

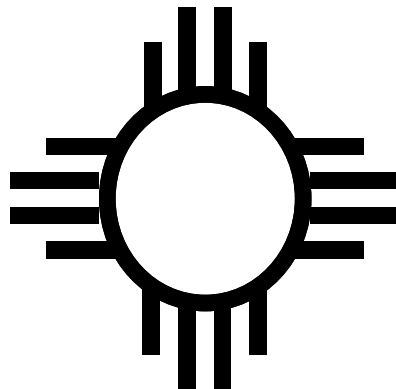
**NEW
MEXICO
REGISTER**



Volume XVII
Issue Number 12
June 30, 2006

New Mexico Register

**Volume XVII, Issue Number 12
June 30, 2006**



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

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Administrative Law Division
Santa Fe, New Mexico
2006

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New Mexico Register

Volume XVII, Number 12

June 30, 2006

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Effective Date and Validity of Rule Filings

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

A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

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Notices of Rulemaking and Proposed Rules

NEW MEXICO DEPARTMENT OF AGRICULTURE

Notice of Hearing

The Pecos Valley Cotton Boll Weevil Control District will hold a public hearing under the Cotton Boll Weevil Control Act, 76-6A-1 to 76-6A-16, NMSA 1978, to reduce the assessment rate to \$10 per bale.

The hearing will be held at the NMSU Ag Center located at 67 E. Four Dinkus Road, Artesia, New Mexico, beginning at 2:00 p.m. on July 24, 2006. Written statements in support or opposition, signed by the submitting person, will be accepted if received prior to 5:00 p.m. on July 24, 2006. Written statements, inquiries, or requests for copies of the rule should be directed to Mr. Dwight Menefee, P.O. Box 595, Artesia, New Mexico 88210.

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT FAMILY SERVICES DIVISION

CHILDREN, YOUTH AND FAMILIES DEPARTMENT

CANCELLATION OF NOTICE OF PUBLIC HEARING ON PROPOSED CHANGES TO RULE 8.16.3 NMAC

The Children, Youth and Families Department published a Notice of Public Hearing in the New Mexico Register Volume XVII, Issue Number 10 (May 31, 2006) informing of its intent to seek public comment on the proposed changes to rule 8.16.3 NMAC (REQUIREMENTS GOVERNING THE CHILD CARE FACILITY LOAN ACT) and scheduling a public hearing to receive public comments. After further consideration, the Department withdraws its notice with respect to the proposed changes to rule. A new notice of proposed rulemaking will be issued at later date, setting forth the new comment period, new public hearing date, and information regarding the revised draft.

The Notice published in the New Mexico Register Volume XVII, Number 10 (May 31, 2006) regarding other items of proposed rulemaking remains valid and in force. Any questions should be addressed to Nina Johnson, Child Care Services Bureau, Children, Youth and Families Department, PERA Building, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160 at (505) 476-0453.

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT JUVENILE JUSTICE DIVISION

NOTICE OF PUBLIC HEARING

The Children, Youth and Families Department, Juvenile Justice Services, will hold a formal public hearing on Monday July 31, 2006 from 1:30 p.m. to 3:30 p.m. in Room 565 on the 5th floor of the PERA Building located at 1120 Paseo de Peralta, Santa Fe, New Mexico to receive public comments regarding a proposed amendment of regulation 8.14.11 NMAC, governing the Admission Criteria for Camp Sierra Blanca.

The proposed amendment to the regulation may be obtained by contacting Hiltona Castleberry at 505-827-7629. Interested persons may testify at the hearing or submit written comments no later than 3:30 p.m. on July 31, 2006. Written comments will be given the same consideration as oral testimony given at the hearing. Written comments should be addressed to: Hiltona Castleberry, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160, Fax Number: 505-476-8408.

If you are a person with a disability and you require this information in an alternative format or require special accommodations to participate in the public hearing, please contact Ms. Castleberry at 505-827-7629. The Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

NEW MEXICO GAME COMMISSION

STATE GAME COMMISSION PUBLIC MEETING AND RULE MAKING NOTICE

On Thursday, July 13, 2006, beginning at 9:00 a.m. at the Country Inn & Suites, 7620 Pan American Freeway, NE, Turquoise Rooms 1 and 2, Albuquerque, NM 87109, the State Game Commission will meet in Public Session to consider action as appropriate on the following: Consent Agenda for: Committee Reports, Revocations; and Depredation Reports-4th Quarter and Annual; Reservation of 2 Elk Licenses for Non-profit Wish Granting Organization(s); Drawing for Incentive Authorizations Awarded to Hunters who Submitted Harvest Animals for Disease

Testing on Submitted Harvest Reports; Lieutenant Governor's Deer Enhancement Tag Raffle Drawing; Biennial Review of New Mexico Threatened and Endangered Wildlife; Update on Development of all Big Game and Associated Rules for 2007-2008 and 2008-2009 License Years; Preliminary Discussion of FY 2008 Capital Outlay and Operating Budget Request Priorities; Potential 2007 Legislative Initiatives; General Public Comments (Comments Limited to 3 Minutes); Closed Executive Session, pursuant to Section 10-15-1(H)(1), NMSA, 1978, to discuss matters related to litigation, personnel, and acquisition or disposal of real property or water rights, or matters related to the determination of sending "Notice of Commission Contemplated Action" for outfitter and/or guide registration to any identified individual(s) that may have violated their Professional Code of Conduct as per 19.30.8, NMAC. If in the Commission's determination an individual shall be served notice, he/she will be afforded an administrative hearing following 19.31.2, NMAC; and Notice of Commission Contemplated Action.

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

- * Adoption of Proposed Changes to the Fisheries Rule 19.31.4, NMAC, Temporarily Closing Capulin Creek to Fishing;
- * Adoption of the 2006-2007 Upland Game Rule 19.31.5, NMAC;
- * Adoption of the 2006-2007 Waterfowl Rule 19.31.6, NMAC; and
- * Initiate a Rule Making Process within 19.31, NMAC, to Designate Criteria for Trophy Animals and Establish Civil Penalty Amounts for Trophy Poaching.

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 HIGHER EDUCATION DEPARTMENT

NEW MEXICO HIGHER EDUCATION DEPARTMENT

The Higher Education Department (“Department”) hereby gives notice that the Department will conduct a public hearing on the New Mexico School for the Deaf campus, Cartwright Hall, Kiva Room, 1068 Cerrillos Road, Santa Fe, New Mexico 87505 on July 18, 2006, 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
5.7.8 NMAC	State Student Incentive Grant	Amend
5.7.9 NMAC	New Mexico Scholars Program	Amend
5.7.10 NMAC	State Work Study Program	Amend
5.7.11 NMAC	Student Choice Program	Amend
5.7.12 NMAC	Minority Doctoral Assistance Program	Amend
5.7.13 NMAC	Teacher Loan for Service Act Program	Amend
5.7.14 NMAC	New Mexico Competitive Scholarship	Amend
5.7.15 NMAC	Graduate Scholarship Program	Amend
5.7.16 NMAC	Vietnam Veterans Scholarship Program	Amend
5.7.17 NMAC	Teachers Loan-for-Service Program	Amend
5.7.18 NMAC	Residency for Tuition Purposes	Amend
5.7.20 NMAC	Lottery Success Scholarship Program	Amend
5.7.21 NMAC	WICHE Loan for Service Program	Amend
5.7.22 NMAC	Legislative Endowment Scholarship	Amend
5.7.23 NMAC	College Affordability Fund	New Rule
5.55.2 NMAC	Concurrent Enrollment	Amend

Interested individuals may testify at the public hearing or submit written comments to Matthew J. Martinez, (matthewj.martinez@state.nm.us or fax 505-476-6511). 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 rules may be accessed on the Department’s website (www.hed.state.nm.us) or obtained from Anthony Chavez, Administrative Assistant, 476-6500.

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 Matthew J. Martinez as soon as possible.

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

NOTICE

The New Mexico Human Services Department (HSD) will hold a public hearing at 2:30 p.m., on July 14, 2006 at the Toney Anaya Building, Rio Grande Conference Room on the 2nd floor (2550 Cerrillos Rd), Santa Fe, New Mexico. The subject of the hearing will be Medicaid for Children Ages 0-5.

As authorized in House Bill 2 by the New Mexico legislature and signed into law by Governor Bill Richardson on March 8, 2006, children ages 0 to 5 years may qualify for Medicaid under special earned income disregards and child care deductions, as long as all other financial and non-financial criteria are met.

The New Mexico Human Services Department will allow a special earned income disregard of \$750 and child care deductions of not less than \$375 to families with children ages 0 to 5 years. At least one child in the household must meet the age requirement for the special

disregard and deduction to apply. Only those children meeting the age requirements will be covered. Medicaid eligibility for all other children in the household will be determined using the current income methodology.

Interested persons may submit written comments no later than 5:00 p.m., July 14, 2006, 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/register.html 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 PUBLIC REGULATION COMMISSION

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION
IN THE MATTER
OF THE
CERTIFICATION OF
ELIGIBLE)
TELECOMMUNICATIONS) Case No.
CARRIERS) 05-00359-UT
TO THE FEDERAL)
COMMUNICATIONS)
COMMISSION)

AMENDED NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Public Regulation Commission (“Commission”) proposes to adopt rules regarding the certification of Eligible Telecommunications Carriers (ETCs) to the Federal Communications Commission. This matter comes before the Commission upon the Second Report of the Commission’s Utility Division Staff (“Staff”), which was filed in this proceeding

on March 22, 2006. Having considered the Second Report and the draft rules attached thereto, and being fully advised in the premises,

THE COMMISSION FINDS AND CONCLUDES:

1. The Public Regulation Commission Act authorizes the Commission to "adopt such reasonable regulatory and procedural rules as may be necessary or appropriate to carry out its powers and duties." NMSA 1978, Section 8-8-4(B)(10).

2. The Commission is required to certify annually to the Federal Communications Commission ("FCC") that carriers receiving federal USF support in the State of New Mexico are using the support "only for the provision, maintenance and upgrading of facilities and services for which such support is intended." The Commission has used a form of self-certification with documentation for this purpose since 2004.

3. In the Order Docketing Case which was issued in this proceeding on September 20, 2005, the Commission ordered Staff to initiate workshops to develop a proposal for an annual Commission ETC certification process that requires ETCs to show to the Commission how they are using federal universal service fund ("USF") support in New Mexico.

4. In that Order, the Commission asked that Staff consider a requirement that ETCs report to the Commission on their proposed construction plans for which they seek reimbursement from federal USF funds with a regular update to show whether the federal USF funds were applied toward the proposed construction. The Commission further stated that Staff and other participants should take note of the additional ETC reporting requirements imposed in 2005 by the FCC.

5. Since the issuance of the September 20, 2005 Order Docketing Case, the Commission has also adopted a new state universal service fund (SRUSF) rule with requirements for ETC designation and annual ETC verification. Of particular interest to this docket is the following requirement of the SRUSF rule: "The commission shall require annual verification from each ETC that it continues to meet the requirements herein for designation as an ETC and for provision of support from the fund." (17.11.10.24.F NMAC.)

6. Staff convened four workshops in this proceeding between

December 21, 2005 and February 22, 2006 to allow interested participants to consider an appropriate reporting process. The outcome of those workshops, together with a list of the participants, is reflected at pages 3 and 4 of Staff's Second Report.

7. Staff's Second Report, at page 4, presents a petition for a rulemaking and a copy of Staff's proposed rules.

8. On April 25, 2006, the Commission issued its original Notice of Proposed Rulemaking (NOPR) in this case. In that NOPR, the Commission found that it should consider adopting such rules as Staff had proposed. The proposed rules were attached to the NOPR and also are attached, as Exhibit 1, to the original and the mailed copies this Amended NOPR.

9. The original NOPR provided that the Commission would take written comments on the rules proposed in the NOPR from any interested person; that interested persons should file such written comments no later than May 19, 2006; and that any person wishing to respond to comments could do so by submitting written response comments no later than May 30, 2006. The original NOPR also set a public hearing at which additional comments would be taken on the proposed rules for May 31, 2006.

10. Due to clerical error, the Commission failed to publish the original NOPR as required by law.

11. On May 25, 2006, the Commission issued a Procedural Order in which it vacated the hearing previously set, vacated the previous deadline for filing response comments in this matter, and stated that these would be re-set by further order of the Commission.

12. The Commission finds that an additional opportunity should be provided for interested persons to submit initial written comments on the proposed rules, as well as written response comments and an opportunity to present comments orally at a hearing.

13. The Commission will take written comments on the rules proposed in this Notice from any interested person. Interested persons shall file such written comments no later than July 7, 2006. Any person wishing to respond to comments may do so by submitting written response comments no later than July 14, 2006. Comments suggesting changes to the proposed rules shall state and discuss the particular reasons for the suggested changes and shall include all specific language nec-

essary or appropriate to effectuate the changes being suggested.

14. Specific proposed language changes to the proposed rules shall be in legislative format. A copy of the proposed rule in electronic format may be obtained from the Commission to facilitate this requirement. Any proposed changes to Exhibit 1 shall be submitted in hard copy, and the Commission strongly encourages all persons proposing such changes to file an additional copy in electronic format (3.5-inch floppy disk in Microsoft Word 95 or Microsoft Office 97 formats). The label on the floppy disk shall clearly designate the name of the person submitting the proposed changes and the docket number of this proceeding. All pleadings, including comments and suggested changes to the proposed rules, shall bear the caption and docket number contained at the top of this Notice.

15. Comments on the proposed rules shall be sent to, and additional copies of the proposed rules can be obtained from:

Ron X. Montoya
New Mexico Public Regulation
Commission
224 East Palace Avenue
P.O. Box 1269
Santa Fe, NM 87504-1269
Telephone: (505) 827-6940

Copies of the proposed rules may also be downloaded from the Commission's Web Site, www.nmprc.state.nm.us.

16. The Commission will review all timely submitted written comments and will hold a public hearing to take oral comment regarding the proposed rules at the following time and place: Friday, July 21, 2006 at 10:00 a.m., at Marian Hall, the second Floor Hearing Room, 224 East Palace, Santa Fe, New Mexico.

Interested persons should contact the Commission to confirm the date, time and place of any public hearing, because hearings are occasionally rescheduled. Any person with a disability requiring special assistance in order to participate in a hearing should contact Ron Montoya at (505) 827-6940 at least 48 hours prior to the commencement of the hearing.

IT IS THEREFORE ORDERED:

A. The rules regarding certification of Eligible Telecommunications Carriers to the Federal Communications Commission, attached to the original and the mailed copies of this Amended Notice of Proposed Rulemaking and labeled as

Exhibit 1, are proposed for adoption as permanent rules as provided by this Amended NOPR.

B. Interested persons, including Staff, shall file their written comments on the proposed rules as provided in this Amended NOPR.

C. A public hearing shall be held as provided in this Amended NOPR.

D. This Amended NOPR, with Exhibit 1, shall be mailed to all persons listed on the attached Certificate of Service and to any other person requesting service. This Amended NOPR without Exhibit 1 shall be published in four newspapers of general circulation in the state and in the New Mexico Register. Copies of this Amended NOPR and the proposed rules shall also be made available as otherwise called for in this Amended NOPR.

E. This Amended NOPR shall be served on the persons whose names and addresses appear on the attached Certificate of Service.

F. This Amended NOPR is effective immediately.

G. This Amended NOPR makes only procedural changes from the Commission's original NOPR, setting new dates for the submission of written comments and for the public comment hearing and making certain other purely procedural changes. No substantive change is made or proposed by this Amended NOPR, and the proposed rules attached as Exhibit 1 remain the same as the proposed rules attached to the original NOPR. Accordingly, consistently with 17.1.2.32B(2) NMAC, this Notice is issued by the Commission Chairman or by a single Commissioner.

ISSUED at Santa Fe, New Mexico, this 12th day of June, 2006.

NEW MEXICO PUBLIC REGULATION COMMISSION
s/ Jason A. Marks

COMMISSIONER

**End of Notices and
Proposed Rules Section**

Adopted Rules

NEW MEXICO OFFICE OF THE STATE ENGINEER

This is an amendment to 19.27.66 NMAC, Sections 8 and 9, effective June 30, 2006.

19.27.66.8 BOUNDARY DESCRIPTION OF THE EXTENDED AREAS OF THE LORDSBURG UNDERGROUND WATER BASIN: The following three areas are being added to the Lordsburg underground water basin.

A. Northeastern extension: Beginning at the southeast corner of section 32, township 26 south, range 13 west, NMPM; thence west along township lines to the southwest corner of section 31, township 26 south, range 16 west, NMPM; thence north along range line to the northwest corner of section 6, township 26 south, range 16 west, NMPM; thence east along township line to the southwest corner of section 31, township 25 south, range 15 west, NMPM; thence north along range lines to the northwest corner of section 6, township 23 south, range 15 west, NMPM; thence west along township line to the southwest corner of section 31, township 22 south, range 16 west, NMPM; thence north along range line to the northwest corner of section 19, township 22 south, range 16 west, NMPM; thence west along section lines to the southwest corner of section 18, township 22 south, range 17 west, NMPM; thence north along range line to the northwest corner of section 6, township 22 south, range 17 west, NMPM; thence west along township lines to the southwest corner of section 31, township 21 south, range 19 west, NMPM; thence north along range line to the northwest corner of section 6, township 22 south, range 17 west, NMPM; thence west along township lines to the southwest corner of section 31, township 20 south, range 19 west, NMPM; thence north along range line to the northwest corner of section 19, township 20 south, range 19 west, NMPM; thence east along section line to the northeast corner of section 19, township 20 south, range 19 west, NMPM; thence north along section line to the northwest corner of section 17, township 20 south, range 19 west, NMPM; thence east along section lines to the northeast corner of section 16, township 20 south, range 19 west, NMPM; thence north along section line to the northwest corner of section 10, township 20 south, range 19 west, NMPM; thence east along section lines to the northeast corner of section 11, township 20 south, range 19

west, NMPM; thence east along section line to the northeast corner of section 13, township 20 south, range 19 west, NMPM; thence south along range line to the southeast corner of section 13, township 20 south, range 19 west, NMPM; thence east along township line to the northeast corner of section 24, township 20 south, range 18 west, NMPM; thence north along range line to the northwest corner of section 18, township 20 south, range 17 west, NMPM; thence east along section lines to the northeast corner of section 14, township 20 south, range 17 west, NMPM; thence north along section line to the northwest corner of section 12, township 20 south, range 17 west, NMPM; thence east along section lines to the northeast corner of section 12, township 20 south, range 17 west, NMPM; thence north along range line to the northwest corner of section 6, township 20 south, range 16 west, NMPM; thence east along township line to the northeast corner of section 5, township 20 south, range 16 west, NMPM; thence north along section line to the northwest corner of section 33, township 19 south, range 16 west, NMPM; thence east along section lines to the northeast corner of section 34, township 19 south, range 16 west, NMPM; thence south along section line to the southeast corner of section 34, township 19 south, range 16 west, NMPM; thence east along township line to the northeast corner of section 2, township 20 south, range 16 west, NMPM; thence south along section line to the southeast corner of section 2, township 20 south, range 16 west, NMPM; thence east along section lines to the northeast corner of section 7, township 20 south, range 15 west, NMPM; thence south along section lines to the southeast corner of section 30, township 20 south, range 15 west, NMPM; thence east along section line to the northeast corner of section 32, township 20 south, range 15 west, NMPM; thence south along section line to the southeast corner of section 32, township 20 south, range 15 west, NMPM; thence east along township line to the northeast corner of section 5, township 21 south, range 15 west, NMPM; thence south along section line to the southeast corner of section 5, township 21 south, range 15 west, NMPM; thence east along section line to the northeast corner of section 9, township 21 south, range 15 west, NMPM; thence south along section line to the southeast corner of section 9, township 21 south, range 15 west, NMPM; thence east along section lines to the northeast corner of section 14, township 21 south, range 15 west, NMPM; thence south along section line to the southeast corner of section 14, township 21 south, range 15 west, NMPM; thence east along section

line to the northeast corner of section 24, township 21 south, range 15 west, NMPM; thence south along range line to the southeast corner of section 25, township 21 south, range 15 west, NMPM; thence east along section lines to the northeast corner of section 31, township 21 south, range 14 west, NMPM; thence south along section line to the southeast corner of section 31, township 21 south, range 14 west, NMPM; thence east along township line to the northeast corner of section 4, township 22 south, range 14 west, NMPM; thence south along section line to the southeast corner of section 4, township 22 south, range 14 west, NMPM; thence east along section lines to the northeast corner of section 10, township 22 south, range 14 west, NMPM; thence south along section line to the southeast corner of section 10, township 22 south, range 14 west, NMPM; thence east along section lines to the northeast corner of section 14, township 22 south, range 14 west, NMPM; thence south along section line to the southeast corner of section 10, township 22 south, range 14 west, NMPM; thence east along section lines to the northeast corner of section 14, township 22 south, range 14 west, NMPM; thence south along section line to the southeast corner of section 14, township 22 south, range 14 west, NMPM; thence east along section lines to the northeast corner of section 10, township 22 south, range 14 west, NMPM; thence east along township line to the northeast corner of section 6, township 23 south, range 13 west, NMPM; thence south along section lines to the southeast corner of section 31, township 25 south, range 13 west, NMPM; thence east along township line to the northeast corner of section 6, township 26 south, range 13 west, NMPM; thence south along section line to the southeast corner of section 6, township 26 south, range 13 west, NMPM; thence east along section lines to the northeast corner of section 8, township 26 south, range 13 west, NMPM; thence south along section lines to the southeast corner of section 32, township 26 south, range 13 west, NMPM, being the point of origin.

B. Southwestern extension: Beginning at the southeast corner of section 36, township 25 south, range 17 west, NMPM; thence west along township lines to the southwest corner of section 33, township 25 south, range 18 west, NMPM; thence north along section lines to the mid-point of the western boundary of section 28, township 25 south, range 18 west, NMPM; thence due west to the center of section 29, township 25 south, range 18 west, NMPM; thence due north to the mid-point of the northern boundary of said section 29, then west along section line to the southwest corner of section 20, township 25 south, range 18 west, NMPM; thence north along section

lines to the mid-point of the western boundary of section 17, township 25 south, range 18 west, NMPM; thence due west to the center of section 18, township 25 south, range 18 west, NMPM; thence due north to the mid-point of the northern boundary of said section 18, thence west along section line to the southwest corner of section 7, township 25 south, range 18 west, NMPM; thence north along range line to the northwest corner of said section 7, thence east along section line to the mid-point of the northern boundary of said section 7, thence due north to the center of section 31, township 24 south, range 18 west, NMPM; thence due east to the center of section 32, township 24 south, range 18 west, NMPM; thence due north to the mid-point of the northern boundary of said section 32, thence east along section lines to the northeast corner of section 33, township 24 south, range 18 west, NMPM; thence south along section line to the southeast corner of said section 33, thence east along township line to the northeast corner of section 1, township 25 south, range 18 west, NMPM; thence south along range line to the southeast corner of section 13, township 25 south, range 18 west, NMPM; thence east along section lines to the northeast corner of section 24, township 25 south, range 17 west, NMPM; thence south along range line to the southeast corner of section 36, township 25 south, range 17 west, NMPM, being the point of origin.

C. Western extension:

Beginning at the southeast corner of section 21, township 24 south, range 18 west, NMPM; thence west along section line to the mid-point of the southern boundary of said section 21, thence due north to the center point of said section 21, thence west to the mid-point of the western boundary of said section 21, thence north along section lines to the mid-point of the western boundary of section 9, township 24 south, range 18 west, NMPM; thence due west to the center point of section 8, township 24 south, range 18 west, NMPM; thence due north to the center point of section 5, township 24 south, range 18 west, NMPM; thence due west to the mid-point of the western boundary of said section 5, thence north along section line to the northwest corner of said section 5, thence west along township lines to the southwest corner of section 36, township 23 south, range 19 west, NMPM; thence north along section line to the mid-point of the western boundary of said section 36, thence due west to the center point of section 35, township [24] 23 south, range 19 west, NMPM; thence due north to the mid-point of the northern boundary of section 26, township [24] 23 south, range 19 west, NMPM; thence east along section line to the northeast corner of said section 26, thence north along section line to the north-

west corner of section 24, township [24] 23 south, range 19 west, NMPM; thence east along section line to the mid-point of the northern boundary of said section 24, thence north to the mid-point of the northern boundary of section 12, township [24] 23 south, range 19 west, NMPM; thence west along section line to the southwest corner of section 1, township [24] 23 south, range 19 west, NMPM; thence north along section line to the northwest corner of said section 1, thence east along township line to the northeast corner of said section 1, thence south along range line to the southeast corner of said section 1, thence east along sections lines to the northeast corner of section 8, township [24] 23 south, range 18 west, NMPM; thence south along section lines to the southeast corner of section 17, township [24] 23 south, range 18 west, NMPM; thence east along section line to the northeast corner of section 21, township [24] 23 south, range 18 west, NMPM; thence south along section line to the southeast corner of section 21, township 24 south, range 18 west, NMPM, being the point of origin.

[19.27.66.8 NMAC - N/E, 9/23/2005; A, 6/30/2006]

19.27.66.9 B O U N D A R Y DESCRIPTION OF THE EXTENDED AREAS OF THE NUTT-HOCKETT UNDERGROUND WATER BASIN: The following two areas are being added to the Nutt-Hockett underground water basin.

A. Main extension

(south, east, and west): Beginning at the southeast corner of section 35, township 22 south, range 5 west, NMPM; thence west along township lines to the southwest corner of section 36, township 22 south, range 6 west, NMPM; thence north along section lines to the northwest corner of section 12, township 22 south, range 6 west, NMPM; thence west along section line to the southwest corner of section 2, township 22 south, range 6 west, NMPM; thence north along section lines to the northwest corner of section 23, township 21 south, range 6 west, NMPM; thence west along section line to the southwest corner of section 15, township 21 south, range 6 west, NMPM; thence north along section lines to the northwest corner of section 3, township 21 south, range 6 west, NMPM; thence east along section lines to the northeast corner of section 2, township 21 south, range 6 west, NMPM; thence south along section lines to the southeast corner of section 14, township 21 south, range 6 west, NMPM; thence east along section line to the northeast corner of section 24, township 21 south, range 6 west, NMPM; thence south along section lines to the southeast corner of section 36, township 21 south, range 6 west, NMPM; thence east along section line to the northeast corner of

section 6, township 22 south, range 5 west, NMPM; thence south along section lines to the southeast corner of section 18, township 22 south, range 5 west, NMPM; thence east along section lines to the northeast corner of section 23, township 22 south, range 5 west, NMPM; thence north along section line to the northwest corner of section 13, township 22 south, range 5 west, NMPM; thence east along section line to the northeast corner of section 13, township 22 south, range 5 west, NMPM; thence north along section lines to the northwest corner of section 31, township 20 south, range 4 west, NMPM; thence east along section line to the northeast corner of section 31, township 20 south, range 4 west, NMPM; thence north along section line to the northwest corner of section 29, township 20 south, range 4 west, NMPM; thence east along section line to the northeast corner of section 29, township 20 south, range 4 west, NMPM; thence north along section lines to the northwest corner of section 21, township 20 south, range 4 west, NMPM; thence east along section line to the northeast corner of section 21, township 20 south, range 4 west, NMPM; thence north along section line to a point on the east section line of section 15, township 20 south, range 4 west, NMPM; thence south easterly along the drainage divide between the Nutt-Hockett basin and the Rio Grande stream system to its intersection with the northern boundary of section 22, township 21 south, range 3 west, NMPM; thence west along section lines to the southwest corner of section 23, township 21 south, range 4 west, NMPM; thence south along section lines to the northeast corner of section 3, township 22 south, range 4 west, NMPM; thence [east] west along section lines to the northwest corner of section 4, township 22 south, range 4 west, NMPM; thence south along section lines to the southeast corner of section 8, township 22 south, range 4 west, NMPM; thence west along section line to the southwest corner of section 8, township 22 south, range 4 west, NMPM; thence south along section line to the southeast corner of section 18, township 22 south, range 4 west, NMPM; thence west along section line to the southwest corner of section 18, township 22 south, range 4 west, NMPM; thence south along section lines to the southeast corner of section 25, township 22 south, range 5 west, NMPM; thence west along section line to the southwest corner of section 25, township 22 south, range 5 west, NMPM; thence south along section line to the southeast corner of section 35, township 22 south, range 5 west, NMPM, being the point of origin.

B. Northwestern extension of underground basin: Beginning at the southeast corner of section 12, township 20 south, range 6 west, NMPM; thence west along section lines to the southwest corner

of section 11, township 20 south, range 6 west, NMPM; thence south along section lines to the southeast corner of section 27, township 20 south, range 6 west, NMPM; thence west along section line to the southwest corner of section 27, township 20 south, range 6 west, NMPM; thence north along section lines to the northwest corner of section 22, township 20 south, range 6 west, NMPM; thence east along section line approximately one half mile to the middle of the southern boundary line of section 15, township 20 south, range 6 west, NMPM; thence due north one mile to the intersection with the northern boundary of section 15, township 20 south, range 6 west, NMPM; thence east along section line to the southwest corner of section 11, township 20 south, range 6 west, NMPM; thence north along section lines to the northwest corner of section 23, township 19 south, range 6 west, NMPM; thence east along section lines to the northeast corner of section 19, township 19 south, range 5 west, NMPM; thence south along section lines to the southeast corner of section 6, township 20 south, range 5 west, NMPM; thence west along section line to the southwest corner of section 6, township 20 south, range 5 west, NMPM; thence south along section line to the southeast corner of section 12, township 20 south, range 6 west, NMPM, being the point of origin.

[19.27.66.9 NMAC - N/E, 9/23/2005; A, 6/30/2006]

**NEW MEXICO
DEPARTMENT OF HEALTH**

7 NMAC 26.5, Service Plans for Individuals with Developmental Disabilities Living in the Community, filed November 27, 1996 is hereby repealed effective 10/01/06.

**NEW MEXICO
DEPARTMENT OF HEALTH**

**TITLE 7 HEALTH
CHAPTER 26 DEVELOPMENTAL
DISABILITIES
PART 5 SERVICE PLANS
FOR INDIVIDUALS WITH DEVELOP-
MENTAL DISABILITIES LIVING IN
THE COMMUNITY**

7.26.5.1 ISSUING AGENCY: Department of Health, Developmental Disabilities Supports Division, 1190 Saint Francis Drive, Post Office Box 26110 Santa Fe, New Mexico 87502-6110, (Telephone No. 1-877-696-1472).

[7.26.5.1 NMAC - Rp, 7 NMAC 26.5.1, 10/01/06]

7.26.5.2 SCOPE:

A. For each individual with developmental disabilities receiving services in the community, either through state general funds or federal funding through the developmental disabilities medicaid waiver, there shall exist a single, unified individual service plan, or ISP. This ISP shall be developed by a single interdisciplinary team, or IDT, consisting of the individual, the guardian, parents, family, and representatives from all key community service provider agencies servicing to the individual, regardless of their source of funding, as well as advocates and others invited to participate by the individual.

B. These regulations shall apply to all individuals with developmental disabilities living in the community, regardless of whether their services are funded through the developmental disabilities medicaid waiver or through state general fund contracts with community providers. The following groups are EXCLUDED from these regulations, as their services and service delivery are addressed in other regulations:

(1) children, aged birth to three, who are recipients of services covered by the federal Individuals with Disabilities Education Act (IDEA), Part C as administered under the New Mexico family, infant and toddler program;

(2) early periodic screening, diagnosis and treatment (EPSDT) case management recipients, unless allocated to the DD waiver;

(3) medically fragile waiver recipients;

(4) state general funded recipients of only ancillary services (non-residential and non-day program services), such as respite and the various therapies;

(5) community ICF/MR group home residents, covered by federal ICF regulations, except *Jackson* class members.

[7.26.5.2 NMAC - Rp, 7 NMAC 26.5.2, 10/01/06]

7.26.5.3 STATUTORY AUTHORITY: Section 9-7-6 NMSA 1978.

[7.26.5.3 NMAC - Rp, 7 NMAC 26.5.3, 10/01/06]

7.26.5.4 DURATION: Permanent

[7.26.5.4 NMAC - Rp, 7 NMAC 26.5.4, 10/01/06]

7.26.5.5 EFFECTIVE DATE: 10/01/06, unless a later date is cited at the end of a section.

[7.26.5.5 NMAC - Rp, 7 NMAC 26.5.5, 10/01/06]

7.26.5.6 OBJECTIVE:

A. These regulations contain a process for development of an individual service plan for persons with a developmental disability. The requirements set out in these regulations apply, with some exceptions, to providers of services to persons with developmental disabilities living in the community.

B. These regulations are promulgated, in part, to satisfy requirements arising from the implementation of the decision in *Jackson, et al. v. Fort Stanton, et al.*, N.M. Dist. Ct. No. Civ. No. 87-839. These regulations incorporate certain agreements reached by the parties, including the department, to the *Jackson* lawsuit.

C. The purpose of this regulation is to establish a framework for planning, designing, implementing and modifying the individual service plan for an individual with developmental disabilities living in the community.

[7.26.5.6 NMAC - Rp, 7 NMAC 26.5.6, 10/01/06]

7.26.5.7 DEFINITIONS:

A. The Interdisciplinary Team (IDT).

(1) The "interdisciplinary team (IDT)" is responsible for the development of the individual service plan (ISP) and for identifying the agencies and individuals responsible for providing the services and supports identified in the ISP.

(2) The IDT shall consist of the following core members:

(a) "individual": the person with a developmental disability for whom the ISP is written;

(b) "case manager": the independently-funded professional responsible for service coordination to individuals with developmental disabilities on the developmental disabilities medicaid waiver; the case manager must be external to, and independent from, the community service provider agency;

(c) "guardian": the court appointed guardian of an adult individual or the custodial parent(s) if the individual is a minor;

(d) "helper": the individual may choose a helper to assist with communication; in instances where the individual is unable to make this choice, the guardian may choose a helper, if desired; the helper may be a friend, housemate, family member, teacher, co-worker, current or former employee of an agency or facility with which the individual has had contact, foster grandparent, or any other person from the individual's circle of relatives, friends and acquaintances;

(e) "key community service provider staff": "key" community service

providers are providers of residential employment, day program and behavioral services specifically designed for persons with developmental disabilities; "key" provider staff participating in the IDT shall include, at a minimum:

(i) "direct service staff": the provider staff member(s) directly responsible for the provision of specified services to the individual with developmental disabilities;

(ii) "service coordinator": the community provider staff member, sometimes called the program manager or the internal case manager, who supervises, implements and monitors the service plan within the community service provider agency;

(f) "ancillary service providers": the service provider agencies and staff providing non-residential and non-day services, either specifically designed for individuals with developmental disabilities or generic in nature, regardless of funding source; examples of ancillary services include nutritional services, physical therapy, occupational therapy, speech therapy, respite, nursing, etc.; as well as services provided by the individual's physician and other medical personnel;

(g) "designated healthcare coordinator" the team member designated to coordinate medical supports and services which the individual requires to manage any chronic health conditions and to access preventative healthcare services;

(h) "others": unless the individual objects, other participants may include family members not already mentioned, if invited by the individual or guardian; advocates or other chosen representatives who participate in the ISP development process on the individual's behalf; representatives of generic services, who may participate in the IDT with the individual's or guardian's consent; representatives of the public school system, if the individual is of school age and attends public school; and, any others that the individual wishes to have attend the IDT meeting.

B. Content of individual service plans:

(1) "Demographic information": The individual's name, age, date of birth, important identification numbers (i.e., medicaid, medicare, social security numbers, level of care), address, phone number, guardian information (if applicable), physician name and address, primary care giver or service provider(s), date of the ISP meeting (either annual, or revision), scheduled month of next annual ISP meeting, and team members in attendance.

(2) "Long-term vision": A written statement of the individual's personal vision for the future.

(3) "Outcomes": Desired out-

comes generated by the individual, guardian and the team. An outcome is a realistic change that can occur in the individual's life, that the individual can achieve and that leads towards the attainment of the individual's long-term vision. For example, an outcome may state that the individual obtain preferred employment or that the individual learn to drive.

(4) "Individual preference": The individual's preferences, capabilities, strengths and needs in each life area determined to be relevant to the identified ISP outcomes shall be reflected in the ISP. The long term vision, age, circumstances and interests of the individual, shall determine the life area relevance, if any, to the individual's ISP.

(5) "Action plans":

(a) specific action plans designed to assist the individual in achieving each identified desired outcome listed in the ISP, by the team, which include criteria for measuring progress, timelines and responsible parties on each action step.

(b) service providers shall develop specific tasks and strategies (methods and procedures) for implementing each specified action step within timelines established by the IDT.

(6) "Assistive technology": Necessary support mechanisms, devices, and environmental modifications including the rationale for the use of assistive technology or adaptive equipment when a need has been identified, shall be documented in the ISP. The rationale shall include the environments and situations in which assistive technology is used. Selection of assistive technology shall support the individual's independence and functional capabilities in as nonintrusive a fashion as possible.

(7) "Availability of supports and services": Identification of potential supports and services for individuals by the IDT should be undertaken without regard to the cost of the supports and services or whether they are actually available at that time in the community.

(8) "Signature form": A signature form, containing the name, phone number and role on the IDT of all team members shall be included in the ISP. All individuals attending the annual IDT meeting shall sign the signature form to indicate their participation in the planning process. For all team members not in attendance the alternative method of their participation shall be stated on the signature line. (e.g. telephone, written report, premeeting consultation or designated representative).

(9) "Budget page": For individuals receiving services through the developmental disabilities medicaid waiver a proposed budget page developed by the case manager in consultation with the various service providers shall be included in the

ISP.

[7.26.5.7 NMAC - Rp, 7 NMAC 26.5.7, 10/01/06]

7.26.5.8 INTRODUCTION:

A. For all recipients of the developmental disabilities medicaid waiver services, this interdisciplinary team shall be chaired by the individual, if he or she desires, or by the independent case manager. Services called for in the ISP shall be coordinated by the independent case manager according to the procedures described herein.

B. For all state general fund recipients, this interdisciplinary team shall be chaired by the individual, if he or she desires, or by the designated service coordinator of a community service provider agency. Services called for in the ISP shall be coordinated by the service coordinator staff of the key community service provider agency according to the procedures described herein.

C. The IDT shall review and discuss information and recommendations with the individual, with the goal of supporting the individual in attaining desired outcomes. The IDT develops an ISP based upon the individual's personal vision statement, strengths, needs, interests and preferences. The ISP is a dynamic document, revised periodically, as needed, and amended to reflect progress towards personal goals and achievements consistent with the individual's future vision. This regulation is consistent with standards established for individual plan development as set forth by accreditation entities approved and adopted by the developmental disabilities supports division and the department of health. It is the policy of the developmental disabilities support division (DDSD) that to the extent permitted by funding, each individual receive supports and services that will assist and develop independence and productivity in the community and take affirmative action to prevent regression or loss of current capabilities. Services and supports include specialized and generic services, training, education or treatment as determined by the IDT and documented in the ISP.

D. The intent is to provide choice and obtain opportunities for individuals to live, work and play with full participation in their communities.

[7.26.5.8 NMAC - Rp, 7 NMAC 26.5.8, 10/01/06]

7.26.5.9 GUIDING PRINCIPLES:

The following principles shall provide direction and purpose in planning with individuals with developmental disabilities.

A. Principle No. 1: The individual with developmental disabilities has choices in, and ownership of, the plan-

ning process. If the individual is unable to independently communicate, the team shall use observed preferences and consultation with close friends, family members, guardians, helpers, direct service staff and advocates to guide decisions.

B. Principle No. 2: A person-centered planning process shall be used to maintain the self-esteem of the person with developmental disabilities.

C. Principle No. 3: The individual's long-term vision statement shall guide assessments, planning, plan implementation and service evaluation. The plan shall describe reasonable accommodations and supports to assist the individual in the realization of the individual's vision.

D. Principle No. 4: Planning shall focus on outcomes or results which the individual wishes to achieve.

E. Principle No. 5: The plan shall address individual strengths and capabilities in developing action plans and strategies for reaching desired outcomes.

F. Principle No. 6: Visions shall usually reflect results which can be reached within one (1) year. Action plans will delineate which activities will be completed within one year and those which will be detailed in future plans or plan modifications.

G. Principle No. 7: The team developing the action plan shall recognize and understand that behavior is a form of communication.

H. Principle No. 8: Natural supports and services normally utilized by the community at large shall be preferred over specialized services in assisting individuals to reach desired outcomes; when specialized services are necessary they shall take place in natural settings whenever possible.

I. Principle No. 9: The planning process shall be tailored to each individual's culture, communication style, physical requirements, learning style and personal preferences.

[7.26.5.9 NMAC - Rp, 7 NMAC 26.5.9, 10/01/06]

7.26.5.10 AVAILABILITY OF SUPPORTS, SERVICES AND FUNDS AND DDS D APPROVALS:

A. The case manager assures that identification of potential supports and services for the individual by the IDT is undertaken without regard to the cost of the supports and services or whether they are actually available at that time in the community. If needed supports and services are not available this shall be reported to the DDS D regional office by the case manager.

B. For individuals who are not *Jackson* class members, in specifying

the supports and services in the ISP required to be provided, the IDT, exercising professional judgment, may take into account the availability of supports and services. If supports or services are identified in the ISP, but not required to be provided in the exercise of professional judgment taking into account the availability of services, the IDT shall promptly submit a list of these unavailable supports and services to the DDS D. The DDS D shall use these lists to identify appropriate community resource needs and develop strategies to add community supports and services for persons with developmental disabilities, subject to appropriations for this purpose.

C. For *Jackson* class members, the ISP shall include the supports and services identified by the IDT.

D. The ISP for individuals who are on the developmental disabilities medicaid waiver, including *Jackson* class members, must be reviewed and approved by the DDS D, as to the cost of the individual's ISP, and aggregate costs of ISPs, and as to compliance with medicaid regulations and DDS D standards. If the DDS D, does not approve the ISP because of cost or non-compliance with DDS D standards the ISP will be returned to the IDT with appropriate instructions to develop an ISP that meets requirements and is within the DDS D's budget parameters. The ISP for these individuals will not be implemented unless and until it is approved by the DDS D.

E. Because cost limitations are established upfront in the contracting process for persons funded solely by state general funds, the above ISP review and approval process (per Subsection D of 7.26.5.10 NMAC above) is not required. The DDS D reserves the right to conduct on-site reviews for compliance with applicable policy and regulation.

[7.26.5.10 NMAC - Rp, 7 NMAC 26.5.10, 10/01/06]

7.26.5.11 THE INTERDISCIPLINARY TEAM:

A. The interdisciplinary team (IDT) is responsible for the development of the individual service plan (ISP) and for identifying the agencies and individuals responsible for providing the services and supports identified in the ISP.

B. The IDT shall consist of the following core members:

(1) individual: the individual shall be actively encouraged to participate in all IDT meetings and the ISP development process; this participation shall include, but not be limited to, expressing a personal vision statement for the future, indicating desired outcomes that help to realize that vision, identifying action plans that will achieve those outcomes, and per-

sonally chairing the IDT meeting, if desired and when able to do so;

(2) case manager: the duties of the case manager in relation to the individual with developmental disabilities and the IDT shall include:

(a) coordinating the development, modification and implementation of the ISP in consultation with the IDT and the individual;

(b) monitoring the integration and coordination of the individual's services;

(c) serving as the IDT chairperson, or assisting the individual in chairing the IDT meeting if he or she is capable of doing so and wishes to do so;

(d) scheduling IDT meetings annually, or more often as needed, to review or modify the ISP, and encouraging optimum participation by all IDT members;

(e) monitoring supports and services being delivered as specified in the ISP as determined by the IDT;

(f) reviewing progress on chosen outcomes, and action plans and through consultation with the IDT, amending the ISP, if needed;

(g) through timely consultation with the IDT, modifying unsuccessful service programs and developing service programs for previously unaddressed but significant individual needs that may arise prior to the next scheduled ISP meeting;

(h) advocating on behalf of the individual by making recommendations and requests on behalf of the individual;

(i) ensuring objective, quantifiable data has been systematically recorded, analyzed and used to determine effectiveness of service provided in order to justify needed changes in services;

(j) coordinating and monitoring any follow-up needed as a result of reviews;

(k) serving as liaison between the IDT and the public school system, the special education division, or any other community service teams relevant to the individual served; and

(l) assisting the community service providers in community placement or other services as needed and as specified by the IDT;

(3) the case manager ensures that the IDT identified services and supports for the individual without regard to their current availability; at the conclusion of the IDT meeting the case manager shall document unavailable services on the appropriate page of the ISP form, which is provided for this purpose, and submits this list to the DDS D, regional office;

(4) guardian: the guardian shall convey to the IDT information about the individual, historical or otherwise, which shall be useful in the development of the ISP;

(5) helper: the helper is someone who knows the individual's capabilities, interests, likes, and dislikes and who can assist the individual in communicating these with the IDT; in turn, the helper may assist the individual in understanding the ISP development process and the individual service plan that is developed;

(6) "key" community service provider staff: "key" community service providers are providers of residential, employment day program and behavioral services specifically designed for persons with developmental disabilities; "key" provider staff participating in the IDT shall include, at a minimum:

(a) direct service staff: the participation of direct service staff in the development of the individual service plan is crucial, as they are the persons who work directly with the individual within their respective domains; at least one provider staff member from each of the "key" service areas (residential, day/work-related and behavioral), who is directly involved in the provision of services to the individual in those areas, must be in attendance at all IDT meetings;

(b) service coordinator: the service coordinators of the community provider agencies shall assure that appropriate staff develop strategies specific to their responsibilities in the ISP; the service coordinators shall assure the action plans and strategies are implemented consistent with the provisions of the ISP, and shall report to the case manager on ISP implementation and the individual's progress on action plans within their agencies; for persons funded solely by state general funds, the service coordinator shall assume all the duties of the independent case manager described within these regulations; if there are two or more "key" community service provider agencies with two or more service coordinator staff, the IDT shall designate which service coordinator shall assume the duties of the case manager; the criteria to guide the IDTs selection are set forth as follows:

(i) the designated service coordinator shall have the skills necessary to carry out the duties and responsibilities of the case manager as defined in these regulations;

(ii) the designated service coordinator shall have the time and interest to fulfill the functions of the case manager as defined in these regulations;

(iii) the designated service coordinator shall be familiar with and understand community service delivery and supports;

(iv) the designated service coordinator shall know the individual or be willing to become familiar and develop a relationship with the individual being served;

(7) ancillary service providers: ancillary service providers shall participate in the IDT meeting and the ISP development process through written assessments, evaluations or reports to the IDT, or in person; the case manager, in consultation with the individual and the IDT, shall determine the need for personal participation at IDT meetings on the part of any ancillary service provider;

(8) designated healthcare coordinator: the team member designated to coordinate medical supports and services which the individual requires to manage any chronic health conditions and to access preventative healthcare services;

(9) others: unless the individual objects, other participants may include family members not already mentioned, if invited by the individual or the ISP development process on the individual's behalf; representatives of general services, who may participate in the IDT with the individual's or guardians' consent; representatives of the public school system, if the individual is of school age and attends public school; and, any others that the individual wishes to have attend the IDT meeting.

[7.26.5.11 NMAC - Rp, 7 NMAC 26.5.11, 10/01/06]

7.26.5.12 DEVELOPMENT OF THE INDIVIDUAL SERVICE PLAN (ISP) - PARTICIPATION IN AND SCHEDULING OF INTERDISCIPLINARY TEAM MEETINGS:

A. Prior to the initial IDT meeting the case manager shall provide the individual and guardian, if any, with an orientation to the person-centered planning process, purpose of the ISP and roles and responsibilities of IDT members. After completion of the ISP, the individual and guardian shall be offered the opportunity to meet with the case manager and ask questions regarding the completed ISP within thirty (30) days of the meeting, if desired.

B. The IDT shall be convened at least annually and may be convened as frequently as conditions or circumstances warrant to review and modify the ISP. If an ISP includes programs or services which restrict an individual or a behavioral program subject to the DDS behavior support policy, the IDT shall review the relevant program or service at least quarterly. In situations where an individual is at risk of significant harm, the team shall convene within one (1) working day, in person or by teleconference. If necessary, the ISP shall be modified accordingly within seventy-two (72) hours.

C. The IDT meeting shall be scheduled and conducted by the case manager who will solicit and facilitate the full participation of all team members. The individual shall be present unless he/she

chooses not to attend. If any member is unable to attend IDT meetings, arrangements for their involvement shall be made through teleconference, designated representatives, or in the case of ancillary services, written reports provided to the case manager prior to the meeting.

D. The case manager shall provide written notice of the annual IDT meeting at least twenty one (21) days prior to the meeting. Notice shall be provided to the individual, his or her representative, guardian, providers and other invited participants. The case manager shall consult IDT members prior to scheduling the meeting in order to determine the best dates and times. The case manager shall attempt to accommodate team member's scheduling needs shall be accommodated as long as the timing does not jeopardize continued eligibility for the DD Waiver. A request for a change of meeting date made by the individual and guardian. Written documentation of notice and scheduling activities will be maintained by the case manager in the individual's records.

E. For state general funded services, the initial IDT meeting shall be held within sixty (60) days of the start of services, and then annually thereafter. For all other developmental disabilities medicaid waiver recipients, the IDT meeting shall be held annually based upon the previous and/or initial ISP approval date.

F. In the event the individual or guardian requests that others be invited to attend the IDT meeting, the case manager shall also provide them with notification of the meeting.

G. The case manager will convene the IDT on an "as needed" basis to modify (revise or amend) the ISP once it has been developed. Participants may attend through teleconference.

H. The IDT shall be convened to discuss and modify the ISP, as needed, to address:

(1) a significant life change, including a change in medical condition or medication that affects the individual's behavior or emotional state;

(2) situations where an individual is at risk of significant harm. In this case the team shall convene within one working day, in person or by teleconference; if necessary, the ISP shall be modified accordingly within seventy-two (72) hours;

(3) changes in any desired outcomes, (e.g. desired outcome is not met, a change in vocational goals or the loss of a job);

(4) the loss or death of a significant person to the individual;

(5) a serious accident, illness, injury or hospitalization that disrupts implementation of the ISP;

(6) individual, guardian or

provider requests for a program change or relocation, or when a termination of a service is proposed; the DDS's policy no. 150 requires the IDT to meet and develop a transition plan whenever an individual is at risk of discharge by the provider agency or anticipates a change of provider agency to identify strategies and resources needed; if the individual or guardian is requesting a discharge or a change of provider agency, or there is an impending change in housemates the team must meet to develop a transition plan;

(7) situations where it has been determined the individual is a victim of abuse, neglect or exploitation;

(8) criminal justice involvement on the part of the individual (e.g., arrest, incarceration, release, probation, parole);

(9) any member of the IDT may also request that the team be convened by contacting the case manager; the case manager shall convene the team within ten (10) days of receipt of any reasonable request to convene the team, either in person or through teleconference;

(10) for any other reason that is in the best interest of the individual, or any other reason deemed appropriate, including development, integration or provision of services that are inconsistent or in conflict with the desired outcomes of the ISP and the long term vision of the individual;

(11) whenever the DDS decides not to approve implementation of an ISP because of cost or because the DDS believes the ISP fails to satisfy constitutional, regulatory or statutory requirements. [7.26.5.12 NMAC - Rp, 7 NMAC 26.5.12, 10/01/06]

7.26.5.13 DEVELOPMENT OF THE INDIVIDUAL SERVICE PLAN (ISP) ASSESSMENTS:

A. Assessment information, as described in Subsection C of 7.26.5.13 NMAC, shall be utilized to develop and revise the ISP. The individual, helper, family members and friends shall be provided an opportunity to present their perceptions regarding the individual's progress and current status. The observations and perceptions of people who know the individual well shall be considered when decisions regarding the ISP are made.

B. All IDT members shall review clinical and other assessments and evaluations completed on behalf of the individual. These assessments must be prepared with enough time for adequate review prior to the annual IDT meeting. Service providers preparing written assessment reports shall be responsible for submitting these documents to the IDT members at least two (2) weeks prior to the scheduled annual IDT meeting. The case manager

shall review written assessment reports with the individual and guardian prior to the IDT meeting.

C. Relevant IDT members, including ancillary service providers, shall prepare reports at least two (2) weeks in advance of the IDT meeting, based on their assessments of the individual's progress and current status in the domain for which they are responsible. Reports shall include, at a minimum, a client individual assessment (CIA) and a long term care abstract (LOC) completed by the case manager at least annually in consultation with the IDT; adaptive behavior scales completed by relevant IDT members; assessments from the various disciplines providing services to the individual (such as vocational evaluations, physical therapy evaluations, history and physical, etc.); objective data to corroborate evaluation information; reports by progress residential and day program providers; information, historical or otherwise, provided by guardians or family members; direct observations, especially during transitional periods. IDT members shall report other relevant information depending on the individual's service needs. Assessments shall be performed in settings normally utilized whenever possible.

D. When the IDT determines further independent assessment is needed, the team shall develop action plans within the ISP that addresses the need for such an assessment, including responsibility and timelines. Implementation of any action plan related to independent assessment shall be monitored by the case manager.

E. At the IDT meeting, team members shall:

(1) elicit and develop the individual's long term vision statement;

(2) review and discuss clinical and other assessments and evaluation reports in relation to the individual's abilities, interests, preferences and desired outcomes;

(3) review objectives, quantifiable data information from the previous ISP to determine the effectiveness of services and interventions and use this information when determining new or revised outcomes, action plans and strategies for the ISP under development;

(4) use the comprehensive compilation of client assessment information and the long term vision statement to perform a functional assessment; this functional assessment identifies the supports and services needed in assisting the individual in the attainment of the long term vision; for example, the functional assessment may evaluate the use of an interpreter as a support or assistive communication devices, environmental modifications, etc.; and

(5) the functional assessment shall reflect the experience, choices, cultural background, skills, needs and abilities of the individual; this functional assessment precedes the development of the action plan at the IDT meeting; functional assessments shall reflect the individual's current skills and abilities in relation to the individual's environment and community; functional assessments shall include the interpretation of clinical assessments and evaluations in assisting the individual in meeting the long term vision.

[7.26.5.13 NMAC - Rp, 7 NMAC 26.5.13, 10/01/06]

7.26.5.14 DEVELOPMENT OF THE INDIVIDUAL SERVICE PLAN (ISP) - CONTENT OF INDIVIDUAL SERVICE PLANS: Each ISP shall contain.

A. Demographic information: The individual's name, age, date of birth, important identification numbers (i.e., medicaid, medicare, social security numbers), level of care address, phone number, guardian information (if applicable), physician name and address, primary care giver or service provider(s), date of the ISP meeting (either annual, or revision), scheduled month of next annual ISP meeting, and team members in attendance.

B. Long term vision: The vision statement shall be recorded in the individual's actual words, whenever possible. For example, in a long term vision statement, the individual may describe him or herself living and working independently in the community.

C. Outcomes:

(1) The IDT has the explicit responsibility of identifying reasonable services and supports needed to assist the individual in achieving the desired outcome and long term vision. The IDT determines the intensity, frequency, duration, location and method of delivery of needed services and supports. All IDT members may generate suggestions and assist the individual in communicating and developing outcomes. Outcome statements shall also be written in the individual's own words, whenever possible. Outcomes shall be prioritized in the ISP.

(2) Outcomes planning shall be implemented in one or more of the four "life areas" (work or leisure activities, health or development of relationships) and address as appropriate home environment, vocational, educational, communication, self-care, leisure/social, community resource use, safety, psychological/behavioral and medical/health outcomes. The IDT shall assure that the outcomes in the ISP relate to the individual's long term vision statement. Outcomes are required for any life area for

which the individual receives services funded by the developmental disabilities meicaid waiver.

D. Individual preference: The individual's preferences, capabilities, strengths and needs in each life area determined to be relevant to the identified ISP outcomes shall be reflected in the ISP. The long term vision, age, circumstances, and interests of the individual, shall determine the life area relevance, if any to the individual's ISP.

E. Action plans:

(1) Specific ISP action plans that will assist the individual in achieving each identified, desired outcome shall be developed by the IDT and stated in the ISP. The IDT establishes the action plan of the ISP, as well as the criteria for measuring progress on each action step.

(2) Service providers shall develop specific action plans and strategies (methods and procedures) for implementing each ISP desired outcome. Timelines for meeting each action step are established by the IDT. Responsible parties to oversee appropriate implementation of each action step are determined by the IDT.

(3) The action plans, strategies, timelines and criteria for measuring progress, shall be relevant to each desired outcome established by the IDT. The individual's definition of success shall be the primary criterion used in developing objective, quantifiable indicators for measuring progress.

(4) Provider agencies shall use formats to complete strategies relating to the ISP action plans during or after the IDT meeting. Separate provider agencies working to coordinate specific strategies to achieve the same action plans shall develop their strategies jointly. Service provider agencies shall develop strategies that are clearly integrated and associated with the individual's long term vision, outcomes, action plans and therapy recommendations identified by the IDT. Therapists shall provide input into the development of strategies either directly or through review and revision prior to submission to the case manager. Provider agencies shall submit strategies for inclusion into the ISP to the case manager within two weeks following the ISP meeting. The case manager shall review the strategies for consistency.

(5) Supports and services, including services available to the general public, determined by the IDT and indicated in the ISP, shall be relevant to the individual's long term vision, desired outcomes and action plans. Supports and services shall be the least restrictive, not unduly intrusive and not excessive in light of the individual's needs.

F. Assistive technology: Necessary support mechanisms devices,

and environmental modifications including the rationale for the use of assistive technology or adaptive equipment when a need has been identified, shall be documented in the ISP. The rationale shall include the environments and situations in which assistive technology is used. Selection of assistive technology shall support the individual's independence and functional capabilities in as nonintrusive a fashion as possible.

G. Availability of supports and services:

(1) Identification of potential supports and services for individuals by the IDT should be undertaken without regard to the cost of the supports and services or whether they are actually available at the time in the community.

(2) For individuals who receive services through state general fund or developmental disabilities meicaid waiver but NOT *Jackson* class members, the IDT, exercising professional judgment, may take into account the availability of supports and services in specifying in the ISP the supports and services required to be provided. If supports or services are identified in the ISP, but not required to be provided in the exercise of professional judgment taking into account the availability of services, the IDT shall promptly submit a list of these unavailable supports and services to the DDS.

(3) For *Jackson* class members, the ISP shall include the supports and services identified by the IDT.

(4) The DDS shall use these lists to identify appropriate community resource needs and develop strategies to add community supports and services, generally, for persons with developmental disabilities, subject to appropriations for this purpose.

H. Signature form:

(1) A signature form, containing the name, phone number and role on the IDT of all team members shall be included in the ISP. All individuals participating in the annual IDT meeting shall sign the signature form to indicate their participation in the planning process.

(2) Signing this form does not affect the individual's or guardian's right, if any, to dispute all or part of the ISP or to initiate a complaint or grievance procedure. The case manager shall explain the right to dispute or to file a grievance to the individual and guardian at the IDT meeting. The case manager shall inform the individual and guardian of the DDS, office of quality assurance, its role and function in monitoring services in the community, as well as the role and function of any other relevant monitoring agencies, such as the licensing and certification bureau of the division of health improvement and adult protective services program of the aging and long term

services department. The case manager shall give the individual and guardian their business address and phone number, as well as the 800 number of the DDS's office of quality assurance and other relevant numbers.

I. Budget page: For individuals receiving services through the developmental disabilities meicaid waiver, a proposed budget page developed by the case manager in consultation with the various service providers shall be included in the ISP.

[7.26.5.14 NMAC - Rp, 7 NMAC 26.5.14, 10/01/06]

7.26.5.15 DEVELOPMENT OF THE INDIVIDUAL SERVICE PLAN (ISP) - APPROVAL OF THE ISP BY THE DEVELOPMENTAL DISABILITIES SUPPORTS DIVISION:

A. The ISP for recipients of the meicaid developmental disabilities waiver services (including *Jackson* class members) must be reviewed by the DDS as to the cost of the individual's ISP and aggregate costs of ISPs and as to compliance with DDS standards and meicaid regulations. If the DDS does not approve an ISP because of cost or non-compliance, the ISP will be returned to the IDT with appropriate instructions to develop an ISP that meets requirements and is within the DDS's budget parameters. The ISP for developmentally disabled meicaid waiver recipients (including *Jackson* class members) shall not be implemented until approval by the DDS.

B. Because cost limitations are established upfront in the contracting process for persons funded solely by state general funds, the above ISP review and approval process (per Subsection A of 7.26.5.15 NMAC above) is not required. The DDS reserves the right to conduct on-site review for compliance with these regulations.

[7.26.5.15 NMAC - Rp, 7 NMAC 26.5.15, 10/01/06]

7.26.5.16 DEVELOPMENT OF THE INDIVIDUAL SERVICE PLAN (ISP) - IMPLEMENTATION OF THE ISP: The ISP shall be implemented according to the timelines determined by the IDT and as specified in the ISP for each stated desired outcome and action plan.

[7.26.5.16 NMAC - Rp, 7 NMAC 26.5.16, 10/01/06]

7.26.5.17 DEVELOPMENT OF THE INDIVIDUAL SERVICE PLAN (ISP) - DISSEMINATION OF THE ISP, DOCUMENTATION AND COMPLIANCE:

A. The case manager shall provide copies of the completed ISP, with

all relevant service provider strategies attached, within fourteen (14) days of ISP approval to:

(1) the individual;
 (2) the guardian (if applicable);
 (3) all relevant staff of the service provider agencies in which the ISP will be implemented, as well as other key support persons;

(4) all other IDT members in attendance at the meeting to develop the ISP;

(5) the individual's attorney, if applicable;

(6) others the IDT identifies, if they are entitled to the information, or those the individual or guardian identifies;

(7) for all developmental disabilities Medicaid waiver recipients, including *Jackson* class members, a copy of the completed ISP containing all the information specified in 7.26.5.14 NMAC, including strategies, shall be submitted to the local regional office of the DDS;D;

(8) for *Jackson* class members only, a copy of the completed ISP, with all relevant service provider strategies attached, shall be sent to the *Jackson* lawsuit office of the DDS.

B. Current copies of the ISP shall be available at all times in the individual's records located at the case management agency. The case manager shall assure that all revisions or amendments to the ISP are distributed to all IDT members, not only those affected by the revisions.

C. Objective quantifiable data reporting progress or lack of progress towards stated outcomes, and action plans shall be maintained in the individual's records at each provider agency implementing the ISP. Provider agencies shall use this data to evaluate the effectiveness of services provided. Provider agencies shall submit to the case manager data reports and individual progress summaries quarterly, or more frequently, as decided by the IDT. These reports shall be included in the individual's case management record, and used by the team to determine the ongoing effectiveness of the supports and services being provided. Determination of effectiveness shall result in timely modification of supports and services as needed.

D. The ISP shall be consistent with all relevant department of health and DDS rules, policies, procedures operational guidelines, including, but not limited to, the DOH operational procedures; standards and applicable accreditation standards approved by the department of health and DDS; the behavioral support policy, the *Jackson* management manual (appendices A and B); the Medicaid waiver operations manual; the program standards for DD community agencies; the case manager

standards and client rights regulations. Confidentiality and individual rights shall be protected at all times.

E. For *Jackson* class members, the request to initiate a dispute under appendix B of the *Jackson* management manual shall automatically delay implementation of the disputed portions of the ISP until the dispute is resolved unless the health or safety of the individual would be adversely affected. Any dispute raised under appendix B shall be decided under the hearing officer guidelines for decisions contained in the appendix.

F. Nothing in this regulation shall provide an entitlement to programs, supports, services or benefits or create any legal rights that do not otherwise exist under other law or regulation.

G. The department of health's decision regarding the allocation of resources to any ISP is final, (within the DOH) in the department's sole discretion, and is not reviewable in the dispute resolution process or other agency administrative review process.

H. Community service provider agencies and case management agencies shall modify or amend their internal policies and procedures regarding ISP development to reflect the provisions stated within the ISP regulations. All ISPs and all modifications to ISPs shall be developed in compliance with these regulations.

[7.26.5.17 NMAC - Rp, 7 NMAC 26.5.17, 10/01/06]

7.26.5.18 SANCTIONS. The department or other governmental agency having regulatory enforcement authority for community based services provider agencies who have entered into contracts and/or Medicaid provider agreements with the health department, developmental disabilities supports division, may sanction in accordance with applicable law if the service provider fails to provide services as set forth by this rule. Such sanctions may include revocation or suspension of license, directed plan of correction, intermediate sanctions or civil monetary penalty up to five thousand dollars (\$5000) per instance, or termination or non-renewal of any contract with the department or other governmental agency.

[7.26.5.18 NMAC - N, 10/01/06]

HISTORY OF 7.26.5 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center:

DOH 94-04 (DDD), Regulations Governing The Individual Service Plan Development Process For Individuals With Developmental Disabilities Living In The Community, filed 5/3/94.

History or Repealed Material: 7 NMAC 26.5, Service Plans for Individuals with Developmental Disabilities Living in the Community (filed 11/27/96), repealed 10/01/06.

Other History:

DOH 94-04 (DDD), Regulations Governing The Individual Service Plan Development Process For Individuals With Developmental Disabilities Living In The Community (filed 5/3/94) was renumbered, reformatted and replaced by 7 NMAC 26.5, Service Plans for Individuals with Developmental Disabilities Living in the Community, effective 1/15/97.

7 NMAC 26.5, Service Plans for Individuals with Developmental Disabilities Living in the Community (filed 11/27/96) was renumbered, reformatted, and replaced by 7.26.5 NMAC, Service Plans for Individuals with Developmental Disabilities Living in the Community, effective 10/01/06.

NEW MEXICO DEPARTMENT OF HEALTH

This is an amendment to 7.4.3 NMAC, Section 13, effective 06/30/06.

7.4.3.13 NOTIFIABLE DISEASES OR CONDITIONS IN NEW MEXICO:

A. All reports must include:

(1) the disease or problem being reported;

(2) patient's name, date of birth/age, gender, race/ethnicity, address, telephone number, and occupation;

(3) physician or licensed health-care professional (or laboratory) name and telephone number;

(4) laboratory or clinical samples for conditions marked with (*) are required to be sent to the scientific laboratory division;

(5) the epidemiology and response division will provide guidance about what information to include for laboratory-confirmed influenza cases.

B. Emergency reporting of diseases or conditions: The following diseases, confirmed or suspected, require **immediate reporting** by telephone to epidemiology and response division at (505) 827-0006. If no answer, call [(505) 984-7044] 1-866-885-6485.

(1) Infectious diseases:

(a) anthrax*;

(b) avian influenza*;

(c) botulism (any type) *;

(d) cholera;

(e) diphtheria*;

(f) haemophilus influenzae invasive infections*;
 (g) measles;
 (h) meningococcal infections, invasive*;
 (i) pertussis*;
 (j) plague*;
 (k) poliomyelitis, paralytic;
 (l) rabies;
 (m) rubella (incl congenital);
 (n) severe acute respiratory syndrome (SARS)*;
 (o) smallpox*;
 (p) tularemia*;
 (q) typhoid fever*;
 (r) yellow fever.
 (2) Other conditions:
 (a) suspected foodborne illness in two or more unrelated persons*;
 (b) suspected waterborne illness in two or more unrelated persons*;
 (c) illnesses suspected to be caused by the intentional or accidental release of biologic or chemical agents*;
 (d) acute illnesses of any type involving large numbers of persons in the same geographic area;
 (e) severe smallpox vaccine reaction (includes accidental implantation, eczema vaccinatum, generalized vaccinia, progressive vaccinia);
 (f) other conditions of public health significance.
 (3) Infectious diseases in animals:
 (a) anthrax;
 (b) plague;
 (c) rabies;
 (d) tularemia.
 C. Routine reporting:
 (1) Infectious diseases (report case within 24 hours to epidemiology and response division at 1-800-432-4404 or 505-827-0006; or contact the local health office).
 (a) brucellosis;
 (b) campylobacter infections;
 (c) coccidioidomycosis;
 (d) Colorado tick fever;
 (e) cryptosporidiosis;
 (f) cysticercosis;
 (g) cyclosporiasis;
 (h) E. coli O157:H7 infections*;
 (i) E. coli, shiga-toxin producing (STEC) infections*;
 (j) encephalitis, other;
 (k) giardiasis;
 (l) Group A streptococcal invasive infections*;
 (m) Group B streptococcal invasive infections*;
 (n) hantavirus pulmonary syndrome;
 (o) hemolytic uremic syndrome, postdiarrheal;
 (p) hepatitis A, acute;
 (q) hepatitis B, acute or chronic;
 (r) hepatitis C, acute or chronic;

(s) hepatitis E, acute;
 (t) influenza, laboratory confirmed only (Paragraph 5 of Subsection A of 7.4.3.13 NMAC);
 (u) legionnaires' disease;
 (v) leprosy;
 (w) leptospirosis;
 (x) listeriosis*;
 (y) lyme disease;
 (z) malaria;
 (aa) mumps;
 (bb) psittacosis;
 (cc) q fever;
 (dd) relapsing fever;
 (ee) Rocky Mountain spotted fever;
 (ff) salmonellosis*;
 (gg) shigellosis*;
 (hh) St. Louis encephalitis infections;
 (ii) streptococcus pneumoniae, invasive infections*;
 (jj) tetanus;
 (kk) trichinosis;
 (ll) toxic shock syndrome;
 (mm) varicella;
 (nn) vibrio infections*;
 (oo) west nile virus infections;
 (pp) western equine encephalitis infections;
 (qq) yersinia infections*.
 (2) Infectious diseases in animals (report case within 24 hours to epidemiology and response division at 1-800-432-4404 or 505-827-0006; or contact the local health office).
 (a) arboviral, other;
 (b) brucellosis;
 (c) psittacosis;
 (d) west nile virus infections.
 (3) Tuberculosis* or other nontuberculous mycobacterial infections. Report suspect or confirmed cases within 24 hours to tuberculosis program, NM Department of Health, P. O. Box 26110, Santa Fe, NM 87502-6110; or call 505-827-2474 or 505-827-2473.
 (4) Sexually transmitted diseases. Report to infectious disease bureau - STD program, NM Department of Health, P.O. Box 26110, Santa Fe, NM 87502-6110, fax 505-476-3638; or call 505-476-3636.
 (a) chancroid;
 (b) chlamydia trachomatis infections;
 (c) gonorrhea;
 (d) syphilis.
 (5) HIV (human immunodeficiency virus) and AIDS (acquired immunodeficiency syndrome). Report to HIV/AIDS epidemiology program, 1190 St. Francis Dr., N1350, Santa Fe, NM 87502, fax 505-476-3544 or call 505-476-3515.
 (a) HIV: (1) confirmed positive HIV antibody test (screening test plus confirmatory test), or (2) any test for HIV RNA or HIV cDNA ('viral load'), or (3) any test

to detect HIV proteins, or (4) any positive HIV culture, or (5) any other test or condition indicative of HIV infection as defined by the United States centers for disease control and prevention.

(b) AIDS: Opportunistic infections, cancers, CD4 lymphocyte count (<200 per uL or <14 percent of total lymphocytes), or any condition indicative of AIDS.

(6) Occupational illness and injury. Report to New Mexico occupational health registry, MSC 105550, 1 university of New Mexico, Albuquerque, NM 87131-0001.

(a) asbestosis;
 (b) chronic beryllium lung disease;

(c) coal worker's pneumoconiosis;

(d) heavy metal poisoning;
 (e) hypersensitivity pneumonitis;
 (f) mesothelioma;
 (g) noise induced hearing loss;
 (h) occupational asthma;
 (i) occupational pesticide poisoning;

(j) silicosis;
 (k) other illnesses related to occupational exposure.

(7) Health conditions related to environmental exposures and certain injuries. Report to epidemiology and response division, NM Department of Health, P.O. Box 26110, Santa Fe, NM 87502-6110; or call 1-800-432-4404 or 505-827-0006.

(a) Environmental exposures:
 (i) acetylcholinesterase (all blood levels);

(ii) all pesticide poisoning;

(iii) arsenic in urine greater than 50 micrograms/liter;

(iv) infant methemoglobinemia;

(v) lead (all blood levels);

(vi) mercury in urine greater than 3 micrograms/liter and/or mercury in blood greater than 5 micrograms/liter;

(vii) other suspected environmentally-induced health conditions.

(b) Select injuries:
 (i) drug overdose;
 (ii) firearm injuries;
 (iii) spinal cord injuries;

(iv) traumatic brain injuries.

(8) Adverse vaccine reactions. Report to vaccine adverse events reporting system, <http://www.vaers.hhs.org>. Send copy of report to immunization program vaccine manager, NM Department of Health, P.O. Box 26110, Santa Fe, NM

87502-6110; fax 505-827-1741.

(9) Cancer. Report to New Mexico tumor registry, university of New Mexico school of medicine, Albuquerque, NM 87131. Report all malignant and in situ neoplasms and all intracranial neoplasms, regardless of the tissue of origin.

(10) Human papillomavirus (HPV). Laboratories report the following tests to New Mexico HPV Pap Registry, 1816 Sigma Chi Rd NE, Albuquerque, NM 87131, phone (505) 272-5785 or (505) 277-0266:

(a) papanicolaou test results (all results);

(b) cervical pathology results (all results);

(c) HPV test results (all results).

(11) Birth defects and congenital hearing loss.

(a) Report to children's medical services, 2040 S. Pacheco, Santa Fe, NM 87505; or call 505-476-8868.

(b) All birth defects diagnosed by age 4 years, including:

(i) defects diagnosed during pregnancy;

(ii) defects diagnosed on fetal deaths.

(c) Suspected or confirmed congenital hearing loss in one or both ears.

(d) All conditions identified through statewide newborn genetic screening.

[7.4.3.13 NMAC - Rp, 7 NMAC 4.3.12, 8/15/2003; A, 04/28/2006; A, 06/30/06]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.200.400 NMAC, Section 12, which will be effective on July 1, 2006. The Medical Assistance Division changed the number of months that a presumptive eligibility is allowed.

8.200.400.12 PRESUMPTIVE ELIGIBILITY FOR CHILDREN: Effective July 1, 1998, a program of presumptive eligibility for children is being implemented. Presumptive eligibility for children provides full coverage medicaid benefits starting with the date of the presumptive eligibility determination and ending with the last day of the following month. Medicaid services will be provided on a fee-for-service basis during the presumptive eligibility period.

A. Only one presumptive eligibility period is allowed per ~~[six (6) month]~~ twelve (12) month period.

B. Presumptive eligibility determinations can be made only by individuals employed by eligible entities and certified as presumptive eligibility deter-

miners by the medical assistance division. Determiners must notify the MAD claims processing contractor of the determination within 24 hours of the determination of presumptive eligibility.

[6-30-98; 8.200.400.12 NMAC - Rn, 8 NMAC 4.MAD.406, 7-1-01; A, 12-1-04; A, 7-1-06]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.202.600 NMAC, Section 11, which will be effective on July 1, 2006. The Medical Assistance Division changed the number of months for redetermination of eligibility.

8.202.600.11 PERIODIC REDETERMINATIONS OF ELIGIBILITY: A redetermination of eligibility is made every ~~[six (6) months]~~ twelve (12) months. Those cases that have been certified in the last six (6) months, prior to the effective date of this regulation, shall have their eligibility extended for an additional six (6) months. All changes that may affect eligibility must be reported within ten (10) days of the date of the change. Changes in eligibility status will be effective the first day of the following month.

8.202.600.11 NMAC - N, 10-1-01; A, 7-1-04; A, 7-1-06]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.232.400 NMAC, Section 11, which will be effective on July 1, 2006. The Medical Assistance Division changed the number of months that a presumptive eligibility is allowed.

8.232.400.11 SPECIAL RECIPIENT REQUIREMENTS

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

B. **Presumptive eligibility for children:** A child may be eligible to receive medicaid services from the date the presumptive eligibility determination is made until the end of the month following the month in which the determination was made, a period of up to 60 days. The purpose of the presumptive eligibility is to allow medicaid payment for health care services furnished to a child while his/her application for medicaid is being processed. Only one presumptive eligibility period is allowed per ~~[six (6) months]~~ twelve (12) month period. The period of presumptive

eligibility begins when an approved presumptive eligibility provider establishes that the child's family income is below 235% of the federal income poverty guidelines for a family of the size involved. Presumptive eligibility criteria are a simplified version of category 32 eligibility requirements.

(1) **Processing presumptive eligibility information:** The medical assistance division (MAD) authorizes certain providers to make presumptive eligibility determinations. The provider must notify MAD through its claims processing contractor of the determination within 24 hours of the determination of presumptive eligibility.

(2) **Provider responsibility:** The presumptive eligibility provider must process both presumptive eligibility as well as an application for medical assistance for the child(ren).

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

(a) disproportionate share hospital (DSH facility), a federally qualified health center (FQHC), an Indian health service (IHS) facility, a department of health (DOH) clinic, a school, a children, youth and families department child care bureau staff member. The above-listed providers may be eligible entities starting July 1998.

(b) non-disproportionate share hospital, a primary care provider who is contracted with at least one SALUD! HMO, or a head start. The above-listed providers may be eligible entities starting January 1999.

C. **Health insurance:** In order to be eligible for SCHIP, (i. e., category 032 with family income between 185%-235% of federal income poverty guidelines), the child cannot have other health insurance coverage. Beginning October 1, 2002, an individual whose health insurance was voluntarily dropped will be ineligible for coverage under SCHIP for six months, starting with the first month that the health care coverage was dropped. For the purposes of determination of voluntary drop of coverage, any drop of coverage will be considered voluntary with the following exceptions:

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

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

age were terminated.

[2-1-95; 4-1-95; 6-30-98; 3-1-99; 8.232.400.11 NMAC - Rn, 8 NMAC 4.KID.420, 421, 422, 426 & A, 7-1-01; A, 10-1-02; A, 12-1-04; A, 7-1-06]

NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.232.600 NMAC, Sections 12 and 14, which will be effective on July 1, 2006. The Medical Assistance Division changed the number of months for which periodic reviews are conducted.

8.232.600.12 ONGOING BENEFITS: Periodic reviews are conducted every ~~six (6) months~~ twelve (12) months. Those cases that have been certified in the last six (6) months, prior to the effective date of this regulation, shall have their eligibility extended for an additional six (6) months.

[2/1/95; 8.232.600.12 NMAC - Rn, 8 NMAC 4.KID.624 & A, 7/1/04; A, 7/1/06]

8.232.600.14 CHANGES IN ELIGIBILITY:

A. Eligibility termination when age limit reached: If a recipient's eligibility ends because he/she turns nineteen (19) years of age and the recipient is receiving inpatient services in an acute care hospital on the date he/she turns nineteen (19) years of age, the recipient's eligibility continues until the end of that admission. If the recipient is an inpatient in a free-standing psychiatric facility or other residential facility, the recipient's eligibility continues until the end of the month in which the recipient turns nineteen (19) years of age. The income support division worker verifies that the closure is caused by the recipient's turning nineteen (19) years of age and terminates medicaid eligibility at the end of the applicable time period.

B. Ongoing eligibility: A redetermination of eligibility is made every ~~six (6)~~ twelve (12) months. All changes, which may affect eligibility must be reported within ten (10) days from the date the change took place. Changes in eligibility status will be effective the first day of the following month.

[2/1/95; 4/1/95; 6/30/98; 8.232.600.14 NMAC - Rn, 8 NMAC 4.KID.630 & A, 7/1/04; A, 7/1/06]

NEW MEXICO LIVESTOCK BOARD

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 33 ABATTOIRS, MEAT DEALERS AND STORAGE PLANTS
PART 2 FOOD SAFETY, MEAT AND POULTRY INSPECTION

21.33.2.1 ISSUING AGENCY: New Mexico Livestock Board.
[21.33.2.1 NMAC - N, 7-1-06]

21.33.2.2 SCOPE: All owners and operators of slaughter houses, meat processing plants, retail markets and storage plants in the state of New Mexico and all those that handle meat and poultry for resale for any reason.
[21.33.2.2 NMAC - N, 7-1-06]

21.33.2.3 STATUTORY AUTHORITY: Section 77-2-7 through 77-2-29, Sections 77-17-1 through 77-17-14, Section 77-9-29, Sections 77-9-1 through 77-9-57 NMSA 1978, Meat Inspection Act, Sections 25-3-7 through 25-3-21 and related statutes.
[21.33.2.3 NMAC - N, 7-1-06]

21.33.2.4 DURATION: Permanent.
[21.33.2.4 NMAC - N, 7-1-06]

21.33.2.5 EFFECTIVE DATE: July 1, 2006, unless a later date is cited at the end of a section.
[21.33.2.5 NMAC - N, 7-1-06]

21.33.2.6 OBJECTIVE: To establish rules governing the inspection of meat and poultry processing establishments in New Mexico and provide the meat packing and processing industry an inspection service that assures the consumer they are receiving a clean, wholesome and safe product.
[21.33.2.6 NMAC - N, 7-1-06]

21.33.2.7 DEFINITIONS: All words or terms defined or used in the federal regulations incorporated by reference shall mean the state equivalent or counterpart to those word or terms. The following words or terms, when used in this part, shall have the following meaning, unless the context clearly indicates otherwise.

A. "Act" means the New Mexico Meat Inspection Act, Sections 25-3-6 through 25-3-21 NMSA 1978.

B. "Cleaning agents" means cleaning compounds, sanitizing agents, processing aids and other chemicals used by an establishment, must be used, handled and stored in a manner that will not

adulterate product or create unsanitary conditions. Documentation substantiating the safety of the chemical's use in food processing environment must be available to New Mexico livestock board inspection program employees for review. In most cases documentation will be "Material Safety Data Sheets".

C. "Collection center" means any place where bodies or parts of bodies of dead animals or poultry or used cooking grease and oils are collected for loading into a permitted vehicle for delivery to the renderer.

D. "Director" means the director of meat inspection.

E. "Division" means that part of the New Mexico livestock board devoted to food safety, meat and poultry inspection.

F. "Easily cleanable" means to be readily accessible and so designed, constructed, and fabricated that residues and foreign substances can be completely removed by normal cleaning methods.

G. "Farm slaughter" means the slaughtering of an animal or animals for the owner of that animal or animals on the owner's farm or premises for personal use.

H. "Livestock" means cattle, bison, sheep, swine, goat, horse, mule, or other equine.

I. "Meat" means the part of the muscle of any cattle, bison, sheep, swine, or goats, that is skeletal or that is found in the tongue, in the diaphragm, in the heart, or in the esophagus, with or without the accompanying and overlying fat, and the portions of bone, skin, sinew, nerve, and blood vessels which normally accompany the muscle tissue and that are not separated from it in the process of dressing. It does not include the muscle found in the lips, snout, or ears.

J. "Meat broker" means any person engaged in the business of buying or selling carcasses, parts of carcasses, meat or meat food products of livestock on commission, or negotiating purchases or sales other than for a personally held account or as an employee of another person.

K. "Meat by-product" means any part capable of use as human food, other than meat that has been derived from one or more cattle, bison, sheep, swine, or goats.

L. "Meat food product" means any article capable of use as human food that is made wholly or in part from any meat or other portion of the carcass from any cattle, bison, sheep, swine, or goats. However, "meat food product" shall not include those exempted from definition as a meat food product by the director in specif-

ic cases or by the rules, in Title 9 of the Code of Federal Regulations (CFR), Part 317 due to a determination that they contain meat or other portions of carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry. Those exempted shall comply with any requirements that are imposed as conditions of the exemptions to assure that the meat or other portions of carcasses contained in the articles are not adulterated and are not represented as meat food products.

M. "Mobile farm slaughter establishment" means slaughtering trucks, trailers, or other acceptable vehicles and the equipment and utensils used to slaughter in a sanitary manner.

N. "Permittee" means any person issued a vehicle permit.

O. "Poultry" means any domesticated bird, whether live or dead, including chickens, turkeys, ducks, geese, guineas, ratites, or squabs (also known as young pigeons from one to about thirty days of age).

P. "Poultry product" means any poultry carcass, part, or product made wholly or in part from any poultry carcass or part which can be used as human food, except those exempted from definition as a poultry product in Title 9 of the Code of Federal Regulations (CFR), Part 381.15. This term shall not include detached ova.

Q. "Poultry by-product" means the skin, fat, gizzard, heart, or liver, or any combination of any poultry for cooked, smoked sausage.

R. "Renderer" means any person who, for purposes other than human consumption, collects, cooks, and processes bodies or parts of bodies of dead animals and poultry, or used cooking grease and oils for the purpose of salvaging hides, wool, skins, or feathers and or for the production of animal and poultry protein, blood meal, bone meal, grease, or tallow.

S. "Rendering materials" means bodies or parts of bodies of dead animals or poultry and used cooking grease and oils.

T. "Sanitize" means the treatment of physically clean surfaces of equipment, utensils, refrigeration units, and structures by a process, approved by the department that effectively destroys microorganisms including pathogens.
[21.33.2.7 NMAC - N, 7-1-06]

21.33.2.8 INCORPORATION BY REFERENCE OF FEDERAL MEAT INSPECTION AND POULTRY PRODUCTS INSPECTION REGULATIONS: The Federal Meat Inspection Act, Poultry Products Inspection Act and Regulations 9

CFR, Chapter III, 300 through 590.970, are incorporated by reference as presently in effect and as they may later be modified.

[21.33.2.8 NMAC - N, 7-1-06]

21.33.2.9 GUIDELINES AND PROCEDURES: The following publications prepared and approved by the United States department of agriculture are applicable to the New Mexico livestock board as determined by the director of meat inspection: "*U.S. inspected meat and poultry packing plants: a guide to construction and layout,*" *agriculture handbook 570*; "*the meat and poultry inspection manual*;" "*food standards and labeling policy book*" (May 2003); and all federal food safety and inspection service's directives, notices, and bulletins.

[21.33.2.9 NMAC - N, 7-1-06]

21.33.2.10 REGISTRATION AND APPLICATION REQUIREMENTS FOR CUSTOM EXEMPT PLANTS:

A. Every establishment where livestock and poultry are custom slaughtered without ante-mortem and post-mortem inspection or in which custom processing of carcasses or parts of carcasses derived from livestock and poultry slaughtered without ante-mortem and post-mortem inspection is required to submit an application and have all facilities approved by the director prior to conducting operations.

B. Any person or establishment, not licensed as a retail exempt business, engaged in custom processing of inspected and passed carcasses for individuals, is required to submit an application and meet all facility requirements prior to conducting operations.

[21.33.2.10 NMAC - N, 7-1-06]

21.33.2.11 REGULATIONS AND PERMITTING MOBILE FARM SLAUGHTER:

A. Any person operating a mobile farm slaughter establishment shall apply for a permit from the board.

(1) The application shall provide the following information:

(a) name of the operator;

(b) telephone number of the operator;

(c) address of the operator's principal place of business.

(2) The permit number shall be prominently displayed on both sides of the mobile farm slaughter establishment and shall be in contrasting colors not less than three (3) inches high.

(3) The operator shall renew the permit annually.

(a) Any person applying for a per-

mit to operate a mobile farm slaughter establishment shall demonstrate the appropriate experience and capability of slaughtering an animal in a quick, clean, and sanitary manner.

(b) Any person slaughtering more than ten (10) head per year on the farm or in the field, whether or not for personal use shall be a mobile farm slaughter establishment and shall be subject to all laws pertaining to mobile farm slaughter establishments.

[21.33.2.11 NMAC - N, 7-1-06]

21.33.2.12 REVOCATION OR SUSPENSION OF PERMIT: Violation of any portion of 21.33.2.10 NMAC may subject the owner and/or operator of a mobile farm slaughter establishment to revocation or suspension of his/her mobile farm slaughter establishment permit. No permit issued under this section is transferable.

[21.33.2.12 NMAC - N, 7-1-06]

21.33.2.13 TEMPORARY SUSPENSION OR MODIFICATION OF PERMIT: In the event of a zoonemic as declared by the board the permit to operate a mobile farm slaughter establishment may be temporarily suspended or modified as is consistent with public health and safety or to prevent an imminent peril to the livestock industry or any portion thereof within the state of New Mexico.

[21.33.2.13 NMAC - N, 7-1-06]

21.33.2.14 LABELING OR MARKING BY MOBILE FARM SLAUGHTER ESTABLISHMENTS:

A. Each carcass or part thereof shall be tagged or marked with the owner's name to insure the identity of the owner and that the carcass or part belongs to the owner.

B. Each carcass or part thereof shall be tagged or marked with the mobile slaughter operator's permit number or name and shall be subject to inspection by the board.

[21.33.2.14 NMAC - N, 7-1-06]

21.33.2.15 GRANDFATHER CLAUSE:

A. Any mobile slaughter operator currently listed with the state of New Mexico who can demonstrate to the board that the operator's mobile slaughter unit and operation complies with the basic sanitary facilities and functions such as pressurized water, sterilizing agents and can provide a clean dust proof manner of transporting the carcass, may be allowed to continue operation until:

(1) the operator's current mobile slaughter unit is out of use; or

(2) the operator's permit is

revoked; or

(3) the board finds that the operator is producing an unacceptable product.

B. Excluding the grandfather clause and from henceforth all mobile farm slaughtering establishments shall be constructed and equipped with the following:

(1) it shall have a van-type body enclosing and covering the unit, excluding the driver's cab and hoist, with surfaces constructed from non-rusting metal or other materials that are non-rusting and amenable to proper and adequate cleaning; wood may only be used as internal framing or spacing materials between double non-wooden walls; it shall be designed and constructed to prevent the entry of contaminants (dirt, dust, insects, etc.) and to allow the exterior and interior to be easily cleanable and sanitized;

(2) materials for use in mobile farm slaughter establishments must be approved by the board prior to beginning construction of a mobile farm slaughter establishment; all mobile farm slaughtering establishments will be inspected by the board for conformance with construction and facility requirements prior to issuance of a permit;

(3) it shall have a metal interior lining, with the junctions of facing surfaces to be smoothly welded or soldered (or rolled and soldered) and spatter removed; all interior corners shall be rounded for ease of cleaning; caulking compounds shall not be substituted for welding or soldering; the interior facing surfaces shall not be painted except for rail hangers; the minimum metal gauges for interior facing surfaces are 14 gauge for aluminum, 16 gauge for sheet metal, and 17 gauge for stainless steel; fiberglass, or fiberglass reinforced resin or aluminum alloys are permitted upon being approved by the board; insulation shall be non-absorbent;

(4) it shall have the following minimum interior dimensions (excluding space for tanks and other affixed or mounted equipment):

(a) height of 6 feet;

(b) length of 6 feet;

(c) width of 4 feet for single center hanging rail or 6 feet for double hanging rail;

(5) it shall have affixed a metal hoist of not less than 11/2 tons capacity, capable of lifting carcasses to above 12 inches from the ground for purposes of bleeding and evisceration; the hoist shall be situated so that carcasses suspended from it do not contact the truck or trailer body, and shall be equipped with a metal beef spreader;

(6) it shall contain sterilizing agents approved by the U.S.D.A. in sufficient amounts to sterilize all knives,

cleavers, saws, hooks, and pans used in slaughter operation;

(7) it shall contain a water tank of rust resistant metal (such as a water tank for home use) and at least one hose with nozzle for washing of carcasses; it shall contain at least 10 gallons of potable water per head, depending upon the capacity of the mobile slaughter unit; (3 head capacity 30 gallons, 6 head capacity 60 gallons etc.); it shall contain at least 60 pounds per square inch pressure, prior to commencing the slaughter operations; the pressure shall be maintained during all slaughter operations.

C. Unless specified in these rules, all equipment shall be fabricated from metal or other approved material. Hooks, trolleys, and spreaders used in dressing carcasses shall be constructed of non-rusting materials.

[21.33.2.15 NMAC - N, 7-1-06]

21.33.2.16 SANITATION OF MOBILE CUSTOM SLAUGHTER ESTABLISHMENT:

A. Mobile custom slaughtering establishment shall be maintained in a clean and sanitary condition in accordance with the following:

(1) the interior and exterior of the truck, trailer, or other vehicle shall be cleaned and sanitized before and after each day's operation;

(2) the tools (knives, cleavers, saws, hooks, etc.) and equipment (pans, trolleys, spreaders, etc.) shall be cleaned and sanitized before, after, and as necessary during, the slaughter operation; in addition, they shall be sterilized if contaminated by viscera contents, abscesses, or foreign material during the slaughter operation;

(3) hooks, trolleys, and spreaders used in dressing carcasses shall additionally have a coat of edible mineral oil applied to them after cleaning.

B. Soap and clean toweling shall be provided for washing of hands, tools and equipment.

[21.33.2.16 NMAC - N, 7-1-06]

21.33.2.17 CONDITIONS OF TRANSPORT AND SLAUGHTER:

A. No carcass shall be transported in a mobile custom slaughter unit unless it is hung free from contact with the unit floor, and tagged as prescribed in 21.33.2.14 NMAC.

B. No carcass, other than a scalded and dehaired hog carcass, shall be dressed or transported in a mobile custom slaughter unit with the hide on.

C. Meat by-products shall be transported in a mobile custom slaughter unit in clean and sanitary containers, of material approved by the board, with secure coverings or lids.

D. Inedible offal shall be

transported in a mobile custom slaughter unit in clean and sanitary containers (barrels, tubs, etc.) of easily cleaned and durable rubber, plastic, or rust resistant metal materials that shall be separated from the area of the unit used for the slaughter operations. In lieu of the preceding, the offal may be transported in a clean, sanitary, covered watertight trailer of a design approved by the board. All inedible offal (except hides) shall be disposed of through rendering operations duly permitted by the board.

E. No horse carcass, or parts thereof, shall be transported in a mobile custom slaughter unit.

F. No slaughter of a meat animal in a mobile custom slaughter unit while other carcasses are hanging therein shall be performed unless the unit doors are closed or the area in which the carcasses are situated is separated from the area used for the slaughter operation.

G. No slaughter of a suspect animal shall be performed without approval of a New Mexico state licensed veterinarian approved by the New Mexico livestock board.

[21.33.2.17 NMAC - N, 7-1-06]

21.33.2.18 AVAILABILITY FOR INSPECTION OF FARM SLAUGHTER ESTABLISHMENTS:

A mobile farm slaughtering establishment owner or operator will make their establishment available for inspection by any authorized New Mexico livestock board employee upon request.

[21.33.2.18 NMAC - N, 7-1-06]

21.33.2.19 APPLICATION FOR INSPECTION, TENANTS, SUBSIDIARIES AND CONSTRUCTION STANDARDS FOR PACKING PLANTS:

A. Each person conducting operations at an establishment subject to the Act, including tenants, subsidiaries, and landlords, shall apply for an inspection.

B. The application for inspection shall be on official forms provided by the food safety, meat and poultry inspection division of the New Mexico livestock board.

(1) The application shall contain all requested information.

(2) All applicant trade names used for labeling shall be provided in the application.

(3) Each applicant for inspection shall be responsible for compliance with the Act and the rules if inspection is granted.

(4) Only the person listed as the applicant is authorized to conduct operations at the establishment for which inspection is granted.

C. A new application shall be made for changes of ownership or location.

[21.33.2.19 NMAC - N, 7-1-06]

21.33.2.20 DRAWINGS, INFORMATION TO BE FURNISHED, GRANT OR REFUSAL INSPECTION:

A. Each applicant for inspection shall submit three (3) copies of the following:

(1) complete drawings with specifications of the floor plans of the establishment for which inspection is requested, showing the locations of principal pieces of equipment, floor drains, principal drainage lines, hand washing basins, and hose connections for cleanup purposes;

(2) a plot plan showing the limits of the establishment's premises, locations in outline of buildings on the premises, cardinal points of the compass, and roadways and railways serving the establishment;

(3) a room schedule showing the finish of walls, floors, and ceilings of all rooms in the establishment;

(4) statements describing the water supply, plumbing, drainage, refrigeration, equipment, lighting, and operations of the establishment related to sanitation and proper performance of inspection.

B. Written notice shall be given to each applicant granted inspection, specifying the establishment to which the grant applies.

C. The director may grant inspection upon a determination that the applicant and the establishment are eligible.

D. The director may refuse to grant inspection at any establishment if the director determines the establishment does not meet all requirements of applicable laws or regulations the applicant has not received approval of labeling and containers to be used at the establishment as required by the rules in Title 9 of the Code of Federal Regulations (CFR) Parts 304.3, 316, and 317, or in accordance with the New Mexico Meat Inspection Act, Sections 25-3-6 through 25-3-21 NMSA 1978 and the applicable rules of practice.

E. When inspection is refused for any reason, the applicant shall be informed of the reasons for the action and shall be afforded an opportunity for an individual hearing.

F. Any applicant for inspection shall obtain a certificate of acceptability or a permit for the liquid waste disposal system. The permit shall be prominently posted in the establishment.

[21.33.2.20 NMAC - N, 7-1-06]

21.33.2.21 WITHDRAWAL OF INSPECTION, STATEMENT OF POLICY:

A. The board may withdraw inspection from an official establishment where the sanitary conditions are such

that its products are rendered adulterated, or for failure of the operator to destroy condemned products as required by the act and these rules.

B. Inspection service may be withheld by the director when the operator of any official establishment or tenant therein, or any officer, employee, or agent of any operator or any subsidiary or tenant, acting within the scope of their office, employment or agency forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any division employee while engaged in or on account of the performance of their official duties under the Act. This withholding of inspection will continue in effect until assurances acceptable to the board are received that there cannot be any recurrences.

[21.33.2.21 NMAC - N, 7-1-06]

21.33.2.22 HOURS OF OPERATION OF OFFICIAL ESTABLISHMENTS:

The operator of each official establishment shall inform the inspector in charge, or his assistant, when work in each department has been concluded and the day and hour when work will be resumed therein. Whenever any product is to be overhauled or otherwise handled in an official establishment during unusual hours, the establishment operator shall, a reasonable time in advance, notify the inspector in charge or the inspector's assistant, of the day and hour when the work will be commenced and the products shall not be handled prior to that time and except after notice has been given. No department of an official establishment in which are conducted operations requiring inspection shall be operated except under the supervision of a division employee. All slaughtering of livestock and preparation of products shall be done within reasonable hours, and with reasonable speed, the facilities of the establishment being considered.

[21.33.2.22 NMAC - N, 7-1-06]

21.33.2.23 DESIGNATION OF DAYS AND HOURS OF OPERATION BY DIRECTOR:

When one inspector is detailed to conduct the work at two or more official establishments where few livestock are slaughtered or where but a small quantity of any product is prepared, the director may designate the hours of the day and the days of the week during which operations requiring inspection in the establishments may be conducted.

[21.33.2.23 NMAC - N, 7-1-06]

21.33.2.24 OVERTIME WORK OF PROGRAM INSPECTORS:

A. The management of an official establishment desiring to work under the conditions which will require the

services of a meat inspector on any Saturday, Sunday or for more than 8 hours on any other day, shall, sufficiently in advance of the period of overtime, request the inspector in charge or the inspector's assistant to furnish inspection service during an overtime period, and shall pay the board a per hour per division inspector fee established at one and one half the inspectors hourly rate for the cost of inspection services.

B. When an official establishment requires inspection service on a holiday, the service is considered holiday work. The official establishment shall, in advance of holiday work, request the inspector in charge to furnish inspection service during the period and shall pay the board at the rate established as stated in Subsection A of this section. Service in excess of eight (8) hours for that day is considered overtime and shall be paid for at the overtime rate. Holidays for state employees will be those declared by the state personnel office of the state of New Mexico.

[21.33.2.24 NMAC - N, 7-1-06]

21.33.2.25 MULTIPLE SHIFT OPERATIONS:

A. Multiple shift operations may be approved by the director provided the management of an official establishment requests in writing and a reasonable amount of time is allowed for the agency to provide inspection personnel. The request for this operation must clearly show the necessity for the additional shift(s). Therefore, plant management must specify the type(s) of operation(s) that will be conducted during the multiple shifts and must further demonstrate that at least five (5) hours of work will be required in excess of a normal eight hour shift on a continual and on-going basis during the normal work week of Monday through Friday.

B. If any of the provisions of this rule are not met, the director shall refuse or revoke the approval for multiple shift operations and require the establishment be billed for overtime inspection services at the appropriate established rate in effect.

[21.33.2.25 NMAC - N, 7-1-06]

21.33.2.26 PROTECTIVE HANDLING OF PRODUCTS:

Products shall be protected from contamination from any source such as dust, dirt, or insects during the storage, loading, or unloading at and transportation from official establishments. Products are to be maintained at an appropriate temperature to assure safety of product before removal from the official establishment. All forms of transportation should be capable of maintaining an appropriate temperature of product at the point of destination.

[21.33.2.26 NMAC - N, 7-1-06]

21.33.2.27 MANUFACTURE OF DOG FOOD OR SIMILAR UNINSPECTED ARTICLE AT OFFICIAL ESTABLISHMENT:

A. When dog food or similar uninspected article is manufactured in a part of an official establishment, the area in which the article is manufactured shall be separated from edible product departments in the manner required for separation between edible product departments and inedible product departments. Sufficient space must be allotted and adequate equipment provided that the manufacture of the uninspected article does not interfere with the proper functioning of the other operations at the establishment. Nothing in this section shall be construed as permitting any deviation from the requirement that dead animals, condemned products, and similar materials of whatever origin, must be placed in the inedible product rendering equipment, and without undue delay. The manufacture of the uninspected article must not interfere with the maintenance of general sanitary conditions on the premises, and it shall be subjected to inspectional supervision similar to that exercised over other inedible product departments. There shall be no movement of any product from an inedible product department to any edible product department. Trucks, barrels, and other equipment shall be cleaned before being returned to edible product departments from inedible product departments. Inoffensive material prepared outside edible product departments may be stored in, and distributed from edible product departments only if packaged in clean, properly identified, sealed containers.

B. Animal food shall be distinguished from articles of human food, so as to avoid distribution of animal food as human food. To accomplish this, animal food shall be labeled or identified.

[21.33.2.27 NMAC - N, 7-1-06]

21.33.2.28 RENDERING PLANT FACILITIES:

A. No rendering plant facility shall be operated without first obtaining a permit from the board.

B. Each place permitted for the carrying on of a business shall, to the satisfaction of the New Mexico livestock board be provided with floors constructed of concrete, or some other non-absorbent material, adequate drainage, be thoroughly sanitary, be provided with adequate water supply and sufficient hot water to properly and adequately clean floors and trucks.

C. The floors, walls, and all buildings and equipment shall at all times be kept in a sanitary condition and shall be cleaned with adequate hot water.

All plants shall be equipped with adequate water supply and sufficient hot water to properly and adequately clean floors and trucks.

D. Authorized agents of the board shall have the right and authority to go upon any premises or place during normal business hours and enter any building or enclosure for the purpose of inspection or examination.

E. In the event of a zoonotic as declared by the board the permit to operate a rendering or blending plant facility may be temporarily suspended or modified as is consistent with the public health and safety or to prevent imminent peril to the livestock industry or any portion thereof within the state of New Mexico.

[21.33.2.28 NMAC - N, 7-1-06]

21.33.2.29 RENDERING PLANT PREMISES:

A. Plants shall be separated by a permanent wall and apart from any other business operation.

B. The location of new plant facilities shall be in compliance with local zoning ordinances before the New Mexico livestock board will issue a permit.

C. No permit will be issued by the New Mexico livestock board until necessary approvals for plant construction have been issued by the appropriate state agency.

[21.33.2.29 NMAC - N, 7-1-06]

21.33.2.30 MAINTENANCE AND SANITATION OF RENDERING FACILITIES:

A. The permittee shall maintain the facilities in such sanitary manner as to eliminate insofar as possible, all odors, insects, and vermin.

B. In case of collection centers, all rendering materials shall be picked up at the collection center and transported to the rendering plant daily, except during subfreezing weather.

[21.33.2.30 NMAC - N, 7-1-06]

22.33.2.31 SALMONELLA CONTROL FOR RENDERERS:

A. A separate building or storage area shall be provided for the purpose of storing the finished products in order to avoid contamination after completion of processing.

B. No tools or equipment used in handling the unfinished product shall be used in storage area, or in handling of finished product.

C. Renderers shall provide toilet, showering, dressing and disinfecting facilities for all employees. Said toilet, showering, dressing and disinfecting facilities shall conform to all applicable state and local plumbing codes.

D. All toilet, showering, dressing and disinfecting facilities shall be maintained in a sanitary condition and provided with hot and cold water, soap and towels at all times. Hand soaps used shall be those approved by U.S.D.A. for use in meat packing plants.

E. Rodent and vermin control shall be diligently practiced. Uncontrolled animal and birds shall not be tolerated on the premises.

F. Buildings and surrounding grounds shall be kept clean and free from refuse, trash, or the accumulation of product or products of processing, including paunch manure.

G. Any authorized representative of the New Mexico livestock board shall be allowed access to inspect inventory during regular business hours and to take samples at the request of the state government, federal government, the permittee or manufacturer using the product, for the purpose of laboratory diagnosis to determine if salmonella are present or for any other purpose necessary to protect the health, welfare or safety of the citizens of the state of New Mexico.

[21.33.2.31 NMAC - N, 7-1-06]

21.33.2.32 REQUIREMENTS FOR BARRELS USED IN TRANSPORTING AND STORAGE OF USED GREASE AND OILS: All barrels used for transporting and storage of scrap, or used cooking grease and oils shall be clearly marked "inedible" with letters not less than three inches in height.

[21.33.2.32 NMAC - N, 7-1-06]

21.33.2.33 VEHICLES:

A. All vehicles intended for transporting of product intended for rendering use shall be constructed so as to preclude unauthorized escape of liquids or any other contents onto public or private property.

B. Vehicle construction shall permit proper and adequate cleaning.

C. Vehicles intended for transport of product for rendering purposes shall be made available for inspection by authorized agents of the board upon request.

D. Vehicles and vehicle equipment shall at all times be kept in a sanitary condition, and the trucks shall be cleaned with hot water.

E. All cleaning of vehicles shall be done on rendering plant premises.

[21.33.2.33 NMAC - N, 7-1-06]

21.33.2.34 COLLECTION CENTERS: A collection center shall comply with the following requirements:

A. The location of a collection center shall be in compliance with local zoning ordinances before the division

will issue a permit.

B. The collection center shall be covered by a metal roof or other permanent type structure. The building shall be equipped with louver-type ventilators that are screened as to prevent rodents and other animals, birds, flies, and insects from entering.

C. Adequate hot water shall be provided to thoroughly clean the collection center premises. Failure to maintain collection centers in a sanitary manner will be sufficient cause for the board to revoke or suspend the permit to operate.

D. The collection center equipment and premises shall be disinfected with a product approved for use by the United States department of agriculture for use in meat packing plants.

E. Rendering plants and collection centers shall use cleaning compounds approved by the United States department of agriculture for use in meat packing plants.

F. No collection center will operate without first obtaining a permit from the board.

G. The permittee shall maintain all collection center, facilities in such sanitary manner as to eliminate insofar as possible, all odors, insects, and vermin. [21.33.2.34 NMAC - N, 7-1-06]

21.33.2.35 DISPOSAL BY COLLECTION CENTER OF UNUSABLE MATERIALS: Paunch manure, quantities of hair, feathers, and other unusable materials shall be routinely disposed of by burning, burying, or spreading with manure spreader on cultivated ground not used for pasture of livestock, and approved by the board. [21.33.2.35 NMAC - N, 7-1-06]

21.33.2.36 PRODUCT OR LIVESTOCK SUBJECT TO ADMINISTRATIVE DETENTION: Any carcass, part of a carcass, meat or meat food product of livestock is subject to detention for a period not to exceed 20 days when found by any authorized representative of the board upon any premises where it is held for purposes of or during or after distribution of intrastate commerce, and there is reason to believe that:

A. Any article is adulterated or misbranded and is capable of use as human food; or

B. Any article has not been inspected, in violation of the Federal Meat Inspection Act or the Federal Food, Drug, and Cosmetic Act; or

C. Any article or animal has been or is intended to be distributed in violation of any provisions. [21.33.2.36 NMAC - N, 7-1-06]

21.33.2.37 METHOD OF DETENTION; FORM, OF DETENTION TAG: An authorized representative of the board shall detain any article or livestock to be detained under this part, by affixing an official "New Mexico Retained Tag" to the article or livestock. [21.33.2.37 NMAC - N, 7-1-06]

21.33.2.38 NOTIFICATION OF DETENTION TO THE OWNER OF THE ARTICLE OR LIVESTOCK DETAINED, OR HIS AGENT, OR PERSON HAVING CUSTODY:

A. An authorized agent of the board shall give oral notification of detention to the immediate custodian of the article or livestock being detained.

B. An authorized agent of the board shall furnish, as soon as possible, a copy of a completed "Notice of Detention" to the immediate custodian of the detained article or livestock.

C. If the owner of the detained article or livestock, or the owner's agent is not the immediate custodian at the time of detention and if the owner, or owner's agent, can be ascertained and notified, an authorized agent of the board shall furnish, as soon as possible, a copy of the completed "Notice of Detention" to the owner, or the owner's agent.

D. The "Notice of Detention" shall be delivered by personal service or certified mail to the owner or owner's agent at the last known residence or principal place of business. [21.33.2.38 NMAC - N, 7-1-06]

21.33.2.39 NOTIFICATION OF GOVERNMENTAL AUTHORITIES HAVING JURISDICTION OVER ARTICLE OR LIVESTOCK DETAINED; FORM OF WRITTEN NOTIFICATION: Within 48 hours after the detention of any livestock or article pursuant to this part an authorized representative of the board shall give oral or written notification of such detention to any state or other governmental authorities not connected with the division and having jurisdiction over such livestock or article. In the event notification is given orally, it shall be confirmed in writing, as promptly as circumstances permit. [21.33.2.39 NMAC - N, 7-1-06]

21.33.2.40 MOVEMENT OF ARTICLE OR LIVESTOCK DETAINED; REMOVAL OF OFFICIAL MARKS: No article or livestock detained in accordance with the provisions in 21.33.2 NMAC shall be moved by any person from the place at which it is located when so detained, until released by an authorized representative of the board; provided, that

any article or livestock may be moved from the place at which it is located when detained, for refrigeration, freezing, or storage purposes if the movement has been approved by an authorized representative of the board; and provided further, that the article or livestock moved will be detained by an authorized representative of the board after the movement until such time as the detention is terminated. When the detention of an article or livestock is terminated, the owner, or his agent or the carrier or other person in possession of the article or livestock who was notified when the article or livestock was detained, will receive notification of the termination. The notification "Notice of Termination of Detention" shall be served by either delivering the notice to such person, or by certifying and mailing the notification, addressed to such at his last known residence or principal office or place of business. All official marks may be required by such representative to be removed from such article or livestock before it is released unless it appears to the satisfaction of the representative that the article or livestock is eligible to retain such marks. [21.33.2.40 NMAC - N, 7-1-06]

21.33.2.41 ARTICLES OR LIVESTOCK SUBJECT TO JUDICIAL SEIZURE AND CONDEMNATION: Any carcass, part of a carcass, meat or meat food product, or any dead, dying, disabled, or diseased livestock, that is being transported in commerce or is otherwise subject to the act, or is held for sale in the state after such transportation, is subject to seizure and condemnation, in a judicial proceeding pursuant to 21.33.2.42 NMAC of this part if such article or livestock is or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of the act, or:

A. is capable of use as human food and is adulterated or misbranded, or

B. in any other way is in violation of the Federal Meat Inspection Act, Poultry Products Inspection Act and state laws or regulations; this does not preclude utilization of Section 25-3-12 or other lawful procedures. [21.33.2.41 NMAC - N, 7-1-06]

21.33.2.42 PROCEDURE FOR SEIZURE, CONDEMNATION, AND DISPOSITION: Any article or livestock subject to seizure and condemnation under this part shall be liable to be proceeded against and seized and condemned, and disposed of, at any time, on an appropriate pleading in any district court, or other proper court specified in the act, within the jurisdiction of which the article or livestock is

found.

[21.33.2.42 NMAC - N, 7-1-06]

21.33.2.43 AUTHORITY FOR CONDEMNATION OR SEIZURE UNDER OTHER PROVISIONS OF LAWS:

The provisions of this part relating to seizure, condemnation and disposition of articles or livestock do not derogate from authority for condemnation or seizure conferred by other provisions of the act, or other laws.

[21.33.2.43 NMAC - N, 7-1-06]

21.33.2.44 CRIMINAL OFFENSES:

The several laws relating to livestock that the board enforces contain criminal provisions with respect to numerous offenses specified in the act, including but not limited to bribery of division employees, receipt of gifts by division employees, and forcible assaults on, or other interference with, division employees while engaged in, or on account of, the performance of their official duties under the act.

[21.33.2.44 NMAC - N, 7-1-06]

21.33.2.45 PROCEDURE TO FOLLOW WHEN PLANT IS IDENTIFIED AS INSANITARY:

A. When upon inspection of a plant an inspector finds indication of any of the following conditions, the director shall be notified by telephone call of the fact:

(1) nonpotable water being used in departments producing edible product; nonpotable means unsafe by laboratory determinations;

(2) product being prepared is subjected to an environment that allows or will allow bacterial growth and development or result in the entry of foreign matter in the product and therefore is insanitary; this includes failure to control vermin and insects;

(3) when carcasses or parts show evidence of contamination or insanitary condition or systemic disease condition or evidence of bearing diseases transmissible to man, or in any manner adulterated;

(4) meats exhibiting the characteristics of spoilage being used in processing meat food products;

(5) the presence of excessive amounts of approved chemicals, the presence of foreign material, prohibited chemicals, preservatives, and failure to properly treat or destroy trichinae.

B. Further, the inspector shall inform the plant operator of the fact. If the director is not satisfied that the condition will be immediately corrected, said director may order the facility to immediately stop sale and may withdraw inspection. Said stop sale order shall remain

effective until lifted by the director, the board, or appropriate court order. The order shall include the setting of a show cause hearing before the director at a time and date certain when the plant operator may appear, with counsel if desired, to show cause why inspection should be restored. Appeal of the director's order following the show cause hearing is to the New Mexico livestock board.

[21.33.2.45 NMAC - N, 7-1-06]

21.33.2.46 OFFICIAL MARKS, DEVICES AND CERTIFICATES:

The marks, devices, and certificates prescribed or referenced in this part shall be official marks, devices, and certificates and shall be used in accordance with the provisions of this part and the rules cited therein.

[21.33.2.46 NMAC - N, 7-1-06]

21.33.2.47 OFFICIAL MARKS AND DEVICES TO IDENTIFY INSPECTED AND PASSED PRODUCTS OF CATTLE, BISON, SHEEP, SWINE, OR GOATS:

The official inspection legend required by Part 316 of 9 CFR to be applied to inspected and passed carcasses and parts of carcasses of cattle, bison, sheep, swine and goats, meat food products in animal casings, and other products as approved by the director shall be in the appropriate form as specified below:

A. 3/4" round - for application to sheep and goat carcasses, the loins and ribs of pork, beef tails, and the smaller varieties of sausage and meat food products in animal casings;

B. 1 3/4" round - for application to calf and swine carcasses and on the larger varieties of sausage and meat food products in animal casings. For application to swine carcasses, wholesale and primal cuts, beef and bison carcasses;

C. 1 3/4" brand - for application to exotics, in the shape of the state of New Mexico.

[21.33.2.47 NMAC - N, 7-1-06]

21.33.2.48 OFFICIAL ANTE-MORTEM INSPECTION MARKS AND DEVICES:

The official marks and devices used in connection with ante-mortem inspection are those prescribed in 9 CFR 309.18.

[21.33.2.48 NMAC - N, 7-1-06]

21.33.2.49 OFFICIAL SEALS FOR TRANSPORTATION OF PRODUCTS:

The official mark for use in sealing railroad cars or other means of conveyance as prescribed in 9 CFR Part 325 shall be the inscription and a serial number approved by the director for applying such mark shall be an official device for purposes of the act. This seal shall be attached to the means of conveyance only by a division employee.

[21.33.2.49 NMAC - N, 7-1-06]

21.33.2.50 OFFICIAL MARKS AND DEVICES IN CONNECTION WITH POST-MORTEM INSPECTION AND IDENTIFICATION OF ADULTERATED PRODUCTS AND INSANITARY EQUIPMENT AND FACILITIES:

A. The official marks required by Part 310 of 9 CFR, for use in post-mortem inspection and identification of adulterated products and insanitary equipment and facilities are:

(1) the U.S. Retained tag which is used to retain carcasses and parts of carcasses in the slaughter department; it is blue and black, and bears the legend "U.S. Retained."; it is a four section tag as used for hogs, sheep, goats, calves, cattle, bison and equine;

(2) the "New Mexico Retained" mark which is applied to products and articles as prescribed in Part 310 of 9 CFR by means of a paper tag bearing the legend "New Mexico Retained.";

(3) the "New Mexico Rejected" mark which is used to identify insanitary buildings, rooms, or equipment and is applied by means of a paper tag bearing the legend "New Mexico Rejected.";

(4) the "New Mexico Passed for Cooking" mark is applied on products passed for cooking as prescribed in Part 310 of 9 CFR by means of a brand;

(5) the "New Mexico Condemned" mark shall be applied to products that are condemned.

B. The New Mexico retained and New Mexico rejected tags, and all other brands, stamps, labels, and other devices approved by the director and bearing any official mark, shall be official devices for purposes of the act.

[21.33.2.50 NMAC - N, 7-1-06]

21.33.2.51 INSPECTION OF ANIMALS TO BE SLAUGHTERED - SETTING APART OF SUSPECT ANIMALS-METHODS OF SLAUGHTER-EXAMINATION AND INSPECTION OF METHOD OF SLAUGHTER:

A. For the purpose of preventing the use in intrastate commerce, as hereinafter provided, of meat and meat food products, which are adulterated, the board shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all cattle, bison, sheep, swine, goats, horses, mules and other equines before they shall be allowed to enter into any slaughtering, packing, meat-canning, rendering or similar establishment in this state in which slaughtering and preparation of meat and meat food products of such animals are conducted for intrastate commerce; and all cattle, bison, sheep,

swine, goats, horses, mules and other equines found on such inspection to show symptoms of disease shall be set apart and slaughtered separately from all other cattle, bison, sheep, swine, goats, horses, mules or other equines, and when so slaughtered, the carcasses of said cattle, bison, sheep, swine, goats, horses, mules and other equines shall be subject to a careful examination and inspection, all as provided by the rules and regulations of the board.

B. For the purpose of preventing the inhumane slaughter of livestock, the board shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, bison, sheep, swine, goats, horses, mules and other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected by law. The board may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the board finds that any cattle, bison, sheep, swine, goats, horses, mules or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with this section until the establishment furnishes assurances satisfactory to the board that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such method.

C. Either of the following methods of slaughtering livestock and handling livestock in connection with slaughter is hereby found to be humane:

(1) in the case of cattle, bison, sheep, swine, goats, horses, mules or other equines, the animals are rendered insensible to pain by a single blow or gunshot or an electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast or cut or;

(2) by slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument and handling in connection with such slaughter.

D. The Federal Humane Slaughter Act of 1978 be adopted by reference.

[21.33.2.51 NMAC - N, 7-1-06]

21.33.2.52 ESTABLISHMENTS REQUIRING INSPECTION: Inspection under the rules is required at:

A. every establishment, except as provided in 9 CFR, Part 303.1, 381.10, 381.11, 381.12, 381.13, 381.14, and 381.15, within the state, at which any live-

stock or poultry are slaughtered or any meat or poultry products are processed, for use as human food solely for distribution within such jurisdiction;

B. every establishment, operating under exemptions, as provided in 9 CFR, Part 303.1, 381.10, 381.11, 381.12, 381.13, 381.14, and 381.15, which becomes designated by the director pursuant to the act as one producing adulterated meat or poultry products which would clearly endanger the public health.

[21.33.2.52 NMAC - N, 7-1-06]

21.33.2.53 HEARINGS: Absent other statutorily specified hearing procedures, the board shall follow the Uniform Licensing Act, to the extent not inconsistent with applicable law, with the respect to required hearings before the board.

[21.33.2.53 NMAC - N, 7-1-06]

HISTORY OF 21.33.2 NMAC:
[RESERVED]

NEW MEXICO STATE PERSONNEL BOARD

This is an amendment to 1.7.4 NMAC, Section 13, effective 6-30-06.

1.7.4.13 PAY DIFFERENTIALS:

A. Temporary Recruitment/Retention Differential: The director may authorize, in writing, a pay differential of up to fifteen percent (15%) of ~~[the position's pay band midpoint]~~ an employee's base pay to an employee who fills a position which has been documented as critical to the effective operation of the agency and has been demonstrated and documented to be a severe recruitment problem for the agency.

(1) A differential authorized under this provision shall be tied to the position and may not transfer with the employee should the employee leave that position. Payment of this differential shall be separate from the employee's base salary. Agencies shall demonstrate to the office, at least biennially, the circumstances which justified the differential to determine the necessity for its continuance.

(2) A differential of more than fifteen percent (15%) of ~~[midpoint]~~ an employee's base pay or a total salary (base pay plus differential amount) that exceeds the maximum of the pay band may be authorized if approved by the director.

B. [Temporary Retention Differential]: ~~The director may authorize, in writing, a pay differential of up to twenty percent (20%) of the position's pay band midpoint upon receipt of documentation indicating that the employee is in a position which has been designated as essential to~~

~~the effective operation of the agency and the employee's departure would disrupt the agency's ability to fulfill its mission or the employee is in a position which has a documented history of severe retention difficulties.~~

~~(1) The agency must provide a detailed plan that outlines how they intend to resolve the problems associated with the retention difficulties.~~

~~(2) A differential authorized under this provision shall not exceed one calendar year under any circumstances and shall not result in a total (base pay plus differential amount) salary which exceeds the maximum of the pay band without the approval of the director.~~

~~(3) Payment of this differential shall be separate from the employee's base salary.~~

~~(4) The retention differential shall be tied to the position, may not be in conjunction with a temporary recruitment differential, and may not transfer with the employee should the employee leave that position.]~~

[E] Out-of-State

Differential: The director may authorize an out-of-state differential to an employee up to the maximum of the pay band if the agency is able to substantiate that the employee's current salary is insufficient to adequately pay an employee while working or residing out of state. Payment of this differential should be separate from the employee's base salary. A total salary (base pay plus differential amount) that exceeds the maximum of the pay band may be authorized if approved by the director.

[1.7.4.13 NMAC - Rp, 1.7.4.11 NMAC, 11/14/02; A, 10/30/03; A, 7-15-05; 1.7.4.13 NMAC - Rn, 1.7.4.14 NMAC & A, 12-30-05; A, 6-30-06]

NEW MEXICO STATE PERSONNEL BOARD

This is an amendment to 1.7.7 NMAC, Section 12, effective 6-30-06.

1.7.7.12 FAMILY AND MEDICAL LEAVE:

A. In addition to other leave provided for in *1.7.7 NMAC* eligible employees are entitled to leave in accordance with the *Family and Medical Leave Act (FMLA) of 1993 [29 U.S.C. Section 2601 et seq.]*. Employees who have been in the classified service for at least 12 months (which need not be consecutive) and who have worked, as defined by *Section 7 of the Fair Labor Standards Act [29 U.S.C. Section 201 et seq.]*, at least 1250 hours during the 12 month period immediately preceding the start of FMLA leave are eligible employees. In addition, employment in

the exempt service, legislative or judicial branch, shall count as classified employment for purposes of this rule.

B. Eligible employees are entitled to a total of 12 weeks of unpaid FMLA leave in a 12-month period, at the time of a birth or placement of a child or at the time of a serious health condition for the employee, or family members, as defined in the FMLA. The 12-month period is calculated forward from the date an employee's first FMLA leave begins.

C. An employee may elect, or an agency may require the employee, to substitute any of the employee's accrued annual leave, accrued sick leave, or donated leave for any part of unpaid FMLA leave.

D. Compensatory time and paid holidays shall not count towards the 12 weeks entitled by FMLA.

E. Employees shall not accrue annual and sick leave [~~nor be paid for "observed" holidays~~] while on unpaid FMLA leave.

F. Agencies shall post the required FMLA notices, maintain the required employee records, and implement agency policies in accordance with the FMLA. All medical records and correspondence relating to employees and/or their families shall be considered confidential in accordance with *1.7.1.12 NMAC*.

G. Disputes over the administration of this rule shall be forwarded to the director for resolution.
[1.7.7.12 NMAC - Rp, 1 NMAC 7.7.12, 07/07/01; A, 11/14/02; A, 6-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

6.60.2 NMAC, Definitions of "License," "Licensed," and "Licensure" filed 10-16-01, was out for public hearing on 05-03-06 at the Public Education Department, Educator Quality Division at 444 Galisteo in Santa Fe is hereby repealed effective 06-30-06.

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 65 SCHOOL PERSON- NEL - EDUCATOR PREPARATION PART 2 PROFESSIONAL DEVELOPMENT FRAMEWORK

6.65.2.1 ISSUING AGENCY:
Public Education Department
[6.65.2.1 NMAC - N, 06-30-06]

6.65.2.2 SCOPE: The New Mexico professional development framework establishes statewide standards for all professional development that impacts licensed staff in New Mexico public schools.
[6.65.2.2 NMAC - N, 06-30-06]

6.65.2.3 STATUTORY AUTHORITY: Section 22-2-2 NMSA 1978, 22-2-2-8 NMSA 1978, 22-10A-19 NMSA 1978, and 22-10A-19.1 NMSA 1978.
[6.65.2.3 NMAC - N, 06-30-06]

6.65.2.4 DURATION: Permanent
[6.65.2.4 NMAC - N, 06-30-06]

6.65.2.5 EFFECTIVE DATE: June 30, 2006, unless a later date is cited at the end of a section.
[6.65.2.5 NMAC - N, 06-30-06]

6.65.2.6 OBJECTIVE: The rule establishes criteria for all professional development programs delivered by the public education department, statewide professional development providers, charter schools, public school districts, and for all professional development providers that apply for professional development funds, or who are awarded funding by the public education department ("PED") or by the legislature. The criteria in this rule also establishes standards for an evaluation component that will be used by the PED in accessing charter school, and school district professional development plans. The rule creates standards for developing professional development activities for schools that improve teachers' knowledge of the subjects they teach and the ability to teach those subjects to all of their students; are an integral part of the public school and school district plans for improving student achievement; provide teachers, school administrators and instructional support providers with the strategies, support, knowledge and skills to help all students meet the New Mexico academic content standards; are high quality, sustained, intensive and focused on the classroom; are developed and evaluated regularly with extensive participation of school employees and parents.
[6.65.2.6 NMAC - N, 06-30-06]

6.65.2.7 DEFINITIONS:

A. "Alignment" means the degree to which program components match purposes and evaluation criteria.

B. "Collaboration" means the act of working positively and productively with others to meet a common goal or purpose.

C. "Data" means information from a variety of sources gathered for a purpose. For example, data related to student learning might include student work examples, scripted or video taped observations, student achievement scores, and/or teacher-generated assessments. Data related to teacher performance might include observations; instructional artifacts; and/or student, peer or parent evaluations. The terms data and evidence are often used interchangeably.

D. "Developmental levels" means descriptors of development for students and teachers.

(1) Developmental levels for students are descriptors of how they develop (cognitively, socially and in other ways) during their formative years in pre k-12 education.

(2) Developmental levels for teachers are descriptors of how they develop across the continuum of their careers. In New Mexico, the career continuum for teachers include three levels of development: the level 1 "provisional teacher" (the initial five years of a teaching career where the teacher demonstrates initial mastery of effective teaching); the level 2 "professional teacher" (at least three years of classroom teaching experience during which a teacher demonstrates expert practice); and the level 3 "master teacher" (at least six years of experience where the teacher demonstrates exemplary practice).

E. "Differentiated" means the intentional application of multiple modes of instruction or assessment in order to meet the needs of all members of a group. The New Mexico teacher competencies are differentiated across levels of years of experience and teacher development: level 1 (provisional teacher); level 2 (professional teacher); and level 3 (master teacher).

F. "Diversity" means variety among individuals. Diversity includes, for example, variations in socio-economic status, race, developmental level, ethnicity, gender, language, learning styles, culture, abilities, age, interests, and/or personality.

G. "Job-embedded" means activities that are included as part of the responsibilities of the teacher's work day.

H. "Leadership" means the work of members of all levels of educational systems who engage in, collaborate in, and/or guide continuous instructional improvement for the benefit of the entire system.

I. "Professional development" means a systemic process by which educators increase knowledge, skills, and abilities to meet professional and organizational goals that build capacity within the individual, organization, and education system for the purpose of ensuring success for all students.

J. "Professional development plan" means a plan specifically designed to identify goals, activities and measurable objectives that will support continuous learning related to professional knowledge, skills and abilities.

(1) The district professional development plan is a component of the comprehensive educational plan for student success that supports academic learning for all students.

(2) The individual teacher's professional development plan (PDP) is part of the performance evaluation system requirements. The teacher's PDP is a collaborative enterprise involving the teacher and principal in establishing a yearly plan for professional learning goals, activities, and measurable objectives based on the nine New Mexico teacher competencies.

K. "Professional development program" means an organized set of professional development experiences for an education system that will support instructional learning in an identified area of improvement.

L. "Research based" means results from proven, rigorous educational research methodologies.

M. "Staff development" means organized professional learning activities. The terms "professional development and staff development" are used interchangeably by the national staff development council as well as in this rule.

N. "Student success" means attainment of knowledge, skills and attributes that will prepare and nurture individuals to become productive, engaged citizens in a democratic society.

O. "Sustained" means an effort or activity maintained in a coherent, planned manner over time.

P. "Systematic" means something that is characterized by order and planning.

Q. "Systemic" means related to an entire system: in this case, an educational organization that is made up of individual but interdependent components united by a common purpose, action plan, and accountability.

R. "Training" means a subset of professional development. Training includes specialized, often prescribed instruction and practice that help an individual become proficient in a skill or set of skills.

S. "Standards for staff development" means criteria and expectations that provide direction for designing a professional development experience that ensures educators acquire the necessary knowledge and skills.

T. "Framework for professional development" means a document that

establishes the context, processes and content relative to professional development by way of a statewide definition and belief statements of professional development, guidelines for the effective designing, implementation, and evaluating of professional development initiatives at the district and school building-level, establishing the criteria for school districts to apply for professional development funds, and to provide information regarding professional development providers and other resources.

[6.65.2.7 NMAC - N, 06-30-06]

6.65.2.8 REQUIREMENTS FOR PROGRAM DESIGN AND IMPLEMENTATION:

School district and charter school professional development programs shall meet the highest standards for professional development. New Mexico has adopted the national staff development council standards for staff development as requirements for designing, implementing, and evaluating professional development programs. All statewide, PED, charter school and public school district professional development programs and activities shall address and align with the following standards and shall articulate:

A. context standards which:

(1) improve the learning of all students by organizing adults into learning communities whose goals are aligned with those of the school district;

(2) require skillful school and district leaders who guide continuous instructional improvement;

(3) require resources to support adult learning and collaboration;

B. process standards which:

(1) improve the learning of all students by using disaggregated student data to determine adult learning priorities, monitor progress, and help sustain continuous improvement;

(2) use multiple sources of information to guide improvement and demonstrate its impact;

(3) prepare educators to apply research to decision making;

(4) use learning strategies appropriate to the intended goal;

(5) apply knowledge about human learning and change;

(6) provide educators with the knowledge and skills to collaborate;

C. content standards which:

(1) improve the learning of all students by preparing educators to understand and appreciate all students;

(2) create safe orderly and supportive environments, and hold high expectations for their academic achievement;

(3) deepen educators' content knowledge;

(4) provide them with research-based instructional strategies to assist students in meeting, rigorous academic standards and prepare them to use various types of classroom assessments appropriately;

(5) provide educators with knowledge and skills to involve families and other stakeholders appropriately.

[6.65.2.8 NMAC - N, 06-30-06]

6.65.2.9 REQUIREMENTS FOR PROGRAM EVALUATION:

A. All statewide, PED, charter school and public school district professional development programs shall be evaluated at least every three years to determine the effectiveness of the program based on evidence of improved educator practice and student learning.

B. Levels of program evaluation shall include evidence of:

(1) participant response;

(2) participant learning;

(3) organizational change and support;

(4) participant use of knowledge and skills; and

(5) student learning.

[6.65.2.9 NMAC - N, 06-30-06]

6.65.2.10 REQUIREMENTS FOR PROFESSIONAL DEVELOPMENT FUNDING:

Schools, school districts or independent programs or agencies that apply for or are awarded state or federal funding to support professional development programs or activities must demonstrate alignment between the proposed programs and the New Mexico professional development framework. Funding proposals shall explicitly address all of the following questions:

A. context:

(1) how are the resources (time, leadership, personnel, and budget considerations) structured to support the plan?

(2) how are roles of leaders and participants defined and goals determined?

(3) how are data related to student learning to be used to determine goals and assess outcomes?

(4) how is collaboration among administrators and teachers embedded in the professional development process?

B. content:

(1) what should participants know and be able to do?

(2) is the content clearly connected to workplace requirements and clearly articulated goals?

(3) are appropriate adult learning strategies used that will support program effectiveness?

(4) is there a range of learning

opportunities that address areas of need, diversity, skill development and refinement?

(5) how are data related to student learning to be used to determine goals and assessment outcomes?

(6) how is collaboration among administrators and teachers embedded in the professional development process?

[6.65.2.10 NMAC - N, 06-30-06]

**HISTORY OF 6.65.2 NMAC:
[RESERVED]**

**NEW MEXICO PUBLIC
EDUCATION
DEPARTMENT**

This is an amendment to 6.63.3 NMAC, Sections 6 through 9, effective 06-30-06. The Part Name was also changed.

**PART 3 LICENSURE FOR
~~[RELATED SERVICE PERSONNEL]~~
INSTRUCTIONAL SUPPORT
PROVIDERS PRE-K-12 NOT COVERED IN OTHER ~~[ANCILLARY REGULATIONS]~~ RULES**

6.63.3.6 OBJECTIVE: This ~~[regulation]~~ rule governs licensure of instructional support providers for those persons seeking such licensure on or after July 1, 1989.

[11-14-98; 6.63.3.6 NMAC - Rn, 6 NMAC 4.2.3.8.6 & A, 03-31-01; A, 08-31-04; A, 06-30-06]

6.63.3.7 DEFINITIONS: "Instructional support providers" formerly referred to as related service or ancillary providers, shall mean anyone who provides services for a public school or state institution as an educational assistant, school counselor, school social worker, school nurse, speech-language pathologist, psychologist, physical therapist, physical therapy assistant, occupational therapist, occupational therapy assistant, recreational therapist, interpreter for the deaf, ~~and~~ diagnostician and other service providers who are employed to support the instructional program of a school district or charter school.

[6.63.3.7 NMAC - N, 08-31-04; A, 06-30-06]

6.63.3.8 REQUIREMENTS: All persons who perform any duties as instructional support provider identified in Subsections A through H of this section in public schools, including charter schools, or in those special state-supported schools within state agencies, must hold valid licensure issued by the ~~[secretary]~~ public education department ("PED"). A person seeking an initial, instructional support provider

license shall file a completed application for an initial license with the professional licensure bureau (PLB) of the ~~[public education department]~~ PED, and shall provide a copy of their current license from their respective licensing authority or a copy of any optional certification listed below, and an official transcript of their coursework. A person seeking instructional support provider licensure shall hold the licensure or certification issued by the named authority as follows:

A. Interpreter for the deaf:
(1) Professional interpreter
(a) obtain certification from the national registry for interpreters for the deaf; or

(b) obtain certification from the national association for the deaf national interpreter certification at levels III, IV, or V.

(2) Education interpreter: Attain educational interpreter performance assessment levels 3.5 or above.

B. Orientation and mobility specialists:

(1) obtain certification from the association for education and rehabilitation of the blind and visually impaired, or

(2) obtain certification from the academy for certification of vision rehabilitation and education professionals.

C. Physical therapist: Obtain licensure from the New Mexico physical therapy licensing board.

D. Occupational therapist:
(1) obtain licensure from the New Mexico occupational therapy licensing board; or

(2) obtain certification from the American occupational therapy certification board.

E. Certified occupational therapy assistant:

(1) obtain licensure from the New Mexico occupational therapy licensing board; or

(2) obtain certification from the American occupational therapy certification board.

F. Physical therapy assistant: obtain licensure from the New Mexico physical therapists licensing board.

G. Recreational therapist: obtain national council for therapeutic recreation certification.

H. Speech language pathologist: obtain licensure from the New Mexico speech language pathology and audiology board.

[11-14-98; 6.63.3.8 NMAC - Rn, 6 NMAC 4.2.3.8.8 & A, 03-31-01; A, 08-15-03; A, 08-31-04; A, 06-30-06]

6.63.3.9 IMPLEMENTATION: All persons holding a valid New Mexico license in those areas covered in

this ~~[regulation]~~ rule on or after June 30, 1989 shall be entitled to licensure in the respective instructional support provider area. Licenses for instructional support providers shall be issued at level 1, provisional licensure, for those providers with ~~[less]~~ fewer than three years of school experience, level 2, professional licensure, for those providers with three to five years of school experience, and at level 3, instructional support leader, for those with six or more years of school experience. Such licensure may be further continued pursuant to ~~[regulation(s)]~~ rule(s) as established by the secretary of education. Endorsements in bilingual education and teaching English to speakers of other languages may be added to the speech language pathologist license if the candidate meets the requirements for those endorsements.

[11-14-98; 6.63.3.9 NMAC - Rn, 6 NMAC 4.2.3.8.9 & A, 03-31-01; A, 08-31-04; A, 06-30-06]

**NEW MEXICO PUBLIC
EDUCATION
DEPARTMENT**

This is an amendment to 6.63.4 NMAC, Sections 3, 6, 7, 8, and 11, effective 06-30-06. The Part Name is also changed.

**PART 4 LICENSURE IN
EDUCATIONAL DIAGNOSIS PRE K-12**

6.63.4.3 STATUTORY AUTHORITY: Sections 22-2-1, NMSA 1978 ~~and~~, 22-2-2, NMSA 1978, and 22-10A-17 NMSA 1978.

[6.63.4.3 NMAC - Rp, 6.63.4.3 NMAC, 11-30-05; A, 06-30-06]

6.63.4.6 OBJECTIVE: This ~~[regulation]~~ rule establishes the licensure requirements for persons seeking licensure in educational diagnosis.

[6.63.4.6 NMAC - Rp, 6.63.4.6 NMAC, 11-30-05; A, 06-30-06]

6.63.4.7 DEFINITIONS:
A. "Level one licensure" means a provisional license in educational diagnosis granted for five years. The license is nonrenewable unless the license holder verifies to the public education department (PED) that he/she has not worked using the license during its effective dates and provides evidence of current employment as an educational diagnostician.

B. "Level two licensure" means a renewable nine year license in educational diagnosis awarded after successful completion of at least three full school years

at level [H] one educational diagnostician licensure and including documentation of professional development requirements and verification by the superintendent or the governing authority of a private school or state institution that the individual is meeting level one competencies and is capable of demonstrating the competencies at level two.

C. "Level three licensure" means a renewable nine year license in educational diagnosis awarded after successful completion of at least three full school years at level two educational diagnostician licensure and including documentation of completion of supervised experience requirements and verification by the superintendent or the governing authority of a private school or state institution that the individual is meeting level two competencies and is capable of demonstrating the competencies at level three.

D. "Supervision for an entry-level educational diagnostician" means a level one educational diagnostician will be required to have a minimum of one-hour per week individual supervision with a level three licensed educational diagnostician.

E. Satisfactory experience means the individual has:

(1) satisfactorily carried out the duties and responsibilities of the position as verified by the superintendent or the governing authority of a private school or state institution, and

(2) satisfactorily met the quality of the practice of educational diagnosis and professional responsibilities as reported by the supervising educational diagnostician.

F. "New Mexico diagnostician examination" means a comprehensive examination that evaluates the knowledge and competencies which must be passed no later than the end of the first year of level one licensure.

G. "Full school year" means a minimum of 160 days in a school year or 480 days over multiple school years or equivalent number of days in school districts on alternative schedules of full-time or part-time educational diagnostician work, including summer work in a variety of educational settings.

[6.63.4.7 NMAC - Rp, 6.63.4.7 NMAC, 11-30-05; A, 06-30-06]

6.63.4.8 REQUIREMENTS FOR PERSONS SEEKING LEVEL ONE EDUCATIONAL DIAGNOSIS LICENSURE:

All persons who perform services in educational diagnosis in public schools or in those special state-supported schools within state agencies, must hold a valid, educational diagnosis licensure issued by the PED. Persons seeking level

one licensure in educational diagnosis pursuant to the provisions of this [regulation] rule shall meet the following requirements:

A. bachelor's degree and master's degree from a regionally accredited college or university; and

B. 30 graduate hours, which may be completed as a part of the master's degree program or in addition to the master's, meeting the applicable program requirements as follows:

(1) the 30 graduate hours, if awarded by a New Mexico college or university, must be from an educational diagnostic or school psychology program approved by the PED and include an internship as follows:

(a) 240 hours, if the applicant began a program in education diagnosis prior to July 1, 2006;

(b) 300 hours, if the applicant began a program in education diagnosis on or after July 1, 2006; or

(2) the 30 graduate hours awarded by a college or university outside New Mexico must be from an educational diagnostic or school psychology program accepted by the PED and include an internship as provided in Paragraph (1) of Subsection B of 6.63.4.8 NMAC; and

(3) all persons previously licensed as educational diagnosticians or special education teachers may substitute two years of verified, successful employment as educational diagnosticians or special education teachers for these requirements if a diagnostic internship was not part of their educational program; and

C. background experience to be met by:

(1) holding a valid New Mexico teaching license, counseling license, or professional licensure in another area of instructional support; or

(2) demonstrating three (3) years of documented, verified satisfactory experience in one or a combination of the following areas: work in community-based programs serving children or adults with special needs or developmental disabilities; mental health work related to educational diagnosis; clinical practice related to educational diagnosis; vocational evaluation; or teaching; and

D. testing: on or after September 1, 2007, applicants for level one licensure in educational diagnosis must pass any licensure examination specified for the license required in 6.60.5 NMAC or hold national certification from the national association of school psychologists (NASP) or from the council for educational diagnostician services (CEDS).

[6.63.4.8 NMAC - Rp, 6.63.4.8 NMAC, 11-30-05; A, 06-30-06]

6.63.4.11 REFERENCED

MATERIAL: Competencies for educational diagnosticians

A. Professional knowledge required for the preparation of educational diagnosticians for all licensure levels:

(1) Professional demeanor:

(a) demonstrate knowledge of models and strategies of consultation and collaboration;

(b) demonstrate knowledge of roles of individuals with exceptional learning needs, families, and school, community personnel in planning of an individualized program;

(c) describe issues and problems faced by parents of exceptional children;

(d) demonstrate knowledge of culturally responsive factors that promote effective communication and collaboration with individuals with exceptional learning needs, families, and school personnel, and community members;

(e) demonstrate knowledge of common service delivery models;

(f) demonstrate knowledge of state rules and federal regulations and ability to communicate these rules and regulations and due process rights to parents, teachers, and other professionals (eg., IDEA, Individuals With Disabilities Education Act), Section 504 of the Rehabilitation Act; New Mexico Standards for Excellence, and the No Child Left Behind Act;

(g) demonstrate knowledge of community resources available to parents;

(h) demonstrate knowledge of and ability to describe rationale for least restrictive environment considerations;

(i) demonstrate knowledge of and need for related services and related service delivery options;

(j) demonstrate skill in making recommendations to facilitate integration into the general education curriculum.

(2) Development and characteristic of learners:

(a) demonstrate knowledge of exceptionalities and ability to define/discuss them:

(i) exceptionalities and eligibility criteria as delineated in federal, state and local regulations;

(ii) general nature and etiology of disabilities and learning styles of students with various disabilities;

(b) demonstrate knowledge of the range of individual abilities within categories of exceptionalities and:

(i) typical and atypical human growth and development in the areas of motor, language, social-emotional, and cognitive development;

(ii) educational implications of characteristics of various excep-

tionalities;

(iii) describe current theories of learning;

(c) demonstrate awareness of the following medical variables:

(i) common medical syndromes (and their characteristics) that impact learning;

(ii) etiology of common medical syndromes;

(iii) effects of various medications on individuals with exceptional learning needs.

(3) Culturally and linguistically diverse populations:

(a) demonstrate knowledge and sensitivity to address linguistic, cultural, social and ethnic values and attitudes of diverse populations;

(b) identify characteristics and needs as related to cultural and linguistic differences;

(c) demonstrate skills in selecting and administering appropriate assessment instruments;

(d) demonstrate skill in utilizing language background, language dominance and language proficiency in the assessment process;

(e) demonstrate understanding of the impact of acculturation on learning and language acquisition;

(f) demonstrate knowledge of variations in beliefs, traditions, and values across and within cultures and their effects on relationships among individuals with exceptional learning needs, family, and schooling;

(g) demonstrate knowledge of teaching strategies addressing learning styles and learning needs of children from culturally and linguistically diverse backgrounds.

(4) Assessment/evaluation:

(a) demonstrate skills and knowledge in the screening, referral, and evaluation process for preschool through post-secondary levels;

(b) demonstrate skills in selecting, administering, scoring and interpreting a variety of assessments in the following areas: cognitive, achievement, processing, creativity/divergent thinking, critical thinking/problem solving, language, social-emotional behavior, adaptive behavior, and vocational aptitude, ability and interests;

(c) demonstrate skills in formal and informal observational techniques of data collection.

(5) Demonstrate knowledge and application of psychometric theory and descriptive statistics necessary for interpretation of psycho-educational measures to include: reliability, validity, standardization, error of measurement, and test bias.

(6) Demonstrate ability to keep accurate and detailed records of assessment

and related proceedings.

(7) Demonstrate ability to select or modify appropriate assessment procedures and instruments to ensure non-biased results:

(8) Demonstrate ability to use assessment results in making recommendations for eligibility, instruction, accommodations and transition as part of IEP development.

(9) Demonstrate skill in considering assessment information for exiting from special education services.

(10) Psycho-educational diagnostic report:

(a) demonstrate ability to prepare professional, understandable reports consistent with acceptable professional standards and official guidelines;

(b) demonstrate skill in preparing and presenting comprehensive report information keyed to the individual student's needs and parent's level of understanding including:

(i) background information which includes developmental history, educational/school history, language proficiency, and screening results;

(ii) assessment information including past evaluations, current test information, any variation from test administration and or standardization, and summaries of strengths and weaknesses;

(iii) related services evaluations, results, and recommendations;

(iv) individualized recommendations for eligibility, instruction, accommodations, and transition, based on assessment results;

(v) provision of explanation and copy of the psycho-educational diagnostic report to the parent/guardian;

(vi) use of multidisciplinary team processes in development of individual education plans.

B. professional and ethical practice for levels one, two and three educational diagnosticians:

(1) maintain a professional demeanor as defined in local education agency policy;

(2) maintain professional codes of conduct and ethics;

(3) demonstrate knowledge of the scope and role of an educational diagnostician;

(4) demonstrate knowledge of organizations and publications relevant to the field of educational diagnosis;

(5) demonstrate knowledge of confidentiality issues and ~~regulations~~ rules.

C. Multicultural competencies for levels one, two and three educational diagnosticians:

(1) demonstrate knowledge of cultural and linguistic issues in evaluation,

assessment, and intervention techniques;

(2) demonstrate skills in interpreting and communicating evaluation results within a cultural and linguistic context;

(3) exhibit knowledge of the techniques in multicultural assessment and interventions.

[6.63.4.11 NMAC - Rp, 6.63.4.11 NMAC, 11-30-05; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.63.5 NMAC, Sections 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, effective 06-30-06.

PART 5 LICENSURE FOR SCHOOL PSYCHOLOGISTS, PRE K- 12

6.63.5.1 ISSUING AGENCY:
~~[State Board of Education]~~ Public Education Department

[6.63.5.1 NMAC - Rp 6 NMAC 4.2.3.11.1, 07-01-03; A, 06-30-06]

6.63.5.2 SCOPE: Chapter 63, Part 5 governs licensure for school psychologists, pre k-12, for those persons seeking such licensure.

[6.63.5.2 NMAC - Rp 6 NMAC 4.2.3.11.2, 07-01-03; A, 06-30-06]

6.63.5.3 STATUTORY AUTHORITY: Sections 22-2-1, NMSA 1978~~and~~, 22-2-2, NMSA 1978, and 22-10A-17 NMSA 1978.

[6.63.5.3 NMAC - Rp 6 NMAC 4.2.3.11.3, 07-01-03; A, 06-30-06]

6.63.5.6 OBJECTIVE: This ~~regulation~~ rule establishes the requirements for three levels of school psychologist, pre k-12 licensure for persons seeking licensure as a level 1, entry level school psychologist, and a level 2, independent school psychologist, or a level ~~3-A~~ 3, supervising school psychologist practicing in a school-related setting. These licenses cannot be used to provide service outside a school-related setting. They cannot be used in a public setting.

[6.63.5.6 NMAC - Rp 6 NMAC 4.2.3.11.6, 07-01-03; A, 06-30-06]

6.63.5.7 DEFINITIONS:

A. "School psychologist" means a person who is trained to address psychological and behavioral problems manifested in and associated with educational systems by utilizing psychological concepts and methods in programs or actions which attempt to improve the learning, adjustment and behavior of students,

including assessment and psychological pre-referral/intervention procedures in a school-related setting.

B. "School-related setting" means limited to a public school, state institution, or ~~[state board of education]~~ public education department ("PED") accredited nonpublic school. These are settings in which the primary goal is the education of students of diverse backgrounds, characteristics, abilities, disabilities, and needs. The school setting has available an internal or external student services unit that includes at least one licensed school psychologist and provides student services according to state and federal law.

C. "Supervision for an entry level school psychologist" means an entry level school psychologist will be required to have a minimum of one-hour per week individual supervision with a level ~~[3-A]~~ 3 supervising school psychologist.

D. "Term of licensure for an entry-level school psychologist" means the entry - level school psychologist license is issued for a three-year period and is non-renewable. The licensee must acquire the competencies and requirements to achieve an independent school psychologist license within the three-year period. supervised experience means the individual has:

(1) satisfactorily carried out the duties and responsibilities of the position as verified by the superintendent or by the governing authority of a private school or state institution; and

(2) satisfactorily met the quality of the practice of school psychology and professional responsibilities as reported by the supervising school psychologist.

F. "Independent school psychologist (level 2)" means a school psychologist who is employed by the local education agency or nonpublic school, or is under contract by these entities. These services are provided in a school-related setting. The independent school psychologist does not require supervision as described for the entry- level school psychologist.

G. Psychological interventions and practices means the inclusion, but not limitation of, consultation, behavioral assessment/intervention, psychological evaluation, psycho-educational evaluation, counseling, family therapy, individual or group therapy, workshops in self-understanding, human relations, communication, and tutorial programs, and organizational development, parent counseling, vocational development, parent education programs, program planning and evaluation, crisis intervention, specific behavior management, skill training, and transition planning and evaluation. All psychological interventions and practices are to be provided within the scope of the psychologist's training

and practice.

[6.63.5.7 NMAC - N, 07-01-03; A, 06-30-06]

6.63.5.8 REQUIREMENTS FOR PERSONS SEEKING LEVEL 1, ENTRY LEVEL SCHOOL PSYCHOLOGIST LICENSURE: Level 1 entry level school psychologists shall have documentation in their personnel file with the school district, local education agency, or school-related setting of a level ~~[3-A]~~ 3 supervising school psychologist who holds pre k-12 licensure pursuant to the provisions of this ~~[regulation]~~ rule, and shall meet the requirements of Subsections A, B, and C:

A. a bachelor's and master's degree or educational specialist degree from a regionally accredited college or university; and

B. qualifications meeting Paragraph (1), (2), or (3):

(1) 60 graduate hours incorporating the ~~[state board of education]~~ PED approved competencies in school psychology (which may be completed as part of a master's or educational specialist degree program or in addition to the master's degree) meeting the applicable program requirements as follows:

(a) the 60 graduate hours awarded by a New Mexico college or university must include a 1200-hour internship supervised by an appropriately licensed psychologist, 600 hours of which must be in a school-related setting; psychological assessment, counseling, and other psychological interventions with students with emotional disturbances shall comprise a minimum of 300 hours of the internship; or

(b) the 60 graduate hours awarded by a college or university outside New Mexico must be for a school psychology or equivalent program approved by the New Mexico ~~[state board of education]~~ PED and include an internship in a school setting as described in Paragraph (1) of Subsection B of 6.63.5.8; or

(c) the 60 graduate hours as described in Paragraph (1) of Subsection B of 6.63.5.8 or Paragraph (2) of Subsection B of 6.63.5.8 above, with documentation of 1200 hours within a two year period of successful supervised experience in one of the following areas: school psychology; psychological assessment and counseling, or other psychological interventions with at least 600 hours in a school-related setting;

(2) a doctoral degree in psychology, that includes 12 semester hours of child-focused course work in development, assessment, and intervention and 600 hours of supervised experience in a school-related setting; or

(3) a valid psychologist or psychologist associate license issued by the

New Mexico board of psychologist examiners; and that includes 12 semester hours of child-focused course work in development, assessment, and intervention and 600 hours of supervised experience in a school-related setting;

C. fulfill the requirements of Paragraph (1) or (2):

(1) passing with at least a score of 600 the specialty area examination of the national teachers examination in school psychology; or

(2) current school psychologist certification by the national association of school psychologists.

[6.63.5.8 NMAC - Rp 6 NMAC 4.2.3.11.8.1, 07-01-03; A, 06-30-06]

6.63.5.9 REQUIREMENTS FOR PERSONS SEEKING LEVEL 2, INDEPENDENT SCHOOL PSYCHOLOGIST LICENSURE: Persons seeking level 2, independent school psychologist, pre k-12 licensure pursuant to the provisions of this ~~[regulation]~~ rule shall meet the following requirements:

A. a valid level 1 license; and

B. successful completion or demonstration of competencies for an entry level school psychologist, and:

C. satisfactory completion of 2400 hours of supervised experience (i.e., minimum of 600 internship hours and 1200 post internship supervised hours in a school-related setting); and

D. one of the following valid and current certifications or licenses:

(1) a license as a psychologist issued by the New Mexico board of psychology examiners; or

(2) a license as a psychologist associate issued by the New Mexico board of psychology examiners; or

(3) a license as a licensed professional clinical mental health counselor issued by the New Mexico counseling and therapy practice board; or

(4) current school psychologist certification by the national association of school psychologist.

[6.63.5.9 NMAC - Rp 6 NMAC 4.2.3.11.8.2, 07-01-03; A, 06-30-06]

6.63.5.10 REQUIREMENTS FOR PERSONS SEEKING LEVEL ~~[3-A]~~ 3, INDEPENDENT SCHOOL PSYCHOLOGIST LICENSURE: Persons seeking level ~~[3-A]~~ 3, clinical supervising school psychologist, pre k-12 licensure pursuant to the provisions of this ~~[regulation]~~ rule shall meet the following requirements:

A. a valid level 2 license; and

B. doctoral degree in psychology from a regionally accredited col-

lege or university; the doctoral program shall include at least one academic year of pre-doctoral supervised internship experience, consisting of a minimum of 1500 hours at least 750 hours of which must be in a school-related setting, or post-doctoral supervised experience consisting of a minimum of 1500 hours of which at least 750 hours of which must be in a school-related setting; and successful completion or demonstration of competencies for an entry level school psychologist; and

C. successful completion or demonstration of competencies for the independent school psychologist license, and

D. a valid psychologist license/certificate issued by the New Mexico board of psychologist examiners, or current school psychologist certification issued by the national association of school psychologists; and

E. two academic years of full-time satisfactory post-graduate work experience in a school-related setting(s) including 750 hours of satisfactory experience in diagnosing and treating children with emotional disturbances and/or behavior disorders in a school-related setting as reported by a supervising school psychologist.

[6.63.5.10 NMAC - Rp 6 NMAC 4.2.3.11.8.3, 07-01-03; A, 06-30-06]

6.63.5.11 IMPLEMENTATION

All persons holding a valid New Mexico license in psychological counseling on June 30, 2002 shall be entitled to licensure in school psychology at level 1, 2 or 3. Such licensure may be continued pursuant to ~~regulations~~ rule as established by the ~~state board of education~~ PED.

[6.63.5.11 NMAC - Rp 6 NMAC 4.2.3.11.9, 07-01-03; A, 06-30-06]

6.63.5.12 COMPETENCIES FOR ENTRY LEVEL SCHOOL PSYCHOLOGISTS REQUIRING SUPERVISION BY A LEVEL ~~3-A~~ 3 SUPERVISING SCHOOL PSYCHOLOGIST

A. Personal characteristics: The school psychologist shall provide evidence that his/her professional work or demeanor is characterized by the following behaviors and developed and evaluated through courses, course content, practica, internships, work experience, or other appropriate means:

- (1) flexibility
- (2) communication skills
- (3) conscientiousness
- (4) cooperation
- (5) motivation
- (6) personal stability
- (7) productivity
- (8) professional ethics
- (9) respect for and valuing of

individual and cultural diversity

B. Psychological foundations: The school psychologist shall demonstrate knowledge of basic psychological principles including:

(1) the relationship between biological principles (e.g. courses in biological bases of development, neuropsychology, psychopharmacology) and psychological functioning in normal and abnormal development;

(2) the manner in which concepts of social and cultural diversity (e.g. courses in cross cultural studies, social development, social and cultural diversity; social psychology) relate to an understanding of individuality;

(3) using developmental principles to identify potential exceptionalities in students (e.g., applying understanding of human development and developmental abnormalities, as these relate to possible exceptionalities);

(4) methods and models for identifying and diagnosing conditions of exceptionality;

(5) principles, concepts and processes related to human learning;

(6) basic research methodology as applicable to school related problems; and

(7) the relationship between social setting and the psychological functioning of students.

C. Educational foundations: The school psychologist shall demonstrate knowledge of educational foundations including:

(1) organization and operation of schools (e.g. courses in education of exceptional learners, school and community-based resources, alternative service delivery systems);

(2) the organization and administration of school psychological services, including record keeping; the social, philosophical, historical, and cultural issues in education; state standards and benchmarks; school curriculum, intervention programs and strategies;

(3) the current identification, referral, evaluation, and placement procedures for students with exceptionalities based upon state and federal regulations.

D. The school psychologist shall possess the knowledge and professional expertise to collaborate with families and school and community-based professionals in designing, implementing, and evaluating interventions that effectively respond to the educational and mental health needs of students. The school psychologist shall demonstrate knowledge of ability to:

(1) conduct multi-method psychological and psycho-educational assessments of students as appropriate;

(2) conduct psychological and

educational assessments to include fair and non-discriminatory evaluation of the areas of: personality, emotional status, social skills and adjustment, intelligence and cognitive functioning, scholastic aptitude, functional and adaptive behavior, language and communication skills, academic knowledge and achievement, sensory and perceptual-motor functioning, family/environmental/cultural influences, level of acculturation, career and vocational development, aptitude, and interests.

(3) utilize formal assessment instruments, procedures, and techniques such as interviews, observations, and behavioral evaluations;

(4) have particular regard for the context and setting in which their assessments take place and will be used; and

(5) adhere to the regulations and standards of state and national professional organizations regarding assessment techniques, non-biased assessment, and programming for all students.

E. Interventions, direct and indirect: The school psychologist shall demonstrate the ability to implement direct (e.g., including counseling and behavior management) and indirect (e.g., including consultation, systems and organization change) intervention using educational and psychological principles when participating as a member of a team of school, school related, and community professional personnel, as outlined in the following:

F. Learning/cognitive setting: The school psychologist shall demonstrate the ability to:

(1) plan and implement procedures for assessing the needs of students and recommending strategies for increasing learning and efficiency;

(2) consult with appropriate personnel in the development of instructional programs, including vocational programs;

(3) assist schools in working with parents to foster positive approaches to student's learning;

(4) assist school personnel in developing, monitoring, and evaluating appropriate and measurable instructional/vocational/transitional objectives; and

(5) consult with school personnel about the classroom environment.

G. Social/affective setting: The school psychologist shall demonstrate the ability to:

(1) plan, develop, and implement district-wide procedures for assessing the social/emotional needs of students and for recommending strategies for increasing social/emotional growth;

(2) assist schools in working with parents to foster positive emotional growth in their children;

(3) assist school personnel in

developing, monitoring, and evaluating objectives for social/emotional growth; and

(4) consult with school personnel about fostering healthy a healthy social/emotional environment in the school.

H. Intervention techniques: The school psychologist shall demonstrate the ability to plan, implement, monitor, and evaluate intervention strategies which may include the following:

(1) individual and group counseling with students;

(2) remediation, including the provision of direct assistance to students receiving special education;

(3) consultation with individuals and groups which may include parents, school personnel, and community agencies;

(4) risk and threat assessment; and

(5) behavioral management.

I. Prevention, crisis intervention and mental health: The school psychologist shall have knowledge of human development and psychopathology and of associated biological, cultural, and social influences on human behavior. The school psychologist shall provide or contribute to prevention and intervention programs that promote the mental health and physical well being of students.

J. Family and community interventions: The school psychologist shall demonstrate the ability to:

(1) describe community resources available to families;

(2) describe issues and problems faced by families or students with exceptionalities;

(3) describe a continuum of services available to students and their families;

(4) explain state and federal regulations and due process rights to families, school personnel and community professionals; and

(5) communicate information regarding state mental health and children's codes and the Mandatory Reporting Child Abuse and Neglect Act.

K. Statistics and research methodologies: The school psychologist is a competent consumer of research and new knowledge, and is able to use diverse methodologies (e.g., ethnographic, single subject designs, quantitative methods) to evaluate professional practices (e.g., interventions) and/or programs. That knowledge base shall include research and evaluation methods, statistics, and measurement.

L. Professional school psychology: The school psychologist shall demonstrate the ability to:

(1) practice school psychology in accordance with the ethics of the profession;

(2) practice the profession of

school psychology within the laws and regulations of the local, state, and federal governments;

(3) continue education for the promotion of professional growth;

(4) demonstrate knowledge of different models, concepts, and current issues concerning the practice of school psychology; and

(5) examine interactions between systems and individuals within the schools and between schools and outside agencies to determine strengths, weaknesses, and problem areas and aid in maximizing effective functioning.

M. An entry level (level 1) school psychologist will be required to have a minimum of one hour per week individual supervision with the level ~~[3-A]~~ 3 supervising school psychologist. At least one session per month must be in person with the level ~~[3-A]~~ 3 supervising school psychologist. Supervision will not be provided to level ~~[3-A]~~ 1 school psychologists who have not reached the level 2 requirements in the time period established by ~~[NMSDE]~~ PED. [6.63.5.12 NMAC - Rp 6 NMAC 4.2.3.11.10, 07-01-03; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.63.6 NMAC, Sections 1, 3, 6, and 8, effective 06-30-06. The Part Name was also changed.

PART 6 LICENSURE FOR SCHOOL COUNSELORS, PRE K-12

6.63.6.1 ISSUING AGENCY: ~~[State Board of Education]~~ Public Education Department.

[6.63.6.1 NMAC - Rp 6 NMAC 4.2.3.12.1, 02-14-03; A, 06-30-06]

**6.63.6.3 S T A T U T O R Y
AUTHORITY:** Sections 22-2-1, NMSA 1978~~[and]~~, 22-2-2, NMSA 1978, and 22-10A-17 NMSA 1978.

[6.63.6.3 NMAC - Rp 6 NMAC 4.2.3.12.3, 02-14-03; A, 06-30-06]

6.63.6.6 OBJECTIVE: This ~~[regulation]~~ rule governs licensure in school counseling, grades pre K-12 for those persons seeking such licensure on or after July 1, 1993.

[6.63.6.6 NMAC - Rp 6 NMAC 4.2.3.12.6, 02-14-03; A, 06-30-06]

6.63.6.8 REQUIREMENTS: Applicants may meet this requirement by meeting requirements of Subsections A or B or C of 6.63.6.8 NMAC:

A. national certified school counselor credential issued by the national board for certified counselors;

B. licensed professional mental health counselor (LPC) or licensed professional clinical mental health counselor (LPCC) credential issued by the New Mexico counseling and therapy practice board and a minimum of six semester hours of graduate credit in school counseling coursework;

C. master's degree from a regionally accredited college or university; the master's degree requirement shall be satisfied by meeting the requirements of Paragraphs (1) and (2) of Subsection C of 6.63.6.8 NMAC:

(1) master's degree in school counseling from a regionally accredited college or university and meeting the applicable program requirements as follows:

(a) A master's degree awarded by a New Mexico college or university must incorporate the New Mexico ~~[state board of education's ("SBE")]~~ public education department ("PED") approved competencies in the area of school counseling.

(b) A master's degree awarded by a college or university outside of New Mexico must be for a school counseling program approved by the ~~[SBE]~~ PED.

(2) master's degree in a discipline other than school counseling and 36-42 graduate hours in school counseling, (which may be completed as a part of the master's degree program or in addition to the master's) meeting the applicable program requirements as follows:

(a) The 36-42 graduate hours awarded by a New Mexico college or university must incorporate the ~~[SBE's]~~ PED approved competencies in the area of school counseling and include a 300 hour practicum or internship in a school setting.

(b) The 36-42 graduate hours awarded by a college or university outside of New Mexico must be for a school counseling program approved by the ~~[SBE]~~ PED and include a practicum in a school setting. [6.63.6.8 NMAC - Rp 6 NMAC 4.2.3.12.8, 02-14-03; A, 09-30-03; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.63.7 NMAC, Sections 2, 3, 6, 8, 9, and 10, Effective 06-30-06. The Part Name was also changed.

PART 7 LICENSURE FOR SCHOOL SOCIAL WORKERS, PRE K-12

6.63.7.2 SCOPE: Chapter 63,

Part 7 governs licensure for school social workers, pre k-12 for those persons seeking such licensure on or after July 1, 1993.

[11-14-98; 6.63.7.2 NMAC - Rn, 6 NMAC 4.2.3.13.2, 10-31-01; A, 06-30-06]

6.63.7.3 STATUTORY

AUTHORITY: Sections 22-2-1, NMSA 1978, ~~and~~ 22-2-2, NMSA 1978, and 22-10A-17, NMSA 1978.

[11-14-98; 6.63.7.3 NMAC - Rn, 6 NMAC 4.2.3.13.3, 10-31-01; A, 06-30-06]

6.63.7.6 OBJECTIVE:

This ~~regulation~~ rule governs licensure in school social work for those persons seeking such licensure on or after July 1, 1993.

[11-14-98; 6.63.7.6 NMAC - Rn, 6 NMAC 4.2.3.13.6, 10-31-01; A, 06-30-06]

6.63.7.8 REQUIREMENTS:

Persons seeking licensure in school social work, grades pre k-12 pursuant to the provisions of this ~~regulation~~ rule shall meet the following requirements of Subsections A or B or C of 6.63.7.8 NMAC;

A. Level 1, entry level school social worker

(1) Bachelor's or master's degree in social work from a regionally accredited college or university and meeting the applicable program requirements as follows:

(a) the bachelor's or master's degree awarded by a New Mexico college or university must incorporate the New Mexico public education department's (PED) approved competencies in the area of social work; OR

(b) the bachelor's or master's degree awarded by a college or university outside of New Mexico must be for a social work program approved by the PED; AND

(2) valid social work license issued by the New Mexico social work examiners board.

B. Level 2, school social worker

(1) valid level 1 school social work license;

(2) verification by the superintendent of the local school district or the governing authority of the private school or state institution that the social worker has satisfactorily demonstrated the entry level social work competencies approved by the PED; AND

(3) valid social work license issued by the New Mexico social work examiners board.

C. Level 3, independent school social worker

(1) master's degree in social work from a regionally accredited college or university;

(2) valid level 2 school social work license;

(3) valid independent social

worker license issued by the New Mexico board of social work examiners with specializations in clinical social work or school social work;

(4) evidence of a minimum of 875 hours of supervised experience in providing therapeutic services to children, including children with severe emotional disturbances and behavioral disorders, in the school setting; AND

(5) verification by the superintendent of the local school district or the governing authority of the private school or state institution that the social worker has satisfactorily demonstrated the independent social worker competencies approved by the PED.

[11-14-98; 6.63.7.8 NMAC - Rn, 6 NMAC 4.2.3.13.8, 10-31-01; A, 10-17-05; A, 06-30-06]

6.63.7.9 IMPLEMENTATION:

All persons holding a valid PED license in school social work and a valid social work license issued by the New Mexico board of social work examiners on June 30, 1993 shall be entitled to licensure in school social work, pre k-12. Such licensure may be continued pursuant to ~~regulation~~ rule(s) established by the PED.

[11-14-98; 6.63.7.9 NMAC - Rn, 6 NMAC 4.2.3.13.9, 10-31-01; A, 10-17-05; A, 06-30-06]

6.63.7.10 REFERENCED

MATERIAL: Competencies for school social workers

A. Competencies for entry level school social workers

(1) The school social worker shall demonstrate professional knowledge and skills in dealing with social phenomena as they relate to students' functioning and achievement in school by:

(a) interpreting to school personnel the relationship between the student's social, emotional, and/or home problems, and his/her academic performance;

(b) interpreting to school personnel the wide range of social, emotional, cultural, and economic differences among children, families, and communities;

(c) consulting with school personnel on current mental health practices and concepts;

(d) expanding knowledge through consultation with coordinators, specialists, psychologists, psychiatrists, and colleagues, as well as through reading, research, and course work; and

(e) keeping abreast of current community resources, and determining how their services may be beneficial to the student, his/her family, and the family's involvement in the academic process.

(2) The school social worker shall establish basic case management proce-

dures for effective social work intervention by:

(a) opening a case as soon after referral as possible;

(b) prioritizing cases according to severity and seriousness of identified concerns;

(c) establishing routines for the assessment of case referrals;

(d) coordinating multidisciplinary efforts for the management of cases, when appropriate;

(e) consulting with and assisting school and community personnel regarding case management;

(f) participating in interdisciplinary team meetings relevant to the assessment and disposition of individual cases;

(g) presenting and interpreting social work assessment results and recommendations to school and community agency personnel; and

(h) employing the process of terminating and closing cases upon completion of social work services.

(3) The school social worker shall structure the method of social intervention by appropriate planning and preparation by:

(a) investigating all relevant information regarding a referred case;

(b) consulting with school personnel, community agencies, and/or family members to assess the identified concerns;

(c) conducting an individualized social, emotional, and adaptive assessment of the student, the student's family, and the educational and social communities;

(d) formulating individual goals and objectives for the management of each case; and

(e) consulting with the social work supervisor, psychologist, and/or psychiatrist regarding individual cases as needed.

(4) The school social worker shall employ appropriate methods of practice which enables students and families to function adequately within their educational and community settings by:

(a) providing individual, group, and family counseling to students and families;

(b) providing intensive crisis intervention to remedy effects of abuse, neglect, or exploitation of children;

(c) preparing and interpreting social histories or assessments;

(d) participating in planning for student transitions to help ensure continuity of services appropriate to the unique needs of individual students leaving school or transferring between programs;

(e) helping ensure parents' understanding of decisions, procedures, and meetings affecting their children, particularly when cultural differences make communication between school staff and parents

difficult;

(f) helping ensure participation of parents in school conferences which affect their children through home visits, telephone calls, correspondence, and other means;

(g) identifying school district and community services appropriate to the needs of students and families, executing referrals, and providing follow-up;

(h) serving as an advocate for parents to ensure that their wishes and concerns regarding their children are registered and considered by school personnel and agencies; and

(i) recognizing the need for, and actively seeking the supervision of, and independent school social worker or clinically supervising school psychologist when providing psychological counseling services for children with severe emotional disturbances and behavior disorders as designated by the student's individual education program.

(5) The school social worker shall demonstrate a professional and helpful demeanor in relationships with students, parents, and school personnel by:

(a) providing support and encouragement to students, parents, and staff in an atmosphere of mutual respect;

(b) developing a caring relationship with students and parents and showing consideration of their feelings;

(c) communicating openly with students and parents by listening and responding to their opinions and suggestions;

(d) promoting respect and positive interpersonal relationships among students and families;

(e) working cooperatively with fellow employees to develop and maintain effective interaction;

(f) promoting free and easy communication between home and school;

(g) communicating to parents the significance of school program; and

(h) emphasizing positive achievements of students.

(6) The school social worker shall utilize appropriate methods to continuously evaluate his/her services by:

(a) keeping a personal, confidential file on all cases;

(b) completing a social worker activity form which will be included in the student's permanent record;

(c) maintaining an up-to-date log, indicating types of referrals received, dates, and status of referral and referral sources;

(d) completing any written reports that may be required, such as family assessments, as promptly as possible; and

(e) assessing the effectiveness of and further need for social work services.

B. Competencies for level

~~[3-A]~~ 3 independent school social workers

(1) The school social worker shall demonstrate professional knowledge and skills in dealing with social phenomena as they relate to students' functioning and achievement in school by:

(a) interpreting to school personnel the relationship between the student's social, emotional, and/or home problems, and his/her academic performance;

(b) interpreting to school personnel the wide range of social, emotional, cultural, and economic differences among children, families, and communities;

(c) consulting with school personnel on current mental health practices and concepts;

(d) expanding knowledge through consultation with coordinators, specialists, psychologists, psychiatrists, and colleagues, as well as through reading, research, and course work; and

(e) keeping abreast of current community resources, and determining how their services may be beneficial to the student, his/her family, and the family's involvement in the academic process.

(2) The school social worker shall establish basic case management procedures for effective social work intervention by:

(a) opening a case as soon after referral as possible;

(b) prioritizing cases according to severity and seriousness of identified concerns;

(c) establishing routines for the assessment of case referrals;

(d) coordinating multidisciplinary efforts for the management of cases, when appropriate;

(e) consulting with and assisting school and community personnel regarding case management;

(f) participating in interdisciplinary team meetings relevant to the assessment and disposition of individual cases;

(g) presenting and interpreting social work assessment results and recommendations to school and community agency personnel; and

(h) employing the process of terminating and closing cases upon completion of social work services.

(3) The school social worker shall structure the method of social intervention by appropriate planning and preparation by:

(a) investigating all relevant information regarding a referred case;

(b) consulting with school personnel, community agencies, and/or family members to assess the identified concerns;

(c) conducting an individualized social, emotional, and adaptive assessment of the student, the student's family, and the

educational and social communities;

(d) formulating individual goals and objectives for the management of each case; and

(e) consulting with the social work supervisor, psychologist, and/or psychiatrist regarding individual cases as needed.

(4) The school social worker shall employ appropriate methods of practice which enables students and families to function adequately within their educational and community settings by:

(a) providing individual, group, and family counseling to students and families;

(b) providing intensive crisis intervention to remedy effects of abuse, neglect, or exploitation of children;

(c) preparing and interpreting social histories or assessments;

(d) participating in planning for student transitions to help ensure continuity of services appropriate to the unique needs of individual students leaving school or transferring between programs;

(e) helping ensure parents' understanding of decisions, procedures, and meetings affecting their children, particularly when cultural differences make communication between school staff and parents difficult;

(f) helping ensure participation of parents in school conferences which affect their children through home visits, telephone calls, correspondence, and other means;

(g) identifying school district and community services appropriate to the needs of students and families, executing referrals, and providing follow-up;

(h) serving as an advocate for parents to ensure that their wishes and concerns regarding their children are registered and considered by school personnel and agencies; and

(i) demonstrating skill in interventions directed to interpersonal interactions, intrapsychic dynamics, or life support and management issues in the provision of psychological counseling services for children with severe emotional disturbances and behavior disorders;

(j) supervising level 1 and level 2 school social workers who are providing psychological counseling services as designated by the student's individual education program for children with severe emotional disturbances and behavior disorders.

(5) The school social worker shall demonstrate a professional and helpful demeanor in relationships with students, parents, and school personnel by:

(a) providing support and encouragement to students, parents, and staff in an atmosphere of mutual respect;

(b) developing a caring relationship with students and parents and showing consideration of their feelings;

(c) communicating openly with students and parents by listening and responding to their opinions and suggestions;

(d) promoting respect and positive interpersonal relationships among students and families;

(e) working cooperatively with fellow employees to develop and maintain effective interaction;

(f) promoting free and easy communication between home and school;

(g) communicating to parents the significance of school program; and

(h) emphasizing positive achievements of students.

(6) The school social worker shall utilize appropriate methods to continuously evaluate his/her services by:

(a) keeping a personal, confidential file on all cases;

(b) completing a social worker activity form which will be included in the student's permanent record;

(c) maintaining an up-to-date log, indicating types of referrals received, dates, and status of referral and referral sources;

(d) completing any written reports that may be required, such as family assessments, as promptly as possible; and

(e) assessing the effectiveness of and further need for social work services. [11-14-98; 6.63.7.10 NMAC - Rn, 6 NMAC 4.2.3.13.10, 10-31-01; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

CORRECTED FILING: This is an amendment to 6.63.8 NMAC (LICENSURE IN ATHLETIC COACHING, 7-12), Section 8 (REQUIREMENTS) and Section 9 (IMPLEMENTATION), effective June 30, 2006. This corrects clerical errors in the amendments to 6.63.8 NMAC as published in the New Mexico Register, Volume XVII, No. 5 on March 15, 2006. The correction to Subsections A and B of 6.63.8.8 (REQUIREMENTS) reflects a change made to the draft rule as a result of input received during the public comment period. The requirement that persons seeking level 2 licensure in athletic coaching possess a valid standard level 1 athletic coaching license with at least three (3) years athletic coaching experience at level 1 was incorrectly placed in Paragraph (1) of Subsection A. The requirement pertains to persons seeking level 2 licensure in athletic coaching and accordingly is reflected in Paragraph (1) of Subsection B. The correc-

tion to Subsection C of 6.63.8.9 (IMPLEMENTATION) is in response to a clerical error. The draft rule disseminated for public comment proposed a new subsection providing for a one-year non-renewable temporary license to afford candidates time to complete the New Mexico activities association's coaches' training program. The one-year non-renewable temporary license was incorrectly referred to as a nine-year non-renewable temporary license in the original filing.

6.63.8.8 REQUIREMENTS: All persons who perform athletic coaching, 7-12 services in public schools or in those special state-supported schools within state agencies, must hold valid, standard licensure in athletic coaching issued by the public education department (PED).

A. Persons seeking entry level 1 licensure in athletic coaching pursuant to the provisions of this regulation shall meet the following requirements:

(1) possess a high school diploma or equivalency [~~with at least three (3) years athletic coaching experience at level 1~~]; and

(2) complete the New Mexico activities association's coaches' training program to include state competencies based on the competencies of the national standards for sports coaches (NASPE).

B. Persons seeking level 2 licensure in athletic coaching shall meet the following requirements:

(1) possess a valid standard level 1 athletic coaching license with at least three (3) years athletic coaching experience at level 1; and

(2) submit verification by the superintendent of the local school district or governing authority of the private school that the coach has satisfactorily demonstrated the coaches' competencies of the PED.

C. Beginning July 1, 2006, persons seeking level 3 advanced licensure in athletic coaching shall meet the following requirements:

(1) possess a valid level 2 athletic coaching license with at least three (3) years athletic coaching experience at level 2; and

(2) submit verification by the superintendent of the local school district or governing authority of the private school that the coach has satisfactorily demonstrated the coaches' competencies of the PED; and either (3), or (4), or (5) and (6) and (7);

(3) possess a New Mexico teaching license with an endorsement in physical education; or

(4) hold an undergraduate/graduate minor in coaching consisting of at least 24 semester hours of post-secondary coursework at a regionally accredited college or university; or

(5) complete an advanced coaching principles course approved by the PED;

and

(6) provide verification of completion of first aid/sport first aid/athletic training; and

(7) provide verification of completion of cardio pulmonary resuscitation (CPR) training.

[06-15-98; 6.63.8.8 NMAC - Rn, 6 NMAC 4.2.3.14.8 & A, 03-31-01; A, 03-15-06; A, 06-30-06]

6.63.8.9 IMPLEMENTATION:

A. Level 1 licenses shall be issued for a maximum of three (3) years and may not be continued or renewed except as provided in 6.63.8.11 NMAC. Level 2 and 3 licenses shall be issued for nine (9) years.

B. All athletic coaching, 7-12 licenses shall commence on July 1st of the year of issuance and expire June 30th of the year of their expiration.

C. An applicant who meets all other qualifications for a level one coaching license but has not completed the New Mexico activities association's coaches' training program may be issued a [~~nine-year~~] one-year non-renewable temporary license to afford the candidate time to complete the training program. When the candidate provides evidence of completion of the training program to the PED a standard level one license will be issued with an expiration date which would have been issued originally had the candidate then been fully qualified.

[06-15-98; 6.63.8.9 NMAC - Rn, 6 NMAC 4.2.3.14.9 & A, 03-31-01; A, 03-15-06; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.63.9 NMAC, Sections 1, 3, and 6 through 14, effective 06-30-06. The Part Name was also changed.

PART 9 LICENSURE FOR EDUCATIONAL ASSISTANTS PRE K- 12

6.63.9.1 ISSUING AGENCY: [~~State Board of Education~~] Public Education Department

[11-14-98, 07-30-99; 6.63.9.1 NMAC - Rn, 6 NMAC 4.2.3.15.1, 03-31-01; A, 06-30-06]

6.63.9.3 STATUTORY AUTHORITY: Sections 22-2-1, NMSA 1978[~~and~~], 22-2-2, NMSA 1978, 22-10A-17 NMSA 1978, and 20 U.S.C. 6319, Public Law 107-110.

[11-14-98; 6.63.9.3 NMAC - Rn, 6 NMAC 4.2.3.15.3, 03-31-01; A, 06-30-06]

6.63.9.6 OBJECTIVE: This [regulation] rule establishes three levels of licensure for educational assistants and governs the licensure requirements for persons seeking level 1, level 2, and level 3 educational assistant licensure.

[11-14-98; 6.63.9.6 NMAC - Rn, 6 NMAC 4.2.3.15.6, 03-31-01; A, 06-30-06]

6.63.9.7 DEFINITIONS:

A. "Paraprofessionals" means education assistants who assist a teacher in instruction and hold Level [HH] 3 education assistant licensure.

B. [Reserved]
[6.63.9.7 NMAC - N, 06-30-03; A, 06-30-06]

6.63.9.8 LEVEL [H] 1 AND LEVEL [HH] 2 REQUIREMENTS:

All persons who perform services as educational assistants ("EAs") in public schools or in those special state-supported schools within state agencies must hold valid, educational assistants licensure issued by the [state board of education ("state board")] public education department ("PED"). EAs shall be assigned, and serve as assistants, to school staff duly licensed by the [SDE] PED. While there may be brief periods when EAs are alone with and in control of a classroom of students, their primary use shall be to work alongside or under the direct supervision of duly licensed staff.

A. Persons seeking licensure in level [H] 1 educational assistance pursuant to the provisions of this [regulation] rule shall meet the following requirements:

(1) high school diploma or equivalency; and

(2) eighteen years of age; and

(3) certification by the public school superintendent, state-supported school superintendent, charter school administrator or private school official that the educational assistant has satisfactorily completed an orientation session pertinent to his or her assignment.

B. Persons seeking licensure in level [HH] 2 educational assistance pursuant to the provisions of this [regulation] rule shall meet the following requirements:

(1) high school diploma or equivalency; and

(2) eighteen years of age; and

(3) certification by the public school superintendent, state-supported school superintendent, charter school administrator or private school official that the educational assistant has satisfactorily completed an orientation session pertinent

to his or her assignment; and

(4) certification by the public school superintendent, state-supported school superintendent, charter school administrator or private school official that the educational assistant has satisfactorily demonstrated the [state board's] PED's educational assistant competencies.

[11-14-98; 6.63.9.8 NMAC - Rn, 6 NMAC 4.2.3.15.8, 03-31-01; A, 06-30-03; A, 06-30-06]

6.63.9.9 PRE-JANUARY 8, 2002 LEVEL [HH] 3/PARAPROFES-SIONAL REQUIREMENTS:

EAs hired prior to January 8, 2002 who are assigned to work in a title I targeted assistance program or in a title I school-wide program under the federal Elementary and Secondary Education Act of 1965 ["Act"] (20 U.S.C. 6301 et seq., PL 107-110), must hold a level [HH] 3 license no later than January 8, 2006. Level [HH] 3 EAs shall be assigned and serve as assistants to school staff duly licensed by the [state board] PED. While there may be brief periods when EAs are alone with and in control of a classroom of students, their primary use shall be to work alongside or under the direct supervision of duly licensed staff.

A. A person hired prior to January 8, 2002 who seeks a level [HH] 3 educational assistant license shall meet the following requirements:

(1) hold a high school diploma or equivalency; and

(2) be eighteen years of age; and

(3) provide certification from the public school superintendent, state-supported school superintendent, charter school administrator or private school official that the educational assistant has satisfactorily completed an orientation session pertinent to his or her assignment; and

(4) if the EA holds a level [H] 2 EA license, provide certification from the public school superintendent, state-supported school superintendent, charter school administrator or private school official that the educational assistant has satisfactorily demonstrated the [state board] PED's educational assistant competencies.

B. In addition to satisfying the requirements of Subsection A of 6.63.9.9 NMAC, a person hired prior to January 8, 2002 who seeks a level [HH] 3 educational assistant license, shall meet the requirements of Paragraph (1) or Paragraph (2) or Paragraph (3) or Paragraph (4) of Subsection B prior to [January 8] June 30, 2006:

(1) earn an associate degree from a nationally or regionally accredited college or university that includes at least 15 semester hours in non-remedial degree coursework, broken down as follows:

(a) 3 hours of language arts/reading or language arts/reading pedagogy;

(b) 3 hours of writing or writing pedagogy;

(c) 3 hours of mathematics or mathematics pedagogy;

(d) 6 hours of reading, writing, and math readiness, or professional education, or classroom management, or teaching assistance, or special education; or

(2) complete forty-eight (48) semester hours of academic credit awarded by a nationally or regionally accredited college or university that includes at least 12 semester hours in non-remedial coursework, broken down as follows:

(a) 3 hours of language arts/reading or language arts/reading pedagogy;

(b) 3 hours of writing or writing pedagogy;

(c) 3 hours of mathematics or mathematics pedagogy;

(d) 6 hours of reading, writing, and math readiness, or professional education, or classroom management, or teaching assistance, or special education; or,

(3) obtain a passing score of at least seventy (70) percent on a test administered pursuant to Section 11 of 6.63.9 NMAC; or

(4) successfully demonstrate competency through a portfolio assessment administered pursuant to Section 12 of 6.63.9 NMAC.

[11-14-98; 6.63.9.9 NMAC - Rn, 6 NMAC 4.2.3.15.9, 03-31-01; N, 06-30-03; A, 06-30-06]

6.63.9.10 POST-JANUARY 8, 2002 LEVEL [HH] 3/PARAPROFES-SIONAL REQUIREMENTS:

EAs hired on or after January 8, 2002 who are assigned to work in a title I targeted assistance program or in a title I school-wide program under the act, must hold a level [HH] 3 license. Level [HH] 3 EAs shall be assigned and serve as assistants to school staff duly licensed by the [state board] PED. While there may be brief periods when EAs are alone with and in control of a classroom of students, their primary use shall be to work alongside or under the direct supervision of duly licensed staff.

A. A person hired on or after January 8, 2002 who seeks a level [HH] 3 educational assistant license, shall meet the following requirements:

(1) hold a high school diploma or equivalency; and

(2) be eighteen years of age; and

(3) provide certification from the public school superintendent, state supported school superintendent, charter school administrator or private school official that the educational assistant has satisfactorily completed an orientation session pertinent

to his or her assignment; and

(4) if the EA holds a level [H] 2 EA license, provide certification from the public school superintendent, state supported school superintendent, charter school administrator or private school official that the educational assistant has satisfactorily demonstrated the [state board's] PED's educational assistant competencies.

B. In addition to satisfying the requirements of Subsection A of 6.63.9.10 NMAC, a person hired on or after January 8, 2002 who seeks a level [H] 3 educational assistant license, shall meet the requirements of Paragraph (1) or Paragraph (2) or Paragraph (3) of Subsection B before being hired to work in a title I program:

(1) earn an associate degree from a nationally or regionally accredited college or university that includes at least 15 semester hours in non-remedial degree coursework, broken down as follows:

(a) 3 hours of language arts/reading or language arts/reading pedagogy;

(b) 3 hours of writing or writing pedagogy;

(c) 3 hours of mathematics or mathematics pedagogy;

(d) 6 hours of reading, writing, and math readiness, or professional education, or classroom management, or teaching assistance, or special education; or

(2) complete forty-eight (48) semester hours of academic credit awarded by a nationally or regionally accredited college or university that includes at least 12 semester hours in non-remedial coursework, broken down as follows:

(a) 3 hours of language arts/reading, or language arts/reading pedagogy;

(b) 3 hours of writing or writing pedagogy;

(c) 3 hours of mathematics or mathematics pedagogy;

(d) 6 hours of reading, writing, and math readiness, or professional education, or classroom management, or teaching assistance, or special education; or

(3) obtain a passing score of at least seventy (70) percent on a test administered pursuant to Section 11 of 6.63.9 NMAC.

[11-14-98; 6.63.9.10 NMAC - Rn, 6 NMAC 4.2.3.15.10, 03-31-01; N, 06-30-03; A, 06-30-06]

6.63.9.11 LOCAL DISTRICT TESTING TO OBTAIN LEVEL [H] 3 LICENSURE:

A. A local district shall develop or obtain a test for the purpose of determining if an EA/paraprofessional has demonstrated a knowledge of and ability to assist in instructing in reading/language arts, writing, and mathematics; or reading readiness, writing readiness, and mathematics readiness, provided that any such test

contains at a minimum:

(1) an assessment of basic skill in reading, writing, and mathematics at an 8th grade level as established in the New Mexico Content Standards and Benchmarks for Language Arts and Mathematics set forth in 6.30.2 NMAC; and

(2) an assessment of the ability to assist in instruction in reading, writing, and mathematics, which may include knowledge of professional education practices, or classroom management, or teaching assistance techniques, or special education, and

(3) a sufficient number of high quality, reliable test items that demonstrate that the test is a valid measure of competence and knowledge.

B. The state department of education is hereby authorized to approve a local district's EA test and shall approve such test provided that it contains at least each of the factors set forth in Subsection A of 6.63.9.11 NMAC.

C. Once approved as described in this section, a local district shall administer its EA test as frequently as it determines is necessary, under conditions ensuring test security.

D. The local district shall file a record of the candidate's test results with the [state board] PED along with the application for level [H] 3 EA licensure and shall maintain a documented record of the test results on file in the local district.

[11-14-98; 6.63.9.11 NMAC - Rn, 6 NMAC 4.2.3.15.11 & A, 03-31-01; N, 06-30-03; A, 06-30-06]

6.63.9.12 PORTFOLIO ASSESSMENT TO OBTAIN LEVEL [H] 3 LICENSURE PURSUANT TO PARAGRAPH (4) OF SUBSECTION B OF 6.63.9.9 NMAC:

A local district may administer portfolio assessment for the purpose of determining if an EA/paraprofessional has sufficient knowledge of, and the ability to assist in, instructing in reading/language arts, writing, and mathematics; or reading readiness, writing readiness, and mathematics readiness, or special education, provided that any such portfolio assessment shall at least require the use or demonstration of items from among the following:

A. lesson/unit plans, projects, samples of student work/portfolios, teaching aids, multi-media materials, and visuals;

B. evidence, which could include use of videotaped lessons, that the EA/paraprofessional understands the reading, writing, and mathematics concepts identified in New Mexico standards and benchmarks for the grade level at which he/she assists or intends to assist in instruction;

C. a copy of classroom

management plans, discipline referral forms, rules, photos, charts, posters, letters of appreciation from parents, certificates of achievement, completion of training certificates, case studies, observation reports;

D. evidence of ability to help students use instructional resources, hands-on materials, and technology;

E. a portfolio assessment under this section may be conducted by either:

(1) the principal of the school where the EA/paraprofessional is employed forming a portfolio assessment team of at least three (3) members, two of which must be licensed teachers, one chosen by the education assistant and the other named by the principal, and a licensed administrator agreed upon by the principal and EA/paraprofessional; or

(2) the EA/paraprofessional completing a class in EA portfolio preparation and assessment with a grade of "C" or better at a regionally or nationally accredited college or university.

F. The local district shall file a record of the candidate's portfolio assessment results with the [state board] PED along with the application for level [H] 3 EA licensure and shall maintain a documented record of the assessment results on file in the local district.

[6.63.9.12 NMAC - N, 06-30-03; A, 06-30-06]

6.63.9.13 IMPLEMENTATION:

A. Level [F] 1 licenses shall be issued for a maximum of three (3) years and may not be continued or renewed. Level [~~H and H~~] 2 and 3 licenses shall be issued for nine (9) years.

B. No EA assigned to work in a title I targeted assistance program or in a title I school-wide program under the act may continue to perform EA services in those programs without obtaining a level [H] 3 license. Failure to obtain a Level [H] 3 license while continuing to perform EA services in those programs shall constitute good and just cause to revoke or suspend that person's licensure.

C. An applicant who meets all of the requirements of level [H] 3 educational assistant licensure may be granted a level [H] 3 license without previously holding level [~~I or level H~~] 1 or level 2 licensure.

[6.63.9.13 NMAC - Rn & A, 6.63.9.9 NMAC, 06-30-03; A, 06-30-06]

6.63.9.14 CONTINUING LICENSURE:

A. Persons holding a level [F] 1 license may apply for a higher level of licensure any time during the maximum three (3) year level [F] 1 licensure period

provided all requirements for the higher level of licensure are satisfied.

B. Persons holding level ~~[H or level III]~~ 2 or level 3 licenses and seeking to continue such licensure may do so based upon verification by the public school superintendent or private school official that the holder has demonstrated the ~~[state board's]~~ PED's educational assistant competencies.

C. Persons holding level ~~[H]~~ 2 licenses may apply for level ~~[III]~~ 3 licensure provided all requirements for level ~~[III]~~ 3 licensure have been satisfied. [6.63.9.14 NMAC - Rn & A, 6.63.9.10 NMAC, 06-30-03; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.63.11 NMAC, Sections 1, 2, 3, 6, 8, and 9, effective 06-30-06. The Part Name was also changed.

PART 11 LICENSURE IN REHABILITATION COUNSELING, GRADES PRE K-12

6.63.11.1 ISSUING AGENCY: ~~[State Board of Education]~~ Public Education Department [6.63.11.1 NMAC - N, 12-14-00; A, 06-30-06]

6.63.11.2 SCOPE: All persons seeking licensure in rehabilitation counseling, grades pre k-12. [6.63.11.2 NMAC - N, 12-14-00; A, 06-30-06]

6.63.11.3 STATUTORY AUTHORITY: Sections 22-2-1, 22-2-2~~and~~, 22-10-3, NMSA 1978, and 22-10A-17 NMSA 1978. [6.63.11.3 NMAC - N, 12-14-00; A, 06-30-06]

6.63.11.6 OBJECTIVE: This rule is adopted by the ~~[state board of education]~~ public education department ("PED") for the purpose of establishing licensure requirements in rehabilitation counseling to ensure that qualified personnel are available to provide appropriate transition and rehabilitation services to students in New Mexico who need those services. Applicants awarded licensure in rehabilitation counseling under this rule may provide rehabilitation counseling services and assist in providing transition services and developing individualized education programs (IEPs) and similar plans and services for students in public and private schools, institutions and agencies. Public or private agencies that are unable to hire a licensed rehabilitation counselor may provide

required transition and rehabilitation counseling services to students through an alternate delivery system approved by the ~~[state superintendent of public instruction]~~ PED. [6.63.11.6 NMAC - N, 12-14-00; A, 06-30-06]

6.63.11.8 REQUIREMENTS: Persons seeking licensure in rehabilitation counseling pursuant to the provisions of this ~~[regulation]~~ rule shall meet the requirements of Subsections A, B, C, D or E of 6.63.11.8 NMAC.

A. Valid certificate as a certified rehabilitation counselor issued by the Commission on Rehabilitation Counselor Certification, 1835 Rohlwing Road, Suite E, Rolling Meadows, IL 60008.

B. Master's degree in rehabilitation counseling from a regionally accredited college or university. This requirement shall be satisfied by meeting the requirements of ~~[Subsections B(1) or B(2)]~~ Paragraphs (1) or (2) of Subsection B below.

(1) A master's degree awarded by a New Mexico college or university must incorporate the ~~[New Mexico state board of education's]~~ PED's approved competencies in rehabilitation counseling.

(2) A master's degree awarded by a college or university outside of New Mexico must be for a rehabilitation counseling program approved by the ~~[New Mexico state board of education]~~ PED.

C. Master's degree in school counseling, vocational counseling or other related field and the provisions of ~~[Subsection C(1) or C(2)]~~ Paragraphs (1) or (2) of Subsection C below

(1) one (1) year of experience in rehabilitation counseling, or

(2) fifteen (15) semester hours of credit in the rehabilitation counseling competency areas of vocational/transition assessment, medical aspects of disability, psychosocial and/or psycho-cultural aspects of disability, case management in rehabilitation counseling, issues and practices in rehabilitation counseling, or placement aspects of rehabilitation counseling.

D. Bachelor's degree in rehabilitation counseling from a regionally accredited college or university and one (1) year of experience in a public or private facility in which direct vocational rehabilitation counseling is the primary job responsibility. The degree requirement shall be satisfied by meeting the requirements of ~~[Subsections D(1) or D(2)]~~ Paragraphs (1) or (2) of Subsection D below.

(1) A bachelor's degree awarded by a New Mexico college or university must incorporate the ~~[New Mexico state board of education's]~~ PED's approved competencies in rehabilitation counseling.

(2) A bachelor's degree awarded

by a college or university outside of New Mexico must be for a rehabilitation program approved by the ~~[New Mexico state board of education]~~ PED.

E. Bachelor's degree in a related field and the provisions of ~~[Subsection E(1) or E(2)]~~ Paragraph (1) or (2) of Subsection E below.

(1) two (2) years of experience in a public or private facility in which direct vocational rehabilitation counseling is the primary job responsibility, or

(2) fifteen (15) semester hours of credit in the rehabilitation counseling competency areas of vocational/transition assessment, medical aspects of disability, psychosocial and/or psycho-cultural aspects of disability, case management in rehabilitation counseling, issues and practices in rehabilitation counseling, or placement aspects of rehabilitation counseling.

[6.63.11.8 NMAC - N, 12-14-00; A, 06-30-06]

6.63.11.9 REFERENCED MATERIAL: Competencies for entry-level rehabilitation counselors. The rehabilitation counselor will be able to:

A. provide those individualized and/or group services, which will assist in career development, employment preparation, self-determination development; vocational assessment, and integration in the workplace and community for all students;

B. demonstrate job development skills and address application of job modification assistance;

C. provide technical assistance to special education teachers in developing transition plans and implementing those plans;

D. provide program development at the high school and middle school level that supports transition planning and provides a continuum of career development activities from exploration through planning;

E. provide assistance with course selection and registration for middle school and high school students including special education students;

F. demonstrate strong leadership skills and teamwork through interagency collaboration; working with general education staff, vocational education staff, parents, students, employers, adult service providers and post secondary education representatives;

G. demonstrate knowledge of labor markets, post-secondary opportunities, curricula and materials that support the identification of student aptitudes, interests, preferences, and strengths;

H. participate in meetings of individualized educational program (IEP) teams that address transition require-

ments for students served under the Individuals with Disabilities Education Act (IDEA);

I. provide staff development in the area of transition for students with disabilities including training for students, employers, counselors, teachers, parents, and other service providers;

J. provide leadership in self-determination, including facilitating the participation of students in their own IEP team meetings;

K. work with the ~~[state department of education]~~ PED to ensure compliance with applicable state and federal regulations;

L. participate in professional development activities to maintain knowledge of preferred practices in rehabilitation counseling.

[6.63.11.9 NMAC - N, 12-14-00; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.63.14 NMAC, Sections 1, 2, and 7 through 10, effective 06-30-06. The Part Name was also changed.

PART 14 CERTIFICATION IN NATIVE AMERICAN LANGUAGE AND CULTURE, PRE K-12

6.63.14.1 ISSUING AGENCY: ~~[State Board of Education]~~ Public Education Department.

[6.63.14.1 NMAC - N, 9/30/03; A, 06-30-06]

6.63.14.2 SCOPE: All certified Native American language and culture teachers and all applicants for Native American language and culture teacher certification. This ~~[regulation]~~ rule governs standards and qualifications for those persons seeking initial or renewed certification as a Native American language and culture teacher.

[6.63.14.2 NMAC - N, 9/30/03; A, 06-30-06]

6.63.14.7 DEFINITIONS:

A. "Collaboration with the ~~[state board of education]~~ "secretary of education" means those Native American tribes and pueblos in New Mexico that have signed a memorandum of agreement with the ~~[state board of education (SBE)]~~ secretary of education.

B. "Tribe" means an Indian nation, tribe or pueblo located within New Mexico.

C. "Verifying in writing" means signing a memorandum of agreement as between a tribe or pueblo and the ~~[state board of education]~~ secretary of education.

[6.63.14.7 NMAC - N, 9/30/03; A, 06-30-06]

6.63.14.8 REQUIREMENTS:

A. Persons seeking level one certification (for three years) in Native American language and culture pursuant to the provisions of this rule shall meet the requirements established by each New Mexico Native American tribe and pueblo to determine an acceptable standard of competence and language proficiency to teach the language and culture.

B. Persons seeking level one certification in Native American language and culture pursuant to the provisions of this rule shall provide the professional certification unit with verification from a New Mexico Native American tribe or pueblo authority that the candidate has met the standards and criteria for competence and language proficiency to teach the language and culture. Such verification shall be provided on a form acceptable to the ~~[state department of education]~~ public education department ("PED").

C. Persons seeking certification in Native American language and culture pursuant to the provisions of this rule shall comply with all provisions of 6.60.7 NMAC [Educator Licensure Application Fee], 6.60.8 NMAC [Background Checks for Educator Licensure], the standards of professional conduct at 6.60.9.9 NMAC [Licensure Requirements, Code of Ethical Responsibility of the Education Profession], and the Parental Responsibility Act, Sections 40-5A-1 to 40-5A-13, NMSA 1978.

D. Holders of the certificate in Native American language and culture, pre K-12 may not use this certificate to provide instruction in any other subject matter or discipline, unless they hold a valid ~~[state board of education]~~ PED license authorizing them to provide such instructional services.

E. Persons denied certification required by this rule who desire a hearing pursuant to the Uniform Licensing Act, Sections 61-1-1 through 61-1-33, NMSA 1978, must first exhaust the procedures set forth in a memorandum of agreement with the applicable tribe or pueblo.

[6.63.14.8 NMAC - N, 9/30/03; A, 06-30-06]

**6.63.14.9 STANDARDS FOR
COMPETENCE AND LANGUAGE
PROFICIENCY:**

A. Each New Mexico

Native American tribe and pueblo in collaboration with the ~~[state board of education]~~ PED in certifying Native American language and culture teachers, shall develop standards and criteria for determining competency for initial certification and renewal of certification, and shall verify in writing to the ~~[state board of education]~~ PED that these standards and criteria have been developed and that they are maintained on file with the certifying community, tribe or pueblo.

B. Each New Mexico Native American tribe and pueblo in collaboration with the ~~[state board of education]~~ PED in certifying Native American language and culture teachers, shall develop and consistently use a process for determining if candidates for the initial or continuing certification for Native American language and culture have met the standards of competence and language proficiency required for certification and shall verify in writing to the ~~[state board of education]~~ PED that the process has been developed and is the sole basis for determining language and culture competence, and that a description of the process is maintained on file with the certifying tribe or pueblo.

[6.63.14.9 NMAC - N, 9/30/03; A, 06-30-06]

**6.63.14.10 RENEWAL OF CER-
TIFICATION IN NATIVE AMERICAN
LANGUAGE AND CULTURE, PRE K-**

12: A level two certificate (for nine years) may be issued upon verification that the Native American language and culture teacher satisfactorily completed renewal activities required, authorized, and verified by the authority of the Native American tribe and pueblo, and that the renewal process was carried out in collaboration with the superintendent of the employing school district.

[6.63.14.10 NMAC - N, 9/30/03; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.63.15 NMAC, Section 2, effective 06-30-06. The Part Name was also changed.

PART 15 LICENSURE FOR SCHOOL HEALTH ASSISTANTS, GRADES PRE K-12

6.63.15.2 SCOPE: This rule governs licensure for school health assistants, grades pre k-12, for those persons seeking such licensure.

[6.63.15.2 NMAC - N, 05-28-04; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.64.2 NMAC, Sections 1, 6, 8, and 10, effective 06-30-06.

6.64.2.1 ISSUING AGENCY: [~~State Board of Education~~] Public Education Department [07-15-99; 6.64.2.1 NMAC - Rn, 6 NMAC 4.7.1.1.1, 10-31-01; A, 06-30-06]

6.64.2.6 OBJECTIVE: This [~~regulation~~] rule is adopted by the [~~state board of education (hereinafter the "state board")~~] public education department ("PED") for the purpose of establishing entry-level language arts competencies that are based on what beginning language arts teachers must know and be able to do to provide effective language arts programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks for language arts and with the national standards of the national council of teachers of English. [07-15-99; 6.64.2.6 NMAC - Rn, 6 NMAC 4.7.1.1.6, 10-31-01; A, 06-30-06]

6.64.2.8 REQUIREMENTS:

A. Beginning teachers seeking an endorsement in language arts to an initial level [H] 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in [~~state board of education~~] PED rule for that license, which includes, among other requirements, 24-36 semester hours in language arts and passage of a content area test in language arts.

B. Teachers seeking to add an endorsement in language arts to an existing New Mexico teaching license of any level where the candidate has [~~less than five full academic~~] fewer than two full school years of teaching experience, shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments as provided in 6.60.5.8 NMAC, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state in language arts; or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major, or a graduate degree in language arts; or

(3) obtain certification in language arts for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

C. Persons seeking to add

an endorsement in language arts to an existing New Mexico teaching license of any level where the candidate has at least [~~five full academic~~] two full school years of teaching experience, may do so by meeting the requirements of Paragraphs (1), (2) or (3) of Subsection B of 6.64.2.8 NMAC, or by demonstrating the teaching competencies for entry level language arts teachers as provided in 6.64.2.9 NMAC through the state's high objective uniform statewide standard of evaluation [~~(HOUSE)~~] (HOUSSE) for demonstrating competence in the core academic subjects and other endorsement areas as set forth in 6.69.4.9 NMAC.

[07-15-99; 6.64.2.8 NMAC - Rn, 6 NMAC 4.7.1.1.8, 10-31-01; A, 09-30-03; A, 06-30-06]

6.64.2.10 IMPLEMENTATION:

Institutions of higher education that prepare teachers shall deliver the competencies in a [~~state board~~] PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit twelve (12) semester hours of which must be upper division credit.

[07-15-99; 6.64.2.10 NMAC - Rn, 6 NMAC 4.7.1.1.10, 10-31-01; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.64.3 NMAC, Sections 1, 6, and 8 through 10 effective 06-30-06.

6.64.3.1 ISSUING AGENCY: [~~State Board of Education~~] Public Education Department

[07-15-99; 6.64.3.1 NMAC - Rn, 6 NMAC 4.7.1.2.1, 10-31-01; A, 06-30-06]

6.64.3.6 OBJECTIVE: This [~~regulation~~] rule is adopted by the [~~state board of education (hereinafter the "state board")~~] public education department ("PED") for the purpose of establishing entry-level reading competencies that are based on what beginning reading teachers must know and be able to do to provide effective reading programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks for reading and with the national standards of the international reading association.

[07-15-99; 6.64.3.6 NMAC - Rn, 6 NMAC 4.7.1.2.6, 10-31-01; A, 06-30-06]

6.64.3.8 REQUIREMENTS:

A. Beginning teachers seeking an endorsement in reading to an ini-

tial level [H] 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in [~~state board of education~~] PED rule for that license, which includes, among other requirements, 24-36 semester hours in the teaching of reading and passage of a content area test in the teaching of reading.

B. Teachers seeking to add an endorsement in the teaching of reading to an existing New Mexico teaching license of any level where the candidate has [~~less than five full academic~~] fewer than two full school years of teaching experience shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments as provided in 6.60.5.8 NMAC, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state in reading; or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major or a graduate degree in the teaching of reading; or

(3) obtain certification in reading for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

C. Persons seeking to add an endorsement in reading to an existing New Mexico teaching license of any level where the candidate has at least [~~five full academic~~] two full school years of teaching experience, may do so by meeting the requirements of Paragraphs (1), (2) or (3) of Subsection B of 6.64.3.8 NMAC, or by demonstrating the teaching competencies for entry level reading teachers as provided in 6.64.3.9 NMAC through the state's high objective uniform statewide standard of evaluation [~~(HOUSE)~~] (HOUSSE) for demonstrating competence in the core academic subjects and other endorsement areas as set forth in 6.69.4.9 NMAC.

[07-15-99; 6.64.3.8 NMAC - Rn, 6 NMAC 4.7.1.2.8, 10-31-01; A, 09-30-03; A, 06-30-06]

6.64.3.9 COMPETENCIES FOR ENTRY-LEVEL READING TEACHERS:

A. Philosophy of reading instruction

(1) Reading as a complex, interactive, and constructive process.

(a) Recognizes the importance of teaching reading as a balanced process incorporating skills and strategies in a meaningful context.

(b) Recognizes the importance of using a wide variety of print throughout the curriculum, including high-quality children's/adolescent literature and diverse expository materials appropriate to the age

and developmental level of learners.

(c) Has knowledge of current and historical perspectives about the nature and purposes of reading and about widely used approaches to reading instruction.

(d) Recognizes and appreciates the role and value of language, language diversity, and culture in the reading and learning processes.

(e) Recognizes the importance of embedding reading instruction in a meaningful context for the purpose of accomplishing specific, authentic tasks or for pleasure.

(f) Recognizes the value of reading aloud to learners.

(g) Recognizes the influence and value of family in reading development.

(2) Professionalism

(a) Pursues knowledge of reading, learning processes, and other key educational developments by reading professional journals and publications and participating in conferences and other professional activities such as technology, bilingualism and multiculturalism.

(b) Uses what is learned through professional inquiry and reflection to improve teaching and assessment techniques.

(c) Interacts and participates in decision making with teachers, teacher educators, parents, and researchers and plays an active role in schools, classrooms, and the wider professional community.

(d) Supports and participates in efforts to improve the reading profession by being knowledgeable about licensure, certification, and other professional issues.

(e) Participates in local, state, national, and international professional organizations whose mission is the improvement of literacy.

(f) Promotes collegiality with other literacy professionals through regular conversations, discussions, and consultations about learners, literacy theory, and instruction.

(g) Shares knowledge, collaborates, and teaches with colleagues, across the full range of school and educational programs.

(3) Moral dimensions and values

(a) Recognizes the importance of literacy as a mechanism for personal and social growth.

(b) Recognizes that literacy can be a means for transmitting moral and cultural values within a community.

(c) Recognizes values, and is sensitive to human diversity.

(d) Recognizes and is sensitive to the needs and rights of individual learners.

(4) Perspectives about readers and reading

(a) Understands and accepts the importance of reading as a means to learn,

to access information, and to enhance the quality of life.

(b) Understands and is sensitive to differences among learners and how these differences influence reading.

(c) Understands and respects cultural, linguistic, and ethnic diversity and recognizes the positive contributions of diversity.

(d) Understands importance of integrated community and school efforts in meeting the needs of diverse learners.

(e) Understands the importance of making reading relevant to the learners' lives.

(f) Believes that all students can learn to read and share in the communication process.

(g) Recognizes the importance of using reading in positive ways in the classroom.

(h) Recognizes the value and importance of creating a supportive and positive environment for literacy learning.

(i) Recognizes the importance of providing learners opportunities in all aspects of literacy.

(j) Recognizes the importance of implementing literacy programs designed to meet the needs of the students.

(k) Recognizes the importance of building on the strengths of individual learners.

(5) Language development, cognition, and learning

(a) Understands that language is a symbolic system.

(b) Understands and uses major theories of language development, cognition, and learning and uses them in a well-planned and comprehensive reading program.

(c) Is aware of the linguistic, sociological, cultural, cognitive, and psychological bases of the reading process.

(d) Is aware of the impact of physical, emotional, social, cultural, environmental, and intellectual factors on learning, language development, and reading.

(e) Recognizes dialect variations and respects linguistic differences.

(6) Knowledge of the reading process

(a) Perceives reading as the process of constructing meaning through the interaction of the reader's existing knowledge, the information suggested by the written language, and the context of the reading situation.

(b) Understands the spectrum of the pre K-12 reading process and how to effectively address the needs of learners of different ages.

(c) Uses the relationships among reading, writing, listening, and speaking to reinforce learning.

(d) Has knowledge of develop-

mentally appropriate practices that support emergent literacy, particularly of diverse learners.

(e) Is aware that reading develops best through activities that embrace concepts about the purpose and function of reading and writing and the conventions of print.

(f) Is able to explain and model the various word recognition, vocabulary, and comprehension strategies used by fluent readers.

(g) Understands the role of metacognition in reading.

(h) Has knowledge of the importance of reading for language development; listening ability; cognitive, social, and emotional development; and perceptual motor abilities.

(i) Understands the nature and multiple causes of reading disabilities.

(j) Understands the relationship of phonemic, morphemic, and semantic syntactic systems of language to the reading process.

(7) A literate environment

(a) Promotes the development of a literate environment that fosters interest and growth in all aspects of literacy.

(b) Uses texts to stimulate interest, promote reading growth, foster appreciation for the written word, and increase the motivation of learners to read widely and independently for information and for pleasures.

(c) Models and discusses reading as a valuable activity.

(d) Engages students in activities that develop their image of themselves as literate.

(e) Promotes feelings of pride and ownership for the process and content of reading.

(f) Provides regular opportunities for learners to select from and be exposed to a wide variety of books or other quality written materials.

(g) Provides opportunities for students to be exposed to various purposes for reading/writing, to experience reading/writing as relevant to themselves, and to write and have their writing responded to in a positive way.

(h) Recognizes the importance of providing time for reading of extended text for authentic purposes.

(i) Provides opportunities for students to respond personally, analytically, and critically to a variety of texts.

B. Organization of effective instruction

(1) Knowledge of contextual factors

(a) Understands that all students have the ability to learn to read and that certain conditions are necessary for this to happen.

(b) Understands how factors such as content, purpose, tasks, and settings influence the reading process.

(c) Provides flexible grouping based on students' instructional levels, rates of progress, interests, or instructional goals.

(d) Understands how assessment and grouping procedures can influence motivation and learning.

(e) Understands the relationship between environmental factors, cultural factors and students' performance on measures of reading achievement.

(f) Understands the relationship home factors, social factors, cultural factors, and reading habits have in students' performance.

(g) Understands the influence of school programs (e.g., remedial, gifted, tracking) on students' learning.

(2) Knowledge of individual differences (possesses strategies to deal with differences)

(a) Understands what the reader brings to the reading experience (e.g., prior knowledge, metacognitive abilities, aptitudes, motivation, attitude, etc.).

(b) Understands the influence of cultural, ethnic, and linguistic backgrounds on the reading process.

(c) Understands the relationship among reader's self-concept, attitudes, and learning.

(d) Understands the interactive nature and multiple causes of reading difficulties.

(3) Knowledge of instructional materials

(a) Understands how to design, select, modify, and evaluate materials that reflect curriculum goals, current knowledge, and the interests, motivation, and needs of individual learners.

(b) Has a thorough understanding of literature for children and young adults, including multicultural literature.

(c) Understands the structure and content of various texts used for instruction.

(d) Understands and uses new instructional technologies.

(e) Understands methods for determining whether materials are clear and appropriate for individual students.

C. Knowledge of instructional strategies

(1) Teaching strategies

(a) Understands the importance of using a balanced approach to the teaching of reading that integrates the full range of effective instructional strategies.

(b) Has a thorough understanding of phonics including effective strategies for teaching sounds, blends, digraphs, diphthongs and other key aspects of reading.

(c) Has a thorough understanding of comprehension including effective strate-

gies for teaching the use of background knowledge, summarizing, prediction, synthesizing and other key aspects of reading.

(d) Has a thorough understanding of children's literature including strategies for teaching children to use language and literature to gain insight into their own and others' lives, to build understanding of moral and aesthetic dimensions of human experience and other key aspects of reading.

(e) Understands the importance of modeling reading for children including strategies for oral reading, questioning strategies, reading for pleasure, and reading for understanding.

(f) Provides direct instruction and models what, when, and how to use reading strategies with narrative and expository texts.

(g) Uses strategies to encourage and motivate students to pursue and respond to reading and writing for personal growth and fulfillment.

(h) Teaches effective study strategies.

(2) Learning strategies

(a) Helps students learn and apply comprehension strategies for a variety of purposes.

(b) Helps students monitor their comprehension and reading processes.

(c) Understands and helps students learn and apply reading comprehension strategies in the content areas.

(d) Helps students gain understanding of the conventions of language and literacy.

(e) Teaches word recognition through the use of phonics, contextual analysis, word analysis, and syntactic cueing strategies.

(f) Helps students learn that word recognition strategies aid comprehension.

(g) Helps students learn effective techniques and strategies for the ongoing development of vocabulary.

(h) Helps students analyze information presented in a variety of texts including narratives, expository, practical and technical documents.

(i) Helps students connect prior knowledge with new information.

(j) Assists students in becoming self-sufficient and independent readers.

(k) Helps students use new technology and media effectively.

(3) Demonstrate knowledge of assessment principles and techniques

(a) Recognizes that a critical goal of assessment is to help the student become a more reflective and self-sufficient learner.

(b) Recognizes assessment as an ongoing and indispensable part of reflective teaching and learning.

(c) Recognizes and understands that assessment must take into account the

complex nature of reading, writing, and language, and must be based on a range of authentic literacy tasks using a variety of texts.

(d) Is able to conduct assessments that involve multiple measures over time and in different contexts.

(e) Uses information from norm-referenced tests, criterion-referenced tests, formal and informal inventories, constructed-response measures, portfolio-based assessment, observations, anecdotal records, journals, and other indicators of students' progress as basis for instruction.

(f) Recognizes and understands the importance of using meaningful assessment to improve curriculum and instruction.

(4) Communicate information about reading

(a) Communicates effectively with students, parents, teachers, and support personnel about strengths and areas that need improvement.

(b) Able to communicate to parents important information about the developmental nature of reading and expectations for achievement.

(c) Understands how to involve parents in cooperative efforts and programs to help students with reading development.

(d) Communicates information about reading programs to administrators, staff members, school board members, parents, and the community.

(e) Effectively communicates information and data about reading to the media, policymakers, and the general public.

(f) Interprets and communicates research findings related to the improvement of instruction to colleagues and the wider community.

(g) Communicates with allied professionals in assessing and planning instruction.

D. Planning and enhancing programs

(1) Curriculum and development

(a) Initiates and participates in ongoing curriculum development and assessment.

(b) Adapts programs to the needs of different learners to accomplish different purposes.

(c) Is able to coordinate and support all services associated with reading programs.

(d) Understands and uses multiple indicators of curriculum effectiveness.

(e) Is able to evaluate adoption materials and other instructional materials in order to best support and develop a balanced curriculum.

(2) Professional development

(a) Engages in an ongoing program of personal professional development.

(b) Has a knowledge of resources, organizations, web sites and other sources that provide opportunities and support for professional development.

(c) Incorporates what is learned from personal professional development into the classroom and is able to share this information with others.

(d) Facilitates an inclusive approach to professional development by respecting and appreciating each participant's potential contributions.

(e) Provides professional development experiences that effectively meet and are appropriate for school needs.

(f) Understands and uses multiple indices of professional growth.

(3) Research

(a) Initiates, participates in, or applies research on reading.

(b) Reads or conducts research within a range of methodologies (e.g., ethnographic, descriptive, experimental, or historical).

(c) Promotes and facilitates teacher-and-classroom-based research.

(d) Is a knowledgeable consumer of research.

(4) Reading instruction in New Mexico

(a) Is knowledgeable about the New Mexico Standards of Excellence, including goals for all students, educational plan for student success, and the content standards with benchmarks for pre K-12.

(b) Is knowledgeable about current policy and legislation that affects reading.

[07-15-99; 6.64.3.9 NMAC - Rn, 6 NMAC 4.7.1.2.9, 10-31-01; A, 06-30-06]

6.64.3.10 IMPLEMENTATION:

Institutions of higher education that prepare teachers shall deliver the competencies in a ~~[state board]~~ PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit twelve (12) semester hours of which must be upper division credit.

[07-15-99; 6.64.3.10 NMAC - Rn, 6 NMAC 4.7.1.2.10, 10-31-01; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.64.4 NMAC, Sections 1, 6, 8, and 10, effective 06-30-06.

6.64.4.1 ISSUING AGENCY:

~~[State Board of Education]~~ Public Education Department

[07-15-99; 6.64.4.1 NMAC - Rn, 6 NMAC 4.7.1.3.1, 10-31-01; A, 06-30-06]

6.64.4.6 OBJECTIVE: This

~~[regulation] rule~~ is adopted by the ~~[state board of education (hereinafter the "state board")]~~ public education department ("PED") for the purpose of establishing entry-level mathematics competencies that are based on what beginning mathematics teachers must know and be able to do to provide effective mathematics programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks for mathematics and with the national standards of the national council of teachers of mathematics.

[07-15-99; 6.64.4.6 NMAC - Rn, 6 NMAC 4.7.1.3.6, 10-31-01; A, 06-30-06]

6.64.4.8 REQUIREMENTS:

A. Beginning teachers seeking an endorsement in mathematics to an initial level ~~[H]~~ 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in ~~[state board of education]~~ PED rule for that license, which includes, among other requirements, 24-36 semester hours in mathematics and passage of a content area test in mathematics.

B. Teachers seeking to add an endorsement in mathematics to an existing New Mexico teaching license of any level where the candidate has ~~[less than five full academic]~~ fewer than two full school years of teaching experience, shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments as provided in 6.60.5.8 NMAC, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state in mathematics; or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major or a graduate degree in mathematics; or

(3) obtain certification in mathematics for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

C. Persons seeking to add an endorsement in mathematics to an existing New Mexico teaching license of any level where the candidate has at least ~~[five full academic]~~ two full school years of teaching experience, may do so by meeting the requirements of Paragraphs (1), (2) or (3) of Subsection B of 6.64.4.8 NMAC, or by demonstrating the teaching competencies for entry level mathematics teachers as provided in 6.64.4.9 NMAC through the state's high objective uniform statewide standard of evaluation ~~[HOUSE]~~ (HOUSSE) for demonstrating competence in the core academic subjects and other endorsement areas as set forth in 6.69.4.9 NMAC.

[07-15-99; 6.64.4.8 NMAC - Rn, 6 NMAC 4.7.1.3.8, 10-31-01; A, 09-30-03; A, 06-30-06]

6.64.4.10 IMPLEMENTATION:

Institutions of higher education that prepare teachers shall deliver the competencies in a ~~[state board]~~ PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit twelve (12) semester hours of which must be upper division credit.

[07-15-99; 6.64.4.10 NMAC - Rn, 6 NMAC 4.7.1.3.10, 10-31-01; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.64.5 NMAC, Sections 1, 6, and 8 through 10, effective 06-30-06.

6.64.5.1 ISSUING AGENCY:

~~[State Board of Education]~~ Public Education Department

[01-14-00; 6.64.5.1 NMAC - Rn, 6 NMAC 4.7.1.4.1, 07-31-01; A, 06-30-06]

6.64.5.6 OBJECTIVE: This

~~[regulation] rule~~ establishes entry-level science competencies that are based on what beginning science teachers must know and be able to do to provide effective science programs in New Mexico schools. These competencies ~~[should]~~ shall be incorporated into all college or university curricula for persons seeking a science endorsement to their state educator license. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks for science and with the national standards of the national science teachers association. In addition, the national science education standards developed by national research council and the American association for the advancement of science benchmarks were used as guidelines for the development of the entry-level science competencies.

[01-14-00; 6.64.5.6 NMAC - Rn, 6 NMAC 4.7.1.4.6 & A, 07-31-01; A, 06-30-06]

6.64.5.8 REQUIREMENTS:

A. Beginning teachers seeking an endorsement in science to an initial level ~~[H]~~ 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in ~~[state board of education]~~ public education department ("PED") rule for that license, which includes, among other requirements, 24-36 semester hours in science and passage of a content area test in science.

B. Teachers seeking to add an endorsement in science to an existing

New Mexico teaching license of any level where the candidate has [~~less than five full academic~~] fewer than two full school years of teaching experience shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments as provided in 6.60.5.8 NMAC, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state in science; or
 (2) successfully complete an undergraduate academic major 24-36 semester hours, or coursework-equivalent to an undergraduate major or a graduate degree in science; or

(3) obtain certification in science for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

C. Persons seeking to add an endorsement in science to an existing New Mexico teaching license of any level where the candidate has at least [~~five full academic~~] two full school years of teaching experience, may do so by meeting the requirements of Paragraphs (1), (2) or (3) of Subsection B of 6.64.5.8 NMAC, or by demonstrating the teaching competencies for entry level science teachers as provided in 6.64.5.9 NMAC through the state's high objective uniform statewide standard of evaluation [~~(HOUSE)] (HOUSSE)~~ for demonstrating competence in the core academic subjects and other endorsement areas as set forth in 6.69.4.9 NMAC. [01-14-00; 6.64.5.8 NMAC - Rn, 6 NMAC 4.7.1.4.8 & A, 07-31-01; A, 09-30-03; A, 06-30-06]

6.64.5.9 COMPETENCIES FOR ENTRY-LEVEL SCIENCE TEACHERS:

A. Instruction and assessment: Preparation to teach science shall involve:

(1) Inquiry, including the scientific method

(a) Select and use a variety of instructional strategies and materials for teaching science meeting the needs of all students.

(b) Implement active inquiry based learning activities conducive to the development of scientific processes, critical thinking skills, and problem solving skills.

(c) Implement design technology/scientific method: identify a problem; propose a solution; implement proposed solutions; evaluate product or design; communicate a problem, design, and solution.

(d) Implement technology, including computers, interactive video, telecommunication, scientific instrumentation, and others.

(2) Content integration

(a) Develop student understanding of the interconnectedness of the sciences and relate the major concepts of chemistry, earth and space science, physics, and biology to the teaching of science.

(b) Develop meaningful application of all content areas, including math, technology, language arts, social studies, and arts, in the delivery of science instruction.

(3) Designing and managing learning environment

(a) Fulfill the professional and legal obligations of teaching.

(b) Incorporate the proper use of science tools, materials, media, and technological resources.

(c) Establish and maintain safety in all areas related to science instruction.

(d) Use and care for living organisms in an ethical and appropriate manner.

(4) Effective and ongoing assessment to improve student learning

(a) Use assessment techniques such as performance testing, interviews, portfolios, and observations, for assessing student outcomes which are aligned with instruction and consistent with contemporary assessment.

(b) Use assessment tasks which may be appropriately modified to accommodate the needs of students with physical disabilities, learning disabilities, limited English proficiency, and cultural diversity.

B. History and nature of science: Preparation to teach science shall include:

(1) Diversity and human endeavor

(a) Describe science careers and reasons why people choose science as a career, including the impact of culture, gender, and other, factors.

(b) Describe the science contributions of people from a variety of social and ethnic backgrounds who have diverse interests, talents, qualities, and motivations.

(c) Develop student understanding of the relationships among science, technology, and cultural values.

(d) Recognize and respond to student diversity and encourage all students to participate fully in science learning.

(2) Empirical observation
 (a) Explain that science distinguishes itself from other bodies of knowledge through the use of empirical standards, logical argument, and skepticism.

(b) Explain that scientific ideas depend on experimental and observational confirmation.

(3) Historical perspectives

(a) Understand that the body of scientific knowledge is continually being expanded and refined.

(b) Explain how theories and

ideas throughout the history of science are refined or discarded as new evidence becomes available.

(c) Explain how western, non-European, and New Mexican cultures have developed scientific ideas and contributed to scientific knowledge.

C. Content categories: The following areas are designed to allow potential science teachers to construct their pre-service education with an emphasis in one content area, while insuring they receive science education in any area which they might be required to teach. Preparation to teach science shall enable the teacher to understand and be able to teach within at least one of these emphases:

(1) Life science emphasis: All science teachers, grades pre K-12 will be able to identify and understand the relationship among major concepts and principles of biology, including anatomy, physiology, ecology, behavior of organisms, evolution, genetics, cell biology, microbiology, classification, and human biology.

(a) Teachers know and understand the characteristics that are the basis for classifying organisms.

(i) Teachers for grades K-4 will demonstrate an awareness of living things including basic cellular functions and processes, structures, the roles of organisms in systems comprised of living and non-living components and describe life cycles of plants and animals.

(ii) Teachers for grades 5-8 will use information about functions and cell structures to explain replication, reproduction, heredity, and disease, and categorize organisms based on methods of reproduction and offspring development.

(iii) Teachers for grades 9-12 will apply information about cell structures and functions to the world in which they live including understanding of DNA, RNA, natural selection processes, and diversity in plants and animals and use biological classifications to understand how organisms are related.

(b) Teachers will know and understand the synergy among organisms and the environments of organisms.

(i) Teachers for grades K-4 will explain how an organism's behavior is related to its physical environment; describe the roles of plants and animals in the flow of energy; describe how environmental pressures may accelerate changes in organisms; describe populations, communities, and systems; describe the impact humans have on the environment; understand natural resources (renewable versus non-renewable) and how each relates to humans' basic needs, and describe elements essential to good health.

(ii) Teachers for grades

5-8 will understand organisms' physical and behavioral adaptations and how changes occur over time; describe how organisms meet their needs, grow, and reproduce while sustaining stable local surroundings within an ever-changing larger environment; predict organisms' behaviors that may result from external stimuli; use information about variation and diversity to explain population changes over time; categorize organisms based on their roles within the ecosystem in which they live; examine the impact humans have on the living and non-living world including issues related to overpopulation; illustrate the relationships among renewable and non-renewable resources and population, and model responsible health practices including issues relating to nutrition and exercise.

(iii) Teachers for grades 9-12 will explain cellular responses to environmental threats to the organism ranging from the production of antibodies to changes in coloration; understand the pathways of energy within a living organism; predict an organism's behavioral responses to internal and external changes and to external stimuli as a function of inherited and acquired characteristics; create models that mimic a population's response to internal and external environment pressures; predict the impact humans might have on a species or system including resource depletion and over population, and interpret the relationships between personal choices and health.

(2) Physical science emphasis: All science teachers, grades pre K-12, will be able to identify and understand the relationships among chemistry concepts including organic, inorganic, analytical, physical, and biochemical and identify and understand the relationships among physical concepts including mechanics, electricity, magnetism, thermodynamics, waves, optics, atomic, and nuclear physics.

(a) Teachers will be able to know and understand the properties of matter.

(i) Teachers for grades K-4 will describe the observable properties of common items and substances and explain that elements are the basic units of all matter.

(ii) Teachers for grades 5-8 will identify the properties of elements and compounds such as density, boiling point, and solubility and that these characteristics are independent of amount of the sample and articulate that chemical reactions occur in a predictable fashion and that the formation of compounds adheres to imperatives as conservation of matter.

(iii) Teachers for grades 9-12 will compare and contrast elements and compounds based upon the knowledge of the atomic/subatomic structures of matter and predict how atoms interact based upon

sharing or transference of outer electrons.

(b) Teachers will know and understand the properties of fields, forces, and motion.

(i) Teachers for grades K-4 will describe how an object may be described with regard to its relative position to other objects; explain that an object's motion may be described by indicating change over time and describe how the earth's gravity pulls objects toward it.

(ii) Teachers for grades 5-8 will illustrate how Newton's Laws describe objects in motion; describe quantitatively how an object's position, speed and motion explain motion and compare and contrast forces affecting the physical world.

(iii) Teachers for grades 9-12 will apply knowledge of the constancy of energy in the universe and the forms that energy take in daily life; predict the motion of an object based on the net applied force applied to the object and explain and graphically describe that a specific mass exerts a force on others masses (velocity and acceleration).

(c) Teachers will know and understand the concepts of energy and energy transformation.

(i) Teachers in grades K-4 will describe the basic characteristics of light, heat, sound, and electromagnetism, and explain that energy exists in many forms and can be transformed and describe the process of chemical reactions and how time is a factor in chemical reactions.

(ii) Teachers in grades 5-8 will apply knowledge of energy and energy transformation to science problems; explain how chemical reactions can take place over periods of time and explain how concentration, pressure, temperature, and catalysts may affect chemical reactions.

(iii) Teachers in grades 9-12 will demonstrate their understanding of energy by identifying examples of transformations within and outside the school environment and devise scientific investigations demonstrating the impact of temperature and other variables on chemical reactions.

(3) Earth and space science emphasis: All science teachers, grades pre K-12, will know and understand properties of earth and space science.

(a) Teachers in grades K-4 will describe the physical and chemical properties of earth's materials and the states of matter; describe the uses of earth's materials as resources and the sun as the major source of energy; describe changes in the earth's surface; describe changes in weather; recognize that fossils provide a record of animals and plants that lived long ago; represent the school and local community using symbols and maps; describe basic components of and movements within the solar system;

identify the types of instruments and vehicles used for space exploration and describe human's movement toward space from early observations to recent explorations.

(b) Teachers in grades 5-8 will explain how earth's materials can be transformed from one state to another; experiment with earth's materials using them as resources; model natural resources that shape the earth's surface; observe, measure, and record weather changes; explain how fossils are formed and how fossils provide evidence of complexity and diversity over time; use rectilinear coordinate systems such as latitude and longitude to locate points on the earth's surface; describe the interactions among the earth's lithosphere, hydrosphere, atmosphere, and biosphere; explain simple data derived from recent remote and direct observations in the solar system and space beyond; model the predictable patterns of the sun and planets in the solar system and cite benefits from continued exploration of space.

(c) Teachers in grades 9-12 will evaluate information about earth's materials, energy, and geochemical cycles; model the interaction between the earth's internal and external energy sources; use tectonic theory to predict changes in the earth's surface; model weather patterns and other natural cycles related to the movement of matter driven by the earth's internal and external sources of energy; use fossil and other evidence to investigate how the earth changes; extend mapping techniques to learning in science and other content areas; explain the evolution of earth in terms of the interactions among the geosphere, hydrosphere, atmosphere, and biosphere; model interactions between components of the earth based on the understanding of the earth as a system containing a fixed amount of each stable chemical or element; trace the development of space exploration and discuss how recent missions impact understanding of the earth; evaluate the hierarchy of structures in the universe from atoms to galaxies and identify the pros and cons of various scientific theories for the origin of the universe based on scientific evidence.

(4) Environmental science emphasis: All science teachers, grades pre K-12, will be able to identify and apply major concepts of environmental science such as ecosystems, energy flow, population ecology, natural resources, meteorology, geology, oceanography, and conservation.

D. Environmental, personal and social implications: Preparation to teach science shall enable teachers to understand and be able to teach:

(1) personal, community, New Mexico and global environmental issues;

(2) the approaches to evaluate the ethical implications of new developments in science;

(3) personal and community health issues;

(4) decision-making and value-analysis skills for investigating science-related societal problems;

(5) ethical use and care of living organisms.

E. **Professionalism:** Teacher education programs shall develop reflective practitioners who:

(1) foster in their students scientific interest and curiosity;

(2) participate in professional scientific organizations;

(3) serve as representatives of the scientific community;

(4) engage students in coherent, focused, student centered science curriculum, consistent with state and national standards;

(5) identify and use a variety of community resources including local expertise, industry, local environmental settings, and families;

(6) take advantage of collaborative planning among colleagues, scientists, and science teacher educators, so that science, science methods, and other program components are mutually reinforcing;

(7) explore and evaluate the process of curriculum and instructional implementation.

[01-14-00; 6.64.5.9 NMAC - Rn, 6 NMAC 4.7.1.4.9 & A, 07-31-01; A, 06-30-06]

6.64.5.10 IMPLEMENTATION: Institutions of higher education that prepare teachers shall deliver the competencies in a ~~[state board]~~ PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit, twelve (12) semester hours of which must be upper division credit. [01-14-00; 6.64.5.10 NMAC - Rn, 6 NMAC 4.7.1.4.10 & A, 07-31-01; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.64.7 NMAC, Sections 1, 6, and 8 through 10 effective 06-30-06.

6.64.7.1 ISSUING AGENCY: ~~[State Board of Education]~~ Public Education Department [07-15-99; 6.64.7.1 NMAC - Rn, 6 NMAC 4.7.1.6.1, 10-31-01; A, 06-30-06]

6.64.7.6 OBJECTIVE: This ~~[regulation]~~ rule is adopted by the ~~[state board of education (hereinafter the "state board")]~~ public education department ("PED") for the purpose of establishing

entry-level health education competencies that are based on what beginning health education teachers must know and be able to do to provide effective health education programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks for health education and with the national standards of the American alliance for health, physical education, recreation and dance.

[07-15-99; 6.64.7.6 NMAC - Rn, 6 NMAC 4.7.1.6.6, 10-31-01; A, 06-30-06]

6.64.7.8 REQUIREMENTS:

A. Beginning teachers seeking an endorsement in health education to an initial level ~~[4]~~ 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in ~~[state board of education]~~ PED rule for that license, which includes, among other requirements, 24-36 semester hours in health or health education.

B. Teachers seeking to add an endorsement in health education to an existing New Mexico teaching license of any level where the candidate has ~~[less than five full academic]~~ fewer than two full school years of teaching experience, shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments if provided in 6.60.5.8 NMAC, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state, if available, in health education; or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major in health or health education or a graduate degree in health or health education; or

(3) obtain certification in health education for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

C. Persons seeking to add an endorsement in health education to an existing New Mexico teaching license of any level where the candidate has at least ~~[five full academic]~~ two full school years of teaching experience, may do so by meeting the requirements of Paragraphs (1), (2) or (3) of Subsection B of 6.64.7.8 NMAC, or by demonstrating the teaching competencies for entry level health education teachers as provided in 6.64.7.9 NMAC through the state's high objective uniform statewide standard of evaluation ~~[(HOUSE)]~~ (HOUSSE) for demonstrating competence in the core academic subjects and other endorsement areas as set forth in 6.69.4.9 NMAC.

[07-15-99; 6.64.7.8 NMAC - Rn, 6 NMAC

4.7.1.6.8, 10-31-01; A, 09-30-03; A, 06-30-06]

6.64.7.9 COMPETENCIES FOR ENTRY-LEVEL HEALTH EDUCATION TEACHERS: Upon completion of a program in health education, the health education teacher shall be able to:

A. a s s e s s individual/school/community needs for health education by:

(1) determining the cultural environment related to school/community;

(2) obtaining and utilizing health related data about social and cultural environments, family, growth and development factors, needs and interests;

(3) understanding the prevention of risky behaviors to include, but not limited to: use of tobacco, alcohol and other drugs; dietary patterns; sedentary lifestyles; behaviors that result in sexually transmitted diseases and unintended pregnancy; behaviors that result in unintentional injuries; and violent and other anti-social behaviors;

(4) determining appropriate teaching objectives and methods for interactive/skills-based education.

B. plan effective school health education programs and demonstrate knowledge and skills regarding each of the following by:

(1) ensuring that the delivered health education curriculum aligns with the New Mexico health education standards required of students in pre K-12 health education programs;

(2) designing educational programs consistent with specified program objectives;

(3) designing a planned sequential pre K-12 curriculum designed to develop life skills to include, but not limited to: communication; non-violent conflict resolution; decision-making; goal setting; stress management; and resisting negative social pressure;

(4) assessing factors and situations that influence the development of personality, family relationships, positive self-concept, coping skills, mental health, and emotional maturity;

(5) incorporating input from community organizations, resource people, and potential participants for support and assistance in program planning.

C. exhibit competence in carrying out planned health education programs by:

(1) implementing a planned sequential pre K-12 curriculum designed to develop life skills to include, but not limited to: communication; non-violent conflict resolution; decision-making; goal setting; stress management; and resisting negative social pressure;

(2) imparting information to enable students to analyze the influences of culture, media, technology, and other factors on health;

(3) demonstrating the ability to write clear objectives and lesson plans;

(4) identifying and managing the importance of interpersonal relationships in the classroom setting;

(5) exhibiting knowledge and interactive skill-based teaching methods in the areas of, but not limited to: substance use and abuse prevention; nutrition; personal health; family health; community health; consumer health; environmental health; growth and development/ sexuality; mental and emotional health; injury prevention and safety; and prevention and control of disease;

(6) involving parents/guardians in the implementation of health-related curriculum.

D. demonstrate competence in teaching health information and services by:

(1) organizing and conveying beliefs, ideas, and information about health through oral, written, artistic, graphic and technologic mediums;

(2) demonstrating the ability to foster advocacy for personal, family, and community health;

(3) fostering communication that creates a climate of understanding and concern for others by listening carefully, responding thoughtfully, and presenting a supportive demeanor which encourages others to express themselves;

(4) communicating and using appropriate interaction strategies with children, regardless of exceptionalities;

(5) understanding the dynamics of controversial health issues and the impact of opposing viewpoints;

(6) mediating differences of opinion on controversial health issues;

(7) demonstrating proficiency in communicating current health information and health education needs;

(8) demonstrating the ability to work as a team member.

E. evaluate the health education program and use the findings for future program planning by:

(1) determining criteria for program effectiveness;

(2) selecting appropriate methods for evaluating program effectiveness;

(3) analyzing and interpreting resulting evaluation data;

(4) recommending strategies for future program improvement.

F. assess student achievement in health education learning objectives by:

(1) using assessment techniques such as performance testing, interviews,

portfolios, and observations for assessing student progress and student outcomes that are aligned with instruction and New Mexico health education content standards for students;

(2) using assessment that may be appropriately modified to accommodate the needs of students regardless of exceptionalities;

(3) recognizing and understanding the importance of using meaningful assessment to improve curriculum and instruction.

[07-15-99; 6.64.7.9 NMAC - Rn, 6 NMAC 4.7.1.6.9, 10-31-01; A, 06-30-06]

6.64.7.10 IMPLEMENTATION: Institutions of higher education that prepare teachers shall deliver the competencies in a [~~state board~~] PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit twelve (12) semester hours of which must be upper division credit. [07-15-99; 6.64.7.10 NMAC - Rn, 6 NMAC 4.7.1.6.10, 10-31-01; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.64.8 NMAC, Sections 1, 6, 8, and 10, effective 06-30-06.

6.64.8.1 ISSUING AGENCY: [~~State Board of Education~~] Public Education Department [07-15-99; 6.64.8.1 NMAC - Rn, 6 NMAC 4.7.1.7.1, 10-31-01; A, 06-30-06]

6.64.8.6 OBJECTIVE: This [~~regulation~~] rule is adopted by the [~~state board of education (hereinafter the "state board")~~] public education department ("PED") for the purpose of establishing entry-level library media competencies that are based on what beginning [~~library media specialists~~] librarian-teachers must know and be able to do to provide effective library media programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks and with the national standards of the American library association and the American association of school librarians.

[07-15-99; 6.64.8.6 NMAC - Rn, 6 NMAC 4.7.1.7.6, 10-31-01; A, 06-30-06]

6.64.8.8 REQUIREMENTS:

A. Beginning librarian-teachers seeking an endorsement in library/media to an initial level [F] 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in [~~state board of education~~] PED rule for

that license, which includes, among other requirements, [~~24-36 semester hours~~] completing an academic major in library/media.

B. Teachers seeking to add an endorsement in library/media to an existing New Mexico teaching license of any level where the candidate has [~~less than five full academic years~~] fewer than two full school years of teaching experience, shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments if provided in 6.60.5.8 NMAC, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state, if available, in library/media; or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major in library media or a graduate degree in library/media; or

(3) obtain certification in library/media for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

C. Persons seeking to add an endorsement in library/media to an existing New Mexico educator license of any level where the candidate has at least [~~five full academic years~~] two full school years of teaching or school library experience, may do so by meeting the requirements of Paragraphs (1), (2) or (3) of Subsection B of 6.64.8.8 NMAC, or by demonstrating the competencies for entry level library/media specialists as provided in 6.64.8.9 NMAC through the state's high objective uniform statewide standard of evaluation [~~(HOUSE)] (HOUSSSE)~~ for demonstrating competence in the core academic subjects and other endorsement areas as set forth in 6.69.4.9 NMAC.

[07-15-99; 6.64.8.8 NMAC - Rn, 6 NMAC 4.7.1.7.8, 10-31-01; A, 09-30-03; A, 06-30-06]

6.64.8.10 IMPLEMENTATION: Institutions of higher education that prepare teachers shall deliver the competencies in a [~~state board~~] PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit twelve (12) semester hours of which must be upper division credit. [07-15-99; 6.64.8.10 NMAC - Rn, 6 NMAC 4.7.1.7.10, 10-31-01; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.64.9 NMAC, Sections 1, 6, and 8 through 10, effective 06-30-06.

6.64.9.1 ISSUING AGENCY: ~~[State Board of Education]~~ Public Education Department
[09-15-99; 6.64.9.1 NMAC - Rn, 6 NMAC 4.7.1.8.1, 10-31-01; A, 06-30-06]

6.64.9.6 OBJECTIVE: This ~~[regulation]~~ rule is adopted by the ~~[state board of education (hereinafter the "state board")]~~ public education department ("PED") for the purpose of establishing entry-level information technology competencies that are based on what beginning information technology coordinators must know and be able to do to provide effective information technology programs in New Mexico schools. The competencies were developed to ensure alignment with New Mexico's content standards and benchmarks for all content areas and with the national standards of educational technology as prepared by the international society for technology in education.
[09-15-99; 6.64.9.6 NMAC - Rn, 6 NMAC 4.7.1.8.6, 10-31-01; A, 06-30-06]

6.64.9.8 CORE LICENSURE REQUIREMENTS: Persons seeking an endorsement in information technology to a New Mexico educator license must complete the following core requirements.

A. hold a minimum of a baccalaureate degree from a regionally accredited college or university;

B. have completed an approved educator preparation program that includes at least 14 weeks of supervised student teaching; and

C. pass ~~[the state board of education's]~~ any PED required licensure examination.

[09-15-99; 6.64.9.8 NMAC - Rn, 6 NMAC 4.7.1.8.8, 10-31-01; A, 06-30-06]

6.64.9.9 COMPETENCIES FOR ENTRY-LEVEL INFORMATION TECHNOLOGY COORDINATORS:

A. Foundations

(1) Basic computer and technology operations and concepts: Candidates will use computer systems to: run software, access, generate, and manipulate data; and publish results. They will also evaluate performance of hardware and software components of computer systems and apply basic troubleshooting strategies as needed. The educator will:

(a) operate a multimedia computer system with related peripheral devices to successfully install and use a variety of software packages;

(b) use terminology related to technology appropriate to the teaching field in written and oral communication;

(c) describe and implement basic troubleshooting techniques for multimedia computer systems with related peripheral devices;

(d) use imaging devices;

(e) demonstrate knowledge of uses of computers and technology in business, industry, and society;

(f) operate a variety of audio-visual devices.

(2) Personal and professional use of technology: Candidates will apply tools for enhancing their own professional growth and productivity. They will use technology in communicating, collaborating, conducting research, and solving problems. In addition, they will plan and participate in activities that encourage lifelong learning and will promote equitable, ethical, and legal use of computer and technology resources. The educator will:

(a) use productivity tools for word processing, database management, and spreadsheet applications;

(b) apply productivity tools for creating a multimedia presentation;

(c) use computer-based technologies including telecommunications to access information and enhance personal and professional productivity;

(d) use computers to support problem solving, data collection, information management, communications, presentations, and decision making;

(e) demonstrate awareness of resources for adaptive assistive devices and software for students with special needs;

(f) demonstrate awareness of resources for culturally and linguistically diverse students;

(g) demonstrate knowledge of equity, ethics, legal, and human issues concerning use of computers and technology;

(h) demonstrate awareness of computer and related technology resources for facilitating lifelong learning and emerging roles of the learner and the educator;

(i) demonstrate awareness of broadcast instruction, audio/video conferencing, and other distant learning applications.

(3) Application of technology to support teaching and learning: Candidates will apply computers and related technologies to support teaching and learning in their grade level and subject areas. They will integrate a variety of software, applications, and learning tools in the teaching and learning process. Lessons developed must

reflect effective grouping and assessment strategies for diverse populations. The educator will:

(a) explore, evaluate, and use technology resources including applications, tools, educational software, and assorted documentation;

(b) describe best practice and appropriate assessment as related to the use of technology resources in the curriculum;

(c) design, implement, and assess learning activities that integrate technology for a variety of grouping strategies for diverse populations;

(d) design learning activities that foster equitable, ethical, and legal use of technology by students;

(e) practice responsible, ethical, and legal use of technology, information, and software resources.

B. Research and theories: Candidates will identify and apply educational and technology-related research, the psychology of learning, and instructional design principles in guiding use of computers and technology in education.

(1) Summarize knowledge of best practice and trends related to the use of technology to support teaching and learning.

(2) Apply theories of learning, teaching, and instructional design and their relationship to the use of technology to support teaching and learning.

(3) Identify human and equity issues concerning the use of computers and related technologies in education.

C. Facilities and resource management: Candidates will be able to demonstrate knowledge of issues related to facilities and resources planning and management. Candidates will be able to:

(1) facilitate and use budget planning and management procedures related to educational computing and technology facilities and resources;

(2) plan, develop, implement, and evaluate strategies and procedures for resource acquisition and management of technology-based systems including hardware and software;

(3) identify, describe, and analyze procedures related to basic troubleshooting, preventive maintenance, and procurement of system wide maintenance services;

(4) describe and maintain current information involving facilities planning issues related to computers and related technologies;

(5) demonstrate knowledge of issues related to design and development policies and procedures concerning staffing, scheduling, and security for managing technology in a variety of instructional and administrative settings;

(6) evaluate school and technolo-

gy plans and recommend improvements of facilities;

(7) collaborate and build alliances and partnerships involving educational technology initiatives;

(8) use evaluation findings to recommend modifications in technology implementations.

D. Operating systems: Candidates will be able to plan, install, customize, and configure the operating systems of computers and computer networks in school settings. Candidates will be able to:

(1) identify and describe operating systems associated with computing platforms;

(2) use and manipulate software to effectively manage communication networks;

(3) evaluate, troubleshoot, and maintain operating systems in a variety of learning environments and administrative offices.

E. Software/hardware design, selection, installation, and maintenance: Candidates will be able to identify and implement software/hardware solutions for a variety of learning environments and administrative environments. Candidates will be able to:

(1) research and recommend purchasing strategies and procedures for administrative and instructional software and hardware;

(2) research and recommend technology maintenance agreements;

(3) provide technical evaluation criteria for software and hardware and identify reliable sources;

(4) install, maintain, inventory, and manage software;

(5) research and recommend ethical and legal procedures for maintaining software;

(6) provide technical evaluation criteria for adaptive assistive hardware and software for special needs population;

(7) facilitate instructional design principles to develop, implement, and test interactive multimedia instructional products using authoring environments.

F. Information access and delivery: Candidates will be able to implement information access and delivery resources in a variety of learning environments. Candidates will be able to:

(1) demonstrate knowledge of information access and telecommunications tools to support learning;

(2) implement distance learning delivery systems;

(3) assist in professional development;

(4) install, configure, and maintain devices to store and retrieve information;

(5) describe issues related to

selecting, installing, and maintaining communication networks;

(6) evaluate school and district technology plans and recommend improvements.

G. Professional development and technology leadership

(1) Candidates will demonstrate knowledge of issues and models related to staff development.

(a) Plan and design staff development that integrates national, state, and local standards and benchmarks.

(b) Evaluate school and district technology plans and policies and recommend improvements to facilitate staff development.

(c) Describe and identify resources for staff development.

(2) Candidates will be knowledgeable of supervisory concepts and demonstrate skills as they relate to the use of technology-based systems in pre K-12 education.

(a) Demonstrate knowledge of strategies for and issues related to managing the change process in schools using appropriate assessment principles and techniques.

(b) Identify funding sources available at local, state, and/or national level and collaborate on development of grant proposals.

(c) Use knowledge of technology to guide the decision making process that best benefits the constituents.

[09-15-99; 6.64.9.9 NMAC - Rn, 6 NMAC 4.7.1.8.9, 10-31-01; A, 06-30-06]

6.64.9.10 IMPLEMENTATION:

A. Institutions of higher education that prepare teachers shall deliver the competencies in a ~~[state board of education]~~ PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit twelve (12) semester hours of which must be upper division credit. Or

B. Persons seeking an endorsement in information technology but who have not completed the requirements in Subsection A of 6.64.9.10 NMAC may receive an endorsement by meeting one of the following provisions:

(1) a degree in instructional technologies or a related field; or

(2) satisfactory demonstration of the competencies through an alternative performance assessment process established by the ~~[state department of education]~~ PED.

[09-15-99; 6.64.9.10 NMAC - Rn, 6 NMAC 4.7.1.8.10, 10-31-01; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.64.11 NMAC, Sections 1, 6, 8, and 10, effective 06-30-06.

6.64.11.1 ISSUING AGENCY: ~~[State Board of Education]~~ Public Education Department

[6.64.11.1 NMAC - N, 09-29-00; A, 06-30-06]

6.64.11.6 OBJECTIVE: This ~~[regulation]~~ rule establishes entry-level TESOL (teaching English as a second language) competencies that are based on what beginning TESOL teachers must know and be able to do to provide effective TESOL programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks and with the English as a new language certificate developed by the *national board for professional teaching standards* and must be used by New Mexico institutions of higher education to establish TESOL preparatory programs.

[6.64.11.6 NMAC - N, 09-29-00; A, 06-30-06]

6.64.11.8 REQUIREMENTS:

A. Beginning teachers seeking an endorsement in TESOL to an initial level ~~[H]~~ 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in ~~[state board of education]~~ public education department ("PED") rule for that license, which includes, among other requirements, 24-36 semester hours in TESOL.

B. Teachers seeking to add an endorsement in TESOL to an existing New Mexico teaching license of any level where the candidate has ~~[less than five full academic]~~ fewer than two full school years of teaching experience, shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments if provided in Subsection B of 6.60.5.8 NMAC, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state in TESOL; or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major or a graduate degree in TESOL; or

(3) obtain certification in TESOL for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

C. Persons seeking to add

an endorsement in TESOL to an existing New Mexico teaching license of any level where the candidate has at least ~~[five full academic]~~ two full school years of teaching experience, may do so by meeting the requirements of Paragraphs (1), (2) or (3) of Subsection B of 6.64.11.8 NMAC, or by demonstrating the teaching competencies for entry level TESOL teachers as provided in 6.64.11.9 NMAC through the state's high objective uniform statewide standard of evaluation ~~[(HOUSE)]~~ (HOUSSE) for demonstrating competence in the core academic subjects and other endorsement areas as set forth in 6.69.4.9 NMAC.
[6.64.11.8 NMAC - N, 09-29-00; A, 09-30-03; A, 06-30-06]

6.64.11.10 IMPLEMENTATION: Institutions of higher education that prepare teachers shall deliver the competencies in a ~~[state board of education]~~ PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit. For persons with secondary and pre K-12 licenses, a minimum of twelve (12) semester hours must be upper division credit.
[6.64.11.10 NMAC - N, 09-29-00; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.64.12 NMAC, Sections 1, 6, 8, and 10, effective 06-30-06.

6.64.12.1 ISSUING AGENCY: ~~[State Board of Education]~~ Public Education Department
[6.64.12.1 NMAC - N, 02-14-03; A, 06-30-06]

6.64.12.6 OBJECTIVE: This ~~[regulation]~~ rule establishes entry-level modern, classical, and native languages competencies that are based on what beginning language teachers must know and be able to do to provide effective language programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks and with the American council of teachers of foreign languages (ACTFL).
[6.64.12.6 NMAC - N, 02-14-03; A, 06-30-06]

6.64.12.8 REQUIREMENTS:
A. Beginning teachers seeking an endorsement in modern, classical, and native languages to an initial level ~~[F]~~ 1 New Mexico teaching license, must satisfy all of the requirements of the license

as provided in ~~[state board of education]~~ public education department ("PED") rule for that license, which includes, among other requirements, 24-36 semester hours in a single modern, classical, or native language and passage of a content area test in ~~[a]~~ the same single language if required or provided in Paragraph (3) of Subsection B of 6.60.5.8 NMAC.

B. Teachers seeking to add an endorsement in modern, classical, and native languages to an existing New Mexico teaching license of any level where the candidate has ~~[less than five full academic]~~ fewer than two full school years of teaching experience shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state in a single language if required or provided in Paragraph (3) of Subsection B of 6.60.5.8 NMAC; or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major in a single modern, classical or native language or a graduate degree in a single modern, classical, or native language; or

(3) obtain certification in modern, classical, and native languages in a single language for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

C. Persons seeking to add an endorsement in modern, classical, and native languages to an existing New Mexico teaching license of any level where the candidate has at least ~~[five full academic]~~ two full school years of teaching experience, may do so by meeting the requirements of Paragraphs (1), (2) or (3) of Subsection B of 6.64.12.8 NMAC, or by demonstrating the teaching competencies for entry level modern, classical, and native languages teachers as provided in 6.64.12.9 NMAC through the state's high objective uniform statewide standard of evaluation ~~[(HOUSE)]~~ (HOUSSE) for demonstrating competence in the core academic subjects and other endorsement areas as set forth in 6.69.4.9 NMAC.
[6.64.12.8 NMAC - N, 02-14-03; A, 09-30-03; A, 06-30-06]

6.64.12.10 IMPLEMENTATION: Institutions of higher education that prepare teachers shall deliver the competencies in a ~~[state board of education]~~ PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit. For persons with secondary and pre K-12 licenses, a mini-

um of twelve (12) semester hours must be upper division credit.

[6.64.12.10 NMAC - N, 02-14-03; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.64.13 NMAC, Sections 1, 6, and 8, effective 06-30-06.

6.64.13.1 ISSUING AGENCY: ~~[State Board of Education]~~ Public Education Department
[6.64.13.1 NMAC - N, 07-01-02; A, 06-30-06]

6.64.13.6 OBJECTIVE: This ~~[regulation]~~ rule establishes entry-level competencies that are based on what beginning performing and visual arts education teachers must know and be able to do to provide effective arts programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks and with the national standards for the arts. These standards must be used by New Mexico institutions of higher education to establish performing and visual arts education preparatory programs.
[6.64.13.6 NMAC - N, 07-01-02; A, 06-30-06]

6.64.13.8 REQUIREMENTS:
A. Beginning teachers seeking an endorsement in performing arts ~~[and]~~ or visual arts to an initial level ~~[F]~~ 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in ~~[state board of education]~~ public education department ("PED") rule for that license, which includes, among other requirements, 24-36 semester hours in performing arts ~~[and]~~ or visual arts and passage of a content area test in performing arts ~~[and]~~ or visual arts as provided in Subsection B of 6.60.5.8 NMAC.

B. Teachers seeking to add an endorsement in performing arts ~~[and]~~ or visual arts to an existing New Mexico teaching license of any level where the candidate has ~~[less than five full academic]~~ fewer than two full school years of teaching experience shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state in performing arts ~~[and]~~ or visual arts as provided in Subsection B of 6.60.5.8 NMAC; or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major or a graduate degree in performing arts ~~[and]~~ or visual arts; or

(3) obtain certification in performing arts ~~[and]~~ or visual arts for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

C. Persons seeking to add an endorsement in performing arts ~~[and]~~ or visual arts to an existing New Mexico teaching license of any level where the candidate has at least ~~[five full academic]~~ two full school years of teaching experience, may do so by meeting the requirements of Paragraphs (1), (2) or (3) of Subsection B of 6.64.13.8 NMAC, or by demonstrating the teaching competencies for entry level performing arts ~~[and]~~ or visual arts teachers as provided in 6.64.13.9 and 6.64.13.10 NMAC through the state's high objective uniform statewide standard of evaluation ~~[(HOUSE)]~~ (HOUSSE) for demonstrating competence in the core academic subjects and other endorsement areas as set forth in 6.69.4.9 NMAC.

[6.64.13.8 NMAC - N, 07-01-02; A, 09-30-03; A, 06-30-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.64.14 NMAC, Sections 1, 6, 8, and 10, effective 06-30-06.

6.64.14.1 ISSUING AGENCY: ~~[State Board of Education]~~ Public Education Department

[6.64.14.1 NMAC - N, 07-01-02; A, 06-30-06]

6.64.14.6 OBJECTIVE: This ~~[regulation]~~ rule establishes entry-level competencies that are based on what beginning physical education teachers must know and be able to do to provide effective physical education programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks, the 1999 initial physical education standards of the national council for accreditation of teacher education (NCATE), and the national standards of the American alliance for health, physical education, recreation, and dance and must be used by New Mexico institutions of higher education to establish physical education preparatory programs.

[6.64.14.6 NMAC - N, 07-01-02; A, 06-30-06]

6.64.14.8 REQUIREMENTS:

A. Beginning teachers seeking an endorsement in physical education to an initial level ~~[F]~~ 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in ~~[state board of education]~~ public education department ("PED") rule for that license, which includes, among other requirements, 24-36 semester hours in physical education.

B. Teachers seeking to add an endorsement in physical education to an existing New Mexico teaching license of any level where the candidate has ~~[less than five full academic]~~ fewer than two full school years of teaching experience, shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments if provided in Subsection B of 6.60.5.8 NMAC, or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state in physical education; or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major or a graduate degree in physical education; or

(3) obtain certification in physical education for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

C. Persons seeking to add an endorsement in physical education to an existing New Mexico teaching license of any level where the candidate has at least ~~[five full academic]~~ two full school years of teaching experience, may do so by meeting the requirements of Paragraphs (1), (2) or (3) of Subsection B of 6.64.14.8 NMAC, or by demonstrating the teaching competencies for entry level physical education teachers as provided in 6.64.14.9 NMAC through the state's high objective uniform statewide standard of evaluation ~~[(HOUSE)]~~ (HOUSSE) for demonstrating competence in the core academic subjects and other endorsement areas as set forth in 6.69.4.9 NMAC.

[6.64.14.8 NMAC - N, 07-01-02; A, 09-30-03; A, 06-30-06]

6.64.14.10 IMPLEMENTATION: Institutions of higher education that prepare teachers shall deliver the competencies in a ~~[state board of education]~~ PED approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit. For secondary and pre K-12 licensed teachers, a minimum of twelve (12) semester hours must be upper division credit.

[6.64.14.10 NMAC - N, 07-01-02; A, 06-30-06]

NEW MEXICO WATER QUALITY CONTROL COMMISSION

This is an amendment to 20.6.2 NMAC, Sections 7, 3108, 3109, 3112 and 4114, effective July 16, 2006. Unnecessary capitalization and punctuation were removed in accordance with the current NMAC requirements.

20.6.2.7 DEFINITIONS: Terms defined in the Water Quality Act, but not defined in this part, will have the meaning given in the act. As used in this part:

A. "abandoned well" means a well whose use has been permanently discontinued or which is in a state of disrepair such that it cannot be rehabilitated for its intended purpose or other purposes including monitoring and observation;

B. "abate" or "abatement" means the investigation, containment, removal or other mitigation of water pollution;

C. "abatement plan" means a description of any operational, monitoring, contingency and closure requirements and conditions for the prevention, investigation and abatement of water pollution, and includes Stage 1, Stage 2, or Stage 1 and 2 of the abatement plan, as approved by the secretary;

D. "adjacent properties" means properties that are contiguous to the discharge site or property that would be contiguous to the discharge site but for being separated by a public or private right of way, including roads and highways.

E. "background" means, for purposes of ground-water abatement plans only and for no other purposes in this part or any other regulations including but not limited to surface-water standards, the amount of ground-water contaminants naturally occurring from undisturbed geologic sources or water contaminants which the responsible person establishes are occurring from a source other than the responsible person's facility; this definition shall not prevent the secretary from requiring abatement of commingled plumes of pollution, shall not prevent responsible persons from seeking contribution or other legal or equitable relief from other persons, and shall not preclude the secretary from exercising enforcement authority under any applicable statute, regulation or common law;

F. "casing" means pipe or tubing of appropriate material, diameter and weight used to support the sides of a well hole and thus prevent the walls from caving, to prevent loss of drilling mud into porous ground, or to prevent fluid from entering or leaving the well other than to or from the injection zone;

G. “cementing” means the operation whereby a cementing slurry is pumped into a drilled hole and/or forced behind the casing;

H. “cesspool” means a “drywell” that receives untreated domestic liquid waste containing human excreta, and which sometimes has an open bottom and/or perforated sides; a large capacity cesspool means a cesspool that receives greater than 2,000 gallons per day of untreated domestic liquid waste;

I. “collapse” means the structural failure of overlying materials caused by removal of underlying materials;

J. “commission” means:
(1) the New Mexico water quality control commission or

(2) the department, when used in connection with any administrative and enforcement activity;

K. “confining zone” means a geological formation, group of formations, or part of a formation that is capable of limiting fluid movement from an injection zone;

L. “conventional mining” means the production of minerals from an open pit or underground excavation; underground excavations include mine shafts, workings and air vents, but does not include excavations primarily caused by in situ extraction activities;

M. “daily composite sample” means a sample collected over any twenty-four hour period at intervals not to exceed one hour and obtained by combining equal volumes of the effluent collected, or means a sample collected in accordance with federal permit conditions where a permit has been issued under the national pollutant discharge elimination system or for those facilities which include a waste stabilization pond in the treatment process where the retention time is greater than twenty (20) days, means a sample obtained by compositing equal volumes of at least two grab samples collected within a period of not more than twenty-four (24) hours;

N. “department”, “agency”, or “division” means the New Mexico environment department or a constituent agency designated by the commission;

[Q]O. “discharge permit” means a discharge plan approved by the department;

[O]P. “discharge permit modification” means a change ~~[to]~~ to the requirements of a discharge permit ~~[as requested by the discharger as a result of past, present or anticipated changes in the quality or quantity of effluent or the location of the discharge]~~ that result from a change in the location of the discharge, a significant increase in the quantity of the

discharge, a significant change in the quality of the discharge; or as required by the secretary;

O. “discharge permit renewal” means the re-issuance of a discharge permit for the same, previously permitted discharge;

[R]L. “discharge plan” means a description of any operational, monitoring, contingency, and closure requirements and conditions for any discharge of effluent or leachate which may move directly or indirectly into ground water;

[R]S. “discharge site” means the entire site where the discharge and associated activities will take place;

[S]T. “disposal” means to abandon, deposit, inter or otherwise discard a fluid as a final action after its use has been achieved;

[F]U. “domestic liquid waste” means human excreta and water-carried waste from typical residential plumbing fixtures and activities, including but not limited to waste from toilets, sinks, bath fixtures, clothes or dishwashing machines and floor drains;

[F]V. “domestic liquid waste treatment unit” means a watertight unit designed, constructed and installed to stabilize only domestic liquid waste and to retain solids contained in such domestic liquid waste, including but not limited to aerobic treatment units and septic tanks;

[W]W. “drywell” means a well, other than an improved sinkhole or subsurface fluid distribution system, completed above the water table so that its bottom and sides are typically dry except when receiving fluids;

[W]X. “experimental technology” means a technology which has not been proven feasible under the conditions in which it is being tested;

[X]Y. “fluid” means material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state;

[Y]Z. “ground water” means interstitial water which occurs in saturated earth material and which is capable of entering a well in sufficient amounts to be utilized as a water supply;

[Z]AA. “hazard to public health” exists when water which is used or is reasonably expected to be used in the future as a human drinking water supply exceeds at the time and place of such use, one or more of the numerical standards of Subsection A of 20.6.2.3103 NMAC, or the naturally occurring concentrations, whichever is higher, or if any toxic pollutant affecting human health is present in the water; in determining whether a discharge would cause a hazard to public health to

exist, the secretary shall investigate and consider the purification and dilution reasonably expected to occur from the time and place of discharge to the time and place of withdrawal for use as human drinking water;

[AA]BB. “improved sinkhole” means a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface;

[BB]CC. “injection” means the subsurface emplacement of fluids through a well;

[CC]DD. “injection zone” means a geological formation, group of formations, or part of a formation receiving fluids through a well;

[DD]EE. “motor vehicle waste disposal well” means a well which receives or has received fluids from vehicular repair or maintenance activities;

[EE]FF. “non-aqueous phase liquid” means an interstitial body of liquid oil, petroleum product, petrochemical, or organic solvent, including an emulsion containing such material;

[FF]GG. “operational area” means a geographic area defined in a project discharge permit where a group of wells or well fields in close proximity comprise a single class III well operation;

[GG]HH. “owner of record” means an owner of property according to the property records of the tax assessor in the county in which the discharge site is located at the time the application was deemed administratively complete;

[HH]I. “packer” means a device lowered into a well to produce a fluid-tight seal within the casing;

[H]J. “person” means an individual or any other entity including partnerships, corporation, associations, responsible business or association agents or officers, the state or a political subdivision of the state or any agency, department or instrumentality of the United States and any of its officers, agents or employees;

[J]K. “petitioner” means a person seeking a variance from a regulation of the commission pursuant to Section 74-6-4(G) NMSA 1978;

[K]L. “plugging” means the act or process of stopping the flow of water, oil or gas into or out of a geological formation, group of formations or part of a formation through a borehole or well penetrating these geologic units;

[L]M. “project discharge permit” means a discharge permit which describes the operation of similar class III wells or well fields within one or

more individual operational areas;

[MM]NN. "refuse" includes food, swill, carrion, slops and all substances from the preparation, cooking and consumption of food and from the handling, storage and sale of food products, the carcasses of animals, junked parts of automobiles and other machinery, paper, paper cartons, tree branches, yard trimmings, discarded furniture, cans, oil, ashes, bottles, and all unwholesome material;

[NN]OO. "responsible person" means a person who is required to submit an abatement plan or who submits an abatement plan pursuant to this part;

[OO]PP. "secretary" or "director" means the secretary of the New Mexico department of environment or the director of a constituent agency designated by the commission;

[PP]QQ. "sewer system" means pipelines, conduits, pumping stations, force mains, or other structures, devices, appurtenances or facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal;

[QQ]RR. "sewerage system" means a system for disposing of wastes, either by surface or underground methods, and includes sewer systems, treatment works, disposal wells and other systems;

[RR]SS. "significant modification of Stage 2 of the abatement plan" means a change in the abatement technology used excluding design and operational parameters, or re-location of 25 percent or more of the compliance sampling stations, for any single medium, as designated pursuant to Paragraph (4) of Subsection E of 20.6.2.4106 NMAC;

[SS]TT. "subsurface fluid distribution system" means an assemblage of perforated pipes, drain tiles, or other mechanisms intended to distribute fluids below the surface of the ground;

[TT]UU. "subsurface water" means ground water and water in the vadose zone that may become ground water or surface water in the reasonably foreseeable future or may be utilized by vegetation;

[UU]VV. "TDS" means total dissolved solids as determined by the "calculation method" (sum of constituents), by the "residue on evaporation method at 180 degrees" of the "U.S. geological survey techniques of water resource investigations," or by conductivity, as the secretary may determine;

[VV]WW. "toxic pollutant" means a water contaminant or combination of water contaminants in concentration(s) which, upon exposure, ingestion, or assimilation either directly from the environment or indirectly by ingestion through food chains, will unreasonably threaten to injure human health, or the health of animals or plants which are commonly

hatched, bred, cultivated or protected for use by man for food or economic benefit; as used in this definition injuries to health include death, histopathologic change, clinical symptoms of disease, behavioral abnormalities, genetic mutation, physiological malfunctions or physical deformations in such organisms or their offspring; in order to be considered a toxic pollutant a contaminant must be one or a combination of the potential toxic pollutants listed below and be at a concentration shown by scientific information currently available to the public to have potential for causing one or more of the effects listed above; any water contaminant or combination of the water contaminants in the list below creating a lifetime risk of more than one cancer per 100,000 exposed persons is a toxic pollutant:

- (1) acrolein
- (2) acrylonitrile
- (3) aldrin
- (4) benzene
- (5) benzidine
- (6) carbon tetrachloride
- (7) chlordane
- (8) chlorinated benzenes
 - (a) monochlorobenzene
 - (b) hexachlorobenzene
 - (c) pentachlorobenzene
 - (9) 1,2,4,5-tetrachlorobenzene
 - (10) chlorinated ethanes
 - (a) 1,2-dichloroethane
 - (b) hexachloroethane
 - (c) 1,1,2-tetrachloroethane
 - (d) 1,1,1-trichloroethane
 - (e) 1,1,2-trichloroethane
 - (11) chlorinated phenols
 - (a) 2,4-dichlorophenol
 - (b) 2,4,5-trichlorophenol
 - (c) 2,4,6-trichlorophenol
 - (12) chloroalkyl ethers
 - (a) bis (2-chloroethyl) ether
 - (b) bis (2-chloroisopropyl) ether
 - (c) bis (chloromethyl) ether
- (13) chloroform
- (14) DDT
- (15) dichlorobenzene
- (16) dichlorobenzidine
- (17) 1,1-dichloroethylene
- (18) dichloropropenes
- (19) dieldrin
- (20) diphenylhydrazine
- (21) endosulfan
- (22) endrin
- (23) ethylbenzene
- (24) halomethanes
 - (a) bromodichloromethane
 - (b) bromomethane
 - (c) chloromethane
 - (d) dichlorodifluoromethane
 - (e) dichloromethane
 - (f) tribromomethane
 - (g) trichlorofluoromethane
- (25) heptachlor
- (26) hexachlorobutadiene
- (27) hexachlorocyclohexane

(HCH)

- (a) alpha-HCH
- (b) beta-HCH
- (c) gamma-HCH
- (d) technical HCH
- (28) hexachlorocyclopentadiene
- (29) high explosives (HE)
 - (a) 2,4-dinitrotoluene (2,4,DNT)
 - (b) 2,6-dinitrotoluene (2,6,DNT)
 - (c) octrahydro-1,3,5,7-tetranitro-
- 1,3,5,7 tetrazocine (HMX)
 - (d) hexahydro-1,3,5-trinitro-
- 1,3,5-triazine (RDX)
 - (e) 2,4,6-trinitrotoluene (TNT)
 - (30) isophorone
 - (31) methyl tertiary butyl ether
 - (32) nitrobenzene
 - (33) nitrophenols
 - (a) 2,4-dinitro-o-cresol
 - (b) dinitrophenols
 - (34) nitrosamines
 - (a) N-nitrosodiethylamine
 - (b) N-nitrosodimethylamine
 - (c) N-nitrosodibutylamine
 - (d) N-nitrosodiphenylamine
 - (e) N-nitrosopyrrolidine
 - (35) pentachlorophenol
 - (36) perchlorate
 - (37) phenol
 - (38) phthalate esters
 - (a) dibutyl phthalate
 - (b) di-2-ethylhexyl phthalate
 - (c) diethyl phthalate
 - (d) dimethyl phthalate
 - (39) polychlorinated biphenyls

(PCB's)

- polynuclear aromatic hydrocarbons (PAH)
- (a) anthracene
 - (b) 3,4-benzofluoranthene
 - (c) benzo (k) fluoranthene
 - (d) fluoranthene
 - (e) fluorene
 - (f) phenanthrene
 - (g) pyrene
 - (41) tetrachloroethylene
 - (42) toluene
 - (43) toxaphene
 - (44) trichloroethylene
 - (45) vinyl chloride
 - (46) xylenes
 - (a) o-xylene
 - (b) m-xylene
 - (c) p-xylene
 - (47) 1,1-dichloroethane
 - (48) ethylene dibromide (EDB)
 - (49) cis-1,2-dichloroethylene
 - (50) trans-1,2-dichloroethylene
 - (51) naphthalene
 - (52) 1-methylnaphthalene
 - (53) 2-methylnaphthalene
 - (54) benzo-a-pyrene

[WW]XX. "vadose"

zone" means earth material below the land surface and above ground water, or in between bodies of ground water;

[XX]YY. "wastes" means

sewage, industrial wastes, or any other liquid, gaseous or solid substance which will pollute any waters of the state;

~~[[X]]~~ZZ. “**water**” means all water including water situated wholly or partly within or bordering upon the state, whether surface or subsurface, public or private, except private waters that do not combine with other surface or subsurface water;

~~[[Z]]~~AAA. “**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;

~~[[A]]~~BBB. “**water course**” means any river, creek, arroyo, canyon, draw, or wash, or any other channel having definite banks and beds with visible evidence of the occasional flow of water;

~~[[B]]~~CCC. “**water pollution**” means introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants 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;

~~[[C]]~~DDD. “**w e l l**” means: (1) A bored, drilled, or driven shaft; (2) A dug hole whose depth is greater than the largest surface dimension; (3) An improved sinkhole; or (4) A subsurface fluid distribution system;

~~[[D]]~~EEE. “**well stimulation**” means a process used to clean the well, enlarge channels, and increase pore space in the interval to be injected, thus making it possible for fluids to move more readily into the injection zone; well stimulation includes, but is not limited to, (1) surging, (2) jetting, (3) blasting, (4) acidizing, (5) hydraulic fracturing.

[1-4-68, 4-20-68, 11-27-70, 9-3-72, 4-11-74, 8-13-76, 2-18-77, 6-26-80, 7-2-81, 1-29-82, 9-20-82, 11-17-84, 3-3-86, 8-17-91, 8-19-93, 12-1-95; 20.6.2.7 NMAC - Rn, 20 NMAC 6.2.I.1101, 1-15-01; A, 1-15-01; A, 12-1-01; A, 9-15-02; A, 9-26-04; A, 7-16-06]

20.6.2.3108 PUBLIC NOTICE AND PARTICIPATION:

A. Within 15 days of receipt of an application for a discharge permit, modification or renewal, the department shall review the application for administrative completeness. To be deemed administratively complete, an application shall provide all of the information required by Paragraphs (1) through (5) of Subsection F of 20.6.2.3108 NMAC and shall indicate, for department approval, the proposed loca-

tions and newspaper for providing notice required by Paragraphs (1) and (4) of Subsection B or Paragraph (2) of Subsection C of 20.6.2.3108 NMAC. The department shall notify the applicant in writing when the application is deemed administratively complete. If the department determines that the application is not administratively complete, the department shall notify the applicant of the deficiencies in writing within 15 days of receipt of the application and state what additional information is necessary.

~~[[A]]~~B. Within 30 days of [sub-~~mission of~~] the department deeming an application for discharge permit[;] or discharge permit modification [~~or renewal~~] administratively complete, the applicant shall provide notice, in accordance with the requirements of Subsection F of 20.6.2.3108 NMAC, to the general public in the locale of the proposed discharge in a form provided by the department by each of the methods listed below:

~~(1) The applicant shall provide notice, in accordance with the requirements of Section E of this section, to the general public in the locale of the proposed discharge in a form provided by the department by each of the three methods listed below:~~

~~(a) prominently posting a synopsis of the public notice, in English and in Spanish, at a conspicuous public location, approved by the department, at or near the existing or proposed facility for 30 days; and~~

~~(b) providing written notice of the discharge by certified mail, return receipt requested, to owners of record of all adjacent properties; and~~

~~(c) providing notice by certified mail, return receipt requested, to the owner of the discharge site if the applicant is not the owner;~~

~~(2) In lieu of the public notice requirements of Subparagraph (b) of Paragraph (1) of Subsection A above, the applicant may publish a synopsis of the notice in a display ad at least two inches by three inches in a newspaper of general circulation in the location of the proposed discharge.~~

~~(3) In lieu of the public notice requirements of Subparagraph (a) and (b) of Paragraph (1) of Subsection A above, the applicant may provide notice of the discharge by certified mail, return receipt requested, to property owners of record within 1/2 mile of the discharge site on a form provided by the department.~~

~~(4) If there are no adjacent properties other than properties owned by the discharger, the applicant shall, in lieu of the requirements in Subparagraph (b) of Paragraph (1) of Subsection A above, pub-~~

~~lish a synopsis of the notice in a display ad at least two inches by three inches in a newspaper of general circulation in the location of the facility.]~~

~~(1) for each 640 contiguous acres or less of a discharge site, prominently posting a synopsis of the public notice at least 2 feet by 3 feet in size, in English and in Spanish, at a place conspicuous to the public, approved by the department, at or near the proposed facility for 30 days; one additional notice, in a form approved by and may be provided by the department, shall be posted at a place located off the discharge site, at a place conspicuous to the public and approved by the department; the department may require a second posting location for more than 640 contiguous acres or when the discharge site is not located on contiguous properties;~~

~~(2) providing written notice of the discharge by mail, to owners of record of all properties within a 1/3 mile distance from the boundary of the property where the discharge site is located; if there are no properties other than properties owned by the discharger within a 1/3 mile distance from the boundary of property where the discharge site is located, the applicant shall provide notice to owners of record of the next nearest adjacent properties not owned by the discharger;~~

~~(3) providing notice by certified mail, return receipt requested, to the owner of the discharge site if the applicant is not the owner; and~~

~~(4) publishing a synopsis of the notice in English and in Spanish, in a display ad at least three inches by four inches not in the classified or legal advertisements section, in a newspaper of general circulation in the location of the proposed discharge.~~

C. Within 30 days of the department deeming an application for discharge permit renewal administratively complete, the applicant shall provide notice, in accordance with the requirements of Subsection F of 20.6.2.3108 NMAC, to the general public in the locale of the proposed discharge in a form provided by the department by each of the methods listed below:

~~(1) providing notice by certified mail to the owner of the discharge site if the applicant is not the owner; and~~

~~(2) publishing a synopsis of the notice, in English and in Spanish, in a display ad at least two inches by three inches, not in the classified or legal advertisements section, in a newspaper of general circulation in the location of the discharge.~~

~~[[B]]~~D. Within ~~[fifteen]~~ 15 days of completion of the public notice requirements in [Subsection A of this section] Subsections B or C of 20.6.2.3108 NMAC, the applicant shall submit to the department

proof of notice, including ~~[certified mail receipts]~~ an affidavit of mailing(s) and the list of property owner(s), proof of publication, and an affidavit of posting, as appropriate. ~~[If the department determines that the notice provided pursuant to Subsection A of this section is inadequate, the department may require additional notice in accordance with Subsection A of this section.~~

~~C. Within 30 days of receipt of an application for a discharge permit, modification or renewal, the department shall review the application for administrative completeness. To be deemed administratively complete, an application must provide all of the information required by Paragraphs (1) through (5) of Subsection E of this section. The department shall notify the applicant in writing when the application is deemed administratively complete. If the department determines that the application is not administratively complete, the department shall notify the applicant of the deficiencies in writing within 30 days of receipt of the application and state what additional information is necessary.~~

~~D]E.~~ Within 30 days of determining an application for a discharge permit, modification or renewal is administratively complete, the department shall post a notice on its website and shall mail notice to any affected local, state, federal, tribal or pueblo governmental agency, political subdivisions, ditch associations and land grants, as identified by the department. The department shall also mail or e-mail notice to those persons on a general and facility-specific list maintained by the department who have requested notice of discharge permit applications. The notice shall include the information listed in Subsection ~~[E of this section]~~ F of 20.6.2.3108 NMAC.

~~E]E.~~ The notice provided under Subsection ~~[A and D of this section]~~ B, C and E of 20.6.2.3108 NMAC shall include:

- (1) the name and address of the proposed discharger;
- (2) the location of the discharge, including a street address, if available, and sufficient information to locate the facility with respect to surrounding landmarks;
- (3) a brief description of the activities that produce the discharge described in the application;
- (4) a brief description of the expected quality and volume of the discharge;
- (5) the depth to and total dissolved solids concentration of the ground water ~~[beneath the discharge site]~~ most likely to be affected by the discharge;
- (6) the address and phone number within the department by which interested persons may obtain information, submit comments, and request to be placed on a

facility-specific mailing list for future notices; and

(7) a statement that the department will accept comments and statements of interest regarding the application and will create a facility-specific mailing list for persons who wish to receive future notices.

~~F]G.~~ All persons who submit comments or statements of interest to the department or previously participated in a public hearing and who provide a mail or e-mail address shall be placed on a facility-specific mailing list and the department shall send those persons the public notice issued pursuant to Subsection ~~[G of this section]~~ H of 20.6.2.3108 NMAC, and notice of any public meeting or hearing scheduled on the application. All persons who contact the department to inquire about a specific facility shall be informed of the opportunity to be placed on the facility-specific mailing list.

~~G]H.~~ Within 60 days after the department makes its administrative completeness determination and all required technical information is available, the department shall make available a proposed approval or disapproval of the application for a discharge permit, modification or renewal, including conditions for approval proposed by the department or the reasons for disapproval. The department shall mail ~~[or deliver]~~ by certified mail a copy of the proposed approval or disapproval to the applicant, and shall provide notice of the proposed approval or disapproval of the application for a discharge permit, modification or renewal by:

- (1) posting on the department's website;
- (2) publishing notice in a newspaper of general circulation in this state and a newspaper of general circulation in the location of the facility;
- (3) mailing or e-mailing to those persons on a facility-specific mailing list;
- (4) mailing to any affected local, state, or federal governmental agency, ditch associations and land grants, as identified by the department; and
- (5) mailing to the governor, chairperson, or president of each Indian tribe, pueblo or nation within the state of New Mexico, as identified by the department.

~~H]I.~~ The public notice issued under Subsection ~~[G] H~~ shall include the information in Subsection ~~[E of this section]~~ F of 20.6.2.3108 NMAC and the following information:

- (1) a brief description of the procedures to be followed by the secretary in making a final determination;
- (2) a statement of the comment period and description of the procedures for a person to request a hearing on the application; and
- (3) the address and telephone

number at which interested persons may obtain a copy of the proposed approval or disapproval of an application for a discharge permit, modification or renewal.

~~H]J.~~ In the event that the proposed approval or disapproval of an application for a discharge permit, modification or renewal is available for review within 30 days of deeming the application administratively complete, the department may combine the public notice procedures of Subsections ~~[D] E~~ and ~~[G of this section]~~ H of 20.6.2.3108 NMAC.

~~I]K.~~ Following the public notice of the ~~[application and]~~ proposed approval or disapproval of an application for a discharge permit, modification or renewal, and prior to a final decision by the secretary, there shall be a period of at least 30 days during which written comments may be submitted to the department and/or a public hearing may be requested in writing. The 30-day comment period shall begin on the date of publication of notice in the newspaper. All comments will be considered by the department. Requests for a hearing shall be in writing and shall set forth the reasons why a hearing should be held. A public hearing shall be held if the secretary determines there is ~~[significant]~~ substantial public interest. The department shall notify the applicant and any person requesting a hearing of the decision whether to hold a hearing and the reasons therefore in writing.

~~K]L.~~ If a hearing is held, pursuant to Subsection ~~[J of this section]~~ K of 20.6.2.3108 NMAC, notice of the hearing shall be given by the department at least 30 days prior to the hearing in accordance with Subsection ~~[G of this section]~~ H of 20.6.2.3108 NMAC. The notice shall include the information identified in Subsection ~~[H of this section]~~ F of 20.6.2.3108 NMAC in addition to the time and place of the hearing and a brief description of the hearing procedures. The hearing shall be held pursuant to ~~[Section]~~ 20.6.2.3110 NMAC.

[2-18-77, 12-24-87, 12-1-95, 11-15-96; 20.6.2.3108 NMAC - Rn, 20 NMAC 6.2.III.3108, 1-15-01; A, 12-1-01; A, 9-15-02; A, 7-16-06]

20.6.2.3109 SECRETARY APPROVAL, DISAPPROVAL, MODIFICATION OR TERMINATION OF DISCHARGE PERMITS, AND REQUIREMENT FOR ABATEMENT PLANS:

A. The department shall evaluate the application for a discharge permit, modification or renewal based on information contained in the department's administrative record. The department may request from the discharger, either before or after the issuance of any public notice, addi-

tional information necessary for the evaluation of the application. The administrative record shall consist of the application, any additional information required by the department, any information submitted by the discharger or the general public, other information considered by the department, the proposed approval or disapproval of an application for a discharge permit, modification or renewal prepared pursuant to Subsection G of [Section] 20.6.2.3108 NMAC, and, if a public hearing is held, all of the documents filed with the hearing clerk, all exhibits offered into evidence at the hearing, the written transcript or tape recording of the hearing, any hearing officer report, and any post hearing submissions.

B. The secretary shall, within 30 days after the administrative record is complete and all required information is available, approve, approve with conditions or disapprove the proposed discharge permit, modification or renewal based on the administrative record. The secretary shall give written notice of the action taken to the applicant or permittee and any other person who participated in the permitting action who requests a copy in writing.

C. Provided that the other requirements of this part are met and the proposed discharge plan, modification or renewal demonstrates that neither a hazard to public health nor undue risk to property will result, the secretary shall approve the proposed discharge plan, modification or renewal if the following requirements are met:

(1) ground water that has a TDS concentration of 10,000 mg/l or less will not be affected by the discharge; or

(2) the person proposing to discharge demonstrates that approval of the proposed discharge plan, modification or renewal will not result in either concentrations in excess of the standards of [Section] 20.6.2.3103 NMAC or the presence of any toxic pollutant at any place of withdrawal of water for present or reasonably foreseeable future use, except for contaminants in the water diverted as provided in Subsection D of [Section] 20.6.2.3109 NMAC; or

(3) the proposed discharge plan conforms to either [Subsection] Subparagraph (a) or (b) below and [Subsection] Subparagraph (c) below:

(a) municipal, other domestic discharges, and discharges from sewerage systems handling only animal wastes: the effluent is entirely domestic, is entirely from a sewerage system handling only animal wastes or is from a municipality and conforms to the following:

(i) the discharge is from an impoundment or a leach field existing on February 18, 1977 which receives less than

10,000 gallons per day and the secretary has not found that the discharge may cause a hazard to public health; or

(ii) the discharger has demonstrated that the total nitrogen in effluent that enters the subsurface from a leach field or surface impoundment will not exceed 200 pounds per acre per year and that the effluent will meet the standards of [Section] 20.6.2.3103 NMAC except for nitrates and except for contaminants in the water diverted as provided in Subsection D of [Section] 20.6.2.3109 NMAC; or

(iii) the total nitrogen in effluent that is applied to a crop which is harvested shall not exceed by more than 25 percent the maximum amount of nitrogen reasonably expected to be taken up by the crop and the effluent shall meet the standards of [Section] 20.6.2.3103 NMAC except for nitrates and except for contaminants in the water diverted as provided in Subsection D of [Section] 20.6.2.3109 NMAC;

(b) discharges from industrial, mining or manufacturing operations:

(i) the discharger has demonstrated that the amount of effluent that enters the subsurface from a surface impoundment will not exceed 0.5 acre-feet per acre per year; or

(ii) the discharger has demonstrated that the total nitrogen in effluent that enters the subsurface from a leach field or surface impoundment shall not exceed 200 pounds per acre per year and the effluent shall meet the standards of [Section] 20.6.2.3103 NMAC except for nitrate and contaminants in the water diverted as provided in Subsection D of [Section] 20.6.2.3109 NMAC; or

(iii) the total nitrogen in effluent that is applied to a crop that is harvested shall not exceed by more than 25 percent the maximum amount of nitrogen reasonably expected to be taken up by the crop and the effluent shall meet the standards of [Section] 20.6.2.3103 NMAC except for nitrate and contaminants in the water diverted as provided in Subsection D of [Section] 20.6.2.3109 NMAC;

(c) all discharges:

(i) the monitoring system proposed in the discharge plan includes adequate provision for sampling of effluent and adequate flow monitoring so that the amount being discharged onto or below the surface of the ground can be determined;

(ii) the monitoring data is reported to the secretary at a frequency determined by the secretary.

D. The secretary shall allow the following unless he determines that a hazard to public health may result:

(1) the weight of water contaminants in water diverted from any source

may be discharged provided that the discharge is to the aquifer from which the water was diverted or to an aquifer containing a greater concentration of the contaminants than contained in the water diverted; and provided further that contaminants added as a result of the means of diversion shall not be considered to be part of the weight of water contaminants in the water diverted;

(2) the water contaminants leached from undisturbed natural materials may be discharged provided that:

(a) the contaminants were not leached as a product or incidentally pursuant to a solution mining operation; and

(b) the contaminants were not leached as a result of direct discharge into the vadose zone from municipal or industrial facilities used for the storage, disposal, or treatment of effluent;

(3) the water contaminants leached from undisturbed natural materials as a result of discharge into ground water from lakes used as a source of cooling water.

E. If data submitted pursuant to any monitoring requirements specified in the discharge permit or other information available to the secretary indicates that this part is being or may be violated or that the standards of [Section] 20.6.2.3103 NMAC are being or will be exceeded, or a toxic pollutant as defined in [Section] 20.6.2.7 NMAC is present, in ground water at any place of withdrawal for present or reasonably foreseeable future use, or that the Water Quality Standards for Interstate and Intrastate Streams in New Mexico are being or may be violated in surface water, due to the discharge, except as provided in Subsection D of [Section] 20.6.2.3109 NMAC.

(1) The secretary may require a discharge permit modification within the shortest reasonable time so as to achieve compliance with this part and to provide that any exceeding of standards in ground water at any place of withdrawal for present or reasonably foreseeable future use, or in surface water, due to the discharge except as provided in Subsection D of [Section] 20.6.2.3109 NMAC will be abated or prevented. If the secretary requires a discharge permit modification to abate water pollution:

(a) the abatement shall be consistent with the requirements and provisions of [Sections] 20.6.2.4101, 20.6.2.4103, Subsection C and E of [Section] 20.6.2.4106, [Section] 20.6.2.4107, 20.6.2.4108 and [Section] 20.6.2.4112 NMAC; and

(b) the discharger may request of the secretary approval to carry out the abatement under [Sections] 20.6.2.4000

through 20.6.2.4115 NMAC, in lieu of modifying the discharge permit; the discharger shall make the request in writing and shall include the reasons for the request.

(2) The secretary may terminate a discharge permit when a discharger fails to modify the permit in accordance with Paragraph (1) of Subsection E of ~~[this section]~~ 20.6.2.3109 NMAC.

(3) The secretary may require modification, or may terminate a discharge permit for a class I non-hazardous waste injection well, a class III well or other type of well specified in Subsection A of ~~[Section]~~ 20.6.2.5101 NMAC, pursuant to the requirements of Subsection I of ~~[Section]~~ 20.6.2.5101 NMAC.

F. If a discharge permit expires or is terminated for any reason and the standards of ~~[Section]~~ 20.6.2.3103 NMAC are being or will be exceeded, or a toxic pollutant as defined in ~~[Section]~~ 20.6.2.7 NMAC is present in ground water, or that the Water Quality Standards for Interstate and Intrastate Streams in New Mexico are being or may be violated, the secretary may require the discharger to submit an abatement plan pursuant to ~~[Sections]~~ 20.6.2.4104 and Subsection A of ~~[Section]~~ 20.6.2.4106 NMAC.

G. At the request of the discharger, a discharge permit may be modified in accordance with ~~[Sections]~~ 20.6.2.3000 through 20.6.2.3114 NMAC.

H. The secretary shall not approve a proposed discharge plan, modification, or renewal for:

(1) any discharge for which the discharger has not provided a site and method for flow measurement and sampling;

(2) any discharge that will cause any stream standard to be violated;

(3) the discharge of any water contaminant which may result in a hazard to public health; or

(4) a period longer than five years, except that for new discharges, the term of the discharge permit approval shall commence on the date the discharge begins, but in no event shall the term of the approval exceed seven years from the date the permit was issued; for those permits expiring more than five years from the date of issuance, the discharger shall give prior written notification to the department of the date the discharge is to commence; the term of the permit shall not exceed five years from that date.

[2-18-77, 6-26-80, 9-20-82, 7-2-81, 3-3-86, 12-1-95, 11-15-96; 20.6.2.3109 NMAC - Rn, 20 NMAC 6.2.III.3109, 1-15-01; A, 12-1-01; A, 9-15-02; A, 7-16-06]

[Subsection 3109.A was added and subsequent subsections renumbered 11-15-96]

20.6.2.3112 APPEALS OF SEC-

RETARY'S DECISIONS:

A. If the secretary approves, approves subject to conditions, or disapproves a proposed discharge plan, renewal or modification, or modifies or terminates a discharge permit, appeal therefrom shall be in accordance with the provisions of Sections 74-6-5(N), (O) and (P), NMSA 1978. The filing of an appeal does not act as a stay of any provision of the Act, the regulations, or any permit issued pursuant to the Act, unless otherwise ordered by the secretary or the commission.

B. If the secretary determines that a discharger is not exempt from obtaining a discharge permit, or that the material to be discharged contains any toxic pollutant as defined in ~~[Section]~~ ~~20.6.2.1101~~ 20.6.2.7 NMAC, which is not included in the numerical standards of ~~[Section]~~ 20.6.2.3103 NMAC, then the discharger may appeal such determination by filing with the commission's secretary a notice of appeal to the commission within thirty days after receiving the secretary's written determination, and the appeal therefrom and any action of the commission thereon shall be in accordance with the provisions of Sections 74-6-5~~(N)~~, (O), ~~and~~ (P), (Q), (R) and (S) NMSA 1978.

C. Proceedings before the commission shall be conducted in accordance with the commission's adjudicatory procedures, 20 NMAC 1.3.

[2-18-77, 7-2-81, 12-1-95, 11-15-96; 20.6.2.3112 NMAC - Rn, 20 NMAC 6.2.III.3112, 1-15-01; A, 12-1-01; A, 7-16-06]

20.6.2.4114 APPEALS FROM SECRETARY'S DECISIONS:

A. If the secretary determines that an abatement plan is required pursuant to Paragraph (9) of Subsection A of ~~[Section]~~ 20.6.2.1203, Paragraph (4) of Subsection E of ~~[Section]~~ 20.6.2.3109, or Subsection B of ~~[Section]~~ 20.6.2.4105 NMAC, approves or provides notice of deficiency of a proposed abatement plan, technical infeasibility demonstration or abatement completion report, or modifies or terminates an approved abatement plan, he shall provide written notice of such action by certified mail to the responsible person and any person who participated in the action.

B. Any person who participated in the action before the secretary and who is adversely affected by the action listed in Subsection A of ~~[this section]~~ 20.6.2.4114 NMAC may file a petition requesting a ~~[hearing]~~ review before the commission.

C. The petition shall be made in writing to the commission and shall be filed with the commission's secretary within thirty (30) days after receiving notice

of the secretary's action. The petition shall specify the portions of the action to which the petitioner objects, certify that a copy of the petition has been mailed or hand-delivered to the secretary, and to the applicant or permittee if the petitioner is not the applicant or permittee, and attach a copy of the action for which review is sought. Unless a timely petition for hearing is made, the secretary's action is final.

D. The proceedings before the commission shall be conducted as provided in the commission's adjudicatory procedures, 20 NMAC 1.3.

E. The cost of the court reporter for the hearing shall be paid by the petitioner.

F. The appeal provisions do not relieve the owner, operator or responsible person of their obligations to comply with any federal or state laws or regulations.

[12-1-95, 11-15-96; 20.6.2.4114 NMAC - Rn, 20 NMAC 6.2.IV.4114, 1-15-01; A, 7-16-06]

End of Adopted Rules Section

Other Material Related to Administrative Law

**NEW MEXICO GAME
COMMISSION****LEGAL NOTICE**

The New Mexico State Game Commission provides public notice that at its May 2006 meeting in Clayton, New Mexico, the Commission adopted emergency regulations concerning fishing at Brantley Reservoir near Carlsbad, New Mexico. Specifically the Commission amended 19.31.4. 11 C (4), NMAC, Fisheries to read:

(4) In Eddy County, the Pecos River beginning at the north boundary of Brantley Wildlife Management Area to Brantley reservoir dam including Brantley reservoir, all fish caught must immediately be released, except during official fishing tournaments during which fish may be held in a live well until they are weighed and measured, on site, and then immediately released back into the lake.

This emergency amendment was made to protect public health due to the finding of high levels of DDT in fish tissue. This rule will remain in effect indefinitely or until amended. If you have questions or concerns, you may contact the New Mexico Department of Game and Fish; Fisheries Division at (505) 476-8055; or in writing to: Mike Sloane, Fisheries Division Chief, New Mexico Department of Game and Fish, Post Office Box 25112, Santa Fe, NM 87504.

**End of Other Related
Material Section**

SUBMITTAL DEADLINES AND PUBLICATION DATES

2006

Volume XVII	Submittal Deadline	Publication Date
Issue Number 1	January 3	January 17
Issue Number 2	January 18	January 31
Issue Number 3	February 1	February 14
Issue Number 4	February 15	February 28
Issue Number 5	March 1	March 15
Issue Number 6	March 16	March 31
Issue Number 7	April 3	April 14
Issue Number 8	April 17	April 28
Issue Number 9	May 1	May 15
Issue Number 10	May 16	May 31
Issue Number 11	June 1	June 15
Issue Number 12	June 16	June 30
Issue Number 13	July 3	July 17
Issue Number 14	July 18	July 31
Issue Number 15	August 1	August 15
Issue Number 16	August 16	August 31
Issue Number 17	September 1	September 15
Issue Number 18	September 18	September 29
Issue Number 19	October 2	October 16
Issue Number 20	October 17	October 31
Issue Number 21	November 1	November 15
Issue Number 22	November 16	November 30
Issue Number 23	December 1	December 14
Issue Number 24	December 15	December 29

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rule making, proposed rules, adopted rules, emergency rules, and other similar material. The Commission of Public Records, Administrative Law Division publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978. For further subscription information, call 505-476-7907.