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New Mexico Register

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

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The New Mexico Register

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New Mexico Register

Volume XXX, Issue 19

October 15, 2019

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Notices of Rulemaking and Proposed Rules

ECONOMIC DEVELOPMENT DEPARTMENT

NOTICE OF PROPOSED RULEMAKING

Public Hearing. The New Mexico Economic Development Department (EDD) hereby gives notice that it will conduct a public hearing at the CNM Workforce Training Center, 5600 Eagle Rock Ave. NE, Albuquerque, NM 871113 on Wednesday, November 20, 2019 from 9:00 am to 10:30 am (MDT). The purpose of the public hearing is to receive public input on the proposed amendment to 5.5.50 NMAC, Industrial Development Training Program (Job Training Incentive Program) and address additional changes that may have been suggested by the Industrial Training Board or other interested parties during the public comment period.

Rule Change Information: The purpose of this rule change is to revise the wage requirements for the Job Training Incentive Program.

Statutory Authorization: Section 21-19-7 NMSA 1978 grants the Industrial Training Board the authority to promulgate and enforce rule.

Public comment: Interested individuals may testify at the public hearing or submit written comments regarding the proposed rulemaking relating to the Job Training Incentive Program to sara.gutierrez@state.nm.us or Sara Gutiérrez, JTIP Program Manager, New Mexico Economic Development Department, P.O. Box 20003 Santa Fe, New Mexico 87504-5003. Written comments must be received no later than 5:00 pm on Friday, November 15, 2019. The EDD encourages the early submission of written comments.

Copies of the proposed changes may be accessed through EDD's website <https://gonm.biz/business-development/edd-programs-for-business/job-training-incentive-program/> or from Sara Gutiérrez at the contact below on October 15, 2019.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this hearing are asked to contact Sara Gutiérrez as soon as possible. The EDD requests at least ten days advanced notice to provide requested special accommodations.

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT YOUTH CONSERVATION CORPS COMMISSION

NOTICE OF PROPOSED RULEMAKING

The Youth Conservation Corps Commission (Commission) hereby gives notice that the Commission will conduct public hearings in the theater at the Farm and Ranch Heritage Museum, 4100 Dripping Springs Road, Las Cruces, NM, 88011 on November 19, 2019 from 12:00 p.m. to 2:00 p.m. and in the Education Building at the Rio Grande Nature Center State Park, 2901 Candelaria Road NW, Albuquerque, NM 87107 on November 21 from 12:00 p.m. to 2:00 p.m. The purpose of the public hearing will be to obtain input on the proposed rule repeal and replacement of 11.2.171 NMAC, The Youth Conservation Corps (YCC) Program. Oral and written comments will be accepted at the public hearing; and the hearings will be recorded.

The purpose of this proposed rule replacement is to incorporate changes to the New Mexico Youth Conservation Corps Act, 9-5-B-1 to 9-5-B-11 regarding the creation of

the outdoor equity grant program; incorporate and clarify standards and requirements of the Youth Conservation Corps program; and update the language and formatting to meet current NMAC requirements.

Public comment period: The Commission is currently accepting comments through 5:00pm, Monday, November 18, 2019. Interested individuals may submit written comments to Sarah Wood, via email at ; fax (505) 988-7313; by postal mail to Youth Conservation Corps, 811 St. Michaels Drive, Santa Fe, New Mexico 87505; or by telephone at 505 988-9599. Individuals may also submit written or oral comments at one or both of the public hearings.

All comments will be posted to the Commission's website at <http://www.emnrd.state.nm.us/YCC/yccactrules.html> within three business days.

Statutory Authority: The Youth Conservation Corps Act, Sections 9-5B-1 to 9-5B-11 NMSA 1978 (1992, as amended through 2019), specifically authorizes the Commission to "adopt rules that are necessary for the proper administration of the New Mexico Youth Conservation Corps Act, including the outdoor equity grant program."

The proposed rule is printed below. Copies of the proposed rule may also be accessed on the Commission's website (<http://www.emnrd.state.nm.us/YCC/yccactrules.html>) or obtained from Sarah Wood, sara.wood@state.nm.us (505) 988.9599.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Sarah Wood at (505) 988-9599 as soon as possible. The Department requires at least ten (10) days' advance notice to provide requested special accommodations.

PROPOSED RULE

**TITLE 11 LABOR AND WORKERS COMPENSATION
CHAPTER 2 JOB TRAINING
PART 171 THE YOUTH CONSERVATION CORPS (YCC) AND OUTDOOR EQUITY GRANT (OEG) PROGRAMS**

11.2.171.1 ISSUING AGENCY: The New Mexico Youth Conservation Corps Commission.
[11.2.171.1 NMAC – Rp, 11.2.171.1 NMAC, 12/17/2019]

11.2.171.2 SCOPE: General Public.
[11.2.171.2 NMAC – Rp, 11.2.171.2 NMAC, 12/17/2019]

11.2.171.3 STATUTORY AUTHORITY: Section 9-5B-1 et-seq. NMSA 1978.
[11.2.171.3 NMAC – Rp, 11.2.171.3 NMAC, 12/17/2019]

11.2.171.4 DURATION: Permanent.
[11.2.171.4 NMAC – Rp, 11.2.171.4 NMAC, 12/17/2019]

11.2.171.5 EFFECTIVE DATE: December 17, 2019, unless a later date is cited at the end of a section.
[11.2.171.5 NMAC – Rp, 11.2.171.5 NMAC, 12/17/2019]

11.2.171.6 OBJECTIVE: The objective of this rule is to establish procedures and standards for the administration of the Youth Conservation Corps (YCC) program and the Outdoor Equity grant (OEG) program.
[11.2.171.6 NMAC – Rp, 11.2.171.6 NMAC, 12/17/2019]

11.2.171.7 DEFINITIONS:
A. “Low-income youth” means New Mexico residents up to the age of 18 who qualify for a state or federal assistance program, such as free or reduced lunch.

B. “Native American” means a person having origins in any of the original peoples of North and

South America (including Central America) and who maintain tribal affiliation or community attachment.

C. “Residential program” means a program where corps members and their supervisors are housed on-site in a residential facility.

D. “Rural” means an area not within a metropolitan statistical area as defined by the United States office of management and budget.

E. “Summer program” means a program taking place between May and September.

F. “Seasonal program” means a program that takes place any time of year and is six months or less in duration.

G. “Under-resourced” means lacking sufficient resources, including, but not limited to funds, opportunity, work force, knowledge base, support systems, physical aids, communication devices, and other physical assets that limit access to job training and outdoor recreation.

H. “Urban” means an area within a metropolitan statistical area as defined by the United States office of management and budget.
[11.2.171.7 NMAC – Rp, 11.2.171.7 NMAC, 12/17/2019]

11.2.171.8 PROPOSALS:
A. At least annually, the commission will request proposals for YCC and OEG projects. The commission’s announcement will include where to obtain proposal information and the date by which proposals must be submitted.

B. Annually, the commission shall establish a minimum and maximum number of grants for the OEG program; and a range of grant awards for the YCC and OEG, based on available funding and the quality and quantity of proposals.

[11.2.171.8 NMAC – Rp, 11.2.171.15 NMAC, 12/17/2019]

11.2.171.9 YCC PROJECT ELIGIBILITY:

A. Project sponsors: The YCC Commission will accept applications from:

(1) A federally recognized sovereign tribal government within the state.

(2) A state agency.

(3) A local government agency.

(4) A federal agency operating within the state.

(5) A non-profit organization with a 501(c) internal revenue service designation operating within the state.

(6) Any organization or agency with a 501(c) fiscal sponsor.

B. Projects must be consistent with the purposes of the NMYCC program and may include, but need not be limited to, projects that:

(1) protect, conserve, rehabilitate or increase resiliency of terrestrial and aquatic species, forests, refuges, rangelands and waters of the state;

(2) improve public parks, greenways, historic sites, libraries, museums, zoos, recreational areas and associated facilities;

(3) reinforce the “keep New Mexico true” campaign;

(4) provide emergency assistance, disaster relief or recovery; or

(5) improve disaster preparedness; increase energy efficiency.

C. Prohibited activities: The following activities are prohibited in the conduct of any NMYCC project:

(1) the displacement or substitution of an existing employee by a corps member or the replacement of a seasonal employee normally hired by the project sponsor;

(2) the participation by corps members in the removal or cleaning up of any toxic or hazardous waste or toxic or hazardous waste site; and

(3) the assignment of corps members to general work activities such as, but

not limited to, routine lawn mowing, routine litter control, janitorial duties and clerical tasks.

[11.2.171.9 NMAC – Rp, 11.2.171.12 and 11.2.171.13 NMAC, 12/17/2019]

11.2.171.10 YCC PROJECT REQUIREMENTS:

- A.** Project sponsors shall ensure that all project sites and practices conform to appropriate state and federal health and safety standards and requirements.
- B.** Project sponsors shall classify their programs as a summer, seasonal, or residential project; and also specify whether their project primarily engages Native American, rural, urban or other under-resourced populations.
- C.** Wages for corps members and corps leaders shall account for a minimum of seventy percent of the total funds requested.
- D.** Projects shall hire a minimum of four corps members and one corps leader.
- E.** Project sponsors must provide an education and training program to corps members for the duration of the project. The number of hours of training provided for each corps member shall be no less than twelve percent of the total hours budgeted per corps member for the entirety of the project.
- F.** Project sponsors shall match a minimum of twenty percent of total funds requested with in-kind contributions.
- G.** Project sponsors shall provide proof they have obtained permission from all land owners or managers where the project shall take place.
- H.** Project sites: Projects may be undertaken on:
 - (1)** public lands, waters or structures located within the state that are under the jurisdiction of the project sponsor or in accordance with a written agreement between the project sponsor and the agency that has jurisdiction over the public lands, waters or structures;
 - (2)** lands, waters or structures owned or

administered by a non-profit entity or federally recognized sovereign tribal government, provided that these facilities are open to the public on a reasonable basis, there is a public value or benefit to the project, and the facilities are located within the state; or

- (3)** lands, waters or structures owned or administered by a nonprofit organization or federally recognized sovereign tribal government in accordance with a written agreement between the project sponsor and the nonprofit entity or federally recognized sovereign tribal government, provided that these facilities are open to the public on a reasonable basis, there is a public value or benefit to the project, and the facilities are located within the state.
 - I.** Project sponsors shall provide proof that worker’s compensation and unemployment insurance are in place for the duration of the project.
- [11.2.171.10 NMAC – Rp, 11.2.171.11 NMAC, 12/17/2019]

11.2.171.11 YCC CORPS MEMBERS:

- A.** Project sponsors shall, at their own expense, comply with all applicable laws, regulations, rules ordinances, and requirements of local, state, and federal authorities, including but not limited to those pertaining to equal opportunity employment, workers compensation benefits, and fair labor standards.
- B.** Recruitment, selection, supervision, development and dismissal of corps members will be the responsibility of the project sponsors.
- C.** Sponsors shall verify corps members meet the following eligibility requirements and keep records of such:
 - (1)** are unemployed;
 - (2)** are New Mexico residents;
 - (3)** are in-school or out-of-school youth;
 - (4)** are between the ages of 14 and 25 years of age for the duration of the project

(5) have a work permit if under the age of 16.

D. Sponsors shall enforce all labor laws and shall be familiar with child labor laws as they apply to employees under the age of 18.

E. Compensation: **(1)** Corps members shall be compensated as provided by law following the state or municipality established minimum wage.

(2) Corps members shall be individuals who meet the eligibility requirements and are at least 14 years of age at the beginning of the project.

(3) Corps crew leaders shall be individuals who meet the eligibility requirements, are at least 18 years of age at the beginning of the project, serve in a leadership position, and shall be paid no more than \$2.00 per hour more than the highest paid corps member.

(4) Corps crew trainers shall be individuals who meet the eligibility requirements, are at least 21 years of age at the beginning of the project, provide training to corps crews and mentoring to corps leaders, and shall be paid no more than \$4.00 per hour more than the highest paid corps member.

(5) Project sponsors may request wage increases of no more than ten percent of starting wage for corps members based on promotion, performance or additional responsibilities; and if there are sufficient funds in the budget to complete the project as planned.

(6) The YCC will support the project sponsor’s existing policy for holiday pay.

(7) Project sponsors may not budget overtime pay into the cost proposal, and under no circumstances will the Commission reimburse project sponsors for overtime.

(8) The YCC will not reimburse the project sponsor for hazard pay.

(9) Project sponsors shall follow their established personnel policies for dismissal

of corps members. Sponsors are encouraged to provide opportunities for improvement prior to dismissal.

F. The length of a corps member's employment shall be determined by the duration of the work project in which the corps member is participating.

G. The maximum accumulated length of service for which a corps member may be employed on a YCC crew, including all projects in which the corps member participated, shall not exceed 24 months.

[11.2.171.11 NMAC – Rp, 11.2.171.13 and 11.2.171.14 NMAC, 12/17/2019]

11.2.171.12 YCC EDUCATIONAL TUITION VOUCHERS AND ADDITIONAL CASH COMPENSATION:

A. On completion of employment with the YCC, a corps member who has twelve full months of employment as a corps member during a period not to exceed 48 months, and who has received satisfactory evaluations throughout their employment, may apply for a \$500.00 additional cash compensation or a \$1500.00 educational tuition voucher.

B. The project sponsor shall certify that the corps member was employed for the duration of the project and the YCC staff shall verify same.

(1) The educational voucher is good for reimbursement of expenses at a New Mexico institution of higher education, including accredited universities, colleges, community colleges, vocational schools and on-line education associated with an accredited New Mexico institution of higher education.

(2) The educational tuition voucher is valid for two years and will be reimbursed upon presentation of receipts and proof of payment.

(a) Examples of reimbursable expenses include educational expenses such as tuition, textbooks, and classroom and lab supplies.

(b) Examples of non-reimbursable expenses include personal expenses, transportation, computers, residential rent, and food.

(3) A corps member who receives satisfactory employment evaluations and has completed a minimum of six months employment but less than 12 months in a four-year period due to circumstances beyond the corps member's control, may receive a partial cash compensation or a partial educational tuition voucher.

(a) Circumstances beyond a corps member's control may include but are not limited to: illness; death in the family; a return to school; family relocation.

(b) Circumstances beyond the corps member's control do not include the unavailability of projects or that the project sponsor did not select them for employment with the project.

[11.2.171.12 NMAC – Rp, 11.2.171.18 NMAC, 12/17/2019]

11.2.171.13 OEG PROGRAM ELIGIBILITY

A. The YCC Commission will accept applications from:

(1) A federally recognized sovereign tribal government within the state.

(2) A state agency.

(3) A local government agency.

(4) A federal agency operating within the state.

(5) A non-profit organization with a 501(c) (3) internal revenue service designation operating within the state.

(6) Any organization or agency with a 501(c) (3) fiscal sponsor.

(7) A privately-owned New Mexico resident business.

B. Programs must be consistent with the purposes of the outdoor equity grant program as described in the act; and may include,

but are not limited to, programs that provide recreational opportunities and enhance outdoor skills and knowledge of activities such as bicycling, birdwatching, boating, camping, climbing, farming, fishing, flora and fauna identification, hang-gliding, hiking, horse-back riding, hot-air ballooning, hunting, jet skiing, mountain biking, mushrooming, nature study, off-highway vehicles, orienteering, paddling, rafting, ranching, rock-climbing, sandboarding, skiing, sledding, snowboarding, snowshoeing, and swimming.

[11.2.171.13 NMAC – N, 12/17/2019]

11.2.171.14 OEG PROGRAM REQUIREMENTS:

A. Program sponsors shall ensure that all program components and practices conform to appropriate state and federal health and safety standards and requirements.

B. The majority of the program must take place outdoors, and the program shall be designed so that participants are actively engaging in outdoor recreational or educational activities the majority of the time.

C. Program applicants will specify whether their proposal primarily engages Native American, rural, urban or other under-resourced populations.

D. Programs that shall not be funded include, but are not limited to, those that take place primarily indoors, such as classrooms or gymnasiums; museums, aquariums, zoos, festivals or events; organized youth sports, such as baseball or soccer ; and service projects.

E. Program sites: Programs may occur in whole or partially on:

(1) public lands, waters or structures located within the state that are under jurisdiction of the program applicant or in accordance with a written agreement between the program sponsor and the agency that has jurisdiction over the public lands; waters or structures;

(2) privately-owned lands located within the state owned or leased by the program applicant or in accordance with a written agreement between the program applicant and the property owner;

(3) any lands, waters or structures located within the state that are owned or administered by a non-profit entity or federally recognized sovereign tribal government or in accordance with a written agreement between the program sponsor and the nonprofit entity or federally recognized sovereign tribal government.

F. Program applicants shall provide proof of adequate insurance coverage for any liability arising out of program activities for the duration of the program.

G. Service projects or publicly funded enhancements on private land that would increase the value of that land are prohibited. [11.2.171.14 NMAC – N, 12/17/2019]

11.2.171.15 EVALUATION OF PROPOSALS:

A. The commission shall adopt a competitive evaluation process to guide the allocation of funds.

B. The commission shall review and evaluate all proposals to determine the proposal's conformance with the goals of the programs as described in the act and 11.2.171 NMAC, Sections 9, 10, 11, 13 and 14.

C. The commission shall take appropriate measures to ensure the evaluation process is not influenced by donors to the youth conservation corps or outdoor equity fund. This may include, but is not limited to, appointing an external review committee; and concealing the identity of applicants during the review process.

D. The commission will distribute funds equitably among qualified projects that variously engage Native American, rural, urban or other under-resourced populations. [11.2.171.15 NMAC – Rp, 11.2.171.16 NMAC, 12/17/2019]

11.2.171.16 AWARD

AGREEMENTS: Successful applicants shall enter into a formal agreement with the commission for the expenditure of awarded funds in accordance with their submitted proposal.

[11.2.171.16 NMAC – Rp, 11.2.171.17 NMAC, 12/17/2019]

11.2.171.17 FUNDS:

A. The commission may establish limitations on the availability and use of program funds. Any limitations shall be defined in the current application package

B. The commission may limit the amount of funding available for any element(s) of a program.

C. If money is not awarded in a given fiscal year due to the lack of applications meeting minimum requirements, the commission may reassign the funds to a non-funded or under-funded program that meets all the minimum requirements or may carry them over into the total program allocation for the next fiscal year.

[11.2.171.17 NMAC – Rp, 11.2.171.9 NMAC, 12/17/2019]

HISTORY of 11.2.171 NMAC:

Pre-NMAC History:

The material in this Part was derived from that previously filed with the state records center & archives under; NMYCC Rule No. 92-1, Rules and Regulations Governing the New Mexico Youth Conservation Corps, filed November 20, 1992.

History of Repealed Material:

11.2.171 NMAC, The Youth Conservation Corps (YCC) Program, filed 4/30/2001, was repealed and replaced by 11.2.171 NMAC, The Youth Conservation Corps (YCC) Program and Outdoor Equity Grant (OEG) Program, effective 12/17/2019.

Other History: 11 NMAC 2.YCC, The Youth Conservation Corps (YCC) Program, filed 5/14/1997, was reformatted, renumbered, and

amended to 11.2.171 NMAC effective 4/30/2001.

ENVIRONMENTAL IMPROVEMENT BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO 20.4.2 NMAC - HAZARDOUS WASTE PERMIT AND CORRECTIVE ACTION FEES AND 20.4.3 NMAC – ANNUAL HAZARDOUS WASTE FEES

The New Mexico Environmental Improvement Board (“Board” or “EIB”) will hold a public hearing beginning at 9:00 a.m. on December 20, 2019 and continuing thereafter as necessary at the New Mexico State Capitol Building, Room 307, 490 Old Santa Fe Trail, Santa Fe, New Mexico. 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 Hazardous Waste Permit and Corrective Action Fee Regulations, 20.4.2 NMAC, and the Annual Hazardous Waste Fee Regulations, 20.4.3 NMAC (Fee Regulations). The New Mexico Environment Department (NMED) is the proponent of the proposed amendments.

The purpose of the amendments is to update the Hazardous Waste Permit and Corrective Action Fee Regulations, 20.4.2 NMAC and the Annual Hazardous Waste Fees, 20.4.3 NMAC, to incorporate changes in fees based on inflation since 2004 and staff document review time data compiled since 2007. The updates are necessary to support the Hazardous Waste Management Program. The current Hazardous Waste Permit and Corrective Action Fee Regulations, 20.4.2 NMAC, were last adopted in 2006 and the Annual Hazardous Waste Fee Regulations, 20.4.3 NMAC, were last adopted in 1995.

The proposed amendments also include additional definitions, minor changes, and clarifications to the regulations. 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/hazardous-waste/proposed-hazardous-waste-regulations/>.

The proposed rules are authorized pursuant to the Environmental Improvement Act, Sections 74-1-5 and 74-1-8 NMSA 1978. 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 the Hazardous Waste Act, Chapter 74, Article 4 NMSA 1978.

Pursuant to 20.1.1.304 NMAC, 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 providing oral testimony at the hearing, must file the written statement prior to the hearing or submit it at 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 Monday, December 2, 2019. 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 Monday, December 2, 2019 and should reference the name of the regulations, the date of the hearing, and docket number EIB 19-35 (R). Notices of intent to present technical testimony should be submitted to:

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

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 Cody Barnes, Administrator of Boards and Commissions, at the above address, and should reference docket number EIB 19-35 (R).

If any person requires assistance, an interpreter, or auxiliary aid (e.g., disability accommodation) to participate in this process, please contact Cody Barnes, EIB Administrator as soon as possible, allowing at least 14 days before the hearing date, at P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico 87502, telephone (505) 827-2428 or e-mail cody.barnes@state.nm.us. (TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

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

Notice of Non-Discrimination

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

Non-Discrimination Coordinator identified above or visit our website at <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.

ENVIRONMENTAL IMPROVEMENT BOARD

AVISO DE AUDIENCIA PÚBLICA PARA CONSIDERAR ENMIENDAS A 20.4.2 NMAC PERMISO DE RESIDUOS PELIGROSOS Y TARIFAS DE ACCIONES CORRECTIVAS Y 20.4.3 NMAC – TARIFAS ANUALES DE RESIDUOS PELIGROSOS

La Junta de Mejoramiento Ambiental de Nuevo México (“Junta” o “EIB, por sus siglas en inglés”) celebrará una audiencia pública a partir de las 9:00 de la mañana el 20 de diciembre de 2019 y continuará según sea necesario en el Edificio del Capitolio del Estado de Nuevo México, Sala 307, 490 Old Santa Fe Trail, Santa Fe, Nuevo México. La ubicación de la audiencia puede cambiar antes de la fecha de la audiencia, y aquellos interesados en asistir deben consultar el sitio web de la EIB: <http://www.env.nm.gov/eib> antes de la audiencia. El propósito de la audiencia es considerar las enmiendas propuestas al Reglamento de Permisos de Residuos Peligrosos y Tarifas de Acciones Correctivas, 20.4.2 NMAC, y al Reglamento de Tarifas Anuales de Residuos Peligrosos, 20.4.3 NMAC (Regulaciones de Tarifas). El Departamento de Medio Ambiente de Nuevo México (NMED, por sus siglas en inglés) es el proponente de las enmiendas propuestas.

El propósito de las enmiendas es actualizar el Reglamento de Permisos de Residuos Peligrosos y Tarifas de Acciones Correctivas, 20.4.2 NMAC y el Reglamento de Tarifas Anuales de Residuos Peligrosos, 20.4.3 NMAC, para incorporar cambios en las tarifas basados en la inflación desde 2004 y el tiempo de revisión

de datos de documentos recopilados por el personal desde 2007. Las actualizaciones son necesarias para apoyar el Programa de Gestión de Residuos Peligrosos. El actual Reglamento de Permisos de Residuos Peligrosos y Tarifas de Acciones Correctivas, 20.4.2 NMAC, fue adoptado por última vez en 2006 y el Reglamento de Tarifas Anuales de Residuos Peligrosos, 20.4.3 NMAC, fue adoptado por última vez en 1995.

Las enmiendas propuestas también incluyen definiciones adicionales, cambios menores y aclaraciones a los reglamentos. Tenga en cuenta que el formato y cambios técnicos menores en los reglamentos que no sean los propuestos por NMED pueden proponerse en la audiencia. Además, la Junta puede hacer otros cambios según sea necesario para lograr el propósito de proporcionar seguridad y salud pública en respuesta a los comentarios públicos y la evidencia presentada en la audiencia.

Las enmiendas propuestas pueden revisarse durante las horas hábiles regulares en la oficina de la Junta de Mejoramiento Ambiental ubicada en el Edificio Harold Runnels, 1190 South St. Francis Drive, Sala S-2102, Santa Fe, NM, 87505. Además, una copia de las enmiendas propuestas de NMED se encuentra en el sitio web de NMED en: <https://www.env.nm.gov/hazardous-waste/proposed-hazardous-waste-regulations/>.

Las reglas propuestas están autorizadas de conformidad con la Ley de Mejoramiento Ambiental, Secciones 74-1-5 y 74-1-8 NMSA 1978. La audiencia se llevará a cabo de conformidad con 20.1.1 NMAC (Procedimientos de Reglamentación - Junta de Mejoramiento Ambiental), la Ley de Mejoramiento Ambiental, Sección 74-1-9 NMSA 1978, y la Ley de Residuos Peligrosos, Capítulo 74, Artículo 4 NMSA 1978.

De conformidad con 20.1.1.304 NMAC, todas las personas interesadas tendrán una oportunidad razonable durante la audiencia para presentar

evidencias, datos, puntos de vista y argumentos pertinentes, oralmente o por escrito, para presentar documentos u objetos de pruebas y examinar testigos. Cualquier persona que desee presentar una declaración escrita no técnica para que conste en el registro en lugar de proporcionar testimonio oral en la audiencia, debe presentar la declaración escrita antes de la audiencia o durante la audiencia.

De conformidad con 20.1.1.302 NMAC, las personas que deseen presentar un testimonio de carácter técnico deben presentar a la Junta un aviso por escrito de su intención de presentar dicho testimonio a más tardar a las 5:00 de la tarde del lunes 2 de diciembre de 2019. El aviso de intención deberá:

- identificar a la persona o entidad para la cual testificará el testigo o testigos;
- identificar a cada testigo técnico que la persona tiene la intención de presentar y declarar las calificaciones del testigo, incluyendo una descripción de su historial educativo y laboral;
- incluir una copia del testimonio directo de cada testigo técnico en forma narrativa;
- incluir el texto de cualquier modificación recomendada al cambio reglamentario propuesto; y hacer una lista y adjuntar todos los documentos y objetos de prueba que se anticipa que esa
- Persona presentará en la audiencia, incluida cualquier declaración propuesta sobre los motivos para la adopción del lenguaje de la regla que se propone.

Los avisos de intención para la audiencia deben recibirse en la Oficina de la Junta de Mejoramiento Ambiental a más tardar a las 5:00 de la tarde del lunes 2 de diciembre de 2019 y debe incluir como referencia el nombre de los reglamentos, la fecha de la audiencia y el número

de expediente EIB 19-35 (R). Los avisos de la intención de presentar testimonios de carácter técnico deben enviarse a:

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

Cualquier persona que desee hacerlo puede ofrecer un comentario público de carácter no técnico en la audiencia, o presentar una declaración escrita de carácter no técnico en lugar de un testimonio oral en la audiencia o antes. Los comentarios escritos sobre las revisiones propuestas pueden dirigirse a Cody Barnes, Administrador de Juntas y Comisiones, a la dirección anterior, y deben hacer referencia al número de expediente EIB 19-35 (R).

Si alguna persona requiere asistencia, un intérprete o ayuda auxiliar (por ejemplo, acomodación para discapacitados) para participar en este proceso, comuníquese con Cody Barnes, Administrador de EIB lo antes posible, permitiendo al menos 14 días antes de la fecha de la audiencia, en P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, Nuevo México 87502, teléfono (505) 827-2428 o correo electrónico cody.barnes@state.nm.us. (Los usuarios de TDD o TTY pueden acceder al número a través de la Red de Retransmisión de Nuevo México, 1-800-659-1779 (voz); usuarios de TTY: 1-800-659-8331).

La Junta puede tomar una decisión sobre el cambio reglamentario propuesto al finalizar la audiencia, o puede convocar una reunión después de la audiencia para considerar que acción con respecto a la propuesta.

Aviso de no discriminación

NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigen las leyes

y regulaciones aplicables. NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de consultas sobre los requisitos de no discriminación implementados por 40 C.F.R. Partes 5 y 7, incluido el Título VI de la Ley de Derechos Civiles de 1964, según enmendada; Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Título IX de las Enmiendas de Educación de 1972 y la Sección 13 de las Enmiendas de la Ley de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o alguno de los programas, políticas o procedimientos de no discriminación de NMED o si cree que ha sido discriminado con respecto a un programa o actividad de NMED, puede comunicarse con: Kristine Yurdin, coordinadora de no discriminación, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, teléfono (505) 827-2855, correo electrónico nd.coordinator@state.nm.us. También puede visitar nuestro sitio web en <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para saber cómo y dónde presentar una queja de discriminación.

GAME AND FISH DEPARTMENT

STATE GAME COMMISSION MEETING AND RULE MAKING NOTICE

The New Mexico State Game Commission ("Commission") has scheduled a regular meeting and rule hearing for Thursday November 21, 2019, beginning at 9:00 a.m. at the New Mexico Department of Game and Fish office, 1615 W. College Blvd., Roswell, NM 88201, to hear and consider action as appropriate on the following: presentation of proposed changes to the Bear and Cougar rule.

Synopsis:

The proposal is to adopt a new Bear and Cougar rule, 19.31.11 NMAC,

which will become effective April 1, 2020. The current Bear and Cougar rule is set to expire on March 31, 2019.

The proposed new rule includes:

- 1) changing the start date for the bear general weapon type season to September 25 in Bear Management Zones 10, 12, and 13, and extending the closing date to December 15 in Zones 10 and 12, and November 30 in Zone 13;
- 2) grouping the Barker and Colin Neblett Wildlife Management Area (Hunt Code BER-1-104) and Valle Vidal (Hunt Code BER-1-105) draw licenses as a single license and including the Urraca Wildlife Management Area in the areas open to hunting with that license;
- 3) no longer allowing traps and foot snares as a method of sport harvest for cougar;
- 4) adjusting cougar harvest limits to align with recent data and management objectives;
- 5) moving Game Management Unit 25 from Cougar Management Zone J to Cougar Management Zone L; and
- 6) no longer allowing an additional two tags for cougar license holders who have successfully filled their original two tags. A full text of changes will be available on the Department's website at: www.wildlife.state.nm.us.

Interested persons may submit comments on the proposed changes to the Bear and Cougar rule at: DGF-Bear-Cougar-Rules@state.nm.us, or individuals may submit written comments to the physical address below. Comments are due by 5:00 p.m. on November 19, 2019. The final proposed rule will be voted on by the Commission during a public meeting on November 21, 2019. Interested persons may also provide data, views or arguments, orally or in writing, at the public rule hearing to be held on November 21, 2019.

Full copies of text of the proposed new rule, technical information related to proposed rule changes, and the agenda can be obtained from the Office of the Director, New Mexico Department of Game and Fish, 1 Wildlife Way, Santa Fe, New Mexico

87507, or from the Department's website at www.wildlife.state.nm.us/commission/proposals-under-consideration/. This agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director's Office at (505) 476-8000, or the Department's website at www.wildlife.state.nm.us for updated information.

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

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

GAME AND FISH DEPARTMENT

STATE GAME COMMISSION MEETING AND RULE MAKING NOTICE

The New Mexico State Game Commission ("Commission") has scheduled a regular meeting and rule hearing for Thursday, November 21, 2019, beginning at 9:00 a.m. at the New Mexico Game & Fish Southeast Area office in Roswell, 1615 W. College Blvd, Roswell, NM 88201, to hear and consider action as appropriate on the following: Presentation of proposed changes to the Hunting and Fishing Licenses and Application rule.

Synopsis:

The proposal is to adopt a new Hunting and Fishing Licenses and Application rule, 19.31.3 NMAC, which will become effective January 1, 2020.

The proposed rule changes the requirements for submission of military documents in support of draw applications for military-only hunts on McGregor Range and returning Iraq/Afghanistan veteran oryx hunts on White Sands Missile Range. Documents will be required prior to application, instead of by the application deadline date. Application requirements for Sandhill crane and pheasant draw hunts are added, and several provisions are removed to avoid conflict and/or duplication with existing rules and statutes. A comprehensive list of license, permit and stamp requirements is also added. A more detailed summary, and the full text of changes, is available on the Department's website at: www.wildlife.state.nm.us.

Interested persons may submit comments on the proposed changes to the Hunting and Fishing Licenses and Application rule at specialhunts@state.nm.us; or individuals may submit written comments to the physical address below. Comments are due by 5:00 p.m. on November 18, 2019. The final proposed rule will be voted on by the Commission during a public meeting on November 21, 2019. Interested persons may also provide data, views or arguments, orally or in writing, at the public rule hearing to be held on November 21, 2019.

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

is subject to change up to 72 hours prior to the meeting. Please contact the Director's Office at (505) 476-8000, or the Department's website at www.wildlife.state.nm.us for updated information.

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

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

HEALTH, DEPARTMENT OF

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health (Department) will hold a public hearing on the proposed repeal and replacement of various rule sections of Department rules 7.34.2, 7.34.3, and 7.34.4 NMAC. The hearing will be held on November 22, 2019 at 9:00 a.m. in the auditorium of the Harold Runnels Building, located at 1190 St. Francis Drive in Santa Fe, New Mexico.

The proposed rule revisions include new provisions in 7.34.4 NMAC concerning reciprocity for individuals who hold proof of authorization to participate in the medical cannabis program of another state of the United States, the District of Columbia, a territory or commonwealth of the United States, or a New Mexico Indian nation, tribe or pueblo.

The proposed rule revisions also include provisions in 7.34.4 NMAC for the establishment and operation of cannabis consumption areas for qualified patients, that are operated by licensed nonprofit producers.

The proposed rule revisions also include various revisions to the licensing requirements at 7.34.4 NMAC for licensed nonprofit producers, manufacturers, couriers, and laboratories, including but not limited to:

- Cannabis testing standards and requirements, including but not limited to microbiological, mycotoxin, residual solvent, and THC potency testing, new requirements for testing for pesticide residue and end products testing, and new sampling standards;
- Cannabis packaging and labeling requirements;
- Application requirements and licensing standards for nonprofit producers, manufacturers, laboratories, and couriers;
- Fees for couriers and manufacturers;
- Provisions concerning compliance by licensees' employees with the NM Parental Responsibility Act; and
- Disciplinary actions and appeals for producers, manufacturers, laboratories, and couriers.

The proposed rule revisions also include revisions to definitions at sections 7.34.2.7, 7.34.3.7, and 7.34.4.7 NMAC.

The legal authority for the proposed rule amendments is at Subsection E of Section 9-7-6 NMSA 1978, and Subsection A of Section 26-2B-7 NMSA 1978.

Free copies of the full text of the proposed rule amendments can be obtained online from the New Mexico Department of Health's website at <http://nmhealth.org/about/asd/cmo/rules/> or from Andrea Sundberg using the contact information below.

The public hearing will be conducted to receive public comment on the proposed repeal and replacement of various sections of Parts 7.34.2, 7.34.3, and 7.34.4 NMAC. Any interested member of the public may attend the hearing and submit data, views, or arguments either orally or in writing on the proposed rule amendments during the hearing. Written public comment may also be submitted prior to the date of the hearing. Please submit any written comments regarding the proposed rule amendments to the attention of:

Andrea Sundberg
 NM Department of Health
 Medical Cannabis Program
 P.O. Box 26110
 Santa Fe, NM 87502-6110

Or at:

MCP.comment@state.nm.us

Written comments must be received by the close of the public rule hearing on November 22, 2019. All written comments will be published on the agency website at <http://nmhealth.org/about/asd/cmo/rules/> within 3 days of receipt, and will be available at the New Mexico Department of Health Medical Cannabis Program for public inspection.

If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in the hearing, please contact Andrea Sundberg by telephone at (505) 827-2318. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

NURSING, BOARD OF

NOTICE OF PUBLIC RULEMAKING HEARING

The New Mexico Board of Nursing (NMBON) will hold a Public Rulemaking Hearing on Thursday November 21, 2019. The Rulemaking Hearing will

begin at 1:00 p.m., at the New Mexico Board of Nursing, Large Conference Room at 6301 Indian School Rd NE, Albuquerque, NM 87110.

Statutory authority for this rulemaking can be found in Section 61-3-10 et seq. NMSA 1978.

The purpose of the Rulemaking Hearing is to hear public testimony and comments regarding the proposed amendment to the rule:

Title 16 Occupational and Professional Licensing, Chapter 12 Nursing and Health Care Related Providers
Part 2 Nurse Licensure.

Pursuant to the amendment to the Nursing Practice Act, 61-3-23.5 NMSA 1978, the NMBON is mandated to promulgate rules by January 1, 2020, related to the supervision of psychologists in the prescribing of psychotropic medication by a certified nurse practitioner (CNP) or clinical nurse specialist (CNS). Specifically the proposed language lists the requirements that must be met by the CNP or CNS to provide the supervision, and the obligation to report such supervision to the NMBON.

No specific technical information serves as a basis for this proposed rule.

Persons desiring to view the proposed rule to be repealed or the new rule may download them from <https://nmbon.sks.com/rule-changes.aspx>. If you do not have internet access, a copy of the proposed rules may be requested by contacting the NMBON at (505) 841-9094.

Written comments may be submitted via email to [BON.Legal@state.nm.us](mailto:Legal@state.nm.us). If submitting comments via email specify in the subject line the following: NMBON Public Comments.

Written comments may also be filed by sending original, signed copies to:

New Mexico Board of Nursing
ATTN: NMBON Public Comments
6301 Indian School Road, NE,
Suite 710
Albuquerque, NM 87110

Persons wishing to submit written comments regarding the proposed rules should submit them to the Board office no later than Friday, November 15, 2019. Written comments will be given the same consideration as oral testimony made at the public hearing. All written comments will be posted on the NMBON website within three days of receipt. All written comments must be received no later than 5:00 p.m. MST, Friday, November 15, 2019.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact the NMBON at (505) 841-9094. The NMBON requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

RACING COMMISSION

AMENDED NOTICE OF PUBLIC MEETING AND RULE HEARING

The New Mexico Racing Commission (Commission) will hold a Public Meeting and Rule Hearing on November 21, 2019. The Rule hearing will be held during the Commission's regular business meeting with the public session beginning at 9:00 a.m. The Commission will re-convene a regular meeting to adopt the rules and take care of regular business. The Rule Hearing and Commission meeting will be held in the Boardroom located at the New Mexico Racing Commission, 4900 Alameda Blvd., NE, Albuquerque, NM.

The Commission is proposing the following amendments listed below to the Rules Governing Horse Racing in New Mexico to include digital tattooing requirements, distinguish when a horse is eligible to enter or to start in a race, include verbiage regarding mitigating and aggravating circumstances, add language in which it allows the Commission and the Board of Stewards another avenue to assess additional penalties for repeat medication violators, update the definition for "Breeder", add a "unique payout" option, remove language from rules that do allow the rule to read clearly and to lower the limit of overweight a horse can carry.

- 15.2.1 NMAC - General Provisions
- 15.2.3 NMAC - Flat Racing Officials
- 15.2.5 NMAC - Rules of the Race
- 15.2.6 NMAC - Veterinary Practices, Equine Health, Medication & Trainer Responsibility
- 15.2.7 NMAC - Pari Mutuel Wagering

A copy of the proposed rule may be found on the Commission's website @ <http://nmrc.state.nm.us/rules-regulations.aspx>. You may also contact Rosemary Garley at (505) 222-0704 to request to receive a copy of the proposed rules by regular mail.

Interested persons may submit their written comments on the proposed rules to the Commission at the address below and/or may appear at the scheduled meeting and make a brief verbal presentation of their view. All written comments must be received by the Commission by 5:00 PM on November 21, 2019. Please submit comments to:

Rosemary Garley, Manager
New Mexico Racing Commission
4900 Alameda Blvd. NE
Albuquerque, NM 87113
Telephone: 505.222.0704
Fax: 505.222.0713
Email: rosemary.garley@state.nm.us

The **final** agenda for the Commission meeting will be available seventy-two (72) hours prior to the meeting.

A copy of the **final** agenda may be obtained from Rosemary Garley or from the Commission's website.

No technical information served as the basis for the proposed rule.

Anyone who requires special accommodations is requested to notify the Commission of such needs at least five days prior to the meeting.

Statutory Authority: Legal authority for this rulemaking can be found in the New Mexico Horse Racing Act, NMSA 1978, Sections 60-1A-1 through 60-1A-30 (2007, as amended through 2017), which, among other provisions, specifically authorizes the Commission to promulgate rules and regulations and carry out the duties of the Act to regulate horse racing in the State.

The Commission proposes the following rule amendments:

Subsection B of 15.2.1.7 NMAC:

The purpose of the proposed amendment is to allow the New Mexico Racing Commission's definition of a "Breeder" to correspond with the state statutes.

Subsection C of 15.2.3.8 NMAC:

The purpose of the proposed amendment is to clarify that the racing secretary or their designee will be responsible for receiving, inspecting and safeguarding the digital or paper foal documents. It will also give an effective date of January 1, 2020 for thoroughbred horses entered to race that were foaled in 2018 to have a digital tattoo.

Subsection E of 15.2.3.8 NMAC:

The purpose of this proposed amendment is to clarify that the horse identifier, when necessary, will ensure the safekeeping of digital or paper registration certificates. It will also allow a micro chip or freeze brand as a method to verify a horse's identity.

Subsection O of 15.2.3.8 NMAC:

The purpose of the proposed amendment is to correspond with

ARCI's model rules and to be more in depth on how long a horse will be on the veterinarian's list.

Subsection B of 15.2.5.11 NMAC:

The purpose of the proposed amendment is to include digital tattooing as a form of identification for a race horse in New Mexico.

15.2.5.12 NMAC: The purpose of the proposed amendment distinguishes conditions by which horses are eligible to start in a race versus ineligible to be entered into a race. It also establishes that horses that are the subject of a positive test for a prohibited substance are ineligible to be entered into a race until the adjudication process is complete.

Subsection C of 15.2.5.13 NMAC:

The purpose of the proposed amendment is to lower the limit of overweight any horse can carry.

Subsection A of 15.2.6.9 NMAC:

The purpose of the proposed amendment is to include verbiage regarding mitigating and aggravating circumstances when assessing a penalty on a licensee.

Subsection C of 15.2.6.9 NMAC:

The purpose of the proposed amendments is to reflect the correct Subsection when referencing the drug "colbalt".

Subsection L of 15.2.6.9 NMAC:

The purpose of the proposed amendment is to delete the language "and for concentrations of 50 parts per billion of blood plasma or serum)."

Subsection O of 15.2.6.9 NMAC:

The purpose of the proposed new subsection is to give the Racing Commission and Boards of Stewards another tool in which to assess additional penalties for repeat medication violators.

Subsection B of 15.2.6.12 NMAC:

The purpose of the proposed amendment is to correspond with ARCI's model rules and to be more in depth on how long a horse will be on the veterinarian's list.

Subsection P of 15.2.7.12 NMAC:

The purpose of the proposed amendment would add a "unique payout" option under the current rule for the Pentafecta (also known as the "Super Hi-5).

**SUPERINTENDENT OF
INSURANCE, OFFICE OF
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN

that the Superintendent of Insurance, in his capacity as Custodian of the New Mexico Patient's Compensation Fund ("Custodian"), pursuant to the statutory mandates of NMSA 1978, 41-5-25, et. seq., will hold a public hearing to determine new surcharge rates on November 18, 2019 at 9:00 a.m. in Apodaca Hall, 2nd Floor of the Old PERA Building, 1120 Paseo De Peralta, Santa Fe, NM 87501.

Interested Parties and the public are encouraged, to participate in the hearing and provide oral comments or file any written comments. Filings and updates concerning this case are available on the Patient's Compensation website <https://pcf.osi.state.nm.us/index.php/news/>

All documents shall be filed by hand delivering, mail, or electronic mail to: Patient's Compensation Fund Attention: Kourtne Polanco, PCF Docketing Manager 1120 Paseo De Peralta, PO Box 1689, Santa Fe, New Mexico 87504-1689 Kourtne.polanco@state.nm.us

Docket No. 19-00004-PCF IN THE MATTER OF DETERMINING NEW PATIENT'S COMPENSATION FUND SURCHARGE RATES

Any person with a disability requiring special assistance in order to participate in the hearing should contact **Melissa Martinez, at 505-476-0333** no later than **November 1, 2019.**

**TRANSPORTATION,
DEPARTMENT OF
NOTICE OF PROPOSED
RULEMAKING**

The New Mexico Department of Transportation (NMDOT) is proposing a new rule, 18.27.6 NMAC, Local Government Transportation Project Fund.

Approval of the initial rulemaking action for the proposed new rule was granted to NMDOT by the New Mexico State Transportation Commission on April 18, 2019 pursuant to Sections 9-5-1, 67-3-8 and 67-3-11, NMSA 1978. The legal authority authorizing this rulemaking is Section 67-3-78, NMSA 1978.

Purpose: The purpose of this rule is to establish the application, evaluation, award, and close out processes to be used by the Department of Transportation in administering the money appropriated to the Local Government Transportation Project Fund by the New Mexico Legislature.

Summary of Full Text: In 2019, the New Mexico legislature enacted Laws of 2019, Chapter 205, Section 1, which created the Local Government Transportation Project Fund. The legislation is compiled at Section 67-3-78 NMSA 1978. The fund is intended to create a means to finance local transportation projects after receiving an appropriation of funds. The proposed rule describes the process by which local governments will submit an application for project funds, the process for reviewing and prioritizing projects, and the process for the eventual award of funds to the local governments by the State Transportation Commission. A local government can receive up to 95% of the total cost of a project with the ability to receive 100% upon a showing of financial hardship. And finally, based on the location of the project, the rule specifies the degree of oversight of the project on the part of the Department. Projects located

or proposed to be located entirely on local roadways receive the least amount of Department oversight.

Copy of the full text of the proposed new rule may be found on the NMDOT website at the following Internet link, under the *Public Notices* tab: <https://dot.state.nm.us/content/nmdot/en/public-notice.html>. To obtain a printed copy of the proposed amended rule, you may visit the General Office of the New Mexico Department of Transportation at 1120 Cerrillos Road, Santa Fe, New Mexico 87504 or contact Mallery Manzanares at: Telephone (505) 467-9396 or Email: Mallery.Manzanares@state.nm.us. A reasonable fee may be charged for printed copies.

NMDOT will hold six public hearings for the purpose of receiving oral and written public comment from interested parties on the proposed new rule, 18.27.6 NMAC. The hearings are scheduled in each of the six Districts starting with District 2 on November 19, 2019, from 1:00 p.m. to 3:00 p.m. at 4505 West Second Street, Roswell, New Mexico. A second hearing is scheduled in District 1 on November 20, 2019, from 10:00 a.m. to 12:00 p.m. at 750 N. Solano Drive Las Cruces, New Mexico. A hearing is scheduled in District 6 on November 20, 2019, from 1:30 p.m. to 3:30 p.m. at 1919 Pinon Drive, Milan New Mexico. The hearing in District 4 is scheduled on November 20, 2019, from 10:00 a.m. to 12:00 p.m. at 28 Bibb Industrial, Las Vegas, New Mexico. The hearing in District 3 is scheduled on November 25, 2019, from 9:00 a.m. to 11:00 a.m. at 7500 Pan American Freeway NE, Albuquerque, New Mexico. The hearing in District 5 is scheduled on November 25, 2019, from 9:00 a.m. to 12:00 p.m. at 1120 Cerrillos Road, Santa Fe, New Mexico.

To submit written views and comments on or before date of hearings, please send to: Mallery Manzanares, New Mexico

Department of Transportation, P.O. Box 1149, Santa Fe, New Mexico 87504, Telephone (505) 467-9396; Email: Mallery.Manzanares@state.nm.us. Written comments will be accepted from the date this notice is published in the New Mexico Register, before and at the scheduled hearings, and until the close of the final hearing scheduled in this rulemaking. If you plan to submit written comments, argument or data at the hearing, please make sure any documentation contains your name, phone number and email address, and please bring (3) copies of any documents to the hearing. If submitting written comments by email, please indicate the rule number in the subject line. Oral comments will only be accepted at the public hearing, and may be subject to time limitations. After the close of the final hearing scheduled in this rulemaking, the rulemaking record will be closed and no other comments will be accepted. All written comments will be posted on the department's website within three days of receipt.

Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule revisions in an accessible form may contact Mallery Manzanares at (505) 467-9396 at least ten days before the hearing.

WORKFORCE SOLUTIONS, DEPARTMENT OF

NOTICE OF RULEMAKING

The New Mexico Department of Workforce Solutions ("Department" or "NMDWS") hereby gives notice that the Department will conduct a public hearing in the Rio Grande Conference Room of the Toney Anaya Building located at 2550 Cerrillos Road in Santa Fe, NM 87505 on November 21, 2019 at 10:00 am.

The purpose of the public hearing will be to obtain input and public

comment on the proposed repeal and replacement of 11.1.2 NMAC Labor General Provisions, Public Works Minimum Wage Act Policy Manual.

Summary: The proposed changes are necessary to update the prevailing wage and fringe benefit rates to be effective January 1, 2020. The updated rule also implements changes to the policies and procedures regarding enforcement of the Public Works Minimum Wage Act as well as amending the process for determining the zone and subsistence pay rates for public works projects.

Under Section 9-26-4, NMSA 1978, the Workforce Solutions Department is responsible for the administration of the labor relations division which oversees setting the prevailing wage and fringe benefit rates. Pursuant to Section 13-4-11, NMSA 1978, the Director of the Labor Relations Division shall determine the prevailing wage rates and the prevailing fringe benefit rates.

Interested individuals may testify at the public hearing or submit written comments to State of New Mexico Department of Workforce Solutions, 401 Broadway NE, P.O. Box 1928, Albuquerque, N.M., 87103, attention Andrea Christman. Written comments must be received no later than 5 p.m. on November 20, 2019. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rules may be accessed at <http://www.dws.state.nm.us/> or obtained by calling Andrea Christman at (505) 841-8478 or sending an email to Andrea.Christman@state.nm.us. The proposed rules will be made available at least thirty days prior to the hearing.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact Ms. Christman as soon as possible.

The Department requests at least ten (10) days advance notice to provide requested special accommodations.

**End of Notices of
Rulemaking and
Proposed Rules**

Adopted Rules

Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico Register as provided in the State Rules Act. Unless a later date is otherwise provided by law, the effective date of the rule shall be the date of publication in the New Mexico Register. Section 14-4-5 NMSA 1978.

AGRICULTURE, DEPARTMENT OF

TITLE 21 AGRICULTURE AND RANCHING CHAPTER 20 HEMP CULTIVATION RULE PART 3 HEMP MANUFACTURING RULE

21.20.3.1 ISSUING

AGENCY: New Mexico State University, New Mexico Department of Agriculture, MSC 3189, Box 30005, Las Cruces, New Mexico 88003, Telephone No. (575) 646-3007.

[21.20.3.1 NMAC; N, 10/15/2019]

21.20.3.2 SCOPE: All persons engaged in:

A. Testing of raw hemp for regulatory purposes as identified by New Mexico Department of Agriculture or;

B. Plant breeding for the purpose of developing improved or new hemp varieties in which breeding activities involve the possession of viable plants that are in excess of three-tenths percent and less than five percent THC.

[21.20.3.2 NMAC; N, 10/15/2019]

21.20.3.3 STATUTORY

AUTHORITY: Granted to the Board of Regents of New Mexico State University under the Hemp Manufacturing Act, Chapter 76, Article 24, Section 1, NMSA 1978 Compilation.

[21.20.3.3 NMAC; N, 10/15/2019]

21.20.3.4 DURATION:

Permanent.

[21.20.3.4 NMAC; N, 10/15/2019]

21.20.3.5 EFFECTIVE

DATE: October 15, 2019, unless

a later date is cited at the end of a section.

[21.20.3.5 NMAC; N, 10/15/2019]

21.20.3.6 OBJECTIVE:

Establish licensing and operational standards for persons testing raw hemp for regulatory purposes, as identified by the department, or persons engaged in the breeding of new or breeding for improving existing hemp varieties in which practices may involve the possession of viable plants and plant material in excess of three-tenths percent and less than five percent THC.

[21.20.3.6 NMAC; N, 10/15/2019]

21.20.3.7 DEFINITIONS:

A. "Applicant" means individual, business, agency, institution, or other entity that is in the process of or has submitted an application to the department for a Laboratory Hemp Testing License, or a Special Hemp Breeding License.

B. "Cannabis" means a plant of the genus cannabis.

C. "Department" means the New Mexico Department of Agriculture.

D. "Hemp" means the plant Cannabis sativa L. and any part of that plant, including seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a THC concentration of not more than three-tenths percent on a dry weight basis.

E. "Hemp Harvest Certificate" means a certificate, license, permit or other document pursuant to rules adopted under the Hemp Manufacturing Act for use during transportation of hemp or hemp-derived material, whether in the possession of a person or electronically verified by a law enforcement agency.

F. "Hemp Testing" means testing of cannabis for regulatory purposes identified by New Mexico Department of Agriculture for total THC concentrations.

G. "License" means document issued to an applicant by the department authorizing a person to engage in activities identified by the department.

H. "Director" means New Mexico Director/Secretary of Agriculture or designee.

I. "SOP" means written standard operating procedures detailing instructions related to specific tasks.

J. "THC" means delta-9-tetrahydrocannabinol as measured using a post-decarboxylation method and based on percentage dry weight."

K. "Varieties" means cannabis cultivar or strain with known or unknown THC levels.

[21.20.3.7 NMAC; N, 10/15/2019]

21.20.3.8 LICENSE YEAR:

The license year for a Laboratory Hemp Testing License or for the Special Hemp Breeding License shall be a 12-month period from February 1 through January 31. Licenses, certificates or permits issued at any time during the license year shall expire on January 31 following issuance.

[21.20.3.8 NMAC; N, 10/15/2019]

21.20.3.9 FEES:

A. The annual fee for a Laboratory Hemp Testing License shall not exceed five-hundred dollars (\$500).

B. The annual fee for a Special Hemp Breeding License shall not exceed five-hundred dollars (\$500).

C. Once an appropriate license has been issued by the

department, fees collected for licenses or certificates are nonrefundable.

D. Double fees required because of late renewal of licenses in Subsections A and B 21.20.3.9 NMAC shall be twice the amount stated for the appropriate license.

E. Fees may be waived by the director, when, in their discretion, special circumstance warrant such a waiver.
[21.20.3.9 NMAC; N, 10/15/2019]

21.20.3.10 EFFECTIVE DATE OF APPLICATION AND PAYMENT OF DOUBLE FEES:

A. The effective date of application for license renewals by mail shall be the date postmarked on the applicant's properly completed application package. Renewal packages postmarked January 31 or before may be considered for renewal at single fee rates as described in Subsections A and B of 21.20.3.9 NMAC. Renewal packages postmarked February 1 or later are considered late; these packages will be returned to the applicant along with appropriate paperwork for renewal at double fee rates as described in Subsection D of 21.20.3.9 NMAC.

B. The effective date of application for license and permit renewals done in person shall be the actual calendar date when the properly completed application or renewal package is presented to the department. These application or renewal packages may be received by the department only during regular business hours.

C. Incomplete or improperly completed application or renewal packages will be so identified by the department and returned to the applicant for completion or correction. The effective date of application shall be the date postmarked on the original envelope for packages received by mail; the effective date of application for packages submitted in person shall be the actual calendar date the applicant first presents the package to the department office. This presentation

shall occur during regular business hours only.
[21.20.3.10 NMAC; N, 10/15/2019]

21.20.3.11 LABORATORY HEMP TESTING LICENSE REQUIREMENTS:

A. Persons engaged in the testing of raw hemp for the purpose of supporting regulatory requirements established by the department shall be licensed by the department.

B. Prior to issuance of a Laboratory Hemp Testing License by the department, applicants shall demonstrate expertise directly related to quantification of specific compounds in cannabis under the following requirements:

(1) Analytical proficiency directly related to the quantification of THC by qualifying under one or more of the following:

(a) Have successfully completed a proficiency test administered by a department approved entity using department approved methodologies within the past six months.

(b) Currently approved for the quantification of THC in cannabis by another state agency or other entity that has been recognized by the department.

(c) Other qualifying requirements as allowed by the director or established in policy.

(2) Submission to the department for review and approval SOPs for procedures related to sample receiving, plant material storage, record retention, sample processing, extraction methodology, total THC quantification methodology, and disposal and destruction of plant material in excess of three-tenths percent THC post-decarboxylation.

(3) Submission to the department for review and approval SOPs related to reporting to, or providing the department access to THC test results related to hemp samples submitted

by hemp growers in support of their hemp harvest certificate.

(4) Submission to the department for review and approval laboratory director credentials; laboratory location for fixed laboratory, license plate and vehicle description of mobile laboratory units.

(5) Other pre-license approval requirements as developed and stated in policy.

C. Persons issued a Laboratory Hemp Testing License shall comply with but not limited to the following:

(1) Only utilize SOPs approved by the department relevant to the quantification of total THC in samples received to support of the issuance of a Hemp Harvest Certificate.

(2) Participate in proficiency testing, as required and directed by the department. Number of proficiency tests required by the department during a 12-month period shall not exceed two when results are identified as satisfactory by the department.

(3) Provide department staff access to hemp THC testing facilities for the purpose of determining compliance with state rules and policies, or to observe procedures during one or more proficiency testing events.

(4) Disclose to the department potential conflicts of interest related to hemp testing including but not limited to, laboratory ownership, laboratory board members, or staff who have direct economic interests in a specific hemp production.

(5) Accept financial responsibility for costs incurred as a result of department directed proficiency testing.

(6) Understand costs associated with the testing of hemp for regulatory purposes will not be the responsibility of the department.

(7) Other requirements as developed and stated in policy.

[21.20.3.11 NMAC; N, 10/15/2019]

21.20.3.12 SPECIAL HEMP BREEDING LICENSE REQUIREMENTS:

A. Persons breeding for new or improved varieties of hemp and that may possess viable plants or plant material in excess of three-tenths percent and less than five percent THC shall be licensed by New Mexico Department of Agriculture.

B. Application requirements by persons applying for a Special Hemp Breeding License shall comply with but not limited to the following:

(1) If the applicant is a business, agency, institution, or other entity, the application shall identify the specific person the license shall be issued to and is responsible for activities covered under this rule.

(2) Submission to the department for review and approval all SOPs related to record retention for plants believed to be in excess of three-tenths percent and less than five percent THC, and disposal and destruction of plant material in excess of three-tenths percent THC.

(3) Submission to the department for review and approval plant breeder’s credentials, and breeding objectives.

(4) Provide department staff access to locations licensed under the Special Hemp Breeding License for the purpose of determining compliance with state rules and policies.

(5) Other requirements as developed and stated in policy.

C. Persons licensed by the department under the Special Hemp Breeding License shall comply with, but not limited to the following:

(1) Viable plants or plant material in excess of three-tenths percent and less than five percent THC shall be required to be maintained indoors in a secure area approved by the department.

(2) Plants or plant material in excess of three-tenths percent and less than five percent THC shall not be available to

the public or transferred to another person that does not possess a valid Special Hemp Breeding License.

(3) Understand that state law enforcement agencies are notified of locations licensed under the Special Hemp Breeding License.

(4) Plants or plant material in excess of three-tenths percent and less than five percent THC shall not be used for any other purpose other than plant breeding.

(5) Other requirements as developed and stated in policy.
[21.20.3.12 NMAC; N, 10/15/2019]

21.20.3.13 NON-COMPLIANCE: If any licensee is found to have violated any of the provisions of this rule, policies, or orders of the department, the license may be revoked or suspended for a period of time identified by the director.
[21.20.3.13 NMAC; N, 10/15/2019]

HISTORY OF 21.20.3 NMAC:
[RESERVED]

HEALTH, DEPARTMENT OF

**TITLE 7 HEALTH
CHAPTER 30 FAMILY AND CHILDREN HEALTH CARE SERVICES
PART 5 SHAKEN BABY SYNDROME PREVENTION**

7.30.5.1 ISSUING AGENCY: New Mexico Department of Health, Epidemiology and Response Division and Division of Health Improvement.
[7.30.5.1 NMAC - N, 10/15/2019]

7.30.5.2 SCOPE: These regulations apply to all hospitals and freestanding birth centers licensed to operate in New Mexico.
[7.30.5.2 NMAC - N, 10/15/2019]

7.30.5.3 STATUTORY AUTHORITY: The regulations set forth herein are promulgated by the secretary of the New Mexico department of health, pursuant to Section 24-1-13.2 NMSA 1978 and the general authority granted under Subsection E of Section 9-7-6 NMSA 1978, Department of Health Act, as amended; and Subsection I of Section 24-1-3 and Section 24-1-5 NMSA 1978, Public Health Act, as amended.
[7.30.5.3 NMAC - N, 10/15/2019]

7.30.5.4 DURATION: Permanent.
[7.30.5.4 NMAC - N, 10/15/2019]

7.30.5.5 EFFECTIVE DATE: October 15, 2019 unless a later date is cited at the end of a section.
[7.30.5.5 NMAC - N, 10/15/2019]

7.30.5.6 OBJECTIVE: To establish rules that require hospitals and freestanding birth centers to provide training and education to prevent shaken baby syndrome to every parent of every newborn before discharge.
[7.30.5.6 NMAC - N, 10/15/2019]

7.30.5.7 DEFINITIONS:
A. “Department” means the New Mexico department of health.

B. “Epidemiology and response division” means the epidemiology and response division of the New Mexico department of health.

C. “Facility” means both a licensed hospital and a licensed freestanding birth center.

D. “Licensing authority” means the New Mexico department of health’s division of health improvement.

E. “Parent” means any known individual with a mother-child relationship or father-child relationship as determined under section 40-11A-201 NMSA 1978.

F. “Survey” means a monitoring visit by the licensing authority to examine a licensed facility’s premises and records and to

interview the facility's patients and staff.

[7.30.5.7 NMAC - N, 10/15/2019]

7.30.5.8 STANDARD OF COMPLIANCE:

A. The degree of compliance required throughout these regulations is designated by the use of the words "shall" or "must" or "may".

(1) "Shall" or "must" means mandatory.

(2) "May" means permissive.

B. The words "adequate", "proper", and other similar words mean the degree of compliance that is generally accepted throughout the professional field by those who provide services to the public in facilities.

[7.30.5.8 NMAC - N, 10/15/2019]

7.30.5.9 INITIAL

LICENSE PROCEDURES: In the application packet for a facility's licensure, the applicant will include an attestation letter signed by its chief administrator of the facility pledging ongoing compliance with this regulation.

[7.30.5.9 NMAC - N, 10/15/2019]

7.30.5.10 LICENSE

RENEWAL: Upon submitting an annual renewal, applicants for renewed facility licensure will include an updated attestation letter signed by the applicant's facility administrator, regardless of whether the facility submitted a letter upon initial license application or in any previous year.

[7.30.5.10 NMAC - N, 10/15/2019]

7.30.5.11 PROGRAM

SERVICES: Facilities must provide training and education to prevent shaken baby syndrome to every parent of every newborn before discharging a newborn from the health facility.

A. The training program must be approved by the department in conjunction with the university of New Mexico health sciences center department of pediatrics.

B. The training curriculum must be in English and Spanish.

C. Training shall include the use of shaken baby simulation dolls.

D. The training program may be developed in-house, provided it otherwise meets the requirements of this section.

E. Training may occur as a pre-natal or post-natal course.

[7.30.5.11 NMAC - N, 10/15/2019]

7.30.5.12 TRAINING PROGRAM APPROVAL

PROCESS: The training and instructional materials must be approved by the department in collaboration with the university of New Mexico health sciences center department of pediatrics.

A. Each facility shall submit a proposed training curriculum to the epidemiology and response division of the New Mexico department of health.

B. The department will consult with the department of pediatrics on training materials.

C. Once a facility receives notification from the department that the curriculum is approved by the department and the university of New Mexico, the facility may utilize the approved curriculum.

[7.30.5.12 NMAC - N, 10/15/2019]

7.30.5.13 CLIENT

CLINICAL RECORD: Facilities must store paper or electronic records of the training of each parent or parents conducted under these regulations.

[7.30.5.13 NMAC - N, 10/15/2019]

7.30.5.14 REPORTING TO THE HEALTH DEPARTMENT:

A. Annually, each hospital and freestanding birth center shall send a report to the epidemiology and response division noting the total number of births and the number of parents who attended trainings.

(1) The number of parents attending training shall, for statistical and reporting purposes, include only one parent per birth.

(2) This report is due annually by January 31 of the succeeding year.

(3) For a new facility, or one that did not previously track these data, the report shall include total births since the training and reporting process began for the first year.

B. Facilities must make records of the trainings available to the licensing authority during a survey.

[7.30.5.14 NMAC - N, 10/15/2019]

HISTORY of 7.30.5 NMAC:
[RESERVED]

HEALTH, DEPARTMENT OF

TITLE 7 HEALTH CHAPTER 30 FAMILY AND CHILDREN HEALTH CARE SERVICES

PART 14 MANDATORY CONCUSSION RECOGNITION, RESPONSE AND PREVENTION EDUCATION

7.30.14.1 ISSUING

AGENCY: Department of Health, Epidemiology and Response Division, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, New Mexico 87502-6110.

[7.30.14.1 NMAC - N, 10/15/2019]

7.30.14.2 SCOPE:

This regulation applies to all non-scholastic teams, clubs, or other entities providing youth athletic activities as defined in this rule, coaches participating in youth athletic activities, youth athletes, and youth athletes' parents or guardians.

[7.30.14.2 NMAC - N, 10/15/2019]

7.30.14.3 STATUTORY

AUTHORITY: This regulation is adopted pursuant to Section 22-13-31.1 NMSA 1978, and the general authority granted under Subsection E of Section 9-7-6 NMSA 1978, Department of Health Act, as amended.

[7.30.14.3 NMAC - N, 10/15/2019]

7.30.14.4 DURATION:
Permanent.
[7.30.14.4 NMAC - N, 10/15/2019]

7.30.14.5 EFFECTIVE DATE: October 15, 2019, unless a later date is cited at the end of a section.
[7.30.14.5 NMAC - N, 10/15/2019]

7.30.14.6 OBJECTIVE: The objective of this rule is to establish uniform brain injury protocols to be used by coaches for brain injuries received by youth athletes in non-scholastic athletic activities, training of coaches and youth athletes, and information to be provided to coaches, youth athletes, and youth athletes' parents or guardians; to require acknowledgement of training and information by participants in youth athletic activities; and to achieve brain injury protocol compliance and certification.
[7.30.14.6 NMAC - N, 10/15/2019]

7.30.14.7 DEFINITIONS:
A. "Brain injury" means a body-altering physical trauma to the brain, skull, or neck, caused by blunt or penetrating force, a concussion, a diffuse axonal injury, hypoxia-anoxia, an electrical charge, or other trauma;

B. "Brain injury educational materials" means educational materials related to brain injuries, including at least materials that are produced or approved by the centers for disease control and prevention (CDC) for athletes under the age of 19 years of age and those athletes' parents that includes information regarding brain injuries and their potential consequences; the signs and symptoms of a concussion; best practices for removal of an athlete from an athletic activity after a suspected brain injury; and steps for returning an athlete to athletic activity after a brain injury.

C. "Licensed health care professional" means:

(1) a practicing physician or physician's assistant licensed pursuant to the Medical Practice Act;

(2) a practicing osteopathic physician licensed pursuant to the Osteopathic Medicine Act;

(3) a practicing certified nurse practitioner licensed pursuant to the Nursing Practice Act;

(4) a practicing osteopathic physician's assistant licensed pursuant to the Osteopathic Medicine Act;

(5) a practicing psychologist licensed pursuant to the provisions of the Professional Psychologist Act;

(6) a practicing athletic trainer licensed pursuant to the provisions of the Athletic Trainer Practice Act; or

(7) a practicing physical therapist licensed pursuant to the Physical Therapy Act.

D. "Parent" means a mother or father having the applicable parent-child relationship as set forth in Section 40-11A-201 NMSA 1978.

E. "Youth athlete" means an individual under 19 years of age who engages in, is eligible to engage in, or seeks to engage in a youth athletic activity.

F. "Youth athletic activity" means an organized athletic activity in which the participants, a majority of whom are under 19 years of age, are engaged in an athletic game or competition against participants in other youth sports organizations. "Youth athletic activity" does not include elementary school, middle school, high school, college, or university activities or activities incidental to a non-athletic program.

G. "Youth sports organization" means a team, club, or entity that organizes athletic games or competitions against other teams, clubs, or entities, or in practice or preparation for an organized athletic game or competition against another team, club or entity.
[7.30.14.7 NMAC - N, 10/15/2019]

7.30.14.8 REQUIREMENTS:

A. All teams, clubs or other entities providing youth athletic

activity must provide brain injury educational materials to each coach and administrator of the youth sports organization on an annual basis.

(1) All youth athletic activity teams, clubs, and other similar entities must require their coaches to review the brain injury education materials at least once per year, pass a post-test, and print the certificate of completion to be included in their records before the coach supervises a youth athlete in a youth athletic activity of the entity.

(2) Both youth athletes and their parents or guardians shall sign a concussion training completion form confirming they have taken a center for disease control and prevention (CDC) approved concussion training, unless the athlete is under 11 years of age, in which case only the parent or guardian shall sign the concussion training completion form.

(3) Any deviation from the use of a centers for disease control and prevention (CDC)-produced or approved materials must be approved by the New Mexico department of health.

B. All teams, clubs or other similar entities providing one or more youth athletic activities must provide the brain injury educational materials to each youth participant on an annual basis. The training, which is through the use of the brain injury educational materials, can be completed online or via printed copy of the online training.

C. Each team coach must collect all signature forms or certificates of completion from youth athletes and parents or guardians upon completion of the brain injury education and submit them to the league president before practice sessions can begin. Each league president must maintain files for each year, documenting that the training is complete for coaches, youth athletes, and parents or guardians.

D. A youth athlete who is suspected by a coach, a league official, or a youth athlete of sustaining a brain injury in a youth athletic activity shall immediately

be removed from the youth athletic activity and shall remain out of play until a licensed health care professional provides the youth athlete a written clearance to return to the youth athletic activity. When a youth athlete suffers a suspected brain injury, the athletic activity team, club, or other similar entity the youth sports organization must:

(1) On the date and time of the suspected brain injury, notify the youth athlete's parent or guardian of the youth athlete with the suspected brain injury that the youth athlete has a suspected brain injury and the symptoms observed; and

(2) Within 72-hours of a suspected brain injury, notify the youth athlete's parent or guardian of any treatment provided in response to the suspected brain injury.

E. A coach shall not allow a youth athlete to participate in a youth athletic activity on the same day that the youth athlete:

(1) exhibits signs, symptoms, or behaviors consistent with a brain injury after a coach, a league official or a youth athlete reports, observes, or suspects that a youth athlete exhibiting these signs, symptoms, or behaviors has sustained a brain injury; or

(2) has been diagnosed with a brain injury.

F. A coach may allow a youth athlete, who has been prohibited from participation in a youth athletic activity, to participate in a youth athletic activity no sooner than 240 hours or 10 days from the time at which the youth athlete received a brain injury and may only do so after the youth athlete meets the following two criteria:

(1) no longer exhibits any sign, symptom, or behavior consistent with a brain injury; and

(2) receives a written medical release from a licensed health care professional. [7.30.14.8 NMAC - N, 10/15/2019]

HISTORY of 7.30.14 NMAC:
[RESERVED]

**HUMAN SERVICES
DEPARTMENT
CHILD SUPPORT
ENFORCEMENT DIVISION**

This is an amendment to 8.50.111 NMAC, Section 12, effective 1/1/2020.

8.50.111.12 CONTEMPT PROCEEDINGS: [~~Contempt proceedings are used to enforce an existing order when the non-custodial parent has failed to make support payments as ordered.~~] The IV-D agency will pursue contempt provisions [as appropriate] when the non-custodial parent has an ability to pay or otherwise comply with the order. If an obligor is found by a court to be in contempt of court, the IV-D agency may request the court issue a bench warrant for the arrest of the obligor. Any bond requested by the IV-D agency in a bench warrant shall be a cash only bond to be paid to the IV-D agency and distributed in accordance with federal and state laws regarding distribution of support payments.

A. The IV-D agency will screen the case for information regarding the non-custodial parent's ability to pay or otherwise comply with the order.

B. The IV-D agency will provide the court with information regarding the non-custodial parent's ability to pay or otherwise comply with the order.

C. The IV-D agency will provide clear notice to the non-custodial parent that his or her ability to pay constitutes the critical question in the civil contempt action.

[8.50.111.12 NMAC - Rp, 8.50.111.16 NMAC, 12/30/2010: A, 1/1/2020]

**HUMAN SERVICES
DEPARTMENT
CHILD SUPPORT
ENFORCEMENT DIVISION**

This is an amendment to 8.50.130 NMAC, Section 13, effective 1/1/2020.

8.50.130.13 CONTESTING TAX REFUND INTERCEPT IN RESPONDING INTERSTATE CASES: Administrative hearing requests are referred to the central registry in the responding state if the obligor requests a hearing in that state.

A. When the obligor, after receiving the FMS offset notice from the other state, contacts the Title IV-D agency worker, the worker may refer the obligor to the state that issued the notice. However, if the obligor contacts the Title IV-D agency as the last resort because he or she cannot get assistance from the other state, the worker may contact the other state, or refer the obligor to central registry and central registry staff will contact the other state.

B. If a request from the obligor for an administrative hearing in New Mexico is received and the case was submitted based on another state's order, a review of the arrearage computation submitted for tax intercept and the underlying documentation, and any new evidence provided by the appellant is completed, and an attempt is made to resolve the complaint. If the complaint cannot be resolved by the Title IV-D agency worker and the obligor requests an administrative hearing in the initiating state, the other state is notified by the New Mexico Title IV-D agency of the request and all necessary information is provided within [~~ten (10)~~] 10 days of the obligor's request for an administrative hearing. [~~At the same time, the central registry sends the OCSE an update to report that the matter is being transferred to the initiating state for the purpose of conducting an administrative hearing.~~]

C. The initiating state is responsible for all procedures required for conducting a hearing within that state.
[8.50.130.13 NMAC - Rp, 8.50.130.10 NMAC, 12/30/2010; A, 1/1/2020]

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

The New Mexico Construction Industries Commission approved for adoption by the Construction Industries Division of the Regulation and Licensing Department at its September 18, 2019 meeting, to repeal its rule 14.9.5 NMAC, Medical Gas Installation and Certification and replace it with 14.9.5 NMAC, Medical Gas and Vacuum system Installation and Professional Qualifications Standards, approved for adoption on September 19, 2019 and effective November 15, 2019. The Construction Industries Division adopts as of September 18, 2019, to repeal its rule 14.9.5 NMAC, Medical Gas Installation and Certification and replace it with 14.9.5 NMAC, Medical Gas and Vacuum system Installation and Professional Qualifications Standards effective November 15, 2019.

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

**TITLE 14 HOUSING AND CONSTRUCTION
CHAPTER 9 MECHANICAL CODES
PART 5 MEDICAL GAS AND VACUUM SYSTEM INSTALLATION AND PROFESSIONAL QUALIFICATIONS STANDARDS**

14.9.5.1 ISSUING AGENCY: The Construction Industries Division of the Regulation and Licensing Department.

[14.9.5.1 NMAC - Rp, 14.9.5.1 NMAC, 11/15/2019]

14.9.5.2 SCOPE: This rule shall apply to all individuals installing, altering, repairing, servicing, verifying, inspecting and maintaining medical gas and vacuum systems in Category 1, 2 and 3 medical gas and medical vacuum piping systems in health care facilities.

[14.9.5.2 NMAC - Rp, 14.9.5.2 NMAC, 11/15/2019]

14.9.5.3 STATUTORY AUTHORITY: Construction Industries Licensing Act (CILA) Sections 60-13-9 and 60-13-44 NMSA 1978.

[14.9.5.3 NMAC - Rp, 14.9.5.3 NMAC, 11/15/2019]

14.9.5.4 DURATION: Permanent.

[14.9.5.4 NMAC - Rp, 14.9.5.4 NMAC, 11/15/2019]

14.9.5.5 EFFECTIVE DATE: 11/15/2019, unless a later date is cited at the end of a section.

[14.9.5.5 NMAC - Rp, 14.9.5.5 NMAC, 11/15/2019]

14.9.5.6 OBJECTIVE: The objective of 14.9.5 NMAC is to promote the general welfare of the people of New Mexico by providing for the protection of life and property through the adoption and enforcement of the current adopted New Mexico Plumbing Code, 14.8.2 NMAC.

[14.9.5.6 NMAC - Rp, 14.9.5.6 NMAC, 11/15/2019]

14.9.5.7 DEFINITIONS:

A. "ASME" means American Society of Mechanical Engineering.

B. "ASSE" means American Society of Sanitary Engineers.

C. "Direct supervision" means reasonable oversight, inspection and evaluation of the work of a person by constant on the jobsite supervision by a certified journeyman.

D. "NFPA" means National Fire Protection Association.

E. "Unregistered apprentice" means a person who, for the purpose of learning a trade of journeyman and is not registered in an apprenticeship program recognized by the New Mexico state apprenticeship council.

F. "WAGD" means Waste Anesthetic Gas Disposal.

[14.9.5.7 NMAC - Rp, 14.9.5.7 NMAC, 11/15/2019]

14.9.5.8 QUALIFICATION FOR JOURNEYMAN MEDICAL GAS ENDORSEMENT:

A. Medical gas and vacuum systems installations, alterations, repairs, service and maintenance shall be performed by a properly New Mexico certified journeyman plumber (JP), journeyman gasfitter (JG), journeyman plumber-gasfitter (JPG) or journeyman pipefitter (JPF) who meets the minimum requirements of the ASSE;-6010 professional qualification standard for medical gas and vacuum system installers.

B. A New Mexico journeyman medical gas endorsement may be issued by the division to a properly certified journeyman upon proof of successful completion of a division approved minimum 32-hour medical gas and vacuum systems course that meets the requirements of ASSE 6010.

C. The minimum 32-hour approved medical gas training course shall consist of two parts: (1) installer training and proctored exam, and (2) a brazing coupon sent to an independent third-party laboratory for testing pursuant to ASSE 6010, and Chapter 13 of the current adopted New Mexico plumbing code.

[14.9.5.8 NMAC - Rp, 14.9.5.8 NMAC, 11/15/2019]

14.9.5.9 [RESERVED]

14.9.5.10 RECERTIFICATION:

A. A journeyman shall take a division approved medical gas and vacuum systems re-certification

training course every three years. The journeyman must also be qualified as per section IX of the ASME Boiler and Pressure Vessel Code or AWS B2.2 and maintain the brazing qualifications as per chapter 13 of the current adopted New Mexico Plumbing Code (NMPC), 14.8.2 NMAC.

B. All medical gas and vacuum system recertification courses shall be approved by the division and meet the requirements of ASSE 6010 and chapter 13 of the current adopted NMPC.

C. The approved course shall be a minimum of eight hours and is a prerequisite for the division approved proctored examination. The journeyman shall be able to provide to the division documentary proof of having successfully completed the minimum eight hour approved course. [14.9.5.10 NMAC - Rp, 14.9.5.10 NMAC, 11/15/2019]

14.9.5.11 APPRENTICES:

An apprentice, as that term is defined in CILA Section 60-13-2 NMSA 1978, may work under the direct supervision of a validly certified journeyman, holding a JP, JG, JPG, or JPF and who also holds an active medical gas certification pursuant to this regulation and who is under the employ of a contractor validly licensed with an MM-1, MM-2, MM-4 or an MM-98. Journeyman certifications shall be issued such that the certificates parallel the mechanical and plumbing license classification numbers and scopes. The ratio of certified journeyman to unregistered apprentices must not exceed: (1) one journeyman to two unregistered apprentices on commercial or industrial work, and (2) one journeyman to three unregistered apprentices on residential work. [14.9.5.11 NMAC - Rp, 14.9.5.11 NMAC, 11/15/2019]

14.9.5.12 STATE AND LOCAL INSPECTOR:

A. State and local building inspectors inspecting medical gas and vacuum piping systems

shall be division approved certified plumbing inspectors pursuant to 14.6.5.8 NMAC and shall also meet the requirements of ASSE 6020 professional qualification standard for medical gas and vacuum system inspectors;

B. Re-certification of state and local inspectors inspecting projects containing medical gas and vacuum piping systems shall meet the requirements of ASSE 6020 and shall take a division approved medical gas and vacuum systems re-certification training course every three years.

C. The approved course shall be a minimum of eight hours and is a prerequisite for the division approved proctored examination. The inspector shall provide to the division documentary proof of having successfully completed the minimum eight hour approved course. [14.9.5.12 NMAC - Rp, 14.9.5.12 NMAC, 11/15/2019]

14.9.5.13 ASSE CERTIFIED VERIFIER:

A. Medical gas and vacuum systems shall be verified by third-party verifiers who meet the requirements of ASSE 6030 professional qualification standard for medical gas and vacuum system verifiers and Chapter 13 of the current adopted NMPC;

B. In addition to these requirements medical gas and vacuum system verifiers may also be required to meet the inspection standards and requirements of the health care facility in which the medical gas and vacuum system is being verified;

C. Medical gas and vacuum system verifiers shall not be, or work for, the installing contractor, design professional or manufacturer or represent an equipment distributor;

D. Re-certification of medical gas and vacuum system verifiers inspecting projects containing medical gas and vacuum systems shall meet the requirements of ASSE 6030.

E. The approved course shall be a minimum of eight hours and is a prerequisite for

the division approved proctored examination. The verifier shall provide to the division documentary proof of having successfully completed the minimum eight hour approved course; [14.9.5.13 NMAC - Rp, 14.9.5.13 NMAC, 11/15/2019]

14.9.5.14 PERMITTING AND INSPECTIONS OF MEDICAL GAS INSTALLATIONS:

A. Permits required for medical gas and vacuum systems shall be pursuant to 14.5.2 NMAC.

B. Plans and document submittals for medical gas and vacuum systems shall be pursuant to 14.5.2.10 NMAC.

C. Inspections for medical gas and vacuum piping systems shall be as follows:

(1) State and local buildings inspectors shall inspect medical gas and vacuum systems pursuant to Chapter 13 of the current adopted NMPC and Subsection E of 14.5.3.9 NMAC.

(2) No state or local building inspector shall issue a final inspection for a medical gas and vacuum system project, without first receiving proper and complete documentation from the medical gas and vacuum system verifier.

(3) If there is a dispute regarding code compliance between a medical gas and vacuum system verifier and a state or local inspector, the mechanical-plumbing bureau chief of the construction industries division shall make the final determination. The mechanical-plumbing bureau chief is the ultimate authority for interpretation of the current New Mexico adopted codes. [14.9.5.14 NMAC - Rp, 14.9.5.12 NMAC, 11/15/2019]

14.9.5.15 APPLICABLE CODES:

A. All medical gas and vacuum piping systems shall be installed in compliance with Chapter 13 of the current adopted NMPC, NFPA 99, current adopted 14.9.5 NMAC and ASSE 6000.

B. A dental office, as defined in the NFPA 99, that administers piped nitrous oxide, shall comply with the requirements for the WAGD systems as required in the current referenced NFPA 99.
[14.9.5.15 NMAC – Rp, 14.9.14 NMAC, 11/15/2019]

14.9.5.16 FAILURE TO COMPLY WITH CODE STANDARDS OR REQUIREMENTS: All individuals installing a medical gas and vacuum system shall comply with all applicable codes, standards, rules and regulations adopted by the construction industries division, and shall be subject to possible revocation or suspension of their licenses and certificates of competence, and assessment of an administrative penalty pursuant to the CILA Sections 60-13-23 and 60-13-23.1 NMSA 1978 for failure to comply.
[14.9.5.16 NMAC - Rp, 14.9.5.15 NMAC, 11/15/2019]

HISTORY OF 14.9.5 NMAC:
Pre NMAC History: None.

History of Repealed Material:
14.9.5 NMAC, Medical Gas Installation and Certification (filed 5/8/2007) repealed 11/15/2019.

NMAC History:
14 NMAC 9.5, Medical Gas Installation and Certification (filed 5/15/2000) was also renumbered, reformatted and amended to 14.9.5 NMAC, Medical Gas Installation and Certification, effective 6/6/2007.
14.9.5 NMAC, Medical Gas Installation and Certification (filed 5/8/2007) was replaced by 14.9.5 NMAC, Medical Gas and Vacuum System Installation and Professional Qualifications Standards, effective 11/15/2019.

End of Adopted Rules

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Other Material Related to Administrative Law

**AGRICULTURE,
DEPARTMENT OF****NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The New Mexico Agriculture Department gives Notice of a Minor, Nonsubstantive Correction.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule:

Subsection A of 21.20.3.13 NMAC was deleted (due to lack of a Subsection B) and the section was properly re-formatted.

A copy of this Notification will be filed with the official version of each of the above rules.

**CHILDREN, YOUTH AND
FAMILIES DEPARTMENT****NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The New Mexico Children, Youth and Families Department gives Notice of a Minor, Nonsubstantive Correction.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule:

8.8.3.11 NMAC:

Incorrect rule citations were corrected in paragraphs (3) and (4) of Subsection A to conform to proper legislative style.

8.16.2.7 NMAC:

A missing subsection Q, **[RESERVED]**, was added into proper alphabetical order in the section.

A copy of this Notification will be filed with the official version of each of the above rules.

**End of Other Material
Related to Administrative
Law**

2019 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXX, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 4	January 15
Issue 2	January 17	January 29
Issue 3	January 31	February 12
Issue 4	February 14	February 26
Issue 5	February 28	March 12
Issue 6	March 14	March 26
Issue 7	March 28	April 9
Issue 8	April 11	April 23
Issue 9	April 25	May 14
Issue 10	May 16	May 28
Issue 11	May 30	June 11
Issue 12	June 13	June 25
Issue 13	July 5	July 16
Issue 14	July 18	July 30
Issue 15	August 1	August 13
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Issue 19	September 26	October 15
Issue 20	October 17	October 29
Issue 21	October 31	November 12
Issue 22	November 14	November 26
Issue 23	December 5	December 17
Issue 24	December 19	December 31

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The New Mexico Register is available free online at: <http://www.nmcpr.state.nm.us>. For further information, call 505-476-7941.

2020 New Mexico Register

Submittal Deadlines and Publication Dates

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