

New Mexico Register

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

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New Mexico Register

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Notices of Rulemaking and Proposed Rules

HUMAN SERVICES DEPARTMENT

MEDICAL ASSISTANCE DIVISION

NOTICE OF RULEMAKING

The Human Services Department (the Department), Medical Assistance Division (MAD), is amending the following rule that is part of the New Mexico Administrative Code (NMAC): 8.314.3 NMAC, *Long Term Care Services - Waivers, Medically Fragile Home and Community-Based Services Waiver Services*.

On February 1, 2017, the Department received approval from the Centers for Medicare and Medicaid Services (CMS) to renew its New Mexico Medically Fragile 1915 (c) Home and Community-Based (HCBS) Waiver with an effective date of July 1, 2016. This rule is being amended to align services and definitions with the approved Medically Fragile Waiver and the CMS HCBS Settings Final Rule.

Throughout the rule:

Adds language to ensure that services are provided in accordance with the CMS HCBS Setting Final Rule. Services covered under the Medically Fragile Waiver program must ensure the recipient's right to privacy, dignity, and respect. Further, services must ensure the recipient's right to freedom from coercion and restraint.

Updates and standardizes language and acronyms with other New Mexico Medicaid programs.

Section 7

Definitions applicable to the Medically Fragile Waiver program are added to this section.

Section 8

This section is updated to align the program mission statement with the Human Services Department mission statement.

Section 9

This section is updated to clarify that services are provided for individuals diagnosed with a medically fragile condition before the age of 22 and who require the same level of care as those in an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

Section 10

Subsection H – the list of allowed licenses is updated for behavior support providers to align with the approved Medically Fragile 1915(c) waiver.

Subsection I – removed institutional respite as a covered service and updated the respite service to clarify that respite may be provided in the participant's home or private place of residence, the private residence of a respite care provider, or specialized foster care home to align with the approved Medically Fragile Waiver. The final approval of where respite services are provided is made by the participant or the participant's representative.

Section 11

This section has been updated to clarify provider responsibility to comply with all federal and state laws, regulations, rules, executive orders provider agreements, and service standards.

Section 12

This section is updated to reflect that enrollment is contingent upon the applicant meeting eligibility requirements and the availability of funding as approved by the New Mexico legislature, and the number of federally authorized unduplicated eligible recipients.

Section 13

This section is updated to align with the CMS HCBS Final Settings Rule. Language has been added clarifying the recipient's right to privacy, dignity, and respect as well as freedom from coercion and restraint.

Subsection B – language is added that home health aide services

are provided in the eligible recipient's own home or in the community.

Subsection C – language clarifies that private duty nursing is provided in the recipient's own home.

Subsection F – institutional respite is removed as a covered service to align with the approved Medically Fragile 1915(c) waiver. Language is added to clarify that respite may be provided in the eligible recipient's home and that the participant has the option to give final approval of where respite services will be provided. Limitation of respite service to 14 days or 336 hours per budget year is added to align with the approved Medically Fragile 1915(c) waiver.

Subsection H – language is added requiring that specialized medical equipment meets applicable standards of manufacture, design, and installation. Clarification added that medical equipment and supplies that are furnished by the Medicaid state plan are not covered under this service.

Section 18

A recipient's right to a HSD administrative hearing is added to this rule to align with the approved Medically Fragile 1915(c) waiver and Code of Federal Regulations (CFR). This section outlines the circumstances under which a recipient has the right to request a fair hearing.

Section 19

The option for recipient to request a continuation of benefits related to an administrative hearing is added to this rule to align with the approved Medically Fragile 1915(c) waiver.

Section 20

The recipient grievance system is added to this rule to align with the approved Medically Fragile 1915(c) waiver.

NM Stat § 9-8-6 (2016) authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

The register for these proposed amendments to this rule will be available September 12, 2017 on the HSD web site at <http://www.hsd.state.nm.us/LookingForInformation/registers.aspx> or at <http://www.hsd.state.nm.us/public-notices-proposed-rule-and-waiver-changes-and-opportunities-to-comment.aspx>. If you do not have Internet access, a copy of the proposed rules may be requested by contacting MAD in Santa Fe at 505-827-6252.

A public hearing to receive testimony on this rule will be held in Hearing Room 1, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico, 87505 on Friday, October 13, 2017 at 10:00 a.m., Mountain Daylight Time (MDT).

Interested parties may submit written comments directly to: Human Services Department, Office of the Secretary, ATT: Medical Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. Recorded comments may be left by calling (505) 827-1337. Electronic comments may be submitted to madrules@state.nm.us. Written, electronic and recorded comments will be given the same consideration as oral testimony made at the public hearing. All comments must be received no later than 5:00 p.m. MDT, October 13, 2017.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact MAD in Santa Fe at 505-827-6252. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by the MAD upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

PHARMACY, BOARD OF NOTICE OF REGULAR BOARD MEETING

The New Mexico Board of Pharmacy will convene on October 23rd & 24th, 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. All proposed language regarding rule hearings is linked on the *Agenda*, the *Notice to the Public* on our website and the *New Mexico Sunshine Portal*.

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 five days in advance to the scheduled meeting, if in attendance must also provide 12 copies of that documentation for distribution to board members and staff, as public comment is allowed during the rule hearing. (*Board staff is not required to make copies.*)

The Board will address:

Rule Hearings:

16.19.6 NMAC – PHARMACIES: Amendment; define the term “deliver/delivers” as used in Section 24; add new Section 30; repackaging and distribution of drug products in a pharmacy.

STATUTORY AUTHORITY: Paragraph 1 and 12 of Subsection A of 61-11-6 NMSA 1978.

16.19.8 NMAC - WHOLESALE PRESCRIPTION DRUG DISTRIBUTION: Repeal and replace

of this rule in order to comply with the Drug Supply Chain Security Act.

STATUTORY AUTHORITY: Paragraph 6 and 7 of Subsection A of 61-11-6 NMSA 1978, and Section 26-1-18 NMSA 1978.

16.19.12 NMAC – FEES: Amendment; Fee and statutory authority for new category of licensure for third-party logistics provider:

STATUTORY AUTHORITY: Paragraph 1 and 12 of Subsection A of 61-11-6 NMSA 1978.

16.19.17 NMAC – DANGEROUS DRUGS: Amendment; require reporting of ephedrine. STATUTORY AUTHORITY: Paragraph 6 of Subsection A of 61-11-6 NMSA 1978, and Section 26-1-18 NMSA 1978.

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 and 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.

Published in the Albuquerque Journal, September 9, 2017

Published in the New Mexico Register, Tuesday September 12, 2017

PUBLIC EDUCATION DEPARTMENT

NOTICE OF PROPOSED RULEMAKING

The Public Education Department (“Department”) hereby gives notice that the written comment period for the proposed repeal and replace

of 6.32.2 NMAC, Guidelines for Implementing Bilingual Multicultural Education Programs is reopened. The public comment period will be open from September 1, 2017 to December 5, 2017 at 5 p.m. (MDT).

Rule Change Information. The purpose of the rule change proposed on March 28, 2017 is to realign the evaluation and renewal sections of the 6.32.2 NMAC, Guidelines for Implementing Bilingual Multicultural Education Programs to be consistent with the 2004 Bilingual Multicultural Education Act (22-23-1 NSMA 1978) and regulatory goals (6.32.2 NMAC), and include program accountability for academic and language proficiency in English and a second language for all students, not just English learners. In addition, the proposed rule change aims to further clarify the program approval requirements and align the program element of instruction with the local implementation. The proposed changes would take effect beginning with the 2018-2019 school year.

The statutory authorizations include the following:
Sections 22-2-1, 22-23-1 through 22-23-6, NMSA 1978

Public Comment. Interested individuals may submit written comments to Jamie Gonzales, Policy Division, via email at rule.feedback@state.nm.us; fax (505) 827-6681; or directed to Jamie Gonzales, Policy Division, Jerry Apodaca Public Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786.

Tribal Consultation and Stakeholder Engagement. The Department will announce details pertaining to tribal consultation and stakeholder engagement.

Proposed Rule. Copies of the proposed rule may be accessed on the Department's website (<http://ped.state.nm.us/>) under the *Public Notices* link, or obtained from Jamie Gonzales (505) 827-7889.

Individuals with disabilities who require this information in an alternative are asked to contact Jamie Gonzales at (505) 827-7889 as soon as possible.

PUBLIC EDUCATION DEPARTMENT

NOTICE OF PROPOSED RULEMAKING

Public Hearing. The New Mexico Public Education Department (PED) gives notice that it will conduct a public hearing in Mabry Hall located at the Jerry Apodaca Education Building, 300 Don Gaspar Avenue, Santa Fe, New Mexico 87501, on Monday, October 16, 2017, from 9:00 a.m. to 12:00 p.m. (MDT). The purpose of the public hearing is to receive public input on the proposed repeal of 6.29.10 NMAC - Science, to be replaced by 6.29.10 NMAC - New Mexico Stem-Ready Science Standards. At the hearing, the PED will provide a verbal summary statement on record. Attendees who wish to speak will be given three (3) minutes to make a statement concerning the rule changes on record. Written comment will also be accepted at the hearing.

Rule Change Information. The purpose of this proposed rule change is to provide teachers with updated science standards aligned with both national standards and New Mexico-specific content.

The statutory authorizations include the following:

Section 22-2-2 NMSA 1978 grants the authority and responsibility for the assessment and evaluation of public schools, state-supported educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

Section 22-2-2 NMSA 1978 directs the department to set graduation expectations and hold schools accountable.

Section 22-2C-3 NMSA 1978 requires the department to adopt

academic content and performance standards and to measure the performance of public schools in New Mexico.

No technical information served as a basis for this proposed rule change.

Public Comment. Interested parties may provide comment on the proposed repeal and replacement of this state rule at the public hearing or may submit written comments, or both, to Jamie Gonzales, Policy Division, New Mexico Public Education Department, Room 101, 300 Don Gaspar Avenue, Santa Fe, New Mexico 87501, or by electronic mail at rule.feedback@state.nm.us, or fax to (505) 827-6681. All written comments must be received no later than 5:00 p.m. (MDT) on the date of the public hearing. The PED encourages the early submission of written comments. The public comment period is from September 12, 2017 to October 16, 2017 at 5 p.m. (MDT).

Copies of the proposed rules may be accessed through the New Mexico Public Education Department's website under the "Public Notices" link at <http://ped.state.nm.us/ped/PublicNotices.html>, or may be obtained from Jamie Gonzales by contacting her at (505) 827-7889 during regular business hours.

Individuals with disabilities who require the above information in an alternative format, or who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Jamie Gonzales at (505) 827-7889 as soon as possible before the date set for the public hearing. The PED requires at least ten (10) calendar days advance notice to provide any special accommodations requested.

PUBLIC REGULATION COMMISSION

NOTICE OF PROPOSED RULEMAKING

The New Mexico Public Regulation Commission (“NMPRC” or “Commission”) gives notice of its initiation of a proposed rulemaking to repeal and replace Rule 17.11.10 NMAC, concerning the State Rural Universal Service Fund (the “SRUSF”).

Summary of the full text of the proposed rule and short explanation of purpose: The Commission is considering amendments to 17.11.10 NMAC in response to the passage of Senate Bill 308 during the 2017 New Mexico Legislative session. Senate Bill 308 made extensive changes to Section 63-9H-6 NMSA 1978, of the New Mexico Rural Telecommunications Act (the “RTA”), which concerns the SRUSF. The major changes to this section of the RTA accomplished the following: (1) redefinition of “universal service”; (2) addition of a fixed amount, per-connection charge option for funding the SRUSF; (3) addition of a requirement that no less than sixty percent of support received by eligible telecommunications carriers be used to deploy and maintain broadband internet access; (4) reformulation of the methodology for calculating payments to access reduction support recipients; and (5) establishment of a broadband program. The Commission’s proposed rule includes proposed amendments to conform 17.11.10 NMAC to the changes to the RTA and recent regulatory changes by the Federal Communications Commission (“FCC”). The Commission may consider alternative proposals for amending 17.11.10 NMAC to conform to the amended RTA and FCC regulatory changes as well as proposals for improving 17.11.10 NMAC unrelated to the amendments to the RTA or regulatory changes by the FCC.

Constitutional and Statutory

Authority: New Mexico Constitution, Article XI, Sec. 2; Paragraph (10) of Subsection B of Sections 8-8-4 NMSA 1978 (1998), 8-8-15 (1999, amended 2001), 63-9H-4 (1999, amended 2013) and 63-9H-6 (1999, amended 2017).

A copy of the full text of the proposed rule may be obtained from the Proposed Rulemaking & Case Notices section of the Commission’s website at <http://www.nmprc.state.nm.us> under Case No. 17-00077-UT or by calling the Commission’s Records Management Bureau at (505) 827-6968.

Written Initial Comments and written Response Comments shall be filed by the deadlines below with the NMPRC’s Record’s Management Bureau at P.O. Box 1269, Santa Fe, NM 87504-1269 or by hand delivery to the NMPRC Records Management Bureau at 1120 Paseo de Peralta, Room 406, Santa Fe, NM 87501, as follows: Written Initial Comments not later than October 13, 2017 and written Response Comments not later than October 23, 2017. Comments shall refer to Case No. 17-00077-UT.

A public hearing will be held on November 1, 2017, beginning at 1:30 p.m. at the offices of the Commission located in the 4th Floor Hearing Room at 1120 Paseo de Peralta, Santa Fe, NM 87501. The purpose of the hearing is to give interested persons an opportunity to give oral comments. The Commission may limit the time for each comment to five minutes. The record of this case will close on November 13, 2017.

Any person with a disability requiring special assistance in order to participate in the hearing should contact Kathleen Segura at (505) 827-4501 at least 48 hours prior to the commencement of the hearing.

WORKFORCE SOLUTIONS, DEPARTMENT OF

NOTICE OF RULEMAKING

The New Mexico Department of Workforce Solutions (“Department”) hereby gives notice that the Department will conduct a public hearing in the auditorium of the State Personnel Office located at 2600 Cerrillos Road, Santa Fe, New Mexico on October 18, 2017 from 8:00 A.M. until 10:00 A.M. The purpose of the public hearing will be to obtain input and public comment on the repeal and replacement of 9.1.1 NMAC – Human Rights General Provisions – Administrative Procedures for the Human Rights Division/Commission.

Under NMSA 1978 §§28-1-1 to 28-1-14 and 28-23-1 through 28-23-6, the Department is the agency responsible for the Human Rights Bureau. Accordingly, under 9.1.1 NMAC, the Department is amending the procedures for filing a Human Rights complaint and the subsequent steps necessary by all parties to reach resolution. The purpose of repealing the former rule and proposing the current changes is to streamline the complaint process, give clearer explanations of the investigative and appeal procedures and clearly define expectations throughout the complaint process. Additionally, the proposed changes to 9.1.1 NMAC include incorporation of the New Mexico Fair Pay for Women Act.

Interested individuals may testify at the public hearing or submit written comments to State of New Mexico Department of Workforce Solutions, 401 Broadway NE, P.O. Box 1928, Albuquerque, N.M., 87103, attention Robert Dale Morrison. Written comments must be received no later than 5 p.m. on October 17, 2017. However, the submission of written comments as soon as possible is encouraged.

Copies of the amended rules may be accessed at <http://www.dws.state.nm.us>.

nm.us/ or obtained from Robert Dale Morrison at (505) 841-8672 or at RobertD.Morrison@state.nm.us. The proposed rules will be made available at least thirty days prior to the hearings.

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

WORKFORCE SOLUTIONS, DEPARTMENT OF

NOTICE OF RULEMAKING

The New Mexico Department of Workforce Solutions ("Department") hereby gives notice that the Department will conduct a public hearing in the auditorium of the State Personnel Office located at 2600 Cerrillos Road, Santa Fe, New Mexico on October 18 from 10:00 A.M. until 12:00 P.M. The purpose of the public hearing will be to obtain input and public comment on the repeal and replacement of 11.1.4 NMAC - Wage and Hour and Employment of Children.

Articles 1, 4 and 6 of Chapter 50, NMSA 1978 relating to the powers and duties of the labor commissioner and director of labor and industrial division gives the Department legal authority to conduct this rulemaking.

The purpose of the repeal of the former rule and the proposal of the current changes is to broaden the definitions relevant to Wage and Hour claims and clearly define the process for filing a wage claim. The proposed changes broaden the scope of authority and responsibility the Department has in relation to wage claims. The proposed changes better defined expectations of all parties throughout the wage claim process. Finally, the proposed changes expands

the rights for non-English speakers.

Interested individuals may testify at the public hearing or submit written comments to State of New Mexico Department of Workforce Solutions, 401 Broadway NE, P.O. Box 1928, Albuquerque, N.M., 87103, attention Robert Dale Morrison. Written comments must be received no later than 5 p.m. on October 17, 2017. However, the submission of written comments as soon as possible is encouraged.

Copies of the amended rules may be accessed at <http://www.dws.state.nm.us/> or obtained from Robert Dale Morrison at (505) 841-8672 or at RobertD.Morrison@state.nm.us. The proposed rules will be made available at least thirty days prior to the hearings.

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

WORKFORCE SOLUTIONS, DEPARTMENT OF

NOTICE OF RULEMAKING

The New Mexico Department of Workforce Solutions ("Department") hereby gives notice that the Department will conduct a public hearing in the auditorium of the State Personnel Office located at 2600 Cerrillos Road, Santa Fe, New Mexico on October 18, 2017 from 1:00 P.M. until 3:00 P.M. The purpose of the public hearing will be to obtain input and public comment on the repeal and replacement of 11.1.2.20 – Labor and Workers Compensation – Public Works Minimum Wage Act Policy - Prevailing Wage and Fringe Benefit Rates.

NMSA 1978 § 13-4-11 gives the Department legal authority to conduct this rulemaking.

The purpose of the proposed change is to repeal the prevailing wage and fringe benefit rates for 2017 and replacing with the rates for 2018.

Interested individuals may testify at the public hearing or submit written comments to State of New Mexico Department of Workforce Solutions, 401 Broadway NE, P.O. Box 1928, Albuquerque, N.M., 87103, attention Robert Dale Morrison. Written comments must be received no later than 5 p.m. on October 17, 2017. However, the submission of written comments as soon as possible is encouraged.

Copies of the amended rules may be accessed at <http://www.dws.state.nm.us/> or obtained from Robert Dale Morrison at (505) 841-8672 or at RobertD.Morrison@state.nm.us. The proposed rules will be made available at least thirty days prior to the hearings.

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

WORKFORCE SOLUTIONS, DEPARTMENT OF

NOTICE OF RULEMAKING

The New Mexico Department of Workforce Solutions ("Department") hereby gives notice that the Department will conduct a public hearing in the auditorium of the State Personnel Office located at 2600 Cerrillos Road, Santa Fe, New Mexico on October 18, 2017 from 3:00 P.M. to 5:00 P.M.. The purpose of the public hearing will be to obtain

input and public comment on the proposed amendments to 11.2.3 – Labor and Workers Compensation – Job Training – State Apprenticeship Policy Manual.

Under NMSA 1978 §§50-7-1 to 50-7-4.1 and 50-7-7, NMDWS is the agency responsible for the State Apprenticeship Program and gives the Department legal authority for rule making.

The proposed changes alter the language in the rule from “State Apprenticeship Agency” to “State Apprenticeship Office” to reflect the appropriate entity. The proposed changes also update program responsibilities and expectations or amends the rule to align with current operating procedures.

Interested individuals may testify at the public hearing or submit written comments to State of New Mexico Department of Workforce Solutions, 401 Broadway NE, P.O. Box 1928, Albuquerque, N.M., 87103, attention Robert Dale Morrison. Written comments must be received no later than 5 p.m. on October 17, 2017. However, the submission of written comments as soon as possible is encouraged.

Copies of the amended rules may be accessed at <http://www.dws.state.nm.us/> or obtained from Robert Dale Morrison at (505) 841-8672 or at RobertD.Morrison@state.nm.us. The proposed rules will be made available at least thirty days prior to the hearings.

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

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.

NURSING, BOARD OF

This is an amendment to 16.12.2 NMAC, Sections 9, 10, 13 and 14, effective 9/12/2017.

16.12.2.9 FEES: Payment of fees will be accepted in the form specified by the board. The initial application fee will be for a period of one year, plus the months to the applicant's birth month. Fees may be collected in whole or prorated to commensurate with the length of the renewal period. Fees are not refundable.

A.	[Licensure by examination]	\$110
B.	Reexamination fee registered nurse (RN)	\$60
C.	Reexamination fee licensed practical nurse (LPN)	\$60
D.	Licensure by endorsement (RN/LPN)	\$110
E.	Renewal	\$93
F.	Reactivation from lapsed status; inactive or returning to state (includes renewal fee)	\$110
G.	Reactivation from lapsed status; renewing late (includes renewal fee)	\$200
H.	Reinstatement of lapsed license following board action	\$150
I.	Reinstatement of current license following board action	\$100
J.	Initial advanced practice licensure (CNP, CRNA, CNS)	\$100

K.	Advanced practice renewal	\$100
L.	Reactivation from lapsed status advanced practice; inactive, returning to state	\$110
M.	Reactivation from lapsed status advanced practice license; renewing late	\$200
N.	Temporary license	\$50]
Initial licensure by examination or endorsement:		
(1)	Licensed practical nurse (LPN)	\$150
(2)	Registered nurse (RN)	\$150
(3)	Advanced practice: CNP/CNS/CRNA	\$100
B.	License Renewal:	
(1)	Licensed practical nurse (LPN)	\$110
(2)	Registered nurse (RN)	\$110
(3)	Advanced practice: CNP/CNS/CRNA	\$110
C.	Inactive license renewal (late renewal, lapsed status, reactivation, reinstatement after board action) includes renewal fee:	
(1)	Licensed practical nurse (LPN)	\$200
(2)	Registered nurse (RN)	\$200
(3)	Advanced practice: CNP/CNS/CRNA	\$200
D.	Other Fees:	
(1)	Re-exam LPN/RN	

	\$60	
(2)	Temporary license LPN/RN	\$60
(3)	Temporary license CNP/CNS/CRNA	\$60
(4)	License verification	\$30
E.	Nursing Lists:	
(1)	LPN/CNP/CNS/CRNA	\$100
(2)	RN	\$200
(3)	Specialty/customized	\$300
[16.12.2.9 NMAC - Rp, 16.12.2.9 NMAC, 10/1/2016; A, 9/12/2017]		

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

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

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

(a)

minimum acceptable level of education for LPN licensure by examination for candidates enrolled in RN programs with LPN programs embedded include:

(i) minimum of 500 hours, 250 didactic, 250 (clinical and lab) which includes the minimum as follows; OB/Peds - 30 hours didactic/40 hours clinical; medical-surgical - 60 hours didactic/90 hours clinical; pharmacology - 45 hours didactic; and psych - 60 contact hours;

(ii) LPN transition course approved by the New Mexico board of nursing.

(b) request to New Mexico board of nursing for LPN licensure examination by acceptable level of education from an approved program of nursing should include:

(i) transcripts with minimum of 500 hours in nursing education and proof of successful completion of board approved LPN transition course;

(ii) written communication from the director of the approved nursing program requesting permission for nursing students to test for LPN licensure.

(c) certification of eligibility for LPN licensure examination by students enrolled in a nursing program with a LPN track will need to include:

(i) transcripts with minimum of 500 hours in nursing education and board approved LPN transition course passed successfully on completion of board approved LPN transition course;

(ii) written communication from the director of the approved nursing program requesting permission for nursing students to test for LPN licensure.

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

(a) shall have an evaluation of their nursing education credentials sent

to the New Mexico board directly from a board recognized educational credentialing agency;

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

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

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

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

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

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

(b) Puerto Rico applicants who are graduates of National league for nursing accrediting commission (NLNAC) accredited registered nurse program are eligible to sit National council licensure examination for registered nurses (NCLEX-RN) exam;

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

(i) a minimum score of 540 (207 on computerized version) on the test of English as a foreign language (TOEFL) or test of English as a foreign language - internet based test (TOEFL IBT) minimal passing standard of 84 overall, with a minimum speaking score of 26, a minimum score of 725 on

test of English for international communication test of English for international communication (TOEIC) or a minimum score of 6.5 overall with a 7.0 on the spoken portion on the academic version of international English language testing system international English language testing system (IELTS);

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

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

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

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

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

(6) The board shall not approve an application for a license until the applicant provides the following information:

(a) demographics, including race, ethnicity and primary and other languages spoken;

(b) practice status, including but not limited to: active practices in New Mexico and other locations; practice type, practice settings, such as hospital, clinic or other clinical settings;

(c) education, training and primary and secondary specialties;

(d) average hours worked per week and the average number of weeks worked per year in the licensed profession;

(e) percentage of practice engaged in direct patient care and in other activities, such as teaching, research

and administration in the licensed profession;

(f)

practice plans for the next five years, including retiring from the health care profession, moving out of state or changing health care work hours.

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

(1) Applicants will follow the criminal background check process required by the New Mexico department of public safety or its agent.

(2)

Applications for exam or endorsement will not be processed without results of a criminal background check.

(3) If the

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

C. Complete application for licensure by examination, certification of eligibility for graduation completed by nursing education program or official transcript, and an approved criminal background check must be received by the board office prior to being granted permission to take the national licensing examination (NCLEX). Certification of eligibility for graduation completed by nursing education program or official transcript, indicating date requirements for graduation from the nursing program were met and certificate or degree awarded must be received in the board office directly from the registrar's office.

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

applicant.

E. An initial license shall be valid until the last day of the applicants' birth month after the first anniversary of the initial license.

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

G. If the licensure process is not completed, the application becomes null and void [~~one-year~~ six months] after date of the application being received at the board.

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

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

(a)

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

(b)

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

(c)

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

(d)

have an approved criminal background check results.

(2) Permits-

to-practice cannot be transferred or renewed.

(3) Written

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

(4) Permits-

to-practice shall be valid until the examination results are disseminated but shall not exceed the expiration date on the permit.

(a)

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

(b)

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

(c)

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

(5) Candidates

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

(6) Applicants

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

I. Direct supervision for graduate permit holders:

(1) at a

minimum, the RN responsible for direct supervision must be in the facility or on the unit with the graduate;

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

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

J. Applicants educated in the United States who fail the examination may apply to retake the examination:

(1) Up to eight times in two years. The applicant must wait 45 days to retest after failing the exam.

(2) An application expires after six months and a new application and all the supporting documentation must be submitted.

(3) Applicants for re-examination must meet all NCLEX requirements for retaking the examination.

(4) If the applicant did not pass the exam in eight attempts or within two years of graduating, or did not attempt the exam within two years of graduating;

(a) the applicant must submit an individualized remediation plan within six months of the last date of taking the NCLEX to the nurse education advisory committee for consideration;

(b) the applicant has one year to fully execute the approved plan;

(c) upon full execution of the plan, the board's designee will authorize the applicant to take the exam four more times within one year before becoming indefinitely ineligible to sit NCLEX based on nursing program graduation. Subsequent graduations will reset the applicant's NCLEX eligibility;

(d) applicants educated outside of the United States who have practiced nursing for any time may petition the nursing education advisory committee for an alternative schedule for successful completion of the NCLEX

not based on graduation date;

(e) graduates who have not passed the NCLEX within two years of graduation and who graduated prior to July 1, 2014 may submit a remediation plan by December 31, 2016.

K. National council licensing examination.

(1) Applicants for licensure as registered nurses shall be required to pass the NCLEX-RN.

(2) Applicants for licensure as licensed practical nurses shall be required to pass the NCLEX-PN.

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

L. Prerequisites for licensure of registered nurses and licensed practical nurses by endorsement.

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

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

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

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

(3) Canadian applicants who have been endorsed by another state after passing the Canadian nursing exam in English or the NCLEX are eligible for endorsement into NM.

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

(5) The board shall not approve an application for endorsement until the applicant provides the following information:

(a) demographics, including race, ethnicity and primary and other languages, spoken;

(b) practice status, including but not limited to: active practices in New Mexico and other locations; practice type, practice settings, such as hospital, clinic or other clinical settings;

(c) education, training and primary and secondary specialties;

(d) average hours worked per week and the average number of weeks worked per year in the licensed profession;

(e) percentage of practice engaged in direct patient care and in other activities, such as teaching, research and administration in the licensed profession;

(f) practice plans for the next five years, including retiring from the health care profession, moving out of state or changing health care work hours.

(6) Applicants will follow the criminal background check process required by the New Mexico department of public safety or its agent and have a new criminal background check approved.

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

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

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

occupation to be "LPN";

(3) Continuing education (CE) is not required for initial licensure by endorsement. CE requirements must be met at the time of the first renewal. CE may be prorated to commensurate with the length of the renewal period;

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

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

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

(2) applicants will follow the criminal background check process required by the New Mexico department of public safety or its agent and have a criminal background check result approved.

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

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

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

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

O. An initial license shall be valid until the last day of the applicants' birth month after the first anniversary of the initial license.

P. If the licensure process is not completed [~~in one year~~] within six months after date application received by the board, the

application becomes null and void.

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

R. Requirements for relicensure and reactivation. Applicants for relicensure and reactivation must meet CE requirements as stated in these rules, pursuant to the Nursing Practice Act Section 61-3-24 NMSA 1978. The CE may be prorated to commensurate with the length of the renewal period.

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

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

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

(b) The board shall not approve an application for a renewal of license until the applicant provides the following information:

(i) demographics, including race, ethnicity and primary and other languages spoken;

(ii) practice status, including but not limited to: active practices in New Mexico and other locations; practice type, practice settings, such as hospital, clinic or other clinical settings;

(iii) education, training and primary and secondary specialties;

(iv) average hours worked per week and the average number of weeks worked per year in the licensed profession;

(v) percentage of practice engaged in direct patient care and in other activities, such as teaching, research and administration in the licensed

profession;

(vi) practice plans for the next five years, including retiring from the health care profession, moving out of state or changing health care work hours.

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

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

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

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

(3) 30 hours of approved CE must be accrued within the 24 months immediately preceding expiration of license. CE may be prorated to commensurate with the length of the renewal period.

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

(b) Certified registered nurse anesthetists must submit a copy of the recertification card issued by NBCRNA for renewal of the CRNA license.

(c) Clinical nurse specialist must

complete a total of 50 hours of approved continuing education each renewal. CE may be prorated to commensurate with the length of the renewal period. A copy of the specialty certification/recertification card or certificate shall be presented at the time of each subsequent renewal.

(d)

Exception: if renewing, nurses mobilized for military action are not required to meet the CE requirements while on active duty, other than training, during a military action. A copy of the mobilization order must be submitted along with the renewal application.

(4) Individuals

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

(5) **Penalty:**

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

(6) Licenses

can be verified by phone verification, on the board website or www.nursys.com.

(7) Individuals

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

(a)

Applicants will follow the criminal background check process required by the New Mexico department of public safety or its agent and have a new criminal background check result approved.

(b)

A temporary license will be issued not to exceed six months unless the board of nursing approves an

extension to allow the individual to complete the refresher course clinical component. If documentation is not received by the board verifying successful completion of the refresher course prior to the temporary license expiration date, the individual will not be allowed to practice nursing.

(c)

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

S. Requirements for name-address change:

(1) **Address**

change: Immediate notification of address change *must be made* to the board office.

(2) **Name**

change: Nurse must use name as it appears on current license until name change is in effect. Name change can be submitted with license renewal or at any given time. Submit a copy of the legal document required for name change (*only* recorded marriage certificate, divorce decree or court order accepted).

T. Reactivation/ reinstatement of a lapsed license must meet the requirements for relicensure pursuant to the Nursing Practice Act and these rules. A reactivated or reinstated license shall be valid [for] up to two years.

U. Inactive status.

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

V. The board will collect a standardized core essential data set as required in regulation for examinations and renewals which will be entered into the internal licensing database at the board of nursing.

[16.12.2.10 NMAC - Rp, 16.12.2.10 NMAC, 10/1/2016; A, 9/12/2017]

16.12.2.13 ADVANCED PRACTICE REGISTERED NURSE (APRN) CERTIFIED NURSE PRACTITIONER (CNP):

A. Requirements for licensure of nurse practitioners.

(1) Hold a

current, unencumbered RN license from New Mexico or hold a compact multi-state RN license.

(2)

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

(a)

The program must be offered through an accredited institution of higher education or through the armed services.

(b)

If the applicant is initially licensed by any board of nursing including the New Mexico board of nursing after January 1, 2001 the program must be at the master's in nursing level or higher. Applicants who do not hold a master's level or higher degree from a nurse practitioner program and were initially licensed by any board before January 1, 2001, must provide verification of NP licensure.

(c)

The educational documentation shall verify the date of graduation, credentials conferred and number of supervised clinical hours as a nurse practitioner in the education program.

(3)

Provide evidence of successful accomplishment of national certification as a nurse practitioner.

(4) It is the

responsibility of the applicant to provide documented evidence of his/her qualifications for licensure.

(5) Applicants

who meet the minimum didactic and pharmacology requirements, but lack the required preceptorship, may be considered for licensure in New Mexico if the applicant provides satisfactory evidence of two years nurse practitioner experience in another jurisdiction.

(6) Nurse

practitioners who will be requesting prescriptive authority must also comply with the requirements for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate nurse practitioner. The applicant seeking licensure as a nurse practitioner shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico nurse practitioner licensure application and submit it along with all required documents in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or its designee.

(4) Nurse practitioners are not eligible to practice in New Mexico as a certified nurse practitioner until so licensed in accordance with the licensure procedures.

(5) The board may appoint nurse practitioners to the advanced practice committee. These nurse practitioners will provide advice regarding licensure and practice of nurse practitioners.

C. Graduate nurse practitioners (GNP) permit-to-practice may be issued, upon written request, provided all requirements have been met except national nursing certification.

(1) GNPs must practice under the direct supervision of a physician or New Mexico Certified Nurse Practitioner (NCP) or Certified Nurse Specialist (CNS) in the specialty.

(2) GNPs may prescribe medications only under the direct supervision of a licensed CNP, CNS or a physician, in compliance with these rules. GNPs must fulfill the requirements in this section to

prescribe controlled substances.

(3) GNP permits will be issued to the employer.

(4) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor and the name of the prescription supervisor, is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice at the new place of employment. The permit will be issued directly to the new employing agency.

(5) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GNP permit.

(6) GNP permits cannot be transferred or renewed.

(7) GNP permits expire on the date specified on the permit. Permits shall be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice as a GNP. It is the responsibility of the GNP to request that the national certifying organization notify the board of nursing of the results of the examination.

D. An initial license to practice as a CNP shall be issued only after receipt by the board of proof of national certification. Such proof must be submitted to the board directly from the certifying agency prior to the expiration of the permit or temporary license.

E. Prerequisites for licensure of CNP by endorsement.

(1) Verification *directly* from the licensing authority, which shall include graduation from a nurse practitioner program.

(2) In lieu of verification of advanced practice licensure for the licensing authority the board will accept:

(a) documentation directly from that licensing authority that the state does

not issue advanced practice licensure;

(b) a sworn affidavit from applicant that they practice as an advance practice nurse with the year practice began, and;

(c) if applicant was licensed by another board after January 1, 2001, submit a transcript from the program directly to the board documenting completion of a nurse practitioner program on the master's or higher level.

(3) Verification from applicant of national certification as a nurse practitioner.

(4) Nurse practitioners who are requesting prescriptive authority must comply with the requirements for prescriptive authority as outlined in these rules.

(5) Complete and submit the required application from licensure by endorsement in accordance with all instructions including the required fee.

(6) Continuing education is not required for initial CNP licensure by endorsement.

F. Qualifications for licensure as CNP are pursuant to the Nursing Practice Act.

(1) Refer to Subsection A of 16.12.2.13 NMAC for licensure requirements.

(2) CE requirements must be met at the time of the first renewal;

(a) advanced practice registered nurse (APRN) newly licensed in New Mexico may have their 20 CE requirements prorated at a ratio of five contact hours for each six months of licensure leading up to the expiration date;

(b) the five contact hours of the 15 currently required in pharmacology to include management of non-cancer pain shall not be prorated. It shall be required for renewal periods of any length;

(c) APRNs with less than six months of licensure prior to renewal at the time of initial licensure shall complete at least five continuing education contact

hours.

(3)

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

G. A CNP temporary license may be issued to an endorsee awaiting results on successful completion of national certification.

H. A temporary nurse practitioner license may be issued to an endorsee who:

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

(2) submits a copy of current national certification as a nurse practitioner; the following exceptions can be made;

(a)

nurse practitioners who were licensed by any jurisdiction before December 2, 1985 are not required to hold national certification; or

(b)

when the state of former advanced practice licensure does not require national certification; proof of national certification as a nurse practitioner must be submitted to the board before a license will be issued;

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

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

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

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

I. An initial nurse

practitioner license shall be valid until the last day of the applicant's birth month after the first anniversary of the initial license. For nurses from compact states, an NM advanced practice license will be issued with the same expiration date as the RN compact license. A letter of authorization will be issued to NPs who have RN multi-state licensure privileges from another nurse licensure compact state. Official verification to practice is located on the board website.

J. If the licensure process is not completed, the application becomes null and void [~~one year~~ six months] after the date of application being received at the board.

K. Authorization to expand scope of practice or who need recertification.

(1) A letter of authorization will be issued for the CNPs who through additional formal education have expanded their practice into another area of NP practice or who need practice hours to recertify provided all requirements have been met except national certification.

(2) A letter of verification of intent to provide a preceptorship, on official letterhead including the name of the practice preceptor and the name of the prescription preceptor must be submitted to the board of nursing.

(3) Practice must be under the direct supervision of a physician or licensed New Mexico CNP or CNS in the specialty.

(4) Prescribing may be done only under the direct supervision of a licensed CNP or CNS or a physician in compliance with these rules.

(5) A letter of authorization will be issued to the preceptor.

(6) A letter of authorization cannot be transferred, renewed or a duplicate issued.

(7) A letter of authorization will expire on the date specified.

(a)

A letter of authorization shall be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice in that area. It is the responsibility of the CNP to request that the national certifying organization notify the board of the results of the examination. A letter of authorization may be valid for a period not to exceed two years.

(b)

A letter of authorization shall be valid for six months for those applicants recertifying.

(c)

A letter of authorization shall be issued for the prescriptive authority preceptorship. This letter will only be valid for the duration of the preceptorship expansion of scope of practice or recertification required hours of practice.

L. Maintaining licensure as a nurse practitioner.

(1) National certification: NPs must maintain national certification. A copy of the specialty certification/recertification card shall be presented at the time of each subsequent renewal. Nurse practitioners licensed by the NM board, after December 2, 1985 are required to be nationally certified in their specialty.

(2) Continuing education.

(a)

The CNP shall accrue a total of 50 contact hours of approved CE each renewal period. National certification or recertification as a NP may not be used to fulfill any portion of the CE requirement:

(i)

30 contact hours shall meet the requirements for licensure as a RN, and;

(ii)

an additional 20 contact hours, 15 of which must be pharmacology are required;

(iii)

CNP's with DEA registration and licensure that permits prescribing opioids shall obtain five contact hours of the 15 currently required in

pharmacology to include management of non-cancer pain;

(iv)

CNP's from compact states are only required to fulfill CE requirements listed under item (ii) and (iii) of this subparagraph;

(v)

CE may be prorated to commensurate with the length of the renewal period.

(b)

The CE shall be in accordance with the requirements as set forth in these rules.

M. Reactivation. To reactivate or reinstate licensure as a nurse practitioner, the nurse must provide evidence of meeting the CE requirements.

(1) NPs

licensed by the board after December 2, 1985 must also provide evidence of current national certification.

(2) CNPs who

are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their knowledge skills and expertise. A temporary license will be issued not to exceed one year, unless the board of nursing approves an extension.

N. Nurse practitioner practice.

(1) The

CNP makes independent decisions regarding the health care needs of the client and also makes independent decisions in carrying out health care regimens.

(2) The CNP

provides primary or acute, or chronic, or long-term, or end of life health care to meet the health care needs of individuals, families and communities in any health care setting.

(3) The CNP

may assume specific functions or perform specific procedures which are beyond the advanced educational preparation and certification for the CNP provided the knowledge and skills required to perform the function or procedure emanates from a recognized body of knowledge or advanced practice of nursing and the function or procedure

is not prohibited by any law or statute. When assuming specific functions and performing specific procedures, which are beyond the CNP's advanced educational preparation and certification, the CNP is responsible for obtaining the appropriate knowledge, skills and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) The CNP

collaborates as necessary with other healthcare providers. Collaboration includes discussion of diagnosis and cooperation in managing and delivering healthcare.

(5) CNPs

who have fulfilled requirements for prescriptive authority may prescribe and distribute dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act within their clinical specialty and practice setting.

(a)

Requirements for prescriptive authority: In accordance with applicable state and federal laws, the CNP who fulfills the following requirements may prescribe and distribute dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act.

(i)

Verifies 400 hours of work experience in which prescribing dangerous drugs has occurred within the two years immediately preceding the date of the application. Individuals who have not fulfilled this requirement must provide documentation of successful completion of 400 hours of prescribing dangerous drugs in a preceptorship with a licensed CNP, CNS or physician. The preceptorship must be completed within six months and a letter of authorization will be issued for the duration of the preceptorship;

(ii)

In order to prescribe controlled substances, the CNP must provide the board of nursing with verification of

current state controlled substances registration and current DEA number, unless the CNP has met registration waiver criteria from the New Mexico board of pharmacy as provided under Subsection I of 16.19.20.8 NMAC. CNPs may not possess, prescribe or distribute controlled substances until they have both a current state controlled substances registration and a current DEA registration;

(iii)

Once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b)

Formulary. It is the CNP's responsibility to maintain a formulary of dangerous drugs and controlled substances that may be prescribed; the only drugs to be included in the formulary are those relevant to the CNP's specialty and practice setting. The board of nursing reserves the right to audit the formulary of the CNP. Licensees may be subject to disciplinary action by the board of nursing if non-compliant with the audit.

(c)

Prescription records; written, verbal or electronic prescriptions and orders will comply with state board of pharmacy and federal requirements. All prescriptions will include the name, title, address, and phone number of the prescribing advanced practice registered nurse.

(d)

Distributing: CNPs, who have fulfilled requirements for prescriptive authority as stated in these rules, and defined by the board of pharmacy may distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act, which have been prepared, packaged, or fabricated by the registered pharmacist or doses which have been pre-packaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act Section 61-11-12 NMSA 1978 and the Drug, Device and Cosmetic Act for the benefit of the public good.

(e)

Labeling: CNPs may label only those drugs which the CNP prescribes and distributes to patients under the CNP's care. The medication shall be properly labeled with the patient's name, date of issue, drug name and strength, instructions for use, drug expiration date, number dispensed and name, address and telephone number of the CNP. Labeling may be handwritten or a pre-printed fill-in label may be used. All information shall be properly documented in the patient record.

(f)

CNPs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(g)

CNPs may prescribe, provide samples of and dispense any dangerous drug to a patient where there is a valid practitioner-patient relationship as defined in 16.12.2.7 NMAC.

(6) Graduate

nurse practitioner (GNP) practice.

(a)

GNPs may not distribute medications.

(b)

GNPs may practice or prescribe medications only under the direct supervision of a licensed CNP, CNS or physician in the specialty.

(7) To insure

competency and safe practice in specific regard to prescription writing practices in the state of NM:

(a)

a list of current CNPs and their status with regard to prescription writing shall be distributed at least annually and upon request to the board of pharmacy;

(b)

violation of these rules or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy;

(c)

the board of nursing shall appoint qualified CNPs in each specialty to serve on the board of pharmacy

disciplinary panel as requested by the board of pharmacy.

[16.12.2.13 NMAC - Rp, 16.12.2.13 NMAC, 10/1/2016; A, 9/12/2017]

16.12.2.14 ADVANCED PRACTICE REGISTERED NURSE (APRN) CERTIFIED REGISTERED NURSE ANESTHETIST (CRNA):

A. Requirements for licensure as a CRNA.

(1) Hold a

current, unencumbered RN license from New Mexico or hold a compact multi-state RN license.

(2)

Successfully complete a formal program designed for the education and preparation of certified registered nurse anesthetist. The COA *council on accreditation of nurse anesthesia educational programs* must accredit the program.

(3) If the

applicant is initially licensed by any board of nursing including the New Mexico board of nursing after January 1, 2001, the program must be at the master's level or higher. Applicants who do not hold a master's or higher degree from a nurse anesthetist program and were initially licensed by any board before January 2, 2001, must provide verification of CRNA licensure.

(4) Provide

evidence of successful completion of a national certification examination as described by the NBCRNA.

(5) It is the

responsibility of the applicant to provide documented evidence of his/her qualification for licensure.

(6) Applicants

who will be requesting prescriptive authority must also comply with the requirements for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate. The applicant seeking licensure as a certified registered nurse anesthetist shall be responsible for providing proof of meeting the requirements for licensure.

(1) The

applicant shall complete the New

Mexico certified registered nurse anesthetist licensure application and submit it along with all required documents, and fee in accordance with the instructions.

(2) Upon

acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants

who do not meet the requirements for licensure may request or be requested to meet with the board or its designee.

(4) Certified

registered nurse anesthetists are not eligible to practice in New Mexico as certified registered nurse anesthetist until so licensed in accordance with the licensure procedures.

(5) The board

may appoint certified registered nurse anesthetists to the advanced practice committee. These nurse anesthetists will provide advice regarding licensure and practice of certified registered nurse anesthetists.

C. Graduate registered

nurse anesthetist permit-to-practice may be issued, upon written request, provided all requirements have been met except NBCRNA certification.

(1) A permit

may be issued following graduation from an approved school of nurse anesthesia to afford the applicant the opportunity for employment pending dissemination of the national qualifying examination results by the NBCRNA.

(2) GRNAs

must function in an interdependent role as a member of a health care team and practice at the direction of and in collaboration with a physician, osteopathic physician, dentist or podiatrist.

(3) GRNAs

may prescribe and administer medications only in collaboration with a physician, osteopathic physician, dentist or podiatrist in compliance with these rules.

(4) GRNAs

permits will be issued to the employer(s).

(5) A letter

of verification of intent to employ, on official letterhead including the name of the practice supervisor(s) and name of prescription supervisor(s), is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice for the new place of employment. The permit will be issued directly to the new employing agency.

(6) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GRNA permit.

(7) GRNA permits cannot be transferred or renewed.

(8) GRNA permits expire on the date specified on the permit.

(a) Permits shall be valid for approximately 12 months subsequent to the date of graduation from the nurse anesthesia program.

(b) Written proof of application to write the national qualifying exam must be received in the board office within 12 weeks of graduation from the nurse anesthesia program.

(c) Verification that applicant wrote the national qualifying examination, must be received in the board office within three weeks subsequent to the date of the examination.

(d) Failure of applicant to write the scheduled qualifying examination or if the exam is failed, will render the applicant ineligible to practice anesthesia in New Mexico and the employer must immediately return the permit-to-permit to the board office. It is the responsibility of the GRNA to request that the national certifying organization notify the board of the results of the examination.

D. A license to practice as a CRNA shall be issued only after receipt by the board of proof of NBCRNA certification. Such proof must be submitted to the board by the certifying agency.

E. Prerequisites for

licensure of CRNA by endorsement.

(1) Verification *directly* from the licensing authority, which shall include graduation from a COA *council on accreditation of nurse anesthesia educational program* and a graduate level degree after January 1, 2001.

(2) In lieu of verification of advanced practice licensure from the licensing authority, the board will accept documentation directly from that licensing authority that the state does not issue advanced practice licensure and a sworn affidavit from applicant that they practice as an advance practice nurse with year practice began.

(3) Verification by applicant of national board of certification and recertification for nurse anesthetists (NBCRNA) certification/recertification.

(4) Certified registered nurse anesthetists must comply with the requirements for prescriptive authority as outlined in these rules.

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

(6) Continuing education is not required for initial certified registered nurse anesthetists (CRNA) licensure by endorsement.

F. Qualifications for licensure as CRNA are pursuant to the Nursing Practice Act.

(1) Refer to Subsection A of 16.12.2.14 NMAC for licensure requirements.

(2) CE requirements must be met at the time of first renewal. Recertification by NBCRNA will meet the mandatory CE requirements for CRNA licensure. CRNA's with DEA registration and licensure that permits prescribing opioids shall obtain five contact hours to include the management of non-cancer pain.

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

license.

G. A CRNA temporary license may be issued, to an endorsee awaiting results on successful completion of NBCRNA certification.

H. A temporary certified registered nurse anesthetist license may be issued to an endorsee who:

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

(2) submits a copy of current NBCRNA council of recertification of nurse anesthetist;

(3) the board will mail the temporary license to the endorsee;

(4) a temporary license is valid for a period not to exceed six months from the date of application;

(5) a temporary license is not renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action;

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

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

I. An initial certified registered nurse anesthetist license shall be valid until the last day of the applicant's birth month after the first anniversary of the initial license. For nurses from compact states, a New Mexico advanced practice license will be issued with the same expiration date as the compact RN license. A letter of authorization will be issued to CRNAs who have RN multi-state licensure privileges from another nurse licensure compact states. Official verification of authorization to practice is available through the board website.

J. If the licensure process is not completed, the

application becomes null and void [one year] six months after the date received at the board of nursing.

K. Maintaining licensure as a certified registered nurse anesthetist.

(1)

National certification: CRNAs must maintain NBCRNA. A copy of the recertification card must be presented at the time of each subsequent renewal.

(2) Continuing

education: recertification by NBCRNA is accepted for meeting mandatory CE requirement.

L. Reactivation: to reactivate or reinstate licensure as a certified registered nurse anesthetist.

(1) The nurse must provide evidence of current recertification by the NBCRNA.

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

M. Certified registered nurse anesthetist practice.

(1) The CRNA provides pre-operative, intra-operative and post-operative anesthesia care and related services, including ordering of diagnostic tests, in accordance with the current *American association of nurse anesthetists'* guidelines for nurse anesthesia practice.

(2) The CRNA functions in an interdependent role as a member of a health care team in which the medical care of the patient is directed by a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico.

(3) The CRNA may assume specific functions or perform specific procedures which are beyond the advanced educational preparation and certification for the CRNA provided the knowledge and skills required to perform the function or procedure emanates from

a recognized body of knowledge or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions or performing specific procedures, which are beyond the CRNA's advanced educational preparation and certification, the CRNA is responsible for obtaining the appropriate knowledge, skills and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) The CRNA collaborates as necessary with the licensed physician, osteopathic physician, dentist or podiatrist concerning the anesthesia care of the patient. Collaboration means the process in which each health care provider contributes his/her respective expertise. Collaboration includes systematic formal planning and evaluation between the health care professionals involved in the collaborative practice arrangement.

(5) CRNAs who have fulfilled requirements for prescriptive authority may prescribe and administer therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act within the specialty of anesthesia and practice setting.

(a) Requirements for prescriptive authority: in accordance with applicable state and federal laws, the CRNA who fulfills the following requirements may prescribe and administer dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act.

(i) Verifies 400 hours of work experience in which prescribing and administering dangerous drugs has occurred within the two years immediately preceding the date of the application. Individuals who have not fulfilled this requirement must provide documentation of

successful completion of 400 hours of prescribing dangerous drugs in a preceptorship with a CRNA or physician. The preceptorship must be completed within six months and a letter of authorization will be issued for the duration of the preceptorship.

(ii)

In order to prescribe controlled substances, the CRNA must provide the board of nursing with verification of current state controlled substances registration and current drug enforcement administration (DEA) number, unless the CRNA has met registration waiver criteria from the New Mexico board of pharmacy (Subsection I of 16.19.20.8 NMAC). CRNAs may not possess or prescribe controlled substances until they have both a current state controlled substances registration and a current DEA registration.

(iii)

Once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b)

Formulary: the formulary will include agents related to the administration of anesthesia and Advanced Cardiac Life Support (ACLS) protocol agents.

(i)

All CRNAs must adhere to the current formulary approved by the board of nursing.

(ii)

The initial formulary or a formulary with changes will be submitted to the board of medical examiners for a review.

(c)

Prescription records: written, verbal or electronic prescriptions and order will comply with state board of pharmacy and federal requirements. All prescriptions will include the name, title, address and phone number of the prescribing advanced practice registered nurse.

(d)

Prescribing and administering: CRNAs who have fulfilled requirements for prescriptive authority as stated in these rules as

defined by the board of pharmacy may prescribe and administer to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act, which have been prepared, packaged or fabricated by a registered pharmacist or doses or drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act, Section 61-11-22 NMSA 1978 and the New Mexico Drug, Device and Cosmetic Act for the benefit of the public good.

(e)

Distributing: CRNAs who have fulfilled requirements for prescriptive authority as stated in these rules may *not* distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act.

(f)

CRNAs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(6) Graduate registered nurse anesthetist practice.

(a)

GRNAs may NOT distribute medications.

(b)

GRNAs may practice or prescribe/administer medications only in collaboration with a physician, osteopathic physician, dentist or podiatrist.

(7) To insure competency and safe practice in specific regard to prescription writing practices in the state of NM.

(a) A list of current CRNAs and their status with regard to prescription writing shall be distributed upon request to the board of pharmacy.

(b) Violation of these rules or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy.

(c)

The board of nursing shall appoint as requested, qualified CRNAs to serve on the board of pharmacy disciplinary panel as requested by the board of pharmacy.

N. A CRNA business entity formed pursuant to the laws of the state of New Mexico is authorized to provide health care services in the state of New Mexico if the health care services are provided by persons who are duly licensed to engage in the practice of nursing pursuant to the provisions of the Nursing Practice Act.

[16.12.2.14 NMAC - Rp, 16.12.2.14 NMAC, 10/1/2016; A, 9/12/2017]

NURSING, BOARD OF

This is an amendment to 16.12.3 NMAC, Section 12, effective 9/12/2017.

16.12.3.12 MINIMUM STANDARDS FOR NURSING PROGRAMS:

A. Administration and organization.

(1) The

nursing education program shall be an integral part of an institution of higher education that is authorized by this state to confer credentials in nursing and that is also accredited by an accreditation agency recognized by the US department of education.

(2) The

nursing program shall obtain national nursing accreditation within two years of the first graduating class.

(3) The

nursing programs shall have status comparable with other academic units. There shall be an organizational chart which identifies the relationships, within and between the program and other administrative areas of the parent institution.

(4) The

administration of the parent institution shall provide adequate financial support for the nursing program.

(5) The parent

institution shall designate a qualified, nursing director who is licensed

to practice as a registered nurse in New Mexico or in a compact state. The nursing program director shall have responsibility and authority comparable with the administrative position including but not limited to development, implementation, evaluation, administration and organization of the nursing program.

(6) The

nursing program shall have specific written policies available to students and the public regarding, but not limited to, admission, readmission, transfer, advanced placement, progression, graduation, withdrawal, dismissal, student rights and responsibilities, grievances, health and safety.

(7) The

nursing program shall provide accurate, complete and appropriate information to all students and prospective students about the program including, but not limited to:

(a)

nature of the program, including course sequence, prerequisites, co-requisites and academic standards;

(b)

length of the program;

(c)

current cost of the program;

(d)

transferability of credits to other public and private educational institutions in New Mexico;

(e)

program teaching methods and supporting technology;

(f)

current standing and any change in regional or national institutional accreditation status and national nursing accreditation status and board approval status.

(8) Faculty

and students shall participate in program planning, implementation, evaluation and continuous improvement.

B. Curriculum.

(1) The

mission of the nursing unit shall be consistent with that of the parent institution.

(2) A

nursing program shall develop and

implement a curriculum that includes level objectives, course objectives; measurable learning outcomes for each course that:

(a)

reflect its mission and goals;

(b)

are logically consistent between and within courses;

(c)

are designed so that the students who complete the program will have the knowledge and skills necessary to function in accordance with the definition and scope of practice specified in New Mexico Nurse Practice Act.

(3) The

curriculum shall extend over a period of time sufficient to provide essential, sequenced learning experiences which enable a student to develop nursing competence and shall evidence an organized pattern of instruction consistent with principles of learning and educational practice.

(4) Clinical

experience shall provide opportunities for application of theory and for achievement of the stated objectives in a client care setting or simulation learning settings, and shall include clinical learning experience to develop nursing skills required for safe practice. In the client care clinical setting, the student/faculty ratio shall be based upon the level of students, the acuity level of the clients, the characteristics of the practice setting and shall not exceed 8:1. In the simulation setting there shall be nursing faculty who has received focused training in simulation pedagogy and techniques. Clinical evaluation tools for evaluation of students' progress, performance and learning experiences shall be stated in measurable terms directly related to course objectives. Simulation learning experiences may concurrently include the use of low, medium, and high fidelity experiences. Nursing programs shall:

(a)

establish clearly-defined simulation learning outcomes incorporating objective measures for success;

(b)

incorporate written, planned design of individual training experiences and shall include consideration of the educational and experiential levels of the learners;

(c)

make use of checklists for pre- and post-experience analysis and review;

(d)

may substitute up to a maximum of fifty percent of a clinical education experiences using simulation programs and practices;

(e)

have written simulation policies and procedures specific to the nursing education available to all faculty and pertinent staff. Simulation learning policies and procedures shall include evaluative feedback mechanisms for ongoing program improvement;

(f)

incorporate facilitated student-centered debriefing sessions upon the conclusion of simulation-based activities.

(5) The

curriculum shall provide instruction in the discipline of nursing across the lifespan and include content relevant to national and local health care needs. Support courses shall be an integral part of the nursing curriculum.

(6) The

nursing program shall implement a comprehensive, systematic plan for ongoing evaluation that is based on program outcomes and incorporates continuous improvement.

C. Program director requirements:

(1) Prior to appointment, the program director shall:

(a)

hold a graduate degree in nursing;

(b)

hold a current registered nurse license to practice in New Mexico;

(c)

have work experience in clinical nursing practice;

(d)

have work experience as a nurse educator.

(2) The

program director shall:

(a)

maintain a current registered nurse license to practice in New Mexico;

(b)

be afforded appropriate resources to accomplish the program mission, goals and expected program outcomes;

(c)

have the authority and responsibility for administration of the program to include but not limited to budget management, workload assignments, management and supervision of faculty and staff, development and enforcement of policies, meeting regulatory and accreditation requirements, and development and implementation of curriculum;

(d)

have at least eighty percent of obligated work time to administer the program.

[~~E~~] **D.** Faculty

requirements:

(1) The

administrator of the nursing program [~~and all nursing program faculty~~] shall hold a current [~~license~~] license to practice as a registered [~~nurses~~] nurse in New Mexico [~~or in a compact state~~].

(2)

~~The nurse administrator shall hold at least one graduate degree in nursing and shall have experience in nursing practice, nursing education, curriculum and nursing administration.]~~

(a)

A formal plan will be in place which will include an orientation to [~~college administration and~~] the nursing program [~~development, implementation and evaluation~~].

(b)

Nursing faculty who teach full-time shall hold a graduate degree in nursing; faculty without a graduate degree may be employed for one year and then are required to complete a graduate degree within the next five years, an educational contract with evidence of progression will be submitted with program annual report.

(c)

Nursing faculty who teach part time shall hold a minimum of a bachelor's degree in nursing; faculty without a

bachelor of science in nursing (BSN) may be employed for one year and then are required to complete a BSN completion program or master of science in nursing (MSN) program within five years, an educational contract with evidence of progression will be submitted with program annual report.

(i)

Part time faculty without a graduate degree in nursing shall report to a master's prepared faculty and evidence of routine supervision shall be documented.

(ii)

Part-time faculty shall be oriented to the curriculum, and provided with instruction in didactic and clinical teaching strategies.

~~[(3)]~~ **(2)** Clinical preceptors are licensed as a nurse at or above the educational level for which the student is preparing.

~~[(4)]~~ **(3)** Personnel policies for nursing faculty shall be the same as those in effect for other faculty with the exception of:

~~[(a)]~~ **(a)** — at least eighty percent of the administrator assignment shall be spent in administration of the nursing program; additional administrative time should be given when preparing for accreditation, curriculum revision and other administrative related activities;

~~[(b)]~~ **(a)** nursing faculty workload shall be calculated by teaching clock/contact hour;

~~[(c)]~~ **(b)** evidence of full time and part time faculty evaluation shall be in place;

~~[(5)]~~ **(4)** A nursing program shall maintain current and accurate faculty and student records.

~~[(6)]~~ **(5)** The nursing program will retain a qualified director and a sufficient number of qualified faculty to meet the outcomes and purposes of the nursing education program.

~~[(D)]~~ **E.** Resources: The parent institution shall provide sufficient resources, services and facilities to operate the nursing program.

~~[(E)]~~ **E.** The nursing education program will maintain a passing rate of eighty percent or above of first time writers of the national licensing exam.
[16.12.3.12 NMAC - Rp, 16.12.3.12 NMAC, 10/1/2016; A, 9/12/2017]

NURSING, BOARD OF

This is an amendment to 16.12.9 NMAC, Sections 7, 8, 9 and 10, effective 9/12/2017.

16.12.9.7 DEFINITIONS:

A. "Acute Pain" means the normal, predicted physiological response to a noxious chemical or thermal or mechanical stimulus, typically associated with invasive procedures, trauma or disease and generally time limited.

B. "Addiction" is a neurobehavioral syndrome with genetic and environmental influences that results in psychological dependence on the use of substances for their psychic effects. It is characterized by behaviors that include one or more of the following: impaired control over drug use; compulsive use; continued use despite harm; and craving. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and should not by themselves be considered addiction.

C. "Chronic pain" means pain that persists after reasonable efforts have been made to relieve the pain or its cause and that continues, either continuously or episodically, for longer than three consecutive months. "Chronic pain" does not, for the purpose of the Pain Relief Act requirements, include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.

D. "Clinical expert" means a person who, by reason of specialized education or substantial relevant experience in pain management, has knowledge

regarding current standards, practices and guidelines.

E. "Drug abuser" means a person who takes a drug or drugs for other than legitimate medical purposes.

F. "Nursing Facility" means a long term care facility in which the patient is a current fulltime resident and whose medications are solely administered and managed by the facility.

[F.] G. "Pain" means an unpleasant sensory and emotional experience associated with inflammation or with actual or potential tissue damage, or described in terms of such inflammation and damage, which could include acute, persistent or chronic pain.

[G.] H. "Physical dependence" means a state of adaptation that is manifested by a drug-specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, administration of an antagonist, or a combination of these.

[H.] I. "Prescription monitoring program (PMP)" means a centralized system to collect, monitor, and analyze electronically, for controlled substances, prescribing and dispensing data submitted by pharmacies and dispensing practitioners. The data are used to support efforts in education, research, enforcement and abuse prevention.

[I.] J. "Therapeutic purpose" means the use of pharmaceutical and non-pharmaceutical treatments and the spectrum of available modalities that conforms substantially to accepted guidelines for pain management.

[J.] K. "Tolerance" means a state of adaptation in which exposure to a drug induces changes that result in a diminution of one or more of the drug's effects over time.
[16.12.9.7 NMAC - N, 2/17/2006; A, 11/20/2012; A, 9/12/2017]

16.12.9.8 RULES: The following rules shall be used by the board to determine whether [health-care practitioner's] an advanced

practice nurse's prescriptive practices are consistent with the appropriate treatment of pain.

A. The treatment of pain with various medicines or controlled substances is a legitimate nursing practice when accomplished in the usual course of professional practice. It does not preclude treatment of patients with addiction, physical dependence or tolerance who have legitimate pain. However, such patients do require very close monitoring and precise documentation.

B. Pain management for patients [~~with substance-use disorders~~] should include a contractual agreement, the use of drug screens prior to treatment with opiates and during the course of treatment to identify actual drugs being consumed and to compare with patients self-reports. If concerns about misuse are identified, the patient will be referred for appropriate consultation, and scheduled for re-evaluation at appropriate time intervals.

C. The prescribing, ordering, administering or dispensing of controlled substances to meet the individual needs of the patient for management of chronic pain is appropriate if prescribed, ordered, administered or dispensed in compliance with the following.

(1) [A-practitioner] An advanced practice nurse shall complete a history and physical examination and include an evaluation of the patient's psychological and pain status. The medical history shall include any previous history of significant pain, past history of alternate treatments for pain, potential for substances abuse, coexisting disease or medical conditions, and the presence of a medical indication and supporting diagnostic documentation or contra-indication against the use of controlled substances.

(2) [A-practitioner] An advanced practice nurse shall be familiar with and employ screening tools, as well as the spectrum of available modalities for therapeutic purposes, in the

evaluation and management of pain. They shall consider an integrative approach to pain management specialists including but not limited to an acupuncturist, chiropractor, doctor of oriental medicine, exercise physiologist, massage therapist, pharmacist, physical therapist, psychiatrist, psychologist or other advanced practice registered nurse.

(3) A written treatment plan shall be developed and tailored to the individual needs of the patient, taking age, gender, culture, and ethnicity into consideration, with stated objectives by which treatment can be evaluated, e.g. by degree of pain relief, improved physical and psychological function, or other accepted measure. Such a plan should include a statement of the need for further testing, consultation, referral or use of other treatment modalities.

(4) If the patient's pain relief plateaus on controlled substance analgesic(s), then the treatment plan should include an evaluation of continuing or tapering the controlled substance therapy.

(4) (5) The practitioner shall provide education and discuss the risks and benefits of using controlled substances with the patient or surrogate or guardian, and shall document this in the record.

(5) (6) Complete and accurate records of care provided and drugs prescribed shall be maintained. When controlled substances are prescribed, the name of the drug, quantity, and prescribed dosage [~~and number of refills authorized~~] should be recorded. Prescriptions for opioids shall include indications for use. For chronic non-cancer pain patients treated with controlled substance analgesic(s), the prescribing practitioner shall use a written agreement for treatment with the patient outlining patient responsibilities. As part of a written agreement, chronic non-cancer pain patients shall receive all chronic pain management prescriptions from one practitioner and one pharmacy whenever possible.

(6) (7) The management of patients needing

chronic pain control requires monitoring by the attending or the consulting practitioner. The practitioner shall periodically review the course of treatment for chronic non-cancer pain, the patient's state of health, and any new information about the etiology of the chronic non-cancer pain at least every [~~six~~] three months. In addition, a practitioner should consult, when indicated by the patient's condition, with health care professionals who are experienced (by the length and type of their practice) in the area of chronic pain control; such professionals need not be those who specialize in pain control. Consultation should occur early in the course of long-term treatment, and at reasonable intervals during continued long-term treatment for assessment of benefit and need [~~at least every six months~~]. Drug screening is [~~recommended~~] expected and should be conducted when other factors suggest an elevated risk of misuse or diversion.

(7) (8) If, in a practitioner's opinion, a patient is seeking pain medication for reasons that are not medically justified, the practitioner is not required to prescribe controlled substances for the patient.

D. The board will evaluate the quality of care on the following basis: appropriate diagnosis and evaluation; appropriate [~~medical~~] medical indication for the treatment prescribed; documented change or persistence of the recognized medical indication; and, follow-up evaluation with appropriate continuity of care. The board will judge the validity of prescribing based on the [~~practitioner's~~] advanced practice nurse's treatment of the patient and on available documentation, rather than on the quantity and chronicity of prescribing. The goal is to control the patient's pain for its duration while effectively addressing other aspects of the patient's functioning, including physical, psychological, social, and work-related factors.

E. The board will review both over-prescription and under-prescription of pain

medications using the same standard of patient protection as a guiding principle.

F. [A practitioner]

An advanced practice nurse who appropriately prescribes controlled substances and who follows this section would be considered to be in compliance with this rule and not be subject to discipline by the board, unless there is some violation of the Nursing Practice Act, board rules and Pain Relief Act (24-2 D, 1 to 24-2 D, 6 NMSA 1978).

[16.12.9.8 NMAC - N, 2/17/2006, A, 11/20/2012; A, 9/12/2017]

16.12.9.9 PRESCRIPTION MONITORING PROGRAM (PMP) REQUIREMENTS:

The intent of the [NM] New Mexico board of nursing in requiring participation in the PMP is to assist [practitioners] advanced practice nurses in balancing [the promotion of] the safe use of controlled substances [for the provision of nursing care and services] with the need to [impede illegal and harmful] impede harmful and illegal activities involving these pharmaceuticals.

A. [A health care provider who holds a federal drug enforcement administration registration and licensure to prescribe opioids shall register with the board of pharmacy to become a regular participant in PMP inquiry and reporting]. Any advanced practice nurse who holds a federal drug enforcement administration registration and a New Mexico controlled substance registration shall register with the board of pharmacy to become a regular participant in PMP inquiry and reporting.

B. [Upon prescribing, ordering, administering or dispensing a controlled substance, the practitioner shall obtain and review a prescription monitoring report covering at least a one year time period or another state's report, where applicable and available. The practitioner shall be aware of a person currently:

(1) receiving opiates from multiple prescribers;

(2) receiving opiates for more than twelve consecutive weeks;

(3) receiving more than one controlled substance analgesic;

(4) receiving a new prescription for any long-acting controlled substance analgesic formulation, including oral dosage forms and transdermal (e.g. fentanyl) or methadone;

(5) exhibiting potential for abuse or misuse of opiates (i.e. over-utilization, early refills, appears overly sedated or intoxicated upon presentation, or an unfamiliar patient requesting an opiate by specific name, street name, color, or identifying marks, or paying cash when the patient has prescription insurance)] An advanced practice nurse may authorize delegate(s) to access the prescription monitoring report consistent with board of pharmacy regulation 16.19.29 NMAC. While an advanced practice nurse's delegate may obtain a report from the state's prescription monitoring program, the advanced practice nurse is solely responsible for reviewing the prescription monitoring report and documenting the receipt and review of a report in the patient's medical record.

C. [Upon recognizing any of the above, the practitioner, using professional judgment, shall take appropriate steps to avoid or resolve the potential problem. These steps may include requesting and reviewing additional controlled substance prescription monitoring reports or another state's report if applicable and available, or consulting with a pain management specialist or addiction treatment specialist or counseling the patient, which may include termination of treatment. The practitioner shall document steps taken to resolve the potential problem, which may include termination from treatment.] Before an advanced practice nurse prescribes or dispenses for the first time, a controlled substance in Schedule II, III, IV or V to a patient for a period greater than four days, or if there is a gap in

prescribing the controlled substance for 30 days or more, the practitioner shall review a prescription monitoring report for the patient for the preceding 12 months. When available, the practitioner shall review similar reports from adjacent states. The practitioner shall document the receipt and review of such reports in the patient's medical record.

D. [After obtaining an initial prescription monitoring report on a patient, the practitioner shall use professional judgment based on prevailing standards of practice in deciding the frequency of requesting and reviewing further prescription monitoring reports or other state's report on that patient. Prescription monitoring reports shall be requested and reviewed a minimum of once every six months during the continuous use of opioids for each established patient. The practitioner shall document the review of these reports] A prescription monitoring report shall be reviewed a minimum of once every three months during the continuous use of a controlled substance in schedule II, III, IV or V for each patient. The practitioner shall document the review of these reports in the patient's medical record. Nothing in this section shall be construed as preventing an advanced practice nurse from reviewing prescription monitoring reports with greater frequency than that required by this section.

E. An advanced practice nurse does not have to obtain and review a prescription monitoring report before prescribing, ordering, or dispensing a controlled substance in schedule II, III, IV or V:

(1) for a period of four days or less; or

(2) to a patient in a nursing facility; or

(3) to a patient in hospice care.

F. Upon review of a prescription monitoring report for a patient, the advanced practice nurse shall identify and be aware of a patient currently:

(1) receiving opioids from multiple prescribers;

(2) receiving opioids and benzodiazepines concurrently;

(3) receiving opioids for more than 12 consecutive weeks;

(4) receiving more than one controlled substance analgesic;

(5) receiving opioids totaling more than 90 morphine milligram equivalents per day;

(6) exhibiting potential for abuse or misuse of opioids and other controlled substances, such as over-utilization, requests to fill early, requests for specific opioids, requests to pay cash when insurance is available, receiving opioids from multiple pharmacies.

G. Upon recognizing any of the above conditions described in paragraph F, the practitioner, using professional judgement based on prevailing standards of practice, shall take action as appropriate to prevent, mitigate, or resolve any potential problems or risks that may result in opioid misuse, abuse, or overdose. These steps may involve counseling the patient on known risks and realistic benefits of opioid therapy, prescription and training for naloxone, consultation with or referral to a pain management specialist, or offering or arranging treatment for opioid or substance use disorder. The practitioner shall document actions taken to prevent, mitigate, or resolve the potential problems or risks.

H. Practitioners licensed to practice in an opioid treatment program, as defined in 7.32.8 NMAC, shall review a prescription monitoring report upon a patient's initial enrollment into the opioid treatment program and every three months thereafter while prescribing, ordering, administering, or dispensing opioid treatment medications in schedule II, III, IV or V for the purpose of treating opioid use disorder. The practitioner shall document the receipt and review of a report in the patient's medical record. [16.12.9.9 NMAC - N, 11/20/2012; A, 9/12/2017]

16.12.9.10 NON-CANCER PAIN MANAGEMENT CONTINUING EDUCATION:

Any [~~health care provider~~] advanced practice registered nurse (APRN) with a drug enforcement agency (DEA) registration and licensure that permits prescribing opioids, shall obtain continuing education on the management of non-cancer pain. These practitioners shall be required to obtain five CE of the 15 CE currently required every two years in pharmacology to include a review of these rules (16.12.9 NMAC) for management of non-cancer pain, an understanding of the pharmacology and risks of controlled substances, a basic awareness of the problems of abuse, addiction and diversion, and awareness of state and federal regulations for the prescription of controlled substances.

[16.12.9.10 NMAC - N, 11/20/2012; A, 9/12/2017]

PUBLIC EDUCATION DEPARTMENT

The New Mexico Public Education Department approved at its 2/28/2017 hearing, to repeal its rule 6.29.8 NMAC, Standards For Excellence - Modern, Classical, and Native Languages (filed 5/29/2009) and replace it with 6.29.8 NMAC, Standards for Excellence - World Readiness Standards For Language Learning, adopted on 8/21/2017, and effective 7/1/2018.

PUBLIC EDUCATION DEPARTMENT

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 29 STANDARDS FOR EXCELLENCE PART 8 WORLD READINESS STANDARDS FOR LEARNING LANGUAGES

6.29.8.1 ISSUING AGENCY: Public Education Department, hereinafter the department.

[6.29.8.1 NMAC - Rp, 6.75.2.1 NMAC, 7/1/2018]

6.29.8.2 SCOPE: All public schools, state educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

[6.29.8.2 NMAC - Rp, 6.29.8.2 NMAC, 7/1/2018]

6.29.8.3 STATUTORY AUTHORITY:

A. Section 22-2-2 NMSA 1978 grants the authority and responsibility for the assessment and evaluation of public schools, state-supported educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

B. Section 22-2-2 NMSA 1978 directs the department to set graduation expectations and hold schools accountable. Section 22-2C-3 NMSA 1978 requires the department to adopt academic content and performance standards and to measure the performance of public schools in New Mexico.

[6.29.8.3 NMAC - Rp, 6.29.8.3 NMAC, 7/1/2018]

6.29.8.4 DURATION: Permanent.

[6.29.8.4 NMAC - Rp, 6.29.8.4 NMAC, 7/1/2018]

6.29.8.5 EFFECTIVE DATE: July 1, 2018, unless a later date is cited at the end of a section.

[6.29.8.5 NMAC - Rp, 6.29.8.5 NMAC, 7/01/2018]

6.29.8.6 OBJECTIVE:

The purpose of the American council on the teaching of foreign languages (ACTFL)'s world readiness standards for learning languages, as reflected herein, is to ensure all K-12 students are prepared with 21st century skills that will enable success in college, careers, and within local and global multilingual communities.

[6.29.8.6 NMAC - Rp, 6.29.8.6 NMAC, 7/1/2018]

6.29.8.7 DEFINITIONS: [RESERVED]

**6.29.8.8 GRADES
K-12, WORLD READINESS
STANDARDS FOR
LEARNING LANGUAGES,
COMMUNICATION:**

A. Interpersonal communication: learners interact and negotiate meaning in spoken, signed, or written conversations to share information, reactions, feelings, and opinions.

B. Interpretative communication: learners understand, interpret, and analyze what is heard, read, or viewed on a variety of topics.

C. Presentational communication: learners present information, concepts, and ideas to inform, explain, persuade, and narrate on a variety of topics using appropriate media and adapting to various audiences of listeners, readers, or viewers.
[6.29.8.8 NMAC - Rp, 6.29.8.8 NMAC, 7/1/2018]

**6.29.8.9 GRADES
K-12, WORLD READINESS
STANDARDS FOR LEARNING
LANGUAGES, CULTURES:**

A. Relating cultural practices to perspectives: learners use the language to investigate, explain, and reflect on the relationship between practices and perspectives of the cultures studied.

B. Relating cultural products to perspectives: learners use the language to investigate, explain, and reflect on the relationship between the products and perspectives of the culture studied.
[6.29.8.9 NMAC - Rp, 6.29.8.9 NMAC, 7/1/2018]

**6.29.8.10 GRADES
K-12, WORLD READINESS
STANDARDS FOR LEARNING
LANGUAGES, CONNECTIONS:**

A. Making connections: learners build, reinforce, and expand their knowledge of other disciplines while using the language to develop critical thinking to solve problems creatively.

B. Acquiring information and diverse perspectives: learners access and evaluate

information and diverse perspectives that are available through the language and its cultures.
[6.29.8.10 NMAC - Rp, 6.29.8.10 NMAC, 7/1/2018]

**6.29.8.11 GRADES
K-12, WORLD READINESS
STANDARDS FOR LEARNING
LANGUAGES, COMPARISONS:**

A. Language comparisons: learners use the language to investigate, explain, and reflect on the nature of language through comparisons of the language studied and their own.

B. Cultural comparisons: learners use the language to investigate, explain, and reflect on the concept of culture through comparisons of the cultures studied and their own.
[6.29.8.11 NMAC - N, 7/1/2018]

**6.29.8.12 GRADES
K-12, WORLD READINESS
STANDARDS FOR LEARNING
LANGUAGES, COMMUNITIES:**

A. School and global communities: learners use the language both within and beyond the classroom to interact and collaborate in their community and the globalized world.

B. Lifelong learning: learners set goals and reflect on their progress in using languages for enjoyment, enrichment, and advancement.
[6.29.8.12 NMAC - N, 7/1/2018]

HISTORY OF 6.29.8 NMAC:

Pre-NMAC HISTORY: The material in this part is derived from that previously filed with the State Records Center:
SDE 74-17, (Certificate No. 74-17), Minimum Educational Standards for New Mexico Schools, filed April 16, 1975.
SDE 76-9, (Certificate No. 76-9), Minimum Education Standards for New Mexico Schools, filed July 7, 1976.
SDE 78-9, Minimum Education Standards for New Mexico Schools, filed August 17, 1978.
SBE 80-4, Educational Standards for

New Mexico Schools, filed September 10, 1980.

SBE 81-4, Educational Standards for New Mexico Schools, filed July 27, 1981.

SBE 82-4, Educational Standards for New Mexico Schools, Basic and Vocational Program Standards, filed November 16, 1982.

SBE Regulation No. 83-1, Educational Standards for New Mexico Schools, Basic and Vocational Program Standards, filed June 24, 1983.

SBE Regulation 84-7, Educational Standards for New Mexico Schools, Basic and Vocational Program Standards, filed August 27, 1984.

SBE Regulation 85-4, Educational Standards for New Mexico Schools, Basic, Special Education, and Vocational Programs, filed October 21, 1985.

SBE Regulation No. 86-7, Educational Standards for New Mexico Schools, filed September 2, 1986.

SBE Regulation No. 87-8, Educational Standards for New Mexico Schools, filed February 2, 1988.

SBE Regulation No. 88-9, Educational Standards for New Mexico Schools, filed October 28, 1988.

SBE Regulation No. 89-8, Educational Standards for New Mexico Schools, filed November 22, 1989.

SBE Regulation No. 90-2, Educational Standards for New Mexico Schools, filed September 7, 1990.

SBE Regulation No. 92-1, Standards for Excellence, filed January 3, 1992.

History of Repealed Material:

6.30.2 NMAC, Standards for Excellence, filed November 2, 2000 - Repealed effective June 30, 2009.

6.29.8 NMAC, Modern, Classical and Native Languages; filed 5/29/2009 - Repealed effective 7-1-2018.

NMAC History:

6 NMAC 3.2, Standards for Excellence, filed October 17, 1996.

6.30.2 NMAC, Standards for

Excellence, November 2, 2000, replaced by 6.29.1 NMAC, General Provisions; 6.29.2 NMAC, Arts Education; 6.29.3 NMAC, Career and Technical Education; 6.29.4 NMAC, English Language Arts; 6.29.5 NMAC, English Language Development; 6.29.6 NMAC, Health Education; 6.29.7 NMAC, Mathematics; 6.29.8 NMAC, Modern, Classical and Native Languages; 6.29.9 NMAC, Physical Education; 6.29.10 NMAC, Science; 6.29.11 NMAC, Social Studies; effective June 30, 2009.

6.29.8 NMAC, Modern, Classical and Native Languages; filed 5/29/2009 - Repealed and Replaced with 6.29.8 NMAC, World Readiness Standards for Language Learning, effective 7/1/2018.

STATE ENGINEER, OFFICE OF THE

TITLE 19 NATURAL RESOURCES AND WILDLIFE CHAPTER 25

ADMINISTRATION AND USE OF WATER - GENERAL PROVISIONS

PART 20 NAMBÉ- POJOAQUE-TESUQUE WATER MASTER DISTRICT:

ACTIVE WATER RESOURCE MANAGEMENT

19.25.20.1 ISSUING

AGENCY: Office of the State Engineer.

[19.25.20.1 NMAC - N, 9/12/2017]

19.25.20.2 SCOPE: This rule shall be read in conjunction with the settlement agreement and as a supplement to 19.25.13 NMAC, and shall apply to all administrable surface water and groundwater rights within the Nambé-Pojoaque-Tesuque water master district.

[19.25.20.2 NMAC - N, 9/12/2017]

19.25.20.3 STATUTORY

AUTHORITY: This rule is established pursuant to constitutional authority set forth in Article 16 of the Constitution of New Mexico, and

statutory authority enumerated in Chapter 72, including, but not limited to, Sections 72-1-1 (1941); 72-1-2 (1907); 72-2-6 (1965); 72-2-8 (1976); 72-2-9 (1907); 72-2-9.1 (2003); 72-2-18 (2007); 72-3-1 (1919); 72-3-2 (2007); 72-3-3 (1953); 72-3-4 (1965); 72-3-5 (1941); 72-5-3 (1941); 72-5-4 (1941) 72-5-5 (1965); 72-5-18 (2007); 72-5-20 (1941); 72-5-22 (1907); 72-5-23 (1986); 72-5-24 (1985); 72-5-25 (1971); 72-5-28 (2002); 72-5-39 (1965); 72-6-1 - 72-6-7 (2014); 72-7-1 (1971); 72-8-1 (1907); 72-9-2 (1907); 72-12-1 (2003); 72-12-2 (1931); Subsection D of 72-12-8 (2002); 72-12-15 (1949); 72-12-16 (1949); 72-12-18 (1953); 72-12-24 (1959); 72-12-27 (1967) NMSA 1978 and the authority provided under the settlement agreement in *State of New Mexico ex rel. State Engineer and United States of America, Pueblo de Nambé, Pueblo de Pojoaque, Pueblo de San Ildefonso, and the Pueblo de Tesuque v. R. Lee Aamodt, et al.*, No. 66cv6639 (D.N.M.) (dated April 19, 2012).

[19.25.20.3 NMAC - N, 9/12/2017]

19.25.20.4 DURATION:

Permanent.

[19.25.20.4 NMAC - N, 9/12/2017]

19.25.20.5 EFFECTIVE

DATE: September 12, 2017

[19.25.20.5 NMAC - N, 9/12/2017]

19.25.20.6 OBJECTIVE:

The objective of this rule is to provide for the distribution and administration of the available water supply and administrable water rights in the Nambé-Pojoaque-Tesuque basin ("NPT basin"), including the prevention of illegal diversions, waste and over-diversions, and to implement the terms and conditions of the settlement agreement and the final decree entered in *State of New Mexico ex rel. State Engineer and United States of America, Pueblo de Nambé, Pueblo de Pojoaque, Pueblo de San Ildefonso, and the Pueblo de Tesuque v. R. Lee Aamodt, et al.*, No. 66cv6639 (D.N.M.).

[19.25.20.6 NMAC - N, 9/12/2017]

19.25.20.7 DEFINITIONS:

Unless otherwise defined below or in 19.25.13.7 NMAC, all words herein shall be given their customary and accepted meanings. All uses of masculine pronouns or possessives shall be held to include the feminine.

A. "Aamodt case"

means the civil action filed in the United States District Court for the District of New Mexico in *State of New Mexico ex rel. State Engineer and United States of America, Pueblo de Nambé, Pueblo de Pojoaque, Pueblo de San Ildefonso, and the Pueblo de Tesuque v. R. Lee Aamodt, et al.*, No. 66cv6639 (D.N.M.) (the general adjudication of water rights of the Nambé-Pojoaque-Tesuque stream system).

B. "Aamodt

Litigation Settlement Act" means the Claims Resolution Act of 2010, Pub. L. No. 11-291, tit. VI, §§ 601, 626, 124 Stat. 3064, 3134-56 (2010).

C. "Acequia" means

a community ditch under the laws of New Mexico and Section 73-2-27 NMSA 1978.

D. "Administrable

water right" or **"water right"** means a right to the use of water or a right to impound, store or release water determined by the decree court in subfile orders, the partial final judgment and decree ("PFD"), or the final decree, or a right established pursuant to a permit issued by the state engineer or recognized by a license issued by the state engineer.

E. "Administration"

is defined in Subsection C of 19.25.13.7 NMAC. Administration includes:

- (1) direct flow administration,
- (2) storage water administration,
- (3) depletion limit administration, and
- (4) alternative administration. Alternative administration includes, but is not limited to, Pueblo alternative administration, defined in Subsection LL of 19.25.20.7 NMAC and Tesuque alternative administration, set forth in 19.25.20.121 NMAC.

F. “AFY” means acre-feet of water per year.

G. “**Agricultural use**” means the use of surface or groundwater for cultivating the soil and growing crops or irrigating pasture for livestock grazing. Agricultural uses do not include domestic, community, commercial, industrial or livestock uses.

H. “**CIR**” or “**consumptive irrigation requirement**” means the quantity of irrigation water expressed as a depth or volume, exclusive of effective rainfall, that is consumptively used by plants or is evaporated from the soil surface during one calendar year. The CIR may be numerically determined by subtracting effective rainfall from the consumptive use.

I. “**Commercial or industrial use**” means the diversion and consumption of water in connection with any activity that provides, or offers to provide, goods or services for consideration, not including domestic uses incidental to a commercial or industrial facility.

J. “**Compliance order**” means a written order issued by the state engineer pursuant to Section 72-2-18 NMSA 1978 or the settlement agreement to an owner of record or person making an illegal diversion, violating a requirement or prohibition of Chapter 72 NMSA 1978, a regulation, code, order or special order adopted by the state engineer pursuant to Section 72-2-8 NMSA 1978, a condition of a permit or license issued by the state engineer pursuant to law, an order entered by the decree court adjudicating a water right, or the terms of the settlement agreement, partial final decree or final decree.

K. “**Connection fund**” or “**Pojoaque valley water utility connect fund**” means the Pojoaque valley water utility connection fund administered by Santa Fe county to pay the cost of connecting well water right owners to the county water utility.

L. “**County water utility**” or “**CWU**” means the water utility organized by the county to do

the following:

(1) receive water distributed by the regional water authority (“RWA”);

(2) provide the water received under Paragraph (1) of Subsection L of 19.25.20.7 NMAC to customers on non-Pueblo land in the NPT basin; and carry out any other activities in accordance with the Aamodt Litigation Settlement Act.

M. “**Curtailment order**” means a verbal or written order from the water master directing an owner of record or person diverting water to immediately curtail such diversion, in whole or in part.

N. “**Decree court**” means the United States District Court for the District of New Mexico in the Aamodt case.

O. “**Domestic use**” means the use of water for indoor and outdoor household purposes, including water used for drinking, sanitation, the irrigation of not to exceed one acre of noncommercial trees, lawn, garden, or landscaping, the care and feeding of household pets, and such uses of water incidental to a governmental, commercial or non-profit facility. Domestic uses do not otherwise include the use of water for agricultural purposes, and do not include any use of water for commercial, industrial, community or livestock watering purposes.

P. “**Election**” or “**elect**” means a choice to connect or not connect to the county water utility under the terms of the settlement agreement.

Q. “**FDR**” or “**farm delivery requirement**” means the quantity of water, exclusive of effective rainfall, that is delivered to the farm headgate or is diverted from a source of water that originates on the farm itself, such as a well or spring, to satisfy the CIR of crops grown on the farm during the irrigation accounting year, or as otherwise provided by permit.

R. “**Final decree**” means the *Final Judgment and Decree of the Water Rights of the Nambé, Pojoaque, and Tesuque Stream System* entered by the decree court.

S. “**Household**” means a single or multi-family residence including outbuildings such as guest houses, barns, and sheds.

T. “**Hydrologic model**” means the hydrologic model developed by the state of New Mexico and the United States pursuant to the settlement agreement, as updated and further developed by the state engineer for the administration and use of water in the NPT basin, and for determining the effects of administrative actions subject to the settlement agreement. Any generalized hydrologic analysis adopted by the state engineer for the NPT district shall be based upon the hydrologic model.

U. “**Illegal diversion**” means any of the following:

(1) a diversion that exceeds the quantity of an administrable water right or beneficial use requirements;

(2) a diversion in violation of a rule, statute, license, permit, PFD, final decree, subfile order, or other court order, other than a diversion described in paragraph (1) of this Subsection;

(3) in the case of an acequia or other entity entitled to divert and distribute water on behalf of its membership or constituency, any diversion that exceeds the sum total quantity of all the administrable water rights in that acequia or other entity;

(4) waste;

(5) a diversion in violation of a curtailment order or compliance order;

(6) a diversion that is out-of-priority;

(7) any diversion from an unauthorized point of diversion;

(8) a diversion for conveyance to an unauthorized place of use or for an unauthorized purpose of use;

(9) a diversion of groundwater in excess of the agreed amount of use pursuant to an election made under the settlement agreement; or

(10) a

diversion of surface or groundwater that is contrary to the alternative administration set forth in the settlement agreement.

V. “Interfere” or “interference” means a material adverse effect on the quality, divertible quantity, or the cost of diversion of surface water historically used to satisfy surface water rights subject to the settlement agreement.

W. “Livestock use” means the diversion and consumption of water for the care and feeding of domestic animals such as cattle or horses. Livestock use does not include the use of water in connection with the operation or maintenance of feedlots or agricultural use of water.

X. “Mitigation fund” means the fund created and administered by the state to mitigate impairment to non-Pueblo groundwater rights as a result of a new or changed Pueblo use of water on Pueblo land.

Y. “Mutual domestic water consumers association” or “MDWCA” means an association organized under or subject to the provisions of the Sanitary Projects Act, Sections 3-29-1 through 3-29-20 NMSA 1978.

Z. “Nambé Pojoaque Tesuque basin” or “NPT basin” means the Nambé-Pojoaque-Tesuque stream system, also known as the Pojoaque basin, which is the geographic area limited by a surface water divide (which can be drawn on a topographic map), within which rainfall and runoff flow into arroyos, drainages, and named tributaries that drain to:

- (1) the Rio Pojoaque; or
- (2) the two unnamed arroyos immediately south of the Rio Pojoaque; and
- (3) the two arroyos (including the Arroyo Alamo) that are immediately to the north of the confluence of the Rio Pojoaque and the Rio Grande. The term “NPT basin” includes the San Ildefonso Eastern Reservation recognized by the Act of September 14, 1961, 75 Stat. 505, Sec. 8.

AA. “Nambe Pojoaque Tesuque water master district” or “NPT district” is the same geographic area as the NPT basin.

BB. “Non-Pueblo water right” means a water right held by a non-Pueblo owner.

CC. “Offset water” means any quantity of water provided to offset adverse stream depletion effects caused by a particular diversion of water.

DD. “Out-of-priority” is defined under Subsection U of 19.25.13.7 NMAC.

EE. “Owner of record” means a person named in a subfile order or in a permit, license, change of ownership form or other documentation filed with the state engineer identified as the current owner of an administrable water right. For purposes of administration by the water master, the term owner of record shall include a lessee or other person authorized to use or manage the use of water, or the representative of an acequia or other entity authorized to divert water on behalf of its membership or constituency. The owner of record may or may not be the legal current owner of the water right.

FF. “Partial final decree” or “PFD” means the *Partial Final Judgment and Decree of the Water Rights of the Pueblos of Nambé, Pojoaque, San Ildefonso, and Tesuque* entered by the decree court on March 23, 2016 (docket no. 10547).

GG. “PDR” or “project diversion requirement” means the annual quantity of water necessary to be diverted from a source of surface water to satisfy the farm delivery requirement and to account for off-farm ditch conveyance delivery losses during the irrigation accounting year.

HH. “Person” means an individual, multiple individuals, legal entity, Pueblo or combination thereof.

II. “Post-1982 well agreement” means the *Post-1982 Domestic Wells Stipulation and Settlement Agreement* (May 27, 1999) (docket no. 5516) adopted and approved by the decree court (Oct. 4,

2001) (docket no. 5549) to provide for the appointment of a water master, metering of domestic wells under well permits issued by the state engineer after January 13, 1983, and agreed-upon amounts of water for domestic use without restriction as to indoor or closed system use.

JJ. “Pre-basin well” means a well in the NPT basin in existence prior to November 29, 1956.

KK. “Priority administration” is defined in Subsection 5 of 19.25.13.7 NMAC.

LL. “Pueblo alternative administration” means the form of alternative administration whereby the Pueblos agree to share water pursuant to section 4 of the settlement agreement.

MM. “Pueblos” means collectively the Pueblos of Nambé, Pojoaque, San Ildefonso, and Tesuque. “Pueblo” means each of the Pueblos of Nambé, Pojoaque, San Ildefonso or Tesuque.

NN. “Pueblo land” means any real property that is:
(1) held in trust by the United States for a Pueblo within the NPT basin:

(a) prior to March 21, 2016, the date on which the decree court approved the settlement agreement, or

(b) on or after March 21, 2016, if the real property is located within the exterior boundaries of the Pueblo as recognized and confirmed by patent issued under the Act of December 22, 1858 (11 Stat. 374, chapter 5) or within the exterior boundary of any territory set aside for the Pueblo by law, executive order or court decree;

(2) owned by a Pueblo within the NPT basin:

(a) prior to March 21, 2016, the date on which the decree court approved the settlement agreement, or

(b) acquired by a Pueblo on or after March 21, 2016, if the real property is located within the exterior boundaries of the Pueblo as recognized and confirmed by patent issued under the Act of December 22, 1858 (11 Stat.

374, chapter 5) or within the exterior boundary of any territory set aside for the Pueblo by law, executive order or court decree;

(3) owned by a Pueblo or held by the United States in trust for the benefit of a Pueblo outside the NPT basin that is located within the exterior boundaries of the Pueblo as recognized and confirmed by patent issued under the Act of December 22, 1858 (11 Stat. 374, chapter 5); or

(4) within the exterior boundaries of any real property located outside the NPT basin set aside for a Pueblo by law, executive order or court decree if the land is contiguous to land held in trust by the United States for that Pueblo as of January 1, 2005.

OO. "Pueblo water rights" means the water rights of the Pueblos as determined in the PFD, including the following:

(1) **"Alternative water"** means an amount of water equivalent to the Pueblo of Pojoaque's supplemental water rights and which the Pueblo of Pojoaque may receive through the regional water system;

(2) **"Existing basin use rights"** means those water rights as defined in the PFD;

(3) **"First priority rights"** means those water rights as defined in the PFD;

(4) **"Future basin use rights"** means those water rights as defined in the PFD;

(5) **"Reserved water rights"** means those water rights of the Pueblos of Nambé and San Ildefonso to reserved water rights to consumptively use the surface and groundwater of the NPT, to be diverted and used in accordance with the settlement agreement;

(6) **"Supplemental Pueblo rights"** means those water rights as defined in the PFD. The Pueblo of Pojoaque has a supplemental right to consumptively use groundwater and surface water of the NPT, to be diverted and used in accordance with the settlement agreement;

PP. "Red tag" means a tag affixed to a point of diversion by the water master to notify an owner of record or person that any further diversion of water is illegal.

QQ. "Regional water authority" or "RWA" means the Pojoaque basin regional water authority organized by the Pueblos and county of Santa Fe to operate and maintain the diversion and treatment facilities, transmission pipelines and other facilities of the regional water system.

RR. "Regional water system" means the regional water system as defined in the Aamodt Litigation Settlement Act.

SS. "Report on anticipated uses" means the report filed by each Pueblo each year describing the anticipated uses of that Pueblo's water rights for a calendar year.

TT. "Section 4 protection" means the protection provided non-Pueblo water rights during Pueblo alternative administration of the first priority rights of the Pueblos pursuant to section 4 of the settlement agreement.

UU. "Section 72-12-1 well" means a well permitted by the state engineer under Sections 72-12-1.1, 72-12-1.2, and 72-12-1.3 NMSA 1978, or their predecessor statutes.

VV. "Settlement agreement" means the settlement agreement approved by the decree court on March 21, 2016 (docket no. 10543) and incorporated into the decree court's partial final decree entered on March 23, 2016 (docket no. 10547), as authorized, ratified and confirmed by Section 602(18) of the Aamodt Litigation Settlement Act.

WW. "Settlement party" means any person that signed the settlement agreement or authorized a representative to sign the settlement agreement, and their successors in interest.

XX. "State engineer" means the New Mexico state engineer or his designated appointee.

YY. "Subfile order" means an order entered by the decree court adjudicating a non-Pueblo water

right.

ZZ. "TBI letter" means written notice to the water master of the acreage to be irrigated under a ditch during a calendar year.

AAA. "Tributary" means the Rio Pojoaque, Rio Cuyamungue, Rio Tesuque, Rio Nambé, Rio Chupadero, or Rio en Medio.

BBB. "Water master" means the Nambé-Pojoaque-Tesuque water master or any of the sub-district water masters of the Nambé-Pojoaque-Tesuque water master district.

[19.25.20.7 NMAC - N, 9/12/2017]

19.25.20.8 CONSTRUCTION:

This rule shall be construed consistent with, and subject to, the authority of the state engineer for the administration of water in the state of New Mexico, and the authority of the state engineer under the settlement agreement and final decree. This rule shall not be construed as imposing any limitation on the authority of the state engineer to administer water rights created under state law, act on water rights applications pursuant to state law, permit water rights under state law, or order the curtailment, in whole or in part, of the use of water pursuant to state law or under the terms of the settlement agreement or final decree. This rule shall be construed consistent with the settlement agreement and the Constitution of New Mexico.

[19.25.20.8 NMAC - N, 9/12/2017]

19.25.20.9 SEVERABILITY:

If any provision of this rule is found to be invalid, the remainder shall continue to be in effect.

[19.25.20.9 NMAC - N, 9/12/2017]

19.25.20.10 KNOWLEDGE OF AND COMPLIANCE WITH STATUTES, RULES, REGULATIONS AND CODES:

It shall be the responsibility of all persons to know of, and comply with, all applicable statutes, rules, regulations and codes.

[19.25.20.10 NMAC - N, 9/12/2017]

19.25.20.11 through 19.25.16.100 [RESERVED]

**19.25.20.101 GENERAL
AUTHORITY AND DUTIES OF
THE NPT DISTRICT WATER
MASTER:**

A. The water master has the general authority and duties set out in 19.25.13.16 NMAC and 19.25.13.17 NMAC. In addition, the water master has the authority and duties described in this Section.

B. The water master may, as necessary to effect administration, and implementation of and compliance with the terms and conditions of the settlement agreement, the PFD and the final decree:

- (1) supervise all diversions from surface and underground water sources;
- (2) curtail surface and groundwater diversions to ensure compliance;
- (3) issue verbal or written orders requiring installation, calibration, repair, and replacement of adequate headgates and surface water measurement devices at all surface water diversion works, and all groundwater diversion measuring devices as necessary;
- (4) issue verbal or written orders requiring calibration, repair, replacement or installation of meters in accordance with the requirements of Subsection C of 19.27.5.13 NMAC to measure the amount of water diverted from each well;
- (5) issue or affix to points of diversion curtailment orders or red tags that provide notice of illegal diversions or diversions that are out of priority under priority administration or contrary to those allowed under the settlement agreement or final decree. Once a red tag has been affixed, the owner of record or person shall not divert water until the water master has removed the tag;
- (6) issue verbal or written curtailment orders to owners of record or persons making illegal diversions and document such illegal diversions;
- (7) issue verbal or written orders to achieve the

objectives of this rule;

(8) take any action necessary to close, cap, lock or otherwise temporarily disable any diversion headgate, pump, or equipment to ensure compliance, and affix to the diversion structure a red tag whenever the water master takes such action;

(9) ensure compliance with applicable state engineer, water master or court orders;

(10) determine whether a new or changed Pueblo use of its first priority rights will interfere with any surface water rights eligible for section 4 protection, and the amount of any offsets required;

(11) determine if the change in point of diversion, purpose or place of use of Pueblo-owned state law water rights within the lands of a Pueblo will impair groundwater rights or interfere with any surface water rights. A determination by the water master of projected hydrologic effects from such changes to state water law rights within a Pueblo shall include consideration of remedies proposed by the Pueblo to reduce groundwater effects below the threshold level of impairment;

(12) enter private, public, or Pueblo lands to inspect, monitor, and maintain all measuring facilities and to operate, close or lock headgates;

(13) with respect to agricultural lands, enter upon private or public lands to verify the irrigability of lands designated by owners of record to be irrigated in a particular season and determine whether and to what extent irrigation occurs;

(14) maintain records, including records of elections made pursuant to the settlement agreement and subsequent compliance with such elections; and

(15) respond in a timely manner to requests for priority administration.

C. The water master may exercise any remedy available to him under applicable law to enforce

compliance by owners of record and Pueblos with their obligations under the settlement agreement, the final decree, any election made pursuant to the settlement agreement, and this rule.

[19.25.20.101 NMAC - N, 9/12/2017]

**19.25.20.102 WATER MASTER
REPORT:**

A. The water master shall by March first of each calendar year submit a report to the state engineer that describes all administrative action taken under or required by this rule in the previous calendar year.

B. The report shall be available to the public for inspection and copying at the office of the state engineer, at the requestor's expense by June first, and will be posted on the office of the state engineer's website.

C. The report shall include the information described in 19.25.13.26 NMAC and shall also include:

- (1) the quantity of water diverted through each meter for each quarter and total for the year;
- (2) a summary of all notices of alleged violation, and disposition thereof; and
- (3) a summary of all other actions taken by the water master during the year, including
 - (a) the number of times each meter was actually inspected to verify proper operation;
 - (b) actions taken to verify reported meter readings including a description of procedures used for any spot-checking; and
 - (c) other information as appropriate.

[19.25.20.102 NMAC - N, 9/12/2017]

**19.25.20.103 REPORTING OF
LANDS TO BE IRRIGATED:**

A. By March first of each year, the mayordomo, acequia commissioner, or designated representative of each acequia and the members of each private ditch shall notify the water master in writing

of the acreage under that ditch to be irrigated ("TBI letters") during that calendar year. TBI letters from acequias and members of private ditches shall be accompanied by maps that clearly identify the non-Pueblo lands to be irrigated that year and the respective acreage of the tracts. Where the ditch serves as a source of irrigation water for both Pueblo and non-Pueblo lands, the TBI letters shall include only information for non-Pueblo lands.

B. Pueblo lands intended to be irrigated shall be reported by the Pueblos in their annual report on anticipated uses of water.

C. Based upon the information provided, the water master shall determine the maximum diversion rate for each ditch in the stream system required to meet the total projected demand that year, including the demand associated with valid impoundments under each ditch for livestock uses, if any. The water master shall notify the mayordomo, acequia commissioner, or designated representative that submitted the TBI letter of each acequia, the members of each private ditch, and the Pueblos of the maximum diversion rates for all ditches and post the maximum diversion rate for each ditch at the point of diversion or headgate of the ditch.

[19.25.20.103 NMAC - N, 9/12/2017]

19.25.20.104 DISTRIBUTION OF WATER BY ACEQUIAS:

The water master shall regulate the rate and annual volume of diversions from the tributaries in the NPT basin by acequias in accordance with this rule. This rule shall not be construed to affect the internal management of acequias and the distribution of water by acequias in accordance with Section 72-9-2 NMSA 1978.

[19.25.20.104 NMAC - N, 9/12/2017]

19.25.20.105 GENERAL PRINCIPLES FOR USE AND ADMINISTRATION OF SURFACE WATER AND GROUNDWATER:

These general principles apply to the administration

of all surface water rights and groundwater rights in the NPT basin.

A. The NPT basin is fully appropriated and there shall be no new appropriations of surface or groundwater.

B. No surface or groundwater diverted within the NPT basin may be delivered for use outside the NPT basin other than for Pueblo use on Pueblo land.

C. Diversions from the Rio Grande shall not be considered to be diversions within the NPT basin.

D. Any water rights diverted by the regional water authority within the NPT basin, whether based on state or federal law, including contractual rights to water, shall be administered at the point of diversion in accordance with state law and regulation.

E. For agricultural uses, the amount of water shall not exceed 4.65 AFY per acre diverted by the ditch at the point of diversion from the source of surface water (PDR), or 3.35 AFY per acre delivered at the farm headgate or well head (FDR), or a consumptive irrigation requirement of 1.84 AFY per acre (CIR), whichever is less.

F. For non-agricultural uses, the consumptive use amount shall be deemed to be equal to the amount of the diversion. The diversion amount shall not exceed the consumptive use amount unless a return flow plan is approved by the state engineer.

G. The priority and amount of water for all surface water rights is the priority and amount of water adjudicated in the final decree.

H. The point of diversion, purpose or place of use of non-Pueblo water rights may only be changed in accordance with state law and this rule.

I. After March 21, 2016, permits for new groundwater points of diversion in the NPT basin may only be issued on the condition that the diversion be metered and only as set forth in this rule.

J. The replacement, repair or deepening of a well pursuant to a permit from the state engineer

shall not be considered a change in point of diversion, purpose or place of use.

K. An application for a change in point of diversion or place or purpose of use of a water right into or out of an acequia or community ditch subject to Sections 73-2-1 through 73-2-68 NMSA 1978 or Sections 73-3-1 through 73-3-11 NMSA 1978 shall include the documentary evidence of the applicant's compliance with the requirements of Section 72-5-24.1 NMSA 1978.

[19.25.20.105 NMAC - N, 9/12/2017]

19.25.20.106 METERING OF NON-PUEBLO AND PUEBLO WELLS:

A. Pursuant to the well metering order for the NPT basin issued by the state engineer, each well owner of record shall install a totalizing meter in accordance with the requirements of Subsection C of 19.27.5.13 NMAC and any additional requirements of the state engineer, to measure the amount of water diverted from each well.

B. Each Pueblo shall install a totalizing meter to measure the amount of water diverted from each well located on Pueblo land, consistent with the well metering order for the NPT basin issued by the state engineer.

C. Each well owner of record shall file a meter installation and inspection report with the state engineer in accordance with the requirements of Subsection C of 19.27.5.13 NMAC and any additional requirements of the state engineer. Pursuant to the settlement agreement and the final decree, each Pueblo shall file a report with the state engineer consistent with the requirements of Subsection C of 19.27.5.13 NMAC.

D. Each well owner of record shall submit meter readings to the state engineer in accordance with the requirements of Subsection C of 19.27.5.13 NMAC and any additional requirements of the state engineer. Pursuant to the settlement agreement and the final decree, each Pueblo shall file a report with the state engineer

consistent with the requirements of Subsection C of 19.27.5.13 NMAC.

E. The requirements of this Section shall also apply to all new wells drilled on Pueblo land after the effective date of this rule and a meter shall be installed on such wells at the time the well is drilled.

[19.25.20.106 NMAC - N, 9/12/2017]

19.25.20.107 DIVERSION, USE, AND ADMINISTRATION OF SURFACE WATER FOR NON-PUEBLO WATER RIGHTS:

Diversion, use, and administration of surface water for non-Pueblo water rights shall be subject to the following provisions.

A. Change in point of diversion from surface water to groundwater for agricultural uses.

The state engineer may issue permits to change the point of diversion of a water right for agricultural use from surface water to groundwater, provided:

(1) Water rights from within the NPT basin are moved to the new point of diversion in accordance with state law and this rule;

(2) The priority and amount of the water rights that may be moved shall be determined under state law and shall be reduced in amount to account for historic supply at the original surface point of diversion.

B. Section 4 protection upon change in point of diversion, purpose or place of use of surface water. Section 4 protection and offset requirements for interference shall only apply to the amount of water that is determined to be the current use of water under a surface water right. The current use of water under a surface water right is the calculated average yearly use of water under the right for the five-year period immediately preceding any application to change the point of diversion, purpose or place of use of that right.

[19.25.20.107 NMAC - N, 9/12/2017]

19.25.20.108 DIVERSION, USE, AND ADMINISTRATION OF GROUNDWATER FOR NON-PUEBLO WATER RIGHTS:

A. Determination of priority and amount.

(1) The priority and the diversion amount for a Section 72-12-1 well, a pre-basin well or well drilled under a permit from the state engineer shall be the priority and amount adjudicated in the final decree or authorized in a subsequent permit or license issued by the state engineer, unless the use is limited by the terms of an election under the settlement agreement.

(2) If no amount is set forth in the final decree or in a subsequent permit or license, then the amount shall be the amount of historic beneficial use of water from the well.

B. Determination of historic beneficial use.

(1) If no specific amount of water is set forth in the final decree or in a subsequent permit or license, then the amount of historic beneficial use per household shall be presumed to be the following:

(a) 0.7 afy for pre-basin wells (in existence prior to November 29, 1956);

(b) 0.7 afy for Section 72-12-1 wells permitted before January 13, 1983;

(c) 0.7 afy for Section 72-12-1 wells permitted after January 13, 1983 that entered into the post-1982 well agreement;

(d) 0.5 afy for Section 72-12-1 wells permitted after January 13, 1983 that did not enter into the post-1982 well agreement.

(2) In no event shall the total diversion amount from a Section 72-12-1 well exceed 3 afy.

(3) Any owner of record seeking to prove an amount of historic beneficial use greater than the amounts set forth in Subsection (B)(1) of this Section shall provide the following information for review and evaluation by the water master:

(a)

meter readings taken in compliance with state engineer requirements, consistent with the metering order for the NPT basin, for a period of one to three calendar years, which may be the first calendar year of meter readings at the owner of record's request; and

(b)

a map of the area of the claimed beneficial use prepared by either a licensed professional surveyor or licensed professional engineer in the state of New Mexico formatted as required by 19.26.2.24 NMAC, or a hydrographic survey map or aerial photograph acceptable to the state engineer that designates the claimed area of beneficial use from each point of diversion; and

(c)

any other documentation acceptable to the state engineer that demonstrates the history and continuity of historic beneficial use, and may include deeds, survey plats, affidavits or other evidence to substantiate the claim.

(4) The water

master will determine the amount based upon the evidence submitted pursuant to Paragraph 3 of Subsection B of this Section of the highest amount of historic beneficial use in one calendar year,

(5) Any

historic beneficial use amount less than 0.5 afy is not subject to a reduction under the settlement agreement. An owner of record who elects to reduce historic beneficial use pursuant to an election made under the settlement agreement may be subject to restrictions no sooner than five years after the entry of the well metering order for the NPT basin, but in no event shall an owner of record be required to reduce below 0.5 afy.

C. Elections relating to the settlement agreement and connection to county water utility.

(1) An owner

of record of a water right from a well used for domestic, commercial or industrial purposes may elect pursuant to the settlement agreement to connect to the county water utility for water service as soon as that service is

available.

(2) Except for new groundwater points of diversion for domestic, commercial or industrial uses, an owner of record of a groundwater right shall not be required to connect to the county water utility and shall not be required to cease use of their well.

(3) An owner of record that becomes a settlement party that makes an election and is in compliance with the terms of the election shall be eligible for protections under sections 4 and 3.1.7 of the settlement agreement.

D. State engineer permits to replace, repair or deepen a well:

(1) Section 72-12-1 well:

(a) Permits for replacement wells, or permits to deepen or repair a well, may be issued to Section 72-12-1 well owners of record until such time as those owners connect to the county water utility under the terms of the settlement agreement.

(b) No replacement well permit will be issued to a Section 72-12-1 well owner of record that makes an election to continue use of the well for domestic purposes in perpetuity, or to connect to the county water utility upon transfer of ownership of the property, until such well owner of record has provided documentation of compliance with all applicable county requirements.

(c) If the county water utility is unable to deliver water to an owner of record that has connected to the county water utility for water service, the CWU shall convey title to the water right back to the previous owner of record, who may apply to the state engineer for a permit to recommence diversions from the well or drill a replacement well for the purpose of diverting groundwater in the amount previously conveyed and permitted to the county water utility.

(2) Pre-basin or permitted wells (other than Section 72-12-1 wells): Permits

for replacement wells, or permits to repair or deepen a well (other than Section 72-12-1 wells) may be issued in accordance with state law and rules, provided the well is metered and operated in compliance with any conditions of an applicable permit.

E. New groundwater points of diversion. Permits for new groundwater points of diversion for domestic, agricultural, commercial or industrial uses, including a permit for a Section 72-12-1 well, may be issued provided:

(1) Water rights from within the NPT basin are moved to the new groundwater point of diversion in accordance with state law and this rule;

(2) The priority and amount of the moved rights shall be determined under state law and reflect reductions in amount to account for historic supply; and

(3) The permitted diversions shall cease and the well owner of record shall connect to the county water utility as soon as water service is available.

(4) Existing mutual domestic water consumers associations and existing commercial users shall be required to cease the newly permitted diversion and connect to the county water utility once water service is available, unless they made an election to continue such water use under the terms of the settlement agreement and this rule.

(5) An application for a change in point of diversion or place or purpose of use of a water right into or out of an acequia or community ditch subject to Sections 73-2-1 through 73-2-68 NMSA 1978 or Sections 73-3-1 through 73-3-11 NMSA 1978 shall include the documentary evidence of the applicant's compliance with the requirements of Section 72-5-24.1 NMSA 1978.

F. Change in point of diversion, purpose or place of use of groundwater.

(1) The point of diversion, purpose or place of use of groundwater rights from a pre-basin well or well drilled under

a permit from the state engineer, other than wells permitted under Section 72-12-1, may be changed in accordance with state law and this rule. The point of diversion, purpose or place of use of groundwater rights from a well permitted under Section 72-12-1 may only be changed in accordance with 19.25.20.110 NMAC.

(2) Upon any such change, section 4 protection shall not apply unless the new diversion is metered and operated in compliance with any applicable permit conditions and consistent with the terms of the settlement agreement.

G. Supplemental groundwater points of diversion.

(1) Permits for a supplemental point of diversion from groundwater for an agricultural use may be issued, provided:

(a) The total diversion from surface and groundwater is limited to the historic supply of the surface water diversion.

(b) If a surface water diversion is permitted to continue and is not metered, the acreage served by the supplemented and supplemental points of diversion is reduced by the percentage of deficiency in the historic supply.

(c) If a groundwater point of diversion is used to supplement another groundwater point of diversion, both diversions shall be metered. [19.25.20.108 NMAC - N, 9/12/2017]

19.25.20.109 CONVEYANCE OF OWNERSHIP OF GROUNDWATER RIGHTS FOR DOMESTIC USE TO THE COUNTY WATER UTILITY:

A. General Provisions.

(1) Ownership of water rights for domestic use from a Section 72-12-1 well or a pre-basin well may be conveyed to the county water utility for the full or partial amount of the water right.

(2) The CWU may change the point of diversion, place and purpose of use of the water rights by application to the state

engineer.

B. Section 72-12-

1 wells. The amount of the water right to be conveyed to the county water utility per household from each Section 72-12-1 well shall be limited to one of the following options:

(1) **Full**

amount for single household wells. If a household elects to connect to the CWU and to no longer divert water from a Section 72-12-1 well, ownership of the full amount adjudicated shall be conveyed to the CWU. If no amount is specified in the final decree or determined pursuant to Subsection (B) of 19.25.20.108 NMAC, the amount shall be presumed to be the following:

(a)

0.7 afy for Section 72-12-1 wells permitted before January 13, 1983;

(b)

0.7 afy for Section 72-12-1 wells permitted after January 13, 1983 that entered into the post-1982 well agreement;

(c)

0.5 afy for Section 72-12-1 wells permitted after January 13, 1983 that did not enter into the post-1982 well agreement.

(2) **Partial**

amount for single household wells. If a household elects to connect to the CWU for indoor uses and to continue to divert a portion of its water right from a Section 72-12-1 well for outdoor use only, the household shall convey ownership of 0.3 afy to the CWU, as follows:

(a)

A household with a water right of 0.4 afy or greater shall convey ownership of 0.3 afy to the CWU.

(i)

The household may continue to divert the amount of the household's remaining right from the Section 72-12-1 well for outdoor use only.

(ii)

The well shall be metered, not interconnected with the CWU water system, and the outdoor use shall be limited to irrigation not to exceed the amount of the household's remaining right in the well for up to one acre of noncommercial trees, lawn or garden,

and if allowed, livestock watering.

(b) **A**

household with an adjudicated water right for a single household that does not define a specific amount of water shall convey ownership of 0.3 afy to the CWU.

(i)

The household may continue to divert up to 0.2 afy from the Section 72-12-1 well for outdoor use only.

(ii)

The amount that may be diverted may exceed 0.2 afy per household based upon a determination of greater historic beneficial use by the water master pursuant to Subsection (B) of 19.25.20.108 NMAC.

(iii)

The well shall be metered, not interconnected with the CWU water system, and the outdoor use shall be limited to irrigation not to exceed the amount of the household's remaining right in the well for up to one acre of noncommercial trees, lawn or garden, and, if allowed, livestock watering.

(3) **Full**

amount for multiple household wells. If a household with a water right from a multiple household Section 72-12-1 well elects to connect to the CWU and to no longer divert water from the well, ownership of the full amount per household adjudicated shall be conveyed to the CWU. If no specific amount is defined in the final decree or determined pursuant to Subsection (B) of 19.25.20.108 NMAC, the amount per household is presumed to be the following amounts (or as limited by the maximum amount for all households combined from the Section 72-12-1 well):

(a)

0.7 afy for Section 72-12-1 wells permitted before January 13, 1983;

(b)

0.7 afy for Section 72-12-1 wells permitted after January 13, 1983 that entered into the post-1982 well agreement;

(c)

0.5 afy for Section 72-12-1 wells permitted after January 13, 1983 that did not enter into the post-1982 well agreement.

(4) **Partial**

amount for multiple household

wells. If a household with a water right from a multiple household Section 72-12-1 well elects to connect to the CWU for indoor uses and to continue to divert a portion of its water right from the well for outdoor use only, the household shall convey ownership of 0.3 afy to the CWU, as follows:

(a) **A**

household with water right of 0.4 afy or greater shall convey ownership of 0.3 afy to the CWU.

(i)

The household may continue to divert the amount of the household's remaining right in the well for outdoor use only (limited by the maximum amount for all households combined from the Section 72-12-1 well).

(ii)

The well shall be metered, not interconnected with the CWU water system, and the outdoor use shall be limited to irrigation not to exceed the amount of the household's remaining right in the well for up to one acre of noncommercial trees, lawn or garden, and if allowed, livestock watering.

(b)

A household with an adjudicated water right from a multiple household Section 72-12-1 well that does not define a specific amount of water shall convey ownership of 0.3 afy to the CWU.

(i)

The household may continue to divert the amount of the household's remaining right from the Section 72-12-1 well for outdoor use only (limited by the maximum amount for all households combined from the Section 72-12-1 well).

(ii)

The well shall be metered, not interconnected with the CWU water system, and the outdoor use shall be limited to irrigation not to exceed the amount of the household's remaining right in the well for up to one acre of noncommercial trees, lawn or garden, and, if allowed, livestock watering.

C. Pre-Basin Wells.

Ownership of domestic use water rights from pre-basin wells may be

conveyed to the CWU. The CWU may change the point of diversion, place and purpose of use of the water right by application to the state engineer. The amount of the water right to be conveyed to the county water utility from each pre-basin well shall be limited to one of the following options chosen by the owner of record:

(1) **Full**

amount for single household wells.

If a household elects to connect to the CWU and to no longer divert water from a pre-basin well, the household shall convey ownership of the full amount adjudicated to the CWU. For pre-basin wells that have not been adjudicated a specific amount of water in the final decree or determined pursuant to Subsection (B) of 19.25.20.108 NMAC, the amount is presumed to be 0.7 afy per well.

(2) **Partial**

amount for single household wells.

If a household elects to connect to the CWU and to continue to divert water from a pre-basin well for outdoor or other adjudicated uses only, the household shall convey ownership of 0.3 afy to the CWU as follows:

(a) A

household with an adjudicated water right of 0.4 afy or greater shall convey ownership of 0.3 afy to the CWU.

(i)

The household may continue to divert the amount of the household's remaining right in the well for outdoor or other adjudicated uses only.

(ii)

The well shall be metered and not interconnected with the CWU water system.

(b)

For pre-basin wells that have not been adjudicated a specific amount of water, the amount of water conveyed to the CWU shall be 0.3 afy.

(i)

The household may continue to divert up to 0.4 afy from the pre-basin well for outdoor or other adjudicated uses only.

(ii)

The amount of the retained water right may exceed 0.4 afy per based

upon a determination of greater historic beneficial use by the water master pursuant to Subsection (B) of 19.25.20.108 NMAC, reduced by the total amount of the water right conveyed to the CWU from the well.

(iii)

The well shall be metered and not interconnected with the CWU water system.

(3) **Full**

amount for multiple household wells.

If a household with a water right from a multiple household pre-basin well elects to connect to the CWU and to no longer divert water from the well, ownership of the full amount per household adjudicated in the final decree shall be conveyed to the CWU. If no specific amount is defined in the final decree or determined pursuant to Subsection (B) of 19.25.20.108 NMAC, the amount is presumed to be 0.5 afy per household (or as limited by the maximum amount for all households combined from the pre-basin well).

(4) **Partial**

amount for multiple household wells.

If a household with a water right from a multiple household pre-basin well elects to connect to the CWU for indoor uses and to continue to divert a portion of its water right from the well for outdoor or other adjudicated uses only, the household shall convey ownership of 0.3 afy to the CWU, as follows:

(a) A

household with an adjudicated water right of 0.4 afy or greater shall convey ownership of 0.3 afy to the CWU.

(i)

The household may continue to divert the amount of the household's remaining right in the well for outdoor or other adjudicated uses only (limited by the maximum amount for all households combined from the pre-basin well).

(ii)

The well shall be metered and not interconnected with the CWU water system.

(b)

A household with an adjudicated water right from a multiple household pre-basin well that does not define a

specific amount of water shall convey ownership of 0.3 afy to the CWU.

(i)

The household may continue to divert up to 0.4 afy from the pre-basin well for outdoor or other adjudicated uses only (limited by the maximum amount for all households combined from the pre-basin well).

(ii)

The amount that may be diverted may exceed 0.4 afy per household based upon a determination of greater historic beneficial use by the water master pursuant to Subsection (B) of 19.25.20.108 NMAC, reduced by the total amount of the water right conveyed to the CWU from the well.

(iii)

The well shall be metered and not interconnected with the CWU water system.

D. Subsequent

conveyance of ownership of the remaining amount to CWU.

A household that elected a partial conveyance of ownership may subsequently convey ownership of the remaining amount of the domestic use water right to the CWU. The CWU may change the point of diversion, place and purpose of use to the CWU by application to the state engineer. [19.25.20.109 NMAC - N, 9/12/2017]

19.25.20.110 EXPEDITED MARKETING AND LEASING AND EXPEDITED PERMIT PROCEEDINGS:

A. New Domestic

Well Points of Diversion. Permits for new groundwater points of diversion for domestic uses, including a permit for a Section 72-12-1 well, may be issued provided:

(1) Water

rights from within the same hydrologic unit in the NPT basin are moved to the new groundwater point of diversion in accordance with this rule;

(2) The

priority and amount of the moved rights shall be determined under state law and reflect reductions in amount to account for historic supply; and

(3) Any

permitted diversions shall cease and

the household shall connect to the county water utility as soon as water service is available.

B. Expedited change of a valid, existing water right to a Section 72-12-1 domestic well permit. The applicant for a new Section 72-12-1 domestic well permit or the owner of an existing Section 72-12-1 domestic well water right may apply to change the point of diversion, place and purpose of use of a valid, existing water right, other than a Section 72-12-1 water right, from the same hydrologic unit within the NPT basin into the Section 72-12-1 domestic well.

(1)

Application form and content.

Applications shall be prepared on a form prescribed by the state engineer. An application shall include the following information:

- (a) the name and address of applicant,
- (b) the pertinent state engineer file number(s),
- (c) the source of water supply for the move-from point of diversion,
- (d) the source of water supply for the move-to point of diversion,
- (e) the priority date of the water right,
- (f) the diversion amount to be retired,
- (g) the consumptive use amount to be moved,
- (h) the move-from purpose of use,
- (i) the legal description of the move-from place of use,
- (j) the location of the move-from point of diversion,
- (k) the location of move-to point of diversion, and
- (l) other information the state engineer deems necessary.

(2) **Process.**

Consistent with the issuance of a Section 72-12-1.1 domestic well

permit pursuant to Section 72-12-1.1 NMSA, public notice is not required nor is protest allowed for an application for permit to change a valid, existing water right to a Section 72-12-1 domestic well permit.

(3) Once a

valid, existing water right has been approved by the state engineer for an expedited change to a Section 72-12-1 domestic well, the point of diversion, place and purpose of use of the water right may subsequently be changed into another Section 72-12-1 domestic well from the same hydrologic unit within the NPT basin.

C. Expedited change of point of diversion, place and purpose of use of groundwater rights for domestic use to the county water utility. The CWU may file one or more applications to the state engineer for permit to change the point of diversion, place and purpose of use of groundwater rights for domestic use whose ownership is conveyed to the CWU, including Section 72-12-1 domestic well water rights. The application may include multiple water rights. The CWU may consumptively use the full amount of the water right changed to the CWU.

(1)

Application form and content.

Applications shall be prepared on a form prescribed by the state engineer. An application shall include the following information:

- (a) the name and address of applicant,
- (b) the pertinent state engineer file number(s),
- (c) the source of water supply for the move-from point of diversion,
- (d) the source of water supply for the move-to point of diversion,
- (e) the consumptive use amount to be moved,
- (f) the location of the move-to point of diversion, and
- (g) other information the state engineer deems necessary.

(2) **Process.**

The state engineer may adopt a generalized hydrologic analysis based upon the hydrologic model setting out guidelines for the expedited processing of applications filed pursuant to this Subsection.

(a)

If the state engineer has adopted such a generalized hydrologic analysis, and if the CWU agrees to the use of the generalized hydrologic analysis in the review of the application, then the state engineer shall expedite the processing of the application as provided in the generalized hydrologic analysis.

(b) If

the state engineer does not adopt such a generalized hydrologic analysis, or if the CWU does not agree to the use of the generalized hydrologic analysis, then notice of the application shall be published as provided under 19.26.2.12 and 19.27.1.30 NMAC, except that only the OSE file number or subfile number of the move-from water rights need be provided in the notice of the application. The notice shall provide that the full legal description of the water rights being moved is available in the final decree posted on the state engineer's website and available in the district office.

D. Water rights served by an acequia or community ditch may not be moved under this Section. [19.25.20.110 NMAC - N, 9/12/2017]

19.25.20.111 CONNECTION FUND:

A. An owner of record of a water right from a well used for domestic, commercial or industrial purposes that elects pursuant to the settlement agreement to connect to the county water utility for water service as soon as that service is available shall be entitled to payment from the connection fund, as administered by Santa Fe county, for the expense of connecting to the county water utility. The county shall notify owners of record when service is available.

B. No water right owner of record electing to connect to the county water utility shall be required to cease use of their well and

connect to the county water utility until such expenses have been paid by the connection fund or other third party.

C. If service is not available to an owner that elected to connect because Santa Fe county determines that the expense of connection exceeds the allowed connection expenses, the owner may pay the additional expenses so that the expenses of connection will be covered and service made available. [19.25.20.111 NMAC - N, 9/12/2017]

19.25.20.112 DIVERSION, USE, AND ADMINISTRATION OF SURFACE WATER AND GROUNDWATER BY PUEBLOS:

Diversion, use, and administration of surface water and groundwater by the Pueblos under this rule shall be subject to, and in accordance with, the settlement agreement, the PFD and the final decree.

A. General principles.

(1) The Pueblos have decreed first priority water rights to consumptively use the surface and groundwater of the NPT basin for agricultural, community, domestic, livestock, commercial or industrial purposes in the amounts defined in the partial final decree. The Pueblos' first priority rights are designated as existing basin use rights or future basin use rights. The Pueblos' first priority rights are not subject to forfeiture, abandonment or loss by non-use.

(2) A Pueblo may lease, for any term up to 99 years, any portion of its first priority rights to another Pueblo or another water user for use within the NPT basin.

(3) For agricultural uses of a Pueblo's first priority rights, the amount of water shall not exceed 4.65 AFY per acre diverted by the ditch at the point of diversion from the surface source of water (PDR), or 3.35 AFY per acre delivered to the farm headgate or diverted at the well head (FDR), or a CIR of 1.84 AFY per acre, whichever is less.

(4) For non-

agricultural uses, the consumptive use amount shall be deemed to be equal to the amount of the diversion. The diversion amount shall not exceed the consumptive use amount unless a return flow plan is approved by the state engineer.

(5) The provision of offset water by a Pueblo shall not constitute use of that Pueblo's first priority rights.

B. First priority rights: existing basin use rights.

(1) The current points of diversion, purposes and places of use of the Pueblos' existing basin use rights are set out in appendices one through four of the partial final decree. For the purposes of administering the mitigation fund, the exercise by the Pueblos of their existing basin use rights for the purposes and at the points of diversion and places of use set out in the PFD shall be presumed to not impair non-Pueblo groundwater rights.

(2) If a Pueblo consumes water in excess of the quantity designated in the PFD as the Pueblo's existing basin use rights, the excess consumption shall be deemed to be an exercise of that Pueblo's available supplemental or future basin use rights.

(3) No notice or other administrative process is required for the Pueblos to use water under such rights for the purposes and at the points of diversion and places of use set out in appendices one through four of the PFD.

C. First priority rights: future basin use rights on Pueblo land.

Community, domestic and livestock uses.

(a) A Pueblo may exercise its future basin use rights to divert and consumptively use groundwater on that Pueblo's lands for new community or domestic uses by Pueblo members or their households or livestock uses.

(b) Surface water may be diverted and used for such uses subject to the provisions in section 4 of the

settlement agreement.

(c) The owner of record of a non-Pueblo groundwater right that suffers impairment as a result of a Pueblo's exercise of its future basin use right for new community, domestic and livestock uses may seek reimbursement from the mitigation fund for the cost of mitigating the impairment in accordance with 19.25.20.118 NMAC.

(2) Agricultural uses from loss of section 4 protection for non-Pueblo agricultural uses.

(a) A Pueblo may exercise its future basin use rights to divert and consumptively use surface or groundwater on that Pueblo's land for new agricultural uses to the extent that non-Pueblo agricultural water rights are determined to be no longer eligible for section 4 protection under 19.25.20.122 NMAC.

(b) Any increase in a Pueblo's exercise of future basin use rights for agricultural uses implemented pursuant to this paragraph shall divert water from the same tributary from which water was diverted to irrigate the non-Pueblo water rights acreage that is no longer eligible for section 4 protection.

(3) Commercial and industrial uses and other new agricultural uses.

(a) A Pueblo may exercise its future basin use rights to divert and consumptively use surface or groundwater on that Pueblo's land for new commercial or industrial uses or new agricultural uses on that Pueblo's land in addition to those described above at Subparagraph a of Paragraph 2 of Subsection C of 19.25.20.112 NMAC.

(b) The owner of record of a non-Pueblo groundwater right that suffers impairment as a result of the Pueblo's exercise of its future basin use rights for new commercial, industrial or other agricultural uses may seek reimbursement from the mitigation fund for the cost of mitigating the impairment in accordance with

19.25.20.118 NMAC.

(c)

The Pueblo shall offset any interference with non-Pueblo surface water rights caused by the new use in an amount determined by the water master in accordance with 19.25.20.115 NMAC.

(d)

Non-Pueblo water rights eligible for section 4 protection shall not be curtailed to provide water for the new commercial, industrial or other agricultural use under Pueblo alternative administration.

D. Reserved water rights. The reserved water rights of the Pueblo of Nambé may be exercised in the NPT basin provided that:

(1) The exercise shall not impair Pueblo or non-Pueblo water rights,

(2) Non-Pueblo water rights shall not be curtailed to provide water for the exercise of these rights, nor shall the exercise of these rights be curtailed under priority administration or Pueblo alternative administration.

(3) Any interference with any surface water rights resulting from the use of the reserved water rights of the Pueblo of Nambé shall be offset by the United States or the regional water authority in an amount determined by the state engineer in accordance with 19.25.20.115 NMAC.

E. Supplemental Pueblo rights.

(1) Until alternative water is available for delivery to the Pueblo of Pojoaque, the Pueblo of Pojoaque has the right to divert the entirety of its supplemental Pueblo rights from wells located on Pueblo of Pojoaque lands. The Pueblo shall not divert its supplemental Pueblo rights to the extent alternative water is available for Pueblo use from the regional water system.

(2) Until alternative water is available for delivery to the Pueblo of Pojoaque, the Pueblo of Pojoaque and the Pueblo of San Ildefonso shall

maintain in effect a forbearance agreement for the exercise of at least 475 AFY of the Pueblo of San Ildefonso's first priority rights. During the tenure of the forbearance agreement the Pueblo of San Ildefonso shall forgo the exercise of 475 AFY of its first priority rights in accordance with the terms of the settlement agreement.

(3) Until alternative water is available for delivery to the Pueblo of Pojoaque, the Pueblo may divert all or a part of its supplemental Pueblo rights from surface water allocated to the Pueblos and released from Nambé reservoir, provided the other Pueblos and the Pojoaque Valley irrigation district agree after consultation with the United States and the United States bureau of reclamation.

(4) The owner of record of any non-Pueblo groundwater right that suffers impairment as a result of the Pueblo of Pojoaque's exercise of its supplemental Pueblo rights may seek reimbursement from the mitigation fund for the cost of mitigating the impairment in accordance with 19.25.20.118 NMAC.

F. Water rights acquired under state law.

(1) A Pueblo may acquire water rights in addition to the rights set forth in the PFD in accordance with, and subject to, state law and regulation. These rights shall be subject to priority administration in accordance with state law, and shall be eligible for section 4 protection.

(2) Water rights acquired by the Pueblos under state law after March 21, 2016 by or for the benefit of a Pueblo shall not be subject to forfeiture, abandonment or loss by non-use as long as the title to the water rights remains in the Pueblo or the United States acting as trustee for the Pueblo.
[19.25.20.112 NMAC - N, 9/12/2017]

19.25.20.113 PUEBLO REPORTING OF PUEBLOS' USES OF WATER UNDER THEIR FIRST PRIORITY RIGHTS; NOTICE OF OTHER PROPOSED ACTIONS.

A. Annual reports of anticipated uses.

(1) By December 31 of each year, each Pueblo shall submit to the water master a report on its anticipated uses of water under its first priority rights from groundwater for the next calendar year. By March first of each year, each Pueblo shall submit to the water master a report on its anticipated uses of water under its first priority rights from surface water for that calendar year. These reports on anticipated uses shall include the anticipated annual diversion and consumptive use amounts, points of diversion, and purposes and places of use of the Pueblos' first priority rights for each anticipated use for the calendar year.

(2) Pueblo lands intended to be irrigated shall be reported by the Pueblos in their annual reports on anticipated uses.

(3) For purposes of administration, the anticipated diversion and consumptive use amounts, points of diversion, and purposes and places of use of the Pueblo of Pojoaque's supplemental Pueblo rights for the next calendar year shall also be reported to the water master by December 31 and March first each year in the Pueblo's reports on anticipated uses.

B. Notice of proposed actions.

A Pueblo intending to take the following actions shall advise the water master, in writing, of any such proposed action at least 60 days in advance of implementing the proposed action.

(1) any change in the point of diversion, place or purpose of use of existing basin use rights of a Pueblo on that Pueblo's land from those set out in appendices one through four of the PFD; or

(2) any new or changed exercise of Pueblo future basin use water rights on that Pueblo's lands; or

(3) any change in the point of diversion, place or purpose of use of water rights acquired under state law on that

Pueblo's land.

[19.25.20.113 NMAC - N, 9/12/2017]

19.25.20.114 CHANGES TO POINT OF DIVERSION, PURPOSE OR PLACE OF USE OF PUEBLO WATER RIGHTS ON THAT PUEBLO'S LANDS:

A. A Pueblo may change the point of diversion, purpose or place of use of its first priority water rights for use on that Pueblo's land from the uses set out in appendices one through four of the PFD as provided below.

(1) Prior consultation with the state engineer or the water master is not required for such changes.

(2) Changes shall be reported to the water master in the annual report of anticipated uses or at least 60 days prior to making any such change.

(3) After receiving the report, the water master shall determine whether any change in use will impair non-Pueblo groundwater rights in accordance with 19.25.20.116 NMAC.

(4) The owners of record of any such rights may seek reimbursement from the mitigation fund for the cost of mitigating the impairment in accordance with 19.25.20.118 NMAC.

(5) A Pueblo making a change in the exercise of its future basin use rights shall offset any resulting interference with non-Pueblo surface water rights in an amount determined by the water master in accordance with 19.25.20.115 NMAC.

(6) Non-Pueblo water rights eligible for section 4 protection shall not be curtailed to provide water for changes to the uses of water under future basin use rights for new commercial, industrial or agricultural uses under Pueblo alternative administration.

(7) Future basin use rights for domestic, community or livestock uses may not be changed. A Pueblo discontinuing uses of water under such rights may

make new uses of water under its future basin use rights.

B. A Pueblo may change the point of diversion, purpose or place of use of any water rights acquired under state law for use on that Pueblo's land as provided below.

(1) Changes shall be reported to the water master at least 60 days prior to making any such change.

(2) The water master shall determine if the proposed change will impair any Pueblo or non-Pueblo groundwater rights, and consider any remedies proposed by the Pueblos to reduce the impacts resulting from the proposed change on groundwater rights to below the threshold for impairment.

(3) The water master shall determine if the proposed use will cause interference with any Pueblo or non-Pueblo surface water rights.

(4) An application shall be denied if the proposed change will cause interference with any Pueblo or non-Pueblo surface water rights or will impair any Pueblo or non-Pueblo groundwater rights and remedies are not available to offset or mitigate the interference or to reduce groundwater effects below the level of impairment. [19.25.20.114 NMAC - N, 9/12/2017]

19.25.20.115 WATER MASTER DETERMINATION OF INTERFERENCE AND OFFSETS TO SURFACE WATER RIGHTS FROM EXERCISE OF PUEBLO WATER RIGHTS ON PUEBLO LANDS:

A. A Pueblo seeking a new or changed use of water under Pueblo future basin use water rights on that Pueblo's lands shall advise the water master, in writing, of any such proposed action at least 60 days before implementing the proposed action. Within 30 days of receiving notice of such a proposed action (or report of anticipated uses of water) under 19.25.20.114 NMAC, the water master shall determine and advise the Pueblo and other affected Pueblos and owners of record whether the

proposed action interferes with Pueblo surface water rights or non-Pueblo surface water rights and the amount of any offsets that may be required to avoid interference. In making these determinations, the water master shall use the hydrologic model developed by the state of New Mexico and the United States.

B. A Pueblo whose proposed action is determined to cause interference shall offset the interference in the amount determined by the water master. Prior to implementing the proposed action, the Pueblo causing the interference shall notify the water master how it will offset any interference. Within 10 days of receiving such notification, the water master shall notify that Pueblo and any affected owners of record and other affected Pueblos whether the proposed actions are sufficient to offset any interference. The Pueblo shall not implement the proposed action until the water master determines that the amount of the offset and the delivery method are sufficient to offset any interference.

C. The water master may work with the affected parties to resolve such matters either formally or informally and may discuss matters with one or more affected parties without the need to have all parties present.

D. If the hydrologic record after implementation of the proposed action does not support the water master's determination of interference and required offsets, an affected Pueblo or water right owner of record may request modification of the offset amounts. The Pueblo implementing the proposed action shall make the previously determined offsets until such time as the water master determines that a different amount is appropriate.

E. Provision of offset water by a Pueblo to avoid interference shall not constitute use of water under the Pueblo's first priority water rights. The Pueblos shall offset interference with Pueblo surface water rights and non-Pueblo surface water rights entitled to section 4 protection resulting from a Pueblo's

provision of offset water.

[19.25.20.115 NMAC - N, 9/12/2017]

19.25.20.116 WATER MASTER DETERMINATION OF IMPAIRMENT TO GROUNDWATER RIGHTS FROM EXERCISE OF PUEBLO WATER RIGHTS ON PUEBLO LANDS:

A. Within 60 days of receiving notice of a proposed action (or report of anticipated uses of water) under 19.25.20.114 NMAC, the water master shall determine if any non-Pueblo groundwater rights will be impaired by a new use or change in use of water under Pueblo water rights on Pueblo lands. In making these determinations, the water master shall utilize the hydrologic model developed by the state of New Mexico and the United States.

B. Notice of any projected impairment shall be mailed to the affected owner of record by certified mail. The notice of impairment shall include a description of the factual or technical basis for the determination, and any recommended mitigation action such as drilling a replacement well or obtaining an alternate water supply. The water master shall post a notice of all projected impairments on the office of the state engineer's website, together with the reports on anticipated uses of water submitted by the Pueblos. Notice of all projected impairments shall also be mailed to the Governor of each Pueblo.

C. An owner of record that is not identified as being impaired by the uses identified in the Pueblos' reports on anticipated uses of water may within 60 days of the posting of the water master's notice of projected impairments on the office of the state engineer's website request in writing a hearing before the state engineer to demonstrate that their groundwater rights will be impaired by the Pueblos' use of their first priority water rights and may seek reimbursement for the cost of mitigating the impairment from the mitigation fund in accordance with 19.25.20.118 NMAC.

D. The water master may identify owners of record that will be impaired in addition to those identified pursuant to Subsection A of this Section. The water master shall notify any additional affected owners of record and Pueblos in accordance with the provisions of this Section. Owners of record of water rights that are identified pursuant to this Subsection may seek reimbursement for the cost of mitigating the impairment from the mitigation fund in accordance with 19.25.20.118 NMAC.

[19.25.20.116 NMAC - N, 9/12/2017]

19.25.20.117 CHANGES TO POINT OF DIVERSION, PURPOSE OR PLACE OF USE OF PUEBLO WATER RIGHTS OR NEW EXERCISES OFF THAT PUEBLO'S LANDS:

A. By application to the state engineer, a Pueblo may change the point of diversion, purpose or place of use of its first priority water rights, including a lease of such rights to non-Pueblos, to a point of diversion, place or purpose of use off that Pueblo's lands within the NPT basin.

(1)

Applications to the state engineer for use of Pueblo first priority water rights off that Pueblo's lands shall be governed by applicable statutory provisions and administrative rules.

(2)

The water master shall determine if any Pueblo or non-Pueblo groundwater rights will be impaired by the granting of an application, and consider any remedies proposed by the Pueblos to reduce impacts on groundwater rights below the threshold for impairment.

(3)

An application shall be denied if the proposed change will impair Pueblo or non-Pueblo water rights and remedies are not available to reduce groundwater effects below the level of impairment.

(4)

The exercise of a Pueblo's first priority water rights on the lands of another Pueblo is not contrary to the conservation of water within the

state or detrimental to the public welfare of the state. The exercise of a Pueblo's first priority water rights on non-Pueblo lands, in and of itself, is not contrary to the conservation of water in the state or detrimental to the public welfare of the state.

(5)

An approval of a proposed change to a point of diversion, purpose or place of use off a Pueblo's land shall be conditioned to require offsets to avoid interference with Pueblo surface water rights or non-Pueblo surface water rights entitled to section 4 protection.

(6)

Notice of the approval or denial of an application, and any required offsets, shall be mailed to the Pueblo tribal council or governor by certified mail, and posted on the state engineer's website.

(7)

Non-Pueblo water rights eligible for section 4 protection shall not be curtailed to provide water for the new or changed exercise of future basin use rights under Pueblo alternative administration.

B. Applications to the state engineer for use of a Pueblo's state law water rights off that Pueblo's lands shall be governed by applicable statutes and administrative rules.

[19.25.20.117 NMAC - N, 9/12/2017]

19.25.20.118 MITIGATION FUND:

A. The New Mexico finance authority shall administer the mitigation fund. The unavailability of funds shall not affect the rights of the Pueblos to utilize their water rights.

B. Money in the mitigation fund may only be expended to mitigate the effects of impairment to non-Pueblo groundwater rights as determined in accordance with 19.25.20.116 NMAC, including reimbursement to non-Pueblo water rights owners of record for the cost to drill a replacement well or to obtain an alternative water supply.

C. An owner of record that is eligible for reimbursement from the mitigation fund pursuant to 19.25.20.116 NMAC may request

reimbursement from the mitigation fund for the costs of mitigating the impairment. To request reimbursement, an owner of record shall:

(1) Within 30 days of the receipt of the notice of impairment or a favorable decision pursuant to 19.25.20.116 NMAC, notify the state engineer in writing of their intent to request reimbursement; and

(2) Within 90 days of the notification to the state engineer of their intent to request reimbursement, submit to the state engineer a proposal for mitigation of the impairment and estimated cost of the mitigation with supporting documentation. The state engineer may grant an extension of time to submit a mitigation proposal and estimated cost for good cause shown. The state engineer may request additional information as needed.

D. Within 60 days of receipt of the mitigation proposal and supporting documentation, the state engineer shall approve or disapprove of the mitigation proposal and estimated cost, and notify the owner of record of the determination by certified mail. The state engineer may rely on the documentation submitted by the owner of record or other information available to the office of the state engineer. If the state engineer disapproves a mitigation proposal or cost estimate, the owner of record may request a hearing within 30 days of the notice of disapproval.

E. Within 90 days of completion of an approved mitigation proposal, the owner of record shall submit an accounting of the amount paid by the owner to mitigate the impairment of their water right.

F. Within 30 days of receipt of the accounting, the state engineer shall direct the New Mexico finance authority to reimburse the owner of record for the mitigation costs, and notify the owner of record of the amount of reimbursement by certified mail. The state engineer may limit the reimbursement to the amount of the approved estimate. An owner

of record that is aggrieved by the state engineer's determination the amount of reimbursement from the mitigation fund may request a hearing within 30 days of the notice of the amount of reimbursement.

G. The New Mexico finance authority shall make expenditures from the fund in accordance with this Section and to pay for the finance authority's reasonable costs of administering the fund.

H. Payments from the mitigation fund shall be contingent upon the New Mexico finance authority receiving sufficient appropriations. Nothing in this rule establishes or creates any liability or responsibility on the part of the state to pay mitigation costs for impairment to non-Pueblo groundwater right owners of record as a result of new or changed Pueblo uses of water from any source other than the mitigation fund, nor shall the state have any liability or responsibility to make any payments if the balance in the fund is insufficient to cover those costs.

I. If the New Mexico finance authority determines that the mitigation fund balance is insufficient to reimburse the amount required to mitigate the effects of an impairment, the finance authority shall promptly notify that water right owner of record and the state engineer.

Reimbursement shall be paid if and when sufficient amounts are available in the fund, subject to the provisions of this Section.

J. Money remaining in the fund at the end of any fiscal year shall not revert to the general fund but shall accrue to the mitigation fund and shall be used solely for the purposes set forth in this Section.

[19.25.20.118 NMAC - N, 9/12/2017]

19.25.20.119 PRIORITY ADMINISTRATION:

A. The water master may implement priority administration in the NPT water master district. Priority administration may be initiated by the state engineer as a result of the state engineer's independent determination

that priority administration is necessary, as provided by 19.25.13.43 NMAC, and in response to a request for priority administration by a water right owner of record, Pueblo, the United States as trustee for the Pueblos, or the interstate stream commission.

B. The forms of priority administration applicable in the NPT are described in Subsection C of 19.25.13.7 NMAC, which include direct flow administration, storage water administration, depletion limit administration, and alternative administration. Depletion limit administration and alternative administration are the two forms of administration applicable when the exercise of groundwater rights is causing a surface water owner of record to not receive the water to which the surface water right owner of record is entitled.

C. Sections 2.4.4.5, 3.1.7.2 and 4 of the settlement agreement constitute Pueblo alternative administration that has been accepted by the state engineer as between the Pueblos' first priority rights and the water rights of the non-Pueblo settlement parties. Section 4.1.2 of the settlement agreement constitutes alternative administration that has been accepted by the state engineer of the Pueblo of Tesuque's existing basin use rights.

D. Non-settlement parties' water rights shall only be curtailed under Pueblo alternative administration to the extent such curtailment would occur without the settlement agreement.

E. Non-settlement parties seeking priority administration shall have the same rights and benefits that would be available without the settlement agreement.

[19.25.20.119 NMAC - N, 9/12/2017]

19.25.20.120 ESSENTIAL INDOOR HOUSEHOLD USES NOT SUBJECT TO CURTAILMENT:

Essential indoor household uses from domestic wells shall not be curtailed under priority or Pueblo alternative administration. Essential indoor household uses

include drinking, cooking, indoor cleaning, sanitary, and cooling purposes, and exclude all uses made outside of a building.
[19.25.20.120 NMAC - N, 9/12/2017]

19.25.20.121 ALTERNATIVE ADMINISTRATION OF THE PUEBLO OF TESUQUE'S EXISTING BASIN USE RIGHTS:

Under alternative administration of the first priority of the Pueblo of Tesuque's existing basin use rights, the curtailment of non-Pueblo surface water rights entitled to protection under section 4 of the settlement agreement whose points of diversion on the Rio Tesuque are upstream from the Pueblo of Tesuque's southern boundary ("upstream acequias"), shall be limited to the extent necessary to provide a diversion amount by the Pueblo of Tesuque from the Rio Tesuque for irrigation of 71 acres of Pueblo land (71 acres x 4.65 AFA/Y=330.15 AFY). To ensure that the Pueblo of Tesuque receives the 330.15 AFY, the Pueblo of Tesuque and the upstream acequias have agreed that:

A. Upstream acequias may proceed with lawful diversions if, for a period of more than 48 hours:

(1) the USGS 08302500 Tesuque Creek Above Diversions gage indicates a flow of 3 cubic feet per second ("cfs") or more, or

(2) the USGS No.08308050 Rio Tesuque Below Diversions gage, at or near the Pueblo's southern boundary, indicates a flow of 1.5 cfs or more.

B. Upstream acequias shall reduce or cease their diversions as specified by the water master if the USGS 08302500 Tesuque Creek Above Diversions gage indicates a flow of less than 3 cfs and the USGS No. 08308050 Rio Tesuque Below Diversions gage, at or near the Pueblo's southern boundary indicates a flow of less than 1.5 cfs but more than 0.8 cfs.

C. Upstream acequias will cease all diversions and will allow all water in the Rio Tesuque to flow down to the Pueblo boundary if for a period of 48 hours, the USGS

08302500 Tesuque Creek Above Diversions gage indicates a flow of less than 1.5 cfs, or the USGS No. 08308050 gage, at or near the Pueblo's southern boundary, indicates a flow of less than 0.8 cfs.
[19.25.20.121 NMAC - N, 9/12/2017]

19.25.20.122 IDENTIFICATION AND REPORTING OF NON-PUEBLO IRRIGATED ACREAGE WHICH MAY NO LONGER BE ELIGIBLE FOR SECTION 4 PROTECTION:

A. The water master shall each year compile a list of non-Pueblo lands with surface water irrigation rights that were not irrigated in the past calendar year and that may no longer be eligible for section 4 protection.

B. The list shall include the names and addresses of the current owners of record as they are shown in subfile orders and the records of the office of the state engineer, a description of the location and amount of the non-irrigated acreage, and the number of consecutive years that the acreage has not been irrigated.

C. This list shall be made available for review on the state engineer's website and at the district VI office of the water rights division of the office of the state engineer, and shall be provided to each Pueblo and the United States by July 1 of the following year.

D. After four consecutive years of non-use, the water master shall provide written notice to the owner of record that the water right may no longer be eligible for section 4 protection if the water right is not put to beneficial use within one year, subject to the exceptions described in Subsection C of 19.25.20.123 NMAC.

E. If the water right is not put to beneficial use for more than five consecutive years the irrigation water right is no longer eligible for section 4 protection, unless the owner of the water right demonstrates that (1) such non-use is due to circumstances beyond the control of the water right owner and (2) that

the water could not be placed to beneficial use by the owner's diligent efforts.

[19.25.20.122 NMAC - N, 9/12/2017]

19.25.20.123 VOLUNTARY ALTERNATIVE ADMINISTRATION:

A. In addition to Pueblo alternative administration, voluntary alternative administration may be accepted by the water master if the criteria below are met. Voluntary alternative administration may include shortage sharing, such as, but not limited to, percentage division or pro rata allocation, rotation of water use, and reduced diversions. The owners of record of administrable water rights subject to priority administration may request that the water master implement a voluntary form of alternative administration by submitting a written plan to the water master that includes:

(1) an agreement by the owners of record to the terms and conditions of the plan;

(2) the name, address and phone number, and electronic mail address, if applicable, of the person designated as the contact person for the owners of record, or in the case of an acequia, the mayordomo of the ditch;

(3) a description of the water rights included in the plan, the proposed operation of the plan, the specific steps required of the water master to administer the plan, and requirements for reporting the progress of the plan to the water master; and

(4) a demonstration, through accurate analysis using analytic tools acceptable to the water master, that the implementation of the plan will:

(a) economically and satisfactorily apportion the available water supply among owners of record who have agreed to the alternative administration plan;

(b) not impair the administrable water rights of owners of record who are not participating in, or have not agreed to,

the alternative administration plan;

(c)

not be contrary to conservation of water in the State; and

(d)

not be detrimental to the public welfare of the State.

B. The water master shall not implement an alternative administration plan if:

(1) other

owners of record of administrable water rights that may be affected by the alternative administration plan object to its implementation, unless the water master determines that the objection is without merit;

(2) one

or more owners of record of the administrable water rights subject to the plan rescinds his agreement in writing; or

(3) the

water master cannot adequately administer or supervise the alternative administration plan in a manner that ensures that the plan will:

(a)

economically and satisfactorily apportion the available water supply among owners of record who have agreed to the alternative administration plan;

(b)

not impair the administrable water rights of owners of record who are not participating in, or have not agreed to, the alternative administration plan;

(c)

not be contrary to conservation of water in the State; and

(d)

not be detrimental to the public welfare of the State.

C. Periods of time during which non-Pueblo acreage with an appurtenant water right is not irrigated because of the implementation of an alternative administration plan shall not be counted as part of any period of non-use that may support a determination that the water right is no longer eligible for protection under section 4.

D. Nothing in this Section prevents the water master from exercising his authority and duties set forth in Section

19.25.20.101 NMAC.

[19.25.20.123 NMAC - N, 9/12/2017]

19.25.20.124 APPORTIONMENT OF WATER BY ACEQUIAS: Upon notice to the water master of an agreement between acequias taking water from the same source or river for the apportionment and distribution of water for their respective ditches in accordance with Section 73-2-47 NMSA 1978, the water master may recognize the agreement as a form of voluntary alternative administration under this rule.

[19.25.20.124 NMAC - N, 9/12/2017]

19.25.20.125 ALLOCATION OF WATER BY THE BUREAU OF RECLAMATION, POJOAQUE VALLEY IRRIGATION

DISTRICT: Nothing in this rule shall be construed as an assertion by the state engineer of jurisdiction over the process used by the United States bureau of reclamation, the Pojoaque Valley irrigation district, and the Pueblos to allocate storage water prior to release from Nambé reservoir to members of the Pojoaque Valley irrigation district and the Pueblos.

[19.25.20.125 NMAC - N, 9/12/2017]

HISTORY OF 19.25.20 NMAC:
[RESERVED]

End of Adopted Rules

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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
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Issue 20	October 19	October 31
Issue 21	November 2	November 14
Issue 22	November 16	November 28
Issue 23	November 30	December 12
Issue 24	December 14	December 26

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