

New Mexico Register

The official publication for all official notices of rulemaking
and filing of proposed, adopted and emergency rules.

Volume XXVIII - Issue 10 - May 30, 2017

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New Mexico Register

Volume XXVIII, Issue 10

May 30, 2017

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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 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) 476-7942; Fax: (505) 476-7910; E-mail: staterules@state.nm.us.

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

Notices of Rulemaking and Proposed Rules

AGING AND LONG TERM SERVICES DEPARTMENT

NOTICE OF PUBLIC HEARING

The New Mexico Aging & Long-Term Services Department will hold a public hearing on amendments to 9.2.19 NMAC - "Long-Term Care Ombudsman." The hearing will be held at 11:00 a.m. on July 3, 2017, in Hearing Room 2 located in the Toney Anaya Building, at 2550 Cerrillos Rd., Santa Fe, NM 87505.

The public hearing will be conducted to review proposed amendments regarding the Long-Term Care Ombudsman Program.

A copy of the proposed regulations may be obtained from:

Gail Trotter
Acting State Long-Term Care
Ombudsman
Aging & Long-Term Services
Department
2550 Cerrillos Rd.
Santa Fe, NM 87505
505-476-4761
gail.trotter@state.nm.us

Please submit any written comments regarding the proposed regulations to the attention of Gail Trotter at the above address or email prior to the hearing. If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in the hearing, please contact Irene Rubio by telephone at (505) 476-4708. The Department requests at least ten days advance notice to provide requested special accommodations or as soon as possible prior to the hearing.

ENVIRONMENT DEPARTMENT OIL CONSERVATION COMMISSION

Notice of Public Meeting and Public Hearing

The State of New Mexico, through its Oil Conservation Commission hereby gives notice pursuant to law and Commission rules of the following meeting and public hearing to be held at 9:00 a.m. on **June 13, 2017**, in Porter Hall at 1220 South St. Francis Drive, Santa Fe, New Mexico, before the Oil Conservation Commission. A preliminary agenda will be available to the public no later than two weeks prior to the meeting. A final agenda will be available no later than 72 hours preceding the meeting.

**Case No. 15726 IN THE
MATTER OF: PROPOSED
AMENDMENTS TO SECTION
19 OF 19.15.16 NMAC AND
SECTION 16 OF 19.15.7 NMAC,
EXTENDING THE TIME FOR
REPORTING COMPLETION OF
HORIZONTAL WELLS FROM 20
TO 45 DAYS, AND PROPOSED
FURTHER AMENDMENT OF
SECTION 19 OF 19.15.16 NMAC
TO REQUIRE OPERATORS
TO REPORT CERTAIN
INFORMATION REGARDING
HYDRAULICALLY FRACTURED
WELLS IN THE FRAC FOCUS
CHEMICAL DISCLOSURE
REGISTRY**

The proposed rule amendments are intended to (a) extend the time for reporting completion of horizontal wells from 20 to 45 days, and (b) require that disclosures concerning hydraulically fractured wells be made to the extent, and on forms prescribed by, Frac Focus, in lieu of existing Oil Conservation Division (OCD) requirements and forms, and that such disclosures be filed with both Frac Focus and OCD, and to that end:

(1) amending 19.15.16 NMAC by

amending Section 19 to change the date for completion reporting and to require filing of fracturing disclosures through Frac Focus, and (2) amending 19.15.7 NMAC by amending Section 16 thereof to conform the requirements of that rule to amended Section 19 of 19.15.16 NMAC, as proposed.

The proposed rule amendments and the meeting agenda are available from the Commission Clerk, Florene Davidson at (505) 476-3458 or can be viewed on the Hearings Page at the Oil Conservation Division's web site at <http://www.emnrd.state.nm.us/ocd>. Persons **recommending**

modifications to the proposed rule amendment must file a notice of recommended modifications with the Commission Clerk no later than 5:00 p.m. on **May 30 2017**.

The notice must include the text of the proposed rule amendments, an explanation of the impact of the recommended modifications and reasons for adopting the modifications. Persons intending to provide **written comments** on the proposed rule amendments must submit their written comments no later than 5:00 p.m. on **June 6, 2017**, to the Commission Clerk. Persons intending to offer technical testimony at the hearing must file six copies of a **Pre-hearing Statement** conforming to the requirements of 19.15.3.11 NMAC, and six copies of all exhibits the person will offer as evidence at the hearing, no later than 5:00 p.m. on **June 6, 2017**.

Proposed modifications and written comments may be hand-delivered or mailed to Ms. Davidson at 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505, or may be faxed to Ms. Davidson at (505) 476-3462. Pre-hearing Statements must be hand-delivered or mailed to Ms. Davidson at the above address.

If you are an individual with 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, please contact Ms. Davidson at (505) 476-3458 or the New Mexico Relay Network at 1-800-659-1779. Public documents can be provided in various accessible formats. Please contact Ms. Davidson if a summary or other type of accessible form is needed. A party who plans on using projection equipment at a hearing must contact Florene Davidson seven (7) business days prior to the hearing, requesting the use of the projection equipment. Wireless internet is available; however, the party must provide its own laptop computer.

Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 17th day of May, 2017.

STATE OF NEW MEXICO OIL CONSERVATION DIVISION

David Catanach
Director, Oil Conservation Division
S E A L

GAME AND FISH, DEPARTMENT OF

COMMISSION MEETING AND RULE MAKING NOTICE

On Thursday, June 22, 2017, beginning at 9:00 a.m., at the Inn of the Mountain Gods Mescalero Room, Ruidoso, New Mexico, the State Game Commission will meet in public session to hear and consider action as appropriate on the following: United States Fish and Wildlife Service (USFWS) Appeal of the Denial of Application to Release Certain Mexican Gray Wolves; Update on the USFWS Wolf Recovery Plan; Awards of Excellence and Dedication to Wildlife Management; Revocations; Initiation of Manner and Method Rule Amendments 19.31.10 NMAC and Associated Species Rules to allow for the Use of Magnification/Clarification Devices on Archery Equipment; Initiation of Manner and Method Rule Amendments 19.31.10 NMAC, to Prohibit the Use of Aircraft for

Locating Protected Wildlife for Hunting Purposes; Final Upland Game Rule 2018-2021 Seasons 19.31.5 NMAC; Final Aquatic Invasive Species Rule 19.30.14 NMAC; Initiation of Fisheries Rule Development 19.31.4 NMAC for the 2019-2023 Seasons; Approval of the Fiscal Year 2019 Capital Outlay Request; Commission Rule Regarding Trespass; Draft Rule Presentation of the Commission's Appeal Process 19.30.16 NMAC; New Rule Development Process; and Closed Executive Session.

Copies of proposed rule changes and the agenda can be obtain 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.

REGULATION AND LICENSING DEPARTMENT PHARMACY, BOARD OF

NOTICE OF REGULAR BOARD MEETING

The New Mexico Board of Pharmacy will convene on June 26th & 27th, 2017 at 9:00 a.m. and continue until finished in the Board of Pharmacy

Conference Room located at 5500 San Antonio Dr., NE, Albuquerque, NM 87109 for the purpose of conducting a regular board meeting.

The agenda is posted 72 hours prior to the scheduled meeting. You may view and download a copy of the agenda through the board's website: www.rld.state.nm.us/boards/pharmacy.aspx.

Individuals petitioning the board regarding requests/waivers and/or interested persons wishing to comment on proposed language regarding rule hearings must submit documentation for presentation; via fax (505) 222-9845, mail or email to the Executive Director, Ben Kesner, ben.kesner@state.nm.us at least two weeks in advance to the scheduled meeting, if in attendance must also provide 12 copies of that documentation for distribution to board members and staff. *(Board staff is not required to make copies.)*

The Board will address:

Rule Hearings:
16.19.6 NMAC – PHARMACIES
16.19.8 NMAC - WHOLESALE
PRESCRIPTION DRUG
DISTRIBUTION
16.19.12 NMAC – FEES

Executive Director's Report:
The board may go into Executive Session to discuss these items and any other items pursuant to Section 10-15-1H(1), Section 10-15-1H(2), Section 10-15-1H(3) or Section 10-15-1H(7) of the Open Meeting Act. Agenda items may be executed at any time during the meeting to accommodate hearings.

Any special needs accommodations for board meetings or hearings should contact Debra Wilhite, Administrative Secretary, at (505) 222-9835 or e-mail debra.wilhite@state.nm.us as soon as possible.

End of Notices of Rulemaking and Proposed Rules

Adopted Rules

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 in the State Rules Act. Unless a later date is otherwise provided by law, the effective date of the rule shall be the date of publication in the New Mexico Register. Section 14-4-5 NMSA 1978.

ENVIRONMENT DEPARTMENT AIR QUALITY BUREAU

This is an amendment to 20.2.77 NMAC, Sections 2 & 9, effective 5/30/2017.

20.2.77.2 SCOPE: Any stationary source constructing or modifying and which is subject to the requirements of 40 CFR Part 60, as amended through [~~September 15, 2015~~] January 15, 2017. [06/16/95, 11/19/97, 09/08/99; 20.2.77.2 NMAC - Rn & A, 20 NMAC 2.77.101, 06/23/00; A, 02/18/02; A, 06/13/03; A, 06/15/07; A, 08/17/09; A, 09/02/11; A, 12/19/13; A, 1/29/16; A, 5/30/17]

20.2.77.9 ADOPTION OF 40 CFR PART 60: Except as otherwise provided, the new source performance standards as promulgated by the United States environmental protection agency, 40 CFR Part 60, as amended in the Federal Register through [~~September 15, 2015~~] January 15, 2017, are hereby incorporated into this part (20.2.77 NMAC). [06/16/95, 08/02/96, 11/19/97, 09/08/99; 20.2.77.9 NMAC - Rn & A, 20 NMAC 2.77.107, 06/02/00; A, 02/18/02; A, 06/13/03; A, 06/15/07; A, 08/17/09; A, 09/02/11; A, 12/19/13; A, 1/29/16; A, 5/30/17]

ENVIRONMENT DEPARTMENT AIR QUALITY BUREAU

This is an amendment to 20.2.78 NMAC, Sections 2 & 9, effective 5/30/2017.

20.2.78.2 SCOPE: All sources emitting hazardous air

pollutants which are subject to the requirements of 40 CFR Part 61, as amended through [~~September 15, 2015~~] January 15, 2017. [06/16/95, 11/19/97, 09/08/99; 20.2.78.2 NMAC - Rn 20 NMAC 2.78.101 & A, 06/23/00; A, 02/18/02; A, 06/08/07; A, 08/17/09; A, 09/02/11; A, 1/29/16; A, 5/30/17]

20.2.78.9 ADOPTION OF 40 CFR PART 61: Except as otherwise provided, the national emission standards for hazardous air pollutants as promulgated by the United States environmental protection agency, 40 CFR Part 61, as amended in the Federal Register through [~~September 15, 2015~~] January 15, 2017 are hereby incorporated into this part (20.2.78 NMAC).

[06/16/95, 08/02/96, 11/19/97, 09/08/99; 20.2.78.9 NMAC - Rn 20 NMAC 2.78.107 & A, 06/23/00; A, 02/18/02; A, 06/08/07; A, 08/17/09; A, 09/02/11; A, 1/29/16; A, 5/30/17]

ENVIRONMENT DEPARTMENT AIR QUALITY BUREAU

This is an amendment to 20.2.82 NMAC, Sections 2 & 8, effective 5/30/2017.

20.2.82.2 SCOPE: All sources emitting hazardous air pollutants, which are subject to the requirements of 40 CFR Part 63, as amended through [~~September 15, 2015~~] January 15, 2017. [Rn, 20 NMAC 2.82.2, 08/14/98; A, 08/14/98; A, 09/08/99; 20.2.82.2 NMAC - Rn & A, 20 NMAC 2.82.101, 06/23/00; A, 02/18/02; A, 06/13/03; A, 06/08/07; A, 08/17/09; A, 09/02/11; A, 12/19/13; A, 1/29/16; A, 5/30/17]

20.2.82.8 ADOPTION OF 40 CFR PART 63: Except as otherwise provided in Section 20.2.82.10 NMAC (below), the national emission standards for hazardous air pollutants for source categories as promulgated by the United States environmental protection agency, 40 CFR Part 63, as amended in the Federal Register through [~~September 15, 2015~~] January 15, 2017 are hereby incorporated into this part (20.2.82 NMAC). [Rn, 20 NMAC 2.82.7, 08/14/98; A, 08/14/98; A, 09/08/99; 20.2.82.8 NMAC - Rn & A, 20 NMAC 2.82.106, 06/23/00; A, 02/18/02; A, 06/13/03; A, 06/08/07; A, 08/17/09; A, 09/02/11; A, 12/19/13; A, 1/29/16; A, 5/30/17]

ENVIRONMENT DEPARTMENT CONSTRUCTION PROGRAMS BUREAU

This is an amendment to Section 14 of 20.7.5 NMAC, effective 5/30/2017.

20.7.5.14 ADMINISTRATION OF THE LOAN PROGRAM AND FUND:

A. The loan program and fund is administered by the department as agent for the commission. Pursuant to Section 74-6A-9.A (10) of the Wastewater Facility Construction Loan Act, the department shall develop new, and implement existing, policies, procedures and guidelines necessary and appropriate to implement the provisions of the act and the Clean Water Act.

B. The necessary administrative expenses required of the board, the commission and the department to implement

the provisions of the act will be appropriated from the fund.

C. The department may impose and collect a fee from each local authority that receives financial assistance from the fund, which fee shall be deposited into the clean water state revolving loan administrative fund, and used solely for the costs of administering the fund as follows:

(1) an administrative fee may be assessed on all financial assistance provided after January 1, 1996, and will be assessed on the refinancing of financial assistance after October 1, 1993;

(2) if an administrative fee is assessed pursuant to Paragraph (1) of Subsection C of 20.7.5.14 NMAC above, the total administrative fee assessed shall not exceed five percent of the total loan amount; the fee will be assessed on the outstanding principal balance of the loan payable; these fees are due on the same dates the payment of principal and interest on the loans are due, and shall be charged to each borrower, unless waived from the requirement by the department; the department may determine, establish and revise from time to time, the precise amount of the administrative fee to be charged, based on the projected costs of administering the program and other revenue available to pay such costs; the administrative fee payments must be deposited in the clean water state revolving loan administrative fund as they are received; interest on the clean water state revolving loan administrative fund shall be transferred to the administrative fund as it is received; and

(3) an administrative fee of two percent of the unpaid principal balance of the refinanced loan will be assessed against the local authority and shall be paid into the clean water state revolving loan administrative fund at the time of closing of the refinancing.

D. Financial assistance agreements will be prepared by the department and executed by the local authority for the project which can be financed with available balances in

the fund.

E. Repayment of the loan portion of the financial assistance shall begin no later than one year after completion of the project for which the loan was executed and shall be repaid in full no later than 30 years after completion of the project. All principal and interest on loan payments shall be deposited in the fund.

F. The interest rate for the loan portion of the financial assistance shall be the rate in effect when the final loan agreement is executed. The interest rate shall not change during the term of the financial assistance unless refinanced in accordance with Subsection I of 20.7.5.14 NMAC. The interest rate shall be the base rate provided in Subsection G of 20.7.5.14 NMAC unless the local authority qualifies for a hardship rate provided in Subsection H of 20.7.5.14 NMAC.

G. ~~[The base rate for the loan portion of the financial assistance shall not exceed two and three hundred and seventy-five hundredths percent.]~~ At the beginning of each state fiscal year, the commission may determine a base rate for the state fiscal year which is less than or greater than the current base rate.

H. ~~[The following hardship]~~ Hardship rates shall be approved by the department when a local authority meets the associated conditions at the time the financial assistance agreement is executed:

(1) ~~[An interest rate which shall not exceed two percent, when the local authority's median household income is less than the statewide non-metropolitan median household income based on the most current decennial United States (U.S.) bureau of census statistics.]~~ When the local authority's per capita income is less than the statewide per capita income based on the most current United States (U.S.) bureau of census statistics.

(2) ~~[An interest rate which shall not exceed one percent when the local authority's~~

median household income is less than three-fourths of the statewide non-metropolitan median household income based upon the most current decennial U.S. bureau of census statistics.] The local authority's per capita income is less than three-fourths of the statewide per capita income based upon the most current U.S. bureau of census statistics.

(3) A combination of loan and grant funds in those years when grant funding is available for assistance to rural communities.

(4) An interest rate of zero percent when:

(a) the local authority's average user cost is at least fifteen dollars per month or a higher amount as determined by the commission. The calculation of average user cost shall be consistent with a statewide methodology established by the department; and

(b) the local authority's median household income is less than three-fourths of the statewide non-metropolitan median household income based upon the most current U.S. bureau of census statistics.

Continued on the following page

<u>Interest Rate</u>	<u>Local Authority Criteria</u>
<u>2.375%</u>	Per capita income equal to or above statewide average; base interest rate. (G.)
<u>1.2%</u>	Per capita income less than that statewide average. (H.)(1)
<u>0.6%</u>	Per capita income less than $\frac{3}{4}$ of the statewide average. (H.)(2)
<u>0%</u>	Median household income less than $\frac{3}{4}$ if the statewide median household income and the average user cost is equal to or greater than \$15.00 per month. (H.)(4)(a)(b)

I. A local authority may refinance the loan portion of the financial assistance if the local authority later qualifies for a reduced rate. The refinancing may only occur at or after the execution of a final loan agreement.

J. Financial assistance recipients shall comply with all applicable federal, state and local laws and regulations, including but not limited to:

- (1) procurement;
- (2) record keeping;
- (3) accounting;
- (4) audit and inspection;
- (5) occupational health and safety;
- (6) environmental review; and
- (7) non-discrimination.

K. In the event of default by the local authority, the department as agent for the commission may enforce its rights by suit or mandamus or may utilize all other available remedies under state law.

[20.7.5.14 NMAC - Rp, 20.7.5.14 NMAC, 12/16/2015; A, 05/30/2017]

**ENVIRONMENT
DEPARTMENT**
ENVIRONMENTAL PROTECTION
DIVISION

At its meeting on April 28, 2017, the Environmental Improvement Board voted to repeal 20.2.64 NMAC, Municipal Solid Waste Landfills, filed 12/20/96, and replace it with 20.2.64 NMAC, Municipal Solid Waste Landfills, effective 05/31/17.

**ENVIRONMENT
DEPARTMENT**
ENVIRONMENTAL PROTECTION
DIVISION

**TITLE 20
ENVIRONMENTAL
PROTECTION
CHAPTER 2 AIR QUALITY
(STATEWIDE)
PART 64 MUNICIPAL
SOLID WASTE LANDFILLS**

20.2.64.1 ISSUING

AGENCY: Environmental Improvement Board.
[20.2.64.1 NMAC - Rp, 20.2.64.1 NMAC, 05/31/17]

20.2.64.2 SCOPE: All geographic areas within the jurisdiction of the Environmental Improvement Board.
[20.2.64.2 NMAC - Rp, 20.2.64.2 NMAC, 05/31/17]

20.2.64.3 STATUTORY AUTHORITY: Environmental Improvement Act, Paragraphs (4) and (7) of Subsection (A) of Section 74-1-8 NMSA 1978 and Air Quality Control Act, Section 74-2-1 et seq. NMSA 1978, including specifically, Subsections (A), (B) and (C) of Section 74-2-5 NMSA 1978.
[20.2.64.3 NMAC - Rp, 20.2.64.3 NMAC, 05/31/17]

20.2.64.4 DURATION: Permanent.
[20.2.64.4 NMAC - Rp, 20.2.64.4 NMAC, 05/31/17]

20.2.64.5 EFFECTIVE DATE: May 31, 2017, unless a later date is cited at the end of a section.
[20.2.64.5 NMAC - Rp, 20.2.64.5 NMAC, 05/31/17]
[The latest effective date of any section in this part is 05/31/17.]

20.2.64.6 OBJECTIVE: The

objective of this part is to establish requirements for municipal solid waste landfills in order to control emissions of nonmethane organic compounds (NMOC).
[20.2.64.6 NMAC - Rp, 20.2.64.6 NMAC, 05/31/17]

20.2.64.7 DEFINITIONS:
In addition to the terms defined in 20.2.2 NMAC (Definitions), and those defined in 40 CFR 60 Subpart A, all definitions found in 40 CFR Part 60 Subpart XXX apply to new municipal solid waste landfills (MSWLs) and all definitions found in 40 CFR Part 60 Subpart Cf apply to existing MSWLs. As used in this part:

A. "Active municipal solid waste landfill" or "active MSWL" means an MSWL in which solid waste is being placed or an MSWL that is planned to accept waste in the future.

B. "Closed municipal solid waste landfill" or "closed MSWL" means an MSWL in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed in 40 CFR 60.7(a)(4). Once a notification of modification

has been filed and additional solid waste is placed in the MSWL, the MSWL is no longer closed.

C. “Existing municipal solid waste landfill” or “existing MSWL” means an active or closed MSWL meeting the following conditions:

(1)

Construction, reconstruction, or modification was commenced on or before July 17, 2014; and

(2) The

MSWL has accepted waste at any time since November 8, 1987, or has additional design capacity available for future waste deposition.

D. “Modification”

means an increase in the permitted volume design capacity of an MSWL by either lateral or vertical expansion based on its permitted design capacity as of July 17, 2014. Modification does not occur until the owner or operator commences construction on the lateral or vertical expansion.

E. “Municipal solid waste landfill” or “MSWL”

means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. An MSWL may also receive other types of Resource Conservation and Recovery Act (RCRA) Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSWL may be separated by access roads. An MSWL may be publicly or privately owned. An MSWL may be new, existing, or a lateral expansion.

F. “New municipal solid waste landfill” or “new MSWL”

means an MSWL that commenced construction, reconstruction, or modification after July 17, 2014.

G. “NMOC” means

nonmethane organic compounds as measured according to the provisions of either 40 CFR 60 Subpart Cf or 40 CFR 60 Subpart XXX. NMOC may include many compounds commonly referred to as VOC (volatile organic compounds) and HAP (hazardous air pollutants).

[20.2.64.7 NMAC - Rp, 20.2.64.7 NMAC, 05/31/17]

20.2.64.8 [RESERVED]

20.2.64.9 DOCUMENTS:

Documents cited in this part may be viewed at the New Mexico environment department, air quality bureau.

[20.2.64.9 NMAC - Rp, 20.2.64.9 NMAC, 05/31/17]

[As of April 2013, the air quality bureau is located at 525 Camino de los Marquez, Suite 1, Santa Fe, NM 87505.]

20.2.64.10 to 20.2.64.108 [RESERVED]

20.2.64.109 APPLICABILITY:

A. Existing municipal

solid waste landfills: An owner or operator of an existing (active or closed) MSWL is subject to all provisions specified in 40 CFR 60 Subpart Cf as promulgated by the United States environmental protection agency on August 29, 2016, except as provided for in Section 111 of this part. Physical or operational changes made to an existing MSWL solely to comply with an emission guideline are not considered a modification or a reconstruction and would not subject an existing MSWL to the requirements of a standard of performance for new MSWLs.

B. New municipal

solid waste landfills: In addition to being subject to 20.2.64.110 NMAC new MSWLs are subject to 40 CFR Part 60, Subpart XXX as incorporated by reference in 20.2.77 NMAC (New Source Performance Standards).

[20.2.64.109 NMAC - Rp, 20.2.64.109 NMAC, 05/31/17]

20.2.64.110 PERMITTING REQUIREMENTS:

A. Operating permits:

New and existing active MSWLs with design capacities greater than or equal to 2.5 million megagrams and 2.5 million cubic meters are subject to permitting requirements under 20.2.70 NMAC (Operating Permits). Closed MSWLs and new and existing

MSWLs with design capacities less than 2.5 million megagrams or 2.5 million cubic meters are not subject to permitting requirements under 20.2.70 NMAC unless they are major sources as defined in 20.2.70 NMAC.

B. Construction

permits: Emissions of NMOC from MSWLs subject to 20.2.64 NMAC shall not be included in applicability determinations under 20.2.72 NMAC or be subject to permit requirements under that part solely on the basis of NMOC emissions.

[20.2.64.110 NMAC - Rp, 20.2.64.110 NMAC, 05/31/17]

20.2.64.111 REQUIREMENTS FOR EXISTING MUNICIPAL SOLID WASTE LANDFILLS:

A. Requirements for existing (active and closed) MSWLs shall be in accordance with 40 CFR 60 Subpart Cf, except as provided in Subsections B and C below.

B. All reports required in 40 CFR 60 Subpart Cf shall be submitted to the department according to the schedules outlined in that subpart. Additional notifications regarding progress toward meeting the final compliance schedule for control system installation and startup shall be submitted to the department as follows:

(1) Contracts for construction of collection and control systems shall be awarded or orders for purchase of components shall be completed no later than six months following submission of the final control plan;

(2) On-site construction or installation of the collection and control system shall be initiated no later than nine months following submission of the final control plan;

(3) On-site construction or installation of the collection and control system shall be completed no later than 29 months following the submission of an annual NMOC emission rate report showing NMOC emissions equal to or exceeding the emissions threshold in Subpart Cf; and

(4) Initial

performance testing shall be scheduled for no later than 150 days following the final compliance date in Subpart Cf.

C. Exceptions: On a case by case basis, an existing active or closed MSWL may apply for a less stringent emission standard or longer compliance schedule than those otherwise required by this part, provided that the owner or operator demonstrates to the department:

- (1) unreasonable cost of control including, but not limited to MSWL age, location, or basic design;
 - (2) physical impossibility or impracticability of installing necessary control equipment; or
 - (3) other environmental factors specific to the MSWL that make application of a less stringent standard or final compliance time significantly more reasonable.
- [20.2.64.111 NMAC - Rp, 20.2.64.111 NMAC, 05/31/17]

HISTORY OF 20.2.64 NMAC:
Pre-NMAC History: None.

History of Repealed Material:
20.2.64 NMAC, Municipal Solid Waste Landfills, filed 11/14/96, repealed effective 05/31/17 and replaced by 20.2.64 NMAC, Municipal Solid Waste Landfills, effective 05/31/17.

Other History:
20 NMAC 2.64, Municipal Solid Waste Landfills, filed 11/14/96 was renumbered, reformatted and replaced by 20.2.64 NMAC, Municipal Solid Waste Landfills, effective 10/31/02.

REGULATION AND LICENSING DEPARTMENT ALCOHOL AND GAMING DIVISION

This is an amendment to 15.10.61 NMAC, Section 8, effective 5/30/2017.

**15.10.61.8 SCHEDULE OF
PENALTIES:**

A. Any portion of the fines or penalties described in this rule may be enhanced or suspended, depending on the particular facts and circumstances of the individual case and where warranted by the evidence and the interests of public health, safety and welfare.

B. Violations involving sales to minors or intoxicated persons by licensee:

Code	Description
90	Sale to intoxicated person

105	Sale to a minor
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(1) The first offense within a 12 month period will result in a fine ranging from one thousand dollars (\$1,000) to two thousand dollars (\$2,000) and suspension of all alcohol sales for a minimum of one business day.

(2) The second offense within a 12 month period will result in a fine ranging from two thousand dollars (\$2,000) to three thousand dollars (\$3,000) and suspension of all alcohol sales for seven business days or possible revocation of the license if the licensee's citation history shows a pattern warranting revocation.

(3) Three or more offenses within a 12 month period shall result in a fine of ten thousand dollars (\$10,000) and revocation of the liquor license. The director may allow a reasonable period of time for the licensee to sell the license in lieu of revocation, provided that the licensee places the license into voluntary suspension until the date of sale or revocation.

(4) Any combination of three offenses involving sales to minors or sales to intoxicated persons occurring within a 12 month period shall result in a fine of ten thousand dollars (\$10,000) and revocation of the liquor license.

C. Violations involving sales to minors or intoxicated persons by server:

Code	Description
313	Sale to minor or to an intoxicated person

(1) the first offense may result in a fine up to

\$500, up to a 30-day suspension, or both;

(2) the second offense may result in a fine up to \$500, up to a one-year suspension, or both;

(3) the third offense may result in a fine of up to \$500, a suspension of greater than one year, or revocation.

**D. Violations
involving licensing issues:** Penalties imposed for the following violations will depend upon the facts and circumstances of each case and, unless enhanced or suspended in whole or in part, will include administrative fines within the ranges shown below. Penalties may also include suspension or revocation of the liquor license.

Continued on the following page

Code	Description	Fine
117	more than one entity profiting	two thousand dollars (\$2,000) to <u>ten thousand dollars</u> (\$10,000)
118	unauthorized entity profiting or operating	one thousand five hundred dollars (\$1,500) to ten thousand dollars (\$10,000)
119	failure to report change of ownership or structure	two hundred fifty dollars (\$250) to three thousand dollars (\$3,000)
135	failure to renew license	five hundred dollars (\$500) to three thousand dollars (\$3,000)
205	unauthorized transfer of a liquor license	three thousand dollars (\$3,000) to ten thousand dollars (\$10,000)
300	persons prohibited from holding a license	three thousand dollars (\$3,000) to ten thousand dollars (\$10,000)

E. Illegal sale or possession of alcoholic beverages: Penalties imposed for the following violations will depend upon the facts and circumstances of each case and, unless enhanced or suspended in whole or in part, will include administrative fines ranging from five hundred dollars (\$500) to ten thousand dollars (\$10,000). Penalties may also include suspension or revocation of the liquor license.

Code	Description
160	sale/possession - illegal

F. Public nuisance violations:

Code	Description
125	public nuisance

(1) Penalties imposed for public nuisance violations will be determined depending upon the facts and circumstances of each case and, unless enhanced, will include the administrative fines and penalties shown below.

(2) The first offense will result in a fine of two thousand dollars (\$2,000). A plan of correction of the violations, including timetables for such correction, must be agreed to by the parties within 30 days after the division notifies the licensee, or the citation may be referred to a formal hearing.

(3) Failure to correct the violations as agreed will result in an additional fine of three thousand dollars (\$3,000) and immediate suspension of the license until the corrections are completed.

(4) The second offense within a 24-month period will result in a fine of four thousand dollars (\$4,000). A plan of correction of the violations, including timetables for such correction, must be agreed to by the parties within 30 days after the department notifies the licensee, or the citation may be referred to a formal hearing. After the plan of correction is agreed to, the license will be immediately suspended until completion of the corrections.

(5) The third offense in a 36-month period will result in revocation of the license.

G. Violations involving commercial gambling: Penalties imposed for commercial gambling violations will depend upon the facts and circumstances of each case and, unless enhanced or suspended in whole or in part, will include the administrative fines shown below. Penalties may also include suspension or revocation of the liquor license.

Code	Description
40	commercial gambling

(1) The first offense will result in a fine of three thousand dollars (\$3,000).

(2) The second offense will result in a fine of four thousand dollars (\$4,000).

(3) The third offense will result in a fine of five thousand dollars (\$5,000).

(4) Four or more offenses will result in a fine of ten thousand dollars (\$10,000).

H. Violations involving club sales provision: Penalties imposed for the following violations will depend upon the facts and circumstances of each case and, unless enhanced or suspended in whole or in part, will include administrative fines ranging from five hundred dollars (\$500) to five thousand dollars (\$5,000). Penalties may also include suspension or revocation of the liquor license.

Code	Description
35	liquor sales to non-members

37 other violations of club sales restrictions

I. Violations of a tasting permit:

Code Description

36 tasting permit

(1) For a first violation, a fine no greater than one thousand dollars (\$1,000) or a suspension of the tasting permit for a period of two months, or both;

(2) For a second violation within a year of the first violation, a fine no greater than two thousand dollars (\$2,000) or a suspension of the tasting permit for a period of six months, or both; and

(3) For a third violation within a year of the first violation, a citation against the master license, a fine no greater than five thousand dollars (\$5,000), and a suspension of the tasting permit for one year.

J. Violation for Illegal Extension of Credit by Wholesalers: Any wholesaler that extends credit for the sale of alcoholic beverages for any period more than thirty days shall be subject to a fine of ten thousand dollars (\$10,000) for each violation. Additional violations within a year of the first violation may also result in suspension or revocation of the license.

Code Description

38 credit extension

K. Violations involving other licensing, sales and service matter: Penalties imposed for the following violations will depend upon the facts and circumstances of each case and, unless enhanced or suspended in whole or in part, will include administrative fines ranging from five hundred dollars (\$500) to five thousand dollars (\$5,000). Penalties may also include suspension or revocation of the liquor license.

Code	Description
1	unauthorized package sale
2	unauthorized sunday sale by drink
3	unattended alcoholic beverages
27	purchase from other than a wholesaler
28	alcohol server training program - failure to complete
29	alcohol server training certification - failure to renew
45	removal of open container from licensed premises
66	violation of restaurant license restriction
80	employing an underage person
87	dispenser, drink or price violation
107	minor in possession/consuming
110	unaccompanied minor in restricted area of premises
120	operating hours - improper or illegal
145	unauthorized sale by the drink
146	filling of bottles
155	sale from other than designated premises
157	change of floor plan without approval
180	special dispenser's permit violation
185	unauthorized sunday sale - package
195	failure to obtain sunday sales permit
215	violation of wholesaler license restriction
301	obstruction of the administration of the liquor control act
302	private party violation
320	employee drinking on duty
321	segregated sales violation

L. Miscellaneous violations of the liquor control act or regulations: Penalties imposed for the following violations will depend upon the facts and circumstances of each case and, unless enhanced or suspended in whole or in part, will include administrative fines ranging from two hundred fifty dollars (\$250) to three thousand dollars (\$3,000). Penalties may also include suspension or revocation of the liquor license.

Code	Description
5	advertising - illegal
10	agency responsibility/authority
25	failure to engage in business
26	failure to suspend license
50	unauthorized display of copy/facsimile of license
100	improper lighting
116	unauthorized change of dba name
175	sanitation violation
303	beer keg labeling violation
304	unauthorized change of corporate name
314	required documents on licensed premises
323	violation of a bed and breakfast rule

M. Other violations not specifically listed: Penalties imposed for the following violations will depend upon the facts and circumstances of each case and may include administrative fines up to ten thousand dollars (\$10,000) and suspension or revocation of the liquor license.

Code	Description
999	miscellaneous

N. Violations involving providers: Penalties imposed for the following violations will depend upon the facts and circumstances of each case and, unless enhanced or suspended in whole or in part, will include administrative fines up to five hundred dollars (\$500).

Code	Description
305	failure to notify of sale, right to own, teach, or use of program to any person
306	providing false information regarding certified program completion
307	failure to conduct the program as certified by the division
308	filing an application for certification of a provider, instructor, or program with false information
310	failure to comply with provisions of alcohol server education article or rules promulgated thereunder

O. Violations of the alcohol server education article involving licensees: Penalties imposed for the following violations will be as listed below unless enhanced or suspended in whole or in part and depend upon the facts and circumstances of each case.

Code	Description
316	Employing a person without a server permit up to five hundred dollars (\$500)
317	failure to maintain copies of server permits on the licensed premises: twenty dollars (\$20) per permit
318	failure to produce a copy of an employee's server permit: twenty dollars (\$20) per permit
319	Permitting a person with a suspended or revoked permit to serve alcoholic beverages: up to five hundred dollars (\$500)

P. Suspension of alcoholic beverage sales:

(1) When suspension of alcoholic beverage sales is a penalty for violation of the Liquor Control Act, suspension will be addressed as follows:

(a) for a one-day suspension, the licensee will be required to suspend alcohol sales on the same day of the week that the violation occurred, except that if the violation occurred earlier than 3:00 a.m., then the licensee will be required to suspend alcohol sales on the day of the week immediately prior to the day that the violation occurred;

(b) for a suspension of more than one day, the licensee will be required to suspend alcohol sales for consecutive days, beginning on the same day of the week that the violation occurred, except that if the violation occurred earlier than 3:00 a.m., then the licensee will be required to suspend alcohol sales beginning on the day of the week immediately prior to the day that the violation occurred.

(2) If the penalty for a violation is suspension, no fine is payable in lieu of suspension.

(3) Signs provided by the division must be posted on all cash registers and entrances to the restricted area on days that alcohol sales are suspended because of violations of the act.

[15.10.61.8 NMAC - Rp, 15 10.61.8 NMAC, 4/25/2017; A, 5/30/2017]

**REGULATION AND
LICENSING DEPARTMENT
ALCOHOL AND GAMING
DIVISION**

This is an amendment to 15.11.21 NMAC, Section 15, effective 5/30/2017.

15.11.21.15 GROUNDS FOR DENIAL OF LICENSES:

The director may deny any application on any of the following grounds:

A. failure to satisfy any of the applicable requirements of this part upon final review;

B. any fraudulent statement or evidence submitted in connection with an application;

C. upon finding that prior violations demonstrate a pattern or practice of violations contrary to public health and safety and the purposes of the act;

D. if granting of an application would result in a person holding a ten percent or more interest in a license when such person would not satisfy the requirements of Section 60-6B-1 NMSA 1978;

E. if granting the application is contrary to the public health, safety, or morals; or

F. if the application does not include all completed pages of the ~~prescribed~~ required form, all necessary fees, corporate documents, conveyance instruments, fingerprint cards, zoning clearances, and affidavits regarding distances from a church or school that will require waivers from the local governing body and waivers.

[15.11.21.15 NMAC - N, 4/25/2017; A, 5/30/2017]

**REGULATION AND
LICENSING DEPARTMENT
ALCOHOL AND GAMING
DIVISION**

This is an amendment to 15.11.25 NMAC, Section 6, effective

5/30/2017.

15.11.25.6 OBJECTIVE:

This rule is intended to establish standard procedures for obtaining and operating special dispensers' permits and [Sunday Sales] public celebration permits.

[15.11.25.6 NMAC - Rp, 15 NMAC 11.2.5.6, 4/25/2017; A, 5/30/2017]

**REGULATION AND
LICENSING DEPARTMENT
PHARMACY, BOARD OF**

This is an amendment to Section 24 of 16.19.6 NMAC, effective 06-09-2017.

16.19.6.24 NONRESIDENT PHARMACIES:

A. Definitions.

(1) "Board"

means the New Mexico board of pharmacy.

(2)

"Nonresident pharmacy" means any pharmacy located outside New Mexico that ships, mails or delivers in any manner prescription drugs to New Mexico patients or consumers.

(3)

"Prescription drugs" means any drug required by federal or New Mexico law or regulation to be dispensed only by a prescription and includes "dangerous drugs" and "controlled substances" as defined by federal and New Mexico law.

(4)

"Resident state" means the state in which the nonresident pharmacy is a resident.

B. Licensure

requirement.

(1)

No nonresident pharmacy shall ship, mail or deliver prescription drugs to a patient in this state unless licensed by the board. In addition, no nonresident pharmacy shall ship, mail or deliver controlled substances to a patient in this state unless registered by the drug enforcement administration and the board for controlled substances.

(2)

Separate Licensure. Any person that ships, mails or delivers prescription drug

to New Mexico patients from more than one nonresident pharmacy shall obtain a separate New Mexico nonresident pharmacy license for each pharmacy.

C. Requirements for obtaining licensure.

(1)

Application. Each nonresident pharmacy applying for licensure or renewal of licensure shall submit an application to the board which includes the following minimum information:

(a)

The address of the principle office of the nonresident pharmacy and the name and titles of all principal corporate officers and all pharmacists who are dispensing prescription drugs to persons in New Mexico. A report containing this information shall be made on an annual basis and within 10 days after any change of office location, corporate officer or pharmacist in charge;

(b)

Proof that the nonresident pharmacy maintains a valid license, permit or registration to operate the pharmacy in compliance with the laws of the resident state;

(c)

A copy of the most recent inspection report resulting from an inspection of the nonresident pharmacy conducted by the regulatory or licensing agency of the resident state;

(d)

If compounded sterile preparations (CSP) are to be shipped into New Mexico, a copy of the most recent CSP operations inspection report conducted by the regulatory or licensing agency of the resident state (or party recognized by that agency to perform such inspection, or party recognized by the board) which demonstrates the pharmacy operates in conformance with the requirements of applicable USP/NF General Chapters numbered below 1000. The inspection must have occurred within the 12 months immediately preceding receipt of the license application by the board. The board may deny licensure unless the applicant submits documentation satisfactory to the

board that any deficiencies noted in the inspection report have been corrected. For entities also acting as outsourcing facilities, the required standard of operation shall be cGMP.

~~(f)~~ (e)

The policy and procedure manual required by [16.19.6.24.D(2)] Paragraph 2 of Subsection D of 16.19.6.24 NMAC;

~~(e)~~ (f)

Proof that the nonresident pharmacy has a toll-free telephone service available to New Mexico patients;

~~(f)~~ (g)

The name and address of a resident in New Mexico for service of process;

~~(g)~~ (h)

If the nonresident pharmacy wants to ship, mail or deliver controlled substances to New Mexico patients, then the pharmacy must submit an application for controlled substances under 16.19.20 NMAC; and

~~(h)~~ (i)

All fees required by 16.19.12 NMAC.

(2) Agent

of record. Each nonresident pharmacy that ships, mails or delivers prescription drugs to a patient in New Mexico shall designate a resident agent in New Mexico for service of process. If a nonresident pharmacy does not designate a registered agent, the shipping, mailing, or delivering of prescription drugs in the state of New Mexico shall be deemed an appointment by such nonresident pharmacy of the secretary of state to be its true and lawful attorney upon whom may be served all legal process in any action or proceeding against such pharmacy growing out of or arising from such delivery.

D. Conditions of licensure.

(1)

Compliance. Each nonresident pharmacy licensed by the board must comply with the following:

(a)

All statutory and regulatory requirements of the state of New Mexico regarding controlled substances, drug product selection, and the labeling, advertising, and dispensing of prescription drugs including all requirements that differ

from federal law or regulations, unless compliance would violate the laws and regulations of the resident state;

(b)

Maintain, at all times, a valid license, permit, or registration to operate the pharmacy in compliance with the laws of the resident state;

(c)

Maintain, if applicable, a federal registration for controlled substances;

(d)

Supply, upon request from the board or the regulatory or licensing authority of the resident state, all information needed to carry out the board's responsibilities under state and federal law;

(e)

Provide a toll-free telephone service to facilitate communication between patients in this state and a pharmacist at the nonresident pharmacy who has access to the patient's records. A nonresident pharmacy shall provide the toll-free telephone service during its regular hours of operation, but not less than six days a week and for a minimum of 40 hours a week. The toll-free telephone number shall be disclosed on a label affixed to each container of drugs dispensed to patients in this state.

(2) Policy and

procedure manual. Each nonresident pharmacy shall develop and provide the board with a policy and procedure manual that sets forth:

(a)

Normal delivery protocols and times;

(b)

The procedure to be followed if the patient's medication is not available at the nonresident pharmacy, or if delivery will be delayed beyond the normal delivery time;

(c)

The procedure to be followed upon receipt of a prescription for an acute illness, which policy shall include a procedure for delivery of the medication to the patient from the nonresident pharmacy at the earliest possible time (i.e., courier delivery), or an alternative that assures the patient the opportunity to obtain the medication at the earliest possible

time;

(d)

The procedure to be followed when the nonresident pharmacy is advised that the patient's medication has not been received within the normal delivery time and that the patient is out of medication and requires interim dosage until mailed prescription drugs become available.

E. Disciplinary proceedings.

(1) The board

may withhold, suspend, or revoke any nonresident pharmacy license held or applied for upon the grounds established by law or regulations, including, without limitation, the failure to comply with the conditions specified in [16.19.6.24.C] Subsection C of 16.19.6.24 NMAC. The board shall suspend or revoke a nonresident pharmacy license when the license, permit, or registration to operate the pharmacy in the resident state has been suspended or revoked. A certified copy of the record of suspension or revocation by the resident state is conclusive evidence.

(2) Upon

receipt of information indicating that the nonresident pharmacy may have violated the laws or regulations of the resident state, the board may file a complaint against the nonresident pharmacy with the regulatory or licensing authority of the resident state.

F. Limitations.

(1) Nothing

in this regulation shall be construed to authorize the dispensing of contact lenses by nonresident pharmacies.

(2) Nothing in

this regulation is intended to replace or modify any requirements that a nonresident business may be subject to under any other law or regulation. [16.19.6.24 NMAC - Rp, 16 NMAC 19.6.24, 03-30-02; A, 06-09-17]

**REGULATION AND
LICENSING DEPARTMENT
PHARMACY, BOARD OF**

**This is an amendment to Section
7 of 16.19.26 NMAC and a new**

Section 14 is added, effective 06-09-17.

16.19.26.7 DEFINITIONS:

A. "Antigen" means a substance recognized by the body as being foreign; it results in the production of specific antibodies directed against it.

B. "Antibody" means a protein in the blood that is produced in response to stimulation by a specific antigen.

C. "Immunization" means the act of inducing antibody formation, thus leading to immunity.

D. "Vaccine" means a specially prepared antigen, which upon administration to a person, will result in immunity.

E. "Vaccination" means the administration of any antigen in order to induce immunity; is not synonymous with immunization since vaccination does not imply success.

F. "Written protocol" means a physician's order, standing delegation order, or other order or protocol as defined by rule of the New Mexico board of pharmacy.

G. "Emergency contraception drug therapy" means the use of a drug to prevent pregnancy after intercourse.

H. "Tobacco cessation drug therapy" means the use of therapies, which may include drugs to assist in quitting any form of tobacco use.

I. "Hormonal contraception drug therapy" means the use of hormonal therapies to prevent pregnancy.
[16.19.26.7 NMAC - N, 12-15-02; A, 07-15-04; A, 06-09-17]

16.19.26.14 HORMONAL CONTRACEPTION DRUG THERAPY:

A. Protocol:
(1)

Prescriptive authority for hormonal contraception drug therapy shall be exercised solely in accordance with the written protocol for hormonal contraception drug therapy approved by the board.

(2) Any pharmacist exercising prescriptive authority for hormonal contraception drug therapy must maintain a current copy of the written protocol for hormonal contraception drug therapy approved by the board.

B. Education and training:

(1) The pharmacist must successfully complete a course of training, accredited by the accreditation council for pharmacy education (ACPE), in the subject of hormonal contraception drug therapy provided by:

(a) the New Mexico pharmacists association or;

(b) a similar health authority or professional body approved by the board.

(2) Training must include study materials and instruction in the following content areas:

(a) mechanisms of action, contraindication, drug interaction and monitoring of hormonal contraception drug therapy;

(b) current standards for prescribing hormonal contraception drug therapy;

(c) identifying indications for use of hormonal contraception drug therapy;

(d) interviewing patient to establish need for hormonal contraception drug therapy;

(e) counseling patient regarding the safety, efficacy and potential adverse effects of drug products for hormonal contraception;

(f) evaluating patient's medical profile for drug interaction;

(g) referring patient follow-up care with primary healthcare provider;

(h) informed consent;

(i) management of adverse events, including identification, appropriate

response, documentation and reporting.

(3) Continuing education: any pharmacist exercising prescriptive authority for emergency contraception drug therapy shall complete a minimum of 0.2 CEU of live ACPE approved hormonal contraception drug therapy related continuing education every two years. Such continuing education shall be in addition to requirements in 16.19.4.10 NMAC.

C. Authorized drugs:
(1)

Prescriptive authority shall be limited to hormonal contraception drug therapy and shall exclude and device intended to prevent pregnancy after intercourse.

(2) Prescriptive authority for hormonal contraception drug therapy shall be limited to those drugs delineated in the written protocol for hormonal contraception drug therapy approved by the board.

D. Records:

(1) The prescribing pharmacist must generate a written or electronic prescription for any dangerous drug authorized.

(2) Informed consent must be documented in accordance with the approved protocol for hormonal contraception drug therapy and a record of such consent maintained in the pharmacy for a period of at least three years.

E. Notification: Upon signed consent of the patient or guardian, the pharmacist shall notify the patient's designated physician or primary care provider of hormonal contraception drug therapy prescribed.
[16.19.26.14 NMAC - N, 06-09-17]

**REGULATION AND LICENSING DEPARTMENT
PHARMACY, BOARD OF**

This is an amendment to 16.19.33 NMAC, Sections 2, 7, 8 and 9, effective 06-09-2017.

16.19.33.2 SCOPE: [This section applies to hub pharmacies-

and remote tele-pharmacies. Both the hub pharmacy and all remote tele-pharmacies must be located within New Mexico. The remote tele-pharmacy must be greater than 25 miles from an existing community pharmacy to qualify under these rules.] This section applies to hub pharmacies and remote tele-pharmacies. Both the hub pharmacy and remote tele-pharmacy must be located within and licensed by the New Mexico board of pharmacy. The remote tele-pharmacy must be greater than 20 miles from an existing retail pharmacy to qualify under these rules. [16.19.33.2 NMAC - N, 05-14-10; A, 06-09-17]

16.19.33.7 DEFINITIONS:

A. [~~“Average number of prescriptions filled per day (ANPFD)”~~ means the total number of prescriptions filled during a calendar month divided by the total number of days open that month] “Board” means the New Mexico board of pharmacy.

B. “Electronic link” means a real time, continuous HIPAA-compliant computer video and audio link between the hub pharmacy and the remote tele-pharmacy during all hours of the remote tele-pharmacy’s operation and in compliance with Paragraph (4) of Subsection A of 16.19.33.9 NMAC.

C. [~~“Continuous video supervision”~~] “Indirect supervision” means continuous supervision through a constant live video link with not less [that] than four camera views which [allow] provide for real time live monitoring by the hub pharmacy of the remote tele-pharmacy [remote dispensing site] which is recorded for a minimum of [180] 90 days. This indirect supervision must be in compliance with Subsection B of 16.19.22.7 NMAC.

D. “Patient-pharmacist audio visual link” means a real time HIPAA-compliant audio visual link from the private patient counseling area of the remote tele-pharmacy to the pharmacist at the hub pharmacy.

E. “Hub pharmacy” means a [~~New Mexico~~] board licensed pharmacy located in New Mexico

operating under the direct control of a board registered pharmacist from which computer-aided pharmacist supervision of a remote tele-pharmacy occurs.

F. “Hub pharmacist” means a [~~New Mexico~~] board registered pharmacist who [~~oversees day to day operations~~] provides the indirect supervision of a remote tele-pharmacy via [~~an~~] HIPAA-compliant electronic link that includes provisions for visual observations and inspection of the inside of the [~~pharmacy~~] remote tele-pharmacy and all prescription orders prior to dispensing and is in compliance with Subsection B of 16.19.22.7 NMAC.

This oversight is to include visual inspection of and patient consultation for any prescription order dispensed from the remote tele-pharmacy.

G. “Pharmacist-in-charge” means the pharmacist for the hub pharmacy from which the hub pharmacist oversees the day to day operation of a remote tele-pharmacy and who shall comply with 16.19.6.9 NMAC.

H. “Pharmacist site visits” [~~defines how often a pharmacist must physically visit the remote tele-pharmacy:~~] means the visitation and inspection of the tele-pharmacy by the hub pharmacist by which the hub pharmacist is physically present to assess the remote tele-pharmacy’s compliance with all laws and regulations.

[~~(1) at least once a month when the ANPFD is one to 50;~~

~~(2) at least once every two weeks when the ANPFD is 51 to 100 per day;~~

~~(3) at least once per week when the ANPFD is 101 to 150;~~

~~(4) at least twice per week when the ANPFD is 151 to 200;~~

~~(5) a pharmacist is required on site full-time during normal operating hours if the ANPFD exceeds 200.]~~

I. “Remote dispensing site” means a pharmacy location primarily staffed by technicians

and remote dispensing technology [~~“electric link”~~] electronic link and [~~continuous video~~] indirect supervision with required pharmacist supervision and [~~in-person visits from the hub pharmacy~~] pharmacist site visits.

J. “Remote tele-pharmacy” means a board licensed pharmacy located in the state of New Mexico staffed by a remote tele-pharmacy technician who practices under the direct, computer aided and supervision of a hub pharmacist working from the hub pharmacy by electronic link during all hours of operation.

K. “Remote tele-pharmacy technician” means a [~~New Mexico~~] board registered pharmacy technician employed by the hub pharmacy, with a minimum of 2,000 hours of experience working as a certified registered pharmacy technician who under the computer aided supervision of an off-site pharmacist, handles the day to day operation of a remote tele-pharmacy, including the preparation and dispensing of prescription drugs.

L. “Practice of tele-pharmacy” means the provision of pharmacist care by [~~registered~~] board licensed pharmacies and board licensed pharmacists through the use of telecommunications or other technologies to patients or their agents at a remote tele-pharmacy site. [16.19.33.7 NMAC - N, 05-14-10; A, 06-09-17]

16.19.33.8 PURPOSE: The board [~~of pharmacy~~] is responsible for maintaining, continuing and enhancing the development of the education and professional role of the pharmacist for the protection of the health, welfare and safety of the citizens of New Mexico. [~~New Mexico is facing a pharmacy services accessibility problem due to the closing of pharmacies and the lack of registered pharmacists.~~] In order to maintain, augment or [~~make pharmacy services available~~] expand the availability of pharmacy services in communities that have [~~no licensed pharmacy or are in jeopardy of losing~~]

~~their licensed pharmacy]~~ pharmacy access issues, rules are necessary to permit remote tele-pharmacy services and remote dispensing.
[16.19.33.8 NMAC - N, 05-14-10; A, 06-09-17]

16.19.33.9 OPERATIONS:

A. A remote tele-pharmacy shall comply with all standards of 16.19.6.8 NMAC governing the procedure for obtaining a license to operate a pharmacy in New Mexico:

(1) The license holder of the hub pharmacy must apply for a license to operate a remote tele-pharmacy. A remote tele-pharmacy license is established for the purpose of conducting a remote tele-pharmacy. The license is issued to a remote tele-pharmacy connected to a hub pharmacy via an electronic link. The initial licensure fee and subsequent license renewal fee are the same as those for retail pharmacies, as required by Subsection E of 16.19.12.13 NMAC.

(2) A remote tele-pharmacy that operates under different ownership than the hub pharmacy to which it is attached; shall have a written contractual agreement outlining the responsibilities of each pharmacy. This written agreement shall be submitted with the initial licensure application for a remote tele-pharmacy. Any subsequent changes to that contractual agreement shall be submitted to the board's executive director for approval. The applicant must provide sufficient evidence that the ~~[proposed location is in an area of the state lacking access to a retail pharmacy; the board will utilize the evidence supplied by the applicant and from other sources when making a determination that sufficient evidence exists to approve an application for a remote tele-pharmacy]~~ addition of a tele-pharmacy will augment or expand the availability of pharmacy services and pharmacy access within the proposed area of location.

(3) A remote tele-pharmacy shall comply with all the applicable requirements for

a pharmacy as contained in 16.19.6 NMAC, including the requirement that all medications are stored under proper conditions.

(4) A remote tele-pharmacy shall be connected to a hub pharmacy via an electronic link. All links must be fully operational during all hours of operation of the remote tele-pharmacy. If the link malfunctions, the remote tele-pharmacy must be closed unless a pharmacist is physically present at the remote tele-pharmacy site.

(a) Video equipment must be capable of providing an adequate number of simultaneous views of the pharmacy operation at the remote tele-pharmacy.

(b) The video equipment at the remote tele-pharmacy site must be capable of resolution sufficient to allow for pharmacist identification of medication dosage forms and the reading of bottle labels via video camera.

(c) The video equipment at the remote tele-pharmacy site must be capable of recording and maintaining at least one 180 days of video surveillance of the remote tele-pharmacy site and operations for future review.

(d) Only a remote tele-pharmacy technician designated for that site or a pharmacist who is physically present at the remote tele-pharmacy may access a remote tele-pharmacy site, linked to a hub pharmacy via an electronic link.

(e) The remote tele-pharmacy may only remain open as long as the designated pharmacy technician is present in the remote tele-pharmacy and the hub pharmacist is present at the hub pharmacy or at the remote site.

(f) The name of each certified pharmacy technician that works at a remote tele-pharmacy shall be recorded with the New Mexico board of pharmacy.

(5) The pharmacist in charge of the hub pharmacy shall produce a policy and procedure manual for the safe and

effective operation of the remote tele-pharmacy and the oversight by the hub pharmacy. This manual shall be available for board inspection in both the remote tele-pharmacy and the hub pharmacy. The policy and procedure manual shall be reviewed by the pharmacist-in-charge annually and revised if necessary to promote improvements in safety and service at the remote tele-pharmacy. The annual review and any changes to the manual shall be documented.

(6) The pharmacist-in-charge is responsible for an ongoing review of incident reports and outcomes, with appropriate corrective action taken.

(7) The pharmacist employed by the hub pharmacy must visit and complete inspections of the remote tele-pharmacy according to the visitation requirements of Subsection H of 16.19.33.8 NMAC. A list of inspection criteria shall be included in the policy and procedure manual for the remote tele-pharmacy. The pharmacist's inspection shall include a determination of the average number of prescriptions filled per day. A copy of the inspection report shall be reviewed and signed by the pharmacist-in-charge of the hub pharmacy and a copy of the inspection report shall be maintained at both the remote tele-pharmacy and at the hub pharmacy for the board of pharmacy inspection.

(8) The number of pharmacy technicians that a hub pharmacist shall oversee shall be limited according to 16.19.22.10 NMAC. Any pharmacy technicians on duty at the hub pharmacy site shall be taken into account along with any remote tele-pharmacy technicians working at remote tele-pharmacy sites, when computing the ratio of pharmacists to pharmacy technicians. Application for an increase in the ration of pharmacy technicians to pharmacists may be made in accordance with Subsection B of 16.19.22.10 NMAC.

(9) A remote tele-pharmacy may have a dangerous drug inventory. Any controlled

substances shall be kept at the remote site in accordance with 16.19.20 NMAC.

(a)

If controlled substances are kept, the remote tele-pharmacy shall be registered with the drug enforcement administration and obtain a DEA number.

(b)

If controlled substances are kept, the remote tele-pharmacy shall have a valid New Mexico controlled substance registration as required in 16.19.20 NMAC.

(c)

All controlled substances kept in inventory by the remote tele-pharmacy shall be listed on a perpetual inventory log, which shall be updated upon the dispensing of each controlled substance prescription or other disposition.

(d)

The pharmacist shall perform monthly audits of all controlled substances during regular inspection visits to the remote tele-pharmacy.

(10)

Prescriptions may be received, entered and filled or re-filled by the hub pharmacy and sent to the remote tele-pharmacy for distribution to the patient during hours when the technician is present in the remote tele-pharmacy. A pharmacist at the hub pharmacy must approve each prescription before it leaves the remote tele-pharmacy site.

(a)

The pharmacist's initials and the technician's initials shall be recorded.

(b)

The pharmacist shall compare the stock bottle, drug dispensed and drug strength. The entire prescription label must be checked for accuracy. All prescriptions distributed by the remote- tele-pharmacy must have the label affixed to the prescription container prior to being inspected by the pharmacist via electronic link.

(11) Patient

counseling shall be done by a pharmacist via an electronic link. The pharmacist shall counsel the patient or the patient's agent on all new prescriptions and refills. All

counseling, according to Subsection E of 16.19.4.16 NMAC, remains the responsibility of the pharmacist at the hub pharmacy via an electronic link. [16.19.33.9 NMAC - N, 05-14-10; A, 06-09-17]

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This is an amendment to 16.28.1 NMAC, Section 7, effective 6/18/2017.

16.28.1.7 DEFINITIONS:

As used in these regulations, the following words and phrases have the following meanings, unless the context or intent clearly indicates a different meaning:

A. "Accredited"

means approved by the:

(1) New

England association of schools and colleges;

(2) middle

states association of colleges and secondary schools;

(3) north

central association of colleges and schools;

(4) northwest

association of schools and colleges;

(5) southern

association of colleges and schools; or

(6) western

association of schools and colleges.

B. "ACET" refers to

the associate continuing education tracking system within registry of interpreters for the deaf (RID).

C. "Act" means

the Signed Language Interpreting Practices Act, Section 61-34-1 through 61-34-17 NMSA 1978.

D. "Administrator"

or "board administrator" means the staff person assigned certain express or implied executive and administrative functions of the board as defined by board regulations or as required to carry out the provisions of the Signed Language Interpreting Practices Act.

E. "Adult" means all

persons [eighteen] 18 years of age or older.

F. "Applicant"

means a person who has completed all educational requirements of the eligibility requirements for licensure and has submitted a complete application to the board. An applicant is seeking approval of [his or her] their application by the board to advance [him or her] them to candidacy for licensure.

G. "Board" means the

signed language interpreting practices board.

H. "Board

regulations" or "regulations"

means any part adopted by the board pursuant to authority under the act and includes any superseding regulation.

I. "CEU" refers to

continuing education unit as is used by the registry of interpreters for the deaf.

J. "CMP" means the

certification maintenance program as is used by the registry of interpreters for the deaf.

K. "Community

signed language interpreter" means an interpreter holding one or more certifications recognized by RID with the exception of educational certificate: K-12 (ED: K-12) and holding a community signed language interpreter's license. A community signed language interpreter's license entitles its holder to provide signed language interpreting services in community, K-12 educational, and post-secondary educational settings as appropriate under the national association of the deaf - registry of interpreters for the deaf (NAD-RID) code of professional conduct.

L. "Annual

compliance review" means an annual review conducted by the board ensuring that interpreters holding a provisional signed language interpreting license are in compliance with all requirements established by the statute and rules.

M. "Consumer"

means a person using the services of a signed language interpreter.

N. “Confidential communication” means a communication that is not intended to be disclosed to third persons other than those present to further the interest of the person requiring the interpreting.

O. “Copy signing” means signing verbatim a comment or question for those who are not able to see the original signed message due to a visual obstruction.

P. “Deaf person” means a person who has either no hearing or who has significant hearing loss.

Q. “Deaf-blind person” means a person who has either no hearing or who has significant hearing loss and a significant vision loss.

R. “Department” means the New Mexico regulation and licensing department.

S. “Educational signed language interpreter” means an interpreter holding the ED: K-12 credential from the registry of interpreters for the deaf or meeting the criteria in Subsection D of 16.28.3.11 NMAC and holding an educational signed language interpreter’s license. An educational signed language interpreter’s license entitles its holder to provide signed language interpreting services in K-12 educational settings as appropriate under the NAD-RID code of professional conduct and in post-secondary education settings only for consumers currently enrolled in a secondary program and not earning college credit.

T. “EIPA” refers to the educational interpreter performance assessment, a diagnostic tool that measures proficiency in interpreting for children or young adults in an educational setting.

U. “Filed with the board” means hand delivered or postal mail received during normal business hours by the board office in Santa Fe, New Mexico.

V. “Hard-of-hearing person” means a person who has either no hearing or who has significant hearing loss.

W. “Intern” means a student in training who is currently enrolled in an interpreter education program, interpreter preparation program, or a program of study in signed language interpreting at an accredited institution of higher learning approved by the board, and actively supervised by an interpreter holding a community or educational signed language interpreter license or a consumer of interpreting services approved by the institution in which the intern is enrolled.

X. “Interpreter” means a person who practices signed language interpreting.

Y. “Interpreter education program” or “interpreter preparation program” means a post-secondary degree program of at least two [(2)] year’s duration accredited by the state or similar accreditation by another state, district or territory; or a substantially equivalent education program approved by the board.

Z. “Interpreting” means the process of providing accessible communication between deaf, hard of hearing, or deaf-blind persons and hearing persons, including communication between signed language and spoken language and other modalities such as visual, gesture and tactile methods, not to include written communication. A person is interpreting if the person advertises, offers to practice, is employed in a position described as interpreting or holds out to the public or represents in any manner that the person is an interpreter in New Mexico.

AA. “Licensee” means an interpreter who holds a current license issued under the act and these rules.

BB. “NAD” means the national association of the deaf.

CC. “New Mexico administrative code” or “NMAC”, Section 14-4-7.2 NMSA 1978 is the official compilation of current rules filed by state agencies in accordance with New Mexico statutes.

DD. “New Mexico statutes annotated 1978 or NMSA 1978” is the official compilation of

state laws.

EE. “Open Meetings Act” or “OMA”, 10-15-1 through 10-15-4 NMSA 1978 is the statutory provision requiring that public business be conducted in full public view; providing guidelines governing both public and closed meetings, and regulating the notice, agenda and minutes of such meetings.

FF. “Properly made application” means a completed application form for a signed language interpreter license filed with the board that is complete in all particulars and appears on its face to satisfy all minimum age, educational, supervision, payment and other requirements for licensure as required by the act and these regulations.

GG. “Provisional signed language interpreter” means an interpreter who holds a provisional signed language interpreter’s license. A provisional signed language interpreter’s license entitles its holder to provide signed language interpreting services in community and educational settings as appropriate under the NAD-RID code of professional conduct for a maximum of five years while working to satisfy the requirements for a community signed language interpreter’s license or an educational signed language interpreter’s license.

HH. “RID” refers to the registry of interpreters for the deaf, which is a national association of signed language interpreters.

II. “Rule” means board regulations.

JJ. “State Rules Act”, Sections 14-4-1 through 14-4-5 NMSA 1978, is the statutory provision that ensures that state agencies file with the state records center and archives all rules and regulations including amendments or repeals.

KK. “Statute” means a law that governs conduct within its scope. A bill passed by the legislature becomes a statute; and “statutory authority” means the boundaries of the board’s lawful responsibility as laid out by the statute that created it.

LL. “Substantial

compliance” means sufficient compliance with the statutes or rules so as to carry out the intent for which the statutes or rules were adopted and in a manner that accomplished the reasonable objective of the statutes or rules.

MM. “Supervised interpreter intern or student” means a person who is currently enrolled in an interpreter education program, interpreter preparation program, or a program of study in signed language interpreting at an accredited institution of higher learning.

NN. “Uniform Licensing Act” or “ULA”, Section 61-1-1 through 61-1-33 NMSA 1978 is the statutory provision that governs the major duties of the board in area of:

(1) procedures which must be followed to accord due process to applicants for licensure and to licensees if the board takes action against the licensee for acts of misconduct that would adversely affect public health, safety and welfare; and

(2) rulemaking procedures that the board shall follow in adopting valid regulations affecting signed language interpreters.
[16.28.1.7 NMAC - N, 7/21/2009; A, 8/18/2011; A, 1/15/2014; A, 12/16/2015; A, 6/18/2017]

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This is an amendment to 16.28.2 NMAC, Section 9, effective 6/18/2017.

16.28.2.9 CONTINUING EDUCATION REQUIREMENTS:

A. Community or educational signed language interpreter license shall submit a copy of the applicant’s current RID membership card or verification letter from the RID member portal showing current membership status documenting compliance with the

requirements of the certification maintenance program (CMP) which requires eight [(8)] RID-approved continuing education units (CEUs) [eighty] 80 contact hours per four [(4)]-year CMP cycle. Should RID change its number of CEUs required an interpreter must comply with the new requirement in order to maintain licensure in New Mexico. An educational signed language interpreter meeting the criteria in Subsection D of 16.28.3.11 but not holding the ED:K-12 credential must submit associate continuing education tracking (ACET) transcripts showing four CEU’s (40 hours) of continuing education at each biannual renewal.

B. Provisional license: two [(2)] CEUs [(twenty) (20) hours] (20 hours) of continuing education annually documented on the applicant’s associate continuing education tracking (ACET) transcript from RID. Interpreting students should be aware that they need to become associate members of RID before the end of March in their year of graduation for CEU’s earned prior to July 1st to be tracked on their ACET transcripts.

C. Provisional licensees who are within their first year may provide certificates of completion to the board office if the approved CEUs are not on ACET transcripts.
[16.28.2.9 NMAC - N, 07/21/09; A, 08/18/11; A, 01/15/14; A, 12/16/15; A, 6/18/2017]

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This is an amendment to 16.28.3 NMAC, Section 9 through 11, 13, 14 and 18 through 20, effective 6/18/2017.

16.28.3.9 EDUCATIONAL SIGNED LANGUAGE INTERPRETER LICENSE:
An educational signed language interpreter’s license entitles

its holder to provide signed language interpreting services in K-12 educational settings as appropriate under the NAD-RID code of professional conduct, and in post-secondary education settings only for consumers currently enrolled in a secondary program and not earning college credit.
[16.28.3.9 NMAC - N, 7/21/2009; A, 6/18/2017]

16.28.3.10 PROVISIONAL SIGNED LANGUAGE INTERPRETER LICENSE:

A provisional signed language interpreter’s license entitles its holder to provide signed language interpreting services in community and educational settings as appropriate under the NAD-RID code of professional conduct for a maximum of five years while working to satisfy the requirements for a community signed language interpreter’s license or an educational signed language interpreter’s license. An interpreter may hold a provisional license and an educational license simultaneously, and is therefore permitted to provide interpreting services in both educational settings and appropriate community settings.
[16.28.3.10 NMAC - N, 7/21/2009; A, 6/18/2017]

16.28.3.11 APPLICATION FOR LICENSURE:

A. An application for any license to be issued or renewed by the board shall be made on the official form provided by the board for that purpose.

B. All applications for licensure must include:

- (1) a completed and signed application; name;
- (2) applicant of age indicating applicant is at least eighteen years of age (copy of birth certificate, driver’s license, state issued identification card, or baptismal certificate);
- (3) proof mailing address;
- (4) business
- (5)

address;

(6) phone number;

(7) non-refundable application fee as required by the board;

(8) photograph: applicants for original licensure shall attach a recent color photograph, front-view of face.

C. An application for a community signed language interpreter license must also include: a copy of the applicant's current registry of interpreters for the deaf (RID) membership card or verification letter from the RID member portal showing that the applicant holds one [(+)] or more certifications recognized by RID at the time of application for licensure with the exception of exception of educational certificate: K-12 (ED-K-12).

D. An application for an educational signed language interpreter license must also include: proof of educational interpreter performance assessment (EIPA) rating of 4.0 - 5.0 and a copy of the applicant's current RID membership card or verification letter from the RID member portal showing that the applicant holds the ED: K-12 certified member status by virtue of EIPA rating; or a copy of the applicant's current RID membership card or verification letter from the RID member portal showing that the applicant holds one or more certifications currently recognized by RID, or proof of an educational interpreter performance assessment (EIPA) rating of 4.0 - 5.0, proof of passing the EIPA Written test, proof of satisfying the RID educational requirements, and a copy of the applicant's current RID membership card or verification letter from the RID member portal showing associate membership status.

E. An application for a provisional signed language interpreter license must also include: proof of completion of an interpreter education program or interpreter preparation program at an accredited institution; or proof of employment as a community signed language

interpreter or an educational signed language interpreter at the time the act became effective (June 15, 2007) and after the applicant reached the age of [eighteen] (18); and a copy of the applicant's current RID membership card or verification letter from the RID member portal showing that the applicant is an associate member for purposes of tracking continuing education units (CEUs) requirements through the associate continuing education tracking (ACET) program as outlined in Subsection B of 16.28.2.9 NMAC). In lieu of proof of completion of an interpreter training program, deaf applicants may submit proof of satisfying the training requirement established by RID to take the certified deaf interpreter (CDI) written exam. If the applicant provides proof of completion of an interpreter education program or interpreter preparation program more than one year prior to their application for a provisional license, they must also submit a résumé and one professional letter of reference from an employer, internship supervisor, mentorship director, graduate school, or other applicable source documenting continued involvement in interpreting or the deaf community since the time of completion of the program.

F. If an applicant submits an incomplete license application they will be requested to submit any missing documentation; failure to do so within six [(6)] months of receipt of the original application will result in the application file being closed. After the file has been closed, the applicant will be required to submit a new application and application fee to apply again.

G. "Electronic Applications" In accordance with Section 14-16-1 thru 14-16-21 NMSA 1978 of the Uniform Electronic Transactions Act, the board or its designee will accept electronic applications.

(1) Any person seeking a New Mexico signed language interpreting license may do so by submitting an electronic

application. Applicants are required to also submit all required information as stated in 16.28.3.11 NMAC.

(2) Any licensee may renew [~~his or her~~] their license electronically through a designated website provided by the board. All license holders renewing their signed language interpreting license are also required to submit all documentation as stated in 16.28.3.17 NMAC.

(3) Any person whose license has been expired may apply electronically to the board for renewal of the license at any time within [~~sixty~~] 60 days of the expiration. Any persons seeking renewal are also required to submit all supporting documents as stated in 16.28.3.17 NMAC.

(4) Any person whose license has been lapsed may apply electronically to the board for reinstatement of the license at any time. Any persons seeking reinstatement are also required to submit all supporting documents as stated in 16.28.3.17 NMAC.

H. "Electronic Signatures" Electronic signatures will be acceptable for applications submitted pursuant to Sections 14-16-1 through 14-16-19 NMSA 1978.

I. "Administrative Errors" In the event that a community or educational license is issued due to an administrative error, and if the Interpreter is qualified for a provisional license, the permitted five [~~(5)~~] years for the provisional license shall began at the time of the issuance of the erroneously issued license. [16.28.3.11 NMAC - N, 7/21/2009; A, 8/18/2011; A, 1/15/2014; A, 12/16/2015; A, 6/18/2017]

16.28.3.13 REQUIREMENTS FOR A LICENSE FOR AN EDUCATIONAL SIGNED LANGUAGE INTERPRETER:

A license for an educational signed language interpreter shall be granted to a person who:

A. files a completed application that is accompanied by the required fees; and,

B. submits satisfactory

evidence that the person:

- (1) has reached the age of majority;
 - (2) is of good moral character;
 - (3) has completed all educational requirements established by the board;
 - (4) has passed the educational interpreter written and performance assessment (EIPA) with a score of 4.0 - 5.0 and holds active ED: K-12 (educational certification: K-12) or other certification recognized at the time of application by the registry of interpreters for the deaf (RID) or has passed the educational interpreter performance assessment (EIPA) with a score of 4.0 - 5.0, has passed the EIPA written test, and is an associate member of RID; and
 - (5) complies with the registry of interpreters for the deaf (RID) certification maintenance program (CMP).
- [16.28.3.13 NMAC - N, 7/21/2009; A, 8/18/2011; A, 6/18/2017]

16.28.3.14 REQUIREMENTS FOR A ONE-TIME, FIVE-YEAR PROVISIONAL LICENSE TO A PERSON NOT MEETING THE COMMUNITY SIGNED LANGUAGE INTERPRETER OR EDUCATIONAL SIGNED LANGUAGE INTERPRETER REQUIREMENTS FOR

LICENSURE: A one-time, five-year provisional license shall be granted to a person who:

- A. files a completed application that is accompanied by the required fees; and,
- B. has completed an interpreter education program or interpreter preparation program at an accredited institution; or
- C. provides verifiable documentation that ~~he or she was~~ they were employed as a community signed language interpreter or an educational signed language interpreter at the time the act became effective on June 15, 2007 and that the applicant had reached the age of 18 at the time;
- D. provides proof of

associate membership in the registry of interpreters for the deaf (RID) (for purposes of meeting the CEU requirements outlined in Subsection B of 16.28.2.9 NMAC).

E. If the applicant provides proof of completion of an interpreter education program or interpreter preparation program more than one year prior to their application for a provisional license, they must also submit a résumé and one professional letter of reference from an employer, internship supervisor, mentorship director, graduate school, or other applicable source documenting continued involvement in interpreting or the deaf community since the time of completion of the program.

[16.28.3.14 NMAC - N, 7/21/2009; A, 8/18/2011; A, 1/15/2014; A, 6/18/2017]

16.28.3.18 INACTIVE STATUS FOR PROVISIONAL LICENSEES:

A. A provisional licensee whose license is in good standing with the board may request ~~his/her~~ their license to be placed on inactive status for the purpose of pursuing education or training that will assist the licensee in obtaining licensure as a community signed language interpreter or an educational signed language interpreter by meeting the following requirements.

(1) Complete, sign, and return the inactive status application form provided by the board, specifying the intent to be placed on inactive status.

(2) Submit verifications for the required number of continuing education hours.

(3) Return the application postmarked on or before the license expiration date.

B. Inactive status notification: Upon receipt of a duly and properly made application for inactive status, the board or its designee will review and approve the application and send the licensee written verification that the license has been placed on inactive status.

C. During the period

of inactive status, the licensee is prohibited from practicing signed language interpreting in the state of New Mexico and must be actively working toward obtaining licensure as a community signed language interpreter or an educational signed language interpreter.

D. Reporting requirement: any licensee who has placed ~~his or her~~ their license on inactive status must submit transcripts to the board by June 30 of every year as verification of the licensee's pursuit of education or training to obtain licensure.

E. Notification of intent to reactivate license: Any licensee who has placed ~~his or her~~ their license on inactive status may, within five years from the official date ~~his or her~~ their license was placed on inactive status, notify the board in writing of ~~his or her~~ their desire to practice in New Mexico. The applicant shall provide the following information:

- (1) a New Mexico license number;
- (2) the applicants full name;
- (3) the applicants home address and phone number;
- (4) the date the applicant's license was originally issued;
- (5) the date the applicant's license was placed on inactive status;

F. Reactivation process: Upon receipt of the written request, the board shall place the licensee on active status once the licensee submits approved continuing education hours required for activation of ~~his or her~~ their license. [16.28.3.18 NMAC - N, 7/21/2009; A, 6/18/2017]

16.28.3.19 EXEMPTIONS:

A. The Signed Language Interpreting Practices Act does not apply to:

- (1) non-resident interpreters working in New Mexico less than ~~thirty~~ 30 calendar days per year;

(2) non-resident interpreters must contact the board administrator via e-mail prior to providing Interpreting services in New Mexico, regardless of the number of hours of service they provide each time. interpreters must provide the following for the purpose of tracking the number of days services are provided in New Mexico:

- (a) name;
- (b) address;
- (c) email address;
- (d) credentials, (a copy of their current RID card or other credentials);
- (e) date(s) and city or cities in which services will be provided.

B. This exception is for interpreters living outside of New Mexico and providing occasional services within the state. It is not for use by interpreters in the process of moving to New Mexico temporarily or permanently.

- (1) interpreting in religious or spiritual settings;
- (2) interpreting in informal settings for friends, families or guests;
- (3) interpreting in emergency situations where the deaf, hard-of-hearing or deaf-blind person or that person's legal representative decides that the delay necessary to obtain a licensed interpreter is likely to cause injury or loss to the consumer;

(4) the activities or services of a supervised interpreter intern or student in training who is enrolled in an interpreter education program, interpreter preparation program, or a program of study in signed language interpreting at an accredited institution of higher learning approved by the board;

C. Interpreter interns must contact the board administrator via email at the beginning of their internship period and provide the following:

- (1) name;

- (2) address;
- (3) email address;
- (4) institution at which they are enrolled;
- (5) name of program internship coordinator;
- (6) anticipated date of graduation;
- [16.28.3.19 NMAC - N, 07/21/09; A, 08/18/11; A, 12/16/15 A, 6/18/2017]

16.28.3.20 LICENSE DENIAL, SUSPENSION, OR REVOCATION:

A. In accordance with procedures contained in the Uniform Licensing Act, Section 61-1-1 NMSA 1978, the board may deny, revoke or suspend a license held or applied for under the Signed Language Interpreting Practices Act, upon grounds that the licensee or applicant:

- (1) is guilty of fraud or deceit in procuring or attempting to procure a license;
- (2) is guilty of gross incompetence;
- (3) is guilty of unprofessional or unethical conduct as defined by rule of the board;
- (4) uses untruthful or misleading advertising;
- (5) is habitually or excessively using controlled substances or alcohol to such a degree the licensee or applicant is rendered unfit to practice as a signed language interpreter pursuant to the Signed Language Interpreting Practices Act;
- (6) has violated the Signed Language Interpreting Practices Act;
- (7) is guilty of aiding and abetting a person not licensed to practice signed language interpreting pursuant to the Signed Language Interpreting Practices Act; or

(8) as evidenced by a certified copy of the record of jurisdiction, has had a license, certificate or registration to practice signed language interpreting revoked, suspended or denied in any state or territory of the United States for actions pursuant to this section.

B. Disciplinary proceedings may be initiated by a complaint of a person, including members of the board, and shall conform with the provisions of the Uniform Licensing Act.

C. A person filing a complaint shall be immune from liability arising out of civil action if the complaint is filed in good faith and without actual malice.

D. In the event that a community or educational license is issued in error and if the interpreter is qualified for a provisional license the permitted five [~~(5)~~] years for the provisional license shall began at the time of the issuance of the improperly issued license.

[16.28.3.20 NMAC - N, 12/16/15; A, 2/29/16; A, 6/18/2017]

REGULATION AND LICENSING DEPARTMENT SIGNED LANGUAGE INTERPRETING PRACTICES BOARD

This is an amendment to 16.28.7 NMAC, Section 10, effective 6/18/2017.

16.28.7.10 RENEWAL REQUIREMENTS:

A. A license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for the issuance and for the renewal of a license pursuant to Chapter 61, Articles 2 through 34 NMSA 1978.

(1) An application for a community signed language interpreter license must also include: a copy of the applicant's current registry of interpreters for the deaf (RID) membership card or verification letter from the registry of interpreters for the deaf RID member portal showing that the applicant holds one or more certifications recognized by the RID at the time of application for licensure with the exception of educational certificate: K-12 (ED: K-12).

(2) An application for an educational signed

language interpreter license must also include: proof of educational interpreters performance assessment (EIPA) rating of 4.0 - 5.0 and a copy of the applicant's current registry of interpreters for the deaf RID membership card or verification letter from the RID member portal showing that the applicant holds the ED: K-12 certified member status by virtue of EIPA rating; or a copy of the applicant's current RID membership card or verification letter from the registry of interpreters for the deaf RID member portal showing that the applicant holds one or more certifications currently recognized by the registry of interpreters for the deaf RID, or has passed the educational interpreter performance assessment (EIPA) with a score of 4.0 - 5.0, has passed the EIPA written test, and is an associate member of RID.

(3) An application for a provisional signed language interpreter license must also include: proof of completion of an interpreter education program or interpreter preparation program at an accredited institution; or proof of employment as a community signed language interpreter or an educational signed language interpreter at the time the act became effective (June 15, 2007) and after the applicant reached the age of 18; and a copy of the applicant's current registry of interpreters for the deaf RID membership card or verification letter from the registry of interpreters for the deaf RID member portal showing that the applicant is an associate member (for purposes of tracking continuing education units (CEUs) requirements through the associate continuing education tracking (ACET) program as outlined in Subsection B of 16.28.2.9 NMAC). If the applicant provides proof of completion of an interpreter education program or interpreter preparation program more than one year prior to their application for a provisional license, they must also submit a résumé and one professional letter of reference from an employer, internship supervisor, mentorship director, graduate school, or other

applicable source documenting continued involvement in interpreting or the deaf community since the time of completion of the program.

B. Original and renewed community and educational license shall be valid for a period of two years.

C. Original and completed compliance reviewed provisional license shall be valid for a period of one year, not to exceed four consecutive annual compliance review cycles.

D. Prior to the expiration of the license, all licensed interpreters shall apply for license renewal and shall pay the renewal fee as set forth in 16.28.6.9 NMAC. [16.28.7.10 NMAC - N, 01/15/2014; A, 12/16/2015; A, 6/18/2017]

End of Adopted Rules.

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Submittal Deadlines and Publication Dates

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Issue 1	January 5	January 17
Issue 2	January 19	January 31
Issue 3	February 2	February 14
Issue 4	February 16	February 28
Issue 5	March 2	March 14
Issue 6	March 16	March 28
Issue 7	March 30	April 11
Issue 8	April 13	April 25
Issue 9	April 27	May 16
Issue 10	May 18	May 30
Issue 11	June 1	June 13
Issue 12	June 15	June 27
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Issue 18	September 14	September 26
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Issue 20	October 19	October 31
Issue 21	November 2	November 14
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Issue 23	November 30	December 12
Issue 24	December 14	December 26

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rulemaking, 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.

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