.  
[16.44.8.6 NMAC – Rp 16 NMAC 44.4.6,  
10-09-02]

**16.44.8.7 DEFINITIONS:**  
[Reserved.] [Refer to Part 1]

**16.44.8.8 FEES:**  
A. The following is a schedule of fees to be paid by applicant/registrant:

(1) Application for Licensure (non-refundable)  
75.00

(2) Initial Certificate of Registration (non refundable)  
200.00

(3) Annual Renewal (non refundable)  
175.00

(4) Reinstatement of suspended licensure, current renewal fees, plus all applicable back renewal fees, and late fees if any, and (from July 1, 1995\*\*) for past 12 months.

(5) Duplicate Original Certificate  
35.00

(6) Replacement Certificate, new name  
35.00

(7) Copy of Certificate  
35.00

(8) Mailing List  
75.00

(9) Mailing Labels  
75.00

(10) Verification of Licensure  
10.00

(11) Score Verification  
As required by CLARB

(12) L.A.R.E. Examination  
As required by CLARB

(13) Late Fee (see subsection B of 16.44.8.8 below.)

(14) Inactive Status Fee (non refundable)

87.50

(15) Reactivation of licensure from Inactive Status

175.00

B. Late Fees:

(1) The board will assess a late fee of \$50.00 per month for each month the renewal application is not received up to 6 months. The maximum amount of a late fee will be \$300.00. After six months a license may be suspended for non compliance of renewal requirements.

(2) A late fee will be assessed if the renewal fee, renewal form, and when applicable complete continuing education requirements is not received in the board office or post marked by July 1st.

(3) If a registrant is approved under an exemption as described in Paragraph 2 of Subsection C of 16.44.5.9 NMAC, a late fee will not be assessed.  
[16.44.8.8 NMAC – Rp 16 NMAC 44.4.8,  
10-09-02]

**HISTORY OF 16.44.8 NMAC:**  
**Pre-NMAC History:**

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

LAB 85-1, Rules and Regulations filed 11-27-85;

LAB 85-1, Rules and Regulations filed 12-02-85;

LAB 89-1, Rules and Regulations filed 05-05-89;

Rule 7 NMBLA, Fees filed 07-08-92.

**History of Repealed Material:**  
16 NMAC 44.4, Fees – Repealed 10-09-02

**NEW MEXICO BOARD OF  
LANDSCAPE ARCHITECTS**

**TITLE 16 OCCUPATIONAL  
AND PROFESSIONAL LICENSING  
CHAPTER 44 LANDSCAPE  
ARCHITECTS  
PART 9 COMPLAINTS**

**16.44.9.1 ISSUING AGENCY:**  
Regulation and Licensing Department,  
Board of Landscape Architects, P.O. Box  
25101, Santa Fe, NM 87504.  
[16.44.9.1 NMAC – Rp 16 NMAC 44.3.1,  
10-05-02]

**16.44.9.2 SCOPE:** The provisions of 16.44.9 NMAC apply to all licensed holders, and applicants for licensure. These provisions may also be of interest to anyone who may wish to file a complaint against a licensee of this Board.  
[16.44.9.2 NMAC – Rp 16 NMAC 44.3.2,  
10-05-02]

**16.44.9.3 STATUTORY AUTHORITY:** This Part is adopted pursuant to the Landscape Architect Act, NMSA 1978 Section 61-24B12, and Section 61-24B16.  
[16.44.9.3 NMAC – Rp 16 NMAC 44.3.3, 10-05-02]

**16.44.9.4 DURATION:** Permanent.  
[16.44.9.4 NMAC – Rp 16 NMAC 44.3.4, 10-05-02]

**16.44.9.5 EFFECTIVE DATE:** October 5, 2002, unless a later date is cited at the end of a section  
[16.44.9.5 NMAC – Rp 16 NMAC 44.3.5, 10-05-02]

**16.44.9.6 OBJECTIVE:** The objective of 16.44.9 NMAC is to establish the procedures for filing complaints against a licensee, the authority of the board regarding ground for denial suspension, or revocation of a license.  
[16.44.9.6 NMAC – Rp 16 NMAC 44.3.6, 10-05-02]

**16.44.9.7 DEFINITIONS:** [Reserved.] [Refer to Part 1]

**16.44.9.8 COMPLAINT PROCEDURES:**

A. Inquiries Regarding Filing of Complaints.

(1) Inquiries made to the board or to a board member regarding a potential complaint will be referred to the Board Administrator for a response.

(2) Upon receipt of an inquiry, the board administrator shall forward to the potential complainant a statement regarding the board's jurisdiction, the conduct or grounds for possible action by the board against a licensee or applicant, and a complaint form with instructions on how to file the complaint. Complaints should be submitted in writing on the prescribed form, signed and notarized, and state the facts upon which the complaint is based, however, oral complaints may be received and investigated. Anonymous complaints will not be investigated, except in unusual circumstances.

(3) The complaint, once made, will come under the provisions of this Part. A complainant cannot withdraw a complaint.

B. Procedures for Processing Complaints. The board administrator shall:

(1) Log in the date of receipt of the complaint.

(2) Determine that the subject of the complaint is a licensed landscape archi-

tect or an applicant or person otherwise within the jurisdiction of the board.

(3) Assign a complaint number and set up an individual file. Complaint numbering shall begin in January of each year.

(4) Forward the complaint to the chair of the complaint committee and the complaint manager or a designee.

(5) Send a letter to the complainant confirming receipt of the complaint.

C. Review by the complaint committee.

(1) The chairperson of the board shall appoint a board member to chair the complaint committee. The Complaint Committee shall consist of at least one member of the board.

(2) The complaint manager, if assigned, or designee will review the complaint and meet with the administrative prosecutor and complaint committee chair as needed.

(3) If the allegations in the complaint would, if substantiated, constitute grounds for disciplinary action, the complaint committee will recommend a course of action regarding investigation of the complaint.

(4) The complaint committee shall oversee the investigation of the complaint. A case summary including the alleged violations of the Code of Conduct or other Parts of the regulations or Act will be presented to the full board along with recommendation(s) for disposition of the complaint. The identity of the licensee or applicant and the complainant will not be disclosed to the full board by the complaint committee.

(5) Unless the complaint committee determines that it will impede an investigation or interfere with the acquisition of documents or relevant papers or the development of the case, the complaint committee shall inform the licensee or applicant of the complaint and request a response to the allegations. Disclosure of data, communications, and information relating to actual or potential disciplinary action shall be made in accordance with Section 61-1-11 NMSA 1978 or superceding statute.

(6) The complaint committee may employ experts, consultants, or private investigators to assist in investigations of complaints.

(7) The complaint committee, on behalf of the board, may issue investigative subpoenas, pursuant to Section 61-1-4(A) NMSA 1978.

D. Review by the full board

(1) Any board member or any member of the complaint committee who is

partial or who believes he or she is not capable of judging a particular controversy fairly on the basis of its own circumstances shall not participate in the decision whether to issue a notice of contemplated action and shall not participate in the hearing, deliberation, or decision of the board.

(2) The board shall review the case summary presented by the complaint committee, relevant documents, witness statements, and other pertinent information regarding the complaint. If the board has sufficient evidence that a violation may have occurred, the board shall forward the evidence to the administrative prosecutor for issuance of a notice of contemplated action.

(3) Following the issuance of a notice of contemplated action, the board may at its option authorize a board member, the hearing officer, or the administrative prosecutor to confer with the applicant or the licensee for the purpose of settlement of the complaint. Such settlement must be approved by the board, must be with the consent of the applicant or licensee, and shall include a knowing and intentional waiver by the applicant or the licensee of his or her rights to hearing under the Uniform Licensing Act.

(4) The board may refer a complaint to the attorney general for injunctive proceedings or to the district attorney for criminal prosecution.

[16.44.9.8 NMAC – Rp 16NMAC 44.3.8, 10-05-02]

**16.44.9.9 ADJUDICATORY PROCEEDINGS**

A. General Provisions and Pre-hearing and Preliminary Matters.

(1) All hearings shall be conducted either by the board or, at the election of the board, by a hearing officer.

(2) If the board appoints a hearing officer, the hearing officer shall have authority to decide pre-hearing matters, preside over the hearing, and direct post-hearing matters in accordance with the requirements of the case in a manner that ensures an efficient and orderly hearing and expedites the final resolution of the case. Except as otherwise limited in this Part, the hearing officer shall have the authority to rule on all non-dispositive motions. If the board does not appoint a hearing officer or if the hearing officer is unavailable or unable to proceed, the board chair or other board member designated by the board shall have the authority to decide pre-hearing or preliminary matters on behalf of the board. This authority shall be in accordance with the requirements of the case in a manner that ensures an efficient and orderly hearing and expedites the final resolution of the case,

including, without limitation,

(a) Unopposed or stipulated motions to change venue;

(b) Motions for continuance of a hearing date. A motion to vacate the hearing must contain a statement that the licensee or applicant waives his or her right to a hearing held not more than sixty (60) days from the date of service of the notice hearing;

(c) The granting of one notice of peremptory excusal to each party if the notice is timely and if the peremptory excusal does not result in a loss of a quorum of the board.

(d) Motions regarding discovery.

(3) The original of any papers and pleadings shall be filed with the board. Copies shall be sent to the hearing officer and attorneys or parties of record.

(4) The hearing officer or designated board member shall issue appropriate orders to control the course of the proceedings.

(5) Consistent with provisions of the Uniform Licensing Act and to the extent practicable, the Rules of Civil Procedure for the district courts shall apply unless the hearing officer or designated board member orders otherwise.

(6) A request for an order shall be made by motion filed with the board. Except for motions made during the course of the hearing, a motion shall be in writing. A motion shall state with particularity the grounds for the motion and shall set forth the relief and order sought.

(7) A motion shall be accompanied by a memorandum brief in support of the motion. The brief shall state with particularity the grounds for the motion and shall contain citation to authorities, statutes, and references to the pleadings on file. If matters outside of the pleadings are considered, a copy of the referenced material shall be attached to the brief.

(8) The hearing officer or the designated board member may order the filing of briefs or other documents and may set oral argument on any matter.

(9) No more than two (2) continuances of the hearing date will be granted without the approval of the board for good cause shown.

(10) All dispositive motions shall be decided by the board.

(11) No proposed settlement, consent agreement, voluntary surrender of a license in lieu of prosecution, or other proposal for the resolution of a pending disciplinary case shall be effective unless approved by the board and executed by the board and the licensee or applicant. The board or hearing officer may seek information from the administrative prosecutor and

the licensee or applicant concerning circumstances of the case relevant to a consideration of the proposed settlement or clarification of the proposed terms and conditions. No board member is presumed to be biased and shall not be excused based solely on the reason that the member considered a proposed settlement, consent agreement, or other proposal for the resolution of a pending disciplinary case. The board may submit a counterproposal for the settlement or resolution of the case.

(12) Any proposed settlement, consent agreement, voluntary surrender of a license in lieu of prosecution, or other proposal for the resolution of a pending disciplinary case shall contain at least the following:

(a) An admission of all jurisdictional facts; an acknowledgment of the rights contained in the Uniform Licensing Act and an express waiver of those rights and of all rights to hearing and judicial review or any other opportunity to contest the validity of the board order in any other proceeding or forum;

(b) A provision that the proposal resolves only the violations alleged in the specific Notice of Contemplated Action and a statement that the board reserves the right to initiate other proceedings for any other violations of the Act or board regulations;

(c) A description of the facts underlying each alleged violation;

(d) If appropriate, a list of the acts or practices from which the licensee or applicant will refrain in the future;

(e) A statement of the type, terms, and conditions of the proposed disciplinary action of the board;

(f) A statement that the licensee will be responsible for all costs of disciplinary proceedings or a statement setting forth the reason why the licensee should be excused from paying costs. The affidavit of the board administrator concerning the costs incurred to date shall accompany the proposal;

(g) A statement that the decision and order of the board shall be a public record and shall be reported as required by law.

(h) Other provisions necessary to ensure the complete and final resolution of the proceedings.

(13) A proposal to settle a matter shall not stay the proceedings or vacate the hearing date unless otherwise ordered by the hearing officer or presiding officer upon the filing of a timely motion.

B. Duties of the board administrator. The board administrator shall:

(1) After consultation with the board or hearing officer, issue a notice of

hearing stating the date, time, and place of the hearing;

(2) Execute on behalf of the hearing officer or board notices, scheduling orders, subpoenas, and subpoenas duces tecum, and other routine procedural documents that facilitate the efficient conduct of adjudicatory proceedings;

(3) Maintain the official record of all papers and pleadings filed with the board in any matter;

(4) Prepare an affidavit as to costs of any disciplinary proceeding at the conclusion of any hearing or upon request by a party submitting a proposed settlement, consent agreement, or voluntary surrender of a license in lieu of prosecution;

(5) Prepare, certify, and file with the district court the record of the case on appeal or review;

(6) Unless the board orders otherwise, have the authority to sign the decision of the Board to grant or refuse a request to reopen the case.

C. Conduct of Hearings.

(1) The hearing officer, or presiding officer if the case is heard by the board, shall ensure the fair, efficient, and orderly conduct of the hearing in accordance with the Uniform Licensing Act.

(2) Unless the board orders otherwise, a board member hearing officer, the board chair, or presiding officer shall have the authority to sign the written decision of the board.

(3) The board administrator shall serve the decision of the board on the licensee or applicant in accordance with law.

(4) A motion for an order staying the operation of a board decision shall be decided by the board.

[16.44.9.9 NMAC – N, 10-05-02]

#### **16.44.9.10 SURRENDER OF LICENSE**

A. If a license is restricted, suspended, or revoked by the board for any reason specified in the rules and regulations of the board or in the Act, the licensee shall immediately surrender his or her license in person or by registered mail to the board.

B. If the licensee's scope of practice is restricted or limited or otherwise subject to conditions, the license may reflect the restriction, limitations, or condition.

[16.44.9.10 NMAC – N, 10-05-02]

#### **HISTORY OF 16.44.9 NMAC:**

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

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

LAB 85-1, Rules and Regulations filed 11-



27-85;  
 LAB 85-1, Rules and Regulations filed 12-02-85;  
 LAB 89-1, Rules and Regulations filed 05-05-89;  
 Rule 5 NMBLA, Complaints filed 07-08-92;  
 Rule 6, NMBLA, Denial, Suspension, Revocation filed 07-08-92.

#### History of Repealed Material:

16 NMAC 44.3, Complaints – Repealed 10-05-02

## NEW MEXICO BOARD OF LANDSCAPE ARCHITECTS

This is an amendment to 16.44.1 NMAC, Sections 5, 7, 8, 9, 10 and 12. This rule was also reformatted and renumbered to comply with current NMAC requirements

**16.44.1.5 EFFECTIVE DATE:**  
 November 10, 1997, unless a later date is cited at the end of a section [or paragraph.] [11-10-97; 16.44.1.5 NMAC – Rn & A, 16 NMAC 44.1.5, 10-05-02]

**16.44.1.7 DEFINITIONS:** As used in these regulations, the following words and phrases have the following meanings unless the context or intent clearly indicates a different meaning.

**A.** “Act” means the Landscape Architects Act, Section 61-24B-1 through 61-24B-17NMSA 1978.

**B.** “Administrator” or “Program Manager” means the staff person assigned certain express or implied executive and administrative functions of the board as defined by board regulation or as required to carry out the provisions of the Act.

**C.** “Applicant” means a person who has completed all educational requirements for licensure and has filed an initial application with the board.

**D.** “Board regulation” or “regulation” or means any Part adopted by the board pursuant to authority under the Act and includes any superceding regulation. “Rule” means board regulation.

**E.** “Candidate” means a person who has filed with the board a properly made application and is eligible to take the L.A.R.E. examination.

**F.** “CLARB” The council of landscape architect regulatory boards or its successor.

**G.** “CLARB Certificate” means certification by CLARB that a landscape architect has met the minimum standards of education, examination, experience and professional conduct established by the council and is thereby recommended for

licensure in all member jurisdictions.

**H.** “CLARB Council Record” means the verified documentation of an individual’s education, experience, examination, licensure and professional conduct complied by CLARB

**I.** “Client” means a person or corporate entity that is the recipient of landscape architectural services.

**J.** “Consultant” means a licensed landscape architect who provides professional advice or opinion to a licensee and who has no professional relationship with the client, has no authority over the project or has no responsibility for the services performed on the welfare of the client

**K.** “Custodian” means board administrator.

**L.** “Electronic transmission” means the sending of information through the internet or by telephone facsimile (FAX) or E-mail.

**M.** “Filed with the Board” means actual receipt during normal business hours at the board office in Santa Fe, New Mexico.

**N.** “Good cause” means the inability to comply because of illness, undue hardship, or extenuating circumstances that are not willful and are beyond the control of the person asserting good cause shall have the burden to demonstrate good cause.

**O.** “Inactive status” means a procedure of the board to affirm that a licensee is not engaged in active practice.

**P.** “Initial application” means the initial application for licensure filed with the board by an applicant nor previously or currently licensed in a jurisdiction.

**Q.** “Joint Practice Committee” (JPC) means a committee statutorily comprised of two architects, two landscape architects and two engineers or land surveyors and a public member.

**R.** “Landscape Architect Registration Examination (L.A.R.E.) means the national examination promulgated by CLARB.

**S.** “Licensee” means a person licensed pursuant to the provisions of the Act and board regulations.

**T.** “Licensee in good standing” means a licensee who is not subject of a pending investigation, adjudicatory proceeding, or petition on appeal or review, or whose license is not restricted, suspended, or revoked in New Mexico or any other state or licensing jurisdiction.

**U.** “Licensed” means licensed or certified, registered or any other term when such terms identifies a person whose professional behavior is subject to regulation by the board.

**V.** “Practical experience” means experience, which demonstrates an essential understanding of the practice of landscape architecture pursuant to the Act. Practical experience shall begin after graduation from a degree program as set forth in the Act.

**W.** “Professional Continuing Education” means a board requirement of continuing education, instruction or participation as a condition of renewal of licensure.

**X.** “Professional relationship” means a mutually agreed-upon relationship between a landscape architect and a client for the purpose of the client(s) obtaining the landscape architect’s professional services.

**Y.** “Professional services” means all actions of the landscape architect in the context of professional relationship with the client.

**Z.** “Properly made application” means a completed form for a landscape architect license filed with the board that is complete in all particulars and appears on the face to satisfy all minimum age, educational, supervision, payment and other requirements except examination requirements for license as required by the Act and these regulation.

**AA.** “Related field” means a field having an impact on or affecting the field of landscape architecture including but not limited to such fields as architecture, engineering.

**BB.** “Renewal Cycle/Period” means the time during which a licensee renews his/her license.

**CC.** “Sponsor” an individual organization, association, institution or other entity that provides education activity for the purpose of fulfilling the continuing education requirements for the administrative regulation.

**DD.** “Supervisor” means a licensed landscape architect who agrees to provide adequate supervision over a student, applicant, employee or staff or other non-licensed person and who remains ultimately responsible for the professional conduct of the non-licensed person and the welfare of the client.

**EE.** “Supervisee” means any person who functions under the authority of a licensed landscape architect to provide landscape architectural services as provided in the Act or board regulation [16.44.1.7 NMAC - N, 10-05-02]

#### 16.44.1.8 [GENERAL PROVISIONS:] BOARD MEMBERSHIP:

[A. **Purpose:** These rules and regulations are promulgated to effectuate the provisions of the Landscape

Architects Act, Chapter 151 of the 1985 Laws of the State of New Mexico, Section 61-24B-1 through 61-24B-17 NMSA 1978 (1988 Repl.) enacted to ensure public safety and to promote quality performance by registration of Landscape Architects. The Landscape Architect Act is attached hereto as Exhibit A.

**B. Amendments:** These rules and regulations may be amended at any regular or special meeting of the Board of Landscape Architects by a majority vote in compliance with the laws and regulations concerning the formulation of administrative rules and regulations by a state agency.]

**A. Board Members:** The board of landscape architects consists of five (5) members appointed by the governor who are residents of New Mexico and serve for three-year staggered terms. The landscape architect members shall have been registered as landscape architects for at least (5) five years.

**B.** The members shall be appointed as follows:

(1) Three shall be professional members who are licensed under the Landscape Architects Act as Landscape Architects. The governor shall appoint the professional members from a list of names nominated by the New Mexico Chapter of the American Society of Landscape Architects.

(2) Two members shall be public members who are laymen and have no significant financial interest, direct or indirect, in the practice of landscape architecture.

**C. Expiration Dates:** Each member shall hold office until the expiration of his or her appointed term or until a successor is duly appointed. When the term of each member ends, the governor shall appoint the member's successor for a term of three (3) years. Any vacancy occurring in the board membership other than by expiration of term shall be filled by the governor by appointment for the un-expired term of the member. The governor may remove any board member for misconduct, incompetence, or neglect of duty.

[11-10-97, 16.44.1.8 NMAC - Rn, 16 NMAC 44.1.9, 10-05-02]

#### 16.44.1.9 [ORGANIZATION:] BOARD OPERATIONS:

**A. Name:** The name of this agency of the State of New Mexico is the Board of Landscape Architects. It is composed of five members appointed by the governor and shall hereafter be referred to by its full name or as the "Board."

**B. Object:** The object of this Board shall be the administration of the New Mexico Landscape Architects Act, in accordance with the powers, duties, and

other requirements of Chapter 151 of the 1985 Laws of the State of New Mexico.

**C. Officers:** The Board shall elect annually a chairman, vice chairman, a secretary-treasurer who shall be chosen from among its members. Officers shall hold office until their successors have been duly elected and qualified.

**D. Meetings:** The Board shall meet at least two times each year for the purpose of transacting such business as may lawfully come before the Board. Times and places for the meetings will be established by the Board and advertised prior to the meetings. Meetings will be conducted in compliance with, and the Board shall abide by basic parliamentary procedure, the Open Meeting Act (Section 10-15-1 to 10-15-4 NMSA 1978), and the annual notice requirements adopted by the Board. Members may be excused for cause such as illness or accident, as determined by the chairman.

**E. Quorum:** A majority of the Board membership shall constitute a quorum of the Board for the transaction of business.

**F. Compensation:** Members of the Board shall receive no compensation, perquisite, or allowance for their services other than as provided in the Per Diem and Mileage Act.]

**A. Elections.** At its annual meeting in July, the board shall elect a chair, vice chair, and secretary-treasurer.

**B.** All Board officers shall exercise authority subject to the Act, board regulations, and specific directions of the board. Duties of the board chair, vice chair, and secretary-treasurer are as follows:

(1) The board chair shall preside at board meetings and adjudicatory hearings unless another presiding officer is named by the board.

(2) At the direction of the board, the board chair shall respond to inquires and correspondence, execute orders of the board in any pending adjudicatory proceeding unless a hearing officer is appointed, sign decisions of the board unless the board designates another member to sign, appoint board members to formal committees, and provide direction to the board Administrator on routine matters to facilitate the efficient operation of board functions between meetings.

(3) The vice chair shall preside at board meetings and adjudicatory hearings in the absence of the chair. If the office of chair becomes vacant, the vice chair shall serve as chair until a new chair is elected.

(4) The secretary-treasurer shall preside at board meetings and adjudicatory proceedings in the absence of the chair and vice chair.

**C. Vacancy.** If the office

of board chair becomes vacant, the board shall elect a chair at the next meeting or any subsequent meeting. If the office of vice chair or secretary-treasurer becomes vacant, the Board may hold elections as it deems necessary and advisable.

**D. Duties of the Board Administrator.** The board administrator shall at all times perform assigned duties subject to the Act, the Uniform Licensing Act, Section 61-1-1 through 61-1-33 NMSA 1978, board regulations, and the specific direction of the board. The board administrator shall perform duties as specified in these regulations, shall supervise other personnel, and shall ensure the responsiveness and efficiency of the functions of the board.

**E. Board office.** The Board office is located in Santa Fe, New Mexico.

**F. Board meetings.** The board shall conduct meetings in accordance with New Mexico Open Meetings Act, Section 10-15-1 through 10-15-4 NMSA 1978.

(1) The board shall hold an annual meeting in July and shall hold other meetings as it deems necessary and advisable.

(2) The board shall conduct its meetings in an orderly fashion, with due regard for each board member and the public. The board may refer to Robert's Rules of Order, Revised, when necessary and advisable. The board administrator shall prepare the meeting agenda in accordance with the New Mexico Open Meetings Act and board resolution. The board may change the order of agenda items during its meeting. The board shall transact official business only at a legally constituted meeting with a quorum present. The board is not bound in any way by any opinion, statement, or action of any board member(s), the board administrator, or other staff except when the action is pursuant to a lawful instruction or direction of the board. Except for proceedings to adopt, amend, or repeal regulations governed by Section 61-1-29 NMSA 1978, the board, in its sole discretion, may provide a reasonable opportunity for persons attending an open meeting to address the board on an agenda item. The request to speak shall be timely made and shall not cause delay or disruption of the board's meeting. Except conferences for the purpose of settlement or simplification of the issues, no person shall be permitted to address the board on any pending or concluded application, complaint, investigation, adjudicatory proceeding, or matter in litigation. Any public comment to the board shall be brief, concise, and relevant to the agenda item. The board may limit the total time allotted for comments and the time allotted to any person. Pursuant to Section

10-15-1 (C) NMSA 1978, a board member may participate in a meeting of the board by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person.

(3) Any board member who cannot be impartial in the determination of any matter before the board and cannot judge a particular matter or controversy fairly on the basis of its own merits shall not participate in any board deliberation or vote on the matter. Any board member with a personal, social, family, financial, business, or pecuniary interest in a matter shall voluntarily recuse himself or herself and shall not participate in a hearing, consideration, deliberation, or vote on the matter, except as provided by law. Board members shall not disclose to any non-member the content of any executive session discussion or deliberation, or any other confidential matters that may be the subject of an executive session or attorney-client privileged communications except as ordered by a court of competent jurisdiction or where the board knowingly and intentionally permits disclosure. Nothing herein shall preclude the board from including in executive session discussions or confidential committee meetings the board administrator or other persons the board deems necessary to assist the board in carrying out the functions of the board.

(4) Certificate Registration Roster. The board will maintain a current roster of persons holding certificates of registration to practice landscape architecture in the state of New Mexico. Copies may be made available at a charge determined by the board.

[11-10-97, 16.44.1.9 NMAC - Rn & A, 16 NMAC 44.1.9 & 16NMAC 44.1.10, 10-05-02]

**16.44.1.10 [BOARD ADMINISTRATION:] BOARD RECORDS:**

**[A. Administration:**

(1) The Chairman shall, when present, preside at all meetings, appoint all committees subject to confirmation by vote of the Board, and sign with the secretary-treasurer all certificates of registration that are issued. The chairman shall perform all other duties ordinarily pertaining to the office of chairman or as herein or hereafter prescribed.

(2) The Vice chairman will, in the absence of the chairman, preside at the meetings and execute the duties of the chairman.

(3) The Secretary-treasurer shall, with the assistance of such clerical or administrative help as the Board may provide, conduct and care for all correspon-

dence of the Board, maintain and keep the minutes of the meetings, and maintain and keep all books and records as herein or hereafter provided, including those related to finance. Sign with the chairman all certificates of registration and all other official documents of the Board; shall provide due notice to each member of the Board of the date, place, and time of all meetings; shall present at each meeting a general report covering all business of the Board between meetings; and shall comply with such instruction as the Board may issue.

**B. Committees:**

(1) Subject to the Board's confirmation, the presiding officer at any meeting of the Board is authorized to appoint special and standing committees from the membership of the Board. The duties of such committees shall be assigned at the time the committee is appointed.

(2) Subject to the Board's confirmation, the presiding officer at any meeting of the Board is authorized to appoint a member of the Board to participate with the State Board of Examiners for Architects and the State Board of Registration for Engineers and Land Surveyors in a joint committee to resolve any disputes concerning the four professions. The powers and duties of the Board member shall be assigned in a resolution adopted by the Board.

**C. Finance:**

(1) All vouchers issued upon the funds of the Board shall be approved by the chairman or the secretary-treasurer.

(2) At the first regular meeting in the fiscal year, the Board shall consider and approve a budget for the subsequent fiscal year.

**D. Rules and Regulations:**

The rules and regulations of the Board shall be on file and available for public inspection at the State Records Center in Santa Fe. Additionally, the Board shall maintain current editions of these rules and regulations and copies may be made available at a charge to be determined by the Board.]

**A.** Public records shall be available for inspection in accordance with the provisions of the Inspection of Public Records Act, Section 14-2-1 through 14-2-12 NMSA 1978 and Section 61-9-5.1 NMSA 1978.

**B.** The custodian shall charge .25 per page for copying normal 8 1/2" by 11" paper. The custodian may charge up to \$1.00 for copying undersize or oversize documents or papers. The board shall not be required to create any document or compile data for an individual or private entity. Consistent with the Inspection of Public Records Act and taking into account the available staff, space, and the needs of

other legitimate public business, the custodian may determine the reasonable time, place, and conditions for access to public records. Public records shall not be removed from the board office except by board members, board staff, or agents of the board for official public business.

[11-10-97; 16.44.1.10 NMAC - Rn, 16NMAC 44.1.10, 10-05-02; 16.44.1.10 NMAC - N, 10-05-02]

**16.44.1.12 BOARD REGULATION.**

Adoption, amendment, or repeal of regulation. Board regulations may be adopted, amended, repealed, or superseded by rule making proceedings pursuant to applicable provisions of the Act, the Uniform Licensing Act, and the State Rules Act.

[16.44.1.12 NMAC - N, 10-05-02]

**NEW MEXICO  
COMMISSION OF PUBLIC  
RECORDS**

This is an amendment to Sections 8, 9, 11, 13, 14, 15, 16 and 17 of 1.13.5 NMAC

**1.13.5.8 ELIGIBILITY:**

[Eligible entities include:]

**A.** [governmental organizations (state repositories including public universities, county record repositories, municipal record repositories, and Native American repositories);

**B.** non-profit organizations which must include copies of tax-exempt or 501(c)(3) status and make provision for the transfer of their holdings to a like organization or an appropriate repository upon dissolution;

**C.** qualified individuals affiliated with or consulting with one of the aforesaid entities, and individuals registered with the State as a business whose work will result in documentary editions or will benefit historical records repositories generally, and whose credentials meet the standards set by the NMHRAB; and previous awardees in compliance with the stipulations of all previous awards.] To be an **eligible entity** for a historical records grant, the applicant must be one of the following:

(1) a governmental organization including:

(a) state agencies as prescribed in the Public Records Act;

(b) public schools;

(c) district courts;

(d) public universities and all associated programs;

(e) county offices;

(f) municipal offices;

(g) quasi-governmental organiza-



tions and

**(h) Native American government organizations.**

**(2) a non-profit organization:**

**(a) verified by presenting a copy of its tax-exempt or 501(c)(3), or equivalent, status and**

**(b) must submit evidence that it has made provisions for the transfer of their holdings to a like organization or an appropriate repository upon dissolution;**

**(3) a qualified individual including:**

**(a) an individual affiliated with or consulting with an eligible entity; and**

**(b) an individual registered with the state as a business - whose work will result in documentary editions or will benefit historical records repositories generally, and whose credentials meet the standards set by the NMHRAB.**

**B. To be eligible for a scholarship, the applicant must be employed by, or volunteer for, an eligible entity.**

**C. Previous awardees must be in compliance with the stipulations of all previous awards in order to continue to be eligible.**

[1.13.5.8 NMAC - N, 11/30/00; A, 09/30/02]

#### **1.13.5.9 CONDITIONS FOR RECEIVING A HISTORICAL RECORDS GRANT:**

**A.** The applicant must demonstrate financial need and that it is prepared to carry out the objective of the proposal within the grant period.

**B.** The applicant must describe the records covered by the proposal and their importance in documenting New Mexico's history.

**C.** The applicant must have custody of, or consult with organizations that have custody of historically significant original records.

**D.** Records treated in the proposed project must be made available for public research unless specific exemption is granted by the NMHRAB. Proposals submitted by tribal governments, for example, may be excluded from this criterion.

**E.** An affected organization must be committed to sound archival practices, as demonstrated through its collection policy or a statement from its governing body indicating its commitment to:

**(1) Support the project, and**

**(2) ~~To the~~ The continuation of the project's purposes beyond the grant period.**

**F.** A person qualified by credentials or training to carry out the objectives of the proposed project must supervise the project. If this requirement is

not met at the time the proposal is submitted, the proposal must include provisions for attending NMHRAB-sponsored or NMHRAB-approved training totaling at least 24 clock hours before the project's proposed start date, unless otherwise approved by the NMHRAB.

**G.** Organizations must have a mechanism for evaluating the impact of the project on their historical records' environment.

[1.13.5.9 NMAC - N, 11/30/00; A, 09/30/02]

#### **1.13.5.11 TYPES OF PROJECTS FUNDED:**

**A.** All worthy projects will be considered. Preference will be given to those projects that directly address the funding priorities published in the NMHRAB strategic plan. Funding priorities are published in order of importance. Following are examples of projects that could be funded.

**(1) Consultations** that effect an improvement in the preservation of, management of or access to historical records, through assessment resulting in a strategic plan for the repository, by providing training in archival methods and techniques or records management principles and techniques, or by establishing an archival or records management program. Consultants must be competent in the area in which they plan to consult as demonstrated by their credentials or training.

**(2) Program development** projects that establish or elevate standards of archival or records management practice in the applicant repository.

**(3) Model training** programs that focus on developing tools and strategies that can be used to train staff in more than one repository, or repeatedly in high turnover situations.

**(4) Preservation** projects that mitigate unstable or deteriorating conditions of historical records through the identification, organization and description, conservation treatment or reformatting of the records - for example, copying to another medium, such as microform

**(5) Access** projects that promote the availability of historical records by developing finding aids. Examples include: indexing significant collections; creating electronic catalog records or distributing collection guides; automating finding aids; digitizing historical records; and placing copies in other repositories that have agreed to accept them.

**(6) Research** projects that provide original scholarly exposition or interpretation of documentary evidence of New Mexico history based on original records, and documentary edition projects that pub-

lish original records for general usage. Since these projects are a lower funding priority, proposals must be very well developed if funding is to be obtained.

**B.** Projects proposing collaborative efforts to address specific record keeping or preservation issues will be given additional consideration.

**C. Scholarships.** The NMHRAB will award grants to cover the cost of training and travel to attend either in-state or out-of-state training in archives and records management principles and practices as defined in the annual announcement of availability of scholarship funds.

[1.13.5.11 NMAC - N, 11/30/00; A, 09/30/02]

#### **1.13.5.13 FUNDING:**

**A.** The NMHRAB has [\$25,000 to \$75,000] funding annually to divide among successful applicants. Minimum awards of \$500 are possible, with a funding cycle cap of \$5,000 to \$8,500 per applicant, depending on available funds. Applicants must provide a minimum match valued at 25 percent of the total cost of their project in either cash or in-kind services or materials. Preference will be given to proposals that match the grants with 50 percent cash or in-kind. The in-kind must be rendered during the project period.

**B.** At least ten percent, but not less than \$1,500 of available funds shall be set aside for archives and records management training scholarships.

**(1) The scholarship grant covers the cost of training and travel at New Mexico state mileage and per diem rates as established in 2.42.2 NMAC. Scholarships shall be granted to cover 95 percent of total cost of training and travel.**

**(2) The NMHRAB shall award grants to successful applicants up to the annual cap. Should additional funds become available, the board may award grants to those who met the criteria but were not funded because of cap limits; or may issue a subsequent call of applications.**

**(3) The board may reduce the pre-established cap amount if the amount requested by eligible applicants is less than the pre-established cap. Any reduction will be added to the funds available for historical record grants.**

[1.13.5.13 NMAC - N, 11/30/00; A, 09/30/02]

[Funding for the NMHRGP currently ranges from \$25,000 to \$75,000 (with federal funding). For more information about caps for the current funding cycle see the NMHRAB's web page at <http://www.nmcp.state.nm.us/nmhrab>]

#### **1.13.5.14 APPLICATION FOR**



**HISTORICAL RECORDS GRANTS**

**A.** An applicant shall complete all questions on the application form. An applicant may submit pertinent attachments to support its application, but the number of pages must be limited to the essential minimum. An applicant must submit one completed application with original signatures and supporting documents, and eight copies. Incomplete applications cannot be considered.

**B.** The following information shall be included in the application.

(1) Applicant information - legal entity's name, address, contact name, phone number, and e-mail address.

(2) Applicant's signature by an individual authorized to obligate the legal entity.

(3) Fiscal agent's name, title, and address.

(4) Project title, period and amount of both the grant request and the proposed match.

(5) Applicant's status shall be established by identifying the qualifying organization. An applicant or individual must be legally affiliated with the qualifying organization or repository, professionally engaged in work applicable to the historical records community, and registered as a business with the state of New Mexico.

(6) A copy of the organization's formally adopted statement of mission or purpose.

(7) A copy of the organization's collection management policy (unless establishing one is the objective of the proposal).

(8) A summary statement that briefly summarizes the nature and purpose of the project proposed for funding no more than one-quarter page in length.

(9) A project description narrative limited to 3 pages in length. The narrative shall discuss content and significance of the historical records to be affected by this project; the scope of the work to be performed; key personnel and the work plan for the project.

(10) The budget for the project shall be submitted on the form prescribed by the NMHRAB.

**C.** Project period: Funded projects must be completed in one year. The project period cannot begin before ~~[April 1]~~ October 1 or end after ~~[March 31]~~ September 30.

**D.** Application deadline: Completed applications (original and eight copies) must be received by the chair of the board on or before ~~[February]~~ September 1.

**E. Rejection:** Applications that do not comply with these criteria will be rejected.

[1.13.5.14 NMAC - N, 11/30/00; A, 09/30/02]

[Obtain an application by calling (505) 476-7902, faxing at request to (505) 476-7901, or by e-mail a request to nmhrab@rain.state.nm.us Refer to the NMHRAB web page at <http://www.nmcpr.state.nm.us/nmhrab> for additional information about available resources.]

**1.13.5.15 APPLICATION FOR ARCHIVES AND RECORDS MANAGEMENT TRAINING SCHOLARSHIPS:**

**A.** A New Mexico Historical Records Advisory Board Scholarship Application must be completed in its entirety.

**B.** The application must contain a description of the permanent or historical records holdings of the eligible entity and how training will benefit the organization or the records.

**C.** The applicant must provide a letter of support from the management of the eligible entity.

**D.** A minimum match is required from the eligible entity and/or applicant of five percent of total cost of training.

**E. Rejection:** Applications that do not comply with these criteria will be rejected.

[1.13.5.15 NMAC - N, 11/30/00; renumbered to 1.13.5.16 NMAC, 09/30/02. 1.13.5.15 NMAC - N, 09/30/02]

[Obtain an application by calling (505) 476-7902, faxing at request to (505) 476-7901, or by e-mail a request to nmhrab@rain.state.nm.us. Refer to the NMHRAB web page at <http://www.nmcpr.state.nm.us/nmhrab> for additional information about available resources.]

**1.13.5.16 REVIEW PROCESS:**

**A.** ~~[There will be]~~ Historical record grant applications will be subjected to a three-stage review process.

~~[A-]~~ (1) First, all applications will be screened for eligibility and compliance with the guidelines. Ineligible and non-compliant submissions will be returned.

~~[B-]~~ (2) Second, all applications will be reviewed for technical merit on an established rating system by New Mexico state records center and archives professional staff, and recommendations for further consideration made. At this level applicants will be advised of points that may need clarification or elaboration in order to enhance a proposal's viability.

~~[C-]~~ (3) Third, recommended pro-

posals will be evaluated by the NMHRAB and ranked according to published priorities at the regular ~~[March]~~ October meeting.

**B. Scholarship applications will be subjected to the following review process.**

(1) All applicants will be screened for eligibility by the NMHRAB Grant Administrator.

(2) The NMHRAB Scholarship committee will award scholarships up to established annual cap. The Committee shall notify the full NMHRAB of the results at its next regular meeting.

[1.13.5.16 NMAC - N, 11/30/00; Rn to 1.13.5.17 NMAC, 09/30/02. 1.13.5.15 Rn to 1.13.5.16, & A, 09/30/02]

**1.13.5.17 POST AWARD REQUIREMENTS:**

**A.** Successful historical record grant applicants shall comply with the following post award requirements.

~~[A-]~~ (1) Submit progress reports halfway through the project.

~~[B-]~~ (2) Submit final reports within 60 days of project completion.

~~[C-]~~ (3) Request funds on a reimbursement basis and no more than 50 percent before substantial completion of the work.

~~[D-]~~ (4) Submit proof of completion of training before project start date, if required.

~~[E-]~~ (5) Adhere to State Procurement Code for purchase of goods and services.

~~[F-]~~ (6) Maintain grant records for at least two years after completion of the project.

**B. Scholarship recipients will submit proof of training:**

(1) copy of registration form and confirmation;

(2) copy of attendance sheet;

(3) copy of certificate issued upon completion of the training; and

(4) a copy of the registration form marked as paid and copy of check paying for the training.

[1.13.5.16 NMAC Rn to 1.13.5.17 NMAC & A, 09/30/02]

**NEW MEXICO WATER QUALITY CONTROL COMMISSION**

This is an amendment to 20.6.4 NMAC, Sections 10, 11, 12, 113 and 900.

**20.6.4.10 APPLICABILITY OF WATER QUALITY STANDARDS:**

**A. Livestock Watering and Wildlife Habitat Uses:**

(1) When a discharge creates a water which could be used by livestock and/or wildlife in a non-classified, otherwise ephemeral surface water of the state, such water shall be protected for the uses of livestock watering and/or wildlife habitat by the standards applicable to these uses as set forth in 20.6.4.900 NMAC.

(2) Designated uses of such water will be limited to livestock watering and/or wildlife habitat only when such a water does not enter a classified surface water of the state with criteria which are more restrictive than those necessary to protect livestock watering and/or wildlife habitat, except in direct response to precipitation or runoff. The commission shall adopt any additional designated uses for such surface waters of the state by rulemaking proceedings.

(3) When such a water, except in direct response to precipitation or runoff, enters a classified surface water of the state with criteria which are more restrictive than those necessary to protect livestock watering and/or wildlife habitat, the numeric standards established for the classified surface water of the state shall apply at the point such a water enters the classified surface water of the state. If discharge to such waters of the state ceases or is diverted elsewhere, all uses adopted under this section or subsequently under additional rulemaking proceedings for such waters of the state shall be deemed no longer designated, existing, or attainable.

**B. Critical Low Flow:** The numeric standards set under Subsection F of 20.6.4.12 NMAC, 20.6.4.101 through 20.6.4.899 NMAC and 20.6.4.900 NMAC may not be attainable when streamflow is less than the critical low flow of the stream in question. The critical low flow of a stream at a particular site shall be:

(1) for human health criteria, the harmonic mean flow. "Harmonic mean flow" is the number of daily flow measurements divided by the sum of the reciprocals of the flows. That is, it is the reciprocal of the mean of reciprocals. For ephemeral waters the calculation shall be based upon the nonzero flow intervals and modified by including a factor to adjust for the proportion of intervals with zero flow.

$$\text{Harmonic Mean} = \frac{n}{\sum \frac{1}{x}}$$

$$\text{Modified Harmonic Mean} = \left[ \frac{\sum_{i=1}^{Nt-No} \frac{1}{Qi}}{Nt - No} \right]^{-1} \times \left[ \frac{Nt - No}{Nt} \right]$$

where,  $Qi$  = nonzero flow  
 $Nt$  = total number of flow values  
 $No$  = number of zero flow values

(2) for all other narrative and numeric criteria, the minimum average four consecutive day flow which occurs with a frequency of once in three years (4Q3). Critical low-flow numeric values may be determined on an annual, a seasonal or a monthly basis, as appropriate, after due consideration of site-specific conditions.

**C. Guaranteed Minimum Flow:** On a case-by-case basis and upon consultation with the interstate stream commission, the commission may allow the use of a contractually guaranteed minimum streamflow in lieu of a critical low flow determined under Subsection B of this section. Should drought, litigation or any other reason interrupt or interfere with minimum flows under a guaranteed minimum flow contract for a period of at least thirty consecutive days, such permission, at the sole discretion of the commission, may then be revoked. Any minimum flow specified under such revoked permission shall be superseded by a critical low flow determined under Subsection B of this section. A public notice of the request for a guaranteed minimum flow shall be published in a newspaper of general circulation by the department at least 30 days prior to scheduled action by the commission. These water quality standards do not grant to the commission or any other entity the power to create, take away or modify property rights in water.

**D. Mixing Zones:** A limited mixing zone, contiguous to a point source wastewater discharge, may be allowed in any stream receiving such a discharge. Mixing zones serve as regions of initial dilution which allow the application of a dilution factor in calculations of effluent limitations. Effluent limitations shall be developed which will protect the most sensitive existing, designated or attainable use of the receiving water.

**E. Mixing Zone Limitations:** Wastewater mixing zones, in which the numeric standards set under Subsection F of 20.6.4.12 NMAC, 20.6.4.101 through

20.6.4.899 NMAC or 20.6.4.900 NMAC may be exceeded, shall be subject to the following limitations:

(1) Mixing zones are not allowed for discharges to publicly owned lakes, reservoirs, or playas; these effluents shall meet all applicable standards set under Subsection F of 20.6.4.12 NMAC, 20.6.4.101 through 20.6.4.899 NMAC and 20.6.4.900 NMAC at the point of discharge.

(2) The acute numeric standards, as set out in Paragraph (1) of Subsection J, ~~Subsection M~~, Paragraph (1) of ~~Subsection M~~ ~~Subsection N~~, and Paragraph (1) of ~~Subsection N~~ ~~Subsection O~~ of 20.6.4.900 NMAC, shall be attained at the point of discharge for any discharge to a surface water of the state with a designated fishery use.

(3) The general standards set out in Subsections A, B, C, D, E, G, H, J of 20.6.4.12 NMAC, and the provision set out in Subsection D of 20.6.4.13 NMAC are applicable within mixing zones.

(4) The areal extent and concentration isopleths of a particular mixing zone will depend on site-specific conditions including, but not limited to, wastewater flow, receiving water critical low flow, outfall design, channel characteristics and climatic conditions and, if needed, shall be determined on a case-by-case basis. When the physical boundaries or other characteristics of a particular mixing zone must be known, the methods presented in Section 4.4.5, "Ambient-induced mixing," in "Technical support document for water quality-based toxics control" (March 1991, EPA/505/2-90-001) shall be used.

(5) All applicable water quality standards set under Subsection F of 20.6.4.12 NMAC, 20.6.4.101 through 20.6.4.899 NMAC and 20.6.4.900 NMAC, except Paragraph (1) of Subsection J, acute aquatic life criteria of Subsection M, Paragraph (1) of ~~Subsection M~~ ~~Subsection N~~, and Paragraph (1) of ~~Subsection N~~ ~~Subsection O~~ of 20.6.4.900 NMAC, shall be attained at the boundaries of mixing zones. A continuous zone of passage through or around the mixing zone shall be maintained in which the water quality meets all applicable standards and allows the migration of aquatic life presently common in surface waters of the state with no effect on their populations.

**F. Multiple Uses:** When a classified water of the state has more than a single designated use, the applicable numeric standards shall be the most stringent of those established for such classified water.

**G. Human health standards shall apply to those waters with a designated, existing or attainable fishery use. The human health standards for persistent toxic pollutants, as identified in Subsection**

M of Section 20.6.4.900 NMAC, shall also apply to all tributaries of waters with a designated, existing or attainable fishery use.

[20.6.4.10 NMAC – Rp 20 NMAC 6.1.1103, 10-12-00; A, 10-11-02]

#### **20.6.4.11 COMPLIANCE WITH WATER QUALITY STANDARDS:**

**A.** Compliance with acute water quality standards shall be determined from the analytical results of a single grab sample. Acute standards shall not be exceeded.

**B.** Compliance with chronic water quality standards shall be determined from the arithmetic mean of the analytical results of samples collected using applicable protocols. Chronic standards shall not be exceeded more than once every three years.

**C.** Compliance with water quality standards for total ammonia shall be determined by performing the biomonitoring procedures set out in Subsections D and E of 20.6.4.13 NMAC, or by attainment of applicable ammonia standards set out in ~~[Subsections M and N]~~ Subsections N and Q of 20.6.4.900 NMAC.

**D.** Compliance with water quality standards for the protection of human health shall be determined from the analytical results of representative grab samples, as defined in the Water Quality Management Plan. Human health standards shall not be exceeded.

~~[D]~~ **E.** The commission may establish a numeric water quality standard at a concentration that is below the minimum quantification level. In such cases, the water quality standard is enforceable at the minimum quantification level.

~~[E]~~ **F.** In determining compliance with standards for chromium an analysis which measures both the trivalent and hexavalent ions shall be used.

~~[F]~~ **G.** For compliance with numeric standards dependent on hardness, hardness (as mg CaCO<sub>3</sub>/L) shall be determined from a sample taken at the same time that the sample for the water contaminant is taken, or from available verifiable data sources including, but not limited to, the U.S. environmental protection agency's STORET water quality database.

~~[G]~~ **H.** The hardness-dependent formulae for metals shall be valid only for hardness values of 0-400 mg/L. For values above 400 mg/L, the value for 400 mg/L shall apply.

~~[H]~~ **I.** The total ammonia tables shall be valid only for temperatures of 0 to 30°C and for pH values of 6.5 to 9.0. For temperatures below 0°C, the total ammonia standards for 0°C shall apply; for temperatures above 30°C, the total ammo-

nia standards for 30°C shall apply. For pH values below 6.5, the total ammonia standards for 6.5 shall apply; for pH values above 9.0, the total ammonia standards for 9.0 shall apply.

**J. Compliance Schedules:** It shall be the policy of the commission to allow on a case-by-case basis the inclusion of a schedule of compliance in a national pollutant discharge elimination system (NPDES) permit issued to an existing facility. Such schedule of compliance will be for the purpose of providing a permittee with adequate time to make treatment facility modifications necessary to comply with water quality based permit limitations determined to be necessary to implement new or revised water quality standards. Compliance schedules may be included in NPDES permits at the time of permit renewal or modification and shall be written to require compliance at the earliest practicable time. Compliance schedules shall also specify milestone dates so as to measure progress towards final project completion (e.g., design completion, construction start, construction completion, date of compliance).

[20.6.4.11 NMAC – Rp 20 NMAC 6.1.1104, 10-12-00; A, 10-11-02]

**20.6.4.12 GENERAL STANDARDS:** General standards are established to sustain and protect existing or attainable uses of surface waters of the state. These general standards apply to all surface waters of the state at all times, unless a specified standard is provided elsewhere in this part. Surface waters of the state shall be free of any water contaminant in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or unreasonably interfere with the public welfare or the use of property. When changes in dissolved oxygen, temperature, dissolved solids, sediment or turbidity in a water of the state is attributable to natural causes or the reasonable operation of irrigation and flood control facilities that are not subject to federal or state water pollution control permitting, numerical standards for temperature, dissolved solids content, dissolved oxygen, sediment or turbidity adopted under the Water Quality Act do not apply. The foregoing provision does not include major reconstruction of storage dams or diversion dams except for emergency actions necessary to protect health and safety of the public, or discharges from municipal separate storm sewers.

**A. Bottom Deposits:** Surface waters of the state shall be free of water contaminants from other than natural causes that will settle and damage or impair

the normal growth, function, or reproduction of aquatic life or significantly alter the physical or chemical properties of the bottom.

**B. Floating Solids, Oil and Grease:** Surface waters of the state shall be free of oils, scum, grease and other floating materials resulting from other than natural causes that would cause the formation of a visible sheen or visible deposits on the bottom or shoreline, or would damage or impair the normal growth, function or reproduction of human, animal, plant or aquatic life.

**C. Color:** Color-producing materials resulting from other than natural causes shall not create an aesthetically undesirable condition nor shall color impair the use of the water by desirable aquatic life presently common in surface waters of the state.

**D. Odor and Taste of Fish:** Water contaminants from other than natural causes shall be limited to concentrations that will not impart unpalatable flavor to fish, or result in offensive odor arising in a surface water of the state or otherwise interfere with the reasonable use of the water.

**E. Plant Nutrients:** Plant nutrients from other than natural causes shall not be present in concentrations which will produce undesirable aquatic life or result in a dominance of nuisance species in surface waters of the state.

**F. Toxic Pollutants:**  
(1) Surface waters of the state shall be free of toxic pollutants ~~[attributable to discharges]~~ from other than natural causes in amounts, concentrations or combinations which affect the propagation of fish or which are toxic to humans, livestock or other animals, fish or other aquatic organisms, wildlife using aquatic environments for habitation or aquatic organisms for food, ~~[or to livestock or other animals;]~~ or which will or can reasonably be expected to bioaccumulate in tissues of fish, shellfish and other aquatic organisms to levels which will impair the health of aquatic organisms or wildlife or result in unacceptable tastes, odors or health risks to human consumers of aquatic organisms.

(2) Pursuant to this section, the human health criteria shall be as set out in 20.6.4.900 NMAC. For a toxic pollutant for human health not listed in 20.6.4.900 NMAC, the following provisions shall be applied in accordance with 20.6.4.10, 20.6.4.11 and 20.6.4.13 NMAC.

(a) The human health criterion shall be the recommended human health criterion for "consumption of organisms only" published by the U.S. environmental protection agency pursuant to Section 304(a) of

the federal Clean Water Act. In determining such criterion for a cancer-causing toxic pollutant, a cancer risk of 10-5 (one cancer per 100,000 exposed persons) shall be used.

**(b)** When a numeric criterion for the protection of human health has not been published by the U.S. environmental protection agency, a quantifiable criterion may be derived from data available in the U.S. environmental protection agency's Integrated Risk Information System (IRIS).

**(3)** Pursuant to this section, the chronic aquatic life standard shall be as set out in 20.6.4.900 NMAC. For a toxic pollutant for aquatic life with no chronic standard listed in 20.6.4.900 NMAC, the following provisions shall be applied in sequential order in accordance with 20.6.4.10, 20.6.4.11 and 20.6.4.13 NMAC.

**(a)** The chronic aquatic life criterion shall be the "freshwater criterion continuous concentration" published by the U.S. environmental protection agency pursuant to Section 304(a) of the federal Clean Water Act;

**(b)** If the U.S. environmental protection agency has not published a chronic aquatic life criterion, a geometric mean LC-50 value shall be calculated for the particular species, genus or group, which is representative of the form of life to be preserved, using the results of toxicological studies published in scientific journals.

**(i)** The chronic aquatic life criterion for a toxic pollutant which does not bioaccumulate shall be 10 percent of the calculated geometric mean LC-50 value; and

**(ii)** The chronic aquatic life criterion for a toxic pollutant which does bioaccumulate shall be: the calculated geometric mean LC-50 adjusted by a bioaccumulation factor for the particular species, genus or group representative of the form of life to be preserved, but when such bioaccumulation factor has not been published, the criterion shall be one percent of the calculated geometric mean LC-50 value.

**(4)** Pursuant to this section, the acute aquatic life criteria shall be as set out in 20.6.4.900 NMAC. For a toxic pollutant for aquatic life with no acute criterion listed in 20.6.4.900 NMAC, the acute aquatic life criterion shall be the "freshwater criterion maximum concentration" published by the U.S. environmental protection agency pursuant to Section 304(a) of the federal Clean Water Act.

**(5)** Within 90 days of the issuance of a final NPDES permit containing a numeric criterion selected or calculated pursuant to Paragraph 2, Paragraph 3 or Paragraph 4 of Subsection F of this section, the Department shall petition the Commission to adopt such criterion into

these standards.

**(6)** ~~[except that the]~~ The use of a piscicide registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. Section 136 *et seq.*, and under the New Mexico Pesticide Control Act (NMPCA), Section 76-4-1 *et seq.* NMSA 1978 (1973), shall not be a violation of Subsection F of this section when such use has been approved by the commission. Any person seeking commission approval of the use of a piscicide shall file a written petition with the commission. The petition shall contain, at a minimum, the following information: (1) petitioner's name and address; (2) identity of the piscicide; (3) documentation of registration under FIFRA and NMPCA; (4) target and potential non-target species, including threatened or endangered species; (5) potential environmental consequences and protocols for limiting such impacts; (6) affected surface water of the state; (7) results of pre-treatment survey; (8) evaluation of available alternatives and justification for selecting piscicide use; (9) post-treatment assessment monitoring protocol; and (10) any other information required by the commission. The commission shall review the petition and require a public hearing in the locality affected by the proposed use in accordance with Adjudicatory Procedures, 20.1.3 NMAC. In addition to the public notice requirements in Adjudicatory Procedures, 20.1.3 NMAC, the petitioner shall provide written notice to (1) local political subdivisions; (2) local water planning entities; (3) local conservancy and irrigation districts; and (4) local media outlets, except that the petitioner shall only be required to publish notice in a newspaper of circulation in the locality affected by the proposed use. After a public hearing, the commission may grant the petition in whole or in part, may grant the petition subject to conditions, or may deny the petition. In granting any petition in whole or part or subject to conditions, the commission shall require the petitioner to implement post-treatment assessment monitoring. ~~[Pursuant to this section, the chronic standard for the use to be protected shall be as set out in 20.6.4.900 NMAC. For a toxic pollutant not listed in 20.6.4.900 NMAC, the following provisions shall be applied in numeric order in accordance with 20.6.4.10, 20.6.4.11 and 20.6.4.13 NMAC.~~

**(1)** The chronic standard shall be the "criterion continuous concentration" published by the U.S. environmental protection agency pursuant to Section 304(a) of the federal Clean Water Act; or

**(2)** Using results of toxicological studies published in scientific journals, a geometric mean LC-50 value shall be calcu-

lated for the particular species, genus or group which is representative of the form of life to be preserved. The chronic standard for a toxic pollutant which does not bioaccumulate shall be 10 percent of the calculated geometric mean LC-50 value; or

**(3)** The chronic standard for a toxic pollutant which does bioaccumulate shall be the standard calculated under Paragraph (2) of this subsection adjusted by a bioaccumulation factor for the particular species, genus or group representative of the particular form of life to be preserved. ~~When such definitive information has not been published, the chronic standard for a bioaccumulating toxic pollutant shall be one percent of the calculated geometric mean LC-50 value.]~~

**G. Radioactivity:** The radioactivity of surface waters of the state shall be maintained at the lowest practical level and shall in no case exceed the standards set forth in the New Mexico Radiation Protection Regulations, 20.3.1.400 through 20.3.1.499 NMAC (5-3-95).

**H. Pathogens:** Surface waters of the state shall be virtually free of pathogens. In particular, surface waters of the state used for irrigation of table crops such as lettuce shall be virtually free of *Salmonella* and *Shigella* species.

**I. Temperature:** Maximum temperatures for each classified water of the state have been specified in 20.6.4.101 through 20.6.4.899 NMAC. However, the introduction of heat by other than natural causes shall not increase the temperature, as measured from above the point of introduction, by more than 2.7°C (5°F) in a stream, or more than 1.7°C (3°F) in a lake or reservoir. In no case will the introduction of heat be permitted when the maximum temperature specified for the reach (generally 20°C (68°F) for coldwater fisheries and 32.2°C (90°F) for warmwater fisheries) would thereby be exceeded. These temperature standards shall not apply to impoundments constructed offstream for the purpose of heat disposal. High water temperatures caused by unusually high ambient air temperatures are not violations of these standards.

**J. Turbidity:** Turbidity attributable to other than natural causes shall not reduce light transmission to the point that the normal growth, function, or reproduction of aquatic life is impaired or that will cause substantial visible contrast with the natural appearance of the water.

**K. Salinity:** Where existing information is sufficient, numerical standards for TDS (or conductivity), chlorides and sulfates, have been adopted in 20.6.4.101 through 20.6.4.899 NMAC. The following standards apply at the down-



stream point of the reach in which they are set:

(1) For the tributaries of the Colorado river system, the state of New Mexico will cooperate with the Colorado river basin states and the federal government to support and implement the salinity policy and program outlined in the report "1999 Review, water quality standards for salinity, Colorado river system."

(2) Numeric criteria for salinity are established at three points in the Colorado river basin as follows: below Hoover dam, 723 mg/L; below Parker dam, 747 mg/L; and at Imperial dam, 879 mg/L.

(3) As a part of the program, objectives for New Mexico shall include the elimination of discharges of water containing solids in solution as a result of the use of water to control or convey fly ash from coal-fired electric generators, wherever practicable.

(4) In determining compliance with the numeric criteria hereby adopted, salinity (TDS) shall be determined by either the "calculation method" (sum of constituents) or the filterable residue method. Approved test procedures for these determinations are as set forth in 20.6.4.13 NMAC.

**L. Dissolved Gases:**

Surface waters of the state shall be free of nitrogen and other dissolved gases at levels above 110 percent saturation when this supersaturation is attributable to municipal, industrial or other discharges.

[20.6.4.12 NMAC - Rp 20 NMAC 6.1.1105, 10-12-00; A, 10-11-02]

**20.6.4.113 RIO GRANDE BASIN - The Santa Fe river and its tributaries from Cochiti reservoir upstream to the outfall of the Santa Fe wastewater treatment facility.**

**A. Designated Uses:** irrigation, livestock watering, wildlife habitat, marginal coldwater fishery, secondary contact, and warmwater fishery.

**B. Standards:**

(1) In any single sample: pH shall be within the range of 6.6 to 9.0, temperature shall not exceed 30°C (86°F), turbidity shall not exceed 50 NTU, and dissolved oxygen shall not be less than 4.0 mg/L. Dissolved oxygen shall not be less than 5.0 mg/L as a 24-hour average. Values used in the calculation of the 24-hour average for dissolved oxygen shall not exceed the dissolved oxygen saturation value. For a measured value above the dissolved oxygen saturation value, the dissolved oxygen saturation value will be used in calculating the 24-hour average. The dissolved oxygen saturation value shall be determined from the table set out in [Subsection O] Subsection P of 20.6.4.900 NMAC. The use-specific

numeric standards set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) The monthly geometric mean of fecal coliform bacteria shall not exceed 1,000/100 mL; no single sample shall exceed 2,000/100 mL (see Subsection B of 20.6.4.13 NMAC).

[20.6.4.113 NMAC - Rp 20 NMAC 6.1.2110, 10-12-00; A, 10-11-02]

**20.6.4.900 STANDARDS APPLICABLE TO ATTAINABLE OR DESIGNATED USES UNLESS OTHERWISE SPECIFIED IN 20.6.4.101 THROUGH 20.6.4.899 NMAC.**

**A. Coldwater Fishery:**

Dissolved oxygen shall not be less than 6.0 mg/L, temperature shall not exceed 20°C (68°F), and pH shall be within the range of 6.6 to 8.8. The acute and chronic aquatic life standards set out in [Subsection J] subsections J and M of this section are applicable to this use. The total ammonia standards set out in [Subsection N] Subsection O of this section and the human health standards listed in Subsection M of this section are applicable to this use.

**B. Domestic Water Supply:**

Surface waters of the state designated for use as domestic water supplies shall not contain substances in concentrations that create a lifetime cancer risk of more than one cancer per 100,000 exposed persons. The following numeric standards and those standards listed under domestic water supply in Subsection M of this section shall not be exceeded:

- [~~(1)~~] dissolved antimony 0.006 mg/L
- (2) dissolved arsenic 0.05 mg/L
- (3) dissolved barium 2 mg/L
- (4) dissolved beryllium 0.004 mg/L
- (5) dissolved cadmium 0.005 mg/L
- (6) dissolved chromium 0.1 mg/L
- (7) dissolved cyanide 0.2 mg/L
- (8) dissolved lead 0.05 mg/L
- (9) total mercury 0.002 mg/L
- [~~(10)~~] dissolved nickel 0.1 mg/L
- [~~(11)~~] (1) dissolved nitrate (as N) 10 mg/L
- [~~(12)~~] dissolved selenium 0.05 mg/L
- (13) dissolved thallium 0.002 mg/L

- (14) dissolved uranium 5.0 mg/L
- [~~(15)~~] (2) radium-226 + radium-228 5 pCi/L
- [~~(16)~~] (3) strontium-90 8 pCi/L
- [~~(17)~~] (4) tritium 20,000 pCi/L
- [~~(18)~~] (5) gross alpha (including radium-226, but excluding radon and uranium) 15 pCi/L

**C. High Quality**

**Coldwater Fishery:** Dissolved oxygen shall not be less than 6.0 mg/L, temperature shall not exceed 20°C (68°F), pH shall be within the range of 6.6 to 8.8, [~~total organic carbon shall not exceed 7 mg/L,~~] turbidity shall not exceed 10 NTU (25 NTU in certain reaches where natural background prevents attainment of lower turbidity), and conductivity (at 25°C) shall not exceed a limit varying between 300 µmhos/cm and 1,500 µmhos/cm depending on the natural background in particular surface waters of the state (the intent of this standard is to prevent excessive increases in dissolved solids which would result in changes in community structure). The acute and chronic aquatic life standards set out in [Subsection J] subsections J and M of this section are applicable to this use. The total ammonia standards set out in [Subsection N] Subsection O of this section and the human health standards for pollutants listed in Subsection M of this section are applicable to this use.

**D. Irrigation and**

**Irrigation Storage:** The monthly geometric mean of fecal coliform bacteria shall not exceed 1,000/100 mL; no single sample shall exceed 2,000/100 mL. The following numeric standards and those standards listed under irrigation in Subsection M of this section shall not be exceeded:

- [~~(1)~~] dissolved aluminum 5.0 mg/L
- (2) dissolved arsenic 0.10 mg/L
- (3) dissolved boron 0.75 mg/L
- [~~(4)~~] dissolved cadmium 0.01 mg/L
- (5) dissolved chromium 0.10 mg/L
- [~~(6)~~] dissolved cobalt 0.05 mg/L
- [~~(7)~~] dissolved copper 0.20 mg/L
- (8) dissolved lead 5.0 mg/L
- (9) dissolved molybdenum 1.0 mg/L
- [~~(10)~~] (1) dissolved selenium 0.13 mg/L
- [~~(11)~~] (2) dissolved selenium in presence of >500 mg/L SO<sub>4</sub> 0.25 mg/L
- [~~(12)~~] dissolved vanadium 0.1 mg/L

~~(13) dissolved zinc 2.0 mg/L]~~

### E. Limited Warmwater

**Fishery:** Dissolved oxygen shall not be less than 5 mg/L, pH shall be within the range of 6.6 to 9.0, and on a case by case basis maximum temperatures may exceed 32.2°C. The acute and chronic aquatic life standards set out in ~~[Subsection J]~~ subsections J and M of this section are applicable to this use. The total ammonia standards set out in ~~[Subsection M]~~ Subsection N of this section and the human health standards listed in Subsection M of this section are applicable to this use.

### F. Marginal Coldwater

**Fishery:** Dissolved oxygen shall not be less than 6 mg/L, on a case by case basis maximum temperatures may exceed 25°C and the pH may range from 6.6 to 9.0. The acute and chronic aquatic life standards set out in ~~[Subsection J]~~ subsections J and M of this section are applicable to this use. The total ammonia standards set out in ~~[Subsection N]~~ Subsection O of this section and the human health standards listed in Subsection M of this section are applicable to this use.

**G. Primary Contact:** The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL, no single sample shall exceed 400/100 mL and pH shall be within the range of 6.6 to 9.0.

**H. Warmwater Fishery:** Dissolved oxygen shall not be less than 5 mg/L, temperature shall not exceed 32.2°C (90°F), and pH shall be within the range of 6.6 to 9.0. The acute and chronic aquatic life standards set out in ~~[Subsection J]~~ subsections J and M of this section are applicable to this use. The total ammonia standards set out in ~~[Subsection M]~~ Subsection N of this section and the human health standards listed in Subsection M of this section are applicable to this use.

**I. Fish culture, secondary contact, and municipal and industrial water supply and storage** are also designated in particular classified waters of the state where these uses are actually being realized. However, no numeric standards apply uniquely to these uses. Water quality adequate for these uses is ensured by the general standards and numeric standards for bacterial quality, pH, and temperature which are established for all classified waters of the state listed in 20.6.4.101 through 20.6.4.899 NMAC.

**J.** The following schedule of ~~[numeric standards and]~~ equations for the determination of numeric standards for the substances listed and those standards listed in Subsection M for aquatic life shall apply to the subcategories of fisheries identified in this section:

#### (1) Acute standards

~~[(a) dissolved aluminum~~

~~750 µg/L~~

~~(b) dissolved arsenic~~

~~340 µg/L~~

~~(c) dissolved beryllium~~

~~130 µg/L~~

~~(d) total mercury~~

~~2.4 µg/L~~

~~(e) total recoverable selenium~~

~~20.0 µg/L]~~

~~[(f)] (a) dissolved silver~~  
 $e^{(1.72[\ln(\text{hardness})]-6.6825)} \mu\text{g/L}$

~~[(g) cyanide, weak acid dissociable~~  
~~22.0 µg/L~~

~~(h) total chlordanes~~

~~2.4 µg/L]~~

~~[(h)] (b) dissolved cadmium~~  
 $(e^{(1.128[\ln(\text{hardness})]-3.6867)})cf \mu\text{g/L}$  The hardness-dependent formulae for cadmium must be multiplied by a conversion factor (cf) to be expressed as dissolved values. The acute factor for cadmium is  $cf = 1.136672 - [(\ln \text{hardness})(0.041838)]$ .

~~[(f)] (c) dissolved chromium~~  
 $e^{(0.819[\ln(\text{hardness})]+2.5736)} \mu\text{g/L}$

~~[(h)] (d) dissolved copper~~  
 $e^{(0.9422[\ln(\text{hardness})]-1.7408)} \mu\text{g/L}$

~~[(h)] (e) dissolved lead~~  
 $(e^{(1.273[\ln(\text{hardness})]-1.46)})cf \mu\text{g/L}$  The hardness-dependent formulae for lead must be multiplied by a conversion factor (cf) to be expressed as dissolved values. The acute and chronic factor for lead is  $cf = 1.46203 - [(\ln \text{hardness})(0.145712)]$ .

~~[(m)] (f) dissolved nickel~~  
 $e^{(0.8460[\ln(\text{hardness})]+2.253)} \mu\text{g/L}$

~~[(m)] (g) dissolved zinc~~  
 $e^{(0.8473[\ln(\text{hardness})]+0.8618)} \mu\text{g/L}$

~~[(n) total chlorine residual 19~~  
~~µg/L]~~

#### (2) Chronic standards

~~[(a) dissolved aluminum~~

~~87.0 µg/L~~

~~(b) dissolved arsenic~~

~~150 µg/L~~

~~(c) dissolved beryllium~~

~~5.3 µg/L~~

~~(d) total mercury~~

~~0.012 µg/L~~

~~(e) total recoverable selenium~~

~~5.0 µg/L~~

~~(f) cyanide, weak acid dissociable~~  
~~5.2 µg/L~~

~~(g) total chlordanes~~

~~0.0043 µg/L]~~

~~[(h)] (a) dissolved cadmium~~  
 $(e^{(0.7852[\ln(\text{hardness})]-2.715)})cf \mu\text{g/L}$

The hardness-dependent formulae for cadmium must be multiplied by a conversion factor (cf) to be expressed as dissolved values. The chronic factor for cadmium is  $cf = 1.101672 - [(\ln \text{hardness})(0.041838)]$ .

~~[(h)] (b) dissolved chromium~~  
 $e^{(0.819[\ln(\text{hardness})]+0.534)} \mu\text{g/L}$

~~[(h)] (c) dissolved copper~~

$e^{(0.8545[\ln(\text{hardness})]-1.7428)} \mu\text{g/L}$

~~[(h)] (d) dissolved lead~~

$(e^{(1.273[\ln(\text{hardness})]-4.705)})cf \mu\text{g/L}$

The hardness-dependent formulae for lead must be multiplied by a conversion factor (cf) to be expressed as dissolved values. The acute and chronic factor for lead is  $cf = 1.46203 - [(\ln \text{hardness})(0.145712)]$ .

~~[(h)] (e) dissolved nickel~~  
 $e^{(0.846[\ln(\text{hardness})]+0.0554)} \mu\text{g/L}$

~~[(m)] (f) dissolved zinc~~  
 $e^{(0.8473[\ln(\text{hardness})]+0.8699)} \mu\text{g/L}$

~~[(n) total chlorine residual~~  
~~11 µg/L]~~

### K. Livestock Watering:

The following numeric standards and those standards listed in Subsection M for livestock watering shall not be exceeded:

~~[(1) dissolved aluminum~~

~~5.0 mg/L~~

~~(2) dissolved arsenic~~

~~0.2 mg/L~~

~~(3) dissolved boron~~

~~5.0 mg/L~~

~~(4) dissolved cadmium~~

~~0.05 mg/L~~

~~(5) dissolved chromium~~

~~1.0 mg/L~~

~~(6) dissolved cobalt~~

~~1.0 mg/L~~

~~(7) dissolved copper~~

~~0.5 mg/L~~

~~(8) dissolved lead~~

~~0.1 mg/L~~

~~(9) total mercury~~

~~0.01 mg/L~~

~~(10) dissolved selenium~~

~~0.05 mg/L~~

~~(11) dissolved vanadium~~

~~0.1 mg/L~~

~~(12) dissolved zinc~~

~~25.0 mg/L]~~

~~[(13)] (1) radium-226 + radium-~~

~~228 30.0 pCi/L~~

~~[(14)] (2) tritium~~

~~20,000 pCi/L~~

~~[(15)] (3) total gross alpha~~

~~(including radium-226, but excluding radon and uranium) 15 pCi/L~~

### L. Wildlife Habitat:

Wildlife habitat should be free from any substances at concentrations that are toxic to or will adversely affect plants and animals that use these environments for feeding, drinking, habitat or propagation, or can bioaccumulate and impair the community of animals in a watershed or the ecological integrity of surface waters of the state. In the absence of site-specific information, and subject to the following paragraph, the ~~[following]~~ chronic numeric standards listed in Subsection M for wildlife habitat shall not be exceeded[?].

~~[(1) total mercury~~

~~0.77 µg/L~~

- (2) total recoverable selenium  
5.0 ~~µg/L~~
- (3) cyanide, weak acid dissociable  
5.2 ~~µg/L~~
- (4) total chlorine residual  
11 ~~µg/L~~
- (5) total DDT and metabolites  
0.001 ~~µg/L~~
- (6) total PCBs  
0.014 ~~µg/L~~
- (7)

The discharge of substances which bioaccumulate, in excess of levels ~~[specified above]~~ listed in Subsection M for wildlife habitat is allowed if, and only to the extent that, the substances are present in the intake waters which are diverted and utilized prior to discharge, and then only if the discharger utilizes best available treatment technology to reduce the amount of bioaccumulating substances which are discharged.

**M. Numeric criteria**

The following table sets forth the numeric criteria adopted by the commission to protect existing, designated and attainable uses. Additional criteria that are not compatible with this table and are found in Subsections A through L of this section.

*[see TABLE, pages 762 - 765]*

~~[M]~~ **N. Total Ammonia (mg/L as N), Warmwater Fisheries:**

- (1) acute standards  
pH

*[see TABLE, page 766]*

(2) chronic standards  
pH

*[see TABLE, page 766]*

~~[N]~~ **O. Total Ammonia (mg/L as N), Coldwater Fisheries:**

- (1) acute standards  
pH

*[see TABLE, page 767]*

(2) chronic standards  
pH

*[see TABLE, page 767]*

~~[O]~~ **P. Dissolved oxygen saturation based on temperature and elevation.**

*[see TABLE, page 768]*

	<u>Pollutant</u> total, unless indicated	<u>CAS Number</u>	<u>Domestic Water Supply</u> µg/L	<u>Irrigation</u> µg/L	<u>Livestock Watering</u> µg/L	<u>Wildlife Habitat</u> µg/L	<u>Aquatic Life</u>		<u>Human Health</u> µg/L	<u>Cancer Causing and/or Persistent</u>
							<u>Acute</u> µg/L	<u>Chronic</u> µg/L		
<u>1</u>	<u>Aluminum, dissolved</u>	<u>7429-90-5</u>	-	<u>5,000</u>	<u>5,000</u>	-	<u>750</u>	<u>87</u>	-	-
<u>2</u>	<u>Antimony, dissolved</u>	<u>7440-36-0</u>	<u>6</u>	-	-	-	-	-	<u>4,300</u>	<u>P</u>
<u>3</u>	<u>Arsenic, dissolved</u>	<u>7440-38-2</u>	<u>50</u>	<u>100</u>	<u>200</u>	-	<u>340</u>	<u>150</u>	<u>24.2</u>	<u>C,P</u>
<u>4</u>	<u>Barium, dissolved</u>	<u>7440-39-3</u>	<u>2,000</u>	-	-	-	-	-	-	-
<u>5</u>	<u>Beryllium, dissolved</u>	<u>7440-41-7</u>	<u>4</u>	-	-	-	<u>130</u>	<u>5.3</u>	-	-
<u>6</u>	<u>Boron, dissolved</u>	<u>7440-42-8</u>	-	<u>750</u>	<u>5,000</u>	-	-	-	-	-
<u>7</u>	<u>Cadmium, dissolved</u>	<u>7440-43-9</u>	<u>5</u>	<u>10</u>	<u>50</u>	-	see <u>20.6.4.900.J</u>	see <u>20.6.4.900.J</u>	-	-
<u>8</u>	<u>Chlorine residual</u>	<u>7782-50-5</u>	-	-	-	<u>11</u>	<u>19</u>	<u>11</u>	-	-
<u>9</u>	<u>Chromium, dissolved</u>	<u>18540-29-9</u>	<u>100</u>	<u>100</u>	<u>1,000</u>	-	see <u>20.6.4.900.J</u>	see <u>20.6.4.900.J</u>	-	-
<u>10</u>	<u>Cobalt, dissolved</u>	<u>7440-48-4</u>	-	<u>50</u>	<u>1,000</u>	-	-	-	-	-
<u>11</u>	<u>Copper, dissolved</u>	<u>7440-50-8</u>	-	<u>200</u>	<u>500</u>	-	see <u>20.6.4.900.J</u>	see <u>20.6.4.900.J</u>	-	-
<u>12</u>	<u>Cyanide, dissolved</u>	<u>57-12-5</u>	<u>200</u>	-	-	-	-	-	-	-
<u>13</u>	<u>Cyanide, weak acid dissociable</u>	<u>57-12-5</u>	-	-	-	<u>5.2</u>	<u>22.0</u>	<u>5.2</u>	<u>220,000</u>	-
<u>14</u>	<u>Lead, dissolved</u>	<u>7439-92-1</u>	<u>50</u>	<u>5,000</u>	<u>100</u>	-	see <u>20.6.4.900.J</u>	see <u>20.6.4.900.J</u>	-	-
<u>15</u>	<u>Mercury</u>	<u>7439-97-6</u>	<u>2</u>	-	<u>10</u>	<u>0.77</u>	<u>2.4</u>	<u>0.012</u>	-	-
<u>16</u>	<u>Molybdenum, dissolved</u>	<u>7439-98-7</u>	-	<u>1,000</u>	-	-	-	-	-	-
<u>17</u>	<u>Nickel, dissolved</u>	<u>7440-02-0</u>	<u>100</u>	-	-	-	see <u>20.6.4.900.J</u>	see <u>20.6.4.900.J</u>	<u>4,600</u>	<u>P</u>
<u>18</u>	<u>Selenium, dissolved</u>	<u>7782-49-2</u>	<u>50</u>	see <u>20.6.4.900.D</u>	<u>50</u>	-	-	-	<u>11,000</u>	<u>P</u>
<u>19</u>	<u>Selenium, total recoverable</u>	<u>7782-49-2</u>	-	-	-	<u>5.0</u>	<u>20.0</u>	<u>5.0</u>	-	-
<u>20</u>	<u>Silver, dissolved</u>	<u>7440-22-4</u>	-	-	-	-	see <u>20.6.4.900.J</u>	-	-	-
<u>21</u>	<u>Thallium, dissolved</u>	<u>7440-28-0</u>	<u>2</u>	-	-	-	-	-	<u>6.3</u>	<u>P</u>
<u>22</u>	<u>Uranium, dissolved</u>	<u>7440-61-1</u>	<u>5,000</u>	-	-	-	-	-	-	-



	<u>Pollutant</u> total, unless indicated	<u>CAS Number</u>	<u>Domestic Water Supply</u> µg/L	<u>Irrigation</u> µg/L	<u>Livestock Watering</u> µg/L	<u>Wildlife Habitat</u> µg/L	<u>Aquatic Life</u>		<u>Human Health</u> µg/L	<u>Cancer Causing and/or Persistent</u>
							<u>Acute</u> µg/L	<u>Chronic</u> µg/L		
23	<u>Vanadium, dissolved</u>	<u>7440-62-2</u>	-	<u>100</u>	<u>100</u>	-	-	-	-	-
24	<u>Zinc, dissolved</u>	<u>7440-66-6</u>	-	<u>2,000</u>	<u>25,000</u>	-	see <u>20,649,000.J</u>	<u>69,000</u>	<u>P</u>	
25	<u>Acenaphthene</u>	<u>83-32-9</u>	-	-	-	-	-	<u>2,700</u>	-	
26	<u>Acrolein</u>	<u>107-02-8</u>	-	-	-	-	-	<u>780</u>	-	
27	<u>Acrylonitrile</u>	<u>107-13-1</u>	-	-	-	-	-	<u>6.6</u>	<u>C</u>	
28	<u>Aldrin</u>	<u>309-00-2</u>	-	-	-	-	<u>3.0</u>	<u>0.0014</u>	<u>C,P</u>	
29	<u>Anthracene</u>	<u>120-12-7</u>	-	-	-	-	-	<u>110,000</u>	-	
30	<u>Benzene</u>	<u>71-43-2</u>	-	-	-	-	-	<u>710</u>	<u>C</u>	
31	<u>Benzidine</u>	<u>92-87-5</u>	-	-	-	-	-	<u>0.0054</u>	<u>C</u>	
32	<u>Benzo(a)anthracene</u>	<u>56-55-3</u>	-	-	-	-	-	<u>0.49</u>	<u>C</u>	
33	<u>Benzo(a)pyrene</u>	<u>50-32-8</u>	-	-	-	-	-	<u>0.49</u>	<u>C,P</u>	
34	<u>Benzo(b)fluoranthene</u>	<u>205-99-2</u>	-	-	-	-	-	<u>0.49</u>	<u>C</u>	
35	<u>Benzo(k)fluoranthene</u>	<u>207-08-9</u>	-	-	-	-	-	<u>0.49</u>	<u>C</u>	
36	<u>alpha-BHC</u>	<u>319-84-6</u>	-	-	-	-	-	<u>0.13</u>	<u>C</u>	
37	<u>beta-BHC</u>	<u>319-85-7</u>	-	-	-	-	-	<u>0.46</u>	<u>C</u>	
38	<u>Gamma-BHC (Lindane)</u>	<u>58-89-9</u>	-	-	-	-	<u>0.95</u>	<u>0.63</u>	<u>C</u>	
39	<u>Bis(2-chloroethyl) ether</u>	<u>111-44-4</u>	-	-	-	-	-	<u>14</u>	<u>C</u>	
40	<u>Bis(2-chloroisopropyl) ether</u>	<u>108-60-1</u>	-	-	-	-	-	<u>170,000</u>	-	
41	<u>Bis(2-ethylhexyl) phthalate</u>	<u>117817</u>	-	-	-	-	-	<u>59</u>	<u>C</u>	
42	<u>Bromoform</u>	<u>75-25-2</u>	-	-	-	-	-	<u>3600</u>	<u>C</u>	
43	<u>Butylbenzyl phthalate</u>	<u>85-68-7</u>	-	-	-	-	-	<u>5,200</u>	-	
44	<u>Carbon tetrachloride</u>	<u>56-23-5</u>	-	-	-	-	-	<u>44</u>	<u>C</u>	
45	<u>Chlordane</u>	<u>57-74-9</u>	-	-	-	-	<u>2.4</u>	<u>0.0043</u>	<u>C,P</u>	
46	<u>Chlorobenzene</u>	<u>108-90-7</u>	-	-	-	-	-	<u>21,000</u>	-	
47	<u>Chlorodibromomethane</u>	<u>124-48-1</u>	-	-	-	-	-	<u>340</u>	<u>C</u>	
48	<u>Chloroform</u>	<u>67-66-3</u>	-	-	-	-	-	<u>4,700</u>	<u>C</u>	
49	<u>2-Chloronaphthalene</u>	<u>91-58-7</u>	-	-	-	-	-	<u>4,300</u>	-	
50	<u>2-Chlorophenol</u>	<u>95-57-8</u>	-	-	-	-	-	<u>400</u>	-	
51	<u>Chrysene</u>	<u>218-01-9</u>	-	-	-	-	-	<u>0.49</u>	<u>C</u>	

<u>Pollutant</u> total, unless indicated	<u>CAS Number</u>	<u>Domestic Water Supply</u> $\mu\text{g/L}$	<u>Irrigation</u> $\mu\text{g/L}$	<u>Livestock Watering</u> $\mu\text{g/L}$	<u>Wildlife Habitat</u> $\mu\text{g/L}$	<u>Aquatic Life</u>		<u>Human Health</u> $\mu\text{g/L}$	<u>Cancer Causing and/or Persistent</u>
						<u>Acute</u> $\mu\text{g/L}$	<u>Chronic</u> $\mu\text{g/L}$		
<u>52</u> 4,4'-DDT and derivatives	<u>50-29-3</u>	-	-	-	<u>0.001</u>	<u>1.1</u>	<u>0.001</u>	<u>0.0059</u>	<u>C,P</u>
<u>53</u> <u>Dibenzo(a,h)anthracene</u>	<u>53-70-3</u>	-	-	-	-	-	-	<u>0.49</u>	<u>C</u>
<u>54</u> <u>Dibutyl phthalate</u>	<u>84-74-2</u>	-	-	-	-	-	-	<u>12,000</u>	-
<u>55</u> 1,2-Dichlorobenzene	<u>95-50-1</u>	-	-	-	-	-	-	<u>17,000</u>	-
<u>56</u> 1,3-Dichlorobenzene	<u>541-73-1</u>	-	-	-	-	-	-	<u>2,600</u>	-
<u>57</u> 1,4-Dichlorobenzene	<u>106-46-7</u>	-	-	-	-	-	-	<u>2,600</u>	-
<u>58</u> 3,3'-Dichlorobenzidine	<u>91-94-1</u>	-	-	-	-	-	-	<u>0.77</u>	<u>C</u>
<u>59</u> <u>Dichlorobromomethane</u>	<u>75-27-4</u>	-	-	-	-	-	-	<u>460</u>	<u>C</u>
<u>60</u> 1,2-Dichloroethane	<u>107-06-2</u>	-	-	-	-	-	-	<u>990</u>	<u>C</u>
<u>61</u> 1,1-Dichloroethylene	<u>75-35-4</u>	-	-	-	-	-	-	<u>32</u>	<u>C</u>
<u>62</u> 2,4-Dichlorophenol	<u>120-83-2</u>	-	-	-	-	-	-	<u>790</u>	-
<u>63</u> 1,2-Dichloropropane	<u>78-87-5</u>	-	-	-	-	-	-	<u>390</u>	<u>C</u>
<u>64</u> 1,3-Dichloropropene	<u>542-75-6</u>	-	-	-	-	-	-	<u>1,700</u>	-
<u>65</u> Dieldrin	<u>60-57-1</u>	-	-	-	-	<u>0.24</u>	<u>0.056</u>	<u>0.0014</u>	<u>C,P</u>
<u>66</u> Diethyl phthalate	<u>84-66-2</u>	-	-	-	-	-	-	<u>120,000</u>	-
<u>67</u> Dimethyl phthalate	<u>131-11-3</u>	-	-	-	-	-	-	<u>2,900,000</u>	-
<u>68</u> 2,4-Dimethylphenol	<u>105-67-9</u>	-	-	-	-	-	-	<u>2,300</u>	-
<u>69</u> 2,4-Dinitrophenol	<u>51-28-5</u>	-	-	-	-	-	-	<u>14,000</u>	-
<u>70</u> 2,4-Dinitrotoluene	<u>121-14-2</u>	-	-	-	-	-	-	<u>91</u>	<u>C</u>
<u>71</u> 2,3,7,8-TCDD Dioxin	<u>1746-01-6</u>	-	-	-	-	-	-	<u>1.4E-07</u>	<u>C,P</u>
<u>72</u> 1,2-Diphenylhydrazine	<u>122-66-7</u>	-	-	-	-	-	-	<u>5.4</u>	<u>C</u>
<u>73</u> alpha-Endosulfan	<u>959-98-8</u>	-	-	-	-	<u>0.22</u>	<u>0.056</u>	<u>240</u>	-
<u>74</u> beta-Endosulfan	<u>33213-65-9</u>	-	-	-	-	<u>0.22</u>	<u>0.056</u>	<u>240</u>	-
<u>75</u> Endosulfan sulfate	<u>1031-07-8</u>	-	-	-	-	<u>0.086</u>	<u>0.036</u>	<u>240</u>	-
<u>76</u> Endrin	<u>72-20-8</u>	-	-	-	-	-	-	<u>0.81</u>	-
<u>78</u> Endrin aldehyde	<u>7421-93-4</u>	-	-	-	-	-	-	<u>0.81</u>	-
<u>79</u> Ethylbenzene	<u>100-41-4</u>	-	-	-	-	-	-	<u>29,000</u>	-
<u>80</u> Fluoranthene	<u>206-44-0</u>	-	-	-	-	-	-	<u>370</u>	-
<u>81</u> Fluorene	<u>86-73-7</u>	-	-	-	-	-	-	<u>14,000</u>	-
<u>82</u> Heptachlor	<u>76-44-8</u>	-	-	-	-	<u>0.52</u>	<u>0.0038</u>	<u>0.0021</u>	<u>C</u>

	<u>Pollutant</u> total, unless indicated	<u>CAS Number</u>	<u>Domestic Water Supply</u> µg/L	<u>Irrigation</u> µg/L	<u>Livestock Watering</u> µg/L	<u>Wildlife Habitat</u> µg/L	<u>Aquatic Life</u>		<u>Human Health</u> µg/L	<u>Cancer Causing and/or Persistent</u>
							<u>Acute</u> µg/L	<u>Chronic</u> µg/L		
83	<u>Heptachlor epoxide</u>	<u>1024-57-3</u>	-	-	-	-	<u>0.52</u>	<u>0.0038</u>	<u>0.0011</u>	<u>C</u>
84	<u>Hexachlorobenzene</u>	<u>118-74-1</u>	-	-	-	-	-	-	<u>0.0077</u>	<u>C,P</u>
85	<u>Hexachlorobutadiene</u>	<u>87-68-3</u>	-	-	-	-	-	-	<u>500</u>	<u>C</u>
86	<u>Hexachlorocyclopentadiene</u>	<u>77-47-4</u>	-	-	-	-	-	-	<u>17,000</u>	-
87	<u>Hexachloroethane</u>	<u>67-72-1</u>	-	-	-	-	-	-	<u>89</u>	<u>C</u>
88	<u>Ideno(1,2,3-cd)pyrene</u>	<u>193-39-5</u>	-	-	-	-	-	-	<u>0.49</u>	<u>C</u>
89	<u>Isophorone</u>	<u>78-59-1</u>	-	-	-	-	-	-	<u>26,000</u>	<u>C</u>
90	<u>Methyl bromide</u>	<u>74-83-9</u>	-	-	-	-	-	-	<u>4000</u>	-
91	<u>2-Methyl-4,6-dinitrophenol</u>	<u>534-52-1</u>	-	-	-	-	-	-	<u>765</u>	-
92	<u>Methylene chloride</u>	<u>75-09-2</u>	-	-	-	-	-	-	<u>16,000</u>	<u>C</u>
93	<u>Nitrobenzene</u>	<u>98-95-3</u>	-	-	-	-	-	-	<u>1,900</u>	-
94	<u>N-Nitrosodimethylamine</u>	<u>62-75-9</u>	-	-	-	-	-	-	<u>81</u>	<u>C</u>
95	<u>N-Nitrosodi-n-propylamine</u>	<u>621-64-7</u>	-	-	-	-	-	-	<u>14</u>	<u>C</u>
96	<u>N-Nitrosodiphenylamine</u>	<u>86-30-6</u>	-	-	-	-	-	-	<u>160</u>	<u>C</u>
97	<u>PCBs</u>	<u>1336-36-3</u>	-	-	-	<u>0.014</u>	-	<u>0.014</u>	<u>0.0017</u>	<u>C,P</u>
98	<u>Pentachlorophenol</u>	<u>87-86-5</u>	-	-	-	-	<u>19</u>	<u>15</u>	<u>82</u>	<u>C</u>
99	<u>Phenol</u>	<u>108-95-2</u>	-	-	-	-	-	-	<u>4,600,000</u>	-
100	<u>Pyrene</u>	<u>129-00-0</u>	-	-	-	-	-	-	<u>11,000</u>	-
101	<u>1,1,2,2-Tetrachloroethane</u>	<u>79-34-5</u>	-	-	-	-	-	-	<u>110</u>	<u>C</u>
102	<u>Tetrachloroethylene</u>	<u>127-18-4</u>	-	-	-	-	-	-	<u>88.5</u>	<u>C,P</u>
103	<u>Toluene</u>	<u>108-88-3</u>	-	-	-	-	-	-	<u>200,000</u>	-
104	<u>Toxaphene</u>	<u>8001-35-2</u>	-	-	-	-	<u>0.73</u>	<u>0.0002</u>	<u>0.0075</u>	<u>C</u>
105	<u>1,2-Trans-dichloroethylene</u>	<u>156-60-5</u>	-	-	-	-	-	-	<u>140,000</u>	-
106	<u>1,2,4-Trichlorobenzene</u>	<u>120-82-1</u>	-	-	-	-	-	-	<u>940</u>	-
107	<u>1,1,2-Trichloroethane</u>	<u>79-00-5</u>	-	-	-	-	-	-	<u>420</u>	<u>C</u>
108	<u>Trichloroethylene</u>	<u>79-01-6</u>	-	-	-	-	-	-	<u>810</u>	<u>C</u>
109	<u>2,4,6-Trichlorophenol</u>	<u>88-06-2</u>	-	-	-	-	-	-	<u>65</u>	<u>C</u>
110	<u>Vinyl chloride</u>	<u>75-01-4</u>	-	-	-	-	-	-	<u>5,250</u>	<u>C</u>

	6.50	6.75	7.00	7.25	7.50	7.75	8.00	8.25	8.50	8.75	9.00
0	29	26	23	19	14	10	6.6	3.7	2.1	1.2	0.70
1	28	26	23	19	14	9.9	6.5	3.7	2.1	1.2	0.70
2	28	26	22	18	14	9.7	6.4	3.6	2.1	1.2	0.69
3	28	25	22	18	14	9.6	6.3	3.6	2.0	1.2	0.69
4	27	25	22	18	14	9.5	6.2	3.5	2.0	1.2	0.69
5	27	25	22	18	13	9.4	6.1	3.5	2.0	1.2	0.68
6	27	24	21	18	13	9.3	6.1	3.5	2.0	1.1	0.68
7	26	24	21	17	13	9.2	6.0	3.4	2.0	1.1	0.68
8	26	24	21	17	13	9.1	6.0	3.4	1.9	1.1	0.68
9	26	24	21	17	13	9.0	5.9	3.4	1.9	1.1	0.68
10	25	23	21	17	13	8.9	5.9	3.3	1.9	1.1	0.68
11	25	23	20	17	13	8.9	5.8	3.3	1.9	1.1	0.68
12	25	23	20	17	13	8.8	5.8	3.3	1.9	1.1	0.69
13	25	23	20	16	12	8.7	5.7	3.3	1.9	1.1	0.69
14	25	23	20	16	12	8.7	5.7	3.3	1.9	1.1	0.70
15	24	23	20	16	12	8.6	5.7	3.3	1.9	1.1	0.70
16	24	22	20	16	12	8.6	5.7	3.3	1.9	1.1	0.71
17	24	22	20	16	12	8.5	5.6	3.2	1.9	1.1	0.72
18	24	22	19	16	12	8.5	5.6	3.2	1.9	1.2	0.73
19	24	22	19	16	12	8.5	5.6	3.2	1.9	1.2	0.74
20	24	22	19	16	12	8.5	5.6	3.2	1.9	1.2	0.75
21	24	22	19	16	12	8.4	5.6	3.2	1.9	1.2	0.77
22	24	22	19	16	12	8.4	5.6	3.3	1.9	1.2	0.78
23	24	22	19	16	12	8.4	5.6	3.3	1.9	1.2	0.80
24	24	22	19	16	12	8.4	5.6	3.3	2.0	1.2	0.81
25	24	22	19	16	12	8.4	5.6	3.3	2.0	1.2	0.83
26	22	20	18	15	11	7.9	5.2	3.1	1.9	1.2	0.80
27	20	19	17	14	10	7.3	4.9	2.9	1.8	1.1	0.76
28	19	18	15	13	9.7	6.9	4.6	2.7	1.7	1.1	0.73
29	18	16	14	12	9.1	6.4	4.3	2.6	1.6	1.0	0.70
30	17	15	13	11	8.5	6.0	4.1	2.4	1.5	0.97	0.68

	6.50	6.75	7.00	7.25	7.50	7.75	8.00	8.25	8.50	8.75	9.00
0	2.5	2.5	2.5	2.5	2.5	2.3	1.5	0.84	0.48	0.28	0.16
1	2.5	2.5	2.5	2.5	2.5	2.3	1.5	0.83	0.47	0.27	0.16
2	2.4	2.4	2.4	2.4	2.4	2.2	1.5	0.82	0.47	0.27	0.16
3	2.4	2.4	2.4	2.4	2.4	2.2	1.4	0.81	0.46	0.27	0.16
4	2.4	2.4	2.4	2.4	2.4	2.2	1.4	0.80	0.46	0.27	0.16
5	2.3	2.3	2.3	2.3	2.3	2.1	1.4	0.80	0.45	0.26	0.16
6	2.3	2.3	2.3	2.3	2.3	2.1	1.4	0.79	0.45	0.26	0.16
7	2.3	2.3	2.3	2.3	2.3	2.1	1.4	0.78	0.45	0.26	0.16
8	2.3	2.3	2.3	2.3	2.3	2.1	1.4	0.77	0.44	0.26	0.15
9	2.2	2.2	2.2	2.2	2.2	2.1	1.3	0.77	0.44	0.26	0.16
10	2.2	2.2	2.2	2.2	2.2	2.0	1.3	0.76	0.44	0.26	0.16
11	2.2	2.2	2.2	2.2	2.2	2.0	1.3	0.76	0.44	0.26	0.16
12	2.2	2.2	2.2	2.2	2.2	2.0	1.3	0.75	0.44	0.26	0.16
13	2.2	2.2	2.2	2.2	2.2	2.0	1.3	0.75	0.43	0.26	0.16
14	2.1	2.1	2.1	2.1	2.2	2.0	1.3	0.75	0.43	0.26	0.16
15	2.1	2.1	2.1	2.1	2.1	2.0	1.3	0.74	0.43	0.26	0.16
16	2.1	2.1	2.1	2.1	2.1	2.0	1.3	0.74	0.43	0.26	0.16
17	2.1	2.1	2.1	2.1	2.1	1.9	1.3	0.74	0.43	0.26	0.16
18	2.1	2.1	2.1	2.1	2.1	1.9	1.3	0.74	0.43	0.26	0.17
19	2.1	2.1	2.1	2.1	2.1	1.9	1.3	0.74	0.44	0.26	0.17
20	2.1	2.1	2.1	2.1	2.1	1.9	1.3	0.74	0.44	0.27	0.17
21	1.9	1.9	1.9	1.9	1.9	1.8	1.2	0.69	0.41	0.25	0.16
22	1.8	1.8	1.8	1.8	1.8	1.7	1.1	0.65	0.38	0.24	0.15
23	1.7	1.7	1.7	1.7	1.7	1.6	1.0	0.60	0.36	0.22	0.15
24	1.6	1.6	1.6	1.6	1.6	1.5	0.97	0.57	0.34	0.21	0.14
25	1.4	1.4	1.5	1.5	1.5	1.4	0.91	0.53	0.32	0.20	0.13
26	1.3	1.3	1.4	1.4	1.4	1.3	0.85	0.50	0.30	0.19	0.13
27	1.3	1.3	1.3	1.3	1.3	1.2	0.79	0.47	0.28	0.18	0.12
28	1.2	1.2	1.2	1.2	1.2	1.1	0.74	0.44	0.27	0.17	0.12
29	1.1	1.1	1.1	1.1	1.1	1.0	0.70	0.41	0.25	0.16	0.11
30	1.0	1.0	1.0	1.0	1.0	0.97	0.65	0.39	0.24	0.16	0.11



	6.50	6.75	7.00	7.25	7.50	7.75	8.00	8.25	8.50	8.75	9.00
0	29	26	23	19	14	10	6.6	3.7	2.1	1.2	0.70
1	28	26	23	19	14	9.9	6.5	3.7	2.1	1.2	0.70
2	28	26	22	18	14	9.7	6.4	3.6	2.1	1.2	0.69
3	28	25	22	18	14	9.6	6.3	3.6	2.0	1.2	0.69
4	27	25	22	18	14	9.5	6.2	3.5	2.0	1.2	0.69
5	27	25	22	18	13	9.4	6.1	3.5	2.0	1.2	0.68
6	27	24	21	18	13	9.3	6.1	3.5	2.0	1.1	0.68
7	26	24	21	17	13	9.2	6.0	3.4	2.0	1.1	0.68
8	26	24	21	17	13	9.1	6.0	3.4	1.9	1.1	0.68
9	26	24	21	17	13	9.0	5.9	3.4	1.9	1.1	0.68
10	25	23	21	17	13	8.9	5.9	3.3	1.9	1.1	0.68
11	25	23	20	17	13	8.9	5.8	3.3	1.9	1.1	0.68
12	25	23	20	17	13	8.8	5.8	3.3	1.9	1.1	0.69
13	25	23	20	16	12	8.7	5.7	3.3	1.9	1.1	0.69
14	25	23	20	16	12	8.7	5.7	3.3	1.9	1.1	0.70
15	24	23	20	16	12	8.6	5.7	3.3	1.9	1.1	0.70
16	24	22	20	16	12	8.6	5.7	3.3	1.9	1.1	0.71
17	24	22	20	16	12	8.5	5.6	3.2	1.9	1.1	0.72
18	24	22	19	16	12	8.5	5.6	3.2	1.9	1.2	0.73
19	24	22	19	16	12	8.5	5.6	3.2	1.9	1.2	0.74
20	24	22	19	16	12	8.5	5.6	3.2	1.9	1.2	0.75
21	22	20	18	15	11	7.9	5.2	3.0	1.8	1.1	0.71
22	21	19	17	14	10	7.3	4.9	2.8	1.7	1.0	0.68
23	19	18	15	13	9.7	6.8	4.5	2.7	1.6	0.98	0.65
24	18	16	14	12	9.0	6.4	4.2	2.5	1.5	0.93	0.62
25	17	15	13	11	8.4	6.0	4.0	2.3	1.4	0.88	0.59
26	16	14	13	10	7.9	5.6	3.7	2.2	1.3	0.84	0.56
27	14	13	12	9.6	7.3	5.2	3.5	2.1	1.2	0.79	0.54
28	13	12	11	9.0	6.9	4.9	3.3	1.9	1.2	0.76	0.52
29	13	12	10	8.4	6.4	4.6	3.1	1.8	1.1	0.72	0.50
30	12	11	10	7.8	6.0	4.3	2.9	1.7	1.1	0.69	0.48

	6.50	6.75	7.00	7.25	7.50	7.75	8.00	8.25	8.50	8.75	9.00
0	2.5	2.5	2.5	2.5	2.5	2.3	1.5	0.84	0.48	0.28	0.16
1	2.5	2.5	2.5	2.5	2.5	2.3	1.5	0.83	0.47	0.27	0.16
2	2.4	2.4	2.4	2.4	2.4	2.2	1.5	0.82	0.47	0.27	0.16
3	2.4	2.4	2.4	2.4	2.4	2.2	1.4	0.81	0.46	0.27	0.16
4	2.4	2.4	2.4	2.4	2.4	2.2	1.4	0.80	0.46	0.27	0.16
5	2.3	2.3	2.3	2.3	2.3	2.1	1.4	0.80	0.45	0.26	0.16
6	2.3	2.3	2.3	2.3	2.3	2.1	1.4	0.79	0.45	0.26	0.16
7	2.3	2.3	2.3	2.3	2.3	2.1	1.4	0.78	0.45	0.26	0.16
8	2.3	2.3	2.3	2.3	2.3	2.1	1.4	0.77	0.44	0.26	0.15
9	2.2	2.2	2.2	2.2	2.2	2.1	1.3	0.77	0.44	0.26	0.16
10	2.2	2.2	2.2	2.2	2.2	2.0	1.3	0.76	0.44	0.26	0.16
11	2.2	2.2	2.2	2.2	2.2	2.0	1.3	0.76	0.44	0.26	0.16
12	2.2	2.2	2.2	2.2	2.2	2.0	1.3	0.75	0.44	0.26	0.16
13	2.2	2.2	2.2	2.2	2.2	2.0	1.3	0.75	0.43	0.26	0.16
14	2.1	2.1	2.1	2.1	2.2	2.0	1.3	0.75	0.43	0.26	0.16
15	2.1	2.1	2.1	2.1	2.1	2.0	1.3	0.74	0.43	0.26	0.16
16	2.0	2.0	2.0	2.0	2.0	1.8	1.2	0.69	0.40	0.24	0.15
17	1.8	1.8	1.8	1.8	1.8	1.7	1.1	0.64	0.38	0.23	0.14
18	1.7	1.7	1.7	1.7	1.7	1.6	1.0	0.60	0.35	0.21	0.14
19	1.6	1.6	1.6	1.6	1.6	1.5	0.97	0.56	0.33	0.20	0.13
20	1.5	1.5	1.5	1.5	1.5	1.4	0.90	0.52	0.31	0.19	0.12
21	1.4	1.4	1.4	1.4	1.4	1.3	0.84	0.49	0.29	0.18	0.12
22	1.3	1.3	1.3	1.3	1.3	1.2	0.79	0.46	0.27	0.17	0.11
23	1.2	1.2	1.2	1.2	1.2	1.1	0.73	0.43	0.26	0.16	0.10
24	1.1	1.1	1.1	1.1	1.1	1.0	0.69	0.40	0.24	0.15	0.10
25	1.0	1.0	1.0	1.0	1.0	0.96	0.64	0.38	0.23	0.14	0.095
26	0.95	0.95	0.96	0.96	0.97	0.9	0.60	0.35	0.21	0.13	0.091
27	0.89	0.89	0.89	0.90	0.91	0.84	0.56	0.33	0.20	0.13	0.087
28	0.83	0.83	0.83	0.84	0.85	0.79	0.53	0.31	0.19	0.12	0.084
29	0.77	0.78	0.78	0.78	0.79	0.73	0.49	0.29	0.18	0.12	0.080
30	0.72	0.72	0.73	0.73	0.74	0.69	0.46	0.28	0.17	0.11	0.077

[Θ] P. Dissolved oxygen saturation based on temperature and elevation.

Temperature °C	Elevation (feet)																							
	0	500	1,000	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000	5,500	6,000	6,500	7,000	7,500	8,000	8,500	9,000	9,500	10,000			
0	14.6	14.3	14.1	13.8	13.6	13.3	13.1	12.8	12.6	12.3	12.1	11.9	11.6	11.4	11.2	11.0	10.8	10.6	10.3	10.1	9.9			
1	14.2	13.9	13.7	13.4	13.2	12.9	12.7	12.5	12.2	12.0	11.8	11.5	11.3	11.1	10.9	10.7	10.5	10.3	10.1	9.9	9.7			
2	13.8	13.6	13.3	13.1	12.8	12.6	12.4	12.1	11.9	11.7	11.5	11.2	11.0	10.8	10.6	10.4	10.2	10.0	9.8	9.6	9.4			
3	13.4	13.2	13.0	12.7	12.5	12.3	12.0	11.8	11.6	11.4	11.1	10.9	10.7	10.5	10.3	10.1	9.9	9.7	9.5	9.3	9.1			
4	13.1	12.8	12.6	12.4	12.2	11.9	11.7	11.5	11.3	11.1	10.9	10.7	10.4	10.2	10.0	9.8	9.6	9.4	9.2	9.0	8.9			
5	12.7	12.5	12.3	12.1	11.8	11.6	11.4	11.2	11.0	10.8	10.6	10.4	10.2	10.0	9.8	9.6	9.4	9.2	9.0	8.8	8.7			
6	12.4	12.2	12.0	11.8	11.5	11.3	11.1	10.9	10.7	10.5	10.3	10.1	9.9	9.7	9.5	9.4	9.2	9.0	8.8	8.6	8.5			
7	12.1	11.9	11.7	11.5	11.3	11.1	10.8	10.6	10.4	10.2	10.1	9.9	9.7	9.5	9.3	9.1	8.9	8.8	8.6	8.4	8.2			
8	11.8	11.6	11.4	11.2	11.0	10.8	10.6	10.4	10.2	10.0	9.8	9.6	9.4	9.3	9.1	8.9	8.7	8.6	8.4	8.2	8.0			
9	11.5	11.3	11.1	10.9	10.7	10.5	10.3	10.1	9.9	9.8	9.6	9.4	9.2	9.0	8.9	8.7	8.5	8.3	8.2	8.0	7.8			
10	11.3	11.1	10.9	10.7	10.5	10.3	10.1	9.9	9.7	9.5	9.4	9.2	9.0	8.8	8.7	8.5	8.3	8.1	8.0	7.8	7.7			
11	11.0	10.8	10.6	10.4	10.2	10.0	9.9	9.7	9.5	9.3	9.1	9.0	8.8	8.6	8.5	8.3	8.1	8.0	7.8	7.6	7.5			
12	10.8	10.6	10.4	10.2	10.0	9.8	9.6	9.5	9.3	9.1	8.9	8.8	8.6	8.4	8.3	8.1	7.9	7.8	7.6	7.5	7.3			
13	10.5	10.3	10.1	9.9	9.8	9.6	9.4	9.2	9.1	8.9	8.7	8.6	8.4	8.2	8.1	7.9	7.8	7.6	7.5	7.3	7.2			
14	10.3	10.1	9.9	9.7	9.6	9.4	9.2	9.0	8.9	8.7	8.5	8.4	8.2	8.1	7.9	7.7	7.6	7.4	7.3	7.1	7.0			
15	10.1	9.9	9.7	9.5	9.3	9.2	9.0	8.8	8.7	8.5	8.4	8.2	8.0	7.9	7.7	7.6	7.4	7.3	7.1	7.0	6.8			
16	9.8	9.7	9.5	9.3	9.2	9.0	8.8	8.7	8.5	8.3	8.2	8.0	7.9	7.7	7.6	7.4	7.3	7.1	7.0	6.8	6.7			
17	9.6	9.5	9.3	9.1	9.0	8.8	8.6	8.5	8.3	8.2	8.0	7.9	7.7	7.6	7.4	7.3	7.1	7.0	6.8	6.7	6.6			
18	9.4	9.3	9.1	8.9	8.8	8.6	8.5	8.3	8.1	8.0	7.8	7.7	7.5	7.4	7.3	7.1	7.0	6.8	6.7	6.6	6.4			
19	9.3	9.1	8.9	8.8	8.6	8.4	8.3	8.1	8.0	7.8	7.7	7.5	7.4	7.2	7.1	7.0	6.8	6.7	6.6	6.4	6.3			
20	9.1	8.9	8.7	8.6	8.4	8.3	8.1	8.0	7.8	7.7	7.5	7.4	7.2	7.1	7.0	6.8	6.7	6.6	6.4	6.3	6.2			
21	8.9	8.7	8.6	8.4	8.3	8.1	8.0	7.8	7.7	7.5	7.4	7.2	7.1	7.0	6.8	6.7	6.6	6.4	6.3	6.2	6.0			
22	8.7	8.6	8.4	8.2	8.1	8.0	7.8	7.7	7.5	7.4	7.2	7.1	7.0	6.8	6.7	6.6	6.4	6.3	6.2	6.1	5.9			
23	8.6	8.4	8.2	8.1	7.9	7.8	7.7	7.5	7.4	7.2	7.1	7.0	6.8	6.7	6.6	6.4	6.3	6.2	6.1	5.9	5.8			
24	8.4	8.2	8.1	7.9	7.8	7.7	7.5	7.4	7.2	7.1	7.0	6.8	6.7	6.6	6.4	6.3	6.2	6.1	5.9	5.8	5.7			
25	8.2	8.1	7.9	7.8	7.7	7.5	7.4	7.2	7.1	7.0	6.8	6.7	6.6	6.5	6.3	6.2	6.1	6.0	5.8	5.7	5.6			
26	8.1	7.9	7.8	7.7	7.5	7.4	7.2	7.1	7.0	6.8	6.7	6.6	6.5	6.3	6.2	6.1	6.0	5.8	5.7	5.6	5.5			
27	7.9	7.8	7.7	7.5	7.4	7.2	7.1	7.0	6.8	6.7	6.6	6.5	6.3	6.2	6.1	6.0	5.9	5.7	5.6	5.5	5.4			
28	7.8	7.7	7.5	7.4	7.2	7.1	7.0	6.9	6.7	6.6	6.5	6.4	6.2	6.1	6.0	5.9	5.8	5.6	5.5	5.4	5.3			
29	7.7	7.5	7.4	7.3	7.1	7.0	6.9	6.7	6.6	6.5	6.4	6.2	6.1	6.0	5.9	5.8	5.7	5.5	5.4	5.3	5.2			
30	7.5	7.4	7.3	7.1	7.0	6.9	6.7	6.6	6.5	6.4	6.3	6.1	6.0	5.9	5.8	5.7	5.6	5.4	5.3	5.2	5.1			

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Issue Number 20	October 16	October 31
Issue Number 21	November 1	November 14
Issue Number 22	November 15	November 27
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Issue Number 7	April 1	April 15
Issue Number 8	April 16	April 30
Issue Number 9	May 1	May 15
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