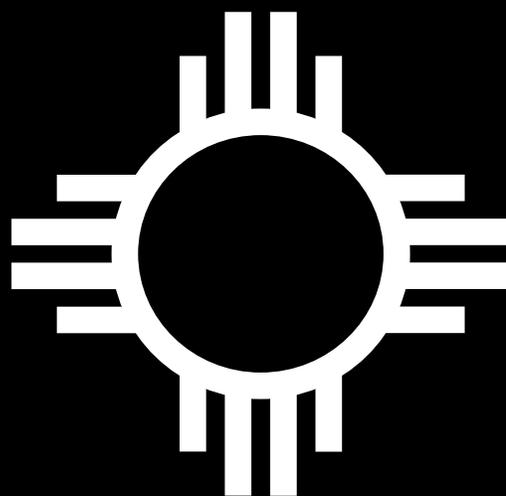


**NEW  
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REGISTER**

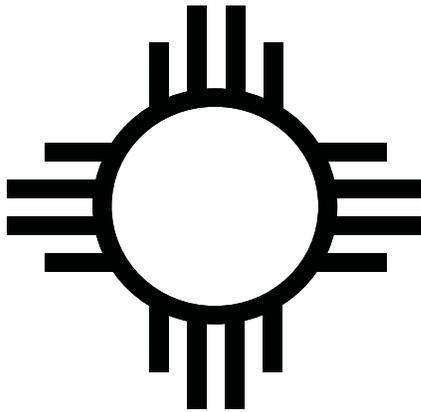


Volume XXIV  
Issue Number 10  
May 31, 2013



# **New Mexico Register**

**Volume XXIV, Issue Number 10**  
**May 31, 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 10

May 31, 2013

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#### Effective Date and Validity of Rule Filings

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

*A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered*

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## Notices of Rulemaking and Proposed Rules

### ALBUQUERQUE- BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

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

On **July 10, 2013 at 5:30 PM**, the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) will hold a public hearing in the Vincent E. Griego Chambers (City Council/County Commission Chambers) at the Albuquerque/Bernalillo County Government Center, 400 Marquette Avenue NW, Albuquerque, NM 87102.

The hearing will address a proposal by the Air Quality Division (AQD) of the City of Albuquerque's Environmental Health Department (EHD) to repeal the currently effective rule 20.11.41 NMAC, *Authority to Construct*; adopt a proposed replacement 20.11.41 NMAC, *Construction Permits*; and incorporate it into the New Mexico State Implementation Plan (SIP) for Air Quality. As grounds, the Petitioner (City of Albuquerque) states the following:

The existing regulation, 20.11.41 NMAC is outdated. There have been significant changes made to the New Mexico Air Quality Control Act (Air Act) since 1994 when 20.11.41 NMAC was last substantively amended. For example, the Air Act generally requires AQD to make a final decision regarding a construction permit application within 90 days of the application being determined to be complete. Although AQD follows the 90-day timeline, the present wording of 20.11.41 NMAC provides 120 days, which is inconsistent with and not authorized by the Air Act.

The Air Act and the currently effective 20.11.41 NMAC include minimal wording regarding information hearings or meetings that may be held before the AQD makes a decision about a pending permit application. Although public information hearings (PIHs) are not required by the Air Act, the AQD has adopted increasing outreach, notice and other activities regarding PIHs consistent with EHD's policy decisions. The expanded processes are included in the proposed 20.11.41 NMAC.

The Air Act at NMSA 1978, §74-2-4.C (1967 as amended through 2009), requires air quality standards and regulations within Bernalillo County to be "not lower

than those required by regulations adopted by" the state Environmental Improvement Board (EIB). Therefore, AQD compared the currently effective 20.11.41 NMAC to the comparable EIB regulation 20.2.72 NMAC, *Construction Permits*, and is proposing amendments to bring the two rules into alignment.

Specific changes and additions reflected in the proposed replacement 20.11.41 NMAC include: (1) requiring a new owner or operator who operates a source that requires an air quality permit, but does not have a permit, to obtain an air quality permit; (2) requiring a person to apply for and obtain a new or modified air quality permit when the source becomes subject to a new federal standard (New Source Performance or National Emission Standards for Hazardous Air Pollutants); (3) providing exemptions from air quality permitting for specified activities including: maintenance of grounds, maintenance of equipment, use of firefighting equipment and training, etc.; (4) changing the basis used to determine whether a permit is required from "pre-controlled emission rate" to "potential emission rate", which is consistent with both the federal regulation definition and the State of New Mexico Air Quality Control Act definition; (5) requiring an applicant to participate in a pre-application meeting unless EHD waives the requirement; (6) before an application is submitted, requiring the applicant to conduct public outreach by sending a copy of the public notice to the representatives of the neighborhood associations and coalitions within ½ mile of the exterior boundary of the property and posting and maintaining a weather-proof sign at a visible location at the site until EHD makes a final decision regarding the application; (7) changing EHD's public notice requirements, including publishing public notice that provides 30 days for public comments to be submitted, sending a copy of the public notice to the representatives of the neighborhood associations and coalitions within ½ mile of the exterior boundary of the property, and providing a notice to all individuals and organizations on the list maintained by EHD; (8) providing the public with 30 days to submit written comments and evidence and to request a public information hearing (PIH) regarding the application; (9) if a person expresses in writing to EHD an interest in the permit application, and if an analysis of the application is not available, requiring EHD to provide an analysis and an additional 30 days after the analysis is available for the public to submit written comments and request a public information hearing; (10) requiring EHD to deny an air quality permit application if the applicant

does not submit the required information after three attempts; (11) requiring EHD to take final action on an application within 90 days after EHD has determined the application is administratively complete unless EHD Director grants an extension for not more than 90 days for good cause, including conducting a PIH; (12) establishing the criteria that authorizes EHD to cancel a permit, providing the process for initiating cancellation of a permit, and establishing the criteria to suspend or revoke a permit; (13) establishing a time limit of 365 consecutive days for temporary relocation of a portable stationary source; (14) requiring a permittee that requests a relocation of a portable stationary source to post and maintain a weather-proof sign at a visible location at the proposed site prior to submitting the application for temporary relocation of a portable stationary source and to keep the sign posted until EHD makes a final decision regarding the relocation request; (15) authorizing EHD to require an applicant that requests relocation of a portable stationary source to provide notice of the proposed location to nearby neighbors; (16) establishing public notice requirements that apply to EHD when EHD issues an emergency permit: public notice in the form of a newspaper legal ad, notice to the neighborhood associations and coalitions within ½ mile of the exterior boundary of the property on which the source is or is proposed to be located, and notice to individuals and organizations on the list maintained by the EHD; (17) establishing provisions for an applicant to request technical revisions to the air quality permit; (18) authorizing development, approval and revision of general construction permit forms to be used for similar operations, processes and emissions; and (19) as required by the New Mexico Air Quality Control Act, establishing requirements for accelerated review of applications.

Following the hearing, the Air Board is expected to convene its regular monthly meeting during which the Board will consider repealing the currently effective rule 20.11.41 NMAC, *Authority to Construct*; adopting proposed replacement 20.11.41 NMAC, *Construction Permits*; and incorporating the replacement rule into the SIP.

The Air Board is the federally delegated air quality authority for Albuquerque and Bernalillo County. Local delegation authorizes the Air Board to administer and enforce the Clean Air Act, the New Mexico Air Quality Control Act, local air quality regulations, and to require local air pollution sources to comply with air

quality standards and regulations.

Hearings and meetings of the Air Board are open to the public and all interested persons are encouraged to participate. All persons who wish to provide non-technical testimony regarding the proposal to repeal and replace 20.11.41 NMAC may do so at the hearing and will be given a reasonable opportunity to submit relevant evidence, data, views, and arguments, orally or in writing, to introduce exhibits and to examine witnesses in accordance with the Joint Air Quality Control Board Ordinance, Section 9-5-1-6, *Adoption of Regulations, Notice and Hearing* [ROA 1994]; Bernalillo County Ordinance, Section 30-35, *Adoption of Regulations, Notice and Hearings* [Ord. No. 94-5, Section 6, 2-2-94]; and 20.11.82 NMAC, *Rulemaking Procedures—Air Quality Control Board*.

Anyone intending to present technical testimony at this hearing is required by 20.11.82.20 NMAC and 20.11.82.16.B.(1) NMAC to file, by 5:00 pm on June 25, 2013, a written Notice Of Intent (NOI) to testify and 15 copies, with Elizabeth Jones, Air Quality Control Board Liaison, Environmental Health Department, One Civic Plaza, NW, Suite 3023, Albuquerque, New Mexico 87102, or email to [ejones@cabq.gov](mailto:ejones@cabq.gov) or deliver the NOI to the Environmental Health Department, Suite 3023, 400 Marquette Avenue NW. The NOI shall identify the name, address, and affiliation of the person testifying.

In addition, written non-technical comments to be incorporated into the public record for the July 10, 2013 hearing should be received by 5:00 pm on July 3, 2013 at P.O. Box 1293, Albuquerque, NM 87103 or the Environmental Health Department office. Comments shall include the name and address of the individual or organization submitting the statement. Written comments may also be submitted electronically to [ejones@cabq.gov](mailto:ejones@cabq.gov) and shall include the required name and address information.

A copy of the proposed replacement regulation entitled “2<sup>nd</sup> Amended Public Review Draft, 4/23/13” and the April 23 *Comparison Summary of Current and Proposed Albuquerque-Bernalillo County Air Quality Control Board Regulations for Minor Stationary Source Air Quality Permitting Actions* may be obtained at the Environmental Health Department Office, or by contacting Ms. Elizabeth Jones electronically at [ejones@cabq.gov](mailto:ejones@cabq.gov) by phone (505) 768-2601 or by downloading the documents at [http://www.cabq.gov/airquality/air-quality-control-board/documents/AQCBPetition\\_20135.pdf](http://www.cabq.gov/airquality/air-quality-control-board/documents/AQCBPetition_20135.pdf)

**NOTICE FOR PERSON WITH DISABILITIES:** If you have a disability and/or require special assistance please call (505) 768-2601 [Voice] and special assistance will be made available to you to review any public meeting documents, including agendas and minutes. TTY users call the New Mexico Relay at 1-800-659-8331 and special assistance will be made available to you to review any public meeting documents, including agendas and minutes

## NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION

**NOTICE OF RULE MAKING AND PUBLIC HEARING ON PROPOSED RULE GOVERNING THE AUTOMATIC DIRECT DEPOSIT OF STATE EMPLOYEES’ SALARY AND WAGES.** The Department of Finance and Administration is considering the adoption of a new rule governing the automatic direct deposit of the salary and wages of State employees.

A public hearing on the proposed rule will be held at 9:00 a.m. on July 1, 2013, in Room 238, the Old Senate Chambers, of the Bataan Memorial Building, 407 Galisteo Street, Santa Fe NM 87501.

Beginning May 31, 2013, copies of the proposed rule will be available from the contact person identified below and DFA’s website, <http://www.nmdfa.state.nm.us/>.

Interested persons may present their views on the proposed rule at the public hearing or by submitting written or recorded comments. It is not necessary to submit written or recorded comments and to testify at the public hearing, since written or recorded comments are given the same weight as testimony at the public hearing. To be considered, written or recorded comments must be received by 9:00 a.m. on July 1, 2013, by the contact person identified below.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the public hearing, please contact the contact person identified below at least one (1) week prior to the public hearing. This notice and the proposed rule can be provided in various accessible formats. If another type of accessible format is needed, please contact the contact person identified below.

Angelica Lopez is the contact person for all matters related to the proposed rule. Requests for copies of the proposed rule,

written or recorded comments on the proposed rule, requests for auxiliary aids or services to attend or participate in the public hearing, and requests for this notice and the proposed rule in another accessible format should all be sent to Ms. Lopez. Ms. Lopez’s contact information is as follows:

Angelica Lopez  
Administrative Assistant  
Office of the Secretary  
Department of Finance and Administration  
407 Galisteo Street  
Bataan Memorial Building, Suite 180  
Santa Fe NM 87501  
Telephone: 505.827.4985  
Facsimile: 505.827.4984  
Email: [Angelica.Lopez@state.nm.us](mailto:Angelica.Lopez@state.nm.us)

## NEW MEXICO DEPARTMENT OF HEALTH

### NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on 16.11.2 NMAC “Certified Nurse Midwives.” The Hearing will be held on July 16, 2013 at 9 a.m. in the Harold Runnels Building Auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico 87502.

The public hearing will be conducted to receive public comment regarding the proposed repeal and replacement of the Certified Nurse Midwives rules in order to: comply with the Pain Relief Act; add prescription monitoring program requirements; change the renewal application deadline from 15 to 20 days prior to license expiration; update the definitions section, and statutory references; revise the scope of practice, and applicable standards; and to make certain clarifications and modifications of the existing regulation.

A copy of the proposed regulation can be obtained from:

Denita Richards, RN, Section Manager  
Family Health Bureau  
Maternal Child Health  
2040 S. Pacheco St. #101  
Santa Fe, New Mexico 87505  
505-476-8928

Please submit any written comments regarding the proposed regulation to the attention of Denita Richards at the above address prior to the hearing.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter or any other form of auxiliary aide or service to attend or

participate in the hearing, please contact Denita Richards by telephone at 505-476-8928. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

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**NEW MEXICO HUMAN SERVICES DEPARTMENT  
INCOME SUPPORT DIVISION**

NOTICE OF PUBLIC HEARING

The Human Services Department will hold a public hearing on July 1, 2013 from 9:00 to 10:00 am, to receive testimony on proposed regulations to update and amend several parts of 8.100 NMAC General Provisions for Public Assistance Programs. There are three main proposed amendments. First, proposed language to reflect the technological abilities within the Automated System Program and Eligibility Network (ASPEN) and Your Eligibility System New Mexico (YES NM). Second, the Department is proposing amendments for fair hearings. Finally, the Department is proposing the addition of a new Part within the General Provisions for Public Assistance Programs for the correction of errors in benefits.

The Human Services Register outlining the proposed regulations are available on the Human Services Department website at <http://www.hsd.state.nm.us/isd/register/ISDRegisters.html>.

Individuals wishing to testify or requesting a copy of the emergency interim regulations should contact the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, NM 87505-2348, or by calling 505-827-7250.

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

Sidonie Squier, Secretary  
Human Services Department  
P.O. Box 2348, Pollon Plaza  
Santa Fe, NM 87504-2348

You may send comments electronically to:  
[vida.tapia-sanchez@state.nm.us](mailto:vida.tapia-sanchez@state.nm.us)

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**NEW MEXICO HUMAN SERVICES DEPARTMENT  
INCOME SUPPORT DIVISION**

NOTICE OF PUBLIC HEARING

The Human Services Department will hold a public hearing on July 1, 2013 from 1:00 to 2:00 pm, to receive testimony on proposed regulations to update and amend Refugee Cash Assistance policy to better align with the Code of Federal Regulations (CFR). RCA is a cash assistance program for newly arrived refugees, asylees, and Cuban/Haitian entrants. The program benefits are limited to eight months from the date of entry. RCA is funded through a grant from the Office of Refugee Resettlement. Further, the Department is clarifying language in the RCA regulations to align with other public assistance program and define the disqualification from RCA process.

The Human Services Register outlining the proposed regulations are available on the Human Services Department website at <http://www.hsd.state.nm.us/isd/register/ISDRegisters.html>.

Individuals wishing to testify or requesting a copy of the emergency interim regulations should contact the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, NM 87505-2348, or by calling 505-827-7250.

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

Sidonie Squier, Secretary  
Human Services Department  
P.O. Box 2348, Pollon Plaza  
Santa Fe, NM 87504-2348

You may send comments electronically to:  
[vida.tapia-sanchez@state.nm.us](mailto:vida.tapia-sanchez@state.nm.us)

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**NEW MEXICO LIVESTOCK BOARD**

**NEW MEXICO LIVESTOCK BOARD  
NOTICE OF RULE MAKING AND  
ADOPTION OF RULE HEARING,  
SETTING THE MILL LEVY AND  
REGULAR BOARD MEETING**

**NOTICE IS HEREBY GIVEN** that a rule making and adoption of rule hearing, setting the Mill Levy and a regular board meeting will be held on Wednesday, June 18, 2013, at the Embassy Suites Hotel, 1000 Woodward Place NE, Albuquerque, New

Mexico at 9:00 a.m. The Board will set the mill levy, initiate rule changes regarding Reportable Diseases, Trichomoniasis, EVA, Branding of Livestock, Transportation of Livestock, Import Requirements, Livestock Board Fees, Scrapie, Food Safety, Meat and Poultry Inspection and discuss other matters of general business.

Copies of the rule and agenda can be obtained by contacting Ray E. Baca, Interim Executive Director, New Mexico Livestock Board, 300 San Mateo NE Suite 1000, Albuquerque, NM 87108-1500, (505) 841-6161. Interested persons may submit their views on the proposed rule to the Board at the above address and/or may appear at the scheduled hearing and make a brief verbal presentation of their view.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting or need to make handicap parking arrangements, please contact the New Mexico Livestock Board at (505)841-6161 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact the New Mexico Livestock Board if a summary or other type of accessible formats is needed.

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**NEW MEXICO  
COMMISSION OF PUBLIC  
RECORDS**

**NOTICE OF REGULAR MEETING**

The New Mexico Commission of Public Records has scheduled a regular meeting for Tuesday, June 25, 2013, at 9:30 A.M. The meeting will be held at the NM State Records Center and Archives, which is an accessible facility, at 1205 Camino Carlos Rey, Santa Fe, NM. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing, please contact Antoinette L. Solano at 476-7902 by June 5, 2013. Public documents, including the agenda and minutes, can be provided in various accessible formats. A final copy of the agenda will be available 72 hours before the meeting.

**NOTICE OF RULEMAKING**

The Commission of Public Records may consider the following items of rulemaking

at the meeting:

**Amendment**

1.18.370 NMAC ERRDS, Secretary of State  
 1.18.420 NMAC ERRDS, Regulation and Licensing Department  
 1.18.430 NMAC ERRDS, Public Regulation Commission  
 1.18.440 NMAC ERRDS, Office of the Superintendent of Insurance  
 1.18.630 NMAC ERRDS, Human Services Department  
 1.18.665 NMAC ERRDS, Department of Health  
 1.19.2 NMAC LGRRDS, Office of the County Assessor  
 1.19.4 NMAC LGRRDS, Board of County Commissioners, County Managers

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**NEW MEXICO DEPARTMENT OF WORKFORCE  
SOLUTIONS**

**NEW MEXICO DEPARTMENT OF WORKFORCE SOLUTIONS**

The New Mexico Department of Workforce Solutions (“Department”) hereby gives notice that the Department will conduct a public hearing in the auditorium of the State Personnel Office located at 2600 Cerrillos Road, Santa Fe, New Mexico on July 8, 2013 from 1:00 P.M. until 3:00 P.M. The purpose of the public hearing will be to obtain input on amendments to parts: 11.3.300, and 11.3.500 NMAC.

Interested individuals may testify at the public hearing or submit written comments to State of New Mexico Department of Workforce Solutions, 401 Broadway NE, P.O. Box 1928, Albuquerque, N.M., 87103, attention Rudolph Arnold. Written comments must be received no later than 5 p.m. July 8, 2013. However, the submission of written comments as soon as possible is encouraged.

Copies of the amended rules may be accessed at <http://www.dws.state.nm.us/> or obtained from Rudolph Arnold Tel.: (505) 841-8672 [rudolph.arnold@state.nm.us](mailto:rudolph.arnold@state.nm.us). The amended rules will be made available at least thirty days prior to the hearings.

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

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**End of Notices and Proposed Rules Section**

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## Adopted Rules

### NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

This is an amendment to 8.139.410 NMAC, Section 12, effective 6-1-2013.

#### 8.139.410.12 EMPLOYMENT, TRAINING AND WORK REGISTRATION

**A. Employment and training ~~[E & T]~~ E&T work registration:** Compliance with work registration is a prerequisite to certification ~~[and cannot be waived]~~, unless exempt. Benefits may not be conditionally granted before registration of all mandatory household members, except when verification cannot be obtained prior to the expedited service time limit. Work registration exemptions must be verified before certification.

**B. Compliance with ~~[E & F]~~ E&T work requirements:** As a condition of eligibility for ~~[food stamps]~~ participation in SNAP, every physically ~~[or]~~ and mentally fit household member who is ~~[16]~~ 18 years of age or older and ~~[under]~~ younger than age [60] 50 and who is determined mandatory, must register for the ~~[E & F]~~ E&T program.

**C. Non-compliance with ~~[E & F]~~ E&T work requirements:** Non-compliance with E&T work requirements is considered to exist when an individual:

(1) refuses, at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by ISD; or

(2) fails or refuses to comply with the requirements under Title IV-A of the Social Security Act, or work requirements for individuals receiving UCB.

**D. ~~[E & F]~~ E&T work requirements:**

(1) **General conditions for registration:**

(a) Unless exempt, every household member ~~[age 16 through 59]~~ age 18 through 50 must register for employment. ~~[If a household member has his/her 16<sup>th</sup> birthday within a certification period, the work registration requirement must be fulfilled as part of the next scheduled recertification process, unless the member qualifies for an exemption.]~~

(b) If a household member has their 18<sup>th</sup> birthday within the established certification period, they must fulfill the E&T work program registration requirement as part of the next recertification.

~~[(b)]~~ (c) An individual who does not qualify for an exemption must be registered for employment at initial certification[-] or when added to the ~~[food stamp]~~ SNAP household, and at least every

12 months thereafter, as a condition of eligibility.

~~[(c) An individual will be considered registered once they have completed and signed an application and their case is approved.]~~

(d) Strikers whose households are eligible to apply for assistance, as defined in Subsection B of 8.139.400.11 NMAC, must register for work, unless covered by an exemption.

(e) Individuals exempt from registration may volunteer to participate in the ~~[E & F]~~ E&T program.

(2) **Individuals exempt from registration:** The following individuals are exempt from the work registration requirement:

(a) an individual younger than ~~[16]~~ 18 years of age or an individual ~~[60]~~ 50 years of age or older;

~~[(b) an individual age 16 or 17 who is not the head of household or is attending school or enrolled in an employment and training program at least half time, as defined by the school or employment and training program;]~~

~~[(c)]~~ (b) an individual who is physically or mentally unfit for employment; if physical or mental unfitness is claimed but not evident, verification is required; verification may consist of receipt of temporary or permanent disability benefits issued by government or private sources, or a statement from a physician or licensed or certified psychologist;

(c) a natural parent, adoptive or step parent or individual residing in a SNAP household that includes a child younger than age 18, even if the child is not eligible for SNAP benefits;

(d) a parent or other household member who is responsible for the care of ~~[a dependent child under age six or]~~ an incapacitated person[-]; the incapacitated person need not be considered a member of the SNAP household or even reside with the household; the exemption will not apply if the dependent or incapacitated person resides with others who provide the care;

~~[(t) if the child has his/her sixth birthday during the certification period, the individual responsible for the care of the child is required to be registered as part of the next scheduled recertification, unless the individual qualifies for another exemption;~~

~~[(ii) the exemption applies to the person who actually provides the care;~~

~~[(iii) the dependent child or incapacitated person need not be considered a member of the food stamp household or even reside with the household; the exemption will not apply if the dependent~~

~~or incapacitated person resides with others who provide the care;]~~

(e) an individual subject to and complying with any work requirement under Title IV of the Social Security Act, including TANF work requirements;

(f) an individual who receives unemployment compensation benefits and is subject to and complying with a federal or state unemployment compensation system; an individual who has applied for but who has not yet received UCB is exempt if required to register with the department of labor as part of the unemployment compensation application process;

(g) an individual who is a regular participant in a state certified drug or alcohol treatment and rehabilitation program;

(h) an individual who is employed or self-employed and working a minimum of 30 hours a week or receiving weekly earnings at least equal to the federal minimum wage multiplied by 30 hours;

~~[(t)]~~ (i) migrant and seasonal farm workers who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days are exempt, although this does not prevent such individuals from seeking services from the ~~[E & F]~~ E&T program;

~~[(t)]~~ (j) workers in ACTION programs (such as VISTA) who average 30 or more hours of work per week are exempt, even though they earn less than minimum wage;

~~[(t)]~~ (k) a student who is eligible to participate in the ~~[FSP]~~ SNAP program, and who is enrolled at least half time in any recognized school, high school, training program, or institution of higher education; this exemption remains in effect during normal periods of class attendance, vacations, and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer session);

~~[(t)]~~ (l) a household member who has made application for SSI and ~~[food stamp]~~ SNAP benefits at the social security administration, and whose application for ~~[food stamp]~~ SNAP benefits has been received by HSD, and who is determined eligible for ~~[food stamp]~~ SNAP benefits, shall be exempt from work registration until an SSI determination is made; a household member who is determined ineligible for SSI shall have the exemption from E & T work requirements evaluated at the time of the denial of SSI[-];

~~[(m) a pregnant woman; or~~  
~~(n) residing in a county with greater than 10 percent unemployment rate as defined by the department.~~

(3) **Interim changes in status:**

(a) Anyone losing exempt status because of changes subject to the reporting requirements in Paragraph (2) of Subsection A of 8.139.120.9 NMAC, will be required to register ~~[when the change is reported]~~ at the next recertification.

(b) Anyone gaining or losing exempt status because of changes not subject to the reporting requirements in Paragraph (2) of Subsection A of 8.139.120.9 NMAC, will have his/her work status evaluated at the next recertification.

(4) **Processing changes:** Mandatory work participants who move ~~out of a project area~~ from one county to another retain their work registration status at their new location, unless they become exempt.

(5) **Residing in a non-work program county:**

(a) The appropriate work registration code of any individual living in a ~~[project area]~~ county which does not administer a work program through income support division, and who is not exempt from ~~[E & F]~~ E&T work registration, will be entered into the individual's computer file. Those individuals will be dropped from referral to the ~~[E & F]~~ E&T work program.

(b) Any household member living in a non-work program area may volunteer to participate in the ~~[E & F]~~ E&T work program. The nearest ~~[project area]~~ county administering a work program through ISD will accept the participant.

**E. ~~[E & F]~~ E&T work program:** The income support division (ISD) administers the work program for applicants and recipients of ~~[food stamp]~~ SNAP benefits who are mandatory and who voluntarily participate in the work program. The purpose of the work program is to assist household members participating in ~~[the FSP]~~ SNAP to gain skills ~~[- training, work, or work experience]~~ that will increase an individual's ability to obtain ~~[and/or]~~ and keep employment.

(1) **Work registrant responsibilities:** Each household member who must be registered for work is required to register at the time of initial application and every 12 months thereafter:

(2) **HSD responsibilities:** HSD is responsible for:

(a) screening each household member to determine work registration status;

(b) registering mandatory and voluntary participants;

(c) providing information and explaining to each applicant ~~[FSP]~~ the E&T work requirements, rights and responsibilities and consequences for failure or refusal to comply; such information must be provided at application, at recertification, and when a previously exempt or new household member must be registered;

(d) disqualifying non-compliant

individuals, and reinstating individuals who are subsequently determined to meet an exemption ~~[in Paragraph (2) of Subsection D of 8.139.410.12 NMAC].~~

(3) **Reporting changes to the ~~[E & F]~~ E&T work program:** The following changes will be reported to the ~~[E & F]~~ E&T work program:

(a) work participants who become exempt from work registration;

(b) work participants who are no longer certified for participation;

(c) work participants who move from the project area; and

(d) voluntary work participants who are deregistered.

(e) In most cases, the changes listed above are reported by entering the appropriate information into the household's computer file. In some cases, a manual form is used to report new information to the work program.

(4) **Work program responsibilities:** The E&T work program service provider is responsible for providing mandatory and voluntary participants referred to the E&T work program with the orientation, assessment, and development of a work participation agreement (WPA) and an individual responsibility plan (IRP).

~~[(a) Scheduling and conducting assessment sessions:~~ the work program will inform each registrant or participant of:

~~(i) mandatory and voluntary E & T work program requirements, including rights and responsibilities;~~

~~(ii) services, benefits;~~  
~~(b) placing a voluntary participant in a work activity:~~ a participant may be placed in any work activity deemed appropriate by the work program;

~~(c) authorizing reimbursements up to the regulatory monthly limit for reasonable and necessary costs directly related to work program participation;~~

~~(d) reporting voluntary work participants who wish to de-register]~~

(5) **Good cause for noncompliance with ~~[E & F]~~ E&T work requirements:** The work program will report registrants or participants who fail or refuse to comply with work registration or who voluntarily quit a job, or reduce their work hours without good cause. The HSD has the primary responsibility to determine whether good cause exists for a failure or refusal to comply.

(a) Good cause is determined by considering the facts and circumstances involved, including information submitted by the household member and employer.

(b) Good cause includes circumstances beyond an individual's control, such as, but not limited to:

(i) registrant or participant household member's illness;

(ii) illness of another

household member requiring the presence of the registered or participating member;

(iii) household emergency;

~~[(iv) problems caused by registrant's or participant's inability to speak or read English;~~

~~(v) unavailability of transportation; or~~

~~[(vi) (v) lack of adequate child care for children who have reached age six but are younger than age 12.~~

**F. Orientation:** Participants of E&T shall be provided an E&T work program orientation with their assessment, which explains the work program and its objectives to the participant. The orientation shall include the following information:

(1) the participants rights and responsibilities;

(2) support services;

(3) benefits of participation in the E&T work program; and

(4) consequences of non-compliance with the E&T work program requirements.

**G. Assessment:**

(1) Requirements: No later than 15 calendar days after an application is approved, participants shall have an assessment done by the E&T work program service provider. The assessment is a necessary pre-cursor to the IRP, development of WPA, and is a crucial and necessary element in meeting the E&T work program requirements.

(2) Elements:

(a) Complete the assessment no later than 15 calendar days following approval of assistance for the participant in which the assessment is carried out; there are a variety of assessment tools and forms that may be used, provided that they address the participant's education, skills, prior work experience and employability.

(b) The assessment may include referrals for counseling, if a barrier to employment exists related to alcohol or drug abuse or mental health.

(3) Disqualification: Failure to participate in or to complete the assessment may result in an E&T work program disqualification, unless good cause exists.

**H. Individual responsibility plan (IRP):**

(1) Requirements: Mandatory participants may complete an IRP with the assistance of the E&T work program service provider no later than 15 days from the date of approval of assistance.

(2) General purpose: The IRP is:  
(a) a personal planning tool, intended to assist the participant in long-term career planning, address barriers and secure and maintain employment;  
(b) intended to assist the

participant in setting realistic long-term employment goals and to identify those steps which must be taken to achieve the stated goals; and

(c) not intended to fulfill the limited purpose of identifying work activities which will meet E&T work program participation requirements; the participant is encouraged to use the IRP to assist in setting long-term employment goals.

(3) **Elements:** The IRP shall include a specific achievable employment goal or goals and a plan for securing and maintaining employment.

#### **I. Work participation agreement (WPA):**

(1) **General:** The purpose of the WPA is to assure the participant and the department that the work activities in which the participant is engaged meet the E&T work program requirements and the participant is referred to receive available support services.

(2) **Contents of the agreement:** At a minimum, the WPA shall:

(a) list the participant's approved work component;

(b) list the level of effort for each activity;

(c) list the support services to be provided by the department;

(d) list the reasonable accommodations that may be necessary to ensure meaningful engagement;

(e) be signed by the participant; and

(f) upon approval of the component and support services, signed by the E&T work program service provider.

(3) **Completion of a WPA:** The participant must complete WPA with the E&T work program service provider:

(a) no later than 30 calendar days from date of approval for benefits; or

(b) prior to requesting support services associated with such activity;

(c) no later than five days after the expiration of an existing WPA.

(4) **Disqualification:** Failure or refusal to develop, sign or meet the components outlined in the WPA may result a disqualification, unless good cause exists.

#### **J. E&T component:**

(1) **Allowable components:** The E&T work program outlines allowable components annually through the supplemental nutrition assistance program employment and training state plan. The state plan is submitted and approved by the United States department of agriculture food and nutrition services. The annual state plan can be found on the human services department income support division website at the following link: <http://www.hsd.state.nm.us/isd/ISDPlans.html>.

(2) **Individual or group job search with employer contacts:**

(a) Individual or group job search with employer contacts is the only allowable E&T component for mandatory and voluntary participants. Support services such as the transportation reimbursement and child care assistance is to be provided for participants in this component only. This is a two part component which may include class room training and requires a minimum of 24 employer contacts over a two month period.

(b) The individual and group job search training is designed to impart basic job search techniques in order to secure employment; and job maintenance habits necessary for continued employment.

(i) All mandatory and voluntary participants are required to register as a "job seeker" through the New Mexico department of workforce solutions (DWS), "New Mexico workforce connection" online portal for job-matching services and resources. The mandatory and volunteer participants are required to submit a copy of the registration to the E&T work program service provider to verify completion of the registration within 30 days after the WPA is approved.

(ii) All mandatory and voluntary participants are required to complete the individual or group job search training with employer contacts no later than 60 days after the WPA is approved. The participant is required to have completed and submit verification of the completion of a minimum of 12 employer contacts within 30 days of the approved WPA. The participant is required to have completed and submit verification of 24 employer contacts within 60 days of the approved WPA.

(iii) **Disqualification:** Failure to complete each element of the individual and group job search training with employer contacts component is subject to disqualification from SNAP, unless good cause exists.

(c) **Successful completion:** Participants who complete the individual or group job search and employer contact component within 90 days of the date of approval for newly certified and ongoing benefits are eligible for the transportation reimbursement, subject to available funding.

#### **K. E&T work program support services:**

(1) **Child care:** Mandatory and volunteer participant may be eligible for child care services to meet the requirements of the individual and group job search component.

(a) Mandatory and volunteer participants must have a completed WPA from the E&T work program service provider to identify the number of hours child care will be needed to successfully complete the activity.

(b) E&T mandatory and volunteer

participants may only receive child care services when they are placed in the approved E&T components.

(2) **Transportation reimbursements:** Mandatory and volunteer participants are eligible to receive a \$25.00 transportation reimbursement if they have successfully completed the E&T work program component as defined in Paragraph J of this section.

(3) Support services are subject to the availability of state and federal funding.

**[F] L. Disqualification for noncompliance:** [No physically or mentally fit individual 16 years of age or older and under the age of 60 will be eligible to participate in the food stamp program if the individual fails or refuses, without good cause, to comply with work requirements in Subsection C of 8.139.410.12 NMAC.] A mandatory individual who fails or refuses, without good cause, to comply with the E&T work requirements will not be eligible to participate in SNAP.

(1) **Individual disqualification:** Any individual who fails or refuses to comply with the work registration, without good cause will be disqualified as follows:

(a) **first occurrence:** until compliance or for three months, whichever is later;

(b) **second occurrence:** until compliance or for six months, whichever is later;

(c) **third occurrence:** until compliance or for one year, whichever is later.

(2) **Individual that is voluntarily participating:** Any individual that is voluntarily participating in the work program is not subject to disqualification for non-compliance with work requirements.

(3) **Treatment of income and resources:** All the income and resources of an individual disqualified for noncompliance with work requirements will be counted to determine the household's income and resource maximum levels, and benefit amount (see Subsection C of 8.139.520.10 NMAC). Any reported change that does not relate to the individual disqualification shall be processed after the appropriate determination in (a), (b) or (c) or (d) above is made. [Food stamp] SNAP benefits shall be increased or decreased according to the change processing requirements at 8.139.120.10 NMAC.

(4) **Determining the disqualification period:**

(a) **At application:** An individual who is a member in an applicant household, and who is in a prior disqualification period, will be denied [food stamp] SNAP benefits beginning with the month of application.

(b) **During participation:** An individual who has failed or refused to comply with work requirements while

participating in [~~the FSP~~] SNAP will be ineligible to participate beginning with the month following the month in which the notice of adverse action time limit expires.

(c) **Semiannual reporting households:** An individual who has failed or refused to comply with work requirements during a semiannual reporting period, shall be ineligible to participate in SNAP beginning with the month following the month the notice of adverse action time limit expires. If the adverse action time limit will expire in the month after the notice would have been sent, the caseworker must wait until the first day of the following month to send the notice of adverse action.

(5) **Disqualification in the last month of certification:** For all participating households, including households subject to semiannual reporting:

(a) If a notice of noncompliance is received in the last month of the certification period, an adverse action notice will be sent to the household. The disqualification period begins the first month following the month the adverse action time limit expires, whether or not the household reapplies for [~~food stamp~~] SNAP benefits. If the household subsequently reapplies, either in the last month of the certification period or after the certification period has expired, the individual disqualification will continue for the duration of the appropriate penalty period.

(b) If the adverse action time limit expires in the last month of the household's certification period, the disqualification penalty will begin the following month, whether or not the household reapplies for [~~food stamp~~] SNAP benefits. If the household subsequently reapplies, either in the last month of the certification period or after the certification period has expired, the individual disqualification will continue for the duration of the appropriate penalty period.

(6) **Lifting the disqualification:** An individual who has been disqualified may resume participation during the disqualification period by becoming exempt from [~~E & F~~] E&T work requirements listed in Paragraph (2) of Subsection D of 8.139.410.12 NMAC, if otherwise eligible.

**[G:] M. Head of household provisions:**

(1) **Designation:** The household may designate any adult parent of a child in the household as the head of household, if all adult household members making application agree to the selection. A household may designate the head of household each time the household is certified for participation in [~~the FSP~~] SNAP but may not change the designation during a certification period, unless there is a change in household composition.

(2) **Compliance with [~~E & F~~] E&T work requirements:** For purposes of determining compliance with the work requirements in Subsection C of 8.139.410.12 NMAC, the head of household will be considered as an individual household member. The head of household will be disqualified in accordance with the disqualification penalties in Paragraph (1) of Subsection H of 8.139.410.12 NMAC.

(a) If the head of household leaves the household during a period of ineligibility, the disqualification follows the individual. The remaining household members, if otherwise eligible, continue to be eligible to participate in [~~the FSP~~] SNAP.

(b) If the head of household becomes the head of another household, the individual disqualification continues to apply. The other household members continue to be eligible to participate in [~~the FSP~~] SNAP

[02/01/95, 07/01/98; 8.139.410.12 NMAC - Rn, 8 NMAC 3.FSP.415, 05/15/2001; A, 10/15/2003; A, 01/01/2004; A, 04/01/2010; A, 06/01/2013]

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

This is an amendment to 8.200.510 NMAC, Section 12 effective July 1, 2013.

**8.200.510.12 POST-ELIGIBILITY CALCULATION (MEDICAL CARE CREDIT):** Apply applicable deductions in the order listed below when determining the medical care credit for an institutionalized spouse.

<u>DEDUCTION</u>	<u>AMOUNT</u>
A. Personal needs allowance for institutionalized spouse	[\$66] \$67
B. Minimum monthly maintenance needs allowance (MMMNA)	[\$1,892] \$1,939
C. The community spouse monthly income allowance (CSMIA) is calculated by subtracting the community spouse's gross income from the MMMNA:	
(1) If allowable shelter expenses of the community spouse exceed [ <del>\$568</del> ] \$582 deduct an excess shelter allowance from community spouse's income that includes: expenses for rent; mortgage (including interest and principal); taxes and insurance; any maintenance charge for a condominium or cooperative; and an amount for utilities (if not part of maintenance charge above); use the standard utility allowance (SUA) deduction used in the food stamp program for the utility allowance.	
(2) Excess shelter allowance may not exceed a maximum of	[\$949] \$959.
D. Any extra maintenance allowance ordered by a court of jurisdiction or a state administrative hearing officer.	
E. Dependent family member income allowance (if applicable) calculated as follows: 1/3 X MMMNA - dependent member's income)	
F. Non-covered medical expenses	
G. The maximum total of the community spouse monthly income allowance and excess shelter deduction may not exceed	
[ <del>\$2,841</del> ] \$2,898.	

[1-1-95, 7-1-95, 3-30-96, 8-31-96, 4-1-97, 6-30-97, 4-30-98, 6-30-98, 1-1-99, 7-1-99, 7-1-00; 8.200.510.12 NMAC - Rn, 8 NMAC 4.MAD.510.2 & A, 1-1-01, 7-1-01; A, 1-1-02; A, 7-1-02; A, 1-1-03; A, 7-1-03; A, 1-1-04; A, 7-1-04; A, 1-1-05; A, 7-1-05; A, 1-1-06; A, 7-1-06; A, 1-1-07; A, 7-1-07; A, 1-1-08; A, 7-1-08, A, 1-1-09, A, 4-1-09; A, 7-1-09; A, 7-1-11; A, 1-1-12; A, 7-1-12; A, 7-1-13]

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

This is an amendment to 8.200.520 NMAC, Sections 11 and 16 effective July 1, 2013.

**8.200.520.11 FEDERAL POVERTY INCOME GUIDELINES:**

**A. 100% of federal poverty:** 100% of federal poverty income guidelines

<u>Size of assistance unit</u>	<u>Poverty income guidelines</u>
1	[\$931] \$958 per month*
2	[\$1,261] \$1,293 per month*
3	[\$1,591] \$1,628 per month
4	[\$1,921] \$1,963 per month
5	[\$2,251] \$2,298 per month
6	[\$2,581] \$2,633 per month
7	[\$2,911] \$2,968 per month
8	[\$3,241] \$3,303 per month

Add [\$330] \$335 for each additional person in the assistance unit.

\*Use only these two standards for the QMB program.

**B. 120% of federal poverty:** This income level is used only in the determination of the maximum income limit for specified low income medicare beneficiaries (SLIMB) applicants/recipients.

<u>Applicant/recipient</u>	<u>Amount</u>
----------------------------	---------------

1. Individual At least [\$931] \$958 per month but no more than [\$1,117] \$1,149 per month.
2. Couple At least [\$1,261] \$1,293 per month but no more than [\$1,513] \$1,551 per month.

For purposes of this eligibility calculation, couple means an applicant couple or an applicant with an ineligible spouse when income is deemed.

**C. 133% of federal poverty:** 133% of federal poverty income guidelines

<u>Size of assistance unit</u>	<u>Poverty income guidelines</u>
1	[\$1,239] \$1,274 per month
2	[\$1,677] \$1,720 per month
3	[\$2,116] \$2,165 per month
4	[\$2,555] \$2,611 per month
5	[\$2,994] \$3,056 per month
6	[\$3,433] \$3,502 per month
7	[\$3,872] \$3,974 per month
8	[\$4,311] \$4,393 per month

Add [\$439] \$446 for each additional person in the assistance unit.

**D. 135% of federal poverty:** This income level is used only in the determination of the maximum income limit for qualified individuals 1 (QI-1) applicants/recipients. The following income levels apply:

<u>Applicant/recipient</u>	<u>Amount</u>
----------------------------	---------------

1. Individual At least [\$1,117] \$1,149 per month but no more than [\$1,257] \$1,293 per month.
2. Couple At least [\$1,513] \$1,551 per month but no more than [\$1,703] \$1,745 per month.

For purposes of this eligibility calculation, couple means an applicant couple or an applicant with an ineligible spouse when income is deemed.

**E. 150% of federal poverty:** This income level is used only in the determination of the maximum income limit for state coverage insurance (SCI) (category 062) applicants/recipients. The following income levels apply:

<u>Size of assistance unit</u>	<u>Poverty income guidelines</u>
1	[\$1,397] \$1,437 per month
2	[\$1,892] \$1,939 per month
3	[\$2,387] \$2,442 per month
4	[\$2,882] \$2,944 per month
5	[\$3,377] \$3,447 per month
6	[\$3,872] \$3,949 per month
7	[\$4,367] \$4,452 per month
8	[\$4,862] \$4,954 per month

Add [\$495] \$502 for each additional person in the assistance unit.

**F. 185% of federal poverty:**

<u>Size of assistance unit</u>	<u>Poverty income guidelines</u>
1	[\$1,723] \$1,772 per month
2	[\$2,333] \$2,392 per month
3	[\$2,944] \$3,011 per month
4	[\$3,554] \$3,631 per month
5	[\$4,165] \$4,251 per month
6	[\$4,775] \$4,871 per month
7	[\$5,386] \$5,490 per month
8	[\$5,996] \$6,110 per month

Add [\$610] \$620 for each additional person in the assistance unit.

**G. 200% of federal poverty:** 200% of federal poverty income guidelines

<u>Size of assistance unit</u>	<u>Poverty income guidelines</u>
1	[\$1,862] \$1,915 per month
2	[\$2,522] \$2,585 per month
3	[\$3,182] \$3,255 per month
4	[\$3,842] \$3,925 per month
5	[\$4,502] \$4,595 per month
6	[\$5,162] \$5,265 per month
7	[\$5,822] \$5,935 per month
8	[\$6,482] \$6,605 per month

Add [\$660] \$670 for each additional person in the assistance unit.

H. **235% of federal poverty:** 235% of federal poverty income guidelines

<u>Size of assistance unit</u>	<u>Poverty income guidelines</u>
1	[\$2,188] \$2,251 per month
2	[\$2,963] \$3,038 per month
3	[\$3,739] \$3,825 per month
4	[\$4,514] \$4,612 per month
5	[\$5,290] \$5,400 per month
6	[\$6,065] \$6,187 per month
7	[\$6,841] \$6,974 per month
8	[\$7,616] \$7,761 per month

Add [\$775] \$787 for each additional person in the assistance unit.

I. **250% of federal poverty:** 250% of federal poverty income guidelines

<u>Size of assistance unit</u>	<u>Poverty income guidelines</u>
1	[\$2,328] \$2,394 per month
2	[\$3,153] \$3,232 per month
3	[\$3,978] \$4,069 per month
4	[\$4,803] \$4,907 per month
5	[\$5,628] \$5,744 per month
6	[\$6,453] \$6,582 per month
7	[\$7,278] \$7,419 per month
8	[\$8,103] \$8,257 per month

Add [\$825] \$838 for each additional person in the assistance unit.

[1-1-95, 4-1-95, 4-15-96, 4-1-97, 3-31-98, 3-1-99, 4-1-99, 4-1-00; 8.200.520.11 NMAC - Rn, 8 NMAC 4.MAD.520.1-5, & 14, & A, 1-1-01; A, 4-1-01; A, 4-1-02; A, 4-1-03; A, 4-1-04; A, 4-1-05; A, 4-1-06; A, 4-1-07; A, 4-1-08; A, 4-1-09; A, 4-1-11; A, 4-1-12; A, 7-1-13]

**8.200.520.16 MAXIMUM COUNTABLE INCOME FOR INSTITUTIONAL CARE MEDICAID AND HOME AND COMMUNITY BASED WAIVER CATEGORIES:** Effective January 1, 2013, the maximum countable monthly income standard for institutional care medicaid and the home and community based waiver categories is [~~\$2,310~~] \$2,130.

[4-1-95, 3-30-96, 4-1-97, 4-30-98, 1-1-99, 4-1-99; 8.200.520.16 NMAC - Rn, 8 NMAC 4.MAD.520.10 & A, 1-1-01; A, 1-1-02; A, 1-1-03; A, 1-1-04; A, 1-1-05; A, 1-1-06; A, 1-1-07; A, 1-1-08, A, 1-1-09; A, 1-1-11; A, 1-1-12; A, 1-1-13; A, 7-1-13]

## NEW MEXICO PUBLIC REGULATION COMMISSION

**Repealer:** The New Mexico Public Regulation Commission repeals its rule 17.9.572 NMAC, entitled "Renewable Energy for Electric Utilities", filed 8/15/2007, and replaces it with the new rule 17.9.572 NMAC, "Renewable Energy for Electric Utilities", effective 5/31/2013.

## NEW MEXICO PUBLIC REGULATION COMMISSION

**TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES**  
**CHAPTER 9 ELECTRIC SERVICES**  
**PART 572 RENEWABLE ENERGY FOR ELECTRIC UTILITIES**

**17.9.572.1 ISSUING AGENCY:** New Mexico Public Regulation Commission.  
 [17.9.572.1 NMAC - Rp, 17.9.572.1 NMAC, 5-31-13]

**17.9.572.2 SCOPE:**

- A.** All electric public utilities are subject to 17.9.572.1 through 17.9.572.21 NMAC.
  - B.** Rural electric distribution cooperatives are subject to 17.9.572.1 through 17.9.572.6, 17.9.572.17, 17.9.572.21, 17.9.572.22, and 17.9.572.23 NMAC.
- [17.9.572.2 NMAC - Rp, 17.9.572.2 NMAC, 5-31-13]

**17.9.572.3 STATUTORY AUTHORITY:** Sections 62-15-34, 62-15-36, 62-16-7, 62-16-8 and 62-16-9 NMSA 1978.  
 [17.9.572.3 NMAC - Rp, 17.9.572.3 NMAC, 5-31-13]

**17.9.572.4 DURATION:** Permanent.

[17.9.572.4 NMAC - Rp, 17.9.572.4 NMAC, 5-31-13]

**17.9.572.5 EFFECTIVE DATE:** May 31, 2013, unless a later date is cited at the end of a section.

[17.9.572.5 NMAC - Rp, 17.9.572.5 NMAC, 5-31-13]

**17.9.572.6 OBJECTIVE:** The purpose of this rule is to implement the Renewable Energy Act Section 62-16-1, et seq. NMSA 1978, and to bring significant economic development and environmental benefits to New Mexico.

[17.9.572.6 NMAC - Rp, 17.9.572.6 NMAC, 5-31-13]

**17.9.572.7 DEFINITIONS:** Unless otherwise specified, as used in this rule:

**A. procure** means to generate or purchase renewable energy or to purchase renewable energy certificates or to commit to generate or purchase renewable energy or to commit to purchase renewable energy certificates;

**B. public utility** means an entity certified by the commission to provide retail electric service in New Mexico pursuant to the Public Utility Act but does not include rural electric cooperatives;

**C. reasonable cost threshold (RCT)** means the cost level established by the commission above which a public utility shall not be required to add renewable energy to its electric energy supply portfolio pursuant to the renewable portfolio standard;

**D. renewable energy** means electrical energy generated by means of a low or zero emissions generation technology with substantial long-term production potential and generated by use of renewable energy resources that may include solar, wind, hydropower resources brought into service after July 1, 2007, geothermal, fuel cells that are not fossil fueled and biomass resources; biomass resources are fuels, such as agriculture or animal waste, small diameter timber, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico, landfill gas and anaerobically digested waste biomass; renewable energy does not include fossil fuel or nuclear energy;

**E. renewable energy certificate (REC)** means a document evidencing that the enumerated renewable energy kilowatt-hours have been generated from a renewable energy generating facility, and shall represent all of the environmental attributes associated with the generation of renewable energy;

**F. renewable portfolio standard (RPS)** means the percentage

of retail energy sales by a public utility to electric consumers in New Mexico that is required to be supplied by renewable energy;

**G. fully diversified renewable energy portfolio** means one in which no less than 30% of the renewable portfolio standard requirement is met using wind energy, no less than 20% is met using solar energy, no less than 5% is met using one or more of the other renewable energy technologies, as defined by this section; in a fully diversified renewable energy portfolio, no less than the following percentages are met through distributed generation:

(1) no less than 1 ½% for plan years 2011 through 2014; and

(2) no less than 3% beginning in plan year 2015;

**H. emissions** means all emissions regulated by state or federal authorities, including but not limited to all criteria pollutants and hazardous air pollutants, plus mercury and carbon dioxide (CO<sub>2</sub>);

**I. distributed generation** means electric generation sited at a customer's premises, providing electric energy to the customer load at that site or providing electric energy to a public utility or a rural electric distribution cooperative for use by multiple customers in one or more contiguous distribution substation service areas;

**J. plan year** means the calendar year for which approval is being sought;

**K. plan year total revenues** means plan year projected total retail revenues including the sum of:

(1) plan year total retail energy sales multiplied by the company's approved base fuel and non-base fuel retail rates by rate class;

(2) projected fuel clause revenues; and

(3) all projected rider revenues, not including:

(a) projected plan year renewable portfolio revenue requirements, and

(b) projected undergrounding rider contributions in aid of construction;

**L. plan year total retail energy sales** means weather adjusted retail energy sales in kWh projected for the plan year adjusted for projected energy efficiency reductions based on approved energy efficiency and load management programs in effect at the time of the filing, less:

(1) energy sales to large customers that qualify under Section 62-16-4A (2) NMSA 1978; and

(2) energy sales to customers exempted pursuant to Section 62-16-4A (3) NMSA 1978;

**M. large customer adjustment** means the specific procurement requirements for nongovernmental

customers at a single location or facility, regardless of the number of meters at that location or facility, with consumption exceeding 10 million kilowatt-hours per year, the procurement of renewable energy will be limited to the lower of two percent of that customer's annual electric charges or \$99,000; after January 1, 2012, the \$99,000 limit is adjusted for inflation by the amount of the cumulative increase change in the consumer price index, urban, all items (CPI-U) published by the bureau of labor statistics between January 1, 2011 and January 1 of the procurement plan year;

**N. political subdivision of the state** means a division of the state made by proper authorities thereof, acting within their constitutional powers, for purpose of carrying out a portion of those functions of the state which by long usage and inherent necessities of government have always been regarded as public.

[17.9.572.7 NMAC - Rp, 17.9.572.7 NMAC, 5-31-13]

**17.9.572.8 LIBERAL CONSTRUCTION:** This rule shall be liberally construed to carry out its intended purposes. If any provision of this rule, or the application thereof to any person or circumstance, is held invalid, the remainder of the rule, or the application of such provision to other persons or circumstances, shall not be affected thereby.

[17.9.572.8 NMAC - Rp, 17.9.572.8 NMAC, 5-31-13]

**17.9.572.9 RELATIONSHIP TO OTHER COMMISSION RULES:** Unless otherwise specified, this rule does not supersede any other rule of the commission but supplements rules applying to public utilities.

[17.9.572.9 NMAC - Rp, 17.9.572.9 NMAC, 5-31-13]

**17.9.572.10 RENEWABLE PORTFOLIO STANDARD:**

**A.** Each public utility must develop an annual Renewable Energy Act plan to comply with the renewable portfolio standard. Renewable energy resources that are in a public utility's electric energy supply portfolio on July 1, 2004 shall be counted in determining compliance with this rule. However, renewable energy sold to customers through a premium-priced or a voluntary renewable energy tariff shall not be counted in determining compliance with this rule. Other factors being equal, preference shall be given to renewable energy generated in New Mexico.

**B.** The renewable portfolio standard shall consist of:

(1) no less than 10% for each plan year from 2011 through 2014 of the utility's plan year total retail energy sales;

(2) no less than 15% for each plan year from 2015 through 2019 of the utility's plan year total retail energy sales; and

(3) no less than 20% for plan year 2020 and thereafter of the utility's plan year total retail energy sales.

[17.9.572.10 NMAC - Rp, 17.9.572.10 NMAC, 5-31-13]

**17.9.572.11 DIVERSIFICATION REQUIREMENTS FOR PORTFOLIOS:**

Each public utility must meet its renewable portfolio standard requirements using a diversified portfolio of resources, taking into consideration the overall reliability, availability, dispatch flexibility and cost of the various renewable resources as follows:

**A.** Except as provided in this section, public utility annual Renewable Energy Act plans shall be designed to achieve a fully diversified renewable energy portfolio no later than January 1, 2011.

**B.** Public utilities shall not be required to provide a fully diversified renewable portfolio when doing so would conflict with reasonable cost thresholds established by the commission or when full diversification is prevented by technical constraints or limitations. For the purposes of this section, technical constraints or limitations include, but are not limited to, transmission constraints, limitations on system integration, limited availability of particular renewable resources, and limitations on system reliability, but shall not include constraints or limitations that the public utility is capable of overcoming at reasonable cost or effort. Notwithstanding the provisions of this Subsection B excusing the failure by a public utility to meet the requirement to provide a fully diversified renewable energy portfolio, each public utility must meet its overall renewable portfolio standard.

**C.** In any year for which a public utility's annual Renewable Energy Act plan does not provide for a fully diversified portfolio, the public utility shall describe its plan for achieving a fully diversified portfolio in a timely manner.

**D.** Renewable energy certificates used to meet the distributed generation diversity requirement may not also be used to meet a resource-specific diversity requirement.

[17.9.572.11 NMAC - Rp, 17.9.572.14 NMAC, 5-31-13]

**17.9.572.12 REASONABLE COST THRESHOLD:**

The reasonable cost threshold is a customer protection mechanism that limits the customer bill impact resulting from annual Renewable Energy Act plans as measured by plan year revenue requirements. A public utility shall calculate the large customer adjustment consistent with the methodology for the

reasonable cost threshold.

**A.** A public utility shall not be required to add renewable energy to its electric energy portfolio in any plan year, pursuant to the renewable portfolio standard, where the annual renewable energy plan revenue requirement is above the reasonable cost threshold established by the commission pursuant to Subsection B of this section.

**B.** The reasonable cost threshold in any plan year is 3% of plan year total revenues, beginning in 2013.

**C.** As changing circumstances warrant, and after notice and hearing, the commission may prospectively modify the reasonable cost threshold. In modifying the reasonable cost threshold, the commission will take into account:

(1) the price of renewable energy at the point of sale to the public utility;

(2) transmission and interconnection costs required for the delivery of renewable energy to retail customers;

(3) the impact of the cost for renewable energy on retail customer rates;

(4) overall diversity, reliability, availability, dispatch flexibility, cost per kilowatt-hour and life cycle cost on a net present value basis of renewable energy resources available from suppliers; and

(5) other factors, including public benefits, the commission deems relevant.

**D.** In any given year, if the cost to procure renewable energy is greater than the reasonable cost threshold, a public utility will not be required to incur that cost or to procure that resource, provided that the condition excusing performance under the renewable portfolio standard in any given year will not operate to delay the annual increases in the renewable portfolio standard in subsequent years. A public utility that believes its procurement will exceed the reasonable cost threshold shall file with the commission a request for waiver of the renewable portfolio standard for the applicable plan year. The request shall explain in detail why the public utility cannot procure resources at a cost less than the reasonable cost threshold and shall include an explanation and evidence of all efforts the public utility undertook to procure resources at a cost within the reasonable cost threshold. Waiver requests shall be deemed granted if not acted upon 60 days.

[17.9.572.12 NMAC - Rp, 17.9.572.11 NMAC, 5-31-13]

**17.9.572.13 RESOURCE SELECTION:**

**A.** The utility shall determine all commercially available resources or purchases of renewable energy certificates available to the utility, either by ownership or by contract, for the procurement plan year that will satisfy the

RPS and the diversity requirements.

**B.** Of the resources or REC purchases identified above, the company shall use the net present value methodology to identify the most cost effective additional or new renewable resource(s) necessary and available to satisfy both the annual renewable portfolio standard and the diversity requirements.

**C.** In the case that the resources required are not required to satisfy diversity requirements those resources must represent the most cost effective option available.

[17.9.572.13 NMAC - Rp, 17.9.572.12 NMAC, 5-31-13]

**17.9.572.14 ANNUAL RENEWABLE ENERGY ACT PLAN:**

An annual Renewable Energy Act plan shall include plan year and next plan year data. The plan year shall be presented for commission approval and the next plan year shall be presented for informational purposes.

**A.** On or before July 1 of each year, each public utility must file with the commission an annual Renewable Energy Act plan. The filing schedule shall be staggered, each of the investor owned utility filings shall occur one month apart, the last filing to be made July 1 of each year. The utilities shall file alphabetically each year (El Paso electric shall file May 1; public service company of New Mexico shall file June 1; and southwestern public service company shall file July 1 each year).

**B.** The annual Renewable Energy Act plan is to include:

(1) testimony and exhibits providing a full explanation of the utility's determination of the plan year and next plan year renewable portfolio standard and reasonable cost threshold;

(2) the cost of procurement in the plan year and the next plan year for all new renewable energy resources required to comply with the renewable portfolio standard selected by the utility pursuant to Section 13 of this rule;

(3) the amount of renewable energy the public utility plans to provide in the plan year and the next plan year required to comply with the renewable portfolio standard;

(4) testimony and exhibits demonstrating how the cost and amount specified in Paragraphs (2) and (3) of this subsection were determined;

(5) testimony and exhibits demonstrating the plan year and next plan year procurement amounts and costs based on revenue requirements expected to be recovered by the utility;

(6) testimony and exhibits demonstrating the plan year and next plan year procurement amounts and

costs if complying with a fully diversified renewable portfolio standard is limited by the reasonable cost threshold;

(7) testimony and exhibits demonstrating the plan year and next plan year procurement amounts and costs based on revenue requirements expected to be recovered by the utility if limited by the reasonable cost threshold;

(8) testimony and exhibits that demonstrate that the proposed procurement is reasonable as to its terms and conditions considering price, costs of interconnection and transmission, availability, dispatchability, renewable energy certificate values and portfolio diversification requirements;

(9) testimony and exhibits regarding the amount and impact of renewable energy that can be added in any given year without adding generating resources for load following or system regulation purposes;

(10) testimony and exhibits demonstrating that the portfolio procurement plan is consistent with the integrated resource plan and explaining any material differences; and

(11) demonstration that the plan is otherwise in the public interest.

**C. Plan year revenue requirements:** For RCT purposes, the plan year revenue requirements shall reflect rate impacts on customer bills and shall be determined by applying a traditional revenue requirements impact approach for all resources, including regulatory assets authorized in prior plan years, used to satisfy the renewable portfolio standard and shall not include normalizations, annualizations and out of period adjustments.

(1) Revenue requirement adjustments shall only include avoided fuel and purchased power costs, environmental credits pursuant to compliance rules in effect during the plan year, and costs for capacity, transmission, or distribution that can be shown to result in actual reductions in costs to ratepayers.

(2) Avoided fuel costs are expected or modeled fuel savings that result from the procurement of renewable resources in the plan years.

**D.** A public utility shall serve notice and a copy of its annual renewable energy plan filing by first class mail on renewable resource providers requesting such notice from the commission, the New Mexico attorney general, and the intervenors in the public utility's most recent rate case. A public utility shall also post on its website the most recent and the pending annual Renewable Energy Act plans.

[17.9.572.14 NMAC - Rp, 17.9.572.16 NMAC, 5-31-13]

#### **17.9.572.15 COST RECOVERY FOR RENEWABLE ENERGY:**

**A.** A public utility shall recover the reasonable costs of complying with this rule through the rate making process, including its reasonable interconnection and transmission costs and other costs attributable to acquisition and delivery of renewable energy to retail New Mexico customers.

**B.** Costs that are consistent with commission-approved annual Renewable Energy Act plans are deemed to be reasonable.

**C.** A public utility that is permitted to defer the recovery of renewable energy costs pursuant to commission order may, through the ratemaking process, recover from customers that are not subject to the rate impact limitations of Sections 62-16-4A(2) and 62-16-4A(3) NMSA 1978 the cumulative sum of those deferred amounts, plus a carrying charge on those amounts.

**D.** For customers that are subject to the rate impact limitations of Section 62-16-4A(2) NMSA 1978, a public utility may, through the ratemaking process, recover from those customers the cumulative sum of those Section 62-16-4A(2) NMSA 1978 limited deferred amounts, plus carrying charges on those amounts.

**E.** Any renewable energy procurement costs recovered through the utility's fuel clause shall be separately identified in its monthly and annual fuel and purchased power clause adjustment filings and its continuation filings.

[17.9.572.15 NMAC - Rp, 17.9.572.12 NMAC, 5-31-13]

#### **17.9.572.16 CUSTOMERS EXEMPTED PURSUANT TO SECTION 62-16-4A(3) NMSA 1978:**

Any customer that is a political subdivision of the state, with consumption exceeding 20 million kilowatt-hours per year at any single location or facility, and that owns renewable energy generation, is exempt from all charges by the utility for renewable energy procurements in a year, regardless of the number of customer locations or meters on the system, if that customer certifies to the state auditor and notifies the commission and its serving utility, that it will expend 2 ½% of that year's annual electricity charges to continue to develop, within 24 months, customer-owned renewable energy generation. That customer shall also certify that it will retire all renewable energy certificates associated with the energy produced from that expenditure.

**A.** The notice to the commission and the customer's serving utility shall be timely, shall state the plan year for which the exemption will apply and shall include a copy of the customer's certification to the state auditor.

**B.** This section only exempts customers from charges for

renewable energy procurement costs incurred and to be recovered by the customer's serving utility during the plan year for which the certification applies.

**C.** A New Mexico jurisdictional public utility shall not retire any RECs retired per the certification of a customer made pursuant to Section 62-16-4A(3) NMSA 1978 for RPS or voluntary renewable energy program compliance.

[17.9.572.16 NMAC - N, 5-31-13]

#### **17.9.572.17 RENEWABLE ENERGY CERTIFICATES:**

**A.** Each public utility shall annually establish its compliance with the renewable portfolio standard through the filing of an annual report, as provided in 17.9.572.19 NMAC, documenting the retirement of renewable energy certificates. Effective for services provided on and after January 1, 2015, each rural electric distribution cooperative shall annually establish its compliance with the renewable portfolio standard through the filing of an annual report, as provided in 17.9.572.23 NMAC, documenting the retirement of renewable energy certificates.

**B.** Non-WREGIS registered RECs shall contain the following information:

(1) the name and contact information of the renewable energy generating facility owner or operator;

(2) the name and contact information of the public utility or rural electric distribution cooperative purchasing the renewable energy certificate;

(3) the type of generator technology and fuel type;

(4) the generating facility's physical location, nameplate capacity in MW, location and ID number of revenue meter and date of commencement of commercial generation;

(5) the public utility or rural electric distribution cooperative to which the generating facility is interconnected;

(6) the control area operator for the generating facility; and

(7) the quantity in kWh and the date of the renewable energy certificate creation.

**C.** Renewable energy certificates:

(1) are owned by the generator of the renewable energy unless:

(a) the renewable energy certificates are transferred to the purchaser of the energy through specific agreement with the generator;

(b) the generator is a qualifying facility, as defined by the federal Public Utility Regulatory Policies Act of 1978, in which case the renewable energy certificates are owned by the public utility or rural electric distribution cooperative, purchaser

of the renewable energy unless retained by the generator through specific agreement with the public utility or rural electric distribution cooperative purchaser of the energy; or

(c) a contract for the purchase of renewable energy is in effect prior to January 1, 2004, in which case the purchaser of the energy owns the renewable energy certificates for the term of such contract;

(2) may be traded, sold or otherwise transferred by their owner to any other party; such transfers and use of the certificate by a public utility or rural electric distribution cooperative for compliance with the renewable energy portfolio standard do not require physical delivery of the electric energy represented by the certificate to a public utility or rural electric distribution cooperative, so long as the electric energy represented by the certificate was contracted for delivery in New Mexico, or consumed or generated by an end-use customer of the public utility or rural electric distribution cooperative in New Mexico, unless the commission determines that there is an active regional market for trading renewable energy and renewable energy certificates in any region in which the public utility or rural electric distribution cooperative is located;

(3) that are used once by a public utility or rural electric distribution cooperative to satisfy the renewable portfolio standard and are retired, or that are traded, sold or otherwise transferred by the public utility or rural electric distribution cooperative shall not be further used by the public utility or rural electric distribution cooperative; and

(4) that are not used by a public utility or rural electric distribution cooperative to satisfy the renewable portfolio standard and that are not traded, sold or otherwise transferred by the public utility or rural electric distribution cooperative may be carried forward for up to four years from the date of creation and, if not used by that time, shall be retired by the public utility or rural electric distribution cooperative.

**D.** Public utilities and rural electric distribution cooperatives are responsible for demonstrating that a renewable energy certificate used for compliance with the renewable portfolio standard is derived from eligible renewable energy resources and has not been retired, traded, sold or otherwise transferred to another party. Public utilities and rural electric distribution cooperatives shall maintain records sufficient to meet the demonstration requirement of this subsection.

**E.** The acquisition, sale or transfer, and retirement of any renewable energy certificates used to meet renewable portfolio standards on or after January 1, 2008 shall be registered with the western

renewable energy generation information system (WREGIS) or its direct successor(s), except as provided in Subsection F of this section. Certificates whose retirement has been registered by the public utility or rural electric distribution cooperative with WREGIS shall be deemed to meet the requirements of Subsection D of this section.

**F.** Renewable energy certificates representing electricity delivered to New Mexico and registered with a tracking system other than WREGIS may be used to meet renewable portfolio standards so long as WREGIS lacks the capability to import certificates from that other tracking system.

**G.** The requirement for registration and trading of renewable energy certificates through WREGIS shall not constitute a finding by the commission that a regional renewable energy market is generally available.

**H.** Until such time as the commission has determined that there is a regional market for exchanging renewable energy and renewable energy certificates that is generally available for all public utilities and rural electric distribution cooperatives in the state, any public utility or rural electric distribution cooperative may seek approval from the commission to meet some or all of its renewable portfolio standard using individual renewable energy certificates that represent energy generated by a renewable energy resource within a regional renewable energy market or trading system in any region where the public utility or rural electric cooperative is located.

**I.** Any state having a mandatory renewable portfolio standard that accepts renewable energy certificates for energy produced and delivered in New Mexico on a non-discriminatory basis for compliance with its RPS shall be deemed to be part of an active regional market for RECs for the purposes of Paragraph (2) of Subsection C of this section.

[17.9.572.17 NMAC - Rp, 17.9.572.13 NMAC, 5-31-13]

#### **17.9.572.18 VOLUNTARY RENEWABLE TARIFFS:**

**A.** Each public utility shall offer a voluntary renewable energy tariff for those customers who want the option to purchase additional renewable energy.

**B.** The voluntary renewable tariff may also include provisions to enable consumers to purchase renewable energy within certain energy blocks and by source of renewable energy. Additionally, each public utility must develop an educational program on the benefits and availability of its voluntary renewable energy program. The tariff, along with the details of the consumer education program, shall be on file with the

commission.

[17.9.572.18 NMAC - Rp, 17.9.572.15 NMAC, 5-31-13]

#### **17.9.572.19 ANNUAL RENEWABLE ENERGY PORTFOLIO REPORT:**

Concurrent with the filing of an annual renewable energy plan, each public utility must file with the commission a report on its renewable energy generation or purchases of renewable energy during the prior plan year. This report shall:

**A.** itemize all renewable energy generation or renewable energy certificate purchases and sales;

**B.** list, and include copies of, all renewable energy certificates, including acquired, issued or retired certificates;

**C.** document from WREGIS or its successor the RECs acquired, sold, retired, transferred, or expired; such documentation shall include reports from WREGIS or its successor which allow the commission to determine, by fuel type, the number of RECs in each calendar year:

(1) acquired;

(2) sold;

(3) retired;

(4) transferred; and

(5) expired;

**D.** describe the retirements made to meet RPS compliance based on actual retail sales and procurement costs, for the most recent reporting period including, the reductions, if any, to the RPS for procurements for non-governmental customers with consumption exceeding 10 million kilowatt hours per year, customers that are political subdivisions, or due to the RCT, including an explanation and exhibits demonstrating how the reduction was determined, how the diversity requirements were satisfied and the quantity of RECs banked for future compliance use;

**E.** describe and quantify the implementation of the voluntary renewable tariff requirements in 17.9.572.18 NMAC; and

**F.** present a full explanation of approved recovery mechanisms for approved annual renewable energy plan costs and a complete accounting of all collected and deferred amounts.

[17.9.572.19 NMAC - Rp, 17.9.572.17 NMAC, 5-31-13]

#### **17.9.572.20 REVIEW BY COMMISSION:**

**A.** Interested parties wishing to protest an annual Renewable Energy Act plan shall do so by stating the bases for the protest within 30 days after the filing of the utility's annual renewable energy plan.

**B.** The commission shall approve or modify annual Renewable

Energy Act plans within 90 days and may approve such plans without a hearing, unless a protest is filed that demonstrates to the commission's reasonable satisfaction that a hearing is necessary.

**C.** The commission may modify a plan after notice and hearing, and may, for good cause, extend the time to approve an annual Renewable Energy Act plan for an additional 90 days.

**D.** If the commission has not acted within the ninety-day period, a plan is deemed approved.

**E.** The commission may reject a plan if the commission finds that the plan does not contain the required information; upon such rejection the public utility's obligation to procure additional resources will be suspended for the time necessary to file a revised plan. In such instances, the total amount of renewable energy to be procured by the public utility will not change.

[17.9.572.20 NMAC - Rp, 17.9.572.18 NMAC, 5-31-13]

**17.9.572.21 EXEMPTION AND VARIANCE:** Any interested person may file an application for an exemption or a variance from the requirements of this rule. Such application shall:

**A.** identify the section of this rule for which the exemption or variance is requested;

**B.** describe the situation that necessitates the exemption or variance;

**C.** set out the effect of complying with this rule on the public utility and its customers if the exemption or variance is not granted;

**D.** define the result the request will have if granted;

**E.** state how the exemption or variance will be consistent with the purposes of this rule;

**F.** state why no other reasonable alternative is preferable; and

**G.** state why the proposed alternative is in the public interest.

[17.9.572.21 NMAC - Rp, 17.9.572.19 NMAC, 5-31-13]

**17.9.572.22 RURAL ELECTRIC DISTRIBUTION COOPERATIVES VOLUNTARY RENEWABLE TARIFFS:**

Rural electric distribution cooperatives must offer their retail customers a voluntary renewable energy tariff to the extent that their suppliers under their all requirements contracts make such renewable resources available. Rural electric distribution cooperatives must report to the commission by April 30 of each year concerning the availability to them of renewable energy and the annual demand for renewable energy pursuant to their voluntary tariff.

[17.9.572.22 NMAC - Rp, 17.9.572.20

NMAC, 5-31-13]

**17.9.572.23 RURAL ELECTRIC DISTRIBUTION COOPERATIVES RENEWABLE PORTFOLIO STANDARD:**

Each rural electric distribution cooperative organized under the Rural Electric Cooperative Act shall meet a renewable portfolio standard as follows:

**A.** "Renewable energy," "renewable energy certificate" shall have the same definitions as provided in Subsections D and E of 17.9.572.7 NMAC.

**B.** No later than January 1, 2015, renewable energy shall comprise no less than 5% of each distribution cooperative's total retail sales to New Mexico customers; the renewable portfolio standard shall increase by 1% per year thereafter until January 1, 2020, at which time the renewable portfolio standard shall be 10%.

**C.** The renewable portfolio standard of each distribution cooperative shall be diversified as to the type of renewable energy resource, taking into consideration the overall reliability, availability, dispatch flexibility and the cost of the various renewable energy resources made available to the distribution cooperative by its suppliers of electric power.

**D.** Renewable energy generation by solar technologies which were developed and operational before January 1, 2012, by a distribution cooperative or through the wholesale contract obligation of the wholesale supplier, shall be given a three time multiplier credit for every kWh generated.

**E.** Renewable energy resources that are in a distribution cooperative's energy supply portfolio on January 1, 2008 shall be counted in determining compliance with this rule.

**F.** If a distribution cooperative determines that, in any given year, the cost of renewable energy that would need to be procured or generated for purposes of compliance with the renewable portfolio standard would be greater than the reasonable cost threshold, the distribution cooperative shall not be required to incur that cost; provided that the existence of this condition excusing performance in any given year shall not operate to delay any renewable portfolio standard in subsequent years. For purposes of the Rural Electric Cooperative Act, "reasonable cost threshold" means an amount that shall be no greater than 1% of the distribution cooperative's gross receipts from business transacted in New Mexico for the preceding calendar year and shall be subject to the following conditions:

**(1)** If the wholesale supplier is obligated to meet all or part of the distribution cooperative's requirements, pursuant to the wholesale electric service "all

requirements" contract, the solar calculation by the wholesale provider, shall be provided in the distribution cooperative's filing to the commission.

**(2)** The distribution cooperative shall submit its RCT information in a form acceptable to the commission, with the information required in Subsection I below.

**G.** A rural electric distribution cooperative may collect from its customers a renewable energy and conservation fee of no more than one percent of the customer's bill. In no event shall a rural electric distribution cooperative collect more than \$75,000 annually through the renewable energy and conservation fee from any single customer. Money collected through the renewable energy and conservation fee shall be segregated in a separate renewable energy and conservation account from other distribution cooperative funds and shall be expended only on programs or projects to promote the use of renewable energy, load management or energy efficiency.

**H.** Each distribution cooperative that collects a renewable energy and conservation fee from its customers shall deduct from the fees paid to the state pursuant to Section 62-8-8 NMSA 1978 an amount equal to 50% of the amount of money collected through the renewable energy and conservation fee during the preceding calendar year.

**I.** By April 30 of each year, a distribution cooperative shall file with the public regulation commission a report on its purchases and generation of renewable energy during the preceding calendar year; the report shall include the cost of the renewable energy resources purchased and generated by the distribution cooperative to meet the renewable portfolio standard; the report shall provide the information required below:

**(1)** a summary of the distribution cooperative's purchases and generation of renewable energy and purchases of renewable energy certificates that occurred during the preceding calendar year;

**(2)** the total amount of monies collected by the distribution cooperative from its customers during the preceding calendar year through the assessment of a renewable energy and conservation fee and the balance of funds in the distribution cooperative's renewable energy and conservation fund, as of January 1 and December 31 of the preceding calendar year;

**(3)** the amount of monies withheld by the distribution cooperative from the inspection and supervision fees due to the state that were placed in the renewable energy and conservation fund as a partial match of the renewable energy and conservation fees collected during the preceding calendar year;

**(4)** the amount of monies received by the distribution cooperative from any

third party that were placed in the renewable energy and conservation fund;

(5) whether and to what extent the distribution cooperative will assess its customers for a renewable energy and conservation fee in the succeeding calendar year; and

(6) a summary of each renewable energy project, energy efficiency or load management program upon which monies from the renewable energy and conservation fund were expended during the preceding calendar year, which includes:

(a) a description of the anticipated benefits to the distribution cooperative's members from each project or program;

(b) the amount of monies spent on each project or program; and

(c) the current status of each project or program.

**J.** For renewable distributed generation systems of 25kW or less, whether interconnected or not with the distribution cooperative's system, the annual renewable energy credits can be determined by use of a metering device or pursuant to a recognized standard allocation of 2,500 kWhs per 1 kW of installed capacity, and these RECs shall not be required to be registered with WREGIS, if the following conditions are met:

(1) the renewable distributed generation system is owned by the distribution cooperative;

(2) the renewable distribution cooperative provides tariffed service to customers from the distributed generation system; and

(3) WREGIS lacks the capability to import certificates from the renewable distributed generation or

(4) if registration of the RECs from the renewable distributed generation cannot be justified by the cost of registration.

**K.** A distribution cooperative shall report to its membership a summary of its purchases and generation of renewable energy during the preceding calendar year.

[17.9.572.23 NMAC - Rp, 17.9.572.21 NMAC, 5-31-13]

#### **HISTORY OF 17.9.572 NMAC - Rp, 17.9.572.20 NMAC, 5-31-13:**

**Pre-NMAC History:** None.

#### **History of Repealed Material:**

17 NMAC 10.572, Renewable Energy Development Program (filed 11-30-98) repealed 7-1-03.

17.9.572 NMAC, Renewable Energy as a Source of Electricity (filed 6-16-03) repealed 1-14-05.

17.9.572 NMAC, Renewable Energy for Electric Utilities (filed 12-29-04) repealed 8-30-07.

17.9.572 NMAC, Renewable Energy for

Electric Utilities (filed 8-15-07) repealed 5-31-13.

#### **Other History:**

17 NMAC 10.572, Renewable Energy Development Program (filed 11-30-98) replaced by 17.9.572 NMAC, Renewable Energy as a Source of Electricity, effective 7-1-03, 17.9.572 NMAC, Renewable Energy as a Source of Electricity (filed 6-16-03) replaced by 17.9.572, Renewable Energy for Electric Utilities, effective 1-14-05. 17.9.572 NMAC, Renewable Energy for Electric Utilities (filed 12-29-04) replaced by 17.9.572 NMAC, Renewable Energy for Electric Utilities (filed 8-15-07) replaced by 17.9.572 NMAC, Renewable Energy for Electric Utilities effective 5-31-13.

### **NEW MEXICO RACING COMMISSION**

Explanatory paragraph: This is an emergency amendment to 15.2.6 NMAC, Section 9, effective May 2, 2013, adopted by the New Mexico Racing Commission at their meeting on April 25, 2013. In 15.2.6.9 NMAC, Subsections A through G and Subsections I through P were not published as there were no changes.

Paragraph (4) of Subsection B of 15.2.1.10 NMAC: "If the Commission determines that an emergency exists which requires immediate action it may adopt, amend or repeal a rule and cause its filing immediately with the State Records Center. An emergency is a direct and immediate need to preserve public peace, health, safety or general welfare. The rules shall be effective immediately upon such filing. An emergency rule shall be noted as such on the copies filed with the Records Center. A statement of the necessity for the emergency rule shall be contained within the emergency rule. The emergency rule shall not continue in effect longer than thirty (30) days unless within that time the Commission commences proceedings to adopt the rule under the standard provisions of these rules. If the Commission commences such proceedings the emergency rule shall remain in effect until a permanent rule takes effect or until the proceedings are otherwise completed. In no event shall an emergency regulation remain in effect for more than one hundred twenty (120) days."

On April 25, 2013, a quorum of the New Mexico Racing Commission ("Commission") met during their regularly scheduled meeting and voted unanimously to repeal Paragraph (23) of Subsection H of 15.2.6.9 NMAC [Clenbuterol Rule]. Pursuant to the Commission's regulatory authority, the Commission had previously

voted, in a public meeting, to suspend the authorized administration of Clenbuterol to a horse entered to race. In accordance with Subsection P of 15.2.6.9 NMAC, the suspension was for a maximum period of twelve months.

However, at this time the Commission is still unable to determine an acceptable, safe threshold level for administration of Clenbuterol, as well as an acceptable withdrawal period, prior to racing. The Commission is awaiting guidance from the Association of Racing Commissioners International ("ARCI") on threshold and withdrawals of Clenbuterol. It is anticipated that a model rule will be available in the forthcoming 2013 amendments. As such, until that time, the Commission had unanimously agreed to repeal Paragraph (23) of Subsection H of 15.2.6.9 NMAC and the threshold levels contained within.

The Racing Commission is statutorily vested with the authority to make rules to hold, conduct and operate all race meets and horse races held in the state NMSA 1978, State Statute 60-1A-4. Subsection A of 15.2.1.8 NMAC sets forth the purpose of the Commission, which is to regulate and encourage the horse breeding industry and the horse racing industry. Regulatory entities are encouraged to adopt the ARCI Model Rules by reference as a way to enhance uniformity of regulation. To ensure the quality of drug testing programs as well as to ensure the security of the wagering system, the Commission has adopted standards for medication administration. However, at this time, the Commission is unable to certify the administration of Clenbuterol in safe levels that comply with the industry standard. Thus, in order to protect the integrity of horse racing and to ascertain certainty in healthy, safe levels for the animals of this sport, the Commission feels strongly that there exists an emergency to repeal the current rule as it pertains to threshold levels set in error. In order to protect the health, safety and general welfare of the racing industry, Clenbuterol shall not be permitted, under any conditions, in a race horse on race day. Therefore, Paragraph (23) of Subsection H of 15.2.6.9 NMAC shall be repealed immediately, as an emergency provision.

The Commission will continue to seek guidance from ARCI on the permissible administration of this medication and will enact administrative rule proceedings upon determination of a healthy, safe threshold level.

**15.2.6.9 MEDICATIONS AND PROHIBITED SUBSTANCES:** The "uniform classification guidelines for foreign substances and recommended penalties

and model rule”, revised December 2012, version 5.0 as issued by the association of racing commissioners international, is incorporated by reference. Upon a finding of a violation of any medication and prohibited substances rule, which includes the possession of contraband as listed in 15.2.6.9 NMAC, the stewards shall consider the classification level of the violation as listed at the time of the violation by the uniform classification guidelines of foreign substances as promulgated by the association of racing commissioners international and impose penalties and disciplinary measures as determined by the New Mexico racing commission.

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**H. PERMISSIBLE MEDICATIONS WITH ACCEPTABLE LEVELS:** The official urine test sample may contain one of the following drug substances, their metabolites or analogs, in any amount that does not exceed the specified levels.

**(1) Acepromazine:** The use of acepromazine shall be permitted under the following conditions: any horse to which acepromazine has been administered shall be subject to having a blood sample, or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of acepromazine shall not exceed 25 nanograms per milliliter of urine, or its blood equivalent.

**(2) Albuterol:** The use of albuterol shall be permitted under the following conditions: any horse to which albuterol has been administered shall be subject to having a blood and urine sample(s) taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of albuterol shall not exceed 1 nanogram per milliliter of urine, or its blood equivalent. If albuterol is detected in the urine, it must be confirmed in the blood to be a violation.

**(3) Atropine:** The use of atropine shall be permitted under the following conditions: any horse to which atropine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of atropine shall not exceed 10 nanograms per milliliter of urine, or its blood equivalent.

**(4) Benzocaine:** The use of benzocaine shall be permitted under the following conditions: any horse to which

benzocaine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of benzocaine shall not exceed 50 nanograms per milliliter of urine, or its blood equivalent.

**(5) Mepivacaine:** The use of mepivacaine shall be permitted under the following conditions: any horse to which mepivacaine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of mepivacaine shall not exceed 10 nanograms per milliliter of urine, or its blood equivalent.

**(6) Procaine:** The use of procaine shall be permitted under the following conditions: any horse to which procaine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of procaine shall not exceed 50 nanograms per milliliter of urine, or its blood equivalent.

**(7) Promazine:** The use of promazine shall be permitted under the following conditions: any horse to which promazine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of promazine shall not exceed 25 nanograms per milliliter of urine, or its blood equivalent.

**(8) Salicylates:** The use of salicylates shall be permitted under the following conditions: any horse to which salicylates have been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of salicylates shall not exceed 750 micrograms per milliliter of urine, or its blood equivalent.

**(9) Butorphanol:** The use of butorphanol shall be permitted under the following conditions: any horse to which butorphanol has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction

of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of butorphanol shall be administered in such dosage amount that the official test sample shall not exceed 10 nanograms per milliliter of urine, or its blood equivalent.

**(10) Detomidine:** The use of detomidine shall be permitted under the following conditions: any horse to which detomidine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of detomidine shall be administered in such dosage amount that the official test sample shall not exceed 100 nanograms per milliliter of urine, or its blood equivalent.

**(11) Dexamethasone:** The use of dexamethasone shall be permitted under the following conditions: any horse to which dexamethasone has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of dexamethasone shall be administered in such dosage amount that the official test sample shall not exceed 100 nanograms per milliliter of urine, or its blood equivalent.

**(12) Diclofenac:** The use of diclofenac shall be permitted under the following conditions: any horse to which diclofenac has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of diclofenac shall be administered in such dosage amount that the official test sample shall not exceed 500 nanograms per milliliter of urine, or its blood equivalent.

**(13) Dipyrone:** The use of dipyrone shall be permitted under the following conditions: any horse to which dipyrone has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of dipyrone shall be administered in such dosage amount that the official test sample shall not exceed 1000 nanograms per milliliter of urine, or its blood equivalent.

**(14) DMSO:** The use of DMSO shall be permitted under the following

conditions: any horse to which DMSO has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of DMSO shall be administered in such dosage amount that the official test sample shall not exceed 10,000 nanograms per milliliter of urine, or its blood equivalent.

**(15) Flucort:** The use of flumethasone shall be permitted under the following conditions: any horse to which flucort has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of flumethasone shall be administered in such dosage amount that the official test sample shall not exceed 10 nanograms per milliliter of urine, or its blood equivalent.

**(16) Isoxsuprine:** The use of isoxsuprine shall be permitted under the following conditions: any horse to which isoxsuprine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of isoxsuprine shall be administered in such dosage amount that the official test sample shall not exceed 1000 nanograms per milliliter of urine, or its blood equivalent.

**(17) Methocarbamol:** The use of methocarbamol shall be permitted under the following conditions: any horse to which methocarbamol has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of methocarbamol shall be administered in such dosage amount that the official test sample shall not exceed 1000 nanograms per milliliter of urine, or its blood equivalent.

**(18) Naproxen:** The use of naproxen shall be permitted under the following conditions: any horse to which naproxen has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of naproxen shall be administered in such dosage amount that the official test

sample shall not exceed 5000 nanograms per milliliter of urine, or its blood equivalent.

**(19) Pentoxifylline:** The use of pentoxifylline shall be permitted under the following conditions: any horse to which pentoxifylline has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of pentoxifylline shall be administered in such dosage amount that the official test sample shall not exceed 50 nanograms per milliliter of urine, or its blood equivalent.

**(20) Pyrilamine:** The use of pyrilamine shall be permitted under the following conditions: any horse to which pyrilamine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of pyrilamine shall be administered in such dosage amount that the official test sample shall not exceed 50 nanograms per milliliter of urine, or its blood equivalent.

**(21) Triamcinalone:** The use of triamcinalone shall be permitted under the following conditions: any horse to which triamcinalone has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of triamcinalone shall be administered in such dosage amount that the official test sample shall not exceed 2 nanograms per milliliter of urine, or its blood equivalent.

**(22) Ulcer medications, i.e., cimethidine, sucralfate, ranitidine:** The use of ulcer medications shall be permitted until further notice.

~~**(23) Clenbuterol:** The use of clenbuterol shall be permitted under the following conditions: any horse to which clenbuterol has been administered shall be subject to having blood and urine samples taken at the direction of the official veterinarian to determine the quantitative level (s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of clenbuterol shall be administered in such dosage amount that the official test sample shall not exceed 5 nanograms per milliliter in urine or 25 picograms per milliliter of serum or plasma.~~

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[15.2.6.9 NMAC - Rp, 15 NMAC 2.6.9,

04/13/2001; A, 08/30/2001; A, 07/15/2002; A, 08/15/2002; A, 09/29/2006; A, 10/31/2006; A, 08/30/2007; A, 01/31/2008; A, 03/01/2009; A, 06/15/2009; A, 06/30/2009; A, 09/15/2009; A, 12/15/2009; A, 03/16/2010; A, 07/05/2010; A, 09/01/2010; A, 12/01/2010; A, 11/01/2011; A, 02/15/2012; A, 04/30/2012; A, 07/31/2012; A, 12/14/2012; A, 05/01/2013; A/E, 05/02/2013]

**NEW MEXICO  
DEPARTMENT OF  
TRANSPORTATION**

18.27.2 NMAC, Division 100 - General Provisions Standard Specifications for Highway and Bridge Construction (filed 12/13/2007) is hereby repealed effective 05/31/2013. This rule is replaced by 18.27.2 NMAC, Division 100 - General Provisions Standard Specification for Highway and Bridge Construction effective 05/31/2013.

**NEW MEXICO  
DEPARTMENT OF  
TRANSPORTATION**

**TITLE 18 TRANSPORTATION  
AND HIGHWAYS  
CHAPTER 27 HIGHWAY  
CONSTRUCTION GENERAL  
PROVISIONS  
PART 2 DIVISION  
100-GENERAL PROVISIONS  
STANDARD SPECIFICATIONS  
FOR HIGHWAY AND BRIDGE  
CONSTRUCTION**

**18.27.2.1 ISSUING AGENCY:** New Mexico Department of Transportation, P.O. Box 1149, Santa Fe, New Mexico 87504-1149.  
[18.27.2.1 NMAC - Rp, 18.27.2.1 NMAC, 05/31/13]

**18.27.2.2 SCOPE:** All agencies, the general public and highway construction contractors.  
[18.27.2.2 NMAC - Rp, 18.27.2.2 NMAC, 05/31/13]

**18.27.2.3 STATUTORY AUTHORITY:** NMSA 1978, Sections 67-3-43, 13-1-99, 13-1-170 and 13-1-174.  
[18.27.2.3 NMAC - Rp, 18.27.2.3 NMAC, 05/31/13]

**18.27.2.4 DURATION:** Permanent.  
[18.27.2.4 NMAC - Rp, 18.27.2.4 NMAC, 05/31/13]

**18.27.2.5 EFFECTIVE DATE:**

May 31, 2013, unless a later date is cited at the end of a section.

[18.27.2.5 NMAC - Rp, 18.27.2.5 NMAC, 05/31/13]

**18.27.2.6 OBJECTIVE:** The purpose of this regulation, Division 100-General Provisions Standard Specifications for Highway and Bridge Construction, is to implement and enforce Division 100 of the *New Mexico department of transportation 2013 standard specifications for highway and bridge construction as replacement to the 2007 edition of the standard specifications for highway and bridge construction*, and shall be controlling for all projects advertised and all contracts executed after the date this rule is promulgated by the New Mexico department of transportation and duly filed in the state records center.

[18.27.2.6 NMAC - Rp, 18.27.2.6 NMAC, 05/31/13]

**18.27.2.7 DEFINITIONS:** [RESERVED]

18.27.2.7 NMAC - Rp, 18.27.2.7 NMAC, 05/31/13]

[See Section 101, Abbreviations, Symbols and Definitions of Division 100-General Provisions of the *New Mexico department of transportation 2013 standard specifications for highway and bridge construction as replacement to the 2007 edition of the standard specifications for highway and bridge construction* for applicable definitions.]

**18.27.2.8 ADOPTION OF THE NEW MEXICO DEPARTMENT OF TRANSPORTATION 2013 STANDARD SPECIFICATIONS FOR HIGHWAY AND BRIDGE CONSTRUCTION:**

This rule adopts by reference Division 100-General Provisions of the *New Mexico department of transportation 2013 standard specifications for highway and bridge construction as replacement to the 2007 edition of standard specifications for highway and bridge construction*.

[18.27.2.8 NMAC - Rp, 18.27.2.8 NMAC, 05/31/13]

**HISTORY OF 18.27.2 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records and Archives under: SHC 70-1, Standard Specifications for Road and Bridge construction, filed June 1, 1970; SHC 76-1, Standard Specifications for Road and Bridge Construction, filed July 7, 1976; SHC 84-2, Standard Specifications for Road and Bridge Construction, filed November 5, 1984; SHC Rule 85-3(L), New Mexico State Highway Department Construction contract Bidding Requirements and General Contract Provisions, filed July

26, 1985; SHC 86-2(L), New Mexico State Highway Department Construction Contract Bidding Requirements and General Contract Provisions, filed December 16, 1986; SHTD Rule 91-4, New Mexico State Highway and Transportation Department Construction Contract Bidding Requirements and General Contract Provisions, filed November 15, 1991; and SHTD Rule 94-1, Division 100-General Provisions Standard Specifications for Highway and Bridge Construction, filed September 27, 1997.

**History of Repealed Material:**

18 NMAC 27.2, Division 100 - General Provisions Standard Specifications for Highway and Bridge Construction (filed 01/02/1998) and 18 NMAC 27.2, Division 100 General Provisions Standard Specifications for Highway and Bridge Construction (filed 05/01/1998) both repealed February 14, 2000.

18 NMAC 27.2, Division 100 - General Provisions Standard Specifications for Highway and Bridge Construction (filed 02/02/2000) repealed 04/29/05.

18.27.2 NMAC, Division 100 - General Provisions Standard Specifications for Highway and Bridge Construction (filed 4/13/05) repealed 9/15/05.

18.27.2 NMAC, Division 100 - General Provisions Standard Specifications for Highway and Bridge Construction (filed 9/01/05) repealed 01/31/08.

18.27.2 NMAC, Division 100 - General Provisions Standard Specifications for Highway and Bridge Construction (filed 12/13/07) repealed 05/31/13.

**Other History:**

SHTD Rule 94-1, Division 100 - General Provisions Standard Specifications for Highway and Bridge Construction (filed 09/27/97) replaced by 18 NMAC 27.2 (emergency), Division 100 General Provisions Standard Specifications for Highway and Bridge Construction, effective 01/15/98 and 18 NMAC 27.2, Division 100 General Provisions Standard Specifications for Highway and Bridge Construction, effective 05/15/98.

18 NMAC 27.2 (emergency), Division 100 - General Provisions Standard Specifications for Highway and Bridge Construction (filed 01/02/98) and 18 NMAC 27.2, Division 100 General Provisions Standard Specifications for Highway and Bridge Construction (filed 05/01/98) both replaced by 18 NMAC 27.2, Division 100 General Provisions Standard Specifications for Highway and Bridge Construction, effective 02/14/00.

18 NMAC 27.2., Division 100 - General Provisions Standard Specifications for Highway and Bridge Construction (filed 02/02/00) replaced by 18 27.2 NMAC, Division 100 General Provisions Standard Specifications for Highway and Bridge

Construction, effective 04/29/05.

18.27.2 NMAC, Division 100 - General Provisions Standard Specifications for Highway and Bridge Construction (filed 4/13/05) replaced by 18.27.2, NMAC, Division 100 - General Provisions Standard Specifications for Highway and Bridge Construction, effective 09/15/05.

18.27.2 NMAC, Division 100 - General Provisions Standard Specifications for Highway and Bridge Construction (filed 9/15/05) replaced by 18.27.2, NMAC, Division 100 - General Provisions Standard Specifications for Highway and Bridge Construction, effective 01/31/08.

18.27.2 NMAC, Division 100 - General Provisions Standard Specifications for Highway and Bridge Construction (filed 12/13/07) replaced by 18.27.2, NMAC, Division 100 - General Provisions Standard Specifications for Highway and Bridge Construction, effective 05/31/13.

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**End of Adopted Rules Section**

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## Other Material Related to Administrative Law

**NEW MEXICO CHILDREN,  
YOUTH AND FAMILIES  
DEPARTMENT  
EARLY CHILDHOOD SERVICES**

**NOTICE OF PUBLIC HEARING  
2014-2015 CCDF State Plan**

The Children, Youth and Families Department, Early Childhood Services, will hold a formal public hearing on Thursday, June 20, 2013, from 1:30 p.m. to 2:30 p.m. in Apodaca Hall on the 2<sup>nd</sup> floor of the PERA Building located at 1120 Paseo de Peralta, Santa Fe, New Mexico, to receive public comments regarding proposed updates to the 2014-2015 Child Care and Development Fund State Plan. The Notice for Public Hearing originally scheduled for May 23, 2013, was cancelled. This is the rescheduled Public Hearing Notice.

The draft CCDF State Plan may be obtained at [www.newmexicokids.org](http://www.newmexicokids.org) or by calling 800-832-1321. Interested persons may testify at the hearing or submit written comments no later than 5:00 p.m. on June 20, 2013. Written comments will be given the same consideration as oral testimony given at the hearing. Written comments should be addressed to: Early Childhood Services, Children, Youth and Families Department, PO Drawer 5160, Santa Fe, NM 87502; Fax: 505-827-9978.

If you are a person with a disability and you require this information in an alternative format or require special accommodations to participate in the public hearing, please contact Early Childhood Services at 800-832-1321. CYFD requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

**NOTICIA DE AUDICION PUBLICA  
2014-2015 CCDF Plan Estatal**

El Departamento de Children, Youth and Families, Servicios de Niñez Temprana, tendrá una audición formal para el público el jueves, 20 de junio de 2013, de 1:30 p.m. a 2:30 p.m. en Apodaca Hall en el segundo piso del edificio PERA localizado en 1120 Paseo de Peralta, Santa Fe, New Mexico, para recibir comentarios públicos con respecto a actualizaciones propuestos el 2014-2015 Plan del Estado del Fondo del Desarrollo y Cuidado de Niños (Child Care and Development Fund State Plan). La audición pública que estaba planeado en mayo 23, 2013 se cancelo. Esta es la reprogramada noticia de audición pública.

El Plan del Estado del CCDF puede ser obtenido en [www.newmexicokids.org](http://www.newmexicokids.org) o por llamar al 800-832-1321. Las personas interesadas pueden testificar en la audición o someter comentarios escritos hasta las 5:00 p.m. el 20 de junio de 2013. Los comentarios escritos serán dados la misma consideración como testimonio oral en la audición. Los comentarios escritos deben ser dirigidos a: Early Childhood Services, Children, Youth and Families Department, PO Drawer 5160, Santa Fe, NM 87502; Fax: 505-827-9978.

Si es una persona con una incapacidad y usted requiere esta información en un formato alternativo o requiere alojamientos especiales para tomar parte en la audición pública, comuníquese por favor con Early Childhood Services a 800-832-1321. CYFD requiere aviso de las peticiones por lo menos 10 previo días para proporcionar formatos solicitados de alternativa y alojamientos especiales.

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**End of Other Related Material  
Section**

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## Submittal Deadlines and Publication Dates 2013

Volume XXIV	Submittal Deadline	Publication Date
Issue Number 1	January 2	January 15
Issue Number 2	January 16	January 31
Issue Number 3	February 1	February 14
Issue Number 4	February 15	February 28
Issue Number 5	March 1	March 15
Issue Number 6	March 18	March 29
Issue Number 7	April 1	April 15
Issue Number 8	April 16	April 30
Issue Number 9	May 1	May 15
Issue Number 10	May 16	May 31
Issue Number 11	June 3	June 14
Issue Number 12	June 17	June 28
Issue Number 13	July 1	July 15
Issue Number 14	July 16	July 31
Issue Number 15	August 1	August 15
Issue Number 16	August 16	August 30
Issue Number 17	September 3	September 16
Issue Number 18	September 17	September 30
Issue Number 19	October 1	October 15
Issue Number 20	October 16	October 31
Issue Number 21	November 1	November 14
Issue Number 22	November 15	November 27
Issue Number 23	December 2	December 13
Issue Number 24	December 16	December 30

The *New Mexico Register* is the official publication for all notices of rule making, proposed rules, adopted rules, emergency rules, and other material related to administrative law. The Commission of Public Records, Administrative Law Division publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978.

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

For further information, call (505) 476-7907.