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# New Mexico Register

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

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## **The New Mexico Register**

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# New Mexico Register

Volume XXXV, Issue 4

February 27, 2024

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## Notices of Rulemaking and Proposed Rules

### ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT STATE PARKS DIVISION

#### NOTICE OF PROPOSED RULEMAKING

The State of New Mexico, Energy, Minerals and Natural Resources Department (EMNRD), State Parks Division (Division) hereby gives notice of the following proposed rulemaking. EMNRD proposes to repeal and replace rules, 18.17.2 Boating Operation and Safety, and 19.5.1 General Provisions, and amend rules 19.5.2 Park Visitor Provisions, and 19.5.6 Park Fees.

**Purpose of Amendment:** EMNRD proposes the amendments to include a definition of paddlecraft; change the registration fees for vessels; include a definition of resident; remove the day use fee requirement for New Mexico residents; require non-resident visitors to pay a day use fee; require payment of entrance fees for all visitors at Living Desert Zoo and Gardens state park and Smokey Bear historical park; require payment of parking fees for all visitors at Rio Grande Nature Center state park; and provide verification requirements for residency; correct grammar and spelling; clarify check out times for campsites; include Cerrillos Hills state park as a park that does not allow camping; remove annual day use and annual camping permits; clarify official use of off-highway motor vehicles and golf cars in state parks by the Division and other government agencies; allow for the use of off-highway motor vehicles by concessionaires in certain areas were permitted by the superintendent, remove the allowance for off-highway motor vehicles to be used within parks for ice fishing; remove the exception to fees for persons who are entering Conchas Lake state park to access the concessionaire; clarify that visitors shall purchase camping permits to camp in a park; remove disabled veterans annual day-use

passes; amend language for foster family free access to parks to match language in house bill 35 from the 2023 legislative session; change fees for day use and camping permits, add a fee for paddlecraft launching, add a parking fee to the Rio Grande Nature Center state park, change entrance fees at Living Desert Zoo and Gardens state park and Smokey Bear historical park, change utility fees, add a RV dump station use fee, remove annual passes, remove outdated wording, increase special use permit fees, add a short term concession permit, eliminate wildlife blind fees, and implement a regular review of fees based off the Chained Consumer Price Index for Urban Consumers.

**The full text of the proposed rule amendments are available** from Jared Langenegger at 575-420-1733 or [jaredr.langenegger@emnrd.nm.gov](mailto:jaredr.langenegger@emnrd.nm.gov) or can be viewed on the EMNRD, State Parks Division's website at <https://www.emnrd.nm.gov/spd/public-meetings/> or at the State Parks Division's office in Santa Fe.

EMNRD proposes to repeal and replace **18.17.2 NMAC**, primarily adding the paddlecraft definition to Section 7. And amend registration fees for vessels in Section 8.

EMNRD proposes to repeal and replace **19.5.1 NMAC**, primarily adding the definition of resident in Section 7.

EMNRD proposes to amend **19.5.2 NMAC**, Sections 11, 12, 13, 16, 25, 27, 32 -39, and 42.

EMNRD proposes to amend **19.5.6 NMAC**, Sections 8 – 12, 14, 16, 18, and 19.

**Legal Authority:** EMNRD proposes this rule amendment under the authority of Section 66-12-18 NMSA 1978 and Section 16-2-7 NMSA 1978.

#### **Public Hearing and Comment.**

EMNRD will hold a public hearing on the proposed rule amendments at 6:00 p.m. on Monday, April 1, 2024 at the Wendell Chino Building, Pecos Hall, 1220 South Saint Francis Drive, Santa Fe, NM.

Those wishing to comment on the proposed rule amendment may make oral comments or submit information at the hearing or may submit written comments by March 29, 2024, by 9:00 a.m. by mail or e-mail. Please mail written comments to Jared Langenegger, EMNRD, State Parks Division, 1220 South Saint Francis Drive, Santa Fe, NM 87505 or submit comments by e-mail to [EMNRD-ParksComments@emnrd.nm.gov](mailto:EMNRD-ParksComments@emnrd.nm.gov).

#### **Technical Information that served as a basis for the proposed rule amendments includes:**

Copies of the technical information can be obtained from Jared Langenegger at 575-420-1733 or [jaredr.langenegger@emnrd.nm.gov](mailto:jaredr.langenegger@emnrd.nm.gov) or can be viewed on the EMNRD, State Parks Division's website at <https://www.emnrd.nm.gov/spd/public-meetings/>.

NM State Parks Fees Study  
[https://www.bls.gov/data/inflation\\_calculator.htm](https://www.bls.gov/data/inflation_calculator.htm)  
NASPD AIX 2019-2020 Final Data Report  
NASPD AIX 2020-2021 Final Data Report

#### **If you are an individual with a disability**

who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Jared Langenegger at 575-420-1733 or through the New Mexico Relay Network at 1-800-659-1779 two weeks prior to the hearing. Public documents can be provided in various accessible formats. Please contact Jared Langenegger at 575-420-1733, if a summary or other type of accessible format is needed.

**GAMING CONTROL BOARD**

**NOTICE OF PROPOSED RULEMAKING**

The Gaming Control Board hereby gives notice that the Board, at a Regular Board Meeting open to the public, will consider public comments received and determine whether to adopt the described rules below.

The Regular Board Meeting will be held on Wednesday, April 17, 2024 beginning at 9:00 am at the Gaming Control Board, 4900 Alameda Blvd. NE, Albuquerque, NM 87113. Interested individuals may also attend via Microsoft Teams as follows:

Telephonically: 1-505-312-4308, Conference ID: 826 595 824#  
Join the meeting through a Web Browser or the MS Teams Application:  
Meeting ID: 242 890 768 740  
Passcode: V9KMML

The public comment period for this rulemaking closed with the public comment hearing which occurred on January 8, 2024.

Subsection G of 15.1.10.7 NMAC Definitions:

Purpose: To help nonprofits better allocate money in light of recent stator changes to Section 60-2E-47 NMSA 1978 of the Gaming Control Act.

Summary of Full Text: The Definitions section provides definitions of commonly used terms in the Gaming Control Regulations. Specifically, this rule will only be revised as to Subsection G in that the definition of “allowable gaming expenses” by removing all of the sub-subsections and simply defining “allowable gaming expenses as “license fees, including renewals and gaming machine license fees”.

15.1.10.25 NMAC - Payment of Winnings:

Purpose: Revising the maximum jackpot amounts to conform to recently passed legislation. The revisions are also designed to protect nonprofit clubs from having to produce payouts in excess of the jackpots that are supposed to be set on their machines by requiring that the intended maximum jackpots be posted on the machines and making distributors responsible for the difference should the machines produce a jackpot above that requested by the nonprofit organization.

Summary of Full Text: The maximum payout allowed for any gaming machine located within a nonprofit organization is raised from \$4,000 to \$10,000. A section is also added to require the posting of the intended jackpot amount on each machine and to make distributors liable for the excess amount should any machine display a jackpot above the intended amount.

15.1.10.45 NMAC - Nonprofit Contracts:

Purpose: To keep the Board informed of agreements concerning requested jackpot amounts on machines located in nonprofit organizations for purposes of ensuring that machines are being set at the jackpots requested by the nonprofits so they may avoid having to pay jackpots above what they had intended and above what they can afford.

Summary: Language will be added to the current Rule requiring lease agreements between distributors and nonprofits to state the machines and their max amounts set. Lease agreements between distributors and nonprofit organizations already require approval by the Board.

Subsection D of 15.1.10.32 NMAC - Use of Gaming Receipts by Nonprofit Operator Licensee:

Purpose: Revising the amount of net take nonprofits give to charitable organizations in Subsection D to conform with recently passed legislation modifying Section 60-2E-47 NMSA 1978 of the Gaming Control Act.

Summary: The Rule will be revised to change sixty percent to twenty percent.

15.1.5.23 NMAC - Application Fees:

Purpose: The purpose is to update application fees as they have not changed since the inception of the agency.

Summary: The Rule will be revised to raise application fees as follows:  
Manufacturer license application fees will be raised from \$10,000 to \$15,000

Associated Equipment Manufacturer license application fees will be raised from \$2,500 to \$5,000  
Distributor license application fees will be raised from \$5,000 to \$7,500

Authority: Section 60-2E-7 NMSA 1978 and Section 60-2E-8 NMSA 1978.

All written public comments are posted on the website throughout the written comment period at: <https://www.gcb.nm.gov/rulemaking/>.

Any person with a disability who needs a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact (505) 841-9700.

**TRANSPORTATION, DEPARTMENT OF**

**NOTICE OF PROPOSED RULEMAKING**

The New Mexico Department of Transportation (NMDOT), in cooperation with the state transportation division of the Public



Regulation Commission (PRC), is proposing to promulgate replacement rule 18.3.5 NMAC, Fees and Penalties. Approval of the initial rulemaking action for the proposed replacement rule was granted to NMDOT by the New Mexico State Transportation Commission on November 16, 2023, pursuant to Sections 9-1-5, 67-3-8 and 67-3-11, NMSA 1978. The statutory authority for the proposed replacement rule is found in Sections 65-2A-32 and 65-2A-36 NMSA 1978 and 2023 N.M. Laws, Chapter 100, Section 81.

**Summary of Full Text:** The proposed replacement rule 18.3.5 NMAC establishes fees and penalties pursuant to the NMDOT's powers and duties under 2023 N.M. Laws, Chapter 100.

**Purpose:** The purpose of this rule is to set forth the required processing and service fees and the standards for the determination of any applicable penalties under the Motor Carrier Act, Chapter 65, Article 2A NMSA 1978.

**Full Text of the Proposed Rule:** A copy of the full text of the proposed replacement rule may be found on the NMDOT website at the following Internet link, under the *Public Notices* tab: <https://dot.state.nm.us/content/nmdot/en/public-notice.html>. To obtain a printed copy of the proposed replacement rule, contact **Alicia Ortiz at: Telephone 505-660-3304 or Email: alicia.ortiz@dot.nm.gov**. A reasonable fee may be charged for printed copies.

**Rulemaking Hearing:** NMDOT, in cooperation with the transportation division of the PRC, will hold one statewide public hearing for the purpose of receiving oral and written public comment from interested parties on the proposed replacement rules listed above. The hearing is scheduled on **Thursday, April 4, 2024, from 3:00 PM to 4:30 PM** at New Mexico Department of Transportation General Office, Training rooms #1 and #2, 1120 Cerrillos Rd., Santa Fe, New Mexico 87504.

**Written Comments:** To submit written comments on or before date of hearing, please send to: **Alicia Ortiz, New Mexico Department of Transportation, P.O. Box 1149, Santa Fe, New Mexico 87504, at Telephone: 505-660-3304 or Email: alicia.ortiz@dot.nm.gov**. Written comments will be accepted from the date this notice is published in the New Mexico Register, February 27, 2024, until the close of the hearing scheduled in this rulemaking. If you plan to submit written comments, argument or data, please make sure any documentation contains your name, phone number and email address. If submitting written comments by email, please indicate the rule number in the subject line. Oral comments will only be accepted at the public hearing, and may be subject to time limitations. After the close of the final hearing scheduled in this rulemaking, the rulemaking record will be closed and no other comments will be accepted. All written comments will be posted on the department's website within three days of receipt.

**Accommodations:** Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule revisions in an accessible form may contact **Alicia Ortiz at: Telephone 505-660-3304 or Email: alicia.ortiz@dot.nm.gov** at least ten days before the hearing.

## TRANSPORTATION, DEPARTMENT OF

### NOTICE OF PROPOSED RULEMAKING

The New Mexico Department of Transportation (NMDOT), in cooperation with the state transportation division of the Public Regulation Commission (PRC), is proposing to repeal and replace rule 18.3.8 NMAC, Changes in Certificates and Permits with rule 18.3.8 NMAC, Changes in

Certificates. Approval of the initial rulemaking action for the proposed replacement rule was granted to NMDOT by the New Mexico State Transportation Commission on November 16, 2023, pursuant to Sections 9-1-5, 67-3-8 and 67-3-11, NMSA 1978. Statutory authority for the proposed replacement rule is found in Sections 8-8-4 and 65-2A-4 NMSA 1978, and 2023 N.M. Laws, Chapter 100, Section 81.

**Summary of Full Text:** The proposed repeal and replace rule replaces the existing rule pursuant to Laws 2023 Chapter 100, which transfers the statutory responsibilities of the transportation division of the public regulation commission (PRC) to the New Mexico department of transportation (NMDOT). The proposed replacement rule updates the issuing authority from PRC to NMDOT, replaces "commission" with "department" where needed, updates citations to statutory authority, modernizes outdated language, and streamlines processes.

**Purpose:** The purpose of this repeal and replace rule is to implement Section 65-2A-14 NMSA 1978.

**Full Text of the Proposed Rule:** A copy of the full text of the proposed replacement rule may be found on the NMDOT website at the following Internet link, under the *Public Notices* tab: <https://dot.state.nm.us/content/nmdot/en/public-notice.html>. To obtain a printed copy of the proposed replacement rule, contact **Alicia Ortiz at: Telephone 505-660-3304 or Email: alicia.ortiz@dot.nm.gov**. A reasonable fee may be charged for printed copies.

**Rulemaking Hearing:** NMDOT, in cooperation with the state transportation division of the PRC, will hold one statewide public hearing for the purpose of receiving oral and written public comment from interested parties on the proposed replacement rules listed above. The hearing is scheduled on **Friday, April 5, 2024, from 1:00 PM to**



2:00 PM at New Mexico Department of Transportation General Office, Training rooms #1 and #2, 1120 Cerrillos Rd., Santa Fe, New Mexico 87504.

**Written Comments:** To submit written comments on or before date of hearing, please send to: **Alicia Ortiz, New Mexico Department of Transportation, P.O. Box 1149, Santa Fe, New Mexico 87504, at Telephone: 505-660-3304 or Email: alicia.ortiz@dot.nm.gov.** Written comments will be accepted from the date this notice is published in the New Mexico Register, February 27, 2024, until the close of the hearing scheduled in this rulemaking. If you plan to submit written comments, argument or data, please make sure any documentation contains your name, phone number and email address. If submitting written comments by email, please indicate the rule number in the subject line. Oral comments will only be accepted at the public hearing, and may be subject to time limitations. After the close of the final hearing scheduled in this rulemaking, the rulemaking record will be closed and no other comments will be accepted. All written comments will be posted on the department's website within three days of receipt.

**Accommodations:** Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule revisions in an accessible form may contact **Alicia Ortiz at: Telephone 505-660-3304 or Email: alicia.ortiz@dot.nm.gov** at least ten days before the hearing.

**TRANSPORTATION,  
DEPARTMENT OF**

**NOTICE OF PROPOSED  
RULEMAKING**

The New Mexico Department of Transportation (NMDOT), in cooperation with the state

transportation division of the Public Regulation Commission (PRC), is proposing to repeal and replace rule 18.3.15 NMAC, Fuel Surcharge for Wrecker Services Performing Non-consensual Tows with rule 18.3.15 NMAC, Fuel Surcharge for Non-consensual Tows. Approval of the initial rulemaking action for the proposed replacement rule was granted to NMDOT by the New Mexico State Transportation Commission on November 16, 2023, pursuant to Sections 9-1-5, 67-3-8 and 67-3-11, NMSA 1978. Statutory authority for the proposed replacement rule is found in Sections 8-8-4 and 65-2A-4 NMSA 1978, and 2023 N.M. Laws, Chapter 100, Section 81.

**Summary of Full Text:** The proposed repeal and replace rule replaces the existing rule pursuant to Laws 2023 Chapter 100, which transfers the statutory responsibilities of the transportation division of the public regulation commission (PRC) to the New Mexico department of transportation (NMDOT). The proposed replacement rule updates the issuing authority from PRC to NMDOT, replaces "commission" with "department" where needed, updates citations to statutory authority, modernizes outdated language, and streamlines processes.

**Purpose:** The purpose of this repeal and replace rule is to establish a procedure providing for periodic fuel surcharges for towing services performing non-consensual tows.

**Full Text of the Proposed Rule:** A copy of the full text of the proposed replacement rule may be found on the NMDOT website at the following Internet link, under the *Public Notices* tab: <https://dot.state.nm.us/content/nmdot/en/public-notices.html>. To obtain a printed copy of the proposed replacement rule, contact **Alicia Ortiz at: Telephone 505-660-3304 or Email: alicia.ortiz@dot.nm.gov.** A reasonable fee may be charged for printed copies.

**Rulemaking Hearing:** NMDOT, in cooperation with the transportation division of the PRC, will hold one statewide public hearing for the purpose of receiving oral and written public comment from interested parties on the proposed replacement rules listed above. The hearing is scheduled on **Friday, April 5, 2024, from 2:30 PM to 4:00 PM** at New Mexico Department of Transportation General Office, Training rooms #1 and #2, 1120 Cerrillos Rd., Santa Fe, New Mexico 87504.

**Written Comments:** To submit written comments on or before date of hearing, please send to: **Alicia Ortiz, New Mexico Department of Transportation, P.O. Box 1149, Santa Fe, New Mexico 87504, at Telephone: 505-660-3304 or Email: alicia.ortiz@dot.nm.gov.** Written comments will be accepted from the date this notice is published in the New Mexico Register, February 27, 2024, until the close of the hearing scheduled in this rulemaking. If you plan to submit written comments, argument or data, please make sure any documentation contains your name, phone number and email address. If submitting written comments by email, please indicate the rule number in the subject line. Oral comments will only be accepted at the public hearing, and may be subject to time limitations. After the close of the final hearing scheduled in this rulemaking, the rulemaking record will be closed and no other comments will be accepted. All written comments will be posted on the department's website within three days of receipt.

**Accommodations:** Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule revisions in an accessible form may contact **Alicia Ortiz at: Telephone 505-660-3304 or Email: alicia.ortiz@dot.nm.gov** at least ten days before the hearing.

**TRANSPORTATION,  
DEPARTMENT OF**

**NOTICE OF PROPOSED  
RULEMAKING**

The New Mexico Department of Transportation (NMDOT), in cooperation with the state transportation division of the Public Regulation Commission (PRC), is proposing to repeal and replace the following rules, effective July 1, 2024, pursuant to 2023 N.M. Laws, Chapter 100, Section 81:

1. Rule 18.3.10 NMAC, Parental Responsibility. The legal authority for this rulemaking is found in Section 40-5A-9 NMSA 1978, and 2023 N.M. Laws, Chapter 100, Section 81.

2. Rule 18.3.11 NMAC, Household Goods Carriers. The legal authority for this rulemaking is found in Sections 8-8-4, 65-2A-4, 65-2A-25, and 65-2A-26 NMSA 1978, and 2023 N.M. Laws, Chapter 100, Section 8.

3. Rule 18.3.12 NMAC, Towing Services. The legal authority for this rulemaking is found in Section 65-2A-4 NMSA 1978, and 2023 N.M. Laws, Chapter 100, Section 81.

4. Rule 18.3.13 NMAC, Registration of Interstate Carriers. The legal authority for this rulemaking is found in Section 65-2A-4, NMSA 1978, and 2023 N.M. Laws, Chapter 100, Section 81.

5. Rule 18.3.14 NMAC, Ambulance Services. The legal authority for this rulemaking is found in Sections 65-2A-4 and 65-6-4 NMSA 1978, and 2023 N.M. Laws, Chapter 100, Section 81.

Approval of the initial rulemaking action for the proposed repeal and replacement of above listed rules was granted to NMDOT by the New Mexico State Transportation Commission on November 16, 2023, pursuant to Sections 9-1-5, 67-3-8 and 67-3-11, NMSA 1978.

**Summary of Full Text:** The proposed rules repeal and replace the existing rules listed above pursuant to Laws 2023 Chapter 100, which transfers the statutory responsibilities of the transportation division of the PRC to the NMDOT. The proposed replacement rules update the issuing authority from PRC to NMDOT, replace “commission” with “department” where needed, update citations to statutory authority, modernize outdated language, and streamline processes.

**Purpose:** The purpose for the above-listed proposed repeal and replace rules is to update the issuing agency of the rules as well as to update the rules to modernize the language and to streamline processes.

**Full Text of the Proposed Rule:** A copy of the full text of the proposed replacement rules may be found on the NMDOT website at the following Internet link, under the *Public Notices* tab: <https://dot.state.nm.us/content/nmdot/en/public-notice.html>. To obtain a printed copy of the proposed replacement rule, contact **Alicia Ortiz at: Telephone 505-660-3304 or Email: [alicia.ortiz@dot.nm.gov](mailto:alicia.ortiz@dot.nm.gov)**. A reasonable fee may be charged for printed copies.

**Rulemaking Hearing:** NMDOT, in cooperation with the transportation division of the PRC, will hold one statewide public hearing for the purpose of receiving oral and written public comment from interested parties on the proposed replacement rules listed above. The hearing is scheduled on **Friday, April 5, 2024, from 8:00 AM to 12:00 PM** at New Mexico Department of Transportation General Office, Training rooms #1 and #2, 1120 Cerrillos Rd., Santa Fe, New Mexico 87504.

**Written Comments:** To submit written comments on or before date of hearing, please send to: **Alicia Ortiz, New Mexico Department of Transportation, P.O. Box 1149, Santa Fe, New Mexico 87504, at Telephone: 505-660-3304 or Email:**

**[alicia.ortiz@dot.nm.gov](mailto:alicia.ortiz@dot.nm.gov)**. Written comments will be accepted from the date this notice is published in the New Mexico Register, February 27, 2024, until the close of the hearing scheduled in this rulemaking. If you plan to submit written comments, argument or data, please make sure any documentation contains your name, phone number and email address. If submitting written comments by email, please indicate the rule number in the subject line. Oral comments will only be accepted at the public hearing, and may be subject to time limitations. After the close of the final hearing scheduled in this rulemaking, the rulemaking record will be closed and no other comments will be accepted. All written comments will be posted on the department’s website within three days of receipt.

**Accommodations:** Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule revisions in an accessible form may contact **Alicia Ortiz at: Telephone 505-660-3304 or Email: [alicia.ortiz@dot.nm.gov](mailto:alicia.ortiz@dot.nm.gov)** at least ten days before the hearing.

**TRANSPORTATION,  
DEPARTMENT OF**

**NOTICE OF PROPOSED  
RULEMAKING**

The New Mexico Department of Transportation (NMDOT), in cooperation with the state transportation division of the Public Regulation Commission (PRC), is proposing to repeal and replace the following rules, effective July 1, 2024, pursuant to 2023 N.M. Laws, Chapter 100, Section 81:

1. Rule 18.3.1 NMAC, General Provisions. The legal authority for this rulemaking is found in Sections 65-2A-4, 65-2A-29 and 65-2A-32 NMSA 1978, and 2023 N.M. Laws, Chapter 100, Section 81.

2. Rule 18.3.2 NMAC, Operating Authorities. The legal authority for this rulemaking is found in Sections 65-2A-4 and 65-2A-19 NMSA 1978, and 2023 N.M. Laws, Chapter 100, Section 81.

3. Rule 18.3.3 NMAC, Financial Responsibility. The legal authority for this rulemaking is found in Sections 65-2A-4, 65-2A-12, 65-2A-18 and 65-2A-27 NMSA 1978, and 2023 N.M. Laws, Chapter 100, Section 81.

4. Rule 18.3.4 NMAC, Safety Requirements. The legal authority for this rulemaking is found in Sections 65-2A-4, 65-2A-19 and 65-6-4 NMSA 1978, and 2023 N.M. Laws, Chapter 100, Section 81.

5. Rule 18.3.6 NMAC, Tariffs. The legal authority for this rulemaking is found in Sections 8-8-4 and 65-2A-4 NMSA 1978 and 2023 N.M. Laws, Chapter 100, Section 81.

6. Rule 18.3.7 NMAC, Reports, Records and Accounts. The legal authority for this rulemaking is found in Sections 8-8-4, 65-2A-4, and 65-2A-29 NMSA 1978, and 2023 N.M. Laws, Chapter 100, Section 81.

7. Rule 18.3.9 NMAC, Leasing of Equipment. The legal authority for this rulemaking is found in Sections 8-8-4 and 65-2A-4 NMSA 1978, 2023 N.M. Laws, Chapter 100, Section 81.

Approval of the initial rulemaking action for the proposed repeal and replacement of above listed rules was granted to NMDOT by the New Mexico State Transportation Commission on November 16, 2023, pursuant to Sections 9-1-5, 67-3-8 and 67-3-11, NMSA 1978.

**Summary of Full Text:** The proposed rules repeal and replace the existing rules listed above pursuant to Laws 2023 Chapter 100, which transfers the statutory responsibilities of the transportation division of the PRC to the NMDOT. The proposed replacement rules update

the issuing authority from PRC to NMDOT, replace “commission” with “department” where needed, update citations to statutory authority, modernize outdated language, and streamline processes.

**Purpose:** The purpose for the above-listed proposed repeal and replacement rules is to update the issuing agency of the rules as well as to update the rules to modernize the language and to streamline processes.

**Full Text of the Proposed Rule:** A copy of the full text of the proposed replacement rules may be found on the NMDOT website at the following Internet link, under the *Public Notices* tab: <https://dot.state.nm.us/content/nmdot/en/public-notice.html>. To obtain a printed copy of the proposed replacement rule, contact **Alicia Ortiz at: Telephone 505-660-3304 or Email: [alicia.ortiz@dot.nm.gov](mailto:alicia.ortiz@dot.nm.gov)**. A reasonable fee may be charged for printed copies.

**Rulemaking Hearing:** NMDOT, in cooperation with the transportation division of the PRC, will hold one statewide public hearing for the purpose of receiving oral and written public comment from interested parties on the proposed replacement rules listed above. The hearing is scheduled on **Thursday, April 4, 2024, from 8:00 AM to 12:00 PM** at New Mexico Department of Transportation General Office, Training rooms #1 and #2, 1120 Cerrillos Rd., Santa Fe, New Mexico 87504.

**Written Comments:** To submit written comments on or before date of hearing, please send to: **Alicia Ortiz, New Mexico Department of Transportation, P.O. Box 1149, Santa Fe, New Mexico 87504, at Telephone: 505-660-3304 or Email: [alicia.ortiz@dot.nm.gov](mailto:alicia.ortiz@dot.nm.gov)**. Written comments will be accepted from the date this notice is published in the New Mexico Register, February 27, 2024, until the close of the hearing scheduled in this rulemaking. If you plan to submit written comments,

argument or data, please make sure any documentation contains your name, phone number and email address. If submitting written comments by email, please indicate the rule number in the subject line. Oral comments will only be accepted at the public hearing, and may be subject to time limitations. After the close of the final hearing scheduled in this rulemaking, the rulemaking record will be closed and no other comments will be accepted. All written comments will be posted on the department’s website within three days of receipt.

**Accommodations:** Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule revisions in an accessible form may contact **Alicia Ortiz at: Telephone 505-660-3304 or Email: [alicia.ortiz@dot.nm.gov](mailto:alicia.ortiz@dot.nm.gov)** at least ten days before the hearing.

## TRANSPORTATION, DEPARTMENT OF NOTICE OF PROPOSED RULEMAKING

The New Mexico Department of Transportation (NMDOT), in cooperation with the state transportation division of the Public Regulation Commission (PRC), is proposing to promulgate new rule 18.9.1 NMAC, General Provisions – Hearings. Approval of the initial rulemaking action for the proposed new rule 18.9.1 was granted to NMDOT by the New Mexico State Transportation Commission on November 16, 2023, pursuant to Sections 9-1-5, 67-3-8 and 67-3-11, NMSA 1978. The statutory authority for rule 18.9.1 is found in Sections 65-2A-4, 65-6-4, 65-7-21 to -22, and 67-3-6.1 NMSA 1978, and 2023 N.M. Laws, Chapter 100, Section 81.

**Summary of Full Text:** The proposed new rule 18.9.1 NMAC establishes administrative hearing

procedures for the powers and duties granted to the NMDOT under 2023 N.M. Laws, Chapter 100. The new rule sets forth the requirements for requesting a hearing, filing pleadings, admitting evidence, etc., as well as establishing the hearing procedure and the post hearing process.

**Purpose:** The purpose of proposed new rule 18.9.1 NMAC is to set forth the administrative hearing procedures applicable to motor carrier and transportation network services in New Mexico.

**Full Text of the Proposed Rule:** A copy of the full text of the proposed new rule may be found on the NMDOT website at the following Internet link, under the *Public Notices* tab: <https://dot.state.nm.us/content/nmdot/en/public-notice.html>. To obtain a printed copy of the proposed replacement rule, contact **Alicia Ortiz at: Telephone 505-660-3304 or Email: [alicia.ortiz@dot.nm.gov](mailto:alicia.ortiz@dot.nm.gov)**. A reasonable fee may be charged for printed copies.

**Rulemaking Hearing:** NMDOT, in cooperation with the transportation division of the PRC, will hold one statewide public hearing for the purpose of receiving oral and written public comment from interested parties on the proposed replacement rules listed above. The hearing is scheduled on **Thursday, April 4, 2024, from 1:00 PM to 2:30 PM** at New Mexico Department of Transportation General Office, Training rooms #1 and #2, 1120 Cerrillos Rd., Santa Fe, New Mexico 87504.

**Written Comments:** To submit written comments on or before date of hearing, please send to: **Alicia Ortiz, New Mexico Department of Transportation, P.O. Box 1149, Santa Fe, New Mexico 87504, at Telephone: 505-660-3304 or Email: [alicia.ortiz@dot.nm.gov](mailto:alicia.ortiz@dot.nm.gov)**. Written comments will be accepted from the date this notice is published in the New Mexico Register, February 27, 2024, until the close of the hearing

scheduled in this rulemaking. If you plan to submit written comments, argument or data, please make sure any documentation contains your name, phone number and email address. If submitting written comments by email, please indicate the rule number in the subject line. Oral comments will only be accepted at the public hearing, and may be subject to time limitations. After the close of the final hearing scheduled in this rulemaking, the rulemaking record will be closed and no other comments will be accepted. All written comments will be posted on the department's website within three days of receipt.

**Accommodations:** Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule revisions in an accessible form may contact **Alicia Ortiz at: Telephone 505-660-3304 or Email: [alicia.ortiz@dot.nm.gov](mailto:alicia.ortiz@dot.nm.gov)** at least ten days before the hearing.

## HIGHER EDUCATION DEPARTMENT

### NOTICE OF TERMINATION OF PROPOSED RULEMAKING

The New Mexico Higher Education Department gives notice of the termination of its rulemaking for the proposed adoption of new rule 5.7.36 NMAC, COMMUNITY GOVERNANCE ATTORNEY PROGRAM published in the NM Register, Volume XXXIV, Issue 23, 12/5/2023, pursuant to Subsection C of Section 14-4-5 NMSA 1978.

Notice of a new rulemaking pertaining to 5.7.36 NMAC will be issued by the Department.

## 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.

### HIGHER EDUCATION DEPARTMENT

**This is an amendment to 5.7.18  
NMAC Section 10 effective  
2/27/2024.**

**5.7.18.10 WAIVERS:** If a student has met the requirement of one of the following waivers, the student shall continue to be considered a non-resident for reporting purposes but will receive the benefit of the in-state tuition rates. In receiving [such] a waiver pursuant to Subsection A through J of 5.7.18.10 NMAC, the student does not become eligible for state funded student financial aid, unless the regulations for a particular aid program allow for such eligibility.

**A. American Indian nations, tribes and pueblos.** All out of state members of an American Indian nation, tribe and pueblo, located wholly or partially in New Mexico, regardless of the residence of the member prior to acceptance at a post-secondary educational institution shall be eligible to pay the in-state tuition rate. These include members of the following tribes or pueblos: Navajo Nation, Jicarilla Apache, Mescalero Apache, Taos pueblo, Picuris pueblo, Ohkay Owingeh, Santa Clara pueblo, Nambe pueblo, San Ildefonso pueblo, Pojoaque pueblo, Tesuque pueblo, Cochiti pueblo, Jemez pueblo, Santo Domingo pueblo, San Felipe pueblo, Zia pueblo, Santa Ana pueblo, Sandia pueblo, Isleta pueblo, Laguna pueblo, Acoma pueblo, Zuni pueblo, and the Ute Mountain tribe.

**B. Armed forces.** Any person, their spouse or dependent child, not otherwise entitled to claim residence, who is a member of the armed forces of the United States or armed forces of a foreign country

assigned to active duty in the state of New Mexico, will be assessed in-state tuition rates.

#### (1)

Assignment to active duty within New Mexico must be certified by the military person's commanding officer upon the student's initial enrollment. Such students may continue paying resident rates for as long as they attend consecutive semesters at the same institution.

#### (2)

A spouse or child of a veteran of the armed forces is entitled to pay tuition and fees at the rate provided for New Mexico residents; provided that spouse or child is eligible for benefits pursuant to the federal Post-9/11 Veterans Educational Assistance Act of 2008 or any other federal law authorizing educational benefits for a veteran and the dependents of a veteran.

#### C. National guard.

Pursuant to Section 20-4-14, NMSA 1978, an active member of the national guard and the member's spouse and children shall be deemed in-state residents for purposes of determining tuition and fees at all state institutions of higher learning.

#### D. Part-time students.

During regular academic year semesters, nonresident tuition may be waived, according to the institution's tuition policy, for students (U.S. citizens and foreign nationals) enrolling for no more than six semester hours during a regular term.

#### E. Summer session.

During summer sessions, nonresident tuition may be waived according to the institution's tuition policy.

#### F. Certain Texas

**residents.** Pursuant to Subsection D of Section 21-1-3, NMSA 1978, for the purposes of tuition payment and budget and revenue calculations, the board of regents of

any post-secondary, state educational institution, as defined in Article 12, Section 11 of the constitution of New Mexico (specifically, NMHU, ENMU, NMSU, or WNMU), may determine that any Texas resident who resides within a 135 mile radius of that institution may qualify for in-state tuition rates.

**G. Colorado and Arizona reciprocity.** Tuition reciprocity participants from Colorado and Arizona shall be selected by eligible institutions to pay in-state tuition rates based on criteria set by forth by each eligible institution. The department will notify each eligible institution of the maximum waivers allocated on an annual basis.

**H. Athletic scholarship recipients.** Pursuant to Subsection E of Section 21-1-3, NMSA 1978, for the purposes of tuition payment and budget and revenue calculations, any student (U.S. citizens and foreign nationals) receiving an athletic scholarship from a post-secondary educational institution set forth in Article 12, Section 11 of the Constitution of New Mexico (specifically, UNM, NMSU, NMHU, ENMU, WNMU, or NNCM) may qualify for in-state tuition rates.

**I. Competitive scholarship recipients.** Any student participating in this program shall be recognized as a competitive scholar and reported as such, unless the student petitions for and is granted residency status.

**J. Graduate assistants,** including research and teaching assistants, employed at least one-fourth time (10 hours weekly), will be assessed in-state tuition rates. To be eligible, students (U.S. citizens and foreign nationals) must be enrolled full-time, as defined in the graduate catalogue of the public postsecondary institution, during regular terms.

**K. Nondiscrimination principle.** Notwithstanding the provisions of Subsection H of 5.7.18.7 NMAC, any tuition or state-funded financial aid that is granted to residents of New Mexico shall also be granted on the same terms to all persons, regardless of immigration status, who have attended a secondary educational institution in New Mexico for at least one year and who have either graduated from a New Mexico high school or received a high school equivalency credential (such as a general educational development GED) in New Mexico. State-funded financial aid programs with an employment component may require U.S citizenship or eligible non-citizen status.  
[5.7.18.10 NMAC - Rp, 5.7.18.12 NMAC, 8/30/2007; A, 5/30/2008; A, 10/15/2015; A, 2/27/2024]

## HIGHER EDUCATION DEPARTMENT

**This is an amendment to 5.7.34 NMAC Section 8 effective 2/27/2024.**

### 5.7.34.8 STUDENT ELIGIBILITY AND SELECTION OF AWARD RECIPIENTS:

**A.** A scholarship may be granted to a student who:

- (1) is a resident of New Mexico as defined in 5.7.18.9 NMAC or is eligible for the nondiscrimination waiver as defined in Subsection K of 5.7.18.10 NMAC;
- (2) has demonstrated financial need as determined by the institution;
- (3) is enrolled or enrolling at an eligible institution; and
- (4) is:
  - (a) a licensed teacher enrolled or enrolling at an eligible institution in a graduate program in education or a degree related to their teaching specialty; or
  - (b) an individual who has not earned appropriate educational credentials to be licensed as a teacher by the public

education department and enrolled in a teacher preparation program that leads to an appropriate educational credential to be licensed as a teacher by the public education department, including to an education major or alternative licensure certification program, [no] at any time later than 120 days following high school graduation or the award of a high school equivalency credential recognized by the state of New Mexico.

**B.** Institutions shall make awards first to students who meet the provisions of Subsection A of 5.7.34.8 NMAC and who:

- (1) are English language learners whose first or heritage language was not English;
- (2) are historically underrepresented minorities in New Mexico's teaching profession; or
- (3) have declared intent to teach in a high-need teacher position as defined by the public education department.

**C.** After scholarships have been awarded to eligible students pursuant to Subsection B of 5.7.34.8 NMAC, institutions shall make awards to students who meet the provisions of Subsection A of 5.7.34.8 NMAC  
[5.7.34.8 NMAC - N, 7/30/2019; A, 7/12/2022; A, 8/15/2023; A, 2/27/2024]

## HIGHER EDUCATION DEPARTMENT

**This is an amendment to 5.7.37 NMAC Section 7 effective 2/27/2024.**

### 5.7.37.7 DEFINITIONS:

**A. "Community college"** means a branch community college of a four-year state educational institution, a two-year state educational institution or a community college or technical and vocational institute established pursuant to Chapter 21, Article 13 or 16 NMSA 1978.

**B. "Comprehensive institution"** means eastern New Mexico university, New Mexico Highlands university, northern New Mexico college or western New Mexico university.

**C. "Cumulative grade point average"** includes grades received during fall, spring and summer semesters.

**D. "Department"** means the higher education department.

**E. "Eligible institution"** means a public post-secondary educational institution or a tribal college that has a current and valid memorandum of understanding as described in Subsection B of 5.7.37.11 NMAC.

**F. "Fee" or "Fees"** means:

- (1) mandatory non-tuition charges levied to all students as a condition of enrollment;
- (2) course-specific fees levied in an amount not to exceed fifty dollars (\$50) per credit hour or as otherwise approved by the department on a course-by-course basis; and

(3) shall not include charges levied for funding of capital projects or charges pledged for repayment of institutional bonds, loans or institutional debt of any type.

**G. "Full time"** means 15 or more credit hours each program semester of the regular academic year at four-year institutions or tribal colleges and 12 or more credit hours each program semester of the regular academic year in two-year institutions for recent graduate learners.

**H. "Independent student"** means a student with established financial need and no means of familial support as evidenced by their filing status on the free application for federal student aid or other means of income verification as determined by the institution.

**I. "Opportunity scholarship"** means an award to recent graduate learners and returning student learners.

**J. "Public post-secondary educational institution"**



means a state educational institution or a community college.

**K. “Qualified student”** means a recent graduate learner or a returning student learner.

**L. “Recent graduate learner”** means a full-time student who does not have a bachelor’s, master’s or doctoral degree and who graduated from a public or accredited private New Mexico high school or who before reaching 21 years of age received a high school equivalency credential while maintaining residency in New Mexico and who either:

(1) within 16 months of graduation or receipt of a high school equivalency credential, was accepted for entrance to and attended an eligible institution; or

(2) within four months of graduation or receipt of a high school equivalency credential, began service in the United States armed forces and, within 16 months of completion of honorable service or medical discharge from the service, attended an eligible institution; and

(3) successfully completed the first semester at an eligible institution with a grade point average of 2.5 or higher on a 4.0 scale during the first semester of full-time enrollment and maintains a cumulative grade point average of 2.5 or higher on a 4.0 scale at an eligible institution.

**M. “Research institution”** means New Mexico institute of mining and technology, New Mexico state university and the university of New Mexico.

**N. “Returning student learner”** means a student 18 years of age or older who does not otherwise meet the definition of a recent graduate learner, has a high school diploma or who has received a high school equivalency credential and who does not have a bachelor’s, master’s or doctoral degree, who has been a resident of New Mexico for the preceding 12 consecutive months and who maintains a cumulative grade point average of 2.5 or higher on a 4.0 scale at an eligible institution.

**O. “State educational institution”** means an institution of higher education enumerated in Article 12, Section 11 of the constitution of New Mexico.

**P. “Tribal college”** means a tribally, federally or congressionally chartered eligible institution located in New Mexico that is accredited by the higher learning commission.

**Q. “Tuition”** means mandatory instructional costs paid by or for a qualified student to an eligible institution for coursework.

**R. “Workforce certificate”** means a department-approved, credit-bearing certificate of two years’ duration or less where data indicates the certificate is in high demand as determined in consultation with the New Mexico department of workforce solutions.  
[5.7.37.7 NMAC - N, 7/12/2022; A, 9/12/2023; A, 2/27/2024]

**HUMAN SERVICES  
DEPARTMENT  
INCOME SUPPORT DIVISION**

**This is an amendment to 8.102.500 NMAC, Section 8 effective 3/1/2024.**

**8.102.500.8 GENERAL REQUIREMENTS:**

**A. Need determination process:** Eligibility for NMW, state funded qualified aliens and EWP cash assistance based on need requires a finding that:

(1) the benefit group’s countable gross monthly income does not exceed the gross income limit for the size of the benefit group;

(2) the benefit group’s countable net income after all allowable deductions does not equal or exceed the standard of need for the size of the benefit group;

(3) the countable resources owned by and available to the benefit group do not exceed the \$1,500 liquid and \$2,000 non-liquid resource limits;

(4) the benefit group is eligible for a cash assistance

payment after subtracting from the standard of need the benefit group’s countable income, and any payment sanctions or recoupments.

**B. Gross income limits:** The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

(1) Income eligibility limits are revised and adjusted each year in October.

(2) The gross income limit for the size of the benefit group is as follows:

	(a)
one person	[\$963] <u>\$1,033</u>
	(b)
two persons	[\$1,297] <u>\$1,397</u>
	(c)
three persons	[\$1,632] <u>\$1,761</u>
	(d)
four persons	[\$1,966] <u>\$2,125</u>
	(e)
five persons	[\$2,300] <u>\$2,490</u>
	(f)
six persons	[\$2,635] <u>\$2,853</u>
	(g)
seven persons	[\$2,969] <u>\$3,217</u>
	(h)
eight persons	[\$3,303] <u>\$3,582</u>
	(i)
add	[\$335] <u>\$365</u> for each additional person.

**C. Eligibility for support services only:** Subject to the availability of state and federal funds, a benefit group that is not receiving cash assistance but has countable gross income that is less than one hundred percent of the federal poverty guidelines applicable to the size of the benefit group may be eligible to receive services. The gross income guidelines for the size of the benefit group are as follows:

	(1)	one person
persons	[\$1,133] <u>\$1,215</u>	
	(2)	two
persons	[\$1,526] <u>\$1,644</u>	
	(3)	three
persons	[\$1,920] <u>\$2,072</u>	
	(4)	four
persons	[\$2,313] <u>\$2,500</u>	
	(5)	five
persons	[\$2,706] <u>\$2,929</u>	

(6) six persons  
 [\$3,100] \$3,357  
 (7) seven  
 persons [\$3,493] \$3,785  
 (8) eight  
 persons [\$3,886] \$4,214  
 (9) add [\$394]  
 \$429 for each additional person.

**D. Standard of need:**

(1) The standard of need is based on the number of participants included in the benefit group and allows for a financial standard and basic needs.

(2) Basic needs include food, clothing, shelter, utilities, personal requirements and the participant's share of benefit group supplies.

(3) The financial standard includes approximately [\$91] \$112 per month for each participant in the benefit group.

(4) The standard of need for the NMW, state funded qualified aliens, and EWP cash assistance benefit group is:

- (a) one person [\$266] \$327
- (b) two persons [\$357] \$439
- (c) three persons [\$447] \$550
- (d) four persons [\$539] \$663
- (e) five persons [\$630] \$775
- (f) six persons [\$721] \$887
- (g) seven persons [\$812] \$999
- (h) eight persons [\$922] \$1134

(i) add [\$91] \$112 for each additional person.

**E. Special needs:**

(1) **Special clothing allowance:** A special clothing allowance may be issued to assist in preparing a child for school, subject to the availability of state or federal funds and a specific allocation of the available funds for this allowance.

(a) For purposes of determining

eligibility for the clothing allowance, a child is considered to be of school age if the child is six years of age or older and less than age 19 by the end of August.

(b) The clothing allowance shall be allowed for each school-age child who is included in the NMW, TBP, state funded qualified aliens, or EWP cash assistance benefit group, subject to the availability of state or federal funds.

(c) The clothing allowance is not allowed in determining eligibility for NMW, TBP, state funded qualified aliens, EWP cash assistance, or wage subsidy.

(2) **Layette:** A one-time layette allowance of \$25 is allowed upon the birth of a child who is included in the benefit group. The allowance shall be authorized by no later than the end of the month following the month in which the child is born.

(3) **Special circumstance:** Dependent upon the availability of funds and in accordance with the federal act, the HSD secretary, may establish a separate, non-recurring, cash assistance program that may waive certain New Mexico Works Act requirements due to a specific situation. This cash assistance program shall not exceed a four month time period, and is not intended to meet recurrent or ongoing needs.

**F. Non-inclusion of legal guardian in benefit group:** Based on the availability of state and federal funds, the department may limit the eligibility of a benefit group due to the fact that a legal guardian is not included in the benefit group. [8.102.500.8 NMAC - Rp 8.102.500.8 NMAC, 07/01/2001; A, 10/01/2001; A, 10/01/2002; A, 10/01/2003; A/E, 10/01/2004; A/E, 10/01/2005; A, 07/17/2006; A/E, 10/01/2006; A/E, 10/01/2007; A, 11/15/2007; A, 01/01/2008; A/E, 10/01/2008; A, 08/01/2009; A, 08/14/2009; A/E, 10/01/2009; A, 10/30/2009; A, 01/01/2011; A, 01/01/2011;

A, 07/29/2011; A/E, 10/01/2011; A/E, 10/01/2012; A/E, 10/01/2013; A/E, 10/01/2014; A, 10/01/2015; A, 10/01/2016; A/E, 10/01/2017; A, 02/01/2018; A/E, 10/01/2018; A, 03/01/2019; A/E, 10/01/2019; A, 03/01/2020; A/E, 10/01/2020; A, 03/01/2021; A/E, 10/01/2021; A 04/01/2022; A/E, 10/01/2022; A, 04/01/2023; A/E, 10/1/2023; A, 03/01/2024]

**HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION**

This is an amendment to 8.106.500 NMAC, Section 8 effective 3/1/2024.

**8.106.500.8 GA - GENERAL REQUIREMENTS:**

**A. Limited state funds** may result in a suspension or reduction in general assistance benefits without eligibility and need considered.

**B. Need determination process:** Eligibility for the GA program based on need requires a finding that the:

(1) countable resources owned by and available to the benefit group do not exceed either the \$1,500 liquid or \$2,000 non-liquid resource limit;

(2) benefit group's countable gross earned and unearned income does not equal or exceed eighty-five percent of the federal poverty guideline for the size of the benefit group; and

(3) benefit group's countable net income does not equal or exceed the standard of need for the size of the benefit group.

**C. GA payment determination:** The benefit group's cash assistance payment is determined after subtracting from the standard of need the benefit group's countable income and any payment sanctions or recoupments.

**D. Gross income test:** The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

(1) Income eligibility limits are revised and adjusted each year in October.

(2) The gross income limit for the size of the benefit group is as follows:

	(a)	
one person	[ <del>\$963</del> ]	\$1,033
	(b)	
two persons	[ <del>\$1,297</del> ]	\$1,397
	(c)	
three persons	[ <del>\$1,632</del> ]	\$1,761
	(d)	
four persons	[ <del>\$1,966</del> ]	\$2,125
	(e)	
five persons	[ <del>\$2,300</del> ]	\$2,490
	(f)	
six persons	[ <del>\$2,635</del> ]	\$2,853
	(g)	
seven persons	[ <del>\$2,969</del> ]	\$3,217
	(h)	
eight persons	[ <del>\$3,303</del> ]	\$3,582
	(i)	
add	[ <del>\$335</del> ]	\$365

for each additional person.

**E. Standard of need:**

(1) As published monthly by the department, the standard of need is an amount provided to each GA cash assistance benefit group on a monthly basis and is based on availability of state funds, the number of individuals included in the benefit group, number of cases, number of applications processed and approved, application approval rate, number of case closures, IAR caseload number and expenditures, and number of pending applications.

(2) Basic needs include food, clothing, shelter, utilities, personal requirements, and an individual benefit group member's share of supplies.

(3) **Notice:** The department shall issue prior public notice identifying any change(s) to the standard of need amounts for the next quarter, as discussed at 8.106.630.11 NMAC.

**F. Net income test:**

The total countable earned and unearned income of the benefit group after all allowable deductions cannot equal or exceed the standard of need for the size of the GA benefit group. After the countable net income is determined it is rounded down prior

to the comparison of the household's income to the standard of need to determine the households monthly benefit amount.

**G. Special clothing allowance for school-age dependent children:**

A special clothing allowance may be issued to assist in preparing a child for school, subject to the availability of state or federal funds and a specific allocation of the available funds for this allowance.

(1) For purposes of determining eligibility for the clothing allowance, a child is considered to be of school age as defined by PED.

(2) The clothing allowance shall be allowed for each school-age child who is included in the GA cash assistance benefit group, subject to the availability of state or federal funds.

(3) The clothing allowance is not counted in determining eligibility for GA cash assistance.

**H. Supplemental issuance:** A one-time supplemental issuance may be distributed to recipients of GA for disabled adults based on the sole discretion of the secretary of the human services department and the availability of state funds.

(1) The one-time supplemental issuance may be no more than the standard GA payment made during the month the GA payment was issued.

(2) To be eligible to receive the one-time supplement, a GA application must be active and determined eligible no later than the last day of the month in the month the one-time supplement is issued.

**I. Minimum Benefit Amount:** Benefits less than ten dollars (\$10.00) will not be issued for the initial month or subsequent months. ISD shall certify household beginning the month of application. [8.106.500.8 NMAC - N, 07/01/2004; A/E, 10/01/2004; A/E, 10/01/2005; A, 7/17/2006; A/E, 10/01/2006; A/E, 10/01/2007; A, 01/01/2008; A, 06/16/2008; A/E, 10/01/2008;

A, 07/01/2009; A/E, 10/01/2009; A, 10/30/2009; A, 12/01/2009; A, 01/01/2011; A, 07/29/2011; A/E, 10/01/2011; A/E, 10/01/2012; A, 07/01/2013; A/E, 10/01/2013; A/E, 10/01/2014; A, 10/01/2015; A, 10/01/2016; A/E, 10/01/2017; A, 2/01/2018; A/E, 10/01/2018; A, 3/1/2019; A/E, 10/01/2019; A, 3/1/2020 A/E, 10/01/2020; A, 3/1/2021; A/E, 10/01/2021; A, 04/01/2022; A/E, 10/01/2022; A, 04/01/2023; A/E, 10/1/2023; A, 3/1/2024]

**HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION**

**This is an amendment to 8.139.502 NMAC, Sections 8 & 9 effective 3/1/2024.**

**8.139.502.8 [STATE-FOOD STAMP SUPPLEMENT BENEFITS] STATE SNAP SUPPLEMENT BENEFITS:**

**A. Purpose:** The state [food stamp] SNAP supplement program is aimed at providing the elderly and disabled with increased food purchasing power resulting in better nutrition.

**B. Maximum benefit amount:** The benefit amount shall be established by the HSD secretary based on available state funds.

**C. Eligibility process:** The state [food stamp] SNAP supplement shall be determined only for households that meet all eligibility requirements identified in Subsection D of 8.139.502.8 NMAC.

**D. Eligibility requirements:** The state [food stamp] SNAP supplement benefits shall be subject to all federal [food stamp] SNAP application, eligibility, certification and reporting requirements. The state [food stamp] SNAP supplement benefits shall be extended only to a household [with a federal allotment amount less than \$25.00 federal food stamp benefits and meeting the program requirements.] who receives less than the federal minimum benefit

allotment. State ~~[food-stamp]~~ SNAP supplement benefits shall be provided to a household under the following qualifications and eligibility requirements:

- (1) all household members qualify and receive federal ~~[food-stamp]~~ SNAP program benefits;
- (2) all household members are elderly or disabled as defined in Subsection A of 8.139.100.7 NMAC.
- (3) the household does not receive any earned income; and
- (4) the household receives a federal ~~[food-stamp]~~ SNAP program allotment amount, prior to any claim recoupment, ~~[of less than \$25.00]~~ of less than or equal to the federal minimum allotment. [8.139.502.8 NMAC - N, 08/30/2007; A, 04/15/2009; A, 01/01/2011; A, 3/1/2024]

**8.139.502.9 DETERMINING THE BENEFIT:**

**A. Application:** A household shall not be required to submit an application in addition to the application for federal ~~[food-stamp]~~ SNAP benefits to qualify or be determined eligible for the state ~~[food-stamp]~~ SNAP supplement amount.

**B. Eligibility determination:** Eligibility shall be determined for a household meeting all eligibility requirements at:

- (1) the time of application approval;
- (2) the time of recertification;
- (3) the month following a reported change which qualifies the household; or
- (4) the month following a change that becomes known to the agency in which the change qualifies the household; or
- (5) at time of implementation of this program.

**C. Calculating the state ~~[food-stamp]~~ SNAP supplement amount:** A household qualified and eligible for the state ~~[food-stamp]~~ SNAP supplement

shall receive a state supplement to the federal ~~[food-stamp]~~ SNAP allotment amount to an amount that is determined based on the availability of state funds ~~[to a maximum of \$25.00 per month]~~ before any recoupments and overpayments have been applied to the benefit amount.

**(1) Application month:** The state ~~[food-stamp]~~ SNAP supplement shall be determined by subtracting the federal FSP benefit amount, after the federal FSP benefit is prorated and prior to any recoupment, from ~~[\$25.00]~~ the federal minimum allotment. The state ~~[food-stamp]~~ SNAP supplement shall not be prorated.

**(2) Ongoing month:** The state ~~[food-stamp]~~ SNAP supplement shall be determined by subtracting ~~[the federal FSP benefit amount]~~ the federal ~~[food-stamp]~~ SNAP allotment, prior to any recoupment, from the determined supplement amount ~~[from \$25.00]~~.

**(3) Eligibility for a prior month:**

**(a)** The state ~~[food-stamp]~~ SNAP supplement shall not be provided to a household for a benefit month prior to July, 2007.

**(b)** A household in which the federal benefit amount is adjusted for a prior month may be eligible for the state ~~[food-stamp]~~ SNAP supplement provided the household qualifies and is eligible for the supplement.

**(4) Current FSP households:** Households which meet the qualifications and eligibility requirements for the state ~~[food-stamp]~~ SNAP supplement shall be eligible for the supplement without any action required by the household. The household shall be eligible for a supplement for any month beginning July 2007 and after upon implementation of the program for which the household qualifies.

**D. Ineligibility:** A household shall become ineligible for the state ~~[food-stamp]~~ SNAP supplement if the household does not meet the eligibility requirements specified in 8.139.502.8 NMAC

the month following the month the notice of adverse action expires. The household's eligibility for the state ~~[food-stamp]~~ SNAP supplement shall be made at the time of:

- (1) application approval;
- (2) recertification;
- (3) a reported change;
- (4) a change becomes known to the agency; or
- (5) at the time of a mass change.

**E. Notice:** A household that qualifies and is eligible for ~~[food-stamp]~~ SNAP benefits shall be issued notice in accordance with 8.139.110.14 NMAC. A notice of adverse action shall not be considered if the household federal ~~[food-stamp]~~ SNAP and state ~~[food-stamp]~~ SNAP supplement does not decrease below ~~[\$25.00]~~ the federal minimum allotment. A household that qualifies and is eligible for the state ~~[food-stamp]~~ SNAP supplement shall be issued a notice for the following circumstances:

**(1) Approval:** A household shall be issued an approval notice at the time the household is determined eligible for the state ~~[food-stamp]~~ SNAP supplement. The approval notice shall identify the amount of the state ~~[food-stamp]~~ SNAP supplement.

**(2) Benefit change:** A household shall be issued a notice at the time the state ~~[food-stamp]~~ SNAP supplement is increased or decreased. The amount of benefit is subject to change when the federal ~~[food-stamp]~~ SNAP benefit is increased or decreased.

**(3) Ineligibility:** A household shall be issued a notice when the household no longer qualifies or is eligible for the state ~~[food-stamp]~~ SNAP supplement as indicated in Subsection D of 8.139.502.8 NMAC. [8.139.502.9 NMAC - N, 08/30/2007; A, 04/15/2009; A, 01/01/2011; A, 03/01/2024]



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**Other Material Related to Administrative Law**


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

The Department of Health gives Notice of a Minor, Nonsubstantive Correction to 7.4.3 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule, as follows:

Section 3: Changed statutory citations to conform to correct legislative statutory citation style.

Section 13: In Subsection C and in paragraphs (1), (2), (6), (7), (9) and (12) of Subsection D, changed the telephone number from “(505) 827-0006” to “1-833-796-8773”.

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

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**HUMAN SERVICES  
DEPARTMENT  
CHILD SUPPORT  
ENFORCEMENT DIVISION**
**NOTICE OF MINOR,  
NONSUBSTANTIVE  
CORRECTION**

The Human Service Department, Child Support Enforcement Division, gives Notice of a Minor, Non-substantive Correction to 8.50.108 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, please note that the following minor, non-substantive corrections to spelling,

grammar and format have been made to all electronic copies of the above rule, as follows:

Section 10: In Subsection C, changed the incorrect statutory citation from “Section 40-4-11 NMSA 1978” to “Section 40-4-11.1 NMSA 1978”.

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

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**REGULATION  
AND LICENSING  
DEPARTMENT  
PHARMACY, BOARD OF**
**NOTICE OF MINOR,  
NONSUBSTANTIVE  
CORRECTION**

The Board of Pharmacy, Regulation and Licensing Department, gives Notice of a Minor, Nonsubstantive Correction to 16.19.20 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule, as follows:

Section 65: In Subparagraph (t) of Paragraph (3) of Subsection D, changed the incorrect name “flubromazepan” to “flubromazepam”.

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

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


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# 2024 New Mexico Register

## Submittal Deadlines and Publication Dates

### Volume XXXV, Issues 1-24

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

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