

New Mexico Register

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

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The New Mexico Register

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New Mexico Register

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December 12, 2017

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Notices of Rulemaking and Proposed Rules

ATTORNEY GENERAL, OFFICE OF THE

NOTICE OF TERMINATION OF RULEMAKING

The New Mexico Office of the Attorney General (OAG) is providing notice to terminate the public rule hearing scheduled on Monday, December 4, 2017 at 9:30 a.m., in accordance with Subsection C of Section 14-4-5 NMSA 1978. The proposed new rule, 1.24.25 NMAC is being terminated.

ATTORNEY GENERAL, OFFICE OF THE

NOTICE OF RULEMAKING

The New Mexico Office of the Attorney General is proposing to adopt a new rule, 1.24.25 NMAC, Default Procedural Rule for Rulemaking, in accordance with Section 14-4-5.8 NMSA 1978 of the State Rules Act, that directs the Attorney General to adopt default procedural rules for public rules hearings for use by agencies that have not adopted their own procedural rules. The proposed rule is intended to comport with House Bill 58 (Laws 2017, Chapter 137), and addresses the initiation of and public participation in the rulemaking process, as well as the conduct and record of the public hearing. Copies of the new rule are available at the New Mexico Office of the Attorney General, 408 Galisteo Street, Santa Fe, NM 87501 and on the website at, <http://www.nmag.gov/>.

The Open Government Division of the Office of the Attorney General currently is accepting public comment on the proposed new rule. Please submit written comments on the proposed changes to P. O. Drawer 1508, Santa Fe, NM 87504-1508 or Renee K. Romero via email at romero@nmag.gov by January 18, 2018.

The Office of the Attorney General will hear public comment and consider adoption of the proposed

new rule at a rule hearing on Friday, January 19, 2018, at 9:00 a. m., Toney Anaya Building, Rio Grande Conference Room, 2nd Floor, 2550 Cerrillos Road, Santa Fe, New Mexico.

If you are an individual with a disability who is in need of reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact: Renee K. Romero at romero@nmag.gov or 505-490-4861.

ENVIRONMENT DEPARTMENT

NOTICE OF PUBLIC HEARING TO AMEND RULEMAKING PROCEDURES FOR THE ENVIRONMENTAL IMPROVEMENT BOARD - 20.1.1 NMAC

The New Mexico Environmental Improvement Board ("Board" or "EIB") will hold a public hearing beginning at 9:30 a.m. on Wednesday, February 21, 2018, and continuing thereafter as necessary at Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501. The hearing location may change prior to the hearing date, and those interested in attending should visit the EIB website: <http://www.env.nm.gov/eib> prior to the hearing. The purpose of the hearing is to consider amendments to the Rulemaking Procedures for the Board, 20.1.1 NMAC ("Rules") proposed by the New Mexico Environment Department ("NMED").

The amendments would bring the Rules into compliance with recent changes to the State Rules Act (Sections 14-4-1 thru -11 NMSA 1978). Primarily, these amendments would add requirements to the methods and content for public notice throughout the rulemaking process, clarify retention of the rulemaking record, and add post-adoption filing and notice requirements for EIB rules. NMED proposes the Board adopt the

amendments pursuant to its authority under Sections 14-4-5.8, 74-1-15, and 74-1-9(E) NMSA 1978. Please note that formatting and minor technical changes in the Rules other than those proposed by NMED may be proposed at the hearing. Additionally, the Board may make other changes as necessary in response to public comments and evidence presented at the hearing.

The proposed amendments may be reviewed during regular business hours at the NMED Hearing Office located in the Harold Runnels Building, 1190 South St. Francis Drive, Room S-2102 Santa Fe, NM, 87505. The full text of the proposed amendments is also available online at <https://www.env.nm.gov/eib-17-03-r/>.

The hearing will be conducted in accordance with the EIB Rulemaking Procedures (20.1.1 NMAC); the Environmental Improvement Act; Section 74-1-9 NMSA 1978; the State Rules Act, Section 14-4-5.3 NMSA 1978; and other applicable procedures.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally or in writing; to introduce exhibits; and to examine witnesses. Any person wishing to submit a non-technical written statement for the record in lieu of oral testimony must file such statement prior to the close of the hearing.

Pursuant to the EIB Rulemaking Procedures, those wishing to present technical testimony must file a written notice of intent to do so with the Board on or before 5:00 p.m. on Thursday, February 1, 2018. The notice of intent shall:

- identify the person or entity for whom the witness(es) will testify;
- identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of his or her education and work background;

- include a copy of the direct testimony of each technical witness in narrative form, and state the estimated duration of the direct oral testimony of that witness;

- include the text of any recommended modifications to the proposed regulatory change; and

- list and attach all exhibits anticipated to be offered by that person at the hearing.

Notices of intent for the hearing must be received in the Hearing Office no later than 5:00 p.m. on Thursday, February 1, 2018, and should reference the name of the regulation, the date of the hearing, and docket number EIB 17-03(R). Notices of intent to present technical testimony should be submitted to:

Pam Castaneda, Administrator of
Boards and Commissions
Office of the Environmental
Improvement Board
Harold Runnels Building
P.O. Box 5469
Santa Fe, NM 87502

Those wishing to do so may offer non-technical public comment at the hearing or submit a non-technical written statement in lieu of oral testimony at or before the hearing. Written comments regarding the proposed revisions may be addressed to Ms. Pam Castaneda, Administrator of Boards and Commissions, at the above address, and should reference docket number EIB 17-03(R).

If any person requires assistance, an interpreter or auxiliary aid to participate in this process, please contact Pam Castaneda, EIB Administrator by Wednesday, February 7, 2018, at P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, telephone (505) 827-2425 or email pam.castaneda@state.nm.us. (TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

The Board may make a decision on the proposed regulatory change at

the conclusion of the hearing or may convene a meeting after the hearing to consider action on the proposal.

Notice of Non-Discrimination
NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Part 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact: Kristine Pintado, Non-Discrimination Coordinator New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us. If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at <https://www.env.nm.gov/NMED/EJ/index.html> to learn how and where to file a complaint of discrimination.

**AVISO DE AUDIENCIA
PÚBLICA PARA ENMENDAR
LOS PROCEDIMIENTOS
NORMATIVOS
DE LA JUNTA PARA EL
MEJORAMIENTO AMBIENTAL -
20.1.1 NMAC**

La Junta para el Mejoramiento Ambiental de Nuevo México ("Junta" o "EIB" por su sigla en inglés) celebrará una audiencia pública que comenzará a las 9:30 de la mañana del miércoles 21 de febrero de 2018, y que continuará después de esa fecha según sea necesario, en la sala Mabry Hall, del edificio Jerry Apodaca Education Building, 300

Don Gaspar, Santa Fe, Nuevo México 87501. El lugar indicado para la audiencia podrá cambiar antes de la fecha de la audiencia, por lo que los interesados en asistir deberán verificar esta información en el sitio web de la EIB: <http://www.env.nm.gov/eib> antes de la audiencia. El propósito de la audiencia es considerar las enmiendas a los Procedimientos Normativos de la Junta, 20.1.1 NMAC ("Reglamento") propuestas por el Departamento del Medio Ambiente de Nuevo México ("NMED" por su sigla en inglés).

Las enmiendas modificarían el Reglamento para cumplir con los recientes cambios de la Ley Estatal para Reglamentos (Secciones 14-4-1 a -11 NMSA 1978). Principalmente, estas enmiendas agregarían requisitos para los métodos y el contenido de los avisos públicos en todo el proceso normativo, aclararían la retención del registro normativo y agregarían requisitos posteriores a su adopción correspondientes a presentaciones y notificaciones en el reglamento de la EIB. El NMED propone que la Junta adopte las enmiendas conforme a la autoridad conferida por las Secciones 14-4-5.8, 74-1-15, y 74-1-9(E) NMSA 1978. Téngase en cuenta que, durante la audiencia, se podrán proponer cambios de formato y cambios técnicos de menor envergadura en el Reglamento distintos a aquellos propuestos por el NMED. Asimismo, la Junta podrá hacer otros cambios, según sea necesario, en respuesta a los comentarios del público y a las pruebas presentadas durante la audiencia.

Los interesados podrán examinar las enmiendas propuestas durante el horario de atención al público, en la Oficina de Audiencias del NMED ubicada en Harold Runnels Building, 1190 South St. Francis Drive, Sala S-2102 Santa Fe, NM, 87505. El texto completo de las enmiendas propuestas también se puede ver en línea en: www.env.nm.gov/eib-17-03-r/.

La audiencia se llevará a cabo conforme a los Procedimientos Normativos de la EIB (20.1.1 NMAC); la Ley para el Mejoramiento Ambiental, Sección 74-1-9

NMSA 1978; la Ley Estatal para Reglamentos, Sección 14-4-5.3 NMSA 1978; y otros procedimientos correspondientes.

Todos los interesados tendrán una oportunidad razonable durante la audiencia para presentar pruebas, datos, puntos de vista y argumentos pertinentes, oralmente o por escrito; para presentar documentos y objetos de prueba; y para interrogar a los testigos. Toda persona interesada en presentar una declaración escrita que no sea de carácter técnico para que conste en actas, en lugar de testimonio oral, deberá presentar dicha declaración antes de la finalización de la audiencia.

De conformidad con los Procedimientos Normativos de la EIB, aquellos interesados en presentar testimonio de carácter técnico deberán presentar ante la Junta un aviso por escrito de su intención de presentar dicho testimonio antes de las 5:00 de la tarde del jueves 1 de febrero de 2018. El aviso de intención debe:

- identificar a la persona o entidad para la cual testificará/n el/los testigo/s;
- identificar a cada testigo técnico que la persona tenga la intención de presentar y establecer las cualificaciones de cada testigo, incluso una descripción de sus antecedentes educativos y laborales;
- incluir una copia del testimonio directo de cada testigo técnico en forma narrativa, e indicar la duración prevista del testimonio oral directo de ese testigo;
- incluir el texto de toda modificación recomendada para el cambio normativo propuesto; y
- hacer una lista y adjuntar todos los documentos y objetos de prueba que se anticipa que esa persona presentará en la audiencia.

Los avisos de intención para la audiencia deben llegar a la Oficina de Audiencias antes de las 5:00 de la tarde del jueves 1 de febrero de 2018, y se debe incluir como referencia

el nombre del reglamento, la fecha de la audiencia y el número de expediente EIB 17-03(R). Los avisos de intención de presentar testimonio de carácter técnico deben enviarse a la Administradora de Juntas y Comisiones:

Pam Castaneda, Administrator of Boards and Commissions
Office of the Environmental Improvement Board
Harold Runnels Building
P.O. Box 5469
Santa Fe, NM 87502

Los interesados podrán ofrecer comentarios públicos que no sean de carácter técnico durante la audiencia o presentar declaraciones escritas que no sean de carácter técnico en lugar de testimonio oral antes o durante la audiencia. Los comentarios escritos relativos a las revisiones propuestas podrán enviarse a la señorita Pam Castaneda, Administradora de Juntas y Comisiones, a la dirección antes indicada, y deben incluir como referencia el número de expediente EIB 17-03(R).

Toda persona que necesite asistencia, intérprete o un dispositivo auxiliar para participar en este proceso deberá comunicarse con Pam Castaneda, Administradora de la EIB, antes del miércoles 7 de febrero de 2018, en P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, o también por teléfono al (505) 827-2425 o por correo electrónico a pam.castaneda@state.nm.us. (Los usuarios de TDD o TTY pueden acceder a ese número por medio de New Mexico Relay Network llamando al 1-800-659-1779 (voz); y los usuarios de TTY: 1-800-659-8331).

La Junta podrá tomar una decisión acerca del cambio normativo propuesto al finalizar la audiencia o podrá convocar a una reunión después de la audiencia para considerar qué acción tomar con respecto a la propuesta.

Aviso de no discriminación
El Departamento del Medio Ambiente de Nuevo México (NMED, por su sigla en inglés) no discrimina por motivos de raza, color, origen

nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigido por las leyes y los reglamentos correspondientes. El NMED es responsable de la coordinación de esfuerzos para el cumplimiento de las reglas y la recepción de indagaciones relativas a los requisitos de no discriminación implementados por 40 C.F.R. Parte 7, que incluye el Título VI de la Ley de Derechos Civiles de 1964, como fuera enmendado; la Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975; el Título IX de las Enmiendas de Educación de 1972; y la Sección 13 de las Enmiendas a la Ley Federal de Control de la Contaminación del Agua de 1972. Si tiene preguntas sobre este aviso o sobre cualquier programa de no discriminación, norma o procedimiento de NMED, puede comunicarse con la Coordinadora de No Discriminación: Kristine Pintado, Non-Discrimination Coordinator, New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM, 87502, (505) 827-2855. nd.coordinator@state.nm.us. Si piensa que ha sido discriminado con respecto a un programa o actividad de NMED, puede comunicarse con la Coordinadora de No Discriminación antes indicada o visitar nuestro sitio web en <https://www.env.nm.gov/NMED/EJ/index.html> para saber cómo y dónde presentar una queja por discriminación.

ENVIRONMENT DEPARTMENT

NOTICE OF PUBLIC HEARING TO REPEAL AND REPLACE CERTAIN PETROLEUM STORAGE TANK REGULATIONS

The New Mexico Environmental Improvement Board ("EIB") will hold a public hearing beginning at 9:30 a.m. on Wednesday, February 21, 2018 through Friday, February 23, 2018, and continuing thereafter as necessary at the New Mexico Higher Education Department, Public Education Department Building,

Mabry Hall, 300 Don Gaspar, Santa Fe, New Mexico 87501. The hearing location may change prior to the hearing date, and those interested in attending should visit the EIB website: <http://www.env.nm.gov/eib> prior to the hearing.

The purpose of the hearing is to consider repealing 20.5.1 NMAC through 20.5.16 NMAC, 20.5.18 NMAC and 20.5.19 NMAC and replacing them with 20.5.101 NMAC through 20.5.122 NMAC, 20.5.124 NMAC and 20.5.125 NMAC. The New Mexico Environment Department ("NMED") Petroleum Storage Tank Bureau is the proponent of the proposed repeal and replace.

The repeal and replacement would bring the rules into compliance with recent changes to the federal Underground Storage Tank ("UST") regulations (40 CFR Part 280) and the federal regulations for state program approval (40 CFR Part 281). Primarily, these revisions strengthen the existing regulations by increasing emphasis on properly operating and maintaining UST equipment, which will then help prevent and detect UST releases. The Bureau currently has State Program Approval ("SPA") with the federal Environmental Protection Agency ("EPA"), however, the Bureau must adopt the federal revisions from 40 CFR Part 280 and reapply for SPA with the EPA by October 13, 2018 in order for the Bureau to retain its SPA status. NMED proposes the EIB repeal and replace the Petroleum Storage Tank Regulations pursuant to its authority under Sections 74-1-8(A)(13) and 74-4-4(C)-(I) NMSA 1978. Please note that formatting and minor technical changes in the rules other than those proposed by NMED may be proposed at the hearing. Additionally, the EIB may make other changes as necessary in response to public comments and evidence presented at the hearing.

The proposed new rules may be reviewed during regular business hours at the NMED Hearing Office located in the Harold Runnels Building, 1190 South St. Francis Drive, Room S-2102 Santa Fe, NM,

87505. The full text of the proposed amendments is also available online at <https://www.env.nm.gov/eib-17-04-r>.

The hearing will be conducted in accordance with the EIB Rulemaking Procedures (20.1.1 NMAC); the Environmental Improvement Act, Section 74-1-9 NMSA 1978, the State Rules Act, Section 14-4-5.3 NMSA 1978, and other applicable procedures.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally or in writing; to introduce exhibits; and to examine witnesses. Any person wishing to submit a non-technical written statement for the record in lieu of oral testimony must file such statement prior to the close of the hearing.

Pursuant to the EIB Rulemaking Procedures, those wishing to present technical testimony must file a written notice of intent to do so with the EIB on or before 5:00 p.m. on February 1, 2018. The notice of intent shall:

- identify the person or entity for whom the witness(es) will testify;
- identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of his or her education and work background;
- include a copy of the direct testimony of each technical witness in narrative form, and state the estimated duration of the direct oral testimony of that witness;
- include the text of any recommended modifications to the proposed regulatory change; and
- list and attach all exhibits anticipated to be offered by that person at the hearing.

Notices of intent for the hearing must be received in the Hearing Office no later than 5:00 p.m. on February 1, 2018, and should reference the name of the regulation, the date of the hearing, and docket number

EIB 17-04(R). Notices of intent to present technical testimony should be submitted to:

Pam Castaneda, Administrator of Boards and Commissions
Office of the Environmental Improvement Board
Harold Runnels Building
P.O. Box 5469
Santa Fe, NM 87502

Those wishing to do so may offer non-technical public comment at the hearing or submit a non-technical written statement in lieu of oral testimony at or before the hearing. Written comments regarding the proposed revisions may be addressed to Ms. Pam Castaneda, Administrator of Boards and Commissions, at the above address, and should reference docket number EIB 17-04(R).

If any person requires assistance, an interpreter or auxiliary aid to participate in this process, please contact Pam Castaneda, EIB Administrator by February 6, 2018, at P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, telephone (505) 827-2425 or email pam.castaneda@state.nm.us. (TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

The EIB may make a decision on the proposed regulatory change at the conclusion of the hearing or may convene a meeting after the hearing to consider action on the proposal.

Notice of Non-Discrimination

The New Mexico Environment Department ("NMED") does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Part 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act

of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact: Kristine Pintado, Non-Discrimination Coordinator New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us. If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.

**AVISO DE AUDIENCIA
PÚBLICA PARA REVOCAR
Y REEMPLAZAR CIERTAS
REGLAMENTACIONES
SOBRE TANQUES DE
ALMACENAMIENTO DE
PETRÓLEO**

La Junta para el Mejoramiento Ambiental de Nuevo México ("EIB" por su sigla en inglés) celebrará una audiencia pública desde las 9:30 de la mañana del miércoles 21 de febrero de 2018 hasta el viernes 23 de febrero de 2018, y que continuará después de esa fecha como sea necesario, en la sala Mabry Hall del Departamento de Educación Pública del Departamento de Educación Superior de Nuevo México, ubicada en 300 Don Gaspar, Santa Fe, Nuevo México 87501. El lugar indicado para la audiencia podrá cambiar antes de la fecha de la audiencia, por lo que los interesados en asistir deberán verificar esta información en el sitio web de la EIB: <http://www.env.nm.gov/eib> antes de la audiencia.

El propósito de la audiencia es considerar la revocación de 20.5.1 NMAC a 20.5.16 NMAC, 20.5.18 NMAC y 20.5.19 NMAC, y su reemplazo por 20.5.101 NMAC a 20.5.122 NMAC, 20.5.124 NMAC y 20.5.125 NMAC. La Oficina de Tanques para Almacenamiento

de Petróleo del Departamento del Medio Ambiente de Nuevo México ("NMED" por su sigla en inglés) es la entidad que propone la revocación y el reemplazo.

La revocación y el reemplazo modificarían las normas para que cumplan con los recientes cambios del reglamento federal para Tanques de Almacenamiento Subterráneo ("UST" por su sigla en inglés) (40 CFR Parte 280) y el reglamento federal para la aprobación de programas estatales (40 CFR Parte 281). Principalmente, estas revisiones fortalecen el reglamento existente al aumentar el énfasis en el funcionamiento y el mantenimiento correctos del equipo de tanques UST, que entonces ayudarán a prevenir y detectar pérdidas en tanques UST. La Oficina actualmente tiene la Aprobación del Programa Estatal ("SPA" por su sigla en inglés) de la Agencia federal de Protección Ambiental ("EPA" por su sigla en inglés); sin embargo, la Oficina debe adoptar las revisiones federales de 40 CFR Parte 280 y volver a solicitar la aprobación SPA ante la EPA a más tardar el 13 de octubre de 2018 para que la Oficina retenga su estado de aprobación SPA. El NMED propone que la EIB revoque y reemplace el Reglamento sobre Tanques de Almacenamiento de Petróleo conforme a su autoridad según las Secciones 74-1-8(A)(13) y 74-4-4(C)-(I) NMSA 1978. Téngase en cuenta que, durante la audiencia, se podrán proponer cambios de formato y cambios técnicos de menor envergadura en las normas, distintos a aquellos propuestos por el NMED. Asimismo, la EIB podrá hacer otros cambios, según sea necesario, en respuesta a los comentarios del público y a las pruebas presentadas durante la audiencia.

Los interesados podrán examinar las nuevas normas propuestas durante el horario de atención al público, en la Oficina de Audiencias del NMED ubicada en el edificio Harold Runnels, 1190 South St. Francis Drive, Sala S-2102 Santa Fe, NM, 87505. El texto completo de las enmiendas propuestas también se puede ver en línea en <https://www.env.nm.gov/eib-17-04-r>.

La audiencia se llevará a cabo conforme a los Procedimientos Normativos de la EIB (20.1.1 NMAC); la Ley para el Mejoramiento Ambiental, Sección 74-1-9 NMSA 1978; la Ley Estatal para Reglamentos, Sección 14-4-5.3 NMSA 1978; y otros procedimientos correspondientes.

Todos los interesados tendrán una oportunidad razonable durante la audiencia de presentar pruebas, datos, puntos de vista y argumentos pertinentes, oralmente o por escrito; de presentar documentos y objetos de prueba; y de interrogar a los testigos. Toda persona interesada en presentar una declaración escrita que no sea de carácter técnico para que conste en actas, en lugar de testimonio oral, deberá presentar dicha declaración antes de la finalización de la audiencia.

De conformidad con los Procedimientos Normativos de la EIB, aquellos interesados en presentar testimonio de carácter técnico deberán presentar ante la EIB un aviso por escrito de su intención de presentar dicho testimonio antes de las 5:00 de la tarde del 1 de febrero de 2018. El aviso de intención debe:

- identificar a la persona o entidad para la cual testificará/n el/los testigo/s;
- identificar a cada testigo técnico que la persona tenga la intención de presentar y establecer las cualificaciones de cada testigo, incluso una descripción de sus antecedentes educativos y laborales;
- incluir una copia del testimonio directo de cada testigo técnico en forma narrativa, e indicar la duración prevista del testimonio oral directo de ese testigo;
- incluir el texto de toda modificación recomendada para el cambio normativo propuesto; y
- hacer una lista y adjuntar todos los documentos y objetos de prueba que se anticipa que esa persona presentará en la audiencia.

Los avisos de intención para la audiencia deben llegar a la Oficina de Audiencias antes de las 5:00 de la tarde del 1 de febrero de 2018, y se debe incluir como referencia el nombre del reglamento, la fecha de la audiencia y el número de expediente EIB 17-04(R). Los avisos de intención de presentar testimonio de carácter técnico deben enviarse a la Administradora de Juntas y Comisiones:

Pam Castaneda, Administrator of
Boards and Commissions
Office of the Environmental
Improvement Board
Harold Runnels Building
P.O. Box 5469
Santa Fe, NM 87502

Los interesados podrán ofrecer comentarios públicos que no sean de carácter técnico durante la audiencia o presentar declaraciones escritas que no sean de carácter técnico en lugar de testimonio oral antes o durante la audiencia. Los comentarios escritos relativos a las revisiones propuestas podrán enviarse a la señorita Pam Castaneda, Administradora de Juntas y Comisiones, a la dirección antes indicada, y deben incluir como referencia el número de expediente EIB 17-04(R).

Toda persona que necesite asistencia, intérprete o un dispositivo auxiliar para participar en este proceso deberá comunicarse con Pam Castaneda, Administradora de la EIB, antes del 6 de febrero de 2018, en P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, o también por teléfono al (505) 827-2425 o por correo electrónico a pam.castaneda@state.nm.us. (Los usuarios de TDD o TTY pueden acceder a ese número por medio de New Mexico Relay Network llamando al 1-800-659-1779 (voz); y los usuarios de TTY: 1-800-659-8331).

La EIB podrá tomar una decisión acerca del cambio normativo propuesto al finalizar la audiencia o podrá convocar a una reunión después de la audiencia para considerar qué acción tomar con respecto a la propuesta.

Aviso de no Discriminación

El Departamento del Medio Ambiente de Nuevo México (NMED, por su sigla en inglés) no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigido por las leyes y los reglamentos correspondientes. El NMED es responsable de la coordinación de esfuerzos para el cumplimiento de las reglas y la recepción de indagaciones relativas a los requisitos de no discriminación implementados por 40 C.F.R. Parte 7, que incluye el Título VI de la Ley de Derechos Civiles de 1964, como fuera enmendado; la Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975; el Título IX de las Enmiendas de Educación de 1972; y la Sección 13 de las Enmiendas a la Ley Federal de Control de la Contaminación del Agua de 1972. Si tiene preguntas sobre este aviso o sobre cualquier programa de no discriminación, norma o procedimiento de NMED, puede comunicarse con la Coordinadora de No Discriminación: Kristine Pintado, Non-Discrimination Coordinator, New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM, 87502, (505) 827-2855, nd.coordinator@state.nm.us. Si piensa que ha sido discriminado con respecto a un programa o actividad de NMED, puede comunicarse con la Coordinadora de No Discriminación antes indicada o visitar nuestro sitio web en <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para saber cómo y dónde presentar una queja por discriminación.

GAME AND FISH, DEPARTMENT OF

STATE GAME COMMISSION MEETING AND RULEMAKING HEARING

The New Mexico State Game Commission ("Commission") has scheduled a regular meeting and rule hearing for Thursday January 11, 2018, beginning at 9:00 a.m., at Santa

Fe Community College Boardroom, 6401 Richards Ave, Santa Fe., New Mexico, to hear and consider action as appropriate on the following: informational presentation and final action of proposed amendments to the Fisheries Rule, 19.31.4 NMAC.

Notice of Rulemaking

Amend:

19.31.4 NMAC Fisheries

Synopsis:

The purpose is to amend the Fisheries rule that will become effective April 1, 2018, with some modifications as described below.

Proposed amendments to 19.31.4 NMAC include:

Change language in Item (ii), Subparagraph (a), Paragraph 4, Subsection A of 19.31.4.11 NMAC to add a 2.5 mile portion of the Rio de Los Pinos from the USFS Boundary 24 at the junction of Forest Road 284 and 87A upstream to the private property boundary to the Special Trout Water list with a two trout limit and tackle restrictions. Regulations on this stretch are unchanged from previous years.

Change in language in Item (ii), Subparagraph (a), Paragraph (4), Subsection A of 19.31.4.11 NMAC to add a portion of the Rio Grande from the New Mexico/Colorado border to the Taos Junction Bridge to the Special Trout Water list with a two trout limit and no tackle restrictions. This change represents a reduction in bag limit from 3 trout to 2 trout to protect the fishery resource and improve consistency of regulations.

Full copies of text of the proposed rule changes and proposed new rule, technical information related to proposed rule changes, and the agenda can be obtained from the Office of the Director, New Mexico Department of Game and Fish, 1 Wildlife Way, P.O. Box 25112, Santa Fe, New Mexico 87507, or from the Department's website at www.wildlife.state.nm.commission/proposals-under-consideration/. This agenda is subject to change up to 72

hours prior to the meeting. Please contact the Director's Office at (505)476-8000, or the Department's website at www.wildlife.state.nm.us for updated information. Interested persons may submit comments on the proposed changes to the Fisheries rule at DGF-FisheriesRule@state.nm.us; or individuals may submit written comments to the physical address below. Comments are due by 9:00 a.m. on January 11, 2018 when the final rule amendments will be voted on by the Commission during a public rule hearing on January 11, 2018. Interested persons may also provide data, views or arguments, orally or in writing, at the public rule hearing.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Department at (505) 476-8000 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Department at 505-476-8000 if a summary or other type of accessible format is needed.

Legal authority for this rulemaking can be found in the General Powers and Duties of State Game Commission Section 17-1-14, et seq. NMSA 1978; Commission's Power to establish rules and regulations Section 17-1-26, et seq. NMSA 1978.

GAME AND FISH, DEPARTMENT OF

STATE GAME COMMISSION MEETING AND RULEMAKING HEARING

The New Mexico State Game Commission ("Commission") has scheduled a regular meeting and rule hearing for Thursday January 11, 2018, beginning at 9:00 a.m., at Santa Fe Community College Boardroom, 6401 Richards Ave, Santa Fe, New Mexico, to hear and consider action as appropriate on the following: informational presentation

and final action of proposed process for Procedural Rule for Public Rule Hearings.

Notice of Rulemaking

Proposed New Part in Rule
19.30.17 NMAC Procedural Rule for Public Rule Hearings

Synopsis:

The proposed rule is intended to comport with House Bill 58 (Laws 2017, Chapter 137), to add a Part 17 in Chapter 30, of Title 19 NMAC to establish procedural rules for public rule hearings for use by the Commission and the Department of Game and Fish consistent with the State Rules Act, and to facilitate public engagement with the administrative rulemaking process in a transparent, organized, and fair manner. This is a result from new language in statute Section 14-4-5.8 NMSA 1978 which was passed in the 2017 legislative session and became effective in July 2017.

Summary of the proposed new part in rule (19.30.17 NMAC) will include all required headings to include: Issuing Agency, Scope, Statutory Authority, Duration, Effective Date, Objective, Definitions, Initiation of the Rule Making Process, Rulemaking Notice, Written Comment Period, Public Hearing, Rulemaking Record and Adoption of Rule, Filing and Publication; Effective Date, Emergency Rules. Full text of the new rule will be available on the Department's website (see below).

Interested persons may submit comments on the new rule to dgf-AdminPublicComment@state.nm.us; or individuals may submit written comments to the physical address below. Comments are due by 9:00 a.m. on January 11, 2018 when the final rule will be voted on by the Commission during a public meeting on January 11, 2018. Interested persons may also provide data, views or arguments, orally or in writing, at the public rule hearing to be held on January 11, 2018. Full copies of text of the proposed new rule part, related technical information, and the agenda can be obtained from the Office of the

Director, New Mexico Department of Game and Fish, 1 Wildlife Way, P.O. Box 25112, Santa Fe, New Mexico 87507, or from the Department's website at www.wildlife.state.nm.commission/proposals-under-consideration/. The agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director's Office at (505) 476-8000, or visit the Department's website at www.wildlife.state.nm.us for updated information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Department at (505) 476-8000 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Department at 505-476-8000 if a summary or other type of accessible format is needed.

Legal authority for this rulemaking can be found in the General Powers and Duties of State Game Commission Section 17-1-14, et seq. NMSA 1978; Commission's Power to establish rules and regulations Section 17-1-26, et seq. NMSA 1978; Procedural Rules Section 14-4-5.8 NMSA 1978.

SUPERINTENDENT OF INSURANCE, OFFICE OF

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Superintendent of Insurance ("Superintendent"), and the New Mexico Office of Superintendent of Insurance ("OSI"), pursuant to the New Mexico Insurance Code, Section 59A-1-1 *et seq.* NMSA 1978 ("Insurance Code"), proposes a new rule pertaining to resident licensing requirements for persons licensed by OSI, to be codified in the New Mexico Administrative Code, 13.4.2 NMAC - Licensing of Insurance Professionals – Resident Producers

and other Resident Licensees. As part of the repeal and replace 13.4.2 - Part 2 is renamed *Resident Producers and Other Resident Licensees* to more accurately reflect the content of the rule.

The purpose of this rule is to repeal and replace the resident licensing requirements previously codified in the New Mexico Administrative Code 13.4.2 NMAC.

This proposed rule establishes requirements for obtaining a license from the Superintendent of Insurance as a resident insurance producer, insurance consultant, producer for prepaid dental plans, producer for sales of membership in a health maintenance organization, producer for a fraternal benefit society, vendor selling portable electronics insurance, salesperson for prearranged funeral plans, title insurance producer, pharmacy benefits manager, reinsurance intermediary, managing general agent, registered motor club representative, rental car insurance producer or endorsee, temporary insurance producer or travel insurance producer. This proposed rule also establishes requirements for professional qualifying examinations and the issuance, duration, continuation and termination of all such licenses, appointments and registrations.

Statutory authority for promulgation of this rule is found at Sections 28-2-1 et seq., 40-5A-1 et seq., 59A-1-13, 59A-1-14, 59A-2-8, 59A-2-8.1, 59A-2-9, 59A-6-1, 59A-7-1 et seq., 59A-11-1 et seq., 59A-11A-1 et seq., 59A-12-1 et seq., 59A-12B-1 et seq., 59A-12D-1 et seq., 59A-14-1 et seq., 59A-16-8, 59A-16-12, 59A-30-3, 59A-30-4, 59A-32A-1 et seq., 59A-44-1 et seq., 59A-46-1 et seq., 59A-48-1 et seq., 59A-49-1 et seq., 59A-50-1 et seq., 59A-60-1 et seq., 59A-61-1 et seq. NMSA 1978 and 18 U.S.C. Section 1033.

The proposed rule may be found on the OSI website at <http://www.osi.state.nm.us/>, under the "Rulemaking" tab and is incorporated by reference into this NOPR. A copy of the full text of the proposed rule is available

by electronic download from the OSI website or the New Mexico Sunshine portal, or by requesting a copy in person at the NM Office of Superintendent of Insurance, 1120 Paseo de Peralta, Santa Fe, NM 87501.

OSI staff, all insurers, licensees, insurance business entities, other persons transacting insurance business in New Mexico, and the members of the public are encouraged to provide comments or file any written proposals or comments according to the criteria and schedule set forth as follows: (a) oral comments will be accepted at the public hearing from any interested parties; (b) written statements, proposals or comments may be submitted for the record, in lieu of providing oral testimony at the hearing are due no later than 4:00 p.m. on **Friday, January 26, 2018.**

Written comments, proposals, or responsive comments may be submitted via email to mariano.romero@state.nm.us or may be filed by sending original copies to:

OSI Records & Docketing
NM Office of Superintendent of Insurance
Attention: Mariano Romero, Room 331
1120 Paseo de Peralta, P.O. Box 1689,
Santa Fe, NM 87504-1689 **Docket No.: 17-00072-RULE-PC**

Only signed statements, proposals or comments will be accepted. Scanned or facsimile signatures or electronic signatures conforming to federal and state court requirements will be accepted with the understanding that if there is any dispute regarding a signature, OSI reserves the right to require that original signatures be provided to verify the electronic or facsimile signature. All filings must be received between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday except on state holidays. Any filings after 4:30 will be filed to the docket the next business day.

The Superintendent will hold a public comment hearing beginning at **10:00 a.m. on Thursday, January 18, 2018**, at the Office of Superintendent

of Insurance, Fourth Floor Hearing Room, PERA Building, 1120 Paseo de Peralta, Santa Fe, New Mexico. Deputy Superintendent Robert Doucette will be the designated hearing examiner in this case. The Superintendent will consider all oral comments, and will review all timely submitted written comments and responses. The record shall be closed at **4:00 p.m. on Friday, January 26, 2018.**

Any person with a disability requiring special assistance in order to participate in a hearing should contact Lois Caroline Pedro, at 505-476-0305 at least 48 hours prior to the commencement of the hearing. **DONE AND ORDERED** this 30th day of November, 2017.

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.

ALBUQUERQUE/ BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

TITLE 20 ENVIRONMENTAL PROTECTION CHAPTER 11 ALBUQUERQUE- BERNALILLO COUNTY AIR QUALITY CONTROL BOARD PART 39 PERMIT WAIVERS AND AIR QUALITY NOTIFICATIONS FOR CERTAIN SOURCE CATEGORIES

20.11.39.1 ISSUING

AGENCY: Albuquerque-Bernalillo County Air Quality Control Board, P.O. Box 1293, Albuquerque, NM 87103. Telephone: (505) 768-2601. [20.11.39.1 NMAC - N, 12/21/17]

20.11.39.2 SCOPE:

A. Applicability:
20.11.39 NMAC applies to the following stationary source categories in the city of Albuquerque and Bernalillo county.

(1) Emergency stationary reciprocating internal combustion engines (ES-RICE) as defined in 20.11.39.7 NMAC, except as otherwise provided in this part.

(2) Gasoline dispensing facilities (GDF) as defined in 20.11.39.7 NMAC, except as otherwise provided in this part.

B. Exemptions:

(1) 20.11.39 NMAC does not apply to stationary sources within Bernalillo county that are located on Indian lands over which the Albuquerque-Bernalillo county air quality control board lacks jurisdiction.

(2) 20.11.39 NMAC does not apply to:

(a) stationary sources that, in the

aggregate, constitute a major source under the applicable provisions of 20.11.42 NMAC, which are located on one or more contiguous or adjacent properties, and which are under common control of the same person;

(b) any non-emergency stationary RICE engines;

(c) sources which contain emission units:

(i) other than ES-RICE and GDFs, as defined in 20.11.39.7; and

(ii) that require a construction permit pursuant to 20.11.41 NMAC;

(d) Part 39 sources that are part of a Title V permit; or

(e) Part 39 sources located at a single family private residence.
[20.11.39.2 NMAC - N, 12/21/17]

20.11.39.3 STATUTORY

AUTHORITY: 20.11.39 NMAC is adopted pursuant to the authority provided in the New Mexico Air Quality Control Act, NMSA 1978 Sections 74-2-5, 74-2-5.1, 74-2-6 and 74-2-7; the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994, Sections 9-5-1-4, 9-5-1-5, 9-5-1-6 and 9-5-1-7; and the Joint Air Quality Control Board Ordinance, Bernalillo County Code, Article II, Sections 30-33, 30-34, 30-35 and 30-36.

[20.11.39.3 NMAC - N, 12/21/17]

20.11.39.4 DURATION:

Permanent.

[20.11.39.4 NMAC - N, 12/21/17]

20.11.39.5 EFFECTIVE

DATE: December 21, 2017, unless a later date is cited at the end of a section.

[20.11.39.5 NMAC - N, 12/21/17]

20.11.39.6 OBJECTIVE:

A. To provide a procedure by which certain sources may qualify for waivers of source registration requirements pursuant to 20.11.40 NMAC or construction permit requirements pursuant to 20.11.41 NMAC;

B. To establish an alternative regulatory mechanism, other than those provided in 20.11.40 NMAC and 20.11.41 NMAC, by which to require some sources in certain source categories to comply with applicable air quality standards and regulations; and,

C. To authorize the department to issue Air Quality Notifications (AQN) for sources in certain source categories.
[20.11.39.6 NMAC - N, 12/21/17]

20.11.39.7 DEFINITIONS:

The definitions in 20.11.1 NMAC apply unless there is a conflict between definitions, in which case the definition in 20.11.39 NMAC shall govern. Definitions provided in the applicable federal standards referenced below shall apply to source categories subject to those federal standards which are incorporated by reference into board regulations.

A. "Air quality notification" or "AQN" means a document issued by the department to the owner or operator of a source in a source category to which this Part applies to require that source to comply with applicable regulatory requirements.

B. "Emergency stationary RICE" or "ES-RICE" means stationary reciprocating internal combustion engines that serve solely as a secondary source of mechanical or electrical power during the loss of commercial power and which meet one of the following

criteria:

(1)

emergency stationary reciprocating internal combustion engines not subject to 40 CFR Part 60, Subpart IIII, Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, 40 CFR Part 60, Subpart JJJJ, Standards of Performance for Stationary Spark Ignition Internal Combustion Engines or 40 CFR Part 63, Subpart ZZZZ, National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, which emit more than 2,000 pounds per year of any regulated air contaminant and which would otherwise be subject to 20.11.40 NMAC, Source Registration or 20.11.41 NMAC, Construction Permits;

(2)

compression ignition emergency stationary internal combustion engines as defined in 40 CFR Part 60, Subpart IIII which are subject to that regulation;

(3) spark

ignition emergency stationary internal combustion engines as defined in 40 CFR Part 60, Subpart JJJJ which are subject to that regulation; or

(4) emergency

stationary reciprocating internal combustion engines as defined in 40 CFR Part 63, Subpart ZZZZ which are subject to that regulation.

C. “Gasoline

dispensing facility” or “GDF” means a gasoline dispensing facility as defined in 40 CFR Part 63 Subpart CCCCCC, National Emission Standards for Hazardous Air Pollutants for Gasoline Dispensing Facilities, as incorporated by reference in 20.11.64 NMAC, Emission Standards for Hazardous Air Pollutants for Stationary Sources.

D. “Part 39 source”

means a stationary source eligible to receive an AQN pursuant to Part 39.

E. “Prior

authorization” means a registration or construction permit for a Part 39 source which was issued pursuant to either 20.11.40 NMAC or 20.11.41 NMAC if such Part 39 source would

have been eligible to receive an AQN pursuant to Part 39 had it been in effect at the time the registration or construction permit was issued.

F. “Qualified

small business” means a business that meets all of the following requirements:

(1) a business

that has 100 or fewer employees;

(2) a small

business concern as defined by the federal Small Business Act;

(3) a source

that emits less than 50 tons per year of any individual regulated air pollutant, or less than 75 tons per year of all regulated air pollutants combined; and

(4) a source

that is not a major source or major stationary source.

[20.11.39.7 NMAC - N, 12/21/17]

20.11.39.8 VARIANCES: A person may request a variance from 20.11.39 NMAC, in accordance with the procedures in 20.11.7 NMAC, Variance Procedure, except that no variances shall be granted from any applicable federal requirement.
[20.11.39.8 NMAC - N, 12/21/17]

20.11.39.9 SAVINGS

CLAUSE: Any amendment to 20.11.39 NMAC that is filed with the state records center and archives shall not affect actions pending for violation of the state act, a city or county ordinance, a prior version of 20.11.39 NMAC, another board regulation or a permit issued by the department. Prosecution for a violation under prior regulation wording shall be governed and prosecuted under the statute, ordinance or regulation in effect at the time the violation was committed.
[20.11.39.9 NMAC - N, 12/21/17]

20.11.39.10 SEVERABILITY:

If for any reason any section, paragraph, sentence, clause, wording or application of 20.11.39 NMAC or any federal or New Mexico standards incorporated herein is held unconstitutional or otherwise invalid by any court or the United States environmental protection agency, the

decision shall not affect the validity or application of the remaining provisions of 20.11.39 NMAC.

[20.11.39.10 NMAC - N, 12/21/17]

20.11.39.11 DOCUMENTS:

Documents incorporated and cited in 20.11.39 NMAC may be viewed at the Albuquerque Environmental Health Department, 400 Marquette NW, Albuquerque, NM, 87102. Information on internet access to these documents may be obtained by contacting the department at (505) 768-2601.

[20.11.39.11 NMAC - N, 12/21/17]

20.11.39.12 PERMIT WAIVERS:

A. Part 39 sources qualify for waivers from construction permit requirements pursuant to 20.11.41 NMAC. Owners and operators of Part 39 sources shall apply for an AQN rather than a construction permit when submitting an application to the department. If an owner or operator of a source establishes that it is a Part 39 source and demonstrates that the owner or operator will comply with all applicable regulations set out in Section 13 of this Part, the department shall waive compliance from further source registration or construction permitting requirements pursuant to 20.11.40 or 20.11.41 NMAC. This part shall not waive any permit requirements for sources which are not ES-RICE or GDF.

B. Except as noted in Subsection C of 20.11.39.15 NMAC, no public notice is required if the department waives further permitting requirements for a Part 39 source. No department hearing shall be held for a Part 39 source.

C. The department’s issuance of an AQN is not a permitting action and is not subject to petition to the Albuquerque-Bernalillo county air quality control board pursuant to Section 7 of the Air Quality Control Act, ROA Section 9-5-1-7 or Bernalillo County Ordinance Section 30-36.
[20.11.39.12 NMAC - N, 12/21/17]

20.11.39.13 REQUIREMENTS FOR SOURCE CATEGORIES TO WHICH PART 39 APPLIES:**A. General**

requirements: All sources in any source category listed in this section shall comply with the following general requirements, in addition to any specific requirements for a source category.

(1) All Part 39 sources shall comply with any federal regulations which are incorporated by reference into board regulations and which apply to that source category.

(2) No owner or operator of a source in a source category to which this part applies shall construct or operate a Part 39 source without having first applied to the department for and received an AQN.

(3) The owner or operator of each Part 39 source shall submit an annual emissions report to the department by March 15 of each year.

(a) For their annual emission report, GDFs granted an AQN shall submit a report of their annual gasoline throughput for the previous January through December.

(b) For their annual emission report, ES-RICE granted an AQN shall submit a report of their annual operating hours for the previous January through December.

(c) In addition to the information required in Subparagraphs (a) and (b) of Paragraph (3) of Subsection A of 20.11.39.13 NMAC, each emission report shall provide:

- (i) the AQN number;
- (ii) the name, address, if any, and physical location of the Part 39 source;
- (iii) the name, telephone number, and email address of the person to contact regarding the emissions report; and
- (iv) a certification signed by the owner, or operator, or a responsible official or designated representative, attesting

that the statements and information contained in the emissions report are true and accurate to the best knowledge and belief of the certifying official, and including the full name, title, signature, date of signature, and telephone number and email address of the of the certifying official.

(d)

When the department receives the emission report, the department may request other relevant information as deemed necessary.

(e)

The owner or operator shall submit to the department a complete, correct and current emissions report in the format specified by the department; the report shall state accurately all information required by Paragraph (3) of Subsection A of 20.11.39.47 NMAC.

(f)

The department shall provide a complete copy of an owner or operator's submitted emissions report when requested in writing by the owner or operator.

(4) Nothing in 20.11.39 NMAC relieves any owner or operator of any source from the responsibility to comply with any applicable requirement in local, state, or federal law.

(5) No Part 39 source shall emit any regulated air pollutant in quantities which would constitute a major source under the applicable provisions of 20.11.42 NMAC.

B. Emergency

stationary RICE: These sources shall comply with the appropriate regulations identified below, as amended.

(1)

Emergency stationary RICE not subject to the federal emissions standards listed in Paragraphs (2) through (4) in Subsection B of 20.11.39.13 NMAC shall comply with all applicable board and federal regulations identified in the AQN.

(2)

Emergency stationary RICE subject to 40 CFR Part 60 Subpart IIII, Standards of Performance for Stationary Compression Ignition

Internal Combustion Engines shall comply with all applicable requirements in that federal regulation, incorporated by reference in 20.11.63 NMAC, New Source Performance Standards for Stationary Sources, as amended, and all applicable board regulations identified in the AQN.

(3)

Emergency stationary RICE

subject to 40 CFR Part 60 Subpart JJJJ, Standards of Performance for Stationary Spark Ignition Internal Combustion Engines, shall comply with all applicable requirements in that federal regulation, as incorporated by reference in 20.11.63 NMAC, New Source Performance Standards for Stationary Sources, as amended, and all applicable board regulations identified in the AQN.

(4)

Emergency stationary RICE

subject to 40 CFR Part 63 Subpart ZZZZ, National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, as incorporated by reference in 20.11.64 NMAC, Emission Standards for Hazardous Air Pollutants for Stationary Sources, as amended, and all applicable board regulations identified in the AQN.

C. Gasoline

dispensing facilities: These sources shall comply with 20.11.65.15 NMAC and all applicable requirements in 40 CFR Part 63 Subpart CCCCCC, National Emission Standards for Hazardous Air Pollutants for Gasoline Dispensing Facilities, as incorporated by reference in 20.11.64 NMAC, Emission Standards for Hazardous Air Pollutants for Stationary Sources, as amended.

[20.11.39.13 NMAC - N, 12/21/17]

20.11.39.14 AIR QUALITY NOTIFICATION APPLICATION:

Each owner or operator of a Part 39 source shall apply for an AQN with the department in compliance with the requirements of this section.

A. A person applying to the department for an AQN shall submit a completed application provided by the department.

The department shall reject any incomplete application for an AQN.

B. The following information is required for the department to determine that an application for an AQN is complete:

(1) the name, street address and post office address, if any, of the owner and any operators of the source;

(2) the name, street addresses and post office addresses, if any, of the applicant, if different from the owner or operators;

(3) sufficient attachments, including calculations, computations and all other analyses used by the applicant to provide information to describe the potential emission rate and nature of all regulated air contaminants that the source may emit and control measures used to comply with all applicable federal standards;

(4) for GDFs:
(a) the anticipated annual gasoline throughput;

(b) the total number of refueling positions;

(c) for each refueling position, identify whether it dispenses gasoline only, diesel only, both, or is for heavy duty truck diesel refueling;

(5) for ES-RICE, a statement that the engine will only be used for emergency purposes, other than as allowed by applicable regulations;

(6) any other relevant information that the department may reasonably require;

(7) the signature of the applicant, with the date it was signed, certifying that the information represented in the application and attachments, if any, is true, accurate and complete and that the owner and all operators will comply with all applicable requirements in board regulations for that source category; and

(8) a check, money order or other approved means of payment for the appropriate application fee required by

20.11.39.19 NMAC.

C. The department shall not require any Part 39 source to submit air dispersion modeling with its AQN application.
[20.11.39.14 NMAC - N, 12/21/17]

20.11.39.15 AQN

APPLICATION REVIEW: Upon the receipt of any application for an AQN, the department shall review the application as follows.

A. Within 45 days after the department has received a complete application for an AQN as required by 20.11.39.14 NMAC, the department shall issue or deny the AQN. If the AQN is issued, the department shall send a copy of the AQN to the applicant by electronic mail, or such other means as may be necessary. If the AQN is denied, the department shall send a notice of denial to the applicant by electronic mail, or such other means as may be necessary.

B. If the department determines that the application for the AQN is incomplete, that Part 39 does not authorize the source to receive an AQN, or that some other action is necessary, up to and including denial of an AQN, the department shall inform the applicant by electronic mail, or such other means as may be necessary.

C. On the first business day of each month, the department shall publish on its website a list of all AQNs issued within the previous month; including the name and location of each AQN issued. The department shall publish a current list of all active AQNs on its website quarterly. The department website shall prominently display information enabling members of the public to contact the department in regard to any AQN issued.
[20.11.39.15 NMAC - N, 12/21/17]

20.11.39.16 TRANSFER OF PRIOR AUTHORIZATIONS TO AQNS:

Prior authorizations shall remain in force, unless an owner or operator satisfies Subsection A or B.

A. The owner or operator of a prior authorization

applies for a transfer to an AQN by submitting an AQN application.

B. The owner or operator submits a change in the information in a prior authorization, e.g., an application for an administrative permit revision, an application for a technical permit revision, or an application for a permit modification.

C. The department shall process transfer of a prior authorization to an AQN as set forth below.

(1) The department shall review the application within 30 days of receipt. If the application is complete and if the source is a Part 39 source which would have been eligible to receive an AQN had AQNs been available when the prior authorization was issued, the department shall issue an AQN and cancel the previous prior authorization. The department shall send a copy of the AQN by electronic mail, or such other means as may be necessary. The department shall retain the original of the AQN.

(2) If the department determines that the application is incomplete, or some other action is necessary, the department shall inform the owner or operator of a prior authorization by electronic mail, or such other means as may be necessary.

(3) Upon being issued an AQN, the owner or operator shall comply with all requirements of Part 39 and the AQN.
[20.11.39.16 NMAC - N, 12/21/17]

20.11.39.17 COMPLIANCE AND ENFORCEMENT:

A. All owners or operators of Part 39 sources within Albuquerque-Bernalillo county shall comply with the requirements in 20.11.39 NMAC, whether set forth in their AQN or not.

B. The department issues AQNs relying on the accuracy and completeness of information provided in the application. Inaccurate or incomplete information in an application is a violation of 20.11.39 NMAC.

C. Any knowing and willful false statement in an AQN application is a violation of 20.11.39 NMAC.

D. An ES-RICE which has been issued an AQN pursuant to Paragraph (2) of Subsection B of 20.11.39.7 NMAC shall be operated for emergency use only or as necessary for exercising or maintenance of the engine.

E. The director may issue a compliance order requiring compliance and assessing a civil penalty not to exceed \$15,000.00 per day of noncompliance for any violation of any applicable board regulations by a Part 39 source. The director may also commence a civil action in district court for appropriate relief, including a temporary and permanent injunction.

F. The department may conduct scheduled and unscheduled inspections to ensure compliance with any applicable board regulations.

G. Upon presentation of credentials, the department:

(1) shall have a right of entry to, upon, or through any premises on which a Part 39 source is located or on which any records required to be maintained by any applicable board regulations;

(2) may at any reasonable time have access to and copy any records required to be established and maintained by any applicable board regulations;

(3) may inspect any monitoring equipment and method required by any applicable board regulations; and

(4) may sample any emissions that are required to be sampled pursuant to any applicable board regulations.

H. Any credible evidence may be used to establish whether an owner or operator of a Part 39 source has violated any applicable board regulations. Credible evidence and testing shall include, but is not limited to:

(1) compliance methods specified in any applicable board regulations; or

(2) other testing, monitoring or information-gathering methods that produce information comparable to that produced by any CFR method and approved by the department and EPA.

I. An owner or operator of a Part 39 source who violates an applicable board regulation may be subject to enforcement action as authorized in Sections 74-2-12, -12.1 and -14 NMSA 1978, and revised ordinances of Albuquerque Section 9-5-1-15, -98 and -99, or Bernalillo County Code, Article II, Sections 30-42 and -43. [20.11.39.18 NMAC - N, 12/21/17]

20.11.39.18 AMENDING AN AIR QUALITY NOTIFICATION:

Owners and operators of sources to which this part applies shall notify the department within 30 days of any change in information in an effective AQN as follows.

A. Administrative Amendments:

(1) When information required by Paragraphs (1) or (2) of Subsection B of 20.11.39.14 NMAC changes, the owner or operator shall notify the department in writing of the new information within 30 days of the change. Failure to timely notify the department as required by this subsection is a violation of Part 39.

(2) The department shall notify the owner or operator within 30 days that it has received the changed information and shall issue an amended AQN by electronic mail or such other means as may be necessary.

(3) The owner or operator shall not be required to pay a fee for notifying the department of the change or receiving an amended AQN.

B. Technical Amendments:

(1) When an owner or operator proposes to change the operation of a Part 39 source which was described in information required by Paragraphs (3) or (6) of Subsection B of 20.11.39.14 NMAC, the owner or operator shall submit

an application for an amended AQN at least 30 days prior to making any change and shall pay the appropriate fee with the application. Failure to timely apply to the department as required by this subsection is a violation of Part 39. No change shall be made until the department issues an amended AQN or denies the amended AQN.

(2) Within 45 days after the department has received a complete application for an amended AQN, the department shall issue or deny the amended AQN. If the amended AQN is issued, the department shall send a copy of the amended AQN to the applicant by electronic mail, or such other means as may be necessary. If the amended AQN is denied, the department shall send a notice of denial to the applicant by electronic mail, or such other means as may be necessary.

(3) If the department determines that the application for an amended AQN is incomplete, that Part 39 does not authorize the source to receive an amended AQN, or that some other action is necessary, up to and including denial of an amended AQN, the department shall inform the applicant by electronic mail, or such other means as may be necessary.

(4) The department shall not require any Part 39 source to submit air dispersion modeling with its application for an amended AQN.

[20.11.39.18 NMAC - N, 12/21/17]

20.11.39.19 FEES:

A. General requirements:

(1) Any person who submits any AQN application shall pay fees as set forth below.

(2) The department shall not review or issue an AQN until the owner or operator provides documentary proof satisfactory to the department that all applicable fees have been paid as required by 20.11.39 NMAC.

(3) All fees required to be paid at the time of submittal shall be paid by check,

money order or other means approved by the department payable to the "City of Albuquerque Air Quality Permit Fund" and either be delivered in person to the Albuquerque Environmental Health Department, 3rd floor, Suite 3023 or 3047, Albuquerque - Bernalillo County Government Center, south building, One Civic Plaza NW, Albuquerque, NM, or mailed to Attn: Air Quality Program, Albuquerque Environmental Health Department, P.O. Box 1293, Albuquerque, NM 87103, or on-line payment method approved by the department. The person delivering or filing a submittal shall attach a copy of the receipt of payment to the submittal as proof of payment.

(4) Failure of the owner or operator of a Part 39 source to pay a required fee is a violation of 20.11.39 NMAC.

(5) No fee or portion of a fee required by 20.11.39 NMAC shall be refunded.

(6) All money received by the department pursuant to this section shall be deposited by the city of Albuquerque in the city's permit fund.

B. Application review fees: Each person applying for an AQN shall pay a fee as follows.

(1) **New AQN applications:** An owner or operator who submits an application for a new AQN subject to 20.11.39 NMAC shall pay an application review fee of \$549.00, as adjusted, at the time the AQN application is delivered to the department.

(2) **Technical AQN amendments:** An owner or operator of a Part 39 source who applies for a technical amendment of an AQN shall submit a fee of \$300.00, as adjusted, with the application.

(3) **Transfer of prior authorization to AQN:** An owner or operator of a Part 39 source who applies to transfer a prior authorization to an AQN shall submit a fee of \$300.00, as adjusted, with the application.

(4) **Qualified small business fee:** All qualified small businesses shall pay half of the

fees in Subsection B of 20.11.39.19 NMAC.

C. Annual fees: Each person with a valid AQN shall pay an annual emission fee upon receiving an invoice from the department as follows.

(1) **Annual fees for ES-RICE AQNs:** The owner or operator of a source with an ES-RICE AQN shall pay annual fee of \$400.00, as adjusted, for each active ES-RICE AQN; or

(2) **Annual fees for GDF AQNs:** The owner or operator of a source with a GDF AQN shall pay an annual fee for each AQN based on the annual gasoline throughput from January through December of the previous year. For owners or operators of GDF AQNs that have not yet submitted an annual emission inventory, the annual fee shall be based on the estimate of annual gasoline throughput that the owner or operator provided in the AQN application. The department may recover annual fees in the following year if the annual fee was underestimated based on the AQN application. For AQNs that were required to submit an annual emission inventory within the previous 12 months, the annual fee shall be based on the amount of gasoline throughput reported in the source's most recently submitted annual emissions inventory. If the source has not submitted the most recent required annual emission inventory, the department may rely on the most recent throughput information in its records to issue an invoice, but may issue a supplemental invoice if appropriate. The fee schedule is as follows:

(a) \$400.00, as adjusted, for annual gasoline throughput less than 1,200,000 gallons per year.

(b) \$700.00, as adjusted, for annual gasoline throughput greater than or equal to 1,200,000 gallons per year and less than 2,000,000 gallons per year.

(c) \$1,000.00, as adjusted, for annual gasoline throughput greater than or

equal to 2,000,000 gallons per year and less than 3,000,000 gallons per year.

(d) \$1,300.00, as adjusted, for annual gasoline throughput greater than or equal to 3,000,000 gallons per year and less than 4,000,000 gallons per year.

(e) \$1,600.00, as adjusted, for annual gasoline throughput greater than or equal to 4,000,000 gallons per year and less than 5,000,000 gallons per year.

(f) \$1,900.00, as adjusted, for annual gasoline throughput greater than or equal to 5,000,000 gallons per year and less than 6,000,000 gallons per year.

(g) \$2,200.00, as adjusted, for annual gasoline throughput greater than or equal to 6,000,000 gallons per year and less than 7,000,000 gallons per year.

(h) \$2,500.00, as adjusted, for annual gasoline throughput greater than or equal to 7,000,000 gallons per year and less than 8,000,000 gallons per year.

(i) \$2,800.00, as adjusted, for annual gasoline throughput greater than or equal to 8,000,000 gallons per year and less than 9,000,000 gallons per year.

(j) \$3,100.00, as adjusted, for annual gasoline throughput greater than or equal to 9,000,000 gallons per year and less than 10,000,000 gallons per year.

(k) \$3,400.00, as adjusted, for annual gasoline throughput greater than or equal to 10,000,000 gallons per year and less than 11,000,000 gallons per year.

(l) \$3,700.00, as adjusted, for annual gasoline throughput greater than or equal to 11,000,000 gallons per year and less than 12,000,000 gallons per year.

(m)

\$4,000.00, as adjusted, for annual gasoline throughput greater than or equal to 12,000,000 gallons per year and less than 13,000,000 gallons per year.

(n)

\$4,300.00, as adjusted, for annual gasoline throughput greater than or equal to 13,000,000 gallons per year and less than 14,000,000 gallons per year.

(o)

\$4,700.00, as adjusted, for annual gasoline throughput greater than or equal to 14,000,000 gallons per year.

D. Consumer price index adjustments: Beginning January 1, 2019, and every January 1 thereafter, an increase based on the consumer price index shall be applied to all fees required by 20.11.39.19 NMAC. The fees shall be adjusted by an amount equal to the increase in the consumer price index for the immediately-preceding year. Fee adjustments equal to or less than 50 cents (\$0.50) shall be rounded down to the next lowest whole dollar. The department shall post the fee rates on the city of Albuquerque environmental health department website.

[20.11.39.19 NMAC - N, 12/21/17]

20.11.39.20 AQN

CANCELLATION: An owner or operator who receives an AQN must construct the source and begin its intended operations within two years of the date of the issuance of the AQN. AQNs for sources which have not been constructed and begun operations within two years shall be void.

[20.11.39.18 NMAC - N, 12/21/17]

HISTORY OF 20.11.39 NMAC:
[RESERVED]

History of Repealed Material:
[RESERVED]

Other History: [RESERVED]

ALBUQUERQUE/ BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.41 NMAC, Section 2, effective 12/21/2017.

20.11.41.2 SCOPE: 20.11.41 NMAC applies to every person who intends to construct, operate, modify, relocate or make a technical revision to a source that is subject to 20.11.41 NMAC or who has authority to operate a source that triggers the emission thresholds in Subsection B of 20.11.41.2 NMAC, except as otherwise provided.

A. Applicability:

Every stationary source subject to 20.11.41 NMAC shall obtain an air quality construction permit from the department as required by 20.11.41 NMAC before:

(1)

commencing construction of a new stationary source;

(2)

operating a stationary source that was required by 20.11.41 NMAC to obtain a construction permit before commencing construction or modification, but the stationary source has no active construction permit; or

(3)

modification of a stationary source.

B. Emission thresholds that require a construction permit before commencing construction, modification or operation of a stationary source subject to 20.11.41 NMAC:

(1)

If a person proposes to construct or operate a new stationary source that will emit one or more regulated air contaminants for which a federal, state or board ambient air quality standard exists and if the source will emit, when calculated at the contaminant's potential emission rate, 10 pounds per hour or more or 25 tons per year or more of any single regulated air contaminant, then the person shall apply for and obtain a construction permit as required by 20.11.41

NMAC before the person commences construction or operation of the source.

(2) If a

person proposes a modification of a stationary source and the modification will emit one or more regulated air contaminants for which a federal, state or board ambient air quality standard exists, and if, as a result of the modification, all activities at the source will emit, when calculated at the contaminant's potential emission rate, 10 pounds per hour or more or 25 tons per year or more of a regulated air contaminant, then the person shall apply for and obtain a construction permit or permit modification as required by 20.11.41 NMAC before the person commences construction or operation.

(3) If a person

proposes to construct a new stationary source or proposes a modification of a stationary source permit, and if the source will emit, when calculated at the air contaminant's potential emission rate, two tons per year or more of a single hazardous air pollutant (HAP) as defined by Section 112(b) of the federal Clean Air Act, or five tons or more per year of any combination of HAP, then the proposed or existing source shall apply for and obtain a construction permit or construction permit modification as required by 20.11.41 NMAC before the person commences construction.

(4) If a

stationary source was not required to obtain a construction permit pursuant to 20.11.41 NMAC because the source was operating before August 31, 1972, and if operations of the source have ceased for five or more consecutive years, and if an air contaminant proposed to be emitted by the source triggers the emission thresholds in Paragraphs (1) or (3) of Subsection B of 20.11.41.2 NMAC, then the owner or operator of the source shall apply for and obtain a construction permit as required by 20.11.41 NMAC before the person constructs, modifies or operates the source.

(5) If a person

proposes to construct a new stationary source or proposes to modify an existing stationary source and if the source will emit, when calculated at the contaminant's potential emission rate, five tons per year or more of lead (Pb) or any combination of lead and its compounds, then the person shall apply for and obtain a construction permit or construction permit modification as required by 20.11.41 NMAC before the person commences construction, modification or operation.

(6) If a stationary source was constructed after August 31, 1972 and the source is subject to an existing or new board regulation that includes an equipment emission limitation, the source shall apply for and obtain a construction permit or construction permit modification as required by 20.11.41 NMAC.

C. Source classifications; source types: If a person proposes to construct a new stationary source, modify an existing stationary source, construct a portable or temporary stationary source, or proposes a technical permit revision and any of the following conditions apply, the person shall apply for and obtain a construction permit, a construction permit modification or technical permit revision approval pursuant to 20.11.41 NMAC before commencing construction or modification of:

(1) any equipment or process that is subject or becomes subject to 20.11.63 NMAC, New Source Performance Standards for Stationary Sources, or 20.11.64 NMAC, Emission Standards for Hazardous Air Pollutants for Stationary Sources;

(2) any stationary source that meets the applicability requirements of 20.11.41 NMAC; however, if the source is also a major stationary source or a major modification as defined in 20.11.60 NMAC, Permitting in Nonattainment Areas, then the source shall in addition be subject to 20.11.60 NMAC;

(3) any

stationary source that meets the applicability requirements of 20.11.41 NMAC; however, if the source is also a major stationary source or a major modification as defined in 20.11.61 NMAC, Prevention of Significant Deterioration, then the source shall in addition be subject to 20.11.61 NMAC; and

(4) a major source of HAP as defined in 40 CFR Part 63.

D. Sources that become subject to new NSPS or NESHAP: If a person is operating a source that becomes subject to a new NSPS or NESHAP, the person shall apply for and obtain a construction permit as required by 20.11.41 NMAC.

E. Additional permit requirements:

(1) If a source includes more than one unit, the department may require a separate construction permit or permit conditions for each unit that is not substantially interrelated with another unit. A common connection leading to ductwork, pollution control equipment or a single stack shall not, by itself, constitute a substantial interrelationship.

(2) Although more than one air quality regulation adopted by the board may apply to a stationary source, including ~~20.11.40~~ 20.11.39, 20.11.40, 20.11.60, 20.11.61, 20.11.63, and 20.11.64 NMAC, nothing in 20.11.41 NMAC shall be construed to require more than one permit application for each unit proposed for construction or modification. Definitions and provisions included in specific federal program regulations shall apply to permit review of any regulated air contaminant and source regulated by the federal NSPS, NESHAP, prevention of significant deterioration, visibility or nonattainment requirements.

(3) For all sources subject to 20.11.41 NMAC, applications for permits shall be filed before commencement of construction, modification, relocation or technical revision. Regardless

of the anticipated commencement date, no construction, modification, relocation or revision shall commence before the owner or operator has received a permit or written approval from the department.

F. Exemptions:

(1) 20.11.41 NMAC does not apply to sources within Bernalillo county that are located on Indian lands over which the Albuquerque-Bernalillo county air quality control board lacks jurisdiction.

(2) The following sources and activities shall not be reported in the permit application. Emissions from such activities shall not be included in the calculation of the facility-wide potential emission rate under Paragraphs (1) through (5) of Subsection B and Subsection C of 20.11.41.2 NMAC. The following activities may be commenced or changed without a permit or permit modification under 20.11.41 NMAC if the emissions and activities are not subject to any requirement under a local board regulation, the New Mexico Air Quality Control Act, NMSA 1978, NSPS or NESHAP:

(a) activities which occur strictly for maintenance of grounds or buildings, including: lawn care, pest control, grinding, cutting, welding, painting, woodworking, sweeping, general repairs, janitorial activities, and building roofing operations;

(b) activities for maintenance of equipment or pollution control equipment, either inside or outside of a building, including cutting, welding, painting and grinding;

(c) exhaust emissions from forklifts, courier vehicles, front end loaders, graders, carts, and maintenance trucks;

(d) use of firefighting equipment and firefighting training provided the emissions are not subject to any requirement of a NSPS or NESHAP;

(e) government military activities such as

field exercises, explosions, weapons testing and demolition to the extent that such activities do not result in visible emissions entering publicly accessible areas;

(f)

use of portable aerospace ground equipment (such as power generators, compressors, heaters, air conditions, lighting units) if the equipment is used in direct support of aircraft operations, and on or in the immediate vicinity of an airfield;

(g)

use of portable support equipment such as power generation equipment, compressors, heaters, air conditioning and lighting equipment used for activities that include, but are not limited to maintenance and repair if the equipment is used fewer than 12 consecutive months at the same location and the equipment does not directly support an otherwise regulated portable stationary source (such as a screening plant, sand and gravel processing equipment, hot mix asphalt plant, concrete plant or soil vapor extraction system); and

(h)

gases used to calibrate plant instrumentation, including continuous emission monitoring (CEM) systems.

(3) An

applicant for a permit is not required to obtain a permit for the following new or modified sources and activities at a facility, but is required to report the following on permit application forms available from the department: fuel burning equipment that is used solely for heating buildings for personal comfort or for producing hot water for personal use and that:

(a)

uses gaseous fuel and has a design rate of five million BTU per hour or less; or

(b)

uses distillate oil, but not including waste oil, and has a design rate of one million BTU per hour or less.

(4) After a

permit has been issued, construction of the sources or commencement of the sources and activities described in Paragraph (3) of Subsection F of 20.11.41.2 NMAC shall comply with

the administrative permit revision procedures in Subsection A of 20.11.41.28 NMAC. Emissions from the sources and activities described in Paragraph (3) of Subsection F of 20.11.41.2 NMAC shall not be included in the facility-wide potential emission rate calculation that is described in Subsections B and C of 20.11.41.2 NMAC.

G. Permissive

waiver: An owner or operator of an emergency stationary reciprocating internal combustion engine or gasoline dispensing facility, as defined in 20.11.39 NMAC, may apply for an air quality notification pursuant to that Part. If the department grants an air quality notification, then the applicability requirements in Paragraphs (1), (2) and (4) of Subsection B and in Paragraph (1) of Subsection C of 20.11.41.2 NMAC shall not apply to the source that received the air quality notification. [20.11.41.2 NMAC - Rp, 20.11.41.2 NMAC, 1/1/14; A, 12/21/17]

CULTURAL AFFAIRS, DEPARTMENT OF

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.1 NMAC, General Provisions (recompiled 10/31/01), and replaced it with 4.51.1 NMAC, General Provisions (adopted on 11/17/17) and effective 12/12/17.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.4 NMAC, Museum Admissions Policy (effective January 1, 1996), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.8 NMAC, Policy on Appraisals and

Authentications (filed 10/18/82), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.9 NMAC, Policy on Bequests and Deferred Giving (filed 10/18/82), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.10 NMAC, Policy on Care of Collections (filed 10/18/82), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.13 NMAC, Policy on Exhibitions (filed 10/20/82), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.14 NMAC, Policy on Fund-raising (filed 10/20/82), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.17 NMAC, Policy on Landscaping at Museum Facilities (filed 10/20/82), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.20 NMAC, Policy on Preservation, Restoration and Reconstruction (filed 10/20/82), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.24 NMAC, Policy on Archaeological Custody (filed 10/26/82), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.26 NMAC, Policy on Cultural Properties (filed 10/26/82), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.27 NMAC, Acquisitions: Gifts, Purchases and Exchanges (filed 12/15/89), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.29 NMAC, Policy on Deaccession or Removal of Museum Objects (filed 11/3/82), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.30 NMAC, Policy on Internships (filed 11/3/82), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.31 NMAC, Policy on Losses and Damage to Museum Collections (filed 11/3/82), effective December 12, 2017.

On November 17, 2017, the

Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.32 NMAC, Policy on Personal Collecting by Museum Employees (filed 11/3/82), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.36 NMAC, Policy on Writing and Lecturing (filed 1/19/83), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.38 NMAC, Alteration of Buildings and Grounds (filed 8/25/83), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.39 NMAC, Capitalization of Collections (filed 8/25/83), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.40 NMAC, Contracts for Professional Services (filed 8/25/83), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.42 NMAC, Foundation Grants (filed 8/25/83), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs

approved the repeal of rule 4.51.43 NMAC, Consulting and Other Outside Employment (filed 8/25/83), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.45 NMAC, Bilingual Programs (filed 4/5/84), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.46 NMAC, Training Opportunities (filed 4/5/84), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.47 NMAC, Data Processing Programs (filed 4/5/84), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.48 NMAC, Loans (filed 2/5/91), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.51 NMAC, Publications (filed 4/5/84), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.52 NMAC, Sales Shops (filed 4/5/84), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs

approved the repeal of rule 4.51.53 NMAC, Adjunct Appointments (filed 5/27/88), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.54 NMAC, Door Donations (filed 12/4/85), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.55 NMAC, Code of Ethics (filed 10/27/86), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.58 NMAC, Contracting with Outside Agencies, Private Entities, and Individuals (filed 2/8/95), effective December 12, 2017.

On November 17, 2017, the Museum of New Mexico Board of Regents, at its regular meeting, and the Department of Cultural Affairs approved the repeal of rule 4.51.59 NMAC, Research on Collections, Objects and Cultural Properties in Private Ownership (filed 2/8/95), effective December 12, 2017.

CULTURAL AFFAIRS, DEPARTMENT OF

TITLE 4 CULTURAL RESOURCES CHAPTER 51 MUSEUM OF NEW MEXICO PART 1 GENERAL PROVISIONS

4.51.1.1 ISSUING
AGENCY: Museum of New Mexico Board of Regents.
[4.51.1.1 NMAC - Rp, 4.51.1.1 NMAC, 12/12/17]

4.51.1.2 SCOPE: This rule applies to the board and the department.
[4.51.1.2 NMAC - Rp, 4.51.1.2 NMAC, 12/12/17]

4.51.1.3 STATUTORY AUTHORITY: Subsection G of Section 18-3-3 NMSA 1978.
[4.51.1.3 NMAC - Rp, 4.51.1.3 NMAC, 12/12/17]

4.51.1.4 DURATION: Permanent.
[4.51.1.4 NMAC - Rp, 4.51.1.4 NMAC, 12/12/17]

4.51.1.5 EFFECTIVE DATE: December 12, 2017, unless a later date is cited at the end of the section.
[4.51.1.5 NMAC - Rp, 4.51.1.5 NMAC, 12/12/17]

4.51.1.6 OBJECTIVE: This part defines the membership of the board of regents of the museum of New Mexico and the roles and duties of the board members.
[4.51.1.6 NMAC - Rp, 4.51.1.6 NMAC, 12/12/17]

4.51.1.7 DEFINITIONS: As used in this rule:

A. "Directors" means the directors of each of the six divisions of the department of cultural affairs that are part of the museum of New Mexico.

B. "Department" means the department of the cultural affairs.

C "Board" means the board of regents of the museum of New Mexico.

D. "Museum" means the museum of New Mexico.

E. "Executive assistant" means the person appointed by the board to perform administrative tasks for the board that is either an employee of the department or a contractor.
[4.51.1.7 NMAC - Rp, 4.51.1.7 NMAC, 12/12/17]

4.51.1.8 RULES AND PROCEDURES OF THE BOARD OF REGENTS:

A. Name: The name of the board is the museum of New Mexico board of regents.

B. Officers: At its annual meeting, the board shall elect officers consisting of a president, a vice president, and a secretary, who shall serve one-year terms or until the board elects successors.

(1) The president shall preside at all meetings of the board and shall perform all duties and exercise all powers usually pertaining to the office of president, including the appointment of committees and the delegation of authority to specific offices or board members.

(2) The vice president shall, in the absence or incapacity of the president, exercise all the powers and duties of the president.

(3) The secretary shall, in the absence or incapacity of the president and vice president, exercise all the powers and duties of the president. The secretary shall also work with the executive assistant to ensure that the board's actions and documents are properly maintained, recorded, and retained. In particular, the secretary shall ensure that the executive assistant records the board's meeting minutes and obtains proper signatures on legal documents. The secretary shall write a memo when all documents are received, certifying that the meeting file is complete.

C. Meetings:

(1) All meetings of a quorum of the members of the board shall be public meetings in accordance with the provisions of the Open Meetings Act (Sections 10-15-1 to 10-15-4 NMSA 1978).

(2) Annual meeting: The midsummer meeting is the board's annual meeting.

(3) Regular meetings: Regular meetings shall be scheduled not less than once every two months.

(4) Special

meetings: The president may call special meeting at any time for a stated purpose; the president shall call a special meetings if requested by any five board members.

(5) Quorum:

A quorum of the board shall consist of five members.

(6) Agenda:

Any member of the board may request inclusion of an item of business on the agenda in accordance with the Open Meetings Act constraints, or a member may introduce such items at the time of meeting in the appropriate order of business for discussion purposes only. Persons, not members of the board, desiring to be heard by the board may be placed on the agenda by notifying the executive assistant two weeks in advance of regular meeting; if this is not done, a majority vote of the members present will be required for the matter to be heard.

(7) Voting:

All members of the board, including the presiding officer, shall have one vote. Proxy votes shall not be permitted. The majority vote of members present shall prevail. [4.51.1.9 NMAC - Rp 4.51.1.10 NMAC & 4.51.1.11 NMAC, 12/12/17]

4.51.1.9 DUTIES AND RESPONSIBILITIES OF THE BOARD:

The board shall perform and execute the powers and duties authorized to it under Section 18-3-3 NMSA 1978, or such other statutes that may apply and any additional responsibilities it designates for itself that are permitted by law. Among its duties, the board:

A. shall elect from among its members a president and other officers deemed necessary by it;

B. shall establish museum policy and determine the mission and direct the development of the museum;

C. shall solicit funds for the purpose of developing, restoring and equipping the museum and its property and for the purchase of objects and works of art for its collections and for the development

of exhibits and other public programs;
D. shall exercise trusteeship over the collections of the museum;

E. shall hold title to all property for museum use;

F. shall review and have approval authority over permanent modifications to the real property to which it holds title and the architectural elements of the property, including but not limited to permanent changes to the interior and exterior of the museum's buildings and new permanent signage and permanent modifications to existing signage;

G. shall acquire objects of historical, archaeological and ethnological interest and works of fine art, folk art and craft of interest to the public and real property for museum use or benefit by purchase, donation and bequest;

H. shall adopt rules as appropriate governing;

(1) the loan of objects and exhibits to qualified institutions and agencies for the purpose of exhibition;

(2) gifts, donations or loans of exhibit or collection materials for the museum;

(3) the licensure of the museum's intellectual property; and

(4) other matters necessary to carry out the provisions of Chapter 18, Article 3 NMSA 1978;

I. shall enter into leases with public or private agencies or organizations for the use of museum premises or facilities as appropriate for time periods that exceed 45 days;

J. shall cooperate with other agencies and political subdivisions of municipal, state, tribal and federal governments and private organizations and individuals to the extent necessary to establish and maintain the museum and its programs;

K. shall, subject to statutory provisions and excepting temporary statewide initiatives of the secretary of cultural affairs, impose admission fees to the museum

facilities and programs;

L. shall review annually the performance of the directors and report its findings to the secretary of cultural affairs;

M. shall review and approve all proposed dispositions of property belonging to the museum or the state of New Mexico in the care and custody of the museum, which disposition shall thereafter take place in accordance with all appropriate law and regulations;

N. shall know the programs and needs of the museum in relation to the state; keep abreast of standards and trends;

O. are encouraged to attend regional, state and national meetings and workshops, and affiliate with the appropriate professional organizations when possible;

P. shall establish good public relations for the museum in contacts with the community at large;

Q. may request such financial information from the department as it deems necessary to serve as trustee to the museum's collections;

R. may request the directors to present at board meetings a report of the activities of their respective divisions subsequent to the previous board meeting, including proposed and projected plans of operation and a report of any proposed property dispositions;

S. may request that the secretary of cultural affairs furnish to the board copies of the state auditor's annual audit report of the department's books and records, and such interim or other reports;

T. may give the secretary of cultural affairs ex officio status on all committees of the board and any other committees created by the board, except for any board committee formed to recommend candidates for directors to the secretary of cultural affairs; and

U. may adopt a schedule of hours of operation and holiday closings for the museum, and any changes thereto, during a public meeting and shall post such schedule on its website.

[4.51.1.9 NMAC - Rp, 4.51.1.8 NMAC & 4.51.1.11 NMAC, 12/12/17]

4.51.1.10 THE MUSEUM OF NEW MEXICO:

A. Organization of the museum. The museum is a system of museums, historic sites, the laboratory of anthropology, the office of archeological services, the museum of New Mexico press, and archeological collections. By statute, it is divided into six divisions.

B. Property. The board may acquire and control real property and collections by purchase, donation, and bequest for museum use or benefit at any time. Responsibility for the administration of its holdings, in accordance with all appropriate state laws and regulations, rests with the museum.

[4.51.1.10 NMAC - Rp, 4.51.1.13 NMAC, 12/12/17]

HISTORY OF 4.51.1 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center and archives under:

MD 75-1, Handbook of the Board of Regents of the Museum of New Mexico, 9/4/75.

MNM: No. 4, Open Meeting Notice, 9/14/81.

MNM: Rule No. 4, Open Meeting Notice Resolution, 10/29/84.

MNM: Rule No. 4, Open Meeting Notice Resolution, 6/10/86.

MNM: Rule No. 4, Open Meeting Notice Resolution, 2/26/88.

MNM: Rule No. 4, Open Meetings Resolution, 7/21/94.

MNM: Rule 7, Policy on Accreditation, 10/18/82.

MNM: Rule 12, Policy on Equal Opportunity/Affirmative Action, 10/18/82.

MNM: Rule 15, Policy on Handicapped Access, 10/20/82.

MNM: Rule No. 16, Policy on Hours and Seasons of Operation, 10/20/82.

MNM: Rule No. 16, Hours and Seasons of Operation, 6/11/85.

MNM: Rule No. 16, Hours and Seasons of Operation, 9/30/86.

MNM: Rule No. 16, Hours and

Seasons of Operation, 5/27/88.
MNM: Rule No. 21, Policy on Public Access to Collections, 10/26/82.
MNM: Rule No. 22, Policy on Volunteers, 10/26/82.

MNM: Rule No. 35, Policy on Professional Associations and Meetings, 1/19/83.

MNM: Rule No. 41, Personnel Actions, 8/25/83.

MNM: Rule No. 49, Public Relations and Information, 4/5/84.

History of Repealed Material:

4.51.1 NMAC recompiled 10/31/01, repealed 12/12/17.

GAME AND FISH, DEPARTMENT OF

The State Game Commission, approved and adopted at its 11/16/2017 hearing, to repeal its rule 19.30.8 NMAC - Guide and Outfitter Registration (filed 11/30/2011) and replace it with 19.30.8 NMAC - Guide and Outfitter Registration, effective 01/01/2018.

The State Game Commission, approved and adopted at its 11/16/2017 hearing, to repeal its rule 19.31.2 NMAC - Hunting and Fishing License Revocation (filed 09/14/2012) and replace it with 19.31.2 NMAC - Hunting and Fishing License Revocation, effective 12/19/2017.

GAME AND FISH, DEPARTMENT OF

TITLE 19 NATURAL RESOURCES AND WILDLIFE CHAPTER 30 WILDLIFE ADMINISTRATION PART 8 GUIDE AND OUTFITTER REGISTRATION

19.30.8.1 ISSUING

AGENCY: New Mexico Department of Game and Fish.

[19.30.8.1 NMAC - Rp, 19.30.8.1 NMAC, 01/01/2018]

19.30.8.2 SCOPE: Hunting

outfitters, guides, and hunters for New Mexico.

[19.30.8.2 NMAC - Rp, 19.30.8.2 NMAC, 01/01/2018]

19.30.8.3 STATUTORY

AUTHORITY: Sections 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected species. Additional authority may be found in Sections 17-2A-1, 17-2A-3 and 17-3-16 NMSA 1978.

[19.30.8.3 NMAC - Rp, 19.30.8.3 NMAC, 01/01/2018]

19.30.8.4 DURATION:

Permanent.

[19.30.8.4 NMAC - Rp, 19.30.8.4 NMAC, 01/01/2018]

19.30.8.5 EFFECTIVE

DATE: January 01, 2018, unless a later date is cited at the end of a section.

[19.30.8.5 NMAC - Rp, 19.30.8.5 NMAC, 01/01/2018]

19.30.8.6 OBJECTIVE:

To register, regulate and set professional standards for guides, outfitters and their operations within New Mexico.

[19.30.8.6 NMAC - Rp, 19.30.8.6 NMAC, 01/01/2018]

19.30.8.7 DEFINITIONS:

A. "Accompanied"

shall mean that the outfitter or their registered guide physically escorts the hunter-client in the field during the hunter-client's license hunt dates.

B. "Agent"

shall mean a person who is legally authorized by employment or written contract to act on behalf of a private landowner to oversee the landowner's hunting operation on their deeded property.

C. "Conviction"

shall mean any adjudication of guilt; plea of guilty or nolo contendere accepted by the court; or payment of a fine, court cost, court order, penalty assessment or forfeiture of collateral; regardless of whether sentencing or

imposition of sentencing has been deferred or suspended.

D. "Department" shall mean the New Mexico department of game and fish.

E. "Director" shall mean the director of the department of game and fish.

F. "Guide" shall mean any person contracted, employed or accepting compensation for providing, within the unit where a hunt occurs, equipment or services for hunting activities; provided, however, that "guide" does not include a person who only cooks, cuts wood or performs other comparable or incidental duties not directly related to hunting activities.

G. "History of violation" shall mean any one conviction or multiple convictions from any law enforcement agency for violation(s) of hunting, fishing, trapping, outfitting or guiding rules or land-use regulations, including any conviction as an accessory, during the three-year period immediately preceding the application for registration, provided that the violation committed, if committed in New Mexico, would equal or exceed the 20-point equivalent.

H. "Hunter-client" shall mean an individual who contracts or utilizes the hunting services of a registered outfitter or is taken into the field by a person acting as an outfitter or guide regardless of their registration status.

I. "Landowner permit" shall be a license issued pursuant to a landowner authorization.

J. "License year" shall mean that period beginning April 1 and ending March 31 each year for the purposes of hunting or outfitter and guide registration.

K. "New Mexico outfitter" shall mean an outfitter that is qualified by the department in accordance with 19.30.8.9 NMAC to participate in the special drawing pool by utilizing their outfitter number as established by Section 17-3-16 NMSA 1978.

L. "Outfitter" shall mean any person who advertises or

holds themselves out to the public for hire or is employed or accepts compensation for providing, within the unit where a hunt occurs, facilities, equipment or services for hunting activities; provided, however, that "outfitter" does not include a person who only cooks, cuts wood or performs other comparable or incidental duties not directly related to hunting activities. Any person who purchases landowner permits or private land licenses for a hunter-client or pays for access to a landowner's deeded property for a hunter-client in any way, shall be considered an outfitter.

M. "Registered outfitter" shall be an outfitter who has met all the requirements described herein and has been issued a current registration by the department.

N. "Special drawing pool" shall refer to the ten percent allocation of special draw licenses available to the public who have contracted with a qualified New Mexico outfitter to provide professional guide services.

O. "Supervision" shall mean that outfitters are required to ensure all guides employed or contracted by them are informed of all pertinent geographic hunt boundaries, any special restrictions which apply to their hunter-clients license and statutes and rules regarding lawful hunting, guiding and outfitting. Supervision also means that outfitters have provided all the guidance and oversight that a reasonable business person would provide to their employees.

[19.30.8.7 NMAC - Rp, 19.30.8.7 NMAC, 01/01/2018]

19.30.8.8 GENERAL REGISTRATION PROCEDURES AND REQUIREMENTS: In addition to the requirements set in Sections 17-2A-1, 17-2A-3 and 17-3-16 NMSA 1978 the following requirements apply;

A. Application form: Applications to guide and outfit as defined in Section 17-2A-3 NMSA 1978 and 19.30.8 NMAC shall be made on forms provided by the

department as prescribed by the director.

B. Application deadlines: An outfitter or guide may register at any time by completing and submitting the proper application form and fee. No one shall be a registered outfitter or guide until they successfully complete all requirements and are issued a valid registration by the department. Exception:

(1) Deadline date to qualify as a New Mexico outfitter for special drawing pool: All New Mexico outfitter applicants must apply by February 15 to be eligible to participate in the special drawing pool of resident/nonresident hunter applicants for the next hunting season.

(2) New Mexico outfitter late fee: All New Mexico outfitter applications received after February 15 but before the close of business on March 15 will be subject to an administrative fee of \$100 in addition to the normal application fees.

(3) New Mexico outfitter ineligibility: An applicant for a New Mexico outfitter that fails to successfully complete the department's process by close of business on March 15 will be ineligible to have a hunter-client use their registration number for the special drawing pool established in Section 17-3-16 NMSA 1978.

C. All outfitter and guide applicants shall have successfully completed a certified hunter education course from the state of New Mexico or other similar qualifying hunter education course acceptable to the department prior to making application.

D. Outfitter and guide applicants cannot have a history of violation.

E. No person shall be allowed to register or work as a registered hunting guide or outfitter in New Mexico:

(1) if the person has had a guide or outfitter license, registration, permit or certificate revoked in another state;

(2) if the

person has had a guide or outfitter license, registration, permit or certificate suspended in another state and it has not been reinstated;

(3) if the person has been convicted of a felony, no matter when the felony was committed;

(4) An outfitter or guide's registration shall be immediately invalid when any of Paragraph 1 thru 3 of Subsection E of 19.30.8.8 NMAC apply. The outfitter or guide registration may be reinstated if the conviction, revocation or suspension is reversed during the year in which they were originally registered.

F. Outfitter and guide applicants, including renewing applicants, shall not have had their guide or outfitter's license, permit authorization or registration revoked or denied for cause by any controlling government land management agency. The applicant shall not be registered by the state during the term of the revocation or pendency of the denial.

G. Examinations for guiding and outfitting:

(1) Exams will be conducted during posted testing periods at department offices or by appointment, at any location approved by the guide and outfitter registrar.

(2) An applicant shall only be allowed to take the examination once per day.

(3) Applicant must successfully pass a department approved examination with a minimum passing grade of seventy percent.

(4) If an applicant fails to renew their registration for two or more years, all registration requirements must be completed, including successfully passing a department approved exam prior to being registered.

H. Applicants for a guide's registration shall be at least 18 years of age and meet all the qualifications for guides set forth in 19.30.8 NMAC and in Section 17-2A-3 NMSA 1978.

I. Additional outfitter registration requirements:

(1) Applicants for an outfitter registration shall be at least 21 years of age and meet all the qualifications for outfitters set forth in 19.30.8 NMAC, Sections 17-2A-3 and 17-3-16 NMSA 1978.

(2) Applicants for an outfitter registration must have operated as a New Mexico registered guide for three years. Applicant must submit evidence, as approved by and to the satisfaction of the department, of three years of actual guiding experience and substantial knowledge of guiding in New Mexico for a register outfitter. The evidence must be submitted with the application and may consist of federal land use permits, business or employment records from the registered outfitter and a letter from said registered outfitter attesting to the applicants guiding experience.

(3) Applicant shall register with the taxation and revenue department and provide proof of registration and compliance to the department.

J. Each guide or outfitter shall carry proof of registration in the field and provide such proof upon request.

K. Registration exemption: A landowner or their agent who is guiding or outfitting on the landowner's deeded property or pursuant to a landowner permit is exempt from the department's registration process. Nothing in this exemption shall prevent a landowner or their agent from registering, if they choose. Agents may not act independently from the landowner. A landowner or their agent must be in compliance with the registration requirements of any pertinent government land management agency when involved with commercial activities on lands controlled or administered by a government land management agency.

L. All outfitter and guide applicants, including renewing applicants, shall submit to the department any additional documentation requested by the department.

[19.30.8.8 NMAC - Rp, 19.30.8.8 NMAC, 01/01/2018]

19.30.8.9 ADDITIONAL REQUIREMENTS TO BECOME A NEW MEXICO OUTFITTER:

A. To qualify as a New Mexico outfitter as a corporation, LLC or similar status: a New Mexico outfitter is a person who has a business:

(1) with a valid New Mexico state, county or municipal business registration and a valid outfitter license issued by the department of game and fish;

(2) that is authorized to do and is doing outfitting business under the laws of this state;

(3) that has paid property taxes or rent on real property in New Mexico, paid gross receipts taxes and paid at least one other tax administered by the taxation and revenue department in each of the three years immediately preceding the submission of an affidavit to the department of game and fish;

(4) the majority of which is owned by the person who has resided in New Mexico during the three-year period immediately preceding the submission of an affidavit to the department of game and fish;

(5) that employs at least eighty percent of the total personnel of the business who are New Mexico residents;

(6) that has either leased property for ten years or purchased property greater than \$50,000 in value in New Mexico;

(7) that, if it has changed its name from that of a previously certified business, the business is identical in every way to the previously certified business that meets all criteria;

(8) that possesses all required federal or state land use permits for the hunt; and

(9) that operates as a hunting guide service during which at least two days are accompanied with the client in the area where the license is valid.

B. To qualify as a New Mexico outfitter as a sole proprietor business: a New Mexico outfitter is a

person who has a business:

(1) with a valid New Mexico state, county or municipal business registration and a valid outfitter license issued by the department of game and fish;

(2) that is authorized to do and is doing outfitting business under the laws of this state;

(3) that, if it has changed its name from that of a previously certified business, the business is identical in every way to the previously certified business that meets all criteria;

(4) that possesses all required federal or state land use permits for the hunt; and

(5) that operates as a hunting guide service during which at least two days are accompanied with the client in the area where the license is valid.
[19.30.8.9 NMAC - Rp, 19.30.8.9 NMAC, 01/01/2018]

19.30.8.10 OUTFITTER INSURANCE REQUIREMENTS:

A. An outfitter applicant shall submit with their application a certificate of commercial liability insurance of at least \$500,000 from an insurance company stating they will insure the applicant for the current license year.

B. A copy of the insurance certificate that indicates who is insured, effective dates, policy number and amounts of coverage, must be provided to the department upon issuance by the insurer and prior to engaging in any outfitting activity.

C. Failure to provide proof of coverage during the registration period shall result in suspension of the registration for the period in which such insurance is required to be maintained.

(1) If an outfitter applicant or a registered outfitter fails to submit a copy of a valid insurance certificate before the insurance certificate on file with the department expires, the non-compliance notice will be sent to the outfitter by the department. The outfitter shall be required to submit a

copy of a valid insurance certificate and a \$50 administrative fee. No outfitter will be registered until the administrative fee has been paid in full.

(2) If the outfitter fails to comply with the non-compliance notice; the department shall issue the outfitter a notice of contemplated commission action. The outfitter shall then be required to submit a copy of a valid insurance certificate and a \$250 administrative fee. No outfitter will be registered until the administrative fee has been paid in full.

(3) If the insurance is not in effect, at any time while conducting any outfitting activity as defined herein, the outfitter's registration will be declared void and the outfitter's registration shall be suspended until a valid insurance certificate and administrative fees are satisfied.
[19.30.8.10 NMAC - Rp, 19.30.8.9 NMAC, 01/01/2018]

19.30.8.11 REGISTRATION FEES:

A. The payment of the annual registration fee for an outfitter or guide is required prior to registration, including any reinstatement or administrative fees.

(1) The annual registration fee for a registered guide in New Mexico is \$50 for a resident and \$100 for a nonresident.

(2) The annual registration fee to be a registered outfitter in New Mexico is \$500 for either a resident or a nonresident.

B. All registration fees, except a \$50 administrative fee, may be refunded if an applicant is rejected or fails to complete the registration process. No other refunds shall be permitted.

C. Emergency fee and criteria: In an emergency situation, a temporary guide registration may be issued by the department.

(1) The fee shall be \$10.

(2) A guide registered pursuant to the emergency situation may only be used once in a

license year by the registered outfitter requesting the replacement of a registered guide who has become ill, injured or has a bona fide emergency.

(3) The temporary registration is only valid for seven days and may be renewed only once per emergency situation.

(4) The temporary guide registration may not be used to accommodate additional hunter-clients.

[19.30.8.11 NMAC - N, 01/01/2018]

19.30.8.12 CONTRACTS:

A. A New Mexico outfitter shall execute a written contract with each special drawing pool applicant. The contract must be signed and dated by all parties prior to application for any special drawing pool license. New Mexico outfitters who execute a multi-year application contract shall be required to sign an updated contract with the hunter-client every three years from the initial signature date.

B. All outfitters shall execute a written contract with each hunter-client. The contract must be signed and dated by all parties before the hunt begins and shall designate the terms, guide to hunter-client ratio, hunt dates, compensation charged and services to be provided.

C. All outfitters shall have a copy of the contract available for inspection by the department in the field during the hunt or they must submit an electronic copy of the contract to the department's guide and outfitter registrar at least 48 hours prior to the scheduled hunt. A hunter-client who obtains a license through the special drawing pool, and chooses to hunt beyond their contracted hunt dates must carry a copy of the contract while hunting if it had not been submitted electronically to the registrar at least 48 hours prior to the scheduled hunt.

D. All contracts shall be retained by the outfitter for three years from the latest date signed by each party.

E. All outfitters shall provide any contract to the department upon request.

F. A New Mexico outfitter shall ensure that each hunter-client who obtains a license through the special drawing pool is accompanied by the outfitter or their registered guide for at least two days during the contracted dates of the hunt in the area where the hunter-client's license is valid. An outfitter or guide cannot contract with themselves to apply in the special drawing pool. An outfitter or guide who obtains a license through the special drawing pool is not allowed to guide themselves during their hunt.

G. A New Mexico outfitter may release a contracted hunter-client to another New Mexico outfitter provided that the original contract was valid, in place prior to the application deadline and only if it is mutually agreed upon by all parties. The release shall be in writing and shall be signed by all parties. A hunter-client must enter into a new contract with a New Mexico outfitter prior to hunting. Hunter-client licenses obtained through the special drawing pool are not valid unless the hunter-client is accompanied by a New Mexico outfitter or their registered guide.

H. All outfitters shall provide at least one registered guide or outfitter in the field for every four or fewer hunter-clients who are contracted for guided hunting services with the outfitter.
[19.30.8.12 NMAC - Rp, 19.30.8.11 NMAC, 01/01/2018]

19.30.8.13 OUTFITTER OR GUIDE MISCONDUCT:

A. Misrepresentation: An outfitter or guide shall not engage in fraud, deceit, misrepresentation or concealment of any material fact in advertising, soliciting or providing professional services to the hunter-client or the public, as determined by a court of competent jurisdiction.

B. Failure to report illegal activity: An outfitter or guide shall report illegal hunting activities or any violation of local, state or federal law relating to hunting, fishing, trapping, outfitting, guiding or land management that they have

witnessed or have been made aware of to any commissioned conservation officer or to the appropriate law enforcement agency as soon as it is feasible to do so.

C. Failure to comply: An outfitter or guide shall comply with all local, state and federal laws and regulations pertaining to hunting, fishing, trapping, outfitting, guiding or land management. Conviction of any local, state and federal laws and regulations pertaining to hunting, fishing, trapping, outfitting, guiding or land management for which points have not already been assessed shall be misconduct.

D. Breach of contract: An outfitter or guide shall not breach a contract, as determined by a court of competent jurisdiction, with any person using outfitting or guiding services of the outfitter.

E. Failure to comply with registration audit or conditions: An outfitter or guide, including a renewing applicant, shall submit to the department any documentation requested by the department within the specified timeframe or deadline set by the department.

F. Failure to disclose: An outfitter or guide applicant shall not submit false or fraudulent documentation or statements or knowingly omit required information in connection with an application for registration or renewal.

G. Failure to supervise guides: Outfitters shall responsibly supervise each registered guide working under the outfitter's direction.
[19.30.8.13 NMAC - Rp, 19.30.8.12 NMAC, 01/01/2018]

19.30.8.14 CRIMINAL VIOLATIONS:

A. It is unlawful to apply for or receive an outfitter or guide registration while on revocation.

B. It is unlawful for a guide to book or service a hunter-client unless employed or contracted to do so by a registered outfitter.

C. It is unlawful to

use an outfitter or guide registration issued to another.

D. It is unlawful for an outfitter to allow or use an unregistered person to perform outfitting or guiding services for the outfitter.

E. It is unlawful for any person to guide or outfit in New Mexico without completing all requirements and possessing a current registration from the department. Each guide or outfitter shall carry proof of registration in the field and provide such proof upon request.

F. It is unlawful to apply in the special drawing pool using a New Mexico outfitter number prior to having a valid, signed contract with the same New Mexico outfitter.

G. It is unlawful for a New Mexico outfitter to knowingly allow a hunter-client to apply in the special drawing pool prior to having a valid, signed contract.

H. It is unlawful to hunt with a license obtained through the special drawing pool without being accompanied by, and contracted with, a New Mexico outfitter or their guide for at least two days during the hunt.

I. It is unlawful for any outfitter to not have a valid, signed contract with each hunter-client as prescribed in 19.30.8.12 NMAC.

J. It is unlawful for any outfitter to refuse or fail to produce a contract when requested by the department.

K. It is unlawful for any person to submit an application for any hunt or for any person to counsel, aid or abet any person in submitting an application for any hunt in the special drawing pool with an unregistered or unqualified outfitter number.

L. It is unlawful for an outfitter or guide to have more than four hunter-clients in the field for each registered guide or outfitter.

M. It is unlawful for an outfitter or guide to contract with themselves or to guide themselves using a special drawing pool license.

[19.30.8.14 NMAC - Rp, 19.30.8.17 NMAC, 01/01/2018]

19.30.8.15 REVOCATION

POINT SYSTEM: Any person in violation of this section is subject to revocation and point assessments pursuant to 19.31.2 NMAC.

[19.30.8.15 NMAC - Rp, 19.30.8.16 NMAC, 01/01/2018]

19.30.8.16 CRIMINAL

PENALTY PROVIDED: A violation of any criminal provision of this rule or Sections 17-2A-1 and 17-2A-3 NMSA 1978 that is a criminal violation, is a misdemeanor and shall be punished in accordance with the provisions of Section 17-2-10 NMSA 1978.

[19.30.8.16 NMAC - Rp, 19.30.8.17 NMAC, 01/01/2018]

19.30.8.17 HEARING

REQUESTED: A registration revocation hearing may be requested and will be provided in accordance with 19.31.2 NMAC.

[19.30.8.17 NMAC - Rp, 19.30.8.18 NMAC, 01/01/2018]

HISTORY OF 19.30.8 NMAC:

History of Repealed Material: 19.30.8 NMAC, Guide and Outfitter Registration, filed 4/16/2003, repealed effective 11/30/2011.

19.30.8 NMAC, Guide and Outfitter Registration, filed 11/30/2011, repealed effective 01/01/2018.

**GAME AND FISH,
DEPARTMENT OF**

**TITLE 19 NATURAL
RESOURCES AND WILDLIFE
CHAPTER 31 HUNTING AND
FISHING
PART 2 HUNTING
AND FISHING LICENSE
REVOCATION**

19.31.2.1 ISSUING

AGENCY: New Mexico Department of Game and Fish.

[19.31.2.1 NMAC - Rp, 19.31.2.1 NMAC, 12-19-2017]

19.31.2.2 SCOPE: Person or persons who violate the provisions of Chapter 17 NMSA 1978, Section 30-14-1 NMSA 1978, the Interstate Wildlife Violator Compact (Chapter 11 NMSA 1978) and the Parental Responsibility Act (Chapter 40 NMSA 1978).

[19.31.2.2 NMAC - Rp, 19.31.2.2 NMAC, 12-19-2017]

19.31.2.3 STATUTORY

AUTHORITY: Sections 11-16-5 and 11-16-6 NMSA 1978; Sections 17-1-14, and 17-3-34 NMSA 1978; Section 30-14-1 NMSA 1978; and Sections 40-5A-3, and 40-5A-6 NMSA 1978.

[19.31.2.3 NMAC - Rp, 19.31.2.3 NMAC, 12-19-2017]

19.31.2.4 DURATION:

Permanent.

[19.31.2.4 NMAC - Rp, 19.31.2.4 NMAC, 12-19-2017]

19.31.2.5 EFFECTIVE

DATE: December 19, 2017 unless a later date is cited at the end of a section or paragraph.

[19.31.2.5 NMAC - Rp, 19.31.2.5 NMAC, 12-19-2017]

19.31.2.6 OBJECTIVE:

To revoke the hunting, fishing, trapping, guiding, and outfitting privileges of any person who persistently, flagrantly or knowingly violates or countenances the violation of any of the provisions of Chapter 17 NMSA 1978, or any rule adopted by the state game commission, or Section 30-14-1 NMSA 1978; to suspend the hunting, fishing, trapping, guiding, and outfitting privileges or other privileges or authorities granted by an agreement, license or permit issued by the department of game and fish, of any person whose name appears on a human services department certified list of obligors not in compliance with the Parental Responsibility Act, Section 40-5A-1 NMSA 1978; to suspend the hunting, fishing, trapping, guiding, and outfitting privileges of any person who fails to pay a penalty assessment levied under Section 17-2-10.1 NMSA 1978 or who has had a civil judgment assessed against them

pursuant to Section 17-2-26 NMSA 1978 until those damages have been paid in full; to revoke or suspend the hunting, fishing, trapping, guiding and outfitting privileges pursuant to the wildlife violator compact, Section 11-16 -1 NMSA 1978, of any person who has been placed on revocation by a wildlife violator compact member state, or temporarily suspend those privileges of any resident that fails to meet the terms of a citation issued from a compact state; to revoke or deny the private land agreement privileges of any person who does not comply with a department sponsored private lands agreement.

[19.31.2.6 NMAC - Rp, 19.31.2.6 NMAC, 12-19-2017]

19.31.2.7 DEFINITIONS:

A. "Commission"

means the New Mexico state game commission.

B. "Conviction"

means any adjudication of guilt; plea of guilty or nolo contendere accepted by the court; or payment of a fine, court cost, court order, or penalty assessment; or forfeiture of collateral; regardless of whether sentencing or imposition of sentencing has been deferred or suspended.

C. "Department"

means New Mexico department of game and fish.

D. "Director"

means the director of the department of game and fish.

E. "Obligor"

means a person who has been ordered to pay child or spousal support pursuant to a judgment and order for support.

F. "Protected

species" shall mean any of the following animals:

(1) all animals

defined as protected wildlife species and game fish under Section 17-2-3 NMSA 1978;

(2) all animals

defined as furbearing animals under Section 17-5-2 NMSA 1978; and

(3) all animals

listed as endangered species or subspecies as stated in regulation(s) set by the state game commission

G. "Respondent"

means any person holding a license, permit, certificate, registration, landowner agreement, or applicant thereof, who is served a notice of contemplated action.

H. "Revocation"
means when a person's hunting, fishing, trapping, guiding and outfitting privileges, or other privileges or authorities granted by an agreement, license or permit issued by the department, are taken away by the commission after notice and opportunity for a hearing.

I. "Suspension"
means when a person's hunting, fishing, trapping, guiding and outfitting privileges, or other privileges or authorities granted by an agreement, license or permit issued by the department, are taken away by the commission, after notice and opportunity for a hearing, until the person comes back into compliance. [19.31.2.7 NMAC - Rp, 19.31.2.7 NMAC, 12-19-2017]

19.31.2.8 CRIMINAL REVOCATION CATEGORIES AND POINTS: Any person with 20 or more points accumulated within any consecutive three-year period, shall have all of his or her hunting, fishing, trapping, guiding and outfitting privileges, or other privileges or authorities granted by an agreement, license, permit, registration or certificate issued under Chapter 17 NMSA 1978 and its implementing rules subject to revocation or suspension. The tolling of time for the three consecutive years shall begin from the date of conviction or the date a penalty assessment was accepted.

A. 20-point criminal violations:

- (1) illegally taking, attempting to take, killing, capturing or possessing any big game species outside of hunting season in violation of Section 17-2-7 or 17-3-33 NMSA 1978;
- (2) hunting big game without a license;
- (3) criminal trespass, in violation of Section 30-14-1 NMSA 1978, when in

connection with hunting, fishing or trapping activity; revocation to be for no less than three years;

(4) hunting with the aid of an artificial light or spotlight, in violation of Section 17-2-31 NMSA 1978;

(5) waste of game in violation of Section 17-2-8 NMSA 1978;

(6) selling, offering for sale, offering to purchase or purchasing any protected species or parts thereof in violation of Section 17-2-7 NMSA 1978 ;

(7) any violation of Section 17-3-6 NMSA 1978;

(8) any violation of Section 17-3-48 NMSA 1978, provided that any revocation under this section shall commence consecutively to any current revocation;

(9) any violation of Section 17-3-45 NMSA 1978 involving any protected species;

(10) guiding or outfitting without being registered in violation of Section 17-2A-3 NMSA 1978;

(11) using an outfitter or guide license issued to another;

(12) outfitter allowing or using an unregistered person to perform outfitting or guiding services;

(13) applying for or receiving an outfitter or guide registration while revoked;

(14) for violations of Section 17-2-29 NMSA 1978, involving hunting or boating while intoxicated (revocation for a period of one year, as prescribed by Section 17-2-30 NMSA 1978;

(15) any violation of Section 17-3-49 NMSA 1978;

(16) any violation of Section 17-2-7.1 NMSA 1978 ;

(17) except as otherwise provided by Sections 17-2-37 to 17-2-46 nMSA 1978, taking, possessing, transporting, exporting, processing, selling or offering for

sale, or shipping any species or subspecies of wildlife listed on the state list of endangered species or the United States' list of endangered native and foreign fish and wildlife;

(18) any violation of the provisions of any special use of wildlife permit issued by the department pursuant to Chapter 17 NMSA 1978 and its implementing rules;

(19) unlawfully taking amphibians and reptiles for commercial purposes, without a permit, in violation of Section 17-2-4.2 NMSA 1978;

(20) knowingly or willfully introducing an aquatic invasive species, in violation of Section 17-4-35 NMSA 1978; or

(21) accessory to any of the above.

B. 17-point criminal violations:

(1) hunting big game outside the ranch boundaries for which a ranch only license is issued or hunting big game in the wrong game management unit, in violation of Section 17-2-7 NMSA 1978;

(2) hunting on public land (lands owned by the U.S. government, state of New Mexico, state land office or New Mexico game commission) with a license which was valid only on private land; or

(3) accessory to any of the above.

C. 15-point criminal violations:

(1) illegally taking, attempting to take, killing, or capturing of any big game species during hunting season;

(2) illegally taking, attempting to take, killing, capturing or possessing any turkey or small game outside of hunting season in violation of Section 17-2-7 or 17-3-33 NMSA 1978;

(3) exceeding the bag limit of big game;

(4) shooting at any protected species from a vehicle;

(5) shooting at any protected species from a roadway, as provided in rule;

(6) harassing a protected species by use of or from a motor-driven vehicle;

(7) any violation of Section 17-3-45 NMSA 1978 involving non-protected species;

(8) illegal use of an aircraft or drone to locate, harass, drive or rally a protected species;

(9) hunting with a license obtained through the special drawing pool without being accompanied by, and contracted with, a New Mexico outfitter or their guide;

(10) applying or aiding any person in applying in the special drawing pool with an unregistered or unqualified outfitter number;

(11) importation of any species in violation of Section 17-3-32 NMSA 1978 without a permit; or

(12) accessory to any of the above violations.

D. 10-point criminal violations:

(1) illegal possession of any big game species during hunting season;

(2) hunting in a closed area;

(3) hunting, taking or attempting to take protected game, game fish, or furbearers on private land, without written permission, in violation of Chapter 17 NMSA 1978 and its implementing rules;

(4) illegal possession of any heads, horns or antlers of a protected species found in the field;

(5) procurement or possession of any additional big game license or carcass tag, except as provided by rule;

(6) fail to properly tag big game species or turkey with a carcass or antler tag as prescribed;

(7) using an invalid or voided carcass or antler tag;

(8) using a carcass or antler tag of any other person;

(9) illegally

taking, attempting to take, killing, capturing or possessing of any turkey or small game during hunting season;

(10) hunting turkey without a license;

(11) exceeding the bag limit of small game;

(12) exceeding the bag limit of fish;

(13) unlawfully using dogs while hunting big game or turkey;

(14) retention of live animals;

(15) refusing or failing to produce an outfitter contract or not having a signed contract prior to hunting;

(16) applying or allowing someone to apply in the special drawing pool without a contract; or

(17) accessory to any of the above violations.

E. seven-point criminal violations:

(1) fishing without a license;

(2) illegal possession of fish;

(3) hunting small game without a license; or

(4) hunting or collecting non-game without a license or permit.

F. five-point criminal violations:

(1) failure to provide sufficient guides; or

(2) any provision of Chapter 17 NMSA 1978 and its implementing rules not specifically listed herein.

G. three-point criminal violations:

(1) hunting, fishing or trapping without proper stamps; or

(2) using any department issued permit without possessing the proper stamps.

[19.31.2.8 NMAC - Rp, 19.31.2.9 NMAC, 12-19-2017]

19.31.2.9 ADMINISTRATIVE REVOCATION CATEGORIES AND POINTS: In addition to

criminal points, outfitters, guides, outfitter and guide applicants, landowners, authorized ranch contacts or any person who submits a false harvest report may be assessed administrative revocation points for violations provided below. Any person with 20 or more points accumulated within any consecutive three-year period shall have the associated privileges, licenses or registrations subject to revocation or suspension. An outfitter, guide or applicant's administrative revocation points shall only be against their outfitting or guiding registration unless they have accumulated 20 or more criminal revocation points. Administrative revocation points for landowners or their authorized ranch contact shall only be for the revocation or suspension of their private land program participation privileges unless they have accumulated 20 or more criminal revocation points.

A. 20 points:

(1) outfitter or guide failure to comply with registration audit or conditions;

(2) outfitter or guide misrepresentation;

(3) outfitter or guide failure to disclose;

(4) landowner's or authorized ranch contact's misrepresentation or violation of the conditions of a contract, application or agreement with the department.

(5) any person submitting, or allowing to be submitted for them, false or fraudulent harvest reporting information as required by rule.

B. 10 points:

(1) outfitting on state or federal lands without a proper permit or authorization;

(2) outfitter breach of contract; or

(3) outfitter, guide, landowner or authorized ranch contact failure to report illegal activity.

C. five points:

(1) outfitter or guide violation of any conditions

of a state or federal permit or authorization;

(2) outfitter or guide failure to comply with any local, state, or federal laws other than outfitting on state or federal lands without a proper permit or authorization;

(3) outfitter failure to supervise guides; or

(4) any outfitter and guide misconduct not otherwise specifically listed herein.

D. outfitters, guides and landowners or their authorized ranch contact shall be notified when points are assessed.

[19.31.2.9 NMAC - Rp, 19.31.2.9 NMAC, 12-19-2017]

19.31.2.10 TIMEFRAME: Paragraph 11 of Subsection B of Section 17-1-14 NMSA 1978 provides that the commission shall establish procedures for the suspension, revocation, or withholding of license, permit, certificate and registration privileges for a definite period of time.

A. Any person found to have accumulated 20 or more points within any consecutive three-year period in violation of Chapter 17, its implementing rules, or Section 30-14-1 NMSA 1978, after notice and opportunity to be heard by a hearing officer, shall have his or her license, permit, certificate, registration, and privilege to hold such, revoked for a definite period of time, unless otherwise provided for by law.

B. Any person, who, after having had their privileges revoked, is found to have accumulated 20 or more points within any consecutive three-year period in violation of Chapter 17 or its implementing rules, for a second time, after notice and opportunity to be heard by a hearing officer, shall have his or her license, permit, certificate, registration and privilege to hold such, revoked for up to five years, unless otherwise provided for by law, and provided that any revocation under this section shall commence consecutively to any current revocation.

C. Any person, who, after having had their privileges revoked for a second time, is found to have accumulated 20 or more points within any consecutive three-year period in violation of Chapter 17 or its implementing rules, for a third or subsequent time, shall have his or her license, permit, certificate, registration and privilege to hold such, revoked for up to seven years, unless otherwise provided for by law, and provided that any revocation under this section shall commence consecutively to any current revocation.

D. Any person found to have taken or killed a bighorn sheep, ibex, oryx, barbary sheep, elk, deer, or pronghorn antelope, without a valid license or during closed season, which results in the unnecessary or wanton waste of game, shall have his or her license, permit, certificate, registration and privilege to hold such, revoked for up to seven years, unless otherwise provided for by law, and provided that any revocation under this section shall commence consecutively to any current revocation.

E. Any person found to have taken or killed a bighorn sheep, ibex, oryx, barbary sheep, elk, deer, or pronghorn antelope, without a valid license or during closed season, which results in the unnecessary or wanton waste of game, for a second or subsequent time, shall have his or her license, permit, certificate, registration and privilege to hold such, revoked for up to 10 years, unless otherwise provided for by law, and provided that any revocation under this section shall commence consecutively to any current revocation.

F. Any person that buys, sells, trades or attempts to buy, sell or trade illegal wildlife or the parts thereof, or aids and abets in this activity, shall have his or her license, permit, certificate, registration and privilege to hold such, revoked for up to five years, unless otherwise provided for by law, and provided that any revocation under this section shall commence consecutively to any current revocation.

G. Any person that buys, sells, trades or attempts to buy, sell or trade illegal wildlife or the parts thereof, or aids and abets in this activity, for a second or subsequent time, shall have his or her license, permit, certificate, registration and privilege to hold such, revoked for up to seven years, unless otherwise provided for by law, and provided that any revocation under this section shall commence consecutively to any current revocation.

H. Any person found to not comply with a department sponsored private lands agreement shall have his or her private lands program privileges revoked for up to three years.

I. Any person not in compliance with the Parental Responsibility Act (Section 40-5A-1 NMSA 1978) or the Wildlife Violator Compact (Section 11-16-1 NMSA 1978) shall have his or her license, permit, certificate, and privilege to hold such, revoked or suspended for the timeframe designated and allowed by law.

J. The commission may revoke a person's license, permit, certificate, registration and privilege to hold such, for any definite period of time they deem appropriate if they determine that the person has committed a flagrant or egregious violation of Chapter 17 or its implementing rules, and provided that any revocation under this section shall commence consecutively to any current revocation.

K. If the department fails to initiate (initiation shall be calculated based on the post mark on the notice of contemplated action letter) a revocation or suspension action against an individual within one year of the date that the individual is either convicted of an act or accepts a penalty assessment misdemeanor, which results in the accumulation of 20 or more points, the department shall not bring a revocation or suspension action against that individual unless and until that individual is either convicted of an additional violation or accepts an additional penalty assessment

misdemeanor of any point value within three years of the most recent point accrual originally equaling or exceed 20 points.

[19.31.2.10 NMAC - Rp, 19.31.2.8 NMAC, 12-19-2017]

19.31.2.11 REVOCATION AND SUSPENSION

PROCEDURES: The department shall mail out a notice of contemplated action ("NCA") when it determines that there is sufficient evidence that a person has accumulated 20 or more points, or when the commission is contemplating revoking a landowner's or authorized ranch contact's privileges to participate in any department sponsored private land program. The commission grants approval to the department, through the director, to initiate this process without commission consideration. However, the commission retains all authority for final decisions. The NCA shall clearly describe the action that the commission is contemplating, and shall contain a statement that includes the following.

A. Sufficient evidence: That the department of game and fish has sufficient evidence which, if not rebutted or explained, will justify the commission taking the contemplated action.

B. Hearing may be requested: That the respondent may secure a hearing before a hearing officer designated by the commission by depositing in the mail within 20 days after service of the notice, a certified, return receipt requested letter addressed to the department at PO Box 25112, Santa Fe, NM 87504, and containing a request for a hearing.

C. Rights of respondent: Calling the attention of the respondent to his or her rights under Section 17-3-34 NMSA 1978 and this rule.
[19.31.2.11 NMAC - N, 12-19-2017]

19.31.2.12 NO HEARING

REQUESTED: If a respondent does not mail a request for a hearing within the time frame and in the manner required by this

rule or the NCA is returned as undeliverable or unclaimed at the address the department has on file, the commission may take the action contemplated in the notice and such action shall be final and not subject to judicial review.

A. The commission shall consider the department's submission of names of respondents who have not requested a hearing at a properly scheduled commission meeting and those license(s), permit(s), certificate(s), registration(s), landowner agreement(s), or application(s) shall be automatically revoked and associated privileges suspended pursuant to this rule.

B. Within 15 days after the commission's decision is rendered and signed by the chairman of the commission, the department shall serve upon the respondent a copy of the written decision.

[19.31.2.12 NMAC - Rp, 19.31.2.11 NMAC, 12-19-2017]

19.31.2.13 HEARING

REQUESTED: If a respondent requests a hearing as provided by this rule, the department, within 20 days of receipt of such request, shall notify the respondent of the time and place of the hearing, the name or names of the person or persons who shall conduct the hearing for the commission, and the statutes and rules authorizing the commission to take the contemplated action. The hearing shall be held not more than 90 or less than 30 days from the date of service of such notice unless a continuance is granted to either party by the hearing officer. If a continuance has been requested by the department and granted by the hearing officer the hearing shall be rescheduled within 60 days from the original hearing date. If a continuance has been requested by the violator and granted by the hearing officer all timelines are waived for the hearing. Continuances may only be granted for good cause. The decision to grant or deny a continuance is at the sole discretion of the hearing officer.

[19.31.2.13 NMAC - Rp, 19.31.2.12

NMAC, 12-19-2017]

19.31.2.14 RIGHTS OF A PERSON REQUESTING A HEARING:

A person entitled to be heard under this rule shall have the right to be represented by counsel or may appear on his or her own behalf; to present all relevant evidence by means of witnesses, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues. All notices issued pursuant to this rule shall contain a statement of these rights.

A. Written request: Upon written request to another party, any party is entitled to:

(1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and

(2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing.

B. Response time frame: The party to whom such a request is made shall comply with the request within 10 days after the mailing or delivery of the request. No such request shall be made less than 15 days before the hearing.

C. Stipulated agreements: A person entitled to be heard under this rule may enter into a written stipulated agreement with the department. Signing such an agreement shall waive the person's right to a hearing and the filing of a written exception. The agreement shall be presented to the commission as the department's recommendation and the commission retains authority for the final decision.

[19.31.2.14 NMAC - Rp, 19.31.2.13 NMAC, 12-19-2017]

19.31.2.15 METHOD OF

SERVICE: Any notice or decision required by this rule shall be served by certified mail, return receipt requested, directed to the holder of a license, permit, registration or certificate, landowner agreement or applicant thereof, at his or her

last known address as shown by the records of the department of game and fish.

[19.31.2.15 NMAC - Rp, 19.31.2.14 NMAC, 12-19-2017]

19.31.2.16 REVOCATION

NOTICE OF SERVICE: Notice by certified mail shall be deemed to have been served on the date born by the return receipt showing delivery or the last attempted delivery of the notice or decision to the addressee or refusal of the addressee to accept delivery of the notice or decision.

[19.31.2.16 NMAC - Rp, 19.31.2.15 NMAC, 12-19-2017]

19.31.2.17 VENUE: Hearings held under this rule shall be conducted in Santa Fe county or Bernalillo county, New Mexico. Under exigent circumstances, and at the discretion of the hearing officer, the hearing may be held in another county in New Mexico. Hearings may be conducted in person or telephonically. Witnesses may appear in person or telephonically.

[19.31.2.17 NMAC - Rp, 19.31.2.16 NMAC, 12-19-2017]

19.31.2.18 HEARING OFFICER:

A. Conducts hearing: All hearings under this rule shall be conducted by a hearing officer who is designated by the commission.

B. Disqualification of hearing officer: The hearing officer may be disqualified as provided for under the rules of civil procedure by filing of an affidavit of disqualification.

[19.31.2.18 NMAC - Rp, 19.31.2.17 NMAC, 12-19-2017]

19.31.2.19 HEARING OPEN TO THE PUBLIC: All hearings conducted under this rule shall be open to the public.

[19.31.2.19 NMAC - Rp, 19.31.2.18 NMAC 12-19-2017]

19.31.2.20 HEARING INTERPRETER PROVIDED:

The commission shall provide an interpreter for individuals requesting

a hearing who provide proof of hearing impairment to the extent that he/she cannot understand voice communications.

[19.31.2.20 NMAC - Rp, 19.31.2.19 NMAC 12-19-2017]

19.31.2.21 LANGUAGE INTERPRETER PROVIDED:

The commission shall provide an interpreter for individuals requesting a hearing who provide proof of inability to comprehend English well enough to understand the proceedings.

[19.31.2.21 NMAC - Rp, 19.31.2.20 NMAC, 12-19-2017]

19.31.2.22 RULES OF EVIDENCE:

The hearing officer shall consider a copy of a conviction, certified by the clerk of the court entering the conviction, as conclusive evidence of a violation of Chapter 17 NMSA 1978, its implementing rules, or Section 30-14-1 NMSA 1978. In cases where magistrate court records associated with a conviction are not available, the official form of the records maintained by either the magistrate court or the department of game and fish shall be admissible. These records shall also stand as conclusive evidence of a violation of Chapter 17 NMSA 1978, its implementing rules, or Section 30-14-1 NMSA 1978. In the case of hearings in which a criminal conviction is not germane, the standard of proof shall be a preponderance of the evidence.

A. Admission of evidence: In proceedings held under this regulation, the hearing officer may admit any evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent people in the conduct of serious affairs. The hearing officer may, at his discretion, exclude incompetent, irrelevant, immaterial and unduly repetitious evidence. Documentary evidence may be received in the form of copies or excerpts.

B. Judicial notice: The hearing officer may take notice of judicially cognizable facts.

C. Rules of privilege:

The rules of privilege shall be effective to the extent that they are required to be recognized in civil actions in district courts of the state of New Mexico.

D. Mitigating circumstances: The hearing officer may consider mitigating, extenuating, and aggravating circumstances surrounding the violations of game and fish laws and rules to determine the recommended period of the revocation or suspension.

[19.31.2.22 NMAC - Rp, 19.31.2.21 NMAC, 12-19-2017]

19.31.2.23 HEARING AND POST-HEARING PROCEDURES:

A. Record of hearing: In all hearings conducted under this rule, the hearing officer shall cause a complete record to be made by tape or digital audio recording and shall preserve all evidence received. The hearing officer shall observe any standards pertaining to tape or digital audio recordings established for the district courts of this state.

B. Post-hearing briefs: The hearing officer may require post-hearing briefs and the preparation and submittal to the hearing officer of proposed findings of fact and conclusions of law.

C. Hearing officer's report: Within 30 days of any hearing, the hearing officer shall make and submit to the department a report setting forth his findings of fact, conclusions of law, and recommended decision.

D. Report copies to parties: The department shall serve a copy of the recommended decision on the parties by certified mail with return receipt requested.

E. Filing of exceptions to hearing officer's report: The parties to the proceeding may file exceptions, with supporting briefs, to a hearing officer's recommended decision within a time period set by the hearing officer or within 30 days of the hearing if not otherwise specified by the hearing officer.

F. Exceptions and briefs served on all parties: Copies

of exceptions to the hearing officer's recommended decision and any briefs shall be served simultaneously on all parties, and a statement of such service may be furnished to the hearing officer.

G. Exceptions and briefs-requirements: Any exception not specifically made shall be considered waived. Any exception that fails to comply with the foregoing requirements may be disregarded. Any brief in support of exceptions shall not contain matter not related to and within the scope of the exceptions.
[19.31.2.23 NMAC - Rp, 19.31.2.22 NMAC 12-19-2017]

19.31.2.24 FINAL DECISION OF THE COMMISSION:

A. Review and consideration of hearing officer's report and filed exceptions: After a hearing has been completed, the commission shall review and consider the hearing officer's report and any filed exceptions to the recommended decision.

B. No oral arguments; no new evidence: The commission shall not permit any oral arguments. The commission shall not consider any evidence outside of the hearing officer's report and filed exceptions.

C. Final decision: The commission's final decision shall be made by a quorum of the commission at a properly scheduled commission meeting.

D. Written decision served: Within 15 days after the commission's decision is rendered and signed by the chairman of the commission, the department shall serve upon the respondent a copy of the written decision.
[19.31.2.24 NMAC - Rp, 19.31.2.23 NMAC 12-19-2017]

19.31.2.25 JUDICIAL REVIEW: In accordance with Section 17-3-34 NMSA 1978, any person whose license, permit, certificate, registration or landowner agreement has been revoked by the commission may appeal to the district

court for further relief. Upon appeal, the district court shall set aside the decision only if it is found to be:

A. arbitrary, capricious, or an abuse of discretion;

B. not supported by substantial evidence in the record; or

C. otherwise not in accordance with law.

[19.31.2.25 NMAC - Rp, 19.31.2.24 NMAC, 12-19-2017]

19.31.2.26 WILDLIFE VIOLATOR COMPACT SUSPENSION AND REVOCATION:

Any person whose name appears on the wildlife violator compact list or who has been revoked by another wildlife violator compact member state and is in accordance with Subsection B of Section 17-2-10.3 NMSA 1978 shall have his or her license, permit, certificate or registration privileges immediately revoked or suspended. Any resident who fails to comply with the terms of a citation including failure to appear, from a member state shall have his or her license, permit, certificate or registration immediately withheld or suspended until they have complied with the court appearance or citation requirements in the other state. The information provided by the board of wildlife violator compact administrators or their designee shall be deemed sufficient to allow the department by and through its director to send the same violator a notice of commission contemplated action.

Revocation proceedings and hearings shall be in accordance with this rule.

A. Default orders for failure to request a hearing: In the event a respondent does not request a hearing within 20 days of the date that notice was mailed, the director may administer the suspension or revocation under 19.31.2.26 NMAC without further commission consideration.

B. The department shall notify the commission of the number of individuals revoked or suspended pursuant to Subsection A of Section 19.31.2.26 NMAC at a properly scheduled commission meeting after the director has taken

action to revoke or suspend such individuals.

[19.31.2.26 NMAC - Rp, 19.31.2.25 NMAC, 12-19-2017]

19.31.2.27 SUSPENSION:

The Parental Responsibility Act ("PRA"), Section 40-5A-1 NMSA 1978, provides that the commission shall suspend the license, permit, certificate or registration, and the associated privileges of any person not in compliance with the PRA, and allows the reinstatement of such privileges at any time that the obligor comes into compliance. Chapter 17 NMSA 1978 provides that the commission shall suspend the license, permit, or certificate, and the associated privileges of any person who fails to pay a penalty assessment or a civil judgment, until the assessment or judgment is paid in full.

[19.31.2.27 NMAC - Rp, 19.31.2.26 NMAC, 12-19-2017]

19.31.2.28 PARENTAL RESPONSIBILITY ACT: Any person found to be in violation of the PRA, after notice and an opportunity for review by a hearing officer, shall have his or her license, permit, certificate, or registration and associated privileges suspended until he or she provides a certificate of compliance from the human services department and has paid the reinstatement fee.

A. Notice procedures: When the department receives a human services department certified list of obligors not in compliance with the PRA, the director may send a NCA to the listed obligors. The department shall send a NCA as required by this section to any named obligor who holds a license, permit, certificate, or registration. The NCA, sent by certified mail with return receipt requested, shall consist of a written notice advising the obligor that the department has grounds to take action, and that on behalf of the commission, it shall suspend the obligors license(s), permit(s), certificate(s) or registration(s), and the privileges thereof, unless the obligor:

(1) files a timely written request for a hearing protesting the proposed suspension within 30 days from the date that the notice is mailed; or

(2) provides the department, within 30 days from the date the notice is mailed, with a valid certificate of compliance from the human services department.

B. Hearing

procedures: The obligor may request a hearing by filing a written request for hearing protesting the proposed suspension of the license, permit, certificate or registration, and the privileges thereof.

(1) The request for hearing must be filed within 30 days from the date the notice is mailed. The request shall be mailed to Law Enforcement Division, New Mexico Department of Game and Fish, PO Box 25112, Santa Fe, NM 87504.

(2) The commission, through the department, shall appoint a hearing officer.

(3) The department, within 20 days of receipt of such request, shall notify respondent, of the time and place of the hearing, the name or names of the person or persons who shall conduct the hearing for the commission, and the statutes and rules authorizing the commission to take the contemplated action. The hearing shall be held not more than 90 or less than 30 days from the date of mailing of such notice.

(4) The hearing officer shall make and preserve a record of the proceedings as prescribed in Section 22 of this rule.

(5) An obligor may appear at a hearing on their own behalf or be represented by an attorney.

(6) Hearings may be conducted in person or telephonically. Witnesses may appear in person or telephonically.

(7) Hearings may be postponed or continued at the discretion of the hearing officer. If a continuance has been requested

by the department and granted by the hearing officer the hearing shall be rescheduled within 60 days from the original hearing date. If a continuance has been requested by the violator and granted by the hearing officer all timelines are waived for the hearing. Continuances may only be granted for good cause. The decision to grant or deny a continuance is at the sole discretion of the hearing officer.

(8) In proceedings held under this rule, the hearing officer may admit any evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent people in the conduct of serious affairs. The hearing officer may, at his discretion, exclude incompetent, irrelevant, immaterial and unduly repetitious evidence. Documentary evidence may be received in the form of copies or excerpts. The hearing officer may take notice of judicially cognizable facts.

(9) The issues to be decided at the hearing are limited to whether the respondent is:

(a) in compliance with a judgment and order for support;

(b) in compliance with a subpoena or warrants relating to paternity or child support proceedings; and

(c) the person whose name appears on the certified list sent to the department from human services department.

(10) In any hearing under this section, relevant evidence shall be limited to the following:

(a) a valid certificate of compliance, if one has been issued between the date of the notice and the hearing date;

(b) evidence of compliance with a judgment or order of support, subpoena or warrant relating to paternity or child support proceedings to rebut the absence of a certificate of compliance in cases in which the licensee, permittee, or certificate

holder, has cured any non-compliance with a judgment or order of support, subpoena or warrant after the notice date but before the date of hearing;

(c) evidence that the respondent is not the same person as the person whose name appears on the certified list of obligors sent to the department by human services department; and

(d) in lieu of a hearing, a respondent may present a valid certificate of compliance to the department and the suspension proceedings will cease.

(11) Within 30 days of any hearing, the hearing officer shall make and submit to the department a report setting forth his findings of fact, conclusions of law and recommended decision.

(12) The department shall serve copies of the recommended decision to the parties by certified mail with return receipt requested.

(13) In accordance with the PRA, the commission shall suspend the license, permit, certificate, registration, and associated privileges of any obligor determined not to be in compliance, until such time as the obligor becomes in compliance.

C. Default orders for failure to request a hearing:

In the event an obligor does not request a hearing, or provide proof of compliance within 30 days of the date the notice was mailed, the director may administer the suspensions without further commission consideration.

D. Notification to the commission: The department shall notify the commission of the number of individuals suspended pursuant to Subsection C of Section 28 of 19.31.2 NMAC at a properly scheduled commission meeting after the director has taken action to suspend such individuals.

E. Reinstatement fee: Any person whose license, permit, certificate, or registration, has been suspended in accordance with the PRA shall be reinstated after demonstrating proof of compliance

from the human services department, and having paid the department of game and fish a reinstatement fee of \$25.00 and all costs associated with his or her revocation hearing. The director has the authority to waive this fee in the case of unusual circumstances or clerical errors. [19.31.2.28 NMAC - Rp, 19.31.2.27 NMAC, 12-19-2017]

19.31.2.29 FAILURE TO PAY PENALTY ASSESSMENT OR CIVIL DAMAGE:

In accordance with Section 17-2-10.3 NMSA 1978 the hunting and or fishing license and associated privileges of a person who fails to pay a penalty assessment levied under Section 17-2-10.1 NMSA 1978 shall be suspended until the penalty assessment is paid in full. Any person who has had a civil judgment assessed against them pursuant to Section 17-2-26 NMSA 1978 shall have their license, permit, certificate or registration privileges suspended until those damages have been paid in full.

A. Notice procedures:

When the department determines that a person has failed to pay a penalty assessment pursuant to Section 17-2-10.2 NMSA 1978, or that a person has failed to pay damages pursuant to a civil judgment in accordance with Section 17-2-26 NMSA 1978, the director may serve a NCA to such persons. The department shall send a NCA by certified mail with return receipt requested. The NCA shall consist of a written notice advising the respondent that the department has grounds to take action, and that on behalf of the commission it shall suspend the license, permit, certificate or registration and any privileges thereof unless the person:

(1) files a timely written request for a hearing protesting the proposed suspension within 30 days from the date that the notice is mailed; or

(2) pays the penalty assessment or civil damages within 30 days from the date the notice is mailed.

B. Hearing procedures: The person may request

a hearing by filing a written request for hearing protesting the proposed suspension of the license, permit, or certificate, and the privileges thereof.

(1) The request for hearing must be filed within 30 days from the date the notice is mailed. The request shall be mailed to Law Enforcement Division, New Mexico Department of Game and Fish, PO Box 25112, Santa Fe, NM 87504.

(2) The commission, through the department, shall appoint a hearing officer.

(3) The department, within 20 days of receipt of such request, shall notify the respondent of the time and place of the hearing, the name or names of the person or persons who shall conduct the hearing for the commission, and the statutes and rules authorizing the commission to take the contemplated action. The hearing shall be held not more than 90 or less than 30 days from the date of mailing of such notice.

(4) The hearing officer shall make and preserve a record of the proceedings as prescribed in Section 22 of this rule.

(5) A person may appear at a hearing on their own behalf or be represented by an attorney.

(6) Hearings may be conducted in person or telephonically. Witnesses may appear in person or telephonically.

(7) Hearings may be postponed or continued at the discretion of the hearing officer. If a continuance has been requested by the department and granted by the hearing officer the hearing shall be rescheduled within 60 days from the original hearing date. If a continuance has been requested by the violator and granted by the hearing officer all timelines are waived for the hearing. Continuances may only be granted for good cause. The decision to grant or deny a continuance is at the sole discretion of the hearing officer.

(8) In

proceedings held under this rule, the hearing officer may admit any evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent people in the conduct of serious affairs. The hearing officer may, at his discretion, exclude incompetent, irrelevant, immaterial and unduly repetitious evidence. Documentary evidence may be received in the form of copies or excerpts. The hearing officer may take notice of judicially cognizable facts.

(9) The issues to be decided at the hearing are limited to whether the respondent:

(a) owes an outstanding penalty assessment or civil damages;

(b) is the person whose name appears on the list presented to the commission by the department.

(10) In any hearing under this section, relevant evidence shall be limited to the following:

(a) documentary evidence that the respondent owes an outstanding penalty assessment or civil damages;

(b) documentary evidence that the respondent has paid such penalty assessment or civil damages;

(c) evidence that the respondent is not the same person as the person whose name appears on the list presented to the commission;

(d) in lieu of a hearing, a respondent may pay the outstanding assessment or damages to the department and the suspension proceedings will cease.

(11) Within 30 days of any hearing, the hearing officer shall make and submit to the department a report setting forth his findings of fact, conclusions of law, and recommended decision.

(12) The department shall serve copies of the recommended decision to the parties by certified mail with return receipt requested.

(13)

The commission shall consider the recommendation of the hearing officer, and determine if the respondent shall have their license, permit, or certificate, and the privileges thereof suspended until such time as the outstanding assessment or damages are paid.

C. Default orders for failure to request a hearing: In the event a respondent does not request a hearing, or pay their outstanding assessment or damages within 30 days of the date that notice was mailed, the commission grants approval to the department through the director to administer a suspension without further commission consideration or notice.

D. Notification to the commission: The department shall notify the commission of the number of individuals suspended pursuant to Subsection C of Section 29 of 19.31.2 NMAC at a properly scheduled commission meeting after the director has taken action to revoke or suspend such individuals.

E. Reinstatement: Any person whose license, certificate, or permit, has been suspended in accordance with this section shall be reinstated after paying their outstanding assessments or damages. [19.31.2.29 NMAC - Rp, 19.31.2.28 NMAC, 12-19-2017]

HISTORY OF 19.31.2 NMAC:

NMAC History:
19.31.2 NMAC Hunting and Fishing License Revocation, filed 04/01/1995; amended 10/31/1998, 11/14/1998, 01/29/1999, 12/14/2001, 12/28/2001, 05/15/2002, 09/30/2002, 06/15/2006, 12/14/2006.

History of Repealed Material:

19.31.2 NMAC, Hunting and Fishing License Revocation, filed 12/03/2001 - Repealed effective 09-14-2012.
19.31.2 NMAC, Hunting and Fishing License Revocation, filed Repealed effective 12-19-2017.

GAME AND FISH, DEPARTMENT OF

TITLE 19 NATURAL RESOURCES AND WILDLIFE CHAPTER 31 HUNTING AND FISHING PART 4 FISHERIES

19.31.4.1 ISSUING
AGENCY: New Mexico Department of Game and Fish.
[19.31.4.1 NMAC - N, 04-01-2018]

19.31.4.2 SCOPE:
Sportfishing. Additional requirements may be found in Chapter 17 NMSA 1978 and Chapters 30 through 34 of Title 19 NMAC.
[19.31.4.2 NMAC - N, 04-01-2018]

19.31.4.3 STATUTORY
AUTHORITY: 17-1-14 and 17-1-26, and 17-2-1 NMSA 1978, provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected species.
[19.31.4.3 NMAC - N, 04-01-2018]

19.31.4.4 DURATION:
April 1, 2018 through March 31, 2022.
[19.31.4.4 NMAC - N, 04-01-2018]

19.31.4.5 EFFECTIVE
DATE: April 1, 2018, unless a later date is cited at the end of a section.
[19.31.4.5 NMAC - N, 04-01-2018]

19.31.4.6 OBJECTIVE:
Establishing open seasons, bag limits, and other rules pertaining to management and harvest of the fisheries resources of New Mexico.
[19.31.4.6 NMAC - N, 04-01-2018]

19.31.4.7 DEFINITIONS:
Specific terms as used in this regulation are defined.

A. "Angling" shall mean taking or attempting to take fish by hook and line, with the line held in the hand or attached to a pole or rod or other device that is held in the hand

or closely attended

B. "Bait fish" is defined as those nongame fish which are not otherwise protected by statute or regulation.

C. "Barbless lure or fly" shall mean an artificial lure made of wood, metal, or hard plastic or an artificial fly made from fur, feathers, other animal or man-made materials tied onto a hook to resemble or simulate insects, bait fish, or other foods. A fly or lure may only bear a single hook, from which any or all barbs must be removed or bent completely closed, or which are manufactured without barbs. Living or dead arthropods and annelids, or rubber or plastic moldings of these or other foods are not included.

D. Boundary descriptions

(1) "U.S.," as used in boundary descriptions herein, shall mean United States highway.

(2) "N.M.," as used in boundary descriptions herein, shall mean New Mexico state road.

(3) "I," as used in boundary descriptions herein, shall mean interstate highway.

E. "Chum" as used herein, is organic material that is not injurious to aquatic life and is used to attract fish.

F. "Daylight hours" shall mean from one-half hour before sunrise to sunset.

G. "Snagging" as used herein, is the intentional taking of fish with hooks, gang hooks, or similar devices where the fish is hooked in a part of the body other than the mouth.
[19.31.4.7 NMAC - N, 04-01-2018]

19.31.4.8 TROUT WATERS AND WARM WATERS:

A. Regular trout waters: The following are designated as regular trout waters: All streams, lakes and ponds within the following described areas except licensed class A lakes and lakes, ponds, and ranch tanks not fed by public waters and not open to public fishing.

(1) Northern area: That portion of New Mexico bounded by a line starting at

the intersection of I-25 with the Colorado-New Mexico state line and running south along I-25 to its junction with U.S. 64; thence, south and west on U.S. 64 to its junction with N.M. 58 at Cimarron; thence, south and east on N.M. 21 to its junction with I-25; thence, south, west, and southwest on I-25 and U.S. 84-85 to its junction with U.S. 285-84 at Santa Fe; thence, north on U.S. 285-84 to its intersection with N.M. 502; thence, west on N.M. 502 to the west bank of the Rio Grande; thence, southwesterly along the west bank of the Rio Grande to its intersection with N.M. 44 at Bernalillo; thence, north and west on N.M. 44 to its intersection with U.S. 550; thence, west on U.S. 550 to the west bank of the Animas river; thence, north along the west bank of the Animas river to the Colorado-New Mexico state line; thence, east along the state line to its intersection with I-25. (Except the San Juan river from U.S. 64 bridge at Blanco downstream to N.M. 44 bridge at Bloomfield).

(2) Ruidoso area: That portion of New Mexico bounded by a line starting at the junction of U.S. 54 and N.M. 506 and running north on U.S. 54 to its intersection with U.S. 380 at Carrizozo; thence, east on U.S. 380 to its junction with N.M. 246 at Capitan; thence, north and east on N.M. 246 to the eastern boundary of the Lincoln national forest; thence, south to Tinnie; thence, west on U.S. 380 to Hondo; thence, south on a north-south line to the junction of N.M. 24 and U.S. 82 north of Dunkin; thence south and west on N.M. 24 to Piñon; thence, south approximately one mile to N.M. 506; thence, west along N.M. 506 to its junction with U.S. 54 at Paxton.

(3) Gila area: That portion of New Mexico bounded by a line starting at the junction of U.S. 180 with the Arizona-New Mexico state line and running north along the state line to its intersection with U.S. 60; thence, east on U.S. 60 to its junction with N.M. 52 west of Magdalena; thence, south on N.M. 52 to Winston and west along the road

to Chloride and the eastern boundary of the Gila national forest; thence, south along the forest boundary to its intersection with N.M. 152 east of Kingston; thence, west on N.M. 152 to its junction with U.S. 180 at Central; thence, west and northwest on U.S. 180 to its junction with the Arizona-New Mexico state line. (Except Bear Canyon lake and Rancho Grande ponds.)

(4) in Sandoval county: all of Las Huertas (Ellis creek);

(5) in San Juan county: the Animas river from the 550 highway bridge in the city of Aztec and downstream to its confluence with the San Juan river;

(6) in Torrance county: all of Tajique creek;

(7) in Cibola county: Bluewater creek;

(8) Pecos river from I-25 south to the southeast boundary of Villanueva state park;

(9) the following lakes, ponds, and reservoirs: Alice, Aztec pond, Bluewater, Blue Hole Park ponds, Chiuilla well, Clayton, lake Farmington, Jackson, Maloya, Maxwell lake 13, McGaffey, Manzano, and Ramah.

B. Winter trout

waters: The following are designated as winter trout waters from November 1 through March 31 of the effective years: Sumner lake stilling basin (De Baca county); that portion of the Black river extending from one mile upstream to one mile downstream of Higby hole and located in Sections 8 and 9, T. 24 S., R. 28 E., N.M.P.M. (Eddy county); that portion of the Pecos river from the southeast boundary of Villanueva state park downstream to, but not including Santa Rosa lake (Guadalupe and San Miguel counties); Rio Grande from Elephant Butte dam downstream to Caballo lake (Sierra county); the following drains: Albuquerque, Atrisco, Belen Riverside, Bernalillo, Corrales, Peralta, and Tome (Bernalillo, Sandoval, and Valencia counties); and the following lakes: Alumni pond (Dona Ana county),

Bataan (Eddy county), Bear Canyon (Grant county), Bill Evans (Grant county), Bosque Redondo (De Baca county), Bottomless lakes (Chavez county), Burn (Dona Ana county), Carlsbad municipal (Eddy county), Carrizozo (Lincoln county), Chaparral (Lea county), Conservancy park/ Tingley beach (Bernalillo county), Corona (Lincoln county), Dennis Chavez pond (Curry county), Escondida (Socorro county), Eunice (Lea county), Grants river walk pond (Cibola county), Greene Acres (Curry county), Green Meadow (Lea county), ponds on Harry McAdams park (Lea county), Jal (Lea county), Liam Knight pond (Sandoval county), Ned Houk lakes (Curry county), Oasis park (Roosevelt county), Perch (Guadalupe county), Rancho Grande ponds (Catron county), Roswell kids pond (Chavez county), Van (Chavez county), and Young pond (Dona Ana county).

C. Warm waters:

“Warm waters”, as used herein, shall include all streams, lakes, and ponds except those designated as trout waters above, and except licensed class A lakes.

[19.31.4.8 NMAC - N, 04-01-2018]

19.31.4.9 SEASON DATES:

A. General seasons:

All trout and warm waters in New Mexico shall be open for the taking of game fish from April 1 through March 31 of the effective years, with the following exceptions:

(1) Special waters

(a) The following waters shall be open between 12 noon March 1 through 12 noon October 31: upper and lower Charette lakes, Maxwell lakes 13 and 14, and Clayton lake.

(b) All waters in the Valle Vidal (Vermejo tract of the Carson national forest) shall be open from July 1 through December 31.

(c) Laguna del Campo at Los Ojos trout hatchery shall be open from May 1 through October 31.

(d)

Red River city ponds shall be open from March 1 through November 15.
(e)

Black Canyon creek in Grant county upstream from lower Black Canyon campground and Mogollon creek in Grant and Catron counties upstream from waterfall barrier near intersection of FS trail 153 to confluence of Trail canyon shall be open from July 1 through October 31.
(f)

All waters on the Valles Caldera national preserve shall be open from May 1 to October 15.

(2) Waters on national wildlife refuges waters on U.S. national wildlife refuges shall be open for the taking of game fish in accordance with regulations of the U.S. fish and wildlife service; provided that season dates shall be from April 1 through March 31, on those national refuges for which the fish and wildlife service has not regulated season dates.

B. Special Kokanee salmon seasons, dates, and location:

(1) The following waters shall be open October 1 through December 31 for the special Kokanee salmon season: Abiquiu reservoir, Chama river from El Vado lake upstream to the west boundary of the Rio Chama wildlife and fishing area, Eagle Nest lake, El Vado lake, and Navajo lake including the Pine river except as otherwise specified in Paragraph (3) of Subsection B. of 19.31.4.9 NMAC.

(2) Heron lake shall be open for the special Kokanee salmon season from the second Friday in November through December 31.

(3) Heron lake, including the Willow creek tributary, and the buoyed "no wake" areas at the Pine boat ramp and Sims mesa boat ramp at Navajo lake, including the shoreline within the "no wake" areas, shall be closed to Kokanee salmon fishing between October 1 and the second Thursday of November. If November 1 is a Friday, then these waters shall be closed to Kokanee salmon fishing between October 1 and the first Thursday of November. It shall be

unlawful to fish for, snag, or possess Kokanee salmon in these areas during the closure period.
[19.31.4.9 NMAC - N, 04-01-2018]

19.31.4.10 HOURS OF FISHING:

A. Day and night fishing for all species of game fish shall be permitted in all waters during the open season, except Alto, Bonito, Butler street, and Eagle Nest lake where fish may be taken or fished for only between the hours of 5 a.m. and 10 p.m.; and U.S. fish and wildlife service waterfowl refuges where fish may be taken or fished for only during the hours posted at the refuge.

B. Laguna del Campo located at Los Ojos trout hatchery, Red River hatchery pond at the Red River state fish hatchery, Glenwood pond at the Glenwood state fish hatchery, and waters within the Valle Vidal portion of the Carson national forest shall be during **daylight hours only**.

C. Fishing at Ned Houk park lakes and Greene Acres shall be during the hours posted by the city of Clovis.

D. Fishing at Santa Cruz lake shall be between the hours of 6 a.m. and 10 p.m.

E. Fishing at Conservancy park/Tingley beach shall be only between sunrise and sunset.
[19.31.4.10 NMAC - N, 04-01-2018]

19.31.4.11 DAILY BAG, POSSESSION LIMITS AND REQUIREMENTS OR CONDITIONS:

A. Trout:
(1) Waters with reduced bag limit: No person shall fish waters regulated for reduced limits while having in excess of that limit in possession.

(2) Brown, rainbow, cutthroat, Gila, lake, brook trout and Kokanee salmon:

(a) The daily bag limit shall be five trout and no more than 10 trout shall be in possession, unless otherwise specified in Paragraph (4) of Subsection A. of

19.31.4.11 NMAC.

(b) The daily bag limit for cutthroat trout shall be two trout and no more than two cutthroat trout may in possession. Cutthroat trout are included in the bag and possession limits for trout explained in Subparagraph (a) of Paragraph (2) of Subsection A. of 19.31.4.11 NMAC.

(c) The daily bag limit for lake trout shall be two trout and no more than four lake trout shall be in possession. Lake trout are included in the bag and possession limits for trout explained in Subparagraph (a) of Paragraph (2) of Subsection A. of 19.31.4.11 NMAC.

(3) Special Kokanee salmon season: During the special Kokanee salmon season, the daily bag limit shall be 12 Kokanee salmon in addition to the daily bag limit for trout, and no more than 24 Kokanee salmon may be possessed in addition to the possession limit for trout. It shall be unlawful to possess Kokanee salmon at Heron lake during the closed Kokanee salmon season.

(4) On certain waters the following exceptions shall apply:

(a) Special trout waters - waters, hereafter referred to as "Special Trout Waters", the following exceptions shall apply:

Continued on the following page

(i)

No fish may be kept or held in possession while fishing in the portions of the following waters:

Water name	Portion	County	Exception
Tingley beach south pond	Within the Albuquerque conservancy park	Bernalillo	
Mogollon creek	Upstream from waterfall barrier near intersection of FS trail 153 to confluence of Trail canyon	Catron and Grant	
Cimarron river	From the lower end of Tolby campground downstream approximately 1.4 miles to the first bridge of N.M. 64	Colfax	
Leandro creek	Within the Valle Vidal (Vermejo tract-Carson national forest)	Colfax	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Any stream on the Valle Vidal	Vermejo tract-Carson national forest	Colfax and Taos	
Black canyon	From the forest road 150 (North Star Mesa road) crossing to its headwaters	Grant	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Pecos river	In the Pecos wilderness, above Pecos falls	Mora	
Rio Valdez	In the Pecos wilderness from the waterfall barrier 0.8 miles below FS trail 239 upstream to its headwaters	Mora	
Rito del Padre	From fish migration barrier located about 0.3 miles upstream of the confluence with the Rito Sebadillo upstream to its headwaters including Rito de los Chimayosos	Mora	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
West fork Luna creek	From the Carson national forest property boundary upstream to its headwaters	Mora	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Jack's creek	From the water falls located 0.25 mile downstream of NM highway 63 crossing upstream to its headwaters	Mora and San Miguel	
Canada Tio Grande	Within the Carson national forest excluding private land	Rio Arriba	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Nabor creek and Nabor lake	Within the Edward Sargent wildlife area	Rio Arriba	
Rio Chama	From the United States geological survey gaging station located 1.3 miles downstream of El Vado lake dam downstream approximately 3 miles to its confluence with the Rio Nutrias	Rio Arriba	
Rio de Las Vacas	From fish migration barrier located about 0.2 miles upstream of FS road 70 crossing to its headwaters	Rio Arriba	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Tanques creek	From FS road 93 crossing upstream to its headwaters	Rio Arriba	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Rio Cebolla	From the Seven Springs day use area upstream to the headwaters including McKinney pond	Rio Arriba and Sandoval	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited

Rio Santa Barbara	From the west fork and middle fork confluence upstream to its headwaters including the east fork	Rio Arriba and Taos	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
San Juan river	From Navajo dam downstream approximately 3.75 miles to the Crusher Hole day use are (east side of section 16)	San Juan	
Capulin creek	From its confluence with the Rio Grande to its headwaters	Sandoval	
Rio las Animas	Within the Gila national forest, Black range ranger district excluding private land	Sierra	
Cabresto creek	From Cabresto canyon upstream to its headwaters not including lake fork and Cabresto lake	Taos	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Columbine creek	From its confluence with the Red river upstream to its headwaters	Taos	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Frijoles creek	From its confluence with Rito de la Olla upstream to its headwaters	Taos	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Gavilan creek	From its confluence with the Rio Hondo upstream to its headwaters	Taos	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Italianos creek	From its confluence with the Rio Hondo upstream its headwaters	Taos	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Palociento creek	From its confluence with Rito de la Olla upstream to its headwaters	Taos	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Rio Costilla	From its confluence with Latir creek upstream approximately 2.4 miles to the Valle Vidal tract of the Carson national forest	Taos	
South fork Rio Hondo	From its confluence with the Rio Hondo upstream to its headwaters	Taos	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Yerba creek	From the its confluence with the Rio Hondo upstream to its headwaters	Taos	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited

(ii)

The daily bag limit shall be two trout and no more than two trout shall be in possession while fishing in the portions of the following waters. Anglers must stop fishing in those waters when the daily bag limit is reached.

Water name	Portion	County	Exception
Gilita creek and tributaries	From its confluence with Snow creek upstream to its headwaters including Willow and Little Turkey creek	Catron	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Mineral creek	From its confluence with San Francisco river to its headwaters	Catron	
Whitewater creek	From Catwalk National Recreation Trail parking area upstream to headwaters including all tributaries	Catron	
Shuree lakes	Within the Valle Vidal (Vermejo tract-Carson national forest)	Colfax	

Vermejo river and its tributaries	From the Vermejo Park ranch boundary upstream to its headwaters	Colfax	bag and possession limits for rainbow trout, brown trout, and brook trout are unlimited
Rio Ruidoso	From Fridenbloom drive upstream to the boundary between the Mescalero Apache reservation and the city of Ruidoso	Lincoln	
All waters within or adjacent to the Edward Sargent wildlife area	Including the Rio Chamita, Sexton creek, and Rio Chama, excluding Nabor creek and Nabor lake	Rio Arriba	
Rio Chama	Within the boundaries of the Rio Chama wildlife and fishing area from Heron reservoir outlet 2.9 miles upstream to Cottonwood Flats	Rio Arriba	
Rio Chama	From the river crossing bridge on U.S. 84 at Abiquiu upstream 7.0 miles to the base of Abiquiu dam	Rio Arriba	
Pecos river	From approximately 0.5 mile upstream of its confluence with the Mora river (Mora-Pecos) upstream to approximately 0.2 miles downstream of the bridge crossing at Cowles	San Miguel	
All waters of the Valles Caldera national preserve		Sandoval	
Rio Guadalupe	From its confluence with Deer creek upstream 6.0 miles to Stable canyon	Sandoval	
Rio San Antonio	From the San Antonio hot springs pedestrian bridge upstream approximately 2.0 miles to the Valles Caldera National Preserve boundary	Sandoval	
Red River	From its confluence with Goose creek 1.1 miles upstream to the Carson national forest boundary	Taos	
Red River	From its confluence with the Rio Grande upstream to the lower walking bridge at Red River state fish hatchery	Taos	

(b) On the following waters the bag limit shall be four trout and no more than four trout shall be in possession; In Bernalillo county: the central pond and designated kids north pond at Conservancy park/ Tingley beach.

(c) On the following waters the bag limit shall be three trout and no more than three trout shall be in possession; In Rio Arriba county: Laguna del Campo at Los Ojos trout hatchery; In Taos county: the designated fish pond at Red River state fish hatchery; In Taos county: the Red River city ponds; In Taos county: Goose lake; In Sierra county: Rio Grande downstream of Elephant Butte dam.

B. Warm-water fishes: The daily bag limit for game fish other than trout shall be as listed below and the possession limit shall be twice the daily bag limit.

- (1) striped bass one fish;
- (2) largemouth, smallmouth, and spotted bass five fish;
- (3) walleye five fish;
- (4) crappie 20 fish;
- (5) white bass and white bass x striped bass hybrid 25 fish;
- (6) northern pike 10 fish;
- (7) catfish (all species, except bullheads) 15 fish;
- (8) yellow perch 30 fish;
- (9) tiger muskie (*Esox lucius* x *E. masquinongy*) one fish

(10) all other warm-water game species 20 fish.

C. The following exception shall apply:

(1) At Alto lake (Lincoln county); Alumni pond (Dona Ana county); Bataan lake (Eddy county); Blue Hole park pond (Guadalupe county); Bosque Redondo (De Baca county); Burn lake (Dona Ana county); Carrizozo lake (Lincoln county); Chaparral lake (Lea county); Conoco lake (Lea county); Conservancy park/Tingley beach (Bernalillo county); Corona lake (Lincoln county); Dennis Chavez pond (Curry county); Escondida lake (Socorro county); Estancia Park lake (Torrance county); Eunice lake (Lea county); Grants city pond (Cibola county); Green Meadow lake (Lea county); Greene Acres lake (Curry county); Jal lake (Lea county); lake Van (Chaves county); Liam Knight pond (Sandoval county); McGaffey lake (McKinley county); Ned Houk lakes (Curry county); Oasis state park (Roosevelt county); Pecos River within the Villanueva state park (San Miguel county); Perch lake (Guadalupe county); Rancho Grande ponds (Catron county); Roswell kids pond (Chavez county); Timberon ponds (Otero county); and Young pond (Dona Ana county): the daily bag limit for channel catfish will be two fish and the possession limit shall be twice the daily bag limit.

(2) In San Juan county, in the San Juan and Animas rivers, not including Navajo lake, there is no daily bag limit or possession limit for channel catfish and striped bass.

(3) In Colfax county, Eagle Nest lake there is no bag or possession limit for northern pike. All northern pike caught at Eagle Nest lake must be kept in possession. No northern pike shall be intentionally returned to Eagle Nest lake.

(4) In Union county: Clayton Lake; In Grant county: Bill Evans lake; In Grant county: lake Roberts the daily bag limit for largemouth bass shall be two fish and no more than two shall be in

possession.

[19.31.4.11 NMAC - N, 04-01-2018]

19.31.4.12 SIZE LIMITS:

A. Black basses:

(1) Any largemouth or spotted bass taken which is less than 14 inches long shall be immediately returned to the water.

(2) Any smallmouth bass taken which is less than 12 inches long shall be immediately returned to the water except at Ute and Conchas reservoirs where any smallmouth bass taken which is less than 14 inches long shall be immediately returned to the water.

B. Walleye: Any walleye taken which are less than 14 inches long shall be immediately returned to the water.

C. Tiger muskie (*Esox lucius x E. masquinongy*): Any tiger muskie taken which is less than 40 inches long shall be immediately returned to the water.

[19.31.4.12 NMAC - N, 04-01-2018]

19.31.4.13 GILA TROUT PERMIT REQUIRED:

Every person angling for fish on those sections of the following waters must be in possession of a Gila trout permit, issued in their name by the department or its designee. In Grant county: Black canyon upstream of its confluence with the East fork Gila River and Sapillo creek; In Catron county: West fork Gila river, Whitewater creek from Catwalk National Recreation Trail parking area upstream to headwaters including all tributaries, Mineral creek including all tributaries, and waters upstream from the confluence of Gilita creek and Snow creek including Gilita, Willow and Little Turkey creeks; In Grant and Catron counties: the area from the Middle fork Gila river and West fork Gila river confluence downstream to the East fork Gila river confluence and Mogollon creek upstream from the waterfall barrier near intersection of FS trail 153 to confluence of Trail canyon. A photocopy, duplicate copy or computer printout of this permit will suffice as evidence of receiving such permit.

[19.31.4.14 NMAC - N, 04-01-2018]

19.31.4.14 WATERS WITH AGE OR INDIVIDUALS WITH DISABILITIES USE RESTRICTIONS:

A. Only persons 11 years of age and younger may fish in the following waters: Shuree kids' ponds on Valle Vidal (Vermejo tract-Carson national forest); valley improvement association ponds at Belen, Harris pond in Las Vegas, Spring river park in Roswell, and the Brood pond at Seven Springs state fish hatchery.

B. Only persons 11 years of age and younger, those 65 years and older, and individuals with disabilities may fish in the designated Red River hatchery pond located at the Red River state fish hatchery, Blue Hole park pond (formerly Santa Rosa seniors pond), Estancia park lake at Estancia, and in ponds located in Harry McAdams park.

C. Only individuals with disabilities and those 11 years of age and younger may fish in the posted small pond at Cowles.

D. Olympic pond: Only persons 11 years of age and younger and those 65 years and older may fish in Olympic pond located at Angel Fire.

E. Laguna del Campo: Only persons 14 years of age and younger, those 65 years and older, individuals with disabilities, or up to two parents/guardians in direct supervision of a child or children 14 years of age and under who are fishing, may fish in Laguna del Campo located near Los Ojos trout hatchery.

F. Conservancy park/Tingley beach kids' pond: Only persons 12 years of age and younger may fish in Conservancy park/Tingley beach kids' pond in Albuquerque.

G. Red River city middle kids' pond: Only individuals with disabilities and those 12 years of age and younger may fish in Red River city middle kids' pond.

[19.31.4.14 NMAC - N, 04-01-2018]

19.31.4.15 CLOSED**WATERS:****A. Waters closed to fishing:**

(1) In Catron county: Big Dry creek from Golden link cabin upstream through its headwaters.

(2) In Catron county: Little creek from the "barrier" upstream through all tributaries.

(3) In Catron county: Spruce creek.

(4) In Catron and Sierra counties: Main Diamond creek above the point of confluence with south Diamond creek.

(5) In Catron and Sierra counties: South Diamond creek drainage.

(6) In Colfax county: a posted area lying within 300 feet of Eagle Nest dam, which is closed to entry.

(7) In Colfax county: a posted area of Stubblefield and Laguna Madre lakes lying within 150 feet of the outlet structures.

(8) In Grant county: east fork of Mogollon creek upstream of Trail canyon including Woodrow canyon.

(9) In Grant county: McKnight creek.

(10) In Grant county: Sheep Corral creek.

(11) In Lincoln county: Pinelodge creek and posted areas of Alto reservoir and Bonito lake near the outlets.

(12) In Catron county: All tributaries of the West fork of the Gila river above waterfalls between FS Trail No. 151 crossing of the West fork of the Gila river near White creek cabin and FS Trail No. 151 crossing of the West fork of the Gila river near Liley canyon. Mainstem of the West fork of the Gila river will be open to fishing.

(13) In Catron county: Iron creek in the Gila wilderness upstream of the constructed waterfall barrier located in T12SR17WSec16NE.

(14) In Catron county: McKenna creek.

B. Taking fish from

hatchery waters: It is unlawful to take or attempt to take fish from the waters of any fish hatchery or rearing ponds owned and operated by state or federal agencies. During open season, however, angling for trout shall be permitted in the Glenwood pond at the Glenwood state fish hatchery, Red River hatchery pond at the Red River state fish hatchery, Brood pond at Seven Springs state fish hatchery, and Laguna del Campo at Los Ojos state fish hatchery. Additionally, the director may expressly authorize other limited fishing at the state's fish hatcheries based on management needs.

C. Taking fish from or

through the ice: Fish may be taken from or through the ice except it is unlawful to take fish from or through the ice on the following waters: Santa Cruz lake, Monastery lake, Bonito lake, and Springer lake.

[19.31.4.16 NMAC - N, 04-01-2018]

19.31.4.16 ESTABLISHING FREE FISHING DAYS:

The first Saturday in June and the last Saturday in September during the effective dates of this regulation, are established as free fishing days whereby anglers may fish public waters in New Mexico as otherwise provided by regulation, but without benefit of a fishing license or habitat improvement stamp.

[19.31.4.18 NMAC - N, 04-01-2018]

HISTORY OF 19.31.4 NMAC:

The material in this part was derived from that previously filed with the State Records Center & Archives under: Regulation No. 488, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of The Fisheries Resources of New Mexico 1968-1969 License Year, April 1, 1968 Through March 31, 1969, filed 12-15-67; Regulation No. 500, Concerning Method & Manner of Hunting, Taking, Possessing, Disposing & Transporting of Game Animals, Birds, Fish Or Bullfrogs, Or Parts Thereof, Taken In NM, filed 5-25-67; Regulation No. 525,

Concerning the Method And Manner of Hunting, Taking, Possessing, Disposing And Transporting of Game Animals, Game Birds, Game Fish Or Bullfrogs, Or Parts Thereof, Taken In New Mexico, filed 8-21-68; Regulation No. 499, Establishing Open Seasons, Bag Limits And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico 1969-1970 License Year, April 1, 1969 Through March 31, 1970, filed 12-10-68; Regulation No. 509, Establishing Open Seasons, Bag Limits And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico 1970-1971 License Year, April 1, 1970 Through March 31, 1971, filed 12-8-69; Regulation No. 518, Establishing Open Seasons, Bag Limits And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico 1971-1972 License Year, April 1, 1971 Through March 31, 1972, filed 1-14-71; Regulation No. 530, Establishing Open Seasons, Bag Limits And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico, 1972-1973 License Year, April 1, 1972 Through March 31, 1973, filed 1-11-72; Regulation No. 535, Establishing Open Seasons, Bag Limits And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period of April 1, 1972 Through March 31, 1973, filed 5-31-72; Regulation No. 550, Basic Regulation Governing Water Pollution, Water Diversion, Animal Releases, Possession of Game, Manner of Hunting And Fishing, And Use of Department Lands, Filed 5-31-72; Regulation No. 543, Establishing Open Seasons, Bag Limits And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period of April 1, 1973 Through March 31, 1974, filed 12-11-72; Regulation 552, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of Mexico For the Period April 1,

1974 Through March 31, 1975, filed 1-11-74; Regulation No. 562, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period April 1, 1975 Through March 31, 1976, filed 1-3-75; Regulation No. 571, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period April 1, 1976 Through March 31, 1977, filed 2-10-76; Regulation No. 579, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period of April 1, 1977, Through March 31, 1978, filed 9-21-76; Regulation No. 581, Establishing Rules Pertaining To Management And Harvest of Commercial Fish Resources of New Mexico, filed 12-20-76; Regulation No. 586, Establishing Rules Pertaining To Management And Harvest of Commercial Fish Resources of New Mexico, filed 5-24-77; Regulation No. 589, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period April 1, 1978, Through March 31, 1979, filed 10-5-77; Regulation No. 595, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period April 1, 1979, Through March 31, 1980, filed 10-3-78; Regulation No. 602, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period April 1, 1980, Through March 31, 1981, filed 11-21-79; Regulation No. 607, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period April 1, 1981, Through March 31, 1983, filed 10-22-80; Regulation No. 612, Basic Regulation Governing Water Pollution, Water Diversion, Animal

Releases, Possession of Game, Manner of Hunting and Fishing, Use of Department Lands, Retention of Protected Species, Permits and Licenses Issued, and the Hunter Safety Certificate Requirement, filed 3-2-82; Regulation No. 619, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period April 1, 1983, Through March 31, 1985, filed 12-8-82; Regulation No. 632, Establishing Open Seasons, Bag Limits And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period of April 1, 1985, Through March 31, 1987, filed 11-28-84; Regulation No. 647, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period of April 1, 1987, Through March 31, 1989, filed 1-5-87; Regulation No. 662, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period of April 1, 1989, Through March 31, 1991, filed 12-19-88; Regulation No. 677, Basic Regulation Governing Water Pollution, Possession of Game, Permits and Licenses Issued, Retention and Importation of Protected Species, Manner of Hunting and Fishing, Use of Department Lands, Hunter Training Course Required, Hunting License Revocation, filed 6-25-90; Regulation No. 681, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period of April 1, 1991, Through March 31, 1993, filed 1-11-91; Regulation No. 694, Establishing Open Seasons, Bag Limits, And Other Rules Pertaining To Management And Harvest of the Fisheries Resources of New Mexico For the Period of April 1, 1993, Through March 31, 1995, filed 3-11-93

NMAC History:

19 NMAC 31.4, Hunting and Fishing Regulations - Fisheries, 4-1-95.
19.31.4 NMAC, Hunting and Fishing Regulations - Fisheries, 11-15-2000.
19.31.4 NMAC, Hunting and Fishing - Fisheries, 4-15-2002.
19.31.4 NMAC, Hunting and Fishing - Fisheries, 3-10-2010.
19.31.4 NMAC, Hunting and Fishing - Fisheries, 12-30-2015.
19.31.4 NMAC, Hunting and Fishing - Fisheries, 12-15-2016.
19.31.4 NMAC, Hunting and Fishing - Fisheries, 12-12-2017.
19.31.4 NMAC, Hunting and Fishing - Fisheries, 04-01-2018.

History of Repealed Material: [RESERVED]

GAME AND FISH, DEPARTMENT OF

This is an amendment to Sections 6, 7 and 8 of 19.30.9 NMAC, effective 4-1-2018.

19.30.9.6 OBJECTIVE:
Establishing financial liability of license vendors for unaccountable carcass tag documents, bonding requirements for license vendors, vendor application requirements, [~~the vendor fee per license~~], and certain licenses, permits, certificates and fees for special uses of wildlife.
[19.30.9.6 NMAC - Rp, 19.30.9.6 NMAC, 9-29-15; A, 4-1-18]

19.30.9.7 DEFINITIONS:
A. "Vendor" shall mean any owner(s) of a private or public business concern authorized by the New Mexico department of game and fish to sell license documents.
B. "[~~License~~] Carcass tag document(s)" shall mean any [~~license~~] tag form provided to the vendor by the department of game and fish that authorizes a person to legally [~~hunt, fish, or trap~~] possess big-game species or turkey killed in New Mexico.
C. "Financial liability" shall mean the dollar value owed for unaccountable carcass tags.
D. "License year" shall

mean the period of April 1 through March 31.

E. “Hearing officer” shall mean the official designated by the department for the purpose of conducting revocation hearings and providing recommendations to the state game commission; relating to the suspension of hunting and fishing license vendors.

[19.30.9.7 NMAC - Rp, 19.30.9.7 NMAC, 9-29-15; A, 4-1-18]

19.30.9.8 LICENSE VENDORS:

A. Assessment of financial liability:

(1) The department will provide carcass tag documents prior to the beginning of each license year, and will conduct an audit at the end of the license year to account for all carcass tag documents not issued to customers. All voided carcass tags must be returned to the department no later than the 10th day of the next month, and all voided and unused carcass tags must be returned to the department at the end of the license year no later than May 10.

(2) First occurrence during a license year: A fee of \$125 per missing carcass tag document shall be levied upon the license vendor.

(3) Second occurrence during a license year: A fee of \$250 per missing carcass tag document shall be levied upon the license vendor.

(4) Third occurrence during a license year: The license vendor’s privileges to sell department licenses shall be immediately suspended.

(5) A license vendor must appear before a hearing officer in order to have a hearing with respect to financial liability. A vendor may waive his right to a hearing and when he does so he agrees to pay to the department the appropriate amount as specified in Paragraphs (1) and (2) of Subsection A of 19.30.9.8 NMAC within 10 working days.

(6) In the case of unusual mitigating or extraordinary circumstances, the state game

commission may determine, and the hearing officer may recommend, financial liability in an amount other than the amounts described in Paragraphs (1) and (2) of Subsection A of 19.30.9.8 NMAC. The decision of the state game commission shall be final.

[A:] B. Vendor eligibility, procedures and bonding requirements:

(1) Each vendor shall follow the procedures set forth in the most current New Mexico department of game and fish license vendor manual and agreement.

(2) Bonding requirements shall be established and maintained by the director of New Mexico department of game and fish. A surety bond shall be required of vendors who elect to remit the statutory license and permit fees pursuant to Subsection D of Section 17-3-7 NMSA 1978.

(3) A vendor may obtain a waiver of the bonding requirement subject to the following conditions:

(a) A vendor must participate in the department’s web-based sales system and submit payment when the total amount due (including license and vendor fees) to the department reaches \$5,000 or every two weeks, whichever comes first.

(b) A new vendor, or a vendor who has been inactive for one year or more, shall submit a vendor application form available from the department; a current credit score (provided by a credit reporting company), and shall be subject to a background check conducted by the department.

(c) An applicant with a credit score less than the average for the credit reporting company submitted will be ineligible to obtain a waiver of the bonding requirements.

(d) An applicant who has a felony conviction or who has had their hunting, fishing or trapping license privileges currently revoked or suspended or who has an outstanding civil assessment owed to the department is not eligible to obtain a

waiver of the bonding requirements.

(4) A vendor must be party to a current license vendor agreement with the department on a form approved by the department.

(5) If a vendor is more than five days delinquent in its payment, its privileges to accept cash for department licenses and permits shall be immediately suspended, and the department shall only reactivate the vendor’s full license sale privileges once payment is received in full.

(6) A vendor that is delinquent more than three times in any 12 - month period shall have its privileges to sell department licenses and permits evaluated by the director, who shall determine if the vendor may retain those privileges, and whether the department will continue to waive the bonding requirement.

[B:] C. Director’s Authority

(1) The director may suspend, restrict or place conditions on a license vendor’s privileges if the vendor is found to be in violation of their vendor agreement or delinquent in their financial obligation to the department. If such a determination is made, a notice of the suspension, restriction(s), or condition(s) shall be sent to the vendor within 10 days of the director’s determination.

(2) An applicant or vendor who wishes to challenge any eligibility determination under this rule, may appeal to the director whose determination will be final and not subject to further appeal.

[C:] D. Vendor fee:

(1) The department will pay the vendor fees earned by the vendor for the previous month license sales, no later the 10th business day of the next month, to the vendor,

(2) The vendor shall be required to be registered in the state of New Mexico’s central accounting system.

[19.30.9.8 NMAC - Rp, 19.30.9.8

NMAC, 9-29-15; A, 4-1-18]

GAME AND FISH, DEPARTMENT OF

This is an amendment to 19.31.10 NMAC, Sections 9, 14, 17, and 20, effective April 1, 2018. In 19.31.10.9 NMAC, Subsections A through E were not published as there were no changes. In 19.31.10.14 NMAC, Subsections A, C, D, F, I, J through O, and S were not published as there were no changes. In 19.31.10.17 NMAC, Subsections A through C, E, and G were not published as there were no changes.

19.31.10.9 POSSESSION OR SALE OF PROTECTED SPECIES: It shall be unlawful to possess, sell, or offer for sale all or part of any protected species except as provided below:

[F. Big game and turkey: For licensed hunters of any big game species or turkey, the licensee killing the animal shall immediately punch or completely fill in (black out) the area designated for the appropriate species on the license. Immediately upon arriving at a vehicle, camp or a place of storage, the licensee must permanently fill in the proper date and time of kill on their license.

(1) The properly punched or blacked-out license shall be attached or accompany the carcass while the carcass is left unattended in any vehicle, field, or while it is in camp or at a residence or other place of storage. The punched or blacked-out license may be removed from the carcass while the carcass is being removed from the field to a camp or vehicle. In situations where numerous trips are required to remove the carcass from the field, the punched or blacked-out license shall remain attached to that portion of the carcass left unattended in a camp or vehicle.

(2) Once removed from the field, the licensee must ensure the carcass or parts thereof are accompanied by a properly filled out and punched or blacked-out license or other license information as determined by the director.

(3) It shall be unlawful for any licensee to fail to properly punch or completely black out the area designated by appropriate species on the license immediately upon killing any big game species or turkey.

(4) It shall be unlawful for any licensee for any big game or turkey to fail to properly fill in the date and time of kill on their license as required by rule.

(5) It shall be unlawful to possess any big game species or turkey that are unaccompanied by a properly punched, blacked-out or filled out license or unaccompanied by the other license information as determined by the director.

(6) It shall be unlawful for any person to transport or possess the carcass of any big game animal or turkey without proof of sex until the carcass arrives at a residence, taxidermist, meat processing facility, place of final storage or if required, is inspected and documented or pelt tagged by a department official.]

[G.] E. Possession and sale of live wild turkey prohibited: It shall be unlawful to sell, attempt to sell or possess wild turkey (*Meleagris gallopavo* ssp.) in New Mexico, including captive raised birds, except as by permit issued by the director for verifiable scientific, education, and temporary purposes or for commercial sales to entities outside of the state of New Mexico.

G. Tagging of harvested game: Licensed hunters of any big game species or turkey, upon harvesting an animal, shall immediately and completely notch out the appropriate month and day on the carcass tag. Prior to moving any part of the carcass from the kill site, the licensed hunter shall remove the entire backing material from the carcass and antler tag and adhere

them to the appropriate locations on the carcass, antlers or horns leaving the entire face of the tags visible. The carcass and antler tag shall remain attached to the carcass, antlers or horns until it is delivered to a meat processing facility, taxidermist, placed in final cold storage or if required, is inspected and documented or pelt tagged by a department official. The antler tag is not required to be attached or used on antlerless/hornless animals.

(1) The proper location to attach the carcass tag on any game species when the carcass or quarters are removed from the field is to attach it conspicuously on either hock tendon on the hind legs.

(2) The proper technique to attach the carcass tag in situations where a game species is boned out or for javelina when nothing is removed or only the skull is taken is for the licensee to notch the date of kill then fold and adhere the carcass tag to itself leaving the entire face of the carcass tag visible. The adhered carcass tag must physically remain with the parts of the game species that are removed and possessed.

(3) The proper location to attach the carcass tag on a bear or cougar that has been skinned out is to adhere the carcass tag around the ankle area of the hide above the foot. Bear and cougar carcass tags authorize possession of those animals until pelt tagged in accordance with 19.31.11 NMAC or for five days from date of kill, whichever comes first.

(4) The proper location to attach the carcass tag on a turkey is to adhere the carcass tag around the leg above the foot and below the feathers on the thigh.

H. It shall be unlawful:

(1) for any licensed hunter to fail to properly tag their big game species or turkey with the carcass and antler tag as prescribed;

(2) to possess any portion of a big game or turkey carcass that does not have a properly notched carcass tag attached to it or for boned out meat to have the

notched carcass tag physically present, except lawfully taken game that is accompanied by a valid donation certificate or department invoice;

(3) to possess any bear or cougar or parts thereof which has not been pelt tagged within 5 days of kill or in accordance with the requirements of 19.31.11 NMAC;

(4) for any person to transport or possess the carcass of any big game species or turkey without proof of sex naturally attached or legal bag limit until the carcass arrives at a residence, taxidermist, meat processing facility, place of final storage or if required, is inspected and documented or pelt tagged by a department official, except lawfully taken game that is accompanied by a valid donation certificate or department invoice;

(5) to use a carcass or antler tag that is cut, torn, notched or mutilated. Cut, torn, notched or mutilated tags are no longer valid for the take of a big game species or turkey; or

(6) to use a previous carcass or antler tag once a duplicate has been purchased or to use the carcass or antler tag of any other person. Any previous carcass or antler tag assigned to a license which is replaced by a duplicate is void and no longer valid for the take of a big game species or turkey.

[H.] I. Seizure: Any conservation officer or other officer authorized to enforce game laws and regulations shall seize the carcass of any protected species that is possessed contrary to this section.

[19.31.10.9 NMAC - Rp, 19.31.10.9 NMAC, 12-15-2016; A, 04-01-2018]

19.31.10.14 FISHING:

B. Trotlines:

(1) It is unlawful for any person to set more than one trotline at a time. It is unlawful to tie or join together trotlines belonging to two or more persons.

(2) It is unlawful for trotlines to have more than 25 angling hooks.

(3) A person

fishing with a trotline shall personally visit and inspect the trotline at least once every [24 hours] calendar day. Failure to check a trotline every [24 hours is a violation of this paragraph] calendar day is unlawful.

(4) It is unlawful for anyone to tamper with another's trotline.

(5) A person fishing with a trotline shall attach to it an identification tag that is visible above the water line. The identification tag shall bear the fisherman's name, address, fishing license number, and the date the trotline was set. An unlicensed fisherman [~~under 12~~] 11 years of age and younger shall also list [his] their date of birth. Failure to meet trotline tagging requirements as described is unlawful.

(6) It is unlawful to set or use a trotline in trout waters, with the following exceptions: Abiquiu lake, Chama river downstream from the northern boundary of the Monastery of Christ in the Desert, Gila river downstream from its junction with its east fork, Navajo lake and the Rio Grande downstream from its junction with the Chama river.

(7) Any conservation officer or other officer authorized to enforce the game laws may seize and confiscate any trotlines not set in accordance with this subsection.

E. Use of bait fish:

(1) It is unlawful to use gar (*Lepisosteus* spp.) and goldfish (*Carassius auratus*) as bait in all waters.

(2) It is unlawful to use live common carp (*Cyprinus carpio*), river carpsucker (*Carpoides carpio*), and smallmouth buffalo (*Ictiobus bubalus*) in all waters. However, these species may be used as dead bait in any water where bait may be used.

(3) It is unlawful to use bait fish in all trout waters except fathead minnows

and red shiners may be used in the following trout waters: Abiquiu, Clayton lake, Jackson lake, Lake 13 (Maxwell refuge), Navajo lake, [~~Caballo lake;~~] the Rio Grande downstream of the Taos junction bridge (excluding the special trout water described in 19.31.4.11 NMAC), [~~Power Dam lake;~~] and the Animas river.

(4) It is unlawful to use any bait fish in Bitter lake national wildlife refuge and Bottomless lakes state park.

(5) Bait fish may be used in all other waters with the following restrictions:

(a) In the Gila river and San Francisco river drainages only fathead minnows may be used.

(b) In the Pecos river drainage only fathead minnows and red shiners may be used.

(c) In the Rio Grande drainage only fathead minnows, red shiners, and shad may be used except in Elephant Butte and Caballo where golden shiners are also allowed.

(d) In the Canadian river drainage only fathead minnows, red shiners, and shad may be used.

(e) In the San Juan river drainage only fathead minnows and red shiners may be used.

(f) In Eagle Nest and Heron lakes only dead bait fish may be used. No live bait fish may be in possession.

G. Eradication of

fish: In waters where fish are being eradicated or where water shortage warrants reduction of fish numbers, the director may permit licensed fishermen and unlicensed persons [~~under 12~~] 11 years of age and younger to take and possess game fish in numbers exceeding current bag and possession limits. In granting such permission, the director may specify bag and possession limits and manner

and method of taking for such waters.

H. Methods for taking bait fish for personal use: Licensed fishermen and unlicensed persons ~~[under 12]~~ 11 years of age and younger may take bait fish for personal use only in waters containing game fish by angling, nets, traps, spears, arrows, and seines. All protected species of fish taken in seines, nets, and traps shall be immediately returned to the water.

L. [Reserved]
Possession of undersized fish: It is unlawful for any person to have game fish in their possession which do not meet the minimum length requirements as specified in 19.31.4 NMAC.

P. Snagging game fish: It is unlawful to snag game fish except Kokanee salmon during the special Kokanee salmon season as specified in 19.31.4.9 NMAC.

Q. Chumming: It is unlawful to "CHUM" except in the following waters: All waters designated as warm waters; Gila river downstream from its junction with its east fork; Rio Grande downstream from its junction with the Chama river, ~~[excluding the special trout water below Elephant Butte dam described in Subsection A. of 19.31.4.11 NMAC].~~

R. Special trout waters: Only barbless lures or flies may be used in the special trout waters designated in Subsection A. of 19.31.4.11 NMAC, except ~~[in the special trout water on the Rio Grande below Elephant Butte dam in which soft plastic lures may also be used, and]~~ in the following waters any legal angling gear and legal bait for trout waters may be used: ~~[Conservancy Park lake/Tingley beach the Kids' pond and Central pond,]~~ the Vermejo river system within Vermejo Park ranch boundaries, Gilita, Little Turkey, and Willow creeks, Mineral creek, Red River from its confluence

with the Rio Grande upstream to the lower walking bridge at Red River state fish hatchery, Rio Chama from the river crossing bridge on U.S. 84 at Abiquiu upstream 7.0 miles to the base of Abiquiu dam, Rio Grande, Rio Ruidoso, and Whitewater creek from Catwalk National Recreation Trail parking area upstream to headwaters~~[- and those waters designated in Subparagraph (c) of Paragraph (4) of Subsection A. of 19.31.4.11 NMAC].~~ It is unlawful to use tackle which does not meet these restrictions in the designated special trout waters.

T. Spearfishing and bow fishing:
(1) Game fish may be taken by spearfishing and bow fishing only in lakes and reservoirs open to fishing. It is unlawful to spearfish or bow fish in any special trout water as designated in 19.31.4 NMAC and in any river or stream. It is unlawful to take largemouth bass by spearfishing or bow fishing in the following waters: Bill Evans lake, Clayton lake, and lake Roberts.

(2) In addition, during the season established by Subsection B of 19.31.4.9 NMAC, Kokanee salmon may be taken by the use of spears, gigs, and arrows with barbs that are discharged above or below the water and not driven by explosives, gas, air, or crossbow, except in the Pine river where spears, gigs, and arrows are prohibited.

U. Use of nets: It is unlawful to use cast nets, dip nets, seines or gill nets to capture and retain any protected species of fish from any water unless specifically allowed by permit or rule. Dip nets may be used to assist in landing fish taken by legal angling methods.

V. Violation of age or disability restrictions: It is unlawful for any person to fish in a water with age or disability restrictions when that person does not meet the requirements as specified in 19.31.4 NMAC. [19.31.10.14 NMAC - Rp, 19.31.10.14 NMAC, 12-15-2016; A, 04-01-2018]

19.31.10.17 REGULATIONS PERTAINING TO BOATS, OTHER FLOATING DEVICES, AND MOTORS:

D. On the following lakes controlled by the department of game and fish, only boats and other floating devices using electric motors or with motors that are not in use shall be permitted: **Bear canyon, Bill Evans, Green Meadow, Fenton, Hopewell, Jackson, lake Roberts, [Maddox,] Morphy, Quemado, Snow, [Watt,] Conoco [lake] lakes, and waters located on the Ladd S. Gordon wildlife area.**

F. On the following lakes controlled by the department of game and fish, no boats or other floating devices shall be permitted: **Bonito lake, Laguna del Campo lake at Los Ojos state fish hatchery, Monastery lake, Power dam, and Red River hatchery pond.** [19.31.10.17 NMAC - Rp, 19.31.10.17 NMAC, 12-15-2016; A, 04-01-2018]

19.31.10.20 MANNER AND METHOD PENALTY ASSESSMENTS: Individuals who commit the following violations shall be offered penalty assessments:

Continued on the following page

Size limits (fish)	Contrary to: 19.31.4; <u>19.31.10</u> NMAC
Waters with age or individuals with disabilities use restrictions	Contrary to: 19.31.4; <u>19.31.10</u> NMAC
Use of live animals	Contrary to: 19.31.5; 19.31.6; 19.31.11; 19.31.12; 19.31.13; 19.31.14; 19.31.15; 19.31.16; 19.31.17; 19.31.21 NMAC
Use of a calling device	Contrary to: 19.31.5; 19.31.6; 19.31.11; 19.31.12; 19.31.13; 19.31.14; 19.31.15; 19.31.16; 19.31.17; 19.31.21 NMAC
Unlawful ammunition / weapon type	Contrary to: 19.31.5; 19.31.6; 19.31.11; 19.31.12; 19.31.13; 19.31.14; 19.31.15; 19.31.16; 19.31.17; 19.31.21 NMAC
Shooting hours violations	Contrary to: 19.31.5; 19.31.6 NMAC
Possession of game animal parts found in field	Contrary to: 19.31.10 NMAC
Shoot at artificial wildlife from the road	Contrary to: 19.31.10 NMAC
Harassing wildlife	Contrary to: 19.31.10 NMAC
Driving off road with licensed hunter/angler/trapper	Contrary to: 19.31.10 NMAC
Driving on a closed road	Contrary to: 19.31.10 NMAC
Trotline violations	Contrary to: 19.31.10 NMAC
Unlawful bait	Contrary to: 19.31.10 NMAC
Unlawful use of bait fish	Contrary to: 19.31.10 NMAC
Unlawful release of bait fish	Contrary to: 19.31.10 NMAC
More than two hooks on San Juan special trout water	Contrary to: 19.31.10 NMAC
More than two poles	Contrary to: 19.31.10 NMAC
Exceeding the bag or possession limit of fish as established in 19.31.[†]4 NMAC	Contrary to: 19.31.10 NMAC
Snagging of game fish	Contrary to: 19.31.10 NMAC
Chumming	Contrary to: 19.31.10 NMAC
Bait/barbs on special trout waters	Contrary to: 19.31.10 NMAC
Disturbing the bottom “shuffling”	Contrary to: 19.31.10 NMAC
Spearfishing and bow fishing violations	Contrary to: 19.31.10 NMAC
Violation of posted signs	Contrary to: 19.31.10 NMAC
Use of dogs	Contrary to: 19.31.12; 19.31.13; 19.31.14; 19.31.15; 19.31.16; 19.31.17; 19.31.21 NMAC
Non-toxic shot requirement on commissioned lands	Contrary to: 19.31.5; 19.31.6; 19.31.16 NMAC
Habitat stamp (Sikes Act)	Contrary to: 19.34.6 NMAC
Two poles without validation stamp	Contrary to: 19.31.10 NMAC
Habitat management and access validation stamp (HMAV)	Contrary to: 17-4-34 NMSA

[19.31.10.20 NMAC - Rp, 19.31.10.20 NMAC, 12-15-2016; A, 04-01-2018]

**GAME AND FISH,
DEPARTMENT OF**

This is an amendment to 19.31.12 NMAC, amending Section 10, effective 04-01-2018.

19.31.12.10 BARBARY SHEEP, ORYX, AND PERSIAN IBEX MANNER AND METHOD REQUIREMENTS AND RESTRICTIONS:

A. Season and hours: Barbary sheep, oryx or Persian ibex may be hunted or taken only during open seasons and only during the period from one-half hour before sunrise to one-half hour after sunset.

B. Bag limit: It is unlawful for any person to hunt for or take more than one Barbary sheep, oryx or Persian ibex during a current license year unless otherwise provided by regulation.

C. [RESERVED]

D. Seizure: Any conservation officer or other officer authorized to enforce game laws and regulations shall seize the carcasses of Barbary sheep, oryx or Persian ibex that are improperly [notched] tagged.

E. Proof of sex: It shall be unlawful for anyone to transport or possess the carcass of any Persian ibex without proof of sex. The horns of any Persian ibex shall remain attached to the skull until arriving at a residence, taxidermist, meat processing facility, or place of final storage. The head of females or immature males of Persian ibex shall accompany the carcass in the same manner.

F. Proof of bag limit: It shall be unlawful for anyone to transport or possess the carcass of any oryx without proof of bag limit. The horns of any oryx taken shall remain attached to the skull until arriving at a residence, taxidermist, meat processing facility, or place of final storage.

G. Use of dogs in hunting: It shall be unlawful to use dogs to hunt any Barbary sheep, oryx or Persian ibex.

H. Use of baits or scents: It shall be unlawful for

anyone to take or attempt to take any Barbary sheep, oryx or Persian ibex by use of baits or scents as defined in 19.31.10.7 NMAC. Scent masking agents on one's person are allowed.

I. Live animals: It shall be unlawful to use live animals as a blind or decoy in taking or attempting to take any Barbary sheep, oryx or Persian ibex.

J. Use of calling devices: It shall be unlawful to use any electrically or mechanically recorded calling device in taking or attempting to take any Barbary sheep, oryx or Persian ibex.

K. Killing out-of-season: It shall be unlawful to kill any Barbary sheep, oryx or Persian ibex out of their respective hunting seasons.

L. Legal weapon types for oryx are as follows: any center-fire rifle of .24 caliber or larger; any center-fire handgun of .24 caliber or larger; shotguns not smaller than 28 gauge, firing a single slug; muzzle-loading rifles not smaller than .45 caliber; bows and arrows; and crossbows and bolts.

M. Legal weapon types for Barbary sheep and Persian ibex are as follows: any center-fire rifle; any center-fire handgun; shotguns not smaller than 28 gauge, firing a single slug; muzzle-loading rifles; bows and arrows; and crossbows and bolts.

N. Bullets: It shall be unlawful to take or attempt to take oryx, Barbary sheep, or Persian ibex by the use of tracer ammunition or any ammunition loaded with a full metal jacketed bullet. Only soft-nosed or hollow-pointed bullets may be used in hunting or taking oryx, Barbary sheep, or Persian ibex.

O. Areas closed to hunting: The following areas shall remain closed to hunting Barbary sheep, oryx, and Persian ibex, except as permitted by regulation: Sugarite Canyon state park; Orilla Verde and Wild Rivers recreation areas, including the Taos Valley overlook; all wildlife management areas; the Valle Vidal area; and sub-unit 6B (Valles Caldera national preserve).

P. Restricted areas on White Sands missile range: It shall be unlawful:

(1) to drive or ride in a motor vehicle into an area signed no hunting or otherwise restricting hunting or as documented on a map or as presented during the hunt's briefing, except if the hunter or driver is escorted by official personnel;

(2) for a licensed hunter to enter an area signed no hunting or otherwise restricting hunting except if the hunter is escorted by official personnel; and

(3) for a licensed security badged hunter to hunt or take any oryx in an area other than their TBA area.

[19.31.12.10 NMAC - Rp, 19.31.12.10 NMAC, 4-1-16; A, 04-01-2018]

**GAME AND FISH,
DEPARTMENT OF**

This is an amendment to 19.31.13 NMAC, amending Section 10, effective 4-01-2018.

19.31.13.10 DEER MANNER AND METHOD REQUIREMENTS AND RESTRICTIONS:

A. Season and hours: Deer may be hunted or taken only during open seasons and only during the period from one-half hour before sunrise to one-half hour after sunset.

B. Bag limit: It is unlawful for any person to hunt for or take more than one deer during a current license year unless otherwise provided by regulation.

C. Seizure: Any conservation officer or other officer authorized to enforce game laws and regulations shall seize any deer carcasses that are improperly [notched] tagged.

D. Proof of sex: It shall be unlawful for anyone to transport or possess the carcass of a deer without proof of sex. The antlers of any buck deer taken shall remain attached to the skull plate until arriving at a residence, taxidermist,

meat processing place, or place of final storage. The scalp and both ears of female or immature male shall accompany the carcass in the same manner.

E. Use of dogs in hunting: It shall be unlawful to use dogs to hunt deer, except leashed dogs may be used to locate wounded or dead deer. Hunters must register with the appropriate department area office for the GMU they will be hunting before their hunt begins to use a dog in this manner.

F. Use of baits or scents: It shall be unlawful for anyone to take or attempt to take any deer by use of baits or scents as defined in 19.31.10.7 NMAC. Scent masking agents on one's person are allowed.

G. Live animals: It shall be unlawful to use live animals as a blind or decoy in taking or attempting to take any deer.

H. Use of calling devices: It shall be unlawful to use any electronically or mechanically recorded calling device in taking or attempting to take any deer.

I. Killing out-of-season: It shall be unlawful to kill any deer out of deer hunting season.

J. Bullets: It shall be unlawful to take or attempt to take deer by the use of tracer ammunition or any ammunition loaded with a full metal jacketed bullet. Only soft-nosed or hollow-pointed bullets may be used in hunting or taking deer.

K. Drugs and explosives: It shall be unlawful to use any form of drug on an arrow or bolt or use arrows or bolts driven by explosives.

L. Legal sporting arms for deer are as follows: any center-fire rifle; any center-fire handgun; shotguns not smaller than 28 gauge, firing a single slug; muzzle-loading rifles; bows and arrows; and crossbows and bolts.

M. Areas closed to deer hunting: The following areas shall remain closed to deer hunting, except as permitted by regulation: Sugarite Canyon state park; Wild Rivers recreation area, the Taos Valley

overlook; all wildlife management areas; the Valle Vidal area; and sub-unit 6B (Valles Caldera national preserve).
[19.31.13.10 NMAC - Rp,
19.31.13.10 NMAC, 4-1-15; A, 04-01-2018]

GAME AND FISH, DEPARTMENT OF

This is an amendment to 19.31.14 NMAC, amending Section 10, effective 04-01-2018.

19.31.14.10 ELK MANNER AND METHOD REQUIREMENTS AND RESTRICTIONS:

A. Hunt season and hours: Elk may be hunted or taken only during open seasons and only during the period from one-half hour before sunrise to one-half hour after sunset.

B. Bag limit: It is unlawful for any person to hunt for or take more than one elk during a current license year unless otherwise provided by regulation.

C. Seizure: Any conservation officer or other officer authorized to enforce game laws and regulations shall seize any elk carcasses that are improperly [notched] tagged.

D. Proof of sex: It shall be unlawful for anyone to transport or possess the carcass of an elk without proof of sex. The antlers of any bull elk taken shall remain attached to the skull plate until arriving at a residence, taxidermist, meat processing facility, or place of final storage. The scalp and both ears of female or immature male shall accompany the carcass in the same manner.

E. Use of dogs in hunting: It shall be unlawful to use dogs to hunt elk, except leashed dogs may be used to locate wounded or dead elk. Hunters must register with the appropriate department area office for the GMU they will be hunting

before their hunt begins to use a dog in this manner.

F. Use of baits or scents: It shall be unlawful for anyone to take or attempt to take any elk by use of baits or scents as defined in 19.31.10.7 NMAC. Scent masking agents on one's person are allowed.

G. Live animals: It shall be unlawful to use live animals as a blind or decoy in taking or attempting to take any elk.

H. Use of calling devices: It shall be unlawful to use any electronically or mechanically recorded calling device in taking or attempting to take any elk.

I. Killing out-of-season: It shall be unlawful to kill any elk out of elk hunting season.

J. Bullets: It shall be unlawful to take or attempt to take elk by the use of tracer ammunition or any ammunition loaded with a full metal jacketed bullet. Only soft-nosed or hollow-pointed bullets may be used in hunting or taking elk.

K. Drugs and explosives: It shall be unlawful to use any form of drug on an arrow or use arrows driven by explosives.

L. Legal sporting weapon types for elk are as follows: any center-fire rifle of .24 caliber or larger; any center-fire handgun of .24 caliber or larger; shotguns not smaller than 28 gauge, firing a single slug; muzzle-loading rifles not smaller than .45 caliber; bows and arrows; and crossbows and bolts.

M. Areas closed to elk hunting. The following areas shall remain closed to elk hunting, except as permitted by regulation: Sugarite canyon state park; portion of the Wild Rivers recreation area: an area bounded on the north by the power line from Bear Crossing to Red River hatchery, south along the Red River to the confluence of the Rio Grande, and north along the Rio Grande to the power lines at Bear Crossing is

closed to all hunting; Taos Valley overlook; all wildlife management areas; and the Valle Vidal area. The Cerro portion of GMU 53 is closed to hunting with modern firearms or muzzleloading firearms.

[19.31.14.10 NMAC - Rp,
19.31.14.10 NMAC, 4-1-16; A, 04-01-2018]

GAME AND FISH, DEPARTMENT OF

This is an amendment to 19.31.15 NMAC, amending Section 10, effective 04-01-2018.

19.31.15.10 PRONGHORN ANTELOPE MANNER AND METHOD REQUIREMENTS AND RESTRICTIONS:

A. Seasons and hours:

Pronghorn antelope may only be hunted or taken during open seasons and only during the period from one-half hour before sunrise to one-half hour after sunset.

B. Bag limit: It is unlawful for any person to hunt for or take more than one pronghorn antelope during a current license year unless otherwise provided by regulation.

C. Seizure: Any conservation officer or other officer authorized to enforce game laws and regulations shall seize the carcasses of pronghorn antelope that are improperly [notched] tagged.

D. Proof of sex of pronghorn antelope: It shall be unlawful for anyone to transport or possess the carcass of any pronghorn antelope without proof of sex until the carcass arrives at a residence, taxidermist, meat processing facility, or place of final storage. The horns of any buck pronghorn antelope taken shall remain attached to the skull. The scalp and both ears of females or immature males of pronghorn antelope shall accompany the carcass in the same manner.

E. Use of dogs in hunting: It shall be unlawful to use dogs to hunt pronghorn antelope,

except leashed dogs may be used to locate wounded or dead pronghorn antelope. Hunters must register with the appropriate department area office for the region they will be hunting before their hunt begins to use a dog in this manner.

F. Use of baits or scents: It shall be unlawful for anyone to take or attempt to take any pronghorn antelope by use of baits or scents. Scent masking agents on one's person are allowed.

G. Live animals: It shall be unlawful to use live animals as a blind or decoy in taking or attempting to take any pronghorn antelope.

H. Use of calling devices: It shall be unlawful to use any electrically or mechanically recorded calling device in taking or attempting to take any pronghorn antelope.

I. Killing out-of-season: It shall be unlawful to kill any pronghorn antelope out of their respective hunting seasons.

J. Legal weapon types for pronghorn antelope are as follows: any center-fire rifle; any center-fire handgun; shotguns not smaller than 28 gauge firing a single slug; muzzle-loading rifles bows and arrows; and crossbows and bolts.

K. Bullets: It shall be unlawful to take or attempt to take pronghorn antelope by the use of tracer ammunition or any ammunition loaded with a full metal jacketed bullet. Only soft-nosed or hollow-pointed bullets may be used in hunting or taking pronghorn antelope.

L. Areas closed to pronghorn antelope hunting: The following areas shall remain closed to pronghorn antelope hunting, except as permitted by regulation: Sugarite canyon state park; portion of the wild rivers recreation area: an area bounded on the north by the power line from Bear Crossing to Red River hatchery, south along the Red river to the confluence of the Rio Grande and north along the Rio Grande to the power lines at Bear crossing is closed to all hunting; including the Taos valley overlook; all wildlife

management areas, except the following lesser prairie chicken areas: Black Hills east and west; Claudell; Crossroads 1-5; Gallina wells 1, 1A, 1B, and 2-6; Liberty; Marshall; Milnesand; north, south, and east Bluit; Wayside; Antelope Flats; Bledsoe; Little Dipper; Pitchfork; Ranger lake; and Sandhills Prairie conservation area; the Valle Vidal area; and sub-unit 6B (Valles Caldera national preserve).

[19.31.15.10 NMAC - Rp,
19.31.15.10 NMAC, 4-1-16; A, 04-01-2018]

GAME AND FISH, DEPARTMENT OF

This is an amendment to 19.31.16 NMAC, amending Section 10, effective 04-01-2018.

19.31.16.10 TURKEY MANNER AND METHOD REQUIREMENTS AND RESTRICTIONS:

A. Season and hours:

Turkey may be hunted or taken only during open seasons and only during the period from one-half hour before sunrise to one-half hour after sunset.

B. Bag limit: It shall be unlawful for any person to hunt for or take more than the number and type of turkey during the current license year as specified by the hunt code printed on the permit or license unless otherwise provided by regulation.

C. Seizure: Any conservation officer or other officer authorized to enforce game laws and regulations shall seize the carcasses of turkey(s) that are improperly [notched] tagged.

D. Proof of sex: It shall be unlawful for anyone to transport or possess the carcass of a turkey without proof of sex. When the required bag limit is a bearded turkey, the beard and a small patch of feathers surrounding the beard shall remain with the same turkey carcass until arriving at a residence, taxidermist, meat processing place, or place of final storage.

E. Use of dogs in

hunting: It shall be unlawful to use dogs to hunt turkey.

F. Use of baits:

It shall be unlawful for anyone to take or attempt to take any turkey by baiting.

G. Live animals:

It shall be unlawful to use live animals as a blind or decoy in taking or attempting to take any turkey.

H. Use of calling

devices: It shall be unlawful to use any electrically or mechanically recorded calling device in taking or attempting to take any turkey.

I. Killing out-of-

season: It shall be unlawful to kill any turkey out of turkey hunting season.

J. Roost shooting:

It shall be unlawful to shoot a turkey while it is located in a tree or structure used for resting.

K. Legal weapon

types for turkey are as follows: shotguns firing shot, including muzzle-loading shotguns; bows and arrows; and crossbows and bolts.

L. Non-toxic shot

use is required on all state game commission owned lands.

M. Areas closed to

hunting turkey: The following areas shall remain closed to hunting turkey, except as permitted by regulation: Sugarite Canyon state park; Orilla Verde and Wild Rivers recreation areas, including the Taos Valley overlook; all wildlife management areas except Humphries, Rio Chama, and Sargent WMAs; the Valle Vidal area; and Rattlesnake canyon in sub-unit 2A.

[19.31.16.10 NMAC - Rp, 19.31.16.10 NMAC, 4-1-16; A, 04-01-2018]

GAME AND FISH, DEPARTMENT OF

This is an amendment to 19.31.17 NMAC, amending Section 10, effective 04-01-2018.

19.31.17.10 BIGHORN
SHEEP MANNER AND METHOD

REQUIREMENTS AND RESTRICTIONS:

A. Season and hours:

Bighorn sheep may be hunted or taken only during open seasons and only during the period from one-half hour before sunrise to one-half hour after sunset.

B. Bag limit:

It is unlawful for any person to hunt for or take more than one bighorn sheep during a current license year unless otherwise provided by regulation.

C. Proof of sex:

It shall be unlawful for anyone to transport or possess the carcass of any bighorn sheep without proof of sex. The horns and external genitalia of any bighorn sheep taken shall remain attached to the skull or pelt, as appropriate, and be readily visible until arriving at a residence, taxidermist, meat processing facility, or place of final storage.

D. Sealing of bighorn

sheep horns: A seal shall be affixed to a horn of every bighorn sheep ram head taken in New Mexico, imported into New Mexico, or found in the field in New Mexico subsequent to August 17, 1973. Bighorn sheep heads found in the field within New Mexico shall remain the property of the state until disposed of by permit from the director. The seal shall authorize possession and transportation of the head within New Mexico.

(1) Such

sealing shall be done within ten days after the bighorn sheep ram head is taken, imported, or found in the field and before the bighorn sheep head is exported from New Mexico. Bighorn sheep ram heads not so declared shall be seized. Only legally taken and possessed bighorn sheep ram heads shall be sealed.

(2) Bighorn

sheep ram heads legally sealed in other countries, states, tribal entities, provinces, and territories, and possessing a valid visible seal attached, are exempted.

E. Seizure:

Any conservation officer or other officer authorized to enforce game laws and regulations shall seize the carcasses of bighorn sheep that are improperly

[notched] tagged.

F. Use of dogs in

hunting: It shall be unlawful to use dogs to hunt any bighorn sheep.

G. Use of baits or

scents: It shall be unlawful for anyone to take or attempt to take any bighorn sheep by use of baits or scents as defined in 19.31.10.7 NMAC. Scent masking agents on one's person are allowed.

H. Live animals:

It shall be unlawful to use live animals as a blind or decoy in taking or attempting to take any bighorn sheep.

I. Use of calling

devices: It shall be unlawful to use any electrically or mechanically recorded calling device in taking or attempting to take any bighorn sheep.

J. Killing out-of-

season: It shall be unlawful to kill any bighorn sheep out of bighorn sheep season.

K. Bullets:

It shall be unlawful to take or attempt to take bighorn sheep by the use of tracer ammunition or any ammunition loaded with a full metal jacketed bullet. Only soft-nosed or hollow-pointed bullets may be used in hunting or taking bighorn sheep.

L. Drugs and

explosives: It shall be unlawful to use any form of drug on an arrow or use arrows driven by explosives.

M. Legal weapon

types for bighorn sheep are as follows: any center-fire rifle of .24 caliber or larger; any center-fire handgun of .24 caliber or larger; shotguns not smaller than 28 gauge, firing a single slug; muzzle-loading rifles not smaller than .45 caliber; bows and arrows; and crossbows and bolts.

N. Areas closed

to bighorn sheep hunting: The following areas shall remain closed to bighorn sheep hunting, except as permitted by regulation: Sugarite canyon state park; Orilla Verde and Wild Rivers recreation areas, including the Taos Valley overlook; all wildlife management areas, except Big Hatchet; the Valle Vidal area; and sub-unit 6B (Valles Caldera national preserve).

[19.31.17.10 NMAC - Rp,
19.31.17.10 NMAC, 4-1-16; A, 04-
01-2018]

GAME AND FISH, DEPARTMENT OF

This is an amendment to 19.31.21 NMAC, amending Section 10, effective 04-01-2018.

19.31.21.10 JAVELINA MANNER AND METHOD REQUIREMENTS AND RESTRICTIONS:

A. Seasons and hours: Javelina may be only hunted or taken during open seasons and only during the period from one-half hour before sunrise to one-half hour after sunset.

B. Bag limit: It is unlawful for any person to hunt for or take more than one javelina during a current license year unless otherwise provided by regulation.

C. Seizure: Any conservation officer or other officer authorized to enforce game laws and regulations shall seize the carcasses of javelina that are improperly [notched] tagged.

D. Use of dogs in hunting: It shall be unlawful to use dogs to hunt javelina, except leashed dogs may be used to locate wounded or dead javelina. Hunters must register with the appropriate department area office for the GMU they will be hunting before their hunt begins to use a dog in this manner.

E. Use of baits or scents: It shall be unlawful for anyone to take or attempt to take any javelina by use of baits or scents. Scent masking agents on one's person are allowed.

F. Live animals: It shall be unlawful to use live animals as a blind or decoy in taking or attempting to take any javelina.

G. Use of calling devices: It shall be unlawful to use any electrically or mechanically recorded calling device in taking or attempting to take any javelina.

H. Killing out-of-season: It shall be unlawful to kill

any javelina out of their respective hunting seasons.

I. Legal sporting arms or weapon types for javelina are as follows: any center-fire rifle; any center-fire handgun; shotguns not smaller than 28 gauge, firing a single slug; muzzle-loading rifles (muzzle-loading handguns are legal sporting arms for javelina); bows and arrows; and crossbows and bolts.

J. Bullets: It shall be unlawful to take or attempt to take javelina by the use of tracer ammunition or any ammunition loaded with a full metal jacketed bullet. Only soft-nosed or hollow-pointed bullets may be used in hunting or taking javelina.

K. Areas closed to javelina hunting: The following areas shall remain closed to javelina hunting, except as permitted by regulation: all wildlife management areas, except the following lesser prairie-chicken areas: Black Hills east and west; Claudell; Crossroads 1-5; Gallina Wells 1, 1A, 1B, and 2-6; Liberty; Marshall; Milnesand; north, south, and east Bluit; Wayside; Antelope Flats; Bledsoe; Little Dipper; Pitchfork; Ranger lake; and Sandhills Prairie conservation area. [19.31.21.10 NMAC - Rp, 19.31.21.10 NMAC, 4-1-16; A, 04-01-2018]

HEALTH, DEPARTMENT OF

The New Mexico Department of Health (DOH), approved at its 10/26/2017 hearing, to repeal its rule 7.27.2 NMAC - Licensing Of Emergency Medical Services Personnel (filed 7/28/2014) and replace it with 7.27.2 NMAC - Licensing Of Emergency Medical Services Personnel, adopted on 11/14/2017 and effective 12/12/2017.

The New Mexico Department of Health (DOH), approved at its 10/26/2017 hearing, to repeal its rule 7.27.6 NMAC - Emergency Medical Services Advance Directives (filed 12/16/2015) and replace it

with 7.27.6 NMAC - Emergency Medical Services Advance Directives, adopted on 11/14/2017 and effective 12/12/2017.

The New Mexico Department of Health (DOH), approved at its 10/26/2017 hearing, to repeal its rule 7.27.8 NMAC - Cardiac Arrest Targeted Response Program (filed 6/15/2000) and replace it with 7.27.8 NMAC - Cardiac Arrest Targeted Response Program, adopted on 11/14/2017 and effective 12/12/2017.

The New Mexico Department of Health (DOH), approved at its 10/26/2017 hearing, to repeal its rule 7.27.11 NMAC - Supplemental Licensing Provisions (filed 7/28/2014) and replace it with 7.27.11 NMAC - Supplemental Licensing Provisions, adopted on 11/14/2017 and effective 12/12/2017.

The New Mexico Department of Health (DOH), approved at its 10/26/2017 hearing, to repeal its rule 7.27.13 NMAC - Certification of Stroke Centers (filed 7/28/2014) and replace it with 7.27.13 NMAC - Certification of Stroke Centers, adopted on 11/14/2017 and effective 12/12/2017.

HEALTH, DEPARTMENT OF

TITLE 7 HEALTH CHAPTER 27 EMERGENCY MEDICAL SERVICES PART 2 LICENSING OF EMERGENCY MEDICAL SERVICES PERSONNEL

7.27.2.1 ISSUING AGENCY: New Mexico Department of Health (DOH), Epidemiology and Response Division (ERD), Emergency Medical Systems Bureau (EMSB). [7.27.2.1 NMAC - Rp, 7.27.2.1 NMAC, 12/12/2017]

7.27.2.2 SCOPE: These rules apply to New Mexico emergency medical services,

including the service directors and medical directors of those services; approved New Mexico EMS education programs and graduates of approved New Mexico EMS education programs; New Mexico licensed EMS personnel including those previously licensed; persons trained, certified, or licensed in another state or territory seeking to acquire licensure in New Mexico; EMS licensing commission; individuals certified with the national registry of emergency medical technicians; and any other entity associated with the licensing of emergency medical services personnel in New Mexico.

[7.27.2.2 NMAC - Rp, 7.27.2.2 NMAC, 12/12/2017]

7.27.2.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the following statutory authorities: 1) the New Mexico Department of Health Act, Subsection E of Section 9-7-6 NMSA 1978, which authorizes the secretary of the department of health to “make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions;” and; 2) the Emergency Medical Services Act, Subsection A of Section 24-10B-5 NMSA 1978, which authorizes the department to adopt and enforce licensure requirements by regulation, and Paragraph (3) of Subsection B of Section 24-10B-5 NMSA 1978, which authorizes the department to establish a schedule of reasonable fees for application, examination, licensure and regular renewal thereof.

A. Administration: Administration and enforcement of these rules is the responsibility of the emergency medical systems bureau of the epidemiology and response division, department of health.

B. Guidelines: In the absence of specific direction in the law or these rules as to the standard of practice, the current national standard for emergency cardiac care (ECC), the national highway traffic safety administration of the United

States department of transportation standard curriculum, and the EMT code of ethics, as adopted in 1978 by the national association of emergency medical technicians, shall serve as guidelines.

C. Other law and regulations: These rules are subject to the provisions of the department of health’s 7.1.3 NMAC, “*health records*.”

D. Use of certain terms prohibited: The use of “licensed emergency medical dispatcher”, “licensed emergency medical dispatch instructor”, “licensed emergency medical services first responder”, “licensed emergency medical technician (EMT)-basic”, “licensed EMT-intermediate”, or “licensed EMT-paramedic”, or display of the “star of life” except as allowed in the United States department of transportation (US-DOT) trademark specifications, or similar terms or emblems connoting expertise in basic or advanced life support by any person not licensed hereunder is hereby prohibited. See Emergency Medical Services Act, Paragraph (1) of Subsection C of 24- 10B-5 NMSA 1978.

[7.27.2.3 NMAC - Rp, 7.27.2.3 NMAC, 12/12/2017]

7.27.2.4 DURATION: Permanent.
[7.27.2.4 NMAC - Rp, 7.27.2.4 NMAC, 12/12/2017]

7.27.2.5 EFFECTIVE DATE: December 12, 2017, unless a later date is cited at the end of a section.
[7.27.2.5 NMAC - Rp, 7.27.2.5 NMAC, 12/12/2017]

7.27.2.6 OBJECTIVE: These rules will inform the emergency medical services community of licensure requirements for emergency medical services personnel. It is the purpose of these rules to provide for the licensure of emergency medical dispatchers, emergency medical dispatch-instructors, emergency medical services first responders, and emergency medical technicians,

and to assist in the provision of a comprehensive system of emergency medical services in the state of New Mexico.

[7.27.2.6 NMAC - Rp, 7.27.2.6 NMAC, 12/12/2017]

7.27.2.7 DEFINITIONS:

A. “Academy” means a separately funded emergency medical services education program administered through the department of emergency medicine of the university of New Mexico school of medicine.

B. “Act” means the Emergency Medical Services Act, Section 24-10B-1, *et seq.*, NMSA 1978.

C. “Advance directive” means a written instruction, such as a living will, durable power of attorney for health care, or emergency medical services do not resuscitate form recognizable under state law and relating to the provision of health care when an individual is incapacitated.

D. “Advisory committee” means the statewide emergency medical services advisory committee appointed by the secretary of health.

E. “Ambulance service” means any provider of ambulance service subject to the jurisdiction of the department of health pursuant to and subject to the jurisdiction of the New Mexico public regulation commission, pursuant to the Ambulance Standards Act, Section 65-6-1, *et seq.*, NMSA 1978, Article XI of the New Mexico Constitution, the Municipal Transit Law Section 3-52-1, *et seq.*, NMSA 1978, and other laws.

F. “Applicant” means a person who has indicated an intention to gain licensure as an EMS first responder, emergency medical dispatcher, emergency medical dispatcher instructor, or an EMT in the state of New Mexico, as evidenced by submission of the proper fees, documentation, and bureau approved application form.

G. “Approved emergency medical services

education program” means an emergency medical services education program that is sponsored by a post-secondary educational institution, accredited by a national educational accrediting organization for emergency medical services or active in the accreditation process and is approved by the joint organization on education committee and participates in the joint organization on education committee.

H. “Basic emergency medical technician” or “EMT-B” means a provider who has been licensed by the department to provide patient care according to the current scopes of practice.

I. “Bureau” means the emergency medical systems bureau of the epidemiology and response division of the New Mexico department of health.

J. “Bureau approved” means any course, form, or official document that has received the approval of the bureau for use in an education or licensure context.

K. “Cardio-pulmonary resuscitation (CPR)” means training required for licensure that meets the intent of the current national emergency cardiac care (ECC) guidelines for professional rescuers, as approved by the bureau.

L. “Certified emergency medical service” means an organization that meets minimum standards to provide emergency services and is approved by the bureau, including emergency medical dispatch agencies, pre-hospital or inter-facility care services, and special event services organized to provide emergency medical services.

M. “Contact hour” means a unit of measurement of 60 minutes of bureau-approved organized learning experience which is designed to meet educational objectives for continuing education.

N. “Commission” means the New Mexico emergency medical services licensing commission appointed by the secretary of health.

O. “Continuing education” or “CE” means EMS

education that is approved by the bureau and is required every two years for renewal of licensure.

P. “Conviction” means an adjudication of guilt, and does not include a deferred adjudication that results in dismissal of a charge.

Q. “Curriculum” means a program of study utilizing approved minimum curricula content based on the national standard curriculum for EMS as published by the national highway and traffic safety administration (NHTSA) and approved by the joint organization on education for formal education courses required for EMS first responder, EMT-basic, EMT-intermediate, and EMT-paramedic.

R. “Department” means the New Mexico department of health (DOH).

S. “Distance Education - Asynchronous”, also known as distributive education means a method of delivering training and education that does not require an educator and student to interact in real time. This may include computer-based-training and education, self-study modules, recorded broadcasts via satellite, internet, or other media, and other methods of out-of-classroom didactic education that includes an evaluation component.

T. “Distance Education - Synchronous” means a method of delivering training and education via electronic media that links an educator and students, allowing them to interact in real time despite being in different places. This includes live, instructor interactive satellite broadcasts, or webcasts that allow for live video, audio, or other immediate feedback, and communication between the instructor and the students.

U. “Emergency medical dispatcher” or “EMD” means a person who is trained and licensed pursuant to Subsection G of Section 24-10B-4 NMSA 1978 to receive calls for emergency medical assistance, provide pre-arrival medical instructions, dispatch emergency medical assistance and coordinate its

response.

V. “Emergency medical dispatch agency” or “EMDA” means any organization, or a combination of organizations working cooperatively, that routinely accepts calls for emergency medical assistance and employs emergency medical dispatch priority reference system (EMDPRS) techniques.

W. “Emergency medical dispatch priority reference system” or “EMDPRS” means a medically approved reference system used by an emergency medical dispatch agency (EMDA) to dispatch aid to medical emergencies, which includes systematized caller interrogation; systematized pre-arrival instructions to the caller based upon protocols matching the dispatcher’s evaluation of injury or illness severity; and prioritized vehicle response.

X. “Emergency medical services” or “EMS” means the services rendered by licensed providers in response to an individual’s need for immediate medical care to prevent loss of life or aggravation of physical or psychological illness or injury.

Y. “Emergency medical services first responder” or “EMSFR” means a person who is licensed by the department, and who functions within the emergency medical services system to provide initial emergency aid according to the current scopes of practice.

Z. “Emergency medical services instructor/coordinator” or “EMT-I/C” means an individual who has met the qualifications of the joint organization on education and has been approved by an EMS education institution to conduct and instruct EMS education programs.

AA. “Emergency medical technician” or “EMT” means a provider who has been licensed by the department to provide patient care according to the current scopes of practice.

BB. “Examination attempt” means an attempt to

successfully complete the bureau approved EMS licensing examination. An attempt constitutes taking a written or practical examination. Retests of either a written or practical examination are considered an examination attempt.

CC. "Fully licensed" means an individual licensed to practice medical patient care at a specified level.

DD. "Graduate license" means a license issued to graduates of a bureau approved EMS education program used for performing EMS duties under supervision and direct observation prior to full licensure. The graduate license shall be valid for a period of up to six months from the date of course completion or until failure of any part of the bureau approved licensing examination.

EE. "Initial licensure" means the first time a person is licensed in New Mexico as an EMD, EMD instructor, EMS first responder, EMT, or subsequent licensure of a previously licensed New Mexico EMT, who has retaken a full curriculum or accomplished re-entry procedures to regain an expired license.

FF. "Intermediate emergency medical technician" or "EMT-I" means a provider who has been licensed by the department to provide patient care according to the current scopes of practice.

GG. "License" means a full, temporary or graduate license issued by the department to all EMDs, first responders, and EMTs pursuant to the Emergency Medical Services Act, Section 24-10B-5 NMSA 1978.

HH. "Medical control" means supervision provided by or under the direction of physicians to providers by written protocols or direct communication.

II. "Medical direction" means guidance or supervision provided by a physician to a provider or emergency medical services system and which includes authority over and responsibility for emergency medical dispatch, direct patient care and transport of patients,

arrangements for medical control and all other aspects of patient care delivered by a provider.

JJ. "Medical direction committee" means a committee of physicians and EMTs, appointed by the secretary of health to advise the bureau on all matters relating to medical control and medical direction.

KK. "Medical director" means a physician who is responsible for all aspects of patient care provided by an EMS system or EMS provider service, in accordance with 7.27.3 NMAC.

LL. "Moral turpitude" means conduct contrary to justice, honesty, modesty or good morals including such acts as fraud, theft, sexual assault, and other similar behavior.

MM. "National registry" means the national registry of emergency medical technicians based in Columbus, Ohio.

NN. "Offline medical control" means performing EMS actions or medication administration under standing orders or protocols.

OO. "Online medical control" means direct voice contact with a medical control physician.

PP. "Out-of-state transition course" means a standardized education course required and approved by the bureau for an out-of-state EMT applicant seeking licensure in New Mexico.

QQ. "Paramedic" or "EMT-P" means a provider who has been licensed by the department to provide patient care according to the current scopes of practice.

RR. "Physician" means a doctor of medicine or doctor of osteopathy who is licensed or otherwise authorized to practice medicine or osteopathic medicine in New Mexico.

SS. "Protocol" means a predetermined, written medical care plan approved by the medical director and includes standing orders.

TT. "Provider" means a person who has been licensed by the department to provide patient care pursuant to the Emergency Medical

Services Act.

UU. "Re-entry" means a process for a person, whose license has been expired for less than two years, to accomplish a given set of requirements to re-enter a previously held level of licensure.

VV. "Regional office" means an emergency medical services planning and development agency formally recognized and supported by the bureau.

WW. "Re-instatement" means a process for those persons who have completed the renewal requirements before the December 31st deadline, but fail to renew licensure by March 31st, to renew licensure between April 1st and May 31st of the expiration year.

XX. "Renewal" means re-licensure every two years after completion of all requirements for specified levels by December 31st that occurs prior to expiration of licensure. Renewal applications shall be received or postmarked by the last day of February prior to the expiration to avoid a higher March fee, and may be postmarked or received by March 31 to avoid expiration or the payment of reinstatement or other higher fees.

YY. "Retest" means licensing examination given after failure of the applicant's initial examination.

ZZ. "Secretary" means the New Mexico secretary of health.

AAA. "Special skills" means a set of procedures or therapies that are beyond the usual scope of practice of a given level of licensure and that have been approved by the medical direction committee for use by a specified provider.

BBB. "Standing orders" means strictly defined written orders for actions, techniques or drug administration, signed by the medical director, to be utilized when communication has not been made with an online medical control physician.

CCC. "State emergency medical services medical director" means a physician designated by the department to provide overall medical direction to the statewide emergency

medical services system, whose duties include serving as a liaison to the medical community and chairing the medical direction committee.

DDD. “Temporary license” means a license issued by the department to applicants that are fully licensed in another state or certified with the national registry of EMTs, as determined by the bureau. The temporary license shall be valid for a period of up to six months from the date issued, or until failure of any part of the licensing examination.
[7.27.2.7 NMAC - Rp, 7.27.2.7 NMAC, 12/12/2017]

7.27.2.8 GENERAL LICENSURE:

A. Authorizations to practice: No person shall function as, or represent themselves as an emergency medical services provider or offer, whether or not for compensation, any services included in these rules, unless currently licensed as an emergency medical dispatcher (EMD), emergency medical dispatcher instructor (EMD-I), EMS first responder, or EMT under these rules. This provision is enforceable by civil action as provided by state law.

B. Licensing agency: As provided by law, the agency responsible for the licensure of an EMD EMD-I, EMS first responder, and EMTs in New Mexico is the emergency medical systems bureau of the epidemiology and response division of the department of health.

C. Eligibility: Initial licensure as an EMD, EMD-I, EMS first responder, or EMT is open to all persons who have met the requirements prescribed in these rules, whether or not they are affiliated with an ambulance service, fire department, rescue service, or other emergency medical service in New Mexico, and irrespective of their monetary remuneration for such service. Applicants for licensure must complete the criminal history background screening process as described at Section 24-10B-5.2 NMSA 1978.

D. The New Mexico

registry of emergency medical services personnel: The New Mexico registry of emergency medical services personnel is established and maintained at the bureau. The registry is a database containing contact and other relevant licensure information for all licensed New Mexico EMS licensees.

E. Authorized classifications: There are six classifications of fully licensed EMS provider that are recognized in the New Mexico registry of emergency medical services personnel. The most recently attained level of provider licensure will be shown on the person’s certificate and licensure card. This section does not apply to a graduate license.

- (1) Emergency medical dispatcher (EMD).
- (2) Emergency medical dispatcher instructor (EMD-I).
- (3) Emergency medical services first responder (EMSFR).
- (4) Emergency medical technician - basic (EMT-B).
- (5) Emergency medical technician - intermediate (EMT-I).
- (6) Emergency medical technician - paramedic (EMT-P).

F. General education standards: New Mexico EMS education programs shall meet the education standards for approval by the joint organization on education and EMS bureau. The joint organization on education and EMS bureau shall periodically evaluate the education standards in each approved EMS education program, which may include an on-site inspection and review for compliance with the standards outlined in this section. Failure to maintain compliance with these standards may result in the loss of the approved program status, as determined by the joint organization on education. The joint organization on education and EMS bureau approved New Mexico EMS education program shall:

(1) when

requested by the bureau or joint organization on education, submit a report to the joint organization on education and the EMS bureau that contains the following elements:

- (a) number of courses that were instructed by the education program by level of education, i.e., EMS first responder, EMT-basic, EMT-intermediate, EMT-paramedic, EMS instructor-coordinator;
- (b) pass/fail rate of each course of instruction where students are enrolled to receive course completion certificates, including the name of the course and the name of the instructor-coordinator;
- (c) aggregate pass/fail rate of each level of EMS instruction where students are enrolled to receive course completion certificates;
- (d) list of current instructor-coordinators employed with the bureau approved education program;
- (e) list of new instructor-coordinators employed with the education program over the time period of the report;
- (f) any changes in the status of any instructor-coordinator;
- (g) any changes to the EMS curriculum at any level of instruction;
- (h) summary of any quality improvement activities accomplished during the time period of the report;
- (i) list of clinical skills required for course completion by level, if applicable;
- (j) list of satellite campuses; and
- (k) contact information of key staff with the education program;
- (2) be accredited by a national education accrediting organization for emergency medical services;
- (3) utilize approved minimum curricula content based on the national standard

curriculum for EMS as published by the national highway and traffic safety administration (NHTSA) and approved by the joint organization for education committee (JOE);

(4) have, at a minimum, an administrative director, an EMS medical director, and a lead instructor-coordinator for each EMS licensing or refresher course;

(5) ensure that an instructor-coordinator is in attendance at all didactic and practical education sessions, with substitution permissible as approved by the joint organization;

(6) inform the bureau if an instructor/coordinator is terminated due to inappropriate conduct or negligence; the bureau shall be notified by the education program of the termination within 10 working days;

(7) develop and utilize an instructional quality assurance program to review course and instructor effectiveness; a copy of the quality assurance program shall be provided to the joint organization on education and the EMS bureau; complaints, reports, or course trends may indicate the need for a quality assurance review by the joint organization on education and the EMS bureau;

(8) submit to the bureau for approval, refresher course curricula that follow the New Mexico refresher course blueprints as outlined in 7.27.2.11 NMAC of these rules, whether the course is conducted by the education program or through a service education agreement, which has been approved by the education program;

(9) use distributive and distance education for initial formal education courses as deemed necessary by the approved EMS education program, based on the education guidelines provided by the joint organization on education committee;

(10) review and approve any formal EMS courses and course content that will allow graduates to apply for EMS licensure in the state of New Mexico, prior to

delivery by an instructor-coordinator; (11) ensure that all affiliated instructor-coordinators are approved by the joint organization on education;

(12) ensure that a formal preceptor program is developed and utilized for all field and clinical education; the preceptor program shall include the following standards:

(a) EMS providers functioning as preceptors within an EMS service have written approval from the EMS service director, the EMS service medical director, the education program service director, and the education program medical director; preceptors shall be licensed as a provider at or above the student's level of education; preceptors shall ensure that only approved skills, commensurate with the student's scope of education, are performed by the student under direct observation by the approved preceptor;

(b) students practicing in a field education environment shall function under a formal field preceptorship agreement between the EMS service and the education program;

(c) students performing field or clinical skills as part of a bureau approved EMT-intermediate or EMT-paramedic education program must be fully licensed at a minimum of the New Mexico EMT-basic level, or have been granted special permission by the EMS bureau; and

(d) students from approved New Mexico EMS education programs may participate in a field education environment (which includes both clinical and internship experience) within the state of New Mexico; EMS educational programs based out of state must be nationally accredited by an EMS bureau approved accrediting organization, and obtain permission from the EMS bureau and JOE for their students to participate in a field education environment within the state of New Mexico.

G. Education

program instructor-coordinator standards: Approved New Mexico EMS education programs shall maintain instructor-coordinator standards to ensure quality of instruction. Instructor-coordinators shall:

(1) be affiliated with an approved EMS education program;

(2) successfully complete an instructor-coordinator education course that meets or exceeds the national standard curriculum for EMS instructor-coordinators as published by NHTSA and approved by the joint organization on education and the EMS bureau;

(3) be currently licensed as a New Mexico EMS provider; and

(4) shall meet the qualifications for instructor-coordinators as established by the joint organization on education committee.

H. Scope of practice:

The scope of practice for each level of licensure is found in 7.27.11.2 NMAC and shall be updated at least annually and issued by the bureau in accordance with the EMS Act, Paragraph (4) of Subsection C of Section 24-10B-7 NMSA 1978. Licensed EMDs, EMSFRs and EMTs shall only perform those skills, techniques, medications, and procedures found within the New Mexico scope of practice and as authorized by the service medical director (also see EMS medical direction rule 7.27.3 NMAC).

I. Training and

education required: As outlined in the New Mexico scopes of practice, prior to utilizing any new skill, technique, medication, or procedure designated as "service medical director approved", it shall be documented by the service director, medical director, or bureau approved EMS education program that the EMS provider has been appropriately trained to administer the medications or perform the skills, techniques, medications, or procedures. Additionally, each EMS provider

must have a signed authorization from the services medical director on file at the EMS services headquarters, or administrative offices.

J. Medical direction approval/control required: Medical control is required for certain skills and medications use at all levels of EMS as outlined in the New Mexico scopes of practice. Those EMS personnel who function without medical direction shall only perform those skills, techniques, and procedures that do not require medical director approval. Any person who is issued a temporary or graduate license shall only administer the medications or perform the skills, techniques, medications, and procedures for the approved level, as established by the medical direction committee and found in the applicable scope of practice.

K. Special skills: Special skills, which are all considered advanced life support, are skills outside the usual scope of practice for a level of licensure. EMS services or systems that wish to apply for special skills authorization shall submit a written application as set forth in 7.27.11.10 NMAC. Services or systems may apply for any skill at any level. Personnel who successfully complete a special skills program shall be authorized to utilize advanced skills and drugs only with medical director approval and under the medical control of the EMS system that received the program approval.

L. Licensing application procedures: Persons seeking New Mexico licensure in any of the six classifications shall apply using the appropriate forms as provided by the bureau and present the required documentation, which shall remain in the person's licensure file. Applications and forms can be obtained from the bureau.

M. Licensure periods: Licensure periods are 27 months in length except for the initial period, which varies according to the date of the initial license. The second or subsequent period of licensure will be for a full 27 month period,

regardless of the date of application for renewal, or the date for processing of the renewal license. This period will begin on January 1 of the renewal year. Requirements for renewal of licensure shall be completed by the December 31st that occurs prior to expiration of licensure.

N. Expiration dates: The expiration date for a license is established as March 31 of a given year. The year of initial expiration will depend on what month during the year a person was originally licensed.

(1) The initial licensure period shall begin on January 1 for persons who are licensed during the first six months of a given year. The expiration date for this license will be 27 months later or March 31. All subsequent renewal periods will be for a full 27 month period running from January 1 for twenty-seven months, and ending in March.

(2) For persons who are initially licensed during the last six months of a given year, the expiration date shall be calculated from January 1 of the following year.

O. New Mexico EMS bureau approved licensing examinations: All EMS candidates must successfully complete the bureau approved licensing examination.

(1) The initial licensing examination shall be completed within twelve months based from the date of course completion. Successful completion of the licensing examination process that results in the issuance of a license shall be completed within 24 months based from the date of course completion. Should a candidate fail to become licensed within 24 months, not complete the initial licensing examination attempt within twelve months of course completion, or fail to successfully complete the bureau approved licensing examination within six attempts, the candidate must complete a new initial education course. The EMS bureau chief or designee may approve an initial licensing testing extension on a case by case basis.

(2) Applicants for state licensure shall pay the appropriate licensing fee upon submission of application to the bureau (see 7.27.2.13 NMAC for a complete description of licensing fees).

(3) There will be no refund of fees, except in unusual circumstances as determined by the bureau.

P. Graduate license for all EMT levels: The role of the EMS graduate license is to grant graduates of a bureau approved EMS education program authorization to practice skills commensurate with their scope of training and education in the field setting under the direct observation and supervision of a New Mexico EMS provider licensed at or above the graduate's education program level. The graduate license shall only be used under approved medical direction. The EMS service director and the EMS service medical director shall identify and maintain a list of approved preceptors. The graduate licensee shall be fully supervised by the preceptor when performing patient care. The preceptor will be responsible for all patient care including patient care activities in the patient compartment when transporting to a medical facility. This will necessitate a vehicle driver in addition to the licensed EMT preceptor and the graduate licensee. During a mass casualty incident, the graduate licensee shall only provide assessment and treatment at the level for which the graduate licensee is fully licensed; if the graduate licensee is not fully licensed at a lower level, they shall only provide non-medical assistance. The EMS graduate license shall remain in effect for a period of six months after the course completion date or until failure of any portion of the bureau approved licensing examination. All applicants for graduate licensure shall:

(1) submit a completed bureau approved license application form;

(2) provide evidence of current bureau approved

CPR certification;

(3) provide evidence of current bureau approved ACLS certification (paramedic only);

(4) provide a course completion certificate from a bureau approved EMS education program; and

(5) pay all licensure fees as required by these rules.

Q. Americans with Disabilities Act: When requested by an applicant who otherwise meets the minimum qualifications, the department shall reasonably accommodate the qualified person with disabilities in the licensure process, in accordance with the Americans with Disabilities Act and other applicable state and federal laws. Persons requiring accommodations must make an advance request at least 30 calendar days prior to the EMS bureau scheduled activity. The request for accommodation shall be forwarded to the bureau for consideration of such an accommodation, to include supporting documentation from the applicant's health care provider and a medical or professional diagnosis.

R. Recognition of out-of-state licensure for emergency incidents and other short term and mission specific situations: During emergency situations and other short term and mission specific situations, the bureau may waive initial licensure requirements for out-of-state EMS personnel based on the following:

(1) an individual or agency must be responding to a specific emergency incident;

(2) an individual or agency shall contact the EMS bureau prior to beginning EMS operations in New Mexico;

(3) the individual or agency shall provide evidence (copies) of individual certification or licensure from another state or the national registry;

(4) if wildland fire, an individual or agency shall provide a national wildland fire "request for recognition" form;

(5) an individual or agency shall provide evidence of written medical protocols and scope of practice; the bureau may restrict the provided scope of practice;

(6) the individual or agency shall contact the local EMS system for coordination of services; and

(7) the maximum approved time for out-of-state licensure for a specific emergency incident is 30 days and may be renewed on a case by case basis.

[7.27.2.8 NMAC - Rp, 7.27.2.8 NMAC, 12/12/2017]

7.27.2.9 INITIAL LICENSURE:

A. General: This section specifies requirements for initial licensure. This section applies to all applicants who are graduates of bureau approved EMS education programs. Any person applying for New Mexico licensure from out-of-state, other programs, or with national registry certification shall meet the requirements for licensure described in Section 7.27.2.10 NMAC. Specific time periods apply for EMS licensing examinations, according to Subsection O of 7.27.2.8 NMAC.

B. Recognition: The bureau may legally recognize other states, programs, or the national registry of emergency medical technicians requirements, where accreditation, EMS scope of practice, education standards, certification or licensure standards meet or exceed those of New Mexico.

C. Licensed emergency medical dispatcher (EMD): Licensure as an emergency medical dispatcher in New Mexico is mandatory for all persons who provide pre-arrival medical instructions to the emergency and non-emergency caller.

(1) An applicant for licensure as an EMD shall:

(a) be 18 years of age, and be of good character;

(b)

provide evidence of a current bureau approved CPR certification; or, if physically unable to be CPR certified, provide written documentation of current knowledge and practical applications of CPR, as defined in these rules;

(c) successfully complete an EMD education course, which has been approved by the bureau, that meets or exceeds the U.S. department of transportation (USDOT) standards for EMD, within the previous 12 months;

(d) meet all other licensing requirements found in 7.27.2.8 NMAC of these rules;

(e) submit the required application and licensure fees as required by these rules; and

(f) provide a valid personal (i.e., non-service or business) address in the application materials.

(2) Persons who do not have a certificate of completion from a New Mexico approved EMD education program but are currently certified or licensed in another state as an EMD, or have successfully completed an equivalent out-of-state EMD education course as determined by the bureau, within the previous 12 months, may apply for licensure by submitting an application along with documentation of current out-of-state certification or licensure, or an out-of-state EMD course completion certificate.

(3) Upon recognition by the bureau, the person may be fully licensed as an EMD.

D. Licensed EMD-instructor: An applicant for licensure as an EMD-instructor shall:

(1) be a licensed EMT-basic, or higher level of licensure; or, if physically unable to be licensed as an EMT-basic, provide verification of successful course completion from an EMT-B education program;

(2) have graduated from high school or possess a general education diploma (GED);

(3) be 18 years of age, and be of good character;
 (4) provide evidence of a current bureau approved CPR certification; or, if physically unable to be certified for CPR, provide written documentation of current knowledge and practical applications of CPR, as defined by these regulations;
 (5) be currently licensed as an EMD;
 (6) have successfully completed, within the previous 12 months, an EMD-instructor education course from an EMD program which is approved by the bureau;
 (7) provide a valid personal (i.e., non-service or business) address in the application materials;
 (8) meet all other licensing requirements found in 7.27.2.8 NMAC of these rules; and submit the required application and licensure fees as required by these rules.

E. Licensed emergency medical services first responder: An applicant for licensure as an EMS first responder shall:

(1) be of good character; and
 (2) be at least 18 years of age; or
 (3) be at least 16 years of age and meet the following requirements:
 (a) be affiliated with a service, and shall submit a letter of support from the service director;
 (b) shall notify the bureau, in writing, of any change of service affiliation; and
 (c) shall submit a notarized parental or guardian consent;
 (4) all applicants shall meet the following requirements:
 (a) submit a completed, bureau approved license application form;
 (b) provide evidence of current bureau approved CPR certification;
 (c) present a certificate of completion

from an EMSFR course completed within the previous 24 months at a bureau approved EMS education program;

(d) successfully complete the bureau approved EMSFR licensing examination within six attempts; the initial licensing examination shall be completed within twelve months from the date of course completion; successful completion of the licensing examination process that results in the issuance of a license shall be completed within 24 months from the date of course completion;

(e) copy of national registry of EMTs emergency medical responder certification card acquired after bureau approved course and examination completion;

(f) provide a valid personal (i.e., non-service or business) address in the application materials;

(g) meet all other licensing requirements found in 7.27.2.8 NMAC of these rules; and

(h) pay all licensure fees as required by these rules.

F. Emergency medical technician basic (EMT-B): An applicant for licensure as an EMT-B shall meet the following requirements:

(1) shall be of good character; and
 (2) be at least 18 years old; or
 (3) be at least 17 years of age and meet the following requirements:

(a) be affiliated with an EMS service, and shall submit a letter of support from the service director;

(b) shall notify the bureau, in writing, of any change of service affiliation; and

(c) shall submit a notarized parental or guardian consent;

(4) all applicants who are graduates of a bureau approved EMS education program may apply for graduate

licensing, which allows them to work temporarily under direct supervision, as outlined in 7.27.2.8 NMAC of these rules;

(5) all applicants applying to be licensed, shall meet the following requirements:

(a) submit a completed, bureau approved license application form;

(b) provide evidence of current bureau approved CPR certification;

(c) present a certificate of completion from an EMT-B course completed at a bureau approved EMS education program, and accomplished within the previous 24 months;

(d) successfully complete the bureau approved EMT-B licensing examination within six attempts; the initial licensing examination shall be completed within twelve months based on the date of course completion; successful completion of the licensing examination process that results in the issuance of a license shall be completed within 24 months based on the date of course completion;

(e) copy of national registry of EMTs emergency medical technician certification card acquired after bureau approved course and examination completion;

(f) provide a valid personal (i.e., non-service or business) address in the application materials;

(g) meet all other licensing requirements found in 7.27.2.8 NMAC of these rules;

(h) pay all licensure fees as required by these rules.

G. Emergency medical technician-intermediate (EMT-I): An applicant for licensure as an EMT-I shall meet the following requirements:

(1) be 18 years old, and be of good character;

(2) submit a completed, bureau approved license

application form;

(3) provide evidence of current bureau approved CPR certification;

(4) be fully licensed as an EMT-basic;

(5) present a certificate of completion from an EMT-I course completed at a bureau approved EMS education program, and accomplished within the previous 24 months;

(6) successfully complete the bureau approved EMT-I licensing examination within six attempts; the initial state licensing examination shall be completed within twelve months based on the date of course completion; successful completion of the licensing examination process that results in the issuance of a license shall be completed within 24 months based on the date of course completion;

(7) submit a copy of national registry of EMTs advanced emergency medical technician certification card acquired after bureau approved course and examination completion;

(8) provide a valid personal (i.e., non-service or business) address in the application materials;

(9) meet all other licensing requirements found in 7.27.2.8 NMAC of these rules;

(10) pay all licensure fees as required by these rules;

(11) all applicants who are graduates of a bureau approved EMS education program may apply for graduate licensing which allows them to work temporarily under supervision, as outlined in 7.27.2.8 NMAC of these rules.

H. Emergency medical technician paramedic (EMT-P): All applicants applying to be licensed at the EMT-P level shall meet the following requirements:

(1) be 18 years old, and be of good character;

(2) present, at

a minimum, a high school diploma or general education diploma (GED);

(3) submit a completed bureau approved license application form;

(4) provide evidence of current bureau approved CPR certification;

(5) present proof of current bureau approved education which meets or exceeds the current national standard for advanced cardiac life support (ACLS) on emergency cardiac care (ECC);

(6) provide a valid personal (i.e., non-service or business) address in the application materials;

(7) pay all licensure fees as required by these rules.

I. Graduates of an approved and accredited New Mexico education program shall:

(1) submit a certificate of completion from the education program; successful completion of the EMT-P education program must have been accomplished within the previous 24 months;

(2) successfully complete the bureau approved EMT-P licensing examination;

(3) copy of national registry of EMTs paramedic certification card acquired after bureau approved course and examination completion;

(4) meet all other licensing requirements found in 7.27.2.8 NMAC of these rules; and

(5) all applicants who are graduates of a bureau approved EMS education program may apply for graduate licensing which allows them to work temporarily under direct supervision, as outlined in 7.27.2.8 NMAC;

(6) be fully licensed as an EMT-B or EMT I.

J. Surrendering a license in order to downgrade to a lower level of licensure: EMS personnel may petition the bureau to surrender their current license and downgrade to a lower level of

licensure per the following:

(1) they are in good standing at the current level of licensure;

(2) the eligibility and renewal requirements (if doing this at the time of renewal) have been met for the lower EMS level (i.e., CE, CPR, criminal background check, etc.); and

(3) if the provider requests that the downgraded license be upgraded to the original level of licensure, the provider must meet the re-entry requirements to reacquire the original level of licensure in accordance with Subsection L of 7.27.2.11 NMAC of these rules.

[7.27.2.9 NMAC - Rp, 7.27.2.9 NMAC, 12/12/2017]

7.27.2.10 RECIPROCITY:

A. Individuals who are currently licensed or certified in another state may apply for New Mexico EMS licensure as provided in this section. Individuals holding a certification with the national registry of EMTs at any level must also be licensed/certified by a state or other recognized jurisdictional authority to be eligible for reciprocity, unless otherwise approved by the bureau. The individual shall:

(1) submit an application for the appropriate licensure level along with a copy of a current state certification/licensure card;

(2) provide a copy of a current bureau approved CPR certification card;

(3) if applying for the EMT-P level, provide a copy of current bureau approved education which meets or exceeds the current national standard for advanced cardiac life support (ACLS) on emergency cardiac care (ECC);

(4) pay the appropriate out-of-state reciprocity fee as required by these rules; there will be no refund of fees, except in unusual circumstances; as determined by the bureau;

(5) if applying for the EMSFR, EMT-B and EMT-I

level, successfully complete a bureau approved transition course for out-of-state applicants, as determined by the EMS bureau;

(6) successfully complete the New Mexico reciprocity written examination at the appropriate licensure level within three attempts and if, requested by the EMS bureau, successfully demonstrate appropriate practical skills proficiency; the initial state reciprocity examination shall be completed within nine months from the date the application was received at the EMS bureau; successful completion of the examination process that results in the issuance of a NM EMS license shall be complete within 12 months from the date the application was received at the EMS bureau; and

(7) meet all other licensing requirements found in 7.27.2.8 NMAC of these rules.

B. Additional provisions:

(1) **Frequency:** an out-of-state reciprocity application for an individual will only be accepted once in a 12 month time period.

(2) **Temporary licensure:** a reciprocity applicant may be granted a temporary license to practice at the appropriate licensure level for a period of up to six months or until failure of any part of the reciprocity examination, whichever occurs first.

(a) while under a temporary license, those applicants seeking full New Mexico licensure at the EMSFR, EMT-B, or EMT-I level shall complete a bureau approved out-of-state transition course and complete the New Mexico reciprocity examination; applicants applying at the EMT-P level shall complete the New Mexico paramedic reciprocity examination;

(b) applicants holding a temporary license shall be fully licensed when they have successfully completed New Mexico EMS reciprocity examination at the appropriate licensure level and

remit payments of required fees, all applicants are required to keep their out-of-state license or certification current until the New Mexico reciprocity process is successfully completed;

(c) temporary licenses issued to out-of-state reciprocity candidates shall only be issued once during a 12 month period;

(d) temporary licensure commences on the issue date of the temporary license from the bureau;

(e) a temporary license may be issued only upon application and payment of required fees.

(3) **Seasonal licensure:** an out-of-state EMS caregiver may apply for a seasonal license. A seasonal license will allow the caregiver to provide care at a scope of practice approved by the bureau, not to exceed the New Mexico scope of practice:

(a) seasonal licenses issued to applicants for a seasonal license shall be issued once in a 12 month period, unless otherwise determined by the bureau for good cause; the seasonal license is valid for three months from the date of issue, except as otherwise approved by the bureau;

(b) the applicant must provide proof of licensure from another state, unless otherwise determined by the bureau;

(c) applicants for a seasonal license must show proof of New Mexico medical direction provided by a medical director in accordance with 7.27.3 NMAC, and provide the bureau with the medical director approved protocols;

(d) the applicant must submit a completed application with appropriate fees. [7.27.2.10 NMAC - Rp, 7.27.2. 10 NMAC, 12/12/2017]

7.27.2.11 LICENSURE RENEWAL: All licensed New Mexico EMS providers are required to renew their license every two years.

Current renewal documents and information may be obtained from the bureau, website, or by requesting them from the bureau. Individuals renewing their New Mexico EMS provider's license shall submit verification of the required number of continuing education (CE) hours, as described for each licensure level. Required certification or education, such as *advanced cardiac life support* (ACLS) or cardiopulmonary resuscitation (CPR), may each be used once to fulfill a portion of the CE hour requirement during each two year renewal period. Additional cards may not be used for additional CEs. New Mexico license renewal requirements may not match those of national registry or other states; it is the individual's responsibility to assure their completed CE meets the requirements of other states or the national registry if they want to renew those certifications and licensures. A maximum of one-half of the required number of CEs necessary for renewal for each level may come from asynchronous distance/distributive learning programs as defined later in this rule. This may differ from the requirement for maintaining national registry certification.

A. Receipt of licensure renewal from the EMS bureau: Licensing renewal is the responsibility of each individual licensee. A renewal applicant shall provide a valid personal (i.e., non-service or business) address in the application materials. If an individual licensee fails to notify the bureau of a change of address within one-year from the date of relocation, as determined by the bureau, a bad address fee may be assessed by the bureau. For individuals who have submitted their complete licensure renewal packet to the bureau in a timely manner, the bureau will review the renewal requests in the order they are received.

(1) If there is a delay in notification from the bureau about the status of the licensure renewal beyond the expiration of the license, the individual shall remain licensed until:

(a) notified by the bureau that the license application has been denied or the license expired without renewal; or

(b) they receive their license from the bureau or the bureau website lists the individual as licensed.

(2) If an individual's renewal packet is incomplete, the individual shall be notified by the bureau by U.S. postal mail or by electronic mail.

(3) If an individual licensee is notified that a renewal problem exists with their license, and the license has expired, the individual shall not remain licensed, and their name will be removed from the list of those licensed on the bureau website.

B. Renewal deadlines:

Specific renewal requirements must be completed no later than the December 31st that occurs prior to licensure expiration. Required CPR and ACLS certifications and education are exempt from the December 31st deadline and must be current at the time of renewal, unless the renewal applicant is also using the ACLS or CPR certification(s) for CE, at which time the course(s) must have been completed prior to December 31. In order to pay the standard renewal fees, renewal applications must be postmarked or received by the bureau by the last day of February prior to expiration of licensure. Renewal applications postmarked or received after the last day of February, but before March 31, will be accepted but require a higher fee as described later in this rule.

(1) The applicant may submit the complete renewal application to the bureau as soon as requirements are complete; the complete renewal application shall be postmarked no later than the final month of licensure. A normal renewal fee is assessed for renewal applications postmarked prior to the final month of licensure.

(2) Renewal applications received during the final month of licensure will be accepted, but will be assessed a higher renewal

fee due to the requirement for speedier processing.

(3) Applications for renewal of licensure shall be postmarked or received no later than the last day of licensure (March 31st).

C. Mandatory

updates: The bureau may require mandatory updates to education in any given year of licensure. Mandatory updates may include required content hours during specific continuing education courses or other mandatory classes.

D. Audits: The bureau may require full documentation of continuing education, including copies of certification cards, course completion certificates, and any other relevant documents from any individual applying for renewal of their license.

E. Waivers: The licensing commission may, for good cause shown, waive portions of these rules pertaining to licensure renewal pursuant to 7.27.2.14 NMAC of these rules. Persons requesting waivers for licensure renewal shall submit requests in writing to the EMS licensing commission, in care of the bureau.

F. Licensed emergency medical dispatcher (EMD): Renewal for a licensed EMD is required within each licensure period. Documentation must show that all renewal requirements have been completed before the December 31st that occurs prior to expiration of licensure. Cardiopulmonary resuscitation (CPR) education/certification is exempt from the December 31st deadline and must be current at the time of renewal, unless the renewal applicant is also using the CPR certification for CE, at which time the course must have been completed prior to December 31. If the EMD is concurrently licensed as an EMT-B, EMT-I, or EMT-P, the renewal dates for EMD licensure may be adjusted by the bureau to match the renewal dates for the EMT-B, EMT-I, or EMT-P license. The following requirements are necessary for a person to renew their EMD license:

(1) submit copies of course completion certificates or verification showing a minimum of 20 contact hours of CE activity; of which at least 10 hours shall be medical subjects/skills of bureau approved CE activity and 10 hours of dispatch related subjects/skills, unless the EMD is also licensed at the EMT-B, EMT-I, or EMT-P level; the EMD may then use those contact hours of CE activity obtained during the renewal period for the EMT-B, EMT-I, or EMT-P licensure toward the medical renewal requirements;

(2) provide evidence of current bureau approved CPR certification and education; or, if physically unable to be certified for CPR, provide written documentation of current knowledge and practical applications of CPR; and

(3) submit required application and payment of all license renewal fees as required by these rules.

G. Licensed

emergency medical dispatcher-instructor: Renewal of a licensed EMD-instructor is required within each licensure period. Documentation must show that all renewal requirements have been completed before the December 31st that occurs prior to expiration of licensure. Cardiopulmonary resuscitation (CPR) education/certification is exempt from the December 31st deadline and must be current at the time of renewal, unless the renewal applicant is also using the CPR certification for CE, at which time the course must have been completed prior to December 31. The following requirements are necessary for a person to renew their EMD-I license:

(1) submit verification from a bureau approved EMD education program showing that the EMD-instructor is current and in good standing with the approved EMD education program;

(2) submit verification of completion of all EMD CE renewal requirements;

(3) submit a copy of current licensure at the

EMT-B or higher level;

(4) provide evidence of current bureau approved cardiopulmonary resuscitation (CPR) education or certification; or, if physically unable to be certified for CPR, provide written documentation of current knowledge and practical applications of CPR; and

(5) submit the required application and payment of all licensure renewal fees as required by these rules.

H. Emergency medical services first responder: Renewal of the EMSFR license is required within each licensure period. Documentation must show that all renewal requirements have been completed on or before the December 31st that occurs prior to expiration of licensure. Cardiopulmonary resuscitation (CPR) education/ certification is exempt from the December 31st deadline and shall be current at the time of renewal, unless the renewal applicant is also using the CPR certification for CE, at which time the course must have been completed prior to December 31. The following requirements are necessary for a person to renew their license:

(1) submit a completed renewal application;

(2) submit verification of a minimum of twenty contact hours of bureau approved CE activity consisting of the following subjects and minimum hours per subject:

(a) preparatory/operations, two hours;

(b) airway and ventilation, three hours;

(c) cardiovascular emergencies, two hours;

(d) medical emergencies, four hours;

(e) trauma emergencies, four hours;

(f) special considerations, five hours, two of which must consist of pediatric content.

(3) provide evidence of current bureau approved cardiopulmonary resuscitation

education or certification;

(4) provide a statement of verification, signed by the service medical director, that the applicant is competent in all EMSFR skills listed in the current scopes of practice that require medical direction; and

(5) submit payment of all licensure renewal fees as required by these rules.

I. Emergency medical technician basic (EMT-B): Renewal of the EMT-B license is required within each licensure period. Documentation must show that all renewal requirements have been completed on or before the December 31st that occurs prior to expiration of licensure. Cardiopulmonary resuscitation (CPR) education/ certification is exempt from the December 31st deadline and shall be current at the time of renewal, unless the renewal applicant is also using the CPR certification for CE, at which time the course must have been completed prior to December 31. The following requirements are necessary for an EMT-B to renew their license:

(1) submit a completed renewal application;

(2) submit verification of a minimum of 40 contact hours of bureau approved CE activity, consisting of the following subjects and minimum hours per subject:

(a) preparatory/operations, four hours;

(b) airway and ventilation, six hours;

(c) cardiovascular emergencies, six hours;

(d) medical emergencies, eight hours;

(e) trauma emergencies, eight hours;

(f) special considerations, eight hours, four of which must consist of pediatric content.

(3) provide evidence of current bureau approved cardiopulmonary resuscitation (CPR) education or certification;

(4) provide a

statement of verification, signed by the service medical director, that the applicant is competent in all EMT-basic skills listed in the current scopes of practice that require medical direction;

(5) submit payment of all licensure renewal fees as required by these rules; and

(6) applicants who have completed a bureau approved EMT-I or EMT-P course or completed appropriate sections of the EMT-I or EMT-P course, as determined by the bureau, may fulfill the CE requirement.

J. Emergency medical technician intermediate (EMT-I): Renewal of the EMT-I license is required within each licensure period. Documentation must show that all renewal requirements have been met on or before the December 31st that occurs prior to expiration of licensure. Cardiopulmonary resuscitation (CPR) education/certification is exempt from the December 31st deadline and shall be current at the time of renewal, unless the renewal applicant is also using the CPR certification for CE, at which time the course must have been completed prior to December 31. The following requirements are necessary for an EMT-I to renew their license:

(1) submit a completed renewal application;

(2) submit verification of a minimum of 50 contact hours of bureau approved CE activity, consisting of the following subjects and minimum hours per subject:

(a) preparatory/operations, four hours;

(b) airway and ventilation, six hours;

(c) cardiovascular emergencies, six hours;

(d) medical emergencies, 12 hours;

(e) trauma emergencies, 12 hours;

(f) special considerations, 10 hours, five of which must consist of pediatric content.

(3) provide evidence of current bureau approved cardiopulmonary resuscitation (CPR) education or certification;

(4) provide a statement of verification, signed by the service medical director, that the applicant is competent in all EMT-intermediate skills listed in the current scopes of practice that require medical direction. Persons who are not currently providing care through an EMS provider service and do not have a service medical director may for good cause petition the bureau for designation of inactive status, which will remain in effect until the bureau is notified of the applicant obtaining medical direction. No patient care should be performed until the inactive status is removed;

(5) submit payment of all licensure renewal fees as required by 7.27.2.13 NMAC of these rules; and

(6) applicants who have completed a bureau approved EMT-P course or completed appropriate sections of the EMT-P course, as determined by the bureau, may fulfill the continuing education requirement.

K. Emergency medical technician paramedic (EMT-P): Renewal of the EMT-P license is required within each licensure period. Documentation must show that all renewal requirements have been completed on or before the December 31st that occurs prior to the expiration of licensure. Cardiopulmonary resuscitation (CPR) education/certification and advanced emergency cardiac care education/advanced cardiac life support (ACLS) certifications are exempt from the December 31st deadline and shall be current at the time of renewal, unless the renewal applicant is also using the ACLS or CPR certification(s) for CE, at which time the course(s) must have been completed prior to December 31. The following requirements are necessary for an EMT-P to renew their license:

(1) submit a completed renewal application;

(2) submit verification of a minimum of 60 contact hours of bureau approved CE activity at any level, consisting of the following subjects and minimum hours per subject:

(a) preparatory/operations, six hours;

(b) airway and ventilation, eight hours;

(c) cardiovascular emergencies, ten hours;

(d) medical emergencies, fourteen hours;

(e) trauma emergencies, ten hours;

(f) special considerations, twelve hours, six of which must consist of pediatric content.

(3) provide a statement of verification, signed by the service medical director, that the applicant is competent in all EMT-paramedic skills listed in the current scopes of practice that require medical direction. Persons who are not currently providing care through an EMS provider service and do not have a service medical director may for good cause petition the bureau for designation of inactive status, which will remain in effect until the bureau is notified of the applicant obtaining medical direction. No patient care should be performed until the inactive status is removed;

(4) submit proof of current bureau approved education which meets or exceeds the current national standards for advanced emergency cardiac care education, or advanced cardiac life support (ACLS) certification;

(5) provide evidence of current bureau approved cardiopulmonary resuscitation (CPR) education or certification; and

(6) submit payment of all licensure renewal fees as required by 7.27.2.13 NMAC of these rules.

L. Re-attaining a license after expiration for all categories: The bureau provides three methods for expired licensees to regain their licensure; reinstatement,

re-entry, and re-licensure.

(1) **Reinstatement:** Those persons who have completed the renewal requirements on or before the December 31st cutoff, but failed to renew licensure by March 31st, may renew between April 1st and May 31st of the expiration year. A complete renewal application for reinstatement must be received at the bureau by May 31st. Paperwork postmarked after March 31st will be assessed with an additional late fee (see fees, 7.27.2.13 NMAC).

(2) **Re-entry:** A person whose license is expired, who does not meet the circumstances of

Paragraph (1) of Subsection L of 7.27.2.11 NMAC above, but whose date of expiration of the previously held license is less than two years, may re-enter EMS at the previously held or lower level if the person left EMS in good standing and successfully completes the following:

(a) for basic, intermediate and paramedic, complete a minimum of half of the number of hours of bureau approved continuing education at the appropriate level within the twelve months preceding the date of application for re-entry; the number and subjects of CEs must equal a minimum of half of the requirements for renewal of the level for which the individual is applying for, as described herein;

(b) for first responder, complete a minimum of 10 hours of bureau approved continuing education within the twelve months preceding the request for re-entry; the number and subjects of CEs must equal a minimum of half of the requirements for renewal of the first responder level as described herein;

(c) provide evidence of current bureau approved cardiopulmonary resuscitation (CPR) education or education, which may not be used as part of the CE hour requirement;

(d) successfully complete an approved

New Mexico licensing examination and other practical examinations, as determined by the bureau, at the appropriate provider licensure level (maximum of two examination attempts allowed), if applicable;

(e)

if EMD or EMD-I applicant, provide verification of a minimum of 10 contact hours of bureau approved CE activity, of which 5 hours shall be medical subjects/skills and 5 hours shall be dispatch related subjects/skills of bureau approved CE activity;

(f)

if an EMT-P applicant, provide evidence of bureau approved advanced emergency cardiac care education/advanced cardiac life support (ACLS) certification education which may not be used as part of the CE hour requirement; and

(g)

submit required application and payment of licensure fees as identified for the appropriate level in 7.2.27.13 NMAC of these rules;

(h)

the re-entry process may only be attempted once; if a candidate for re-entry does not successfully complete the exam within two testing attempts, the re-entry candidate must complete a full licensure course at the appropriate licensure level to be eligible for NM EMS licensure.

(3) **Re-**

licensure: A person whose license has been expired for more than two years from the date of expiration shall be considered an initial licensure applicant. To become licensed, a person must complete the requirements of 7.27.2.9 NMAC of these rules.

M. Expiration of

licensure: All New Mexico EMS personnel, whose licensure expires on March

31st of any given year, will receive notification of EMS license expiration, and that they are no longer authorized to perform patient care. The bureau will send this notice to the address of record notifying the former licensee of expiration during the first week of April, will remove the former

licensee from the bureau website list of licensed personnel, and will notify the national registry of EMTs if applicable.

N. Bureau approved

continuing education: Continuing education (CE) credit may be granted for any education that has been approved in advance by the bureau. All individuals or EMS services wishing to grant CE credit to licensed EMDs, EMD-Is, EMSFRs, EMTs, and paramedics in New Mexico shall submit the appropriate documentation to the bureau at least 30 days in advance. Bureau approved CEs must include information that addresses the New Mexico scope of practice. CEs submitted to the bureau for approval after education has been completed may be denied, and will be reviewed for approval or disapproval on a case-by-case basis. Application for CE approval shall be made utilizing the bureau's "notification of intent to conduct a CE program" application form available from the bureau. Information regarding CEs may be found on the bureau website.

(1) **Purpose:**

Continuing education is designed to meet three main objectives:

(a) to

provide exposure to new and current trends in the area of patient care;

(b)

to review areas of patient assessment and management that are not used on a frequent basis;

(c) to

meet licensure renewal requirements.

(2)

Continuing education categories:

The EMS bureau has adopted the CE category designations similar to those published by many states and national EMS organizations. A more detailed explanation of these categories can be found in the "EMS CE user's guide" available from the bureau. The CE categories are:

(a)

preparatory and operations topics: preparatory topics include roles and responsibilities, well-being of the EMT, injury prevention, medical/legal issues, ethics,

anatomy/physiology, principles of pathophysiology, principles of pharmacology, IV therapy and medication administration, therapeutic communications; operations topics include ambulance operations, medical incident command, rescue awareness and operations, hazardous materials incidents, crime scene awareness;

(b)

airway and ventilation;

(c)

cardiovascular emergencies: general topics include treatment of cardiac arrest, post resuscitation care, congestive heart failure, ventricle assist devices, acute coronary syndrome, multi-lead ECG, myocardial infarction, general cardiology, stroke (stroke may also be considered neurology/medical emergency);

(d)

medical emergencies: general topics include pulmonary, neurology, endocrinology, allergies and anaphylaxis, gastroenterology, urology/renal, toxicology, hematology, environmental conditions, infectious and communicable diseases, behavioral and psychiatric disorders, gynecology, obstetrics;

(e)

trauma emergencies: general topics include kinematics, blunt trauma, penetrating trauma, hemorrhage and shock, soft tissue trauma, burns, head and facial trauma, spinal trauma, thoracic trauma, abdominal trauma, musculoskeletal trauma; and

(f)

special considerations: general topics include neonatology, pediatrics, geriatrics, abuse and neglect, patients with special challenges, acute interventions for the home health care patient.

(3) **Forms of**

CE: The following forms of CE are currently recognized by the bureau. The bureau reserves the right to approve additional forms of CE as necessary. More detailed information may be found in the "EMS CE user's guide" available from the bureau.

(a)

Classroom instruction: Standard instructor-student relationship in the classroom or field setting.

(b)

Pre-approved courses: A list of national and statewide recognized certification courses that are pre-approved for CE credit is found in the CE guide available online and from the bureau. Individuals completing any of these courses need only to submit their course completion certificate or card when renewing their licenses. Courses that are approved by a bureau approved nationally recognized CE course approval entity are, at the discretion of the bureau, pre-approved for credit in New Mexico.

(c)

EMS related college courses: Credit may be awarded to individuals who are attending college courses relevant to EMS. Individuals who are interested in receiving credit should submit a copy of their unofficial student transcript and course syllabus. The EMS bureau will determine relevance and the number of CE hours allowed.

(d)

Teaching bureau approved courses: Licensed individuals who teach bureau approved courses may receive the same number of CE hours as students who are taking the program; refer to the "EMS CE user's guide" for a more complete description.

(e)

Field or clinical preceptorship: A maximum of 20 hours of CE may be allowed for EMS preceptor activities; documentation of preceptor activities must be on letterhead from an approved New Mexico EMS education institution or EMS service director.

(f)

Asynchronous distance/distributive education learning programs: This is a method of delivering training and education that does not require an educator and student to interact in real time. This may include EMS videos, computer-based-education, self-study modules, recorded broadcasts via satellite, internet, or other media, and other methods of out-of-classroom

didactic education that includes a student evaluation component (i.e.: post course test/quiz). A maximum of one-half of the required number of CEs necessary for renewal for each level may come from asynchronous distance/distributive learning programs. Please note, this may differ from the requirement for maintaining national registry certification.

(g)

Synchronous distance education learning programs: This is a method of delivering training and education via electronic media that links an educator and students, allowing them to interact in real time despite being in different places. This includes live, instructor interactive satellite broadcasts or webcasts that allow for live video, audio, or other immediate feedback and communication between the instructor and the students.

There is no limit to the number of CE hours a licensed individual may obtain through this method. The CE certification must document that the offering was provided and completed via a live broadcast. The decision regarding a CE being accepted as synchronous distance learning is discretionary and rests with the EMS bureau alone.

(h)

EMS agency/fire department medical director courses: The medical director may conduct CE courses without a bureau approved CE number. All other requirements for conducting an EMS CE course must be followed, and records must be maintained by the agency/department CE coordinator, including class roster and teaching outlines. CEs submitted as medical director courses must include the physician's signature.

(i)

On-the-job education/staff meetings: A maximum of eight hours of CE will be accepted for agency/department staff meetings, job orientation classes, take home work sheets, etc., for each renewal period

(j)

Meetings/Committees: A maximum of eight hours of CE will be accepted for attending EMS related committees/meetings for each renewal

period.

(k)

Unacceptable CE: CEs obtained for completing evaluations for any EMS classes or conferences, participating in EMS related surveys, etc., will not be accepted.

(4) Record

keeping: Once approval of a CE program is obtained and the course is presented, records of attendance must be maintained. The bureau may audit the CE records of an approved CE program. Attendance records with original signatures of course participants and a copy of any course presentation material must be kept for a minimum of 36 months by the service, for bureau audit purposes.

(a)

In order for participating EMS personnel to receive credit, each individual shall be given a certificate, letter of attendance/completion, or copy of course attendance roster and advised to retain it until their licensure renewal. Many EMD Agencies (EMDA) and EMS services have computerized records of their personnel concerning CE. The EMS bureau will recognize CE summary documentation, on letterhead, from EMDA or EMS service directors, education coordinators, medical directors, or CE coordinators with appropriate original signatures.

(b)

Course completion letters, certificates, and course rosters shall contain the following information:

(i)

location and date of the CE program;

(ii)

title and short description of the class or course;

(iii)

number of actual contact hours (half hour increments are acceptable);

(iv)

CE category;

(v)

name of participant;

(vi)

CE coordinator's name with designation "CE coordinator" placed after the name;

(vii)

signature of CE coordinator;

(viii) the statement: "reviewed and approved by the New Mexico EMS bureau for CE"; and	(c) CE complaint audit: this audit is a preliminary investigation conducted by the EMS bureau based on a complaint concerning falsification of the CE process.	personnel must present, upon demand, proof of licensure.
(ix) method of delivery (classroom, asynchronous, or synchronous distance program); and	(6)	C. Licensed EMDs, EMD-Is, EMSFRs, EMTs, and paramedics shall promptly notify the bureau of any changes of name, address or EMS employment/affiliation status.
(x) EMS bureau approval number.	Refreshers: The EMS bureau does not require a refresher certificate for renewal, but refresher certificates from approved New Mexico EMS education institutions may be used to satisfy an equivalent number of hours for the CE requirement. The refresher documentation submitted must describe the number of CE hours for each CE category, and the number of synchronous and asynchronous hours that were delivered in the class. If a portion of the refresher was completed in an online or other asynchronous distance/distributive education format, the CE hours will be categorized as asynchronous CE by the bureau, and will count towards the maximum number of asynchronous education. For a formal refresher certificate from entities other than New Mexico approved institutions to be accepted for CEs, the course curriculum must be approved prior to an applicant completing the refresher. [7.27.2.11 NMAC - Rp, 7.27.2.11 NMAC, 12/12/2017]	D. All volunteer, paid, and career EMS agencies regulated by the PRC or the EMS bureau utilizing EMS caregivers to perform patient care are required to verify the license of any volunteer or career EMS caregiver via direct contact with the EMS bureau or by accessing the bureau's license verification list. National Registry certification does not constitute licensure. Any other organization, business, or individual that employs or otherwise utilizes licensed EMS caregivers to provide medical care utilizing emergency medical dispatchers or emergency medical technicians including paramedics is strongly advised to verify the New Mexico license of the emergency medical dispatchers or emergency medical technicians via direct contact with the bureau or by accessing the bureau's license verification list. [7.27.2.12 NMAC - Rp, 7.27.2.12 NMAC, 12/12/2017]
(5) CE audits for EMS services and personnel:	7.27.2.12 IDENTIFICATION OF EMS PERSONNEL:	7.27.2.13 FEES:
The bureau may periodically perform audits of CE programs. These audits are usually provided as a way for services to evaluate their current program, identify areas in which the program excels, as well as areas that may be problematic. The following types of CE audits may be conducted by the bureau:	Licensed EMDs, EMD- Is, EMSFRs, EMTs, and paramedics will be issued: one license certificate, one license wallet card, and one uniform patch (if available).	A. Examination, licensure, renewal and assorted fees: The bureau shall charge reasonable fees for the examination, licensure, and renewal of licensed EMS providers in New Mexico, according to the following schedule.
(a) CE course audit: this audit evaluates the actual class or course being conducted; the purpose of this audit is to provide written feedback to the instructor on presentation, content, and participant evaluations conducted at the end of the class; this audit is usually unannounced;	A. The bureau shall charge a reasonable fee for replacement of lost cards or certificates. The bureau shall also charge a reasonable fee for additional uniform patches, pursuant to 7.27.2.12 NMAC of these rules.	(1) In-state application fees will apply to individuals who have completed an EMS licensing course through a bureau approved New Mexico EMS education program.
(b) CE recordkeeping audit: this audit evaluates the CE program sponsor recordkeeping process; records of prior classes or courses conducted are inspected for completeness and feedback is provided to the CE program sponsor that identify areas for improvement; CE program sponsors will be given at least five days advance notification of these audits; records that will be inspected include:	B. Licensed EMDs, EMD-Is, EMSFRs, EMTs, and paramedics shall carry their current New Mexico state license wallet card, or bureau approved equivalent form of identification, while participating in a patient care situation. All EMS	(2) Reciprocity and seasonal licensure application fees will apply to individuals applying for licensure through the reciprocity and seasonal process education.
(i) original copies of attendance rosters with the signatures of course participants;		
(ii) course presentation materials/outlines or learning objectives;		
(iii) handouts that were given to participants;		
(iv) any evaluation tools, including written exams or practical skill forms; and		
(v) CE approval letter or approval		

B. Initial license fees:

DESCRIPTION	IN-STATE APPLICATION FEE	RECIPROCITY & SEASONAL APPLICATION FEE
Licensed EMD	\$25.00	\$50.00
Licensed EMD-instructor	\$35.00	\$70.00
Licensed EMS first responder	\$25.00	\$50.00
Licensed EMT-basic	\$65.00	\$130.00
Licensed EMT-intermediate	\$75.00	\$150.00
Licensed EMT-paramedic	\$85.00	\$170.00

C. Reciprocity & re-entry examination re-test fees:

DESCRIPTION	RE-TEST FEE FOR IN-STATE AND OUT OF STATE APPLICATION
First responder examination retest fee	\$25.00
EMT-basic examination fee	\$30.00
EMT-intermediate written/practical examination fee	\$35.00
EMT-paramedic written/practical examination fee	\$40.00

D. Licensure renewal application fees:

DESCRIPTION	FEE TYPE	FEE
Licensed EMD	normal fee	\$20.00
	March renewal fee	\$60.00
Licensed EMD-instructor	normal fee	\$25.00
	March renewal fee	\$75.00
Licensed EMS first responder	normal fee	\$20.00
	March renewal fee	\$60.00
Licensed EMT-basic	normal fee	\$30.00
	March renewal fee	\$90.00
Licensed EMT-intermediate	normal fee	\$40.00
	March renewal fee	\$120.00
Licensed EMT-paramedic	normal fee	\$50.00
	March renewal fee	\$150.00

E. Reinstatement application fees:

DESCRIPTION	FEE
Licensed EMD	\$120.00
Licensed EMD-instructor	\$150.00
Licensed EMS first responder	\$120.00
Licensed EMT-basic	\$180.00
Licensed EMT-intermediate	\$240.00
Licensed EMT-paramedic	\$300.00

F. Re-entry application fees-same as March renewal fees:

DESCRIPTION	FEE
Licensed EMD	\$60.00
Licensed EMD-instructor	\$75.00
Licensed EMS first responder	\$60.00
Licensed EMT-basic	\$90.00
Licensed EMT-intermediate	\$120.00
Licensed EMT-paramedic	\$150.00

G. Miscellaneous fees:

DESCRIPTION	FEE
Additional patches-each	Bureau Cost
Replacement licensure card-each occurrence	\$10.00

Bad check fee-each occurrence	\$20.00
National healthcare practitioner query fee-each occurrence as determined by the bureau	\$15.00
Bad address fee-each occurrence, as determined by the bureau	\$20.00

H. Use of fees:
Fees collected by the bureau under these rules shall be used expressly for licensing related operations.

I. Payment of fees:
State fees shall be made payable to the bureau by check, money order or other bureau approved method of payment. Licensure and examination fees are due and payable at the time of licensure application. Licensure applications will not be processed until payment of the required fees.

J. Waiver of fees:
Applicants for licensure under these rules who, for good cause, are unable to pay the licensure fees may petition the bureau for a waiver. Applications for fee waiver under these rules shall be submitted to the bureau in the form of a written letter, and shall document the exact nature of the applicant's inability to pay. Waiver requests shall be submitted to the EMS bureau chief or designee for approval.
[7.27.2.13 NMAC - Rp, 7.27.2.13 NMAC, 12/12/2017]

7.27.2.14 ENFORCEMENT:
A. EMS licensing commission:

(1)
Statutory basis: The emergency medical services licensing commission is established pursuant to Section 24-10B-5.1 NMSA 1978 of the act.

(2) Duties:
The duties of the commission are to:

(a)
provide a forum for the receipt of public comment regarding emergency medical services licensing matters;

(b)
oversee the bureau's licensing and enforcement functions;

(c)
receive complaints, direct investigations, and authorize the initiation of actions by the bureau regarding contemplated refusal to grant initial licensure and

for disciplinary actions against licensees; and

(d)
grant waivers, for good cause shown, of regulations pertaining to licensure renewal.

(3)
Organization: Members of the commission are appointed by the secretary as provided by law.

(a)
Commission members shall serve until their successors have been appointed by the secretary.

(b)
In the event of a vacancy on the commission by resignation or removal, the bureau shall immediately notify the secretary so as to expedite the appointment of a new commission member. The secretary shall appoint such vacancies.

(c)
The commission may recommend to the secretary removal of any commission member for the following reasons:

(i)
failing to attend or otherwise participate in two consecutive meetings without a valid reason; or
(ii)
any other good cause.

(d)
The commission shall elect a chair and vice-chair annually. The term of office begins with the meeting at which the officer is elected.

(e)
The bureau shall serve as staff for the commission.

(4)
Commission meetings: The commission shall meet as needed, but not less than semi-annually.

(a)
Commission meetings for receipt of public comment regarding emergency medical services licensing functions and oversight of the bureau's licensure function shall be subject to the Open

Meetings Act, Section 10-15-1, *et seq.*, NMSA 1978.

(b)
Meetings pertaining to the issuance, suspension, renewal or revocation of a license, or other personnel matters, are closed meetings as provided by the Open Meetings Act.

(c)
A meeting notice resolution, consistent with the provisions of the Open Meetings Act, shall be adopted by the commission and shall be reviewed in November of each year at a regularly scheduled meeting of the commission.

(d)
Minutes of meetings shall be taken and maintained in accordance with the Open Meetings Act.

(e)
A commission member may attend a meeting of the commission via telephone or other teleconferencing technology, if it otherwise difficult or impossible for the member to attend in person.

(5)
Receipt of public comment:
There shall be an opportunity for receipt of public comment regarding licensure matters, in writing or orally, at each open commission meeting.

(a)
Written public comment intended for consideration by the commission shall be mailed to the bureau. The comments must include the person's name, address, and telephone number, if available. Unidentified comments may or may not be considered by the commission.

(b)
The commission, upon receipt of public comments, may make an appropriate recommendation to the bureau to take action based on those comments.

(6) Oversight:
During each regularly scheduled meeting, the bureau will provide a

report of its licensure functions to the commission. Commission members may, at any time, request information about licensure functions from the bureau.

B. Complaint/ incident procedures: Any person may communicate a written complaint or knowledge of an incident to the bureau or the commission.

(1) When the bureau has knowledge of a complaint that may affect a person's license, it shall notify the chair of the commission as soon as practicable.

(2) Similarly, when the commission has knowledge of a complaint or incident affecting licensure, it shall notify the bureau.

(3) Other complaints, which would not affect licensure, will be directed to, and examined by the bureau.

(4) The bureau shall communicate to the chair or designee its opinion as to whether or not an investigation of the complaint should be initiated.

(5) Upon knowledge of a complaint, the chair, or designee, after consultation with other members of the commission, as feasible, shall authorize that an investigation be conducted.

(6) The chair or designee shall direct the course of the investigation through periodic communication with the bureau as necessary.

(7) If an investigation indicates that the complaint may affect a person's license, the licensee shall be notified that the bureau is conducting an investigation, unless extenuating circumstances reasonably preclude notification.

(a) At the conclusion of the bureau's investigation, the bureau shall report its findings to the commission in a closed meeting at which a majority of commission members participate, either in person or by means of a conference telephone or other similar communications equipment.

(b) The commission, after consideration

of the bureau's report, may authorize the initiation of an action by the bureau regarding contemplated refusal to grant initial licensure, or for disciplinary action against a licensee, by a majority vote of commission members participating in the closed meeting. The commission may immediately authorize a cease and desist order or other immediate action, including but not limited to suspension, subject to expedited hearing rights as outlined in Paragraph (5) of Subsection G of 7.27.2.14 NMAC, if it determines that the health and safety of the public would be jeopardized unless the bureau takes action as soon as possible.

(c) The chair of the commission may immediately authorize the initiation of an action by the bureau regarding contemplated refusal to grant initial licensure, or for disciplinary action against a licensee, without consulting the other members of the commission. This immediate action may be used if the chair makes a good faith judgment that the health and safety of the public would be jeopardized unless the bureau takes action as soon as possible. Actions may include cease and desist orders or immediate suspension, subject to expedited hearing rights pursuant to Paragraph (5) of Subsection G of 7.27.2.14 NMAC of these rules. If the chair authorizes the initiation of an action by the bureau, the bureau shall notify each commission member in writing of such action within 10 working days of the initiation of the action.

(d) Upon receipt of authorization from the commission to initiate an action, the bureau may deny, suspend or revoke licensure or take other disciplinary action, in accordance with the provisions of the act, Paragraph (2) of Subsection B of Section 24-10B-5 NMSA 1978 and the Uniform Licensing Act, Sections 61-1-1, *et seq.*, NMSA 1978.

C. Conduct of investigations: Investigations shall normally be conducted by the bureau.

(1)

Preliminary investigations: When the bureau receives information that might form the basis for disciplinary action against a person, it shall begin a preliminary investigation. This is a fact finding, information gathering investigation that will attempt to determine for the commission whether justification exists for the commission to authorize the bureau to initiate an action or to conduct a formal investigation. The results of the preliminary investigation will be presented to the commission.

(2) **Formal investigations:** Formal investigations are authorized by the commission for the purpose of obtaining additional information to allow the commission to determine if it will authorize the bureau to initiate an action. The results of the formal investigation will be presented to the commission. Notice will be given to the person who is the subject of the formal investigation unless extenuating circumstances exist which would reasonably preclude notification.

D. Subpoena authority: In accordance with Subsection C of Section 24-10B-5. 1 NMSA 1978 of the EMS Act and Subsection A of Section 61-1-4 of the Uniform Licensing Act, the EMS licensing commission or the bureau, pursuant to the commissions authorization may, subject to the rules of privilege and confidentiality recognized by law, require the furnishing of information, the attendance of witnesses, and the production of books, records, papers or other objects necessary and proper for the purposes before it, and may take sworn statements of witnesses, including parties.

E. Waivers: The commission, upon good cause or for extenuating circumstances shown by a licensee, may grant a waiver of a specific regulation or regulations pertaining to licensure renewal for that licensee.

(1) A licensee shall demonstrate good cause to the commission by submitting written justification that identifies any

extenuating circumstances, to the bureau. The licensee shall include any reasonable supporting documentation to relevant to the request.

(2) The bureau shall distribute the submitted written justification and supporting documentation to the members of the commission prior to their next meeting.

(3) The commission, as soon as practicable, shall determine if good cause exists to grant a waiver by a majority vote of commission members meeting in a closed meeting. To accomplish this, the commission shall evaluate the documentation and, if necessary, review other pertinent documentation requested from the licensee.

(4) The commission may also meet with the licensee at a closed meeting of the commission prior to rendering its decision as to whether good cause exists to grant a waiver.

(5) If the commission grants the waiver to the licensee, it shall direct the bureau to take appropriate action to implement the terms and conditions of the waiver.

(6) A licensee applying for a waiver shall be notified by the bureau of the commission's decision in writing within 20 calendar days of receipt of the commission's decision.

(7) The chair or his designee, with a recommendation from the bureau, may authorize a temporary waiver for licensure renewal, where they feel it may be justified, i.e., loss of employment, pecuniary interests, etc., subject to subsequent commission review and approval.

F. Impaired practitioner program: An EMT who voluntarily self-identifies to the bureau or the impaired practitioner committee that he is experiencing a physical or mental impairment shall be considered for the impaired practitioner program ("diversion program"). Consideration may not result in participation in the diversion

program. Also, any impaired-EMT who the bureau, with the advice of the commission, determines may benefit from the impaired practitioner program may be compelled to attend the impaired practitioner committee.

(1) The bureau, with the advice of the commission, may appoint an impaired-EMT rehabilitation committee to organize and administer a program that will:

(a) serve as a diversion program to which the bureau may refer licensees in lieu of, or in addition to, other disciplinary action taken by the bureau under these regulations; and

(b) be a source of referral for EMTs who, on a voluntary basis, desire to avail themselves of treatment for behavioral health based or chemical-dependence impairments.

(2) The impaired practitioner committee shall be composed as a minimum of:

(a) one bureau staff member;
(b) one commission member;
(c) one mental health specialist; and
(d) one physician.

(3) The impaired practitioner committee shall:

(a) arrange evaluations for EMTs who request participation in the diversion program;

(b) review and designate treatment facilities and services to which EMTs in the diversion program may be referred;

(c) receive and review information concerning the status and progress of participants in the diversion program;

(d) publicize the diversion program in coordination with EMS professional organizations and the bureau; and

(e) prepare and provide reports as needed to the bureau and the commission.

(4) Each

EMT entering the diversion program shall be informed of the procedures applicable to the diversion program, of the rights and responsibilities associated with participation in the diversion program and of the possible consequences of failure to participate in the diversion program. Failure to comply with any treatment requirement of the diversion program may result in termination of the diversion program participation. The bureau shall report termination of diversion program participation to the commission. Participation in the diversion program shall not be a defense against, but may be considered in mitigating any disciplinary action authorized by the commission and taken by the bureau. The commission is not precluded from authorizing the bureau to commence a disciplinary action against an EMT who is participating in the diversion program or has been terminated from the diversion program.

G. Denial, suspension, and revocation: A license may be denied, suspended, or revoked, or may be subject to any lesser disciplinary action, in accordance with the following:

(1) upon authorization by the commission, the bureau may suspend, revoke, or refuse to issue any license, or take other disciplinary action, in accordance with the provisions of the EMS Act, Subsection B, Section 24-10B-5, NMSA 1978 and the Uniform Licensing Act, Section 61-1-1, *et seq.*, NMSA 1978, for any of the reasons outlined below;

(2) if final disciplinary action is taken against a licensed EMS provider by the bureau, upon authorization from the commission, the bureau may publish the action in a periodical or other medium that has statewide distribution, and will notify the national registry of EMTs of the disciplinary action;

(3) grounds for denial, suspension, revocation or other disciplinary action are:

(a)

misconduct in obtaining licensure; (b)	emergency medical services to include, but not limited to:	(i)
fraud, deceit, misrepresentation in obtaining licensure, including, but not limited to, cheating on an examination or attempting to subvert the initial or renewal licensing process;	practicing outside the standard of care, scope of licensure or without appropriate medical direction;	(ii)
(c)	malpractice;	(iii)
unprofessional conduct, whether committed while on duty or off duty, to include but not limited to, the following:	incompetence, in performance of pre-hospital emergency medical functions, whether direct patient care or the administration or management of that care. An EMS provider is under legal duty to possess and to apply the knowledge, skill and care that is ordinarily possessed and exercised by other EMS providers of the same licensure status and required by the generally accepted standards of the profession; the failure to possess or to apply to a substantial degree such knowledge, skill and care constitutes incompetence for purposes of disciplinary proceedings. It shall not be necessary to show that actual harm resulted from the act or omission or series of acts or omissions, so long as the conduct is of such a character that harm could have resulted to the patient or to the public;	(iv)
(i)	patient abandonment: patient abandonment occurs when the EMS provider has accepted the patient assignment thus establishing a provider-patient relationship and then severs the relationship without giving reasonable notice to a qualified person who can make arrangements for the continuation of care.	(f)
dissemination of a patient's health information to individuals not entitled to such information and where such information is protected by law from disclosure;	unauthorized disclosure of medical or other confidential information;	(g)
(ii)	physical or mental incapacity which could result or has resulted in performance of emergency medical service duties in a manner which endangers the health and safety of the patient or others;	(h)
falsifying or altering patient records or personnel records;	any demonstrated pattern of alcohol or other substance abuse; or any single instance of alcohol or substance abuse in the performance of emergency medical services duties;	(i)
(iii)		(j)
misappropriation of money, drugs or property;		(k)
(iv)		(l)
obtaining or attempting to obtain any fee for patient services for one's self or for another through fraud, misrepresentation, or deceit;		(m)
(v)		(n)
aiding, abetting, assisting or hiring an individual to violate the EMS Act or these duly promulgated rules;		(o)
(vi)		(p)
failure to follow established procedure and documentation regarding controlled substances;		(q)
(vii)		(r)
failure to make or keep accurate, intelligible entries in records as required by law, policy and standards for the practice of pre-hospital emergency care;		
(viii)		
failure to report an EMS provider who is suspected of violating the New Mexico Emergency Medical Services Act or these rules;		
(ix)		
intentionally engaging in sexual contact with or toward a patient.		
(d)		
conviction of a felony or a misdemeanor involving moral turpitude, as shown by a record of the court conviction;		
(e)		
negligence in the delivery of		

failure to comply with a judgment and order for child support or a warrant relating to paternity or child support proceedings issued by a district or tribal court, as provided in the Parental Responsibility Act, Section 40-5A-1 *et seq.*, NMSA 1978;

(s)

failure to notify the bureau in writing of the entry against the licensee or applicant, at any time in any state or jurisdiction, of either a felony conviction, or a misdemeanor conviction involving the use, dispensation, administration or distribution of a drug, the use of alcohol, sexual contact, or the possession or use of a weapon, within 10 calendar days of the conviction;

(t)

intimidating, threatening, or taking any adverse action against a person for providing information to the bureau or commission, either directly or through an agent;

(u)

impersonating an agent or employee of the bureau; and

(v)

issuing non-sufficient funds check for the payment of licensing related fees.

(4) the

provisions of the New Mexico Criminal Offender Employment Act, Section 28-2-1 *et seq.*, NMSA 1978, shall apply to disciplinary actions proposed pursuant to this rule;

(5) procedures

for enforcement of the Parental Responsibility Act:

(a)

the New Mexico human services department (HSD) shall issue to the bureau a certified list of obligors (meaning persons who have been ordered to pay child support pursuant to a judgment and order for support issued by a district or tribal court) not in compliance with their judgment and order of support;

(b)

upon determination by the bureau that the name and social security number of an applicant for licensure, a licensed person, or licensee, appears on the certified list, the bureau shall require that applicants for licensure:

(i)

provide a statement of compliance from HSD to the bureau no later than 48 hours prior to scheduled attendance at a state EMS examination site; or

(ii)

provide a statement of compliance from HSD to the bureau no later than the close of business, 60 days from the date of the letter of notification; or

(iii)

if the applicant fails to provide a statement of compliance, the bureau shall be authorized by the commission to issue a notice of contemplated action to deny the application;

(iv)

that persons currently licensed shall provide the bureau with a statement of compliance from HSD by the earlier of the application for licensure renewal or a specified date not to exceed 60 days;

(v)

if the licensed person fails to provide the statement of compliance, the bureau shall be authorized by the commission to issue a notice of contemplated action to take appropriate action.

(c)

upon authorization by the commission to issue a notice of contemplated action concerning violation of the Parental Enforcement Act, the bureau shall serve upon an applicant for licensure or licensee a notice of contemplated action in accordance with the Uniform Licensing Act stating that the bureau has grounds to take such action, and that the bureau shall take such action unless the applicant or licensed person mails a letter (certified mail, return receipt requested) within 20 days after service of the notice requesting a hearing, or provides the bureau, within 30 days of receipt of the notice of contemplated action, a statement of compliance from HSD; if the applicant or licensed person disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant or licensed person shall contact the HSD child support enforcement division;

(d) in

any hearing under this subparagraph,

the following standards shall apply:

(i)

a statement of non-compliance is conclusive evidence that requires the bureau to take appropriate action, unless the applicant or licensee provides the bureau with a subsequent statement of compliance, which shall preclude the bureau from taking any further action under this section;

(ii)

when an action is taken against an applicant or licensee solely because the applicant or licensed person is not in compliance with a judgment and order for support, the order shall state that the application, license shall be reinstated upon presentation to the bureau of a subsequent statement of compliance.

(e)

the secretary may also include in the order any other conditions necessary to comply with requirements for reapplication and re-issuance of licensure, including, but not limited to, requiring a surcharge fee of \$50, in addition to any other applicable fees.

(6) right to

a hearing: in accordance with the provisions of the Uniform Licensing Act, Sections 61- 1-1, *et seq.*, NMSA 1978, every applicant or person licensed, shall be afforded notice and opportunity for a hearing, before the department shall have authority to take action, the effect of which would be to deny permission to take an examination for licensure for which application has been duly made, or to deny, suspend, or revoke a certification or license, or take other disciplinary action; exception:

(a)

right to expedited hearing for an immediate suspension of a person's license: the person whose license is immediately suspended may request a hearing before a hearing officer appointed by the secretary to contest the action, by mailing a certified return receipt letter addressed to the bureau within 20 days after service of the notice;

(b)

expedited hearing for a person whose license has been immediately suspended upon receipt of a timely

request for a hearing, the department shall appoint a hearing officer and schedule a hearing, in accordance with the hearings portion of this rule.

(7) records

management: a licensing record is maintained for every licensed EMT in New

Mexico; any request for records maintained by the bureau will be processed in accordance with the Inspection of Public Records Act; if the bureau begins a preliminary or formal investigation, a separate confidential record will be created containing all investigatory material;

(a)

confidentiality: the commission and the bureau will take every precaution to insure that preliminary and formal investigations are conducted in a confidential manner; if the commission authorizes the bureau to initiate an action, all records not exempt from disclosure under the Inspection of Public Records Act, Sections 14-2-1, *et seq.*, NMSA 1978, will be placed in the licensee's licensing record, if one exists;

(b)

records confidentiality: any files or records in the possession of the bureau, a regional office or a provider containing identifying information about individuals requesting or receiving treatment or other health services and any unsubstantiated complaints received by the bureau regarding any provider shall be confidential and not subject to public inspection; such files, records and complaints may be subject to subpoena for use in any pending cause, in any administrative proceeding, or in any of the courts of this state, unless otherwise provided by state or federal law.

H. Enforcement of education standards:

(1) Process

for non-compliance: The bureau will make every attempt to resolve non-compliance of education standards at the lowest level possible. The following process shall be utilized:

(a)

the bureau will notify the approved

New Mexico education program, in writing, of any suspected or reported non-compliance of education standards received by complaint, report or course trends;

(b)

the approved New Mexico education program will provide a plan to correct items of noncompliance and will submit the plan to the bureau in writing within 30 days;

(c)

the bureau will re-evaluate the plan and progress reports for compliance of the education standards in three month increments until the problem is resolved; and

(d)

if the bureau determines that non-compliance has not been adequately resolved, the bureau may initiate an enforcement action against the education program or the licensed EMT who is an instructor-coordinator.

(2)

Complaint/incident procedures:

Any person may communicate a complaint or knowledge of an incident to the bureau. Complaints shall be submitted in signed written form to the bureau. The bureau may begin an investigation if there is sufficient cause.

(a)

When a complaint is received by the bureau, written acknowledgment shall be made within 10 working days and the bureau staff shall decide whether or not a preliminary or formal investigation of the complaint shall be initiated.

(b)

Approved New Mexico EMS education programs being formally investigated shall receive written notification within 10 working days after a decision is made to begin a formal investigation.

(c)

At the conclusion of the bureau's formal investigation, the bureau may report its findings to the investigated education program in written form. If the bureau investigation warrants an enforcement action, the education program will be given a notice of contemplated action.

(d)

If no investigation is warranted, the education program or person filing a complaint will be notified, as determined by the bureau.

(3)

Investigations: The bureau shall normally conduct preliminary and formal investigations.

(a)

Preliminary investigations: When the bureau receives information that forms the basis for an enforcement action, it shall begin a preliminary investigation. This is a fact finding, information gathering investigation that will attempt to determine for the bureau whether justification exists to initiate an action or to conduct a formal investigation.

(b)

Formal investigations: Formal investigations are for the purpose of obtaining additional information to allow the bureau to determine if it will initiate an action. Notice will be given of the formal investigation, unless extenuating circumstances exist which would reasonably preclude notification.

(c)

Confidentiality: The bureau will take every precaution to insure that preliminary and formal investigations are conducted in a confidential manner.

(d)

Records: An official record is maintained for every approved New Mexico EMS education program. If the bureau begins a preliminary or formal investigation, a separate confidential record will be created containing all investigation material. If the bureau initiates an action, all records not exempt from disclosure under the Inspection of Public Records Act, Sections 14-2-1, *et seq.*, NMSA 1978, will be placed in the education program's official record. Any request for records maintained by the bureau will be processed in accordance with the Inspection of Public Records Act.

(4)

Grounds for enforcement actions:

Enforcement actions may result in an action taken against an approved New

Mexico EMS education program or an instructor-coordinator affiliated with the education program. These enforcement actions may result in the following actions:

- (a) probation or suspension of the education program for a specified period of time;
- (b) non-recognition of a education program course;
- (c) withdrawal of approval status of a education program by the bureau;
- (d) under 7.27.2.14 NMAC, a licensing action may be initiated against an instructor-coordinator when the bureau determines that there may be inappropriate conduct or negligence; grounds for enforcement actions include, but are not limited to the following:
 - (i) failure to comply with law or rules including but not limited to the failure to properly educate students on the licensure process; failure to comply with the education standards or non-compliance with a education standard found in these rules;
 - (ii) falsifying documents to include use of any false, fraudulent, or deceptive statement in any document;
 - (iii) failure to cooperate with an investigation to include failure to furnish the bureau with requested information, as provided by law;
 - (iv) failure of students or instructors to function within the approved New Mexico scopes of practice, New Mexico treatment guidelines and the drug formulary, as approved by the medical direction committee;
 - (v) failure to report required documentation including patient care data and annual education reports.

(5) **Right to**

appeal: Any approved New Mexico EMS education program may appeal a decision by the bureau to take an enforcement action.

(6) **Notice**

of contemplated action: When the bureau contemplates taking any action specified in this section, it shall serve upon the approved New Mexico EMS education program a written notice containing a statement of the grounds or subject upon which the proposed action is based and the rule(s) violated.

(7) **Right to**

hearing: The approved New Mexico EMS education program may request a hearing before a hearing officer appointed by the secretary to contest the proposed enforcement action, by mailing a certified return receipt letter addressed to the bureau within 20 days after service of the notice.

(8) **Hearing:**

Upon receipt of a timely request for a hearing, the department of health shall appoint a hearing officer and schedule a hearing, to be held in Santa Fe, New Mexico, within 45 working days of receipt of the timely request for a hearing.

(9) **Notice of**

hearing: The department shall notify the approved New Mexico EMS education program of the date, time, and place of the hearing, the identity of the hearing officer, and the subject matter of the hearing, not less than 30 days prior to the date of the hearing.

(10) **Hearing**

officer duties: The hearing officer shall preside over the hearing, administer oaths, take evidence, decide evidentiary objections, and rule on any motions or other matters that arise prior to the hearing.

(11) **Discovery:**

Upon written request to another party, any party is entitled to: obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and inspect and copy any documents or items, which the other party will or may introduce in evidence at the hearing.

(12) **Conduct**

of hearing: Hearings are open to the public unless either party makes a request for closed meeting.

(13) **Hearing**

officer written report and

recommendation(s): The hearing officer shall make a written report and recommendation(s) to the secretary containing a statement of the issues raised at the hearing proposed findings of fact and conclusions of law, and a recommended determination. The hearing officer or designee shall record the hearing by means of a mechanical sound recording device provided by the department for a record of the hearing. The hearing officer written report shall be submitted to the secretary no later than 30 working days after the close of the hearing.

(14)

Secretary's determination: The secretary shall render a final determination within 45 calendar days of the submission of the hearing officer's written report. A copy of the final decision shall be mailed to the appealing party by certified mail, return receipt requested. A copy shall be provided to legal counsel for the bureau.

[7.27.2.14 NMAC - Rp, 7.27.2.14 NMAC, 12/12/2017]

7.27.2.15 HEARINGS:

A. Right to appeal:

A licensee or applicant may appeal a decision by the department to take a disciplinary action against the licensee or applicant under this rule.

B. Right to hearing:

A licensee or applicant may request a hearing before a hearing officer appointed by the secretary to contest a proposed action or immediate suspension under this rule, by mailing a certified letter, return receipt requested, to the bureau within 20 days after service of the notice of the contemplated action or immediate suspension. If the licensee or applicant fails to request a hearing in the time and manner required by this section, the licensee or applicant shall forfeit the right to a hearing, and the proposed action shall become final and not subject to judicial review.

C. Scheduling the

hearing:

(1)

Appointment of hearing officer:

Upon the bureau's receipt of a timely

request for a hearing, the department shall appoint a hearing officer and schedule a hearing.

(2) Hearing

date: The hearing shall be held not more than 60 days and not less than 15 days from the date of service of the notice of the hearing. **Exception for immediate suspensions; expedited hearing:** In the event that the bureau immediately suspends an individual's license, the department shall afford the individual an expedited hearing within 20 days of the date of the bureau's timely receipt of the licensee's request for a hearing, unless the individual waives this provision.

(3) Notice

of hearing: The department shall notify the licensee or applicant of the date, time, and place of the hearing and the identity of the hearing officer, and shall identify the statute(s) and regulation(s) authorizing the department to take the contemplated action (unless previously disclosed), within 20 days of the bureau's timely receipt of the request for hearing. **Exception for immediate suspensions:** In the event that the bureau immediately suspends an individual's license, the department shall notify the individual of the expedited hearing not less than seven days prior to the scheduled date of the expedited hearing.

(4) Hearing

venue: The hearing shall be held in the county in which the person whose license is involved maintains his residence, or at the election of the hearing officer, in any county in which the acts complained of occurred. In any case, the hearing officer may, with the agreement of the parties, hold the hearing in some other county. **Exceptions; expedited hearings and cases involving initial licensure:** Expedited hearings shall be held in Santa Fe, New Mexico. Hearings in cases involving initial licensure shall also be held in Santa Fe, New Mexico.

D. Method of service:

Any notice or decision required to be served under this section may be served either personally or by certified mail,

return receipt requested, directed to the licensee or applicant at the last known mailing address (or, if service is made personally, by the last known physical address) shown by the records of the bureau. If the notice or decision is served personally, service shall be made in the same manner allowed by the rules of civil procedure for the state district courts of New Mexico. Where the notice or decision is served by certified mail, it shall be deemed to have been served on the date borne by the return receipt showing delivery, or the date of the last attempted delivery of the notice or decision, or the date of the addressee's refusal to accept delivery.

E. Excusal of the hearing officer:

(1)

Peremptory excusal: A party shall have the ability to excuse one hearing officer. The party may request the peremptory excusal by submitting to the secretary a motion for peremptory excusal at least 20 days prior to the date of the hearing, or at least five days prior to the date of an expedited hearing concerning the immediate suspension of an individual's license.

(2) Excusal

for good cause shown: A party may request that a hearing officer be excused for good cause shown by submitting to the secretary a motion of excusal for good cause at least 20 days prior to the date of the hearing, or at least five days prior to an expedited hearing concerning the immediate suspension of an individual's license.

F. Hearing officer duties: The hearing officer shall conduct the hearing, rule on any motions or other matters that arise prior to the hearing, and issue a written report and recommendation(s) to the secretary following the close of the hearing.

G. Official file: Upon appointment, the hearing officer shall establish an official file which shall contain all notices, hearing requests, pleadings, motions, written stipulations, evidence, briefs, and correspondence received in the case. The official file shall also contain

proffered items not admitted into evidence, which shall be so identified and shall be separately maintained. Upon conclusion of the proceeding and following issuance of the final decision, the hearing officer shall tender the complete official file to the department for its retention as an official record of the proceedings.

H. Powers of

hearing officer: The hearing officer shall have all the powers necessary to conduct a hearing and to take all necessary action to avoid delay, maintain order, and assure development of a clear and complete record, including but not limited to the power to: administer oaths or affirmations; schedule continuances; direct discovery; examine witnesses and direct witnesses to testify; subpoena witnesses and relevant books, papers, documents, and other evidence; limit repetitious and cumulative testimony; set reasonable limits on the amount of time a witness may testify; decide objections to the admissibility of evidence or receive the evidence subject to later ruling; receive offers of proof for the record; take notice of judicially cognizable facts or take notice of general, technical, or scientific facts within the hearing officer's specialized knowledge (provided that the hearing officer notifies the parties beforehand and offers the parties an opportunity to contest the fact so noticed); direct parties to appear and confer for the settlement or simplification of issues, and otherwise conduct pre-hearing conferences; impose appropriate evidentiary sanctions against a party who fails to provide discovery or who fails to comply with a subpoena; dispose of procedural requests or similar matters; and enter proposed findings of fact and conclusions of law, orders, reports and recommendations. The hearing officer may utilize his or her experience, technical competence, or specialized knowledge in the evaluation of evidence presented.

I. Minimum

discovery; inspection and copying of documents: Upon written request to another party, any party shall have

access to documents in the possession of the other party that are relevant to the subject matter of the appeal, except confidential or privileged documents.

J. Minimum discovery; witnesses: The parties shall each disclose to each other and to the hearing officer, either orally or in writing, the names of witnesses to be called, together with a brief summary of the testimony of each witness. In situations where written statements will be offered into evidence in lieu of a witness's oral testimony, the names of the persons making the statements and a brief summary of the statements shall be disclosed.

K. Depositions: Depositions may be taken by any party after service of notice in accordance with the Rules of Civil Procedure for the district courts. Depositions may be used as in proceedings governed by those rules.

L. Subpoenas: A party may have subpoenas and subpoenas duces tecum (to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence) issued as of right prior to the commencement of a hearing upon making written request therefor to the hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the hearing officer.

M. Subpoena limits; service: Geographical limits upon the subpoena power shall be the same as if the hearing officer were a district court sitting at the location at which the hearing or discovery proceeding is to take place. The method of service shall be the same as that under the rules of civil procedure for the district courts, except that rules requiring the tendering of fees shall not apply to the department.

N. Pre-hearing disposition: The subject matter of any hearing may be disposed of by stipulation, settlement or consent order, unless otherwise precluded by law. Any stipulation, settlement, or consent order reached between the

parties shall be written and shall be signed by the hearing officer and the parties or their attorneys.

O. Postponement or continuance: The hearing officer, at his or her discretion, may postpone or continue a hearing upon his or her own motion, or upon the motion of a party, for good cause shown. Notice of any postponement or continuance shall be given in person, by telephone, or by mail to all parties within a reasonable time in advance of the previously scheduled hearing date.

P. Conduct of hearing: Pursuant to the NM Open Meetings Act, Section 10-15-1, *et seq.*, NMSA 1978, hearings shall be open to the public; provided, however, that hearings may be closed in part to prevent the disclosure of confidential information, including but not limited to health information protected by state and federal laws.

Q. Telephonic testimony: Upon timely notice to the opposing party and the hearing officer, and with the approval of the hearing officer, the parties may present witnesses by telephone or live video (if available).

R. Legal representation: A licensee or applicant may be represented by an attorney licensed to practice in New Mexico, or by a licensed EMT, or both. The department may be represented by a department employee or an attorney licensed to practice in New Mexico, or both.

S. Recording: The hearing officer or a designee shall record the hearing by means of a mechanical sound recording device provided by the department for a record of the hearing. Such recording need not be transcribed, unless requested by a party who shall arrange and pay for the transcription.

T. Burden of proof: Except as otherwise provided in this rule, the department has the burden of proving by a preponderance of the evidence the basis for the proposed action. Exception in denied application cases: in cases arising from the denial of permission to take a licensing examination for

which application has been properly made, denial of a license for any cause other than failure to pass an examination, or denial of a license for which application has been properly made on the basis of reciprocity or endorsement or acceptance of a national certificate of qualification, the applicant shall bear the initial burden of proving by a preponderance of the evidence the applicant's qualifications.

U. Order of presentation; general rule: Except as provided in this rule, the order of presentation for hearings in all cases shall be:

(1) **appearances:** opening of proceeding and taking of appearances by the hearing officer;

(2) **pending matters:** disposition by the hearing officer of preliminary and pending matters;

(3) **opening statements:** the opening statement of the department; and then the opening statement of the party challenging the department's action or proposed action;

(4) **cases:** the department's case-in-chief, and then the case-in-chief of the party challenging the department's action;

(5) **rebuttal:** the department's case-in-rebuttal;

(6) **closing argument:** the department's closing statement, which may include legal argument; and then the closing statement of the party opposing the department's action or proposed action, which may include legal argument; and

(7) **close:** close of proceedings by the hearing officer.

V. Order of presentation in denied application cases: The order of presentation in cases arising from the denial of permission to take a licensing examination for which application has been properly made, denial of a license for any cause other than failure to pass an

examination, or denial of a license for which application has been properly made on the basis of reciprocity or endorsement or acceptance of a national certificate of qualification shall be:

(1)

appearances: opening of proceeding and taking of appearances by the hearing officer;

(2) **pending**

matters: disposition by the hearing officer of preliminary and pending matters;

(3) **opening**

statements: applicant's opening statement; and then the opening statement of the department;

(4) **cases:** the

applicant's case-in-chief, and then the department's case-in-chief;

(5) **rebuttal:**

the applicant's case-in-rebuttal;

(6) **closing**

argument: the applicant's closing statement, which may include legal argument; and then the department's closing statement, which may include legal argument; and

(7) **close:**

close of proceedings by the hearing officer.

W. Admissible

evidence; rules of evidence not applicable: The hearing officer may admit evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs. Rules of evidence, such as the New Mexico rules of evidence for the district courts, shall not apply but may be considered in determining the weight to be given any item of evidence. The hearing officer may at his or her discretion, upon his or her motion or the motion of a party or a party's representative, exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence, including testimony, and may exclude confidential or privileged evidence.

X. Objections:

A party may timely object to evidentiary offers by stating the objection together with a succinct statement of the grounds for the objection.

The hearing officer may rule on the admissibility of evidence at the time an objection is made or may receive the evidence subject to later ruling.

Y. Official notice:

The hearing officer may take notice of any facts of which judicial notice may be taken, and may take notice of general, technical, or scientific facts within his or her specialized knowledge. When the hearing officer takes notice of a fact, the parties shall be notified either before or during the hearing of the fact so noticed and its source, and the parties shall be afforded an opportunity to contest the fact so noticed.

Z. Record content:

The record of a hearing shall include all documents contained in the official file maintained by the hearing officer, including all evidence received during the course of the hearing, proposed findings of fact and conclusions of law, the recommendations of the hearing officer, and the final decision of the secretary.

AA Written evidence

from witnesses: The hearing officer may admit evidence in the form of a written statement made by a witness, when doing so will serve to expedite the hearing and will not substantially prejudice the interests of the parties.

BB. Failure to appear:

If a party who has requested a hearing or a party's representative fails to appear on the date, time, or location announced for a hearing, and if no continuance was previously granted, the hearing officer may proceed to hear the evidence of such witnesses as may have appeared or may accept offers of proof regarding anticipated testimony and other evidence, and the hearing officer may further proceed to consider the matter and issue his report and recommendation(s) based on the evidence presented; and the secretary may subsequently render a final decision. Where a person fails to appear at a hearing because of accident, sickness, or other cause, the person may within a reasonable time apply to the hearing officer to reopen the proceeding, and the hearing officer may, upon finding sufficient cause, fix a time and place for a hearing and

give notice to the parties.

CC. Hearing officer written report and recommendation(s):

The hearing officer shall submit a written report and recommendation(s) to the secretary that contains a statement of the issues raised at the hearing, proposed findings of fact and conclusions of law, and a recommended determination. Proposed findings of fact shall be based upon the evidence presented at the hearing or known to all parties, including matters officially noticed by the hearing officer. The hearing officer's recommended decision is a recommendation to the secretary of the New Mexico department of health and is not a final order.

DD. Submission for final decision: The hearing officer's report and recommendation(s) shall be submitted together with the complete official file to the secretary of the New Mexico department of health for a final decision no later than 30 days after the hearing.

EE. Secretary's final decision: The secretary shall render a final decision within 45 calendar days of the submission of the hearing officer's written report. The final decision shall contain a statement informing the applicant or licensee of their right to judicial review and the time within which such review must be brought (see below). A copy of the final decision shall be mailed to the appealing party by certified mail, return receipt requested, within 15 days after the final decision is rendered and signed. A copy shall be provided to legal counsel for the bureau.

FF. Right to judicial review: Pursuant to Section 39-3-1.1 NMSA 1978, a licensee or applicant who is entitled to a hearing under this rule and who is aggrieved by an adverse final decision may obtain a judicial review of the decision by filing in state district court a notice of appeal within 30 days of the entry of the final decision by the secretary.

GG. Court-ordered stay: Filing for judicial review shall not itself stay enforcement of the final

decision. Any party may petition the court whose jurisdiction has been properly invoked for an order staying enforcement.

[7.27.2.15 NMAC - Rp, 7.27.2.15 NMAC, 12/12/2017]

7.27.2.16 CRIMINAL HISTORY SCREENING:

A. Authority; use of criminal history information: The emergency medical services (EMS) bureau is authorized to obtain the criminal history records of applicants and licensees, and to exchange fingerprint data directly with the federal bureau of investigation, department of public safety (DPS) and any other law enforcement agency or organization. The EMS bureau shall require fingerprinting of applicants and licensees for the purposes of this section. Information regarding felonies and misdemeanors involving moral turpitude may form the basis of a denial, suspension or revocation of licensure, and other disciplinary action.

B. Procedure for applicants and licensees:

(1) If an applicant or licensee otherwise meets the application and eligibility requirements, then the bureau shall require the applicant or licensee to submit a request to the federal bureau of investigation, DPS or a DPS designated vendor for a current criminal history screening through the national crime information center ("NCIC"). The applicant or licensee shall undergo the criminal history screening when first applying for either initial or renewal licensure after the effective date of this rule, and every four years thereafter.

(2) The department shall provide applicants and licensees with the department's originating agency identification (ORI) number for the purposes of criminal history screening.

(3) An applicant or licensee shall provide to DPS or a DPS designated vendor a criminal background screening request, fingerprints, and supporting documentation including

an authorization for release of information to the department in accordance with the procedures of DPS or the DPS designated vendor.

(4) DPS or the DPS designated vendor will review state records and also transmit the fingerprints to the federal bureau of investigation for a national screening. The results of the screening will be made available to the department for review.

(5) Applicants and licensees shall bear any costs associated with ordering or conducting criminal history screening. Fees are determined by and payable to DPS or a DPS designated vendor. Fees cannot be waived by the department.

(6) The EMS bureau may, within its discretion, waive the criminal history screening requirements of this section for an applicant or licensee who has submitted to, and provided proof of, an equivalent criminal history screening through DPS or through the DPS designated vendor within the previous nine months and was found to have no criminal convictions.

(7) The EMS bureau shall comply with applicable confidentiality requirements of the DPS and the federal bureau of investigation regarding the handling and dissemination of criminal history information.

C. EMS bureau review of criminal history screening information:

(1) The EMS bureau shall conduct a review of applicants and licensees with an associated history of felonies or misdemeanors involving moral turpitude. The bureau may require the submission of additional information in writing from the applicant or licensee in order to determine whether to pursue disciplinary action. Such information may include (but not be limited to) evidence of acquittal or dismissal, information concerning conviction of a lesser included crime, or evidence of rehabilitation.

(2) The Criminal Offender Employment Act,

Section 28-2-1 *et seq.*, NMSA 1978 shall govern any consideration of criminal records required or permitted by this section. In accordance with Section 28-2-4 NMSA 1978 of that act, the following provisions shall apply:

(a) **For convictions directly relating to the EMS profession or practice:** If an applicant or licensee has been convicted of a felony or misdemeanor involving moral turpitude, and if that conviction relates directly to the profession or the practice of emergency medical services, the department may deny, suspend, or revoke licensure, or take other disciplinary action, on the basis of the conviction(s). The burden of proof shall rest with the applicant or licensee to prove that he or she has been sufficiently rehabilitated.

(b) **For convictions not directly relating to the EMS profession or practice:** If an applicant or licensee has been convicted of a felony or misdemeanor involving moral turpitude, and if that conviction does not relate directly to the profession or the practice of emergency medical services, the department may deny, suspend, or revoke licensure, or take other disciplinary action, if the person so convicted has not been sufficiently rehabilitated to warrant the public trust. For purposes of this provision: the burden of proof shall rest with the department to demonstrate non-rehabilitation; and there shall be a rebuttable presumption of sufficient rehabilitation if the applicant or licensee has completed probation or parole supervision, or a period of at least three years has lapsed after final discharge or release from any term of imprisonment without subsequent conviction.

(3) Factors that may be considered by the EMS bureau in determining whether to pursue disciplinary action against a licensee or applicant on the basis of the individual's criminal history may include, but shall not be limited to:

(a)

the total number of convictions;

(b)

the time elapsed since the most recent conviction;

(c)

the circumstances and severity of the crime(s), including whether drugs or violence were involved;

(d)

activities evidencing rehabilitation, including but not limited to completion of probation and completion of drug or alcohol rehabilitation programs;

(e)

any false or misleading statements made by the applicant or licensee in an application or other materials; and

(f)

evidence concerning whether an applicant or licensee poses a risk of harm to the health and safety of patients or the public.

(4) An

applicant or licensee whose license is denied, suspended, or revoked, or who is otherwise made the subject of a contemplated disciplinary action based on information obtained in a criminal history background screening, shall be entitled to review the information obtained pursuant to this section and to appeal the decision pursuant to the Uniform Licensing Act, Section 61-1-1 *et seq.*, NMSA 1978, in accordance with department rules.

[7.27.2.16 NMAC - Rp, 7.27.2.16 NMAC, 12/12/2017]

7.27.2.17 REVOCATION

A. Effect of

revocation of NM EMS licensure:

(1) Any

person whose New Mexico EMSFR, EMT-B, EMT-I, or EMT-P licensure was revoked shall be ineligible to apply for EMSFR, EMT-B, EMT-I, or EMT-P licensure, except as otherwise permitted by this rule section.

(2) Any

person whose New Mexico EMD or EMD-I licensure was revoked shall be ineligible to apply for EMD or EMD-I licensure, except as otherwise permitted by this rule section.

(3) A person

whose NM EMS licensure was previously revoked cannot utilize the re-entry or reciprocity processes to become relicensed.

B. Application for preliminary approval for licensure after revocation:

(1) A person

whose New Mexico licensure was revoked no less than five years ago and whose application for relicensure is prohibited as stated above (hereafter, a "revoked individual") may request preliminary approval for licensure at the first responder, EMT basic or EMD level by submitting a preliminary approval application to the EMS bureau.

(2) A revoked

individual who applies for preliminary approval for licensure shall submit all documentation that they wish to be considered in support of the request, including any records to demonstrate rehabilitation. Records that demonstrate rehabilitation are materials that demonstrate that it is likely that the revoked individual will not engage in conduct that is the same or similar to that which resulted in the revocation, and which demonstrate that the revoked individual warrants the public trust.

(3) At all

times in this licensure process, the burden shall rest solely with the revoked individual to demonstrate their rehabilitation and their fitness to practice emergency medicine.

(4) The EMS

Bureau's receipt of an application for preliminary approval for licensure of an individual whose license was previously revoked shall in no way guarantee that the application will be granted or that the revoked individual will be permitted to apply for licensure.

C. Final decision on application for preliminary approval for licensure after revocation:

(1) The EMS

bureau shall review the application for preliminary approval and shall submit that application and any attached materials to the licensing commission for its consideration

in the closed session of a regularly scheduled meeting of the commission. The EMS bureau shall make a recommendation to the licensing commission to grant or deny the application, and the commission shall review the application, during a closed meeting at which a majority of commission members participate, either in person or by means of a conference telephone or similar communications equipment. The licensing commission shall authorize the EMS bureau to grant or deny the application for preliminary approval for licensure by a majority vote of the commission members in attendance.

(2) Upon

receiving authorization from the commission to grant or deny an application for preliminary approval for licensure, the bureau may render the final decision via written notice to the applicant.

(3) The

bureau's grant or denial of an application for preliminary approval for licensure constitutes the final administrative action on that application, and, except as otherwise provided by law, that decision shall not be subject to any further proceeding or appeal. Nothing in this rule section conveys a right of action to any person with respect to a final decision concerning licensure after revocation, and nothing in this rule generates a right of judicial appeal with respect to that decision.

(4) A revoked

individual whose application for preliminary approval for licensure is denied shall be prohibited from applying for licensure, and may not thereafter reapply for preliminary approval for licensure, until the passage of at least three years from the date of the denial.

(5) A revoked

individual whose application for preliminary approval for licensure is granted may apply for licensure, and shall complete all applicable requirements of the rule in order to become licensed at this initial level and all subsequent levels of desired licensure.

D. Effect of licensure

after revocation: The licensure after revocation process enables a revoked individual to again obtain NM EMS licensure. This licensure does not constitute reinstatement, revival or renewal of a license that was previously issued or revoked. The record of a revoked individual's prior revocation shall remain a part of their EMS licensing file, and shall remain a matter of public record, without regard to the outcome of the preliminary approval process.
[7.27.2.17 NMAC - N, 12/12/2017]

History of 7.27.2 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as: DOH Regulation 9/5/2004 (CHSD), Regulations Governing the Certification and Licensing of Emergency Services Personnel, filed 10/25/1995.

History of Repealed Material:

7 NMAC 27.2, Certification and Licensing of Emergency Medical Services Personnel (filed 11/26/1996) repealed 09/13/2001.
7.27.2 NMAC, Certification and Licensing of Emergency Medical Services Personnel (filed 08/30/2001) repealed 01/01/2006.
7.27.2 NMAC, Certification and Licensing of Emergency Medical Services Personnel (filed 12/16/2005) repealed 12/15/2008.
7.27.2 NMAC, Certification and Licensing of Emergency Medical Services Personnel (filed 12/2/2008) repealed 10/30/2012.
7.27.2 NMAC, Licensing of Emergency Medical Services Personnel (filed 10/15/2012) repealed 8/15/2004.
7.27.2 NMAC, Licensing of Emergency Medical Services Personnel, filed 7/28/2014, repealed 12/12/2017.

Other History:

DOH Regulation 9/5/2004 (CHSD), Regulations Governing The Certification and Licensing of Emergency Medical Services

Personnel (filed 10/25/1995), was renumbered and reformatted to and replaced by 7 NMAC 27.2 NMAC, Certification and Licensing of Emergency Medical Services Personnel, effective 01/01/1997.
7 NMAC 27.2 NMAC, Certification and Licensing of Emergency Medical Services Personnel (filed 11/26/1996) was replaced by 7.27.2 NMAC, Certification and Licensing of Emergency Medical Services Personnel, effective 09/13/2001.
7.27.2 NMAC, Certification and Licensing of Emergency Medical Services Personnel (filed 08/30/2001) was replaced by 7.27.2 NMAC, Certification and Licensing of Emergency Medical Services Personnel, effective 01/01/2006.
7.27.2 NMAC, Certification and Licensing of Emergency Medical Services Personnel (filed 12/16/2005) was replaced by 7.27.2 NMAC, Licensing of Emergency Medical Services Personnel, effective 12/15/2008.
7.27.2 NMAC, Certification and Licensing of Emergency Medical Services Personnel (filed 12/2/2008) was replaced by 7.27.2 NMAC, Licensing of Emergency Medical Services Personnel, effective 10/30/2012.
7.27.2 NMAC, Licensing of Emergency Medical Services Personnel (filed 10/15/2012) was replaced by 7.27.2 NMAC, Licensing of Emergency Medical Services Personnel, effective 8/15/2014.
7.27.2 NMAC, Licensing of Emergency Medical Services Personnel (filed 7/28/2014) was replaced by 7.27.2 NMAC, Licensing of Emergency Medical Services Personnel, effective 12/12/2017.

HEALTH, DEPARTMENT OF

TITLE 7 HEALTH CHAPTER 27 EMERGENCY MEDICAL SERVICES PART 6 EMERGENCY MEDICAL SERVICES ADVANCE DIRECTIVES

7.27.6.1 ISSUING

AGENCY: New Mexico Department of Health (DOH), Epidemiology and Response Division (ERD), Emergency Medical Systems Bureau (EMSB).
[7.27.6.1 NMAC - Rp, 7.27.6.1 NMAC, 12/12/2017]

7.27.6.2 SCOPE: This regulation applies to all people of New Mexico who have capacity, or by a person duly appointed under a durable power of attorney for health care, physicians, advanced practice nurses, or physician assistants, and emergency medical services personnel.
[7.27.6.2 NMAC - Rp, 7.27.6.2 NMAC, 12/12/2017]

7.27.6.3 STATUTORY

AUTHORITY: These regulations are promulgated pursuant to the following statutory authorities:

A. the Department of Health Act, Section 9-7-6. E NMSA 1978, which authorizes the secretary of the department of health to make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions"; and

B. the Emergency Medical Services Act (as amended by Laws of 2003, Chapter 243), Section 2410B-4I NMSA 1978, which authorizes the department of health to adopt "regulations pertaining to authorization of providers to honor advance directives to withhold or terminate care in certain pre-hospital or inter-facility circumstances, as guided by local medical protocols".
[7.27.6.3 NMAC - Rp, 7.27.6.3 NMAC, 12/12/2017]

7.27.6.4 DURATION: Permanent.
[7.27.6.4 NMAC - Rp, 7.27.6.4 NMAC, 12/12/2017]

7.27.6.5 EFFECTIVE DATE: December 12, 2017, unless a later date is cited at the end of a section.
[7.27.6.5 NMAC - Rp, 7.27.6.5

NMAC, 12/12/2017]

7.27.6.6 OBJECTIVE:

These regulations will inform the public and New Mexico emergency medical services providers of the procedures to authorize the use of advance directives in pre-hospital and inter-facility settings.

[7.27.6.6 NMAC - Rp, 7.27.6.6 NMAC, 12/12/2017]

7.27.6.7 DEFINITIONS:

A. "Advance directive" means a written instruction, such as a living will, durable power of attorney for health care or emergency medical services do not resuscitate form recognizable under state law and relating to the provision of health care when an individual is incapacitated.

B. "Advanced Practice Nurse" means a registered nurse who has completed the required education and training and received state of New Mexico approval to practice as a certified nurse midwife or advanced practice registered nurse.

C. "Authorized health care decision maker" means a person authorized under a durable power of attorney to make health care decisions on behalf of another, a court-appointed guardian or the parent of a minor or any other person authorized by law to make health care decisions for another.

D. "Bureau" means the emergency medical systems bureau of the epidemiology and response division of the department.

E. "Capacity" means an individual's ability to understand and appreciate the nature and consequences of proposed health care, including its significant benefits, risks and alternatives to proposed health care and to make and communicate an informed health-care decision.

F. "Designee" means a registered nurse, social worker, or other person who is

designated and authorized by a physician, advanced practice nurse, or physician assistant to explain an EMS DNR order to a person who may execute the order.

G. "Durable power of attorney" means a document executed according to the provisions of Sections 45-5-501 through 45-5-502 NMSA 1978 of the New Mexico Probate Code, which designates an individual to make health care decisions for the person executing the document, or an advance health-care directive executed according to the provisions of Sections 24-7A-1 through 24-7A-18 NMSA 1978 of the New Mexico Uniform Health-Care Decisions Act, which designates an agent or surrogate to make health care decisions for an individual.

H. "Emergency medical services (EMS)" means the services rendered by emergency medical technicians or certified emergency medical services first responders in response to an individual's need for immediate medical care to prevent loss of life or aggravation of physical or psychological illness or injury.

I. "EMS bracelet" means a bracelet, medallion or some other item of personal wear, approved by the bureau for indicating in a standard, readily-recognizable manner that the person has executed an EMS DNR order.

J. "EMS do not resuscitate (DNR) order" means an order issued by a physician, advanced practice nurse, or physician's assistant, and signed by the person or authorized health care decision maker, on a form approved by the bureau, indicating that resuscitative measures should not be performed.

K. "EMS personnel" means persons currently licensed or certified by the bureau to practice as emergency medical technicians (EMTs) or emergency medical services first responders in New Mexico.

L. "Medical

control" means supervision provided by or under the direction of physicians to EMS personnel by written protocol or direct communications.

M. "New Mexico Medical Orders for Scope of Treatment (MOST) form" is a bureau approved advanced healthcare directive/healthcare decision that may be used either in conjunction with or as an alternative to the EMS DNR order; it must be signed by a physician, advanced practice nurse, or physician's assistant and by the patient or patient's healthcare decision maker.

N. "Physician" means a doctor of medicine or doctor of osteopathy licensed or otherwise authorized to practice medicine or osteopathic medicine.

O. "Physician's Assistant (PA)" means a person who has received the education, training and approval from the State of New Mexico to practice as a PA in New Mexico

P. "Pre-hospital setting" means any setting outside of a hospital where EMS personnel are called for assistance, including but not limited to long term care facilities, private homes or during transport.

[7.27.6.7 NMAC - Rp, 7.27.6.7 NMAC, 12/12/2017]

7.27.6.8 EMS DO NOT RESUSCITATE (DNR) ORDER:

A. Execution and duration of an EMS DNR order, including Section A of the MOST form.

(1) Any physician, advanced practice nurse, or PA may execute an EMS DNR order on behalf of any person with capacity, with the person's informed consent. The physician, advanced practice nurse, or PA or designee shall explain to the person the full meaning of the order, the available alternatives, how the order may be revoked, and answer any questions the person may have about the order. The person for

whom the order is being executed shall sign the document, as well as the physician, advanced practice nurse, or PA. A registered nurse may sign the EMS DNR or MOST if a verbal order for the EMS DNR or MOST has been received from a physician, advanced practice nurse, or PA; the name of the physician, advanced practice nurse, or PA must be printed beneath the signature.

(2) If the person for whom an EMS DNR order is contemplated has appointed an agent under a durable power of attorney, and the person for whom the DNR order is contemplated lacks capacity, the physician, advanced practice nurse, or PA or designee may discuss the situation with the person's authorized health care decision maker, if any. The physician, advanced practice nurse, PA, or designee shall explain to the authorized health care decision maker the full meaning of the order, the available alternatives, how the order may be revoked, and answer any questions the authorized health care decision maker may have about the order. If the authorized health care decision maker gives informed consent to the order, the decision maker will sign the EMS DNR or MOST, as will the physician, advanced practice nurse, or PA. A registered nurse may sign the EMS DNR or MOST if a verbal order for the EMS DNR or MOST has been received from a physician, advanced practice nurse, or PA; the name of the physician, advanced practice nurse, or PA must be printed beneath the signature.

(3) An EMS DNR or MOST order shall remain in effect indefinitely unless revoked or unless an expiration date is specified in the document.

(4) An EMS DNR or MOST order shall be periodically reviewed by the person for whom the EMS DNR order is executed or by the authorized health care decision maker.

(5) A person for whom an EMS DNR order is executed may choose to wear an optional

EMS bracelet indicating the existence of the order.

B. Revocation of an EMS DNR or MOST order.

(1) An EMS DNR or MOST order may be revoked at any time orally, by executing a subsequent order, or by performing an act which indicates an attempt to revoke the order, such as by burning, tearing, canceling, obliterating or destroying the order or any part of it, by the person on whose behalf it was executed or by the person's authorized health care decision maker.

(2) If an EMS DNR or MOST order is revoked, EMS personnel shall initiate appropriate resuscitation measures.

C. Execution and duration of a durable power of attorney.

(1) Any adult with decisional capacity may execute a durable power of attorney.

(2) A durable power of attorney shall remain in effect indefinitely unless revoked or unless an expiration date is specified in the document.

D. Revocation of a durable power of attorney: a durable power of attorney may be revoked at any time by executing a subsequent durable power of attorney or by performing an act which indicates an attempt to revoke the durable power of attorney, such as by burning, tearing, canceling, obliterating or destroying the document, or any part of it, by the person who executed it. It may also be revoked by an oral statement by the person who executed it.

[7.27.6.8 NMAC - Rp, 7.27.6.8 NMAC, 12/12/2017]

7.27.6.9 EMS PERSONNEL AND PROCEDURES:

A. Authorization of EMS personnel: EMS personnel shall follow EMS DNR orders, MOST

form instructions or durable powers of attorney when encountering persons in pre-hospital settings in accordance with these regulations and local EMS medical protocols.

B. EMS procedures for verifying EMS DNR orders: EMS personnel shall comply with the following procedures when encountering a possible EMS DNR order:

(1) primary assessment - perform initial primary assessment, i.e., assess airway, breathing and carotid pulse;

(2) verification of identification - verify by:

(a) using a driver's license or other signed photo identification; or

(b) identification by a family member; or

(c) positive third party identification by someone who knows the person;

(3) verification of existence of the appropriately completed MOST form by the steps in Subsection D of 7.27.6.9 NMAC;

(4) verification of EMS DNR or MOST order - verify the existence of an EMS DNR or MOST order for the person, using the following indicators:

(a) EMS DNR order only: if a valid EMS DNR order is immediately accessible, proceed to Subsection C of 7.27.6.9 NMAC;

(b) intact EMS bracelet: if the person is wearing an EMS bracelet that is fully intact and not defaced, proceed to Subsection C of 7.27.6.9 NMAC;

(c) non-intact or defaced EMS bracelet with an EMS DNR order: if the person is wearing an EMS bracelet that is not fully intact or is defaced, but an EMS DNR order is immediately accessible, proceed to Subsection C of 7.27.6.9 NMAC;

(d) non-intact or defaced EMS bracelet without an EMS DNR order: follow the regular resuscitation protocol and ask family member(s) or others

present to locate the EMS DNR order; if the EMS DNR order is located, proceed to Subsection C of 7.27.6.9 NMAC; if the EMS DNR order is not located, continue the regular resuscitation protocol and contact medical control for consultation;

(e)

no EMS bracelet and no EMS DNR order: if the person is not wearing an EMS bracelet but there are other indications that the person is on DNR status, follow the regular resuscitation protocol and ask family member(s) or others present to locate the EMS DNR order; if the EMS DNR order is located, proceed to Subsection C of 7.27.6.9 NMAC; if the EMS DNR order is not located, continue the regular resuscitation protocol and contact medical control for consultation.

(5) if there

is any question about the validity of an EMS DNR order or MOST form, or there is any indication of an attempted homicide, initiate resuscitation until such time that the questions have been answered; if possible, contact medical control for consultation.

C. EMS procedures for implementing EMS DNR orders or MOST form instructions: if a person has a valid EMS DNR order or MOST form as evidenced by the steps in Subsection B of 7.27.6.9 NMAC, proceed as follows:

(1) for all

persons: the following procedures may be initiated for the comfort of the person if they have not been refused by the person or by the authorized health care decision maker:

(a)

administering oxygen by mask or cannula;

(b)

suctioning;

(c)

managing airways except intubation and other advanced airway maneuvers;

(d)

administering analgesics, as authorized by the New Mexico scopes

of practice;

(e)

controlling bleeding;

(f)

other care indicated on MOST form if utilized;

(g)

making patient comfortable; and

(h)

comforting family.

(2) for all

persons in cardiac or respiratory arrest: - the following procedures shall be withheld:

(a)

external cardiac compressions;

(b)

artificial ventilations, intubation or other advanced airway maneuvers;

(c)

defibrillation/external cardiac pacing;

(d)

administration of cardiac medications; and

(e)

artificial respiration.

(3) if there

is any question about the validity of an EMS DNR order, or there is evidence of an attempted homicide or suicide, initiate resuscitation until such time that the questions have been answered; if possible, contact medical control for consultation.

D. EMS procedures for implementing the instructions on the MOST form or other durable powers of attorney:

(1) EMS

personnel shall comply with the following procedures when encountering a MOST form, a DNR or advance directive form from any other source, or other durable power of attorney:

(a)

primary assessment - perform initial primary assessment, i.e., assess airway, breathing and carotid pulse;

(b)

verification of identification - verify, using a driver's license or other signed photo identification, by family member's positive identification, or identification by a person who knows the person, that the person is the one who executed the durable power of attorney; verify the identification of

the person identified in the durable power of attorney as the authorized health care decision maker; if needed, contact medical control for consultation and then follow that person's instructions as authorized by the MOST form, other DNR form, other advance directive, or durable power of attorney.

(2) if there

is any question about the validity of a MOST form, other DNR form, or other durable power of attorney, initiate resuscitation until such time that the questions have been answered; if possible, contact medical control for consultation.

E. Relationship of EMS DNR orders to durable powers of attorney: Where a person has an EMS DNR order and a MOST form or other durable power of attorney, the most recent document shall prevail for EMS treatment only.

[7.27.6.9 NMAC - Rp, 7.27.6.9 NMAC, 12/12/2017]

7.27.6.10

ENFORCEABILITY AND PROGRAM ADMINISTRATION:

A. Enforceability of DNR orders and durable powers of attorney from other states: EMS personnel may honor DNR orders and durable powers of attorney that are executed in another state or jurisdiction in compliance with the laws of that state or jurisdiction, or in compliance with the laws of New Mexico, to the extent the document is not inconsistent with the public policy of New Mexico.

B. Program administration: the bureau shall distribute, or arrange for the distribution of, EMS DNR order forms and relevant information to interested citizens and appropriate health care providers. These materials shall include specific guidance on how to obtain additional forms and the EMS bracelet.

[7.27.6.10 NMAC - Rp, 7.27.6.10 NMAC, 12/12/2017]

HISTORY OF 7.27.6 NMAC:

Pre-NMAC History: The material in this part was derived from that

previously filed with the state records center: DOH Regulation 94-10 (CHSD), Regulations Governing EMS Advance Directives For The State Of New Mexico, filed 12/28/94.

History of Repealed Material:
DOH Regulation 94-10 (CHSD), Regulations Governing EMS Advance Directives For The State Of New Mexico (filed 12/28/94) repealed 01/01/06.

7.27.6 NMAC, Emergency Medical Services - Emergency Medical Services Advance Directives, filed 12/16/2005 - repealed effective 12/12/2017.

Other History:
DOH Regulation 94-10 (CHSD), Regulations Governing EMS Advance Directives For The State Of New Mexico (filed 12/28/94) was renumbered, reformatted and replaced by 7.27.6 NMAC, Emergency Medical Services Advance Directives, effective 01/01/06.

7.27.6 NMAC, Emergency Medical Services - Emergency Medical Services Advance Directives (filed 12/16/2005) was replaced by 7.27.6 NMAC, Emergency Medical Services - Emergency Medical Services Advance Directives, effective 12/12/2017.

HEALTH, DEPARTMENT OF

TITLE 7 HEALTH CHAPTER 27 EMERGENCY MEDICAL SERVICES PART 8 CARDIAC ARREST TARGETED RESPONSE PROGRAM

7.27.8.1 ISSUING AGENCY: New Mexico Department of Health (DOH), Epidemiology and Response Division (ERD), Emergency Medical Systems Bureau (EMSB).
[7.27.8.1 NMAC - Rp, 7.27.8.1 NMAC, 12/12/2017]

7.27.8.2 SCOPE: These regulations are applicable to all

persons or entities operating an automated external defibrillator (AED) program within the state of New Mexico. The regulations also apply to all AED training organizations, trainers, and trained targeted responders affiliated with an AED Program. Exemptions: Certain individuals and agencies are exempted from this regulation, as described below:

A. Individuals
authorized by physicians: As stated in the Cardiac Arrest Response Act, 24-10C-1 NMSA 1978, nothing precludes a physician or a physician assistant, advanced practice registered nurse or certified nurse-midwife working within that person's scope of practice from prescribing an automated external defibrillator to a patient for use by the patient's caregiver on an individual patient, and the use does not require the individual to function in an approved program.

B. Health care professionals: EMS personnel or other health care professionals, who are authorized by other laws, regulations, and scopes of practice to use and perform defibrillation in the out-of-hospital environment, while performing official duties or within the scope of their employment.

C. Military services, other federal entities, and AED programs on tribal land: The United States department of defense, other federal agencies, AED programs on tribal lands, and the New Mexico department of military affairs are exempt from this rule.

[7.27.8.2 NMAC - Rp, 7.27.8.2 NMAC, 12/12/2017]

7.27.8.3 STATUTORY AUTHORITY: These regulations are promulgated pursuant to the following statutory authorities:

A. The Department of Health Act, Subsection E of Section 9-7-6 NMSA 1978, which authorizes the secretary of the department of health to "make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions".

B. The Cardiac Arrest Response Act, Subsection B of Section 24-10C-4 NMSA 1978, which authorizes the department of health to approve training programs; and.

C. The Emergency Medical Services Act, Subsection M of Section 24-10B-4 NMSA 1978, which authorizes the department of health to adopt "rules to establish a cardiac arrest targeted response program pursuant to the Cardiac Arrest Response Act."
[7.27.8.3 NMAC - Rp, 7.27.8.3 NMAC, 12/12/2017]

7.27.8.4 DURATION:
Permanent.
[7.27.8.4 NMAC - Rp, 7.27.8.4 NMAC, 12/12/2017]

7.27.8.5 EFFECTIVE DATE: December 12, 2017, unless a later date is cited at the end of a section.
[7.27.8.5 NMAC - Rp, 7.27.8.5 NMAC, 12/12/2017]

7.27.8.6 OBJECTIVE:
The purpose of these regulations is to outline requirements for the New Mexico cardiac arrest targeted response program including: Establishment of a cardiac arrest targeted response program, AED program registration, medical direction, training, notification of local EMS services and public safety answering points, reporting, fees, and bureau responsibilities.
[7.27.8.6 NMAC - Rp, 7.27.8.6 NMAC, 12/12/2017]

7.27.8.7 DEFINITIONS:
A. "Act" means the Cardiac Arrest Response Act, Section 24-10C-1 NMSA 1978.

B. "Advanced life support (ALS)" means advanced pre-hospital and inter-facility care and treatment, including basic and intermediate life support, as prescribed by regulation, which may be performed only by a person licensed by the bureau and operating under medical control.

C. "AED program" means a program of trained targeted

responders that is registered with the department.

D. “Basic life support (BLS)” means pre-hospital and inter-facility care and treatment, as prescribed by regulation, which can be performed by all licensed emergency medical technicians.

E. “Bureau” means the emergency medical systems bureau of the epidemiology and response division of the New Mexico department of health.

F. “Cardiopulmonary resuscitation (CPR)” means the manual application of chest compressions and ventilations to patients in cardiac arrest.

G. “Defibrillation” means the administration of a controlled electrical charge to the heart to restore a viable cardiac rhythm.

H. “Department (DOH)” means the New Mexico department of health.

I. “Emergency Medical Service (EMS)” means the services rendered by licensed emergency medical technicians, emergency medical services first responders or emergency medical dispatchers in response to a person’s need for immediate medical care to prevent loss of life or aggravation of physical or psychological illness or injury.

J. “Protocols” means predetermined, written medical care plans and includes standing orders.

K. “Provider” means a person or entity delivering emergency medical services in New Mexico.

L. “Semi-automated external defibrillation (AED)” means a medical device heart monitor and defibrillator that:

(1) has received approval of its pre-market modification filed pursuant to United States Code, Title 21, Section 360(k), from the United States food and drug administration;

(2) is capable of recognizing cardiac arrest that will respond to defibrillation, ventricular fibrillation or rapid ventricular

tachycardia, and is capable of determining whether defibrillation should be performed; and,

(3) upon determining that defibrillation should be performed, automatically charges and is capable of delivering an electrical impulse to an individual’s heart upon activation by the equipment user.

N. “Trained targeted responder” means a person who has completed an authorized AED training program and who uses an AED. A designated trained targeted responder will be responsible for guidance or supervision for the AED program including overseeing all aspects of the defibrillation program. This includes training, emergency medical services coordination, protocol approval, AED deployment strategies, quality assurance and reporting.
[7.27.8.7 NMAC - Rp, 7.27.8.7 NMAC, 12/12/2017]

7.27.8.8 Establishment of an AED program:

A. Purpose: The primary reason for establishing an AED program is to improve response to cardiac defibrillation of a person suffering from sudden cardiac arrest.

B. AED program locations: cardiac arrest targeted response programs may be initiated in any environment where members of the public are encountered.
[7.27.8.8 NMAC - Rp, 7.27.8.8 NMAC, 12/12/2017]

7.27.8.9 AED program requirements: Prior to submitting an application for registration, the designated supervising trained targeted responder shall ensure that the AED program incorporates the following requirements:

A. AED program supervising trained targeted responder shall:

(1) Oversee the AED program, assuming responsibility for how the AED program is planned and conducted.

(2) Select and identify other participating persons as trained targeted responders.

(3) Maintain AED training records for all trained targeted responders while they are active in the program, and for at least three years thereafter.

(4) Maintain AED program records including AED maintenance records, trained targeted responder training records, and AED usage records.

(5) Ensure that all trained targeted responders are trained using a training program which has been approved by the department.

(6) Provide evidence of coordination of the AED program with local EMS services and emergency dispatch agencies, including 911 dispatch agencies.

(7) Register the AED program with the department and pay registration fees, as detailed in this regulation.

(8) Report all operational uses of the AED to the department.

(9) Perform quality assurance review of all operational defibrillations; and.

(10) Ensure AED equipment is maintained in accordance with the manufacturer’s guidelines.

B. Trained targeted responders: Individuals selected by the supervising trained targeted responder that are trained in CPR and use of an AED and understand how to activate the local emergency medical system for any sudden collapse or cardiac arrest victim:

(1) Prior to participating in an AED program, trained targeted responders shall complete an initial AED training course from a Department approved training program. The course shall include both cardiopulmonary resuscitation (CPR) and AED training.

(2) At least every two years, trained targeted responders shall recertify in CPR and AED training, by successfully completing a department approved AED training course.

(3) Activate the emergency medical system during

any operational response to a victim of cardiac arrest, and advise that AED is being used.

(4)

Comply with program protocols for operational response to victims of cardiac arrest.

(5)

Report all operational responses to victims of cardiac arrest to the supervising trained targeted responder and complete a defibrillation report. A copy of the report shall be submitted to the department within 20 calendar days.

(6)

Ensure AED's are maintained and used in accordance with the manufacturer's guidelines, and inspect AED equipment at least monthly.

C. Registration: All

AED programs shall be registered with the department:

(1)

Initial registration: The initial registration period shall be for a period of four years. The supervising trained targeted responder for the AED program shall complete the application provided by the bureau and submit it to the department, along with the appropriate fees.

(2)

Renewal: AED programs shall renew the AED program every four years, with a renewal application provided by the bureau submitted to the department, along with the appropriate fees.

(3)

Notification of changes in registration: The department shall be notified when there is a:

(a)

change in AED supervising trained targeted responder;

(b)

change in physical address or telephone number; or

(c)

stoppage or cancellation of the AED program.

D. Fees:

The bureau shall establish a fee schedule for AED programs. Seventy-five (\$75) dollars shall be paid by the AED program to the department for initial registration. For renewal, AED programs shall pay a fee of fifty (\$50) dollars to the

department.

E. Notification:

Local EMS services and emergency dispatch agencies shall be notified of the activation and existence of the AED program. The notification shall include the name of the AED program supervising trained targeted responder, location of the program, telephone number, a copy of the program protocols, location of the placement of AED(s), and the operational area where the AED(s) will be used. The local emergency services and dispatch agencies shall also be notified if an existing AED program stops or cancels the AED program.

F. AED Selection and Maintenance:

(1)

AED Selection: AED programs shall acquire and use semi-automated cardiac defibrillators. These devices require the responder to deliver the shock by pushing the shock button. AED programs that want a fully automated defibrillator (analyzes and shocks without operator input) may petition the bureau for a waiver to use an automated defibrillator.

(2)

Maintenance: AED programs shall maintain the AED(s) and associated supplies and batteries in accordance with the manufacturer's suggested guidelines.

G. Record Keeping:

Establish and maintain a record keeping system. Include the following information:

(1)

List of trained targeted responders.

(2)

Dates of training for trained Targeted Responders including CPR training and AED training.

(3)

Copy of program protocols.

(4)

Copy of registration and EMS service notification forms.

(5)

AED usage reports/Data collection forms; examples may be obtained from the bureau.

(6)

Quality assurance review documentation.

(7)

AED

equipment purchase and maintenance records.

[7.27.8.9 NMAC - Rp, 7.27.8.9 NMAC, 12/12/2017]

7.27.8.10

[RESERVED]

7.27.8.11

Limited Immunity

Protections: Limited immunity protections are provided for persons or entities associated with an AED program, as described in the Cardiac Arrest Response Act, 24-10C-7 NMSA 1978. These protections are provided when the AED program is established and operated in accordance with that statute and these regulations.

[7.27.8.11 NMAC - Rp, 7.27.8.11 NMAC, 12/12/2017]

7.27.8.12

[RESERVED]

7.27.8.13

[RESERVED]

7.27.8.14

[RESERVED]

7.27.8.15

[RESERVED]

History of 7.27.8 NMAC:

[RESERVED]

History of Repealed Material:

7.27.8 NMAC, Emergency Medical Services - Cardiac Arrest Targeted Response Program filed 6/16/2000 - repealed effective 12/12/2017.

Other History:

7.27.8 NMAC, Emergency Medical Services - Cardiac Arrest Targeted Response Program (filed 6/16/2000) was replaced by 7.27.8 NMAC, Emergency Medical Services - Cardiac Arrest Targeted Response Program, effective 12/12/2017.

HEALTH, DEPARTMENT OF

TITLE 7

HEALTH

CHAPTER 27

EMERGENCY

MEDICAL SERVICES

PART 11

SUPPLEMENTAL

LICENSING PROVISIONS

7.27.11.1

ISSUING

AGENCY: New Mexico Department of Health (DOH), Epidemiology and Response Division (ERD),

Emergency Medical Systems Bureau (EMSB).

[7.27.11.1 NMAC - Rp, 7.27.11.1 NMAC, 12/12/2017]

7.27.11.2 SCOPE: These rules apply to New Mexico emergency medical services, including the service directors and medical directors of those services; approved New Mexico emergency medical service (EMS) training programs and graduates of approved New Mexico EMS training programs; New Mexico licensed EMS personnel including those previously licensed; persons trained, certified or licensed in another state or territory, or certified by the national registry of emergency medical technicians, seeking to acquire licensure in New Mexico; EMS licensing commission; and any other entity associated with the licensing of emergency medical services personnel in New Mexico. In the event of a public health emergency that stresses the emergency medical service system and disrupts delivery of medical services, the New Mexico department of health, working with the emergency medical systems bureau, may limit or expand these rules, and may institute certain crisis standards of care, through emergency rulemaking.

[7.27.11.2 NMAC - Rp, 7.27.11.2 NMAC, 12/12/2017]

7.27.11.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the following statutory authorities: 1) the New Mexico Department of Health Act, Subsection E of Section 9-7-6 NMSA 1978, which authorizes the secretary of the department of health to "make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions," and; 2) the Emergency Medical Services Act, NMSA 1978, Section 24-10B-4 ("bureau; duties"). [7.27.11.3 NMAC - Rp, 7.27.11.3 NMAC, 12/12/2017]

7.27.11.4 DURATION:

Permanent.

[7.27.11.4 NMAC - Rp, 7.27.11.4 NMAC, 12/12/2017]

7.27.11.5 EFFECTIVE DATE: December 12, 2017, unless a later date is cited at the end of a section.

[7.27.11.5 NMAC - Rp, 7.27.11.5 NMAC, 12/12/2017]

7.27.11.6 OBJECTIVE: These rules are intended to supplement the emergency medical services licensure requirements for emergency medical services personnel, to provide supplemental and additional standards for the licensure of emergency medical dispatchers, emergency medical dispatch-instructors, emergency medical services first responders and emergency medical technicians, and to assist in the provision of a comprehensive system of emergency medical services in the state of New Mexico.

[7.27.11.6 NMAC - Rp, 7.27.11.6 NMAC, 12/12/2017]

7.27.11.7 DEFINITIONS: [Refer to 7.27.2.7 NMAC]

7.27.11.8 SCOPES OF PRACTICE FOR LICENSED EMERGENCY MEDICAL SERVICES PERSONNEL:

A. Medical director means a physician functioning as the service EMS medical director as defined and described in 7.27.3 NMAC, medical direction for emergency medical services. Medical control means supervision provided by or under the direction of a physician.

B. Prior to approving a new skill, technique, medication, or procedure, it shall be documented by the service director, medical director, or approved EMS training institution that the EMS provider has been appropriately trained to perform those new skills, techniques, medications, or procedures.

C. Service medical director approved: All service

medical director approved skills, techniques, medications, or procedures are considered advanced life support. Prior to utilizing any skill, technique, medication or procedure designated as service medical director approved, it shall be documented by the service director, medical director, or approved EMS training institution that the EMS provider has been appropriately trained to administer the medications or perform the skills, techniques, medications or procedures. Additionally, each EMS provider must have a signed authorization from the service's medical director on file at the EMS service's headquarters or administrative offices.

D. Any device in an EMS agency's treatment guideline/ protocol designed and utilized to facilitate successful completion of a skill or other treatment modality, including but not limited to cardiopulmonary resuscitation (CPR) devices, intraosseous placement devices, and positive pressure ventilation devices, must be approved by the service medical director.

E. Wilderness protocols: The following skills shall only be used by providers who have a current wilderness certification from a bureau approved wilderness caregiver course, who are functioning in a wilderness environment as a wilderness provider (an environment in which time to a hospital is expected to exceed two hours, except in the case of an anaphylactic reaction, in which no minimum transport time is required), and are authorized by their medical director to provide the treatment:

- (1) minor wound cleaning and management;
- (2) cessation of CPR;
- (3) field clearance of the cervical-spine;
- (4) reduction of dislocations resulting from indirect force of the patella, digit, and anterior shoulder.

F. Community emergency medical services programs: Community EMS programs shall be provided by EMS caregivers who, after completing a bureau approved community EMS caregiver course, are functioning as part of a community emergency medical services program that has been reviewed and approved by the EMS bureau. The providers must be authorized by their medical director to perform the skills listed in their application as part of the community EMS program. These programs may include referrals that involve transport to non-hospital locations, and for non-transport decisions. Skills and interventions may include any of the approved skills and interventions for the appropriate level; any skill that exceeds the scope of practice must be approved through the special skill process. Skills may include, but are not limited to:

- (1) education of patients in self-medication administration, and assessment of compliance with physician recommendations for health conditions;
- (2) assessments for preventing falls and other sources of injury by identifying risks in patient homes;
- (3) provide education on disease prevention;
- (4) administering immunizations;
- (5) in collaboration with a healthcare team, assist in developing a care plan, and educate the patient in following the care plan;
- (6) perform in home patient assessments commensurate with level of education and licensure in order to provide information to a care team as to the progress or condition of a patient receiving therapies for medical conditions;
- (7) provide assistance in locating and contacting appropriate providers of needed social services;
- (8) treat discovered acute healthcare issues,

transporting to emergency department if necessary;

(9) for chronic and non-acute issues, confirmed with online medical direction and agreed to by the patient, options other than EMS transport may be considered, including:

(a) arrange for non-emergent and non-EMS transportation to and care at an appropriate facility, such as a physician's office or urgent care center;

(b) provide referral information and arrange for follow up by appropriate care team members or social service personnel.

(10) assist with ongoing prescribed wound care.

G. Critical Care Transport services skills: Paramedic critical care transport skills shall be used only by paramedic providers who have successfully completed a bureau approved critical care transport paramedic or critical care flight paramedic course. Subsequent to completing the approved course, the critical care paramedic must successfully complete a bureau administered or approved third party exam within one year. Additionally, the paramedics shall be functioning as part of a ground or air EMS agency with an approved critical care transport special skill and authorized by the agency medical director to utilize these skills. Critical care transport program skills are only authorized for use during inter-facility critical care transport activities, with the exception of air ambulance agencies providing emergency scene response; or ground critical care agencies requested to a scene by the local authorized and certified 911 response and transport agencies. Critical care transport special skills and medications that may be administered include, but are not limited to any of the below skills and medications; service specific skills and medication requests must be listed on the EMS agency critical care transport special skill application

completed per 7.27.11.10 NMAC:

(1) monitoring of infusions including but not limited to anti-arrhythmics, nitrates, vasopressors, blood products, thrombolytics, sedation, pain management and antihypertensive medications that have required titration within the past two hours and may need to have their dosages adjusted during transport;

(2) performance of skills not listed in the paramedic scope of practice, such as but not limited to escharotomy, fasciotomy, insertion of chest tubes, pericardiocentesis, blood administration, and nerve blocks; administration of medications, initiation of infusions, and utilization of routes, not listed on the paramedic scope but requested in the EMS agency's special skill application and approved by the medical direction committee and EMS bureau;

(3) utilization of advanced patient monitoring, such as invasive hemodynamic monitoring via monitoring of central venous pressure, pulmonary artery pressure, intracranial pressure monitoring, Swan-Ganz catheters, arterial lines, fetal monitoring, point of care lab values, and other monitoring or tests not listed in the paramedic scope, but requested in the EMS agency's special skill application and approved by the medical direction committee and EMS Bureau;

(4) utilization of intensive care unit (ICU) level ventilator support, to include ventilators delivering positive end expiratory pressure, with multiple adjustable mode and setting parameters that include inspiratory plateau pressures, pressure regulated volume control, pressure support ventilation, pressure control ventilation, airway pressure release ventilation and others; also, any ventilator delivering a mixture of nitric oxide or other beneficial gas mixtures;

(5) transport of patients with intra-aortic balloon pump, temporary internal cardiac pacing, left

ventricular assist device or a bi-ventricular assist device and other appropriate devices to address hemodynamic instability as requested in the EMS agency's special skill application and approved by the medical direction committee and EMS bureau;

(6) administer paralytics and sedatives to maintain airway control previously initiated, and administer and perform rapid sequence airway pharmacology and techniques in order to secure an airway in response to patient condition, as requested in the EMS agency's special skill application and approved by the medical direction committee and EMS bureau;

(7) pediatric intubation or endotracheal tube management as requested in the EMS agency's special skill application and approved by the medical direction committee and EMS bureau.

H. Utilization of pharmacological agents for the primary purpose of sedation, induction, or muscle relaxation to facilitate placement of an advanced airway requires medical direction committee special skills approval.

I. Over the counter (OTC) medications and products:

A physician medical director may approve a list of over the counter (OTC) medications and products (i.e. NSAID's, antihistamines, anti-diarrheal, laxatives, antacids, vitamin supplements, hygiene products and other products) for distribution by an EMS caregiver working under medical direction to a requesting individual during scheduled stand-by situations. Examples are long-term wildfire responses, public events (concerts, rodeos, etc), various industry situations such as movie production and ski patrol, long-term construction & manufacturing projects, long-term search and rescue or tactical operations, and other situations where scheduled stand-by EMS is provided.

(1) The OTC

medication/product must be properly labeled in individual dose packaging when distributed to the patient. Distribution from a bulk or multi-dose container is not permitted by this scope of practice, as well as other state and federal laws and regulations; medications will be distributed per manufacturer recommendations and labeling directions.

(2)

The agency/EMS caregiver will maintain a written guideline that contains the list of physician approved OTC medications/products and the conditions for which they may be distributed. Specific dosing information and indications for pediatric patients must be included.

(3) The

EMS agency/EMS caregiver must develop a method of documentation for the appropriate distribution of the OTC medications/products. This documentation shall include the OTC medication documentation and appropriate patient care report, per 7.27.10.12 NMAC (records and data collection) and 7.27.11.11 NMAC. Public regulation commission (PRC) certified ambulance agencies shall complete patient care documentation per 18.3.14.24 NMAC.

(4)

OTC medications/products are distributed for the patient's self-administration and use. EMS caregivers will not administer OTC medications/products, unless approved elsewhere in the scope of practice for specific EMS patient care situations.

J. Licensed emergency medical dispatcher: (EMD).

(1) Medical

direction is required for all items in the EMD scope of practice.

(2) The

following allowable skills may be performed by EMDs who are licensed by the EMS bureau and functioning with an EMS bureau certified New Mexico emergency

medical dispatch agency utilizing protocols and any EMD priority reference system approved by the EMS bureau and service medical director.

(a)

Process calls for medical assistance in a standardized manner, eliciting required information for evaluating, advising, and treating sick or injured individuals, and dispatching an appropriate EMS response.

(b)

Provide pre-arrival instructions to the patient through the caller when possible and appropriate to do so while functioning in compliance with an emergency medical dispatch priority reference system (EMDPRS).

K. EMS first responders (EMSFR):

(1)

The following allowed drugs may be administered and skills and procedures may be performed without medical direction:

(a)

basic airway management;

(b)

use of basic adjunctive airway equipment;

(c)

suctioning;

(d)

cardiopulmonary resuscitation, according to current ECC guidelines;

(e)

obstructed airway management;

(f)

bleeding control via direct pressure and appropriate tourniquet use;

(g)

spine immobilization;

(h)

splinting (does not include femoral traction splinting);

(i)

scene assessment, triage, scene safety;

(j)

use of statewide EMS communications system;

(k)

emergency childbirth;

(l)

glucometry;

(m)

oxygen;		injection for treatment of chemical or nerve agent exposure;		DOT curricula;	
(n)				(o)	
other non-invasive procedures as taught in first responder courses adhering to United States Department of Transportation curricula.		albuterol (including isomers) via inhaled administration;	(iv)	wound management.	
(2) The following require service medical director approval:		naloxone via nasal mucosal atomizer;	(v)	(2) The following require service medical director approval:	
(a)		epinephrine via auto-injection device.	(vi)	(a)	
allowable skills:		patient's own medication that may be administered:	(d)	allowable skills:	
(i)		bronchodilators using pre-measured or metered dose inhalation device;	(i)	(i)	
mechanical positive pressure ventilation utilizing a device that may have controls for rate, tidal volume, FiO ₂ , and pressure relief/ alarm and does not have multiple automatic ventilation modes; this skill includes devices that provide non-invasive positive pressure ventilation via continuous positive airway pressure (CPAP);		naloxone, if provided with a nasal MA or IM delivery system.	(ii)	mechanical positive pressure ventilation utilizing a device that may have controls for rate, tidal volume, fraction of inspired oxygen (FiO ₂) and pressure relief/alarm and does not have multiple automatic ventilation modes; this skill includes devices that provide non-invasive positive pressure ventilation via continuous positive airway pressure (CPAP);	
(ii)		L. EMT-BASIC (EMT-B):		(ii)	
application and use of semi-automatic defibrillators, including cardiac rhythm acquisition for ALS caregiver interpretation or transmission to a care facility; this includes multi-lead documentation;		(1) The following allowed drugs may be administered and skills and procedures may be performed without medical direction:		(iii)	
(iii)		basic airway management;	(a)	application and use of semi-automatic defibrillators, including cardiac rhythm acquisition for ALS caregiver interpretation or transmission to a care facility; this includes multi-lead documentation;	
hemostatic dressings for control of bleeding;		use of basic adjunctive airway equipment;	(b)	(iv)	
(iv)		suctioning;	(c)	acupressure;	
insertion of laryngeal and supraglottic airway devices (examples: king airway, LMA), excluding multi-lumen airways).		cardiopulmonary resuscitation, according to current ECC guidelines;	(d)	(v)	
(b)		obstructed airway management;	(e)	transport of patients with nasogastric tubes, urinary catheters, heparin/saline locks, PEG tubes, or vascular access devices intended for outpatient use;	
administration of approved medications via the following routes:		bleeding control to include appropriate tourniquet usage;	(f)	(vi)	
(i)		spine immobilization;	(g)	performing point of care testing; examples include serum lactate values, cardiac enzymes, electrolytes, and other diagnostic values;	
(ii)		splinting;	(h)	(vii)	
nasal mucosal atomization (MA);		scene assessment, triage, scene safety;	(i)	hemostatic dressings for control of bleeding.	
(iii)		use of statewide EMS communications system;	(j)	(b)	
intramuscular;		childbirth (imminent delivery);	(k)	administration of approved medications via the following routes:	
(iv)		glucometry;	(l)	(i)	
oral (PO).		oxygen;	(m)	nebulized inhalation;	
(c)		other non-invasive procedures as taught in EMT-B courses adhering to	(n)	(ii)	
allowable drugs:				(iii)	
(i)				(iv)	
oral glucose preparations;				(v)	
(ii)					
aspirin PO for adults with suspected cardiac chest pain;					
(iii)					
atropine and pralidoxime via IM auto-					

oral (PO);	(vi)	the care of the patient; EMS can offer assistance in airway management appropriate to their level of licensure, and administer the patient's prescribed medications where appropriate only if the medication is in the EMS provider's scope of practice; EMS services are not expected to provide the prescribed medications for these special needs patients.	bleeding control including appropriate use of tourniquet;	(g)
intradermal.	(c)		spine immobilization;	(h)
allowable drugs:	(i)		splinting;	(i)
oral glucose preparations;	(ii)		scene assessment, triage, scene safety;	(j)
aspirin PO for adults with suspected cardiac chest pain;	(iii)	(3)	use of statewide EMS communications system;	(k)
activated charcoal PO;	(iv)	Immunizations and biologicals:	childbirth (imminent delivery);	(l)
acetaminophen PO in pediatric patients with fever;	(v)	Administration of immunizations, vaccines, biologicals, and TB skin testing is authorized under the following circumstances:	glucometry;	(m)
atropine and pralidoxime via IM autoinjection for treatment of chemical or nerve agent exposure.	(vi)	(a)	oxygen;	(n)
albuterol (including isomers), via inhaled administration;	(vii)	to the general public as part of a department of health initiative or emergency response, utilizing department of health protocols; the administration of immunizations is to be under the supervision of a physician, nurse, or other authorized health provider;	wound management.	(2) The
ibuprofen PO in pediatric or adults to treat fever or pain;	(viii)	(b)	following require service medical director approval:	(a)
ipratropium, via inhaled administration, in combination with or after albuterol administration;	(ix)	(c) in	allowable skills:	(i)
naloxone by SQ, IM, or IN route;	(x)	the event of a disaster or emergency, the state EMS medical director or chief medical officer of the department of health may temporarily authorize the administration of pharmaceuticals or tests not listed above.	mechanical positive pressure ventilation utilizing a device that may have controls for rate, tidal volume, FiO2, and pressure relief/alarm and does not have multiple automatic ventilation modes; this skill includes devices that provide non-invasive positive pressure ventilation via continuous positive airway pressure (CPAP);	(ii)
epinephrine, 1:1000, no single dose greater than 0.3 ml, subcutaneous or intramuscular injection with a pre-measured syringe (including autoinjector) or 0.3 ml TB syringe for anaphylaxis or status asthmaticus refractory to other treatments.	(d)	M. EMT-INTERMEDIATE (EMT-I):	use of multi-lumen, supraglottic, and laryngeal airway devices (examples: PTLA, combi-tube, king airway, LMA) to include gastric suctioning;	(iii)
patient's own medication that may be administered:	(i)	(1) The	application and use of semi-automatic defibrillators, including cardiac rhythm acquisition for ALS caregiver interpretation or transmission to a care facility; this includes multi-lead documentation;	(iv)
bronchodilators using pre-measured or metered dose inhalation device;	(ii)	following allowed drugs may be administered and skills and procedures may be performed without medical direction:	acupressure;	(v)
sublingual nitroglycerin for unrelieved chest pain, with on line medical control only;	(iii)	(a)	transport of patients with nasogastric tubes, urinary catheters, heparin/saline locks, PEG tubes, or vascular access devices intended for outpatient use;	(vi)
situations may arise involving patients with uncommon conditions requiring specific out of hospital administered medications or procedures; family members or the designated caregiver trained and knowledgeable of the special needs of the patient should be recognized as the expert regarding		(b)	peripheral venous puncture/access;	(vii)
		(c)	blood drawing;	
		(d)		
		(e)		
		(f)		

pediatric intraosseous tibial access;	(viii)	agents for treatment of chemical or nerve agent exposure: atropine, pralidoxime;	administration into the intraosseous space on pain responsive adult patients while receiving intraosseous fluids or medications.
adult intraosseous access;	(ix)		
point of care testing; examples include serum lactate values, cardiac enzymes, electrolytes, and other diagnostic values;	(x)	albuterol (including isomers) via inhaled administration;	(d) patient's own medication that may be administered:
hemostatic dressings for control of bleeding.	(xi)	ipratropium, via inhaled administration in combination with or after albuterol administration;	(i) bronchodilators using pre-measured or metered dose inhalation device;
			(ii) sublingual nitroglycerin for unrelieved chest pain; must have intravenous access established prior to administration or approval of online medical control if IV access is unavailable;
administration of approved medications via the following routes:	(b)	naloxone;	
intravenous;	(i)	I.V. fluid therapy (except blood or blood products);	
nasal mucosal atomization (MA);	(ii)	dextrose;	(iii) glucagon;
nebulized inhalation;	(iii)	epinephrine (1:1000), SQ or IM (including autoinjector) for anaphylaxis and known asthmatics in severe respiratory distress (no single dose greater than 0.3 cc);	(iv) situations may arise involving patients with uncommon conditions requiring specific out of hospital administered medications or procedures; family members or the designated caregiver trained and knowledgeable of the special needs of the patient should be recognized as the expert regarding the care of the patient; EMS can offer assistance in airway management appropriate to their level of licensure, IV access, and the administration of the patient's prescribed medications where appropriate only if the medication is in the EMS provider's scope of practice; online (direct contact) medical control communication must be established with the medical control physician approving the intervention; EMS services are not expected to provide the prescribed medications for these special needs patients.
sublingual;	(iv)		
intradermal;	(v)	epinephrine (1:10,000) in pulseless cardiac arrest for both adult and pediatric patients; epinephrine may be administered via the endotracheal tube in accordance with most current ACLS and PALS guidelines;	
intraosseous;	(vi)		
endotracheal (for administration of epinephrine only, under the direct supervision of an EMT-paramedic, or if the EMS service has an approved special skill for endotracheal intubation);	(vii)	nitroglycerin (sublingual); must have intravenous access established prior to administration or approval of online medical control if IV access is unavailable;	
oral (PO);	(viii)		
intramuscular;	(ix)	morphine, fentanyl, or dilaudid for use in pain control with approval of on-line medical control;	
subcutaneous.	(x)		
	(c)		
allowable drugs:		diphenhydramine for allergic reactions or dystonic reactions;	
oral glucose preparations;	(i)		(e) drugs allowed for monitoring during interfacility transport:
aspirin PO for adults with suspected cardiac chest pain;	(ii)	glucagon, to treat hypoglycemia in diabetic patients when intravenous access is not obtainable;	(i) potassium; intermediate EMT's may monitor IV solutions that contain potassium during transport (not to exceed 20 mEq/1000cc or more than 10 mEq/hour);
activated charcoal PO;	(iii)	anti-emetic agents, for use as an anti-emetic only;	(ii) antibiotics and other anti-infectives utilizing an infusion pump; intermediate EMT's may monitor antibiotic or other anti-infective agents, provided a hospital initiated
acetaminophen PO in pediatric patients with fever;	(iv)		
ibuprofen PO to pediatrics and adults for pain or fever; IV or IM with online medical direction only.	(v)	corticosteroids for respiratory illness or allergic reaction;	
		hydroxycobalamine;	
		lidocaine two percent, preservative and epinephrine free for IV use) for	
IM autoinjection of the following	(vi)		

infusion has been running for a minimum of 30 minutes prior to the intermediate initiating the transfer, and the intermediate EMT is aware of reactions for which to monitor and the appropriate action to take before assuming responsibility for patient care.	(f)	bleeding control including the appropriate use of tourniquet;	(ix)	direct laryngoscopy for endotracheal intubation and removal of foreign body in patients 13 and older; for patients 12 and under, for removal of foreign body only;
immunizations and biologicals: administration of immunizations, vaccines, biologicals, and TB skin testing is authorized under the following circumstances:	(f)	spine immobilization;	(g)	
	(i)	splinting;	(h)	
to the general public as part of a department of health initiative or emergency response, utilizing department of health protocols; the administration of immunizations is to be under the supervision of a physician, nurse, or other authorized health provider;	(i)	scene assessment, triage, scene safety;	(i)	endotracheal intubation for patients over the age of 12;
	(ii)	use of statewide EMS communications system;	(j)	
administer vaccines to EMS and public safety personnel;	(ii)	childbirth (imminent delivery);	(k)	thoracic decompression (needle thoracostomy);
TB skin tests may be applied and interpreted if the licensed provider has successfully completed required department of health training;	(iii)	glucometry;	(l)	surgical cricothyroidotomy;
in the event of a disaster or emergency, the state EMS medical director or chief medical officer of the department of health may temporarily authorize the administration of pharmaceuticals or tests not listed above.	(iv)	oxygen;	(m)	insertion of nasogastric tubes;
		wound management.	(n)	cardioversion and manual defibrillation;
N. EMT-PARAMEDIC (EMT-P):		(2) The following require service medical director approval:		external cardiac pacing;
(1) The following allowed drugs may be administered and skills and procedures may be performed without medical direction:		allowable skills:	(a)	cardiac monitoring;
	(a)	mechanical positive pressure ventilation utilizing a device that may have controls for rate, tidal volume, FiO2, and pressure relief/alarm and has multiple automatic ventilation modes; this skill includes devices that provide non-invasive positive pressure ventilation (including continuous positive airway pressure (CPAP) and bi-level positive airway pressure (BPAP);	(i)	use of infusion pumps;
basic airway management;	(b)	use of multi-lumen, supraglottic, and laryngeal airway devices (examples: PTLA, combi-tube, king airway, LMA) to include gastric suctioning;	(ii)	initiation of blood and blood products with on-line medical control;
use of basic adjunctive airway equipment;	(c)	transport of patients with nasogastric tubes, urinary catheters, heparin/saline locks, PEG tubes, or vascular access devices intended for outpatient use;	(iii)	intraosseous access;
suctioning;	(d)	application and use of semi-automatic defibrillators;	(iv)	performing point of care testing; examples include serum lactate values, cardiac enzymes, electrolytes, and other diagnostic values;
cardiopulmonary resuscitation, according to current ECC guidelines;	(e)	acupressure;	(v)	hemostatic dressings for control of bleeding;
obstructed airway management;		peripheral venous puncture/access;	(vi)	vagal maneuvers.
		blood drawing;	(vii)	(b) administration of approved medications via the following routes:
		I.V. fluid therapy;	(viii)	intravenous;
				nasal mucosal atomization (MA);
				nebulized inhalation;
				sublingual;
				intradermal;
				intraosseous;
				endotracheal;

oral (PO);	(viii)	(xxiv)	blood and blood products (no pump required);
intramuscular;	(ix)		(g)
topical;	(x)	(xxv)	aminophylline;
rectal;	(xi)	(xxvi)	(h)
IV drip;	(xii)	(xxvii)	antibiotics and other anti-infective agents;
subcutaneous.	(xiii)	(xxviii)	(i)
allowable drugs:	(c)		sodium nitroprusside;
acetaminophen;	(i)	(xxix)	(j)
activated charcoal;	(ii)		insulin;
adenosine;	(iii)	(xxx)	(k)
albuterol (including isomers);	(iv)	(xxxi)	terbutaline;
amiodarone;	(v)	(xxxii)	(l)
aspirin;	(vi)	(xxxiii)	octreotide;
atropine sulfate;	(vii)	(xxxiv)	(m)
benzodiazepines;	(viii)	(3) Drugs	nutritional supplements;
calcium preparations;	(ix)	allowed for monitoring during	(n)
corticosteroids;	(x)	inter-facility transports (initiated	beta blockers;
dextrose;	(xi)	and administered by the sending	(o)
diphenhydramine;	(xiii)	facility with defined dosing	calcium channel blockers;
epinephrine;	(xiv)	parameters and requiring an infusion	(p)
furosemide;	(xv)	pump when given by continuous	nesiritide;
glucagon;	(xvi)	infusion unless otherwise specified);	(q)
hydroxycobalamine;	(xvii)	the infusion may be terminated by	propofol in patients that are intubated
ipratropium;	(xviii)	the paramedic if appropriate, but if	prior to transport;
lidocaine;	(xix)	further adjustments are anticipated,	(r)
magnesium sulfate;	(xx)	appropriate hospital personnel should	proton pump inhibitors and H2
naloxone;	(xxi)	accompany the patient, or a critical	antagonists;
narcotic analgesics;	(xxii)	care transport unit should be utilized:	(s)
nitroglycerin;	(xxiii)	(a)	crotalidae polyvalent immune fab
		(b)	(ovine) ("crofab") crofab may be
			monitored during inter-facility
			transport provided the physician
			initiated crofab infusion has been
			running for a minimum of 30 minutes
			prior to the paramedic initiating the
			transfer and assuming responsibility
			for patient care.
			(4)
			Immunizations and biologicals:
			administration of immunizations,
			vaccines, biologicals, and TB skin
			testing is authorized under the
			following circumstances:
			(a)
			to the general public as part of
			a department of health initiative
			or emergency response, utilizing
			department of health protocols; the
			administration of immunizations
			is to be under the supervision of a
			physician, nurse, or other authorized
			health provider;
			(b)
			administer vaccines to EMS and
			public safety personnel;
			(c)

TB skin tests may be applied and interpreted if the licensed provider has successfully completed required department of health training;

(d) in the event of a disaster or emergency, the state EMS medical director or chief medical officer of the department of health may temporarily authorize the administration of other pharmaceuticals or tests not listed above.

(5) **Skills approved for monitoring in transport:**

(a) internal cardiac pacing;
(b) chest tubes.

(6) **Medications for administration during patient transfer:**

(a) retavase (second dose only);
(b) protamine sulfate;
(c) non-depolarizing neuromuscular blocking agents in patients that are intubated prior to transport;
(d) acetylcysteine.

(7) **Patient's own medication that may be administered:**

(a) epoprostenol sodium, treprostinil sodium, or other medications utilized for certain types of pulmonary hypertension;
(b) bronchodilators using pre-measured or metered dose inhalation device;
(c) sublingual nitroglycerin for unrelieved chest pain; must have intravenous access established prior to administration;
(d) glucagon;
(e) situations may arise involving patients with uncommon conditions requiring specific out of hospital administered medications or procedures; family members or the designated caregiver trained and knowledgeable of the special needs of the patient should be

recognized as the expert regarding the care of the patient; EMS can offer assistance in airway management appropriate to their level of licensure, IV access, and the administration of the patient's prescribed medications where appropriate only if the medication is in the EMS provider's scope of practice; online (direct contact) medical control communication must be established with the medical control physician approving the intervention; EMS services are not expected to provide the prescribed medications for these special needs patients.
[7.27.11.8 NMAC - Rp, 7.27.11.8 NMAC, 12/12/2017]

7.27.11.9 APPROVED TRAINING PROGRAMS:

"Approved emergency medical services training program" means a New Mexico emergency medical services training program that is sponsored by a post-secondary educational institution, is accredited by the national accrediting organization for emergency medical services or active in the accreditation process, and is approved by the joint organization on education (JOE) and participates in the joint organization on education. Currently, there are five approved EMS training programs.

A. Emergency medical services academy.

University of New Mexico, (700 Camino De Salud NE., Albuquerque, New Mexico 87106, Tel: 505-272-5757). The EMS academy is designated as the lead training agency for providers in New Mexico as stated in Section 24-10B-12 NMSA 1978. The EMS academy teaches formal EMS education courses including EMS first responder, EMT-basic, EMT-intermediate, and EMT-paramedic.

B. Dona Ana community college. New Mexico state university, (Box 30001, Las Cruces, NM 88003-0001, Tel: 505-527-7530). Dona Ana community college teaches formal EMS education courses including EMS first responder, EMT-basic, EMT-intermediate, and EMT-paramedic.

C. Eastern New Mexico university. EMS program, (Box 6000, Roswell, NM 88202-6000, Tel: 505- 624-7000). The eastern New Mexico university teaches formal EMS education courses including EMS first responder, EMT-basic, EMT-intermediate, and EMT-paramedic.

D. Central New Mexico community college. EMS program, (525 Buena Vista Rd. SE, Albuquerque, NM 87106, Tel: 505-224-4000). Central New Mexico community college teaches formal EMS education courses including EMS first responder, EMT-basic, EMT-intermediate, and EMT-paramedic.

E. San Juan college EMS program. (4601 College Blvd; Farmington, NM 87402; 505-566-3857). San Juan College conducts formal EMS education courses including EMS first responder, EMT-basic, EMT-intermediate, and EMT-paramedic.

F. Santa Fe community college. EMS Program, (6401 Richards Ave, Santa Fe, NM 87508, 505-428-1820) SFCC conducts formal EMS education courses including EMS first responder, EMT-basic, EMT-intermediate, and EMT-paramedic.
[7.27.11.9 NMAC - Rp, 7.27.11.9 NMAC, 12/12/2017]

7.27.11.10 SPECIAL SKILLS APPLICATION AND REPORTING PROCEDURES:

A. Purpose: Special skills are those skills, procedures, and medications that are requested by an EMS service to enhance emergency treatment capabilities beyond the normal scope of practice, as defined in the Emergency Medical Services Act. Use the enclosed procedures for application, reporting and renewal for special skills. Applications are reviewed and approved or disapproved by the medical direction committee, and once approved, become a legally recognized addition to the service capabilities.

B. General: All levels of EMS personnel, including licensed

EMS first responders and all levels of licensed EMTs are eligible for special skills consideration for any procedure, skill or medication.

C. Application

procedure: The EMS service medical director, or his designee, shall coordinate with the EMS service director, and shall apply for special skills to the EMS medical direction committee.

D. Application

document: The application document for a special skill must be tailored to the level of the request. While the degree of detail in each section may vary to match the nature of the skill requested, all applications should include the following elements, in order:

(1)

application cover page: titled to state the requested special skill, date of application, name of service, service director name and medical director name;

(2) contact

information page: must include address and contact information for the service, service director and medical director;

(3) letters

of support: must include individual letters of support from the service director and medical director; additional letters of support from the local medical community or evidence of notification of the local medical community may be required; the need for letters of notification and support from the local medical community and who provides the letters must be adjusted to match the nature of the special skill requested;

(4) service

description: provide a concise description of the EMS service; this includes such items as basic call demographics relevant to the applicant, level of licensure of providers and names and locations of the primary receiving medical facilities;

(5) description

of the special skill: provide a description of the procedure, medication or requested skill; include information on risks, benefits,

indications and contraindications;

(6)

justification and statement of need: provide a statement explaining why the special skill is needed; this should include a description of the current medical intervention or alternative practice to the special skill and a risk or benefit analysis that supports the special skill requested; the estimated number of potential interventions per year, other relevant statistical data and a statement indicating the level of current scientific information/studies to support the requested special skill; the level of scientific justification can be adjusted to match the level of the special skill requested;

(7) protocol:

provide a copy of the treatment protocol; include other operational protocols relevant to the special skill, if applicable;

(8) training:

provide a training syllabus; this must include learning objectives and the training hours for initial and continuing education; this section should also include a description of the instructors, how training will be completed, and a description of the method used to initially evaluate the skill; once initial training is completed, a list of trained and approved personnel shall be provided to the medical direction committee; these special skill authorized licensed EMS personnel must appear on the service's personnel list on the *New Mexico EMS tracking and reporting system database*.

(9) QA/QI

program: provide a description of the QA/QI process for the special skill, including frequency of evaluation, names and qualifications of the personnel involved in the process; include a copy of the evaluation tool or forms that will be used, if applicable; and

(10) the

application and all supporting documentation shall be submitted to the EMS bureau, attn: state EMS training coordinator.

E. Applicants may involve the EMS regional offices when preparing a special skill request

and include a letter evidencing regional review. Applicants shall forward a copy of their application to their EMS regional office when completed.

F. Upon receipt, the state EMS medical director and state EMS training coordinator will review the application. The service will be notified if the application is found to be incomplete or to contain significant errors.

G. Applications must be received at the bureau at least 45 days prior to the next regularly scheduled medical direction committee meeting to be placed on the agenda of that meeting for consideration by the medical direction committee.

H. The medical direction committee shall take action on all special skills applications on the agenda at their regularly scheduled meeting. The medical direction committee may take the following actions on the application: approved with limitations or restrictions, denied or tabled with a request for a formal presentation or additional information by the requesting service medical director or their designee.

I. The medical direction committee may give an approval subject to specific conditions, limitations or restrictions. This may include a written and practical examination.

J. Within 10 working days following the decision of the medical direction committee, the state EMS training coordinator shall provide a written response to the applicant regarding the action of the medical direction committee.

K. Special skills may not be utilized until receipt of the special skill approval letter from the bureau any specific conditions or limitations will be evidenced in the approval letter from the bureau.

L. Monitoring: It is expected that EMS services with approved special skills will continuously comply with the requirements of their application and approval letter. This includes, but is not limited to, such items as training

curricula, approved instructors, quality assurance, protocols and data collection. Any changes to the approved application shall be sent to the state EMS training coordinator for concurrence/coordination with the medical direction committee.

M. The medical direction committee may immediately suspend or revoke special skill privileges for an individual or service that loses medical direction, or fails to comply with the stated requirements, or for any other reason to protect the health and welfare of the people of New Mexico.

N. If a new medical director assumes control of a service with an active special skill program, the bureau shall receive a letter of support from the new medical director within 30 days or the special skill approval may be withdrawn.

O. The service shall maintain a current list of all providers trained and approved to utilize the special skill. This list must be provided to the bureau upon request.

P. Reporting: The service shall provide to the state EMS training coordinator periodic written special skill reports. During the first year, the report shall be due semi-annually, occurring on June 1 and December 1. Subsequent reports shall be due annually on June 1.

Q. Report document: The written special skill report shall include the following minimum elements:

(1) report cover page: titled to state the special skill reported, date, name of service, service director and medical director;

(2) contact information page: shall include address and contact information for the service, service director and medical director;

(3) letters of support: must include individual letters of continued support from the service director and service medical director;

(4) statistics and outcome data: provide data on the utilization and patient outcomes involving the special skill; do not

include patient identifiers; all adverse outcomes related to the special skill must be reported;

(5) continuing education: provide evidence of the continuing education program and refresher program;

(6) personnel list: provide a list of all personnel authorized to perform the special skill; these special skill authorized licensed EMS personnel must appear on the service's personnel list required for the *New Mexico EMS tracking and reporting system database*.

(7) QA/QI program: provide evidence of the ongoing QA/QI program;

(8) renewal: during a regularly scheduled meeting, the medical direction committee shall review all ongoing individual special skills programs on their three year anniversary and make a determination on renewal;

(9) if the medical direction committee determines not to provide automatic renewal on an ongoing special skill program, the state EMS training coordinator shall provide a written notification to the service director and the service medical director within 10 working days; and

(10) the special skills program will be placed on the agenda of the next, or subsequent, regularly scheduled meeting of the medical direction committee and final determination regarding renewal will be made.

R. Special skills programs will remain active until a final determination regarding renewal has been made.

S. Special skills application:

(1) general section;

(2) EMS

service name;

(3) address;

(4) service

chief/director;

(5) contact

phone number;

(6) physician

medical director;

(7) physician/medical director contact phone number;

(8) special skill proposed;

(9) level of licensure necessary for special skill;

(10) estimated number of personnel to be trained;

(11) estimated date of initial training;

(12) training/quality assurance;

(13) describe or identify the curriculum, including learning objectives, training hours, etc.;

(14) please identify the lead instructor and provide a brief summary of their qualifications or attach a resume;

(15) resumes required for new instructors;

(16) if training/experience is required, provide a letter of commitment from the supporting institution;

(17) describe or attach a proposed continuing education plan;

(18) attach a description of quality assurance plan, including periodic case reviews and ongoing problems;

(19) identification and steps for remedial action if necessary;

(20) signatures; person completing the application, service chief/service director and medical director;

(21) submit 10 copies of the application in its entirety to: EMS bureau, state EMS training coordinator, (1301 Siler Rd., Building F, Santa Fe, NM 87507);

(22) submit one copy to the regional office.

[7.27.11.10 NMAC - Rp, 7.27.11.10 NMAC, 12/12/2017]

7.27.11.11 EMS PERSONNEL JOB DESCRIPTIONS:

A. Introduction: The bureau is providing the following general position description for the New Mexico EMS provider positions

for first responder, EMT-basic, EMT-intermediate, and EMT-paramedic. It is the ultimate responsibility of an employer to define specific job descriptions within each EMS service.

B. Qualifications:

- (1) successfully complete a recognized training course from an approved EMS training institution;
- (2) possess a valid course completion certificate, and accomplish all state licensure examination application requirements;
- (3) additionally, applicants shall meet all established requirements for initial licensing as identified by the current EMS licensure regulations;
- (4) a copy of these regulations is available through the EMS bureau;
- (5) generally, the knowledge and skills required demonstrate the need for a high school education or equivalent;
- (6) ability to communicate verbally; via telephone and radio equipment;
- (7) ability to lift, carry, and balance up to 125 pounds (250 pounds with assistance);
- (8) ability to interpret written, oral, and diagnostic form instructions;
- (9) ability to use good judgment and to remain calm in high-stress situations;
- (10) ability to work effectively in an environment with loud noises and flashing lights;
- (11) ability to function efficiently throughout an entire work shift;
- (12) ability to calculate weight and volume ratios and read small English print, both under life threatening time constraints;
- (13) ability to read and understand English language manuals and road maps;
- (14) accurately discern street signs and address numbers;
- (15) ability to interview patient, family members, and bystanders;

- (16) ability to document, in writing, all relevant information in a prescribed format;
- (17) ability to converse orally and in written form in English with coworkers and hospital staff as to status of patient;
- (18) good manual dexterity, with ability to perform all tasks related to the highest quality of patient care;
- (19) ability to assume a variety of postural positions to carry out emergency and non-emergency patient care, including light extrication; from crawling, kneeling, squatting, twisting, turning, bending, to climbing stairs and ladders, and the ability to withstand varied environmental conditions such as extreme heat, cold, and moisture; and
- (20) ability to work in low light, confined spaces and other dangerous environments.

C. Competency areas:

(1) Licensed

EMS first responder: Must demonstrate competency handling emergencies utilizing all basic life support equipment and skills in accordance with all behavioral objectives of the approved New Mexico curriculum of first responder, to include the ability to demonstrate competency for all skills and procedures currently approved for the first responder, as identified by the current scope of practice document.

(2)

Emergency medical technician-basic: Must demonstrate competency handling emergencies utilizing all basic life support equipment and skills in accordance with all behavioral objectives of the approved New Mexico curriculum of EMT-basic, and to include the ability to demonstrate competency for all skills and procedures currently approved for the EMT-basic, as identified by the current scope of practice document.

(3)

Emergency medical technician-intermediate: Must demonstrate competency handling emergencies utilizing all basic life support and intermediate life support equipment

and skills in accordance with all behavioral objectives of the approved New Mexico curriculum of EMT-intermediate, and to include the ability to demonstrate competency for all skills and procedures currently approved for the EMT-intermediate, as identified by the current scope of practice document.

(4)

Emergency medical technician-paramedic: Must demonstrate competency handling emergencies utilizing all basic life support and advanced life support equipment and skills in accordance with all behavioral objectives of an approved New Mexico curriculum of EMT-paramedic, and to include the ability to demonstrate competency for all skills and procedures currently approved for the EMT-paramedic, as identified by the current scope of practice document.

D. Description of tasks for all EMS levels:

(1) Receives

call from dispatcher, responds verbally to emergency calls, reads maps, may drive emergency vehicle to emergency site, uses most expeditious route, and observes traffic ordinances and regulations.

(2) May use

equipment and other devices and procedures as authorized by level of licensure and scope of practice.

(3) Assists

in lifting, carrying, and transporting patient to an ambulance and to a medical facility.

(4) Reassures

patients and bystanders and searches for medical identification emblem to aid in care.

(5) Extricates

patient from entrapment, assesses extent of injury, uses prescribed techniques and appliances, radio dispatcher for additional assistance or services, provides light rescue service if required and trained, provides additional emergency care following service established protocols.

(6) Complies

with regulations in handling deceased, notifies authorities, arranges for protection of property and evidence at

scene.

(7) Determines appropriate facility to which patient will be transported, report nature and extent of injuries or illness to the facility, asks for direction from hospital physician or emergency department staff.

(8) Observes patient in route and administers care as directed by physician or service-established protocols.

(9) Identifies diagnostic signs that require communication with facility.

(10) Assists in removing patient(s) from ambulance and into emergency facility.

(11) Reports verbally, and in writing, observations about and care of patient at the scene, en-route to facility, and to the receiving facility. Written reports shall be completed for all patient interactions, which include any visual, verbal, or physical patient contact, by the most appropriate EMS caregiver, whether or not the patient was transported to a facility, including patient refusals.

(12) Provides assistance to emergency department staff as required.

(13) Replaces supplies, sends used supplies for sterilization, checks all equipment for future readiness, maintains ambulance in operable condition, ensures ambulance cleanliness and orderliness of equipment and supplies, decontaminates vehicle interior, determines vehicle readiness by checking oil, gas, water in battery and radiator, and tire pressure, maintains familiarity with all specialized equipment.

[7.27.11.11 NMAC - Rp, 7.27.11.11 NMAC, 12/12/2017]

HISTORY OF 7.27.11 NMAC: [RESERVED]

History of Repealed Material:

7.27.11 NMAC, Supplemental Licensing Provisions (filed 12/17/2012) Repealed 8/15/14.
7.27.11 NMAC, Emergency Medical Services - Supplemental Licensing

Provisions filed 7/28/2014 - repealed effective 12/12/2017.

Other History:

7.27.11 NMAC, Emergency Medical Services - Supplemental Licensing Provisions (filed 7/28/2014) was replaced by 7.27.11 NMAC, Emergency Medical Services - Supplemental Licensing Provisions, effective 12/12/2017.

HEALTH, DEPARTMENT OF

TITLE 7 HEALTH CHAPTER 27 EMERGENCY MEDICAL SERVICES PART 13 CERTIFICATION OF STROKE CENTERS

7.27.13.1 ISSUING

AGENCY: New Mexico Department of Health (DOH), Epidemiology and Response Division (ERD), Emergency Medical Systems Bureau (EMSB).

[7.27.13.1 NMAC - Rp, 7.27.13.1 NMAC, 12/12/2017]

7.27.13.2 SCOPE: These rules apply to New Mexico acute care hospitals that seek to be accredited or become accredited as an acute stroke capable center, primary stroke center, or comprehensive stroke center by the joint commission or another nationally recognized accrediting body.

[7.27.13.2 NMAC - Rp, 7.27.13.2 NMAC, 12/12/2017]

7.27.13.3 STATUTORY

AUTHORITY: These rules are promulgated pursuant to the following statutory authorities: 1) the New Mexico Department of Health Act, Subsection E of Section 9-7-6 NMSA 1978, which authorizes the secretary of the department of health to "make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions," and; 2) the Public Health Act, Section 24-1-34 NMSA 1978 ("primary stroke centers;

comprehensive stroke centers; acute stroke capable centers; department certification; rulemaking").

[7.27.13.3 NMAC - Rp, 7.27.13.3 NMAC, 12/12/2017]

7.27.13.4 DURATION:

Permanent.

[7.27.13.4 NMAC - Rp, 7.27.13.4 NMAC, 12/12/2017]

7.27.13.5 EFFECTIVE

DATE: December 12, 2017, unless a later date is cited at the end of a section.

[7.27.13.5 NMAC - Rp, 7.27.13.5 NMAC, 12/12/2017]

7.27.13.6 OBJECTIVE:

These rules are intended to establish the requirements necessary for acute care hospitals to be certified by the department as an acute stroke capable center, primary stroke center, or comprehensive stroke center. Additionally, the rule intends to identify incentives for participation in a stroke registry, as well as assist and encourage stroke centers to enter into coordinated care agreements with other health care facilities throughout the state to provide appropriate access to care for stroke patients.

[7.27.13.6 NMAC - Rp, 7.27.13.6 NMAC, 12/12/2017]

7.27.13.7 DEFINITIONS:

Unless a different meaning is plainly required by the context, the following words and phrases used in these regulations shall have the meanings indicated.

A. "Accredited"

means a process of validation by the joint commission or any other nationally recognized accrediting body recognized by the department.

B. "Accrediting

body" means an independent, not-for-profit entity, recognized nationally and by the DOH, that evaluates hospitals for, and addresses crucial elements in, operations regarding patient care and related aspects.

C. "Acute care

hospital" means a facility with an emergency department and physicians(s) available, licensed under

state statute, or a comparable facility operated by the federal government or located and licensed by another state.

D. “Bureau” means the emergency medical systems bureau of the epidemiology and response division of the New Mexico department of health.

E. “Certified” means a formal determination by the department that an acute care facility has met the standards necessary for joint commission or any other nationally recognized accrediting body accreditation, including functioning in a stroke care system, and capable of providing special resources and care as an acute stroke capable, primary, or comprehensive center.

F. “Department (DOH)” means the New Mexico department of health.

G. “Emergency Medical Service (EMS)” means the services rendered by licensed emergency medical technicians, emergency medical services first responders or emergency medical dispatchers in response to a person’s need for immediate medical care to prevent loss of life or aggravation of physical or psychological illness or injury.

H. “Recognized” means written acknowledgement by the bureau.

I. “Registry” means a bureau approved database which documents and integrates medical and system information related to the provision of stroke care by acute care hospital facilities.

J. “Stroke” is a term that broadly describes the death of central nervous system cells and tissues attributed to an insufficient supply of blood to the central nervous system. It includes conditions caused by ischemic stroke, intracerebral hemorrhage and subarachnoid hemorrhage.

K. “Stroke center” means an acute care hospital with a group of medical caregivers that have specific education and resources to diagnose and treat stroke; three levels of stroke centers - acute stroke

capable, primary, and comprehensive - are accredited by the joint commission or any other nationally recognized accrediting body based on the capability of stroke care by the acute care hospital.

[7.27.13.7 NMAC - Rp, 7.27.13.7 NMAC, 12/12/2017]

7.27.13.8 STROKE REGISTRY:

A. Funding for data submission:

(1) The department shall, depending on availability of funds and based on guidelines approved by the department and administered by the bureau, provide limited financial assistance to acute care hospitals providing stroke data to the approved registry data platform, and allowing department access to that data. This funding is provided to defray licensing costs associated with the submission of data to the approved data platform. Participation in data submission to the registry is required to be eligible for funds.

(2) Acute care hospitals designated or seeking designation as acute stroke capable, primary, or comprehensive centers must report data to the department approved data platform that is consistent with nationally recognized guidelines on the treatment of individuals with confirmed stroke.

B. Data platform: The department of health shall approve a single data platform, to which data is submitted by each hospital, and maintain a statewide stroke database that compiles information and statistics on stroke care through this data platform.

[7.27.13.8 NMAC - Rp, 7.27.13.8 NMAC, 12/12/2017]

7.27.13.9 ACUTE STROKE CAPABLE, PRIMARY, OR COMPREHENSIVE STROKE CENTER CERTIFICATION:

The department shall certify an acute care hospital as a primary stroke center, comprehensive stroke center, or acute stroke capable center if that hospital has been accredited as an acute stroke

capable center, primary stroke center, or comprehensive stroke center. The department shall post information regarding certification on the department’s web site. If a hospital loses its national accreditation as a stroke center, the secretary shall revoke the hospital’s certification. [7.27.13.9 NMAC - Rp, 7.27.13.9 NMAC, 12/12/2017]

7.27.13.10 STROKE SYSTEM DEVELOPMENT AND IMPROVEMENT:

To every extent possible, the department of health emergency medical systems bureau will:

A. Facilitate the communication and analysis of information and data between the department, acute care hospitals, emergency medical services, and other care providers regarding ways to improve the quality of care for stroke patients.

B. Establish a stroke data oversight process, and implement a plan for continuous quality improvement in the quality of care provided to stroke patients statewide based on stroke and other data sources. This will include:

(1) analyzing data generated by the registry on stroke response and treatment;

(2) identifying potential interventions to improve stroke care in the prehospital and acute care hospital settings throughout the state, and based on guidelines approved by the department and administered by the bureau, provide limited financial assistance depending on availability of funds;

(3) assuring that data reported under Section 7.27.13.8 NMAC shall be made available to requesting entities that have responsibility for the management and administration of services that provide prehospital and acute hospital care of stroke patients.

C. Work in coordination with all local and regional emergency medical services authorities statewide on the development of pre-hospitalization protocols related to the assessment,

treatment and transport of stroke patients by licensed emergency medical services providers. These protocols shall include, at a minimum, plans for the triage and transport of stroke patients to the closest comprehensive or primary stroke center or, when appropriate, to an acute stroke capable center.

[7.27.13.10 NMAC - Rp, 7.27.13.10 NMAC, 12/12/2017]

HISTORY OF 7.27.13 NMAC: [RESERVED]

History of Repealed Material:

7.27.13 NMAC, Emergency Medical Services - Certification of Stroke Centers filed 7/28/2014 - Repealed effective 12/12/2017.

Other History:

7.27.13 NMAC, Emergency Medical Services - Certification of Stroke Centers (filed 7/28/2014) was replaced by 7.27.13 NMAC, Emergency Medical Services - Certification of Stroke Centers, effective 12/12/2017.

PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS, BOARD OF LICENSURE FOR

This is an amendment to 16.39.1 NMAC, Sections 3, 8, 10, 12 and 17, effective 12/28/2017.

16.39.1.3 STATUTORY AUTHORITY: ~~[NMSA 1978, Section 61-23-10 (B)]~~ Subsection B of Section 61-23-10 NMSA 1978 prescribes that “the board shall have the power to adopt and amend all bylaws and rules of procedure consistent with the constitution and the laws of this state that may be reasonable for the proper performance of its duties and the regulation of its procedures, meeting records, examinations and the conduct thereof. The board shall adopt and promulgate rules of professional responsibility for professional

engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying.” 16.39.1 NMAC applies to both engineering and surveying.

[16.39.1.3 NMAC - Rp, 16 NMAC 39.1.3, 1/01/2002; A, 7/01/2006; A, 12/28/2017]

16.39.1.8 THE BOARD:

A. The name of this board shall be the state board of licensure for professional engineers and professional surveyors hereinafter referred to as the “board”.

B. The official seal of the board shall be an embossed circular seal one and three-quarter inches in diameter consisting of two concentric circles; the outer circle to be one and three-quarter inches in diameter. The inner circle is to be one and one-quarter inches in diameter. The inner circle shall contain the seal of the state of New Mexico and the words, “state of New Mexico.” The words, “board of licensure for professional engineers and professional surveyors”, shall be contained between the two [(2)] concentric circles.

C. The fiscal year of the board shall be July 1, through June 30 of the following calendar year.

[16.39.1.8 NMAC - Rp, 16 NMAC 39.1.8, 1/01/2002; A, 7/01/2006; A, 7/1/2015; A, 12/28/2017]

16.39.1.10 MEETINGS OF THE BOARD:

A. Special and emergency meetings of the board may be called at any time by the chair of the board, or a majority of the board members; and meetings of either of the two [(2)] committees may be called at any time by order of the respective chair of the professional engineering committee or the professional surveying committee or a majority of the committee members.

B. Proper public notice of all meetings shall be given in accordance with the provisions of the Open Meeting Act.

[16.39.1.10 NMAC - Rp, 16 NMAC

39.1.10, 1/01/2002; A, 12/28/2017]

16.39.1.12 DUTIES OF THE BOARD, OFFICERS OF THE BOARD, AND THE EXECUTIVE DIRECTOR:

A. The board shall act as a whole in all administrative, financial and personnel matters and any other activity not specifically related to the practices of engineering or surveying.

B. The board shall appoint an executive director who shall serve at the pleasure of the board.

C. The chair of the board shall preside at all meetings; shall appoint all committees; shall sign all certificates of licensure, vouchers and other official documents; and shall otherwise perform all duties pertaining to the office of the chair.

D. The vice-chair shall, in the absence or incapacity of the chair, exercise the duties and shall possess all the powers of the chair.

E. The secretary of the board shall co-sign all certificates of licensure and in the absence or incapacity of the chair and vice-chair, exercise the duties and shall possess all the powers of the chair.

F. The executive director shall perform and supervise the following for the board and professional engineering and professional surveying committees:

(1) conduct and care for all correspondence in the name of the board, the professional engineering committee and the professional surveying committee;

(2) record and file all applications, certificates of licensure, examinations, licenses and revocations for both professional engineering and professional surveying committees;

(3) prepare and submit to the board, at the first meeting of each fiscal year for review and approval, an annual report of board activities and statistics for the preceding fiscal year, including a financial report; prepare the approved annual report for transmittal to the

governor;

(4) keep a record of all meetings of the board and committees and maintain a proper account of the business of the board; a draft of the meetings' minutes shall be provided to each member for comment within ~~[ten-(10)]~~ 10 working days after each meeting; a final draft shall be provided to each board member at the next meeting for final approval;

(5) receive and account for all funds and transfer same to state treasurer within ~~[twenty-four (24)]~~ 24 hours of receipt; authorize and approve payment by department of finance and administration invoices and vouchers for only those expenditures included in the board's approved operating budget;

(6) present and submit to the board at the first meeting of each fiscal year a financial report prepared by the rules of generally accepted accounting principles as of the preceding June 30th, such report to include the reporting of the transactions of the board during the preceding fiscal year, and a complete statement of the receipts, expenses and expenditures of the board; upon being approved by the board, shall be included in the annual report and submitted to the governor;

(7) receive and review licensure applications for completeness for consideration by the respective committees;

(8) schedule and arrange for the administration of written examinations provided for in the Engineering and Surveying Practice Act, content of which having been approved by the board or respective professional engineering or professional surveying committees; when requested by the applicant, the director shall make reasonable accommodations for the testing of an applicant with a certified disability in accordance with the provisions of the Americans with Disabilities Act and who meets the minimum qualifications in the Engineering and Surveying Practice Act and these

rules; when necessary qualified assistance, approved by the board, may be retained for conduct of examinations;

(9) prepare and maintain a current roster on the board's website, and furnish copies to the public upon request and payment of a fee as determined by the board; in accordance with Section 61-23-13 NMSA 1978;

(10) prepare and maintain a current roster of business entities with an affidavit identifying the authorized company officer and the professional engineer or professional surveyor or both who is employed by the business entity and in the responsible charge;

~~[(40)]~~ (11) provide one ~~[(+)]~~ week in advance of each meeting, drafts of the agenda of the meeting to each member of the board;

~~[(44)]~~ (12) publish an annual newsletter at a minimum;

~~[(42)]~~ (13) direct investigations of any alleged violations or infringements of the Engineering and Surveying Practice Act; a written report covering status of protest actions and alleged violations shall be presented to the appropriate committee at each meeting; this may be in the form of appropriate commentary recorded in the minutes, supported by a separate file on the case; when necessary, qualified assistance, approved by the board, may be retained for conduct of investigations;

~~[(43)]~~ (14) file formal disciplinary actions upon approval by the board with the appropriate jurisdiction for prosecution of alleged violations of the act ~~[and/or]~~ and the board's rules.

[16.39.1.12 NMAC - Rp, 16 NMAC 39.1.12, 1/1/2002; A, 7/1/2006; A, 7/1/2015; A, 12/28/2017]

16.39.1.17 STATUS OF LICENSURE:

A. Retired status - a licensee shall become eligible for retired status with a waiver of renewal fees after meeting all the following qualifications:

(1) retired from active practice;
(2) at least ~~[sixty (60)]~~ 60 years of age; ~~[and]~~
(3) have been a licensee for a continuous period of ~~[twenty-(20)]~~ 20 years, at least ~~[ten-(10)]~~ 10 of which must have been in New Mexico; ~~and~~
(4) the licensee has filed an application prescribed by the board for retired status prior to the expiration of the license.

B. Licensees shall request retired status by letter. In the event the licensee on retired status desires to return to practice, the licensee shall apply to the board, comply with the continuing professional development requirements; and if approved shall pay the appropriate fee.

C. Professional engineers and professional surveyors on "retired status" with the board may use the titles "engineer", "surveyor", "professional engineer", "professional surveyor", PE or PS after their names and shall add "(Ret.)" or "(Retired)" after such title.

D. Inactive status - a licensee shall become eligible for inactive status with a waiver of renewal fees and professional development requirements after meeting all the following qualifications:

(1) the licensee is not engaged in the respective professions (engineering or surveying) which requires licensure in this jurisdiction;

(2) the licensee has been a licensed professional engineer or surveyor in this jurisdiction for ~~[ten-(10)]~~ 10 consecutive years;

(3) the licensee has filed an application ~~[and application fee]~~ prescribed by the board for inactive status prior to the expiration of the license.

E. In the event a licensee on inactive status desires to return to practice within six ~~[(6)]~~ years of acquiring inactive status, the licensee shall make proper application

to the board, comply with the continuing professional development requirements (a minimum of ~~thirty~~ (30) 30 PDHs) and if approved shall pay the appropriate fee.

F. An inactive licensee who has maintained inactive status in excess of six ~~[(6)]~~ consecutive years may be readmitted to active practice of the profession only upon making proper application and completion of the requirements as prescribed by the board. (In the event an inactive licensee does not maintain a current license in any jurisdiction for the six ~~[(6)]~~ previous years prior to requesting active status, that person will be required to take the principles and practice of engineering (PE) examination or the principles and practice of surveying (PS) examination and the New Mexico surveying state specific exam. [16.39.1.17 NMAC - Rp, 16 NMAC 39.1.17, 1/1/2002; A, 7/1/2006; A, 7/1/2015; A, 12/28/2017])

PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS, BOARD OF LICENSURE FOR

This is an amendment to 16.39.2 NMAC, Sections 3, 7 and 8, effective 12/28/2017.

16.39.2.3 STATUTORY AUTHORITY: ~~[NMSA 1978, Section 61-23-10 (B)]~~ Subsection B of Section 61-23-10 NMSA 1978 prescribes that the board shall adopt and promulgate rules of professional responsibility for professional engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying. 16.39.2 NMAC applies to both engineering and surveying. Sections 61-23-24.1 and 61-23-27.12, NMSA 1978 prescribe that "the board shall implement and conduct a professional development program. Compliance and exceptions shall be established by the regulations and rules of procedure (Title 16,

Chapter 39 of the New Mexico Administrative Code) of the board." [16.39.2.3 NMAC - Rp, 16 NMAC 39.2.3, 12/01/2001; A, 7/01/2006; A, 12/28/2017]

16.39.2.7 DEFINITIONS:

A. Professional development hour (PDH) - a contact hour (nominal) of instruction or presentation. The PDH is the common denominator for other units of credit.

B. Continuing education unit (CEU) - unit of credit customarily ~~[earned]~~ used for continuing education courses. One ~~[(1)]~~ continuing education unit equals ~~[ten (10)]~~ 10 contact hours ~~[of class]~~ in approved continuing education course.

C. College/unit semester/quarter hour - credit for course ~~[from]~~ in ABET approved ~~[curriculum]~~ programs or other related college course approved in accordance with Subsection E of 16.39.2.8 NMAC.

D. Course/activity - any qualifying course or activity with a clear purpose and objective ~~[which]~~ that will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice. Regular duties are not considered qualified activities.

E. Dual licensee - a person who is licensed as both a professional engineer and a professional surveyor.

F. Ethics ~~[training]~~ / business-related course or activity - ~~[course content that addresses ethics in the engineering and in the surveying fields.]~~ any qualifying course or activity with content areas related to:

(1) the awareness of ethical concerns and conflicts;

(2) an enhanced familiarity with the codes of conduct;

(3) an understanding of standards of practice or care; or

(4) project management and risk-assessment

management.

[16.39.2.7 NMAC - Rp, 16 NMAC 39.2.7, 12/01/2001; A, 7/01/2006; A, 7/1/2015; A, 12/28/2017]

16.39.2.8 CONTINUING PROFESSIONAL DEVELOPMENT - REQUIREMENTS:

The purpose of the continuing professional development requirement is to enhance the continuing level of professional development of professional engineers and professional surveyors.

A. Introduction
- Every licensee shall meet the continuing professional development requirements of these regulations for professional development as a condition for license renewal.

B. Failure to meet requirements - Submission of professional development hours (PDHs) shall be made concurrently with license renewal ~~[failure]~~. Failure to meet the PDH requirements will result in the rejection of renewal.

C. Requirements - each licensee is required to obtain ~~[thirty (30)]~~ 30 professional development hours (PDH) units during a biennium at least two ~~[(2)]~~ of which shall be in ethics/business-related. ~~[A maximum of ten (10) 10 PDH units may be earned in self-directed study.]~~ If a licensee exceeds the biennial requirement in any biennial cycle, a maximum of ~~[fifteen (15)]~~ 15 PDH units may be carried forward into the subsequent biennium in accordance with what has been previously reported to the board. PDH units may be earned from participation in qualifying activities as follows:

(1) successful completion of college courses relevant to engineering and surveying;
~~[(2)] successful completion of continuing education courses;~~

~~[(3)]~~ (2) successful completion of short courses, tutorials, webinar or distance-education courses offered for self-study, independent study or group study through synchronous or asynchronous delivery method such as live, correspondence,

archival or the internet [~~based-~~
~~instruction~~];

~~[(4)]~~ **(3)** presenting
or attending qualifying seminars,
in-house courses, workshops, or
professional or technical presentations
made at meetings, conventions,
[~~or~~] conferences, or educational
institutions;

~~[(5)]~~ **(4)** teaching or
instructing in Paragraphs (1) through
~~[(4)]~~ **(3)** of Subsection D of 16.39.2.8
NMAC;

~~[(6)]~~ **(5)** authoring
published papers, articles, [~~or~~] books,
or accepted licensing examination
items;

~~[(7)]~~ **(6)** active
participation in professional or
technical societies [~~and their~~
~~committees~~];

~~[(8)]~~ **(7)** patents;
~~[(9)]~~ **(8)** technical
reviews, including articles from
periodicals, books, video/audio-
cassettes, tutorials and other sources,
which contribute to the technical or
professional education or competency
of the licensee;

~~[(10)]~~ **(8)** active
participation in [~~civic or community~~]
educational outreach activities,
[~~relevant to the engineering and~~
~~surveying~~] pertaining to professional
licensure or the surveying/engineering
professions, as a speaker, instructor,
presenter or panelist.

[~~[(11)]~~ **(9)** successful
completion of ethics training, up to
four (4) hours per biennial renewal.]

D. Units - the
conversion of other units of credit to
PDH units is as follows:

(1) One **[(+)]**
college or unit semester 45
PDH;

(2) One **[(+)]**
college or unit quarter hour 30
PDH;

(3) One **[(+)]**
continuing education unit 10 PDH;

(4) One **[(+)]**
hour of professional development in
coursework, seminars, or professional
or technical presentations made at
meetings, conventions, or conferences
1 PDH;

(5) for

teaching, apply multiple of two **[(2)]**
(teaching credit is valid for teaching
a course or seminar for the first time
only; teaching credit does not apply to
full-time faculty);

(6) [~~each~~
~~published paper, article, or book in~~
~~the licensee's area of professional~~
~~practice~~ 10 PDH;] Publications:

(a)
each published peer-reviewed paper
or book in the licensee's area of
professional practice 10
PDH;

(b)
each published paper or article other
than Subparagraph (a) of Paragraph
(6) of Subsection E of 16.39.2.8
NMAC in the licensee's area of
professional practice 5
PDH;

(7) active
participation in professional and
technical societies (each organization)
[2 PDH/yr] 2 PDH;

(8) each patent
10 PDH;

[~~[(9)]~~ **(9)** One **[(1)]**
hour of literature review technical
reviews 1 PDH (max 6 PDH/
biennium);]

~~[(10)]~~ **(9)** One **[(+)]**
hour of [~~each civic or community~~]
outreach activity.....1 PDH (max [4]
6 PDH/biennium).

[~~[(11)]~~ **(11)** One **[(1)]**
hour of ethics training 1
PDH (max 4 PDH/biennium).]

E. Determination of
credit - the board has final authority
with respect to approval of courses,
credit, PDH value for courses, and
other methods of earning credit:

(1) credit
for college or community college
approved courses will be based upon
course credit established by the
college;

(2) credit
for qualifying seminars, workshops,
professional conventions, and courses/
activities may be recommended by the
professional societies;

(3) additional
criteria for credit determination shall
be included in the board policy.

F. Record keeping
- each licensee is responsible for

maintaining records that support
credits claimed is the responsibility
of the licensee. Records required
include but are not limited to:

(1) a log
showing the type of activity claimed,
sponsoring organization, location,
duration, instructor's or speaker's
name, and PDH credits earned;

(2) attendance
verification records in the form of
completion certificates, paid receipts
or other documents supporting
evidence of attendance;

(3) proof
of membership in a technical
organization issuing a publication as a
part of its membership fee;

(4) a log
indicating the medium used for a
technical review, the subject of the
review, the author or sponsoring
organization, the date the review was
conducted, a brief written summary of
the contents of the reviewed material
and the time spent on the review;

(5) the
organization sponsoring a civic or
community activity, the date and
location of the activity, the subject
of the activity and the licensee's
involvement in the activity. These
records must be maintained for a
period of three **[(3)]** years and copies
may be requested by the board for
audit verification purposes.

G. Exemptions - a
licensee may be exempt from the
professional development educational
requirements for one **[(+)]** of the
following reasons:

(1) new
licensees by way of examination or
comity/endorsement shall be exempt
for the first year directly following
the issuance of their license; PDH
requirements will be prorated for any
remaining portion of the licensing
period beyond one **[(+)]** year from the
date of initial licensure;

(2) a licensee
serving on temporary active duty
in the armed forces of the United
States for a period of time exceeding
[one hundred twenty (120)] 120
consecutive days in a calendar year
may be exempt from obtaining the
professional development hours

required during that year; supporting documentation shall be furnished to the board;

(3) licensees experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the board may be exempt; supporting documentation must be furnished to the board;

(4) licensees who have been approved for "retired status" by the board shall be exempt from the professional development hours required; in the event such a person elects to return to active practice of professional engineering or professional surveying, professional development hours must be earned before returning to active practice for the preceding biennial cycle.

H. Reinstatement - a licensee may bring a lapsed license to active status by obtaining all delinquent PDH units outstanding from the last biennium and complying with all other reinstatement requirements in the Engineering and Surveying Practice Act and the board's rules and regulations; however, if the total number required to become current exceeds ~~[thirty (30)]~~ 30, then ~~[thirty (30)]~~ 30 shall be the maximum number required.

I. Comity/out-of-jurisdiction resident - licensees who are residents of other jurisdictions shall meet the continuing professional development requirements of this board. These requirements may be deemed satisfied when a non-resident licensee provides evidence of having met requirements for another state engineering/surveying licensing board that are equal to or exceed the requirements of this board.

J. Dual licensees - the number of PDH units required shall remain the same for persons who hold a dual license as a professional engineer and professional surveyor; for persons who hold a dual license, half of the PDH units shall be in each profession.

K. Forms - all renewal applications will require the number of earned PDH units. The licensee must sign the renewal application, and

submit with the appropriate fee. [16.39.2.8 NMAC - Rp, 16 NMAC 39.2.8, 12/1/2001; A, 7/1/2006; A, 7/1/2015; A, 1/1/2016; A, 12/28/2017]

PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS, BOARD OF LICENSURE FOR

This is an amendment to 16.39.3 NMAC, Sections 3, 7 through 13, effective 12/28/2017.

16.39.3.3 STATUTORY AUTHORITY: [NMSA 1978, Section 61-23-10 (B)] Subsection B of Section 61-23-10 NMSA 1978

prescribes that "the board shall have the power to adopt and amend all bylaws and rules of procedure consistent with the constitution and the laws of this state that may be reasonable for the proper performance of its duties and the regulation of its procedures, meeting records, examinations and the conduct thereof. The board shall adopt and promulgate rules of professional responsibility for professional engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying. [~~Section 61-23-10 (C)]~~ Subsection C of Section 61-23-10 NMSA 1978 states the professional engineering committee shall adopt and promulgate rules of professional responsibility exclusive to the practice of engineering. All such bylaws and rules shall be binding upon all persons licensed pursuant to the Engineering and Surveying Practice Act. [~~Section 61-23-19 prescribes~~] Subsections A and B of Section 61-23-19 NMSA 1978 prescribe, "[~~the~~] the board shall provide for the proper authentication of all documents. The board shall regulate the use of seals."

[16.39.3.3 NMAC - Rp, 16 NMAC 39.3.3, 1/01/2002; A, 7/01/2006; A, 12/28/2017]

16.39.3.7 DEFINITIONS:

Board-approved, four-year curriculum in engineering is defined as:

A. "ABET" is defined as the accreditation board for engineering and technology.

B. "Board-approved, four~~(4)~~ - year curriculum in engineering" is defined as:

(1) engineering curriculum of at least four~~(4)~~ years that has been accredited by ABET within at least three ~~(3)~~ years of the applicant's graduation with a bachelor's degree in engineering;

(2) curriculum not accredited by ABET but with the minimum number of engineering credits required for accreditation by ABET; and

(3) Curriculum required for graduate degree (master or doctoral) in engineering from an engineering program with an ABET-accredited bachelor's degree has successfully completed (as confirmed by letter from graduation committee) all requirements deficient to bachelor's degree in engineering.

C. "Branch" refers to engineering disciplines as referred to in 16.39.3.8 NMAC.

D. "Category" refers to the type of license such as professional engineer or professional surveyor as referred to in Subsections L and P of Sections 61-23-23 NMSA 1978.

E. "Engineering accreditation commission" is defined as the engineering accreditation commission of ABET, or any successor commission or organization.

[~~C.~~] F. "Engineering discipline" is defined as a designated area of proficiency and competence in the practice of engineering.

[~~D.~~] G. "FE exam" refers to the fundamentals of engineering exam.

H. "NCEES" refers to the national council of examiners for engineering and surveying.

[~~E.~~] I. "PE exam" refers to the principles and practice of engineering exam.

[~~F.~~] J. "NCEES" refers to

the national council of examiners for engineering and surveying.

G. "Category"

refers to the type of license such as professional engineer or professional surveyor as referred to in Subsections L and P of Sections 61-23-23 NMSA-1978.

H. "Branch" refers to engineering disciplines as referred to in 16.39.3.8 NMAC.]

[16.39.3.7 NMAC - Rp, 16 NMAC 39.3.7, 1/01/2002; A, 7/01/2006; A, 1/01/2007; A, 7/1/2015; A, 12/28/2017]

16.39.3.8 ENGINEERING DISCIPLINES:

A. Licensure is granted as a professional engineer and shall be so stated on the certificate. Although the Engineering and Surveying Practice Act makes no specific designation as to the disciplines of engineering practice on the certificates as issued by the board, the records and roster of the board shall indicate the discipline(s) in which the licensee is competent to practice in accordance with this section. Only the discipline(s) of engineering for which the applicant has successfully been examined or approved by the professional engineering committee will be recorded.

B. Requests for engineering disciplines will be accepted from the following list; and the board's records and roster will be annotated with the corresponding alphabetical code:

- (1) architectural A
- (2) aeronautical B
- (3) civil C
- (4) agricultural D
- (5) electrical and computer E
- (6) network engineer F
- (7) geological G
- (8) chemical H
- (9) industrial I
- (10) mechanical M
- (11) mining N
- (12) metallurgical NN
- (13) petroleum P
- (14) control

- systems Q
- (15) structural R
- (16) nuclear T
- (17) fire protection U
- (18) environmental V
- (19) construction W
- (20) naval architecture and marine Nm
- (21) software Sw

C. Other disciplines

may be considered as reviewed and approved by the board.

D. A licensee may be listed in no more than three [(3)] disciplines of engineering. Subsequent to initial licensure, a licensee may apply for licensure in another discipline of engineering. The licensee shall demonstrate competence in that discipline and may be required to appear before the board. Demonstration of competence may be accomplished by presenting evidence as follows:

- (1) the licensee shall file a separate application for the additional discipline requested and pay an application fee for the additional application; and
- (2) complete the application forms to indicate clearly the education, experience, and three [(3)] acceptable personal references which will substantiate proficiency in the discipline for which the licensee is applying; experience and personal references must be stated;

(3) an applicant for licensure by endorsement may initially apply for [the] up to three disciplines, provided substantial evidence is presented to the board to demonstrate competence for each requested discipline.

E. Structural discipline - except for an applicant with a B.S. degree with a structural option and a minimum of four [(4)] years of post-baccalaureate structural engineering experience, listing as a structural engineer may be obtained by having gained an acceptable engineering

degree which included a minimum of six [(6)] hours of structural design; having licensure as a professional engineer; and having four [(4)] years of structural experience gained after licensure and acceptable to the board.

(1) Passing the NCEES structural tests part I & II may be substituted for two [(2)] years of the required experience.

(2) A master's degree in structures may be substituted for one [(1)] year of the required experience.

(3) An applicant for licensure as a structural engineer by endorsement shall meet the requirements of Paragraphs (1) and (2) of Subsection D of 16.39.3.8 NMAC.

F. Specialty sub-disciplines - The professional engineering committee of the board may determine that the special practice of engineering within one [(1)] or more of the engineering disciplines in Subsection B of 16.39.3.8 NMAC requires unique training/education and experience to adequately protect the public safety and health, and the professional engineering committee of the board shall declare this special practice of engineering to be a specialty sub-discipline. The declaration of a specialty sub-discipline shall be based on a need identified by the state or any of its political subdivisions, availability of appropriate and timely training/education within the state of New Mexico, and the ability of the identification of a specialty sub-discipline to inform the public of the needed special practice of engineering. If the professional engineering committee of the board declares a specialty sub-discipline, after a rules hearing, the requirements for the special practice of engineering shall be included in Title 16, Chapter 39 of the New Mexico administrative code for engineering and surveying:

(1) the specialty sub-discipline rules shall specify the training/education and experience requirements to obtain certification for the special engineering practice, including

provisions for equivalent training when a particular course of training/education is specified; in anticipation that more than one [(1)] discipline identified in Subsection B of 16.39.3.8 NMAC will qualify for the specialty sub-discipline, the rules shall identify which engineering disciplines in Subsection B of 16.39.3.8 NMAC, are most likely to qualify for the specialty sub-discipline;

(2) the board shall maintain a list of engineers who have been certified as meeting the requirements for the specialty sub-discipline; the list shall be available to the public upon request and pursuant to the inspection of public records; the professional engineering committee of the board shall establish a form for the application to obtain a certification for the specialty sub-discipline; upon approval by the professional engineering committee of the board, the qualified licensee's name shall be added to the list of licensees having the specialty sub-discipline;

(3) a licensee's name may be removed from the list of persons certified for the specialty sub-discipline, upon determination by the professional engineering committee of the board that the licensee no longer qualifies for the certification specialty sub-discipline; such removal shall be only after the appropriate process/hearing by the professional engineering committee of the board;

(4) the failure to obtain certification for the specialty sub-discipline shall not limit the practice of engineering within any of the engineering disciplines identified in Subsection B of 16.39.3.8 NMAC, and the failure to obtain certification in the specialty sub-discipline shall not constitute practice outside the licensee's area of competence; however, the failure to obtain certification for a specialty sub-discipline and a determination by the professional engineering committee of the board of inappropriate practice of engineering within the engineering specialty may be cause for determination that the engineering practice is not within the licensee's authorized discipline, and that

appropriate disciplinary action can be taken;

(5) the certification of a specialty sub-discipline shall be for a period established by the professional engineering committee of the board, but not less than two [(2)] years or more than six [(6)] years; renewal of the specialty sub-discipline shall be concurrent with license renewal;

(6) the professional engineering committee of the board may remove the specialty sub-discipline from the rules for engineering and surveying, after a rules hearing, upon the finding that the training/education is no longer available or that the designation of the specialty sub-discipline in no longer needed to protect the public safety and health.

~~G. Establishment of specialty sub-disciplines - The following specialty sub-discipline(s) for the practice of engineering are established. On-site wastewater engineering:~~

~~(1) Area of practice - the design of septic tank systems, on-site wastewater treatment plants, leach fields, evapotranspiration fields, and similar structures that do not discharge wastewater effluent directly to a surface watercourse or stream.~~

~~(2) New Mexico governmental agency identifying the need for this specialty sub-discipline - New Mexico environment department.~~

~~(3) Training/education within New Mexico - a course of training/education conducted in cooperation with the New Mexico environment department and approved by the professional engineering committee of the board. The course content shall include NM laws, unique NM conditions requiring special design practice, site testing that must be performed, procedures of approval of plans and specifications, and requirements for certification of construction.~~

~~(4) The engineering disciplines in Subsection B of 16.39.3.8 NMAC that may~~

~~be applicable to this specialty sub-discipline are: architectural, civil, agricultural, geological, industrial, petroleum, environmental and construction.~~

~~(5) The certification of specialty sub-discipline for on-site wastewater engineering shall expire at the end of the license renewal period that is three (3) years after the granting of the certification for specialty sub-discipline. The certification may be renewed by submitting documentation of updated training/education.]~~

[16.39.3.8 NMAC - Rp, 16 NMAC 39.3.8, 1/01/2002; A, 7/01/2006; A, 1/01/2007; A, 7/1/2015; A, 12/28/2017]

16.39.3.9 APPLICATION - ENGINEERING INTERN AND PROFESSIONAL ENGINEER:

A. Types of applications- licensure as a professional engineer or certification as an engineer intern require that an applicant present his or her qualifications on forms prescribed by the board.

B. Any application, to be complete, must include acceptable replies from references, official transcripts provided directly from the colleges or universities attended; and if applicable, verification of prior examinations taken in other states.

C. Board members shall not be used as references.

D. Applications for engineering intern certification will be accepted after applicant has passed the fundamentals of engineering exam and graduated from a board-approved, four [(4)] - year engineering curriculum; or graduated from a four [(4)] - year engineering technology program that is accredited by the technical accreditation commission of the ABET, augmented by at least two [(2)] years of board-approved, post graduate engineering experience. Applications to take the fundamentals of engineering exam administered by the NCEES will not be required from the state board. Successful passing of the fundamentals of engineering exam does not ensure certification as an

engineer intern.

E. Applicants for the principles and practices of engineering examination ~~[with] must have certification as an engineer intern and have successfully completed~~ an ABET accredited engineering curriculum of four ~~[(4)]~~ years or more ~~[or equivalent] from a program that fulfills the required content of the engineering education standard as [determined] defined by [the board]~~ NCEES and shall have a minimum of two ~~[(2)]~~ years of post-baccalaureate experience acceptable to the professional engineering committee at the date of application and shall have passed the fundamentals of engineering examination. Applicants with an ABET accredited engineering technology degree shall have a minimum of four ~~[(4)]~~ years of post-baccalaureate experience acceptable to the board at the date of application and shall have passed the fundamentals of engineering examination.

F. No applicant will be eligible to take the professional engineering examination whose application for eligibility has not been completed, reviewed and approved by the board, as set forth in 16.39.3.9 NMAC.

G. Applicants for the professional engineering license will be accepted after applicant has passed the professional engineering exam and has fulfilled the education and experience requirements. Successful passing of the professional engineering exam does not ensure licensure as a professional engineer. To satisfy the statutory requirement for board-approved engineering experience prior to licensure, a candidate with an ABET accredited engineering curriculum of four ~~[(4)]~~ years or more or ~~[equivalent as determined by the board]~~ a program that fulfills the required content of the engineering education standard as defined by NCEES and shall have four ~~[(4)]~~ years of post-baccalaureate experience acceptable to the professional engineering committee, and a candidate with an ABET accredited engineering

technology degree shall have six ~~[(6)]~~ years of post-baccalaureate experience acceptable to the professional engineering committee. After successfully completing the professional engineering examination, an applicant, if necessary to meet the licensing requirements in the New Mexico Engineering and Surveying Practice Act, shall update the application as provided by ~~[Subsection H of 61.39.3.9]~~ Subsection H of 16.39.3.9 NMAC.

H. To update a professional engineer (PE) application file in relation to experience, the applicant must complete the appropriate portions of the application form and provide references acceptable to the professional engineering committee to verify each additional experience record.

I. Applications for licensure or certification by examination or comity/endorsement which have been approved by the professional engineering committee shall remain valid for ~~[three (3)]~~ two years from the date of approval.

J. An applicant with foreign credentials requesting licensure by examination or endorsement shall provide to the professional engineering committee's satisfaction, evidence that the applicants' qualifications are equal to, or exceed those in New Mexico, including review and fulfillment of the required content of the engineering standard as defined by NCEES.

K. All applicants for PE licensure shall also show proficiency in the English language and shall have a minimum of four ~~[(4)]~~ - years experience working in the United States or for a United States corporation under the direction of ~~[an] a professional~~ engineer who will attest to the applicant's ability and knowledge as a competent engineer.
[16.39.3.9 NMAC - Rp, 16 NMAC 39.3.9, 1/01/2002; A, 7/01/2006; A, 7/1/2015; A, 12/28/2017]

16.39.3.10 EXAMINATIONS- -ENGINEERING INTERN AND PROFESSIONAL ENGINEER:

A. Regularly scheduled examinations shall be held in accordance with NCEES examination schedules.

B. Any applicant that fails an examination will be notified by NCEES.

C. An applicant that has not achieved a passing score on ~~[an] the principles and practice of engineering~~ examination after three unsuccessful attempts, shall only be eligible to take the next scheduled examination after waiting a period of twelve months. The applicant shall provide documentation to the board of further study in preparation of the exam. If an applicant has not achieved a passing score on the principles and practice of engineering examination within the ~~[three (3)]~~ two year application period, the applicant shall only be eligible to take the next scheduled examination after re-submitting a new application and providing detailed documentation to the board of further study in preparation of the exam.

D. The type of examination will be disclosed to the examinee at a time to be set by the NCEES. The examination type will be one ~~[(1)]~~ of the following:

(1) an "open book" examination shall be an examination during which the examinee may use reference material as specified by the national council of examiners for engineering and surveying;

(2) a "closed book" examination shall mean that absolutely no reference material of any shape or form may be used by the examinee except as provided by the board during the examination; or

(3) a "computer based" examination.

E. Only calculators specified by the NCEES shall be admitted in the examination room during the administration of the licensing examinations.

F. Questions regarding the completed fundamentals of engineering examination or the principles and practice of engineering examination shall be directed to

NCEES.

[16.39.3.10 NMAC - Rp, 16 NMAC 39.3.10, 1/01/2002; A, 7/01/2006; A, 7/1/2015; A, 12/28/2017]

16.39.3.11 PRACTICE OF ENGINEERING:

A. Neither a person nor ~~[an organization]~~ a business entity shall advertise, accept work or offer to practice engineering work in a discipline of engineering unless the person or a member of the organization has been approved by the professional engineering committee in the appropriate discipline and who is legally able to bind that ~~[organization]~~ business entity by contract.

B. Neither persons nor ~~[organizations]~~ business entities shall circumvent these rules. Licensees or ~~[organizations]~~ business entities may advertise for work only in those disciplines of engineering in which they are approved by the professional engineering committee to practice. Nothing in this section is intended to prevent the existence of an association of professionals in different disciplines.

C. In the event a question arises as to the competence of a licensee in a specific technical field which cannot be otherwise resolved to the board's satisfaction, the board shall, either upon request of the licensee or of its own volition, require the licensee to pass an appropriate examination.

D. The professional engineering committee will consider the use of the terms, "engineer," "engineering," or any modification or derivative of such terms, in the title of a firm or ~~[organization]~~ business entity to constitute the offering of engineering. The board will also consider the use of these terms or any modification or derivative of such terms in a corporation's name or its articles of incorporation or in a foreign corporation's certificate of authority as published by the New Mexico ~~[public regulation-commission]~~ secretary of state to constitute the offering of engineering services.

E. In the case of

practice through a business entity offering or providing services or work involving the practice of engineering, an authorized company officer and the professional engineer who is employed by the business entity and in responsible charge shall place on file with the board within 30 days a signed affidavit, as prescribed by board rule. The affidavit shall be kept current, and, if there is any change in the professional engineer or authorized company officer, the affidavit shall be revised within 30 days and resubmitted to the board. [16.39.3.11 NMAC - Rp, 16 NMAC 39.3.11, 1/01/2002; A, 7/01/2006; A, 7/1/2015; A, 12/28/2017]

16.39.3.12 SEAL OF LICENSEE:

A. Each licensed professional engineer shall obtain a seal/stamp, which shall appear on all final engineering design drawings, the certification page of all specifications and engineering reports prepared by the licensee in responsible charge. Adjacent to the seal/stamp shall appear the original signature of the licensee along with the date the signature was applied. Rubber stamps signatures are not acceptable. Electronic signatures as provided by law and board's policy shall be acceptable.

B. The seal/stamp shall be the impression type seal, the rubber type, or a computer-generated facsimile. Computer generated seals shall be bona fide copies of the actual seal/stamp specific to the work being presented.

C. ~~[The design of the seal/stamp shall consist of three (3) concentric circles, the outermost circle being one (1) and one-half (1/2) inches in diameter, the middle circle being one (1) inch in diameter, and the innermost circle being one-half (1/2) inch in diameter. The outer ring shall contain the words, "PROFESSIONAL ENGINEER" and the licensee's name. The inner ring shall contain the words "NEW MEXICO". The center circle shall contain the license number issued by the board. Any border pattern used by~~

~~the manufacturer is acceptable.] The design of the seal/stamp shall consist of either:~~

(1) three concentric circles, the outermost circle being one and one-half inches in diameter, the middle circle being one inch in diameter, and the innermost circle being one-half inch in diameter. The outer ring shall contain the words, "professional engineer" and the licensee's name. The inner ring shall contain the words "New Mexico". The center circle shall contain the license number issued by the board. Any border pattern used by the manufacturer is acceptable; or

(2) a design approved by the board which contains the words "professional engineer", the licensee's name, "New Mexico", and the license number issued by the board each in text no less than 0.2 inches in height.

D. Professional engineers who were licensed prior to the enactment of these current rules and who have maintained that license without lapse, may retain and use the seals, stamps, and wall certificates previously approved.

E. For the purposes of the Engineering and Surveying Practice Act, a licensee of this board has "responsible charge of the work" as defined in ~~[Subsection M of Section 61-23-3, NMSA 1978]~~ Subsection O of Section 61-23-3 NMSA 1978 and may sign, date and seal/stamp plans, specifications, drawings or reports which the licensee did not personally prepare when plans, specifications, drawings or reports have been sealed only by another licensed engineer, and the licensee or persons directly under his personal supervision have reviewed the plans, specifications, drawings or reports and have made tests, calculations or changes in the work as necessary to determine that the work has been completed in a proper and professional manner.

F. The seal and signature shall be placed on work only when it is under the licensee's responsible charge. The licensee shall

sign and seal only work within the licensee's area of discipline.

G. When the document contains more than one ~~[(1)]~~ sheet, the first or title page shall be sealed and signed by the licensee who was in responsible charge. Two ~~[(2)]~~ or more licensees may affix their signatures and seals provided it is designated by a note under the seal specific subject matter for which each is responsible. In addition, each sheet shall be sealed and signed by the licensee or licensees responsible for that sheet. When a firm performs the work, each sheet shall be sealed and signed by the licensee or licensees who were in responsible charge of that sheet and, in the case of multiple licensees, explicitly identify the portion of work attributable to each licensee.

H. An electronic signature, as an option to a permanently legible signature, is acceptable for professional documents. The licensee shall provide adequate security regarding the use of the seal and signature.

I. The board shall recognize that there may be occasions when engineers need to obtain supplemental survey information for the planning and design of an engineering project. An engineer may densify, augment and enhance previously performed survey work by a surveyor for a project as defined in ~~[Subsection S]~~ Subsection U of Section 61-23-3 NMSA 1978 of the Practice Act. [16.39.3.12 NMAC - Rp, 16 NMAC 39.3.12, 1/01/2002; A, 7/01/2006; A, 7/1/2015; A, 12/28/2017]

16.39.3.13

ENDORSEMENTS: For the purpose of New Mexico licensees by endorsement from other states, or possessions, the professional engineering committee will only recognize licensure granted by those authorities when the professional engineering committee has determined that the applicant possesses qualifications which "do not conflict with the provisions of the Engineering and Surveying Practice Act and are of standard not lower

than that specified in Sections 61-23-14 and 61-23-14.1, NMSA 1978". Conditions establishing eligibility for licensure by endorsement shall have been met at the time of initial licensure. Additionally, the applicant must have a current license in another state, the district of Columbia, a territory or a possession of the United States, or in a foreign country. Conditions for endorsement for licensure as a professional engineer shall be as follows:

A. graduation from an approved engineering curriculum that fulfills the required content of the engineering education standard as defined by NCEES, four years of experience satisfactory to the professional engineering committee, and passing of the eight - hour fundamentals and eight - hour professional examinations; (2017 law);

~~— **A.** graduation from an approved engineering curriculum, four (4) years of experience satisfactory to the professional engineering committee, and passing of the eight [(8)]-hour fundamentals and eight [(8)]-hour professional examinations; (1979 law and 1987 law);~~

B. graduation from an ABET accredited engineering technology program, six ~~[(6)]~~ years of experience satisfactory to the professional engineering committee, and passing of the eight ~~[(8)]~~- hour fundamentals examination and ~~[(8)]~~ eight - hour professional examination (1993 law);

~~**[A:] C.** graduation from an approved engineering curriculum, four ~~[(4)]~~ years of experience satisfactory to the professional engineering committee, and passing of the eight ~~[(8)]~~ hour fundamentals and eight ~~[(8)]~~-hour professional examinations; (1979 law and 1987 law);~~

~~**[C:] D.** licensure prior to July 1, 2002, graduation from an ABET accredited engineering technology program or from an engineering or related science curriculum approved by the committee, six ~~[(6)]~~ years of~~

experience satisfactory to the professional engineering committee, and passing of the eight ~~[(8)]~~-hour fundamentals and eight ~~[(8)]~~-hour professional examination (1993 law);

~~**[D:] E.** licensure prior to July 1, 1993, by graduation from an engineering or related science curriculum other than the ones approved by the committee, eight ~~[(8)]~~ years of experience satisfactory to the professional engineering committee, and passing of the eight ~~[(8)]~~ hour fundamentals and eight ~~[(8)]~~ hour professional examination (1979 law and 1987 law);~~

~~**[E:] F.** licensure prior to July 1, 1993, by graduation from an engineering or related science curriculum, ~~[twenty-(20)]~~ 20-years experience satisfactory to the professional engineering committee, and passing the eight ~~[(8)]~~ hour professional examination (1979 law and 1987 law);~~

~~**[F:] G.** licensure prior to July 1, 1940, by ~~[twelve-(12)]~~ 12 years of experience satisfactory to the professional engineering committee (1934 law);~~

~~**[G:] H.** licensure prior to July 1, 1957, by graduation from an approved curriculum, and four ~~[(4)]~~ years or more of experience satisfactory to the professional engineering committee (1935 law);~~

~~**[H:] I.** licensure prior to July 1, 1957, by passing a written and oral examination designed to show knowledge and skill approximating that attained through graduation from an approved curriculum, and four ~~[(4)]~~ years or more of experience satisfactory to the professional engineering committee (1952 law);~~

~~**[I:] J.** licensure prior to July 1, 1967, by ~~[twenty-four-(24)]~~ 24 years of experience satisfactory to the professional engineering committee, and by passing an oral examination (1957 law);~~

~~**[J:] K.** licensure prior to July 1, 1967, by graduation from an approved curriculum prior to July 1, 1957, and passing the eight ~~[(8)]~~-hour professional examination (1957 law);~~

~~**[K:] L.** licensure prior to July 1, 1979, by eight ~~[(8)]~~-years~~

of experience satisfactory to the professional engineering committee, and by having passed the eight [(8)]-hour fundamentals and [(8)] eight -hour professional examinations (1969 law);

~~[(E)]~~ M. licensure prior to July 1, 1979, by ~~[thirty (30)]~~ 30 years of experience, the last ~~[twelve (12)]~~ 12 years of which must have been of outstanding nature and by having been nationally eminent among his peers (1967 law);

~~[(M)]~~ N. for the purposes of endorsement, an approved engineering curriculum shall be an ABET accredited engineering curriculum of four [(4)] years or more or equivalent as determined by the board.

[16.39.3.13 NMAC - Rp, 16 NMAC 39.3.13, 1/01/2002; A, 7/01/2006; A, 7/1/2015; A, 12/28/2017]

PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS, BOARD OF

This is an amendment to 16.39.4 NMAC, Sections 3, 6 and 8, effective 12/28/2017.

16.39.4.3 STATUTORY AUTHORITY: ~~[NMSA 1978, Section 61-23-10 (B)]~~ Subsection B of Section 61-23-10 NMSA 1978 prescribes that “the board shall have the power to adopt and amend all bylaws and rules of procedure consistent with the constitution and the laws of this state that may be reasonable for the proper performance of its duties and the regulation of its procedures, meeting records, examinations and the conduct thereof. The board shall adopt and promulgate rules of professional responsibility for professional engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying.” Subsection C of Section 61-23-10 NMSA 1978 prescribes that “the professional engineering committee shall adopt and promulgate rules of professional

responsibility exclusive to the practice of engineering. All such bylaws and rules shall be binding upon all persons licensed pursuant to the Engineering and Surveying Practice Act.” ~~[NMSA 1978, Section 61-23-10 (K)]~~ Subsection K of Section 61-23-10 NMSA 1978 states “the board, in cooperation with the board of examiners for architects and the board of landscape architects shall create a joint standing committee to be known as the ‘joint practice committee’.” ~~[(L)]~~ Subsection L of Section 61-23-10 NMSA 1978 states “as used in the Engineering and Surveying Practice Act, ‘incidental practice’ shall be defined by identical regulations of the board of licensure for professional engineers and professional surveyors and the board of examiners for architects.”

[16.39.4.3 NMAC - Rp 16 NMAC 39.4.3, 1/01/2002; A, 7/01/2006; A, 12/28/2017]

16.39.4.6 OBJECTIVE: The objective of Part 4 of Chapter 39 is to define architectural work incidental to engineering and engineering work incidental to architecture as approved by the joint practice committee and as an identical rule to ~~[16.30.1.7.12]~~ Subsection G of Section 16.30.1.7 NMAC (board of examiners for architects).

[16.39.4.6 NMAC - Rp, 16 NMAC 39.4.6, 1/01/2002; A, 12/28/2017]

16.39.4.8 INCIDENTAL PRACTICE OF ARCHITECTURE AND ENGINEERING - as defined in Subsection A of Section 61-23-22 NMSA 1978 means:

A. architectural work incidental to engineering shall be that architectural work provided on projects with a building construction value not greater than six hundred thousand dollars (\$600,000) and having a total occupant load not greater than ~~[fifty (50)]~~ 50;

B. engineering work incidental to architecture shall be that engineering work provided on projects with a building construction value not greater than six hundred thousand dollars (\$600,000) and

having a total occupant load not greater than ~~[fifty (50)]~~ 50;

C. all buildings and related structures within the regulatory provisions of the New Mexico Uniform Building Code (NMUBC) will require the proper authentication of the building construction documents by all participating disciplines in accordance with their respective governing acts on projects with a building construction value greater than six hundred thousand dollars (\$600,000) or having a total occupant load greater than ~~[fifty (50)]~~ 50, with the exception of:

(1) single-family dwellings not more than two [(2)] stories in height;

(2) multiple dwellings not more than two [(2)] stories in height containing not more than four [(4)] dwelling units of wood-frame construction; provided this paragraph shall not be construed to allow a person who is not registered under the Architectural Act to design multiple clusters of up to four [(4)] dwelling units each to form apartment or condominium complexes where the total exceeds four [(4)] dwelling units on any lawfully divided lot;

(3) garages or other structures not more than two [(2)] stories in height which are appurtenant to buildings described in Paragraph (1) and (2) of Subsection C of 16.39.4.8 NMAC; or

(4) nonresidential buildings, as defined in the uniform building code, or additions having a total occupant load of ~~[ten (10)]~~ 10 or less and not more than two [(2)] stories in height, which shall not include E-3 (Day Care), H (Hazardous), or I (Institutional) occupancies;

(5) alterations to buildings or structures which present no unusual conditions, hazards or change of occupancy.

D. the owner, user or using agency shall select the prime design professional (architect or engineer) for any project based on the requirements and nature of the

project;

E. occupant load shall be defined and determined by the method set forth in Table 33-A of the Uniform Building Code (UBC). [16.39.4.8 NMAC - Rp, 16 NMAC 39.4.8, 1/01/2002; A, 7/1/2015; A, 12/28/2017]

PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS, BOARD OF

This is an amendment to 16.39.5 NMAC, Sections 3, 7 through 12, effective 12/28/2017.

16.39.5.3 STATUTORY AUTHORITY: [NMSA 1978, Section 61-23-10 (B)] Subsection B of Section 61-23-10 NMSA 1978 prescribes that "the board shall have the power to adopt and amend all bylaws and rules of procedure consistent with the constitution and the laws of this state that may be reasonable for the proper performance of its duties and the regulation of its procedures, meeting records, examinations and the conduct thereof. The board shall adopt and promulgate rules of professional responsibility for professional engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying." Subsection D of 61-23-10 NMSA 1978 states "the professional surveying committee shall adopt and promulgate rules of professional responsibility exclusive to the practice of surveying. All such bylaws and rules shall be binding upon all persons licensed pursuant to the Engineering and Surveying Practice Act." [16.39.5.3 NMAC - Rp, 16 NMAC 39.5.3, 1/01/2002; A, 7/01/2006; A, 12/28/2017]

16.39.5.7 DEFINITIONS:

A. "ABET" is defined as the accreditation board for engineering and technology.

B. "Augment", as it

relates to curriculum in this Part, shall refer to classes taken as a part of or in addition to a formal degree program.

C. "Authoritative location" is defined as an accurately and precisely established location of a feature, object or boundary sufficient for use in establishing property rights, legal proceedings, or to protect the welfare and safety of the public.

D. "Board-approved, four [(4)] year curriculum in surveying" is defined as:

(1) surveying curriculum of [at least] four [(4)] years that has been accredited by ABET within at least three [(3)] years of the applicant's graduation with a bachelor's degree in surveying;

(2) curriculum not accredited by ABET but with a minimum number of surveying credits required for accreditation by ABET;

[B] E. "Board-approved related science degree" is defined as:

(1) A four [(4)] year bachelor of arts or science degree that [contains] is augmented by a minimum of [eighteen (18)] 18 core curriculum hours in surveying, [twelve (12)] 12 hours of higher mathematics and six [(6)] hours of basic science.

(2) Core surveying classes shall include a minimum of a three [(3)] hour semester course in each of the following areas:

(a) boundary law/ legal principles of land surveying;

(b) public land surveying system (PLSS);

(c) plane surveying;

(d) geodesy or photogrammetry.

(3) The remainder of the [eighteen (18)] 18 core curriculum hours in surveying may include classes in route surveying, geographic information systems, land development, global positioning systems, photogrammetry or geodesy, remote sensing, mapping, or professional ethics [and remote sensing].

(4) [Twelve

(12)] 12 hours of higher mathematics may include college algebra, trigonometry, analytical geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistic and advanced calculus.

(5) Six [(6)] hours of basic science may include physics, chemistry, geology, physical geography, biology, and astronomy.

F. "Four year", as it relates to a minimum course of academic study in this part, means a program of study normally associated with a university, college or other accredited academic course of study that includes a minimum 120 semester hours.

G. "Geomatics", as it relates to curriculum as discussed in these rules, will be considered synonymous with surveying.

[16.39.5.7 NMAC - Rp, 16 NMAC 39.5.7, 1/01/2002; A, 7/1/2015; A, 12/28/2017]

16.39.5.8 APPLICATION - SURVEYOR INTERN AND PROFESSIONAL SURVEYOR:

A. Types of application - licensure as a professional surveyor or certification as a survey intern require that an applicant present his or her qualifications on forms prescribed by this board.

B. Any application, to be complete, must include acceptable replies from references, official transcript(s) provided directly from the university; and if applicable, verification(s) of prior examinations taken in other state(s).

C. Board members shall not be used as references.

D. Applications for surveying intern certification will be accepted after an applicant has passed the fundamentals of surveying exam and has graduated from a board-approved, four [(4)] year surveying curriculum, or if a graduate of an approved four [(4)] year curriculum in a related science as defined by [Subsection C of 16.39.5.7 NMAC] Subsection D of Section 16.39.5.7 NMAC above and augmented with [four (4) years of] the required

combined office and field board approved surveying experience obtained under the direction of a licensed professional surveyor. Class time will not be counted in the ~~four~~ **(4)** required years of experience, but work prior to or while attending school may be counted toward the ~~four (4) years of~~ required experience at the discretion of the board.

E. Applicants for the principles and practices of surveying examination having graduated with a board-approved four ~~(4)-year~~ year surveying curriculum of four ~~(4)~~ years or more, or with a related-science degree, as determined by the board shall have a minimum of four ~~(4)~~ years of experience acceptable to the professional surveying committee at the date of application and shall have passed the fundamentals of surveying examination.

F. No applicant will be eligible to take the professional surveying examination whose application for eligibility has not been completed, reviewed and approved by the board, as set forth in 16.39.5.8 NMAC.

G. Applicants for the professional surveying license will be accepted after applicant has passed the professional surveying exam and has fulfilled the education and experience requirements. Successful passing of the professional surveying exam does not ensure licensure as a professional surveyor. To satisfy the statutory requirement for board-approved surveying experience prior to licensure, a candidate with a board-approved surveying curriculum of four ~~(4)~~ years or more as determined by the board shall have four ~~(4)~~ years of experience acceptable to the professional surveying committee. This experience may be acquired before or after certification as a surveying intern. A candidate with a related science degree shall have four ~~(4)~~ years of surveying experience acceptable to the professional surveying committee subsequent to certification as a surveying intern. After successfully completing the professional surveying examination, an applicant, if necessary to meet the

licensing requirements in the New Mexico Engineering and Surveying Practice Act, shall update the application as provided by Subsection H of 61.39.5.8 NMAC.

H. To update a professional survey (PS) application file in relation to experience, the applicant must complete an application update form and provide references acceptable to the professional surveying committee to verify each additional experience record.

I. Applications for licensure or certification by examination, comity or endorsement which have been approved by the professional surveying committee shall remain valid for ~~three (3)~~ two years from the date of approval.

J. An applicant with foreign credentials requesting licensure by examination or endorsement shall provide to the professional surveying committee's satisfaction, evidence that the applicant's qualifications are equal to or exceed the qualifications for licensure in effect in New Mexico at the time of application.

K. All applicants for professional surveyor license shall show proficiency in the English language and shall have a minimum of four ~~(4)~~ years of experience if a graduate of a board approved, four ~~(4)~~ year surveying curriculum or eight ~~(8)~~ years if a graduate of a board approved related science curriculum, working in the United States, or for a United States corporation, under the direction of a licensed professional surveyor who can attest to the applicant's ability and knowledge as a competent surveyor.

L. When considering surveying applicants who are graduates of educational programs from a school, college or university outside of the United States and its jurisdictions, or considering applicants from related science programs, the board will evaluate and approve the degrees on an individual basis. The Board may require an independent evaluation of the education and such evaluation

shall be done through an organization approved by the board and at the expense of the applicant.

[16.39.5.8 NMAC - Rp, 16 NMAC 39.5.8, 1/01/2002; A, 7/01/2006; A, 7/1/2015; A, 1/1/2016; A, 12/28/2017]

16.39.5.9 EXAMINATIONS-SURVEYOR INTERN AND PROFESSIONAL SURVEYOR:

A. Regularly scheduled examinations shall be held in accordance with NCEES examination schedules. Other examinations may be held at times and places as determined by the professional surveying committee.

B. An applicant that fails the New Mexico state specific surveying examination will be notified of the next available examination sessions. A written request to retake the examination and payment of the examination fee shall be on or before the specified date set by the board. Any applicant that fails a NCEES examination will be notified by NCEES.

C. An applicant that has not achieved a passing score on ~~an~~ the principles and practice of surveying examination after three unsuccessful attempts, shall only be eligible to take the next scheduled examination after waiting a period of 12 months. The applicant shall provide documentation to the board of further study in preparation of the exam. If an applicant has not achieved a passing score on the principles and practice of surveying examination within the ~~three (3)~~ two year application period shall only be eligible to take the next scheduled examination after re-submitting a new application and providing detailed documentation to the board of further study in preparation of the exam.

D. The type of examination will be disclosed to the examinee at a time to be set by the NCEES. The examination type will be one of the following:

(1) an "open book" examination shall be an examination during which the examinee may use reference material as specified by the national council

of examiners for engineering and surveying;

(2) a “closed book” examination shall mean that absolutely no reference material of any shape or form may be used by the examinee except as provided by the board during the examination; or

(3) a “computer based” examination.

E. Only calculators specified by the NCEES shall be admitted in the examination room during the administration of the licensing examinations.

F. An applicant who has a question regarding the New Mexico state specific surveying examination shall put the question in writing to the professional surveying committee. The question will be considered at the next professional surveying committee meeting. The committee’s answer to the examinee shall be in writing. Questions regarding the completed fundamental of surveying examination or the principles and practice surveying examination shall be directed to NCEES.

[16.39.5.9 NMAC - Rp, 16 NMAC 39.5.9, 1/01/2002; A, 7/01/2006; A, 7/1/2015; A, 12/28/2017]

16.39.5.10 PRACTICE OF SURVEYING:

A. A person or any [organization] business entity shall not advertise or offer to practice surveying work or accept such work unless that person or a member of the [organization] business entity is licensed by the board and is legally able to bind that [organization] business entity by contract.

B. Neither persons nor [organizations] business entities shall circumvent these rules.

C. Nothing in this section is intended to prevent the existence of an association of professionals in different disciplines.

D. The board will consider the use of the terms, “surveyor”, “surveying” or any modification or derivative of such terms, in the title of a firm or [organization] business entity to

constitute the offering of surveying services. The board also considers the use of these terms or any modification or derivative of such terms in a domestic corporation’s articles of incorporation or in a foreign corporation’s certificate of authority as published by the New Mexico’s secretary of state to constitute the offering of surveying services.

E. In the case of practice through a business entity offering or providing services or work involving the practice of surveying, an authorized company officer and the professional surveyor who is employed by the business entity and in responsible charge shall place on file with the board a signed affidavit within 30 days, as prescribed by board rule. The affidavit shall be kept current, and, if there is any change in the professional surveyor or authorized company officer, the affidavit shall be revised within 30 days and resubmitted to the board.

F. Inclusions and exclusions to the practice of surveying. Land surveying does not encompass work products which represent only a generalized location of a feature, object, or boundary upon which the public would not reasonably rely as the precise location of that feature, object, or boundary.

(1) Activities included within the practice of surveying activities that must be accomplished by or under the responsible charge of a professional surveyor (unless specifically exempted in Subsection B of this Section) include, but are not limited to, the following:

(a) The creation of maps and georeferenced databases representing authoritative locations for boundaries, the location of fixed works, or topography. This includes maps and georeferenced databases prepared by any person or government agency where that data is provided to the public as a survey product.

(b) Original data acquisition, or the resolution of conflicts between

multiple data sources, when used for the authoritative location of features within the following data themes: geodetic control, orthoimagery, elevation and hydrographic, fixed works, private and public boundaries, and cadastral information.

(c) Certification of positional accuracy of maps or measured survey data.

(d) Adjustment or authoritative interpretation of raw survey data.

(e) Geographic information system (GIS)-based parcel or cadastral mapping used for authoritative boundary definition purposes wherein land title or development rights for individual parcels are, or may be, affected.

(f) Authoritative interpretation of maps, deeds, and other land title documents to resolve conflicting data elements.

(g) Acquisition of field data required to authoritatively position fixed works or cadastral data relative to geodetic control.

(h) Analysis, adjustment or transformation of cadastral data of the parcel layers with respect to the geodetic control layer within a geographic information system (GIS) resulting in the affirmation of positional accuracy.

(2) Activities excluded from the practice of surveying. A distinction must be made in the use of electronic systems between making or documenting original measurements in the creation of survey products, versus the copying, interpretation, or representation of those measurements in such systems. Further, a distinction must be made according to the intent, use, or purpose of measurement products in electronic systems to determine a definitive location versus the use of those products as a locational reference for planning, infrastructure management, and general information. The following items are not to be included as activities within the definition of the

practice of surveying:

(a)

The creation of general maps:

(i)

Prepared by private firms or government agencies for use as guides to motorists, boaters, aviators, or pedestrians.

(ii)

Prepared for publication in a gazetteer or atlas as an educational tool or reference publication.

(iii)

Prepared for or by education institutions for use in the curriculum of any course of study.

(iv)

Produced by any electronic or print media firm as an illustrative guide to the geographic location of any event.

(v)

Prepared by laypersons for conversational or illustrative purposes. This includes advertising material and user guides.

(b)

The transcription of previously georeferenced data into a geographic information system (GIS) or land information systems (LIS) by manual or electronic means, and the maintenance thereof, provided the data are clearly not intended to indicate the authoritative location of property boundaries, the precise definition of the shape or contour of the earth, and/or the precise location of fixed works of humans.

(c)

The transcription of public record data, without modification except for graphical purposes, into a GIS- or LIS-based cadastre (tax maps and associated records) by manual or electronic means, and the maintenance of that cadastre, provided the data are clearly not intended to authoritatively represent property boundaries. This includes tax maps and zoning maps.

(d)

The preparation of any document by any federal government agency that does not define real property boundaries. This includes civilian and military versions of quadrangle topographic maps, military maps, satellite imagery, and other such

documents.

(e)

The incorporation or use of documents or databases prepared by any federal agency into a Geographic information system (GIS)/ land information systems (LIS), including but not limited to federal census and demographic data, quadrangle topographic maps, and military maps.

(f)

Inventory maps and databases created by any organization, in either hard-copy or electronic form, of physical features, facilities, or infrastructure that are wholly contained within properties to which they have rights or for which they have management responsibility. The distribution of these maps and/or databases outside the organization must contain appropriate metadata describing, at a minimum, the accuracy, method of compilation, data sources and dates, and disclaimers of use clearly indicating that the data are not intended to be used as a survey product.

(g)

Maps and databases depicting the distribution of natural resources or phenomena prepared by foresters, geologists, soil scientists, geophysicists, biologists, archeologists, historians, or other persons qualified to document such data.

(h)

Maps and georeferenced databases depicting physical features and events prepared by any government agency where the access to that data is restricted by statute. This includes georeferenced data generated by law enforcement agencies involving crime statistics and criminal activities.

[16.39.5.10 NMAC - Rp, 16 NMAC 39.5.10, 1/01/2002; A, 7/01/2006; A, 7/1/2015; A, 12/28/2017]

16.39.5.11 SEAL OF LICENSEE:

A. Each licensed professional surveyor shall obtain a seal/stamp which must be impressed on all plats, reports, etc., prepared by the licensee in responsible charge. Adjacent to the seal/stamp shall

appear the original signature of the licensee along with the date the signature was applied. Rubber stamps and all facsimiles of signatures are not acceptable. Electronic signature as provided by law and board's policy shall be acceptable.

B. The seal/stamp shall be either the impression type seal, the rubber type, or a computer-generated facsimile. Computer-generated seals shall be bona fide copies of the actual seal/stamp specific to the work being presented.

C. [The design of the seal/stamp shall consist of three concentric circles, the outermost one (1) being one and one-half (1 ½) inches in diameter, the middle circle being one (1) inch in diameter and the innermost circle being one-half (½) inch in diameter. The outer ring shall contain the words, "Professional Surveyor", and the licensee's name. The inner ring shall contain the words "New Mexico". The center circle shall contain the license number issued by the board. Any border pattern used by the manufacturer is acceptable.] The design of the seal/stamp shall consist of either:

(1) three

concentric circles, the outermost circle being one and one-half inches in diameter, the middle circle being one inch in diameter, and the innermost circle being one-half inch in diameter. The outer ring shall contain the words, "professional surveyor" and the licensee's name. The inner ring shall contain the words "New Mexico". The center circle shall contain the license number issued by the board. Any border pattern used by the manufacturer is acceptable; or

(2) a design

approved by the board which contains the words "professional surveyor", the licensee's name, "New Mexico", and the license number issued by the board each in text no less than 0.2 inches in height.

D. Professional surveyors who were licensed prior to the enactment of these current rules and who have maintained that license without lapse, may retain and use the

seals, stamps, and wall certificates previously approved.

E. The seal and signature shall be placed on work only when it was under the licensee's responsible charge. The licensee shall sign and seal only work within the licensee's area of discipline.

F. When the document contains more than one ~~[(1)]~~ sheet, the first or title page shall be sealed and signed by the licensee who was in responsible charge. Two ~~[(2)]~~ or more licensees may affix their signatures and seals provided it is designated by a note under the seal the specific subject matter for which each is responsible. In addition, each sheet shall be sealed and signed by the licensee or licensees responsible for that sheet. When a firm performs the work, each sheet shall be sealed and signed by the licensee or licensees who were in responsible charge of that sheet and, in the case of multiple licensees, explicitly identify the portion of work attributable to each licensee.

G. An electronic signature, as an option to a permanently legible signature, is acceptable for professional documents. The licensee shall provide adequate security regarding the use of the seal and signature. [16.39.5.11 NMAC - Rp, 16 NMAC 39.5.11, 1/01/2002; A, 7/01/2006; A, 7/1/2015; A, 12/28/2017]

16.39.5.12

ENDORSEMENTS: For the purpose of New Mexico licensees by endorsement from other states, or possessions, the professional surveying committee will only recognize licensure granted by those authorities when the professional surveying committee has determined that the applicant possesses qualifications which "do not conflict with the provisions of the Engineer and Surveying Practice Act and are of standard not lower than that specified in Sections 61-23-27.3 and 61-23-27.4 NMSA 1978". Conditions establishing eligibility for licensure by endorsement shall have been met at the time of initial licensure.

Additionally, the applicant must have a current license in another state, the District of Columbia, a territory or a possession of the United States, or in a foreign country. Conditions for endorsement for licensure as a professional surveyor shall be as follows:

A. Graduation from a four ~~[(4)]~~ year board-approved surveying curriculum, four ~~[(4)]~~ years of experience satisfactory to the professional surveying committee, and passing of the fundamentals of surveying and professional surveying examinations (1995 law).

B. Graduation from an engineering or related science curriculum that are approved by the committee and augmented with ~~[eighteen-(18)]~~ 18 semester hours of surveying, eight ~~[(8)]~~ years of experience satisfactory to the professional surveying committee, and passing of the eight ~~[(8)]~~ hour fundamentals and eight ~~[(8)]~~ hour professional examinations (1995 law).

C. Licensure prior to July 1, 1995, by graduation from a two ~~[(2)]~~ year board-approved surveying or associated curriculum, eight ~~[(8)]~~ years of experience satisfactory to the professional surveying committee and passing of the eight ~~[(8)]~~ hour fundamentals and eight ~~[(8)]~~ hour professional examination.

D. Licensure prior to July 1, 1995, by graduation from a board- approved surveying or associated curriculum of at least ~~[forty-five-(45)]~~ 45 semester hours, eight ~~[(8)]~~ years of experience satisfactory to the professional surveying committee, and passing of the eight ~~[(8)]~~ hour fundamentals and eight ~~[(8)]~~ hour professional examination;

E. Licensure prior to July 1, 1979, eight ~~[(8)]~~ years of experience satisfactory to the professional surveying committee and passing of the eight ~~[(8)]~~ hour fundamentals and eight ~~[(8)]~~ hour professional examinations. [16.39.5.12 NMAC - N, 7/1/2015; A, 12/28/2017]

PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS, BOARD OF

This is an amendment to 16.39.7 NMAC, Sections 3 and 9, effective 12/28/2017.

16.39.7.3 STATUTORY

AUTHORITY: ~~[NMSA 1978, Section 61-23-10 (B)]~~ Subsection B of Section 61-23-10 NMSA 1978 prescribes that "the board shall have the power to adopt and amend all bylaws and rules of procedure consistent with the constitution and the laws of this state that may be reasonable for the proper performance of its duties and the regulation of it procedures, meeting records, examinations and the conduct thereof. The board shall adopt and promulgate rules of professional responsibility for professional engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying." Part 7 applies to both engineering and surveying. [16.39.7.3 NMAC - Rp 16 NMAC 39.7.3, 1/01/2002; A, 7/01/2006; A, 12/28/2017]

16.39.7.9 VIOLATIONS:

A. For ~~[organizations]~~ business entities using the words "engineering" or "surveying" in their titles or offering engineering or surveying services, the board's executive director shall write the ~~[organization]~~ business entity, enclosing an affidavit to be completed which identifies the member of the ~~[organization]~~ business entity who is licensed to practice in the state of New Mexico and who is an employee of and legally able to bind the ~~[organization]~~ business entity by contract. If no response to this request is received within ~~[thirty-(30)]~~ 30 days, a second letter shall be sent by certified mail, return receipt requested. If the second letter does not result in a response ~~[thirty-(30)]~~ 30 days from the receipt of a refusal, the matter may be turned over to the attorney general's office for action.

B. It shall be considered “a violation” under ~~[Paragraph (1) of Section 61-23-24 (A) (2005) and Paragraph (1) of Section 61-23-27.11(A) NMSA-1978] Paragraph (1) of Subsection A of Section 61-23-24 NMSA 1978 and Paragraph (1) of Subsection A of Section 61-23-27.11 NMSA 1978~~ of the Engineering and Surveying Practice Act for any engineer or surveyor to practice or offer to practice outside their field(s) of demonstrated competence or in contravention of any of the provisions of these rules. It shall also be considered “a violation” under ~~[Section 61-23-23.1 (A) (2003) and Section 61-23-27.15(A) (2003) NMSA 1978]~~ Subsection A of Section 61-23-23.1 NMSA 1978 and Subsection A of Section 61-23-27.15 NMSA 1978 of the Engineering and Surveying Practice Act for any person to act in the capacity of a professional engineer or a professional surveyor without being licensed by the board.

C. The practice or offer to practice engineering by a licensee of the board in any state, territory or country where the licensee has been determined to be in violation of that jurisdiction’s licensing requirement shall be considered to be professional misconduct which may be actionable by the board. The practice or offer to practice surveying by a licensee of the board in any state, territory, or country where the licensee has been determined to be in violation of that jurisdiction’s licensing requirement shall be considered to be professional misconduct which may be actionable by the board.

D. Each applicant or licensee shall notify the board, in writing, within ~~[ninety (90)] 90~~ days, of the imposition of any disciplinary action by any other applicable licensing board or any conviction of or entry of plea of nolo contendere to any crime under the laws of the United States, or any state, territory or county thereof, which is a felony, whether related to practice or not; any conviction of or entry of plea of nolo contendere to any crime, whether a felony, misdemeanor, or otherwise, an

essential element of which is moral turpitude, or which is directly related to the practice of engineering or surveying.

E. The board shall comply with the provisions of the Parental Responsibility Act as they relate to the denial, suspension or revocation of certificates of licensure for non-payment of child support. [16.39.7.9 NMAC - Rp 16 NMAC 39.7.9, 1/01/2002; A, 7/01/2006; A, 7/01/2015; A, 12/28/2017]

PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS, BOARD OF

This is an amendment to 16.39.8 NMAC, Sections 3, and 9, effective 12/28/2017.

16.39.8.3 STATUTORY AUTHORITY: ~~[NMSA-1978; Section 61-23-10 (B)]~~ Subsection B of Section 61-23-10 NMSA 1978 prescribes that “the board shall have the power to adopt and amend all bylaws and rules of procedure consistent with the constitution and the laws of this state that may be reasonable for the proper performance of its duties and the regulation of it procedures, meeting records, examinations and the conduct thereof. The board shall adopt and promulgate rules of professional responsibility for professional engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying.” Part 8 applies to both engineering and surveying. [16.39.8.3 NMAC - Rp, 16 NMAC 39.8.3, 1/01/2002; A, 7/01/2006; A, 12/28/2017]

16.39.8.9 RULES OF PROFESSIONAL CONDUCT:

A. The protection of the public safety, health, welfare and property in the performance of professional duties.

(1) In order to protect public safety, health, welfare and property in the performance of

their professional duties, licensees shall at all times:

(a)

Perform those duties in conformance with accepted engineering and surveying practices.

(b)

Notify their employer or client and such other authority as may be appropriate of any instance in which their professional judgment is overruled under circumstances endangering the public safety, health, welfare or property.

(c)

Approve and seal only those engineering and surveying documents which conform to applicable engineering and surveying standards.

(d)

Shall not reveal privileged or confidential facts, data or information without prior consent of the client or employer except as authorized or required by law or this code.

(e)

Refuse to associate in a business venture with any person or firm whom they may have reason to believe is engaging in fraudulent or dishonest business or professional practices as an engineer or surveyor and refuse to use or permit the use of their name or firm in connection with any such business venture.

(f)

Inform the board of any violation of this code. Cooperate with the board in furnishing information or assistance as may be requested by the board in matters concerning violations.

(g)

Shall not assist or participate in the unlawful practice of engineering and surveying by a person or firm.

B. Specialization and the performance of services only in specific areas of competence.

(1) Licensees

shall undertake assignments only when qualified by education, experience or examination in the specific technical fields of engineering or surveying involved.

(2) Licensees

shall not affix their signatures or seals to any plans or documents dealing with subject matter in which they lack

competency, nor to any such plan or documents not prepared under their responsible charge.

(3) Licensees may accept an assignment when the total work involves technical fields beyond those in which they are qualified, providing their services are limited to those phases in which they are qualified and that the phases in which they are not qualified are performed by licensees who are properly qualified. In this instance, each qualified licensee will sign and seal the documents for their phase of the assignment.

C. The issuance of public statements.

(1) Licensees shall be objective and truthful in professional reports, statements or testimony. A professional report or professional opinion issued by or under the responsible charge of a licensee shall not contain any intentionally false, misleading or deceitful statements or testimony. Any report, statement or testimony by a licensee shall contain all relevant and pertinent information as required by accepted engineering or surveying principles.

(2) If a licensee issues statements on technical matters in his or her capacity as a professional engineer or professional surveyor on behalf of an interested party, the licensee must expressly preface his or her remarks by identifying said interested party and by revealing the existence and nature of any interest the licensee may have in the matter.

(3) A licensee who is competent in the subject matter may express publicly technical opinions that are found upon knowledge of the facts.

D. Professional relationships with employer or client.

(1) Licensees shall act in professional matters for each employer or client ~~[as fiduciaries and shall]~~ to avoid conflicts of interest. Licensees shall disclose all known or potential conflicts of interest to their employers or clients by promptly informing them of any

business association, interest or other circumstances which could reasonably be expected to influence their judgment or the quality of their services.

(2) Licensees shall not accept compensation, financial or otherwise, from more than one party for services on the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties.

(3) Licensees shall not solicit or accept any gratuity, material favor, or any valuable consideration, directly or indirectly, from contractors, their agents, servants or employees or from any other party dealing with his client or employer in connection with any project for which he is performing or has contracted to perform engineering or surveying services. (The phrase "valuable consideration" is defined to mean any act, article, money or other material possession which is of such value or proportion that its acceptance creates a clandestine obligation on the part of the receiver or otherwise compromises his ability to exercise his own judgment.)

(4) Licensees in public service as a member or employee of a governmental body, agency or department shall not participate, directly or indirectly in deliberations or actions which would constitute a conflict of interest with respect to services offered or provided by him, his associates, or the licensee's [organization] business entity to such governmental body, agency or department.

(5) Licensees shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their [organization] business entity serves as a member, except upon public disclosure of all pertinent facts and circumstances and consent of appropriate public authority.

(6) Licensees shall not reveal privileged or confidential facts, data or information obtained in a professional capacity without prior consent of the client or

employer except:

(a) As provided in Subparagraph (b) and (f) of Paragraph (1) of Subsection A of 16.39.8.9 NMAC.

(b) As authorized or required by law.

(c) Any document that is a matter of public record by virtue of it being on file with a public agency.

(d) Any fact, data or information which is clearly the property of the engineer or surveyor.

E. Solicitation of professional employment.

(1) Licensees shall not falsify or permit misrepresentation of their, or their associates' academic or professional qualifications. They shall not misrepresent or exaggerate their degree of responsibility in or for the subject matter of prior assignments. Brochures or other representations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures or past accomplishments with the intent and purpose of enhancing their qualifications and their work.

(2) Licensees shall not offer, give, solicit or receive, either directly or indirectly, any commission, gift, or other valuable consideration in order to secure or influence the award of work and shall not make any political contribution in an amount intended to influence the award of a contract by public authority, and which may be reasonably construed by the public as having the effect or intent to influence the award of a contract.

F. Avoiding conduct or practice that deceives the public.

(1) Licensees shall avoid the use of a statement containing a material misrepresentation of a fact or omitting a material fact.

(2) Consistent with the foregoing, licensees may prepare articles for the lay or technical press, but such articles shall not imply credit to the author for work

performed by others.

G. Interaction with other licenses.

(1)

Licensees shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of other licensees.

(2)

Licensees in private practice shall not review the work of another licensee for the same client, except with the knowledge of such licensees, or unless the connection of such licensee with the work has been terminated.

(3)

Licensees in governmental, industrial, or educational employment are entitled to review and evaluate the work of other licensees when so required by their employment duties.
[16.39.8.9 NMAC - Rp, 16 NMAC 39.8.9, 1/01/2002; A, 7/1/2015; A, 12/28/2017]

PUBLIC EDUCATION DEPARTMENT

The New Mexico Public Education Department approved, at its 11/20/2017 hearing, to repeal its rule 6.19.6 NMAC, Title I Supplemental Educational Services (filed 8/15/2005) effective 12/12/2017.

The New Mexico Public Education Department approved, at its 11/21/2017 hearing, to repeal its rule 6.61.12 NMAC, Licensure in Early Childhood Education, Pre K - Grade 3 (filed 1/29/2010) and replace it with 6.61.12 NMAC, Licensure in Early Childhood Education, Pre K - Grade 3, (adopted on 11/21/2017) and effective 8/1/2018.

PUBLIC EDUCATION DEPARTMENT

TITLE 6 PRIMARY AND SECONDARY EDUCATION

CHAPTER 61 SCHOOL PERSONNEL - SPECIFIC LICENSURE REQUIREMENTS FOR INSTRUCTORS

PART 12 LICENSURE IN EARLY CHILDHOOD EDUCATION, PRE K - GRADE 3

6.61.12.1 ISSUING

AGENCY: Public Education Department (PED)

[6.61.12.1 NMAC - Rp, 6.61.12.1 NMAC, 8/1/2018]

6.61.12.2 SCOPE:

All persons seeking licensure in early childhood education, pre-K - grade 3.
[6.61.12.2 NMAC - Rp, 6.61.12.2 NMAC, 8/1/2018]

6.61.12.3 STATUTORY

AUTHORITY: Sections 22-2-1, 22-2-2 and 22-2-8.7, NMSA 1978.
[6.61.12.3 NMAC - Rp, 6.61.12.3 NMAC, 8/1/2018]

6.61.12.4 DURATION:

Permanent.
[6.61.12.4 NMAC - Rp, 6.61.12.4 NMAC, 8/1/2018]

6.61.12.5 EFFECTIVE

DATE: August 1, 2018 unless a later date is cited in the history note at the end of a section.
[6.61.12.5 NMAC - Rp, 6.61.12.5 NMAC, 8/1/2018]

6.61.12.6 OBJECTIVE:

This rule establishes licensure requirements for those seeking to work in early childhood education, that is, with children from age three to grade 3 whether they are developing either typically or atypically.
[6.61.12.6 NMAC - Rp, 6.61.12.6 NMAC, 8/1/2018]

6.61.12.7 DEFINITIONS:

A. "Adaptive living skills" means the development in several skill areas such as
(1) living

skills: eating, dressing, and toileting;

(2)

independence/safety skills: avoiding dangerous situations; and

(3)

environmental adaptation skills: adapting behavior as a function of the limitations or demands of the particular environment. Adaptive behavior means the effectiveness or degree with which the child meets the standards of personal independence and social responsibility expected of comparable age and cultural groups.

B. "Alternative

means of communication" means other forms of communication, particularly non-vocal; such as the use of sign language with and without speech; communication boards; or other technological aids such as computers and speech output devices.

C. "Anti-bias" means

actively confronting, transcending, and eliminating personal and institutional barriers based on race, ethnicity, language, gender sexual orientation, or ability.

D. "At risk" means

the following as it applies to children birth to two years of age: A biological or medical risk is the presence of early medical conditions, which are known to produce developmental delays in some children. An environmental risk is the presence of physical, social, or economic factors in the environment, which pose a substantial threat to development as indicated by a discrepancy between chronological age, after correction for prematurity, and developmental age in two or more areas of development as documented by the evaluation process. A determination of environmental risk shall be made by an interagency team and shall not be based upon behavior related to cultural or language differences.

E. "Diverse abilities"

means any young child with an identified disability, developmental delay, or who may be "at risk" for learning challenges, as well as children who may be challenged as second language learners, or with cognitive, social/emotional, motor, language, or mental health/well-being differences.

F. "Inclusion/

inclusive" is a philosophically based

approach to providing accessibility and participation in typical early childhood settings for children with diverse abilities.

G. “Inclusive practices” are those strategies, which educators, administrators, and families implement to ensure accessibility and full participation of children with diverse abilities in all activities.

H. “Individual education program” (IEP) means a plan that describes the delivery of services to a child with a disability, age three to 21. The plan serves as a communication vehicle between parents and school personnel and enables them, as equal participants, to decide jointly what the child’s needs are, what services will be provided to meet those needs, what the anticipated outcomes may be, and how the child’s progress towards meeting the projected outcomes will be evaluated.

I. “Individualized family service plan” (IFSP) means a plan that describes the delivery of services to a child with a developmental delay or at risk for a developmental delay, birth to two years of age, and the child’s family. Components of the plan include a statement describing the child’s level of functioning in developmental areas; major outcomes including criteria, procedures, and timelines to determine the degree of progress and revision of the plan; specific services needed to achieve outcomes, other services needed by the child and family, name of service coordinator, a transition plan, and an optional statement of family concerns, priorities and resources.

J. “Integrated curriculum” means an approach to curriculum that recognizes that content areas in instruction are naturally interrelated, as they are in real life experiences. In the resulting integrated curriculum, learning is regarded as a process rather than a collection of facts. Learning about math, science, social studies, health, and other content areas are all connected through meaningful activities.

K. “Intervention strategies” means various techniques utilized in teaching a child a particular skill such as physical or verbal prompts and cues, visual aids, modeling, imitation, repetition, task analysis, environmental or stimulus prompts and cues. These strategies are attempts to facilitate learning when the presentation of information or the arrangement of an environment is insufficient in assisting the developmental learning process. The proper design of intervention strategies requires careful observation, individualization, and data keeping. The goal of this approach is to systematically fade the particular technique utilized as the child demonstrates abilities to practice, initiate, and generalize the skill.

L. “Least restrictive environment” is that environment which all children are most generally found in a public education setting (i.e., general education classroom). Children with identified disabilities are to have access to the general education curriculum and have the opportunity to participate fully with their peers without disabilities to the maximum extent possible. Supports may be necessary for the “least restrictive environment” to be most successful.

M. “Variations across cultures/cultural diversity” means the curriculum, environment, and learning materials are reflective of distinct groups that may differ from one another physically, socially, and culturally.

N. “A highly qualified beginning early childhood teacher”, under this rule, means a teacher who is fully qualified for teaching children from age three to grade 3, who is new to the profession, who has pursued a standard route to licensure, and who:

- (1) meets the requirements for early childhood pre K - grade 3 licensure in Subsections A or B of 6.61.12.8 NMAC, and
- (2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason, and

(3) has passed all applicable teacher-testing requirements for licensure in 6.60.5.8 NMAC.
[6.61.12.7 NMAC - Rp, 6.61.12.7 NMAC, 8/1/2018]

6.61.12.8

REQUIREMENTS: All persons who perform instructional services in early childhood education (i.e., age three to grade 3) as defined in this rule in public schools or in those special state-supported schools within state agencies must hold valid standard licensure in early childhood education issued by the PED:

A. persons seeking licensure in early childhood education pursuant to the provisions of this rule shall meet the following requirements:

(1) possess a bachelor’s degree from a regionally accredited college or university and including, for those students first entering a college or university beginning in the fall of 2017, the following:

- (a) nine semester hours in communication;
- (b) six semester hours in mathematics;
- (c) eight semester hours in laboratory science;
- (d) nine semester hours in social and behavioral science;
- (e) nine semester hours in humanities and fine arts.

(2) earn 45 semester credits of professional education coursework at a regionally accredited college or university in an early childhood education program approved by the PED in the competencies identified in 6.61.12.10 NMAC, and

(3) earn a minimum of 15 semester hours, six of which would be practicum or supervised field experience and nine semester hours of student teaching component in early childhood education for one of the following age ranges: age three to grade 3 with children who are developing either

typically or atypically; and

(a)

earn at least 135 contact hours of practicum or supervised field experience at a developmental stage (s) other than the stage selected for student teaching set forth in Paragraph (3) above; or

(b)

evidence of three years of documented, verified, satisfactory work experiences with at least two of the age ranges set forth in Paragraph (3) of Subsection A of 6.61.8.8 NMAC above at a center accredited by the national academy of early childhood programs, a postsecondary laboratory early care and education setting, or an early childhood program accredited by the PED; and

(4) in addition

to the requirements specified in Paragraphs (1), (3) and (5) Subsection A of 6.61.12.8 NMAC, six hours in the teaching of reading for those who have first entered any college or university on or after August 1, 2001 regardless of when they graduate or earn their degree; and

(5) pass all

required portions of the New Mexico teacher assessment (NMTA) or any successor teacher examination adopted by the PED; and

(6) satisfy the

requirements of a highly qualified beginning early childhood teacher if new to the profession after June 30, 2006.

B. possess valid

certificate issued by the national board for professional teaching standards for the appropriate grade level and type. [6.61.12.8 NMAC - Rp, 6.61.12.8 NMAC, 8/1/2018]

6.61.12.9 [RESERVED]

[6.61.12.9 NMAC - Rp, 6.61.12.9 NMAC, 8/1/2018]

6.61.12.10 REFERENCED MATERIAL: COMPETENCIES FOR EARLY CHILDHOOD EDUCATION

A. Child growth,

development, and learning: Foundations for all learning are established during early childhood. Biological-physical, social, cultural, emotional, cognitive, and language domains are inherently intertwined

in growth and development.

Early childhood professionals must understand this process of development and the adult's role in supporting each child's growth, development, and learning.

(1) Incorporate

understanding of developmental stages, processes, and theories of growth, development, and learning into developmentally appropriate practice.

(2)

Demonstrate knowledge of the interaction between maturation and environmental factors that influence physical, social, emotional, cognitive, and cultural domains in the healthy development of each child.

(3)

Demonstrate knowledge of the significance of individual differences in development and learning. Demonstrate knowledge of how certain differences may be associated with rate of development and developmental patterns associated with developmental delays or specific disabilities.

(4)

Demonstrate knowledge of the similarities between children who are developing typically and those with diverse abilities.

(5) Provide

a variety of activities that facilitate development of the whole child in the following areas: physical/motor, social/emotional, language/cognitive and adaptive/living skills.

(6) Apply

knowledge of cultural and linguistic diversity and the significance of socio-cultural and political contexts for development and learning and recognize that children are best understood in the contexts of family, culture, and society.

(7)

Demonstrate knowledge of the many functions that language serves in the cognitive, social, and emotional aspects of development in the formative years.

(8)

Demonstrate knowledge of the developmental sequence of language and literacy, including the influence of culture and home factors.

(9)

Demonstrate knowledge of how

children acquire and use verbal, non-verbal, and alternative means of communication.

(10)

Demonstrate knowledge of the relationship among emotions, behaviors, and communication skills to assist children in identifying and expressing their feelings in appropriate ways.

(11) Use

appropriate guidance to support the development of self-regulatory capacities in young children.

B. Health, safety

and nutrition: Early childhood professionals promote physical and mental health and appropriate nutrition and provide an emotionally and physically safe environment for young children in partnership with their families. Sound health, safety, and nutritional practices provide the foundation for development and learning. Good nutrition is critical to the overall development of young children. Meals and snacks encourage good nutrition and eating habits. A safe environment prevents and reduces injuries for young children who are only beginning to recognize dangerous situations.

(1) Recognize

and respond to each child's physical health, intellectual and emotional wellbeing, and nutritional and safety needs.

(2) Articulate

an understanding of indoor and outdoor learning environments that provide opportunities for children to put into practice healthy behaviors (physically, socially, and emotionally).

(3) Use

appropriate health appraisal and management procedures and makes referrals when necessary.

(4) Recognize

signs of emotional distress, child abuse, and neglect in young children and use procedures appropriate to the situation, such as initiating discussions with families, referring to appropriate professionals, and, in cases of suspected abuse or neglect, reporting to designated authorities.

(5) Establish

an environment that provides opportunities and reinforcement for children's practice of healthy behaviors that promote appropriate nutrition and physical and psychological well-being.

(6) Provide a consistent daily schedule for rest/sleep, as developmentally appropriate.

(7) Implement health care and educational activities for children and families based on health and nutritional information that is responsive to diverse cultures.

(8) Assist young children and their families, as individually appropriate, in developing decision-making and interpersonal skills that enable them to make healthy choices and establish health-promoting behaviors.

C. Family and community collaboration: Early childhood professionals are committed to family-centered practices. They maintain an open, friendly, and collaborative relationship with each child's family, encouraging family involvement, and supporting the child's relationship with their family. The diverse cultures and languages representative of families in New Mexico's communities are honored.

(1) Demonstrate knowledge and skill in building positive, reciprocal relationships with families.

(2) Articulate an understanding of a safe and welcoming environment for families and community members.

(3) Develop and maintain ongoing contact with families through a variety of communication strategies.

(4) Demonstrate knowledge of and respect for variations across cultures, in terms of family strengths, expectations, values, and child-rearing practices.

(5) Articulate understanding of the complexity and dynamics of family systems.

(6) Demonstrate understanding of the importance of families as the primary

educator of their child.

(7) Demonstrate the ability to incorporate the families' desires and goals for their children into classroom or intervention strategies.

(8) Develop partnerships with family members to promote early literacy in the home.

(9) Involve families and community members in contributing to the learning environment.

(10) Establish partnerships with community members in promoting literacy.

(11) Demonstrate ability to communicate to families the program's policies, procedures, and those procedural safeguards that are mandated by state and federal regulations.

(12) Apply knowledge of family theory and research to understand family and community characteristics including socioeconomic conditions; family structures, relationships, stressors, and supports (including the impact of having a child with diverse abilities); home language and ethnicity.

(13) Demonstrate knowledge of and skill to access community resources that assist families and contribute directly or indirectly to children's positive development such as mental health services, health care, adult education, native and English language instruction, and economic assistance.

D. Developmentally appropriate content: Early childhood professionals demonstrate knowledge of child development and learning, as well as content knowledge, both in terms of academic disciplines and in terms of interdisciplinary integration. Their approach to curriculum content emerges from multiple sources, such as play and exploration, and is appropriate for the ages and developmental levels of the children with whom they work. Content includes, but is not limited to, the arts, literacy, mathematics, physical education, health, social studies, science, and technology. Children's initial experiences with these content

areas form the foundation for later understanding and success.

(1) Demonstrate knowledge of relevant content for young children and developmentally appropriate ways of integrating content into teaching and learning experiences for children from age three to grade 3.

(2) Demonstrate the integration of knowledge of how young children develop and learn with knowledge of the concepts, inquiry tools, and structure of content areas appropriate for different developmental levels.

(3) Demonstrate knowledge of what is important in each content area, why it is of value, and how it links with earlier and later understandings within and across areas.

(4) Demonstrate knowledge of the language, reading, and writing components of emergent literacy at each developmental level.

(5) Develop, implement, and evaluate an integrated curriculum that focuses on children's development and interests, using their language, home experiences, and cultural values.

(6) Adapt content to meet the needs of each child, including the development of individualized family service plans (IFSP) or individualized education plans (IEP) for children with diverse abilities through the team process with families and other team members.

(7) Provides and uses anti-bias materials/literature and experiences in all content areas of the curriculum.

E. Learning environment and curriculum implementation: Teaching and learning with young children is a complex process embedded in relationships. These teaching and learning relationships provide the scaffold for jointly constructing meanings about self, others, and the world. Early childhood professionals use their child development knowledge, their knowledge of

developmentally appropriate practices, and their content knowledge to design, implement, and evaluate experiences that promote optimal development and learning for all children from birth to eight years. In addition, their use of observations is grounded in a thorough understanding of children's families, cultures, and communities. Early childhood professionals encourage young children's problem solving, critical thinking, and academic and social competence within a supportive and challenging learning environment. These challenging teaching and learning experiences build children's confidence in themselves as competent learners.

(1)

Demonstrate knowledge of varying program models and learning environments that meet the individual needs of all young children, including those with diverse abilities.

(2) Create

environments that encourage active involvement, initiative, responsibility, and a growing sense of autonomy through the selection and use of materials and equipment that are suitable to individual learning, developmental levels, diverse abilities, and the language and cultures in New Mexico.

(3)

Demonstrate knowledge and skill in the use of developmentally appropriate guidance techniques and strategies that provide opportunities to assist children in developing positive thoughts and feelings about themselves and others through cooperative interaction with peers and adults.

(4) Create

and manage inclusive learning environments that provide individual and cooperative opportunities for children to construct their own knowledge through various strategies that include decision-making, problem solving, and inquiry experiences.

(5)

Demonstrate understanding that each child's creative expression is unique and can be encouraged through diverse ways, including creative play.

(6) Plan blocks

of uninterrupted time for children to persist at self-chosen activities, both indoors and out.

(7)

Demonstrate understanding of the influence of the physical setting, schedule, routines, and transitions on children and use these experiences to promote children's development and learning.

(8) Use

and explain the rationale for developmentally appropriate methods that include play, small group projects, open-ended questioning, group discussion, problem solving, cooperative learning, and inquiry experiences to help young children develop intellectual curiosity, solve problems, and make decisions.

(9) Create and

manage a literacy-rich environment that is responsive to each child's unique path of development.

(10) Use

a variety of language strategies during adult-child and child-child interactions and facilitate communication and dialogue of expressive language and thought.

(11)

Demonstrate a variety of developmentally appropriate instructional strategies that facilitate the development of emergent literacy skills.

(12)

Demonstrate knowledge of developmentally appropriate uses of technology, including assistive technology.

(13)

Demonstrate the ability to work collaboratively with educational assistants, volunteers, and others to individualize the curriculum and to meet program goals.

(14)

Demonstrate effective written and oral communication skills when working with children, families, and early care, education, and family support professionals.

F. Assessment of

children and evaluation of programs: Early childhood professionals must develop knowledge of diverse

assessment approaches, including observational skills. They use appropriate ongoing documentation and report information to families and professionals. Appropriate early childhood assessment is responsive to cultural and linguistic differences. It includes information from multiple sources, e.g., observations, checklists, interviews, and both formal and informal standardized measures in diverse settings for making educational decisions about children. The assessment data gathered from multiple sources that has a major impact on children should be made by a team of family members, teachers, and other professionals. In addition, early childhood professionals engage in systematic, ongoing evaluation of their programs.

(1)

Demonstrate ability to choose valid tools that are developmentally, culturally, and linguistically appropriate; use the tools correctly; make appropriate referrals; and interpret assessment results, with the goal of obtaining valid, useful information to inform practice and decision-making.

(2)

Demonstrate knowledge of maintaining appropriate records of children's development and behavior that safeguard confidentiality and privacy.

(3)

Demonstrate knowledge of the educator's role as a participating member of the assessment process as described and mandated by state and federal regulations for individual family service plans (IFSP) and individual education plans (IEP).

(4)

Demonstrate understanding of the influences of environmental factors, cultural/linguistic differences, and diverse ways of learning on assessment outcomes.

(5) Involve

the family and, as appropriate, other team members in assessing the child's development, strengths, and needs in order to set goals for the child.

(6) Articulate

an understanding of the distinctions

and definitions of assessment concepts (e.g., authentic, screening, diagnostic assessment, standardized, testing, accountability assessment).

(7) Apply understanding of assessment concepts toward selection of appropriate formal assessment measures, critiquing the limitations of inappropriate measures, and discussing assessment issues as part of interdisciplinary teams.

(8) Articulate an understanding that responsible assessment is legally and ethically grounded and guided by sound professional standards. It is collaborative and open with the goal of supporting diverse children and families.

(9) Demonstrate knowledge of assessment techniques, interpretation of assessment information in the application of this data to curriculum development or intervention planning.

(10) Demonstrate knowledge of a variety of techniques and procedures to evaluate and modify program goals for young children and their families.

(11) Demonstrate knowledge and use of program evaluation to ensure comprehensive quality of the total environment for children, families, and the community.

(12) Use both self and collaborative evaluations as part of ongoing program evaluations.

G. Professionalism: Professionalism is built upon individual integrity, responsibility, and ethical practices that demonstrate a profound respect for all children and their families. Early childhood professionals embrace a multicultural perspective that is responsive to individuals in culturally diverse communities in New Mexico. Professionals make decisions based upon knowledge of early childhood theories and practices that recognize diversity of ability, developmental level, and family characteristics. Early childhood professionals advocate for excellence in early childhood programs and participate in ongoing professional development to

enhance their knowledge and skills.

(1) Adhere to early childhood professional codes of ethical conduct and issues of confidentiality.

(2) Demonstrate knowledge of federal, state, and local regulations and public policies regarding programs and services for children birth to eight years of age.

(3) Demonstrate understanding of conditions of children, families, and professionals; the historical and current issues and trends; legal issues; and legislation and other public policies affecting children, families, and programs for young children and the early childhood profession.

(4) Demonstrate critical reflection of one's own professional and educational practices from community, state, national, and global perspectives.

(5) Demonstrate understanding of the early childhood profession, its multiple, historical, philosophical and social foundations, and how these foundations influence current thought and practice.

(6) Demonstrate a commitment to leadership and advocacy for excellence in programs and services for young children and their families.

(7) Demonstrate knowledge in technology resources to engage in ongoing professional development.

H. Knowledge of Content: Early childhood teachers demonstrate content knowledge and knowledge of child development and learning both in terms of academic disciplines and interdisciplinary integration. Early childhood professionals demonstrate content knowledge including, but not limited to, the arts, literacy, mathematics, social studies, science, and technology. Early childhood teachers understand that children's initial experiences with these content areas form the foundation for later understanding and success. Thus

early childhood teachers develop, implement, and evaluate a content-rich, integrated curriculum that focuses on children's development and interests, using their language, home experiences, and cultural values.

(1) Reading and language arts:

(a) Demonstrate an understanding of the foundations of reading and language including research on children's literacy development, the relationship between oral and written language, and how children learn to speak, read, write, and listen.

(b) Demonstrate knowledge of the cultural, linguistics, environmental, and physiological factors in reading and language arts development.

(c) Articulate characteristics of proficient and non-proficient readers and the teacher's role in support of all literacy development.

(d) Demonstrate an understanding of language structure including graphophonics, semantics, syntax, and pragmatics systems.

(e) Demonstrated understandings of the use of classroom reading assessment to understand students' instructional needs and modify instruction appropriately.

(f) Link assessment and instruction to New Mexico language arts content standards, benchmarks and performance standards.

(g) Apply strategies of differentiated instruction based on the needs of children in all areas of literacy development including oral language development.

(h) Facilitate activities to develop fluency; the ability to read text accurately and rapidly.

(i) Facilitate vocabulary development, including both explicit instruction and indirect vocabulary development through authentic literature, cultural

relevancy, and students' experiences.

(j)

Facilitate comprehension strategies, including: instruction on predicting, re-reading, questioning, sequencing, summarizing, retelling, reading for pleasure and analytical and critical reading, activities to develop fluency, the ability to read text accurately and rapidly; and study strategies.

(k)

Facilitate writing instruction, including different types of writing for different audiences and purposes, spelling generalizations; grammar instruction within authentic contexts; and writing processes, including drafting, revising, and editing;

(l)

demonstrate knowledge of how children develop literacy through the use of culturally relevant pedagogy that promotes an understanding of the importance of resources students bring to the classroom; evaluation of text for quality, cultural, and linguistic appropriateness; and the creation of opportunities for students to consider, respond to and discuss spoken and written materials including children's literature, non-fiction, technological media, stories, poems, biographies, texts from various subject areas.

(2)

Mathematics:

(a)

Demonstrate an understanding and apply the following mathematical concepts:

(i)

the arithmetic of real numbers and their subsets of rational numbers, integers, and whole numbers including a large repertoire of interpretations of the four basic operations and ways they can be applied, and an understanding of place value and its implications for ordering numbers and estimation;

(ii)

three dimensional geometry based on the concept of distance, and two dimensional geometry as a method of drawing plans and representing three dimensional objects;

(iii)

measurement of length, perimeter, area, time, weights, and temperature;

(iv)

handling money problems such as cost and unit price.

(b)

Demonstrate understanding and skill in the constructions of solids, measurements of their volumes and surface areas, drawing their projections, and making plans for their construction; defining relevant variables and writing formulas describing their relationships in problem-solving activities; and using measurement tools and appropriate techniques for recording data and displaying results.

(c)

Facilitate curriculum with open-ended activities that promote children's expansion of the material learned, and in which children learn to use a variety of mathematical skills and concepts, including problem solving, reasoning, and logic.

(d)

Provide opportunities for children to learn how to use tools, technology, and manipulatives in problem solving.

(e)

Establish a classroom environment of respect for cultural diversity and gender equity in which all children develop skills in communicating, discussing, and displaying mathematical ideas.

(3)

Science:

(a)

Demonstrate understanding and apply the fundamental concepts in the subject matter of science including physical, life, and earth and space sciences as well as concepts in science and technology, science in personal and social perspectives, the history and nature of science, the unifying concepts of science, and the inquiry process scientists use in discovery of new knowledge to build a base of scientific inquiry.

(b)

Apply scientific methods to develop children's abilities to identify and communicate a problem, and to design, implement, and evaluate a solution.

(c)

Demonstrate the ability to integrate a variety of technologies into planned

science activities.

(d)

Establish a classroom environment of respect for cultural diversity and gender equity where all children participate fully in science learning.

(4)

Social

studies:

(a)

Demonstrate an understanding of the principles of teaching and learning processes that underline social studies concepts and can translate these into meaningful learning activities focusing on inquiry, authenticity, and collaboration.

(b)

Demonstrates understanding that the social studies encompass history, geography, anthropology, archeology, economics, political science, psychology, sociology, and the interdisciplinary relationship of all facets of the social studies.

(c)

Demonstrate understanding that the definition of social studies requires that children be socially aware of and are active participants in local, state, national, and global issues; and that children recognize and respect diverse local and global perspectives concerning cultures other than their own.

(d)

Implement a variety of teaching strategies to assist children to use multiple resources including primary (e.g., documents, artifacts/regalia, direct observation, human resources, personal background) and secondary (e.g., books, newspapers, internet) as part of the inquiry/research process.

(e)

Create curriculum experiences that provide opportunities for children to appreciate the historical development of democratic values, institutions, nations, and cultures.

(f)

Demonstrate the ability to plan for and engage children in activities that require them to formulate, analyze, synthesize, and critique issues by using well-reasoned, clearly supported arguments, policies, and positions.

(g)

Demonstrate the ability to plan

for and engage children in the presentation of social studies knowledge using a variety of sign systems including writing, charts, graphs, maps, art, music, drama, dance, and technology.

(5) Fine arts and movement:

(a) Demonstrate an understanding and implementation of arts activities such as history, art making, appreciation, and criticism through dance, music, theater, and the visual arts, appropriate to young children's developmental levels interests.

(b) Demonstrate knowledge of the distinctions, connections, and integration between arts disciplines and arts experiences and encourages study and active participation that leads to skill development and appreciation.

(c) Facilitate curriculum in which children communicate at a basic level in the four art disciplines of dance, music, theater, and visual arts, including knowledge and skills in the use of basic vocabularies, materials, tools, techniques, and thinking processes of each discipline.

(d) Create a classroom environment with exemplary works of art from a variety of cultures and historical periods and provide opportunities for students to discuss and respond to them.

(e) Demonstrate an understanding of motor skill development in young children and apply knowledge of age and developmentally appropriate psychomotor and cognitive activities.

(f) Create and use appropriate instructional cues and prompts for motor skills, rhythms, and physical activity.

(g) Apply an understanding of child development knowledge coupled with child performance data to make informed instructional decisions.

I. Curriculum and content knowledge:

(1)

Demonstrate skill in collaboration with professionals from other disciplines (e.g., mental health, psychology, speech and language) when planning curriculum and teaching strategies for young children with diverse abilities.

(2) Demonstrate an understanding and application of flexible teaching approaches that span a continuum from child-initiated to an adult-directed and from free exploration to scaffolded support or teacher modeling.

(3) Apply an understanding of young children's need for balance, order, depth, variety, and challenge through curriculum planning, routines, and scheduling (e.g., daily, weekly, and longer-term).

(4) Link child characteristics, needs, and interests with informal opportunities to build children's language, concept development, and skills.

(5) Apply knowledge to create environments that enrich and extend children's play including intervention strategies (i.e., questioning), respect of cultural diversity and gender equity.

(6) Support play in young children's learning and development from age three to grade 3.

(7) Demonstrate sound knowledge and skills in using technology as a teaching and learning tool.

(8) Demonstrate the ability to promote positive social interactions and engage children in learning activities while actively working to increase social and emotional competence of all children.

(9) Demonstrate the ability to analyze and critique early childhood curriculum experiences in terms of the relationship of the experiences to the research base and professional standards.

(10) Establish high-quality and meaningful language and pre-literacy experiences across the developmental continuum, using

language, reading and writing to facilitate skill development while strengthening children's cultural identity.

(11) Demonstrate knowledge of second-language acquisition and bilingualism including the diversity of home language environments.

(12) Facilitate family involvement so that families are engaged with curriculum planning, assessing of children's learning, and planning for children's transitions to new programs.

(13) Demonstrate conceptual knowledge of the principles and standards derived from professional content organizations (zero to three, NAEYC, DEC) for curriculum-decision making.

(14) Demonstrate the use of reflective practice.
[6.61.12.10 NMAC - Rp, 6.61.12.10 NMAC, 8/1/2018]

HISTORY OF 6.61.12 NMAC:

6.61.12 NMAC, Licensure in Early Childhood Education, Pre K - Grade 3, filed 1/29/2010 was repealed and replaced with Licensure in Early Childhood Education, Pre K - Grade 3, effective 8/1/2018.

History of Repealed Material:

6.61.12 NMAC, Licensure in Early Childhood Education, Pre K - Grade 3, filed 1/29/2010 - Repealed effective 8/1/2018.

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

This is an amendment to 14.7.3 NMAC, Section 9 and adding new Section 28 effective 01/15/2018.

14.7.3.9 CHAPTER 1 - ADMINISTRATION:

**A. Section R101 -
Title, scope and purpose.**

(1) **R101.1
Title.** Delete this section of the IRC

and substitute: This code shall be known as the 2015 New Mexico residential building code (NMRBC).

(2) R101.2

Scope. Delete this section of the IRC and see 14.7.3.2 NMAC, Scope and add the following: **Exception.** Live/work units complying with the requirements of Section 419 of the *International Building Code* shall be permitted to be built as one- and two-family dwellings or townhouses. Fire suppression required by Section 419.5 of the *International Building Code* when constructed under the *International Residential Code for One- and Two-family Dwellings* shall conform to Section P2904 of the *Residential Building Code*. A home office or business not utilizing hazardous materials as defined in the international building code with a work area less than 300 sq. ft. is not a live/work unit subject to the requirements of the *International Building Code*. A home office in dwelling units exceeding 3000 sq. ft. may occupy up to ten percent of the floor area.

(3) R101.3

Purpose. See 14.7.3.6 NMAC, Objective.

B. Section R102 - Applicability.

(1) R102.1

General. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

(2) R102.2

Other laws. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

(3) R102.3

Application of references. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

(4) R102.4

Referenced codes and standards. Delete this section of the IRC and substitute the following: The codes referenced in the NMRBC are set forth below. See also 14.5.1 NMAC, General Provisions.

(a)

Electrical. The NMEC applies to all electrical wiring as defined in Section 60-13-32 NMSA 1978. All references in the IRC to the international code

council (ICC) electrical code are deemed references to the NMEC.

(b)

Gas. The NMMC applies to "gas fittings" as that term is defined in Section 60-13-32 NMSA 1978. All references in the IRC to the international mechanical code are deemed references to the NMMC. Gas piping, systems and appliances for use with liquefied propane gas (LPG), or compressed natural gas (CNG), shall be governed by the LPG standards (Section 70-5-1 et seq. NMSA 1978, LPG and CNG Act, and the rules promulgated pursuant thereto, 19.15.4.1 through 19.15.4.24 NMAC.)

(c)

Mechanical. The NMMC applies to the installation, repair, and replacement of mechanical systems including equipment, appliances, fixtures, fittings or appurtenances including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy related systems. All references in the IRC to the international mechanical code are deemed references to the NMMC.

(d)

Plumbing. The NMPC applies to the installation, alterations, repairs, and replacement of plumbing systems, including equipment, appliances, fixtures, fittings, and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. All references in the IRC to the international plumbing code are deemed references to the NMPC.

(e)

Energy. The NMECC applies to all energy-efficiency-related requirements for the design and construction of buildings that are subject to the New Mexico construction codes. All references in the IRC to the international energy code are deemed references to the NMECC.

(5) R102.5

Appendices. This rule adopts the following appendices as amended herein.

(a)

Appendix H - Patio covers.

(b)

Appendix J - Existing buildings.

(c)

Appendix K - Sound transmission.

(d)

Appendix R - Light straw clay construction.

(e)

Appendix S - Strawbale construction.

(f)

Appendix Q - Tiny Houses.

(6) R102.6

Partial Invalidity. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

(7) R102.7

Existing Structures. See this section, and Subsection R102.7.1, Additions, Alterations or Repairs, of the IRC, except that the references to the International Property Maintenance Code and the International Fire Code are deleted.

C. Section R103 - Department of Building Safety. Delete this section of the IRC.

D. Section R104 - Duties and Powers of Building Official. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

E. Section R105 - Permits. Delete this section of the IRC and see 14.5.2 NMAC, Permits.

F. Section R106 - Construction Documents. Delete this provision of the IRC and see 14.5.2 NMAC, Permits.

G. Section R107 - Temporary Structures and Uses. Delete this section of the IRC and see 14.5.2 NMAC, Permits.

H. Section R108 - Fees. Delete this section of the IRC and see 14.5.5 NMAC, Fees.

I. Section R109 - Inspections. Delete this section of the IRC and see 14.5.3 NMAC, Inspections.

J. Section R110 - Certificate of Occupancy. Delete this section of the IRC and see 14.5.3 NMAC, Inspections.

K. Section R111 - Service Utilities. Delete this section of the IRC and see 14.5.3 NMAC,

Inspections.

L. Section R112

- Board of Appeals. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

M. Section R113 -

Violations. Delete this section of the IRC and see CILA 60-13-1 et seq., and 14.5.3 NMAC, Inspections.

N. Section R114

- Stop Work Order. Delete this section of the IRC and see 14.5.3 NMAC, Inspections.

[14.7.3.9 NMAC - Rp, 14.7.3.9 NMAC, 11/15/2016; A, 01/15/2018]

**14.7.3.28 APPENDIX Q
TINY HOUSES:**

**A. Section AQ101 -
GENERAL**

(1) Section

AQ101.1 Scope. This appendix shall be applicable to tiny houses used as single dwelling units providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation and placed on a permanent foundation. Tiny houses shall comply with this code except as otherwise stated in this appendix. Tiny houses constructed in New Mexico or constructed outside New Mexico and transported into New Mexico shall be inspected to comply with New Mexico Residential Code requirements for in-state or out of state production of dwelling units. This shall include Appendix Q of the New Mexico Residential Code. Tiny houses constructed on a chassis with permanent axle shall be considered recreational vehicles and shall meet codes for and be licensed as recreational vehicles so long as the axle remain in place. If axle are removed and the unit placed on supports (foundation) the unit must comply with code requirements for tiny houses placed on a permanent foundation. Tiny houses placed upon a permanent foundation shall be constructed to comply with New Mexico Building Residential Codes including Appendix Q (Tiny Houses) of the Residential Code.

(2) Section

AQ102.1 General Definitions. The following words and terms shall, for the purposes of this appendix, have the meanings shown herein. Refer to Chapter 2 of this code for general definitions.

(a)

Emergency egress A skylight, roof window, or other emergency egress opening designed and installed to satisfy the emergency escape and rescue opening requirements in Section R310.2.

(b)

Landing platform. A landing measuring two treads deep and two risers tall, provided as the top step of a stairway or ladder accessing a loft.

(c)

Loft. A floor level located more than 30 inches (762 mm) directly above the main floor and open to the main floor on at least one side with a ceiling height of less than 6 feet 8 inches (2032 mm), used as a living or sleeping space. The total area of all lofts shall not exceed 40 percent of the floor area.

(d)

Tiny house. A dwelling that is 400 square feet (37 m²) or less in floor area excluding lofts, and does not include recreational vehicles.

**B. Section AQ103 -
CEILING HEIGHT**

AQ103.1

Minimum ceiling height. Habitable space and hallways in tiny houses shall have a ceiling height of not less than 6 feet 8 inches (2032 mm). Bathrooms, toilet rooms, and kitchens shall have a ceiling height of not less than 6 feet 4 inches (1930 mm). Obstructions shall not extend below these minimum ceiling heights including beams, girders, ducts, lighting and other obstructions.

Exception: Ceiling heights in lofts are permitted to be less than 6 feet 8 inches (2032 mm).

**C. Section AQ104
LOFTS**

(1) Section

AQ104.1 Minimum loft area and dimensions. Lofts used as a sleeping or living space shall meet the minimum area and dimension requirements of Sections AQ104.1.1

through AQ104.1.3.

(a)

Section AQ104.1.1 Minimum area.

Lofts shall have a floor area of not less than 35 square feet (3.25 m²).

(b)

Section AQ104.1.2 Minimum

dimensions. Lofts shall be not less than 5 feet (1524 mm) in any horizontal dimension.

(c)

Section AQ104.1.3 Height effect on

loft area. Portions of a loft with a sloping ceiling measuring less than 3 feet (914 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.

Exception: Under gable roofs with a minimum slope of 6:12, portions of a loft with a sloping ceiling measuring less than 16 inches (406 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.

(2) Section

AQ104.2 Loft access. The access to and primary egress from lofts shall be any type described in Sections AQ104.2.1 through AV104.2.4.

(a)

Section AQ104.2.1 Stairways.

Stairways accessing lofts shall comply with this code or with Sections AQ104.2.1.1 through AQ104.2.1.5.

(i)

Section AQ104.2.1.1 Width.

Stairways accessing a loft shall not be less than 17 inches (432 mm) in clear width at or above the handrail. The minimum width below the handrail shall be not less than 20 inches (508 mm).

(ii)

Section AQ104.2.1.2 Headroom.

The headroom in stairways accessing a loft shall be not less than 6 feet 2 inches (1880 mm) as measured vertically from a sloped line connecting the tread or landing platform nosings in the middle of their width.

(iii)

Section AQ104.2.1.3 Treads and

risers. Risers for stairs accessing a loft shall be not less than 7 inches (178 mm) and not more than 12

inches (305 mm) in height. Tread depth and riser height shall be calculated in accordance with one of the following formulas: (a) The tread depth shall be 20 inches (508 mm) minus 4/3 of the riser height. (b) The riser height shall be 15 inches (381 mm) minus 3/4 of the tread depth.

(iv)

Section AQ104.2.1.4 Landing platforms. The top tread and riser of stairways or ladders accessing lofts shall be constructed as a landing platform where the loft ceiling height is less than 6 feet 2 inches (1880 mm) at the point where the stairway or ladder meets the loft.

(v)

Section AQ104.2.1.5 Handrails. Handrails shall comply with Section R311.7.8.

(vi)

Section AQ104.2.1.6 Stairway guards. Guards at open sides of stairways shall comply with Section R312.1.

(b)

Section AQ104.2.2 Ladders. Ladders accessing lofts shall comply with Sections AQ104.2.1 and AQ104.2.2, including the requirements for handrails in section R311.7.8, and R308.4.6 glazing adjacent to stairs and ramps, and shall be permanently attached to the loft structure by a device that prevents movement during use. Attachment shall not be accomplished by use of toenails or nails subject to withdrawal.

(i)

Section AQ104.2.2.1 Size and capacity. Ladders accessing lofts shall have a rung width of not less than 12 inches (305 mm) and rungs shall be spaced with 10 inches (254mm) minimum to 14 inches (356mm) maximum spacing between rungs. Floor decking of lofts accessed by ladders shall be no more than 8½ feet above the main level floor. Ladders shall be capable of supporting a 200 pound (75 kg) load on any rung. Rung spacing shall be uniform within 3/8-inch (9.5 mm).

(ii)

Section AQ104.2.2.2 Incline. Ladders shall be installed at 70 to 80 degrees from horizontal.

(c)

Section AQ104.2.3 Alternating tread devices. Alternating tread devices accessing lofts shall comply with Sections R311.7.11.1 and R311.7.11.2. The clear width at and below the handrails shall be not less than 20 inches (508 mm).

(d)

Section AQ104.2.4 Ships ladders. Ships ladders accessing lofts shall comply with Sections R311.7.12.1 and R311.7.12.2. The clear width at and below handrails shall be not less than 20 inches (508 mm).

(e)

Section AQ104.2.5 Loft Guards. Loft guards shall be located along the open side of lofts. Loft guards shall not be less than 36 inches (914 mm) in height or one-half of the clear height to the ceiling, whichever is less.

D. Section AQ105 - EMERGENCY ESCAPE AND RESCUE OPENINGS:

AQ105.1

General. Tiny houses shall meet the requirements of Section R310 for emergency escape and rescue openings including lofts of 35 square feet or greater. Egress roof access windows in lofts shall be deemed to meet the requirements of Section R310 where installed with the bottom of their opening no more than 44 inches (1118 mm) above the loft floor. [14.7.3.28 NMAC - N, 01/15/2018]

HISTORY OF 14.7.3 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:
GCB-NMBC-83-1, 1982 New Mexico Building Code, filing date, 2-15-1983.
CID-GCB-NMBC-85-1, 1985 New Mexico Building Code, filing date, 11-19-1985.
CID-GCB-NMBC-88-1, 1988 New Mexico Building Code, filing date, 01-20-1989.
CID-GCB-NMBC-91-1, 1991 New Mexico Building Code, filing date, 05-04-1993.

History of Repealed Material:

14 NMAC 7.2, 1997 New Mexico Building Code (filed 10-30-1998) (with the exception of material incorporated by reference which was also filed 10-30-1998), repealed 12-1-2000.

14.7.2 NMAC, 1997 New Mexico Building Code (filed 10-16-2000), repealed 7-1-2004.

14.7.3 NMAC, 2003 New Mexico Residential Building Code (filed 5-27-2004), repealed 1-1-2008.

14.7.3 NMAC, 2006 New Mexico Residential Building Code (filed 08-16-2007), repealed 1-28-2011.

14.7.3 NMAC, 2009 New Mexico Residential Building Code (filed 12-28-2010), repealed 11-15-2016.

Other History:

CID-GCB-NMBC 91-1, 1991 New Mexico Building Code (filed 5-4-1993) was replaced by 14 NMAC 7.2, Housing and Construction, Building Codes General, 1997 New Mexico Building Code, effective 12-31-1998.

14 NMAC 7.2, Housing and Construction, Building Codes General, 1997 New Mexico Building Code (filed 10-30-1998) replaced by 14.7.2 NMAC, 1997 New Mexico Building Code, effective 12-1-2000. Those applicable portions of 14.7.2 NMAC, 1997 New Mexico Building Code (filed 10-16-2000) and 14 NMAC 7.3, 1997 Uniform Building Code (filed 10-30-1998) replaced by 14.7.2 NMAC, 2003 New Mexico Commercial Building Code, effective 7-01-2004 and 14.7.3 NMAC, 2003 New Mexico Residential Building Code, effective 7-1-2004.

14.7.3 NMAC, 2003 New Mexico Residential Building Code (filed 5-27-2004) was replaced by 14.7.3 NMAC, 2006 New Mexico Residential Building Code, effective 1-1-2008.

14.7.3 NMAC, 2006 New Mexico Residential Building Code (filed 08-16-2007) was replaced by 14.7.3 NMAC, 2009 New Mexico Residential Building Code, effective 1-28-2011.

**REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

This is an amendment to 14.10.4 NMAC, Part 4 title and Sections 2, 5, 8 and 11, effective 2/1/2018.

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 10 ELECTRICAL
CODES
PART 4 [2014] 2017 NEW
MEXICO ELECTRICAL CODE**

14.10.4.2 SCOPE: This rule applies to all contracting work performed in New Mexico on or after ~~[July 1, 2014]~~ February 1, 2018, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date.

[14.10.4.2 NMAC - Rp, 14.10.4.2 NMAC, 6/28/2013; A, 8/1/2014; A, 2/1/2018]

14.10.4.5 EFFECTIVE DATE: ~~[August 1, 2014]~~ February 1, 2018, unless a later date is cited at the end of a section.

[14.10.4.5 NMAC - Rp, 14.10.4.5 NMAC, 6/28/2013; A, 8/1/2014; A, 2/1/2018]

[From the date of publication of this rule in the New Mexico Register, until August 1, 2018, permits may be issued under either the previously-adopted rule, or this rule. After August 1, 2018, permits may be issued only under this rule.]

14.10.4.8 ADOPTION OF THE [2014] 2017 NATIONAL ELECTRICAL CODE:

A. This rule adopts by reference the ~~[2014]~~ 2017 national electrical code (NEC), as amended by this rule.

B. In this rule, each provision is numbered to correspond with the numbering of the ~~[2014]~~ 2017 national electrical code.

C. This rule is to be applied in conjunction with 14.7.6 NMAC, the 2009 New Mexico Energy Conservation Code.

[14.10.4.8 NMAC - Rp, 14.10.3.8 NMAC, 6/28/2013; A, 8/1/2014; A, 2/1/2018]

14.10.4.11 CHAPTER 1

General:

A. Article 100 - Definitions. See this article of the NEC.

B. Article 110 - Requirements for electrical installations. See this article of the NEC except as provided below.

(1) Section 110.2 Approval. See this section of the NEC and add the following:

(a) product listing and labeling - electrical wiring, equipment or material approval shall be based on listing and labeling by a nationally recognized testing laboratory recognized by the federal occupational safety and health administration;

(b) field evaluation - electrical wiring, equipment or material that is not listed and labeled, but for which a (UL) safety standard exists may be approved upon certification by a nationally recognized testing laboratory recognized by the federal occupational safety and health administration or by a field evaluation body accredited by the international accreditation service, inc.;

(c) engineer certification - electrical wiring, equipment or material for which a (UL) safety standard does not exist may be approved upon certification by an electrical engineer licensed to practice in New Mexico; such a certification will not be valid unless based on a verification of the manufacturer's safety and performance test data for the product.

(d) engineer certification - electrical equipment assemblies that contain only nationally recognized testing laboratories (NRTL) labeled components that are not NRTL listed as an assembly may be approved upon certification by an electrical engineer licensed to practice in New Mexico; such a certification will not be valid unless based on a verification of the

UL standard if applicable, NEC 110.3 and the manufacturer's safety and performance test data for the product.

(2) Section 110.21. Marking. See this section of the NEC and add: all equipment used on circuits over 300 volts between conductors shall have a warning sign either on or adjacent to the equipment. Warning signs shall be made in accordance with ANSI Z535 environmental and safety signs. The language shall read:

(a) for voltages over 300 volts but less than 600 volts: "480 VOLTS". (Label dimensions shall be 1" x 4"); and

(b) for voltages over 600 volts and there are exposed parts: "DANGER - HIGH VOLTAGE - KEEP OUT".

(3) Section 110.26 Spaces about electrical equipment.

(a) 110.26 (A) Working space. See this section of the NEC and add the following exception: Disconnects that do not provide over-current, overload, short circuit, or ground fault protection are not required to maintain the dimensions of 110.26(A) (1), (A)(2) and (A)(3) where adequate space is not readily available and the disconnect is permanently labeled "INADEQUATE WORKING SPACE-DO NOT WORK ON WHILE ENERGIZED". The label shall be readily visible on the exterior of the disconnect.

(b) 110.26 (A) (3) Height of working space. See this section of the NEC and add: Exception No. 3: In underground water well pump enclosures, service equipment or panel boards that do not exceed 200 amperes, operating at 250 volts or less and only feeding equipment associated with the water well enclosure, shall be permitted in spaces where the headroom is less than six and one half feet (6 1/2 ft.) but greater than five feet (5 ft.) provided the enclosure is supplied with a removable lid, that when removed would allow a minimum of six and one half feet (6 1/2 ft.) headroom.

C. Article 210.

Branch circuits. See this article of the NEC except as provided below.

(1) Section**210.11 Branch circuits required.****(a)****210.11 (A) Number of branch**

circuits. See this section of the NEC and add: In dwelling units, branch circuits for 125-volt, 15- and 20-ampere general purpose lighting and receptacles outlets shall be limited to a maximum of ten (10) lighting and/or receptacle outlets per branch circuit. Single and duplex receptacle outlets are considered to be one receptacle outlet. Exception: Branch circuits serving only lighting loads may be calculated per article 220 of the national electrical code.

(b)

210.11 (C) Dwelling units. See this section of the NEC except as provided below.

(i)**(1) Small appliance branch circuits.**

See this section of the NEC and add: not more than four (4) 20 ampere 125 volt receptacle outlets shall be connected to these circuits. Single and duplex receptacle outlets are considered to be one receptacle outlet. Exception: small appliance circuits that supply only dining area receptacles may serve not more than six (6) receptacle outlets.

(ii)

(2) Laundry branch circuits. Delete the text of this section of the NEC and substitute: in addition to the number of branch circuits required by other parts of this section, at least one additional 20-ampere branch circuit shall be provided to supply the laundry receptacle outlet. Such circuits shall have no other outlets.

(2) Section**210.19 Conductors - minimum**

ampacity and size. See this section of the NEC and add the following to subsection (A) Branch circuits not more than 600 volts: (1) General: add: conductors for branch circuits shall be sized to prevent excessive voltage drop. (2) General purpose branch circuits with more than one receptacle. Conductors of general purpose branch circuits supplying

more than one receptacle outlet for cord-and-plug connected portable loads shall have an ampacity of not less than the rating of the branch circuit and shall be not less than 12 AWG.

(3) Section**210.52 Dwelling unit receptacle outlets.****(a)****210.52 (A) General provisions.**

(2) Wall space. See this section of the NEC and add: exception: free-standing cabinets designed to be used as an eating or drinking bar where stools or chairs are pulled up to a counter top which extends at least one (1) foot from the front of the cabinet, shall not be considered as wall space.

(b)

210.52 (G) Basement, garages and accessory buildings. See this section of the NEC and add: receptacle outlets must be installed a minimum of eighteen (18) inches above finished floor, in attached or detached garages.

(4) Section**210.70 Lighting outlets required.****(a)**

210.70 (A) (2) Dwelling units - additional locations. See this section of the NEC and add a new subsection as follows: (d) on single family dwellings at least one wall switch, located within five (5) feet from each entrance or exit or automatic lighting control such as a motion detector shall be installed to control exterior illumination.

(b)

210.70 (A) (3) Dwelling units - storage or equipment spaces. See this section of the NEC and add: at least one (1) switched lighting outlet shall be installed in all accessible attics and crawl spaces adjacent to the usual point of entry.

(c)

210.70 (C) Other than dwelling units. See this section of the NEC and add: at least one (1) switched lighting outlet shall be installed in all accessible attics and crawl spaces adjacent to the usual point of entry.

D. Article 215.

Feeders. Section 215.1. Scope. See this section of the NEC and add: approved wiring methods for feeders:

nonmetallic-sheathed cable types NM, NMC and NMS (Article 334), and service entrance cable type SER (Article 338), shall be permitted to be used for feeders in dwelling units providing that the cables shall not pass through or under any other dwelling unit(s). Underground feeder and branch circuit cable type UF cable (Article 340) shall be permitted to be used underground for any occupancy, and indoors only in accordance with nonmetallic-sheathed cable (Article 334) providing that the cable shall not pass through or under any other dwelling unit(s).

E. Article 225.

Outside branch circuits and feeders. See this article of the NEC except as follows.

(1) Section**225.19 Clearance from buildings for conductors of not over 600 volts nominal-above roofs. (A)**

Above roofs. See this section of the NEC but delete exception no. 2 in its entirety.

(2) Section

225.32 Location. See this section of the NEC except as follows.

(a)

Add the following provision: the disconnecting means shall be installed at a readily accessible location. Where the disconnecting means is located outside the building or structure served, the disconnecting means enclosure shall be installed within ten (10) feet from the building or structure and visible, or on the exterior wall of the building or structure served. Where the disconnecting means is installed inside the building or structure served, the disconnecting means enclosure shall be located within forty-eight (48) inches from where the feeder conductor raceway enters the building or structure.

(b)

Delete the text of exception no. 1 and substitute: for industrial installations under single management, where documented safe switching procedures are established and maintained for disconnection, the disconnecting means shall be permitted to be located elsewhere on

the premises.

F. Article 230.

Services. See this article of the NEC except as provided below.

(1) Section

230.24 Clearances. (A) Above roofs. Delete exception no. 2 and exception no. 5 in their entirety.

(2) Section

230.28. Service masts as supports. See this section of the NEC and add: where a service mast is used for the support of service drop conductors, it shall be a minimum two inch (2") rigid metal conduit, intermediate metal conduit or comply with local utility requirements.

(3) Section

230.31 Size and rating. (A) General. See this section of the NEC and add: where the underground service lateral is customer owned, the service lateral conductors shall be sized to prevent excessive voltage drop. The maximum voltage drop on the service lateral conductors shall not exceed five percent (5%). For the purpose of this calculation, the ampacity shall be based on the calculated demand load of the building or structure served. Customer owned includes all non-utility owned or operated service lateral conductors.

(4) Section

230.43. Wiring methods for 600 volts, nominal, or less. See this section of the NEC but delete subsection (1) open wiring on insulators, and subsection (6), Electrical nonmetallic tubing (ENT).

(5) Section

230.54 Overhead service locations. See this section of the NEC and add a new section as follows: (H) overhead service support shall comply with the serving utility requirements or be at least six inch by six inch (6" x 6") pressure-treated timber or equivalent round poles (minimum 6" diameter crown) installed to a depth not less than four (4) feet below finish grade.

(6) Section

230.70 Service equipment - disconnecting means.

(a)

230.70 General. (A) Location. See this section of the NEC and add: the disconnecting means for each

occupant of a multiple occupancy building shall be grouped at a common location.

(b)

230.70 General. (A) Location. (1) Readily accessible location. Delete the text of this section of the NEC and substitute: (1) service disconnects located outside the building or structure. Where the service disconnect is located outside of the building or structure it shall be located in a readily accessible location within 48 inches of the metering equipment. Remote service disconnects that are located not more than 10 feet from the building or structure shall be considered to be located on the building or structure. Exception: Where metering equipment is installed at the utility transformer, the disconnecting means on the outside of the building shall be installed within 48 inches from where the service conductors emerge from the earth. (2) Service disconnects located inside the building or structure. Where the service disconnect is located inside of a building or structure it shall be located in a readily accessible location within 48 inches from the metering equipment or the service equipment enclosure shall be installed within 48 inches of where the service conductors penetrate the building or structure.

(7) Section

230.72 Grouping of service disconnects. (A) General. See this section of the NEC and add: all building or structure disconnects of each service shall be grouped at one location and shall be separated by the least practical distance, within sight of each other and not to exceed an overall distance of [~~twenty (20)~~] fifty (50) feet.

G. Article 250 -

Grounding and bonding. See this article of the NEC except as provided below.

(1) Section

250.50 Grounding electrode system. See this section of the NEC and add: on new construction, a concrete encased electrode shall be considered available and installed in compliance with NEC 250.52(A)

(3). If a concrete encased electrode is not present, then at least 20 feet of 2 AWG bare copper in direct contact with the earth at a depth below the earth's surface of not less than thirty (30) inches shall be installed in a continuous trench that is at least twenty (20) feet in length, augmented with a minimum of two (2), eight (8) foot grounds rods one at each end of the 2 AWG conductor.

(2) Section

250.52 (A) Grounding electrodes.

(5) Rod and pipe electrodes. See this section of the NEC but delete subsection (a) in its entirety.

(3) Section

250.53 (A) (2) Exception # 2. See this section of the NEC and add: A single grounding electrode consisting of a rod or plate may be utilized on temporary construction services rated 200 amperes or less.

(4) Section

250.66 Size of alternating-current grounding electrode conductor. (B) Connections to concrete-encased electrodes. See this section of the NEC and add: the grounding electrode conductor shall not be smaller than 4 AWG copper.

(5) Section

250.104. Bonding of piping systems and exposed structural steel. (B) Other metal piping. See this section of the NEC and add: CSST gas piping systems shall be bonded to the electrical service grounding electrode system at the point where the gas service enters the building. The bonding jumper shall not be smaller than (6) AWG copper wire.

(6) Section

250.106. Lightning protection systems. See this section of the NEC and add: Where a lightning protection system is installed, the bonding of the gas piping system shall be in accordance with NFPA 780, standard for installation of lightning protection systems.

(7) Section

250.118. Types of equipment grounding conductors. See this section of the NEC and add the following new subsection: (15) an equipment grounding conductor shall be installed in all branch circuit and

feeder raceways on or above a roof. The equipment grounding conductor shall be sized in accordance with table 250.122.

H. Article 300. Wiring methods. See this article of the NEC except as provided below.

(1) Section

300.11 Securing and supporting.

See this section of the NEC except as provided below.

(a)

300.11(A) Secured in place. See this section of the NEC and add: independent support wires shall be limited to support of flexible wiring methods from the last means of support or junction box for connections within an accessible ceiling to luminaire(s) or equipment served.

(b)

300.11 (A) (1). Fire rated assemblies. Delete the text of this section of the NEC and substitute: the ceiling support system shall be permitted to support listed junction boxes and/or support brackets that have been tested as part of a fire-rated assembly.

(c)

300.11 (A) (2). Non-fire rated assemblies. Delete the text of the exception and substitute: the ceiling support system shall be permitted to support listed junction boxes and/or support brackets where installed in accordance with the ceiling system manufacturer's instructions.

(2) Section

300.14. Length of free conductors at outlets, junctions, and switch points.

Delete the text of this section of the NEC and substitute: at least six (6) inches of free conductor, measured from the point in the box where it emerges from its raceway or cable sheath, shall be left at each outlet, junction, and switch point for splices or the connection of luminaire (fixtures) or devices. Where the opening of an outlet, junction, or switch point is less than eight (8) inches in any dimension, each conductor shall be long enough to extend at least six (6) inches outside of the opening.

I. Article 310.

Conductors for general wiring. See this article of the NEC and add the following new subsection 310.10 (J)

Conductor material. The use of aluminum current carrying conductors shall be of the AA-8000 series or equivalent and shall be limited to size 8 AWG or larger. Exception: the equipment-grounding conductor shall be limited to size 10 AWG or larger if in a listed cable assembly.

J. Article 334.

Nonmetallic-sheathed cable: Types NM, NMC and NMS.

(1) Section

334.10 Uses permitted. See this section of the NEC but delete subsection (4) and (5) in its entirety.

(2) Section

334.12 Uses not permitted. (A)

Types NM, NMC, and NMS. See this section of the NEC and add the following subsection: (11) type NM, NMC, or NMS shall not be installed in buildings, or structures such as stores, professional offices, motels, hotels, and other occupancies classified as R-1, R-4, commercial or industrial.

K. Article 340.

Underground feeder and branch

circuit cable: type UF. See this article of the NEC except as provided below.

(1) Section

340.10 Installation - uses permitted.

See this section of the NEC and add the following new subsections:

(a)

(8) type UF cable shall be permitted to be imbedded in adobe construction;

(b)

(9) type UF cable, or an approved electrical raceway shall be installed on straw bale residential construction.

(2) Section

340.12 Installation - uses not

permitted. See this section of the NEC and add the following new subsection: (12) Type UF cable shall not be installed in buildings or structures such as stores, professional offices, motels, hotels, or other occupancies classified as commercial or industrial.

L. Article 352 Rigid polyvinyl chloride conduit : Type PVC. See this article of the NEC and

add the following to section 352.10 uses permitted. (F) Exposed: PVC conduit, type schedule 40 shall not be used where the raceway is exposed and under eight (8) feet from finished floor or grade.

M. Article 358

Electrical metallic tubing: Type

EMT. See this article of the NEC and add the following section to 358.12 uses not permitted: (7) electrical metallic tubing shall not be permitted to be installed underground or in concrete slabs or walls which are in contact with the earth.

N. Article 394

Concealed knob and tube wiring.

See this article of the NEC and add the following to section 394.12 uses not permitted: concealed knob and tube wiring shall not be permitted to be installed except by special written permission from the electrical bureau.

O. Article 422.

Appliances. See this article of the NEC and add the following to section 422.19. evaporative cooling units: where an evaporative cooler is installed, a listed raceway shall be installed during rough-in from the control point to the evaporative cooler location. The raceway shall contain an equipment-grounding conductor from the control point outlet box to the junction box at the unit. The equipment grounding conductor shall be sized in accordance with table 250.122.

P. Article 550. Mobile

homes, manufactured homes and mobile home parks. See this article of the NEC except as provided below.

(1) Section

550.32 Service equipment. (A)

Mobile home service equipment.

Delete the text of this section of the NEC and substitute the following: the mobile home service equipment shall be located adjacent to the mobile home and not mounted in or on the mobile home. The service equipment shall be located in sight from and not more than one hundred (100) feet from the exterior wall of the mobile home it serves. The service equipment shall be permitted to be located elsewhere on the premises, provided that a disconnecting means

marked "suitable for use as service equipment" is located in sight from and not more than thirty (30) feet from the exterior wall of the mobile home it serves. Grounding at the disconnecting means shall be in accordance with 250.32.

(2) Section

550.32 Service equipment. See this section of the NEC and add the following new subsections.

(a)

(H) Required receptacle. A 125 volt 15 or 20 amp receptacle outlet shall be installed with ground fault circuit interruption protection at each remote mobile home or manufactured home service equipment, or the local external disconnecting means permitted in 550.32 (A).

(b)

(I) Overhead services. Overhead service support shall comply with the serving utility requirements or be at least six inch by six inch (6" x 6") pressure-treated timber or equivalent round poles (minimum 6" diameter crown) installed to a depth not less than four (4) feet below finish grade.

Q. Article 800.

Communications circuits. See this article of the NEC and add the following to Section 800.156: Any exterior wall penetration shall be installed in a listed raceway.

[14.10.4.11 NMAC - Rp, 14.10.4.11 NMAC, 6/28/2013; A, 8/1/2014; A, 2/1/2018]

End of Adopted Rules

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Other Material Related To Administrative Law

AGRICULTURE, DEPARTMENT OF

NOTICE OF MINOR, NONSUBSTANTIVE CORRECTION

The New Mexico Department of Agriculture gives Notice of Minor, Nonsubstantive Correction.

The following corrections have been identified and amended regarding:

21.17.36 NMAC, Pecan Weevil Interior Quarantine, emergency rule filed on November 2, 2017, published on November 20, 2017.

This correction clarifies that for the above rule and pursuant to the authority granted under State Rules Act, Paragraph D of Section 14-4-5 NMSA, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all published and electronic copies of the above rule:

1) Changed and re-numbered second Subsection H to Subsection I of 21.17.36.7 NMAC.

A copy of this Notification was filed with the official version of the above rule.

Copies of the referenced rule may be accessed through the New Mexico Department of Agriculture website at <http://www.nmda.nmsu.edu>. If you do not have Internet access, a copy of the proposed rule may be requested by contacting New Mexico Department of Agriculture 575-646-3007.

COMMISSION OF PUBLIC RECORDS

NOTICE OF MINOR, NONSUBSTANTIVE CORRECTION

The New Mexico Commission of Public Records gives Notice of Minor, Nonsubstantive Correction.

The following corrections have been identified and amended regarding:

1.13.30 NMAC, Disposition of Public Records and Non-Records, filed on November 16, 2017, published and effective on November 28, 2017.

This correction clarifies that for the above rule and pursuant to the authority granted under State Rules Act, Paragraph D of Section 14-4-5 NMSA, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all published and electronic copies of the above rule:

Added the missing Section 15 - DESTRUCTION OF RECORDS HELD BY CONTRACTORS back into the part.

A copy of this Notification was filed with the official version of the above rule.

Copies of the referenced rule may be accessed through the New Mexico Commission of Public Records Commission's website (www.nmcpr.state.nm.us) or by contacting Melissa Salazar at Melissa.Salazar@state.nm.us, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505 or 476-7911.

**End of Other
Material Related To
Administrative Law**

2017 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXVII, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 5	January 17
Issue 2	January 19	January 31
Issue 3	February 2	February 14
Issue 4	February 16	February 28
Issue 5	March 2	March 14
Issue 6	March 16	March 28
Issue 7	March 30	April 11
Issue 8	April 13	April 25
Issue 9	April 27	May 16
Issue 10	May 18	May 30
Issue 11	June 1	June 13
Issue 12	June 15	June 27
Issue 13	June 29	July 11
Issue 14	July 13	July 25
Issue 15	July 27	August 15
Issue 16	August 17	August 29
Issue 17	August 31	September 12
Issue 18	September 14	September 26
Issue 19	September 28	October 17
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

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

The New Mexico Register is available free online at: <http://www.nmcpr.state.nm.us/nmregister>. For further information, call 505-476-7942.