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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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Notices of Rulemaking and Proposed Rules

HOME INSPECTORS BOARD

NOTICE OF PUBLIC RULE HEARING

The New Mexico Home Inspectors Board (“Board”) will hold a rule hearing on Monday, September 14, 2020 at 9:00 a.m. Due to the COVID-19 pandemic and state of emergency the rule hearing will be held online and telephonically via Cisco Webex Meetings in Albuquerque, New Mexico. An NMHIB staff member will be present between 8:00a.m – 9:00a.m. on the day of the rule hearing at the Regulation and Licensing Department, 5500 San Antonio Dr. NE, Albuquerque, NM 87109, to accept public comment in written form. The NMHIB staff member will then present the public comment during the rules hearing.

To join the meeting online by Cisco Webex Meeting, please use the following link:

<https://nmrld.webex.com/nmrld/onstage/g.php?MTID=e0cba2d0b176ccd98eec84f0e7678985e>

To join the meeting by phone 1-415-655-0002 United States Toll

Meeting number (access code): 146 134 4530

Suggestions for Successful Webex Meeting Attendance are available on the Board’s website.

<http://www.rld.state.nm.us/boards/home-inspectors-members-and-meetings.aspx>

The purpose of the rule hearing is to consider proposed amendments to the following rules:

16.66 Part 1 NMAC – General Provisions;
16.66 Part 2 NMAC – Fees;
16.66 Part 3 NMAC – Applications and Licenses;

16.66 Part 4 NMAC – License Renewals and Reactivations;
16.66 Part 5 NMAC – Continuing Education;
16.66 Part 6 NMAC – Code of Ethics;
16.66 Part 7 NMAC – Standards of Practice;
16.66 Part 8 NMAC – Disciplinary Proceedings;
16.66 Part 9 NMAC – Insurance

To obtain and review copies of the proposed changes you may go to the Board’s website at: <http://www.rld.state.nm.us/boards/home-inspectors-members-and-meetings.aspx> or contact the New Mexico Home Inspectors Board by email at Home.Inspectors@state.nm.us.

The Board is currently accepting public comments on the proposed amendments. Please submit written comments on the proposed changes to Jeanette Contreras, Board Administrator, via electronic mail at Home.Inspectors@state.nm.us or by regular mail at 5500 San Antonio Dr. NE Suite A., Albuquerque, NM 87109, no later than Friday, September 11, 2020. Persons will also be given the opportunity to drop off their comments prior to the rule hearing. An NMHIB staff member will be present between 8:00a.m – 9:00a.m. on the day of the rule hearing at the Regulation and Licensing Department, 5500 San Antonio Dr. NE, Albuquerque, NM 87109, to accept public comment in written form. The NMPAB staff will then present the public comment during the rules hearing.

All written comments will be posted to the Board’s website at: <http://www.rld.state.nm.us/boards/home-inspectors-members-and-meetings.aspx> no more than three business days following receipt to allow for public viewing.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing,

please contact Jeanette Contreras, Board Administrator, by email at Jeanette.Contreras@state.nm.us

Statutory Authority: The Home Inspector Licensing Act, NMSA 1978, Sections 61-24D-1 to -16 (2019), among other provisions, specifically authorizes the Board to “adopt procedures necessary to administer and enforce the provisions of the Home Inspector Licensing Act.” Section 61-24D-3(G)(1). Section 61-24D-3(G) also notably authorizes the Board to adopt “a code of ethics and standards of practice,” create standards for “training, experience, and continuing education,” set fees, and approve a licensing examination.

Summary and Purpose of Proposed Rules: In compliance with Section 14-4-5.2 NMSA 1978, this notice includes the following summary of the proposed rule and, a short explanation of the purpose of the rule.

16.66 Part 1 NMAC – General Provisions; This rule sets forth critical definitions applicable to all of the proposed rules, general procedural requirements for the Board and Board’s staff, and a rule implementation period designed to fairly and effectively require licensure in New Mexico. The purpose of the proposed rule is to ensure that the Home Inspectors Board operates effectively, efficiently and fairly to achieve its statutory mission.

16.66 Part 2 NMAC – Fees; This rule sets the applicable fees to be charged for the Board, including but not limited to licensure fees and application fees. The purpose of the proposed rule is to ensure the board is funded to meet necessary expenses incurred in the enforcement of the provisions of the Home Inspector Licensing Act, in carrying out the duties imposed by the Home Inspector Licensing Act and for the promotion of education and standards for home inspectors in the State.

16.66 Part 3 NMAC – Applications and Licenses; This rule proposes to create application requirements, examinations, and procedures. Speaking broadly, the rule creates separate pathways for Licensure by Examination, Licensure by Experience and Examination, Licensure by Credentials, and Expedited Licensure for Military Service Members, Spouses, Children, and Recent Veterans. The rule also provides for a temporary and staggered initial license period of one, two, or three years determined at random. The purpose of the rule is to ensure that all licensees are qualified and properly trained as required by the Home Inspector Licensing Act, as well as to ensure the evenhanded and impartial evaluation of all applications for licensure.

16.66 Part 4 NMAC – License Renewals and Reactivations; This rule provides for licensure renewal, inactive status for current licensees, expired licenses, and reactivations of expired or inactive licenses. This includes specific procedures and substantive requirements. The purpose of the rule is to provide an orderly and transparent process for renewing licenses and providing for inactive and expired licenses.

16.66 Part 5 NMAC – Continuing Education; This rule sets forth requirements for continuing education, including content and hour requirements, procedures for approval of continuing education, and audits of licensees. The purpose of this rule is to ensure all licensees maintain professional competency and to ensure licensees are current with changes made in the profession.

16.66 Part 6 NMAC – Code of Ethics; This rule creates a code of ethics imposing ethical and professional duties upon all licensees. The purpose of the proposed rule is to ensure that licensees are conducting inspections in a fair, impartial and professional manner to avoid conflicts of interest.

16.66 Part 7 NMAC – Standards of Practice; This rule sets standards of practice to govern the practice of home inspection in New Mexico. It outlines minimum inspection requirements, prohibitions, and limitations. The purpose of the proposed rule is to serve as a general professional guideline for licensed Home Inspectors in New Mexico. This rule will ensure understanding and consistency within the home inspector profession.

16.66 Part 8 NMAC – Disciplinary Proceedings; This rule establishes general rules of practice and procedures for disciplinary proceedings conducted by the Board, unless a more specific statute or regulation applies to the substantive disciplinary proceeding type at issue. The rules also outlines the substantive grounds for disciplinary action by the Board. The purpose of the rule is to ensure that complaints against licensees are evaluated and adjudicated in a fair and impartial manner that complies with due process while ensuring the public’s continued confidence in the profession.

16.66 Part 9 NMAC – Insurance; This rule ensures that all licensees and their employees are covered by insurance in all activities contemplated pursuant to the provisions of the Home Inspector Licensing Act. The rule sets minimum requirements for insurance coverage and additionally authorizes the Board to solicit sealed, competitive proposals to provide a group insurance policy. The purpose of the rule is to ensure that all licensees maintain adequate insurance coverage so as to protect both themselves and the public.

Technical Information: No technical information served as a basis for the proposed rules.

**SECRETARY OF STATE,
OFFICE OF THE
NOTICE OF PROPOSED
RULEMAKING**

The Office of the New Mexico Secretary of State (“Office”) hereby gives notice that the Office will conduct a public hearing on the described rule below.

The purpose of this hearing is to obtain public input on the new Alternative and Election Day Voting Administration Rule to be codified as Part 1.10.15 NMAC.

A public hearing will be held on the proposed rule on Friday August 28, 2020, from 9:00 am to 12:00 pm, through a livestreaming and teleconferencing platform in response to concerns surrounding the COVID-19 pandemic and in accordance with all Public Health Emergency Orders issued by the New Mexico Department of Health to limit mass gatherings due to COVID-19. The public hearing will be accessible at the following website and phone number:

<https://us02web.zoom.us/j/84117495538?pwd=c0ZML2JrUHkwblRFdkJxTWR6eVNRZz09>

Meeting ID: 841 1749 5538.
Password: 496806. Interested parties may also call into the hearing by calling the following telephone numbers: 1-669-900-6833 or 1-346-248-7799. Information regarding the livestream, will also be available on the SOS website.

All public testimony during the public hearing will be limited to oral participation by members of the public to those comments and discussion through audiovisual means. All comments will be recorded by a court reporter.

Authority: NMSA 1978, Section 1-2-1, and new Section 1-12-72 of the Election Code, authorize the Office to adopt and promulgate rules and regulations that are necessary to carry

out the purposes of the Election Code.

1.10.15 NMAC Alternative and Election Day Voting Administration

Purpose: The purpose for this rule is to provide uniformity in the application, operation, and interpretation of Alternative and Election Day Voting Procedures. This rule is proposed due to the Legislature's passing of Senate Bill 4 in the 2020 Special Session.

Summary of Full Text: Section 1.10.15.7 NMAC defines key terms like "mailable voter," and other words used in the proposed rule. Section 1.10.15.8 NMAC provides procedures for how a county clerk must reject a mailed ballot, how a county clerk must notify a voter if a voter's ballot is rejected, and procedures for how a voter may cure a rejected mailed ballot. Section 1.10.15.9 NMAC addresses how election challengers may interpose challenges and conduct themselves pursuant to the Election Code. Section 1.10.15.10 NMAC provides the procedure for how election challenges are handled by the absent voter election board and provides a procedure for a voter to cure a rejected mailed ballot.

Details for Obtaining a Copy of Rule and Submitting Oral or Written Comments: Copies of the proposed rule are available on the Office's website at www.sos.state.nm.us or can be obtained from the Bureau of Elections by calling (505) 827-3600 or emailing sos.rules@state.nm.us. The proposed rule is also available on the New Mexico Sunshine Portal. Interested individuals may provide comments at the public hearing. Before the public hearing oral or written comments may be sent to Dylan Lange, Director of Legislative and Executive Affairs, via email at sos.rules@state.nm.us, or Dylan.Lange@state.nm.us, fax (505) 827-8403, or by regular mail at Attn: Dylan Lange – proposed rule, The Office of the New Mexico Secretary of State, 325 Don Gaspar, Suite 300, Santa Fe, NM 87501. Comments may

also be given by calling the Bureau of Elections at 505-827-3600. All written public comments will be posted on the website throughout the written comment period at: www.sos.state.nm.us. Additionally, on August 28, 2020, between 9:00am and 12pm, an agency representative will be outside our main office location listed above to receive written comments on the proposed rule.

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact (505) 827-3600 or email Dylan.Lange@state.nm.us (5) business days prior to the hearing.

SUPERINTENDENT OF INSURANCE, OFFICE OF THE

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Superintendent of Insurance ("Superintendent"), pursuant to the New Mexico Insurance Code, Sections 59A-1-1 et seq. NMSA 1978 ("Insurance Code") and 13.1.4 NMAC, proposes to adopt a new rule, 13.2.10 NMAC, CORPORATE GOVERNANCE ANNUAL DISCLOSURE.

PURPOSE OF THE PROPOSED NEW RULE IS: to require an insurer or insurance group subject to the requirements of the rule to provide the superintendent with a summary of its corporate governance structure, policies and practices; to outline the requirements for completing and submitting a corporate governance annual disclosure; and to provide for the confidential treatment of the corporate governance annual disclosure and related information.

STATUTORY AUTHORITY: Sections 59A-1-18 and 59A-2-9, NMSA 1978, Chapter 59A Article 4,

NMSA 1978, and Chapter 59A Article 37, NMSA 1978.

Copies of the Notice of Proposed Rulemaking and proposed rule are available by electronic download from the OSI website (<https://www.osi.state.nm.us/index.php/idms/>) or the New Mexico Sunshine Portal.

OSI will hold a public video/ telephonic hearing on the proposed rule on September 3, 2020 at 9:00 a.m.

Join via Video: <https://us02web.zoom.us/j/2916274744>

Join via telephone: 1-346-248-7799
Meeting ID: 291 627 4744

The Superintendent designates Bryan E. Brock to act as the hearing officer for this rulemaking. Oral comments will be accepted at the video/ telephonic hearing from members of the public and any interested parties.

Written comments and proposals will be accepted through 4:00 pm on August 28, 2020. Responses to written comments or oral comments will be accepted through 4:00 pm on September 15, 2020. Comments may be submitted via email to OSI-docketfiling@state.nm.us or may be filed by sending original copies to:

OSI Records and Docketing, NM Office of Superintendent of Insurance
1120 Paseo de Peralta, P.O. Box 1689,
Santa Fe, NM 87504-1689

Docket No.: 20-00044-RULE-PC
IN THE MATTER OF ADOPTING
NEW RULE 13.2.10 NMAC
CORPORATE GOVERNANCE
ANNUAL DISCLOSURE

Only signed statements, proposals or comments will be accepted. Scanned or electronic signatures conforming to federal and state court requirements will be accepted with the understanding that if there is any dispute regarding a signature, OSI reserves the right to require that original signatures be provided to verify the electronic or facsimile

signature. All filings must be received between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday except on state holidays. Any filings after 4:00 will be filed to the docket the next business day.

SPECIAL NEEDS: Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other auxiliary aid or service to attend or participate in the hearing should contact Melissa Gutierrez at 505-476-0333 ten (10) business days prior to the hearing.

The Superintendent will consider all oral comments, and will review all timely submitted written comments and responses.

ISSUED this 28th day of July 2020
/S/RUSSELL TOAL

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

Adopted Rules

Effective Date and Validity of Rule Filings

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

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT FORESTRY DIVISION

This is an amendment to 19.21.2 NMAC, Sections 2, 3, and 6 through 15, effective 7/28/2020.

19.21.2.2 SCOPE: ~~[The general public that collects, transports, or offers for sale native, vascular plants within the state of New Mexico, with the exceptions of federal employees working on lands within their jurisdiction, and any plant collection activities within lands owned by, or held in trust for, Native American tribes.]~~ All persons who take, possess, transport, export from the state, process, sell or offer for sale or shipment an endangered plant species. [8/31/1995; 19.21.2.2 NMAC - Rn, 19 NMAC 21.2.2, 11/30/2006; A, 7/28/2020]

19.21.2.3 STATUTORY AUTHORITY: Section 75-6-1 NMSA 1978 directs the energy, minerals and natural resources department ~~[(department)]~~ to investigate all plant species in the state ~~[for the purpose of establishing a list of endangered plant species]~~ to develop information relating to population, distribution, habitat needs, limiting factors and other biological and ecological data, and to determine conservation measures and requirements necessary for survival. The department shall establish a list of endangered plant species based upon the investigations. It also authorizes the department to prohibit ~~the taking, possession, transportation, exportation from the state, processing, sale or offer for sale or shipment of [endangered species] listed plants or plant materials,~~ [with the exception

~~of] except for permitted scientific [collections] purposes~~ or propagation and transplantation activities that enhance the survival of endangered species. ~~[The forestry division state forester is the department secretary's designated representative for the purposes of endangered plant investigations and for issuing collection and transplantation permits.]~~ [10/29/1985, 12/23/1991, 8/31/1995; 19.21.2.3 NMAC - Rn & A, 19 NMAC 21.2.3, 11/30/2006; A, 7/28/2020]

19.21.2.6 OBJECTIVE: ~~[Native plant resources contribute to the economic, ecological, and aesthetic well-being of New Mexico citizens. This part's objective is to prevent the extinction or extirpation of native plant species in the state of New Mexico. It establishes the criteria for the recognition of endangered plant species and a list of plant species perceived, by the department, to be endangered within the state. This part also prescribes rules and permitting requirements for taking endangered plants during scientific investigations or propagation and transplantation activities that enhance survival.]~~ To establish rules to implement Section 75-6-1 NMSA 1978 including establishing a list of endangered plant species. [8/31/1995; 19.21.2.6 NMAC - Rn & A, 19 NMAC 21.2.6, 11/30/2006; A, 7/28/2020]

19.21.2.7 DEFINITIONS:

A. "Department"
means the energy, minerals and natural resources department.

~~[A:]~~ **B. "Population site"**
means an area of occurrence of a particular species.

~~[B:]~~ **C. "Specimen"** means

the physical parts or a plant in its entirety taken from a population site for the purpose of scientific study.

D. "State forester"
means the director of the department's forestry division and the department secretary's designated representative for the purposes of administering the department's authorities and responsibilities under Section 75-6-1 NMSA 1978 including endangered plant investigations and issuance of collection and transplantation permits.

~~[C:]~~ **E. "Taking"** means the removal, with the intent to possess, transport, export, sell, or offer for sale any of the plants listed in 19.21.2.9 NMAC, from the places in the state of New Mexico where they naturally grow.

~~[D:]~~ **F. "Voucher specimen"** means an identifiable and representative specimen taken by a botanical collector from a population site for the purpose of documenting that site as occupied habitat. It ~~[should]~~ shall be accompanied by pertinent information on location, habitat, collector, date taken and any other notes the collector can present concerning the population site. [10/29/1985, 12/23/1991, 8/31/1995; 19.21.2.7 NMAC - Rn & A, 19 NMAC 21.2.7, 11/30/2006; A, 7/28/2020]

19.21.2.8 CRITERIA FOR INCLUSION ON THE ENDANGERED PLANT SPECIES LIST: The following are the criteria for listing a plant as a state endangered plant:

A. the taxon is listed as threatened or endangered under the provisions of the Federal Endangered Species Act (16 U.S.C. Sections 1531 *et seq.*), or is considered proposed under the tenets of the Act; or

B. the taxon is a rare plant across its range within the state, and of such limited distribution and

population size that unregulated taking could adversely impact it and jeopardize its survival in New Mexico. [10/29/1985, 8/31/1995; 19.21.2.8 NMAC - Rn, 19 NMAC 21.2.8, 11/30/2006; A, 7/28/2020]

19.21.2.9 LIST OF NEW MEXICO STATE ENDANGERED PLANT SPECIES: The following list of plants constitutes the New Mexico state endangered plant species list. Listed are the plant's scientific name, its common name and the criterion for inclusion by the subsection in 19.21.2.8 NMAC:

<u>Agalinis calycina</u> (Leoncita false-foxglove)	Subsection B of 19.21.2.8 NMAC
<u>Aliciella formosa</u> (Aztec gilia)	Subsection B of 19.21.2.8 NMAC
<u>Allium gooddingii</u> (Goodding's onion)	Subsection B of 19.21.2.8 NMAC
<u>Amsonia tharpii</u> (Tharp's bluestar)	Subsection B of 19.21.2.8 NMAC
[<u>Argemone pleiacantha</u> subsp. <u>Pinnatisecta</u>] <u>Argemone pinnatisecta</u> (Sacramento prickly-poppy)	Subsection A of 19.21.2.8 NMAC
<u>Astragalus humillimus</u> (Mancos milkvetch)	Subsection A of 19.21.2.8 NMAC
<u>Peniocereus greggii</u> (night-blooming cereus)	Subsection B of 19.21.2.8 NMAC
<u>Castilleja ornata</u> (Swale paintbrush)	Subsection B of 19.21.2.8 NMAC
<u>Castilleja tomentosa</u> (Tomentose paintbrush)	Subsection B of 19.21.2.8 NMAC
<u>Cirsium vinaceum</u> (Sacramento Mountains thistle)	Subsection A of 19.21.2.8 NMAC
<u>Cirsium wrightii</u> (Wright's marsh thistle)	Subsection B of 19.21.2.8 NMAC
<u>Cleome multicaulis</u> (slender spiderflower)	Subsection B of 19.21.2.8 NMAC
[<u>Coryphantha scheeri</u> var. <u>scheeri</u>] <u>Coryphantha robustispina</u> ssp. <u>scheeri</u> (Scheer's pincushion cactus)	Subsection B of 19.21.2.8 NMAC
<u>Cylindropuntia viridiflora</u> (Santa Fe cholla)	Subsection B of 19.21.2.8 NMAC
<u>Cymopterus spellenbergii</u> (Spellenberg's springparsley)	Subsection B of 19.21.2.8 NMAC
<u>Cypripedium parviflorum</u> var. <u>pubescens</u> (golden lady's slipper)	Subsection B of 19.21.2.8 NMAC
<u>Echinocereus fendleri</u> var. <u>kuenzleri</u> (Kuenzler's hedgehog cactus)	Subsection A of 19.21.2.8 NMAC
<u>Erigeron hessii</u> (Hess' fleabane)	Subsection B of 19.21.2.8 NMAC
<u>Erigeron rhizomatus</u> (Zuni fleabane)	Subsection A of 19.21.2.8 NMAC
<u>Eriogonum gypsophilum</u> (gypsum wild buckwheat)	Subsection A of 19.21.2.8 NMAC
<u>Escobaria duncanii</u> (Duncan's pincushion cactus)	Subsection B of 19.21.2.8 NMAC
<u>Escobaria organensis</u> (Organ Mountain pincushion cactus)	Subsection B of 19.21.2.8 NMAC
<u>Escobaria sneedii</u> var. <u>leei</u> (Lee's pincushion cactus)	Subsection A of 19.21.2.8 NMAC
<u>Escobaria sneedii</u> var. <u>sneedii</u> (Sneed's pincushion cactus)	Subsection A of 19.21.2.8 NMAC
<u>Escobaria villardii</u> (Villard's pincushion cactus)	Subsection B of 19.21.2.8 NMAC
<u>Hedeoma todsenii</u> (Todsens pennyroyal)	Subsection A of 19.21.2.8 NMAC
<u>Helianthus paradoxus</u> (Pecos sunflower)	Subsection A of 19.21.2.8 NMAC
<u>Hexalectris colemanii</u> (Coleman's coralroot)	Subsection B of 19.21.2.8 NMAC
<u>Hexalectris nitida</u> (shining coralroot)	Subsection B of 19.21.2.8 NMAC
[<u>Hexalectris spicata</u>] <u>Hexalectris arizonica</u> (crested coralroot)	Subsection B of 19.21.2.8 NMAC
<u>Ipomopsis sancti-spiritus</u> (Holy Ghost ipomopsis)	Subsection A of 19.21.2.8 NMAC
<u>Lepidospartum burgessii</u> (gypsum scalebroom)	Subsection B of 19.21.2.8 NMAC
<u>Lilium philadelphicum</u> (wood lily)	Subsection B of 19.21.2.8 NMAC
<u>Linum allredii</u> (Allred's flax)	Subsection B of 19.21.2.8 NMAC
[<u>Mammillaria wrightii</u> var. <u>wilcoxii</u> (Wilcox pincushion cactus)]	Subsection B of 19.21.2.8 NMAC
<u>Opuntia arenaria</u> (sand prickly pear)	Subsection B of 19.21.2.8 NMAC
<u>Pediocactus knowltonii</u> (Knowlton's cactus)	Subsection A of 19.21.2.8 NMAC
<u>Pediomelum pentaphyllum</u> (Chihuahua scurfpea)	Subsection B of 19.21.2.8 NMAC
<u>Penstemon metcalfei</u> (Metcalfe's beardtongue)	Subsection B of 19.21.2.8 NMAC
<u>Polygala rimulicola</u> var. <u>mescalerorum</u> (San Andres milkwort)	Subsection B of 19.21.2.8 NMAC
<u>Puccinellia parishii</u> (Parish's alkali grass)	Subsection B of 19.21.2.8 NMAC
<u>Sclerocactus cloverae</u> (Clover's cactus)	Subsection B of 19.21.2.8 NMAC
<u>Sclerocactus mesae-verdae</u> (Mesa Verde cactus)	Subsection A of 19.21.2.8 NMAC
<u>Scrophularia macrantha</u> (Mimbres figwort)	Subsection B of 19.21.2.8 NMAC
<u>Spiranthes magnicamporum</u> (lady tresses orchid)	Subsection B of 19.21.2.8 NMAC
<u>Townsendia gypsophila</u> (gypsum Townsend's aster)	Subsection B of 19.21.2.8 NMAC

[10/29/1985, 12/23/1991, 8/31/1995; 19.21.2.9 NMAC - Rn & A, 19 NMAC 21.2.9, 11/30/2006; A, 01/15/2019; A, 7/28/2020]

19.21.2.10 PERMITS:

A. The state forester may issue permits to take state endangered plant species for the purpose of conducting scientific studies that enhance understanding for the distribution of, or conditions required for survival of, endangered plant species; or for propagation or transplantation activities that enhance the survival of endangered plant species.

B. The state forester shall only issue permits to individuals. No one may operate under the authority of another's permit.

C. Each person applying for a permit must demonstrate sufficient expertise to carry out the permitted activities in a competent manner. The following information may be used to support the request for a permit: education in botany or related area, field experience, collection numbers, accessions into a recognized herbarium, publications and recommendations from recognized authorities.

D. The permittee's signature on the permit [~~will acknowledge~~] acknowledges willingness to comply with all applicable laws, rules or regulations and permit conditions.

E. The permittee shall carry a copy of the permit at all times during the collection and transportation of endangered species.

F. A permit does not [~~give the bearer authority~~] authorize the permittee to take federally threatened or endangered plants. Taking of these species also requires a federal permit issued by the U.S. fish and wildlife service.

G. A permit does not extend to the permittee the privilege to trespass or enter on lands without the owner's permission. The permittee should contact the appropriate management agency or landowner before beginning studies or

taking specimens on federal, state or private lands.

H. A state permit to take, propagate or transplant the endangered plant species listed in 19.21.2.9 NMAC is not required for federal employees working within the lands of their jurisdiction, nor for activities within tribal reservations. [10/29/1985, 12/23/1991, 8/31/1995; 19.21.2.10 NMAC - Rn & A, 19 NMAC 21.2.10, 11/30/2006; A, 7/28/2020]

19.21.2.11 SCIENTIFIC INVESTIGATIONS:

A. The state forester may issue a permit to take endangered plants for scientific studies if the studies will generate new knowledge in the genetic, anatomical, chemical, morphological, life history or in other relevant areas of research enhancing the understanding of the conditions required for the survival of the endangered species.

B. Known population sites will be provided with the permit when the permittee requires them for the permitted study. The permit will contain any special parameters for the taking.

C. If the permittee takes any specimens, the permittee shall deposit at least one voucher specimen at either the university of New Mexico herbarium or New Mexico state university herbarium.

D. When possible, the investigator shall take specimens in such a way as to not reduce the population (e.g. take a single stem from an herbaceous perennial, leaving the root intact, or other methods appropriate to the particular species).

E. The state forester may prohibit taking in [~~some~~] known locations where survival is especially precarious. [10/29/1985, 12/23/1991, 8/31/1995; 19.21.2.11 NMAC - Rn & A, 19 NMAC 21.2.11, 11/30/2006; A 7/28/2020]

19.21.2.12 VOUCHER SPECIMENS:

A. The state forester may issue a permit to take

endangered plant voucher specimens during botanical inventories and environmental surveys for the purposes of species verification and documentation of population sites.

B. Taking specimens for the sole purpose of exchange with other herbaria is prohibited.

C. The collection of voucher specimens shall make no long-term detrimental effect on the population. The permittee may take a maximum of three specimens, if the population is sufficient. If the population is very small and the taking of a single individual is detrimental, then the state forester may condition the permit so that the permittee may take only a fragment of an individual for voucher purposes.

D. The permittee shall deposit at least one specimen of the three taken from each locality at the university of New Mexico herbarium or New Mexico state university herbarium. The permittee may send duplicates to the western New Mexico university herbarium, government agency collections within New Mexico or herbaria in other states that are formally listed in index herbariorum. The label affixed to each specimen shall contain information on collection location, description of the habitat, collector's name, date of collection and estimated size of the population.

E. To assist in the identification and preservation of endangered plant species in New Mexico, permittees shall report all permitted collections of voucher specimens to the state forester by December 31 of each year. The report shall contain the voucher specimen label information and the place or places of deposition of specimens. [10/29/1985, 12/23/1991, 8/31/1995; 19.21.2.12 NMAC - Rn & A, 19 NMAC 21.2.12, 11/30/2006; A, 7/28/2020]

19.21.2.13 PROPAGATION AND TRANSPLANTATION:

A. The state forester may issue a permit to take endangered plants to propagate or transplant when evidence is presented that the activity

will enhance that [particular] species' survival capability.

B. The state forester may issue a permit to transplant endangered species (not including federally listed taxa) when such species occur on areas of land use conversion.

C. The state forester may issue a permit for transplantation upon approval of a proposal the applicant submits outlining the need for such transplantation, the method to be employed, the site to which the plants will be taken for transplantation and the qualifications of the person carrying out the transplantation. [10/29/1985, 12/23/1991, 8/31/1995; 19.21.2.13 NMAC - Rn & A, 19 NMAC 21.2.13, 11/30/2006; A, 7/28/2020]

19.21.2.14 PERMIT

REVOCATION: Prohibited activities that [shall] render a collection permit invalid and may [cause] subject the permittee [~~to be subject~~] to prosecution [~~under applicable federal and state laws~~] include: taking of specimens of endangered plant species outside the scope of the permit's provisions, failure to deposit a voucher specimen in a designated New Mexico herbarium, taking specimens under permit for commercial use, providing false information on the permit application or allowing someone else to use the permit.

[10/29/1985, 8/31/1995; 19.21.2.14 NMAC - Rn & A, 19 NMAC 21.2.14, 11/30/2006; A, 7/28/2020]

19.21.2.15 PROTECTION AND PENALTIES:

A. The taking, possession, transportation, exportation from the state, processing, sale or offer for sale or shipment within the state of plants listed in 19.21.2.9 NMAC, other than [~~taking under~~] pursuant to a valid permit issued by the state forester, is [hereby] prohibited.

B. Pursuant to Section 75-6-1 NMSA 1978, violation of 19.21.2 NMAC is a misdemeanor punishable by a fine of not less

than [~~\$300.00~~] \$300, nor more than [~~\$1000.00~~] \$1,000 or imprisonment for a term of not more than 120 days or both.

C. Any law enforcement officer may seize any plants taken, possessed, transported, exported, processed, sold or offered for sale or shipped in violation of 19.21.2 NMAC. [10/29/1985, 12/23/1991, 8/31/1995; 19.21.2.15 NMAC - Rn & A, 19 NMAC 21.2.15, 11/30/2006; A, 7/28/2020]

LIVESTOCK BOARD

This is an amendment to 21.32.10 NMAC, adding Section 14 effective 08/01/2020

21.32.10.14 DEPOSITS:

A. New Mexico livestock board inspectors shall deposit all fees to designated banks no later than 10 days from the date of collection.

B. Designated banks may be proposed by the executive director and confirmed by majority vote of the board.

C. In the event of force majeure, the executive director may direct the use of alternative financial institutions until the next meeting of the board.

[21.32.10.14 NMAC – N, 8/1/2020]

PUBLIC EDUCATION DEPARTMENT

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 12 PUBLIC SCHOOL ADMINISTRATION – HEALTH AND SAFETY PART 12 ARMED PUBLIC SCHOOL SECURITY PERSONNEL

6.12.12.1 ISSUING AGENCY: Public Education Department, hereinafter the department. [6.12.12.1 NMAC – N, 7/28/2020]

6.12.12.2 SCOPE: This rule applies to school districts, local school boards, state-chartered charter schools, and governing bodies of charter schools.

[6.12.12.2 NMAC – N, 7/28/2020]

6.12.12.3 STATUTORY

AUTHORITY: This rule is promulgated pursuant to Sections 9-24-8, 22-2-1, 22-2-2, 22-5-18, 22-10A-5, 22-10A-40, 22-10A-41, and 28-2-4 NMSA 1978.

[6.12.12.3 NMAC – N, 7/28/2020]

6.12.12.4 DURATION:

Permanent.

[6.12.12.4 NMAC – N, 7/28/2020]

6.12.12.5 EFFECTIVE

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

[6.12.12.5 NMAC – N, 7/28/2020]

6.12.12.6 OBJECTIVE:

The objective of this rule is to provide parameters for a local school board or governing body of a charter school to authorize formerly certified and commissioned law enforcement officers employed by a school district or charter school as school security personnel to carry a firearm on school premises or other school property to mitigate loss of life during an emergency and until local law enforcement arrives.

[6.12.12.6 NMAC – N, 7/28/2020]

6.12.12.7 DEFINITIONS:

A. "Firearm" means a handgun, as recommended by the department of public safety and authorized by the public school insurance authority, adopted for use by a local law enforcement agency in the jurisdiction within which a school district or charter school is located.

B. "School premises" means:

(1) the building and grounds, including playgrounds, playing fields, and parking areas, and any school bus or vehicle of a public school, whether owned or under contract by the school district or charter school, in or on which school or school-related

activities are being conducted under the supervision of the local school board or governing body of a charter school; or

(2) any other public buildings or grounds, including playing fields and parking areas that are not public school property, in or on which school-related and school-sanctioned activities are being performed.

C. “School security personnel” means formerly certified and commissioned law enforcement officers employed by a school district or governing body of a charter school and authorized by department rules and local school board or governing body policy to carry a firearm on school premises.
[6.12.12.7 NMAC – N, 7/28/2020]

6.12.12.8 PROHIBITION OF EMPLOYMENT AS SCHOOL SECURITY PERSONNEL:

Persons prohibited from employment as school security personnel include the following:

A. an individual who has been convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction relates to the employment as school security personnel;

B. an individual who has been convicted of trafficking in controlled substances, criminal sexual penetration or a related sexual offense, child abuse, or sexual exploitation of children;

C. an individual who has been subject to an employment investigation under Subsection H of Section 22-10A-5 NMSA 1978 that resulted in a finding of ethical misconduct, including:

- (1) inappropriate touching;
- (2) sexual harassment;
- (3) sexual assault;
- (4) sexual abuse;
- (5) discrimination; or
- (6) behavior intended to induce a child into

engaging in illegal, immoral, or other prohibited behavior.

D. an individual who has been convicted of battery on a household member or dependent, criminal damage to property of a household member or dependent, or stalking;

E. an individual who has been convicted of the negligent or illegal use of a firearm; or

F. an individual who has received formal discipline for the use of excessive force.

[6.12.12.8 NMAC – N, 7/28/2020]

6.12.12.9 EMPLOYMENT REQUIREMENTS OF SCHOOL SECURITY PERSONNEL:

Each local school board and governing body of a charter school shall establish policies and procedures addressing pre-employment and continuing employment requirements for school security personnel. Policies and procedures shall include the following:

A. requirement of proof that the former law enforcement officer was certified and commissioned for no less than three years and left law enforcement in good standing;

B. successful completion of a 16-hour program of training, approved by the department in collaboration with the New Mexico public school insurance authority, for working with students with special needs, prior to employment as school security personnel;

C. successful completion of a four-hour program of training, approved by the department in collaboration with the New Mexico public school insurance authority, on cultural competency and prohibited profiling practices, prior to employment as school security personnel; and

D. proof of current firearms training and successful firearms qualification provided by a certified use-of-force instructor through a local law enforcement agency, or through a New Mexico law enforcement academy certified firearms instructor approved by a

local law enforcement agency in the jurisdiction in which the school district or charter school is located. Firearms training shall include the following:

(1) an initial use-of-force training program of eight hours, prior to employment as school security personnel, including the following topics:

- (a) resistance;
- (b) confrontational dynamics;
- (c) deadly force (when it is justifiable);
- (d) communication;
- (e) self-control, fear, and anger management in the use of force;
- (f) consequences of unreasonable force;
- (g) vicarious liability;
- (h) legality of use of force in school setting by school security personnel;
- (i) documenting use of force;
- (j) search and seizure; and
- (k) other topics as recommended by the local law enforcement agency, school district, or charter school;

(2) an initial firearms training program of 16 hours prior to employment as school security personnel;

(3) prior to employment as school security personnel and annually thereafter, a qualification shoot requiring qualifying scores that meet or exceed the New Mexico law enforcement academy standard scores in daytime qualification shoot and night or low light qualification shoot; and

(4) an annual firearms manipulation training program of four hours.

E. a background check indicating the individual has not been convicted of a crime or engaged in behavior that violates prohibitions against ethical misconduct pursuant to the New Mexico School Personnel

Act, Section 22-10A-5 NMSA 1978, as ethical misconduct; or Subsection A of 6.12.12.8 NMAC; and

F. any other conditions required by law, department rule, or school district or charter school policy.
[6.12.12.9 NMAC – N, 7/28/2020]

6.12.12.10 LIMITING SCOPE OF WORK OF ARMED SCHOOL SECURITY PERSONNEL:

Each school board or governing body of a charter school shall adopt policies and procedures prohibiting armed school security personnel from performing any other job in the school district or charter school, by title or duty, other than school security, while carrying a firearm. School security personnel do not have the power of arrest or detention as do school resource officers and law enforcement agents.
[6.12.12.10 NMAC – N, 7/28/2020]

6.12.12.11 ADDITIONAL SCHOOL SECURITY PERSONNEL REQUIREMENTS:

A. Prior to school security personnel being permitted to carry firearms as authorized by department rule and local school board or governing body policy, school security personnel shall successfully pass a physical and psychological evaluation to determine suitability to carry a firearm.

(1) The physical examination shall:

(a) be conducted and signed by a licensed medical doctor;

(b) be completed on the department-approved form; and

(c) indicate the individual is fit for duty.

(2) The psychological evaluation shall:

(a) be conducted and signed by a licensed psychologist;

(b) be completed on the department-approved form; and

(c) indicate the individual is fit for duty.

B. The school district or charter school shall bear the cost of the physical and psychological evaluations for current and potential school security personnel.
[6.12.12.11 NMAC – N, 7/28/2020]

6.12.12.12 SCHOOL SECURITY PERSONNEL CONSTRUCTION: Nothing in this rule shall be construed as:

A. Allowing armed school security personnel to carry firearms on school premises if doing so would be a violation of state or federal law; or

B. Applying to school resource officers.
[6.12.12.12 NMAC – N, 7/28/2020]

HISTORY OF 6.12.12 NMAC:
[RESERVED]

SUPERINTENDENT OF INSURANCE, OFFICE OF

This is an amendment to 13.10.27 NMAC, Sections 1, 3, 7, 8, and 9, effective 8/1/2020.

13.10.27.1 ISSUING AGENCY: [New Mexico Public Regulation Commission, Insurance Division] New Mexico Office of Superintendent of Insurance.

[13.10.27.1 NMAC - N, 11/30/2012; A, 8/1/2020]

13.10.27.3 STATUTORY AUTHORITY: Sections [8-8-4,] 59A-2-9, 59A-22-50, 59A-23C-10, 59A-46-51 and 59A-47-46 NMSA 1978.

[13.10.27.3 NMAC - N, 11/30/2012; A, 8/1/2020]

13.10.27.7 DEFINITIONS: As used in this [definition] rule:

A. **“health insurer”** means a person duly authorized to transact the business of health insurance in the state pursuant to the Insurance Code but does not include a person that only issues [a limited-benefit] an excepted benefit policy intended to supplement major medical coverage, including Medicare

supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or that only issues policies for long-term care or disability income;

B. **“direct services”** means services rendered to an individual by a health insurer or a health care practitioner, facility or other provider, including case management, disease management, health education and promotion, preventive services, quality incentive payments to providers and any portion of an assessment that covers services rather than administration and for which an insurer does not receive a tax credit pursuant to the Medical Insurance Pool Act or the Health Insurance Alliance Act; provided, however, that “direct services” does not include care coordination, utilization review or management or any other activity designed to manage utilization or services;

C. **“health care plan”** [means a nonprofit corporation authorized by the superintendent of the insurance division to enter into contracts with subscribers and to make health care expense payments but does not include a person that only issues a limited-benefit policy intended to supplement major medical coverage, including Medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or that only issues policies for long-term care or disability income] has the definition found in Subsection J of Section 59A-47-3 NMSA 1978;

D. **“health maintenance organization”** [means any person who undertakes to provide or arrange for the delivery of basic health care services to enrollees on a prepaid basis, except for enrollee responsibility for copayments or deductibles, but does not include a person that only issues a limited-benefit policy or contract intended to supplement major medical coverage, including Medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or that only issues policies for long-term care or

disability income] has the definition found in Subsection O of Section 59A-46-2 NMSA 1978;

E. “premium”
[means all income received from individuals and private and public payers or sources for the procurement of health coverage, including capitated payments, self-funded administrative fees, self-funded claim reimbursements, and interests less any premium tax paid pursuant to Section 59A-6-2 NMSA 1978 and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance; these premiums shall be gross of any reinsurance] has the definition found in Paragraph (3) of Subsection E of Section 59A-22-50 NMSA 1978;

F. “individually underwritten” means any health care policy, plan or contract issued to an individual or family reflecting the characteristics of the family members covered; these characteristics include, but are not limited to, place of residence, age, gender, and health status;

G. “carrier” [shall mean collectively,] means health maintenance organization, health care plan, and health insurer;

H. “minimum medical loss ratio” means the percentage determined in accordance with Section [13-10-27-8 NMAC] 8 of this rule;

I. “health product lines” [mean] means:

(1) all programs utilized by a health insurer for the offering of products, including but not limited to:

(a) all private programs, including individual, small group and large group;

(b) all public programs, including all Medicaid and Medicare and any related or future programs or products;

(c) all other arrangements for the procurement of health coverage, including capitated arrangements, self-funded arrangements; and

(d) such other programs or arrangements that the superintendent [of the insurance division] may designate by order or bulletin; but not

(2) programs of [HPPA] HIPAA-excepted benefits intended to supplement major medical coverage, including Medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or policies for long-term care or disability income;

J. “product” [shall] means any policy, plan or contract related to the provision of health care services offered, arranged or facilitated by an insurer, including blanket health insurance; and

K. “blanket health insurance” has the definition found in Subsection A of Section 59A-23-2 NMSA 1978.

[13.10.27.7 NMAC - N, 11/30/2012; A, 8/1/2020]

13.10.27.8 MINIMUM MEDICAL LOSS RATIOS FOR ALL HEALTH PRODUCT LINES [EXCEPT INDIVIDUALLY UNDERWRITTEN HEALTH PRODUCT LINES]:

A. General requirement. Carriers shall meet the minimum medical loss ratio established, and in the manner calculated, under this rule.

B. Measurement period. Compliance with the minimum medical loss ratio shall be measured over a rolling three-year period. The initial measurement period shall be the years, 2010, 2011 and 2012. Each year thereafter, the subsequent year shall be added to the rolling three-year period and the oldest year shall be removed. For example, the second measurement [year] period shall be 2011, 2012 and 2013.

C. Aggregation. [Loss] Medical loss ratios shall be calculated on a consolidated level within a state, with experience allocated to state based upon the situs of the contract. Experience of all affiliates shall be accumulated to the following levels:

(1) individually underwritten health policies; [and]
(2) [all other] small group policies;
(3) large group policies and all other policies; and
(4) total of all group policies combined.

D. Frequency. [Loss] Medical loss ratios shall be calculated annually by carriers that issue products through health product lines, beginning in 2013 covering the period 2010 through 2012.

E. Timeline. [Loss] Medical loss ratios shall be calculated using claim data incurred during the three-year measurement period and paid before [April 1] June 30 of the year following the that period. No adjustment may be made for incurred but not reported (IBNR) claims. The compliance requirement form set forth in [13-10-27-9 NMAC] Section 9 of this rule shall be the basis for the medical loss ratio calculation and will be filed with the [insurance division] superintendent by [April 15] July 31 of the year following the measurement period. [This form is first due on April 15, 2013.]

F. Calculation. The numerator of the loss ratio calculation shall be direct services, as defined by this rule less pharmacy rebates and incurred or paid claims associated with self-funded plans and capitated contracts. The denominator of the calculation shall be premium, as defined by this rule less capitated contract premiums, self-funded administrative fees, self-funded claim reimbursements, any premium tax paid pursuant to the Insurance Premium Tax Act, and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance. This calculation is deemed to be fully credible due to the three-year time period used and the aggregation levels required. The New Mexico reimbursements and medical loss ratios for small group, large group, and all other policies shall be calculated collectively across all health product lines. The

federal reimbursements paid or due pursuant to 45 CFR Part 158 shall be subtracted from the New Mexico reimbursement to calculate the final New Mexico reimbursement, which cannot be lower than zero.

G. Minimum medical loss ratio levels. [The minimum loss ratio for individually underwritten health policies shall be 80%. The minimum loss ratio for other policies, calculated collectively, shall be 85%.] The minimum medical loss ratio levels applicable to the policy aggregation in Subsection C of this section shall be as follows:

(1) the minimum medical loss ratio level for individually underwritten policies shall be eighty percent;

(2) the minimum medical loss ratio level for small group policies shall be eighty percent;

(3) the minimum medical loss ratio level for large group policies and all other policies shall be eighty-five percent; and

(4) the minimum medical loss ratio level for the total of all group policies shall be eighty-five percent.

H. Compliance with minimum medical loss ratio. With compliance requirement form set forth in section 9 of this rule, each carrier shall submit to the [insurance division] superintendent either:

(1) a statement signed by a qualified actuary that the minimum medical loss ratio requirements have been met; or

(2) a plan to [return excess premium charged] make the required reimbursements to policyholders.

I. Actions required upon noncompliance with requirements. [The plan to return excess premiums shall provide prospective premium credits to each policyholder in the affected segment (i.e., individually underwritten health policies or all other policies). The premium credits shall cover July through December of the year following the measurement

period. At the end of this period, and no later than March 31 of the year following the premium credits, the carrier shall demonstrate that refunds in the required amount have been made. The prospective refund shall be made on a per subscriber basis, unless an alternative basis is approved by the superintendent of the insurance division, and shown separately on the policyholder's monthly (or other frequency) bill. This credit may reflect the family composition of the rating structure used for each policyholder.] The plan to make the required reimbursements to policyholders shall provide either prospective premium credits or refunds to each policyholder who was enrolled in the affected segment (i.e., individually underwritten health policies, small group, or all other policies) during the last year of the measurement period and provide that any such refund for a policyholder be reduced by the amount of any rebate owing to the policyholder for a medical loss ratio reporting year pursuant to 45 CFR Part 158 that coincides with such measurement period. The premium credits or refunds shall be reflected in either a one-time payment or premium credit or in multiple payments or premium credits. Any such credits or refunds must be provided no later than the end of December of the year following the applicable measurement period. The deadline for reimbursement may be extended if the premium credits exceed the monthly premiums due by the end of December of the year following the applicable measurement period. Any overage may be applied to succeeding premium payments until the full amount of any refund has been credited. No later than March 31st of the second year following the applicable measurement period the carrier shall demonstrate that the refunds in the required amounts have been made or that premium credits are being applied until such time as the full amount on the refund has been credited. The prospective premium credits or refunds shall be made on a per subscriber basis, unless an alternative basis is

approved by the superintendent of insurance and shown separately on the policyholder's monthly (or other frequency) bill. This credit may reflect the family composition of the rating structure used for each policyholder. Any premium credit or refund to policyholders shall be based only upon the medical loss ratios calculated for individually underwritten policies and for the total of all group policies calculated collectively across all group health product lines.

[13.10.27.8 NMAC - N, 11/30/2012; A, 8/1/2020]

13.10.27.9 COMPLIANCE REQUIREMENT FORM:

[Measurement Period] _____
[Submitting Entity] _____

January 1, _____
~~20xx - December 31,~~
~~20xx - Covered Affiliates:~~ _____

[Individually Underwritten Policies] _____
[All Other Policies] _____

A Premium _____
\$ _____
\$ _____

B Self-Funded Claim _____
Administrative Fees _____
\$ _____
\$ _____

C Self-Funded _____
Administrative Fees _____
\$ _____
\$ _____

D Premium Tax _____
\$ _____
\$ _____

E Fees Associated with Health _____
Insurance Exchanges _____
\$ _____
\$ _____

F Subtotal (A+B+C-D-E) _____
80.0% _____
\$ 85.0% _____

G	Minimum Allowed Loss Ratio	\$ _____ \$ _____
H	G x F	\$ _____ \$ _____
I	Incurred and Paid Claims*	\$ _____ \$ _____
J	Case Management Fees Paid To Providers	\$ _____ \$ _____
K	Disease Management Fees Paid to Providers	\$ _____ \$ _____
L	Health Education/Promotion Fees Paid to Providers	\$ _____ \$ _____
M	Preventive Services	\$ _____ \$ _____
N	Quality Incentive Payments to Providers	\$ _____ \$ _____
O	Assessments**	\$ _____ \$ _____
P	Pharmacy Rebates	\$ _____ \$ _____
Q	Subtotal (H+J+L+M+N+O-P)	\$ _____ \$ _____
	REFUND DUE (H-Q), if greater than zero	\$ _____ \$ _____
	CALCULATED LOSS RATIO (Q divided by F)	_____ %

_____ %
* Includes capitation payments.
** Portion that covers claim costs rather than administration for which the insurer did not receive a tax credit.]

A. An Insurer shall use an OSI approved form to submit minimum loss ratios.

B. The form shall be posted to the OSI website.
[13.10.27.9 NMAC - N, 11/30/2012; A, 8/1/2020]

**HISTORY OF 13.10.27 NMAC:
[RESERVED]**

**WORKFORCE SOLUTIONS,
DEPARTMENT OF**

This is an amendment to 11.2.4 NMAC adding section 15, effective July 28, 2020

11.2.4.15 Planning Regions:

A. Background
(1) WIOA envisions a workforce development system that is customer-focused on both the job seeker and businesses, and is able to anticipate and respond to the needs of regional economies. Strong collaboration among government, local employers and industry, training providers and educational institutions, service and advocacy organizations, philanthropy and other local organizations is often needed to support and deliver effective workforce services. It requires Chief Elected Officials (CEOs) and local workforce development boards (LWDB) to design and govern the system regionally, to align workforce policies and services with regional economies, and to support service delivery strategies tailored to these needs. To support this regional approach, WIOA requires states to identify planning regions. Per section 106 (a)(2) of WIOA, the state shall identify:

(a) _____ which regions are comprised of one

local workforce development area (local area) that is aligned with the region;

(b) _____ which regions are comprised of two or more local areas that are collectively aligned with the planning region; and

(c) _____ which, of the planning regions, are interstate areas contained within two or more states, and consist of labor market areas, economic development areas, or other appropriate contiguous sub-areas of those states.

(2) As part of the identification of planning regions, New Mexico also uses the following criteria:

(a) a single labor market;

(b) a common economic development area;

(c) possession of federal and non-federal resources to administer workforce development activities;

(d) commuting patterns, which shows movement of workers from their residence to their workplace;

(e) population centers;

(f) similar economic bases, including percentage of employment in a particular industry;

(g) labor force conditions, including labor force data and unemployment data; and

(h) industrial composition, including industry employment patterns (jobs by industry and share of total employment by industry).

(3) Planning regions are areas identified by the state. The purpose of planning regions is to promote alignment of workforce development activities and resources with larger regional economic development areas and available resources to provide coordinated and efficient services to both individuals and employers. The development of comprehensive regional partnerships facilitates this

alignment and provides support for the execution and implementation of sector strategies and career pathways. Identification of planning regions is important, because regional economic development areas are established in order to ensure that training and employment services:

- (a) support economic growth and related employment opportunities;
- (b) meet the needs of individuals, including those with barriers to employment;
- (c) meet the skill competencies and unique cultural requirements of the region; and
- (d) meet the specific needs and required skills of regional employers.

B. State requirements:

(1) The state is required to identify regions in consultation with local CEOs and LWDBs. In New Mexico, consultation will entail one or more of the following activities:

- (a) collaboration with the State Workforce Development Board;
- (b) collaboration with the New Mexico Department of Economic Development;
- (c) e-mail notification of proposed planning regions to the CEOs and LWDB directors with the opportunity to provide comment;
- (d) dialogue with one or more of the following associations which provide support and guidance to the CEOs and LWDBs:

- (i) New Mexico Municipal League; and
- (ii) New Mexico Association of Counties;

- (e) in-person meetings or teleconferences with individual CEOs and LWDBs;
- (f) presentations at training events or at CEO or LWDB meetings; and
- (g) through the legal public comment process for workforce policies.

(2) In addition to federal WIOA laws and the state's criteria for identification of planning regions, the following guidelines have been used to identify and designate planning regions in New Mexico:

- (a) a single local area may be split across two planning regions;
- (b) local areas must be contiguous;
- (c) a local area may share part of one planning region (interstate planning); and
- (d) alignment with statewide economic development regions.

(3) Planning regions shall be identified using state criteria and the associated WIOA guidelines. Announcements of planning regions shall be included in correspondence and guidance documents issued by NMDWS and communicated to the local areas when regional and local planning is conducted.

(4) NMDWS may identify interstate planning regions if necessary. Announcements regarding interstate planning regions shall be communicated to the local areas when regional and local planning is conducted. If interstate planning regions have not been identified by NMDWS, the state may collaborate with other states for the purposes of that other state's regional or local planning requirements.

(5) The identified regions are required to be included in local area planning. Local workforce development boards are required to coordinate and include regional plans into their local plan every four years. Additionally, LWDBs will be required to address and include activities with planning regions that share common labor markets. Regional and local planning activities include but are not limited to the following:

- (a) the preparation of a regional plan;
- (b) the establishment of regional service strategies, including the use of cooperative service agreements;

(c) the development and implementation of sector strategies for in-demand industry sectors or occupations for the planning region;

(d) the collection and analysis of regional labor market data;

(e) the coordination of administrative cost arrangements, including the pooling of funds for administrative costs, as appropriate;

(f) the coordination of transportation and other supportive services, as appropriate;

(g) the coordination of services with regional economic development service partners and providers;

(h) development of strategies to serve common employers;

(i) coordination of rapid response and layoff aversion activities; and

(j) identification, development, and coordination of training programs and providers to support job seekers and employers;

(6) The state workforce development board will review or modify the identification of single local areas and planning regions when local area designation is reviewed or modified, including local area subsequent designation, ongoing review of local area subsequent designation, and local area re-designation.

(7) NMDWS will assist the planning regions and local areas in obtaining the necessary labor market data, operational data elements, and any other data that will support the process of regional and local planning. NMDWS will also provide ongoing support to meet the purpose of the regional and local planning.

(8) Each planning region, including the individual local workforce development board, in partnership with CEO's, shall prepare, submit, and obtain approval of a local plan

that includes a description of the policies, procedures, and local activities to be carried out in the regional area containing all the requirements outlined in Section 679.560 of Title 20 the Code of Federal Regulations.

C. Technical Assistance:
(1) Ongoing support, guidance, training, and technical assistance on development of local and regional planning is available to all local areas.
(2) Requests for technical assistance may be sent to NMDWS to the attention of the WIOA Department, 401 Broadway NE, PO Box 1928, Albuquerque, NM 87103.
 [11.2.4.15 NMAC – N, 7/28/2020]

WORKFORCE SOLUTIONS, DEPARTMENT OF

This is an emergency amendment to 11.3.300 NMAC, Section 320, effective 7/28/2020.

Explanatory note: NMDWS will be issuing a temporary emergency rule which is implemented and effective during the current state of health emergency and until the governor’s directive regarding DOVID-19 is lifted. The rule is being amended to avoid causing an imminent peril to the public health, safety or welfare. This temporary emergency process does not permanently amend or repeal the existing rule. The emergency rule will only remain in effect for 180 days following the effective date unless a permanent rule takes effect under the normal rule making process.

11.3.300.320 WORK SEARCH REQUIREMENT:

A. WORK SEARCHES: To qualify for continued benefits, a claimant must:
(1) be a member of a union with a hiring hall or a referral hall and meet the union requirements for job referral or placement;

(a) the claimant must be a member in good standing at the time of certification;
(b) the hiring hall or referral hall must be actively seeking to place its members in employment; or
(2) actively seek work by contacting a minimum number of different employers each week during the week for which benefits are claimed, as directed by department representatives. It is not mandatory that the work searches occur on different days of the week;
(a) a claimant may contact the same employer more than one time during a given week, which may count for multiple searches if the claimant applies for multiple jobs with the same employer so long as the applications are distinct and separate positions;
(b) a claimant may list jobs applied for through the New Mexico department of workforce solutions workforce connection centers, the New Mexico state personnel office (SPO), America’s job bank, Workforce Innovation and Opportunity Act (WIOA) partners and similar programs as approved from time to time by the department as valid work search contacts for each week of claim certification;
(3) Other unions may apply for work search waivers by submitting a request in writing to the secretary, who may upon discretion make an exception to the work search requirements.
B. in order to qualify for continued benefits, interstate, if New Mexico is the liable state, claimants must seek work within the week for which benefits are being claimed and actively seek work by contacting a minimum of two different employers each week, or if a union member, actively seek work by contacting the union as required by the union in order to be eligible for job referral or placement
C. claimants must keep a record of the name, address and

telephone number or electronic mail address of each employer contacted in the event of an audit and must retain a copy of any email confirmation received as a result of applying for a job on-line;
(1) This information must be provided to department representatives upon request;
(2) the claimant must provide the requested information no later than 10 calendar days from the date of the department’s request;
(3) the claimant must provide sufficient information for the department to verify the claimant’s work search efforts. If the claimant is able to provide specific job numbers or requisition numbers for the job applied for, this information will be considered sufficient to verify the contact;
(4) failure to provide the required information without good cause may result in a denial of benefits for the week in question;
(5) if the information provided is insufficient to verify a valid work search occurred, benefits for the week in question will be denied;
(6) if a denial is imposed, the effective period may include weeks for which the claimant has already been paid benefits. Such benefits would constitute an overpayment which would be recouped pursuant to Section 51-1-38 NMSA 1978;
(7) any denial imposed for failure to provide the required information may be appealed pursuant to 11.3.300.500.9 NMAC;
D. A claimant whose work search is deemed inadequate or invalid shall be denied benefits for the week in question. A rebuttable presumption that the claimant failed to meet the active work-search requirements for that week will be raised in all cases where a claimant’s work search is deemed inadequate or invalid. In order to overturn the denial of benefits the

claimant shall provide proof that the claimant did meet the active work-search requirements for that week. If a denial is imposed, the effective period may include weeks for which the claimant has already been paid benefits. Such benefits would constitute an overpayment which would be recouped pursuant to Section 51-1-38 NMSA 1978. Any denial imposed on the basis of an inadequate or invalid work search may be appealed pursuant to 11.3.300.500.9 NMAC.

E. The department may waive the work search requirements for claimants who the department determines are on temporary lay-off status from their regular full-time employment upon receipt of an assurance from the employer that the lay-off shall not exceed four weeks or upon receipt of an express offer in writing of substantially full-time work which will begin within a period not exceeding four weeks. Such waivers shall apply only to the four-week period covered on the determination. A claimant who receives a determination granting a waiver for the four-week period shall promptly transmit any change to the claimant's recall date or start date to the department. The claimant's eligibility shall then be subject to redetermination pursuant to Subsection A of 11.3.300.308 NMAC.

F. In cases where the department determines a claimant is in a temporary lay-off status due to a government furlough or shutdown, the department may waive the work search requirements during the period of the temporary lay-off for all affected claimants.

G. In the event of a public health emergency declaration issued by the governor, work searches shall be waived for all claimants at the discretion of the secretary until the end of the public health crisis.

[11.3.300.320 NMAC - Rp, 11.3.300.320 NMAC, 11/1/2018; A/E, 1/9/2019 A, 10/29/2019; A/E, 7/28/2020]

End of Adopted Rules

Other Material Related to Administrative Law

**HEALTH, DEPARTMENT
OF**

**PUBLIC HEALTH ORDER
NEW MEXICO DEPARTMENT
OF HEALTH CABINET
SECRETARY KATHYLEEN M.
KUNKEL**

JULY 13, 2020

**Public Health Emergency Order
Clarifying that Current Guidance
Documents, Advisories, and
Emergency Public Health Orders
Remain in Effect; and Amending
the March 23, 2020, April 6, 2020,
April 11, 2020, April 30, 2020, May
5, 2020, May 15, 2020, May 27,
2020, June 1, 2020, June 12, 2020,
June 15, 2020, and June 30, 2020
Public Health Emergency Orders
Closing All Businesses and Non-
Profit Entities Except for those
Deemed Essential and Providing
Additional Restrictions on Mass
Gatherings Due to COVID-19**

PREFACE

The purpose of this amended Public Health Emergency Order is to amend restrictions on mass gatherings and business operations, which were implemented in response to the spread of the Novel Coronavirus Disease 2019 (“COVID-19”). Continued social distancing and self-isolation measures are necessary to protect public health given the potentially devastating effects that could result from a rapid increase in COVID-19 cases in New Mexico. While this Order continues some loosened restrictions on mass gatherings and business operations, the core directive underlying all prior public health initiatives remains intact; **all New Mexicans should be staying in their homes for all but the most essential activities and services.** When New Mexicans are not in their homes, they must strictly adhere to social

distancing protocols and wear face coverings to minimize risks. These sacrifices are the best contribution that each of us can individually make to protect the health and wellbeing of our fellow citizens and the State as a whole. In accordance with these purposes, this Order and its exceptions should be narrowly construed to encourage New Mexicans to stay in their homes for all but the most essential activities.

It is hereby **ORDERED** that:

1. All current guidance documents and advisories issued by the Department of Health remain in effect.

2. The following Public Health Emergency Orders remain in effect through the current Public Health Emergency and any subsequent renewals of that Public Health Emergency or until they are amended or rescinded:

A. March 13, 2020 Public Health Emergency Order to Temporarily Limit Nursing Home Visitation Due to COVID-19 ;

B. April 30, 2020 Public Health Emergency Order Modifying Temporary Restrictions on Non-Essential Health Care Services, Procedures, and Surgeries; and

C. March 24, 2020 Public Health Emergency Order Temporarily Regulating the Sale and Distribution of Personal Protective Equipment Due to Shortages Caused by COVID-19.

3. The June 15, 2020 Public Health Emergency Order Amending the March 23, 2020, April 6, 2020, April 11, 2020, April 30, 2020, May 5, 2020, May 15, 2020, May 27, 2020, June 1, 2020, June 12, 2020 and June 15, 2020 Public Health Emergency Orders Closing All Businesses and Non-Profit Entities Except for those Deemed Essential and Providing Additional Restrictions on Mass

Gatherings Due to COVID-19 is hereby amended as follows:

ORDER

WHEREAS, on March 11, 2020, because of the spread of the novel Coronavirus Disease 2019 (“COVID-19”), Michelle Lujan Grisham, the Governor of the State of New Mexico, declared that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked her authority under the All Hazards Emergency Management Act;

WHEREAS, Governor Michelle Lujan Grisham has renewed the declaration of a Public Health Emergency through July 30, 2020;

WHEREAS, COVID-19 continues to spread in New Mexico and nationally. Since Executive Order 2020-004 was issued, confirmed COVID-19 infections in New Mexico have risen to almost 15,000 and confirmed cases in the United States have risen to more than 3.1 million, with significant recent spikes in cases in some of our neighboring states;

WHEREAS, the further spread of COVID-19 in the State of New Mexico poses a threat to the health, safety, wellbeing and prosperity of the residents in the State due to, among other things, illness from COVID-19, illness-related absenteeism from employment (particularly among public safety and law enforcement personnel and persons engaged in activities and businesses critical to the economy and infrastructure of the State), potential displacement of persons, and closures of schools or other places of public gathering;

WHEREAS, social distancing and the consistent and proper use of face coverings in public spaces are the most effective ways New Mexicans can minimize the spread of COVID-19 and mitigate the potentially devastating

impact of this pandemic in New Mexico; and

WHEREAS, the New Mexico Department of Health possesses legal authority pursuant to the Public Health Act, NMSA 1978, Sections 24-1- 1 to -40, the Public Health Emergency Response Act, NMSA 1978, Sections 12- 10A-1 to - I 0, the Department of Health Act, NMSA 1978, Sections 9-7-1 to -18, and inherent constitutional police powers of the New Mexico state government, to preserve and promote public health and safety, to adopt isolation and quarantine, and to close public places and forbid gatherings of people when deemed necessary by the Department for the protection of public health.

NOW, THEREFORE, I, Kathyleen M. Kunkel, Cabinet Secretary of the New Mexico Department of Health, in accordance with the authority vested in me by the Constitution and the Laws of the State of New Mexico, and as directed by the Governor pursuant to the full scope of her emergency powers under the All Hazard Emergency Management Act, do hereby declare the current outbreak of COVID-19 a condition of public health importance as defined in the New Mexico Public Health Act, NMSA 1978, Section 24- 1-2(A) as an infection, a disease, a syndrome, a symptom , an injury or other threat that is identifiable on an individual or community level and can reasonably be expected to lead to adverse health effects in the community, and that poses an imminent threat of substantial harm to the population of New Mexico.

The following definitions are adopted for the purposes of this Order:

Definitions: As used in this Public Health Order, the following terms shall have the meaning given to them, except where the context clearly requires otherwise:

(1) "Essential business" means any business or non-profit entity falling within one

or more of the following categories:

a. Health care operations including hospitals, walk-in-care health facilities, pharmacies, medical wholesale and distribution, home health care workers or aides for the elderly, emergency dental facilities, nursing homes, residential health care facilities, research facilities, congregate care facilities, intermediate care facilities for those with intellectual or developmental disabilities, supportive living homes, home health care providers, drug and alcohol recovery support services, and medical supplies and equipment manufacturers and providers;

b. Homeless shelters, food banks, and other services providing care to indigent or needy populations;

c. Childcare facilities necessary to provide services to those workers employed by essential businesses, essential non-profit entities, and other operating non-essential businesses;

d. Grocery stores, supermarkets, food banks, farmers' markets and vendors who sell food, convenience stores, and other businesses that generate the majority of their revenue from the sale of canned food, dry goods, fresh fruits and vegetables, pet food, feed, and other animal supply stores, fresh meats, fish, and poultry, and any other household consumer products;

e. Farms, ranches, and other food cultivation, processing, or packaging operations;

f. All facilities routinely used by law enforcement personnel, first responders, firefighters, emergency management personnel, and dispatch operators;

g. Infrastructure operations including, but not limited to, public works construction, commercial and residential construction and maintenance, airport operations, public transportation, airlines, taxis, private transportation providers,

transportation network companies, water, gas, electrical, oil drilling, oil refining, natural resources extraction or mining operations, nuclear material research and enrichment, those attendant to the repair and construction of roads and highways, gas stations, solid waste collection and removal, trash and recycling collection, processing and disposal, sewer, data and internet providers, data centers, technology support operations, and telecommunications systems;

h. Manufacturing operations involved in food processing, manufacturing agents, chemicals, fertilizer, pharmaceuticals, sanitary products, household paper products, microelectronics/semi-conductor, primary metals manufacturers, electrical equipment, appliance, and component manufacturers, and transportation equipment manufacturers;

i. Services necessary to maintain the safety and sanitation of residences or essential businesses including security services, towing services, custodial services, plumbers, electricians, and other skilled trades;

j. Veterinary and livestock services, animal shelters, and facilities providing pet adoption, grooming, daycare, or boarding services;

k. Media services including television, radio, and newspaper operations;

l. Automobile repair facilities, bike repair facilities, and retailers who generate the majority of their revenue from the sale of automobile or bike repair products. Contactless car washes, which are those that do not require person-to-person interaction between customers and employees, are permitted to operate;

m. Hardware stores and self-storage facilities;

n. Laundromats and dry cleaner services;

o. Utilities, including their contractors,

suppliers, and supportive operations, engaged in power generation, fuel supply and transmission, water and wastewater supply;

p.

Funeral homes, crematoriums and cemeteries;

q.

Banks, credit unions, insurance providers, payroll services, brokerage services, and investment management firms;

r.

Real estate services including brokers, title companies, and related services;

s.

Businesses providing mailing and shipping services, including post office boxes;

t.

Laboratories and defense and national security-related operations supporting the United States government, a contractor to the United States government, or any federal entity;

u.

“Restaurants” are those operations that generated at least 50% of their sales from dine-in services from the sale of food during the last calendar year. Sales made to customers for off-site consumption such as the sale of growlers, wholesale revenues, and to-go items are excluded from this calculation. “Local breweries” are those businesses licensed pursuant to NMSA 1978, § 60-6A-26. 1. Restaurants and local breweries may provide dine-in service, but they may not exceed 50% occupancy of the maximum occupancy of any enclosed space on their premises, as determined by the relevant fire marshal or fire department. Restaurants and local breweries choosing to open must ensure that there is at least six feet of distance between tables. No more than six patrons may be seated at any single table. No bar or counter seating is permitted. Dine-in services shall be provided only to patrons who are seated at tables, and patrons may not consume food or beverages while standing. Restaurants and local breweries must operate in compliance with applicable occupancy restrictions

and COVID-Safe Practices (CSPs) for Restaurants” section of the “All Together New Mexico: COVID-Safe Practices for Individuals and Employers”. Local wineries and distillers may operate but only for carry out service.

v.

Professional services, such as legal or accounting services, but only where necessary to assist in compliance with legally mandated activities; and

w.

Logistics, and also businesses that store, transport, or deliver groceries, food, materials, goods or services directly to residences, retailers, government institutions, or essential businesses.

(2) “Individuals”

means natural persons.

(3) “Gathering” means

any grouping together of individuals in a single connected location.

(4) “Mass gathering”

means any public gathering, private gathering, organized event, ceremony, parade, or other grouping that brings together five (5) or more individuals in a single room or connected space, confined outdoor space or an open outdoor space. “Mass gathering” does not include the presence of five (5) or more individuals where those individuals regularly reside. “Mass gathering” does not include individuals who are public officials or public employees in the course and scope of their employment.

(5) “Houses of

worship” means any church, synagogue, mosque, or other gathering space where persons congregate to exercise their religious beliefs.

(6) “Close-contact

business” includes barbershops, hair salons, tattoo parlors, nail salons, spas, massage parlors, esthetician clinics, tanning salons, guided raft tours, guided balloon tours, gyms, and personal training services for up to two trainees.

(7) “Recreational

facilities” include indoor movie theaters, museums, bowling alleys, miniature golf, arcades, amusement

parks, concert venues, event venues, performance venues, go-kart courses, adult entertainment venues, and other places of indoor recreation or indoor entertainment. (8)

(8) “Bars” are defined as food and beverage service establishments that derived more than 50% of their revenue in the prior calendar year from the sale of alcoholic beverages. Bars must remain closed during the pendency of this Public Health Order.

(9) “COVID-

Safe Practices” (“CSPs”) are those directives, guidelines, and recommendations for businesses and other public operations that are set out and memorialized in the document titled “All Together New Mexico: COVID-Safe Practices for Individuals and Employers”. That document may be obtained at the following link <https://cv.nmhealth.org/covid-safe-practices/>.

(10) “Places of lodging”

means all hotels, motels, RV parks, co-located short-term condominium rentals with a central check-in desk, and short-term vacation rentals.

(11) “Retail space”

means any essential business that sells goods or services directly to consumers or end-users such as grocery stores or hardware stores and includes the essential businesses identified in the categories above: l(d), l(1), l(m), l(p), and l(s).

I HEREBY DIRECT AS FOLLOWS:

(1) Except as provided

elsewhere in this Order, all “mass gatherings” are hereby prohibited under the powers and authority set forth in the Public Health Act. An indoor or outdoor parade of any sort is a mass gathering; parades are therefore prohibited under this Order.

(2) “Houses of

worship” may hold services and other functions provided that they comply with the “COVID-Safe Practices (CSPs) for Houses of Worship” section of the “All Together New Mexico: COVID-Safe Practices for Individuals and

Employers”. Further, “houses of worship” may not exceed 25% of the maximum occupancy of any enclosed building, as determined by the relevant fire marshal or fire department. Nothing in this order is intended to preclude these faith-based institutions from holding services through audiovisual means.

(3) Essential businesses” may open but must operate in accordance with the pertinent “COVID-Safe Practices (CSPs)” section(s) of the “All Together New Mexico: COVID-Safe Practices for Individuals and Employers and also any identified occupancy restrictions.

(4) “Recreational facilities” must remain closed.

(5) Any business that is not identified as an “essential business” or a “recreational facility” may open provided that the total number of persons situated within the business does not exceed 25% of the maximum occupancy of any enclosed space on the business’s premises, as determined by the relevant fire marshal or fire department.

(6) Businesses identified as a “retail space” may operate provided that the total number of persons situated within the business does not exceed 25% of the maximum occupancy of any enclosed space on the business’s premises, as determined by the relevant fire marshal or fire department. Any business opening pursuant to this provision must comply with the pertinent CSP’s set out in the “All Together New Mexico: COVID-Safe Practices for Individuals and Employers”. A “retail space” may not allow a person who is without a mask or multilayer cloth face covering to enter the premises except where that person is in possession of a written exemption from a healthcare provider.

(7) Indoor shopping malls are permitted to operate provided that the total number of persons within the mall at any given time does not exceed 25%

of the maximum occupancy of the premises, as determined by the relevant fire marshal or fire department. Further, loitering within the indoor shopping mall is not permitted and food courts must remain closed.

(8) “Close contact businesses” may operate at up to 25% of the maximum occupancy of any enclosed space on the business’s premises, as determined by the relevant fire marshal or fire department, but may not conduct group fitness classes. All individuals inside a “close contact business” must wear face-coverings.

(9) Public swimming pools may open but such facilities are limited to lane-swimming and lessons with up to two students only. Play and splash areas shall be closed. Public swimming pools may not exceed 50% of their maximum occupancy.

(10) If customers are waiting outside of a business, the business must take reasonable measures to ensure that customers maintain a distance of at least six-feet from other individuals and avoid person-to-person contact.

(11) Bars are not permitted to operate other than for take-out and delivery if otherwise permitted under their applicable licenses.

(12) “Places of lodging” shall not operate at more than 50% percent of maximum occupancy. Health care workers who are engaged in the provision of care to New Mexico residents or individuals utilizing lodging facilities for extended stays, as temporary housing, or for purposes of a quarantine or isolation period shall not be counted for purposes of determining maximum occupancy. All places of lodging should comply with the “COVID-Safe Practices (CSPs) for Hotels, Resorts, & Lodging” section of the “All Together New Mexico: COVID-Safe Practices for Individuals and Employers”. In the case of vacation rentals, occupancy shall be determined based upon the number

properties managed by a property manager.

(13) Unless a healthcare provider instructs otherwise, all individuals shall wear a mask or multilayer cloth face covering in public settings except when eating, drinking, or exercising. Further, all individuals should comply with the “COVID-Safe Practices (CSPs) for All New Mexicans” section of the “All Together New Mexico: COVID Safe Practices for Individuals and Employers”.

(14) All casinos shall close during the pendency of this Order. This directive excludes those casinos operating on Tribal lands. Horse racing facilities may operate without spectators.

(15) This Order does not limit animal shelters, zoos, and other facilities with animal care operations from performing tasks that ensure the health and welfare of animals. Those tasks should be performed with the minimum number of employees necessary, for the minimum amount of time necessary, and with strict adherence to all social distancing protocols.

(16) Golf courses may open provided that they operate in accordance with the “COVID-Safe Practices (CSPs) for Golf Course” section of the “All Together New Mexico: COVID-Safe Practices for Individuals and Employers”.”. Restaurants and other golf course concessions must adhere to operative CSP’s.

(17) Outdoor tennis facilities may open for outdoor use only and provided that they operate in accordance with the pertinent “All Together New Mexico: COVID-Safe Practices for Individuals and Businesses”.

(18) Organized amateur contact sports are prohibited. For purposes of this order, “contact sports” includes, inter alia, football, wrestling, basketball, and soccer. This prohibition extends to adult or youth recreational leagues and club sports, as well as any school-sponsored or school-sanctioned leagues and teams. This prohibition

should be broadly construed and is intended to include organized practices and games and any other in-person group activities.

(19) State parks may open on a modified basis and subject to staff availability, and shall only be open to New Mexico residents. They may only be open for day use. Camping areas, visitor centers, and any other large enclosed indoor spaces normally open to the public shall remain closed. As a condition of entering a state park, all visitors must demonstrate proof of residency through one of the following means: a New Mexico license plate on their vehicle; a New Mexico driver's license or ID card; a valid New Mexico vehicle registration; a federal document attesting to residency; or a military identification.

(20) Summer youth programs may operate on a limited basis that complies with the pertinent CSP's set out in the "All Together New Mexico: COVID-Safe Practices for Individuals and Employers".

(21) The New Mexico Department of Public Safety, the New Mexico Department of Homeland Security and Emergency Management, the Department of the Environment, and all other State departments and agencies are authorized to take all appropriate steps to ensure compliance with this Order.

(22) In order to minimize the shortage of health care supplies and other necessary goods, grocery stores and other retailers are hereby directed to limit the sale of medications, durable medical equipment, baby formula, diapers, sanitary care products, and hygiene products to three items per individual. NMSA 1978, § 12-IOA-6 (2012).

I FURTHER DIRECT as follows:

(1) This Order shall be broadly disseminated in English, Spanish and other appropriate languages to the citizens of the State of New Mexico.

(2) This Order declaring restrictions based upon the existence of a condition of public health importance shall not abrogate any disease-reporting requirements set forth in the New Mexico Public Health Act.

(3) Nothing in this Order is intended to restrain or preempt local authorities from enacting more stringent restrictions than those required by the Order.

(4) This Order shall take effect on July 13, 2020 and remain in effect through July 30, 2020.

I FURTHER ADVISE the public to take the following preventive precautions:

- **New Mexico citizens should stay at home and undertake only those outings absolutely necessary for their health, safety, or welfare.**
- Retailers should take appropriate action consistent with this order to reduce hoarding and ensure that all New Mexicans can purchase necessary goods.
- Avoid crowds.
- Avoid all non-essential travel including plane trips and cruise ships.

DONE AT THE EXECUTIVE OFFICE THIS 13TH DAY OF JULY 2020

ATTEST:
/S/ MAGGIE TOULOUSE
OLIVER
SECRETARY OF STATE

WITNESS MY HAND AND THE GREAT SEAL OF THE STATE OF NEW MEXICO

/S/ KATHLEEN M. KUNKEL
SECRETARY OF THE STATE OF NEW MEXICO DEPARTMENT OF HEALTH

PUBLIC EDUCATION DEPARTMENT

NOTICE OF MINOR, NONSUBSTANTIVE CORRECTION

The New Mexico Public Education Department gives Notice of a Minor, Nonsubstantive Correction to repeal statement for 6.35.2 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:

On the filed Transmittal Form and on the Repeal statement, the rule adoption date text box was incorrectly noted as "6/23/2020". The correct adoption date was "6/11/2020". The correct adoption date was published on the repeal statement.

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

Volume XXXI, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 6	January 14
Issue 2	January 16	January 28
Issue 3	January 30	February 11
Issue 4	February 13	February 25
Issue 5	February 27	March 10
Issue 6	March 12	March 24
Issue 7	March 26	April 7
Issue 8	April 9	April 21
Issue 9	April 23	May 5
Issue 10	May 7	May 19
Issue 11	May 28	June 9
Issue 12	June 11	June 23
Issue 13	July 6	July 14
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Issue 18	September 17	September 29
Issue 19	October 1	October 13
Issue 20	October 15	October 27
Issue 21	October 29	November 10
Issue 22	November 13	November 24
Issue 23	December 3	December 15
Issue 24	December 17	December 29

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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