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# New Mexico Register

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

**Volume XXXIII - Issue 16 - August 23, 2022**

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## **The New Mexico Register**

Published by the Commission of Public Records,  
Administrative Law Division

1205 Camino Carlos Rey, Santa Fe, NM 87507

The *New Mexico Register* is published twice each month by the Commission of Public Records, Administrative Law Division. The cost of an annual subscription is \$270.00. Individual copies of any Register issue may be purchased for \$12.00. Subscription inquiries should be directed to: The Commission of Public Records, Administrative Law Division, 1205 Camino Carlos Rey, Santa Fe, NM 87507.

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# New Mexico Register

Volume XXXIII, Issue 16

August 23, 2022

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## Notices of Rulemaking and Proposed Rules

### EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT

#### NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Early Childhood Education and Care Department (ECECD) hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to issue new regulations for the following new rules as authorized by Subsection (E) of Section 9-29-6 NMSA 1978:

#### **8.9.3 NMAC - CHILD CARE ASSISTANCE REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS FOR CLIENTS AND CHILD CARE PROVIDERS**

#### **8.9.4 NMAC - CHILD CARE LICENSING; CHILD CARE CENTERS, OUT OF SCHOOL TIME PROGRAMS, FAMILY CHILD CARE HOMES, AND OTHER EARLY CARE AND EDUCATION PROGRAMS**

#### **8.9.5 NMAC - NON-LICENSED CHILD CARE; REQUIREMENTS GOVERNING REGISTRATION OF NON-LICENSED FAMILY CHILD CARE HOMES**

#### **8.9.6 NMAC- GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION**

No technical scientific information was consulted in drafting these proposed rules.

**Purpose of proposed rules:** The purpose of the rulemaking is to promulgate 8.9.3 NMAC, 8.9.4 NMAC, 8.9.5 NMAC and 8.9.6 NMAC, which are amended versions of 8.15.2, 8.16.2, 8.17.2, and 8.8.3 NMAC respectively. ECECD is promulgating these rules to provide for its own agency regulations concerning licensed child care,

registered child care, child care assistance, and background check clearances.

#### **Summary of Proposed Rules:**

ECECD is proposing new rules 8.9.3 NMAC, 8.9.4 NMAC, 8.9.5 NMAC and 8.9.6 NMAC to replace and update 8.15.2 NMAC, 8.16.2 NMAC, 8.17.2 NMAC, and 8.8.3 NMAC to: (1) change references from the Children Youth and Families Department (CYFD) to the ECECD as the department responsible for enforcing these regulations; and (2) provide minor updates to the regulations for licensed child care, registered child care, child care assistance, and background check clearances in order to clarify the previously enacted regulations in 8.15.2 NMAC, 8.16.2 NMAC, 8.17.2 NMAC, and 8.8.3 NMAC, or provide necessary updates in order to protect the health, safety, and welfare of children and improve ECECD's child care assistance program.

Copies of the proposed amended rules may be found at ECECD's website at [Regulation Changes | Early Childhood Education & Care Department \(nmececd.org\)](https://www.nmececd.org)/ 30 days prior to the Public Hearing.

**Notice of public rule hearing:** The public rule hearing will be held on September 27th, 2022, from 9:00 a.m. to 10:00 a.m. for 8.9.3 NMAC; 10:00 a.m. to 11:00 a.m. for 8.9.4 NMAC; 1:00 p.m. to 2:00 p.m. for 8.9.5 NMAC; and 2:00 pm to 3:00 p.m. for regulations 8.9.6 NMAC. The hearing will be held in Apodaca Hall of the PERA Building located at 1120 Paseo de Peralta, Santa Fe, New Mexico 87502 and via virtual web platform (Zoom), email, and telephonic means. The public hearing will be conducted in a fair and equitable manner by an ECECD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally

or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact ECECD at ECECD-ECS-PublicComment@state.nm.us or call (505) 231-5820. ECECD will make every effort to accommodate all reasonable requests but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

**Notice of acceptance of written public comment:** Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may be submitted via email to ECECD-ECS-PublicComment@state.nm.us with the subject line "Proposed Regulation Public Comment" or via first class mail to P.O. Drawer 5619, Santa Fe, New Mexico 87502 – 5619. Written comments may be delivered to the Old PERA building at 1120 Paseo De Peralta on September 27th, 2022, from 9:00 a.m. to 3:00 pm. The comment period ends at the conclusion of the public hearing on September 27, 2022.

Any interested member of the public may attend the hearing in person, or via the virtual web platform or telephone, and offer public comments on the proposed rule during the hearing. To access the hearing by telephone: place call 1-346-248-7799, access code 679 596 6590#. You will be able to hear the full hearing and your telephone comments will be recorded. To access the hearing via the internet: please go to <https://nmececdorg.zoom.us/j/6795966590>, and follow the instructions indicated on the screen – Meeting ID (access code): 679 596 6590. This will be a live stream of the hearing. You may also provide comment via Chat during the live streaming.

**ENVIRONMENTAL  
IMPROVEMENT BOARD  
AIR QUALITY BUREAU**

**NEW MEXICO  
ENVIRONMENTAL  
IMPROVEMENT BOARD  
NOTICE OF RULEMAKING  
HEARING TO CONSIDER  
ADOPTION OF PROPOSED  
20.2.101 NMAC – CARBON  
DIOXIDE EMISSION  
STANDARDS FOR COAL-FIRED  
ELECTRIC GENERATING  
FACILITIES, EIB 22-28 (R)**

The New Mexico Environmental Improvement Board (“Board”) will hold a public hearing beginning at 9:00 a.m. on October 26, 2022, and continuing through October 28, 2022, to consider the matter of EIB 22-28 (R), proposed new regulations at 20.2.101 NMAC – *Carbon Dioxide Emissions Standards for Coal-Fired Electric Generating Facilities* (“Part 101”). The hearing will last as long as required to hear all testimony, evidence, and public comment, and is expected to last approximately two days with a third day to be reserved for deliberations.

The hearing will be conducted in a hybrid format to allow for both in-person and virtual participation. The in-person hearing will be held, subject to COVID-19 health precautions and any emergency health orders that may be in effect, at the San Juan College Information Technology Building, Room 7103, 4601 College Blvd., Farmington, NM 87402. Information and instructions on how to join the hearing virtually will be available no later than August 23, 2022 on the Board’s webpage at the following link: <https://www.env.nm.gov/opf/docketed-matters/>. Meeting and access details will also be available on the New Mexico Environment Department (“NMED”) calendar at <https://www.env.nm.gov/events-calendar/>, on the calendar entry corresponding to the hearing start date. All interested persons may submit comments to the Board Administrator through the conclusion

of the hearing via email at [pamela.jones@state.nm.us](mailto:pamela.jones@state.nm.us).

If you have difficulties joining the meeting, please contact Pamela Jones at (505) 660-4305 or Madai Corral at (505)-490-5803.

The purpose of the public hearing is for the Board to consider and take possible action on a petition by the New Mexico Environment Department (“NMED”) requesting the Board to adopt a new regulation at 20.2.101 NMAC. The requested action is mandated pursuant to the New Mexico Air Quality Control Act at Subparagraph (b) of Paragraph (1) of Subsection (B) of Section 74-2-5 NMSA 1978, which requires the Board to adopt standards of performance that limit carbon dioxide emissions to no more than one thousand one hundred pounds per megawatt-hour on and after January 1, 2023 for coal-fired electric generating facilities with an original installed capacity exceeding three hundred megawatts. The proposed regulations would reduce emissions of carbon dioxide emissions from such coal-fired electric generating facilities located in areas of the State within the Board’s jurisdiction.

The proposed regulations and related information, including technical information, may be reviewed on NMED’s web site at <https://www.env.nm.gov/air-quality/proposed-regs>; during regular business hours at the NMED Air Quality Bureau, 525 Camino de los Marquez, Suite 1, Santa Fe, NM 87505; or by contacting the Air Quality Bureau at (505) 476-4300.

Comments on the proposed regulations may be submitted to NMED no later than September 26, 2022, via NMED’s electronic comment portal at <https://nmed.commentinput.com/comment/search#>; via email to [robert.spillers@state.nm.us](mailto:robert.spillers@state.nm.us); or via traditional mail to the NMED Air Quality Bureau at the address above.

Comments may be submitted directly to the Board through the conclusion of the hearing as described below.

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

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing; to introduce exhibits; and to examine witnesses. Persons wishing to present technical testimony must file a written Notice of Intent to present technical testimony with the Board. The requirements for a Notice of Intent can be found at 20.1.1.302 NMAC. Notices of Intent to present direct technical testimony must be received by the Board no later than 5:00 pm on September 14, 2022. Notices of Intent to submit rebuttal technical testimony must be received by the Board no later than 5:00 pm on October 12, 2022. All Notices of Intent should reference the name of the regulation (20.2.101 NMAC – *Carbon Dioxide Emission Standards for Coal-Fired Electric Generating Facilities*); the date of the hearing (October 26, 2022); and the docket number (EIB 22-28 (R)). Notices of Intent to present technical testimony should be submitted to:

Pamela Jones, Board Administrator  
Environmental Improvement Board  
P.O. Box 5469  
Santa Fe, NM 87502  
Tel (505) 660-4305  
Fax (505) 827-2836  
email: [pamela.jones@state.nm.us](mailto:pamela.jones@state.nm.us)

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer exhibits in connection with their



testimony, so long as the exhibit is not unduly repetitious of the testimony.

A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, must file such statement with the Board prior to the close of the hearing. To file a written statement via email, send the statement to [pamela.jones@state.nm.us](mailto:pamela.jones@state.nm.us).

The Board may continue the hearing beyond the expected conclusion date, leaving the hearing record open and continuing to receive comments. Notice of continuation will be posted on the Board's and NMED's website. Additionally, the Board may make a decision on the proposed rule immediately at the conclusion of the hearing, or the Board may convene a meeting at a later date after the hearing to consider action on the proposed rule.

Persons requiring language interpretation services or having a disability who need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing should contact Pamela Jones no later than October 16, 2022 at (505) 660-4305 or [pamela.jones@state.nm.us](mailto:pamela.jones@state.nm.us). TDD or TDY users please access this number via the New Mexico Relay Network (Albuquerque TDD users: (505) 275-7333; outside of Albuquerque: 1-800-659-1779; TTY users: 1-800-659-8331).

**STATEMENT OF NON-DISCRIMINATION:** NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended;

Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact:

Kathryn Becker, Non-Discrimination Coordinator  
New Mexico Environment Department  
1190 St. Francis Dr., Suite N4050  
P.O. Box 5469  
Santa Fe, NM 87502  
(505) 827-2855  
[nd.coordinator@state.nm.us](mailto:nd.coordinator@state.nm.us)

If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.

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## ENVIRONMENTAL IMPROVEMENT BOARD AIR QUALITY BUREAU

### JUNTA DE MEJORA AMBIENTAL DE NUEVO MÉXICO AVISO DE AUDIENCIA DE REGLAMENTACIÓN PARA CONSIDERAR LA ADOPCIÓN DE LA PROPUESTA 20.2.101 NMAC – NORMAS DE EMISIONES DE DIÓXIDO DE CARBONO PARA INSTALACIONES GENERADORAS DE ELECTRICIDAD A BASE DE CARBÓN, EIB 22-28 (R)

La Junta de Mejora Ambiental de Nuevo México ("Junta") celebrará una audiencia pública que comenzará a las 9:00 a. m. el 26 de octubre de 2022, y continuará hasta el 28 de octubre de 2022, para considerar

el asunto de la EIB 22-28 (R), las nuevas regulaciones propuestas en 20.2.101 NMAC – Normas de Emisiones de Dióxido de Carbono para Instalaciones Generadoras de Electricidad a Base de Carbón ("Parte 101"). La audiencia durará el tiempo necesario para escuchar todos los testimonios, pruebas y comentarios del público, y se espera que dure aproximadamente dos días con un tercer día que se reservará para las deliberaciones.

La audiencia se llevará a cabo en un formato híbrido para permitir la participación tanto en persona como de forma virtual. La audiencia en persona se llevará a cabo, sujeta a las precauciones de salud de COVID-19 y cualquier orden de salud de emergencia que pueda estar vigente, en Information Technology Building del Colegio San Juan, Salas 7103, 4601 College Blvd., Farmington, NM 87402. La información y las instrucciones sobre cómo unirse a la audiencia virtualmente estarán disponibles a más tardar el agosto 23, de 2022 en la página web de la Junta en el siguiente enlace: <https://www.env.nm.gov/opf/docketed-matters/>. Los detalles de la reunión y el acceso también estarán disponibles en el calendario del Departamento de Medio Ambiente de Nuevo México ("NMED, por sus siglas en inglés") en <https://www.env.nm.gov/events-calendar/>, en la entrada del calendario correspondiente a la fecha de inicio de la audiencia. Todas las personas interesadas pueden enviar comentarios a la administradora de la Junta hasta la conclusión de la audiencia por correo electrónico a [pamela.jones@state.nm.us](mailto:pamela.jones@state.nm.us).

Si tiene dificultades para unirse a la reunión, comuníquese con Pamela Jones llamando al (505) 660-4305 o con Madai Corral llamando al (505)-490-5803

El propósito de la audiencia pública es que la Junta considere y tome una posible acción sobre la petición del Departamento del Medio Ambiente de Nuevo México ("NMED") que



solicita a la Junta que adopte una nueva regulación en 20.2.101 NMAC. La acción solicitada es obligatoria de conformidad con la Ley de Control de Calidad del Aire de Nuevo México en NMSA 1978 74-2-5(B)(1)(b), que requiere que la Junta adopte normas de desempeño que limiten las emisiones de dióxido de carbono a no más de mil cien libras por megavatio-hora a partir del 1 de enero de 2023 para instalaciones generadoras de electricidad a base de carbón con una capacidad instalada original superior a trescientos megavatios. Las regulaciones propuestas reducirían las emisiones de dióxido de carbono de dichas instalaciones generadoras de electricidad a base de carbón ubicadas en áreas del estado dentro de la jurisdicción de la Junta.

Las regulaciones propuestas e información relacionada, incluida la información técnica, se pueden revisar en el sitio web de NMED en <https://www.env.nm.gov/air-quality/proposed-regs>; durante horas hábiles en la Oficina de Calidad del Aire de NMED, 525 Camino de los Marquez, Suite 1, Santa Fe, NM 87505; o comunicándose con la Oficina de Calidad del Aire llamando al (505) 476-4300.

Los comentarios sobre las regulaciones propuestas pueden enviarse al NMED a más tardar el 22 de septiembre de 2022, a través del portal de comentarios electrónicos de NMED en <https://nmed.commentinput.com/comment/search#>; por correo electrónico a [robert.spillers@state.nm.us](mailto:robert.spillers@state.nm.us); o por correo postal a la Oficina de Calidad del Aire de NMED a la dirección anterior.

Los comentarios pueden enviarse directamente a la Junta hasta la conclusión de la audiencia como se describe a continuación.

La audiencia se llevará a cabo de acuerdo con los Procedimientos de Reglamentación de la Junta en 20.1.1 NMAC; la Ley de Mejora Ambiental de Nuevo México en NMSA 1978, Sección 74-1-9; la Ley de Control de

Calidad del Aire de Nuevo México en NMSA 1978, Sección 72-2-6; y otros procedimientos aplicables.

Todas las personas interesadas tendrán una oportunidad razonable en la audiencia para presentar pruebas, datos, puntos de vista y argumentos pertinentes, en forma oral o por escrito; presentar pruebas instrumentales; y para interrogar a los testigos. Las personas que deseen presentar testimonio técnico deben presentar por escrito un Aviso de Intención de presentar testimonio técnico ante la Junta. Los requisitos para el Aviso de intención se pueden encontrar en 20.1.1.302 NMAC.

La Junta debe recibir los Avisos de Intención de presentar testimonio técnico directo a más tardar a las 5:00 p. m. del 14 de septiembre de 2022. La Junta debe recibir los Avisos de Intención de presentar testimonio técnico de refutación a más tardar a las 5:00 p. m. del 12 de diciembre de 2022. Todos los Avisos de Intención deben hacer referencia al nombre de la regulación (20.2.101 NMAC - Normas de Emisiones de Dióxido de Carbono para Instalaciones Generadoras de Electricidad a base de Carbón); la fecha de la audiencia (26 de octubre de 2022); y el número de expediente (EIB 22-28 (R)). Los Avisos de Intención de presentar testimonio técnico deben enviarse a:

Pamela Jones, administradora de la junta  
Junta de Mejora Ambiental  
P.O. Box 5469  
Santa Fe, NM 87502  
Teléfono (505) 660-4305  
Fax (505) 827-2836  
correo electrónico: [pamela.jones@state.nm.us](mailto:pamela.jones@state.nm.us)

Cualquier miembro del público puede testificar en la audiencia. No se requiere aviso previo para presentar testimonio no técnico en la audiencia. Cualquiera de esos miembros también puede ofrecer pruebas instrumentales relacionadas con su testimonio, siempre que la prueba instrumental no sea indebidamente repetitiva del testimonio.

Cualquier miembro del público que desee presentar una declaración por escrito para el registro, en lugar de proporcionar testimonio oral en la audiencia, debe presentar dicha declaración ante la Junta antes del cierre de la audiencia. Para presentar una declaración por escrito por correo electrónico, envíe la declaración a [pamela.jones@state.nm.us](mailto:pamela.jones@state.nm.us).

La Junta puede continuar la audiencia más allá de la fecha de conclusión prevista, dejando el registro de la audiencia abierto y continuando la recepción de comentarios. El aviso de continuación se publicará en el sitio web de la Junta y del NMED. Además, la Junta puede tomar una decisión sobre la regla propuesta inmediatamente después de la conclusión de la audiencia, o la Junta puede convocar una reunión en una fecha posterior a la audiencia para considerar la acción sobre la regla propuesta.

Las personas que requieran servicios de interpretación de idiomas o que tengan una discapacidad que haga que necesiten un lector, un amplificador, un intérprete calificado de lenguaje de señas o cualquier otra forma de ayuda o servicio auxiliar para asistir o participar en la audiencia deben comunicarse con Pamela Jones a más tardar el octubre 16, 2022 llamando al (505) 660-4305 o [pamela.jones@state.nm.us](mailto:pamela.jones@state.nm.us). Los usuarios de TDD o TDY pueden acceder a este número a través de New Mexico Relay Network (usuarios de TDD de Albuquerque: (505) 275-7333; fuera de Albuquerque: 1-800-659-1779; usuarios de TTY: 1-800-659-8331).

**DECLARACIÓN DE NO DISCRIMINACIÓN:** El NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, tal y como exigen las leyes y reglamentos aplicables. El NMED es responsable de la coordinación de los esfuerzos de cumplimiento y de la recepción de las consultas relativas a los requisitos de no discriminación implementados

por el 40 C.F.R. Partes 5 y 7, incluido el Título VI de la Ley de Derechos Civiles de 1964, según enmendada; la Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Título IX de las Enmiendas de Educación de 1972, y la Sección 13 de las Enmiendas de la Ley Federal de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o sobre cualquiera de los programas, políticas o procedimientos de no discriminación de NMED, puede comunicarse con:

Kathryn Becker, coordinadora de no discriminación  
Departamento de Medio Ambiente de Nuevo México  
1190 St. Francis Dr., Suite N4050  
P.O. Box 5469  
Santa Fe, NM 87502  
Teléfono: (505) 827-2855  
Correo electrónico: nd.coordinator@state.nm.us

Si cree que ha sido discriminado con respecto a un programa o actividad de NMED, puede comunicarse con la coordinadora de no discriminación identificada más arriba o visitar nuestro sitio web en <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para aprender cómo y dónde presentar una queja de discriminación.

## HIGHER EDUCATION DEPARTMENT

### NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** that the New Mexico Higher Education Department (NMHED or Department) will hold a public video/telephonic rulemaking hearing on September 27, 2022. The hearing will begin at 9:00 a.m. and will be held via Microsoft Teams. The purpose of the hearing is to take public comment regarding proposed rulemaking adopting a new rule **5.3.14 NMAC, TECHNOLOGY ENHANCEMENT FUND.**

Join via Microsoft Teams:  
[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_Yjg3NjExYTItNjUwYy00YzdkLWFkODQtM2E3YzMwN2NmMGQw%40thread.v2/0?context=%7b%22Tid%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22Oid%22%3a%22c327f958-5970-4536-8f6b-03d48b60d29e%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_Yjg3NjExYTItNjUwYy00YzdkLWFkODQtM2E3YzMwN2NmMGQw%40thread.v2/0?context=%7b%22Tid%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22Oid%22%3a%22c327f958-5970-4536-8f6b-03d48b60d29e%22%7d)

Or call in (audio only)  
+1 (505) 312-4308  
Phone Conference ID: 974 358 798#

#### Purpose:

The Department proposes adoption of new rule 5.3.14 NMAC. The new proposed rule establishes a process for distribution of monies in the Technology Enhancement Fund created by H.B. 391, 46th Leg., 1st Sess. (N.M. 2003). The rule also establishes the Technology Enhancement Committee.

#### Summary of proposed rule:

The proposed rule establishes a process for distribution of monies in the Technology Enhancement Fund. The rule provides the composition and responsibilities of the Technology Enhancement Committee who shall judge proposals for funding. In addition, the proposed rule, provides requirements for proposal submissions, proposal selection the process for institutional reporting.

#### Details for Obtaining a Copy, Public Hearing and Comments:

The proposed rule is also posted on the NMHED website and may be accessed at <http://www.hed.state.nm.us/> under the "Events" section. To request that a copy of the proposed rule be sent to you by mail or e-mail, please contact HigherEd.Info@state.nm.us or (505) 476-8411.

A public hearing will be held on September 27, 2022 from 9:00 a.m. until 9:30 a.m. via Microsoft Teams. Any person who is or may be affected by this proposed rule may participate. **Interested persons may submit written comments to NMHED at**

**2044 Galisteo Street, Suite 4, Santa Fe, NM 87505 or HigherEd.Info@state.nm.us. Written comments must be received no later than 4:00 p.m. on September 23, 2022.**

Please note that any written or verbal comments received will become part of the rulemaking record, be posted to the New Mexico Sunshine Portal, and be accessible to the public. If submitting written comments by email, please indicate in the subject line the number and section of each rule(s) for which you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations.

Legal authority for this rulemaking can be found in Section 21-1-27.2 NMSA 1978.

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) 476-8411 or email HigherEd.Info@state.nm.us ten (10) business days prior to the hearing.

## HIGHER EDUCATION DEPARTMENT

### NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** that the New Mexico Higher Education Department (NMHED or Department) will hold a public video/telephonic rulemaking hearing on September 27, 2022. The hearing will begin at 9:30 a.m. and will be held via Microsoft Teams. The purpose of the hearing is to take public comment regarding proposed rulemaking adopting a new rule **5.55.8 NMAC, STATEWIDE ADVANCED PLACEMENT POLICY.**

Join via Microsoft Teams:  
[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_MzJhMzEwNDMtOTk5NC00NWZhLWl1ZTYtYWU1ZjUyMjBiMzY2%40thread.v2/0?context=%7b%22Tid%22%3a](https://teams.microsoft.com/l/meetup-join/19%3ameeting_MzJhMzEwNDMtOTk5NC00NWZhLWl1ZTYtYWU1ZjUyMjBiMzY2%40thread.v2/0?context=%7b%22Tid%22%3a)

%2204aa6bf4-d436-426f-bfa4-04b7  
a70e60ff%22%2c%220id%22%3  
a%22c327f958-5970-4536-8f6b-  
03d48b60d29e%22%7d

Or call in (audio only)  
+1 (505) 312-4308  
Phone Conference ID: 587 552 847#

**Purpose:**

The Department proposes adoption of new rule 5.55.8 NMAC. The new proposed rule establishes a statewide advanced placement exam policy as required by H.B. 420, 54th Leg., 1st Sess. (N.M. 2019).

**Summary of proposed rule:**

The proposed rule establishes a statewide advanced placement exam policy that includes a comprehensive list of courses for which a student shall receive credit when earning a qualifying score on an advanced placement exam. The rule provides guidance on application of credit and a process by which advanced placement exams are reviewed and approved by the Department in consultation with the New Mexico Curriculum and Articulation Committee. In addition, the proposed rule, provides procedures for maintenance and review of the courses that qualify for credit under the policy, a procedure for resolution of complaints related to the policy and institutional reporting requirements.

**Details for Obtaining a Copy, Public Hearing and Comments:**

The proposed rule is also posted on the NMHED website and may be accessed at <http://www.hed.state.nm.us/> under the "Events" section. To request that a copy of the proposed rule be sent to you by mail or e-mail, please contact HigherEd.Info@state.nm.us or (505) 476-8411.

A public hearing will be held on September 27, 2022 from 9:30 a.m. until 10:00 a.m. via Microsoft Teams. Any person who is or may be affected by this proposed rule may participate.

**Interested persons may submit written comments to NMHED at 2044 Galisteo Street, Suite 4, Santa**

**Fe, NM 87505 or HigherEd.Info@state.nm.us. Written comments must be received no later than 4:00 p.m. on September 23, 2022.**

Please note that any written or verbal comments received will become part of the rulemaking record, be posted to the New Mexico Sunshine Portal, and be accessible to the public. If submitting written comments by email, please indicate in the subject line the number and section of each rule(s) for which you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations.

Legal authority for this rulemaking can be found in Section 21-2-5 NMSA 1978 and Section 21-1-47 NMSA 1978.

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) 476-8411 or email HigherEd.Info@state.nm.us ten (10) business days prior to the hearing.

**HUMAN SERVICES  
DEPARTMENT  
INCOME SUPPORT DIVISION  
NOTICE OF PUBLIC HEARING**

The Department is amending rule 8.119.100 NMAC and 8.119.410 NMAC to comply with Code of Federal Regulations (CFR). Regulations issued pursuant to the act are contained in 45 CFR parts 400-499. Office of Refugee Resettlement (ORR) issued guidance that expands the Refugee Cash Assistance (RCA) eligibility period from eight months to twelve months for ORR-eligible populations whose date of eligibility for ORR benefits is on or after October 1, 2021. Historically, due to insufficient appropriations, the RCA eligibility was limited to eight months. The Department is also amending the definition format in 8.119.100 NMAC to comply with Section 14-4-3 NMSA 1978. The rule

will be amended under the statutory authority.

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

A public hearing to receive testimony on this proposed rule, pursuant to Section 14-4-5.6 NMSA 1978, will be held on Thursday, September 22, 2022, at 8:30 am-9:30 am. The hearing will be held virtually through GoTo Meeting, and a phone number will be provided for individuals that would like to participate by phone. <https://meet.goto.com/785880941>. You can also dial in using your phone. United States: +1 (669) 224-3412 Access Code: 785-880-941.

All written comments may be dropped off during the scheduled hearing time at the HSD Sandoval County Field Office, 4363 Jager Dr., Rio Rancho, NM 87144.

Individuals wishing to testify may contact the Income Support Division (ISD), P.O. Box 2348, Santa Fe, NM 87504-2348, or by calling 505-396-0313. This register and proposed regulations are also available on the Human Services Department website at: <http://www.hsd.state.nm.us/LookingForInformation/income-support-division-registers.aspx>. If you do not have Internet access, a copy of the proposed regulations may be requested by contacting the Income Support Division, P.O. Box 2348, Santa Fe, New Mexico 87504-2348 or by calling 505-396-0313.

If you are a person with a disability and you require this information in an alternative format, or you require a special accommodation to participate in any HSD public hearing, program, or service, please contact the American Disabilities Act Coordinator, at 505-709-5468 or through the New Mexico Relay system, toll free at #711. The Department requests at least a 10-day



advance notice to provide requested alternative formats and special accommodations.

Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 5:00 p.m. on the date of the hearing, September 22, 2022. The agency shall post all written comments on its website, if one exists, as soon as practicable and no more than 3 business days following receipt to allow for public review. All written comments received by the agency shall also be available for public inspection at the main office of the agency. Please send comments to: Human Services Department P.O. Box 2348, Santa Fe, New Mexico 87504-2348.

You may send comments electronically to: [HSD-isdrules@state.nm.us](mailto:HSD-isdrules@state.nm.us).

## PUBLIC REGULATION COMMISSION

### NOTICE OF PROPOSED RULEMAKING DOCKET NO. 20-00170-UT

The New Mexico Public Regulation Commission (the “commission”) hereby gives notice of its initiation of a proposed rulemaking to consider and potentially to adopt amendments/ repeal/replace to **17.11.28 NMAC, “Institutional Operator Service Provider.”**

Summary of the full text of the proposed rule and short explanation of its purpose: The commission is considering amending/repealing/ replacing its rule regulating rates and charges by institutional operator service providers (“IOSPS”). IOSPS provide telecommunications services to incarcerated persons. The commission’s IOSPS rule was last amended in August 2013. The commission proposes amendments and will consider alternative amendments to the rule to address

changes in technology and applicable law, changes in the industry, and to ensure reasonable rate regulation for IOSPS while protecting incarcerated persons against unreasonable rates and inadequate service.

Legal authority authorizing the proposed rule and the adoption of the rule: The commission has the authority to promulgate and adopt the proposed rule under the New Mexico Constitution, Article XI, Sec. 2, under Paragraph 10 of Subsection B of 8-8-4 NMSA 1978, Section 63-7-1.1 and Section 63-9A-5, NMSA 1978.

How a copy of the full text of the proposed rule can be obtained: A copy of the full text of the proposed rule and instructions for accessing the complete rulemaking record can be obtained from the rulemaking page on the commission’s website at <https://www.nm-prc.org/rulemaking-proceedings/> or by contacting Laurie Ann Trujillo of the commission’s office of general counsel at (505) 670-4830.

How a person can comment on the proposed rule, where comments will be received and when comments are due: Any person wishing to comment on the proposed rule may do so by submitting written initial comments no later than **September 30, 2022**. Any person wishing to respond to initial comments may do so by submitting written response comments no later than **October 14, 2022**. Comments can be electronically filed by sending them in PDF format to [prc.records@state.nm.us](mailto:prc.records@state.nm.us). Comments must refer to Docket No. 20-00170-UT. All written comments will be posted on the commission’s website within three days of their receipt by the records bureau. The record closure date for this proceeding is **November 1, 2022**. From that date through the completion of this proceeding, rulemaking participants will be forbidden from communicating with the commission or its representatives concerning substantive issues in this proceeding.

When and where a public rule hearing will be held and how a person can participate in the hearing: A public hearing on the proposed rule and any proposed alternative amendments to the rule, to be presided over by the commission or its designee, will be held beginning at **10:00 a.m. on October 27, 2022**, via the Zoom online platform. Any person who wishes to make a comment at the hearing must contact Laurie Ann Trujillo at (505) 670-4830 or [laurieann.trujillo1@state.nm.us](mailto:laurieann.trujillo1@state.nm.us) by no later than **12:00 noon on October 25, 2022** to sign up as a hearing participant. The commission’s office of general counsel will email a Zoom invitation to all hearing participants the day before the hearing. The Zoom invitation will include a call-in number for those participants who are unable to access the Zoom platform via computer. The hearing will be held in order to receive oral comments. In the interest of administrative efficiency, only commenters who have not submitted written comments will be allowed to speak. In addition, any commenter may be limited to five minutes to speak, subject to the discretion of the commission or its designee. The commission or its designee may also determine that a spokesperson should be designated to speak on behalf of an organization, a group, or a group of individuals that shares the same message or seeks the same goals, in order to maximize the efficiency of the public comment hearing. No testimony or other evidence will be taken at the hearing as this is a rulemaking proceeding. A court reporter will prepare a transcript of the hearing for filing the rulemaking docket, Docket No. 20-00170-UT. Any person with a disability requiring special assistance in order to participate in the hearing should contact Renada Peery-Galon at (505) 467-9116 at least 48 hours prior to the commencement of the hearing.

Instructions on how to access the complete rulemaking record, reports and other items filed in the commission’s e-docket system can

be found at <https://www.nm-prc.org/rulemaking-proceedings/>.

**SUPERINTENDENT OF  
INSURANCE,  
OFFICE OF THE**

**NOTICE OF PROPOSED  
RULEMAKING**

**NOTICE IS HEREBY GIVEN** that the Superintendent of Insurance (“OSI” or “Superintendent”) will hold a public video/telephone hearing regarding proposed amendments to **13.19.4 NMAC MULTIPLE EMPLOYER WELFARE ARRANGEMENTS**. This hearing will commence on **October 6, 2022, at 9:00 a.m.**

**PURPOSE OF THE PROPOSED RULES:** The proposed rule will prohibit self-funded Multiple Employer Welfare Arrangements (“MEWAs”) from operating in New Mexico and clarify the regulatory obligations for fully insured MEWAs and bona fide associations.

**STATUTORY AUTHORITY:** Sections 59A-1-8, 59A-1-18, 59A-2-9, 59A-4-14, 59A-10-3, 59A-15-17, 59A-15-20, 59A-16-1, 59A-16-27, 59A-18-13.2, 59A-18-13.3, 59A-18-13.5, 59A-23-3, and 59A-23C-3 NMSA 1978.

**TO ATTEND THE HEARING:**

Join Zoom Meeting:  
<https://us02web.zoom.us/j/82847942202?pwd=anhLT3B6VEtmMjNKUGhVb0pTYjFSQT09>

Meeting ID: 828 4794 2202  
Passcode: 562215

Attend via Telephone: 346-248-7799

The Superintendent designates R. Alfred Walker to act as the hearing officer for this rulemaking. Oral comments will be accepted at the public hearing from members of the public and other interested

parties. Any updates concerning the hearing date, time, or location will be available by subscribing to the “Rulemaking and Ratemaking” newsletter at: <https://newsletter.osi.state.nm.us/>.

Copies of the Notice of Proposed Rulemaking and proposed new rules are available by electronic download from the OSI eDocket <https://edocket.osi.state.nm.us/guest/case-view/5786> or by requesting a copy by calling (505) 372-9135.

Written comments will be accepted through 4:00 p.m. on October 6, 2022. Responses to written comments or oral comments will be accepted through 4:00 p.m. on October 17, 2022. All comments shall be filed electronically through the OSI eDocket <https://edocket.osi.state.nm.us/guest/case-view/5786> or mailed to:

**OSI Records and Docketing  
NM Office of Superintendent of  
Insurance  
P.O. Box 1689, Santa Fe, NM  
87504-1689**

For help submitting a filing, please contact [OSI-docketfiling@state.nm.us](mailto:OSI-docketfiling@state.nm.us).

The below docket number must be indicated on filed comments.

**Docket No. 2022-0065  
IN THE MATTER OF  
REPEALING AND REPLACING  
RULES CODIFIED AT 13.19.4  
NMAC MULTIPLE EMPLOYER  
WELFARE ARRANGEMENTS**

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

**SPECIAL NEEDS:** Any person with a disability requiring special assistance to participate in the hearing should contact Freya Tschantz at 505-372-9135 no later than ten (10)

business days prior to the hearing.

DONE AND ORDERED this 23rd day of August, 2022  
/S/RUSSELL TOAL

**SUPERINTENDENT OF  
INSURANCE,  
OFFICE OF THE**

**NOTICE OF PROPOSED  
RULEMAKING**

**NOTICE IS HEREBY GIVEN** that the Superintendent of Insurance (“OSI” or “Superintendent”) will hold a public video/telephone hearing regarding proposed amendments to **13.10.31 NMAC PRIOR AUTHORIZATION**. This hearing will commence on **October 4, 2022, at 9:00 a.m.**

**PURPOSE OF THE PROPOSED RULES:** The proposed amendments will address the section of the rule that was reserved during the prior rule promulgation and create a process for carriers to streamline the prior authorization process.

**STATUTORY AUTHORITY:** Section 59A-2-9.8 NMSA 1978, Section 59A-15-20 NMSA 1978; Sections 59A-22B-1 through 59A-22B-5 NMSA 1978; and Sections 59A-57-1 through 59A-57-11 NMSA 1978.

**TO ATTEND THE HEARING:**

Join Zoom Meeting:  
<https://us02web.zoom.us/j/89738193438?pwd=VnVLNDhPNzI3LytUUEE5DckprTDRMZz09>

Meeting ID: 897 3819 3438  
Passcode: 454389

Attend via Telephone: 346-248-799

The Superintendent designates Richard B. Word to act as the hearing officer for this rulemaking. Oral comments will be accepted at the public hearing from members of the public and other interested parties. Any updates concerning

the hearing date, time, or location will be available by subscribing to the "Rulemaking and Ratemaking" newsletter at: <https://newsletter.osi.state.nm.us/>.

Copies of the Notice of Proposed Rulemaking and proposed new rules are available by electronic download from the OSI eDocket <https://edocket.osi.state.nm.us/guest/case-view/5785> or by requesting a copy by calling (505) 372-9135.

Written comments will be accepted through 4:00 p.m. on October 4, 2022. Responses to written comments or oral comments will be accepted through 4:00 p.m. on October 14, 2022. All comments shall be filed electronically through the OSI eDocket <https://edocket.osi.state.nm.us/guest/case-view/5785> or mailed to:

**OSI Records and Docketing  
NM Office of Superintendent of  
Insurance  
P.O. Box 1689, Santa Fe, NM  
87504-1689**

For help submitting a filing, please contact [OSI-docketfiling@state.nm.us](mailto:OSI-docketfiling@state.nm.us).

The below docket number must be indicated on filed comments.

**Docket No. 2022-0064  
IN THE MATTER OF  
ADOPTING AMENDMENTS  
TO 13.10.31 NMAC PRIOR  
AUTHORIZATION**

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

**SPECIAL NEEDS:** Any person with a disability requiring special assistance to participate in the hearing should contact Freya Tschantz at 505-372-9135 no later than ten (10) business days prior to the hearing.

DONE AND ORDERED this 23rd day of August, 2022  
/S/ RUSSELL TOAL, Superintendent  
of Insurance

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

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## Adopted Rules

### Effective Date and Validity of Rule Filings

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

**ENERGY, MINERALS  
AND NATURAL  
RESOURCES  
DEPARTMENT  
OIL CONSERVATION  
COMMISSION**

**This is an amendment to 19.15.2 NMAC, Sections 7, 10, 13 and 16 and repealing and replacing Sections 12 and 17, effective 8/23/2022.**

**19.15.2.7 DEFINITIONS:**  
These definitions apply to 19.15.2 NMAC through 19.15.39 NMAC.

**A. Definitions beginning with the letter “A”.**

(1) **“Abate”**  
means to investigate, contain, remove or mitigate water pollution.

(2) **“Abatement”** means the investigation, containment, removal or other mitigation of water pollution.

(3) **“Abatement plan”** means a description of operational, monitoring, contingency and closure requirements and conditions for water pollution’s prevention, investigation and abatement.

(4) **“ACT”** ~~means automatic custody transfer]~~  
**“Act” or “Oil and Gas Act”** means Chapter 70, Article 2 NMSA 1978, as it may be modified or amended.

(5) **“Adjoining spacing units”** mean those existing or prospective spacing units in the same pool that are touching at a point or line on the subject spacing unit.

(6) **“Adjusted allowable”** means the allowable production a well or proration unit receives after all adjustments are made.

(7) **“AFE”**  
means authorization for expenditure.

(8) **“Affected persons”** means the following persons owning interests in a spacing unit or other identified tract:

(a) the operator, as shown in division records, of a well on the tract, or, if the tract is included in a division-approved or federal unit, the designated unit operator;

(b) in the absence of an operator, or with respect to an application wherein the operator of the spacing unit or identified tract is the applicant, each working interest owner whose interest is evidenced by a written conveyance document either of record or known to the applicant as of the date the applicant files the application;

(c) as to any tract or interest therein that is not subject to an existing oil and gas lease, each mineral interest owner whose interest is evidenced by a written conveyance document either of record or known to the applicant as of the date the applicant filed the application; and

(d) if the United States or state of New Mexico owns the mineral estate in the spacing unit or identified tract or any part thereof, the BLM or state land office, as applicable; or

(e) if the mineral estate in the spacing unit or identified tract or any part thereof is tribal land, the BLM, the United States department of the interior, bureau of Indian affairs, and the relevant tribe.

(9) **“Allocated pool”** means a pool in which the total oil or gas production is restricted and is allocated to various wells in the pool in accordance with proration schedules.

(10) **“Allowable production”** means that

number of barrels of oil or cubic feet of gas the division authorizes to be produced from an allocated pool.

(11) **“APD”**  
means application for permit to drill.

(12) **“API”**  
means the American petroleum institute.

(13) **“Approved temporary abandonment”** means the status of a well that is inactive, has been approved in accordance with 19.15.25.13 NMAC and complies with 19.15.25.12 NMAC through 19.15.25.14 NMAC.

(14) **“Aquifer”**  
means a geological formation, group of formations or a part of a formation that can yield a significant amount of water to a well or spring.

(15) **“ASTM”**  
means ASTM International - an international standards developing organization that develops and publishes voluntary technical standards for a wide range of materials, products, systems and services.

**B. Definitions beginning with the letter “B”.**

(1) **“Back allowable”** means the authorization for production of an underproduction resulting from pipeline proration.

(2) **“Background”** means, for purposes of ground water abatement plans only, the amount of ground water contaminants naturally occurring from undisturbed geologic sources or water contaminants occurring from a source other than the responsible person’s facility. This definition does not prevent the director from requiring abatement of commingled plumes of pollution, does not prevent responsible persons from seeking contribution or other legal or equitable relief from other persons

and does not preclude the director from exercising enforcement authority under any applicable statute, rule or common law.

(3) **“Barrel”** means 42 United States gallons measured at 60 degrees fahrenheit and atmospheric pressure at the sea level.

(4) **“Barrel of oil”** means 42 United States gallons of oil, after deductions for the full amount of basic sediment, water and other impurities present, ascertained by centrifugal or other recognized and customary test.

(5) **“Below-grade tank”** means a vessel, excluding sumps and pressurized pipeline drip traps, where a portion of the tank’s sidewalls is below the surrounding ground surface’s elevation. Below-grade tank does not include an above ground storage tank that is located above or at the surrounding ground surface’s elevation and is surrounded by berms.

(6) **“Berm”** means an embankment or ridge constructed to prevent the movement of liquids, sludge, solids or other materials.

(7) **“Biopile”**, also known as biocell, bioheap, biomound or compost pile, means a pile of contaminated soils used to reduce concentrations of petroleum constituents in excavated soils through biodegradation. This technology involves heaping contaminated soils into piles or “cells” and stimulating aerobic microbial activity within the soils through the aeration or addition of minerals, nutrients and moisture.

(8) **“BLM”** means the United States department of the interior, bureau of land management.

(9) **“Bottom hole pressure”** means the gauge pressure in psi under conditions existing at or near the producing horizon.

(10) **“Bradenhead gas well”** means a well producing gas through wellhead connections from a gas reservoir that has been successfully cased off from

an underlying oil or gas reservoir.

(11) **“BS&W”** means basic sediments and water.

(12) **“BTEX”** means benzene, toluene, ethylbenzene and xylene.

**C. Definitions beginning with the letter “C”.**

(1) **“Carbon dioxide gas”** means noncombustible gas composed chiefly of carbon dioxide occurring naturally in underground rocks.

(2) **“Casinghead gas”** means a gas or vapor or both gas and vapor indigenous to and produced from a pool the division classifies as an oil pool. This also includes gas-cap gas produced from such an oil pool.

(3) **“Certified mail” or “certified mail, return receipt requested”** means United States Postal Service Certified Mail or equivalent service that provides tracking and signature receipt, including Federal Express, United Parcel Service, or similar courier services.

(3) (4) **“Cm/sec”** means centimeters per second.

(4) (5) **“CPD”** means central point delivery.

(5) (6) **“Combination multiple completion”** means a multiple completion in which two or more common sources of supply are produced through a combination of two or more conventional diameter casing strings cemented in a common well bore, or a combination of small diameter and conventional diameter casing strings cemented in a common well bore, the conventional diameter strings of which might or might not be a conventional multiple completion.

(6) (7) **“Commission”** means the oil conservation commission.

(7) (8) **“Commission clerk”** means the division employee the director designates to provide staff support to the commission and accept filings in rulemaking or adjudicatory cases before the commission.

(8) (9) **“Common**

**purchaser for gas”** means a person now or hereafter engaged in purchasing from one or more producers gas produced from gas wells within each common source of supply from which it purchases.

(9) (10) **“Common purchaser for oil”** means every person now engaged or hereafter engaging in the business of purchasing oil to be transported through pipelines.

(10) (11) **“Common source of supply”**. See pool.

(11) (12) **“Condensate”** means the liquid recovered at the surface that results from condensation due to reduced pressure or temperature of petroleum hydrocarbons existing in a gaseous phase in the reservoir.

(12) (13) **“Contiguous”** means acreage joined by more than one common point, that is, the common boundary is at least one side of a governmental quarter-quarter section.

(13) (14) **“Conventional completion”** means a well completion in which the production string of casing has an outside diameter exceeding 2.875 inches.

(14) (15) **“Conventional multiple completion”** means a completion in which two or more common sources of supply are produced through one or more strings of tubing installed within a single casing string, with the production from each common source of supply completely segregated by means of packers.

(15) (16) **“Correlative rights”** means the opportunity afforded, as far as it is practicable to do so, to the owner of each property in a pool to produce without waste the owner’s just and equitable share of the oil or gas in the pool, being an amount, so far as can be practically determined, and so far as can be practicably obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas under the property bears to the total recoverable oil or gas in the

pool, and for the purpose to use the owner's just and equitable share of the reservoir energy.

~~(16)~~ (17)

**“Cubic feet of gas or cubic foot of gas”** means that volume of gas contained in one cubic foot of space and computed at a base pressure of 10 ounces per square inch above the average barometric pressure of 14.4 psi (15.025 psi absolute), at a standard base temperature of 60 degrees fahrenheit.

**D. Definitions**

**beginning with the letter “D”.**

(1) **“Deep pool”** means a common source of supply that is situated 5000 feet or more below the surface.

(2) **“Depth bracket allowable”** means the basic oil allowable the division assigns a pool and based on its depth, unit size or special pool orders, which, when multiplied by the market demand percentage factor in effect, determines the pool's top proration unit allowable.

(3) **“Director”** means the director of the New Mexico energy, minerals and natural resources department, oil conservation division.

(4) **“Division”** means the New Mexico energy, minerals and natural resources department, oil conservation division.

(5) **“Division clerk”** means the division employee the director designates to accept filings in adjudicatory cases before the division.

(6) **“Downstream facility”** means a facility associated with the transportation (including gathering) or processing of gas or oil (including a refinery, gas plant, compressor station or crude oil pump station); brine production; or the oil field service industry.

(7) **“DRO”** means diesel range organics.

**E. Definitions**

**beginning with the letter “E”.**

(1) **“EC”** means electrical conductivity.

(2) **“Enhanced oil recovery project”**

means the use or the expanded use of a process for the displacement of oil from an oil well or division-designated pool other than a primary recovery process, including but not limited to the use of a pressure maintenance process; a water flooding process; an immiscible, miscible, chemical, thermal or biological process; or any other related process.

(3) **“EOR project”** means an enhanced oil recovery project.

(4) **“EPA”** means the United States environmental protection agency.

(5) **“Exempted aquifer”** means an aquifer that does not currently serve as a source of drinking water, and that cannot now and will not in the foreseeable future serve as a source of drinking water because:

(a) it is hydrocarbon producing;

(b) it is situated at a depth or location that makes the recovery of water for drinking water purposes economically or technologically impractical; or

(c) it is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption.

(6) **“Exempt waste”** means oil field waste exempted from regulation as hazardous waste pursuant to Subtitle C of RCRA and applicable regulations.

(7) **“Existing spacing unit”** means a spacing unit containing a producing well.

**F. Definitions beginning with the letter “F”.**

(1) **“Facility”** means a structure, installation, operation, storage tank, transmission line, access road, motor vehicle, rolling stock or activity of any kind, whether stationary or mobile.

(2) **“Field”** means the general area that at least one pool underlies or appears to underlie; and also includes the underground reservoir or reservoirs containing oil or gas. The words field

and pool mean the same thing when only one underground reservoir is involved; however, field unlike pool may relate to two or more pools.

(3) **“Fresh water”** to be protected includes the water in lakes and playas (regardless of quality, unless the water exceeds 10,000 mg/l TDS and it can be shown that degradation of the particular water body will not adversely affect hydrologically connected fresh ground water), the surface waters of streams regardless of the water quality within a given reach, and underground waters containing 10,000 mg/l or less of TDS except for which, after notice and hearing, it is found there is no present or reasonably foreseeable beneficial use that contamination of such waters would impair.

**G. Definitions**

**beginning with the letter “G”.**

(1) **“Gas”**, also known as natural gas, means a combustible vapor composed chiefly of hydrocarbons occurring naturally in a pool the division has classified as a gas pool.

(2) **“Gas lift”** means a method of lifting liquid to the surface by injecting gas into a well from which oil production is obtained.

(3) **“Gas-oil ratio”** means the ratio of the casinghead gas produced in standard cubic feet to the number of barrels of oil concurrently produced during any stated period.

(4) **“Gas-oil ratio adjustment”** means the reduction in allowable of a high gas oil ratio unit to conform with the production permitted by the limiting gas-oil ratio for the particular pool during a particular proration period.

(5) **“Gas transportation facility”** means a pipeline in operation serving gas wells for the transportation of gas, or some other device or equipment in like operation where the gas produced from gas wells connected with the pipeline or other device or equipment can be transported or used for consumption.

(6) **“Gas well”** means a well producing gas

from a gas pool, or a well with a gas-oil ratio exceeding 100,000 cubic feet of gas per barrel of oil producing from an oil pool.

(7)

**“Geomembrane”** means an impermeable polymeric sheet material that is impervious to liquid and gas if it maintains its integrity and is used as an integral part of an engineered structure designed to limit the movement of liquid or gas in a system.

(8)

**“Geotextile”** means a sheet material that is less impervious to liquid than a geomembrane but more resistant to penetration damage, and is used as part of an engineered structure or system to serve as a filter to prevent the movement of soil fines into a drainage system, to provide planar flow for drainage, to serve as a cushion to protect geomembranes or to provide structural support.

(9) **“GRO”**

means gasoline range organics.

(10) **“Ground**

**water”** means interstitial water that occurs in saturated earth material and can enter a well in sufficient amounts to be used as a water supply.

(11) **“Ground**

**water sensitive area”** means an area the division specifically designates after evaluation of technical evidence where ground water exists that would likely exceed WQCC standards if contaminants were introduced into the environment.

**H. Definitions**

**beginning with the letter “H”.**

(1) **“Hardship**

**gas well”** means a gas well where underground waste occurs if the well is shut-in or curtailed below its minimum sustainable flow rate.

(2) **“Hazard**

**to public health”** exists when water that is used or is reasonably expected to be used in the future as a human drinking water supply exceeds at the time and place of the use, one or more of the numerical standards of Subsection A of 20.6.2.3103 NMAC, or the naturally occurring concentrations, whichever is higher, or if a toxic pollutant as defined at

Subsection WW of 20.6.2.7 NMAC affecting human health is present in the water. In determining whether a release would cause a hazard to public health to exist, the director investigates and considers the purification and dilution reasonably expected to occur from the time and place of release to the time and place of withdrawal for use as human drinking water.

(3)

**“Hazardous waste”** means non-exempt waste that exceeds the minimum standards for waste hazardous by characteristics established in RCRA regulations, 40 CFR 261.21-261.24, or listed hazardous waste as defined in 40 CFR, part 261, subpart D, as amended.

(4) **“HDPE”**

means high-density polyethylene.

(5) **“High**

**gas-oil ratio proration unit”** means a unit with at least one producing oil well with a gas-oil ratio exceeding the limiting gas-oil ratio for the pool in which the unit is located.

(6) **“H<sub>2</sub>S”**

means hydrogen sulfide.

**I. Definitions**

**beginning with the letter “I”.**

(1) **“Illegal**

**gas”** means gas produced from a gas well exceeding the division-determined allowable.

(2) **“Illegal**

**oil”** means oil produced exceeding the allowable the division fixes.

(3) **“Illegal**

**product”** means a product of illegal gas or illegal oil.

(4) **“Inactive**

**well”** means a well that is not being used for beneficial purposes such as production, injection or monitoring and that is not being drilled, completed, repaired or worked over.

(5) **“Injection**

**well”** means a well used for the injection of air, gas, water or other fluids into an underground stratum.

**J. Definitions**

**beginning with the letter “J”.**

[RESERVED]

**K. Definitions**

**beginning with the letter “K”.**

**“Knowingly and willfully”**, for assessing civil penalties, means the voluntary or conscious performance of an act that is prohibited or the voluntary or conscious failure to perform an act or duty that is required. It does not include performances or failures to perform that are honest mistakes or merely inadvertent. It includes, but does not require, performances or failures to perform that result from a criminal or evil intent or from a specific intent to violate the law. The conduct’s knowing and willful nature may be established by plain indifference to or reckless disregard of the requirements of statutes, rules, orders or permits. A consistent pattern or performance or failure to perform also may be sufficient to establish the conduct’s knowing and willful nature, where such consistent pattern is neither the result of honest mistakes nor mere inadvertency. Conduct that is otherwise regarded as being knowing and willful is rendered neither accidental nor mitigated in character by the belief that the conduct is reasonable or legal.

**L. Definitions**

**beginning with the letter “L”.**

(1) **“Limiting**

**gas-oil ratio”** means the gas-oil ratio the division assigns to a particular oil pool to limit the volumes of casinghead gas that may be produced from the various oil producing units within that particular pool.

(2) **“Liner”**

means a continuous, low-permeability layer constructed of natural or human-made materials that restricts the migration of liquid oil field wastes, gases or leachate.

(3)

**“LLDPE”** means linear low-density polyethylene.

(4) **“Load oil”**

means oil or liquid hydrocarbon that has been used in remedial operation in an oil or gas well.

(5) **“Log”**

means a systematic detailed and correct record of formations encountered in drilling a well.

**M. Definitions**

**beginning with the letter “M”.**



(1) **“Marginal unit”** means a proration unit that is incapable of producing top proration unit allowable for the pool in which it is located.

(2) **“Market demand percentage factor”** means that percentage factor of one hundred percent or less as the division determines at an oil allowable hearing, which, when multiplied by the depth bracket allowable applicable to each pool, determines that pool’s top proration unit allowable.

(3) **“MCF”** means 1000 cubic feet.

(4) **“MCFD”** means 1000 cubic feet per day.

(5) **“MCFGPD”** means 1000 cubic feet of gas per day.

(6) **“Measured depth”** means the total length of the well bore.

(7) **“Mg/l”** means milligrams per liter.

(8) **“Mg/kg”** means milligrams per kilogram.

(9) **“Mineral estate”** is the most complete ownership of oil and gas recognized in law and includes the mineral interests and the royalty interests.

(10) **“Mineral interest owner”** means a working interest owner, or an owner of a right to explore for and develop oil and gas that is not subject to an existing oil and gas lease.

(11) **“Minimum allowable”** means the minimum amount of production from an oil or gas well that may be advisable from time to time to the end that production will repay reasonable lifting cost and thus prevent premature abandonment and resulting waste.

(12) **“Miscellaneous hydrocarbons”** means tank bottoms occurring at pipeline stations; oil storage terminals or refineries; pipeline break oil; catchings collected in traps, drips or scrubbers by gasoline plant operators in the plants or in the gathering lines serving the plants; the catchings collected in private, community

or commercial salt water disposal systems; or other liquid hydrocarbon that is not lease crude or condensate.

#### N. Definitions beginning with the letter “N”.

(1) **“Non-aqueous phase liquid”** means an interstitial body of liquid oil, petroleum product, petrochemical or organic solvent, including an emulsion containing such material.

(2) **“Non-exempt waste”** means oil field waste not exempted from regulation as hazardous waste pursuant to Subtitle C of RCRA and applicable regulations.

(3) **“Non-hazardous waste”** means non-exempt oil field waste that is not hazardous waste.

(4) **“Non-marginal unit”** means a proration unit that can produce the top proration unit allowable for the pool in which it is located, and to which the division assigns a top proration unit allowable.

(5) **“NORM”** means the naturally occurring radioactive materials regulated by 20.3.14 NMAC.

#### O. Definitions beginning with the letter “O”.

(1) **“Official gas-oil ratio test”** means the periodic gas-oil ratio test the operator performs pursuant to division order by the method and in the manner the division prescribes.

(2) **“Oil”** means petroleum hydrocarbon produced from a well in the liquid phase and that existed in a liquid phase in the reservoir. This definition includes crude oil or crude petroleum oil.

(3) **“Oil field waste”** means non-domestic waste resulting from the exploration, development, production or storage of oil or gas pursuant to Paragraph (21) of Subsection B of Section 70-2-12 NMSA 1978 and the oil field service industry, the transportation of crude oil or natural gas, the treatment of natural gas or the refinement of crude oil pursuant to Paragraph (22) of Subsection B of Section 70-2-

12 NMSA 1978, including waste generated from oil field remediation or abatement activity regardless of the date of release. Oil field waste does not include waste not generally associated with oil and gas industry operations such as tires, appliances or ordinary garbage or refuse unless generated at a division-regulated facility, and does not include sewage, regardless of the source.

(4) **“Oil well”** means a well capable of producing oil and that is not a gas well as defined in Paragraph (6) of Subsection G of 19.15.2.7 NMAC.

(5) **“Operator”** means a person who, duly authorized, manages a lease’s development or a producing property’s operation, or who manages a facility’s operation.

(6) **“Overproduction”** means the amount of oil or gas produced during a proration period exceeding the amount authorized on the proration schedule.

(7) **“Owner”** means the person who has the right to drill into and to produce from a pool, and to appropriate the production either for the person or for the person and another.

#### P. Definitions beginning with the letter “P”.

(1) **“Penalized unit”** means a proration unit to which, because of an excessive gas-oil ratio, the division assigns an allowable that is less than top proration unit allowable for the pool in which it is located and also less than the ability of the well or wells on the unit to produce.

(2) **“Person”** means an individual or entity including partnerships, corporations, associations, responsible business or association agents or officers, the state or a political subdivision of the state or an agency, department or instrumentality of the United States and of its officers, agents or employees.

(3) **“Pit”** means a surface or sub-surface impoundment, man-made or natural

depression or diked area on the surface. Excluded from this definition are berms constructed around tanks or other facilities solely for safety, secondary containment and storm water or run-on control.

(4) **“Playa lake”** means a level or nearly level area that occupies the lowest part of a completely closed basin and that is covered with water at irregular intervals, forming a temporary lake.

(5) **“Pool”** means an underground reservoir containing a common accumulation of oil or gas. Each zone of a general structure, which zone is completely separated from other zones in the structure, is covered by the word pool as used in 19.15.2 NMAC through 19.15.39 NMAC. “Pool” is synonymous with “common source of supply” and with “common reservoir”.

(6) **“Potential”** means a well’s properly determined capacity to produce oil or gas under division-prescribed conditions.

(7) **“Ppm”** means parts per million by volume.

(8) **“PQL”** means practical quantitation limit.

(9) **“Pressure maintenance”** means the injection of gas or other fluid into a reservoir, either to maintain the reservoir’s existing pressure or to retard the reservoir pressure’s natural decline.

(10) **“Produced water”** means a fluid that is an incidental byproduct from drilling for or the production of oil and gas.

(11) **“Producer”** means the owner of a well or wells capable of producing oil or gas or both in paying quantities.

(12) **“Product”** means a commodity or thing made or manufactured from oil or gas, and derivatives of oil or gas, including refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, treated crude oil, fuel oil, residuum, gas oil, naphtha, distillate, gasoline, kerosene, benzene, wash oil,

lubricating oil and blends or mixtures of oil or gas or a derivative thereof.

(13) **“Proration day”** consists of 24 consecutive hours that begin at 7:00 a.m. and end at 7:00 a.m. on the following day.

(14) **“Proration month”** means the calendar month that begins at 7:00 a.m. on the first day of the month and ends at 7:00 a.m. on the first day of the next succeeding month.

(15) **“Proration period”** means for oil the proration month and for gas the 12-month period that begins at 7:00 a.m. on January 1 of each year and ends at 7:00 a.m. on January 1 of the succeeding year or other period designated by general or special order of the division.

(16) **“Proration schedule”** means the division orders authorizing the production, purchase and transportation of oil, casinghead gas and gas from the various units of oil or of gas in allocated pools.

(17) **“Proration unit”** means the area in a pool that can be effectively and efficiently drained by one well as determined by the division or commission (see Subsection B of Section 70-2-17 NMSA 1978) as well as the area assigned to an individual well for the purposes of allocating allowable production pursuant to a prorationing order for the pool.

(18) **“Prospective spacing unit”** means a hypothetical spacing unit that does not yet have a producing well.

(19) **“PVC”** means poly vinyl chloride.

(20) **“Psi”** means pounds per square inch.

**Q. Definitions beginning with the letter “Q”.**

[RESERVED]

**R. Definitions beginning with the letter “R”.**

(1) **“RCRA”** means the federal Resource Recovery and Conservation Act.

(2) **“Recomplete”** means the subsequent completion of a well in a different pool from the pool in which it was originally completed.

(3) **“Regulated NORM”** means NORM contained in oil-field soils, equipment, sludges or other materials related to oil-field operations or processes exceeding the radiation levels specified in 20.3.14.1403 NMAC.

(4) **“Release”** means breaks, leaks, spills, releases, fires or blowouts involving oil, produced water, condensate, drilling fluids, completion fluids or other chemical or contaminant or mixture thereof, including oil field wastes and gases to the environment.

(5) **“Remediation plan”** means a written description of a program to address unauthorized releases. The plan may include appropriate information, including assessment data, health risk demonstrations and corrective action or actions. The plan may also include an alternative proposing no action beyond the spill report’s submittal.

(6) **“Responsible person”** means the owner or operator who shall complete a division-approved corrective action for pollution from releases.

(7) **“Rules”** means the rules enacted pursuant to the Oil and Gas Act, 19.15.2 to 19.15.39 NMAC, as they may be modified or amended.

[(7)] (8) **“Royalty interest owner”** means the owner of an interest in oil and gas that does not presently entitle the owner to explore, drill or otherwise develop those minerals, including lessors, royalty interest owners and overriding royalty interest owners. Royalty interests are non-cost bearing.

[(8)] (9) **“Run-on”** means rainwater, leachate or other liquid that drains from other land onto any part of a division-approved facility.

**S. Definitions beginning with the letter “S”.**

(1) **“SAR”** means the sodium adsorption ratio.

(2) **“Secondary recovery”** means a method of recovering quantities of oil or gas from a reservoir which quantities would not be recoverable

by ordinary primary depletion methods.

(3) **“Sediment oil”** means tank bottoms and other accumulations of liquid hydrocarbons on an oil and gas lease, which hydrocarbons are not merchantable through normal channels.

(4) **“Shallow pool”** means a pool that has a depth range from zero to 5000 feet.

(5) **“Shut-in”** means the status of a production well or an injection well that is temporarily closed, whether by closing a valve or disconnection or other physical means.

(6) **“Shut-in pressure”** means the gauge pressure noted at the wellhead when the well is completely shut-in, not to be confused with bottom hole pressure.

(7) **“Significant modification of an abatement plan”** means a change in the abatement technology used excluding design and operational parameters, or relocation of twenty-five percent or more of the compliance sampling stations, for a single medium, as designated pursuant to Subparagraph (d) of Paragraph (2) of Subsection D of 19.15.30.13 NMAC.

(8) **“Soil”** means earth, sediments or other unconsolidated accumulations of solid particles produced by the physical and chemical disintegration of rocks, and that may or may not contain organic matter.

(9) **“Spacing unit”** means the area allocated to a well under a well spacing order or rule. Under the Oil and Gas Act, Paragraph (10) of Subsection B of Section 70-2-12 NMSA 1978, the commission may fix spacing units without first creating proration units. See *Rutter & Wilbanks corp. v. oil conservation comm'n*, 87 NM 286 (1975). This is the area designated on form C-102.

(10) **“Subsurface water”** means ground water and water in the vadose zone that may become ground water or surface water in the reasonably

foreseeable future or that vegetation may use.

(11) **“Surface waste management facility”** means a facility that receives oil field waste for collection, disposal, evaporation, remediation, reclamation, treatment or storage except:

(a) a facility that utilizes underground injection wells subject to division regulation pursuant to the federal Safe Drinking Water Act, and does not manage oil field wastes on the ground in pits, ponds, below-grade tanks or land application units;

(b) a facility permitted pursuant to the New Mexico environmental improvement board rules or WQCC rules;

(c) a temporary pit as defined in 19.15.17 NMAC;

(d) a below-grade tank or pit that receives oil field waste from a single well, permitted pursuant to 19.15.37 NMAC, regardless of the capacity or volume of oil field waste received;

(e) a facility located at an oil and gas production facility and used for temporary storage of oil field waste generated on-site from normal operations, if the facility does not pose a threat to fresh water, public health, safety or the environment;

(f) a remediation conducted in accordance with a division-approved abatement plan pursuant to 19.15.30 NMAC, a corrective action pursuant to 19.15.29 NMAC or a corrective action of a non-reportable release;

(g) a facility operating pursuant to a division emergency order;

(h) a site or facility where the operator is conducting emergency response operations to abate an immediate threat to fresh water, public health, safety or the environment or as the division has specifically directed or approved; or

(i) a facility that receives only exempt oil field waste, receives less than

50 barrels of liquid water per day (averaged over a 30-day period), has a capacity to hold 500 barrels of liquids or less and is permitted pursuant to 19.15.17 NMAC.

T. **Definitions beginning with the letter “T”.**

(1) **“Tank bottoms”** means that accumulation of hydrocarbon material and other substances that settles naturally below oil in tanks and receptacles that are used in oil’s handling and storing, and which accumulation contains more than two percent of BS&W; provided, however, that with respect to lease production and for lease storage tanks, a tank bottom shall be limited to that volume of the tank in which it is contained that lies below the bottom of the pipeline outlet to the tank.

(2) **“TDS”** means total dissolved solids.

(3) **“Temporary abandonment” or “temporarily abandoned status”** means the status of a well that is inactive.

(4) **“Top proration unit allowable for gas”** means the maximum number of cubic feet of gas, for the proration period, the division allocates to a gas producing unit in an allocated gas pool.

(5) **“Top proration unit allowable for oil”** means the maximum number of barrels for oil daily for each calendar month the division allocates on a proration unit basis in a pool to non-marginal units. The division shall determine the top proration unit allowable for a pool by multiplying the applicable depth bracket allowable by the market demand percentage factor in effect.

(6) **“TPH”** means total petroleum hydrocarbons.

(7) **“Treating plant”** means a plant constructed for wholly or partially or being used wholly or partially for reclaiming, treating, processing or in any manner making tank bottoms or other waste oil marketable.



(8) **“Tribal lands”** means those lands for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe. This includes reservations, pueblo land grants, tribal trust lands and individual trust allotments.

(9) **“Tribal leases”** means those leases of minerals or interests in or rights to minerals for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe.

(10) **“Tribal minerals”** means those minerals for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe.

(11) **“True vertical depth”** means the difference in elevation between the ground level at the surface location of the well and the deepest point in the well bore.

(12) **“Tubingless completion”** means a well completion in which the production string of casing has an outside diameter of 2.875 inches or less.

(13) **“Tubingless multiple completion”** means completion in which two or more common sources of supply are produced through an equal number of casing strings cemented in a common well bore, each such string of casing having an outside diameter of 2.875 inches or less, with the production from each common source of supply completely segregated by cement.

**U. Definitions beginning with the letter “U”.**

(1) **“Underground source of drinking water”** means an aquifer that supplies water for human consumption or that contains ground water having a TDS concentration of 10,000 mg/l or less and that is not an exempted aquifer.

(2) **“Underproduction”** means the amount of oil or the amount of gas during a proration period by which a given proration unit failed to produce

an amount equal to that the division authorizes in the proration schedule.

(3) **“Unit of proration for gas”** consists of such multiples of 40 acres as may be prescribed by division-issued special pool orders.

(4) **“Unit of proration for oil”** consists of one 40-acre tract or such multiples of 40-acre tracts as may be prescribed by division-issued special pool orders.

(5) **“Unorthodox well location”** means a location that does not conform to the spacing requirements division rules establish.

(6) **“Unstable area”** means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all a division-approved facility’s structural components. Examples of unstable areas are areas of poor foundation conditions, areas susceptible to mass earth movements and karst terrain areas where karst topography is developed because of dissolution of limestone, dolomite or other soluble rock. Characteristic physiographic features of karst terrain include sinkholes, sinking streams, caves, large springs and blind valleys.

(7) **“Upstream facility”** means a facility or operation associated with the exploration, development, production or storage of oil or gas that is not a downstream facility.

**V. Definitions beginning with the letter “V”.**

**“Vadose zone”** means unsaturated earth material below the land surface and above ground water, or in between bodies of ground water.

**W. Definitions beginning with the letter “W”.**

(1) **“Waste”**, in addition to its ordinary meaning, includes:

(a) underground waste as those words are generally understood in the oil and gas business, and to embrace the inefficient, excessive or improper use or dissipation of the reservoir energy, including gas energy and water drive,

of a pool, and the locating, spacing, drilling, equipping, operating or producing of a well or wells in a manner to reduce or tend to reduce the total quantity of oil or gas ultimately recovered from a pool, and the use of inefficient underground storage of gas;

(b) surface waste as those words are generally understood in the oil and gas business, and to embrace the unnecessary or excessive surface loss or destruction without beneficial use, however caused, of gas of any type or in any form, or oil, or a product thereof, but including the loss or destruction, without beneficial use, resulting from evaporation, seepage, leakage or fire, especially such loss or destruction incident to or resulting from the manner of spacing, equipping, operating or producing a well or wells, or incident to or resulting from the use of inefficient storage or from the production of oil or gas, in excess of the reasonable market demand;

(c) oil production in this state in excess of the reasonable market demand for the oil; the excess production causes or results in waste that the Oil and Gas Act prohibits; reasonable market demand as used herein with respect to oil means the demand for the oil, for reasonable current requirements for current consumption and use within or outside of the state, together with the demand of amounts as are reasonably necessary for building up or maintaining reasonable storage reserves of oil or the products thereof, or both the oil and products;

(d) the non-ratable purchase or taking of oil in this state; the non-ratable taking and purchasing causes or results in waste, as defined in Subparagraphs (a), (b) and (c) of Paragraph (1) of Subsection W of 19.15.2.7 NMAC and causes waste by violating the Oil and Gas Act, Section 70-2-16 NMSA 1978;

(e) the production in this state of gas from a gas well or wells, or from a gas pool, in excess of the reasonable

market demand from such source for gas of the type produced or in excess of the capacity of gas transportation facilities for such type of gas; the words “reasonable market demand”, as used herein with respect to gas, shall be construed to mean the demand for gas for reasonable current requirements, for current consumption and for use within or outside the state, together with the demand for such amounts as are necessary for building up or maintaining reasonable storage reserves of gas or products thereof, or both the gas and products.

(2) **“Water”** means all water including water situated wholly or partly within or bordering upon the state, whether surface or subsurface, public or private, except private waters that do not combine with other surface or subsurface water.

(3) **“Water contaminant”** means a substance that could alter if released or spilled water’s physical, chemical, biological or radiological qualities. Water contaminant does not mean source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954.

(4) **“Watercourse”** means a river, creek, arroyo, canyon, draw or wash or other channel having definite banks and bed with visible evidence of the occasional flow of water.

(5) **“Water pollution”** means introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or property use.

(6) **“Well blowout”** means a loss of control over and subsequent eruption of a drilling or workover well or the rupture of the casing, casinghead or wellhead of an oil or gas well or injection or disposal well, whether active or inactive, accompanied by the

sudden emission of fluids, gaseous or liquid, from the well.

(7) **“Well bore”** means the interior surface of a cased or open hole through which drilling, production or injection operations are conducted.

(8) **“Wellhead protection area”** means the area within 200 horizontal feet of a private, domestic fresh water well or spring used by less than five households for domestic or stock watering purposes or within 1000 horizontal feet of any other fresh water well or spring. Wellhead protection areas does not include areas around water wells drilled after an existing oil or gas waste storage, treatment or disposal site was established.

(9) **“Wetlands”** means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions in New Mexico. This definition does not include constructed wetlands used for wastewater treatment purposes.

(10) **“Working interest owner”** means the owner of an operating interest under an oil and gas lease who has the exclusive right to exploit the oil and gas minerals. Working interests are cost bearing.

(11) **“WQCC”** means the New Mexico water quality control commission.  
[19.15.2.7 NMAC - Rp, 19.15.1.7 NMAC, 12/1/2008; A, 3/31/2015; A, 6/30/2016; A, 6/26/2018; A, 1/15/2019; A, 10/13/2020; A, 8/23/2022]

**19.15.2.10 [GENERAL WAIVERS AND EXCEPTIONS: [RESERVED] ONLINE APPLICATION AND SUBMITTALS:**

**A.** The division shall establish online application and submittal procedures on the division’s website for the electronic filing of all forms, applications and other written documents and information with the division.

**B.** All applications that require the payment of a fee, as provided in Section 70-2-39 NMSA 1978, shall include the fee payment with the application.

**C.** A person whose filing is made untimely due to a technical failure of the division’s web-based online application process may request an extension of time. Technical failures not originating with the division’s process, such as problems with the filer’s equipment, software, or telecommunications facility will not constitute a basis for relief.

[19.15.2.10 NMAC - N, 8/23/2022]

**19.15.2.12 [NUMBERING OF DIVISION ORDERS:**

**A.** Division orders entered after January 1, 1950, pertaining to the allocation of production of oil and gas shall be prefixed with the letter “A” or “AG” in the case of gas pools and shall be numbered consecutively, commencing with the number one, *i.e.*, the first allocation order issued after January 1, 1950, is No. A-1, the next A-2, etc. or AG-1 and AG-2.

**B.** Other division orders entered after January 1, 1950, shall be prefixed with the letter “R” and shall be numbered consecutively, commencing with the number 1, *i.e.*, the first such order issued after January 1, 1950, is No. R-1, the next R-2, etc.] **FILING AND NOTIFICATION:** All requirements in the rules:

**A.** to file a form or application with the division or commission, including documents required to be filed with district offices or the Santa Fe office, shall be accomplished by using the applicable online process on the division’s website.

**B.** to otherwise notify, advise, contact, or report to the division, including to any unit of the division (such as a bureau or office) or any division official (such as the director or a bureau chief), may be accomplished by electronic mail or as otherwise provided on the division’s website; the division shall provide

contact instructions on the division's website, and

C. to file an original financial assurance instrument with the division as provided in 19.15.8 NMAC shall require delivery to the Santa Fe office unless otherwise directed by the division.  
[19.15.2.12 NMAC - Rp, 19.15.15.1304 NMAC, 12/1/2008; 19.15.2.12 NMAC - Rp, 19.15.2.12 NMAC, 8/23/2022]

**19.15.2.13 COMPUTATION OF TIME:** In computing a period of time [19.15.2 NMAC through 19.15.39 NMAC prescribes, the day from which the period of time begins to run shall not be included. The last calendar day of the time period shall be included in the computation unless it is a Saturday, Sunday or a day on which state agencies observe a legal holiday. In such case, the period of time runs to the close of business on the next regular workday. If the period is less than 11 days, a Saturday, Sunday or legal holiday is excluded from the computation] prescribed by the Oil and Gas Act, the rules or an order, the division and commission shall comply with the Uniform Statute and Rule Construction Act, Section 12-2A-7 NMSA 1978.

[19.15.2.13 NMAC - Rp, 19.15.14.1226 NMAC, 12/1/2008; A, 8/23/2022]

**19.15.2.16 DUTIES AND AUTHORITY OF ~~FIELD~~**

**DIVISION PERSONNEL:** [Oil and gas inspectors, deputy oil and gas inspectors, scouts, engineers and geologists the division duly appoints] Division personnel have the authority and duty to enforce division rules. [Oil and gas inspectors and their deputies may allow minor deviations from 19.15.2 NMAC through 19.15.39 NMAC's requirements as to field practices where, by so doing, waste is prevented or burdensome delay or expense on the part of the operator is avoided] Upon a showing by an operator that changes are necessary to avoid waste or protect public health or the environment, division personnel may allow minor

deviations from approved field operational plans such as drilling and plugging plans. The operator shall file a Form C-103 as a notice of intention showing the change of plans within two business days of the approval.

[19.15.2.16 NMAC - Rp, 19.15.15.1303, 12/1/2008; A, 8/23/2022]

**19.15.2.17 ~~DISTRICT OFFICES:~~**

A. To expedite administration of the division's work and its rules' enforcement, the state is divided into four districts as follows:

(1) district 1 consisting of Lea, Roosevelt and Curry counties and that portion of Chaves county lying east of the north-south line dividing ranges 29 and 30 east, NMPM with the district office in Hobbs;

(2) district 2 consisting of Eddy, Otero, Dona Ana, Luna, Hidalgo, Grant, Sierra, Lincoln and De Baca counties and that portion of Chaves county lying west of the north-south line dividing ranges 29 and 30 east, NMPM with the district office in Artesia;

(3) district 3 consisting of San Juan, Rio Arriba, McKinley and Sandoval counties with the district office in Aztec; and

(4) district 4 consisting of the remainder of state with the district office in Santa Fe.

B. Each district office shall be under the charge of a district supervisor, an oil and gas inspector or a deputy oil and gas inspector, unless otherwise specifically required.

C. The district office of the district in which the affected land is located shall take care of matters pertaining to the division.]

**ORGANIZATIONAL UNITS:** When necessary to assist in the administration of the Oil and Gas Act, the director may divide the state into districts or other organizational units as appropriate. Upon establishment of, or revisions to, such units, the director shall provide or amend a map on the division's website with the boundaries of the units. Contact information for the units, including

any assigned personnel, shall be maintained on the division's website.  
[19.15.2.17 NMAC - Rp, 19.15.15.1301 NMAC, 12/1/2008; 19.15.2.17 NMAC - Rp, 19.15.2.17 NMAC, 8/23/2022]

**ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION COMMISSION**

**This is an amendment to 19.15.7 NMAC, Sections 8, 9 and 16 and repealing Sections 10, 11 and 37, effective 8/23/2022.**

**19.15.7.8 GENERAL:**

**A. ~~Where to file reports.~~** Unless otherwise specifically provided for in a division rule or order, the operator shall file forms and reports 19.15.7 NMAC requires with the appropriate division district office as provided in 19.15.2.17 NMAC and 19.15.7.10 NMAC] **Development of forms and applications.** The division shall develop standard forms and applications for the purposes required by the commission in any rule. The division may also develop online forms, applications and other submittal processes to provide standard mechanisms for any other required notices, requests, applications, or reports. All submittal processes for forms and applications shall be available on the division's website.

**B. Additional data.** 19.15.7 NMAC does not limit or restrict the division's authority to require the furnishing of additional reports, data or other information relative to the production, transportation, storing, refining, processing or handling of oil, gas or products in the state as may appear to the division to be necessary or desirable, either generally or specifically, for [the prevention of waste and the conservation of the state's natural resources] compliance

with or implementation of the Oil and Gas Act.

**C. Books and records.**

A [~~producer, injector, transporter, storer, refiner, gasoline or extraction plant operator, treating plant operator and initial purchaser of gas within the state~~] person subject to the Oil and Gas Act shall make and keep appropriate books and records for a period of not less than five years, covering operations in New Mexico, in order to make and substantiate the reports the division requires.

**D. Written notices, requests, permits and reports.**

A person required to file notices, requests, permits or reports shall use the [~~forms listed below for the purpose shown in accordance with the instructions printed on the form and the rule covering the form's use or special order pertaining to its use~~] division's website in accordance with the instructions provided on the website or required on a form or in any rule covering a form's use or special order pertaining to its use. The following list of forms is intended for informational purposes and does not limit the division's authority to establish new forms or revise existing forms:

(1) form  
C-101 - application for permit to drill, deepen or plug back;

(2) form  
C-102 - well location and acreage dedication plat;

(3) form  
C-103 - sundry notices and reports on wells;

(4) form  
C-104 - request for allowable and authorization to transport oil and gas;

(5) form  
C-105 - well completion or recompletion report and log;

(6) form  
C-106 - notice of intention to utilize automatic custody transfer equipment;

(7) form  
C-107 - application for multiple completion;

(8) form  
C-107-A - application for downhole commingling;

(9) form  
C-107-B - application for surface commingling (diverse ownership);

(10) form  
C-108 - application to dispose of [salt] produced water by injection into a porous formation;

(11) form  
C-109 - application for discovery allowable and creation of a new pool;

(12) form C-111  
- gas transporter's monthly report (sheet 1 and sheet 2);

(13) form  
C-112 - transporter's and storer's monthly report;

(14) form  
C-112-A - receipts continuation sheet;

(15) form  
C-112-B - deliveries continuation sheet;

(16) form  
C-113 - refiner's monthly report (sheet 1 and sheet 2);

(17) form  
C-115 - operator's monthly report;

(18) form  
C-115B - volume of vented and flared natural gas;

(19) form  
C-115-EDP - operator's monthly report (electronic data processing);

(20) form  
C-116 - gas-oil ratio tests;

(21) form  
C-117-A - tank cleaning, sediment oil removal, transportation of miscellaneous hydrocarbons and disposal permit;

(22) form  
C-117-B - monthly sediment oil disposal statement;

(23) form  
C-118 - treating plant operator's monthly report (sheet 1 and sheet 2);

(24) form  
C-120-A - monthly water disposal report;

(25) form  
C-121 - oil purchaser's nomination;

(26) form  
C-121-A - purchaser's gas nomination;

(27) form  
C-122 - multi-point and one point back pressure test for gas wells;

(28) form  
C-122-A - gas well test data sheet-San

Juan basin (initial deliverability test, blue paper; annual deliverability test, white);

(29) form  
C-122-B - initial potential test data sheet;

(30) form  
C-122-C - deliverability test report;

(31) form  
C-122-D - worksheet for calculation of static column wellhead pressure ( $P_w$ );

(32) form  
C-122-E - worksheet for stepwise calculation of (surface) (subsurface) pressure ( $P_c$  and  $P_w$ );

(33) form  
C-122-F - worksheet for calculation of wellhead pressures ( $P_c$  or  $P_w$ ) from known bottom hole pressure ( $P_f$  or  $P_s$ );

(34) form  
C-122-G - worksheet for calculation of static column pressure at gas liquid interface;

(35) form  
C-123 - request for the creation of a new pool;

(36) form  
C-124 - reservoir pressure report;

(37) form  
C-125 - gas well shut-in pressure report;

(38) form  
C-126 - permit to transport recovered load oil;

(39) form  
C-127 - request for allowable change;

(40) form  
C-129 - report of vented or flared natural gas;

(41) form  
C-130 - notice of disconnection;

(42) form  
C-131-A - monthly gas storage report;

(43) form  
C-131-B - annual LPG storage report;

(44) form  
C-133 - authorization to move produced water exhibit "A";

(45) form  
C-134 - application for exception to division order R-8952, 19.15.18.18 NMAC or 19.15.36 NMAC;

(46) form  
C-135 - gas well connection, reconnection or disconnection notice;



- (47) form  
C-136 - application for approval to use an alternate gas measurement method;
- (48) form  
C-137 - application for waste management facility;
- (49) form  
C-137-EZ - registration/final closure report for small landfarm;
- (50) form  
C-138 - request for approval to accept solid waste;
- (51) form  
C-139 - application for qualification of production restoration project and certification of approval;
- (52) form  
C-140 - application for qualification of well workover project and certification of approval;
- (53) form  
C-141 - release notification and corrective action;
- (54) form  
C-144 - pit, closed-loop system, below-grade tank or proposed alternative method permit or closure plan application;
- (55) form  
C-145 - change of operator;
- (56) form  
C-146 - change of operator name;
- (57) form  
C-147 - permit or registration for recycling and re-use of produced water, drilling fluids and liquid oil field waste; and
- (58) form  
C-148 - reporting for recycling and re-use of produced water, drilling fluids and liquid oil field waste.  
[19.15.7.8 NMAC - Rp, 19.15.13.1100 NMAC, 12/1/2008; A, 5/25/2021; A, 8/23/2022]

**19.15.7.9 [FORMS UPON REQUEST:** The division's forms for written notices, requests and reports it requires are available on the division's website. The division shall furnish paper copies upon request.]  
**FORM REQUIREMENTS ON FEDERAL OR TRIBAL LANDS OR MINERALS:**

**A.** For wells on federal lands, accessing federal minerals or

lands or minerals owned by a Native American nation, tribe, pueblo, or individual allottee in New Mexico, an operator shall file the applicable federal forms with the BLM (as may be updated from time to time by the BLM) in lieu of filing the following forms with the division:

- (1) applications for permit to drill, deepen or plug back (C-101),
- (2) sundry notices and reports on wells (C-103), and
- (3) well completion or recompletion reports and logs (C-105).

**B.** For geophysical logs, electrical logs or other testing results obtained from a well on federal lands or minerals and required for the Form C-105, the operator shall submit an electronic copy of the results to the division using the online submittal process.

**C.** All such forms filed with the BLM involving federal lands or minerals are subject to division approval in the same manner and to the same extent as the corresponding division forms. All forms approved or processed to completion by the BLM for wells on federal lands or accessing federal minerals shall be filed with division for approval using the online application process on the division's website no later than the time period in the rules for the equivalent division form or five business days after the BLM approves or processes to completion if no deadline is provided, except:

- (1) for subsequent reports of work performed that are first reported to the BLM on a C-103 or a C-105 equivalent, if within 30 days of submittal, the BLM has not approved or processed to completion such submittal, the operator shall within 10 days file the state equivalent form with the division; and
- (2) once the BLM processes to completion or approves the federal submittal, the operator shall file within ten business days the submittal processed to completion or approved by the BLM.

**D.** All such forms filed exclusively for lands or minerals owned by a Native American nation, tribe, pueblo or individual allottee shall be filed with the division using the online application process on the division's website as soon as is practicable after federal approval or processing to completion. Such forms involving exclusively lands or minerals that a Native American nation, tribe, pueblo or individually allottee owns are not subject to division review or approval unless such review or approval is authorized by a written agreement between the Native American nation, tribe, pueblo and the division.

**E.** For other reports on wells on federal land or minerals, the operators shall file the applicable state forms with the division, including forms C-104 and C-115.  
[19.15.7.9 NMAC - Rp, 19.15.1.16 NMAC, 12/1/2008; 19.15.7.9 NMAC - Rp, 19.15.7.9 NMAC, 8/23/2022]

**19.15.7.10 [WHERE TO FILE REPORTS AND FORMS:** A person required to file a report or form shall file the report or form with the division in the number and at the time specified on the form or report or by the applicable section in 19.15.7 NMAC. An operator shall file plugging bonds directly with the division's Santa Fe office.]  
**[RESERVED]**  
[19.15.7.10 NMAC - Rp, 19.15.15.1302 NMAC, 12/1/2008; Repealed, 8/23/2022]

**19.15.7.11 [UNITED STATES GOVERNMENT LEASES:** For wells located on land that the United States or a native American nation, tribe or pueblo owns, an operator shall file applications for permit to drill, deepen or plug back, BLM form no. 3160-3; sundry notices and reports on wells, BLM form no. 3160-5; and well completion or recompletion report and log, BLM form no. 3160-4 with the BLM in lieu of filing the corresponding division forms with the division. All such forms are, however, subject to division approval

in the same manner and to the same extent as the corresponding division forms.] [RESERVED]

[19.15.7.11 NMAC - Rp, 19.15.1.14 NMAC, 12/1/2008; Repealed, 8/23/2022]

**19.15.7.16 WELL COMPLETION OR RECOMPLETION REPORT AND LOG (Form C-105):**

**A.** Within 45 days following the completion or recompletion of a well, the operator shall file form C-105 with the [appropriate] division [district office] accompanied by a summary of special tests conducted on the well, including drill stem tests. In addition, the operator shall file a copy of electrical and radio-activity logs run on the well with form C-105. If the division does not receive form C-105 with attached logs and summaries within the specified 45-day period, the division shall withhold the allowable for the well or suspend injection authority, as appropriate, until the operator has complied with 19.15.7.16 NMAC.

**B.** In the case of a dry hole, a complete record of the well on form C-105 with the attachments listed in Subsection A of 19.15.7.16 NMAC shall accompany the notice of intention to plug the well, unless previously filed. The division shall not approve the plugging report or release the bond the operator has complied with 19.15.7.16 NMAC.

**C.** The division shall not keep form C-105 and accompanying attachments confidential unless the well's owner requests in writing that the division keep it confidential. Upon such request, the division shall keep these data confidential for 90 days from the date of the well's completion, provided, however, that the report, logs and other attached data may, when pertinent, be introduced in a public hearing before division examiners, the commission or in a court of law, regardless of the request that they be kept confidential.

[19.15.7.16 NMAC - Rp, 19.15.13.1105 NMAC, 12/1/2008; A, 9/26/2017; A, 8/23/2022]

**19.15.7.37 [FORMS REQUIRED ON FEDERAL LAND]:**

~~**A.** An operator shall use federal forms in lieu of state forms when filing application for permit to drill, deepen or plug back and sundry notices and reports on wells and well completion or recompletion report and log for wells on federal lands in New Mexico. However, the operator shall submit two extra copies of each of the forms to the BLM, which, upon approval, will transmit the forms to the division. An operator of a well on federal land shall use the following BLM forms in lieu of division forms:~~

<u>BLM Form No.</u>	<u>Title of Form (Same for both agencies)</u>	<u>Form No.</u>
3160-3 (Nov. 1993)	Application for Permit to Drill, Deepen or Plug Back	C-101
3160-5 (Nov. 1983)	Sundry Notices and Reports on Wells	C-103
3160-4 (Nov. 1983)	Well Completion or Recompletion Report and Log	C-105

~~**B.** The above forms as the BLM may revise are the only forms that an operator may file in place of division forms.~~

~~**C.** After a well is completed and ready for pipeline connection, the operator shall file form C-104 along with a copy of form C-105 or BLM form No. 3160-4, whichever is applicable, with the division on wells drilled in the state, regardless of land status. Further, the operator shall file production reports using division forms; the division will not accept federal forms for reporting production.~~

~~**D.** An operator's failure to comply with 19.15.7.36 NMAC shall result in the division's cancellation of form C-104 for the affected well or wells.] [RESERVED]~~

[19.15.7.37 NMAC - Rn, 19.15.7.36 NMAC, 5/25/2021; Repealed, 8/23/2022]

**GAME AND FISH DEPARTMENT FISHERIES MANAGEMENT**

On March 1, 2022 the New Mexico Supreme Court issued an opinion that 19.31.22 NMAC is unconstitutional. As such, the New Mexico State Game Commission voted to repeal the entire rule on an emergency basis that same day. The State Game Commission voted to permanently repeal 19.31.22 NMAC on August 19, 2022 as directed by the State Supreme Court.

**HEALTH, DEPARTMENT OF**

**TITLE 7 HEALTH CHAPTER 1 HEALTH GENERAL PROVISIONS PART 19 VIOLENCE INTERVENTION PROGRAM FUND**

**7.1.19.1 ISSUING AGENCY:** New Mexico Department of Health, epidemiology and response division. [7.1.19.1 NMAC - N/E, 8/23/2022]

**7.1.19.2 SCOPE:** The Violence Intervention Program Fund shall

apply to requests made for funds available pursuant to the Violence Intervention Fund Act, Sections 24-34-1, et seq, NMSA 1978. [7.1.19.2 NMAC - N/E, 8/23/2022]

**7.1.19.3 STATUTORY**

**AUTHORITY:** This rule is promulgated pursuant to the following statutory authorities:

**A.** The Department of Health Act, Subsection E of Section 9-7-6, NMSA 1978, which authorizes the secretary of the department of health to "make and adopt such reasonable and procedural rules and regulations as may be necessary to

carry out the duties of the department and its divisions”.

**B. The Violence Intervention Program Fund Act,** Section 31-30-8, NMSA 1978, which authorizes the department of health to adopt rules to carry out the provisions of the act.

[7.1.19.3 NMAC - N/E, 8/23/2022]

**7.1.19.4 DURATION:** Temporary, one-hundred eighty days.

[7.1.19.4 NMAC - N/E, 8/23/2022]

**7.1.19.5 EFFECTIVE DATE:**

August 23, 2022, unless a later date is cited at the end of a section.

[7.1.19.5 NMAC - N/E, 8/23/2022]

**7.1.19.6 OBJECTIVE:** The objective of Part 19, Chapter 1 is to establish standards and procedures for funding programs under the Violence Intervention Program Fund Act. These standards and procedures are designed for the purpose of making funds available to administer the provisions of the Violence Intervention Program Act and award violence intervention program grants to state agencies, counties, municipalities or tribal governments that the department finds are disproportionately impacted by violent crimes, including homicides, shootings and aggravated assaults, and develop standards pertaining to the collection and sharing of data by grantees. This rule will inform eligible agencies and stakeholders of the procedures to access funds. The department of health through the injury and behavioral epidemiology bureau, will administer the fund pursuant to the Violence Intervention Program Fund Act and this rule.

[7.1.19.6 NMAC - N/E, 8/23/2022]

**7.1.19.7 DEFINITIONS:**

**A. Definitions**  
**beginning with “A”:**

**(1) “Accumulation”** defined as the prior approved expenditure or disposition in the current fiscal year of funds distributed in the fiscal year.

**(2) “Act”**  
defined as the Violence Intervention

Program Fund Act, Section 24-34-1, et seq, NMSA 1978.

**B. Definitions**  
**beginning with “B”:** “Bureau” defined as the injury and behavioral epidemiology bureau of the epidemiology and response division, New Mexico department of health.

**C. Definitions**  
**beginning with “C”:**

**(1) “Chief”**  
defined as the bureau chief of the injury and behavioral epidemiology bureau.

**(2) “Commission”** defined as the New Mexico sentencing commission.

**(3) “Community-based service provider”** defined as an entity that is eligible to be awarded a contract to provide services that accomplish the purposes of the Violence Intervention Program Act.

**D. Definitions**  
**beginning with “D”:**

**(1) “Department”** defined as the New Mexico department of health.

**(2) “Director”**  
defined as the director of the epidemiology and response division.

**(3) “Division”**  
defined as the epidemiology and response division.

**E. Definitions**  
**beginning with “E”:** [RESERVED]

**F. Definitions**  
**beginning with “F”:**

**(1) “Fiscal year”** defined as the state fiscal year that runs from July 1 through June 30 each year.

**(2) “Fund”**  
defined as the violence intervention program fund.

**G. Definitions**  
**beginning with “G”:** “Grantee” defined as a state agency, county, municipality or tribal government that has applied for and received funding pursuant to the Violence Intervention Program Act for the purposes of addressing gun violence and aggravated assaults in a locally focused geographic area.

**H. Definitions**  
**beginning with “H”:** [RESERVED]

**I. Definitions**  
**beginning with “I”:** [RESERVED]

**J. Definitions**  
**beginning with “J”:** [RESERVED]

**K. Definitions**  
**beginning with “K”:** [RESERVED]

**L. Definitions**  
**beginning with “L”:** [RESERVED]

**M. Definitions**  
**beginning with “M”:** [RESERVED]

**N. Definitions**  
**beginning with “N”:** [RESERVED]

**O. Definitions**  
**beginning with “O”:** [RESERVED]

**P. Definitions**  
**beginning with “P”:** [RESERVED]

**Q. Definitions**  
**beginning with “Q”:** [RESERVED]

**R. Definitions**  
**beginning with “R”:** [RESERVED]

**S. Definitions**  
**beginning with “S”:** “Secretary” defined as the secretary of the New Mexico department of health.

**T. Definitions**  
**beginning with “T”:** [RESERVED]

**U. Definitions**  
**beginning with “U”:** [RESERVED]

**V. Definitions**  
**beginning with “V”:** [RESERVED]

**W. Definitions**  
**beginning with “W”:** [RESERVED]

**X. Definitions**  
**beginning with “X”:** [RESERVED]

**Y. Definitions**  
**beginning with “Y”:** [RESERVED]

**Z. Definitions**  
**beginning with “Z”:** [RESERVED]

[7.1.19.7 NMAC - N/E, 8/23/2022]

**7.1.19.8 DUTIES OF THE BUREAU:** The Bureau shall administer the fund, administer the provisions of the Violence Intervention Program Act and pursuant to the Act and this rule receive and review applications for and award violence intervention program grants to state agencies, counties, municipalities or tribal governments that the department finds are disproportionately impacted by violent crimes, including homicides, shootings and aggravated assaults.

[7.1.19.8 NMAC - N/E, 8/23/2022]

**7.1.19.9 DUTIES OF THE COMMISSION:** The commission shall:



**A.** provide state agencies, counties, municipalities and tribal governments with data relevant to grant applications pursuant to Subsection B of Section 31-30-5 NMSA 1978;

**B.** each year through 2027, with the department, the commission shall report to the legislature by December 1 regarding the awards and outcomes of each grantee pursuant to Subsection B of Section 31-30-9, NMSA 1978. [7.1.19.9 NMAC - N/E, 8/23/2022]

**7.1.19.10 ANNUAL REPORTS:** Each grantee shall report to the department and the commission by November 1 of each year regarding the:

**A.** purpose and amount of each grant received by the grantee for the previous fiscal year; and

**B.** processes, outputs and outcomes resulting from each grant approved by the department for the previous fiscal year, including relevant data as required by department rules. [7.1.19.10 NMAC - N/E, 8/23/2022]

**7.1.19.11 VIOLENCE INTERVENTION PROGRAM:**

The purpose of the Violence Intervention Program Act is to create a non-reverting fund in the state treasury, the “violence intervention program fund”, to consist of appropriations, gifts, grants and donations, to be administered by the department for awarding violence intervention program grants to state agencies, counties, municipalities or tribal governments that the department finds are disproportionately impacted by violent crimes, including homicides, shootings and aggravated assaults.

**A.** Eligibility: subject to the availability of the funds in the violence intervention fund, state agencies, counties, municipalities or tribal governments that the department finds are disproportionately impacted by violent crimes, including homicides, shootings and aggravated assaults may apply for funding under this rule.

**B.** Application process: In the first year of the program, within 60 days of the effective date of this rule, and thereafter, annually prior to the start of each state fiscal year, eligible state agencies, counties, municipalities, or tribal governments may apply to participate in the violence intervention fund program by submitting the application forms in a timely manner, as prescribed and distributed by the bureau. Such application forms will include, but not be limited to:

**(1)** Grant application form provided by the bureau including, but not limited to the following:

**(a)** budget form and narrative including a plan of expenditure for the amounts requested from the fund;

**(b)** project narrative which includes: **(i)**

need statement-provide a description of your agency and the constituents you serve. This narrative should describe the severity of violence and its impact on the community, as well as a description of the unmet need or problem that the grant project will address;

**(ii)** project description including identified high-risk target population and programs to address the problem.

**(2)** Violence prevention strategic plan - the strategic plan must include, at a minimum:

**(a)** an assessment of current violence prevention capacity and any current violence prevention activities and their effectiveness;

**(b)** description of selected evidence-based, evidence informed, or research-based programs and strategies to be implemented;

**(c)** action plans for program implementation and evaluation;

**(d)** statement of desired (measurable) outcomes and criteria with which to assess implementation success.

**C.** Funding amounts: Based upon the allocation decision by the authority in 7.27.9.12 NMAC, Funding amounts shall be determined by the department, will be based on criteria described in the grant application form, and will be dependent on availability of funds in the violence intervention fund.

**D.** Accumulation: It is anticipated that the entire amount of the annual award to each grantee will be spent during the fiscal year in which it is awarded. In the event that the entire amount cannot or will not be expended, the grantee must return the unexpended balance to the bureau unless it submits an accumulation and expenditure plan that is approved by the bureau prior to the close of the fiscal year in which it was awarded. The bureau may approve up to one additional fiscal year to expend the balance.

[7.1.19.11 NMAC - N/E, 8/23/2022]

**7.1.19.12 GENERAL PROVISIONS:** Oversight, inspection, and audit: The department is responsible for the oversight of expenditures from the fund. All recipients of violence intervention funds under the act shall be subject to reasonable oversight and as needed, visitation by authorized representatives of the bureau. Records of purchases, training programs, or personnel expenditures accomplished with awards from the fund shall be open for inspection. This oversight may include an objective audit if deemed necessary. Findings from all oversight activities will be shared with the fund recipient and as appropriate a written deficiency correction report may be requested.

[7.1.12. NMAC - N/E, 8/23/2022]

**HISTORY OF 7.1.19 NMAC: [RESERVED]**

**End of Adopted Rules**

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**Other Material Related to Administrative Law**


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**GOVERNOR,  
OFFICE OF THE  
EXECUTIVE ORDER 2022-115**

**RENEWING THE STATE  
OF PUBLIC HEALTH  
EMERGENCY INITIALLY  
DECLARED IN EXECUTIVE  
ORDER 2020-004, OTHER  
POWERS INVOKED IN  
THAT ORDER, AND ALL  
OTHER ORDERS AND  
DIRECTIVES CONTAINED IN  
EXECUTIVE ORDERS TIED  
TO THE ONGOING PUBLIC  
HEALTH EMERGENCY**

On December 31, 2019, several cases of pneumonia with an unknown cause were detected in Wuhan City, Hubei Province, China, and reported to the World Health Organization (“WHO”). The underlying virus giving rise to those reported instances of respiratory illness was later identified as a novel coronavirus disease which has been referred to as “COVID-19.”

By the time the first COVID-19 cases had been confirmed in New Mexico, on March 11, 2020, COVID-19 had already spread globally and throughout the United States. At that time, more than 100,000 people had been infected globally and there were more than 1,000 cases in the United States, spread out over 39 states. The President of the United States declared a national state of emergency for COVID-19 on March 13, 2020. As of July 28, 2022 the Centers for Disease Control and Prevention (“CDC”) reported over 90 million people have been infected in the United States, with over 1,00,000 related deaths, and the New Mexico Department of Health has reported 589,993 positive COVID-19 cases and 8,233 related deaths in New Mexico.

Public health organizations have implemented emergency measures intended to slow the

spread of COVID-19. For example, on January 20, 2020, the CDC activated its Emergency Operations Center in response to the COVID-19 outbreak. The WHO declared a Public Health Emergency of International Concern shortly thereafter. All of our sister states subsequently declared a state of emergency and implemented significant measures and deployed substantial resources to fight the spread of COVID-19; many, if not most, have kept such states of emergency in place.

New Mexico has taken aggressive measures to reduce the spread of COVID-19 and to mitigate its impacts. I have been in frequent contact with federal and state agencies and officials who are coordinating their efforts and resources to fight COVID-19. Various state agencies have been at the forefront of our State’s response to COVID-19, particularly the New Mexico Department of Health. The hard work of a variety of state employees has made a difference in our fight against COVID-19. Due to the continued spread of COVID-19, it is necessary for all branches of State government to continue taking actions to minimize transmission of COVID-19 and to reduce its attendant physical and economic harms.

Therefore, for the reasons above, I, Michelle Lujan Grisham, Governor of the State of New Mexico, by virtue of the authority vested in me by the Constitution and laws of the State of New Mexico, hereby **ORDER** and **DIRECT**:

1. In consultation with the New Mexico Department of Health, I have determined that the statewide public health emergency proclaimed in Executive Order 2020-004, and renewed in Executive Orders 2020-022, 2020-026, 2020-030, 2020-036, 2020-053, 2020-55, 2020-059, 2020-064, 2020-073, 2020-080, 2020-085, 2021-001, 2021-004, 2021-010, 2021-011, 2021-012, 2021-023, 2021-030,

2021-044, 2021-049, 2021-054, 2021-058, 2021-061, 2021-067, 2022-004, 2022-007, 2022-012, 2022-016, 2022-024, 2022-067, and 2022-109 shall be renewed and extended through August 26, 2022.

2. All other powers, directives, and orders invoked in Executive Order 2020-004 remain in effect.

3. All other Executive Orders with a duration that was tied to the COVID-19 public health emergency or that was not explicitly stated shall continue with the same effect, including any orders appropriating emergency funding as well as Executive Orders 2020-016, 2020-020, 2020-021, 2020-025, and 2020-039.

4. This Order supersedes any previous orders, proclamations, or directives in conflict. This Order shall take effect on July 29, 2022, and shall remain in effect until August 26, 2022 unless renewed, modified, or rescinded.

**ATTEST:  
DONE AT THE EXECUTIVE  
OFFICE**

**THIS 29TH DAY OF JULY 2022  
WITNESS MY HAND AND THE  
GREAT SEAL OF THE STATE  
OF NEW MEXICO**

/ S /  
**MAGGIE TOULOUSE OLIVER  
SECRETARY OF STATE**

/ S /  
**MICHELLE LUJAN  
GRISHAM  
GOVERNOR**

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**GOVERNOR,  
OFFICE OF THE  
EXECUTIVE ORDER 2022-117  
FIFTH AMENDED ORDER  
REQUIRING STATE**

**EMPLOYEES  
TO COMPLY WITH  
CERTAIN PUBLIC HEALTH  
REQUIREMENTS**

**WHEREAS**, on January 30, 2020, the World Health Organization (“WHO”) announced the emergence of a novel Coronavirus Disease 2019 (“COVID-19”) that had not previously circulated in humans, but has been found to have adopted to humans such that it is contagious and easily spread from one person to another and one country to another;

**WHEREAS**, COVID-19 cases had been confirmed in New Mexico since March 11, 2020, when the New Mexico Department of Health confirmed the first cases of individuals infected with COVID-19 in New Mexico and additional cases have been confirmed each day since then;

**WHEREAS**, on March 11, 2020, because of the spread of COVID-19, I issued Executive Order 2020-004 declaring a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked my authority under the All Hazards Emergency Management Act;

**WHEREAS**, I have renewed the declaration of a Public Health Emergency through August 26, 2022;

**WHEREAS**, State employees who become ill cannot adequately perform their duties, which disrupts the orderly operation of State government; and

**WHEREAS**, we now have effective tools and practices to minimize the spread of COVID-19 such as vaccination, earlier home-based COVID testing with adequate quarantine for those who are exposed and isolation of those who test positive, early COVID therapeutic treatment for those who test positive, the consistent and proper use of more effective face coverings, and more robust and community-specific data

reporting to guide individuals and communities based on current case counts and hospitalization rates; the effectiveness of these new tools and practices warrant the lifting of certain restrictions placed upon State employees.

**NOW THEREFORE, I, Michelle Lujan Grisham, Governor of the State of New Mexico, by virtue of the authority vested in me by the Constitution and laws of the State of New Mexico, hereby ORDER and DIRECT as follows:**

1. State employees shall comply with the provisions regarding the use of masks and COVID-19 vaccinations contained in the operative Public Health Order issued by the Secretary of the Department of Health during the course and scope of their employment.

2. State employees who are not subject to any vaccination requirement imposed by a Public Health Order are strongly encouraged to be fully vaccinated against COVID-19, as defined by the Centers for Disease Control and Prevention, and receive all booster doses of the vaccine, if eligible.

3. Any state employee who is not fully vaccinated or has not received a booster dose of the vaccine, if eligible, and who tests positive for COVID-19 may return to work following the completion of any mandatory isolation period prescribed by the New Mexico Department of Health. A negative COVID-19 test result is not required to return to work, provided the employee completes the mandatory isolation period.

4. Employees who refuse to abide by the above requirements may be subject to disciplinary action, up to and including termination, in accordance with applicable law.

5. State agencies shall ensure, consistent with law, that any documentation related to vaccination status, healthcare directives, or test results are not disclosed to individuals other

than those necessary to ensure compliance with this Order.

6. The New Mexico State Personnel Office shall provide agencies with guidance on the full implementation and administration this Order.

**I FURTHER ORDER and DIRECT as follows:**

1. This Order supersedes any previous orders, proclamations, policies or directives to the extent they are in conflict.

2. This Order shall take effect immediately, and shall remain in effect until renewed, modified, or rescinded.

**ATTEST:  
DONE AT THE EXECUTIVE  
OFFICE**

**THIS 12TH DAY OF AUGUST  
2022  
WITNESS MY HAND AND THE  
GREAT SEAL OF THE STATE  
OF NEW MEXICO**

/ S /  
**MAGGIE TOULOUSE OLIVER  
SECRETARY OF STATE**

/ S /  
**MICHELLE LUJAN  
GRISHAM  
GOVERNOR**

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**HEALTH,  
DEPARTMENT OF  
PUBLIC HEALTH ORDER  
NEW MEXICO DEPARTMENT  
OF HEALTH  
ACTING SECRETARY DAVID  
R. SCRASE, M.D.**

**August 12, 2022**

**Public Health Emergency Order  
Clarifying  
All Orders, Directives, Guidance  
and Advisories Remaining  
in Effect and Imposing Certain  
Public Health Measures**

**PREFACE**

The purpose of this amended Public Health Emergency Order is to provide current guidance regarding all mandates and clarify all public health orders remaining in effect in relation to the Novel Coronavirus Disease 2019 (“COVID-19”). All New Mexicans should continue to adhere to social distancing protocols when required to protect our State as a whole.

**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 August 26, 2022;

**WHEREAS**, confirmed cases in the United States have risen to more than 93 million and confirmed COVID-19 infections in New Mexico have risen to over 596,000;

**WHEREAS**, COVID-19 is a deadly virus and has taken the lives of over 1 million Americans and over 8,200 New Mexicans;

**WHEREAS**, the spread of COVID-19 in the State of New Mexico poses an ongoing threat to the health, safety, wellbeing and property 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**, the need to

provide statewide non-congregate sheltering for first responders, essential personnel and certain vulnerable populations who have tested positive for COVID-19 remains, and the state desires to continue providing non-congregate sheltering for such populations and seek reimbursement from the Federal Emergency Management Administration (“FEMA”) for all such costs associated therewith;

**WHEREAS**, we now have effective tools and practices to minimize the spread of COVID-19, such as COVID vaccination, earlier home-based COVID testing with adequate quarantine for those who are exposed and isolation of those who test positive, early COVID therapeutic treatment for those who test positive, the consistent and proper use of more effective face coverings, and more robust and community-specific data reporting to guide individuals and communities based on current case counts and hospitalization rates; the effectiveness of these new tools and practices warrant the lifting of certain restrictions placed upon the State;

**WHEREAS**, the protection of our most vulnerable New Mexicans, including those who are immune compromised or have other pre-existing conditions that place them at high risk for serious COVID-illness, remains of paramount importance; and

**WHEREAS**, the New Mexico Department of Health (“NMDOH”) 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 -19, 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.

**NOW, THEREFORE**, I, David R. Scrase, M.D., Acting 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 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.

**ORDER****I HEREBY DIRECT AS FOLLOWS:**

(1) All Public Health Emergency Orders adopted in relation to the COVID-19 public health emergency are hereby rescinded, and only those directives stated herein shall remain in effect until otherwise amended or rescinded.

(2) All current guidance documents and advisories issued by the Department of Health in response to the COVID-19 public health emergency remain in effect.

**I FURTHER DIRECT:**

(1) All facilities licensed or certified by the Centers for Medicare and Medicaid Services (“CMS”), including all hospital types, long-term care facilities, hospice facilities, and rehabilitation facilities are instructed to adhere to all COVID-related requirements prescribed by CMS, including, but not limited to, masking and patient/staff vaccination. Facilities reporting staff vaccination status in the federal CMS reporting system are not required to concurrently report such data to the state reporting system. NMDOH no longer requires weekly testing for



healthcare workers whose vaccine status is not up to date.

(2) For the duration of the public health emergency all assisted living facilities and adult day care settings are required to adhere to all COVID-related requirements to which hospitals and nursing homes are held by CMS, including, but not limited to, masking and vaccination. These facilities will continue to report staff vaccination status to the State as long as CMS requires such reporting, at the same frequency as required by CMS for the facility types listed in paragraph 1 above.

(3) Any paid or unpaid individuals working in State correctional facilities are required to be vaccinated against COVID-19 unless they qualify for an exemption.

a. This section applies to individuals providing services who have the potential for direct or indirect exposure to inmates in a State correctional facility. This section also applies includes contractors who perform services on-site at a correctional facility.

b. “Vaccinated” for this order means completing the primary series of a COVID- 19 vaccination. The primary series of vaccination occurs after an individual completes the entire recommended series of a COVID-19 vaccine approved by the Food and Drug Administration (FDA), including on an emergency use basis, to prevent COVID-19. An individual will complete the primary series of vaccination two weeks after the second dose of the Pfizer-BioNTech, Moderna, or Novavax COVID-19 vaccines. An individual will complete the primary series of vaccination two weeks after a single-dose Johnson and Johnson’s Jassen COVID-19 vaccine.

c. “Qualifying medical condition” means a permanent or temporary medical condition recognized by the FDA or Centers for Disease

Control and Prevention (“CDC”) as a contra-indication to COVID-19 vaccination.

d. The individuals subject to Section (3) of this Order may be exempt from the COVID-19 vaccination requirement set forth above if they have a qualifying medical condition which immunization would endanger their health, or they are entitled under the Americans With Disabilities Act (ADA), Title VII of the Civil Rights Act of 1964 (Title VII), or any other applicable law to a disability-related reasonable accommodation or a sincerely held religious belief accommodation. Nothing in this Order precludes the entities which employ or contract with these workers from providing disability-related reasonable accommodations and religious accommodations to the requirements of this Order as required by law.

i. To be eligible for an exemption due a qualifying medical condition, the individual must provide their employer or operator of the State correctional facility they contract with a statement from a physician, nurse practitioner, or other medical professional licensed to practice in New Mexico stating that the individual qualifies for the exemption and indicating the probable duration of the individual’s inability to receive the vaccine;

ii. To be eligible for an exemption due to a disability, the individual must provide their employer or the operator of the State correctional facility they contract with accommodation documentation from a physician, nurse practitioner, or other medical professional licensed to practice in New Mexico stating that the individual has a disability that necessitates an accommodation and the probable duration of the need for the accommodation; or

iii. To be eligible for an exemption due to a sincerely held religious belief, the individual must document that

the request for an accommodation has been made and provide their employer or the operator of the State correctional facility they contract with a statement regarding the manner in which the administration of a COVID-19 vaccine conflicts with the religious observance, practice, or belief of the individual.

e. Individuals subject to Section (3) of this Order shall provide proof of vaccination or exemption to their respective supervisors.

(4) All facilities subject to paragraphs 1 and 2 above are advised to evaluate Centers for Disease Control and Prevention (“CDC”) community transmission levels in their locality and adopt more stringent precautions, if needed. CDC community transmission levels can be accessed via the following link: [https://covid.cdc.gov/covid-data-tracker/#county\\_view?list\\_select\\_state=New+Mexico&data-type=Risk&null=Risk](https://covid.cdc.gov/covid-data-tracker/#county_view?list_select_state=New+Mexico&data-type=Risk&null=Risk).

(5) All New Mexicans should remain aware of the importance of protecting our most vulnerable population groups, including those who are older, immune compromised, or have other pre-existing conditions that place them at high risk for serious COVID illness. Additional information from the CDC about risks for illness can be accessed via the following link: <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>.

(6) All New Mexicans should be aware that there are now tools that can be used to direct both isolation for those who have acquired COVID and quarantine for those who have been exposed to COVID. In these two situations, all New Mexicans are strongly encouraged to use the CDC Quarantine and Isolation Calculator that can be accessed via the following link: <https://www.cdc.gov/coronavirus/2019-ncov/your->

health/quarantine-isolation.html.

(7) All businesses, establishments, and non-profit entities are recommended to adhere to the latest CDC guidance for Workplace and Businesses available via the following link: <https://www.cdc.gov/coronavirus/2019-ncov/community/workplaces-businesses/index.html>. These same entities are also recommended to follow the CDC Guidance for Specific industries and Occupations which can be accessed here: <https://www.cdc.gov/coronavirus/2019-ncov/community/workplaces-businesses/specific-industries.html>. Businesses, establishments, and non-profit entities are further recommended to adhere to CDC guidance for Cleaning and Disinfecting Your Facility. This guidance may be accessed via the following link: <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility.html>?CDC\_AArefVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fcommunity%2Forganizations%2Fcleaning-disinfection.html.

(8) Nothing in this Order shall be construed as prohibiting any business, house of worship, non-profit entity, or other entity from imposing more stringent requirements.

(9) Public, private, and charter educational institutions shall adhere to the "COVID-19 Response Toolkit for New Mexico's Public Schools," available at <https://webnew.ped.state.nm.us/reentry-district-and-school-guidance/> and may operate up to maximum capacity. Public and private educational institutions shall follow the reporting, testing, and closure requirements set forth by the Public Education Department in the COVID-19 Response Toolkit for New Mexico's Public Schools.

(10) All Long-Term Care Facilities, including nursing homes, assisted living facilities, and hospice facilities must stay apprised and comply with the applicable directives and guidelines issued

by the Department of Health in consultation with the Aging and Long-Term Services Department, which are available on the NMDOH website.

(11) All public responder, State, Local, and Tribal agency personnel shall continue coordinate with the NMDOH to organize "non-congregate sheltering" for firefighters, law enforcement, medical personnel, ambulance and emergency medical response personnel, people experiencing homelessness, domestic violence victims, and other highly at-risk persons as identified and approved by NMDOH, including those individuals who have tested positive for COVID-19 or have been documented as exposed to positive COVID-19 persons in the course of their duties and do not require medical care. All individuals temporarily quarantined under this order must meet the health and safety requirements for placement as determined by NMDOH. Alternate medical care sites and temporary hospitals are not considered non-congregate sheltering. Non-congregate sheltering shall not duplicate the services provided by another federal agency. NMDOH and the New Mexico Department of Homeland Security and Emergency Management ("DHSEM") shall send a statewide non-congregate sheltering request letter to FEMA seeking reimbursement for expenses of non-congregate sheltering. This statewide effort continues to reduce the burden on State, Local and Tribal jurisdictions to independently develop approval for non-congregate sheltering.

**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 Public Health Act.

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

(4) This Order shall take effect immediately and remain in effect until amended or rescinded by the Secretary.

(5) NMDOH, the New Mexico Department of Public Safety, DHSEM, and all other State departments and agencies are authorized to take all appropriate steps to ensure compliance with this Order.

(6) Any and all State officials authorized by the Department of Health may enforce this Order by issuing a citation of violation, which may result in civil administrative penalties of up to \$5,000 for each violation under NMSA 1978, Section 12-10A-19.

**ATTEST:  
DONE AT THE EXECUTIVE  
OFFICE**

**THIS 12TH DAY OF AUGUST  
2022**

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

/ S /  
**MAGGIE TOULOUSE OLIVER  
SECRETARY OF STATE**

/ S /  
**DAVID R. SCRASE, M.D.  
ACTING SECRETARY OF THE  
NEW MEXICO DEPARTMENT  
OF HEALTH**

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



# 2022 New Mexico Register

## Submittal Deadlines and Publication Dates

### Volume XXXIII, Issues 1-24

<b>Issue</b>	<b>Submittal Deadline</b>	<b>Publication Date</b>
<b>Issue 1</b>	<b>January 4</b>	<b>January 11</b>
<b>Issue 2</b>	<b>January 13</b>	<b>January 25</b>
<b>Issue 3</b>	<b>January 27</b>	<b>February 8</b>
<b>Issue 4</b>	<b>February 10</b>	<b>February 22</b>
<b>Issue 5</b>	<b>February 24</b>	<b>March 8</b>
<b>Issue 6</b>	<b>March 10</b>	<b>March 22</b>
<b>Issue 7</b>	<b>March 24</b>	<b>April 5</b>
<b>Issue 8</b>	<b>April 7</b>	<b>April 19</b>
<b>Issue 9</b>	<b>April 21</b>	<b>May 3</b>
<b>Issue 10</b>	<b>May 5</b>	<b>May 24</b>
<b>Issue 11</b>	<b>May 26</b>	<b>June 7</b>
<b>Issue 12</b>	<b>June 9</b>	<b>June 21</b>
<b>Issue 13</b>	<b>July 1</b>	<b>July 12</b>
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<b>Issue 21</b>	<b>October 27</b>	<b>November 8</b>
<b>Issue 22</b>	<b>November 17</b>	<b>November 29</b>
<b>Issue 23</b>	<b>December 1</b>	<b>December 13</b>
<b>Issue 24</b>	<b>December 15</b>	<b>December 27</b>

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