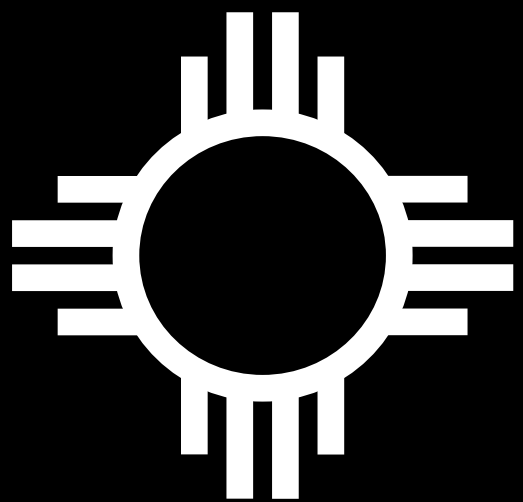


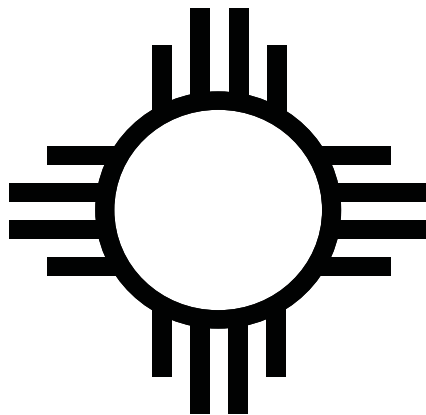
**NEW
MEXICO
REGISTER**



Volume XXIV
Issue Number 1
January 15, 2013

New Mexico Register

**Volume XXIV, Issue Number 1
January 15, 2013**



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
2013

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New Mexico Register

Volume XXIV, Number 1

January 15, 2013

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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A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered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 BOARD OF EXAMINERS FOR ARCHITECTS

New Mexico Board of Examiners for Architects

PO Box 509
Santa Fe, NM
505-982-2869

Public Hearing Meeting

The New Mexico Board of Examiners for Architects will hold a regular open meeting of the Board on Friday, February 8, 2013 in the Room 142, George Pearl Hall, 1 University of New Mexico, Albuquerque, NM 87131, beginning at 9 a.m. A public rules hearing will also be held to amend the architectural rules. Content will be amendments to the continuing education requirements for renewal of licensure. Proposed rules are available by contacting the Board office at (505) 982-2869.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the meeting, please contact the Board Office at 982-2869 at least one week prior to the meeting. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact the Board Office if a summary or other type of accessible format is needed.

NEW MEXICO PUBLIC REGULATION COMMISSION

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

Case No. 12-00380-UT

IN THE MATTER OF POSSIBLE CHANGES TO THE STATE RURAL UNIVERSAL SERVICE FUND RULES AS 17.11.10 NMAC.

NOTICE OF PROPOSED RULEMAKING

NOTICE is hereby given that the New Mexico Public Regulation Commission is commencing a rulemaking proceeding for the purpose of considering changes to parts of the State Rural Universal Service Fund Rules in order to reflect developments since the rules were originally promulgated and to control the SRUSF surcharge rate. A copy of the Proposed Rule is attached hereto as Attachment A.

THE COMMISSION FINDS AND CONCLUDES:

1. The Commission has the authority to promulgate the proposed rule amendments under the N.M. Const. art. XI, Section 2, and under NMSA 1978, Sections 8-8-4 and 63-9H-6.
2. The State Rural Universal Service Fund rules were adopted in 2005 and have not been modified since.
3. The Commission may conduct a proceeding to establish new affordability benchmarks after three years has elapsed from the prior proceeding. 17.11.10.9 NMAC.
4. The Commission should consider changes to the residential and business affordability benchmarks
5. The Commission should consider updating the data used to determine carriers' revenue requirements in current rule 17.11.10.19(E).
6. The Commission should consider placing a cap on the SRUSF surcharge percentage that is assessed to all consumers of traditional wire-line, wireless, and voice over internet protocol (VoIP) intrastate telephone services.
7. This NOPR should constitute due and lawful notice to all potentially interested persons.
8. Commission Rule 1.2.3.7(B) NMAC (Ex Parte Communications) draws a distinction applicable to rulemaking proceedings between communications occurring before the record has been closed and communications occurring after the record has been closed. It defines only the latter as "ex parte communications." In order to ensure compliance with Rule 1.2.3.7(B) NMAC, the Commission should set a date on which it will consider the record to be closed. The Commission finds that date shall be the earlier of thirty (30) days following the **March 18, 2013, Public Hearing**, that is, **April 17, 2013**, or the date a Final Order is issued in this case. The setting of that record closure date will permit Commissioners and Commission

Counsel to conduct follow-up discussions with parties who have submitted initial or response comments to the Commission's Proposed Rule or responses to any bench requests. However, this action should not be interpreted as extending the time during which parties may file comments or response comments, or as allowing the filing of other types of documents in this case

9. Additional copies of the Proposed Rule can be obtained from:

Mr. Nick Guillen
NMPRC Records Management
Bureau
1120 Paseo de Peralta
Santa Fe, New Mexico 87501

or

Mr. Nick Guillen
NMPRC Records Management
Bureau
P.O. Box 1269
Santa Fe, New Mexico 87504-1269

or by calling 505-827-4366.

IT IS THEREFORE ORDERED:

A. The rulemaking proceeding shall be, and hereby is, instituted in this Docket.

B. This *Notice of Proposed Rulemaking* constitutes due and lawful notice to all potentially interested persons.

C. Any person wishing to comment on the Proposed Rule may do so by submitting written comments no later than **January 31, 2013**. Any person wishing to respond to comments may do so by submitting written response comments no later than **February 22, 2013**. Comments suggesting changes to the Proposed Rule shall state and discuss the particular reasons for the suggested changes and shall include all specific language necessary or appropriate to effectuate the changes being suggested. Specific proposed language changes to the Proposed Rule shall be provided in a form consistent with that of the Proposed Rule. Commenters' deletions shall be indicated by striking through the language to be deleted; additions shall be underlined.

D. All pleadings, including comments, shall bear the above caption and case number 12-00380-UT and shall be filed with the Commission's Records Division, at either of the addresses set out in paragraph 11 above.

E. A public hearing on the Proposed Rule, to be presided over by the Commission or its designee, shall be held beginning at **9:00 a.m., March 18, 2013**,

at the offices of the Commission, at the following location:

4th Floor Hearing Room
1120 Paseo de Peralta, PERA
Bldg.
Santa Fe, New Mexico 87501
Tel. 505-827-4366

The hearing will be held in order to receive oral comments and to clarify or supplement the written comments. No testimony or other evidence will be taken at the hearing as this is a rulemaking proceeding.

F. All persons providing public comment and/or participating in the public hearing are encouraged to provide specific comments on the Proposed Rule. Commenters are also encouraged to address any other topic that may be relevant to this rulemaking.

G. Interested persons should contact the Commission to confirm the date, time, and place of any public hearing, because hearings are occasionally rescheduled. Any person with a disability requiring special assistance in order to participate in the hearing should contact Ms. Cecilia Rios at (505) 827-4501 at least 48 hours prior to the commencement of the hearing.

H. Pursuant to NMSA 1978, Section 8-8-15(B) (amended 2001), at least thirty days prior to the hearing date, this *Notice of Proposed Rulemaking*, including Attachment A, shall be mailed to all persons who have made a written request for advance notice and shall be published without Attachment A in at least two newspapers of general circulation in New Mexico and in the NEW MEXICO REGISTER. Affidavits attesting to the publication of this *Notice of Proposed Rulemaking* as described above shall be filed in this Docket.

I. Copies of this *Notice of Proposed Rulemaking*, including Attachment A, shall be e-mailed to all persons listed on the attached Certificate of Service if their e-mail addresses are known, and if not known, mailed to such persons via regular mail.

J. This *Notice of Proposed Rulemaking* shall be posted on the Commission's official Web site.

K. Copies of any forthcoming final order adopting a new rule shall be mailed, along with copies of the new rule, to all persons and entities appearing on the Certificate of Service as it exists at the time of issuance of the final order in this Docket, to all commenters in this case, and to all individuals requesting such copies.

L. This *Notice of Proposed Rulemaking* is effective immediately.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico this

27th day of November, 2012.

**NEW MEXICO PUBLIC REGULATION
 COMMISSION**
PATRICK H. LYONS, CHAIRMAN
**THERESA BECENTI-AGUILAR, VICE
 CHAIR**
JASON A. MARKS, COMMISSIONER
DOUGLAS J. HOWE, COMMISSIONER
BEN L. HALL, COMMISSIONER

**End of Notices and Proposed
 Rules Section**

Adopted Rules

NEW MEXICO GENERAL SERVICES DEPARTMENT

The General Services Department repeals its rule entitled Administration and Use of State Vehicles, 1.5.3 NMAC (filed 7/30/08), and is replacing it with Administration and Use of State Vehicles, 1.5.3 NMAC effective 1/15/13.

NEW MEXICO GENERAL SERVICES DEPARTMENT

TITLE 1 G E N E R A L GOVERNMENT ADMINISTRATION CHAPTER 5 P U B L I C P R O P E R T Y MANAGEMENT PART 3 A D M I N I S T R A T I O N AND USE OF STATE VEHICLES

1.5.3.1 ISSUING AGENCY:
General Services Department, Transportation Services Division (TSD).
[1.5.3.1 NMAC - Rp, 1.5.3.1 NMAC, 1-15-13]

1.5.3.2 SCOPE:
A. This rule applies to all public agencies that use state vehicles.

B. This rule also applies to the legislative and judicial branches, public schools, institutions of higher education, and all other public related institutions, to the extent that they lease motor pool vehicles from the state central fleet authority (SCFA).
[1.5.3.2 NMAC - Rp, 1.5.3.2 NMAC, 1-15-13]

**1.5.3.3 S T A T U T O R Y
AUTHORITY:** NMSA 1978 Sections 15-8-6 and 15-8-10.
[1.5.3.3 NMAC - Rp, 1.5.3.3 NMAC, 1-15-13]

1.5.3.4 D U R A T I O N :
Permanent.
[1.5.3.4 NMAC - Rp, 1.5.3.4 NMAC, 1-15-13]

1.5.3.5 E F F E C T I V E D A T E:
January 15, 2013 unless a later date is cited at the end of a section.
[1.5.3.5 NMAC - Rp, 1.5.3.5 NMAC, 1-15-13]

1.5.3.6 O B J E C T I V E: The purpose of this rule is to implement the Transportation Services Act, NMSA 1978 chapter 15, article 8, by establishing standards and procedures for the administration and use of state vehicles by state agencies or any entity that leases vehicles from SCFA.
[1.5.3.6 NMAC - Rp, 1.5.3.6 NMAC, 1-15-13]

1.5.3.7 D E F I N I T I O N S: In addition to the definitions in NMSA 1978 Section 15-8-3, as used in this rule:

A. account manager
means a TSD employee designated to prepare, manage and enforce short-term and long-term TSD/SCFA vehicle leases; serve as liaison for designated state agency authorized drivers and TSD/SCFA maintenance personnel; prepare monthly billings and utilization reports, etc;

**B. agency fleet
coordinator** means the individual assigned by an agency head or designee who is responsible for providing fleet management information and reports to TSD;

C. alternative fuel means a fuel other than an unleaded gasoline such as E-85, a blend of ethanol and unleaded gasoline; bio-diesel; electricity; compressed natural gas; propane; hydrogen; etc;

D. authorized driver
means:

(1) a state employee holding a valid New Mexico driver's license or an approved out of state driver's license and a TSD approved defensive driving certificate who is permitted to use a state vehicle in furtherance of official state business; a valid New Mexico driver's license or an approved out of state driver's license but **does not** include provisional, limited, restricted or administrative permits;

(2) for those candidates for full-time, term or temporary employment with the state of New Mexico that live out-of-state, the following process is required;

(3) once gainfully employed by the state, the out-of-state employee must provide a copy of his driving record to TSD on an annual basis to assure the drivers' license is in good standing; and,

(4) Chapter 66, Article 3, Section 301, Subsection B of the NMSA 1978 stipulates that "any person gainfully employed within the boundaries of this state for a period of thirty days or more within a sixty-day period shall be presumed to be a resident of this state;" therefore, any state employee previously living out-of-state who is gainfully employed by the state of New Mexico and resides within the state of New Mexico for more than thirty days must have a valid drivers' license from the state of New Mexico and a **current TSD approved defensive driving certificate** to operate a state vehicle;

E. authorized passenger
means an individual who is permitted to occupy a state vehicle in furtherance of official state business or a person who has received prior authorization from the director or designee to occupy a state vehicle, or where the transport is a part of the daily

operations of the department;

F. CAFE standards
mean the national highway traffic safety administration corporate average fuel economy standards for passenger vehicles and light trucks;

G. commute means domicile-to-duty privilege authorized by the leasing agency's cabinet secretary or agency head to state authorized drivers where it is in the state's best interest to allow these employees to use a state vehicle to and from work and residence; (refer to 1.5.3.20 NMAC, AUTHORIZATION TO COMMUTE);

H. custody (of a state vehicle) means the director's or designee's right to exercise final decision-making authority with respect to the purchase, title and registration, use, administration, operation, maintenance, replacement, and disposal of a state vehicle in accordance with state law and regulations;

I. declared gross vehicle weight or DGVW means the maximum weight of a vehicle; the DGVW is used to differentiate between light, medium or heavy duty vehicle utilization;

J. department means the general services department;

K. director means the director of the transportation services division of the general services department;

L. division means the transportation services division of the general services department;

M. DHSEM means the department of homeland security and emergency management;

N. DOT means the department of transportation;

O. DPS means the department of public safety;

P. EMNRD means the energy minerals and natural resources department;

Q. flex fuel vehicle means a vehicle that has the capacity of burning a regular unleaded gasoline and an alternative fuel;

R. DGF means the department of game and fish;

S. GSD means the general services department;

T. G-series license plate means a distinctive government license plate issued by the taxation and revenue department for vehicles of institutions of higher learning, public schools and all other subdivisions of government (cities, counties, villages, conservancy, wastewater, landfill districts, etc.), does not include any state level agency state vehicles of the executive, legislative or judicial branches that will

display G-series license plates until replaced by SG license plates through attrition; (see definition FF)

U. inclement weather means road conditions are unsafe for travel. Inclement weather includes but is not limited to: icy or snow packed road conditions, dust storms, or flooding;

(1) TSD will follow state personnel rulings on inclement weather for state business closures and delays;

(2) TSD reserves the right to prohibit the use of state vehicles during inclement weather.

V. NSC means the national safety council;

W. New Mexico driver's license means a valid driver's license issued by the motor vehicle division of the NM taxation and revenue department; this does not include provisional, limited, restricted, or any court-ordered restricted or administrative license or permit; while an "H" restriction may allow an individual to operate their privately owned vehicle (POV) to and from employment; TSD will not authorize an individual to operate a state vehicle with anything other than a valid drivers' license with no limitations or restrictions;

X. public agency means an agency other than a state agency as defined in Subsection CC of this section authorized to use SCFA vehicles; this does include institutions of higher learning and public schools;

Y. RMD means the risk management division of the general services department;

Z. SCFA means the state central fleet authority of the transportation services division of the general services department;

AA. secretary means the cabinet secretary of the New Mexico general services department;

BB. special-use vehicles means state vehicles designated as such by the director or designee, including but not limited to emergency and law enforcement vehicles, buses, tractors, boats, trailers, snow cats, vehicles of a special design or construction that effectively limits their use for a particular purpose, and all other vehicles that are not passenger vehicles;

CC. state agency means a state department, agency, board or commission, including the legislative and judicial branches, this definition includes any public agency authorizing an officer or employee use of a state vehicle;

DD. state employee means any person who has been elected to, appointed to, or hired for any state office and who receives compensation in the form of salary or is eligible for per diem and mileage reimbursement;

EE. state vehicle means an automobile, van, sport-utility truck, pickup truck or other vehicle with a declared gross vehicle weight of less than ten thousand (10,000) pounds used by a state agency to transport passengers or property;

FF. SG-series license plate means an SG license plate designed for the specific use of agencies of the executive, legislative and judicial branches of state government for vehicles marked as required by Section 15-8-6 NMSA 1978: this **does not include** institutions of higher learning, public schools or any other political subdivision of government;

GG. street license plate means a regular passenger license plate issued to a state vehicle which is in the custody of a state agency and can be traced to that state agency;

HH. transportation services division or TSD means the transportation services division of the general services department;

II. undercover license plate means a regular passenger license plate issued to a state vehicle which is registered in a fictitious name and address that cannot be traced to the state agency having custody of the vehicle.

[1.5.3.7 NMAC - Rp, 1.5.3.7 NMAC, 1-15-13]

1.5.3.8 STATE VEHICLE PROCUREMENT PROCESSES AND VEHICLE STANDARDS: In accordance with the governor's executive orders 05-049, "Requiring the Increased Use of Renewable Fuels in New Mexico State Government", and 06-069 "New Mexico Climate Change Action", this section establishes the standards by which all state and public agencies shall procure state vehicles with a declared weight up to 10,000 pounds.

A. State agency vehicle requests, application form required requests for exemption to executive orders. By the 15th of April of each calendar year, state agencies shall prepare a SCFA application for purchase, lease and disposal of state vehicles. The state agency in conjunction with GSD shall assure that all requests meet the governor's executive order directives including assuring the highest fuel economy for the intended use, meeting or exceeding the most current CAFE standards and compliance with the Alternative Fuels Acquisition Act. Any requests for exemption from the governor's executive orders shall be submitted along with clear justification for the requested exemption and the aforementioned form for the director's or designee's review. If the exemption is timely and approved, the agency shall be notified with time to submit the request to the specification developers. The specification development time-line shall not be expanded

due to the state agency's failure to comply with this rule.

B. State procurement cycles - time lines. State agency vehicles shall be procured based on specifications consistent with executive order 05-049 and prepared by the department in conjunction with DOT, DPS, G&F, DHSEM and EMNRD during the months of June, July and August of each year. The development of the specifications is to prepare for the bid advertisement, pre-bid conference, bid opening and award for the purchase of vehicles for each fiscal year. The order of model year vehicles shall be consistent with the directions established in each bid, with expectations that new year vehicle models will be delivered prior to manufacturer's build-out dates for each subsequent calendar year.

C. Vehicle standards. The standards establish the minimum requirements for the procurement of passenger vehicles for the executive, legislative and judicial branches of the state of New Mexico. DOT, DPS, DGF, DHSEM, and EMNRD, vehicle standards are developed and maintained by the respective agency. These standards are to be reviewed annually and subject to change based on increased fuel efficiencies and reduction of greenhouse gases. The standards are an administrative attachment to this rule and must be reviewed, amended, published and distributed by July 1 of each year.

[1.5.3.8 NMAC - Rp, 1.5.3.8 NMAC, 1-15-13]

1.5.3.9 LEASE OF MOTOR POOL VEHICLES:

A. A state agency or public agency may lease a motor pool vehicle from the SCFA:

(1) through a "quik ride" or short-term lease by the hour or day not exceeding six consecutive months; or,

(2) through a long-term lease for a period exceeding six consecutive months; and,

(3) through a third-party commercial lease;

B. Rates. Rates for the lease of motor pool vehicles are based on costs for the type of vehicle leased. The SCFA will provide current rates and policies for the lease of motor pool vehicles upon request. There are three types of SCFA long-term leases:

(1) standard lease is a long-term lease of a TSD owned vehicle which includes overhead, maintenance and depreciation costs, less residual; divided by the life-cycle term;

(2) operational lease is a long-term lease of a TSD owned vehicle which includes overhead and maintenance costs; and,

(3) third-party commercial lease is a long-term lease of a TSD leased vehicle which includes overhead, maintenance and third-party financing costs; third party leased vehicles may be subject to excessive mileage costs.

C. Terms.

(1) Standard leases depend on the leasing agency's operational requirements and budget availability. Life-cycles for standard leases are to be five years and one-hundred thousand miles (100,000).

(2) Operational leases shall consist of leases for vehicles that have exceeded the standard lease life-cycles or have been procured by the user agency that has chosen not to pay the depreciation cost.

(3) Third party commercial leases are determined by a state price agreement, typically three years and 60,000 miles. These leases are subject to mileage overruns and excessive wear and tear costs that are passed on to the customer.

D. Accounts receivable.

The SCFA requires the leasing state agency to maintain its accounts receivable current - 30 days or less. The SCFA shall assess a one and one-half percent (.015%) per month late payment penalty fee on accounts over 30 days past due. The SCFA may take action to cancel any lease agreement(s) and recover the vehicle(s) if the lessee is delinquent over one hundred and twenty days in making payment. For short-term leasing, SCFA will charge for one day use for reservations that are not canceled.

E. Encumbrance. The SCFA requires the leasing state agency to encumber the entire fiscal year cost of the lease at the time the lease is signed at the beginning of each fiscal year. The leasing agency may disencumber funds only after a written request to the director or designee is approved. The director or designee will act on requests to disencumber funds within ten working days of the date of the receipt of the leasing agency's request.

F. Operating transfer. To expedite the payment of lease costs to the SCFA, the user agency may choose to pay the annual cost of vehicles leased through an operating transfer within the first 45-days of each fiscal year.

G. Termination. Either the division or a state agency may terminate the lease of a state vehicle as per the terms and conditions included in the standing lease agreement.

[1.5.3.9 NMAC - Rp, 1.5.3.9 NMAC, 1-15-13]

1.5.3.10 STATE MOTOR VEHICLE LICENSE PLATES:

At the beginning of each fiscal year, the director or designee shall determine which type of license plate shall be issued for each state vehicle. This relates to the state of New

Mexico government plate, street plate or undercover plate.

A. A state agency may submit a written request for an undercover license plate for any SCFA state vehicle it uses for legitimate undercover law enforcement purposes. The state agency must annually justify the need for an undercover license and must provide statutory authority to that effect.

B. A state agency may submit a written request for a street license plate for any state vehicle it uses in situations in which a state government license plate would be inappropriate. At the beginning of each fiscal year, the state agency must justify the need for a street license plate and must provide statutory authority regarding the type of work requiring something other than a state government license plate. Based on the justification, the director or designee may authorize the street plate; however, the use of a magnetic decal depicting the great seal of the state of New Mexico and the name of the agency must be used in those cases when investigative work is not being done. The requesting state agency shall bear the cost of all magnetic decals.

C. The director or designee shall issue a state of New Mexico government license plate with permanent decals for all other state agency vehicles.

(1) All vehicles must display the state seal and an identifying decal describing the user agency, i.e. state of New Mexico motor pool, or the appropriate acronym identifying the user agency.

(2) All state vehicles must display the 1-800-627-6639 vehicle abuse program bumper sticker.

(3) All state vehicles must display the #DWI bumper sticker.

(4) User agencies will be billed the cost of replacement of authorized official decals or stickers.

(5) User agencies may use their own non-permanent decals upon acquiring director's or designee's written authorization. Cost for these decals will be the responsibility of the user agency.

(6) Deviation from the SCFA official decals and stickers must receive written prior authorization from the director or designee.

[1.5.3.10 NMAC - Rp, 1.5.3.10 NMAC, 1-15-13]

1.5.3.11 REQUIRED DOCUMENTS IN STATE VEHICLES:

Each state agency shall ensure that current copies of the following documents are kept in the glove compartment of all state vehicles in its custody.

A. Accident reports. These are forms and instructions that are included in the packet provided by RMD on how auto accidents in state vehicles are to be

dealt with by the authorized driver.

B. Emergency repair forms. The director or designee requires written instructions and procedures for emergency repairs of mechanical breakdowns during and after normal business hours.

C. Fuel credit cards. Each vehicle will have detailed instructions and procedures for use of the fuel credit card with a list of authorized purchases.

D. How-to brochure. Each vehicle will have a brochure that provides the driver simple instructions regarding the use of the vehicle, telephone numbers, emergency processes, and waivers.

E. RMD financial responsibility document. This document is the state's official proof of insurance.

F. Vehicle maintenance manual. This is the manual that is provided by the manufacturer which includes the manufacturer's specifications. Additional maintenance requirements or specifications may be required by the director or designee and provided to the leasing agency in writing.

G. Vendor list. This is a current list of SCFA authorized motor vehicle maintenance and repair vendors throughout the state of New Mexico. The list is to be used for preventive maintenance, emergency road service and repair.

H. Vehicle registration. This is the official proof of vehicle ownership/registration document issued by the state motor vehicle division. This document shall remain with the vehicle until ownership is transferred or the vehicle is sold by SCFA.

I. Vehicle mileage log. This log should have the date, employee name, beginning and ending mileages, destination, purpose of trip, type of fuel purchased, number of gallons purchased, total fuel cost, other vehicle related purchases, and a place for a supervisor to make verifications.

[1.5.3.11 NMAC - Rp, 1.5.3.11 NMAC, 1-15-13]

1.5.3.12 AUTHORIZED DRIVERS AND PASSENGERS:

A. Authorized drivers. The director or designee may authorize a state employee who possesses a current valid New Mexico drivers' license and who has completed a TSD approved NSC defensive driving course and orientation prescribed by the division to operate a state motor vehicle. The state employee must have the appropriate class of driver's license to drive any state vehicle that is not a passenger vehicle. Upon request each agency must provide a list of all authorized drivers.

B. Authorized passengers. Only authorized passengers may occupy a state vehicle. A person who

is not a state employee must obtain written authorization from the director or designee before occupying a state vehicle. Failure to comply may result in suspension of driving privileges.

C. Suspension or revocation of authorized drivers' privileges. The director or designee may suspend or revoke the authorized driver privileges of any state employee who permits a person who is not an authorized driver to operate a state vehicle or who transports, or permits the transportation of a person who is not an authorized passenger. In addition, such state employee may be held personally liable to the extent permitted by law for any liability for personal injury, death or property damage arising out of the unauthorized use or occupancy of the state vehicle. Reinstatement of driving privileges: an authorized driver that has his state driving privileges suspended or revoked must complete a NSC/DDC 6-hour class instructed by a TSD approved instructor before receiving a written driver privilege reinstatement authorization from the director or his designee.

D. Exceptions. Nothing in this section shall be construed to prohibit the use or occupancy of a state vehicle:

(1) to render emergency aid or assistance to any person; or

(2) by private sector automobile mechanics or maintenance and repair personnel performing required maintenance or repairs.

[1.5.3.12 NMAC - Rp, 1.5.3.12 NMAC, 1-15-13]

1.5.3.13 D E F E N S I V E DRIVING COURSE:

A. Defensive driving course. Based on research conducted on all driver certification processes, TSD has determined that it will use the on-site national safety council defensive driving and safety curriculum. Agencies desiring to provide NSC/DDC training independent of TSD must request authorization to provide NSC/DDC instruction from the director or designee prior to commencing the utilization of any NSC/DDC tools or materials. In addition, the agencies must follow the curriculum approved by the director or designee prior to commencing the utilization of the proposed training tools. It is the responsibility of the proposing agency to incorporate all state of New Mexico TSD requirements into the defensive driving curriculum. All on-line courses are required to be reviewed and permission to utilize these courses must be approved by TSD **PRIOR** to commencing use.

B. Course availability. TSD shall offer regularly scheduled defensive driving classes in Santa Fe and Albuquerque. This does not preclude

TSD from offering these classes at the requesting agency's site. A state agency or state employee should contact the division for information about scheduled classes, locations, costs, registration, or scheduling of department trainings.

C. Instructor certification. To receive a certificate as a NSC/DDC Instructor, it is necessary to submit the written request to the director or designee for review and approval. This applies to employees who may have received a NSC/DDC Instructor certification while under the employment of another governmental agency. All prospective instructors are required to audit the TSD instructed NSC/DDC - six and four hour classes; and, are required to teach one TSD six hour course and one TSD four hour course under TSD supervision prior to receiving consideration of approval to teach. Instructors in good standing must complete the TSD certification process every two years.

D. Driver certification required. Four or six hour certificates are valid for four years. All authorized drivers of state vehicles must have a current TSD approved NSC defensive driving certificate in their possession while driving a state vehicle. TSD requires employees who seek to operate a state vehicle to provide proof of current certification. New employees must successfully take and pass the six hour TSD prescribed NSC defensive driving class with a grade of 80% or better to become an authorized driver. If the new employee provides proof of NSC/DDC certification within two years previous to the date of employment, at the discretion of the director or designee, the employee may only have to take the four hour NSC/DDC certification course.

(1) If a state employee needs to operate a state vehicle in furtherance of state business but has not successfully completed the NSC defensive driving course, the state employee must register for the next available NSC defensive driving course. The employee's agency head or designee must submit a written request for a temporary waiver not to exceed thirty days of the certification requirement from the director or designee. The waiver request shall include the state employee's name and New Mexico driver's license or an approved out of state driver's license number (accompanied by a valid out of state driving record), and the date the state employee is scheduled to attend the NSC defensive driving course. If approved, the director or designee will specify the term of the waiver. If the request is denied, the director or designee will specify in writing the reason for the denial within ten working days of the date the waiver request is received by the division. Driver waivers cannot be renewed.

(2) If the state employee's certification (four-hour or six-hour) has expired, the employee shall be required to successfully complete a six-hour NSC/DDC certification class taught by a TSD approved instructor.

E. Driver re-certification. Each state employee is required to take the defensive driving refresher course every four years.

(1) An employee may take the four hour refresher course provided by TSD; however, the employee must provide proof of previous NSC/DDC certification.

(2) Failure to provide the proof required in the previous sub-section will require the employee to register to take the six hour NSC/DDC course.

F. List of certified state employees. The agency vehicle coordinator shall maintain a list of certified state employees employed by the agency, including a current copy of the employee's valid NM drivers' license.

G. User agency requirements.

(1) The user agency is responsible for checking authorized drivers' licenses to assure compliance with motor vehicle division laws.

(2) TSD will provide a template of the TSD database to the instructor.

(3) The maintenance and listing of authorized drivers.

(4) Maintenance and listing of suspended driving privileges including drivers' license revocations, suspensions and DUIs.

(5) The agency is subject to TSD audits of state agency authorized driver records.

(6) Certificates must be printed and have an original instructor signature.

H. Lost certificates. If a state employee loses his or her defensive driving certificate, the TSD will issue a replacement certificate at a cost of per certificate. If the state employee cannot provide proof of taking a TSD authorized defensive driving certification course, the employee must register for a six hour NSC defensive driving course.

[1.5.3.13 NMAC - Rp, 1.5.3.13 NMAC, 1-15-13]

1.5.3.14 TRAFFIC LAWS AND OPERATOR CONDUCT:

A. Authorized drivers shall obey all applicable traffic laws while operating a state vehicle.

B. Authorized drivers must exercise appropriate caution and prudence while operating a state vehicle.

C. Authorized drivers shall not engage in discourteous behavior or inappropriate conduct while operating a state vehicle.

D. Authorized drivers shall not use state vehicles for inappropriate or illegal activities including personal use.

E. Authorized drivers shall only utilize a cell phone with a hands free device while operating a state vehicle.

F. At no time will the authorized driver be allowed to text or type on any other device(s) such as a smartphone and laptop computer while driving. At no time is reading from any electronic device or paper source permissible while operating a state vehicle.

G. Authorized drivers shall minimize distractions while operating state vehicles. These distractions include but are not limited to eating and playing with the radio/cd player.

H. Authorized drivers shall operate state vehicles at or below posted speed limits.

I. An authorized driver who receives a traffic citation or parking ticket while using a state vehicle must notify TSD. If TSD receives a state employee's traffic citation or parking ticket involving a SCFA motor vehicle, the director or designee will forward it to the state agency leasing the state motor vehicle to assure the employee promptly clears the citation/ticket.

(1) The driver shall be personally responsible for any costs (cost of ticket, late fees, court fees or administrative fees) associated with the citation or ticket.

(2) If the driver of the vehicle cannot be identified, the agency shall be held responsible for any costs associated with the citation or ticket.

J. Authorized drivers involved in a traffic accident while operating a state vehicle that are found at fault are required to immediately register for a six-hour TSD approved instructor NSC/DDC certification class.

K. State employees shall carpool to meetings, conferences whenever feasible.

[1.5.3.14 NMAC - Rp, 1.5.3.14 NMAC, 1-15-13]

1.5.3.15 S U S P E N S I O N OF STATE VEHICLE OPERATOR PRIVILEGES:

A. The director or designee shall automatically suspend a state employee's authorization to operate a state vehicle if the state employee's New Mexico driver's license or an approved out of state driver's license is expired, revoked, or suspended.

B. An authorized driver that receives a citation and is convicted while operating a state vehicle will have their privileges suspended until proof of the ticket being paid is submitted to TSD and a six hour defensive driving class has been taken taught by a TSD approved instructor.

C. The director or designee or the state agency may suspend or revoke driving privileges of an authorized driver for failure to comply with any provision of this rule. A state agency shall report each suspension or revocation to the director or designee. The director or designee will provide the agency head with names of any state employee's employed by the requesting state agency whose state vehicle operator privileges have been suspended or revoked.

D. To determine that state authorized drivers have a valid driver's license, the director or designee will at random review the driving record of state authorized drivers. The director or designee will review the status of the driving record of any state authorized driver upon receipt of any request for waiver, constituent complaint, traffic citation, parking ticket, accident, police report or vehicle abuse.

E. An authorized driver that has his/her driving privileges suspended or revoked must successfully complete a six hour TSD approved instructor NSC/DDC class before the director or designee will consider authorizing the reinstatement of those privileges.

F. The director or designee shall review all complaints of alleged fraud, waste, and abuse involving state vehicles, and shall forward them to the state agency fleet coordinator and to the appropriate state agency management team.

(1) If three vehicle abuse allegations are received within a fiscal year for the same allegation, the authorized driver will have his/her driving privileges temporarily suspended and will be required to retake a TSD approved instructor six hour NSC defensive driving class. The agency will then provide a copy of the retaken DDC to TSD.

(2) Failure to comply or respond to final notice of abuse allegations will result in vehicle lease termination.

G. The director or designee or the state agency may suspend or revoke driving privileges of an authorized driver for failure to comply with any provision of this rule.

[1.5.3.15 NMAC - Rp, 1.5.3.15 NMAC, 1-15-13]

1.5.3.16 A L C O H O L , CONTROLLED SUBSTANCE, DRUG, AND TOBACCO USE PROHIBITED - REPORTING REQUIREMENTS:

A. No authorized driver shall operate a state vehicle while under the influence of intoxicating alcohol, controlled substances, or drugs. Nor shall an authorized driver transport an individual who has consumed alcohol, controlled substances, or drugs. State law enforcement officers investigating criminal activities as part of their duties can transport individuals

who have consumed alcohol, controlled substances, or drugs.

B. No authorized driver shall transport intoxicating alcohol of any type, whether in open or unopened containers, while operating or occupying a state vehicle, unless the person is an employee of the state alcohol and gaming division of the regulation and licensing department or a state law enforcement officer investigating criminal activities as part of their duties.

C. No authorized driver shall operate a state vehicle when he or she is so impaired by a legal drug that renders him or her incapable of operating a motor vehicle in a safe and responsible manner.

D. No authorized driver or passenger shall smoke or use smokeless tobacco products of any type in any state vehicle.

E. The driving privileges of an authorized driver that is convicted of a DUI citation while operating a state vehicle are immediately and permanently revoked. Reinstatement of the driving privileges may be requested in writing by the head of the state agency in which the employee works. The director or designee will review the request and provide the state agency a written determination as to the employee's state vehicle driving privileges within ten working days of the receipt of the request by the division.

F. It is the sole responsibility of the state employee to report all current convictions of driving while intoxicated to their immediate supervisor and the director. Failure to comply with this section shall cause immediate revocation of their driving privileges of state vehicles. It is the director's responsibility to report DUI convictions to the state employee's immediate supervisor and cabinet secretary or agency head. Disciplinary actions are the responsibility of the state agency.

G. The state authorized driver privileges shall be suspended while the employee goes through the DUI court and administrative process. If convicted, the authorized driver's state vehicle driving privileges shall be revoked. If not convicted, the state agency shall notify the director or designee in writing requesting that driving privileges be reinstated along with evidence of the dismissal of charges. The director or designee will review the request and provide the state agency a written determination as to the employee's state vehicle driving privileges within ten working days of receipt of the request for reinstatement by the division.

H. Revocation of state vehicle driving privileges for a DUI conviction extends to the utilization of the employee's personal vehicle if it is to be used to conduct state business.

[1.5.3.16 NMAC - Rp, 1.5.3.16 NMAC, 1-15-13]

1.5.3.17 WEAPONS AND PETS PROHIBITED:

A. No authorized driver or passenger shall possess a weapon while operating a state motor vehicle unless the authorized driver or passenger is a certified law enforcement officer. This includes individuals with concealed weapons licenses.

B. No pets allowed at any time in state vehicles. Upon written request, the director or designee may authorize canine patrols or transportation of other animals including assistance dogs. The director or designee will review the request and provide the state agency a written determination within ten working days of receipt by the division.

[1.5.3.17 NMAC - Rp, 1.5.3.17 NMAC, 1-15-13]

1.5.3.18 SEAT BELT USE:

A. All authorized drivers and passengers of state vehicles shall wear seat belts.

B. All authorized drivers shall observe child safety and restraint laws at all times when transporting a minor in a state vehicle in furtherance of official state business.

C. Violation of this law may result in loss of state authorized driver privileges.

[1.5.3.18 NMAC - Rp, 1.5.3.18 NMAC, 1-15-13]

1.5.3.19 USE OF FUEL CREDIT CARDS:

A. All state agencies and authorized drivers are required to use the GSD/TSD contracted fuel credit card for authorized purchases.

B. The state agency shall assign a single fuel credit card to each vehicle using the state issued license plate number or a unique fixed asset number that is tied back to the vehicle that the card is assigned to.

(1) Credit card shall be kept with the assigned vehicle and not with the driver.

(2) Card is stored in the protective sleeve and out of direct sunlight or other heat sources.

(3) When purchasing items enter exact current mileage (no tenths).

(4) If a problem is encountered at the time of purchase, the driver should contact the credit card company for help.

(5) Lost, damaged, or stolen credit cards need to be reported to their agency fuel card account manager within one working day of the discovery. Card will be suspended and a new card ordered at that time.

C. A personal identification

number (PIN) shall be assigned to each authorized driver.

(1) Personal identification number must be six digits long and requested from the gasoline account manager in your agency at least 24 hours in advance of anticipated use.

(2) Authorized drivers shall not share the PIN with anyone else or let someone else use the PIN.

(3) Agency fuel account managers are responsible for terminating personal identification numbers for employees who are no longer with the agency.

D. Whenever possible, authorized drivers shall use self-service fuel pumps when refueling motor pool vehicles. Every attempt shall be made to fill the vehicle at the cheapest location, which is usually a tier II station that sells unbranded fuel. Authorized drivers are required to use alternative fuels when they are approved by the manufacturer and when an alternative fuel vendor is located less than ten miles away at the time fueling is needed. All non-flex fuel gasoline operated vehicles will use E-10 when a vendor is located less than ten miles away at the time fueling is needed.

E. Each agency will evaluate fuel purchase exception reports provided by the fuel credit card company on a monthly basis.

(1) Each agency shall establish use requirements and parameters on their fleet. Such parameters will include multiple daily transactions, number of gallons purchased at one time, limit dollars per transaction, off hour transactions, non-fuel transactions, and unauthorized purchases (soda, candy, etc.).

(2) Transactions that cannot be justified must be investigated with a formal report summarizing the findings with recommendations. A copy of the report will be sent to SCFA.

F. The fuel credit card may be used for road-side service, or emergency service or repairs not to exceed \$250 per occurrence.

G. If an authorized driver uses the fuel credit card to purchase an unauthorized item or service, the state agency shall collect the cost of the unauthorized purchase from the authorized driver and an investigation will be conducted. Investigation findings must be sent to SCFA for review. The state agency or the director or designee may suspend or revoke the state vehicle operator privileges of an authorized driver for misuse of a fuel credit card.

H. A state agency or authorized driver shall immediately notify the vendor contracted by GSD/TSD if the fuel credit card for a motor pool vehicle is lost.

I. All expenses charged to the contracted GSD/TSD fuel credit card shall be paid by the user agency.

J. Under no circumstance shall state fuel credit cards be used for personal vehicles, even if using a personal vehicle to conduct state business.

K. Misuse of state vehicle fuel credit cards will result in disciplinary actions. Disciplinary actions include, but are not limited to, administrative, disciplinary, and may also include criminal action by the state agency, the director, or designee, up to and including termination.

[1.5.3.19 NMAC - Rp, 1.5.3.19 NMAC, 1-15-13]

1.5.3.20 AUTHORIZATION TO COMMUTE:

A. No authorized driver or passenger shall use a state vehicle for private use.

B. Commuting is defined as the consistent use of a state vehicle from assigned post of duty to domicile and from domicile to assigned post of duty, even if it is for short periods of time, i.e. legislative session. Occasional use is not considered commuting, i.e. taking the vehicle home the night before an out-of-town trip.

C. A state agency must develop a written policy that allows authorized drivers to use state vehicles to commute between work and residence for security purposes or if doing so is in the best interest of the state. Only the leasing agency's cabinet secretary of an executive department or the director of an independent executive state agency (not part of an executive department but still part of the executive) can approve the commuting policy and commuting of individual authorized drivers.

D. All agency cabinet secretaries or agency heads must acquire approval from the governor's office. Approvals must be forwarded to SCFA.

E. Each state agency permitting authorized drivers to utilize this domicile-to-duty privilege shall maintain current records of and provide a current copy of the following to SCFA:

(1) all state authorized commuters/passengers by name and position;

(2) the number of total miles each state authorized driver, who commutes, drives annually between work and residence using a state vehicle;

(3) the number of times annually a state authorized driver who is given written approval to use a state vehicle to commute between his assigned post of duty and his primary residence and is called back when the state employee is off-duty;

(4) review all authorizations to use a state vehicle to commute at least once a year; and

(5) provide an annual commuting report to SCFA that identifies by authorized commuter; the vehicle state plate, total

commuting mileage, number of call backs for ending fiscal year; this report shall also identify drivers and state vehicle plates authorized to commute for the following year; this report is due 60 days prior to each fiscal year.

F. State vehicles are not to be used to transport employees to and from public transportation drop off points.

G. Failure to provide this report to SCFA will result in vehicle lease termination.

[1.5.3.20 NMAC - Rp, 1.5.3.20 NMAC, 1-15-13]

1.5.3.21 STATE VEHICLE CARE AND MAINTENANCE:

A. An authorized driver must turn off the ignition, close all windows, and lock the doors and trunk of a state vehicle whenever the state vehicle is left unattended.

B. State agencies and authorized drivers are responsible for assuring that state vehicles in their custody are parked in secure areas minimizing exposure to vandalism, damage, destruction, wreckage, sabotage, defacement or harm. If after multiple occurrences of vandalism, damage, destruction, wreckage, sabotage, defacement or harm occur, the agency head shall, in writing, request authorization from the director or designee for authorized drivers to take state motor vehicles to their place of residence for security purposes only. The authorization will be provided only if the state agency head or designee can prove that:

(1) the state agency's landlord does not provide a secure space for state vehicles; or,

(2) the state agency cannot avail itself of other secure state of New Mexico parking spaces; or,

(3) the state agency cannot acquire secure private sector parking spaces.

C. If the director or designee provides the approval, the state agency must comply with the reporting and tracking requirements of 1.5.3.20 NMAC, AUTHORIZATION TO COMMUTE.

D. State agencies must ensure that the subscribed manufacturer's preventive maintenance service is done on all leased state vehicles at regular mileage, or time intervals, in accordance with the manufacturer's specifications, or as otherwise specified by the director or designee. For vehicles leased or owned by TSD, without exception, the agency is required to use TSD approved vendors. If there are vendors that are not on the list that are willing to provide repair or maintenance services the user agency must refer them to the TSD procurement office for inclusion to the TSD authorized vendor list. Under no circumstances will it be permitted for the authorized driver to receive services from

an unauthorized vendor without a valid purchase order from TSD. Unauthorized expenses will be billed to the user agency.

(1) The state agency is responsible for ensuring that oil and oil filters on all leased state vehicles are changed in accordance with the manufacturer's specifications, TSD maintenance requirements, and that all other preventive maintenance functions performed are in accordance with the prescribed TSD service schedule, which is an attachment to the vehicle lease.

(2) A state agency, may without the prior approval of the director or designee, use the fuel credit card to perform minor repairs of emergency equipment, such as changing windshield wipers, repairing a damaged tire, replacing a fan belt, or adding a quart of oil, etc., in an amount not to exceed \$250. If the emergency repairs will cost more than \$250, it is the responsibility of the user agency to notify the TSD procurement officer of the need to execute an "emergency procurement" in accordance with the New Mexico Procurement Code, Chapter 13, Article 1 of the NMSA 1978.

E. State agencies are responsible for the cleanliness of leased state vehicles inside and out. State agencies are also responsible for checking the leased state vehicle's vital engine fluids and tire pressure at each refueling.

F. No authorized driver or passenger shall abuse or misuse a leased state vehicle. The SCFA or a state agency head or designee may assess authorized drivers and authorized passengers for the costs of loss of or damage to a leased state vehicle if the loss or damage was caused by reckless driving or driving while under the influence of intoxicating liquor, controlled substances or drugs.

G. The SCFA will charge a state agency for the cost of repairing a leased state vehicle damaged due to neglect or abuse. The SCFA will charge the cost of repairs to a state agency if the state agency neglects a leased state vehicle or fails to inform the SCFA of possible damage or a maintenance problem. The director or designee may recall a leased state vehicle or suspend or revoke the authorized driver privileges for damage or improper care of a leased state vehicle.

H. State agencies may not display any commercial advertising on a state vehicle at any time. A state agency may display the agency's toll-free telephone number on a state vehicle. A state agency must be in compliance with the decals defined by Subsection C of 1.5.3.10 NMAC with a New Mexico government license plate. The director or designee must approve, in writing, any agency written requests for other bumper sticker, plaque or signage prior to the state agency affixing it to a state vehicle. For flex fuel vehicles, a

state agency must display a sticker next to the gas port indicating the type of alternative fuel the vehicle can accept.

I. No person shall alter, modify, convert, or improve the original vehicle equipment of any state vehicle without the prior written authorization of the director or designee.

J. All TSD leased vehicles must be inspected by TSD at least once a year. Inspections will be held in various locations throughout the state. TSD reserves the right to conduct unannounced inspections of state vehicles.

[1.5.3.21 NMAC - Rp, 1.5.3.21 NMAC, 1-15-13]

1.5.3.22 STATE VEHICLE RETURN:

A. The director or designee may rotate state vehicles within an agency or between agencies if the director or designee determines that a state agency is under or over utilizing an assigned vehicle. The director or designee will notify the state agency of such occurrences and recommend the rotation. The director or designee, in conjunction with the state agency, will make the appropriate changes to the location of the leased state vehicle.

B. Once TSD has notified a state agency that a replacement vehicle is available to exchange for a vehicle that has met or exceeded its life expectancy, or is no longer road worthy, the agency has 30 days to execute the exchange.

C. The SCFA will notify state agencies if there is a manufacturer's recall applicable to a leased state vehicle. The state agency shall take the leased state vehicle to the appropriate dealer for service or modification, and shall, upon completion of the recall-related work, notify the SCFA.

D. The director or designee in conjunction with the SCFA and the state agency shall determine when a state vehicle needs to be replaced. Life cycles are determined primarily from user requirements provided by the agency fleet coordinator. A state agency must return a leased state vehicle to the division upon receipt of a new or different vehicle.

E. A state agency may return a leased state vehicle in accordance with the terms of the lease agreement. In no case will an agency turn in a vehicle that has not reached its life cycle while requesting additional units unless the agency satisfies the remaining balance of the turned in vehicles replacement cost.

F. A state agency shall not transfer; receive control of, or custody of, a leased state vehicle to or from another state agency without the prior written authorization of the director or designee.

[1.5.3.22 NMAC - Rp, 1.5.3.22 NMAC, 1-15-13]

1.5.3.23 EMERGENCY REPAIRS AND MECHANICAL BREAKDOWN:

An authorized driver shall immediately take steps to correct any mechanical or operating problem that occurs while a TSD leased state vehicle is in operation. An authorized driver shall, in no case, continue to operate a state vehicle if continued operation could endanger any person or property. Furthermore, the authorized driver is responsible for immediately notifying the state agency fleet coordinator and SCFA account manager of any unsafe vehicle condition. Failure to comply with the notification portion of this section requires any costs to be billed to the user agency or reimbursed to TSD.

[1.5.3.23 NMAC - Rp, 1.5.3.23 NMAC, 1-15-13]

1.5.3.24 VEHICLE UTILIZATION:

The utilization standards establish the minimum requirements for the use of passenger vehicles for the executive, legislative and judicial branches of the state of New Mexico. TSD, DOT, EMNRD, G&F and DPS develop and maintain vehicle utilization standards. These utilization standards are to be reviewed annually and subject to change based on increased fuel efficiencies (CAFE) and reduction of greenhouse gas emissions benchmarks.

[1.5.3.24 NMAC - Rp, 1.5.3.24 NMAC, 1-15-13]

1.5.3.25 UNDER - UTILIZATION OF STATE VEHICLES:

The director or designee may re-allocate state vehicles that are being under-utilized.

A. The director or designee shall analyze monthly leased state vehicle mileage statistics.

B. The director or designee may rotate state vehicles within an agency or between agencies if it is determined that a state agency is under or over utilizing an assigned vehicle. The director or designee will notify the state agency of such occurrences and recommend the rotation. The director or designee in conjunction with the state agency will make the appropriate changes to the location of the leased state vehicle.

C. If the director or designee finds that a leased state motor vehicle is accumulating low mileage, the director or designee will notify the state agency in writing that a state vehicle assigned to it is being underutilized.

D. The state agency shall examine its utilization of the state vehicle and respond in writing justifying to the director or designee its need for the state vehicle and describing its intra-agency vehicle rotation plan. If the state agency does not provide such a plan, the director or designee will rotate vehicles among state agencies.

E. The director or designee will continuously monitor mileage utilization of the leased state vehicles. If the agency's use of the leased state motor vehicle does not increase, the director or designee may recall the vehicle or replace it with a state vehicle that has more mileage.

F. The director or designee will consider under utilization of state vehicles when evaluating a state agency's requests for additional or different vehicles.

[1.5.3.25 NMAC - Rp, 1.5.3.25 NMAC, 1-15-13]

1.5.3.26 VEHICLE DISPOSAL PROGRAM:

The disposal of vehicles is governed by Chapter 13, Articles 1 and 6 NMSA 1978. The director or designee in conjunction with the SCFA will consider disposing of a state vehicle when:

A. the leased state vehicle reaches the end of its predetermined accounting and life cycle;

B. the estimated cost of repairs exceed the value of the leased state vehicle; or,

C. the leased state vehicle is unsafe, inoperable or obsolete.

[1.5.3.26 NMAC - Rp, 1.5.3.26 NMAC, 1-15-13]

1.5.3.27 OUT OF STATE AND OUT OF COUNTRY TRAVEL IN STATE VEHICLES:

A. The director or designee must approve in writing all out-of-state and out-of-country travel requests, in state vehicles, in advance.

B. The state agency must request the appropriate approval in writing including the following information:

(1) names of employee drivers/passengers - if travelers are not employees please provide their names, entity they represent and reason why they need to travel in a state vehicle (relatives or friends that are not conducting business in the furtherance of state of New Mexico business cannot travel in a state car);

(2) NM drivers' license numbers of all authorized drivers;

(3) copies of drivers national safety council/defensive driving certificate;

(4) G or SG-plates of vehicles making the trip;

(5) point of departure;

(6) points of destination, i.e. Santa Fe, New Mexico; to El Paso, Texas; to Ciudad Juárez, Chihuahua; to Chihuahua, Chihuahua; to Torreón, Coahuila, etc.

(7) date of departure;

(8) date of return;

(9) purpose for the travel, and;

(10) an agency approved travel request form including per diem costs.

C. These requests must get approval from the governor's office.

D. The state agency fleet coordinator must provide the appropriate information to the director or designee based on the following schedules:

(1) for a non-state employee passenger waiver, at least five working days notice;

(2) for an out-of-state waiver, at least 10 working days' notice; and,

(3) for an out-of-country waiver at least 10 working days notice.

E. The authorized driver must have the proper insurance, vehicle registration and waiver documentation in-hand prior to the travel date.

[1.5.3.27 NMAC - Rp, 1.5.3.27 NMAC, 1-15-13]

1.5.3.28 ACCIDENTS AND ACCIDENT REPORTING:

A. An authorized driver, or appointed fleet coordinator, of a state vehicle owned or leased by GSD/TSD shall file a police accident report for any auto accident in a state vehicle within 24 hours or the next business day regardless of the severity of the accident. The police report and automobile loss notice are required with or without property damage, bodily injury, whether the authorized driver is at fault or not.

B. The authorized driver shall provide the original police accident report, automobile loss notice, and three quotes for repair costs to RMD and a copy of the same to the agency vehicle coordinator and the account manager.

C. If the authorized driver did not file a police report, the state agency fleet coordinator must complete the automobile loss notice and include the authorized driver's name and driver's license number, and any witnesses, written and notarized affidavit(s) describing the accident in detail, with distribution of the documents as previously described.

D. If the authorized driver is found to be at fault, the driver will be temporarily suspended and is required to take a TSD approved instructor six-hour NSC DDC course.

E. RMD will assist the director or designee in maintaining accident reports and filing insurance claims for all state vehicles.

F. Since the premiums for RMD state passenger vehicles are part of the TSD lease rates, the deductible for any loss will be paid by TSD. However, if there is proof that the loss was caused by the negligence or abuse of a state employee, the user agency will bear the costs of the insurance deductibles up to \$1,000 and any other costs as may be determined by the director, or designee, and RMD.

[1.5.3.28 NMAC - Rp, 1.5.3.28 NMAC, 1-15-13]

1.5.3.29 CUSTODY OF STATE VEHICLES:

A. Determination by director or designee. The director or designee may, on his own initiative or in response to a written request from a state agency, determine that custody of certain state vehicles should reside in a state agency. The director or designee shall make such determination in accordance with the criteria set forth in Subsection B of Section 15-8-6. All state vehicles in the custody of other state agencies shall be titled in the name of the division in accordance with Section 15-8-9 NMSA 1978.

B. Responsibilities of state agencies with custody of state vehicles. A state agency that has custody of one or more state vehicles shall:

(1) appoint an agency fleet coordinator who shall be responsible for answering any questions from the director or designee regarding the owned or leased TSD state vehicles in the state agency's custody;

(2) maintain an accurate inventory of all state vehicles in its custody, including any public property with a license plate;

(3) submit an inventory report to the director or designee by June 15th of each year for the fiscal year ending on June 30 of that year;

(4) notify the director or designee within 30 days of any change in the name, address, telephone number, or facsimile number of the state agency or the agency fleet coordinator, or any change in the status of state vehicles in the state agency's custody;

(5) register all state vehicles using the name GSD/TSD/SCFA as the first lien holder or name

(a) the name of GSD/SCFA as the first lien holder or name 1; and,

(b) the name of the state agency as name 2 and the state agency accounting code as "VIN 2";

(6) be responsible for all operation, maintenance, repair, and replacement costs of leased state vehicles in the state agency's custody;

(7) budget appropriately for replacement of leased state vehicles;

(8) develop written inventory, administrative, operational, and replacement policies;

(9) develop a written policy regarding the use of leased state vehicles for commuting between work and residence;

(10) track all special use motor vehicles and motor vehicles leased or purchased totally or partially with federal funds using the vehicle identification number (VIN) instead of the license plate number; and

(11) maintain insurance coverage on non - TSD leased state vehicles in accordance with the requirements established

by RMD.

C. License plates. On an annual basis, the director or designee shall determine which type of license plate shall be issued for each state vehicle in the custody of a state agency based on information provided by the requesting agency. [1.5.3.29 NMAC - Rp, 1.5.3.29 NMAC, 1-15-13]

1.5.3.30 USE OF STATE VEHICLES DURING INCLEMENT WEATHER:

A. No employee should be expected to travel if they feel unsafe due to inclement weather. The employee should inform their supervisor and request that the trip be delayed until the inclement weather hazard has dissipated.

B. No short term lease or "quik ride" vehicles will be issued while inclement weather conditions are present. Reservations will be rescheduled for a later time or date, depending on weather conditions and vehicle availability.

C. TSD reserves the right to prohibit the use of state vehicles during inclement weather.

[1.5.3.30 NMAC - N, 1-15-13]

1.5.3.31 WAIVER FROM TSD

RULES: The GSD secretary or authorized designee may waive any portion of this rule provided the request is submitted in writing. The director or designee or the state agency may suspend or revoke driving privileges of an authorized driver for failure to comply with any provision of this rule.

[1.5.3.31 NMAC - Rp, 1.5.3.30 NMAC, 1-15-13]

HISTORY OF 1.5.3 NMAC:

Pre NMAC History: Material in the part was derived from that previously filed with the Commission of Public Records - State Records Center and Archives:

GSD 85-202, State Motor Vehicle Regulations, filed 10-28-85;

GSD 90-202, State Motor Vehicle Regulations, filed 11-05-90.

History of Repealed Material:

GSD 90-202, State Motor Vehicle Regulations (filed 11/05/90) repealed 11-01-02.

1.5.3 NMAC, Administration and Use of State Vehicles (filed 10/01/2002) repealed 08-14-08.

1.5.3 NMAC, Administration and Use of State Vehicles (filed 07/30/2008) repealed 1-15-13.

Other History:

GSD 90-202, State Motor Vehicle Regulations (filed 11/05/90) was replaced by 1.5.3 NMAC, Administration and Use of State Vehicles, effective 11/01/02.

1.5.3 NMAC, Administration and Use of State Vehicles (filed 10/01/2002) was replaced by 1.5.3 NMAC, Administration and Use of State Vehicles, effective 08-14-08.

1.5.3 NMAC, Administration and Use of State Vehicles (filed 07/30/2008) was replaced by 1.5.3 NMAC, Administration and Use of State Vehicles, effective 1-15-13.

NEW MEXICO HUMAN SERVICES DEPARTMENT BEHAVIORAL HEALTH SERVICES DIVISION

This is an amendment to 7.21.1 NMAC, Sections 7 and 8, effective January 15, 2013.

7.21.1.7 DEFINITIONS: This section contains the glossary for the New Mexico behavioral health system. The following definitions apply to terms used in this chapter and shall guide any rules promulgated by collaborative members regarding behavioral health.

A. Definitions beginning with letter "A":

(1) **Abuse, individual:** Any intentional, knowing or reckless act or failure to act that produces or is likely to produce physical or great mental or emotional harm, unreasonable confinement, sexual abuse or sexual assault consistent with 30- 47-1 NMSA 1978.

(2) **Abuse, provider:** Provider practices that are inconsistent with sound fiscal, business, medical or service related practices and result in an unnecessary cost to the program, or in reimbursement for services that are not medically, clinically, or psychosocially necessary or in services that fail to meet professionally recognized standards for behavioral health care.

(3) **Adult behavioral health procedures manual:** The procedures manual that includes the psychiatric rehabilitation program requirements and comprehensive community support services requirements.

(4) **Advance directive:** Written instructions such as a mental healthcare advance directive, psychiatric advance directive, living will, durable health care power of attorney, durable mental health care power of attorney, or advance health directive, relating to the provision of health care when an adult is incapacitated. (See generally, 27-7A-1 - 27-7A-18 NMSA, 1978, and 24-7B-1 - 24-7B-16 NMSA 1978.)

(5) **Adverse determination:** A determination by the [SE] BHE that the behavioral health services furnished, or proposed to be furnished to a consumer, are not medically, clinically or psychosocially necessary or not appropriate.

(6) **American society of addiction medicine (ASAM):** An organization of professionals in addiction services that developed, in the early 1990s or a set of criteria and tools to identify the level of care best suited to an individual in need of addiction services.

B. Definitions beginning with letter "B":

(1) **Behavioral health (BH):** The umbrella term for mental health and substance abuse. It includes both mental health (MH), including psychiatric illnesses and emotional disorders, and substance abuse (SA), including addictive and chemical dependency disorders, and includes co-occurring MH and SA disorders and the prevention of those disorders.

(2) **Behavioral health entity (BHE):** One or more managed care organizations selected by HSD and the collaborative to provide all defined behavioral health service responsibilities, including medicaid behavioral health.

(2) (3) **Behavioral health planning council (BHPC):** The body created to meet federal and state advisory council requirements and to provide consistent, coordinated input to the behavioral health service delivery system in New Mexico, and with which the [SE] BHE will be expected to interact with as an advisory council. (See 24-1-28 NMSA, 1978)

C. Definitions beginning with letter "C":

(1) **Chair or co-chairs:** The secretary of human services shall serve as the chair of the collaborative. The secretary of health and the secretary of children youth and families shall alternate each state fiscal year as the co-chair of the collaborative.

(+) (2) **Clinical necessity:** The determination made by a behavioral health professional exercising prudent clinical judgment as to whether a behavioral health service would promote growth and development, prevent, diagnose, detect, treat, ameliorate, or palliate the effects of a behavioral health condition, injury, or disability for the consumer.

(2) (3) **Collaborative:** The interagency behavioral health purchasing collaborative, responsible for planning, designing and directing a statewide behavioral health system. The collaborative, established under Section 9-7-6.4 NMSA 1978, by its statutory member agencies collectively, operates under by-laws adopted by the collaborative. ~~[The collaborative may delegate to a subcommittee of the collaborative, to the collaborative chief executive officer, to a cross-agency staff team, or to a designated staff or group of staff from member agencies, except for those matters specifically required to be a decision of the collaborative itself (e.g., approving and signing the SE contract and~~

any amendments thereto.)

(3) (4) **Collaborative members or member agencies:** The statutory and *ex officio* agency representatives who sit on the collaborative or their agency designees.

(+) (5) **Comprehensive community support services (CCSS):** CCSS is a recovery and resiliency oriented service which is provided in the community, primarily face-to-face, using natural supports to the maximum extent possible to build on client and family strengths. These services are goal-directed mental health rehabilitation services and supports for children, adolescents, and adults necessary to assist individuals in achieving recovery and resiliency goals. These services assist in the development and coordination of a consumer or member's service plan and include therapeutic interventions which address barriers that impede the development of skills necessary for independent functioning in the community. (See, 8.315.6 NMAC, 8.305.1 NMAC and collaborative adult behavioral health procedural manual.)

(5) (6) **Consumer:** For purposes of these rules, a person with a mental health or substance use disorder receiving or eligible to receive behavioral health services through collaborative or collaborative member contracts, or a past recipient of such services.

(6) (7) **Consumer empowerment:** Activities that address the following areas:

- (a) consumer choice
- (b) consumer voice
- (c) self-management
- (d) community integration

(7) (8) **Continuous quality improvement (CQI):** CQI is a process for improving quality that assumes opportunities for improvement are unlimited; is customer-oriented, data driven, and results in implementation of improvements; and requires continual measurement of implemented improvements and modification of improvements, as indicated.

(8) (9) **Core service agencies (CSAs):** Multi-service agencies that help to bridge treatment gaps in the child and adult treatment systems, promote the appropriate level of service intensity for consumers with complex behavioral health service needs, ensure that community support services are integrated into treatment, and develop the capacity for consumers to have a single point of accountability for identifying and coordinating their behavioral health, health and other social services.

(9) (10) **Credentialing:** A systematic process whereby the [SE] BHE or provider verifies and warrants that an employed, contracted or affiliated behavioral health professional or agency meets specified practice standards including education,

experience, licensure and certification.

(+) (11) **Cultural competence:** A set of congruent behaviors, attitudes, and policies that come together in a system, agency, or among professionals that enables them to work effectively in cross-cultural situations, including situations of diverse culture, race, ethnicity, national origin or disability. Cultural competency involves the integration and transformation of knowledge, information and data about individuals and groups of people into specific clinical standards, service approaches, techniques and marketing programs that match an individual's culture to increase the quality and appropriateness of behavioral health care and outcomes. See, 8.305.1.7 NMAC.

D. Definitions beginning with letter "D":

(1) **Delegation:** A formal process by which [an SE] a BHE gives another entity the authority to perform certain functions on its behalf but for which the [SE] BHE retains full accountability for the delegated functions.

(2) **Designated representative:** A person designated under a valid mental health care treatment advance directive as an individual's authorized agent according to the provisions of the Mental Health Care Treatment Decisions Act (Section 24-7B NMSA 1978) and who has personal knowledge of the respondent and the facts as required in Subsection B of the act.

E. Definitions beginning with letter "E":

(1) **EPSDT:** Early and periodic screening, diagnostic and treatment.

(2) **Ex-officio members:** Non-voting members of the collaborative, who otherwise serve as full members (e.g. the secretary of higher education department, secretary of veteran's services department, New Mexico public defender, and the children's cabinet coordinator).

(3) **Executive committee:** A committee of the collaborative comprised of the secretaries of human services, health, and children youth and families. The executive committee is authorized to negotiate, approve and execute contracts and amendments on behalf of the collaborative.

F. Definitions beginning with letter "F":

(1) **Family-centered care:** When a child is the consumer, the system of care reflects the importance of the family or legal guardian in the way services are planned and delivered. Family-centered care facilitates collaboration between family members and behavioral health professionals, builds on individual and family strengths and respects diversity of families.

(2) **Family specialist:** An approved provider who is certified as a family specialist through an approved state certification program. (See Subsection U of

7.20.11.7 NMAC)

G. Definitions beginning with letter "G":

(1) **Grievance (consumer):** Oral or written statement by a member expressing dissatisfaction with any aspect of the [SE] BHE or its operations that is not [an-SE] a BHE action.

(2) **Grievance (provider):** Oral or written statement by a provider to the [SE] BHE expressing dissatisfaction with any aspect of the [SE] BHE or its operations that is not [an-SE] a BHE action.

H. Definitions beginning with letter "H": **HIPAA:** Health Insurance Portability and Accountability Act of 1996.

I. Definitions beginning with letter "I": **Indicated prevention:** Interventions that identify individuals who are experiencing early signs of substance abuse, mental illness and other related problem behavior and target them with special programs.

J – K [RESERVED]

L. Definitions beginning with letter "L":

(1) **Letter of direction (LD):** Written instructions, detailed action steps, and guidelines to clarify the implementation of programs funded by new funding sources or changes to programs funded by funding sources identified in the [SE] BHE contract.

(2) **Local collaborative (LC):** An advisory body, delineated by either judicial district or tribal grouping and recognized by the collaborative, that provides input on local and regional behavioral health issues to the collaborative, the BHPC and the [SE] BHE.

(3) **Logic model, prevention services:** A logical conceptual framework used to connect the prevention effort with its intended results and the goal of reducing substance abuse. The framework is based upon existing knowledge that is refined or revised with new research. The logic model specifically describes the changes expected within the target population(s), why it is likely that these changes would result from the proposed prevention services and activities, and how this logically relates to the needs assessment.

M. Definitions beginning with letter "M":

(1) **Managed care organization (MCO):** An organization that contracts with the state of New Mexico to provide a variety of health care services to individuals who are enrolled.

(2) **Management letter:** A document signed by the co-chairs of the collaborative and a representative of the [SE] BHE authorized to bind the [SE] BHE that describes a certain task or activity to be pursued or conducted by the [SE] BHE, the specific approach to that task or activity, the expected result and the schedule

to be followed to implement the task or activity. Such letters are not intended to be amendments to the [SE] BHE contract, but more specific directions for completing contract requirements.

(3) **Medicaid:** The medical assistance program authorized under Title XIX and Title XXI of the Social Security Act or its successors, furnished to New Mexico residents who meet specific eligibility requirements.

(4) **Medically necessary services:** Clinical and rehabilitative physical, mental or behavioral health services that:

(a) are essential to prevent, diagnose or treat medical or behavioral health conditions or are essential to enable the consumer to attain, maintain or regain the consumer's optimal functional capacity;

(b) are delivered in the amount, duration, scope and setting that is both sufficient and effective to reasonably achieve their purposes and clinically appropriate to the specific physical, mental and behavioral health care needs of the consumer;

(c) are provided within professionally accepted standards of practice and national guidelines; and

(d) are required to meet the physical, mental and behavioral health needs of the consumer and are not primarily for the convenience of the consumer, the provider or the [SE] BHE. (Subparagraphs (a) and (b) of Paragraph (7) of Subsection M of 8.305.1.7 NMAC)

N. Definitions beginning with letter "N":

(1) **Network provider:** An individual provider, clinic, group, association or facility employed by or contracted with [an-SE] a BHE to furnish covered behavioral health services to consumers under the provisions of the [SE] BHE contract.

(2) **Non-network provider:** An individual provider, clinic, group, association or facility that provides covered services and does not have a contract with the [SE] BHE.

O. [RESERVED]

P. Definitions beginning with letter "P":

(1) **Peer specialist:** An approved provider who is certified as a peer specialist through a state approved certification program. (Paragraph (4) of Subsection A of 8.315.6.10 NMAC)

(2) **Performance measures:** A system of operational and tracking indicators specified by state or federal requirements or the collaborative, including but not limited to the federal national outcome measures (NOMS).

(3) **Prevention services:** Services that follow current national standards for prevention including both physical and behavioral health.

(4) **Prevention provider:** A

provider under contract for the exclusive or primary purpose of providing services designed to prevent or reduce the prevalence of substance abuse, mental illness, or other specified behavioral health disorders.

~~(5) **Procurement code:** Sections 13-1-28 to 13-1-199 NMSA 1978:~~

~~(6) (5) **Psychosocial necessity:** Services or products provided to a consumer with the goal of helping that individual develop to his/her fullest capacities through learning and environmental supports and reduce the risk of the consumer developing a behavioral health disorder or an increase in the severity of behavioral health symptoms. The consumer need not have a behavioral health diagnosis but rather have a need to improve psychosocial functioning.~~

Q. [RESERVED]

R. Definitions beginning with letter "R":

(1) **Recovery:** Behavioral health recovery is an individual's personal journey of healing and transformation enabling a person with a behavioral health problem to live a meaningful life in a community of his or her choice while striving to achieve his or her full potential.

(2) **Re-credentialing:** A systematic process whereby the [SE] BHE verifies and warrants that an employed or affiliated behavioral health professional who is currently credentialed, continues to meet specified practice standards, including education, experience, licensure and certification.

(3) **Resiliency:** A global term describing a dynamic process, whereby people overcome adversity and go on with their lives in a productive and self-satisfying manner.

(4) **Responsible offeror:** An offeror who submits a response proposal and who has furnished, when required, information and data to prove that the offeror's financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services or items of tangible personal property described in the proposal.

S. Definitions beginning with letter "S":

(1) **Selective prevention:** Prevention interventions targeted at a subgroup of the general population that is determined to be at risk for sexual assault, substance abuse or mental illness.

~~(2) **SE contract:** The contract between the collaborative and the single statewide entity for services and responsibilities defined in the behavioral health request for proposals.~~

~~(3) **Statewide entity (SE):** The behavioral health entity or entities (BHE) selected by the state of New Mexico through the collaborative to perform all contract~~

functions defined in the behavioral health request for proposal (RFP) or subsequent final contract. The SE is a contractor selected to provide all defined service responsibilities statewide, including medicaid behavioral health benefits. The SE is the agent of the collaborative and shall "coordinate", "braid" or "blend" the funding, human resources and service capacity available from the various state agencies so as to increase flexibility, maximize available resources and create a seamless single behavioral health service delivery system for New Mexico.

(4) (2) **State:** The state of New Mexico, including any entity or agency of the state and including but not limited to the collaborative and member agencies.

(5) (3) **Subcontract:** A written agreement between the [SE] BHE and a third party, or between a subcontractor and another subcontractor, to provide services, and where appropriate approved by the collaborative.

(6) (4) **Subcontractor:** A third party who contracts with the [SE or an SE] BHE or a BHE subcontractor for the provision of services.

(7) (5) **Supported employment:** Integrated work for not less than the federal minimum wage in a setting with ongoing support services for individuals with severe disabilities for whom competitive employment:

- (a) has not traditionally occurred;
- (b) has been interrupted or intermittent as a result of severe disability, and who,
- (c) because of the nature and severity of their disabilities need intensive physical, educational, social or psychological support to perform work.

(8) (6) **Supportive housing:** Permanent housing that is affordable to individuals with low or no incomes, is chosen by the individual, which a person retains even if their service needs change, and which is an essential ingredient to foster and support a person's journey towards recovery and resiliency.

T. [RESERVED]
U. Definitions beginning with letter "U": **Universal prevention:** Prevention interventions intended to reach the entire population or a large share of it, without regard to individual risk factors.

V-Z [RESERVED]
[7.21.1.7 NMAC - N, 9-1-11; A, 1-15-13]

7.21.1.8 MISSION STATEMENT: The mission of the [interagency behavioral health] collaborative is to ensure that quality behavioral health services are provided to both medicaid and non-medicaid consumers; that providers are reimbursed timely and accurately; [and] that services promote prevention, recovery, resilience in consumers, and [efficient use

of] that available resources are used in the most efficient and effective manner. This mission serves the [collaborative] collaborative's vision [to establish] of establishing a single service delivery system in which consumers and family members are assisted in participating fully in the life of their communities; support of recovery and development of resiliency are expected; behavioral health is promoted; and the adverse effects of substance abuse and mental illness are prevented or reduced. [7.21.1.8 NMAC - N, 9-1-11; A, 1-15-13]

NEW MEXICO HUMAN SERVICES DEPARTMENT BEHAVIORAL HEALTH SERVICES DIVISION

This is an amendment to 7.21.3 NMAC, Sections 7, 8, 9 and 10, effective January 15, 2013.

7.21.3.7 DEFINITIONS: [The following definitions apply to terms used in this chapter.

A. ~~Behavioral health (BH):~~ The umbrella term for mental health and substance abuse. It includes both mental health (MH) , including psychiatric illnesses and emotional disorders, and substance abuse (SA), including addictive and chemical dependency disorders, and includes co-occurring MH and SA disorders and the prevention of those disorders.

B. ~~Behavioral health entity (BHE):~~ One or more entities selected by the collaborative to provide all defined behavioral health service responsibilities, including medicaid behavioral health: [RESERVED]
[7.21.3.7 NMAC - N, 9-1-11; Repealed, 1-15-13]

7.21.3.8 MISSION STATEMENT: The mission of the [interagency behavioral health] collaborative [(the collaborative)] is to ensure that quality behavioral health services are provided to medicaid and non-medicaid consumers; that providers are reimbursed timely and accurately; [and] that services promote prevention, recovery, resilience in consumers, and [efficient use of] that available resources are used in the most efficient and effective manner. This mission serves the collaborative's vision [to establish] of establishing a behavioral health service delivery system in which consumers and family members are assisted in participating fully in the life of their communities; support of recovery and development of resiliency are expected; behavioral health is promoted; and the adverse effects of substance abuse and mental illness are prevented or reduced. [7.21.3.8 NMAC - N, 9-1-11; A, 1-15-13]

7.21.3.9 E L I G I B L E BEHAVIORAL HEALTH ENTITY (BHE): The collaborative shall award a contract to one or more behavioral health entities which meets applicable requirements and standards delineated under state and federal law including Title IV of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 (regarding education programs and activities), the Age Discrimination Act of 1975, the Rehabilitation Act of 1973 and the Americans with Disabilities Act. The BHE contract shall [be awarded to], at a minimum, manage delivery of all covered behavioral health services ([including medicaid and on-medicaid] both medicaid and non-medicaid services), including network development and management, tracking funding and expenditures from various funding sources, conducting utilization management, ensuring coordination of services, ensuring quality management and improvement, and conducting various administrative functions.

A. **BHE contract procurement:** The collaborative may, in conjunction with human services department, jointly procure contractors to provide both BH and other medicaid services.

[A-] B. **BHE contract issuance:** [The collaborative shall award a contract to a BHE pursuant to the procurement code. The collaborative must meet to review and vote to approve a final contract. Once the collaborative has approved the final contract, the co-chairs will sign the final contract. The BHE contract shall be effective after approval by the federal centers for medicare and medicaid services (CMS) or other required state or federal approving bodies.] Prior to execution of a contract with a BHE, the collaborative must meet and give approval as to the substance and form of the proposed contract. The executive committee is authorized to negotiate, sign and execute the contract with a BHE without further approval from the other members.

[B-] C. **BHE contract amendments:** The BHE contract shall not be altered, changed or amended other than by an instrument in writing executed by the contractor and the co-chairs of the collaborative [and approved by a vote of the collaborative. The collaborative may vote to delegate to the collaborative co-chairs its authority to adopt an amendment. Amendments shall become effective and binding when written approvals have been obtained from any necessary state and federal agencies]. The executive committee is authorized to adopt and execute an amendment to a BHE contract on behalf of the collaborative without obtaining prior approval of the other members.

D. **Other contracts:** The chair and co-chairs are authorized to negotiate any additional contracts, memoranda of

understanding or other agreements, and any amendments or modifications thereto, on behalf of the collaborative without obtaining the prior approval of the members.
[7.21.3.9 NMAC - N, 9-1-11; A, 1-15-13]

7.21.3.10 ~~[PUBLIC — INPUT:~~
Prior to issuance of a request for proposal for a BHE contract, the collaborative shall provide multiple opportunities for public input regarding the possible scope of the request for proposals and evaluation or review considerations. At least one public input meeting will be held on legally allowable portions of a draft RFP. Public input will be accepted orally or in writing, submitted in person, by email, by mail, or by telephone within the time periods provided. Additional protocols for tribal input shall also be observed.] ~~[RESERVED]~~
[7.21.3.10 NMAC - N, 9-1-11; Repealed, 1-15-13]

NEW MEXICO BOARD OF PHARMACY

This is an amendment to 16.19.6 NMAC, Section 11, effective 01-20-13.

16.19.6.11 M I N I M U M EQUIPMENT AND ACCESSORY STANDARDS:

A. The pharmacy shall have the necessary equipment for the safe and appropriate storage, compounding, packaging, labeling, dispensing and preparations of drugs and parenteral products appropriate to the scope of pharmaceutical services provided. The following items shall be in the pharmacy:

(1) an updated reference source, appropriate to each practice site, either electronic or paper version;

(2) one copy of the most recently published New Mexico pharmacy laws, rules and regulations and available revisions, either electronic or paper version.

B. P A R E N T E R A L PHARMACEUTICALS:

(1) Purpose: To ensure that the citizens of New Mexico receive routine safe and competent delivery of parenteral products and nutritional support throughout the state. To establish guidelines for licensure and inspection of such facilities by the state board of pharmacy.

(2) Definitions

(a) "Parenteral products pharmacy" is a retail pharmacy which prepares and distributes prescriptions for sterile products intended for parenteral administration to patients either at home or in or out of an institution licensed by the state.

(b) "Parenteral product" means any preparation administered by injection

through one or more layers of skin tissue.

(c) "Sterile" means a preparation that has undergone a valid sterilization process and is devoid of all living microorganisms, packaged in such a way to ensure the retention of this characteristic.

(d) "Preparation" means a sterile product which has been subjected to manipulation by a pharmacist under aseptic conditions to render the product suitable for administration.

(e) "Aseptic conditions" means a cabinet or facility capable of obtaining ISO class 5 clean air as defined by the federal standards 209E and which is certified by a testing agency at least every six months.

(f) "Aseptic technique" means proper manipulation of articles within a ISO class 5 clean air room or station to maintain sterility.

(g) "Disinfectant" means a chemical compound used to kill and or control microbial growth within a ISO class 5 area or its surroundings and is approved for such use by the environmental protection agency.

(h) "Antimicrobial soap" means soap containing an active ingredient that is active both in vitro and vivo against skin microorganisms.

(i) "Surgical hand scrub" means an antimicrobial containing preparation which significantly decreases the number of microorganisms on intact skin.

(j) "SOP" means standard operating procedures. These are written standards for performance for tasks and operations within a facility.

(k) "Quality control" means procedures performed on preparations to assess their sterility and/or freedom from other contamination.

(l) "Quality assurance" means the procedures involved to maintain standards of goods and services.

(m) "ISO class 5 environment" means having less than 100 particles 0.5 microns or larger per cubic foot.

(n) "ISO class 8 environment" means having less than 100,000 particles 0.5 microns or larger per cubic foot.

(o) "Critical area" means any area in the controlled area where products or containers are exposed to the environment.

(p) "Process validation" means documented evidence providing a high degree of assurance that a specific process will consistently produce a product meeting its predetermined specifications and quality attributes.

(q) "Positive pressure controlled area" means the clean room is to have a positive pressure differential relative to the adjacent pharmacy.

(r) "Barrier isolator" is an enclosed containment device which provides a controlled ISO class 5 environment. The

device has four components; the stainless steel shell, HEPA filtration of entering and exiting air flows, glove ports for people interaction and an air lock for moving products into and out of the controlled environment.

(s) "Plan of care" means an individualized care plan for each patient receiving parenteral products in a home setting to include the following:

(i) a description of actual or potential drug therapy problems and their proposed solutions;

(ii) a description of desired outcomes of drug therapy provided;

(iii) a proposal for patient education and counseling; and

(iv) a plan specifying proactive objective and subjective monitoring (e.g. vital signs, laboratory test, physical findings, patient response, toxicity, adverse reactions, and non compliance) and the frequency with which monitoring is to occur.

(t) USP/NF standards means USP/NF Chapter 797 titled "pharmacy compounding - sterile products".

(u) "Cytotoxic drugs" shall be defined in the most current American hospital formulary service (AHFS).

(3) Pharmacist-in-charge: In order to obtain a license, all parenteral product pharmacies must designate a pharmacist in charge of operations who is:

(a) licensed to practice pharmacy in the state of New Mexico;

(b) responsible for the development, implementation and continuing review of written SOP's consistent with USP/NF standards which are used by the operation in their daily operation;

(c) pharmacist on staff who is available for twenty-four hour seven-day-a-week services;

(d) responsible for establishing a system to assure that the products prepared by the establishment are administered by licensed personnel or properly trained and instructed patients;

(e) responsible for developing an appropriate and individualized plan of care in collaboration with patient or caregiver and other healthcare providers for each patient receiving parenteral products in a home setting.

(4) Physical requirements:

(a) The parenteral products pharmacy must have sufficient floor space to assure that the products are properly prepared and stored to prevent contamination or deterioration prior to administration to the patient and meet the following:

(i) be separated physically from other pharmacy activities and enclosed on all sides except for doors and/or windows for the passage of materials;

(ii) the minimum size of

a retail pharmacy must be 240 square feet; a retail pharmacy with preparation of sterile products capabilities must have 340 square feet; the stand alone parenteral product pharmacy must have a minimum of 240 square feet;

(iii) addition of a parenteral area in existing pharmacies will require submission of plans for remodeling to the board office for approval and inspection prior to licensure;

(iv) a new parenteral pharmacy must comply with Sections 8, 9, 10 and 11 of the regulations.

(b) Equipment and materials. The parenteral products pharmacy has sufficient equipment and physical facilities to safely compound and store such products and includes the following:

(i) either a ISO class 5 clean air work station or a room which meets ISO class 5 conditions;

(ii) refrigeration capacity for proper storage of prepared parenterals at 2C to 8C after preparation and until prescriptions are received by the patient or their agent;

(iii) if bulk reconstitution of antibiotics is performed the facility has a freezer capable of freezing and storing the product at -20C for periods not to exceed the manufacturer's recommendations;

(c) References. Parenteral products pharmacies maintain in their library at least one current edition reference book from each category listed below in addition to other required references:

(i) drug monograph reference, i.e., USP-DI, AHFS: drug information service, martindale's extra pharmacopoeia, or other suitable reference;

(ii) stability and incompatibility reference; i.e., trissell's handbook of parenteral medications, king/cutter IV incompatibilities, or other suitable reference;

(iii) reference on pharmaceutical technology and compounding; i.e., remington's pharmaceutical sciences, block's disinfection sterilization and preservation, or other suitable reference;

(iv) periodicals, i.e., American journal of hospital pharmacy, ASHP's clinical pharmacy, American journal of parenteral and enteral nutrition, or other suitable periodical.

(5) Documentation requirements for parenteral product pharmacies: Written policies and procedures must be available for inspection and review by authorized agents of the board of pharmacy. Written policies and procedures must be submitted to the state board of pharmacy prior to the issuance of any license. These records must include but are not limited to:

(a) cleaning, disinfection, evaluation and maintenance of the preparation area;

(b) regular recertification of the clean air unit or units by independent testing agencies;

(c) surveillance of parenteral solutions for microbiological contamination;

(d) surveillance of parenteral solutions for particulate contamination;

(e) personnel qualifications, training and performance guidelines;

(f) facility and equipment guidelines and standards;

(g) SOP's for dispensing all solutions and medications;

(h) SOP's for disposal of physical, chemical and infectious waste;

(i) quality control guidelines and standards;

(j) quality assurance guidelines and standards;

(k) SOP's for determination of stability, incompatibilities or drug interactions.

(6) Record keeping and patient profile: The parenteral products pharmacy is required to maintain complete records of each patient's medications which include but are not limited to the following:

(a) prescription records including the original Rx, refill authorization, alterations in the original Rx, and interruptions in therapy due to hospitalization;

(b) patient's history including pertinent information regarding allergy or adverse drug reactions experienced by the patients;

(c) patients receiving parenteral products in a home setting are contacted at a frequency appropriate to the complexity of the patient's health problems and drug therapy as documented on patient specific plan of care and with each new prescription, change in therapy or condition;

(d) documentation that the patient receiving parenteral products in a home setting or their agent has received a written copy of their plan of care and training in the safe administration of their medication.

C. S T E R I L E PHARMACEUTICAL PREPARATION:

(1) [~~Pharmacies compounding~~] **All compounded sterile [pharmaceuticals] products for human use shall [prepare products] be prepared** in an appropriate aseptic environment which meets [~~ISO class 5 requirements~~] **USP <797> standards.** Devices used to [~~maintain a ISO class 5~~] **provide an aseptic environment including laminar air flow workbenches, biological safety cabinets, compounding aseptic isolators and compounding aseptic containment isolators** will:

(a) be [~~certified~~] **tested** in the course of normal operation by an independent **qualified** contractor [~~according to Federal~~

~~Standard 209E et seq. for operational efficiency]~~ **and certified as meeting the requirements presented in USP <797>** at least every 6 months and when [~~moved~~] **relocated,** certification records will be maintained for 3 years;

(b) have pre-filters which are inspected periodically and inspection/replacement date documented according to written policy; and

(c) have a positive pressure controlled area that is certified as at least a ISO class 8 which is functionally separate from other areas of the pharmacy and which minimizes the opportunity for particulate and microbial contamination; this area shall:

(i) have a controlled aseptic environment or contain a device which maintains an aseptic environment;

(ii) be clean, lighted, and at an average of 80-150 foot candles;

(iii) be a minimum of 100 sq. ft to support sterile compounding activities;

(iv) be used only for the compounding of sterile pharmaceuticals using appropriate aseptic technique including gowning and gloving;

(v) be designed to avoid outside traffic and airflow;

(vi) be ventilated in a manner which does not interfere with aseptic environment control conditions;

(vii) have non-porous, washable floor coverings, hard cleanable walls and ceilings (which may include acoustical ceiling tiles coated with an acrylic paint) to enable regular disinfection; (contain only compounding medication and supplies and not be used for bulk storage;

~~[(viii) a self-contained, ISO class 5 barrier isolator not located in the clean room is acceptable; the barrier isolator may only be located in an area which is maintained under sanitary conditions and traveled only by persons engaged in sterile product preparation; such barrier isolators must be certified by an independent certification contractor according to ISO class 5 conditions, as defined by federal standard 209E et seq. prior to use and at six-month intervals; certification records will be maintained for 3 years;]~~

(d) store medications and supplies on shelves above the floor;

(e) develop and implement a disposal process for packaging materials, used supplies, containers, syringes, and needles; this process shall be performed to enhance sanitation and avoid accumulation in the controlled area;

(f) prohibit particle generating activities in the controlled area:

(i) removal of medications or supplies from cardboard boxes shall not be done in the controlled area;

(ii) cardboard boxes or other packaging/shipping material which generate an unacceptable amount of particles shall not be permitted; the removal of immediate packaging designed to retain sterility or stability will be allowed;

(g) cytotoxic drugs shall:

(i) be prepared in a vertical flow biological safety cabinet, micro-biological isolation chamber or equivalent containment device;

(ii) be prepared in a cabinet thoroughly cleaned prior to use for preparation of other products; said cleaning will be documented;

(iii) be prepared in a cabinet located in a controlled area as described in 11.C.(1).(c);

(iv) be disposed of according to written policies and procedures maintained at the facility;

(h) maintain a library of specialty references appropriate for the scope of services provided; reference material may be hard copy or computerized.

(2) Requirements for training.

(a) All pharmacists prior to compounding sterile pharmaceuticals, or supervising pharmacy personnel compounding sterile pharmaceuticals, all shall have completed didactic, experiential training and competency evaluation through demonstration and testing (written or practical) as outlined by the pharmacist-in-charge and described in the policy and procedures or training manual. Such training shall be evidenced by completion of a recognized course in a board approved accredited college of pharmacy or course which shall include instruction and hands-on experience in the following areas:

(i) aseptic technique;

(ii) critical area contamination factors;

(iii) environmental monitoring;

(iv) facilities;

(v) equipment and supplies;

(vi) sterile pharmaceutical calculations and terminology;

(vii) sterile pharmaceutical compounding documentation;

(viii) quality assurance procedures;

(ix) proper gowning and gloving technique;

(x) the handling of cytotoxic and hazardous drugs; and

(xi) general conduct in the controlled area.

(b) All pharmacist interns prior to compounding sterile pharmaceuticals shall have completed instruction and experience in the areas listed in Paragraph 2. Such

training will be obtained through the:

(i) completion of a structured on-the-job didactic and experiential training program at this pharmacy (not transferable to another pharmacy); or

(ii) completion of a board approved course;

(iii) certification by university of New Mexico college of pharmacy.

(c) All pharmacy technicians who compound sterile pharmaceuticals shall be a certified pharmacy technician, and complete instruction and experience in the areas listed in Paragraph 2. Such training will be obtained through the:

(i) completion of a structured on-the-job didactic and experiential training program at this pharmacy (not transferable to another pharmacy) which provides instruction and experience in the areas listed in Paragraph 2; or

(ii) completion of a board approved course which provides instructions and experience in the areas listed in Paragraph 2.

(d) All pharmacists compounding sterile chemotherapy drugs or supervising pharmacy interns or technicians compounding sterile chemotherapy drugs shall have completed a board approved course in chemotherapy drug preparation. All pharmacy interns and technicians must complete this training prior to preparing sterile chemotherapy drug products.

(e) Documentation of training. A written record of initial and in-service training and the results of written or practical testing and process validation of pharmacy personnel shall be maintained and contain the following information:

(i) name of person receiving the training or completing the testing or process validation;

(ii) date(s) of the training, testing, or process validation;

(iii) general description of the topics covered in the training or testing or of the process validated;

(iv) name of person supervising the training, testing, or process validation;

(v) signature of the person receiving the training or completing the testing or process validation and the pharmacist-in-charge or other pharmacist employed by the pharmacy and designated by the pharmacist-in-charge as responsible for training, testing, or process validation of personnel.

(f) No product intended for patient uses shall be compounded by an individual until the process validation test indicates that the individual can competently perform aseptic procedures.

(g) On an annual basis the pharmacist-in-charge shall assure continuing competency of pharmacy personnel through in-service education, training, and process validation to supplement initial training. A written record of such training will be maintained for 3 years.

(3) Patient or caregiver training for home sterile products.

(a) The pharmacist shall maintain documentation that the patient has received training consistent with regulation 16.19.4.17.5 NMAC.

(b) The facility shall provide a 24-hour toll free telephone number for use by patients of the pharmacy.

(c) There shall be a documented, ongoing quality assurance program that monitors patient care and pharmaceutical care outcomes, including the following:

(i) routine performance of prospective drug use review and patient monitoring functions by a pharmacist;

(ii) patient monitoring plans that include written outcome measures and systems for routine patient assessment;

(iii) documentation of patient training; and

(4) Quality assurance/compounding and preparation of sterile pharmaceuticals.

(a) There shall be a documented, ongoing performance improvement control program that monitors personnel performance, equipment, and facilities:

(i) all aspects of sterile product preparation, storage, and distribution, including details such as the choice of cleaning materials and disinfectants and monitoring of equipment accuracy shall be addressed in policy and procedures;

(ii) if bulk compounding of parenteral solutions is performed using non-sterile chemicals, appropriate end product testing must be documented prior to the release of the product from quarantine; the test must include appropriate tests for particulate matter and pyrogens;

(iii) there shall be documentation of quality assurance audits at regular, planned intervals, including infection control and sterile technique audits; a plan for corrective action of problems identified by quality assurance audits shall be developed which includes procedures for documentation of identified problems and action taken; a periodic evaluation as stated in the policy and procedures of the effectiveness of the quality assurance activities shall be completed and documented;

(iv) the label of each sterile compounded product shall contain: patient name; if batch filling, lot or control number; solution, ingredient names, amounts; expiration date and time, when applicable; directions for use (only if the

patient is the end user; not in a hospital setting), including infusion rates, specific times scheduled when appropriate; name or initials of person preparing the product and, if prepared by supportive personnel, the name or identifying initials and the name or initials of the pharmacist that completed the final check; when appropriate, ancillary instructions such as storage instructions or cautionary systems, including cytotoxic warning labels and containment bags; 8 device instructions when needed.

(b) There shall be a mechanism for tracking and retrieving products which have been recalled.

(c) Automated compounding devices shall:

(i) have accuracy verified on a routine basis at least every thirty days per manufacturer's specifications;

(ii) be observed every thirty days by the operator during the mixing process to ensure the device is working properly;

(iii) have data entry verified by a pharmacist prior to compounding; and

(iv) have accuracy of delivery of the end product verified according to written policies and procedures.

(d) If batch preparation of sterile products is being performed, a worksheet (log) must be maintained for each batch. This worksheet shall consist of formula, components, compounding directions or procedures, a sample label and evaluation and testing requirements, if applicable, and shall be used to document the following:

(i) all solutions and ingredients and their corresponding amounts, concentrations and volumes;

(ii) component manufacturer and lot number;

(iii) lot or control number assigned to batch;

(iv) date of preparation;

(v) expiration date of batch prepared products;

(vi) identity of personnel in preparation and pharmacist responsible for final check;

(vii) comparison of actual yield to anticipated yield, when appropriate.

(5) Application of regulation: Pharmacies licensed by the board prior to adoption of this regulation shall comply with the controlled area standards defined in section 11.C.(1).(c). by December 31, 2002. When these pharmacies change ownership, remodel the pharmacy, or relocate the pharmacy after the effective date of this regulation, Section 11(2)A.3. shall apply. All other portions of this regulation apply on the effective date.

[16.19.6.11 NMAC - Rp, 16 NMAC 19.6.11, 03-30-02; A, 01-15-2005; A, 01-15-08; A,

05-14-10; A, 01-20-13]

End of Adopted Rules Section

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