

New Mexico Register

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

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New Mexico Register

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Notices of Rulemaking and Proposed Rules

ENVIRONMENT DEPARTMENT ENVIRONMENTAL PROTECTION DIVISION

NOTICE OF PUBLIC MEETING AND RULEMAKING HEARING

The New Mexico Environmental Improvement Board ("Board") will hold a public hearing on April 28, 2017 at 9:30 a.m. in Room 307 of the State Capitol Building, 490 Old Santa Fe Trail, Santa Fe, New Mexico 87501. The purpose of the hearing is to consider the matter of EIB 16-06 (R), proposed amendments to the Air Quality Control Regulations codified in the New Mexico Administrative Code (NMAC) at 20.2.64 NMAC (Municipal Solid Waste Landfills) and revise the State's plan for implementing the federal emission guidelines for existing municipal solid waste landfills.

The proponent of this regulatory adoption and revision is the New Mexico Environment Department ("NMED").

The purpose of the public hearing is to consider and take possible action on a petition from NMED to amend 20.2.64 NMAC, incorporating by reference the federal emission guidelines codified at 40 CFR 60 Subpart Cf. The State rule is one part of the proposed revised plan which the U.S. Environmental Protection Agency requires the State to develop, demonstrating that NMED is able to implement the emission guidelines. Other parts of the proposed revised plan must include, per Clean Air Act Section 111(d) requirements, a landfill emissions inventory, a complete listing of closed and active landfills for which NMED has jurisdiction, a demonstration of authority to implement the emission guidelines, and a demonstration that public hearing procedures were followed.

The proposed regulatory amendments and revised plan may be reviewed

during regular business hours at the NMED Air Quality Bureau office, 525 Camino de los Marquez, Santa Fe, NM 87505, on NMED's web site at <https://www.env.nm.gov/air-quality/proposed-regs/>, or by contacting Cindy Hollenberg at (505) 476-4356 or cindy.hollenberg@state.nm.us. You may also contact Cindy Hollenberg if you are interested in attending an informational open house on the proposed amendment and revision.

The hearing will be conducted in accordance with 20.1.1 NMAC Rulemaking Procedures - Environmental Improvement Board, the Environmental Improvement Act, Section 74-1-9 NMSA 1978, the Air Quality Control Act Section 72-2-6 NMSA 1978 and other applicable procedures.

All interested persons will be given a reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Persons wishing to present technical testimony must file with the Board a written notice of intent to do so. The notice of intent shall:

- (1) identify the person for whom the witness(es) will testify;
- (2) identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of their education and work background;
- (3) summarize or include a copy of the direct testimony of each technical witness and state the anticipated duration of the testimony of that witness;
- (4) list and describe, or attach, each exhibit anticipated to be offered by that person at the hearing; and
- (5) attach the text of any recommended modifications to the proposed new and revised regulations.

Notices of intent at the hearing must be received in the Office of the Board not later than 5:00 pm on April 7,

2017, and should reference the docket number, EIB 16-06 (R) and the date of the hearing. Notices of intent to present technical testimony should be submitted to:

Pam Castaneda, Board Administrator
Environmental Improvement Board
P.O. Box 5469
Santa Fe, NM 87502
Phone (505) 827-2425
Fax (505) 827-2836
email: pam.castaneda@state.nm.us

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer exhibits in connection with that testimony, so long as the exhibit is not unduly repetitious of the testimony.

A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing, or submit it at the hearing.

Persons having a disability who need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing should contact Pam Castaneda no later than April 18, 2017 at (505) 827-2425 or pam.castaneda@state.nm.us.

The Board may make a decision on the proposed regulatory amendments and revised plan at the conclusion of the hearing, or the Board may convene a meeting after the hearing to consider action on the proposal.

AVISO DE REUNIÓN PÚBLICA Y AUDIENCIA DE REGLAMENTACIÓN

La Dirección de Mejoras Medioambientales de Nuevo México ("Dirección") tendrá una audiencia pública el 28 de abril del 2017 a las 9:30 a.m. en la sala 307 del edificio del Capitolio Estatal, 490 Old Santa

Fe Trail, Santa Fe, Nuevo México 87501. El propósito de la audiencia es considerar el asunto de la EIB 16-06 (R), enmiendas propuestas a las reglas de control de calidad del aire codificadas en el Código Administrativo de Nuevo México (NMAC, por sus siglas en inglés) en 20.2.64 NMAC – (Vertederos municipales de residuos sólidos) y modificar el plan del estado para implementar las pautas federales de emisiones para vertederos municipales de residuos sólidos.

Estas aplicación y modificaciones reglamentarias las propone el Departamento del Medio Ambiente de Nuevo México, (NMED, por sus siglas en inglés).

El propósito de la audiencia es enmendar 20.2.64 NMAC, incorporar por referencia las pautas federales de emisiones codificadas en la 40 CFR 60 Subparte Cf. La regla del estado es una parte del propuesto plan modificado que la Agencia de Protección Ambiental de EE. UU. requiere que el estado desarrolle, demostrando que el NMED es capaz de implementar las pautas de emisiones. Otras partes del propuesto plan modificado deben incluir un inventario de emisiones de vertedero, un listado completo de los vertederos activos y clausurados sobre los cuales el NMED tiene jurisdicción, prueba de autoridad para implementar las pautas de emisiones y una prueba de que los procedimientos de audiencias públicas se siguieron, de acuerdo con los requisitos del Artículo 111(d) de la Ley de Aire Limpio.

Las enmiendas reglamentarias propuestas y el plan modificado pueden revisarse durante horas hábiles en la oficina de Calidad del Aire del NMED, 525 Camino de los Márquez, Santa Fe, NM 87505, en el sitio en la red del NMED: <https://www.env.nm.gov/air-quality/proposed-regs/>, o comunicándose con Cindy Hollenberg en el (505) 476-4356 o por el correo electrónico a cindy.hollenberg@state.nm.us. También puede comunicarse con Cindy Hollenberg si está

interesado en asistir a una reunión informativa sobre las propuestas enmiendas y modificaciones.

La audiencia se llevará a cabo de acuerdo con los 20.1.1 NMAC Procedimientos de reglamentación – Dirección de Mejoras Medioambientales, la Ley de Mejoras Medioambientales, Artículo 74-1-9 NMSA 1978, la Ley de Control de Calidad del Aire, Artículo 72-2-6 NMSA 1978 y otros procedimientos que apliquen.

A todos los interesados se les dará una oportunidad razonable en la audiencia para presentar pruebas pertinentes, información, puntos de vista y argumentos, orales o escritos, para presentar pruebas e interrogar testigos. Las personas que deseen dar testimonio técnico deben presentar a la Dirección un aviso de intención escrito. El aviso de intención debe:

- (1) identificar a la persona por quién el testigo (los testigos) dará(n) testimonio;
- (2) identificar a cada testigo técnico que la persona presentará, indicar la capacidad educativa del testigo e incluir una descripción de sus antecedentes educativos y profesionales;
- (3) resumir o incluir una copia del testimonio directo de cada testigo técnico e indicar el tiempo que se anticipa tomará el testimonio de ese testigo;
- (4) listar y describir, o adjuntar, cada prueba que la persona vaya a presentar en la audiencia; y,
- (5) adjuntar el texto de cualquier modificación recomendada a las propuestas reglas nuevas y modificadas.

Los avisos de intención para presentar testimonio técnico en la audiencia deben recibirse en la oficina de la Dirección a más tardar las 5:00 p.m. del 7 de abril del 2017 y deben hacer referencia al número EIB 16-06 (R) y a la fecha de la audiencia. Los avisos de intención para presentar testimonio técnico deben presentarse a:

Pam Castaneda, Board Administrator
Environmental Improvement Board
P.O. Box 5469
Santa Fe, NM 87502]
Teléfono (505) 827-2425
Fax (505) 827-2836]
Correo electrónico: pam.castaneda@state.nm.us

Cualquier miembro del público puede dar testimonio en la audiencia. No se requiere avisar con antelación para presentar testimonio que no sea técnico en la audiencia. Dicha persona también puede presentar pruebas relacionadas con ese testimonio, siempre y cuando las pruebas no sean repetitivas del testimonio.

Un miembro del público que desee presentar una declaración escrita para que conste en el acta, en lugar de dar declaraciones orales en la audiencia, deberá presentar una declaración por escrito antes de la audiencia o en la audiencia.

Las personas discapacitadas que necesiten a alguien que les lea, amplifique o interprete en lenguaje de señas, o cualquier otro tipo de asistencia o servicio para asistir o participar en la audiencia deben comunicarse con Pam Castaneda a más tardar el 18 de abril del 2017 al (505) 827-2425 o pam.castaneda@state.nm.us.

La Dirección puede tomar una decisión sobre las enmiendas reglamentarias propuestas al concluir la audiencia o puede convocar a una reunión después de la audiencia para considerar qué hacer sobre la propuesta.

ENVIRONMENT DEPARTMENT ENVIRONMENTAL PROTECTION DIVISION

NOTICE OF RULEMAKING HEARING

The New Mexico Environmental Improvement Board ("Board") will hold a public hearing on April

28, 2017 at 9:30 a.m. in Room 307 of the State Capitol Building, 490 Old Santa Fe Trail, Santa Fe, New Mexico 87501. The purpose of the hearing is to consider the matter of EIB 16-04(R), proposed amendments to the Air Quality Control Regulations codified in the New Mexico Administrative Code (NMAC) at 20.2.77 NMAC (New Source Performance Standards), 20.2.78 NMAC (Emission Standards for Hazardous Air Pollutants), and 20.2.82 NMAC (Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants).

The proponent of these regulatory amendments is the New Mexico Environment Department (NMED).

The purpose of the public hearing is to consider and take possible action on a petition from NMED to amend 20.2.77 NMAC, 20.2.78 NMAC and 20.2.82 NMAC by incorporating by reference the new rules, corrections, revisions and amendments to the federal New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP) and Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants (MACT) which were promulgated by the U.S. Environmental Protection Agency (EPA) and published in the Federal Register from the most recent date of incorporation by reference (September 15, 2015) through January 15, 2017.

The proposed revised regulations and the list of federal standards to be incorporated by reference may be reviewed during regular business hours at the NMED Air Quality Bureau office, 525 Camino de los Marquez, Santa Fe, New Mexico, on NMED's web site at <https://www.env.nm.gov/air-quality/proposed-regs/>, or by contacting Mark Jones at 505-566-9746 or mark.jones@state.nm.us. You may also contact Mark Jones if you are interested in attending an informational open house on the

proposed incorporation by reference.

The hearing will be conducted in accordance with 20.1.1 NMAC Rulemaking Procedures – Environmental Improvement Board, the Environmental Improvement Act, Section 74-1-9 NMSA 1978, the Air Quality Control Act Section 74-2-6 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. Persons wishing to present technical testimony must file with the Board a written notice of intent to do so. The notice of intent shall:

- (1) identify the person for whom the witness(es) will testify;
- (2) identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of their education and work background;
- (3) summarize or include a copy of the direct testimony of each technical witness and state the anticipated duration of the testimony of that witness;
- (4) list and describe, or attach, each exhibit anticipated to be offered by that person at the hearing; and
- (5) attach the text of any recommended modifications to the proposed new and revised regulations.

Notices of intent to present technical testimony at the hearing must be received in the Office of the Board not later than 5:00 pm on March 24, 2017, and should reference the docket number, EIB 16-04(R) and the date of the hearing. Notices of intent to present technical testimony should be submitted to:

Pam Castañeda, Board Administrator
Environmental Improvement Board
P. O. Box 5469
Santa Fe, NM 87502
Phone (505) 827-2425
Fax (505) 827-2836

email: pam.castaneda@state.nm.us

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer exhibits in connection with that testimony as long as the exhibit is not unduly repetitious of the testimony.

A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing or submit it at the hearing.

Persons having a disability who need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing should contact Pam Castañeda no later than April 4, 2017 at (505) 827-2425 or pam.castaneda@state.nm.us.

The Board may make a decision on the proposed revised regulations at the conclusion of the hearing, or the Board may convene a meeting after the hearing to consider action on the proposal.

AVISO DE REUNIÓN PÚBLICA Y AUDIENCIA DE REGLAMENTACIÓN

La Dirección de Mejoras Medioambientales de Nuevo México ("Dirección") tendrá una audiencia pública el 28 de abril del 2017 a las 9:30 a.m. en la sala 307 del edificio del Capitolio Estatal, 490 Old Santa Fe Trail, Santa Fe, Nuevo México 87501. El propósito de la audiencia es considerar el asunto de la EIB 16-04 (R), enmiendas propuestas a las reglas de control de calidad del aire codificadas en el Código Administrativo de Nuevo México (NMAC, por sus siglas en inglés) en 20.2.77 NMAC – (Estándares de desempeño para fuentes nuevas), 20.2.78 NMAC (Estándares de emisiones para contaminantes del aire peligrosos) y 20.2.82 NMAC (Estándares de control tecnológico

de máximo rendimiento para las diferentes fuentes de contaminantes del aire peligrosos).

Estas enmiendas reglamentarias las propone el Departamento del Medio Ambiente de Nuevo México, (NMED, por sus siglas en inglés).

El propósito de la audiencia es enmendar 20.2.77 NMAC, 20.2.78 NMAC y 20.2.82 NMAC, incorporando por referencia las reglas nuevas, correcciones, modificaciones y enmiendas a los Estándares de desempeño para fuentes nuevas (NSPS, por sus siglas en inglés), Estándares de emisiones nacionales para contaminantes del aire peligrosos (NESHAP, por sus siglas en inglés) y Estándares de control tecnológico de máximo rendimiento para las diferentes fuentes de contaminantes del aire peligrosos (MACT, por sus siglas en inglés), las cuales fueron promulgadas por la Agencia de Protección Ambiental de EE. UU. (EPA, por sus siglas en inglés) y publicadas en el Registro Federal a partir de la fecha de incorporación por referencia más reciente (el 15 de septiembre del 2015) hasta el 15 de enero del 2017.

Las propuestas reglas modificadas propuestas y la lista de estándares federales a incorporarse por referencia pueden revisarse durante horas hábiles en la oficina de Calidad del Aire del NMED, 525 Camino de los Márquez, Santa Fe, NM 87505, en el sitio en la red del NMED: <https://www.env.nm.gov/air-quality/proposed-regs/>, o comunicándose con Mark Jones en el (505) 566-9746 o por el correo electrónico a mark.jones@state.nm.us. También puede comunicarse con Mark Jones si está interesado en asistir a una reunión informativa sobre las propuestas enmiendas y modificaciones.

La audiencia se llevará a cabo de acuerdo con los 20.1.1 NMAC Procedimientos de reglamentación – Dirección de Mejoras Medioambientales, la Ley de Mejoras Medioambientales, Artículo 74-1-9

NMSA 1978, la Ley de Control de Calidad del Aire, Artículo 72-2-6 NMSA 1978 y otros procedimientos que apliquen.

A todos los interesados se les dará una oportunidad razonable en la audiencia para presentar pruebas pertinentes, información, puntos de vista y argumentos, orales o escritos, para presentar pruebas e interrogar testigos. Las personas que deseen dar testimonio técnico deben presentar a la Dirección un aviso de intención escrito. El aviso de intención debe:

- (1) identificar a la persona por quién el testigo (los testigos) dará(n) testimonio.
- (2) identificar a cada testigo técnico que la persona presentará, indicar la capacidad educativa del testigo e incluir una descripción de sus antecedentes educativos y profesionales;
- (3) resumir o incluir una copia del testimonio directo de cada testigo técnico e indicar el tiempo que se anticipa tomará el testimonio de ese testigo;
- (4) listar y describir, o adjuntar, cada prueba que la persona vaya a presentar en la audiencia; y,
- (5) adjuntar el texto de cualquier modificación recomendada a las propuestas reglas nuevas y modificadas.

Los avisos de intención para presentar testimonio técnico en la audiencia deben recibirse en la oficina de la Dirección a más tardar las 5:00 p.m. del 7 de abril del 2017 y deben hacer referencia al número EIB 16-04 (R) y a la fecha de la audiencia. Los avisos de intención para presentar testimonio técnico deben presentarse a:

Pam Castaneda, Board Administrator
Environmental Improvement Board
P.O. Box 5469
Santa Fe, NM 87502]
Teléfono (505) 827-2425
Fax (505) 827-2836]
Correo electrónico: pam.castaneda@state.nm.us

Cualquier miembro del público puede

dar testimonio en la audiencia. No se requiere avisar con antelación para presentar testimonio que no sea técnico en la audiencia. Dicha persona también puede presentar pruebas relacionadas con ese testimonio, siempre y cuando las pruebas no sean repetitivas del testimonio.

Un miembro del público que desee presentar una declaración escrita para que conste en el acta, en lugar de dar declaraciones orales en la audiencia, deberá presentar una declaración por escrito antes de la audiencia o en la audiencia.

Las personas discapacitadas que necesiten a alguien que les lea, amplifique o interprete en lenguaje de señas, o cualquier otro tipo de asistencia o servicio para asistir o participar en la audiencia deben comunicarse con Pam Castaneda a más tardar el 18 de abril del 2017 al (505) 827-2425 o pam.castaneda@state.nm.us.

La Dirección puede tomar una decisión sobre las enmiendas reglamentarias propuestas al concluir la audiencia o puede convocar a una reunión después de la audiencia para considerar qué hacer sobre la propuesta.

ENVIRONMENT DEPARTMENT RADIATION CONTROL BUREAU

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO 20.3.1 NMAC, 20.3.3 NMAC, 20.3.4 NMAC, 20.3.5 NMAC, 20.3.7 NMAC, 20.3.12 NMAC, AND 20.3.15 NMAC OF THE RADIATION PROTECTION REGULATIONS

The New Mexico Environmental Improvement Board (Board) will hold a public hearing beginning at 9:30 a.m. on Friday, April 28, 2017, and continuing thereafter as necessary at the New Mexico State Capitol Building, Room 307, 490 Old Santa

Fe Trail, Santa Fe, New Mexico, 87501. The hearing location may change prior to the hearing date, and those interested in attending should check the EIB website: <http://www.env.nm.gov/eib> prior to the hearing. The purpose of the hearing is to consider proposed amendments to the following regulations: 20.3.1 NMAC "General Provisions"; 20.3.3 NMAC "Licensing of Radioactive Materials"; 20.3.4 NMAC "Standards for Protection Against Radiation"; 20.3.5 NMAC "Radiation Safety Requirements for Industrial Radiographic operations"; 20.3.7 NMAC "Medical use of Radionuclides"; 20.3.12 NMAC "Radiation Safety Requirements for Well Logging operations and tracer studies"; 20.3.15 "NMAC License and Radiation Safety Requirements for Irradiators." The New Mexico Environment Department Radiation Control Bureau (NMED) is the proponent of the proposed amendments.

The amendments proposed by NMED are to align certain provisions within the state regulations with mandatory federal requirements. New Mexico must maintain a Radiation Protection Program compatible with the Nuclear Regulatory Commission (NRC). This includes revising New Mexico rules to conform to changes in the federal regulations.

In addition, the proposed amendments include several other minor changes and clarifications to current definitions, regulations, and procedures. Please note that formatting and minor technical changes in the regulations other than those proposed by NMED may be proposed at the hearing. In addition, the Board may make other changes as necessary to accomplish the purpose of providing public health and safety in response to public comments and evidence presented at the hearing.

The proposed amendments may be reviewed during regular business hours at the office of the Environmental Improvement Board

located in the Harold Runnels Building, 1190 South St. Francis Drive, Room S-2102 Santa Fe, NM, 87505. In addition, a copy of the NMED proposed amendments is posted on the NMED website at <https://www.env.nm.gov/nmrcb/home.html>.

The hearing will be conducted in accordance with 20.1.1 NMAC (Rulemaking Procedures - Environmental Improvement Board), the Environmental Improvement Act, Section 74-1-9 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 who wishes 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 20.1.1.302 NMAC, persons wishing to present technical testimony must file with the Board a written notice of intent to do so on or before 5:00 p.m. on April 7, 2017. 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;
- 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, including any proposed statement of reasons for adoption of the rule language being

proposed.

Notices of intent for the hearing must be received in the Office of the Environmental Improvement Board no later than 5:00 p.m. on April 7, 2017 and should reference the name of the regulation, the date of the hearing, and docket number EIB 16-05(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
1190 South St. Francis Dr., Room S-2102
Santa Fe, NM 87505

Any person who wishes 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 16-05(R).

If you are an individual with a disability and you require assistance or an auxiliary aid, e.g. sign language interpreter, to participate in any aspect of this process, please contact Vincent Velarde by April 7, 2017. The Human Resources Bureau can be reached at the New Mexico Environment Department, 1190 St. Francis Drive, Santa Fe, NM 87502, (505) 383-2058. TDD or TDY users may access this number via the New Mexico Relay Network (Albuquerque TDD users: (505) 275-7333; outside of Albuquerque: 1-800-659-1779 (voice); TTY users: 1-800-659-8331). Copies of the proposed amendments will be available in alternative forms if requested by April 7, 2017.

The Board may make a decision on the proposed regulatory change at the conclusion of the hearing, or the Board may convene a meeting after

the hearing to consider action on the proposal.

**CONSEJO DE MEJORA
AMBIENTAL DE NUEVO
MÉXICO
AVISO DE AUDIENCIA
PÚBLICA PARA CONSIDERAR
LAS ENMIENDAS A LAS
SIGUIENTES SECCIONES DEL
CÓDIGO ADMINISTRATIVO
DE NUEVO MÉXICO: 20.3.1
NMAC, 20.3.3. NMAC, 20.3.4
NMAC, 20.3.5 NMAC, 20.3.7
NMAC, 20.3.12 NMAC, Y 20.3.15
NMAC DE LAS NORMAS DE
PROTECCIÓN CONTRA LA
RADIACIÓN**

El Consejo de Mejora Ambiental de Nuevo México (Consejo) tendrá una audiencia pública que iniciará a las 9:30 a.m. el Viernes, 28 de Abril de 2017 y continuará a partir de esa hora según sea necesario en el Edificio del Capitolio del Estado de Nuevo México (*New Mexico State Capitol Building*), Sala 307, ubicado en 490 Old Santa Fe Trail, Santa Fe, New Mexico, 87501. La ubicación de la audiencia pudiera cambiar previo a la fecha de esta, y aquellos que estén interesados en asistir deberían revisar el sitio de internet del Consejo: <http://www.env.nm.gov/eib> antes de la audiencia.

El propósito de la audiencia es considerar las enmiendas propuestas a las siguientes normas: 20.3.1 NMAC “Disposiciones Generales”; 20.3.3 NMAC “Otorgamiento de Licencias de Materiales Radioactivos”; 20.3.4 NMAC “Estándares para la Protección en Contra de la Radiación”; 20.3.5 NMAC “Requisitos de Seguridad de Radiación para las Operaciones Radiográficas Industriales”; 20.3.7 NMAC “Uso Médico de Radionucleidos”; 20.3.12 NMAC “Requisitos de Seguridad de Radiación para operaciones y estudios realizados sobre muestras seleccionadas de Sondeo de Pozos”; 20.3.15 “Licencia NMAC y Requisitos de Seguridad de Radiación para Irradiadores”. La Oficina de Control de Radiación del

Departamento Ambiental de Nuevo México (NMED, por sus siglas en inglés) es la proponente de las enmiendas propuestas.

Las enmiendas propuestas por el NMED son para alinear ciertas disposiciones dentro de las normas estatales con los requisitos federales obligatorios. El Estado de Nuevo México debe mantener el Programa de Protección contra la Radiación compatible con la Comisión Regulatoria Nuclear (NRC, por sus siglas en inglés). Esto incluye revisar las reglas de Nuevo México para que se ajusten a los cambios en las normas federales.

Además, las enmiendas propuestas incluyen varios otros cambios menores y clarificaciones a las definiciones, normas y procedimientos actuales. Favor de tener en cuenta que el formato y los cambios técnicos menores en las normas diferentes a los propuestos por el NMED pueden ser propuestos en la audiencia. Además, el Consejo pudiera hacer otros cambios según sea necesario para cumplir el propósito de proporcionar salud y seguridad públicas en respuesta a los comentarios públicos y la evidencia presentada en la audiencia.

Las enmiendas propuestas pueden ser revisadas durante el horario regular en la oficina del Consejo de Mejora Ambiental ubicada en el Edificio Harold Runnels, 190 South St. Francis Drive, Room S-2102 Santa Fe, NM, 87505. Además, una copia de las enmiendas propuestas del NMED está publicada en el sitio de internet de NMED en: <https://www.env.nm.gov/nmrcb/home.html>.

La audiencia se conducirá de conformidad con 20.1.1 NMAC (Procedimientos para Formular Normas – Consejo de Mejora Ambiental), la Ley de la Mejora Ambiental, Sección 74-1-9 NMSA de 1978 y otros procedimientos aplicables.

A todas las personas interesadas se

les dará la oportunidad razonable en la audiencia de presentar evidencia, datos, puntos de vista y argumentos relevantes, de manera oral o escrita, para presentar sus pruebas e interrogar a los testigos. Cualquier persona que desee presentar una declaración escrita no técnica para que sea registrada en vez del testimonio oral, deberá presentar tal declaración antes del cierre de la audiencia.

De conformidad con 20.1.1.302 NMAC, las personas que deseen presentar testimonio técnico deben presentarle al Consejo un aviso de intención por escrito de que harán tal cosa a, o antes de, las 5:00 p.m. el 7 de Abril de 2017. El aviso de intención deberá:

- identificar a la persona o entidad para quien el/los testigo(s) testificarán;
- identificar a cada testigo técnico a quien la persona tiene la intención de presentar y declarar las aptitudes profesionales de/l/la testigo, incluyendo una descripción de su educación y antecedentes de empleo;
- incluir una copia del testimonio directo de cada testigo técnico en forma narrativa;
- incluir el texto de cualesquiera modificaciones recomendadas para el cambio regulatorio propuesto; y
- enumerar y adjuntar todas las pruebas anticipadas que han de ser ofrecidas por esa persona en la audiencia, incluyendo cualquier declaración propuesta de las razones para la adopción del lenguaje de la regla que se está proponiendo.

Los avisos de intención para la audiencia deben ser recibidos en la Oficina del Consejo de Mejora Ambiental no después de las 5:00 p.m. el 7 de Abril de 2017 y deberán hacer referencia al nombre de la norma, la fecha de la audiencia y el número de expediente EIB 16-05(R). Los avisos de intención que han de presentar testimonio técnico deberán

entregarse a:

Pam Castañeda, Administradora de
Consejos y Comisiones
Oficina del Consejo de Mejora
Ambiental
Harold Runnels Building
1190 South St. Francis Dr., Room
S-2102
Santa Fe, NM 87505

Cualquier persona que desee hacerlo, puede ofrecer un comentario público no técnico en la audiencia, o presentar una declaración por escrito no técnica en lugar del testimonio oral durante o antes de la audiencia. Los comentarios escritos con respecto a las revisiones propuestas pueden dirigirse a la Sra. Pam Castañeda, Administradora de Consejos y Comisiones, en la dirección mencionada arriba, y deberán hacer referencia al número de expediente EIB 16-05(R).

Si usted es una persona con alguna discapacidad y usted requiere de apoyo o de alguna ayuda auxiliar, por ejemplo, un intérprete de lenguaje de señas, para participar en cualquier aspecto de este proceso, por favor contacte a Vincent Velarde antes del 7 de Abril de 2017. La Oficina de Recursos Humanos puede ser contactada en el Departamento Ambiental de Nuevo México en 1190 St. Francis Drive, Santa Fe, NM 87502 ó al (505) 383-2058. Los usuarios de dispositivos de telecomunicaciones para sordos o de teléfonos de texto (TDD/TDY, en inglés) pueden acceder a este número a través de la Red de Retransmisión de Nuevo México (usuarios de dispositivos de telecomunicaciones para sordos de Albuquerque: (505) 275-7333; fuera de Albuquerque: 1-800-659-1779 (voz); usuarios de teléfonos de texto: 1-800-659-8331). Las copias de las enmiendas propuestas estarán disponibles en formas alternativas si son solicitadas antes del 7 de Abril de 2017.

El Consejo puede tomar una decisión sobre el cambio regulatorio propuesto en la conclusión de la audiencia, o el Consejo puede hacer arreglos para

una reunión después de la audiencia para considerar la acción sobre la propuesta.

HEALTH, DEPARTMENT OF

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on the proposed repeal of 7.20.2 NMAC- "Comprehensive Behavioral Health Standards" at 9:00 a.m. on March 1, 2017 in the Harold Runnels Building Auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico 87502. Changes in the standards for the delivery of behavioral health services in New Mexico have been codified in 7.21.2 NMAC - "Standards of Delivery for Behavioral Health Services," which has superseded 7.20.2 NMAC.

The public hearing will be conducted to receive public comment on the proposed repeal of 7.20.2 NMAC. The current rule is available at <http://164.64.110.239/nmac/parts/title07/07.020.0002.htm>. Please submit any written comments regarding the proposed repeal of 7.20.2 NMAC to the attention of Samantha Baca at P.O. Box 26110, Santa Fe, New Mexico 87502 or Samantha.Baca@state.nm.us.

If you are an individual with a disability who is need of special assistance or accommodations to attend or participate in the hearing, please contact Samantha Baca by telephone at (505) 476-3543. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

NOTICE OF PUBLIC HEARING

The Human Service Department

(HSD) is extending the public comment period and will hold an additional public hearing on the proposed New Mexico Modified Combined Application Project (NMCAP) regulations published June 1, 2009. The additional hearing will be held on Wednesday, March 15, 2017, from 9:00 a.m. to 11:00 a.m., at the HSD Income Support Division (ISD) conference room, 2009 S. Pacheco Street, Santa Fe, NM. The conference room is located in Room 120 on the lower level of Pollon Plaza.

The New Mexico Human Services Department is amending regulation at 8.139.503 NMAC, New Mexico Modified Combined Application Project (NMCAP). NMCAP was to increase access to the nutrition benefits offered by the Supplemental Nutrition Assistance Program (SNAP) among elderly and disabled populations receiving supplemental security income (SSI). This pilot program sunset effective, May 2014.

The Human Services Register Vol. 39 No. 21 outlining the proposed regulations is available on the HSD's website at: <http://www.hsd.state.nm.us/LookingForInformation/income-support-division-registers.aspx>. Individuals wishing to testify or to request a copy of the proposed regulations should contact the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, NM 87504-2348, or by calling 505-827-7254.

If you are a person with a disability and you require this information in an alternative format, or you require a special accommodation to participate in any HSD public hearing, program, or service, please contact the Assistant General Counsel/American Disabilities Act Coordinator, at 505-827-6201 or through the New Mexico Relay system, at 711 or toll free at 1-800-659-1779. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

Individuals who do not wish to attend

the hearing may submit written comments which must be received by 4:30 p.m. on the date of the hearing, Wednesday, March 15, 2017. Please send comments to:

Human Services Department
P.O. Box 2348, Pollon Plaza
Santa Fe, New Mexico 87504-2348

You may also send comments electronically to: HSD-isdrules@state.nm.us

PUBLIC REGULATION COMMISSION

NOTICE OF PROPOSED RULEMAKING

The Public Regulation Commission gives notice that in case number 17-00010-UT it has initiated a proposed rulemaking promulgating revisions to the Energy Efficiency Rule for the purpose of rewriting Section 8 of Part 2 of Title 17 of Chapter 7 of the New Mexico Administrative Code (17.7.2.8 NMAC) with an effective date of April 25, 2017.

Copies of the Order Establishing Rulemaking Docket and Issuing Notice of Proposed Rulemaking containing additional information, a copy of the proposed rule changes, and filing instructions may be downloaded from the Proposed Rulemaking section of the Commission's website at <http://www.nmprc.state.nm.us> under Case No. 17-00010-UT or by calling the Commission's Records Management Bureau at (505) 827-6968 (Melanie Sandoval) or (505) 827-6970 (Heather Cordova).

Written Initial Comments and written Response Comments shall be filed by the deadlines below with the NMPRC's Record's Management Bureau at P.O. Box 1269, Santa Fe, NM 87504-1269 or by hand delivery to the NMPRC Records Management Bureau at 1120 Paseo de Peralta, Room 406, Santa Fe, NM 87501 as follows: Written comments shall be

filed not later than **March 16, 2017** and written responses not later than **March 27, 2017**. Comments shall refer to Case No. 17-00010-UT.

A public comment hearing will be held in this matter. The public comment hearing will be held on **March 31, 2017, beginning at 10:30 a.m. in Santa Fe** at the offices of the Commission located in the 4th Floor Hearing Room of the old PERA Building, at 1120 Paseo de Peralta, in Santa Fe, NM 87501. The purpose of the public comment hearing is to give interested individuals an opportunity to provide oral comments about the proposed rulemaking. The Commission may limit the time for each comment to a consistent limited number of minutes per commenter. Only oral comments, but no testimony or other evidence, shall be taken at the hearing because this docket is a rulemaking proceeding. The record of this case will close on **April 7, 2017**. Interested persons should contact the Commission to confirm the date, time, and place of this public hearing because hearings are occasionally rescheduled.

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

Statutory Authority: New Mexico Constitution, Article XI, Section 2; NMSA 1978, Paragraph (10) of Subsection B of Section 8-8-4 (1998), Section 8-8-15, and Section 62-17-8.

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.

AGRICULTURE, DEPARTMENT OF

TITLE 21 AGRICULTURE AND RANCHING CHAPTER 17 PEST, DISEASE, AND WEED CONTROL PART 36 PECAN WEEVIL INTERIOR QUARANTINE

21.17.36.1 ISSUING

AGENCY: New Mexico State University, New Mexico Department of Agriculture.

[21.17 36.1 NMAC - N/E, 1/27/2017]

21.17.36.2 SCOPE: Part 36 of Chapter 17 applies to any person(s) transporting regulated articles out of, or within the designated quarantine area.

[21.17 36.2 NMAC - N/E, 1/27/2017]

21.17.36.3 STATUTORY

AUTHORITY: Granted to the board of regents of New Mexico state university under the Pest Control Act, Chapter 76, Article 6, Sections 1 through 9, NMSA 1978 Compilation.

[21.17 36.3 NMAC - N/E, 1/27/2017]

21.17.36.4 DURATION:

3/28/2017

[21.17 36.4 NMAC - N/E, 1/27/2017]

21.17.36.5 EFFECTIVE

DATE: January 27, 2017.

[21.17 36.5 NMAC - N/E, 1/27/2017]

21.17.36.6 OBJECTIVE: The objective of Part 36 of Chapter 17 is to prevent further spread of pecan weevil to New Mexico counties not known to be infested based on the findings from the office of the director of the department of agriculture. The findings of the director include pecan weevil being initially identified in residential pecan trees in Clovis and Roswell New Mexico in December

2016 and January 2017. The findings have also determined that there has been a significant increase in pecan weevil infested residential trees in Artesia and Hobbs, New Mexico, where eradication efforts are already underway. In order to protect the economic viability of New Mexico's pecan industry, it is necessary to restrict the movement of in-shell pecans out of the identified areas, in order to reduce the risk of exposing pecan trees in other pecan weevil free regions, orchards, and processing facilities in the state to pecan weevil.

[21.17 36.6 NMAC - N/E, 1/27/2017]

21.17.36.7 DEFINITIONS:

A. "Pecan weevil"

synonyms to include: *curculio caryae* (Horn) and nomenclature that refers to any viable developmental stage of pecan weevil.

B. "Board" the board of regents of New Mexico state university or any officer or employee to whom authority to act in their stead has been or hereafter may be delegated.

C. "Certificate"

synonym to include 'state phytosanitary certificate', 'compliance document', 'compliance agreement' or any other document issued by the department indicating that a regulated article has been found or believed to be free of pecan weevil in accordance to restrictions outlined in Section 21.17.36.10.

D. "Department"

means the New Mexico department of agriculture and authorized staff.

E. "Developmental stage" includes adult, pupae, larvae, and egg.

F. "Inspection" visual inspection of in-shell pecan nuts and any plant associated plant material related to the harvest, cleaning, or other processes related to pecan by a

department authorized agent.

G. "Infested"

reasonable expectation that regulated articles may harbor any developmental stage of pecan weevil. All regulated articles originating within a quarantine area will be considered infested, unless accompanied by a certificate.

H. "Regulated

article" all pecan related entities capable of harboring any live developmental stage of pecan weevil including in-shell pecans, plant material related to production or harvesting of pecan, and related equipment.

[21.17.36.7 NMAC - N/E, 1/27/2017]

21.17.36.8 PECAN WEEVIL INTERIOR QUARANTINE:

Pecan weevil is not known to be a widespread pest of pecan in New Mexico. In order to prevent further spread of pecan weevil in the state, the director hereby orders and declares that regulated articles originating from quarantined areas may not be transported out of the quarantined area except under restrictions herein described.

[21.17.36.8 NMAC - N/E, 1/27/2017]

21.17.36.9 QUARANTINE

AREAS: quarantined area defined as the areas within the city limits of Artesia, Clovis, Hobbs, and Roswell, New Mexico.

[21.17.36.9 NMAC - N/E, 1/27/2017]

21.17.36.10 RESTRICTIONS:

A certificate must accompany all regulated articles that will be transported out of the quarantine area. A certificate may be issued either directly by the department or under a compliance agreement for regulated articles that comply with one or more of the following appropriate certification restrictions:

A. sold, traded, or gifted in a manner that ensures regulated articles meet the phytosanitary requirements of the receiving location and are transported in a department approved manner;

B. all regulated articles treated at zero degrees fahrenheit for 168 continuous hours, or treated using other department approved treatment methods;

C. based on inspection of a representative sample in which no regulated article exhibit signs indicative of being infested with pecan weevil or are infested with pecan weevil;

D. originating in the quarantined area but believed by the department not to be currently infested with pecan weevil.
[21.17.36.10 NMAC - N/E, 1/27/2017]

21.17.36.11 DISPOSAL:

Disposal of regulated articles within the quarantine area will be conducted in a manner that prevents further spread of pecan weevil within or out of the quarantine area. Any regulated item arriving in, or being transported through, any non-quarantined area without prior certification from the department is subject to immediate disposal to prevent the spread or establishment of the pecan weevil in the non-quarantined area. The disposal will be at the expense of the owners or his agents and under the direction of the department.
[21.17.36.11 NMAC - N/E, 1/27/2017]

21.17.36.12 EXEMPTIONS:

The director may authorize specific exemptions to this rule or authorize additional certification requirements or restrictions.
[21.17.36.12 NMAC - N/E, 1/27/2017]

21.17.36.13 DISPOSITION OF VIOLATIONS:

Failure to comply with the requirements as stated above shall be a violation of this rule and subject to penalties as provide under Chapter 76, Article 6, Section 9, NMSA 1978.

[21.17.36.13 NMAC - N/E, 1/27/2017]

21.17.36.14 LIABILITY

DISCLAIMER: The board disclaims liability for any costs incident to inspection or compliance with the provisions of this rule.

[21.17.36.14 NMAC - N/E, 1/27/2017]

HISTORY OF 21.17.36 NMAC: [RESERVED]

REGULATION AND LICENSING DEPARTMENT PUBLIC ACCOUNTANCY BOARD

This is an amendment to 16.60.1 NMAC, Section 8, effective March 3, 2017.

16.60.1.8

HEADQUARTERS OF THE BOARD:

The headquarters, administrative offices, and staff of the board shall be physically located at [~~5200 Oakland NE, Suite D, Albuquerque, New Mexico, 87113~~] 5500 San Antonio Dr. NE, Suite A, Albuquerque, New Mexico, 87109 or a subsequent location subject to the board's approval and ratification.
[16.60.1.8 NMAC - Rp 16 NMAC 60.1-8, 02-14-2002; A, 12-30-2004; A, 03-03-2017]

REGULATION AND LICENSING DEPARTMENT PUBLIC ACCOUNTANCY BOARD

This is an amendment to 16.60.3 NMAC, Section 15, effective March 3, 2017.

16.60.3.15 CONTINUING PROFESSIONAL EDUCATION (CPE) REQUIRED TO OBTAIN OR MAINTAIN AN "ACTIVE" CPA LICENSE:

A. The following requirements of continuing professional education apply to

certificate/license renewals and reinstatements pursuant to Sections 9E and 12A of the act. An applicant for certificate/license renewal shall show completion of no less than 120 clock hours of CPE, complying with these rules during the 36-month period ending on the last day of the certificate/license holder's birth month.

(1) Any applicant seeking a license/certificate or renewal of an existing license shall demonstrate participation in a program of learning meeting the standards set forth in the statement on standards for continuing professional education (CPE) programs jointly approved by NASBA and AICPA or standards deemed comparable by the board. An initial license is the first license issued to an individual. CPE reporting will begin on the first day following the licensee's initial expiration date (birth month) for license renewal. No CPE will be required for the period between issue date and first expiration date (birth month).

(2) Each person holding an active CPA certificate/license issued by the board shall show completion of no less than 120 hours of continuing professional education complying with these rules during the preceding 36-month period ending on the last day of the certificate/license holder's birth month, with a minimum of 20 hours completed in each reporting year. For any CPE reporting period which begins on or after January 1, 2010, continuing professional education must include a minimum of four hours of ethics education during the 36-month period after January 1, 2010. Licensees shall report CPE completion on board prescribed forms including a signed statement indicating they have met the requirements for participation in the CPE program set forth in board rules.

(3) The board may, at its discretion, accept a sworn affidavit as evidence of certificate/license holder compliance with CPE requirements in support of renewal applications in lieu of documented

evidence of such. Reciprocity and reinstatement applications shall require documented evidence of compliance with CPE provisions.

(4) Deadline for receipt of license renewal applications and supporting CPE reports or affidavits is no later than the last day of the certificate/license holder's birth month. Renewal applications and supporting CPE affidavits or reports shall be postmarked or hand-delivered no later than the renewal deadline date or the next business day if the deadline date falls on a weekend or holiday.

(5) In the event that a renewal applicant has not completed the requisite CPE by the renewal deadline, he shall provide a written explanation for failure to complete CPE and shall also submit a written request for an extension for completion of the required CPE.

(a) The approval of an extension request is not automatic. The board has the discretion to grant or deny a request.

(b) The request for extension shall include documentation of the extenuating circumstances that prevented him from completing the CPE. A written plan of action to remediate the deficiency must accompany the renewal application and extension request.

(c) If a request for extension is received in the board office after the expiration date of the license, the license shall not be renewed, and the file shall be referred to the board for possible disciplinary action.

(d) An extension up to 60 days beyond the expiration date of the license may be granted by board staff; extenuating circumstances beyond the control of the licensee necessitating an extension beyond 60 days requires the approval of the board. Failure to complete the required CPE within the extension period shall result in disciplinary action against the licensee.

(e) The board may waive this fine for good cause.

(f) If all CPE requirements are not met within 90 days beyond the expiration date of the license, the license shall be subject to cancellation.

(6) Renewal applications and CPE reports received after prescribed deadlines shall include prescribed delinquency fees.

(7) Applications will not be considered complete without satisfactory evidence to the board that the applicant has complied with the CPE requirements of Sections 9E and 12A of the act and of these rules.

(8) Reinstatement applicants whose certificates/licenses have lapsed shall provide documented evidence of completion of 40 hours of CPE for each year the certificate/license was expired, not to exceed 200 hours. If the license was expired for longer than 36 months, at least 120 of the hours must have been earned within the preceding 36 months. For any post-2009 year for which the certificate/license was expired, the continuing professional education must include a minimum of four hours of ethics education during the 36 months preceding reinstatement.

(a) The length of expiration shall be calculated from the date the license expired to the date the application for reinstatement was received by the board office.

(b) If the license was expired for less than one year, documented evidence of 40 hours of CPE earned within the 12 months immediately preceding the date of application for reinstatement must be provided.

(c) If the license was expired for longer than one year, for the purpose of determining the number of CPE hours required, the length of expiration shall be rounded down to the last full year if the partial year was less than six months and rounded up to the next full year if the partial year was more than six months.

B. Exemption from CPE requirements through change

of certificate/license status between inactive/retired and active status.

(1) Pursuant to Section 9E of the act, the board may grant an exception to CPE requirements for certificate holders who do not provide services to the public. Public means any private or public corporate or governmental entity or individual. An individual who holds an inactive certificate/license is prohibited from practicing public accounting and may only use the CPA-inactive designation if they are not offering accounting, tax, tax consulting, management advisory, or similar services either in New Mexico or in another state or country. Persons desiring exemption from CPE rules requirements may request to change from "active" to "inactive" or "retired" certificate/license status, provided that they:

(a) complete board-prescribed change-of-status forms and remit related fees;

(b) not practice public accountancy as defined in Section 3M of the act; public accountancy means the performance of one or more kinds of services involving accounting or auditing skills, including the issuance of reports on financial statements, the performance of one or more kinds of management, financial advisory or consulting services, the preparation of tax returns or the furnishing of advice on tax matters; and

(c) place the word "inactive" or "retired" adjacent to their CPA or RPA title on a business card, letterhead or other documents or devices, except for a board-issued certificate;

(2) Persons requesting to change from "inactive" or "retired" to "active" certificate/license status shall:

(a) complete board-prescribed change-of-status forms and remit related fees; and

(b) provide documented evidence of 40 hours of CPE for each year the certificate/license was inactive, not to exceed 200 hours; if the license was

inactive for longer than 36 months, at least 120 of the hours must have been earned within the preceding 36 months. For any post-2009 year for which the certificate/license was inactive, the continuing professional education must include a minimum of four hours of ethics education during the 36 months preceding application for change of status to "active";

(c)

If an individual has not held an active license within 10 years preceding the date of the application for "change of status", the approval of the board will be required.

C. Hardship

exceptions: The board may make exceptions to CPE requirements for reason of individual hardship including health, military service, foreign country residence, or other good cause. Requests for such exceptions shall be subject to board approval and presented in writing to the board. Requests shall include such supporting information and documentation as the board deems necessary to substantiate and evaluate the basis of the exception request.

D. Programs qualifying

for CPE credit: A program qualifies as acceptable CPE for purposes of Sections 9E and 12A of the act and these rules if it is a learning program contributing to growth in professional knowledge and competence of a licensee. The program must meet the minimum standards of quality of development, presentation, measurement, and reporting of credits set forth in the statement on standards for continuing professional education programs jointly approved by NASBA and AICPA, by accounting societies recognized by the board, or such other standards deemed acceptable to the board.

(1) The

following standards will be used to measure the hours of credit to be given for acceptable CPE programs completed by individual applicants:

(a) an

hour is considered to be a 50-minute period of instruction;

(b) a

full one day program will be

considered to equal eight hours;

(c)

only class hours or the equivalent (and not student hours devoted to preparation) will be counted;

(d)

one-half credit increments are permitted after the first credit has been earned in a given learning activity;

(e)

for reporting periods on or after January 1, 2010, acceptable ethics topics may include, but are not limited to, instruction focusing on the AICPA code of professional conduct, the New Mexico occupational and professional licensing code of professional conduct applicable to certified public accountants, Treasury Circular 230, malpractice avoidance, organization ethics, moral reasoning, and the duties of the CPA to the public, clients, and colleagues; ethics hours may be earned as part of any professional development program otherwise qualifying under this rule, provided the ethics content and the time devoted to such content are separately identifiable on the program agenda.

(2) Service

as a lecturer, discussion leader, or speaker at continuing education programs or as a university professor/instructor (graduate or undergraduate levels) will be counted to the extent that it contributes to the applicant's professional competence.

(3) Credit as

a lecturer, discussion leader, speaker, or university professor/instructor may be allowed for any meeting or session provided that the session would meet the continuing education requirements of those attending.

(4) Credit

allowed as a lecturer, discussion leader, speaker or university professor/instructor will be on the basis of two hours for subject preparation for each hour of teaching and one hour for each hour of presentation. Credit for subject preparation may only be claimed once for the same presentation.

(5) Credit may

be allowed for published articles and books provided they contribute to

the professional competence of the applicant. The board will determine the amount of credit awarded.

(6) Credit

allowed under provisions for a lecturer, discussion leader, speaker at continuing education programs, or university professor/instructor or credit for published articles and books may not exceed one half of an individual's CPE requirement for a three year reporting period (shall not exceed 60 hours of CPE credit during a 3-year reporting period).

(7) For a

continuing education program to qualify under this rule, the following standards must be met:

(a) an

outline of the program is prepared in advance and preserved;

(b)

the program is at least one hour in length;

(c) a

qualified instructor conducts the program; and

(d) a

record of registration or attendance is maintained.

(8) The

following programs are deemed to qualify, provided the above are met:

(a)

professional development programs of recognized national and state accounting organizations;

(b)

technical sessions at meetings of recognized national and state accounting organizations and their chapters; and

(c) no

more than four hours CPE annually may be earned for board meeting attendance.

(9) University

or college graduate-level courses taken for academic credit are accepted. Excluded are those courses used to qualify for taking the CPA exam. Each semester hour of credit shall equal 15 hours toward the requirement. A quarter hour credit shall equal 10 hours.

(10) Non-

credit short courses - each class hour shall equal one hour toward

the requirement and may include the following:

(a) formal, organized in-firm educational programs;

(b) programs of other accounting, industrial, and professional organizations recognized by the board in subject areas acceptable to the board;

(c) formal correspondence or other individual study programs which require registration and provide evidence of satisfactory completion will qualify with the amount of credit to be determined by the board.

~~[(11)] (11) The board will allow up to a total of 24 hours of CPE credits for firm peer review program participation. Hours may be earned and allocated on the date the peer reviewer issues their report.~~

~~(a) Firms having an engagement or report peer review will be allowed up to 12 hours of CPE credits.~~

~~(b) Firms having a system peer review will be allowed up to 24 hours of CPE credits.~~

~~(c) Firms having a system peer review at a location other than the firm's office shall be considered an engagement peer review and will be allowed up to 12 hours of CPE credits.~~

~~(d) The firm will report to the board the peer review CPE credit allocation listing individual firm CPAs and the number of credits allotted to each CPA. Individual CPAs receiving credit based upon a firm's report to the board may submit firm-reported hours in their annual CPA report forms to the board. If CPE credits will not be used, no firm report will be necessary.]~~

[(12)] (11)
The board may look to recognized state or national accounting organizations for assistance in interpreting the acceptability of the credit to be allowed for individual courses. The board will accept programs meeting the standards set

forth in the NASBA CPE registry, AICPA guidelines, NASBA quality assurance service, or such other programs deemed acceptable to the board.

[(13)] (12)
For each three year reporting period, at least 96 of the hours reported shall be courses, programs or seminars whose content is in technical subjects such as audit; attestation; financial reporting; tax, management consulting; financial advisory or consulting; and other areas acceptable to the board as directly related to the professional competence of the individual.

[(14)] (13)
Effective for CPE reporting periods ending on or after July 31, 2007, for each three year reporting period, at least 24 of the hours reported shall not include CPE sponsored by the licensee's firm, agency, company, or organization but may include all methods of CPE delivery, provided that each hour meets the standards specified in paragraphs (1) through (10) of this subsection.

[(15)] (14)
For each three year reporting period, credit will be allowed once for any single course, program or seminar unless the individual can demonstrate that the content of such course, program or seminar was subject to substantive technical changes during the reporting period.

E. Programs not qualifying for CPE:

(1) CPA examination review or "cram" courses;

(2) industrial development, community enhancement, political study groups or similar courses, programs or seminars;

(3) courses, programs or seminars that are generally for the purpose of learning a foreign language;

(4) partner, shareholder or member meetings, business meetings, committee service, and social functions unless they are structured as formal programs of learning adhering to the standards

prescribed in this rule.

F. Continuing professional education records requirements: When applications to the board require evidence of CPE, the applicants shall maintain such records necessary to demonstrate evidence of compliance with requirements of this rule.

(1) Reinstatement and reciprocity applicants shall file with their applications a signed report form and statement of the CPE credit claimed. For each course claimed, the report shall show the sponsoring organization, location of program, title of program or description of content, the dates attended, and the hours claimed.

(2) Responsibility for documenting program acceptability and validity of credits rests with the licensee and CPE sponsor. Such documentation should be retained for a period of five years after program completion and at minimum shall consist of the following:

(a) copy of the outline prepared by the course sponsor along with the information required for a program to qualify as acceptable CPE as specified in this rule; or

(b) for courses taken for scholastic credit in accredited universities and colleges, a transcript reflecting completion of the course. For non-credit courses taken, a statement of the hours of attendance, signed by the instructor, is required.

(3) Institutional documentation of completion is required for formal, individual self-study/correspondence programs.

(4) The board may verify CPE reporting information from applicants at its discretion. Certificate holders/licensees or prospective certificate holders/licensees are required to provide supporting documentation or access to such records and documentation as necessary to substantiate validity of CPE hours claimed. Certificate

holders/licensees are required to maintain documentation to support CPE hours claimed for a period of five years after course completion/ CPE reporting. Should the board exercise its discretion to accept an affidavit in lieu of a CPE report, the board shall audit certificate/license holder CPE rules compliance of no less than 10 percent of active CPA/ RPA licensees annually.

(5) In cases where the board determines requirements have not been met, the board may grant an additional period of time in which CPE compliance deficiencies may be removed. Fraudulent reporting is a basis for disciplinary action.

(6) An individual who has submitted a sworn affidavit on their renewal application as evidence of compliance with CPE requirements and is found, as the result of a random audit, not to be in compliance will be subject to a minimum \$250.00 fine and any other penalties deemed appropriate by the board as permitted by Section 20B of the act.

(7) The sponsor of a continuing education program is required to maintain an outline of the program and attendance/registration records for a period of five years after program completion.

(8) Licensees reporting of CPE must document their participation and retain evidence for a period of five years after course completion. Documentation and/or evidence must include, at minimum:

(a) sponsor name and identification number;

(b) title and description of content;

(c) date(s) of completion;

(d) location; and

(e) number of credit hours.

(9) The board may, at its discretion, examine certificate holder/licensee or CPE sponsor documentation to evaluate

program compliance with board rules. Non-compliance with established standards may result in denial of CPE credit for non-compliant programs and may be a basis for disciplinary action by the board for fraudulent documentation and representation by a CPE sponsor or certificate holder/licensee of a knowingly non-compliant CPE program.

[16.60.3.15 NMAC - Rp 16 NMAC 60.6.6, 02-14-2002; A, 09-16-2002; A, 06-15-2004; A, 07-30-2004; A, 12-30-2004; A, 04-29-2005; A, 12-30-2005; A, 05-15-2006; A, 07-29-2007; A, 02-27-2009; A, 9-15-2010; A, 01-17-2013; A, 12-01-14; A, 09-15-2015; A, 03-03-2017]

REGULATION AND LICENSING DEPARTMENT SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY AND HEARING AID DISPENSING PRACTICES BOARD

This is an amendment to 16.26.1 NMAC, Section 7, effective 2/14/2017.

16.26.1.7 DEFINITIONS:

A. "AAA" refers to the American academy of audiology, a national professional association of audiologists concerned with professional qualifications, standards of practice, ethics, scientific progress and continuing education.

B. "ABA" refers to the American board of audiology, which offers board certification in the discipline of audiology and is affiliated with the American academy of audiology.

C. "Act" means the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act (Sections 61-14B-1 to 61-14B-25 NMSA 1978) as it may be amended.

D. "Apprentice" means a person working towards full licensure in speech-language pathology and who meets the requirements for licensure as an apprentice in speech and language pursuant to the Speech-Language

Pathology, Audiology and Hearing Aid Dispensing Practices Act.

E. "ASHA" refers to the American speech-language and hearing association, a national professional association of speech-language pathologists and audiologists recognized by the secretary of the United States (U.S.) department of education for the accrediting of university graduate degree programs in audiology and speech-language pathology. ASHA also maintains a professional membership of speech-language pathologists and audiologists concerned with professional qualifications, standards of practice, ethics, scientific progress and continuing education.

F. "Audiologist" means a person who engages in the practice of audiology, who may or may not dispense hearing aids, and who meets the qualifications set forth in the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

G. "Certified" means a notarized statement of authenticity of a true copy.

H. "Client/patient" means an individual receiving services from an audiologist, speech language pathologist or hearing aid dispenser.

[H:] I. "CFY plan" (clinical fellowship year plan) means a written plan submitted to the board outlining the duration of the CFY (up to a maximum of three years), the CFY plan must designate a CFY supervisor and outline the amount and type of supervision.

[H:] J. "Direct supervision" means on-site, in-view observation and guidance while a clinical activity is performed by the supervisee. This can include viewing and communicating with the supervisee via telecommunication technology so long as the supervisor or qualified sponsor is able to provide ongoing immediate feedback. Direct supervision does not include reviewing a taped session at a later time.

[H:] K. "Electronic signature" means an electronic

sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

L. “Facilitator”

means a person at the client site who facilitates telehealth service delivery at the direction of the audiologist, speech-language pathologist or hearing aid dispenser. For purposes of fulfilling their role, as defined, an individual may serve as a facilitator, at the direction of the audiologist or speech language pathologist, without becoming licensed.

[K:] M. “IHS” refers to the *international hearing society*, an international membership association that represents hearing healthcare professionals engaged in the practice of testing human hearing and selecting, fitting and dispensing hearing instruments and counseling patients. IHS conducts programs in competency accreditation, education and training and encourages specialty-level certification for its members.

[L:] N. “ILE” refers to the *international licensing examination for hearing healthcare professionals* administered by IHS on behalf of the board for the purposes of licensing hearing aid dispensers.

[M:] O. “Indirect supervision” means supervision that does not require the SLP to be physically present or available via telecommunication in real time while the supervisee is providing services. Indirect supervisory activities may include demonstration tapes, record review, review and evaluation of audio or videotaped sessions, or supervisory conferences that may be conducted by telephone or live, secure webcam via the internet.

[N:] P. “Jurisprudence examination” means the evaluation of knowledge of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act and these regulations, given as a requirement for licensure to all applicants.

[O:] Q. “License” means a document identifying a legal privilege and authorization to practice within one of the categories established by

the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act. A license under this act is not transferable.

[P:] R. “Licensing year” means the period from January 31, of any year through January 30 of the next year; initial, renewed and reinstated licenses may be issued at any time set herein but shall expire on January 30 of the following year except as otherwise provided in these rules.

[Q:] S. “NBC-HIS” means national board for certification in hearing instruments sciences.

[R:] T. “Qualified Sponsor” means a person who currently holds an audiology or hearing aid dispenser license in good standing with the board and who voluntarily accepts the responsibility of supervising, training or overseeing an individual interested in obtaining an endorsement or license to fit and dispense hearing aids.

U. “Reciprocity” means the ability of a qualified applicant from another state to obtain a license in the state of New Mexico.

[S:] V. “Referral” means the process of directing or redirecting a customer or patient to a specialist, hearing aid dispenser, therapist or clinician for services or diagnosis.

W. “Site” means the client/patient location for receiving telehealth services.

X. “Stored clinical data” means video clips, sound/ audio files, photo images, electronic records, and written records that may be available for transmission via telehealth communications.

[T:] Y. “Student” means any person who is a full or part time student enrolled in an accredited college or university program in speech-language pathology, audiology or communication disorders.

Z. “Telecommunication technology” includes but is not limited to a dedicated video system, computer or other similar device linked via hardware or internet connection, equipment, connectivity, software, hardware and network-compatible

devices.

AA. “Telehealth” means the use of telecommunications and information technologies for the exchange of information from one site to another for the provision of audiology, speech-language pathology or hearing aid dispensing services to an individual from a provider through hardware or internet connection.

BB. “Telepractice” means the practice of telehealth.

[U:] CC. “Temporary paraprofessional license” means a license issued to a person working towards full licensure as a speech-language pathologist and who provides adjunct speech-language pathology services under the supervision of a speech-language pathologist who is licensed under this act.

[V:] DD. “Temporary trainee permit” means a permit issued by the board to a person authorized to fit and dispense hearing aids only under the supervision of a qualified sponsor as defined by these regulations. Temporary trainee permits will be issued for a one-year period and are non-renewable. [12/21/71; 2/5/80; 8/1/81; 8/4/81; 3/18/82; 10/21/91; 11/09/96; 11/7/98; 11/27/99; 16.26.1.7 NMAC - Rn & A, 16 NMAC 26.1.7, 2/3/06; A, 1/29/15; A, 4/6/16; A, 2/14/2017]

REGULATION AND LICENSING DEPARTMENT SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY AND HEARING AID DISPENSING PRACTICES BOARD

This is an amendment to 16.26.2 NMAC, Sections 8, 10, 14, 15, 16 and adding a new Section 20, effective 2/14/2017.

16.26.2.8 LICENSING REQUIRED TO PRACTICE:

A. Section 61-14B-7 NMSA 1978 of the act provides that no person shall practice or hold him or herself out as being able to practice speech-language pathology, audiology, hearing aid dispensing in

the state of New Mexico unless he or she is licensed in accordance with the provisions of this act.

B. All individuals licensed under this act must display their license in their primary location at their place of employment.

C. Separate licenses shall be granted in speech-language pathology, audiology, and hearing aid dispensing. An applicant may be granted a dual license for speech-language pathology and audiology upon successful completion of requirements for both of these licenses. A hearing aid dispensing license does not indicate that the person holding the license is an audiologist.

D. The board shall have 30 days from the receipt of a complete application to process and approve an application.

E. The board shall issue a license by reciprocity to an applicant from another state who holds a current license in good standing with no pending disciplinary action, provided the requirements for the current license held meet or exceed requirements for licensure for speech language pathology, audiology, or hearing aid dispensing in the state of New Mexico.

[16.26.2.8 NMAC - Rp, 16 NMAC 26.2.8, 2/3/06; A, 2/14/17]

16.26.2.10 REQUIREMENTS FOR ALL APPLICANTS:

An applicant for a license to practice under the Speech-Language Pathology, Audiology, and Hearing Aid Dispensing Practices Act must submit the following:

A. a complete and signed application on a form prescribed by the board;

B. a check or money order payable to the board for the applicable fee(s) outlined in 16.26.6.8 NMAC;

C. documentation relevant to the license sought under 16.26.2 NMAC; and

D. [certify] certification that the applicant is not guilty of any activities listed in Section 61-14B-21 NMSA 1978.

[16.26.2.10 NMAC - Rp, 16 NMAC 26.3.8, 2/3/06; A, 11/29/08; A, 4/6/16; A, 2/14/17]

16.26.2.14 QUALIFICATIONS AND APPLICATION FOR LICENSURE FOR A HEARING AID DISPENSER:

A. [An] Application for licensure as a hearing aid dispenser must be accompanied by documentation of the following:

(1) proof that the applicant is 18 years of age or older;

(2) proof that the applicant has a high school education or the equivalent; [and]

(3) proof that the applicant has a business location in New Mexico [and can provide satisfactory evidence of the following:]

(4) [(a)] A notarized letter from [an employer verifying] the qualified sponsor verifying completion of [the] all training requirements as outlined for the temporary hearing aid dispensing trainee permit;

(5) [(b)] [written examination: the board will require each candidate to pass the international hearing society (IHS), or the national board for certification in hearing instruments sciences (NBC-IHS) hearing aid written examination, or a nationally recognized hearing aid dispensers examination approved by the board; the examination must have occurred within 48 months prior to the application] proof of having passed the current IHS administered ILE within the previous 24 months;

(6) [(c)] practical examination: the board will require each candidate to pass the hearing aid practical examination or other exams approved by the board with an overall score of no less than seventy percent; and] Passing the board administered practical exam with a score of no less than seventy percent;

(7) [(d)] proof of having passed the jurisprudence examination with an

overall score of no less than seventy percent; and

(8) have no disciplinary actions taken against any professional license they hold in any state or jurisdiction.

[(4)] any applicant who fails any portion of the licensing examination two times may not reapply until he/she has waited six months and repeated the training and application requirements; at that time the entire exam must be repeated.]

B. [If currently or previously licensed in another state a verification of licensure must be sent directly to the board by the issuing jurisdiction.] An applicant who is licensed as a hearing aid dispenser or hearing aid specialist in another state or jurisdiction may be issued a license as a hearing aid dispenser in New Mexico upon the board's acceptance of the following:

(1) proof that the applicant is 18 years of age or older;

(2) proof that the applicant has a high school education or the equivalent;

(3) proof that the applicant has a business location in New Mexico;

(4) the requirements for licensure in the issuing state or jurisdiction meet or exceed the standards for New Mexico; and

(5) the applicant has no disciplinary actions taken or pending against any professional license they hold in any state or jurisdiction.

[16.26.2.14 NMAC - Rp, 16 NMAC 26.3.11, 2/3/06; A, 6/7/10; A, 1/29/15; A, 4/6/16; A, 2/14/17]

16.26.2.15 [QUALIFICATION AND APPLICATION FOR TEMPORARY HEARING AID DISPENSING TRAINEE PERMIT] APPLICATION AND REQUIREMENTS FOR TEMPORARY HEARING AID DISPENSING TRAINEE PERMIT: Individuals who meet all requirements for a hearing aid

dispenser's license but do not have the required practical experience in dispensing of hearing aids shall apply for a temporary hearing aid dispensing permit.

A. A trainee permit may be issued at any time and will be valid for one year.

B. ~~[Upon expiration, another training permit may not be issued for one calendar year following expiration of the previous permit or if the applicant has failed the examination twice within a five year period.]~~ The trainee must identify a qualified sponsor who has held a license under this act as an audiologist or hearing aid dispenser or a New Mexico licensed otolaryngologist for no fewer than three of the previous five calendar years.

(1) The qualified sponsor must have no disciplinary actions against them at the time of issuance of the training permit.

(2) The qualified sponsor must have no more than two temporary training permits associated with them at any single time.

(3) Trainee must receive a minimum of 320 logged and certified hours of direct supervision in hearing science and hearing aid fitting within three consecutive months.

(4) Upon completion of the 320 hours of direct supervision, the log of training must be submitted to the board for review.

~~[C.]~~ The trainee must identify a qualified sponsor as specified in the act.

~~D.]~~ Each trainee shall receive intensive training working under the direct supervision of his/her sponsor for a minimum of 320 hours within a three month period.]

~~[E.]~~ C. Following completion of 320 hours, an additional five continuous months of full time work is required. All activities of the trainee during this time must be reviewed and approved by a qualified sponsor and may include dispensing hearing aids, making adjustments in fitting and

modifying and repairing hearing aids and earmolds. All sales receipts must have some evidence of the sponsor's approval of the sale.

D. Another training permit may not be issued for one calendar year following expiration of the previous permit or if the applicant has failed the examination twice within a five year period.

~~[F.]~~ E. The applicant shall submit proof of having passed the jurisprudence examination with a grade of no less than seventy percent. [16.26.2.15 NMAC - Rp, 16 NMAC 26.3.12, 2/3/06; A, 6/7/10; A, 4/6/16; A, 2/14/17]

16.26.2.16 HEARING AID DISPENSER TRAINEE EXAMINATION FOR COMPETENCE:

Following [completion of a minimum the board's acceptance of the 320 hours all candidates under a temporary hearing aid dispensing permit under a training program shall] the board's acceptance of the 320 hours of certified direct supervision in three months, persons with a temporary training permit are eligible to:

A. [pass the practical examination which tests proficiency in pure tone audiometry, including air conduction and bone conduction testing, live voice or recorded voice speech audiometry, including speech reception threshold and speech discrimination tests, masking when indicated, recording and evaluation audiograms and speech audiometry determining proper selection and adjustment of hearing aids;] Take the IHS administered ILE.

B. [taking earmold impressions;] Take the board-administered practical exam which evaluates proficiency in the following areas:

(1) Puretone audiometry including air conduction and bone conduction;

(2) recorded voice speech audiometry;

(3) masking when indicated;

(4) recording and evaluation of audiograms and

speech audiometry;

(5)

determining proper selection and adjustment of hearing aids;

(6)

verification of efficacy of hearing aids; and

(7)

taking earmold impressions.

C. The board office will schedule [written and] practical examinations once each quarter; [each applicant will be notified of the examination schedule for the next year when they receive their trainee permit;] the schedule will be posted on the board website, and applicants must register for the examination a minimum of [9] 30 days prior to the scheduled exam.

D. An applicant who fails the written or the practical portion of the examination must pay the application fee before being allowed to retake the examination.

E. Applicants who cannot sit for the examinations due to circumstances beyond their control must submit a written request prior to the scheduled examination; extenuating circumstances include illness, death in the immediate family, military service, or other severe circumstances which do not allow an applicant to attend the scheduled examination; applicant must provide documentation of extenuating circumstances; and

F. Applicants who fail to sit for scheduled examinations without prior notification must submit a new application, including the fee and all documentation.

[16.26.2.16 NMAC - Rp, 16 NMAC 26.3.13, 2/3/06; A, 6/7/10; A, 2/14/17]

16.26.2.20 REQUIREMENTS FOR ALL APPLICANTS WHO PRACTICE TELEHEALTH

A. An audiologist, speech-language pathologist or hearing aid dispenser licensed in New Mexico may use telecommunication technology to deliver services to a person residing in New Mexico who is physically present at a different location from the provider at the time services are received, so long as the services delivered through use

of telecommunication technology meet or exceed the quality of services delivered face-to-face.

B. An audiologist, speech-language pathologist or hearing aid dispenser who resides outside the boundaries of the state of New Mexico and delivers services or products to residents of New Mexico shall be licensed by the board.

C. An audiologist, speech-language pathologist or hearing aid dispenser using telecommunication technology to deliver services shall have necessary knowledge and skills, obtained through education, training and experience to use such technology competently.

D. Telecommunication technology used to deliver services must be equivalent to that provided in person.

E. A licensed audiologist, speech-language pathologist or hearing aid dispenser must be physically present at all times at the hub site while interactive telecommunication technology is used to deliver services to a client physically present at a remote site.

F. A licensed audiologist, speech-language pathologist or hearing aid dispenser using telecommunication technology to deliver services to a client shall:

(1) assess the client's ability to participate meaningfully in the services delivered through telecommunications, including but not limited to the client's physical, cognitive and behavioral abilities;

(2) calibrate properly the clinical instruments used for delivery of services in accordance with standard operating procedures and manufacturer specifications;

(3) train properly the facilitator at the client-patient site if used;

(4) comply with all laws and rules governing maintenance of client records, including but not limited to client confidentiality requirements; and

(5) comply with all professional standards

governing delivery of services including the applicable code of ethics.

G. A licensed audiologist, speech-language pathologist or hearing aid dispenser using telecommunication technology to deliver services to a client shall provide notice to the client, guardian, caregiver and multi-disciplinary team as appropriate, including but not limited to the right to refuse telehealth services, options for service delivery and instruction on filing and resolving complaints.

H. An audiologist, speech-language pathologist or hearing aid dispenser shall not deliver services to a client solely through the use of regular mail, facsimile or electronic mail, although these methods of communication may be used to supplement the face-to-face delivery of services or through the use of telecommunication technology.
[16.26.2.20 NMAC - N, 2/14/17]

REGULATION AND LICENSING DEPARTMENT SUBSTITUTE CARE ADVISORY COUNCIL

TITLE 8 SOCIAL SERVICES

CHAPTER 26 FOSTER CARE AND ADOPTION

PART 7 CITIZEN SUBSTITUTE CARE REVIEW

8.26.7.1 ISSUING

AGENCY: Substitute Care Advisory Council, New Mexico Regulation and Licensing Department, P.O. Box 25101, Santa Fe, New Mexico 87504.
[8.26.7.1 NMAC - N, 2/14/2017]

8.26.7.2 SCOPE: This rule

establishes the framework through which the substitute care advisory council will monitor children placed in custody of the children, youth and families department by examining policies, procedures and practices of the department and, where appropriate, reviewing specific cases to evaluate the extent to which the department is effectively

discharging its child protection responsibilities. This rule provides for council oversight of substitute care review boards in their monitoring of children placed in the custody of the department in accordance with the citizen substitute care review act, being Chapter 32A, Article 8 NMSA 1978.

[8.26.7.2 NMAC - N, 2/14/2017]

8.26.7.3 STATUTORY AUTHORITY:

A. The council shall adopt reasonable rules relating to the functions and procedures of the boards and the council as provided in the citizen substitute care review act. These rules shall:

(1) Establish training requirements for board members;

(2) Establish criteria for council designation of cases for board review;

(3) Establish procedures for board review of designated cases;

(4) Establish criteria for membership and tenure on and operating procedures for boards;

(5) Specify the information needed for designated cases to be monitored by boards; and

(6) Specify case information to be tracked and reported to the council.

B. When adopting rules establishing criteria for designation of cases for board review, the council shall weigh the importance of the following factors, including:

(1) sibling placements;

(2) the frequency and severity of neglect or abuse;

(3) the behavioral health status of household members;

(4) the placement of children in households where there are no relatives of the children;

(5) data related to demographics; and

(6) relevant

trend data.
[8.26.7.3 NMAC - N, 2/14/2017]

8.26.7.4 DURATION:
Permanent.
[8.26.7.4 NMAC - N, 2/14/2017]

8.26.7.5 EFFECTIVE DATE: February 14, 2017, unless a later date is cited at the end of a section.
[8.26.7.5 NMAC - N, 2/14/2017]

8.26.7.6 OBJECTIVE: This rule establishes training requirements for board members, criteria for council designation of cases for board review, procedures for board review of designated cases, and criteria for membership and tenure on and operating procedures for boards. This rule also specifies information needed for designated cases to be monitored by boards and case information to be tracked and reported to the council. The council, in its sole discretion, may waive specific provisions of this rule when circumstances warrant with a majority vote of the council.
[8.26.7.6 NMAC - N, 2/14/2017]

8.26.7.7 DEFINITIONS:

A. "Advisory committee" means the six-member advisory committee appointed by the council.

B. "Board" means a substitute care review board established by the council.

C. "Council" means the substitute care advisory council.

D. "Council staff" means staff of the council and shall include any entities or persons employed or independently contracted by entities contracting with the council or staff employed or independently contracted by the regulation and licensing department (RLD).

E. "Department" means the children, youth and families department.
[8.26.7.7 NMAC - N, 2/14/2017]

8.26.7.8 BOARD MEMBER TRAINING REQUIREMENTS, BOARD MEMBERSHIP CRITERIA, AND BOARD MEMBER SUSPENSION AND REMOVAL:

A. No person shall serve on a board prior to completing an application process established by the council. The application process will include a reference check and a background check, including but not limited to information available from New Mexico courts, the New Mexico sex offender registry, and the department's records of prior child abuse and neglect cases which will be done by council staff. The application process will also include on-line or in-person training, or a combination thereof. The potential board member shall sign confidentiality agreements, any necessary releases and provide any documents required for the application process.

B. Board membership will comply with the following criteria:

(1) The composition of each board shall be broadly representative of the community in which the board serves, shall include members with expertise in prevention and treatment of child abuse and neglect, and may include adult former victims of child abuse or neglect.

(2) A board shall have at least two members to be considered active for purposes of reviewing cases. board may not have more than five members.

(3) No person or relative of a person prohibited from serving pursuant to Subsection C of Section 32A-8-5 NMSA 1978 shall serve on a board.

(4) Board members will be appointed by the council's staff for two-year terms. Members shall be eligible for reappointment subject to successful completion of the application process established by the council prior to reappointment.

(5) No person, who has been convicted of or who

faces pending charges for a felony or misdemeanor involving a sex offense, child abuse or neglect, or related charges that may pose risks to children or call into question the credibility of a board, may serve on a board or continue to serve on the board.

(6) Board members shall meet training requirements as established by the council. Such training may include quarterly and annual in-person or on-line or a combination thereof.

(7) The council's staff may in its sole discretion temporarily suspend or permanently remove a board member if the council staff has reason to believe or finds that the board member does not meet the board membership eligibility criteria or has violated rules or expectations of members established by the council.

C. Boards will follow the following operating procedures:

(1) Each board shall elect a chairperson and vice chairperson at the first meeting of each fiscal year.

(2) Each board shall meet at least quarterly to review cases designated for review. A board may meet more frequently depending on caseload.

(3) Boards will meet only with a minimum of two board members present. In the event that the board does not have a minimum of two board members that can attend the meeting, the council staff may designate a board member or board members from other boards to attend the meeting. The council staff may also designate board members from other boards in the event a case involves a relative of the board member or a conflict of interest is identified by the board member or council staff.

(4) Boards will provide notice of board meetings to the parties in a case under review as well as the child's foster parent or substitute care provider and the child's court-appointed special advocate and afford attendees who were entitled to receive notice an

opportunity to participate fully in the board meeting.

(5)

Council staff will submit a report of the board's findings and recommendations to the court for each case reviewed.

(6)

A board member will recuse him or herself from review of any case involving the board member's relative or one where the board member or council staff determines he or she has a conflict of interest.

(7)

Council staff may designate a representative board member to attend any initial judicial review hearing, subsequent judicial review hearing, permanency hearing, or permanency review hearing on a case designated for the board's review to comment to the court on the status of the child or the status of the treatment plan.

[8.26.7.8 NMAC - N, 2/14/2017]

8.26.7 PROCEDURES FOR CASE TRANSMITTAL TO COUNCIL STAFF, COUNCIL STAFF DESIGNATION OF CASES FOR BOARD REVIEW, AND BOARD REVIEW OF CASES:

A.

Cases shall be evaluated according to criteria set forth in rule 8.26.7.13 NMAC.

B.

Prior to each initial judicial review, the department shall submit a copy of the adjudicatory order, the dispositional order and notice of the initial judicial review to the council staff.

C.

The department shall also submit all information necessary for council staff to determine whether a case meets selection criteria, which may include, but is not limited to the following:

(1)

the child's identifying information;

(2)

court case number;

(3)

date of custody;

(4)

reason for custody;

(5)

date and type of court hearing;

(6)

affidavit;

(7)

most recent case plan;

(8)

dispositional orders;

(9)

contact information for parties to the case, the child's foster parent or substitute care provider, and the child's court-appointed special advocate;

(10)

advanced calendar of expected court hearings;

(11)

the number of siblings involved in the case and whether they are placed in the same or different households;

(12)

the number of incidences of abuse or neglect and an assessment of the severity of abuse or neglect;

(13)

notation of any behavioral health issues of the child or a household member that are known to have previously caused behavior that may present a safety risk to the child; and

(14)

description of the department's reasonable efforts to identify and locate all relatives and conduct home studies with any fit and willing relative expressing an interest in providing permanency for the child.

D.

Once a case has been designated for review, council staff will assign the case to the appropriate board for review at the next scheduled meeting.

E.

Prior to each board meeting, council staff will provide board members with case information provided by the department.

[8.26.7.9 NMAC - N, 2/14/2017]

8.26.7.10 ADVISORY

COMMITTEE: By September 1 of each year, each board may nominate up to two of its board members to the council to serve on the advisory committee. From that list of nominees, the council shall appoint a six-member advisory committee by October 1 of each year. The council will appoint more than one board member nominated from the same board only in the event doing so is necessary to appoint six members to the advisory committee. The advisory

committee shall meet with the council at least once a year to present its recommendations on matters relating to substitute care review.

[8.26.7.10 NMAC - N, 2/14/2017]

8.26.7.11 INFORMATION TRACKING AND REPORTING:

A.

Council staff will report the following yearly to the council by September 1 and when so requested, ensuring that reports contain no confidential information:

(1)

number of cases reviewed;

(2)

number of cases where the board concurred and did not concur with the department permanency plan, including a description for the reason for any non-concurrence;

(3)

recommendations to the department, the council, the administrative office of the courts, and the legislature as identified by the board;

(4)

proposed amendments to 8.26.7 NMAC, if any; and

(5)

any other information requested by the council.

B.

The council with the assistance of council staff shall review and coordinate the activities of boards and make a report with its recommendations to the department, the courts, and the appropriate legislative interim committees, on or before November 1 of each year, regarding statutes, rules, policies and procedures relating to substitute care. This report shall include recommendations for any changes to boards and shall contain no confidential information.

[8.26.7.11 NMAC - N, 2/14/2017]

8.26.7.12 ESTABLISHMENT, MERGER AND DISSOLUTION OF BOARDS:

A.

The council with the assistance of council staff shall establish no fewer than three boards, and not more than twenty-four boards, with not more than the following number of boards in each judicial district:

(1) two
substitute care review boards in the
first judicial district;

(2) three
substitute care review boards in the
second judicial district;

(3) one
substitute care review board in the
third judicial district;

(4) two
substitute care review boards in the
fourth judicial district;

(5) two
substitute care review boards in the
fifth judicial district;

(6) two
substitute care review boards in the
sixth judicial district;

(7) two
substitute care review boards in the
seventh judicial district;

(8) two
substitute care review boards in the
eighth judicial district;

(9) one
substitute care review board in the
ninth judicial district;

(10) one
substitute care review board in the
tenth judicial district;

(11) two
substitute care review boards in the
eleventh judicial district;

(12) two
substitute care review boards in the
twelfth judicial district; and,

(13) two
substitute care review boards in the
thirteenth judicial district.

B. The council staff
will consider geographical distances
and the number of cases reviewed
historically when establishing boards.
Boards that have been established by
the council may be dissolved, merged,
or otherwise revised by the council
staff according to the number of cases
reviewed.

C. The council staff
will ensure ongoing recruitment of
board members.

D. In the event a case
is designated for board review in a
judicial district where a board has not
yet been established, at the direction
of council staff the case may be
reviewed by a board established in
another judicial district.

[8.26.7.12 NMAC - N, 2/14/2017]

**8.26.7.13 EVALUATION
OF CASES BY THE BOARD:** The
council shall establish guidelines for
the designation of cases for board
review which set forth the duties of
the department, RLD and staff in the
selection of cases for the board and
which weigh the importance of the
following factors:

- A.** Sibling placements;
- B.** The frequency and
severity of neglect or abuse;
- C.** The behavior health
status of household member;
- D.** The placement of
children in households where there
are no relatives of the children;
- E.** Data relevant to
demographics; and
- F.** Relevant trend data.

[8.26.7.13 NMAC - N, 2/14/2017]

**HISTORY OF 8.26.7 NMAC:
[RESERVED]**

TRANSPORTATION, DEPARTMENT OF

The New Mexico Transportation
Department approved, at its
11/14/2016 hearing, to repeal its rule
18 NMAC 11.3, Airports - Air Service
Assistance Program (filed 11/2/1999),
effective 2/14/2017.

TRANSPORTATION, DEPARTMENT OF

TITLE 18 TRANSPORTATION AND HIGHWAYS CHAPTER 11 AIRPORTS PART 3 AIR SERVICE ASSISTANCE PROGRAM

**18.11.3.1 ISSUING
AGENCY:** Aviation Division of
the New Mexico Department of
Transportation, 1120 Cerrillos Rd
87504, P.O. Box 1149 Santa Fe, New
Mexico 87504-1149, (505) 827-1525,
Fax: (505) 827-1531.
[18.11.3.1 NMAC - Rp, 18 NMAC
11.3.1, 2/14/2017]

18.11.3.2 SCOPE:
Municipalities, counties, tribal entities
or other public entities located within
the state of New Mexico.
[18.11.3.2 NMAC - Rp, 18 NMAC
11.3.2, 2/14/2017]

**18.11.3.3 STATUTORY
AUTHORITY:** Adoption of this
regulation is pursuant to authority
granted to the aviation division of
department of transportation under
Section 64-1-13.1 NMSA 1978.
[18.11.3.3 NMAC - Rp, 18 NMAC
11.3.3, 2/14/2017]

18.11.3.4 DURATION:
Permanent.
[18.11.3.4 NMAC - Rp, 18 NMAC
11.3.4, 2/14/2017]

**18.11.3.5 EFFECTIVE
DATE:** February 14, 2017, unless
a later date is cited at the end of a
section or paragraph.
[18.11.3.5 NMAC - Rp, 18 NMAC
11.3.5, 2/14/2017]

18.11.3.6 OBJECTIVE:
The objective of 18.11.3 NMAC is
to establish eligibility requirements,
including the maximum amount a
recipient may receive, under the Air
Service Assistance Act.
[18.11.3.6 NMAC - Rp, 18 NMAC
11.3.6, 2/14/2017]

18.11.3.7 DEFINITIONS:
A. "Director" means
the director of the division.
B. "Division"
means the aviation division of the
department of transportation.
C. "Eligible recipient"
means municipalities, counties, tribal
entities or other public entities located
within the state of New Mexico which
provide airline service from one or
more non-hub public use airports to
one or more large, medium or small
hub airport.

D. "Hub airports"
means commercial airport facilities
located within the southwest United
States serving a small, medium,
or large air traffic hub listed in
the United States department of
transportation publication, *airport*

activity statistics of certificated route air carriers.

E. “Minimum level of airline service” means:

(1) service for two or more New Mexico municipalities, counties, tribal entities or other public entities to one or more hub airports, by a reliable airline; the minimum number of round trip flights per day and per week provided by the service shall be approved by the division;

(2) flights shall be at reasonable times considering the needs of passengers with connecting flights at the hub airport and at prices that are not excessive compared to the generally prevailing prices of other air carriers for like service between similar places;

(3) the type of planes provided, including the passenger capacity and the number of engines, shall be approved by the division, but shall not be less than the requirements set forth by the federal aviation administration based on the type of service provided;

(4) pilots shall meet the minimum requirements of the federal aviation administration based on the type of service provided. [18.11.3.7 NMAC - Rp, 18 NMAC 11.3.7, 2/14/2017]

18.11.3.8 ELIGIBILITY FOR ASSISTANCE:

A. In order to apply for an air service assistance grant to operate a single air assistance program, eligible recipients shall submit a single application to the division in a format provided by the division. The application shall designate a single eligible recipient as the lead fiscal agent for the administration and funding of the grant.

B. The division shall provide grants to eligible recipients to market and promote the services of an airline to provide a minimum level of air service on the basis of need as determined by the division.

C. The maximum amount of assistance the division may provide to eligible recipients

to operate a single grant program is \$200,000 per year.

D. Eligible recipients must provide a minimum fifty percent match in order to receive an assistance grant.

[18.11.3.8 NMAC - Rp, 18 NMAC 11.3.8, 2/14/2017]

18.11.3.9 PROCUREMENT REQUIREMENTS:

A. Eligible recipients that receive assistance shall comply with the requirements of the New Mexico Procurement Code, Sections 13-1-28 to 13-1-199 NMSA 1978, as amended.

B. Eligible recipients exempted from complying with the Procurement Code pursuant to Section 13-1-98K shall comply with their own purchasing ordinances and must provide a copy of those ordinances to the division.

C. In order to cooperatively procure the services of an airline, eligible recipients who have jointly applied for the operation of a single program are required under Section 13-1-135 NMSA 1978, as amended to enter into a joint powers agreement pursuant to Sections 11-1-1 to 11-1-7 NMSA 1978, as amended.

D. Aircraft used to provide the service and operations related to the service shall conform to the safety standards prescribed by the administrator of the federal aviation administration.

E. Selected airlines shall agree to indemnify and hold harmless the eligible recipient(s) and the state of New Mexico for all claims, damages and liability or potential liability arising from the negligent acts, errors or omission of the airline, its agents, subcontractors or employees in the operation of the contracted air service and shall provide an insurance policy in amounts approved by the division naming the eligible recipients and the New Mexico department of transportation as additional insured.

F. The division shall make available to eligible recipients suggested forms for joint powers agreements and solicitations needed

for the procurement of airline services.

[18.11.3.9 NMAC - Rp, 18 NMAC 11.3.9, 2/14/2017]

HISTORY OF 18.11.3 NMAC: [RESERVED]

History of Repealed Material: 18 NMAC 11.3, Airports Air Service Assistance Program, filed 11/2/1999, repealed effective 2/14/2017.

TRANSPORTATION, DEPARTMENT OF

This is an amendment to 18.11.9 NMAC, Sections 2, 3, 8 through 12 and adding 14, effective 2/14/2017.

18.11.9.2 SCOPE: [All local governments and general public] Municipalities, counties, Indian tribes or tribal organizations as defined in federal law at 25 USC 5304, or other public entities located within the state of New Mexico.

[11/30/98; 18.11.9.2 NMAC - Rn, 18 NMAC 11.9.2, 3/15/2004; A, 2/14/2017]

18.11.9.3 STATUTORY AUTHORITY: [NMSA 1978, Section 64-1-13] Section 64-1-13 NMSA 1978, as amended, provides in part that the aviation division shall cooperate with all public and private agencies and organizations to encourage and advance aviation in this state. Further, that it shall authorize the expenditure of state money in accordance with division policies and procedures for planning, program administration construction, development and maintenance of certain public-use airport facilities and navigation aids and related facilities. This policy shall govern approval of grants made to airport sponsors pursuant to this authority. [11/30/98; 18.11.9.3 NMAC - Rn, 18 NMAC 11.9.3, 3/15/2004; A, 2/14/2017]

18.11.9.8 PROJECT ELIGIBILITY: Airports with regularly scheduled airline service

utilizing aircraft with seating capacity in excess of [60] 100 passengers, or a maximum payload capacity of more than [fifteen] twenty-five thousand pounds are not eligible for state funding. Airports on private land are not eligible for state funding unless the landowner files a written agreement with the aviation division director permitting public use of the facility without limit as to time. Airports receiving state funds shall not charge landing fees for aircraft except for aircraft used in commercial activities for compensation. [11/30/98; 18.11.9.8 NMAC - Rn & A, 18 NMAC 11.9.8, 3/15/2004; A, 2/14/2017]

18.11.9.9 PROJECT APPLICATION: Before being eligible for consideration by the aviation division, a sponsor must submit a request ~~[properly completed application]~~ for a project grant ~~[on a form furnished by]~~ to the aviation division in accordance with the process established by the division. ~~[It]~~ The project request shall include an accurate ~~[description]~~ project description and cost of work to be done ~~[a sketch (entitled "exhibit A") of the airport identifying the ownership of the facility, a cost estimate (entitled "exhibit B"), and be signed by an authorized agent of the sponsor].~~ [11/30/98; 18.11.9.9 NMAC - Rn, 18 NMAC 11.9.9, 3/15/2004; A, 2/14/2017]

18.11.9.10 PROJECT APPROVAL: The aviation division shall give priority for the award of grants based on the aviation division's determination as to the need for the project. If the aviation division determines that the project meets all requirements of eligibility, that it meets the existing or future needs of aviation in the state, and that state aid is required to accomplish the project, ~~[the application shall become exhibit I of the grant agreement paperwork package]~~ the aviation division will prepare the grant agreement paperwork to be sent to the sponsor. The aviation division

shall require the adoption of an airport maintenance resolution; and may also require the adoption of appropriate airspace and land use zoning ordinances. Copies of any required documentation shall be furnished to the aviation division prior to the full processing of the grant agreement. ~~[The aviation division shall prepare the grant agreement paperwork].~~ The grant agreement shall become a legal document upon approval and execution by all required parties. [11/30/98; 18.11.9.10 NMAC - Rn, 18 NMAC 11.9.10, 3/15/2004; A, 2/14/2017]

18.11.9.11 EXECUTION OF PROJECT: The project shall be accomplished in accordance with the provision of the applicable state laws, aviation division ~~[regulations and covenants]~~ policies and procedures, and conditions of the approved grant agreement. [11/30/98; 18.11.9.11 NMAC - Rn, 18 NMAC 11.9.11, 3/15/2004; A, 2/14/2017]

18.11.9.12 STATE PARTICIPATION: The aviation division is not restricted, other than by funds available, to a percentage of total amount of participation in any given project. At the discretion of the division a sponsor may use in kind services for its participating in the project. [11/30/98; 18.11.9.12 NMAC - Rn, 18 NMAC 11.9.12, 3/15/2004; A, 2/14/2017]

18.11.9.14 PROCUREMENT REQUIREMENTS:

A. Sponsors that receive assistance shall comply with the requirements of the New Mexico Procurement Code, Sections 13-1-28 to 13-1-199 NMSA 1978, as amended.

B. Sponsors exempted from complying with the Procurement Code pursuant to Section 13-1-98K shall comply with their own purchasing ordinances and must provide a copy of those ordinances to the aviation division. [18.11.9.14 NMAC - N, 2/14/2017]

End Of Adopted Rules

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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
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