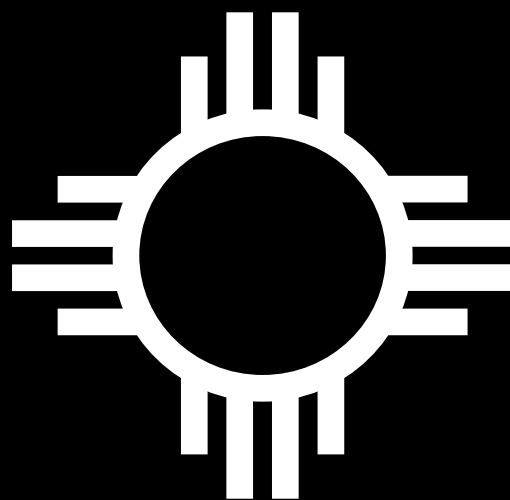


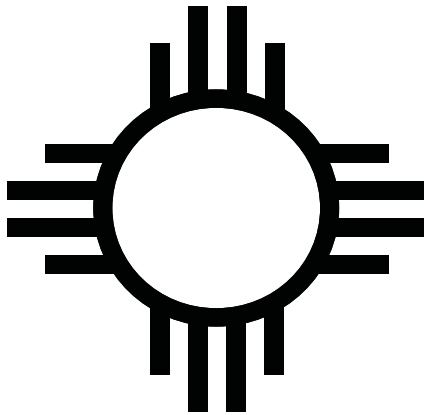
**NEW
MEXICO
REGISTER**



Volume XXI
Issue Number 21
November 15, 2010

New Mexico Register

Volume XXI, Issue Number 21
November 15, 2010



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
2010

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New Mexico Register

Volume XXI, Number 21

November 15, 2010

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Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. “No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico register as provided by the State Rules Act. Unless a later date is otherwise provided by law, the effective date of a rule shall be the date of publication in the New Mexico register.” 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A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered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 HEALTH

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on 7.2.2 NMAC "Vital Records and Statistics". The Hearing will be held on Tuesday, November 30, 2010 at 9:30 a.m. in the Harold Runnels Building Auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico.

The public hearing will be conducted to receive public comment regarding proposed repeal and replace of the rule.

A copy of the proposed rules can be obtained from:

Christina Galvez
Office of General Counsel
New Mexico Department of Health
1190 St. Francis Drive, Room N-4095
Santa Fe, New Mexico 87502
TEL: (505) 476-3543
FAX: (505) 827-2930

Please submit any written comments regarding the proposed rules to Ms. Galvez at the address listed above.

The Department will accept public comment through the close of the hearing unless otherwise specified.

If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in the hearing, please contact Christina Galvez at the above address or telephone number. The Department requests at least ten (10) days advance notice for special accommodations requests.

NEW MEXICO DEPARTMENT OF HEALTH

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on 7.34.2 NMAC "Advisory Board Responsibilities & Duties"; 7.34.3 NMAC "Registration Identification Cards" and 7.34.4 NMAC "Licensing Requirements For Producers, Production Facilities and Distribution". The Hearing will be held on Thursday, December 2, 2010 at 9:30 a.m. in the Harold Runnels Building Auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico.

The public hearing will be conducted to

repeal and replace the existing medical cannabis rules.

A copy of the proposed rules can be obtained from:

Medical Cannabis Program
1190 St. Francis Dr. Suite S1202
Santa Fe, NM 87502
www.nmhealth.org/IDB/medical.cannabis.shtml

or by calling Christina Galvez at 505-476-3543 to obtain copies.

Please submit any written comments regarding the proposed rules to:

Medical Cannabis Program
New Mexico Department of Health
1190 St. Francis Dr. Suite S1202
Santa Fe, NM 87502
Medical.cannabis@state.nm.us

The Department will accept public comment through the close of the hearing.

If you are an individual with a disability who is in need of special services to attend or participate in the hearing, please contact Christina Galvez by telephone at (505) 476-3543. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

NOTICE

The New Mexico Human Services Department (HSD) is scheduling three public hearings for December 15, 2010 to be held in the ASD conference room, Plaza San Miguel, 729 St. Michael's Drive, Santa Fe.

The subject of the first hearing at 9:00 a.m. is General Noncovered Services:

The Human Services Department, Medical Assistance Division (HSD/MAD), is proposing a change to 8.301.3 NMAC, *General Noncovered Services*. Along with these proposed changes in benefits, the entire rule was reviewed for clarity, resulting in additional changes in the wording but not otherwise affecting the benefits of the program.

A. If implemented as proposed, MAD will not reimburse for services to treat or to test for conditions for which more economical therapeutic alternatives are available, including allergy

testing and/or immunotherapy for pollens, molds or foods for ages 21 and above; for bariatric or other weight loss and weight reduction surgeries or procedures; or for sleep studies.

B. MAD also proposes not to reimburse for routine screening, tests or services which are not medically necessary due to the age of the eligible recipient, including papanicolaou tests (pap smears) for women under the age of 21 and prostate specific antigen (PSA) tests for men under age 40, unless prior history or risk factors make the tests medically warranted.

C. MAD also proposes not to pay for pregnancy, complications encountered during pregnancy-related conditions, prenatal care and post partum care, or delivery for services for a surrogate mother for which an agreement or contract between the surrogate mother and another party exists.

The reduction in payments for the above three changes in the Medicaid fee-for-service program is estimated to be \$720,000 annually

Though not included in the rule because payment levels are not placed in the actual rule but, rather, are published on the Medical Assistance Division website, the Department is also proposing to change the payment level of elective cesarean sections. The Department is proposing to pay elective cesarean section deliveries at the same rate as for vaginal deliveries.

[Continued on page 1058]

Code	Current Physician Rate	Proposed Rate	Reduction
59510	\$2,164.73	\$1,909.67	13%
59514	\$1,142.71	\$ 968.26	18%
59515	\$1,286.17	\$1,080.18	19%

The lower rate will not apply when the cesarean section is not considered to be elective due to one of the following reasons:

- * The mother has already had a cesarean section in a previous pregnancy.
- * The mother has a serious medical condition that requires emergency treatment.
- * The mother has an infection that may be transmitted to the baby, such as herpes or HIV (Human Immunodeficiency Virus).
- * The mother is delivering twins, triplets, or more.
- * The baby is in a breech or transverse position.
- * The baby is showing signs of severe fetal distress requiring immediate delivery.

In order to distinguish between an elective and non-elective cesarean section when billing, one of the above three procedure codes, the primary and assistant surgeon, if an assistant is required, must use a modifier U1 when billing for non-elective cesarean sections. Non-elective cesarean sections will receive current reimbursement rates when billed with the "U1" modifier.

The subject of the second hearing at 10:00 a.m. is Methods and Standards for Establishing Payment-Inpatient Hospital Services: The Human Services Department, Medical Assistance Division, is proposing amendments to 8.311.3 NMAC, *Methods and Standards for Establishing Payment Inpatient Hospital Services* to clarify regulatory language, accuracy with existing rules and respond to current budgetary constraints.

If implemented as proposed, the following changes to Medicaid inpatient hospitals will affect providers by:

- * The payment level for an indirect medical education (IME) adjustment factor is being changed from 1.89 to the federal IME adjustment factor which is set by Congress and changes from year to year. The current federal IME adjustment factor is 1.35.
 - * Adds a provision that a readmission of an eligible recipient to the same hospital within 24 hours of the discharge for the same or related Diagnosis Related Group (DRG) will be considered as one stay with one DRG rather than two separate hospital stays. If the readmission is a different hospital, the claim will be reviewed to determine if it should be treated as a transfer.
 - * Out-of-state acute care hospitals will be reimbursed using Diagnosis-Related Groups (DRGs) rather than 70% of billing charges.
- The proposed rule also replaces outdated word usage, such as "Medicaid" with "MAD", the "Medical Assistance Division".

The changes in the methods and standards rule are being proposed because the Department believes the changes are more in line with the reimbursement typically available from other insurers and that the IME index established by Congress is a reasonable level of reimbursement. Also, at this time there is a serious shortfall in state revenues which has resulted in reductions in many state agency budgets. The New Mexico Medicaid program budget is no exception. Program costs are outpacing available revenues. Therefore, the Department has looked at reimbursement methodology to determine changes that can be made while still providing medically appropriate services.

The reduction in payments for these services in the Medicaid fee-for-service program is estimated to be \$2,500,000 annually for the IME adjustment factor change and \$8,570,000 annually for other reimbursement changes.

The following cesarean procedure codes do not require a modifier and will continue to receive current reimbursement rates because the description of the code itself indicates that the cesarean section was not an elective procedure because a vaginal delivery was initially attempted:

59620
59622

The reduction in payments for this change in the Medicaid fee-for-service program is estimated to be \$656,000 annually.

Other changes in the rule being proposed at this time include replacing outdated word usage, such as Medicaid with MAD, the Medical Assistance Division.

At this time there is a serious shortfall in state revenues which has resulted in reductions

in many state agency budgets. The New Mexico Medicaid program budget is no exception. Program costs are outpacing available revenues. Therefore, the Department has looked at program benefits to determine changes that can be made while still providing medically appropriate services. The Department believes these changes are consistent with the benefits typically available from other insurers.

The subject of the third hearing at 1:30 p.m. is Durable Medical Equipment (DME) and Medical Supplies: The Human Services Department, Medical Assistance Division, is proposing amendments to 8.324.5 NMAC, *Durable Medical Equipment (DME) and Medical Supplies*, to clarify regulatory language, accuracy with existing rules and respond to current budgetary constraints.

If implemented as proposed, the following changes to Medicaid DME and Medical Supply benefit coverage will affect recipients by:

- * Limiting quantities for supplies to eligible recipients to reasonable amounts.

If implemented as proposed, the following changes to Medicaid DME and Medical Supply benefits and reimbursement will affect DME and medical supply providers:

- * MAD will follow Medicare rules for limiting or capping reimbursement for rental equipment over time and requiring providers to maintain and repair the equipment following the capped rental period;
- * MAD requires suppliers to document that the eligible recipient does not have in excess of a 15-calendar day supply of the item before releasing the next order; and
- * Added reimbursement language to clarify when a provider must bill the invoice cost plus a percentage and also reduces the percentage allowed above the invoice price by 5%.

Other changes in the rule being proposed at this time include the following:

- * Replacing outdated word usage, such as Medicaid with MAD, the Medical Assistance Division;
- * Providing more instruction on the eligibility of providers and their responsibilities;
- * Directing providers to enroll and follow a MAD managed care or MAD fee-for-service instructions for billing and authorization of services; and
- * Deleting unnecessary information.

The changes in the durable medical equipment and medical supplies benefits are being proposed because the Department

believes the changes are more in line with the benefits typically available from other commercial DME insurers. Also, at this time there is a serious shortfall in state revenues which has resulted in reductions in many state agency budgets. The New Mexico Medicaid program budget is no exception. Program costs are outpacing available revenues. Therefore, the Department has looked at DME and other program benefits to determine changes that can be made while still providing medically appropriate services.

The reduction in payments for these services in the Medicaid fee-for-service program is estimated to be \$360,000.

Interested persons may submit written comments no later than 5:00 p.m., December 15, 2010, to Kathryn Falls, 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 all comments will be made available by the Medical Assistance Division upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

Copies of the Human Services Register are available for review on our Website at www.hsd.state.nm.us/mad/registers/2010 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 REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

LEGAL NOTICE

Public Rule Hearing

The New Mexico Regulation and Licensing Department (RLD) will hold a rule hearing on Monday, December 20, 2010. The rule hearing will begin at 10:00 a.m. and will be held at the RLD, 2550 Cerrillos Rd., Santa Fe, NM 87505, in the Rio Grande Conference Room.

The purpose of the rule hearing is to hear public testimony on adoption of proposed amendments and additions to the following RLD rules in Title 12, Chapter 2 NMAC: Part 12 Sale of Recycled Metals and Title 16, Chapter 1 NMAC: Part 1 Parental Responsibility Act Compliance.

Copies of the proposed rule changes may be obtained at the RLD located at the Toney Anaya Building, 2550 Cerrillos Road in Santa Fe, New Mexico, 87505, or at the RLD Albuquerque office located at 5200 Oakland NE, Albuquerque, New Mexico 87113. You may also get copies from the RLD website: www.RLD.state.nm.us.

Persons wishing to make written comments regarding the proposed rules must mail them to or present them at the RLD offices listed above no later than December 20, 2010. Persons may also present their written or oral comments at the hearing.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing, but you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the RLD office at (505) 476-4601 at least two weeks prior to the meeting or as soon as possible.

Linda Trujillo, Director
PO Box 25101- Santa Fe, New Mexico
87504

NEW MEXICO REGULATION AND LICENSING DEPARTMENT FINANCIAL INSTITUTIONS DIVISION

Notice is hereby given that the Financial Institutions Division of the Regulation and Licensing Department proposes to amend

the following rules: the Mortgage Loan Originator Requirements, 12.19.2 NMAC, pertaining to The New Mexico Mortgage Loan Originator Licensing Act; the Mortgage Loan Company Requirements, 12.19.8 NMAC, pertaining to Mortgage Loan Company Act and the Home Loan Protection Act - General Provisions, 12.15.3 NMAC, pertaining to the Home Loan Protection Act. The draft rules may be viewed at www.newmexicomortgagelending.us. Interested persons shall file their written comments on the proposed rules by no later than 5:00 P.M. November 30, 2010. Comments on the proposed rules shall be sent to:

Jackie Dalmy, Licensing Specialist
Financial Institutions Division
Toney Anaya Building,
2550 Cerrillos Road, 3rd Floor
Santa Fe, New Mexico 87505
Phone # 505-476-4908
Fax # 505-476-4670
Email address: Jackie.dalmy@state.nm.us

NEW MEXICO STATE PURCHASING COUNCIL FROM PERSONS WITH DISABILITIES

NEW MEXICO STATE PURCHASING COUNCIL FROM PERSONS WITH DISABILITIES

NOTICE OF PROPOSED RULEMAKING

The New Mexico State Purchasing Council from Persons with Disabilities hereby given that the Council will conduct a public hearing in the HSD Large Conference Room 729 St Michaels Dr Plaza San Miguel, Santa Fe, New Mexico 87505 on December 17, 2010 from 10 AM to 12 noon. The purpose of the public hearing will be to obtain input on the following rule:

[Continued on page 1060]

Rule Number	Rule Name	Proposed Action
2.40.5	Purchasing of Services From Persons with Disabilities	Changes

Interested individuals may testify either at the public hearing or submit written comments regarding the proposed rulemaking to Andy Winnegar, Chair State Purchasing Council from Persons with Disabilities 435 St. Michael's Dr. Bldg D, SF, NM 87505 andy.winnegar@state.nm.us

Written comments must be received no later than 5:00 p.m. on December 17, 2010; however, submission of written comments as soon as possible is encouraged. The text of the proposed rulemaking actions may be accessed on the New Mexico Abilities website (<http://www.nmabilities.org>) or obtained from Andy Winnegar, Chair State Purchasing Council from Persons with Disabilities 435 St. Michael's Dr. Bldg D, SF, NM 87505 andy.winnegar@state.nm.us The proposed rules will be made available at least thirty (30) days prior to the hearing. 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 Andy Winnegar, Chair State Purchasing Council from Persons with Disabilities 435 St. Michael's Dr. Bldg D, SF, NM 87505 andy.winnegar@state.nm.us The Council requests at least ten (10) days advance notice to provide requested special accommodations.

NEW MEXICO TAXATION AND REVENUE DEPARTMENT

New Mexico Taxation and Revenue Department

Notice of Public Hearing Cancellation

In the October 15, 2010, issue of the NM Register, the Taxation and Revenue Department published a Notice of Hearing and Proposed Rules that included the following proposed rules:

Gross Receipts and Compensating Tax Act

3.2.1.11 NMAC Section 7-9-3.4 NMSA 1978

(Construction)

3.2.212.22 NMAC Section 7-9-54 NMSA 1978

(Tangible Personal Property in Projects Financed by Industrial Revenue or Similar Bonds)

The Taxation and Revenue Department has reconsidered these proposals and has decided to cancel the hearing on these rules scheduled for November 18, 2010.

Please submit any questions concerning this cancellation notice via email to poffice@state.nm.us.

End of Notices and Proposed Rules Section

Adopted Rules

NEW MEXICO BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE

In accordance with 61-1-30 NMSA, 1978, shall not continue in effect longer than forty-five days unless within that time the board commences proceedings to adopt the regulation by issuing the notice required under Section 61-1-29 NMSA 1978. This is the re-promulgation of the rule within the 120 day limit to make it permanent. This is an amendment to 16.2.1 NMAC Section 7 effective 11/28/2010, adopted by the Board of Acupuncture and Oriental Medicine at their meeting on 10-8-10.

16.2.1.7 DEFINITIONS:

A. The definitions in Subsection B of 16.2.1.7 NMAC [~~(Part 1 of the rules)~~] are in addition to those in the act.

B. The following definitions apply to the rules and the act.

(1) "Act" is the Acupuncture and Oriental Medicine Practice Act, Sections 61-14A-1 through 61-14A-22 NMSA 1978.

(2) "Animal acupuncture" is acupuncture performed on any animal other than man. Animal acupuncture is authorized under the supervision of a doctor of veterinary medicine licensed in New Mexico and only under the guidelines of the rules of the New Mexico Veterinary Practice Act (61-14-1. to 61-14-20.) and the rules of the New Mexico board of veterinary medicine. (16.25.9.15 NMAC)

(3) "Applicant" is a person who has submitted to the board an application for licensure as a doctor of oriental medicine.

(4) "Applicant for temporary licensure" is a person who has submitted to the board an application for temporary licensure as a doctor of oriental medicine.

(5) "Auricular detoxification specialist supervisor" is a doctor of oriental medicine registered with the board under the provisions of [~~Section 18 of 16.2.16 NMAC (Part 16 of the rules)~~] 16.2.16.18 NMAC.

(6) "Auricular detoxification specialist training program" is a training program approved by the board under the provisions of [~~Section 26 of 16.2.16 NMAC (Part 16 of the rules)~~] 16.2.16.26 NMAC to train certified auricular detoxification specialists and auricular detoxification supervisors.

(7) "Auricular detoxification specialist training program trainer" is a member of the staff of an auricular detoxification specialist training program who, though not necessarily licensed or certified by the state, shall be deemed to be a certified auricular detoxification specialist only for the purposes of and only for the

duration of the auricular detoxification specialist training program.

(8) "~~Authorized substances~~" are the specific substances defined in the four certification in 16.2.20 NMAC that ~~are authorized according to 61-14A-8.1 of the act for prescription, administration, compounding and dispensing by a doctor of oriental medicine certified for a specific category of expanded practice as defined in 16.2.19 NMAC.~~

[~~(8)~~] (9) "~~Bioidentical hormones~~" are hormones that are chemically identical to, or analogues of hormones found in living entities or that have substantially identical physiological functions as hormones found in living entities. "Bioidentical hormones" means compounds, or salt forms of those compounds, that have exactly the same chemical and molecular structure as hormones that are produced in the human body.

[~~(9)~~] (10) "Biomedical diagnosis" is a diagnosis of a person's medical status based on the commonly agreed upon guidelines of conventional biomedicine as classified in the most current edition or revision of the international classification of diseases, [9th] ninth revision, clinical modification (ICD-9-CM).

[~~(10)~~] (11) "Biomedicine" is the application of the principles of the natural sciences to clinical medicine.

[~~(11)~~] (12) "Certified auricular detoxification specialist" is a person certified by the board under the provisions of [~~Section 10 of 16.2.16 NMAC (Part 16 of the rules)~~] 16.2.16.10 NMAC to perform auricular detoxification techniques, including acupuncture, only on the ears, only in the context of an established treatment program and only under the supervision of an auricular detoxification supervisor registered with the board. The title may be abbreviated as CADS.

[~~(12)~~] (13) "Chief officer" is the board's chairperson or his or her designee serving to administer the pre-hearing procedural matters of disciplinary proceedings.

[~~(13)~~] (14) "Clinical skills examination" is a board approved, validated, objective practical examination that demonstrates the applicants entry level knowledge of and competency and skill in the application of the diagnostic and treatment techniques of acupuncture and oriental medicine and of biomedicine.

[~~(14)~~] (15) "Clinical experience" is the practice of acupuncture and oriental medicine as defined in the act, after initial licensure, certification, registration or legal recognition in any jurisdiction to practice acupuncture and oriental medicine. A year

of clinical experience shall consist of not less than [~~five hundred (500)~~] 500 patient hours of licensed acupuncture and oriental medical practice within a calendar year, seeing at least [~~twenty-five (25)~~] 25 different patients within that year. One patient hour is defined as one clock hour spent in the practice of oriental medicine with patients.

[~~(15)~~] (16) "Complainant" is the complaining party.

[~~(16)~~] (17) "Complaint committee" is a board committee composed of the complaint committee chairperson and the complaint manager.

[~~(17)~~] (18) "Complaint committee chairperson" is a member of the board appointed by the board's chairperson.

[~~(18)~~] (19) "Complaint manager" is the board's administrator or any member of the board appointed by the board's chairperson.

[~~(19)~~] (20) "Department" is the state of New Mexico regulation and licensing department.

[~~(20)~~] (21) "Doctor of oriental medicine" is a physician licensed to practice acupuncture and oriental medicine pursuant to the act and as such has responsibility for his or her patient as a primary care physician or independent specialty care physician.

(22) "Educational Course" is a comprehensive foundation of studies, approved by the board leading to demonstration of entry level competence in the specified knowledge and skills required for the four respective certifications in expanded practice. An educational course is not an educational program as this term is used in the act and the rules and as defined in 16.2.1 NMAC.

[~~(21)~~] (23) "Educational program" is a board approved complete formal program that has the goal of educating a person to be qualified for licensure as a doctor of oriental medicine in New Mexico, is at least four (4) academic years and meets the requirements of Section 61-14A-14 of the act and 16.2.7 NMAC [~~(Part 7 of the rules)~~].

[~~(22)~~] (24) "Expanded [prescriptive authority] practice" is authorized by Section [~~61-14A-3.G.(4) and (5), and 61-14A-8.1~~] 61-14-8.1 of the act and is granted to a doctor of oriental medicine who is certified by the board after fulfilling the requirements, in addition to those necessary for licensure, defined in [~~Section 11 of 16.2.2 NMAC (Part 2 of the rules)~~] 16.2.19 NMAC. Expanded [~~prescriptive authority~~] practice is in addition to the prescriptive authority granted all licensed doctors of oriental medicine as defined in Section 61-14A-3.G.(2) of the act. [~~Expanded prescriptive authority may be abbreviated as Rx2.~~]

[~~(23)~~] "~~Extended prescriptive~~"

authority” is authorized by Section 61-14A-3.H(4) and (5), and 61-14A-8.1 of the act and is granted to a doctor of oriental medicine who is certified by the board after fulfilling the requirements, in addition to those necessary for licensure, defined in Section 10 of 16.2.2 NMAC (Part 2 of the rules). Extended prescriptive authority is in addition to the prescriptive authority granted all licensed doctors of oriental medicine as defined in Section 61-14A-3.G.(2) of the act. Extended prescriptive authority may be abbreviated as Rx1-].

[(24)] (25) “Extern” is a current applicant undergoing supervised clinical training by an externship supervisor, and who has satisfied the application requirements for extern certification and who has received an extern certification issued by the board pursuant to 16.2.14 NMAC [(Part 14 of the rules)].

[(25)] (26) “Externship” is the limited practice of oriental medicine in New Mexico by an extern supervised by an externship supervisor pursuant to 16.2.14 NMAC [(Part 14 of the rules)].

[(26)] (27) “Externship supervisor” is a doctor of oriental medicine who has at least five years clinical experience, maintains a clinical facility and maintains appropriate professional and facility insurance, and who has satisfied the board’s application requirements for an externship supervisor and has received an externship supervisor registration issued by the board pursuant to 16.2.14 NMAC [(Part 14 of the rules)].

[(27)] (28) “Good cause” is the inability to comply because of serious accident, injury or illness, or the inability to comply because of the existence of an unforeseen, extraordinary circumstance beyond the control of the person asserting good cause that would result in undue hardship. The person asserting good cause shall have the burden to demonstrate that good cause exists.

[(28)] (29) “Inactive licensee” means a licensee in good standing whose license is placed on inactive status by the board and is therefore considered an inactive license in compliance with 16.2.15 NMAC [(Part 15 of the rules)].

[(29)] (30) “Licensee” is a doctor of oriental medicine licensed pursuant to the act.

[(30)] (31) “Licensing candidate” is an applicant whose initial application for licensure as a doctor of oriental medicine has been approved by the board.

[(31)] (32) “Licensure by endorsement” is a licensing procedure for the experienced practitioner who completed his [or her] initial education in acupuncture and oriental medicine prior to the establishment of current educational standards and who has demonstrated his or her competency through a combination of

education, examination, authorized legal practice and clinical experience as defined in 16.2.17 NMAC [(Part 17 of the rules)]. Completion of the licensure by endorsement process results in full licensure as a doctor of oriental medicine.

[(32)] (33) “Limited temporary license” is a license issued under the provisions of [Section 12 of 16.2.5 NMAC (Part 5 of the rules)] 16.2.5.12 NMAC for the exclusive purpose of teaching a single complete course in acupuncture and oriental medicine and assisting in the implementation of new techniques in acupuncture and oriental medicine including the study of such techniques by [a] licensed, registered, certified or legally recognized healthcare [practitioner] practitioners from jurisdictions other than New Mexico. A limited temporary license shall be required for any person who demonstrates, practices or performs diagnostic and treatment techniques on another person as part of teaching or assisting in the implementation of new techniques, if they are not a licensee or temporary licensee. Limited temporary licenses shall not be issued to teachers for the purpose of teaching full semester courses that are part of an approved educational program.

[(33)] (34) “Live cell products” are living cells from glandular tissues and other tissues.

[(34)] (35) “Natural substances” [are physical matter including atoms, molecules, elements and compounds that exist in nature or are formed by natural forces, processes or entities including their constituents, preparations, concentrates, refinements, isolates, extracts, derivatives, byproducts, ligands and metabolites, and the synthetic chemical surrogates, isomers and analogues of these. A natural substance may be the crude substance, a prepared form that renders the crude substance clinically useful, a constituent derived from the crude substance, or a synthesized chemical surrogate, isomer or analogue of the constituent. Natural substances may be classified as drugs, dangerous drugs or controlled substances as these are defined in the New Mexico Drug Device and Cosmetic Act or the Controlled Substances Act.] are substances that exist in or are produced by nature and have not been substantially transformed in character or use.

[(35)] (36) “NCA” is a notice of contemplated action.

[(36)] (37) “Office” is the physical facility used for the practice of acupuncture and oriental medicine and auricular detoxification.

[(37)] (38) “Oxidative medicine” is the understanding and evaluation of the oxidation and reduction biochemical functions of the body and the prescription or administration of substances, and the use of

devices and therapies to improve the body’s oxidation and reduction function and health.

[(38)] “Post graduate educational program” is an educational program that meets the requirements of Section 61-14A-8.1 NMSA 1978 of the act and 16.2.2 NMAC (Part 2 of the board’s rules):

—(a)— Extended prescriptive authority;

—(b)— Expanded prescriptive authority.]

(39) “Protomorphogens” are extracts of glandular tissues.

(40) “Respondent” is the subject of the complaint.

(41) “Rules” are the rules, promulgated pursuant to the act, governing the implementation and administration of the act as set forth in 16.2 NMAC [(Title 16 – Occupational and Professional Licensing, Chapter 2 – Acupuncture and Oriental Medicine)].

(42) “Supervised clinical observation” is the observation of acupuncture and oriental medical practice, in actual treatment situations under appropriate supervision.

(43) “Supervised clinical practice” is the application of acupuncture and oriental medical practice, in actual treatment situations under appropriate supervision.

(44) “Supervision” is the coordination, direction and continued evaluation at first hand of the student in training or engaged in obtaining clinical practice and shall be provided by a qualified instructor or tutor as set forth in 16.2.7 NMAC [(Part 7 of the rules)]. No more than four (4) students shall be under supervision for supervised clinical practice and no more than four [(4)] students shall be under supervision for supervised clinical observation by a qualified instructor at any time.

(45) “Temporary licensee” is a doctor of oriental medicine who holds a temporary license pursuant to the act, Section 61-14-12 NMSA 1978 and 16.2.5 NMAC [(Part 5 of the rules)].

(46) “Therapeutic serum” is a product obtained from blood by removing the clot or clot components and the blood cells.

[(46)] (47) “Treatment program” is an integrated program that may include medical and counseling services for disease prevention, harm reduction or the treatment or prevention of alcoholism, substance abuse or chemical dependency that is located at a fixed location or in a mobile unit and approved by the board under the provisions of [Section 28 of 16.2-16 NMAC (Part 16 of the rules)] 16.2.16.28 NMAC.

[11-3-81...7-1-96; N, 8-31-98; A, 2-17-00; 16.2.1.7 NMAC - Rn & A, 16 NMAC 2.1.7, 8-13-01; A, 4-4-02; A, 3-2-03; A, 02-15-05; A, 9-25-06; A, 11-28-09; A/E, 06-15-10;

A/E, 06-15-10; Re-pr & A, 11-28-10]

NEW MEXICO BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE

In accordance with 61-1-30 NMSA, 1978, shall not continue in effect longer than forty-five days unless within that time the board commences proceedings to adopt the regulation by issuing the notice required under Section 61-1-29 NMSA 1978. This is the re-promulgation of the rule within the 120 day limit to make it permanent. This is an amendment to 16.2.2 NMAC Section 13 effective 11/28/2010, adopted by the Board of Acupuncture and Oriental Medicine at their meeting on 10-8-10.

16.2.2.13 [PRESCRIPTIVE

AUTHORITY FORMULARY: A doctor of oriental medicine is authorized to prescribe, dispense or administer only the drugs not listed by the designation Rx after a specific substance in Subsections A to L of this prescriptive authority formulary (16.2.2.13 NMAC) and is not authorized to prescribe the drug if it is classified as a dangerous drug or controlled substance or administer the drug by injection. A doctor of oriental medicine certified for extended prescriptive authority (Rx1) is authorized to prescribe, dispense or administer only the drugs listed in Subsections A to S of this prescriptive authority formulary (16.2.2.13 NMAC) and is only authorized to administer them in compliance with the techniques defined in 16.2.2.10 NMAC (Section 10 of Part 2 of the rules), except that injection of gerovital (buffered procaine) is not authorized and intravenous injection or infusion therapy is not authorized. A doctor of oriental medicine certified for expanded prescriptive authority (Rx2) is authorized to prescribe, dispense or administer all drugs listed in this prescriptive authority formulary (16.2.2.13 NMAC). Drugs, dangerous drugs and controlled substances are defined in the New Mexico Drug, Device and Cosmetic Act and the New Mexico Controlled Substances Act. All drugs listed in this prescriptive authority formulary that at any time have been classified as dangerous drugs or controlled substances, including those intended for injection are within the prescriptive authority of a doctor of oriental medicine certified for the appropriate extended prescriptive authority (Rx1) or expanded (Rx2) prescriptive authority. A drug listed in this prescriptive authority formulary that at any time is classified as a schedule 1 controlled substance, as defined in the New Mexico Controlled Substances Act, is within the prescriptive authority of a doctor of oriental medicine certified for the appropriate

extended prescriptive authority (Rx1) or expanded (Rx2) prescriptive authority if at any time that drug is authorized for research or use by prescription or administration by a practitioner. This prescriptive authority formulary is an evolving document. All substances from threatened or endangered species as determined by the convention on the international trade in endangered species of wild fauna and flora (CITES at www.cites.org) and the US fish and wildlife service (<http://endangered.fws.gov/>) shall be automatically eliminated from this prescriptive authority formulary. Definitions from the New Mexico Drug, Device and Cosmetic Act and the New Mexico Controlled Substances Act apply to the appropriate terms in this prescriptive authority formulary. Doctors of oriental medicine must comply with all federal and state laws pertaining to the obtaining, possession, prescription, compounding, administration or dispensing of any drug, dangerous drug or controlled substance. Any substances for injection or infusion shall only be approved for use if procured from a manufacturer or compounding pharmacy compliant with all federal and state laws. This prescriptive authority formulary does not supersede such laws. A doctor of oriental medicine certified for the extended prescriptive authority (Rx1) or expanded (Rx2) prescriptive authority, when diagnosing and treating a patient, shall possess and apply the knowledge and use the skill and care ordinarily used by other similarly certified doctors of oriental medicine.

A. All herbal medicines from around the world.

B. All homeopathic medicines.

C. All vitamins including their surrogates, isomers and analogues. Doctors of oriental medicine certified for the extended prescriptive authority (Rx1) are authorized to inject these substances except that intravenous injection therapy is not authorized under the extended prescriptive authority (Rx1) certification. Doctors of oriental medicine certified for the expanded prescriptive authority (Rx2) are authorized to administer these substances through any means including intravenous therapy.

D. All minerals from the periodic table including the salts of calcium and magnesium such as ammoniates, anhydrides, ascorbates, aspartates, chlorides, citrates, gluconates, fumarates, iodates, sulfates, etc., except the injection of gold.

E. All enzymes except urokinase.

F. All glandular products.

G. Natural substances. The authorized natural substances are:

- (1) adenosine triphosphate (ATP)
- (2) alcohols

- (3) acetylcysteine (mucomist) Rx
- (4) bee venom (apis)
- (5) benzyl alcohol
- (6) carbohydrates
- (7) colchicine Rx
- (8) cytokines
- (9) dextrose
- (10) EDTA
- (a) ethylenediamine-tetraacetic acid
- (b) disodium ethylenediamine tetraacetic acid
- (c) trisodium ethylenediamine tetraacetic acid
- (11) fatty acids
- (12) flavonoids
- (13) fructose
- (14) gamaglobulin
- (15) glucose
- (16) glucosamine
- (17) glutathione
- (18) glycerine
- (19) haemaglobulin
- (20) heparin Rx
- (21) hyaluronic acid
- (22) hydrochloric acid
- (23) hydrogen peroxide
- (24) lipids
- (25) ozone
- (26) phenol (carbolic acid) Rx
- (27) proteins
- (28) pumice
- (29) sodium hyaluronate
- (30) sodium morrhuate (extract of cod liver oil)
- (31) sulfur compounds. Examples are:
 - (a) DMPS (dimercaptopropane-1-sulphonate)
 - (b) DMSO (dimethyl sulfoxide)
 - (c) DMSA (dimercaptosuccinic acid) Rx
 - (d) MSM (methylsulfonyl methane)
- (32) tetrahydropalmatine (extract of corydalis)
- (33) all natural substances from the traditional natural medicines of the world
- (34) all substances in the natural medicines comprehensive database:
 - H. All protomorphogens.
 - I. All live cell products.
 - J. Gerovital.
 - K. All amino acids.
 - L. All dietary and nutritional supplements.
 - M. All cosmetics as defined in the New Mexico Drug Device and Cosmetic Act.
 - N. All biological products including therapeutic serum. Biological products and therapeutic serum are defined in the New Mexico Drug, Device and Cosmetic Act.
 - O. All over the counter drugs available without a prescription. Drugs are defined in the New Mexico Drug

Device and Cosmetic Act:

- _____ P. Sterile water.
- _____ Q. Sterile saline.
- _____ R. Sarapin (or its generic).
- _____ S. Vapocoolants:
- _____ (1) Ethyl chloride
- _____ (2) Fluorimethane
- _____ T. Caffeine.
- _____ U. Procaine.
- _____ V. Oxygen.
- _____ W. Epinephrine.
- _____ X. Bioidentical hormones.

The authorized hormones are:

- _____ (1) ~~adrenocortical~~ hormones (adrenocorticosteroids; cortical hormones)
- _____ (a) ~~androgens~~ (17-ketosteroids; dehydroisoandrosterone; androstenedione; testosterone)
- _____ (b) ~~estrogens~~
- _____ (c) ~~glucocorticoids~~ (hydrocortisone or cortisol, cortisone, corticosterone)
- _____ (d) ~~mineralocorticoids~~ (aldosterone; dehydroepiandrosterone DHEA)
- _____ (e) ~~progesterone~~
- _____ (2) ~~adrenomedullary~~ hormones
- _____ (a) ~~epinephrine~~
- _____ (b) ~~norepinephrine~~
- _____ (3) ~~anterior pituitary~~ hormones
- _____ (4) ~~sex hormones~~
- _____ (a) ~~androstenedione~~
- _____ (b) ~~androsterone~~
- _____ (c) ~~estradiol (E2)~~
- _____ (d) ~~estriol (E3)~~
- _____ (e) ~~estrone (E1)~~
- _____ (f) ~~progesterone~~
- _____ (g) ~~testosterone~~
- _____ (5) ~~thyroid hormones~~
- _____ (a) ~~3, 5-diiodothyronine (T2)~~
- _____ (b) ~~calcitonin~~
- _____ (c) ~~moniodothyronine (T1)~~
- _____ (d) ~~thyroxine; levothyroxine (T4)~~
- _____ (e) ~~triiodothyronine; liothyronine (T3);~~ **[RESERVED]**

[16.2.2.13 NMAC - N, 02-15-05; Repealed, 11-28-09; A/E, 06-15-10; A/E, 06-15-10; Re-pr, 11-28-10]

NEW MEXICO BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE

In accordance with 61-1-30 NMSA, 1978, shall not continue in effect longer than forty-five days unless within that time the board commences proceedings to adopt the regulation by issuing the notice required under Section 61-1-29 NMSA 1978. This is the re-promulgation of the rule within the 120 day limit to make it permanent. This is an amendment to 16.2.9 NMAC Section 8 effective 11/28/2010, adopted by the Board of Acupuncture and Oriental Medicine at their meeting on 10-8-10.

EDUCATION:

A. A doctor of oriental medicine shall complete continuing education in oriental medicine equivalent to that required by the national certification commission for acupuncture and oriental medicine (NCCAOM). A doctor of oriental medicine shall submit to the board at the time of license renewal either of the following:

(1) proof of continuing NCCAOM recertification in oriental medicine, acupuncture or Chinese herbology; or

(2) proof of completion of 15 hours annually, or every four years, of 60 hours of NCCAOM approved continuing education courses.

B. A doctor of oriental medicine who is a board approved examiner, examiner supervisor, or examiner trainer, for the clinical skills examination shall be granted continuing education credit for a licensed D.O.M. in oriental medicine, for time spent functioning as an examiner or training to be an examiner. This also applies to an observing board member if they have completed the training. Limited to six hours per year.

[B] C. The board shall annually audit a random 10 percent of continuing education documentation to determine the validity of the documentation.

[E] D. A doctor of oriental medicine who provides the board with false information or makes a false statement to the board may be subject to disciplinary action, including denial, suspension or revocation of licensure, pursuant to the provisions of the act, NMSA 1978, Section 61-14A-17, and the Uniform Licensing Act, NMSA 1978, Section 61-1-1, et seq.

[D] E. A doctor of oriental medicine shall maintain an understanding of the current act and rules and shall complete, with a score of 90 percent correct answers, an open book jurisprudence examination covering the act and the rules that contains at least 10 questions and shall submit this to the board at the time of license renewal.

[16.2.9.8 NMAC - Rp 16 NMAC 2.9.8, 12-1-01; A, 10-1-03; A, 02-15-05; A, 9-25-06; A, 11-28-09; A/E, 06-15-10; A/E, 06-15-10; Re-pr, 11-28-10]

NEW MEXICO BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE

This is an amendment to 16.2.10 NMAC Section 9 effective 11/28/10. This amendment is necessary due to the courts reversing and setting aside the language filed on November 28, 2009.

16.2.10.9**FEES CHARGED:**

A. All fees shall be paid by

check, certified check or money order in US funds unless otherwise specified by rule.

B. No fees paid to the board shall be refunded.

C. The board shall charge the following fees:

(1) application for licensure: \$525.00;

(2) application for reciprocal licensure: \$750.00;

(3) application for licensure by endorsement: \$800.00;

(4) application for temporary licensure: \$330.00;

(5) application for limited temporary license: \$100.00;

(6) clinical skills examination, not including the cost of any nationally recognized examinations: \$500.00;

(7) annual license renewal: \$225.00;

(8) late license renewal: an additional \$200.00;

(9) expired license renewal: an additional \$350.00 plus the renewal and late fees;

(10) temporary license renewal: \$100.00;

(11) application for a new annual approval or renewal of approval of an educational program, including the same program offered at multiple campuses: \$450.00;

(12) late renewal of approval of an educational program: an additional \$225.00;

(13) application for single instance approval of an educational program: \$225.00

(14) application for initial expanded practice certification: \$100.00 per module;

~~[(15) application for biennial expanded practice certification renewal: an additional \$200;~~

~~[(16) late expanded practice certification renewal: an additional \$125.00 plus the renewal fee;~~

~~[(17) expired expanded practice certification renewal: an additional \$100.00 plus the renewal and late fees;]~~

[(15) application for expanded prescriptive authority certification: \$125.00;

[(18)] [(16) application for externship supervisor registration: \$225.00;

[(19)] [(17) application for extern certification: \$225.00;

[(20)] [(18) continuing education provider course approval application: \$50.00;

[(21)] [(19) auricular detoxification specialist certification application: \$50.00;

[(22)] [(20) auricular detoxification specialist certification renewal: \$30.00;

[(23)] [(21) auricular detoxification specialist certification late renewal: \$20.00;

[(24)] [(22) auricular detoxification specialist supervisor registration application: \$50.00;

[(25)] (23) auricular detoxification specialist training program approval application: \$100.00;

[(26)] (24) auricular detoxification specialist training program approval renewal: \$50.00;

[(27)] (25) treatment program approval application: \$100.00;

[(28)] (26) administrative fee for application for approval of ~~[an expanded practice educational program: \$600.00]~~ extended or expanded prescriptive authority course: \$200.00;

[(29)] (27) renewal of extended or expanded prescriptive authority course: \$200.00;

[(30)] (28) administrative fee for inactive license application: \$125.00;

[(31)] (29) administrative fee for inactive license renewal: \$100.00;

[(32)] (30) administrative fee for inactive license reinstatement application: \$125.00;

[(33)] (31) administrative fee for each duplicate license: \$30.00;

[(34)] (32) administrative fee for a single transcript or diploma from the former international institute of Chinese medicine, per copy: \$50.00;

[(35)] (33) administrative fees to cover the cost of photocopying, electronic data, lists and labels produced at the board office.

[11-3-81...7-1-96; A, 5-15-99; A, 2-17-00; 16.2.10.9 NMAC - Rn, 16 NMAC 2.10.10, 10-22-00; A, 1-1-01; A, 8-13-01; A, 3-2-03; A, 02-15-05; A, 9-25-06; A, 11-28-09; A, 11/28/10]

NEW MEXICO BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE

This is an amendment to 16.2.10 NMAC Section 9 effective 11/28/10.

16.2.10.9 FEES CHARGED:

A. All fees shall be paid by check, certified check or money order in US funds unless otherwise specified by rule.

B. No fees paid to the board shall be refunded.

C. The board shall charge the following fees:

(1) application for licensure: \$525.00;

(2) application for reciprocal licensure: \$750.00;

(3) application for licensure by endorsement: \$800.00;

(4) application for temporary licensure: \$330.00;

(5) application for limited temporary license: \$100.00;

(6) clinical skills examination, not including the cost of any nationally

recognized examinations: \$500.00;

(7) annual license renewal: \$225.00;

(8) late license renewal: an additional \$200.00;

(9) expired license renewal: an additional \$350.00 plus the renewal and late fees;

(10) temporary license renewal: \$100.00;

(11) application for a new annual approval or renewal of approval of an educational program, including the same program offered at multiple campuses: \$450.00;

(12) late renewal of approval of an educational program: an additional \$225.00;

(13) application for single instance approval of an educational program: \$225.00

(14) application for initial expanded practice certification: \$100.00 per module;

~~[(15)] application for expanded prescriptive authority certification: \$125.00;~~

[(15)] application for biennial expanded practice certification renewal: an additional \$200;

[(16)] late expanded practice certification renewal: an additional \$125.00 plus the renewal fee;

[(17)] expired expanded practice certification renewal: an additional \$100.00 plus the renewal and late fees;

[(18)] (18) application for externship supervisor registration: \$225.00;

[(19)] (19) application for extern certification: \$225.00;

[(20)] (20) continuing education provider course approval application: \$50.00;

[(21)] (21) auricular detoxification specialist certification application: \$50.00;

[(22)] (22) auricular detoxification specialist certification renewal: \$30.00;

[(23)] (23) auricular detoxification specialist certification late renewal: \$20.00;

[(24)] (24) auricular detoxification specialist supervisor registration application: \$50.00;

[(25)] (25) auricular detoxification specialist training program approval application: \$100.00;

[(26)] (26) auricular detoxification specialist training program approval renewal: \$50.00;

[(27)] (27) treatment program approval application: \$100.00;

[(28)] (28) administrative fee for application for approval of ~~[extended or expanded prescriptive authority course: \$200.00]~~ an expanded practice educational program: \$600.00;

[(29)] (29) renewal of ~~[extended or]~~ expanded prescriptive authority course: \$200.00;

[(30)] (30) administrative fee for inactive license application: \$125.00;

[(31)] (31) administrative fee for inactive license renewal: \$100.00;

[(32)] (32) administrative fee for inactive license reinstatement application: \$125.00;

[(33)] (33) administrative fee for each duplicate license: \$30.00;

[(34)] (34) administrative fee for a single transcript or diploma from the former international institute of Chinese medicine, per copy: \$50.00;

[(35)] (35) administrative fees to cover the cost of photocopying, electronic data, lists and labels produced at the board office.

[11-3-81...7-1-96; A, 5-15-99; A, 2-17-00; 16.2.10.9 NMAC - Rn, 16 NMAC 2.10.10, 10-22-00; A, 1-1-01; A, 8-13-01; A, 3-2-03; A, 02-15-05; A, 9-25-06; A, 11-28-09; A, 11-28-10; A, 11-28-10]

NEW MEXICO BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE

In accordance with 61-1-30 NMSA, 1978, shall not continue in effect longer than forty-five days unless within that time the board commences proceedings to adopt the regulation by issuing the notice required under Section 61-1-29 NMSA 1978. This is the re-promulgation of the rule within the 120 day limit to make it permanent. This is an amendment to 16.2.20 NMAC Section 8 effective 11/28/2010, adopted by the Board of Acupuncture and Oriental Medicine at their meeting on 10-8-10.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 2 ACUPUNCTURE AND ORIENTAL MEDICINE PRACTITIONERS PART 20 EXPANDED PRACTICE FORMULARY

16.2.20.1 ISSUING AGENCY: New Mexico Board of Acupuncture and Oriental Medicine.

[16.2.20.1 NMAC - Rp/E, 16.2.20.1 NMAC, 06/15/2010; Re-pr, 11/28/10]

16.2.20.2 SCOPE: All doctors of oriental medicine who are certified for expanded practice, or who are enrolled in an educational course, or who are applicants for certification for expanded practice, as well as all educational courses.

[16.2.20.2 NMAC - Rp/E, 16.2.20.2 NMAC, 06/15/2010; Re-pr, 11/28/10]

16.2.20.3 STATUTORY AUTHORITY: This part is promulgated pursuant to the Acupuncture and Oriental Medicine Practice Act, Section 61-14A-8.1 NMSA 1978.

[16.2.20.3 NMAC - Rp/E, 16.2.20.3 NMAC, 06/15/2010; Re-pr, 11/28/10]

16.2.20.4 DURATION: Permanent.

[16.2.20.4 NMAC - Rp/E, 16.2.20.4 NMAC, 06/15/2010; Re-pr, 11/28/10]

16.2.20.5 EFFECTIVE DATE: June 15, 2010 unless a later date is cited at the end of a section.

[16.2.20.5 NMAC - Rp/E, 16.2.20.5 NMAC, 06/15/2010; Re-pr, 11/28/10]

16.2.20.6 OBJECTIVE: This part lists the formulary for each of the following expanded practice certification categories: basic injection therapy, injection therapy, intravenous therapy and bioidentical hormone therapy.

[16.2.20.6 NMAC - Rp/E, 16.2.20.6 NMAC, 06/15/2010; Re-pr, 11/28/10]

16.2.20.7 DEFINITIONS: [RESERVED]

16.2.20.8 EXPANDED PRACTICE FORMULARIES

GENERAL PROVISIONS: The following general provisions shall apply to the expanded practice general formulary and each specific formulary for each specific expanded practice category that follows in this rule:

A. drugs, dangerous drugs and controlled substances are defined in the New Mexico Drug, Device and Cosmetic Act and the New Mexico Controlled Substances Act;

B. all substances from threatened or endangered species, as determined by the convention on the international trade in endangered species of wild fauna and flora and the U.S. fish and wildlife service (<http://endangered.fws.gov/>), shall be automatically eliminated from expanded practice formularies;

C. definitions from the New Mexico Drug, Device and Cosmetic Act and the New Mexico Controlled Substances Act apply to the appropriate terms in the expanded practice formularies;

D. a doctor of oriental medicine shall comply with all federal and state laws that pertain to obtaining, possessing, prescribing, compounding, administering and dispensing any drug;

E. a substance shall only be approved for use if procured in compliance with all federal and state laws; the various expanded practice formularies do not supersede such laws; and

F. the following drugs, dangerous drugs and controlled substances are authorized in the modes of administration that are specified except as limited or restricted by federal or state law:

(1) **basic injection certification and prescriptive authority:** shall include topical vapocoolants the intradermal intramuscular, and subcutaneous injection of: homeopathic medicines; dextrose; enzymes except urokinase; hyaluronic acid; minerals; sarapin; sodium chloride; sterile water; and vitamins;

(2) **injection certification and prescriptive authority:**

(a) all substances from basic injection module; and

(b) all non-epidural, non intrathecal injection of: alcohol, amino acids, autologous blood and blood products, live cell products, ozone, bee venom, beta glucans, caffeine collagenase, dextrose, dimethyl sulfoxide, gammaglobulin, glucose, glucosamine, glycerin, hyaluronidase, methylsulfonylmethane, phenol, phosphatidylcholine, procaine, sodium hyaluronate, sodium morrhuate, therapeutic serum;

(3) **intravenous certification and prescriptive authority:** amino acids, calcium ethylenediaminetetraacetic acid, dextrose, glutathione, homeopathic medicines, lactated ringers, minerals, phosphatidylcholine, sodium bicarbonate sodium chloride, sodium morrhuate, sterile water, water soluble vitamins, autologous blood and blood products, live cell products, ozone, and ultraviolet radiation of blood with appropriate anticoagulant except that authority is not provided for total parenteral nutrition;

(4) **non-injectable bioidentical hormone certification and prescriptive authority:** 7-keto dehydroepiandrosterone (7 keto DHEA), cortisone, dehydroepiandrosterone (DHEA), dihydrotestosterone, estradiol (E2), estriol (E3), estrone (E1), hydrocortisone, pregnenolone, progesterone, testosterone, tetraiodothyronine (T4), levothyroxine, thyroxine (T4), & triiodothyronine (T3) combination, triiodothyronine, liothyronine (T3), desiccated thyroid;

G. applicable to any of the four certifications above: subcutaneous epinephrine, inhaled oxygen, and additives necessary to stabilize, preserve or balance pH of approved substances.

[16.2.20.8 NMAC - Rp/E, 16.2.20.8 NMAC, 06/15/2010; Re-pr & A, 11/28/10]

History of 16.2.20 NMAC:

History of Repealed Material:

16.2.20 NMAC, Expanded Practice Formulary (filed 10/29/2009) repealed 06/15/2010.

Other History:

16.2.20 NMAC, Expanded Practice Formulary (filed 10/29/2009) was replaced by 16.2.20 NMAC, Expanded Practice Formulary, effective 06/15/2010. This was

an emergency filing that was necessary due to the courts reversing and setting aside the language effective on 11/28/2009.

NEW MEXICO DEPARTMENT OF AGRICULTURE

This is an amendment to 21.17.50 NMAC Section 25, effective 11/15/10

21.17.50.25 FEES:

A. The annual registration fee for each pesticide or device registered shall be [~~seventy five dollars (\$75.00)~~] one hundred dollars (\$100.00).

B. The annual pesticide dealer license fee for each location or outlet within the state, or if there is no outlet within the state, for the principal out-of-state location or outlet, shall be [~~fifty dollars (\$50.00)~~] seventy five dollars (\$75.00).

C. The annual pest management consultant license fee shall be [~~fifty dollars (\$50.00)~~] seventy five dollars (\$75.00).

D. The annual commercial applicator license fee shall be [~~fifty dollars (\$50.00)~~] seventy five dollars (\$75.00).

E. The annual operator/agricultural pilot/serviceman license fee shall be [~~twenty five dollars (\$25.00)~~] fifty dollars (\$50.00).

F. The annual non-commercial applicator license fee shall be [~~fifty dollars (\$50.00)~~] seventy five dollars (\$75.00).

G. The private applicator certification fee, or renewal thereof, shall be fifteen dollars (\$15.00).

H. The fee for each additional inspection required to certify a unit of aircraft, ground or manual equipment that fails to pass inspection shall be twenty-five dollars (\$25.00).

I. The examination fee for each examination needed to qualify the applicant as a pest management consultant, commercial applicator, non-commercial applicator or operator/agricultural pilot/serviceman shall be ten dollars (\$10.00) per examination.

[7/1/97; 21.17.50.25 NMAC - Rn & A, 21 NMAC 17.50.25, 11/30/05, A, 11/15/10]

NEW MEXICO OFFICE OF THE STATE AUDITOR

This is an emergency amendment to 2.2.2 NMAC, Section 15, effective October 21, 2010.

2.2.2.15 SPECIAL AUDITS AND EXAMINATIONS:

[A. ——— Special ——— audit ——— and

examination:

(1) Pursuant to Section 12-6-3 NMSA 1978 the state auditor may cause the financial affairs and transactions of an agency to be audited in whole or in part. The state auditor may initiate a special audit or examination based on information or a report received from an agency, IPA or member of the public. The state auditor shall have available to him all documents necessary to perform a thorough special audit or examination of every agency. Additionally, pursuant to Section 12-6-11 NMSA 1978, when necessary for an audit or examination, the state auditor may apply to the district court of Santa Fe county for issuance of a subpoena to compel the attendance of witnesses and the production of books and records.

(2) The state auditor may conduct fact-finding procedures in connection with reports of financial fraud, waste and abuse in government.

(3) Pursuant to Section 12-6-6 NMSA 1978 and Subsection K of Section 2.2.2.10 NMAC, every agency and IPA shall notify the state auditor immediately, in writing, upon discovery of any violation of a criminal statute in connection with financial affairs. In addition, upon discovery, the state auditor shall immediately report a violation of a criminal statute in connection with financial affairs to the proper prosecuting officer and furnish the officer with all data and information in his possession relative to the violation.

(4) An agency, IPA or member of the public may report financial fraud, waste or abuse in government to the state auditor. Reports may be submitted directly to the office orally or in writing. Reports may also be made telephonically or in writing through the fraud hotline or website established by the office for the confidential reporting of financial fraud, waste, and abuse in government. Reports may be made telephonically to the fraud hotline by calling 1-866-OSA-FRAUD (1-866-672-3728) or reported in writing through the office's website at <https://www.reportlineweb.com/welcome.aspx?client=osa>. Reports received or created by the office are audit information and audit documentation in connection with the state auditor's statutory duty to examine and audit the financial affairs of every agency, or in connection with the state auditor's statutory discretion to audit the financial affairs and transactions of an agency in whole or in part.

B. Confidentiality:

(1) The identity of a person making a report directly to the office orally or in writing, or telephonically or in writing through the office's fraud hotline or website, alleging financial fraud, waste, or abuse in government is confidential audit information and may not be disclosed, unless the person

making the report agrees to the disclosure of that person's name:

(2) A report alleging financial fraud, waste, or abuse in government that is made directly to the office orally or in writing, or telephonically or in writing through the office's fraud hotline or website, and any resulting special audit or examination, is confidential audit documentation and may not be disclosed except as provided in Paragraph (3) of this subsection to an independent auditor in connection with an audit examination, audit, or other existing or potential engagement regarding the financial affairs or transactions of an agency.

(3) The office shall disclose audit information and audit documentation that is confidential under this section if required by Section 12-6-6 NMSA 1978.

(4) The office may disclose audit information or audit documentation that is confidential under this subsection:

(a) to an independent auditor approved by the state auditor in connection with an examination, audit, or other existing or potential engagement regarding the financial affairs transactions of an agency;

(b) to refer to the appropriate agency a report of financial fraud, waste or abuse in government, provided such disclosure does not undermine the independence or validity of the audit process;

(c) to ensure coordination and cooperation between agencies related to a report of financial fraud, waste or abuse in government provided such disclosure does not undermine the independence or validity of the audit process; or

(d) after a report of a special audit or examination is released and becomes public pursuant to the Section 12-6-5 NMSA 1978, provided that disclosure of the audit information or audit documentation is consistent with the Inspection of Public Records Act, the Audit Act, and this rule.

C. Reports of special audit or agreed-upon procedures relating to financial fraud, waste or abuse in government:

(1) An agency or an IPA shall not enter into a professional services contract for a special audit or agreed-upon procedures relating to financial fraud, waste or abuse in government without the prior written approval of the state auditor. The proposed professional services contract must be submitted to the state auditor for review and approval after it has been signed by the agency and the IPA. The contract must include the contract fee, start and completion date, and the specific scope of services to be performed by the IPA.

(2) All reports of special audits or agreed-upon procedures made pursuant to contract and that relate to financial fraud, waste or abuse in government are subject to review by the state auditor. Upon

completion of the report, the IPA shall deliver the organized and bound report to the state auditor with a copy of the signed and dated engagement letter if not previously submitted and a copy of the signed management representation letter.

(3) The IPA is required to respond to all review comments as directed by the office. After its review of the report, the office will authorize the IPA to print and submit the final report. The required number of hardcopies specified in the contract and an electronic version of the report, in PDF format, must be delivered to the state auditor within the time specified by the office pursuant to the authorization to print and submit the final report. The office will not release the report until the electronic version of the report is received by the office.

(4) The IPA shall deliver to the agency the number of copies of the report indicated in the contract only after the state auditor has officially released the audit report with a "release letter."

(5) Neither the IPA nor agency personnel shall release any information to the public relating to the special audit or agreed-upon procedures until the report has been officially released by the state auditor and becomes public record.]

A. Special audit, performance audit, attestation engagement: Pursuant to Section 12-6-3 NMSA 1978, the state auditor may cause the financial affairs and transactions of an agency to be audited in whole or in part. The state auditor may initiate a special audit performance audit or attestation engagement regarding the financial affairs and transactions of an agency based on information or a report received from an agency, IPA or member of the public. In accordance with the procedures set forth in Subsection B of this section, the state auditor may also designate an agency for special audit, performance audit or attestation engagement regarding that agency's financial affairs and transactions, to be conducted by an IPA approved by the state auditor. The state auditor, personnel of the state auditor's office designated by the state auditor or independent auditors approved by the state auditor shall have available to them all documents necessary to perform a thorough special audit, performance audit or attestation engagement regarding the financial affairs and transactions of an agency. Additionally, pursuant to Section 12-6-11 NMSA 1978, when necessary for an audit, special audit, performance audit or attestation engagement regarding the financial affairs and transactions of an agency, the state auditor may apply to the district court of Santa Fe county for issuance of a subpoena to compel the attendance of witnesses and the production of books and records. All reasonable costs of special audits, performance audits and attestation

engagements conducted pursuant to this section shall be borne by the agency audited pursuant to Section 12-6-4 NMSA 1978.

B. Designation of agency:

(1) The state auditor may designate an agency for special audit, performance audit or attestation engagement regarding that agency's financial affairs and transactions, to be conducted by an IPA approved by the state auditor. The state auditor may specify the scope and any procedures required for the special audit, performance audit or attestation engagement. If the state auditor designates an agency for special audit, performance audit or attestation engagement to be conducted by an IPA, the agency shall comply with the following procedures to obtain professional services from an IPA for the required special audit, performance audit or attestation engagement:

(a) upon receipt of notification to proceed from the office, the agency shall identify all elements or services to be solicited and request quotations or proposals for each applicable element of the special audit, performance audit or attestation engagement as specified by the office;

(b) follow all applicable procurement requirements in accordance with the Procurement Code, Chapter 13 Article 1, when selecting an IPA to perform the special audit, performance audit or attestation engagement;

(c) evaluate all competitive sealed proposals or quotations received by using an evaluation process, preferably executed by a selection committee, as similarly described in Paragraph (5) of Subsection B of 2.2.2.8 NMAC; and

(d) after completing the evaluations for each IPA and making the IPA selection, each agency shall submit the following information to the state auditor by the due date specified by the state auditor:

(i) a letter indicating the name of the IPA being recommended; the type of professional services procured; the IPA's on-site manager for the engagement; the estimated start and end date for the IPA to complete the special audit, performance audit or attestation engagement; the estimated hours and fees required for completion of the special audit, performance audit or attestation engagement, and the oversight agency approval signature, if required; and

(ii) the number of bids that were obtained by the agency, the names of the firms and the amount of each bid proposal; if bids were not obtained, the agency shall submit a detailed explanation regarding why the bids were not obtained; furthermore, the agency shall provide a written explanation of the evaluation process the agency used to select the IPA and the agency's rationale for choosing the selected IPA.

(2) The state auditor shall consider

and approve or disapprove an agency's IPA recommendation pursuant to the criteria provided in Subsection C of 2.2.2.8 NMAC. Upon receiving the state auditor's approval of the IPA recommendation and type of professional services to be provided, the agency shall submit a professional services contract for written approval by the state auditor prior to the commencement of work. The contract must be signed by the agency and the IPA, and must include the contract fee, start and completion date, and the specific scope of services to be performed by the IPA. Any contract amendments will be processed in accordance with Paragraphs (1) and (3) of Subsection M of 2.2.2.8 NMAC.

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

(4) The IPA shall hold an exit conference with representatives of the agency's governing authority, or the governing authority's designee, and top management. The exit conference must be held in person; a telephone exit conference will not meet this requirement unless a telephonic exit conference is approved in writing by the state auditor. The date of the conference and the names and titles of personnel attending must be stated in the last page of the report.

(5) Reports of any special audit, performance audit or attestation engagement made pursuant to this section will be reviewed by the office for compliance with the professional services contract. Upon completion of the report, the IPA shall deliver the organized and bound report to the state auditor with a copy of the signed and dated engagement letter if not previously submitted. The IPA is required to respond to all review comments as directed by the office. After its review of the report for compliance with the professional services contract, the office will authorize the IPA to print and submit the final report; the required number of hardcopies specified in the professional services contract and an electronic version of the report, in PDF format, must be delivered to the office within two business days. The office will not release the report until the electronic version of the report

is received by the office. The office will provide the agency with a letter authorizing final payment to the IPA and the release of the report pursuant to Section 12-6-5 NMSA 1978. Released reports may be selected by the office for comprehensive report and workpaper reviews. After a comprehensive review is completed, the office will issue a letter to advise the IPA about the results of the review. The IPA is required to respond to all review comments as directed.

(6) Once the report is officially released to the agency by the state auditor, by an authorizing letter, and the required waiting period of five calendar days has passed or waved by the agency, the report shall be presented by the IPA to a quorum of the governing authority of the agency at a meeting held in accordance with the Open Meetings Act, if applicable. The presentation of the report should be documented in the minutes of the meeting.

(7) Neither the IPA nor agency personnel shall release any information to the public relating to the special audit, performance audit or attestation engagement until the report has been officially released by the state auditor and becomes public record.

(8) All reasonable costs of special audits, performance audits and attestation engagements conducted pursuant to this section shall be borne by the agency audited pursuant to Section 12-6-4 NMSA 1978.

C. Financial fraud, waste or abuse in government reported by agencies, IPAs or members of the public:

(1) The state auditor may conduct fact-finding procedures in connection with reports of financial fraud, waste and abuse in government made by agencies, IPAs or members of the public.

(2) Pursuant to Section 12-6-6 NMSA 1978 and Subsection K of 2.2.2.10 NMAC, every agency and IPA shall notify the state auditor immediately, in writing, upon discovery of any violation of a criminal statute in connection with financial affairs. In addition, upon discovery, the state auditor shall immediately report a violation of a criminal statute in connection with financial affairs to the proper prosecuting officer and furnish the officer with all data and information in his possession relative to the violation.

(3) An agency, IPA or member of the public may report financial fraud, waste or abuse in government to the state auditor. Reports may be submitted directly to the office orally or in writing. Reports may also be made telephonically or in writing through the fraud hotline or website established by the office for the confidential reporting of financial fraud, waste, and abuse in government. Reports may be made telephonically to the fraud hotline by calling 1-866-OSA-FRAUD (1-866-672-3728)

or reported in writing through the office's website at <https://www.reportlineweb.com/welcome.aspx?client=osa>. Reports received or created by the office are audit information and audit documentation in connection with the state auditor's statutory duty to examine and audit the financial affairs of every agency, or in connection with the state auditor's statutory discretion to audit the financial affairs and transactions of an agency in whole or in part.

D. Confidentiality:

(1) The identity of a person making a report directly to the office orally or in writing, or telephonically or in writing through the office's fraud hotline or website, alleging financial fraud, waste, or abuse in government is confidential audit information and may not be disclosed, unless the person making the report agrees to the disclosure of that person's name.

(2) A report alleging financial fraud, waste, or abuse in government that is made directly to the office orally or in writing, or telephonically or in writing through the office's fraud hotline or website, and any resulting special audit or examination, is confidential audit documentation and may not be disclosed except as provided in Paragraph (3) of this subsection to an independent auditor in connection with an audit examination, audit, or other existing or potential engagement regarding the financial affairs or transactions of an agency.

(3) The office shall disclose audit information and audit documentation that is confidential under this section if required by Section 12-6-6 NMSA 1978.

(4) The office may disclose audit information or audit documentation that is confidential under this subsection:

(a) to an independent auditor approved by the state auditor in connection with an examination, audit, or other existing or potential engagement regarding the financial affairs transactions of an agency;

(b) to refer to the appropriate agency a report of financial fraud, waste or abuse in government, provided such disclosure does not undermine the independence or validity of the audit process;

(c) to ensure coordination and cooperation between agencies related to a report of financial fraud, waste or abuse in government provided such disclosure does not undermine the independence or validity of the audit process; or

(d) after a report of a special audit or examination is released and becomes public pursuant to the Section 12-6-5 NMSA 1978, provided that disclosure of the audit information or audit documentation is consistent with the Inspection of Public Records Act, the Audit Act and this rule.

E. Reports of special audits, performance audits or attestation engagements relating to financial fraud,

waste or abuse in government:

(1) An agency or an IPA shall not enter into a professional services contract for a special audit, performance audit or attestation engagement regarding the financial affairs and transactions of an agency and relating to financial fraud, waste or abuse in government without the prior written approval of the state auditor. The proposed professional services contract must be submitted to the state auditor for review and approval after it has been signed by the agency and the IPA. The contract must include the contract fee, start and completion date, and the specific scope of services to be performed by the IPA.

(2) A report of a special audit, performance audit or attestation engagement made pursuant to a contract approved under this section is subject to review by the state auditor. Upon completion of the report, the IPA shall deliver the organized and bound report to the state auditor with a copy of the signed and dated engagement letter if not previously submitted and a copy of the signed management representation letter.

(3) The IPA is required to respond to all review comments as directed by the office. After its review of the report, the office will authorize the IPA to print and submit the final report. The required number of hardcopies specified in the contract and an electronic version of the report, in PDF format, must be delivered to the state auditor within the time specified by the office pursuant to the authorization to print and submit the final report. The office will not release the report until the electronic version of the report is received by the office.

(4) The IPA shall deliver to the agency the number of copies of the report indicated in the contract only after the state auditor has officially released the audit report with a "release letter."

(5) Neither the IPA nor agency personnel shall release any information to the public relating to the special audit, performance audit or attestation engagement until the report has been officially released by the state auditor and becomes public record.

[2.2.2.15 NMAC - Rp, 2.2.2.15 NMAC, 2-12-10; A/E, 10-21-10]

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT

EARLY CHILDHOOD SERVICES DIVISION

This is an emergency amendment to 8.15.2 NMAC, Section 17, effective 11/1/10.

8.15.2.17 PAYMENT FOR SERVICES: The department pays child care providers on a monthly basis, according to standard practice for the child care industry. Payment is based upon the child's enrollment with the provider as reflected in the child care placement agreement, rather than daily attendance. As a result, most placements reflect a month of service provision and are paid on this basis. However, placements may be closed at any time during the month. The following describes circumstances when placements may be closed and payment discontinued at a time other than the end of the month:

A. When the eligibility period as indicated by the child care placement agreement expires during the month, including the end of a school semester; or when the provider requests that the client change providers or the provider discontinues services; payment will be made through the last day that care is provided.

B. When the client requests a change of provider, regardless of the reason, payment will be made through the final day of the expiration of the 14 calendar day notice issued to the provider. Payment to the new provider begins on the day care begins.

C. The amount of the payment is based upon the average number of hours per week needed per child during the certification period. The number of hours of care needed is determined with the parent at the time of certification and is reflected in the provider agreement. Providers are paid according to the units of service needed which are reflected in the child care agreement covering the certification period.

D. The department pays for care based upon the following units of service:

Full time	Part time 1	Part time 2	Part time 3
Care provided for an average of 30 or more hours per week per month	Care provided for an average of 20-29 hours per week per month	Care provided for an average of 6-19 hours per week per month	Care provider for an average of 5 or less hours per week per month
Pay at 100% of full time rate	Pay at 75 % of full time rate	Pay at 50 % of full time rate	Pay at 25% of full time rate

E. Out of school time care provided by licensed child care providers who provide care for 6-19 hours per week are paid at the 75% rate (part time 1).

F. Out of school time care provided by licensed child care providers who

provide care for 20 or more hours per week are paid at the 100% rate (full time).

G. Out of school time care provided for 5 hours or less per week are paid at the 25% rate (part time 3) regardless of provider type.

H. Monthly reimbursement rates: The table below reflects a decrease in monthly provider reimbursement rates in response to a significant budget shortfall in FY 2011. The department will reevaluate its financial situation prior to June 30, 2011, which is the end of the state fiscal year 2011, and determine whether it will be possible to increase reimbursement rates for the following fiscal year.

Licensed child care centers								
Full time		Part time 1		Part time 2		Part time 3		
Metro	Rural	Metro	Rural	Metro	Rural	Metro	Rural	
Infant	[\$476.37] \$457.32	[\$418.75] \$402.00	[\$357.28] \$342.99	[\$314.06] \$301.50	[\$238.19] \$228.66	[\$209.38] \$201.00	[\$119.09] \$114.33	[\$104.69] \$100.50
Toddler	[\$425.72] \$408.69	[\$389.63] \$374.04	[\$319.29] \$306.52	[\$292.22] \$280.53	[\$212.86] \$204.35	[\$194.81] \$187.02	[\$106.43] \$102.17	[\$97.41] \$93.51
Pre-school	[\$395.01] \$379.21	[\$363.02] \$348.50	[\$296.26] \$284.41	[\$272.27] \$261.37	[\$197.51] \$189.60	[\$181.51] \$174.25	[\$98.75] \$94.80	[\$90.76] \$87.12
School age	[\$345.64] \$331.81	[\$332.96] \$319.64	[\$259.23] \$248.86	[\$249.72] \$239.73	[\$172.82] \$165.91	[\$166.48] \$159.82	[\$86.41] \$82.95	[\$83.24] \$79.91
Licensed group homes (capacity: 7-12)								
Full time		Part time 1		Part time 2		Part time 3		
Metro	Rural	Metro	Rural	Metro	Rural	Metro	Rural	
Infant	[\$379.01] \$363.85	[\$355.96] \$341.72	[\$284.26] \$272.89	[\$266.97] \$256.29	[\$189.51] \$181.92	[\$177.98] \$170.86	[\$94.75] \$90.96	[\$88.99] \$85.43
Toddler	[\$343.93] \$330.17	[\$336.23] \$322.78	[\$257.95] \$247.63	[\$252.17] \$242.09	[\$171.97] \$165.09	[\$168.12] \$161.39	[\$85.98] \$82.54	[\$84.06] \$80.70
Pre-school	[\$338.08] \$324.56	[\$330.81] \$317.57	[\$253.56] \$243.42	[\$248.10] \$238.18	[\$169.04] \$162.28	[\$165.40] \$158.79	[\$84.52] \$81.14	[\$82.70] \$79.39
School age	[\$333.53] \$320.19	[\$323.53] \$310.59	[\$250.15] \$240.14	[\$242.65] \$232.94	[\$166.77] \$160.09	[\$161.77] \$155.29	[\$83.38] \$80.05	[\$80.88] \$77.65
Licensed family homes (capacity: 6 or less)								
Full time		Part time 1		Part time 2		Part time 3		
Metro	Rural	Metro	Rural	Metro	Rural	Metro	Rural	
Infant	[\$365.20] \$350.59	[\$342.60] \$328.90	[\$273.90] \$262.94	[\$256.95] \$246.67	[\$182.60] \$175.30	[\$171.30] \$164.45	[\$91.30] \$87.65	[\$85.65] \$82.22
Toddler	[\$325.08] \$312.08	[\$320.04] \$307.24	[\$243.81] \$234.06	[\$240.03] \$230.43	[\$162.54] \$156.04	[\$160.02] \$153.62	[\$81.27] \$78.02	[\$80.01] \$76.81
Pre-school	[\$324.17] \$311.20	[\$317.09] \$304.40	[\$243.13] \$233.40	[\$237.81] \$228.30	[\$162.09] \$155.60	[\$158.54] \$152.20	[\$81.04] \$77.80	[\$79.27] \$76.10
School age	[\$319.28] \$306.51	[\$309.64] \$297.25	[\$239.46] \$229.88	[\$232.23] \$222.94	[\$159.64] \$153.25	[\$154.82] \$148.63	[\$79.82] \$76.63	[\$77.41] \$74.31
Registered homes and in-home child care								
Full time		Part time 1		Part time 2		Part time 3		
Metro	Rural	Metro	Rural	Metro	Rural	Metro	Rural	
Infant	[\$278.74] \$267.59	[\$258.00] \$247.68	[\$209.06] \$200.69	[\$193.50] \$185.76	[\$139.37] \$133.80	[\$129.00] \$123.84	[\$69.69] \$66.90	[\$64.50] \$61.92
Toddler	[\$264.00] \$253.44	[\$217.69] \$208.98	[\$198.00] \$190.08	[\$163.27] \$156.74	[\$132.00] \$126.72	[\$108.85] \$104.49	[\$66.00] \$63.36	[\$54.42] \$52.25
Pre-school	[\$242.00] \$232.32	[\$220.00] \$211.20	[\$181.50] \$174.24	[\$165.00] \$158.40	[\$121.00] \$116.16	[\$110.00] \$105.60	[\$60.50] \$58.08	[\$55.00] \$52.80
School age	[\$242.00] \$232.32	[\$198.00] \$190.08	[\$181.50] \$174.24	[\$148.50] \$142.56	[\$121.00] \$116.16	[\$99.00] \$95.04	[\$60.50] \$58.08	[\$49.50] \$47.52

I. The department pays a differential rate according to the location of the provider, license or registration status of the provider, national accreditation status of the provider if applicable, Star level status of the provider if applicable, and in accordance with the rate established for metro or rural location of the provider. Providers located in the metropolitan statistical areas of the state as determined by the U.S. census bureau receive the metropolitan rate. These include Bernalillo, Sandoval, Valencia, Santa Fe, Los Alamos, Dona Ana, and

San Juan counties. All other providers receive the rural rate.

J. Providers holding national accreditation status receive an additional ~~[\$132.00]~~\$126.72 per child per month for full time care above the metro rate for type of child care (licensed center, group home or family home) and age of child. All licensed nationally accredited providers will be paid at the metro rates for the appropriate age group and type of care. In order to continue at this accredited reimbursement rate, a provider holding national accreditation status must meet and maintain licensing standards and maintain national accreditation status without a lapse. If a provider holding national accreditation status fails to maintain these requirements, this will result in the provider reimbursement reverting to a lower level of reimbursement. The provider is required to notify the department immediately when a change in accreditation status occurs.

K. The department pays a differential rate to providers achieving higher Star levels as follows: 2-Star at ~~[\$45.00]~~\$43.20 per month per child for full time care above the base reimbursement rate; 3-Star at ~~[\$70.00]~~\$67.20 per month per child for full time care above the base reimbursement rate; 4-Star at ~~[\$104.50]~~\$100.32 per month per child for full time care above the base reimbursement rate, and 5-Star at ~~[\$132.00]~~\$126.72 per child per month for full time care above the base reimbursement rate. In order to continue at these reimbursement rates, a provider must maintain and meet most recent star criteria and basic licensing requirements. If the provider fails to meet the requirements, this will result in the provider reimbursement reverting to the level demonstrated.

L. The department pays a differential rate equivalent to 5, 10, or 15% of the applicable full-time/part-time rate to providers who provide care during non-traditional hours. Non-traditional care will be paid according to the following charts:

	1-10 hrs/wk	11-20 hrs/wk	21 or more hrs/wk
After hours	5%	10%	15%

	1-10 hrs/wk	11-20 hrs/wk	21 or more hrs/wk
Weekend hours	5%	10%	15%

M. If a significant change occurs in the client's circumstances, (see Subsection G of 8.15.2.13 NMAC) the child care placement agreement is modified and the rate of payment is adjusted. The department monitors attendance and reviews the placement at the end of the certification period when the child is re-certified.

N. The department may conduct provider or parent audits to assess that the approved service units are consistent with usage. Providers found to be defrauding the department are sanctioned. Providers must provide all relevant information requested by the department during an audit.

O. Payments are made to the provider for the period covered in the placement agreement or based on the availability of funds, which may be shorter than the usual six to 12 month certification period. The client's certification period may be established for a period less than six months, if applicable to their need for care.

[8.15.2.17 NMAC - Rp, 8.15.2.17 NMAC, 02/14/05; A, 08/31/06; A/E, 8/15/07; A, 06/30/10; A/E, 11/1/10]

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an emergency amendment to 19.32.2 NMAC, Section 10, effective 11-1-2010.

19.32.2.10 MANNER AND METHOD OF TAKING FURBEARERS:

A. Legal methods of taking shall include dogs, firearms, bows and arrows, or traps and snares as further restricted below.

B. The following restrictions on traps and snares shall apply to the setting of any trap or snare that could reasonably be expected to catch a protected furbearer.

(1) Identification of the trap user shall be such that each trap or snare used in the taking of wild animals must be either permanently marked with a user-identification number that is issued by the department of game and fish, or be permanently marked with the name and address of the trapper using the trap or snare.

(2) No foot hold trap with an outside spread larger than 7 inches if laminated above the jaw surfaces or tooth jawed traps, shall be used in making a land set. All foot-hold traps with an inside jaw spread equal to or greater than 5.5 inches

shall be offset.

(3) No land set shall be placed within 1/4 mile of an occupied dwelling without prior, written permission of the occupant of the dwelling, except for a land set placed by a landowner on his own land.

(4) No land set shall be placed within 1/4 mile of an established public campground, roadside rest area, picnic area, or boat-launching area.

(5) No land set shall be placed within 25 yards of any forest service or bureau of land management system trail designated on agency maps provided for the general public or within 25 yards of the shoulder of any public road that is annually maintained with public funds as follows: when a boundary fence is present, sets must be made on the side of the fence opposite the road.

(6) No land set shall be placed within 50 yards of any man-made livestock or wildlife catchment, pond or tank containing water, except on private land with written permission from the landowner.

(7) No steel trap with an inside jaw spread larger than 7.5 inches or conibear-type trap with a jaw spread greater than 12 inches shall be used in making a water set.

(8) It shall be illegal to place, set or maintain any steel trap or snare within 25 feet of bait that is at all visible from any angle and that consist of the flesh, hide, fur, viscera, or feathers of any animal; provided,

however, that a cubby set shall be legal when set where the bait cannot be seen except from a height of 3 feet or less above ground level and at a maximum distance of 25 feet. The bait must be inside the natural or man-made cubby but the steel trap may be outside. Bones that are entirely free of flesh, hide, fur or feathers may be used as visible bait. The restriction on visible bait shall not apply to a trap flag that is suspended above the ground and that is made from materials other than parts of mammals, birds, fish, reptiles, or amphibians.

(9) No conibear type trap with an inside jaw spread greater than seven (7) inches may be set on land and must be used in conjunction with a cubby set such that the trap trigger is recessed in the cubby at least eight (8) inches from an entrance. Conibear type traps with an inside jaw spread less than six (6) inches are not required to be used in conjunction with a cubby set.

(10) Commencing November 1, 2010, for a minimum of six months, it shall be illegal to place, set or maintain any steel trap, conibear trap, foothold trap or snare anywhere on public land within the Gila or Apache national forests in New Mexico, unless otherwise allowed by statute. The prohibition shall remain in place until the state game commission takes action based upon a department study to assess the risks to Mexican gray wolves due to trapping and a determination if some methods of trapping

could be allowed that pose minimal risk of injury to the Mexican gray wolf.
[4-1-95, 19.32.2.10 NMAC - Rn, 19 NMAC 32.1.10, 9-29-00; A, 4-1-03; A, 4-1-07; A/E, 11-1-10]

NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

This is an amendment to 8.102.501 NMAC, sections 7 and 12; effective 11/15/2010.

8.102.501.7 DEFINITIONS: ~~[[Reserved]]~~ Limited state or federal funds as discussed in this part means that available funds would warrant a fixed benefit amount of less than \$200 per month.
[8.102.501.7 NMAC - N, 11/15/2010]

8.102.501.12 SUSPENSION OF PROGRAM: The TBP payment for all benefit groups may be denied for a designated time period based on limited state or federal funds. During program suspension disposition of applications shall be made pursuant to 8.106.110.16 NMAC.

A. Application disposition: All applications for TBP shall be denied under this provision without consideration of eligibility.

(1) Interview: TBP applications denied on the basis of suspension shall not require an interview to meet the requirements specific to TBP, other categories of assistance requested by the applicant may require an interview to determine eligibility.

(2) Payment of assistance: There shall be no payment to the TBP recipient during the designated suspension period and any right to the payment is lost. Retroactive payments for pending applicants shall be authorized for months prior to a designated suspension period.

B. Notice to recipient and applicant: No later than 60 days prior to the effective change the department shall provide transition bonus recipients appropriate notice regarding suspension or restoration of the grant based on the availability of state or federal funds. The notice shall include the citation to the state statute and regulation and fair hearing rights.

C. Public notice: The department shall issue a public notice 60 days prior to the changes made based on the availability of state or federal funds. Public notice shall include effective date of change and right to fair hearing consistent with mass change requirements at 8.100.180.15 NMAC.

[8.102.501.12 NMAC - N, 11/15/2010]

NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

This is an amendment to 8.150.640 NMAC, Sections 8, 9, 10 and 11; effective 11/15/2010.

8.150.640.8 ~~[CALCULATING THE AMOUNT OF OVERPAYMENT:~~

A. Household Responsibility: If a household receives benefits, directly to the household or sent to a vendor, for which it is not eligible for benefits in excess of the amount for which it is eligible, the household is responsible for repayment of the total benefit received, or overpaid amount.

B. Restitution/recoupment: If the household does not make arrangements within 45 days of notification by HSD to pay the amount which it owes, HSD will initiate restitution procedures consistent with other HSD programs to recoup that amount from the household.

C. Recovery of overpayment: A benefit may be withheld during the issuance process and conveyed to restitution to recover a recipient's LIHEAP overpayment.] **OVERPAYMENTS AND CLAIMS:**

A. Household responsibility: Those who were adult members of the LIHEAP household at the time the overpayment occurred shall be responsible for the repayment of benefits issued directly to the household or sent to a vendor on behalf of the household.

B. Establishing the overpayment amount/claim:

(1) A claim shall be established for LIHEAP benefits that have been overpaid, regardless of the reason for the overpayment.

(2) The department may establish a claim for LIHEAP benefits overpaid up to six years prior to the date the overpayment occurred.

C. Notice of adverse action notice (NOAA):

(1) If the amount of the claim was not established by a fair hearing decision, the household will be provided a one-time NOAA which informs the household of the claim and that it has 90 days to appeal the amount of the claim.

(2) The one time NOAA will satisfy notice requirements to begin collection action on any claim.

(3) The NOAA shall advise the household of the availability of any individual or organization which provides free legal representation.

D. Demand letter: Collection action is initiated by sending the household a demand letter. The demand

letter informs the household of the amount of the claim, the reason for the claim, time period for which there is a claim, any offset which reduces the claim and how the household may re-pay the claim.

E. Collection action:

(1) The household shall have 45 days from the date of notification of the claim amount by HSD to repay the claim or make arrangements to repay the claim.

(2) HSD will initiate collection action to recover the claim amount on day 46 if the household does not repay or make arrangements to re-pay the amount which it owes.

(3) Offsetting the claim: A benefit amount may be offset during the issuance process in order to recover a LIHEAP claim. The amount that is offset shall be conveyed to the restitution services bureau to be applied to the recipient's overpayment.

[7-1-95, 11-1-95, 11-15-96, 8.150.640.8 NMAC - Rn, 8 NMAC.22 LHP 640 & A, 10-1-01; A, 11-15-10]

8.150.640.9 TERMINATING OVERPAYMENT CLAIMS: Terminating a claim means that all collection action has ceased. HSD may terminate a claim for any of the reason described in Subsections A through E of this section.

A. Invalid claims: The overpayment is determined to be invalid based on a hearing decision, a court decision or a case worker determination that the claim was established in error.

B. Death: All adult members responsible for repayment of the claim are deceased.

C. Cost effectiveness: HSD has determined that the cost of further collection action is likely to exceed the amount that can be recovered because:

(1) the cumulative amount of all existing claims against the household equals \$25.00 or less; and

(2) a payment on the claim has not been received by HSD in at least 90 days.

D. Failure to locate: There is documentation establishing that the household cannot be located and the existing claim has been delinquent for at least six years.

E. Inability to pay: There is written documentation establishing the household has filed for bankruptcy and HSD is named as creditor.

[8.150.640.9 NMAC - N, 11-15-10]

8.150.640.10 WRITING OFF A CLAIM: Writing off a claim means that the claim is no longer considered a receivable subject to any federal or state collection requirements such as the Treasury Offset Program at 31 CFR 285 or the Supplemental Nutrition Assistance Program at 7 CFR 273.18. A claim may be written off if the

claim is at least six years old and at least one of the provisions of 8.150.640.9 NMAC apply.

[8.150.640.10 NMAC - N, 11-15-10]

8.150.640.11 REINSTATING A TERMINATED CLAIM:

If a new collection method or specific event substantially increases the likelihood of further collections, action to recover a terminated claim may be reinstated.

[8.150.640.11 NMAC - N, 11-15-10]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.324.4 NMAC, Sections 1, 3, 6 and 8 - 18, effective December 1, 2010.

8.324.4.1 ISSUING AGENCY:

New Mexico Human Services Department (HSD).

[8.324.4.1 NMAC - Rp, 8 NMAC

4.MAD.000.1, 8/13/04; A, 12/1/10]

8.324.4.3 STATUTORY

AUTHORITY: The New Mexico medicaid program [is] and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under [Title XIX of] the Social Security Act[as amended and by the state human services department pursuant to state statute. See Section 27-2-12 et seq. NMSA 1978 (Repl. Pamph. 1991):] as amended or by state statute. See NMSA 1978, Section 27-2-12 et seq.

[8.324.4.3 NMAC - Rp, 8 NMAC

4.MAD.000.3, 8/13/04; A, 12/1/10]

8.324.4.6 OBJECTIVE: [The objective of these regulations is to provide policies for the service portion of the New Mexico medicaid program. These policies describe eligible providers, covered services, noncovered services, utilization review and provider reimbursement.] The objective of this rule is to provide instruction for the service portion of the New Mexico medical assistance programs.

[8.324.4.6 NMAC - Rp, 8 NMAC

4.MAD.000.6, 8/13/04; A, 12/1/10]

8.324.4.8 MISSION STATEMENT:

[The mission of the New Mexico medical assistance division (MAD) is to maximize the health status of medicaid-eligible individuals by furnishing payment for quality health services at levels comparable to private health plans.] To reduce the impact of poverty on people living in New Mexico and to assure low income and individuals with disabilities in New Mexico equal participation in the life

of their communities.

[8.324.4.8 NMAC - Rp, 8 NMAC

4.MAD.002, 8/13/04; A, 12/1/10]

8.324.4.9 PHARMACY

SERVICES: [The New Mexico medicaid program (medicaid) pays for medically necessary health services furnished to eligible recipients, including covered pharmacy services [42 CFR Section 440.120(a)]. This section describes eligible pharmacy providers, covered services, service limitations, and general reimbursement methodology. Pharmacy claims must be submitted to the appropriate pharmacy claims processor as designated by the medical assistance division. The pharmacy claims processor may vary based on the prescriber's license, practice specialty, network affiliation and/or the client's category of eligibility or enrollment in a contracted health plan.] The New Mexico medical assistance division (MAD) pays for medically necessary health services furnished to eligible recipients, including covered pharmacy services [42 CFR Section 440.120(a)]. Pharmacy claims must be submitted to the appropriate pharmacy claims processor as designated by MAD. The pharmacy claims processor may vary based on the prescriber's license, practice specialty, network affiliation or the recipient's category of eligibility or enrollment in a contracted health plan.

[8.324.4.9 NMAC - Rp, 8 NMAC

4.MAD.753, 8/13/04; A, 7/1/05; A, 12/1/10]

8.324.4.10 ELIGIBLE PROVIDERS:

[A. Upon MAD's approval of medical assistance program provider participation agreements, the following providers are eligible to furnish pharmacy services:]

A. Health care to New Mexico eligible recipients is furnished by a variety of providers and provider groups. The reimbursement and billing for these services is administered by MAD. Upon approval of a New Mexico MAD provider participation agreement by MAD or its designee, licensed practitioners, facilities and other providers of services that meet applicable requirements are eligible to be reimbursed for furnishing covered services to eligible recipients. A provider must be enrolled before submitting a claim for payment to the MAD claims processing contractors. MAD makes available on the HSD/MAD website, on other program-specific websites, or in hard copy format, information necessary to participate in health care programs administered by HSD or its authorized agents, including program rules, billing instructions, utilization review instructions, and other pertinent materials. When enrolled, a provider receives instruction on how to

access these documents. It is the provider's responsibility to access these instructions, to understand the information provided and to comply with the requirements. The provider must contact HSD or its authorized agents to obtain answers to questions related to the material or not covered by the material. To be eligible for reimbursement, a provider must adhere to the provisions of the MAD provider participation agreement and all applicable statutes, regulations, and executive orders. MAD or its selected claims processing contractor issues payments to a provider using electronic funds transfer (EFT) only. Providers must supply necessary information in order for payment to be made. Eligible providers include:

(1) pharmacies licensed by the New Mexico pharmacy board;

(2) clinics licensed for outpatient dispensing by the New Mexico pharmacy board;

(3) institutional pharmacies licensed for outpatient dispensing by the New Mexico pharmacy board;

(4) family planning clinics and rural health clinics licensed for outpatient dispensing by the New Mexico pharmacy board;

(5) prescribing practitioners practicing in communities more than [fifteen (+5)] 15 miles from a licensed pharmacy; [and]

(6) Indian health service (IHS), Indian Self-Determination and Education Assistance Act ("tribal 638") and IHS contract pharmacies and drug rooms operated consistent with IHS standards of practice for pharmaceutical care; and

(7) mail order pharmacies licensed to dispense in New Mexico.

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

B. When services are billed to and paid by a MAD fee-for-service coordinated services contractor, the provider must also enroll as a provider with the coordinated services contractor and follow that contractor's instructions for billing and for authorization of services.

[8.324.4.10 NMAC - Rp, 8 NMAC

4.MAD.753.1, 8/13/04; A, 7/1/05; A, 12/1/10]

8.324.4.11 PROVIDER RESPONSIBILITIES:

[A. Providers who furnish services to medicaid recipients must comply with all specified medicaid participation requirements. See 8.302.1 NMAC, General

Provider Policies:

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

C. Providers must maintain records that are sufficient to fully disclose the extent and nature of the services furnished to recipients. See 8.302.1 NMAC, *General Provider Policies*.

(1) Original prescriptions written by prescribing providers cannot be discarded and replaced with a copy of the medicaid claims forms. The original prescription must be retained by the pharmacy. If the prescriber certifies that a specific brand is medically necessary, by handwriting "brand medically necessary" on the face of the prescription, the allowed ingredient cost is the estimated acquisition cost (EAC). The documentation of the provider's handwritten "brand medically necessary" must be maintained by the pharmacy provider and furnished upon request. Checked boxes, rubber stamps, requests by telephone and written words that do not include the statement "medically necessary" do not constitute appropriate documentation, pursuant to 42 CFR 447.331. "Brand medically necessary" prescriptions may be subject to prior authorization.

(2) Any claim for which the "brand medically necessary" is claimed must be supported with documentation.

(3) Recipients or their representatives should sign the drug claim form when receiving medication or supplies; when possible. For computer-printed claims and electronically or tape-billed claims, signatures can be accumulated in a log giving the date received, the prescription number, and the signature of the individual picking up the prescription. In the absence of a signature log, electronic prescription-processing systems must have provisions for documenting receipt of services by authorized parties.]

A. A provider who furnishes services to medicaid and other health care programs eligible recipients must comply with all federal and state laws, regulations, and executive orders relevant to the provision of medical services as specified in the MAD provider participation agreement. A provider must adhere to the MAD program rules and instruction as specified in this manual and its appendices, and program directions and billing instructions as specified in this manual and its appendices, and program directions and billing instructions, as updated. A provider is also responsible for following coding manual guidelines and center for medicare and medicaid services (CMS) correct coding initiatives, including not improperly unbundling or up-coding manual guidelines. See 8.302.1 NMAC, *General Provider*

Policies.

B. A provider must verify that individuals are eligible for a specific health care program administered by the HSD and its authorized agents, and must verify the eligible recipient's enrollment status at the time services are furnished. A provider must determine if an eligible recipient has other health insurance. A provider must maintain records that are sufficient to fully disclose the extent and nature of the services provided to an eligible recipient. See 8.302.1 NMAC, *General Provider Policies*.

C. Retention and storage of the original prescription, electronic prescription, and records of phone or fax orders must meet all pharmacy board requirements and must be retained for six years. If the prescriber certifies that a specific brand is medically necessary, by handwriting "brand medically necessary" or "brand necessary" on the face of the prescription, the allowed ingredient cost is the estimated acquisition cost (EAC) of the brand drug. The documentation of the provider's handwritten certification must be maintained by the pharmacy provider and furnished upon request. Checked boxes, rubber stamps and requests by telephone do not constitute appropriate documentation, pursuant to 42 CFR 447.512. "Brand necessary" prescriptions may be subject to prior authorization. Any claim for which "brand necessary" is claimed must be supported with documentation in the prescriber's medical records. Electronic alternatives approved by the secretary of the federal department of health and human services are acceptable.

D. A pharmacy provider must discuss any matters with [medicaid recipients or caregivers] the eligible recipient or their personal representative that in the provider's professional judgment are significant. See 42 USC 1396r-8(g)(2)(A)(ii)(I) of the Social Security Act. Pharmacy counseling services are subject to the standards for counseling established under the State Pharmacy Practice Act. Counseling must be [furnished, unless refused by recipients or caregivers.] furnished unless declined by the eligible recipient or their personal representative.

[8.324.4.11 NMAC - Rp, 8 NMAC 4.MAD.753.2, 8/13/04; A, 12/1/10]

8.324.4.12 COVERED SERVICES: MAD covers most medically necessary prescription drugs and some over-the-counter drugs, subject to the limitations and restrictions delineated in this part. Claims for injectable drugs, intravenous (IV) admixtures, IV nutritional products and other expensive medications [can] may be reviewed for medical necessity before or after reimbursement. Providers must consult MAD, or its designated contractor, before

supplying items not specifically listed in this policy or billing instructions. [Coverage of over-the-counter items is limited to situations where the over-the-counter items may be the drug of choice for common medical conditions and when the over-the-counter item provides an appropriate economical and therapeutic alternative to prescription drug items.] Drug restrictions include dosage, day supply, and refill frequency limits necessary to ensure appropriate utilization or to prevent fraud and abuse. In establishing such limits, professional standards [of health] are considered.

A. For an adult eligible recipient not in an institution, coverage of over-the-counter items is limited to insulin, diabetic test strips, prenatal vitamins, electrolyte replacement system, ophthalmic lubricants, pediculocides and scabicides, sodium chloride for inhalations, topical and vaginal antifungals and topical anti-inflammatories. MAD or its designee may expand the list of covered over-the-counter items after making a specific determination that it is overall more economical to cover an over-the-counter item as an alternative to prescription items or when an over the counter item is a preferred therapeutic alternative to prescription drug items. Such coverage is incorporated as part of the generic-first coverage provisions. Otherwise, the adult eligible recipient or their personal representative is responsible for purchasing or otherwise obtaining an over-the-counter item. Prior authorization for coverage of other over the counter products may be requested when a specific regimen of over the counter drugs is required to treat chronic disease conditions.

B. Covered drugs are subject to generic-first coverage provisions. The recipient must first use one or more generic items available to treat a condition before MAD covers a brand name drug for the condition. MAD publishes a list of the therapeutic categories of drug items that are exempt from the generic-first coverage provisions. Brand name drug items may be covered upon approval by MAD or its designee, based upon medical justification by the prescriber. Generic-first provisions do not apply to injectable drug items.

[8.324.4.12 NMAC - Rp, 8 NMAC 4.MAD.753.3, 8/13/04; A, 7/1/05; A, 12/1/10]

8.324.4.13 COVERED REQUIREMENTS:

A. **Legal requirements:** All drug items must be assigned a national drug code by the respective manufacturer, repackager or labeler. [Any] A prescription must meet all federal and state laws. Providers must fulfill all the requirements of federal and state laws relating to pharmacy practice and ethics.

B. Rebate requirements:

Medicaid pays only for the drugs of pharmaceutical manufacturers that have entered into and have in effect a rebate agreement with the federal department of health and human services.

[C.] This limitation does not apply to dispensing a single-source or innovator multiple-source drug if MAD has determined that the availability of the drug is essential to the health of recipients.

[8.324.4.13 NMAC - Rp, 8 NMAC 4.MAD.753.4, 8/13/04; A, 12/1/10]

8.324.4.14 NON COVERED SERVICES OR SERVICE RESTRICTIONS: Pharmacy services are subject to the limitations and coverage restrictions that exist for other medicaid services. See 8.301.3 NMAC, *General Noncovered Services* [[MAD-602]].

A. Medicaid does not cover the following specific pharmacy items:

(1) medication supplied by state mental hospitals to recipients on convalescent leave from the center;

(2) methadone for use in drug treatment programs;

(3) personal care items such as non-prescription shampoos, soaps;

(4) cosmetic items, such as retin-A for aging skin, rogaïne for hair loss;

(5) drug items that are not eligible for federal financial participation, [(i.e.,] including drugs not approved as effective by the federal food and drug administration, known as DESI (drug efficacy study implementation) drugs; [by the federal food and drug administration, or DESI drugs];

(6) fertility drugs;

(7) antitubercular drug items available from the New Mexico department of health or the United States public health service;

(8) weight loss/weight control drugs [are covered with prior authorization];

(9) [barbiturate hypnotic drugs; barbiturate drugs whose primary action is to induce sleep for recipients who do not reside in nursing homes; MAD covers barbiturate hypnotic drugs for recipients in nursing homes and for other recipients when authorized on a prior approval basis if related to an appropriate medical diagnosis;] barbiturate hypnotic drugs whose primary action is to induce sleep unless the eligible recipient resides in a nursing home;

(10) drug items used to treat sexual dysfunction;

(11) compounded drug items which lack an ingredient approved by the federal food and drug administration for the indication for which the drug is intended;

(12) compounded drug items for which the therapeutic ingredient does not have an assigned national drug code and is not approved by the federal food and drug

administration for human use; and

(13) cough and cold preparations for an eligible recipient under the age of four.

B. [MAD covers certain non-prescription drug items without special authorization or prior authorization when prescribed by a licensed physician or other licensed practitioner. The billing and claims processing instructions providers receive once enrolled contain information on these drug items. The pharmacy must maintain the prescription, written request, or telephone order reduced to writing. Other non-prescription items can be considered on a prior approval basis when related to an appropriate medical diagnosis requiring an ongoing course of treatment.] MAD covers non-prescription drug items without prior authorization when prescribed by a licensed practitioner authorized to prescribe for eligible MAD recipients who reside in a nursing facility or an intermediate care facility for the mentally retarded (ICF-MR), when such items are not routinely included in the facility's reimbursable cost and a specific prescription for the item is dispensed based on a practitioner's order. The following cannot be charged to the recipient or billed to medicaid by a provider:

(1) diabetic testing supplies and equipment;

(2) aspirin and acetaminophen;

(3) routine ointments, lotions and creams, and rubbing alcohol; and

(4) other non-prescription items stocked at nursing stations and distributed for use individually in small quantities.

[C. MAD covers routine non-prescription drug items supplied in nursing facilities or intermediate care facilities for the mentally retarded with specified restrictions:

(1) Routine items are included in the facility's reimbursable cost and cannot be charged to the recipient or billed to medicaid by providers.

(2) Routine drug items, include the following:

(a) laxatives;

(b) stool softeners;

(c) diabetic testing supplies and equipment;

(d) alcohol and body rubs;

(e) aspirin and acetaminophen;

(f) antacids and other agents for treating ulcers;

(g) ointments, lotions and creams; and

(h) other non-prescription items stocked at nursing stations and distributed or used individually in small quantities.

D.] C. Medicaid does not cover drug items for recipients eligible for medicare part D when the drug item or class of drug meets the federal definition of a medicare part D covered drug. Medicaid

does not cover any copayment due from the recipient towards a claim paid by medicare part D nor any medicare part D covered drug or class of drug where the recipient has a gap in medicare part D coverage due to a medicare coverage limit. Items or drug classes specifically excluded by medicare part D are covered, non-covered or limited to the same extent that medicaid covers the excluded drug items for full benefit medicaid recipients who are not dual eligibles.

[8.324.4.14 NMAC - Rp, 8 NMAC 4.MAD.753.5, 8/13/04; A, 1-1-06; A, 12/1/10]

8.324.4.15 PRIOR AUTHORIZATION AND UTILIZATION REVIEW:

All medicaid services are subject to utilization review for medical necessity and program compliance. Reviews can be performed before services are furnished, after services are furnished and before payment is made, or after payment is made. See 8.302.5 NMAC, *Prior Authorization and Utilization Review*. Once enrolled, providers receive instructions and documentation forms necessary for prior authorization and claims processing. Review or prior authorization may be required for items for which a [lesser] less expensive or therapeutically preferred alternative should be used first. [Establishing these] In addition to the generic-first coverage provisions, applicable therapeutic "step" requirements will be based on published clinical practice guidelines, professional standards of health care, and economic considerations.

A. **Prior authorization:** MAD, or its designated contractor, reviews all requests for prior authorizations. [The MAD utilization review (UR) contractor grants prior authorization on durable medical equipment and medical supplies which can be dispensed by pharmacy services providers.] Services for which prior authorization was obtained remain subject to utilization review at any point in the payment process.

B. **Eligibility determination:** Prior authorization of services does not guarantee that individuals are eligible for medicaid. Providers must verify that individuals are eligible for medicaid at the time services are furnished and determine if medicaid recipients have other health insurance.

C. **Reconsideration:** Providers who disagree with prior authorization request denials or other review decisions can request a re-review and a reconsideration. See 8.350.2 NMAC, *Reconsideration of Utilization Review Decisions* [MAD-953].

D. **Drug utilization review:** The MAD drug utilization review (DUR) program is designed to assess the proper utilization, quality, therapy, medical appropriateness and costs of prescribed

medication through evaluation of claims data, as required by 42 CFR 456.700-716. The DUR program is done on a retrospective, prospective and concurrent basis. This program shall include, but is not limited to, data gathering and analysis and a mix of educational interventions related to over-utilization, under-utilization, therapeutic duplication, drug-to-disease and drug-to-drug interactions, incorrect drug dosage or duration of treatment and clinical abuse or misuse. Information collected in the DUR program that identifies individuals is confidential and may not be disclosed by the MAD DUR board to any persons other than those identified as the recipient's service providers or governmental entities legally authorized to receive such information.

(1) Prospective drug use review:

Prospective DUR (ProDUR) is the screening for potential drug therapy problems (such as, over-utilization, under-utilization, incorrect drug dosage, therapeutic duplication, drug-disease contraindication, adverse interaction, incorrect duration of drug therapy, drug-allergy interactions, clinical abuse or misuse) before each prescription is dispensed. The dispensing pharmacist is required to perform prospective drug use review prior to dispensing. Only a licensed pharmacist or intern may perform ProDUR activities. The pharmacist may be required to insert appropriate DUR override codes when the ProDUR system detects drug therapy issues. In retrospective review of paid claims, payment may be recouped for claims in which the pharmacist has not followed accepted standards of professional practice.

(2) **Counseling:** Pursuant to 42 CFR 456.705, each dispensing pharmacist must offer to counsel each medicaid eligible recipient receiving benefits (or the caregiver of such individual) who presents a new prescription, unless the recipient or their personal representative refuses such counsel. Pharmacists must document these refusals. If no documentation of refusal of counseling is available or readily retrievable, it will be assumed that appropriate counseling and prospective drug use review has taken place. A reasonable effort must be made to record and maintain the pharmacist's comments relevant to said counseling and prospective drug review, particularly when ProDUR overrides are performed. Counseling must be done in person, whenever practicable. If it is not practicable to counsel in person, providers whose primary patient population ~~[do]~~ does not have access to a local measured telephone service must provide access to a toll-free number.

[8.324.4.15 NMAC - Rp, 8 NMAC 4.MAD.753.7, 8/13/04; A, 7/1/05; A, 12/1/10]

Pharmacy providers must submit claims for reimbursement on the separate pharmacy claim form or its successor. See 8.302.2 NMAC, *Billing for Medicaid Services* and 8.324.4.17 NMAC, *Pharmacy Point of Sale*. ~~[Once enrolled, providers receive instructions on documentation, billing and claims processing.]~~

A. General reimbursement methodology: ~~[MAD's total reimbursement for a prescription drug must not exceed the lowest of the estimated acquisition cost (EAC), the maximum allowable cost (MAC), the federal upper limit (FUL), or the usual and customary charge.]~~ Where reimbursement is for a drug dispensed under the 340B program to a medicaid eligible recipient, the estimated ingredient cost will not exceed the lowest of the EAC, the MAC, the actual acquisition cost of a 340B drug, or the FUL.

(1) **Estimated acquisition cost (EAC).** MAD determines EAC as follows:

(a) MAD establishes EAC, defined as MAD's approximation of the net or actual acquisition costs of such drugs ~~[to pharmacies in New Mexico for all covered drugs, following consultation with representatives of the New Mexico pharmacy profession. Dispensing fees are in addition to EAC.]~~

(b) the factors MAD considers in setting rates for drugs under this subparagraph include:

(i) product cost, which may vary among purchasing contracts;

(ii) ~~[MAD's documented]~~ clinical concerns;

(iii) MAD's budget limits; ~~[and]~~

(iv) the actual package size dispensed; ~~and~~

(v) ~~payments by other payers in New Mexico and other state medicaid and medicare pricing policies.~~

(c) MAD uses the EAC as MAD's reimbursement for a drug when the EAC, plus a dispensing fee established by MAD, is the lowest of the rates calculated under the methods listed in general reimbursement methodology, Subsection A of 8.324.4.16 NMAC.

(d) ~~[EAC cannot exceed the lowest of the current published average wholesale price of a drug less a percentage established by the department or EAC by reference to other pricing information sources selected by MAD pursuant to general reimbursement methodology, Subsection A of 8.324.4.16 NMAC.]~~ EAC is calculated using the current published average wholesale price (AWP) of a drug less a percentage established by the department, the average manufacturer price (AMP) plus a percentage established by the department, or the wholesale acquisition cost (WAC) plus a percentage established by the department, determined by reference to

other pricing information sources selected by MAD pursuant to general reimbursement methodology, Subsection A of 8.324.4.16 NMAC; and

(e) MAD uses the ingredient cost indicated in the ingredient cost field on the billing transaction as the EAC when that indicated ingredient cost is lower than the MAD EAC.

(2) **Maximum allowable cost (MAC); MAC methodology.** MAD establishes a maximum allowable cost (MAC) applicable for certain multiple-source drugs with FDA rated therapeutic equivalents and for certain over-the-counter drugs and non-drug items on the following basis:

(a) at least one A-rated generic (as listed in the FDA orange book) is readily available to New Mexico pharmacies;

(b) ~~[the state MAC for the brand name drug products and for all A-rated therapeutic equivalents shall be determined by taking the lowest available cost for all of the A-rated therapeutic equivalent drugs regardless of manufacturer, and multiplying that by cost a factor set by MAD to cover the pharmacy's estimated administration and overhead plus a dispensing fee;]~~ the MAC for the brand name drug products and for all A-rated therapeutic equivalents shall be determined by arraying costs for the A-rated therapeutic equivalent drugs regardless of manufacturer, and selecting a reasonable price from the arrayed list in a manner consistent with the state plan approved by CMS subjecting that price to cost factors and tests for reasonableness;

~~[(c) the state MAC list will be updated at least quarterly, with on-going adjustments due to pricing changes and availability issues;~~

~~[(d) all products on the state MAC list will be reviewed at a minimum every 6 months;~~

~~[(e) if a "federal upper limit" (FUL) has been set for a product, then the MAC will not be applied if the FUL ingredient reimbursement rate is lower than the MAC reimbursement rate;~~

~~[(f) MAC will not be applied if the calculation equals an amount greater than the current EAC, as defined in estimated acquisition costs in Paragraph (1) of Subsection A of 8.324.4.16 NMAC;]~~

~~[(c) when a state MAC price has not been calculated by MAD, a baseline price calculated by a national supplier of drug pricing information is used as the state MAC;~~

~~[(g)]~~ (d) MAC will not be applied if a specific brand has been determined to be medically necessary, in which event the reimbursement rate will be the lower of the EAC of the product dispensed plus the dispensing fee or the provider's billed usual and customary charge; and

~~[(th)]~~ (e) for over-the-counter drugs and non-drug items, MAC may be established using the pricing sources in Subsection B of ~~[8.324.16]~~ 8.324.4.16 NMAC.

(3) Federal upper limit (FUL) methodology:

(a) MAD adopts the FUL that is set by the centers for medicare and medicaid services (CMS) or recommended by the federal department of justice.

(b) MAD's maximum payment for multiple-source drugs for which CMS has set FULs will not exceed, in the aggregate, the prescribed upper limits plus the dispensing fees set by MAD under the dispensing fee determination.

~~[(c)]~~ Except as provided in MAC methodology and in subparagraph (4) below, MAD uses the FUL as MAD's reimbursement rate for all FDA A-rated, therapeutic-equivalent drugs when the FUL price, plus a dispensing fee is the lowest of the rates calculated under the methods listed in general reimbursement methodology Subsection A of 8.32.4.4.16 NMAC.]

~~[(d)]~~ (c) MAD will not use the individual drug FUL as MAD's reimbursement rate when the prescribing practitioner has certified that a specific brand is medically necessary, in which event the reimbursement rate will be the lower of the EAC of the product dispensed plus the dispensing [fee-] fee or the provider's usual and customary billed charge.

(4) 340B drug discount actual acquisition cost:

(a) The actual ingredient cost for drugs purchased under section 340B of the Public Health Service Act, 42 USC 256b, and dispensed to medicaid recipients must be placed in the ingredient cost field and indicated on the billing transaction as a 340B drug item.

(b) Drugs purchased under section 340B of the Public Health Service Act, 42 USC 256b, and dispensed to medicaid recipients must be billed at the actual acquisition cost of the provider and indicated on the billing transaction as a 340B drug item. If an eligible recipient with a prescription written at a 340B entity requests the item to be dispensed by a 340B pharmacy under contract to the 340B entity then the pharmacist must dispense 340B purchased items when filling the prescription.

~~[(4)]~~ (5) Usual and customary charge:

(a) The provider's billed charge must be its usual and customary charge for services. Over-the-counter items must be billed with the over-the-counter price as the usual and customary charge, unless it is labeled and dispensed as a prescription.

(b) "Usual and customary charge" refers to the amount that the individual provider charges the general public in the majority of cases for a specific procedure or

service.

(c) Usual and customary charges must reflect discounts given to non-medicaid recipients for certain reasons, such as age or nursing home residents, when a medicaid recipient meets the standards for the discount. Medicaid must be given the advantage of discounts received by the general public, including promotions or items sold at cost to the general public, if these are the prices usually and customarily charged to non-medicaid recipients.

(d) Providers must not add additional costs for their time, paperwork, or anticipated turnaround time for payment.

~~[(5)]~~ **340B drug discount:** Drugs purchased under section 340B of the Public Health Service Act, 42 USC 256b, and dispensed to medicaid recipients will be reimbursed at established rates, after consultation with representatives of the New Mexico pharmacy profession.]

(6) Medicare reimbursement: Reimbursement may be limited to medicare reimbursement limits where the total of the medicare-allowed amounts plus, if applicable, a dispensing fee, is the lowest of EAC, MAC, FUL, usual and customary charge or 340B drug discount amount as defined in Subsection A of 8.324.16 NMAC, *Reimbursement*.

B. Pricing information to set EAC and MAC: MAD selects the sources for pricing information used to set EAC and MAC. These sources may include pharmaceutical wholesalers, manufacturers, federal agencies, drug data information clearinghouses ~~[(e.g., first data bank)]~~ and pharmacy invoices.

C. Assistance in establishing EAC and MAC: MAD may solicit assistance from pharmacy providers, pharmacy benefit managers (PBMs), other government agencies, actuaries, ~~[and/or]~~ or other consultants when establishing EAC ~~[and/or]~~ or MAC.

D. Pharmacy [provider] price reductions: If the pharmacy provider offers a discount, rebate, promotion or other incentive that ~~[directly relates to the]~~ results in a reduction of the price of a prescription to the individual non-medicaid customer, the provider must similarly reduce its charge to MAD for the prescription.

E. No claims for free products: If a pharmacy gives a product free to the general public, the pharmacy must not submit a claim to MAD when giving the free product to a medicaid recipient.

F. Solutions: Solutions, such as saline for nebulizers, intravenous (IV) solutions without additives, electrolyte and irrigation solutions, and diluents are considered medical supply items for reimbursement purposes. See ~~[8.350.3]~~ 8.324.5 NMAC, *Durable Medical Equipment and Medical Supplies* ~~[[MAD-754]]~~.

G. Non-drug items: Urine test reagents, electrolyte replacement and nutritional products, equipment and medical supplies, including syringes and alcohol swabs, are subject to restrictions for medical supplies. See 8.324.5 NMAC, *Durable Medical Equipment and Medical Supplies* ~~[[MAD-754]]~~.

~~[(1)]~~ When a pharmacy does not provide the ongoing clinical monitoring and care coordination involved with an episode of home infusion therapy, the NCPDP claim format must be used for billing the involved drugs. If the pharmacy's business includes providing ongoing clinical monitoring and care coordination related to an episode of home infusion therapy, the drugs must be billed in CMS-1500 or ASC X12N 837 format, or as otherwise consistent with federally required national standards. When an order for infusion therapy includes medical supply items that do not have NDC numbers assigned to them by the manufacturer, repackager or labeler, those items must be billed in the CMS-1500 or ASC X12N 837 format, or as otherwise consistent with federally required national standards.

~~—————~~ (2) Reimbursement is calculated for the medical supply portion according to medical supply regulations and for the drug portion under these regulations.] ~~[8.324.4.16 NMAC - Rp, 8 NMAC 4.MAD.753.8, 8/13/04; A, 7/1/05; A, 12/1/10]~~

8.324.4.17 POINT OF SALE: The point-of-sale system provides relevant drug utilization information that the pharmacist must consider before dispensing a drug. If utilization information indicates that a recipient has an adequate supply of the drug item or that the quantity being dispensed is excessive, the claim will initially be denied. The pharmacist is responsible for resolving the issue and obtaining an authorization to dispense the drug, if necessary.

A. General requirements: All in-state and border area pharmacy providers are required to submit claims through the point-of-sale system.

B. Exceptions to general requirements: The following are exceptions to this general requirement:

(1) the provider is out-of-state and is not a border area provider;

(2) the provider is a family planning clinic dispensing prescriptions;

(3) the provider submitted on average less than ~~[fifty (50)]~~ 50 claims per month ~~[average]~~ to MAD for the preceding six ~~[(66)]~~-month period;

~~[(4)]~~ the provider dispenses prescriptions only to recipients in nursing facilities;

~~[(5)]~~ (4) the claim requires an attachment or explanation; and

[(6)] (5) a required data element on the claim cannot be entered in the current standard point-of-sale format.

[8.324.4.17 NMAC - Rp, 8 NMAC 4.MAD.753.9, 8/13/04; A, 12/1/10]

8.324.4.18 PRESCRIPTIONS AND REFILLS:

A. **Dispensing frequencies:** Medicaid limits the frequency for which it reimburses the same pharmacy for dispensing the same drug to the same recipient.

(1) The limitation is established individually for each drug.

(2) ~~[Some drugs are subject to a maximum of three (3) times in ninety (90) days with a twenty (20)-day grace period to allow for necessary early refills.] Maintenance drugs are subject to a maximum of three times in 90 days with a 14-day grace period to allow for necessary early refills.~~

(3) Certain drugs are given more flexibility due to their specific dosage forms, packaging or clinical concerns.

(4) The excessive dispensing limitation applies regardless of whether the claim is for a new prescription or refill.

B. **Refill requirements:** Refills must be consistent with the dosage schedule prescribed and with all applicable federal and state laws. Consistent use of early refills will result in a calculation that the eligible recipient has sufficient stock of the drug item on hand and allowed refill dates will be adjusted accordingly.

C. **Quantities dispensed:** Maintenance drugs are those on the MAD-approved maintenance drug list. For recipients with likely continuous eligibility due to age, disability or eligibility policy, prescriptions for maintenance drugs may be dispensed in amounts up to a [ninety (90)] 90-day supply. Prescriptions for non-maintenance drugs may be dispensed in up to 34 [(thirty-four)]-day supplies. Oral contraceptives may be dispensed for up to a one-year supply if the appropriate contraceptive for the recipient has been established.

(1) Pharmacy providers shall not reduce prescriptions for maintenance drugs that are written for quantities larger than a [thirty-four (34)] 34-day supply and may dispense up to a 90 [(ninety)]-day supply. MAD considers prescription splitting to be fraudulent. Pharmacies that do not have the entire prescribed amount on hand may dispense a partial fill.

(2) Coverage may be limited by the end date of the recipient's span of eligibility at the time of dispensing.

(3) Pharmacists are encouraged to consult with prescribers to achieve optimal drug therapy outcomes, consistent with NMSA 1978, Section 61-11-2(V).

(4) Controlled substances may

have specific controls on the quantities dispensed.

D. **Unit dose packaging:** MAD does not pay for unit dose packaging or for prefilling syringes. MAD does reimburse for commercial unit dose packaged drugs.

E. **Prevention of abuse:** Drug items are to be dispensed for legitimate medical needs only. If the pharmacist suspects the eligible recipient of over-utilizing or abusing drug services, the pharmacist must contact the provider and MAD so that the eligible recipient's use of medications can be reviewed. Overlapping use of multiple drug items with the same therapeutic uses that are potentially abusive or otherwise dangerous may result in subjecting the prescriptions to the prior authorization process.

F. **Mail service pharmacy:** MAD may provide a mail service pharmacy for eligible recipient use.

(1) The mail service pharmacy is available as an option to all medicaid recipients.

(2) Retail pharmacies may mail, ship or deliver prescriptions to medicaid recipients consistent with applicable state and federal statutes and regulations.

[8.324.4.18 NMAC - Rp, 8 NMAC 4.MAD.753.10, 8/13/04; A, 12/1/10]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.325.10 NMAC, Sections 3, 8, 9 and 10 - 16, effective November 15, 2010. The part name is also amended.

EMERGENCY MEDICAL SERVICES FOR [UNDOCUMENTED] ALIENS

8.325.10.3 **STATUTORY AUTHORITY:** ~~[The New Mexico medicaid program is administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act, as amended, or state statute. See Section 27-2-12 et seq. NMSA 1978 (Repl. Pamph. 1991).]~~ The New Mexico medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of health and human services under the Social Security Act as amended or by state statute. See NMSA 1978, Section 27-2-12 et seq.

[2/1/95; 8.325.10.3 NMAC - Rn, 8 NMAC 4.MAD.000.3, 12/1/03; A, 10/15/08; A, 11/15/10]

8.325.10.8 **MISSION STATEMENT:** ~~[The mission of the New Mexico medical assistance division (MAD) is to maximize the health status of eligible~~

~~recipients by furnishing payment for quality health services at levels comparable to private health plans.] To reduce the impact of poverty on people living in New Mexico and to assure low income and individuals with disabilities in New Mexico equal participation in the life of their communities.~~ [2/1/95; 8.325.10.8 NMAC - Rn, 8 NMAC 4.MAD.002, 12/1/03; A, 10/15/08; A, 11/15/10]

8.325.10.9 EMERGENCY MEDICAL SERVICES FOR

[UNDOCUMENTED] ALIENS: The New Mexico MAD is required to pay for necessary emergency medical services furnished to individuals who are [undocumented] aliens, reside in New Mexico and meet the requirements for MAD eligibility [42 CFR 440.255(c)].

[2/1/95; 8.325.10.9 NMAC - Rn, 8 NMAC 4.MAD.769, 12/1/03; A, 10/15/08; A, 11/15/10]

8.325.10.10 ELIGIBLE PROVIDERS:

~~[Upon approval of a New Mexico MAD provider participation agreement by MAD or its designee, licensed practitioners of facilities that meet applicable requirements are eligible to be reimbursed for furnishing covered services to eligible recipients. A provider must be enrolled before submitting a claim for payment to the MAD claims processing contractors. MAD makes available on the HSD/MAD website, on other program-specific websites, or in hard copy format, information necessary to participate in health care programs administered by HSD or its authorized agents, including program rules, billing instructions, utilization review instructions, and other pertinent materials. When enrolled, providers receive instruction on how to access these documents. It is the provider's responsibility to access these instructions or ask for paper copies to be provided, to understand the information provided and to comply with the requirements. The provider must contact HSD or its authorized agents to request hard copies of any program policy manuals, billing and utilization review instructions and other pertinent material, and to obtain answers to questions found in the material or not covered by the material. To be eligible for reimbursement, a provider must adhere to the provisions of the MAD provider participation agreement and all applicable statutes, regulations, and executive orders.] Health care to eligible recipients is furnished by a variety of providers and provider groups. The reimbursement and billing for these services is administered by MAD. Upon approval of a New Mexico MAD provider participation agreement by MAD or its designee, licensed practitioners, facilities and other providers of services that~~

meet applicable requirements are eligible to be reimbursed for furnishing covered services to eligible recipients. A provider must be enrolled before submitting a claim for payment to the MAD claims processing contractors. MAD makes available on the HSD/MAD website, on other program-specific websites, or in hard copy format, information necessary to participate in health care programs administered by HSD or its authorized agents, including program rules, billing instructions, utilization review instructions, and other pertinent materials. When enrolled, a provider receives instruction on how to access these documents. It is the provider's responsibility to access these instructions, to understand the information provided and to comply with the requirements. The provider must contact HSD or its authorized agents obtain answers to questions related to the material or not covered by the material. To be eligible for reimbursement, a provider must adhere to the provisions of the MAD provider participation agreement and all applicable statutes, regulations, and executive orders. MAD or its selected claims processing contractor issues payments to a provider using electronic funds transfer (EFT) only. [2/1/95; 8.325.10.10 NMAC - Rn, 8 NMAC 4.MAD.769.1, 12/1/03; A, 10/15/08; A, 11/15/10]

8.325.10.11 PROVIDER RESPONSIBILITIES: [A provider who furnishes services to medicaid and other health care eligible recipients must comply with all federal and state laws, regulations, and executive orders relevant to the provision of medical services as specified in the MAD provider participation agreement. A provider must adhere to the MAD program rules and instructions as specified in this manual and its appendices, and program directions and billing instructions, as updated. A provider is also responsible for following coding manual guidelines and CMS correct coding initiatives, including not improperly unbundling or up-coding services. See 8.302.1 NMAC, *General Provider Policies*.]

A. A provider who furnishes services to a medicaid or other health care program eligible recipient must comply with all federal and state laws, regulations, and executive orders relevant to the provision of services as specified in the MAD provider participation agreement. A provider also must conform to MAD program rules and instructions as specified in the provider rules manual and its appendices, and program directions and billing instructions, as updated. A provider is also responsible for following coding manual guidelines and CMS correct coding initiatives, including not improperly unbundling or upcoding services. When services are billed to and paid by a coordinated services contractor

authorized by HSD, the provider must follow that contractor's instructions for billing and for authorization of services.

B. A provider may encourage an individual to apply for emergency medical services for aliens (EMSA) eligibility at a county office when the provider believes the service may qualify as an EMSA emergency service. A provider must inform the individual if the provider is unwilling to receive medicaid payment for the service when the service meets the EMSA emergency criteria for coverage. A provider must determine if the recipient has other health insurance. A provider must maintain records that are sufficient to fully disclose the extent and nature of the services provided to an alien recipient.

[2/1/95; 8.325.10.11 NMAC - Rn, 8 NMAC 4.MAD.769.2 & A, 12/1/03; A, 10/15/08; A, 11/15/10]

8.325.10.12 ELIGIBLE INDIVIDUALS:

A. [Individuals who are undocumented, illegal, and non-immigrant aliens and who meet all the eligibility criteria for MAD pregnant women (category 030 or 035), or supplemental security income (SSI), except for citizenship or legal alien status, are eligible to receive emergency services.] An applicant must be a noncitizen who is undocumented or who does not meet the qualifying immigration criteria specified in 8.200.410 NMAC, *General Recipient Requirements*, and in 8.285.400 NMAC, *Medicaid Eligibility-Emergency Medical Services for Aliens-Category 085*.

B. Eligibility determinations are made by local county income support division (ISD) offices after the receipt of emergency services. The individual is responsible for completing an application at the local county ISD office and for providing all necessary documentation to prove that he or she meets the applicable eligibility criteria.

(1) [Individuals] An individual must apply for coverage at the ISD office no later than the last day of the third month following the month in which the alleged emergency services were received.

(2) [Individuals are] An alien recipient is responsible for notifying providers of the approval or denial of an application.

(3) If an application is denied or an application for coverage is not filed by the last day of the third month following the month in which the alleged emergency services were received, the [individual] alien recipient is responsible for payment of the provider bill.

(4) If reimbursement for services is denied by MAD, the individual is responsible for payment and can be billed directly for payment by the provider.

[2/1/95; 8.325.10.12 NMAC - Rn, 8 NMAC 4.MAD.769.3 & A, 12/1/03; A, 10/15/08; A, 11/15/10]

8.325.10.13 COVERAGE CRITERIA:

A. "Emergency" as defined for EMSA includes labor and delivery including inductions and cesarean sections, as well as any other medical condition, manifesting itself with acute symptoms of sufficient severity such that the absence of immediate emergency medical attention could reasonably be expected to result in one of the following:

(1) the [individual's] alien recipient's death;

(2) placement of the [individual's] alien recipient's health in serious jeopardy;

(3) serious impairment of bodily functions; or

(4) serious dysfunction of any bodily organ or part.

B. Services are covered only when necessary to treat or evaluate a condition meeting the definition of emergency and are covered only for the duration of that emergency.

C. After delivery, a child can have legally documented or citizenship status because of its birth in the United States and, therefore, is not eligible for emergency services for aliens. The child may be eligible for another MAD category of eligibility on his or her own.

D. Determination of coverage is made by MAD or its designee. [2/1/95; 8.325.10.13 NMAC - Rn, 8 NMAC 4.MAD.769.4 & A, 12/1/03; A, 10/15/08; A, 11/15/10]

8.325.10.14 SERVICE LIMITATIONS: [MAD covers only those emergency medical services furnished in the state of New Mexico. To meet the categorical eligibility requirements, recipients who are undocumented aliens must be residents of the state of New Mexico. Proof of residence must be furnished by the undocumented alien to the local county ISD office. Individuals traveling through New Mexico, entering the United States through New Mexico en route to another destination, visiting in New Mexico or touring New Mexico with a tourist visa do not meet the residence requirement.] To meet the categorical eligibility requirements, a recipient who is an alien must be a resident of the state of New Mexico. Proof of residence must be furnished by the alien to the local county ISD office. An individual traveling through New Mexico, entering the United States through New Mexico en route to another destination, visiting in New Mexico or touring New Mexico with a tourist visa does not meet the residence requirement.

[2/1/95; 8.325.10.14 NMAC - Rn, 8 NMAC

4.MAD.769.5, 12/1/03; A, 10/15/08; A, 11/15/10]

8.325.10.15 NON COVERED SERVICES:

MAD does not cover any medical service that is not necessary to treat or evaluate a condition for an individual who is an ~~undocumented~~ alien that does not meet the definition of emergency. Additionally, MAD does not cover the following specific services:

- A. long term care;
 - B. organ transplants;
 - C. rehabilitation services;
 - D. elective surgical procedures;
 - E. psychiatric or psychological services;
 - F. durable medical equipment or supplies;
 - G. eyeglasses;
 - H. hearing aids;
 - I. outpatient prescriptions;
 - J. podiatry services;
 - K. prenatal and postpartum care;
 - L. well child care;
 - M. routine dental care;
 - N. routine dialysis services;
 - O. any medical service furnished by an out-of-state provider;
 - P. non-emergency transportation; and
 - Q. preventive care.
- [2/1/95; 8.325.10.15 NMAC - Rn, 8 NMAC 4.MAD.769.6 & A, 12/1/03; A, 10/15/08; A, 11/15/10]

8.325.10.16 UTILIZATION REVIEW:

[All claims for services furnished to individuals who are undocumented aliens are reviewed by MAD or its designee before payment to determine if the circumstances warrant coverage. If the MAD medical director or another physician appointed by MAD to perform this specific task determined that the services were furnished in a non-emergency situation, a claim for services is denied and payment for services becomes the responsibility of the individual.] Claims for services to a recipient who is an alien are reviewed by MAD or its designee before payment to determine if the circumstances warrant coverage.

A. **Eligibility determination:** [Undocumented aliens who request] An alien recipient who requests MAD coverage for services must meet specific categorical eligibility requirements. Eligibility determinations by local county ISD offices must be made before the review for medical necessity.

B. **Reconsideration:** ~~[Providers and undocumented aliens are given notice of the denial of MAD payment. Providers can request a re-review and reconsideration of denied medical claims.~~

~~See 8.350.2 NMAC, *Reconsideration of Utilization Review Decisions*. Aliens can also request a hearing. See 8.352.2 NMAC, *Recipient Hearings*.] A provider and the alien are given notice of the denial when the EMSA emergency criteria are not met. An alien recipient can request a re-review and reconsideration of denied coverage of the service. See 8.350.2 NMAC, *Reconsideration of Utilization Review Decisions* [MAD-953]. An alien recipient can also request a hearing. See 8.52.2 NMAC, *Recipient Hearings*. [2/1/95; 8.325.10.16 NMAC - Rn, 8 NMAC 4.MAD.769.7 & A, 12/1/03; A, 10/15/08; A, 11/15/10]~~

NEW MEXICO BOARD OF NURSING

This is an amendment to 16.12.2 NMAC, Sections 7, 8, 10, 11, 13, 14 and 15, effective 11-29-10.

16.12.2.7 DEFINITIONS:

A. **Definitions beginning with the letter A:**

(1) **“actually engaged in nursing”**, employed, engaged, or holding a position which requires licensure or in which the maintenance of licensure as a nurse is expected;

(2) **“administration of medications”**, a process whereby a prescribed drug or biological agent is given to a patient/client by a person licensed or certified by the board to administer medications;

(3) **“advanced practice registered nurse”**, a ~~master's~~ graduate level prepared registered nurse who has completed a program of study in a specialty area in an accredited nursing program, taken a certification examination in the same area, and been granted a license to practice as an advanced practice nurse with an expanded scope of practice; ~~[subcategories include]~~ individuals are authorized to practice in the roles of certified nurse practitioner (CNP), certified registered nurse anesthetist (CRNA) and clinical nurse specialist (CNS);

(4) **“affidavit”**, a sworn written statement made to affirm a statement of fact;

(5) **“approval”**, the review and acceptance of a specific activity;

(6) **“approval agency”**, agency, institution or organization with the authorization to award CE credit;

(7) **“approved equivalent”**, a program reviewed and accepted by the board of nursing as meeting necessary regulatory/statutory requirements;

(8) **“assessment”**, the review and interpretation by a licensed individual of specific data necessary to determine the patient/client's care and treatment needs; (also see data collection);

(9) **“assignment of nursing activity”**, assignment of nursing activity involves appointing or designating another licensed nurse or assistive personnel that is consistent with his/her scope of practice (licensed person) or role description (unlicensed person);

(10) **“audit”**, an examination and verification of CE and practice documents.

B. **Definitions beginning with the letter B:**

(1) **“basic nursing education”**, the scholastic route to initial licensure;

(2) **“board”**, the New Mexico board of nursing.

C. **Definitions beginning with the letter C:**

(1) **“certificate”**, a legal document granting permission to an unlicensed person to perform specific functions generally considered the practice of nursing under the direction of a licensed nurse;

(2) **“certification re-activation”**, the process of reactivating a lapsed national advanced practice registered nurse certification program in the specialty area;

~~[(2)]~~(3) **“collaboration”**, practice in conjunction with another health professional;

~~[(3)]~~(4) **“competency”**, competency in nursing is the ability to perform skillfully and proficiently the role of the licensee; the role encompasses essential knowledge, judgment, attitudes, values, skills and abilities, which are varied in range and complexity; competency is a dynamic concept and is based on educational training, preparation, and expertise;

~~[(4)]~~(5) **“consultation”**, to communicate regularly to set goals and objectives and to review and document outcomes;

~~[(5)]~~(6) **“contact hours”**, a unit of measurement to describe an approved, organized learning experience;

~~[(6)]~~(7) **“continuing education”**, planned learning experiences beyond a basic nursing education program; these experiences are designed to promote the development of knowledge, skills and attitudes for the enhancement of nursing practice, thus improving health care to the public;

~~[(7)]~~(8) **“continuing education unit (CEU)”**, ten contact hours of participation in an organized CE experience under responsible sponsorship, capable direction, and qualified instruction.

D. **Definitions beginning with the letter D:**

(1) **“data collection”**, the process of obtaining information, material, fact or clinical observations which will be used in the assessment process; data collection is not limited to licensed individuals;

(2) **“delegation”**, the transferring to a competent individual the authority to

perform a selected nursing task in a selected situation. The nurse retains accountability of the delegation;

(3) **“department of public safety”**, the New Mexico department of public safety or other state’s department of public safety;

(4) **“direct supervision for graduate permit holders”**, at a minimum, the person responsible for the direct supervision must be in the facility or on the unit with the graduate permit holder observing, directing and evaluating the performance of the permit holder; the supervisor must not be engaged in other activities that would prevent them from providing direct supervision.

E. Definitions beginning with the letter E:

(1) **“educational institution”**, refers to an institution within the educational system which is organized and accredited for teaching and study (university, high school, post-secondary, approved area vocational institution);

(2) **“eligible for graduation”**, individual who has met all the requirements of an educational program.

F. **“Final transcript”**, an official record of course work and grades, issued by a school, which indicates date of program completion and certificate or degree awarded.

G. **“Generally recognized organization”**, an association of nurses with common goals and concerns expressed through structured by laws. Rules and regulations, and whose recognition derives from both the profession and the public.

H. Definitions H - Reserved

I. Definitions beginning with the letter I:

(1) **“inactive list”**, compilation of those licenses that are in good standing but not current;

(2) **“initial license”**, the process of achieving the legal privilege to practice within a professional category upon the completion of all educational requirements and the successful writing of the national licensing examination;

(3) **“institution of higher education”**, college or university.

J. **“Jurisdiction”**, the licensure or regulatory authoritative body for nursing within a specific geographic area for which there is endorsement in New Mexico.

K. Definitions K - Reserved

L. Definitions beginning with the letter L:

(1) **“lapsed status”**, a license which was not renewed by the expiration date on the license;

(2) **“legal guardian”**, a person lawfully invested with the power, and charged with the duty, of taking care of

the person and managing the property and rights of another person who is considered incapable of administering his own affairs;

(3) **“letter of authorization”**, a document issued by the board which authorizes an individual to practice nursing in New Mexico under the auspices of an approved preceptorship for an advanced nursing expanded scope of practice prescriptive authority or for an advanced practice nurse from a compact state;

(4) **“license”**, a legal document granting an individual the privilege and authority to engage in the practice of an occupation/profession;

(5) **“licensure by endorsement”**, the process of achieving the legal privilege to practice within a professional category, in New Mexico, by individuals licensed in other jurisdictions, upon fulfilling all requirements set by this state.

M. Definitions beginning with the letter M:

(1) **“medical emergency”**, a situation resulting from a disaster in which the number of persons requiring nursing care exceeds the availability of New Mexico registered nurses or licensed practical nurses;

(2) **“monitoring system”**, a mechanism whereby programs may be approved for CE hours within a geographic area;

(3) **“must”**, a requirement.

N. Definitions beginning with the letter N:

(1) **“national licensing examination”**, examination for licensure as provided by the national council of state boards of nursing, inc.;

(2) **“nationwide criminal history record”**, information concerning a person’s arrests, indictments or other formal criminal charges and any dispositions arising there from, including convictions, dismissals, acquittals, sentencing and correctional supervision, collected by criminal justice agencies and stored in the computerized databases of the federal bureau of investigation, the national law enforcement telecommunications systems, the department of public safety or the repositories of criminal history information of other states;

(3) **“nationwide criminal history screening”**, a criminal history background investigation of an applicant for licensure by examination or endorsement through the use of fingerprints reviewed by the department of public safety and submitted to the federal bureau of investigation, resulting in the generation of a nationwide criminal history record for that applicant.

O. Definitions O - Reserved

P. Definitions beginning with the letter P:

(1) **“permit-to-practice for GCNSs”**, a document conferring the

privilege to practice as a graduate clinical nurse specialist, at a specific place of employment, under the direct supervision of a licensed CNS, CNP or physician; such permits will carry set expiration dates, are not renewable and are not transferable;

(2) **“permit-to-practice for GNs and GPNs”**, a document conferring the privilege to practice nursing at a specific place of employment, under direct supervision of a RN only; such permits will carry set expiration dates, are not renewable or transferable;

(3) **“permit-to-practice for GNPs”**, a document conferring the privilege to practice as a graduate nurse practitioner, at a specific place of employment, under the direct supervision of a physician or a certified nurse practitioner; direct supervision of a physician, licensed CNP or CNS is required for prescription writing; such permit will carry set expiration dates, are not renewable and are not transferable;

(4) **“permit-to-practice for GRNAs”**, a document conferring the privilege to administer anesthesia to any person, as a GRNA, at a specific place of employment, functioning in an interdependent role under the direction of and in collaboration with a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico; such permits will carry set expiration dates, and are not renewable or transferable;

(5) **“post-graduate program”**, any specialized knowledge and skills sought after completion of a basic nursing educational program which does not necessarily lead to an advanced degree;

(6) **“preceptor”**, an individual at or above the level of licensure that an assigned student is seeking, who may serve as a teacher, mentor, role model or supervisor in a clinical setting;

(7) **“prescriptive authority”**, the power to determine the need for drugs, immunizing agents or devices; selecting the remedy and writing a prescription;

(8) **“private practice”**, employment status of an individual nurse who is self-employed.

Q. Definitions Q - Reserved

R. Definitions beginning with the letter R:

(1) **“reactivation”**, the process of making current a license which has been in abeyance as a result of failure to comply with the necessary renewal requirements; this process does not involve board action at any juncture;

(2) **“recognized national or state institutions/organizations”**, institutions and organizations recognized as providers of CE for nurses;

(3) **“reinstatement”**, the process whereby a license which has been subject to

revocation or suspension, is returned to its former status by individual board action; this process always involves board action, and requires filing of a form and payment of the reinstatement fee;

(4) **“relicensure”**, the process of renewal, reactivation or reinstatement of a New Mexico nursing license;

(5) **“refresher course”**, a formal program that has both didactic and clinical components designed to prepare a nurse who has been out of practice to re-enter the profession.

S. Definitions beginning with the letter S:

(1) **“state approved program”**, a basic nursing education program approved or accredited by a state board of nursing or a nationally recognized nursing education accreditation body;

(2) **“shall”**, mandatory; a requirement;

(3) **“should”**, a suggestion or recommendation; not a requirement;

(4) **“sponsor/provider”**, any person, organization, agency, or institution which organizes, develops, implements, and evaluates a CE activity;

(5) **“supervision/direction”**, initial verification of a person’s knowledge and skills in the performance of a specific function or activity followed by periodic observation, direction and evaluation of that person’s knowledge and skills as related to the specific functions or activity;

(6) **“surrogate”**, an individual, other than a patient’s agent or guardian, authorized under the uniform health-care decisions act to make a health-care decision for the patient.

T. **“Temporary license”**, a nonrenewable, nontransferable document indicating a legal privilege to practice as a RN, LPN, CNP, CNS or CRNA, on a conditional basis for a specific period of time.

U. **“Uniform Licensing Act”**, New Mexico statute which provides procedures to be utilized in disciplinary proceedings.

V. **“Valid practitioner-patient relationship”** means a professional relationship between the practitioner and the patient for the purpose of maintaining the patient’s well-being. At minimum, this relationship is an interactive encounter between the practitioner and patient involving an appropriate history and physical or mental examination, ordering labs or diagnostic tests sufficient to make a diagnosis and providing, prescribing or recommending treatment, or referring to other health care providers. A patient record must be generated by the encounter.

[1-1-98; 16.12.2.7 NMAC - Rn & A, 16 NMAC 12.2.7, 7-30-01; A, 12-31-01; A, 1-2-04; A, 02-17-06; A, 6-17-08; A, 5-17-10;

A, 11-29-10]

16.12.2.8 GLOSSARY OF ABBREVIATIONS:

~~[A.] AACN: American association of colleges of nursing~~

~~B.] AACCN: American association of critical care nurses~~

~~C.] AANA: American association of nurse anesthetists~~

~~D.] ANA: American nurse’s association~~

~~E.] AORN: Association of operating room nurses]~~

A.] APRN: Advanced practice registered nurse (i.e. CNP, CNS, CRNA)

[F.]B. CNP: Certified nurse practitioner

C.] CNS: Clinical nurse specialist

D.] COA: Council on accreditation of nurse anesthesia educational program

[G.]E. CRNA: Certified registered nurse anesthetist

~~H.] CGFNS: Commission on graduates of foreign nursing schools]~~

[I.]E. CE: Continuing education

~~J.] CEARP: Continuing education approval and recognition programs]~~

G.] DNP: Doctor of nursing practice

[K.]H. GCNS: Graduate clinical nurse specialist

[L.]I. GN: Graduate nurse

[M.]J. GNP: Graduate nurse practitioner

[N.]K. GPN: Graduate practical nurse

[O.]L. GRNA: Graduate registered nurse anesthetist

[P.]M. LPN: Licensed practical nurse

[Q.]N. MN: Master’s in nursing

O.] MSN: Master of science in nursing

[R.] NAPNES: National association of practical nurse education & service, inc]

P.] NBCRNA: National board on certification & recertification of nurse anesthetists

[S.]Q. NCLEX - RN / PN : National council licensing examination - RN/PN

R.] NCSBN: National council of state boards of nursing

[T.] NFLPN: National federation of licensed practical nurses

U.] NLN: National league for nursing]

S.] NLNAC: National league for nursing accrediting commission

[V.]T. NMSA: New Mexico

statutes annotated

~~[W.]U. NPA: Nursing Practice~~

Act

~~[X.]V. RN: Registered nurse~~

~~[Y.]W. ULA: Uniform~~

Licensing Act of NM

[1-1-98; 16.12.2.8 NMAC - Rn & A, 16 NMAC 12.2.8, 7-30-01; A, 11-29-10]

16.12.2.10 LICENSURE REQUIREMENTS FOR REGISTERED AND PRACTICAL NURSES:

Licensure with the New Mexico board of nursing is mandatory and is the responsibility of the individual nurse, pursuant to the Nursing Practice Act. For states who are a part of the nurse licensure compact, licensure in New Mexico can only be issued to applicants who declare New Mexico as their primary state of residence.

A. Prerequisites for licensure of RNs and LPNs by examination in New Mexico.

(1) Completion of and eligible for graduation from a board approved course of study for the preparation of registered nurses or practical nurses, or an acceptable level of education as determined by the board or graduation from a program which is equivalent to an approved program of nursing in the United States.

(2) RN and PN graduates from non-U.S. nursing programs:

(a) shall have an evaluation of their nursing education credentials sent to the New Mexico board directly from a board recognized educational credentialing agency

(i) the credentialing agency must be a member of a national credentialing organization and must be monitored by an external committee of credentialing experts and nursing educators;

(ii) the credentialing agency must demonstrate the ability to accurately analyze academic and licensure credentials in terms of U.S. comparability, with course-by-course analysis of nursing academic records;

(iii) the credentialing agency must manage the translation of original documents into English;

(iv) the credentialing agency will inform the board of nursing in the event of fraudulent documents;

(v) the credentials report must state the language of nursing instruction and language of textbooks for nursing education; and

(vi) the credentialing agency must only use original source documents in evaluating nursing education and must compare the foreign education to the U.S. education standards.

(b) Puerto Rico applicant’s who are graduates of NLNAC accredited registered nurse program are eligible to sit NCLEX-RN exam;

(c) successful completion of any one of the approved English competency examinations with:

(i) a minimum score of 540 (207 on computerized version) on the test of English as a foreign language (TOEFL), a minimum score of 725 on test of English for international communication (TOEIC) or a minimum score of 6.5 overall with a 7.0 on the spoken portion on the academic version of international English language testing system (IELTS);

(ii) completion of a nursing program given in English in another country;

(iii) a passing score on a nursing licensure examination which is given in English; or

(iv) a certificate from the commission on graduates from foreign nursing schools or other agency which indicates successful completed of TOEFL, TOEIC or IELTS.

(3) Completion of the required board of nursing application for licensure by examination according to instructions and including the required fee.

(4) Completion of NCLEX application for the testing service according to instructions.

(5) Graduates who have compact state addresses or who declare another compact state as their state of residence on their application will have their application for examination, fingerprint cards and appropriate fees returned to them.

B. Nationwide criminal background check. Applicants for initial licensure in New Mexico are subject to a state and national criminal background check at their cost.

(1) Submit two (2) full sets of fingerprints, completed **finger print certificate form**, signed authorization for criminal background check and fee.

(2) Applications for exam or endorsement will not be processed without submission of fingerprints, **finger print certificate form, authorization for criminal background check form** and fee.

(3) If the criminal background check reveals a felony or violation of the Nursing Practice Act, the applicant/licensee will be notified to submit copies of legal documents and other related information to the board who will make the determination if the applicant is eligible for licensure or if disciplinary action will be taken.

C. Complete application for licensure by examination, certification of eligibility for graduation or official transcript, fingerprints and fee must be received by the board office prior to being granted permission to take the national licensing examination (NCLEX). Certification of eligibility for graduation or official transcript, indicating date requirements for graduation from the

nursing program were met and certificate or degree awarded or to be awarded, must be received in the board office directly from the registrar's office.

D. Results of the examination shall be reported to the individual applicant within four (4) weeks following the applicant's examination date. Examination results shall be released to the applicant's nursing program, and boards of nursing unless otherwise instructed, in writing, by applicant.

E. An initial license shall be valid for two (2) years.

F. Applications containing fraudulent or misrepresented information could be the basis for denial or revocation of licensure.

G. If the licensure process is not completed, the application becomes null and void one (1) year after date of the application being received at the board.

H. Permits-to-practice may be issued for employment at a specific institution(s) in New Mexico. Permits can be faxed or mailed directly to the New Mexico employing institution(s).

(1) To be eligible for a permit-to-practice, the applicant must:

(a) complete the application process to take the NCLEX within twelve (12) weeks of graduation; the permit to practice for RN and PN graduates of U.S. schools may be issued for a period not to exceed six months from the date of application; permits to practice may not be issued by New Mexico for employment at specific institution(s) in compact states; permits to practice will not be issued for applicants who declare residency in other compact states;

(b) RN and PN graduates from non-U.S. nursing programs may be issued a permit to practice in New Mexico for a period not to exceed six months from the date of application when requirements are met according to Paragraph (2) of Subsection A of 16.12.2.10 NMAC in this section;

(c) assure that prospective New Mexico employer(s) submit a letter of intent to employ to the board office, on agency letterhead, indicating the name of a specific New Mexico employer and name and nursing license number of the RN who is responsible for assuring direct supervision by a registered nurse;

(d) submit fingerprint cards and documents and fee to initiate a state and national criminal background check.

(2) Permits-to-practice cannot be transferred or renewed.

(3) Written notification from employer must be made to the board office in case of lost or stolen permit-to-practice.

(4) Permits-to-practice shall be valid until the examination results are disseminated but shall not exceed the

expiration date on the permit.

(a) Applicants who fails the first or any subsequent examination shall not practice nursing until such time as the applicant passes a nursing licensing examination.

(b) Any applicant who is eligible to write the professional examination but elects to write the practical examination on the basis of practical nursing education equivalency and fails the practical examination shall not be granted graduate nurse status when the applicant applies to write the professional examination.

(c) Any applicant who fails to appear for the first examination for which applicant is eligible shall not practice nursing until such time as the applicant passes a licensing examination.

(5) Candidates who were not successful on the *national licensure examination* will receive the results as soon as they are available.

(6) Applicants who hold a graduate permit and do not become licensed prior to expiration date of the permit, may not continue to practice as a graduate nurse or graduate practical nurse.

I. Direct supervision for graduate permit holders:

(1) at a minimum, the RN responsible for direct supervision must be in the facility or on the unit with the graduate;

(2) the RN is responsible for observing, directing and evaluating the performance of the graduate;

(3) the RN supervisor must not be engaged in other activities that would prevent them from providing direct supervision.

J. Applicants who fail the examination may apply to retake the examination a maximum of four times per year, but must wait 45 days to retest.

(1) A fee will be charged by the board for all reexaminations.

(2) Applicants for reexamination must meet all NCLEX requirements for retaking the examination.

(3) Applicants who fail the examination up to four times in one year from date received at the board must submit a new application for examination, documentation fingerprint cards and appropriate fees.

K. National council licensing examination.

(1) Applicants for licensure as RNs shall be required to pass the NCLEX for RNs.

(2) Applicants for licensure as PNs shall be required to pass the NCLEX for PNs.

(3) Applicants observed giving or receiving unauthorized assistance during the taking of the national licensing examination shall be referred to the board by a sworn complaint.

L. Prerequisites for

licensure of registered nurses and licensed practical nurses by endorsement.

(1) Verification DIRECTLY from the licensing authority which shall include:

(a) graduation from an approved nursing program or an acceptable level of education as determined by the board or a nursing program which is equivalent to an approved program of nursing in the United States; and

(b) initial licensure by passing a national licensure examination in English or a state constructed licensure examination prior to October 1986.

(2) Applicants from licensing authorities which do not verify graduation from a nursing education program, must assure that a final transcript is sent to the board of nursing DIRECTLY from the educational institution or custodian of records verifying graduation from an approved nursing program or equivalent, or

(3) Puerto Rico applicants who are graduates of NLNAC accredited registered nurse programs are eligible to sit the NCLEX-RN exam; Canadian applicants who have been endorsed by another state after passing the Canadian nursing exam in English or the NCLEX are eligible for endorsement into NM.

(4) Complete and submit the required application for licensure by endorsement in accordance with all instructions, including the required fee.

(5) Complete and submit two full sets of fingerprints, **finger print certificate form**, the authorization for criminal background check, and the fee in accordance with all instructions found in Subsection B of 16.12.1.10 NMAC.

M. Qualifications for licensure as a RN or PN are pursuant to the Nursing Practice Act.

(1) LPN applicants initially licensed after July 1, 1969 must meet the educational requirements.

(2) Military personnel, licensed as LPNs by successful writing of the national licensing examination prior to July 1, 1977, may be licensed in New Mexico by endorsement providing their DD-214 shows the related civilian occupation to be "LPN."

(3) Continuing education is not required for initial licensure by endorsement. CE requirements must be met at the time of the first renewal.

(4) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

N. A permit-to-practice may be issued to a New Mexico employer(s), for an endorsee who has not declared primary residence in a nurse licensure compact state awaiting results of the national licensing examination or the English equivalent from another country. The following must be

submitted to the board:

(1) a completed endorsement application for licensure in accordance with all instructions and fee;

(2) two full sets of fingerprints, fingerprint certification form, the authorization for criminal background check and fee in accordance with all instructions found in Subsection B of 16.12.1.10 NMAC;

(3) written verification must be received DIRECTLY from the licensing authority: (a) that the applicant applied for the licensing examination within twelve (12) weeks of graduation and is eligible for licensure, or (b) that the first licensing examination after completion of nursing education has been applied for or taken;

(4) assure prospective New Mexico employer(s) submits a letter of intent to employ, on agency letterhead, indicating the name of the specific New Mexico employing institution and name and nursing license number of the RN who is responsible for assuring direct supervision by a registered nurse;

(5) meeting all other endorsement requirements;

(6) a permit-to-practice shall be valid from date of issuance until the applicant's examination results and licensure status have been verified by the other state or country, but shall not exceed six (6) months from the date of graduation.

O. A temporary license may be issued to an endorsee upon submission of:

(1) a completed endorsement application and required fee in accordance with all instructions;

(2) two full sets of fingerprints, fingerprint certificate form, the authorization for criminal background check and fee in accordance with all instructions found in Subsection B of 16.12.1.10 NMAC;

(3) the board will issue the temporary license to the applicant;

(4) a temporary license is valid for a period not to exceed six (6) months from the date of application, is non renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action;

(5) applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license;

(6) the discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

P. An initial license shall be valid for two (2) years.

Q. If the licensure process is not completed, the application becomes null and void one (1) year after date received by the board.

R. In case of a medical emergency (as defined in these rules), nurses currently licensed to practice as a RN or LPN in a jurisdiction of the United States may practice in New Mexico without making application for a New Mexico license for a period not to exceed thirty (30) days.

S. Requirements for relicensure and reactivation. Applicants for relicensure and reactivation must meet CE requirements as stated in these rules, pursuant to the Nursing Practice Act [Section 61-3-24 NMSA 1978].

(1) Licensed nurses shall be required to complete the renewal process by the end of their renewal month every two (2) years.

(2) A renewal notice shall be mailed to the licensee at least six (6) weeks prior to the end of the renewal month.

(a) Renewal of license may be accepted no more than sixty (60) days prior to the expiration date of the license.

(b) Failure to receive notice renewal shall not relieve the licensee of the responsibility of renewing the license by the expiration date.

(c) If the license is not renewed by the end of the renewal month, licensee does not hold a valid license and shall not practice nursing in New Mexico until the lapsed licensed has been reactivated.

(d) A reactivation fee will be charged when license has lapsed.

(e) **Exception:** if renewing, nurses who are mobilized for active duty are not required to renew their license while on active duty, other than training, during a military action. A copy of the mobilization orders must be submitted to the board office prior to expiration of the license. The license extension shall end one month after deployment is concluded. No reactivation fee will be charged when the license is renewed.

(3) Thirty (30) hours of approved CE must be accrued within the 24 months immediately preceding expiration of license.

(a) Certified nurse practitioners must complete a total of 50 hours of approved CE each renewal. A copy of the specialty certification/recertification card or certificate shall be presented at the time of each subsequent renewal.

(b) Certified [RN] registered nurse anesthetists must submit a copy of the recertification card issued by [~~AANA council on recertification~~] NBCRNA for renewal of the CRNA license.

(c) Clinical nurse specialist must complete a total of 50 hours of approved continuing education each renewal. A copy of the specialty certification/recertification card or certificate shall be presented at the time of each subsequent renewal.

(d) **Exception:** if renewing, nurses mobilized for military action are not required

to meet the CE requirements while on active duty, other than training, during a military action. A copy of the mobilization order must be submitted along with the renewal application.

(4) Individuals who reside out-of-state who do not hold primary residence in a nurse licensure compact state, but wish to maintain a current, valid New Mexico license, must meet the same requirements for licensure as licensees residing within the state who have declare New Mexico as their primary residence.

(5) **Penalty:** failure of licensee to meet the CE requirement for licensure shall result in the license not being renewed, reinstated, or reactivated. When the CE requirement has been met, an application for licensure may be submitted for consideration.

(6) Licenses can be verified by phone verification or on the board website.

(7) Individuals who are reactivating a license which has been lapsed for four or more years must complete a refresher course that includes both a didactic and clinical component designed to prepare a nurse who has been out of practice to re enter into practice.

(a) Renewal application, fingerprint cards and appropriate fees must be sent in with reactivation of a lapsed license.

(b) A temporary [~~permit~~] license will be issued not to exceed six months unless the board of nursing approves an extension to allow the individual to complete the refresher course clinical component. If documentation is not received by the board verifying successful completion of the refresher course prior to the temporary license expiration date, the individual will not be allowed to practice nursing.

(c) Advanced practice nurses who are reactivating [~~a~~] an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their specific advanced practice knowledge, skills and expertise. A temporary [~~permit~~] license will be issued not to exceed [~~six months~~] one (1) year unless board of nursing approves an extension.

T. Requirements for name-address change:

(1) **Address change:** Immediate notification of address change **must be made**, to the board office.

(2) **Name change:** Nurse must use name as it appears on current license, name may be changed when license is renewed.

(a) Submit a copy of the legal document required for name change (ONLY recorded marriage certificate, divorce decree or court order accepted).

(b) Remit the required fee.

U. **Reactivation /** reinstatement of a lapsed license must meet

the requirements for relicensure pursuant to the Nursing Practice Act and these rules. A reactivated or reinstated license shall be valid for two (2) years.

V. **Inactive status.** Licensee may request her/his license be placed on inactive status during the renewal cycle only; however, the licensee may not function in a nursing capacity as a New Mexico licensed nurse until the license is reactivated.

[1-1-98; 16.12.2.10 NMAC - Rn & A, 16 NMAC 12.2.10, 7-30-01; A, 12-31-01; A, 04-01-02; A, 1-2-04; A, 6-01-04; A, 02-17-06; A, 6-17-08; A, 5-17-10; A, 11-29-10]

16.12.2.11 CONTINUING EDUCATION:

A. **Introduction.**

(1) Pursuant to the provision of the Nursing Practice Act, the board of nursing prescribes the following regulations establishing requirements for CE to be met by the licensee to protect the health and well being of the citizens of New Mexico and to promote current nursing knowledge and practice.

(2) **Philosophy of CE:** The members of the New Mexico board believe that CE is one of the most important responsibilities of the nurse and is a lifelong process. The primary responsibility for CE rests with the individual nurse. A diversity of nursing-related learning activities is recommended to enhance the scope of professional development.

B. **Requirements and rules.**

(1) **Records.**

(a) All licensees must indicate compliance with the CE required by these rules on the renewal application. All information must be completed as requested.

(b) Licensees are responsible for maintaining their own CE records and for keeping the certificates of verification of attendance of CE activities for at least one (1) year after the license is renewed. Photocopies of certificates must be submitted to the board office only if audited and requested.

(2) **CE Audit.**

(a) Continuing education records are subject to audit by the board.

(b) Licensee may be subject to disciplinary action by the board if noncompliant within sixty (60) days of the first notification of audit.

C. **Approved continuing education.** To be acceptable in New Mexico, the CE activity must have been approved by a recognized approval body and must enhance the licensee's scope of professional development as related to his/her activities in nursing. The participant must receive a certificate of attendance which validates the number of approved CE hours awarded, name of the participant, sponsoring agency, approval body and date attended. Correspondence courses and home-study

programs are acceptable, if approved.

(1) Recognized approval bodies for CE for nurses.

(a) National or state recognized nursing organizations.

(b) Other state boards of nursing.

(c) New Mexico board-approved local monitoring systems.

(2) Other CE which may be accepted as approved CE for nurses:

(a) academic credit, computation: one (1) academic credit equals 15 contact hours;

(b) CE units (CEUs) or contact hours awarded by CE divisions within educational institutions of higher learning;

(c) educational offerings approved through other generally recognized health care or professional organizations as related to licensee's nursing practice.

D. **Monitoring system.** CE hours accrued through educational offerings approved by a local monitoring system shall be accepted as meeting the CE requirements for licensure in New Mexico but may not be accepted by other state boards of nursing as approved CE.

(1) Local monitoring systems must be approved initially and annually by the board of nursing. A guideline for the establishment and operation of a local monitoring system is available in the board office.

(2) The approval of educational offerings shall be determined on the approval criteria developed by the board.

E. **Certification or recertification in the registered nursing specialty area.** Certification or recertification granted by a national professional organization which uses criteria designed to recognize competence in a specialized area of nursing practice may be used as approved CE. Verification of certification or recertification within the current renewal period is accepted in lieu of the thirty (30) hours of CE required for licensure.

[1-1-98; 16.12.2.11 NMAC - Rn & A, 16 NMAC 12.2.11, 7-30-01; A, 12-31-01; A, 1-2-04; A, 6-17-08; A, 11-29-10]

16.12.2.13 CERTIFIED NURSE PRACTITIONER (CNP):

A. **Requirements for licensure of nurse practitioners.**

(1) Hold a current, [~~valid~~] unencumbered RN license from New Mexico or hold a compact multi-state RN license.

(2) Successfully complete a [~~format~~] graduate level nursing program designed for the education and preparation of nurse practitioners as providers of primary, or acute, or chronic, or long-term, or end of life health care.

(a) The program must be offered through an accredited institution of higher

education or through the armed services.

~~[(b)]~~ The program must be one full academic year of full-time study with approximately 1/3 of the program devoted to didactic and 2/3 to working with a preceptor who is a physician or certified (licensed) nurse practitioner. Didactic hours must include twenty-four (24) contact hours of pharmacology. NOTE: One academic hour equals fifteen (15) contact hours.]

~~[(c)]~~~~(b)~~ If the applicant is initially licensed by any board of nursing including the New Mexico board of nursing after January 1, 2001 the program must be at the master's in nursing level or higher. Applicants who do not hold a master's level or higher degree from a nurse practitioner program and were initially licensed by any board before January 1, 2001, must provide verification of NP licensure.

~~(c)~~ The educational documentation shall verify the date of graduation, credentials conferred and number of supervised clinical hours as a nurse practitioner in the education program.

(3) Provide evidence of successful accomplishment of national certification as a nurse practitioner.

(4) It is the responsibility of the applicant to provide documented evidence of his/her qualifications for licensure.

(5) Applicants who meet the minimum didactic and pharmacology requirements, but lack the required preceptorship, may be considered for licensure in New Mexico if the applicant provides satisfactory evidence of two (2) years nurse practitioner experience in another jurisdiction.

(6) Nurse practitioners who will be requesting prescriptive authority must also comply with the requirements for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate nurse practitioner. The applicant seeking licensure as a nurse practitioner shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico nurse practitioner licensure application and submit it along with all required documents in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or its designee.

(4) Nurse practitioners are not eligible to practice in New Mexico as a certified nurse practitioner until so licensed in accordance with the licensure procedures.

(5) The board may appoint nurse practitioners to the advanced practice committee. These nurse practitioners will provide advice regarding licensure and practice of nurse practitioners.

C. Graduate nurse practitioners permit-to-practice may be issued, upon written request, provided all requirements have been met except national nursing certification.

(1) GNPs must practice under the direct supervision of a physician or New Mexico CNP or CNS in the specialty.

(2) GNPs may prescribe medications only under the direct supervision of a licensed CNP, CNS or a physician, in compliance with these rules. GNPs must fulfill the requirements in this section to prescribe controlled substances.

(3) GNP permits will be issued to the employer.

(4) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor and the name of the prescription supervisor, is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice at the new place of employment. The permit will be issued directly to the new employing agency.

(5) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GNP permit.

(6) GNP permits cannot be transferred or renewed ~~[or a duplicate issued]~~.

(7) GNP permits expire on the date specified on the permit. Permits shall be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice as a GNP. It is the responsibility of the GNP to request that the national certifying organization notify the board of nursing of the results of the examination.

~~[(a)]~~ Permits shall be valid not to exceed 6 months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice as a GNP. It is the responsibility of the GNP to request that the national certifying organization notify the board of the results of the examination.

~~(b)~~ The permits for new graduates may be valid for a period not to exceed two (2) years.]

D. ~~[A]~~ An initial license to practice as a CNP shall be issued only after receipt by the board of proof of national certification. Such proof must be submitted to the board directly from the certifying agency prior to the expiration of the permit or temporary license.

~~[E.]~~ Exclusion: ~~Nurse practitioners with lapsed national certification are not eligible for a permit to practice.]~~

~~[F.]~~E. Prerequisites for licensure of CNP by endorsement.

(1) Verification DIRECTLY from the licensing authority, which shall include graduation from a nurse practitioner program.

(2) In lieu of verification of advanced practice licensure for the licensing authority the board will accept:

(a) documentation directly from that licensing authority that the state does not issue advanced practice licensure;

(b) a sworn affidavit from applicant that they practice as an advance practice nurse with the year practice began, and;

(c) if applicant was licensed by another board after January 1, 2001, submit a transcript from the program directly to the board documenting completion of a nurse practitioner program on the master's or higher level.

(3) Verification from applicant of national certification as a nurse practitioner.

(4) Nurse practitioners who are requesting prescriptive authority must comply with the requirements for prescriptive authority as outlined in these rules.

(5) Complete and submit the required application from licensure by endorsement in accordance with all instructions including the required fee.

(6) Continuing education is not required for initial CNP licensure by endorsement.

~~[G.]~~E. Qualifications for licensure as CNP are pursuant to the Nursing Practice Act.

(1) Refer to Subsection A of 16.12.2.13 NMAC for licensure requirements.

~~(2) [Continuing education is not required for initial CNP licensure by endorsement.]~~ CE requirements must be met at the time of the first renewal.

(3) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

~~[H.]~~G. A CNP ~~[permit-to-practice]~~ temporary license may be issued ~~[to a New Mexico employer(s) for]~~ to an endorsee awaiting results on successful completion of national certification. ~~[Refer to Subsections B and C of 16.12.2.13 NMAC for procedure and requirements.]~~

~~[I.]~~I. A temporary nurse practitioner license may be issued to an endorsee who:

(1) submits a completed endorsement application and fee in accordance with all instructions;

(2) submits a copy of current national certification as a nurse practitioner; the following exceptions can be made;

(a) nurse practitioners who were licensed by any jurisdiction before December 2, 1985 are not required to hold national certification; or

(b) when the state of former advanced practice licensure does not require national certification; proof of national certification as a nurse practitioner must be submitted to the board before a license will be issued;

(3) the board will issue the temporary license to the applicant;

(4) a temporary license is valid for a period not to exceed six (6) months from the date of application, is non renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action;

(5) applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license;

(6) the discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

[F-J]L. An initial nurse practitioner license shall be valid for two (2) years. For nurses from compact states, an NM advanced practice license will be issued with the same expiration date as the RN compact license. A letter of authorization will be issued to NPs who have RN multi-state licensure privileges from ~~other~~ another nurse licensure compact state. Official verification to practice is located on the board website.

[K-J]L. If the licensure process is not completed, the application becomes null and void one (1) year after the date [of last noted activity] of application being received at the board.

[F-K]L. Authorization to expand scope of practice or who need recertification.

(1) A letter of authorization will be issued for the CNPs who through additional formal education have expanded their practice into another area of NP practice or who need practice hours to recertify provided all requirements have been met except national certification.

(2) A letter of verification of intent to provide a preceptorship, on official letterhead including the name of the practice preceptor and the name of the prescription preceptor must be submitted to the board of nursing.

(3) Practice must be under the direct supervision of a physician or licensed New Mexico CNP or CNS in the specialty.

(4) Prescribing may be done only under the direct supervision of a licensed

CNP or CNS or a physician in compliance with these rules.

(5) A letter of authorization will be issued to the preceptor.

(6) A letter of authorization cannot be transferred, renewed or a duplicate issued.

(7) A letter of authorization will expire on the date specified.

(a) A letter of authorization shall be valid not to exceed 6 months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice in that area. It is the responsibility of the CNP to request that the national certifying organization notify the board of the results of the examination. A letter of authorization may be valid for a period not to exceed two (2) years.

(b) A letter of authorization shall be valid for 6 months for those applicants recertifying.

(c) A letter of authorization shall be issued for the prescriptive authority preceptorship. This letter will only be valid for the duration of the preceptorship expansion of scope of practice or recertification required hours of practice.

[M-J]L. Maintaining licensure as a nurse practitioner.

(1) National certification: NPs must maintain national certification. A copy of the specialty certification/recertification card shall be presented at the time of each subsequent renewal. Nurse practitioners licensed by the NM board, after December 2, 1985 are required to be nationally certified in their specialty.

(2) Continuing education.

(a) The CNP shall accrue a total of fifty (50) contact hours of approved CE each renewal period. National certification or recertification as a NP may not be used to fulfill any portion of the CE requirement:

(i) thirty (30) contact hours shall meet the requirements for licensure as a RN, and

(ii) an additional twenty (20) contact hours, 15 of which must be pharmacology ~~[shall meet the requirements for licensure as a nurse practitioner]~~ are required;

(iii) CNP's from compact states are only required to fulfill CE requirements listed under item (ii) of this subparagraph.

(b) The CE shall be in accordance with the requirements as set forth in these rules.

[N-M]L. Reactivation. To reactivate or reinstate licensure as a nurse practitioner, the nurse must provide evidence of meeting the CE requirements. ~~[NPs licensed by the board after December 2, 1985 must also provide evidences of current national certification.]~~

(1) NPs licensed by the board

after December 2, 1985 must also provide evidence of current national certification.

(2) CNPs who are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their knowledge skills and expertise. A temporary license will be issued not to exceed one (1) year, unless the board of nursing approves an extension.

~~Other~~ Nurse practitioner practice.

(1) The CNP makes independent decisions regarding the health care needs of the client and also makes independent decisions in carrying out health care regimens.

(2) The CNP provides primary or acute, or chronic, or long-term, or end of life health care to meet the health care needs of individuals, families and communities in any health care setting.

(3) The CNP may assume specific functions or perform specific procedures which are beyond the advanced educational preparation and certification for the CNP provided the knowledge and skills required to perform the function or procedure emanates from a recognized body of knowledge or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions and performing specific procedures, which are beyond the CNP's advanced educational preparation and certification, the CNP is responsible for obtaining the appropriate knowledge, skills and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) The CNP collaborates as necessary with other healthcare providers. Collaboration includes discussion of diagnosis and cooperation in managing and delivering healthcare.

(5) CNPs who have fulfilled requirements for prescriptive authority may prescribe and distribute dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act within their clinical specialty and practice setting.

(a) Requirements for prescriptive authority: In accordance with applicable state and federal laws, the CNP who fulfills the following requirements may prescribe and distribute dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act.

(i) Verifies 400 hours of work experience in which prescribing dangerous drugs has occurred within the two (2) years immediately preceding the date of the application. Individuals who have not fulfilled this requirement must provide

documentation of successful completion of 400 hours of prescribing dangerous drugs in a preceptorship with a licensed CNP, CNS or physician. The preceptorship must be completed within six (6) months and a letter of authorization will be issued for the duration of the preceptorship.

(ii) In order to prescribe controlled substances, the CNP must provide the board of nursing with verification of current state controlled substances registration and current DEA number, unless the CNP has met registration waiver criteria from the New Mexico board of pharmacy (Subsection I 16.19.20.8 NMAC). CNPs may not possess, prescribe or distribute controlled substances until they have both a current state controlled substances registration and a current DEA registration.

(iii) Once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b) Formulary. It is the CNP's responsibility to maintain a formulary of dangerous drugs and controlled substances that may be prescribed; the only drugs to be included in the formulary are those relevant to the CNP's specialty and practice setting. The board of nursing reserves the right to audit the formulary of the CNP. Licensees may be subject to disciplinary action by the board of nursing if non compliant with the audit.

(c) ~~[Prescription pads. The CNP's name, address, and telephone number must be imprinted on the prescription pad. In the event that a CNP is using a prescription pad printed with the names of more than one CNP, the name of the CNP for the individual prescription shall be indicated.]~~ Prescription records; written, verbal or electronic prescriptions and orders will comply with state board of pharmacy and federal requirements. All prescriptions will include the name, title, address, and phone number of the prescribing advanced practice registered nurse.

(d) Distributing: CNPs, who have fulfilled requirements for prescriptive authority as stated in these rules, and defined by the board of pharmacy may distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act, which have been prepared, packaged, or fabricated by the registered pharmacist or doses which have been pre-packaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act [61-11-22] and the Drug, Device and Cosmetic Act for the benefit of the public good.

(e) Labeling: CNPs may label only those drugs which the CNP prescribes and distributes to patients under the CNP's care. The medication shall be properly labeled with the patient's name, date of issue, drug

name and strength, instructions for use, drug expiration date, number dispensed and name, address and telephone number of the CNP. Labeling may be handwritten or a pre-printed fill-in label may be used. All information shall be properly documented in the patient record.

(f) CNPs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(g) CNPs may prescribe, provide samples of and dispense any dangerous drug to a patient where there is a valid practitioner-patient relationship as defined in 16.12.2.7 NMAC.

(6) Graduate nurse practitioner (GNP) practice.

(a) GNPs may not distribute medications.

(b) GNPs may practice or prescribe medications only under the direct supervision of a licensed CNP, CNS or physician in the specialty.

(7) To insure competency and safe practice in specific regard to prescription writing practices in the state of NM:

(a) a list of current CNPs and their status with regard to prescription writing shall be distributed at least annually and upon request to the board of pharmacy;

(b) violation of these rules or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy;

(c) the board of nursing shall ~~[annually]~~ appoint qualified CNPs in each specialty to serve on the board of pharmacy disciplinary panel as requested by the board of pharmacy.

[1-1-98; 16.12.2.13 NMAC - Rn & A, 16 NMAC 12.2.13, 7-30-01; A, 12-31-01; A, 04-01-02; A, 1-2-04; A, 02-17-06; A, 6-17-08; A, 11-29-10]

16.12.2.14 C E R T I F I E D REGISTERED NURSE ANESTHETIST (CRNA):

A. Requirements for licensure as a CRNA.

(1) Hold a current, [valid] unencumbered RN license from New Mexico or hold a compact multi-state RN license.

(2) Successfully complete a formal program designed for the education and preparation of certified registered nurse anesthetist. The [AANA] COA council on accreditation of nurse [anesthetist] anesthesia educational [programs/schools] programs must accredit the program.

(3) If the applicant is initially licensed by any board of nursing including the New Mexico board of nursing after January 1, 2001, the program must be at the

master's level or higher. Applicants who do not hold a master's or higher degree from a nurse anesthetist program and were initially licensed by any board before January 2, 2001, must provide verification of CRNA licensure.

(4) Provide evidence of successful completion of a national [qualifying] certification examination as described by the [AANA council on certification of nurse anesthetists] NBCRNA.

(5) It is the responsibility of the applicant to provide documented evidence of his/her qualification for licensure.

(6) Applicants who will be requesting prescriptive authority must also comply with the requirements for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate. The applicant seeking licensure as a certified registered nurse anesthetist shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico certified registered nurse anesthetist licensure application and submit it along with all required documents, and fee in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or its designee.

(4) Certified registered nurse anesthetists are not eligible to practice in New Mexico as certified registered nurse anesthetist until so licensed in accordance with the licensure procedures.

(5) The board may appoint certified registered nurse anesthetists to the advanced practice committee. These nurse anesthetists will provide advice regarding licensure and practice of certified registered nurse anesthetists.

C. Graduate registered nurse anesthetist permit-to-practice may be issued, upon written request, provided all requirements have been met except [national AANA] NBCRNA certification.

(1) A permit may be issued following graduation from an approved school of nurse anesthesia to afford the applicant the opportunity for employment pending dissemination of the national qualifying examination results by the [AANA council on certification of nurse anesthetists] NBCRNA.

(2) GRNAs must function in an interdependent role as a member of a health care team and practice at the direction of and in collaboration with a physician, osteopathic physician, dentist or podiatrist.

(3) GRNAs may prescribe and administer medications only in collaboration with a physician, osteopathic physician, dentist or podiatrist in compliance with these rules.

(4) GRNAs permits will be issued to the employer(s).

(5) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor(s) and name of prescription supervisor(s), is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice for the new place of employment. The permit will be issued directly to the new employing agency.

(6) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GRNA permit.

(7) GRNA permits cannot be transferred or renewed [~~or a duplicate be issued~~].

(8) GRNA permits expire on the date specified on the permit.

(a) Permits shall be valid for approximately 12 months subsequent to the date of graduation from the nurse anesthesia program.

(b) Written proof of application to write the national qualifying exam must be received in the board office within 12 weeks of graduation from the nurse anesthesia program.

(c) Verification that applicant wrote the national qualifying examination, must be received in the board office within 3 weeks subsequent to the date of the examination.

(d) Failure of applicant to write the scheduled qualifying examination or if the exam is failed, will render the applicant ineligible to practice anesthesia in New Mexico and the employer must immediately return the permit-to-permit to the board office. It is the responsibility of the GRNA to request that the national certifying organization notify the board of the results of the examination.

D. A license to practice as a CRNA shall be issued only after receipt by the board of proof of [AANA] NBCRNA certification. Such proof must be submitted to the board [prior to the expiration of the permit:] by the certifying agency.

[~~E.~~ ~~Exclusion:~~ ~~certified registered nurse anesthetists with lapsed AANA certification are not eligible for a permit-to-practice.~~]

[~~F.~~ ~~E.~~ Prerequisites for licensure of CRNA by endorsement.

(1) Verification DIRECTLY from the licensing authority, which shall include graduation from [an AANA] a COA council on accreditation of nurse [anesthetist]

anesthesia educational [program/school] program and a graduate level degree after January 1, 2001.

(2) In lieu of verification of advanced practice licensure from the licensing authority, the board will accept documentation directly from that licensing authority that the state does not issue advanced practice licensure and a sworn affidavit from applicant that they practice as an advance practice nurse with year practice began.

(3) Verification by applicant of [AANA] NBCRNA certification/recertification.

(4) Certified registered nurse anesthetists must comply with the requirements for prescriptive authority as outlined in these rules.

(5) Complete and submit the required application for licensure by endorsement in accordance with all instructions including the required fee.

(6) Continuing education is not required for initial CRNA licensure by endorsement.

[~~G.~~ ~~E.~~ Qualifications for licensure as CRNA are pursuant to the Nursing Practice Act.

(1) Refer to Subsection A, 16.12.2.14 NMAC for licensure requirements.

~~(2) [Continuing education is not required for initial CRNA licensure by endorsement.] CE requirements must be met at the time of first renewal. Recertification by [AANA council on recertification of nurse anesthetists] NBCRNA will meet the mandatory CE requirements for CRNA licensure [in NM and from other compact states].~~

(3) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

[~~H.~~ ~~G.~~ A [GRNA permit-to-practice] CRNA temporary license may be issued, to [a New Mexico employer(s)] an endorsee awaiting results on successful completion of [AANA national] NBCRNA certification. [Refer to Subsections B and C, 16.12.2.14 NMAC for procedure and requirements.]

[~~I.~~ ~~H.~~ A temporary certified registered nurse anesthetist license may be issued to an endorsee who:

(1) submits a completed endorsement application in accordance with instructions and fee;

(2) submits a copy of current [AANA] NBCRNA council of recertification of nurse anesthetist;

(3) the board will mail the temporary license to the endorsee;

(4) a temporary license is valid for a period not to exceed six (6) months from the date of application;

(5) a temporary license is not renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action;

(6) applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license;

(7) the discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

[~~J.~~ ~~L.~~ An initial certified registered nurse anesthetist license shall be valid for two (2) years. For nurses from compact states, an NM advanced practice license will be issued with the same expiration date as the compact RN license. A letter of authorization will be issued to CRNAs who have RN multi-state licensure privileges from another nurse licensure compact states. Official verification of authorization to practice is available through the board website.

[~~K.~~ ~~L.~~ If the licensure process is not completed, the application becomes null and void one (1) year after the date [of last noted activity] received at the board of nursing.

[~~L.~~ ~~K.~~ Maintaining licensure as a certified registered nurse anesthetist.

(1) National certification: CRNAs must maintain [AANA council on recertification of nurse anesthetist] NBCRNA. A copy of the recertification card must be presented at the time of each subsequent renewal.

(2) Continuing education: recertification by [AANA council on recertification of nurse anesthetist] NBCRNA is accepted for meeting mandatory CE requirement [for NM and from other compact states].

[~~M.~~ ~~L.~~ Reactivation: to reactivate or reinstate licensure as a certified registered nurse anesthetist [~~the nurse must provide evidence of current recertification by the AANA council on recertification of nurse anesthetists.~~]

(1) The nurse must provide evidence of current recertification by the NBCRNA.

(2) CRNAs who are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their knowledge, skills and expertise. A temporary license will be issued not to exceed one (1) year, unless board of nursing approves an extension.

[~~N.~~ ~~M.~~ Certified registered nurse anesthetist practice.

(1) The CRNA provides pre-operative, intra-operative and post-operative

anesthesia care and related services, including ordering of diagnostic tests, in accordance with the current *American association of nurse anesthetists'* guidelines for nurse anesthesia practice.

(2) The CRNA functions in an interdependent role as a member of a health care team in which the medical care of the patient is directed by a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico.

(3) The CRNA may assume specific functions or perform specific procedures which are beyond the advanced educational preparation and certification for the CRNA provided the knowledge and skills required to perform the function or procedure emanates from a recognized body of knowledge or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions or performing specific procedures, which are beyond the CRNA's advanced educational preparation and certification, the CRNA is responsible for obtaining the appropriate knowledge, skills and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) The CRNA collaborates as necessary with the licensed physician, osteopathic physician, dentist or podiatrist concerning the anesthesia care of the patient. Collaboration means the process in which each health care provider contributes his/her respective expertise. Collaboration includes systematic formal planning and evaluation between the health care professionals involved in the collaborative practice arrangement.

(5) CRNAs who have fulfilled requirements for prescriptive authority may prescribe and administer therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act within the specialty of anesthesia and practice setting.

(a) Requirements for prescriptive authority: in accordance with applicable state and federal laws, the CRNA who fulfills the following requirements may prescribe and administer dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act.

(i) Verifies 400 hours of work experience in which prescribing and administering dangerous drugs has occurred within the two (2) years immediately preceding the date of the application. Individuals who have not fulfilled this requirement must provide documentation of successful completion of 400 hours of prescribing dangerous drugs in a preceptorship with a CRNA or physician.

The preceptorship must be completed within six (6) months and a letter of authorization will be issued for the duration of the preceptorship.

(ii) In order to prescribe controlled substances, the CRNA must provide the board of nursing with verification of current state controlled substances registration and current DEA number, unless the CRNA has met registration waiver criteria from the New Mexico board of pharmacy (Subsection I of 16.19.20.8 NMAC). CRNAs may not possess or prescribe controlled substances until they have both a current state controlled substances registration and a current DEA registration.

(iii) Once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b) Formulary: the formulary will include agents related to the administration of anesthesia and ACLS protocol agents.

(i) All CRNAs must adhere to the current formulary approved by the board of nursing.

(ii) The initial formulary or a formulary with changes will be submitted to the board of medical examiners for a review.

(c) ~~[Prescription pads: the CRNA's name, address, and telephone number must be imprinted on the prescription pad. In the event that a CRNA is using a prescription pad printed with the names of more than one CRNA, the name of the CRNA for the individual prescription shall be indicated.]~~ Prescription records: written, verbal or electronic prescriptions and order will comply with state board of pharmacy and federal requirements. All prescriptions will include the name, title, address and phone number of the prescribing advanced practice registered nurse.

(d) Prescribing and administering: CRNAs who have fulfilled requirements for prescriptive authority as stated in these rules as defined by the board of pharmacy may prescribe and administer to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act, which have been prepared, packaged or fabricated by a registered pharmacist or doses or drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act [61-11-22] and the New Mexico Drug, Device and Cosmetic Act for the benefit of the public good.

(e) Distributing: CRNAs who have fulfilled requirements for prescriptive authority as stated in these rules may NOT distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act.

(f) CRNAs who do not plan to

prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(6) Graduate registered nurse anesthetist practice.

(a) GRNAs may NOT distribute medications.

(b) GRNAs may practice or prescribe/administer medications only in collaboration with a physician, osteopathic physician, dentist or podiatrist.

(7) To insure competency and safe practice in specific regard to prescription writing practices in the state of NM.

(a) A list of current CRNAs and their status with regard to prescription writing shall be distributed ~~[at least annually and]~~ upon request to the board of pharmacy.

(b) Violation of these rules or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy.

(c) The board of nursing shall ~~[annually]~~ appoint as requested, qualified CRNAs to serve on the board of pharmacy disciplinary panel as requested by the board of pharmacy.

N. A CRNA business entity formed pursuant to the laws of the state of New Mexico is authorized to provide health care services in the state of New Mexico if the health care services are provided by persons who are duly licensed to engage in the practice of nursing pursuant to the provisions of the Nursing Practice Act. [1-1-98; 16.12.2.14 NMAC - Rn & A, 16 NMAC 12.2.13, 7-30-01; A, 12-31-01; A, 04-01-02; A, 1-2-04; A, 02-17-06; A, 06-17-08; A, 11-29-10]

16.12.2.15 CLINICAL NURSE SPECIALIST (CNS):

A. Requirements for licensure as a CNS:

(1) hold a current, ~~[valid]~~ unencumbered RN license from New Mexico or hold a compact multi-state RN license;

(2) successfully complete a clinical nurse specialist program at the master's or doctoral level in a defined clinical nursing specialty through an accredited institution of higher education; and

(3) provide evidence of successful accomplishment of certification by a national nursing organization, consistent with the defined clinical nursing specialty, which meets criteria as listed below:

(a) successfully complete a national certifying examination in the applicant's area of specialty;

(b) is certified by a national nursing organization;

(4) it is the responsibility of the applicant to provide documented evidence

of his/her qualifications for licensure;

(5) any CNS requesting prescriptive authority must also comply with the regulations for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate CNS: applicant seeking licensure as a CNS shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico CNS application and submit it along with all requested documents in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or their designee.

(4) CNSs are not eligible to practice in New Mexico as an CNS until so licensed by the New Mexico board in accordance with licensure procedures.

(5) The board may appoint CNSs to the advanced practice committee. These CNSs will provide advice regarding the licensure and practice of the CNS.

C. Graduate clinical nurse specialist (GCNS) permit to practice.

(1) GCNS permits may be issued upon written request, provided all requirements have been met except certification by a national nursing organization.

(a) GCNSs practice under the direct supervision of another CNS, CNP or physician in the specialty.

(b) GCNSs may prescribe medications only under the direct supervision of a licensed CNS, CNP or physician in compliance with these rules.

(c) GCNS permits will be issued to the employer.

(d) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor and the name of the prescription supervisor is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice at the new place of employment. The permit will be issued directly to the new employing agency.

(e) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GCNS permit.

(f) GCNS permits cannot be transferred or renewed [~~or a duplicate issued~~].

(g) GCNS permits expire on the date specified on the permit. Permits shall

be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice as a GCNS. It is the responsibility of the GCNS to request that the national certifying organization notify the board of the results of the examination.

~~[(f) Permits shall be valid not to exceed 6 months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice as a GCNS. It is the responsibility of the GCNS to request that the national certifying organization notify the board of the results of the examination.~~

~~[(ii) The permit for new graduates may be valid for a period not to exceed two 2 years.~~

~~(2) Exclusion: CNS with lapsed national certification are not eligible for a permit to practice.~~

~~(3)(2) [A] An initial~~ license to practice as a CNS shall be issued only after receipt by the board of proof of certification by a national nursing organization. Such proof must be submitted to the board directly from the certifying agency prior to the expiration of the permit or temporary license.

D. Prerequisites for licensure of CNS by endorsement.

(1) Verification DIRECTLY from the licensing authority which shall include graduation from a clinical nurse specialist program in a defined clinical nursing specialty.

(2) In lieu of verification of advanced practice licensure from the licensing authority, the board will accept:

(a) documentation directly from the licensing authority that the state does not issue advanced practice licensure; and

(b) a sworn affidavit from applicant that they practice as an advance practice nurse with year practice began.

(3) Verification by applicant of national certification in a clinical specialty area.

(4) Clinical nurse specialist must comply with requirements for prescriptive authority as outlined in these rules.

(5) Complete and submit the required application for licensure by endorsement in accordance with all instructions including the required fee.

(6) Continuing education is not required for initial CNS licensure by endorsement.

E. Qualifications for licensure as a CNS are pursuant to the Nursing Practice Act.

(1) Refer to Subsection A of [16.12.15] 16.12.2.15 NMAC for licensure requirements.

(2) [~~Continuing education is~~

~~not required for initial CNS licensure by endorsement.] CE requirements must be met at the time of the first renewal.~~

(3) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

F. A [~~GCNS permit to practice~~] CNS temporary license may be issued to [a New Mexico employer(s) for] an endorsee awaiting results on successful completion of national certification. [Refer to Subsections B and C of 16.12.2.15 NMAC for procedure and requirements.]

G. A temporary clinical nurse specialist license may be issued to an endorsee who:

(1) submits a completed endorsement application in accordance with all instructions and fee;

(2) submits a copy of current national certification in a nursing specialty; when the state of former advanced practice licensure does not require national certification; national certification in a nursing specialty must be submitted to the board before a license will be issued;

(3) the board will mail the temporary license to the applicant;

(4) a temporary license is valid for a period not to exceed six (6) months from the date of application, is non renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action;

(5) applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license;

(6) the discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

H. An initial clinical nurse specialist license shall be valid for two (2) years. For nurses from compact states, an NM advanced practice license will be issued with the same expiration date as the compact license. A letter of authorization will be issued to CNSs who have RN multi-state licensure privilege from [the] another nurse licensure compact [states] state. Official verification to practice is located on the board website.

I. If the licensure process is not completed, the application becomes null and void one (1) year after the date of [~~last noted activity~~] application being received at the board.

J. Authorization to expand scope of practice or who need recertification.

(1) A letter of authorization will be issued for the CNSs who through additional formal education have expanded their practice into another area of CNS practice

or who need practice hours to recertify provided all requirements have been met except national certification.

(2) A letter of verification of intent to provide a preceptorship, on official letterhead including the name of the practice preceptor and the name of the prescription preceptor must be submitted to the board of nursing.

(3) Practice must be under the direct supervision of a ~~[physician or]~~ New Mexico ~~[CNP or CNS]~~ CNS or CNP or physician in the specialty.

(4) Prescribing may be done only under the direct supervision of a licensed CNP or CNS or a physician in compliance with these rules.

(5) A letter of authorization will be issued to the preceptor.

(6) A letter of authorization cannot be transferred, renewed or a duplicate issued.

(7) A letter of authorization will expire on the date specified.

(a) A letter of authorization shall be valid not to exceed 6 months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice in that area. It is the responsibility of the CNS to request that the national certifying organization notify the board of the results of the examination. A letter of authorization may be valid for a period not to exceed two (2) years.

(b) A letter of authorization will be valid for 6 months for those applicants recertifying.

(c) A letter of authorization shall be issued for the prescriptive authority preceptorship. This letter will only be valid for the duration of the preceptorship for expansion of scope of practice or recertification required hours of practice.

K. Maintaining licensure as a clinical nurse specialist.

(1) The CNS shall be nationally certified in the specialty by a nursing organization and maintain national certification. A copy of the specialty certification/recertification card shall be presented at the time of each subsequent renewal.

(2) Continuing education.

(a) The CNS shall accrue a total of fifty (50) contact hours of approved CE each renewal period. National certification or recertification as a CNS may not be used to fulfill any portion of the CE requirement.

(b) Thirty (30) contact hours, shall meet the requirements for licensure as an RN, and

(c) An additional twenty (20) contact hours, 15 of which must be pharmacology ~~[shall meet the requirements for licensure as a CNS]~~ are required.

(d) CNSs from compact states are only required to fulfill CE requirement listed

under (c).

(e) The CE shall be in accordance with the requirements as set forth in these rules.

(3) Reactivation. ~~[To reactivate or reinstate licensure as a CNS, the nurse must provide evidence of meeting the CE requirements; evidence of current national certification must also be provided.]~~

(a) To reactivate or reinstate licensure as a CNS, the nurse must provide evidence of meeting the CE requirements; evidence of current national certification must also be provided.

(b) CNSs who are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their knowledge, skills and expertise. A temporary license will be issued not to exceed one (1) year, unless the board of nursing approves an extension.

L. Clinical nurse specialist practice.

(1) The CNS is a nurse who through graduate level preparation has become an expert in a defined area of knowledge and practice in a selected clinical area of nursing. ~~[(Taken from the ANA social policy statement):~~

~~(2) The CNS practices in accordance with the standards as established by the ANA.~~

~~(3)~~(2) The CNS makes independent decisions in a specialized area of nursing practice, using knowledge about the health care needs of the individual, family and community. The CNS collaborates as necessary with other members of the health care team, when the needs are beyond the scope of practice of the CNS.

~~[(4)]~~(3) The CNS may assume specific functions or perform specific procedures which are beyond the advanced educational preparation and certification for the CNS provided the knowledge and skills required to perform the function or procedure emanates from a recognized body of knowledge or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions or performing specific procedures, which are beyond the CNS's advanced educational preparation and certification, the CNS is responsible for obtaining the appropriate knowledge, skills and supervision to assure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

~~[(5)]~~(4) Carries out therapeutic regimens in the area of the specialty.

~~[(6)]~~(5) The CNS who has fulfilled the requirements for prescriptive authority in the specialty area may prescribe and distribute therapeutic measures including

dangerous drugs and controlled substances contained in Schedules II through V of the Controlled Substance Act within the scope of the specialty practice and setting.

(a) Requirements for prescriptive authority: In accordance with applicable state and federal laws, the CNS who fulfills the following requirements may prescribe and distribute dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act:

(i) verifies 400 hours of work experience in which prescribing dangerous drugs has occurred within the two (2) years immediately preceding the date of application and provide a copy of a transcript documenting successful completion of the a three credit hour pharmacology course, a three credit hour assessment course and a three credit hour pathophysiology course included as part of a graduate level advanced practice nursing education program; forty-five (45) contact hours of advanced level pharmacology continuing education course may be substituted for the academic pharmacology; a certificate of completion must be provided that verifies continuing education, or

(ii) if 400 hours of work experience in which prescribing dangerous drugs cannot be verified, provide a copy of a transcript documenting successful completion of a three credit hour pharmacology course that is included as part of a graduate level advanced practice nursing education program within five years immediately prior to the date of application to the board; forty-five (45) contact hours of advanced level pharmacology continuing education course may be substituted for the academic pharmacology; a certificate of completion must be provided that verifies continuing education; the course must be related to the specialty and contain content in pharmacokinetics, pharmacodynamics, pharmacology of current/commonly used medications and application of drug therapy to the treatment of disease or the promotion of health, and

(iii) provide a copy of a transcript documenting successful completion of a three credit hour assessment course that is included as part of a graduate level advanced practice nursing education program; the course must be related to the specialty and include content supported by related clinical experience such that students gain knowledge and skills needed to perform comprehensive assessments to acquire data, make diagnoses of health status and formulate effective clinical management plans, and

(iv) provide a copy of a transcript documenting successful completion of a three credit hour pathophysiology course that is included as

part of a graduate level advanced practice nursing education program; the course must be related to the specialty and include content in physiology and pathophysiology;

(v) provide a copy of a transcript documenting successful completion of a 400 hour university/college associated preceptor experience in the prescription of dangerous drugs within the two years immediately prior to the date of application to the board, or

(vi) after fulfilling ii, iii, and iv above, upon application to the board, a letter of authorization for a prescriptive authority preceptorship will be issued to complete a preceptorship, which must be completed within six (6) months;

(vii) in order to prescribe controlled substances, the CNS must provide the board of nursing with verification of current state controlled substances registration and current DEA number, unless the CNS with prescriptive authority has met registration waiver criteria from the New Mexico board of pharmacy (Subsection I of 16.19.20.8 NMAC; CNSs may not possess, prescribe or distribute controlled substances until they have both a current state controlled substances registration and a current DEA registration;

(viii) once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b) Formulary. It is the CNS's responsibility to maintain a formulary of dangerous drugs and controlled substances that may be prescribed. The only drugs to be included in the formulary are those relevant to the CNS's area of specialty practice, scope of practice and clinical setting. The board of nursing reserves the right to audit the formulary. Licensees may be subject to disciplinary action by the board of nursing if noncompliant with the audit.

(c) ~~[Prescription pads. The CNS's name, address, and telephone number must be imprinted on the prescription pad. In the event that a CNS is using a prescription pad printed with the names of more than one CNS, the name of the CNS for the individual prescription shall be indicated.] Prescription records: written, verbal or electronic prescriptions and orders will comply with state board of pharmacy and federal requirements. All prescriptions will include the name, title, address and phone number of the prescribing advanced practice registered nurse.~~

(d) Distributing: CNSs who have fulfilled requirements for prescriptive authority as stated in these rules, may distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substance Act, which have been prepared, packaged, or fabricated by the registered

pharmacist or doses which have been pre-packaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act [61-11-22] and the Drug, Device and Cosmetic Act for the benefit of the public good.

(e) Labeling: CNSs may label only those drugs which the CNS prescribes and distributes to patients under the CNS's care. The medication shall be properly labeled with the patient's name, date of issue, drug name and strength, instructions for use, drug expiration date, telephone number of the CNS. Labeling may be handwritten or a pre-printed fill-in label may be used. All information shall be properly documented in the patient record.

(f) CNSs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

~~(7)~~ (6) Graduate clinical nurse specialist (GCNS) practice.

(a) GCNSs may not distribute medications.

(b) GCNSs may practice or prescribe medications only under the direct supervision of a licensed CNS, CNP or physician in the specialty.

~~(8)~~ (7) To insure competency and safe practice in specific regard to prescription writing practices in the state of NM:

(a) a list of current CNSs and their status with regard to prescription writing shall be distributed ~~[at least annually and]~~ upon request to the board of pharmacy;

(b) violation of these rules or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy;

(c) the board of nursing shall ~~[annually]~~ appoint qualified CNSs in each specialty to serve on the board of pharmacy disciplinary panel as requested by the board of pharmacy.

M. Advanced practice committee.

(1) The board may appoint a minimum of a 6-member advisory committee to assist the board in regulating the advanced practice of nursing.

(2) The committee shall assist and advise the board in the review of issues related to the advanced practice of nursing.

(3) The committee shall be composed of ~~[a least two]~~ representatives from each advanced practice area regulated by the board.

[1-1-98; 16.12.2.15 NMAC - Rn & A, 16 NMAC 12.2.13, 7-30-01: A, 12-31-01; A, 04-01-02; A, 1-2-04; A, 02-17-06; A, 6-17-08; A, 11-29-10]

NEW MEXICO PUBLIC REGULATION COMMISSION

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES

CHAPTER 11

TELECOMMUNICATIONS

PART 11 LIFELINE AND LINKUP BENEFITS

17.11.11.1 ISSUING AGENCY:
New Mexico Public Regulation Commission.
[17.11.11.1 NMAC - N, 11-15-10]

17.11.11.2 SCOPE: This rule applies to all entities that have been designated by the commission as eligible telecommunications carriers and that may receive disbursements from the state rural universal service fund or the federal universal service fund.

[17.11.11.2 NMAC - N, 11-15-10]

17.11.11.3 S T A T U T O R Y
AUTHORITY: Sections 8-8-4, 63-9C-4 and 63-9H-6 NMSA 1978.

[17.11.11.3 NMAC - N, 11-15-10]

17.11.11.4 D U R A T I O N :
Permanent.

[17.11.11.4 NMAC - N, 11-15-10]

17.11.11.5 EFFECTIVE DATE:
November 15, 2010, unless a later date is cited at the end of a section.

[17.11.11.5 NMAC - N, 11-15-10]

17.11.11.6 OBJECTIVE: The purpose of this rule is to ensure that each eligible telecommunications carrier designated by the commission provides lifeline and link-up benefits intended to make basic telecommunications services available to qualifying individuals and households under specified public assistance programs or income-based criteria. Lifeline and linkup have also been known in New Mexico as low-income telephone assistance programs or "LITAP."

[17.11.11.6 NMAC - N, 11-15-10]

17.11.11.7 DEFINITIONS:

A. Applicant means an eligible customer of an eligible telecommunications carrier.

B. Carrier means an entity that provides intrastate retail public telecommunications services or comparable retail alternative services in New Mexico.

C. E l i g i b l e telecommunications carrier ("ETC") means a carrier that has been designated by the commission as eligible to receive disbursement from the state rural universal

service fund or the federal universal service fund.

D. Federal poverty guidelines means the poverty guidelines issued each year by the federal health and human services department and published in the federal register.

E. Income means all income actually received by all members of the household. This includes salary before deductions of taxes, public assistance benefits, inheritances, alimony, child support payments, workers' compensation benefits, gifts, lottery winnings, and the like. The only exceptions are student financial aid, military housing and cost-of-living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing, and the like.

F. Responsible agency means the state government agency or other entity designated by the commission to administer the certification, verification and continued verifications of lifeline enrollment.

[17.11.11.7 NMAC - N, 11-15-10]

17.11.11.8 ELIGIBILITY REQUIREMENTS:

A. Program - Based Criteria. All ETCs shall provide lifeline and linkup benefits to any applicant who self-certifies, under penalty of perjury, that his or her household is eligible for public assistance under one or more of the following programs:

- (1) temporary assistance to needy families (TANF);
- (2) food stamps;
- (3) low income home energy assistance program (LIHEAP);
- (4) medicaid;
- (5) supplemental security income;
- (6) national school lunch program;

or

- (7) federal public housing assistance.

B. Income Based Criteria. All ETCs shall provide lifeline and linkup benefits to any applicant who certifies, with supporting documentation and under penalty of perjury, that his or her household income is at or below 150 percent of the applicable federal poverty guidelines upon annual publication by the U.S. department of health and human services in the federal register.

(1) Income-based eligibility is based, in part, on household size. Therefore, an applicant must certify, under penalty of perjury, the number of individuals residing in his or her household.

(2) An applicant must certify, under penalty of perjury, that the documentation supporting income-based certification accurately represents the applicant's annual household income. The following documents, or any combination of

these documents, are acceptable to support certification based upon income:

(a) prior year's state, federal or tribal tax returns;

(b) current year-to-date earnings statement from an employer or three consecutive months of paycheck stubs;

(c) social security administration statement of benefits;

(d) veteran's administration statement of benefits;

(e) retirement/pension statement of benefits;

(f) unemployment/workers' compensation statement of benefits;

(g) federal or tribal notice of participation in bureau of Indian affairs general assistance; or

(h) divorce decree or child support wage assignment statement.

C. Application. The application form for participation in lifeline and linkup benefits shall be available from each ETC, the commission's consumer relations division, and the responsible agency, if one has been designated by the commission. Each completed application shall contain the following information, where applicable:

(1) applicant's name, telephone number and home address;

(2) the particular public assistance program(s), if applicable, and identification of the ETC that the applicant anticipates will provide service;

(3) an affirmative statement that the applicant qualifies for lifeline or linkup benefits;

(4) an affirmative statement under penalty of perjury affirming that the applicant is participating in one of the programs listed in Subsection A of 17.11.11.8 NMAC, or a statement under penalty of perjury affirming that the applicant's household income is at or below 150 percent of the federal poverty guideline; and if the application is based on income criteria, a statement under penalty of perjury that identifies the number of individuals residing in the household and affirms that the documentation presented to support income-based eligibility accurately represents the applicant's household income;

(5) the following affirmative statement under penalty of perjury that the applicant is not receiving lifeline benefits of any kind on any other telephone or wireless account: "I agree to notify (name of carrier) when I no longer participate in any of the above qualifying public assistance programs or when there has been a change in the size or income level of my household. I certify under penalty of perjury the above information and attached documentation are true and that I and no one else is receiving lifeline benefits at this address, on either a telephone or wireless telephone account"; and

(6) the applicant's signature.

D. Document Retention.

The ETC or responsible agency shall retain eligibility applications for three (3) calendar years.

E. Tribal Land Lifeline and Linkup Benefits. Customers who live on tribal lands and who qualify for state lifeline and linkup benefits based on the program or income criteria set forth in Subsections A and B of 17.11.11.8 NMAC are eligible to receive prescribed federal benefits. Such federal benefits are not within the scope of, nor governed by, this rule. [17.11.11.8 NMAC - N, 11-15-10]

17.11.11.9 CONTINUING ELIGIBILITY:

A. Annual Verification.

The continuing eligibility of customers for lifeline benefits shall be verified annually.

B. Verification Methods.

The ETC or responsible agency shall verify the continued eligibility of lifeline customers under the program-based and income-based eligibility criteria. The ETC or responsible agency shall establish methods by which program-based and income-based eligibility shall be verified on an annual basis including, but not limited to, self-certification, reviews of state computer data bases, beneficiary audits, income documentation, or the continued eligibility of a statistically valid sample of lifeline customers.

C. Restoration Of Service And Payment Plans. ETCs must restore service for any customer who has had telephone service discontinued for nonpayment of basic service charges, provided that the customer was not a participant in LITAP at the time of discontinuance, but now qualifies. The ETC must also make a reasonable payment arrangement allowing six months for payment for past due basic service charges.

D. Termination Notices and Dispute Resolution. If a customer fails to establish continued eligibility, the ETC or responsible agency shall notify the customer of its intent to discontinue the customer's eligibility and the basis for that decision.

(1) The eligibility termination notice shall be in writing and shall be delivered to the customer's mailing address.

(2) The eligibility termination notice must allow the customer at least 60 days to demonstrate continued eligibility consistent with the rule. The customer's participation in lifeline service may not be discontinued during this 60-day period.

(3) The eligibility termination notice shall include a statement advising the customer of the option to continue local telephone service after termination of lifeline service benefits at the non-discounted rate.

(4) If the customer fails to provide proof of continued eligibility as required,

or the ETC or responsible agency does not accept the customer's proof of continue eligibility, the ETC or responsible agency shall notify the customer in writing of its determination to discontinue the customer's participation in lifeline benefits. The notice shall include instructions for filing an appeal of the determination.

(5) If the customer disputes the non-eligibility determination, he or she shall notify the ETC or responsible agency. If the customer is still unable to resolve the dispute, he or she may appeal a non-eligibility determination within sixty (60) days of the date of the notice from the ETC or responsible agency by filing a written notice of appeal with the commission. Lifeline benefits will continue pending an appeal of a non-eligibility determination.

(6) An appeal pursuant to this rule shall be addressed by the commission consistent with the complaint procedures set forth in the commission's Consumer Protection rule (17.11.16 NMAC). [17.11.11.9 NMAC - N, 11-15-10]

17.11.11.10 LIFELINE AND LINKUP BENEFITS:

A. Benefits. Lifeline benefits provided by ETCs shall consist of basic service, or its functional equivalent, and usage charges, less a discount of not less than \$3.50 and any other lifeline benefits established by the federal communications commission. ETCs shall provide linkup benefits in accordance with the federal linkup program utilizing the eligibility criteria set forth in Subsections A and B of 17.11.11.8 NMAC.

B. Deposits. When customer security deposits are otherwise required, they will be waived for lifeline service customers if the customer voluntarily elects to receive toll blocking.

C. Nonrecurring Charge Waiver. Lifeline customers will receive a waiver of the nonrecurring charge for changing the type of local exchange usage service to lifeline, or changing from flat rate service to message rate service, or vice versa, but only one such waiver shall be allowed during any 12-month period.

D. Termination. Lifeline benefits shall not be terminated for nonpayment of toll service.

E. Restrictions. A lifeline customer may receive lifeline and linkup benefits only for the customer's principal service line. Lifeline and linkup benefits are not available for service lines used for business purposes.

F. Other Services. A lifeline customer will not be required to purchase other services from the ETC, nor prohibited from purchasing other services, either separately or in a bundle with lifeline supported services, unless the customer has

failed to comply with the ETC's terms and conditions for those services.

[17.11.11.10 NMAC - N, 11-15-10]

17.11.11.11 FUNDING OF LIFELINE AND LINKUP BENEFITS:

A. Reporting Requirements. All ETCs seeking cost recovery shall submit to the commission a monthly report, on or before the 15th day of each month, containing a description of the ETC's lifeline and linkup benefits. The report shall contain monthly information on:

(1) the foregone revenue resulting from the discounts provided to lifeline customers;

(2) the amounts of administrative, advertising, voucher and other lifeline and linkup expenses, including only those administrative costs borne by the ETCs over and above what they have expended in connection with their federal universal service duties;

(3) interest accrual amounts on lifeline and linkup funds; and

(4) the number of lifeline customers.

B. Cost Recovery. The total cost of providing lifeline service, including the administrative costs of the ETCs as provided at Paragraph (2) of Subsection A of 17.11.11.11 NMAC, and the costs incurred by the responsible agency, shall be recovered and funded from the state rural universal service fund pursuant to 17.11.10 NMAC.

C. ETC Payment. Within thirty (30) days after review and audit of an ETC's monthly report, the administrator of the state rural universal service fund shall disburse an amount equal to the ETC's lifeline and linkup expenses as provided in this rule, plus lifeline discounts up to \$3.50 per lifeline subscriber.

[17.11.11.11 NMAC - N, 11-15-10]

HISTORY OF 17.11.11 NMAC: [RESERVED]

NEW MEXICO DEPARTMENT OF PUBLIC SAFETY TRAINING AND RECRUITING DIVISION Law Enforcement Academy

This is an amendment to 10.29.7 NMAC, Section 8, effective 12/15/2010.

10.29.7.8 2010-2011 IN-SERVICE TRAINING CYCLE FOR LAW ENFORCEMENT OFFICERS:

A. All New Mexico certified law enforcement officers shall receive a minimum of forty (40) hours of

training bi-annually.

(1) A minimum of four (4) hours shall be in safe pursuit pursuant to Section 29-20-3 NMSA 1978.

(2) A minimum of one (1) hour shall be in domestic abuse incident training pursuant to Section 29-7-4.1 NMSA 1978.

(3) A minimum of two (2) hours shall be in the detection, investigation and reporting of a crime motivated by hate pursuant to Section 31-18B-5 NMSA 1978.

(4) For all officers who may be involved in the arrest of DWI offenders as a normal part of their duties, four (4) hours shall be in NHTSA approved standardized field sobriety testing (SFST) protocols.

(5) A minimum of one (1) hour shall be in ensuring child safety upon arrest pursuant to the Law Enforcement Training Act and Criminal Procedure Act.

(6) Four (4) hours of academy approved day and night firearms training on agency approved weapons systems, including but not limited to duty handgun, backup handgun, shotgun, and rifle. Qualification testing may not be used as training to meet this requirement.

(7) A minimum of three (3) hours of academy approved training in the enforcement of the off-highway Motor Vehicle Act for all officers who may be involved in the enforcement of Sections 66-3-1001 through 66-3-1015 NMSA 1978, as a normal part of their duties.

(8) A minimum of four (4) hours shall be in missing persons and AMBER alert training pursuant to the Law Enforcement Training Act and Missing Persons Information and Reporting Act.

[(8)] (9) Remaining hours may be in maintenance or advanced areas.

B. Required training may be received through the following means.

(1) The advanced training bureau will contract for course instruction at the regional training sites.

(2) Where scheduling will allow, the training and recruiting division will assign staff to instruct the course at the regional training sites.

(3) Curriculum developed by the training and recruiting division will be provided to individual agencies upon request for their own certified instructors to present to their officers, provided the instructor is qualified in the subject matter. Recommended training topics include: human trafficking investigations (curriculum developed by the New Mexico attorney general's office), [entering missing persons into NCIC (curriculum developed by the NMDPS-law enforcement records bureau),] and legal update (curriculum developed by the advanced training bureau).

(4) Individual agencies develop curriculum for review and approval (accreditation) by the academy which meets

the criteria established by the board.

C. This four-pronged approach gives all agencies the flexibility they need to address individual training needs. It also allows the board to implement a planned program of in-service training that is responsive to the changing demands placed upon law enforcement and the opportunity to have statewide consistency in certain critical areas.

D. Implementation is to begin on January 1, 2010.

E. Officers obtaining certification between, January 1, 2010 and December 31, 2010, will be required to obtain one-half of the in-service training requirements. Officers obtaining certification between, January 1, 2011, and December 31, 2011, will be required to meet the next two-year requirement which will go into effect on January 1, 2012. This policy will apply in subsequent two-year cycles. Officers transferring from one agency to another will carry with them the responsibility for in-service training.

[1/30/93, 12/15/93, 1/17/94, 12/7/95, 10/1/97, 1/1/98, 1/1/00; 10.29.7.8 NMAC - Rn, 10 NMAC 29.7.8, 7/1/01; A, 1/1/02; A, 6/14/02; A, 01/01/04; A, 04/15/04; A, 12/30/05; A, 12/14/06; A, 10/31/07; A, 11/15/07; A, 03/01/10; A, 12/15/10]

NEW MEXICO WATER QUALITY CONTROL COMMISSION

This is an amendment to 20.6.4 NMAC Sections 7 through 15; 97, 98, 99; 101 through 129; 201 through 221; 301 through 310; 401 through 408; 501 through 504; 601 through 603; 701, 702; 801 through 806; 900 and 901. The following new sections were added: 52, 130, 131, 132, 311, 312, 409, 451 and 452. All sections effective 12-01-10.

20.6.4.7 DEFINITIONS:

Terms defined in the New Mexico Water Quality Act, but not defined in this part will have the meaning given in the Water Quality Act.

A. Terms beginning with numerals or the letter "A," and abbreviations for units.

(1) "4T3 temperature" means the temperature not to be exceeded for four or more consecutive hours in a 24-hour period on more than three consecutive days.

(2) "6T3 temperature" means the temperature not to be exceeded for six or more consecutive hours in a 24-hour period on more than three consecutive days.

(3) Abbreviations used to indicate units are defined as follows:

(a) "cfu/100 mL" means colony-

forming units per 100 milliliters;

(b) "cfs" means cubic feet per second;

(c) "µg/L" means micrograms per liter, equivalent to parts per billion when the specific gravity of the solution equals 1.0;

(d) "µS/cm" means microsiemens per centimeter; one µS/cm is equal to one µmho/cm;

(e) "mg/kg" means milligrams per kilogram, equivalent to parts per million;

(f) "mg/L" means milligrams per liter, equivalent to parts per million when the specific gravity of the solution equals 1.0;

(g) "NTU" means nephelometric turbidity unit;

(h) "pCi/L" means picocuries per liter.

(4) "Acute toxicity" means toxicity involving a stimulus severe enough to induce a response in 96 hours of exposure or less. Acute toxicity is not always measured in terms of lethality, but may include other toxic effects that occur within a short time period.

[B-](5) "Adjusted gross alpha" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample, including radium-226, but excluding radon-222 and uranium. Also excluded are source, special nuclear and by-product material as defined by the Atomic Energy Act of 1954.

[E-](6) "Aquatic life" means any plant or animal life that uses surface water as primary habitat for at least a portion of its life cycle, but does not include avian or mammalian species.

[B-](7) "Attainable" means achievable by the imposition of effluent limits required under sections 301(b) and 306 of the Clean Water Act and implementation of cost-effective and reasonable best management practices for nonpoint source control.

B. Terms beginning with the letter "B".

[E-](1) "Best management practices" or "BMPs":

[(+)(a)] for national pollutant discharge elimination system (NPDES) permitting purposes means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution of "waters of the United States;" BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage; or

[(+)(b)] for nonpoint source pollution control purposes means methods, measures or practices selected by an agency to meet its nonpoint source control needs; BMPs include but are not limited to structural and nonstructural controls and operation

and maintenance procedures; BMPs can be applied before, during and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters; BMPs for nonpoint source pollution control purposes shall not be mandatory except as required by state or federal law.

[F-](2) "Bioaccumulation" refers to the uptake and retention of a substance by an organism from its surrounding medium and food.

[G-](3) "Bioaccumulation factor" is the ratio of a substance's concentration in tissue versus its concentration in ambient water, in situations where the organism and the food chain are exposed.

[H-](4) "Biomonitoring" means the use of living organisms to test the suitability of effluents for discharge into receiving waters or to test the quality of surface waters of the state.

C. Terms beginning with the letter "C".

[I-](1) "CAS number" means an assigned number by chemical abstract service (CAS) to identify a substance. CAS numbers index information published in chemical abstracts by the American chemical society.

[J-] "cfs" means cubic feet per second.]

[K-] "cfu" means colony forming units.]

[L-](2) "Chronic toxicity" means toxicity involving a stimulus that lingers or continues for a relatively long period relative to the life span of an organism. Chronic effects include, but are not limited to, lethality, growth impairment, behavioral modifications, disease and reduced reproduction.

[M-](3) "Classified water of the state" means a surface water of the state, or reach of a surface water of the state, for which the commission has adopted a segment description and has designated a use or uses and applicable water quality criteria in 20.6.4.101 through 20.6.4.899 NMAC.

[N-](4) "Coldwater" in reference to an aquatic life use means a surface water of the state where the water temperature and other characteristics are suitable for the support or propagation or both of coldwater aquatic life.

(5) "Coolwater" in reference to an aquatic life use means the water temperature and other characteristics are suitable for the support or propagation of aquatic life whose physiological tolerances are intermediate between and may overlap those of warm and coldwater aquatic life.

[O-](6) "Commission" means the New Mexico water quality control commission.

[P-](7) "Criteria" are elements of state water quality standards, expressed

as constituent concentrations, levels or narrative statements, representing a quality of water that supports a use. When criteria are met, water quality will protect the designated use.

D. Terms beginning with the letter "D".

[Q-](1) "DDT and derivatives" means 4,4'-DDT (CAS number 50293), 4,4'-DDE (CAS number 72559) and 4,4'-DDD (CAS number 72548).

[R-](2) "Department" means the New Mexico environment department.

[S-](3) "Designated management agency" means an agency as defined by 40 CFR Section 130.9(d).

[T-](4) "Designated use" means a use specified in [Sections—20.6.4.10†] 20.6.4.97 through 20.6.4.899 NMAC for a surface water of the state whether or not it is being attained.

[U-](5) "Dissolved" [means] refers to the fraction of a constituent of a water sample that [with] passes through a 0.45-micrometer pore-size [membrane] filter [under a pressure differential not exceeding one atmosphere]. The "dissolved" fraction is also termed "filterable residue."

[V-](6) "Domestic water supply" means a surface water of the state that could be used for drinking or culinary purposes after disinfection.

E. Terms beginning with the letter "E".

[W-](1) ["Escherichia coli" or] "E. coli" means [a bacterial species that inhabits the intestinal tract of humans and other warm-blooded animals, the presence of which indicates the potential presence of pathogenic microorganisms capable of producing disease] the bacteria *Escherichia coli*.

[X-](2) "Ephemeral" when used to describe a surface water of the state means [a] the water body [that flows] contains water briefly only in direct response to precipitation [or snowmelt in the immediate locality]; its bed is always above the water table of the adjacent region.

[Y-](3) "Existing use" means a use actually attained in a surface water of the state on or after November 28, 1975, whether or not it is a designated use.

F. Terms beginning with the letter "F".

[Z-] "Fecal coliform bacteria" means the portion of the coliform group of bacteria present in the gut or the feces of warmblooded animals. It generally includes organisms capable of producing gas from lactose broth in a suitable culture medium within 24 hours at $44.5 \pm 0.2^\circ\text{C}$.

[AA-](1) "Fish culture" means production of coldwater or warmwater fishes in a hatchery or rearing station.

[BB-](2) "Fish early life stages" means the egg and larval stages of

development of fish ending when the fish has its full complement of fin rays and loses larval characteristics.

G. Terms beginning with the letter "G". [RESERVED]

H. Terms beginning with the letter "H".

[EE-](1) "High quality coldwater" in reference to an aquatic life use means a perennial surface water of the state in a minimally disturbed condition with considerable aesthetic value and superior coldwater aquatic life habitat. A surface water of the state to be so categorized must have water quality, stream bed characteristics and other attributes of habitat sufficient to protect and maintain a propagating coldwater aquatic life population.

(2) "Human health-organism only" means the health of humans who ingest fish or other aquatic organisms from waters that contain pollutants.

I. Terms beginning with the letter "I".

(1) "Industrial water supply" means the use or storage of water by a facility for process operations unless the water is supplied by a public water system. Industrial water supply does not include irrigation or other agricultural uses.

[DD-](2) "Intermittent" when used to describe a surface water of the state means [a] the water body [that] contains water for extended periods only at certain times of the year, such as when it receives seasonal flow from springs[-] or melting snow [or precipitation].

[EE-](3) "Interstate waters" means all surface waters of the state that cross or form a part of the border between states.

[FF-](4) "Intrastate waters" means all surface waters of the state that are not interstate waters.

[GG-](5) "Irrigation" means application of water to land areas to supply the water needs of beneficial plants.

J. Terms beginning with the letter "J". [RESERVED]

K. Terms beginning with the letter "K". [RESERVED]

L. Terms beginning with the letter "L".

[HH-](1) "LC-50" means the concentration of a substance that is lethal to 50 percent of the test organisms within a defined time period. The length of the time period, which may vary from 24 hours to one week or more, depends on the test method selected to yield the information desired.

[H-](2) "Limited aquatic life" as a designated use, means the surface water is capable of supporting only a limited community of aquatic life. This subcategory includes surface waters that support aquatic species selectively adapted to take advantage of naturally occurring rapid environmental

changes, ephemeral or intermittent water, high turbidity, fluctuating temperature, low dissolved oxygen content or unique chemical characteristics.

[JJ-](3) "Livestock watering" means the use of a surface water of the state as a supply of water for consumption by livestock.

M. Terms beginning with the letter "M".

[KK-](1) "Marginal coldwater" in reference to an aquatic life use means that natural intermittent or low flows, or other natural habitat conditions severely limit maintenance of a coldwater aquatic life population or historical data indicate that the [maximum] temperature in the surface water of the state may exceed 25°C (77°F).

[LL-](2) "Marginal warmwater" in reference to an aquatic life use means natural intermittent or low flow or other natural habitat conditions severely limit the ability of the surface water of the state to sustain a natural aquatic life population on a continuous annual basis; or historical data indicate that natural water temperature routinely exceeds 32.2°C (90°F).

(3) "Maximum temperature" means the instantaneous temperature not to be exceeded at any time.

[MM-] "Micrograms per liter (µg/L)" means micrograms of solute per liter of solution; equivalent to parts per billion when the specific gravity of the solution = 1.000.]

[NN-] "Milligrams per liter (mg/L)" means milligrams of solute per liter of solution; equivalent to parts per million when the specific gravity of the solution = 1.000.]

[OO-](4) "Minimum quantification level" means the minimum quantification level for a constituent determined by official published documents of the United States environmental protection agency.

N. Terms beginning with the letter "N".

(1) "Natural background" means that portion of a pollutant load in a surface water resulting only from non-anthropogenic sources. Natural background does not include impacts resulting from historic or existing human activities.

[PP-](2) "Natural causes" means those causal agents that would affect water quality and the effect is not caused by human activity but is due to naturally occurring conditions.

[QQ-](3) "Nonpoint source" means any source of pollutants not regulated as a point source that degrades the quality or adversely affects the biological, chemical or physical integrity of surface waters of the state.

[RR-] "NTU" means nephelometric turbidity units based on a

standard method using formazin polymer or its equivalent as the standard reference suspension. ~~Nephelometric turbidity measurements expressed in units of NTU are numerically identical to the same measurements expressed in units of FTU (formazin turbidity units).~~

O. Terms beginning with the letter "O". ~~[SS-] "Organoleptic"~~ means the capability to produce a detectable sensory stimulus such as odor or taste.

P. Terms beginning with the letter "P".

~~[TT-](1) "Playa"~~ means a shallow closed basin lake typically found in the high plains and deserts.

~~[UU-](2) "Perennial"~~ when used to describe a surface water of the state means the water body typically contains water continuously throughout the year [in all years; its upper surface, generally, is lower than the water table of the region adjoining the stream] and rarely experiences dry periods.

~~[VV-] "Picoeerie" (pCi)"~~ means a measure of radioactivity equal to the quantity of a radioactive substance in which the rate of disintegrations is 2.22 per minute.]

~~[WW-](3) "Point source"~~ means any discernible, confined and discrete conveyance from which pollutants are or may be discharged into a surface water of the state, but does not include return flows from irrigated agriculture.

~~[XX-](4) "Practicable"~~ means that which may be done, practiced or accomplished; that which is performable, feasible, possible.

~~[YY-](5) "Primary contact"~~ means any recreational or other water use in which there is prolonged and intimate human contact with the water, such as swimming and water skiing, involving considerable risk of ingesting water in quantities sufficient to pose a significant health hazard. Primary contact also means any use of surface waters of the state for cultural, religious or ceremonial purposes in which there is intimate human contact with the water, including but not limited to ingestion or immersion, that could pose a significant health hazard.

~~(6) "Public water supply" means the use or storage of water to supply a public water system as defined by New Mexico's Drinking Water Regulations, 20.7.10 NMAC. Water provided by a public water system may need to undergo treatment to achieve drinking water quality.~~

O. Terms beginning with the letter "O". [RESERVED]

R. Terms beginning with the letter "R". [RESERVED]

S. Terms beginning with the letter "S".

~~[ZZ-](1) "Secondary contact"~~

means any recreational or other water use in which human contact with the water may occur and in which the probability of ingesting appreciable quantities of water is minimal, such as fishing, wading, commercial and recreational boating and any limited seasonal contact.

~~[AAA-](2) "Segment"~~ means a classified ~~[surface]~~ water of the state described in 20.6.4.101 through 20.6.4.899 NMAC. The water within a segment should have the same uses, similar hydrologic characteristics or flow regimes, and natural physical, chemical and biological characteristics and exhibit similar reactions to external stresses, such as the discharge of pollutants.

~~[BBB-](3) "Specific conductance"~~ ~~[means conductivity adjusted to 25°C]~~ is a measure of the ability of a water solution to conduct an electrical current.

~~[CCC-](4) "State"~~ means the state of New Mexico.

~~[DDD-](5) "Surface water(s) of the state"~~ means all surface waters situated wholly or partly within or bordering upon the state, including lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, reservoirs or natural ponds. Surface waters of the state also means all tributaries of such waters, including adjacent wetlands, any manmade bodies of water that were originally created in surface waters of the state or resulted in the impoundment of surface waters of the state, and any "waters of the United States" as defined under the Clean Water Act that are not included in the preceding description. Surface waters of the state does not include private waters that do not combine with other surface or subsurface water or any water under tribal regulatory jurisdiction pursuant to Section 518 of the Clean Water Act. Waste treatment systems, including treatment ponds or lagoons designed and actively used to meet requirements of the Clean Water Act (other than cooling ponds as defined in 40 CFR Part 423.11(m) that also meet the criteria of this definition), are not surface waters of the state, unless they were originally created in surface waters of the state or resulted in the impoundment of surface waters of the state.

T. Terms beginning with the letter "T".

~~[EEE-](1) "TDS"~~ means total dissolved solids, also termed "total filterable residue."

~~[FFF-] "Technology-based limitations"~~ means the application of technology-based effluent limitations as required under Section 301(b) of the federal Clean Water Act.]

~~[GGG-] "Total"~~ means a constituent of a water sample that is analytically determined without filtration.]

~~[HHH-] "Total PCBs"~~ means the sum of all homolog, all isomer, all congener or all areol analyses.]

~~[HH-](2) "Toxic pollutant"~~ means those pollutants, or combination of pollutants, including disease-causing agents, that after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will cause death, shortened life spans, disease, adverse behavioral changes, reproductive or physiological impairment or physical deformations in such organisms or their offspring.

~~[JJJ-](3) "Tributary"~~ means a perennial, intermittent or ephemeral waterbody that flows into a larger waterbody, and includes a tributary of a tributary.

~~[KKK-](4) "Turbidity"~~ is an expression of the optical property in water that causes incident light to be scattered or absorbed rather than transmitted in straight lines.

U. Terms beginning with the letter "U". [RESERVED]

V. Terms beginning with the letter "V". [RESERVED]

W. Terms beginning with the letter "W".

~~[LLL-](1) "Warmwater"~~ with reference to an aquatic life use means that water temperature and other characteristics are suitable for the support or propagation or both of warmwater aquatic life.

~~[MMM-](2) "Water contaminant"~~ means any substance that could alter if discharged or spilled the physical, chemical, biological or radiological qualities of water. "Water contaminant" does not mean source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, but may include all other radioactive materials, including but not limited to radium and accelerator-produced isotopes.

~~[NNN-](3) "Water pollutant"~~ means a water contaminant in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or the use of property.

~~[OOO-] "Water quality-based controls"~~ means effluent limitations, as provided under Section 301(b)(1)(C) of the federal Clean Water Act, that are developed and imposed on point-source dischargers in order to protect and maintain applicable water quality standards. These controls are more stringent than the technology-based effluent limitations required under other paragraphs of Section 301(b).]

~~[PPP-](4) "Wetlands"~~ means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and

under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions in New Mexico. Wetlands that are constructed outside of a surface water of the state for the purpose of providing wastewater treatment and that do not impound a surface water of the state are not included in this definition.

~~0000~~(5) **“Wildlife habitat”** means a surface water of the state used by plants and animals not considered as pathogens, vectors for pathogens or intermediate hosts for pathogens for humans or domesticated livestock and plants.

X. Terms beginning with the letters “X” through “Z”
[RESERVED]

[20.6.4.7 NMAC - Rp 20 NMAC 6.1.1007, 10-12-00; A, 7-19-01; A, 05-23-05; A, 07-17-05; A, 08-01-07; A, 12-01-10]

20.6.4.9 OUTSTANDING NATIONAL RESOURCE WATERS:

A. Procedures for nominating an ONRW: Any person may nominate a surface water of the state for designation as an ONRW by filing a petition with the commission pursuant to the guidelines for water quality control commission regulation hearings. A petition to ~~classify~~ designate a surface water of the state as an ONRW shall include:

(1) a map of the surface water of the state, including the location and proposed upstream and downstream boundaries;

(2) a written statement and evidence based on scientific principles in support of the nomination, including specific reference to one or more of the applicable ONRW criteria listed in Subsection B of this section;

(3) water quality data including chemical, physical or biological parameters, if available, to establish a baseline condition for the proposed ONRW;

(4) a discussion of activities that might contribute to the reduction of water quality in the proposed ONRW;

(5) any additional evidence to substantiate such a designation, including a discussion of the economic impact of the designation on the local and regional economy within the state of New Mexico and the benefit to the state; and

(6) affidavit of publication of notice of the petition in a newspaper of general circulation in the affected counties and in a newspaper of general statewide circulation.

B. Criteria for ONRWs:

A surface water of the state, or a portion of a surface water of the state, may be designated as an ONRW where the commission determines that the designation is beneficial to the state of New Mexico, and:

(1) the water is a significant attribute of a state ~~[gold-medal]~~ special

trout ~~[fishery]~~ water, national or state park, national or state monument, national or state wildlife refuge or designated wilderness area, or is part of a designated wild river under the federal Wild and Scenic Rivers Act; or

(2) the water has exceptional recreational or ecological significance; or

(3) the existing water quality is equal to or better than the numeric criteria for protection of aquatic life ~~[uses; recreational]~~ and contact uses and the human [health-uses] health-organism only criteria, and the water has not been significantly modified by human activities in a manner that substantially detracts from its value as a natural resource.

C. Pursuant to a petition filed under Subsection A of this section, the commission may classify a surface water of the state or a portion of a surface water of the state as an ONRW if the criteria set out in Subsection B of this section are met.

D. Waters classified as ONRWs: The following waters are classified as ONRWs:

(1) Rio Santa Barbara, including the west, middle and east forks from their headwaters downstream to the boundary of the Pecos Wilderness; and

(2) the waters within the United States forest service Valle Vidal special management unit including:

(a) Rio Costilla, including Comanche, La Cueva, Fernandez, Chuckwagon, Little Costilla, Powderhouse, Holman, Gold, Grassy, LaBelle and Vidal creeks, from their headwaters downstream to the boundary of the United States forest service Valle Vidal special management unit;

(b) Middle Ponil creek, including the waters of Greenwood Canyon, from their headwaters downstream to the boundary of the Elliott S. Barker wildlife management area;

(c) Shuree lakes;

(d) North Ponil creek, including McCrystal and Seally Canyon creeks, from their headwaters downstream to the boundary of the United States forest service Valle Vidal special management unit; and

(e) Leandro creek from its headwaters downstream to the boundary of the United States forest service Valle Vidal special management unit.

[20.6.4.9 NMAC - Rn, Subsections B, C and D of 20.6.4.8 NMAC, 05-23-05; A, 05-23-05; A, 07-17-05; A, 02-16-06; A, 12-01-10]

20.6.4.10 REVIEW OF STANDARDS; NEED FOR ADDITIONAL STUDIES:

A. Section 303(c)(1) of the federal Clean Water Act requires that the state hold public hearings at least once every three years for the purpose of reviewing water quality standards and proposing, as appropriate, necessary revisions to water

quality standards.

B. It is recognized that, in some cases, numeric criteria have been adopted that reflect use designations rather than existing conditions of surface waters of the state. Narrative criteria are required for many constituents because accurate data on background levels are lacking. More intensive water quality monitoring may identify surface waters of the state where existing quality is considerably better than the established criteria. When justified by sufficient data and information, the water quality criteria will be modified to protect the attainable uses.

C. It is also recognized that contributions of water contaminants by diffuse nonpoint sources of water pollution may make attainment of certain criteria difficult. Revision of these criteria may be necessary as new information is obtained on nonpoint sources and other problems unique to semi-arid regions.

D. Site-specific criteria.

(1) The commission may adopt site-specific numeric criteria applicable to all or part of a surface water of the state based on relevant site-specific conditions such as:

(a) actual species at a site are more or less sensitive than those used in the national criteria data set;

(b) physical or chemical characteristics at a site such as pH or hardness alter the biological availability and/or toxicity of the chemical;

(c) physical, biological or chemical factors alter the bioaccumulation potential of a chemical;

(d) the concentration resulting from natural background exceeds numeric criteria for aquatic life, wildlife habitat or other uses if consistent with Subsection E of 20.6.4.10 NMAC; or

(e) other factors or combination of factors that upon review of the commission may warrant modification of the default criteria, subject to EPA review and approval.

(2) Site-specific criteria must fully protect the designated use to which they apply. In the case of human health-organism only criteria, site-specific criteria must fully protect human health when organisms are consumed from waters containing pollutants.

(3) Any person may petition the commission to adopt site-specific criteria. A petition for the adoption of site-specific criteria shall:

(a) identify the specific waters to which the site-specific criteria would apply;

(b) explain the rationale for proposing the site-specific criteria;

(c) describe the methods used to notify and solicit input from potential stakeholders and from the general public in the affected area, and present and respond to the public input received;

(d) present and justify the

derivation of the proposed criteria.

(4) A derivation of site-specific criteria shall rely on a scientifically defensible method, such as one of the following:

(a) the recalculation procedure, the water-effect ratio for metals procedure or the resident species procedure as described in the water quality standards handbook (EPA-823-B-94-005a, 2nd edition, August 1994);

(b) the streamlined water-effect ratio procedure for discharges of copper (EPA-822-R-01-005, March 2001);

(c) the biotic ligand model as described in aquatic life ambient freshwater quality criteria - copper (EPA-822-R-07-001, February 2007);

(d) the methodology for deriving ambient water quality criteria for the protection of human health (EPA-822-B-00-004, October 2000) and associated technical support documents; or

(e) a determination of the natural background of the water body as described in Subsection E of 20.6.4.10 NMAC.

E. Site-specific criteria based on natural background. The commission may adopt site-specific criteria equal to the concentration resulting from natural background where that concentration protects the designated use. The concentration resulting from natural background supports the level of aquatic life and wildlife habitat expected to occur naturally at the site absent any interference by humans. Domestic water supply, primary or secondary contact, or human health-organism only criteria shall not be modified based on natural background. A determination of natural background shall:

(1) consider natural spatial and seasonal to interannual variability as appropriate;

(2) document the presence of natural sources of the pollutant;

(3) document the absence of human sources of the pollutant or quantify the human contribution; and

(4) rely on analytical, statistical or modeling methodologies to quantify the natural background.

[20.6.4.10 NMAC - Rp 20 NMAC 6.1.1102, 10-12-00; Rn, 20.6.4.9 NMAC, 05-23-05; A, 05-23-05; A, 12-01-10]

20.6.4.11 APPLICABILITY OF WATER QUALITY STANDARDS:

A. ~~Waters Created by Discharge.~~ When a discharge to an otherwise ephemeral or intermittent, non-classified surface water of the state causes a water to enter a surface water of the state with criteria that are more restrictive than the criteria listed in 20.6.4.97 or 20.6.4.98 NMAC, the more restrictive criteria shall apply at the point such a water enters the surface water of the state with the more

restrictive criteria. If discharge to such otherwise ephemeral or intermittent, non-classified waters of the state ceases or is diverted elsewhere the criteria listed in 20.6.4.97 or 20.6.4.98 NMAC shall apply. **[RESERVED]**

B. Critical Low Flow: ~~[The numeric standards set under Subsection F of 20.6.4.13 NMAC, 20.6.4.101 through 20.6.4.899 NMAC and 20.6.4.900 NMAC may not be attainable when streamflow is less than the critical low flow, but narrative criteria in 20.6.4.13 NMAC will continue to apply.]~~ The critical low flow of a stream at a particular site shall be ~~[:]~~ used in developing point source discharge permit requirements to meet numeric criteria set in 20.6.4.97 through 20.6.4.900 NMAC and Subsection F of 20.6.4.13 NMAC.

(1) ~~[for]~~ For human health-organism only criteria, the critical low flow is the harmonic mean flow; "harmonic mean flow" is the number of daily flow measurements divided by the sum of the reciprocals of the flows; that is, it is the reciprocal of the mean of reciprocals~~[+for]~~. For ephemeral waters the calculation shall be based upon the nonzero flow intervals and modified by including a factor to adjust for the proportion of intervals with zero flow~~[:]~~. The equations are as follows:

$$\text{Harmonic Mean} = \frac{n}{\sum 1/Q}$$

where n = number of flow values

and Q = flow value

$$\text{Modified Harmonic Mean} = \left[\frac{\sum_{i=1}^{Nt-N_0} \frac{1}{Q_i}}{Nt - N_0} \right]^{-1} \times \left[\frac{Nt - N_0}{Nt} \right]$$

where,

Q_i = nonzero flow

Nt = total number of flow values

and

N_0 = number of zero flow values

(2) ~~[for]~~ For all other narrative and numeric criteria, the critical low flow is the minimum average four consecutive day flow that occurs with a frequency of once in three years (4Q3)~~[:]~~. The critical ~~[low-flow numeric values]~~ low flow may be determined on an annual, a seasonal or a monthly basis, as appropriate, after due consideration of site-specific conditions.

C. Guaranteed Minimum Flow: The commission may allow the use of a contractually guaranteed minimum streamflow in lieu of a critical low flow determined under Subsection B of this section on a case-by-case basis and upon consultation with the interstate stream commission. Should drought, litigation or any other reason interrupt or interfere with minimum flows under a guaranteed minimum flow contract for a period of at least thirty consecutive days, such permission, at the sole discretion of the commission, may then be revoked. Any minimum flow specified under such revoked permission shall be superseded by a critical low flow determined under Subsection B of this section. A public notice of the request for a guaranteed minimum flow shall be published in a newspaper of

general circulation by the department at least 30 days prior to scheduled action by the commission. These water quality standards do not grant to the commission or any other entity the power to create, take away or modify property rights in water.

D. Mixing Zones: A limited mixing zone, contiguous to a point source wastewater discharge, may be allowed in any stream receiving such a discharge. Mixing zones serve as regions of initial dilution that allow the application of a dilution factor in calculations of effluent limitations. Effluent limitations shall be developed that will protect the most sensitive existing, designated or attainable use of the receiving water.

E. Mixing Zone Limitations: Wastewater mixing zones, in which the numeric criteria set under Subsection F of 20.6.4.13 NMAC, [20.6.4.101] 20.6.4.97 through 20.6.4.899 NMAC or 20.6.4.900 NMAC may be exceeded, shall be subject to the following limitations:

(1) Mixing zones are not allowed for discharges to [publicly-owned] lakes, reservoirs, or playas; these effluents shall meet all applicable criteria set under Subsection F of 20.6.4.13 NMAC, [20.6.4.101] 20.6.4.97 through 20.6.4.899 NMAC and 20.6.4.900 NMAC at the point of discharge.

(2) The acute [numeric] aquatic life criteria, as set out in [Paragraph (1) of] Subsection I, Subsection J, and Subsection K of 20.6.4.900 NMAC, shall be attained at the point of discharge for any discharge to a surface water of the state with a designated aquatic life use.

(3) The general criteria set out in Subsections A, B, C, D, E, G, H and J of 20.6.4.13 NMAC, and the provision set out in Subsection D of 20.6.4.14 NMAC are applicable within mixing zones.

(4) The areal extent and concentration isopleths of a particular mixing zone will depend on site-specific conditions including, but not limited to, wastewater flow, receiving water critical low flow, outfall design, channel characteristics and climatic conditions and, if needed, shall be determined on a case-by-case basis. When the physical boundaries or other characteristics of a particular mixing zone must be known, the methods presented in Section 4.4.5, "Ambient-induced mixing," in "Technical support document for water quality-based toxics control" (March 1991, EPA/505/2-90-001) shall be used.

(5) All applicable water quality criteria set under Subsection F of 20.6.4.13 NMAC, [20.6.4.101] 20.6.4.97 through 20.6.4.899 NMAC and 20.6.4.900 NMAC[.] shall be attained at the boundaries of mixing zones. A continuous zone of passage through or around the mixing zone shall

be maintained in which the water quality meets all applicable criteria and allows the migration of aquatic life presently common in surface waters of the state with no effect on their populations.

F. Multiple Uses: When a [classified] surface water of the state has more than a single designated use, the applicable numeric criteria shall be the most stringent of those established for such [classified] water.

G. Human health-organism only criteria in Subsection J of [Section] 20.6.4.900 NMAC [shall] apply to those waters with a designated, existing or attainable aquatic life use. When limited aquatic life is a designated use, the human health-organism only criteria [shall] apply only if adopted on a segment-specific basis. The human health-organism only criteria for persistent toxic pollutants, as identified in Subsection J of [Section] 20.6.4.900 NMAC, [shall] also apply to all tributaries of waters with a designated, existing or attainable aquatic life use.

H. [Aquatic Life: Aquatic life criteria shall apply to all surface waters of the state containing an aquatic life community. Except when a limited aquatic life use and specific criteria have been designated on a segment-specific basis, or when otherwise provided in this part, chronic aquatic life criteria listed in Subsection J of 20.6.4.900 NMAC are applicable to all perennial surface waters of the state, and acute aquatic life criteria listed in Subsection J of 20.6.4.900 NMAC are applicable to all surface waters of the state.] **Unclassified Waters of the State:** Unclassified waters of the state are those surface waters of the state not identified in 20.6.4.101 through 20.6.4.899 NMAC. An unclassified surface water of the state is presumed to support the uses specified in Section 101(a)(2) of the federal Clean Water Act. As such, it is subject to 20.6.4.98 NMAC if nonperennial or subject to 20.6.4.99 NMAC if perennial. The commission may include an ephemeral unclassified surface water of the state under 20.6.4.97 NMAC only if a use attainability analysis demonstrates pursuant to 20.6.4.15 NMAC that attainment of Section 101(a)(2) uses is not feasible.

I. Exceptions: Numeric criteria for temperature, dissolved solids, dissolved oxygen, sediment or turbidity adopted under the Water Quality Act do not apply when changes in temperature, dissolved solids, dissolved oxygen, sediment or turbidity in a surface water of the state are attributable to:

(1) natural causes (discharges from municipal separate storm sewers are not covered by this exception.); or

(2) the reasonable operation of irrigation and flood control facilities that are not subject to federal or state water pollution

control permitting; major reconstruction of storage dams or [division] diversion dams except for emergency actions necessary to protect health and safety of the public are not covered by this exception.

[20.6.4.11 NMAC - Rp 20 NMAC 6.1.1103, 10-12-00; A, 10-11-02; Rn, 20.6.4.10 NMAC, 05-23-05; A, 05-23-05; A, 12-01-10]

20.6.4.12 COMPLIANCE WITH WATER QUALITY STANDARDS:

The following provisions apply to determining compliance for enforcement purposes; they do not apply for purposes of determining attainment of uses. The department has developed assessment protocols for the purpose of determining attainment of uses that are available for review from the department's surface water quality bureau.

A. Compliance with acute water quality criteria shall be determined from the analytical results of a single grab sample. Acute criteria shall not be exceeded.

B. Compliance with chronic water quality criteria shall be determined from the arithmetic mean of the analytical results of samples collected using applicable protocols. Chronic criteria shall not be exceeded more than once every three years.

C. Compliance with water quality standards for total ammonia shall be determined by performing the biomonitoring procedures set out in Subsections D and E of 20.6.4.14 NMAC, or by attainment of applicable ammonia criteria set out in Subsections K[.] and L [and M] of 20.6.4.900 NMAC.

D. Compliance with [water quality criteria for the protection of human health] the human health-organism only criteria shall be determined from the analytical results of representative grab samples, as defined in the water quality management plan. Human health-organism only criteria shall not be exceeded.

E. The commission may establish a numeric water quality [standard] criterion at a concentration that is below the minimum quantification level. In such cases, the water quality standard is enforceable at the minimum quantification level.

[F. In determining compliance with criteria for chromium an analysis that measures both the trivalent and hexavalent ions shall be used.]

[G]E. For compliance with hardness-dependent numeric criteria, dissolved hardness (as mg CaCO₃/L) shall be determined from a sample taken at the same time that the sample for the [water] contaminant is taken.

[H. The hardness-dependent formulae for metals shall be valid only for hardness values of 0-400 mg/L. For values

above 400 mg/L, the value for 400 mg/L shall apply:

~~I. The total ammonia tables shall be valid only for temperatures of 0 to 30°C and for pH values of 6.5 to 9.0. For temperatures below 0°C, the total ammonia criteria for 0°C shall apply; for temperatures above 30°C, the total ammonia criteria for 30°C shall apply. For pH values below 6.5, the total ammonia criteria for 6.5 shall apply; for pH values above 9.0, the total ammonia criteria for 9.0 shall apply.]~~

[F]G. Compliance Schedules: It shall be the policy of the commission to allow on a case-by-case basis the inclusion of a schedule of compliance in a NPDES permit issued to an existing facility. Such schedule of compliance will be for the purpose of providing a permittee with adequate time to make treatment facility modifications necessary to comply with water quality based permit limitations determined to be necessary to implement new or revised water quality standards or wasteload allocation. Compliance schedules may be included in NPDES permits at the time of permit renewal or modification and shall be written to require compliance at the earliest practicable time. Compliance schedules shall also specify milestone dates so as to measure progress towards final project completion (e.g., design completion, construction start, construction completion, date of compliance).

[20.6.4.12 NMAC - Rp 20 NMAC 6.1.1104, 10-12-00; A, 10-11-02; Rn, 20.6.4.11 NMAC, 05-23-05; A, 05-23-05; A, 12-01-10]

20.6.4.13 GENERAL

CRITERIA: General criteria are established to sustain and protect existing or attainable uses of surface waters of the state. These general criteria apply to all surface waters of the state at all times, unless a specified criterion is provided elsewhere in this part. Surface waters of the state shall be free of any water contaminant in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or unreasonably interfere with the public welfare or the use of property.

A. Bottom Deposits and Suspended or Settleable Solids:

(1) Surface waters of the state shall be free of water contaminants including fine sediment particles (less than two millimeters in diameter), precipitates or organic or inorganic solids from other than natural causes that have settled to form layers on or fill the interstices of the natural or dominant substrate in quantities that damage or impair the normal growth, function or reproduction of aquatic life or significantly alter the physical or chemical properties of the bottom.

(2) Suspended or settleable solids from other than natural causes shall not be present in surface waters of the state in quantities that damage or impair the normal growth, function or reproduction of aquatic life or adversely affect other designated uses.

B. Floating Solids, Oil and Grease: Surface waters of the state shall be free of oils, scum, grease and other floating materials resulting from other than natural causes that would cause the formation of a visible sheen or visible deposits on the bottom or shoreline, or would damage or impair the normal growth, function or reproduction of human, animal, plant or aquatic life.

C. Color: Color-producing materials resulting from other than natural causes shall not create an aesthetically undesirable condition nor shall color impair the use of the water by desirable aquatic life presently common in surface waters of the state.

D. Organoleptic Quality:

(1) **Flavor of Fish:** Water contaminants from other than natural causes shall be limited to concentrations that will not impart unpalatable flavor to fish.

(2) **Odor and Taste of Water:** Water contaminants from other than natural causes shall be limited to concentrations that will not result in offensive odor or taste arising in a surface water of the state or otherwise interfere with the reasonable use of the water.

E. Plant Nutrients: Plant nutrients from other than natural causes shall not be present in concentrations that will produce undesirable aquatic life or result in a dominance of nuisance species in surface waters of the state.

F. Toxic Pollutants:

(1) Except as provided in 20.6.4.16 NMAC, surface waters of the state shall be free of toxic pollutants from other than natural causes in amounts, concentrations or combinations that affect the propagation of fish or that are toxic to humans, livestock or other animals, fish or other aquatic organisms, wildlife using aquatic environments for habitation or aquatic organisms for food, or that will or can reasonably be expected to bioaccumulate in tissues of fish, shellfish and other aquatic organisms to levels that will impair the health of aquatic organisms or wildlife or result in unacceptable tastes, odors or health risks to human consumers of aquatic organisms.

(2) Pursuant to this section, the human health-organism only criteria shall be as set out in 20.6.4.900 NMAC. [~~For a toxic pollutant for~~] When a human health-organism only criterion is not listed in 20.6.4.900 NMAC, the following provisions shall be applied in accordance with 20.6.4.11, 20.6.4.12 and 20.6.4.14 NMAC.

(a) The human health-organism

only criterion shall be the recommended human health criterion for "consumption of organisms only" published by the U.S. environmental protection agency pursuant to Section 304(a) of the federal Clean Water Act. In determining such criterion for a cancer-causing toxic pollutant, a cancer risk of 10⁻⁵ (one cancer per 100,000 exposed persons) shall be used.

(b) When a numeric criterion for the protection of human health for the consumption of organism only has not been published by the U.S. environmental protection agency, a quantifiable criterion may be derived from data available in the U.S. environmental protection agency's Integrated Risk Information System (IRIS) using the appropriate formula specified in *methodology for deriving ambient water quality criteria for the protection of human health (2000)*, EPA-822-B-00-004.

(3) Pursuant to this section, the chronic aquatic life [standard] criteria shall be as set out in 20.6.4.900 NMAC. [~~For a toxic pollutant for aquatic life with no chronic standard~~] When a chronic aquatic life criterion is not listed in 20.6.4.900 NMAC, the following provisions shall be applied in sequential order in accordance with 20.6.4.11, 20.6.4.12 and 20.6.4.14 NMAC.

(a) The chronic aquatic life criterion shall be the "freshwater criterion continuous concentration" published by the U.S. environmental protection agency pursuant to Section 304(a) of the federal Clean Water Act;

(b) If the U.S. environmental protection agency has not published a chronic aquatic life criterion, a geometric mean LC-50 value shall be calculated for the particular species, genus or group that is representative of the form of life to be preserved, using the results of toxicological studies published in scientific journals.

(i) The chronic aquatic life criterion for a toxic pollutant that does not bioaccumulate shall be 10 percent of the calculated geometric mean LC-50 value; and

(ii) The chronic aquatic life criterion for a toxic pollutant that does bioaccumulate shall be: the calculated geometric mean LC-50 adjusted by a bioaccumulation factor for the particular species, genus or group representative of the form of life to be preserved, but when such bioaccumulation factor has not been published, the criterion shall be one percent of the calculated geometric mean LC-50 value.

(4) Pursuant to this section, the acute aquatic life criteria shall be as set out in 20.6.4.900 NMAC. [~~For a toxic pollutant for aquatic life with no acute criterion~~] When an acute aquatic life criterion is not listed in 20.6.4.900 NMAC, the acute aquatic life criterion shall be the "freshwater criterion

maximum concentration” published by the U.S. environmental protection agency pursuant to Section 304(a) of the federal Clean Water Act.

(5) Within 90 days of the issuance of a final NPDES permit containing a numeric criterion selected or calculated pursuant to Paragraph 2, Paragraph 3 or Paragraph 4 of Subsection F of this section, the department shall petition the commission to adopt such criterion into these standards.

G. Radioactivity: The radioactivity of surface waters of the state shall be maintained at the lowest practical level and shall in no case exceed the criteria set forth in the New Mexico Radiation Protection Regulations, 20.3.1 and 20.3.4 NMAC.

H. Pathogens: Surface waters of the state shall be free of pathogens from other than natural ~~[sources]~~ causes in sufficient quantity to impair public health or the designated, existing or attainable uses of a surface water of the state.

I. Temperature: Maximum temperatures for ~~[each classified water]~~ surface waters of the state have been specified in ~~[20.6.4.101]~~ 20.6.4.97 through ~~[20.6.4.899]~~ 20.6.4.900 NMAC. However, the introduction of heat by other than natural causes shall not increase the temperature, as measured from above the point of introduction, by more than 2.7°C (5°F) in a stream, or more than 1.7°C (3°F) in a lake or reservoir. In no case will the introduction of heat be permitted when the maximum temperature specified for the reach would thereby be exceeded. These temperature criteria shall not apply to impoundments constructed offstream for the purpose of heat disposal. High water temperatures caused by unusually high ambient air temperatures are not violations of these ~~[standards]~~ criteria.

J. Turbidity: Turbidity attributable to other than natural causes shall not reduce light transmission to the point that the normal growth, function or reproduction of aquatic life is impaired or that will cause substantial visible contrast with the natural appearance of the water. ~~[Turbidity shall not exceed]~~ Activities or discharges shall not cause turbidity to increase more than 10 NTU over background turbidity when the background turbidity, measured at a point immediately upstream of the activity, is 50 NTU or less, ~~[or]~~ nor to increase more than 20 percent when the background turbidity is more than 50 NTU. ~~[Background turbidity shall be measured at a point immediately upstream of the turbidity-causing activity.]~~ However, limited-duration ~~[activities necessary to accommodate]~~ turbidity increases caused by dredging, construction or other similar activities ~~[and that cause the criterion to be exceeded]~~ may be ~~[authorized]~~ allowed provided all practicable turbidity control techniques have been applied and

all appropriate permits, certifications and approvals have been obtained.

K. Total Dissolved Solids (TDS): TDS attributable to other than natural causes shall not damage or impair the normal growth, function or reproduction of animal, plant or aquatic life. TDS shall be measured by either the “calculation method” (sum of constituents) or the filterable residue method. Approved test procedures for these determinations are set forth in 20.6.4.14 NMAC.

L. Dissolved Gases: Surface waters of the state shall be free of nitrogen and other dissolved gases at levels above 110 percent saturation when this supersaturation is attributable to municipal, industrial or other discharges.

M. Biological integrity: Surface waters of the state shall support and maintain a balanced and integrated community of aquatic organisms with species composition, diversity and functional organization comparable to those of natural or minimally impacted water bodies of a similar type and region.

[20.6.4.13 NMAC - Rp 20 NMAC 6.1.1105, 10-12-00; A, 10-11-02; Rn, 20.6.4.12 NMAC, 05-23-05; A, 05-23-05; A, 12-01-10]

20.6.4.14 SAMPLING AND ANALYSIS:

A. Sampling and analytical techniques shall conform with methods described in the following references unless otherwise specified by the commission pursuant to a petition to amend these standards:

(1) “*guidelines establishing test procedures for the analysis of pollutants under the Clean Water Act*,” 40 CFR Part 136 or any test procedure approved or accepted by EPA using procedures provided in 40 CFR Parts 136.3(d), 136.4, and 136.5;

(2) *standard methods for the examination of water and wastewater*, latest edition, American public health association;

(3) *methods for chemical analysis of water and waste*, and other methods published by EPA office of research and development or office of water;

(4) *techniques of water resource investigations of the U.S. geological survey*;

(5) *annual book of ASTM standards*: volumes 11.01 and 11.02, water (I) and (II), latest edition, ASTM international;

(6) *federal register*, latest methods published for monitoring pursuant to Resource Conservation and Recovery Act regulations;

(7) *national handbook of recommended methods for water-data acquisition*, latest edition, prepared cooperatively by agencies of the United States government under the sponsorship of

the U.S. geological survey; or

(8) *federal register*, latest methods published for monitoring pursuant to the Safe Drinking Water Act regulations.

B. Bacteriological Surveys: The monthly geometric mean shall be used in assessing attainment of criteria when a minimum of five samples is collected in a 30-day period.

C. Sampling Procedures:

(1) Streams: Stream monitoring stations below discharges shall be located a sufficient distance downstream to ensure adequate vertical and lateral mixing.

(2) Lakes: Sampling stations in lakes shall be located at least 250 feet from a discharge.

(3) Lakes: Except for the restriction specified in Paragraph (2) of this subsection, lake sampling stations shall be located at any site where the attainment of a water quality [standard] criterion is to be assessed. Water quality measurements taken at intervals in the entire water column at a sampling station shall be averaged for the epilimnion, or in the absence of an epilimnion, for the upper one-third of the water column of the lake to determine attainment of criteria, except that attainment of criteria for toxic pollutants shall be assessed during periods of complete vertical mixing, e.g., during spring or fall turnover, or by taking depth-integrated composite samples of the water column.

D. Acute toxicity of effluent to aquatic life shall be determined using the procedures specified in U.S. environmental protection agency “methods for measuring the acute toxicity of effluents and receiving waters to freshwater and marine organisms” (5th Ed., 2002, EPA 821-R-02-012), or latest edition thereof if adopted by EPA at 40 CFR Part 136, which is incorporated herein by reference. Acute toxicities of substances shall be determined using at least two species tested in whole effluent and a series of effluent dilutions. Acute toxicity due to discharges shall not occur within the wastewater mixing zone in any surface water of the state with an existing or designated aquatic life use.

E. Chronic toxicity of effluent or ambient surface waters of the state to aquatic life shall be determined using the procedures specified in U.S. environmental protection agency “Short-term methods for estimating the chronic toxicity of effluents and receiving waters to freshwater organisms” (4th Ed., 2002, EPA 821-R-02-013), or latest edition thereof if adopted by EPA at 40 CFR Part 136, which is incorporated herein by reference. Chronic toxicities of substances shall be determined using at least two species tested in ambient surface water or whole effluent and a series of effluent dilutions. Chronic toxicity due to discharges shall not occur at the critical low flow, or any flow greater than the critical low

flow, in any surface water of the state with an existing or designated aquatic life use more than once every three years.

[20.6.4.14 NMAC - Rp 20 NMAC 6.1.1106, 10-12-00; Rn, 20.6.4.13 NMAC, 05-23-05 & A, 05-23-05; A, 12-01-10]

20.6.4.15 U S E ATTAINABILITY ANALYSIS:

A. A use attainability analysis is a scientific study [that shall be] conducted [only] for the purpose of assessing the factors affecting the attainment of a use. Whenever a use attainability analysis is conducted, it shall be subject to the requirements and limitations set forth in 40 CFR Part 131, Water Quality Standards; specifically, Subsections 131.3(g), 131.10(g), 131.10(h) and 131.10(j) shall be applicable.

(1) [Any person who proposes to classify, or reclassify to a designated use with less stringent criteria, a surface water of the state with designated uses that do not include the uses specified in Section 101(a)(2) of the federal Clean Water Act must conduct] The commission may remove a designated use specified in Section 101(a)(2) of the federal Clean Water Act or adopt subcategories of a Section 101(a)(2) use requiring less stringent criteria only if a use attainability analysis demonstrates that attaining the use is not feasible because of a factor listed in 40 CFR 131.10(g). Section 101(a)(2) uses, which refer to the protection and propagation of fish, shellfish and wildlife and recreation in and on the water, are also specified in Subsection B of 20.6.4.6 NMAC.

(2) A designated use cannot be removed if it is an existing use unless a use requiring more stringent criteria is designated.

~~[(3) A use attainability analysis or an equivalent study approved by the department and the regional administrator must be conducted to remove any non-existing designated use from any classified waters of the state.]~~

B. [Physical, chemical and biological evaluations of surface waters of the state other than lakes and reservoirs for purposes of use attainability analyses or equivalent studies shall be conducted according to the procedures outlined in the "technical support manual: waterbody surveys and assessments for conducting use attainability analyses," United States environmental protection agency, office of water, regulations and standards, Washington, D.C., November 1983, or latest edition thereof, which is incorporated herein by reference, or an alternative equivalent study methodology approved by the department.

C. Physical, chemical and biological evaluations of lakes and reservoirs for purposes of use attainability analyses

or equivalent studies shall be conducted according to the procedures outlined in the "technical support manual: waterbody surveys and assessments for conducting use attainability analyses, volume III lake systems," United States environmental protection agency, office of water, regulations and standards, Washington, D.C., November 1984, or latest edition thereof, which is incorporated herein by reference, or an alternative equivalent study methodology approved by the department.

~~D. A use attainability analysis or equivalent study should include:~~

~~(1) identification of existing uses of the surface water of the state to be reviewed that have existed since 1975;~~

~~(2) an evaluation of the best water quality attained in the surface water of the state to be reviewed that has existed since 1975;~~

~~(3) an analysis of appropriate factors demonstrating that attaining the designated use is not feasible because of the condition listed in 40 CFR Part 131.10(g);~~

~~(4) a physical evaluation of the surface water of the state to be reviewed to identify factors that impair attainment of designated uses and to determine which designated uses are feasible to attain in such surface water of the state;~~

~~(5) an evaluation of the water chemistry of the surface water of the state to be reviewed to identify chemical constituents that impair the designated uses that are feasible to attain in such water; and~~

~~(6) an evaluation of the aquatic and terrestrial biota utilizing the surface water of the state to determine resident species and which species could potentially exist in such water if physical and chemical factors impairing a designated use are corrected.] A use attainability analysis shall assess the physical, chemical, biological, economic or other factors affecting the attainment of a use. The analysis shall rely on scientifically defensible methods such as the methods described in the following documents:~~

~~(1) technical support manual: waterbody surveys and assessments for conducting use attainability analyses, volume I (November 1983) and volume III (November 1984) or latest editions, United States environmental protection agency, office of water, regulations and standards, Washington, D.C., for the evaluation of aquatic life or wildlife uses;~~

~~(2) the department's hydrology protocol, latest edition, approved by the commission, for identifying ephemeral and intermittent waters; or~~

~~(3) interim economic guidance for water quality standards - workbook, March 1995, United States environmental protection agency, office of water, Washington, D.C. for evaluating economic impacts.~~

C. If a use attainability

analysis based on the department's hydrology protocol (latest edition), approved by the commission, demonstrates to the satisfaction of the department that Section 101(a)(2) uses are not feasible in an ephemeral water body, the department shall post the use attainability analysis on its water quality standards website and notify its interested parties list of a 30-day public comment period. After reviewing any comments received, the department may proceed by submitting the use attainability analysis and response to comments to region 6 EPA for technical approval. If technical approval is granted, the water shall be subject to 20.6.4.97 NMAC. The use attainability analysis, the technical approval, and the applicability of 20.6.4.97 NMAC to the water shall be posted on the department's water quality standards website. The department shall periodically petition the commission to list ephemeral waters under Subsection C of 20.6.4.97 NMAC and to incorporate changes to classified segments as appropriate.

[E]D. Use attainability analysis conducted by an entity other than the department.

Any person may submit notice to the department stating [that they intend] the intent to conduct a use attainability analysis [or equivalent study]. The proponent shall develop a work plan to conduct the use attainability analysis [or equivalent study] and shall submit the work plan to the department and [the regional] region 6 EPA [staff] for review and comment. The work plan [should] shall identify the scope of data currently available and [proposed] the scope of data to be gathered, the factors affecting use attainment that will be analyzed and [must contain] provisions for public notice and consultation with appropriate state and federal agencies. [A copy of the notice and the work plan must be submitted concurrently to the commission.] Upon approval of the work plan by the department, the proponent shall conduct the use attainability analysis [or equivalent study] in accordance with the approved work plan. The cost of such analysis [or equivalent study] shall be the responsibility of the proponent. Upon completion of the use attainability analysis [or equivalent study], the proponent shall submit the data, findings and conclusions to the department, [and the commission].

~~F. If the department determines that the analysis or equivalent study was conducted in accordance with the approved work plan and the findings and conclusions are based upon sound scientific rationale, and demonstrates that it is not feasible to attain the designated use, the] The department or the proponent may [request] petition the commission to [initiate rulemaking proceedings to] modify the designated use [for the surface water of the state that was reviewed] if the conclusions of~~

the analysis support such action.

[20.6.4.15 NMAC - Rp 20 NMAC 6.1.1107, 10-12-00; Rn, 20.6.4.14 NMAC, 05-23-05; A, 05-23-05; A, 07-17-05; A, 12-01-10]

20.6.4.51 [20.6.4.53]: [RESERVED]

20.6.4.52 PECOS RIVER

BASIN - In order to protect existing and designated uses, it is a goal of the state of New Mexico to prevent increases in TDS in the Pecos river above the following benchmark values, which are expressed as flow-weighted, annual average concentrations, at three USGS gaging stations: at Santa Rosa 500 mg/L; near Artesia 2,700 mg/L; and near Malaga 3,600 mg/L. The benchmark values serve to guide state action. They are adopted pursuant to the New Mexico Water Quality Act, not the Clean Water Act.

[20.6.4.52 NMAC - N, 12-01-10]

20.6.4.53: [RESERVED]

20.6.4.97 E P H E M E R A L

WATERS - ~~All ephemeral~~ **Ephemeral unclassified [surface] waters of the state [that are not included in a classified water of the state in 20.6.4.101 through 20.6.4.899 NMAC] as identified below and additional ephemeral waters as identified on the department's water quality standards website pursuant to Subsection C of 20.6.4.15 NMAC.**

A. Designated Uses:
livestock watering, wildlife habitat, limited aquatic life and secondary contact.

B. Criteria:
[—(1)—The] the use-specific criteria in 20.6.4.900 NMAC [with the exception of the chronic criteria for aquatic life,] are applicable [for] to the designated uses [listed in Subsection A of this section].

[—(2)—The monthly geometric mean of E. coli bacteria shall not exceed 548 cfu/100 mL, no single sample shall exceed 2507 cfu/100 mL (see Subsection B of 20.6.4.14 NMAC).]

C. Waters:
[20.6.4.97 NMAC - N, 05-23-05; A, 12-01-10]

[NOTE: Effective 12-01-10, no waters are yet approved for listing in Subsection C of this section.]

20.6.4.98 I N T E R M I T T E N T

WATERS - All ~~[intermittent surface]~~ **non-perennial unclassified waters of the state [that are not included in a classified water of the state in 20.6.4.101 through 20.6.4.899 NMAC], except those ephemeral waters included under 20.6.4.97 NMAC.**

A. Designated Uses:
livestock watering, wildlife habitat, marginal warmwater aquatic life and [secondary] primary contact.

B. Criteria:

[—(1)—The] the use-specific criteria in 20.6.4.900 NMAC [are applicable to the designated uses, except that the following site-specific criteria apply:

[—(2)—The] the monthly geometric mean of E. coli bacteria [shall not exceed 548] 206 cfu/100 mL or less, [no] single sample [shall exceed 2507] 940 cfu/100 mL or less [see Subsection B of 20.6.4.14 NMAC].]

[20.6.4.98 NMAC - N, 05-23-05; A, 12-01-10]

20.6.4.99 P E R E N N I A L

WATERS - All ~~perennial [surface]~~ **unclassified waters of the state [that are not included in a classified water of the state in 20.6.4.101 through 20.6.4.899 NMAC].**

A. Designated Uses:
warmwater aquatic life, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria:
[—(1)—Temperature shall not exceed 34°C (93.2°F). The] the use-specific criteria in 20.6.4.900 NMAC are applicable to the designated uses [listed in Subsection A of this section], except that the following site-specific criteria apply:

[—(2)—The] the monthly geometric mean of E. coli bacteria [shall not exceed 548] 206 cfu/100 mL or less, [no] single sample [shall exceed 2507] 940 cfu/100 mL or less [see Subsection B of 20.6.4.14 NMAC].]

[20.6.4.99 NMAC - N, 05-23-05; A, 12-01-10]

20.6.4.101 RIO GRANDE BASIN

- The main stem of the Rio Grande from the international boundary with Mexico upstream to one mile below Percha dam.

A. Designated Uses:
irrigation, marginal warmwater aquatic life, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria:
(1) [In any single sample: pH: within the range of 6.6 to 9.0 and temperature 34°C (93.2°F) or less.] The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criterion applies: temperature 34°C (93.2°F) or less.

(2) [The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL (see Subsection B of 20.6.4.14 NMAC).]

(3) At mean monthly flows above 350 cfs, the monthly average concentration for: TDS 2,000 mg/L or less, sulfate 500 mg/L or less and [chlorides] chloride 400 mg/L or less.

C. Remarks: sustained

flow in the Rio Grande below Caballo reservoir is dependent on release from Caballo reservoir during the irrigation season; at other times of the year, there may be little or no flow.

[20.6.4.101 NMAC - Rp 20 NMAC 6.1.2101, 10-12-00; A, 12-15-01; A, 05-23-05; A, 12-01-10]

20.6.4.102 RIO GRANDE BASIN

- The main stem of the Rio Grande from one mile below Percha dam upstream to Caballo dam.

A. Designated Uses:
irrigation, livestock watering, wildlife habitat, primary contact and warmwater aquatic life.

B. Criteria:
[—(1)—At any sampling site: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply:

[—(2)—The] the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less [;], single sample 235 cfu/100 mL or less [see Subsection B of 20.6.4.14 NMAC].]

C. Remarks: sustained flow in the Rio Grande below Caballo reservoir is dependent on release from Caballo reservoir during the irrigation season; at other times of the year, there may be little or no flow.

[20.6.4.102 NMAC - Rp 20 NMAC 6.1.2102, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.103 RIO GRANDE BASIN

- The main stem of the Rio Grande from the headwaters of Caballo reservoir upstream to Elephant Butte dam and perennial reaches of tributaries to the Rio Grande in Sierra and Socorro counties, excluding waters on tribal lands.

A. Designated Uses: [fish culture,] irrigation, livestock watering, wildlife habitat, marginal coldwater aquatic life, secondary contact and warmwater aquatic life.

B. Criteria:
[—(1)—In any single sample: pH within the range of 6.6 to 9.0 and temperature 25°C (77°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section].

[—(2)—The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]

C. Remarks: flow in this reach of the Rio Grande main stem is dependent upon release from Elephant Butte dam.

[20.6.4.103 NMAC - Rp 20 NMAC 6.1.2103,

10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.104 RIO GRANDE BASIN - Caballo and Elephant Butte reservoir.

A. Designated Uses:
irrigation storage, livestock watering, wildlife habitat, primary contact and warmwater aquatic life.

B. Criteria:
[—(1) At any sampling site: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply:

[—(2) The] the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less[;], single sample 235 cfu/100 mL or less [see Subsection B of 20.6.4.14 NMAC].
[20.6.4.104 NMAC - Rp 20 NMAC 6.1.2104, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.105 RIO GRANDE BASIN - The main stem of the Rio Grande from the headwaters of Elephant Butte reservoir upstream to Alameda bridge (Corrales bridge)and intermittent water below the perennial reaches of the Rio Puerco that enters the main stem of the Rio Grande], excluding waters on Isleta pueblo.

A. Designated Uses:
irrigation, marginal warmwater aquatic life, livestock watering, public water supply, wildlife habitat and [secondary] primary contact.

B. Criteria:
(1) [In any single sample: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less. The] use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section].

(2) [The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC):

—(3) At mean monthly flows above 100 cfs, the monthly average concentration for: TDS 1,500 mg/L or less, sulfate 500 mg/L or less and chloride 250 mg/L or less. [20.6.4.105 NMAC - Rp 20 NMAC 6.1.2105, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.106 RIO GRANDE BASIN - The main stem of the Rio Grande from Alameda bridge (Corrales bridge) upstream to the Angostura diversion works, excluding waters on Santa Ana pueblo, and intermittent water in the Jemez river below the Jemez pueblo boundary, excluding waters on Santa Ana and Zia pueblos, that enters the main stem of the Rio Grande. Portions of the Rio Grande in this segment are under the

joint jurisdiction of the state and Sandia pueblo.

A. Designated Uses:
irrigation, marginal warmwater aquatic life, livestock watering, wildlife habitat and [secondary] primary contact; and public water supply on the Rio Grande.

B. Criteria:

(1) [In any single sample: dissolved oxygen greater than 5.0 mg/L, pH within the range of 6.6 to 9.0 and temperature less than 32.2°C (90°F).] The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section].

(2) [The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC):

—(3) At mean monthly flows above 100 cfs, the monthly average concentration for: TDS 1,500 mg/L or less, sulfate 500 mg/L or less and chloride 250 mg/L or less. [20.6.4.106 NMAC - Rp 20 NMAC 6.1.2105.1, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.107 RIO GRANDE BASIN - The Jemez river from the Jemez pueblo boundary upstream to Soda dam near the town of Jemez Springs and perennial reaches of Vallecito creek.

A. Designated Uses:
coldwater aquatic life, primary contact, irrigation, livestock watering and wildlife habitat; and public water supply on Vallecito creek.

B. Criteria:

[—(1) In any single sample: temperature 25°C (77°F) and pH within the range of 6.6 to 8.8.] The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criterion applies: temperature 25°C (77°F).

[—(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC):

[20.6.4.107 NMAC - Rp 20 NMAC 6.1.2105.5, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.108 RIO GRANDE BASIN - Perennial reaches of the Jemez river and all its tributaries above Soda dam near the town of Jemez Springs, except Sulphur creek above its confluence with Redondo creek, and perennial reaches of the Guadalupe river and all its tributaries.

A. Designated Uses:
domestic water supply, fish culture, high quality coldwater aquatic life, irrigation, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria:

[—(1) In any single sample: specific conductance 400 µmhos/cm or less, pH within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: specific conductance 400 µS/cm or less (800 µS/cm or less on Sulphur creek); the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less; and pH within the range of 2.0 to 8.8 on Sulphur creek.

[—(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC):

[20.6.4.108 NMAC - Rp 20 NMAC 6.1.2106, 10-12-00; A, 05-23-05; A, 12-01-10]

[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segment are under 20.6.4.124 NMAC.]

20.6.4.109 RIO GRANDE BASIN - Perennial reaches of Bluewater creek excluding waters on tribal lands, Rio Moquino upstream of Laguna pueblo, Seboyeta creek, Rio Pagate upstream of Laguna pueblo, the Rio Puerco above the village] upstream of the northern boundary of Cuba, and all other perennial reaches of tributaries to the Rio Puerco, including the Rio San Jose in Cibola county from the USGS gaging station at Correo upstream to Horace springs excluding waters on tribal lands.

A. Designated Uses:
coldwater aquatic life, domestic water supply, fish culture, irrigation, livestock watering, wildlife habitat and primary contact; and public water supply on La Jara creek.

B. Criteria:

[—(1) In any single sample: pH shall be within the range of 6.6 to 8.8, temperature 20°C (68°F) or less and total phosphorus (as P) 0.1 mg/L. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: phosphorus (unfiltered sample) 0.1 mg/L or less; the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[—(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC):

[20.6.4.109 NMAC - Rp 20 NMAC 6.1.2107, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.110 RIO GRANDE BASIN - The main stem of the Rio Grande from

Angostura diversion works upstream to Cochiti dam, excluding the reaches on San Felipe, Santo Domingo and Cochiti pueblos.

A. Designated Uses: irrigation, livestock watering, wildlife habitat, [secondary] primary contact, coldwater aquatic life and warmwater aquatic life.

B. Criteria:
 [— **(1)** In any single sample: pH within the range of 6.6 to 9.0 and temperature 25°C (77°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: pH within the range of 6.6 to 9.0 and temperature 25°C (77°F) or less.

[— **(2)** The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]
 [20.6.4.110 NMAC - Rp 20 NMAC 6.1.2108, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.111 RIO GRANDE BASIN - Perennial reaches of Las Huertas creek from the San Felipe pueblo boundary to the headwaters.

A. Designated Uses: high quality coldwater aquatic life, irrigation, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria:
 [— **(1)** In any single sample: pH within the range of 6.6 to 8.8 and temperature 25°C (77°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criterion applies: temperature 25°C (77°F) or less.

[— **(2)** The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]
 [20.6.4.111 NMAC - Rp 20 NMAC 6.1.2108.5, 10-12-00; A, 7-25-01; A, 05-23-05; A-12-01-10]

[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segment are under 20.6.4.125 NMAC.]

20.6.4.112 [RIO GRANDE BASIN - Cochiti reservoir:

A. Designated Uses: livestock watering, wildlife habitat, warmwater aquatic life, coldwater aquatic life and primary contact.

B. Criteria:
 [— **(1)** At any sampling site: pH within the range of 6.6 to 9.0 and temperature 25°C (77°F). The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to

the designated uses listed above in Subsection A of this section:

[— **(2)** The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).] **[RESERVED]**
 [20.6.4.112 NMAC - Rp 20 NMAC 6.1.2109, 10-12-00; A, 05-23-05; Repealed, 12-01-10]

20.6.4.113 RIO GRANDE BASIN - The Santa Fe river and perennial reaches of its tributaries from the Cochiti [reservoir] pueblo boundary upstream to the outfall of the Santa Fe wastewater treatment facility.

A. Designated Uses: irrigation, livestock watering, wildlife habitat, marginal coldwater aquatic life, secondary contact, and warmwater aquatic life.

B. Criteria:
 [— **(1)** In any single sample: pH within the range of 6.6 to 9.0;] The use-specific criteria in 20.6.4.900 NMAC are applicable to the designated uses, except that the following segment-specific criteria apply: temperature 30°C (86°F) or less, [and] dissolved oxygen 4.0 mg/L or more [— Dissolved], and dissolved oxygen 5.0 mg/L or more as a 24-hour average. Values used in the calculation of the 24-hour average for dissolved oxygen shall not exceed the dissolved oxygen saturation value. For a measured value [above] greater than the dissolved oxygen saturation value, the dissolved oxygen saturation value [with] shall be used in calculating the 24-hour average. [The dissolved oxygen saturation value shall be determined from the table set out in Subsection N of 20.6.4.900 NMAC. The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses listed above in Subsection A of this section:]

[— **(2)** The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]
 [20.6.4.113 NMAC - Rp 20 NMAC 6.1.2110, 10-12-00; A, 10-11-02; A, 05-23-05; A, 12-01-10]

20.6.4.114 RIO GRANDE BASIN - The main stem of the Rio Grande from the [headwaters of] Cochiti [reservoir] pueblo boundary upstream to Rio Pueblo de Taos excluding waters on San Ildefonso, Santa Clara and Ohkay Owingeh pueblos, Embudo creek from its mouth on the Rio Grande upstream to the [junction of the Rio Pueblo and the Rio Santa Barbara] Picuris Pueblo boundary, the Santa Cruz river [below] from the Santa Clara pueblo boundary upstream to the Santa Cruz dam, the Rio Tesuque [below the Santa Fe national forest] except waters on the Tesuque and Pojoaque pueblos, and the Pojoaque river [below Nambe dam] from the San Ildefonso pueblo boundary upstream to the Pojoaque pueblo boundary. Some Rio Grande waters in this segment are under the joint jurisdiction of the state and San Ildefonso pueblo.

A. Designated Uses: irrigation, livestock watering, wildlife habitat, marginal coldwater aquatic life, primary contact and warmwater aquatic life; and public water supply on the main stem Rio Grande.

B. Criteria:
 [— **(1)** [In any single sample: pH within the range of 6.6 to 9.0 and temperature 22°C (71.6°F) or less.] The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: 6T3 temperature 22°C (71.6°F) and maximum temperature 25°C (78.8°F). In addition, the following criteria based on a 12-month rolling average are applicable to the public water supply use for monitoring and public disclosure purposes only:

Radionuclide	pCi/L
Americium-241	1.9
Cesium-137	6.4
Plutonium-238	1.5
Plutonium-239/240	1.5
Strontium-90	3.5
Tritium	4,000

[— **(2)** [The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]

[— **(3)** At mean monthly flows above 100 cfs, the monthly average concentration for: TDS 500 mg/L or less, sulfate 150 mg/L or less and chloride 25 mg/L or less.
 [20.6.4.114 NMAC - Rp 20 NMAC 6.1.2111, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.115 RIO GRANDE BASIN - The perennial reaches of Rio Vallecitos and its tributaries, and perennial reaches of Rio del Oso and perennial reaches of El Rito

creek above the town of El Rito.

A. Designated Uses: domestic water supply, irrigation, high quality coldwater aquatic life, livestock watering, wildlife habitat and [secondary] primary contact; public water supply on the Rio Vallecitos and El Rito creek.

B. Criteria:

[~~————~~ **(1)** In any single sample: specific conductance 300 μ mhos/cm or less, pH within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: specific conductance 300 μ S/cm or less; the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[~~————~~ **(2)** The monthly geometric mean of E. coli 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).] [20.6.4.115 NMAC - Rp 20 NMAC 6.1.2112, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.116 RIO GRANDE BASIN

- The Rio Chama from its mouth on the Rio Grande upstream to Abiquiu reservoir, perennial reaches of the Rio Tusas, perennial reaches of the Rio Ojo Caliente, perennial reaches of Abiquiu creek and perennial reaches of El Rito creek below the town of El Rito.

A. Designated Uses: irrigation, livestock watering, wildlife habitat, coldwater aquatic life, warmwater aquatic life and secondary contact.

B. Criteria:

[~~————~~ **(1)** In any single sample: pH within the range of 6.6 to 8.8 and temperature 31°C (87.8°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criterion applies: temperature 31°C (87.8°F) or less.

[~~————~~ **(2)** The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).] [20.6.4.116 NMAC - Rp 20 NMAC 6.1.2113, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.117 RIO GRANDE BASIN - Abiquiu reservoir.

A. Designated Uses: irrigation storage, livestock watering, wildlife habitat, primary contact, coldwater aquatic life and warmwater aquatic life.

B. Criteria:

[~~————~~ **(1)** At any sampling site: pH within the range of 6.6 to 8.8 and temperature 25°C (77°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900

NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criterion applies: temperature 25°C (77°F) or less.

[~~————~~ **(2)** The monthly geometric mean of E. coli 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).] [20.6.4.117 NMAC - Rp 20 NMAC 6.1.2114, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.118 RIO GRANDE BASIN

- The Rio Chama from the headwaters of Abiquiu reservoir upstream to El Vado reservoir and perennial reaches of the Rio Gallina and Rio Puerco de Chama north of state highway 96. Some Rio Chama waters in this segment are under the joint jurisdiction of the state and the Jicarilla Apache tribe.

A. Designated Uses: irrigation, livestock watering, wildlife habitat, coldwater aquatic life, warmwater aquatic life and [secondary] primary contact.

B. Criteria:

[~~————~~ **(1)** In any single sample: pH within the range of 6.6 to 8.8 and temperature 26°C (78.8°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criterion applies: temperature 26°C (78.8°F) or less.

[~~————~~ **(2)** The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).] [20.6.4.118 NMAC - Rp 20 NMAC 6.1.2115, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.119 RIO GRANDE BASIN

- All perennial reaches of tributaries to the Rio Chama above Abiquiu dam, except the Rio Gallina and Rio Puerco de Chama north of state highway 96 and excluding waters on Jicarilla Apache reservation, and the main stem of the Rio Chama from the headwaters of El Vado reservoir upstream to the New Mexico-Colorado line. Some Cañones creek and Rio Chama waters in this segment are under the joint jurisdiction of the state and the Jicarilla Apache tribe.

A. Designated Uses: domestic water supply, fish culture, high quality coldwater aquatic life, irrigation, livestock watering, wildlife habitat and [secondary] primary contact; and public water supply on the Rio Brazos and Rio Chama.

B. Criteria:

[~~————~~ **(1)** In any single sample: specific conductance 500 μ mhos/cm or less (1,000 μ mhos or less for Coyote creek), pH within the range of 6.6 to 8.8 and temperature 20°C

(68°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: specific conductance 500 μ S/cm or less (1,000 μ S or less for Coyote creek); the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[~~————~~ **(2)** The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).] [20.6.4.119 NMAC - Rp 20 NMAC 6.1.2116, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.120 RIO GRANDE BASIN

- El Vado and Heron reservoirs.

A. Designated Uses: irrigation storage, livestock watering, wildlife habitat, public water supply, primary contact and coldwater aquatic life.

B. Criteria:

[~~————~~ **(1)** At any sampling site: pH within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[~~————~~ **(2)** The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).] [20.6.4.120 NMAC - Rp 20 NMAC 6.1.2117, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.121 RIO GRANDE BASIN

- Perennial tributaries to the Rio Grande in Bandelier national monument and their headwaters in Sandoval county and all perennial reaches of tributaries to the Rio Grande in Santa Fe county unless included in other segments and excluding waters on tribal lands.

A. Designated Uses: domestic water supply, high quality coldwater aquatic life, irrigation, livestock watering, wildlife habitat, [municipal and industrial water supply, secondary contact] and primary contact; and public water supply on Little Tesuque creek, the Rio en Medio, the Santa Fe river and Cerrillos reservoir.

B. Criteria:

[~~————~~ **(1)** In any single sample: specific conductance 300 μ mhos/cm or less, pH within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: specific conductance 300 μ S/

cm or less; the monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

~~[(1) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]~~

~~[20.6.4.121 NMAC - Rp 20 NMAC 6.1.2118, 10-12-00; A, 05-23-05; A, 12-01-10]~~

~~[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segments are under 20.6.4.126, 20.6.4.127 and 20.6.4.128 NMAC.]~~

20.6.4.122 RIO GRANDE BASIN

- The main stem of the Rio Grande from Rio Pueblo de Taos upstream to the New Mexico-Colorado line, the Red river from its mouth on the Rio Grande upstream to the mouth of Placer creek, and the Rio Pueblo de Taos from its mouth on the Rio Grande upstream to the mouth of the Rio Grande del Rancho. Some Rio Grande and Rio Pueblo de Taos waters in this segment are under the joint jurisdiction of the state and Taos pueblo.

A. Designated Uses:
coldwater aquatic life, fish culture, irrigation, livestock watering, wildlife habitat and primary contact.

B. Criteria:
~~[(1) In any single sample: pH within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: the monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.~~

~~[(2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]~~

~~[20.6.4.122 NMAC - Rp 20 NMAC 6.1.2119, 10-12-00; A, 05-23-05; A, 12-01-10]~~

20.6.4.123 RIO GRANDE BASIN

- Perennial reaches of the Red river upstream of the mouth of Placer creek, all perennial reaches of tributaries to the Red river, and all other perennial reaches of tributaries to the Rio Grande in Taos and Rio Arriba counties unless included in other segments and excluding waters on Santa Clara, Ohkay Owingeh, Picuris and Taos pueblos.

A. Designated Uses:
domestic water supply, [fish culture,] high quality coldwater aquatic life, irrigation, livestock watering, wildlife habitat and [secondary] primary contact; and public water supply on the Rio Pueblo and Rio Fernando de Taos.

B. Criteria:

~~[(1) In any single sample: specific conductance 400 µmhos/cm or less (500 µmhos or less for the Rio Fernando de Taos) and pH within the range of 6.6 to 8.8; temperature 20°C (68°F) or less. For the Red river in this segment, total phosphorus (as P) less than 0.1 mg/L. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: specific conductance 400 µS/cm or less (500 µS/cm or less for the Rio Fernando de Taos); the monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less; and phosphorus (unfiltered sample) less than 0.1 mg/L for the Red river.~~

~~[(2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]~~

~~[20.6.4.123 NMAC - Rp 20 NMAC 6.1.2120, 10-12-00; A, 05-23-05; A, 12-01-10]~~

~~[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segment are under 20.6.4.129 NMAC.]~~

20.6.4.124 RIO GRANDE BASIN

- Perennial reaches of Sulphur creek from its headwaters to its confluence with Redondo creek.

A. Designated Uses:
limited aquatic life, wildlife habitat, livestock watering and secondary contact.

B. Criteria:
~~[(1) In any single sample: pH within the range of 2.0 to 9.0 and temperature 30°C (86°F) or less. The] the use-specific criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: pH within the range of 2.0 to 9.0, maximum temperature 30°C (86°F), and the chronic aquatic life criteria of Subsections I and J of 20.6.4.900 NMAC.~~

~~[(2) The monthly geometric mean of *E. coli* bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]~~

~~[(3) The chronic aquatic life criteria of Subsections I and J of 20.6.4.900 NMAC shall also apply.]~~

~~[20.6.4.124 NMAC - N, 05-23-05; A, 12-01-10]~~

20.6.4.125 RIO GRANDE BASIN

- Perennial reaches of San Pedro creek from the San Felipe pueblo boundary to the headwaters.

A. Designated Uses:
coldwater aquatic life, irrigation, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria:

~~[(1) In any single sample: pH within the range of 6.6 to 8.8 and temperature 25°C (77°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criterion applies: temperature 25°C (77°F) or less.~~

~~[(2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]~~

~~[20.6.4.125 NMAC - N, 05-23-05; A, 12-01-10]~~

20.6.4.126 RIO GRANDE BASIN

- Perennial portions of Cañon de Valle from Los Alamos national laboratory (LANL) stream gage E256 upstream to Burning Ground spring, Sandia canyon from Sigma canyon upstream to LANL NPDES outfall 001, Pajarito canyon from Arroyo de La Delfe upstream into Starmers gulch and Starmers spring and Water canyon from Area-A canyon upstream to State Route 501.

A. Designated Uses:
coldwater aquatic life, livestock watering, wildlife habitat and secondary contact.

B. Criteria:
~~[(1) In any single sample: pH within the range of 6.6 to 8.8 and temperature 24°C (75.2°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section].~~

~~[(2) The monthly geometric mean of *E. coli* bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]~~

~~[20.6.4.126 NMAC - N, 05-23-05; A, 12-01-10]~~

20.6.4.127 RIO GRANDE BASIN

- Perennial portions of Los Alamos canyon upstream from Los Alamos reservoir and Los Alamos reservoir.

A. Designated Uses:
coldwater aquatic life, livestock watering, wildlife habitat, irrigation and primary contact.

B. Criteria:
~~[(1) In any single sample: pH within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section].~~

~~[(2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]~~

~~[20.6.4.127 NMAC - N, 05-23-05; A, 12-01-10]~~

20.6.4.128 RIO GRANDE BASIN

- Ephemeral and intermittent portions of watercourses within lands managed by U.S. department of energy (DOE) within LANL, including but not limited to: Mortandad canyon, Cañada del Buey, Ancho canyon, Chaquehui canyon, Indio canyon, Fence canyon, Potrillo canyon and portions of Cañon de Valle, Los Alamos canyon, Sandia canyon, Pajarito canyon and Water canyon not specifically identified in 20.6.4.126 NMAC. (Surface waters within lands scheduled for transfer from DOE to tribal, state or local authorities are specifically excluded.)

A. Designated Uses: livestock watering, wildlife habitat, limited aquatic life and secondary contact.

B. Criteria:
[~~—(1) The~~] the use-specific criteria in 20.6.4.900 NMAC [~~except the chronic criteria for aquatic life~~] are applicable [~~for~~] to the designated uses [~~listed in Subsection A of this section~~], except that the following segment-specific criteria apply: the acute total ammonia criteria set forth in Subsection K of 20.6.4.900 NMAC (salmonids absent).

[~~—(2) The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC):~~

~~—(3) The acute total ammonia criteria set forth in Subsection K of 20.6.4.900 NMAC (salmonids absent) are applicable to this use.]~~

[20.6.4.128 NMAC - N, 05-23-05; A, 12-01-10]

20.6.4.129 RIO GRANDE BASIN - Perennial reaches of the Rio Hondo.

A. Designated Uses: domestic water supply, high quality coldwater aquatic life, irrigation, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria:
[~~—(1) In any single sample: specific conductance 400 µmhos/cm or less; pH within the range of 6.6 to 8.8; total phosphorous (as P) less than 0.1 mg/L and temperature 20°C (68°F) or less. The~~] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [~~listed above in Subsection A of this section~~], except that the following segment-specific criteria apply: specific conductance 400 µS/cm or less and phosphorus (unfiltered sample) less than 0.1 mg/L.

[~~—(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC):~~] [20.6.4.129 NMAC - N, 05-23-05; A, 12-01-10]

20.6.4.130 RIO GRANDE BASIN - The Rio Puerco from the Rio

Grande upstream to Arroyo Chiquilla, excluding the reaches on Isleta, Laguna and Cañoncito Navajo pueblos. Some waters in this segment are under the joint jurisdiction of the state and Isleta, Laguna or Cañoncito Navajo pueblos.

A. Designated Uses: irrigation, warmwater aquatic life, livestock watering, wildlife habitat and primary contact.

B. Criteria:

(1) The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses.

(2) At mean monthly flows above 100 cfs, the monthly average concentration for: TDS 1,500 mg/L or less, sulfate 500 mg/L or less and chloride 250 mg/L or less. [20.6.4.130 NMAC - N, 12-01-10]

20.6.4.131 RIO GRANDE BASIN - The Rio Puerco from the confluence of Arroyo Chiquilla upstream to the northern boundary of Cuba.

A. Designated uses: warmwater aquatic life, irrigation, livestock watering, wildlife habitat and primary contact.

B. Criteria: the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses.

[20.6.4.131 NMAC - N, 12-01-10]

20.6.4.132 RIO GRANDE BASIN - Rio Grande (Klauer) spring

A. Designated uses: domestic water supply, wildlife habitat, livestock watering, coldwater aquatic life use and primary contact.

B. Criteria: the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses.

[20.6.4.132 NMAC - N, 12-01-10]

[20.6.4.130] 20.6.4.133 - 20.6.4.200: [RESERVED]

20.6.4.201 PECOS RIVER BASIN - The main stem of the Pecos river from the New Mexico-Texas line upstream to the mouth of the Black river (near Loving).

A. Designated Uses: irrigation, livestock watering, wildlife habitat, [secondary] primary contact and warmwater aquatic life.

B. Criteria:

(1) [~~In any single sample: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less.~~] The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [~~listed above in Subsection A of this section~~], except that the following segment-specific criterion applies: dissolved boron

for irrigation use 2,000 µg/L or less.

(2) [~~The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC):~~

~~—(3)] At all flows above 50 cfs: TDS 20,000 mg/L or less, sulfate 3,000 mg/L or less and chloride 10,000 mg/L or less.~~

[20.6.4.201 NMAC - Rp 20 NMAC 6.1.2201, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.202 PECOS RIVER BASIN - The main stem of the Pecos river from the mouth of the Black river upstream to lower Tansil dam, including perennial reaches of the Black river, the Delaware river and Blue spring.

A. Designated Uses: industrial water supply, irrigation, livestock watering, wildlife habitat, [secondary] primary contact and warmwater aquatic life.

B. Criteria:

(1) [~~In any single sample: pH within the range of 6.6 to 9.0 and temperature 34°C (93.2°F) or less.~~] The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [~~listed above in Subsection A of this section~~], except that the following segment-specific criterion applies: temperature 34°C (93.2°F) or less.

(2) [~~The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC):~~

~~—(3)] At all flows above 50 cfs: TDS 8,500 mg/L or less, sulfate 2,500 mg/L or less and chloride 3,500 mg/L or less.~~

C. Remarks: diversion for irrigation frequently limits summer flow in this reach of the main stem Pecos river to that contributed by springs along the watercourse.

[20.6.4.202 NMAC - Rp 20 NMAC 6.1.2202, 10-12-00; A, 05-23-05; A, 12-01-10]

[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for Lower Tansil Lake and Lake Carlsbad are under 20.6.4.218 NMAC.]

20.6.4.203 PECOS RIVER BASIN - The main stem of the Pecos river from [lower] the headwaters of Lake Carlsbad upstream to Avalon dam.

A. Designated Uses: industrial water supply, livestock watering, wildlife habitat, primary contact and warmwater aquatic life.

B. Criteria:

(1) [~~In any single sample: pH within the range of 6.6 to 9.0 and temperature 34°C (93.2°F) or less.~~] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [~~listed above in Subsection A of this section~~], except that the following segment-specific criteria apply: temperature 34°C (93.2°F)

or less; the monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[~~————~~ (2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]

[20.6.4.203 NMAC - Rp 20 NMAC 6.1.2203, 10-12-00; A, 05-23-05; A, 12-01-10]

[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for Lower Tansil Lake and Lake Carlsbad are under 20.6.4.218 and for Avalon Reservoir are under 20.6.4.219 NMAC.]

20.6.4.204 PECOS RIVER BASIN - The main stem of the Pecos river from the headwaters of Avalon reservoir upstream to Brantley dam.

A. Designated Uses: irrigation, livestock watering, wildlife habitat, secondary contact and warmwater aquatic life.

B. Criteria:

[~~————~~ (1) In any single sample: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section].

~~————~~ (2) The monthly geometric mean of *E. coli* bacteria 548 cfu/100 mL or less; single sample 2880 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]

[20.6.4.204 NMAC - Rp 20 NMAC 6.1.2204, 10-12-00; A, 05-23-05; A, 12-01-10]

[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for Avalon Reservoir are under 20.6.4.219 NMAC.]

20.6.4.205 PECOS RIVER BASIN - Brantley reservoir.

A. Designated Uses: irrigation storage, livestock watering, wildlife habitat, primary contact and warmwater aquatic life.

B. Criteria:

[~~————~~ (1) At any sampling site: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section].

~~————~~ (2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]

[20.6.4.205 NMAC - Rp 20 NMAC 6.1.2205, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.206 PECOS RIVER BASIN - The main stem of the Pecos river from the headwaters of Brantley reservoir upstream to Salt creek (near Acme), perennial reaches of the Rio Peñasco

downstream from state highway 24 near Dunken, perennial reaches of the Rio Hondo and its tributaries below Bonney canyon and perennial reaches of the Rio Felix.

A. Designated Uses: irrigation, livestock watering, wildlife habitat, secondary contact and warmwater aquatic life.

B. Criteria:

(1) [In any single sample: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less.] The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section].

(2) [The monthly geometric mean of *E. coli* bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]

~~————~~ (3) At all flows above 50 cfs: TDS 14,000 mg/L or less, sulfate 3,000 mg/L or less and chloride 6,000 mg/L or less.

[20.6.4.206 NMAC - Rp 20 NMAC 6.1.2206, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.207 PECOS RIVER BASIN - The main stem of the Pecos river from Salt creek (near Acme) upstream to Sumner dam.

A. Designated Uses: irrigation, marginal warmwater aquatic life, livestock watering, wildlife habitat and secondary contact.

B. Criteria:

(1) [In any single sample: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less.] The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section].

(2) [The monthly geometric mean of *E. coli* 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]

~~————~~ (3) At all flows above 50 cfs: TDS 8,000 mg/L or less, sulfate 2,500 mg/L or less and chloride 4,000 mg/L or less.

[20.6.4.207 NMAC - Rp 20 NMAC 6.1.2207, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.208 PECOS RIVER BASIN - Perennial reaches of the Rio Peñasco and its tributaries above state highway 24 near Dunken, perennial reaches of the Rio Bonito downstream from state highway 48 (near Angus), the Rio Ruidoso downstream of the U.S. highway 70 bridge near Seeping Springs lakes, perennial reaches of the Rio Hondo upstream from Bonney canyon and perennial reaches of Agua Chiquita.

A. Designated Uses: fish culture, irrigation, livestock watering, wildlife habitat, coldwater aquatic life and [secondary] primary contact.

B. Criteria:

[~~————~~ (1) In any single sample: pH within the range of 6.6 to 8.8, temperature 30°C (86°F) or less and total phosphorus (as P) less than 0.1 mg/L. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: temperature 30°C (86°F) or less, and phosphorus (unfiltered sample) less than 0.1 mg/L.

[~~————~~ (2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]

[20.6.4.208 NMAC - Rp 20 NMAC 6.1.2208, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.209 PECOS RIVER BASIN - Perennial reaches of Eagle creek [above] upstream of Alto [reservoir] dam to the Mescalero Apache boundary, perennial reaches of the Rio Bonito and its tributaries upstream of state highway 48 (near Angus) and perennial reaches of the Rio Ruidoso and its tributaries upstream of the U.S. highway 70 bridge near Seeping Springs lakes, above and below the Mescalero Apache boundary.

A. Designated Uses: domestic water supply, [fish culture,] high quality coldwater aquatic life, irrigation, livestock watering, wildlife habitat, [municipal and industrial] public water supply and [secondary] primary contact.

B. Criteria:

[~~————~~ (1) In any single sample: specific conductance 600 µmhos/cm or less in Eagle creek, 1,100 µmhos or less in Bonito creek, and 1,500 µmhos or less in the Rio Ruidoso, pH within the range of 6.6 to 8.8; total phosphorus (as P) less than 0.1 mg/L and temperature 20°C (68°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: specific conductance 600 µS/cm or less in Eagle creek, 1,100 µS/cm or less in Bonito creek and 1,500 µS/cm or less in the Rio Ruidoso; phosphorus (unfiltered sample) less than 0.1 mg/L; the monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[~~————~~ (2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]

[20.6.4.209 NMAC - Rp 20 NMAC 6.1.2209, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.210 PECOS RIVER BASIN - Sumner reservoir.

A. Designated Uses: irrigation storage, livestock watering, wildlife habitat, primary contact and

warmwater aquatic life.

B. Criteria:

[~~———— (1) At any sampling site: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less. The~~ the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses ~~[listed above in Subsection A of this section], except that the following segment-specific criteria apply: the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.~~

[~~———— (2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC):~~]
[20.6.4.210 NMAC - Rp 20 NMAC 6.1.2210, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.211 PECOS RIVER BASIN - The main stem of the Pecos river from the headwaters of Sumner reservoir upstream to Tecolote creek.

A. Designated Uses: fish culture, irrigation, marginal warmwater aquatic life, livestock watering, wildlife habitat and ~~[secondary]~~ primary contact.

B. Criteria:

~~———— (1) [In any single sample: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less.]~~ The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses ~~[listed above in Subsection A of this section].~~

~~———— (2) [The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC):~~

~~———— (3) At all flows above 50 cfs: TDS 3,000 mg/L or less, sulfate 2,000 mg/L or less and chloride 400 mg/L or less.~~
[20.6.4.211 NMAC - Rp 20 NMAC 6.1.2211, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.212 PECOS RIVER BASIN - Perennial tributaries to the main stem of the Pecos river from the headwaters of Sumner reservoir upstream to Santa Rosa dam.

A. Designated Uses: irrigation, coldwater aquatic life, livestock watering, wildlife habitat and primary contact.

B. Criteria:

[~~———— (1) In any single sample: pH within the range of 6.6 to 8.8 and temperature 25°C (77°F) or less. The~~ the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses ~~[listed above in Subsection A of this section], except that the following segment-specific criterion applies: temperature 25°C (77°F) or less.~~

[~~———— (2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL (see Subsection B of 20.6.4.14 NMAC):~~]

[20.6.4.212 NMAC - Rp 20 NMAC 6.1.2211.1, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.213 PECOS RIVER BASIN - McAllister lake.

A. Designated Uses: coldwater aquatic life, secondary contact, livestock watering and wildlife habitat.

B. Criteria:

[~~———— (1) At any sampling site: pH within the range of 6.6 to 8.8 and temperature 25°C (77°F) or less. The~~ the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses ~~[listed above in Subsection A of this section], except that the following segment-specific criterion applies: temperature 25°C (77°F) or less.~~

[~~———— (2) The monthly geometric mean of E. coli bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC):~~]

[20.6.4.213 NMAC - Rp 20 NMAC 6.1.2211.3, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.214 PECOS RIVER BASIN - Storrie lake.

A. Designated Uses: coldwater aquatic life, warmwater aquatic life, primary contact, livestock watering, wildlife habitat, ~~[municipal]~~ public water supply and irrigation storage.

B. Criteria:

[~~———— (1) At any sampling site: pH within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less. The~~ the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses ~~[listed above in Subsection A of this section], except that the following segment-specific criteria apply: the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.~~

[~~———— (2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC):~~]

[20.6.4.214 NMAC - Rp 20 NMAC 6.1.2211.5, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.215 PECOS RIVER BASIN - Perennial reaches of the Gallinas river and all its tributaries above the diversion for the Las Vegas municipal reservoir and perennial reaches of Tecolote creek and its perennial tributaries.

A. Designated Uses: domestic water supply, high quality coldwater aquatic life, irrigation, livestock watering, wildlife habitat, ~~[municipal and]~~ industrial water supply and [secondary] primary contact; and public water supply on the Gallinas river.

B. Criteria:

[~~———— (1) In any single sample: specific conductance 300 µmhos/cm or less except specific conductance 450 µmhos/cm or less in Wright Canyon creek, pH within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less. The~~ the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses ~~[listed above in Subsection A of this section], except that the following segment-specific criteria apply: specific conductance 300 µS/cm or less (450 µS/cm or less in Wright Canyon creek); the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.~~

[~~———— (2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC):~~]
[20.6.4.215 NMAC - Rp 20 NMAC 6.1.2212, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.216 PECOS RIVER BASIN - The main stem of the Pecos river from Tecolote creek upstream to Cañon de ~~[Mazanita]~~ Manzanita.

A. Designated Uses: irrigation, livestock watering, wildlife habitat, marginal coldwater aquatic life and primary contact.

B. Criteria:

~~———— (1) [In any single sample: pH within the range of 6.6 to 9.0 and temperature 30°C (86°F) or less.]~~ The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses ~~[listed above in Subsection A of this section], except that the following segment-specific criterion applies: temperature 30°C (86°F) or less.~~

~~———— (2) [The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC):~~

~~———— (3) At all flows above 10 cfs: TDS 250 mg/L or less, sulfate 25 mg/L or less and chloride 5 mg/L or less.~~
[20.6.4.216 NMAC - Rp 20 NMAC 6.1.2213, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.217 PECOS RIVER BASIN - Perennial reaches of Cow creek and all perennial reaches of its tributaries and the main stem of the Pecos river from Cañon de Manzanita upstream to its headwaters, including perennial reaches of all tributaries thereto.

A. Designated Uses: domestic water supply, fish culture, high quality coldwater aquatic life, irrigation, livestock watering, wildlife habitat and ~~[secondary]~~ primary contact; and public water supply on the main stem of the Pecos river.

B. Criteria:

[~~———— (1) In any single sample: specific conductance 300 µmhos/cm or less, pH~~

within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: specific conductance 300 µS/cm or less; the monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[(2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]

[20.6.4.217 NMAC - Rp 20 NMAC 6.1.2214, 10-12-00; A, 05-23-05; A, 12-01-10]

[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segments are under 20.6.4.220 and 20.6.4.221 NMAC.]

20.6.4.218 PECOS RIVER BASIN - Lower Tansil lake and Lake Carlsbad.

A. Designated Uses:
industrial water supply, livestock watering, wildlife habitat, primary contact and warmwater aquatic life.

B. Criteria:
[—(1) At any sampling site: pH within the range of 6.6 to 9.0 and temperature 34°C (93.2°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criterion applies: temperature 34°C (93.2°F) or less.

[(2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]

[20.6.4.218 NMAC - N, 05-23-05; A, 12-01-10]

20.6.4.219 PECOS RIVER BASIN - Avalon reservoir.

A. Designated Uses:
irrigation storage, livestock watering, wildlife habitat, secondary contact and warmwater aquatic life.

B. Criteria:
[—(1) At any sampling site: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section].

[(2) The monthly geometric mean of *E. coli* bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]

20.6.4.220 PECOS RIVER BASIN - Perennial reaches of the Gallinas

river and its tributaries from its mouth upstream to the diversion for the Las Vegas municipal reservoir, except Pecos Arroyo.

A. Designated Uses:
irrigation, livestock watering, wildlife habitat, marginal coldwater aquatic life and primary contact.

B. Criteria:
[—(1) In any single sample: pH within the range of 6.6 to 9.0 and temperature 30°C (86°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section. (see Subsection B of 20.6.4.14 NMAC)], except that the following segment-specific criterion applies: temperature 30°C (86°F) or less.

[(2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less.]

[20.6.4.220 NMAC - N, 05-23-05; A, 12-01-10]

20.6.4.221 PECOS RIVER BASIN - Pecos Arroyo.

A. Designated Uses:
livestock watering, wildlife habitat, warmwater aquatic life and [secondary] primary contact.

B. Criteria:
[—(1) In any single sample: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: the monthly geometric mean of *E. coli* bacteria 206 cfu/100 mL, single sample 940 cfu/100 mL.

[(2) The monthly geometric mean of *E. coli* bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]

[20.6.4.221 NMAC - N, 05-23-05; A, 12-01-10]

20.6.4.301 CANADIAN RIVER BASIN - The main stem of the Canadian river from the New Mexico-Texas line upstream to Ute dam, and any flow that enters the main stem from Revuelto creek.

A. Designated Uses:
irrigation, marginal warmwater aquatic life, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria:
(1) [In any single sample: pH within the range of 6.6 to 9.0, temperature 32.2°C (90°F) or less and TDS 6,500 mg/L or less at flows above 25 cfs.] The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section].

(2) [The monthly geometric mean

of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).] TDS 6,500 mg/L or less at flows above 25 cfs. [20.6.4.301 NMAC - Rp 20 NMAC 6.1.2301, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.302 CANADIAN RIVER BASIN - Ute reservoir.

A. Designated Uses:
livestock watering, wildlife habitat, [municipal] public water supply, [and] industrial water supply, primary contact and warmwater aquatic life.

B. Criteria:
[—(1) At any sampling site: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: the monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[(2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]

[20.6.4.302 NMAC - Rp 20 NMAC 6.1.2302, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.303 CANADIAN RIVER BASIN - The main stem of the Canadian river from the headwaters of Ute reservoir upstream to Conchas dam, the perennial reaches of Pajarito and Ute creeks and their perennial tributaries.

A. Designated Uses:
irrigation, marginal warmwater aquatic life, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria:
[—(1) In any single sample: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section].

[(2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]

[20.6.4.303 NMAC - Rp 20 NMAC 6.1.2303, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.304 CANADIAN RIVER BASIN - Conchas reservoir.

A. Designated Uses:
irrigation storage, livestock watering, wildlife habitat, public water supply, primary contact and warmwater aquatic life.

B. Criteria:
[—(1) At any sampling site: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900

NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: the monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

— (2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC); [20.6.4.304 NMAC - Rp 20 NMAC 6.1.2304, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.305 CANADIAN RIVER BASIN - The main stem of the Canadian river from the headwaters of Conchas reservoir upstream to the New Mexico-Colorado line, perennial reaches of the Conchas river, the Mora river downstream from the USGS gaging station near Shoemaker, the Vermejo river downstream from Rail canyon and perennial reaches of Raton, Chicorica (except Lake Maloya and Lake Alice) and Uña de Gato creeks.

A. Designated Uses: irrigation, marginal warmwater aquatic life, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria:

(1) [In any single sample: pH within the range of 6.6 to 9.0; temperature 32.2°C (90°F) or less and TDS 3,500 mg/L or less at flows above 10 cfs.] The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section].

(2) [The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC)]. TDS 3,500 mg/L or less at flows above 10 cfs. [20.6.4.305 NMAC - Rp 20 NMAC 6.1.2305, 10-12-00; A, 05-23-05; A, 12-01-10]

[NOTE: This segment was divided effective 12-01-10. The standards for Lake Maloya and Lake Alice are under 20.6.4.311 and 20.6.4.312 NMAC.]

20.6.4.306 CANADIAN RIVER BASIN - The Cimarron river downstream from state highway 21 in Cimarron to the Canadian river and all perennial reaches of tributaries to the Cimarron river downstream from state highway 21 in Cimarron.

A. Designated Uses: irrigation, warmwater aquatic life, livestock watering, wildlife habitat and [secondary] primary contact; and public water supply on Cimarroncito creek.

B. Criteria:

(1) [In any single sample: pH within the range of 6.6 to 9.0; temperature 32.2°C (90°F) or less and TDS 3,500 mg/L or less at flows above 10 cfs.] The use-specific numeric criteria set forth in 20.6.4.900

NMAC are applicable to the designated uses [listed above in Subsection A of this section].

(2) [The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC)]. TDS 3,500 mg/L or less at flows above 10 cfs.

[20.6.4.306 NMAC - Rp 20 NMAC 6.1.2305.1, 10-12-00; A, 7-19-01; A, 05-23-05; A, 12-01-10]

20.6.4.307 CANADIAN RIVER BASIN - Perennial reaches of the Mora river from the USGS gaging station near Shoemaker upstream to the state highway 434 bridge in Mora, all perennial reaches of tributaries to the Mora river downstream from the USGS gaging station at La Cueva in San Miguel and Mora counties, perennial reaches of Ocate creek and its tributaries downstream of Ocate, and perennial reaches of Rayado creek downstream of Miami lake diversion in Colfax county.

A. Designated Uses: marginal coldwater aquatic life, warmwater aquatic life, [secondary] primary contact, irrigation, livestock watering and wildlife habitat.

B. Criteria:

(1) [In any single sample: temperature 25°C (77°F) or less and pH within the range of 6.6 to 9.0. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section].

(2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC)]. [20.6.4.307 NMAC - Rp 20 NMAC 6.1.2305.3, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.308 CANADIAN RIVER BASIN - Charette lakes.

A. Designated Uses: coldwater aquatic life, warmwater aquatic life, secondary contact, livestock watering and wildlife habitat.

B. Criteria:

(1) At any sampling site: pH within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section].

(2) The monthly geometric mean of *E. coli* bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC)].

[20.6.4.308 NMAC - Rp 20 NMAC 6.1.2305.5, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.309 CANADIAN RIVER

BASIN - The Mora river and perennial reaches of its tributaries upstream from the state highway 434 bridge in Mora, all perennial reaches of tributaries to the Mora river upstream from the USGS gaging station at La Cueva, perennial reaches of Coyote creek and its tributaries, the Cimarron river and its perennial tributaries above state highway 21 in Cimarron, all perennial reaches of tributaries to the Cimarron river north and northwest of highway 64, perennial reaches of Rayado creek and its tributaries above Miami lake diversion, Ocate creek and perennial reaches of its tributaries upstream of Ocate, perennial reaches of the Vermejo river upstream from Rail canyon and all other perennial reaches of tributaries to the Canadian river northwest and north of U.S. highway 64 in Colfax county unless included in other segments.

A. Designated Uses: domestic water supply, irrigation, high quality coldwater aquatic life, livestock watering, wildlife habitat, [municipal and industrial water supply] and [secondary] primary contact; and public water supply on the Cimarron River upstream from Cimarron, on Eagle Nest lake and on perennial reaches of Rayado creek and its tributaries.

B. Criteria:

(1) In any single sample: specific conductance 500 µmhos/cm or less, pH within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: specific conductance 500 µS/cm or less; the monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

(2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC); [20.6.4.309 NMAC - Rp 20 NMAC 6.1.2306, 10-12-00; A, 7-19-01; A, 05-23-05; A, 12-01-10]

[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segment are under 20.6.4.310 NMAC.]

20.6.4.310 CANADIAN RIVER BASIN - Perennial reaches of Corruppa creek [and perennial reaches of tributaries of the Canadian river north of U.S. highway 54/66 and east and northeast of the Ute creek drainage].

A. Designated Uses: livestock watering, wildlife habitat, irrigation, [secondary] primary contact and [warmwater] coldwater aquatic life.

B. Criteria:

(1) [In any single sample: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less.] The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: temperature 25°C (77°F) or less; the monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

(2) [The monthly geometric mean of *E. coli* bacteria 548 cfu/100 mL or less; single sample 2507 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).] TDS 1,200 mg/L or less, sulfate 600 mg/L or less, chloride 40 mg/L or less.
[20.6.4.310 NMAC - N, 05-23-05; A, 12-01-10]

20.6.4.311 Lake Alice.

A. Designated Uses: marginal coldwater aquatic life, irrigation, livestock watering, wildlife habitat, primary contact and public water supply.

B. Criteria: the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses.
[20.6.4.311 NMAC - N, 12-01-10]

20.6.4.312 Lake Maloya.

A. Designated Uses: coldwater aquatic life, irrigation, livestock watering, wildlife habitat, primary contact and public water supply.

B. Criteria: the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses.
[20.6.4.312 NMAC - N, 12-01-10]

~~[20.6.4.311]~~ **20.6.4.313 - 20.6.4.400:**
[RESERVED]

20.6.4.401 SAN JUAN RIVER BASIN - The main stem of the San Juan river from the Navajo Nation boundary at the Hogback upstream to its confluence with the Animas river. Some waters in this segment are under the joint jurisdiction of the state and the Navajo Nation.

A. Designated Uses: [municipal and] public water supply, industrial water supply, irrigation, livestock watering, wildlife habitat, [secondary] primary contact, marginal coldwater aquatic life and warmwater aquatic life.

B. Criteria:
[~~(1)~~ In any single sample: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criterion applies: temperature 32.2°C (90°F)

or less.

[~~(2)~~ The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]

[20.6.4.401 NMAC - Rp 20 NMAC 6.1.2401, 10-12-00; A, 05-23-05; A, 12-01-10]

[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segment are under 20.6.4.408 NMAC.]

20.6.4.402 SAN JUAN RIVER BASIN - La Plata river from its confluence with the San Juan river upstream to the New Mexico-Colorado line.

A. Designated Uses: irrigation, marginal warmwater aquatic life, marginal coldwater aquatic life, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria:
[~~(1)~~ In any single sample: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criterion applies: temperature 32.2°C (90°F) or less.

[~~(2)~~ The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]
[20.6.4.402 NMAC - Rp 20 NMAC 6.1.2402, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.403 SAN JUAN RIVER BASIN - The Animas river from its confluence with the San Juan upstream to Estes Arroyo.

A. Designated Uses: [municipal and] public water supply, industrial water supply, irrigation, livestock watering, wildlife habitat, marginal coldwater aquatic life, primary contact and warmwater aquatic life.

B. Criteria:
[~~(1)~~ In any single sample: pH within the range of 6.6 to 9.0 and temperature 27°C (80.6°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section].
[~~(2)~~ The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]
[20.6.4.403 NMAC - Rp 20 NMAC 6.1.2403, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.404 SAN JUAN RIVER BASIN - The Animas river from Estes Arroyo upstream to the New Mexico-Colorado line.

A. Designated Uses:

coldwater aquatic life, irrigation, livestock watering, wildlife habitat, [municipal and] public water supply, industrial water supply and [secondary] primary contact.

B. Criteria:

[~~(1)~~ In any single sample: pH within the range of 6.6 to 8.8, temperature 20°C (68°F) or less and total phosphorus (as P) 0.1 mg/L or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criterion applies: phosphorus (unfiltered sample) 0.1 mg/L or less.

[~~(2)~~ The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]
[20.6.4.404 NMAC - Rp 20 NMAC 6.1.2404, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.405 SAN JUAN RIVER BASIN - The main stem of the San Juan river from Canyon Largo upstream to the Navajo dam.

A. Designated Uses: high quality coldwater aquatic life, irrigation, livestock watering, wildlife habitat, [municipal and] public water supply, industrial water supply and [secondary] primary contact.

B. Criteria:
[~~(1)~~ In any single sample: specific conductance 400 µmhos/cm or less, pH within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: specific conductance 400 µS/cm or less; the monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[~~(2)~~ The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]
[20.6.4.405 NMAC - Rp 20 NMAC 6.1.2405, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.406 SAN JUAN RIVER BASIN - Navajo reservoir in New Mexico.

A. Designated Uses: coldwater aquatic life, warmwater aquatic life, irrigation storage, livestock watering, wildlife habitat, [municipal and industrial water storage] public water supply, industrial water supply and primary contact.

B. Criteria:
[~~(1)~~ At any sampling site: pH within the range of 6.6 to 8.8, temperature 20°C (68°F) or less and total phosphorus (as P) 0.1 mg/L or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed

above in Subsection A of this section], except that the following segment-specific criteria apply: phosphorus (unfiltered sample) 0.1 mg/L or less; the monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[(2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC);] [20.6.4.406 NMAC - Rp 20 NMAC 6.1.2406, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.407 SAN JUAN RIVER BASIN - Perennial reaches of the Navajo [and Los Pinos rivers] river from the Jicarilla Apache reservation boundary to the Colorado border and perennial reaches of Los Pinos river in New Mexico.

A. Designated Uses: coldwater aquatic life, irrigation, livestock watering, public water supply, wildlife habitat and [secondary] primary contact.

B. Criteria: [(1) In any single sample: pH within the range of 6.6 to 8.8, temperature 20°C (68°F) or less and total phosphorus (as P) 0.1 mg/L or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: phosphorus (unfiltered sample) 0.1 mg/L or less; the monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[(2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC);] [20.6.4.407 NMAC - Rp 20 NMAC 6.1.2407, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.408 SAN JUAN RIVER BASIN - The main stem of the San Juan river from its confluence with the Animas river upstream to its confluence with Canyon Largo.

A. Designated Uses: [municipal and] public water supply, industrial water supply, irrigation, livestock watering, wildlife habitat, [secondary] primary contact, marginal coldwater aquatic life and warmwater aquatic life.

B. Criteria: [(1) In any single sample: pH within the range of 6.6 to 9.0, and temperature 32.2°C (90°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criterion applies: temperature 32.2°C (90°F) or less.

[(2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see

Subsection B of 20.6.4.14 NMAC);] [20.6.4.408 NMAC - N, 05-23-05; A, 12-01-10]

[20.6.4.409 - 20.6.4.500: [RESERVED]]

20.6.4.409 SAN JUAN RIVER BASIN - Lake Farmington.

A. Designated Uses: public water supply, wildlife habitat, livestock watering, primary contact, coldwater aquatic life and warmwater aquatic life.

B. Criteria: the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses, except that the following segment-specific criterion applies: temperature 25°C (77°F) or less. [20.6.4.409 NMAC - N, 12-01-10]

20.6.4.410 - 20.6.4.450: [RESERVED]

20.6.4.451 LITTLE COLORADO RIVER BASIN - The Rio Nutria upstream of the Zuni pueblo boundary, Tampico draw, Agua Remora, Tampico springs.

A. Designated Uses: coolwater aquatic life, livestock watering, wildlife habitat and primary contact.

B. Criteria: the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses. [20.6.4.451 NMAC - N, 12-01-10]

20.6.4.452 LITTLE COLORADO RIVER BASIN - Ramah lake.

A. Designated Uses: coldwater aquatic life, warmwater aquatic life, irrigation, livestock watering, wildlife habitat and primary contact.

B. Criteria: the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses, except that the following segment-specific criterion applies: temperature 25°C (77°F) or less. [20.6.4.452 NMAC - N, 12-01-10]

20.6.4.453 - 20.6.4.500: [RESERVED]

20.6.4.501 GILA RIVER BASIN - The main stem of the Gila river from the New Mexico-Arizona line upstream to Redrock canyon and perennial reaches of streams in Hidalgo county.

A. Designated Uses: irrigation, marginal warmwater aquatic life, livestock watering, wildlife habitat and primary contact.

B. Criteria: [(1) In any single sample: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section.

[(2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC);] [20.6.4.501 NMAC - Rp 20 NMAC 6.1.2501, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.502 GILA RIVER BASIN - The main stem of the Gila river from Redrock canyon upstream to the confluence of the West Fork Gila river and East Fork Gila river and perennial reaches of tributaries to the Gila river below Mogollon creek.

A. Designated Uses: industrial water supply, irrigation, livestock watering, wildlife habitat, marginal coldwater aquatic life, primary contact and warmwater aquatic life.

B. Criteria: [(1) In any single sample: pH within the range of 6.6 to 9.0 and temperature 28°C (82.4°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criterion applies: 28°C (82.4°F) or less.

[(2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC);] [20.6.4.502 NMAC - Rp 20 NMAC 6.1.2502, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.503 GILA RIVER BASIN - All perennial tributaries to the Gila river above and including Mogollon creek.

A. Designated Uses: domestic water supply, high quality coldwater aquatic life, irrigation, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria: [(1) In any single sample: specific conductance 300 µmhos/cm or less for the main stem of the Gila river above Gila hot springs and 400 µmhos or less for other reaches, pH within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less except 32.2°C (90°F) or less in the east fork of the Gila river and Sapillo creek below lake Roberts. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: specific conductance 300 µS/cm or less for the main stem of the Gila river above Gila hot springs and 400 µS/cm or less for other reaches; 32.2°C (90°F) or less in the east fork of the Gila river and Sapillo creek below Lake Roberts; the monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[(2) The monthly geometric mean of *E. coli* bacteria 126 cfu/100 mL or less;

single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]
[20.6.4.503 NMAC - Rp 20 NMAC 6.1.2503, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.504 GILA RIVER BASIN - Wall lake, Lake Roberts and Snow lake.

A. Designated Uses:
coldwater aquatic life, irrigation, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria:
[~~————~~ **(1)** In any single sample: specific conductance 300 μ mhos/cm or less, pH within the range of 6.6 to 8.8 and temperature 22°C (72°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criterion applies: specific conductance 300 μ S/cm or less.

[~~————~~ **(2)** The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]
[20.6.4.504 NMAC - Rp 20 NMAC 6.1.2504, 10-12-00; A, 05-23-05; A, 12-01-10]
[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segment are under 20.6.4.806 NMAC.]

20.6.4.601 SAN FRANCISCO RIVER BASIN - The main stem of the San Francisco river from the New Mexico-Arizona line upstream to state highway 12 at Reserve and perennial reaches of Mule creek.

A. Designated Uses:
irrigation, marginal warmwater and marginal coldwater aquatic life, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria:
[~~————~~ **(1)** In any single sample: pH within the range of 6.6 to 9.0 and temperature 32.2°C (90°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section].
~~————~~ **(2)** The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]
[20.6.4.601 NMAC - Rp 20 NMAC 6.1.2601, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.602 SAN FRANCISCO RIVER BASIN - The main stem of the San Francisco river from state highway 12 at Reserve upstream to the New Mexico-Arizona line.

A. Designated Uses:
coldwater aquatic life, irrigation, livestock watering, wildlife habitat and primary contact.

B. Criteria:

[~~————~~ **(1)** In any single sample: pH within the range of 6.6 to 8.8 and temperature 25°C (77°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criterion applies: temperature 25°C (77°F) or less.

[~~————~~ **(2)** The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]
[20.6.4.602 NMAC - Rp 20 NMAC 6.1.2602, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.603 SAN FRANCISCO RIVER BASIN - All perennial reaches of tributaries to the San Francisco river above the confluence of Whitewater creek and including Whitewater creek.

A. Designated Uses:
domestic water supply, fish culture, high quality coldwater aquatic life, irrigation, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria:
[~~————~~ **(1)** In any single sample: specific conductance 400 μ mhos/cm or less, pH within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less except 25°C (77°F) or less in Tularosa creek. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: specific conductance 400 μ S/cm or less; the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less; and temperature 25°C (77°F) or less in Tularosa creek.

[~~————~~ **(2)** The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]
[20.6.4.603 NMAC - Rp 20 NMAC 6.1.2603, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.701 DRY CIMARRON RIVER - Perennial portions of the Dry Cimarron river above Oak creek and perennial reaches of Oak creek.

A. Designated Uses:
[marginal] coldwater aquatic life, [warmwater aquatic life,] irrigation, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria:
(1) [In any single sample: pH within the range of 6.6 to 8.8, temperature 25°C (77°F) or less, TDS 1,200 mg/L or less, sulfate 600 mg/L or less, and chloride 40 mg/L or less.] The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed

above in Subsection A of this section], except that the following segment-specific criteria apply: temperature 25°C (77°F) or less, the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

(2) [The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).] TDS 1,200 mg/L or less, sulfate 600 mg/L or less and chloride 40 mg/L or less.

[20.6.4.701 NMAC - Rp 20 NMAC 6.1.2701, 10-12-00; A, 05-23-05 A, 12-01-10]

[NOTE: The segment covered by this section was divided effective 05-23-05. The standards for the additional segment are under 20.6.4.702 NMAC.]

20.6.4.702 DRY CIMARRON RIVER - Perennial portions of the Dry Cimarron river below Oak creek, and perennial portions of Long canyon and Carrizozo creeks.

A. Designated Uses:
[warmwater] coldwater aquatic life, irrigation, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria:
(1) [In any single sample: pH within the range of 6.6 to 8.8, temperature 32.2°C (90°F) or less, TDS 1,200 mg/L or less, sulfate 600 mg/L or less and chloride 40 mg/L or less.] The use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: temperature 25°C (77°F) or less; the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

(2) [The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).] TDS 1,200 mg/L or less, sulfate 600 mg/L or less and chloride 40 mg/L or less.
[20.6.4.702 NMAC - N, 05-23-05; A, 12-01-10]

20.6.4.801 CLOSED BASINS - Rio Tularosa [tying] east of the old U.S. highway 70 bridge crossing east of Tularosa and all perennial tributaries to the Tularosa basin except Three Rivers and excluding waters on the Mescalero tribal lands.

A. Designated Uses:
coldwater aquatic life, [fish culture,] irrigation, livestock watering, wildlife habitat, [municipal and industrial] public water supply and [secondary] primary contact.

B. Criteria:
[~~————~~ **(1)** In any single sample: pH within the range of 6.6 to 8.8 and temperature

20°C (68°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[—(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]
[20.6.4.801 NMAC - Rp 20 NMAC 6.1.2801, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.802 CLOSED BASINS - Perennial reaches of Three Rivers.

A. Designated Uses: irrigation, domestic water supply, high quality coldwater aquatic life, [secondary] primary contact, livestock watering and wildlife habitat.

B. Criteria:
[—(1) In any single sample: specific conductance 500 µmhos/cm or less, pH within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: specific conductance 500 µS/cm or less; the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[—(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]
[20.6.4.802 NMAC - Rp 20 NMAC 6.1.2802, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.803 CLOSED BASINS - Perennial reaches of the Mimbres river downstream of the confluence with Willow Springs canyon and all perennial reaches of tributaries thereto.

A. Designated Uses: coldwater aquatic life, irrigation, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria:
[—(1) In any single sample: pH within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[—(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]
[20.6.4.803 NMAC - Rp 20 NMAC 6.1.2803,

10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.804 CLOSED BASINS - Perennial reaches of the Mimbres river upstream of the confluence with Willow Springs canyon and all perennial tributaries thereto.

A. Designated Uses: irrigation, domestic water supply, high quality coldwater aquatic life, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria:
[—(1) In any single sample: specific conductance 300 µmhos or less, pH within the range of 6.6 to 8.8 and temperature 20°C (68°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criteria apply: specific conductance 300 µS/cm or less; the monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less, single sample 235 cfu/100 mL or less.

[—(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 235 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]
[20.6.4.804 NMAC - Rp 20 NMAC 6.1.2804, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.805 CLOSED BASINS - Perennial reaches of the Sacramento river (Sacramento-Salt Flat closed basin) and all perennial tributaries thereto.

A. Designated Uses: domestic [and municipal] water supply, livestock watering, wildlife habitat, marginal coldwater aquatic life and [secondary] primary contact.

B. Criteria:
[—(1) In any single sample: pH within the range of 6.6 to 9.0 and temperature 25°C (77°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900 NMAC are applicable to the designated uses [listed above in Subsection A of this section].

[—(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]
[20.6.4.805 NMAC - Rp 20 NMAC 6.1.2805, 10-12-00; A, 05-23-05; A, 12-01-10]

20.6.4.806 CLOSED BASINS - Bear canyon reservoir.

A. Designated Uses: coldwater aquatic life, irrigation, livestock watering, wildlife habitat and [secondary] primary contact.

B. Criteria:
[—(1) In any single sample: specific conductance 300 µmhos/cm or less, pH within the range of 6.6 to 8.8 and temperature 22°C (72°F) or less. The] the use-specific numeric criteria set forth in 20.6.4.900

NMAC are applicable to the designated uses [listed above in Subsection A of this section], except that the following segment-specific criterion applies: specific conductance 300 µS/cm or less.

[—(2) The monthly geometric mean of E. coli bacteria 126 cfu/100 mL or less; single sample 410 cfu/100 mL or less (see Subsection B of 20.6.4.14 NMAC).]

[20.6.4.806 NMAC - N, 05-23-05; A, 12-01-10]

20.6.4.900 C R I T E R I A APPLICABLE TO [ATTAINABLE OR—DESIGNATED] EXISTING, DESIGNATED OR ATTAINABLE USES UNLESS OTHERWISE SPECIFIED IN 20.6.4.97 THROUGH 20.6.4.899 NMAC.

A. Fish Culture[; and Water Supply [and Storage]: Fish culture, public water supply [and municipal] and industrial water supply [and storage] are designated uses in particular classified waters of the state where these uses are actually being realized. However, no numeric criteria apply uniquely to these uses. Water quality adequate for these uses is ensured by the general criteria and numeric criteria for bacterial quality, pH and temperature [that are established to for all classified waters of the state listed in 20.6.4.97 through 20.6.4.899 NMAC].

B. Domestic Water Supply: Surface waters of the state designated for use as domestic water supplies shall not contain substances in concentrations that create a lifetime cancer risk of more than one cancer per 100,000 exposed persons. Those criteria listed under domestic water supply in Subsection J of this section apply to this use.

C. Irrigation and Irrigation Storage: the following numeric criteria and those criteria listed under irrigation in Subsection J of this section apply to this use:

(1) dissolved selenium

0.13 mg/L

(2) dissolved selenium in presence of >500 mg/L SO₄ 0.25 mg/L.

D. Primary Contact: the monthly geometric mean of E. coli bacteria of 126 cfu/100 mL and single sample of 410 cfu/100 mL [apply to this use] and pH [shall be] within the range of 6.6 to 9.0 apply to this use.

E. Secondary Contact: the monthly geometric mean of E. coli bacteria of 548 cfu/100 mL and single sample of 2507 cfu/100 mL apply to this use.

F. Livestock Watering: the criteria listed in Subsection J of this section for livestock watering apply to this use.

G. Wildlife Habitat: Wildlife habitat shall be free from any substances at concentrations that are toxic to

or will adversely affect plants and animals that use these environments for feeding, drinking, habitat or propagation; can bioaccumulate; or might impair the community of animals in a watershed or the ecological integrity of surface waters of the state. [The discharge of substances that bioaccumulate, in excess of levels listed in Subsection J for wildlife habitat is allowed if, and only to the extent that, the substances are present in the intake waters that are diverted and utilized prior to discharge, and then only if the discharger utilizes best available treatment technology to reduce the amount of bioaccumulating substances that are discharged.] The numeric criteria listed in Subsection J for wildlife habitat apply to this use [except when a site-specific or segment-specific criterion has been adopted under 20.6.4.101 through 20.6.4.899 NMAC].

H. Aquatic Life: Surface waters of the state with a designated, existing or attainable use of aquatic life shall be free from any substances at concentrations that can impair the community of plants and animals in or the ecological integrity of surface waters of the state. Except as provided in Paragraph [6-below] (7) of this subsection, the acute and chronic aquatic life criteria set out in Subsections I, [and] J, K and L of this section and the human health-organism only criteria set out in Subsection J of this section are applicable to [this use] all aquatic life use subcategories. In addition, the specific criteria for aquatic life subcategories in the following paragraphs [shall] apply to waters classified under the respective designations.

(1) High Quality Coldwater: dissolved oxygen 6.0 mg/L or more, 4T3 temperature 20°C (68°F) [or less], maximum temperature 23°C (73°F), pH within the range of 6.6 to 8.8 and specific conductance a segment-specific limit [varying] between 300 [µmhos/cm] µS/cm and 1,500 [µmhos/cm] µS/cm depending on the natural background in the particular surface [waters] water of the state (the intent of this criterion is to prevent excessive increases in dissolved solids which would result in changes in community structure). [The total ammonia criteria set out in Subsections K, L and M of this section and the human health criteria for pollutants listed in Subsection J of this section are applicable to this use.] Where a single segment-specific temperature criterion is indicated in 20.6.4.101-899 NMAC, it is the maximum temperature and no 4T3 temperature applies.

(2) Coldwater: dissolved oxygen 6.0 mg/L or more, 6T3 temperature 20°C (68°F) [or less], maximum temperature 24°C (75°F) and pH within the range of 6.6 to 8.8. [The total ammonia criteria set out in Subsections K, L and M of this section and the human health criteria listed in Subsection J of this section are applicable to this use.] Where a single segment-specific temperature criterion is indicated in 20.6.4.101-899 NMAC, it is the maximum temperature and no 6T3 temperature applies.

(3) Marginal Coldwater: dissolved oxygen [than] 6 mg/L or more, [on a case-by-case basis maximum temperatures may exceed] 6T3 temperature 25°C (77°F) [and the pH may], maximum temperature 29°C (84°F) and pH within the range from 6.6 to 9.0. [The total ammonia criteria set out in Subsections K, L and M of this section and the human health criteria listed in Subsection J of this section are applicable to this use.] Where a single segment-specific temperature criterion is indicated in 20.6.4.101-899 NMAC, it is the maximum temperature and no 6T3 temperature applies.

(4) Coolwater: dissolved oxygen 5.0 mg/L or more, maximum temperature 29°C (84°F) and pH within the range of 6.6 to 9.0.

~~[(4)]~~**(5) Warmwater:** dissolved oxygen 5 mg/L or more, maximum temperature 32.2°C (90°F) [or less] and pH within the range of 6.6 to 9.0. [The total ammonia criteria set out in Subsections K, L and M of this section and the human health criteria listed in Subsection J of this section are applicable to this use.] Where a segment-specific temperature criterion is indicated in 20.6.4.101-899 NMAC, it is the maximum temperature.

~~[(5)]~~**(6) Marginal Warmwater:** dissolved oxygen 5 mg/L or more, pH within the range of 6.6 to 9.0 and [on a case-by-case basis maximum temperatures may exceed] maximum temperature 32.2°C (90°F). [The total ammonia criteria set out in Subsections K, L and M of this section and the human health criteria listed in Subsection J of this section are applicable to this use.] Where a segment-specific temperature criterion is indicated in 20.6.4.101-899 NMAC, it is the maximum temperature.

~~[(6)]~~**(7) Limited Aquatic Life:** [Criteria shall be developed on a segment-specific basis.] The acute aquatic life criteria of Subsections I and J of this section [shall] apply to this subcategory. Chronic aquatic life criteria do not apply unless adopted on a segment-specific basis. Human health-organism only criteria apply only for persistent pollutants unless adopted on a segment-specific basis.

I. The following schedule of equations for the determination of numeric criteria for the substances listed and those criteria listed in Subsection J for aquatic life shall apply to the subcategories of aquatic life identified in this section:

[(1)] Acute criteria:

(a) dissolved silver $0.85 e^{(-1.72(\ln(\text{hardness}))-6.59)} \mu\text{g/L}$

(b) dissolved cadmium $(e^{(-1.0166(\ln(\text{hardness}))-3.924)})cf \mu\text{g/L}$, the hardness-dependent formulae for cadmium must be multiplied by a conversion factor (cf) to be expressed as dissolved values; the acute factor for cadmium is $cf = 1.136672 - ((\ln \text{hardness})(0.041838))$

(c) dissolved chromium $0.316 e^{(-0.819(\ln(\text{hardness}))+3.7256)} \mu\text{g/L}$

(d) dissolved copper $0.960 e^{(-0.9422(\ln(\text{hardness}))-1.706)} \mu\text{g/L}$

(e) dissolved lead $(e^{(-1.273(\ln(\text{hardness}))-1.46)})cf \mu\text{g/L}$, the hardness-dependent formulae for lead must be multiplied by a conversion factor (cf) to be expressed as dissolved values; the acute and chronic factor for lead is $cf = 1.46203 - ((\ln \text{hardness})(0.145712))$

(f) dissolved nickel $0.998 e^{(-0.8460(\ln(\text{hardness}))+2.255)} \mu\text{g/L}$

(g) dissolved zinc $0.978 e^{(-0.8473(\ln(\text{hardness}))+0.884)} \mu\text{g/L}$

(2) Chronic criteria:

(a) dissolved cadmium $(e^{(-0.7409(\ln(\text{hardness}))-4.719)})cf \mu\text{g/L}$, the hardness-dependent formulae for cadmium must be multiplied by a conversion factor (cf) to be expressed as dissolved values; the chronic factor for cadmium is $cf = 1.101672 - ((\ln \text{hardness})(0.041838))$

(b) dissolved chromium $0.860 e^{(-0.819(\ln(\text{hardness}))-0.6848)} \mu\text{g/L}$

(c) dissolved copper $0.960 e^{(-0.8545(\ln(\text{hardness}))-1.702)} \mu\text{g/L}$

(d) dissolved lead $(e^{(-1.273(\ln(\text{hardness}))-4.705)})cf \mu\text{g/L}$, the hardness-dependent formulae for lead must be multiplied by a conversion factor (cf) to be expressed as dissolved values; the acute and chronic factor for lead is $cf = 1.46203 - ((\ln \text{hardness})(0.145712))$

(e) dissolved nickel $0.997 e^{(-0.846(\ln(\text{hardness}))+0.0584)} \mu\text{g/L}$

(f) dissolved zinc $0.986 e^{(-0.8473(\ln(\text{hardness}))+0.884)} \mu\text{g/L}$

I. Hardness-dependent acute and chronic aquatic life criteria for metals are calculated using the following equations. The criteria are expressed as a function of dissolved hardness (as mg CaCO₃/L). With the exception of aluminum, the equations are valid only for dissolved hardness concentrations of 0-400 mg/L. For dissolved hardness concentrations above 400 mg/L, the criteria for 400 mg/L apply. For aluminum the equations are valid only for dissolved hardness concentrations of 0-220 mg/L. For dissolved hardness concentrations above 220 mg/L, the aluminum criteria for 220 mg/L apply.

(1) Acute aquatic life criteria for metals. The equation to calculate acute criteria in $\mu\text{g/L}$ is $\exp(m_A [\ln(\text{hardness})] + b_A)(\text{CF})$. Except for aluminum, the criteria are based on analysis of dissolved metal. For aluminum, the criteria are based on analysis of total recoverable aluminum in a sample that is filtered to minimize mineral phases as specified by the department. The equation parameters are as follows:

<u>Metal</u>	<u>m_A</u>	<u>b_A</u>	<u>Conversion factor (CF)</u>
Aluminum (Al)	1.3695	1.8308	
Cadmium (Cd)	0.8968	-3.5699	1.136672-[(ln hardness)(0.041838)]
Chromium (Cr) III	0.8190	3.7256	0.316
Copper (Cu)	0.9422	-1.700	0.960
Lead (Pb)	1.273	-1.460	1.46203-[(ln hardness)(0.145712)]
Manganese (Mn)	0.3331	6.4676	
Nickel (Ni)	0.8460	2.255	0.998
Silver (Ag)	1.72	-6.59	0.85
Zinc (Zn)	0.9094	0.9095	0.978

(2) Chronic aquatic life criteria for metals. The equation to calculate chronic criteria in $\mu\text{g/L}$ is $\exp(m_C [\ln(\text{hardness})] + b_C)(\text{CF})$. Except for aluminum, the criteria are based on analysis of dissolved metal. For aluminum, the criteria are based on analysis of total recoverable aluminum in a sample that is filtered to minimize mineral phases as specified by the department. The equation parameters are as follows:

<u>Metal</u>	<u>m_C</u>	<u>b_C</u>	<u>Conversion factor (CF)</u>
Aluminum (Al)	1.3695	0.9161	
Cadmium (Cd)	0.7647	-4.2180	1.101672-[(ln hardness)(0.041838)]
Chromium (Cr) III	0.8190	0.6848	0.860
Copper (Cu)	0.8545	-1.702	0.960
Lead (Pb)	1.273	-4.705	1.46203-[(ln hardness)(0.145712)]
Manganese (Mn)	0.3331	5.8743	
Nickel (Ni)	0.8460	0.0584	0.997
Zinc (Zn)	0.9094	0.6235	0.986

(3) Selected values of calculated acute and chronic criteria ($\mu\text{g/L}$).

<u>Hardness as CaCO₃ dissolved (mg/L)</u>		<u>Al</u>	<u>Cd</u>	<u>Cr III</u>	<u>Cu</u>	<u>Pb</u>	<u>Mn</u>	<u>Ni</u>	<u>Ag</u>	<u>Zn</u>
<u>25</u>	<u>Acute</u>	<u>512</u>	<u>0.51</u>	<u>180</u>	<u>4</u>	<u>14</u>	<u>1,881</u>	<u>140</u>	<u>0.3</u>	<u>45</u>
	<u>Chronic</u>	<u>205</u>	<u>0.17</u>	<u>24</u>	<u>3</u>	<u>1</u>	<u>1,040</u>	<u>16</u>	-	<u>34</u>
<u>30</u>	<u>Acute</u>	<u>658</u>	<u>0.59</u>	<u>210</u>	<u>4</u>	<u>17</u>	<u>1,999</u>	<u>170</u>	<u>0.4</u>	<u>54</u>
	<u>Chronic</u>	<u>263</u>	<u>0.19</u>	<u>28</u>	<u>3</u>	<u>1</u>	<u>1,105</u>	<u>19</u>	-	<u>41</u>
<u>40</u>	<u>Acute</u>	<u>975</u>	<u>0.76</u>	<u>270</u>	<u>6</u>	<u>24</u>	<u>2,200</u>	<u>220</u>	<u>0.7</u>	<u>70</u>
	<u>Chronic</u>	<u>391</u>	<u>0.23</u>	<u>35</u>	<u>4</u>	<u>1</u>	<u>1,216</u>	<u>24</u>	-	<u>53</u>
<u>50</u>	<u>Acute</u>	<u>1,324</u>	<u>0.91</u>	<u>320</u>	<u>7</u>	<u>30</u>	<u>2,370</u>	<u>260</u>	<u>1.0</u>	<u>85</u>
	<u>Chronic</u>	<u>530</u>	<u>0.28</u>	<u>42</u>	<u>5</u>	<u>1</u>	<u>1,309</u>	<u>29</u>	-	<u>65</u>
<u>60</u>	<u>Acute</u>	<u>1,699</u>	<u>1.07</u>	<u>370</u>	<u>8</u>	<u>37</u>	<u>2,519</u>	<u>300</u>	<u>1.3</u>	<u>101</u>
	<u>Chronic</u>	<u>681</u>	<u>0.31</u>	<u>49</u>	<u>6</u>	<u>1</u>	<u>1,391</u>	<u>34</u>	-	<u>76</u>
<u>70</u>	<u>Acute</u>	<u>2,099</u>	<u>1.22</u>	<u>430</u>	<u>10</u>	<u>44</u>	<u>2,651</u>	<u>350</u>	<u>1.7</u>	<u>116</u>
	<u>Chronic</u>	<u>841</u>	<u>0.35</u>	<u>55</u>	<u>7</u>	<u>2</u>	<u>1,465</u>	<u>38</u>	-	<u>88</u>
<u>80</u>	<u>Acute</u>	<u>2,520</u>	<u>1.37</u>	<u>470</u>	<u>11</u>	<u>51</u>	<u>2,772</u>	<u>390</u>	<u>2.2</u>	<u>131</u>
	<u>Chronic</u>	<u>1,010</u>	<u>0.39</u>	<u>62</u>	<u>7</u>	<u>2</u>	<u>1,531</u>	<u>43</u>	-	<u>99</u>
<u>90</u>	<u>Acute</u>	<u>2,961</u>	<u>1.51</u>	<u>520</u>	<u>12</u>	<u>58</u>	<u>2,883</u>	<u>430</u>	<u>2.7</u>	<u>145</u>
	<u>Chronic</u>	<u>1,186</u>	<u>0.42</u>	<u>68</u>	<u>8</u>	<u>2</u>	<u>1,593</u>	<u>48</u>	-	<u>110</u>
<u>100</u>	<u>Acute</u>	<u>3,421</u>	<u>1.65</u>	<u>570</u>	<u>13</u>	<u>65</u>	<u>2,986</u>	<u>470</u>	<u>3.2</u>	<u>160</u>
	<u>Chronic</u>	<u>1,370</u>	<u>0.45</u>	<u>74</u>	<u>9</u>	<u>3</u>	<u>1,650</u>	<u>52</u>	-	<u>121</u>
<u>200</u>	<u>Acute</u>	<u>8,838</u>	<u>2.98</u>	<u>1,010</u>	<u>26</u>	<u>140</u>	<u>3,761</u>	<u>840</u>	<u>11</u>	<u>301</u>
	<u>Chronic</u>	<u>3,541</u>	<u>0.75</u>	<u>130</u>	<u>16</u>	<u>5</u>	<u>2,078</u>	<u>90</u>	-	<u>228</u>

<u>Hardness as CaCO₃ dissolved (mg/L)</u>		<u>Al</u>	<u>Cd</u>	<u>Cr III</u>	<u>Cu</u>	<u>Pb</u>	<u>Mn</u>	<u>Ni</u>	<u>Ag</u>	<u>Zn</u>
<u>220</u>	<u>Acute</u>	<u>10,071</u>								
	<u>Chronic</u>	<u>4,035</u>								
<u>300</u>	<u>Acute</u>	<u>10,071</u>	<u>4.21</u>	<u>1,400</u>	<u>38</u>	<u>210</u>	<u>4,305</u>	<u>1190</u>	<u>21</u>	<u>435</u>
	<u>Chronic</u>	<u>4,035</u>	<u>1.00</u>	<u>180</u>	<u>23</u>	<u>8</u>	<u>2,379</u>	<u>130</u>	-	<u>329</u>
<u>400 and above</u>	<u>Acute</u>	<u>10,071</u>	<u>5.38</u>	<u>1,770</u>	<u>50</u>	<u>280</u>	<u>4,738</u>	<u>1510</u>	<u>35</u>	<u>564</u>
	<u>Chronic</u>	<u>4,035</u>	<u>1.22</u>	<u>230</u>	<u>29</u>	<u>11</u>	<u>2,618</u>	<u>170</u>	-	<u>428</u>

J. Use-Specific Numeric criteria.

(1) Notes applicable to the table of numeric criteria in Paragraph (2) of this subsection.

(a) Where the letter "a" is indicated in a cell, the criterion is hardness-based and can be referenced in Subsection I of 20.6.4.900 NMAC.

(b) Where the letter "b" is indicated in a cell, the criterion can be referenced in Subsection C of 20.6.4.900 NMAC.

(c) Criteria are in µg/L unless otherwise indicated.

(d) Abbreviations are as follows: CAS - chemical abstracts service (see definition for "CAS number" in 20.6.4.7 NMAC); DWS - domestic water supply; Irr - irrigation; LW - livestock watering; WH - wildlife habitat; HH-OO - human health-organism only; C - cancer-causing; P - persistent.

(e) The criteria are based on analysis of an unfiltered sample unless otherwise indicated. The acute and chronic aquatic life criteria for aluminum are based on analysis of total recoverable aluminum in a sample that is filtered to minimize mineral phases as specified by the department.

(f) The criteria listed under human health-organism only (HH-OO) are intended to protect human health when aquatic organisms are consumed from waters containing pollutants. These criteria do not protect the aquatic life itself; rather, they protect the health of humans who ingest fish or other aquatic organisms.

(g) The dioxin criteria apply to the sum of the dioxin toxicity equivalents expressed as 2,3,7,8-TCDD dioxin.

(h) The criteria for polychlorinated biphenyls (PCBs) applies to the sum of all congeners, to the sum of all homologs or to the sum of all aroclors.

(2) **Table of Numeric Criteria:** The following table sets forth the numeric criteria [adopted by the commission to protect] applicable to existing, designated and attainable uses. Additional criteria that are not compatible with this table are found in Subsections A through I, K and L of this section.

[Pollutant total, unless indicated]	CAS Number	Domestic Water Supply µg/L unless indicated	Irrigation µg/L unless indicated	Livestock Watering µg/L unless indicated	Wildlife Habitat µg/L unless indicated	Aquatic Life		Human Health µg/L	Cancer Causing (C) or Persistent (P)
						Acute µg/L	Chronic µg/L		
Aluminum, dissolved	7429-90-5	-	5,000		-	750	87	-	-
Antimony, dissolved	7440-36-0	5.6	-	-	-	-	-	640	P
Arsenic, dissolved	7440-38-2	2.3	100	200	-	340	150	9.0	C,P
Asbestos	1332-21-4	7,000,000- fibers/L							
Barium, dissolved	7440-39-3	2,000	-	-	-	-	-	-	-
Beryllium, dissolved	7440-41-7	4	-	-	-			-	-
Boron, dissolved	7440-42-8	-	750	5,000	-	-	-	-	-
Cadmium, dissolved	7440-43-9	5	10	50	-	see- 20.6.4.900.I	see- 20.6.4.900.I	-	-
Chlorine residual	7782-50-5	-	-	-	11	19	11	-	-
Chromium, dissolved	18540-29-9	100	100	1,000	-	see- 20.6.4.900.I	see- 20.6.4.900.I	-	-
Cobalt, dissolved	7440-48-4	-	50	1,000	-	-	-	-	-
Copper, dissolved	7440-50-8	1300	200	500	-	see- 20.6.4.900.I	see- 20.6.4.900.I	-	-
Cyanide, dissolved	57-12-5	200	-	-	-	-	-	-	-
Cyanide, weak acid dissociable	57-12-5	700	-	-	5.2	22.0	5.2	220,000	-
Lead, dissolved	7439-92-1	50	5,000	100	-	see- 20.6.4.900.I	see- 20.6.4.900.I	-	-

[Pollutant total, unless indicated]	CAS Number	Domestic Water Supply µg/L unless indicated	Irrigation µg/L unless indicated	Livestock Watering µg/L unless indicated	Wildlife Habitat µg/L unless indicated	Aquatic Life		Human Health µg/L	Cancer Causing (C) or Persistent (P)
						Acute µg/L	Chronic µg/L		
Mercury	7439-97-6	2	-	10	0.77				-
Mercury, dissolved	7439-97-6					1.4	0.77		
Methylmercury	22967-92-6							0.3 mg/ kg in fish tissue	P
Molybdenum, dissolved	7439-98-7	-	1,000	-	-	-	-	-	-
Nickel, dissolved	7440-02-0	100	-	-	-	see- 20.6.4.900-I	see- 20.6.4.900-I	4,600	P
Nitrate as N		10 mg/L							
Nitrite + Nitrate				132 mg/L					
Selenium, dissolved	7782-49-2	50	see- 20.6.4.900-C	50	-	-	-	4,200	P
Selenium, total recoverable	7782-49-2	-	-	-	5.0	20.0	5.0	-	-
Silver, dissolved	7440-22-4	-	-	-	-	see- 20.6.4.900-I		-	-
Thallium, dissolved	7440-28-0	1.7	-	-	-	-	-	6.3	P
Uranium, dissolved	7440-61-1	5,000							
Vanadium, dissolved	7440-62-2	-	100	100	-	-	-	-	-
Zinc, dissolved	7440-66-6	7,400	2,000	25,000	-	see- 20.6.4.900-I	see- 20.6.4.900-I	26,000	P
Adjusted gross alpha (see 20.6.4.900.B and .F)		15 pCi/L		15 pCi/L					
Radium 226 + Radium 228		5 pCi/L		30.0 pCi/L					
Strontium-90		8 pCi/L							
Tritium		20,000 pCi/L		20,000 pCi/L					
Acenaphthene	83-32-9	670	-	-	-	-	-	990	-
Acrolein	107-02-8	190	-	-	-	-	-	290	-
Acrylonitrile	107-13-1	0.51	-	-	-	-	-	2.5	C
Aldrin	309-00-2	0.00049	-	-	-	3.0	-	0.00050	C,P
Anthracene	120-12-7	8,300	-	-	-	-	-	40,000	-
Benzene	71-43-2	22	-	-	-	-	-	510	C
Benzo(a)anthracene	92-87-5	0.00086	-	-	-	-	-	0.0020	C
Benzo(a)pyrene	56-55-3	0.038	-	-	-	-	-	0.18	C
Benzo(b)fluoranthene	50-32-8	0.038	-	-	-	-	-	0.18	C,P
Benzo(k)fluoranthene	205-99-2	0.038	-	-	-	-	-	0.18	C
alpha-BHC	207-08-9	0.038	-	-	-	-	-	0.18	C
alpha-BHC	319-84-6	0.026	-	-	-	-	-	0.049	C
beta-BHC	319-85-7	0.091	-	-	-	-	-	0.17	C
Gamma-BHC (Lindane)	58-89-9	0.19	-	-	-	0.95	-	0.63	C
Bis(2-chloroethyl) ether	111-44-4	0.30	-	-	-	-	-	5.3	C
Bis(2-chloroisopropyl)- ether	108-60-1	1,400	-	-	-	-	-	65,000	-
Bis(2-ethylhexyl) phthalate	117817	12	-	-	-	-	-	22	C
Bromoform	75-25-2	43	-	-	-	-	-	1,400	C
Butylbenzyl phthalate	85-68-7	1,500	-	-	-	-	-	1,900	-
Carbon tetrachloride	56-23-5	2.3	-	-	-	-	-	16	C
Chlordane	57-74-9	0.0080	-	-	-	2.4	0.0043	0.0081	C,P
Chlorobenzene	108-90-7	680	-	-	-	-	-	21,000	-
Chlorodibromomethane	124-48-1	4.0	-	-	-	-	-	130	C
Chloroform	67-66-3	57	-	-	-	-	-	4,700	C
2-Chloronaphthalene	91-58-7	1,000	-	-	-	-	-	1,600	-

[Pollutant total, unless indicated]	CAS Number	Domestic Water Supply µg/L unless indicated	Irrigation µg/L unless indicated	Livestock Watering µg/L unless indicated	Wildlife Habitat µg/L unless- indicated	Aquatic Life		Human Health µg/L	Cancer Causing (C) or Persistent (P)
						Acute µg/L	Chronic µg/L		
2-Chlorophenol	95-57-8	81	-	-	-	-	-	150	-
Chrysene	218-01-9	0.038	-	-	-	-	-	0.18	€
4,4'-DDT and derivatives		0.0022	-	-	0.001	1.1	0.001	0.0022	€,P
Dibenzo(a,h)anthracene	53-70-3	0.038	-	-	-	-	-	0.18	€
Dibutyl phthalate	84-74-2	2,000	-	-	-	-	-	4,500	-
1,2-Dichlorobenzene	95-50-1	2,700	-	-	-	-	-	17,000	-
1,3-Dichlorobenzene	541-73-1	320	-	-	-	-	-	960	-
1,4-Dichlorobenzene	106-46-7	400	-	-	-	-	-	2,600	-
3,3'-Dichlorobenzidine	91-94-1	0.21	-	-	-	-	-	0.28	€
Dichlorobromomethane	75-27-4	5.5	-	-	-	-	-	170	€
1,2-Dichloroethane	107-06-2	3.8	-	-	-	-	-	370	€
1,1-Dichloroethylene	75-35-4	0.57	-	-	-	-	-	32	€
2,4-Dichlorophenol	120-83-2	77	-	-	-	-	-	290	-
1,2-Dichloropropane	78-87-5	5.0	-	-	-	-	-	150	€
1,3-Dichloropropene	542-75-6	10	-	-	-	-	-	1,700	-
Dieldrin	60-57-1	0.00052	-	-	-	0.24	0.056	0.00054	€,P
Diethyl phthalate	84-66-2	17,000	-	-	-	-	-	44,000	-
Dimethyl phthalate	131-11-3	270,000	-	-	-	-	-	1,100,000	-
2,4-Dimethylphenol	105-67-9	380	-	-	-	-	-	850	-
2,4-Dinitrophenol	51-28-5	69	-	-	-	-	-	5,300	-
2,4-Dinitrotoluene	121-14-2	1.1	-	-	-	-	-	34	€
2,3,7,8-TCDD Dioxin	1746-01-6	5.0E-08	-	-	-	-	-	5.1E-08	€,P
1,2-Diphenylhydrazine	122-66-7	0.36	-	-	-	-	-	2.0	€
alpha-Endosulfan	959-98-8	62	-	-	-	0.22	0.056	89	-
beta-Endosulfan	33213-65-9	62	-	-	-	0.22	0.056	89	-
Endosulfan sulfate	1031-07-8	62	-	-	-	-	-	89	-
Endrin	72-20-8	0.76	-	-	-	0.086	0.036	0.81	-
Endrin aldehyde	7421-93-4	0.29	-	-	-	-	-	0.30	-
Ethylbenzene	100-41-4	3,100	-	-	-	-	-	29,000	-
Fluoranthene	206-44-0	130	-	-	-	-	-	140	-
Fluorene	86-73-7	1,100	-	-	-	-	-	5,300	-
Heptachlor	76-44-8	0.00079	-	-	-	0.52	0.0038	0.00079	€
Heptachlor epoxide	1024-57-3	0.00039	-	-	-	0.52	0.0038	0.00039	€
Hexachlorobenzene	118-74-1	0.0028	-	-	-	-	-	0.0029	€,P
Hexachlorobutadiene	87-68-3	4.4	-	-	-	-	-	180	€
Hexachlorocyclopentadiene	77-47-4	240	-	-	-	-	-	17,000	-
Hexachloroethane	67-72-1	14	-	-	-	-	-	33	€
Ideno(1,2,3-cd)pyrene	193-39-5	0.038	-	-	-	-	-	0.18	€
Isophorone	78-59-1	350	-	-	-	-	-	9,600	€
Methyl bromide	74-83-9	47	-	-	-	-	-	1,500	-
2-Methyl-4,6-dinitrophenol	534-52-1	13	-	-	-	-	-	280	-
Methylene chloride	75-09-2	46	-	-	-	-	-	5,900	€
Nitrobenzene	98-95-3	17	-	-	-	-	-	690	-
N-Nitrosodimethylamine	62-75-9	0.0069	-	-	-	-	-	30	€
N-Nitrosodi-n-propylamine	621-64-7	0.050	-	-	-	-	-	5.1	€
N-Nitrosodiphenylamine	86-30-6	33	-	-	-	-	-	60	€
PCBs	1336-36-3	0.00064	-	-	0.014	-	0.014	0.00064	€,P
Pentachlorophenol	87-86-5	2.7	-	-	-	19	15	30	€

[Pollutant total, unless indicated]	CAS Number	Domestic Water Supply µg/L unless indicated	Irrigation µg/L unless indicated	Livestock Watering µg/L unless indicated	Wildlife Habitat µg/L unless indicated	Aquatic Life		Human Health µg/L	Cancer Causing (C) or Persistent (P)
						Acute µg/L	Chronic µg/L		
Phenol	108-95-2	21,000	-	-	-	-	-	1,700,000	-
Pyrene	129-00-0	830	-	-	-	-	-	4,000	-
1,1,2,2-Tetrachloroethane	79-34-5	1.7	-	-	-	-	-	40	C
Tetrachloroethylene	127-18-4	6.9	-	-	-	-	-	33	C,P
Toluene	108-88-3	6,800	-	-	-	-	-	200,000	-
Toxaphene	8001-35-2	0.0028	-	-	-	0.73	0.0002	0.0028	C
1,2-Trans-dichloroethylene	156-60-5	700	-	-	-	-	-	140,000	-
1,2,4-Trichlorobenzene	120-82-1	260	-	-	-	-	-	940	-
1,1,2-Trichloroethane	79-00-5	5.9	-	-	-	-	-	160	C
Trichloroethylene	79-01-6	25	-	-	-	-	-	300	C
2,4,6-Trichlorophenol	88-06-2	14	-	-	-	-	-	24	C
Vinyl chloride	75-01-4	20	-	-	-	-	-	5,300	C]

Pollutant	CAS Number	DWS	Irr	LW	WH	Aquatic Life			Type
						Acute	Chronic	HH-OO	
Aluminum, dissolved	7429-90-5		5,000						
Aluminum, total recoverable	7429-90-5					a	a		
Antimony, dissolved	7440-36-0	6						640	P
Arsenic, dissolved	7440-38-2	10	100	200		340	150	9.0	C,P
Asbestos	1332-21-4	7,000,000 fibers/L							
Barium, dissolved	7440-39-3	2,000							
Beryllium, dissolved	7440-41-7	4							
Boron, dissolved	7440-42-8		750	5,000					
Cadmium, dissolved	7440-43-9	5	10	50		a	a		
Chlorine residual	7782-50-5				11	19	11		
Chromium III, dissolved	16065-83-1					a	a		
Chromium VI, dissolved	18540-29-9					16	11		
Chromium, dissolved	7440-47-3	100	100	1,000					
Cobalt, dissolved	7440-48-4		50	1,000					
Copper, dissolved	7440-50-8	1300	200	500		a	a		
Cyanide, total recoverable	57-12-5	200			5.2	22.0	5.2	140	
Lead, dissolved	7439-92-1	15	5,000	100		a	a		
Manganese, dissolved	7439-96-5					a	a		
Mercury	7439-97-6	2		10	0.77				
Mercury, dissolved	7439-97-6					1.4	0.77		
Methylmercury	22967-92-6							0.3 mg/ kg in fish tissue	P
Molybdenum, dissolved	7439-98-7		1,000						
Molybdenum, total recoverable	7439-98-7					7,920	1,895		
Nickel, dissolved	7440-02-0	700				a	a	4,600	P
Nitrate as N		10 mg/L							
Nitrite + Nitrate				132 mg/L					
Selenium, dissolved	7782-49-2	50	b	50				4,200	P
Selenium, total recoverable	7782-49-2				5.0	20.0	5.0		
Silver, dissolved	7440-22-4					a			
Thallium, dissolved	7440-28-0	2						0.47	P

Pollutant	CAS Number	DWS	Irr	LW	WH	Aquatic Life			Type
						Acute	Chronic	HH-OO	
Uranium, dissolved	<u>7440-61-1</u>	<u>30</u>							
Vanadium, dissolved	<u>7440-62-2</u>		<u>100</u>	<u>100</u>					
Zinc, dissolved	<u>7440-66-6</u>	<u>10,500</u>	<u>2,000</u>	<u>25,000</u>		<u>a</u>	<u>a</u>	<u>26,000</u>	<u>P</u>
Adjusted gross alpha		<u>15 pCi/L</u>		<u>15 pCi/L</u>					
Radium 226 + Radium 228		<u>5 pCi/L</u>		<u>3 0 . 0</u> <u>pCi/L</u>					
Strontium 90		<u>8 pCi/L</u>							
Tritium		<u>20,000 pCi/L</u>		<u>2 0 . 0 0 0</u> <u>pCi/L</u>					
Acenaphthene	<u>83-32-9</u>	<u>2,100</u>						<u>990</u>	
Acrolein	<u>107-02-8</u>	<u>18</u>						<u>9</u>	
Acrylonitrile	<u>107-13-1</u>	<u>0.65</u>						<u>2.5</u>	<u>C</u>
Aldrin	<u>309-00-2</u>	<u>0.021</u>				<u>3.0</u>		<u>0.00050</u>	<u>C,P</u>
Anthracene	<u>120-12-7</u>	<u>10,500</u>						<u>40,000</u>	
Benzene	<u>71-43-2</u>	<u>5</u>						<u>510</u>	<u>C</u>
Benzidine	<u>92-87-5</u>	<u>0.0015</u>						<u>0.0020</u>	<u>C</u>
Benzoanthracene	<u>56-55-3</u>	<u>0.048</u>						<u>0.18</u>	<u>C</u>
Benzoapyrene	<u>50-32-8</u>	<u>0.2</u>						<u>0.18</u>	<u>C,P</u>
Benzo(b)fluoranthene	<u>205-99-2</u>	<u>0.048</u>						<u>0.18</u>	<u>C</u>
Benzo(k)fluoranthene	<u>207-08-9</u>	<u>0.048</u>						<u>0.18</u>	<u>C</u>
alpha-BHC	<u>319-84-6</u>	<u>0.056</u>						<u>0.049</u>	<u>C</u>
beta-BHC	<u>319-85-7</u>	<u>0.091</u>						<u>0.17</u>	<u>C</u>
Gamma-BHC (Lindane)	<u>58-89-9</u>	<u>0.20</u>				<u>0.95</u>		<u>1.8</u>	
Bis(2-chloroethyl) ether	<u>111-44-4</u>	<u>0.30</u>						<u>5.3</u>	<u>C</u>
Bis(2-chloroisopropyl) ether	<u>108-60-1</u>	<u>1,400</u>						<u>65,000</u>	
Bis(2-ethylhexyl) phthalate	<u>117817</u>	<u>6</u>						<u>22</u>	<u>C</u>
Bromoform	<u>75-25-2</u>	<u>44</u>						<u>1,400</u>	<u>C</u>
Butylbenzyl phthalate	<u>85-68-7</u>	<u>7,000</u>						<u>1,900</u>	
Carbon tetrachloride	<u>56-23-5</u>	<u>5</u>						<u>16</u>	<u>C</u>
Chlordane	<u>57-74-9</u>	<u>2</u>				<u>2.4</u>	<u>0.0043</u>	<u>0.0081</u>	<u>C,P</u>
Chlorobenzene	<u>108-90-7</u>	<u>100</u>						<u>1,600</u>	
Chlorodibromomethane	<u>124-48-1</u>	<u>4.2</u>						<u>130</u>	<u>C</u>
Chloroform	<u>67-66-3</u>	<u>57</u>						<u>4,700</u>	<u>C</u>
2-Chloronaphthalene	<u>91-58-7</u>	<u>2,800</u>						<u>1,600</u>	
2-Chlorophenol	<u>95-57-8</u>	<u>175</u>						<u>150</u>	
Chrysene	<u>218-01-9</u>	<u>0.048</u>						<u>0.18</u>	<u>C</u>
Diazinon	<u>333-41-5</u>					<u>0.17</u>	<u>0.17</u>		
4,4'-DDT and derivatives		<u>1.0</u>			<u>0.001</u>	<u>1.1</u>	<u>0.001</u>	<u>0.0022</u>	<u>C,P</u>
Dibenzo(a,h)anthracene	<u>53-70-3</u>	<u>0.048</u>						<u>0.18</u>	<u>C</u>
Dibutyl phthalate	<u>84-74-2</u>	<u>3,500</u>						<u>4,500</u>	
1,2-Dichlorobenzene	<u>95-50-1</u>	<u>600</u>						<u>1,300</u>	
1,3-Dichlorobenzene	<u>541-73-1</u>	<u>469</u>						<u>960</u>	
1,4-Dichlorobenzene	<u>106-46-7</u>	<u>75</u>						<u>190</u>	
3,3'-Dichlorobenzidine	<u>91-94-1</u>	<u>0.78</u>						<u>0.28</u>	<u>C</u>
Dichlorobromomethane	<u>75-27-4</u>	<u>5.6</u>						<u>170</u>	<u>C</u>
1,2-Dichloroethane	<u>107-06-2</u>	<u>5</u>						<u>370</u>	<u>C</u>
1,1-Dichloroethylene	<u>75-35-4</u>	<u>7</u>						<u>7,100</u>	<u>C</u>
2,4-Dichlorophenol	<u>120-83-2</u>	<u>105</u>						<u>290</u>	
1,2-Dichloropropane	<u>78-87-5</u>	<u>5.0</u>						<u>150</u>	<u>C</u>
1,3-Dichloropropene	<u>542-75-6</u>	<u>3.5</u>						<u>210</u>	<u>C</u>

Pollutant	CAS Number	DWS	Irr	LW	WH	Aquatic Life			Type
						Acute	Chronic	HH-OO	
Dieldrin	60-57-1	0.022				0.24	0.056	0.00054	C,P
Diethyl phthalate	84-66-2	28,000						44,000	
Dimethyl phthalate	131-11-3	350,000						1,100,000	
2,4-Dimethylphenol	105-67-9	700						850	
2,4-Dinitrophenol	51-28-5	70						5,300	
2,4-Dinitrotoluene	121-14-2	1.1						34	C
Dioxin		3.0E-05						5.1E-08	C,P
1,2-Diphenylhydrazine	122-66-7	0.44						2.0	C
alpha-Endosulfan	959-98-8	62				0.22	0.056	89	
beta-Endosulfan	33213-65-9	62				0.22	0.056	89	
Endosulfan sulfate	1031-07-8	62						89	
Endrin	72-20-8	2				0.086	0.036	0.060	
Endrin aldehyde	7421-93-4	10.5						0.30	
Ethylbenzene	100-41-4	700						2,100	
Fluoranthene	206-44-0	1,400						140	
Fluorene	86-73-7	1,400						5,300	
Heptachlor	76-44-8	0.40				0.52	0.0038	0.00079	C
Heptachlor epoxide	1024-57-3	0.20				0.52	0.0038	0.00039	C
Hexachlorobenzene	118-74-1	1						0.0029	C,P
Hexachlorobutadiene	87-68-3	4.5						180	C
Hexachlorocyclopentadiene	77-47-4	50						1,100	
Hexachloroethane	67-72-1	25						33	C
Ideno(1,2,3-cd)pyrene	193-39-5	0.048						0.18	C
Isophorone	78-59-1	368						9,600	C
Methyl bromide	74-83-9	49						1,500	
2-Methyl-4,6-dinitrophenol	534-52-1	14						280	
Methylene chloride	75-09-2	5						5,900	C
Nitrobenzene	98-95-3	18						690	
N-Nitrosodimethylamine	62-75-9	0.0069						30	C
N-Nitrosodi-n-propylamine	621-64-7	0.050						5.1	C
N-Nitrosodiphenylamine	86-30-6	71						60	C
Nonylphenol	84852-15-3					28	6.6		
Polychlorinated Biphenyls (PCBs)	1336-36-3	0.50			0.014	2	0.014	0.00064	C,P
Pentachlorophenol	87-86-5	1.0				19	15	30	C
Phenol	108-95-2	10,500						860,000	
Pyrene	129-00-0	1,050						4,000	
1,1,2,2-Tetrachloroethane	79-34-5	1.8						40	C
Tetrachloroethylene	127-18-4	5						33	C,P
Toluene	108-88-3	1,000						15,000	
Toxaphene	8001-35-2	3				0.73	0.0002	0.0028	C
1,2-Trans-dichloroethylene	156-60-5	100						10,000	
1,2,4-Trichlorobenzene	120-82-1	70						70	
1,1,1-Trichloroethane	71-55-6	200							
1,1,2-Trichloroethane	79-00-5	5						160	C
Trichloroethylene	79-01-6	5						300	C
2,4,6-Trichlorophenol	88-06-2	32						24	C
Vinyl chloride	75-01-4	2						24	C

K. [~~Acute Criteria, Total Ammonia (mg/L as N)~~] Acute aquatic life criteria for total ammonia are dependent on pH and

the presence or absence of salmonids. The criteria in mg/L as N based on analysis of unfiltered samples are as follows:

pH	Where Salmonids Present	Where Salmonids Absent
6.5 and below	32.6	48.8
6.6	31.3	46.8
6.7	29.8	44.6
6.8	28.1	42.0
6.9	26.2	39.1
7.0	24.1	36.1
7.1	22.0	32.8
7.2	19.7	29.5
7.3	17.5	26.2
7.4	15.4	23.0
7.5	13.3	19.9
7.6	11.4	17.0
7.7	9.65	14.4
7.8	8.11	12.1
7.9	6.77	10.1
8.0	5.62	8.40
8.1	4.64	6.95
8.2	3.83	5.72
8.3	3.15	4.71
8.4	2.59	3.88
8.5	2.14	3.20
8.6	1.77	2.65
8.7	1.47	2.20
8.8	1.23	1.84
8.9	1.04	1.56
9.0 and above	0.885	1.32

L. [Chronic Criteria, Total Ammonia (mg/L as N), Fish Early Life Stages Present] Chronic aquatic life criteria for total ammonia are dependent on pH, temperature and whether fish in early life stages are present or absent. The criteria are based on analysis of unfiltered samples and are calculated according to the equations in Paragraphs (1) and (2) of this subsection. For temperatures below 0°C, the criteria for 0°C apply; for temperatures above 30°C, the criteria for 30°C apply. For pH values below 6.5, the criteria for 6.5 apply; for pH values above 9.0, the criteria for 9.0 apply.

(1) Chronic aquatic life criteria for total ammonia when fish early life stages are present.

(a) The equation to calculate chronic criteria in mg/L as N is:

$$((0.0577/(1 + 10^{7.688-pH})) + (2.487/(1 + 10^{pH-7.688}))) \times \text{MIN}(2.85, 1.45 \times 10^{0.028 \times (25-T)})$$

(b) Selected values of calculated chronic criteria in mg/L as N:

pH	Temperature (°C)										
	0 and below	14	15	16	18	20	22	24	26	28	30 and above
6.5 and below	6.67	6.67	6.46	6.06	5.33	4.68	4.12	3.62	3.18	2.80	2.46
6.6	6.57	6.57	6.36	5.97	5.25	4.61	4.05	3.56	3.13	2.75	2.42
6.7	6.44	6.44	6.25	5.86	5.15	4.52	3.98	3.50	3.07	2.70	2.37
6.8	6.29	6.29	6.10	5.72	5.03	4.42	3.89	3.42	3.00	2.64	2.32
6.9	6.12	6.12	5.93	5.56	4.89	4.30	3.78	3.32	2.92	2.57	2.25
7.0	5.91	5.91	5.73	5.37	4.72	4.15	3.65	3.21	2.82	2.48	2.18
7.1	5.67	5.67	5.49	5.15	4.53	3.98	3.50	3.08	2.70	2.38	2.09
7.2	5.39	5.39	5.22	4.90	4.31	3.78	3.33	2.92	2.57	2.26	1.99
7.3	5.08	5.08	4.92	4.61	4.06	3.57	3.13	2.76	2.42	2.13	1.87
7.4	4.73	4.73	4.59	4.30	3.78	3.32	2.92	2.57	2.26	1.98	1.74

pH	Temperature (°C)										
	0 and below	14	15	16	18	20	22	24	26	28	30 and above
7.5	4.36	4.36	4.23	3.97	3.49	3.06	2.69	2.37	2.08	1.83	1.61
7.6	3.98	3.98	3.85	3.61	3.18	2.79	2.45	2.16	1.90	1.67	1.47
7.7	3.58	3.58	3.47	3.25	2.86	2.51	2.21	1.94	1.71	1.50	1.32
7.8	3.18	3.18	3.09	2.89	2.54	2.23	1.96	1.73	1.52	1.33	1.17
7.9	2.80	2.80	2.71	2.54	2.24	1.96	1.73	1.52	1.33	1.17	1.03
8.0	2.43	2.43	2.36	2.21	1.94	1.71	1.50	1.32	1.16	1.02	0.897
8.1	2.10	2.10	2.03	1.91	1.68	1.47	1.29	1.14	1.00	0.879	0.773
8.2	1.79	1.79	1.74	1.63	1.43	1.26	1.11	0.973	0.855	0.752	0.661
8.3	1.52	1.52	1.48	1.39	1.22	1.07	0.941	0.827	0.727	0.639	0.562
8.4	1.29	1.29	1.25	1.17	1.03	0.906	0.796	0.700	0.615	0.541	0.475
8.5	1.09	1.09	1.06	0.990	0.870	0.765	0.672	0.591	0.520	0.457	0.401
8.6	0.920	0.920	0.892	0.836	0.735	0.646	0.568	0.499	0.439	0.386	0.339
8.7	0.778	0.778	0.754	0.707	0.622	0.547	0.480	0.422	0.371	0.326	0.287
8.8	0.661	0.661	0.641	0.601	0.528	0.464	0.408	0.359	0.315	0.277	0.244
8.9	0.565	0.565	0.548	0.513	0.451	0.397	0.349	0.306	0.269	0.237	0.208
9.0 and above	0.486	0.486	0.471	0.442	0.389	0.342	0.300	0.264	0.232	0.204	0.179

[M. — Chronic Criteria, Total Ammonia (mg/L as N), Fish Early Life Stages Absent]

(2) Chronic aquatic life criteria for total ammonia when fish early life stages are absent.

(a) The equation to calculate chronic criteria in mg/L as N is:

$$(((0.0577/(1 + 10^{7.688-pH})) + (2.487/(1 + 10^{pH-7.688})))) \times 1.45 \times 10^{0.028 \times (25-MAX(T,7))}$$

(b) Selected values of calculated chronic criteria in mg/L as N:

pH	Temperature (°C)									
	0 and below	7	8	9	10	11	12	13	14	15 and above
6.5 and below	10.8	10.8	10.1	9.51	8.92	8.36	7.84	7.35	6.89	6.46
6.6	10.7	10.7	9.99	9.37	8.79	8.24	7.72	7.24	6.79	6.36
6.7	10.5	10.5	9.81	9.20	8.62	8.08	7.58	7.11	6.66	6.25
6.8	10.2	10.2	9.58	8.98	8.42	7.90	7.40	6.94	6.51	6.10
6.9	9.93	9.93	9.31	8.73	8.19	7.68	7.20	6.75	6.33	5.93
7.0	9.60	9.60	9.00	8.43	7.91	7.41	6.95	6.52	6.11	5.73
7.1	9.20	9.20	8.63	8.09	7.58	7.11	6.67	6.25	5.86	5.49
7.2	8.75	8.75	8.20	7.69	7.21	6.76	6.34	5.94	5.57	5.22
7.3	8.24	8.24	7.73	7.25	6.79	6.37	5.97	5.60	5.25	4.92
7.4	7.69	7.69	7.21	6.76	6.33	5.94	5.57	5.22	4.89	4.59
7.5	7.09	7.09	6.64	6.23	5.84	5.48	5.13	4.81	4.51	4.23
7.6	6.46	6.46	6.05	5.67	5.32	4.99	4.68	4.38	4.11	3.85
7.7	5.81	5.81	5.45	5.11	4.79	4.49	4.21	3.95	3.70	3.47
7.8	5.17	5.17	4.84	4.54	4.26	3.99	3.74	3.51	3.29	3.09
7.9	4.54	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89	2.71
8.0	3.95	3.95	3.70	3.47	3.26	3.05	2.86	2.68	2.52	2.36
8.1	3.41	3.41	3.19	2.99	2.81	2.63	2.47	2.31	2.17	2.03
8.2	2.91	2.91	2.73	2.56	2.40	2.25	2.11	1.98	1.85	1.74
8.3	2.47	2.47	2.32	2.18	2.04	1.91	1.79	1.68	1.58	1.48
8.4	2.09	2.09	1.96	1.84	1.73	1.62	1.52	1.42	1.33	1.25
8.5	1.77	1.77	1.66	1.55	1.46	1.37	1.28	1.20	1.13	1.06
8.6	1.49	1.49	1.40	1.31	1.23	1.15	1.08	1.01	0.951	0.892
8.7	1.26	1.26	1.18	1.11	1.04	0.976	0.915	0.858	0.805	0.754

pH	Temperature (°C)									
	0 and below	7	8	9	10	11	12	13	14	15 and above
8.8	1.07	1.07	1.01	0.944	0.855	0.829	0.778	0.729	0.684	0.641
8.9	0.917	0.917	0.860	0.806	0.756	0.709	0.664	0.623	0.584	0.548
9.0 and above	0.790	0.790	0.740	0.694	0.651	0.610	0.572	0.536	0.503	0.471

At 15° C and above, the criterion for fish early life stages absent is the same as the criterion for fish early life stages present (refer to [Subsection L of 20.6.4.900-NMAC]table in Paragraph (1) of this subsection).

[N: **Dissolved oxygen saturation based on temperature and elevation:**

(1) Elevation 5,000 feet or less:

		[Elevation (feet)]										
		0	500	1,000	1,500	2,000	2,500	3,000	3,500	4,000	4,500	5,000
Temperature (°C)	0	14.6	14.3	14.1	13.8	13.6	13.3	13.1	12.8	12.6	12.3	12.1
	1	14.2	13.9	13.7	13.4	13.2	12.9	12.7	12.5	12.2	12.0	11.8
	2	13.8	13.6	13.3	13.1	12.8	12.6	12.4	12.1	11.9	11.7	11.5
	3	13.4	13.2	13.0	12.7	12.5	12.3	12.0	11.8	11.6	11.4	11.1
	4	13.1	12.8	12.6	12.4	12.2	11.9	11.7	11.5	11.3	11.1	10.9
	5	12.7	12.5	12.3	12.1	11.8	11.6	11.4	11.2	11.0	10.8	10.6
	6	12.4	12.2	12.0	11.8	11.5	11.3	11.1	10.9	10.7	10.5	10.3
	7	12.1	11.9	11.7	11.5	11.3	11.1	10.8	10.6	10.4	10.2	10.1
	8	11.8	11.6	11.4	11.2	11.0	10.8	10.6	10.4	10.2	10.0	9.8
	9	11.5	11.3	11.1	10.9	10.7	10.5	10.3	10.1	9.9	9.8	9.6
	10	11.3	11.1	10.9	10.7	10.5	10.3	10.1	9.9	9.7	9.5	9.4
	11	11.0	10.8	10.6	10.4	10.2	10.0	9.9	9.7	9.5	9.3	9.1
	12	10.8	10.6	10.4	10.2	10.0	9.8	9.6	9.5	9.3	9.1	8.9
	13	10.5	10.3	10.1	9.9	9.8	9.6	9.4	9.2	9.1	8.9	8.7
	14	10.3	10.1	9.9	9.7	9.6	9.4	9.2	9.0	8.9	8.7	8.5
	15	10.1	9.9	9.7	9.5	9.3	9.2	9.0	8.8	8.7	8.5	8.4
	16	9.8	9.7	9.5	9.3	9.2	9.0	8.8	8.7	8.5	8.3	8.2
	17	9.6	9.5	9.3	9.1	9.0	8.8	8.6	8.5	8.3	8.2	8.0
	18	9.4	9.3	9.1	8.9	8.8	8.6	8.5	8.3	8.1	8.0	7.8
	19	9.3	9.1	8.9	8.8	8.6	8.4	8.3	8.1	8.0	7.8	7.7
	20	9.1	8.9	8.7	8.6	8.4	8.3	8.1	8.0	7.8	7.7	7.5
	21	8.9	8.7	8.6	8.4	8.3	8.1	8.0	7.8	7.7	7.5	7.4
	22	8.7	8.6	8.4	8.2	8.1	8.0	7.8	7.7	7.5	7.4	7.2
	23	8.6	8.4	8.2	8.1	7.9	7.8	7.7	7.5	7.4	7.2	7.1
	24	8.4	8.2	8.1	7.9	7.8	7.7	7.5	7.4	7.2	7.1	7.0
	25	8.2	8.1	7.9	7.8	7.7	7.5	7.4	7.2	7.1	7.0	6.8
	26	8.1	7.9	7.8	7.7	7.5	7.4	7.2	7.1	7.0	6.8	6.7
	27	7.9	7.8	7.7	7.5	7.4	7.2	7.1	7.0	6.8	6.7	6.6
	28	7.8	7.7	7.5	7.4	7.2	7.1	7.0	6.9	6.7	6.6	6.5
	29	7.7	7.5	7.4	7.3	7.1	7.0	6.9	6.7	6.6	6.5	6.4
	30	7.5	7.4	7.3	7.1	7.0	6.9	6.7	6.6	6.5	6.4	6.3]

[**(2) Elevation greater than 5,000 feet:**

		[Elevation (feet)]									
		5,500	6,000	6,500	7,000	7,500	8,000	8,500	9,000	9,500	10,000
Temperature (°C)	0	11.9	11.6	11.4	11.2	11.0	10.8	10.6	10.3	10.1	9.9
	1	11.5	11.3	11.1	10.9	10.7	10.5	10.3	10.1	9.9	9.7
	2	11.2	11.0	10.8	10.6	10.4	10.2	10.0	9.8	9.6	9.4
	3	10.9	10.7	10.5	10.3	10.1	9.9	9.7	9.5	9.3	9.1
	4	10.7	10.4	10.2	10.0	9.8	9.7	9.5	9.3	9.1	8.9
	5	10.4	10.2	10.0	9.8	9.6	9.4	9.2	9.0	8.9	8.7
	6	10.1	9.9	9.7	9.5	9.4	9.2	9.0	8.8	8.6	8.5
	7	9.9	9.7	9.5	9.3	9.1	8.9	8.8	8.6	8.4	8.2
	8	9.6	9.4	9.3	9.1	8.9	8.7	8.6	8.4	8.2	8.0
	9	9.4	9.2	9.0	8.9	8.7	8.5	8.3	8.2	8.0	7.8
	10	9.2	9.0	8.8	8.7	8.5	8.3	8.1	8.0	7.8	7.7
	11	9.0	8.8	8.6	8.5	8.3	8.1	8.0	7.8	7.6	7.5
	12	8.8	8.6	8.4	8.3	8.1	7.9	7.8	7.6	7.5	7.3
	13	8.6	8.4	8.2	8.1	7.9	7.8	7.6	7.5	7.3	7.2
	14	8.4	8.2	8.1	7.9	7.7	7.6	7.4	7.3	7.1	7.0
	15	8.2	8.0	7.9	7.7	7.6	7.4	7.3	7.1	7.0	6.8
	16	8.0	7.9	7.7	7.6	7.4	7.3	7.1	7.0	6.8	6.7
	17	7.9	7.7	7.6	7.4	7.3	7.1	7.0	6.8	6.7	6.6
	18	7.7	7.5	7.4	7.3	7.1	7.0	6.8	6.7	6.6	6.4
	19	7.5	7.4	7.2	7.1	7.0	6.8	6.7	6.6	6.4	6.3
	20	7.4	7.2	7.1	7.0	6.8	6.7	6.6	6.4	6.3	6.2
	21	7.2	7.1	7.0	6.8	6.7	6.6	6.4	6.3	6.2	6.0
	22	7.1	7.0	6.8	6.7	6.6	6.4	6.3	6.2	6.1	5.9
	23	7.0	6.8	6.7	6.6	6.4	6.3	6.2	6.1	5.9	5.8
	24	6.8	6.7	6.6	6.4	6.3	6.2	6.1	5.9	5.8	5.7
	25	6.7	6.6	6.5	6.3	6.2	6.1	6.0	5.8	5.7	5.6
	26	6.6	6.5	6.3	6.2	6.1	6.0	5.8	5.7	5.6	5.5
	27	6.5	6.3	6.2	6.1	6.0	5.9	5.7	5.6	5.5	5.4
	28	6.4	6.2	6.1	6.0	5.9	5.8	5.6	5.5	5.4	5.3
	29	6.2	6.1	6.0	5.9	5.8	5.7	5.5	5.4	5.3	5.2
	30	6.1	6.0	5.9	5.8	5.7	5.6	5.4	5.3	5.2	5.1]

[20.6.4.900 NMAC - Rp 20 NMAC 6.1.3100, 10-12-00; A, 10-11-02; A, 05-23-05; A, 07-17-05; A, 12-01-10]

20.6.4.901

PUBLICATION REFERENCES: These documents are intended as guidance and are available for public review during regular business hours at the offices of the surface water quality bureau [and the New Mexico environment department public library]. Copies of these documents have also been filed with the New Mexico state records center in order to provide greater access to this information.

A. American public health association. 1992. *Standard methods for the examination of water and wastewater, 18th Edition*. Washington, D.C. 1048 p.

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C. American public health association. 1998. *Standard methods for the examination of water and wastewater, 20th Edition*. Washington, D.C. 1112 p.

D. United States geological survey. 1987. *Methods for determination of inorganic substances in water and fluvial sediments, techniques of water-resource investigations of the United States geological survey*. Washington, D.C. 80 p.

E. United States geological survey. 1987. *Methods for the determination of organic substances in water and fluvial sediments, techniques of water-resource investigations of the U.S. geological survey*. Washington, D.C. 80 p.

F. United States environmental protection agency. 1974. *Methods for chemical analysis of water and wastes*. National environmental research center, Cincinnati, Ohio. (EPA-625-/6-74-003). 298 p.

G. New Mexico water quality control commission. 2003. *(208) state of New Mexico water quality management plan*. Santa Fe, New Mexico. 85 p.

H. Colorado river basin salinity control forum. 2002. *2002 Review, water quality standards for salinity, Colorado river system*. Phoenix, Arizona. 176 p.

I. United States environmental protection agency. 2002. *Methods for measuring the acute toxicity of effluents and receiving waters to freshwater and marine organisms*. Office of research and development, Washington, D.C. (5th Ed., EPA 821-R-02-012). 293 p. <http://www.epa.gov/ostWET/disk2/atx.pdf>

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effluents and receiving waters to freshwater organisms. Environmental monitoring systems laboratory, Cincinnati, Ohio. (~~2nd Ed., EPA 600/4-89/001). 250 p.~~ 4th Ed., EPA 821-R-02-01). 335 p.

K. Ambient-induced mixing, in United States environmental protection agency. 1991. *Technical support document for water quality-based toxics control.* Office of water, Washington, D.C. (EPA/505/2-90-001). 2 p.

L. United States environmental protection agency. 1983. *Technical support manual: waterbody surveys and assessments for conducting use attainability analyses.* Office of water, regulations and standards, Washington, D.C. 251 p. <http://www.epa.gov/OST/library/wqstandards/uaavol123.pdf>

M. United States environmental protection agency. 1984. *Technical support manual: waterbody surveys and assessments for conducting use attainability analyses, volume III: lake systems.* Office of water, regulations and standards, Washington, D.C. 208 p. <http://www.epa.gov/OST/library/wqstandards/uaavol123.pdf>
[20.6.4.901 NMAC - Rp 20 NMAC 6.1.4000, 10-12-00; A, 05-23-05; A, 12-01-10]

End of Adopted Rules Section

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Other Material Related to Administrative Law

**NEW MEXICO
DEPARTMENT OF PUBLIC
SAFETY
TRAINING AND RECRUITING
DIVISION
Law Enforcement Academy**

Notice

**NEW MEXICO DEPARTMENT OF
PUBLIC SAFETY
NM LAW ENFORCEMENT ACADEMY
WORK SESSION AND BOARD
MEETING**

The New Mexico Law Enforcement Academy Board will hold a NMLEA Work Session from 1:00 p.m. to 5:00 p.m. on December 6, 2010. The Work Session will include discussion of the following topics: Agency Training Audit Summary Report for Spring 2010; 10.29.9 - Police Officer Minimum Standards of Training; 10.29.7 - In-service Training Requirements (Fee based system); 10.29.1 - General Provisions (Domestic Violence addition); IACP Guidelines on Returning Veterans. Discussion only, no formal action will be taken on any matter at this work session.

On December 7, 2010, the New Mexico Law Enforcement Academy Board will hold a Regular Board Meeting.

The NMLEA Work Session, and Regular Board Meeting will be held at the Hard Rock Casino, 11000 Broadway, Albuquerque, New Mexico.

Copies of the Work Session, and Regular Board Meeting Agenda's may be obtained by accessing our website at www.dps.nm.org/training or by calling Arthur Ortiz at (505) 827-9290, or Monique Lopez at (505) 827-9255.

**End of Other Related Material
Section**

Submittal Deadlines and Publication Dates 2010

Volume XXI	Submittal Deadline	Publication Date
Issue Number 18	September 16	September 30
Issue Number 19	October 1	October 15
Issue Number 20	October 18	October 29
Issue Number 21	November 1	November 15
Issue Number 22	November 16	December 1
Issue Number 23	December 2	December 15
Issue Number 24	December 16	December 30

Submittal Deadlines and Publication Dates 2011

Volume XXII	Submittal Deadline	Publication Date
Issue Number 1	January 4	January 14
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 1	April 15
Issue Number 8	April 18	April 29
Issue Number 9	May 2	May 16
Issue Number 10	May 17	May 31
Issue Number 11	June 1	June 15
Issue Number 12	June 16	June 30
Issue Number 13	July 1	July 15
Issue Number 14	July 18	July 29
Issue Number 15	August 1	August 15
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Issue Number 21	November 1	November 15
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