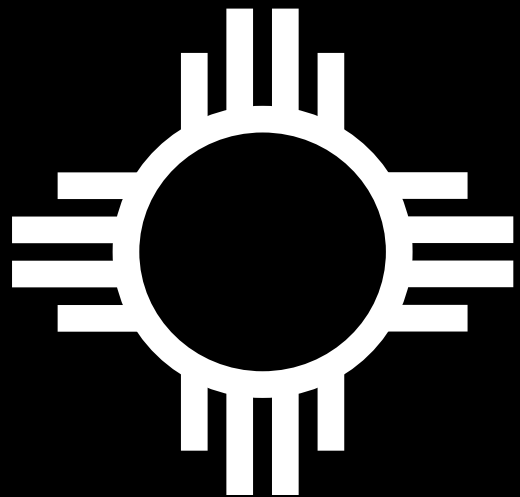


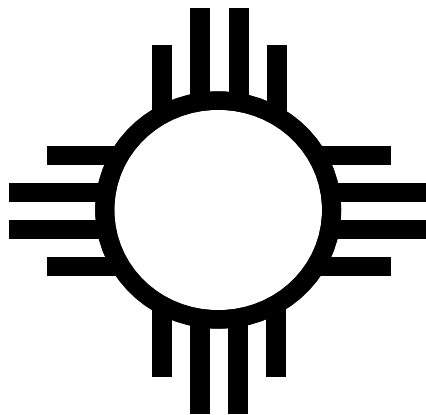
**NEW
MEXICO
REGISTER**



**Volume XXV
Issue Number 20
October 30, 2014**

New Mexico Register

**Volume XXV, Issue Number 20
October 30, 2014**



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

The Commission of Public Records
Administrative Law Division
Santa Fe, New Mexico
2014

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New Mexico Register

Volume XXV, Number 20

October 30, 2014

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A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

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The New Mexico Register
Published by
The Commission of Public Records
Administrative Law Division
1205 Camino Carlos Rey
Santa Fe, NM 87507

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

The *New Mexico Register* is published twice each month by the Commission of Public Records, Administrative Law Division. The cost of an annual subscription is \$270.00. Individual copies of any Register issue may be purchased for \$12.00. Subscription inquiries should be directed to: The Commission of Public Records, Administrative Law Division, 1205 Camino Carlos Rey, Santa Fe, NM 87507. Telephone: (505) 476-7875 Fax: (505) 476-7910 E-mail: staterules@state.nm.us.

Notices of Rulemaking and Proposed Rules

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT

NOTICE OF PUBLIC HEARING 8.15.2 NMAC and 8.16.2 NMAC

The Children, Youth and Families Department (CYFD), Early Childhood Services (ECS), will hold a formal public hearing on Tuesday, December 2, 2014, at 11:00 a.m. in Apodaca Hall of the PERA Building located at 1120 Paseo de Peralta, Santa Fe, New Mexico, to receive public comments regarding changes to regulations 8.15.2 NMAC Requirements for Child Care Assistance Programs for Clients and Child Care Providers and 8.16.2 NMAC Child Care Centers, Out of School Time Programs, Family Child Care Homes, and Other Early Care and Education Programs.

The proposed regulation changes may be obtained at www.newmexicokids.org or by calling 505-827-7499 or 1-800-832-1321. Interested persons may testify at the hearing or submit written comments no later than 12:00 p.m. on Tuesday, December 2, 2014. Written comments will be provided the same consideration as oral testimony given at the hearing. Written comments should be addressed to: Jeffrey Miles, Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160, Fax Number: 505-827-9978. For questions regarding the proposed regulation changes, please call 505-827-7499 or 1-800-832-1321.

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 call 505-827-7499 or 1-800-832-1321. ECS requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

NOTICIA DE AUDICION PÚBLICA 8.15.2 NMAC and 8.16.2 NMAC

El Departamento de Children, Youth and Families (CYFD), Servicios de Niñez Temprana (ECS), tendrá una audición formal para el público el martes, 2 de diciembre de 2014, a las 11:00 de la mañana en el salón Apodaca, el segundo piso del edificio PERA localizado en 1120 Paseo de Peralta, Santa Fe, New Mexico, para recibir comentarios públicos con respecto a cambios propuestos a las regulaciones NMAC 8.15.2, Los Requisitos para Programas de Ayuda de Guardería para

Cientes y Proveedores y NMAC 8.16.2 Centros Guardería de Niños, Programas Fuera Tiempo de Escuela, Casa de Familia Guardería de Niños y Otro Programas Cuidado y Educación Temprana.

Los cambios propuestos de la regulación pueden ser obtenidos en www.newmexicokids.org o por llamar 505-827-7499 o 1-800-832-1321. Las personas interesadas pueden testificar en la audición o someter comentarios escritos hasta las 12:00 de la tarde el día 2 de diciembre de 2014. Los comentarios escritos serán proporcionados la misma consideración como testimonio oral en la audición. Los comentarios escritos deben ser dirigidos a: Jeffrey Miles, Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160, Fax #: 505-827-9978. Preguntas con respecto a los cambios propuestos de regulación, por favor llame 505-827-7499 o 1-800-832-1321.

Si usted es una persona con incapacidades y usted requiere esta información en un formato alternativo o requiere alojamientos especiales para tomar parte en la audición pública, por favor llame 505-827-7499 o 1-800-832-1321. CYFD requiere aviso de las peticiones por lo menos 10 días de preaviso para proporcionar formatos solicitados alternativos y alojamientos especiales.

NEW MEXICO DEPARTMENT OF GAME AND FISH

STATE GAME COMMISSION MEETING AND RULE MAKING NOTICE

On **Thursday, November 13, 2014**, beginning at 9:00 a.m., at the **Northern New Mexico College-Nick Salazar Center for the Performing Arts**, located at **921 Paseo de Onate, Espanola, NM 87532**, the State Game Commission will meet in public session to hear and consider action as appropriate on the following: Recognition of Participants for Hammond Project, Director Update on Department, Economic Impact of Fishing, Hunting and Trapping in New Mexico, Proposal to Amend the Commission's Open Meeting Procedures; Revocations, Final Proposal to Importation and Authorized Uses of Live Wildlife Permitting, Final Proposed State Land Easement Agreement 2015-2016 Season, Special Drawing Application Deadlines, Update on Pronghorn Antelope Reintroduction on Santa Ana Pueblo,

Procedures to Decommission McGaffey Lake, 2013-2014 Bear and Cougar Harvest Update, Final Proposed Amendments to the Mentored-Youth Hunt Program, and Closed Executive Session.

Obtain a copy of the agenda from the Office of the Director, New Mexico Department of Game and Fish, P.O. Box 25112, Santa Fe, New Mexico 87504, or from the Department's website. This agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director's Office at (505) 476-8000, or the Department's website at www.wildlife.state.nm.us for updated information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Department at (505) 476-8000 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 Department at 505-476-8000 if a summary or other type of accessible format is needed.

NEW MEXICO REGULATION AND LICENSING DEPARTMENT OCCUPATIONAL THERAPY BOARD

LEGAL NOTICE

Public Rule Hearing and Regular Board Meeting

The New Mexico Board of Occupational Therapy Examiners will hold a Rule Hearing on Thursday, December 5, 2014. Following the Rule Hearing the New Mexico Board of Occupational Therapy will convene a regular meeting to adopt the rules and take care of regular business. The New Mexico Board of Occupational Therapy Rule Hearing will begin at 11:00 a.m. and the Regular Meeting will convene following the rule hearing. The meetings will be held at the Regulation and Licensing Department, 5200 Oakland Ave. NE Suite A, Albuquerque, NM 87113. The purpose of the rule hearing is to consider adoption of proposed amendments and additions to the following Board Rules and Regulations in 16.15.1 NMAC: General Provisions, 16.15.2 NMAC: Licensing Requirements, 16.15.3 NMAC: Supervision, 16.15.4 NMAC: Continuing Education Requirements, 16.15.5 NMAC: 16.15.6 Fee Schedule.

Persons desiring to present their views on the proposed rules may write to request draft copies from the Board office at the Toney Anaya Building located at the West Capitol Complex, 2550 Cerrillos Road in Santa Fe, New Mexico 87505, or call (505) 476-4880 after March 13, 2014. In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comment regarding the proposed rules must present them to the Board office in writing by **November 5, 2014**. Persons wishing to present their comments at the hearing will need (10) copies of any comments or proposed changes for distribution to the Board and staff.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, and you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the Board office at (505) 476-4880 at least two weeks prior to the meeting or as soon as possible.

Teresa Ortega, Board Administrator
PO Box 25101- Santa Fe, New Mexico
87504

NEW MEXICO WATER QUALITY CONTROL COMMISSION

NEW MEXICO WATER QUALITY CONTROL COMMISSION NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO AMEND 20.6.4 NMAC – STANDARDS FOR INTERSTATE AND INTRASTATE SURFACE WATERS – THE TRIENNIAL REVIEW

The New Mexico Water Quality Commission (WQCC) will hold a public hearing to consider proposed amendments to various parts of 20.6.4 NMAC, Standards for Interstate and Intrastate Surface Waters, beginning on April 14, 2015, at 9:00 a.m. in Apodaca Hall at the old PERA building, 1120 Paseo de Peralta, Santa Fe, New Mexico.

The proposed amendments, docketed as WQCC 14-05 (R), include amendments by the New Mexico Environment Department (Department), Surface Water Quality Bureau as well as amendments proposed by Amigo Bravos, Peabody Energy Corporation, and Freeport-McMoRan Chino Mines Company. Proposed amendments include, among other amendments,

revisions to various definitions, general and numeric criteria, compliance provisions, use attainability analysis requirements, uses and criteria for unclassified waters and some classified segments, provisions for site-specific criteria and other provisions. The petitions and proposed amendments may be viewed on the Department's web site at www.nmenv.state.nm.us/swqb/TriennialReview/2013 or during regular business hours by contacting Pam Castaneda, Commission Administrator, 1190 St. Francis Drive, Room S-2100, Santa Fe, New Mexico (505) 827-2425.

The hearing will be conducted in accordance with NMSA 1978, § 74-6-6, the *Guidelines for Water Quality Control Commission Regulation Hearings (Guidelines)*, and other specific procedures that may apply. A copy of the *Guidelines* is available on the Department's web site or may be obtained from the Commission Administrator at the address and phone number above. All interested persons will be given a reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce relevant exhibits and to examine witnesses testifying at the hearing.

Persons desiring to present technical testimony at the hearing must file with the WQCC a written notice of intent. The notice of intent to present technical testimony shall:

- identify the person for whom technical testimony will be presented;
- identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their education and work background;
- summarize or include a copy of the direct testimony of each technical witness;
- state the anticipated duration of the testimony of each witness;
- include the text of any recommended modifications to the proposed amendment; and
- list and describe, or attach, all exhibits anticipated to be offered by the person at the hearing.

The deadline for filing notices of intent is December 12, 2014, at 5:00 p.m. in the Commission's office. All documents filed in this matter, including notices of intent, must be filed with a single-sided original and fourteen copies. Any person may offer non-technical public comment at the hearing or submit a non-technical written statement in lieu of oral testimony at or before the hearing.

If you are an individual with a disability and

you require assistance or an auxiliary aid, e.g. translator or sign-language interpreter, to participate in any aspect of this process, please contact Juan-Carlos Borrego by February 1, 2015, at the New Mexico Environment Department, 1190 St. Francis Drive, P.O. Box 5469, Santa Fe, New Mexico 87502, (505) 827-2855. (TDD or TTY users please access the number via the New Mexico Relay Network, Albuquerque TDD users: (505) 275-7333; outside of Albuquerque: 1-800-659-1779 (voice); TTY users: 1-800-659-8331). Copies of the proposed amendments will be available in alternative forms if requested by December 12, 2014.

The Commission may deliberate and rule on the proposed amendments at the close of the hearing, or decide to deliberate at a subsequent meeting.

NEW MEXICO WATER QUALITY CONTROL COMMISSION

NUEVO MEXICO AGUA CONTROL DE CALIDAD DE LA COMISIÓN AVISO DE AUDIENCIA PÚBLICA PARA CONSIDERAR ENMIENDAS DE ENMIENDA PROPUESTA 20.6.4 NMAC - NORMAS PARA LA AUTOPISTA Y AGUAS SUPERFICIALES INTRAESTATALES - LA REVISIÓN TRIENAL

La Comisión de Calidad del Agua de Nuevo México (WQCC) llevará a cabo una audiencia pública para examinar las enmiendas propuestas a diversas partes del 20.6.4 NMAC, Normas para la Interestatal y Aguas Superficiales dentro del estado, comenzando el 14 de abril de 2015, a las 9:00 am en el Salón de Apodaca en el antiguo edificio de PERA, 1120 Paseo de Peralta, Santa Fe, Nuevo Mexico.

Las enmiendas propuestas, protocolizado como WQCC 14-05 (R), incluyen enmiendas por parte del Departamento de Medio Ambiente de Nuevo México (Departamento), de superficie Oficina de la Calidad del Agua, así como las enmiendas propuestas por Amigo Bravos, Peabody Energy Corporation, y Freeport-McMoRan Chino Mines Company . Las enmiendas propuestas incluyen, entre otras modificaciones, revisiones a diversas definiciones, criterios generales y numéricos, las disposiciones de cumplimiento, utilizan los requisitos de análisis attainability, usos y criterios para aguas no clasificados y algunos segmentos de anuncios, disposiciones relativas a los criterios específicos del sitio y otras

disposiciones. Las peticiones y enmiendas propuestas se pueden ver en el sitio web del Departamento en www.nmenv.state.nm.us/swqb/TriennialReview/2013 o durante horas de oficina regulares poniéndose en contacto con Pam Castañeda, administrador Comisión, 1190 St. Francis Drive, Room S -2100, Santa Fe, Nuevo México (505) 827-2425.

La audiencia se llevará a cabo de conformidad con NMSA 1978, § 74-6-6, las Directrices para las audiencias de la Comisión de Control de la Calidad del Agua Reglamento (Directrices), y otros procedimientos específicos que puedan aplicarse. Una copia de las Directrices está disponible en el sitio Web del Departamento o puede ser obtenida del administrador Comisión en la dirección y el número telefónico arriba. Todas las personas interesadas se les dará una oportunidad razonable en la audiencia para presentar pruebas pertinentes, datos, opiniones y argumentos, de forma oral o por escrito, a presentar pruebas pertinentes y examinar los testigos que declaren en la audiencia.

Las personas que deseen presentar testimonio técnico durante la audiencia deberá presentar ante la WQCC una notificación por escrito de la intención. El aviso de la intención de presentar testimonio técnico deberá:

- identificar a la persona para quien se presentará testimonio técnico;
 - identificar a cada testigo técnico que la persona tiene la intención de presentar y exponer las calificaciones de ese testigo, incluyendo una descripción de su educación y antecedentes de trabajo;
 - resumir o incluir una copia del testimonio directo de cada testigo técnico;
 - Estado de la duración prevista del testimonio de cada testigo;
 - incluir el texto de las modificaciones recomendadas a la modificación propuesta;
- y
- Enumerar y describir, o adjuntar, todas las pruebas anticipadas que se ofrecerán por la persona en la audiencia.

La fecha límite para la presentación de avisos de intención es 12 de Diciembre, 2014, a las 5:00 pm en la oficina de la Comisión. Todos los documentos presentados en este asunto, incluidos los avisos de intención, debe ser presentada ante un original de una cara y catorce copias. Cualquier persona puede ofrecer a los comentarios del público no técnica en la audiencia o presentar una declaración escrita no técnica en lugar de testimonio oral en o antes de la audiencia.

Si usted es una persona con una

discapacidad y necesita ayuda o una ayuda auxiliar, por ejemplo, traductor o intérprete de lenguaje de señas, para participar en cualquier aspecto de este proceso, por favor póngase en contacto con Juan-Carlos Borrego el 1 de febrero de 2015, en el Departamento de Medio Ambiente de Nuevo México, 1190 St. Francis Drive, PO Caja de 5469, Santa Fe, Nuevo México 87502, (505) 827-2855. (TDD o TTY usuarios acceden por favor el número a través de la Red de Relevo de Nuevo México, Albuquerque usuarios TDD: (505) 275 a 7333, en el exterior de Albuquerque: 1-800-659-1779 (voz); los usuarios de TTY: 1-800-659 -8331). Las copias de las enmiendas propuestas estarán disponibles en formas alternativas si así lo solicita el 12 de diciembre de 2014.

La Comisión podrá deliberar y pronunciarse sobre las enmiendas propuestas en el cierre de la audiencia, o decidir deliberar en una reunión posterior.

NEW MEXICO WORKERS' COMPENSATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Notice is hereby given that on Thursday, November 6, 2014, commencing at 1:30 p.m., the New Mexico Workers' Compensation Administration will conduct a public hearing on the changes to the Health Care Provider Fee Schedule.

The hearing will be conducted at the Workers' Compensation Administration, 2410 Centre Avenue S.E., Albuquerque, NM. Copies of the list of changes to the fee schedule will be available by October 20, 2014. You may obtain a copy of the proposed changes at the WCA website at: <http://www.workerscomp.state.nm.us/>. If you would like to receive a copy by mail, please submit a self-addressed, stamped envelope with your written request.

Comments made in writing and at the public hearing will be taken into consideration. Written comments on the changes will be accepted until the close of business on November 19, 2014. Oral comments will be limited to five (5) minutes per speaker.

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 aide or service to attend or participate in the hearing or meetings, please contact the General Counsel Office at (505) 841-6083. Or you may inquire about assistance through the New Mexico relay network at 1-800-659-8331.

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 8.102.462
NMAC, Section 13, effective 11-01-2014.

8.102.462.13 LEAVE BALANCES AND ABSENCES:

A. Annual and sick leave:
While participating in the NMW wage subsidy program, the participant is entitled to accrue a balance of both sick and annual leave, as provided by the employer.

B. Excused absences:
Participants are entitled to unpaid excused absences at the discretion of the site supervisor or NMW service provider. A participant may not be allowed more than 16 hours of unpaid excused absences in any month or 80 hours cumulatively during the wage subsidy term, without good cause. Absences are approved by the site supervisor or by the NMW service provider.

[D-] C. Absences in excess of the accrued annual, sick and the unpaid excused absence totals will result in termination of the NMW wage subsidy activity and the participant will be subject to the conciliation and sanction process in accordance with regulation at 8.102.620 NMAC. The appropriate termination process dictated by the employer's human resources procedures shall be followed. [8.102.462.13 NMAC - Rp, 8.102.460.32 NMAC, 04/01/2012; A, 11-01-2014]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 310 HEALTH CARE PROFESSIONAL SERVICES PART 12 INDIAN HEALTH SERVICE AND TRIBAL 638 FACILITIES

8.310.12.1 ISSUING AGENCY:
New Mexico Human Services Department (HSD).
[8.310.12.1 NMAC - N, 11-1-14]

8.310.12.2 SCOPE: This rule applies to the general public.
[8.310.12.2 NMAC - N, 11-1-14]

8.310.12.3 STATUTORY AUTHORITY: The New Mexico Medicaid program and other health care programs are administered pursuant to regulations promulgated by the federal department of

health and human services under Title XIX of the Social Security Act as amended or by state statute. See Section 27-2-12 et seq. NMSA 1978.

[8.310.12.3 NMAC - N, 11-1-14]

8.310.12.4 DURATION:
Permanent.
[8.310.12.4 NMAC - N, 11-1-14]

8.310.12.5 EFFECTIVE DATE:
November 1, 2014, unless a later date is cited at the end of a section.
[8.310.12.5 NMAC - N, 11-1-14]

8.310.12.6 OBJECTIVE: The objective of these rules is to provide instruction for the service portion of the New Mexico medical assistance programs (MAP).
[8.310.12.6 NMAC - N, 11-1-14]

8.310.12.7 DEFINITIONS:
[RESERVED]

8.310.12.8 MISSION STATEMENT: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.
[8.310.12.8 NMAC - N, 11-1-14]

8.310.12.9 INDIAN HEALTH SERVICE AND TRIBAL 638 FACILITIES: HSD, through the medical assistance division (MAD), pays for medically necessary health services furnished to an eligible recipient, including American Indian and Alaska native (AI/AN) eligible recipients. The Indian health service (IHS) is a federal agency within the United States department of health and human services (DHHS) that is responsible for providing health services to AI/ANs based on the unique government-to-government relationship between federally recognized tribes and nations and the federal government. The IHS health care delivery system consists of health facilities owned and operated by IHS, facilities owned by IHS and operated by tribes or tribal organizations under Title I or Title III of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, as amended) agreements, and facilities owned and operated by tribes or tribal organizations under such agreements, hereafter referred to as "IHS and tribal 638 facilities". Pursuant to Section 1911 of the Social Security Act; see 42 U.S.C. 1369j and the 1996 memorandum of agreement between IHS and the centers for medicare and medicaid services (CMS), IHS and

tribal 638 facilities are eligible to be reimbursed by MAD for furnishing covered healthcare services to a MAP eligible AI/AN recipient (eligible recipient). Specific to this rule, an eligible recipient includes a member enrolled in a HSD contracted managed care organization (MCO).
[8.310.12.9 NMAC - N, 11-1-14]

8.310.12.10 ELIGIBLE PROVIDERS:

A. Health care to an eligible recipient is furnished by a variety of providers and provider groups. Reimbursement and billing for these services are administered by MAD. Upon approval of a New Mexico provider participation agreement (PPA) by MAD or its designee, licensed practitioners, facilities and other providers of services that meet applicable requirements are eligible to be reimbursed for furnishing covered services to an eligible recipient. Providers must be enrolled before submitting a claim for payment to the MAD claims processing contractor. MAD makes available on the HSD website, on other program specific websites, or in hard copy format, information necessary to participate in health care programs administered by HSD or its authorized agents, including program rules, billing instructions, utilization review instructions, and other pertinent material. When enrolled, a provider receives instruction on how to access these documents. It is the provider's responsibility to access these instructions, to understand the information provided therein and comply with the requirements. Providers must contact MAD for answers to billing questions or any of these materials. To be eligible for reimbursement, a provider must adhere to provisions of the MAD PPA and applicable statutes, regulations, rules and executive orders. MAD, or its selected claims processing contractor, issues payment to a provider using electronic funds transfer (EFT) only. Upon approval of the provider's PPA by MAD, the following practitioners and facilities may be enrolled as MAD providers:

- (1) IHS facilities;
- (2) Public Law 93-638 tribal facilities;
- (3) urban Indian facilities (follows the rules for a federally qualified health center);
- (4) IHS or tribal 638 facility pharmacies which follow 8.324.4 NMAC; and
- (5) off site locations on federal land and facilities approved by MAD.

B. Practitioners contracted

or employed by the above facilities are enrolled as individual providers for rendering services when appropriate.

C. Services rendered must be medically necessary and within the scope of practice of the practitioner or provider and are limited to benefits and services covered by MAD.

D. For services provided under the federal public health service, including IHS, rendering providers must meet the requirements of the public health service corp.

E. Additional provider numbers or NPI numbers may be required when necessary to assure that claiming of federal matching funds by MAD is accurate as per federal requirements to distinguish between 100% federal match rates and other match rates.

[8.310.12.10 NMAC - N, 11-1-14]

8.310.12.11 PROVIDER RESPONSIBILITIES AND REQUIREMENTS:

A. A provider who furnishes services to an eligible recipient must comply with all applicable laws, regulations, rules, standards, and the provisions of the MAD PPA. A provider must adhere to MAD program rules as specified in the New Mexico administrative code (NMAC) and program policies that include, but are not limited to, supplements, billing instructions, and utilization review directions, as updated. The provider is responsible for following coding manual guidelines and centers for medicare and medicaid services (CMS) correct coding initiatives, including not improperly unbundling or upcoding services.

B. A provider must verify an individual is eligible for a specific MAD service and verify the recipient's enrollment status at time of service. A provider must determine if an eligible recipient has other applicable health insurance. A provider must maintain records that are sufficient to fully disclose the extent and nature of the services provided to an eligible recipient.

C. Services furnished must be within the scope of practice defined by the provider's licensing board, scope of practice act or regulatory authority, or as customarily provided under IHS or public health service administrative direction including the level of supervision required for services.

[8.310.12.11 NMAC - N, 11-1-14]

8.310.12.12 COVERED

SERVICES: MAD covers medically necessary services and procedures for the diagnosis and treatment of an illness or injury as indicated by the eligible recipient's condition. Services must be furnished within the limits of MAD rules and within

the scope of practice of the provider's professional standards. Public health services including services by public health nurses are covered to the same extent their services would be covered for non-IHS public health facilities. Limitations on covered services based on age and category of eligibility also apply to services rendered at an IHS or tribal 638 facility. Examples include enhanced benefits only available to early and periodic screening, diagnostic and treatment (EPSDT) eligible recipients, and limitations and enhanced services for alternative benefit plan (ABP) eligible recipients and eligible recipient pregnant women.

A. Outpatient encounters

and visits: An outpatient encounter or visit is face-to-face contact between a practitioner and an eligible recipient as documented in the eligible recipient's physical or behavioral health record. An encounter or visit can occur at an IHS facility, tribal 638 facility, or a MAD recognized offsite location including IHS or tribal facility-based services that are provided in the home or in community centers or other locations but the medical records and the supervision or direction of the service comes from the eligible facility. To be billable as an encounter, the eligible recipient must be seen by a level of practitioner who would be eligible to be enrolled as a MAD provider or a practitioner comparable to that required by other service and provider rules or the service must be supervised by a level of practitioner who would be eligible to be enrolled as a MAD provider or a practitioner comparable to that required by other service and provider rules. Examples include but are not limited to the following: audiologist, behavioral health professional, certified nurse midwife, certified nurse practitioner, clinical nurse specialist, clinical pharmacy specialist, dentist, dental hygienist, licensed dietician, occupational therapist, optometrist, pharmacist clinician, physician assistant, physician, physical therapist, podiatrist, speech therapist and other provider types within their scope of practice as designated by MAD; see 8.310.2 NMAC, 8.310.3 NMAC and 8.321.2 NMAC.

(1) Visits to the same facility, on the same day, for the same or related diagnosis constitutes a single encounter.

(2) Multiple encounters can occur on the same date of service when the services are distinct. The following are examples of types of separate encounters:

(a) an eligible recipient receives a service that is not associated with the initial encounter and the service provided is for a different

principal diagnosis; or

(b) an eligible recipient is seen at two different facilities (different provider numbers) and one of the facilities is unable to provide the necessary services for the diagnosis or treatment of the eligible recipient's condition.

(3) An outpatient encounter may be billed when a visit consists of services that could be provided in a physician's office such as instructions to a diabetic, medication management, and anticoagulant management, when provided by a qualified individual as part of a facility-based outpatient program if no other related encounter occurs that day, similar to how services would be covered for other providers and clinics in other MAD service rules.

(4) An outpatient encounter may be billed when an eligible recipient returns at a later date for a follow up MAD service such as a laboratory, radiology, or therapy service which does not require an additional physician visit if no other related visit occurs that day.

(5) When a MAD service typically requires multiple visits such as orthodontia services, crowns, and dentures, the provider may bill an amount for the initial service that includes the standard number of encounters for the service are for the standard number of visits, similar to how services would be covered for other providers in other MAD service rules, or be paid at a fee schedule amounts that closely approximates the appropriate payment for multiple services.

B. Inpatient hospital stays: An inpatient hospital stay occurs when an eligible recipient is admitted and stays overnight.

C. Services not subject to office of management and budget (OMB) codes or rates: Some services are covered by MAD when occurring within an IHS or a tribal facility but are not included or billed at the OMB rate. These services are covered to the extent described under applicable rules for the service, and include:

- (1) anesthesia (professional charges);
- (2) ambulatory surgical center facility services;
- (3) targeted case management;
- (4) hearing appliances (hearing testing is reimbursed at the OMB rate);
- (5) physician inpatient hospital visits and surgeries;
- (6) smoking cessation;
- (7) vision appliances, including frames, lenses, dispensing, and contacts (vision exams are

at the OMB rate); and
 (8) telemedicine's originating site facility fee; a telemedicine originating site fee is covered when the requirements of 8.310.2 NMAC are met; both the originating and distant sites may be IHS or tribal facilities at two different locations or if the distant site is under contract to the IHS or tribal facility and would qualify to be an enrolled provider; a telemedicine originating site fee is not payable if the telemedicine technology is used to connect an employee or staff member of a facility to the eligible recipient being seen at the same facility; however, even if the service does not qualify for a telemedicine originating site fee, the use of telemedicine technology may be appropriate thereby allowing the service provided to meet the standards to qualify as an encounter by providing the equivalent of face-to-face contact.

D. Behavioral health services:

(1) Outpatient behavioral health services billed using the outpatient OMB codes include assessments and evaluations, outpatient therapies, comprehensive community support services (CCSS), and other services as approved by MAD.

(2) Other specialized behavior health services may be reimbursed at the MAD fee for service (FFS) rate or at an OMB rate, as agreed between the facility and MAD.

(3) Prior to billing specialized behavioral health services including CCSS, the IHS or tribal 638 facility must submit documentation to MAD demonstrating the ability to adhere to the service definitions and standards for the specific service; see 8.321.2 NMAC.

E. Pharmacy services: See 8.324.4 NMAC for an IHS and a tribal 638 facility enrolled as a pharmacy. Pharmacy services are not part of the OMB rate. Pharmacy claims are not limited to a 30 or 90 day supply when the prescriber has written for a larger days supply of medication. Pharmacy claims may exceed the days supply limitations if the amounts dispensed at one time is reasonable. IHS and tribal 638 facility pharmacy claims are not subject to formularies or preferred drug lists or authorization as the facility maintains its own formulary.

F. Transportation services: For a detailed description of transportation services, see 8.324.7 NMAC. [8.310.12.12 NMAC - N, 11-1-14]

8.310.12.13 PRIOR AUTHORIZATION AND UTILIZATION REVIEW: IHS and tribal 638 facilities need not obtain prior authorization for services, but must continue

to follow standards of care within its scope of practice and retain documentation in the eligible recipient's physical and behavioral health record. MAD services are subject to utilization review for medical necessity and program compliance. Reviews may be performed before or after services are furnished. [8.310.12.13 NMAC - N, 11-1-14]

8.310.12.14 NON-COVERED SERVICES: For a detailed description of general non-covered MAD services, see 8.310.2 NMAC and 8.321.2 NMAC. Other MAD service rules may have additional non-covered MAD service restrictions. [8.310.12.14 NMAC - N, 11-1-14]

8.310.12.15 REIMBURSEMENT: OMB rates are published annually in the federal register and are applicable to an IHS and a tribal 638 facility. These rates are applied retroactively to their effective date.

A. IHS OMB outpatient and inpatient reimbursement rates include facility fees and professional fees except as described in this rule.

(1) Outpatient encounters and visits: MAD reimburses outpatient encounters and visits at the OMB outpatient encounter rate. Reimbursement at OMB rates is retroactive to the dates of service for which the OMB rates are applicable.

(2) Inpatient hospital service: MAD reimburses covered inpatient hospital stays at the federally published OMB hospital inpatient per diem rate. The inpatient OMB rate applies when an eligible recipient has been under outpatient care observation or is receiving extended outpatient medical services, and the time period has been for 24 hours or more whether the eligible recipient has been formally admitted or not. Risk factors such as distance of the facility from the eligible recipient's residence for potential emergency follow up care, as well as lack of availability of step-down care providers (home health services, nursing facilities, and acute long term care hospital facilities) may be considered in making discharge decisions regarding the eligible recipient. Alternatively, the facility may elect to bill a daily outpatient OMB rate for an eligible recipient under observation. Reimbursement at OMB rates is retroactive to the date of service for which the federal OMB rates are applicable.

(3) Reimbursement following medicare payment is made at the full copayment, deductible and co-insurance amounts determined by medicare. Reimbursement following payment by other insurance is made at the OMB rate, is applicable, less the payment received from the other insurer.

B. Services not subject to the OMB rates are reimbursed according to MAD rules for the specific service. For services not reimbursable the facility at 100% federal matching funds, the facility may be enrolled additionally for services to be paid at standard federal matching rates.

C. Electronic billing requirements: Electronic billing of claims is required unless an exemption has been allowed by MAD. Exemptions will be given on a case-by-case basis with consideration given to barriers faced by the provider in electronic billing, such as small volume for which developing electronic submission capability is impractical. The requirement for electronic submission of claims does not apply when paper attachments must accompany the claim form.

D. Responsibility for claims: A provider is responsible for all claims submitted under his or her national provider identifier (NPI) or provider number, including responsibility for accurate coding representing the services provided without inappropriately upcoding, unbundling, or billing mutually exclusive codes as indicated by published coding manuals, directives, CMS correct coding initiatives, and NMAC MAD rules. [8.310.12.15 NMAC - N, 11-1-14]

HISTORY OF 8.310.12 NMAC:
 [RESERVED]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

**TITLE 6 PRIMARY AND SECONDARY EDUCATION
 CHAPTER 30 EDUCATIONAL STANDARDS - GENERAL REQUIREMENTS
 PART 12 K-3 PLUS PROGRAM**

6.30.12.1 ISSUING AGENCY: Public Education Department. [6.30.12.1 NMAC - N, 10/30/2014]

6.30.12.2 SCOPE: This rule applies to all school districts, public schools, including charter schools. [6.30.12.2 NMAC - N, 10/30/2014]

6.30.12.3 STATUTORY AUTHORITY: Subsection D of Section 9-24-8 and Section 22-13-28 NMSA 1978. [6.30.12.3 NMAC - N, 10/30/2014]

6.30.12.4 DURATION: Permanent. [6.30.12.4 NMAC - N, 10/30/2014]

6.30.12.5 EFFECTIVE DATE:
October 30, 2014, unless a later date is cited at the end of a section.
[6.30.12.5 NMAC - N, 10/30/2014]

6.30.12.6 OBJECTIVE: This rule provides K-3 plus program and application requirements and procedures and criteria for evaluating applications.
[6.30.12.6 NMAC - N, 10/30/2014]

6.30.12.7 DEFINITIONS:
A. "Award period" means the period of the equivalent of at least 25 additional instructional days provided through the K-3 plus program after the close of one school year and prior to the beginning of the following school year.
B. "Department" means the public education department.
C. "High-poverty public schools" means for the purpose of the K-3 plus program, a public school, including a charter school, in which 80% or more of the students are eligible for free or reduced-fee lunch at the time the public school applies for the K-3 plus program or an elementary school with a D or F grade the previous year as determined in accordance with the A-B-C-D-F Schools Rating Act (Sections 22-2E-1 through 22-2E-4 NMSA 1978) and 6.19.8 NMAC.

D. "K-3 plus program" means a voluntary program for additional educational time for approved full-day kindergarten and grades one through three students extending the school year or the equivalent of at least 25 additional instructional days in literacy and numeracy beginning up to two months earlier than the regular school year.

E. "Progress monitoring" means the standardized assessment measures conducted between screening assessments on students who are receiving targeted and intensive interventions to determine whether the student is benefitting from interventions.

F. "Request for application or RFA" means all documents, including those attached or incorporated by reference, used for soliciting applications.

G. "Research-based scientific reading strategies and programs" mean instructional strategies and reading programs that apply rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties.

H. "Screening assessment" means the standardized assessment measures conducted three to four times a year for all students to assess specific skills and to identify those at risk academically.

I. "Secretary" means the secretary of public education.
[6.30.12.7 NMAC - N, 10/30/2014]

6.30.12.8 PROGRAM ELIGIBILITY: High poverty public schools are eligible to provide the K-3 plus program for approved full-day kindergarten and grades one through three students.
[6.30.12.8 NMAC - N, 10/30/2014]

6.30.12.9 PROGRAM ELEMENT - INSTRUCTION:
A. K-3 plus programs for kindergarten students shall include:
(1) a daily classroom schedule with at least 90 minutes of literacy instruction provided for kindergarten students and at least 120 minutes of literacy instruction provided for students in grades one through three including time for all students to practice independent reading; instruction and intervention shall be provided to students based on screening assessment data to guide instruction to meet student needs;

(2) a comprehensive research-based early literacy core basal reading program or intervention in alignment with both the English language arts common core state standards published by the national governor's association center for best practices and the council of chief state school officers and incorporated by reference in 6.29.13 NMAC and the additional applicable New Mexico standards as established in 6.29.13.8 NMAC that:

(a) identifies the concepts and skills necessary to establish the foundation of success in early reading;

(b) includes instructional strategies that ensure children learn identified concepts and skills; and

(c) includes key early literacy skills instruction including but not limited to phonological awareness, phonics, reading fluency, vocabulary, comprehension, and writing to support comprehension;

(3) a sequential comprehensive, developmentally appropriate early mathematics program with at least 90 minutes of instruction provided for students in grades kindergarten through three in alignment with the mathematics common core state standards published by the national governor's association center for best practices and the council of chief state school officers and incorporated by reference in 6.29.14 NMAC that:

(a) identifies the concepts and skills necessary to establish the foundation of success in early mathematics; and

(b) includes instructional strategies that ensure children learn identified concepts and skills; and

(4)

implementation of the department's response to intervention (RTI) framework known as *The Three-Tier Model of Student Intervention* in reading and math. The state guidance manual, *The Student Assistance Team and the Three-Tier Model of Student Intervention* shall be the guiding document for districts and schools to use in the implementation of student intervention for academics and behavior for each tier of RtI.
B. Schools shall provide intervention services in literacy and numeracy for students enrolled in the K-3 Plus program who are not meeting grade level requirements.
[6.30.12.9 NMAC - N, 10/30/2014]

6.30.12.10 PROGRAM ELEMENT - ASSESSMENT:

A. K-3 plus schools shall administer a screening assessment in literacy, approved by the department, which measures the acquisition of reading skills including phonological awareness, phonics, reading fluency, vocabulary and comprehension.

B. The screening assessment in accordance with the requirements of this section shall be administered to students participating in the K-3 plus program at the following times:

(1) beginning of the K-3 plus program;
(2) beginning of the school year;
(3) mid-point of the school year; and
(4) end of the school year.

C. In addition to the assessments required by Subsections A and B of this section, K-3 plus schools shall conduct progress monitoring between screening assessments.
[6.30.12.10 NMAC - N, 10/30/2014]

6.30.12.11 PROGRAM ELEMENT - PROFESSIONAL DEVELOPMENT:

A. The department shall provide professional development to K-3 Plus teachers in the areas of:

(1) early literacy research and its implications for instruction for phonological awareness, phonics, spelling, reading fluency, vocabulary, comprehension, and writing to support comprehension in kindergarten and grades one through three;

(2) best practices of English as a second language (ESL)/English language learner (ELL) instruction; and

(3) best practices in early mathematics instruction.

B. To support successful implementation of K-3 plus programs the

department shall develop and disseminate information on best practices in the areas of student recruitment, retention and academic success of early learners. (Section 22-13-28 NMSA 1978).
[6.30.12.11 NMAC - N, 10/30/2014]

6.30.12.12 APPLICATION AND REVIEW PROCESS:

A. School districts seeking approval for a K-3 plus program for schools shall request department approval through completion and submission of a request for application (RFA) for a June/July/August K-3 plus program.

B. The department shall review all requests for approval and shall grant priority to those schools with research based scientific reading strategies and programs.

C. The applicant shall demonstrate that its K-3 plus program shall meet all department standards and employ only highly qualified teachers and other staff.

D. The department shall notify all schools and charter schools by February 1 that applications shall be accepted until March 15 and that final funding is contingent on the final unit value set by the secretary. The notification shall include the application and any requirements for supplementary documentation.

E. Schools that are awarded funding for K-3 plus for the next school year shall be notified by April 15 of the calendar year.
[6.30.12.12 NMAC - N, 10/30/2014]

6.30.12.13 FUNDING:

A. K-3 plus shall be administered by the department and shall provide the funding for approved full-day kindergarten and grades one through three as follows:

(1) Full day kindergarten and grades one through three shall be extended by at least 25 instructional days, beginning up to two months earlier than the regular school year. The 25 instructional days shall at least equal the total number of hours produced by multiplying five and one-half hours per day by the required 25 days.

(2) School districts and charter schools maintaining four-day calendars during the period between the close of a regular school year and the beginning of the following school year may fulfill the requirement in Paragraph (1), above, by extending full-day kindergarten and grades one through three by at least 20 instructional days beginning up to two months earlier than the regular school year. The instructional days shall at least equal the total number of hours

produced by multiplying five and one-half hours per day by 25. School districts and charter schools shall document that the school district or charter school maintains a four-day calendar during the time period described.

B. The department shall provide notification of application approval by award letter to the district/charter school by April 15.

C. K-3 plus programs shall be funded as follows:

(1) Funding for individual school programs is calculated by multiplying the number of students enrolled on the fifteenth day as identified in the student teacher accountability reporting system (STARS) and who have been in attendance for at least 10 days of the K-3 plus program by no less than 30% of the final unit value for 1.0 program unit.

(2) In setting the reimbursement amount for the summer 2014 K-3 plus program, the secretary shall use the final unit value for school year 2013-2014 as the basis for funding June, July and August 2014 K-3 plus programs.

(3) Up to 2% of the money received by a school district shall be used for student recruitment and to ensure regular attendance by K-3 plus students.

D. All K-3 plus program funds shall be paid on a reimbursement basis. Services shall be reimbursed once delivered and a request for reimbursement (RfR) is submitted by districts/charter schools.

E. Funding granted under the K-3 plus application shall be expended and all RfRs shall be submitted to the department by December 31 of the calendar year in which the program is conducted. Schools under an alternative schedule or as agreed upon by the department shall have funds expended and all RfRs submitted by June 30 of the fiscal year in which the program is conducted.

F. K-3 plus program funding may be used to support the following but shall not be used to supplant funds designated for year-round expenses:

(1) teacher salaries including instructional coaches, interventionists, and other staff paid at the same district rate and under the same terms as for regular education programs;

(2) educational assistant salaries paid at the same district rate and under the same terms as for regular education programs;

(3) supplies and materials to support extending the instructional program including research-based intervention programs for literacy and numeracy;

(4) recruitment

activities and incentives for attendance; up to 2% of the funds received by a school district or charter school shall be used for student recruitment and to ensure regular attendance by K-3 plus students.

G. The cost of salaries and benefits incurred for any persons serving other programs simultaneous to the K-3 plus program shall be cost allocated appropriately. The cost allocation plan shall be submitted for approval as part of the application.

H. K-3 plus programming for students with disabilities shall be paid for by K-3 plus funds. Additional services as required by the individualized education program (IEP) can be paid for by the district special education budget. School districts shall meet the maintenance of effort (MOE) requirements at 34 CFR Section 300.203, of the Individuals with Disabilities Education Act (IDEA) regulations. The expenditure levels for special education and related services shall be maintained or shall exceed the previous year, unless a district has allowable exceptions under 34 CFR Section 300.204 or is allowed to reduce MOE pursuant to 34 CFR Section 300.205. School districts may use IDEA funds only for the excess cost of providing special education and related services for students with disabilities.

I. Funding for K-3 plus programs is subject to appropriation by the New Mexico legislature.

[6.30.12.13 NMAC - N, 10/30/2014]

6.30.12.14 EVALUATION AND REPORTING:

A. Schools shall comply with annual and interim reports as required by the department for student and program assessments.

B. All students participating in K-3 plus shall be reported to the department through the department's data collection and reporting system.

Required fields include the following:

(1) demographic information;

(2) services rendered under the RtI framework

(3) assigned teacher;

(4) number of years the student has participated in the K-3 plus program.

C. The department may request additional information regarding staffing, endorsements, and licensure levels, program elements, class roster reports, professional development activities, parent involvement activities, implementation successes and challenges, and suggested modifications.

D. Site monitoring visits by the department or by evaluators

designated by the department shall be conducted.

E. The department shall report annually to the legislature and the governor on the efficacy of the K-3 plus program.

[6.30.12.14 NMAC - N, 10/30/2014]

**HISTORY OF 6.30.12 NMAC:
[RESERVED]**

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

This is an amendment to 19.15.40 NMAC, Sections 15 and 24, effective 01/01/2015.

19.15.40.15 LICENSE CLASSIFICATIONS, SCOPES AND FEES: License classifications are defined and annual license fees are set as follows.

A. LP-1 wholesale sale or delivery of LP gas \$125.00. A licensee under this classification is authorized to wholesale, transport and/or deliver LP gas in vehicular units into or out of any location except that of an ultimate consumer. This classification will allow delivery to the ultimate consumer whose facilities require a bulkhead.

B. LP-3S retail sale of LP gas \$65.00. A licensee under this classification is authorized to deliver, transfer and transport LP gas in a liquid state to the ultimate consumer, both intrastate and interstate. The company employing the LP-3S licensee must also hold an LP-5 license in order to hold a LP-3S license. A person holding this classification is authorized to perform all work as described in classifications LP-1 and LP-9.

C. LP-4 limited installation, service and repair \$125.00. A licensee under this classification is authorized to install, service and repair appliances, equipment, and piping for use with LP gas in residences and commercial buildings except mobile homes (as defined by the Manufactured Housing Act) recreational vehicles and similar units. The scope of the work for the LP piping is from (point of delivery) to the final connection of the appliances. In order to qualify for this classification, a licensee must hold mechanical license classification MM2 or MM98.

D. LP-5 installation, service and repair \$125.00. A licensee under this classification is authorized to install or erect liquid transfer facilities; install or repair piping and equipment attached to cargo containers; and to install,

service and repair appliances, equipment and piping for use with LP gas in residences and commercial buildings including mobile homes (as defined by the Manufactured Housing Act), recreational vehicles and similar units. The scope of the work for the LP gas appliances in this classification does not include the HVAC ductwork or hydronic piping systems connected to any appliance. Those specialties fall under the mechanical license classifications.

E. LP-6 installation, service and repair of mobile units only \$75.00. A licensee under this classification is authorized to install, service and repair LP gas appliances, equipment and piping in manufactured housing, travel trailers, recreational vehicles, campers and similar units.

F. LP-7 wholesale or manufacture of appliances, equipment or containers \$50.00. A licensee under this classification is authorized to wholesale or manufacture appliances, equipment or containers for use with LP gas.

G. LP-8 installation, service and repair of cylinder exchange cabinets \$35.00. A licensee under this classification is authorized to install, service and repair LP gas cylinder exchange cabinets and to deliver portable containers (maximum water capacity 239#).

H. LP-9 station for dispensing LP gas \$35.00. A licensee under this classification is authorized to dispense LP gas into fuel containers on vehicles or to fill and/or deliver portable containers (maximum water capacity 239#).

I. LP-10 LP gas carburetion sales, service and installation, including repair \$35.00. A licensee under this classification is authorized for LP gas carburetion sale, service and installation, including repair.

J. CNG-1 CNG carburetion sale, service and installation \$35.00. A licensee under this classification is authorized for CNG gas carburetion sale, service and installation, including repair.

K. LNG-1 LNG carburetion sale, service and installation \$35.00.

L. Qualifying party identification card \$15.00.

M. Annual renewal fee per qualifying party identification card \$10.00.

N. Licensing examination fee \$25.00.

O. Licensing re-examination fee \$25.00.

P. The total license fee charged any one licensee for a combination of LP gas activities at any one operating location is set at: \$300.00.

[19.15.40.15 NMAC - Rp, 19.15.40.15 NMAC, 2-1-06; A, 04-01-13; A, 01-01-15]

19.15.40.24 STANDARDS. This rule adopts by reference the following standards, as amended herein:

A. [2009] 2012 national fuel gas code, referred to as NFPA54;

B. [2011] 2014 liquefied petroleum gas code, referred to as NFPA 58;

C. 2008 guide for fire and explosion investigations, referred to as NFPA 921;

D. 2011 standard on recreational vehicles, referred to as NFPA 1192;

E. 2010 vehicle gaseous fuel systems code, referred to as NFPA 52. [19.15.40.24 NMAC - N, 11-25-08; A, 7-1-09; A, 1-1-12; A, 01-01-15]

End of Adopted Rules Section

Submittal Deadlines and Publication Dates 2014

Volume XXV	Submittal Deadline	Publication Date
Issue Number 21	October 31	November 13
Issue Number 22	November 14	November 26
Issue Number 23	December 1	December 15
Issue Number 24	December 16	December 30

New Mexico Register Submittal Deadlines and Publication Dates Volume XXVI, Issues 1-24 2015

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

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