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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

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January 28, 2020

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Notices of Rulemaking and Proposed Rules

HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

NOTICE OF RULEMAKING

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rules 8.285.400, *Emergency Medical Services for Aliens (EMSA), Recipient Requirements*, 8.285.600, *EMSA, Benefit Description* and 8.325.10, *Specialty Services, EMSA*. These rules are being amended to align to 42 CFR 440.255 and to make other revisions and clarifications.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: January 28, 2020
Hearing Date: February 26, 2020
Adoption Date: Proposed as April 1, 2020
Technical Citations: 42 CFR 440.255

The Department is proposing to amend the rules as follows:

8.285.400 NMAC:

Section 8 is amended to replace the outdated mission statement with the current one.

Section 9 is amended to remove obsolete Medicaid program categories and add descriptions for current Medicaid categories allowed for EMSA.

Section 10 is amended to delete the reference to the Medicaid utilization review contractor and definition of an emergency medical condition and refer to the program rules at 8.325.10.13 NMAC.

Section 12 is amended to replace the term “alien” with “non-citizen” to be

consistent with immigration rules. The reference to a dummy number was deleted.

Section 13 is amended to align with language found at 42 CFR 440.255(c) regarding citizenship.

Section 14 is amended to refer to general provisions for residence found at 8.200.410.14 and 8.291.410.15 NMAC.

8.285.600 NMAC:

Section 8 is amended to add the current mission statement.

Section 10 is amended to delete outdated language that the client has to inform the provider of the status of the application.

Section 11 is amended to add language to indicate a Notice of Case Action (NOCA) form will be sent to the client. A Decision for EMSA Application (MAD 778) form will be sent to the provider. References to outdated forms were deleted.

8.325.10 NMAC:

Section 8 is amended to replace the outdated mission statement with the current one.

Section 9 is amended to replace the term “alien” with “non-citizen” to be consistent with immigration rules. This change has been made throughout these rules. Minor language changes were also made.

Section 11 is amended with minor wording changes.

Section 12 is amended to remove language that the recipient is responsible for notifying the provider of approval or denial of EMSA. New language was added that the provider will be notified via a Decision for EMSA Application (MAD 778) form. Other minor language changes were made.

Section 13 is amended to clarify the definition of an emergency and

comport with language found at 42 CFR 440.255. New language was added to clarify that labor and delivery services provided by an out of state border hospital and/or emergency transfers from an in state acute hospital to a border acute care hospital are covered. The out of state border provider must be enrolled with the NM Medicaid program.

Section 14 is amended to refer to general provisions for residence found at 8.200.410.14 and 8.291.410.15 NMAC.

Section 16 is amended with minor language changes. New language was added to clarify how a provider and recipient can request a reconsideration. The new language clarifies that reconsideration requests must be in writing and received by MAD, its utilization review contractor, or a MAD designee within 30 calendar days after the date on the initial notice of action.

The register for the proposed amendments to these rules will be available January 28, 2020 on the HSD website at <http://www.hsd.state.nm.us/LookingForInformation/registers.aspx> or at <http://www.hsd.state.nm.us/2017-comment-period-open.aspx>. If you do not have Internet access, a copy of the proposed rules may be requested by contacting MAD in Santa Fe at 505-827-1337.

The Department proposes to implement these rules effective April 1, 2020. A public hearing to receive testimony on these proposed rules will be held in the Seminar Room, Public Employees Retirement Association (PERA), 33 Plaza La Prensa, Santa Fe, NM 87507 on February 26, 2020 at 9:00 a.m., Mountain Time (MT).

Interested parties may submit written comments directly to: Human Services Department, Office of the Secretary, ATTN: Medical Assistance Division Public Comments, P.O. Box

2348, Santa Fe, New Mexico 87504-2348.

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: madrules@state.nm.us. Written mail, electronic mail and recorded comments must be received no later than 5 p.m. MT on February 27, 2020. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HSD website at <http://www.hsd.state.nm.us/2017-comment-period-open.aspx> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact MAD in Santa Fe at 505-827-1337. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

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

**HUMAN SERVICES
DEPARTMENT
MEDICAL ASSISTANCE
DIVISION**

NOTICE OF RULEMAKING

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rule *8.200.510, Medicaid Eligibility-General Recipient* in order to implement the SSI and

Spousal Impoverishment Standards updates for 2019. The Department is re-promulgating this rule in full within six months of issuance of the emergency rule in accordance with the New Mexico State Rules Act.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: January 28, 2020
Hearing Date: March 12, 2020
Adoption Date: April 21, 2020
Technical Citations: 42 CFR 435.725 subparts A-F, Federal SSI and Impoverishment Standards for 2019.

The Department is proposing to amend the rule as follows:

8.200.510.8 NMAC

A new mission statement is being added that will guide the continued development of our Department's organizational culture and strategy.

8.200.510.12 NMAC

- Amended to reflect the increase in Personal Needs Allowance (PNA), for July 1, 2019.
- Amended to reflect the increase in the minimum monthly maintenance needs allowance (MMMNA) for July 1, 2019.
- Amended to reflect the increase in shelter expenses minimum of the community spouse for July 1, 2019.
- Amended to reflect shelter expenses maximum of the community spouse for July 1, 2019.

The register for these proposed amendments to this rule will be available January 28, 2020 on the HSD website at <http://www.hsd.state.nm.us/LookingForInformation/registers.aspx> or at <http://www.hsd.state.nm.us/2017-comment-period-open.aspx>. If you do not have Internet access, a copy of the

proposed rule may be requested by contacting MAD in Santa Fe at 505-827-1337.

The Department proposes to implement these rules effective April 21, 2020. A public hearing to receive testimony on this proposed rule will be held in the Seminar Room, Public Employees Retirement Association of New Mexico (PERA), 33 Plaza La Prensa, Santa Fe, NM 87507 at 9 a.m., Mountain Time (MT) on March 12, 2020.

Interested parties may submit written comments directly to: Human Services Department, Office of the Secretary, ATT: Medical Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348.

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: madrules@state.nm.us. Written mail, electronic mail and recorded comments must be received no later than 5 p.m. MT on March 12, 2020. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HSD website at <http://www.hsd.state.nm.us/2017-comment-period-open.aspx> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact MAD in Santa Fe at 505-827-1337. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by the MAD upon request by providing copies directly to a

requestor or by making them available on the MAD website or at a location within the county of the requestor.

PUBLIC EDUCATION DEPARTMENT

NOTICE OF PROPOSED RULEMAKING

Public Hearing. The New Mexico Public Education Department (PED) gives notice that it will conduct a public hearing on Monday, March 16, 2020 from 1 p.m. to 3 p.m. (MDT) in Mabry Hall, located in the Jerry Apodaca Education Building, 300 Don Gaspar Ave., Santa Fe, New Mexico 87501. The purpose of the public hearing is to receive public input on the proposed repeal and replace of 6.35.2 NMAC, Implementing the Indian Education Act and the proposed repeal of 6.19.9 NMAC, Early Literacy Remediation, Interventions, and Family Engagement. At the hearing, the PED will provide a verbal summary statement on record. Attendees who wish to provide public comment on record will be given three (3) minutes to make a statement concerning the rule changes. Written comment will also be accepted at the hearing.

Explanation of Purpose and Summary of Text

The purpose of the proposed repeal and replace of **6.35.2 NMAC, Implementing the Indian Education Act** is to require and implement the American Indian/Alaska Native student needs assessment, accountability tool, and systemic framework for improving educational outcomes for American Indian and Alaska Native students.

The purpose of the proposed repeal of **6.19.9 NMAC, Early Literacy Remediation, Interventions, and Family Engagement** is to repeal a rule that does not align to current best practices, including conflicts between the rule and the new Multi-Level System of Support, which allows for local education agencies to

maintain local control. Additionally, the repeal of this rule allows school districts the flexibility to identify best practices for engaging parents, and enables local education agencies to provide ongoing interaction and communication throughout the school year.

Statutory Authorization(s):

Sections 9-24-8, 22-2-1, 22-1-1.2, 22-2-2, 22-2C-1 through 22-2C-13, 22-13-1, and 22-23A-1 et seq. NMSA 1978.

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

Public Comment. Interested parties may provide comment at the public hearing or may submit written comments by mail to John Sena, Policy Division, New Mexico Public Education Department, 300 Don Gaspar Avenue, Room 101, Santa Fe, New Mexico 87501, by electronic mail to rule.feedback@state.nm.us, or by fax to (505) 827-6520. All written comments must be received no later than 5 p.m. (MDT) on Monday, March 16, 2020. The PED encourages the early submission of written comments. The public comment period is from January 28, 2020 to March 16, 2020 at 5:00 p.m. (MDT).

The PED will review all feedback received during the public comment period and issue communication regarding a final decision at a later date.

Copies of the proposed rules may be accessed through the page titled, "Rule Notification," on the PED's website at <http://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/rule-notification/>, or may be obtained from John Sena at (505) 570-7816 during regular business hours.

Individuals with disabilities who require the above information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to

contact John Sena at (505) 570-7816 as soon as possible before the date set for the public hearing. The PED requires at least 10 calendar days advance notice to provide any special accommodations requested.

End of Notices of Rulemaking and Proposed Rules

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Adopted Rules

Effective Date and Validity of Rule Filings

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

ENVIRONMENT DEPARTMENT

TITLE 20 ENVIRONMENTAL PROTECTION

CHAPTER 10 HEMP POST- HARVEST PROCESSING

PART 2 HEMP EXTRACTION, PRODUCTION, TRANSPORTATION, WAREHOUSING, AND TESTING

20.10.2.1 ISSUING

AGENCY: New Mexico Environment Department, P.O. Box 5469, Santa Fe, New Mexico 87502, Telephone No. (505) 827-2855.
[20.10.2.1 NMAC - N, 1/28/2020]

20.10.2.2 SCOPE: All individuals, businesses, agencies, institutions, or other entities engaged in the transportation, extraction, storage, or processing of hemp products in New Mexico.
[20.10.2.2 NMAC - N, 1/28/2020]

20.10.2.3 STATUTORY AUTHORITY: The Hemp Manufacturing Act, NMSA 1978, Sections 76-24-1 to 76-24-10 (2017 as amended through 2019); Department of Environment Act, NMSA 1978, Sections 9-7A-1 through 9-7A-15 (1991 as amended through 2003).
[20.10.2.3 NMAC - N, 1/28/2020]

20.10.2.4 DURATION: Permanent.
[20.10.2.5 NMAC - N, 1/28/2020]

20.10.2.5 EFFECTIVE DATE: January 28, 2020, unless a later date is cited at the end of a section.
[20.10.2.4 NMAC - N, 1/28/2020]

20.10.2.6 OBJECTIVE: To establish uniform standards for the transportation, extraction,

processing, and testing of hemp products for the purpose of ensuring the safe manufacture and accurate presentation of hemp products for human consumption, absorption, and inhalation.
[20.10.2.6 NMAC - N, 1/28/2020]

20.10.2.7 DEFINITIONS:

A. "Act" means the Hemp Manufacturing Act, Section 76-24-1, et seq., NMSA 1978.

B. "Adulterated" has the meaning stated in the New Mexico Food Act, Section 25-2-10 NMSA 1978.

C. "Applicant" means a person who has submitted a hemp facility application to the regulatory authority.

D. "Application" means documents provided by, and submitted to, the regulatory authority by an applicant as part of the process for obtaining a permit to extract, process, or engage in other manufacturing activities of hemp or hemp products.

E. "Approved" means acceptable to the regulatory authority based on the regulatory authority's determination of conformity with principles, practices, and generally recognized standards that protect public health and compliance with the requirements of this part and the act.

F. "Blend" means to combine into an integrated whole.

G. "Board" means the environmental improvement board.

H. "Cannabis sativa L." means the plant cannabis sativa L. and any part of the plant, whether growing or not.

I. "CBD" means cannabidiol and is a cannabinoid and the primary non-psychoactive ingredient found in hemp.

J. "Certificate of analysis" means an official certificate issued by a hemp laboratory signed by an authorized official of the hemp laboratory that guarantees the results of the laboratory's testing of a sample.

K. "Conditional employee" means a potential hemp employee to whom a job offer is made, conditional on responses to subsequent medical questions or examinations designed to identify potential hemp employees who may be suffering from a disease that may be transmitted through hemp, hemp extract, hemp-derived material, or hemp finished product and done in compliance with Title 1 of the Americans with Disabilities Act of 1990.

L. "Disposition" means storing, transferring to another person, or disposal.

M. "Drinking water" means water that meets criteria as specified in 20.7.10 NMAC. Drinking water is traditionally known as "potable water" and includes the term "water" except where the term used connotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "non-drinking" water.

N. "Employee" means the permit holder, person in charge, hemp employee, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a hemp facility.

O. "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.

P. “Hemp-derived material” means any material containing THC in any concentration derived from cannabis sativa L. through any activity authorized pursuant to the act.

Q. “Hemp employee” means an individual working with unpackaged hemp products or equipment utensils, or surfaces that contact unpackaged hemp products.

R. “Hemp extract” means oil and extracts, including cannabidiol, cannabidiolic acid, and other identified and non-identified compounds derived from hemp.

S. “Hemp extraction facility” means an operation that produces hemp extract.

T. “Hemp facility” means a hemp extraction facility, hemp manufacturing facility, hemp processing facility or hemp warehouse.

U. “Hemp finished product” means a hemp product that is intended for retail sale and containing hemp or hemp extracts for human consumption, absorption, or inhalation that has a THC concentration of not more than three-tenths of one percent (0.30%).

V. “Hemp harvest certificate” means a document issued by the New Mexico department of agriculture to a person licensed to harvest hemp for distribution or sale certifying that a quantity of hemp meets the THC concentration required pursuant to 21.20.3 NMAC.

W. “Hemp laboratory” means an analytical laboratory approved by the regulatory authority to conduct laboratory analysis of hemp products.

X. “Hemp manufacturing facility” means an operation, other than a hemp extraction facility, that produces hemp products, other than hemp extract, and provides hemp products for sale or distribution to other business entities.

Y. “Hemp processing facility” means an operation, other than a hemp manufacturing facility, where hemp is processed or dried into a hemp finished product or into a hemp product that does not require

further processing before being offered as a hemp finished product.

Z. “Hemp products” means hemp, hemp-derived material, hemp extract, and hemp finished product.

AA. “Hemp transportation manifest” means a form used for identifying the quantity, composition, origin, and destination of hemp products during transportation.

BB. “Hemp transportation unit” means a motor vehicle department-licensed, driven or towed wheeled vehicle utilized to transport hemp products.

CC. “Hemp warehouse” means a location, other than a hemp extraction facility or hemp manufacturing facility, where hemp extract is stored.

DD. “Imminent health hazard” means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on:

(1) the number of potential injuries; and
(2) the nature, severity, and duration of the anticipated injury.

EE. “Law” means applicable local, state, and federal statutes, regulations, and ordinances.

FF. “Licensee” means a person that possesses a valid license for hemp production issued by NMDA.

GG. “Misbranded” has the meaning stated in the New Mexico Food Act, Section 25-2-11 NMSA 1978.

HH. “NMDA” means the New Mexico department of agriculture.

I. “Operational plan” means a written plan outlining the product formulation, production steps, safety requirements, distribution, labeling, and recall procedures that will be implemented by a hemp facility when processing hemp products.

JJ. “Permit” means the document issued by the regulatory authority that authorizes a person to operate a hemp facility.

KK. “Permit holder” means the entity that:

(1) is legally responsible for the operation of the hemp facility such as the owner, the owner’s agent, or other person; and
(2) possesses a valid permit to operate a hemp facility.

LL. “Person” means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

MM. “Person in charge” means the individual present at a hemp facility who is responsible for the operation at the time of inspection.

NN. “Personal care items” means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a person’s health, hygiene, or appearance, and includes items such as medicines; first aid supplies; and other items such as cosmetics, and toiletries such as toothpaste and mouthwash.

OO. “Poisonous or toxic materials” means substances that are not intended for ingestion and are included in four categories:

(1) Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals;

(2) Pesticides, except sanitizers, which include substances such as insecticides and rodenticides;

(3) Substances necessary for the operation and maintenance of the establishment such as nonfood grade lubricants and personal care items that may be deleterious to health; and

(4) Substances that are not necessary for the operation and maintenance of the establishment and are on the premises for retail sale, such as petroleum products and paints.

PP. “Premises” means:

(1) The physical

facility, its contents, and the contiguous land or property under the control of the permit hold; or

(2) The physical facility, its contents, and the land or property not described in Paragraph (1) of this definition if its facilities and contents are under the control of the permit holder and may impact hemp facility personnel, facilities, or operations, and a hemp facility is only one component of a larger operation.

QQ. “Process authority” means an approved expert in the processes for controlling pathogenic microorganisms in food and/or hemp products, and as such, is qualified by education, training and experience to evaluate all of the aspects of pathogen control measures and determine if such control measures, when properly implemented, will control pathogens effectively.

RR. “Public water system” has the meaning stated in 20.7.10 NMAC.

SS. “Recall” means a return of hemp products that are either known or suspected to be adulterated, misbranded, or otherwise unsafe for human consumption, to the manufacturer or distributor, or that are disposed of by approved methods.

TT. “Regulatory authority” means the New Mexico environment department.

UU. “RLD / LP Gas Bureau” means the New Mexico regulation and licensing department, LP gas bureau.

VV. “Secretary” means the secretary of New Mexico environment department or a designee.

WW. “Sewage” means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

XX. “THC” means delta-9 tetrahydrocannabinol (CAS number 1972-08-3) as measured using a post-decarboxylation method and based on percentage dry weight.

YY. “THCA” means tetrahydrocannabinolic acid (CAS number 23978-85-0).

ZZ. “Variance” means a written document issued by the regulatory authority that authorizes a modification or waiver of one or more requirements of this part if the regulatory authority determines that no hazard to human health or the environment will result from the modification or waiver.
[20.10.2.7 NMAC - N, 1/28/2020]

20.10.2.8 GENERAL PROVISIONS:

A. Prerequisite and Responsibility for Operation:

- (1) A person may not operate a hemp facility without a valid permit to operate as issued by the regulatory authority.
- (2) When more than a single hemp facility is operated on the premises, each one shall be separately permitted.
- (3) When a food processing plant permitted by the regulatory authority also operates as a hemp facility, both operations shall be permitted separately.
- (4) Except as otherwise provided, the permit holder shall be responsible for all hemp facility operations conducted on the premises for which a permit is issued.
- (5) When multiple hemp facilities are permitted by multiple permit holders on the same premises, each permit holder shall only be responsible for the hemp facility operations within the scope of their permit.
- (6) Each permit holder shall be responsible for shared facilities or equipment on the premises.
- (7) The permit holder shall ensure that the hemp facility remains in compliance with this part and the act. A violation of any provision of this part or the act may result in civil or criminal proceedings authorized in law, including but not limited to the assessment of civil penalties, the suspension or revocation of permit(s), destruction of hemp products, or other such actions.
- (8) The issuance of a permit does not relieve

any person operating a hemp facility from the responsibility of complying with other applicable laws, ordinances and regulations.

B. Application, Plans, and Specifications Requirements:

- (1) An applicant shall submit a written application for a permit, on a form provided by the regulatory authority, at least 30 calendar days prior to operating a hemp facility.
 - (2) An applicant or permit holder shall submit to the regulatory authority properly prepared plans and specifications for review and approval at least 30 calendar days before:
 - (a) the construction of a hemp facility;
 - (b) the conversion of an existing structure for use as a hemp facility;
 - (c) the remodeling of a hemp facility or a change of type of hemp facility if the regulatory authority determines that plans and specifications are necessary to ensure compliance with this part; or
 - (d) opening or changing ownership of an existing hemp facility, if current plans and specifications are not on file with the regulatory authority.
 - (3) It is the sole responsibility of the applicant to provide the regulatory authority with a complete permit application. The regulatory authority will not act on incomplete permit applications.
- C. Operational Plans.**
- (1) Except as otherwise provided in Paragraph (5) of this subsection, a hemp facility shall submit a written operational plan containing the following information, as applicable, for each product(s) to be extracted, manufactured and transported with the application for a permit:
 - (a) Planned source of hemp products.
 - (b) Names of the ingredient(s);
 - (c) The final product pH;
 - (d) The final product water activity (Aw);

(e) Names of preservative(s);	assure traceability of hemp products from harvest to hemp finished products; and	(c) Proposed record keeping system to assure traceability of hemp products from receipt to release;
(f) The type of packaging to be used and whether the packaging is integral to product stability;	(q) Proposed pest control plan.	(d) Proposed recall plan meeting the requirements specified in Paragraph (4) of this subsection; and
(g) The intended distribution and use condition of the product;	(2) Prior to adding new hemp products, or changing the stated process for any existing product in the product line, the hemp facility shall provide to the regulatory authority:	(e) If storing non-hemp products in the same warehouse as hemp products, a complete operational procedure outlining how hemp products will remain clearly identified, segregated from non-hemp products, and unadulterated during storage.
(h) If the product is to be distributed at ambient, refrigerated or frozen temperature;	(a) For each new hemp product, the same information as specified for the initial application in this section; and	D. Fees, Penalty Fees, and Expiration Dates:
(i) The expected shelf life during distribution, retail storage, and in the hands of the consumer;	(b) For each existing product for which a change will be made in the manufacturing process, the applicable changes to the information previously submitted pursuant to this section.	(1) Initial and renewal application fees are non-refundable and shall be:
(j) How the product should be prepared for consumption;	(3) The regulatory authority may require that the hemp facility's processes be reviewed by an approved process authority to verify all critical factors of public health significance are addressed.	(a) \$1000.00 for a hemp extraction facility;
(k) What mishandling of the product might occur in the merchandising channels or in the hands of the consumer;	(4) Recall procedures shall be prepared for hemp products that may be adulterated, misbranded, or otherwise unsafe for human consumption and shall include:	(b) \$1000.00 for a hemp manufacturing facility;
(l) A description of the batch/lot ID coding system, as required in this section;	(a) Plans for identifying products which may be adulterated or misbranded;	(c) \$1000.00 for a hemp warehouse; and
(m) The proposed recall plan;	(b) Procedures for collecting, warehousing, controlling, reworking, and/or disposal of recalled products;	(d) \$500.00 for a hemp processing facility.
(n) The complete operational procedure for the intended process, using a flow chart, and the following, if applicable:	(c) System for determining the effectiveness of recalls; and	(2) Application fees specified in Paragraph (1) of Subsection D of this section shall be paid upon submission of an initial or renewal application. Except as specified in Paragraph (5) of Subsection D of this section, application fees shall include all applicable costs associated with administration of a hemp facility permit.
(i) The proposed extraction method, and approval from RLD/LP Gas Bureau if utilizing propane or butane for extraction;	(d) Persons to contact when implementing a recall, including the regulatory authority.	(3) Permits issued pursuant to Subsection E of this section shall expire on the last day of the anniversary month of the date of original issue.
(ii) The proposed process for the removal of all harmful solvents used during the extraction process;	(5) A hemp warehouse is exempt from the requirements of Paragraph (1) of Subsection C of this section, except hemp warehouses shall provide:	(4) The expiration of permits issued prior to January 28, 2020 shall be extended to the last day of the anniversary month of the date of original issue.
(iii) The intended disposition for all unused hemp product and residual solvents;	(a) Proposed pest control plan;	(5) When a re-inspection is scheduled by the regulatory authority a penalty fee of \$250.00 shall be assessed and paid by the permit holder prior to
(iv) The safety measures proposed to protect the public and employees from dangers associated with extraction methods;	(b) If the product is to be stored at ambient, refrigerated or frozen temperature;	
(o) Proposed product labels that comply with all requirements of 20.10.2.13 NMAC;		
(p) Proposed record keeping system to		

the re-inspection being conducted as specified in Subsection B of 20.10.2.16 NMAC or prior to the approval of a renewal application.

E. Permit Issuance, Permit Denial, Permit Renewal, and Change of Ownership:

(1) To qualify for a permit, an applicant shall:

(a) be an owner of the hemp facility or an official authorized by the owner of a hemp facility;

(b) comply with the requirements of this part and the act;

(c) allow access to the hemp facility by the regulatory authority and to provide requested information; and

(d) pay the required fees as specified in Subsection D of this section.

(2) The regulatory authority shall issue a permit to the applicant after:

(a) a properly completed application is submitted;

(b) the required fee, as specified in Paragraph (1) of Subsection D of this section, is submitted;

(c) the requirements specified in Subsections B and C of this section are approved by the regulatory authority;

(d) a preoperational inspection by the regulatory authority is conducted and demonstrates that the hemp facility is built or remodeled in accordance with the approved plans and specifications; and,

(e) the hemp facility is in compliance with this part and the act.

(3) Upon acceptance of the permit issued by the regulatory authority, the permit holder, in order to retain the permit, shall:

(a) post the permit in a conspicuous location in the hemp facility;

(b) comply with the provisions of

this part, including the approved operational plans;

(c) immediately contact the regulatory authority to report an illness of a hemp employee or conditional employee as specified under Subsection A of 20.10.2.9 NMAC;

(d) immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist as specified in 20.10.2.17 NMAC;

(e) allow representatives of the regulatory authority access to the hemp facility as specified in 20.10.2.11 and 20.10.2.16 NMAC;

(f) replace existing facilities and equipment that comply with this part if:

(i) the regulatory authority directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted;

(ii) the regulatory authority directs the replacement of the facilities and equipment because of a change of ownership; or

(iii) the facilities and equipment are replaced in the normal course of operation.

(g) comply with directives of the regulatory authority including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the regulatory authority in regard to the permit holder's hemp facility or in response to community emergencies.

(h) accept notices issued and served by the regulatory authority according to law.

(i) be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this part, the act, or a

directive of the regulatory authority, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives.

(j) provide the most recent hemp facility inspection report to consumers upon request.

(4) If an application for a permit to operate is denied, the regulatory authority shall provide the applicant with a written notice that includes:

(a) the specific reasons or regulation citations for the permit denial; and

(b) advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in law.

(5) A permit may not be transferred. This includes a prohibition on transferring a permit from one person to another person, from one location to another location, or from one type of operation to another type of operation.

(6) The regulatory authority may issue a permit to a new owner of an existing hemp facility upon completion of requirements as specified in this subsection.

(7) The regulatory authority may renew a permit for a hemp facility upon submission of a renewal application provided by the regulatory authority and the required fee(s) as specified in Paragraph (1) of Subsection D of this section.

[20.10.2.8 NMAC - N, 1/28/2020]

20.10.2.9 MANAGEMENT AND PERSONNEL:

A. Adoption of food code subparts 2-201, 2-301, and 2-401, and section 2-103.11. Except as otherwise provided, subpart 2-201, 2-301, and 2-401, and section 2-103.11 of the 2017 United States food and drug administration model food code is hereby adopted and incorporated in its entirety.

B. A hemp facility shall have written procedures for

employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the hemp facility. The procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter.

C. Except as otherwise provided, the permit holder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the hemp facility during all hours of operation.

D. In a hemp facility with two or more separately permitted departments that are the legal responsibility of the same permit holder and that are located on the same premises, the permit holder may designate a single person in charge who is present on the premises during all hours of operation, and who is responsible for each separately permitted hemp facility on the premises.

E. The person in charge shall have the education, training, or experience necessary to supervise the production of clean and safe hemp product and ensure the hemp facility remains in compliance with this part and the act at all times.

F. Personal care items on the premises shall be stored in a manner to protect hemp products, other ingredients, equipment, and utensils from contamination at all times.

[20.10.2.9 NMAC - N, 1/28/2020]

20.10.2.10 HEMP PRODUCT TRANSPORTATION REQUIREMENTS:

A. Hemp facilities shall only transport hemp product to NMED permitted hemp facilities or persons approved by the regulatory authority.

B. Except as provided in Subsections E and F of this section, hemp facilities shall create and utilize a hemp transportation manifest meeting the requirements of subsection C of this section when transporting hemp product.

C. A hemp transportation manifest created by a hemp facility shall contain the following information:

(1) Name, address, phone number, and permit number of the hemp facility;

(2) Name, address, and phone number of the person transporting the hemp product;

(3) The hemp transportation unit's:

(a) year, make, model, and color (if applicable); and

(b) license plate number;

(4) Batch/lot ID created by the hemp facility;

(5) Item(s) description/composition of hemp product;

(6) Quantity of hemp product;

(7) Shipping date; and,

(8) Destination of the hemp product, including the name, address, and phone number of the person receiving the hemp product.

D. Hemp facilities transporting hemp finished products intended for human consumption or hemp products that will be utilized as ingredients in hemp finished products intended for human consumption shall transport such items under conditions that will protect against allergen cross-contact and against biological, chemical (including radiological), and physical contamination of food, as well as against deterioration of the food and the container in accordance with the New Mexico Food Service Sanitation Act and the New Mexico Food Act.

E. Hemp facilities transporting small amounts of hemp to approved laboratories or research facilities in accordance with practices approved under this part and the Act shall have a hemp harvest certificate and a hemp transportation manifest containing the following information:

(1) Batch/lot ID of the hemp product;

(2) Item(s) description;

(3) Origin and destination; and

(4) Total volume/weight of each hemp product.

F. Hemp facilities transporting small amounts of hemp extract, hemp-derived material, or hemp finished product to approved laboratories or research facilities in accordance with practices approved under this part and the Act shall have a hemp transportation manifest containing the following information:

(1) Batch/lot ID of the hemp product;

(2) Item(s) description;

(3) Origin and destination; and

(4) Total volume/weight of each hemp product. [20.10.2.10 NMAC - N, 1/28/2020]

20.10.2.11 HEMP FACILITY REQUIREMENTS:

A. After the effective date of this part and unless otherwise provided, it is illegal to operate a hemp facility which does not meet the requirements of this section.

B. Adoption of 21 CFR 117 Subparts A, B, and F. Except as otherwise provided, Subparts A, B, and F of the United States code of federal regulations, title 21, part 117 are hereby adopted and incorporated in their entirety.

C. Modifications. Except as otherwise provided, the following modifications are made to the incorporated subparts of 21 CFR 117:

(1) 117.301: All records required by this part are subject to all requirements of this subpart;

(2) 117.315(c): Offsite storage of records is permitted if such records can be retrieved and provided onsite within 24 hours of request for official review. Electronic records are considered to be onsite if they are accessible from an onsite location; and

(3) 117.320: All records required by this part must be made promptly available to the regulatory authority for official

review and copying upon oral or written request.

D. Omissions. The following provisions are omitted from the incorporated subparts of 21 CFR 117:

- (1) 117.1;
- (2) 117.5;
- (3) 117.7;
- (4) 117.8;
- (5) 117.310;
- (6) 117.315(d);
- (7) 117.325;
- (8) 117.335.

and **E.** The current 21 CFR 111 and United States federal food, drug, and cosmetic act, title 21, chapter 9 are hereby adopted as a technical reference and interpretation guide.

F. Hemp and Hemp Product Source and Hemp Product Transportation.

(1) Hemp facilities shall not receive hemp without a hemp harvest certificate issued by NMDA or a person approved by the regulatory authority verifying the hemp being transported has a THC concentration of not more than three-tenths of one percent (0.30%) on a dry weight basis.

(2) Hemp facilities shall not receive hemp-derived material, hemp extract, or hemp finished product unless:
 (a) it is received from an NMED permitted hemp facility or a person approved by the regulatory authority;

(b) it is accompanied by a hemp transportation manifest; and
 (c) hemp finished products intended for human consumption or hemp products that will be utilized as ingredients in hemp finished products intended for human consumption were transported under conditions that will protect against allergen cross-contact and against biological, chemical (including radiological), and physical contamination of food, as well as against deterioration of the food and the container in accordance with the New Mexico Food Service Sanitation Act and the New Mexico Food Act.

G. Records and Traceability.

(1) Hemp facilities shall implement the approved record keeping system at all times and shall maintain traceability records for a period of two years.

(2) Hemp facilities shall maintain all shipping records and records of receipt for all hemp products for a period of two years, including but not limited to:

- (a) Hemp harvest certificate;
- (b) Hemp transportation manifest;
- (c) Date of receipt; and
- (d) Certificate of analysis, if hemp finished product.

H. Hemp facilities shall maintain the operational plans and recall plan, accepted by the regulatory authority, onsite during all hours of operation and shall make them available for review by the regulatory authority.

I. The final disposition of all unused hemp product and residual solvents shall be conducted as approved by the regulatory authority in Subsection C of 20.10.2.8 NMAC.

J. The permit holder shall be responsible to ensure the security of, and limit access to, hemp-derived material with a THC concentration of greater than three-tenths of one percent (0.30%). [20.10.2.11 NMAC - N, 1/28/2020]

20.10.2.12 WATER SUPPLY:

A. Drinking water shall be obtained from an approved source that is:

- (1) a public water system; or
- (2) a non-public water system that is constructed, maintained, and operated according to law.

B. A drinking water system shall be flushed and disinfected before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system.

C. Except as specified under Subsection D of this section:

(1) Water from a public water system shall meet the construction and drinking water quality standards specified in 20.7.10 NMAC; and

(2) Water from a non-public water system shall meet:

- (a) the construction requirements and drinking water quality standards of a non-community water system as specified in 20.7.10 NMAC; and
- (b) the drinking water source setback requirements as specified in 20.7.3 NMAC.

D. A non-drinking water supply shall be used only if its use is approved and shall be used only for nonculinary purposes such as air conditioning, non-hemp equipment cooling, and fire protection.

E. Except when used as specified in Subsection D of this section, water from a non-public water system shall meet the sampling requirements of a non-community water system as specified in 20.7.10 NMAC.

F. The most recent sample report for the non-public water system shall be retained on file in the hemp facility or the report shall be maintained as specified by state water quality regulations.

G. Water shall be received from the source through the use of:

- (1) an approved public water main; or
- (2) one or more of the following that shall be constructed, maintained, and operated according to law:

(a) Non-public water main, water pumps, pipes, hoses, connections, and other appurtenances;

(b) Water transport vehicles; or

(c) Water containers.
 [20.10.2.12 NMAC - N, 1/28/2020]

20.10.2.13 HEMP FINISHED PRODUCT LABELING:

A. After the effective date of this part and unless otherwise provided, hemp finished products produced for:

(1) human consumption shall meet the applicable labeling requirements of 21 CFR 101 and the New Mexico Food Act; and

(2) absorption by humans shall meet the applicable labeling requirements of 21 CFR 701 and 740.

(3) inhalation by humans shall meet applicable state and federal labeling requirements.

B. In addition to the labeling requirements specified in Subsection A of this section, hemp finished products shall clearly identify on the principle display panel of the label:

(1) CBD content in the package and/or container, labeled in milligrams; and

(2) Total THC content in the package and/or container, labeled in milligrams.

C. In addition to the labeling requirements specified in Subsections A and B of this section, hemp finished products shall include the following statement on the label: "FDA has not evaluated this product for safety, effectiveness, and quality".

D. Unless otherwise approved, statements representing or inferring a hemp finished product contains no THC are prohibited.

E. Hemp facilities shall design, maintain and use a coding system that will identify the date and place of manufacture of each hemp product and shall be clearly visible on the product label or securely affixed to the body of the container.

F. Except as specified in Paragraph (1) of Subsection D of 20.10.2.14 NMAC, product concentration and content stated on a hemp finished product label shall not deviate by more than ten percent of what is stated on the label.

G. Hemp finished products shall not contain medical, health, or benefit claims on the label. [20.10.2.13 NMAC - N, 1/28/2020]

20.10.2.14 HEMP FINISHED PRODUCT TESTING:

A. After the effective date of this part and unless otherwise provided, hemp finished products that will be used for human consumption, absorption, or inhalation shall be tested by an approved laboratory and meet the requirements of this section before they leave the hemp facility and are transported, distributed, sold or otherwise made available to consumers.

B. Except as otherwise provided, each batch/lot of hemp finished product shall be tested as follows:

(1) Cannabinoid profile, including at a minimum the concentration of the following:

(a) Total THC calculated as $\text{THC} = (0.877 \times \text{THCA}) + \text{THC}$;

(b) D9-THC;

(c) THCA;

(d) CBD; and

(e) CBDA;

(2) Solvents (volatile organic compounds) utilized throughout the processing of the hemp product;

(3) Content of CBD, total THC, and other compounds derived from hemp stated on the label of the hemp finished product; and

(4) If dried usable hemp finished product:

(a) Water content;

(b) Total aerobic microbial count;

(c) Total combined yeast and mold count;

(d) Bile-tolerant gram-negative bacteria;

(e) Salmonella spp. and E. coli; and

(f) Total coliforms count.

C. Hemp processed or dried as a hemp finished product or hemp product that does not require

further processing before being offered as a hemp finished product shall:

(1) meet the requirements of this section for hemp finished product; and

(2) be prepared for testing, as required in Subsection B of this section, as follows:

(a) Blending of the entire batch/lot prior to testing; or

(b) Tested in accordance with a testing plan approved by the regulatory authority.

D. Testing limits for hemp finished product shall be as follows:

(1) Total THC concentration shall not exceed more than three-tenths of one percent (0.30%);

(2) Solvents (volatile organic compounds) utilized throughout the processing of the hemp finished product shall not exceed the current United States Pharmacopeia recommended limits for residual solvents; and

(3) If dried usable hemp finished product:

(a) Water content shall be less than fifteen percent by weight;

(b) Total aerobic microbial count shall be less than 100,000 colony forming units per gram (cfu/g) or colony forming units per milliliter (cfu/mL);

(c) Total combined yeast and mold count shall be less than 10,000 cfu/g or cfu/mL;

(d) Bile-tolerant gram-negative bacteria shall be less than 1,000 cfu/g or cfu/mL;

(e) Salmonella spp. and E. coli shall be absent in 10 grams cfu/g or cfu/mL; and;

(f) Total coliforms count shall be less than 1,000 cfu/g or cfu/mL.

E. Hemp finished product that exceeds the testing limits

specified in Subsection D of this section, or the testing results specified in Paragraph 3 of Subsection B of this section do not meet the requirements of Subsection E of 20.10.2.13 NMAC, may undergo a confirming test by a hemp laboratory. If the confirming test confirms the initial test results, the permit holder shall report the results to the regulatory authority within 24 hours.

F. Hemp finished products that exceed the testing limits specified in Subsection D of this section, or the testing results specified in Paragraph 3 of Subsection B of this section do not meet the requirements of Subsection E of 20.10.2.13 NMAC, shall not be distributed and shall be:

- (1) disposed of in an approved manner; or
- (2) re-worked in an approved manner.

G. Hemp finished product that is re-worked as specified in Paragraph (2) of Subsection F of this section shall meet requirements of this section before they are transported, distributed, sold or otherwise made available to consumers.

H. Hemp facilities shall obtain a certificate of analysis for each hemp finished product batch/lot from an approved laboratory. The certificate of analysis shall include the results of the required testing required in this section and shall include the following information:

- (1) The batch identification number;
- (2) The date received;
- (3) The date of testing completion;
- (4) The method of analysis for each test conducted; and
- (5) The signature of an authorized official of the hemp laboratory that guarantees the results of the laboratory's testing of a sample.

I. Hemp facilities shall provide the certificate of analysis with hemp finished products as follows:

(1) If shipped to another business entity, the certificate of analysis for each hemp finished product shall be provided to the business entity; or

(2) If shipped directly to the consumer, shall be provided to the consumer upon request.

[20.10.2.14 NMAC - N, 1/28/2020]

20.10.2.15 HEMP LABORATORIES: Testing required in 20.10.2.14 NMAC shall be conducted by an approved laboratory that has no direct ownership or financial interest in the hemp facility for which the testing is being conducted.

[20.10.2.15 NMAC - N, 1/28/2020]

20.10.2.16 INSPECTION BY REGULATORY AUTHORITY:

A. The regulatory authority shall conduct inspections of hemp facilities to determine compliance with the act, Food Service Sanitation Act, the New Mexico Food Act, and this part.

B. When an inspection conducted by the regulatory authority reveals a violation or repeat violation of this part, and a re-inspection is scheduled by the regulatory authority, a re-inspection penalty fee shall be assessed by the regulatory authority and paid by the operator as specified in Paragraph 5 of Subsection D of 20.10.2.8 NMAC.

C. After the regulatory authority presents official credentials and provides notice of the purpose of, and an intent to conduct, an inspection, the person in charge shall allow the regulatory authority to determine if the hemp facility is in compliance with this part and the act by allowing access to the facility to make an inspection, interview employees, and take photos, and providing information and records requested and to which the regulatory authority is entitled according to law, during the hemp facility's hours of operation and other reasonable times.

D. The regulatory authority shall be allowed to copy any records pertaining to the manufacture,

processing, packing, distribution, receipt, holding, or importation of hemp product maintained by or on behalf of a hemp facility in any format, including paper and electronic formats, and at any location.

Proprietary documents shall be protected by the regulatory authority according to law.

E. If a person in charge denies access to the regulatory authority, the regulatory authority shall:

(1) inform the person that:
 (a) the permit holder is required to allow access to the regulatory authority as specified in Subsection F of this section;

(b) access is a condition of the acceptance and retention of a hemp facility permit to operate as specified in Paragraph 3 of Subsection E of 20.10.2.8 NMAC;

(c) if access is denied, an order issued by the appropriate authority allowing access, hereinafter referred to as an inspection order, may be obtained according to law; and

(d) refusal to allow access is grounds for immediate permit suspension or revocation; and
 (2) make a final request for access.

F. If after the regulatory authority presents credentials and provides notice as specified in Subsection C of this section, explains the authority upon which access is requested, and makes a final request for access as specified in Subsection E of this section, the person in charge continues to refuse access, the regulatory authority shall provide details of the denial of access on an inspection report form.

G. If denied access to a hemp facility for an authorized purpose and after complying with Subsection E of this section, the regulatory authority may issue, or apply for the issuance of, an inspection order to gain access as provided in law.

H. The regulatory authority shall document on an inspection report form:

(1) Specific factual observations of violative conditions or other deviations from this part that require correction by the permit holder; and

(2) Time frame for correction of the violations observed and documented.

I. Except as otherwise provided, a permit holder shall at the time of inspection correct violations of this part.

J. Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the regulatory authority may agree to or specify a longer time frame.

K. After observing at the time of inspection a correction of a violation, the regulatory authority shall enter the violation and information about the corrective action on the inspection report.

L. As specified in Subsection J of this section, after receiving notification that the permit holder has corrected a violation, or at the end of the specified period of time, the regulatory authority shall verify correction of the violation, document the information on an inspection report, and enter the report in the regulatory authority's records.

M. The regulatory authority shall request a signed acknowledgment of receipt and provide a copy of the completed inspection report and the notice to correct violations, as soon as possible after the inspection, to the permit holder or to the person in charge.

N. The regulatory authority shall inform a person who declines to sign an acknowledgment of receipt of inspectional findings as specified in Subsection I of this section that:

(1) An acknowledgment of receipt is not an agreement with findings;

(2) Refusal to sign an acknowledgment of receipt will not affect the permit holder's obligation to correct the violations

noted in the inspection report within the time frames specified;

(3) A refusal to sign an acknowledgment of receipt is noted in the inspection report and conveyed to the regulatory authority's historical record for the hemp facility; and

(4) A final request to sign an acknowledgement receipt of inspectional findings will be made to the person in charge.

[20.10.2.16 NMAC - N, 1/28/2020]

20.10.2.17 CEASING OPERATIONS AND REPORTING:

A. Except as specified in Subsections B and C of this section, a permit holder shall immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne or hempborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health, employees, or the environment.

B. A permit holder need not discontinue operations in an area of an establishment that is unaffected by the imminent health hazard.

C. Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the regulatory authority may allow the permit holder to continue operations in the event of an extended interruption of electrical or water service if:

(1) a written emergency operating plan has been approved;

(2) immediate corrective action is taken to eliminate, prevent, or control any food safety risk and imminent health hazard associated with the electrical or water service interruption; and

(3) the regulatory authority is informed

upon implementation of the written emergency operating plan.

D. If operations are discontinued as specified in Subsection A of this section or otherwise according to law, the permit holder shall obtain approval from the regulatory authority before resuming operations.

[20.10.2.17 NMAC - N, 1/28/2020]

20.10.2.18 PERMIT SUSPENSION AND REVOCATION:

A. The regulatory authority may immediately suspend a permit, without prior warning, notice of a hearing, or a hearing, if it determines through inspection, examination of employees, hemp product records, or other means as specified in this part, if:

(1) an imminent health hazard exists; or

(2) the permit holder:

(a) allows serious or repeated violations of the Food Service Sanitation Act, the New Mexico Food Act, the act, or this part;

(b) allows violations of this part to remain uncorrected beyond time frames for correction approved, directed, or ordered by the regulatory authority;

(c) violates any term or condition of a permit as specified under Paragraph 3 of Subsection E of 20.10.2.8 NMAC;

(d) fails to comply with Subsection C of 20.10.2.16 NMAC;

(e) fails to comply with a regulatory authority order issued concerning an employee or conditional employee suspected of having a disease transmissible through hemp products by infected persons; or

(f) fails to comply with a hold order as specified in Subsection A of 20.10.2.21 NMAC;

B. The regulatory authority shall provide written notice of the immediate suspension to the permit holder or person in charge.

C. After receiving a written request from the permit holder stating that the conditions cited in the immediate suspension notice no longer exist, the regulatory authority shall conduct a reinspection of the hemp facility for which the permit was summarily suspended.

D. A permit suspension shall remain in effect until the conditions cited in the immediate suspension notice no longer exist and their elimination has been confirmed by the regulatory authority through re-inspection and other means as appropriate as described in Subsection C of this section.

E. If a permit has been suspended more than one time, the regulatory authority may revoke the permit.

F. If a hemp facility fails to comply with an employee restriction order, an order to hold and not transport hemp product, or an immediate suspension notice, the regulatory authority may revoke the permit.

G. The regulatory authority shall conduct a hearing as specified in 20.10.2.19 NMAC prior to revoking a permit.

H. A permit that has been revoked shall not be considered for reapplication until the permit holder has demonstrated to the satisfaction of the regulatory authority that the hemp facility will comply with this part.

[20.10.2.18 NMAC - N, 1/28/2020]

20.10.2.19 APPEAL HEARINGS:

A. A permit holder may request an appeal hearing to address concerns about the regulatory authority's denial of an application for permit, suspension or revocation of a permit, or an enforcement action taken by the regulatory authority. A hearing request does not stay the regulatory authority's immediate suspension as specified in Subsection A of 20.10.2.18 NMAC.

B. The permit holder shall submit a written hearing request to the secretary within 10 calendar days from the date of receipt of the denial of an application for permit,

permit suspension, permit revocation, or enforcement action.

C. The written request for hearing as specified in Subsection B of this section shall contain the following information:

(1) A statement of the issue of fact for which the hearing is requested;

(2) A statement of defense, mitigation, denial, or explanation concerning each allegation of fact;

(3) A statement indicating whether witnesses will be utilized during the hearing; and

(4) The name and address of the respondent's or requestor's legal counsel, if any.

D. If the regulatory authority receives a hearing request within the required timeframe, the regulatory authority shall issue a notice of hearing. The secretary may designate a person to conduct the hearing and make a final decision or make recommendations for a final decision. The secretary's hearing notice shall indicate who will conduct the hearing and make the final decision.

E. A notice of hearing shall contain the following information:

(1) Time, date and place of the hearing;

(2) Purpose of the hearing;

(3) The rights of the respondent, including the right to be represented by counsel and to present witnesses and evidence on the respondent's behalf as specified in Subsection M of this section; and

(4) The consequences of failing to appear at the hearing.

F. In the appeal hearing, the burden of proof is on the person who requested the hearing.

G. A complete digital recording of a hearing shall be made and maintained as part of the regulatory authority's records.

H. The rules of civil procedure and the rules of evidence shall not apply, but a hearing shall be

conducted so that all relevant views, arguments, and testimony are amply and fairly presented.

I. Parties to a hearing may be represented by counsel, examine and cross examine witnesses, and present evidence in support of their position.

J. The regulatory authority shall present at the hearing its evidence, orders, directives, and reports related to the proposed or appealed administrative remedy.

K. Evidence shall be excluded that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds, or on the basis of evidentiary privilege.

L. Testimony of parties and witnesses shall be made under oath or affirmation administered by a duly authorized official.

M. Written evidence may be received if it will expedite the hearing without substantial prejudice to a party's interests.

N. Documentary evidence may be received in the form of a copy or excerpt.

O. At the end of the hearing, the secretary shall decide and announce if the hearing record will remain open and for how long and for what reason it will be left open. Based upon the evidence presented at the hearing, the secretary shall sustain, modify, or reverse the action of the regulatory authority. The secretary's decision shall be by written order within 15 working days following the close of the hearing record. The decision shall state the reasons therefore and shall be sent by certified mail to the hearing requestor and any other affected person who requests notice. Appeals from the secretary's final decision are by Rule 1-075 NMRA.

P. The regulatory authority may settle a case after a notice of hearing is served by providing a respondent with an opportunity to request a settlement before a hearing commences on the matter and by entering into a consent agreement with the respondent.

Q. Respondents accepting a consent agreement

pursuant to Subsection P of this section waive their right to a hearing on the matter.

R. Failure by the permit holder to appear at the hearing shall result in the secretary upholding the regulatory authority's initial decision which led to the permit holder's hearing request.
[20.10.2.19 NMAC - N, 1/28/2020]

20.10.2.20 REMEDIES: The regulatory authority may seek an administrative or judicial remedy to achieve compliance with the provisions of this part if a person operating a hemp facility:

A. fails to have a valid permit to operate a hemp facility as specified in Subsection A of 20.10.2.8 NMAC;

B. fails to comply with an employee restriction or exclusion order, an order to hold and not transport hemp product, or an immediate suspension notice issued by the regulatory authority as specified in Subsection A of 20.10.2.18 NMAC; or

C. denies the regulatory authority access to the premises of a hemp facility to:

(1) make an inspection, including taking photographs;

(2) examine and sample hemp products or other substances found on the premises; or

(3) examine and copy the records on the premises relating to hemp products as specified in Subsection C of 20.10.2.16 NMAC.
[20.10.2.20 NMAC - N, 1/28/2020]

20.10.2.21 HOLDING, EXAMINATION, AND DESTRUCTION OF HEMP PRODUCTS:

A. The regulatory authority may place a hold order on hemp products in a permitted hemp facility that:

(1) originated from an unapproved source;

(2) may be adulterated, misbranded, or otherwise unsafe for human consumption, or not accurately presented;

(3) are not labeled according to law;

(4) have a THC concentration of more than three-tenths percent, in hemp finished product; or

(5) are otherwise not in compliance with this part or the act.

B. If the regulatory authority has reasonable cause to believe that the hold order will be violated, or finds that the order is violated, the regulatory authority may remove the hemp products that are subject to the order to a place of safekeeping.

C. The regulatory authority may issue a hold order to a permit holder or to a person who owns or controls the hemp products, as specified in Subsection A of this section, without prior warning, notice of a hearing, or a hearing on the hold order.

D. If the suspected hemp products have been transported, the permit holder shall be given the opportunity to recall the hemp products voluntarily at the permit holder's expense.

E. If the permit holder refuses to recall the suspected hemp products, the regulatory authority may order a mandatory recall of the suspected hemp products at the permit holder's expense.

F. The hold order notice shall:

(1) state that hemp products subject to the order may not be used, sold, moved from the hemp facility, or destroyed without a written release of the order from the regulatory authority;

(2) state the specific reasons for placing the hemp products under the hold order with reference to the applicable provisions of this part and the hazard or adverse effect created by the observed condition;

(3) completely identify the hemp products subject to the hold order by the common name, the label information, a container description, the quantity, regulatory authority's tag or identification information, and location;

(4) state that the permit holder has the right to an appeal hearing and may request a hearing by submitting a timely request as specified in 20.10.2.19 NMAC;

(5) state that the regulatory authority may order the destruction of the hemp products if a timely request for an appeal hearing is not received; and

(6) provide the name and address of the regulatory authority representative to whom a request for an appeal hearing may be made.

G. The regulatory authority shall securely place an official tag or label on the hemp products or containers or otherwise conspicuously identify hemp products subject to the hold order.

H. The tag or other method used to identify a hemp product that is the subject of a hold order shall include a summary of the provisions specified in Subsection F of this section and shall be signed and dated by the regulatory authority.

I. Except as otherwise provided, hemp products placed under a hold order may not be used, sold, served, or moved from the establishment by any person.

J. The regulatory authority may allow the permit holder the opportunity to store the hemp products in an area of the hemp facility if the hemp products are protected from subsequent deterioration and the storage does not restrict operations of the establishment.

K. Only the regulatory authority may remove hold order tags, labels, or other identification from hemp products subject to a hold order.

L. The regulatory authority may examine, sample, and test the hemp products in order to determine its compliance with the Food Service Sanitation Act, the New Mexico Food Act, the act, and this part.

M. When hemp products are found to be adulterated, misbranded, or otherwise unsafe for human consumption, or not accurately presented; or found in any room,

building, vehicle of transportation or other structure, any hemp products which are unsound or contain any filthy, decomposed or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the procedures outlined in Section 25-2-6 NMSA 1978 shall be followed.

N. When any product is found, by examination or laboratory analysis, to be in violation with this part or the act, the regulatory authority may order condemnation and disposal of the product lot, at the expense of the permit holder.

O. The regulatory authority shall issue a written notice of release from a hold order and shall remove hold tags, labels, or other identification from the hemp product if the hold order is vacated.
[20.10.2.21 NMAC - N, 1/28/2020]

20.10.2.22 SERVICE OF NOTICE:

A. A notice issued in accordance with this part shall be considered to be properly served if it is served by one of the following methods:

(1) The notice is personally served by the regulatory authority, a law enforcement officer, or a person authorized to serve a civil process to the permit holder, the person in charge, or person operating a hemp facility without a permit; or

(2) The notice is sent by the regulatory authority to the last known address of the permit holder or the person operating a hemp facility without a permit, by registered or certified mail or by other public means so that a written acknowledgment of receipt may be acquired.

B. An employee restriction or exclusion order, an order to hold and not transport hemp product, or an immediate suspension order shall be:

(1) served as specified in Paragraph (1) of Subsection A of this section; or

(2) clearly posted by the regulatory authority at a public entrance to the hemp facility

and a copy of the notice sent by first class mail to the permit holder or to the owner or custodian of the hemp product, as appropriate.

C. Service is effective at the time of the notice's receipt or if service is made as specified in Paragraph (2) of Subsection B of this section, at the time of the notice's posting.

D. Proof of proper service may be made by affidavit of the person making service or by admission of the receipt signed by the permit holder, the person operating a hemp facility without a permit to operate, or an authorized agent.
[20.10.2.22 NMAC - N, 1/28/2020]

20.10.2.23 VARIANCES:

A. The regulatory authority may grant a variance by modifying or waiving the requirements of this part if the regulatory authority determines that no hazard to human health or the environment will result from the modification or waiver.

B. The person requesting a variance shall submit a written application on a form provided by the regulatory authority. The following information shall be provided by the person requesting the variance:

(1) A statement of the proposed variance;

(2) The applicable code citations from which the variance is requested;

(3) A detailed rationale for how the potential hazards to human health or the environment addressed by the applicable code citations will be alternatively addressed by the proposal; and

(4) If applicable, documentation supporting the rationale provided.

C. The regulatory shall grant the variance, grant the variance subject to conditions, or deny the variance within 15 working days following the receipt of the variance request.

D. If the regulatory authority grants a variance as specified in this section, the permit holder shall:

(1) comply with the procedures that were approved; and

(2) when required as a condition of the variance, maintain and provide to the regulatory authority, upon request, records that demonstrate compliance with the approved variance.
[20.10.2.23 NMAC - N, 1/28/2020]

HISTORY OF 20.10.2 NMAC:

20.110.2 NMAC, Hemp Extraction, Production, Transportation, Warehousing, and Testing, filed and effective August 1, 2019, duration expired by operation of law, January 27, 2020.

HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.200.400 NMAC, Section 14, effective 2/1/2020.

8.200.400.14 RETROACTIVE MEDICAID:

A. HSD must make eligibility for medicaid effective no later than the first or up to the third month before the month of application if the individual:

(1) Requested coverage for months prior to the application month;

(2) received medicaid services, at any time during that period, of a type covered under the plan and;

(3) would have been eligible for medicaid at the time he or she received the services, if he or she had applied (or an authorized representative has applied for him or her) regardless of whether the individual is alive when application for medicaid is made.

B. Eligibility for medicaid is effective on the first day of the month if an individual was eligible at any time during that month.

C. Eligibility for each retroactive month is determined

separately. Retroactive medicaid must be requested within 180 days of the date of the medicaid application.

D. [Retroactive eligibility is limited to one month for most centennial care managed care members, as described in Subsection E of 8.200.400.14 NMAC. Retroactive eligibility is allowed for up to three months for individuals and categories as described in Subsection F of 8.200.400.14 NMAC. All retroactive periods are limited to one month prior to the application month when the individual or category would be enrolled into managed care for the application month or month prior.

E. Centennial care managed care members on one of the following medicaid categories of eligibility (COEs) during the month of application or month prior are limited to retroactive medicaid for one month prior to the application month for these categories:

(1) other adults (COE 100) with a federal poverty level (FPL) less than or equal to one hundred percent;

(2) other adults (COE 100) with an FPL greater than one hundred percent who applied prior to July 1, 2019;

(3) parent caretaker (COE 200);

(4) supplemental security income (SSI) (COEs 001, 003, and 004);

(5) SSI extensions (COEs 001, 003, and 004, e.g. 503s, disabled adult children, ping pongs, and early widower);

(6) working disabled individuals (WDI COE 074); and

(7) breast and cervical cancer (BCC COE 052)

(8) an incarcerated individual suspended from centennial care enrollment for the application month is limited to one month of retroactive medicaid for the month prior to the application month for the medicaid categories listed in Subsection E of 8.200.400.14 NMAC.

F. The following individuals or categories are allowed up to three months of retroactive medicaid:

(1) FFS individuals: Individuals not enrolled in managed care during the month of application or month prior are allowed up to three months of retroactive medicaid prior to the application month for the following categories:

(a) other adults (COE 100);

(b) parent caretaker (COE 200);

(c) SSI (COEs 001, 003, and 004);

(d) SSI extensions (COEs 001, 003, and 004, e.g. 503s, disabled adult children, ping pongs, and early widowers);

(e) WDI (COE 074);

(f) BCC (COE 052);

(2) pregnant women (COE 300);

(3) pregnancy-related services (COE 301);

(4) a woman who is pregnant on any medicaid category during the application month excluding categories that do not have retroactive medicaid per Subsection G of 8.200.400.14 NMAC.

(5) children under age 19 on any medicaid category, inclusive of the month a child turns age 19 during the application month, excluding categories that do not have retroactive medicaid per Subsection G of 8.200.400.14 NMAC;

(6) family planning (COE 029);

(7) specified low income medicare beneficiaries (SLIMB COE 045) and qualified individuals (QH COE 042);

(8) qualified disabled working individuals (QD COE 050);

(9) refugee (COE 049)

(10) children, youth and families department medicaid categories (COEs 017, 037, 046, 047, 066, and 086); and

(11) institutional care medicaid (COEs 081, 083, and 084) excluding the program of all-inclusive care for the elderly (PACE);

(12) an incarcerated individual suspended during the application month who is FFS, pregnant, or eligible under one of the categories listed in Subsection F of 8.200.400.14 NMAC is allowed up to three months of retroactive medicaid prior to the application month.

G. The following categories do not have retroactive medicaid:

(1) emergency medical services for aliens (EMSA COE 085). EMSA provides coverage for emergency services, which may be provided prior to the application month, but is not considered retroactive medicaid. Eligibility is determined in accordance with 8.285.400, 8.285.500, and 8.285.600 NMAC;

(2) home and community based services waivers (COEs 091, 093, 094, 095, and 096);

(3) other adults (COE 100) with an FPL greater than one hundred percent who apply on or after July 1, 2019 are subject to a premium. Individuals who have a premium requirement are determined prospectively eligible for the other adults category.

(4) PACE (COEs 081, 083, and 084);

(5) qualified medicare beneficiaries (COEs 041 and 044); and

(6) transitional medicaid (COEs 027 and 028).]

Retroactive medicaid is allowed for up to three months prior to the application month for the following medicaid categories:

(1) other adults (COE 100);

(2) parent caretaker (COE 200)

(3) pregnant women (COE 300);

(4) pregnancy-related services (COE 301);

(5) children

under age 19 (COEs 400, 401, 402, 403, 420, and 421):

(6) family planning (COE 029):

(7) children, youth and families department (CYFD COEs 017, 037, 046, 047, 066, and 086):

(8) supplemental security income (SSI COEs 001, 003, and 004):

(9) SSI (COEs 001, 003, and 004, e.g. 503s, disabled adult children, ping pongs, and early widowers):

(10) working disabled individuals (COE 074):

(11) breast and cervical cancer (BCC COE 052):

(12) specified low income beneficiaries (SLIMB COE 045):

(13) qualified individuals (QI1 COE 042):

(14) qualified disabled working individuals (COE 050):

(15) refugees (COE 049); and

(16) institutional care medicaid (COEs 081, 083, and 084) excluding the program for all-inclusive care for the elderly (PACE).

E. The following categories do not have retroactive medicaid:

(1) emergency medical services for aliens (EMSA COE 085). EMSA provides coverage for emergency services, which may be provided prior to the application month, but is not considered retroactive medicaid. Eligibility is determined in accordance with 8.285.400, 8.285.500, and 8.285.600 NMAC;

(2) home and community based-services waivers (COEs 091, 093, 094, 095, and 096);

(3) PACE (COEs 081, 083, and 084);

(4) qualified medicare beneficiaries (COEs 041 and 044); and

(5) transitional medicaid (COEs 027 and 028).

~~[H:]~~ **F.** Newborns (COE 031) are deemed to have applied and been found eligible for the newborn category of eligibility from birth through the month of the child's first birthday. This applies in instances where the labor and delivery services were furnished prior to the date of the application and covered by medicaid based on the mother applying for up to three months of retroactive eligibility.

[8.200.400.14 NMAC - Rp, 8.200.400.14 NMAC, 1/1/2019; A, 2/1/2020]

HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.200.430 NMAC, Section 16, effective 2/1/2020.

8.200.430.16 ELIGIBLE RECIPIENT FINANCIAL RESPONSIBILITIES:

A. ~~[A MAD provider agrees to accept the amount paid as payment in full with the exception of co-payment amounts required in certain MAP eligibility categories (42 CFR 447.15). Other than the co-payments, a provider cannot bill an eligible recipient for any unpaid portion of the bill (balance billing) or for a claim that is not paid because of a provider administrative error or failure of multiple providers to communicate eligibility information. A native American eligible recipient is exempt from co-payment requirements.]~~ A MAD provider agrees to accept the amount paid as payment in full. A provider cannot bill an eligible recipient for any unpaid portion of the bill (balance billing) or for a claim that is not paid because of a provider administrative error or failure of multiple providers to communicate eligibility information.

(1) An eligible recipient is responsible for any financial liability incurred if he or she fails to furnish current MAP

eligibility identification before the receipt of a MAP service and as a result the provider fails to adhere to MAD reimbursement rules, such as a failure to request prior approval. If this omission occurs, the settlement of claims for services is between the eligible recipient and the MAP provider. An individual is financially responsible for services received if he or she was not eligible for MAD services on the date services are furnished.

(2) When a provider bills MAD and the claim is denied, the provider cannot bill the eligible recipient. Exceptions exist for denials caused by MAP ineligibility or by an eligible recipient's failure to furnish MAP identification at the time of service.

(3) If an eligible recipient fails to notify a provider that he or she has received services that are limited by time or amount, the eligible recipient is responsible to pay for services if, before furnishing the services, the provider makes reasonable efforts to verify whether the eligible recipient has already received services.

B. Failure of an eligible recipient to follow his or her privately held health insurance carrier's requirements: An eligible recipient must be aware of the physician, pharmacy, hospital, and other providers who participate in his or her HMO or other managed care plan. An eligible recipient is responsible for payment for services if he or she uses a provider who is not a participant in his or her plan or if he or she receives any services without complying with the rules, policies, and procedures of his or her plan.

C. Other eligible recipient payment responsibilities: If all the following conditions are met before a MAD service is furnished, the eligible recipient can be billed directly by a MAD provider for services and is liable for payment:

(1) the eligible recipient is advised by a provider that the particular service is not covered by MAD or is advised by a provider that he or she is not a MAD provider;

(2) the eligible recipient is informed by a provider of the necessity, options, and charges for the services and the option of going to another provider who is a MAD provider; and

(3) the eligible recipient agrees in writing to have the service provided with full knowledge that he or she is financially responsible for the payment.

~~D. Medicaid recipients may be responsible to pay co-payments as outlined in 8.302.2 NMAC.]~~

[8.200.430.16 NMAC - Rp, 8.200.430.16 NMAC, 1/1/2014; A, 10/15/2014; A, 10/1/2017; A, 2/1/2020]

**HUMAN SERVICES
DEPARTMENT
MEDICAL ASSISTANCE
DIVISION**

This is an amendment to 8.200.510 NMAC, Section 8 & 12, effective 1/16/2020.

8.200.510.8 [RESERVED] MISSION STATEMENT: To transform lives. Working with our partners, we design and deliver innovative, high quality health and human services that improve the security and promote independence for New Mexicans in their communities.

[8.200.510.8 NMAC - Rp, 8.200.510.8 NMAC, 7/1/2015; A/E, 3/1/2017; A/E, 1/16/2020]

8.200.510.12 POST-ELIGIBILITY CALCULATION (MEDICAL CARE CREDIT):

Apply applicable deductions in the order listed below when determining the medical care credit for an institutionalized spouse.

DEDUCTION AMOUNT

A. Personal needs allowance for institutionalized spouse:

~~(1)~~ [July 1, 2018] July 1, 2019

[\$72] \$74

~~(2)~~ [July 1, 2017] [\$70]

B. Minimum monthly maintenance needs allowance (MMMNA):

~~(1)~~ [July 1, 2018] July 1, 2019

[\$2,058] \$2,114

~~(2)~~ [July 1, 2017] [\$2,030]

C. The community spouse monthly income allowance (CSMIA) is calculated by subtracting the community spouse's gross income from the MMMNA:

(1) If allowable shelter expenses of the community spouse exceeds the minimum allowance then deduct an excess shelter allowance from community spouse's income that includes: expenses for rent; mortgage (including interest and principal); taxes and insurance; any maintenance charge for a condominium or cooperative; and an amount for utilities (if not part of maintenance charge above); use the standard utility allowance (SUA) deduction used in the food stamp program for the utility allowance.

~~(a)~~ [July 1, 2018] July 1, 2019

[\$617] \$635

~~(b)~~ [July 1, 2017]

[\$609]

(2) Excess shelter allowance may not exceed the maximum:

~~(a)~~ [Jan. 1, 2019] July 1, 2019

[\$1,103] \$1,047

July 1, 2018 (b) \$1,032

Jan. 1, 2018 (c) \$1,060

July 1, 2017 (d) \$993

D. Any extra maintenance allowance ordered by a court of jurisdiction or a state administrative hearing officer.

E. Dependent family member income allowance (if applicable) calculated as follows: 1/3 X MMMNA - dependent member's income).

F. Non-covered medical expenses.

G. The maximum total of the community spouse monthly income allowance and excess shelter deduction may not exceed \$3,161. [8.200.510.12 NMAC - Rp, 8.200.510.12 NMAC, 7/1/2015; A/E, 3/1/2017; A/E. 8/30/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 1/16/2020]

**HUMAN SERVICES
DEPARTMENT
MEDICAL ASSISTANCE
DIVISION**

This is an amendment to 8.296.400 NMAC, Section 9, effective 2/1/2020.

8.296.400.9 WHO CAN BE A RECIPIENT: To be eligible, an individual must meet specific eligibility requirements:

A. is age 19 or older and under age 65;

B. is not pregnant;

C. are not entitled to or enrolled in part A or B medicare benefits;

D. meets ACA eligibility requirements pursuant to 8.291.400 through 8.291.430 NMAC; and

E. has household income that is at or below one hundred thirty-three percent of the federal poverty level (FPL) for the applicable family size. ~~[Individuals eligible for other adults with an FPL above one hundred percent on or after July 1, 2019, are subject to a premium and are enrolled prospectively into the other adults category. Native Americans are exempt from the premium requirement.]~~

[8.296.400.9 NMAC - Rp, 8.296.400.9 NMAC, 1/1/2019; A, 2/1/2020]

**HUMAN SERVICES
DEPARTMENT
MEDICAL ASSISTANCE
DIVISION**

This is an amendment to 8.320.2 NMAC, Sections 7, 8 and 18 effective 2/1/2020.

8.320.2.7 DEFINITIONS:
[RESERVED] Electronic visit verification (EVV): A telephone and computer-based system that electronically verifies the occurrence of HSD selected services visits and documents the precise time the service begins and ends.
[8.320.2.7 NMAC - Rp, 8.320.7 NMAC, 1/1/2014; A, 2/1/2020]

8.320.2.8 [MISSION-STATEMENT: To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.]
[RESERVED]
[8.320.2.8 NMAC - Rp, 8.320.2.8 NMAC, 1/1/2014; Repealed, 2/1/2020]

8.320.2.18 EPSDT PERSONAL CARE SERVICES: MAD pays for medically necessary personal care services (PCS) furnished to a MAP eligible recipient under 21 years of age as part of the EPSDT program when the services are part of his or her ISP for the treatment of correction, amelioration, or prevention of deterioration of a MAD identified medical or behavioral health condition, see 42 CFR Section 440.167. PCS provides a range of services to a MAP eligible recipient who is unable to perform some or all activities of daily living (ADLs) or instrumental activities of daily living (IADLs) because of a disability or a functional limitation. A prescribed course of regular PCS services and daily living assistance supports the MAP eligible recipient to live in his or her home rather than an institution and allows him or her to achieve the highest possible level of independence. These services include, but are not limited to, activities such as bathing, dressing, grooming, eating, toileting, shopping,

transporting, caring for assistance animals, cognitive assistance, and communicating. A MAP eligible recipient may be physically capable of performing ADLs or IADLs but may have limitations in performing these activities because of a cognitive impairment. PCS services may be required because a cognitive impairment prevents a MAP eligible recipient from knowing when or how to carry out the task. In such cases, PCS services may include cuing along with supervision to ensure that the MAP eligible recipient performs the task properly.

A. EPSDT PCS
eligible providers:
(1) agencies that meet the following conditions are eligible to enroll as providers and be reimbursed for providing EPSDT PCS services:

(a) a licensed nursing or home health agency that is a public agency, a private for-profit agency, or private non-profit agency; and

(b) the PCS attendant to the MAP eligible recipient must be supervised by a MAD enrolled RN;

(2) certification for participation as a medicare home health agency is not required; a MAP eligible recipient's family member may not furnish PCS services to him or her; in this instance, a family member is defined as a legally responsible relative, such as parents of minor child or stepparent who is legally responsible for minor child; for a MAP eligible recipient 18 to 21 years of age, parents or other relatives may provide PCS services if they are not legally responsible for the MAP eligible recipient; the parent or another relative must be employed by a MAD approved PCS agency eligible to bill for PCS services and must meet all MAD required training and supervision standards.

B. EPSDT PCS
attendant training:

(1) The PCS agency is responsible for ensuring that the PCS attendant has completed a training program and is competent

to provide assigned tasks as a PCS attendant specific to the MAP eligible recipient's needs.

(2) The PCS attendant training program must consist of no less than 40 hours of training to be completed by the PCS attendant in the first year of employment. Ten hours of training must be completed prior to placing the employee in a MAP eligible recipient's home. Two of the 10 hours may include agency orientation. Eight of the 10 hours of training must be specific to the MAP eligible recipient.

(3) The training curriculum must include, at a minimum, the following areas:

- (a)** communication;
- (b)** MAP eligible recipient's rights;
- (c)** recording of information in MAP eligible recipient's records;
- (d)** nutrition and meal preparation;
- (e)** care of ill and disabled children and adolescents;
- (f)** emergency response (first aid, CPR, 911, etc.);
- (g)** basic infection control;
- (h)** housekeeping skills; ~~and~~
- (i)** home safety and fire protection~~[-]; and~~
- (j)** electronic visit verification (EVV).

C. EPSDT PCS
criteria: PCS services are defined as medically necessary tasks pertaining to a MAP eligible recipient's physical or cognitive functional ability. The goal of the provision of care is to avoid institutionalization and maintain the MAP eligible recipient's functional level. Services are covered under specific criteria.

(1) The MAP eligible recipient must have a need for assistance with at least two or more ADL's or both such as eating, bathing, dressing and toileting activities, appropriate to his or her age.

(2) PCS services must be medically necessary, prescribed by the MAP eligible recipient's PCP and included in the MAP eligible recipient's individual treatment plan (ITP).

(3) The need for PCS services is evaluated based on the availability of the MAP eligible recipient's family members or natural supports, such as other community resources or friends that can aid in providing such care.

(4) PCS services must be provided with the consent of the MAP eligible recipient's parent or guardian if the MAP eligible recipient is under the age of 18 years. If a MAP eligible recipient is emancipated or is at least 18 years old and is able to provide consent, his or her consent is required.

(5) PCS services are furnished in the MAP eligible recipient's place of residence and outside his or her home when medically necessary and when not available through other existing benefits and programs such as home health, early intervention or school programs. PCS services are services furnished to a MAP eligible recipient who is not an inpatient or a resident of a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities (ICF-IID), or an institution for mental illness.

(6) Medically necessary PCS services to support a MAP eligible recipient attend school are furnished in partnership with the MAP eligible recipient's school as an alternative to his or her participation in a homebound program. PCS services should foster the MAP eligible recipient's independence. PCS services are furnished only to a MAP eligible recipient based on MAD or its designee's UR contractor's approval. PCS services may not be furnished to a non-MAP eligible recipient in the school setting.

(7) Only a trained PCS attendant who has successfully demonstrated service competency such as bathing, dressing, eating and toileting may provide PCS

services to a MAP eligible recipient. The PCS attendant must be employed by a MAD approved PCS agency and work under the direct supervision of a MAD approved RN.

(8) The supervisory RN must be employed or contracted by the PCS agency and have one year direct patient care experience. The supervisory RN is responsible for conducting and documenting visits at the MAP eligible recipient's residence for the purpose of assessing his or her progress and the PCS attendant's performance. The ITP should be updated as indicated and in cooperation with the MAP eligible recipient's case manager. These visits will be conducted and documented every 62 calendar days or more often if the MAP eligible recipient's condition warrants it.

D. EPSDT PCS covered services: MAD covers the following personal care services:

(1) basic personal care services consist of bathing, care of the teeth, hair and nails, assistance with dressing, and assistance with toileting activities;

(2) assistance with eating and other nutritional activities, when medically necessary, i.e., due to documented weight loss or another physical effect; and

(3) cognitive assistance such as prompting or cuing.

E. EPSDT PCS noncovered services: PCS services are subject to the limitations and coverage restrictions which exist for other MAD services. See Section 14 of this rule for general non-covered MAD EPSDT services or activities. Specifically, PCS services may not be billed in conjunction with the following services:

(1) any task that must be provided by a person with professional or technical training, such as but not limited to: insertion and irrigation of catheters, nebulizer treatments, irrigation of body cavities, performance of bowel stimulation, application of sterile dressings involving prescription medications and aseptic techniques,

tube feedings, and administration of medications;

(2) services that are not in the MAP eligible recipient's approved ITP and for which prior approval has not been received;

(3) services not considered medically necessary by MAD or its designee for the condition of the MAP eligible recipient.

F. EPSDT PCS treatment plan: The MAP eligible recipient's ITP is approved by MAD or its designated UR contractor prior to the initiation of PCS services. The PCS ITP is developed as a result of a face-to-face assessment of the MAP eligible recipient and must include the following:

(1) statement of the nature of the specific problem and the specific needs of the MAP eligible recipient for PCS services;

(2) description of the physical or cognitive functional level of the recipient as evidenced by the PCP's clinical evaluation, including social emotional or behavioral health status, intellectual functioning and the documented medical necessity for PCS services;

(3) description of intermediate and long-range service goals that includes the scope and duration of service, how goals will be attained and the projected timetable for their attainment;

(4) specification of the PCS attendant's responsibilities, including tasks to be performed by the attendant and any special instructions for the health and safety of the MAP eligible recipient;

(5) a statement of the least restrictive conditions necessary to achieve the goals identified in the plan; and

(6) the ITP must be reviewed and revised in cooperation with the MAP eligible recipient's case manager according to his or her clinical needs at least every six months.

G. Use of the electronic visit verification (EVV) system is required for payment of PCS services including EPSDT

eligible members. The managed care organizations shall collaborate to offer a single EVV vendor for PCS and monitor compliance with the federal 21st Century Cures Act. The MCO shall maintain an EVV system capable of leveraging up-to-date technology as it emerges to improve functionality in all areas of the state, including rural areas.
[8.320.2.18 NMAC - Rp, 8.323.2 NMAC, 1/1/2014; A, 2/1/2020]

**HUMAN SERVICES
DEPARTMENT
MEDICAL ASSISTANCE
DIVISION**

This is an amendment to 8.320.6 NMAC, Sections 8, 11 and 13 effective 2/1/2020.

8.320.6.8 ~~MISSION STATEMENT.~~ ~~To reduce the impact of poverty on people living in New Mexico by providing support services that help families break the cycle of dependency on public assistance.]~~
[RESERVED]
[8.320.6.8 NMAC - Rp, 8.320.6.8 NMAC, 7/1/2015; Repealed, 2/1/2020]

8.320.6.11 ELIGIBLE PROVIDERS:
A. Upon approval of a New Mexico MAD PPA by MAD or its designee, local education agencies (LEAs), regional educational cooperatives (RECs), and other state-funded educational agencies (SFEAs) that meet specified requirements are eligible to be reimbursed for furnishing services to an eligible recipient. The LEA, REC, or other SFEA must enter into a governmental services agreement (GSA) with HSD and abide by the terms and conditions of it.

B. The following individual service providers must be employed by, or under contract to, the LEA, REC, or other SFEA when furnishing treatment and meet other specified qualification criteria:

(1) physical therapists (PT);

(2) physical therapy assistants working under the supervision of a MAD enrolled PT;

(3) occupational therapists (OT);

(4) occupational therapy assistants working under the supervision of a MAD enrolled licensed occupational therapist;

(5) speech and language pathologists (SLP) and clinical fellows;

(6) apprentices in speech-language (ASL) working under the supervision of a MAD enrolled licensed speech therapist; supervision for those providers listed in Paragraphs (1) - (6) above must adhere to the requirements of the practitioner's applicable licensing board;

(7) audiologists;

(8) licensed nutritionists or registered dieticians;

(9) case managers meeting one of the following requirements:

(a) bachelor's degree in social work, counseling, psychology, nursing or a related health or social services field from an accredited institution;

(b) one year experience serving medically-at-risk children or adolescents; or

(c) licensed registered (RN).

(10) psychologists meeting one of the following requirements:

(a) psychologists (Ph.D., Psy.D., or Ed.D.); or

(b) master's level practitioners licensed by the New Mexico psychologist examiners board as psychologist associates or licensed by PED as school psychologists and working under the supervision of a MAD enrolled licensed psychiatrist or a licensed psychologist (Ph.D., Psy.D., or Ed.D.) or a PED level 3 independent school psychologist, as applicable;

(c) supervision of psychologist associates and school psychologists must adhere to the requirements of the practitioner's applicable licensing board.

(11) social work practitioners meeting one of the following requirements:

(a) licensed independent social worker (LISW); or

(b) licensed master social worker (LMSW) or licensed baccalaureate social worker (LBSW) and working under the supervision of a MAD enrolled licensed independent social worker (LISW) or licensed psychologist (Ph.D., Psy.D., Ed.D.) or other supervisor approved by the New Mexico board of social work examiners;

(i) services provided by licensed master social workers (LMSW) and licensed baccalaureate social workers (LBSW) must be within the scope of their practice respectively and supervised and periodically evaluated;

(ii) an eligible recipient receiving services from an LMSW or LBSW must be diagnosed by the practitioner's supervisor; the diagnosis must be documented in the MAP eligible recipient's record with the signature of the supervisor.

(12) licensed counselors or therapists meeting one of the following requirements:

(a) licensed professional clinical mental health counselor (LPCC); or

(b) licensed marriage and family therapist (LMFT); or

(c) licensed mental health counselor (LMHC) or licensed professional mental health counselor (LPC) and working under the supervision of a MAD enrolled licensed psychiatrist, a licensed psychologist (Ph.D., Psy.D., or Ed.D.), licensed professional clinical mental health counselor (LPCC), licensed marriage and family therapist (LMFT), or licensed independent social worker (LISW);

supervision of licensed mental health counselors (LMHC) and licensed professional mental health counselors (LPC) must adhere to the requirements of the practitioner's applicable licensing board;

an eligible recipient receiving services from a LMHC or LPC must be diagnosed by the practitioner's supervisor; the diagnosis must be documented in the eligible recipient's record with the signature of the supervisor.

(d) licensed associate marriage and family therapist (LAMFT): supervision of LAMFTs must adhere to the requirements of the practitioner's applicable licensing board;

(13) licensed psychiatric clinical nurse specialist (CNS);

(14) physicians and psychiatrists licensed by the board of medical examiners.

C. For a LEA, REC, or other SFEA that employs a RN or a licensed practical nurse (LPN) not as a case worker, each is under the oversight of the department of health's (DOH) district health officer, as provided by state statute (Section 24-1-4 NMSA 1978). A LPN must work under the supervision of a RN who is a PED licensed school nurse.

D. As applicable, each provider must be licensed by the public education department (PED) when such licensure exists.

E. As applicable, each provider must be licensed by its specific regulation and licensing division (RLD)'s board of practice or by PED.

[8.320.6.11 NMAC - Rp, 8.320.6.11 NMAC, 7/1/2015; A, 2/1/2020]

8.320.6.13 COVERED

SERVICES: MAD covers the following services when medically necessary and rendered as part of an eligible recipient's IEP or IFSP by specified providers in school settings.

A. For services in Subsections A - E of 8.320.6.13

(i) NMAC, a provider must first develop and then update the eligible recipient's present level of performance for each of his or her IEP or IFSP cycles. MAD requires the following elements be included in the provider's treatment notes:

(ii) **(1)** the specific activity provided to the MAP eligible recipient for each date of service billed;

(2) a description of the level of engagement and the ability of the eligible recipient for each date of service billed; and

(3) the outcomes of session on the impact on the eligible recipient's exceptionality for each date of service billed.

B. To be reimbursed for a MAD school-based service, all of the requirements in this subsection must be met.

(1) Services must be medically necessary and must meet the needs specified in his or her IEP or IFSP. The services must be necessary for the treatment of the eligible recipient's specific identified condition.

(2) The ITP portion of the IEP or IFSP must be developed in conjunction with the appropriate qualified PT, OT, SLP, audiologist, RN, or behavioral health provider listed in 8.320.6.11 NMAC.

(3) The LEA, REC or other SFEA must complete a MAD specified good faith effort to notify the eligible recipient's PCP of the services to be provided.

(4) Frequency and duration of services billed may not exceed those specified in the eligible recipient's IEP or IFSP.

(5) Reimbursement is made directly to the LEA, REC, or other SFEA when therapy, licensed nutritionists or registered dietitians, transportation, case manager, or nurse providers furnish services under contract to the LEA, REC, or other SFEA.

C. Therapy services: MAD covers physical, occupational, audiological and speech evaluations, and therapy required for treatment of an identified medical condition that is part of an eligible recipient's ITP.

D. Nutritional assessment and counseling: MAD covers nutritional assessment and counseling when rendered by a licensed nutritionist or dietician for an eligible recipient who has been referred for a nutritional need when part of his or her ITP. A nutritional assessment consists of an evaluation of the nutritional needs of the eligible recipient based upon appropriate biochemical, anthropometric, physical, and dietary data, including a recommendation for appropriate nutritional intake.

E. Transportation services: MAD covers transportation services for an eligible recipient who must travel from his or her school to receive a covered service from a MAD provider when the service is unavailable in the school setting and when the service is medically necessary and are part of the eligible recipient's IEP or IFSP; see 8.324.7 NMAC. MAD covers transportation to and from the school on the date a medically necessary MAD school-based service is rendered in the school setting for an eligible recipient who has a disability.

(1) MAD school-based services are billed on the specific day on which transportation is rendered and are part of the ITP portion of his or her IEP or IFSP.

(2) The eligible recipient requires transportation in a vehicle adapted to serve his or her needs that are part of the ITP portion of his or her IEP or IFSP.

(3) Transportation occurs in a modified school bus for disabled students.

F. Case management: MAD covers school-based case management services rendered in school settings to an eligible recipient who is medically at risk when these services are part of the eligible recipient's ITP of his or her IEP or IFSP. Medically at risk refers to an eligible recipient who has a diagnosed physical condition which has high probability of impairing cognitive, emotional, neurological, social, or physical development.

(1) The service is developed in conjunction with a qualified case manager.

(2) MAD covers the following school-based case management services.

(a) The assessment of the eligible recipient’s medical, social and functional abilities at least every six months, unless more frequent reassessment is indicated by the eligible recipient’s condition.

(b) The development and implementation of a comprehensive case management plan of care that helps the eligible recipient retain or achieve the maximum degree of independence.

(c) The mobilization of the use of natural helping networks, such as family members, church members, community organizations, support groups, friends, and the school, if the eligible recipient is able to attend.

(d) Coordination and monitoring of the delivery of services, evaluation of the effectiveness and quality of the services, and revision of the case management plan of care as necessary.

(e) All services must be delivered to be eligible for MAD reimbursement.

(3) An eligible recipient has the freedom to choose a case management service provider. MAD will pay for only *one* case management provider to furnish services to an eligible recipient at any given time period. If an eligible recipient has a case manager or chooses to use a case manager who is not employed or under contract to the LEA, REC or other SFEA, the LEA, REC or other SFEA must coordinate with the case manager in the development of the eligible recipient’s ITP.

G. Nursing: MAD covers certain nursing services required for treatment of a diagnosed medical condition that qualifies an eligible recipient for an IEP or IFSP when provided by a licensed RN or LPN. Nursing services require

professional nursing expertise and are provided by a licensed RN or a LPN and must be provided in accordance with the New Mexico Nursing Practice Act and must be a covered MAD service.

H. Behavioral health services: MAD covers counseling, evaluation and therapy required for treatment of an identified behavioral health condition that is part of an eligible recipient’s ITP.

[H:] I. Telemedicine services: MAD covers school-based services provided via telemedicine; see 8.310.2 NMAC.

[H:] J. Administrative activities: MAD covers the cost of certain administrative activities that directly support efforts to provide health-related services to a MAP eligible recipient with special education and health care needs. These administrative activities include, but are not limited to, providing information about MAD services and how to access them; facilitating the eligibility determination process; assisting in obtaining transportation and translation services when necessary to receive health care services; making referrals for MAD reimbursable services; and coordinating and monitoring MAD covered medical services.

(1) Payment for an allowable administrative activity is contingent upon the following:

(a) the LEA, REC or other SFEA must complete a MAD PPA to become an approved school-based health services provider;

(b) the LEA, REC or other SFEA must enter into a GSA with HSD and agree to abide by the terms and conditions of the GSA;

(c) the LEA, REC or other SFEA must submit claims for allowable administrative activities in accordance with federal and state regulations, rules and guidelines.

(2) A provider or contractor coordination with the

school or contractor or in consultation with principals, school counselors, or teachers are not billable as a service by the provider. The provider must consult with the school to determine if the school will include such activities in its contract with the provider or contractor. The school may not bill MAD separately for these services but can include the costs as administrative costs.

(3) Administrative claiming is subject to compliance reviews and audits conducted by HSD, the state medicaid fraud control unit and the Centers for Medicare and Medicaid Services (CMS). By signing the MAD PPA, the LEA, REC or other SFEA agrees to cooperate fully with HSD, the state medicaid fraud control unit and CMS in the performance of all reviews and audits and further agrees to comply with all review and audit requirements.

[8.320.6.13 NMAC - Rp, 8.320.6.13 NMAC, 7/1/2015; A, 2/1/2020]

LIVESTOCK BOARD

This is an amendment to 21.30.6 NMAC, Section 7, 8, 9, 11 and 16, effective 2/1/2020.

21.30.6.7 DEFINITIONS:

A. “Acceptable specimen” means a specimen determined satisfactory for diagnostic testing by the testing laboratory, including complete documentation.

B. “Accredited veterinarian” means an individual who is currently licensed to practice veterinary medicine and is accredited by the United States department of agriculture, animal plant health inspection service, veterinary services in the state of New Mexico.

C. “Agent” means the executive director, deputy director, veterinarian, livestock inspector or employee of the board.

D. “Approved laboratory” means any laboratory designated and approved by the state veterinarian for examining *T. foetus* samples.

E. “Approved veterinarian” means an accredited veterinarian who has attended trichomoniasis training that is approved by the New Mexico state veterinarian. Such training must include preputial sampling, sample handling and shipping, appropriate record keeping and official bull trichomoniasis identification. A trained and certified designee, in the employ of the veterinarian of record for a New Mexico licensed sale yard, may work under the guidance of said approved veterinarian. These lay trich testers are limited to working at licensed New Mexico sale yards.

F. “Board” means the New Mexico livestock board.

G. “Bovine” means any sexually intact male or female animal of the genus *bos*.

H. “Certificate of veterinary inspection (CVI)” means the form issued by the state of origin that records the consignor, consignee, identity, origin, destination and health status of animals, issued by an accredited veterinarian of that state. It is commonly known as a health certificate.

I. “Commingle” means bovines of opposite sex and belonging to different owners in the same enclosure or pasture with a reasonable opportunity for sexual contact.

J. “Complete bull herd test” means an official *T. foetus* test from each non-virgin bull in the herd.

K. “Confined feeding” means a dry lot feeding facility (not grazing) where there is no sexual contact among bovine therein.

L. “Direct slaughter” means transporting an animal to a slaughter plant without unloading prior to arrival at the slaughter plant.

M. “Disease management plan” means a plan developed to eradicate the disease from a positive herd. The disease management plan will be developed by the producer and shall be approved by the state veterinarian.

N. “Exposed herd” means a herd adjacent to a premises

occupied by an affected herd, herds sharing common pasture or having contact with affected herd(s) as determined by the state veterinarian.

O. “Herd” means the group of animals consisting of all bovines over 12 months of age (male and female) which have commingled during the last 12 months.

P. “Import permit” means a document issued by the state veterinarian’s office authorizing specific livestock movements into New Mexico. Permits expire 30 days after issuance and are not transferable.

Q. “N’ brand” means the official brand registered to New Mexico livestock board, used to designate any livestock which must be shipped to slaughter or an approved feedlot.

R. “Negative *T. foetus* bull” means a bull which qualifies by one of the following:

(1) originates from a herd not known to be infected and has had a negative official *T. foetus* bull test within the last 60 days;

(2) originates from a positive herd but has a series of three negative official *T. foetus* bull tests at intervals of at least one week; or

(3) qualified with a negative import or negative in-state official *T. foetus* bull test.

S. “Negative *T. foetus* herd” means a herd which has received a complete bull herd test with negative results within the last 12 months.

T. “New Mexico commuter permit” means a permit issued by the New Mexico state veterinarian’s office to New Mexico livestock producers who utilize pasture lands and other livestock operations in one or multiple states that are contiguous with New Mexico.

U. “Official *T. foetus* bull test” means the sampling of the preputial content of a bull by a licensed, accredited and *T. foetus* test certified veterinarian or a veterinarian from the New Mexico livestock board. Such test must be conducted after at least one week separation from all female

bovine. The bull and sample must be positively and individually identified and documented for laboratory submission. The official laboratory test shall be a genetic based test such as polymerase chain reaction (PCR), either standard or real time, or other technologies as approved by the state veterinarian. Test is not considered official until results are reported by the testing laboratory.

V. “Official *T. foetus* laboratory testing” means the laboratory procedures that shall be approved by the state veterinarian for identification of *T. foetus*.

W. “Positive *T. foetus* bull” means a bull that has had a positive *T. foetus* test.

X. “Positive *T. foetus* herd” means the group of all bovines which have had any opportunity for sexual contact in the previous breeding season and in which any animal (male or female) has had a positive diagnosis for *T. foetus*.

Y. “Quarantine” means movement restriction issued by a New Mexico livestock inspector that shall be placed on all cattle in a positive *T. foetus* herd. Such restriction shall specify the identity of the animals and the premises where the animals shall be confined.

Z. “Quarantine feedlot” means a dry lot feeding facility approved by the state veterinarian where positive *T. foetus* bulls or bovine females from a positive *T. foetus* herd may be fed prior to slaughter and there is no sexual contact with the opposite sex bovine.

AA. “Quarantine release” means that a herd has completed all regulatory requirements to eliminate *T. foetus* infection in that herd and is no longer classified as a positive herd.

BB. “Regulatory veterinarian” means the state veterinarian or his designee. This may be a state or USDA employed veterinarian or any accredited veterinarian holding a current state license.

CC. “State veterinarian” means the veterinarian

designated by the New Mexico livestock board.

DD. “Suspect *T. foetus* bull” means a bull from a positive *T. foetus* herd that has not yet had three consecutive negative official *T. foetus* bull tests.

EE. “*Tritrichomonas foetus* (or *T. foetus*)” means a protozoan parasite that is the causative agent to the contagious venereal disease trichomoniasis. The disease exhibits as infertility, pyometra, abortions and reproductive inefficiency in the female bovine.

FF. “Unacceptable sample” means a sample that is deemed not diagnostic by the official testing laboratory.

GG. “Virgin bull” means a sexually intact male bovine less than 12 months of age. [21.30.6.7 NMAC - N, 7/15/05; A, 2/26/10; A, 07/15/13; A, 07/15/14; A, 2/1/2020]

21.30.6.8 IMPORT REQUIREMENTS:

A. Breeding bull.

(1) All non-virgin bulls entering New Mexico must be accompanied by a certificate of veterinary inspection (CVI) and an import permit. All non-virgin bulls, except as noted in Paragraph (7) of this subsection (below), shall be accompanied by a certificate of veterinary inspection (CVI), import permit and a negative official *T. foetus* test within 60 days prior to entry and no sexual contact between testing and entry.

(2) If the pre-entry test is not an official *T. foetus* test and is not conducted at a laboratory approved by the American association of veterinary laboratory diagnosticians or the New Mexico state veterinarian, an in-state, post-entry test shall be required within 10 days of entry into New Mexico.

(3) No bull which has ever previously tested positive for *T. foetus* shall enter New Mexico unless the bull is consigned directly to slaughter and is individually identified for movement by a NMLB approved method.

(4) Each CVI issued for bulls covered under this rule shall bear one of the following statements:

(a) “*T. foetus* has not been diagnosed in the herd of origin”; or

(b) “The bull(s) represented on this CVI have had a negative official *T. foetus* bull test within 60 days prior to entry and there has been no female contact since the last qualifying test.”

(5) The veterinarian issuing the CVI shall forward a copy of all official negative *T. foetus* tests for the bull(s) represented on the CVI to the New Mexico state veterinarian’s office.

(6) No bull from a known positive *T. foetus* herd shall enter New Mexico unless the bull has three consecutive negative official *T. foetus* bull tests at least a week apart within 60 days prior to entry. The post-entry official test is also required. Bulls must be isolated from all females until the in-state test results are known. Identification procedures are listed below.

(7) Exceptions to the importation testing and slaughter surveillance requirements are:

(a) transient rodeo or exhibition (show) bulls, which shall have no sexual contact with a female bovine and are held in a secure facility to prevent such contact (does not include pasture) while in New Mexico;

(b) bulls consigned direct to slaughter; or

(c) bulls consigned to confined feeding; or

(d) bulls originating from a certified trichomoniasis-free herd, in a state with requirements equivalent to those New Mexico has in place for such a herd designation, as determined by the New Mexico state veterinarian. This exemption requires documentation of current trichomoniasis-free certification in the state of origin and a copy of the program requirements for certification.

B. Reproductive bovine female.

(1) No female bovine originating from a known positive *T. foetus* herd will be allowed to enter New Mexico. Exceptions include the following:

(a) on the premises of origin, there were three consecutive official negative *T. foetus* tests of the entire bull population and the only allowed females are those which:

(i) have a calf at side and no exposure to other than known negative bulls since parturition; or

(ii) are at least 120 days pregnant; or

(iii) are known virgin heifers; or

(iv) are heifers exposed only to known negative bulls and not yet 120 days pregnant; or

(v) are documented to have had at least 120 days of sexual isolation; and

(vi) no other female will be allowed entry into New Mexico for breeding purposes from such herds;

(b) consigned directly to slaughter or to a quarantined feedlot.

(2) Bovine breeding females must have the following statement placed on the CVI and signed by the owner/manager of the herd of origin:

(a) “the cows listed on this CVI did not originate from a known positive *T. foetus* herd”; or

(b) “the cows listed on this CVI are at least 120 days pregnant”; or

(c) “the cows listed on this CVI originated from a positive *T. foetus* herd and are consigned for slaughter”; or

(d) “the heifers listed on this CVI were exposed for their first breeding only to a known negative *T. foetus* bull or artificially inseminated and are not yet 120 days pregnant”; or

(e)
“the females listed on this CVI have had at least 120 days of sexual isolation immediately preceding the date of their movement into New Mexico.”

C. Commuter permitted cattle.

(1) All bulls must be negative to an official *T. foetus* test within 60 days prior to entry. There shall be no commingling between testing and entry. All purchased bulls added to herd shall comply with test provisions.

(2) In any herd, should a bull be a positive *T. foetus* bull, he shall be identified and sold to slaughter only.

(a)
All remaining bulls must test negative on three consecutive official tests at least one week apart.

(b)
Only females which have a calf at side and no exposure to other than known negative *T. foetus* bulls since parturition, are at least 120 days pregnant, are known virgin heifers or are heifers exposed only to known negative bulls and not yet 120 days pregnant shall be allowed to accompany the commuting herd. Other open cows shall be sold to slaughter, moved under quarantine to be fed for slaughter or artificial insemination or held in sexual isolation for a 120 day period.

D. Import permit.

(1) All cattle must obtain an import permit, which will be recorded on the CVI.

(2) All cows originating from a premises where *T. foetus* has been diagnosed within the last year must obtain an import permit, and prior approval for entry from the New Mexico state veterinarian, which will be recorded on the CVI.

E. Public livestock sales (auctions).

(1) All out-of-state bulls must be accompanied by an import permit.

(2) All non-virgin bulls [(in state or import) (imported)] shall be accompanied

by an official laboratory negative *T. foetus* test, conducted within 60 days prior to sale with no exposure to bovine females from the time of sample collection until sold. Any bull without a test will be placed under quarantine and tested at the livestock sale premises within 10 days of sale or will be sold for slaughter purposes only. Bulls shall be isolated from all females until the in-state test results are known. Identification procedures are listed below.

(3) All bulls not qualifying as above will be announced in the sale ring as having “unknown *T. foetus* status” and shall be so designated on the buyer’s documents. Such bulls shall be identified with a back tag designating them as having no *T. foetus* test prior to being offered for sale.

(4)
Untested bulls may be sold for confined feeding. To be removed from confined feeding, bulls must go directly to slaughter or have a negative official *T. foetus* bull test or have been castrated.

(5)
Bovine breeding females shall be accompanied by one of the following statements signed by the owner/manager of the herd of origin on the CVI or other suitable document. In the absence of one of these statements, any female bovine over the age of 12 months shall be consigned and sold to slaughter (or quarantined feed for slaughter) only:

(a)
“The cows listed on this document did not originate from a known positive *T. foetus* herd.”

(b)
“The heifers on this document have been exposed to only known negative *T. foetus* bulls and are not yet 120 days pregnant.”

(c)
“The cows listed on this document are at least 120 days pregnant.” or

(d)
“The cows listed on this document originate from a positive *T. foetus* herd and are consigned for slaughter.” [21.30.6.8 NMAC - N, 7/15/2005; A, 2/26/2010; A, 07/15/2013; A, 07/15/2014; A, 2/1/2020]

21.30.6.9 INTRASTATE BREEDING BULLS:

A. All non-virgin bulls including culled herd sires sold for slaughter, must have a negative *T. foetus* test within 60 days prior to:

(1) change of ownership (sold to slaughter buyers),

(a) all slaughter bulls can be N branded and have a Trich sample collected, but may go to slaughter with results pending. Slaughter surveillance bulls do not need to be held for test results.

(b) Any New Mexico producer that tests for Trichomoniasis annually (whole herd bull test), and has a defined breeding season, will be exempt from slaughter surveillance, upon presentation of the annual trichomoniasis test results.

(2) change of possession under lease or rental, sharing or

(3) any other agreement that would place the bull in a different breeding herd.

B. There shall be no sexual contact between the time of testing and change of possession. A NMLB inspection shall be required to verify change of possession and appropriate *T. foetus* testing. The owner presenting the bull for sale is financially responsible for the testing.

C. Cutter bulls, out of state cull bulls and slick bulls, may be castrated rather than tested, and sent for confined feeding.

D. Culled herdsires with medical conditions (broken penis, lameness, etc.) shall be tested at the owner’s expense. If it appears it would be inhumane (at the discretion of the NMLB inspector or herd veterinarian) to put the bull through the chute, crippled and chronic broken penis bulls will be exempt.

E. The need for slaughter surveillance will be reevaluated by the working Trichomoniasis committee, every two years.

[B] E. Bulls shall not be exposed to females at the new premises until the results of the test are known.

[E] G. Any bull with a positive test shall be immediately quarantined and the positive bull(s) shall be identified with the official New Mexico livestock board “N” fire brand or other NMLB approved method.

[D] H. The positive *T. foetus* bull’s herd of origin will be placed under quarantine.

[E] I. The quarantine will be released in accordance to the regulatory section of this rule. [21.30.6.9 NMAC - N, 7/15/2005; A, 2/26/2010; A, 07/15/2013; A, 07/15/2014; A, 2/1/2020]

21.30.6.11 REGULATORY ACTION:

A. Commingled grazing. All non-virgin bulls commingling in grazing associations or multiple permittee allotments or leases, shall have the official *T. foetus* bull test conducted annually prior to turn out. A new official test will be required each time the bull(s) enter a different grazing association or multiple permittee allotment or lease. If a bull is found positive, the entire bull population present on the allotment or lease, regardless of ownership, will be required to have an official *T. foetus* test conducted. All positive bulls shall be identified with the official New Mexico livestock board “N” fire brand or NMLB approved method, and be sold for slaughter only. All test negative bulls belonging to the same owner(s) will be required to have a second negative test prior to turn out and a third negative official test after the bull(s) are removed from the grazing association or multiple permittee allotment or lease.

~~[(2) Any stray non-virgin bull from an untested group that enters the grazing area of tested animals may be held under quarantine until the bull has one or more official *T. foetus* test(s) conducted. The test(s) shall be the responsibility of the bull’s owner. The conditions of the quarantine and number of tests will be determined by the state veterinarian.]~~

B. Positive *T. foetus* bull & herd. Any confirmed *T. foetus* bovine and its herd (as defined by state animal health officials) shall immediately be placed under quarantine and will continue under quarantine until the following rules are completed.

(1) Positive *T. foetus* bulls shall be identified with the official New Mexico livestock board “N” fire brand or other NMLB approved method.

(2) Positive *T. foetus* bulls shall be quarantined and sent directly to slaughter or to public livestock market for slaughter only. Positive bulls may be required to move on a NMLB approved method. Confined feeding may be allowed provided bulls are “N” branded.

(3) All other bulls in a positive *T. foetus* herd shall test negative to three consecutive official *T. foetus* tests at least seven days apart. The third *T. foetus* test will be completed within 12 months of *T. foetus* confirmation in the herd and will be conducted after the bulls have had breeding exposure to the cow herd for a minimum of 65 consecutive days. A shorter breeding season must be approved by the state veterinarian, and be provided for in the herd management plan. The bulls will be removed from the cow herd at least seven days prior to the official *T. foetus* test. If more than 12 months have passed since confirmation of *T. foetus* in the herd, the state veterinarian may require additional *T. foetus* testing prior to release of quarantine. ~~[The initial negative *T. foetus* test is included in the three-negative tests.]~~

(4) If a disease management plan has not been developed and activated within [30] 45 days of confirmation of *T. foetus* infection in the herd, all bovids, except steers and spayed heifers, will be required to go directly to slaughter upon leaving the ranch.

(5) Any bull entering a quarantined premise will be required to test negative prior to re-introduction to its herd of origin.

C. Reproductive bovine females from a positive *T. foetus* herd.

(1) Females over 12 months of age (not known to be virgin heifers) from a positive *T. foetus* herd may be sold direct to slaughter or quarantined on the premises of origin. Individual females may be released from quarantine when either all requirements of Paragraph 3 of Subsection B of 21.30.6.11 NMAC have been met or the cow(s) has a calf at side with no exposure to other than known negative *T. foetus* bulls since parturition, has documented 120 days of sexual isolation or is determined by an accredited veterinarian to be at least 120 days pregnant. Heifers known to be virgin at the time of turnout or heifers exposed only to known negative *T. foetus* bulls and not yet 120 days pregnant are allowed unrestricted movement.

(2) Open females shall be sold to slaughter or held in isolation from all bulls for 120 days. Any female sold to slaughter through a livestock market shall be identified with an official New Mexico positive *T. foetus* tag or NMLB approved method during the quarantine period.

(3) Breeding by artificial insemination is allowed during the quarantine period and cows confirmed by an accredited veterinarian to be at least 120 days pregnant as well as cows documented to have 120 days sexual isolation will be released from quarantine.

(4) If a disease management plan has not been developed and activated within [30] 45 days of confirmation of *T. foetus* infection in the herd, all bovids, except steers and spayed heifers, will be required to go directly to slaughter upon leaving the ranch.

D. Regulatory action.

(1) Any stray non-virgin bull ~~[from an untested group that enters the land of a negative *T. foetus* herd and commingles with that herd may be held under quarantine until the bull has one or more official *T. foetus*~~

test(s) conducted] of unknown *T. foetus* status, or from a positive *T. foetus* herd, that enters the land of a neighboring premise, and may have commingled with the herd on that premise, will be quarantined until the bull(s) has one or more official *T. foetus* test(s) conducted. A NMLB livestock inspector shall be involved in the interaction.

(2) The test(s) shall be the responsibility of the bull(s) owner. The conditions of the quarantine and the number of tests will be determined by the state veterinarian.

E. Neighboring facilities of a positive *T. foetus* herd.

(1) All facilities that share a common boundary with a positive *T. foetus* herd will be notified by the NMLB [and may be quarantined based on results of the epidemiological investigation by the state veterinarian. Quarantine will remain in place until testing requirements are satisfied] and will be required to test, due to the fact that *T. foetus* is a regional disease, and all neighbors testing will facilitate a more rapid regional eradication. Certified New Mexico *T. foetus* free herds in compliance with the provisions of 21.30.6.10 NMAC, will be exempt from testing, as well as instances where the state veterinarian has determined such testing to be unnecessary based on epidemiological investigation. This requirement will be reevaluated by the working Trichomoniasis committee every two years.

(2) Any exposed herds found positive upon testing will be designated as a positive *T. foetus* herd.
[21.30.6.11 NMAC - N, 7/15/2005; A, 2/26/2010; A, 7/15/2014; A, 4/24/2018; A, 2/1/2020]

21.30.6.16 COMPLIANCE: Livestock inspectors who are certified peace officers, in accordance with Section 30-18-14 NMSA 1978 shall enforce the provisions of Chapter 30, Article 18 NMSA 1978 and other criminal laws relating to livestock. Livestock inspectors may arrest

persons found in the act or whom they have probable cause to believe are guilty of driving, holding or slaughtering stolen livestock. Any person who violates the provisions of these rules may be subject to the criminal and civil penalties pursuant to Sections 77-2-9 and 77-2-22 NMSA 1978. Penalties for misdemeanor crimes can include imprisonment of less than one year or fines up to \$1000 or both. Penalties for petty misdemeanors can include imprisonment not to exceed six months or fines up to \$500 or both. Furthermore, any person who violates a rule adopted under the power granted to the board unless the penalty has been fixed by law is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.
[21.30.6.16 NMAC - N, 7/15/05; A, 2/1/2020]

PUBLIC EDUCATION DEPARTMENT

The New Mexico Public Education Department approved at its 12/16/2020 hearing, to repeal its rule 6.12.9 NMAC, Elementary School Free Breakfast Program During Instructional Time, filed 10/31/2011, and replace it with 6.12.9 NMAC, Breakfast Program, adopted on 1/16/2020, and effective 1/28/2020.

The New Mexico Public Education Department approved at its 12/16/2019 hearing, to repeal its rule 6.30.3 NMAC, Eligibility for the General Educational Development Tests (GED Tests) and Diploma in NM (filed 5/31/2001) and replace it with 6.30.3 NMAC, Eligibility for the High School Equivalency Assessments or Programs and Diploma in NM (adopted on 1/16/2020), and effective 1/28/2020.

The New Mexico Public Education Department approved at its 1/3/2020 hearing, to repeal its rule 6.63.5 NMAC, Licensure for School Psychologists, Pre K-12, filed

7/1/2003 and replace it with 6.63.5 NMAC, Licensure for School Psychologists, Pre K-12, adopted on 1/16/2020 and effective 1/28/2020.

PUBLIC EDUCATION DEPARTMENT

**TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 12 PUBLIC SCHOOL ADMINISTRATION - HEALTH AND SAFETY
PART 9 BREAKFAST PROGRAM**

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

[6.12.9.1 NMAC – Rp, 6.12.9.1 NMAC, 1/28/2020]

6.12.9.2 SCOPE: All public schools, bureau of Indian education schools, state-supported schools, state-sponsored schools, and residential child care institutions eligible to participate in the breakfast program established by Section 22-13-13.2 NMSA 1978.

[6.12.9.2 NMAC – Rp, 6.12.9.2 NMAC, 1/28/2020]

6.12.9.3 STATUTORY AUTHORITY: Sections 22-2-1, 22-13-13.2, and 9-24-8 NMSA 1978.
[6.12.9.3 NMAC – Rp, 6.12.9.3 NMAC, 1/28/2020]

6.12.9.4 DURATION: Permanent.
[6.12.9.4 NMAC – Rp, 6.12.9.4 NMAC, 1/28/2020]

6.12.9.5 EFFECTIVE DATE: January 28, 2020 unless a later date is cited in the history note at the end of a section.
[6.12.9.5 NMAC – Rp, 6.12.9.5 NMAC, 1/28/2020]

6.12.9.6 OBJECTIVE: To establish the standards, procedures for waiver requests and the award of waivers, and procedures for funding necessary to implement the breakfast

program established by Section 22-13-13.2 NMSA 1978.
[6.12.9.6 NMAC – Rp, 6.12.9.6 NMAC, 1/28/2020]

6.12.9.7 DEFINITIONS:

A. “Breakfast program” means the free breakfast program established by Section 22-13-13.2 NMSA 1978.

B. “Community eligibility provision” or “CEP” means a non-pricing meal service option for schools and school districts in low-income areas. Schools that adopt the CEP are reimbursed with federal USDA funds using a formula based on the percentage of students categorically eligible for free meals based on their participation in other means-tested programs such as the supplemental nutrition assistance program (SNAP) and temporary assistance for needy families (TANF).

C. “Congregate feeding” means all eligible students remain with their classmates for breakfast program service, and one or more students may not be separated from their classmates to access a meal.

D. “Eligible school” means a public school in which eighty-five percent or more of enrolled students were eligible for free or reduced-price lunch under the national school lunch act during the prior school year or a public school implementing the CEP or Provision 2. Eligible schools shall not include private, parochial, or home schools.

E. “Eligible student” means a student enrolled in an eligible school.

F. “Federal reimbursement rate” means an amount prescribed annually by the United States secretary of agriculture for federal payments toward each meal served. The federal reimbursement rate differs for free, reduced-price, and paid meals and whether the school is in “severe need,” as defined in 7 CFR Part 220.2 and according to the criteria in 7 CFR 220.9.

G. “Financial hardship” means the situation

in which implementation of the breakfast program would cause a school to operate at a financial loss such that cost would exceed revenue and the use of funds from the state equalization guarantee would be required to cover the cost of serving breakfast. Financial hardship shall not include a school’s or staff’s non-interest or refusal to participate in the breakfast program.

H. “Multiplier” means the number established by the USDA to generate meal reimbursement rate percentages.

I. “Provision 1” means an alternative provision to the normal requirements for annual determinations of eligibility for free and reduced-price school meals, as defined in section 104(a) of the Healthy, Hunger Free Kids Act. Provision 1 allows free eligibility to be certified for a two-year period. There is no requirement to offer meals at no charge to all students.

J. “Provision 2” means an alternative provision to the normal requirements for annual determinations of eligibility for free and reduced-price school meals, as defined in section 104(a) of the Healthy, Hunger Free Kids Act. Provision 2 allows schools to establish claiming percentages and to serve meals at no charge to all participating children for a four-year period.

K. “Provision 3” means an alternative provision to the normal requirements for annual determinations of eligibility for free and reduced price school meals, as defined in section 104(a) of the Healthy, Hunger Free Kids Act. Provision 3 allows schools to receive the same level of federal cash and commodity assistance each year, with some adjustments, for a four-year period and to serve meals at no charge to all participating children for a four-year period.

L. “United States Department of Agriculture” or “USDA” means the federal agency that provides oversight and funding for school meal programs through food and nutrition service programs.

M. “Voluntary school” means a public school in which fewer than eighty-five percent of students were eligible for free or reduced-price lunch under the national school lunch act during the prior school year that selects to establish a breakfast program, so long as state funds exist. [6.12.9.7 NMAC – Rp, 6.12.9.7 NMAC, 1/28/2020]

6.12.9.8 BREAKFAST PROGRAM REQUIREMENTS:

A. All eligible schools shall establish a breakfast program unless the school is granted a waiver by the department pursuant to 6.12.9.9 NMAC.

B. Voluntary schools may establish a breakfast program provided that state funding is available and the voluntary school complies with 6.12.9 NMAC and applicable state and federal laws.

C. Eligible and voluntary schools participating in the breakfast program shall offer breakfast to all eligible students, including to students arriving as much as two hours after the start of the instructional day.

D. Eligible and voluntary schools serving breakfast may:

(1) choose to offer breakfast service before the start of the instructional day, provided that the school shall also serve breakfast after the beginning of the instructional day;

(2) select the location of breakfast delivery, including the cafeteria, classroom, bus, or by providing a hand-carried breakfast; and

(3) determine whether or not instruction will occur simultaneously while breakfast is served or consumed.

E. Eligible schools and voluntary schools serving students in prekindergarten, preschool, and kindergarten through grade 6 shall serve breakfast to all students by congregating feeding. Eligible and voluntary schools serving students in grades seven through 12 may serve breakfast by congregating feeding.

[6.12.9.8 NMAC – Rp, 6.12.9.8 NMAC, 1/28/2020]

6.12.9.9 BREAKFAST PROGRAM WAIVER:

A. Eligible schools may apply for a waiver of breakfast program participation if the eligible school can demonstrate that implementation of the breakfast program will result in financial hardship.

B. Waiver requests shall be submitted using the department’s breakfast program waiver request form no later than 30 calendar days after receiving a breakfast award.

C. Breakfast program waivers for eligible schools shall be posted on the department’s website. [6.12.9.9 NMAC – Rp, 6.12.9.9 NMAC, 1/28/2020]

6.12.9.10 FUNDING OF BREAKFAST PROGRAMS:

A. CEP schools with a post-multiplier amount of one-hundred percent or higher shall not be eligible to receive a breakfast program award.

B. CEP schools with a post-multiplier amount greater than eighty-five percent but less than one-hundred percent shall be considered an eligible school and shall receive a breakfast program award. The award shall be for the amount calculated by subtracting the school’s post-multiplier amount from one-hundred percent.

C. Provision 1, 2, and 3 schools may be eligible for the breakfast program and shall be reimbursed at the federal reduced and free paid rates.

D. The department shall award eligible public schools serving students in grades 7 through 12 based on availability of funding.

E. The department shall award voluntary schools funding after all funds for eligible schools have been disbursed.

(1) The department shall award voluntary schools with the highest percentage of enrolled students eligible for free and reduced-lunch first.

(2) The department shall provide voluntary schools a preliminary estimate of funding to be used for planning purposes within 30 calendar days of the release of the federal reimbursement rate.

F. The department shall reimburse eligible and voluntary schools participating in the breakfast program:

(1) for students eligible for free or reduced-price lunch on a per meal basis at the federal reimbursement rate; and

(2) for students not eligible for free or reduced-price lunch on a per meal basis at a rate calculated by subtracting the school’s post-multiplier amount from one-hundred percent.

[6.12.9.10 NMAC – Rp, 6.12.9.10 NMAC, 1/28/2020]

HISTORY OF 6.12.9 NMAC:

6.12.9 NMAC, Elementary School Free Breakfast Program During Instructional Time, filed 10/31/2011, was repealed and replaced by 6.12.9 NMAC, Breakfast Program, effective 1/28/2020.

PUBLIC EDUCATION DEPARTMENT

**TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 30 EDUCATIONAL STANDARDS GENERAL REQUIREMENTS
PART 3 ELIGIBILITY FOR THE HIGH SCHOOL EQUIVALENCY ASSESSMENTS OR PROGRAMS AND DIPLOMA IN NM**

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

[6.30.3.1 NMAC - Rp, 6.30.3.1 NMAC, 1/28/2020]

6.30.3.2 SCOPE: All individuals seeking to obtain a high

school equivalency credential or department-issued New Mexico high school adult diploma and all publishers or program providers who seek to become qualified in the state of New Mexico to administer high school equivalency assessments or programs or adult diploma programs. [6.30.3.2 NMAC - Rp, 6.30.3.2 NMAC, 1/28/2020]

6.30.3.3 STATUTORY

AUTHORITY: This rule is being promulgated pursuant to Sections 22-1-9.2, 22-2-1, 22-2-2, 22-2-8.8, 22-2-8.14, 22-12A-4, 22-13-1.1, and 43-1-3 NMSA 1978.

[6.30.3.3 NMAC - Rp, 6.30.3.3 NMAC, 1/28/2020]

6.30.3.4 DURATION:

Permanent.

[6.30.3.4 NMAC - Rp, 6.30.3.4 NMAC, 1/28/2020]

6.30.3.5 EFFECTIVE

DATE: January 28, 2020, unless a later date is cited at the end of a section or paragraph.

[6.30.3.5 NMAC - Rp, 6.30.3.5 NMAC, 1/28/2020]

6.30.3.6 OBJECTIVE:

To give individuals who have not graduated from high school the opportunity to earn a high school equivalency credential or department-issued New Mexico high school adult diploma. To establish criteria for a high school equivalency publisher or program provider to become qualified to administer a high school equivalency credential assessment or program in the state of New Mexico. To establish criteria for an adult diploma program to become qualified to administer an adult diploma program in the state of New Mexico. [6.30.3.6 NMAC - Rp, 6.30.3.6 NMAC, 1/28/2020]

6.30.3.7 DEFINITIONS:

A. “Adult diploma program” means a program administered by a qualified adult diploma program in the state of New Mexico.

B. “Department-issued New Mexico high school adult diploma” means a diploma issued by the department, its designee, or a qualified adult diploma program to any candidate who is at least 18 years of age and who has successfully completed an adult diploma program.

C. “High school equivalency credential” means a credential issued by the department, its designee, or a qualified publisher or program to any candidate who is at least 16 years of age and who has successfully completed a high school equivalency assessment or program.

D. “High school equivalency credential assessment or program” means an assessment or program administered by a qualified high school equivalency publisher or program provider.

E. “Program administrator” means an office within the New Mexico higher education department that coordinates activities related to high school equivalency credentials, and high school equivalency assessments and programs, department-issued New Mexico high school adult diplomas, and adult diploma programs.

F. “Qualified adult diploma program” means a program that has been approved by the department to administer the adult diploma program in the state of New Mexico.

G. “Qualified high school equivalency publisher or program provider” or “qualified publisher or program provider” means a publisher or program provider that has been approved by the department to administer the high school equivalency assessment or program in the state of New Mexico. [6.30.3.7 NMAC - Rp, 6.30.3.7 NMAC, 1/28/2020]

6.30.3.8 TESTING ELIGIBILITY AND USE OF THE UNDERAGE FORM:

A. Any individual, whether or not a New Mexico resident, who is at least 16 years of age, who has not earned a high school diploma or high school equivalency

credential, and is not currently enrolled or required to be enrolled in a high school is eligible to complete a high school equivalency credential assessment or program, administered by a qualified publisher or program provider.

B. Any individual who seeks to withdraw from public school before their 18th birthday shall not be permitted to begin a high school equivalency credential assessment or program unless that individual can demonstrate compliance with the New Mexico school attendance law. The individual seeking to complete a high school equivalency assessment or program shall complete forms, as required by the department, and obtain all necessary signatures. The individual shall file copies of the completed forms with the following entities:

(1) the school district that provides the necessary signatures; and

(2) the qualified publisher or program provider through which the individual seeks to obtain the high school equivalency credential.

C. Individuals detained at a New Mexico juvenile correctional institution or a juvenile justice division facility operated by the New Mexico children, youth and families department, shall be permitted to take a high school equivalency credential assessment or program at age 16 or 17 only when the individual requests and receives written approval to take the high school equivalency credential assessment or participate in the high school equivalency credential program from the warden, director, or educational director of that institution or facility. Such individuals shall receive the high school equivalency credential upon successful completion of a high school equivalency credential assessment or program. No other consent to take a high school equivalency credential assessment or program is required.

D. An individual enrolled in a state institution under the authority of the secretary of the department of health shall be

permitted to take a high school equivalency credential assessment or program at age 16 or 17 only when the individual requests and receives written approval to take the high school equivalency credential assessment or participate in the high school equivalency credential program from the director of the facility where the individual is enrolled or from the educational director of that institution. Such individuals shall receive the high school equivalency credential upon successful completion of a high school equivalency credential assessment or program. No other consent to take a high school equivalency credential assessment or program is required.

E. Individuals enrolled in any other state institution shall be permitted to take a high school equivalency credential assessment or program at age 16 or 17 only when the individual requests and receives written approval to take the high school equivalency credential assessment or participate in the high school equivalency credential program from the director of the institution where the individual is enrolled or from the educational director of that institution. Such individuals shall receive the high school equivalency credential upon successful completion of a high school equivalency credential assessment or program. No other consent to take a high school equivalency credential assessment or program is required.

[6.30.3.8 NMAC - Rp, 6.30.3.8 NMAC, 1/28/2020]

6.30.3.9 ISSUANCE OF HIGH SCHOOL EQUIVALENCY CREDENTIALS:

A. Upon successful completion of a high school equivalency credential assessment or program:

(1) the qualified high school equivalency publisher or program provider shall issue a transcript to the individual; and

(2) the individual shall submit documentation of the successful completion to the program administrator.

B. Any individual, whether or not a New Mexico resident, who successfully completes a high school equivalency credential assessment or program and is at least 16 years of age will receive the high school equivalency credential.

C. A high school equivalency credential issued after successful completion of a high school equivalency credential assessment or program shall be equivalent to a high school diploma or a New Mexico diploma of excellence issued by a school district pursuant to Section 22-13-1.1 NMSA 1978. [6.30.3.9 NMAC - Rp, 6.30.3.9 NMAC, 1/28/2020]

6.30.3.10 ISSUANCE OF DEPARTMENT HIGH SCHOOL ADULT DIPLOMAS:

A. Upon successful completion of an adult diploma program:

(1) the qualified adult diploma program provider shall issue a transcript to the individual; and

(2) the individual shall submit documentation of the successful completion to the program administrator.

B. Any individual, whether or not a New Mexico resident, who successfully completes an adult diploma program and is at least 18 years of age will receive a department-issued New Mexico high school adult diploma.

C. A department-issued New Mexico high school adult diploma awarded after successful completion of a high school equivalency credential assessment or program shall be equivalent to a high school diploma or a New Mexico diploma of excellence issued by a school district pursuant to Section 22-13-1.1 NMSA 1978. [6.30.3.10 NMAC - Rp, 6.30.3.10 NMAC, 1/28/2020]

6.30.3.11 CRITERIA FOR BECOMING A QUALIFIED HIGH SCHOOL EQUIVALENCY PUBLISHER OR PROGRAM PROVIDER:

A. A high school equivalency publisher or program provider shall submit an application to the department, as required by the department, and shall meet criteria to be designated a qualified high school equivalency publisher or program provider in the state of New Mexico. The application shall include the following criteria:

(1) the high school equivalency credential assessment or program shall be recognized by the division of the United States department of education that oversees career and college readiness standards as an eligible high school equivalency publisher or program;

(2) the high school equivalency assessment or program shall be comparable to all college and career readiness standards established by the state of New Mexico;

(3) the high school equivalency publisher or program provider shall assess high school-level skills in applied life and work contexts;

(4) the high school equivalency publisher or program provider shall prepare individuals within its program to enter college or the workforce, upgrade their skills, advance to a better job, or move from one field of work to another; and

(5) the high school equivalency publisher or program provider shall issue a transcript acceptable for college admissions and applications.

B. The department shall convene a review committee composed of staff from the department and the New Mexico higher education department, including the program administrator and staff from the adult education division. The review committee shall evaluate high school equivalency publisher or program provider

applications and make a determination as to whether the applicant meets criteria to become a qualified high school equivalency publisher or program provider in the state of New Mexico.

[6.30.3.11 NMAC - Rp, 6.30.3.11 NMAC, 1/28/2020]

6.30.3.12 CRITERIA FOR BECOMING A QUALIFIED ADULT DIPLOMA PROGRAM:

A. An adult diploma program shall submit an application to the department, as required by the department, and shall meet criteria to be designated a qualified adult diploma program in the state of New Mexico. The application shall include the following criteria:

(1) the adult diploma program shall be recognized by the division of the United States department of education that oversees career and college readiness standards as an eligible adult diploma program;

(2) the adult diploma program shall be comparable to all college and career readiness standards established by the state of New Mexico;

(3) the adult diploma program shall assess high school-level skills in applied life and work contexts;

(4) the adult diploma program shall prepare individuals within its program to enter college or the workforce, upgrade their skills, advance to a better job, or move from one field of work to another; and

(5) the adult diploma program shall issue a transcript acceptable for college admissions and applications.

B. The department shall convene a review committee composed of staff from the department and the New Mexico higher education department, including the program administrator and staff from the adult education division. The review committee shall evaluate adult diploma program applications and make a determination as to whether the applicant meets criteria to become a qualified adult

diploma program in the state of New Mexico.

[6.30.3.12 NMAC - Rp, 6.30.3.12 NMAC, 1/28/2020]

HISTORY OF 6.30.3 NMAC:

6.30.3 NMAC, Eligibility for the General Educational Development Tests (GED Tests) and Diploma in NM, filed 5/31/2001, was repealed and replaced by 6.30.3 NMAC, Eligibility for the High School Equivalency Assessments or Programs and Diploma in NM, effective 1/28/2020.

PRE-NMAC HISTORY: The material in this regulation is derived from that previously filed with the State Records Center and Archives under:

SDE Regulation 71-21, Minimum Age Requirement for G.E.D. Test Administration in New Mexico, filed January 31, 1972;

SDE Regulation 73-20, Regulation Governing Minimum Age Requirement for G.E.D. Test Administration in New Mexico, filed June 12, 1973; and

State Board of Education Regulation 80-12, eligibility for the G.E.D. Assessment or program and Diploma in New Mexico, filed March 3, 1981.

**PUBLIC EDUCATION
DEPARTMENT**

**TITLE 6 PRIMARY AND
SECONDARY EDUCATION
CHAPTER 63 SCHOOL
PERSONNEL - LICENSURE
REQUIREMENTS FOR
ANCILLARY AND SUPPORT
PERSONNEL
PART 5 LICENSURE FOR
SCHOOL PSYCHOLOGISTS,
PRE K-12**

6.63.5.1 ISSUING

AGENCY: Public Education Department hereinafter referred to as the department.

[6.63.5.1 NMAC - Rp, 6.63.5.1 NMAC, 1/28/2020]

6.63.5.2 SCOPE: Chapter 63, Part 5 governs licensure for school psychologists, pre k-12, for those persons seeking such licensure. [6.63.5.2 NMAC - Rp, 6.63.5.2 NMAC, 1/28/2020]

6.63.5.3 STATUTORY AUTHORITY: Sections 22-2-1, NMSA 1978, 22-2-2, NMSA 1978, and 22-10A-17 NMSA 1978. [6.63.5.3 NMAC - Rp, 6.63.5.3 NMAC, 1/28/2020]

6.63.5.4 DURATION: Permanent. [6.63.5.4 NMAC - Rp, 6.63.5.4 NMAC, 1/28/2020]

6.63.5.5 EFFECTIVE DATE: January 28, 2020, unless a later date is cited at the end of a section. [6.63.5.5 NMAC - Rp, 6.63.5.5 NMAC, 1/28/2020]

6.63.5.6 OBJECTIVE: This rule establishes requirements for a level 1 school psychologist, a level 2 school psychologist, and a level 3 supervising school psychologist, practicing in a school-related setting. These licenses shall not be used to provide service outside a school-related setting and shall not be used in a public setting. [6.63.5.6 NMAC - Rp, 6.63.5.6 NMAC, 1/28/2020]

6.63.5.7 DEFINITIONS:

A. "School psychologist" means a person who is trained to address psychological and behavioral problems manifested in and associated with educational systems by utilizing psychological concepts and methods in programs or actions that attempt to improve the learning, adjustment, and behavior of students, including assessment and psychological pre-referral/intervention procedures in a school-related setting.

B. "School-related setting" means limited to a public school, state institution, or department-accredited nonpublic school.

C. "Psychological interventions and practices" means the inclusion, but not limitation of, consultation, behavioral assessment/intervention, psychological evaluation, psycho-educational evaluation, counseling, family therapy, individual or group therapy, workshops in self-understanding, human relations, communication, and tutorial programs, and organizational development, parent counseling, vocational development, parent education programs, program planning and evaluation, crisis intervention, specific behavior management, skill training, and transition planning and evaluation. All psychological interventions and practices are to be provided within the scope of the psychologist's training and practice.

[6.63.5.7 NMAC - Rp, 6.63.5.7 NMAC, 1/28/2020]

6.63.5.8 REQUIREMENTS FOR LEVEL 1 SCHOOL PSYCHOLOGIST LICENSURE:

A level 1 school psychologist shall have documentation in their personnel file with the school district, local education agency, or school-related setting from a level 3 clinical supervising school psychologist who holds pre k-12 licensure pursuant to the provisions of this rule, and shall meet the following requirements:

A. a master's degree or educational specialist degree, or doctorate degree in school psychology from a regionally accredited college or university;

B. qualifications meeting Paragraph (1), (2), or (3):

(1) 60 graduate hours incorporating the department-approved competencies in school psychology, which may be completed as part of a master's or educational specialist degree program or in addition to the master's degree, meeting the applicable program requirements as follows:

(a) the 60 graduate hours awarded by a New Mexico college or university must include a 1,200-hour internship supervised by an appropriately

licensed psychologist, 600 hours of which must be in a school-related setting; psychological assessment, counseling, and other psychological interventions with students with emotional disturbances shall comprise a minimum of 300 hours of the internship; or

(b) the 60 graduate hours awarded by a college or university outside New Mexico must be for a school psychology or equivalent program accepted by the department and include an internship in a school setting as described in Paragraph (1) of Subsection B of 6.63.5.8 NMAC; or

(c) the 60 graduate hours as described in Paragraph (1) of Subsection B of 6.63.5.8 NMAC, with documentation of 1,200 hours within a two-year period of successful supervised experience in one of the following areas:

(i) school psychology;

(ii) psychological assessment and counseling; and

(iii) other psychological interventions with at least 600 hours in a school-related setting;

(2) a doctorate degree in psychology, that includes 12 semester hours of child-focused course work in development, assessment, intervention, and 600 hours of supervised experience in a school-related setting; or

(3) a valid psychologist or psychologist associate license issued by the New Mexico board of psychologist examiners and that includes 12 semester hours of child-focused course work in development, assessment, and intervention and 600 hours of supervised experience in a school-related setting; and

C. fulfill the requirements of Paragraph (1) or (2):

(1) the specialty area examination of the praxis series exam in school psychology with at least a score of 147; or

(2) hold an active nationally certified school psychologist credential issued by the national association of school psychologists.
[6.63.5.8 NMAC - Rp, 6.63.5.8 NMAC, 1/28/2020]

6.63.5.9 REQUIREMENTS FOR LEVEL 2 SCHOOL PSYCHOLOGIST LICENSURE:

A level 2 school psychologist shall meet the following requirements:

A. a valid level 1 license with at least three full school years of school-related experience;

B. successful completion or demonstration of competencies for a level 1 school psychologist, and

C. satisfactory completion of supervised experience as a level 1 school psychologist, consisting of a minimum of 600 internship hours and 1,200 post-internship supervised hours in a school-related setting.
[6.63.5.9 NMAC - Rp, 6.63.5.9 NMAC, 1/28/2020]

[6.63.5.9 NMAC - Rp, 6.63.5.9 NMAC, 1/28/2020]

6.63.5.10 REQUIREMENTS FOR LEVEL 3 SCHOOL PSYCHOLOGIST LICENSURE:

A level 3 clinical supervising school psychologist shall meet the following requirements:

A. a valid level 2 license with at least three full school years of school-related experience, including 750 hours of satisfactory post-graduate experience as reported by a level 3 supervising school psychologist;

B. 60 graduate hours in a master's or master's plus certificate of advance graduate studies (CAGS) program, educational specialist degree, master's or doctorate degree in school psychology from a regionally accredited college or university. The master's CAGS and educational specialist programs shall include at least one academic year of pre-degree supervised internship experience, consisting of a minimum of 1,200 hours of which at least 600 hours must be in a school-related setting;

C. successful completion or demonstration of competencies for the school psychologist level 1 and 2 licenses;

D. hold one of the following valid and current certifications or licenses:

(1) a license as a psychologist issued by the New Mexico board of psychology examiners;

(2) a license as a psychologist associate issued by the New Mexico board of psychology examiners; or

(3) an active nationally certified school psychologist credential issued by the national association of school psychologists.
[6.63.5.10 NMAC - Rp, 6.63.5.10 NMAC, 1/28/2020]

[6.63.5.10 NMAC - Rp, 6.63.5.10 NMAC, 1/28/2020]

6.63.5.11 IMPLEMENTATION:

All persons holding a valid New Mexico license in psychological counseling on June 30, 2002 shall be entitled to licensure in school psychology at level 1, 2, or 3. Such licensure may be continued pursuant to rule as established by the department.

[6.63.5.11 NMAC - Rp, 6.63.5.11 NMAC, 1/28/2020]

6.63.5.12 COMPETENCIES FOR LEVEL 1 SCHOOL PSYCHOLOGISTS:

A. Personal characteristics. The school psychologist shall provide evidence that their professional work or demeanor is characterized by the following behaviors and developed and evaluated through courses, course content, practicum, internships, work experience, or other appropriate means:

- (1) flexibility
- (2) communication skills
- (3) conscientiousness
- (4) cooperation
- (5) motivation
- (6) personal stability

(7) productivity
 (8) professional ethics; and
 (9) respect for and valuing of individual and cultural diversity.

B. Psychological foundations. The school psychologist shall demonstrate knowledge of basic psychological principles including:

(1) the relationship between biological principles and psychological functioning in normal and abnormal development;

(2) the manner in which concepts of social and cultural diversity relate to an understanding of individuality;

(3) using developmental principles to identify potential exceptionalities in students;

(4) methods and models for identifying and diagnosing conditions of exceptionality;

(5) principles, concepts and processes related to human learning;

(6) basic research methodology as applicable to school-related problems; and

(7) the relationship between social setting and the psychological functioning of students.

C. Educational foundations. The school psychologist shall demonstrate knowledge of educational foundations including:

(1) organization and operation of schools;

(2) the organization and administration of school psychological services, including record keeping; the social, philosophical, historical, and cultural issues in education; state standards and benchmarks; school curriculum, intervention programs and strategies; and

(3) the current identification, referral, evaluation, and placement procedures for students with exceptionalities based upon state and federal regulations.

D. The school psychologist shall possess the knowledge and professional expertise to collaborate with families and school and community-based professionals in designing, implementing, and evaluating interventions that effectively respond to the educational and mental health needs of students. The school psychologist shall demonstrate knowledge of ability to:

(1) conduct multi-method psychological and psycho-educational assessments of students as appropriate;

(2) conduct psychological and educational assessments to include fair and non-discriminatory evaluation of the areas of:

(a) personality;

(b) emotional status;

(c) social skills and adjustment;

(d) intelligence and cognitive functioning;

(e) scholastic aptitude;

(f) functional and adaptive behavior;

(g) language and communication skills;

(h) academic knowledge and achievement;

(i) sensory and perceptual-motor functioning;

(j) family, environmental, and cultural influences;

(k) level of acculturation;

(l) career and vocational development;

(m) aptitude; and

(n) interests;

(3) utilize formal assessment instruments, procedures, and techniques such as interviews, observations, and behavioral evaluations;

(4) have particular regard for the context and setting in which their assessments take place and will be used; and

(5) adhere to the regulations and standards of state and national professional organizations regarding assessment techniques, non-biased assessment, and programming for all students.

E. Interventions, direct and indirect. The school psychologist shall demonstrate the ability to implement direct and indirect intervention using educational and psychological principles when participating as a member of a team of school, school-related, and community professional personnel, as outlined in Subsection F of 6.63.5.12 NMAC.

F. Learning/cognitive setting. The school psychologist shall demonstrate the ability to:

(1) plan and implement procedures for assessing the needs of students and recommending strategies for increasing learning and efficiency;

(2) consult with appropriate personnel in the development of instructional programs, including vocational programs;

(3) assist schools in working with parents to foster positive approaches to student's learning;

(4) assist school personnel in developing, monitoring, and evaluating appropriate and measurable instructional, vocational, and transitional objectives; and

(5) consult with school personnel about the classroom environment.

G. Social/affective setting. The school psychologist shall demonstrate the ability to:

(1) plan, develop, and implement district-wide procedures for assessing the social and emotional needs of students and for recommending strategies for increasing social and emotional growth;

(2) assist schools in working with parents to foster positive emotional growth in their children;

(3) assist school personnel in developing, monitoring, and evaluating objectives for social and emotional growth; and

(4) consult with school personnel about fostering a healthy social and emotional environment in the school.

H. Intervention techniques. The school psychologist shall demonstrate the ability to plan, implement, monitor, and evaluate intervention strategies which may include the following:

(1) individual and group counseling with students;

(2) remediation, including the provision of direct assistance to students receiving special education;

(3) consultation with individuals and groups which may include parents, school personnel, and community agencies;

(4) risk and threat assessment; and

(5) behavioral management.

I. Prevention, crisis intervention, and mental health. The school psychologist shall have knowledge of human development and psychopathology and of associated biological, cultural, and social influences on human behavior. The school psychologist shall provide or contribute to prevention and intervention programs that promote the mental health and physical well-being of students.

J. Family and community interventions. The school psychologist shall demonstrate the ability to:

(1) describe community resources available to families;

(2) describe issues and problems faced by families or students with exceptionalities;

(3) describe a continuum of services available to students and their families;

(4) explain state and federal regulations and due process rights to families, school personnel and community professionals; and

(5) communicate information regarding state mental health and children's codes, and the Mandatory Reporting Child Abuse and Neglect Act.

K. Statistics and research methodologies. The school psychologist is a competent consumer of research and new knowledge, and is able to use diverse methodologies to evaluate professional practices and programs. That knowledge base shall include research and evaluation methods, statistics, and measurement.

L. Professional school psychology. The school psychologist shall demonstrate the ability to:

(1) practice school psychology in accordance with the ethics of the profession;

(2) practice the profession of school psychology within the laws and regulations of the local, state, and federal governments;

(3) continue education for the promotion of professional growth;

(4) demonstrate knowledge of different models, concepts, and current issues concerning the practice of school psychology; and

(5) examine interactions between systems and individuals within the schools and between schools and outside agencies to determine strengths, weaknesses, and problem areas and aid in maximizing effective functioning.

M. A level 1 school psychologist shall be required to have individual supervision with a level 3 clinical supervising school psychologist or a credentialed supervisor as outlined in 6.63.5.8 NMAC for a minimum of one hour per week. At least one session per month shall be in person with the level 3 clinical supervising school psychologist or a credentialed supervisor as outlined in 6.63.5.8 NMAC. Supervision will not be provided to level 1 school

psychologists who have not reached the level 2 requirements in the time period established by department. [6.63.5.12 NMAC - Rp, 6.63.5.12 NMAC, 1/28/2020]

6.63.5.13 COMPETENCIES FOR LEVEL 2 SCHOOL PSYCHOLOGISTS:

A level 2 school psychologist shall meet all competencies required for the level 1 school psychologist in Subsections A through L of 6.63.5.12 NMAC. The level 2 school psychologist shall have knowledge and ability to:

A. conduct risk and threat assessments, interventions, and referrals as necessary; and

B. cooperate with institutions of higher education in the training of students in school psychology.

[6.63.5.13 NMAC - Rp, 6.63.5.13, 1/28/2020]

6.63.5.14 COMPETENCIES FOR LEVEL 3 SCHOOL PSYCHOLOGISTS:

The supervising school psychologist shall meet all competencies required for the level 1 school psychologist in Subsections A through L of 6.63.5.12 NMAC and for the level 2 school psychologist 6.63.5.13 NMAC. The level 3 supervising school psychologist shall demonstrate:

A. knowledge of models of consultation and supervision;

B. ability to utilize appropriate models of consultation and supervision in various school-related situations;

C. ability to form a collaborative relationship with school administrators, professional supervisees and consultees and other school personnel;

D. ability to form a collaborative relationship with school administration and other personnel regarding the assessment of the supervisee and ability to make recommendations as to whether the supervisee has demonstrated proficiency in required areas of competencies;

E. ability to formulate a plan of supervision and consultation to assist supervisees and consultees in attaining professional goals and remediating areas of difficulty;

F. ability to cooperate with the institutions of higher education while providing supervision to school psychologists in training; and

G. ability to pursue monthly guidance from a more experienced supervising school psychologist for the first year of being a supervisor.

[6.63.5.14 NMAC - Rp, 6.63.5.14 NMAC, 1/28/2020]

HISTORY OF 6.63.5 NMAC:

6.63.5 NMAC, Licensure for School Psychologists, Pre K-12, filed 7/01/2003, was repealed and replaced by 6.63.5 NMAC, Licensure for School Psychologists, Pre K-12, effective 1/28/2020.

End of Adopted Rules

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Other Material Related to Administrative Law

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

The New Mexico Environment Department gives Notice of a Minor, Nonsubstantive Correction to 20.10.2 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, 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:

An erroneous, duplicate Paragraph (3) of Subsection D of 20.10.2.14 NMAC has been deleted.

The word "Section" has been eliminated from the following to conform to proper rule citation style:

- Subparagraph (o) of Paragraph (1) of Subsection C of 20.10.2.8 NMAC;
- Paragraph (5) of Subsection D of 20.10.2.8 NMAC; and
- Subsection F of 20.10.2.13 NMAC

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

**PUBLIC EDUCATION
DEPARTMENT**
**NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The Public Education Department gives Notice of a Minor, Nonsubstantive Correction to 6.30.3 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, 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:

The rule history note has been corrected to show the actual effective date "1/28/2020" rather than the erroneous date "12/31/2019".

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**

2020 New Mexico Register

Submittal Deadlines and Publication Dates

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Issue	Submittal Deadline	Publication Date
Issue 1	January 6	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
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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

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rulemaking, proposed rules, adopted rules, emergency rules, and other material related to administrative law. The Commission of Public Records, Administrative Law Division, publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978.

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