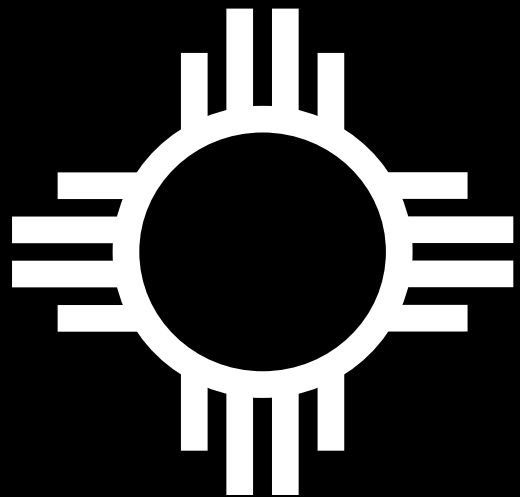


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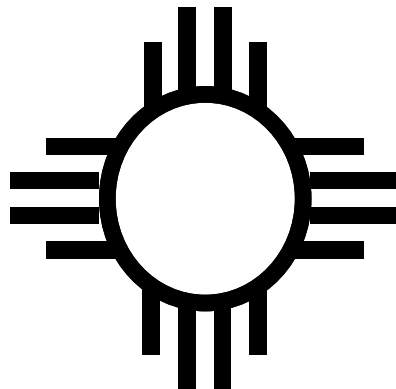
**Volume XIX  
Issue Number 2  
January 31, 2008**



# **New Mexico Register**

**Volume XIX, Issue Number 2**

**January 31, 2008**



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  
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2008

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# New Mexico Register

Volume XIX, Number 2

January 31, 2008

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#### Effective Date and Validity of Rule Filings

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

***A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered***

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## Notices of Rulemaking and Proposed Rules

### ALBUQUERQUE- BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

#### ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD NOTICE OF HEARING AND REGULAR MEETING

On **March 12, 2008, at 5:30pm**, the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) will hold a public hearing in the Vincent E. Griego Chambers(City Council/County Commission Chambers), Albuquerque-Bernalillo County Government Center, 400 Marquette NW, Albuquerque, NM 87102.. The hearing will address:

1. Proposal to adopt a new regulation, **20.11.47 NMAC, Emissions Inventory Requirements**
2. Proposal to incorporate **20.11.47 NMAC, Emissions Inventory Requirements** into the New Mexico State Implementation Plan for air quality (SIP).

This regulation is part of a broader effort by the State of New Mexico, the City of Albuquerque, and Bernalillo County, to address emissions of greenhouse gases. The proposed new regulation 20.11.47 NMAC, *Emissions Inventory Requirements*, formalizes the Albuquerque Air Quality Division's authority to require criteria air pollutant and greenhouse gas reporting from sources in Bernalillo County. This proposed new regulation would complement the recently adopted regulation, 20.11.48 NMAC, *Greenhouse Gas Emissions Reporting*, that requires specific greenhouse gas reporting for three industrial sectors - power plants, refineries and cement manufacturing plants, and which became effective January 1, 2008.

After the hearing closes the Air Board is expected to convene its regular meeting, during which they will decide whether to adopt the proposed new regulation, 20.11.47 NMAC, and whether to incorporate 20.11.47 NMAC into the SIP.

The Air Quality Control Board is the federally delegated air quality authority for Albuquerque and Bernalillo County. Federal, State, and local delegation authorize the Air Board to administer and enforce the Clean Air Act, the New Mexico Air Quality Control Act, local air quality regu-

lations, 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 who wish to testify regarding the subject of the hearings may do so at the hearing and will be given a reasonable opportunity to submit relevant evidence, data, views, and arguments, orally or in writing, to introduce exhibits and to examine witnesses in accordance with the Joint Air Quality Control Board Ordinances, Section 9-5-1-6 ROA 1994 and Bernalillo County Ordinance 94-5, Section 6.

Anyone intending to present technical testimony at this hearing is asked to submit a written Notice of Intent to testify (NOI) before 5:00pm on February 26, 2008 to: Attn: March Hearing Record, Ms. Janice Amend, Albuquerque Environmental Health Department, P.O. Box 1293, Albuquerque, NM 87103, or, you may deliver your NOI to the Environmental Health Department Office, Suite 3023, 400 Marquette Avenue NW. The NOI shall identify the name, address, and affiliation of the person testifying.

In addition, written comments to be incorporated into the public record for the March 12, 2008 hearing should be received at the above P.O. Box, or Environmental Health Department office, before 5:00 pm on March 5, 2008. Comments shall include the name and address of the individual or organization submitting the statement. Written comments may also be submitted electronically to [jamend@cabq.gov](mailto:jamend@cabq.gov) and shall include the required name and address information. Interested persons may obtain a copy of the proposed rules at the Environmental Health Department Office, or by contacting Ms. Janice Amend electronically at [jamend@cabq.gov](mailto:jamend@cabq.gov) or by phone (505) 768-2601.

**NOTICE FOR PERSON WITH DISABILITIES: Notice to persons with disabilities: If you have a disability and require special assistance to participate in a Board meeting please call: 311 (Voice) or 1-800-659-8331 (TTY).**

### NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT

FAMILY SERVICES DIVISION

#### NOTICE OF PUBLIC HEARING

The Children, Youth and Families Department, Family Services, will hold a formal public hearing on Wednesday, March 5, 2008, at 3:00 p.m. in Room 565 of the PERA Building, 1120 Paseo de Peralta, Santa Fe, New Mexico to receive public comment regarding a proposed amendment to 8.8.3 NMAC Governing Background Checks and Employment History Verification. Specifically, Paragraph (5) of Subsection A of 8.8.3.11 NMAC - No more than [~~thirty (30)~~] forty-five (45) days shall have passed since the date of the initial application unless the department documents good cause for an extension.

Interested persons may testify at the hearing or submit written comments no later than 5:00 p.m. on March 5, 2008. Written comments will be given the same consideration as oral testimony given at the hearing. Written comments should be addressed to: Debra A. Gonzales, Background Checks Unit, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160, Fax Number: 505-827-7422, Electronic Mail: [Debra.Gonzales@state.nm.us](mailto:Debra.Gonzales@state.nm.us).

If you are a person with a disability and you require this information in an alternative format or require special accommodations to participate in the public hearing, please contact Debra A. Gonzales at 505-827-7326. Family Services requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

### NEW MEXICO GAME COMMISSION

#### STATE GAME COMMISSION PUBLIC MEETING AND RULE MAKING NOTICE

On Thursday, February 21, 2008, beginning at 9:00 a.m., at State Capitol Building, 419 Old Santa Fe Trail - Room 322, Santa Fe, NM 87503, the State Game Commission will meet in Public Session to hear and consider action as appropriate on the following: Organizational Structure of State Game Commission; Revocations; Presentation of FY'08 2nd Quarter Depredation Report for Approval; Presentation of Fiscal Year 2008

Financial Statements and Audit Report; Protecting Important Fish and Wildlife Habitats and Populations in New Mexico during Energy Development Activities on Federal and State Lands; Oil and Gas Exceptions Subcommittee Report; General Public Comments; Closed Executive Session to discuss litigation, personnel, acquisition or disposal of real property or water rights, and pursuant to Section 10-15-1(H)(1), NMSA, 1978, to discuss matters related to the determination of sending "Notice of Commission Contemplated Action" for outfitter and/or guide registration to any identified individual(s) that may have violated regulating procedures and conduct as per 19.30.8, and 19.31.2, NMAC; Approval of Quail Habitat Guidelines; Land Conservation Appropriation Update and Action as Needed; and Legislative Session Update.

The following rules are open for public comment and consideration for adoption by the Commission:

\* Designate Reasonable Notice to the Public for Commission Meetings during 2008;

\* Biennial Review of New Mexico State-listed Wildlife (19.33.6.8, NMAC);

\* Wildlife-associated Recreation Efforts on Wildlife Management Areas, including Amendment of 19.34.3, NMAC;

\* Big Game and Turkey Rule Development Process-Rule Opening (19.30.4, NMAC; 19.31.3, NMAC; 19.31.10, NMAC; 19.31.11, NMAC; 19.31.12, NMAC; 19.31.13, NMAC; 19.31.14, NMAC; 19.31.15, NMAC; 19.31.16, NMAC; 19.31.17, NMAC);

\* Proposed Change to the Manner and Method Rule 19.31.10, NMAC, Limiting the Number of Flies on a Single Line; and

\* Proposed Changes to the Fisheries Rule, 19.31.4, NMAC.

A copy of the agenda or any of the affected rules can be obtained from the Office of the Director, New Mexico Department of Game and Fish, P.O. Box 25112, Santa Fe, New Mexico 87504 or on the Department's website. This agenda is subject to change up to 24 hours prior to the meeting. Please contact the Director's Office at (505) 476-8008, or the Department's website at [www.wildlife.state.nm.us](http://www.wildlife.state.nm.us) for updated information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Shirley Baker at (505) 476-8030. Please contact Ms. Baker at least 3 working

days before the set meeting date. Public documents, including the Agenda and Minutes can be provided in various accessible forms. Please contact Shirley Baker if a summary or other type of accessible form is needed.

## NEW MEXICO HEALTH POLICY COMMISSION

### NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED RULE CHANGE OF THE DATA REPORTING REQUIREMENTS FOR HEALTH CARE FACILITIES REGULATIONS 7.1.1.7 THROUGH 7.1.1.10

The New Mexico Health Policy Commission (HPC) will hold a public hearing on February 29, 2008 at 9:00am, and continuing thereafter as necessary. The hearing will be held at the Health Policy Commission conference room, 2055 S. Pacheco, Santa Fe, New Mexico 87505. The conference room is located in Suite 300.

The proposed amendments relate to several specific areas, including (i) adding a National Provider Identification (NPI) to definitions, (ii) adding codes indicating patient disposition at the time of discharge as it pertains to patient status, (iii) the addition of NPI to the data required to be reported by nonfederal and specialty inpatient health care facilities for the attending physician code, and (iv) the use of E-code as it pertains to injuries.

Please note formatting, renumbering and minor technical changes in the regulations may occur.

The proposed regulations may be reviewed during regular business hours at the office of the Health Policy Commission, 2055 S. Pacheco, Suite 200, Santa Fe, New Mexico, 87505. Copies of the proposed regulations may be obtained by contacting Peggy Schummers at (505) 827-6209 or by email at [Margaret.schummers@state.nm.us](mailto:Margaret.schummers@state.nm.us), or by going online to the Commission website at [www.hpc.state.nm.us/pages/a-z/atoz.html](http://www.hpc.state.nm.us/pages/a-z/atoz.html) Rule Changes.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and the examine witnesses. Any person who wishes to submit a non-technical written statement for the record in lieu of oral testimony shall file such statement prior to the close of the hearing.

Persons who do not wish to attend the hear-

ing may submit written or recorded comments. Written or recorded comments must be received by 1:00 P.M. on the date of the hearing. Please send comments to:

Peggy Schummers  
NM Health Policy Commission  
2055 S. Pacheco, Suite 200  
Santa Fe, NM 87505

You may send comments electronically to: [Margaret.schummers@state.nm.us](mailto:Margaret.schummers@state.nm.us)

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 Peggy Schummers, HR Manager, by February 15, 2008. Ms. Schummers can be reached at the above address and phone. TDD and TDY users may access this number via the New Mexico Relay Network (Albuquerque TDD users (505) 275-7333; outside of Albuquerque: 1-800-659-1779.)

## NEW MEXICO HEALTH POLICY COMMISSION

### NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED RULE CHANGE OF THE ACCESS TO HEALTH INFORMATION SYSTEM DATA AND REPORTS REGULATIONS 7.1.20.15

The New Mexico Health Policy Commission (HPC) will hold a public hearing on February 29, 2008 at 1:00pm, and continuing thereafter as necessary. The hearing will be held at the Health Policy Commission conference room, 2055 S. Pacheco, Santa Fe, New Mexico 87505. The conference room is located in Suite 300.

The proposed amendment is to increase the fees charged for data and non-routine reports.

The proposed regulations may be reviewed during regular business hours at the office of the Health Policy Commission, 2055 S. Pacheco, Suite 200, Santa Fe, New Mexico, 87505. Copies of the proposed regulations may be obtained by contacting Peggy Schummers at (505) 827-6209 or by email at [Margaret.schummers@state.nm.us](mailto:Margaret.schummers@state.nm.us), or by going online to the Commission website at [www.hpc.state.nm.us/pages/a-z/atoz.html](http://www.hpc.state.nm.us/pages/a-z/atoz.html) Rule Changes.

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



exhibits, and the examine witnesses. Any person who wishes to submit a non-technical written statement for the record in lieu of oral testimony shall file such statement prior to the close of the hearing.

Persons who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 5:00 P.M. on the date of the hearing. Please send comments to:

Peggy Schummers  
NM Health Policy Commission  
2055 S. Pacheco, Suite 200  
Santa Fe, NM 87505

You may send comments electronically to:  
[Margaret.schummers@state.nm.us](mailto:Margaret.schummers@state.nm.us)

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 Peggy Schummers, HR Manager, by February 15, 2008. Ms. Schummers can be reached at the above address and phone. TDD and TDY users may access this number via the New Mexico Relay Network (Albuquerque TDD users (505) 275-7333; outside of Albuquerque: 1-800-659-1779.)

## NEW MEXICO MINING SAFETY BOARD

### NOTICE OF PUBLIC MEETING AND HEARING OF THE NEW MEXICO MINING SAFETY BOARD

The New Mexico Mining Safety Board will hold a public meeting beginning at 10:00 A.M. **Wednesday, March 26, 2008** in Porter Hall within the Wendell Chino Building located at 1220 S. St. Francis Drive, Santa Fe, New Mexico.

During the meeting, the Mining Safety Board will conduct a public hearing on proposed rules for mining safety proposed by the Mining Safety Board. The Board will consider comment regarding repeal of existing rules MI 71-1, MI 71-2, MI 71-3, MI 74-1, MI 74-2, MI 74-3, MI 74-4, MI 75-1, MI 75-2, MI 75-3, MI 78-1 and repeal of MI 81-1 and replacement with the hoist signal new rule. To view proposed rules proposed for repeal and the repeal and replacement of MI 81-1, go to the State Mine Inspector's homepage at <http://bmi.state.nm.us/>. Copies of the proposed rule changes are also available from the New Mexico Bureau of Mine Safety, 801 Leroy Place, Socorro, NM 87801 or by calling 575/835-5460. At the conclusion of the hearing, the Mining

Safety Board may deliberate and vote on the proposed rule changes.

A copy of the agenda for the meeting/hearing will be available at least 24 hours before the meeting and may be obtained by contacting Amanda Stuart at 575-835-5460. If you need a reader, amplifier, qualified sign language interpreter or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Amanda Stuart at 575-835-5460 at least 48 hours prior to the hearing. Public documents can be provided in various accessible forms. Please contact Amanda Stuart if a summary or other type of accessible form is needed.

## NEW MEXICO DEPARTMENT OF TRANSPORTATION

### THE NEW MEXICO DEPARTMENT OF TRANSPORTATION

#### NOTICE OF PUBLIC HEARING

The New Mexico Department of Transportation (NMDOT) will hold a public hearing for the purpose of receiving oral and written public comment on revisions to Rule Number 18.20.3, Driver Education Schools; Rule Number 18.20.8, Driving Safety Schools; and Rule Number 7.32.20, Driving While Impaired (DWI) Schools. The purpose of the proposed rule revisions is to update the license and certificate issuance, renewal and revocation procedures for the driver education, driving safety and driving while impaired schools.

The hearing is scheduled on March 7, 2008, from 1:30 p.m. to 4:30 p.m. at the New Mexico Department of Transportation, General Office, Training Rooms 1 and 2, located at 1120 Cerrillos Road, Santa Fe, New Mexico. Please contact Mershawn Martinez, Traffic Safety Bureau, New Mexico Department of Transportation, 604 West San Mateo Road, Santa Fe, New Mexico 87504, Telephone (505) 827-2143 to request a copy of the rules.

The hearing will be held before Michael Sandoval, NMDOT, Director, Traffic Safety Bureau. Interested persons may also present their views by written statements submitted on or before February 29, 2008, New Mexico Department of Transportation, 604 West San Mateo Road, Santa Fe, New Mexico 87504, Telephone (505) 827-2143.

Any individual with a disability who is in need of an auxiliary aid or service

to attend or participate in the hearing, or who needs copies of the proposed rule in an accessible form may contact Mershawn Martinez at (505) 827-2143 at least ten days before the hearing.

## NEW MEXICO DEPARTMENT OF TRANSPORTATION

### THE NEW MEXICO DEPARTMENT OF TRANSPORTATION

#### NOTICE OF PUBLIC HEARING

The New Mexico Department of Transportation (NMDOT) will hold a public hearing for the purpose of receiving oral and written public comment on revisions to Rule Number 18.20.11, Ignition Interlock Devices. The purpose of the proposed rule revision is to update the provisions applying to the use of ignition interlock devices in New Mexico and to establish procedures for the establishment of the Interlock Device Fund.

The hearing is scheduled on March 7, 2008, from 9:00 a.m. to 12:00 p.m. at the New Mexico Department of Transportation, General Office, Training Rooms 1 and 2, located at 1120 Cerrillos Road, Santa Fe, New Mexico. Please contact Mershawn Martinez, Traffic Safety Bureau, New Mexico Department of Transportation, 604 West San Mateo Road, Santa Fe, New Mexico 87504, Telephone (505) 827-2143 to request a copy of the rule.

The hearing will be held before Michael Sandoval, NMDOT, Director, Traffic Safety Bureau. Interested persons may also present their views by written statements submitted on or before February 29, 2008, New Mexico Department of Transportation, 604 West San Mateo Road, Santa Fe, New Mexico 87504, Telephone (505) 827-2143.

Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule in an accessible form may contact Mershawn Martinez at (505) 827-2143 at least ten days before the hearing.

## NEW MEXICO WATER QUALITY CONTROL COMMISSION

### NEW MEXICO WATER QUALITY CONTROL COMMISSION NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO 20.7.4 NMAC - UTILITY OPERATOR CERTIFICA- TION

The New Mexico Water Quality Control Commission ("Commission" or "WQCC") will hold a public hearing on March 11, 2008 at 9:00 a.m., and continuing thereafter as necessary, in the New Mexico State Capital Building, Room 317, Santa Fe, New Mexico. The hearing location may change prior to March 11, 2008 and those interested in attending should check the WQCC website: [www.nmenv.state.nm.us/wqcc](http://www.nmenv.state.nm.us/wqcc) prior to the hearing. The purpose of the hearing is to consider proposed amendments to the New Mexico Utility Operator Certification Regulations (20.7.4 NMAC). The New Mexico Utility Operator Certification Advisory Board is the proponent of these regulations.

The proposed amendments to 20.7.4 NMAC would add a new section, 20.7.4.15, and are necessary to conform to the requirements in the Utility Operators Certification Act and the Utility Operator Certification Regulations for providing criteria for identifying the minimum number of certified operators of public water supply systems or public wastewater facilities.

Please note formatting and minor technical changes in the regulations may occur. In addition, the Commission may make other amendments as necessary to accomplish the purpose of providing public health and safety in response to public comments submitted to the Commission and evidence presented at the hearing.

All proposed amendments and other documents related to the hearing may be reviewed during regular business hours in the office of the Commission:

Joyce Medina, WQCC Administrator  
Harold Runnels Building, 1190 St. Francis Drive, N2150  
Santa Fe, New Mexico, 87502  
(505) 827-2425, Fax (505) 827-2836

The proposed amendments have been posted to the New Mexico Environment Department/Facility Operations Section webpage at <http://www.nmenv.state.nm.us/swqb/FOT/index.html>. Parties interested in receiving a

hardcopy should contact Mike Coffman by email at: [mike.coffman@state.nm.us](mailto:mike.coffman@state.nm.us) or by phone at (505) 222-9575. Written comments regarding the new regulations may be addressed to Ms. Medina at the above address, and should reference docket number WQCC 07-09 (R).

The hearing will be conducted in accordance with NMSA 1978, Section 74-6-6 of the Water Quality Act; the Guidelines for Water Quality Control Commission Regulation Hearings; and other applicable procedures. A copy of the Guidelines for Water Quality Control Commission Regulation Hearings and the Hearing Guidelines may be obtained from Ms. Medina; they are also available on the Commission's website at [www.nmenv.state.nm.us/wqcc](http://www.nmenv.state.nm.us/wqcc).

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Any person who wishes to submit a non-technical written statement for the record in lieu of oral testimony shall file such statement prior to the close of the hearing.

Persons wishing to present technical testimony during the hearing must file with the Commission a written notice of intent to do so. Notices must be filed with Joyce Medina at the address above by 5:00 p.m. on February 29, 2008 and should reference the date of the hearing and docket number WQCC 07-09(R).

The Notice shall include:

- 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;
- if the hearing will be conducted at multiple locations, indicate the location or locations at which the witness(es) will be present;
- summarize, or include a copy of, the direct testimony of each technical witness and state the anticipated duration of the testimony of that witness;
- include the text of any recommended modifications to the proposed regulatory change; and
- list and describe, or attach, all exhibits anticipated to be offered by the person at the hearing.

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

Judy Bentley at the Personnel Services Bureau by February 29, 2008. The Personnel Services Bureau can be reached at the New Mexico Environment Department, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, NM 87502, (505) 827-2844. TDD or TDY users may access this number via the New Mexico Relay Network (Albuquerque TDD users: (505) 275-7333; outside of Albuquerque: 1-800-659-1779.)

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

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### End of Notices and Proposed Rules Section

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## Adopted Rules

### NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT ENERGY CONSERVATION AND MANAGEMENT DIVISION

This is an amendment to 3.3.28 NMAC, Sections 1, 3, 6 through 14 and 16 through 20, effective 1/31/2008.

**3.3.28.1 ISSUING AGENCY:** Energy, Minerals and Natural Resources Department, Energy, Conservation and Management Division.  
[3.3.28.1 NMAC - N, 7-1-06; A, 1-31-08]

**3.3.28.3 STATUTORY AUTHORITY:** [~~These rules are~~] 3.3.28 NMAC is established under the authority of [~~the Laws of 2006, Chapter 93~~] NMSA 1978, Sections 7-2-18.14 and 9-1-5(E).  
[3.3.28.3 NMAC - N, 7-1-06; A, 1-31-08]

**3.3.28.6 OBJECTIVE:** [~~The~~] 3.3.28 NMAC's objective is to establish procedures for administering the certification program for the solar market development tax credit.  
[3.3.28.6 NMAC - N, 7-1-06; A, 1-31-08]

**3.3.28.7 DEFINITIONS:**

**A.** "Applicant" means a New Mexico taxpayer that has installed a solar energy system and that desires to have the department certify the solar energy system pursuant to 3.3.28 NMAC so that the taxpayer may receive a state tax credit.

**B.** "Application package" means the application documents an applicant submits to the division for certification to receive a state tax credit.

**C.** "Array" means the collectors of a solar thermal system or the modules of a photovoltaic system.

**D.** "Balance of system" means portions of a solar energy system other than the array.

**E.** "Building code authority" means the [~~construction industries division of the~~] New Mexico regulation and licensing department, construction industries division or the local government agency having jurisdiction for building, electrical and mechanical codes.

**F.** "Certified" or "certification" means department approval of a solar energy system, which makes the taxpayer owning the system eligible for a state tax credit.

**G.** "Collector" means the solar thermal system component that

absorbs solar energy for conversion into heat.

**H.** "Collector aperture" means the area of a solar thermal collector that absorbs solar energy for conversion into usable heat.

**I.** "Component" means a solar energy system's equipment and materials.

**J.** "Department" means the energy, minerals and natural resources department.

**K.** "Division" means the department's energy conservation and management division.

**L.** "Energy system" means an engineered system that delivers solar energy to an end use by flow of fluid or electricity caused by energized components such as pumps, fans, inverters or controllers.

**M.** "Federal tax credit" means an income tax credit the United States government issues to a taxpayer for a solar energy system that meets United States government requirements.

**N.** "Homeowner" means a taxpayer that may obtain a permit limited to construction of single-family dwellings, private garages, carports, sheds, agricultural buildings and fences.

**O.** "Innovative" means an alternative method or material that is not commercialized for use in a solar energy system.

**P.** "Install" or "installation" means the direct work of placing a solar energy system into service to operate and produce energy at the expected level for a system of its size.

**Q.** "Interconnection" means connection of a photovoltaic system [~~operated by~~] that an electric utility customer operates to that utility's distribution grid system.

**R.** "Interconnection agreement" means an agreement allowing the applicant to interconnect a solar energy system of a specified type and size to a suitable electric transmission or distribution line.

**S.** "Module" means the photovoltaic system component that absorbs sunlight for conversion into electricity.

**T.** "New" means the condition of being recently manufactured and not used previously in any installation.

**U.** "Non-residential" means a business or agricultural enterprise.

**V.** "OG" means operating guidelines that the solar rating and certification corporation [~~(SRCC)~~] has or will establish, including system performance or component characteristics the SRCC defines in

its directory. Operating guidelines shall be from the directory in effect on [~~the date 3.3.28 NMAC is adopted~~] July 1, 2006 and all successive revisions.

**W.** "Photovoltaic system" means an energy system that collects or absorbs sunlight for conversion into electricity.

**X.** "Portable" means not permanently connected to a residence, business or agricultural enterprise or connected to a mobile vehicle that is a part of a residence, business or agricultural enterprise.

**Y.** "Solar collector" means a solar thermal collector or photovoltaic module.

**Z.** "Solar market development tax credit" means the personal income tax credit the state of New Mexico issues to a taxpayer for a solar energy system the department has certified.

**AA.** "Solar energy system" means a solar thermal system or photovoltaic system.

**BB.** "Solar storage tank" means a tank provided as a component in a solar thermal system that is not heated by electricity or a heating fuel.

**CC.** "Solar thermal system" means an energy system that collects or absorbs solar energy for conversion into heat for the purposes of space heating, space cooling or water heating.

**DD.** "SRCC" means the solar rating and certification corporation.

**EE.** "Standard test conditions" means the environmental conditions under which a manufacturer tests a photovoltaic module for power output, which are a photovoltaic cell temperature of 25 degrees celsius and solar insolation of 1000 watts per square meter on the photovoltaic cell surface.

**FF.** "State tax credit" means the solar market development tax credit.

**GG.** "Tax credits difference" means the federal tax credit subtracted from 30 percent of the net solar energy system cost.

**HH.** "Tax credits sum" means the sum of the state tax credit and the federal tax credit.

**I.** "Taxpayer" means the owner of a solar energy system and the residence, business or agricultural enterprise where the solar energy system is located who applies for certification of an operating solar energy system in order to receive a state tax credit.

[3.3.28.7 NMAC - N, 7-1-06; A, 1-31-08]

**3.3.28.8 GENERAL PROVI-**

**SIONS:**

**A.** Only a New Mexico taxpayer having purchased and installed an operating solar energy system the department has certified is eligible for a state tax credit.

**B.** A corporation shall not be eligible for certification of a solar energy system the corporation owns under 3.3.28 NMAC's requirements. A corporation may install a solar energy system that complies with 3.3.28 NMAC's requirements and sell the solar energy system in a residence, business or agricultural enterprise to a taxpayer. If by this sale the taxpayer becomes the full owner of both the solar energy system and the residence, business or agricultural enterprise, and complies with 3.3.28 NMAC's requirements, that taxpayer is eligible for certification of that solar energy system.

**C.** A taxpayer owning a solar energy system the department certifies shall locate that system at the residence, business or agricultural enterprise that taxpayer owns. The taxpayer may rent a residence, business or agricultural enterprise that the taxpayer owns ~~may be rented~~ to another entity.

**D.** The annual aggregate amounts of the state tax credit available to taxpayers owning certified solar energy systems is limited to \$2,000,000 for solar thermal systems and \$3,000,000 for photovoltaic systems per calendar year. When the \$2,000,000 limit for solar thermal systems or the \$3,000,000 limit for photovoltaic systems is reached based on the total of taxpayers certified, the department will no longer certify taxpayers, but will accept them for future consideration in the next year, except for the last taxable year when the state tax credit is in effect. The division shall keep a record of the order of receipt of all application packages.

**E.** ~~The department shall publish an annual report on the state tax credit by March 15 of the calendar year following each taxable year in which solar energy systems are certified.~~

**F.** In the event of a discrepancy between a requirement of 3.3.28 NMAC and an existing New Mexico regulation and licensing department or New Mexico taxation and revenue department rule promulgated prior to 3.3.28 NMAC's adoption, the existing rule shall govern. [3.3.28.8 NMAC - N, 7-1-06; A, 1-31-08]

**3.3.28.9 APPLICATION:**

**A.** To apply for a state tax credit an applicant shall submit an application package to the division. An applicant may obtain a state tax credit application form and system installation form from the division.

**B.** An application package shall include a completed state tax credit

application form and written attachments for a solar thermal system or photovoltaic system. The applicant shall submit the state tax credit application form and any attachments required at the same time as a complete application package. An applicant shall submit one application package for each solar energy system. All material submitted in the application package shall be capable of being provided on 8½-inch x 11-inch paper.

**C.** An applicant shall submit an application package to the division no later than ~~January~~ February 15 of the calendar year immediately following the taxable year in which the taxpayer seeks the state tax credit ~~is sought~~ to assure time for certification to be applied to that taxable year. The division shall not accept application packages after ~~January~~ February 15 of the calendar year immediately following the last taxable year that the state tax credit is available. If in a given year the February 15 due date occurs on a day when the department is closed for business, the due date shall be the next day that the department is open for business.

**D.** The application package shall meet 3.3.28 NMAC's requirements. If an application package fails to meet a requirement, the department shall disapprove the application.

**E.** The completed application form shall consist of the following information:

(1) the taxpayer's name, mailing address, telephone number and social security number;

(2) the address where the solar energy system is located, if located at a residence, business or agricultural facility or, a location description if located at an agricultural enterprise;

(3) the solar energy system's type and description;

(4) the date the solar energy system started continuous operation or that an upgrade to an existing system became operational, if applicable;

(5) if a contractor installed the solar energy system, the contractor's name, address, telephone number, license category and license number;

(6) acknowledgement that the homeowner installed the solar energy system; if applicable;

(7) the net cost of equipment, materials and labor of the solar energy system, excluding the expenses and income listed in 3.3.28 NMAC;

(8) a statement that the applicant signed and dated [by the applicant], which may be a form of electronic signature if approved by the department, agreeing that:

(a) all information provided in the application package is true and correct to the best of the applicant's knowledge;

(b) applicant has read the certification requirements contained in 3.3.28 NMAC;

(c) applicant understands that there are annual aggregate state tax credit limits in place for solar thermal systems and photovoltaic systems;

(d) applicant understands that the department must certify the solar energy system documented in the application package before becoming eligible for a state tax credit;

(e) applicant agrees to make any changes the department requires to the solar energy system for compliance with 3.3.28 NMAC;

(f) applicant agrees to operate the solar energy system for a minimum of five years after department certification or, if the residential, business or agricultural enterprise where the solar energy system is located is sold or transferred to another party within five years after the department's certification of the solar energy system, the sale or transfer agreement shall require the solar energy system's continued operation or maintenance for energy production for no less than the balance of the five-year period remaining;

(g) applicant agrees to provide for the solar energy system's regular maintenance for a minimum of five years with the applicant's own resources or through a contractor; and

(h) applicant agrees to allow the division or its authorized representative to inspect the solar energy system that is described in the application package at any time from the application package's submittal to three years after the department has certified the solar energy system, upon the division providing a minimum of five days notice to the applicant, and;

(9) a project number the division assigns to the application.

**F.** The application form shall request the following as optional information provided by the applicant:

(1) taxpayer's email address; and

(2) contractor's email address.

**G.** The application form shall include optional selections where the applicant can indicate interest in allowing the department to take the following actions:

(1) adding energy monitoring equipment to the solar energy system;

(2) conducting an analysis of solar energy system operation and performance; or

(3) conducting an analysis of taxpayer's utility bill records.

**H.** The application package shall consist of the following information provided as attachments:

(1) a copy of a current property tax bill to the taxpayer for the residence,

business or agricultural enterprise where the solar energy system ~~[shall be]~~ is located;

(2) a copy of the invoice of itemized equipment and labor costs for the solar energy system;

(3) a copy of the solar energy system's design schematic and technical specifications as described in 3.3.28 NMAC;

(4) a photographic record of the solar energy system after installation is completed;

(5) a completed system installation form;

(6) ~~[a copy of the written final inspection approval from the building code authority or, if inspection approval cannot be obtained, the applicant shall provide the necessary information on the system installation form in place of obtaining the inspection approval;~~

(7) if application is for a solar thermal system, include on design schematic attachment or as separate attachments the:

(a) manufacturer or supplier of system components and their model numbers;

(b) number of collectors;

(c) collector aperture dimensions;

(d) orientation of collectors by providing the azimuth angle from true south and tilt angle from horizontal;

(e) SRCC solar collector certification identification number or, if SRCC has not certified the collector and the application package is submitted [;

~~(i) before January 1, 2007 and collector has been manufactured regularly for a minimum of five years as of January 1, 2006, the manufacturer's collector specifications and a copy of the application for solar collector certification form submitted to the SRCC by the manufacturer or;~~

~~(ii) on January 1, 2007 or later but before January 1, 2010, a copy of the application for solar collector certification form the manufacturer has submitted to the SRCC and report status of SRCC certification process;~~

(f) a description of the freeze protection;

(g) a description of overheating protection;

(h) thermal storage fluid or material and its volume, if thermal storage is a part of the system and if the thermal storage does not have energy provided from a non-solar or non-renewable source; and

(i) manufacturer's specifications for collectors, if collectors are unglazed;

~~(8)~~ (7) if application is for a photovoltaic system, include with design schematic or as separate attachments:

(a) manufacturer or supplier of major system components and their model

numbers;

(b) number of modules;

(c) module rated direct current power output in watts under manufacturer's standard test conditions;

(d) collectors' orientation by providing the azimuth angle from true south and tilt angle from horizontal;

(e) inverter capacity in kilowatts, if an inverter is a part of the system;

(f) battery storage capacity in kilowatt-hours, if battery storage is a part of the system; and

(g) a copy of the signature and specifications pages of the fully executed interconnection agreement with the electric utility if the photovoltaic system is interconnected to a utility transmission line or distribution system; and

~~(9)~~ (8) other information the department needs to evaluate the specific system type for certification.

I. The completed system installation form shall include the following information:

(1) printed name of the taxpayer who is identified on the application form,

(2) printed name, title and telephone number of the contractor's authorized representative, if applicable, who approves the system installation form;

(3) printed name, title and telephone number of the building code authority's authorized representative, if applicable, who approves the system installation form;

(4) date on which solar energy system installation was complete and ready to operate;

(5) if a contractor installed the solar energy system, a statement ~~[signed and dated by]~~ that the contractor's authorized representative has signed and dated, which may be a form of electronic signature if approved by the department, agreeing that:

(a) the solar energy system was installed in full compliance with all applicable federal, state and local government ~~[laws]~~ statutes or ordinances, rules or regulations and codes and standards that are in effect at the time of installation;

(b) contractor has read 3.3.28 NMAC's certification requirements;

(c) the date on which the solar energy system was ready to operate;

(d) the installed solar energy system will work properly with regular maintenance; and

(e) contractor provided written operations and maintenance instructions to the applicant and posted a one-page summary of these instructions in a sheltered accessible location acceptable to the taxpayer and which is near or at the solar system's array or balance of system components; ~~and~~

(6) a statement ~~[signed and dated by]~~ that the building code authority's authorized representative has signed and dated, which may be a form of electronic signature if approved by the department, that the solar energy system was installed in full compliance with all applicable codes ~~[or, if inspection approval by the building code authority cannot be obtained, the applicant shall provide an alternative system approval, which is a statement signed and dated by the contractor, if contractor installed, or the homeowner, if homeowner installed, agreeing that~~

~~(a) the contractor or homeowner asked the building code authority to conduct a final inspection of the solar energy system;~~

~~(b) written final inspection approval from the building code authority was not obtained;~~

~~(c) the building code authority did not reject the inspection approval;~~

~~(d) 30 days or more have elapsed since the contractor or homeowner asked the building code authority to conduct a final inspection; and~~

~~(e) the installed system is operating as designed and presented in the application package.]; and~~

(7) if the applicant is unable to obtain a signed and dated statement from the building code authority's authorized representative on the system installation form, then the applicant may provide one of the following instead:

(a) a photograph or copy of the permit tag clearly identifying the building code authority's authorized representative's signature, the date and the permit number;

(b) an official document from the building code authority that includes the:

(i) agency's name;

(ii) authorized representative's name, title, telephone number and signature;

(iii) date of authorized representative's signature; and

(iv) permit number; or

(c) a web-based application the building code authority approves.

J. The division shall return an incomplete application to the applicant.

[3.3.28.9 NMAC - N, 7-1-06; A, 1-31-08]

### 3.3.28.10 APPLICATION REVIEW PROCESS:

A. The department shall consider applications in the order received, according to the day they are received, but not the time of day. The department gives applications received on the same day [shall receive] equal consideration. If the department approves applications received on the same day and the applications would exceed

the overall limit of state tax credit availability, then the department ~~[shall divide]~~ divides the available state tax credit among those applications on a prorated, net solar energy system cost basis.

~~[B.]~~ The department ~~shall approve or disapprove an application package within 30 days following the application package's receipt or, if more time is required, the division shall notify the applicant of the reason and shall approve or disapprove the application within 30 days of the applicant providing additional information.]~~

~~[C.]~~ B. The division ~~[shall review]~~ reviews the application package to calculate the state tax credit, ~~[check]~~ checks accuracy of the applicant's documentation and ~~[determine]~~ determines whether the department certifies the solar energy system.

~~[D.]~~ C. If the division finds that the application package meets 3.3.28 NMAC's requirements and a state tax credit is available, the department ~~[shall certify]~~ certifies the applicant's solar energy system and ~~[document]~~ documents the taxpayer as eligible for a state tax credit. If a state tax credit is not available in the taxable year of certification of the solar energy system submitted in the application package, the division ~~[shall place]~~ places the taxpayer on a waiting list for inclusion in the following taxable year, if a state tax credit remains available. The department ~~[shall provide]~~ provides approval through written notification to the applicant ~~[within 15 days of the solar energy system's certification]~~. The notification shall include the taxpayer's contact information, social security number, system certification number, net solar energy system cost eligible for the state tax credit, the state tax credit amount and waiting list status, if applicable.

~~[E.]~~ D. The division ~~[shall report]~~ reports to the taxation and revenue department the information required to verify, process, and distribute each state tax credit by providing a copy of the department's approval notification ~~[within 15 days of certifying the solar energy system]~~.

~~[F.]~~ E. The applicant may submit a revised application package to the division. The division shall place the resubmitted application in the review schedule as if it were a new application.

~~[G.]~~ F. The department ~~[shall disapprove]~~ disapproves an application that is not complete or correct or does not meet the approval criteria. The department's disapproval letter shall state the reasons why the department disapproved the application. The applicant may resubmit the application package for the disapproved project. The division ~~[shall place]~~ places the resubmitted application in the review schedule as if it were a new application.

[3.3.28.10 NMAC - N, 7-1-06; A, 1-31-08]

### 3.3.28.11 SAFETY, CODES AND STANDARDS:

A. Solar energy systems that the department may certify shall meet the following requirements:

(1) compliance with the latest adopted version of all applicable federal, state and local government ~~[laws]~~ statutes or ordinances, rules or regulations and codes and standards that are in effect at the time ~~[of application package submittal]~~ that the applicant submits the application package;

(2) compliance with all applicable utility company or heating fuel vendor requirements, if the system being served with a solar energy system is also served by utility electricity or a heating fuel;

(3) compliance with the building code authority's structural design requirements, as applicable to new and existing structures upon which solar energy system components may be mounted and support structures of solar energy system components;

(4) permitted and inspected by the building code authority for building, electrical or mechanical code compliance, as applicable to the type of solar energy system installed; and

(5) a written final inspection approval obtained from the building code authority after the solar energy system's installation, as applicable to the solar energy system type, or alternative system approval as allowed by 3.3.28 NMAC.

B. The department may certify a solar energy system ~~[installed by]~~ that a taxpayer who is also the homeowner of the residence at which the solar energy system is located has installed and shall not certify a solar energy system that the owner of a non-residential facility has installed.

C. Solar thermal systems that the department may certify shall meet the following requirements:

(1) if installed at a residence by a

(a) contractor, installation by a certified mechanical journeyman who is an employee of a company holding a valid New Mexico mechanical contractor license provided, however, that an apprentice may work under a validly certified journeyman's direct supervision;

(b) homeowner, installation by that homeowner who has met all the building code authority's requirements for obtaining a homeowner's permit, including passing a written examination for plumbing work the building code authority administers;

(2) if installed at a non-residential facility, installation by a certified mechanical journeyman who is an employee of a company holding a New Mexico mechani-

cal contractor license provided, however, that an apprentice may work under a validly certified journeyman's direct supervision; and

(3) design, permitting and installation in full compliance with all applicable provisions of the New Mexico Plumbing Code (14.8.2 NMAC), the New Mexico Mechanical Codes (14.9.2 - 5 NMAC), the New Mexico General Construction Building Codes (14.7.2 - 8 NMAC) and any amendments to these codes adopted by a political subdivision that has validly exercised its planning and permitting authority under NMSA 1978, Sections ~~[3-17-6 and 3-18-6]~~ 3-17-6 and 3-18-6.

D. Photovoltaic systems that the department may certify shall meet the following requirements:

(1) if installed at a residence by a:

(a) contractor, installation by a certified electrical journeyman who is an employee of a company holding a valid New Mexico electrical contractor license provided, however, that an apprentice may work under a validly certified journeyman's direct supervision; or

(b) homeowner, installation by that homeowner who has met all the building code authority's requirements for obtaining a homeowner's permit, including passing a written examination for electrical work the building code authority administers;

(2) if installed at a non-residential facility, installation by a certified electrical journeyman who is an employee of a company holding a New Mexico electrical contractor license provided, however, that an apprentice may work under a validly certified journeyman's direct supervision; and

(3) design, permitting and installation in full compliance with all applicable provisions of the New Mexico Electrical Code (14.10.4 NMAC) and any amendments to these codes adopted by a political subdivision that has validly exercised its planning and permitting authority under NMSA 1978, Sections ~~[3-17-6 and 3-18-6]~~ 3-17-6 and 3-18-6.

[3.3.28.11 NMAC - N, 7-1-06; A, 1-31-08]

### 3.3.28.12 SOLAR COLLECTOR AND MODULE ORIENTATION AND SUN EXPOSURE:

A. A solar energy system array the department certifies shall have an azimuth angle or sun exposure reduction due to shading or other factors that results in annual energy production of the total solar energy system having a combined derating of not more than 25 percent when compared to an ideal solar energy system at the same location that has an unshaded array tilt equal to local latitude and azimuth of true south. For cases in which the combined impact of orientation and sun exposure of

an array is evaluated, the applicant shall estimate a derating using a department approved method or model.

**B.** A taxpayer operating a solar energy system the department certifies shall take the following actions to control reduced energy production:

(1) maintain vegetation affecting shading of an array; and

(2) as much as practicable, monitor construction developments affecting shading of an array from adjacent structures and preserve sun exposure by complying with the Solar Rights Act's (NMSA 1978, Section 47-3-1 to 47-3-5 [~~NMSA 1978~~]) requirements.

**C.** A tracking array of a solar energy system that the department certifies shall have a mechanism to track the sun so that the array absorber surface consistently receives the sun's direct beam at all times when the direct beam of full sun is available, without requiring manual adjustment, except for a solar energy system having the following tracking array control features:

(1) automatic and intentional stowage of the array due to high velocity wind to avoid damage to the array and its support structure;

(2) automatic and intentional adjustment to off-direct-beam array orientations at low sun angles to optimize the solar energy system's annual energy production; or

(3) other automatic and intentional array control features that demonstrate to the department's satisfaction that the solar energy system's annual energy production is optimized.

**D.** A solar energy system that the department certifies shall have an array and balance of system components that are automatically controlled to collect sunlight or solar heat and deliver to an end use, without requiring manual operation.

**E.** It is the applicant's sole responsibility to take action or meet the Solar Rights Act's requirements, if applicable.

[3.3.28.12 NMAC - N, 7-1-06; A, 1-31-08]

### **3.3.28.13 MINIMUM SYSTEM SIZES, SYSTEM APPLICATIONS AND LISTS OF ELIGIBLE COMPONENTS:**

**A.** Solar energy systems or their portions that the department may certify shall meet the following requirements:

(1) be made of new equipment, components and materials;

(2) if installed by a contractor, have a written minimum one-year warranty provided by the contractor on parts, equipment and labor;

(3) be a complete energy system that collects, converts and distributes solar

energy to the residence, business or agricultural enterprise it serves, unless requirements are met for expansion of an existing solar energy system or replacement of an existing solar energy system's components;

(4) if an expansion of an existing solar energy system, end use annual energy production of the new system shall be increased in comparison to the existing system by the amount of the minimum system size requirement and the contractor or homeowner shall provide a written summary of the condition of each major component of the system;

(5) if replacement of one or more components of an existing system, end use annual energy production of the new system shall be increased in comparison to the system's operation under existing conditions and the contractor or homeowner shall provide a written summary of the condition of each of the system's major components; and

(6) if a specialty or retrofit component is required for a complete solar energy system, then that component shall be included as part of the solar energy system that is eligible for department certification.

**B.** Solar energy systems or their portions that the department shall not certify are as follows:

(1) a system or portion of a system that uses non-solar or non-renewable sources in its operation, with the exception of the following:

(a) power necessary to provide for solar energy system components' incidental electricity needs; and

(b) non-solar or non-renewable sources that do not exceed 25 percent of the system's annual energy production;

(2) a system or portion of a system that would be present if the solar energy system was not installed;

(3) a system that increases an existing residence, business or agricultural enterprise's average annual energy consumption;

(4) a system that is mobile and does not serve a permanent end use energy load or is not permanently located in New Mexico;

(5) a system that is not connected to a structure or foundation and does not serve a permanent end use energy load or is not permanently located in New Mexico;

(6) a system or portion of a system having one or more components not manufactured on a regular basis by a business enterprise;

(7) a system installed on a recreational vehicle;

(8) a system not serving an end use energy load; or

(9) a system or portion of a system that replaces a system or portion of a system the department has certified in a pre-

vious application for a state tax credit.

**C.** The department shall maintain lists of components eligible to be included as a net solar energy system cost. The lists shall be comprised of solar energy system components the department has certified, which the division shall compile on a continuing basis through the certification program. The division may refer to existing lists of components from other independent listing or certification organizations to evaluate inclusion of components on a department list. The division may remove a previously-listed component without notice if the component is not manufactured, does not comply with a code requirement, does not comply with a requirement of 3.3.28 NMAC, provides poor operational or energy performance or other reasons supported by division evaluation. The lists of components shall include the following information, if applicable:

(1) component category;

(2) component name or type;

(3) component model number;

(4) the manufacturer's name, mailing address, telephone number and email address;

(5) capacity, size or other descriptor of the component;

(6) the published operational or energy performance data of the component provided by an independent listing or certification organization or, if not available, the manufacturer;

(7) date added to list; and

(8) other information necessary to describe the component.

**D.** The department may disapprove a system type, solar thermal collector type, photovoltaic module type or a solar energy system component if not listed in 3.3.28 NMAC for certification or may deem it innovative, if the applicant requests in the application package.

**E.** Solar thermal systems that the department may certify include:

(1) the system applications of solar domestic hot water, solar space heating, solar air heating, solar process heating, solar space cooling or combinations of solar thermal system applications listed in 3.3.28 NMAC;

(2) the collector types of flat plate, parabolic trough and evacuated tube; and

(3) the listed component categories of collectors, pumps, fans, solar storage tanks, expansion tanks, valves, controllers and heat exchangers.

**F.** A solar thermal system component that the department may certify is a photovoltaic system providing power for a solar thermal system component's incidental electricity needs. The department shall not certify such a photovoltaic system as a separate solar energy system

eligible for a separate state tax credit.

**G.** Solar thermal systems or their components that the department shall not certify are as follows:

- (1) a heating system or heating system components necessary for a swimming pool or a hot tub;
- (2) equipment sheds, wall preparation, cabinetry, site-built enclosures, distribution piping and associated installation costs;
- (3) a building design element used for passive solar space heating, space cooling, daylighting or other environmental comfort attribute;
- (4) a water quality distillation or processing system;
- (5) in a combined system, the portions of the system not allowed to receive a state tax credit or for which the department shall not certify the system;
- (6) systems without adequate freeze protection;
- (7) systems incorporating drain down as a freeze protection method; and
- (8) systems without adequate overheating protection.

**H.** Solar thermal systems that the department may certify shall meet the following requirements:

- (1) minimum system size of ~~[15.0]~~ 15 square feet of solar collector aperture area;
- (2) for solar domestic hot water systems installed at a residence or business, a minimum of 50 percent of the total domestic water heating load provided by solar energy;
- (3) a collector that is:

(a) listed as certified by the SRCC by OG-100 collector certification or OG-300 system certification processes or, if collector is not certified by the SRCC and application package is submitted

~~[(i) before January 1, 2007, manufactured regularly for a minimum of five years as of January 1, 2006 and submitted by the manufacturer to the SRCC for testing and certification; or~~

~~[(ii)] on January 1, 2007 or later but before January 1, 2010, submitted by the manufacturer to the SRCC for certification and is active in the SRCC certification process;~~

(b) if glazed, made of all-metal enclosures, absorber plates, fasteners and fittings; aperture glazing of tempered glass; and fiberglass or polyisocyanurate insulation; or

(c) if unglazed, made of durable materials having a minimum 12 year warranty period for full replacement; and

(4) all components approved by an agency accredited by the American national standards institute, if available for that specific component category.

**I.** Photovoltaic systems

that the department may certify include:

(1) the system applications of direct power without battery storage, utility grid interconnected without battery storage, utility grid interconnected with battery storage, stand-alone with battery storage, stand-alone with utility backup capability and water pumping;

(2) the flat plate module types of crystalline, poly-crystalline or thin-film amorphous silicon;

(3) the listed component categories of modules, inverters, batteries, manufactured battery enclosures, charge controllers, power point trackers, well pumps, racks, sun tracking mechanisms, performance monitoring equipment, communications, datalogging or lightning protection; and

(4) disconnect components, safety components, standard electrical materials and standard electrical hardware necessary for the assembly of the listed component categories into a complete, safe and fully operational system.

**J.** Photovoltaic systems that the department may certify shall meet the following requirements:

(1) a minimum total array power output of ~~[400.0]~~ 100 watts direct current at manufacturer's standard test conditions; and

(2) all components listed and labeled by a nationally recognized testing laboratory, if such listing is available for that specific component category.

**K.** Photovoltaic systems or their portions that the department shall not certify are as follows:

(1) a commercial or industrial photovoltaic system other than an agricultural photovoltaic system on a farm or ranch that is not connected to an electric utility transmission or distribution system;

(2) power equipment sheds, wall preparation, cabinetry, site-built battery enclosures, distribution wiring and associated installation costs;

(3) the drilling, well casing, storage tanks, distribution piping, distribution controls and associated installation costs of a water pumping system; and

(4) a packaged product powered by photovoltaic cells that a taxpayer purchased directly from a retail business enterprise, is not custom designed, and does not require a permit from the building code authority for installation, including ~~[but not limited to]~~ watches, calculators, walkway lights and toys.

[3.3.28.13 NMAC - N, 7-1-06; A, 1-31-08]

**3.3.28.14 INNOVATIVE SOLAR ENERGY SYSTEMS:**

**A.** The department may certify an innovative solar energy system.

**B.** A taxpayer shall request that the department review an application

package as an innovative solar energy system.

**C.** The division shall conduct a design review of a solar energy system when the taxpayer has requested innovative status.

**D.** The department may determine that a solar energy system is innovative if

(1) it does not include a system application, component, packaged system, solar thermal collector type or photovoltaic module type that the department may certify; and

(2) the division approves the design.

**E.** Design approval by the division does not indicate department approval of actual system operation, energy production or code compliance.

**F.** The application package of an innovative solar energy system shall include attachments in addition to those required in other sections of 3.3.28 NMAC that fully describe the solar energy system, as follows:

(1) a request for innovative status and a description of the innovative feature;

(2) a design schematic detail of each system application, component, packaged system, solar thermal collector type or photovoltaic module type that makes the solar energy system innovative;

(3) a description of system operation; and

(4) an energy analysis of the solar energy system, including an estimate of annual energy production.

~~**G.** [The department shall approve or disapprove an application package where the taxpayer has requested innovative status within 60 days following receipt of the application package.~~

~~**H.]** Innovative solar energy systems that the department may certify shall meet all requirements of 3.3.28 NMAC, with the exception of the specific system application, component, packaged system, solar thermal collector type or photovoltaic module type that is to be installed.~~

~~**[I.] H.** The department may approve an innovative component or system for inclusion on the department's list of certified components, if that component or system has been tested, certified, approved or listed by the applicable organization for the specific type of component or system and if such testing, certification, approval or listing is available. Upon the department listing a component or system as certified, subsequent applicants are not required to submit that component or system as an innovative system.~~

[3.3.28.14 NMAC - N, 7-1-06; A, 1-31-08]

**3.3.28.16 CALCULATING THE SOLAR ENERGY SYSTEM**



**COST:**

**A.** A state tax credit shall be based on the equipment, materials and labor costs of a solar energy system the department has certified.

**B.** The equipment, materials and labor costs of a solar energy system the department certifies shall be documented in writing.

**C.** The cost of a solar energy system the department certifies shall be the net cost of acquiring the system and shall not include the following:

(1) expenses, including but not limited to:

(a) unpaid labor or the applicant's labor;

(b) unpaid equipment or materials;

(c) land costs or property taxes;

(d) costs of structural, surface protection and other functions in building elements that would be included in building construction if a solar energy system were not installed;

(e) mortgage, lease or rental costs of the residence, business or agricultural enterprise;

(f) legal and court costs;

(g) research fees or patent search fees;

(h) fees for use permits or variances;

(i) membership fees;

(j) financing costs or loan interest;

(k) marketing, promotional or advertising costs;

(l) repair, operating, or maintenance costs;

(m) extended warranty costs;

[and]

(n) system resale costs;

(o) system visual barrier costs;

(p) adjacent structure modification costs; and

(q) vegetation maintenance costs;

(2) income, including [but not limited to]:

(a) payments the solar energy system contractor or other parties provide that reduce the system cost, including rebates, discounts and refunds with the exception of federal, state and local government and utility company solar incentives;

(b) services, benefits or material goods the solar energy system contractor or other parties provide by the same or separate contract, whether written or verbal; and

(c) other financial incentives provided for solar energy system installation, if applicable.

[E-] **D.** The division shall make the final determination of the net cost of a solar energy system the department certifies pursuant to 3.3.28 NMAC.

[3.3.28.16 NMAC - N, 7-1-06; A, 1-31-08]

**3.3.28.17 CALCULATING THE STATE TAX CREDIT:**

**A.** A state tax credit to a taxpayer for a solar energy system the department has certified shall not exceed:

(1) 30 percent of the net solar energy system cost; and

(2) \$9000.

**B.** The total sum of the state tax credit and the federal tax credit shall not exceed 30 percent of the net solar energy system cost.

**C.** If a taxpayer is eligible for a federal tax credit, the amount of the federal tax credit, whether claimed or unclaimed, shall be deducted from 30 percent of the net solar energy system cost.

**D.** If the department certifies a solar energy system owned by a taxpayer who is not eligible for a federal tax credit, the federal tax credit shall not be deducted from 30 percent of the net solar energy system cost.

**E.** A taxpayer may receive both a state tax credit and a federal tax credit if the taxpayer is eligible for each tax credit and the state tax credit amount is greater than the federal tax credit amount.

**F.** The department shall disapprove an application package if the taxpayer is eligible for a federal tax credit and the federal tax credit amount that the taxpayer may claim is equal to or greater than the state tax credit.

**G.** If a taxpayer is eligible for a federal tax credit, the state tax credit shall be calculated as follows:

(1) calculate 30 percent of the net solar energy system cost;

(2) calculate the tax credits difference by subtracting the federal tax credit from 30 percent of the net solar energy system cost;

(3) if calculation of the tax credits difference is:

(a) equal to or greater than \$9000, then the state tax credit is \$9000; [or]

(b) less than \$9000 and greater than \$0, then the state tax credit is the tax credits difference; or

(c) if less than or equal to \$0, then the state tax credit is \$0;

(4) using the state tax credit of the previous calculation, calculate the tax credits sum; and

(5) make final determination of state tax credit as follows:

(a) if the tax credits sum is equal to or less than 30 percent of the net solar energy system cost, then the state tax credit remains as last calculated; or

(b) if the tax credits sum is greater than 30 percent of the net solar energy system cost, then the state tax credit is adjusted

to an amount at which the tax credits sum equals 30 percent of the net solar energy system cost;

**H.** If a taxpayer is not eligible for a federal tax credit, the state tax credit shall be calculated as follows:

(1) calculate 30 percent of the net solar energy system cost;

(2) if the result of the previous calculation is

(a) equal to or greater than \$9000, then the state tax credit is \$9000; or

(b) less than \$9000, then the state tax credit is 30 percent of the net solar energy system cost.

**I.** The department shall make the final determination of the federal tax credit amount that a taxpayer may claim for purposes of calculating a state tax credit pursuant to 3.3.28 NMAC.

**J.** The taxation and revenue department shall make the final determination of the amount of a state tax credit. [3.3.28.17 NMAC - N, 7-1-06; A, 1-31-08]

**3.3.28.18 CLAIMING THE STATE TAX CREDIT:**

**A.** To claim the state tax credit, a taxpayer owning a solar energy system that the department has certified shall submit to the taxation and revenue department a claim, which shall consist of the notification the department issued to the taxpayer, a completed claim form the taxation and revenue department has approved and any other information the taxation and revenue department requires.

**B.** If the amount of state tax credit claimed exceeds the taxpayer's individual income tax liability, the taxpayer may carry the excess forward for up to [ten] 10 consecutive taxable years.

**C.** A taxpayer who has both a carryover state tax credit and a new state tax credit derived from a certified solar energy system in the taxable year for which the return is being filed shall first apply the amount of carryover state tax credit against the income tax liability. If the amount of liability exceeds the carryover state tax credit, then the taxpayer may apply the current year credit against the liability.

**D.** A taxpayer claiming a state tax credit shall not claim a state tax credit pursuant to another law for costs related to the same solar energy system costs.

[3.3.28.18 NMAC - N, 7-1-06; A, 1-31-08]

**3.3.28.19 CONSUMER INFORMATION:**

**A.** If a contractor installs the solar energy system, the contractor shall inform the taxpayer about system design, installation, performance, operation and maintenance by providing the following:

(1) prior to system installation, a summary of the specific system type that meets all 3.3.28 NMAC's requirements, the system's capacity or size, and the system's estimated annual energy production;

(2) upon completion of system installation, written operation and maintenance instructions, including how to conduct simple diagnostic observations and tests to determine if the solar energy system is working properly to produce energy;

(3) upon completion of system installation, a written summary of operation and maintenance instructions on one page, posted at a sheltered accessible location acceptable to the taxpayer and [which] that is near or at the solar energy system's array or balance of system components; and

(4) upon completion of system installation, written warranties in effect for equipment and contractor's labor, including their start and end dates and telephone, address and website contact information, as applicable, for honoring or extending warranties.

**B.** If the solar energy system is a solar thermal system, the following information shall be displayed:

(1) pump or fan status by a visual indicator, as applicable;

(2) outlet temperature of the collector loop;

(3) if a liquid collector, the collector loop's pressure; and

(4) the solar storage tank's temperature, if applicable.

**C.** If the solar energy system is a photovoltaic system, the following information shall be displayed:

(1) for all photovoltaic systems, a visual indicator for operating status;

(2) for an electric utility interconnected system without batteries

(a) daily and cumulative energy production in kilowatt-hours alternating current of the inverter output; and

(b) instantaneous power output in kilowatts alternating current of the inverter output;

(3) for an electric utility interconnected system with batteries, a method to enable real-time evaluation of system power or energy production; and

(4) for a stand-alone system with battery storage

(a) voltage and amperes of module array; and

(b) battery storage level.

**3.3.28.19 NMAC - N, 7-1-06; A, 1-31-08]**  
**3.3.28.20 INSPECTION OF SOLAR ENERGY SYSTEMS:**

**A.** The inspections required through the application process for certification of a taxpayer's solar energy system are:

(1) inspection by the building

code authority for building, electrical or mechanical code compliance, as applicable to the solar energy system type; and

(2) inspection for compliance with electric utility company requirements for photovoltaic systems that are interconnected to the distribution grid of that electric utility company, if applicable.

**B.** For purposes of monitoring solar energy systems' operation, energy production and maintenance that the department has certified, the division or its authorized representative shall have the right to inspect a solar energy system a taxpayer owns and the department has certified, within three years after the department's certification, upon the division providing a minimum of five days notice to the taxpayer. If the division determines by inspection or review of system operation documentation that a solar energy system the department has previously certified does not meet 3.3.28 NMAC's requirements, the following process shall be followed:

(1) the department shall provide written notification to the taxpayer owning the solar energy system within 15 days of the decertification determination with recommendations for corrective action;

(2) within 30 days of taxpayer's receipt of the department's notification, the taxpayer shall provide the department with a written description of corrective action taken or justification that the solar energy system meets 3.3.28 NMAC's requirements;

(3) within 30 days of department's receipt of taxpayer's corrective action or justification description, the department shall approve or disapprove the corrective action or justification and provide written notification to the taxpayer; and

(4) if the department approves the taxpayer's corrective action or justification, the department shall provide written notification of approval to the taxpayer or, if the taxpayer's corrective action or justification is disapproved or the taxpayer takes no action in response to the original decertification determination, the department shall provide written notification to the taxation and revenue department and a copy to the taxpayer that

(a) the taxpayer's solar energy system is no longer certified;

(b) the taxpayer is not eligible for the state tax credit of the decertified system;

(c) the taxpayer is not eligible for certification of future solar energy systems and the associated state tax credits; and

(d) the department may recertify the taxpayer's solar energy system [may be recertified by providing] if the taxpayer provides a written description of corrective action taken or justification that the solar energy system meets 3.3.28 NMAC's

requirements, if applicable.  
[3.3.28.20 NMAC - N, 7-1-06; A, 1-31-08]

**NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD**

**TITLE 20 ENVIRONMENTAL PROTECTION  
CHAPTER 2 AIR QUALITY (STATEWIDE)  
PART 86 BEST AVAILABLE CONTROL TECHNOLOGY FOR MERCURY AT NEW POWER PLANTS**

**20.2.86.1 ISSUING AGENCY.** Environmental Improvement Board.  
[20.2.86.1 NMAC - N, 02/10/08]

**20.2.86.2 SCOPE.** All persons who operate or intend to construct a coal-fired power plant within the jurisdiction of the environmental improvement board, except those coal-fired power plants constructed and generating electric power and energy before July 1, 2007.  
[20.2.86.2 NMAC - N, 02/10/08]

**20.2.86.3 STATUTORY AUTHORITY.** Environmental Improvement Act, NMSA 1978, Section 74-1-8(A)(4), and Air Quality Control Act, NMSA 1978, Sections 74-2-1 et seq., including specifically, Section 74-2-5(C)(4).  
[20.2.86.3 NMAC - N, 02/10/08]

**20.2.86.4 DURATION.** Permanent.  
[20.2.86.4 NMAC - N, 02/10/08]

**20.2.86.5 EFFECTIVE DATE.** 02/10/08 except where a later date is cited at the end of a section.  
[20.2.86.5 NMAC - N, 02/10/08]

**20.2.86.6 OBJECTIVE.** The objective of this part is to require implementation of mercury emission control strategies for coal-fired power plants subject to this part.  
[20.2.86.6 NMAC - N, 02/10/08]

**20.2.86.7 DEFINITIONS.** In addition to the terms defined in 20.2.2 NMAC (Definitions) and 20.2.74 NMAC (Permits - Prevention of Significant Deterioration (PSD)), as used in this part, the following definitions apply.

**A.** "Best available control technology (BACT)" means an emissions limitation as defined in 20.2.74 NMAC (Permits - Prevention of Significant Deterioration (PSD)).

**B.** "Coal" means any solid fuel classified as anthracite, bituminous,

subbituminous, or lignite by the American society of testing and materials (ASTM) standard specification for classification of coals by rank D388-77, 90, 91, 95, 98a or 99 (Reapproved 2004).

**C.** "Coal-fired" means combusting any of coal or coal-derived fuel, alone or in combination with any amount of any other fuel.

**D.** "Control strategy" means equipment, processes or actions used to reduce air pollution.

**E.** "Control strategy selection report" means a report completed as a component of a 20.2.72 NMAC, 20.2.74 NMAC or 20.2.79 NMAC permit application that shall be submitted by the applicant to the department pursuant to 20.2.86.104 NMAC.

**F.** "Input fuel" means fuel used in a stationary coal-fired boiler or stationary coal-fired combustion turbine to generate electricity.

**G.** "Operator" means any person who operates, controls, or supervises a power plant or a facility that includes a power plant and shall include, but not be limited to, any holding company, utility system, or plant manager of such power plant.

**H.** "Owner" means any of the following persons:

(1) any holder of any portion of the legal or equitable title in a power plant;

(2) any holder of a leasehold interest in a power plant; or

(3) any purchaser of power from a power plant under a life-of-the-unit firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based (either directly or indirectly) on the revenues or income from such power plant.

**I.** "Power plant" means one or more stationary coal-fired boiler or stationary coal-fired combustion turbine that is subject to this part pursuant to 20.2.86.100 NMAC.

**J.** "State" means:

(1) for purposes of referring to a governing entity, the state of New Mexico; or

(2) for purposes of referring to a geographic area, all geographic areas within the jurisdiction of the environmental improvement board.

**K.** "Submit" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation in person, by United States postal service, or by other means of dispatch or transmission and delivery. Compliance with any "submission" deadline shall be determined by

the date of dispatch, transmission, or mailing and not the date of receipt.

[20.2.86.7 NMAC - N, 02/10/08]

#### **20.2.86.8 DOCUMENTS.**

Documents incorporated and cited in this part may be viewed at the New Mexico environment department air quality bureau offices in Santa Fe.

[20.2.86.8 NMAC - N, 02/10/08]

[The current address for the New Mexico environment department air quality bureau is 1301 Siler Road, Building B, Santa Fe, NM 87507]

#### **20.2.86.9 SEVERABILITY.**

If any provision of this part, or the application of such provision to any person or circumstance, is held invalid, the remainder of this part, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

[20.2.86.9 NMAC - N, 02/10/08]

#### **20.2.86.10 CONSTRUCTION.**

This part shall be liberally construed to carry out its purpose.

[20.2.86.10 NMAC - N, 02/10/08]

#### **20.2.86.11 SAVINGS CLAUSE.**

Repeal or supersession of prior versions of this part shall not affect any administrative or judicial action initiated under those prior versions.

[20.2.86.11 NMAC - N, 02/10/08]

#### **20.2.86.12 COMPLIANCE WITH OTHER REGULATIONS.**

Compliance with this part does not relieve a person from the responsibility to comply with any other applicable federal, state, or local regulations.

[20.2.86.12 NMAC - N, 02/10/08]

#### **20.2.86.13 LIMITATION OF DEFENSE.**

The existence of a valid permit under this part shall not constitute a defense to a violation of any section of this part, except the requirement for obtaining a permit.

[20.2.86.13 NMAC - N, 02/10/08]

#### **20.2.86.14 to 20.2.86.99 [Reserved]**

#### **20.2.86.100 APPLICABILITY.**

The part applies to all coal-fired power plants within the jurisdiction of the environmental improvement board, except for coal-fired power plants constructed and generating electric power and energy before July 1, 2007.

[20.2.86.100 NMAC - N, 02/10/08]

#### **20.2.86.101 MERCURY CONTROL STRATEGIES.**

Prior to and at all

times when generating electric power, each coal-fired power plant shall implement a control strategy for mercury emissions that removes the greater of what is achievable with best available control technology or ninety percent removal of the mercury from the input fuel.

[20.2.86.101 NMAC - N, 02/10/08]

#### **20.2.86.102 EXEMPTIONS.**

Coal-fired power plants constructed and generating electric power before July 1, 2007 are not subject to this part.

[20.2.86.102 NMAC - N, 02/10/08]

#### **20.2.86.103 LIABILITY.**

Any provision of this part that applies to a coal-fired power plant shall also apply to the owners and operators of such coal-fired power plant.

[20.2.86.103 NMAC - N, 02/10/08]

#### **20.2.86.104 PERMIT REQUIREMENTS.**

**A.** As a component of a 20.2.72 NMAC, 20.2.74 NMAC or 20.2.79 NMAC permit application, the owner or operator of any power plant subject to this part shall submit to the department a control strategy selection report that analyzes control of mercury emissions. The control strategy selection report shall:

(1) analyze and indicate whether BACT or ninety percent removal of mercury from the input fuel results in greater mercury emission reductions;

(2) indicate, based on control efficiency, whether BACT or ninety percent removal of mercury from the input fuel is to be implemented at the power plant to reduce mercury emissions; and

(3) provide sufficient documentation (i.e., manufacturers guarantees, emissions calculations, etc.) to support the control strategy chosen under Paragraph (2) of this subsection.

**B.** The department shall make a final determination, based on control efficiency, whether BACT or ninety percent removal of mercury from the input fuel shall be implemented at the power plant to reduce mercury emissions. The control strategy that results in greater control efficiency shall be used by the department to determine an allowable mercury emission limit. The department shall include the allowable mercury emission limit in the resulting air quality permit as an enforceable permit condition. The department shall establish monitoring and recordkeeping requirements that ensure compliance with the permit condition.

[20.2.86.104 NMAC - N, 02/10/08]

#### **20.2.86.105 GENERAL REQUIREMENTS FOR MONITOR-**

**ING AND REPORTING.**

**A.** Any power plant subject to this part with a nameplate capacity of greater than 25 megawatts electric producing electricity for sale shall comply with all applicable requirements for monitoring and reporting pursuant to 20.2.85.111 NMAC and 40 CFR 75 subpart I.

**B.** Any power plant subject to this part with a nameplate capacity of less than or equal to 25 megawatts electric producing electricity for sale shall provide the department with an annual report. The annual report shall:

(1) include adequate information to demonstrate compliance with the mercury control limit set by the air quality permit issued by the department; and

(2) be submitted to the department annually within 30 calendar days of the anniversary of the date that the air quality permit was issued.

[20.2.86.105 NMAC - N, 02/10/08]

**20.2.86.106 INSPECTIONS AND INFORMATION REQUESTS.**

**A.** For the purpose of determining compliance with this part the department may inspect any power plant and may inspect and copy related records, including records documenting the effectiveness of the mercury control strategy.

**B.** For the purpose of determining compliance with this part, the department may require the owner or operator of a power plant to submit any documentation related to a power plant subject or potentially subject to this part, except that this subsection shall not be construed to require the creation of a new record.

[20.2.86.106 NMAC - N, 02/10/08]

**HISTORY OF 20.2.86 NMAC: [RESERVED]****NEW MEXICO RACING COMMISSION**

This is an amendment to 15.2.1 NMAC Section, effective 1/31/2008.

**15.2.1.8 COMMISSION****A. PURPOSE:**

(1) The New Mexico racing commission created by the act, Section 60-1-3. B., New Mexico Statutes, 1978, Annotated, is charged with implementing, administering and enforcing the act. It is the intent of the commission that the rules of the commission be interpreted in the best interests of the public and the jurisdiction.

(2) Through these rules, the commission intends to encourage agriculture, the horse breeding industry, the horse training industry, tourism and employment

opportunities in this jurisdiction related to horse racing and to control and regulate pari-mutuel wagering in connection with that horse racing.

**B. GENERAL AUTHORITY:**

(1) The commission shall regulate each race meeting and the persons who participate in each race meeting.

(2) To the extent permitted by the act the commission may delegate to the agency director and the stewards all powers and duties necessary to fully implement the purposes of the act.

**C. MEMBERSHIP AND MEETINGS:**

(1) The state racing commission shall consist of five members, no more than three of who shall be members of the same political party. They shall be appointed by the governor, and no less than three of them shall be practical breeders of racehorses within the state. Each member shall be an actual resident of New Mexico and of such character and reputation as to promote public confidence in the administration of racing affairs.

(2) The commission shall meet at the call of the chair, as requested by a majority of the members or as otherwise provided by statute. Notice of the meetings must be given and the meetings must be conducted in accordance with the Open Meetings Act, Sections 10-15-1 through 10-15-4 NMSA, 1978.

(3) If it is difficult or impossible for a racing commission member to attend a meeting of the racing commissioners, that member may participate in the meeting by telephone. The telephone shall be a speakerphone that allows all commission members and the public to hear all speakers at the meeting.

(4) A majority of the commission constitutes a quorum. When a quorum is present, a motion before the commission is carried by an affirmative vote of the majority of the commissioners present at the meeting.

(5) A commission member may not act in the name of the commission on any matter without a majority vote of a quorum of the commission.

**D. ANNUAL REPORT:**  
The commission shall submit an annual report as prescribed by statute.

**E. EMPLOYEES:**

(1) The commission shall employ an agency director who shall employ other employees necessary to implement, administer and enforce the act.

(2) The agency director shall maintain the records of the commission and shall perform other duties as required by the commission. Except as otherwise provided by a rule of the commission, if a rule of the commission places a duty on the agency

director, the agency director may delegate that duty to another employee of the commission. The commission and the agency director may not employ or continue to employ a person:

(a) who owns a financial interest in an association in this jurisdiction;

(b) who accepts remuneration from an association in this jurisdiction;

(c) who is an owner, lessor or lessee of a horse that is entered in a race in this jurisdiction; or

(d) who accepts or is entitled to a part of the purse or purse supplement to be paid on a horse in a race held in this jurisdiction.

(3) Commission employees shall not wager in any pari-mutuel pool at any facility or through any pari-mutuel system subject to the jurisdiction of the commission.

(4) Commission employees shall not participate in any gaming activity conducted by an association during working hours on scheduled workdays.

**F. POWER OF ENTRY:**

(1) A member or employee of the commission, a steward, a peace officer or a designee of such a person may enter any area on association grounds or other place of business of an association at any time to enforce or administer the act or commission rules.

(2) No licensee may hinder a person who is conducting an investigation under, or attempting to enforce, or administer, the act or commission rules.

**G. SUBPOENAS:**

(1) A member of the commission, the agency director, the stewards, the presiding officer of a commission proceeding or other person authorized to perform duties under the act may require by subpoena the attendance of witnesses and the production of books, records, papers, correspondence and other documents.

(2) Any aggrieved person or any licensee or license holder against whom allegations of violations of racing statutes or rules have been made shall have the right to have subpoenas and subpoenas duces tecum issued as of right prior to the hearing to compel discovery as provided in these rules and to compel the attendance of witnesses and the production of relevant physical evidence upon making written and timely request therefor to the commission or hearing officer; the issuance of such subpoenas after the commencement of the hearing rests in the discretion of the commission or the hearing officer.

(3) A member of the commission, the agency director, a presiding officer of a commission proceeding or other person authorized by the commission may administer an oath or affirmation to a witness appearing before the commission or a per-

son authorized by the commission.

(4) If a person fails to comply with a subpoena issued on behalf of the commission, the commission or agency director may invoke the aid of the appropriate court in requiring compliance with the subpoena. For a person compelled to appear before the commission under this section, the commission shall pay expenses in accordance with the statutory provisions for state employees. The commission reserves the right to bill the expenses to parties requiring the appearance of the subpoenaed person.

#### H. RECORDS:

(1) Inspection and copying of commission records are governed by the provisions of the Inspection of Public Records Act, NMSA 1978, Sections 14-2-1 through 14-2-12.

(2) Except as otherwise authorized by statute, or regulation, all original records of the commission shall be maintained in the offices of the commission. No person may remove an original record from the offices of the commission without the approval of the agency director.

(3) To inspect commission records, a person must make a written request to the appointed records official and to receive copies must pay all costs for copying within the limits set by the Public Records Act.

#### I. ISSUANCE OF LICENSE TO CONDUCT A RACE MEETING AND ALLOCATION OF RACE DATES:

(1) The commission shall allocate race dates to each association in accordance with the act and these rules. An association shall apply to the commission for a license and racing dates not later than June 1st for all proposed racing meets and dates to be run in the succeeding calendar year. Applications shall not be received or amended after this date except by approval of a majority of the commission. The application must contain the information required by statute and the commission. After the request is filed, the commission may require the association to submit additional information. The commission may limit, condition or otherwise restrict any license to conduct horse racing or a horse race meeting in the state of New Mexico.

(2) The burden of proof is on the association to demonstrate that its receipt of a license to conduct a race meet and the allocation of the race dates will be in the public interest and will achieve the purposes of the act.

(3) In issuing licenses for race meetings and allocating race dates under this section, the commission may consider the following factors: public interest, health of the industry, safety and welfare of partic-

ipants, and the criteria for licensure to conduct a race meet set forth in the act and in these rules.

(4) Prior to approving an application for a new license for a horse racetrack, other than the licenses in existence as of January 1, 2007, or an application by a licensed horse racetrack to move its racing and gaming facilities to a new location, the commission shall solicit and consider the views on the application by the Indian tribes, nations and pueblos in the following manner:

(a) provide written notice to all federally recognized Indian tribes, nations or pueblos that are authorized by law to enter into a gaming compact with the state of New Mexico under the Indian Gaming Regulatory Act, 25 U.S.C. Section 2701 et seq., ("Indian Tribes") that such an application has been filed with the commission within fifteen (15) days of such filing and provide a copy of all non-confidential documents submitted by an applicant to an Indian tribe upon request, at the Indian tribe's expense;

(b) allow Indian tribes forty five (45) days to respond to the application by submitting written comments to the commission prior to holding any public hearing at which final action on the application may be considered; such comments shall be immediately forwarded to the applicant by the commission, but no later than fifteen (15) days prior to holding any public hearing at which final action on the application may be considered; the views of the Indian tribes may include, but are not limited to, the following:

(i) potential economic impact of approval of said license on a specific Indian tribe's government or gaming facility, including impact on revenue sharing with the state of New Mexico; the number of miles from the nearest tribal gaming facility; the potential impact on the nearest tribal gaming facility's market share; and the potential impact on the Indian tribe's income from gaming facilities;

(ii) identification of other significant impacts on the Indian tribe;

(c) any public hearing at which final action on the application may be considered must be at least fifteen (15) days after the forty five (45) day comment period for Indian tribes set forth above;

(d) the commission shall consider and evaluate the Indian tribes' views prior to taking any final action on the application; to "consider and evaluate" means to think about carefully and seriously;

(e) the above procedures for notification to Indian tribes shall not apply to the annual renewal of a horse racetrack license.

(4) (5) The association shall be

obligated to conduct pari-mutuel racing, except in the case of emergencies, on each race date allocated. Any change in race dates must be approved by the commission. In the case of emergencies the stewards may authorize cancellation of all or a portion of any race day.

~~(5)~~ (6) All applicants for an initial license to conduct horse racing or a horse race meeting in the state of New Mexico shall submit the following information to the commission in the form of a verified application, including an original and six (6) copies.

(a) The name of the applicant and indicate whether it is an individual, firm, association, partnership, corporation or other legal entity.

(b) The names, residences, and nationalities of individual applicants or members of a partnership, association or firm.

(c) If the applicant is a corporation, the following information must be furnished, and if the applicant is a parent or subsidiary of another corporation, the following information must be furnished for each entity.

(i) The year in which the corporation was organized, its form of organization and the name of the state under the laws of which it was organized. Articles of incorporation and bylaws must also be submitted.

(ii) The classes of capital stock authorized, the amount authorized, and the amount outstanding as of the date not less than fifteen (15) days prior to the filing of the application.

(iii) The name and address of each person who owns of record or is known by the applicant to own beneficially, ten (10) percent or more of any class of capital stock. This can be indicated as name and address; class of stock owned; type of ownership whether of record or beneficial; amount owned; percent of the class of stock.

(iv) Outline briefly the dividend rights, voting rights, liquidation rights, preemptive rights, conversion rights, and redemption provisions. If the rights of holders of such stock may be modified other than by a vote of majority or more of the shares outstanding, voting as a class, so state and explain briefly.

(v) If organized as a corporation within the past five (5) years, furnish the names of the promoters, the nature and amount of anything of value received or to be received by each promoter directly or indirectly from the applicant and the nature and amount of any assets, services, or other consideration therefore received or to be received by the applicant.

(vi) List the names of

all directors and executive officers and all persons chosen to become directors or executive officers. Indicate all other positions and offices held by each such person, and the principal occupation during the past five (5) years of each person to become a director or executive officer. For the purposes of this subparagraph, "executive officer" means the president, vice-president, secretary and treasurer, and any other person who performs policy-making, supervisory, administrative, or financial functions for the applicant.

(vii) Describe in detail the financial arrangements, which have been made for acquisition and operation of racing facilities, including the nature and source of any funds or other property, real or personal, which may be used in this connection.

(viii) Identify in detail the source(s) and terms of any loans, loan commitments, lines of credit, pledges, stock subscriptions, and any other source of funds which may be used in the acquisition or operation of racing facilities.

(ix) State in detail the terms of any proposed purchase of stock or assets in a current licensee.

(x) State whether a substantial portion of the assets or of the capital stock is encumbered by any short-term or long-term debt. Explain fully and state the names and addresses of parties holding security interests or promissory notes from the applicant and the stockholders, where the stock is pledged as security, and outline the terms of and submit the agreements creating the security interests.

(xi) Applicants must submit balance sheets and profit and loss statements for each of the three fiscal years immediately preceding the application, or for the period of organization if less than three years. If the applicant has not completed a full fiscal year since its organization, or if it acquires or is to acquire the majority of its assets from a predecessor within the current fiscal year, the financial information shall be given for the current fiscal year.

(xii) Applicant must submit with application a current financial statement for each director, executive officer, manager, and stockholders owning ten (10) percent or more of the outstanding shares in any corporate applicant.

(xiii) All financial information shall be accompanied by an unqualified opinion of a duly licensed certified public accountant, or if the opinion is given with qualifications, the reasons for the qualifications must be stated.

(xiv) For applicants other than corporation, list the names and addresses of all executive officers and managerial officers. Indicate positions and

offices held by each person named and their principal occupation(s) during the past five years.

(xv) State whether any director, executive officer, manager, or stockholder has ever been convicted of a crime and describe the circumstances of the convictions.

(xvi) Describe any pending legal proceedings to which the applicant or any of its subsidiaries or parent corporations is involved, or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted and the principal parties thereto.

(xvii) State in complete detail whether the applicant, or any director, executive officer, stockholder or manager has owned an interest in or has been employed by any firm, partnership, association or corporation previously licensed to conduct a race meeting in any jurisdiction.

(xviii) State actual legal description of a proposed site for racing facilities, names and addresses of the titleholders to the real property and names and addresses of all personal holding mortgages or other security interests in the property.

(xix) State the number of miles from the nearest population center, and describe briefly the transportation facilities serving that population center.

(xx) State the exact dimensions of the track proposed. Submit at least one copy of the architect's drawings showing detail of the proposed construction. If a grandstand is in existence, describe the size and type of construction.

(xxi) Describe the efforts to be made to insure the security safety and comfort of patrons and license holders.

(xxii) State the availability of fire protection and adequacy of law enforcement and police protection.

(xxiii) State the parking lot capacity and describe the construction and type of parking facilities.

(xxiv) State the number and type of construction of stables, other barn areas, forecourt and paddock areas, indicating capacities and fire prevention facilities for all areas.

(xxv) Describe the facilities for owners, trainers, jockeys, grooms and other racing personnel.

(xxvi) State the arrangements for food and drink concessions indicating the names and addresses of concessionaires and the terms of the concession contracts.

(xxvii) Describe any concessions, clubs or other special facilities, existing or proposed, for patrons.

(xxviii) Indicate by actual dates the racing days requested by

applicant.

(xxix) Indicate the kind of racing to be conducted.

(xxx) Describe the proposed pari mutuel operation in general and indicate in particular the terms of the pari mutuel ticket sales.

(xxxi) Describe climatic conditions prevalent during the proposed racing season.

(xxxii) Indicate the population of the local area, and the growth trend. Indicate the potential market including tourists, transients and patrons from neighboring areas.

(xxxiii) Indicate the principal sources of local income, showing the percentage from farming and ranching, industrial, professional services, military and other governmental sources.

(xxxiv) Describe the effect of competition with other racetracks in and out of the state and with other sports or recreational facilities in the area.

(xxxv) Indicate what effect opposition from area residents may have on the economic outlook for the proposed track.

~~(6)~~ (7) A new complete primary application as required in Subsection I, Paragraph (5) of 15.2.1.8 NMAC is also required if any of the following events occur:

(a) if the effective controlling interest of any licensee is transferred or conveyed;

(b) if any involuntary transfer of either tangible real or personal property or corporate stock gives the effective control of the licensee to the transferee;

(c) in the event that a transfer under Subparagraphs (a) and (b) occurs after the granting of racing dates, the transferee shall immediately apply to the commission for a hearing to show cause why the transferee should be permitted to continue racing under the current grant of racing dates;

(d) failure to make application within ninety (90) days of the date of the proposed transfer shall be grounds for revocation of license.

~~(7)~~ (8) A race meet licensee that has been licensed for the previous year, must submit to the commission a renewal application, on a form provided by the commission, containing the following information:

(a) complete listing of officers, directors of corporation, and secondary lender affiliates;

(b) proposed race dates and simulcast race dates;

(c) at the time of annual request for racing dates, when the commission in its discretion determines that the licensee should supply current information;

- (d) current financial statements;
- (e) changes to articles of incorporation and bylaws;
- (f) list of concessionaires and contract services;
- (g) changes from original application, or last renewal application, in mortgage of real property;
- (h) insurance policies;
- (i) any other changes from original primary application.

~~(8)~~ (9) The commission in addition to any other legally sufficient reason, may disapprove, deny, refuse to renew, suspend, or revoke a license to conduct horse racing or a horse race meeting in the state of New Mexico if any person having any direct or indirect interest in the applicant or in the licensee, or any nature whatsoever, whether financial, administrative, policy-making or supervisory:

(a) has been convicted of a felony under the laws of New Mexico, the laws of any other state or the laws of the United States, unless sufficient evidence of rehabilitation has been presented to the commission;

(b) has been guilty of or attempted any fraud or misrepresentation in connection with racing, breeding or otherwise, unless sufficient proof of rehabilitation has been presented to the commission;

(c) has violated or attempted to violate any law or regulation with respect to racing in any jurisdiction, unless sufficient proof of rehabilitation has been presented to the commission;

(d) has consorted or associated with bookmakers, touts or persons of similar pursuits, unless sufficient proof of rehabilitation has been presented to the commission;

(e) is consorting or associating with bookmakers, touts or persons of similar pursuits;

(f) is financially irresponsible as found or determined by the commission; or,

(g) is a past or present member of or participant in organized crime as such membership or participation may be found or determined by the commission.

[15.2.1.8 NMAC - Rp, 15 NMAC 2.1.8, 03/15/2001; A, 08/30/2001; A, 01/31/2008]

## NEW MEXICO RACING COMMISSION

Explanatory Paragraph: This is an amendment to 15.2.6.9 NMAC adopting the revised “uniform classification guidelines for foreign substances and recommended penalties and model rule” made by ARCI July of 2007. Effective 1/31/2008.

15.2.6.9 MEDICATIONS AND

**PROHIBITED SUBSTANCES:** The “uniform classification guidelines for foreign substances and recommended penalties and model rule”, revised [April 15, 2004] July 2007, as issued by the association of racing commissioners international, is incorporated by reference. Upon a finding of a violation of these medication and prohibited substances rules, the stewards shall consider the classification level of the violation as listed at the time of the violation by the uniform classification guidelines of foreign substances as promulgated by the association of racing commissioners international and impose penalties and disciplinary measures consistent with the recommendations contained therein. The guidelines and recommended penalties shall be provided to all license holders by attachment to this section. Provided, however, that in the event a majority of the stewards determine that mitigating circumstances require imposition of a lesser penalty they may impose the lesser penalty.

## NEW MEXICO TAXATION AND REVENUE DEPARTMENT

This is an amendment to 3.1.4 NMAC, Section 17, effective 1/31/08.

3.1.4.17 APPROVED ELECTRONIC MEDIA: Department approved electronic media includes:

A. an electronic transmission of the personal income tax return data submitted in an approved format using a computer language designated by the department, or

B. a paper return with a PDF 2D barcode printed on the form, which contains the tax return information in a department approved format.

[3.1.4.17 NMAC - N, 1/31/08]

## NEW MEXICO TAXATION AND REVENUE DEPARTMENT

This is an amendment to 3.1.11 NMAC, Section 19, effective 1/31/08.

~~3.1.11.19 PENALTY FOR FAILURE TO CORRECTLY REPORT DEDUCTION AMOUNT~~

A. ~~A taxpayer who takes the benefit of the deduction provided by either Section 7-9-92 or 7-9-93 NMSA 1978 and fails to correctly report an amount deductible under those sections is subject to the penalty provided by Section 7-1-71.2 NMSA 1972.~~

B. ~~A taxpayer fails to correctly report the amount of a deduction provided by Section 7-9-92 or 7-9-93 NMSA 1978 when the taxpayer:~~

~~(1) excludes from both reported gross receipts and reported deductions an amount deductible under those sections and not otherwise exempt;~~

~~(2) example 1: a “big box” store has sales of \$200,000. \$10,000 is from sales of food in exchange for food stamps and \$20,000 is from other sales of food; the taxpayer reports gross receipts of \$170,000 and zero deductions and pays the appropriate tax on the \$170,000; although the \$10,000 in food stamp sales is exempt under Section 7-9-18.1 NMSA 1978, the other \$20,000 in food sales is not; those sales are deductible under Section 7-9-92 NMSA 1978 and must be reported as gross receipts and then deducted properly; the penalty under Section 7-1-71.2 NMSA 1978 applies to the under reported \$20,000;~~

~~(3) does not report an amount deductible under those sections separately from other deductions in accordance with instructions of the secretary;~~

~~(4) example 2: an osteopath has \$25,000 in receipts; the osteopath sold under contract \$5,000 worth of services to a hospital for re sale to a patient and has accepted a type 5 nontaxable transaction certificate in connection with those services; the \$5,000 is deductible under Section 7-9-48 NMSA 1978; the remaining \$20,000 in services are also deductible, but under Section 7-9-93 NMSA 1978; the osteopath reports, contrary to the instructions of the secretary, on a single line \$25,000 in gross receipts and \$25,000 in deductions; the penalty under Section 7-1-71.2 NMSA 1978 applies to this \$20,000 under reporting of the deductions subject to Section 7-9-93 NMSA 1978;~~

~~(5) reports an amount as a deduction under those sections when the amount should be reported as an exemption or deduction under another section of the Gross Receipts and Compensating Tax Act;~~

~~(a) example 3: a grocer sells qualifying food items to a food stamp recipient in exchange for food stamps; the grocer deducts the value of the food stamps received under Section 7-9-92 NMSA 1978; the sale of food items purchased with food stamps is exempt under Section 7-9-18.1 NMSA 1978; the taxpayer has over reported deductions under Section 7-9-92 NMSA 1978 and the penalty under Section 7-1-71.2 NMSA 1978 applies to the amount of the over reporting;~~

~~(b) example 4: a physician receives payment from a medicare administrator for health care services provided to a medicare enrollee; the physician deducts the payment from gross receipts under Section~~

7-9-93 NMSA 1978; medicare payments to physicians are deductible under Section 7-9-77.1 NMSA 1978; the physician has over-reported the deduction under Section 7-9-93 NMSA 1978 and the penalty under Section 7-1-71.2 NMSA 1978 applies to the over-reporting;

(6) reports as a deduction under those sections an amount in excess of that permitted by those sections.

C. The penalty provided by Section 7-1-71.2 NMSA 1978 is in addition to other penalties provided by the Tax Administration Act.

D. Because not claiming a deduction is not a failure to correctly report the amount of a deduction, the penalty will not apply if the taxpayer is entitled to, but does not claim, a deduction under Section 7-9-92 or 7-9-93 NMSA 1978.

E. If a return subject to the penalty provided by Section 7-1-71.2 NMSA 1978 is amended one or more times on or before the due date of the return, and the food and/or medical deductions provided under 7-9-92 and/or 7-9-93 NMSA 1978 are reported correctly on the last timely amended return, no local option penalty shall be assessed.

F. Example: Grocery store B has total gross receipts of \$160,000. B files a timely CRS-1 return reporting regular gross receipts of \$60,000 and deductions allowed under other sections of the Gross Receipts and Compensating Tax Act of \$10,000 on line one and gross receipts and food deductions pursuant to Section 7-9-92 NMSA 1978, of \$100,000 using the special code "F" on line two. Before the due date of the return, B discovers that food stamp sales of \$40,000 were included on line 2 as a food deduction and files an amended report changing line two to reflect the correct gross receipts and food deductions of \$60,000. B is assessed no penalty.

G. If a return subject to the penalty provided by Section 7-1-71.2 NMSA 1978 is amended more than once, and all subsequently filed amended returns for that reporting period are received after the due date of the return, the maximum local option penalty shall be the penalty that would result from comparing the food and/or medical deductions reported pursuant to Sections 7-9-92 and/or 7-9-93 NMSA 1978 on the timely filed return to the food and/or medical deductions reported on the most recent amended return for that reporting period.

(1) Example: Grocery store G has total gross receipts of \$100,000. G submits a timely CRS-1 return showing \$100,000 in gross receipts and \$40,000 in deductions on line one. Line two is left blank.

(2) After the due date of the return, G amends the return to report \$70,000 in gross receipts and \$10,000 in

deductions on line one, and \$30,000 in gross receipts and deductions on line two. An "F" in column B of line two identifies line two as food sales deductible under 7-9-92 NMSA 1978.

(3) G submits a second amended report in which line two is adjusted to report \$20,000 in deductible food sales. G will be assessed the local option penalty on the difference between the food deduction on the most recent amended return (\$20,000) and the first timely filed return (\$0). Since no food deduction was reported on the first filed timely return, the penalty is calculated on the difference of \$20,000 multiplied by twice the applicable local option gross receipts tax rate.

H. If a return subject to the penalty provided by Section 7-1-71.2 NMSA 1978 is amended both before and after the due date of the return, the maximum local option penalty for that reporting period shall be the penalty that would result from a comparing the last timely filed amended return for that reporting period postmarked on or before the due date of the return and the most recent amended return for that reporting period.

I. Example: C is a medical practitioner. C files a timely CRS-1 return showing \$100,000 in total gross receipts and \$60,000 in deductions on line 1. Line 2 is blank. Before the due date of the return, C files an amended return showing \$100,000 in gross receipts and no deductions on line 1. Sixty thousand dollars in gross receipts deductible under 7-9-93, identified by an "M" in column B, are reported on line 2. After the due date of the return, C amends a second time. On the second amended return, C reports \$70,000 in gross receipts and \$30,000 in deductions on line 1 and \$30,000 in gross receipts deductible under 7-9-93 on line 2. C's penalty for misreporting will be calculated on the \$30,000 difference between the "M" deduction reported on the most recent amended report received before the due date of the return (\$60,000) and the "M" deduction reported on the last amended report received after the due date of the return (\$30,000) multiplied by twice the applicable local option gross receipts tax rate.

J. If an extension pursuant to Section 7-1-13 NMSA 1978 has been granted, for purposes of calculating the local option penalty under Section 7-9-71.1 NMSA 1978, the due date of the return is the last date of the extension period. No extension shall prevent the accrual of interest as otherwise provided by law.]

[RESERVED]

[3.1.11.19 NMAC - N, 1/31/05; A, 11/30/05; Repealed, 1/31/08]

## NEW MEXICO TAXATION AND REVENUE DEPARTMENT

This is an amendment to 3.3.12 NMAC, Section 13, effective 1/31/08.

### 3.3.12.13 ELECTRONICALLY FILED RETURNS:

[A.] A taxpayer, a taxpayer's representative or a tax return preparer may file the personal income tax return and associated schedules in an electronic format [after receiving approval for such method of filing from the department. To receive approval the taxpayer, taxpayer's representative or tax return preparer must apply in writing and demonstrate that such filing will meet] that meets all criteria for filing through an electronic media as set forth by the department. Returns filed through an electronic media must use computer programming determined by the department to be compatible with the computer programming and equipment used by the department for processing income tax returns. The returns must be submitted in an approved format using a computer language designated by the department. The product used to generate the electronic return must receive prior approval from the department for the method of filing.

[B.] This section (3.3.12.13 NMAC) applies to taxable years beginning on or after January 1, 1989.]

[7/20/90, 3/16/92, 1/15/97; 3.3.12.13 NMAC - Rn & A, 3 NMAC 3.12.13, 12/14/00; A, 1/31/08]

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## End of Adopted Rules Section

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**SUBMITTAL DEADLINES AND PUBLICATION DATES**

**2008**

<b>Volume XIX</b>	<b>Submittal Deadline</b>	<b>Publication Date</b>
Issue Number 1	January 2	January 15
Issue Number 2	January 16	January 31
Issue Number 3	February 1	February 14
Issue Number 4	February 15	February 29
Issue Number 5	March 3	March 14
Issue Number 6	March 17	March 31
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Issue Number 9	May 1	May 15
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Issue Number 20	October 16	October 30
Issue Number 21	October 31	November 14
Issue Number 22	November 17	December 1
Issue Number 23	December 2	December 15
Issue Number 24	December 16	December 31

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