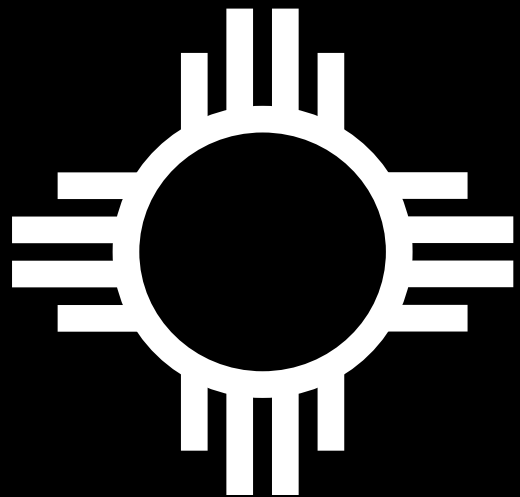


**NEW
MEXICO
REGISTER**

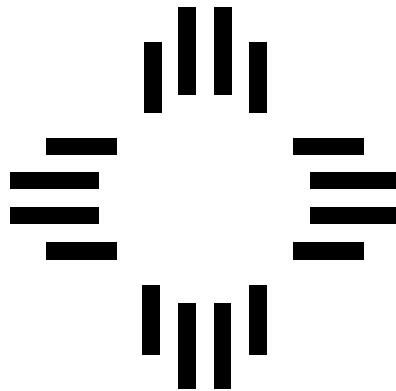


Volume XVI
Issue Number 9
May 13, 2005

New Mexico Register

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

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2005

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New Mexico Register

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May 13, 2005

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

Notices of Rulemaking and Proposed Rules

**NEW MEXICO
CHILDREN, YOUTH AND
FAMILIES DEPARTMENT
PROTECTIVE SERVICES DIVISION**

**NEW MEXICO
CHILDREN, YOUTH AND FAMILIES
DEPARTMENT**

PROTECTIVE SERVICES

NOTICE OF PUBLIC HEARING

Protective Services (PS) will hold a public hearing in Santa Fe on Monday, June 13, 2005 from 1:00 p.m. to 2:00 p.m. at CYFD, PERA Bldg, 1120 Paseo de Peralta, Room 227, Santa Fe, NM 87501 (call 505 827-8400 for directions). The public is invited to attend to make comment regarding the 2005 annual progress and services report on the Title IV-B Child and Family Services Plan.

The PERA building is accessible to people with disabilities. Written comments are provided the same weight as comments received during the public hearing. Documents are available in different formats to accommodate a particular disability. Anyone seeking such assistance must provide two weeks notice to receive any written material in an alternative format by calling 505-827-8400. If assistance is required to attend the hearing, please call 505-827-8400 to arrange accommodation.

The report may be reviewed at any protective services county office. Copies of the report may be purchased for the cost of copying. For more information contact Yvette Sandoval, IV-B Manager, CYFD-PS, P.O. Drawer 5160, Santa Fe, NM 87502-5160, 505-476-1048. Copies can also be requested through the use of the New Mexico relay system by calling 505-827-7586.

**NEW MEXICO CULTURAL
PROPERTIES REVIEW
COMMITTEE**

Public Rule Hearing

Notice is hereby given that the Cultural Properties Review Committee (CPRC) will convene a public hearing at 9:00 a.m. on Saturday, June 4, 2005 in Meem Hall at the Museum of Indian Arts and Culture-Laboratory of Anthropology (Museum Hill), 710 Camino Lejo, Santa Fe, New Mexico 87504. The purpose of the hearing is to consider adoption of proposed rules in 4.10 NMAC PART 8, "Permits to Conduct

Archaeological Investigations on State Land"; PART 14, "Cultural Properties on Private Land and Mechanical Excavation Permits"; PART 15, "Standards for Survey and Inventory"; PART 16, "Standards for Excavation and Test Excavation"; and PART 17, "Standards for Monitoring". Draft copies of the proposed rules can be obtained by contacting the Historic Preservation Division (HPD) at 827-4045 or from the New Mexico Archeological Council's web page at www.nmacweb.org. Persons may present their views on the proposed rules through testimony at the hearing or in writing. All written comments must be received by HPD at 228 E. Palace Ave., Santa Fe, NM 87501 or e-mailed to jbiella@dca.state.nm.us on or before June 3, 2005. The hearing officer will prepare a report and recommended decision to the CPRC. The CPRC will consider adoption of the final rules during its regular meeting June 10, 2005 or at another regular meeting. Persons with a disability who require special assistance to attend or participate in the hearing, may contact the HPD at 827-4064 at least one week prior to the hearing.

**NEW MEXICO OFFICE
OF THE STATE ENGINEER**

**STATE ENGINEER PROPOSED RULES
AND REGULATIONS AND NOTICE OF
PUBLIC HEARING**

OFFICE OF THE STATE ENGINEER
P.O. BOX 25102
SANTA FE, NEW MEXICO 87504-5102
(505) 827-6120
www.ose.state.nm.us

The State Engineer is proposing new rules and regulations concerning supplemental well pumping within the Carlsbad Irrigation District (CID). These and other regulations are required by the March 25, 2003, settlement regarding Carlsbad Project water rights between the CID, the Pecos Valley Artesian Conservancy District, the United States, the State Engineer, and the New Mexico Interstate Stream Commission. The CID supplemental well regulations will be valid independently of the implementation of the settlement and of the State Engineer's Active Water Resources Management program. The proposed rules and regulations are available at the Office of the State Engineer in Santa Fe, Albuquerque, Las Cruces, Roswell, Deming, Aztec, and Cimarron. The proposed rules and regulations are also posted on the Office of the State Engineer web site and may be accessed on the web site as follows:

- a) Start from the OSE home page at www.ose.state.nm.us
- b) Click on "Active Water Resource Management"
- c) Click the link to these proposed regulations under the "Lower Pecos" heading

To request a copy of the rules and regulations be mailed to you, please contact Christina Malessa at 505-827-4124. There is a \$5.00 charge to have a copy of the proposed regulations mailed to you. There is no charge for the regulations if they are picked up at any office of the Office of the State Engineer.

The proposed Rules and Regulations Governing Active Water Resource Management (AWRM) contain the following sections: (1) Issuing Agency, (2) Scope, (3) Statutory Authority, (4) Duration, (5) Effective Date, (6) Objective, (7) Definitions, (8) Preface, (9) Construction, (10) Specific Duties of Carlsbad Basin Subdistrict Water Master to Administer Supplemental Well Uses, (11) Specific Duties of the Lower Pecos River Basin Water Master to Administer Supplemental Well Uses, (12) Meter Required for All Supplemental Well Operations, (13) Separate Meter Required for Domestic Uses Supplied by a Supplemental Well, (14) Changes in Ownership [Notification] Required, (15) Duty of the Owner to Avoid an Over-Diversion, (16) Water Master Proceeding Against Owner of Record, (17) Limits on Quantity of Diversion of Supplemental Groundwater, (18) Place of Use of Supplemental Groundwater; Variance; Over-Diversion, (19) Over-Diversions; Frequency of Enforcement Against Over-Diversions, (20) Remedy for Over-Diversion, (21) Calculation of Remedy, (22) Operation of Supplemental Well Prohibited Pending Completion of a Remedy, (23) Remedy Required for Prohibited Operation of a Supplemental Well, (24) Injunction Against Supplemental Well Owner and Supplemental Well Diverter, (25) Meter Tampering Prohibited, (26) Remedy Required When Meter Tampering Has Occurred or A Meter Deficiency Has Not Been Timely Corrected, (27) Fee for Work Required of the State Engineer to Oversee Each Remedy, (28) Water Master Annual Report, (29) Appeal of an Action or Failure to Act by the Water Master, (30) Appeals from State Engineer Decisions, (31) Supersession by a Court, (32) Variances, (33) Knowledge of and Compliance with Statutes, Rules, Regulations and Codes, (34) Severability, (35) Enforcement, (36) State Engineer Option to Revise Rules and

Regulations, (37) Retroactive Effect, (38) Liberal Construction.

A public hearing will be held on the above described proposed rules and regulations for Supplemental Well Pumping within the CID, in Room 309, State Capital Building (Roundhouse), Santa Fe, New Mexico, on June 3, 2005, beginning at 9:00 a.m. Any person who is or may be affected by these proposed rules and regulations may appear and testify. If you are an individual with a disability who is in need of special assistance or accommodation to attend or participate in the hearing, please contact Christina Malessa at 505-827-4124. The Office of the State Engineer requests ten days advance notice to provide any special accommodation.

Written comments on the proposed regulations may be submitted to the Office of the State Engineer in Santa Fe or any of the district offices. Comments and questions may also be emailed to tmurrell@ose.state.nm.us. Please submit your written comments to the Office of the State Engineer no later than May 30, 2005. After that date, written comments will be accepted at the hearing in Santa Fe on June 3, 2005, until the hearing is adjourned.

NEW MEXICO GAME COMMISSION

STATE GAME COMMISSION PUBLIC MEETING AND RULEMAKING NOTICE

On Friday, May 20, 2005, beginning at 9:00 a.m. at the State Capitol Building, 490 Old Santa Fe Trail, Third Floor-Room 307, Santa Fe, NM 87501, the State Game Commission will meet in Public Session to consider action as appropriate on the following: Consent Agenda for Quarterly Depredation Report; Revocation of Hunting and Fishing License Privileges; Recognition of Commissioner Jennifer Atchley-Montoya, Approval of State Land Office Easement for Hunting, Fishing, and Trapping; Requesting Commission Approval to Dispose of Fixed Assets; State Game Commission Approval Sought for 2006 Habitat Stamp Program Projects with GPS Update; Update on the Status of the Elk Landowner Signup System Review; "Mandatory Harvest" Reporting Program; Closed Executive Session to discuss litigation, personnel, and 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

unidentified individual(s) that may have violated their professional code of conduct as per 19.30.8, and 19.31.2, NMAC; and Notice of Commission Contemplated Action.

The Commission will open the following rules for amendment or adoption:

- * Amendment of Hunting and Fishing License Application Restrictions, 19.31.3.11, NMAC;
- * Amend Specific Portion of the Big Game and Turkey Rule, 19.31.8.13, Paragraph F, NMAC;
- * Amend Upland Game Rule 19.31.5, NMAC, and Waterfowl Rule 19.31.6, NMAC; and
- * Amend Private Land Elk License Authorization Rule 19.30.5, 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 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 HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

NOTICE

The New Mexico Human Services Department (HSD) will hold 3 separate public hearings on June 13, 2005 at the New Mexico State Library, Room 207 (1205 Camino Carlos Rey), Santa Fe, New Mexico.

From 9:00-10:00 a.m. the subject of the hearing will be Day Treatment. The Human Services Department (HSD) proposes to revise MAD-745.3, Day Treatment Services. Beginning on July 1, 2005, New Mexico Medicaid will participate with several other state agencies in the collaborative

purchasing of publicly funded behavioral health services by contracting with a single statewide entity which will manage these services in a standardized, coordinated way.

* The description of the service is written to be more specific and to conform to the standardized service definition developed for the behavioral health Collaborative.

* The target population has been defined using language developed for the behavioral health Collaborative service definition.

* The "Covered Services" section has been rewritten to update the language and to be in compliance with the language developed for the behavioral health Collaborative.

* Under "Noncovered Services" information has been added about services which are excluded while an individual receives day treatment.

* The term "prior approval" has been changed to "prior authorization" to be consistent with other updated Medicaid policies.

* Other minor grammatical and formatting changes have also been made.

From 10:00-11:00 a.m. the subject of the hearing will be Behavior Management Services. The Human Services Department (HSD) proposes to revise MAD-745.2, Behavior Management Skills Development Services (BMS). Beginning on July 1, 2005, New Mexico Medicaid will participate with several other state agencies in the collaborative purchasing of behavioral health services by contracting with a single entity that will manage these services in a standardized, coordinated way.

Specific proposed changes are: the language defining BMS is written to be more specific and to conform to the standardized service definition developed for the behavioral health collaborative; service exclusions identified in the standardized service definition developed for the behavioral health collaborative have been incorporated; the term "prior approval" has been changed to "prior authorization" to be consistent with other updated Medicaid policies; other minor grammatical and formatting changes have also been made.

From 11:00 a.m.-12:00 noon. the subject of the hearing will be Mental Health Professional Services. The Human Services Department (HSD) proposes to revise 8.310.8 NMAC. Beginning on July 1, 2005, New Mexico Medicaid will participate with several other state agencies in the collaborative purchasing of behavioral health services by contracting with a single entity which will manage these services in a

standardized, coordinated way. The proposed changes add clarity, update terms and resolve discrepancies in preparation for this change.

Specific proposed changes are:

* The professional art therapist may be enrolled as a rendering provider, although not as a billing provider, when providing services in an approved agency.

* The term, "Clinical nurse specialist" has been corrected to "licensed clinical nurse specialist". The language regarding allowed provider agencies has been updated

* Tribal 638 clinics and school-based providers of Individualized Education Plan (IEP) services are recognized as providing mental health services.

* Language requiring "reasonable expectation of improvement" has been updated to require "medical necessity" to be consistent with other Medicaid policies.

* Licensed clinical nurse specialists and registered nurse practitioners will be able to provide inpatient care, which is consistent with current licensure.

* The Council on Accreditation as an accrediting organization has been added in order to be consistent with policy of the Children, Youth and Families Department.

* Psychologists and qualified registered nurse practitioners will be able to perform medication reviews according to their licensure and certification.

* The policy provides for a final settlement for physician groups in state-operated teaching hospitals.

Interested persons may submit written comments no later than 5:00 p.m., June 13, 2005, to Pamela S. Hyde, J.D., Secretary, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

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

Copies of the Human Services Register are available for review on our Website at www.state.nm.us/hsd/mad.htm or by sending a *self-addressed stamped envelope* to Medical Assistance Division, Program Oversight & Support Bureau, P.O. Box

2348, Santa Fe, NM. 87504-2348.

NEW MEXICO BOARD OF NURSING

NEW MEXICO BOARD OF NURSING

NOTICE OF PUBLIC HEARING

Notice is hereby given that the New Mexico Board of Nursing will convene a Rules Hearing to repeal:

16.12.5 NMAC

16.12.7 NMAC

16.12.8 NMAC

And replace 16.12.5 NMAC with a new Part 5 titled:

Medication Aides

This Hearing will be held at New Mexico Board of Nursing Conference Room on Tuesday, June 21, 2005 at 9:30 a.m.

Any person wishing to present testimony at the Hearing is requested to submit, to the Board of Nursing Office, 6301 Indian School NE, Suite 710, Albuquerque, NM, 87110, a written statement of intent (10 copies) to be received no later than June 7, 2005

The Statement shall provide:

Name of Witness:

Who Witness represents:

Brief statement of subject matter of testimony; & anticipated length of presentation.

Notice: Any person presenting testimony, who is representing a client, employer or group, must be registered as a lobbyist through the Secretary of State's Office (505) 827-3600 or do so within 10 days of the Public Hearings.

Persons requiring special accommodations at the hearing are asked to call the Board office (841-8340) no later than May 20, 2005 so that arrangements can be made. Hearing impaired persons call TDD 1-800-659-8331.

Drafts of proposed changes may be downloaded from our website: www.state.nm.us/nursing or requested through the Board of Nursing office.

NEW MEXICO OIL CONSERVATION COMMISSION

NOTICE OF RULEMAKING

STATE OF NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION COMMISSION SANTA FE, NEW MEXICO

The State of New Mexico, through its Oil Conservation Commission, hereby gives notice that the Commission will conduct a public hearing at 9:00 A.M. on **June 9, 2005**, in Porter Hall at 1220 South St. Francis Drive, Santa Fe, New Mexico, concerning the adoption of amendments to 19.15.14 NMAC. The proposed amendments will make changes to the procedural rules relating to rulemaking and adjudicatory hearings conducted by the Oil Conservation Division and the Oil Conservation Commission. Among other provisions, the proposed amendments will (a) provide for, and fix the time for submission of, written comments on proposed rule changes, (b) prescribe a procedure for the Oil Conservation Commission to initiate rule changes on its own motion, (c) require 20-days' notice of adjudicatory hearings, as well as rulemaking hearings, (d) require pre-filing of exhibits in advance of division or commission hearings, (e) require filing of a pre-hearing statement in advance of a rulemaking hearing by any party intending to present technical testimony, (f) provide procedures for disposition of pre-hearing matters, including issuance and quashing of subpoenas and motions for continue, in advance of scheduled division or commission hearings, (g) provide who may make statements or otherwise participate in division or commission hearings and under what circumstances such persons must be represented by counsel, and (h) authorize the director of the division to issue interim stays of commission orders. Copies of the text of the proposed amendments are available from Division Administrator Florene Davidson at (505)-476-3458 or from the Division's web site at <http://www.emnrd.state.nm.us/ocd/what-snew.htm>. Written comments on the proposed amendments must be received no later than 5:00 P.M. on Thursday, June 2, 2005. Written comments may be hand-delivered or mailed to Ms. Davidson at 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or may be faxed to Ms. Davidson at 476-3462. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary

aid or service to attend or participate in the hearing, please contact Ms. Davidson at (505)-476-3458 or through the New Mexico Relay Network (1-800-659-1779) as soon as possible.

Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 13th day of April, 2005.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

Mark E. Fesmire, P.E.
Director, Oil Conservation Division

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

The Public Education Department ("Department") hereby gives notice that the Department will conduct a public hearing at Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico, 87501-2786, on June 17, 2005, from 10:00 a.m. to noon. The purpose of the public hearing will be to obtain input on the following rules:

Rule Number	Rule Name	Proposed Action
6.19.6 NMAC (Proposed NMAC Number)	Title I Supplemental Educational Services (Proposed Rule Name)	Adopt new rule

Interested individuals may testify at the public hearing or submit written comments to Dan Williams, Education Administrator, School Assistance Bureau, Public Education Department, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786 (dwilliams@ped.state.nm.us) (telefax (505) 954-0001). Written comments must be received no later than 5 p.m. on the date of the hearing. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rule may be accessed on the Department's website (<http://ped.state.nm.us/>) or obtained from Jenna Jaquez, Administrative Assistant, School Assistance Bureau, Public Education Department, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786 at (505) 827-1421.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact Ms. Jaquez as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

**End of Notices and
Proposed Rules Section**

Adopted Rules

NEW MEXICO OFFICE OF THE STATE AUDITOR

NOTICE:

The Office of the State Auditor is repealing 2.2.2 NMAC, *Requirements for Contracting and Conducting Audits of Agencies* effective May 13, 2005. It will be replaced with the same rule name and number, *Requirements for Contracting and Conducting Audit of Agencies*, which will become effective May 13, 2005.

NEW MEXICO OFFICE OF THE STATE AUDITOR

**TITLE 2 PUBLIC FINANCE
CHAPTER 2 AUDITS OF GOVERNMENTAL ENTITIES
PART 2 REQUIREMENTS FOR CONTRACTING AND CONDUCTING AUDITS OF AGENCIES**

2.2.2.1 ISSUING AGENCY: Office of the State Auditor, 2113 Warner Circle, Santa Fe, NM 87505-5499
[2.2.2.1 NMAC - Rp, 2.2.2.1 NMAC, 5-13-05]

2.2.2.2 SCOPE: Agencies as defined by the Audit Act and independent public accountants interested in conducting financial and compliance audits of agencies of the state of New Mexico.
[2.2.2.2 NMAC - Rp, 2.2.2.2 NMAC, 5-13-05]

2.2.2.3 STATUTORY AUTHORITY: The Audit Act Section 12-6-12, requires the state auditor to promulgate reasonable regulations necessary to carry out the duties of his office, including regulations required for conducting audits in accordance with auditing standards generally accepted in the United States of America. The regulations become effective upon filing in accordance with the State Rules Act (Chapter 14, Article 4 NMSA 1978). The Audit Act (12-6-1 through 12-6-14, NMSA 1978) provides the state auditor with authority to conduct financial and compliance audits in accordance with governmental auditing, accounting and financial reporting standards, local, state and federal laws, rules, and regulations. The Audit Act also gives the state auditor the authority to perform special audits of the financial affairs and transactions of an agency, in whole or in part, in situations deemed necessary.
[2.2.2.3 NMAC - Rp, 2.2.2.3 NMAC, 5-13-05]

2.2.2.4 DURATION: Permanent
[2.2.2.4 NMAC - Rp, 2.2.2.4 NMAC, 5-13-05]

2.2.2.5 EFFECTIVE DATE: May 13, 2005, unless a later date is cited at the end of a section.
[2.2.2.5 NMAC - Rp, 2.2.2.5 NMAC, 5-13-05]

2.2.2.6 OBJECTIVE: The objective is to establish procedures and requirements for the contracting and conducting of state governmental audits in the state of New Mexico.
[2.2.2.6 NMAC - Rp, 2.2.2.6 NMAC, 5-13-05]

2.2.2.7 DEFINITIONS:
A. "Agency" means any department, institution, board, bureau, court, commission, district or committee of the government of the state, including district courts, magistrate or metropolitan courts, district attorneys and charitable institutions for which appropriations are made by the legislature; any political subdivision of the state, created under either general or special act, that receives or expends public money from whatever source derived, including counties, county institutions, boards, bureaus or commissions; municipalities; drainage, conservancy, irrigation or other special districts; and school districts; any entity or instrumentality of the state specifically provided for by law, including the New Mexico finance authority, the New Mexico mortgage finance authority, the New Mexico lottery authority and every office or officer of any entity listed in Subsections A through C of Section 12-6-2, NMSA 1978.

B. "Auditor" means state auditor or independent public accountant.

C. "AICPA" means American institute of certified public accountants.

D. "CHE" means commission on higher education.

E. "CFR" means code of federal regulations.

F. "CPE" means continuing professional education.

G. "COSO" means committee on sponsoring organizations of tread-way commission.

H. "DFA" means department of finance and administration.

I. "FCD" means financial control division of the department of finance and administration.

J. "FDIC" means federal deposit insurance corporation.

K. "FDS" means financial data schedule.

L. "GAAP" means accounting principles generally accepted in the United States of America.

M. "GAGAS" means generally accepted governmental auditing standards.

N. "GASB" means governmental accounting standards board.

O. "GAAS" means auditing standards generally accepted in the United States of America.

P. "GSD" means general services department.

Q. "HUD" means U.S. department of housing and urban development.

R. "IPA" means independent public accountant.

S. "IRC" means internal revenue code.

T. "NCUSIF" means national credit union shares insurance fund.

U. "NMAC" means New Mexico administrative code.

V. "NMSA" means New Mexico statutes annotated.

W. "Office" means office of the state auditor.

X. "OMB" means office of management and budget.

Y. "PED" means public education department.

Z. "PHA" means public housing authority.

AA. "REAC" means real estate assessment center.

BB. "REC" means regional education cooperative.

CC. "RSI" means required supplemental information.

DD. "State auditor" means the elected state auditor of the state of New Mexico, personnel of his office designated by him or independent auditors designated by him.

EE. "SAS" means statement on auditing standards.

FF. "UFRS" means uniform financial reporting standards.

GG. "U.S. GAO" means U.S. general accounting office.

[2.2.2.7 NMAC - Rp, 2.2.2.7 NMAC, 5-13-05]

2.2.2.8 THE AUDIT CONTRACT:

A. Section 12-6-3, NMSA 1978, (Annual and Special Audits) mandates that: (1) the financial affairs of every agency be thoroughly examined and audited each year by the state auditor, personnel of his office designated by him, or by independent auditors approved by him; (2) the

comprehensive annual financial report for the state be thoroughly examined and audited each year by the state auditor, personnel of his office designated by him or by independent auditors approved by him; (3) the audits be conducted in accordance with generally accepted auditing standards and rules issued by the state auditor. Section 12-6-14 NMSA 1978 (Contract Audits) states that "the state auditor shall notify each agency designated for audit by an independent auditor, and the agency shall enter into a contract with an independent auditor of its choice in accordance with procedures prescribed by rules of the state auditor; provided, however that an agency subject to oversight by the state department of public education or the commission on higher education shall receive approval from its oversight agency prior to submitting a recommendation for an independent auditor of its choice. The state auditor may select the auditor for an agency that has not submitted a recommendation within sixty days of notification by the state auditor to contract for the year being audited, and the agency being audited shall pay the cost of the audit. Each contract for auditing entered into between an agency and an independent auditor shall be approved in writing by the state auditor. Payment of public funds may not be made to an independent auditor unless a contract is entered into and approved as provided in this section." Section 61-28B-13, the 1999 Public Accountancy Act states, "A firm must hold a permit issued pursuant to the provisions of the 1999 Public Accountancy Act [61-28B-1 to 61-28B-29 NMSA 1978] in order to provide attest services." Only firms that are registered and in good standing with the board shall audit financial statements. IPAs shall submit a firm profile to the state auditor. Firms are required to notify the state auditor of changes to the firm profile as information becomes available. The state auditor shall approve contracts only with IPAs who have **submitted a complete and correct** firm profile and who have complied with all the requirements of this rule including:

(1) Section 2.2.2.14 NMAC, continuing education and quality control requirements;

(2) Subsection I of 2.2.2.8 NMAC, independence requirements; and

(3) For an IPA who has previously audited agencies under this rule, they must have previously complied in the past with:

(a) Section 2.2.2.9 NMAC, report due dates; and

(b) Section 2.2.2.13 NMAC, review of audit reports and working papers section of this rule.

B. The state auditor shall notify each agency, in writing, whether the

audit is to be conducted by the state auditor or an IPA.

C. If the audit is to be conducted by an IPA, the agency shall comply with the following procedures to obtain audit services:

(1) It is unnecessary for the agency to include a copy of the audit rule 2005 when mailing requests for proposals to IPAs because it is posted on the state auditor's website at www.saonm.org. The agency shall identify all elements or services to be solicited upon receipt of notification, and request quotations or proposals for each identifiable element:

(a) financial statement audit;

(b) federal single audit;

(c) financial statement preparation;

(d) other nonaudit services like depreciation schedule dates; and

(e) other (i.e., housing authority, charter school, foundations and other component units).

(2) Audit services costing **no more than \$20,000 excluding gross receipts tax, (\$30,000 excluding gross receipts tax after July 1, 2005)**, should be considered small purchases. The agency is encouraged to obtain no fewer than three written or oral quotations to be recorded and placed in the procurement file. A multi-year proposal (not to exceed three years) exceeding \$20,000 (**\$30,000 after July 1, 2005**) for all three years is not considered a small purchase.

(3) For audit services costing **over \$20,000 excluding gross receipts tax, (\$30,000 excluding gross receipts tax after July 1, 2005)**, the agency shall seek competitive sealed proposals and contract for audit services in accordance with the Procurement Code (13-1-1 to 13-1-199 NMSA 1978); New Mexico general services department (GSD) rule 1.4.1 NMAC, *Procurement Code Regulations*, if applicable; and New Mexico department of finance and administration (DFA) rule 2.40.2 NMAC, *Governing the Approval of Contracts for the Purchase of Professional Services*. In addition, if the agency intends to allocate a portion of the audit cost to federal funds as direct or indirect charges, the agency should comply with procurement requirements stated in the federal office of management and budget's, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*, (OMB A-102 Common Rule). Institutions of higher education and state and local hospitals should comply with procurement standards stated in OMB Circular A-110, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations*.

(4) In accordance with Section 13-1-150 NMSA 1978 (Multi-term Contracts), the agency may, and is strongly encouraged to, request a multi-year proposal to provide services, not to exceed a term of **three** years including all extensions and renewals. The term of the contract shall be one-year with the option to extend for two successive one-year terms at the **same price, terms and conditions as stated on the original proposal**. Exercising the option to extend must be by mutual agreement of the parties to the contract and with the approval of the state auditor. In the event that either of the parties to the contract elects not to extend or the state auditor disapproves the recommendation for renewal, the agency shall use the procedures in Paragraphs (2) and (3) of Subsection C of 2.2.2.8 NMAC to solicit services.

(5) The agency shall evaluate all competitive sealed proposals or quotations received pursuant to Paragraphs (2) and (3) of Subsection C of 2.2.2.8 NMAC using a two-step evaluation process, preferably executed by a selection committee. Members of component units such as charter schools, housing authorities, etc., should be included in the IPA selection process. Each IPA shall initially be assigned evaluation points on the basis of experience and qualifications. Then each IPA shall be assigned evaluation points on the basis of cost. The IPA firm receiving the most total evaluation points should be selected as the agency IPA. The agency shall use the evaluation form attached to this rule as Appendix B to document this process.

(6) After completing the evaluations for each IPA, and making the IPA selection, each agency shall submit the information listed below to the state auditor on or before May 31, together with its IPA recommendation. (Agencies with a fiscal year end other than June 30 must use a due date 30 days before the end of the fiscal year).

(a) A cover letter indicating the name of the firm being recommended, the oversight agency approval signature, and an indication of whether the proposal is "annual" or "multi-year";

(b) The fully completed and signed evaluation form for the IPA being recommended. If you are in year 2 or 3 of a multi-year proposal, submit a copy of part II of the evaluation form from the previous year; and

(c) A list of professional services contracts the agency had with any IPA on the state auditor's approved list during the previous calendar year.

(d) Agencies that are subject to the oversight of the state public education department (PED) or the commission on higher education (CHE) have the additional requirement of submitting their IPA recom-

mentation to PED or CHE for approval prior to submitting the recommendation to the state auditor (Section 12-6-14, NMSA 1978). An agency may use the sample cover letter in Appendix A to document the required oversight agency approval.

(7) The state auditor may notify the appropriate oversight agency when an agency has failed to submit a timely auditor recommendation.

(8) If the agency fails to make a recommendation by the deadline, the state auditor may conduct the audit.

(9) Per Section 12-6-14, NMSA1978, "The state auditor may select the auditor for an agency that has not submitted a recommendation within sixty days of notification by the state auditor to contract for the year being audited, and the agency being audited shall pay the cost of the audit."

(10) The agency shall retain all procurement documentation, including completed evaluation forms, for three years.

(11) In the event the agency's recommendation is not approved by the state auditor, the state auditor will promptly communicate the decision, including the reason(s) for disapproval, to the agency, at which time the agency shall promptly submit a different recommendation. This process will continue until the state auditor approves a recommendation. During this process, whenever a recommendation is not approved, the agency may petition the state auditor, within 15 days or prior to June 1, (whichever comes first) for reconsideration, wherein the petitioner presents evidence in support of its recommendation. The state auditor will set the time and place for an informal administrative hearing in a timely manner with consideration given the petitioner's circumstances.

D. The state auditor will use **discretion** and may not approve:

(1) an audit contract recommendation that does not serve the best interest of the public or the agency because of one or more of the following reasons:

(a) lack of experience of the IPA;
 (b) the IPA has conducted the audit of the same agency for six consecutive years. The IPA shall not conduct the agency audit for a two-year period after conducting the agency audit for a period of six consecutive years;

(c) lack of competence or staff availability;

(d) circumstances that may cause untimely delivery of the audit report;

(e) unreasonably high or low cost to the agency;

(f) terms in the proposed contract that the state auditor considers to be unfavorable, unfair, unreasonable, or unnecessary;

(g) lack of compliance with the

Procurement Code or this rule; or

(h) any other reason determined by the state auditor to be in the best interest of the state of New Mexico;

(2) audit contract recommendations of an IPA that has:

(a) breached a prior-year contract;
 (b) failed to deliver an audit report on time;

(c) failed to comply with state laws or regulations of the state auditor;

(d) performed nonaudit services for an agency without prior approval of the state auditor;

(e) performed nonaudit services under a separate contract for services that may be disallowed by GAGAS independence standards. (See Subsection I of 2.2.2.8 of NMAC);

(f) failed to respond, in an acceptable manner, to an audit report or working paper review;

(g) indicated a lack of independence in fact or appearance;

(h) failed to cooperate in providing prior-year working papers to successor IPAs;

(i) has not adhered to external quality control review standards as defined by GAGAS and Subsections B and C of 2.2.2.14 NMAC; or

(j) otherwise, in the opinion of the state auditor, shown himself or herself to be unfit to be awarded a contract;

(3) any audit which the state auditor decides to perform himself or with contracted IPAs [consistent with the October 6, 1993 stipulated order *Vigil v. King* No. SF 92-1487(C)], and pursuant to Section 12-6-3 NMSA 1978 (Annual and Special Audits), even if the agency was previously designated for audit by an IPA.

E. The state auditor shall provide audit contract forms which must be used by the agency. **Only** forms provided by the **state auditor** will be accepted and shall:

(1) be completed and returned with the number of required copies **within fifteen (15) calendar days** as stated in the approval letter of IPA selection;

(2) bear original signatures;

(3) have the IPA's combined reporting system (CRS) number verified by the taxation and revenue department (TRD) for all state agencies whose contracts are approved through DFA's contracts office, prior to submission to the state auditor; and
 (4) include the amount for each portion of the audit which covers the elements or services as well as the portion of the audit which covers federal funds.

F. The IPA shall maintain professional liability insurance covering any error or omission committed during the term of the contract. The IPA shall provide proof of such insurance to the state auditor

with the firm profile. The amount maintained should be commensurate with risk assumed. The IPA must provide to the state auditor, prior to expiration, updated insurance information.

G. A breach of any terms of the contract shall be grounds for immediate termination of the contract. **The injured party may seek damages for such breach from the offending party.** Any IPA who knowingly makes false statements, assurances, or disclosures will be disqualified from conducting audits of agencies in New Mexico.

H. The IPA shall notify the agency and the state auditor, **in writing**, of any changes in staff assigned to perform the audit. The IPA must update the firm profile to reflect the staffing changes. The IPA shall not subcontract any portion of the services to be performed under the audit contract without the **prior written approval** of the state auditor. The IPA may subcontract only with IPAs who have submitted a completed and approved firm profile to the state auditor as required in Subsection A of 2.2.2.8 NMAC. The audit contract shall specify subcontractor responsibility, who will sign the report(s), and how the subcontractor will be paid.

I. **Government Auditing Standard 2003 Revision** general standard related to independence is: "In all matters relating to the audit work, the audit organization and the individual auditor, whether government or public, should be **free both in fact and appearance from personal, external, and organizational impairments to independence.**" (GAGAS 3.03) The standard describes two overarching principles an audit organization must consider before agreeing to perform nonaudit services in order to avoid situations that could lead reasonable third parties with knowledge of the relevant facts and circumstances to conclude that the auditor is not independent in conducting audits. Audit organizations should not provide nonaudit services that involve performing management functions or making management decisions and they should not audit their own work or provide nonaudit services in situations where the nonaudit services are significant/material to the subject matter of the audit. (GAGAS 3.13)

(1) The GAGAS Amendment No. 3, **Independence**, was implemented early by the state auditor and applied to all New Mexico audits covered by the Audit Act effective for fiscal years ending June 30, 2002, and thereafter. Amendment No. 3 has since been incorporated into the **Government Auditing Standards 2003 Revisions**.

(2) This standard places responsibility on each auditor and the audit organization to maintain independence so that

opinions, conclusions, judgments, and recommendations will be impartial and will be viewed as impartial by knowledgeable third parties. The following is substantially an excerpt from the AICPA fact sheet that summarized the key provision of the GAGAS standards.

(a) The state auditor **will not** approve any contract for nonaudit services to be provided by the same IPA who performs the agency's annual audit for the following services: maintaining or preparing the audited agency's basic accounting records; taking responsibility for basic financial or other records that the audit organization will audit; posting transactions (whether coded or not coded) to the agency's financial records or to other records that subsequently provide data to the agency's financial records; recommending a single individual for a specific position; conducting an executive search or a recruiting program for the audited agency; and operating or supervising the operation of the agency's information technology system; or preparing indirect cost proposals or cost allocation plans.

(b) Consideration and performance of nonaudit services that do not violate the two overarching principles shall be documented by the audit firm in accordance with the requirements of GAGAS 3.17. See also the GAO, *Government Auditing Standards Answers to Independence Standard Questions*, Question 46, that **requires documentation of the safeguards** when an audit firm prepares the trial balance, financial statements and/or notes and then also performs the audit.

(c) The state auditor **may** approve a contract for the following "nonroutine" nonaudit services to be provided by the same IPA who performs the agency's annual audit in circumstances where the **two overarching principles (above) are not violated and the seven required safeguards are met**. Safeguard (1) requires the IPA to document its consideration of the nonaudit service, and document its rationale that providing the nonaudit service does not violate the two overarching principles. Safeguard (2) requires the IPA to establish and document an understanding with the audited agency regarding the objectives, scope of work, and product or deliverables of the nonaudit service, before performing the nonaudit services. The IPA should also document an understanding with management that management is responsible for the substantive outcomes of the work. Safeguard (3) requires the IPA to preclude personnel who provided the nonaudit services from planning, conducting, or reviewing audit work related to the nonaudit service. (There is an exemption from this safeguard when the nonaudit services are the preparation of a trial balance, draft state-

ments, and notes from appropriate books and records that balance, per Question 46 of the GAO, *Government Auditing Standards Answers to Independence Standard Questions*). Safeguard (4) precludes the IPA from reducing the scope and extent of the audit work beyond the level that would be appropriate if the nonaudit work was performed by another unrelated party. Safeguard (5) requires the IPA's quality control system for compliance with independence requirements to include policies and procedures to assure consideration of the effect on the ongoing, planned, and future audits when deciding whether to provide nonaudit services and a requirement to have the understanding with management of the audited agency documented. The understanding should be communicated to management in writing and can be included in the engagement letter. Documentation must specify management's responsibility for the nonaudit service, management's qualifications to conduct the required oversight, and that management's responsibilities were performed. Safeguard (6) requires that in cases where nonaudit services by their nature impair the audit organization's ability to meet either or both of the overarching principles for certain types of audit work, the audit organization should communicate to management of the audited agency, before performing the nonaudit service, that the audit organization would not be able to perform subsequent audit work related to the subject matter of the nonaudit service. Safeguard (7) requires that for audits selected in the peer review, all related nonaudit services should be identified to the audit organization's peer reviewer and the related safeguard documentation made available for peer review.

(i) Basic accounting services that **may** be allowed: (a) preparing draft financial statements based on management's chart of accounts and trial balance and any adjusting, correcting, and closing entries that have been approved by management; preparing draft notes to the financial statements based on information determined and approved by management; (b) preparing a trial balance based on management's chart of accounts; (c) maintaining depreciation schedules for which management has determined the method of depreciation, rate of depreciation, and salvage value of the asset; and/or (d) proposing adjusting and correcting entries that are identified during the audit so long as management makes the decision on accepting the entries.

(ii) Payroll services that **may** be allowed are: (a) computing pay amounts for the agency's employees based on agency maintained and approved time records, salaries or pay rates, and deductions from pay; (b) generating unsigned

payroll checks; and (c) transmitting client approved payroll to a financial institution provided management has approved the transmission and limited the financial institution to make payments only to previously approved individuals.

(iii) Preparing routine tax filings in accordance with federal tax laws and rules and regulations **may** be allowed.

(iv) Human resource services that **may** be allowed to assist management in its evaluation of potential candidates are limited to activities such as: (a) serving on an evaluation panel to review applications; and (b) interviewing candidates to provide input to management in arriving at a listing of best qualified applicants to be provided to management.

(v) Providing information technology services **may** be allowed if limited to services such as advising on system design, system installation, and system security if management acknowledges responsibility for the design, installation, and internal control over the agency's system and does not rely on the auditor's work as the primary basis for determining: (a) whether to implement a new system; (b) the adequacy of the new system design; (c) the adequacy of major design changes to an existing system; or (d) the adequacy of the system to comply with regulatory or other requirements.

(vi) Providing appraisal or valuation services **may** be allowed if limited to services such as: (a) reviewing the work of the agency or a specialist employed by the agency where the agency or specialist provides the primary support for the balances recorded in financial statements or other information that will be audited; or (b) valuing an agency's pension, other post-employment benefits, or similar liabilities provided management has determined and taken responsibility for all significant assumptions and data.

(vii) Contracts for gathering and reporting unverified external or third-party data to aid legislative and administrative decision-making **may** be allowed.

(viii) Services advising an agency regarding its performance of internal control self-assessments **may** be allowed.

(ix) Services assisting a legislative body by developing questions for use at a hearing **may** be allowed.

(3) The IPA shall provide with the annual firm profile a list of all contracts (except for the annual financial and compliance audit of the agency) entered into with any New Mexico governmental agency. The list should include the following information for special audits or nonaudit services provided during the preceding calendar

year: contract date; contract amount; and a description of the services provided.

(4) In accordance with Section 12-6-12, NMSA 1978, the agency and IPA shall not enter into any financial, special audit or any other nonaudit service contract without the **prior written approval** of the state auditor. The contract fee, start and completion date and scope of services to be performed should be included when submitting nonaudit service contracts to the state auditor for approval. The agency and IPA must provide the state auditor with a copy of any report generated.

J. The state auditor will approve progress and final payments as follows:

(1) Section 12-6-14, NMSA 1978 (Contract Audits) also provides that "no payment of public funds may be made to an independent auditor unless a contract is entered into and approved."

(2) Section 12-6-14, NMSA 1978 (Contract Audits) provides that state auditor may approve progress payments on the basis of evidence of the percentage of audit work completed as of the date of the request for partial payment.

(3) Progress payments up to 79% **do not** require state auditor approval, providing the agency certifies receipt of services. The **agency must monitor audit progress and make only payments up to the percentage that the audit is completed** prior to making the 79% payment. If requested by the state auditor, the agency shall provide a copy of the approved progress billing(s). Progress payments from 80% to 90% **do** require state auditor approval after being approved by the agency.

(4) The state auditor may allow only the first 50% of progress payments to be made without state auditor approval for an IPA whose previous audits were submitted after the due date specified in Subsection A of 2.2.2.9 NMAC.

(5) Section 12-6-14, NMSA 1978 (Contract Audits), provides that final payment under an audit contract may be made by the agency to the IPA only after the state auditor has stated, in writing, that the audit has been conducted in a competent manner in accordance with contract provisions and this rule. The state auditor's determination with respect to final payment shall be stated in the letter accompanying the release of the report to the agency. Final payment to the IPA by the agency prior to review and release of the audit report by the state auditor is considered a violation of Section 12-6-14 B, NMSA 1978, and this rule and will be reported as an audit finding of the agency. Violation of this statute may subject the auditor to removal from the list of approved auditors.

K. Financial statements:

(1) The financial statements presented in audit reports shall be prepared from the agency's books of record and contain amounts **rounded to the nearest dollar**.

(2) **The financial statements are the responsibility of the agency. The agency shall maintain adequate accounting records**, prepare financial statements in accordance with accounting principles generally accepted in the United States of America, and provide complete, accurate, and timely information to the IPA as requested to meet the deadline imposed in Subsection A of 2.2.2.9 NMAC.

(3) If there are differences between the financial statements and the books, the IPA should provide the adjusting entries to the agency to reconcile the report to the books.

(4) If the IPA prepared the financial statements, in conformance with Subsection I of 2.2.2.8 NMAC for management's review and approval, including documenting the safeguards as required by GAGAS 3.17, the fact that the auditor prepared the financial statements must be disclosed in the concluding paragraphs of the audit findings and recommendations section of the audit report; however, this is not a finding. As indicated in the GAO, *Government Auditing Standards Answers to Independence Standard Questions*, Question 46, "**Maintaining the audited entity's books and records is the responsibility of its management**. Accordingly, management is responsible for ensuring that these books and records adequately support the preparation of financial statements in accordance with generally accepted accounting principles and that records are current and in balance."

L. Working papers (audit documentation per SAS 96):

(1) The working papers are to be retained for a minimum of three years from the date shown on the opinion letter of the audit report, or longer if requested by the federal oversight or cognizant agency or the state auditor. The state auditor shall have access to the working papers at the discretion of the state auditor.

(2) When requested by the state auditor, all working papers or clear legible copies shall be delivered to the state auditor.

(3) The working papers of a predecessor IPA are to be made available to a successor IPA in accordance with SAS No. 84. Any costs incurred will be borne by the requestor. If the successor IPA finds that the predecessor IPA's working papers do not comply with applicable auditing standards and this rule, or do not support financial data presented in the audit report, the successor IPA shall notify the state auditor in writing specifying all deficiencies. If the state auditor determines that the nature of

deficiencies noted are of such significance to deem that the audit was not performed in accordance with auditing or accounting standards generally accepted in the United States of America and related laws, rules and regulations and this rule, any of the following actions may be taken:

(a) the state auditor may require the predecessor IPA to correct its working papers and reissue the audit report to the agency, federal oversight or cognizant agency and any others receiving copies;

(b) the state auditor may deny or limit the issuance of future audit contracts; and/or

(c) the state auditor may refer the predecessor IPA to the New Mexico public accountancy board for possible licensure action.

M. Auditor communication:

(1) The *Government Auditing Standards 2003 Revision* Sections 4.6 through 4.13 provide guidance regarding auditor communication requirements in financial audits performed in accordance with GAGAS. GAGAS broadens the parties with whom auditors must communicate during the planning stages of the audit. Section 4.6 states "Auditors should communicate information regarding the nature, timing, and extend of planned testing and reporting and the level of assurance provided **to officials of the audited entity and to the individuals contracting for or requesting the audit.**" Auditors should specifically communicate this information during the planning stages of a financial audit:

(a) any potential restriction of the auditors' report;

(b) the nature of any additional testing of compliance and internal control required by laws and regulations or otherwise requested like:

(i) planned testing of compliance with applicable state and federal laws and regulations shown in Subsections H and I of 2.2.2.10 NMAC;

(ii) planned tests of compliance with laws, regulations, and internal control related to single audit requirements that exceed the minimum GAGAS requirements (GAGAS 4.12); or

(iii) any agreed upon procedures [for example the HUD requirement for a separate attestation engagement required in Subparagraph (c) of Paragraph (5) of Subsection B of 2.2.2.12 NMAC.

(c) The communication should explain whether the auditors are planning on providing opinions on compliance with laws and regulations and internal control over financial reporting. Such tests are not usually sufficient in scope to opine on compliance or internal control over financial reporting, but contribute to the evidence

supporting the auditors' opinion on the financial statements.

(d) To fulfill these communication requirements, IPAs shall prepare a **written and dated engagement letter** during the planning stage of a financial audit, addressed to the appropriate officials of the agency, keeping a photocopy of the signed letter as part of the audit documentation (GAGAS 4.07). The appropriate officials of the agency may include:

(i) the head of the audited entity;

(ii) the audit committee or board of directors or equivalent oversight body; and

(iii) the individual who possesses a sufficient level of authority and responsibility for the financial reporting process, such as the chief financial officer. (GAGAS 4.08)

(e) In situations where auditors are performing the audit under a contract with a party other than the officials of the audited entity, or pursuant to a third party request, auditors should also communicate with the individuals contracting for or requesting the audit, such as contracting officials or members or staff of legislative committees. (GAGAS 4.09)

(2) Within 10 days of the entrance conference, the IPA shall submit to the state auditor a copy of the signed and dated engagement letter and a list of client prepared documents with expected delivery dates, which will facilitate meeting the audit due date in Subsection A of 2.2.2.9 NMAC.

(3) All communication with management and the agency oversight officials regarding any instances of noncompliance and/or internal control weaknesses must be communicated in writing. The auditor should obtain **responses in writing** to facilitate effective communication. Any instances of noncompliance and/or internal control weaknesses that are not eliminated after clear communication with management must be included as findings per Section 12-6-5, NMSA 1978. Separate management letter comments shall **not** be used as a substitute for such findings.

(4) Financial control division of the department of finance and administration mandates that each state agency, with the help of its independent auditor, identify a schedule of deliverables and agree to milestones for the audit to ensure that the agency's books and records are ready and available for audit and the auditor delivers services on time. The sixty days to the audit deadline will be based on the schedule of deliverables and milestones; however, the deadline cannot extend beyond December 15. Once the agency and auditor have certified to the financial control division of the department of finance and administration that the agency's books and records are

ready and available for audit, if the auditor or agency find that the scheduled audit deliverables or agreed upon milestones are not accomplished timely and there is a possibility the audit report will be late, the auditor or agency shall immediately write a dated letter to the state auditor describing the problems. The financial control division of the department of finance administration must be sent a photocopy of the letter.

N. Amendment of any of the contract provisions will be made upon forms used in the normal course of business by the agency. **Delivery dates are not subject to amendment.** Work performed beyond the original proposed work, such as preparation of: financial statements, for management's review and approval; supporting schedules; or special procedures, shall be allowed only in compliance with the auditor independence requirements of Subsection I of 2.2.2.8 NMAC and will be negotiated and compensated only upon amendment of the original contract if they were not specifically included in the original contract. **All contract amendments must be approved by the state auditor.** The audit engagement letter shall not be interpreted as amending the contract. No fee contingencies will be included in the engagement letter. The original contract and the contract amendments approved by the state auditor constitute the entire agreement. Any amendments to the contract must be in compliance with the New Mexico Procurement Code, Sections 13-1-1 to 13-1-199, NMSA 1978.

O. The state auditor may terminate an audit contract to be performed by an IPA after determining that the audit has been unduly delayed or for any other reason and perform the audit entirely or partially with IPAs contracted by him [consistent with the October 6, 1993, stipulated order *Vigil v. King* No. SF 92-1487(C)]. The notice of termination of the contract will be in writing. [2.2.2.8 NMAC - Rp, 2.2.2.8 NMAC, 5-13-05]

2.2.2.9 REPORT DUE DATES:

A. The auditor shall deliver the annual audit report to the state auditor on or before the date specified in the audit contract. The report should be submitted with the following: a copy of the dated signed engagement letter if not previously submitted; a copy of the signed management representation letter; a list of the passed adjustments (or memo stating there are none); and a copy of the state auditor preliminary review guide (available at www.saonm.org) completed by the IPA. If a due date falls on a weekend or holiday, the

audit report is due the following workday. If the report is mailed to the state auditor, it should be post marked no later than the due date to be considered filed timely. **The state auditor will grant no extensions of time to deliver the audit reports. As soon as the auditor becomes aware that an agency's financial records are incomplete or require adjustment that will make the audit report late, the auditor shall notify the state auditor of the situation in writing. The office will then notify the appropriate oversight agency. At the time the audit report is due, if the agency's financial records are still incomplete or require significant adjustment, the auditor shall issue the audit report with the appropriate opinion rendered, no later than the due date specified by this rule.** The auditor shall not allow the agency additional time to complete its accounting function when such an allowance will cause the audit to be late. The IPA or agency may consult the state auditor regarding the opinion to be rendered, but such a discussion should occur no later than the date the audit report is due. It is not the responsibility of the auditor to go beyond the scope of auditing standards generally accepted in the United States of America, or the audit report due date, to assure an unqualified opinion.

(1) The audit report due dates are as follows:

(a) regional education cooperatives, cooperative educational services and independent housing authorities **September 30;**

(b) hospitals **October 15;**

(c) school districts, counties, and higher education **November 15;**

(d) municipalities, special districts, and local workforce investment boards **December 1;**

(e) councils of governments **December 15;**

(f) state agency reports are due no later than **60 days** after the financial control division of the department of finance and administration provides the state auditor with notice that the agency's books and records are ready and available for audit. The financial control division mandates that each agency, with the help of its independent auditor, identify a schedule of audit deliverables and agree to milestones for the audit to ensure that the agency's books and records are ready and available for audit and the auditor delivers services on time. The sixty days to the audit deadline will be based on the schedule of deliverables and milestones; however, the deadline **cannot extend beyond December 15.** (Section 12-6-3 C, NMSA 1978 as amended by House Bill 219)

(g) Agencies with a fiscal year-end other than June 30 must submit the audit report no more than **5 months after**

the fiscal year-end; and

(h) separate audit reports (if applicable) for component units (e.g., housing authorities, charter schools, hospitals, foundations, etc.) are due the **same date the primary government's audit report is due.**

(2) Audit reports for agencies that have submitted auditor recommendations after the due dates specified above, will be due 30 days after the auditor recommendation has been approved by the state auditor.

(3) If an audit report is not delivered on time to the state auditor, the auditor must include this instance of noncompliance with the Subsection A of 2.2.2.9 NMAC as an audit finding in the audit report. The finding should be reported as an instance of noncompliance in the agency's internal controls over financial reporting.

B. As in any contract, both parties can and are encouraged to negotiate a delivery date prior to the regulated due date specified in Subsection A of 2.2.2.9 NMAC. No delivery date, however, may exceed the "no later than" due date specified in Subsection A of 2.2.2.9 NMAC.

C. **All audit reports must be paginated.** The IPA shall deliver to the state auditor one of the following **finalized** versions of the report: a hard copy; an e-mail copy; or the required number of copies indicated in the audit contract on or before the delivery due date. Unfinished reports or erroneous reports will not satisfy this requirement. **The IPA should review the report using the preliminary review guide available on the website, prior to submitting the report to the office.** Along with the audit report the IPA shall submit to the State Auditor a copy of: the signed management representation letter (SAS AU 333); the passed audit adjustments (or memo stating there are none) Paragraph (2) of Section J of 2.2.2.10 NMAC); and the completed preliminary review guide available at www.saonm.org. If a hardcopy or an e-mail copy is submitted, once all deficiency comments have been corrected by the IPA and the state auditor review staff indicates it is O.K. to print the report, the required number of hardcopies must be provided to the state auditor. The IPA shall deliver to the agency, the number of copies of the audit report indicated in the audit contract **only** after the state auditor has officially released the audit report with a "release letter." Release of the audit report to the agency prior to it being officially released by the state auditor will result in an audit finding. Every member of the agency's governing authority shall receive a copy of the audit report.

D. The agency and IPA may agree to a contract provision that unjustified failure to meet delivery requirements by either party to the contract may

result in liability for a specified amount of liquidated damages from the offending party.

E. IPAs are encouraged to deliver completed audit reports before the due date to facilitate the review process performed by the state auditor.
[2.2.2.9 NMAC - Rp, 2.2.2.9 NMAC, 5-13-05]

2.2.2.10 GENERAL CRITERIA:

A. Audit scope:

(1) The audit shall cover the whole reporting agency, the primary government and any component units of the primary government.

(a) Entities must be included as component units within the financial statements of the primary government, if the primary government is financially accountable for the entity (GASB 14 paragraph 10) or if the nature and significance of the entity to the primary government warrants inclusion (GASB 39 paragraphs 5 and 6). The primary government and/or its auditors must determine whether an agency that is a separate legal entity from the primary government is a component unit of the primary government, as defined by GASB Statements No. 14 and No. 39. The flowchart at GASB 14 paragraph 132 is helpful. All agencies that meet the criteria of GASB 14 or GASB 39 to be a component unit of the primary government **must be included in the financial reports of the primary government by discrete presentation unless otherwise approved by the state auditor.** Discrete presentation entails reporting component unit financial data in a column(s) separate from the financial data of the primary government. (GASB 14 paragraphs 44 through 50). Exceptions may occur when an agency requires presentation other than discrete. An exemption must be requested by the agency, in writing, from the state auditor in order to present a component unit as other than a discrete component unit. The request for exemption must include evidence supporting the request. The approval of the state auditor for the exemption is required prior to issuing the report. **This exemption must be requested annually.**

(b) If a primary government has no component units that fact should be disclosed in the summary of significant accounting policies description of the reporting entity. If the primary government has component units that are not included in the financial statement due to materiality that fact must be disclosed.

(c) **The state auditor requires the component unit(s) to be audited by the same auditor who audits the primary government.** Requests for exemption from this requirement must be submitted **by the**

agency to the state auditor in writing. **This exemption must be requested annually.** If the request to use a different auditor for the component unit is approved, the following requirements must be met:

(i) the primary auditor must agree to use the information from the work of the component unit auditor;

(ii) the component unit auditor selected must appear on the office of the state auditor list of eligible independent public accountants;

(iii) the bid and auditor selection processes must comply with the requirements of this rule;

(iv) the office of the state auditor standard contract form must be used;

(v) all component unit findings must be disclosed in the primary government's audit report; and

(vi) any separately issued component unit audit report must be submitted to the state auditor for the review process described in 2.2.2.13 NMAC.

(d) The level of planning materiality required by the state auditor **for component units** is at the **individual fund level.** College and university component units have a different materiality level. See Paragraph (3) of Subsection E of 2.2.2.12 NMAC.

(e) Supplemental information (SI) pertaining to component units included in the scope of the audit and therefore the auditor opinion (as allowed by SAS 98) are:

(i) component unit fund financial statements and related combining statements if separately issued financial statements of the component units are not available (AAG-SLV 3.20); and

(ii) individual fund budget comparison schedules if separately issued financial statements are not available, when a legally adopted budget exists for a fund. The office interprets a "legally adopted budget" to exist any time an entity receives federal funds, state funds, or any other "appropriated" funds;

(2) Audits of state and local governmental agencies shall be comprised of a financial and compliance audit of the statements and schedules shown below.

(a) The level of planning materiality required by the state auditor is at the **individual fund level.** The state auditor requires that the budget comparison statements be audited and be included as part of the basic financial statements whenever possible and consistent with GASB 34 footnote 53 and AAG-SLV 11.13. The scope of the audit includes the following statements and schedules which the auditor is required to audit and give an opinion on:

(b) The basic financial statements consisting of:

(i) the government-

wide financial statements;

(ii) fund financial statements;

(iii) budget comparison statements (for **only** the general fund and major special revenue funds when the budget information is available on the same fund structure basis as the GAAP fund structure); and

(iv) notes to the financial statements.

(c) The auditor must audit the following required supplemental information, if applicable, and include it in the auditor's opinion (AAG-SLV 14.51). RSI budgetary comparison schedules for the general fund and major special revenue fund data presented on a fund, organization, or program structure basis because the budgetary information is not available on the GAAP fund structure basis for those funds (*GASB Statement No. 41, Budgetary Comparison Schedules-Perspective Differences an amendment of GASB Statement No. 34*).

(d) The auditor must audit the following supplemental information, if applicable, and include it in the auditor's opinion:

(i) component unit fund financial statements and related combining statements (if there are no separately issued financial statements on the component unit per AAG-SLV 3.20);

(ii) combining financial statements; and

(iii) individual fund budget comparison statements for remaining funds that have a legally adopted budget (**including major funds other than general fund and special revenue funds, non-major governmental funds, and proprietary funds**) that did not appear as basic financial statement budget comparisons for the general fund or major special revenue funds, or as required supplemental information (RSI) as described above.

(e) The auditor should apply certain limited procedures to the following RSI (if applicable) and report deficiencies in, or the omission of, required information in accordance with the requirements of SAS AU 558.06:

(i) The management discussion and analysis (MD&A);

(ii) RSI data required by GASB Statements 25 and 27 regarding pension plans and administered by defined benefit pension plans; and

(iii) schedules derived from asset management systems (GASB 34 paragraphs 132 and 133).

B. Legislation regarding budget adjustment requests (BARs) prevents or restricts many budget transfers or increases. The IPA shall satisfy himself that these restrictions are not being violated by direct payment or other unauthorized trans-

fers.

C. Legislation can designate a fund as reverting or non-reverting. The IPA must review the law which appropriated funds to the agency to confirm whether any unexpended, unencumbered balance of a specific appropriation must be reverted, and to whom. The law will also indicate the deadline for the required reversion. Appropriate audit procedures must be performed to determine compliance with the law and accuracy of the related liability account balances due to other funds, governmental agencies, or both. The financial statements and the accompanying notes should fully disclose the reverting versus non-reverting nature of an appropriation. The financial statements must disclose the specific legislation that makes a fund or appropriation non-reverting. If non-reverting appropriations are commingled with reverting appropriations, the notes to the financial statements must disclose the methods and amounts used to calculate reversions. For more information regarding state agency reversions see Subsection A of 2.2.2.12 NMAC and the DFA white paper "calculating reversions to the state general fund," and "basis of accounting-modified accrual and the budgetary basis."

D. Governmental auditing, accounting and financial reporting standards: The audits shall be conducted in accordance with:

(1) Generally Accepted *Government Auditing Standards* (GAGAS) issued by the U.S. general accounting office, latest edition and amendments;

(2) *Codification of Statements on Auditing Standards* (SAS) issued by the AICPA, latest edition (see Appendix D);

(3) *OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations (June 2003 revision) which raised the threshold for Single Audit from \$300,000 to \$500,000 of federal expenditures*;

(4) SOP 98-3, *Audits of States, Local Governments, and Not-for-Profit Organizations Receiving Federal Awards*, latest edition;

(5) AICPA Audit and Accounting Guide, *Audits of State and Local Governmental Units* (GASB 34 Edition), issued September 1, 2002;

(6) 2.2.2 NMAC, *Requirements for Contracting and Conducting Audits of Agencies*, latest edition.

E. The financial statements and notes to the financial statements shall be prepared in accordance with accounting principles generally accepted in the United States of America. Governmental accounting principles are identified in the *Codification of Governmental Accounting and Financial Reporting Standard (GASB)*, latest edition

(see Appendix C). Auditors shall follow interpretations, technical bulletins, concept statements issued by GASB and other applicable pronouncements issued by the financial accounting standards board (FASB).

F. IPAs who perform government audits are expected to maintain professional libraries with current editions of the above publications. The audit guides published by Practitioners Publishing Company (PPC) are practice aides only and are not considered to be authoritative.

G. State compliance: An IPA shall identify significant state statutes and rules and regulations applicable to the governmental agency under audit and perform tests of compliance. In addition to those significant state statutes, rules and regulations identified by the IPA, the following state statutes and constitutional provisions will be tested:

(1) Procurement Code (13-1-1 to 13-1-199 NMSA 1978);

(2) Per Diem and Mileage Act (10-8-1 to 10-8-8 NMSA 1978);

(3) Personnel Act (10-9-1 to 10-9-25 NMSA 1978);

(4) Public Money Act (6-10-1 to 6-10-63 NMSA 1978);

(5) Public School Finance (22-8-1 to 22-8-42 NMSA 1978);

(6) Investment of Public Money (6-8-1 to 6-8-21 NMSA 1978);

(7) Public Employees Retirement Act (10-11-1 to 10-11-38 NMSA 1978);

(8) Educational Retirement Act (22-11-1 to 22-11-45 NMSA 1978);

(9) Sale of Public Property (13-6-1 to 13-6-4 NMSA 1978);

(10) Anti-Donation Clause (NM Constitution Article IX, Section 14);

(11) Special, Deficiency, and Specific Appropriations (appropriation laws applicable for the year under audit);

(12) Budget Compliance (6-3-1 to 6-3-25 NMSA 1978);

(13) Lease Purchase Agreements; (6-6-11 to 6-6-12, Montano v. Gabaldon, 108 NM 94, 766 P.2d 1328, 1989);

(14) 2.20.1.1 to 2.20.1.18 NMAC, *Accounting and Control of Fixed Assets of State Government (updated for GASB 34 as applicable)*;

(15) 2.2.2 NMAC, *Requirements for Contracting and Conducting Audits of Agencies*;

(16) Article IX of the State Constitution limits on indebtedness;

(17) Governmental Conduct Act (10-16-1 to 10-16-18 NMSA 1978);

(18) Records, Legal Notices and Other Obsolete County Records (14-1-8 NMSA 1978); and

(19) Laws of 2004, Chapter 114, Section 3, Subsection L states, "Except for gasoline credit cards used solely for operation of official vehicles, telephone credit

cards used solely for official business and procurement cards used as authorized by Section 6-5-9.1 NMSA 1978, none of the appropriations contained in the General Appropriation Act of 2004 may be expended for payment of agency-issued credit card invoices."

H. Federal compliance:

(1) The following government pronouncements establish requirements and give guidance for "Yellow Book" and/or Single Audits.

(a) **Single Audit Amendments of 1996**; (Public Law 104-156);

(b) **Generally Accepted Government Auditing Standards** (GAGAS) issued by the U.S. General Accounting Office, latest edition and amendments;

(c) OMB Circular A-21, **Cost Principles for Educational Institutions**, as revised May 10, 2004;

(d) OMB Circular A-87, **Cost Principles for State, Local, and Indian Tribal Governments**, effective June 9, 2004;

(e) OMB Circular A-102, **Grants and Cooperative Agreements with State and Local Governments**, as revised October 9, 1994 and amended August 29, 1997;

(f) OMB Circular A-110, **Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations**, as revised November 19, 1993 and further amended September 30, 1999;

(g) OMB Circular A-133, **Audits of States, Local Governments and Non-Profit Organizations**, (June 27, 2003 revision);

(h) OMB Circular A-133 **Compliance Supplement**, latest edition; and

(i) OMB **Catalog of Federal Domestic Assistance** (CFDA), latest edition;

(2) IRS employee income tax compliance issues - noncompliance with these IRS requirements requires a current year audit finding.

(a) Employee fringe benefits are presumed by the IRS to be income to the employee unless they are specifically excluded from income by the tax code. Any employee fringe benefits not excluded from income by the tax code must be reported on the employee's W-2. Examples of such fringe benefits could be: meal allowances paid to employees for meals away from home when overnight travel is not involved; discounted housing like school district teacherages, dues for membership in clubs organized for business, pleasure, recreation, or other social purpose (except Rotary and Kiwanis Club); cash and non-cash awards, and employee insurance benefits for

dependents who do not meet the IRS definition of a "dependent." Personal use of a government agency vehicle is always taxable income to the employee unless the vehicle is a qualified non-personal use vehicle [Rev. 1.274-5T(k)(3)] provided to the employee as a "working condition fringe benefit."

(i) Examples of qualified non-personal use vehicles are: clearly marked police and fire vehicles; unmarked law enforcement vehicles (officer must be authorized to carry a firearm and have arrest authority); ambulance or hearse; vehicle with gross weight over 14,000 lbs.; 20 passenger bus and school bus; tractor and other farm equipment; and delivery truck with driver seating only.

(ii) The value of commuting and other personal use of a "non-qualified vehicle" must be included on the employee's W-2. There are three rules the IRS allows to be used for valuing personal use of an employer's vehicle: automobile lease valuation rule; cents-per-mile rule; and the commuting rule (\$3 per day). For more detailed information regarding valuation of personal use of vehicles see IRS Pub. 15-B, Reg 1.61-21.

(b) Personal service contractors (1099 employees) who are retired employees of the governmental agency they worked for must be able to meet the IRS tests to qualify as contract labor. In the event a personal services contractor is in substance an employee, the governmental agency could be liable for the employee's share of FICA and employer FICA match on the contract payments. Public employees retirement association (PERA) could expect excess retirement payments back. (Section 10-11-8(C) NMSA 1978)

(c) City or county "volunteer firefighters" who are reimbursed when they provide firefighting services on state or federal land have been determined by the IRS to be employees of the respective city or county.

(d) The social security administration now requires all state and local government employers to disclose to all new employees the fact that their job is not covered by social security if they were hired for a position not covered by social security. These employees must sign a statement that they are aware of a possible reduction in their future social security benefit entitlement. See the website at www.socialsecurity.gov/form1945 for the required form and instructions.

(e) For more information regarding these and other IRS issues please contact the federal state and local government specialist with the IRS in Albuquerque, NM, at 505-527-6900 ext 232.

I. Audit findings:

(1) Section 12-6-5, NMSA 1978

(Reports of Audits) states each report shall set out in detail, in a separate section, any violation of law or **good accounting practices** found by the audit or examination. Therefore, all findings should be included in the annual audit report. **"There is no level of materiality in government auditing and all violations must be disclosed because 'public monies' are involved."** There is also no level of materiality for reporting findings of component units that do not receive public funds.

(2) **Generally Accepted Government Auditing Standards**, Sections 4.14-4.15, require the "auditors to consider the results of previous audits and attestation engagements and follow up on known significant findings and recommendations that directly relate to the objectives of the audit being undertaken." This follow up includes findings reported in financial, special and internal audits. In addition to this standard, the IPA will report the status of **all** prior-year findings by reference number (i.e., 02-1, 02-2, 03-1, 04-1) and descriptive title in the audit report as being resolved or repeated in the current-year audit report.

(3) Current-year:

(a) All current-year audit findings shall have a reference number and a short title that identifies the finding (i.e., 05-1, 05-2, 05-3).

(b) A memorandum on potential audit findings should be prepared and submitted to the agency management as soon as the IPA becomes aware of the findings so the agency has time to respond to the findings prior to the exit conference. **Findings are not subject to negotiation** and should comply with good accounting practices. If applicable, the agency should also prepare a corrective action plan. The agency shall respond, in writing, to the IPA's memorandum of findings within 10 workdays. Responses to the audit findings should be included in the audit report. Lack of agency responses within the 10 days does not warrant delay of the audit. If the responses are not received, indicate that they were not received and the reason why after each finding.

(c) Each audit finding (including unresolved prior-year findings) shall specifically state and describe the following:

(i) condition (quantity where possible-number of instances, dollar amounts, etc.);

(ii) criteria (which must include specific reference to the law, regulation, or other guidance that was violated);

(iii) effect;

(iv) cause;

(v) recommendation;

and (vi) agency response (i.e., agency comments and a specific cor-

rective action plan).

(4) Failure to file the audit report by the due date set in 2.2.2.9 NMAC is considered noncompliance with this rule and shall be a current-year finding. The finding should be reported as an instance of non-compliance in the agency's internal controls over financial reporting.

(5) If an agency has entered into any professional services contract with an IPA without written state auditor approval, this should be reported as a finding of non-compliance with Subsection I of 2.2.2.8 NMAC.

(6) Component unit audit findings must be reported in the primary government's financial audit report.

(7) A release of the audit report, by the IPA or agency, prior to being officially released by the state auditor is a violation of state statute (Section 12-6-5, NMSA 1978) and will require an additional finding in the audit report.

(8) When auditors detect deficiencies in internal controls that are not reportable conditions, they must communicate those deficiencies in written findings and refer to the findings in the Yellow Book report on internal control by stating something like, "We also noted other matters involving the internal control over financial reporting as reported in ...findings." (GAGAS 5.16 and Section 12-6-5, NMSA 1978)

(9) When auditors detect immaterial violations of provisions of contracts or grant agreements or abuse, they must communicate them in written findings and refer to those findings in the Yellow Book report on compliance by stating something like, "We also noted certain additional matters that we reported in ... findings." (GAGAS 5.20 and Section 12-6-5, NMSA 1978)

J. Exit conference and related confidentiality issues:

(1) The IPA must hold an exit conference with representatives of the agency's governing authority and top management including representatives of any component units (housing authorities, charter schools, hospitals, foundations, etc.) if applicable. If component unit representatives cannot attend the combined exit conference, a separate exit conference must be held with the component unit's governing authority and top management. The exit conference must be held in person, a telephone exit conference will not meet this requirement. The date of the conference(s) and the names and titles of personnel attending must be stated in a concluding paragraph of the audit findings and recommendations section of the audit report.

(2) The IPA shall deliver to the agency a draft audit report (stamped "Draft"), a list of the "passed audit adjustments," and a copy of all of the

adjusting entries at the exit conference. The draft audit report shall include the independent auditor's report, a complete set of financial statements, notes to the financial statements, audit findings that include responses from agency management, status of prior-year audit findings, and the reports on compliance and internal control required by government auditing standards and the Single Audit Act. Subsection AA of 2.2.2.10 NMAC, SAS 89 Audit Adjustments, provides an explanation regarding the list of "passed audit adjustments." The agency will have at least ten (10) workdays to review the draft audit report and respond to the IPA regarding any issues that need to be resolved prior to submitting the report to the state auditor. The audit report shall be delivered to the state auditor **with copies of the management representation letter and the list of "passed audit adjustments"** attached, on or before the due date specified in Subsection A of 2.2.2.9 NMAC. **A report will not be considered submitted to the office for the purpose of meeting the deadline, until a copy of the signed management representation letter is also submitted to the office.**

(3) The audit process will not have been completed at the time of the exit conference. **Neither the IPA nor agency personnel shall release any information to the public relating to the audit at the time of the exit conference or at any other time until the audit report becomes public record.** Agencies subject to the Open Meetings Act (Act) who wish to have a quorum of the governing board present at the exit conference will have to schedule the exit conference during a closed meeting in compliance with the Act in order to avoid disclosing audit information that is not yet public record, in a public meeting.

(a) Pursuant to the Open Meetings Act (10-15-1 to 10-15-4 NMSA 1978), any closed meetings shall be held only after reasonable notice to the public.

(b) Section 12-6-5, NMSA 1978 (Reports of Audits) provides that an audit report does not become a public record, subject to public inspection, until ten days after it is released by the state auditor to the agency audited.

(c) The attorney general's *Open Meetings Act Compliance Guide* states that if the agency being audited is governed by a public body subject to the Open Meetings Act and where discussion of the report occurs at an exit conference at which a quorum of the members of that body is present, such an exit conference **shall not** be open to the public in order to preserve the confidentiality of the information protected by Section 12-6-5, NMSA 1978.

(d) Once the finalized version of the audit report is officially released to the

agency by the state auditor (by an authorizing letter) and the required ten day waiting period has passed, the audit report **shall** be presented to a quorum of the governing authority of the agency for approval at a public meeting.

K. Possible violations of criminal statutes in connection with financial affairs:

(1) Auditing standards related to fraud have been updated. SAS 99 *Consideration of Fraud in a Financial Statement Audit*, is effective for fiscal periods beginning on or after December 15, 2002 (FY04). This SAS significantly changes what auditors must do in order to fulfill their responsibility to plan and perform the audit to provide reasonable assurance that the financial statements are free of material misstatement, whether caused by error or fraud (SAS AU Sec. 110.02). There are two types of misstatements of the financial statements, those caused by fraudulent financial reporting and those caused by misappropriation of assets. New procedures are required on every audit and auditors must:

(a) exercise an attitude of professional skepticism (a questioning mind and critical assessment of audit evidence) throughout the entire engagement;

(b) brainstorm as a team about how fraud could occur in the agency;

(c) obtain information needed to identify the risks of material misstatement due to fraud by:

(i) inquiring of management and others within the entity about the risks of fraud;

(ii) considering the results of the analytical procedures performed in planning the audit;

(iii) considering fraud risk factors: incentives/pressures to perpetrate fraud; opportunities to carry out the fraud; or attitudes/rationalizations to justify a fraudulent action;

(iv) considering other information including inherent risks at the individual account balance or class of transaction level;

(d) assess identified risks after taking into account an evaluation of the agency's programs and controls;

(e) respond to the risk assessment results;

(i) in the overall conduct of the audit:

(ii) in the nature, timing, and extent of the auditing procedures to be performed; and

(iii) by performing procedures addressing the risk due to fraud involving management override of controls;

(f) evaluate audit evidence;

(i) assess fraud risk throughout the audit;

(ii) at the end of the audit evaluate whether accumulated results of procedures affect the fraud risk assessment;

(iii) consider whether identified misstatements may be indicative of fraud, and if so evaluate their implications;

(g) communicate about fraud to management, the audit committee, and others (SAS 99 paragraph 79 through 82 and Paragraph (3) of Subsection L of 2.2.2.10 NMAC; and

(h) document the auditor's consideration of fraud.

(2) GAGAS 4.17 states that "auditors should design the audit to provide reasonable assurance of detecting material misstatements resulting from violations of provisions of contracts or grant agreements that have a direct and material effect on the determination of financial statement amounts or other financial data significant to the audit objectives. If specific information comes to the auditors' attention that provides evidence concerning the existence of possible violations of provisions of contracts or grant agreements that could have a material indirect effect on the determination of financial statement amounts or other financial data significant to the audit objectives, auditors should apply audit procedures specifically directed to ascertain whether violations of provisions of contracts or grant agreements have occurred or are likely to have occurred. Auditors should be alert to situations or transactions that could be indicative of **abuse**, and if indications of abuse exist that could significantly affect the financial statement amounts or other financial data, auditors should apply audit procedures specifically directed to ascertain whether **abuse** has occurred and the effect on the financial statement amounts or other financial data." "Abuse involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. ...If indications of possible abuse exist that significantly affect the financial statement amounts or other financial data, the auditors should extend the audit steps and procedures as necessary to (1) determine whether the abuse occurred and, if so, (2) determine its effect on the financial statement amounts or other financial data. Auditors should consider both **quantitative and qualitative factors** in making judgments regarding the materiality of possible abuse and whether they need to extend the audit steps and procedures. ...Auditors are not expected to provide reasonable assurance of detecting abuse."

(3) Every agency and IPA, pursuant to Section 12-6-6, NMSA 1978

(Criminal Violations), shall notify the state auditor immediately, in writing, upon discovery of any possible criminal statute violation in connection with its financial affairs. The notification shall include an estimate of the dollar amount involved, and a complete description of the violation, including names of persons involved and any action taken or planned. The state auditor will determine whether a special audit is warranted based upon the **written** information provided. If warranted, the state auditor will conduct the special audit. The IPA shall not enter into **any financial or special** audit contract unless selected through a process consistent with the Procurement Code and subject to the **prior written approval** of the state auditor. A copy of the report shall be provided to the state auditor.

(4) The state auditor shall immediately report the violation to the proper prosecuting officer and furnish the officer with all data and information in his possession relative to the violation.

L. Compensated absences:

(1) Vacation pay and other compensated absences should be computed in accordance with the requirements of GASB Statement No. 16, *Accounting for Compensated Absences*, and be reported in the financial statements.

(2) The statement of net assets, governmental activities column should report both the current (**amount expected to be paid out over the next year**) and long-term portions of the compensated absence liability because the government-wide financial statements report all liabilities. Per GASB 34 paragraph 31 "liabilities whose average maturities are greater than one year should be reported in two components—the amount **due within one year** and the amount due in more than one year."

(3) The fund financial statements should report the portion of the compensated absence liability that is expected to be liquidated using expendable available financial resources (NCGAS 4 paragraph 5) if the amount is material, in the fund responsible to pay for the liability.

(a) State agencies:

(i) **The state of New Mexico does not budget in the current year, funds to pay for any portion of the compensated absence liability carried forward from the previous year end.** Those payments are provided for in future budgets. Funds that are not budgeted are not an available financial resource. (NCGAS 1 paragraph 86 and GASB Cod. Sec. C60.111)

(ii) If the prior year financial statement showed the current portion of compensated absences and the amount was material, there should be a prior period adjustment and related fund balance restatement to correct the error.

(b) Non-state agencies: If the agency does budget funds in the current year to pay compensated absence balances, the portion of the liability that is expected to be liquidated using expendable available financial resources, if material, should be recorded in the fund responsible to pay the liability.

(4) The notes to the financial statements should disclose the accounting treatment applied to compensated absences.

(5) GASB 34 paragraph 119 requires the following disclosures of the agency's long-term compensated absences (and other long term liabilities) presented in the statement of net assets: beginning and end-of-year balances; increases and decreases shown separately; the portion due within one year; and which governmental funds typically have been used to liquidate the liabilities in prior years.

M. Special revenue funds authority: The authority for creation of special revenue funds must be shown in the audit report (i.e., cite the statute number, executive order, resolution number, or other specific authority) in the divider page or notes to the financial statements.

N. Public monies:

(1) Definition - All monies coming into all agencies i.e., vending machines, fees for xerox copies, telephone charges, etc., shall be considered public monies and be accounted for as such. For state agencies, all revenues generated must be authorized by legislation. (Section 6-4-2, NMSA 1978 and MAPS Section 3.3)

(2) Compliance - Article VIII, Section 4 of the New Mexico Constitution states that "all public money not invested in interest-bearing securities shall be deposited in national banks in this state, in banks or trust companies incorporated under the laws of the state, in federal savings and loan associations in this state, in savings and loan associations incorporated under the laws of this state whose deposits are insured by an agency of the United States and in credit unions incorporated under the laws of this state or the United States to the extent that such deposits of public money in credit unions are insured by an agency of the United States, and the interest derived therefrom shall be applied in the manner prescribed by law." Attorney General Opinion No. 70-98 states that such investment of public funds is limited to those interest-bearing securities as may be provided by statute. See the following authorizing statutes:

(a) Chapter 6, Article 10, Public Money, NMSA 1978: Section 6-10-10, NMSA 1978 allows certain agencies to invest in repurchase agreements with certain stipulations and prerequisites. However, the state public education department's, *Public School, Accounting and*

Budgeting Supplement (PSAB)
 Supplement 8, Section III.B indicates there is no statutory authority for school districts to participate in repurchase agreements. The auditor should perform compliance testing to ensure the agency is following New Mexico Constitution and applicable statutes; and

(b) Chapter 22, Article 8, Public School Finance, NMSA 1978.

(3) List of individual deposit accounts and investment accounts required by Section 12-6-5, NMSA 1978; Each audit report shall include a list of individual deposit and investment accounts held by the agency. The information presented in the audit report shall include at a minimum:

(a) name of depository (i.e., bank, credit union) or state treasurer CAS fund number;

(b) account name;

(c) type of account (checking, savings, investment);

(d) bank balance of deposits and investments as of the balance sheet date;

(e) reconciled balance of deposits and investments as of the balance sheet date, as reported in the financial statements.

(4) Pledged collateral:

(a) All audit reports should disclose the collateral requirements in the notes to the financial statements. In addition, there should be a **supplementary schedule** to the financial statements that discloses the collateral pledged by each bank and savings and loan association (S&L) that is a depository for public funds. The schedule should disclose the type of security (i.e., bond, note, treasury, bill, etc.), security number, CUSIP number, **fair market value** and maturity date. The schedule should also disclose the name of the custodian and the place of safekeeping for all collateral.

(b) If the pledged collateral in an aggregate amount is not equal to one half of the amount of public money in each account (Section 6-10-17, NMSA 1978), there should be a finding in the audit report. No security is required for the deposit of public money that is insured by the federal deposit insurance corporation (FDIC) or the national credit union shares insurance fund (NCUSIF) according to Section 6-10-16, NMSA 1978. The **supplementary schedule** of collateral requirements should be calculated separately for each bank and disclosed in the report as follows:

(i) Total amount of deposit in bank or credit union	\$300,000
(ii) Less: FDIC or NCUSIF coverage*	<u>100,000</u>
(iii) Total uninsured public funds	200,000

(iv) 50% collateral requirement (Section 6-10-17, NMSA 1978) 100,000

(v) Pledged Security

100,000

(vi) Over (Under)

0

[*The FDIC issued an advisory opinion (FDIC 94-24) on June 13, 1994, stating that public funds are entitled to \$100,000 insurance for time or savings deposits and \$100,000 for demand deposits deposited within the state in compliance with 12 CFR Subsection 330.14(b)]

(c) Repurchase agreements must be covered by 102% of pledged collateral per Section 6-10-10 H, NMSA 1978. Disclosure similar to that shown above is also required for the 102% of pledged collateral.

(d) The value of collateral consisting of obligations of the state of New Mexico, its agencies, institutions, counties, municipalities or other subdivisions shall be par value. All other securities shall be accepted as security at market value. (Section 6-10-16 C, NMSA 1978)

(e) State agency cash on deposit with the state treasurer does not require disclosure of specific pledged collateral for amounts held by the state treasurer. However, the agency notes to the financial statement should refer the reader to the state treasurer's separately issued financial statements which do disclose the collateral pledged to secure state treasurer cash and investments.

(f) If an agency has other "authorized" bank accounts pledged collateral information should be obtained from the bank and disclosed in the agency financial statement notes. The state treasurer monitors pledged collateral related to most state agency bank accounts. In the event pledged collateral information specific to the agency is not available, the following note disclosure should be made. Detail of pledged collateral specific to this agency is unavailable because the bank commingles pledged collateral for all state funds it holds. However, the state treasurer's office collateral bureau monitors pledged collateral for all state funds held by state agencies in such "authorized" bank accounts.

(5) Applicable standards:

(a) GASB Statement No. 40, **Deposit and Investment Risk Disclosures**, is effective for financial statements for periods beginning after June 15, 2004 (FY05). The statement requires certain disclosures of investments that have fair values that are highly sensitive to changes in interest rates. Deposit and investment policies related to the risks identified in this Statement also should be disclosed. The requirement for

disclosure of authorized investments remains unchanged. The requirements for reporting certain repurchase agreements and reverse repurchase agreements are maintained. The new statement modifies and eliminates portions of GASB Statement No. 3 custodial credit risk disclosure requirements; category 1 and 2 deposit and investment disclosures are generally eliminated.

(b) SAS No. 101, **Auditing Fair Value Measurements and Disclosures**, was issued January 2003 and is effective for audits of financial statements for periods beginning on or after June 15, 2003 (FY04). The standard requires the auditor to:

(i) obtain audit evidence providing reasonable assurance that fair value amounts and disclosure are in accordance with GAAP;

(ii) understand the agency's process for determining fair value and its controls over that process in order to develop an effective audit approach;

(iii) evaluate whether fair value amounts and disclosures are in accordance with GAAP;

(iv) evaluate: management's intent and ability to carry out planned actions related to the use of fair value amounts and disclosures; the related requirements of presentation and disclosure; and how changes in fair values are reported in the financial statements;

(v) when there are no market prices available, evaluate whether the agency's valuation method used to determine fair value is appropriate;

(vi) evaluate if the agency is applying fair value measurements consistently;

(vii) consider whether to engage a specialist; and

(viii) determine that the audit committee is informed about management's process used to arrive at sensitive accounting estimates, including fair value estimates, and about the basis for the auditor's conclusions about the reasonableness of those estimates.

(6) State treasurer external investment pool (local government investment pool):

(a) Cities, counties, and other non-state agencies that have investments in the state treasurer external investment pool (the local government investment pool) must include the following disclosures in the notes to their financial statements (GASB Statement No. 31 paragraph 15):

(i) the investments are valued at fair value based on quoted market prices as of the valuation date;

(ii) the state treasurer local government investment pool is not SEC registered. Section 6-10-10 I, NMSA 1978, empowers the state treasurer, with the

advice and consent of the state board of finance, to invest money held in the short-term investment fund in securities that are issued by the United States government or by its departments or agencies and are either direct obligations of the United States or are backed by the full faith and credit of the United States government or are agencies sponsored by the United States government. The local government investment pool investments are monitored by the same investment committee and the same policies and procedures that apply to all other state investments;

(iii) the pool does not have unit shares. Per Section 6-10-10.1F, NMSA 1978, at the end of each month all interest earned is distributed by the state treasurer to the contributing entities in amounts directly proportionate to the respective amounts deposited in the fund and the length of time the fund amounts were invested; and

(iv) participation in the local government investment pool is voluntary.

(b) GASB 40 paragraph 7, states "Unless there is information to the contrary, obligations of the U.S. government or obligations explicitly guaranteed by the U.S. government are not considered to have credit risk and do not require disclosure of credit quality."

O. Budgetary presentation:

(1) Prior year balance included in budget:

(a) If the agency prepares its budget on the accrual or modified accrual basis, the statement of revenues and expenditures budget and/or actual and budgetary comparison schedules shall include the amount of **fund balance** required to balance the budget.

(b) If the agency prepares its budget on the cash basis, the statement of revenues and expenditures budget and/or actual and budgetary comparison schedules shall include the amount of **prior-year cash balance** required to balance the budget.

(2) The differences between the budgetary basis and GAAP basis revenues and expenditures should be reconciled. If the required budgetary comparison information is included in the basic financial statements, the reconciliation should be included in the notes to the financial statements. If the required budgetary comparison is presented as RSI (for reasons described below) the reconciliation should appear in either a separate schedule or in notes to RSI according to the AICPA Audit and Accounting Guide *Audits of State and Local Governments GASB 34 Edition*, (AAG-SLV 11.14).

(3) Budget comparison statements and schedules must show the original and final appropriated budget, the actual

amounts on the budgetary basis, and a column with the variance between the final budget and actual amounts.

(a) The basic financial statements must include budget comparison statements for **only** the general fund and major special revenue funds if the budget structure for those funds is similar enough to the GAAP fund structure to provide the necessary information.

(b) Required supplemental information section is the place where the budget comparison schedules should appear for the general fund and major special revenue funds if the agency budget structure differs from the GAAP fund structure enough that the budget information is unavailable for only those specific funds. An example of this "perspective difference" would occur if an agency budgets by program with portions of the general fund and major special revenue funds appearing across various program budgets. In a case like that the budget comparison would be presented for program budgets and include information in addition to the general fund and major special revenue funds budget comparison data. See GASB Statement No. 41, *Budgetary Comparison Schedules -Perspective Differences*, paragraphs 3 and 10. When budget comparisons have to be presented as required supplemental information (RSI) due to such perspective differences it is a requirement of the State Auditor that they be audited and included in the auditor's opinion. See AAG-SLV 14.51 and Appendix A Example 14A.13 in AAG-SLV 14.78 in the AICPA, *Audit and Accounting Guide, GASB 34 Edition (2003)*.

(c) Supplemental information (SI) is the place where all other budget comparison information should appear except the general and major special revenue fund budget comparisons. Nonmajor governmental funds and proprietary funds that have legally adopted budgets should have budget comparisons appearing in the SI section of the report. State agency audit reports should have applicable individual CAS fund budget comparisons presented as SI. It is a requirement of the state auditor that budget comparison statements presented in the basic financial statements or as required supplemental information (RSI) or supplemental information (SI) be audited and included in the auditor's opinion. For an example of an opinion that includes SI and/or RSI see Example 14A.13 in the AICPA, *Audit and Accounting Guide, GASB 34 Edition (2003)*.

P. Appropriations to agencies: The budget comparison presented in the financial statements must be at least at the same appropriation level as the approved budget to demonstrate compliance with legal requirements. If actual expenditures exceed budgeted expenditures

within a category that fact must be reported in a finding. If budgeted expenditures exceed budgeted revenues (after prior-year cash balance and any applicable federal receivables required to balance the budget) that fact must also be reported in a finding. Revenue categories of appropriations to state agencies are listed below. See Paragraph (6) of Subsection A of 2.2.2.12 NMAC for a list of the budget categories for state agency expenditures. The budget comparison statements for state agencies must be presented in the audit report by the revenue categories shown below and by the expenditure categories that appear in the agency's appropriation.

(1) state general fund;

(2) other state funds;

(3) internal service funds/inter-agency transfers; or

(4) federal funds.

Q. Deferred compensation plans:

(1) GASB Statement No. 32, *Accounting and Financial Reporting for Internal Revenue Code Section 457 Deferred Compensation Plans*, was issued to reflect a change in the legal status of Internal Revenue Code (IRC) Section 457. The provisions of IRC Sections 457 deferred compensation plans were amended to state that a plan shall not be treated as an eligible deferred compensation plan unless all assets and income of the plan are held in trust for the exclusive benefit of participants and their beneficiaries. Previously, the amounts deferred under an IRC Section 457 plan were legally the property of the sponsoring employer government. Under the new requirements, the government no longer owns the amounts deferred by employees or related income on those amounts.

(2) The change in the law required existing plans to establish a trust to hold IRC Section 457 plan assets by January 1, 1999. Sponsor governments had to adopt the provisions of GASB Statement No. 32 for periods beginning after December 31, 1998, or in the period the government complied with the law change, if earlier. A government is considered to hold plan assets in a fiduciary capacity only if it (1) has significant administrative responsibility for the plan or (2) performs the investment function for the plan.

(3) GASB 32 has been amended by GASB 34. See GASB 34 paragraphs 69 through 72 and Examples E-1 and E-2 for guidance on reporting fiduciary funds.

(4) GASB Statement No. 32 does not require specific note disclosures.

R. Consideration of the internal control and risk assessment in a financial statement audit:

(1) SAS No. 55, *Consideration of*

Internal Control in a Financial Statement Audit, and SAS No. 78, *Consideration of Internal Control in a Financial Statement Audit, an Amendment to SAS No. 55*, SAS No. 94, *The Effect of Information Technology on the Auditor's Consideration of Internal Control in a Financial Statement Audit and Governmental Auditing Standards* footnote 43, provide guidance to IPAs related to consideration of internal control as part of an audit. SAS No. 78 replaced the SAS No. 55 definition and description of internal control with the definition and description from *Internal Control-Integrated Framework*, published by the committee on sponsoring organizations of the treadway commission (the COSO Report). SAS No. 78 describes internal control as consisting of five interrelated components: control environment; risk assessment; control activities; information and communication; and monitoring. SAS No. 94, *The Effect of Information Technology on the Auditor's Consideration of Internal Control in a Financial Statement Audit* amended SAS No. 55 further. "Information technology (IT) encompasses automated means of originating, processing, storing, and communicating information, and includes recording data devices, communication systems, computer systems (including hardware and software components and data), and other electronic devices. An entity's use of IT may be extensive; however, the auditor is primarily interested in the entity's use of IT to initiate, record, process, and report transactions or other financial data. ...Controls in systems that use IT consist of a combination of automated controls (for example, controls embedded in computer programs) and manual controls." In obtaining an understanding of the internal controls of an entity that uses IT, "the auditor considers how an entity's use of IT and manual procedures may affect controls relevant to the audit. The auditor then assesses control risk for the assertions embodied in the account balance, transaction class, and disclosure components of the financial statements." The FY04 implementation of SAS 99 also has an extensive impact on the auditor's consideration of internal controls and risk assessment. See Paragraph (1) of Subsection K of 2.2.2.10 NMAC above for related details. The proposed SAS, *Understanding the Entity and Its Environment and Assessing the Risks of Material Misstatement (Assessing Risks)*, will require the auditor to obtain an understanding of the industry, regulatory, and other external factors, the nature of the entity, etc. GAGAS Section [3.42 (b)] already requires staff members to collectively possess "general knowledge of the environment in which the audited entity operates and the subject matter under review." The GAGAS standards go beyond

the AICPA SAS requirements. Auditors must: consider the results of previous audits and attestation engagements; and detect material misstatements resulting from violations of contract provisions or grant agreements or from abuse. [GAGAS 4.05 (b) and (c)]

(2) All financial audits performed under this rule are **required to include tests of internal controls** (manual and/or automated) over assertions about the financial statements and about compliance related to laws, regulations, and contract and grant provisions. Inquiry alone is not sufficient testing of internal controls. The requirement to test internal controls applies even in circumstances when the auditor has assessed control risk at maximum. **This is a special requirement of the state auditor.**

(3) The IPA is required to document:

(a) the understanding of internal control (SAS 94 paragraph 61);

(b) risk assessment (SAS 94 paragraph 83);

(c) tests of controls (SAS No. 96);

(d) and the following SAS 99 considerations:

(i) brainstorming; procedures used to obtain information to identify and assess the risks of material misstatement due to fraud;

(ii) specific risks of material misstatement due to fraud and the related auditor response to those risks;

(iii) if improper revenue recognition is not identified, the reasons supporting the auditor's conclusion;

(iv) results of procedures performed to further address the risk of management override of controls;

(v) other conditions and analytical relationships that caused the auditor to believe that additional auditing procedures or other responses were required and any further responses the auditor concluded were appropriate, to address such risks or other conditions;

(vi) and the nature of the communications about fraud made to management, the audit committee, and others.

(4) Reporting weaknesses in internal controls: Section 12-6-5, NMSA 1978, requires the annual financial and compliance audit of agencies to "set out in detail, in a separate section, any violation of law or good accounting practices found by the audit or examination." Therefore, any instance of weakness in internal control defined by GAGAS 5.13 and GAGAS 5.16 instances that do not meet the reportable condition criteria, SAS AU 325.21 must be reported.

S. Lease purchase agreements:

(1) The New Mexico supreme

court has held that it is unconstitutional for agencies to enter into lease purchase agreements after January 9, 1989, unless special revenue funds are the designated source of payments for the agreement. (Any agreements executed prior to that date may not be extended or amended without compliance with the guidelines of **Montano v. Gabaldon**, 108 N.M. 94, 766 P.2d 1328).

(a) The attorney general interpreted **Montano** to mean that long-term contracts for professional services, leases, and real property rental agreements may still be entered into within the constraints of the Bateman Act and the Procurement Code. However, **any** agreement which is in effect for more than one fiscal year, including leases of real property, must have a provision allowing the agency to terminate the agreement at will at anytime, or at least at the end of each fiscal year, without penalty. Furthermore, the agency must have no "equitable or moral" duty to continue to make payments under the contract. The agreements must also contain a non-appropriation clause allowing for termination of the agreement in the event the agency decides not to appropriate funds for each fiscal year.

(b) The attorney general subsequently opined that if the source of funds to repay the debt is solely repaid from the project revenue or from a special non-general-tax fund and not from any general tax revenue, then the debt, be it in the form of bonds or a lease purchase agreement, is not the sort of debt which triggers the constitutional requirement of approval by the voters. This is the teaching of the **Connelly** case relied on by the court in **Montano**. **Montano** did not reverse **Connelly**, **Seward** and the other cases which have consistently limited the application of constitutional restrictions to debts which are paid out of general tax revenues.

(c) If specific questions as to the constitutionality of a particular lease agreement remain, an independent legal opinion should be obtained from the attorney general.

(2) Accounting for lease purchases that meet the FASB Statement No. 13 criteria for a capital lease purchase:

(a) modified accrual basis of accounting for fund financial statements:

(i) at the time of the lease purchase, the aggregate purchase liability should be reported as an expenditure and as other financing source in the governmental fund that acquired or constructed the general asset. (NCGAS 5 paragraph 14 and AAG-SLV 7.34)

(ii) Subsequent governmental fund lease payments should be recognized as expenditures in the accounting period in which the fund liability is incurred, if measurable. (NCGAS 1 para-

graph 8 (a) and AAG-SLV 8.69)

(b) Full accrual basis of accounting for government-wide statements:

(i) At the time of the lease purchase, record the capitalized asset and related credit to net assets-invested in capital assets, net of related debt. The amount recorded is generally the lesser of the net present value of the minimum lease payments or the fair value of the leased property excluding executory costs and profit. (NCGAS 5 paragraph 16 and AAG-SLV 7.33)

(ii) The leased property is amortized in accordance with the government's normal depreciation policy for owned assets of the same type, but the amortization period is limited to the lease term, rather than the useful life of the asset. (AAG-SLV 7.33)

(iii) At the time of the lease purchase, record the liability for the current and long-term portions of the minimum lease payments due, with the related debit to net assets-invested in capital assets net of related debt. (AAG-SLV 7.32)

T. Interfund activity:

(1) According to the AICPA Audit and Accounting Guide, *Audits of State and Local Government (GASB 34 Edition)*, Section 9.31, the pre-GASB 34 reporting model interfund transaction classifications were:

- (a) quasi-external transactions;
- (b) reimbursements;
- (c) residual equity transfers;
- (d) operating transfers;
- (e) interfund loans; and
- (f) intra-entity transactions and balances.

(2) Under the GASB 34 reporting model those interfund "activities" have become, respectively:

(a) "Interfund services provided and used" which is a narrower definition than quasi-external transactions because the amounts should approximate their external exchange value which was not a requirement under the pre-GASB 34 model;

(b) interfund reimbursements;

(c) interfund transfers;

(d) interfund transfers;

(e) interfund loans; and

(f) Intra-entity activity and balances.

(3) GASB 34 reciprocal interfund activity is the internal counterpart to exchange and exchange-like transactions. It includes interfund loans and interfund services provided and used.

(4) GASB 34 nonreciprocal interfund activity is the internal counterpart of nonexchange transactions.

(a) Nonreciprocal interfund activity includes interfund transfers for which there is no equivalent flow of assets in return. Payments in lieu of taxes are includ-

ed in this category. According to GASB 34 paragraphs 112(b)(1) and 410(a), such transfers between funds within the primary government should be reported as follows:

(i) in governmental funds, transfers should be reported as other financing uses in the funds making transfers and as other financing sources in the funds receiving transfers;

(ii) in government-wide financial statements, transfers between funds should be reported in a separate category as the final item before change in net assets; and

(iii) in proprietary funds, transfers should be reported after nonoperating revenues and expenses.

(b) GASB 34 paragraphs 61 and 318 indicate that transfers between funds of the primary government and funds of a component unit should be reported as follows:

(i) Transfers between the primary government and discretely presented component units are required to be reported as external transaction, revenues and expenses, in the primary government's financial statements and in the component unit's separately issued financial statements.

(ii) Transfers between the primary government and a blended component unit should be reported in the separately issued reports of the component unit as revenues and expenses. But when the blended component unit is included in the primary government's financial statements, those revenues and expenses should be reclassified and shown as transfers.

(c) Nonreciprocal interfund activity also includes interfund reimbursements that are repayments from a fund responsible for an expenditure or expense to the fund that originally paid for them. Reimbursements should not be displayed in the financial statements.

U. Required auditor's reports:

(1) Auditor reports should follow the examples contained in the AICPA Audit and Accounting Guide, *Audits of State and Local Governments* (GASB 34 Edition), issued May 1, 2004. Appendix 14A-Illustrative Auditor's Reports provides report illustrations. Example 14A.13 illustrates how to opine on the basic financial statements and the combining and individual fund financial statements presented as supplementary information. Guidance provided in Chapter 14, Appendix A Footnote 2 requires the following wording when opining on budget comparison statements, "and the respective changes in financial position and cash flows, where applicable, thereof and the respective budgetary comparison for the [indicate the funds involved] year then ended in conformity with accounting

principles generally accepted in the United State of America." All independent auditors' reports should include a statement regarding the conduct of the audit being in accordance with auditing standards generally accepted in the United States of America **and with applicable Government Auditing Standards** per GAGAS 5.05. The state auditor requires the reports required by GAGAS, OMB Circular A-133, and HUD Guidelines on Reporting and Attestation Requirements of Uniform Financial Reporting Standards (UFRS) to be **included under one report cover** with the independent auditor's report, rather than presented under separate report covers. The reports referred to in these sections are the: Report on compliance and internal control over financial reporting based on an audit of financial statements performed in accordance with government auditing standards, (GAGAS 5.08 and 5.12); independent auditors' report including the SAS 29 opinion on the schedule of expenditures of federal awards and the HUD financial data schedule (FDS); the report on compliance with requirements applicable to each major program and on internal control over compliance in accordance with OMB Circular A-133, the Schedule of Findings and Questioned Costs (A-133 .505); and the audited HUD Financial Data Schedule (FDS). The report must also contain a table of contents and official roster. An **exemption** from the "one report cover" rule must be obtained from the state auditor in order to present any of the above information under a separate cover.

(2) The proposed SAS, *Performing Audit Procedures in Response to Assessed Risk and Evaluating the Audit Evidence Obtained* says: 69. "In evaluating whether the financial statements are presented fairly in all material respects in conformity with GAAP, the auditor should consider the effects both individually and in the aggregate, of misstatements that are corrected by the entity. ...The consideration and aggregation of misstatements should include likely misstatements (the auditor's best estimate of the total misstatements in the account balances or classes of transactions that he or she has examined), not just known misstatements (the amount of misstatements specifically identified). Likely misstatements should be aggregated in a way that enables the auditor to consider whether, in relation to individual amounts, subtotals, or totals in the financial statements, they materially misstate the financial statements taken as a whole." 81. "If the auditor concludes, based on accumulation of sufficient audit evidence, that effects of likely misstatements, individually or in the aggregate, cause the financial statements to be materially misstated, the auditor should request management to eliminate the mis-

statement. If the material misstatement is not eliminated, the auditor should issue a qualified or an adverse opinion on the financial statements. Material misstatements may be eliminated by, for example, application of appropriate accounting principles, other adjustments in amounts, or the addition of appropriate disclosure of inadequately disclosed matters. Even though the effects of likely misstatements on the financial statements may be immaterial, the auditor should recognize that an accumulation of immaterial misstatements in the balance sheet could contribute to material misstatements of future financial statements." Current standards (SAS AU 350.30) require the auditor to project misstatements resulting from audit sampling applications and all known misstatements from nonsampling applications and consider them in the aggregate along with other audit evidence when evaluating whether the financial statement taken as a whole may be materially misstated.

(3) Proper implementation of GASB 34 and/or GASB 35 will impact the auditor's opinion in the independent auditor's report.

(a) An adverse opinion shall result if anything less than a full set of financial statements, as required by GASB 34 and/or GASB 35, are presented.

(b) An adverse opinion shall result if the old model is presented instead of the new model under GASB 34 and/or GASB 35.

(c) A modified opinion may result if a component unit fails to implement GASB 34 and/or GASB 35 in the same fiscal period as the primary government.

(d) An adverse opinion will result if infrastructure is excluded from the government-wide statements and it is significant.

(4) GAAP includes GASB 34 and/or 35 once the implementation date for the entity passes. "Rule 203 of the Code of Professional Conduct of the AICPA states: 'A member shall not (1) express an opinion or state affirmatively that the financial statements or other financial data of any entity are presented in conformity with generally accepted accounting principles or (2) state that he or she is not aware of any material modifications that should be made to such statements or data in order for them to be in conformity with generally accepted accounting principles, if such statements or data contain any departure from an accounting principle promulgated by bodies designated by council to establish such principles that has a material effect on the statements or data taken as a whole.'" (SAS AU Sec 508.14)

V. Service organizations:

(1) SAS No. 98 amends SAS No. 70, *Reports on the Processing of*

Transactions by Service Organizations, to help IPAs determine what additional information they might need when auditing the financial statements of an agency that uses a service organization to process transactions. SAS No. 70 provides guidance an IPA should consider when auditing the financial statements of an agency that uses a service organization to process transactions. SAS No. 70 provides guidance an IPA who issues reports on the processing of transactions by a service organization for use by other IPAs.

(2) SAS No. 70 (AU 324.03) defines a service organization as an organization that is engaged to provide either or both of the following services:

(a) execution of transactions and maintenance of the related accountability; and

(b) recording of transactions and processing of related data.

(c) The following are examples of service organizations:

(i) tax collection authorities;

(ii) EDP service centers that process transactions and related data for others;

(iii) regional educational service centers;

(iv) bank trust departments that invest and hold assets for employee benefit plans or others;

(v) payroll service companies that process payroll transactions and make payroll disbursements; and

(vi) potentially public housing authority fee accountants.

(3) When a governmental agency uses a service organization (as defined by AU 324.03), its transactions are processed through another organization's financial reporting system and are subject to that organization's controls. If the use of the service organization is significant to planning and performing the audit, the IPA should obtain an understanding of the client's financial reporting system and internal controls for information produced by the service organization in accordance with SAS No. 70. **The understanding obtained should be documented.**

(4) SAS No. 98, *Omnibus Statement on Auditing Standards-2002*, amended SAS No. 70 to require a service auditor to inquire of management about subsequent events.

W. Disposition of property:

(1) Sections 13-6-1 and 13-6-2, NMSA 1978, and the Procurement Code, govern the disposition of obsolete, worn-out or unusable tangible personal property owned by state agencies, local public bodies, school districts, and state educational institutions. At least thirty days prior to any such disposition of property, written notification of the official finding and proposed

disposition duly sworn and subscribed under oath by each member of the authority approving the action must be sent to the state auditor.

(2) In the event a computer is included in the planned disposition, the agency shall "sanitize" all licensed software and any electronic media pertaining to the agency. Hard drive erasure certification is still required even if the asset originally cost less than \$1,000 and was not included in the fixed asset inventory. According to the May 5, 2002 memorandum from the chief information technology security and privacy office on this subject, "ordinary file deletion procedures do not erase the information stored on hard disks or other magnetic media. Sanitizing erases or overwrites totally and unequivocally, all information stored on the media. There are three basic approaches:

(a) purchasing and using a commercial degaussing product to erase magnetic disks;

(b) overwriting stored data a minimum of five times; or

(c) reformatting the drives (F diskling)."

(3) The agency will certify in writing the proper erasure of the hard drive and submit the certification along with the notification of the proposed disposition of property to the state auditor at least thirty days prior to taking action. The IPA shall test for compliance with this requirement. **This is a special requirement of the state auditor** and it applies even if the original purchase price of the computer was less than \$1,000.

X. Joint powers agreements and memorandums of understanding:

(1) All joint powers agreements (JPA) and memorandums of understanding (MOU) must be listed in a supplementary schedule in the audit report. The schedule should include the following information for each JPA or MOU:

(a) participants;

(b) party responsible for operations;

(c) description;

(d) beginning and ending dates of the JPA or MOU;

(e) total estimated amount of project and portion applicable to the agency;

(f) amount the agency contributed in current fiscal year;

(g) audit responsibility;

(h) fiscal agent if applicable; and

(i) name of government agency where revenues and expenditures are reported.

(2) For self-insurance obtained under joint powers agreements or memorandum of understanding, see Subsection Y of 2.2.2.10.NMAC (self-insurance).

Y. Self insurance: Those agencies that have self-insurance agreements should disclose the data in the notes to the financial statements. The note should include the name of the agency that is providing the insurance and the amount of contribution by the agency to the fund during the year. There should be full disclosure in the notes to the financial statements per the requirements of GASB 10.

Z. Nonexchange transaction asset and revenue recognition: GASB Statement No. 33 established accounting and financial reporting standards for the nonexchange transactions of state and local governments. It became effective for fiscal years starting after June 15, 2000. A nonexchange transaction occurs when a government (including the federal government) either gives value to another party without directly receiving equal value in exchange or receives value from another party without directly giving equal value in exchange. There are four types of nonexchange transactions: derived tax revenues (income and motor fuel taxes); imposed nonexchange revenues (property tax, fines and penalties, and property forfeitures); government-mandated nonexchange transaction revenues (federal programs that state or local governments are mandated to perform, state programs that local governments are mandated to perform); and voluntary nonexchange transactions (grants, entitlements, and donations by nongovernmental entities, including private donations). On both the accrual and modified accrual basis of accounting, revenue recognition is required for nonexchange transactions in the financial statements unless the transaction is not measurable (reasonably estimable). For guidance in applying the accrual basis of revenue recognition see GASB 33 paragraphs 16 through 28. For guidance in applying the modified accrual basis of revenue recognition, see GASB 33 paragraphs 29 and 30. Implementation of GASB 34 requires revenue recognition on both bases of accounting: full accrual basis in the government-wide statements; and modified accrual basis in the fund financial statements. Common application issues are listed below.

(1) **The amount recognizable asset amount recognized under both the accrual and modified accrual bases of accounting should be the same amount.** What changes is the amount of revenue recognized. Any "unavailable" amount of revenue should be reclassified from revenue to "deferred revenue" for the modified accrual basis. (AAG-SLV 6.17)

(2) Property taxes are an example of "imposed nonexchange" revenue. According to GASB 33 paragraph 18, "Governments should recognize revenues from property taxes, net of estimated refunds and estimated uncollectible

amounts, in the period for which the taxes are levied, even if the enforceable legal claim arises or the due date for payment occurs in a different period." For modified accrual presentation, property tax revenues are recognized when they become available. Available means collected within the current period or expected to be collected soon enough thereafter to be used to pay liabilities of the current period. Such time thereafter shall not exceed 60 days. If, because of unusual circumstances, the facts justify a period greater than 60 days, the governmental unit should disclose the period being used and the facts that justify it. (NCGAI 3 paragraph 8 as amended and GASB 33 footnote 16) An agency that receives a portion of another government's derived tax or imposed nonexchange revenues (sales or property taxes) should record revenues, and the provider government should record expenses (or expenditures), when all eligibility requirements have been met per GASB 36 paragraph 13. See GASB 36 paragraphs 16 and 17 for specific examples of revenue recognition for "shared" tax revenue and "locally imposed" tax revenue.

(3) There will be no direct increases to contributed capital under GASB 33, all inflows from nonexchange transactions must be reported as revenue. (GASB 33 paragraph 93)

AA. SAS 89 audit adjustments: The engagement letter should state that management is responsible for adjusting the financial statements to correct material misstatements. In the representation letter, management should affirm to the auditor that the effects of any uncorrected financial statement misstatements aggregated by the auditor are immaterial, both individually and in total. In such cases, a summary of any misstatements that management did not correct in their financial statements must be included in or attached to the management representation letter. The auditor is required to inform those who have oversight of the financial reporting process about uncorrected misstatements aggregated by the auditor during the current engagement and pertaining to the latest period presented that were determined by management to be immaterial, both individually and in the aggregate, to the financial statements taken as a whole. Passed audit adjustments are those determined by the auditor that did not get included in the audited financial statements. **The auditor must present this list of "passed adjustments" to the agency management and governing board representatives at the exit conference. A copy of the management representation letter and the list of "passed adjustments" must be attached to the audit report when it is submitted to the state auditor for review.** In the event no audit adjustments were omitted from the

financial statements a memo stating that there were "no passed adjustments" should take the place of the list of "passed adjustments."

BB. GASB 34 implementation issues:

(1) In the year GASB 34 is implemented, note disclosure must be made reconciling the GASB 34 beginning net assets back to the prior year audited ending fund balances. **This is a special requirement of the state auditor.**

(2) Agency funds are excluded from the statement of changes in fiduciary net assets (GASB 34 paragraph 110) because they have no "net assets." Therefore, it is a requirement of the state auditor that a schedule of changes in assets and liabilities for the agency funds be included as supplemental information (SI) for all agencies that have agency funds. See also Subparagraph (e) of Paragraph (3) of Subsection C of 2.2.2.12 NMAC for more information regarding the presentation of school district agency fund statements of changes in assets and liabilities for agency funds.

CC. Accounting for forfeited property:

(1) Seized property should be accounted for in an agency fund before the Section 31-27-6, NMSA 1978 "judgment of forfeiture."

(2) Once the judgment of forfeiture is made, the property should be accounted for in a special revenue fund because the revenues are legally restricted for specified purposes. The balance sheet of such a special revenue fund that accounts for seized property may have zero balances at the end of a fiscal year because net balance amounts may have been transferred to the general fund of the governing body of the seizing law enforcement agency, or the general fund to be used for drug abuse treatment services, for drug prevention and education programs, for other substance abuse demand-reduction initiatives or for enforcing narcotics law violations. Exceptions are forfeitures of property arising from: violations of hunting or fishing regulations that must be deposited in the game protection fund; and violations against cultural properties that must be used for the restoration of the affected cultural property, with net balances being deposited into the general fund.

(3) Seized property resulting in forfeiture proceeds creates revenue for the governmental agency that seized the property. That revenue and related expenditures must be included in the budget process of the governmental agency.

(4) See Section 31-27-1, NMSA 1978 and related cross references for guidance on various types of seizures and forfeitures. Section 31-27-7, NMSA 1978 pro-

vides statutory guidance for proper disposition of forfeited property and use (allowable expenditures) of all related proceeds.

DD. Definition of "restricted" net assets: GASB 34 paragraphs 33 through 37 explain the components of net assets. Net assets are restricted when constraints placed on net asset use are either: externally imposed by creditors (such as through debt covenants), grantors, contributors, or by laws or regulations of other governments; or imposed by law through constitutional provisions or enabling legislation. Enabling legislation authorizes the government to assess, levy, charge, or otherwise mandate payment of resources (from external resource providers) and includes a **legally enforceable requirement** that those resources be used only for the specific purposes stipulated in the legislation. GASB Statement 46 is effective for periods beginning after June 15, 2005, (FY06), with earlier application encouraged. This statement says "legally enforceable" means that "a government can be compelled by an external party-such as citizens, public interest groups, or the judiciary-to use resources created by enabling legislation only for the purposes specified by the legislation. Generally, the enforceability of an enabling legislation restriction is determined by professional judgment." Paragraph 5 states, "If resources are used for a purpose other than those stipulated in the enabling legislation or if there is other cause for reconsideration, governments should reevaluate the legal enforceability of the restrictions to determine if the resources should continue to be reported as restricted. If reevaluation results in a determination that a particular restriction is no longer legally enforceable, then from the beginning of that period forward the resources should be reported as unrestricted. If it is determined that the restrictions continue to be legally enforceable, then for the purposes of financial reporting, the restricted net assets should not reflect any reduction for resources used for purposes not stipulated by the enabling legislation.

[2.2.2.10 NMAC - Rp, 2.2.2.10 NMAC, 5-13-05]

2.2.2.11 THE ACCOUNTABILITY IN GOVERNMENT ACT:

A. The Accountability in Government Act (AGA) (Chapter 15, Laws of 1999 as amended by senate bill 561 in the 2004 Regular Session) provides a general process for implementation of performance-based budgeting over a four-year period (FY00 through FY04).

B. For agencies whose performance measures are included in the General Appropriations Act, the agency shall include a schedule of performance data (outcomes, outputs, efficiency, etc.) if,

the schedule is required by the agency's oversight agency such as DFA, CHE and PED and preparation guidelines are issued by the oversight agency.

C. The auditor's responsibilities for performing procedures and reporting on required supplemental information (RSI) is provided in SAS No. 52, *Omnibus Statement on Auditing Standards* 1987 (AICPA, Professional Standards, vol. 1, AU 558, *Required Supplemental Information*). The auditor ordinarily should apply the following limited procedures to RSI.

(1) Inquire of management about the methods of preparing the information, including:

(a) whether it is measured and presented within prescribed guidelines;

(b) whether methods of measurement or presentation have been changed from those used in the prior period and the reasons for any such changes; and

(c) any significant assumptions or interpretations underlying the measurement or presentation.

(2) Compare the information for consistency with:

(a) management's responses to foregoing inquiries;

(b) audited financial statements; and

(c) other knowledge obtained during the audit.

(3) Consider whether to include representations on RSI in the management representation letter.

D. Apply additional procedures, if any, that other AICPA SASs, SAS interpretations, audit and accounting guides, or statements of position prescribe for specific types of RSI.

E. Make additional inquiries if applying the foregoing procedures causes the auditor to believe that the information may not be measured or presented within applicable guidelines.

F. The IPA should report on the performance data in either an agency-prepared or auditor submitted document when:

(1) the required performance data is omitted;

(2) the auditor concludes that the measurement or presentation of the performance data departs materially from prescribed guidelines;

(3) the auditor is unable to complete the prescribed procedures; and

(4) the auditor is unable to remove substantial doubts about whether the performance data conforms to prescribed guidelines.

G. The IPA generally has no reporting requirement; however, the IPA may disclaim an opinion on the information.

[2.2.2.11 NMAC - Rp, 2.2.2.11 NMAC, 5-13-05]

2.2.2.12 SPECIFIC CRITERIA: The applicable specific criteria should be considered in planning and conducting governmental audits. These requirements are not intended to be all-inclusive; therefore, the appropriate state statutes should be reviewed in planning governmental audits.

A. PERTAINING TO AUDITS OF STATE AGENCIES:

(1) Due dates for agency audits: House Bill 219 amended Section 12-6-3, NMSA 1978 so that by statute, state agency reports are due no later than 60 days after the financial control division of the department of finance and administration provides the state auditor with notice that the agency's books and records are ready and available for audit. The financial control division mandates that each agency, with the help of its independent auditor, identify a schedule of deliverables and agree to milestones for the audit to ensure that the agency's books and records are ready and available for audit and the auditor delivers services on time. The sixty days to the audit deadline will be based on the schedule of deliverables and milestones; however, the deadline cannot extend beyond December 15. This requirement does not prevent the auditor from performing interim audit work prior to receipt of the DFA notice of agency preparedness. Once the agency and auditor have certified to the financial control division of the department of finance and administration that the agency's books and records are ready and available for audit, if the auditor or agency find that the scheduled audit deliverables or agreed upon milestones are not accomplished timely and there is a possibility the audit report will be late, the auditor or agency shall immediately write a dated letter to the state auditor describing the problems. The financial control division of the department of finance administration must be sent a photocopy of the letter.

(2) Materiality at the **individual fund level** means at the individual central accounting system (CAS) fund level for state agencies. The individual CAS funds should be shown in the combining financial statements and opined on in the independent auditors' report.

(3) Encumbrances reconciliation and accounts payable at year-end: DFA maintains an encumbrance system and general ledger for those state agencies that process payment vouchers through its central accounting system. Given the volume of transactions, DFA will not allow agencies to record accounts payable on its central accounting system, except in special circumstance. Nevertheless, through July 29,

2005, DFA will allow agencies to charge an expenditure that is an accounts payable at June 30, 2005 to the fiscal year in which the related encumbrance was established. After the July 29 deadline, the agency may still make the expenditure; however, the agency must first obtain DFA's permission to pay prior year bills. "Permission to pay prior year bills" is a penalty under law for not paying bills timely. It penalizes a state agency by mandating that the agency charge an expenditure of one fiscal year to the subsequent fiscal year's budget. If an agency meets the July 29 deadline set by DFA and obtains any needed exemptions to record accounts payable, its expenditures and encumbrances balances reflected in the year-end central accounting system reports will be stated on a basis consistent with the modified accrual basis of accounting. If an agency fails to do so, the agency has not complied with DFA rules, specifically 2.20.5 and 2.20.6 NMAC, and balances will require adjustment prior to their presentation in the financial statements. Auditors must thoroughly familiarize themselves with how the state's year-end closing processes works. In most cases, auditors should be physically present on June 30, 2005 at the agency they are auditing to observe the proper receiving and accounting for goods and services.

(4) Special, deficiency, and specific appropriations:

(a) Special, deficiency, and specific appropriations must be disclosed in the financial statements. The original appropriation, the appropriation period, expenditures to date, outstanding encumbrances and unencumbered balances should be shown in a supplementary schedule or in a note to the financial statements. **This is a special requirement of the state auditor.**

(b) Any special, deficiency, and specific appropriation balances that are not reverted at the balance sheet date must be presented as unearned or deferred revenue or as: reserved fund balance in the fund financial statements; and restricted net assets in the statement of net assets. The accounting treatment of any balances should be fully explained in the supplementary schedule or in a note to the financial statements regarding the special appropriations.

(5) Net assets/fund balance:

(a) The government-wide statement of net assets and the proprietary fund balance sheet should show net assets as: (1) invested in capital assets, net of related debt; (2) restricted; and/or (3) unrestricted. GASB 34 paragraphs 33 through 37 explain the components of net assets. Net assets are restricted when constraints placed on net asset use are either: externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regula-

tions of other governments; or imposed by law through constitutional provisions or enabling legislation. Note that restricted net assets are not the equivalent of reserved fund balances. Encumbrances should not be shown as restricted net assets. See Section 2.2.2.10.DD for more information regarding restricted net assets and GASB Statement 46.

(b) Governmental fund financial statement fund balances should be segregated into reserved fund balances and unreserved and legally designated fund balances (GASB 34 paragraph 84). In general, an agency should show reserved fund balance related to encumbrances (related to an appropriation period that extends beyond the fiscal year), inventories, and petty cash. All other reservations must be specifically required or authorized by legislation. The notes to the financial statements must disclose the specific legal authority for all reservations of fund balance. Reserved fund balances of the combined nonmajor funds should be displayed in sufficient detail to disclose the purposes of the reservations (i.e., reserved for debt service or reserved for encumbrances). Unreserved fund balances of nonmajor funds should be displayed by fund type on the face of the balance sheet.

(c) The statement of fiduciary net assets (fiduciary fund financial statement) should show net assets as "held in trust for" (GASB 34 paragraph 108 and Example E-1)

(6) Books of record:

(a) DFA maintains a central accounting system (CAS) of state accounts for cash and budgetary control purposes. DFA provides: a three-volume set of DFA model accounting practices (MAPs) available that describes state agency accounting policies, procedures, document processing and GASB 34 implementation and various white papers. They provide excellent guidance for an auditor regarding policy and procedure requirements and are available on DFA's website at www.dfafcd.state.nm.us.

(b) The CAS chart of accounts reflects the following appropriation levels. The audit report statements of revenues and expenditures should continue to be presented in accordance with GAAP, by function or program classification. However, the budget comparison statements must be presented using the level of appropriation reflected in the agency appropriation for the current year.

Apr Code	Appropriation Unit Description
200	Personal SVC & Employee Benefits
300	Contractual Services
400	Other
500	Other Financing Uses
600	Non-budgeted

The CAS revenue codes follow a format that facilitates GASB 34 revenue classification:

Revenue Code	Type of Revenue
XXX3	Program Charges for S ervices
XXX4	Program Operating R evenue
XXX5	Program Capital Contrib/G rants
XXX6	General Revenue
XXX7	Addition to Employee Retirement P lan
XXX8	Other Financing S ources
XXX9	Special Items/E xtraordinary
XXX0	Transfers

For more detail about the chart of accounts see the DFA website.

(7) Reversions to state general fund:

(a) All reversions to the state general fund must be identified in the financial statements by the fiscal year of appropriation (i.e., reversion to state general fund FY 05). The gross amount of the appropriation and the gross amount of the reversion must be shown separately.

(b) Section 6-5-10, NMSA 1978 requires "all unreserved, undesignated fund balances in reverting funds and accounts as reflected in the central accounting system as of June 30 shall revert by September 30, to the general fund. The division may adjust the reversion **within forty five days** of release of the audit report for that fiscal year." Failure to transfer reverting funds timely in compliance with the statute requires an audit finding.

(8) Nonreciprocal (not payments for materials or services rendered) interfund (internal) activity includes (a) transfers (redefined to include activities previously known as "operating transfers" and "residual equity transfers" and (b) reimbursements (GASB 34 paragraph 410):

(a) Intra-agency transfers between funds within the agency should offset. Reasons for intra-agency transfers should be fully explained in the notes to the financial statements. In the separate audit report of the state agency these transfers between their internal funds

should be shown as other financing sources or uses in the fund financial statements and as transfers (that get eliminated) in the government-wide financial statements.

(b) Inter-agency transfers (between an agency's internal funds and other funds of the state) should be segregated from intra-agency transfers and should be fully explained in the notes to the financial statements along with the agency number and cash account (CAS fund number) to whom and from whom transferred. The transfers may be detailed in supporting schedules rather than in the notes, but agency and cash account numbers must be shown. The IPA is responsible for performing audit procedures on all such inter-agency transfers.

(c) Inter-agency transfers between legally separate component units and the primary government, the state:

(i) The AICPA Audit and Accounting Guide, *Audits of State and Local Governments (GASB 34 Edition)*, lists some examples of potential component units (blended and/or discrete) of a state in Section 12.02: school districts; colleges and universities; utilities; hospitals and other health care organizations; and public employee retirement systems.

(ii) If the inter-agency transfer is between a blended component unit of the state and other funds of the state, then the component unit's separately issued financial statements should report such activity between itself and the primary government as revenues and expenses. When the blended component unit is included in the primary government's financial statements, such inter-agency transfers would be reclassified as transfers.

(GASB 34 paragraph 318)

(iii) All resource flows between a discretely presented component unit of the state and other funds of the state are required to be reported as external transactions-revenues and expenses in the primary government's financial statements and the component unit's separately issued financial statements. (GASB 34 paragraph 318)

(d) All transfers to and from CAS fund 853, the state general fund appropriation account, must be clearly identifiable in the audit report as state general fund appropriations, reversions, or collections.

(e) Reimbursements are transfers between funds that are used to reallocate the revenues and expenditures/expenses to the appropriate fund. Reimbursements should not be reported as interfund activity in the financial statements.

(9) General services department (GSD) capital projects: GSD records the state of New Mexico capitalized land and buildings for which it is responsible, in its

accounting records. The cost of furniture, fixtures, and moveable equipment owned by agencies is to be capitalized in the accounting records of the agency that purchased them. The agency must capitalize those assets based on actual amounts expended, in accordance with GSD instructions issued in 2.20.1.10 NMAC, *Valuation of Assets*.

(10) State-owned motor vehicle inventory: Successful management of the state-owned vehicles pursuant to the Transportation Services Act (15-8-1 to 15-8-11 NMSA 1978) is dependent on reliable and accurate capital assets inventory records and physical verification of that inventory. Thus, the annual audit of state agencies shall include specific tests of the reliability of the capital assets inventory and verification that a physical inventory was conducted for both the agency's owned vehicles and long-term leased vehicles.

(11) Capital assets inventory:

(a) The Audit Act (12-6-10 NMSA 1978) requires agencies to capitalize only chattels and equipment whose cost is over \$1,000. Neither the statute nor rule 2.20.2 NMAC, *Accounting and Control of Fixed Assets of State Government*, requires that agencies remove items from their capital asset inventory whose value is less than \$1,000; and

(b) The state auditor encourages agencies to maintain a separate accountability report (listing), for management purposes, of those items that cost less than \$1,000. This listing will not be reflected in the financial statements.

(12) Financial statement presentation (GASB 34 paragraph 134):

(a) Unless a state agency is legally separate from the state, the special formats applicable to special-purpose governments should not be used.

(b) State agencies that are not legally separate from the state should provide both fund financial statements and government-wide financial statements in their separately issued financial statements.

(13) Independent auditor's report:

The independent auditor's report for state agencies, district attorneys, and district courts **must include an explanatory paragraph preceding the opinion paragraph**. The explanatory paragraph should reference the summary of significant accounting principles disclosure regarding the reporting agency, and indicate that the financial statements present the financial position and results of operation of only that portion of the financial reporting agency of the state that is attributable to the transactions of the agency. See Example A.15 in Appendix A of AAG-SLV 14.78 in the AICPA Audit and Accounting Guide, *Audits of State and Local Governments (GASB 34 Edition) [2003]*. A statement should be included that

the audit was made in accordance with generally accepted government auditing standards per GAGAS 5.05.

(14) Modified accrual budget basis: The General Appropriation Act of 2004, which applies to fiscal year 2005 budgets established the **modified accrual basis** of accounting as the budgetary basis of accounting for the State of New Mexico. State agencies will have a **different budget basis** beginning in the fiscal year ended June 30, 2005. DFA has a White Paper on this subject available at www.dfafcd.state.nm.us, named Basis of Accounting-Modified Accrual and the Budgetary Basis. Under the new law, encumbrances related to single year appropriations lapse at year end. The portion of an encumbrance representing goods and services received by the last day of the fiscal year should be reclassified as accounts payable. Any remaining encumbrances related to single year appropriations must be reclassified as unreserved fund balance and a liability recorded to recognize any amounts subject to reversion. If the Legislature provides a new appropriation for a specific encumbrance, it is carried forward to a new appropriation period to be charged against the new budget. If the legislature does not provide a new appropriation for an encumbrance, the encumbrance is no longer authorized. Appropriation periods are sometimes for periods in excess of twelve months (multiple-year appropriations). When such appropriation periods lapse, the authority for the budget also lapses and encumbrances can no longer be charged to that budget. The accounts receivable period of availability will be 60 days following the end of the fiscal year. Agencies should be recording receivables regularly, not just at year end.

(15) Bond proceeds presentation:

(a) The state treasurer's office (STO) administers the debt service funds for various bond issues that are obligations of the state of New Mexico. STO should not report in its basic financial statements bonds payable that are obligations of the state of New Mexico. The proper reporting of these payables and the related bond face amounts (proceeds) is in the state's comprehensive annual financial report (CAFR). The STO audit report, notes to the financial statements must: (1) explain the following-by statute STO is responsible for making the state's bond payments and keeping the related records, however, it is not responsible for the related debt, the State is; and (2) refer the reader to the detailed supplemental information in the STO audit report and the statewide CAFR. The STO's financial statements include audited supplemental information (SI) regarding the state of New Mexico bond obligations. The SI schedules must show: (1) the beginning and end-of-

year bond payable balances, increases and decreases (separately presented), and the portions of each bond issuance that are due within one year, as required by GASB 34 paragraph 119; (2) the details of debt service requirements to maturity required by GASB 38 paragraph 10; and (3) any violations of bond covenants and related actions taken to address violations of bond covenants, required by GASB 38 paragraph 9 and Section 12-6-5, NMSA 1978.

(b) State agencies that receive appropriated bond proceeds should report those appropriations and related activity as follows so that the primary users of the separate agency audit reports, the legislators, can easily identify specific appropriations. Appropriate reclassifications for GAAP presentation in the statewide CAFR will occur during the CAFR compilation:

(i) A special revenue fund should be used to account for the proceeds and related expenditures.

(ii) In the statement of activities, the proceeds should be reported as general revenue under the caption "bond proceeds appropriations."

(iii) In the statement of revenues, expenditures, and changes in fund balances, the bond proceeds should be reported as revenue using the same caption, "bond proceeds appropriation."

(iv) The entire amount of the proceeds appropriated should be recognized as revenue, which in most cases will require the agencies to record a receivable (see section (c) below). Disbursement of the proceeds should be recorded as expenditures. Unexpended balances—that under law or the terms of the bond statement are due to another fund—should be reported as a liability to the appropriate fund. (The bond statement identifies the fund owed).

(v) In the notes to the financial statements, agencies should include an explanation that the bond proceeds were allocated by the legislature to the agency and that the agency is not obligated in any manner for the related indebtedness. Agencies should also disclose any restrictions on the use of the proceeds, such as reversions of unexpended balances. (Any restrictions are listed in the bond statement, appropriation act, or both).

(c) The DFA state board of finance deposits bond proceeds into an agency fund for arbitrage administration purposes. As the proceeds are needed, agencies draw them down. This activity should be reported by DFA as follows:

(i) The entire amount of bond proceeds held in the agency fund for the special revenue funds of DFA should be reported in the agency fund as a liability under the caption "due to other funds" and as an asset in the special revenue funds

under the caption "due from other funds."

(ii) The entire amount of bond proceeds held in the agency fund for the special revenue funds of state agencies, other than DFA, should be reported as a liability in the agency fund under the caption "due to other state agencies" and in the special revenue funds of the state agencies as an asset under the caption "due from other state agencies." (Agencies should encourage their independent auditors to confirm with the board of finance the balances due to the agency special revenue funds).

B. PERTAINING TO HOUSING AUTHORITIES:

(1) **The state of New Mexico currently has 51 housing authorities that are included under the Audit Act:**

(a) independent

6

(b) component unit of public housing authorities 2

(c) component units or department of municipalities 33

(d) component units or department of counties 9

(e) component unit of the state

1

(2) The housing authority must be included in the financial report of the primary government by discrete presentation unless an exemption from this requirement is obtained from the state auditor.

(a) Discrete presentation shows financial data of the component unit in a column, to the right of and separate from the financial data of the primary government. See GASB 14 paragraphs 44 through 50 for additional guidance.

(b) The primary government and/or auditor must make the determination whether the housing authority is a component unit of the primary government. See Paragraph (1) of Subsection A of 2.2.2.10 NMAC for guidance in this determination. In the event the primary government and/or auditor determine that the housing authority is a department of, rather than a component unit of the primary government, a **request for exemption from the discrete presentation requirement must be submitted to the state auditor, by the agency, explaining why the housing authority should not be a discretely presented component unit.** The request for exemption must include evidence that the housing authority is not a separate legal agency from the primary government and that the corporate powers of the housing authority are held by the primary government. Evidence included in the request must address these issues:

(i) the housing authority is not a corporation registered with the public regulation commission;

(ii) there was never a resolution or ordinance making the housing

authority a public body corporate; and

(iii) the housing authority was authorized under Section 3-45-1, NMSA 1978, Municipal Housing Law.

(c) Upon receipt of the exemption granted by the state auditor from the requirement for discrete presentation, the housing authority department or program would be included in the financial report of the primary government like any other department or program of the primary government.

(d) **An annual exemption is required.**

(3) For housing authorities that are component units, the financial data for all funds of the housing authority **must be accounted for in proprietary funds.**

(4) Notice PIH 2002-4 (HA) dated February 11, 2002, requires all public housing authorities to submit one copy of the completed audit report including the findings to the HUD office for review, effective for fiscal years ended June 30, 2001.

(a) The IPA shall issue to the housing authority **a separate audit report if it is required by HUD or the agency.** The preparation and submission cost for any required separate audit report must be included in the audit contract.

(b) Any separate housing authority audit report is due on or before the due date specified in 2.2.2.9 NMAC. If the separate report is not received on or before the due date by the state auditor, the report is late and not in compliance with the requirements of Subsection A of 2.2.2.9 NMAC, and a current-year audit finding must be included the audit report.

(5) Auditors and public housing authorities must follow the requirements of *Guidelines on Reporting and Attestation Requirements of Uniform Financial Reporting Standards (UFRS) for Public Housing Authorities Not-for-Profit Multifamily Program Participants and their Independent Accountants*, which is available on the real estate assessment center (REAC) web site at www.hud.gov under a search for UFRS. Additional administrative issues related to the audit of public housing authorities follow.

(a) The local governments are encouraged to include representatives from the housing authority in the IPA selection process.

(b) Audits of the public housing authorities shall be conducted by the same IPA who performs the audit of the local government. Separate audit contracts will not be approved without an exemption approved by the state auditor.

(c) Audits of public housing authorities that are component units of or are otherwise included in a state or local government that expends \$500,000 (require

a single audit) must also include a separate agreed-upon procedures engagement related to the audited financial data schedule (FDS) which is electronically submitted to REAC by the housing authority. The PHA must submit electronically a final approved FDS based on the audited financial statements **no later than 9 months** after the PHA's fiscal year end. The auditor must:

(i) electronically report on his comparison of the electronic FDS submission in the REAC staging data base through the use of an ID and password;

(ii) include a hard copy of the FDS in the audit report;

(iii) render a SAS 29 opinion on the FDS; and

(iv) explain any material differences between the audited FDS and the financial statements in the notes to the financial statements. **The audit must include this separate attestation engagement. The preparation and submission cost for this HUD requirement must be included in the audit contract.**

(d) The IPA shall include the housing authority's governing board and management representatives in the entrance and exit conferences with the primary government. If it is not possible to hold such combined conferences, the IPA shall hold a separate entrance and exit conference with housing authority's management and a member of the governing board.

(e) The IPA shall provide the housing authority with an itemized cost breakdown by program area for audit services rendered in conjunction with the housing authority.

(f) The IPA shall consider whether any fee accountant used by the housing authority is a service organization according to the criteria of SAS 70. See Subsection V of 2.2.2.10 NMAC, SAS AU 324, and the SAS 98 amendment to SAS 70 for further explanation regarding service organizations and related auditing requirements. If the housing authority has not implemented effective internal controls over the fee accountant's work product, the auditor will have to obtain sufficient understanding of the internal controls the fee accountant has over his/her work product to plan the audit. A service auditor is the auditor who reports on the processing of transactions by a service organization. A service auditor's report on controls placed in operation at the fee accountant's organization should be helpful in providing a sufficient understanding to plan the audit of the housing authority; however, relying on that report alone, the housing authority auditor cannot reduce the assessed level of control risk below the maximum. To do that the housing authority auditor would have to do one or more of the following:

(i) test the housing

authority's controls over the activities of the fee accountant;

(ii) obtain a copy of the fee accountant's auditors' report on controls placed in operation and tests of operating effectiveness, or a report on the application of agreed-upon procedures that describes relevant tests of controls; or

(iii) perform tests of the fee accountant's internal controls at the fee accountant's office. (SAS AU 324.12)

C. PERTAINING TO SCHOOL DISTRICTS:

(1) Update to the auditor selection process: After completing the evaluation for each IPA the school district shall submit the IPA recommendation to the state public education department (PED) for approval, prior to submitting the recommendation to the state auditor for approval. The sample cover letter provided in Appendix A may be used for the PED approval signature. The IPA recommendation is due to the state auditor on or before May 31.

(2) Audit planning level of materiality: As explained in Sections 2.2.2.10.A.(1) and (2) the level of planning materiality and required auditor opinion will be at the individual fund level for the primary government and at the individual fund level for the component units.

(3) Regional education cooperative (REC) audits:

(a) For accounting purposes, RECs are considered joint ventures, in accordance with the GASB *Codification of Governmental Accounting and Financial Reporting Standards*, Section J50 "Accounting for Participation in Joint Ventures and Jointly Governed Organizations".

(b) A separate financial and compliance audit is required on activities of RECs. The IPA shall provide a copy of this report to the participating school districts and the PED once the report has been released by the state auditor. The presentation of these funds should be in conformity with accounting principles generally accepted in the United States of America.

(c) Audits of RECs should test for compliance with PED Regulations 6.23.3.7 through 6.23.3.12.

(d) On-behalf payments for fringe benefits and salaries made by RECs for employees of school districts should be accounted for in accordance with GASB Cod. Sec. N50.135 and communicated to the employer in accordance with Sec. N50.131.

(4) School district audits must address the following issues:

(a) Audits of school districts shall test for compliance with PED Regulation 6.20.2 NMAC, *Governing Budgeting and Accounting for New Mexico Public Schools and School Districts* and the

Manual of Procedures, primarily Supplement 7, *Cash Controls*.

(b) The audit report of each school district shall include a cash reconciliation schedule which reconciles the cash balance as of the end of the previous fiscal year to the cash balance as of the end of the current fiscal year. This schedule will account for cash in the same categories as used by the district in its monthly cash reports to the state public education department.

(c) On-behalf payments of salaries and fringe benefits made for school district employees by RECs must be accounted for in accordance with GASB Cod. Sec. N50.129 through .133 and disclosed in accordance with Sec. N50.134. "Employer governments should obtain information about the amount of on-behalf payments for fringe benefits and salaries from the paying entity or the third-party recipient; interentity cooperation is encouraged. If information cannot be obtained from those sources, employer governments should make their best estimates of the amounts." (GASB 24 paragraph 9)

(d) Any joint ventures or other entities created by the school districts are agencies subject to the Audit Act.

(e) Agency fund reporting: Under GASB 34 a statement of changes in fiduciary net assets is required for pension trust funds, investment trust funds, and private-purpose trust funds. Agency funds have no net assets and will be excluded from this presentation. (GASB 34 paragraph 110) Therefore, it is a requirement of the state auditor that a schedule of changes in assets and liabilities for the fiscal year be included as supplemental information in the audit report, showing the changes in agency funds summarized by school.

(5) Pertaining to charter schools:

(a) A charter school is a conversion school or start-up school within a school district authorized by the local school board to operate as a charter school. A charter school is considered a public school, accredited by the state board of public education and accountable to the school district's local school board for ensuring compliance with applicable laws, rules and charter provisions. A charter school is administered and governed by a governing body in a manner set forth in the charter.

(b) In defining a school district's financial reporting agency, certain GASB 14 criteria must be applied to determine whether the district (primary government) has any component units that must be included. A charter school is a component unit of its sponsoring school district. The charter schools must be included in the financial statements of their sponsoring school districts by discrete presentation. Discrete presentation entails reporting com-

ponent unit financial data in a column(s) separate from the financial data of the primary government.

(c) Financial statement presentation requirements for charter school component units follow. Note that the scope of the audit includes supplemental information consisting of component unit fund financial statements and combining statements which must be opined on. The charter schools should be reported in the following manner:

(i) All charter schools should be reported as significant and therefore major component units of the school district. All the charter schools should be included in the basic financial statements (full accrual basis presentation) in one of the following manners: a separate column for each component unit presented in the government-wide statement; combining statements of component units presented as a basic financial statement after the fund financial statements; or as condensed financial statements in the notes to the basic financial statements. (GASB 34 paragraphs 124 to 126)

(ii) Fund financial statements are required because such information is not available in separately issued financial reports on the charter schools. This modified accrual basis presentation should be presented as supplemental information (SI) according to AAG-SLV 3.20 (2003). If any funds presented are the result of combining nonmajor funds, a combining statement should also be included in the SI presentation.

(d) The state auditor requires that individual budget-to-actual comparison schedules for the charter schools be included in the financial report following the fund financial statements and related combining statements as SI to demonstrate compliance with legally adopted budgets. The individual budget comparison schedules are also included in the scope of the audit and must be audited and included in the auditor's opinion.

(e) House Bill 510, which becomes effective July 1, 2005, was passed during the 2005 Legislative Session. Section 22-8B-4.2, Charter School Facilities Standards, requires charter schools to meet outlined facilities requirements by specified deadlines.

(6) New Mexico public schools insurance authority (NMPSIA): Both legal compliance and substantive tests should be performed at the agency level on these transactions.

D. PERTAINING TO LOCAL PUBLIC BODIES:

(1) Obsolete county records: Section 14-1-8, NMSA 1978 requires that "An official charged with the custody of any records and who intends to destroy those records, shall give notice by regis-

tered or certified mail to the state records administrator, state records center, Santa Fe, New Mexico, of the date of the proposed destruction and the type and date of the records he intends to destroy. The notice shall be sent at least sixty days before the date of the proposed destruction. If the state records administrator wishes to preserve any of the records, the official shall allow the state records administrator to have the documents by calling for them at the place of storage." The auditor should test for compliance with this statute.

(2) Tax roll reconciliation - county governments: Counties' audit reports must include two supplementary schedules. The first one is a "tax roll reconciliation of changes in the county treasurer's property taxes receivable" showing the June 30th receivable balance with an additional breakout of the receivable for the past 10 years. The second schedule titled "county treasurer's property tax schedule" must show by agency, the amount of taxes: levied; collected in the current year; collected to-date; distributed in the current year; distributed to-date; the amount determined to be uncollectible in the current year; the uncollectible amount to-date; and the outstanding receivable balance at the end of the fiscal year, by agency. This information is necessary for proper revenue recognition on the part of the county as well as on the part of the recipient agencies, under GASB 33. See Subsection Z of 2.2.2.10 NMAC for more information regarding GASB 33 property tax revenue recognition. Property taxes levied on January 2004 are budgeted for the fiscal year July 1, 2004 through June 30, 2005. If the county does not have a system set up to gather and report the necessary information, or the necessary information itself, for the property tax schedule a related finding is required.

(3) The following is an example

[Please see schedule on page 364]

STATE OF NEW MEXICO (NAME) COUNTY TAX ROLL RECONCILIATION - CHANGES IN THE COUNTY TREASURER'S PROPERTY TAXES RECEIVABLE FOR THE YEAR ENDED JUNE 30, 2005	
Property taxes receivable, beginning of year	\$ 641,290
Changes to Tax Roll:	
Net taxes charge d to treasurer for fiscal year	4,466,602
Adjustments:	
Increases in taxes receivables	3,066
Charge off of taxes receivables	(6,144)
Total receivables prior to collections	5,104,814
Collections for fiscal year ended June 30, 2005	(4,330,993)
Property taxes receivable, end of year	<u>\$ 773,821</u>
Property taxes receivable by years:	
1995	\$ 0
1996	29
1997	556
1998	1,848
1999	3,381
2000	5,498
2001	13,169
2002	34,134
2003	167,729
2004	547,477
Total taxes receivable	<u>\$ 773,821</u>

of a tax roll reconciliation schedule:

(4) An example of the schedule titled "county treasurer's property tax schedule " is shown in Appendix E.

E. PERTAINING TO AUDITS OF COLLEGES AND UNIVERSITIES:

(1) Update to the auditor selection process: After completing the evaluation for each IPA the college or university shall submit the IPA recommendation to the commission on higher education (CHE) for approval, prior to submitting the recommendation to the state auditor for approval. The sample cover letter provided in Appendix A may be used for the CHE approval signature. The IPA recommendation is due to the state auditor on or before May 31.

(2) Budget comparison schedules: The state auditor requires that every college and university audit report include budget comparison schedules as supplementary information (SI). The budget comparison schedules must show columns for: the original budget; the revised budget; actuals on the budgetary basis; and a variance column. **The budget comparison schedules must be audited and an auditor opinion must be rendered.** A SAS opinion does not meet this requirement. See Section 14.51 of the AICPA Audit and Accounting Guide, *Audits of State and Local Governments, GASAB 34 Edition* (AAG-SLV) (2003). The auditor must confirm the final adjusted and approved budget with the CHE. The auditor opinion on the budgetary SI should follow Example A.13 in AAG-SLV 14.78 (2003) and footnote 2 of 14.78, and include a statement that the audit was made in accordance with generally accepted government auditing standards (GAGAS 5.3). A reconciliation of actual amounts on the budget basis to financial statement accrual basis amounts should be disclosed on the budget comparison schedule. The reconciliation is required only at the "rolled up" level of unrestricted and restricted - all operations. The commission on higher education (CHE), department of finance administration (DFA) budget division, and the legislative finance committee (LFC) have approved the following format for audited budget comparison schedules. This rule requires that the format be used in

(a) Unrestricted and restricted - all operations (Schedule 1)

Unrestricted and restricted revenues: State general fund appropriations, federal revenue sources, tuition and fees, land and permanent fund, endowments and private gifts, other

Total unrestricted and restricted revenues

Fund balance budgeted

Total unrestricted and restricted revenues and fund balance budgeted

Unrestricted and restricted expenditures: Instruction, academic support, student services, institutional support, operation and maintenance of plant, research, public service, auxiliary services, intercollegiate athletics, capital outlay, building renewal and replacement, retirement of indebtedness, other (student aid, grants and stipends; and independent operations)

Total unrestricted and restricted expenditures
Change in net assets (budgetary basis)
(b) Unrestricted - Non Instruction & General (Schedule 2)
Unrestricted revenues: Tuition, miscellaneous fees, federal government appropriations, state government appropriations, local government appropriations, federal government contracts/grants, state government contracts/grants, local government contracts/grants, private contracts/grants, endowments, land and permanent fund, private gifts, sales and services, other
Total unrestricted revenues
Fund balance budgeted
Total unrestricted revenues and fund balance budgeted
Unrestricted expenditures: Research, public service, internal services, student aid, grants and stipends, auxiliary services, intercollegiate athletics, independent operations, capital outlay, building renewal and replacement, retirement of indebtedness
Total unrestricted expenditures
Change in net assets (budgetary basis)
(c) Restricted - Non-Instruction and General (Schedule 3)
Restricted revenues: Tuition, miscellaneous fees, federal government appropriations, state government appropriations, local government appropriations, federal government contracts/grants, state government contracts/grants, local government contracts/grants, private contracts/grants, endowments, land and permanent fund, private gifts, sales and services, other
Total restricted revenues
Fund balance budgeted
Total restricted revenues and fund balance budgeted
Restricted expenditures: Research, public service, internal services, student aid, grants and stipends, auxiliary services, intercollegiate athletics, independent operations, capital outlay, building renewal and replacement, retirement of indebtedness
Total restricted expenditures
Changes in net assets (budgetary basis)
(d) Unrestricted - instruction and general (Schedule 4)
Unrestricted revenues: Tuition, miscellaneous fees, federal government appropriations, state government appropriations, local government appropriations, federal government contracts/grants, state government contracts/grants, local government contracts/grants, private contracts/grants, endowments, land and permanent fund, private gifts, sales and services, other
Total unrestricted revenues
Fund balance budgeted
Total unrestricted revenues and fund balance budgeted
Unrestricted expenditures: Instruction, academic support, student services, institutional support, operation and maintenance of plant
Total unrestricted expenditures
Change in net assets (budgetary basis)
(e) Restricted - instruction and general (Schedule 5)
Restricted revenues: Tuition, miscellaneous fees, federal government appropriations, state government appropriations, local government appropriations, federal government contracts/grants, state government contracts/grants, local government contracts/grants, private contracts/grants, endowments, land and permanent fund, private gifts, sales and services, other
Total restricted revenues
Fund balance budgeted
Total restricted revenues and fund balance budgeted
Restricted expenditures: Instruction, academic support, student services, institutional support, operation and maintenance of plant
Total restricted expenditures
Change in net assets (budgetary basis)

reporting the budget comparison data as supplementary information.

(3) The level of planning materiality required by the state auditor follows: Institutions must report using the business type activities (BTA) model. The level of planning materiality described in the AICPA Audit and Accounting Guide, *Audits of State and Local Governments (GASB 34 Edition)*, Section 4.26, must be used for the audit of these institutions. **Planning materiality for component units is at the individual component unit level.**

(4) Compensated absence liability should be shown as follows: The statement of net assets should reflect the current portion of compensated absences under current liabilities, and the long-term portion of compensated absences under noncurrent liabilities.

(5) Component unit issues: Legally separate entities that meet the criteria set forth in GASB 14 as amended by GASB 39 to qualify as a component unit of an educational institution must be included in the educational institution's audit report **as a discrete component unit**. An exemption must be obtained from the state auditor in order to present any component unit as blended. The **same auditor** must audit the component unit and the educational institution unless an exemption is obtained from the state auditor. **These exemptions must be obtained annually.**

(a) If the college or university has no component units there should be a statement to that effect in the notes to the financial statement in the description of the reporting entity.

(b) GASB Statement No. 39, *Determining Whether Certain Organizations Are Component Units*, became effective for financial statements of periods beginning after June 15, 2003 (FY04), and requires that a legally separate, tax-exempt organization should be reported as a component unit of a reporting entity if the primary government is not financially accountable; however, the nature and significance of the relationship with the primary government is such that exclusion would cause the reporting entity's financial statements to be misleading or incomplete. As a result of this statement, many college and university foundations, which were not previously reported as component units, will have to be reported as a component unit of the college or university.

(c) Individual component unit budget comparison schedules are required if the component unit has a "legally adopted budget." A component unit has a legally adopted budget if it receives any federal funds, state funds, or any other appropriated funds whose expenditure authority derives from an appropriation bill or ordinance that was signed into law.

units that do not receive public funds. All component unit findings must be disclosed in the primary government's audit report.

(6) Management discussion and analysis (MD&A): The MD&A analysis of significant variations between original and final budget amounts and between final budget amount and actual budget results is required by this rule for colleges and universities. The analysis should include any currently known reasons for those variations that are expected to have a significant effect on future services or liquidity.

(7) Special appropriations (outside HB2) should be clearly shown in the financial statement or explained in the notes to the financial statements. Any unexpended balances in the appropriations at year-end that do not have to revert should be shown as restricted expendable net assets in the business-type activity (BTA) model. See Paragraph (7) of Subsection A of 2.2.2.12 NMAC for more information regarding reversions of appropriations.

F. PERTAINING TO MUTUAL DOMESTIC WATER ASSOCIATIONS: Associations created pursuant to the Sanitary Projects Act (3-29-1, NMSA 1978) are subject to audit under the Audit Act 12-6-2, NMSA 1978 and this rule. The financial statements should follow the not-for-profit model unless the agency meets the criteria described in AAG-SLV 1.01 (2003) for being a governmental organization that should use the governmental accounting and financial reporting model. [2.2.2.12 NMAC - Rp, 2.2.2.12 NMAC, 5-13-05]

2.2.2.13 REVIEW OF AUDIT REPORTS AND WORKING PAPERS:

A. Section 12-6-14(B), NMSA requires that the state auditor or personnel of his office designated by him examine all audit reports of agencies made pursuant to contract. All audits under contracts approved by the state auditor are subject to review.

(1) Upon receipt of each audit report the office will make a cursory review to determine whether the report is ready for review or is incomplete and/or conspicuously erroneous. Substandard reports will be returned to the IPA with a letter rejecting the report and the reasons for the rejection. The agency will receive a copy of the rejection letter. Reports that are initially accepted will be reviewed as follows.

(2) A preliminary review will be made of all audit reports received for proper reporting and presentation of financial statements, note disclosures and audit findings.

(3) The state auditor notifies the IPA regarding any deficiencies found during the review process. The IPA shall submit related corrections or notification of dis-

agreement with the review comments to the state auditor **within ten days** of receipt of the deficiency notification.

(4) A copy of the deficiency comments will be mailed to the agency, by the state auditor, if the IPA does not respond to the deficiency notification in a timely manner. These deficiency comments are considered public documents and may be requested by the agency.

(5) If the IPA does not respond to the deficiency notification the state auditor will notify the agency to select a different auditor for future audits.

B. Released audit reports may be subject to a comprehensive desk and working paper review by the state auditor. These review checklists are public documents available on the website at www.saonm.org/pdfguides.html, unless the review is performed in conjunction with a federal agency. It should be noted that any reviews of working papers will include testing of audit firm documentation for:

(1) continuing professional education (CPE) for compliance with GAGAS requirements;

(2) the independence safeguards on nonaudit services, for compliance with GAGAS 3.17 requirements; and

(3) SAS 99 brainstorming; procedures performed to obtain information necessary to identify and assess the risks of material misstatement due to fraud; specific risks that were identified and a description of the auditor's response to those risks; improper revenue recognition as a risk of material misstatement due to fraud; the results of procedures performed to further address the risk of management override of controls; other conditions and analytical relationships that caused the auditor to believe that additional auditing procedures were required and any further related auditor responses; and the nature of the communications about fraud made to management, the audit committee, and others.

C. If during the course of such a quality control review, the state auditor determines that deficiencies noted are significant enough that the audit was not performed in accordance with auditing standards generally accepted in the United States of America and/or this rule, any or all of the following action(s) may be taken:

(1) the IPA may be required to correct the working papers and reissue the audit report to the agency, and any others receiving copies;

(2) the number of audit engagements may be limited;

(3) the IPA may be required to submit working papers along with the audit report to the state auditor for review by the office, prior to the release of the report, for some or all audit contracts;

(4) the IPA may be denied the

issuance of future audit contracts; and/or

(5) the IPA may be referred to the New Mexico public accountability board for possible licensure action.

D. Results of review:

(1) A letter will be issued upon completion of each report or working paper review to advise the IPA of the results of the review. The IPA is required to respond to all review comments as directed.

(2) Any corrective actions will be approved by the state auditor based on the recommendation of the in-charge reviewer.

(3) The IPA may request a review of the recommended action by the state auditor. If requested, the state auditor will schedule a conference, within fifteen days, to allow the IPA an opportunity to analyze the results of the desk or working paper review and present any information the IPA deems appropriate.

E. Revisions to the audit report: Revisions to the audit reports from reviews conducted by the federal inspector generals and the state auditor will be made by the IPA, to all copies of the audit report held by the agencies and the state auditor. [2.2.2.13 NMAC - Rp, 2.2.2.13 NMAC, 5-13-05]

2.2.2.14 CONTINUING EDUCATION AND QUALITY CONTROL REQUIREMENTS:

A. Continuing professional education: The U. S. GAO *Government Auditing Standards 2003 Revision*, states in Section 3.45 that "each auditor performing work under GAGAS should complete, every 2 years, at least 80 hours of CPE that directly enhance the auditor's professional proficiency to perform audits and/or attestation engagements." At least 20 hours of the 80 should be completed in any 1 year of the 2-year period. Staff members involved in planning, directing, or reporting on the audit or attestation engagement following GAGAS must obtain at least 24 of the 80 hours of CPE in subjects directly related to government auditing, the government environment, or the specific or unique environment in which the audited entity operates. Staff members not involved in planning, directing, or reporting on the audit or attestation engagement, and who charge less than 20 percent annually of their time to audits and attestation engagement following GAGAS, do not have to comply with the 24-hour CPE requirement. Guidance regarding allowable CPE is available in *Interpretation of Continuing Education and Training Requirements* at <http://www.gao.gov/govaud/ybk01.htm>.

B. U.S. GAO *Government Auditing Standards, 2003 Revision* (GAGAS), Section 3.49 states "each audit organization performing audits and/or attestation engagements in accordance with

GAGAS should have an appropriate internal quality control system in place and should undergo an external peer review." Sections 3.52 and 3.53 require that "Audit organizations performing audits and attestation engagements in accordance with GAGAS should have an external peer review ... at least once every 3 years by reviewers independent of the audit organization being reviewed. The external peer review should determine whether ... the organization's internal quality control system was adequate and whether quality control policies and procedures were being complied with to provide the audit organization with reasonable assurance of conforming with applicable professional standards.

(1) Audit organizations should have an external peer review conducted within 3 years from the date they start (that is, start of field work) their first assignment in accordance with GAGAS. Subsequent external peer reviews should be conducted every 3 years. The *Standards for Performing and Reporting on Peer Reviews*, promulgated by the AICPA require that a new firm enrolling in the AICPA peer review program must have its initial peer review within 18 months of joining.

(2) Per the *Proposed Revisions to the AICPA Standards for Performing and Reporting on Peer Reviews*, effective for peer reviews commencing on or after January 1, 2005, "a firm's initial due date for its peer review is 18 months from the date it enrolled in the program, or should have enrolled. If a firm is enrolled in the program but does not perform engagements requiring it to undergo a peer review, it is not required to undergo a peer review. However, when a firm performs its first engagement requiring a peer review, the firm's due date will be 18 months from the year-end of that engagement."

(3) If the firm is unable to complete its external quality control review by the required due date, it will render the firm ineligible from conducting audits of governmental agencies. **Extension requests to complete the external quality control review that are approved by the administering organization will not be accepted by the state auditor.**

(4) The state auditor requires the location of the external quality control review to be the office of the firm under review, regardless of whether the firm reviewed is a sole practitioner and regardless of the number of firm employees. External quality control reviews performed at a location other than the office of the firm under review will not be accepted by the state auditor.

(5) The IPA firm profile submission to the state auditor requires copies of:

(a) The employing organization

of the peer reviewers' quality control review showing an unqualified opinion (this is a special requirement of the state auditor);

(b) external quality control review report for the auditor's firm;

(c) the corresponding letter of comments;

(d) auditor's response to letter of comments;

(e) the letter of acceptance from the peer review program in which the firm is enrolled; and

(f) a list of the governmental audits reviewed during the peer review. The office assumes that at least one of these will be a New Mexico governmental audit.

(6) Failure to submit the required IPA firm profile documentation, or an opinion less than **modified** on the auditor's peer review, will disqualify the IPA from doing governmental audits.

(7) During the procurement process audit firms shall provide a copy of their most recent external peer review report to the agency upon submitting a bid proposal or offer.

(8) Individuals conducting peer reviews of an audit organization's system of quality control should meet the following requirements per GAGAS 3.53:

(a) Have current knowledge of GAGAS and the government environment relative to the work being reviewed;

(b) be independent (as defined in GAGAS) of the audit organization being reviewed, its staff, and the assignments selected for review;

(c) have knowledge on how to perform a peer review (knowledge can be obtained from on-the-job training, training courses, or both); and

(d) the state auditor also requires that the employing organization of the peer reviewers should have received an unqualified opinion on the review of their organization's system of quality controls.

(9) The reviewer must be familiar with this rule. This is a requirement of the state auditor that can be achieved by attendance at audit rule training provided by the office.

(10) The review should include (GAGAS 3.54):

(a) "A review of the organization's internal quality control policies and procedures, including related monitoring procedures, audit and attestation engagement reports, audit and attest documentation, and other necessary documents (for example, independence documentation, CPE records, personnel management files related to compliance with hiring, performance evaluation, and assignment policies);"

(b) interviews with various levels of the reviewed organization's professional staff to assess their understanding of and compliance with relevant quality control

policies and procedures;

(c) use of one of the following approaches to selecting assignments for review:

(i) select assignments that provide a reasonable cross section of the assignments performed by the reviewed organization in accordance with GAGAS; or

(ii) select assignments that provide a reasonable cross section of the reviewed organization's work subject to quality control requirements, including one or more assignments performed in accordance with GAGAS.

(d) The review should be sufficiently comprehensive to provide a reasonable basis for concluding whether the reviewed audit organization's system of quality control was complied with to provide the organization with reasonable assurance of conforming with professional standards in the conduct of its work. Reviewers should consider the adequacy and results of the reviewed audit organization's monitoring efforts to efficiently plan its peer review procedures; and

(e) Reviewers should prepare a written report(s) communicating the results of the external peer review. The report should indicate the scope of the review, including any limitations thereon, and should express an opinion on whether the system of quality control of the reviewed organization's audit and/or attestation engagement practices was adequate and was being complied with during the year reviewed to provide the audit organization with reasonable assurance of conforming with professional standards for audits and attestation engagements. The report should state the professional standards to which the reviewed audit organization is being held. The report should also describe the reason(s) for any modifications to the opinion. When there are matters that resulted in a modification to the opinion, reviewers should report a detailed description of the findings and recommendation, either in the peer review report or in a separate letter of comment or management letter, to enable the reviewed audit organization to take appropriate actions. The written report should refer to the letter of comment or management letter if such a letter is issued along with a modified report.

C. The state auditor performs its own quality control review of IPA audit reports and working papers. When the result of the state auditor's quality control review differs significantly from the external quality control report and corresponding letter of comments, the state auditor will no longer accept external peer review reports performed by that reviewer. In making this determination, the state auditor will take into consideration the fact that AICPA peer

reviews are performed on a risk-based or key-element approach looking for systemic problems, while the state auditor reviews are engagement-specific reviews.

D. **House Joint Memorial 86 requesting the state auditor to study the need for stricter conflict of interest standards for public accountants:** The prior year legislative session passed House Joint Memorial 86. It builds on the work done under House Joint Memorial 76 (Laws of 2002) which requested that the New Mexico public accountancy board, the state auditor, the New Mexico society of CPAs (NMSCPA), and the New Mexico society of public accountants (NMSPA) work to ensure strict adherence to public accountancy regulations and standards and report their findings and recommendations to the legislative finance committee (LFC) by December 1, 2003. The deadline for the committee to report to the LFC was extended to prior to the 2005 legislative session. A summary of the state auditor's December 3, 2004 report to the LFC follows. The office of the state auditor concludes the following from the work performed under HJM 76 and HJM 86: strong enforcement actions should be continued to ensure compliance with the existing requirements; strong working relationships should be maintained among the state regulatory bodies; a process is needed to improve the quality of work produced by governmental accountants in the state; and agencies should be held accountable for timely and accurate financial reporting. In summary, more laws are not needed. The laws, regulations, and standards currently in place are sufficient; however, they must be stringently enforced. The HJM task force reported the following summary findings to the LFC: 429% improvement in resolving unprocessed complaints to the public accountancy board; four CPA's referred to the board for enforcement action by the state auditor and HUD, resulting from quality reviews of financial statements and working papers; early adoption by the state auditor of proposed changes to GAGAS requirements for external quality control peer reviews; "on-site" peer reviews required by the state auditor; existing statutes appear sufficient to protect the public; and continued and increased severe disciplinary actions are needed to ensure timely and accurate financial reporting. House Joint Memorial 86 continues to build upon this foundation of the work performed under House Joint Memorial 76. It states:

(1) "WHEREAS, recent public accountancy scandals have highlighted the dangers that exist and the corruption that can result when certified public accountants and auditors have multiple and conflicting business relationships with their clients; and
(2) WHEREAS, stockholders and

the general public must be able to rely upon the statements and reports of certified public accountants and auditors to be honest, unvarnished reports of a corporation's financial affairs; and

(3) WHEREAS, corporate corruption aided and abetted by certified public accountants and auditors costs not only individual stockholders millions of dollars, but also governmental investors such as the state of New Mexico that invest taxpayer dollars; and

(4) WHEREAS, such corruption further weakens the public's faith in its governmental and corporate institutions; and

(5) WHEREAS, New Mexico law currently prohibits certain practices by certified public accountants, but might benefit from a review to determine if other practices should be prohibited;

(6) NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the state auditor, with the assistance of the performance audit staff of the legislative finance committee, the New Mexico public accountancy board and the New Mexico society of public accountants, be requested to study the current ethical and conflict of interest standards for New Mexico's certified public accountants and the need, if any, to revise those standards and report his findings and recommendations, if any, to the second session of the forty-sixth legislature; and

(7) BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the state auditor, the director of the legislative finance committee, the New Mexico public accountancy board and the New Mexico society of certified public accountants.

[2.2.2.14 NMAC - Rp, 2.2.2.14 NMAC, 5-13-05]

[Appendices begin on page 369.]

Agency Letterhead

Date

Name of the State Auditor
 2113 Warner Circle
 Santa Fe, NM 87505-5499

Dear Mr. "Name of the State Auditor,"

In accordance with the requirements of Paragraph (6) of Subsection C of 2.2.2.8 NMAC *Requirements for Contracting and Conducting Audits of Agencies*, the agency name is recommending that the firm of recommended IPA be the agency's Independent Public Accountant (IPA) for the financial and compliance audit of the agency financial statements for the fiscal year ended June 30, ____; and requesting approval of this selection by the State Auditor.

This IPA recommendation has been reviewed and approved by our oversight agency _____ (CHE or PED) as required by Section 12-6-14, NMSA 1978, and indicated by the following oversight agency signature and date.

Oversight Agency Signature	Printed name of signer	Date
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List the agency personnel who attended the Office of the State Auditor Rule Update Training for FY05.

Name	Location of Training	Date
Name	Location of Training	Date
Name	Location of Training	Date

Complete the following if applicable:

This is the _____ (first, second, or third) year of the multi-year contract for this recommended auditor.

The following is a list of all professional services contracts that the agency had with any IPA on the State Auditor's approved list of IPA's during calendar year 2004.

Contract Date	Contract Amt	Contract Auditor	Services Provided by the Auditor
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____

If you have any questions regarding this IPA recommendation please contact _____ at phone number _____ at the agency office.

Respectfully,

Agency Representative

Enc: Evaluation for the Recommended IPA

NEW MEXICO STATE AUDITOR'S OFFICE
 Audit Contract Proposal Evaluation Form
 Part One

Name of Agency _____
 Agency Contact _____ Phone # _____
 Audit Firm Name _____ Date Completed _____

<u>Evaluation Criteria</u>		Points	Points Awarded
Section I. <u>Capability of Firm</u>			
A)	The firm has the resources to perform the type and size of audit required. # of firm team members _____ Total audit hours available _____	0-5	
B)	The firm meets independence standards to perform your audit.	0-2	
C)	External Quality Control Review (Peer Review) 1. Peer review results: Obtain most recent copy of the external quality control review report including letter of comments 2. - Opinion received _____ Unmodified 10 Modified 5	0-10	
If report is less than modified (adverse) STOP HERE. FIRM DOES NOT QUALIFY.			
	3. Results of reference checks and agency's prior experience with firm (check should include timeliness, planning, technical expertise, etc.).	0-10	
D)	Organization and completeness of proposal or bid.	0-3	
Section I Total			
Section II. <u>Work Requirements & Audit Approach</u>			
A)	Knowledge of audit objectives, agency needs, and product to be delivered.	0-5	
B)	Proposal or bid contains a sound technical plan and realistic estimate of time to complete major segments of the audit: planning; interim fieldwork; fieldwork; and reporting. Start Date _____ End Date _____	0-5	
C)	Plans for using agency staff, including internal auditors.	0-3	
D)	If the proposal or bid is for a multi-year contract, approach for planning and conducting the work efforts of subsequent years.	0-2	
Section II Total			
Section III. <u>Technical Experience</u>		0-10	
A)	Governmental audit experience of on-site manager Name of on-site manager _____		
B)	Team audit experience: 1. Specialization in your type of agency (e.g., state agencies, schools, hospitals, counties, cities, etc.)	0-10	
	2. GASB 34 and 35 Experience	0-10	
	3. Experience with component units (housing authorities, charter schools, foundations)	0-5	
C)	Attendance at continuing professional education seminars or meetings on auditing, accounting and regulations directly related to state and local government audits and the agency.	0-5	
Section III Total			
Section IV. <u>Firm Strengths or Weaknesses</u>			
Specify _____		0-5	
Section IV Total			
Total All Sections			

Submit a copy of this form for the proposal selected to the State Auditor along with the Agency recommendation letter.

Appendix B

New Mexico State Auditor's Office
 Agency Audit Contract Proposal Evaluation Form
 Part Two

 Name of Agency

 Phone #

 Agency Contact

 Audit Firm

Cost is to be evaluated **ONLY** upon completion of Part One of this two-part evaluation form. Evaluate cost separately for the top THREE CHOICES ONLY from Part One. ADD parts One and Two in making your FINAL recommendation.

EVALUATION CRITERIA							
COST	Award a maximum of 10 points					Maximum Points	Points Awarded
Lowest Cost Proposal \$ _____ / (divided by) Subtotal This Proposal \$ _____ = _____ (If this is a multi-year proposal, divide the total lowest cost for the three years by total cost for the three years on this proposal) x 10 = Points Awarded _____						10	
Multi-Year Proposal Y <input type="checkbox"/> (_____ year of _____ year proposal) N <input type="checkbox"/>							
BREAKDOWN	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	1 st Year Hours FYE 6/30_	1 st Year Cost FYE 6/30_	2 nd Year Hours FYE 6/30_	2 nd Year Cost FYE 6/30_	3 rd Year Hours FYE 6/30_	3 rd Year Cost FYE 6/30_	
Financial Statement Audit	_____	_____	_____	_____	_____	_____	
Federal Single Audit	_____	_____	_____	_____	_____	_____	
Financial Statement Preparation	_____	_____	_____	_____	_____	_____	
Other (i.e. housing authorities, charter schools))	_____	_____	_____	_____	_____	_____	
SUB TOTAL	_____	_____	_____	_____	_____	_____	
Gross Receipts Tax		_____		_____		_____	
TOTAL COMPENSATION		=====		=====		=====	
SCORE						Maximum Points	Points Awarded
SCORE, Part One: Bring forward score from Part One of Evaluation Form						90	
FINAL SCORE						100	

Evaluated By

 Name and Title Date

 Name and Title Date

 Name and Title Date

GASB STATEMENTS AND EFFECTIVE DATES

Appendix C

GASB	TITLE	EFFECTIVE DATE
1	Authoritative Status of NCGA Pronouncements and AICPA Industry Audit Guide	On issuance July 1984
2	Financial Reporting of Deferred Compensation Plans Adopted under the Provisions of Internal Revenue Code Section 457	Financial statements for periods ending after 12/15/86
3	Deposits with Financial Institutions, Investments (including Repurchase Agreements), and Reverse Repurchase Agreements	Financial statements for periods ending after 12/15/86
4	Applicability of FASB Statement No. 87, "Employers' Accounting for Pensions," to State and Local Government Employers	On issuance September 1986
5	Disclosure of Pension Information by Public Employee Retirement Systems and State and Local Governmental Employers	Financial reports issued for fiscal years beginning after 12/15/86
6	Accounting and Financial Reporting for Special Assessments	Financial statements for periods beginning after 06/15/87
7	Advance Refundings Resulting in Defeasance of Debt	Fiscal periods beginning after 12/15/86
8	Applicability of FASB Statement No. 93, "Recognition of Depreciation by Not-for-Profit Organizations," to Certain State and Local Governmental Entities	On issuance January 1988
9	Reporting Cash Flows of Proprietary and Nonexpendable Trust Funds and Governmental Entities that Use Proprietary Fund Accounting	Financial statements for fiscal years beginning after 12/15/89
10	Accounting and Financial Reporting for Risk Financing and Related Insurance Issues	Public entity risk pools: periods beginning after 06/15/90; Entities other than pools: periods beginning after 06/15/94
11	Measurement Focus and Basis of Accounting - Governmental Fund Operating Systems	Deferred by GASB 17 to periods beginning approximately two years after an implementation standard is issued (early application not permitted)
12	Disclosure of Information on Post-employment Benefits Other than Pension Benefits by State and Local Governmental Employers	Financial reports issued for fiscal years beginning after 06/15/90
13	Accounting for Operating Leases with Scheduled Rent Increases	Proprietary and similar trust funds: prospectively for leases with terms beginning after 06/30/90 Governmental and similar trust funds: Measurement criteria - prospectively for leases with terms beginning after 06/30/90; Recognition criteria - two changes: one for financial statements for periods approximately two years after an implementation standard is issued (early application not permitted)
14	The Financial Reporting Entity	Financial statements for periods beginning after 12/15/92
15	Governmental College and University Accounting and Financial Reporting Models	Financial statements for periods beginning after 06/15/92

GASB STATEMENTS AND EFFECTIVE DATES

Appendix C

GASB	TITLE	EFFECTIVE DATE
16	Accounting for Compensated Absences	Financial statements for periods beginning after 06/15/93
17	Measurement Focus and Basis of Accounting - Governmental Fund Operating Statements: Amendment of the Effective Dates of GASB Statement 11 and Related Statements (an Amendment of GASB Statements 10, 11 and 13)	On issuance June 1993
18	Accounting for Municipal Solid Waste Landfill Closure and Post-closure Care Costs	Financial statements for periods beginning after 06/15/93
19	Governmental College and University Omnibus Statement (an Amendment of GASB Statements 10 and 15)	Pell grants - periods beginning after 06/15/93; Risk financing activities - periods beginning after 06/15/94
20	Accounting and Financial Reporting for Proprietary Funds and Other Governmental Entities that use Proprietary Fund Accounting	Financial statements for periods beginning after 12/15/93
21	Accounting for Escheat Property	Financial statements for periods beginning after 06/15/94
22	Accounting for Taxpayer-Assessed Tax Revenues in Governmental Funds	Financial statements for periods beginning after 06/15/94
23	Accounting and Financial Reporting for Refundings of Debt Reported by Proprietary Activities	Financial statements for periods beginning after 06/15/94
24	Accounting and Financial Reporting for Certain Grants and Other Financial Assistance	Financial statements for periods beginning after 06/15/95
25	Financial Reporting for Defined Benefit Pension Plans and Note Disclosures for Defined Contribution Plans	Financial statements for periods beginning after 06/15/96 Earlier implementation is encouraged; however, implement GASB 26 in the same fiscal year
26	Financial Reporting for Post-employment Health Care Plans Administered by Defined Benefit Pension Plans	Financial statements for periods beginning after 06/15/96 Earlier implementation is encouraged; however, implement GASB 25 in the same fiscal year
27	Financial Reporting for Pensions by State and Local Governmental Employers	Financial statements for periods beginning after 06/15/97 Earlier implementation is encouraged
28	Accounting and Financial Reporting for Securities Lending Transactions	Financial statements for periods beginning after 12/15/95 Earlier implementation is encouraged
29	The Use of Not-for-Profit Accounting and Financial Reporting Principles by Governmental Entities	Financial statements for periods beginning after 12/15/94 For entities that have applied the AICPA Not-for-Profit model but previously have not followed the governmental accounting and financial reporting standards required by Paragraphs 5 and 6 of this statement, the provisions of those governmental standards are effective for financial statements for periods beginning after 12/15/95 Earlier application is encouraged
30	Risk Financing Omnibus - an amendment of GASB Statement No. 10	Financial statements for periods beginning after 6/15/96

GASB STATEMENTS AND EFFECTIVE DATES

Appendix C

GASB	TITLE	EFFECTIVE DATE
31	Accounting and Financial Reporting for Certain Investments and for External Investment Pools	Financial statements for periods beginning after 6/15/97
32	Accounting and Financial Reporting for Internal Revenue Code Section 457 Deferred Compensation Plans	Financial statements for periods beginning after 12/31/98 or when plan assets are held in trust under the requirements of IRC Section 457, subsection (g), if sooner
33	Accounting and Financial Reporting for Non-Exchange Transactions	Financial statements for periods beginning after June 15, 2000 Earlier application is encouraged
34	Basic Financial Statements - and Management's Discussion and Analysis - for State and Local Governments	<p>The requirements of this Statement are effective in three phases based on a government's total annual revenues in the first fiscal year ending after June 15, 1999. Governments with total annual revenues (excluding extraordinary items) of \$100 million or more (phase 1) should apply this Statement for periods beginning after June 15, 2001. Governments with at least \$10 million but less than \$100 million in revenues (phase 2) should apply this Statement for periods beginning after June 15, 2002. Governments with less than \$10 million in revenues (phase 3) should apply this Statement for periods beginning after June 15, 2003. Earlier application is encouraged. Governments that elect early implementation of this Statement for periods beginning before June 15, 2000, should also implement GASB Statement No. 33, <i>Accounting and Financial Reporting for Non-exchange Transactions</i>, at the same time. If a primary government chooses early implementation of this Statement, all of its component units also should implement this standard early to provide the financial information required for the government-wide financial statements.</p> <p>Prospective reporting of general infrastructure assets is required at the effective dates of this Statement. Retroactive reporting of all major general governmental infrastructure assets is <i>required</i> four years after the effective date on the basic provisions for all major general infrastructure assets that were required or significantly reconstructed, or that received significant improvements, in fiscal years ending after June 30, 1980. Phase 3 governments are encouraged to report infrastructure retroactively, but may elect to report general infrastructure prospectively only.</p>
35	Basic Financial Statement - and Management's Discussion and Analysis - For Public Colleges and Universities	Colleges and Universities that are a unit of a state or local government will implement the new standards at the same time as their primary government, generally for fiscal years beginning July 1, 2001.

GASB STATEMENTS AND EFFECTIVE DATES

Appendix C

GASB	TITLE	EFFECTIVE DATE
36	Recipient Reporting for Certain Shared Non-exchange Revenues	This Statement should be implemented simultaneously with Statement 33, for periods beginning after June 15, 2000.
37	Basic Financial Statements and Management's Discussion and Analysis for State and Local Governments: Omnibus (An amendment of GASB Statement No. 21 and No. 34)	<p>This Statement should be implemented simultaneously with Statement 34. For governments that implemented Statement 34 prior to the issuance of this Statement, this Statement's requirements are effective for financial statements for periods beginning after June 15, 2000. Accounting changes adopted to conform to the provisions of this Statement should be applied retroactively, if practical, by restating financial statements for all prior periods presented. If restatement is not practical, the cumulative effect of applying this Statement, if any, should be reported as a restatement of beginning net assets, fund balances, or fund equity, as appropriate, for the earliest period restated. In the period this Statement is first applied, the financial statements should disclose the nature of any restatement and its effect. Also, the reason for not restating prior periods presented should be explained.</p> <p>The provisions of this Statement need not be applied to immaterial items.</p> <p>The requirements of this Statement are effective in three phases based on the revenues of the government as described in paragraph 143 of Statement 34;</p> <ul style="list-style-type: none"> * Phase 1 governments should implement paragraphs 6 through 11 for fiscal periods beginning after June 15, 2001. These governments should implement paragraphs 12 through 15 for fiscal periods beginning after June 15, 2002. * Phase 2 governments should apply this Statement for fiscal periods beginning after June 15, 2002. * Phase 3 governments should apply this Statement for fiscal periods beginning after June 15, 2003. <p>Earlier application is encouraged. However, paragraphs 6, 14, and 15 should be implemented only if Statement 34 has also been implemented.</p> <p>The provisions of this Statement need not be applied to immaterial items.</p>

GASB STATEMENTS AND EFFECTIVE DATES

Appendix C

GASB	TITLE	EFFECTIVE DATE
38	Certain Financial Statement - Note Disclosures	<p>The requirements of this Statement are effective in three phases on the revenues of the government as described in paragraph 143 of Statement 34:</p> <p>* Phase 1 governments should implement paragraphs 6 through 11 for fiscal periods beginning after June 15, 2001. These governments should implement paragraphs 12 through 15 for fiscal periods beginning after June 15, 2002.</p> <p>* Phase 2 governments should apply this Statement for fiscal periods beginning after June 15, 2002.</p> <p>* Phase 3 governments should apply this Statement for fiscal periods beginning after June 15, 2003.</p> <p>Earlier application is encouraged. However, paragraphs 6, 14, and 15 should be implemented only if Statement 34 has been implemented.</p> <p>The provision of this Statement need not be applied to immaterial items.</p>
39	Determining Whether Certain Organizations Are Component Units	<p>The requirements of the statement are effective for financial statements for periods beginning after June 15, 2003. Earlier application is encouraged. Adjustments resulting from a change to comply with this statement should be treated as adjustments of prior periods. The financial statements of all prior periods presented should be restated, if practical, to show the financial information of the new reporting entity for all periods. If restatement of the financial statements for prior periods is not practical, the cumulative effect of applying this statement should be reported as a restatement of beginning net assets/fund balance for the earliest period restated.</p>

GASB STATEMENTS AND EFFECTIVE DATES

Appendix C

GASB	TITLE	EFFECTIVE DATE
40	Deposit and Investment Risk Disclosures	The requirements of this statement are effective for financial statements for periods beginning after June 15, 2004 (FY 05). Earlier application is encouraged. The Statement addresses common deposit and investment risks related to credit risk, concentration of credit risk, interest rate risk, and foreign currency risk. As an element of interest rate risk, this Statement requires certain disclosures of investments that have fair values that are highly sensitive to changes in interest rates. It requires the deposit and investment policies related to the risks identified in the Statement to be disclosed. The custodial credit risk disclosures previously required by Statement 3 are modified by Statement 40
41	Budgetary Comparison Schedules- Perspective Differences	The provisions of this statement should be implemented simultaneously with Statement 34. For governments that implemented Statement 34 prior to the issuance of Statement 41, the requirements of the Statement are effective for financial statements for periods beginning after June 15, 2002 (FY03). This amendment to Statement No. 34 clarifies the budgetary presentation requirements for governments with significant budgetary perspective differences that result in their not being able to present budgetary comparison information for their general fund and major special revenue funds. These governments are required to present budgetary comparison schedules as required supplementary information (RSI) based on the fund, organization, or program structure that the government uses for its legally adopted budget.
42	Accounting and Financial Reporting for Impairment of Capital Assets and for Insurance Recoveries	The provisions of this statement are effective for fiscal periods beginning after December 15, 2004 (FY06). This statement requires governments to report the effects of capital asset impairments in their financial statements when they occur rather than as a part of the ongoing depreciation expense for the capital asset or upon disposal of the capital asset. The Statement also requires all governments to account for insurance recoveries in the same manner.

GASB STATEMENTS AND EFFECTIVE DATES

Appendix C

GASB	TITLE	EFFECTIVE DATE
43	Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans	<p>The requirements of this Statement for OPEB plan reporting are effective one year prior (FY07, FY08, and FY09) to the effective date of the related Statement for the employer (single - employer plan) or for the largest participating employer in the plan (multiple -employer plan). The requirements of the related Statement are effective in three phases based on a government's total annual revenues, as defined in that Statement, in the first fiscal year ending after June 15, 1999 - the same criterion used to determine a government's phase for implementation of GASB 34. The statement establishes uniform financial reporting standards for OPEB plans and supersedes the interim guidance included in Statement No. 26, <i>Financial Reporting for Postemployment Healthcare Plans Administered by Defined Benefit Pension Plans</i>. The approach followed in this Statement generally is consistent with the approach adopted in Statement No. 25, <i>Financial Reporting for Defined Benefit Pension Plans and Note Disclosures for Defined Contribution Plans</i>, with modifications to reflect differences between pension plans and OPEB plans.</p>
44	Economic Condition Reporting: The Statistical Section	<p>The provisions of this Statement are effective for statistical sections that are a required part of a CAFR, prepared for periods beginning after June 15, 2005, (FY06). The Statement establishes the objectives of the statistical section and the five categories of information it contains (1) financial trend information; (2) revenue capacity information; (3) debt capacity information; (4) demographic and economic information; and (5) operating information. The more specific requirements of the Statement should be adapted by each type of government in order to meet the overarching objectives.</p>

GASB STATEMENTS AND EFFECTIVE DATES

Appendix C

GASB	TITLE	EFFECTIVE DATE
45	Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions	Implementation is required in three phases in FY08, FY09, and FY10, based on a government's total annual revenues in the first fiscal year ending after June 15, 1999. The revenue cutoff points for implementation are the same as those in GASB 34. This Statement establishes standards for the measurement, recognition, and display of OPEB, expense/expenditures and related liabilities (assets), note disclosures, and if applicable, required supplementary information (RSI) in the financial reports of state and local governmental employers. This Statement generally provides for prospective implementation - that is, that employers set the beginning net OPEB obligation at zero as of the beginning of the initial year.
46	Net Assets Restricted by Enabling Legislation	The requirements of this Statement are effective for periods beginning after June 15, 2005, (FY06), with earlier application encouraged. The statement clarifies the meaning of the phrase <i>legally enforceable</i> as it applies to restrictions imposed on net assets.

[2.2.2 NMAC Appendix C - Rp, 2.2.2 NMAC Appendix C, 5-13-05]

AICPA STATEMENTS ON AUDITING STANDARDS

Appendix D

<i>SAS</i> <i>No.</i>	<i>Title</i>	<i>AU</i> <i>Section</i>
1	Codification of Auditing Standards and Procedures	See Part II of Cross-References To SASs section
7	Communications Between Predecessor and Successor Auditors	315
8	Other Information in Documents Containing Audited Financial Statements	550
12	Inquiry of a Client's Lawyer Concerning Litigation, Claims, and Assessments	337
19	Client Representation	333
21	Segment Information	435
22	Planning and Supervision	311
25	The Relationship of Generally Accepted Auditing Standards to Quality Control Standards	161
26	Association With Financial Statements	504
29	Reporting on Information Accompanying the Basic Financial Statements in Auditor Submitted Documents	551
31	Evidential Matter	326
32	Adequacy of Disclosure of Financial Statements	431
37	Filings Under Federal Securities Statutes	711
39	Audit Sampling	350
41	Working Papers	339
43	Omnibus Statements on Auditing Standards	150.06; 331.14 350.46; 420.15 901.01; 901.24 901.28
45	Omnibus Statement on Auditing Standards -1983	313; 334
46	Consideration of Omitted Procedures After the Report Date	390
47	Audit Risk and Materiality in Conducting an Audit	312
48	The Effects of Computer Processing on the Audit of Financial Statements	311.03; 311.09-.10; 326.12
50	Reports on the Application of Accounting Principles	625
51	Reporting on Financial Statements Prepared for Use in Other Countries	534
52	Omnibus Statement on Auditing Standards -1987	551.15; 558
53	The Auditors Responsibility to Detect and Report Errors and Irregularities	316A
54	Illegal Acts by Clients	317
56	Analytical Procedures	329
57	Auditing Accounting Estimates	342
58	Reports on Audited Financial Statements	508
59	The Auditor's Consideration of an Entity's Ability to Continue as a Going Concern	341
60	Communication of Internal Control Related Matters Noted in an Audit	325
61	Communication With Audit Committees	380
62	Special Reports	623
64	Omnibus Statement on Auditing Standards -1990	341.12; 508.83; 543.16

AICPA STATEMENTS ON AUDITING STANDARDS

Appendix D

SAS No.	Title	AU Section
65	The Auditor's Consideration of the Internal Audit Function in an Audit of Financial Statements	322
67	The Confirmation Process	330
69	The Meaning of <i>Present Fairly in Conformity With Generally Accepted Accounting Principles</i> in the Independent Auditor's Report	411
70	Reports on the Processing of Transactions by Service Organizations	324
71	Interim Financial Information	722
72	Letters for Underwriters and Certain Other Requesting Parties	634
73	Using the Work of a Specialist	336
74	Compliance Auditing Considerations in Audits of Governmental Entities and Recipients of Governmental Financial Assistance	801
76	Amendments to Statement on Auditing Standards No. 72, <i>Letters for Underwriters and Certain Other Requesting Parties</i>	634.01; 634.09; 634.10; 634.34 AT 300.01
77	Amendments to Statements on Auditing Standards No. 22, <i>Planning and Supervision</i> , No. 59, <i>The Auditor's Consideration of an Entity's Ability to Continue as a Going Concern</i> , and No. 62, <i>Special Reports</i>	311.05; 341.13; 544.02; 544.04; 623.05; 623.08
78	Consideration of Internal Control in a Financial Statement Audit: An Amendment to Statement on Auditing Standards No. 55	319
79	Amendment to Statement on Auditing Standards No. 58, <i>Reports on Audited Financial Statements</i>	508
80	Amendment to Statement on Auditing Standards No. 31, <i>Evidential Matter</i>	326
81	Auditing Investments	332
82	Consideration of Fraud in a Financial Statement Audit	316
83	Establishing an Understanding with the Client	310
84	Communications Between Predecessor and Successor Auditors	315
85	Management Representations	333
86	Amendment to SAS No. 72, Letters for Underwriters and Certain Other Reporting Parties. Amendment is effective for comfort letters issued on or after June 30, 1998.	634
87	Restricting the Use of an Auditor's Report Statement is effective for reports issued after December 31, 1998	532
88	Service Organization and Reporting on Consistency	324; 420
89	Audit Adjustments	310.06; 333.06, 333.16; 380.09; and 380.10
90	Audit Committee Communications	380.03; 380.11; and 722.25-.27
92	Auditing Derivatives Instruments, Hedging Activities and Investments in Securities	332
93	Omnibus Statement on Auditing Standards - 2000	315.02; 315.12 411 (title) 411.01; 508.08 and 622

AICPA STATEMENTS ON AUDITING STANDARDS

Appendix D

SAS No.	<i>Title</i>	<i>AU Section</i>
94	The Effect of Information Technology on the Auditor's Consideration of Internal Control in a Financial Statement Audit	319
95	Generally Accepted Auditing Standards	150
96	Audit Documentation	339
97	N/A	
98	Omnibus Statement on Auditing Standards -2002	150.05 161.02 and .03 312.34-41 324 508.65 558.08 & .10 558.02 561.03 560.01 530.03-.05
99	Consideration of Fraud in a Financial Statement Audit	230 336
100	Interim Financial Information	722
101	Auditing for Fair Value Measurements and Disclosures	Guidance on auditing fair value measurements and disclosures - Effective FY04, earlier application permitted

[2.2.2 NMAC Appendix D - Rp, 2.2.2 NMAC Appendix D, 5-13-05]

Appendix E

STATE OF NEW MEXICO
 (NAME) COUNTY TREASURER'S
 PROPERTY TAX SCHEDULE
 FOR THE YEAR ENDED JUNE 30, 2005

Agency	Property Taxes Levied	Collected in Current Year	Collected To-Date	Distributed in Current Year	Distributed To-Date	Current Amount Uncollectible	To-Date Amount Uncollectible	Undistributed at Year End	County Receivable at Year End
Grant County:									
General ad valorem 1995	\$2,425,000	\$ -	\$2,419,667	\$ -	\$2,419,667	\$ -	\$5,333	\$ -	\$ -
General ad valorem 1996	2,433,762	50	2,428,733	50	2,428,733	-	5,000	-	29
General ad valorem 1997	2,475,960	500	2,471,071	500	2,471,071	-	4,333	-	556
General ad valorem 1998	2,476,000	200	2,471,152	200	2,471,152	-	3,000	-	1,848
General ad valorem 1999	2,477,989	700	2,471,810	700	2,471,810	1,844	2,798	-	3,381
General ad valorem 2000	2,475,896	-	2,467,744	-	2,467,744	1,995	2,654	-	5,498
General ad valorem 2001	2,476,998	2,442	2,461,329	2,442	2,461,329	1,805	2,500	-	13,169
General ad valorem 2002	2,484,500	27,558	2,450,366	27,558	2,450,366	-	-	-	34,134
General ad valorem 2003	2,485,000	488,209	2,317,271	488,209	2,317,271	-	-	-	167,729
General ad valorem 2004	2,490,000	1,942,523	1,942,523	1,942,523	1,942,523	-	-	-	547,477
Total General ad valorem	24,701,105	2,462,182	23,901,666	2,462,182	23,901,666	5,644	25,618	-	773,821
Non-remission fees 1995	6,500	-	6,475	-	6,475	-	25	-	-
Non-remission fees 1996	6,500	-	6,450	-	6,450	-	50	-	-
Non-remission fees 1997	6,500	-	6,445	-	6,445	-	55	-	-
Non-remission fees 1998	6,500	-	6,425	-	6,425	-	75	-	-
Non-remission fees 1999	6,500	-	6,475	-	6,475	-	25	-	-
Non-remission fees 2000	6,520	-	6,450	-	6,450	-	70	-	-
Non-remission fees 2001	6,520	-	6,460	-	6,460	-	60	-	-
Non-remission fees 2002	6,520	-	6,420	-	6,420	100	100	-	-
Non-remission fees 2003	6,520	-	6,425	-	6,425	95	95	-	-
Non-remission fees 2004	6,520	6,520	6,520	6,520	6,520	-	-	-	-
Total Non-remission fees	65,100	6,520	64,545	6,520	64,545	195	555	-	-
Copper production 1995	1,598,000	-	1,598,000	-	1,598,000	-	-	-	-
Copper production 1996	1,598,000	-	1,598,000	-	1,598,000	-	-	-	-
Copper production 1997	1,598,000	-	1,598,000	-	1,598,000	-	-	-	-
Copper production 1998	1,598,000	-	1,598,000	-	1,598,000	-	-	-	-
Copper production 1999	1,598,000	-	1,598,000	-	1,598,000	-	-	-	-
Copper production 2000	1,598,000	-	1,598,000	-	1,598,000	-	-	-	-
Copper production 2001	1,598,000	-	1,598,000	-	1,598,000	-	-	-	-
Copper production 2002	1,598,000	-	1,598,000	-	1,598,000	-	-	-	-
Copper production 2003	1,598,000	-	1,598,000	-	1,598,000	-	-	-	-
Copper production 2004	1,598,437	1,598,437	1,598,437	1,598,437	1,598,437	-	-	-	-
Total Copper production	15,980,437	1,598,437	15,980,437	1,598,437	15,980,437	-	-	-	-
Re-appraisal program 1995	27,808	-	27,808	-	27,808	-	-	-	-
Re-appraisal program 1996	27,808	-	27,808	-	27,808	-	-	-	-
Re-appraisal program 1997	27,808	-	27,808	-	27,808	-	-	-	-
Re-appraisal program 1998	27,808	-	27,808	-	27,808	-	-	-	-
Re-appraisal program 1999	27,808	-	27,808	-	27,808	-	-	-	-
Re-appraisal program 2000	27,808	-	27,808	-	27,808	-	-	-	-
Re-appraisal program 2001	27,808	-	27,808	-	27,808	-	-	-	-
Re-appraisal program 2002	27,808	-	27,808	-	27,808	-	-	-	-
Re-appraisal program 2003	27,808	-	27,808	-	27,808	-	-	-	-
Re-appraisal program 2004	27,808	27,808	27,808	27,808	27,808	-	-	-	-
Total Re-appraisal program	278,080	27,808	278,080	27,808	278,080	-	-	-	-

Appendix E

STATE OF NEW MEXICO
(NAME) COUNTY TREASURER'S
PROPERTY TAX SCHEDULE
FOR THE YEAR ENDED JUNE 30, 2005

Agency	Property Taxes Levied	Collected in Current Year	Collected To-Date	Distributed in Current Year	Distributed To-Date	Current Amount Uncollectible	To-Date Amount Uncollectible	Undistributed at Year End	County Receivable at Year End
Hospital bond 1995	107	-	107	-	107	-	-	-	-
Hospital bond 1996	107	-	107	-	107	-	-	-	-
Hospital bond 1997	107	-	107	-	107	-	-	-	-
Hospital bond 1998	107	-	107	-	107	-	-	-	-
Hospital bond 1999	107	-	107	-	107	-	-	-	-
Hospital bond 2000	107	-	107	-	107	-	-	-	-
Hospital bond 2001	107	-	107	-	107	-	-	-	-
Hospital bond 2002	107	-	107	-	107	-	-	-	-
Hospital bond 2003	107	-	107	-	107	-	-	-	-
Hospital bond 2004	107	107	107	107	107	-	-	-	-
Total Hospital bond	1,070	107	1,070	107	1,070	-	-	-	-
<hr/>									
Total Grant County	41,025,792	4,095,054	40,225,798	4,095,054	40,225,798	5,839	26,173	-	773,821
<hr/>									
Municipalities:									
City of Bayard 1995	\$16,500	-	\$16,500	\$ -	\$16,500	\$ -	\$ -	\$ -	-
City of Bayard 1996	16,500	-	16,480	-	16,480	-	20	-	-
City of Bayard 1997	16,500	-	16,475	-	16,475	-	25	-	-
City of Bayard 1998	16,500	-	16,500	-	16,500	-	-	-	-
City of Bayard 1999	16,500	-	16,500	-	16,500	-	-	-	-
City of Bayard 2000	16,500	-	16,433	-	16,433	-	67	-	-
City of Bayard 2001	16,500	-	16,455	-	16,455	-	45	-	-
City of Bayard 2002	16,500	-	16,400	-	16,400	100	100	-	-
City of Bayard 2003	16,500	901	16,450	901	16,450	50	50	-	-
City of Bayard 2004	16,500	16,000	16,500	16,000	16,500	-	-	-	-
Total City of Bayard	165,000	16,901	164,693	16,901	164,693	150	307	-	-
<hr/>									
Village of Hurley 1995	8,000	-	7,975	-	7,975	-	25	-	-
Village of Hurley 1996	8,000	-	8,000	-	8,000	-	-	-	-
Village of Hurley 1997	8,000	-	7,970	-	7,970	-	30	-	-
Village of Hurley 1998	8,000	-	8,000	-	8,000	-	-	-	-
Village of Hurley 1999	8,000	-	7,950	-	7,950	-	50	-	-
Village of Hurley 2000	8,000	-	7,940	-	7,940	-	60	-	-
Village of Hurley 2001	8,000	-	7,930	-	7,930	-	70	-	-
Village of Hurley 2002	8,000	-	7,925	-	7,925	-	75	-	-
Village of Hurley 2003	8,000	43	7,950	43	7,950	50	50	-	-
Village of Hurley 2004	8,000	8,000	8,000	8,000	8,000	-	-	-	-
Total Village of Hurley	80,000	8,043	79,640	8,043	79,640	50	360	-	-
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Village of Santa Clara 1995	5,000	-	4,950	-	4,950	-	50	-	-
Village of Santa Clara 1996	5,000	-	4,975	-	4,975	-	25	-	-
Village of Santa Clara 1997	5,000	-	4,990	-	4,990	-	10	-	-
Village of Santa Clara 1998	5,000	-	4,950	-	4,950	-	50	-	-
Village of Santa Clara 1999	5,000	-	4,960	-	4,960	-	40	-	-

STATE OF NEW MEXICO
 (NAME) COUNTY TREASURER'S
 PROPERTY TAX SCHEDULE
 FOR THE YEAR ENDED JUNE 30, 2005

Agency	Property Taxes Levied	Collected in Current Year	Collected To-Date	Distributed in Current Year	Distributed To-Date	Current Amount Uncollectible	To-Date Amount Uncollectible	Undistributed at Year End	County Receivable at Year End
Village of Santa Clara 2000	5,000	-	4,970	-	4,970	-	30	-	-
Village of Santa Clara 2001	5,000	-	5,000	-	5,000	-	-	-	-
Village of Santa Clara 2002	5,000	-	4,950	-	4,950	10	50	-	-
Village of Santa Clara 2003	5,000	708	4,955	708	4,955	20	45	-	-
Village of Santa Clara 2004	5,000	5,000	5,000	5,000	5,000	-	-	-	-
Total Village of Santa Clara	50,000	5,708	49,700	5,708	49,700	30	300	-	-
Town of Silver City 1995	205,287	-	205,287	-	205,287	-	-	-	-
Town of Silver City 1996	205,287	-	205,187	-	205,187	-	100	-	-
Town of Silver City 1997	205,287	-	205,237	-	205,237	-	50	-	-
Town of Silver City 1998	205,287	-	205,262	-	205,262	-	25	-	-
Town of Silver City 1999	205,287	-	205,257	-	205,257	-	30	-	-
Town of Silver City 2000	205,287	-	205,262	-	205,262	-	25	-	-
Town of Silver City 2001	205,287	-	205,287	-	205,287	-	-	-	-
Town of Silver City 2002	205,287	-	205,237	-	205,237	50	50	-	-
Town of Silver City 2003	205,287	-	205,262	-	205,262	25	25	-	-
Town of Silver City 2004	205,287	205,287	205,287	205,287	205,287	-	-	-	-
Total Town of Silver City	2,052,870	205,287	2,052,565	205,287	2,052,565	75	305	-	-
Total Municipalities	2,347,870	235,939	2,346,598	235,939	2,346,598	305	1,272	-	-
Grand Total	\$43,373,662	\$4,330,993	\$42,572,396	\$4,330,993	\$42,572,396	\$6,144	\$27,445	\$ -	\$773,821

[2.2.2 NMAC Appendix E - Rp, Appendix E, 5 -13-05]

**NEW MEXICO
 DEPARTMENT OF
 GAME AND FISH**

This is an amendment to 19.31.4.11 and 19.31.4.14 NMAC, effective May 13, 2005.

19.31.4.11 DAILY BAG AND POSSESSION LIMITS:

A. Trout

(1) Waters with reduced bag limit: No person shall fish waters regulated for reduced limits while having in excess of that limit in possession.

(2) Brown, rainbow, cutthroat, lake, Brook trout and Kokanee salmon:

(a) The daily bag limit shall be 5 trout and no more than 10 trout shall be in possession.

(b) The daily bag limit for cutthroat trout shall be 2 trout and no more than 2 cutthroat trout may in possession. Cutthroat trout are included in the bag and possession limits for trout explained in 19.31.4.11(A. 2.a) NMAC (above).

(3) Special Kokanee salmon season: During the special Kokanee salmon season, the daily bag limit shall be 12 Kokanee salmon in addition to the daily bag limit for trout, and no more than 24

Kokanee salmon may be possessed in addition to the possession limit for trout. It shall be unlawful to possess Kokanee salmon at Heron lake and Pine river during the closed Kokanee salmon season (October 1 through November 14).

(4) Special trout waters - On certain waters, hereafter referred to as "Special Trout Waters", the following exceptions shall apply:

(a) On those sections of the following waters the daily bag limit shall be 2 trout and no more than 2 trout shall be in possession. Anglers must stop fishing in those waters when the daily bag limit is reached: In Rio Arriba county: all waters lying within or adjacent to the Little Chama valley ranch (Edward Sargent wildlife area) including the Rio Chamito, Sexton creek, and Rio Chama, excluding Nabor creek and Nabor lake; In Colfax county: the Shuree lakes on the Valle Vidal; In Taos county: a posted portion of the Rio Pueblo between the bridge at mile marker 55 on state hwy. 518 upstream approximately 1 mile to the Canon Tio Maes trailhead; In San Miguel county: an approximately 1-1/2 mile posted portion of the Pecos river beginning approximately 1/2 mile above the confluence of the Mora river (Mora-Pecos) upstream to approximately 1/4 mile above the bridge crossing at Cowles; In Rio Arriba county: a

posted portion of the Chama river approximately 2.9 miles within the boundaries of the Rio Chama wildlife and fishing area; In Catron county: a posted portion of Gilita creek from the Gila wilderness boundary downstream approximately 5 miles to its confluence with Snow creek; In Rio Arriba county: a posted portion of the Rio de los Pinos from USFS Boundary 24 at the junction of forest road 284 and 87A, 2.5 miles upstream to the private property boundary; In Taos county: a posted portion of Red River from the confluence of Goose creek 1 mile upstream.

(b) In San Juan county, in a posted portion of the San Juan river, from a point beginning approximately 1/4 mile downstream of Navajo dam and extending downstream 3.5 miles to the east side of section 16: the daily bag limit shall be 1 trout and no more than 1 trout shall be in possession except in the catch-and-release section. The angler must stop fishing in the section defined once the daily bag limit is reached.

(c) On those sections of the following waters no fish may be kept or held in possession while fishing in the posted portions of the following waters: In San Juan county: a posted portion of the San Juan river from Navajo dam downstream approximately 1/4 mile; In Sandoval county: a

posted portion of the Rio Cebolla from the Seven Springs day use area upstream to its headwaters; In Sandoval County: a posted portion of the San Antonio River from the Baca location boundary downstream approximately 2.0 miles (T. 19 N., R. 03 E., S 16 and 20); In Sandoval county: a posted portion of the Rio Guadalupe from the Porter landing bridge downstream approximately 1.3 miles to Llano Loco Spring; In Taos county: a posted portion of the Rio Costilla from the Valle Vidal tract of the Carson national forest downstream for approximately 2.4 miles to the confluence of Latir creek; In Sierra county: the Rio las Animas within the Gila national forest, Black range ranger district; In Mora county: the Pecos river in the Pecos wilderness, above Pecos falls; In Rio Arriba county: Nabor creek and Nabor lake on the Edward Sargent wildlife area; In San Miguel and Santa Fe counties: Doctor creek from 1/4 mile above its confluence with Holy Ghost creek upstream to its headwaters; In Mora county: Rio Valdez in the Pecos wilderness from 1/4 mile below Smith cabin upstream to its headwaters; In San Miguel and Mora counties: Jack's creek from the water falls located 1/4 mile downstream of NM Highway 63 crossing upstream to its headwaters; In Taos and Colfax counties: any stream on the Valle Vidal (Vermejo tract - Carson national forest) except that portion of Comanche creek from its confluence with Vidal creek downstream to its confluence with Costilla creek at Comanche point.

(d) In Colfax county: on a posted section of the Cimarron river from the lower end of Tolby campground downstream approximately 1.4 miles to the first bridge of N.M. 64 the daily bag limit shall be 1 fish and no more than one fish may be in possession.

(5) On the following waters, the daily bag limit shall be 3 trout and no more than 3 trout may be in possession, although there are no special restrictions regarding the use of legal gear.

(a) In Taos county: a posted portion of the Rio Grande beginning at the New Mexico/Colorado state line downstream to the Taos junction bridge.

(b) In Taos county: a posted portion of the Red River beginning approximately 1/2 mile downstream of the walking bridge at Red River state fish hatchery downstream to its confluence with the Rio Grande.

(c) In Taos county: the designated fishing pond at Red River state fish hatchery.

(d) In Rio Arriba county: on a posted portion of the Rio Chama from the base of Abiquiu dam downstream approximately 7 miles to the river crossing bridge on U.S. 84 at Abiquiu.

(e) In Sierra county: the Rio

Grande from Elephant Butte dam downstream to and including Caballo lake.

(f) In Lincoln county: The Rio Ruidoso from the boundary between the Mesalero Apache reservation and the city of Ruidoso downstream to Fridenbloom drive.

(g) In Rio Arriba county: Burns canyon lake at Parkview hatchery.

(6) Gila trout: It shall be unlawful for any person to possess Gila trout (*Oncorhynchus gilae*).

B. Warm-water fishes: The daily bag limit for game fish other than trout shall be as listed below and the possession limit shall be twice the daily bag limit.

(1) striped bass 2 fish;

(2) largemouth, smallmouth, and spotted bass 5 fish;

(3) walleye 5 fish;

(4) crappie 20 fish;

(5) white bass and white bass x striped bass hybrid 25 fish;

(6) northern pike 10 fish;

(7) catfish (all species, except bullheads) 15 fish;

(8) all other warm-water game species 20 fish.

C. The following exception shall apply:

(1) At Tingley beach in Albuquerque; lake Van (Chaves county); Oasis state park; Greene Acres lake (Curry county); Burn lake (Dona Ana county); Escondida lake (Socorro county); Aztec pond (San Juan county); McGaffey lake (McKinley county); Bataan lake (Eddy county); Chaparral lake (Lea county); Bosque Redondo (De Baca county); Carrizozo lake (Lincoln county); Green Meadow lake; Eunice lake; and Jal lake (Lea county): the daily bag limit for channel catfish will be 2 fish and the possession limit shall be twice the daily bag limit.

(2) In San Juan county, in the San Juan and Animas rivers, not including Navajo lake, there is no daily bag limit or possession limit for channel catfish and striped bass.

(3) Statewide, all tiger muskie (*Esox lucius* x *E. masquinongy*) caught must immediately be released.

[19.31.4.11 NMAC - Rp 19.31.4.11 NMAC, 4-15-02; A, 10-31-02; A, 6-25-03; A, 8-13-04; A, 5-13-05]

19.31.4.14 WATERS WITH AGE OR HANDICAPPED USE RESTRICTIONS:

A. Only persons **under 12 years of age** may fish in the following waters: Shuree kids' ponds on Valle Vidal (Vermejo tract-Carson national forest); valley improvement association ponds at Belen, Young pond in Las Cruces, Harris pond in Las Vegas, Spring river park in

Roswell, Grants city pond, and the Brood pond at Seven Springs state fish hatchery.

B. Only persons **under 12 years of age, those 65 years and over, and handicapped persons** may fish in the designated Red River hatchery pond located at the Red River state fish hatchery, Blue Hole park pond (formerly Santa Rosa seniors pond), Estancia park lake at Estancia, and in ponds located in Harry McAdams park.

C. Only handicapped persons and those under 12 years of age may fish in the Red River city ponds, and in the posted small pond at Cowles.

D. Olympic pond: Only persons under 12 years of age and those 65 years and over may fish in Olympic pond located at Angel Fire.

E. Burns canyon lake: Only persons 14 years of age and under, those 65 years and over, handicap persons, or up to two parents/guardians in direct supervision of a child or children 14 years of age and under who are fishing, may fish in Burns canyon lake located near Parkview hatchery.

[19.31.4.14 NMAC - Rp 19.31.4.14 NMAC, 4-15-02; A, 10-31-02; A, 8-13-04; A, 5-13-05]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

Explanatory paragraph: This is an amendment to 8.215.500 NMAC, Sections 14 and 19, that will be effective on July 1, 2005. The Medical Assistance Division amended Subsection K of 8.215.500.14 NMAC to change the amount of time that a lump sum payment can be excluded before it must be counted as a resource. Subsection B of 8.215.500.19 NMAC was changed to show the changes for the infrequent and irregular income exclusions for both earned and unearned income.

8.215.500.14 RESOURCE EXCLUSIONS: Some types of resources can be excluded from the calculation of countable resources if they meet the specific criteria listed below.

K. Lump sum payments exclusion: SSI and social security lump sum payments for retroactive periods are excluded as countable resources for ~~six (6)~~ nine (9) months after the month in which they are received. See 8.215.500.16.A.(4) NMAC for policy regarding SSI and social security lump sums which are placed into the ownership of a medicaid qualifying trust. Social security lump sum payments are considered infrequent income.

[2-1-95, 7-31-97; 8.215.500.14 NMAC - Rn, 8 NMAC 4.SSI.513, 3-1-01; A, 5-1-01;

A, 7-1-05]

8.215.500.19 INCOME STANDARDS: See 8.200.520 NMAC and following subsections for income standards applicable to the SSI-related medicaid categories.

B. Infrequent or irregular income [~~Infrequent or irregular income is excludable in the month received if it is no more than \$10 of earned income and/or \$20 of unearned income.~~] Exclude the first \$30 per calendar quarter of earned income; and the first \$60 per calendar quarter of unearned income. The following definitions apply.

(1) "Irregular income" is income received on an unscheduled or unpredictable basis.

(2) "Infrequent income" is income received only once during a calendar quarter from a single source and includes:

- (a) proceeds of life insurance policies;
- (b) prizes and awards;
- (c) gifts;
- (d) support and alimony;
- (e) inheritances;
- (f) interest per account, and royalties;
- (g) one-time lump sum payments, such as social security or retroactive SSI.

(3) "Frequency" is evaluated for the calendar quarter (i.e., January - March, April - June, July - September, October - December) but the dollar amount is considered in the month received.

[2-1-95, 7-31-97; 8.215.500.19 NMAC - Rn, 8 NMAC 4.SSI.521 & A, 3-1-01; A, 7-1-05]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.61.3 NMAC, Sections 1, and 7 through 10, effective 05-13-05

6.61.3.1 ISSUING AGENCY: [~~State Board of Education~~] Public Education Department [09-30-96; 07-30-99; 6.61.3.1 NMAC - Rn, 6 NMAC 4.2.3.3.1, 10-31-01; A, 05-13-05]

6.61.3.7 DEFINITIONS:

A. "Advisory" - means a middle level arrangement intended to insure that each student is part of a small peer group with an adult advisor or mentor where communication within the group is open and non-threatening.

B. "Early adolescence" - means the developmental period that

encompasses ages 10 through 15, or grades five through nine.

C. "Integrative curriculum" - means a curriculum model which coordinates or blends the interests of the learner into a unified whole, utilizing a variety of disciplines for investigating a central question.

D. "Interdisciplinary curriculum" - means a curriculum model designed to incorporate knowledge from two or more academic, scientific, or artistic disciplines.

E. "License" - means the professional certificate or credential which is issued upon completion of specified requirements and which designates the grade level(s) at which the holder is authorized to teach and/or administer.

F. "Middle level" - means grades five through nine.

G. "National board for professional teaching standards" - means a nonprofit, nongovernmental organization which operates a voluntary assessment system to grant national teacher certification to persons who meet an established set of national standards.

[~~H. "National teachers examination" means a standardized test of basic skills~~

[~~I. "Preparation program" means a program for the preparation of educational personnel which is offered through a regionally accredited institution and~~

(1) ~~has been approved by the state agency responsible for licensure/certification of educational personnel in the state in which the program is provided; and~~

(2) ~~consists of a series or combination of courses or educational experiences which satisfy the educational requirements for licensure/certification in the state in which the program was provided.~~

[~~J. "Regionally accredited college or university" means an institution of higher education which awards a baccalaureate or higher degree and which is fully accredited by one of the following regional accrediting bodies:~~

(1) ~~middle states association of colleges and schools;~~

(2) ~~New England association of colleges and schools;~~

(3) ~~north central association of colleges and schools;~~

(4) ~~northwest association of schools and colleges;~~

(5) ~~southern association of colleges and schools; and~~

(6) ~~western association of schools and colleges.~~

[~~K. "Standard and valid license/certificate/credential" means a license which is not expired at the time of application for a New Mexico license and is~~

~~not considered an "emergency," "standard" or "temporary" license issued to a person who has not met certain educational requirements.~~

[~~L. "Young adolescent" means a student in grades five through nine.~~

[~~M. "Core academic subjects" means English, language arts, reading, mathematics, science, modern and classical languages, except the modern and classical Native American languages and cultures of New Mexico tribes or pueblos, the arts, including music and visual arts, and social studies, which includes civics, government, economics, history, and geography.~~

[~~N. "A highly qualified beginning middle level teacher "[s] under this rule[s] means a teacher who is fully qualified to teach the core academic subjects in grades 5-9, [who] is new to the profession, [who] has pursued a standard path to licensure, and [who]:~~

(1) ~~means the requirements for middle level licensure in Subsections A, [B-] or C in 6.61.3.8 NMAC, [and]~~

(2) ~~has no licensure requirements waived on an emergency or temporary basis, or for any other reason, and~~

(3) ~~has passed all applicable teacher testing requirements for licensure in 6.60.5.8 NMAC.~~

[09-30-96; 6.61.3.7 NMAC - Rn, 6 NMAC 4.2.3.3.7, 10-31-01; A, 06-30-03; A, 05-13-05]

6.61.3.8 REQUIREMENTS:

A. Persons seeking a teaching license or licensure endorsements pursuant to the provisions of this regulation shall meet the following requirements of Subsection A, Paragraph (1) of 6.61.3.8 NMAC, or Subsection B of 6.61.3.8 NMAC, or Subsection C of 6.61.3.8 NMAC.

(1) bachelor's degree from a regionally accredited college or university and including, for those students first entering a college or university beginning in the fall of 1986, the following:

(a) twelve (12) semester hours in English;

(b) twelve (12) semester hours in history including American history and western civilization;

(c) six (6) semester hours in mathematics;

(d) six (6) semester hours in government, economics, or sociology;

(e) twelve (12) semester hours in science, including biology, chemistry, physics, geology, zoology, or botany;

(f) six (6) semester hours in fine arts; and

(2) thirty - thirty-six (30-36) semester hours of professional education in a middle level education program approved by the [SBE] public education department

(PED), including completion of the [SBE's] PED's New Mexico middle level teacher competencies and a mandatory student teaching experience; and

(3) twenty-four (24) semester hours in at least one (1) teaching field such as mathematics, science(s), language arts, reading, and social studies (or other content related areas), twelve (12) semester hours of which must be in upper division courses as defined by the college or university; individuals must also complete the [SBE's] PED's approved competencies in the teaching field; and

(4) in addition to the requirements specified in Subsection A, Paragraphs (1), (3) and (5) of 6.61.3.8 NMAC, three (3) hours in the teaching of reading in subject matter content for those who have first entered any college or university on or after August 1, 2001 regardless of when they graduate or earn their degree; and

(5) passage of all applicable portions of the current [SBE approved] PED-approved teacher test; and

(6) if new to the profession after June 30, 2006, or hired after the first day of school of the 2002-2003 school year and assigned to work in a title I targeted assistance program or a title I school-wide, shall satisfy the requirements of a highly qualified beginning middle level teacher, or

B. Persons holding a standard New Mexico license in ~~early childhood education,~~ K-8 elementary education, 7-12 secondary education, ~~or~~ K-12 specialty area education, or K-12 special education, and ~~three (3) years of documented, successful teaching or administrative experience during the five year period immediately preceding the date of application for middle level education licensure; and twelve (12) semester hours of course work in middle level education to include representation in any combination of the New Mexico Middle Level Teacher Competencies Subsection A, Paragraphs (1) to (3) of 6.61.3.10 NMAC and Subsection B, Paragraphs (1) to (3) of 6.61.3.10 NMAC and Paragraph (6) of Subsection A of 6.61.3.8 NMAC; or~~

(1) five years (5) of documented, successful teaching experience at the middle school level during the ten-year period immediately preceding the date of application for middle level education licensure; and

(2) has demonstrated competency in the academic subjects the teacher teaches by:

(a) passing the content knowledge test(s) of the New Mexico teacher assessments or predecessor New Mexico teacher licensure examinations, or accepted comparable licensure tests from another state in each subject the teacher teaches; or

(b) successfully completing an

undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major, or a graduate degree in each subject area the teacher teaches; or

(c) demonstrating competence in each of the subject areas the teacher teaches based on the state's high objective uniform standard of evaluation for subject area competence as provided in Subsections C or D of 6.69.4.9 NMAC; or

C. A valid certificate issued by the national board for professional teaching standards for the appropriate grade level and type.

[09-30-96; 6.61.3.8 NMAC - Rn, 6 NMAC 4.2.3.3.8, 10-31-01; A, 06-01-02; A, 06-30-03; A, 05-13-05]

6.61.3.9 IMPLEMENTATION: Persons who meet these requirements may obtain a license or endorsements at a level established by the ~~New Mexico State Department of Education~~ PED unless otherwise barred by New Mexico statute or ~~State Board of Education~~ PED rule.

[09-30-96; 6.61.3.9 NMAC - Rn, 6 NMAC 4.2.3.3.9, 10-31-01; A, 05-13-05]

6.61.3.10 REFERENCED MATERIAL: The New Mexico middle level teacher competencies follow:

A. Teacher as guide - Middle level teachers understand the developmental nature of young adolescents.

(1) Knowledge of the physical, intellectual, emotional, and psychological changes that occur developmentally during early adolescence including the special needs of exceptional students.

(2) Knowledge and understanding of the influence of linguistic, cultural, and sociological factors on the development of young adolescents.

(3) Knowledge of specialized professional techniques used at the middle level including advisory programs, interdisciplinary team organizations, interdisciplinary planning, and cooperative learning.

B. Teacher as instructional leader - rationale: Middle level teachers work in ways which correspond to what they know about early adolescence.

(1) ability to develop middle level students' appreciation, enthusiasm, and skills as listeners, readers, speakers, writers, thinkers, problem-solvers, decision-makers, and researchers;

(2) ability to design and present instruction commensurate with the developmental needs and readiness of young adolescents;

(3) ability to plan, organize, manage, and evaluate student learning and classroom activities, including lesson planning, student discipline and classroom management, and the connectedness of knowl-

edge by means of interdisciplinary and integrated instruction;

(4) knowledge of at least one content area appropriate to middle level curriculum; the middle level teacher must meet the content area knowledge base ~~[must be equivalent to the requirements for a teaching minor for other subject area endorsements]~~ requirements of a highly qualified beginning middle level teacher; and

(5) ability to interest and actively involve students in the study of issues related to their lives and the environment in which they live, drawing on the disciplined knowledge of mathematics, science, language arts, health, physical education, social studies, including history, the arts, and computer science.

C. Teacher as person - rationale: Middle level teachers have a strong sense of self and foster the same in their students.

(1) Ability to encourage students to express themselves creatively in a number of ways, including visual and performing arts.

(2) Ability to provide an environment which encourages each student to become aware of himself or herself, to develop the ability to express, understand and control his or her feelings, and to develop a sense of trust and independence.

D. Teacher as advisor - rationale: Middle level teachers exhibit strong interpersonal skills.

(1) an understanding of each student in his or her family, school and community context, and cognizant of the variety of economic and cultural influences which affect each student's life;

(2) ability to provide an environment which encourages positive peer relations.

E. Teacher as colleague - rationale: Middle level teachers establish and maintain collegial and collaborative relationships. Ability to establish and maintain positive and productive relationships with professional colleagues, students, families, and the community.

[09-30-96; 6.61.3.10 NMAC - Rn, 6 NMAC 4.2.3.3.10, 10-31-01; A, 05-13-05]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.69.4 NMAC, Sections 7 through 11, effective 05-13-05

6.69.4.7 DEFINITIONS:

A. "Core academic subjects" means English, language arts, reading, mathematics, science, the arts, including music and visual arts, and social studies, which includes civics, government, eco-

nomics, history, and geography, and modern and classical languages, except the modern and classical Native American languages and cultures of New Mexico tribes and pueblos.

B. "A highly qualified early childhood (birth-grade three) or elementary teacher (K-8)", under this rule, means a teacher who is fully qualified for teaching birth to grade three and grades K-8, and who:

(1) meets the requirements for his/her license; and

(2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason; and

(3) has demonstrated competency in the core academic subjects the teacher teaches by:

(a) passing the elementary teacher competency or the elementary content knowledge test of the New Mexico teacher assessments or comparable predecessor New Mexico teacher licensure examinations, or accepted comparable licensure test(s) from another state; or

(b) holding national board for professional teaching standards certification for the appropriate grade level and type; or

(c) demonstrating competence in all of the core academic subjects the teacher teaches based on the state's high objective uniform standard of evaluation for subject area competence as provided in 6.69.4.9 NMAC.

C. "A highly qualified middle or junior high school teacher holding elementary K-8 licensure", under this rule, means a teacher who is fully qualified to teach the core academic subjects in a public middle or junior high school, and who:

(1) meets all of the requirements for elementary K-8 licensure; and

(2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason; and

(3) has demonstrated competency in each of the core academic subjects the teacher teaches by either:

(a) passing the content knowledge test(s) of the New Mexico teacher assessments or predecessor New Mexico teacher licensure examinations, or accepted comparable licensure tests from another state in each subject area the teacher teaches; or

(b) successfully completing an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major, or a graduate degree in each subject area the teacher teaches, or

(c) obtaining advanced credentials, which means certification by the national board for professional teaching standards for the appropriate grade level and type; or

(d) demonstrating competence in all of the core academic subjects the teacher teaches based on the state's high objective uniform standard of evaluation for subject area competence as provided in 6.69.4.9 NMAC.

D. "A highly qualified middle level (5-9), secondary (7-12), or K-12 specialty area teacher," under this rule, means a teacher who is fully qualified to teach the core academic subjects, and who:

(1) meets all of the requirements for his/her license; and

(2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason; and

(3) has demonstrated competency in the core academic subjects the teacher teaches by:

(a) passing the content knowledge test(s) of the New Mexico teacher assessments or predecessor New Mexico teacher licensure examinations, or accepted comparable licensure tests from another state in each subject area the teacher teaches; or

(b) successfully completing an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major, or a graduate degree in each subject area the teacher teaches; or

(c) obtaining advanced credentials, which means certification by the national board for professional teaching standards for the appropriate grade level and type; or

(d) demonstrating competence in all of the core academic subjects the teacher teaches based on the state's high objective uniform standard of evaluation for subject area competence as provided in 6.69.4.9 NMAC.

E. "A highly qualified K-12 special education teacher," under this rule, means a teacher who is fully qualified to teach special education students by either providing access for those students to a regular education classroom where instruction in the core academic subjects is delivered by a highly qualified regular education teacher, and where the special education teacher shall meet the requirements of Paragraphs (1) and (2) below; or, if the special education teacher teaches the core academic subjects to special education students who are assessed under regular education standards, and is fully qualified to teach each core academic subject the teacher teaches, and where that teacher also meets the requirements of Paragraphs (1) and (2) and (3) below; or if the special education teacher teaches the core academic subjects exclusively to children who are assessed against alternate achievement standards and where the teacher also meets the requirements of Paragraphs (1) and (2) and either (3) or (4):

(1) the teacher meets the requirements for his/her special education license;

(2) the teacher has no special education licensure requirements waived on an emergency or temporary basis, or for any other reason;

(3) the teacher has demonstrated competency in any core academic subjects the teacher teaches by:

(a) passing the elementary teacher competency or the elementary content knowledge test of the New Mexico teacher assessments or predecessor New Mexico teacher licensure examinations, or accepted comparable licensure tests offered in New Mexico or in another state, if the special education teacher teaches in an elementary school; or

(b) by passing the content knowledge test(s) of the New Mexico teacher assessments or predecessor New Mexico teacher licensure examinations, or accepted comparable licensure tests from another state in each subject area the teacher teaches if the teacher teaches in a middle or high school; or

(c) successfully completing an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major, or a graduate degree in each subject area the teacher teaches; or

(d) obtaining advanced credentials, which means content area or special education certification by the national board for professional teaching standards for the appropriate grade level and type; or

(e) demonstrating competency in all of the core academic subjects the teacher teaches based on the state's high objective uniform standard of evaluation for subject area competence as provided in 6.69.4.9 NMAC.

(4) the teacher has demonstrated competency in the core academic subjects, regardless of the grade level taught, by passing the elementary or secondary teacher competency test, or the elementary content knowledge test, or any one of the middle level or secondary level content knowledge tests in the core academic areas of the New Mexico teacher assessments or comparable predecessor New Mexico teacher licensure examinations, or accepted comparable licensure test(s) from another state.

[6.69.4.7 NMAC - N, 09-30-03; A, 10-14-04; A, 05-13-05]

6.69.4.8 REQUIREMENTS:

A. If a teacher was hired after the first day of school of the 2002-2003 school year and is assigned to teach the core academic subjects in a title I targeted assistance program or a title I school wide, the teacher must be highly qualified, as defined in this rule.

B. If a teacher was hired

prior to the first day of school of the 2002-2003 school year and is assigned to teach in the core academic subjects in any public school, the teacher must be highly qualified, as defined in this rule, by June 30, 2006, unless the school district where the teacher is employed qualifies for the rural education achievement program under Title VI of the Elementary and Secondary Education Act 20 USC 7345, in which case the teacher must be highly qualified, as defined in this rule, by June 30, 2007.

C. The school district must ensure, through proper annual teaching assignment and through annual professional development plans and evaluations that all teachers assigned to teach in core academic subjects are highly qualified as provided in subsections A and B of this section and as required in section 1119 of the No Child Left Behind Act in Title I of 20 USC 6301.

D. Every public school teacher must have an annual performance evaluation based on an annual professional development plan that meets the requirements of the state's high objective uniform standard of evaluation as provided in 6.69.4.10 NMAC. The format for this evaluation shall be established by the department and shall be uniform throughout the state in all public school districts.

E. Except as provided in subsection F of this section, in order for a teacher to advance from licensure level I to level II and from licensure level II to level III-A a teacher who applies for licensure after June 30, 2004 must successfully meet the requirements of the state's high objective uniform standard of evaluation as provided in 6.69.4.11 NMAC.

F. Those teachers who are in the third year of a level I license in the 2003-2004 school year may advance to level II through the rules in place prior to the adoption of this rule by the local superintendent verifying that the teacher has met the nine essential competencies required for renewal of licensure by June 30, 2004.

G. Those teachers who hold a level II license in the 2003-2004 school year may advance to level III-A through the rules in place prior to the adoption of this rule by the local superintendent verifying that the teacher has met the nine essential competencies required for renewal of licensure by June 30, 2004.

H. On the effective date of this rule, teachers holding level I, level II, or level III licenses will continue to hold those licenses at the same level and shall meet the requirements for their level of licensure as provided in 6.69.4.12 NMAC by September 1, 2006, as established through local annual evaluations.

[6.69.4.8 NMAC - N, 09-30-03; A, 05-13-05]

6.69.4.9 IMPLEMENTATION OF THE HIGH OBJECTIVE UNIFORM STATEWIDE STANDARD OF EVALUATION-FOR DEMONSTRATING COMPETENCE IN THE CORE ACADEMIC SUBJECTS AND OTHER ENDORSEMENT AREAS: To meet the requirements of subject area competence by means of the high objective uniform statewide standard of evaluation a candidate must fulfill the requirements in Subsections A and B of 6.69.4.9 NMAC below and either the requirements of Subsections C or D of 6.69.4.9 NMAC below:

A. have successful annual evaluations for ~~the~~ two school years prior to the evaluation, as is defined in ~~6.69.4.10~~ Subsection D of 6.60.6.7 NMAC; and

B. have ~~five~~ two complete school years of successful teaching and either;

C. complete credit hours at a regionally accredited college or university in the core academic subject in which the candidate is seeking to demonstrate competence, as follows:

~~(1) For 7-12, 5-9, and K-12 licenses, the credit hours; must be upper division;~~

~~(2) (1) [for a k-8 licensed teacher] for K-8 elementary licensed teachers or K-12 special education licensed teachers teaching in a self-contained elementary classroom, 24 lower or upper division credit hours across the elementary education core academic subjects of language arts, social studies, mathematics, and science with at least six credit hours in each core area;~~

~~(3) (2) [for a k-8 licensed teacher] for K-8 elementary licensed teachers teaching in a middle school, and K-12 special education licensed teachers teaching in a middle or high school, 18 [or] lower or upper division credit hours in each core academic subject the teacher teaches;~~

~~(4) (3) for 7-12 secondary, 5-9 middle level, and K-12 [licenses] specialty area licensed teachers teaching in a middle school, junior high school, or high school, 18 credit hours, 12 of which must be upper division in each core academic subject the teacher teaches; or~~

D. complete the following combination of coursework through a regionally accredited college or university and by portfolio:

(1) for K-8 licensed elementary teachers teaching in a self-contained elementary classroom, and for a K-12 special education licensed teachers teaching special education students at any grade level who are assessed against alternative achievement standards, 12 lower or upper division credit hours across the elementary education curriculum areas;

(2) for K-8 licensed ~~teacher~~ elementary teachers teaching in a middle school, and for a K-12 special education licensed teachers teaching special education students in a middle school or high school, upper or lower division credit hours as follows:

(a) 12 semester hours in a single core subject area; or

(b) 15 semester hours in two core subject areas, with at least 6 hours in each one; or

(c) 18 semester hours in three core subject areas, with at least 6 hours in each one; or

(d) 24 semester hours in four core subject areas, with at least 6 hours in each one;

(3) for 7-12 secondary, 5-9 middle level, and K-12 [licenses, the upper division credit hours, as] specialty area licensed teachers, the credit hours, specified in Paragraph (2) of Subsection D of 6.69.4.9 NMAC all at the upper division level.

(4) demonstrate to a local panel of teachers the requirements of Sub-paragraphs (a) or (b) below:

(a) mastery of the competence in the instructional strand of the public education department's teacher competencies and indicators for the level of licensure the candidate holds in each core academic subject in which the teacher seeks to demonstrate that he or she is highly qualified by submitting evidence from (1), (2) and (3) as follows:

(i) documentation from Paragraph (1) of Subsection E of 6.69.4.11 NMAC; and

(ii) observation summaries, by each panel member, of the candidate teaching in the area for which he or she is applying; observations by the panel may be done in person or by video; and

(iii) at least two observation summaries, completed by the candidate, of a teacher(s) teaching in the subject area for which the candidate is seeking to be highly qualified.

(b) provide an analysis of student achievement in each core academic subject in which the teacher seeks to demonstrate that he or she is highly qualified by submitting evidence as follows:

(i) explain (350 word maximum) the way(s) in which a class of students demonstrated their achievement (e.g., test, work sample, performance) related to a segment of instruction; include examples of different materials used and student work;

(ii) provide the criteria (350 word maximum) for determining different levels of achievement and how this was communicated to the students; the criteria may be in a handout or other means of communication to students;

(iii) to illustrate relative levels of achievement in the class, provide examples of the work of three unidentified students who represent "high," "mid range," and "low" levels of achievement; these examples may include unidentified student written or drawn work, photographs, audio recordings (5 minute maximum), or video recordings (5 minute maximum and written parental consent to video child);

(iv) explain (350 word maximum) how the three unidentified students differed in their achievement levels and how this achievement relates to the state's standards and/or benchmarks;

(v) explain (350 word maximum) how this data could be taken into account in a subsequent instructional segment for the class.

(c) The local panel of teachers shall consist of two teachers.

(i) One teacher will be appointed by the principal in the school where the teacher seeking to be highly qualified is teaching. The second teacher will be appointed by the candidate.

(ii) Panelists must be highly qualified, as defined in Subsection B, C or D of 6.69.4.7 NMAC, hold a current level II or III-A license, and have an endorsement or license in the subject area or areas to be evaluated.

(iii) Panelists may be from the candidate's same school, or same district, or from another school or district in New Mexico.

(5) Both teachers on the panel must agree that the candidate has met, or exceeds, the competencies and indicators for the level of licensure the teacher being evaluated holds or that the students of the teacher being evaluated have demonstrated growth and progress in each core academic subject the teacher teaches.

(6) The panel shall submit their recommendation to the local superintendent and records of the panel's findings shall be kept on file locally and available to the ~~PE~~ public upon request. Verification of the panel's findings shall be submitted to the public education department in a form acceptable to the department if the candidate is seeking to add an endorsement on his/her license based on Subsection C of 6.69.4.9 NMAC.

(7) If permitted in the public education department's rules governing the subject area the candidate may be issued an endorsement in the evaluated subject area if the candidate has completed the entire process of one of the options in 6.69.4.9 NMAC.

[6.69.4.9 NMAC - N, 09-30-03; A, 10-14-04; A, 05-13-05]

6.69.4.10

IMPLEMENTATION

OF THE HIGH OBJECTIVE UNIFORM STANDARD OF EVALUATION-ANNUAL:

A. No later than October 15, 2004, each school district shall adopt policies, guidelines, and procedures for annual teacher performance evaluation that meet the requirements of this regulation. The annual evaluation plan will be combined with the evaluation plan for licensure advancement provided in subsection A of 6.69.4.11 NMAC to form an overall system for teacher evaluation and support.

B. No later than forty school days after the first of school of each school year, each teacher and his or her school principal shall establish a professional development plan for the teacher, with measurable objectives, for the coming year based on, among other things:

(1) the public education department's nine teaching competencies and indicators for the teacher's licensure level; and

(2) the previous year's annual evaluation, if applicable; and

(3) assurance that the teacher is highly qualified in the core academic subject(s) the teacher teaches and that the district has appropriately assigned the teacher to teach in the subject(s) in which the teacher is highly qualified, as defined in this rule.

C. Annual performance evaluations shall be based on, among other things, how well the professional development plan was carried out and the measurable objectives were achieved.

D. The school principal shall observe each teacher's classroom or program practice at least once annually to determine the teacher's ability to demonstrate state adopted competencies and indicators for each teacher's licensure level.

E. If a level II or level III-A teacher does not demonstrate essential competencies for a given school year, the school district shall provide the teacher with professional development and peer intervention, including mentoring, for a period the school principal deems necessary. If by the end of that school year the teacher still fails to demonstrate essential competencies, a district may choose not to contract with that teacher.

F. If a level III-A teacher does not demonstrate essential competencies at level III-A for a given school year, the school district shall provide the teacher with professional development and peer intervention, including mentoring, for a period the school principal deems necessary. If by the end of the following school year the teacher still fails to demonstrate essential level III-A competencies, the superintendent may recommend to the

~~state superintendent of public instruction~~ secretary of education that the teacher's level III-A license be suspended until such time as the teacher demonstrates the essential competencies at level III-A. Depending on the outcome of any due process proceeding under the Uniform Licensing Act, Sections 61-1-1 through 61-1-31, NMSA 1978, and if the superintendent verifies that the teacher meets the standards for a level II license, the teacher may be issued a level II license during the period of level III-A licensure suspension. A suspended level III-A license may be reinstated by the ~~state superintendent of public instruction~~ secretary of education either upon verification by a local superintendent that the teacher now demonstrates the essential competencies at level III-A or through the process described in 6.69.4.11 NMAC.

G. Any teacher who held a level II or level III-A license prior to July 1, 2004, shall meet the requirements of the high objective uniform standard of evaluation for his/her level of licensure through the annual evaluation process by September 1, 2006 or shall not be eligible for the increased base salary provided in 22-10A-11(C), NMSA 1978.

H. At least every two years, school principals shall attend a training program approved by the department to improve their teacher evaluation skills.

[6.69.4.10 NMAC - N, 09-30-03; A, 10-14-04; A, 05-13-05]

6.69.4.11 IMPLEMENTATION OF THE HIGH OBJECTIVE UNIFORM STANDARD OF EVALUATION FOR ADVANCEMENT TO LEVEL II OR LEVEL III LICENSURE:

A. No later than April 1, 2004, ~~each school district shall submit for approval to the department,~~ each school district shall adopt policies, guidelines, and procedures for teacher performance evaluation for licensure advancement that meet the requirements of this regulation. The licensure advancement plan will be combined with the annual evaluation plan provided in Subsection A of 6.69.4.9 NMAC to form an overall system for teacher evaluation and support.

B. With the adoption of this rule by the ~~state board~~ PED, the minimum salaries associated with licensure levels provided in Chapter 22, Article 10A, NMSA 1978 shall become effective.

C. The teacher shall develop and submit a professional development dossier (PDD) according to the following schedule:

(1) if advancing to level II, ~~during~~ not earlier than three months prior to the completion of the third year at level I;

(2) if advancing to level III, ~~no~~

not earlier than three months prior to the completion of the third year at level II.

D. The PDD shall include:

(1) evidence of competence that ~~has been~~ may be collected over ~~a three-year period~~ multiple school years, including the year the PDD is being developed;

(2) evidence in the following format that demonstrates how the teacher meets the ~~state board's~~ PED's nine teacher competencies and indicators for the level of licensure to which the teacher is advancing; evidence that demonstrates how the teacher meets competencies related to an:

(a) instruction strand (competencies 1, 2, 5); and a

(b) student learning strand (competencies 3, 4, 6, and 7); and a

(c) professional learning strand (competencies 8 and 9).

(3) evidence from an evaluation strand that includes the teacher's annual evaluations from at least the two years prior to the application for advancement and the superintendent's recommendation for advancement to the next licensure level;

(4) a verification strand that includes:

(a) for a level I teacher advancing to level II:

(i) verification of participation in a district's formal mentorship program;

(ii) verification of three years successful teaching experience at level I;

(iii) verification by the superintendent that the work product in the dossier is that of the teacher and that the data submitted is accurate.

(b) for a level II teacher advancing to level IIIA:

(i) verification of a post baccalaureate degree or national board professional teaching certification;

(ii) verification of a minimum three years of successful teaching experience at level II;

(iii) verification by the superintendent that the work product in the dossier is that of the teacher and that the data submitted is accurate.

E. Evidence in the PDD competency strands:

(1) The instruction strand shall include evidence of:

(a) student achievement data; and

(b) assessment techniques and procedures; and

(c) instructional plans and materials; and

(d) examples of student work and performance; and

(e) evidence of implementation of state curriculum standards;

(2) The student learning strand shall include mandatory evidence and may

include optional evidence as follows:

(a) the student learning strand shall include evidence of:

(i) adaptations/modification for diverse learners; and

(ii) evidence of effective classroom management strategies and procedures; and

(iii) classroom observation reports; and

(iv) evidence of communication with students and parents.

(b) the student learning strand may include evidence in the form of:

(i) student surveys; and/or

(ii) video tapes with reflections/analysis.

(3) The professional learning strand shall include evidence of at least one of the following:

(a) professional development activities associated with the teachers annual professional development plan (PDP); or

(b) evidence of collaborating with professional community; or

(c) parent surveys; or

(d) research publications; or

(e) professional presentations.

(4) Evidence comparable and equivalent to Paragraphs (1), (2) and (3) of Subsection E of this section may be developed through ~~regionally accredited college or university programs or through~~ certification by the national board of professional teaching standards (NBPTS).

~~F. The PDD shall be submitted to the state department of education (SDE) or its contractor by the teacher.~~

~~(1) The PDD may be submitted electronically or in paper format. If submitted in paper format, the teacher must include two copies of the PDD.~~

~~(2) The teacher will submit fees for processing and evaluation of the PDD as provided in Subsection C of 6.60.7.8 NMAC.]~~

F. Unless special accommodations are requested in writing to the PED 30 days in advance of a submission, the PDD and associated fees in Subsection C of 6.60.7.8 NMAC shall be submitted electronically following procedures established by the PED.

G. The PDD shall be evaluated ~~and scored~~ by the superintendent of the teacher's school district and by two external reviewers, one of whom shall hold the same grade level licensure and subject area endorsement as the candidate, as follows:

(1) The superintendent will ~~rate the~~ complete the verification and evaluation strands in order to make his recommendation for licensure advancement and the two external reviewers will rate the three

competency strands as "exceeds standards," "meets standards" or "does not meet standards in order to make their recommendations for licensure advancement."

(2) Each one of the ~~five~~ three competency strands of a teacher's PDD reviewed by the independent reviewers must be rated as either "exceeds standards" or "meets standards" and each one of the strands completed by the superintendent must be verified and have a positive recommendation in order for the teacher to advance to the next higher level of licensure.

(3) The superintendent and the reviewers will submit the ~~scored~~ PDD to the ~~SDE~~ PED or its contractor with their ratings.

(4) ~~SDE~~ PED will evaluate the ratings of the superintendent and the external reviewers and approve or deny the teacher's application for licensure advancement:

(a) If one of the external reviewers rates one of the competency strands of the PDD as "exceeds standards" and the other external reviewer rates the same strand as "meets standards", the strand will be deemed passed.

(b) If one of the external reviewers rates one of the competency strands of the PDD as "does not meet standards" and the other rates the same strand as "exceeds standards", the finding will be that the candidate "meets standards" and the strand will be deemed passed.

(c) If one of the external reviewers rates one of the competency strands of the PDD as "does not meet standards" and the other rates the same strand as "meets standards," a third reviewer will resolve the discrepancy in order to determine if the strand will be passed.

(d) If both of the external reviewers rate the competency strand(s) of PDD the same, that rating will be their finding. If, however, both of the external reviewers rate the competency strand(s) of the PDD as "does not meet standards," a third trainer/reviewer may review the strand(s) to confirm or reject their ratings.

H. A candidate for ~~level III-A~~ licensure advancement who is not successful in the PDD may continue to submit a new PDD ~~once annually~~.

I. If a candidate for ~~level III-A~~ licensure advancement meets or exceeds standards in one or some of the ~~five~~ strands, but not in all ~~five~~ of them, the teacher's score(s) of "meets standards" or "exceeds standards" may be retained for a period of two calendar years. Any resubmission of a PDD during that two-year period need only address those strands rated "does not meet standards" in order to determine a final passing score for all ~~five~~

strands for licensure advancement [~~to level~~
~~III-A.~~]
[6.69.4.11 NMAC - N, 09-30-03; A, 05-13-
05]

NEW MEXICO WATER QUALITY CONTROL COMMISSION

This is an amendment to 20.6.4.2, 20.6.4.6 through 20.6.4.16, 20.6.4.50, 20.6.4.54 and 20.6.4.97 through 20.6.4.901 NMAC, effective 05-23-05.

20.6.4.2 SCOPE: Except as otherwise provided by statute or regulation of the water quality control commission, this part governs all surface waters of the state of New Mexico, which are subject to the New Mexico Water Quality Act, Sections 74-6-1 through 74-6-17 NMSA 1978.

[20.6.4.2 NMAC - Rp 20 NMAC 6.1.1002, 10-12-00; A, 05-23-05]

20.6.4.6 OBJECTIVE:

A. The purpose of this part is to establish water quality standards that consist of the designated use or uses of surface waters of the state, the water quality criteria necessary to protect the use or uses[;] and an antidegradation policy.

B. The state of New Mexico is required under the New Mexico Water Quality Act (Subsection C of Section 74-6-4 NMSA 1978) and the federal Clean Water Act, as amended (33 U.S.C. Section 1251 *et seq.*) to adopt water quality standards that protect the public health or welfare, enhance the quality of water[;] and are consistent with and serve the purposes of the New Mexico Water Quality Act and the federal Clean Water Act. It is the objective of the federal Clean Water Act to restore and maintain the chemical, physical[;] and biological integrity of the nation's waters, including those in New Mexico. This part is consistent with Section 101(a)(2) of the federal Clean Water Act, which declares that it is the national goal that wherever attainable, an interim goal of water quality [~~which~~]that provides for the protection and propagation of fish, shellfish[;] and wildlife and provides for recreation in and on the water be achieved by July 1, 1983. Agricultural, municipal, domestic and industrial water supply are other essential uses of New Mexico's surface water; however, water contaminants resulting from these activities will not be permitted to lower the quality of surface waters of the state below that [~~which is~~] required for [~~recreation and maintenance of a fishery and protection of wildlife~~] protection and propagation of fish, shellfish and wildlife and recreation in and on the water, where practicable.

C. Pursuant to Subsection A of Section 74-6-12 NMSA 1978, this part does not grant to the water quality control commission or to any other entity the power to take away or modify property rights in water.

[20.6.4.6 NMAC - Rp 20 NMAC 6.1.1006, 10-12-00; A, 05-23-05]

20.6.4.7 DEFINITIONS: Terms defined in the New Mexico Water Quality Act, but not defined in this part will have the meaning given in the Water Quality Act.

A. "Acute toxicity" means toxicity involving a stimulus severe enough to induce a response in 96 hours of exposure or less. Acute toxicity is not always measured in terms of lethality, but may include other toxic effects that occur within a short time period.

B. "Adjusted gross alpha" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample, including radium-226, but excluding radon-222 and uranium. Also excluded are source, special nuclear and by-product material as defined by the Atomic Energy Act of 1954.

C. "Aquatic life" means any plant or animal life that uses surface water as primary habitat for at least a portion of its life cycle, but does not include avian or mammalian species.

D. "Attainable" means achievable by the imposition of effluent limits required under sections 301(b) and 306 of the Clean Water Act and implementation of cost-effective and reasonable best management practices for nonpoint source control.

[B]E. "Best management practices" or "BMPs" [~~means schedules of activities, prohibitions of certain practices, implementation of maintenance procedures, or other measures or practices selected by the state or a designated management agency to achieve control of sources of water pollutants;~~]

(1) for national pollutant discharge elimination system (NPDES) permitting purposes means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution of "waters of the United States;" BMPs also include treatment requirements, operation procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage; or

(2) for nonpoint source pollution control purposes means methods, measures or practices selected by an agency to meet its nonpoint source control needs; BMPs include but are not limited to structural and nonstructural controls and operation and

maintenance procedures; BMPS can be applied before, during and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters; BMPs for nonpoint source pollution control purposes shall not be mandatory except as required by state or federal law.

[C]E. "Bioaccumulation" refers to the uptake and retention of a substance by an organism from its surrounding medium and food.

[D]G. "Bioaccumulation factor" is the ratio of a substance's concentration in tissue versus its concentration in ambient water, in situations where the organism and the food chain are exposed.

[E]H. "Biomonitoring" means the use of living organisms to test the suitability of effluents for discharge into receiving waters or to test the quality of surface waters of the state.

I. "CAS number" means an assigned number by chemical abstract service (CAS) to identify a substance. CAS numbers index information published in chemical abstracts by the American chemical society.

[F]I. "cfs" means cubic feet per second.

K. "cfu" means colony forming units.

[G]L. "Chronic toxicity" means toxicity involving a stimulus that lingers or continues for a relatively long period relative to the life span of an organism. Chronic effects include, but are not limited to, lethality, growth impairment, behavioral modifications, disease and reduced reproduction.

[H]M. "Classified water of the state" means a surface water of the state, or reach of a surface water of the state, for which the commission has adopted a segment description[;] and has designated a use or uses and applicable water quality [standards. Segment descriptions, designated use or uses, and water quality standards for classified waters of the state are set forth] criteria in [~~this part~~] 20.6.4.101 through 20.6.4.899 NMAC.

[I]N. "Coldwater [fishery]" in reference to an aquatic life use means a surface water of the state where the water temperature and other characteristics are suitable for the support or propagation or both of coldwater [~~fishes~~] aquatic life.

[J]O. "Commission" means the New Mexico water quality control commission.

[K]P. "Criteria" are elements of state water quality standards, expressed as constituent concentrations, levels[;] or narrative statements, representing a quality of water that supports a use. When criteria are met, water quality will [~~generally~~] protect the designated use.

Q. "DDT" and

derivatives" means 4,4'-DDT (CAS number 50293), 4,4'-DDE (CAS number 72559) and 4,4'-DDD (CAS number 72548).

[L]R. "Department" means the New Mexico environment department.

[M]S. "Designated use [or uses]" means ~~[those uses]~~ a use specified in Sections 20.6.4.101 through 20.6.4.899 NMAC for ~~[each]~~ a surface water of the state whether or not ~~[they are]~~ it is being attained.

[N]T. "Dissolved" means a constituent of a water sample ~~[which]~~ that will pass through a 0.45-micrometer pore-size membrane filter under a pressure differential not exceeding one atmosphere. The "dissolved" fraction is also termed "filterable residue."

[O]U. "Domestic water supply" means a surface water of the state that ~~[may]~~ could be used for drinking or culinary purposes after disinfection.

V. "Escherichia coli" or "E. coli" means a bacterial species that inhabits the intestinal tract of humans and other warm-blooded animals, the presence of which indicates the potential presence of pathogenic microorganisms capable of producing disease.

[P]W. "Ephemeral [stream]" when used to describe a surface water of the state means ~~[a stream or reach of a stream that flows briefly]~~ a water body that flows only in direct response to precipitation or snowmelt in the immediate locality; its ~~[channel]~~ bed is always above the water table of the adjacent region ~~[adjoining the stream and does not support a self-sustaining population of fish].~~

[Q]X. "Existing use" means ~~[those uses]~~ a use actually attained in a surface water of the state on or after November 28, 1975, whether or not ~~[they are included in the water quality standards]~~ it is a designated use.

[R]Y. "Fecal coliform bacteria" means the portion of the coliform group ~~[which is]~~ of bacteria present in the gut or the feces of warmblooded animals. It generally includes organisms ~~[which are]~~ capable of producing gas from lactose broth in a suitable culture medium within 24 hours at $44.5 \pm 0.2^\circ\text{C}$.

[S]Z. "Fish culture" means production of coldwater or warmwater fishes in a hatchery or rearing station.

AA. "Fish early life stages" means the egg and larval stages of development of fish ending when the fish has its full complement of fin rays and loses larval characteristics.

[T. "flow," relative to the four definitions of streams herein, means natural flow ensuing from the earth's hydrologic cycle, i.e., atmospheric precipitation resulting in surface and/or ground water

runoff. Natural in stream flow may be interrupted or eliminated by dams and diversions.]

[U]BB. "High quality coldwater [fishery]" in reference to an aquatic life use means a perennial surface water of the state in a minimally disturbed condition ~~[which has]~~ with considerable aesthetic value and ~~[is a]~~ superior coldwater ~~[fishery]~~ aquatic life habitat. A surface water of the state to be so categorized must have water quality, stream bed characteristics[?] and other attributes of habitat sufficient to protect and maintain a propagating coldwater ~~[fishery]~~ aquatic life population.

[V]CC. "Intermittent [stream]" when used to describe a surface water of the state means ~~[a stream or reach of a stream that flows]~~ a water body that contains water only at certain times of the year, such as when it receives flow from springs, melting snow[?] or ~~[localized]~~ precipitation.

[W. "interrupted stream" means a stream that contains perennial reaches with intervening intermittent or ephemeral reaches.]

[X]DD. "Interstate waters" means all surface waters of the state ~~[which]~~ that cross or form a part of the border between states.

[Y]EE. "Intrastate waters" means all surface waters of the state ~~[which]~~ that are not interstate waters.

[Z]FF. "Irrigation" means ~~[a water of the state used as a supply of water for crops]~~ application of water to land areas to supply the water needs of beneficial plants.

[AA]GG. "LC-50" means the concentration of a substance that is lethal to 50 percent of the test organisms within a defined time period. The length of the time period, which may vary from 24 hours to one week or more, depends on the test method selected to yield the information desired.

HH. "Limited aquatic life" as a designated use, means the surface water is capable of supporting only a limited community of aquatic life. This subcategory includes surface waters that support aquatic species selectively adapted to take advantage of naturally occurring rapid environmental changes, ephemeral or intermittent water, high turbidity, fluctuating temperature, low dissolved oxygen content or unique chemical characteristics.

[GG]II. "Livestock watering" means the use of a surface water of the state ~~[used]~~ as a supply of water for consumption by livestock.

[DD]JJ. "Marginal coldwater [fishery]" in reference to an aquatic life use means ~~[a surface water of the state known to support a coldwater fish population during at least some portion of the year, even~~

~~though]~~ that natural intermittent or low flows, or other natural habitat conditions severely limit maintenance of a coldwater aquatic life population or historical data indicate that the maximum temperature in the surface water of the state may exceed ~~[20]~~ 25°C (~~[68]~~ 77°F).

[BB]KK. "[limited] Marginal warmwater [fishery]" in reference to an aquatic life use means ~~[a surface water of the state where]~~ natural intermittent or low flow or other natural habitat conditions ~~[may]~~ severely limit the ability of the ~~[reach]~~ surface water of the state to sustain a natural ~~[fish]~~ aquatic life population on a continuous annual basis; or ~~[a surface water of the state where]~~ historical data indicate that natural water temperature ~~[may]~~ routinely ~~[exceed]~~ exceeds 32.2°C (90°F).

[EE]LL. "Micrograms per liter ($\mu\text{g/L}$)" means micrograms of solute per liter of solution; equivalent to parts per billion when the specific gravity of the solution = 1.000.

[FF]MM. "Milligrams per liter (mg/L)" means milligrams of solute per liter of solution; equivalent to parts per million when the specific gravity of the solution = 1.000.

[GG]NN. "Minimum quantification level" means the minimum quantification level for a constituent determined by official published documents of the United States environmental protection agency.

[HH]OO. "Natural causes" means those causal agents ~~[which]~~ that would affect water quality and the effect is not caused by human activity but is due to naturally occurring conditions.

[H]PP. "Nonpoint source" means any source of pollutants not regulated as a point source ~~[which]~~ that degrades the quality or adversely affects the biological, chemical[?] or physical integrity of surface waters of the state.

[JJ]QQ. "NTU" means nephelometric turbidity units based on a standard method using formazin polymer or its equivalent as the standard reference suspension. Nephelometric turbidity measurements expressed in units of NTU are numerically identical to the same measurements expressed in units of FTU (formazin turbidity units).

RR. "Organoleptic" means the capability to produce a detectable sensory stimulus such as odor or taste.

SS. "Playa" means a shallow closed basin lake typically found in the high plains and deserts.

[KK]TT. "Perennial [stream]" when used to describe a surface water of the state means ~~[a stream or reach of a stream that flows]~~ the water body contains water continuously throughout the year in all years; its upper surface, generally, is lower than the water table of the region adjoining

the stream.

~~[LL]~~**UU. “Picocurie (pCi)”** means a measure of radioactivity equal to the quantity of a radioactive substance in which the rate of disintegrations is 2.22 per minute.

~~[MM]~~**VV. “Point source”** means any discernible, confined[?] and discrete conveyance from which pollutants are or may be discharged into a surface water of the state, but does not include return flows from irrigated agriculture.

WW. “Practicable” means that which may be done, practiced or accomplished; that which is performable, feasible, possible.

~~[NN]~~**XX. “Primary contact”** means any recreational or other water use in which there is prolonged and intimate human contact with the water, such as swimming and water skiing, involving considerable risk of ingesting water in quantities sufficient to pose a significant health hazard. Primary contact also means any use of surface waters of the state for ~~[native American traditional]~~ cultural, religious[?] or ceremonial purposes in which there is intimate human contact with the water, including but not limited to ingestion or immersion, that ~~[involves considerable risk sufficient to]~~ could pose a significant health ~~[risk]~~ hazard. ~~[The contact may include but is not limited to ingestion or immersion.]~~

~~[OO]~~**YY. “Secondary contact”** means any recreational or other water use in which human contact with the water may occur and in which the probability of ingesting appreciable quantities of water is minimal, such as fishing, wading, commercial and recreational boating and any limited seasonal contact.

~~[PP]~~**ZZ. “Segment”** means ~~[a water quality standards segment, the surface waters of which have common]~~ a classified surface water of the state described in 20.6.4.101 through 20.6.4.899 NMAC. The water within a segment should have the same uses, similar hydrologic characteristics or flow ~~[regulation]~~ regimes, ~~[possess common]~~ and natural physical, chemical[?] and biological characteristics[?] and exhibit ~~[common]~~ reactions to external stresses, such as the discharge of pollutants.

AAA. “Specific conductance” means conductivity adjusted to 25°C.

~~[QQ]~~**BBB. “State”** means the state of New Mexico.

~~[RR]~~**CCC. “Surface water(s) of the state”** means all ~~[interstate]~~ surface waters situated wholly or partly within or bordering upon the state, including ~~[interstate wetlands, and all intrastate waters, such as intrastate]~~ lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes,

reservoirs or natural ponds ~~[the use, degradation, or destruction of which would affect interstate or foreign commerce]~~. Surface waters of the state also means all tributaries of such waters, including adjacent wetlands, ~~[and]~~ any manmade bodies of water ~~[which]~~ that were originally created in surface waters of the state or resulted in the impoundment of surface waters of the state, and any “waters of the United States” as defined under the Clean Water Act that are not included in the preceding description. Surface waters of the state does not include private waters that do not combine with other surface or subsurface water or any water under tribal regulatory jurisdiction pursuant to ~~[§]~~Section 518 of the Clean Water Act. Waste treatment systems, including treatment ponds or lagoons designed and actively used to meet requirements of the Clean Water Act (other than cooling ponds as defined in 40 CFR Part 423.11(m) ~~[which]~~ that also meet the criteria of this definition), are not surface waters of the state, unless they were originally created in surface waters of the state or resulted in the impoundment of surface waters of the state.

~~[SS]~~**DDD. “TDS”** means total dissolved solids, also termed “total filterable residue.”

~~[TT]~~**EEE. “Technology-based ~~[controls]~~ limitations”** means the application of technology-based effluent limitations as required under Section 301(b) of the federal Clean Water Act.

~~[UU]~~**FFF. “Total”** means a constituent of a water sample ~~[which]~~ that is analytically determined without filtration.

GGG. “Total PCBs” means the sum of all homolog, all isomer, all congener or all aroclor analyses.

~~[VV]~~**HHH. “Toxic pollutant”** means those pollutants, or combination of pollutants, including disease-causing agents, ~~[which]~~ that after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will cause death, shortened life spans, disease, adverse behavioral ~~[malfunctions]~~ changes, reproductive or physiological impairment or physical deformations in such organisms or their offspring.

III. “Tributary” means a perennial, intermittent or ephemeral waterbody that flows into a larger waterbody, and includes a tributary of a tributary.

~~[WW]~~**JJJ. “Turbidity”** is an expression of the optical property in water that causes incident light to be scattered or absorbed rather than transmitted in straight lines.

~~[XX]~~**KKK.**

“Warmwater~~[fishery]~~” with reference to an aquatic life use means ~~[a surface water of the state where the-]~~ that water temperature and other characteristics are suitable for the support or propagation of both of warmwater ~~[fishes]~~ aquatic life.

~~[YY]~~**LLL. “Water contaminant”** means any substance that could alter if discharged or spilled the physical, chemical, biological or radiological qualities of water. “Water contaminant” does not mean source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, but may include all other radioactive materials, including but not limited to radium and accelerator-produced isotopes.

~~[ZZ]~~**MMM. “Water pollutant”** means a water contaminant in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or the use of property.

~~[AAA]~~**NNN. “Water quality-based controls”** means effluent limitations, as provided under Section 301(b)(1)(C) of the federal Clean Water Act, ~~[which]~~ that are developed and imposed on point-source dischargers in order to protect and maintain applicable water quality standards. These controls are more stringent than the technology-based effluent limitations required under other paragraphs of Section 301(b).

~~[BBB]~~**OOO. “Wetlands”** means those areas ~~[which]~~ that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions in New Mexico. ~~[Constructed wetlands used for wastewater treatment purposes]~~ Wetlands that are constructed outside of a surface water of the state for the purpose of providing wastewater treatment and that do not impound a surface water of the state are not included in this definition.

~~[CCC]~~**PPP. “Wildlife habitat”** means a surface water of the state used by plants and animals not considered as pathogens, vectors for pathogens or intermediate hosts for pathogens for humans or domesticated livestock and plants.

[20.6.4.7 NMAC - Rp 20 NMAC 6.1.1007, 10-12-00; A, 7-19-01; A, 05-23-05]

20.6.4.8 ANTIDEGRADATION POLICY AND IMPLEMENTATION PLAN:

A. Antidegradation Policy: This antidegradation policy applies to all surface waters of the state.

(1) Existing instream water uses and the level of water quality necessary to

protect the existing uses shall be maintained and protected in all surface waters of the state.

(2) Where the quality of a surface water of the state exceeds levels necessary to support the propagation of fish, shellfish, and wildlife, and recreation in and on the water, that quality shall be maintained and protected unless the commission finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the state's continuing planning process, that allowing lower water quality is necessary to accommodate important economic and social development in the area in which the water is located. In allowing such degradation or lower water quality, the state shall assure water quality adequate to protect existing uses fully. Further, the state shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable BMPs for nonpoint source control. Additionally, the state shall encourage the use of watershed planning as a further means to protect surface waters of the state.

(3) No degradation shall be allowed in high quality waters designated by the commission as outstanding national resource waters (ONRWs). ~~[ONRWs may include, but are not limited to, surface waters of the state within national and state monuments, parks, wildlife refuges, waters of exceptional recreational or ecological significance, and waters identified under the Wild and Scenic Rivers Act.]~~

(4) In those cases where potential water quality impairment associated with a thermal discharge is involved, this anti-degradation policy and implementing method shall be consistent with Section 316 of the federal Clean Water Act.

(5) In implementing this section, the commission through the appropriate regional offices of the United States environmental protection agency will keep the administrator advised and provided with such information concerning the surface waters of the state as he or she will need to discharge his or her responsibilities under the federal Clean Water Act.

B. [Procedures for nominating an ONRW: Any person may nominate a surface water of the state for designation as an ONRW by filing a petition with the commission pursuant to the *Guidelines for water quality control commission regulation hearings*. A petition to classify a surface water of the state as an ONRW shall include:

(1) a map of the surface water of the state, including the location and proposed upstream and downstream boundaries;

(2) a written statement based on scientific principles in support of the nomi-

~~nation, including specific reference to the applicable criteria for ONRW;~~

~~(3) supporting scientific evidence demonstrating that one or more of the applicable ONRW criteria listed in Subsection C of this section has been met;~~

~~(4) water quality data to establish a baseline for the proposed ONRW;~~

~~(5) a discussion of activities that might contribute to the reduction of water quality in the proposed ONRW;~~

~~(6) any additional evidence to substantiate such a designation, including an analysis of the economic impact of the designation on the local and regional economy within the state of New Mexico; and~~

~~(7) affidavit of publication of notice of the petition in a newspaper of general circulation in the affected counties and in a newspaper of general statewide circulation.~~

~~C. Pursuant to a petition filed under Subsection B of this section, the commission may classify a surface water of the state as an ONRW.~~

~~D. Reserved: This subsection is reserved for a list of waters classified as ONRWs.~~

E.] Implementation Plan:

The department, acting under authority delegated by the commission, implements the water quality standards, including the anti-degradation policy, by describing specific methods and procedures in the continuing planning process and by establishing and maintaining controls on the discharge of pollutants to surface waters of the state. The steps summarized in the following paragraphs, which may not all be applicable in every water pollution control action, list the implementation activities of the department. These implementation activities are supplemented by detailed antidegradation review procedures developed under the state's continuing planning process. The department:

(1) obtains information pertinent to the impact of the effluent on the receiving water and advises the prospective discharger of requirements for obtaining a permit to discharge;

(2) reviews the adequacy of ~~[the]~~ existing data ~~[base,]~~ and ~~[if additional information is needed,]~~ conducts a water quality survey of the receiving water in accordance with an annually reviewed, ranked priority list of surface waters of the state requiring total maximum daily loads pursuant to Section 303(d) of the federal Clean Water Act;

(3) assesses the probable impact of the effluent on the receiving water relative to its attainable or designated uses and numeric and narrative ~~[standards]~~ criteria;

(4) requires the highest and best degree of wastewater treatment practicable and commensurate with protecting and

maintaining the designated uses and existing water quality of surface waters of the state;

(5) develops water quality based effluent limitations and comments on technology based effluent limitations, as appropriate, for inclusion in any federal permit issued to a discharger pursuant to Section 402 of the federal Clean Water Act;

(6) requires that these effluent limitations be included in any such permit as a condition for state certification pursuant to Section 401 of the federal Clean Water Act;

(7) coordinates its water pollution control activities with other constituent agencies of the commission, and with local, state and federal agencies, as appropriate;

(8) develops and pursues inspection and enforcement programs to ensure that dischargers comply with state regulations and standards, and complements EPA's enforcement of federal permits;

(9) ensures that the provisions for public participation required by the New Mexico Water Quality Act and the federal Clean Water Act are followed;

(10) provides continuing technical training for wastewater treatment facility operators through the utility operators training and certification programs;

(11) provides funds to assist the construction of publicly owned wastewater treatment facilities through the wastewater construction program authorized by Section 601 of the federal Clean Water Act, and through funds appropriated by the New Mexico legislature;

(12) conducts water quality surveillance of the surface waters of the state to assess the effectiveness of water pollution controls, determines whether water quality standards are being attained, and proposes amendments to improve water quality standards;

(13) encourages, in conjunction with other state agencies, ~~[voluntary]~~ implementation of the best management practices set forth in the New Mexico statewide water quality management plan and the nonpoint source management program, such implementation shall not be mandatory except as provided by federal or state law;

(14) evaluates the effectiveness of BMPs selected to prevent, reduce or abate sources of water pollutants;

(15) develops procedures for assessing use attainment as required by ~~[20.6.4.14]~~ 20.6.4.15 NMAC and establishing site-specific standards; and

(16) develops list of surface waters of the state not attaining designated uses, pursuant to Sections 305(b) and 303(d) of the federal Clean Water Act.

[20.6.4.8 NMAC - Rp 20 NMAC 6.1.1101, 10-12-00; A, 05-23-05]

20.6.4.9 OUTSTANDING NATIONAL RESOURCE WATERS:

A. Procedures for nominating an ONRW: Any person may nominate a surface water of the state for designation as an ONRW by filing a petition with the commission pursuant to the *guidelines for water quality control commission regulation hearings*. A petition to classify a surface water of the state as an ONRW shall include:

(1) a map of the surface water of the state, including the location and proposed upstream and downstream boundaries;

(2) a written statement and evidence based on scientific principles in support of the nomination, including specific reference to one or more the applicable ONRW criteria listed in Subsection B of this section;

(3) water quality data including chemical, physical or biological parameters, if available, to establish a baseline condition for the proposed ONRW;

(4) a discussion of activities that might contribute to the reduction of water quality in the proposed ONRW;

(5) any additional evidence to substantiate such a designation, including a discussion of the economic impact of the designation on the local and regional economy within the state of New Mexico and the benefit to the state; and

(6) affidavit of publication of notice of the petition in a newspaper of general circulation in the affected counties and in a newspaper of general statewide circulation.

B. Criteria for ONRWs: A surface water of the state, or a portion of a surface water of the state, may be designated as an ONRW where the commission determines that the designation is beneficial to the state of New Mexico, and:

(1) the water is a significant attribute of a state gold medal trout fishery, national or state park, national or state monument, national or state wildlife refuge or designated wilderness area, or is part of a designated wild river under the federal Wild and Scenic Rivers Act; or

(2) the water has exceptional or ecological significance; or

(3) the existing water quality is equal to or better than the numeric criteria for protection of aquatic life uses, recreational uses and human health uses, and the water has not been significantly modified by human activities in a manner that substantially detracts from its value as a natural resource.

C. Pursuant to a petition filed under Subsection A of this section, the commission may classify a surface water of the state or a portion of a surface water of the state as an ONRW if the criteria set out

in Subsection B of this section are met.

D. Waters classified as ONRWs: Rio Santa Barbara, including the West, Middle and East Forks from their headwaters downstream to the boundary of the Pecos Wilderness.

[20.6.4.9 NMAC - Rn, Subsections B, C and D of 20.6.4.8 NMAC, 05-23-05; A, 05-23-05]

[20.6.4.9] 20.6.4.10 REVIEW OF STANDARDS; NEED FOR ADDITIONAL STUDIES:

A. Section 303(c)(1) of the federal Clean Water Act requires that the state hold public hearings at least once every three years for the purpose of reviewing water quality standards and proposing, as appropriate, necessary revisions to water quality standards.

B. It is recognized that, in some cases, numeric ~~[standards]~~ criteria have been adopted ~~[which]~~ that reflect use designations rather than existing conditions of surface waters of the state. Narrative ~~[standards]~~ criteria are required for many constituents because accurate data on background levels are lacking. More intensive water quality monitoring may identify surface waters of the state where existing quality is considerably better than the established ~~[standards]~~ criteria. When justified by sufficient data and information, the water quality ~~[standards]~~ criteria will be modified to protect the ~~[designated]~~ attainable uses ~~[which are attainable]~~.

C. It is also recognized that contributions of water contaminants by diffuse nonpoint sources of water pollution may make attainment of certain ~~[standards]~~ criteria difficult. Revision of these ~~[standards]~~ criteria may be ~~[required]~~ necessary as new information is obtained on nonpoint sources and other problems unique to semi-arid regions.

[20.6.4.10 NMAC - Rp 20 NMAC 6.1.1102, 10-12-00; Rn, 20.6.4.9 NMAC, 05-23-05; A, 05-23-05]

[20.6.4.10] 20.6.4.11 APPLICABILITY OF WATER QUALITY STANDARDS:

A. [Livestock Watering and Wildlife Habitat Uses] Waters Created by Discharge:

~~[(1)]~~ When a discharge ~~[creates a water which could be used by livestock and/or wildlife in a non-classified,]~~ to an otherwise ephemeral or intermittent, non-classified surface water of the state ~~[, such water shall be protected for the uses of livestock watering and/or wildlife habitat by the standards applicable to these uses as set forth in 20.6.4.900 NMAC.~~

~~(2) Designated uses of such water will be limited to livestock watering and/or wildlife habitat only when such a water~~

~~does not enter a classified surface water of the state with criteria which are more restrictive than those necessary to protect livestock watering and/or wildlife habitat, except in direct response to precipitation or runoff. The commission shall adopt any additional designated uses for such surface waters of the state by rulemaking proceedings.~~

~~(3) When such a water, except in direct response to precipitation or runoff, enters a classified surface water of the state with criteria [which] that are more restrictive than [those necessary to protect livestock watering and/or wildlife habitat, the numeric standards established for the classified surface water of the state] the criteria listed in 20.6.4.97 or 20.6.4.98 NMAC, the more restrictive criteria shall apply at the point such a water enters the [classified] surface water of the state with the more restrictive criteria. If discharge to such otherwise ephemeral or intermittent, non-classified waters of the state ceases or is diverted elsewhere [, all uses adopted under this section or subsequently under additional rulemaking proceedings for such waters of the state shall be deemed no longer designated, existing, or attainable] the criteria listed in 20.6.4.97 or 20.6.4.98 NMAC shall apply.~~

B. Critical Low Flow: The numeric standards set under Subsection F of ~~[20.6.4.12]~~ 20.6.4.13 NMAC, 20.6.4.101 through 20.6.4.899 NMAC and 20.6.4.900 NMAC may not be attainable when streamflow is less than the critical low flow ~~[of the stream in question]~~, but narrative criteria in 20.6.4.13 NMAC will continue to apply. The critical low flow of a stream at a particular site shall be:

(1) for human health criteria, the harmonic mean flow; "harmonic mean flow" is the number of daily flow measurements divided by the sum of the reciprocals of the flows; that is, it is the reciprocal of the mean of reciprocals; for ephemeral waters the calculation shall be based upon the nonzero flow intervals and modified by including a factor to adjust for the proportion of intervals with zero flow;

[Continued on page 398]

$$\text{Harmonic Mean} = \frac{n}{\sum 1/[*] Q}$$

where n = number of flow values
and Q = flow value

Modified Harmonic Mean =

$$\left[\frac{\sum_{i=1}^{N_t - N_0} \frac{1}{Q_i}}{N_t - N_0} \right]^{-1} \times \left[\frac{N_t - N_0}{N_t} \right]$$

where, Q_i = nonzero flow
 N_t = total number of flow values
and N_0 = number of zero flow values

(2) for all other narrative and numeric criteria, the minimum average four consecutive day flow ~~which~~ that occurs with a frequency of once in three years (4Q3); critical low-flow numeric values may be determined on an annual, a seasonal or a monthly basis, as appropriate, after due consideration of site-specific conditions.

C. Guaranteed Minimum Flow: ~~[On a case-by-case basis and upon consultation with the interstate stream commission, the]~~ The commission may allow the use of a contractually guaranteed minimum streamflow in lieu of a critical low flow determined under Subsection B of this section on a case-by-case basis and upon consultation with the interstate stream commission. Should drought, litigation or any other reason interrupt or interfere with minimum flows under a guaranteed minimum flow contract for a period of at least thirty consecutive days, such permission, at the sole discretion of the commission, may then be revoked. Any minimum flow specified under such revoked permission shall be superseded by a critical low flow determined under Subsection B of this section. A public notice of the request for a guaranteed minimum flow shall be published in a newspaper of general circulation by the department at least 30 days prior to scheduled action by the commission. These water quality standards do not grant to the commission or any other entity the power to create, take away or modify property rights in water.

D. Mixing Zones: A limited mixing zone, contiguous to a point source wastewater discharge, may be allowed in any stream receiving such a discharge. Mixing zones serve as regions of initial dilution ~~which~~ that allow the appli-

cation of a dilution factor in calculations of effluent limitations. Effluent limitations shall be developed ~~which~~ that will protect the most sensitive existing, designated or attainable use of the receiving water.

E. Mixing Zone

Limitations: Wastewater mixing zones, in which the numeric ~~standards~~ criteria set under Subsection F of ~~[20.6.4.12]~~ 20.6.4.13 NMAC, 20.6.4.101 through 20.6.4.899 NMAC or 20.6.4.900 NMAC may be exceeded, shall be subject to the following limitations:

(1) Mixing zones are not allowed for discharges to publicly owned lakes, reservoirs, or playas; these effluents shall meet all applicable ~~standards~~ criteria set under Subsection F of ~~[20.6.4.12]~~ 20.6.4.13 NMAC, 20.6.4.101 through 20.6.4.899 NMAC and 20.6.4.900 NMAC at the point of discharge.

(2) The acute numeric ~~standards~~ criteria, as set out in Paragraph (1) of Subsection ~~[F]~~, Subsection ~~[M]~~, ~~[Paragraph (1) of Subsection N, and Paragraph (1) of]~~ and Subsection ~~[O]~~ 20.6.4.900 NMAC, shall be attained at the point of discharge for any discharge to a surface water of the state with a designated ~~fishery~~ aquatic life use.

(3) The general ~~standards~~ criteria set out in Subsections A, B, C, D, E, G, H~~]~~ and J of ~~[20.6.4.12]~~ 20.6.4.13 NMAC, and the provision set out in Subsection D of ~~[20.6.4.13]~~ 20.6.4.14 NMAC are applicable within mixing zones.

(4) The areal extent and concentration isopleths of a particular mixing zone will depend on site-specific conditions including, but not limited to, wastewater flow, receiving water critical low flow, out-fall design, channel characteristics and climatic conditions and, if needed, shall be determined on a case-by-case basis. When the physical boundaries or other characteristics of a particular mixing zone must be known, the methods presented in Section 4.4.5, "Ambient-induced mixing," in "Technical support document for water quality-based toxics control" (March 1991, EPA/505/2-90-001) shall be used.

(5) All applicable water quality ~~standards~~ criteria set under Subsection F of ~~[20.6.4.12]~~ 20.6.4.13 NMAC, 20.6.4.101 through 20.6.4.899 NMAC and 20.6.4.900 NMAC, ~~[except Paragraph (1) of Subsection J, acute aquatic life criteria of Subsection M, Paragraph (1) of Subsection N, and Paragraph (1) of Subsection O of 20.6.4.900 NMAC,]~~ shall be attained at the boundaries of mixing zones. A continuous zone of passage through or around the mixing zone shall be maintained in which the water quality meets all applicable ~~standards~~ criteria and allows the migration of aquatic life presently common in surface waters of the state with no effect on their

populations.

F. Multiple Uses: When a classified water of the state has more than a single designated use, the applicable numeric ~~standards~~ criteria shall be the most stringent of those established for such classified water.

G. Human health ~~standards~~ criteria in Subsection J of Section 20.6.4.900 NMAC shall apply to those waters with a designated, existing or attainable ~~fishery~~ aquatic life use. When limited aquatic life is a designated use, the human health criteria shall apply only if adopted on a segment-specific basis. The human health ~~standards~~ criteria for persistent toxic pollutants, as identified in Subsection ~~[M]~~ of Section 20.6.4.900 NMAC, shall also apply to all tributaries of waters with a designated, existing or attainable ~~fishery~~ aquatic life use.

H. Aquatic Life: Aquatic life criteria shall apply to all surface waters of the state containing an aquatic life community. Except when a limited aquatic life use and specific criteria have been designated on a segment-specific basis, or when otherwise provided in this part, chronic aquatic life criteria listed in Subsection J of 20.6.4.900 NMAC are applicable to all perennial surface waters of the state, and acute aquatic life criteria listed in Subsection J of 20.6.4.900 NMAC are applicable to all surface waters of the state.

I. Exceptions: Numeric criteria for temperature, dissolved solids, dissolved oxygen, sediment or turbidity adopted under the Water Quality Act do not apply when changes in temperature, dissolved solids, dissolved oxygen, sediment or turbidity in a surface water of the state are attributable to:

(1) natural causes (discharges from municipal separate storm sewers are not covered by this exception.); or

(2) the reasonable operation of irrigation and flood control facilities that are not subject to federal or state water pollution control permitting; major reconstruction of storage dams or division dams except for emergency actions necessary to protect health and safety of the public are not covered by this exception.

[20.6.4.11 NMAC - Rp 20 NMAC 6.1.1103, 10-12-00; A, 10-11-02; Rn, 20.6.4.10 NMAC, 05-23-05; A, 05-23-05]

~~[20.6.4.11]~~ 20.6.4.12 **COMPLIANCE WITH WATER QUALITY STANDARDS:** The following provisions apply to determining compliance for enforcement purposes; they do not apply for purposes of determining attainment of uses. The department has developed assessment protocols for the purpose of determining attainment of uses that are available for review from the department's surface water

quality bureau.

A. Compliance with acute water quality ~~[standards]~~ criteria shall be determined from the analytical results of a single grab sample. Acute ~~[standards]~~ criteria shall not be exceeded.

B. Compliance with chronic water quality ~~[standards]~~ criteria shall be determined from the arithmetic mean of the analytical results of samples collected using applicable protocols. Chronic ~~[standards]~~ criteria shall not be exceeded more than once every three years.

C. Compliance with water quality standards for total ammonia shall be determined by performing the biomonitoring procedures set out in Subsections D and E of ~~[20.6.4.13]~~ 20.6.4.14 NMAC, or by attainment of applicable ammonia ~~[standards]~~ criteria set out in Subsections ~~[N and O]~~ K, L and M of 20.6.4.900 NMAC.

D. Compliance with water quality ~~[standards]~~ criteria for the protection of human health shall be determined from the analytical results of representative grab samples, as defined in the water quality management plan. Human health ~~[standards]~~ criteria shall not be exceeded.

E. The commission may establish a numeric water quality standard at a concentration that is below the minimum quantification level. In such cases, the water quality standard is enforceable at the minimum quantification level.

F. In determining compliance with ~~[standards]~~ criteria for chromium an analysis ~~[which]~~ that measures both the trivalent and hexavalent ions shall be used.

G. For compliance with hardness-dependent numeric ~~[standards]~~ criteria, hardness (as mg CaCO₃/L) shall be determined from a sample taken at the same time that the sample for the water contaminant is taken ~~[or from available verifiable data sources including, but not limited to, the U.S. environmental protection agency's STORET water quality database].~~

H. The hardness-dependent formulae for metals shall be valid only for hardness values of 0-400 mg/L. For values above 400 mg/L, the value for 400 mg/L shall apply.

I. The total ammonia tables shall be valid only for temperatures of 0 to 30°C and for pH values of 6.5 to 9.0. For temperatures below 0°C, the total ammonia ~~[standards]~~ criteria for 0°C shall apply; for temperatures above 30°C, the total ammonia ~~[standards]~~ criteria for 30°C shall apply. For pH values below 6.5, the total ammonia ~~[standards]~~ criteria for 6.5 shall apply; for pH values above 9.0, the total ammonia ~~[standards]~~ criteria for 9.0 shall apply.

J. **Compliance Schedules:** It shall be the policy of the

commission to allow on a case-by-case basis the inclusion of a schedule of compliance in a ~~[national pollutant discharge elimination system (NPDES)]~~ permit issued to an existing facility. Such schedule of compliance will be for the purpose of providing a permittee with adequate time to make treatment facility modifications necessary to comply with water quality based permit limitations determined to be necessary to implement new or revised water quality standards. Compliance schedules may be included in NPDES permits at the time of permit renewal or modification and shall be written to require compliance at the earliest practicable time. Compliance schedules shall also specify milestone dates so as to measure progress towards final project completion (e.g., design completion, construction start, construction completion, date of compliance).

[20.6.4.12 NMAC - Rp 20 NMAC 6.1.1104, 10-12-00; A, 10-11-02; Rn, 20.6.4.11 NMAC, 05-23-05; A, 05-23-05]

[20.6.4.12] 20.6.4.13 GENERAL [STANDARDS] CRITERIA:

General ~~[standards]~~ criteria are established to sustain and protect existing or attainable uses of surface waters of the state. These general ~~[standards]~~ criteria apply to all surface waters of the state at all times, unless a specified ~~[standard]~~ criterion is provided elsewhere in this part. Surface waters of the state shall be free of any water contaminant in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or unreasonably interfere with the public welfare or the use of property. ~~[When changes in dissolved oxygen, temperature, dissolved solids, sediment or turbidity in a water of the state is attributable to natural causes or the reasonable operation of irrigation and flood control facilities that are not subject to federal or state water pollution control permitting, numerical standards for temperature, dissolved solids content, dissolved oxygen, sediment or turbidity adopted under the Water Quality Act do not apply. The foregoing provision does not include major reconstruction of storage dams or diversion dams except for emergency actions necessary to protect health and safety of the public, or discharges from municipal separate storm sewers.]~~

A. Bottom Deposits and Suspended or Settleable Solids:

(1) Surface waters of the state shall be free of water contaminants including fine sediment particles (less than two millimeters in diameter), precipitates or organic or inorganic solids from other than natural causes that will settle and have settled to form layers on or fill the interstices of the natural or dominant substrate in quantities that damage or impair the normal

growth, function~~[s]~~ or reproduction of aquatic life or significantly alter the physical or chemical properties of the bottom.

(2) Suspended or settleable solids from other than natural causes shall not be present in surface waters of the state in quantities that damage or impair the normal growth, function or reproduction of aquatic life or adversely affect other designated uses.

B. Floating Solids, Oil and Grease: Surface waters of the state shall be free of oils, scum, grease and other floating materials resulting from other than natural causes that would cause the formation of a visible sheen or visible deposits on the bottom or shoreline, or would damage or impair the normal growth, function or reproduction of human, animal, plant or aquatic life.

C. Color: Color-producing materials resulting from other than natural causes shall not create an aesthetically undesirable condition nor shall color impair the use of the water by desirable aquatic life presently common in surface waters of the state.

D. ~~[Odor and Taste of Fish]~~ Organoleptic Quality:

(1) **Flavor of Fish:** Water contaminants from other than natural causes shall be limited to concentrations that will not impart unpalatable flavor to fish~~[or]~~.

(2) **Odor and Taste of Water:** Water contaminants from other than natural causes shall be limited to concentrations that will not result in offensive odor or taste arising in a surface water of the state or otherwise interfere with the reasonable use of the water.

E. Plant Nutrients: Plant nutrients from other than natural causes shall not be present in concentrations ~~[which]~~ that will produce undesirable aquatic life or result in a dominance of nuisance species in surface waters of the state.

F. Toxic Pollutants:

(1) ~~[Surface]~~ Except as provided in 20.6.4.16 NMAC, surface waters of the state shall be free of toxic pollutants from other than natural causes in amounts, concentrations or combinations ~~[which]~~ that affect the propagation of fish or ~~[which]~~ that are toxic to humans, livestock or other animals, fish or other aquatic organisms, wildlife using aquatic environments for habitation or aquatic organisms for food, or ~~[which]~~ that will or can reasonably be expected to bioaccumulate in tissues of fish, shellfish and other aquatic organisms to levels ~~[which]~~ that will impair the health of aquatic organisms or wildlife or result in unacceptable tastes, odors or health risks to human consumers of aquatic organisms.

(2) Pursuant to this section, the human health criteria shall be as set out in 20.6.4.900 NMAC. For a toxic pollutant for

human health not listed in 20.6.4.900 NMAC, the following provisions shall be applied in accordance with [20.6.4.10, 20.6.4.11] 20.6.4.11, 20.6.4.12 and [20.6.4.13] 20.6.4.14 NMAC.

(a) The human health criterion shall be the recommended human health criterion for "consumption of organisms only" published by the U.S. environmental protection agency pursuant to Section 304(a) of the federal Clean Water Act. In determining such criterion for a cancer-causing toxic pollutant, a cancer risk of 10-5 (one cancer per 100,000 exposed persons) shall be used.

(b) When a numeric criterion for the protection of human health has not been published by the U.S. environmental protection agency, a quantifiable criterion may be derived from data available in the U.S. environmental protection agency's Integrated Risk Information System (IRIS) using the appropriate formula specified in methodology for deriving ambient water quality criteria for the protection of human health (2000), EPA-822-B-00-004.

(3) Pursuant to this section, the chronic aquatic life standard shall be as set out in 20.6.4.900 NMAC. For a toxic pollutant for aquatic life with no chronic standard listed in 20.6.4.900 NMAC, the following provisions shall be applied in sequential order in accordance with [20.6.4.10, 20.6.4.11] 20.6.4.11, 20.6.4.12 and [20.6.4.13] 20.6.4.14 NMAC.

(a) The chronic aquatic life criterion shall be the "freshwater criterion continuous concentration" published by the U.S. environmental protection agency pursuant to Section 304(a) of the federal Clean Water Act;

(b) If the U.S. environmental protection agency has not published a chronic aquatic life criterion, a geometric mean LC-50 value shall be calculated for the particular species, genus or group, ~~which~~ that is representative of the form of life to be preserved, using the results of toxicological studies published in scientific journals.

(i) The chronic aquatic life criterion for a toxic pollutant ~~which~~ that does not bioaccumulate shall be 10 percent of the calculated geometric mean LC-50 value; and

(ii) The chronic aquatic life criterion for a toxic pollutant ~~which~~ that does bioaccumulate shall be: the calculated geometric mean LC-50 adjusted by a bioaccumulation factor for the particular species, genus or group representative of the form of life to be preserved, but when such bioaccumulation factor has not been published, the criterion shall be one percent of the calculated geometric mean LC-50 value.

(4) Pursuant to this section, the acute aquatic life criteria shall be as set out in 20.6.4.900 NMAC. For a toxic pollutant

for aquatic life with no acute criterion listed in 20.6.4.900 NMAC, the acute aquatic life criterion shall be the "freshwater criterion maximum concentration" published by the U.S. environmental protection agency pursuant to Section 304(a) of the federal Clean Water Act.

(5) Within 90 days of the issuance of a final NPDES permit containing a numeric criterion selected or calculated pursuant to Paragraph 2, Paragraph 3 or Paragraph 4 of Subsection F of this section, the department shall petition the commission to adopt such criterion into these standards.

~~[(6) The use of a piscicide registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. Section 136 et seq., and under the New Mexico Pesticide Control Act (NMPCA), Section 76-4-1 et seq. NMSA 1978 (1973), shall not be a violation of Subsection F of this section when such use has been approved by the commission. Any person seeking commission approval of the use of a piscicide shall file a written petition with the commission. The petition shall contain, at a minimum, the following information: (1) petitioner's name and address; (2) identity of the piscicide; (3) documentation of registration under FIFRA and NMPCA; (4) target and potential non-target species, including threatened or endangered species; (5) potential environmental consequences and protocols for limiting such impacts; (6) affected surface water of the state; (7) results of pre-treatment survey; (8) evaluation of available alternatives and justification for selecting piscicide use; (9) post-treatment assessment monitoring protocol; and (10) any other information required by the commission. The commission shall review the petition and require a public hearing in the locality affected by the proposed use in accordance with Adjudicatory Procedures, 20.1.3 NMAC. In addition to the public notice requirements in Adjudicatory Procedures, 20.1.3 NMAC, the petitioner shall provide written notice to (1) local political subdivisions; (2) local water planning entities; (3) local conservancy and irrigation districts; and (4) local media outlets, except that the petitioner shall only be required to publish notice in a newspaper of circulation in the locality affected by the proposed use. After a public hearing, the commission may grant the petition in whole or in part, may grant the petition subject to conditions, or may deny the petition. In granting any petition in whole or part or subject to conditions, the commission shall require the petitioner to implement post-treatment assessment monitoring.]~~

G. **Radioactivity:** The radioactivity of surface waters of the state shall be maintained at the lowest practical

level and shall in no case exceed the ~~[standards] criteria~~ set forth in the New Mexico Radiation Protection Regulations, ~~[20.3.1.400 through 20.3.1.499] 20.3.1 and 20.3.4 NMAC~~ [(5-3-95)].

H. **Pathogens:** Surface waters of the state shall be ~~[virtually]~~ free of pathogens from other than natural sources in sufficient quantity to impair public health or the designated, existing or attainable uses of a surface water of the state. ~~[In particular, surface waters of the state used for irrigation of table crops such as lettuce shall be virtually free of Salmonella and Shigella species.]~~

I. **Temperature:** Maximum temperatures for each classified water of the state have been specified in 20.6.4.101 through 20.6.4.899 NMAC. However, the introduction of heat by other than natural causes shall not increase the temperature, as measured from above the point of introduction, by more than 2.7°C (5°F) in a stream, or more than 1.7°C (3°F) in a lake or reservoir. In no case will the introduction of heat be permitted when the maximum temperature specified for the reach ~~[(generally 20°C (68°F) for coldwater fisheries and 32.2°C (90°F) for warmwater fisheries)]~~ would thereby be exceeded. These temperature ~~[standards] criteria~~ shall not apply to impoundments constructed off-stream for the purpose of heat disposal. High water temperatures caused by unusually high ambient air temperatures are not violations of these standards.

J. **Turbidity:** Turbidity attributable to other than natural causes shall not reduce light transmission to the point that the normal growth, function[-] or reproduction of aquatic life is impaired or that will cause substantial visible contrast with the natural appearance of the water. Turbidity shall not exceed 10 NTU over background turbidity when the background turbidity is 50 NTU or less, or increase more than 20 percent when the background turbidity is more than 50 NTU. Background turbidity shall be measured at a point immediately upstream of the turbidity-causing activity. However, limited-duration activities necessary to accommodate dredging, construction or other similar activities and that cause the criterion to be exceeded may be authorized provided all practicable turbidity control techniques have been applied and all appropriate permits and approvals have been obtained.

K. **[Salinity:]** ~~Where existing information is sufficient, numerical standards for TDS (or conductivity), chlorides and sulfates, have been adopted in 20.6.4.101 through 20.6.4.899 NMAC. The following standards apply at the downstream point of the reach in which they are set:]~~ **Total Dissolved Solids (TDS):** TDS attributable to other than natural causes

shall not damage or impair the normal growth, function or reproduction of animal, plant or aquatic life. TDS shall be measured by either the "calculation method" (sum of constituents) or the filterable residue method. Approved test procedures for these determinations are set forth in 20.6.4.14 NMAC.

~~(1) For the tributaries of the Colorado river system, the state of New Mexico will cooperate with the Colorado river basin states and the federal government to support and implement the salinity policy and program outlined in the report "1999 Review, water quality standards for salinity, Colorado river system."~~

~~(2) Numeric criteria for salinity are established at three points in the Colorado river basin as follows: below Hoover dam, 723 mg/L; below Parker dam, 747 mg/L; and at Imperial dam, 879 mg/L.~~

~~(3) As a part of the program, objectives for New Mexico shall include the elimination of discharges of water containing solids in solution as a result of the use of water to control or convey fly ash from coal-fired electric generators, wherever practicable.~~

~~(4) In determining compliance with the numeric criteria hereby adopted, salinity (TDS) shall be determined by either the "calculation method" (sum of constituents) or the filterable residue method. Approved test procedures for these determinations are as set forth in 20.6.4.13 NMAC.]~~

L. Dissolved Gases:

Surface waters of the state shall be free of nitrogen and other dissolved gases at levels above 110 percent saturation when this supersaturation is attributable to municipal, industrial or other discharges.

[20.6.4.13 NMAC - Rp 20 NMAC 6.1.1105, 10-12-00; A, 10-11-02; Rn, 20.6.4.12 NMAC, 05-23-05; A, 05-23-05]

~~[20.6.4.13]~~ **20.6.4.14** SAMPLING AND ANALYSIS:

~~A. [All methods of sample collection, preservation and analysis used in determining water quality and maintenance of these standards shall be in accordance with approved or accepted test procedures published in "Guidelines establishing test procedures for the analysis of pollutants under the Clean Water Act," 40 CFR Part 136, or any test procedure approved or accepted by EPA using procedures provided in 40 CFR Parts 136.3(d), 136.4, and 136.5. Test procedures approved or accepted under 40 CFR Part 136 are published in the references cited herein and in other references.~~

~~(1) "Standard methods for the examination of water and wastewater," American public health association.~~

~~(2) "Methods for chemical analysis of water and wastes," U.S. environmen-~~

~~tal protection agency.~~

~~(3) "Methods for determination of inorganic substances in water and fluvial sediments," techniques of water resource investigations of the U.S. geological survey.~~

~~(4) "Methods for the determination of organic substances in water and fluvial sediments," techniques of water resource investigations of the U.S. geological survey.] Sampling and analytical techniques shall conform with methods described in the following references unless otherwise specified by the commission pursuant to a petition to amend these standards:~~

~~(1) "guidelines establishing test procedures for the analysis of pollutants under the Clean Water Act," 40 CFR Part 136 or any test procedure approved or accepted by EPA using procedures provided in 40 CFR Parts 136.3(d), 136.4, and 136.5;~~

~~(2) standard methods for the examination of water and wastewater, latest edition, American public health association;~~

~~(3) methods for chemical analysis of water and waste, and other methods published by EPA office of research and development or office of water;~~

~~(4) techniques of water resource investigations of the U.S. geological survey;~~

~~(5) annual book of ASTM standards: volumes 11.01 and 11.02, water (I) and (II), latest edition, ASTM international;~~

~~(6) federal register, latest methods published for monitoring pursuant to Resource Conservation and Recovery Act regulations;~~

~~(7) national handbook of recommended methods for water-data acquisition, latest edition, prepared cooperatively by agencies of the United States government under the sponsorship of the U.S. geological survey; or~~

~~(8) federal register, latest methods published for monitoring pursuant to the Safe Drinking Water Act regulations.~~

B. Bacteriological Surveys: The monthly geometric mean shall be used in assessing attainment of ~~[standards]criteria~~ when a minimum of five samples is collected in a 30-day period.

C. Sampling Procedures:

(1) Streams: Stream monitoring stations below ~~[waste]~~ discharges shall be located a sufficient distance downstream to ensure adequate vertical and lateral mixing.

(2) Lakes: Sampling stations in lakes shall be located at least 250 feet from a ~~[waste]~~ discharge.

(3) Lakes: Except for the restriction specified in Paragraph (2) of this subsection, lake sampling stations shall be located at any site where the attainment of a water quality standard is to be assessed. Water quality measurements taken at intervals in the entire water column at a sampling station shall be averaged for the epilimnion, or in the absence of an epilimnion,

for the upper one-third of the water column of the lake to determine attainment of ~~[standards] criteria~~, except that attainment of ~~[standards] criteria~~ for toxic pollutants shall be assessed during periods of complete vertical mixing, e.g., during spring or fall turnover, or by taking depth-integrated composite samples of the water column.

D. Acute toxicity of effluent to aquatic life shall be determined using the procedures specified in U.S. environmental protection agency "methods for measuring the acute toxicity of effluents to freshwater and marine organisms" [~~4th Ed., 1991, EPA/600/4-90/027~~] (5th Ed., 2002, EPA 821-R-02-012), or latest edition thereof if adopted by EPA at 40 CFR Part 136, which is incorporated herein by reference. Acute toxicities of substances shall be determined using at least two species tested in whole effluent and a series of effluent dilutions. Acute toxicity due to discharges shall not occur within the wastewater mixing zone in any surface water of the state with an existing or designated ~~[fishery] aquatic life use~~.

E. Chronic toxicity of effluent or ambient surface waters of the state to aquatic life shall be determined using the procedures specified in U.S. environmental protection agency "Short-term methods for estimating the chronic toxicity of effluents and receiving waters to freshwater organisms" [~~2nd Ed., 1989, EPA 600/4-89/001~~] (4th Ed., 2002, EPA 821-R-02-013), or latest edition thereof if adopted by EPA at 40 CFR Part 136, which is incorporated herein by reference. Chronic toxicities of substances shall be determined using at least two species tested in ambient surface water or whole effluent and a series of effluent dilutions. Chronic toxicity due to discharges shall not occur at the critical low flow, or any flow greater than the critical low flow, in any surface water of the state with an existing or designated ~~[fishery] aquatic life use~~ more than once every three years.

[20.6.4.14 NMAC - Rp 20 NMAC 6.1.1106, 10-12-00; Rn, 20.6.4.13 NMAC, 05-23-05, A, 05-23-05]

~~[20.6.4.14]~~ **20.6.4.15** USE ATTAINABILITY ANALYSIS:

A. A use attainability analysis is a scientific study ~~[which] that~~ shall be conducted only for the purpose of assessing the factors affecting the attainment of a use. Whenever a use attainability analysis is conducted, it shall be subject to the requirements and limitations set forth in 40 CFR Part 131, Water Quality Standards; specifically, Subsections 131.3(g), 131.10(g), 131.10(h) and 131.10(j) shall be applicable ~~[as follows]~~.

(1) ~~[The department must conduct a use attainability analysis whenever it] Any~~

person who proposes to classify, or reclassify to a designated use with less stringent criteria, a surface water of the state with designated uses ~~[which] that~~ do not include the uses specified in Section 101(a)(2) of the federal Clean Water Act must conduct a use attainability analysis. Section 101(a)(2) uses are also specified in Subsection B of 20.6.4.6 NMAC.

(2) A designated use cannot be removed if it is an existing use.

(3) A use attainability analysis or an equivalent study approved by the department and the regional administrator must be conducted to remove any non-existing designated use from any classified waters of the state.

B. ~~[Any person proposing to conduct a use attainability analysis or equivalent study shall publish notice of this intent in a newspaper of local and statewide circulation. The cost of publication shall be the responsibility of the person proposing such action. The notice shall describe the surface water of the state and uses to be assessed, identify the persons to contact for complete information, and describe how interested persons can participate in the use attainability analysis or equivalent study.]~~

C. ~~Any person may submit a petition to the department stating that they intend to conduct a use attainability analysis or equivalent study. At a minimum, the department, the New Mexico game and fish department, the state engineer and the U.S. fish and wildlife service shall be consulted during the development of a work plan for such analysis or equivalent study. The petitioner shall develop a work plan to conduct the use attainability analysis or equivalent study and shall submit the work plan to the department and the regional administrator of the EPA for review and approval. A copy of the petition and the work plan must be submitted concurrently to the commission. Upon approval of the work plan by the department and the regional administrator, the petitioner shall conduct the use attainability analysis or equivalent study in accordance with the approved work plan. The cost of such analysis or equivalent study shall be the responsibility of the petitioner.~~

D.] Physical, chemical and biological evaluations of surface waters of the state other than lakes and reservoirs for purposes of use attainability analyses or equivalent studies shall be conducted according to the procedures outlined in the "technical support manual: waterbody surveys and assessments for conducting use attainability analyses," United States environmental protection agency, office of water, regulations and standards, Washington, D.C., November 1983, or latest edition thereof, which is incorporated herein by reference, or an alternative equivalent study methodology approved by the

department.

[E]C. Physical, chemical and biological evaluations of lakes and reservoirs for purposes of use attainability analyses or equivalent studies shall be conducted according to the procedures outlined in the "technical support manual: waterbody surveys and assessments for conducting use attainability analyses, volume III: lake systems," United States environmental protection agency, office of water, regulations and standards, Washington, D.C., November 1984, or latest edition thereof, which is incorporated herein by reference, or an alternative equivalent study methodology approved by the department.

[F]D. A use attainability analysis or equivalent study should include ~~[any applicable information concerning the following]:~~

(1) identification of existing uses of the surface water of the state to be reviewed ~~[which] that~~ have existed since 1975;

(2) an evaluation of the best water quality attained in the surface water of the state to be reviewed ~~[which] that~~ has existed since 1975;

(3) ~~[a technological analysis which identifies available treatment options for point and nonpoint sources to meet applicable water quality standards for the designated uses]~~ an analysis of appropriate factors demonstrating that attaining the designated use is not feasible because of the condition listed in 40 CFR Part 131.10(g);

(4) ~~[an economic analysis which evaluates social and economic impacts associated with available treatment options;~~

~~(5)]~~ a physical ~~[and biological]~~ evaluation of the surface water of the state to be reviewed to identify ~~[any]~~ factors ~~[unrelated to water quality which] that~~ impair attainment of designated uses and to determine ~~[which] that~~ designated uses are feasible to attain in such surface water of the state ~~[given existing physical limitations];~~

~~(6)](5)~~ an evaluation of the water chemistry of the surface water of the state to be reviewed to identify chemical constituents ~~[which] that~~ impair the designated uses ~~[which] that~~ are feasible to attain in such water; and

~~(7)](6)~~ an evaluation of the aquatic and terrestrial biota utilizing the surface water of the state to determine resident species and which species could potentially exist in such water if physical and chemical factors impairing a designated use are corrected.

E. Any person may submit notice to the department stating that they intend to conduct a use attainability analysis or equivalent study. The proponent shall develop a work plan to conduct the use attainability analysis or equivalent study

and shall submit the work plan to the department and the regional EPA staff for review and comment. The work plan should identify the scope of data currently available and proposed to be gathered, the factors affecting use attainment that will be analyzed and must contain provisions for public notice and consultation with appropriate state and federal agencies. A copy of the notice and the work plan must be submitted concurrently to the commission. Upon approval of the work plan by the department, the proponent shall conduct the use attainability analysis or equivalent study in accordance with the approved work plan. The cost of such analysis or equivalent study shall be the responsibility of the proponent. Upon completion of the use attainability analysis or equivalent study, the proponent shall submit the data, findings and conclusions to the department and the commission.

~~[G]E.~~ ~~[Upon completion of the use attainability analysis or equivalent study, the petitioner shall submit to the department and the commission the data and their findings and conclusions.]~~ If the department determines that the analysis or equivalent study was conducted in accordance with the approved work plan and the findings and conclusions are based upon sound scientific rationale, and demonstrates that it is not feasible to attain the designated use, the department ~~[shall] or the proponent may request [authority from] the commission to initiate rulemaking proceedings to modify the designated use for the surface water of the state that was reviewed.~~

[20.6.4.15 NMAC - Rp 20 NMAC 6.1.1107, 10-12-00; Rn, 20.6.4.14 NMAC, 05-23-05; A, 05-23-05]

20.6.4.16 PLANNED USE OF A PISCICIDE: The use of a piscicide registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. Section 136 et seq., and under the New Mexico Pesticide Control Act (NMPCA), Section 76-4-1 et seq. NMSA 1978 (1973) in a surface water of the state, shall not be a violation of Subsection F of 20.6.4.13 NMAC when such use has been approved by the commission under procedures provided in this section. The commission may approve the reasonable use of a piscicide under this section to further a Clean Water Act objective to restore and maintain the physical or biological integrity of surface waters of the state, including restoration of native species.

A. Any person seeking commission approval of the use of a piscicide shall file a written petition concurrently with the commission and the surface water bureau of the department. The petition shall contain, at a minimum, the following information:

(1) petitioner's name and address;
(2) identity of the piscicide and the period of time (not to exceed five years) or number of applications for which approval is requested;

(3) documentation of registration under FIFRA and NMPCA and certification that the petitioner intends to use the piscicide according to the label directions, for its intended function;

(4) target and potential non-target species in the treated waters and adjacent riparian area, including threatened or endangered species;

(5) potential environmental consequences to the treated waters and the adjacent riparian area, and protocols for limiting such impacts;

(6) surface water of the state proposed for treatment;

(7) results of pre-treatment survey;

(8) evaluation of available alternatives and justification for selecting piscicide use;

(9) post-treatment assessment monitoring protocol; and

(10) any other information required by the commission.

B. Within thirty days of receipt of the petition, the department shall review the petition and file a recommendation with the commission to grant, grant with conditions or deny the petition. The recommendation shall include reasons, and a copy shall be sent to the petitioner by certified mail.

C. The commission shall review the petition and the department's recommendation and shall within 90 days of receipt of the department's recommendation hold a public hearing in the locality affected by the proposed use in accordance with Adjudicatory Procedures, 20.1.3 NMAC. In addition to the public notice requirements in Adjudicatory Procedures, 20.1.3 NMAC, the petitioner shall provide written notice to:

(1) local political subdivisions;
(2) local water planning entities;
(3) local conservancy and irrigation districts; and

(4) local media outlets, except that the petitioner shall only be required to publish notice in a newspaper of circulation in the locality affected by the proposed use.

D. In a hearing provided for in this Section, registration of a piscicide under FIFRA and NMPCA shall provide a rebuttable presumption that the determinations of the EPA Administrator in registering the piscicide, as outlined in 7 U.S.C. Section 136a(c)(5), are valid. For purposes of this Section the rebuttable presumptions regarding the piscicide include:

(1) Its composition is such as to warrant the proposed claims for it;

(2) Its labeling and other material submitted for registration comply with the requirements of FIFRA and NMPCA;

(3) It will perform its intended function without unreasonable adverse effects on the environment; and

(4) When used in accordance with all FIFRA label requirements it will not generally cause unreasonable adverse effects on the environment.

(5) "Unreasonable adverse effects on the environment" has the meaning provided in FIFRA, 7 U.S.C. Section 136(bb): "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide."

E. After a public hearing, the commission may grant the petition in whole or in part, may grant the petition subject to conditions, or may deny the petition. In granting any petition in whole or part or subject to conditions, the commission shall require the petitioner to implement post-treatment assessment monitoring and provide notice to the public in the immediate and near downstream vicinity of the application prior to and during the application. [20.6.4.16 NMAC - Rn, Paragraph (6) of Subsection F of 20.6.4.12 NMAC, 05-23-05; A, 05-23-05]

20.6.4.17 - 20.6.4.49: [RESERVED]

20.6.4.50 BASINWIDE PROVISIONS - Special provisions arising from interstate compacts, international treaties or court decrees or that otherwise apply to a basin are contained in 20.6.4.51 through 20.6.4.59 NMAC.

[20.6.4.50 NMAC - N, 05-23-05]

20.6.4.51 - 20.6.4.53: [RESERVED]

20.6.4.54 COLORADO RIVER BASIN - For the tributaries of the Colorado river system, the state of New Mexico will cooperate with the Colorado river basin states and the federal government to support and implement the salinity policy and program outlined in the most current "review, water quality standards for salinity, Colorado river system" or equivalent report by the Colorado river salinity control forum.

A. Numeric criteria expressed as the flow-weighted annual average concentration for salinity are established at three points in the Colorado river basin as follows: below Hoover dam, 723 mg/L; below Parker dam, 747 mg/L; and at Imperial dam, 879 mg/L.

B. As a part of the program, objectives for New Mexico shall include the elimination of discharges of water containing solids in solution as a result of the use of water to control or con-

vey fly ash from coal-fired electric generators, wherever practicable.

[20.6.4.54 NMAC - Rn, Paragraphs (1) through (3) of Subsection K of 20.6.4.12 NMAC, 05-23-05; A, 05-23-05]

20.6.4.55 - 20.6.4.96: [RESERVED]

20.6.4.97 E P H E M E R A L WATERS - All ephemeral surface waters of the state that are not included in a classified water of the state in 20.6.4.101 through 20.6.4.899 NMAC.

A. Designated Uses: livestock watering, wildlife habitat, limited aquatic life and secondary contact.

B. Criteria:

(1) The use-specific criteria in 20.6.4.900 NMAC, with the exception of the chronic criteria for aquatic life, are applicable for the designated uses listed in Subsection A of this section.

(2) The monthly geometric mean of E. coli bacteria shall not exceed 548 cfu/100 mL, no single sample shall exceed 2507 cfu/100 mL (see Subsection B of 20.6.4.14 NMAC).

[20.6.4.97 NMAC - N, 05-23-05]

20.6.4.98 INTERMITTENT WATERS - All intermittent surface waters of the state that are not included in a classified water of the state in 20.6.4.101 through 20.6.4.899 NMAC.

A. Designated Uses: livestock watering, wildlife habitat, aquatic life and secondary contact.

B. Criteria:

(1) The use-specific criteria in 20.6.4.900 NMAC.

(2) The monthly geometric mean of E. coli bacteria shall not exceed 548 cfu/100 mL, no single sample shall exceed 2507 cfu/100 mL (see Subsection B of 20.6.4.14 NMAC).

[20.6.4.98 NMAC - N, 05-23-05]

20.6.4.99 P E R E N N I A L WATERS - All perennial surface waters of the state that are not included in a classified water of the state in 20.6.4.101 through 20.6.4.899 NMAC.

A. Designated Uses: aquatic life, livestock watering, wildlife habitat and secondary contact.

B. Criteria:

(1) Temperature shall not exceed 34°C (93.2°F). The use-specific criteria in 20.6.4.900 NMAC are applicable to the designated uses listed in Subsection A of this section.

(2) The monthly geometric mean of E. coli bacteria shall not exceed 548 cfu/100 mL, no single sample shall exceed 2507 cfu/100 mL (see Subsection B of 20.6.4.14 NMAC).

[20.6.4.99 NMAC - N, 05-23-05]

20.6.4.100: [RESERVED]

20.6.4.101 RIO GRANDE BASIN - The main stem of the Rio Grande from the international boundary ~~and water commission sampling station above American dam~~ with Mexico upstream to one mile below Percha dam. ~~(Sustained flow in the Rio Grande below Caballo reservoir is dependent on release from Caballo reservoir during the irrigation season; at other times of the year, there may be little or no flow.)~~

A. Designated Uses: irrigation, ~~limited~~ marginal warmwater ~~fishery~~ aquatic life, livestock watering, wildlife habitat~~;~~ and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH ~~shall be~~: within the range of 6.6 to 9.0~~;~~ and temperature ~~shall not exceed~~ 34°C (93.2°F) or less. The use-specific numeric ~~standards~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL.] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).~~

(3) At mean monthly flows above 350 cfs, the monthly average concentration for: TDS ~~shall not exceed~~ 2,000 mg/L or less, sulfate ~~shall not exceed~~ 500 mg/L or less~~;~~ and chlorides ~~shall not exceed~~ 400 mg/L or less.

C. Remarks: Sustained flow in the Rio Grande below Caballo reservoir is dependent on release from Caballo reservoir during the irrigation season; at other times of the year, there may be little or no flow.

[20.6.4.101 NMAC - Rp 20 NMAC 6.1.2101, 10-12-00; A, 12-15-01; A, 05-23-05]

20.6.4.102 RIO GRANDE BASIN - The main stem of the Rio Grande from one mile below Percha dam upstream to ~~the headwaters of~~ Caballo ~~reservoir~~ dam. ~~including Caballo reservoir. (Sustained flow in the Rio Grande below Caballo reservoir is dependent on release from Caballo reservoir during the irrigation season; at other times of the year, there may be little or no flow.)~~

A. Designated Uses: irrigation, livestock watering, wildlife habitat, primary contact~~;~~ and warmwater ~~fishery~~ aquatic life.

B. [Standards] Criteria:

(1) At any sampling site: pH ~~shall be~~ within the range of 6.6 to 9.0~~;~~

and temperature ~~shall not exceed~~ 32.2°C (90°F) or less~~;~~ ~~and turbidity shall not exceed 50 NTU].~~ The use-specific numeric ~~standards~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL.] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).~~

C. Remarks: Sustained flow in the Rio Grande below Caballo reservoir is dependent on release from Caballo reservoir during the irrigation season; at other times of the year, there may be little or no flow.

[20.6.4.102 NMAC - Rp 20 NMAC 6.1.2102, 10-12-00; A, 05-23-05]

20.6.4.103 RIO GRANDE BASIN - The main stem of the Rio Grande from the headwaters of Caballo ~~lake~~ reservoir upstream to Elephant Butte dam and perennial reaches of tributaries to the Rio Grande in Sierra and Socorro counties. ~~(Flow in this reach of the Rio Grande main stem is dependent upon release from Elephant Butte dam.)~~

A. Designated Uses: fish culture, irrigation, livestock watering, wildlife habitat, marginal coldwater ~~fishery~~ aquatic life, secondary contact~~;~~ and warmwater ~~fishery~~ aquatic life.

B. [Standards] Criteria:

(1) In any single sample: pH ~~shall be~~ within the range of 6.6 to 9.0~~;~~ and temperature ~~shall not exceed~~ 25°C (77°F) or less. The use-specific numeric ~~standards~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~The monthly geometric mean of fecal coliform bacteria shall not exceed 1,000/100 mL; no single sample shall exceed 2,000/100 mL.] The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less, single sample 2507 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).~~

C. Remarks: Flow in this reach of the Rio Grande main stem is dependent upon release from Elephant Butte dam.

[20.6.4.103 NMAC - Rp 20 NMAC 6.1.2103, 10-12-00; A, 05-23-05]

20.6.4.104 RIO GRANDE BASIN - Caballo and Elephant Butte reservoir.

A. Designated Uses: irrigation storage, livestock watering, wildlife

habitat, primary contact~~;~~ and warmwater ~~fishery~~ aquatic life.

B. [Standards] Criteria:

(1) At any sampling site: pH ~~shall be~~ within the range of 6.6 to 9.0~~;~~ and temperature ~~shall not exceed~~ 32.2°C (90°F) or less ~~;~~ ~~and turbidity shall not exceed 50 NTU].~~ The use-specific numeric ~~standards~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL.] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).~~

[20.6.4.104 NMAC - Rp 20 NMAC 6.1.2104, 10-12-00; A, 05-23-05]

20.6.4.105 RIO GRANDE BASIN - The main stem of the Rio Grande from the headwaters of Elephant Butte reservoir upstream to Alameda bridge (Corrales bridge)~~;~~ ~~the Jemez river from the Jemez pueblo boundary upstream to the Rio Guadalupe;~~ and intermittent ~~flow~~ water below the perennial reaches of the Rio Puerco ~~and Jemez river which~~ that enters the main stem of the Rio Grande.

A. Designated Uses: irrigation, ~~limited~~ marginal warmwater ~~fishery~~ aquatic life, livestock watering, wildlife habitat~~;~~ and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH ~~shall be~~ within the range of 6.6 to 9.0~~;~~ and temperature ~~shall not exceed~~ 32.2°C (90°F) or less. The use-specific numeric ~~standards~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~The monthly geometric mean of fecal coliform bacteria shall not exceed 1,000/100 mL; no single sample shall exceed 2,000/100 mL.] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).~~

(3) At mean monthly flows above 100 cfs, the monthly average concentration for: TDS ~~shall not exceed~~ 1,500 mg/L or less, sulfate ~~shall not exceed~~ 500 mg/L or less~~;~~ and chloride ~~shall not exceed~~ 250 mg/L or less.

[20.6.4.105 NMAC - Rp 20 NMAC 6.1.2105, 10-12-00; A, 05-23-05]

20.6.4.106 RIO GRANDE BASIN - The main stem of the Rio Grande from Alameda bridge (Corrales

bridge) upstream to the Angostura diversion works and intermittent water in the Jemez river below the Jemez pueblo boundary that enters the main stem of the Rio Grande.

A. **Designated Uses:** irrigation, ~~limited~~ marginal warmwater ~~fishery~~ aquatic life, livestock watering, wildlife habitat[;] and secondary contact.

B. **[Standards] Criteria:**

(1) In any single sample: dissolved oxygen ~~shall be~~ greater than 5.0 mg/L, pH ~~shall be~~ within the range of 6.6 to 9.0[;] and temperature ~~shall be~~ less than 32.2°C (90°F). The use-specific numeric ~~standards~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

(3) At mean monthly flows above 100 cfs, the monthly average concentration for: TDS ~~shall be less than~~ 1,500 mg/L or less, sulfate ~~shall be less than~~ 500 mg/L or less[;] and chloride ~~shall be less than~~ 250 mg/L or less.
[20.6.4.106 NMAC - Rp 20 NMAC 6.1.2105.1, 10-12-00; A, 05-23-05]

20.6.4.107 RIO GRANDE BASIN - The Jemez river from ~~[its confluence with the Rio Guadalupe]~~ the Jemez pueblo boundary upstream to ~~[state highway 4] Soda dam~~ near the town of Jemez Springs and perennial reaches of Vallecito creek.

A. **Designated Uses:** coldwater ~~fishery~~ aquatic life, primary contact, irrigation, livestock watering[;] and wildlife habitat.

B. **[Standards] Criteria:**

(1) In any single sample: temperature ~~shall not exceed~~ 25°C (77°F)[;] and pH ~~shall be~~ within the range of 6.6 to 8.8[;] and turbidity ~~shall not exceed 25 NTU~~. The use-specific numeric ~~standards~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.107 NMAC - Rp 20 NMAC 6.1.2105.5, 10-12-00; A, 05-23-05]

20.6.4.108 RIO GRANDE BASIN - ~~[The] Perennial reaches of the Jemez river and all its tributaries above ~~[state highway 4] Soda dam~~ near the town of Jemez Springs, except Sulphur creek above its confluence with Redondo creek, and perennial reaches of the Guadalupe river and all its tributaries.~~

A. **Designated Uses:** domestic water supply, fish culture, high quality coldwater ~~fishery~~ aquatic life, irrigation, livestock watering, wildlife habitat[;] and secondary contact.

B. **[Standards] Criteria:**

(1) In any single sample: ~~conductivity shall not exceed~~ specific conductance 400 µmhos/cm or less, pH ~~shall be~~ within the range of 6.6 to 8.8[;] and temperature ~~shall not exceed~~ 20°C (68°F) or less[;] and turbidity ~~shall not exceed 25 NTU~~. The use-specific numeric ~~standards~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.108 NMAC - Rp 20 NMAC 6.1.2106, 10-12-00; A, 05-23-05]

[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segment are under 20.6.4.124 NMAC.]

20.6.4.109 RIO GRANDE BASIN - Perennial reaches of Bluewater creek, Rio Moquino, Seboyeta creek, Rio Paguete, the Rio Puerco ~~[within the Santa Fe national forest] above the village of Cuba~~[;] and all other perennial reaches of tributaries to the Rio Puerco including the Rio San Jose in Cibola county from the USGS gaging station at Correo upstream to Horace springs.

A. **Designated Uses:** coldwater ~~fishery~~ aquatic life, domestic water supply, fish culture, irrigation, livestock watering, wildlife habitat[;] and primary contact.

B. **[Standards] Criteria:**

(1) In any single sample: pH shall be within the range of 6.6 to 8.8, temperature ~~shall not exceed~~ 20°C (68°F) or less[;] and total phosphorus (as P) ~~shall not exceed~~ 0.1 mg/L[;] and turbidity ~~shall not exceed 25 NTU~~. The use-specific numeric ~~standards~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean~~

of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL.] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.109 NMAC - Rp 20 NMAC 6.1.2107, 10-12-00; A, 05-23-05]

20.6.4.110 RIO GRANDE BASIN - The main stem of the Rio Grande from Angostura diversion works upstream to Cochiti dam.

A. **Designated Uses:** irrigation, livestock watering, wildlife habitat, secondary contact, coldwater ~~fishery~~ aquatic life[;] and warmwater ~~fishery~~ aquatic life.

B. **[Standards] Criteria:**

(1) In any single sample: pH ~~shall be~~ within the range of 6.6 to 9.0[;] and temperature ~~shall not exceed~~ 25°C (77°F) or less. The use-specific numeric ~~standards~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.110 NMAC - Rp 20 NMAC 6.1.2108, 10-12-00; A, 05-23-05]

20.6.4.111 RIO GRANDE BASIN - Perennial reaches of Las Huertas ~~[and San Pedro creeks] creek.~~

A. **Designated Uses:** high quality coldwater ~~fishery~~ aquatic life, irrigation, livestock watering, wildlife habitat[;] and secondary contact.

B. **[Standards] Criteria:**

(1) In any single sample: pH ~~shall be~~ within the range of 6.6 to 8.8[;] and temperature ~~shall not exceed~~ 25°C (77°F) or less. The use-specific numeric ~~standards~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.111 NMAC - Rp 20 NMAC 6.1.2108.5, 10-12-00; A, 7-25-01; A, 05-23-05]

[NOTE: The segment covered by this sec-

tion was divided effective 05-23-05. The standards for the additional segment are under 20.6.4.125 NMAC.]

20.6.4.112 RIO GRANDE BASIN - Cochiti reservoir.

A. Designated Uses: live-stock watering, wildlife habitat, warmwater ~~[fishery]~~ aquatic life, coldwater ~~[fishery]~~ aquatic life~~[-]~~ and primary contact.

B. [Standards] Criteria:

(1) At any sampling site: pH ~~[shall be]~~ within the range of 6.6 to 9.0~~[-]~~ and temperature ~~[shall not exceed]~~ 25°C (77°F)~~[-]~~ and turbidity shall not exceed 25 NTU~~[-]~~. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.112 NMAC - Rp 20 NMAC 6.1.2109, 10-12-00; A, 05-23-05]

20.6.4.113 RIO GRANDE BASIN - The Santa Fe river and perennial reaches of its tributaries from Cochiti reservoir upstream to the outfall of the Santa Fe wastewater treatment facility.

A. Designated Uses: irrigation, livestock watering, wildlife habitat, marginal coldwater ~~[fishery]~~ aquatic life, secondary contact~~[-]~~, and warmwater ~~[fishery]~~ aquatic life.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 9.0, temperature ~~[shall not exceed]~~ 30°C (86°F) or less~~[-]~~, turbidity shall not exceed 50 NTU~~[-]~~, and dissolved oxygen ~~[shall not be less than]~~ 4.0 mg/L or more. Dissolved oxygen ~~[shall not be less than]~~ 5.0 mg/L or more as a 24-hour average. Values used in the calculation of the 24-hour average for dissolved oxygen shall not exceed the dissolved oxygen saturation value. For a measured value above the dissolved oxygen saturation value, the dissolved oxygen saturation value will be used in calculating the 24-hour average. The dissolved oxygen saturation value shall be determined from the table set out in Subsection ~~[P]~~ N of 20.6.4.900 NMAC. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 1,000/100 mL; no single sample shall~~

~~exceed 2,000/100 mL.]~~ The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less, single sample 2507 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.113 NMAC - Rp 20 NMAC 6.1.2110, 10-12-00; A, 10-11-02; A, 05-23-05]

20.6.4.114 RIO GRANDE BASIN - The main stem of the Rio Grande from the headwaters of Cochiti reservoir upstream to [Taos Junction bridge] Rio Pueblo de Taos, Embudo creek from its mouth on the Rio Grande upstream to the junction of the Rio Pueblo and the Rio Santa Barbara, the Santa Cruz river below Santa Cruz dam, the Rio Tesuque below the Santa Fe national forest and the Pojoaque river below Nambe dam.

A. Designated Uses: irrigation, livestock watering, wildlife habitat, marginal coldwater ~~[fishery]~~ aquatic life, primary contact~~[-]~~ and warmwater ~~[fishery]~~ aquatic life.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 9.0~~[-]~~ and temperature ~~[shall not exceed]~~ 22°C (71.6°F) or less~~[-]~~ and turbidity shall not exceed 50 NTU~~[-]~~. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

(3) At mean monthly flows above 100 cfs, the monthly average concentration for: TDS ~~[shall not exceed]~~ 500 mg/L or less, sulfate ~~[shall not exceed]~~ 150 mg/L or less~~[-]~~ and chloride ~~[shall not exceed]~~ 25 mg/L or less.

[20.6.4.114 NMAC - Rp 20 NMAC 6.1.2111, 10-12-00; A, 05-23-05]

20.6.4.115 RIO GRANDE BASIN - The perennial reaches of Rio Vallecitos and its tributaries, and perennial reaches of Rio del Oso~~[-]~~ and perennial reaches of El Rito creek above the town of El Rito.

A. Designated Uses: domestic water supply, irrigation, high quality coldwater ~~[fishery]~~ aquatic life, livestock watering, wildlife habitat~~[-]~~ and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: ~~[con-~~ductivity shall not exceed] specific conduc-

tance 300 µmhos/cm or less, pH ~~[shall be]~~ within the range of 6.6 to 8.8~~[-]~~ and temperature ~~[shall not exceed]~~ 20°C (68°F) or less~~[-]~~ and turbidity shall not exceed 10 NTU~~[-]~~. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL.]~~ The monthly geometric mean of E. coli 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.115 NMAC - Rp 20 NMAC 6.1.2112, 10-12-00; A, 05-23-05]

20.6.4.116 RIO GRANDE BASIN - The Rio Chama from its mouth on the Rio Grande upstream to Abiquiu reservoir, perennial reaches of the Rio Tusas, perennial reaches of the Rio Ojo Caliente, perennial reaches of Abiquiu creek~~[-]~~ and perennial reaches of El Rito creek below the town of El Rito.

A. Designated Uses: irrigation, livestock watering, wildlife habitat, coldwater ~~[fishery]~~ aquatic life, warmwater ~~[fishery]~~ aquatic life~~[-]~~ and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 8.8~~[-]~~ and temperature ~~[shall not exceed]~~ 31°C (87.8°F) or less. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 1,000/100 mL; no single sample shall exceed 2,000/100 mL.]~~ The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.116 NMAC - Rp 20 NMAC 6.1.2113, 10-12-00; A, 05-23-05]

20.6.4.117 RIO GRANDE BASIN - Abiquiu reservoir.

A. Designated Uses: irrigation storage, livestock watering, wildlife habitat, primary contact, coldwater ~~[fishery]~~ aquatic life~~[-]~~ and warmwater ~~[fishery]~~ aquatic life.

B. [Standards] Criteria:

(1) At any sampling site: pH ~~[shall be]~~ within the range of 6.6 to 8.8~~[-]~~ and temperature ~~[shall not exceed]~~ 25°C (77°F) or less. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated

uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL.]~~ The monthly geometric mean of E. coli 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.117 NMAC - Rp 20 NMAC 6.1.2114, 10-12-00; A, 05-23-05]

20.6.4.118 RIO GRANDE BASIN - The Rio Chama from the headwaters of Abiquiu reservoir upstream to El Vado reservoir and perennial reaches of the Rio Gallina and Rio Puerco de Chama north of state highway 96.

A. Designated Uses: irrigation, livestock watering, wildlife habitat, coldwater ~~[fishery]~~ aquatic life, warmwater ~~[fishery]~~ aquatic life, and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 8.8 and temperature ~~[shall not exceed]~~ 26°C (78.8°F) or less. The use-specific numeric ~~[standards] criteria~~ set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.118 NMAC - Rp 20 NMAC 6.1.2115, 10-12-00; A, 05-23-05]

20.6.4.119 RIO GRANDE BASIN - All perennial reaches of tributaries to the Rio Chama above Abiquiu dam except the Rio Gallina and Rio Puerco de Chama north of state highway 96 and the main stem of the Rio Chama from the headwaters of El Vado reservoir upstream to the New Mexico-Colorado line.

A. Designated Uses: domestic water supply, fish culture, high quality coldwater ~~[fishery]~~ aquatic life, irrigation, livestock watering, wildlife habitat, and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: ~~[conductivity shall not exceed]~~ specific conductance 500 µmhos/cm or less (1,000 µmhos or less for Coyote creek), pH ~~[shall be]~~ within the range of 6.6 to 8.8 and temperature ~~[shall not exceed]~~ 20°C (68°F) or less, and turbidity shall not exceed 25 NTU. The use-specific numeric ~~[stan-~~

~~ards] criteria~~ set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.119 NMAC - Rp 20 NMAC 6.1.2116, 10-12-00; A, 05-23-05]

20.6.4.120 RIO GRANDE BASIN - El Vado and Heron reservoirs.

A. Designated Uses: irrigation storage, livestock watering, wildlife habitat, primary contact, and coldwater ~~[fishery]~~ aquatic life.

B. [Standards] Criteria:

(1) At any sampling site: pH ~~[shall be]~~ within the range of 6.6 to 8.8 and temperature ~~[shall not exceed]~~ 20°C (68°F) or less, and turbidity shall not exceed 25 NTU. The use-specific numeric ~~[standards] criteria~~ set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.120 NMAC - Rp 20 NMAC 6.1.2117, 10-12-00; A, 05-23-05]

20.6.4.121 RIO GRANDE BASIN - Perennial tributaries to the Rio Grande in Bandelier national monument and their headwaters in Sandoval county, and all perennial reaches of tributaries to the Rio Grande in Santa Fe county unless included in other segments.

A. Designated Uses: domestic water supply, high quality coldwater ~~[fishery]~~ aquatic life, irrigation, livestock watering, wildlife habitat, municipal and industrial water supply, secondary contact, and primary contact.

B. [Standards] Criteria:

(1) In any single sample: ~~[conductivity shall not exceed]~~ specific conductance 300 µmhos/cm or less, pH ~~[shall be]~~ within the range of 6.6 to 8.8 and temperature ~~[shall not exceed]~~ 20°C (68°F) or less, and turbidity shall not exceed 10 NTU. The use-specific numeric ~~[standards] criteria~~ set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.121 NMAC - Rp 20 NMAC 6.1.2118, 10-12-00; A, 05-23-05]

[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segments are under 20.6.4.126, 20.6.4.127 and 20.6.4.128 NMAC.]

20.6.4.122 RIO GRANDE BASIN - The main stem of the Rio Grande from [Taos Junction bridge] Rio Pueblo de Taos upstream to the New Mexico-Colorado line, the Red river from its mouth on the Rio Grande upstream to the mouth of Placer creek, and the Rio Pueblo de Taos from its mouth on the Rio Grande upstream to the mouth of the Rio Grande del Rancho.

A. Designated Uses: coldwater ~~[fishery]~~ aquatic life, fish culture, irrigation, livestock watering, wildlife habitat, and primary contact.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 8.8 and temperature ~~[shall not exceed]~~ 20°C (68°F) or less, and turbidity shall not exceed 50 NTU. The use-specific numeric ~~[standards] criteria~~ set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.122 NMAC - Rp 20 NMAC 6.1.2119, 10-12-00; A, 05-23-05]

20.6.4.123 RIO GRANDE BASIN - [The] Perennial reaches of the Red river upstream of the mouth of Placer creek, all perennial reaches of tributaries to the Red river, and all other perennial reaches of tributaries to the Rio Grande in Taos and Rio Arriba counties unless included in other segments.

A. Designated Uses: domestic water supply, fish culture, high quality coldwater ~~[fishery]~~ aquatic life, irrigation, livestock watering, wildlife habitat, and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: ~~[conductivity shall not exceed]~~ specific conduc-

tance 400 μ mhos/cm or less (500 μ mhos or less for the Rio Fernando de Taos) and pH [shall be] within the range of 6.6 to 8.8, temperature [shall not exceed] 20°C (68°F) or less, and turbidity shall not exceed 25 NTU. For the Red river in this segment, total phosphorus (as P) less than 0.1 mg/L. The use-specific numeric [standards] criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) [The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).

[20.6.4.123 NMAC - Rp 20 NMAC 6.1.2120, 10-12-00; A, 05-23-05]

[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segment are under 20.6.4.129 NMAC.]

20.6.4.124 RIO GRANDE BASIN - Perennial reaches of Sulphur creek from its headwaters to its confluence with Redondo creek.

A. Designated Uses: limited aquatic life, wildlife habitat, livestock watering and secondary contact.

B. Criteria:

(1) In any single sample: pH within the range of 2.0 to 9.0 and temperature 30°C (86°F) or less. The use-specific criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).

(3) The chronic aquatic life criteria of Subsections I and J of 20.6.4.900 NMAC shall also apply.

[20.6.4.124 NMAC - N, 05-23-05]

20.6.4.125 RIO GRANDE BASIN - Perennial reaches of San Pedro creek.

A. Designated Uses: coldwater aquatic life, irrigation, livestock watering, wildlife habitat and secondary contact.

B. Criteria:

(1) In any single sample: pH within the range of 6.6 to 8.8 and temperature 25°C (77°F) or less. The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see

Subsection B of 20.6.4.14 NMAC).
[20.6.4.125 NMAC - N, 05-23-05]

20.6.4.126 RIO GRANDE BASIN - Perennial portions of Cañon de Valle from Los Alamos national laboratory (LANL) stream gage E256 upstream to Burning Ground spring, Sandia canyon from Sigma canyon upstream to LANL NPDES outfall 001, Pajarito canyon from Arroyo de La Delfe upstream into Starmers gulch and Starmers spring and Water canyon from Area-A canyon upstream to State Route 501.

A. Designated Uses: cold-water aquatic life, livestock watering, wildlife habitat and secondary contact.

B. Criteria:

(1) In any single sample: pH within the range of 6.6 to 8.8 and temperature 24°C (75.2°F) or less. The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).

[20.6.4.126 NMAC - N, 05-23-05]

20.6.4.127 RIO GRANDE BASIN - Perennial portions of Los Alamos canyon upstream from Los Alamos reservoir and Los Alamos reservoir.

A. Designated Uses: cold-water aquatic life, livestock watering, wildlife habitat, irrigation and primary contact.

B. Criteria:

(1) In any single sample: pH within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less. The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).

[20.6.4.127 NMAC - N, 05-23-05]

20.6.4.128 RIO GRANDE BASIN - Ephemeral and intermittent portions of watercourses within lands managed by U.S. department of energy (DOE) within LANL, including but not limited to: Mortandad canyon, Cañada del Buey, Ancho canyon, Chaquehui canyon, Indio canyon, Fence canyon, Potrillo canyon and portions of Cañon de Valle, Los Alamos canyon, Sandia canyon, Pajarito canyon and Water canyon not specifically identified in

20.6.4.126 NMAC. (Surface waters within lands scheduled for transfer from DOE to tribal, state or local authorities are specifically excluded.)

A. Designated Uses: live-stock watering, wildlife habitat, limited aquatic life and secondary contact.

B. Criteria:

(1) The use-specific criteria in 20.6.4.900 NMAC, except the chronic criteria for aquatic life are applicable for the designated uses listed in Subsection A of this section.

(2) The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).

(3) The acute total ammonia criteria set forth in Subsection K of 20.6.4.900 NMAC (salmonids absent) are applicable to this use.

[20.6.4.128 NMAC - N, 05-23-05]

20.6.4.129 RIO GRANDE BASIN - Perennial reaches of the Rio Hondo.

A. Designated Uses: domestic water supply, high quality cold-water aquatic life, irrigation, livestock watering, wildlife habitat and secondary contact.

B. Criteria:

(1) In any single sample: specific conductance 400 μ mhos/cm or less, pH within the range of 6.6 to 8.8, total phosphorous (as P) less than 0.1 mg/L and temperature 20°C (68°F) or less. The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).

[20.6.4.129 NMAC - N, 05-23-05]

20.6.4.130 - 20.6.4.200: [RESERVED]

20.6.4.201 PECOS RIVER BASIN - The main stem of the Pecos river from the New Mexico-Texas line upstream to the mouth of the Black river (near Loving).

A. Designated Uses: irrigation, livestock watering, wildlife habitat, secondary contact[?] and warmwater [fishery] aquatic life.

B. [Standards] Criteria:

(1) In any single sample: pH [shall be] within the range of 6.6 to 9.0 and temperature [shall not exceed] 32.2°C (90°F) or less. The use-specific numeric [standards] criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) [The monthly geometric mean

of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL.] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).

(3) At all flows above 50 cfs: TDS [shall not exceed] 20,000 mg/L or less, sulfate [shall not exceed] 3,000 mg/L[;] or less and chloride [shall not exceed] 10,000 mg/L or less.

[20.6.4.201 NMAC - Rp 20 NMAC 6.1.2201, 10-12-00; A, 05-23-05]

20.6.4.202 PECOS RIVER BASIN - The main stem of the Pecos river from the mouth of the Black river upstream to lower Tansil dam [~~diversion for irrigation frequently limits summer flow in this reach to that contributed by springs along the watercourse~~], including perennial reaches of the Black river, the Delaware river and Blue spring.

A. Designated Uses: industrial water supply, irrigation, livestock watering, wildlife habitat, secondary contact[;] and warmwater [fishery] aquatic life.

B. [Standards] Criteria:
(1) In any single sample: pH [shall be] within the range of 6.6 to 9.0[;] and temperature [shall not exceed] 34°C (93.2°F) or less. The use-specific numeric [standards] criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) [The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL.] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).

(3) At all flows above 50 cfs: TDS [shall not exceed] 8,500 mg/L or less, sulfate [shall not exceed] 2,500 mg/L or less[;] and chloride [shall not exceed] 3,500 mg/L or less.

C. Remarks: Diversion for irrigation frequently limits summer flow in this reach of the main stem Pecos river to that contributed by springs along the watercourse.

[20.6.4.202 NMAC - Rp 20 NMAC 6.1.2202, 10-12-00; A, 05-23-05]
[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segment are under 20.6.4.218 NMAC.]

20.6.4.203 PECOS RIVER BASIN - The main stem of the Pecos river from lower [Tansil dam] the headwaters of Lake Carlsbad upstream to

Avalon dam[, including Tansil lake].

A. Designated Uses: industrial water supply, livestock watering, wildlife habitat, primary contact[;] and warmwater [fishery] aquatic life.

B. [Standards] Criteria:
(1) [At any sampling site] In any single sample: pH [shall be] within the range of 6.6 to 9.0[;] and temperature [shall not exceed] 34°C (93.2°F) or less[; and turbidity shall not exceed 25 NTU]. The use-specific numeric [standards] criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) [The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL.] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).

[20.6.4.203 NMAC - Rp 20 NMAC 6.1.2203, 10-12-00; A, 05-23-05]
[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segment are under 20.6.4.219 NMAC.]

20.6.4.204 PECOS RIVER BASIN - The main stem of the Pecos river from [Avalon dam] the headwaters of Avalon reservoir upstream to Brantley dam[, including Avalon reservoir].

A. Designated Uses: irrigation [storage], livestock watering, wildlife habitat, secondary contact[;] and warmwater [fishery] aquatic life.

B. [Standards] Criteria:
(1) [At any sampling site] In any single sample: pH [shall be] within the range of 6.6 to 9.0[;] and temperature [shall not exceed] 32.2°C (90°F) or less. The use-specific numeric [standards] criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) [The monthly geometric mean of fecal coliform bacteria shall not exceed 1,000/100 mL; no single sample shall exceed 2,000/100 mL.] The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less, single sample 2880 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).

[20.6.4.204 NMAC - Rp 20 NMAC 6.1.2204, 10-12-00; A, 05-23-05]

20.6.4.205 PECOS RIVER BASIN - Brantley reservoir.

A. Designated Uses: irrigation storage, livestock watering, wildlife habitat, primary contact[;] and warmwater [fishery] aquatic life.

B. [Standards] Criteria:

(1) At any sampling site: pH [shall be] within the range of 6.6 to 9.0[;] and temperature [shall not exceed] 32.2°C (90°F) or less. The use-specific numeric [standards] criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) [The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL.] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).

[20.6.4.205 NMAC - Rp 20 NMAC 6.1.2205, 10-12-00; A, 05-23-05]

20.6.4.206 PECOS RIVER BASIN - The main stem of the Pecos river from the headwaters of Brantley reservoir upstream to Salt creek (near Acme), perennial reaches of the Rio Peñasco downstream from state highway 24 near Dunken, [~~any flow at the mouth of perennial reaches of the Rio Hondo and its tributaries below Bonney canyon and any flow from perennial reaches of the Rio Felix which enters the main stem of the Pecos river~~].

A. Designated Uses: irrigation, livestock watering, wildlife habitat, secondary contact[;] and warmwater [fishery] aquatic life.

B. [Standards] Criteria:
(1) In any single sample: pH [shall be] within the range of 6.6 to 9.0 and temperature [shall not exceed] 32.2°C (90°F) or less. The use-specific numeric [standards] criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) [The monthly geometric mean of fecal coliform bacteria shall not exceed 1,000/100 mL; no single sample shall exceed 2,000/100 mL.] The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).

(3) At all flows above 50 cfs: TDS [shall not exceed] 14,000 mg/L or less, sulfate [shall not exceed] 3,000 mg/L or less[;] and chloride [shall not exceed] 6,000 mg/L or less.

[20.6.4.206 NMAC - Rp 20 NMAC 6.1.2206, 10-12-00; A, 05-23-05]

20.6.4.207 PECOS RIVER BASIN - The main stem of the Pecos river from Salt creek (near Acme) upstream to Summer dam.

A. Designated Uses: irrigation, [limited] marginal warmwater [fishery] aquatic life, livestock watering,

wildlife habitat[?] and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH [shall be] within the range of 6.6 to 9.0 and temperature [shall not exceed] 32.2°C (90°F) or less. The use-specific numeric [standards] criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 1,000/100 mL; no single sample shall exceed 2,000/100 mL]~~ The monthly geometric mean of *E. coli* 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).

(3) At all flows above 50 cfs: TDS [shall not exceed] 8,000 mg/L or less, sulfate [shall not exceed] 2,500 mg/L or less[?] and chloride [shall not exceed] 4,000 mg/L or less. [20.6.4.207 NMAC - Rp 20 NMAC 6.1.2207, 10-12-00; A, 05-23-05]

20.6.4.208 PECOS RIVER BASIN - Perennial reaches of the Rio Peñasco and its tributaries above state highway 24 near Dunken, perennial reaches of the Rio Bonito downstream from state highway 48 (near Angus), the Rio Ruidoso downstream of the U.S. highway 70 bridge near Seeping Springs lakes, perennial reaches of the Rio Hondo upstream from Bonney canyon[?] and perennial reaches of Agua Chiquita.

A. Designated Uses: fish culture, irrigation, livestock watering, wildlife habitat, coldwater [fishery] aquatic life[?] and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH [shall be] within the range of 6.6 to 8.8, temperature [shall not exceed] 30°C (86°F) or less and total phosphorus (as P) [shall be] less than 0.1 mg/L. The use-specific numeric [standards] criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL]~~ The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).

[20.6.4.208 NMAC - Rp 20 NMAC 6.1.2208, 10-12-00; A, 05-23-05]

20.6.4.209 PECOS RIVER BASIN - Perennial reaches of Eagle creek above Alto reservoir, perennial reaches of the Rio Bonito and its tributaries upstream of state highway 48 (near

Angus)[?] and perennial reaches of the Rio Ruidoso and its tributaries upstream of the U.S. highway 70 bridge near Seeping Springs lakes.

A. Designated Uses:

domestic water supply, fish culture, high quality coldwater [fishery] aquatic life, irrigation, livestock watering, wildlife habitat, municipal and industrial water supply[?] and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: ~~[conductivity shall not exceed] specific conductance 600 µmhos/cm or less in Eagle creek, 1,100 µmhos or less in Bonito creek, and 1,500 µmhos or less in the Rio Ruidoso, pH [shall be] within the range of 6.6 to 8.8, total phosphorus (as P) less than 0.1 mg/L and temperature [shall not exceed] 20°C (68°F) or less[?, and turbidity shall not exceed 10 NTU].~~ The use-specific numeric [standards] criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL]~~ The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).

[20.6.4.209 NMAC - Rp 20 NMAC 6.1.2209, 10-12-00; A, 05-23-05]

20.6.4.210 PECOS RIVER BASIN - Sumner reservoir.

A. Designated Uses: irrigation storage, livestock watering, wildlife habitat, primary contact[?] and warmwater [fishery] aquatic life.

B. [Standards] Criteria:

(1) At any sampling site: pH [shall be] within the range of 6.6 to 9.0[?] and temperature [shall not exceed] 32.2°C (90°F) or less[?, and turbidity shall not exceed 25 NTU]. The use-specific numeric [standards] criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL]~~ The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).

[20.6.4.210 NMAC - Rp 20 NMAC 6.1.2210, 10-12-00; A, 05-23-05]

20.6.4.211 PECOS RIVER BASIN - The main stem of the Pecos river from the headwaters of Sumner reservoir upstream to [Anton Chico]

Tecolote creek.

A. Designated Uses: fish culture, irrigation, [limited] marginal warmwater [fishery] aquatic life, livestock watering, wildlife habitat[?] and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH [shall be] within the range of 6.6 to 9.0 and temperature [shall not exceed] 32.2°C (90°F) or less. The use-specific numeric [standards] criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL]~~ The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).

(3) At all flows above 50 cfs: TDS [shall not exceed] 3,000 mg/L or less, sulfate [shall not exceed] 2,000 mg/L or less[?] and chloride [shall not exceed] 400 mg/L or less. [20.6.4.211 NMAC - Rp 20 NMAC 6.1.2211, 10-12-00; A, 05-23-05]

20.6.4.212 PECOS RIVER BASIN - Perennial tributaries to the main stem of the Pecos river from the headwaters of Sumner reservoir upstream to Santa Rosa dam.

A. Designated Uses: irrigation, coldwater [fishery] aquatic life, livestock watering, wildlife habitat[?] and primary contact.

B. [Standards] Criteria:

(1) In any single sample: pH [shall be] within the range of 6.6 to 8.8 and temperature [shall not exceed] 25°C (77°F) or less. The use-specific numeric [standards] criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL]~~ The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).

[20.6.4.212 NMAC - Rp 20 NMAC 6.1.2211.1, 10-12-00; A, 05-23-05]

20.6.4.213 PECOS RIVER BASIN - McAllister lake.

A. Designated Uses: coldwater [fishery] aquatic life, secondary contact, livestock watering[?] and wildlife habitat.

B. [Standards] Criteria:

(1) At any sampling site: pH ~~[shall be]~~ within the range of 6.6 to 8.8 and temperature ~~[shall not exceed]~~ 25°C (77°F) or less. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 1,000/100 mL; no single sample shall exceed 2,000/100 mL] The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).~~

[20.6.4.213 NMAC - Rp 20 NMAC 6.1.2211.3, 10-12-00; A, 05-23-05]

20.6.4.214 PECOS RIVER BASIN - Storrie lake.

A. **Designated Uses:** coldwater ~~[fishery]~~ aquatic life, warmwater ~~[fishery]~~ aquatic life, primary contact, livestock watering, wildlife habitat, municipal water supply~~;~~ and irrigation storage.

B. **[Standards] Criteria:**

(1) At any sampling site: pH ~~[shall be]~~ within the range of 6.6 to 8.8~~;~~ and temperature ~~[shall not exceed]~~ 20°C (68°F) or less~~;~~ and turbidity shall not exceed 25 NTU. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).~~

[20.6.4.214 NMAC - Rp 20 NMAC 6.1.2211.5, 10-12-00; A, 05-23-05]

20.6.4.215 PECOS RIVER BASIN - ~~[The] Perennial reaches of the Gallinas river and all its tributaries above the diversion for the Las Vegas municipal reservoir and perennial reaches of Tecolote creek and its perennial tributaries.~~

A. **Designated Uses:** domestic water supply, high quality coldwater ~~[fishery]~~ aquatic life, irrigation, livestock watering, wildlife habitat, municipal and industrial water supply~~;~~ and secondary contact.

B. **[Standards] Criteria:**

(1) In any single sample: ~~[conductivity shall not exceed]~~ specific conductance 300 µmhos/cm or less except ~~[conductivity shall not exceed]~~ specific conductance 450 µmhos/cm or less in Wright Canyon creek, pH ~~[shall be]~~ within the

range of 6.6 to 8.8~~;~~ and temperature ~~[shall not exceed]~~ 20°C (68°F) or less~~;~~ and turbidity shall not exceed 10 NTU. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).~~

[20.6.4.215 NMAC - Rp 20 NMAC 6.1.2212, 10-12-00; A, 05-23-05]

20.6.4.216 PECOS RIVER BASIN - The main stem of the Pecos river from ~~[Anton Chico] Tecolote creek upstream to [the southern boundary of the Pecos national historical park] Cañon de Mazanita;~~ and perennial reaches of ~~the Gallinas river from its mouth upstream to the diversion for the Las Vegas municipal reservoir].~~

A. **Designated Uses:** irrigation, livestock watering, wildlife habitat, marginal coldwater ~~[fishery]~~ aquatic life~~;~~ and ~~[secondary] primary~~ contact.

B. **[Standards] Criteria:**

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 9.0 and temperature ~~[shall not exceed]~~ 30°C (86°F) or less. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 1,000/100 mL; no single sample shall exceed 2,000/100 mL] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 410 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).~~

(3) At all flows above 10 cfs: TDS ~~[shall not exceed]~~ 250 mg/L or less, sulfate ~~[shall not exceed]~~ 25 mg/L or less~~;~~ and chloride ~~[shall not exceed]~~ 5 mg/L or less.

[20.6.4.216 NMAC - Rp 20 NMAC 6.1.2213, 10-12-00; A, 05-23-05]

[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segments are under 20.6.4.220 and 20.6.4.221 NMAC.]

20.6.4.217 PECOS RIVER BASIN - ~~Perennial reaches of Cow creek and all perennial reaches of its tributaries and the main stem of the Pecos river from [the southern boundary of the Pecos national historical park] Cañon de Manzanita upstream to its headwaters,~~

including perennial reaches of all tributaries thereto.

A. **Designated Uses:** domestic water supply, fish culture, high quality coldwater ~~[fishery]~~ aquatic life, irrigation, livestock watering, wildlife habitat~~;~~ and secondary contact.

B. **[Standards] Criteria:**

(1) In any single sample: ~~[conductivity shall not exceed]~~ specific conductance 300 µmhos/cm or less, pH ~~[shall be]~~ within the range of 6.6 to 8.8~~;~~ and temperature ~~[shall not exceed]~~ 20°C (68°F) or less~~;~~ and turbidity shall not exceed 10 NTU. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).~~

[20.6.4.217 NMAC - Rp 20 NMAC 6.1.2214, 10-12-00; A, 05-23-05]

20.6.4.218 PECOS RIVER BASIN - Tansil lake and Lake Carlsbad.

A. **Designated Uses:** industrial water supply, livestock watering, wildlife habitat, primary contact and warmwater aquatic life.

B. **Criteria:**

(1) At any sampling site: pH within the range of 6.6 to 9.0 and temperature 34°C (93.2°F) or less. The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).

[20.6.4.218 NMAC - N, 05-23-05]

20.6.4.219 PECOS RIVER BASIN - Avalon reservoir.

A. **Designated Uses:** irrigation storage, livestock watering, wildlife habitat, secondary contact and warmwater aquatic life.

B. **Criteria:**

(1) At any sampling site: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less. The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less, single sample 2507 cfu/100 mL or less (see

Subsection B of 20.6.4.14 NMAC).
[20.6.4.219 NMAC - N, 05-23-05]

20.6.4.220 PECOS RIVER BASIN - Perennial reaches of the Gallinas river and its tributaries from its mouth upstream to the diversion for the Las Vegas municipal reservoir, except Pecos Arroyo.

A. Designated Uses: irrigation, livestock watering, wildlife habitat, marginal coldwater aquatic life and primary contact.

B. Criteria:

(1) In any single sample: pH within the range of 6.6 to 9.0 and temperature 30°C (86°F) or less. The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section. (see Subsection B of 20.6.4.14 NMAC)

(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 410 cfu/100 mL or less. [20.6.4.220 NMAC - N, 05-23-05]

20.6.4.221 PECOS RIVER BASIN - Pecos Arroyo.

A. Designated Uses: livestock watering, wildlife habitat, warmwater aquatic life and secondary contact.

B. Criteria:

(1) In any single sample: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less. The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less, single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC). [20.6.4.221 NMAC - N, 05-23-05]

20.6.4.222 - 20.6.4.300: [RESERVED]

20.6.4.301 CANADIAN RIVER BASIN - The main stem of the Canadian river from the New Mexico-Texas line upstream to Ute dam, and any flow [which] that enters the main stem from Revuelto creek.

A. Designated Uses: irrigation, [limited] marginal warmwater [fishery] aquatic life, livestock watering, wildlife habitat[;] and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH [shall be] within the range of 6.6 to 9.0, temperature [shall not exceed] 32.2°C (90°F) or less[;] and TDS [shall not exceed] 6,500 mg/L or less at flows above 25 cfs. The use-specific numeric [standards] criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in

Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).

[20.6.4.301 NMAC - Rp 20 NMAC 6.1.2301, 10-12-00; A, 05-23-05]

20.6.4.302 CANADIAN RIVER BASIN - Ute reservoir.

A. Designated Uses: livestock watering, wildlife habitat, municipal and industrial water supply, primary contact[;] and warmwater [fishery] aquatic life.

B. [Standards] Criteria:

(1) At any sampling site: pH [shall be] within the range of 6.6 to 9.0[; turbidity shall not exceed 25 NTU] and temperature [shall not exceed] 32.2°C (90°F) or less. The use-specific numeric [standards] criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).

[20.6.4.302 NMAC - Rp 20 NMAC 6.1.2302, 10-12-00; A, 05-23-05]

20.6.4.303 CANADIAN RIVER BASIN - The main stem of the Canadian river from the headwaters of Ute reservoir upstream to Conchas dam, the perennial reaches of Pajarito [creek, and Ute creek and its] and Ute creeks and their perennial tributaries.

A. Designated Uses: irrigation, [limited] marginal warmwater [fishery] aquatic life, livestock watering, wildlife habitat[;] and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH [shall be] within the range of 6.6 to 9.0[;] and temperature [shall not exceed] 32.2°C (90°F) or less. The use-specific numeric [standards] criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).

[20.6.4.303 NMAC - Rp 20 NMAC

6.1.2303, 10-12-00; A, 05-23-05]

20.6.4.304 CANADIAN RIVER BASIN - Conchas reservoir.

A. Designated Uses: irrigation storage, livestock watering, wildlife habitat, primary contact and warmwater [fishery] aquatic life.

B. [Standards] Criteria:

(1) At any sampling site: pH [shall be] within the range of 6.6 to 9.0[;] and temperature [shall not exceed] 32.2°C (90°F) or less[; and turbidity shall not exceed 25 NTU]. The use-specific numeric [standards] criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).

[20.6.4.304 NMAC - Rp 20 NMAC 6.1.2304, 10-12-00; A, 05-23-05]

20.6.4.305 CANADIAN RIVER BASIN - The main stem of the Canadian river from the headwaters of Conchas reservoir upstream to the New Mexico-Colorado line, perennial reaches of the Conchas river, the Mora river downstream from the USGS gaging station near Shoemaker, the Vermejo river downstream from Rail canyon and perennial reaches of Raton, Chicorica and Uña de Gato creeks.

A. Designated Uses: irrigation, [limited] marginal warmwater [fishery] aquatic life, livestock watering, wildlife habitat[;] and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH [shall be] within the range of 6.6 to 9.0, temperature [shall not exceed] 32.2°C (90°F) or less[;] and TDS [shall not exceed] 3,500 mg/L or less at flows above 10 cfs. The use-specific numeric [standards] criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of [20.6.4.13] 20.6.4.14 NMAC).

[20.6.4.305 NMAC - Rp 20 NMAC 6.1.2305, 10-12-00; A, 05-23-05]

20.6.4.306 CANADIAN RIVER BASIN - The Cimarron river down-

stream from state highway 21 in Cimarron to the Canadian river and all perennial reaches of tributaries to the Cimarron river downstream from state highway 21 in Cimarron.

A. Designated Uses: irrigation, warmwater ~~[fishery]~~ aquatic life, livestock watering, wildlife habitat[?] and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 9.0, temperature ~~[shall not exceed]~~ 32.2°C (90°F) or less[?]; and TDS ~~[shall not exceed]~~ 3,500 mg/L or less at flows above 10 cfs. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.306 NMAC - Rp 20 NMAC 6.1.2305.1, 10-12-00; A, 7-19-01; A, 05-23-05]

20.6.4.307 CANADIAN RIVER BASIN - Perennial reaches of the Mora river from the USGS gaging station near Shoemaker upstream to the state highway 434 bridge in Mora, all perennial reaches of tributaries to the Mora river downstream from the USGS gaging station at La Cueva in San Miguel and Mora counties, perennial reaches of Ocate creek and its tributaries downstream of Ocate, and perennial reaches of Rayado creek downstream of Miami lake diversion in Colfax county.

A. Designated Uses: marginal coldwater ~~[fishery]~~ aquatic life, warmwater ~~[fishery]~~ aquatic life, secondary contact, irrigation, livestock watering[?]; and wildlife habitat.

B. [Standards] Criteria:

(1) ~~[At any sampling site]~~ In any single sample: temperature ~~[shall not exceed]~~ 25°C (77°F)[?]; or less and pH ~~[shall be]~~ within the range of 6.6 to 9.0. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.307 NMAC - Rp 20 NMAC

6.1.2305.3, 10-12-00; A, 05-23-05]

20.6.4.308 CANADIAN RIVER BASIN - Charette lakes.

A. Designated Uses: coldwater ~~[fishery]~~ aquatic life, warmwater ~~[fishery]~~ aquatic life, secondary contact, livestock watering[?]; and wildlife habitat.

B. [Standards] Criteria:

(1) At any sampling site: pH ~~[shall be]~~ within the range of 6.6 to 8.8[?]; and temperature ~~[shall not exceed]~~ 20°C (68°F) or less. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 1,000/100 mL; no single sample shall exceed 2,000/100 mL.]~~ The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.308 NMAC - Rp 20 NMAC 6.1.2305.5, 10-12-00; A, 05-23-05]

20.6.4.309 CANADIAN RIVER BASIN - The Mora river and perennial reaches of its tributaries upstream from the state highway 434 bridge in Mora, all perennial reaches of tributaries to the Mora river upstream from the USGS gaging station at La Cueva, perennial reaches of Coyote creek and its tributaries, the Cimarron river and its perennial tributaries above state highway 21 in Cimarron, all perennial reaches of tributaries to the Cimarron river north and northwest of highway 64, perennial reaches of Rayado creek and its tributaries above Miami lake diversion, Ocate creek and perennial reaches of its tributaries upstream of Ocate, perennial reaches of the Vermejo river upstream from Rail canyon and all other perennial reaches of tributaries to the Canadian river northwest and north of U.S. highway 64 in Colfax county unless included in other segments.

A. Designated Uses: domestic water supply, irrigation, high quality coldwater ~~[fishery]~~ aquatic life, livestock watering, wildlife habitat, municipal and industrial water supply[?]; and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: ~~[conductivity shall not exceed]~~ specific conductance 500 µmhos/cm or less ~~(at 25°C)~~, pH ~~[shall be]~~ within the range of 6.6 to 8.8[?]; and temperature ~~[shall not exceed]~~ 20°C (68°F)[?]; ~~and turbidity shall not exceed 25 NTU~~ or less. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated

uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.309 NMAC - Rp 20 NMAC 6.1.2306, 10-12-00; A, 7-19-01; A, 05-23-05]

[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segment are under 20.6.4.310 NMAC.]

20.6.4.310 CANADIAN RIVER BASIN - Perennial reaches of Corrupa creek and perennial reaches of tributaries of the Canadian river north of U.S. highway 54/66 and east and northeast of the Ute creek drainage.

A. Designated Uses: livestock watering, wildlife habitat, secondary contact and warmwater aquatic life.

B. Criteria:

(1) In any single sample: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less. The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).

[20.6.4.310 NMAC - N, 05-23-05]

20.6.4.311 - 20.6.4.400: [RESERVED]

20.6.4.401 SAN JUAN RIVER BASIN - The main stem of the San Juan river from the ~~[point where the San Juan leaves New Mexico and enters Colorado]~~ Navajo Nation boundary at the Hogback upstream to ~~[U.S. highway 64 at Blanco, and any flow which enters the San Juan river from the Mancos and Chaco rivers]~~ its confluence with the Animas river.

A. Designated Uses: municipal and industrial water supply, irrigation, livestock watering, wildlife habitat, secondary contact, marginal coldwater ~~[fishery]~~ aquatic life[?]; and warmwater ~~[fishery]~~ aquatic life.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 9.0[?]; and temperature ~~[shall not exceed]~~ 32.2°C (90°F) or less. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this

section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less~~ (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.401 NMAC - Rp 20 NMAC 6.1.2401, 10-12-00; A, 05-23-05]

[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segment are under 20.6.4.408 NMAC.]

20.6.4.402 SAN JUAN RIVER BASIN - La Plata river from its confluence with the San Juan river upstream to the New Mexico-Colorado line.

A. Designated Uses: irrigation, ~~[limited]~~ marginal warmwater ~~[fishery]~~ aquatic life, marginal coldwater ~~[fishery]~~ aquatic life, livestock watering, wildlife habitat[?] and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 9.0 and temperature ~~[shall not exceed]~~ 32.2°C (90°F) or less. The use-specific numeric ~~[standards] criteria~~ set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less~~ (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.402 NMAC - Rp 20 NMAC 6.1.2402, 10-12-00; A, 05-23-05]

20.6.4.403 SAN JUAN RIVER BASIN - The Animas river from its confluence with the San Juan upstream to [U.S. highway 550 at Aztee] Estes Arroyo.

A. Designated Uses: municipal and industrial water supply, irrigation, livestock watering, wildlife habitat, marginal coldwater ~~[fishery]~~ aquatic life, ~~[secondary]~~ primary contact[?] and warmwater ~~[fishery]~~ aquatic life.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 9.0[?] and temperature ~~[shall not exceed]~~ 27°C (80.6°F) or less. The use-specific numeric ~~[standards] criteria~~ set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed~~

~~400/100 mL] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less~~ (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.403 NMAC - Rp 20 NMAC 6.1.2403, 10-12-00; A, 05-23-05]

20.6.4.404 SAN JUAN RIVER BASIN - The Animas river from [U.S. highway 550 at Aztee] Estes Arroyo upstream to the New Mexico-Colorado line.

A. Designated Uses: coldwater ~~[fishery]~~ aquatic life, irrigation, livestock watering, wildlife habitat, municipal and industrial water supply[?] and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 8.8, temperature ~~[shall not exceed]~~ 20°C (68°F) or less[?] and total phosphorus (as P) ~~[shall not exceed]~~ 0.1 mg/L or less. The use-specific numeric ~~[standards] criteria~~ set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less~~ (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.404 NMAC - Rp 20 NMAC 6.1.2404, 10-12-00; A, 05-23-05]

20.6.4.405 SAN JUAN RIVER BASIN - The main stem of the San Juan river from [U.S. highway 64 at Blanco] Canyon Largo upstream to the Navajo dam.

A. Designated Uses: high quality coldwater ~~[fishery]~~ aquatic life, irrigation, livestock watering, wildlife habitat, municipal and industrial water supply[?] and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: ~~[conductivity shall not exceed]~~ specific conductance 400 µmhos/cm or less ~~(at 25°C)~~, pH ~~[shall be]~~ within the range of 6.6 to 8.8[?] and temperature ~~[shall not exceed]~~ 20°C (68°F)[?], ~~and turbidity shall not exceed 10 NTU~~ or less. The use-specific numeric ~~[standards] criteria~~ set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less~~ (see

Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.405 NMAC - Rp 20 NMAC 6.1.2405, 10-12-00; A, 05-23-05]

20.6.4.406 SAN JUAN RIVER BASIN - Navajo reservoir in New Mexico.

A. Designated Uses: coldwater ~~[fishery]~~ aquatic life, warmwater ~~[fishery]~~ aquatic life, irrigation storage, livestock watering, wildlife habitat, municipal and industrial water storage[?] and primary contact.

B. [Standards] Criteria:

(1) At any sampling site: pH ~~[shall be]~~ within the range of 6.6 to 8.8, temperature ~~[shall not exceed]~~ 20°C (68°F) or less and[?] total phosphorus (as P) ~~[shall not exceed]~~ 0.1 mg/L or less ~~and turbidity shall not exceed 25 NTU~~. The use-specific numeric ~~[standards] criteria~~ set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less~~ (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.406 NMAC - Rp 20 NMAC 6.1.2406, 10-12-00; A, 05-23-05]

20.6.4.407 SAN JUAN RIVER BASIN - [The] Perennial reaches of the Navajo and Los Pinos rivers in New Mexico.

A. Designated Uses: coldwater ~~[fishery]~~ aquatic life, irrigation, livestock watering, wildlife habitat[?] and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 8.8, temperature ~~[shall not exceed]~~ 20°C (68°F) or less and total phosphorus (as P) ~~[shall not exceed]~~ 0.1 mg/L or less. The use-specific numeric ~~[standards] criteria~~ set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria 100/100 mL; no single sample shall exceed 200/100 mL] The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less~~ (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.407 NMAC - Rp 20 NMAC 6.1.2407, 10-12-00; A, 05-23-05]

20.6.4.408 SAN JUAN RIVER BASIN - The main stem of the San Juan river from its confluence with the Animas

river upstream to its confluence with Canyon Largo.

A. Designated Uses: municipal and industrial water supply, irrigation, livestock watering, wildlife habitat, secondary contact, marginal coldwater aquatic life and warmwater aquatic life.

B. Criteria:

(1) In any single sample: pH within the range of 6.6 to 9.0, and temperature 32.2°C (90°F) or less. The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC). [20.6.4.408 NMAC - N, 05-23-05]

20.6.4.409 - 20.6.4.500: [RESERVED]

20.6.4.501 GILA RIVER BASIN - The main stem of the Gila river from the New Mexico-Arizona line upstream to ~~[state highway 464 in Red Rock]~~ **Redrock canyon** and perennial reaches of streams in Hidalgo county.

A. Designated Uses: irrigation, ~~[limited]~~ marginal warmwater ~~[fishery]~~ aquatic life, livestock watering, wildlife habitat[?] and primary contact.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 9.0[?] and temperature ~~[shall not exceed]~~ 32.2°C (90°F) or less. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC). [20.6.4.501 NMAC - Rp 20 NMAC 6.1.2501, 10-12-00; A, 05-23-05]

20.6.4.502 GILA RIVER BASIN - The main stem of the Gila river from ~~[state highway 464 in Red Rock]~~ **Redrock canyon** upstream to ~~[Gila hot springs]~~ the confluence of the West Fork Gila river and East Fork Gila river and perennial reaches of tributaries to the Gila river below ~~[the town of Cliff]~~ Mogollon creek.

A. Designated Uses: industrial water supply, irrigation, livestock watering, wildlife habitat, marginal coldwater ~~[fishery]~~ aquatic life, primary contact[?] and warmwater ~~[fishery]~~ aquatic life.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 9.0[?] and temperature ~~[shall not exceed]~~ 28°C (82.4°F) or less. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.502 NMAC - Rp 20 NMAC 6.1.2502, 10-12-00; A, 05-23-05]

20.6.4.503 GILA RIVER BASIN - ~~[The main stem of the Gila river from Gila hot springs upstream to the headwaters and all]~~ All perennial tributaries to the Gila river ~~[at or]~~ above ~~[the town of Cliff]~~ and including Mogollon creek.

A. Designated Uses: domestic water supply, high quality coldwater ~~[fishery]~~ aquatic life, irrigation, livestock watering, wildlife habitat[?] and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: ~~[conductivity shall not exceed]~~ specific conductance 300 µmhos/cm or less for the main stem of the Gila river above Gila hot springs and 400 µmhos or less for other reaches, pH ~~[shall be]~~ within the range of 6.6 to 8.8[?] and temperature ~~[shall not exceed]~~ 20°C (68°F) or less except 32.2°C (90°F) or less in the east fork of the Gila river and Sapillo creek below Lake Roberts~~[where the temperature shall not exceed 32.2°C (90°F), and turbidity shall not exceed 10 NTU]~~. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.503 NMAC - Rp 20 NMAC 6.1.2503, 10-12-00; A, 05-23-05]

20.6.4.504 GILA RIVER BASIN - Wall lake, Lake Roberts~~[, Bear Canyon lake]~~ and Snow lake.

A. Designated Uses: coldwater ~~[fishery]~~ aquatic life, irrigation, livestock watering, wildlife habitat[?] and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: ~~[con-~~

~~ductivity shall not exceed]~~ specific conductance 300 µmhos/cm or less, pH ~~[shall be]~~ within the range of 6.6 to 8.8[?] and temperature ~~[shall not exceed]~~ 22°C (72°F) or less. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.504 NMAC - Rp 20 NMAC 6.1.2504, 10-12-00; A, 05-23-05]

[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segment are under 20.6.4.806 NMAC.]

20.6.4.601 SAN FRANCISCO RIVER BASIN - The main stem of the San Francisco river from the New Mexico-Arizona line upstream to state highway 12 at Reserve and perennial reaches of Mule creek.

A. Designated Uses: irrigation, ~~[limited]~~ marginal warmwater and marginal coldwater ~~[fishery]~~ aquatic life, livestock watering, wildlife habitat[?] and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 9.0[?] and temperature ~~[shall not exceed]~~ 32.2°C (90°F) or less. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.601 NMAC - Rp 20 NMAC 6.1.2601, 10-12-00; A, 05-23-05]

20.6.4.602 SAN FRANCISCO RIVER BASIN - The main stem of the San Francisco river from state highway 12 at Reserve upstream to the New Mexico-Arizona line.

A. Designated Uses: coldwater ~~[fishery]~~ aquatic life, irrigation, livestock watering, wildlife habitat[?] and primary contact.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 8.8[?] and temperature ~~[shall not exceed]~~ 25°C

(77°F) or less. The use-specific numeric ~~standards~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.602 NMAC - Rp 20 NMAC 6.1.2602, 10-12-00; A, 05-23-05]

20.6.4.603 SAN FRANCISCO RIVER BASIN - All perennial reaches of tributaries to the San Francisco river ~~at or above the town of Glenwood~~ above the confluence of Whitewater creek and including Whitewater creek.

A. Designated Uses: domestic water supply, fish culture, high quality coldwater ~~[fishery]~~ aquatic life, irrigation, livestock watering, wildlife habitat~~[;]~~ and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: ~~[conductivity shall not exceed]~~ specific conductance 400 µmhos/cm or less, pH ~~[shall be]~~ within the range of 6.6 to 8.8~~[;]~~ and temperature ~~[shall not exceed]~~ 20°C (68°F) or less except 25°C (77°F) or less in Tularosa creek~~[, where the temperature shall not exceed 25°C (77°F), and turbidity shall not exceed 10 NTU].~~ The use-specific numeric ~~standards~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.603 NMAC - Rp 20 NMAC 6.1.2603, 10-12-00; A, 05-23-05]

20.6.4.701 DRY CIMARRON RIVER - Perennial portions of the Dry Cimarron river ~~[in Union and Colfax counties]~~ above Oak creek and perennial reaches of Oak creek, Long canyon, and Corruampa and Carrizozo creeks.

A. Designated Uses: marginal coldwater [fishery] aquatic life, warmwater aquatic life, irrigation, livestock watering, wildlife habitat~~[;]~~ and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 8.8, temperature ~~[shall not exceed]~~ 25°C (77°F)

or less, TDS ~~[shall not exceed]~~ 1,200 mg/L or less, sulfate ~~[shall not exceed]~~ 600 mg/L or less, and chloride ~~[shall not exceed]~~ 40 mg/L or less. The use-specific numeric ~~standards~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.701 NMAC - Rp 20 NMAC 6.1.2701, 10-12-00; A, 05-23-05]

[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segment are under 20.6.4.702 NMAC.]

20.6.4.702 DRY CIMARRON RIVER - Perennial portions of the Dry Cimarron river below Oak creek, and perennial portions of Long canyon and Carrizozo creeks.

A. Designated Uses:

warmwater aquatic life, irrigation, livestock watering, wildlife habitat and secondary contact.

B. Criteria:

(1) In any single sample: pH within the range of 6.6 to 8.8, temperature 32.2°C (90°F) or less, TDS 1,200 mg/L or less, sulfate 600 mg/L or less and chloride 40 mg/L or less. The use-specific numeric ~~standards~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).

[20.6.4.702 NMAC - N, 05-23-05]

20.6.4.703 - 20.6.4.800: [RESERVED]

20.6.4.801 CLOSED BASINS - Rio Tularosa lying east of the old U.S. highway 70 bridge crossing east of Tularosa~~[;]~~ and all perennial tributaries to the Tularosa basin except Three Rivers.

A. Designated Uses:

coldwater [fishery] aquatic life, fish culture, irrigation, livestock watering, wildlife habitat, municipal and industrial water supply~~[;]~~ and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 8.8~~[;]~~ and temperature ~~[shall not exceed]~~ 20°C (68°F) or less. The use-specific numeric ~~standards~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated

uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.801 NMAC - Rp 20 NMAC 6.1.2801, 10-12-00; A, 05-23-05]

20.6.4.802 CLOSED BASINS - Perennial reaches of Three Rivers.

A. Designated Uses: irrigation, domestic water supply, high quality coldwater ~~[fishery]~~ aquatic life, secondary contact, livestock watering~~[;]~~ and wildlife habitat.

B. [Standards] Criteria:

(1) In any single sample: ~~[conductivity shall not exceed]~~ specific conductance 500 µmhos/cm or less, pH ~~[shall be]~~ within the range of 6.6 to 8.8~~[;]~~ and temperature ~~[shall not exceed]~~ 20°C (68°F) or less~~[, and turbidity shall not exceed 10 NTU].~~ The use-specific numeric ~~standards~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.802 NMAC - Rp 20 NMAC 6.1.2802, 10-12-00; A, 05-23-05]

20.6.4.803 CLOSED BASINS - Perennial reaches of the Mimbres river downstream of ~~[the USGS gaging station at Mimbres]~~ the confluence with Willow Springs canyon and all perennial reaches of tributaries thereto.

A. Designated Uses: coldwater ~~[fishery]~~ aquatic life, irrigation, livestock watering, wildlife habitat~~[;]~~ and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 8.8~~[;]~~ and temperature ~~[shall not exceed]~~ 20°C (68°F) or less. The use-specific numeric ~~standards~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL.]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less;

single sample 235 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.803 NMAC - Rp 20 NMAC 6.1.2803, 10-12-00; A, 05-23-05]

20.6.4.804 CLOSED BASINS - [The] Perennial reaches of the Mimbres river upstream of [the USGS gaging station at Mimbres] the confluence with Willow Springs canyon and all perennial tributaries thereto.

A. Designated Uses: irrigation, domestic water supply, high quality coldwater ~~[fishery]~~ aquatic life, livestock watering, wildlife habitat~~[s]~~ and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: ~~[conductivity shall not exceed]~~ specific conductance 300 μ mhos or less, pH ~~[shall be]~~ within the range of 6.6 to 8.8~~[s]~~ and temperature ~~[shall not exceed]~~ 20°C (68°F) or less~~[, and turbidity shall not exceed 10 NTU]~~. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 100/100 mL; no single sample shall exceed 200/100 mL]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.804 NMAC - Rp 20 NMAC 6.1.2804, 10-12-00; A, 05-23-05]

20.6.4.805 CLOSED BASINS - Perennial reaches of the Sacramento river (Sacramento-Salt Flat closed basin) and all perennial tributaries thereto.

A. Designated Uses: domestic and municipal water supply, livestock watering, wildlife habitat, marginal coldwater ~~[fishery]~~ aquatic life~~[s]~~ and secondary contact.

B. [Standards] Criteria:

(1) In any single sample: pH ~~[shall be]~~ within the range of 6.6 to 9.0~~[s]~~ and temperature ~~[shall not exceed]~~ 25°C (77°F) or less~~[, and turbidity shall not exceed 10 NTU]~~. The use-specific numeric ~~[standards]~~ criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 200/100 mL; no single sample shall exceed 400/100 mL]~~ The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of ~~[20.6.4.13]~~ 20.6.4.14 NMAC).

[20.6.4.805 NMAC - Rp 20 NMAC

6.1.2805, 10-12-00; A, 05-23-05]

20.6.4.806 CLOSED BASINS - Bear canyon reservoir.

A. Designated Uses: cold-water aquatic life, irrigation, livestock watering, wildlife habitat and secondary contact.

B. Criteria:

(1) In any single sample: specific conductance 300 μ mhos/cm or less, pH within the range of 6.6 to 8.8 and temperature 22°C (72°F) or less. The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section.

(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC). [20.6.4.806 NMAC - N, 05-23-05]

20.6.4.807 - 20.6.4.899: [RESERVED]

20.6.4.900 [STANDARDS] CRITERIA APPLICABLE TO ATTAINABLE OR DESIGNATED USES UNLESS OTHERWISE SPECIFIED IN ~~[20.6.4.101]~~ 20.6.4.97 THROUGH 20.6.4.899 NMAC.

A. [Coldwater Fishery: Dissolved oxygen shall not be less than 6.0 mg/L, temperature shall not exceed 20°C (68°F), and pH shall be within the range of 6.6 to 8.8. The acute and chronic aquatic life standards set out in Subsections J and M of this section are applicable to this use. The total ammonia standards set out in Subsection O of this section and the human health standards listed in Subsection M of this section are applicable to this use.] **Fish Culture, Water Supply and Storage:** Fish culture and municipal and industrial water supply and storage are designated uses in particular classified waters of the state where these uses are actually being realized. However, no numeric criteria apply uniquely to these uses. Water quality adequate for these uses is ensured by the general criteria and numeric criteria for bacterial quality, pH and temperature that are established for all classified waters of the state listed in 20.6.4.97 through 20.6.4.899 NMAC.

B. Domestic Water Supply: Surface waters of the state designated for use as domestic water supplies shall not contain substances in concentrations that create a lifetime cancer risk of more than one cancer per 100,000 exposed persons. ~~[The following numeric standards and those standards-]~~ Those criteria listed under domestic water supply in Subsection ~~[M] J~~ of this section ~~[shall not be exceeded:]~~ apply to this use.

[(1) dissolved nitrate (as N) 10-
mg/L

(2) ~~radium 226 + radium 228~~
5-~~pCi/L~~

(3) ~~strontium 90~~ 8-~~pCi/L~~

(4) ~~tritium~~ 20,000

pCi/L
(5) ~~gross alpha (including radium 226, but excluding radon and uranium)~~
15-~~pCi/L]~~

C. [High Quality Coldwater Fishery: Dissolved oxygen shall not be less than 6.0 mg/L, temperature shall not exceed 20°C (68°F), pH shall be within the range of 6.6 to 8.8, turbidity shall not exceed 10 NTU (25 NTU in certain reaches where natural background prevents attainment of lower turbidity), and conductivity (at 25°C) shall not exceed a limit varying between 300 μ mhos/cm and 1,500 μ mhos/cm depending on the natural background in particular surface waters of the state (the intent of this standard is to prevent excessive increases in dissolved solids which would result in changes in community structure). The acute and chronic aquatic life standards set out in Subsections J and M of this section are applicable to this use. The total ammonia standards set out in Subsection O of this section and the human health standards for pollutants listed in Subsection M of this section are applicable to this use.

D.] Irrigation and Irrigation Storage: ~~[The monthly geometric mean of fecal coliform bacteria shall not exceed 1,000/100 mL; no single sample shall exceed 2,000/100 mL.]~~ The following numeric ~~[standards]~~ criteria and those ~~[standards]~~ criteria listed under irrigation in Subsection ~~[M] J~~ of this section ~~[shall not be exceeded]~~ apply to this use:

(1) dissolved selenium

0.13 mg/L

(2) dissolved selenium in presence of >50 mg/L SO₄ 0.25 mg/L

E. [Limited Warmwater Fishery: Dissolved oxygen shall not be less than 5 mg/L, pH shall be within the range of 6.6 to 9.0, and on a case by case basis maximum temperatures may exceed 32.2°C. The acute and chronic aquatic life standards set out in Subsections J and M of this section are applicable to this use. The total ammonia standards set out in Subsection N of this section and the human health standards listed in Subsection M of this section are applicable to this use.

F. Marginal Coldwater Fishery: Dissolved oxygen shall not be less than 6 mg/L, on a case by case basis maximum temperatures may exceed 25°C and the pH may range from 6.6 to 9.0. The acute and chronic aquatic life standards set out in Subsections J and M of this section are applicable to this use. The total ammonia standards set out in Subsection O of this section and the human health standards listed in Subsection M of this section are applicable to this use.

eable to this use.

G)D. Primary Contact: The monthly geometric mean of [fecal coliform bacteria shall not exceed 200/100 mL, no single sample shall exceed 400/100 mL] *E. coli* bacteria of 126 cfu/100 mL and single sample of 410 cfu/100 mL, apply to this use and pH shall be within the range of 6.6 to 9.0.

E. Secondary Contact: The monthly geometric mean of *E. coli* bacteria of 548 cfu/100 mL and single sample of 2507 cfu/100 mL apply to this use.

H. Warmwater Fishery: Dissolved oxygen shall not be less than 5 mg/L, temperature shall not exceed 32.2°C (90°F), and pH shall be within the range of 6.6 to 9.0. The acute and chronic aquatic life standards set out in Subsections J and M of this section are applicable to this use. The total ammonia standards set out in Subsection N of this section and the human health standards listed in Subsection M of this section are applicable to this use.

I. Fish culture, secondary contact, and municipal and industrial water supply and storage are also designated in particular classified waters of the state where these uses are actually being realized. However, no numeric standards apply uniquely to these uses. Water quality adequate for these uses is ensured by the general standards and numeric standards for bacterial quality, pH, and temperature which are established for all classified waters of the state listed in 20.6.4.101 through 20.6.4.899 NMAC.

J. The following schedule of equations for the determination of numeric standards for the substances listed and those standards listed in Subsection M for aquatic life shall apply to the subcategories of fisheries identified in this section:

(1) Acute standards

(a) dissolved silver $e^{(1.72[\ln(\text{hardness})] - 6.6825)}$ $\mu\text{g/L}$

(b) dissolved cadmium $(e^{(1.128[\ln(\text{hardness})] - 3.6867)})ef$ $\mu\text{g/L}$ The hardness-dependent formulae for cadmium must be multiplied by a conversion factor (ef) to be expressed as dissolved values. The acute factor for cadmium is $ef = 1.136672 - [(\ln \text{hardness})(0.041838)]$.

(c) dissolved chromium $e^{(0.819[\ln(\text{hardness})] + 2.5726)}$ $\mu\text{g/L}$

(d) dissolved copper $e^{(0.9422[\ln(\text{hardness})] + 1.7408)}$ $\mu\text{g/L}$

(e) dissolved lead $(e^{(1.273[\ln(\text{hardness})] + 1.46)})ef$ $\mu\text{g/L}$ The hardness-dependent formulae for lead must be multiplied by a conversion factor (ef) to be expressed as dissolved values. The acute and chronic factor for lead is $ef = 1.46203 - [(\ln \text{hardness})(0.145712)]$.

(f) dissolved nickel $e^{(0.8460[\ln(\text{hardness})] + 2.253)}$ $\mu\text{g/L}$

(g) dissolved zinc

$e^{(0.8473[\ln(\text{hardness})] + 0.8618)}$ $\mu\text{g/L}$

(2) Chronic standards

(a) dissolved cadmium $(e^{(0.7852[\ln(\text{hardness})] + 2.715)})ef$ $\mu\text{g/L}$

The hardness-dependent formulae for cadmium must be multiplied by a conversion factor (ef) to be expressed as dissolved values. The chronic factor for cadmium is $ef = 1.101672 - [(\ln \text{hardness})(0.041838)]$.

(b) dissolved chromium $e^{(0.819[\ln(\text{hardness})] + 0.534)}$ $\mu\text{g/L}$

(c) dissolved copper $e^{(0.8545[\ln(\text{hardness})] + 1.7428)}$ $\mu\text{g/L}$

(d) dissolved lead $(e^{(1.273[\ln(\text{hardness})] + 1.705)})ef$ $\mu\text{g/L}$

The hardness-dependent formulae for lead must be multiplied by a conversion factor (ef) to be expressed as dissolved values. The acute and chronic factor for lead is $ef = 1.46203 - [(\ln \text{hardness})(0.145712)]$.

(e) dissolved nickel $e^{(0.846[\ln(\text{hardness})] + 0.9554)}$ $\mu\text{g/L}$

(f) dissolved zinc $e^{(0.8473[\ln(\text{hardness})] + 0.8699)}$ $\mu\text{g/L}$

K)F. Livestock Watering:

[The following numeric standards and those standards] The criteria listed in Subsection [M] for livestock watering [shall not be exceeded:] apply to this use.

(1) radium 226 + radium 228

30.0 pCi/L

(2) tritium

20,000 pCi/L

(3) total gross alpha (including radium 226, but excluding radon and uranium) 15 pCi/L

L)G. Wildlife Habitat:

Wildlife habitat [should] shall be free from any substances at concentrations that are toxic to or will adversely affect plants and animals that use these environments for feeding, drinking, habitat or propagation[; or]; can bioaccumulate; [and] or might impair the community of animals in a watershed or the ecological integrity of surface waters of the state. [In the absence of site specific information, and subject to the following paragraph, the chronic numeric standards listed in Subsection M for wildlife habitat shall not be exceeded.] The discharge of substances [which] that bioaccumulate, in excess of levels listed in Subsection [M] J for wildlife habitat is allowed if, and only to the extent that, the substances are present in the intake waters [which] that are diverted and utilized prior to discharge, and then only if the discharger utilizes best available treatment technology to reduce the amount of bioaccumulating substances [which] that are discharged. The numeric criteria listed in Subsection J for wildlife habitat apply to this use except when a site-specific or segment-specific criterion has been adopted under 20.6.4.101 through 20.6.4.899 NMAC.

H. Aquatic Life: Surface

waters of the state with a designated, existing or attainable use of aquatic life shall be free from any substances at concentrations that can impair the community of plants and animals in or the ecological integrity of surface waters of the state. Except as provided in paragraph 6 below, the acute and chronic aquatic life criteria set out in subsections I and J of this section are applicable to this use. In addition, the specific criteria for aquatic life subcategories in the following paragraphs shall apply to waters classified under the respective designations

(1) High Quality Coldwater:

Dissolved oxygen 6.0 mg/L or more, temperature 20°C (68°F) or less, pH within the range of 6.6 to 8.8 and specific conductance a limit varying between 300 $\mu\text{mhos/cm}$ and 1,500 $\mu\text{mhos/cm}$ depending on the natural background in particular surface waters of the state (the intent of this criterion is to prevent excessive increases in dissolved solids which would result in changes in community structure). The total ammonia criteria set out in Subsections K, L and M of this section and the human health criteria for pollutants listed in Subsection J of this section are applicable to this use.

(2) Coldwater: Dissolved oxygen 6.0 mg/L or more, temperature 20°C (68°F) or less and pH within the range of 6.6 to 8.8. The total ammonia criteria set out in Subsections K, L and M of this section and the human health criteria listed in Subsection J of this section are applicable to this use.

(3) Marginal Coldwater:

Dissolved oxygen than 6 mg/L or more, on a case by case basis maximum temperatures may exceed 25°C (77°F) and the pH may range from 6.6 to 9.0. The total ammonia criteria set out in Subsections K, L and M of this section and the human health criteria listed in Subsection J of this section are applicable to this use.

(4) Warmwater: Dissolved oxygen 5 mg/L or more, temperature 32.2°C (90°F) or less, and pH within the range of 6.6 to 9.0. The total ammonia criteria set out in Subsections K, L and M of this section and the human health criteria listed in Subsection J of this section are applicable to this use.

(5) Marginal Warmwater:

Dissolved oxygen 5 mg/L or more, pH within the range of 6.6 to 9.0 and on a case by case basis maximum temperatures may exceed 32.2°C (90°F). The total ammonia criteria set out in Subsections K, L and M of this section and the human health criteria listed in Subsection J of this section are applicable to this use.

(6) Limited Aquatic Life:

Criteria shall be developed on a segment-specific basis. The acute aquatic life criteria of Subsections I and J of this section shall apply. Chronic aquatic life criteria do not

apply unless adopted on a segment specific basis.

I. The following schedule of equations for the determination of numeric criteria for the substances listed and those criteria listed in Subsection J for aquatic life shall apply to the subcategories of aquatic life identified in this section.

(1) Acute criteria:

(a) dissolved silver $0.85 e^{(1.72(\ln(\text{hardness}))-6.59)}$ $\mu\text{g/L}$

(b) dissolved cadmium $(e^{(1.0166(\ln(\text{hardness}))-3.924)})cf$ $\mu\text{g/L}$, the hardness-dependent formulae for cadmium must be multiplied by a conversion factor (cf) to be expressed as dissolved values; the acute factor for cadmium is $cf = 1.136672 - ((\ln \text{hardness})(0.041838))$

(c) dissolved chromium $0.316 e^{(0.819(\ln(\text{hardness}))+3.7256)}$ $\mu\text{g/L}$

(d) dissolved copper $0.960 e^{(0.9422(\ln(\text{hardness}))-1.700)}$ $\mu\text{g/L}$

(e) dissolved lead $(e^{(1.273(\ln(\text{hardness}))-1.46)})cf$ $\mu\text{g/L}$, the hardness-dependent formulae for lead must be multiplied by a conversion factor (cf) to be expressed as dissolved values; the acute and chronic factor for lead is $cf = 1.46203 - ((\ln \text{hardness})(0.145712))$

(f) dissolved nickel $0.998 e^{(0.8460(\ln(\text{hardness}))+2.255)}$ $\mu\text{g/L}$

(g) dissolved zinc $0.978 e^{(0.8473(\ln(\text{hardness}))+0.884)}$ $\mu\text{g/L}$

(2) Chronic criteria:

(a) dissolved cadmium $(e^{(0.7409(\ln(\text{hardness}))-4.719)})cf$ $\mu\text{g/L}$, the hardness-dependent formulae for cadmium must be multiplied by a conversion factor (cf) to be expressed as dissolved values; the chronic factor for cadmium is $cf = 1.101672 - ((\ln \text{hardness})(0.041838))$

(b) dissolved chromium $0.860 e^{(0.819(\ln(\text{hardness}))+0.6848)}$ $\mu\text{g/L}$

(c) dissolved copper $0.960 e^{(0.8545(\ln(\text{hardness}))-1.702)}$ $\mu\text{g/L}$

(d) dissolved lead $(e^{(1.273(\ln(\text{hardness}))-4.705)})cf$ $\mu\text{g/L}$, the hardness-dependent formulae for lead must be multiplied by a conversion factor (cf) to be expressed as dissolved values; the acute and chronic factor for lead is $cf = 1.46203 - ((\ln \text{hardness})(0.145712))$

(e) dissolved nickel $0.997 e^{(0.846(\ln(\text{hardness}))+0.0584)}$ $\mu\text{g/L}$

(f) dissolved zinc $0.986 e^{(0.8473(\ln(\text{hardness}))+0.884)}$ $\mu\text{g/L}$

[M]J. Numeric criteria. The following table sets forth the numeric criteria adopted by the commission to protect existing, designated and attainable uses. Additional criteria that are not compatible with this table ~~and~~ are found in Subsections A through ~~E~~ I of this section.

Pollutant total, unless indicated	CAS Number	Domestic Water Supply $\mu\text{g/L}$ unless indicated	Irrigation $\mu\text{g/L}$ unless indicated	Livestock Watering $\mu\text{g/L}$ unless indicated	Wildlife Habitat $\mu\text{g/L}$ unless indicated	Aquatic Life		Human Health $\mu\text{g/L}$	Cancer Causing (C) [and/or] or Persistent (P)
						Acute $\mu\text{g/L}$	Chronic $\mu\text{g/L}$		
[1] Aluminum, dissolved	7429-90-5		5,000	5,000		750	87		
Aluminum	7429-90-5			500					
2 Antimony, dissolved	7440-36-0	[6]5.6						[4,300]64 0	P
3 Arsenic, dissolved	7440-38-2	[50]2.3	100	[200]		340	150	[24.2]9.0	C,P
Arsenic	7440-38-2			20					
Asbestos	1332-21-4	7,000,000 fibers/L							
4 Barium, dissolved	7440-39-3	2,000							
Barium	7440-39-3			10 mg/L					
5 Beryllium, dissolved	7440-41-7	4				[130]	[5.3]		
6 Boron, dissolved	7440-42-8		750	5,000					
7 Cadmium, dissolved	7440-43-9	5	10	50		see 20.6.4. 900[.J]. I	see 20.6.4.90 0[.J].I		
Cadmium	7440-43-9			5					
8 Chlorine residual	7782-50-5				11	19	11		
9 Chromium, dissolved	18540-29-9	100	100	1,000		see 20.6.4. 900[.J]. I	see 20.6.4.90 0[.J].I		

10	Cobalt, dissolved	7440-48-4		50	1,000					
							see 20.6.4. 900[.J]. I	see 20.6.4.90 0[.J].I		
11	Copper, dissolved	7440-50-8	1300	200	500					
12	Cyanide, dissolved	57-12-5	200							
13	Cyanide, weak acid dissociable	57-12-5	700			5.2	22.0	5.2	220,000	
	Fluoride				2 mg/L					
							see 20.6.4. 900[.J]. I	see 20.6.4.90 0[.J].I		
14	Lead, dissolved	7439-92-1	50	5,000	100					
	Lead	7439-92-1			15					
15	Mercury	7439-97-6	2		10	[0.77]	[2.4]	[0.012]		
	Mercury, dissolved	7439-97-6				0.77	1.4	0.77		
	Methylmercury	22967-92-6							0.3 mg/kg in fish tissue	P
16	Molybdenum, dissolved	7439-98-7		1,000						
							see 20.6.4. 900[.J]. I	see 20.6.4.90 0[.J].I		
17	Nickel, dissolved	7440-02-0	100						4,600	P
	Nickel	7440-02-0			250					
	Nitrate as N		10 mg/L							
	Nitrite + Nitrate				132 mg/L					
18	Selenium, dissolved	7782-49-2	50		see 20.6.4.900[.D].C	50			[11,000]4 ,200	P
19	Selenium, total recoverable	7782-49-2				5.0	20.0	5.0		
							see 20.6.4. 900[.J]. I			
20	Silver, dissolved	7440-22-4								
21	Thallium, dissolved	7440-28-0	[2]1.7						6.3	P
22	Uranium, dissolved	7440-61-1	5,000							
23	Vanadium, dissolved	7440-62-2		100	100					
							see 20.6.4. 900[.J]. I	see 20.6.4.90 0[.J].I	[69,000]2 6,000	P
24	Zinc, dissolved	7440-66-6	7,400	2,000	[25,000]					
	Zinc	7440-66-6			5 mg/L					
	Adjusted gross alpha (see 20.6.4.900.B and .F)		15 pCi/L		15 pCi/L					
	Radium 226 + Radium 228		5 pCi/L		30.0 pCi/L					
	Strontium 90		8 pCi/L							
	Tritium		20,000		20,000					
			pCi/L		pCi/L					

25	Acenaphthene	83-32-9	670						[2,700]990	
26	Acrolein	107-02-8	190						[780]290	
27	Acrylonitrile	107-13-1	0.51						[6.6]2.5	C
28	Aldrin	309-00-2	0.00049				3.0		[0.0014]0.00050	C,P
29	Anthracene	120-12-7	8,300						[110,000]40,000	
30	Benzene	71-43-2	22						[710]510	C
31	Benzidine	92-87-5	0.00086						[0.0054]0.0020	C
32	Benzo(a)anthracene	56-55-3	0.038						[0.49]0.18	C
33	Benzo(a)pyrene	50-32-8	0.038						[0.49]0.18	C,P
34	Benzo(b)fluoranthene	205-99-2	0.038						[0.49]0.18	C
35	Benzo(k)fluoranthene	207-08-9	0.038						[0.49]0.18	C
36	alpha-BHC	319-84-6	0.026						[0.13]0.049	C
37	beta-BHC	319-85-7	0.091						[0.46]0.17	C
38	Gamma-BHC (Lindane)	58-89-9	0.19				0.95		0.63	C
39	Bis(2-chloroethyl) ether	111-44-4	0.30						[14]5.3	C
40	Bis(2-chloroisopropyl) ether	108-60-1	1,400						[170,000]65,000	
41	Bis(2-ethylhexyl) phthalate	117817	12						[59]22	C
42	Bromoform	75-25-2	43						[3600]1,400	C
43	Butylbenzyl phthalate	85-68-7	1,500						[5,200]1,900	
44	Carbon tetrachloride	56-23-5	2.3						[44]16	C
45	Chlordane	57-74-9	0.0080				2.4	0.0043	[0.022]0.0081	C,P
46	Chlorobenzene	108-90-7	680						21,000	
47	Chlorodibromomethane	124-48-1	4.0						[340]130	C
48	Chloroform	67-66-3	57						4,700	C
49	2-Chloronaphthalene	91-58-7	1,000						[4,300]1,600	
50	2-Chlorophenol	95-57-8	81						[400]150	
51	Chrysene	218-01-9	0.038						[0.49]0.18	C
52	4,4'-DDT and derivatives	50-29-3	0.0022			0.001	1.1	0.001	[0.0059]0.0022	C,P
53	Dibenzo(a,h)anthracene	53-70-3	0.038						[0.49]0.18	C
54	Dibutyl phthalate	84-74-2	2,000						[12,000]4,500	
55	1,2-Dichlorobenzene	95-50-1	2,700						17,000	
56	1,3-Dichlorobenzene	541-73-1	320						[2,600]960	
56	1,3-Dichlorobenzene	541-73-1	320						[2,600]960	
57	1,4-Dichlorobenzene	106-46-7	400						2,600	

58	3,3'- Dichlorobenzidine	91-94-1	0.21						[0.77]0.2 8	C
59	Dichlorobromome thane	75-27-4	5.5						[460]170	C
60	1,2- Dichloroethane	107-06-2	3.8						[990]370	C
61	1,1- Dichloroethylene	75-35-4	0.57						32	C
62	2,4- Dichlorophenol	120-83-2	77						[790]290	
63	1,2- Dichloropropane	78-87-5	5.0						[390]150	C
64	1,3- Dichloropropene	542-75-6	10						1,700	
65	Dieldrin	60-57-1	0.00052				0.24	0.056	[0.0014]0 .00054	C,P
66	Diethyl phthalate	84-66-2	17,000						[120,000] 44,000	
67	Dimethyl phthalate	131-11-3	270,000						[2,900,00 0]1,100,0 00	
68	2,4- Dimethylphenol	105-67-9	380						[2,300]85 0	
69	2,4-Dinitrophenol	51-28-5	69						[14,000]5 ,300	
70	2,4-Dinitrotoluene	121-14-2	1.1						[91]34	C
71	2,3,7,8-TCDD Dioxin	1746-01-6	5.0E-08						[1.4E- 07]5.1E- 08	C,P
72	1,2- Diphenylhydrazin e	122-66-7	0.36						[5.4]2.0	C
73	alpha-Endosulfan	959-98-8	62				0.22	0.056	[240]89	
74	beta-Endosulfan	33213-65-9	62				0.22	0.056	[240]89	
75	Endosulfan sulfate	1031-07-8	62						[240]89	
76	Endrin	72-20-8	0.76				0.086	0.036	0.81	
78	Endrin aldehyde	7421-93-4	0.29						[0.81]0.3 0	
79	Ethylbenzene	100-41-4	3,100						29,000	
80	Fluoranthene	206-44-0	130						[370]140	
81	Fluorene	86-73-7	1,100						[14,000]5 ,300	
82	Heptachlor	76-44-8	0.00079				0.52	0.0038	[0.0021]0 .00079	C
83	Heptachlor epoxide	1024-57-3	0.00039				0.52	0.0038	[0.0011]0 .00039	C
84	Hexachlorobenzen e	118-74-1	0.0028						[0.0077]0 .0029	C,P
85	Hexachlorobutadi ene	87-68-3	4.4						[500]180	C
86	Hexachlorocyclop entadiene	77-47-4	240						17,000	
87	Hexachloroethane	67-72-1	14						[89]33	C
88	Ideno(1,2,3- cd)pyrene	193-39-5	0.038						[0.49]0.1 8	C
89	Isophorone	78-59-1	350						[26,000]9 ,600	C
90	Methyl bromide	74-83-9	47						[4000]1,5 00	

91	2-Methyl-4,6-dinitrophenol	534-52-1	13						[765]280	
92	Methylene chloride	75-09-2	46						[16,000]5,900	C
93	Nitrobenzene	98-95-3	17						[1,900]690	
94	N-Nitrosodimethylamine	62-75-9	0.0069						[81]30	C
95	N-Nitrosodi-n-propylamine	621-64-7	0.050						[14]5.1	C
96	N-Nitrosodiphenylamine	86-30-6	33						[160]60	C
97	PCBs	1336-36-3	0.00064			0.014		0.014	[0.0017]0.00064	C,P
98	Pentachlorophenol	87-86-5	2.7				19	15	[82]30	C
99	Phenol	108-95-2	21,000						[4,600,000]1,700,000	
100	Pyrene	129-00-0	830						[11,000]4,000	
101	1,1,2,2-Tetrachloroethane	79-34-5	1.7						[110]40	C
102	Tetrachloroethylene	127-18-4	6.9						[88.5]33	C,P
103	Toluene	108-88-3	6,800						200,000	
104	Toxaphene	8001-35-2	0.0028				0.73	0.0002	[0.0075]0.0028	C
105	1,2-Trans-dichloroethylene	156-60-5	700						140,000	
106	1,2,4-Trichlorobenzene	120-82-1	260						940	
107	1,1,2-Trichloroethane	79-00-5	5.9						[420]160	C
108	Trichloroethylene	79-01-6	25						[810]300	C
109	2,4,6-Trichlorophenol	88-06-2	14						[65]24	C
110	Vinyl chloride	75-01-4	20						[5,250]5,300	C

[N- Total Ammonia (mg/L as N), Warmwater Fisheries: (1) acute standards

	6.50	6.75	7.00	7.25	7.50	7.75	8.00	8.25	8.50	8.75	9.00
0	29	26	23	19	14	10	6.6	3.7	2.1	1.2	0.70
1	28	26	23	19	14	9.9	6.5	3.7	2.1	1.2	0.70
2	28	26	22	18	14	9.7	6.4	3.6	2.1	1.2	0.69
3	28	25	22	18	14	9.6	6.3	3.6	2.0	1.2	0.69
4	27	25	22	18	14	9.5	6.2	3.5	2.0	1.2	0.69
5	27	25	22	18	13	9.4	6.1	3.5	2.0	1.2	0.68
6	27	24	21	18	13	9.3	6.1	3.5	2.0	1.1	0.68
7	26	24	21	17	13	9.2	6.0	3.4	2.0	1.1	0.68
8	26	24	21	17	13	9.1	6.0	3.4	1.9	1.1	0.68
9	26	24	21	17	13	9.0	5.9	3.4	1.9	1.1	0.68
10	25	23	21	17	13	8.9	5.9	3.3	1.9	1.1	0.68
11	25	23	20	17	13	8.9	5.8	3.3	1.9	1.1	0.68
12	25	23	20	17	13	8.8	5.8	3.3	1.9	1.1	0.69
13	25	23	20	16	12	8.7	5.7	3.3	1.9	1.1	0.69
14	25	23	20	16	12	8.7	5.7	3.3	1.9	1.1	0.70
15	24	23	20	16	12	8.6	5.7	3.3	1.9	1.1	0.70
16	24	22	20	16	12	8.6	5.7	3.3	1.9	1.1	0.71
17	24	22	20	16	12	8.5	5.6	3.2	1.9	1.1	0.72
18	24	22	19	16	12	8.5	5.6	3.2	1.9	1.2	0.73
19	24	22	19	16	12	8.5	5.6	3.2	1.9	1.2	0.74
20	24	22	19	16	12	8.5	5.6	3.2	1.9	1.2	0.75
21	24	22	19	16	12	8.4	5.6	3.2	1.9	1.2	0.77
22	24	22	19	16	12	8.4	5.6	3.3	1.9	1.2	0.78
23	24	22	19	16	12	8.4	5.6	3.3	1.9	1.2	0.80
24	24	22	19	16	12	8.4	5.6	3.3	2.0	1.2	0.81
25	24	22	19	16	12	8.4	5.6	3.3	2.0	1.2	0.83
26	22	20	18	15	11	7.9	5.2	3.1	1.9	1.2	0.80
27	20	19	17	14	10	7.3	4.9	2.9	1.8	1.1	0.76
28	19	18	15	13	9.7	6.9	4.6	2.7	1.7	1.1	0.73
29	18	16	14	12	9.1	6.4	4.3	2.6	1.6	1.0	0.70
30	17	15	13	11	8.5	6.0	4.1	2.4	1.5	0.97	0.68

		pH											
		(2) chronic standards											
		pH											
Temperature °C	0	25	25	25	25	25	25	23	15	0.84	0.48	0.28	0.16
	1	25	25	25	25	25	25	23	15	0.83	0.47	0.27	0.16
	2	24	24	24	24	24	24	22	15	0.82	0.47	0.27	0.16
	3	24	24	24	24	24	24	22	14	0.81	0.46	0.27	0.16
	4	24	24	24	24	24	24	22	14	0.80	0.46	0.27	0.16
	5	23	23	23	23	23	23	21	14	0.80	0.45	0.26	0.16
	6	23	23	23	23	23	23	21	14	0.79	0.45	0.26	0.16
	7	23	23	23	23	23	23	21	14	0.78	0.45	0.26	0.16
	8	23	23	23	23	23	23	21	14	0.77	0.44	0.26	0.15
	9	22	22	22	22	22	22	21	13	0.77	0.44	0.26	0.16
	10	22	22	22	22	22	22	20	13	0.76	0.44	0.26	0.16
	11	22	22	22	22	22	22	20	13	0.76	0.44	0.26	0.16
12	22	22	22	22	22	22	20	13	0.75	0.44	0.26	0.16	
13	22	22	22	22	22	22	20	13	0.75	0.43	0.26	0.16	
14	21	21	21	21	22	22	20	13	0.75	0.43	0.26	0.16	
15	21	21	21	21	21	21	20	13	0.74	0.43	0.26	0.16	
16	21	21	21	21	21	21	20	13	0.74	0.43	0.26	0.16	
17	21	21	21	21	21	21	19	13	0.74	0.43	0.26	0.16	
18	21	21	21	21	21	21	19	13	0.74	0.43	0.26	0.17	
19	21	21	21	21	21	21	19	13	0.74	0.44	0.26	0.17	
20	21	21	21	21	21	21	19	13	0.74	0.44	0.27	0.17	
21	19	19	19	19	19	19	18	12	0.69	0.41	0.25	0.16	
22	18	18	18	18	18	18	17	11	0.65	0.38	0.24	0.15	
23	17	17	17	17	17	17	16	10	0.60	0.36	0.22	0.15	
24	16	16	16	16	16	16	15	0.97	0.57	0.34	0.21	0.14	
25	14	14	15	15	15	15	14	0.91	0.53	0.32	0.20	0.13	
26	13	13	14	14	14	14	13	0.85	0.50	0.30	0.19	0.13	
27	13	13	13	13	13	13	12	0.79	0.47	0.28	0.18	0.12	
28	12	12	12	12	12	12	11	0.74	0.44	0.27	0.17	0.12	
29	11	11	11	11	11	11	10	0.70	0.41	0.25	0.16	0.11	
30	10	10	10	10	10	10	0.97	0.65	0.39	0.24	0.16	0.11	

⊖: Total Ammonia (mg/L as N), Coldwater Fisheries:

(1) acute standards

		6.50	6.75	7.00	7.25	7.50	7.75	8.00	8.25	8.50	8.75	9.00
Temperature °C	0	29	26	23	19	14	10	6.6	3.7	2.1	1.2	0.70
	1	28	26	23	19	14	9.9	6.5	3.7	2.1	1.2	0.70
	2	28	26	22	18	14	9.7	6.4	3.6	2.1	1.2	0.69
	3	28	25	22	18	14	9.6	6.3	3.6	2.0	1.2	0.69
	4	27	25	22	18	14	9.5	6.2	3.5	2.0	1.2	0.69
	5	27	25	22	18	13	9.4	6.1	3.5	2.0	1.2	0.68
	6	27	24	21	18	13	9.3	6.1	3.5	2.0	1.1	0.68
	7	26	24	21	17	13	9.2	6.0	3.4	2.0	1.1	0.68
	8	26	24	21	17	13	9.1	6.0	3.4	1.9	1.1	0.68
	9	26	24	21	17	13	9.0	5.9	3.4	1.9	1.1	0.68
	10	25	23	21	17	13	8.9	5.9	3.3	1.9	1.1	0.68
	11	25	23	20	17	13	8.9	5.8	3.3	1.9	1.1	0.68
12	25	23	20	17	13	8.8	5.8	3.3	1.9	1.1	0.69	
13	25	23	20	16	12	8.7	5.7	3.3	1.9	1.1	0.69	
14	25	23	20	16	12	8.7	5.7	3.3	1.9	1.1	0.70	
15	24	23	20	16	12	8.6	5.7	3.3	1.9	1.1	0.70	
16	24	22	20	16	12	8.6	5.7	3.3	1.9	1.1	0.71	
17	24	22	20	16	12	8.5	5.6	3.2	1.9	1.1	0.72	
18	24	22	19	16	12	8.5	5.6	3.2	1.9	1.2	0.73	
19	24	22	19	16	12	8.5	5.6	3.2	1.9	1.2	0.74	
20	24	22	19	16	12	8.5	5.6	3.2	1.9	1.2	0.75	
21	22	20	18	15	11	7.9	5.2	3.0	1.8	1.1	0.71	
22	21	19	17	14	10	7.3	4.9	2.8	1.7	1.0	0.68	
23	19	18	15	13	9.7	6.8	4.5	2.7	1.6	0.98	0.65	
24	18	16	14	12	9.0	6.4	4.2	2.5	1.5	0.93	0.62	
25	17	15	13	11	8.4	6.0	4.0	2.3	1.4	0.88	0.59	
26	16	14	13	10	7.9	5.6	3.7	2.2	1.3	0.84	0.56	
27	14	13	12	9.6	7.3	5.2	3.5	2.1	1.2	0.79	0.54	
28	13	12	11	9.0	6.9	4.9	3.3	1.9	1.2	0.76	0.52	
29	13	12	10	8.4	6.4	4.6	3.1	1.8	1.1	0.72	0.50	
30	12	11	10	7.8	6.0	4.3	2.9	1.7	1.1	0.69	0.48	

		pH										
(2) chronic standards												
		6.50	6.75	7.00	7.25	7.50	7.75	8.00	8.25	8.50	8.75	9.00
Temperature °C	0	2.5	2.5	2.5	2.5	2.5	2.3	1.5	0.84	0.48	0.28	0.16
	1	2.5	2.5	2.5	2.5	2.5	2.3	1.5	0.83	0.47	0.27	0.16
	2	2.4	2.4	2.4	2.4	2.4	2.2	1.5	0.82	0.47	0.27	0.16
	3	2.4	2.4	2.4	2.4	2.4	2.2	1.4	0.81	0.46	0.27	0.16
	4	2.4	2.4	2.4	2.4	2.4	2.2	1.4	0.80	0.46	0.27	0.16
	5	2.3	2.3	2.3	2.3	2.3	2.1	1.4	0.80	0.45	0.26	0.16
	6	2.3	2.3	2.3	2.3	2.3	2.1	1.4	0.79	0.45	0.26	0.16
	7	2.3	2.3	2.3	2.3	2.3	2.1	1.4	0.78	0.45	0.26	0.16
	8	2.3	2.3	2.3	2.3	2.3	2.1	1.4	0.77	0.44	0.26	0.15
	9	2.2	2.2	2.2	2.2	2.2	2.1	1.3	0.77	0.44	0.26	0.16
	10	2.2	2.2	2.2	2.2	2.2	2.0	1.3	0.76	0.44	0.26	0.16
	11	2.2	2.2	2.2	2.2	2.2	2.0	1.3	0.76	0.44	0.26	0.16
	12	2.2	2.2	2.2	2.2	2.2	2.0	1.3	0.75	0.44	0.26	0.16
	13	2.2	2.2	2.2	2.2	2.2	2.0	1.3	0.75	0.43	0.26	0.16
	14	2.1	2.1	2.1	2.1	2.2	2.0	1.3	0.75	0.43	0.26	0.16
	15	2.1	2.1	2.1	2.1	2.1	2.0	1.3	0.74	0.43	0.26	0.16
	16	2.0	2.0	2.0	2.0	2.0	1.8	1.2	0.69	0.40	0.24	0.15
	17	1.8	1.8	1.8	1.8	1.8	1.7	1.1	0.64	0.38	0.23	0.14
	18	1.7	1.7	1.7	1.7	1.7	1.6	1.0	0.60	0.35	0.21	0.14
	19	1.6	1.6	1.6	1.6	1.6	1.5	0.97	0.56	0.33	0.20	0.13
	20	1.5	1.5	1.5	1.5	1.5	1.4	0.90	0.52	0.31	0.19	0.12
	21	1.4	1.4	1.4	1.4	1.4	1.3	0.84	0.49	0.29	0.18	0.12
	22	1.3	1.3	1.3	1.3	1.3	1.2	0.79	0.46	0.27	0.17	0.11
	23	1.2	1.2	1.2	1.2	1.2	1.1	0.73	0.43	0.26	0.16	0.10
	24	1.1	1.1	1.1	1.1	1.1	1.0	0.69	0.40	0.24	0.15	0.10
	25	1.0	1.0	1.0	1.0	1.0	0.96	0.64	0.38	0.23	0.14	0.095
	26	0.95	0.95	0.96	0.96	0.97	0.9	0.60	0.35	0.21	0.13	0.091
	27	0.89	0.89	0.89	0.90	0.91	0.84	0.56	0.33	0.20	0.13	0.087
	28	0.83	0.83	0.83	0.84	0.85	0.79	0.53	0.31	0.19	0.12	0.084
	29	0.77	0.78	0.78	0.78	0.79	0.73	0.49	0.29	0.18	0.12	0.080
	30	0.72	0.72	0.73	0.73	0.74	0.69	0.46	0.28	0.17	0.11	0.077

K. Acute Criteria, Total Ammonia (mg/L as N)

pH	Salmonids Present	Salmonids Absent
6.5	32.6	48.8
6.6	31.3	46.8
6.7	29.8	44.6
6.8	28.1	42.0
6.9	26.2	39.1
7.0	24.1	36.1
7.1	22.0	32.8
7.2	19.7	29.5
7.3	17.5	26.2
7.4	15.4	23.0
7.5	13.3	19.9
7.6	11.4	17.0
7.7	9.65	14.4
7.8	8.11	12.1
7.9	6.77	10.1
8.0	5.62	8.40
8.1	4.64	6.95
8.2	3.83	5.72
8.3	3.15	4.71
8.4	2.59	3.88
8.5	2.14	3.20
8.6	1.77	2.65
8.7	1.47	2.20
8.8	1.23	1.84
8.9	1.04	1.56
9.0	0.885	1.32

L. Chronic Criteria, Total Ammonia (mg/L as N), Fish Early Life Stages Present

pH	Temperature (°C)										
	0	14	15	16	18	20	22	24	26	28	30
6.5	6.67	6.67	6.46	6.06	5.33	4.68	4.12	3.62	3.18	2.80	2.46
6.6	6.57	6.57	6.36	5.97	5.25	4.61	4.05	3.56	3.13	2.75	2.42
6.7	6.44	6.44	6.25	5.86	5.15	4.52	3.98	3.50	3.07	2.70	2.37
6.8	6.29	6.29	6.10	5.72	5.03	4.42	3.89	3.42	3.00	2.64	2.32
6.9	6.12	6.12	5.93	5.56	4.89	4.30	3.78	3.32	2.92	2.57	2.25
7.0	5.91	5.91	5.73	5.37	4.72	4.15	3.65	3.21	2.82	2.48	2.18
7.1	5.67	5.67	5.49	5.15	4.53	3.98	3.50	3.08	2.70	2.38	2.09
7.2	5.39	5.39	5.22	4.90	4.31	3.78	3.33	2.92	2.57	2.26	1.99
7.3	5.08	5.08	4.92	4.61	4.06	3.57	3.13	2.76	2.42	2.13	1.87
7.4	4.73	4.73	4.59	4.30	3.78	3.32	2.92	2.57	2.26	1.98	1.74
7.5	4.36	4.36	4.23	3.97	3.49	3.06	2.69	2.37	2.08	1.83	1.61
7.6	3.98	3.98	3.85	3.61	3.18	2.79	2.45	2.16	1.90	1.67	1.47
7.7	3.58	3.58	3.47	3.25	2.86	2.51	2.21	1.94	1.71	1.50	1.32
7.8	3.18	3.18	3.09	2.89	2.54	2.23	1.96	1.73	1.52	1.33	1.17
7.9	2.80	2.80	2.71	2.54	2.24	1.96	1.73	1.52	1.33	1.17	1.03
8.0	2.43	2.43	2.36	2.21	1.94	1.71	1.50	1.32	1.16	1.02	0.897
8.1	2.10	2.10	2.03	1.91	1.68	1.47	1.29	1.14	1.00	0.879	0.773
8.2	1.79	1.79	1.74	1.63	1.43	1.26	1.11	0.973	0.855	0.752	0.661
8.3	1.52	1.52	1.48	1.39	1.22	1.07	0.941	0.827	0.727	0.639	0.562
8.4	1.29	1.29	1.25	1.17	1.03	0.906	0.796	0.700	0.615	0.541	0.475
8.5	1.09	1.09	1.06	0.990	0.870	0.765	0.672	0.591	0.520	0.457	0.401
8.6	0.920	0.920	0.892	0.836	0.735	0.646	0.568	0.499	0.439	0.386	0.339
8.7	0.778	0.778	0.754	0.707	0.622	0.547	0.480	0.422	0.371	0.326	0.287
8.8	0.661	0.661	0.641	0.601	0.528	0.464	0.408	0.359	0.315	0.277	0.244
8.9	0.565	0.565	0.548	0.513	0.451	0.397	0.349	0.306	0.269	0.237	0.208
9.0	0.486	0.486	0.471	0.442	0.389	0.342	0.300	0.264	0.232	0.204	0.179

M. Chronic Criteria, Total Ammonia (mg/L as N), Fish Early Life Stages Absent

pH	Temperature (°C)									
	0	7	8	9	10	11	12	13	14	15
6.5	10.8	10.8	10.1	9.51	8.92	8.36	7.84	7.35	6.89	6.46
6.6	10.7	10.7	9.99	9.37	8.79	8.24	7.72	7.24	6.79	6.36
6.7	10.5	10.5	9.81	9.20	8.62	8.08	7.58	7.11	6.66	6.25
6.8	10.2	10.2	9.58	8.98	8.42	7.90	7.40	6.94	6.51	6.10
6.9	9.93	9.93	9.31	8.73	8.19	7.68	7.20	6.75	6.33	5.93
7.0	9.60	9.60	9.00	8.43	7.91	7.41	6.95	6.52	6.11	5.73
7.1	9.20	9.20	8.63	8.09	7.58	7.11	6.67	6.25	5.86	5.49
7.2	8.75	8.75	8.20	7.69	7.21	6.76	6.34	5.94	5.57	5.22
7.3	8.24	8.24	7.73	7.25	6.79	6.37	5.97	5.60	5.25	4.92
7.4	7.69	7.69	7.21	6.76	6.33	5.94	5.57	5.22	4.89	4.59
7.5	7.09	7.09	6.64	6.23	5.84	5.48	5.13	4.81	4.51	4.23
7.6	6.46	6.46	6.05	5.67	5.32	4.99	4.68	4.38	4.11	3.85
7.7	5.81	5.81	5.45	5.11	4.79	4.49	4.21	3.95	3.70	3.47
7.8	5.17	5.17	4.84	4.54	4.26	3.99	3.74	3.51	3.29	3.09
7.9	4.54	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89	2.71
8.0	3.95	3.95	3.70	3.47	3.26	3.05	2.86	2.68	2.52	2.36
8.1	3.41	3.41	3.19	2.99	2.81	2.63	2.47	2.31	2.17	2.03
8.2	2.91	2.91	2.73	2.56	2.40	2.25	2.11	1.98	1.85	1.74
8.3	2.47	2.47	2.32	2.18	2.04	1.91	1.79	1.68	1.58	1.48
8.4	2.09	2.09	1.96	1.84	1.73	1.62	1.52	1.42	1.33	1.25
8.5	1.77	1.77	1.66	1.55	1.46	1.37	1.28	1.20	1.13	1.06
8.6	1.49	1.49	1.40	1.31	1.23	1.15	1.08	1.01	0.951	0.892
8.7	1.26	1.26	1.18	1.11	1.04	0.976	0.915	0.858	0.805	0.754
8.8	1.07	1.07	1.01	0.944	0.855	0.829	0.778	0.729	0.684	0.641
8.9	0.917	0.917	0.860	0.806	0.756	0.709	0.664	0.623	0.584	0.548
9.0	0.790	0.790	0.740	0.694	0.651	0.610	0.572	0.536	0.503	0.471

At 15° C and above, the criterion for fish early life stages absent is the same as the criterion for fish early life stages present (refer to Subsection L of 20.6.4.900 NMAC).

[P]N. Dissolved oxygen saturation based on temperature and elevation.

(1) Elevation 5,000 feet or less:

		Elevation (feet)										
		0	500	1,000	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000
Temperature (°C)	0	14.6	14.3	14.1	13.8	13.6	13.3	13.1	12.8	12.6	12.3	12.1
	1	14.2	13.9	13.7	13.4	13.2	12.9	12.7	12.5	12.2	12.0	11.8
	2	13.8	13.6	13.3	13.1	12.8	12.6	12.4	12.1	11.9	11.7	11.5
	3	13.4	13.2	13.0	12.7	12.5	12.3	12.0	11.8	11.6	11.4	11.1
	4	13.1	12.8	12.6	12.4	12.2	11.9	11.7	11.5	11.3	11.1	10.9
	5	12.7	12.5	12.3	12.1	11.8	11.6	11.4	11.2	11.0	10.8	10.6
	6	12.4	12.2	12.0	11.8	11.5	11.3	11.1	10.9	10.7	10.5	10.3
	7	12.1	11.9	11.7	11.5	11.3	11.1	10.8	10.6	10.4	10.2	10.1
	8	11.8	11.6	11.4	11.2	11.0	10.8	10.6	10.4	10.2	10.0	9.8
	9	11.5	11.3	11.1	10.9	10.7	10.5	10.3	10.1	9.9	9.8	9.6
	10	11.3	11.1	10.9	10.7	10.5	10.3	10.1	9.9	9.7	9.5	9.4
	11	11.0	10.8	10.6	10.4	10.2	10.0	9.9	9.7	9.5	9.3	9.1
	12	10.8	10.6	10.4	10.2	10.0	9.8	9.6	9.5	9.3	9.1	8.9
	13	10.5	10.3	10.1	9.9	9.8	9.6	9.4	9.2	9.1	8.9	8.7
	14	10.3	10.1	9.9	9.7	9.6	9.4	9.2	9.0	8.9	8.7	8.5
	15	10.1	9.9	9.7	9.5	9.3	9.2	9.0	8.8	8.7	8.5	8.4
	16	9.8	9.7	9.5	9.3	9.2	9.0	8.8	8.7	8.5	8.3	8.2
	17	9.6	9.5	9.3	9.1	9.0	8.8	8.6	8.5	8.3	8.2	8.0
	18	9.4	9.3	9.1	8.9	8.8	8.6	8.5	8.3	8.1	8.0	7.8
	19	9.3	9.1	8.9	8.8	8.6	8.4	8.3	8.1	8.0	7.8	7.7
	20	9.1	8.9	8.7	8.6	8.4	8.3	8.1	8.0	7.8	7.7	7.5
	21	8.9	8.7	8.6	8.4	8.3	8.1	8.0	7.8	7.7	7.5	7.4
	22	8.7	8.6	8.4	8.2	8.1	8.0	7.8	7.7	7.5	7.4	7.2
	23	8.6	8.4	8.2	8.1	7.9	7.8	7.7	7.5	7.4	7.2	7.1
	24	8.4	8.2	8.1	7.9	7.8	7.7	7.5	7.4	7.2	7.1	7.0
	25	8.2	8.1	7.9	7.8	7.7	7.5	7.4	7.2	7.1	7.0	6.8
	26	8.1	7.9	7.8	7.7	7.5	7.4	7.2	7.1	7.0	6.8	6.7
	27	7.9	7.8	7.7	7.5	7.4	7.2	7.1	7.0	6.8	6.7	6.6
	28	7.8	7.7	7.5	7.4	7.2	7.1	7.0	6.9	6.7	6.6	6.5
	29	7.7	7.5	7.4	7.3	7.1	7.0	6.9	6.7	6.6	6.5	6.4
	30	7.5	7.4	7.3	7.1	7.0	6.9	6.7	6.6	6.5	6.4	6.3

(2) Elevation greater than 5,000 feet:

[Please see Table on page 428.]

Temperature (°C)	Elevation (feet)									
	5,500	6,000	6,500	7,000	7,500	8,000	8,500	9,000	9,500	10,000
0	11.9	11.6	11.4	11.2	11.0	10.8	10.6	10.3	10.1	9.9
1	11.5	11.3	11.1	10.9	10.7	10.5	10.3	10.1	9.9	9.7
2	11.2	11.0	10.8	10.6	10.4	10.2	10.0	9.8	9.6	9.4
3	10.9	10.7	10.5	10.3	10.1	9.9	9.7	9.5	9.3	9.1
4	10.7	10.4	10.2	10.0	9.8	9.7	9.5	9.3	9.1	8.9
5	10.4	10.2	10.0	9.8	9.6	9.4	9.2	9.0	8.9	8.7
6	10.1	9.9	9.7	9.5	9.4	9.2	9.0	8.8	8.6	8.5
7	9.9	9.7	9.5	9.3	9.1	8.9	8.8	8.6	8.4	8.2
8	9.6	9.4	9.3	9.1	8.9	8.7	8.6	8.4	8.2	8.0
9	9.4	9.2	9.0	8.9	8.7	8.5	8.3	8.2	8.0	7.8
10	9.2	9.0	8.8	8.7	8.5	8.3	8.1	8.0	7.8	7.7
11	9.0	8.8	8.6	8.5	8.3	8.1	8.0	7.8	7.6	7.5
12	8.8	8.6	8.4	8.3	8.1	7.9	7.8	7.6	7.5	7.3
13	8.6	8.4	8.2	8.1	7.9	7.8	7.6	7.5	7.3	7.2
14	8.4	8.2	8.1	7.9	7.7	7.6	7.4	7.3	7.1	7.0
15	8.2	8.0	7.9	7.7	7.6	7.4	7.3	7.1	7.0	6.8
16	8.0	7.9	7.7	7.6	7.4	7.3	7.1	7.0	6.8	6.7
17	7.9	7.7	7.6	7.4	7.3	7.1	7.0	6.8	6.7	6.6
18	7.7	7.5	7.4	7.3	7.1	7.0	6.8	6.7	6.6	6.4
19	7.5	7.4	7.2	7.1	7.0	6.8	6.7	6.6	6.4	6.3
20	7.4	7.2	7.1	7.0	6.8	6.7	6.6	6.4	6.3	6.2
21	7.2	7.1	7.0	6.8	6.7	6.6	6.4	6.3	6.2	6.0
22	7.1	7.0	6.8	6.7	6.6	6.4	6.3	6.2	6.1	5.9
23	7.0	6.8	6.7	6.6	6.4	6.3	6.2	6.1	5.9	5.8
24	6.8	6.7	6.6	6.4	6.3	6.2	6.1	5.9	5.8	5.7
25	6.7	6.6	6.5	6.3	6.2	6.1	6.0	5.8	5.7	5.6
26	6.6	6.5	6.3	6.2	6.1	6.0	5.8	5.7	5.6	5.5
27	6.5	6.3	6.2	6.1	6.0	5.9	5.7	5.6	5.5	5.4
28	6.4	6.2	6.1	6.0	5.9	5.8	5.6	5.5	5.4	5.3
29	6.2	6.1	6.0	5.9	5.8	5.7	5.5	5.4	5.3	5.2
30	6.1	6.0	5.9	5.8	5.7	5.6	5.4	5.3	5.2	5.1

[20.6.4.900 NMAC – Rp 20 NMAC 6.1.3100, 10-12-00; A, 10-11-02; A, 05-23-05]

20.6.4.901 PUBLICATION REFERENCES: These documents are intended as guidance and are available for public review during regular business hours at the offices of the surface water quality bureau and the New Mexico environment department public library. Copies of these documents have also been filed with the New Mexico state records center in order to provide greater access to this information.

A. American public health association. 1992. *Standard methods for the examination of water and wastewater, 18th Edition.* Washington, D.C. 1048 p.

B. American public health association. 1995. *Standard methods for the examination of water and wastewater, 19th Edition.* Washington, D.C. 1090 p.

C. American public health association. 1998. *Standard methods for the examination of water and wastewater, 20th Edition.* Washington, D.C. 1112 p.

[B]D. United States geological survey. 1987. *Methods for determination of inorganic substances in water and fluvial sediments, techniques of water-resource investigations of the United States geological survey.* Washington, D.C. 80 p.

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[D]F. United States environmental protection agency. 1974. *Methods for chemical analysis of water and wastes.* National environmental research center, Cincinnati, Ohio. (EPA-625-/6-74-003). 298 p.

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[G]I. United States environmental protection agency. [~~1994~~] 2002. *Methods for measuring the acute toxicity of effluents and receiving waters to freshwater and marine organisms.* Office of research and development, Washington, D.C. ([~~4th Ed., EPA/600/4-90/027~~])

5th Ed., EPA 821-R-02-012). 293 p.
<http://www.epa.gov/ost/WET/disk2/atx.pdf>

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[I]K. Ambient-induced mixing, in United States environmental protection agency. 1991. *Technical support document for water quality-based toxics control*. Office of water, Washington, D.C. (EPA/505/2-90-001). 2 p.

[J]L. United States environmental protection agency. 1983. *Technical support manual: waterbody surveys and assessments for conducting use attainability analyses*. Office of water, regulations and standards, Washington, D.C. 251 p.
<http://www.epa.gov/OST/library/wqstandards/uaavol123.pdf>

[K]M. United States environmental protection agency. 1984. *Technical support manual: waterbody surveys and assessments for conducting use attainability analyses, volume III: lake systems*. Office of water, regulations and standards, Washington, D.C. 208 p.
<http://www.epa.gov/OST/library/wqstandards/uaavol123.pdf>
[20.6.4.901 NMAC – Rp 20 NMAC 6.1.4000, 10-12-00; A, 05-23-05]

End of Adopted Rules Section

2005

SUBMITTAL DEADLINES AND PUBLICATION DATES

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Issue Number 23	December 1	December 15
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