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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 7

April 9, 2024

## Table of Contents

### Notices of Rulemaking and Proposed Rules

#### ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT ENERGY CONSERVATION AND MANAGEMENT DIVISION

Notice of Public Hearing and Rulemaking.....400

#### HUMAN SERVICES DEPARTMENT

##### MEDICAL ASSISTANCE DIVISION

Notice of Rulemaking.....400

Notice of Rulemaking.....401

#### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Notice of Proposed Rulemaking.....402

#### RACING COMMISSION

Notice of Public Rules Hearing and Meeting.....403

#### SUPERINTENDENT OF INSURANCE, OFFICE OF

Notice of Proposed Rulemaking.....403

#### TRANSPORTATION, DEPARTMENT OF

Notice of Proposed Rulemaking.....404

Notice of Proposed Rulemaking.....405

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### Adopted Rules

A = Amended, E = Emergency, N = New, R = Repealed, Rn = Renumbered

#### DEPARTMENT OF INFORMATION TECHNOLOGY

##### CONNECT NEW MEXICO COUNCIL

1.12.21 NMAC            A       Grant Program Rules.....408

#### ENVIRONMENT DEPARTMENT

20.3.16 NMAC            R       Fees for Licensure of Radioactive Materials.....410

20.3.16 NMAC            N       Fees for Licensure of Radioactive Materials.....410

20.3.4 NMAC             A       Standards for Protection Against Radiation.....417

20.3.5 NMAC             A       Radiation Safety Requirements for Industrial Radiographic  
Operations.....419

20.3.12 NMAC            A       Licenses and Radiation Safety Requirements for Well Logging.....420

20.3.15 NMAC            A       Licenses and Radiation Safety Requirements for Irradiators.....420

#### HUMAN SERVICES DEPARTMENT

##### MEDICAL ASSISTANCE DIVISION

8.200.510 NMAC        A/E    Resource Standards.....420

8.200.520 NMAC        A/E    Income Standards.....423

8.291.430 NMAC        A/E    Financial Responsibility Requirements.....428

**RACING COMMISSION**

15.2.1 NMAC	A	Horse Racing - General Provisions.....	429
15.2.2 NMAC	A	Associations.....	446
15.2.3 NMAC	A	Flat Racing Officials.....	452
15.2.4 NMAC	A	Types of Races.....	460
15.2.5 NMAC	A	Horse Race - Rules of the Race.....	462
15.2.6 NMAC	A	Veterinary Practices, Equine Health, Medication and Trainer Responsibility.....	471
16.47.1 NMAC	A	Horse Racing Licenses - General Provisions.....	488

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## Notices of Rulemaking and Proposed Rules

### ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT ENERGY CONSERVATION AND MANAGEMENT DIVISION

#### NOTICE OF PUBLIC HEARING AND RULEMAKING

The State of New Mexico, Energy, Minerals and Natural Resources Department (EMNRD) hereby gives notice of the following proposed rulemaking. EMNRD proposes to repeal 3.3.14 NMAC, New Solar Market Development Income Tax Credit and replace it with a new rule for the New Solar Market Development Income Tax Credit.

**Purpose of Rules.** In 2024, the Legislature passed the amendments to the New Solar Market Development Tax Credit, which is established in the Income Tax Act. The amendments to the act require EMNRD to repeal the rule and develop a new rule that is compliant with the amendments in the legislation.

3.3.14 NMAC, New Solar Market Development Tax Credit, increases the annual aggregate amounts of the state tax credit available to applicants owning certified solar energy systems from \$12,000,000 to \$30,000,000 per calendar year. In addition, a single appropriation of \$20,000,000 is provided to applicants in calendar years 2020 through 2023 who, while otherwise eligible, did not receive a certificate for a tax credit because the cap had been exceeded in the applicable year. EMNRD also proposes amendments to the application requirements meant to simplify and streamline the process for both applicants and EMNRD.

**Legal Authority.** EMNRD proposes the rules under the authority of the Income Tax Act, NMSA 1978, Section 7-2-18.31.

**The full text of the proposed rules is available** from the EMNRD, Energy Conservation and Management Division, 1220 S. Saint Francis Drive, Santa Fe, NM 87505; at <https://www.emnrd.nm.gov/ecmd/ecmd-public-notices/> or by contacting Claudette Montoya at [Claudette.Montoya@emnrd.nm.gov](mailto:Claudette.Montoya@emnrd.nm.gov) telephone (505) 372-8743.

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

EMNRD will hold an in person and virtual public hearing on the proposed rules at 9:30 am on May 9, 2024. The public can attend in person in the EMNRD Wendel Chino Building, Pecos Hall on 1220 South St. Francis Drive, Santa Fe, NM 87505. The public may also join the hearing virtually through Microsoft Teams using one of the following:

New Solar Market Development Tax Credit Rule, 2024 Rule Hearing Event Link: [Click here to join the meeting](#) Meeting ID: 274 110 610 799 Passcode: GFosra

Comments made online or in person will be accepted.

Those wishing to comment on the proposed rules may make oral comments or submit written comments at the hearing, or may submit written comments by May 9, 2024, by 5:00 p.m. by mail or e-mail. Please mail written comments to Claudette Montoya, EMNRD, Energy Conservation and Management Division, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505 or submit them by e-mail to [Claudette.Montoya@emnrd.nm.gov](mailto:Claudette.Montoya@emnrd.nm.gov).

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 Claudette Montoya at telephone (505) 372-8743 or the New Mexico Relay Network at 1-800-659-1779 at least two weeks prior to the hearing. Public documents can

be provided in various accessible formats. Please contact Claudette Montoya by telephone at (505) 372-8743, if a summary or other type of accessible format is needed.

**Technical Information.** There is no technical information for the proposed rule amendments.

### HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

#### NOTICE OF RULEMAKING

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rules *8.200.510 NMAC-General Recipient Policies Resource Standards*, *8.200.520 NMAC--General Recipient Rules-Income Standards*, and *8.291.430 NMAC-Affordable Care Financial Responsibility Requirements*. The Department is amending these rules to implement the Department of Health and Human Services (HHS) updates to the Federal Poverty Level (FPL) income limits for Medicaid categories of eligibility to be effective April 01, 2024, as required by HHS. The Department is also implementing the annual cost of living allowance (COLA) increase that went into effect on January 01, 2024. The Department is repromulgating these sections of the rules in full within six months of issuance of the emergency rule in accordance with the New Mexico State Rules Act. Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: April 9, 2024  
Hearing Date: May 9, 2024  
Adoption Date: August 1, 2024

Technical Citations: HHS 2024  
Federal Poverty Guidelines and 2024  
SSA COLA Fact Sheet

**The Department is proposing to amend these rules as follows:**

**8.200.510 NMAC**

Section 1 is being amended to reflect the change from the Human Services Department to the Health Care Authority.

Section 8 is being amended to reflect the new mission statement for the Health Care Authority.

Section 11 has been amended to reflect current COLA for Community Spouse Resource Allowance.

Section 12 has been amended to reflect the current COLA for Post-Eligibility Calculation (Medical Care Credit).

Section 13 has been amended to reflect the current COLA for Average Monthly Cost of Nursing Facilities for Private Patients.

Section 15 has been amended to reflect the COLA for current Excess Home Equity Amount for Long-Term Care Services.

**8.200.520 NMAC**

Section 1 is being amended to reflect the change from the Human Services Department to the Health Care Authority.

Section 8 is being amended to reflect the new mission statement for the Health Care Authority.

Section 11 has been amended to reflect updated FPL limits.

Section 12 has been amended to reflect the COLA increase.

Section 13 has been amended to reflect the increase in the Federal Benefit Rate.

Section 15 has been amended to reflect the increase in SSI Living Arrangement Amounts.

Section 16 has been amended to reflect the increase in the monthly income standard for Institutional Care and Home and Community Based Waiver Services Categories.

Section 20 has been amended to reflect the increase in the Covered Quarter Income Standard.

**8.291.430 NMAC**

Section 1 is being amended to reflect the change from the Human Services Department to the Health Care Authority.

Section 8 is being amended to reflect the new mission statement for the Health Care Authority.

Section 10 has been amended to reflect 2024 FPL guidelines.

Throughout the NMACs amendments have been made to comply with formatting and language requirements.

**VI. RULE**

These proposed rule changes will be contained in 8.200.510, 8.200.520, and 8.291.430 NMAC. This register and the proposed rule are available on the HSD website at: <https://www.hsd.state.nm.us/lookingforinformation/registers/> and <https://www.hsd.state.nm.us/2024-comment-period-open/>. If you do not have internet access, a copy of the proposed register and rule may be requested by contacting MAD at (505) 827-1337.

**VII. EFFECTIVE DATE**

The proposed effective dates are August 1, 2024.

**VIII. PUBLIC HEARING**

A public hearing to receive testimony on these amendments will be held **in person at the Administrative Services Division (ASD), 1474 Rodeo Rd., Santa Fe, NM 87505 and via conference call** on May 9, 2024 at 9:00 am Mountain Time (MT). **Conference phone number: 1-800-747-5150. Access Code: 2284263.**

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

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

**IX. ADDRESS**

Interested persons may address written comments to:

Human Services Department  
Office of the Secretary  
ATTN: Medical Assistance Division  
Public Comments  
P.O. Box 2348  
Santa Fe, New Mexico 87504-2348

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: [HSD-madrules@hsd.nm.gov](mailto:HSD-madrules@hsd.nm.gov). Written mail, electronic mail and recorded comments must be received no later than 5 p.m. MT on May 9, 2024. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HSD website at <https://www.hsd.state.nm.us/2024-comment-period-open/>, along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

**HUMAN SERVICES  
DEPARTMENT  
MEDICAL ASSISTANCE  
DIVISION**

**NOTICE OF RULEMAKING**

The Human Services Department (HSD) (the Department), through the Medical Assistance Division (MAD), is proposing the New Mexico Administrative Code (NMAC) rule 8.325.12, Medication Assisted Treatment Services in Correctional Settings. As directed under NMSA 1978, §24-1-5.11, HSD establishes this rule in order to provide guidance and requirements for delivery of substance use disorder treatment and



reentry services for persons diagnosed with substance use disorder in correctional facilities.

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

Notice Date: April 9, 2024  
 Hearing Date: May 9, 2024  
 Adoption Date: September 1, 2024  
 Technical Citations: Pursuant to NMSA 1978, §24-1-5.11.

**VI. RULE**

This register and the proposed rule are available on the HSD website at: <https://www.hsd.state.nm.us/lookingforinformation/registers/> and <https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notices-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/>. If you do not have internet access, a copy of the proposed register and rule may be requested by contacting MAD at (505) 827-1337.

**VII. EFFECTIVE DATE**

The Department proposes to implement this rule September 1, 2024, and will be effective as follows:

By December 31, 2025, the New Mexico Corrections Department (NMCD) operated correctional facilities shall provide continuation of medication-assisted treatment (MAT) services or medication for opioid use disorder (MOUD) in compliance with these regulations for individuals receiving MAT or MOUD in the community or in a county detention facility prior to booking.

By June 30, 2026, NMCD operated correctional facilities shall initiate MAT or MOUD treatment services in compliance with these regulations for qualified individuals diagnosed with substance use disorder.

**VIII. PUBLIC HEARING**

A public hearing to receive testimony on this proposed rule will be held on **Thursday, May 9, 2024, at 10:00 a.m.** The hearing will be held at the Administrative Services Division (ASD), 1474 Rodeo Rd, Santa Fe, NM 87505 and via conference call. **Conference phone number: 1-800-747-5150. Access Code: 2284263.**

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

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

**IX. ADDRESS**

Interested persons may address written comments to:

Human Services Department  
 Office of the Secretary  
 ATTN: Medical Assistance Division  
 Public Comments  
 P.O. Box 2348  
 Santa Fe, New Mexico 87504-2348

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: [HSD-madrules@hsd.nm.gov](mailto:HSD-madrules@hsd.nm.gov). Written mail, electronic mail and recorded comments must be received no later than 5 p.m. MT on May 9, 2024. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HSD website at <https://www.hsd.state.nm.us/2024-comment-period-open/> along with the applicable register and rule. The public posting will include the name

and any contact information provided by the commenter.

**PUBLIC EMPLOYEE  
 LABOR RELATIONS  
 BOARD**

**NOTICE OF PROPOSED  
 RULEMAKING**

The New Mexico Public Employee Labor Relations Board (“PELRB”) hereby gives notice that it will conduct a public hearing on June 4, 2024, as part of its monthly meeting which will commence at 9:00 a.m. at the Board’s offices located at 2929 Coors Blvd. NW, Suite 303; Albuquerque, NM 87120. The purpose of the public hearing will be to obtain input on the proposed amendment of PELRB administrative rules as described below. Copies of the proposed rules may be accessed on the PELRB website (<http://www.pelrb.nm.gov>) or at the PELRB offices. Concerned parties may provide comments at the public hearing or submit written comments prior to the hearing. Written comments may be submitted to the PELRB via US Mail c/o Matthew Huchmala, Administrative Assistant; New Mexico Public Employee Labor Relations Board; 2929 Coors Blvd. NW, Suite 303; Albuquerque, NM 87102; or by electronic mail to [matt.huchmala@pelrb.nm.gov](mailto:matt.huchmala@pelrb.nm.gov). The submission of written comments as soon as possible is encouraged. Written comments must be received no later than 5:00 p.m. on May 28, 2024.

Contact the administrative assistant at [matt.huchmala@pelrb.nm.gov](mailto:matt.huchmala@pelrb.nm.gov) for instructions on how to participate. This information can be provided in a variety of accessible formats. If you are an individual who requires an alternative format or any other form of auxiliary aid to attend or participate in the rulemaking process, please contact the administrative assistant at 505-831-5422 or [matt.huchmala@pelrb.nm.gov](mailto:matt.huchmala@pelrb.nm.gov) as soon as





**Discontinuation of Insurance Product**, to meet the obligation of the State Rules Act, Subsection E of Section 14-4-5.6 NMSA to finalize the emergency rule effective on February 1, 2024, within 180 days of the effective date. **This hearing will commence on Tuesday, May 14, 2024, at 10:00 a.m.**

**PURPOSE OF THE PROPOSED RULE:** The purpose of the proposed is to finalize 13.8.7 NMAC, Notification Requirement of Discontinuation of Insurance Product. This rulemaking will also amend the 13.8.7 NMAC to add a section for defined terms and to add specific details regarding how property and casualty carriers shall give notice, including details about the form of the notice, and information that shall be provided in the notice.  
**STATUTORY AUTHORITY:** Sections 59A-2-8, 59A-2-9, and 59A-18-29 NMSA 1978.

**TO ATTEND THE HEARING IN PERSON:** Office of Superintendent of Insurance - 1120 Paseo de Peralta, (PERA Building), 4<sup>th</sup> Floor Hearing Room, Santa Fe, NM 87501  
**PLEASE NOTE:** The entrance to the PERA Building is on the ground floor. All guests must sign in with the ground floor receptionist and then will be escorted to the 4<sup>th</sup> Floor Hearing Room. Please give yourself extra time to check in before 10:00 a.m.

**TO ATTEND THE HEARING BY ELECTRONIC VIDEO CONFERENCE VIA MS TEAMS MEETING:**  
Click here to join the meeting  
- Meeting ID: 281 100 825 367  
Passcode: nYa6DV

**TO ATTEND VIA TELEPHONE:**  
+1 505-312-4308 Phone Conference ID: 327 290 392#

**PUBLIC COMMENT:** The Superintendent designates Richard L. Blumenfeld 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 in-person or electronically. Copies of the Notice of Proposed Rulemaking and proposed rules are available by electronic download from the OSI eDocket or by requesting a copy by calling Melissa Robinson at: (505) 670-2704. Any copies of the Notice of Proposed Rulemaking, proposed rules, and any updates concerning the hearing date, time, or location will be available by visiting the OSI website at: <https://www.osi.state.nm.us/pages/bureaus/legal/resources/laws-rules> or on the Sunshine Portal at: [https://statenm.my.salesforce-sites.com/public/SSP\\_RuleHearingSearchPublic](https://statenm.my.salesforce-sites.com/public/SSP_RuleHearingSearchPublic) (Select "Office of Superintendent of Insurance from the "Agency" drop down menu.)

Written comments will be accepted through 4:00 p.m. on Tuesday, May 14, 2024. Responses to written comments or oral comments will be accepted through 4:00 p.m. on Tuesday, May 21, 2024. All comments shall be filed electronically through the OSI eDocket or sent via U. S. mail to:

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

Written comments must be received by OSI and stamped as accepted 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 and consider all timely submitted written comments and written responses. For help submitting a filing, please contact [osi-docketfiling@state.nm.us](mailto:osi-docketfiling@state.nm.us). The below docket number and title must be indicated on all written comments submitted to the OSI:

**Docket No. 2024-0007  
IN THE MATTER OF 13.8.7  
NMAC, NOTIFICATION  
REQUIREMENT OF  
DISCONTINUATION OF  
INSURANCE PRODUCT**

**SPECIAL NEEDS:** Any person with a disability requiring special assistance to participate in the hearing should contact Andrea Padilla, at (505) 531-7171 no later than ten (10) business days prior to 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 18.7.1 NMAC, General Provisions, effective July 1, 2024, pursuant to 2023 N.M. Laws, Chapter 100, Section 81.

Approval of the initial rulemaking action for the proposed repeal and replacement of above referenced 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.

**Summary of Full Text:** The proposed repeal and replace rule replaces existing Rule 18.7.1 NMAC 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 of Rule 18.7.1 NMAC 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 **John Newell at: 505-469-6411 Telephone 505-660-3304 or Email: johnp.newell@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 Rule 18.7.1 NAMC. The hearing is scheduled on **Friday, May 10, 2024, from 8:00 AM to 9:30 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: **John Newell, New Mexico Department of Transportation, P.O. Box 1149, Santa Fe, New Mexico 87504, at Telephone: 505-469-6411 or Email: johnp.newell@dot.nm.gov**. Written comments will be accepted from the date this notice is published in the New Mexico Register, April 9, 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 **John Newell at: Telephone 505-469-6411 or Email: johnp.newell@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 18.14.2 NAMC, Railroad Safety, effective July 1, 2024, pursuant to 2023 N.M. Laws, Chapter 100, Section 81.

Approval of the initial rulemaking action for the proposed repeal and replacement of above referenced rule was granted to NMDOT by the New Mexico State Transportation Commission on March 21, 2024, pursuant to Sections 9-1-5, 67-3-8 and 67-3-11, NMSA 1978.

**Summary of Full Text:** The proposed repeal and replace rule replaces existing Rule 18.14.2 NAMC 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 of Rule 18.14.2 NAMC 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 **John Newell at: Telephone 505-469-6411 or Email: johnp.newell@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 Rule 18.14.2 NAMC. The hearing is scheduled on **Friday, May 10, 2024, from 10:00 AM to 11:30 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: **John Newell, New Mexico Department of Transportation, P.O. Box 1149, Santa Fe, New Mexico 87504, at Telephone: 505-469-6411 or Email: johnp.newell@dot.nm.gov**. Written comments will be accepted from the date this notice is published in the New Mexico Register, April 9, 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 **John Newell at: Telephone 505-469-6411 or Email: johnp.newell@dot.nm.gov** at least ten days before the hearing.

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**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.

**DEPARTMENT OF  
INFORMATION  
TECHNOLOGY  
CONNECT NEW MEXICO  
COUNCIL**

**This is an amendment to 1.12.21 NMAC, Sections 8 and 10, effective 04/09/2024.**

**1.12.21.8 GENERAL**

**RULES:** These rules govern all subject grant programs:

**A. Program**

**administrator.** A sponsoring body shall designate at least one person to serve as the program administrator for each grant program. The sponsoring body for a program shall notify applicants and grantees (as applicable) of any change to the program administrator(s) within 30 days of the change.

**(1)** The

program administrator for a subject program shall be retained and subject to discharge by the sponsoring body subject to the provisions of the State Personnel Act and procurement laws, and to the advice and consent of the sponsoring body, as applicable.

**(2)** The

program administrator shall report to the sponsoring body for a subject grant program.

**B. Program purpose.**

A sponsoring body shall design a grant program to accomplish a purpose authorized by the funding source and that conforms to all applicable laws. The purpose and scope of a program shall be determined by the sponsoring body. The program purpose shall be stated in the NOFO for a merit-based program, and in the authorization order for an assistance grant program.

**C. Appropriations.**

These rules do not apply to any

appropriation lawfully used by a sponsoring body:

**(1)** to fund

program administration;

**(2)** for a

purpose specified in a funding source;

**(3)** budgeted

for a purpose other than program

funding; or

**(4)** for

contracting.

**D. Notice.** Whenever these rules require notice, the required information shall be directed to the intended recipient(s) through e-mail, or through first-class mail if no e-mail address is on file. Notice shall be deemed delivered one day after transmission for e-mailed notice and three days after posting for mailed notice.

**E. Publication.**

Whenever these rules require publication, the required information shall be disseminated through mass communication channels reasonably calculated to reach the intended recipients. Such channels shall include display on the public notice section of the DoIT website, and may also include, but are not limited to, website postings, text messaging, subscription list-serves, newspapers and social media outlets.

**F. Service.** Whenever these rules require "service", that shall be accomplished either through e-mail or first-class mail to the intended recipient. E-mail service shall be effective upon the sender's receipt of return receipt, acknowledgment of receipt, or reply to the service e-mail. Mail service shall be effective three days after posting.

**G. Time.** In computing any period of time prescribed or allowed by these rules:

**(1)** the day

from which 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 a legal holiday is observed. In such a 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.

**(2)** the time

allowed to respond or do some other act within a prescribed period after service of a notice, pleading or paper, and the service is by first class mail, three calendar days shall be added to the prescribed period.

**H. Waiver and**

**variance.** For good cause, a program administrator may waive, vary or excuse compliance with, any time limit or ministerial requirement in these rules or of a NOFO. Upon a finding of good cause, a program administrator may waive substantive requirements of a NOFO, subject to veto of the sponsoring body within 30 days of receiving notice of the waiver.

**(1)** A waiver

shall only be valid if documented in a writing physically or digitally signed by the program administrator.

**(2)** A

person aggrieved by a program administrator's determination to grant or not grant a waiver or excuse pursuant to this rule may, within seven days of receiving notice of the program administrator's determination, appeal the determination to the sponsoring body by serving notice of appeal to the sponsoring body's legal department or lawful designee.

**(3)** The

sponsoring body shall have 10 days to affirm or reverse any waiver-related appeal. A reversal that results in granting a waiver request shall only be valid if documented in a legally



authorized written order or resolution as applicable, of the sponsoring body. If the sponsoring body does not reverse a program administrator's determination within 10 days of receiving notice of the appeal, that determination is deemed affirmed.

**I. Award agreement.**

Every award agreement shall, where applicable:

(1) identify the grantor (sponsoring body) and the grantee;

(2) identify the funding source and award amount;

(3) specify the award deliverables, goals, standards and benchmarks with sufficient particularity to verify performance and to eliminate or minimize subjective assessments of performance;

(4) identify the program administrator;

(5) identify the administrative, financial, oversight and verification standards and processes applicable to the award;

(6) specify tax reporting and payment obligations applicable to the award;

(7) identify the grantee's grant administrator or primary contact;

(8) specify record keeping and reporting requirements;

(9) specify the amount, form and timing of the grantee's matching contribution, if any;

(10) specify limitations on assignment or transfer of award rights, obligations or deliverables;

(11) describe ownership rights to tangible or intangible property created by the grantee pursuant to the award, including any limitations on the right to voluntarily or involuntarily transfer any property created or purchased with award funds, and reversion right and triggers, if any;

(12) identify by citation or codified nomenclature any and all laws, regulations, and published guidance that govern award

administration or establish program compliance obligations;

(13) identify by citation or codified nomenclature the procurement laws, if any, that apply to contracting with award funds;

(14) specify contracting documentation requirements and processes, including any approval or authorization requirements, and any non-standard contracting limitations;

(15) consistent with the provisions of these rules, include terms governing default; remedies; termination criteria and processes; recoupment; cure processes and standards; choice of law; remedy limitations (if any); and rehabilitation rights and processes;

(16) include pertinent disclaimers and notices concerning compliance obligations, including tax payments, prevailing wage laws and preferences;

(17) identify key deadlines;

(18) specify end user or customer service terms or conditions applicable to the award, including price or discount agreements, service level commitments, co-share or cooperation requirements;

(19) incorporate the terms and conditions of the NOFO;

(20) incorporate all statements and representations in the application as actionable representations and warranties;

(21) include any other covenants or conditions required by the funding source or pertinent to the requirements of a particular program.

(22) specify a process for the grantee to request modifications or accommodations responsive to unexpected or changed circumstances during project performance.

**J. Disqualification and debarment.** A sponsoring body shall not make an award, or consider an application for an award, made by any person who, within the preceding five years, violated any federal,

state or local law or rule governing theft, fraud, misrepresentation, trade practices, undue influence, business ethics, lobbying or political contributions.

(1) Subject to New Mexico laws governing res judicata, a sponsoring body may treat a final judgment, order or similar legal instrument against a person as conclusive or prima facie evidence of a disqualifying violation.

(2) A sponsoring body may establish that a person has committed a disqualifying violation after conducting a duly noticed hearing with sufficient procedural safeguards to provide due process.

(3) Unless a disqualification or debarment is final by operation of law, a person may challenge a disqualification or debarment pursuant to the challenges and disputes section of these rules.

**K. Grant program coordination and collaboration.** Where a funding source or controlling law requires or contemplates coordination between DoIT, OBAE and the council, these entities shall collaborate on the development, award and administration of a program subject to a specific or generally applicable memorandum of understanding (MOU). A MOU may incorporate a responsibility matrix that may be customized for a particular program. These rules do not preclude subject entities from cooperating in the development or administration of a grant program in the absence of a specific legal or program directive to do so.

**L. Award modification.** A sponsoring body may increase an award for good cause and as necessary to accomplish the project objectives. A modified award shall be published in the same manner as publication of the initial award. As used here, good cause refers to an unexpected and unforeseeable change in economic circumstances beyond the control of the awardee that would prevent completion of the project if the award is not modified.

**M. Tribal**

collaboration. A sponsoring body shall comply with the NM State Tribal Collaboration Act regarding Indian nations, tribes or pueblos in the development or administration of programs subject to these rules that directly affect American Indians. An applicant who proposes to provide service on tribal lands, as identified in the project area, must obtain a Certification of Consent from the tribal council, or authorized tribal entity. The tribal consent must note whether the project area is unserved or underserved, note how that determination was made, and will disclose all tribally-approved state and federal funded enforceable network buildout commitments. [1.12.21.8 NMAC - N, 04/11/2023; A 04/09/2024]

**1.12.21.10 ASSISTANCE GRANTS:** These additional rules apply to assistance grant programs.

**A. Authorization.** An assistance grant is authorized if the:

- (1) total available program funding does not exceed \$2,500,000,
- (2) funding source specifies the grantee or subrecipient;
- (3) funding source requires program funds to be fully expended in fewer than 18 months;
- (4) sponsoring body determines that the grantee or subrecipient is the only person who can satisfy program requirements specified by a funding source in a timely, correct and cost-effective manner;
- (5) delay inherent in the merit-based program would likely create or exacerbate a threat to life, health, physical security economic security, cyber security or educational development of state residents or to the State, or would likely delay meaningful mitigation of such an existing threat; or
- (6) grantee or subrecipient is a ~~[governmental unit or tribal government]~~ local governmental unit, tribal unit, electric cooperative, or telephone cooperative

and the funding source does not expressly require a competitive or merit based process.

**B. Justification order.** An assistance grant shall be authorized by an order or resolution of the sponsoring body, supported by findings and conclusions justifying an assistance grant, and published at least 21 days before the award.

**C. Grant proposal.** An assistance grant shall be based on a grant proposal presented by the grantee or subrecipient that, at a minimum, includes:

- (1) a detailed description of the proposed project, how the project would accomplish a purpose specified in, and satisfy conditions of, the funding source, the project timeline and the source and availability of other funds required to complete the project;

- (2) the identity, financial and performance qualifications of each grantee, vendor or contractor who will be directly or indirectly receive award funds, including qualifications of the project manager and all key grantee, vendor and contractor personnel;

- (3) the form and substance of each contract the grantee proposes to procure with the award funds;

- (4) the identify and qualifications of the grantee’s fiscal agent, if required;

- (5) sufficient information to establish that the proposal meets an exception to the merit-based program; and

- (6) any other information requested by the sponsoring body.

**D. Match requirement.** Unless a funding source prohibits requiring a match, or specifies a match requirement, a sponsoring body may specify match, and match waiver, requirements. Match and match waiver requirements shall be specified in the justification order and included in the award agreement.

**E. Contracting.** To the largest extent possible, the sponsoring body will encourage the

funding program participation by New Mexico-based organizations, organizations located (and hiring from) within the proposed project footprint, woman and minority owned organizations, veteran owned businesses and tribally-owned/based organizations and businesses. [1.12.21.10 NMAC - N, 04/11/2023; A, 04/09/2024]

**History of 1.12.21 NMAC: [RESERVED]**

**ENVIRONMENT DEPARTMENT**

The Environmental Improvement Board is approving a repeal of its rule 20.3.16 NMAC (“Fees for Licensure of Radioactive Materials”), filed 5/19/2002 and replaced with 20.3.16 NMAC (“Fees for Licensure of Radioactive Materials”), adopted 3/20/2024 and effective 5/1/2024.

**ENVIRONMENT DEPARTMENT**

**TITLE 20 ENVIRONMENTAL PROTECTION  
CHAPTER 3 RADIATION PROTECTION  
PART 16 FEES FOR LICENSURE OF RADIOACTIVE MATERIALS**

**20.3.16.1 ISSUING**

**AGENCY:** Environmental Improvement Board. [20.3.16.1 NMAC - Rp, 20.3.16.1 NMAC 05/01/2024]

**20.3.16.2 SCOPE:**

**A.** This Part applies to those entities or activities which require licensure in accordance with Chapter 3, Title 20 NMAC.

**B.** The requirements of this Part are in addition to, and not in substitution for, other applicable requirements of the regulations in Chapter 3, Title 20 NMAC.

**C.** This Part does not apply to those activities that the U.S. Nuclear Regulatory Commission

(NRC) reserved exclusively for federal regulation.  
[20.3.16.2 NMAC - Rp, 20.3.16.2 NMAC 05/01/2024]

**20.3.16.3 STATUTORY AUTHORITY:** Paragraph (5) of Subsection A of Section 74-1-8 and Paragraph (2) of Subsection A of Section 74-3-5 NMSA 1978.  
[20.3.16.3 NMAC - Rp, 20.3.16.3 NMAC 05/01/2024]

**20.3.16.4 DURATION:** Permanent.  
[20.3.16.4 NMAC - Rp, 20.3.16.4 NMAC 05/01/2024]

**20.3.16.5 EFFECTIVE DATE:** May 1, 2024.  
[20.3.16.5 NMAC - Rp, 20.3.16.5 NMAC 05/01/2024]

**20.3.16.6 OBJECTIVE:** To establish fees and costs associated with applying for and maintaining radioactive material licenses.  
[20.3.16.6 NMAC - Rp, 20.3.16.6 NMAC 05/01/2024]

**20.3.16.7 DEFINITIONS:**

**A. "Amendment"**  
means a request made by a licensee to the department to approve a change to its license. Examples of amendments include, but are not limited to, changes to users, changes in materials, and transfers of licenses.

**B. "Application"**  
means an application for a new license, a renewal of a license or an amendment.

**C. "Byproduct material"** means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

**D. "Department"**  
means the New Mexico environment department and its duly authorized representatives.

**E. "Fee"** means an amount to be charged by the department in accordance with the provisions in this part.

**F. "Fiscal year" or "FY"** means a year that begins on July 1 of each calendar year and ends on June 30 of the following calendar year. Fiscal years are identified by the year in which they end (e.g., fiscal year 2025 begins on July 1, 2024 and ends on June 30, 2025).

**G. "Generator"**  
means a person who produces, uses, stores, transfers, or disposes of radioactive materials in any licensable quantity.

**H. "Government agency"** means any state or federal executive department, commission, independent establishment, corporation, wholly or partly owned by any state or the United States of America which is an instrumentality of the state or United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in executive branches of government.

**I. "License" or "Materials license"** means a license, certificate, approval, registration, or other form of permission issued by the department under the various parts of these regulations.

**J. "Nonprofit educational institution"** means a public or nonprofit educational institution whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides an educational program for which it awards academic degrees, and whose educational programs are available to the public.

**K. "NORM"** means any naturally occurring radioactive material subject to the licensing requirements of these regulations.

**L. "NRC"** means the U.S. nuclear regulatory commission; an officer, employee, or authorized representative of the commission.

**M. "Operating license"** means having a license issued pursuant to Part 3, Title 20 NMAC.

**N. "Person means":**

(1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, or government agency other than the department; any state or any political subdivision of, or any political entity within, a state; any foreign government or nation or any political subdivision of any such foreign government or nation; or other entity; and

(2) any legal successor, representative, agent, or agency of the foregoing.

**O. "Registration holder"** as used in this part means any manufacturer or initial distributor of a sealed source or device containing a sealed source that holds a certificate of registration issued by the NRC, or a holder of a registration for a sealed source or device manufactured in accordance with the unique specifications of, and for use by, a single applicant.

**P. "Source material"** means:

(1) uranium or thorium, or any combination thereof, in any physical or chemical form; or

(2) ores which contain by weight one-twentieth of one percent or more of

(a) uranium,

(b) thorium, or

(c) any combination thereof.

(3) Source material does not include special nuclear material.

**Q. "Special nuclear material"** means:

(1) plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the NRC, pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(2) any material artificially enriched by any of the special nuclear materials and

excluding source material.  
[20.3.16.7 NMAC - Rp, 20.3.16.7 NMAC 05/01/2024]

**20.3.16.8 INTERPRETATIONS:**

Except as specifically authorized by the department in writing, no interpretation of the regulations in this part by an officer or employee of the department, other than a written interpretation by the general counsel, will be recognized as binding on the department.

[20.3.16.8 NMAC - Rp, 20.3.16.8 NMAC 05/01/2024]

**20.3.16.9 CONSUMER PRICE INDEX ADJUSTMENT:**

Starting in fiscal year 2027, then in each subsequent calendar year, all fees in this part shall be increased pursuant to the provisions in this part if there is an increase in the unadjusted consumer price index (CPI) for all urban consumers, United States city average for all items, or its successor index, as published by the U.S. Bureau of Labor Statistics or its successor agency. The increase shall be measured by the percentage increase of the consumer price index as of October of the immediately preceding year over the level of the consumer price index as of October of the next previous year and shall be rounded up to the nearest dollar. A fee increase shall take effect on July 1 of the year in which the fee schedule is adjusted. In the event there is a decrease or absence of change in the CPI, fees shall remain the same until the next increase in CPI as described in this paragraph.

[20.3.16.9 NMAC – Rp, 20.3.16.9 NMAC 05/01/2024]

**20.3.16.10 ANNUAL FEE SCHEDULE, LICENSE APPLICATION FEES, AMENDMENT APPLICATION FEES, AND ANNUAL FEES:**

**A.** The department shall develop and publish a current fee schedule each year by May 1 to take effect by July 1 of the same year. The fee schedule will list current license application fees, amendment application fees, annual fees, and termination request fees.

**B.** Each location of use. All fees in this part apply to each location of use listed on the license. The licensee shall pay the cumulative amount owed for each location of use for each license held by the licensee.

**C.** License Applications.

**(1)** An application fee shall be charged for new licenses, renewals of licenses, and applications to reinstate expired, terminated, or inactive licenses. Each application for which a fee is prescribed must be accompanied by a remittance of the full amount of the fee prior to department review.

**(2)** Fees are charged regardless of whether the application is approved, denied, or withdrawn.

**(3)** Applications for licenses covering more than one fee category of special nuclear material or source material or byproduct material must be accompanied by the prescribed application fee for each applicable fee category.

**(4)** Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for the fee category specified in Paragraph (1 ) of Subsection B of 20.3.16.12 NMAC and in Subsection D of 20.3.16.12 NMAC.

**(5)** After the department approves an application for a new license, the applicant shall pay the full amount of annual fees due, regardless of the month of issuance of license, prior to commencing operations under the new license.

**D.** Amendment Applications. A licensee seeking an amendment to a license shall submit an amendment application for an amendment to an existing license submitted to the department. Each amendment application will be charged a fee of twenty-five percent of the amount of the license application fee that would be charged for the license in the fiscal year of the amendment submission.

**E.** Annual Fees.  
**(1)** Beginning July 1, 2024, annual fees will be charged prospectively. For existing licensees, annual fees will be due on July 1 of each year for use of the license for the next 12 months. For new licensees, the full amount of the annual fees will be due within 30 days of issuance of the license, regardless of the month of issuance, then the next due date for the annual fees will be July 1.

**(2)** If a single license authorizes more than one activity (e.g., human use and irradiator activities), then annual fees will be assessed for each fee category applicable to the license.

**(3)** If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person.

**(4)** Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses.

**(5)** Payment of the prescribed annual fee does not automatically renew the license for which the fee is paid. Renewal applications must be filed in accordance with the requirements of Part 3, Title 20 NMAC as applicable and must be approved by the department.

[20.3.16.10 NMAC - Rp, 20.3.16.10 NMAC 05/01/2024]

**20.3.16.11 CATEGORIES OF MATERIALS LICENSES, APPLICATION FEES AND ANNUAL FEES:**

**A.** The categories of materials licenses for which fees are due for each location of use are listed below in this section. For each category of materials license, the FY 25 and FY 26 application fee and FY 25 and FY 26 annual fee amounts are listed. Starting in FY 27, all license application fees and annual fees charged in FY 26 will be subject to the CPI adjustment described in this Part. Since the amendment application



fees are calculated based on the license application fees, no additional CPI adjustment applies to amendment application fees.

**B. Special nuclear material:**

**(1) Licenses** for possession and use of special nuclear material of less than a critical mass, as defined in Code of Federal Regulations 10 CFR 70.4, in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers:

**(a)** License application fee: \$1,300 for FY 25 and \$1,300 for FY 26; and

**(b)** Annual fee: \$1,200 for FY 25 and \$2,400 for FY 26.

**(2) All other** special nuclear material licenses, except licenses authorizing special nuclear material in the sealed or unsealed form in combination that would constitute a critical mass as defined in Code of Federal Regulations 10 CFR 70.4.

**(a)** License application fee: \$2,700 for FY 25 and \$2,700 for FY 26; and

**(b)** Annual fee: \$2,850 for FY 25 and \$5,700 for FY 26.

**C. Source material:**

**(1) Licenses** for possession and use of source material in recovery operations such as ion exchange facilities.

**(a)** License application fee: \$87,000 for FY 25 and \$87,000 for FY 26; and

**(b)** Annual fee: \$87,000 for FY 25 and \$87,000 for FY 26.

**(2) Licenses** that authorize only the possession, use and/or installation of source material for shielding.

**(a)** License application fee: \$1,300 for FY 25 and \$1,300 for FY 26; and

**(b) Annual** fee: \$1,350 for FY 25 and \$2,700 for FY 26.

**(3) Licenses** to distribute items containing source

material to persons exempt from the licensing requirements of 20.3.3 NMAC.

**(a)** License application fee: \$6,200 for FY 25 and \$6,200 for FY 26; and

**(b)** Annual fee: \$4,450 for FY 25 and \$8,900 for FY 26.

**(4) Licenses** to possess, distribute, transfer, store, and dispose of source material to persons specifically licensed under 20.3.3 NMAC.

**(a)** License application fee: \$2,000 for FY 25 and \$2,000 for FY 26; and

**(b)** Annual fee: \$2,550 for FY 25 and \$5,100 for FY 26.

**(5) Licenses** for possession and use of source material for processing or manufacturing products or materials containing source material for commercial distribution.

**(a)** License application fee: \$2,700 for FY 25 and \$2,700 for FY 26; and

**(b)** Annual fee: \$3,150 for FY 25 and \$6,300 for FY 26.

**(6) All other** source material licenses

**(a)** License application fee: \$2,700 for FY 25 and \$2,700 for FY 26; and

**(b)** Annual fee: \$4,250 for FY 25 and \$8,500 for FY 26.

**D. Byproduct Material:**

**(1) Licenses** of broad scope for possession and use of byproduct material issued for processing or manufacturing of items containing byproduct material for commercial distribution.

**(a)** License application fee: \$13,500 for FY 25 and \$13,500 for FY 26; and

**(b)** Annual fee: \$13,700 for FY 25 and \$27,400 for FY 26.

**(2) Other** licenses for possession and use of byproduct material issued for processing or manufacturing of items containing byproduct material for commercial distribution.

**(a)** License application fee: \$3,700 for FY 25 and \$3,700 for FY 26; and

**(b)** Annual fee: \$4,800 for FY 25 and \$9,600 for FY 26.

**(3) Licenses** authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing byproduct material.

**(a)** License application fee: \$5,400 for FY 25 and \$5,400 for FY 26; and

**(b)** Annual fee: \$4,500 for FY 25 and \$9,000 for FY 26.

**(4) Licenses** for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units).

**(a)** Licensing application fee: \$3,300 for FY 25 and \$3,300 for FY 26; and

**(b)** Annual fee: \$4,950 for FY 25 and \$9,900 for FY 26.

**(5) Licenses** for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes.

**(a)** License application fee: \$6,700 for FY 25 and \$6,700 for FY 26; and

**(b)** Annual fee: \$4,450 for FY 25 and \$8,900 for FY 26.

**(6) Licenses** for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes.

(a) License application fee: \$64,300 for FY 25 and \$64,300 for FY 26; and

(b) Annual fee: \$36,050 for FY 25 and \$72,100 for FY 26.

(7) Licenses to distribute items containing byproduct material that require device review or quantities of byproduct material to persons exempt from the licensing requirements of these regulations, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements.

(a) License application fee: \$6,900 for FY 25 and \$6,900 for FY 26; and

(b) Annual fee: \$4,350 for FY 25 and \$8,700 for FY 26.

(8) Licenses to distribute items containing byproduct material or quantities of byproduct material that require sealed source and/or device review to specifically licensed persons, except specific licenses authorizing redistribution of items that have been authorized for distribution to generally licensed persons.

(a) License application fee: \$2,100 for FY 25 and \$2,100 for FY 26; and

(b) Annual fee: \$1,800 for FY 25 and \$3,600 for FY 26.

(9) License issued to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements.

(a) License application fee: \$15,300 for FY 25 and \$15,300 for FY 26; and

(b) Annual fee: \$8,700 for FY 25 and \$17,400 for FY 26.

(10) Licenses issued to distribute items containing

byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons specifically licensed, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed.

(a) License application fee: \$1,200 for FY 25 and \$1,200 for FY 26; and

(b) Annual fee: \$1,350 for FY 25 and \$2,700 for FY 26.

(11) Licenses of broad scope for possession and use of byproduct material for research and development that do not authorize commercial distribution.

(a) License application fee: \$5,700 for FY 25 and \$5,700 for FY 26; and

(b) Annual fee: \$6,250 for FY 25 and \$12,500 for FY 26.

(12) Other licenses for possession and use of byproduct material for research and development that do not authorize commercial distribution.

(a) License application fee: \$8,600 for FY 25 and \$8,600 for FY 26; and

(b) Annual fee: \$6,700 for FY 25 and \$13,400 for FY 26

(13) Licenses that authorize services for other licensees:

(a) License application fee: \$9,200 for FY 25 and \$9,200 for FY 26; and

(b) Annual fee: \$7,600 for FY 25 and \$15,200 for FY 26.

(14) Licenses for the possession and use of byproduct material for industrial radiography operations; this category also includes the possession and use of source material for shielding when authorized on the same license:

(a) License application fee: \$9,200 for FY 25 and \$9,200 for FY 26; and

(b) Annual fee: \$14,550 for FY 25 and \$29,100 for FY 26.

(15) All other specific byproduct material licenses, including calibration and leak testing:

(a) License application fee: \$6,600 for FY 25 and \$6,600 for FY 26; and

(b) Annual fee: \$4,950 for FY 25 and \$9,900 for FY 26.

(16) Licenses for production of accelerator-produced radionuclides:

(a) License application fee: \$14,700 for FY 25 and \$14,700 for FY 26; and

(b) Annual fee: \$11,900 for FY 25 and \$23,800 for FY 26.

E. Waste disposal and processing:

(1) Class 1 Waste Licenses - Licenses specifically authorizing the receipt of waste byproduct material, source material, NORM, or special nuclear material from other persons specifically licensed for the purpose of contingency storage or commercial land disposal by the licensee; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material:

(a) License application fee: \$5,000 for FY 25 and \$10,000 for FY 26; and

(b) Annual fee: \$10,000 for FY 25 and \$20,000 for FY 26.

(2) Class 2 Waste Licenses - Licenses specifically authorizing the receipt of waste byproduct material, source material, NORM, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material:

(a) License application fee: \$0 for FY 25 and \$0 for FY 26; and

(b) Annual fee: \$7,480 for FY 25 and \$7,480 for FY 26.



**(3)** Class 3 Waste Licenses - Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, NORM, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material:

**(a)** License application fee: \$0 for FY 25 and \$0 for FY 26; and

**(b)** Annual fee: \$5,530 for FY 25 and \$5,530 for FY 26.

**F. Well logging:**

**(1)** Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies:

**(a)** License application fee: \$4,800 for FY 25 and \$4,800 for FY 26; and

**(b)** Annual fee: \$6,250 for FY 25 and \$12,500 for FY 26.

**(2)** Licenses for possession and use of byproduct material for field flooding tracer studies:

**(a)** License application fee: \$6,530 for FY 25 and \$6,530 for FY 26; and

**(b)** Annual fee: \$3,265 for FY 25 and \$6,530 for FY 26.

**G. Nuclear laundries**

- Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material and storage and transfer of laundry from the license location:

**(1)** License application fee: \$22,900 for FY 25 and \$22,900 for FY 26; and

**(2)** Annual fee: \$14,050 for FY 25 and \$28,100 for FY 26.

**H. Medical licenses:**

**(1)** Licenses for human use of byproduct material, source material, or special nuclear material in sealed sources contained

in gamma stereotactic radiosurgery units teletherapy devices; this category also includes the possession and use of source material for shielding when authorized on the same license:

**(a)** License application fee: \$11,500 for FY 25 and \$11,500 for FY 26; and

**(b)** Annual fee: \$13,550 for FY 25 and \$27,100 for FY 26.

**(2)** Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development, including human use of byproduct material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices:

**(a)** License application fee: \$9,000 for FY 25 and \$9,000 for FY 26; and

**(b)** Annual fee: \$18,500 for FY 25 and \$37,000 for FY 26.

**(3)** Other licenses for human use of byproduct material, source material, and/or special nuclear material except licenses for in-vitro analysis, and except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices; this category also includes the possession and use of source material for shielding when authorized on the same license:

**(a)** License application fee: \$10,900 for FY 25 and \$10,900 for FY 26; and

**(b)** Annual fee: \$8,400 for FY 25 and \$16,800 for FY 26.

**I. Civil defense -**

Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities:

**(1)** License application fee: \$2,600 for FY 25 and \$2,600 for FY 26; and

**(2)** Annual fee: \$3,000 for FY 25 and \$6,000 for FY 26.

**J. Reciprocal Recognition of Licenses under 20.3.3.24 NMAC:**

**(1)** License application fee: \$2,700 for FY 25 and \$2,700 for FY 26; and

**(2)** Annual fee: \$0 for FY25 and \$0 for FY26.

**K. New categories.** For generators of any category and any licensable quantity of radioactive material not listed above:

**(1)** License application fee: \$10,000 for FY 25 and \$10,000 for FY 26; and

**(2)** Annual Fee: \$10,000 for FY 25 and \$10,000 for FY 26.

[20.3.16.11 NMAC - Rp, 20.3.16.11 NMAC 05/01/2024]

**20.3.16.12 SMALL ENTITIES AND ANNUAL FEES:**

**A.** A licensee may qualify as a small entity pursuant to the provisions of this section and receive a refund of a portion of annual fees paid following the submission of certification and documentation with the annual fee payment. The submission of certification and documentation of being a small entity after the due date of the annual fee payment will not allow the licensee to qualify as a small entity until the following year in which the next annual fee payment is due. To qualify as a small entity, an entity must provide appropriate documentation that it meets the size standards and gross income standards described in 20.3.16.12.

**B. Small entity criteria.**  
**(1)** A small business that is a for-profit entity providing services or products and:

**(a)** earned average gross receipts of \$8 million or less over its last 3 completed fiscal years and is not engaged in manufacturing; or

**(b)** is a manufacturing concern with an average number of 500 or fewer employees based upon employment during each pay period for the preceding 12 calendar months; or

(2) A small governmental jurisdiction that is a government of a city, county, town, township, or village with a population (including educational institution populations) of 49,999 or fewer individuals; or

(3) A small educational institution that:  
(a) has more than seventy percent of its operating budget funded by state or local governments; or

(b) has zero percent to fifty percent of its operating budget funded by state or local governmental funds and has 500 or fewer employees.

C. For a small entity that meets the small entity criteria listed above in Subsection A of this section the following are the maximum annual fees, for each location of use and for each licensed category:

(1) Small businesses not engaged in manufacturing and small not-for-profit organizations (Average gross receipts for the last three completed years for all business locations):

(a) Gross annual receipts of \$485,000 to \$7 million, the annual fee is \$ 4,900 for each location.

(b) Gross annual receipts of less than less than \$485,000, the annual fee is \$1,000 for each location.

(2) Manufacturing entities that have an average of 500 or fewer employees working in all of licensee’s locations:

(a) 35 to 500 employees, the annual fee is \$4,900 for each location.

(b) Less than 35 employees, the annual fee is \$1000 for each location.

(3) Small governmental jurisdictions.

(a) Population of 20,000 to 49,999, the annual fee is \$ 4,900 for each location.

(b) Population of less than 20,000, the annual fee is \$1000 for each location.

(4) Educational institutions that are not state or publicly supported with 500 employees or less.

(a) With 35 to 500 employees, the annual fee is \$4,900 for each location.

(b) With less than 35 employees, the annual fee is \$1000 for each location.

D. For the purposes of this section, the department shall use the small business administration definition of receipts in the Code of Federal Regulations, 13 CFR 121.104(a)(1)(2), or its successor regulation. A licensee who is a subsidiary of a large entity does not qualify as a small entity for the purposes of this section.

E. Whenever appropriate in the interest of administering statutes and regulations within its jurisdiction, it is the practice of the department to answer inquiries from small entities concerning information on and advice about compliance with the statutes and regulations that affect them.

F. A licensee who seeks to establish status as a small entity for the purpose of paying the annual fees required under this section must file a certification statement with the department. The licensee must file the required certification on department Form RPP526 for each license under which it is billed. The department will include a copy of Form RPP526 with each annual fee invoice sent to a licensee. A licensee who seeks to qualify as a small entity must submit the completed Form RPP526 with the reduced annual fee payment.

G. For purposes of this section, the licensee must submit a new certification with its annual fee payment each year.

H. Small entities are required to pay the appropriate small entity fee for each fee category applicable to their license(s).

I. If a person files a false certification with respect to qualifying as a small entity, the department may refuse to process any application submitted by or on behalf

of the person with respect to any license issued to the person and may suspend or revoke any licenses held by the person. The filing of a false certification to qualifying as a small entity under this section may also result in punitive action pursuant to applicable New Mexico state statutes. [20.3.16.12 NMAC - Rp, 20.3.16.12 NMAC 05/01/2024]

**20.3.16.13 PRORATION:**

A. The purpose of proration is to bring all licensees to an annual fee due date of July 1 of each year, beginning July 1, 2024. For licenses issued prior to July 1, 2024, the annual fees shall be prorated by multiplying the number of complete and partial months between the anniversary date of the license issuance and July 1, 2024 by the calculated monthly amount of the annual fees due. The resulting calculation of prorated annual fees will be rounded up to the nearest dollar and be due, along with the FY 25 annual fee, on July 1, 2024.

B. After July 1, 2024, there will be no proration, and:

(1) new licensees must pay the full amount of annual fees, regardless of the month of license issuance;

(2) existing licensees must pay the full amount of annual fees on July 1 of each year, regardless of the anniversary date of license issuance; and

(3) licensees who terminate their licenses will not receive a refund of annual fees paid. [20.3.16.13 NMAC - Rp, 20.3.16.13 NMAC 05/01/2024]

**20.3.16.14 PAYMENT, COLLECTION AND COSTS:**

A. Payments of fees and costs shall be in the form of an online payment or a check or money order made payable to the Radiation Protection Fund at the address shown on the application, license, registration, or the invoice issued by the department or online payments service providers authorized by the department to collect payments.

**B.** In the event that fees and costs are not paid within 30 days of the applicable due date, all outstanding fee balances become due and payable, along with a ten percent penalty cost and the costs of collection, to be charged each month until all fees and costs are paid. The penalty and collection costs shall be calculated from the original due date of the outstanding fee balances.

**C.** Non-compliance with Chapter 3, Title 20 NMAC, the Radiation Protection Act or license requirements, regardless of whether the generator has a current license or generator activities have ceased, requires a generator to cease and desist generator activities and subjects the generator to administrative compliance costs for enforcement of Chapter 3, Title 20 NMAC, civil penalties of up to \$15,000 per day and other remedies available under law and Chapter 3, Title 20 NMAC. [20.3.16.14 NMAC - Rp, 20.3.16.14 NMAC 05/01/2024]

#### **20.3.16.15 LICENSE TERMINATIONS:**

**A.** For each license termination, the licensee shall inform the department of the intention to terminate the license and shall follow the termination procedures in Chapter 3, Title 20 NMAC and any other requirements set by the department.

**B.** Upon the department's determination that all conditions for termination have been met, the department shall issue an invoice for a termination fee in an amount equal to the application fee that would be charged for the license in the fiscal year of the termination request. The department shall issue a license termination within 30 days of receipt of total payment of owed fees and costs.

**C.** Until the department issues the license termination, annual fees and all other outstanding fees and costs under this part are the continued obligation of the licensee, regardless of whether the license has expired or the licensed activities have ceased. [20.3.16.15 NMAC - Rp, 20.3.16.15 NMAC 05/01/2024]

**20.3.16.16 ANNUAL REVIEW:** By October 1 of each year, the department shall perform a review of the fees and costs required by this part and shall provide a report of the review to the chair of the New Mexico radiation technical advisory council (RTAC). [20.3.16.16 NMAC - Rp, 20.3.16.16 NMAC 05/01/2024]

**20.3.16.17 [RESERVED]**  
[20.3.16.17 NMAC - Repealed, 05/01/2024]

**20.3.16.18 [RESERVED]**  
[20.3.16.18 NMAC - Repealed, 05/01/2024]

**History of 20.3.16 NMAC:**  
**[RESERVED]**

## **ENVIRONMENT DEPARTMENT**

**This is an amendment to 20.3.4 NMAC, Sections 404 and 455, effective 05/01/2024.**

#### **20.3.4.404 RADIATION PROTECTION PROGRAMS:**

**A.** Each licensee or registrant shall develop, document and implement a radiation protection program commensurate with the scope and extent of licensed or registered activities and sufficient to ensure compliance with the provisions of this part (see 20.3.4.441 NMAC for recordkeeping requirements related to these programs.)

**B.** The licensee or registrant shall use, to the extent practical, procedures and engineering controls based upon sound radiation protection principles to achieve occupational doses and doses to members of the public that are ALARA.

**C.** The licensee or registrant shall, at intervals not to exceed 12 months, review the radiation protection program content and implementation with all employees before beginning their job duties and annually thereafter.

**D.** To implement the ALARA requirements of Subsection B of this section, and notwithstanding the requirements in 20.3.4.413 NMAC, a constraint on air emissions of radioactive material to the environment, excluding Radon-222 and its daughters, shall be established by licensees such that the individual member of the public likely to receive the highest dose will not be expected to receive a total effective dose equivalent in excess of 10 millirems (0.1 millisievert) per year from these emissions. If a licensee subject to this requirement exceeds this dose constraint, the licensee shall report the exceedance as provided in 20.3.4.453 NMAC and promptly take appropriate corrective action to ensure against recurrence.

[20.3.4.404 NMAC - Rp, 20.3.4.404 NMAC, 4/30/2009, A, 05/01/2024]

#### **20.3.4.455 REPORTS OF TRANSACTIONS INVOLVING NATIONALLY TRACKED**

**SOURCES:** [Each licensee who manufactures, transfers, receives, disassembles or disposes of a nationally tracked source (as defined in 20.3.4.7 NMAC) shall complete and submit a *national source tracking transaction report* as specified in Subsections A through E of this section for each type of transaction:

**A.** Each licensee who manufactures a nationally tracked source shall complete and submit a *national source tracking transaction report*. The report must include the following information:

\_\_\_\_\_ **(1)** the name, address and license number of the reporting licensee;

\_\_\_\_\_ **(2)** the name of the individual preparing the report;

\_\_\_\_\_ **(3)** the manufacturer, model and serial number of the source;

\_\_\_\_\_ **(4)** the radioactive material in the source;

\_\_\_\_\_ **(5)** the initial source strength in becquerels (curies) at the time of manufacture; and

\_\_\_\_\_ **(6)** the manufacture date of the source.

**B.** Each licensee that

transfers a nationally tracked source to another person shall complete and submit a *national source tracking transaction report*. The report must include the following information:

- (1) the name, address and license number of the reporting licensee;
- (2) the name of the individual preparing the report;
- (3) the name and license number of the recipient facility and the shipping address;
- (4) the manufacturer, model and serial number of the source or, if not available, other information to uniquely identify the source;
- (5) the radioactive material in the source;
- (6) the initial or current source strength in becquerels (curies);
- (7) the date for which the source strength is reported;
- (8) the shipping date;
- (9) the estimated arrival date; and
- (10) for nationally tracked sources transferred as waste under a *uniform low-level radioactive waste manifest*, the waste manifest number and the container identification of the container with the nationally tracked source.

**C.** Each licensee that receives a nationally tracked source shall complete and submit a *national source tracking transaction report*. The report must include the following information:

- (1) the name, address and license number of the reporting licensee;
- (2) the name of the individual preparing the report;
- (3) the name, address and license number of the person that provided the source;
- (4) the manufacturer, model and serial number of the source or, if not available, other information to uniquely identify the source;
- (5) the radioactive material in the source;
- (6) the

initial or current source strength in becquerels (curies);

- (7) the date for which the source strength is reported;
- (8) the date of receipt; and
- (9) for material received under a *uniform low-level radioactive waste manifest*, the waste manifest number and the container identification with the nationally tracked source.

**D.** Each licensee that disassembles a nationally tracked source shall complete and submit a *national source tracking transaction report*. The report must include the following information:

- (1) the name, address and license number of the reporting licensee;
- (2) the name of the individual preparing the report;
- (3) the manufacturer, model and serial number of the source or, if not available, other information to uniquely identify the source;
- (4) the radioactive material in the source;
- (5) the initial or current source strength in becquerels (curies);
- (6) the date for which the source strength is reported; and
- (7) the disassemble date of the source.

**E.** Each licensee who disposes of a nationally tracked source shall complete and submit a *national source tracking transaction report*. The report must include the following information:

- (1) the name, address and license number of the reporting licensee;
- (2) the name of the individual preparing the report;
- (3) the waste manifest number;
- (4) the container identification with the nationally tracked source;
- (5) the date of disposal; and
- (6) the method of disposal.

**F.** The reports discussed in Subsections A through E of this section must be submitted by the close of the next business day after the transaction. A single report may be submitted for multiple sources and transactions. The reports must be submitted to the *national source tracking system* by using:

- (1) the on-line *national source tracking system*;
- (2) electronically using a computer-readable format;
- (3) by facsimile;
- (4) by mail to the address on the *national source tracking transaction report form* (NRC form 748); or
- (5) by telephone with follow-up by facsimile or mail.

**G.** Each licensee shall correct any error in previously filed reports or file a new report for any missed transaction within 5 business days of the discovery of the error or missed transaction. Such errors may be detected by a variety of methods such as administrative reviews or by physical inventories required by regulation. In addition, each licensee shall reconcile the inventory of nationally tracked sources possessed by the licensee against that licensee's data in the *national source tracking system*. The reconciliation must be conducted during the month of January in each year. The reconciliation process must include resolving any discrepancies between the *national source tracking system* and the actual inventory by filing the reports identified by Subsections A through E of this section. By January 31 of each year, each licensee must submit to the *national source tracking system* confirmation that the data in the *national source tracking system* is correct.

**H.** Each licensee that possesses category 1 nationally tracked sources shall report its initial inventory of category 1 nationally tracked sources to the *national source tracking system* by January 31, 2009. Each licensee that possesses category



2 nationally tracked sources shall report its initial inventory of category 2 nationally tracked sources to the national source tracking system by January 31, 2009. The information may be submitted by using any of the methods identified by Paragraph (1) through (4) of Subsection F of this section. The initial inventory report must include the following information:

- ~~(1) the name, address and license number of the reporting licensee;~~
  - ~~(2) the name of the individual preparing the report;~~
  - ~~(3) the manufacturer, model and serial number of each nationally tracked source or, if not available, other information to uniquely identify the source;~~
  - ~~(4) the radioactive material in the sealed source;~~
  - ~~(5) the initial or current source strength in becquerels (curies); and~~
  - ~~(6) the date for which the source strength is reported.]~~
- The regulations of the U. S. Nuclear Regulatory Commission set forth in 10 CFR 20.2207 are hereby incorporated by reference.  
[20.3.4.455 NMAC - N, 4/30/2009, A, 05/01/24]

## ENVIRONMENT DEPARTMENT

**This is an amendment to 20.3.5 NMAC, Section 15 effective 05/01/2024.**

### 20.3.5.15 PERSONNEL MONITORING:

A. The licensee or registrant may not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each individual wears, on the trunk of the body, a ~~[combination of]~~ direct reading dosimeter, an operating alarm ratemeter, and a ~~[NVLAP-certified]~~ personnel dosimeter. At permanent radiography installations where other

appropriate alarming or warning devices are in routine use, the wearing of an alarming ratemeter is not required.

(1) Pocket dosimeters must have a range from zero to two millisieverts (200 millirems) and must be recharged at the start of each shift. Electronic personal dosimeters may only be used in place of ion-chamber pocket dosimeters.

(2) Each ~~[NVLAP-certified]~~ personnel dosimeter must be assigned to and worn by only one individual.

(3) Film badges must be replaced ~~[at periods not to exceed one month. All other NVLAP-certified dosimeters must be replaced at periods not to exceed three months:]~~ for personnel at least monthly and all other personnel dosimeters that require replacement must be replaced at least quarterly. All personnel dosimeters that must be evaluated must be evaluated at least quarterly or promptly after replacement, whichever is more frequent.

~~[(4) After replacement, each NVLAP-certified dosimeter must be processed as soon as possible.]~~

B. Direct reading dosimeters such as pocket dosimeters or electronic personal dosimeters must be read and the exposures recorded at the beginning and end of each shift. Records shall be maintained in accordance with Paragraph (2) of Subsection H of 20.3.5.15 NMAC.

C. Pocket dosimeters, or electronic personal dosimeters, must be checked at periods not to exceed 12 months for correct response to radiation. Acceptable dosimeters must read within plus or minus twenty percent of the true radiation exposure. Records shall be maintained in accordance with Paragraph (1) of Subsection H of 20.3.5.15 NMAC.

D. If an individual's pocket ~~[dosimeter]~~ chamber is found to be off-scale, or if his or her electronic personal dosimeter reads greater than two millisieverts (200 millirems), and the possibility of

radiation exposure cannot be ruled out as the cause, the individual's ~~[NVLAP-certified]~~ personnel dosimeter must be sent for processing within 24 hours. In addition, the individual may not resume work associated with ~~[radiation]~~ licensed material use until a determination of the individual's radiation ~~[exposure]~~ dose has been made. This determination must be made by the RSO or the RSO's designee. The results of this determination shall be documented. The documents shall be maintained in accordance with ~~[paragraph (4) of]~~ Subsection H of 20.3.5.15 NMAC.

E. If a ~~[NVLAP-certified]~~ personnel dosimeter that is required by Subsection A of 20.3.5.15 NMAC is lost or damaged, the worker shall cease work immediately until a replacement dosimeter is provided and the exposure is calculated for the time period from issuance to loss or damage of the dosimeter. The results of the calculated exposure and the time period for which the dosimeter was lost or damaged shall be documented. The documents shall be maintained in accordance with Paragraph (4) of Subsection H of 20.3.5.15 NMAC.

F. ~~[Reports received from dosimetry processors]~~ Dosimetry results shall be maintained in accordance with Paragraph (3) of Subsection H of 20.3.5.15 NMAC.

G. Each alarm ratemeter must--

(1) Be checked to ensure that the alarm functions properly (sounds) before using at the start of each shift;

(2) Be set to give an alarm signal at a preset dose rate of five mSv/hr (500 mrem/hr); with an accuracy of plus or minus twenty percent of the true radiation dose rate;

(3) Require special means to change the preset alarm function; and

(4) Be calibrated at periods not to exceed 12 months for correct response to radiation. The licensee or registrant shall maintain records of alarm ratemeter calibrations in accordance

with Paragraph (2) of Subsection H of 20.3.5.15 NMAC.

**H. Personnel Monitoring Records.** Each licensee and registrant shall maintain the following exposure records pursuant to 20.3.5.15 NMAC:

(1) Direct reading dosimeter readings and yearly operability checks required by Subsections B and C of 20.3.5.15 NMAC for three years after the record is made.

(2) Records of alarm ratemeter calibrations for three years after the record is made.

(3) Reports received ~~[from]~~ for personnel dosimetry [processors] shall be maintained until the Department terminates the license or registration.

(4) Records of estimates of exposures as a result of: off-scale personal direct reading dosimeters, or lost or damaged [external dosimetric device] personnel dosimeters, until the department terminates the license or registration. [20.3.5.15 NMAC - Rp, 20 NMAC 3.1.5.517, 5/19/2002; A, 05/01/2024]

**ENVIRONMENT DEPARTMENT**

**This is an amendment to 20.3.12 NMAC, Section 13 effective 05/01/2024.**

**20.3.12.13 PERSONNEL MONITORING:**

A. The licensee may not permit an individual to act as a logging supervisor or logging assistant unless that person wears, at all times during the handling of licensed radioactive materials, a personnel dosimeter ~~[that is processed and evaluated by an accredited national voluntary laboratory accreditation program (NVLAP) processor]~~. Each personnel dosimeter shall be assigned to and worn by only one individual. Film badges shall be replaced at least monthly and other personnel dosimeters ~~[replaced]~~ evaluated at least quarterly. ~~[After replacement, each~~

~~personnel dosimeter shall be promptly processed.]~~

B. The licensee shall provide bioassay services to individuals using licensed radioactive materials in subsurface tracer studies if required by the license.

C. Recordkeeping. The licensee shall retain records of personnel dosimeters required by Subsection A of this section and bioassay results for inspection until the department authorizes disposition of the records.

[20.3.12.13 NMAC - Rp, 20.3.12.1216 NMAC, 6/30/2011; A, 05/01/2024]

**ENVIRONMENT DEPARTMENT**

**This is an amendment to 20.3.15 NMAC, Section 1519 effective 05/01/2024.**

**20.3.15.1519 PERSONNEL MONITORING:**

A. Irradiator operators shall wear a personnel dosimeter ~~[that is processed and evaluated by an accredited national voluntary laboratory accreditation program (NVLAP) processor]~~ while operating a panoramic irradiator, or while in the area around the pool of an underwater irradiator. The personnel dosimeter processor must be ~~[accredited for]~~ capable of detecting high-energy photons in the normal and accident dose ranges (see Subsection C of 20.3.4.416 NMAC). Each personnel dosimeter must be assigned to and worn by only one individual. Film badges must be ~~[processed]~~ replaced at least monthly, and other personnel dosimeters that require replacement must be [processed] at least quarterly. All personnel dosimeters must be evaluated at least quarterly or promptly after replacement, whichever is more frequent.

B. Other individuals who enter the radiation room of a panoramic irradiator shall wear a dosimeter, which may be a pocket dosimeter. For groups of visitors, only two people who enter the

radiation room are required to wear dosimeters. If pocket dosimeters are used to meet the requirements of this subsection, a check of their response to radiation must be done at least annually. Acceptable dosimeters must read within plus or minus thirty percent of the true radiation dose. [5/3/1995; 20.3.15.1519 NMAC - Rn, 20 NMAC 3.1.15.1519, 4/15/2004; A, 8/31/2005, A, 05/01/2024]

**HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION**

**This is an emergency amendment to 8.200.510 NMAC, Sections 11, 12, 13 and 15, effective 4/1/2024.**

**8.200.510.11 COMMUNITY SPOUSE RESOURCE ALLOWANCE (CSRA):**

The CSRA standard varies based on when the applicant or recipient become institutionalized for a continuous period. The CSRA remains constant even if it was calculated prior to submission of a formal MAP application. If institutionalization began:

A. Between September 30, 1989 and December 31, 1989, the state maximum CSRA is \$30,000 and the federal maximum CRSA is \$60,000.

B. On or after January 1, 1990, the state minimum is \$31,290 and the federal maximum CSRA is \$62,580.

C. On or after January 1, 1991, the state minimum is \$31,290 and the federal maximum CSRA is \$66,480.

D. On or before January 1, 1992, the state minimum is \$31,290 and the federal maximum CSRA is \$68,700.

E. On or after January 1, 1993, the state minimum is \$31,290 and the federal maximum CSRA is \$70,740.

F. On or after January 1, 1994, the state minimum is \$31,290 and the federal maximum CSRA is \$72,660.



**G.** On or after January 1, 1995, the state minimum is \$31,290 and the federal maximum CSRA is \$74,820.

**H.** On or after January 1, 1996, the state minimum is \$31,290 and the federal maximum CSRA is \$76,740.

**I.** On or after January 1, 1997, the state minimum is \$31,290 and the federal maximum CSRA is \$79,020.

**J.** On or after January 1, 1998, the state minimum is \$31,290 and the federal maximum CSRA is \$80,760.

**K.** On or after January 1, 1999, the state minimum is \$31,290 and the federal maximum CSRA is \$81,960.

**L.** On or after January 1, 2000, the state minimum is \$31,290 and the federal maximum CSRA is \$84,120.

**M.** On or after January 1, 2001, the state minimum is \$31,290 and the federal maximum CSRA is \$87,000.

**N.** On or after January 1, 2002, the state minimum is \$31,290 and the federal maximum CSRA is \$89,280.

**O.** On or after January 1, 2003, the state minimum is \$31,290 and the federal maximum CSRA is \$90,660.

**P.** On or after January 1, 2004, the state minimum is \$31,290 and the federal maximum CSRA is \$92,760.

**Q.** On or after January 1, 2005, the state minimum is \$31,290 and the federal maximum CSRA is \$95,100.

**R.** On or after January 1, 2006, the state minimum is \$31,290 and the federal maximum CSRA is \$99,540.

**S.** On or after January 1, 2007, the state minimum is \$31,290 and the federal maximum CSRA is \$101,640.

**T.** On or after January 1, 2008, the state minimum is \$31,290 and the federal maximum CSRA is \$104,400.

**U.** On or after January 1, 2009, the state minimum is \$31,290

and the federal maximum CSRA is \$109,560.

**V.** On or after January 1, 2010, the state minimum is \$31,290 and the federal maximum CSRA remains \$109,560.

**W.** On or after January 1, 2011, the state minimum is \$31,290 and the federal maximum CSRA remains \$109,560.

**X.** On or after January 1, 2012, the state minimum is \$31,290 and the federal maximum CSRA is \$113,640.

**Y.** On or after January 1, 2013, the state minimum is \$31,290 and the federal maximum CSRA is \$115,920.

**Z.** On or after January 1, 2014, the state minimum is \$31,290 and the federal maximum CSRA is \$117,240.

**AA.** On or after January 1, 2015, the state minimum is \$31,290 and the federal maximum CSRA is \$119,220.

**BB.** On or after January 1, 2016, the state minimum is \$31,290 and the federal maximum CSRA is \$119,220.

**CC.** On or after January 1, 2017, the state minimum is \$31,290 and the federal maximum CSRA is \$120,900.

**DD.** On or after January 1, 2018, the state minimum is \$31,290 and the federal maximum CSRA is \$123,600.

**EE.** On or after January 1, 2019, the state minimum is \$31,290 and the federal maximum CSRA is \$126,420.

**FF.** On or after January 1, 2020, the state minimum is \$31,290 and the federal maximum CSRA is \$128,640.

**GG.** On or after January 1, 2021, the state minimum is \$31,290 and the federal maximum CSRA is \$130,380.

**HH.** On or after January 1, 2022, the state minimum is \$31,290 and the federal maximum CSRA is \$137,400.

**II.** On or after January 1, 2023, the state minimum is \$31,290 and the federal maximum CSRA is \$148,620.

**JJ.** On or after January 1, 2024, the state minimum is \$31,290 and the federal maximum CSRA is \$154,140.

[8.200.510.11 NMAC - Rp, 8.200.510.11 NMAC, 7/1/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 8/30/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024]

**8.200.510.12 POST-ELIGIBILITY CALCULATION (MEDICAL CARE CREDIT):**

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

**DEDUCTION AMOUNT**

**A.** Personal needs allowance for institutionalized spouse:  
[July 1, 2022] \$83  
July 1, 2023 \$91

**B.** Minimum monthly maintenance needs allowance (MMMNA):  
[July 1, 2022] \$2,289  
July 1, 2023 \$2,465

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

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

[July 1, 2022] \$687  
July 1, 2023 \$740

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

Jan. 1, 2023 ~~\_\_\_\_\_~~ [a] \_\_\_\_\_  
 \_\_\_\_\_ \$1,427

Jan. 1, 2022 ~~\_\_\_\_\_~~ (b) \_\_\_\_\_  
 \_\_\_\_\_ \$1,257

Jan. 1, 2021 ~~\_\_\_\_\_~~ (c) \_\_\_\_\_  
 \_\_\_\_\_ \$1,105

July 1, 2020 ~~\_\_\_\_\_~~ (d) \_\_\_\_\_  
 \_\_\_\_\_ \$1,062

Jan. 1, 2020 ~~\_\_\_\_\_~~ (e) \_\_\_\_\_  
 \_\_\_\_\_ \$1,103]

Jan. 1, 2024 \_\_\_\_\_ (a) \_\_\_\_\_  
 \_\_\_\_\_ \$1,388.50

July 1, 2023 \_\_\_\_\_ (b) \_\_\_\_\_  
 \_\_\_\_\_ \$1,251

Jan. 1, 2023 \_\_\_\_\_ (c) \_\_\_\_\_  
 \_\_\_\_\_ \$1,427

July 1, 2022 \_\_\_\_\_ (d) \_\_\_\_\_  
 \_\_\_\_\_ \$1,146

Jan. 1, 2022 \_\_\_\_\_ (e) \_\_\_\_\_  
 \_\_\_\_\_ \$1,257

July 1, 2021 \_\_\_\_\_ (f) \_\_\_\_\_  
 \_\_\_\_\_ \$1,082

Jan. 1, 2021 \_\_\_\_\_ (g) \_\_\_\_\_  
 \_\_\_\_\_ \$1,105

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

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

F. Non-covered medical expenses.

G. The maximum total of the community spouse monthly income allowance and excess shelter deduction may not exceed [~~\$3,716~~] \$3,853.50.

[8.200.510.12 NMAC - Rp, 8.200.510.12 NMAC, 7/1/2015; A/E, 3/1/2017; A/E, 8/30/2018;

A/E, 4/11/2019; A, 7/30/2019; A/E, 1/16/2020; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024]

**8.200.510.13 AVERAGE MONTHLY COST OF NURSING FACILITIES FOR PRIVATE PATIENTS USED IN TRANSFER OF ASSET PROVISIONS:** Costs of care are based on the date of application registration.

**DATE AVERAGE COST PER MONTH**

A. July 1, 1988 - Dec. 31, 1989  
 \$1,726 per month

B. Jan. 1, 1990 - Dec. 31, 1991  
 \$2,004 per month

C. Jan. 1, 1992 - Dec. 31, 1992  
 \$2,217 per month

D. Effective July 1, 1993, for application  
 \$2,377 per month

Jan. 1, 1993 register on or after

E. Jan. 1, 1994 - Dec. 31, 1994  
 \$2,513 per month

F. Jan. 1, 1995 - Dec. 31, 1995  
 \$2,592 per month

G. Jan. 1, 1996 - Dec. 31, 1996  
 \$2,738 per month

H. Jan. 1, 1997 - Dec. 31, 1997  
 \$2,889 per month

I. Jan. 1, 1998 - Dec. 31, 1998  
 \$3,119 per month

J. Jan. 1, 1999 - Dec. 31, 1999  
 \$3,429 per month

K. Jan. 1, 2000 - Dec. 31, 2000  
 \$3,494 per month

L. Jan. 1, 2001 - Dec. 31, 2001  
 \$3,550 per month

M. Jan. 1, 2002 - Dec. 31, 2002  
 \$3,643 per month

N. Jan. 1, 2003 - Dec. 31, 2003  
 \$4,188 per month

O. Jan. 1, 2004 - Dec. 31, 2004  
 \$3,899 per month

P. Jan. 1, 2005 - Dec. 31, 2005  
 \$4,277 per month

Q. Jan. 1, 2006 - Dec. 31, 2006  
 \$4,541 per month

R. Jan. 1, 2007 - Dec. 31, 2007  
 \$4,551 per month

S. Jan. 1, 2008 - Dec. 31, 2008  
 \$4,821 per month

T. Jan. 1, 2009 - Dec. 31, 2009  
 \$5,037 per month

U. Jan. 1, 2010 - Dec. 31, 2010  
 \$5,269 per month

V. Jan. 1, 2011 - Dec. 31, 2011  
 \$5,774 per month

W. Jan. 1, 2012 - Dec. 31, 2012  
 \$6,015 per month

X. Jan. 1, 2013 - Dec. 31, 2013  
 \$6,291 per month

Y. Jan. 1, 2014 - Dec. 31, 2014  
 \$6,229 per month

Z. Jan. 1, 2015 - Dec. 31, 2015  
 \$6,659 per month

AA. Jan. 1, 2016 - Dec. 31, 2016  
 \$7,786 per month

BB. Jan. 1, 2017 - Dec. 31, 2017  
 \$7,485 per month

CC. Jan. 1, 2018 - Dec. 31, 2018  
 \$7,025 per month

DD. Jan. 1, 2019 - Dec. 31, 2019  
 \$7,285 per month

EE. Jan. 1, 2020 - Dec. 31, 2020  
 \$7,480 per month

FF. Jan. 1, 2021 - Dec. 31, 2021  
 \$7,590 per month

GG. Jan. 1, 2022 - Dec. 31, 2021  
 \$7,811 per month

**HH.** Jan. 1, 2023 - Dec. 31, 2023  
 \$8,275 per month

**II.** Jan. 1, 2024 -  
 \$8,919 per month

[8.200.510.13 NMAC - Rp, 8.200.510.13 NMAC, 7/1/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 8/30/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024]

**8.200.510.15 EXCESS HOME EQUITY AMOUNT FOR LONG-TERM CARE SERVICES:**

**A.** Jan. 2024  
 \$713,000

~~[(A)]~~ **B.** Jan. 2023  
 \$688,000

~~[(B)]~~ **C.** Jan. 2022  
 \$636,000

~~[(C)]~~ **D.** Jan. 2021  
 \$603,000

~~[(D)]~~ **E.** Jan. 2020  
 \$595,000

~~[(E)]~~ **E.** Jan. 2019  
 \$585,000

~~[(F)]~~ **G.** Jan. 2018  
 \$572,000

~~[(G)]~~ **H.** Oct. 2017  
 \$560,000

~~[(H)]~~ **I.** Jan. 2017  
 \$840,000

~~[(I)]~~ **J.** Jan. 2016  
 \$828,000

~~[(J)]~~ **K.** Jan. 2015  
 \$828,000

~~[(K)]~~ **L.** Jan. 2014  
 \$814,000

~~[(L)]~~ **M.** Jan. 2013  
 \$802,000

~~[(M)]~~ **N.** Jan. 2012  
 \$786,000

~~[(N)]~~ **O.** Jan. 2011  
 \$758,000

~~[(O)]~~ **P.** Jan. 2010  
 \$750,000

[8.200.510.15 NMAC - Rp, 8.200.510.15 NMAC, 7/1/2015; A/E, 1/1/2016; A/E, 3/1/2017; A, 3/1/18; A/E, 8/30/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024]

**HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION**

**This is an emergency amendment to 8.200.520 NMAC, Sections 11, 12, 13, 15, 16 and 20, effective 4/1/2024.**

**8.200.520.11 FEDERAL POVERTY INCOME GUIDELINES:**

**A.** One hundred percent federal poverty limits (FPL):

Size of budget group	FPL per month
1	\$1,215*
2	\$1,644*
3	\$2,072
4	\$2,500
5	\$2,929
6	\$3,357
7	\$3,785
8	\$4,214]
1	\$1,255*
2	\$1,704*
3	\$2,152
4	\$2,600
5	\$3,049
6	\$3,497
7	\$3,945
8	\$4,394
	Add [\$429]

\$449 for each additional person in the budget group.

\*FPL must be below one hundred percent for an individual or couple for qualified medicare beneficiary (QMB) program.

**B.** One hundred twenty percent FPL: This income level is

used only in the determination of the maximum income limit for specified low income medicare beneficiaries (SLIMB) applicants or eligible recipients.

Applicant or eligible recipient	Amount
Individual	At least \$1,215] \$1,255 per month but no more than \$1,458] \$1,506 per month.
Couple	At least \$1,644] \$1,704 per month but no more than \$1,972] \$2,044 per month.

For purposes of this eligibility calculation, "couple" means an applicant couple or an applicant with an ineligible spouse when income is deemed.

**C.** One hundred thirty-three percent FPL:

Size of budget group	FPL per month
1	\$1,616
2	\$2,186
3	\$2,756
4	\$3,325
5	\$3,895
6	\$4,465
7	\$5,035
8	\$5,604]
1	\$1,670
2	\$2,266
3	\$2,862
4	\$3,458
5	\$4,055
6	\$4,651
7	\$5,247
8	\$5,844
	Add [\$569] \$597

for each additional person in the budget group.

**D.** One hundred thirty-five percent FPL: This income level is used only in the determination of the maximum income limit for a qualified individual 1 (QI1) applicant or eligible recipient. For purposes of this eligibility calculation, “couple” means an applicant couple or an applicant with an ineligible spouse when income is deemed. The following income levels apply:

Applicant or eligible recipient	Amount
Individual	At least <u>\$1,458</u> <u>\$1,506</u> per month but no more than <u>\$1,641</u> <u>\$1,695</u> per month.

Couple	At least <u>\$1,972</u> <u>\$2,044</u> per month but no more than <u>\$2,219</u> <u>\$2,300</u> per month.
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**E.** One hundred eighty-five percent FPL:

Size of budget group	FPL per month
1	[1]
2	\$2,248
3	\$3,041
4	\$3,833
5	\$4,625
6	\$5,418
7	\$6,210
8	\$7,003
1	\$7,795]
2	\$2,322
3	\$3,152
4	\$3,981
5	\$4,810
6	\$5,640
7	\$6,469
8	\$7,299
1	\$8,128
	Add <u>\$792</u> <u>\$829</u>

for each additional person in the budget group.

**F.** Two hundred percent FPL:

Size of budget group	FPL per month
1	[1]
2	\$2,430
3	\$3,287
4	\$4,144
5	\$5,000
6	\$5,857
7	\$6,714
8	\$7,570
1	\$8,427]
2	\$2,510
3	\$3,407
4	\$4,304
5	\$5,200
6	\$6,097
7	\$6,994
8	\$7,890
1	\$8,787
	Add <u>\$857</u> <u>\$897</u>

for each additional person in the budget group.

**G.** Two hundred thirty-five percent FPL:

Size of budget group	FPL per month
1	[1]
2	\$2,856
3	\$3,862
4	\$4,869
5	\$5,875
6	\$6,882
7	\$7,889
8	

\$8,895
8
\$9,902]
1
\$2,950
2
\$4,003
3
\$5,057
4
\$6,110
5
\$7,164
6
\$8,218
7
\$9,271
8
\$10,325

Add \$1,007 \$1,054 for each additional person in the budget group.

**H.** Two hundred fifty percent FPL:

Size of budget group	FPL per month
1	[1]
2	\$3,038
3	\$4,109
4	\$5,180
5	\$6,250
6	\$7,321
7	\$8,392
8	\$9,463
1	\$10,534]
2	\$3,138
3	\$4,259
4	\$5,380
5	\$6,500
6	\$7,621
7	\$8,742
8	\$9,863
1	\$10,984

Add [~~\$1,071~~] \$1,121 for each additional person in the budget group.

[8.200.520.11 NMAC - Rp, 8.200.520.11 NMAC, 8/28/2015; A/E, 4/1/2016; A/E, 9/14/2017; A, 2/1/2018; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019, A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024]

**8.200.520.12 COST OF LIVING ADJUSTMENT (COLA) DISREGARD COMPUTATION:** The countable social security benefit without the COLA is calculated using the COLA increase table as follows:

- A. divide the current gross social security benefit by the COLA increase in the most current year; the result is the social security benefit before the COLA increase;
- B. divide the result from Subsection A above by the COLA increase from the previous period or year; the result is the social security benefit before the increase for that period or year; and
- C. repeat Subsection B above for each year, through the year that the applicant or eligible recipient received both social security benefits and supplemental security income (SSI); the final result is the countable social security benefit.

COLA Increase and disregard table			
	Period and year	COLA increase	= benefit before
<u>1</u>	<u>2024 Jan - Dec</u>	<u>3.2</u>	<u>Jan 24</u>
<del>[1]</del> <u>2</u>	<u>2023 Jan - Dec</u>	8.7	Jan 23
<del>[2]</del> <u>3</u>	<u>2022 Jan - Dec</u>	5.9	Jan 22
<del>[3]</del> <u>4</u>	<u>2021 Jan - Dec</u>	1.3	Jan 21
<del>[4]</del> <u>5</u>	<u>2020 Jan - Dec</u>	1.6	Jan 20
<del>[5]</del> <u>6</u>	<u>2019 Jan - Dec</u>	2.8	Jan 19
<del>[6]</del> <u>7</u>	<u>2018 Jan - Dec</u>	2.0	Jan 18
<del>[7]</del> <u>8</u>	<u>2017 Jan - Dec</u>	0.3	Jan 17
<del>[8]</del> <u>9</u>	<u>2016 Jan - Dec</u>	0	Jan 16
<del>[9]</del> <u>10</u>	<u>2015 Jan - Dec</u>	1.017	Jan 15
<del>[10]</del> <u>11</u>	<u>2014 Jan - Dec</u>	1.015	Jan 14
<del>[11]</del> <u>12</u>	<u>2013 Jan - Dec</u>	1.017	Jan 13
<del>[12]</del> <u>13</u>	<u>2012 Jan - Dec</u>	1.037	Jan 12
<del>[13]</del> <u>14</u>	<u>2011 Jan - Dec</u>	0	Jan 11
<del>[14]</del> <u>15</u>	<u>2010 Jan - Dec</u>	1	Jan 10
<del>[15]</del> <u>16</u>	<u>2009 Jan - Dec</u>	1	Jan 09
<del>[16]</del> <u>17</u>	<u>2008 Jan - Dec</u>	1.058	Jan 08
<del>[17]</del> <u>18</u>	<u>2007 Jan - Dec</u>	1.023	Jan 07
<del>[18]</del> <u>19</u>	<u>2006 Jan - Dec</u>	1.033	Jan 06
<del>[19]</del> <u>20</u>	<u>2005 Jan - Dec</u>	1.041	Jan 05
<del>[20]</del> <u>21</u>	<u>2004 Jan - Dec</u>	1.027	Jan 04
<del>[21]</del> <u>22</u>	<u>2003 Jan - Dec</u>	1.021	Jan 03
<del>[22]</del> <u>23</u>	<u>2002 Jan - Dec</u>	1.014	Jan 02
<del>[23]</del> <u>24</u>	<u>2001 Jan - Dec</u>	1.026	Jan 01
<del>[24]</del> <u>25</u>	<u>2000 Jan - Dec</u>	1.035	Jan 00
<del>[25]</del> <u>26</u>	<u>1999 Jan - Dec</u>	1.025	Jan 99
<del>[26]</del> <u>27</u>	<u>1998 Jan - Dec</u>	1.013	Jan 98
<del>[27]</del> <u>28</u>	<u>1997 Jan - Dec</u>	1.021	Jan 97
<del>[28]</del> <u>29</u>	<u>1996 Jan - Dec</u>	1.029	Jan 96
<del>[29]</del> <u>30</u>	<u>1995 Jan - Dec</u>	1.026	Jan 95
<del>[30]</del> <u>31</u>	<u>1994 Jan - Dec</u>	1.028	Jan 94
<del>[31]</del> <u>32</u>	<u>1993 Jan - Dec</u>	1.026	Jan 93
<del>[32]</del> <u>33</u>	<u>1992 Jan - Dec</u>	1.03	Jan 92
<del>[33]</del> <u>34</u>	<u>1991 Jan - Dec</u>	1.037	Jan 91
<del>[34]</del> <u>35</u>	<u>1990 Jan - Dec</u>	1.054	Jan 90
<del>[35]</del> <u>36</u>	<u>1989 Jan - Dec</u>	1.047	Jan 89
<del>[36]</del> <u>37</u>	<u>1988 Jan - Dec</u>	1.04	Jan 88
<del>[37]</del> <u>38</u>	<u>1987 Jan - Dec</u>	1.042	Jan 87
<del>[38]</del> <u>39</u>	<u>1986 Jan - Dec</u>	1.013	Jan 86



<del>[39]</del> <b>40</b>	1985 Jan - Dec	1.031	Jan 85
<del>[40]</del> <b>41</b>	1984 Jan - Dec	1.035	Jan 84
<del>[41]</del> <b>42</b>	1982 Jul - 1983 Dec	1.035	Jul 82
<del>[42]</del> <b>43</b>	1981 Jul - 1982 Jun	1.074	Jul 81
<del>[43]</del> <b>44</b>	1980 Jul - 1981 Jun	1.112	Jul 80
<del>[44]</del> <b>45</b>	1979 Jul - 1980 Jun	1.143	Jul 79
<del>[45]</del> <b>46</b>	1978 Jul - 1979 Jun	1.099	Jul 78
<del>[46]</del> <b>47</b>	1977 Jul - 1978 Jun	1.065	Jul 77
<del>[47]</del> <b>48</b>	1977 Apr - 1977 Jun	1.059	Apr 77

[8.200.520.12 NMAC - Rp, 8.200.520.12 NMAC, 8/28/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018; A, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024]

**8.200.520.13 FEDERAL BENEFIT RATES (FBR) AND VALUE OF ONE-THIRD REDUCTION (VTR):**

Year	Individual FBR	Institution FBR	Individual VTR	Couple FBR	Institution FBR	Couple VTR
1/89 to 1/90	\$368	\$30	\$122.66	\$553	\$60	\$184.33
1/90 to 1/91	\$386	\$30	\$128.66	\$579	\$60	\$193.00
1/91 to 1/92	\$407	\$30	\$135.66	\$610	\$60	\$203.33
1/92 to 1/93	\$422	\$30	\$140.66	\$633	\$60	\$211.00
1/93 to 1/94	\$434	\$30	\$144.66	\$652	\$60	\$217.33
1/94 to 1/95	\$446	\$30	\$148.66	\$669	\$60	\$223.00
1/95 to 1/96	\$458	\$30	\$152.66	\$687	\$60	\$229.00
1/96 to 1/97	\$470	\$30	\$156.66	\$705	\$60	\$235.00
1/97 to 1/98	\$484	\$30	\$161.33	\$726	\$60	\$242.00
1/98 to 1/99	\$494	\$30	\$164.66	\$741	\$60	\$247.00
1/99 to 1/00	\$500	\$30	\$166.66	\$751	\$60	\$250.33
1/00 to 1/01	\$512	\$30	\$170.66	\$769	\$60	\$256.33
1/01 to 1/02	\$530	\$30	\$176.66	\$796	\$60	\$265.33
1/02 to 1/03	\$545	\$30	\$181.66	\$817	\$60	\$272.33
1/03 to 1/04	\$552	\$30	\$184.00	\$829	\$60	\$276.33
1/04 to 1/05	\$564	\$30	\$188	\$846	\$60	\$282.00
1/05 to 1/06	\$579	\$30	\$193	\$869	\$60	\$289.66
1/06 to 1/07	\$603	\$30	\$201	\$904	\$60	\$301.33
1/07 to 1/08	\$623	\$30	\$207.66	\$934	\$60	\$311.33
1/08 to 1/09	\$637	\$30	\$212.33	\$956	\$60	\$318.66
1/09 to 1/10	\$674	\$30	\$224.66	\$1,011	\$60	\$337
1/10 to 1/11	\$674	\$30	\$224.66	\$1,011	\$60	\$337
1/11 to 1/12	\$674	\$30	\$224.66	\$1,011	\$60	\$337

1/12 to 1/13	\$698	\$30	\$232.66	\$1,048	\$60	\$349.33
1/13 to 1/14	\$710	\$30	\$237	\$1,066	\$60	\$355
1/14 to 1/15	\$721	\$30	\$240	\$1,082	\$60	\$361
1/15 to 12/15	\$733	\$30	\$244	\$1,100	\$60	\$367
1/16 to 12/16	\$733	\$30	\$244	\$1,100	\$60	\$367
1/17 to 12/17	\$735	\$30	\$245	\$1,103	\$60	\$368
1/18 to 12/18	\$750	\$30	\$250	\$1,125	\$60	\$375
1/19 to 12/19	\$771	\$30	\$257	\$1,157	\$60	\$386
1/20 to 12/20	\$783	\$30	\$261	\$1,175	\$60	\$392
1/21 to 12/21	\$794	\$30	\$264.66	\$1,191	\$60	\$397
1/22 to 12/22	\$841	\$30	\$280.33	\$1,261	\$60	\$420.50
1/23 to 12/23	\$914	\$30	\$304.66	\$1,371	\$60	\$456.99
1/24 to 12/24	<u>\$943</u>	<u>\$30</u>	<u>\$314.33</u>	<u>\$1,415</u>	<u>\$60</u>	<u>\$471.66</u>

A. Ineligible child deeming allocation is [~~\$457~~] \$472.

B. Part B premium is [~~\$164.90~~] \$174.70 per month.

C. VTR (value of one third reduction) is used when an individual or a couple lives in the household of another and receives food and shelter from the household or when the individual or the couple is living on his or her own household but receiving support and maintenance from others.

D. The SSI resource standard is \$2000 for an individual and \$3000 for a couple.

[8.200.520.13 NMAC - Rp, 8.200.520.13 NMAC, 8/28/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024]

#### 8.200.520.15 SUPPLEMENTAL SECURITY INCOME (SSI) LIVING ARRANGEMENTS:

A. Individual living in his or her own household who own or rent:

Payment amount: [\$914] \$943 Individual  
[\$1,371] \$1,415 Couple

B. Individual receiving support and maintenance payments: For an individual or couple living in his or her own household, but receiving support and maintenance from others (such as food, shelter or clothing), subtract the value of one third reduction (VTR).

Payment amount:

~~[\$914 - \$304.66 = \$609.34 Individual]~~

~~\$1,371 - \$456.99 = \$914.01 Couple]~~

~~\$943 - \$314.33 = \$628.67 Individual~~

~~\$1,415 - \$471.66 = \$943.34 Couple~~

C. Individual or couple living household of another: For an individual or couple living in another person's household and not contributing his or her pro-rata share of household expenses, subtract the VTR.

Payment amount: ~~[\$914 - \$304.66 = \$609.34 Individual~~

~~\$1,371 - \$456.99 = \$914.01 Couple]~~

~~\$943 - \$314.33 = \$628.67 Individual~~

~~\$1,415 - \$471.66 = \$943.34 Couple~~

D. Child living in home with his or her parent:

Payment amount: [\$914] \$943

E. Individual in institution:

Payment amount: \$30.00

[8.200.520.15 NMAC - Rp, 8.200.520.15 NMAC, 8/28/2015; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024]

**8.200.520.16 MAXIMUM COUNTABLE INCOME FOR INSTITUTIONAL CARE MEDICAID AND HOME AND COMMUNITY BASED WAIVER SERVICES (HCBS) CATEGORIES:** Effective [January 1, 2022] January 1, 2024, the maximum countable monthly income standard for institutional care medicaid and the home and community based waiver categories is [~~\$2,742~~] \$2,829.

[8.200.520.16 NMAC - Rp, 8.200.520.16 NMAC, 8/28/2015; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018; A/E,

4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024]

**8.200.520.20 COVERED QUARTER INCOME STANDARD:**

Date	Calendar Quarter Amount
Jan. 2024 - Dec. 2024	\$1,730 per calendar quarter
Jan. 2023 - Dec. 2023	\$1,640 per calendar quarter
Jan. 2022 - Dec. 2022	\$1,510 per calendar quarter
Jan. 2021 - Dec. 2021	\$1,470 per calendar quarter
Jan. 2020 - Dec. 2020	\$1,410 per calendar quarter
Jan. 2019 - Dec. 2019	\$1,360 per calendar quarter
Jan. 2018 - Dec. 2018	\$1,320 per calendar quarter
Jan. 2017 - Dec. 2017	\$1,300 per calendar quarter
Jan. 2016 - Dec. 2016	\$1,260 per calendar quarter
Jan. 2015 - Dec. 2015	\$1,220 per calendar quarter
Jan. 2014 - Dec. 2014	\$1,200 per calendar quarter
Jan. 2013 - Dec. 2013	\$1,160 per calendar quarter
Jan. 2012 - Dec. 2012	\$1,130 per calendar quarter
Jan. 2011 - Dec. 2011	\$1,120 per calendar quarter
Jan. 2010 - Dec. 2010	\$1,120 per calendar quarter
Jan. 2009 - Dec. 2009	\$1,090 per calendar quarter
Jan. 2008 - Dec. 2008	\$1,050 per calendar quarter
Jan. 2007 - Dec. 2007	\$1,000 per calendar quarter
Jan. 2006 - Dec. 2006	\$970 per calendar quarter
Jan. 2005 - Dec. 2005	\$920 per calendar quarter
Jan. 2004 - Dec. 2004	\$900 per calendar quarter
Jan. 2003 - Dec. 2003	\$890 per calendar quarter
Jan. 2002 - Dec. 2002	\$870 per calendar quarter

[8.200.520.20 NMAC - Rp, 8.200.520.20 NMAC, 8/28/2015; A/E, 1/1/2016; A/E, 03/01/2017; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019; A/E, 8/11/2020; A, 12/15/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024]

**HUMAN SERVICES DEPARTMENT  
MEDICAL ASSISTANCE DIVISION**

**This is an emergency amendment to 8.291.430 NMAC, Section 10, effective 4/1/2024.**

**8.291.430.10 FEDERAL POVERTY LEVEL (FPL):** This part contains the monthly federal poverty level table for use in determining monthly income standards for MAP categories of eligibility outlined in 8.291.400.10 NMAC:

HOUSEHOLD SIZE	100%	133%	138%	190%	240%	250%	300%
1	[\$1,215] \$1,255	[\$1,616] \$1,670	[\$1,677] \$1,732	[\$2,309] \$2,385	[\$2,916] \$3,012	[\$3,038] \$3,138	[\$3,645] \$3,765
2	[\$1,644] \$1,704	[\$2,186] \$2,266	[\$2,268] \$2,351	[\$3,123] \$3,237	[\$3,944] \$4,088	[\$4,109] \$4,259	[\$4,930] \$5,110
3	[\$2,072] \$2,152	[\$2,756] \$2,862	[\$2,859] \$2,970	[\$3,937] \$4,089	[\$4,972] \$5,164	[\$5,180] \$5,380	[\$6,215] \$6,455
4	[\$2,500] \$2,600	[\$3,325] \$3,458	[\$3,450] \$3,588	[\$4,750] \$4,940	[\$6,000] \$6,240	[\$6,250] \$6,500	[\$7,500] \$7,800
5	[\$2,929] \$3,049	[\$3,895] \$4,055	[\$4,042] \$4,207	[\$5,564] \$5,792	[\$7,028] \$7,316	[\$7,321] \$7,621	[\$8,785] \$9,145
6	[\$3,357] \$3,497	[\$4,465] \$4,651	[\$4,633] \$4,826	[\$6,378] \$6,644	[\$8,056] \$8,392	[\$8,392] \$8,742	[\$10,070] \$10,490
7	[\$3,785] \$3,945	[\$5,035] \$5,247	[\$5,224] \$5,445	[\$7,192] \$7,496	[\$9,084] \$9,468	[\$9,463] \$9,863	[\$11,355] \$11,835

8	[\$4,214] \$4,394	[\$5,604] \$5,844	[\$5,815] \$6,063	[\$8,006] \$8,348	[\$10,112] \$10,544	[\$10,534] \$10,984	[\$12,640] \$13,180
+1	[\$429] \$449	[\$569] \$597	[\$591] \$618	[\$814] \$852	[\$1,028] \$1,076	[\$1,071] \$1,121	[\$1,285] \$1,345

[8.291.430.10 NMAC - Rp, 8.291.430.10 NMAC, 11/16/2015; A/E, 4/1/2016; A/E, 9/14/2017; A, 2/1/2018; A/E, 5/17/2018; A, 9/11/2018; A/E, 4/11/2019; A, 7/30/2019; A, 12/1/2020; A/E, 4/1/2021; A, 9/1/2021; A/E, 4/1/2022; A, 8/9/2022; A/E, 4/1/2023; A/E, 4/1/2024]

**RACING COMMISSION**

This is an amendment to 15.2.1 NMAC, Sections 7, 8 & 9, effective 4/9/2024.

**15.2.1.7 DEFINITIONS:**

**A. Definitions**

beginning with the letter “a”:

**(1) “Act”**

means the New Mexico Horseracing Act, New Mexico Statutes Annotated, 1978 Compilation, and Sections 60-1A-1 through 60-1A-30 including any amendments to that statute.

**(2) “Added money”**

is the amount added into the purses for a stakes race by the association, or by sponsors, state-bred programs or other funds added to those monies gathered by nomination, entry, sustaining and other fees coming from owners of horses participating in the race.

**(3) “Age”**

of a horse foaled in North America shall be reckoned from the first day of January of the year of foaling.

**(4) “Also eligible”**

pertains to a number of eligible horses, properly entered, which were not drawn for inclusion in a race, but which become eligible according to preference or lot if an entry is scratched prior to the scratch time deadline; in a trial race, the next preferred contestant that is eligible to participate when an entry is scratched, pursuant to the written conditions of the race.

**(5)**

“Allowance race” is an overnight race for which eligibility and weight to be carried are determined according to specified conditions which include age, sex, earnings and number of wins.

**(6) “Appeal”**

is a request for the commission or its designee to investigate, consider and review any decisions or rulings of stewards of a meeting.

**(7) “Arrears”**

are all monies owed by a licensee, including subscriptions, jockey fees, forfeitures, and any default incident to these rules and are past due.

**(8)**

“Association” is an individual or business entity holding a license from the commission to conduct racing with pari-mutuel wagering.

**(9)**

“Association grounds” are all real property utilized by the association in the conduct of its race meeting, including the racetrack, grandstand, concession stands offices, barns, stable area, employee housing facilities and parking lots.

**(10)**

“Authorized agent” is a person licensed by the commission and appointed by a written instrument, signed and acknowledged before a notary public by the owner in whose behalf the agent will act.

**B. Definitions**

beginning with the letter “b”:

**(1)**

“Beneficial interest” is profit, benefit, or advantage resulting from a contract, or the ownership of an estate as distinct from the legal ownership or control. When considered as designation of character of an estate, is such an interest as a devisee, legatee, or donee takes solely for his own use or benefit, and not as holder of title for use and benefit of another.

**(2) “Betting interest”**

refers to one or more contestants in a pari-mutuel contest, which are identified by a single program number for wagering purposes.

**(3)**

“Bleeder” is any horse, which exhibits symptoms of epistaxis and/or respiratory tract hemorrhage.

**(4) “Bleeder list”**

is a tabulation of all bleeders to be maintained by the commission.

**(5) “Board”**

means the gaming control board.

**(6)**

“Breakage” means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of ten.

**(7) “Breeder”**

is the person or entity recorded by the national registry organization for the particular breed of the horse.

**C. Definitions**

beginning with the letter “c”:

**(1)**

“Carryover” refers to non-distributed monies, which are retained and added to a corresponding pool in accordance with these rules.

**(2)**

“Catastrophic injury” means an equine injury sustained during racing or training resulting in death or euthanasia of a horse within 72 hours of injury.

**(3) “Claiming race”**

is a race in which any horse starting may be claimed (purchased for a designated amount) in conformance with the rules.

**(4)**

“Classified handicap” is a free handicap race in which contestants are assigned weights to be carried by the handicapper for the purpose of equaling their respective chances of winning.

**(5)**

“Commission” means the state racing commission.

**(6)**

“Conditions” are qualifications, which determine a horse’s eligibility to be entered in a race.

~~(6)~~ ~~(7)~~ **“Contest”** is a competitive event on which pari-mutuel wagering is conducted.

~~(7)~~ ~~(8)~~ **“Contestant”** is an individual participant in a contest.

~~(8)~~ ~~(9)~~ **“Controlled substance”** is any substance included in the five classification schedules of the (U.S.) Controlled Substance Act of 1970.

~~(9)~~ ~~(10)~~ **“Course”** is the track over which horses race.

**D. Definitions beginning with the letter “d”:**

(1) **“Day”** is a 24-hour period ending at midnight.

(a) **Dark day** - a day during a live or a simulcast race meeting when no pari-mutuel wagering is conducted.

(b) **Race day** - a day during a race meeting when pari-mutuel wagering is conducted on live racing.

(c) **Simulcast race day** - a day during a race meeting when pari-mutuel wagering is conducted on simulcast racing.

(2) **“Dead heat”** is the finish of a race in which the noses of two or more horses reach the finish line at the same time.

(3) **“Declaration”** is the act of withdrawing an entered horse from a race prior to the closing of entries.

(4) **“Designated race”** shall mean any stakes race or associated trial as designated by the stewards.

(5) **“Draw”** is the process of assigning postpositions and the process of selecting contestants in a manner to ensure compliance with the conditions of the rules of racing.

**E. Definitions beginning with the letter “e”:**

(1) **“Entry”** is a horse eligible for and entered in a race; two or more horses entered in the same race, which have common ties of ownership, lease or training (see “coupled entry”).

(2) **“Equipment”** as applied to a horse, means riding crop, blinkers, tongue strap, muzzle, hood, nose band, bit, shadow roll, martingale, breast plate, bandage, boot, plates, flipping halter and all other paraphernalia common or otherwise which might be used on or attached to a horse while racing.

(3) **“Exhibition race”** is a race for which a purse is offered but no wagering is permitted.

(4) **“Exotic wagering”** means all wagering other than on win, place or show, through pari-mutuel wagering;

(5) **“Expired ticket”** is an outstanding ticket, which was not presented for redemption within the required time period for which it was issued.

(6) **“Export”** means to send a live audiovisual broadcast of a horse race in the process of being run at a horse racetrack from the originating horse racetrack to another location.

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

(1) **“Financial interest”** is an interest that could result in directly or indirectly receiving a pecuniary gain or sustaining a pecuniary loss as a result of ownership or interest in a horse or business entity; or as a result of salary, gratuity, or other compensation or remuneration from any person. Being the lessee or lessor of a horse shall be construed as having a financial interest.

(2) **“Flat race”** is a race run over a course on which no jumps or other obstacles are placed.

(3) **“Forfeit”** is money due from a licensee because of error, fault, neglect of duty, breach of contract or a penalty imposed by the stewards or the commission.

**G. Definitions beginning with the letter “g”:**

(1) **“Guarantee purse money”** is the same as a stake with a guarantee by the association that the gross purse shall not be less than the amount stated.

(2) **“Guest association”** is an association, which offers licensed pari-mutuel wagering on contests conducted, by another association (the host) in either the same state or another jurisdiction.

(3) **“Guest state”** means a jurisdiction, other than a jurisdiction in which a horse race is run, in which a horse racetrack, off-track wagering facility or other facility that is a member of and subject to an interstate common pool is located.

(4) **“Guest track”** means a horse racetrack, off-track wagering facility or other licensed facility in a location other than the state in which a horse race is run that is a member of and subject to an interstate common pool.

**H. Definitions beginning with the letter “h”:**

(1) **“Handicap”** is a race in which the weights to be carried by the horses are assigned by the racing secretary or handicapper for the purpose of equalizing the chances of winning for all horses entered.

(2) **“Handle”** is the total amount of all pari-mutuel wagering sales excluding refunds and cancellations.

(3) **“Horse”** is any horse or mule (including and designated as a mare, filly, stallion, colt, ridgling or gelding) registered for racing.

(4) **“Horse race”** means a competition among racehorses on a predetermined course in which the horse completing the course in the least amount of time generally wins.

(5) **“Host association”** is the association conducting a licensed pari-mutuel meeting from which authorized contests or entire performances are simulcast.

(6) **“Host track”** means the horse racetrack from which a horse race subject to an interstate common pool is transmitted to members of that interstate common pool, also known as a “sending track.”



**I. Definitions****beginning with the letter “i”:****(1) “Import”**

means to receive a live audiovisual broadcast of a horse race.

**(2) “Inquiry”**

is an investigation by the stewards of potential interference in a contest prior to declaring the result of said contest official.

**(3)**

“**Interstate common pool**” means a pari-mutuel pool that combines comparable pari-mutuel pools from one or more locations that accept wagers on a horse race run at a sending track for purposes of establishing payoff prices at the pool members’ locations, including pools in which pool members from more than one state simultaneously combine pari-mutuel pools to form an interstate common pool.

**(4)**

“**Invitational handicap**” is a handicap for which the racing secretary or handicapper has selected the contestants and assigned the weights.

**J. Definitions****beginning with the letter “j”:****(1) “Jockey”**

is a person licensed to ride in races.

**(2) “Jockey club”**

means an organization that administers thoroughbred registration records and registers thoroughbreds.

**K. Definitions****beginning with the letter “k”:**

[Reserved]

**L. Definitions****beginning with the letter “l”:****(1)**

“**Licensee**” is any person or entity holding a license from the Commission to engage in racing or a regulated activity.

**M. Definitions****beginning with the letter “m”:****(1) “Maiden”**

is a horse, which shows in [the *daily racing form* or the *American quarter horse chart book*] *Equibase* and *RTO Incompass* system as never having won a race at a recognized meeting. A maiden, which has been disqualified after finishing first in a race, is still a maiden.

**(2) “Maiden**

**race”** is a race restricted to maidens.

**(3) “Match**

**race”** is a race between two horses under conditions agreed to by their owners.

**(4) “Meeting”**

is an entire period of consecutive days an association which is issued a racetrack license, is authorized by the commission to conduct live racing. For purposes of this rule, the commission shall determine the beginning and end dates of the race meet as well as the dates in which live racing will be conducted within the determined consecutive days..

**(5) “Minus**

**pool”** occurs when the payout is in excess of the net pool.

**(6) “Month”**

is a calendar month.

**(7) “Mutuel**

**field”** refers to two or more contestants in a contest that are treated as a single betting interest for pari-mutuel wagering purposes because the number of betting interests exceeds the number that can be handled individually by the pari-mutuel system.

**N. Definitions****beginning with the letter “n”:****(1) “Net pool”**

is the amount of gross ticket sales less refundable wagers and statutory commissions.

**(2) “New**

**Mexico bred”** is a horse registered by the New Mexico horse breeders’ association.

**(3) “New**

**Mexico bred race”** is a race in which the contestants are registered as New Mexico bred horses.

**(4) “No**

**contest”** is a race cancelled for any reason by the stewards.

**(5)**

“**Nomination**” is the naming of a horse to a certain race or series of races.

**(6)**

“**Nominator**” is the person or entity in whose name a horse is nominated for a race or series of races.

**O. Definitions****beginning with the letter “o”:****(1)**

“**Objection**” is a written complaint made to the stewards concerning a horse entered in a race and filed in a timely manner prior to the scheduled post time of the first race on the day in which the questioned horse is entered; or a verbal claim of foul in a race lodged by the horse’s jockey, trainer, owner or the owner’s authorized agent before the race is declared official.

**(2) “Official**

**or racing official”** means assistant racing secretary, chief of security, director of racing or similar position, clerk of scales, clocker, general manager, handicapper, horse identifier, horsemen’s bookkeeper, jockey room custodian, official veterinarian, paddock judge, pari-mutuel manager, patrol judge, placing judges, racing secretary, racing veterinarian, stable superintendent, starter, steward, timer, and track superintendent.

**(3) “Official**

**samples”** is a portion of any bodily substance or fluid, including but not limited to, tissue, hair, blood or urine obtained from a horse at the direction of the commission for the purposes of determining the presence of a prohibited substance.

**(4) “Official**

**order of finish”** is the order of finish of the contestants in a contest as declared official by the stewards.

**(5) “Official**

**starter”** is the official responsible for dispatching the horses for a race.

**(6) “Official**

**time”** is the elapsed time from the moment the first horse crosses the starting point until a horse crosses the finish line.

**(7) “Off time”**

is the moment, at which, on the signal of the official starter, the doors of the starting gate are opened, officially dispatching the horses in each contest.

**(8) “Optional**

**claiming race”** is a contest restricted to horses entered to be claimed for a stated claiming price and to those which have started previously for that claiming price or less.

**(9) “Out**

**of competition”** is defined as not participating in a race.

(10) **“Out of competition testing”** test(s) that may be conducted on any horse that is on the grounds of a racetrack or training center under the jurisdiction of the commission; or under the care or control of a trainer or owner licensed by the commission; or whose papers are filed in the racing office; or has been nominated to a stakes race.

(11) **“Outstanding ticket”** is a winning or refundable pari-mutuel ticket, which was not cashed during the performance for which it was issued; also known as “outs”.

(12) **“Overnight race”** is a race for which entries close at a time set by the racing secretary and for which the owners of the horses do not contribute to the purse.

(13) **“Owner”** is defined as a person who holds any title, right or interest, whole or partial in a horse, including the lessee and lessor of a horse.

**P. Definitions beginning with the letter “p”:**

(1) **“Paddock”** is an enclosure in which contestants scheduled to compete in a contest are confined prior to racing.

(2) **“Pari-mutuel system”** is the manual, electromechanical, or computerized system and all software (including the totalisator, account betting system and offsite betting equipment) that is used to record bets and transmit wagering data.

(3) **“Pari-mutuel wagering”** is a form of wagering on the outcome of an event in which all wagers are pooled and held by an association for distribution of the total amount, less the deductions authorized by law, to holders of tickets on the winning horses.

(4) **“Patron”** is a member of the public present on the grounds of a pari-mutuel association during a meeting for the purpose of wagering or to observe racing.

(5) **“Payout”** is the amount of money payable to winning wagers.

(6) **“Performance”** is a schedule of races run consecutively as one program.

(7) **“Person”** is one or more individuals, a partnership, association, organization, corporation, joint venture, legal representative, trustee, receiver, syndicate, or any other legal entity.

(8) **“Positive test”** means the result of a test, conducted as provided in these rules on an official sample, which indicates the presence of any prohibited substance.

(9) **“Post position”** is the pre-assigned position from which a horse will leave the starting gate.

(10) **“Post time”** is the scheduled starting time for a contest.

(11) **“Prima facie evidence”** is evidence that, until its effect is overcome by other evidence, will suffice as proof of fact in issue.

(12) **“Private barn”** is a barn and real property owned or leased by a trainer in which stalls are provided for races at a licensed New Mexico racetrack and who have direct access to a New Mexico racetrack.

(13) **“Profit”** is the net pool after deduction of the amount bet on the winners.

(14) **“Profit split”** is a division of profit amongst separate winning betting interests or winning betting combinations resulting in two or more payout prices.

(15) **“Program Trainer”** is a licensed trainer who solely for the purpose of the official race program, is identified as the trainer of the horse that is actually under the control of, and trained by, another person who may or may not hold a current trainer’s license in any jurisdiction.

(16) **“Prohibited substance”** is any drug, chemical, or other substance which, when administered to a horse can create a change in the normal physiological performance of the horse’s racing ability, including

(a) stimulants or depressants or other substances as defined by the association of racing commissioners international; or

(b) that may interfere with testing procedures; or

(c) that is a therapeutic medication present in excess of established acceptable levels; or

(d) that is present in the horse in excess of levels that could occur naturally; or

(e) that is a substance specified by rule that is not allowed to appear in an out of competition or hair sample.

(17) **“Program”** is the published listing of all contests and contestants for a specific performance.

(18) **“Protest”** is a written complaint alleging that a horse is or was ineligible to race.

(19) **“Purse”** is the total [cash] dollar amount, including but not limited to extra New Mexico horse breeders association money as listed in the official daily program, for which a race is contested whether paid at the time of the race or at a future date.

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

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

(1) **“Race”** is a contest between contestants at a licensed meeting.

(2) **“Restricted area”** is an enclosed portion of the association grounds to which access is limited to licensees whose occupation or participation requires access.

(3) **“Result”** is that part of the official order of finish to determine the pari-mutuel payout of pools for each individual contest.

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

(1) **“Scratch”** is the act of withdrawing an entered horse from a contest after the closing of entries.

(2) **“Scratch time”** is the deadline set by the association for withdrawal of entries from a scheduled performance.

(3) **“Simulcast”** refers to the live audio and visual transmission of a contest to another location for pari-mutuel wagering purposes.

(4) **“Single price pool”** is an equal distribution of profit to winning betting interests or winning betting combinations through a single payout price.

(5) **“Sponsor added money”** is added to a race in return for name and/or advertising recognition and is not added money.

(6) **“Stable name”** is a name used other than the actual legal name of an owner or lessee and registered with the commission.

(7) **“Stakes race”** is a contest in which nomination, entry and/or starting fees contribute to the purse. No overnight race shall be considered a stakes race.

(8) **“Starter”** refers to a horse, which becomes an actual contestant in a race by virtue of the starting gate opening in front of it upon dispatch by the official starter.

(9) **“Starter allowance”** is a race in which a horse establishes eligibility by starting for a claimed price pursuant to the conditions of the race.

(10) **“Steeplechase race”** is a contest in which horses mounted by jockeys run over a course on which jumps or other obstacles are placed.

(11) **“Steward”** is a duly appointed racing official with powers and duties specified by the act and these rules.

(12) **“Substitute steward”** is a licensed or certified racing official pursuant to Section 60-1A-12 NMSA 1978, duly approved by the commission and appointed by the executive director or the presiding steward, with the powers and duties specified by the act and these rules.

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

(1) **“Takeout”** is the total amount of money, excluding breakage, withheld from each pari-mutuel pool, as authorized by statute or rule.

(2) **“Therapeutic medication”** is any drug, chemical, or chemical agent, that when administered to a horse is calculated to improve or protect the health and soundness of said horse. The promotion of formful racing performance is the intent of administering a therapeutic medication.

(3) **“Totalisator”** is the system used for recording, calculating, and disseminating information about ticket sales, wagers, odds and payout prices to patrons at a pari-mutuel wagering facility.

(4) **“Trainer”** is a person who holds a valid trainer’s license and who has a horse eligible to race under his care, custody, or control at the time entry is made.

(5) **“Trial race”** is part of a series of races in which horses participate for the purpose of determining eligibility for a subsequent race.

(6) **“Tubing”** is the administration of any substance via a naso-gastric tube.

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

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

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

(1) **“Walkover”** is a race in which only one contestant starts or in which all the starters are owned by the same interest. To claim the purse the horse(s) must start and go the distance of the race.

(2) **“Week”** is a period of seven consecutive 24-hour periods.

(3) **“Weigh in”** is the presentation of a jockey to the clerk of scales for weighing after a race.

(4) **“Weigh out”** is the presentation of a jockey to the clerk of scales for weighing prior to a race.

(5) **“Weight for age”** is a race in which a fixed scale is used to assign the weight to be carried by individual horses according to age, sex, distance of the race, and season of the year.

(6) **“Winner”** is the horse whose nose reaches the finish line first or is placed first through disqualification by the stewards.

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

**Y. Definitions beginning with the letter “y”:**  
“Year” shall be a calendar year.

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

[15.2.1.7 NMAC - Rp, 15 NMAC 2.1.7, 3/15/2001; A, 2/14/2002; A, 8/30/2007; A, 12/1/2010; A, 1/1/2013; A, 5/1/2013; A, 8/15/2014; A, 7/1/2017; A, 3/14/2018; A, 9/26/2018; A, 12/19/2019; A, 12/28/2021; A, 4/9/2024]

**15.2.1.8 COMMISSION:**  
**A. Purpose:**

(1) The New Mexico racing commission created by the act, Section 60-1A-4, New Mexico Statutes, 1978, Annotated, is charged with implementing, administering and enforcing the act. It is the intent of the commission that the rules of the commission be interpreted in the best interests of the public and the jurisdiction.

(2) Through these rules, the commission intends to encourage agriculture, the horse breeding industry, the horse training industry, tourism and employment opportunities in this jurisdiction related to horse racing and to control and regulate pari-mutuel wagering in connection with that horse racing.

**B. General authority:**  
(1) The commission shall regulate each race meeting and the persons who participate in each race meeting.

(2) To the extent permitted by the Act the commission may delegate to the agency director and the stewards all powers and duties necessary to fully implement the purposes of the Act.

**C. Membership and meetings:**

(1) The state racing commission shall consist of five members, no more than three of who shall be members of the same political party. They shall be appointed by the governor, and no less than three of them shall be practical breeders of racehorses within the state. Each member shall be an actual resident of New Mexico and of such character and reputation as to promote public confidence in the administration of racing affairs.

(2) The commission shall meet at the call of the chair, as requested by a majority of the members or as otherwise provided by statute. Notice of the meetings must be given and the meetings must be conducted in accordance with the Open Meetings Act, Sections 10-15-1 through 10-15-4 NMSA, 1978.

(3) If it is difficult or impossible for a racing commission member to attend a meeting of the racing commissioners, that member may participate in the meeting virtually or by telephone. ~~[The telephone shall be a speakerphone that allows all commission members and the public to hear all speakers at the meeting.]~~

(4) A majority of the commission constitutes a quorum. When a quorum is present, a motion before the commission is carried by an affirmative vote of the majority of the commissioners present at the meeting.

(5) A commission member may not act in the name of the commission on any matter without a majority vote of a quorum of the commission.

**D. Annual report:**  
The commission shall submit an annual report as prescribed by statute.

**E. Employees:**

(1) The

commission shall employ an agency director who shall employ other employees necessary to implement, administer and enforce the Act.

(2) The agency director shall maintain the records of the commission and shall perform other duties as required by the commission. Except as otherwise provided by a rule of the commission, if a rule of the commission places a duty on the agency director, the agency director may delegate that duty to another employee of the commission. The commission and the agency director may not employ or continue to employ a person:

(a) who owns a financial interest in an association in this jurisdiction;

(b) who accepts remuneration from an association in this jurisdiction;

(c) who is an owner, lessor or lessee of a horse that is entered in a race in this jurisdiction; or

(d) who accepts or is entitled to a part of the purse or purse supplement to be paid on a horse in a race held in this jurisdiction.

(3) Commission employees shall not wager in any pari-mutuel pool at any facility or through any pari-mutuel system subject to the jurisdiction of the commission.

(4) Commission employees shall not participate in any gaming activity conducted by an association during working hours on scheduled workdays.

**F. Power of entry:**

(1) A member or employee of the commission, a steward, a peace officer or a designee of such a person may enter any area on association grounds or other place of business of an association at any time to enforce or administer the Act or commission rules.

(2) No licensee may hinder a person who is conducting an investigation under, or attempting to enforce, or administer, the Act or commission rules.

**G. Subpoenas:**

(1) A member of the commission, the agency director, the stewards, the presiding officer of a commission proceeding or other person authorized to perform duties under the Act may require by subpoena the attendance of witnesses and the production of books, records, papers, correspondence and other documents.

(2) Any aggrieved person or any licensee or license holder against whom allegations of violations of racing statutes or rules have been made shall have the right to have subpoenas and subpoenas duces tecum issued as of right prior to the hearing to compel discovery as provided in these rules and to compel the attendance of witnesses and the production of relevant physical evidence upon making written and timely request therefor to the commission or hearing officer; the issuance of such subpoenas after the commencement of the hearing rests in the discretion of the commission or the hearing officer.

(3) A member of the commission, the agency director, a presiding officer of a commission proceeding or other person authorized by the commission may administer an oath or affirmation to a witness appearing before the commission or a person authorized by the commission.

(4) If a person fails to comply with a subpoena issued on behalf of the commission, the commission or agency director may invoke the aid of the appropriate court in requiring compliance with the subpoena. For a person compelled to appear before the commission under this section, the commission shall pay expenses in accordance with the statutory provisions for state employees. The commission reserves the right to bill the expenses to parties requiring the appearance of the subpoenaed person.

**H. Organization's financial requirements:**

(1) The New Mexico horse breeders' association shall establish interest-bearing



accounts, designated as gaming funds for purses.

(2) The New Mexico horse breeders' association shall ensure all accounting of funds deposited with and paid out or distributed by the New Mexico horse breeders' association pursuant to the Horse Racing Act is in accordance with or exceeds generally accepted accounting principles.

(3) The New Mexico horse breeders' association shall provide at a minimum the following insurance policies:

(a) \$1,000,000 cyber liability

(b) \$1,000,000 directors, officers, and employment practices

(c) \$1,000,000 employee theft

(4) The New Mexico horse breeders' association will provide the New Mexico racing commission with a copy of their yearly independent audits, and proof of insurance.

(5) The associations and the New Mexico horse breeders' association with regard to gaming monies shall keep accurate, complete, and legible records with reports to the commission to include:

(a) monthly reconciliation of amounts collected to account statements;

(b) copy of account authorizing signatures;

(c) any changes in authorizing signatures; and

(d) detail of disbursements from the accounts.

#### I. Records:

(1) Inspection and copying of commission records are governed by the provisions of the Inspection of Public Records Act, Sections 14-2-1 through 14-2-12 NMSA 1978.

(2) Except as otherwise authorized by statute, or regulation, all original records of the commission shall be maintained in the

offices of the commission. No person may remove an original record from the offices of the commission without the approval of the agency director.

(3) To inspect commission records, a person must make a written request to the appointed records official and to receive copies must pay all costs for copying within the limits set by the Public Records Act.

#### J. Issuance of license to conduct a race meeting and allocation of race dates:

(1) The commission shall allocate race dates to each association in accordance with the act and these rules. An association shall apply to the commission for a license and racing dates not later than June 1st for all proposed racing meets and dates to be run in the succeeding calendar year. Applications shall not be received or amended after this date except by approval of a majority of the commission. The application must contain the information required by statute and the commission. After the request is filed, the commission may require the association to submit additional information. The commission may limit, condition or otherwise restrict any license to conduct horse racing or a horse race meeting in the state of New Mexico.

(2) The burden of proof is on the association to demonstrate that its receipt of a license to conduct a race meet and the allocation of the race dates will be in the public interest and will achieve the purposes of the act.

(3) In issuing licenses for race meetings and allocating race dates under this section, the commission may consider the following factors: public interest, health of the industry, safety and welfare of participants, and the criteria for licensure to conduct a race meet set forth in the act and in these rules.

(4) Prior to approving an application for a new license for a horse racetrack, other than the licenses in existence as of January 1, 2007, or an application by a licensed horse racetrack to move

its racing and gaming facilities to a new location, the commission shall solicit and consider the views on the application by the Indian tribes, nations and pueblos in the following manner:

(a) provide written notice to all federally recognized Indian tribes, nations or pueblos that are authorized by law to enter into a gaming compact with the state of New Mexico under the Indian Gaming Regulatory Act, 25 U.S.C. Section 2701 et seq., ("Indian Tribes") that such an application has been filed with the commission within 15 days of such filing and provide a copy of all non-confidential documents submitted by an applicant to an Indian tribe upon request, at the Indian tribe's expense;

(b) allow Indian tribes 45 days to respond to the application by submitting written comments to the commission prior to holding any public hearing at which final action on the application may be considered; such comments shall be immediately forwarded to the applicant by the commission, but no later than 15 days prior to holding any public hearing at which final action on the application may be considered; the views of the Indian tribes may include, but are not limited to, the following:

(i) potential economic impact of approval of said license on a specific Indian tribe's government or gaming facility, including impact on revenue sharing with the state of New Mexico; the number of miles from the nearest tribal gaming facility; the potential impact on the nearest tribal gaming facility's market share; and the potential impact on the Indian tribe's income from gaming facilities;

(ii) identification of other significant impacts on the Indian tribe;

(c) any public hearing at which final action on the application may be considered must be at least 15 days after the 45 day comment period for Indian tribes set forth above;

(d)



the commission shall consider and evaluate the Indian tribes' views prior to taking any final action on the application; to "consider and evaluate" means to think about carefully and seriously;

(e)

the above procedures for notification to Indian tribes shall not apply to the annual renewal of a horse racetrack license.

(5) The

association shall be obligated to conduct pari-mutuel racing, except in the case of emergencies, on each race date allocated. Any change in race dates must be approved by the commission. In the case of emergencies the stewards may authorize cancellation of all or a portion of any race day.

(6) All

applicants for an initial license to conduct horse racing or a horse race meeting in the state of New Mexico shall submit the following information to the commission in the form of a verified application, including an original and six copies.

(a)

The name of the applicant and indicate whether it is an individual, firm, association, partnership, corporation or other legal entity.

(b)

The names, residences, and nationalities of individual applicants or members of a partnership, association or firm.

(c)

If the applicant is a corporation, the following information must be furnished, and if the applicant is a parent or subsidiary of another corporation, the following information must be furnished for each entity.

(i)

The year in which the corporation was organized, its form of organization and the name of the state under the laws of which it was organized. Articles of incorporation and bylaws must also be submitted.

(ii)

The classes of capital stock authorized, the amount authorized, and the amount outstanding as of the

date not less than 15 days prior to the filing of the application.

(iii)

The name and address of each person who owns of record or is known by the applicant to own beneficially, ten percent or more of any class of capital stock. This can be indicated as name and address; class of stock owned; type of ownership whether of record or beneficial; amount owned; percent of the class of stock.

(iv)

Outline briefly the dividend rights, voting rights, liquidation rights, preemptive rights, conversion rights, and redemption provisions. If the rights of holders of such stock may be modified other than by a vote of majority or more of the shares outstanding, voting as a class, so state and explain briefly.

(v)

If organized as a corporation within the past five years, furnish the names of the promoters, the nature and amount of anything of value received or to be received by each promoter directly or indirectly from the applicant and the nature and amount of any assets, services, or other consideration therefore received or to be received by the applicant.

(vi)

List the names of all directors and executive officers and all persons chosen to become directors or executive officers. Indicate all other positions and offices held by each such person, and the principal occupation during the past five years of each person to become a director or executive officer. For the purposes of this subparagraph, "executive officer" means the president, vice-president, secretary and treasurer, and any other person who performs policy-making, supervisory, administrative, or financial functions for the applicant.

(vii)

Describe in detail the financial arrangements, which have been made for acquisition and operation of racing facilities, including the nature and source of any funds or other property, real or personal, which may be used in this connection.

(viii)

Identify in detail the source(s) and terms of any loans, loan commitments, lines of credit, pledges, stock subscriptions, and any other source of funds which may be used in the acquisition or operation of racing facilities.

(ix)

State in detail the terms of any proposed purchase of stock or assets in a current licensee.

(x)

State whether a substantial portion of the assets or of the capital stock is encumbered by any short-term or long-term debt. Explain fully and state the names and addresses of parties holding security interests or promissory notes from the applicant and the stockholders, where the stock is pledged as security, and outline the terms of and submit the agreements creating the security interests.

(xi)

Applicants must submit balance sheets and profit and loss statements for each of the three fiscal years immediately preceding the application, or for the period of organization if less than three years. If the applicant has not completed a full fiscal year since its organization, or if it acquires or is to acquire the majority of its assets from a predecessor within the current fiscal year, the financial information shall be given for the current fiscal year.

(xii)

Applicant must submit with application a current financial statement for each director, executive officer, manager, and stockholders owning ten percent or more of the outstanding shares in any corporate applicant.

(xiii)

All financial information shall be accompanied by an unqualified opinion of a duly licensed certified public accountant, or if the opinion is given with qualifications, the reasons for the qualifications must be stated.

(xiv)

For applicants other than corporation, list the names and addresses of all executive officers and managerial officers. Indicate positions and offices held by each person named and their

<p>principal occupation(s) during the past five years.</p>	<p>describe the construction and type of parking facilities.</p>	<p>(xxxvi) Describe a strategic plan to be proactive in an effort to prevent contagious equine diseases, and biosecurity measures to be put in place in the event of an outbreak including permanent quarantine facilities.</p>
<p>(xv) State whether any director, executive officer, manager, or stockholder has ever been convicted of a crime and describe the circumstances of the convictions.</p>	<p>(xxiv) State the number and type of construction of stables, other barn areas, forecourt and paddock areas, indicating capacities and fire prevention facilities for all areas.</p>	<p>(7) A new complete primary application as required in <del>Paragraph (5) of Subsection F</del> Paragraph (6) of Subsection J of 15.2.1.8 NMAC is also required if any of the following events occur:</p>
<p>(xvi) Describe any pending legal proceedings to which the applicant or any of its subsidiaries or parent corporations is involved, or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted and the principal parties thereto.</p>	<p>(xxv) Describe the facilities for owners, trainers, jockeys, grooms and other racing personnel.</p> <p>(xxvi) State the arrangements for food and drink concessions indicating the names and addresses of concessionaires and the terms of the concession contracts.</p>	<p>(a) if the effective controlling interest of any licensee is transferred or conveyed;</p> <p>(b) if any involuntary transfer of either tangible real or personal property or corporate stock gives the effective control of the licensee to the transferee;</p>
<p>(xvii) State in complete detail whether the applicant, or any director, executive officer, stockholder or manager has owned an interest in or has been employed by any firm, partnership, association or corporation previously licensed to conduct a race meeting in any jurisdiction.</p>	<p>(xxvii) Describe any concessions, clubs or other special facilities, existing or proposed, for patrons.</p> <p>(xxviii) Indicate by actual dates the racing days requested by applicant.</p> <p>(xxix) Indicate the kind of racing to be conducted.</p>	<p>(c) in the event that a transfer under Subparagraphs (a) and (b) occurs after the granting of racing dates, the transferee shall immediately apply to the commission for a hearing to show cause why the transferee should be permitted to continue racing under the current grant of racing dates;</p>
<p>(xviii) State actual legal description of a proposed site for racing facilities, names and addresses of the titleholders to the real property and names and addresses of all personal holding mortgages or other security interests in the property.</p>	<p>(xxx) Describe the proposed <del>[pari-mutuel]</del> pari-mutuel operation in general and indicate in particular the terms of the <del>[pari-mutuel]</del> pari-mutuel ticket sales.</p> <p>(xxxi) Describe climatic conditions prevalent during the proposed racing season.</p>	<p>(d) failure to make application within 90 days of the date of the proposed transfer shall be grounds for revocation of license.</p>
<p>(xix) State the number of miles from the nearest population center, and describe briefly the transportation facilities serving that population center.</p>	<p>(xxxii) Indicate the population of the local area, and the growth trend. Indicate the potential market including tourists, transients and patrons from neighboring areas.</p>	<p>(8) A race meet licensee that has been licensed for the previous year, must submit to the commission a renewal application, on a form provided by the commission, containing the following information:</p>
<p>(xx) State the exact dimensions of the track proposed. Submit at least one copy of the architect's drawings showing detail of the proposed construction. If a grandstand is in existence, describe the size and type of construction.</p>	<p>(xxxiii) Indicate the principal sources of local income, showing the percentage from farming and ranching, industrial, professional services, military and other governmental sources.</p>	<p>(a) complete listing of officers, directors of corporation, and secondary lender affiliates;</p>
<p>(xxi) Describe the efforts to be made to <del>[insure]</del> ensure the security safety and comfort of patrons and license holders.</p>	<p>(xxxiv) Describe the effect of competition with other racetracks in and out of the state and with other sports or recreational facilities in the area.</p>	<p>(b) proposed race dates and simulcast race dates;</p>
<p>(xxii) State the availability of fire protection and adequacy of law enforcement and police protection.</p>	<p>(xxxv) Indicate what effect opposition from area residents may have on the economic outlook for the proposed track.</p>	<p>(c) at the time of annual request for racing dates, when the commission in its discretion determines that the licensee should supply current information;</p>
<p>(xxiii) State the parking lot capacity and</p>		

(d) current financial statements;

(e) changes to articles of incorporation and bylaws;

(f) list of concessionaires and contract services;

(g) changes from original application, or last renewal application, in mortgagee of real property;

(h) insurance policies;

(i) any other changes from original primary application.

(9) The commission in addition to any other legally sufficient reason, may disapprove, deny, refuse to renew, suspend, or revoke a license to conduct horse racing or a horse race meeting in the state of New Mexico if any person having any direct or indirect interest in the applicant or in the licensee, or any nature whatsoever, whether financial, administrative, policy-making or supervisory:

(a) has been convicted of a felony under the laws of New Mexico, the laws of any other state or the laws of the United States, unless sufficient evidence of rehabilitation has been presented to the commission;

(b) has been guilty of or attempted any fraud or misrepresentation in connection with racing, breeding or otherwise, unless sufficient proof of rehabilitation has been presented to the commission;

(c) has violated or attempted to violate any law or regulation with respect to racing in any jurisdiction, unless sufficient proof of rehabilitation has been presented to the commission;

(d) has consorted or associated with bookmakers, touts or persons of similar pursuits, unless sufficient proof of rehabilitation has been presented to the commission;

(e) is consorting or associating with

bookmakers, touts or persons of similar pursuits;

(f) is financially irresponsible as found or determined by the commission; or,

(g) is a past or present member of or participant in organized crime as such membership or participation may be found or determined by the commission.

[15.2.1.8 NMAC - Rp, 15 NMAC 2.1.8, 3/15/2001; A, 8/30/2001; A, 1/31/2008; A, 4/30/2012; A, 6/1/2016; A, 2/25/2020; A, 5/24/2022; A, 4/9/2024]

**15.2.1.9 DUE PROCESS AND DISCIPLINARY ACTION:**

~~[A. Purpose of chapter: This chapter contains the rules of procedure for stewards' hearings and commission proceedings.~~

~~—B.] A. Proceedings before the stewards:~~

(1) Rights of the licensee. A person who is the subject of the disciplinary hearing conducted by the stewards is entitled to: proper notice of all charges; confront the evidence presented including: the right to counsel at the person's expense; the right to examine all evidence to be presented against them; the right to present a defense; the right to call witnesses; the right to cross examine witnesses; and waive any of the above rights.

(2) Complaints.

(a) On their own motion or on receipt of a complaint from ~~[an]~~ a racing official or other person regarding the actions of a licensee, the stewards may conduct an inquiry and disciplinary hearing regarding the licensee's actions.

(b) A complaint made by someone other than ~~[the stewards]~~ a racing official must be in writing and filed with the stewards not later than 72 hours after the action that is the subject of the complaint.

(c) In case of a notice from the state of New

Mexico human services department that a licensee is in non-compliance with the Parental Responsibility Act, the licensee shall be notified by the board of stewards. Thereafter the licensee shall have 30 days to provide documentation of compliance to the board of stewards and failure to do so will result in the suspension of the licensee's license.

(3) Summary suspension.

(a) If the stewards determine that a licensee's actions constitute an immediate danger to the public health, safety, integrity or welfare of the horseracing industry, the stewards may summarily suspend the license pending a hearing.

(b) A licensee whose license has been summarily suspended is entitled to a hearing on the summary suspension not later than the 10th day after the license was summarily suspended. The licensee may waive their right to a hearing on the summary suspension within the 10-day limit.

(c) ~~[The stewards shall conduct a hearing on the summary suspension in the same manner as other disciplinary hearings.]~~ At a hearing on a summary suspension, the sole issue is whether the licensee's license should remain suspended pending a final disciplinary hearing and ruling.

~~[(d) — If a positive test arises in a trial race, the horse is eligible for entry into a race for which the trial was conducted unless that positive test requires the horse to be placed on the steward's list pursuant to Subsection C of 15.2.6.9 NMAC. The purse for both the trial and the race for which the trial was conducted will be held until the case has been adjudicated.]~~

(4) Notice. (a)

Except as provided by these rules regarding summary suspension, jockey riding infractions and trial races, the stewards or a racing commission designee shall provide written notice, at least 10 days before the hearing, to a person who is the

subject of a disciplinary hearing. The person may waive their right to 10 days notice by executing a written waiver.

(b)

Notice given under this section must include: a statement of the time, place and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing is to be held; a reference to the particular sections of the statutes or rules involved; a short, plain description of the alleged conduct that has given rise to the disciplinary hearing; the possible penalties that may be imposed.

(c)

~~[If possible, the]~~ The stewards or the racing commission designee shall send the written notice of the disciplinary hearing to the person who is the subject of the hearing either by hand [deliver] delivery, certified or regular mail to the licensee's last provided address or by email. ~~[the written notice of the disciplinary hearing to the person who is the subject of the hearing. If hand delivery is not possible, the stewards or a racing commission designee shall forthwith mail the notice to the person's last known address, as found in the commission's licensing files, by regular mail.]~~ If the disciplinary hearing involves an alleged medication violation that could result in the disqualification of a horse, the stewards or a racing commission designee shall provide notice of the hearing to the owner of the horse in the manner provided by this subsection.

(d)

Nonappearance of a summoned party after adequate notice shall be construed as a waiver of the right to a hearing before the stewards. The stewards may suspend the license of a person who fails to appear at a disciplinary hearing after written notice of the hearing has been sent, in compliance with this subsection.

(5)

Continuances.

(a)

Upon receipt of a notice, a person may request a continuance of the hearing.

(b)

The stewards may grant a continuance of any hearing for good cause shown.

(c)

The stewards may at any time order a continuance on their own motion.

(6) Evidence.

(a)

Each witness at a disciplinary hearing conducted by the stewards must be sworn by the presiding steward.

(b)

The stewards shall allow a full presentation of evidence and are not bound by the technical rules of evidence. The stewards may admit hearsay evidence if the stewards determine the evidence is of a type that is commonly relied on by reasonably prudent people. The rules of privilege recognized by state law apply in hearings before the stewards. Hearsay evidence alone is insufficient basis for a ruling.

(c)

The burden of proof is on the person bringing the complaint to show, by a preponderance of the evidence that the licensee has violated or is responsible for a violation of the act or a commission rule.

(d)

The stewards ~~[shall]~~ may ~~[make a tape recording of]~~ record a disciplinary or summary suspension hearing and make a copy of the recording available on request, at the expense of the requesting person.

(7) Ruling.

(a)

The issues at a disciplinary hearing shall be decided by a majority vote of the stewards. If the vote is not unanimous, the dissenting steward shall include with the record of the hearing a written statement of the reasons for the dissent.

(b)

A ruling by the stewards must be on a form prescribed by the commission and include: the full name, license type, license number, and applicant ID number of the person who is the subject of the hearing; a statement of the charges against the person, including a reference to the specific section of the Racing Act or rules of the commission that the licensee is

found to have violated; the date of the hearing and the date the ruling was issued; the penalty imposed; any changes in the order of finish or purse distribution; other information required by the commission.

(c) A

ruling must be signed by a majority of the stewards.

(d)

~~[If possible, the]~~ The stewards or their designee shall send the ruling to the person who is the subject of the ruling either by hand [deliver] delivery, certified or regular mail to licensee's last provided address or by email. ~~[a copy of the ruling to the person who is the subject of the ruling. If hand delivery is not possible, the stewards shall mail the ruling to the person's last known address, as found in the commission's licensing files, by regular mail. If the ruling includes the disqualification of a horse, the stewards shall provide a copy of the ruling to the owner of the horse, the horsemen's bookkeeper, and the appropriate past performance service.]~~

(e) At

the time the stewards inform a person who is the subject of the proceeding of the ruling, the stewards shall inform the person of the person's right to appeal the ruling to the commission and apply for a stay.

(f)

All fines imposed by the stewards shall be paid to the commission within ~~[30]~~14 days after the ruling is issued, unless otherwise ordered.

~~(C.)~~ **B. Proceedings by the commission:**

(1) Party

designations.

(a)

A person who is the subject of a disciplinary hearing, who filed an appeal from a stewards' ruling or who otherwise seeks relief from the commission is a party to that proceeding.

(b)

A party to a proceeding has the right to present a direct case, cross-examine each witness, submit legal arguments and otherwise participate fully in the proceeding.



(c) A party summoned to appear at a hearing must appear unless the party is excused by the commission presiding officer. Parties may appear with counsel or other representatives of their choice. Counsel must be an attorney licensed to practice law in this state or with the permission of the commission is associated with an attorney licensed to practice law in this state and must submit an entry of appearance no later than 10 days prior to the hearing date.

(d) A non-party to a proceeding who wishes to appear in a contested case pending before the commission must prove that they have an effected interest sufficient to create standing in the case. The burden of proof is on the party asserting standing in such a contested case.

(2) Notice.

(a) Not less than 20 days before the date set for a hearing, the agency director, or acting agency director, shall serve written notice on each party of record to the proceeding. The person may waive their right to said notice by executing a written waiver.

(b) The agency director shall mail the notice to the person's last known address, as found in the commission's licensing files, by regular mail. If a party is being represented by an attorney or other representative, notice will be provided to the attorney or representative instead of on the party and is deemed properly served.

(c) A notice of the hearing must include: statement of time, place and nature of hearing; statement of the legal authority and jurisdiction under which the hearing is to be held; reference to the particular section of the statutes and rules involved; short, plain statement of the matters asserted; and any other statement required by law.

(d) If the commission determines that a material error has been made in a notice of hearing, or that a material change has been made in the nature of a proceeding after notice has been

issued; the commission shall issue a revised notice. The party who has caused the change or error requiring revised notice shall bear the expense of giving revised notice.

(e) A party to a proceeding may move to postpone the proceeding. The motion must be in writing, set forth the specific grounds on which it is sought and be filed with the commission before the date set for hearing. If the person presiding over the proceeding grants the motion for postponement, the commission shall cause new notice to be issued.

(f) After a hearing has begun, the presiding officer may grant a continuance on oral or written motion, without issuing new notice, by announcing the date, time and place for reconvening the hearing before recessing the hearing.

(3) Subpoenas and depositions.

(a) A member of the commission, the agency director, the stewards, the presiding officer of a commission proceeding or other person authorized to perform duties under the act may require by subpoena the attendance of witnesses and the reproduction of books, records, papers, correspondence and other documents.

(b) A member of the commission, the agency director, a presiding officer of a commission proceeding or other person authorized by the commission may administer an oath or affirmation to a witness appearing before the commission or a person authorized by the commission.

(c) Each party is responsible for proper service of any subpoenas it requests and for the payment of witness fees and expenses as provided by this jurisdiction's civil procedures statute.

(d) On written request by a party, the presiding officer may issue a subpoena addressed to a sheriff or any constable to require the attendance of witnesses and the production of books, records, papers or other objects

as may be necessary to compel the production of books, records, papers or other objects shall be addressed to the appropriate person, shall be verified and shall specify the books, records, papers or other objects desired and the relevant and material facts to be proved by them.

(e) The Administrative Procedures Act, Civil Statutes, Article 8, Section 12-8-15 governs the taking and the use of depositions. Rule 1-036 of the New Mexico Rules of Civil Procedure governs admissions of fact and genuineness of documents.

(4) Pleadings.

(a) Pleadings filed with the commission include appeals, applications, answers, complaints, exceptions, replies and motions. Regardless of an error in designation, a pleading shall be accorded its true status in the proceeding in which it is filed.

(b) A request for discovery or a response to a request for discovery is not a pleading and is not a part of the administrative record of a contested case unless the request or response is offered into evidence.

(c) A pleading or brief filed with the commission must be typewritten or printed on 8 1/2 inch by 11 inch white paper with one-inch margins. Exhibits, unless prepared according to other commission rules pertaining to maps, plats, or similar documents, must be folded to the same size. Unless printed, the impression must be on one side of the paper only. The documentation must be double-spaced, except for footnotes and lengthy quotations, which may be single-spaced. Reproductions are acceptable, provided all copies are clear and permanently legible. The original copy of each pleading must be signed in ink by the pleader or the pleader's representative.

(d) If the commission staff prepares a form for a pleading, the commission staff shall furnish the form on request. A pleading for which an official form has been developed must conform



substantially to the form. A pleading for which the commission staff has not prepared an official form must contain: the name of the pleader; the telephone number and street address of the pleader's residence or business and the telephone number and street address of the pleader's representative, if any; a concise statement of the facts relied on by the pleader; a request stating the type of commission action desired by the pleader; the name and address of each person who the pleader knows or believes will be affected if the request is granted; any other matter required by statute or commission rule; a certificate of service.

**(e)**

A party filing a pleading shall mail or deliver a copy of the pleading to each party of record. If a party is being represented by an attorney or other representative, service must be made on the attorney or representative instead of on the party.

**(f)**

An objection to a defect, omission, or fault in the form or content of a pleading must be specifically stated in a motion or an exception presented not later than the prehearing conference if one is held and not later than 15 days before the date of the hearing if a prehearing conference is not held. A party who fails to timely file an objection under this subsection waives the objection.

**(g)**

Except as otherwise provided by this subsection, a pleader may amend or supplement a pleading at any time before the 21st day after the date the pleading was filed, but not later than five days before the date of the hearing. A pleader may amend or supplement a pleading at any time: on written consent of each party of record; or, as permitted by the presiding officer for the proceeding, when justice requires the amendment or supplementation and when the amendment or supplementation will not unfairly surprise another party.

**(h)**

A pleading may adopt or incorporate by specific reference any part of a document in the official files and

records of the commission. This subsection does not relieve the pleader of the duty to allege in detail all facts necessary to sustain the pleader's burden of proof.

**(5) Filing**

pleadings.

**(a)**

Except as otherwise provided by this section, an original of each pleading must be filed with the commission. An original of each pleading relating to discovery must be filed with the commission. A pleading is considered filed only when actually received by the commission. Each pleading must include a certification that a copy has been mailed or delivered on each party of record, stating the name of each party served and the date and manner of service.

**(b) If**

a pleading is sent to the commission by first-class United States mail in an envelope or wrapper properly addressed and stamped and is deposited in the mail one day or more before the last day for filing the pleading, the pleading is considered received and filed in time if the pleading is actually received not more than 10 days after the deadline. A legible postmark affixed by the United States postal service is prima facie evidence of the date of mailing. For purposes of responsive pleadings for which the deadline for filing is set by the filing of another pleading, the pleading to be filed first is considered filed when actually received by the commission.

**(c)**

Unless otherwise provided by statute, the presiding officer for a proceeding may extend the time for filing a pleading on a motion made by a party before the filing deadline if the presiding officer determines that there is good cause for the extension and that the need for the extension is not caused by the neglect, indifference, or lack of diligence of the party making the motion. A copy of a motion made under this section must be served on all parties of record contemporaneously with the filing of the motion.

**(d)**

A pleading may be filed by facsimile, provided an original and the required number of copies are received in the commission's office not later than 5:00 p.m. of the third day after the date the document was filed by facsimile. The inability to transmit a document due to equipment malfunction or any other cause does not relieve the person attempting to file the document of the filing deadline.

**(e)**

If the deadline for filing a pleading falls on a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

**(f)**

The failure to file a pleading in accordance with this section may result in the pleading being struck.

**(6) Place and**

nature of hearings.

**(a) A**

hearing in a commission proceeding is open to the public.

**(b) A**

hearing shall be held in Albuquerque unless: for good cause stated, the commission designates another place for the hearing; or, the act require otherwise.

**(c)**

Unless precluded by law or objected to by a party, the commission may allow informal disposition of a proceeding without a hearing. Informal disposition includes, but is not limited to, disposition by stipulation, agreed settlement, consent order, dismissal, and default.

**(7) Presiding**

officers.

**(a)**

One or more members of the commission, an administrative law judge, or a duly designated hearing officer may serve as the presiding officer for a commission proceeding. Objections to the presiding officer must be made in writing to the agency director at least 20 calendar days prior to the hearing. If in any case a combination of objections to a presiding officer(s) would result in the matter not being heard, the removal

of the hearing officer shall not be effective.

(b)

The presiding officer may: authorize the taking of depositions; issue subpoenas to compel the attendance of witnesses and the production of papers and documents; administer oaths; receive evidence; rule on the admissibility of evidence and amendments to pleadings; examine witnesses; set reasonable times within which a party may present evidence and within which a witness may testify; permit and limit oral argument; issue interim orders; recess a hearing from day to day and place to place; request briefs before or after the presiding officer files a report or proposal for decision; propose findings of fact and conclusions of law; propose orders and decisions; perform other duties necessary to a fair and proper hearing.

(c)

An administrative law judge designated as the presiding officer must be an attorney licensed to practice in this state.

(d)

A person may not serve as the presiding officer of a proceeding in which the person has an economic interest. A person is considered to have an economic interest in a proceeding if the person, a member of the person's immediate family, or a dependent, business partner, or client of the person has an economic interest in the proceeding.

(8)

Conferences.

(a)

On written notice, the presiding officer may, on the officer's own motion or on the motion of a party, direct each party to appear at a specified time and place for a prehearing conference to formulate issues and consider any of the following: simplifying issues; amending the pleadings; making admissions of fact or stipulations to avoid the unnecessary introduction of proof; designating setting the order of procedure at a hearing; identifying and limiting the number of witnesses; resolving other matters that may

expedite or simplify the disposition of the controversy, including settling issues in dispute.

(b)

The presiding officer shall record the action taken at the prehearing conference unless the parties enter into a written agreement as to the action. The presiding officer may enter appropriate order concerning prehearing discovery, stipulations of uncontested matters, presentation of evidence and scope of inquiry.

(c)

During a hearing, on written notice or notice stated into the record, the presiding officer may direct each party or the representative of each party to appear for a conference to consider any matter that may expedite the hearing and serve the interests of justice. The presiding officer shall prepare a written statement regarding the action taken at the conference and the statement must be signed by each party and made a part of the record.

(9) Discovery.

(a)

On written request by a party, the presiding officer or the agency director may issue a subpoena to require the attendance of witnesses and the production of books, records, papers, or other objects as may be necessary and proper for the purposes of a proceeding.

(b) A

motion for a subpoena to compel the production of books, records, papers, or other objects shall be addressed to the appropriate person, shall be sworn to and shall specify the books, records, papers, or other objects desired and the relevant and material facts to be proved by them.

(c)

Discovery on behalf of commission shall only be provided to the licensee or to counsel who has submitted an entry of appearance.

(10) Order of

hearing.

(a)

The presiding officer shall open the hearing, make a concise statement of its scope and purposes and announce that a record of the hearing is being made.

(b)

When a hearing has begun a party or a party's representative may make statements off the record only as permitted by the presiding officer. If a discussion off the record is pertinent, the presiding officer shall summarize the discussion for the record.

(c)

Each appearance by a party, a party's representative, or a person who may testify must be entered on the record.

(d)

The presiding officer shall receive motions and afford each party of record an opportunity to make an opening statement.

(e)

Except as otherwise provided by this subsection, the party with the burden of proof is entitled to open and close. The presiding officer shall designate who may open and close in a hearing on a proceeding if the proceeding was initiated by the commission or if several proceedings are heard on a consolidated record.

(f)

After opening statements, the party with the burden of proof may proceed with the party's direct case. Each party may cross-examine each witness.

(g)

After the conclusion of the direct case of the party having the burden of proof, each other party may present their direct case and their witnesses will be subject to cross-examination.

(h)

The presiding officer may allow nonparty participants to cross examine a witness if the presiding officer determines that the cross examination may lead to significantly fuller disclosure of the facts without unduly delaying the hearing or burdening the record.

(i)

At the conclusion of all evidence and cross-examination, the presiding officer shall allow closing statements.

(j)

Before writing a report or proposal for decision if required by law, the presiding officer may call on a party for further relevant and material evidence on an issue. The presiding officer may not consider the evidence

or allow it into the record without giving each party an opportunity to inspect and rebut the evidence.

**(11) Behavior.**  
**(a)**

Each party, witness, attorney, or other representative shall behave in all commission proceedings with dignity, courtesy and respect for the commission, the presiding officer and all other parties and participants. Attorneys shall observe and practice the standards of ethical behavior prescribed for the profession by the code of professional responsibility.

**(b)**

An individual who violates this section may be excluded from a hearing by the presiding officer for a period and on conditions that are just, or may be subject to other just, reasonable and lawful disciplinary action prescribed by the presiding officer.

**(12) Evidence.**  
**(a)**

All testimony must be given under oath administered by the presiding officer. The presiding officer may limit the number of witnesses and shall exclude all irrelevant, immaterial, or unduly repetitious evidence.

**(b)**

The presiding officer may, unless precluded by statute, admit evidence of a type commonly relied on by reasonably prudent persons in the conduct of their affairs. The rules of privilege recognized by law in this jurisdiction apply in commission proceedings.

**(c) A**

party may object to offered evidence and the objection shall be noted in the record. Formal exceptions to rulings by the presiding officer during a hearing are unnecessary. A party, at the time a ruling is made or sought, shall make known to the presiding officer the action the party desires.

**(d)**

When the presiding officer rules to exclude evidence, the party offering the evidence may make an offer of proof by dictating or submitting in writing the substance of the proposed evidence, before the closing of the

hearing. The offer of proof preserves the point for review. The presiding officer may ask a witness or offered witness questions necessary to indicate that the witness would testify as represented in the offer of proof. An alleged error in sustaining an objection to questions asked on cross-examination is preserved without making an offer of proof.

**(e)**

The presiding officer may take official notice of judicially cognizable facts and of facts generally recognized within the area of the commission's specialized knowledge. The commission shall notify each party of record before the final decision in a proceeding of each specific fact officially noticed, including any facts or other data in staff memoranda. A party must be given an opportunity to rebut the facts to be noticed.

**(f)**

The special skills and knowledge of the commission and the commission staff may be used in evaluating the evidence.

**(g)**

The presiding officer may receive documentary evidence in the form of copies or excerpts if the original is not readily available. On request, the presiding officer shall allow a party to compare the copy with the original. If many similar documents are offered in evidence, the presiding officer may limit the documents admitted to a number which are representative of the total number, or may require that the relevant data be abstracted from the documents and presented as an exhibit. If the presiding officer requires an abstract, the presiding officer shall allow each party or the party's representative to examine the documents from which the abstracts are made.

**(h)**

The presiding officer may require prepared testimony in a hearing if the presiding officer determines that it will expedite the hearing without substantially prejudicing the interests of a party. Prepared testimony consists of any document that is intended to be offered as evidence and adopted as sworn testimony by a

witness who prepared the document or supervised its preparation. A person who intends to offer prepared testimony at a hearing shall prefile the testimony with the commission on the date set by the presiding officer and shall serve a copy of the prepared testimony on each party of record. The presiding officer may authorize the late filing of prepared testimony on a showing of extenuating circumstances. The prepared testimony of a witness may be incorporated into the record as if read or received as an exhibit, on the witness being sworn and identifying the writings as a true and accurate record of what the testimony would be if the witness were to testify orally. The witness is subject to clarifying questions and to cross examination and the prepared testimony is subject to a motion to strike either in whole or in part.

**(i)**

Documentary exhibits must be of a size, which will not unduly encumber the record. Whenever practicable, exhibits must conform to the size requirements in these rules for pleadings. The first sheet of the exhibit must briefly state what the exhibit purports to show and the pages of the exhibit must be numbered consecutively. Exhibits may include only facts material and relevant to the issues of the proceedings. Maps or drawings must be rolled or folded so as not to encumber the record. Exhibits not conforming to this subsection may be excluded.

**(j)**

The party offering an exhibit shall tender the original of the exhibit to the presiding officer for identification. The party shall furnish one copy to the presiding officer and one copy to each party of record. A document received in evidence may not be withdrawn except with the permission of the presiding officer. If an exhibit has been offered, objected to and excluded, and the party offering the exhibit withdraws the offer, the presiding officer shall return the exhibit to the party. If the party does not withdraw the offered exhibit, the exhibit shall be numbered for identification, endorsed by the

presiding officer with the ruling on the exhibit and included in the record to preserve the exception.

**(k)**

The presiding officer may allow a party to offer an exhibit in evidence after the close of the hearing only on a showing of extenuating circumstances and a certificate of service on each party of record.

**(13) Reporters**

and transcripts.

**(a)**

If necessary, the commission shall engage a court reporter to make a stenographic record of a hearing. The commission may allocate the cost of the reporter and transcript among the parties.

**(b)**

If a person requests a transcript of the stenographic record, the commission may assess the cost of preparing the transcript to the person.

**(c)**

A party may challenge an error made in transcribing a hearing by noting the error in writing and suggesting a correction not later than 10 days after the date the transcript is filed with the commission. The party claiming errors shall serve a copy of the suggested corrections on each party of record, the court reporter and the presiding officer. If proposed corrections are not objected to before the 15th day after the date the corrections were filed with the commission, the presiding officer may direct that the suggested corrections be made and the manner of making them. If the parties disagree on the suggested corrections, the presiding officer shall determine whether to change the record.

**(14) Findings of fact and conclusions of law.**

**(a)**

The presiding officer may direct a party to draft and submit proposed findings of fact and conclusions of law or a proposal for decision that includes proposed findings of fact and conclusions of law. The presiding officer may limit the request for proposed findings to a particular issue of fact.

**(b)**

Proposed findings of fact submitted under this section must be supported by concise and explicit statements of underlying facts developed from the record with specific reference to where in the record the facts appear.

**(15) Proposal**

for decision.

**(a)**

Where a hearing officer conducts a hearing, the hearing officer shall complete a report containing his or her findings of fact, conclusions of law and recommendations for commission action.

**(b)**

Any commissioner who did not hear the case may not participate in a decision in which the commission rejects, modifies, adds to, or makes substitutions for the findings of fact in a hearing officer's report unless the commission has reviewed all portions of the record that pertain to such findings of fact.

**(c)**

Where the commission itself is the hearing body, the commission shall complete a report containing findings of fact and conclusions of law. No commissioner may participate who has not either heard the case or reviewed the entire record.

**(d)**

The person preparing a proposal for decision under this section shall initiate service of a copy of the hearing officer's report or commission's report on each party of record no later than 31 calendar days after the close of the hearing.

**(e)**

A party of record may, not later than 10 business days after the date of service of a hearing officer's report or commission's report, file exceptions to the report. A reply to an exception filed under this subsection must be filed no later than five business days after the last day for filing the exceptions. A copy of each exception and reply must be served on all parties of record.

**(f)**

After the expiration of time for filing exceptions and replies, the commission shall consider the

proposal for decision in open or closed session. The commission may: adopt the proposal for decision, in whole or in part; decline to adopt the proposal for decision, in whole or in part; modify the recommendations or the hearing officer's report, in whole or in part based on aggravating or mitigating factors or inaccuracies; remand the proceeding for further examination by the same or a different presiding officer; or direct the presiding officer to give further consideration to the proceeding with or without reopening the hearing.

**(g)**

If on remand additional evidence is received which results in a substantial revision of the proposal for decision, a new proposal for decision shall be prepared, unless a majority of the commission, on remand, has heard the case or read the record. A new proposal for decision must be clearly labeled as such and all parties of record are entitled to file exceptions, replies and briefs.

**(16) Dismissal.**

On its own motion or a motion by a party, the presiding officer may dismiss a proceeding, with or without prejudice, under conditions and for reasons that are just and reasonable, including: failure to timely pay all required fees to the commission; unnecessary duplication of proceedings; withdrawal; moot questions or obsolete petitions; and lack of jurisdiction.

**(17) Orders.**

**(a)**

Except as otherwise provided by these rules, the commission shall issue its final order not later than 30 days after the date the commission votes on the ultimate issues in the proceeding. A final order of the commission must be in writing and be signed by at least one member of the members of the commission who voted in favor of the action taken by the commission. A final order must include findings of facts and conclusions of law, separately stated.

**(b)**

The commission staff shall mail or deliver a copy of the order to each party or the party's representative.



(c)

A final order of the commission takes effect on the date the order is issued, unless otherwise stated in the order.

(d)

If the commission finds that an imminent peril to the public health, safety, or welfare requires an immediate final order in a proceeding, the commission shall recite that finding in the order in addition to reciting that the order is final from the date issued. An order issued under this subsection is final and appealable from the date issued and a motion for rehearing is not a prerequisite to appeal.

(18) Rehearing.

(a)

Within 10 days following issuance of a final commission order, a party adversely affected by the order may file a petition for a rehearing stating the reasons for requesting a rehearing. The commission shall grant a rehearing only in cases of newly discovered material evidence, which the party could not reasonably have discovered at an earlier time, or other good cause.

(b)

An order granting a motion for rehearing vacates the preceding final order. The order granting a motion for rehearing may direct that the hearing be reopened or may incorporate a new final decision. Except as otherwise provided by these rules, if the commission renders a new decision, a motion for rehearing directed to the new decision is a prerequisite to appeal.

(19) Ex parte

communications. No party to a proceeding before the commission shall, at any time prior to the issuance of a final commission decision, discuss or otherwise communicate with a hearing officer assigned to hear the case or with any commission member who will or may participate in the commission's decision in the case, regarding any issue in the case, without at the same time making the same communication to all other parties, including the commission's administrative prosecutor. This rule shall not apply to communications

limited to such items as ascertaining the time or place of a hearing or the procedures to be followed at a hearing.

(20)

Administrative penalties.

(a)

If the commission determines that a person regulated under the act has violated the act or a rule or order adopted under the act in a manner that constitutes a ground for disciplinary action under the act, the commission may assess an administrative penalty against that person as provided by this section.

(b)

The commission delegates to the agency director the authority to prepare and issue preliminary reports pursuant to the act. If, after examination of a possible violation and the facts relating to that possible violation, the agency director determines that a violation has occurred, the agency director shall issue a preliminary report that states the facts on which the conclusion is based, the fact that an administrative penalty is to be imposed and the amount to be assessed. The amount of the penalty may not exceed \$1,000 for each violation. Each day/occurrence that a violation continues may be considered a separate violation. In determining the amount of the penalty, the agency director shall consider the seriousness of the violation.

(c)

If the commission finds based on the evidence that an appeal is frivolous, unreasonable or unnecessary or determined to be an abuse of process or malicious, the license holder may be fined in the amount up to \$2,500.

(d)

Not later than the 10th day after the date on which the agency director issues the preliminary report, the agency director shall provide a copy of the report to the person charged with the violation, together with a statement of the right of the person to a hearing relating to the alleged violation and the amount of the penalty. If possible, the agency director shall hand deliver the

preliminary report. If hand delivery is not possible, the agency director shall mail the preliminary report to the person's last known address, as found in the commission's files, by regular mail and by certified mail, return receipt requested.

(e)

Not later than the 20th day after the date on which the agency director delivers or sends the preliminary report, the person charged may make a written request for a hearing or may remit the amount of the administrative penalty to the commission. Failure to request a hearing or to remit the amount of the administrative penalty within the period prescribed by this subsection results in a waiver of a right to a hearing on the administrative penalty. If the person charged requests a hearing, the hearing shall be conducted in the same manner as other hearings conducted by the commission.

(f)

If it is determined after the hearing that the person has committed the alleged violation, the commission shall give written notice to the person of the findings established by the hearing and the amount of the penalty and shall enter an order requiring the person to pay the penalty.

(g)

Not later than the 30th day after the date on which the above notice is received, the person charged shall pay the administrative penalty in full or exercise the right to appeal to the appropriate court either the amount of the penalty or the fact of the violation. If a person exercises a right of appeal either as to the amount of the penalty or the fact of the violation, the amount of the penalty is not required to be paid until the 30th day after the date on which all appeals have been exhausted and the commission's decision has been upheld.

(21) Exclusion.

(a)

The steward, agency director, or commission may order an individual ejected or excluded from all or part of any premises under the regulatory jurisdiction of the commission if the stewards, agency director, or commission determine that the



individual's presence on association grounds is inconsistent with maintaining the honesty and integrity of racing.

(b)

An exclusion may be ordered separately or in conjunction with other disciplinary action taken by the stewards or commission. If exclusion is ordered separately, the excluded individual is entitled to a hearing before the stewards or commission. A hearing on exclusion shall be conducted in the same manner as other hearings conducted by the stewards or commission.

(c)

If an individual is excluded under this section, a race animal owned or trained by or under the care or supervision of the individual is ineligible to be entered or to start in a race in this jurisdiction.

(22) Rulings in

other jurisdictions.

(a)

Reciprocity. The stewards shall honor rulings from other pari-mutuel jurisdictions regarding license suspensions, revocation or eligibility of horses.

(b)

Appeals of reciprocal rulings. Persons subject to rulings in other jurisdictions shall have the right to request a hearing before the commission to show cause why such ruling should not be enforced in this jurisdiction. Any request for such hearing must clearly set forth in writing the reasons for the appeal. [15.2.1.9 NMAC - Rp, 15 NMAC 2.1.9, 3/15/2001; A, 3/31/2003; A, 5/30/2003; A, 6/15/2004; A, 6/30/2009; A, 9/15/2009; A, 12/1/2010; A, 5/1/2013; A, 1/1/2014; A, 3/16/2015; A, 5/1/2015; A, 9/16/2015; A, 3/15/2016; A/E, 6/28/2016; A, 9/16/2016; A, 12/16/2016; A, 7/1/2017; A, 3/14/2018; A, 9/26/2018; A, 4/9/2019; A, 12/28/2021; A, 5/24/2022; A, 4/9/2024]

**RACING COMMISSION**

**This is an amendment to 15.2.2 NMAC, Section 8, effective 4/9/2024.**

**15.2.2.8 ASSOCIATIONS:**

**A. General duty:**

(1) An

association, its officers, directors, officials and employees shall abide by and enforce the Horse Racing Act and the rules and orders of the commission and stewards.

(2) An

association may request an exemption from a requirement in this chapter to utilize new technology or innovative construction or design of the racetrack facilities. The commission may grant an exemption if the commission determines that: the association's proposal substantially satisfies the purpose of the requirement; the exemption is in the best interests of the race horses, the racing industry and the citizens of this jurisdiction.

**B. Financial**

**requirements: insurer of the race meeting:**

(1) Approval

of a race meeting by the commission does not establish the commission as the insurer or guarantor of the safety or physical condition of the association's facilities or purse of any race.

(2) An

association shall agree to indemnify, save and hold harmless the commission from any liability, if any, arising from unsafe conditions of association grounds and default in payment of purses.

(3) An

association shall provide the commission with a certificate of liability insurance as required by the commission.

(4) An

association shall maintain one or more trust accounts in financial institutions insured by the FDIC or other federal government agency for the deposit of nominations and futurity monies and those amounts deducted from the pari mutuel handle for distribution

to persons other than the association according to the Horse Racing Act and commission rules. An association may invest nominations and futurities monies paid by owners in a U.S. treasury bill or other appropriate U.S. Government financial instrument instead of an account in a financial institution, in which case the provisions of this rule shall apply to such instrument.

(5) An

association shall keep its operating funds and other funds that belong exclusively to the association separate and apart from the funds in its trust accounts and from other funds or accounts it maintains for persons other than itself, such as a horsemen's book account.

(6) An

association shall employ proper accounting procedures to insure accurate allocation of funds to the respective purses, parties and organizations and detailed records of such accounts shall be made available to the commission or its staff on demand in connection with any commission audit or investigation.

(7) An

association shall insure that sufficient funds for the payment of all purses on any race day are on deposit in a trust account at least two business days before the race day and shall provide the commission with documentation of such deposits prior to the race day. Exceptions to this subsection may be made by the commission or the agency director for good cause shown.

(8) An

association shall add all interest accrued on funds in a trust account to the balance in the account and distribute the interest to those for whom the funds are held with the exception of administrative costs pursuant to Subsection E of Section 60-2E-47 NMSA 1978.

(9) An

association and its managing officers are jointly and severally responsible to ensure that the amounts retained from the pari mutuel handle are distributed according to the Horse Racing Act and commission rules and not otherwise.

(10) An association and its managing officers shall ensure that all purse monies, disbursements and appropriate nomination race monies are available to make timely distribution in accordance with the Horse Racing Act, commission rules, association rules and race conditions.

(11) An association is authorized to offset a portion of the jockey and exercise rider insurance premium from gaming monies subject to the approval of the commission.

(12) An association shall insure that funds for the payment of the ten percent track breeder's awards on New Mexico bred winners, that have been requested by the New Mexico horse breeders' association and whose purses have been cleared by the New Mexico racing commission, will be sent via wire transfer to the designated bank account set up for that purpose within five business days after the request.

**C. Bond requirements:**

(1) An association shall file with the commission a bond or other security payable to the New Mexico racing commission in an amount determined by the commission for pari mutuel racing and in either case not more than the financial liability of the association license throughout the race meeting for which the association license is requested.

(2) The bond shall be executed by the applicant and a surety company or companies authorized to do business in this jurisdiction, and conditioned upon the payment by the association licensee of all taxes and other monies due and payable pursuant to statutory provisions and all monies due from horsemen's accounts and payable, presentation of winning tickets, the licensee will distribute all sums due to the patrons of pari mutuel pools.

(3) The financial liabilities incurred by the association licensee in the form of real estate mortgages shall not be

included in the determination of the bond amount.

**D. Financial reports:**

(1) The commission may require periodic audits to determine that the association has funds available to meet those distributions for the purposes required by the Horse Racing Act, commission rules, the conditions and nomination race program of the race meeting and the obligations incurred in the daily operation of the race meeting.

(2) An association shall file a copy of all tax returns, a balance sheet and a profit and loss statement.

(3) An association shall file with the commission an unaudited balance sheet and profit and loss statement as required by the commission. Those submissions must be in a format, which conforms to the requirements set out in the association license application.

(4) An association shall file an annual audit with the commission within 90 days after the association's fiscal year-end. The commission, upon good cause shown, may extend the time for filing.

**E. Facilities and equipment: facilities for patrons and licensees:**

(1) An association shall ensure that the public areas of the association grounds are designed and maintained for the comfort and safety of the patrons and licensees and are accessible to all persons with disabilities as required by federal law.

(2) An association shall provide and maintain adequate restroom facilities for the patrons and licensees.

(3) An association shall provide an adequate supply of free drinking water.

(4) An association shall maintain all facilities on association grounds to ensure the safety and cleanliness of the facilities at all times.

(5) During a race performance, the association

shall provide a first aid room equipped with at least two beds and other appropriate equipment; the services of at least one physician, nurse practitioner or certified emergency medical technician.

(6) An association shall provide two properly equipped ambulances, ready for immediate duty and equipped for transport at any time the racetrack is open for racing or [~~exercising~~] training hours. [~~The~~] Each ambulance shall be staffed with one certified paramedic or an intermediate emergency medical technician, [~~as long as physician is on the grounds~~] nurse practitioner or physician assistant. The other staff will be certified EMTs. If the ambulance is being used to transport an individual, the association may not conduct a race until a properly equipped and staffed ambulance is in place, or a physician is on duty.

(7) Unless otherwise approved by the commission or the stewards, an ambulance shall follow the field at a safe distance during the running of races.

(8) The ambulance must be parked at an entrance to the racing strip except when the ambulance is being used to transport an individual or when it is following the field during the running of a race.

(9) An association shall provide adequate office space for the use of the stewards and other commission personnel as required by the commission. The location and size of the office space, furnishings and equipment required under this section must be approved by the commission. An association shall provide [~~a designated steward read only~~] the board of stewards, state investigator and official veterinarian access to the [~~incompass rto~~] Incompass RTO system as prescribed by the racing office as well as e-mail notification for all entry clerk overrides for horses on stewards', veterinarian's, paddock judge's, bleeders' and starter's lists.

(10) An association shall promptly post commission notices in places that can be easily viewed by patrons and licensees.

(11) An association shall ensure that all concessions provide prompt and efficient service to the public at all race meets or simulcast performances. The associations shall specifically ensure that concessions have adequate staff and inventory to provide prompt and efficient service to the public.

**F. Officials' Stands:**

An association shall provide adequate stands for officials to have a clear view of the racetrack. The location and design of the stands must be approved by the commission.

**G. Audio and visual equipment:**

(1) An association shall provide and maintain in good working order a communication system between the: stewards' stand; racing office; tote room; jockeys' room; paddock; test barn; starting gate; weigh in scale; video camera locations; clocker's stand; racing veterinarian; track announcer; location of the ambulances (equine and human); other locations and persons designated by the commission.

(2) An association shall provide and maintain a public address system capable of clearly transmitting announcements to the patrons and to the stable area.

(3) An association shall provide two electronic [~~photofinish~~] photo finish devices with mirror image to photograph the finish of each race and record the time of each horse in at least hundredths of a second. The location and operation of the [~~photofinish~~] photo finish devices must be approved by the commission before its first use in a race. The association shall promptly post a photograph of each [~~photofinish~~] photo finish for win, place or show in an area accessible to the public. The association shall ensure that the [~~photofinish~~] photo finish devices are calibrated before the first day

of each race meeting and at other times as required by the commission. On request by the commission, the association shall provide, without cost, a print from a negative of a [~~photofinish~~] photo finish to the commission. [~~Photofinish~~] Photo finish [~~negatives~~] prints of each race shall be maintained by the association for not less than six months after the end of the race meeting, or such other period as may be requested by the stewards or the commission.

(4) An association shall provide a videotaping system approved by the commission. Cameras must be located to provide clear panoramic and head-on views of each race. Separate monitors, which simultaneously display the images received from each camera and are capable of simultaneously displaying a synchronized view of the recordings of each race for review shall be provided in the stewards' stand. The location and construction of video towers must be approved by the commission.

(5) A camera and a timer, designated by the commission, shall be at the starting gate and shall videotape and show to the public the pre-race loading of all horses into the starting gate and shall continue to videotape them until the field is dispatched by the starter.

(6) One camera, designated by the commission, shall videotape the apparent winner of each race from the finish line until the horse has returned, the jockey has dismounted and the equipment has been removed from the horse.

(7) The stewards may, at their discretion, direct the video camera operators to videotape the activities of any horses or persons handling horses prior to, during or following a race.

(8) Races run on an oval track must be recorded by at least three video cameras. Races run on a straight course must be recorded by at least two video cameras.

(9) An association shall, upon request, provide to the commission, without cost, a copy of a videotape of a race.

(10) Videotapes recorded prior to, during and following each race shall be maintained by the association for not less than six months after the end of the race meeting, or such other period as may be requested by the stewards or the commission.

(11) An association shall provide a viewing room in which, on approval by the stewards, an owner, trainer, jockey or other interested individual may view a videotape recording of a race.

(12) [~~Following~~] In any race in which there is an inquiry or objection, the association shall display to the public on designated monitors the videotaped [~~replays of the~~] incident in question [~~which were utilized by~~] at the time the stewards [~~in~~] are making their decision.

**H. Racetrack:**

(1) The surface of a racetrack, including the cushion, subsurface and base, must be designed, constructed and maintained to provide for the safety of the jockeys and horses.

(2) Prior to the first race meeting at an association racetrack, a licensed surveyor shall provide to the commission a certified report of the grade and measurement of the distances to be run.

(3) Distances to be run shall be measured from the starting line at a distance three feet out from the inside rail. The association shall provide the commission with a soil analysis report conducted by an independent and qualified individual or entity, approved by the commission or its agent, within two weeks prior to the start of live racing. The commission shall have the discretion to require the associations provide additional soil analysis reports upon request.

(4) The surveyor's report must be approved by the commission prior to the first race day of the meeting.

(5) An association shall provide an adequate drainage system for the racetrack.

(6) An association shall provide adequate equipment and personnel to maintain the track surface in a safe training and racing condition. The association shall provide back-up equipment for maintaining the track surface.

(7) An association that conducts races on a turf track shall maintain an adequate stockpile of growing medium; provide a system capable of adequately watering the entire turf course evenly.

(8) Any horse that suffers a training or race related injury shall not leave the association grounds until it has been properly documented and inspected by a state investigator or any commission appointed designee.

**I. Rails:**

(1) Racetracks, including turf tracks, shall provide inside and outside rails, including gap rails, designed constructed and maintained to provide for the safety of jockeys and horses. The design and construction of rails must be approved by the commission prior to the first race meeting at the track.

(2) The top of the rail must be at least 38 inches but not more than 42 inches above the top of the cushion. The inside rail shall be no less than a 24-inch overhang with a continuous smooth cover.

(3) All rails must be constructed of materials designed to withstand the impact of a horse running at a gallop.

**J. Starting gates:**

(1) During racing hours, an association shall provide at least two operable padded starting gates, which have been approved by the commission.

(2) An association shall make at least one starting gate and qualified starting gate personnel available for schooling during designated training hours.

(3) If a race is started at a place other than in a chute, the association shall provide and maintain in good operating condition

backup equipment for moving the starting gate. The backup equipment must be immediately available to replace the primary moving equipment in the event of failure.

**K. Distance markers:**

(1) An association shall provide starting point markers and distance poles in a size and position that is clearly seen from the stewards' stand.

(2) The starting point markers and distance poles must be marked as follows:

1/4 poles	Red and white horizontal stripes
1/8 poles	Green and white horizontal stripes
1/16 poles	Black and white horizontal stripes
220 yards	Green and white
250 yards	Blue
300 yards	Yellow
330 yards	Black and white
350 yards	Red
400 yards	Black
440 yards	Red and white
550 yards	Black and white horizontal stripes

**L. Lighting:**

(1) An association shall provide lighting for the racetrack and the patron facilities that are adequate to ensure the safety and security of the patrons, licensees and horses. Lighting to ensure the proper operation of the videotape and ~~photo finish~~ photo finish equipment must be approved by the commission.

(2) An association shall provide adequate additional lighting in the stable area as required by the commission.

(3) If an association conducts racing at night, the association shall maintain a back-up lighting system that is sufficient to ensure the safety of race participants and patrons.

**M. Equine ambulance:**

(1) An association shall provide a minimum of two properly equipped ambulances staffed by trained personnel on association grounds on each day that the racetrack is open for racing or training.

(2) The ambulances must be properly ventilated and kept at an entrance to the racing strip when not in use.

(3) The ambulances must be a covered vehicle that is low to the ground and large enough to accommodate a horse in distress. The ambulances must be able to navigate on the racetrack during all weather conditions; transport a horse off the association grounds.

(4) The ambulances must be equipped with large, portable screens to shield a horse from public view; ramps to facilitate loading a horse that is down; a rear door and a door on each side; a padded interior; a movable partition to initially provide more room to load a horse and to later restrict a horse's movement; a shielded area for the person who is attending to the horse; an adequate area for the storage of water and veterinary drugs and equipment.

(5) An association may not conduct a race



unless a minimum of one equine ambulance or an official veterinarian-approved substitute is readily available.

(6) The properly equipped equine ambulances, its supplies and attendants and the operating procedures for the properly equipped ambulances must be approved by the official veterinarian.

**N. Barns:**

(1) An association shall provide barns containing a sufficient number of stalls to accommodate all horses approved to race and all other horses approved to be on the grounds. The association's stable area configuration and facilities must be approved by the commission.

(2) An association shall ensure that the barns are kept clean and in good repair. Each barn, including the receiving barn, must have a water supply available, be well-ventilated, have proper drainage and be constructed to be comfortable in all seasons.

(3) An association shall ensure that each horse is stabled in an individual box stall with minimum dimensions of 10 feet by 10 feet.

(4) An association shall provide an adequate area for the placement of manure removed from the stalls. All manure must be removed from the stable area daily. The association shall ensure that refuse from the stalls and other refuse is kept separate.

(5) For new barn construction, an association shall comply with the commission's minimum barn requirements:

(a) Two wash racks per 24 stalls with drains a minimum of 8 feet by 10 feet.

(b) One cold water faucet within 48 inches of all stalls.

(c) Dimensions of stalls are 12 feet by 12 feet, with a slanted to minimum of 10 foot roof at all points and 8 foot walls.

(d) One room 10 feet by 12 feet per eight stalls.

(e) Twelve shed rows.

(f) Twelve foot ends.

(g) Building material must be one hundred percent fire retardant and 26 gauge metal covered composite.

(h) Two 110 electrical outlets per four stalls placed a minimum six foot height centered at four foot.

(i) Overhead lighting down shedrow so as to illuminate the stalls and shedrow.

**O. Test barn:**

(1) An association shall provide a test barn for taking specimens of urine, blood or other bodily substances or tissues for testing.

(2) The test barn must be equipped with a walk ring that is large enough to accommodate 10 horses; at least three enclosed stalls that permit observation of the collection process and provide for the protection of collection personnel; facilities and equipment for the collection, identification and storage of samples; a wash rack that is large enough to accommodate three horses at the same time; hot and cold running water; clean water buckets supplied by the trainer for each horse.

(3) An association shall limit access to the test barn to persons, authorized by the official veterinarian, for the conduct of commission authorized tasks such as practicing veterinarians in the performance of their obligations, employees of the official veterinarian, commissioners and their designees.

In addition, no more than two persons representing the stable of a horse required to be tested may accompany that horse into the test barn. All persons entering the test barn must wear a valid license in plain view. All entrances shall be locked or guarded at all times.

**P. Isolation area:**

(1) By January 1, 2017, an association shall provide a minimum eight stall, perimeter fenced isolation facility for the care and

treatment of a horse that is ordered isolated by the racing veterinarian or the official veterinarian.

(2) The isolation facility must be approved by the official veterinarian.

**Q. Operations: security:**

(1) An association conducting a race meeting shall maintain security controls over its premises. Security controls are subject to the approval of the commission.

(2) An association shall establish a system or method of issuing credentials or passes to restrict access to its restricted areas or to ensure that all participants at its race meeting are licensed as required by these rules.

(3) An association shall prevent access to and shall remove or cause to be removed from its restricted areas any person who is unlicensed, or who has not been issued a visitor's pass or other identifying credential, or whose presence in such restricted area is unauthorized.

(4) Unless otherwise authorized by the commission, an association shall provide continuous security in the stable area during all times that horses are stabled on the grounds. An association shall require any person entering the stable area to display valid credentials issued by the commission or a visitor's pass issued by the association (See Paragraph (1) of Subsection R of 16.47.1 NMAC). An association shall provide security fencing around the stable area in a manner that is approved by the commission.

(5) On request by the commission, an association shall provide a list of the security personnel, including the name, qualifications, training, duties, duty station and area supervised by each employee.

(6) Each day, the chief of security for an association shall deliver a written report to the stewards regarding occurrences on association grounds on the previous



day. Not later than 24 hours after an incident occurs requiring the attention of security personnel, the chief of security shall deliver to the stewards a written report describing the incident. The report must include the name of each individual involved in the incident, the circumstances of the incident and any recommended charges against each individual involved.

**R. Fire prevention:**

- (1) An association shall develop and implement a program for fire prevention on association grounds. An association shall instruct employees working on association grounds of the procedures for fire prevention.
- (2) Not later than three days before the first day of a race meeting, an association shall deliver to the commission a copy of the state or local fire marshal's certification regarding the association's compliance with fire safety regulations or the fire marshal's plan of corrections. The certification or plan must be based on an inspection of the association grounds conducted by the fire marshal not more than 30 days before the first day of a race meeting.
- (3) No person shall:
- (a) smoke in stalls, feed rooms or under ~~[shed row]~~ shedrow;
- (b) burn open fires or oil and gas lamps in the stable area;
- (c) use or leave unattended, any electrical appliance that is plugged-in to an electrical outlet, that is not in safe working order and does not meet the manufacturer's recommendations;
- (d) use extension cords that are not approved to meet OSHA standards, nor should extension cords be fastened with staples, hung from nails or suspended by wire;
- (e) use worn, cracked, frayed or otherwise damaged electric cords or cables;

(f) permit horses to come within reach of electrical outlets or cords;

(g) store flammable materials such as cleaning fluids or solvents in the stable area; or

(h) lock a stall which is occupied by a horse.

(4) An association shall post a notice in the stable area which lists the prohibitions outlined in Paragraph (3) of Subsection R of 15.2.2 NMAC above.

**S. Insect and rodent control:** An association and the licensees occupying the association's barn area shall cooperate in procedures to control insects, rodents or other hazards to horses or licensees.

**T. Performances:**

(1) The hours of racing, the number of races per race day and the post time for the first race of each race day are subject to the approval of the commission.

(2) An association shall deliver to the commission for approval a copy of the proposed stakes schedule, proposed purse schedule and first condition book for a race meeting at least 60 days before the first day of the race meeting. Following commission approval, any changes to the purse or stakes schedules, or condition book must be approved by the commission. The association shall deliver to the commission, upon publication, a copy of each subsequent condition book.

**U. Complaints:**

(1) An association shall designate a location and provide personnel who shall be readily available to the public to provide information or receive complaints.

(2) An association shall promptly notify the commission of a complaint regarding an alleged violation of the Horse Racing Act or a rule of the commission; an alleged violation of ordinances or statutes; accidents or injuries; unsafe or unsanitary conditions for patrons, licensees or horses.

**V. Ejection and exclusion:**

(1) An association shall immediately eject from the association grounds a person who is subject to such an exclusion order of the commission or stewards and notify the commission of the ejection.

(2) An association may eject or exclude a person for any lawful reason. An association shall immediately notify the stewards and the commission in writing of any person ejected or excluded by the association and the reasons for the ejection or exclusion.

**W. Stakes and escrow requirements:**

(1) The association shall provide the commission with a copy of written race conditions for stakes races prior to distribution and a copy of the job description of the nomination secretary assigned to the stakes races program. ~~[The job description shall be acknowledged and signed by the nomination secretary and filed with the commission.]~~

(2) The original race conditions nomination blank for stakes races shall be considered a binding contract between the association or sponsor and the nominator. ~~[The approved nomination blank must be signed by the nominator and filed with the association.]~~ The nomination blank must contain all conditions under which fees are due and payable; the race will be conducted, providing for trials or divisions, if any; supplemental purses are added; monies will be retained by the association for advertisement, administration and commissions; terms or conditions which refunds, if any, will be made; and all other conditions pertaining thereto.

(3) Unless otherwise approved by the commission, prior to the closing of nominations, the association shall file with the commission a copy of escrow provisions made by the association or sponsor with the horsemen's bookkeeper or other person(s)

authorized to receive payments on behalf of the nominators utilizing a federally insured financial institution to maintain the escrow account for all payments made to the stakes race. Any added or supplemental purse monies advertised or otherwise stated in the written race conditions shall be deposited in the escrow account no later than the deadline date for the first eligibility payment for that stakes race, unless otherwise approved by the commission.

(4) If the deadline for a nomination payment falls on a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

(5) Within 30 days after each eligibility or payment date, and the date horses pass the entry box, the association shall provide a copy of the escrow report to the commission. The escrow report shall include the financial institution representative; the names and nominators; the total number of entries; the names of horses remaining eligible; an itemization of the amount of payments and added money received including totals; the amount of interest accrued to date; the name(s) of the person(s) currently authorized to make withdrawals; the amount and date of each withdrawal, if any; each deduction from monies received (e.g. uncollected checks, advertising, administrative and commissions costs); and the stated reason for each withdrawal or deduction. Notice of not less than two persons, whose signatures are required for a withdrawal, shall be filed with the commission.

(6) In all cases the association shall be responsible for the payment of purse monies for any stakes race conducted at its licensed facility.

**X. Emergency track warning system:** All tracks, including training tracks, under the jurisdiction of the commission shall install an emergency track warning system approved by the commission with the controls located in the stewards' and clockers' stands on all

racing and training tracks.  
[15.2.2.8 NMAC - Rp, 15 NMAC 2.2.8, 3/15/2001; A, 8/30/2001; A, 11/14/2002; A, 8/30/2007; A, 1/1/2013; A, 6/1/2016; A, 12/16/2016; A, 9/26/2018; A, 4/20/2021; A, 5/24/2022; A, 4/9/2024]

## RACING COMMISSION

**This is an amendment to 15.2.3 NMAC, Section 8, effective 4/9/2024.**

### 15.2.3.8 FLAT RACING OFFICIALS GENERAL PROVISIONS:

**A. Racing Officials:**  
Officials at a race meeting include the following: assistant racing secretary; assistant starters; chief of security; director of racing, or similar position; claims clerk; clerk of scales; clocker; digital or lip tattoo technician; general manager; handicapper; horse identifier; horsemen's bookkeeper; state investigators; special agents of the commission; jockey room custodian; official veterinarian; outrider; paddock judge; [~~pari-mutuel~~] pari-mutuel manager; patrol judge, absent video replay equipment; placing judge, if duty not performed by stewards; racing secretary; racing veterinarian; stable superintendent; starter; stewards; timer; track superintendent; any other person designated by the commission.

**(1) Eligibility:**  
To qualify as a racing official, the applicant shall: be of good character and reputation; demonstrate experience in flat racing; be familiar with the duties of the position and with the commission's rules of flat racing and show an ability to fulfill the requirements of the position. Stewards must be accredited by the racing officials accreditation program and be current with continuing education requirements.

**(2) Approval and licensing:** The commission, in its sole discretion, may determine the eligibility of a racing official and, in its sole discretion, may approve

or disapprove any such official for licensing. An association shall submit to the commission its request for approval of racing officials 60 days prior to the first day of the race meet.

**(3) Prohibited practices:** While serving in an official capacity, racing officials and their assistants shall not: participate in the sale or purchase, or ownership of any horse racing at the meeting; sell or solicit horse insurance on any horse racing at the meeting; be licensed in any other capacity without permission of the commission, or in case of an emergency, the permission of the stewards; wager on the outcome of any race under the jurisdiction of the commission; consume or be under the influence of alcohol or any prohibited substances while performing official duties.

**(4) Report of violations:** Racing officials and their assistants shall report immediately to the stewards every observed violation of these rules and of the laws of this state governing racing.

**(5) Complaints against officials:** Complaints against any steward shall be made in writing to the commission and signed by the complainant.

**(a)** Any complaint against a racing official other than a steward shall be made to the stewards in writing and signed by the complainant. All such complaints shall be reported to the commission by the stewards, together with a report of the action taken or the recommendation of the stewards.

**(b)** A racing official may be held responsible by the stewards or the commission for their actions, and the actions of their assistants and employees.

**(6) Appointment:**  
**(a)** A person shall not be appointed to more than one racing official position at a meeting unless specifically approved by the commission.

**(b)** The commission shall appoint or approve the stewards at each race meeting.

(7)

**Appointment of substitute**

**officials:** Where an emergency or prolonged vacancy exists among ~~rac[ing] offic[ia]ls (except for stewards)~~ the association's employed racing officials, the stewards or the association, with the stewards' approval, shall make reasonable efforts to fill the vacancy. ~~[immediately]~~ Such appointment shall be reported to the commission and shall be effective until the vacancy is filled in accordance with these rules.

(8)

**Appointment of substitute steward:**

Should any steward be absent ~~[at race time, and no approved alternate steward be available, the remaining stewards]~~ due to an emergency or prolonged vacancy the executive director or the presiding steward may [shall] appoint a substitute ~~[for the absent]~~ steward. If a substitute steward is appointed, the commission and the association shall be notified by the stewards. The ~~[following]~~ director or any racing commissioner are prohibited from serving as a substitute steward ~~[director, deputy director, or racing commissioner]~~.

**B. Stewards:**(1) **General**

**authority:** The stewards for each meeting shall be responsible to the commission for the conduct of the race meeting in accordance with the laws of this state and these rules.

(a)

The stewards shall enforce these rules and the racing laws of this state.

(b)

The stewards' authority includes supervision of all racing officials, track management, licensed personnel, other persons responsible for the conduct of racing, and patrons, as necessary to ~~[insure]~~ ensure compliance with the act and these rules.

(c)

The stewards shall have authority to resolve conflicts or disputes related to racing and to discipline violators in accordance with the provisions of these rules.

(d)

The stewards have the authority to

interpret the rules and to decide all questions of racing not specifically covered by the rules. Whenever the stewards find any person culpable for any act or omission in violation of these regulations or any violation of the Horse Racing Act, the person shall be subject to disciplinary action, which could include a fine, suspension, or revocation/denial of license or any combination of these penalties.

(e)

The stewards shall have the authority to amend, revoke, rescind or modify any ruling that they issued in error in accordance with the laws of this state and these rules.

(2) **Period**

**of authority:** The stewards' period of authority shall commence up to ten days prior to the beginning of each meeting and shall terminate with the completion of their business pertaining to the meeting. ~~[Following the completion of the stewards' business, the agency director shall carry out the duties of the stewards as described in this chapter.]~~

(3)

**Disciplinary action:** The stewards shall take notice of alleged misconduct or rule violations and initiate investigations into the matters.

(a)

The stewards shall have authority to charge any licensee for a violation of these rules, to conduct hearings and to impose disciplinary action in accordance with these rules.

(b)

The stewards may compel the attendance of witnesses and the submission of documents or potential evidence related to any investigation or hearing.

(c)

The stewards may at any time inspect license documents, registration papers, and other documents related to racing.

(d)

The stewards have the power to administer oaths and examine witnesses.

(e)

The stewards may impose any of the following penalties on a

licensee for a violation of the act or these rules: issue a reprimand; assess a fine; require forfeiture or redistribution of purse or award, when specified by applicable rules and at their discretion; place a licensee on probation; suspend a license or racing privileges; revoke a license; exclude from grounds under the jurisdiction of the commission.

(f)

The stewards may order that a person be ineligible for licensing; or they may deny a license to an applicant on grounds set forth in the act or these rules.

(g)

The stewards shall submit a written report to the commission of every inquiry and hearing.

(h)

A stewards' ruling shall not prevent the commission from imposing a more severe penalty.

(i)

The stewards may refer any matter to the commission and may include recommendations for disposition. The absence of a steward's referral shall not preclude commission action in any matter.

(j)

Purses, prizes, awards, and trophies shall be redistributed if the stewards or commission order a change in the official order of finish.

(k)

All fines imposed by the stewards shall be paid to the commission within 30 days after the ruling is issued, unless otherwise ordered.

(4) **Protests,**

**objections, and complaints:** The stewards shall investigate promptly and render a decision in every protest, objection and complaint made to them. They shall maintain a record of all protests, objections and complaints. The stewards shall file daily with the commission a copy of each protest, objection or complaint and any related ruling.

(5) **Stewards'**

**presence:** Three stewards shall be present in the stewards' stand either physically or through any other electronic means during the running of each race subject to the discretion and approval of the executive director.

**(6) Order of finish for pari-mutuel wagering:**

**(a)**  
The stewards shall determine the official order of finish for each race in accordance with 15.2.5 NMAC.

**(b)**  
The decision of the stewards as to the official order of finish, including the disqualification of a horse or horses as a result of any event occurring during the running of the race, shall be final for purposes of distribution of the pari-mutuel wagering pool.

**(7) Cancel wagering:** The stewards have the authority to cancel wagering on an individual betting interest or on an entire race and also have the authority to cancel a pari-mutuel pool for a race or races, if such action is necessary to protect the integrity of pari-mutuel wagering.

**(8) Records and reports:**

**(a)**  
The stewards shall prepare a daily report, on a form approved by the commission, detailing their actions and observations made during each day's race program. The report shall contain the name of the racetrack, the date, the weather and track conditions, claims, inquiries, and objections and any unusual circumstances or conditions. The report shall be signed by each steward and be filed with the commission not later than 24 hours after the end of each race day.

**(b)**  
The stewards shall maintain a detailed log of the stewards' official activities. The log shall describe all questions, disputes, protests, complaints, or objections brought to the attention of the stewards and all interviews, investigations and rulings made by the stewards. The log shall be available at all times for inspection by the commission or its designee.

**(c)**  
Not later than seven days after the last day of a race meeting, the stewards shall submit to the commission a written report regarding the race meeting. The report shall contain: the stewards' observations and comments regarding the conduct

of the race meeting and the overall conditions of the association grounds during the race meeting; any recommendations for improvement by the association or action by the commission.

**(9) Stewards' list:**

**(a)**  
The stewards shall maintain a stewards' list of the horses which are ineligible to be entered in a race because of poor or inconsistent performance behavior on the racetrack that endangers the health or safety of other participants in racing or for positive tests pursuant to Subsection C of 15.2.6.9 NMAC.

**(b)**  
The stewards may place a horse on the stewards' list when there exists a question as to the exact identification or ownership of said horse.

**(c)**  
A horse which has been placed on the stewards' list because of inconsistent performance or behavior, may be removed from the stewards' list when, in the opinion of the stewards, the horse can satisfactorily perform competitively in a race without endangering the health or safety of other participants in racing.

**(d)**  
A horse which has been placed on the stewards' list because of questions as to the exact identification or ownership of said horse, may be removed from the stewards' list when, in the opinion of the stewards, proof of exact identification or ownership has been established.

**(e)**  
A horse that has been placed on the steward's list for a positive test pursuant to Subsection C of 15.2.6.9 NMAC may only be removed if the criteria set forth in that subsection are met or in the event of a split sample result which does not confirm the official laboratory's original finding of a positive test.

**C. Racing secretary:**  
**(1) General authority:** The racing secretary shall be responsible for the programming of races during the race meeting, compiling and publishing condition

books, assigning weights for handicap races, and shall receive all entries, subscriptions, and declarations [~~and seratches~~].

**(2) Foal, health and other eligibility certificates:**

**(a)**  
The racing secretary or their designee shall be responsible for receiving, inspecting and safeguarding the digital or paper foal and health certificates and other documents of eligibility for all horses competing at the track or stabled on the grounds.

**(b)**  
The racing secretary shall ensure that the foal certificates for all thoroughbred horses entered to race that were foaled in 2018, or thereafter, have a digital tattoo. This digital tattoo shall indicate that the thoroughbred racing protective bureau has confirmed the identity of the horse and uploaded updated digital photographs to the breed registry database.

**(3) Allocation of stalls:**

**(a)**  
The racing secretary shall assign stall applicants such stabling as is deemed proper and maintain a record of arrivals and departures of all horses stabled on association grounds.

**(b)**  
[~~Stall approvals shall be determined by: each track's screening rule as approved by the New Mexico racing commission; consideration given to stables with a balanced application; and, New Mexico-breds on each application shall have preference over horses of comparable quality.~~] Allocation of stalls shall be determined by each association's screening process. Preference shall be given to stables that are balanced and consist of New Mexico bred.

**(4) Conditions:**

**(a)**  
The racing secretary shall establish the conditions and eligibility for entering races and cause them to be published to owners, trainers and the commission and be posted in the racing secretary's office.



**(b)**

Any conditions that are based on a participating horse's use or non-use of a drug substance or medication, or the presence or lack of presence of a drug substance or medication in a biological test sample taken from a participating horse, shall be approved by the commission before entries are taken for the race. If such conditions are based on the results of a biological test sample other than an official test sample collected by the commission, a description of the testing methods and procedures the racing association will use to collect and analyze the biological test samples shall be submitted to the commission for approval. For purposes of this section, "biological test sample" refers to any biological sample, including, but not limited to, blood, urine, hair, tissue, or saliva that is taken from a horse.

**(c)**

For the purpose of establishing conditions, winnings shall be considered to include all monies won up to the time of the start of a race.

**(d)**

Winnings during the year shall be calculated by the racing secretary from the preceding January 1.

**(e)**

A minimum of three races restricted to registered New Mexico bred horses shall be offered daily in the condition book excluding trials.

**(f)**

The racing secretary shall not offer any races or accept entries for two year olds in New Mexico prior to March 1.

**(5) Listing**

**of horses:** The racing secretary shall: examine all entry blanks and declarations to verify information as set forth therein; select the horses to start and the also eligible horses from the declarations in accordance with these rules.

**(6) Posting**

**of entries:** Upon completion of the draw each day, the racing secretary shall post a list of entries in a conspicuous location in their office and make the list available to the media. If the racing secretary

declares a race off, the names of entrants in that race shall be posted on the official bulletin board that day, identifying the race by number as it appears in the condition book.

**(7) Daily**

**program:** The racing secretary shall publish the official daily program, ensuring the accuracy therein of the following information:

**(a)**

sequence of races to be run and post time for the first race;

**(b)**

purse, conditions and distance for each race, and current track record for such distance;

**(c)**

the name of the licensed owners of each horse, indicated as leased, if applicable, and description of racing colors to be carried;

**(d)**

the name of the trainer and the name of the jockey named for each horse together with the weight to be carried;

**(e)**

the post position and saddle cloth number or designation for each horse if there is a variance with the saddle cloth designation;

**(f)**

identification of each horse by name, color, sex, age, sire and dam;

**(g)**

a notice shall be included in the daily program stating that all jockeys may carry approximately three pounds more than the published and announced weights to account for inclement weather clothing and equipment when weighing in; and

**(h)**

such other information as may be requested by the association or the commission.

**(8)****Nominations and declarations:**

The racing secretary shall examine nominations and declarations and early closing events, late closing events and stakes events to verify the eligibility of all declarations and nominations and compile lists thereof for publication.

**(9) Stakes**

**and entrance money records:** The racing secretary shall be caretaker of

the permanent records of all stakes and shall verify that all entrance monies due are paid prior to entry for races conducted at the meeting.

**D. Horsemen's****bookkeeper:****(1) General**

**authority:** The horsemen's bookkeeper shall maintain the records and accounts and perform the duties described herein and maintain such other records and accounts and perform such other duties as the association and commission may prescribe.

**(2) Records:****(a)**

The records shall include the name, mailing address, social security number or federal tax identification number, and the state or country of residence of each horse owner, trainer or jockey participating at the race meeting who has funds due or on deposit in the horsemen's account.

**(b)**

The records shall include a file of all required statements of partnerships, syndicates, corporations, assignments of interest, lease agreements and registrations of authorized agents.

**(c)**

All records of the horsemen's bookkeeper shall be kept separate and apart from the records of the association.

**(d)**

All records of the horsemen's bookkeeper including records of accounts and monies and funds kept on deposit are subject to inspection by the commission at any time.

**(e)**

The association licensee is subject to disciplinary action by the commission for any violations of or non-compliance with the provisions of this rule.

**(3) Monies****and funds on account:****(a)**

All monies and funds on account with the horsemen's bookkeeper shall be maintained: separate and apart from monies and funds of the association; in a trust account designated as "horsemen's trust account"; in an account insured by the federal deposit



and insurance corporation or the federal savings and loan insurance corporation.

(b)

The horsemen’s bookkeeper shall be bonded in accordance with commission stipulations.

(c)

The amount of purse money earned is credited in the currency of the jurisdiction in which the race was run. There shall be no appeal for any exchange rate loss at the time of transfer of funds from another jurisdiction.

(4) **Payment**

**of purses:**

(a)

Upon approval of the commission the horsemen’s bookkeeper shall receive, maintain and disburse only the following from the purse accounts: the purses earned for each race; entry, nomination, supplemental and starter fees in stakes races; jockey fees; lasix fees; win picture fees; and purchase money in claiming races, along with all applicable taxes that properly come into their possession in accordance with the provision of commission rules.

(b)

The fact that purse money has been distributed prior to the issuance of a laboratory report shall not be deemed a finding that no chemical substance has been administered, in violation of these rules, to the horse earning such purse money.

(c)

The horsemen’s bookkeeper shall disburse only the purse earned for each race, entry, nomination, supplemental and starter fees in stakes races, jockey fees, lasix fees, win picture fees and purchase money in claiming races, along with all applicable taxes, upon request, within 48 hours of the completion of the race with respect to all horses not tested and when no timely appeal has been filed, and where a horse has been tested within 48 hours of receipt of notification that all tests with respect to such races have cleared the drug testing laboratory(ies) as reported by the stewards or the commission, except that minimum jockey mount

fees may be disbursed prior to notification that the tests have cleared the testing laboratory(ies).

(d)

Absent a prior request, the horsemen’s bookkeeper shall disburse monies to the persons entitled to receive same within 15 days after the last race day of the race meeting, including purses for official races, provided that all tests with respect to such races have cleared the drug testing laboratory(ies) as reported by the stewards, and provided further that no protest or appeal has been filed with the stewards or the commission.

(e)

In the event a protest or appeal has been filed with the stewards or the commission, the horsemen’s bookkeeper shall disburse the purse within 48 hours of receipt of dismissal or a final non-appealable order disposing of such protest or appeal.

**E. Paddock judge:**

(1) **General**

**authority:** The paddock judge shall:

(a)

supervise the assembly of horses in the paddock before the scheduled post time for each race;

(b)

maintain a written record of all equipment;

(c)

[insure] ensure all horses running are properly equipped with a nylon rein or a safety rein (a safety rein is a rein with a nylon cord stitched into the traditional leather rein during the manufacturing process and the safety cord is attached to the bit with a metal clasp)

(d)

inspect all equipment of each saddled and report any change thereof to the stewards;

(e)

prohibit any change of equipment without the approval of the stewards;

(f)

ensure that the saddling of all horses is orderly, open to public view, free from public interference, and that horses are mounted at the same time, and leave the paddock for the post in proper sequence;

(g)

supervise paddock schooling of all horses approved for such by the stewards; and

(h)

report to the stewards any observed cruelty to a horse; ensure that only properly authorized persons are permitted in the paddock; report to the stewards any unusual or illegal activities.

(2) **Paddock**

**judge’s list:**

(a)

The paddock judge shall maintain a list of horses which shall not be entered in a race because of poor or inconsistent behavior in the paddock that endangers the health or safety of other participants in racing.

(b) At

the end of each race day, the paddock judge shall provide a copy of the list to the stewards.

(c)

To be removed from the paddock judge’s list, a horse must be schooled in the paddock and demonstrate to the satisfaction of the paddock judge and the stewards that the horse is capable of performing safely in the paddock.

**F. Horse identifier:**

(1) **General**

**authority:** The horse identifier shall: when required, ensure the safekeeping of digital or paper registration certificates and racing permits for horses stabled or racing on association grounds; inspect documents of ownership, eligibility, registration or breeding necessary to ensure the proper identification of each horse scheduled to compete at a race meeting; examine every starter in the paddock for sex, color, markings lip tattoo or microchip (ISO11784), freeze brand or other approved method of positive identification, for comparison with its registration certificate to verify the horse’s identity; supervise the tattooing, micro chipping, freeze branding or other approved method of positive identification, for identification of any horse located on association grounds. Positive identification may include verification that the breed registration certificate has been submitted for

correction or verification that the tattooing process has been initiated.

**(2) Report**

**violations:** The horse identifier shall report to the stewards any horse not properly identified or whose registration certificate is not in conformity with these rules.

**G. Clerk of scales:**

The clerk of scales shall: verify the presence of all jockeys in the jockeys' room at the appointed time; verify that all such jockeys have a current jockey's license issued by the commission; verify the correct weight of each jockey at the time of weighing out and weighing in and report any discrepancies to the stewards immediately; oversee the security of the jockeys' room including the conduct of the jockeys and their attendants; promptly report to the stewards any infraction of the rules with respect to weight, weighing, riding equipment or conduct; record all required data on the scale sheet and submit that data to the horsemen's bookkeeper at the end of each race day; maintain the record of applicable winning races on all apprentice certificates at the meeting; release apprentice jockey certificates, upon the jockey's departure or upon the conclusion of the race meet; assume the duties of the jockey room custodian in the absence of such employee.

**H. Jockey room**

**custodian:** The jockey room custodian shall: supervise the conduct of the jockeys and their attendants while they are in the jockey room; keep the jockey room clean and safe for all jockeys; ensure all jockeys are in the correct colors before leaving the jockey room to prepare for mounting their horses; keep a daily film list as displayed in plain view for all jockeys; keep a daily program displayed in plain view for the jockeys so they may have ready access to mounts that may become available; allow only authorized or licensed persons access to the jockey room; for the purposes of this subsection, authorized persons are jockeys, jockey attendants, jockey room employees, starting

gate personnel, track physician, stewards, commissioners and their duly authorized representatives, and such other persons who in the determination of the stewards have a legitimate purpose or need related to the conduct of racing that requires that they have access to the jockey room; report to the stewards any unusual occurrences in the jockey room; and, ensure all jockey's whips are in compliance with Paragraph (1) of Subsection A of 15.2.5.13 NMAC.

**I. Starter:**

**(1) General**

**authority:** The starter shall: have complete jurisdiction over the starting gate, the starting of horses and the authority to give orders not in conflict with the rules as may be required to ensure all participants an equal opportunity to a fair start; appoint and supervise assistant starters who have demonstrated they are adequately trained to safely handle horses in the starting gate; in emergency situations, the starter may appoint qualified individuals to act as substitute assistant starters; assign the starting gate stall positions to assistant starters by lot and notify the assistant starters prior to post time for the first race of their respective stall positions which will remain that assistant starter's position throughout the day; there shall be no changes except with permission of the stewards; assess the ability of each person applying for a jockey's license in breaking from the starting gate and working a horse in the company of other horses, and shall make said assessment known to the stewards; load horses into the gate in any order deemed necessary to ensure a safe and fair start.

**(2) Assistant**

**starters:** With respect to an official race, the assistant starters shall not: handle or take charge of any horse in the starting gate without the expressed permission of the starter; impede the start of a race; apply any device, without the approval of the stewards to assist in loading a horse into the starting gate; slap, boot or otherwise dispatch a horse from the starting gate; strike or use abusive language to a jockey; accept or solicit any gratuity

or payment other than their regular salary, directly or indirectly, for services in starting a race.

**(3) Starter's**

**list:** No horse shall be permitted to start in a race unless approval is given by the starter. The starter shall maintain a starter's list of all horses which are ineligible to be entered in any race because of poor or inconsistent behavior or performance in the starting gate. Such horse shall be refused entry until it has demonstrated to the starter that it has been satisfactorily schooled in the gate and can be removed from the starter's list. Schooling shall be under the supervision of the starter.

**(4) Report**

**violations:** The starter and assistant starter shall report all unauthorized activities to the stewards.

**J. Timer/clock:**

**(1) General**

**authority (timer):**

**(a)**

The timer shall accurately record the time elapsed between the start and finish of each race.

**(b)**

The time shall be recorded from the instant that the first horse leaves the point from which the distance is measured until the first horse reaches the finish line.

**(c) At**

the end of a race, the timer shall post the official running time on the infield totalisator board on instruction by the stewards.

**(d)**

At a racetrack equipped with an appropriate infield totalisator board, the timer shall post the quarter times (splits) for thoroughbred races in fractions as a race is being run. For quarter horse races, the timer shall post the official times in hundredths of a second.

**(e)**

For back-up purposes, the timer shall also use a stopwatch to time all races. In time trials, the timer shall ensure that three stopwatches are used by the stewards or their designees.

**(f)**

The timer shall maintain a written record of fractional and finish times

of each race and have same available for inspection by the stewards or the commission on request.

**(2) General authority (clocker):**

**(a)** The clocker shall be present during training hours at each track on association grounds, which is open for training, to identify each horse working out and to accurately record the distances and times of each horse's workout.

**(b)** Each day, the clocker shall prepare a list of workouts that describes the name of each horse which worked along with the distance and time of each horse's workout.

**(c)** At the conclusion of training hours, the clocker shall deliver a copy of the list of workouts to the stewards and the racing secretary.

**K. Patrol judge:**

The patrol judge, when utilized, is responsible for observing the race and reporting information concerning the race to the stewards. If the track's video replay system is deemed adequate, use of patrol judges is optional.

**L. Gate judge:** The commission may require each track to employ a gate judge whose duties shall include being present at the starting gate just prior to the running of each race to observe and report any violations of the rules to the stewards, and to otherwise assist the stewards as they may so order.

**M. Placing judge:**

**(1) General authority:** The placing judges shall determine the order of finish in a race as the horses pass the finish line, and with the approval of the stewards, may display the results of the totalisator board.

**(2) Photo finish:**

**(a)** In the event the placing judges or the stewards request a photo of the finish, the photo finish shall be posted on the totalisator board.

**(b)** Following their review of the photo

finish film strip, the placing judges shall, with the approval of the stewards, determine the exact order of finish for all horses participating in the race, and shall immediately post the numbers of the first four finishers on the totalisator board.

**(c)** In the event a photo was requested, the placing judges shall cause a photographic print of said finish to be produced. The finish photograph shall, when needed, be used by the placing judges as an aid in determining the correct order of finish.

**(d)** Upon determination of the correct order of finish of a race in which the placing judges have utilized a photographic print to determine the first four finishers, the stewards shall cause prints of said photograph to be displayed publicly in the grandstand and clubhouse areas of the racetrack.

**(3) Dead heats:**

**(a)** In the event the placing judges determine that two or more horses finished the race simultaneously and cannot be separated as to their order of finish, a dead heat shall, with the approval of the stewards, be declared.

**(b)** In the event one or more of the first four finishers of a race are involved in a dead heat, the placing judges shall post the dead heat sign on the totalisator board and cause the numbers of the horse or horses involved to blink on the totalisator board.

**N. Official veterinarian:** The official veterinarian shall:

**(1)** be employed by the commission;  
**(2)** be a graduate veterinarian and be licensed to practice in the state;

**(3)** recommend to the stewards any horse deemed unsafe to be raced, or a horse that it would be inhumane to allow to race;

**(4)** supervise the taking of all specimens for testing

according to procedures approved by the commission;

**(5)** provide proper safeguards in the handling of all laboratory specimens to prevent tampering, confusion or contamination;

**(6)** have the authority and jurisdiction to supervise the practicing licensed veterinarians within the enclosure;

**(7)** report to the commission the names of all horses humanely destroyed or which otherwise expire at the meeting and the reasons therefore;

**(8)** refuse employment or payment, directly or indirectly, from any horse owner or trainer of a horse racing or intending to race in this jurisdiction while employed as the official veterinarian for the commission;

**(9)** place horses on the bleeder list and remove horses from the bleeder list;

**(10)** place horses on the veterinarian's list that have been treated for a therapeutic purpose for any medication pursuant to Paragraph (9) of Subsection C of 15.2.6.9 NMAC and remove horses from the veterinarian's list when the criteria for removal pursuant to that subsection have been met; and

**(11)** be authorized to humanely destroy any horse deemed to be so seriously injured that it is in the best interests of racing the horse to so act.

**O. Racing veterinarian:**

**(1) [General authority:]** ~~At the discretion of the commission, the racing veterinarian may be an employee of the commission. At the discretion of the commission, the duties of the racing veterinarian may be assumed by the official veterinarian.] The racing veterinarian shall be employed by the association.~~

**(2)** The association may employ an additional racing veterinarian in order to further ensure the safety of racing.

**(3)** The racing veterinarian shall:

(a) be directly responsible to the official veterinarian;

(b) be a graduate veterinarian and be licensed to practice in the state;

(c) be available to the racing secretary and the stewards prior to scratch time each racing day, at a time designated by the stewards, to inspect any horses and report on their condition as may be requested by the stewards;

(d) be present in the paddock during saddling, on the racetrack during the post parade and at the starting gate until the horses are dispatched from the gate for the race;

(e) inspect any horse when there is a question as to the physical condition of such horse;

(f) recommend scratching a horse to the stewards if, in the opinion of the racing veterinarian, the horse is physically incapable of exerting its best effort to win;

(g) inspect any horse which appears in physical distress during the race or at the finish of the race; and shall report such horse together with their opinion as to the cause of the distress to the stewards and to the official veterinarian;

(h) refuse employment or payment, directly or indirectly, from any horse owner or trainer of a horse racing or intending to race in this jurisdiction while employed as the official veterinarian for the commission;

(i) refrain from directly treating or prescribing for any horse scheduled to participate during their term of appointment at any recognized meeting except in cases of emergency, accident or injury;

(j) be authorized to humanely destroy any horse deemed to be so seriously injured that it is in the best interests of racing to so act;

(k) conduct soundness inspections on

horses participating in races at the meeting; and

(l) with approval of the official veterinarian, place horses on the bleeders list.

(4) The official veterinarian or racing veterinarian shall maintain the veterinarian's list of all horses which are determined to be unfit to compete in a race due to illness, unsoundness, injury, infirmity, voluntary administration of a medication invoking a mandatory stand down time, administration of shock-wave therapy or any other assessment or determination by the official or racing veterinarian that the horse is unfit to race.

(a) Horses so listed are ineligible to enter in a race in any jurisdiction until released by the official veterinarian or racing veterinarian except when there is an administrative issue in releasing the horse from a veterinarian's list of another racing jurisdiction.

(b) A horse placed on the veterinarian's list due to illness, injury or infirmity unrelated to the racing soundness of the horse may be released from the list when a minimum of seven calendar days has passed from the time the horse was placed on the list.

(c) A horse placed on the veterinarian's list for unsoundness or lameness shall be released from the list only after the following has been met:

(i) A minimum of seven calendar days has elapsed;

(ii) the horse demonstrates to the satisfaction of the official veterinarian or racing veterinarian that the horse is serviceably sound and in fit physical condition to exert its best effort in a race;

(iii) the horse completes a published work after the seven calendar days has elapsed of four furlongs at 0:52 for thoroughbreds or better; or 220 yards at 13.3 seconds for quarter horses or better while being observed by the official veterinarian or racing veterinarian, and;

(iv) the horse submits to a post work official sample collection for laboratory confirmation for compliance with 15.2.6.9 NMAC at the expense of the current owner. Samples shall be subjected to the same testing as conducted for post race official samples. The presence of a prohibited substance in the post work sample shall result in the horse remaining on the veterinarian's list.

(d) A horse placed on the veterinarian's list for voluntary administration of a medication invoking a mandatory stand down time shall be released from the list subject to the provisions and restrictions set forth in Subsection C of 15.2.6.9 NMAC.

(e) A horse placed on the veterinarian's list for the administration of shock-wave therapy shall be released from the list subject to the provisions and restrictions set forth in Subsection C of 15.2.6.8 NMAC.

(5) The racing veterinarian shall be present at the office of the racing secretary or stewards prior to scratch time each racing day at a time designated by the stewards, to inspect any horses and report on their condition as may be requested by the stewards.

(6) The restrictions of Paragraph (3) of Subsection O of 15.2.3.8 NMAC may be waived for a temporary appointment to replace an absent racing veterinarian or in the event of an emergency situation with prior approval from the director of the commission.

(7) **Veterinarian's list:**

(a) The racing veterinarian shall maintain a list of all horses which are determined to be unfit to compete in a race due to physical distress, unsoundness, infirmity or medical condition.

(b) A horse may be removed from the veterinarian's list when, in the opinion of the racing veterinarian, the horse has satisfactorily recovered the capability of performing in a race.



**P. Any other person designated by the commission:** The commission may create additional racing official positions, as needed. Persons selected for these positions shall be considered racing officials and shall be subject to the general eligibility requirements outlined in Subsection A of 15.2.3 NMAC. [15.2.3.8 NMAC - Rp, 15 NMAC 2.3.8, 4/13/2001; A, 11/15/2001; A, 8/30/2007; A, 6/15/2009; A, 6/30/2009; A, 12/1/2010; A, 5/1/2015; A/E, 6/28/2016; A, 9/15/2016; A, 12/16/2016; A, 7/1/2017; A, 9/26/2018; A, 5/1/2019; A, 12/19/2019; A, 12/28/2021; A, 5/24/2022; A, 4/9/2024]

**RACING COMMISSION**

**This is an amendment to 15.2.4 NMAC, Sections 6 and 8, effective 4/9/2024.**

**15.2.4.6 OBJECTIVE:** [The objective of Part 4 of Chapter 2 is to] To achieve the objective that all horse races be conducted fairly and honestly. [15.2.4.6 NMAC - Rp, 15 NMAC 2.4.6, 3/15/2001; A, 4/9/2024]

**15.2.4.8 CLAIMING RACES:**

**A. General Provisions:**

(1) A person entering a horse in a claiming race warrants that the title to said horse is free and clear of any existing claim or lien, either as security interest mortgage, bill of sale, or lien of any kind; unless before entering such horse, the written consent of the holder of the claim or lien has been filed with the stewards and the racing secretary and its entry approved by the stewards. A transfer of ownership arising from a recognized claiming race will terminate any existing prior lease for that horse.

(2) A filly or mare that has been bred is ineligible to enter into a claiming race unless a licensed veterinarian's certificate

dated at least 25 days after the last breeding of that mare is on file with the racing secretary's office stating that the mare or filly is not in foal. However, an in-foal filly or mare shall be eligible to enter into a claiming race if the following conditions are fulfilled:

(a) full disclosure of such fact is on file with the racing secretary and such information is posted in the racing secretary's office;

(b) the stallion service certificate has been deposited with the racing secretary's office (although all information obtained on such certificate shall remain confidential);

(c) all payments due for the service in question and for any live progeny resulting from that service are paid in full;

(d) the release of the stallion service certificate to the successful claimant at the time of claim is guaranteed.

(3) The stewards may ~~[set aside and order recession of]~~ void a claim for any horse from a claiming race run in this jurisdiction upon a showing that any party to the claim committed a prohibited action, as specified in Subsection E of 15.2.4 NMAC with respect to the making of the claim, or that the owner of the horse at the time of entry in the claiming race failed to comply with any requirement of ~~[these rules regarding claiming races]~~ this rule. Should the stewards order a ~~[recession of a]~~ claim void, they may also, in their discretion, make a further order for the costs of maintenance and care of the horse as they may deem appropriate.

(4) The successful claimant of a horse shall be notified of a medication violation. Once notified, the successful claimant has 72 hours in which to request the stewards to void the claim. If the claim is voided the stewards may also, in their discretion, make a further order for the costs of maintenance and care of the horse as they may deem appropriate. If the claim

is not voided, all applicable time requirements and procedures pursuant to Subsection C of 15.2.6.9 NMAC shall follow the horse.

(5) ~~[A claim shall be voided if a horse is a starter as determined by the New Mexico racing commission, and the horse:~~

~~(a) dies on the track; or~~

~~(b) suffers injury requiring euthanasia of the horse as determined by the official or racing veterinarian while the horse is on the track or at the test barn.]~~

Title to a horse which is claimed shall be vested in the successful claimant from the time the field has been dispatched from the starting gate and the horse becomes a starter.

(6) All claimed horses shall go to the test barn for observation by the official or racing veterinarian.

(7) The claim shall be voided, and ownership of the horse retained by the original owner if:

(a) the horse dies on the racetrack;

(b) the horse is euthanized before leaving the racetrack;

(c) the horse is vanned off the racetrack by discretion of the official or racing veterinarian.

(d) the official or racing veterinarian determines within 60 minutes of the race that the horse will be placed on the veterinarians' list as bled, physically distressed, medically compromised, unsound, or lame before the horse is released to the successful claimant.

(8) The claim shall not be voided, if prior to the race in which the horse is claimed, the claimant elects to claim the horse regardless of whether the official or racing veterinarian determines the horse will be placed on the veterinarians' list as bled or unsound or the horse tests positive for a prohibited substance.

**B. Claiming Option Entry:**



(1) At the time of entry into a claiming race, the owner may opt to declare a horse ineligible to be claimed provided:

(a) the horse has been laid off and has not started for a minimum of 120 days since its last race; and

(b) the horse is entered for a claiming price equal to or greater than the claiming price of the horse's last start; and

(c) the horse's last race as an official starter was one in which the horse was eligible to be claimed.

(2) Failure to declare the horse ineligible at the time of entry may not be remedied.

(3) Ineligibility shall apply only to the first start following each such layoff.

#### C. Claiming of Horses:

(1) Any horse entered in a claiming race that is not present in the paddock at least 10 minutes to post will be scratched.

(2) Any horse in a race for claiming may not wear into the paddock anything it will not race in except for a blanket, rain sheet or halter and lead shank for control.

(3) Any horse starting in a claiming race is subject to be claimed for its entered price by any: licensed owner; holder of a valid claim certificate; licensed authorized agent acting on behalf of an eligible claimant.

(4) Every horse claimed shall race for the account of the original owner, but title to the horse shall be transferred to the claimant from the time the horse ~~[enters the track to the post]~~ is determined by the stewards to be a starter in a race. The successful claimant shall become the owner of the horse. ~~[regardless of whether it is alive or dead, sound or unsound, or injured during the race or after it.]~~

#### D. Claim Certificate:

(1) An applicant for a claim certificate shall submit to the commission: an application for an owner's license

and the required fee; the name of a licensed trainer, or person eligible to be a licensed trainer, who will assume the care and responsibility for any horse claimed.

(2) The stewards shall issue a claim certificate upon satisfactory evidence that the applicant is eligible for an owner's license.

(3) The claim certificate shall expire 30 days after the date of issuance, or upon the claim of a horse, or upon issuance or denial of an owner's license, whichever comes first.

(4) A claim certificate may be renewed by the stewards during the same year.

#### E. Prohibitions:

(1) A person shall not claim a horse in which the person has a financial or beneficial interest as an owner or trainer.

(2) A person shall not cause another person to claim a horse for the purpose of obtaining or retaining an undisclosed financial or beneficial interest in the horse.

(3) A person shall not enter into an agreement for the purpose of preventing another person from obtaining a horse in a claiming race.

(4) A person shall not claim a horse, or enter into any agreement to have a horse claimed, on behalf of an ineligible or undisclosed person.

(5) A person shall not claim more than one horse in a race. No authorized agent shall submit more than one claim for the same horse in a race, even if the authorized agent represents several owners.

#### F. Procedure for Claiming:

(1) To make a valid claim for a horse, an eligible person shall:

(a) have on deposit with the horsemen's bookkeeper an amount equal to the amount of the claim, plus all transfer fees and applicable taxes; and for all quarter horse claims shall also have

on deposit in their horsemen's account all fees for a rush transfer, not to exceed \$100.00, prior to entering;

(b) accurately complete, without the use of nicknames, a written claim [including information that the claimant holds a current valid license] slip in a manner that is consistent with how the claimant is licensed with the commission on a form furnished by the association and approved by the commission;

(c) identify the horse to be claimed by the spelling of its name on the certificate of registration or as spelled on the official program, including the country of origin;

(d) place the completed claim form inside a sealed envelope furnished by the association and approved by the commission;

(e) have the time of day that the claim is entered recorded on the envelope;

(f) have the envelope deposited in the claim box no later than 10 minutes prior to post time of the race for which the claim is entered.

(2) After a claim has been deposited in the claim box, it is irrevocable and shall not be withdrawn from the claim box.

(3) Officials and employees of the association shall not provide any information as to the filing of claims until after the horses have entered the track to post.

(4) If more than one claim is filed on a horse, the successful claim shall be determined by lot conducted by the stewards or their representatives.

(5) Notwithstanding any designation of sex or age appearing in the racing program or in any racing publication, the claimant of a horse shall be solely responsible for the determination of the sex or age of any horse claimed.

#### G. Transfer of Claimed Horses:

(1) Upon successful claim, the stewards shall issue, upon forms approved by the

commission, an authorization of transfer of the horse from the original owner to the claimant. Copies of the transfer authorization shall be forwarded to and maintained by the stewards and the racing secretary. Upon notification by the stewards, the horsemen's bookkeeper shall immediately debit the claimant's account for the claiming price, applicable taxes and transfer fees.

(2) A person shall not refuse to deliver a properly claimed horse to the successful claimant.

(3) Transfer of possession of a claimed horse shall take place immediately after the race has been run unless otherwise directed by the stewards. If the horse is required to be taken to the test barn for post-race testing, the original trainer or their representative shall maintain physical custody of the claimed horse and shall observe the testing procedure and sign the test sample tag. The successful claimant or their representative shall also accompany the horse to the test barn.

(4) When a horse is claimed out of a claiming race, the horse's engagements are transferred, with the horse, to the claimant.

(5) Ownership interest in any horse claimed from a race shall not be resold or transferred for 30 days after such horse was claimed, except by claim from a subsequent race.

(6) A claimed horse shall not race elsewhere, except within state, or out of state stake races for a period of 30 days or the end of the meet, whichever occurs first.

(7) A claimed horse shall not remain in the same stable or under the control or management of its former owner. [15.2.4.8 NMAC - Rp, 15 NMAC 2.4.8, 3/15/2001; A, 10/31/2006; A, 6/15/2009; A, 6/30/2009; A, 1/1/2013; A, 6/1/2016; A/E, 6/28/2016; A, 12/16/2016; A, 5/1/2019; A, 4/20/2021; A, 4/9/2024]

**RACING COMMISSION**

**This is an amendment to 15.2.5 NMAC, Sections 8, 9, 12, 13 and 14, effective 4/9/2024.**

**15.2.5.8 ENTRIES AND NOMINATIONS:**

**A. Entering:** No horse shall be qualified to start unless it has been and continues to be entered.

**B. Procedure:**  
(1) Entries and nominations shall be made with the racing [secretary] office and shall not be considered until received by the racing secretary, who shall maintain a record of time of receipt of them for a period of one year.

(2) An entry shall be in the name of the horse's owner and made by the trainer or an assistant trainer. Any horse which is in a race or on the also-eligible list may not be sold or transferred until that obligation is completed, except with permission of the stewards.

(3) Numbered races printed in the condition book shall have preference over extra races. Should any race fail to draw seven separate wagering interests, it may be called off.

(4) An entry must be made either in person in writing on an entry blank provided by the association, or by telephone [electronically or facsimile machine] call to the racing secretary. The entry must be confirmed in writing should the stewards or the racing secretary so request.

(5) The person making an entry shall clearly designate the horse so entered.

(6) No alteration may be made in any entry after the closing of entries, but an error may be corrected with permission of the stewards.

(7) No horse may be entered in more than one race (with the exception of stakes races) to be run on the same day at the same track on which pari-mutuel wagering is conducted. If a horse is entered in

more than one stakes race to be run on the same day, at the time of draw, the trainer must declare which race the horse will run in.

(8) No horse may be entered to run at two different tracks on the same day on which pari-mutuel wagering is conducted.

(9) Any permitted medication must be declared on the original entry at each race meet. No further declaration will be required at that meet unless there is a change.

(10) Any approved change of equipment must be declared at time of entry. Any changes after that time must be approved by the stewards.

(11) An entry clerk or any other person taking an entry shall indicate on the entry form that they took the entry on a horse.

(12) An entry clerk or any other person taking an entry shall indicate on the entry form who they took the entry from by way of either the person's name, or last four digits of their social security numbers, or date of birth, or telephone number, or New Mexico racing commission license number.

(13) An entry clerk or any other person taking an entry shall not divulge any information regarding a race with the exception of the entered number of horses already entered.

(14) An entry clerk or any other person taking an entry shall not override any warning in the RTO Incompass system for a horse that is on the veterinarian's, stewards', starter's or paddock judge's lists, or has inadequate published workouts pursuant to Subsection A of 15.2.5.11 NMAC or is ineligible based on the horse's past performances.

**C. Nominations:**

(1) Any nominator to a stakes race may transfer or declare such nomination prior to closing.

(2) Joint nominations and entries may be made by any one of joint owners of a horse, and each such owner shall be jointly

and severally liable for all payments due.

(3) Death of a horse, or a mistake in its entry when such horse is eligible, does not release the nominator or transferee from liability for all stakes fees due. No fees paid in connection with a nomination to a stakes race that is run shall be refunded except as otherwise stated in the conditions of a stakes race.

(4) Death of a nominator to a stakes race shall not render void any subscription, entry or right of entry. All rights, privileges and obligations shall be attached to the legal heirs of the decedent or the successor owner of the horse.

(5) When a horse is sold privately or at public auction or claimed, stakes engagements shall be transferred automatically to its new owner; except when the horse is transferred to a person whose license is suspended or who is otherwise unqualified to race or enter the horse, then such nomination shall be void as of the date of such transfer.

(6) All stakes fees paid toward a stakes race shall be allocated as provided by the conditions for the race. If a stakes race is not run for any reason, all such nomination fees paid shall be refunded.

**D. Closings:**

(1) Entries for purse races and nominations to stakes races shall close at the time designated by the association in previously published conditions for such races. No entry, nomination or declaration shall be accepted after such closing time; except in the event of an emergency or if an overnight race fails to fill, the racing secretary may, with the approval of a steward, extend such closing time.

(2) Except as otherwise provided in the conditions for a stakes race, the deadline for accepting nominations and declarations is midnight of the day of closing, provided they are received in time for compliance with every other condition of the race.

**E. Number of starters in a race:** The maximum number of starters in any race shall be limited to the number of starting positions afforded by the association starting gate and its extensions. The number of starters may be further limited by the number of horses, which, in the opinion of the stewards, can be afforded a safe, fair and equal start.

**F. Split or divided races:**

(1) In the event a race is cancelled or declared off, the association may split any overnight race for which postpositions have not been drawn.

(2) Where an overnight race is split, forming two or more separate races, the racing secretary shall give notice of not less than 15 minutes before such races are closed to grant time for making additional entries to such split races.

**G. Post positions:**

Post positions for all races shall be determined by lot and shall be publicly drawn in the presence of a steward or steward designee.

**H. Also-eligible list:**

(1) If the number of entries for a race exceeds the number of horses permitted to start, the racing secretary may create and post an also-eligible list.

(2) If any horse is scratched from a race for which an also-eligible list was created, a replacement horse shall be drawn from the also-eligible list into the race in order of preference. If none is preferred, a horse shall be drawn into the race from the also-eligible list by public lot. Horses which gain a position in a race from the also-eligible list take the outside post position in the order drawn from the also-eligible list.

(3) Any owner or trainer of a horse on the also-eligible list who does not wish to start the horse in such race shall so notify the racing secretary prior to scratch time for the race, thereby forfeiting any preference to which the horse may have been entitled in that race.

(4) If a scratch card is deposited for a horse listed

as also-eligible, and if that horse is offered an opportunity to run by being drawn at scratch time, the horse shall lose its position on the preferred list.

**I. Preferred list:**

The racing secretary shall maintain a list of each horse's registration date, entry date, and racing date. Preference will be given to the best date. A registration date can only be established when the foal certificate is on file with a racing secretary. An entry date is any time a horse passes the entry box, whether or not the race is in the condition book, or an extra, is used or eliminated. Entry dates have preference over race or registration dates of the same date. Any horse, which is scratched, will lose its date and must re-establish a date. All horses placed on the steward's, veterinarian's, starter's or identifier's list will be posted on the bulletin board, they will not lose their date, but they must meet the necessary requirements to be removed from a list.

[15.2.5.8 NMAC - Rp, 15 NMAC 2.5.8, 3/15/2001; A, 5/15/2001; A, 11/15/2001; A, 12/14/2001; A, 3/31/2003; A, 5/30/2003; A, 6/13/2003; A, 9/29/2006; A, 10/31/2006; A, 1/1/2013; A, 6/1/2016; A, 12/16/2016; A, 9/26/18; A, 4/9/2024]

**15.2.5.9 DECLARATIONS AND SCRATCHES:** Declarations and scratches are irrevocable except with permission of the stewards.

**A. Declarations:**

(1) A "declaration" is the act of withdrawing an entered horse from a race prior to the closing of entries.

(2) The declaration of a horse before closing shall be made by the owner, trainer or their licensed designee in the form and manner prescribed in these rules.

**B. Scratches:**

(1) A "scratch" is the act of withdrawing an entered horse from a contest after the closing of entries subject to approval of the stewards.

(2) The stewards have sole authority to

~~scratch a horse if any situation involves a rule violation or is recommended by a veterinarian or concerns of track condition.~~ The scratch of a horse after closing ~~[shall] of entries may be [made] submitted~~ by the owner, trainer or ~~[their licensed designee] designated assistant trainer, [with permission] subject to approval~~ from the stewards.

(3) A horse may be scratched from a stakes race for any reason at any time up until 45 minutes prior to post time for that race subject to approval from the stewards.

(4) No horse may be scratched from an overnight race without approval of the stewards.

(5) In overnight races, horses that are physically disabled or sick shall be permitted to be scratched first. Should horses representing more than eight betting interests in the daily double or exotic wagering races, or horses representing more than eight betting interests in any other overnight race, remain in after horses with physical excuses have been scratched, then owners or trainers may be permitted at scratch time to scratch horses without physical excuses down to such respective minimum numbers for such races. This privilege shall be determined by lot if an excessive number of owners or trainers wish to scratch their horses.

(6) Entry of any horse which has been scratched, or excused from starting by the stewards, because of a physical disability or sickness may not be accepted until the expiration of seven calendar days after such horse was scratched or excused and the horse has been removed from the veterinarian's list.

[15.2.5.9 NMAC - Rp, 15 NMAC 2.5.9, 3/15/2001; A, 10/31/2006; A, 3/14/2018; A, 4/9/2024]

**15.2.5.12 HORSES INELIGIBLE:**

A. A horse shall be ineligible to ~~[start] enter~~ in a race when:

~~[(1)] it is not stabled on the grounds of the~~

~~association or present by the time established by the commission;~~  
~~\_\_\_\_\_ (2) \_\_\_\_\_ its breed registration certificate is not on file with the racing secretary or horse identifier; unless the racing secretary has submitted the certificate to the appropriate breed registry for correction or in the case of thoroughbred horses foaled in 2018 or thereafter, the horse doesn't have a digital tattoo; the stewards may waive this requirement if the information contained on the registration certificate is otherwise available; and the horse is otherwise correctly identified to the stewards' satisfaction;~~  
~~\_\_\_\_\_ (3) \_\_\_\_\_ if a quarter horse or a thoroughbred foaled before 2018, is not fully identified and tattooed on the inside of the upper lip, freeze brand or identified by any other method approved by the breed registry and commission; however, there may be extenuating circumstances where a horse will be eligible to start in a race without the tattoo as referenced above, as long as the horse identifier has written verification that the tattooing process has been initiated; if a thoroughbred foaled in 2018 or thereafter, is not micro chipped with a unique microchip (ISO11784), freeze brand or identified by any other method approved by the breed registry and commission.~~

~~\_\_\_\_\_ (4) \_\_\_\_\_ it has been fraudulently entered or raced in any jurisdiction under a different name, with an altered registration certificate, altered lip tattoo, altered or manipulated microchip (ISO11784), or freeze brand;]~~

~~[(5)] (1) it is wholly or partially owned by a disqualified person or a horse is under the direct or indirect training or management of a disqualified person;~~

~~[(6)] (2) it is wholly or partially owned by the spouse of a disqualified person or a horse is under the direct or indirect management of the spouse of a disqualified person, in such cases, it being presumed that the disqualified person and spouse constitute a single financial entity with respect to the horse, which presumption may be rebutted;~~

~~[(7)] \_\_\_\_\_ the stakes or entrance money for the horse has not been paid, in accordance with the conditions of the race;]~~

~~[(8)] \_\_\_\_\_ the losing jockey mount fee is not on deposit with the horsemen's bookkeeper;]~~

~~[(9)] (3) its name appears on the starter's list, stewards' list [or], veterinarian's list or paddock judge's list;~~

~~[(10)] (4) it is a first time starter and has not been approved to start by the starter;~~

~~[(11)] (5) it is owned in whole or in part by an undisclosed person or interest;~~

~~[(12)] (6) it lacks sufficient official published workouts or race past performance(s);~~

~~[(13)] \_\_\_\_\_ it has been entered in a stakes race and has subsequently been transferred with its engagements, unless the racing secretary has been notified of such prior to the start;]~~

~~[(14)] (7) it is subject to a lien which has not been approved by the stewards and filed with the horsemen's bookkeeper;~~

~~[(15)] (8) it is subject to a lease not filed with the stewards;~~

~~[(16)] (9) it is not in sound racing condition;~~

~~[(17)] (10) it has had a surgical neurectomy performed on a heel nerve, which has not been approved by the official veterinarian;~~

~~[(18)] (11) it has been trachea tubed to artificially assist breathing;~~

~~[(19)] (12) it has been blocked with alcohol or otherwise drugged or surgically denerved to desensitize the nerves above the ankle;]~~

~~[(20)] (13) it has impaired eyesight in both eyes;~~

~~[(21)] (14) it is barred or suspended in any recognized jurisdiction;~~

~~[(22)] (15) it does not meet the eligibility conditions of the race;~~

~~[(23)] (16) its owner or lessor is in arrears for any~~



stakes fees, except with approval of the racing secretary;

~~[(24) — its owner(s), lessor(s) and/or trainer have not completed the licensing procedures required by the commission;]~~

~~[(25)] (17)~~

it is by an unknown sire or out of an unknown mare[; or].

~~[(26) — there is no current negative test certificate for equine infectious anemia on file with the racing office, as required by the commission;]~~

**B.** A horse shall be ineligible to be [entered] start when:

(1) it is the subject of a positive test for a prohibited substance in an official sample based on a final certificate of analysis received from the official laboratory during the period in which the adjudication process involving the violation is ongoing.

(a) In the event the horse is claimed in the race in which the horse allegedly ran with the prohibited substance, the new owner may enter the horse, unless the horse is ordered to go on the stewards' list pursuant to Subsection C of 15.2.6.9 (8)(a-e) NMAC.

(b) Should the horse be claimed thereafter by the owner of the horse in the race in which there was a positive test for a prohibited substance, the horse shall not be allowed to enter unless the adjudication process involving the prior violation is complete.

(2) It is not stabled on the grounds of the association or present by the time established by the commission;

(3) its breed registration certificate is not on file with the racing secretary or horse identifier; unless the racing secretary has submitted the certificate to the appropriate breed registry for correction or in the case of thoroughbred horses foaled in 2018 or thereafter, the horse does not have a digital tattoo; the stewards may waive this requirement if the information contained on the registration certificate is otherwise available;

and the horse is otherwise correctly identified to the stewards' satisfaction;

(4) if a quarter horse or a thoroughbred foaled before 2018, is not fully identified and tattooed on the inside of the upper lip, freeze brand or identified by any other method approved by the breed registry and commission; however, there may be extenuating circumstances where a horse will be eligible to start in a race without the tattoo as referenced above, as long as the horse identifier has written verification that the tattooing process has been initiated; if a thoroughbred foaled in 2018 or thereafter, is not microchipped with a unique microchip (ISO11784), freeze brand or identified by any other method approved by the breed registry and commission;

(5) it has been fraudulently entered or raced in any jurisdiction under a different name, with an altered registration certificate, altered lip tattoo, altered or manipulated microchip (ISO11784), or freeze brand;

(6) the stakes or entrance money for the horse has not been paid, in accordance with the conditions of the race;

(7) it has been entered in a stakes race and has subsequently been transferred with its engagements, unless the racing secretary has been notified of such prior to the start;

(8) it is not in sound racing condition;

(9) it has been blocked with alcohol or otherwise drugged or surgically denerved to desensitize the nerves above the ankle;

(10) it does not meet the eligibility conditions of the race;

(11) its owner(s), lessor(s) or trainer have not completed the licensing procedures required by the commission; or

(12) there is no current negative test certificate for equine infectious anemia on file with the racing office, as required by the commission.

[15.2.5.12 NMAC - Rp, 15 NMAC 2.5.12, 3/15/2001; A, 7/15/2002; A, 8/30/2007; A, 6/15/2009; A, 1/1/2014; A, 9/15/2016; A, 12/19/2019; A, 4/9/2024]

### 15.2.5.13 RUNNING OF THE RACE:

**A. Equipment:**  
(1) All riding crops are subject to inspection and approval by the stewards and the clerk of scales. This rule will become effective December 10, 2010.

(a) All riding crops shall have a shaft and a flap and will be allowed in flat racing including training. No riding crop shall weigh more than eight ounces nor exceed 30 inches in length, including the flap. No riding crop shall be used unless the shaft is a minimum of three-eighths inch in diameter; and the shaft contact area must be smooth, with no protrusions or raised surface and covered by shock absorbing material that gives a compression factor of at least one-millimeter throughout its circumference.

(b) The flap is the only allowable attachment to the shaft and must meet the following specifications. The length beyond the end of the shaft shall be a maximum of one inch with a minimum width of eight-one hundredths inch and a maximum of one and six-tenths inches. There shall be no reinforcements or additions beyond the end of the shaft. There shall be no binding within seven inches of the end of the shaft and the flap must include shock absorbing characteristics similar to those of the contact area of the shaft.

(2) No bridle shall exceed two pounds.

(3) Reins. No jockey, apprentice jockey, exercise person or any person mounted on a horse shall ride, breeze, exercise, gallop or workout a horse on the grounds of a facility under the jurisdiction of the commission unless the horse is equipped with a nylon rein or a safety rein. A safety rein is a rein with a wire or nylon cord stitched



into the traditional leather rein during the manufacturing process and the safety cord is attached to the bit with a metal clasp.

(4) Toe grabs with a height greater than two millimeters worn on the front shoes of thoroughbred horses while racing are prohibited. The horse shall be scratched and the trainer may be subject to fine.

(5) A horse's tongue may be tied down with clean bandages, gauze or tongue strap.

(6) No licensee may add blinkers to a horse's equipment or discontinue their use without the prior approval of the starter, the paddock judge, and the stewards.

(7) No licensee may change any equipment used on a horse in its last race without approval of the paddock judge or stewards.

(8) Any licensed assistant starter and any licensee mounted on a horse or stable pony on the association grounds must wear a properly fastened New Mexico racing commission approved protective helmet and safety vest.

(a) The approved protective helmet and safety vest shall be worn when:

(i) racing, parading or warming up a horse prior to racing; or  
(ii) jogging, training or exercising a horse at any time.

(b) The helmet worn must comply with one of the following minimum safety standards or later revisions:

(i) American society for testing materials (ASTM 1163); or  
(ii) UK standards (EN-1384 and PAS-015); or  
(iii) Australian/New Zealand standard (AS/NZ 3838).

(c) The safety vest worn by a jockey shall weigh no more than two pounds and must comply with one of the

following minimum standards or later revisions:

(i) British equestrian trade association (BETA):2000 level 1; or

(ii) euro norm (EN) 13158:2000 1; or

(iii) American society for testing and materials (ASTM) F2681-08 or F1937; or

(iv) shoe and allied trade research association (SATRA) jockey vests document M6 Issue 3; or

(v) Australian racing board (ARB) standard 1.1998.

(d) A safety helmet or safety vest shall not be altered in any manner nor shall the product marking be removed or defaced.

**B. Racing numbers:**

(1) Each horse shall carry a conspicuous saddle cloth number corresponding to the official number given that horse on the official program.

(2) In the case of a coupled entry that includes more than one horse, each horse in the entry shall carry the same number, with a different distinguishing letter following the number. As an example, two horses in the same entry shall appear in the official program as 1 and 1A.

(3) Each horse in the mutuel field shall carry a separate number or may carry the same number with a distinguishing letter following the number.

**C. Jockey requirements:**

(1) Jockeys shall report to the jockeys' quarters at the time designated by the association. Jockeys shall report their engagements and any overweight to the clerk of scales. Jockeys shall not leave the jockeys' quarters, except to ride in scheduled races, until all of their riding engagements of the day have been fulfilled except as approved by the stewards.

(2) A jockey who has not fulfilled all riding

engagements, who desires to leave the jockeys' quarters, must first receive the permission of the stewards and must be accompanied by an association security guard.

(3) Except as otherwise provided by this subsection, a jockey engaged for a certain race or for a specified time may not fail or refuse to abide by the engagement agreement, unless excused by the stewards. Failure to fulfill riding engagements may result in disciplinary action.

(4) A jockey may be excused by the stewards from fulfilling the jockey's riding engagement if the jockey believes the horse he or she is to ride is unsafe, or the racecourse he or she is to ride on is unsafe, or the jockey is ill or injured, or other extenuating circumstances. No jockey may take off a mount for reasons of safety without first mounting and taking that horse to the track and/or commission veterinarian unless that horse is unruly in the paddock. In that event a jockey's fee is not earned.

(5) Any jockey unseated or thrown from their mount in the saddling paddock, during the parade to post, while being loaded in the starting gate, during the race, or after the race, may be required by the stewards to be examined by the paramedic, doctor or registered nurse before being allowed to ride. Refusal to be examined or receive medical treatment may be grounds for the stewards to take the rider off their mount for that race and any other races on that day. In the event the jockey is injured or unable to ride they shall be required to provide a doctor's medical release before they are allowed to resume participation in racing or training.

(6) The stewards may require a jockey who is excused from fulfilling a [riding] riding engagement, because of illness or injury, to pass a physical examination conducted by a licensed physician not employed by the association before resuming race riding.

(7) While in the jockeys' quarters, jockeys shall have no contact or communication with any person outside the jockeys' quarters other than commission personnel and officials, an owner or trainer for whom the jockey is riding or a representative of the regular news media, except with the permission of the stewards. Any communication permitted by the stewards may be conducted only in the presence of the clerk of scales or other person designated by the stewards.

(8) Jockeys shall be weighed out for their respective mounts by the clerk of scales not more than 30 minutes before post time for each race.

(9) A jockey's fee shall be considered earned when the jockey is weighed out by the clerk of scales. In the event an owner or trainer elects to remove a jockey from his or her mount after naming a rider at the time of draw, the stewards may require a double jockey fee to be paid. The fee to be paid is equal to that earned by the jockey who rode the horse. The fee shall not be considered earned when a jockey(s), of their own free will, take themselves off their mounts, where injury to the horse or rider is not involved. Any conditions or considerations not covered by the above rule shall be at the discretion of the stewards. All jockey protests must be filed prior to the race.

(10) A jockey's fee shall include any extra monies added to the purse.

~~(10)~~ (11) Only valets employed by the association shall assist jockeys in weighing out.

~~(11)~~ (12) A jockey's weight shall include their clothing, boots, saddle and its attachments and any other equipment except the whip, bridle, bit or reins, safety helmet, safety vest, blinkers, goggles and number cloth. Upon the stewards' approval, jockeys may be allowed up to three pounds more than published and announced weights to account for inclement weather clothing and equipment when weighing in.

~~(12)~~ (13) Five pounds is the limit of overweight any horse is permitted to carry.

~~(13)~~ (14) Once jockeys have fulfilled their riding engagements for the day and have left the jockeys' quarters, they shall not be re-admitted to the jockeys' quarters until after the entire racing program for that day has been completed, except with permission of the stewards.

**D. Paddock to post:**

(1) Each horse shall carry the full weight assigned for that race from the paddock to the starting post, and shall parade past the stewards' stand, unless excused by the stewards. The post parade shall not exceed 12 minutes, unless otherwise ordered by the stewards. It shall be the duty of the stewards to ensure that the horses arrive at the starting gate as near to post time as possible.

(2) In the post parade, all pony persons, or trainers who pony horses, must wear upper body apparel in accordance with the policy of the commission.

(3) After the horses enter the track, no jockey may dismount nor entrust his horse to the care of an attendant unless, because of accident occurring to the jockey, the horse or the equipment, and with the prior consent of the starter. During any delay during which a jockey is permitted to dismount, all other jockeys may dismount and their horses may be attended by others. After the horses enter the track,

only the jockey, an assistant starter, the official veterinarian, the racing veterinarian or an outrider or pony rider may touch the horse before the start of the race.

(4) If a jockey is seriously injured on the way to the post, the horse may be returned to the paddock and a replacement jockey obtained.

(5) After passing the stewards' stand in parade, the horses may break formation and proceed to the post in any manner unless otherwise directed by the stewards. Once at the post, the horses shall be started without unnecessary delay.

(6) In case of accident to a jockey or their mount or equipment, the stewards or the starter may permit the jockey to dismount and the horse to be cared for during the delay, and may permit all jockeys to dismount and all horses to be attended to during the delay.

(7) If a jockey is thrown on the way from the paddock to the post, the horse must be remounted, returned to the point where the jockey was thrown and then proceed over the route of the parade to the post. The horse must carry its assigned weight from paddock to post and from post to finish.

(8) If a horse leaves the course while moving from paddock to post, the horse shall be returned to the course at the nearest practical point to that at which it left the course, and shall complete its parade to the post from the point at which it left the course unless ordered scratched by the stewards.

(9) No person shall willfully delay the arrival of a horse at the post.

(10) The starter shall load horses into the starting gate in any order deemed necessary to ensure a safe and fair start. An appointed representative may tail the horse with the starter's consent. In case of an emergency, the starter may grant approval for a horse to be tailed. In any case, the ~~steward's~~ stewards shall be notified of who is tailing horses.

**E. Post to finish:**

(1) The start.  
(a) The starter is responsible for assuring that each participant receives a fair start.

(b) If, when the starter dispatches the field, any door at the front of the starting gate stalls should not open properly due to a mechanical failure or malfunction or should any action by any starting personnel directly cause a horse to receive an unfair start, the stewards may declare such a horse a non-starter.

(c) Should a horse, not scratched prior

to the start, not be in the starting gate stall thereby causing it to be left when the field is dispatched by the starter, the horse shall be declared a non-starter by the stewards.

(d)

Should an accident or malfunction of the starting gate, or other unforeseeable event compromise the fairness of the race or the safety of race participants, the stewards may declare individual horses to be non-starters, excluding individual horses from all pari-mutuel pools or declare a "no contest" and refund all wagers except as otherwise provided in the rules involving multi-race wagers.

(2)

Interference, jostling or striking.

(a)

A jockey shall not ride carelessly or willfully so as to permit their mount to interfere with, impede or intimidate any other horse in the race.

(b)

No jockey shall carelessly or willfully jostle, strike or touch another jockey or another jockey's horse or equipment.

(c)

No jockey shall unnecessarily cause their horse to shorten its stride so as to give the appearance of having suffered a foul.

(3)

Maintaining a straight course.

(a)

When the way is clear in a race, a horse may be ridden to any part of the course, but if any horse swerves, or is ridden to either side, so as to interfere with, impede or intimidate any other horse, it is a foul.

(b)

The offending horse may be disqualified, if in the opinion of the stewards, the foul altered the finish of the race, regardless of whether the foul was accidental, willful or the result of careless riding.

(c)

If the stewards determine the foul was intentional, or due to careless riding, they may fine or suspend the guilty jockey.

(d)

In a straightaway race, every horse must maintain position as nearly as

possible in the lane in which it starts. If a horse is ridden, drifts or swerves out of its lane in such a manner that it interferes with, impedes or intimidates another horse, it is a foul and may result in the disqualification of the offending horse.

(4)

Disqualification.

(a)

When the stewards determine that a horse shall be disqualified for interference, they may place the offending horse behind such horse as in their judgment it interfered with, or they may place it last.

(b)

If a horse is disqualified for a foul, any horse or horses with which it is coupled as an entry may also be disqualified.

(c)

When a horse is disqualified for interference in a time trial race, it shall receive the time of the horse it is placed behind plus one-hundredth of a second penalty or more exact measurement if photo finish equipment permits and shall be eligible to qualify for the finals or consolations of the race on the basis of the assigned time.

(d)

The stewards may determine that a horse shall be unplaced for the purpose of purse distribution and trial qualification.

(e)

In determining the extent of disqualification, the stewards in their discretion may: declare null and void a track record set or equaled by a disqualified horse, or any horses coupled with it as an entry; affirm the placing judges' order of finish and suspend or fine a jockey if, in the stewards' opinion, the foul riding did not affect the order of finish; disqualify the offending horse and not penalize a jockey if in the stewards' opinion the interference to another horse in a race was not the result of an intentional foul or careless riding on the part of a jockey.

(5) Horses

shall be ridden out: All horses shall be ridden out in every race. A jockey shall not ease up or coast to the finish,

without adequate cause, even if the horse has no apparent chance to win prize money.

~~(6)~~ No

electrical, mechanical or other expedient object or device utilized to increase or retard the speed of a horse, other than the riding crop approved by the stewards, shall be possessed by anyone or applied by anyone to the horse at any time on the grounds of the association during the meet, whether in a race or otherwise.

~~(6)~~ (7) Use of

riding crops.

(a)

Although the use of a riding crop is not required, any jockey who uses a riding crop during a race shall do so only in a manner consistent with exerting his or her best efforts to win.

(b)

In all races where a jockey will ride without a riding crop, an announcement of such fact shall be made over the public address system.

~~(c)~~

~~No electrical or mechanical device or other expedient designed to increase or retard the speed of a horse, other than the riding crop approved by the stewards, shall be possessed by anyone, or applied by anyone to the horse at any time on the grounds of the association during the meeting, whether in a race or otherwise.]~~

~~(c)~~ (c)

Riding crops shall not be used on two-year-old horses before March 1 of each year.

~~(c)~~ (d)

The position of the riding crop should always be at or below helmet level of the jockey.

(e)

The riding crop shall only be used for safety, correction, and encouragement.

(f)

After the race, the horses will be subject to inspection by a racing or official veterinarian looking for cuts, welts or breaks in the skin. Any adverse findings shall be reported to the stewards.

(g)

The giving of instructions by any licensee that if obeyed would lead to a violation of this rule may result in

disciplinary action also being taken against the licensee who gave such instructions.

~~(8)~~

Indiscriminate use of the whip is prohibited including whipping a horse: on the head, flanks or on any other part of its body other than the shoulders or hind quarters except when necessary to control a horse; during the post parade or after the finish of the race except when necessary to control the horse; excessively or brutally causing welts or breaks in the skin; when the horse is clearly out of the race or has obtained its maximum placing; persistently even though the horse is showing no response under the riding crop; or striking another rider or horse. Excessive use of the crop includes:

~~(a)~~

Riders cannot use the riding crop more than three times in succession during a race, excluding showing or waiving the crop.

~~(b)~~

Riders cannot use the crop more than three times in succession without giving the horse a chance to respond before using the crop again.

~~(c)~~

The horse has cuts, welts or breaks in the skin.

~~(f)~~

the riding crop shall only be used for safety, correction and encouragement.]

~~(g)~~

after the race, the horses will be subject to inspection by a racing or official veterinarian looking for cuts, welts or bruises in the skin. Any adverse findings shall be reported to the stewards.

~~(h)~~

the giving of instructions by any licensee that if obeyed would lead to a violation of this rule may result in disciplinary action also being taken against the licensee who gave such instructions.

~~(7)~~

Horse leaving the racecourse. If a horse leaves the racecourse during a race, it must turn back and resume the race from the point at which it originally left the course.]

~~(8)~~ (9) Returning after the finish.

~~(a)~~

After a race has been run, the jockey shall ride promptly to the finish line, dismount and report to the clerk of scales to be weighed in. Jockeys shall weigh in with all pieces of equipment with which they weighed out.

~~(b)~~

If a jockey is prevented from riding to the finish line because of an accident or illness to the jockey or the horse, the jockey may walk or be transported to the scales or may be excused from weighing in by the stewards.

~~(9)~~ (10)

Unsaddling. No person shall assist a jockey with unsaddling except with permission of the stewards and no one shall place a covering over a horse before it is unsaddled.

~~(10)~~ (11)

Weighing in.

~~(a)~~

A jockey shall weigh in at no less than the same weight at which he or she weighed out, and if under that weight by more than two pounds and after consideration of mitigating circumstances by the board of stewards, his or her mount may be disqualified from any portion of the purse money.

~~(b)~~

In the event of such disqualification, all monies wagered on the horse shall be refunded unless the race has been declared official.

~~(c)~~

If any jockey weighs in at more than three pounds over the proper or declared weight, the jockey may be fined, suspended or ruled off by the stewards, having due regard for any excess weight caused by rain or mud. The case shall be reported to the commission for such action, as it may deem proper.

~~(d)~~

Upon approval of the stewards, the jockeys may be allowed up to three pounds more than published and announced weights to account for inclement weather clothing and equipment when weighing in.

~~(e)~~

The post-race weight of jockeys

includes any sweat, dirt and mud that have accumulated on the jockey, jockey's clothing and jockey's safety equipment. This accounts for additional weight, depending on specific equipment, as well as weather, track and racing conditions.

~~(11)~~ (12)

Dead heats.

~~(a)~~

When a race results in a dead heat, the dead heat shall not be run off, owners shall divide except where division would conflict with the conditions of the races.

~~(b)~~

When two horses run a dead heat for first place, all purses or prizes to which first and second horses would have been entitled shall be divided equally between them; and this applies in dividing all purses or prizes whatever the number of horses running a dead heat and whatever places for which the dead heat is run.

~~(c)~~

In a dead heat for first place, each horse involved shall be deemed a winner and liable to penalty for the amount it shall receive.

~~(d)~~

When a dead heat is run for second place and an objection is made to the winner of the race, and sustained, the horses, which ran a dead heat, shall be deemed to have run a dead heat for first place.

~~(e)~~

If the dividing owners cannot agree as to which of them is to have a cup or other prize, which cannot be divided, the question shall be determined by lot by the stewards.

~~(f)~~

On a dead heat for a match, the match is off for pari-mutuel payoffs and mutuels are refunded.

[15.2.5.13 NMAC - Rp, 15 NMAC 2.5.13, 3/15/2001; A, 8/30/2007; A, 12/1/2008; A, 6/30/2009; A, 9/15/2009; A, 8/16/2010; A, 9/1/2010; A, 10/15/2014; A, 6/1/2016; A, 12/16/2016; A, 12/19/2019; A 4/9/2024]

#### 15.2.5.14 PROTESTS, OBJECTIONS AND INQUIRIES:



**A. Stewards to inquire:** The stewards shall take cognizance of foul riding and, upon their own motion or that of any racing official or person empowered by this chapter to object or complain, shall make diligent inquiry or investigation into such objection or complaint when properly received.

**B. Race objections:**  
**(1)** An objection to an incident alleged to have occurred during the running of a race shall be received only when lodged with the clerk of scales, the stewards or their designees, by the owner, the authorized agent of the owner, the trainer or the jockey of a horse engaged in the same race.

**(2)** An objection following the running of any race must be filed before the race is declared official, whether all or some riders are required to weigh in, or the use of a "fast official" procedure is permitted.

**(3)** The stewards shall make all findings of fact as to all matters occurring during an incident to the running of a race; shall determine all objections and inquiries, and shall determine the extent of disqualification, if any, of horses in the race. Such findings of fact and determination shall be final for pari mutuel payout purposes.

**C. Prior objections:**  
**(1)** Objections to the participation of a horse entered in any race shall be made to the stewards in writing, signed by the objector, and filed ~~[not later than one hour prior to post time for the first race on the day which the questioned horse is entered.]~~ no later than post time for the race in which the objection was filed. Any such objections shall set forth the specific reason or grounds for the objection in such detail so as to establish probable cause for the objection. The stewards upon their own motion may consider an objection until such time as the horse becomes a starter.

**(2)** An objection to a horse which is entered in a race may be made on, but not limited to, the following grounds or

reasons:  
**(a)** a misstatement, error or omission in the entry under which a horse is to run;  
**(b)** the horse, which is entered to run, is not the horse it is represented to be at the time of entry, or the age was erroneously given;  
**(c)** the horse is not qualified to enter under the conditions specified for the race, or the allowances are improperly claimed or not entitled the horse, or the weight to be carried is incorrect under the conditions of the race;  
**(d)** the horse is owned in whole or in part, or leased or trained by a person ineligible to participate in racing or otherwise ineligible to own a racehorse as provided in these rules;  
**(e)** the horse was entered without regard to a lien filed previously with the racing secretary;

**(f)** the horse is subject of a rule violation.  
**(3)** The stewards may scratch ~~[from the race- any horse]~~ any horse from the race, which is the subject of an objection if they have reasonable cause to believe that the objection is valid.

**D. Protests:**  
**(1)** A protest against any horse, which has started in a race, shall be made to the stewards in writing, signed by the protestor, and must be accompanied by a fee in the amount of \$1000 in the form of a cashier's check or money order within 48 hours of the race. If the incident upon which the protest is based occurs within the last two days of the meeting, such protest may be filed with the commission within 48 hours exclusive of Saturdays, Sunday or official holidays. Any such protest shall set forth the specific reason or reasons for the protest in such detail as to establish probable cause for the protest.

**(2)** A protest may be made on any of the following grounds:  
**(a)** any grounds for objection as set forth

in this chapter;  
**(b)** the order of finish as officially determined by the stewards was incorrect due to oversight or errors in the numbers of the horses, which started the race;  
**(c)** a jockey, trainer, owner or lessor was ineligible to participate in racing as provided in this chapter;  
**(d)** the weight carried by a horse was improper, by reason of fraud or willful misconduct;  
**(e)** an unfair advantage was gained in violation of the rules;  
**(f)** the disqualification of a horse(s).

**(3)** Notwithstanding any other provision in this article, the time limitation on the filing of protests shall not apply in any case in which fraud or willful misconduct is alleged provided that the stewards are satisfied that the allegations are bona fide and verifiable.

**(4)** No person shall file any objection or protest knowing the same to be inaccurate, false, untruthful or frivolous.

**(5)** The commission may fine any license holder an amount of up \$2,500 after considering protest, if based on the evidence they determine that the protest is frivolous, unreasonable or unnecessary.

**(6)** If a license holder who appealed fails to appear for any scheduled hearing without providing five days prior notice, the stewards or the commission may impose costs.

**(7)** The stewards may order any purse, award or prize for any race withheld from distribution pending the determination of any protest. In the event any purse, award or prize has been distributed to an owner or for a horse which by reason of a protest or other reason is disqualified or determined to be not entitled to such purse, award or prize, the stewards or the commission may order such purse, award or

prize returned and redistributed to the rightful owner or horse. Any person who fails to comply with an order to return any purse, award or prize erroneously distributed shall be subject to fines and suspension.

**E. Race review committee:**

(1) If a timely objection concerning a race is filed in accordance with the rules, the agency director may refer the objection to the race review committee who shall consist of three members appointed by the commission. The agency director shall issue and send, or deliver, to the objecting party a notice of hearing stating the date, time and place at which the race review committee will hear the appeal. The notice of hearing shall also be sent, or delivered, to any trainer or owner the placement of whose horse may be affected by the outcome of the appeal. The race review committee shall review the official tape or tapes of the race. Affected parties shall be given the opportunity to state their positions to the committee.

(2) The committee shall state its conclusions as to the merits of the objection and shall make a recommendation to the commission as to whether to uphold the stewards' determination, or to revise the order of finish. The commission shall then make the final determination as to the order of finish. The race review committee and the commission may only address the issues raised in the appeal filed. [15.2.5.14 NMAC - Rp, 15 NMAC 2.5.14, 3/15/2001; A, 8/30/2001; A, 6/15/2004; A, 9/15/2009; A, 4/20/2021; A 4/9/2024]

## RACING COMMISSION

This is an amendment to 15.2.6 NMAC, Sections 8, 9, 10 and 12, effective 4/9/2024.

**15.2.6.8 VETERINARY PRACTICES:**  
**A. Veterinarians under authority of official**

**veterinarian:** Veterinarians licensed by the commission and practicing at any location under the jurisdiction of the commission are under the authority of the official veterinarian and the stewards.

**B. Treatment restrictions:**

(1) Except as otherwise provided by this subsection, no person other than a veterinarian licensed to practice veterinary medicine in this jurisdiction and licensed by the commission may administer a prescription or controlled medication, drug, chemical or other substance (including any medication, drug, chemical or other substance by injection) to a horse at any location under the jurisdiction of the commission.

(2) Use of physical or veterinary procedures to mask the effects or signs of injury so as to allow training or racing to the detriment of the horse's health and welfare are prohibited.

(3) This subsection does not apply to the administration of the following substances pursuant to the restrictions set forth in 15.2.6.9 NMAC or as they may interfere with post-race testing:

(a) a recognized non-injectable nutritional supplement or other substance approved by the official veterinarian;

(b) a non-injectable substance on the direction or by prescription of a licensed veterinarian;

(c) a non-injectable non-prescription medication or substance.

(4) No person other than a veterinarian licensed to practice veterinary medicine in this jurisdiction and licensed by the commission, or a veterinary assistant licensed by the commission acting under the direct supervision of a licensed veterinarian, shall possess on any location under the jurisdiction of the commission any of the following unless approved by the commission:

(a) any drug which is a narcotic,

stimulant, or depressant, or any other substance or medication that has been prepared or packaged for injection by a hypodermic syringe, or hypodermic needle;

(b) any hypodermic syringe, hypodermic needle or any equipment associated with the aid of intravenous administration.

(c) No veterinary assistant licensed by the commission shall be allowed to administer a prohibited item pursuant to [Paragraph (3) of] Subsection B of 15.2.6.8 NMAC.

(5) At any location under the jurisdiction of the commission, veterinarians may use only one-time disposable needles, and shall dispose of them in a manner approved by the commission.

(6) If a licensee has a medical condition which makes it necessary to possess or use a prohibited substance, prescribed, or controlled substance pursuant to Paragraph (3) of Subsection B of 15.2.6.8 NMAC, that person shall provide to the stewards:

(a) A letter signed by a licensed physician, physician assistant, or nurse practitioner certifying that the consumption of the prohibited, prescribed, or controlled substances will not adversely affect the divided attention, psychophysical abilities of the licensee, to include but not limited to reaction time and the ability to judge time and distance. The letter must certify that the prohibited, prescribed, or controlled substance will not affect a licensee's ability to carry out their responsibilities properly and safely while in the performance of their duties which includes being in actual physical control of a large equine animal or operating mechanical equipment on the grounds of the association and will not jeopardize the health, safety and welfare of the other individuals participating.

(b) A licensee must comply with any conditions and restrictions set by the stewards or the commission.

~~[(6)] (7)~~ The recommended penalty (in absence of mitigating circumstances) for a violation of Paragraph (3) of Subsection B of 15.2.6.8 NMAC is a \$1,500 fine and a six month suspension. Additionally, the commission may order all horses under the trainer’s care that are entered to race to be tested with the cost of testing borne by the trainer.

~~[(7)] (8)~~ Veterinarians shall not have contact with an entered horse on race day except for the administration of furosemide under the guidelines set forth in Subsection D of 15.2.6.9 NMAC unless approved by the official veterinarian or in an emergency situation. Should an emergency occur during evening hours, the veterinarian shall notify the official veterinarian as soon as possible the following morning.

~~[(8)] (9)~~ Veterinarians may employ persons licensed by the commission as veterinary assistants to work under their direct supervision. Veterinary assistants shall not inject, directly treat, or diagnose any animal. The practicing veterinarian must be present on the grounds if a veterinary assistant has access to injection devices or injectable substances. The practicing veterinarian shall assume all financial and regulatory responsibility for the actions of their licensed veterinary assistant.

~~[(9)] (10)~~ Veterinarians who possess any pre-drawn injectable syringes containing any substance must also possess the partially filled or empty labeled source container from which the injectable substance was drawn. Pre-drawn syringes and the labeled source container from which it was drawn are subject to confiscation by the commission and are subject to testing by the official laboratory. The injectable substance must be clearly identified on each pre-drawn syringe.

~~[(10)] (11)~~ Veterinarians may possess and dispense compounded medications on association grounds under the following conditions:

(a) The medication is prepared and prescribed in a manner that meets the criteria for compounding established by the federal “Animal Medicinal Drug Use Clarification Act of 1994” (21 CFR 530) and any current food and drug administration compliance policy guides.

(b) The medication is prepared and prescribed in a manner that meets the criteria established in 16.19.30 NMAC by the New Mexico board of pharmacy.

(c) The medication is labeled in accordance with Subsection H of 15.2.6.9 NMAC.

**C. Extracorporeal shock wave therapy or radial pulse wave therapy:** The use of extracorporeal shock wave therapy or radial pulse wave therapy shall not be permitted unless the following conditions are met:

(1) Any extracorporeal shock wave therapy or radial pulse wave therapy machine, whether in operating condition or not, must be registered with and approved by the commission or its designee before such machine is brought to or possessed on any racetrack or training center within the jurisdiction of the commission.

(2) The use of extracorporeal shock wave therapy or radial pulse wave therapy within the jurisdiction shall be limited to veterinarians licensed to practice by the commission. Extracorporeal shock wave therapy or radial pulse wave therapy may only be performed with machines that are registered and approved for use by the commission; used at a previously-disclosed location that is approved by the commission; and must be reported within 24 hours prior to treatment on a prescribed form to the official veterinarian.

(3) Any treated horse shall not be permitted to race or breeze for a minimum of 10 days following treatment.

(4) Any horse treated with extracorporeal shock

wave therapy or radial pulse wave therapy shall be added to a list of ineligible horses. This list shall be kept in the race office and accessible to the jockeys and their agents during normal business hours and be made available to other regulatory jurisdictions.

(5) A horse that receives any such treatment without full compliance with this section and similar rules in any other jurisdiction in which the horse was treated shall be placed on the stewards’ list.

(6) Any person participating in the use of extracorporeal shock wave therapy or the possession of extracorporeal shock wave therapy machines in violation of this rule shall be considered to have committed a prohibited practice and is subject to a class A penalty.

**D. Veterinarian’s reports:**

(1) Every veterinarian who treats a race horse at any location under the jurisdiction of the commission shall, in writing on a form approved by the commission, report to the official veterinarian the name of the horse treated, any medication, drug or substance administered or prescribed or administered, the name of the trainer of the horse, the date and time of treatment and any other information requested by the official veterinarian.

(2) The report shall be signed by the practicing veterinarian.

(3) The report will be made available to racing officials on request within a 48-hour period. Any such report is confidential and its content shall not be disclosed except in the course of an investigation of a possible violation of these rules or in a proceeding before the stewards or the commission, or to the trainer or owner of record at the time of treatment.

**E. Veterinary compliance:** The official veterinarian, racing veterinarian, and each practicing veterinarian shall comply with all federal and state statutes and applicable rules

regulating veterinary practices as may be promulgated by the New Mexico board of veterinary medicine and the New Mexico board of pharmacy. [15.2.6.8 NMAC - Rp, 15 NMAC 2.6.8, 4/13/2001; A, 7/15/2002; A, 2/15/2012; A, 7/31/2012, A, 5/16/2014; A, 12/16/16; A; 9/26/2018; A, 5/1/2019; A, 12/28/2021; A, 4/9/2024]

### 15.2.6.9 MEDICATIONS AND PROHIBITED

**SUBSTANCES:** The classification guidelines contained within the [~~“uniform classification guidelines for foreign substances and recommended penalties and model rule”~~], December 2020 version 14.4 and [~~“association of racing commissioners international controlled therapeutic medication schedule for horses”~~], version 4.2-revised December, 2020 by the association of racing commissioners international,] [“Uniform Classification Guidelines for Foreign Substances and Recommended Penalties and Model Rule” December 2023 version 17.0 and “Association of Racing Commissioners International Controlled Therapeutic Medication Schedule for Horses”], version 4.2.1 – December 2020 Update are incorporated by reference. Any threshold herein incorporated by reference by inclusion in one of the documents above shall not supersede any threshold or restriction adopted by the commission as specified by this section.

#### A. Penalties:

(1) In issuing penalties against individuals found guilty of medication and drug violations, a regulatory distinction shall be made between the detection of therapeutic medications used routinely to treat racehorses and those drugs that have no reason to be found at any concentration in the test sample on race day.

(2) The stewards or the commission will use the association of racing commissioner’s international recommended penalty as a starting place in the penalty stage of the deliberations for a rule violation for

any drug listed in the association of racing commissioners international uniform classification guidelines for foreign substances.

(3) If a licensed veterinarian is administering or prescribing a drug not listed in the association of racing commissioners international uniform classification guidelines for foreign substances, the identity of the drug shall be forwarded to the New Mexico racing commission designee to be forwarded to the racing medication and testing consortium for classification.

(4) Any drug or metabolite thereof found to be [~~presenting~~] present in a pre- or post-race sample which is not classified in the association of racing commissioners international uniform classification guidelines for foreign substances shall be assumed to be an association of racing commissioners international class 1 drug and the trainer and owner shall be subject to those penalties as set forth in penalty category A unless satisfactorily demonstrated otherwise by the racing medication and testing consortium, with a penalty category assigned.

(5) The penalty categories and their related schedules, if applicable, shall be based on the following criteria:

(a) whether the drug is approved by the United States food and drug administration for use in the horse;

(b) whether the drug is approved by the United States food and drug administration for use in any species;

(c) whether the drug as approved has any legitimate therapeutic application in the equine athlete;

(d) whether the drug was identified as “necessary” by the racing medication and testing consortium veterinary advisory committee;

(e) whether legitimate, recognized therapeutic alternatives exist; and

(f) the association of racing commissioner’s

international classification of the drug.

(6) The recommended penalty for a violation involving a drug that carries a category “D” penalty is a written warning to the trainer and owner. Multiple violations may result in fines or suspensions.

(7) If a positive test arises in a trial race, the horse subject to the positive test is to be placed on the stewards list. The purse for both the trial and the race for which the trial was conducted will be held until the case has been fully adjudicated.

(8) When the penalty assessed against a licensee for a medication or drug violation in a trial race results in a disqualification and loss of purse, the licensee is subject to the same penalties for any race for which the trial race was conducted.

~~(9)~~ (9) Any licensee of the commission, including veterinarians, found responsible for the improper or intentional administration of any drug resulting in a positive test may, after proper notice and hearing, be subject to the same penalties set forth for the licensed trainer.

~~(10)~~ (10) The licensed owner, veterinarian or any other licensed party involved in a positive laboratory finding shall be notified in writing of the hearing and any resulting action. In addition, their presence may be required at any and all hearings relative to the case.

~~(11)~~ (11) Any veterinarian found to be involved in the administration of any drug carrying the penalty category of “A” shall be referred to the state licensing board of veterinary medicine for consideration of further disciplinary action or license revocation. This is in addition to any penalties issued by the stewards or the commission.

~~(12)~~ (12) Any person who the stewards or the commission believe may have committed acts in violation of criminal statutes may be referred to the appropriate law enforcement agency. Administrative action taken by the



stewards or the commission does not prohibit a prosecution for a criminal act, nor does a potential criminal prosecution stall administrative action by the stewards or the commission.

~~(12)~~ (13)

Procedures shall be established to ensure that a licensed trainer is not able to benefit financially during the period for which the individual has been suspended. This includes, but is not limited to, ensuring that horses are not transferred to a licensed person within the first degree of affinity (marriage relationship) or first degree of consanguinity (blood relationship):

(a)

first degree of affinity shall mean the licensee’s spouse or spouse’s mother, father, brother, sister, son or daughter;

(b)

first degree of consanguinity shall mean the licensee’s mother, father, brother, sister, son or daughter.

(c)

No entry in any race shall be accepted for a horse owned wholly or in part by, or trained by, a person whose husband or wife is under license suspension at time of such entry; except that, if the license of a jockey has been suspended for a routine riding offense, the stewards may waive this rule.

~~(13)~~ (14)

Aggravating and Mitigating Factors:

(a)

In reaching a decision on a penalty for a violation for the New Mexico horse racing act or New Mexico racing commission rules and regulations, the commission, the board of stewards, the hearing officer or the administrative law judge shall consider the penalties set forth in paragraph (2) of this subsection and any aggravating and mitigating circumstances. Deviation from these penalties is appropriate where the facts of the particular case warrant such a deviation, for example: there may be mitigating circumstances for which a lesser or no penalty is appropriate, and aggravating factors for which a greater penalty is appropriate.

(b)

Mitigating circumstances and

aggravating factors, which must be considered, include but are not limited to:

(1) The past record of the licensee regarding violations of the New Mexico horse racing act or New Mexico racing commission rules;

(2) the potential of the drug(s) to influence a horse’s racing performance and the amount of the drug present;

(3) the legal availability of the drug and whether the drug was prescribed to the horse by a New Mexico racing commission licensed veterinarian;

(4) whether there is reason to believe the responsible party knew of the administration of the drug or intentionally administered the drug;

(5) the steps taken by the trainer to safeguard the horse;

(6) the steps taken by an owner to safeguard against subsequent medication violations including, but not limited to, the transfer of the horse(s) to an unaffiliated trainer. An “unaffiliated trainer” means a trainer or an assistant trainer who is not related by blood, marriage or domestic partnership, or who is not or was never employed to the trainer from whose case such horse(s) were transferred;

(7) the probability of environmental contamination or inadvertent exposure due to human drug use or other facts;

(8) the purse of the race;

(9) whether the drug found to be present in the official test sample was one for which the horse was receiving treatment as determined and documented by an New Mexico racing commission licensed veterinarian;

(10) whether there was any suspicious wagering pattern on the race; or

(11) whether the licensed trainer was acting under the advice of an New Mexico racing commission veterinarian.

(c)

The stewards shall consider the classification of a drug substance and the “uniform classification guidelines for foreign substances” if a determination is made that an official test sample from a horse contained;

(1) Any drug substance, medication, metabolites or analogues thereof foreign to the horse, whose use is not expressly authorized in this section, or

(2) any drug substance, medication or chemical authorized by this section in excess of the authorized level or other restrictions as set forth in this section.

(d)

Penalties for violation of each classification level are listed in Subsection B of 15.2.6.9 NMAC.

Continued Next Page

**B. Penalty recommendations:**

<b>(1)</b> Category A penalties will be assessed for violations due to the presence of a drug carrying a category A penalty. Recommended penalties for category A violations are as follows:
<b>Licensed trainer:</b>
<b>1st offense:</b>
A minimum one-year suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum three-year suspension. A minimum fine of \$10,000 or ten percent of the total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$25,000 or twenty-five percent of the total purse (greater of the two) and may be referred to the commission for any further action deemed necessary by the commission.
<b>2nd lifetime offense in any jurisdiction:</b>
A minimum three-year suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a three-year period. A minimum fine of \$25,000 or twenty-five percent of the total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$50,000 or fifty percent of the total purse (greater of the two), and may be referred to the commission for further action deemed necessary by the commission.
<b>3rd lifetime offense in any jurisdiction:</b>
A minimum five-year suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a five-year period. A minimum fine of \$50,000 or fifty percent of the total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$100,000 or one hundred percent of the total purse (greater of the two), and may be referred to the commission for any further action deemed necessary by the commission.
<b>Licensed owner:</b>
<b>1st offense:</b>
Disqualification and loss of purse. Horse shall be placed on the veterinarian's list for 180 days and must pass a commission-approved examination before becoming eligible to be entered.
<b>2nd lifetime offense in owner's stable in any jurisdiction:</b>
Disqualification and loss of purse. Horse shall be placed on the veterinarian's list for 180 days and must pass a commission-approved examination before becoming eligible to be entered.
<b>3rd lifetime offense in owner's stable in any jurisdiction:</b>
Disqualification, loss of purse, \$50,000 fine. Horse shall be placed on the veterinarian's list for 180 days and must pass a commission-approved examination before becoming eligible to be entered and referral to the commission with a recommendation of a suspension for a minimum of 90 days.
<b>(2)</b> Category B penalties will be assessed for violations due to the presence of a drug carrying a category B penalty and for the presence of more than one NSAID in a plasma or serum sample in accordance with Paragraph (5) of Subsection N of 15.2.6.9 NMAC. Recommended penalties for category B violations are as follows:
<b>Licensed trainer:</b>
<b>1st offense:</b>
A minimum 15-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum 60-day suspension. A minimum fine of \$500 absent mitigating circumstances or the presence of aggravating factors could be used to impose a \$1,000 fine.
<b>2nd offense (365-day period) in any jurisdiction:</b>
A minimum 30-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum 180-day suspension. A minimum fine of \$1,000 absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$2,500.
<b>3rd offense (365-day period) in any jurisdiction:</b>

A minimum 60-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of a one year suspension. A minimum fine of \$2,500 absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum \$5,000 fine or five percent of the total purse (greater of the two) and may be referred to the commission for any further action deemed necessary by the commission.
<b>Licensed owner:</b>
<b>1st offense:</b>
Disqualification, loss of purse (in the absence of mitigating circumstances)* and horse must pass a commission-approved examination before becoming eligible to be entered.
<b>2nd offense (365-day period) in owner’s stable in any jurisdiction:</b>
Disqualification, loss of purse (in the absence of mitigating circumstances)* and horse must pass a commission-approved examination before becoming eligible to be entered.
<b>3rd offense (365-day period) in owner’s stable in any jurisdiction:</b>
Disqualification, loss of purse, and in the absence of mitigating circumstances a \$5,000 fine* and horse must be placed on the veterinarian’s list for 45 days and must pass a commission-approved examination before becoming eligible to be entered.

<p>(3) Category C penalties will be assessed for violations due to the presence of a drug carrying a category C penalty.</p> <ul style="list-style-type: none"> <li>(a) phenylbutazone &gt; 0.3 mcg/ml or</li> <li>(b) flunixin &gt; 5.0 ng/ml or</li> <li>(c) ketoprofen &gt; 2.0 ng/ml or</li> <li>(d) penalty class C drugs.</li> </ul> <p>Recommended penalties for category C violations are as follows:</p>
<b>Licensed trainer:</b>
1st offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$1,000 absent mitigating circumstances.
2nd offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$1,500 and 15 day suspension absent mitigating circumstances.
3rd offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$2,500 and a 30 day suspension absent mitigating circumstances.
<b>Licensed owner:</b>
1st offense (365-day period) in any jurisdiction, the penalty is disqualification, loss of purse in the absence of mitigating circumstances and the horse must pass a commission-approved examination before being eligible to run.
2nd offense (365-day period) in any jurisdiction, the penalty is disqualification, and loss of purse in the absence of mitigating circumstances. If same horse, that horse shall be placed on veterinarian’s list for 45 days and must pass a commission-approved examination before being eligible to run.
3rd offense (365-day period) in any jurisdiction, the penalty is disqualification, loss of purse, and in the absence of mitigating circumstances a \$5,000 fine and if same horse that horse shall be placed on veterinarian’s list for 60 days and must pass a commission-approved examination before being eligible to run.

<p>(4) Category C penalties will be assessed for violations due to the presence of:</p> <ul style="list-style-type: none"> <li>(a) furosemide &gt;100 ng/ml; or</li> <li>(b) no detectable furosemide concentration when identified as administered.</li> </ul> <p>Recommended penalties for category C violations are as follows:</p>
<b>Licensed trainer:</b>
1st offense (365-day period) in any jurisdiction, the penalty is a minimum of a written warning to maximum fine of \$500.

2nd offense (365-day period) in any jurisdiction, the penalty is a minimum of a written warning to maximum fine of \$750.
3rd offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$500 to a maximum fine of \$1,000.
<b>Licensed owner:</b>
1st offense (365-day period) in any jurisdiction, the horse may be required to pass a commission-approved examination before being eligible to run.
2nd offense (365-day period) in any jurisdiction, the horse may be required to pass a commission-approved examination before being eligible to run.
3rd offense (365-day period) in any jurisdiction, the penalty is disqualification, loss of purse, and the horse must pass a commission-approved examination before being eligible to run.

(5) Any violation subsequent to a third violation will carry the same terms as imposed for a third violation. Penalties will run consecutively for a trainer or owner.

(6) If the trainer has not had more than one violation involving a drug that carries a category C penalty within the previous two years, the stewards are encouraged to issue a warning in lieu of a fine provided the reported level in phenylbutazone is below 3.0 micrograms per milliliter absent of aggravating factors.

(7) After a two-year period, if a licensee has had no further violations involving a drug that carries a category C penalty, any penalty due to an overage in the 2.0-5.0 micrograms per milliliter range for phenylbutazone will be expunged from the licensee's record for penalty purposes.

**C. Medication restrictions:**

(1) A finding by the commission approved laboratory of a prohibited substance in an official post-race or out-of-competition sample of a horse is prima facie evidence that the prohibited substance was administered to the horse and, in the case of a post-race test, was present in the horse's body while it was participating in a race.

(2) Subject to the approval of the commission nothing in this part shall prevent a racing association from setting eligibility conditions for individual races, or for its entire race meet, that prohibit the use or the presence

of drug substances or medications in biological test samples collected from participating horses or detection levels lower than what is authorized by the commission. Such conditions if established in accordance with Paragraph (4) of Subsection C of 15.2.3.8 NMAC shall not be deemed in conflict with the rules and regulations of the commission.

(3) Except as otherwise provided by this part, a person may not administer or cause to be administered by any means to a horse a prohibited substance, including any restricted medication pursuant to this part during the 24-hour period before post time for the race in which the horse is entered.

(4) There is no permissible concentration of clenbuterol or albuterol that is allowed to appear in any official sample. This includes samples collected from Quarter Horses and Thoroughbreds.

(5) The restrictions set forth in Paragraph (3) above do not apply to the following substances:

(a) Topical applications, such as antiseptics, ointments, salves, leg rubs and leg paints which may contain antibiotics (excluding procaine, penicillin and chloramphenicol) but which shall not contain ethanol, benzocaine, dimethylsulfoxide, lidocaine, steroids or other medications.

(b) Vitamins and electrolytes, provided the vitamins and electrolytes are administered orally and do not contain any medications.

(c) Mentholated products designed to be used and administered topically to the nostril areas.

(d) Products containing eucalyptus oil and peppermint oil, such as Wind-Aid, provided the products are administered orally and do not contain any medications.

(6) Commission personnel may at any time confiscate any material or devices used for the administration of any substance identified in Paragraph (5) above and submit it to the official laboratory for testing in order to ensure the contents are accurately identified.

(7) The use of a nebulizer or any similar device used to administer a drug or other substance by inhalation to a horse is not permitted ~~[on the day a horse is entered to race]~~ on the day the horse is scheduled to race.

(8) Any horse that is the subject of a positive test report from the official laboratory for a drug in one of the following categories shall be placed immediately on the steward's list:

(a) any drug categorized by the association of racing commissioner's international "uniform classification guidelines for foreign substance and recommended penalties and model rule" incorporated by reference under 15.2.6.9 NMAC as a penalty class A substance;

(b) any prohibited anabolic androgenic steroid or any anabolic androgenic steroid in excess of the permitted



concentrations listed in Subsection G of 15.2.6.9 NMAC;

(c) clenbuterol, albuterol, or other beta-agonist drugs with significant anabolic effects that are not currently penalty class A drugs (specifically Quarter Horses or Thoroughbreds);

(d) other drugs designed to promote growth or muscle including, but not limited to, growth hormones, somatotropins, insulin growth factors and gene modifying agents;

(e) cobalt in excess of the allowable concentration specified pursuant to Subsection L of 15.2.6.9 NMAC.

(9) Horses placed on the steward's list for a positive test for any of the substances listed in Paragraph (8) of Subsection C above shall remain on the steward's list for 60 days. The first day shall be considered the day following the date of the signed report from the official laboratory.

(10) In order to be removed from the steward's list and prior to entry, the following conditions shall be met:

(a) a minimum of 60 days must have elapsed;

(b) the horse must be presented to the test barn on or after day 60 for the official veterinarian to obtain blood, urine or hair samples;

(c) the collected samples must test negative for any substance identified in Paragraph (8) of Subsection C above;

(d) the cost of the testing, including applicable shipping costs, shall be borne by the licensed owner and must be paid in full at the time of shipment.

(11) If a split sample obtained under Subsection D of 15.2.6.10 NMAC does not confirm the original finding of the official laboratory of a positive test, the horse shall be removed from the steward's list.

(12) A practicing veterinarian that is licensed

by the commission may prescribe a drug identified by Paragraph (8) of Subsection C above under the following conditions:

(a) the diagnosis justifying the prescribed drug, the dosage, the expected duration of treatment, the name of the horse and the name of the trainer must be submitted to the official veterinarian on a form prescribed by the commission;

(b) only FDA label-approved drugs for use in the horse may be prescribed;

(c) the horse shall be placed on the veterinarian's list for a period of time not less than 30 days after the last administration of the drug as prescribed;

(d) the horse must be presented to the test barn once eligible to be removed from the list for the official veterinarian to obtain blood or urine samples;

(e) the collected samples must test negative for the prescribed substance and any other substance identified in Paragraph (8) of Subsection C above:

(f) the cost of testing, including applicable shipping costs shall be borne by the licensed owner and must be paid in full at the time of shipment;

(g) horses placed on the veterinarian's list for the therapeutic use of any substance identified in Paragraph (8) of Subsection C above will be exempt from hair sampling for a six-month period following the last day of the reported treatment. Horses will be subject to out of competition blood and urine sampling during the treatment period pursuant to Subsection J of 15.2.6.9 NMAC to ensure that the concentration of drug found is within the range expected for the recognized therapeutic dose of the drug and will be subject to enhanced out of competition blood and urine sampling during the period exempt from hair sampling.

**D. Furosemide:**  
**(1)**

Furosemide may be administered

intravenously to a horse, which is entered to compete in a race. Except under the instructions of the official veterinarian for the purpose of removing a horse from the veterinarian's list or to facilitate the collection of a post-race urine sample, furosemide shall be permitted only after the trainer enters the horse on furosemide on the entry card and only after the official veterinarian has placed the horse on the furosemide list. In order for a horse to be placed on the furosemide list, the following process must be followed:

(a) After the horse's licensed trainer and licensed veterinarian determine that it would be in the horse's best interests to race with furosemide the official veterinarian or their designee shall be notified using the prescribed form that the horse is to be put on the furosemide list.

(b) The form must be received by the official veterinarian or their designee by the proper deadlines so as to ensure public notification.

(c) A horse placed on the official furosemide list must remain on that list unless the licensed trainer and licensed veterinarian submit a written request to remove the horse from the list. The request must be made to the official veterinarian or their designee, on the proper form, no later than the time of entry.

(d) After a horse has been removed from the furosemide list, the horse may not be placed back on the list for a period of 60 calendar days unless it is determined to be detrimental to the welfare of the horse, in consultation with the official veterinarian. If a horse is removed from the official furosemide list a second time in a 365-day period, the horse may not be placed back on the list for a period of 90 calendar days.

(e) Furosemide shall only be administered on association grounds.

(f) Furosemide shall be the only authorized bleeder medication.

(2) The use of furosemide shall be permitted under the following circumstances on association grounds where a detention barn is utilized: furosemide shall be administered by the official veterinarian, the racing veterinarian, or practicing veterinarian no less than four hours prior to post in which the horse is entered. A horse qualified for furosemide administration must be brought to the detention barn one hour prior to the four-hour administration requirement specified above. After treatment, the horse shall be required by the commission to remain in the detention barn in the care, custody and control of its trainer or the trainer's designated representative under association or commission security supervision until called to the saddling paddock.

(3) The use of furosemide shall be permitted under the following circumstances on association grounds where a detention barn is not utilized: furosemide shall be administered by the official veterinarian, the racing veterinarian, or practicing veterinarian no less than four hours prior to post in which a horse is entered; the horse must be logged in at the stable gate with time and location no less than one hour prior to administration; the furosemide dosage administered shall not exceed 500 milligrams nor be less than 150 milligrams; the trainer of the treated horse shall cause to be delivered to the official veterinarian or their designee no later than one hour prior to post time for the race for which the horse is entered the following information under oath on a form provided by the commission: the racetrack name, the date and time the furosemide was administered to the entered horse; the dosage amount of furosemide administered to the entered horse; the printed name and signature of the attending licensed veterinarian who administered the furosemide.

(4) Any veterinarian or veterinarian technicians participating in a third-party furosemide administration process under association

requirements must be prohibited from working as private veterinarians or technicians on the racetrack or with participating licensees.

(5) The specific gravity of post-race urine samples may be measured to ensure that samples are sufficiently concentrated for proper chemical analysis. The specific gravity shall not be below 1.010. If the specific gravity of the urine is found to be below 1.010 or if a urine sample is unavailable for testing, quantitation of furosemide in serum or plasma shall be performed.

(6) Quantitation of furosemide in serum or plasma shall be performed when specific gravity of the corresponding urine sample is not measured or if measured below 1.010. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.

**E. Bleeder list:**

(1) The official veterinarian shall maintain a bleeder list of all horses which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout as observed by the official or racing veterinarian.

(2) Every confirmed bleeder, regardless of age, shall be placed on the bleeder list and be ineligible to race for the following time periods:

- (a) First incident - 10 days;
- (b) Second incident within 365-day period - 30 days;
- (c) Third incident within 365-day period - 180 days;
- (d) Fourth incident within 365-day period - barred for racing lifetime.

(3) For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period.

(4) The voluntary administration of

furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined by this policy.

(5) A horse may be removed from the bleeder list only upon the direction of the official veterinarian, who shall certify in writing to the stewards the recommendation for removal.

(6) A horse, which has been placed on a bleeder list in another jurisdiction pursuant to these rules, shall be placed on a bleeder list in this jurisdiction.

**F. Permissible medications with acceptable levels:** The official urine or blood test sample may contain one of the following drug substances listed below or the drugs listed on "association of racing commissioners international inc. controlled therapeutic medication schedule", their metabolites or analogs, in any amount that does not exceed the specified levels.

(1) **Atropine:** The use of atropine shall be permitted under the following conditions: any horse to which atropine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of atropine shall not exceed 10 nanograms per milliliter of urine.

(2) **Benzocaine:** The use of benzocaine shall be permitted under the following conditions: any horse to which benzocaine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of benzocaine shall not exceed 50 nanograms per milliliter of urine.

(3) **Dipyrrone:** The use of dipyrrone shall be permitted under the following

conditions: any horse to which dipyrone has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of dipyrone shall be administered in such dosage amount that the official test sample shall not exceed 1000 nanograms per milliliter of urine.

(4)

**Flumethasone:** The use of flumethasone shall be permitted under the following conditions: any horse to which flumethasone has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of flumethasone shall be administered in such dosage amount that the official test sample shall not exceed 10 nanograms per milliliter of urine.

(5)

**Isoxsuprine:** The use of isoxsuprine shall be permitted under the following conditions: any horse to which isoxsuprine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of isoxsuprine shall be administered in such dosage amount that the official test sample shall not exceed 1000 nanograms per milliliter of urine.

(6)

**Pentoxifylline:** The use of pentoxifylline shall be permitted under the following conditions: any horse to which pentoxifylline has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian

to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of pentoxifylline shall be administered in such dosage amount that the official test sample shall not exceed 50 nanograms per milliliter of urine.

(7)

**Pyrilamine:** The use of pyrilamine shall be permitted under the following conditions: any horse to which pyrilamine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of pyrilamine shall be administered in such dosage amount that the official test sample shall not exceed 50 nanograms per milliliter of urine.

**G. Androgenic-anabolic steroids (AAS):**

(1) No AAS

shall be permitted in official samples collected from racing horses except for endogenous concentrations of the naturally occurring substances boldenone, nandrolone, and testosterone at concentrations less than the indicated thresholds.

(2)

Concentrations of these AAS shall not exceed the following free (i.e., not conjugated) steroid concentrations in plasma or serum:

(a)

Boldenone - a confirmatory threshold not greater than 25 picograms/milliliter for all horses, regardless of sex;

(b)

Nandrolone - a confirmatory threshold not greater than 25 picograms/milliliter for fillies, mares and geldings; male horses other than geldings shall be tested for nandrolone in urine (see Subparagraph (b) of Paragraph (3) of this subsection below):

(c)

Testosterone - a confirmatory threshold not greater than 100

picograms/milliliter for fillies, mare and geldings.

(3) Total

concentrations of these AAS shall not exceed the following total concentrations in urine after hydrolysis of conjugates;

(a)

Boldenone - a confirmatory threshold not greater than one nanogram/milliliter for fillies, mares and geldings; a confirmatory threshold not greater than 15 nanograms/milliliter in male horses other than geldings;

(b)

Nandrolone - a confirmatory threshold not greater than one nanogram/milliliter for fillies, mares, and geldings; a confirmatory threshold not greater than 45 nanograms/milliliter (as 5 $\alpha$ -estrane-3 $\beta$ , 17 $\alpha$ -diol) of urine in males horses other than geldings;

(c)

Testosterone - a confirmatory threshold of not greater than 55 nanograms/milliliter of urine in fillies and mares (unless in foal); a confirmatory threshold of not less than 20 nanograms/milliliter in geldings.

(4) Any other

AAS are prohibited in racing horses.

(5) The

presence of more than one of the three AAS identified in Paragraph (2) and (3) of this subsection at concentrations greater than the individual thresholds indicated above shall not be permitted.

(6) The sex

of the horse must be identified to the laboratory on all pre-race and post-race samples designated for androgenic-anabolic steroids testing.

(7) If an AAS

has been administered to a horse in order to assist in its recovery from illness or injury, that horse may be placed on the veterinarian's list in order to monitor the concentration of the drug or metabolite in urine or blood. After the concentration has fallen below the designated threshold for the administered AAS, the horse is eligible to be removed from the list.

**H. Medical labeling:**

(1) No

person on association grounds

where horses are lodged or kept, excluding veterinarians licensed by the commission, shall have in or upon association grounds which that person occupies or has the right to occupy, or in that person's personal property or effect or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with this subsection.

(2) Any drug or medication which is used or kept on association grounds and which, by federal or state law, requires a prescription must have been validly prescribed by a duly licensed veterinarian, and in compliance with the applicable state statutes. All such allowable medications must have a prescription label which is securely attached to the medication container and clearly ascribed to show the following:

- (a) name, address, and telephone number of the pharmacy or veterinarian;
- (b) prescription number when dispensed by a pharmacy if required by law;
- (c) date prescription filled;
- (d) name of the prescribing veterinarian;
- (e) name of the horse for whom the medication is prescribed or dispensed;
- (f) name of the trainer or owner of the horse for whom the product was dispensed;
- (g) dose, dosage, route of administration, and duration of treatment of the prescribed product (instructions for use);
- (h) name, active ingredient, quantity prescribed, expiration date (if applicable), beyond use date (if applicable), and lot number if applicable); and
- (i) cautionary statements (if any), and if applicable, withdrawal time.

(3) The use of an expired medication is considered a violation of this rule.

(4) Any medication that has a label that is missing, illegible, tampered with or altered, or in any other way does not comply with this section shall be considered a violation of these rules.

(5) Any licensee that voluntarily surrenders any non-compliant medication shall not be considered to be in violation of the medication rules described in this section. A surrender shall not be deemed voluntary after a licensee has been advised or it is apparent that an investigatory search has commenced.

**I. Alkalinizing substances:** The use of agents that elevate the horses TCO2 above those existing naturally in the untreated horse at normal physiological concentrations is prohibited. The following levels also apply to blood gas analysis:

- (1) the regulatory threshold for TCO2 is 37.0 millimoles per liter of plasma/serum plus the measurement uncertainty of the laboratory analyzing the sample.
- (2) the decision level to be used for the regulation of TCO2 is 37.0 millimoles per liter of plasma/serum plus the measurement uncertainty of the laboratory analyzing the sample.
- (3) such violation is that of a penalty class B drug.

**J. Out of competition testing:**

- (1) A horse may be subject to out of competition testing without advance notice if the horse is:
  - (a) on the grounds of a racetrack or training center under the jurisdiction of the commission;
  - (b) under the care or control of a trainer or owner licensed by the commission; or
  - (c) any horse whose papers are filed in the racing office; or

(d) has been nominated to a stakes race; or

(e) on the steward's list pursuant to Subsection C of 15.2.6.9 NMAC.

(2) This rule applies to the detection of prohibited substances in out of competition official samples as follows:

(a) penalty class A drugs as listed with the association of racing commissioners international "uniform classification guidelines for foreign substances and recommended penalties and model rule" and incorporated by reference under 15.2.6.9 NMAC;

(b) blood doping agents including, but not limited to, erythropoietin (EP), darbepoetin, oxyglobin, hemopure, aranasep or any substance that abnormally enhances the oxygenation of body tissues;

(c) gene doping agents or the non-therapeutic use of genes, genetic elements, or cells that have the capacity to enhance athletic performance or produce analgesia

(d) clenbuterol or albuterol present in any official sample in a horse not previously placed on the veterinarian's list pursuant to Paragraph (10) of Subsection C of 15.2.6.9 NMAC; and

(e) androgenic-anabolic steroids present in any official sample in a horse not previously placed on the veterinarian's list pursuant to Paragraph (10) of Subsection C of 15.2.6.9 NMAC.

(3) The penalty for a positive test resulting from an out of competition blood or urine sample will be determined by the penalty class of the drug listed in the association of racing commissioners international "uniform classification guidelines for foreign substances and recommended penalties and model rule" and incorporated by reference under 15.2.6.9 NMAC.



(4) A horse with a positive test in an out of competition official sample for any substance identified under Paragraph (6) of Subsection C of 15.2.6.9 NMAC will be placed on the steward's list as per the conditions set forth in that subsection. Horses already on the steward's list for violations of Subsection C of 15.2.6.9 NMAC that have a positive out of competition test in a blood or urine sample for one of the substances identified in the referenced paragraph shall be placed on the steward's list for an additional, consecutive 60-day period.

(5) Horses to be tested may be selected at random, with probable cause or as determined by the commission or an agent of the commission.

(6) The commission veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, may at any time take an official sample from a horse for this purpose.

(7) Split samples shall be collected in accordance with Subsection B of 15.2.6.10 NMAC and shall be secured and made available for further testing in accordance with Subsection D of 15.2.6.10 NMAC.

(8) All horses selected for testing must be presented to the commission veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, at the time designated, unless the trainer or owner provides verification of an extenuating circumstance that makes it impossible. Penalties for violations of this subsection include:

(a) any horse not presented for testing upon notification absent extenuating circumstances will be placed immediately on the steward's list for a minimum of 60 days and shall be subject to all the requirements set forth in Paragraph (8) of Subsection C of 15.2.6.9 NMAC; and

(b) the licensed trainer of a horse not

presented for testing upon notification and absent extenuating circumstances is a minimum license suspension of one year.

(9) Any licensee who does not comply with the rule or the commission veterinarian for a sample may be subject to disciplinary action.

(10) Cooperation with the commission veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, includes:

(a) assisting in the immediate location and identification of the horse selected for out of competition testing; and

(b) assisting the veterinarian in properly procuring the samples.

(11) Out of competition samples will be sent to the official laboratory of the commission, or another laboratory as designated by the commission, with reports made in accordance with the provisions of the medication rules and the penalty provisions therefore.

**K. Contraband:**

(1) No person on association grounds or any premises under the jurisdiction of the New Mexico racing commission where horses are lodged or kept, excluding licensed veterinarians, shall have in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with Subsection H of 15.2.6.9 NMAC. This restriction includes, but is not limited to, locations on the association grounds where that person occupies, in that person's personal property, effects or vehicle.

(2) The New Mexico racing commission may confiscate any contraband in violation of Subsection H of 15.2.6.9 NMAC and any drug or illegal substance that is found on association premises or any premises under the jurisdiction of the New Mexico racing commission which a licensed trainer occupies

or has the right to occupy, or in that trainer's personal property, effects or vehicle in that trainer's care, custody or control.

(3) Upon finding a violation of this subsection, the stewards shall consider the classification level as it is listed in the uniform classification guidelines for foreign substances and recommended penalties as promulgated by Subsection A of 15.2.6.9 NMAC.

(4) If the contraband is required to be tested by the official laboratory, payment of all costs for testing shall be borne by the licensee upon final decision by the stewards that the substance is prohibited pursuant to these rules.

**L. Environmental contaminants and substances of human use:**

(1) Environmental contaminants are either endogenous to the horse or can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during the cultivation, processing, treatment, storage or transportation phases.

(2) Substances of human use and addiction which may be found in the horse due to its close association with humans.

(3) If the preponderance of evidence presented in the hearing shows that a positive test is the result of environmental contamination, including inadvertent exposure due to human drug use, or dietary intake, or is endogenous to the horse, those factors should be considered in mitigation of any disciplinary action taken against the affected trainer. Disciplinary action shall only be taken if test sample results exceed the regulatory thresholds listed below:

(a) Arsenic - 0.3 micrograms per milliliter total arsenic in urine;

(b) Benzoylcegonine - 150 nanograms per milliliter in urine;

(c) Caffeine - 100 nanograms per milliliter of plasma or serum;

(d) Cathinone - 10 nanograms per milliliter in urine;

(e) Cobalt - 25 ppb in blood plasma or serum (penalties for cobalt vary depending on the concentration; see uniform classification guidelines for foreign substances for recommended penalty for concentrations of 25 parts per billion or greater of blood plasma or serum).

(f) Estradiol - 0.045 micrograms per milliliter, free + conjugated 5 $\alpha$ -estradiol, 17 $\alpha$ -diol, in the urine of male horses other than geldings;

(g) Gamma Aminobutyric Acid - 110 nanograms per milliliter of plasma or serum;

(h) Hydrocortisone - 1 microgram per milliliter of urine;

(i) Methoxytyramine - 4 micrograms per milliliter, free + conjugated in urine;

(j) Morphine/morphine glucuronides - 100 nanograms per milliliter in urine;

(k) Salicylate/Salicylic Acid - 750 micrograms per milliliter of urine or 6.5 micrograms per milliliter of serum or plasma;

(l) Scopolamine - 75 nanograms per milliliter of urine;

(m) Strychnine - 100 nanograms per milliliter of urine;

(n) Theobromine - 2 micrograms per milliliter of urine or 0.3 micrograms per milliliter of serum or plasma; and

(o) Theophylline - 400 nanograms per milliliter of urine.

**M. Suspension of authorized medication:**

(1) After a public meeting that has been noticed in accordance with the Open Meetings Act, Sections 10-15-1 through 10-15-4 NMSA 1978, the commission may, for any cause, temporarily suspend the authorized administration to a horse of any drug, substance or

medication that is otherwise permitted under the commission rules.

(2) The temporary suspension of the authorized administration of a drug, substance or medication may be for a race, breed, or race meeting, provided all horses in the same race compete under the same conditions.

(3) The commission shall notify in writing the racing association, the trainer's organization, and licensed veterinarians of any temporary suspension of authorization to administer a drug, substance or medication to a horse entered to race. The written notification shall include at minimum:

(a) the authorized medication is temporarily suspended,

(b) the period of time for which the use of the authorized medication is temporarily suspended; and

(c) whether the temporary suspension is for a specific breed or a race meeting.

(4) A suspension of authorization to administer a drug, substance or medication to a horse entered to race shall not exceed 12 months.

**N. Non-steroidal anti-inflammatory drugs (NSAIDs):** The use of NSAIDs shall be governed by the following conditions:

(1) No NSAID may be administered at less than 48 hours to the scheduled post time of the race in which the horse is entered.

(2) Evidence of an NSAID administration at less than 48 hours to the scheduled post time of the race in which the horse is entered constitutes a Class C violation.

(3) NSAIDs included in the "association of racing commissioner's international incorporated controlled therapeutic medication schedule for horses" are not to be used in a manner inconsistent with the restrictions contained herein. NSAIDs not included on the "association of racing commissioner's international

incorporated controlled therapeutic medication schedule for horses" are not to be present in a racing horse's official sample above the official laboratory limit of detection.

(4) Notwithstanding the above, the presence of one of the following does not constitute a violation:

(a) Phenylbutazone at a concentration of less than 0.3 micrograms per milliliter of plasma or serum;

(b) Flunixin at a concentration less than 5.0 nanograms per milliliter of plasma or serum; or

(c) Ketoprofen at a concentration less than 2.0 nanograms per milliliter of plasma or serum.

(5) The detection of two or more NSAIDs in blood and/or urine constitutes a NSAID Stacking Violation (Penalty Class B).

**O. Multiple Medication Violations (MMV):**

(1) A trainer who receives a penalty for a medication violation based upon a horse testing positive for a class 1-5 medication with penalty class A-C, as provided in the version of the ARCI "uniform classification guidelines for foreign substances" listed in 15.2.6.9 NMAC, or similar state regulatory guidelines, shall be assigned points as follows;

**Continued Next Page**

Penalty Class	Points If Controlled Therapeutic Substance	Points if Non-Controlled Substance
Class A	6	6
Class B	2	4
Class C	1/2 point for first violation with an additional 1/2 point for each additional violation within 365 days	1 for first violation with an additional 1/2 point for each additional violation with 365 days
Class D	0	0

Points for NSAID violations only apply when the primary threshold of the NSAID is exceeded. Points are not to be separately assigned for a stacking violation. If the stewards or the commission determine that the violation is due to environmental contamination, they may assign lesser or no points against the trainer based upon the specific facts of the case.

(2) The points assigned to a medication violation by the stewards or commission shall be included in the ARCI official database. The ARCI shall record points consistent with Paragraph (1) of this Subsection including when appropriate, a designation that points have been suspended for the medication violation. Points assigned by such commission ruling shall reflect, in the case of multiple positive tests as described in Paragraph (4), whether they constitute a single violation. The stewards or commission ruling shall be posted on the official website of the commission and within the official database of the ARCI. If an appeal is pending, that fact shall be noted in such ruling. No points shall be applied until a final adjudication of the enforcement of any such violation.

(3) A trainer’s cumulative points for violations in all racing jurisdictions shall be maintained by the ARCI. Once all appeals are waived or exhausted, the points shall immediately become part of the trainer’s official ARCI record and shall be considered by the commission in its determination to subject the trainer to the mandatory enhanced penalties by the stewards or commission as provided in this rule.

(4) Multiple positive tests for the same medication incurred by a trainer prior to delivery of official notice by the commission may be treated as a single violation. In the case of a positive test indicating multiple substances found in a single post-race sample, the stewards may treat each substance found as an individual violation for which points will be assigned, depending upon the facts and circumstances of the case.

(5) The official ARCI record shall be used to advise the stewards or commission of a trainer’s past record of violations and cumulative points. Nothing in this administrative regulation shall be construed to confer upon a licensed trainer the right to appeal a violation for which all remedies have been exhausted or for which the appeal time has expired as provided by applicable law.

(6) The stewards or commission shall consider all points for violations in all racing jurisdictions as contained in the trainer’s official ARCI record when determining whether the mandatory enhancements provided in this regulation shall be imposed.

(7) In addition to the penalty for the underlying offense, the following enhancements shall be imposed upon a licensed trainer based upon the cumulative points contained in their official ARCI record:

POINTS	SUSPENSION IN DAYS
5 - 5.5	15 to 30
6 - 8.5	30 to 60
9 - 10.5	90 to 180
11 or more	180 to 360

MMV penalties are not a substitute for the current penalty system and are intended to be an additional uniform penalty when the licensee:

- (a) Has more than one medication violation for the relevant time period, and
- (b) exceeds the permissible number of points.

The stewards and commission shall consider aggravating and mitigating circumstances, including the trainer’s prior record for medication violations, when determining the appropriate penalty for the underlying offense. The multiple medication penalty is intended to be a separate and additional penalty for a pattern of violations.

(8) The suspension periods as provided in this subsection shall run consecutive to any suspension imposed for the underlying offense.

(9) The stewards or commission ruling shall distinguish between the penalty for the underlying offense and any enhancement based upon a stewards or commission review of the trainer’s cumulative points and regulatory record, which may be considered an aggravating factor in a case.

(10) Points shall expire as follows:

Penalty Classification	Time to Expire
A	3 years
B	2 years
C	1 year

In the case of a medication violation that results in a suspension, any points assessed expire on the anniversary date of the date the suspension is completed.

[15.2.6.9 NMAC - Rp, 15 NMAC 2.6.9, 4/13/2001; A, 8/30/2001; A, 7/15/2002; A, 8/15/2002; A, 9/29/2006; A, 10/31/2006; A, 8/30/2007; A, 1/31/2008; A, 3/01/2009; A, 6/15/2009; A, 6/30/2009; A, 9/15/2009; A, 12/15/2009; A, 3/16/2010; A, 7/05/2010; A, 9/1/2010; A, 12/1/2010; A, 11/1/2011; A, 2/15/2012; A, 4/30/2012; A, 7/31/2012; A, 12/14/2012; A, 5/1/2013; A/E, 5/2/2013; A, 9/30/2013; A, 4/1/2014; A, 5/16/2014; A, 8/15/2014; A, 9/15/2014; A, 3/16/2015; A, 9/16/15; A, 3/15/2016; A, 6/15/2016; A/E, 6/28/2016; A, 9/15/2016; A, 12/16/2016; A, 7/1/2017; A, 10/31/17; A, 3/14/2018; A, 9/26/2018; A, 5/1/2019; A, 12/19/2019; A, 4/20/2021; A, 12/28/2021; A, 4/9/2024]

**15.2.6.10 TESTING:**

**A.** Reporting to the test barn:

(1) The official winning horse, ~~or~~ as well as any other horses ordered by the commission or the stewards shall be taken to the test barn to have an official sample taken at the direction of the official veterinarian.

(2) The association shall assign an employee to escort horses ordered by the commission or the stewards to go to the test barn.

(3) Random or extra testing may be required by the stewards or the commission at any time on any horse.

~~(3)~~ (4) Unless otherwise directed by the stewards or the official veterinarian, a horse that is selected for testing must be taken directly to the test barn.

~~(4)~~ (5) A track security guard, employed by the association, shall monitor access to the test barn area during and immediately following each racing performance. All persons who wish to enter the test barn area must be a minimum of 18-years-old, be currently licensed by the commission, display their commission identification badge and have a legitimate reason for being in the test barn area.

**B.** Sample collection:  
~~(1) Sample collection shall be done in accordance to guidelines and instruction provided by the New Mexico racing commission official veterinarian or the New Mexico racing commission agency director.]~~

~~(2)~~ (1) The official veterinarian shall determine a minimum sample volume requirement for the primary testing laboratory. A primary testing laboratory must be accredited by ISO 17025 and approved by the commission.

~~(3)~~ (2) If the specimen obtained from a horse is less than the minimum sample requirement, the entire specimen shall be sent to the primary testing laboratory.

~~(4)~~ (3) If a specimen obtained is greater than the minimum sample requirement but less than twice that amount, the portion of the sample that is greater than the minimum sample requirement shall be secured as the split sample.

~~(5)~~ (4) If a specimen obtained is greater than twice the minimum sample requirement, a portion of the sample approximately equal to the amount provided for the primary testing laboratory shall be secured as the split sample.

~~(6)~~ (5) No split samples will be collected for determination of TCO2 levels.

(6) No split samples will be collected for determination of TCO2 levels.

**C.** Alkalinizing substances:

(1) Blood samples for TCO2 and base excess testing should be collected 45 minutes (+ or - 15 min) pre-race and approximately three hours after furosemide administration. The samples must be handled in a consistent manner and cannot be frozen. If samples are obtained pre-furosemide a lower regulatory threshold is necessary and the horse must be kept in a secure barn until race time.

(2) The provisions of this rule pertaining to sample collection shall not apply to blood samples drawn for TCO2 analysis.

(3) Blood samples must be processed and tested within 120 hours using standardized, reproducible, validated procedures.

**D.** Storage and shipment of split samples:

(1) Split samples obtained in accordance with Paragraphs (3) and (4) Subsection B, of 15.2.6.10 NMAC above shall be secured and made available for further testing. A split sample shall be secured in the test barn under the same manner as the portion of the specimen acquired for shipment to a



primary laboratory until such time as specimens are packed and secured for shipment to the primary laboratory. Split samples shall then be transferred to a freezer or other secured mechanism at a secure location as provided by state statute or approved by the commission.

(2) A trainer, owner or designee of a horse having been notified that a written report from a primary laboratory states that a prohibited substance has been found in a specimen obtained pursuant to these rules may request that a split sample corresponding to the portion of the specimen tested by the primary laboratory be sent to another testing laboratory that is accredited by ISO 17025 and approved by the commission. The ISO 17025 requirement may only be waived by the commission for the purpose of a split sample test involving a hair sample. The request must be made and confirmed with the commission not later than 48 hours excluding weekends and holidays after the trainer of the horse receives notice of the findings of the primary laboratory. The trainer's first choice, second choice and third choice of laboratories, for the split sample to be sent to, shall be listed within that 48 hours and kept on file with the horsemen's association. Any request not received within the specified deadline shall be considered a positive test. Any split sample so requested must be shipped within seven working days after the trainer's 48 hour deadline or the New Mexico horsemen's association may be subject to disciplinary action.

(3) The owner, trainer or designee requesting testing of a split sample shall be responsible for the cost of shipping and testing. Failure of the owner, trainer or designee to appear at the time and place designated by the commission or the commission's designee shall constitute a waiver of all rights to split sample testing. Prior to shipment, the owner, trainer or designee shall confirm the split sample laboratory's willingness to provide the testing requested, the laboratory's willingness

to send results to both the person requesting the testing and the commission, and arrangements for payment satisfactory to the split sample laboratory.

(4) Prior to opening the split sample freezer or any other secure split sample storage mechanism, the commission shall ensure that the standard operating procedure for the handling and shipping of the split sample are followed and documented. Standard operating procedure for the handling and shipping of a split sample shall include documentation of the following at a minimum:

(a) the date and time the sample is removed from the split sample freezer or other secured mechanism;

(b) the sample number;

(c) the address where the split sample is to be sent;

(d) the name of the carrier and the address where the sample is to be taken for shipment;

(e) verification the owner, trainer or designee received the split sample from the freezer or other secured mechanism;

(f) verification of the condition of the split sample package immediately prior to transfer of custody to the carrier; and,

(g) the date and time custody of the sample is transferred to the carrier.

(5) A split sample shall be removed from the split sample freezer or other secured mechanism by a commission representative in the presence of the owner, trainer or designee.

(6) The owner, trainer or designee shall pack the split sample for shipment in the presence of the representative of the commission, in accordance with the packaging procedures recommended by the commission. A form shall be signed by both the horsemen's representative and the

commission representative to confirm the packaging of the split sample. The exterior of the package shall be secured and identified with initialed tape, evidence tape or other means to prevent tampering with the package.

(7) The package containing the split sample shall be transported in a manner prescribed by the commission to the location where custody is transferred to the delivery carrier charged with delivery of the package to the commission-approved laboratory selected by the owner or trainer.

(8) The owner, trainer or designee and the commission representative shall inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.

(9) All documents verifying the handling and shipping of the split sample chain of custody shall be completed and signed by the representatives of the commission and the owner, trainer or designee. A commission representative shall keep all original documents and provide copies for the owner, trainer or designee.

E. Official state racing chemist: The state racing commission may hire or contract with a qualified chemist to act as the official state racing chemist. The duties of the official state racing chemist may include, but shall not be limited to the following:

(1) review and evaluate scientific data submitted by the official testing laboratory concerning any race horse's positive drug test;

(2) submit a written report to the agency director of the racing commission concerning a positive test, certifying the positive test as such, or that the test does not constitute a positive test based on the scientific data submitted by the official testing laboratory; if the test does not constitute a positive test it may be referred back to the laboratory for further testing;

(3) in the event that a split sample is sent for independent testing and the result of that test does not confirm with the results of the primary testing laboratory, the official state racing chemist shall review all scientific data submitted by the laboratory which tested the split and make recommendations to the agency director;

(4) appear before the racing commission as an expert witness, as needed in matters concerning chemical testing for drugs and medications;

(5) consult with the racing commission in matters concerning chemical testing for drugs and medication as the need arises;

(6) at the request of the commission, inspect the official testing laboratory and the racetrack collection facilities to insure their compliance with, and use of, proper scientific techniques and procedures.

[15.2.6.10 NMAC - Rp, 15 NMAC 2.6.10, 4/13/2001; A, 3/30/2007; A, 9/1/2010; A, 7/31/2012; A, 5/1/2013; A, 5/16/2014; A, 6/15/2016; A, 7/1/2017; A, 3/14/2018; A, 9/26/2018; A 4/9/2024]

### 15.2.6.12 PHYSICAL INSPECTION OF HORSES:

#### A. Assessment of racing condition:

(1) Every horse entered to participate in an official race may be subjected to a veterinary inspection prior to starting in a race for which it is entered.

(2) The inspection shall be conducted by the official veterinarian or the racing veterinarian.

(3) The agency or the association employing the examining veterinarian(s) should provide a staffing level of not less than two veterinarians.

(4) The trainer of each horse or a representative of the trainer must present the horse for inspection as required by the examining veterinarian. Horses presented for examination must have

bandages removed and the legs must be clean. Prior to examination horses may not be placed in ice nor shall any device or substance be applied that impedes veterinary clinical assessment.

(5) The assessment of a horse's racing condition shall be based on the recommendations of the American association of equine practitioners and shall include: proper identification of each horse inspected; observation of each horse in motion; manual palpation and passive flexion of both forelimbs; clinical observation in the paddock and saddling area, during the parade to post and at the starting gate; any other inspection deemed necessary by the official veterinarian and the racing veterinarian or the stewards.

(6) Every horse shall be observed by the racing veterinarian during and after the race.

(7) The official veterinarian or the racing veterinarian shall maintain a permanent continuing health and racing soundness record of each horse inspected.

(8) The official veterinarian or the racing veterinarian are authorized access to any and all horses housed on association grounds regardless of entry status.

(9) If, prior to starting, a horse is determined to be unfit for competition, or if the veterinarian is unable to make a determination of racing soundness, the veterinarian will recommend to the stewards the horse be scratched.

(10) Horses scratched upon the recommendation of the official veterinarian or the racing veterinarian, are to be placed on the veterinarian's list.

(11) All pre-race examination reports on each horse selected for a pre-race examination will be submitted to the commission on a monthly basis. In addition, these reports will be made available to the commission upon request within a 48-hour period.

#### B. Veterinarian's list:

(1) The official veterinarian or racing

veterinarian shall maintain the veterinarian list of all horses which are determined to be unfit to compete in a race due to illness, physical distress, medical compromise, heat exhaustion, unsoundness, injury, infirmity, voluntary administration of a medication invoking a mandatory stand down time, administration of shock-wave therapy or any other assessment or determination by the official veterinarian or racing veterinarian that the horse is unfit to race.

(2) Horses [so] listed pursuant to this rule and on HISA's veterinarians' list are ineligible to enter to race in any jurisdiction until released by the official veterinarian or racing veterinarian except when there is an administrative issue in releasing the horse from a veterinarian's list of another racing jurisdiction.

(3) A horse placed on the veterinarian's list due to illness, injury or infirmity unrelated to the racing soundness of the horse [maybe] may be released from the list when a minimum of seven calendar days has passed from the time the horse was placed on the list.

(4) A horse placed on the veterinarian's list for unsoundness or lameness shall be released from the list only after the following has been met:

(a) A minimum of seven calendar days has elapsed;

(b) the horse demonstrates to the satisfaction of the official veterinarian or racing veterinarian that the horse is serviceably sound and in fit physical condition to exert its best effort in a race;

(c) the horse completes a published work after the seven calendar days has elapsed of four furlongs at 0:52 seconds or better for thoroughbreds; or 220 yards at 13.3 seconds or better for quarter horses while being observed the official veterinarian or racing veterinarian, and;

(d) the horse submits to a post work official sample collection

for laboratory confirmation for compliance with 15.2.6.9 NMAC at the expense of the current owner. Samples shall be subjected to the same testing as conducted for post race official samples. The presence of a prohibited substance in the post work sample shall result in the horse remaining on the veterinarian's list.

(5) A horse placed on the veterinarian's list for voluntary administration of a medication invoking a mandatory stand down time shall be released from the list subject to the provisions and restrictions set forth in Paragraph (1) of C of 15.2.6.9 NMAC.

(6) A horse placed on the veterinarian's list for administration of shock-wave therapy shall be released from the list subject to the provisions and restrictions set forth in Subsection C of 15.2.6.8.

**C. Postmortem examination:**

(1) The commission may require a postmortem examination of any horse that dies or is euthanized on association grounds.

(2) The commission may require a postmortem examination of any horse that dies or is euthanized at recognized training facilities within this jurisdiction.

(3) If a postmortem examination is to be conducted, the commission shall take possession of the horse upon death for a postmortem examination. All shoes and equipment on the horse's legs shall be left on the horse.

(4) If a postmortem examination is to be conducted, the commission or its representative shall collect blood, urine, bodily fluids, or other biologic specimens immediately, if possible before euthanization. The commission may submit blood, urine, bodily fluid, or other biologic specimens collected during a postmortem examination for testing analysis. The presence of a prohibited substance in a specimen collected during the postmortem examination may constitute a violation.

(5) Requests for each postmortem examination shall be filed with the official veterinarian by the owner's or trainer's veterinarian within one hour of the death and shall be submitted on a necropsy submission form entitled New Mexico racing commission necropsy submission form, hereby incorporated by reference and which is available at all official veterinarian offices and all stable gates. The trainer or their designee is responsible to supply all information to complete this form.

(6) All licensees shall be required to comply with postmortem examination requirements as a condition of licensure. In proceeding with a postmortem examination the commission or its designee shall coordinate with the owner or the owner's authorized agent to determine and address any insurance requirements.

(7) Postmortem examinations shall be conducted according to the most recent edition of the American association of equine practitioners' guidelines for the necropsy of racehorses.

(8) Upon completion of the postmortem examination the diagnostic laboratory shall file a written report with the racing commission's agency director and official veterinarian.

(9) The owner or the owner's authorized agent will be responsible for all costs of a postmortem examination, i.e., testing fees, transportation of the horse, disposal, etc., when the results of a postmortem examination constitute a violation of the New Mexico racing commission rules.

[15.2.6.12 NMAC - Rp, 15 NMAC 2.6.12, 4/13/2001; A, 9/1/2010; A, 12/1/2010; A, 11/1/2011; A, 2/15/2012; A, 7/31/2012; A, 12/19/2019; A, 4/9/2024]

**RACING COMMISSION**

**This is an amendment to 16.47.1 NMAC, Sections 8, 10, 17 and 18, effective 4/9/2024.**

**16.47.1.8 GENERAL PROVISIONS:**

**A. Licenses required:**  
A person as defined by 15.2.1.7 NMAC shall not participate in [~~pari-mutuel~~] pari-mutuel racing under the jurisdiction of the commission or be employed by an association who is a gaming operator, without a valid license issued by the commission.

(1) License categories shall include the following and others as may be established by the commission: **Group A** - racing participants eligible for an optional annual or triennial year license to include owners, trainers, veterinarians, jockeys, and stable name registrations. **Group B** - associations, racing professionals, concession operators, contractors, and managerial racing officials. **Group C** - supervisory racing officials. **Group D** - persons employed by the association or employed by a person or concern contracting with the association, to provide a service or commodity, which requires their presence in a restricted area, or anywhere on association grounds while [~~pari-mutuel~~] pari-mutuel wagering is being conducted. **Group E** - racetrack employees and authorized agents.

(2) Persons required to be licensed shall submit a thoroughly and accurately completed application on forms furnished by the commission and accompanied by the required fee. Persons seeking licensure as an authorized agent for an owner under the age of 18 shall be required to be 18 years or older and shall submit fingerprints to undergo a background check. The following fees are assessed for the issuance of the specified licenses. In addition to license fees listed herein, \$20.00 is assessed for each identification picture and badge.

Announcer	\$ 75.00
Assistant general manager	\$100.00
Assistant racing secretary	\$ 20.00
Association	\$100.00
Auditor, official	\$ 75.00
Authorized agent	\$ 10.00
Clerk of scales	\$ 20.00
Clocker	\$ 20.00
Club, racetrack	\$100.00
Concession employee	\$ 10.00
Concession operator	\$100.00
Custodian of jockey room	\$ 20.00
Director or corporate officer	\$100.00
Director of operations	\$ 75.00
Director of racing	\$ 75.00
Exercise person	\$ 20.00
General manager	\$100.00
Groom	\$ 10.00
Horseman's bookkeeper	\$ 20.00
Identifier (horse)	\$ 20.00
Janitor	\$ 10.00
Jockey (3 year)	\$200.00
Jockey (1 year)	\$100.00
Jockey (apprentice) (3 year)	\$200.00
Jockey (apprentice) (1 year)	\$100.00
Jockey agent	\$ 75.00
Jockey valet	\$ 10.00
Laborer	\$ 10.00
Office personnel (specify position)	\$ 10.00
Official veterinarian (3 year)	\$200.00
Official veterinarian (1 year)	\$100.00
Outrider	\$ 20.00
Owner (3 year)	\$200.00
Owner (1 year)	\$100.00
Paddock judge	\$ 20.00
Pari mutuel employee	\$ 10.00
Pari mutuel manager	\$ 75.00
Placing judge	\$ 20.00
Photo employee	\$ 10.00
Plater	\$100.00
Pony person	\$ 10.00
Private barns	\$100.00
Racing secretary-handicapper	\$ 75.00



Security chief	\$ 75.00
Security staff	\$ 10.00
Simulcast company employee	\$ 10.00
Simulcast coordinator	\$ 75.00
Simulcast operator	\$100.00
Special event, 1 or 2 day	\$200.00
Stable name (3 year)	\$200.00
Stable name (1 year)	\$100.00
Stable superintendent	\$ 75.00
Starter	\$ 75.00
Starter assistant	\$ 20.00
Ticket seller (admissions)	\$ 10.00
Timer	\$ 20.00
Totalisator employee	\$ 10.00
Totalisator operator	\$100.00
Track maintenance, employee	\$ 10.00
Track physician	\$100.00
Track superintendent	\$ 75.00
Trainer (3 year)	\$200.00
Trainer (1 year)	\$100.00
Trainer assistant	\$ 20.00
Veterinarian assistant	\$ 20.00
Veterinarian, practicing (3 year)	\$200.00
Veterinarian, practicing (1 year)	\$100.00
Veterinarian, racing (3 year)	\$200.00
Veterinarian, racing (1 year)	\$100.00
Watchman	\$ 10.00

(3) License applicants shall be required to furnish to the commission a set(s) of fingerprints and a recent photograph. Any license applicant that is under the age of 18 years of age is exempt from the requirement to submit fingerprint cards.

(a) All license applicants shall be required to be re-fingerprinted every six years and re-photographed periodically as determined by the commission.

(b) Requirements for fingerprints may be fulfilled by:

- (i) submission of fingerprints; or
- (ii) verification that fingerprints were submitted for processing;

(iii) submission of a fingerprint reciprocity affidavit; or

(iv) provide proof of licensure from another jurisdiction to which fingerprints were submitted within the last six years.

(4) License applicants for groom, watchman, exercise and pony persons must submit to a drug (controlled substances) and alcohol-screening test when making application for license.

(5) As a participant of the national racing compact licensing program and as an alternative to the licensure requirements set forth in Paragraphs (2) through (4) of Subsection A of 16.47.1.8 NMAC, the commission

may authorize applicants to utilize the national racing compact licensing program to obtain a New Mexico racing license subject to the applicable licensure fees set forth in Paragraph (2) of Subsection A of 16.47.1.8 NMAC.

**B. Multi-state licensing information:** Applicants may be permitted to submit an association of racing commissioners international, incorporated multi-state license information form and association of racing commissioners international, incorporated fingerprint card and thereby obtain a criminal record check that can be used in other jurisdictions.

**C. Age requirement:**  
**(1)** Applicants for licensing, except owners, must be a minimum of 14 years of age, but no one under the age of 16 may be licensed as a pony person or exercise person and no one under the age of 18 may be licensed as an authorized agent or jockey agent.

**(2)** A licensee must be a minimum of 14 years of age to handle a horse in the paddock.

**D. Consent to investigation:** The filing of an application for license shall authorize the commission and the board to investigate criminal and employment records, to engage in interviews to determine applicant's character and qualifications, and to verify information provided by the applicant.

**E. Consent to search and seizure:** By acceptance of a license, a licensee consents to search and inspection by the commission or its agents and to the seizure of any prohibited medication, drugs, paraphernalia or devices in accordance with state and federal law.

**F. Approval or recommendations by stewards:** The commission may designate categories of licenses, which shall require stewards' prior approval or recommendation. Prior approval will include exercise riders, pony riders, and apprentice jockeys.

**G. Employer responsibility:**

(1) The employment of any unlicensed person under the jurisdiction of the commission is prohibited.

(2) Every employer shall report the discharge of any licensed employee in writing to the stewards, including the person's name and occupation.

**H. Employer endorsement of license applications:**

The license application of an employee must be signed by the employer.

**I. Financial responsibility:**

(1) All persons engaged in racing shall maintain financial responsibility in matters pertaining to racing and the Parental Responsibility Act.

(2) Any person licensed by the commission may file a financial responsibility complaint against another licensee. Any financial responsibility complaint against a licensee shall be in writing, signed by the complainant, and accompanied by documentation of the services, supplies or fees alleged to be due in connection with his/her operations as a licensee. A judgment from a civil court, which has been issued within one year of the date of the complaint, may be honored by the stewards as long as at least the defendant is a licensee.

**J. License refusal:**

The commission may refuse to issue a license and give the applicant the option of withdrawal of an application without prejudice. If an applicant is refused, the applicant may reapply for a license.

**K. License denial:**

(1) The commission may formally deny an application in accordance with these rules.

(2) An application denied, if requested by the applicant, shall be reported in writing to the applicant denied stating the reasons for denial, and the date when a reapplication may be submitted.

(3) An application denied may be reported to the association of racing commissioners international, incorporated and North American pari mutuel regulators association whereby other racing jurisdictions shall be advised.

**L. Grounds for disciplinary measures for a licensee, and refusal, denial, suspension, or revocation of a license:**

(1) The commission may refuse to issue a license to an applicant, or may suspend or revoke a license issued, or order disciplinary measures, if the applicant:

(a) has been convicted of a felony;

(b) has been convicted of violating any law regarding gambling or a controlled dangerous substance;

(c) who is unqualified, by experience or otherwise, to perform the activities for which a license is required, or who fails to pass an examination prescribed by the commission;

(d) has failed to disclose or falsely states any information required in the application;

(e) has been found in violation of rules governing racing in this state or other jurisdictions;

(f) has been found to have made false or misleading statements to the commission, stewards, or any racing official;

(g) has been or is currently excluded from association grounds by a recognized racing jurisdiction;

(h) has had a license denied, suspended, or revoked by any racing jurisdiction;

(i) is a person whose conduct or reputation may adversely reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of a race meeting; interfering with the orderly conduct of a race meeting shall include, but is not limited to,

disruptive or intemperate behavior or behavior which exposes others to danger anywhere on the racetrack grounds; the fact that the race meet was not actually interrupted is not a defense to the imposition of discipline under this rule;

(j) demonstrates a lack of financial responsibility by accumulating unpaid obligations, defaulting on obligations or issuing drafts or checks that are dishonored, or payment refused; for the purpose of this subsection, non-compliance with the Parental Responsibility Act shall be considered grounds for refusal, denial, suspension, or revocation of a license; the application, or license as applicable, shall be reinstated if within 30 days of the date of the notice, the applicant provides the commission with a certified statement from the department that they are in compliance with a judgment and order for support;

(k) is ineligible for employment pursuant to federal or state law concerning age or citizenship;

(l) is disrespectful or intimidates any official, commissioner, or commission staff or any other licensee;

(m) attempts to influence any racing official or commission staff member;

(n) has knowingly filed a false complaint against another licensee or a racing official where the racing commission or the stewards determine that the complaint was made without reasonable or probable cause and for the purpose of the harassment or abuse of the complaint process;

(o) has engaged in conduct unbecoming or detrimental to the best interests of racing.

(2) A license suspension or revocation shall be reported in writing to the applicant and the association of racing commissioners international, incorporated, whereby other racing jurisdictions shall be advised.

(3) Any license denied, suspended or revoked by the commission pursuant to these rules shall state the time period for the effect of its ruling. When the action is taken for a misdemeanor or felony conviction, the time period shall be the period of the licensee's or applicant's imprisonment; or if not imprisoned, the period of probation, deferral, unless the person can satisfy the commission of sufficient rehabilitation. This rule shall also apply to licensees who voluntarily turn in their license because of, or in anticipation of, a conviction.

(4) If a license is suspended or revoked by the commission or stewards pursuant to these rules the commission or stewards may probate all or any portion of the suspension.

(a) The order or ruling entered placing a licensee on probation shall state the specific probationary period and the terms and conditions of the probation.

(b) The terms and conditions of the probation must have a reasonable relationship to the violation and may include:

- (i) passing a prescribed examination in a specific area;
- (ii) periodic reporting to the commission, stewards or other designated person on any matter that is the basis of the probation;
- (iii) a medical evaluation and completion of a prescribed treatment program; and
- (iv) other terms and condition as specified in the order or ruling that are reasonable and appropriate.

(c) If the commission or stewards determine the licensee has failed to comply with the terms of the probation, the probation may be revoked on three days' notice to the licensee and the licensee may be required to appear before the New Mexico racing commission. Failure to comply with the terms of the probation may subject

the licensee to additional disciplinary action.

**M. Duration of license:**

(1) All annual licenses, with the exception of the authorized agent, issued by the commission expire one year from the last day of the month issued. All triennial licenses expire three years from the last day of the month issued.

(2) A license is valid only under the condition that the licensee remains eligible to hold such license.

**N. Changes in application information:**

(1) During the period for which a license has been issued, the licensee shall report to the commission changes in information provided on the license applications as to current legal name, marital status, permanent address, telephone number, email address, criminal convictions, license suspension of 10 days or more and license revocations in other jurisdictions

(2) A child or spouse pass, or a change in current legal name requires a completed application on forms furnished by the commission and payment of a photo badge fee.

(3) A licensee requesting a first time badge replacement shall submit a completed application on forms furnished by the commission and payment of a photo badge fee. Any subsequent badge replacements require the licensee to submit a completed application on forms furnished by the commission and payment of the original license fee.

**O. Temporary licenses:**

(1) The commission may establish provisions for temporary licenses, or may permit applicants to participate in racing pending action on an application. No person may engage in horse racing or be employed on the licensee's premises unless he has been licensed by the commission with the exception of casino employees and also food concession employees who work in non-restricted areas.

(2) The commission may grant an association, who is not conducting a live horse race meeting, a grace period of 30 days to obtain the required licenses for its simulcast employees. An association shall provide to the commission each month, an employment roster for all simulcast employees.

**P. More than one license:** ~~[More than one license to participate in horse racing may be granted except when prohibited by these rules due to a potential conflict of interest.]~~ An applicant for a license shall be subject to obtaining a license for each category for which an applicant will be participating, subject to the approval of the board of stewards.

(1) The commission may refuse, deny, suspend or revoke the license of a person whose spouse holds a license and which the commission or stewards find to be a conflict of interest.

(2) A racing official who is an owner of either the sire or dam of a horse entered to race shall not act as an official with respect to that race.

(3) A person who is licensed as an owner or trainer in a horse registered for racing at a race meeting in this jurisdiction shall not be employed or licensed as a jockey, apprentice jockey; jockey agent; racing official; assistant starter; track maintenance supervisor; jockey room custodian; valet; outrider; racing chemist, testing laboratory employee, or security personnel.

**R. License presentation:**

(1) A person must present an appropriate license or other authorization issued by the commission to enter a restricted area. The commission may issue authorization to the spouse or child of a licensed owner, trainer or jockey to enter a restricted area.

(2) The stewards may require visible display of a license while the licensee is engaged in the duty for which he/

she is licensed and on the association grounds unless the licensee is mounted on a horse.

(3) A license may only be used by the person to whom it is issued.

S. **Temporary access authority:** Track security may authorize unlicensed persons temporary access to restricted areas. Such person shall be identified and their purpose and credentials verified and approved in writing by track security. Such authorization or credential may only be used by the person to whom it is issued.

T. **Knowledge of rules:** A licensee shall be knowledgeable of the rules of the commission; and by acceptance of the license, agrees to abide by the rules.

U. **Protection of horses:**

(1) Each person licensed by the commission shall do all that is reasonable and within their power and scope of duty to guard against and prevent the administration of any drug, medication or other substance, including permissible medication in excess of the maximum allowable level, to any horse entered or to be entered in an official workout or race, as prohibited by these rules.

(2) No licensee or other person under the jurisdiction of the commission shall subject or permit any animal under their control, custody or supervision to be subjected to or to incur any form of cruelty, mistreatment, neglect or abuse or abandon, injure, maim or kill or administer any noxious substance to or deprive any animal of necessary care or sustenance, shelter or veterinary care.

V. **Restrictions:**  
(1) Cellular telephone use is prohibited:

(a) on the race track surface beginning one half hour before first post through the last race becoming official; and

(b) behind the starting gate during racing hours.

(2) The association shall be responsible for posting notices of the cellular telephone prohibition in these restricted areas.  
[16.47.1.8 NMAC - Rp, 16 NMAC 47.1.8, 3/15/2001, A, 08/30/2001; A, 11/15/2001; A, 12/14/2001; A, 2/14/2002; A, 11/14/2002; A, 3/31/2003; A, 7/15/2003; A, 9/29/2006; A, 3/30/2007; A, 8/14/2008; A, 6/15/2009; A, 9/15/2009; A, 1/1/2014; A, 4/1/2014; A, 6/1/2016; A, 12/16/2016; A, 7/1/2017; A, 3/14/2018; A, 2/25/2020; A, 5/24/2022; A, 4/9/2024]

**16.47.1.10 TRAINERS:**

A. **Eligibility:**  
(1) An applicant for a license as trainer or assistant trainer must be at least 18 years of age.

(2) The board of stewards may first determine whether an applicant for a license as a trainer or assistant trainer has taken an examination in another pari-mutuel jurisdiction prior to applying for a license in New Mexico. The board of stewards shall have sole discretion in which jurisdiction to reciprocate licensing.

[~~(2)~~] (3) Applicants not previously licensed as a trainer or assistant trainer in New Mexico or applying for a renewal license as a trainer shall be qualified, as determined by the stewards or other commission designee, by reason of:

(a) At least [~~two~~] five years experience as a licensed groom, jockey, exercise rider, or pony person [~~, plater or owner who is actively participating in the stable area. An owners' license will only be accepted if licensee can prove they are a "hands-on" owner actively working as a groom at the racetrack on their own horses under the supervision of a licensed trainer].~~

(b) Shall be required to pass [a] the New Mexico racing commission's sanctioned written trainers examination, with a minimum score of [80] eighty percent in each category, an oral [interviews]

interview with the board of stewards [and a regulatory veterinarian;] and pass a [~~demonstrate~~] demonstration of practical skills.

(c) Must submit two written statements from trainers currently licensed in New Mexico as to the character and qualifications of the applicant and one written statement from a currently licensed owner stating intent to place one or more horses with the applicant, when licensed.

(d) Applicants failing the first written/oral examination must wait [30] 90 days before retaking the trainer's test.

(e) Applicants failing the second written/oral examination must wait [60] 180 days before retaking the trainer's test.

(f) Applicants failing the third written/oral examination must wait one year before retaking the trainer's test.

[~~(3)~~] (4) [~~A trainer licensed and in good standing in New Mexico applying for a renewal license or a trainer from another jurisdiction, and the license having been issued within a 24 month period, may be accepted if evidence of experience and qualifications are provided. In addition, the licensee must have no record of a class 1 or 2 violation, in the preceding 24 month period in any jurisdiction for it to be accepted. Evidence of qualifications shall require passing one or more of the following:~~] Any trainer who has been the subject of a medication violation or investigation in any jurisdiction is subject to an oral examination conducted by the stewards; a demonstration of practical skills; or a New Mexico racing commission's sanctioned written trainers examination and must pass with a minimum score of eighty percent in each category.

[~~(a)~~] a written test;

[~~(b)~~] a demonstration of practical skills;]

[~~(c)~~] an interview with the stewards.

[~~(4)~~] (5) Upon timely request to the steward's



or commission designee due to disability or other factors affecting the applicant's ability to effectively complete the trainer's test (such as illiteracy or language barriers), reasonable accommodations shall be made for the applicant including, but not limited to, oral administration of the examination, use of a pre-approved translator, and aid from pre-approved assistant where deemed appropriate by the stewards or commission designee administering the examination.

~~(5)~~ (6) Failure to start a minimum of one horse every six months while holding a trainer's license ~~will subject~~ shall require licensee to retest or interview before the board of stewards.

(7) Any trainer who has obtained a trainer's license in another jurisdiction but has failed to start a minimum of five horses in a jurisdiction that conducts pari-mutuel wagering, will be required to pass an oral examination before the New Mexico board of stewards, a demonstration of practical skills administered by a New Mexico racing commission designee; and take the New Mexico commission sanctioned written trainers examination and must pass with a minimum score of eighty percent in each category.

(8) Any potential trainer or assistant trainer who has started the licensing process in the state of New Mexico and obtains a trainer's or assistant trainer's license in another jurisdiction will be required to pass an oral examination before the New Mexico board of stewards, a demonstration of practical skills administered by a New Mexico racing commission designee, and take the New Mexico racing commission sanctioned written trainers examination and must pass with a minimum score of eighty percent in each category.

(9) Any trainer or assistant trainer who has passed the HISA written examination will also be required to pass an oral examination before the New Mexico board of stewards, a demonstration of practical skills administered by

a New Mexico racing commission designee and take a New Mexico racing commission sanctioned written trainers examination and must pass with a minimum score of eighty percent in each category.

**B. Absolute insurer:**

(1) The trainer is the absolute insurer of the condition of horses entered in an official workout or race and is responsible for the presence of any prohibited drug or medication, or other prohibited substance in such horses. A positive test for a prohibited drug or medication or other prohibited substance or the presence of permitted medication in excess of maximum allowable levels as reported by a commission-approved laboratory is prima facie evidence of a violation of this rule. The trainer is absolutely responsible regardless of the acts of third parties.

(2) A trainer must prevent the administration of any drug or medication or other prohibited substance that may cause a violation of these rules.

(3) A trainer whose horse has been claimed remains the absolute insurer for the race in which the horse is claimed.

**C. Other**

**responsibility:** A trainer is responsible for:

(1) the condition and contents of stalls, tack rooms, feed rooms, sleeping rooms and other areas which have been assigned by the association;

(2) maintaining the assigned stable area in a clean, neat, and sanitary condition at all times;

(3) ensuring that fire prevention rules are strictly observed in the assigned stable area;

(4) providing a list to the chief of security of the trainer's employees on association grounds and any other area under the jurisdiction of the commission; the list shall include each employee's name, occupation, social security number, and occupational license number; the chief of security shall be notified by the trainer, in writing, within 24 hours of any change;

(5) the proper identity, custody, care, health, condition, and safety of horses in their charge;

(6) disclosure of the true and entire ownership of each horse in their care, custody or control; any change in ownership must be reported immediately to, and approved by, the stewards and recorded by the racing secretary;

(7) training all horses owned wholly or in part by them which are participating at the race meeting; registering with the racing secretary each horse in their charge within 24 hours of the horse's arrival on association grounds;

(8) immediately notify the stewards and commission veterinarian of all out-of-state certified horses on furosemide;

(9) having each horse in their care that is racing, or is stabled on association grounds, tested for equine infectious anemia (EIA) and for filing evidence of such negative test results with the racing secretary as required by the commission;

(10) using the services of those veterinarians licensed by the commission to attend horses that are on association grounds;

(11) immediately reporting the alteration in the sex of a horse in their care to the horse identifier and the racing secretary, whose office shall note such alteration on the certificate of registration;

(12) promptly reporting to the racing secretary and the official veterinarian any horse on which a posterior digital neurectomy (heel nerving) is performed and ensuring that such fact is designated on its certificate of registration;

(13) promptly notifying the official veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse in their charge;

(14) promptly reporting the death of any horse in their care on association grounds to the stewards and the official

veterinarian and compliance with the rules in Subsection C of 15.2.6.12 NMAC governing post-mortem examinations;

(15)

maintaining a knowledge of the medication record and status of all horses in their care;

(16)

immediately reporting to the stewards and the official veterinarian if they know, or has cause to believe, that a horse in their custody, care or control has received any prohibited drugs or medication;

(17)

representing an owner in making entries and scratches and in all other matters pertaining to racing; horses entered as to eligibility and weight or other allowances claimed;

(18)

horses entered as to eligibility and weight or other allowances claimed;

(19)

ensuring the fitness of a horse to perform creditably at the distance entered;

(20)

ensuring that their horses are properly shod, bandaged, and equipped; toe grabs with a height greater than two millimeters worn on the front shoes of thoroughbred horses while racing are prohibited; the horse shall be scratched and the trainer may be subject to fine;

(21)

ensuring that horses are properly bandaged, and equipped; and no jockey, apprentice jockey, exercise person or any person mounted on a horse shall ride, breeze, exercise, gallop or workout a horse on the grounds of a facility under the jurisdiction of the commission unless the horse is equipped with a nylon rein or a safety rein; a safety rein is a rein with a wire or nylon cord stitched into the traditional leather rein during the manufacturing process and the safety cord is attached to the bit with a metal clasp;

(22)

presenting horse in the paddock at least 20 minutes before post time or at a time otherwise appointed before the race in which the horse is entered;

(23)

personally attending to their horses in the

paddock and supervising the saddling thereof, unless excused by the stewards; if the trainer is excused, the trainer must secure another trainer or assistant trainer who is licensed by the commission to assume those duties;

(24)

instructing the jockey to give their best effort during a race and that each horse shall be ridden to win;

(25)

attending the collection of urine or blood sample from the horse in their charge or delegating a licensed employee or the owner of the horse to do so; and

(26)

notifying horse owners upon the revocation or suspension of their trainer's license; upon application by the owner, the stewards may approve the transfer of such horses to the care of another licensed trainer, and upon such approved transfer, such horses may be entered to race.

#### D. Assistant trainers:

(1)

A trainer may employ an assistant trainer, who shall be equally responsible with the employing trainer for the condition of the horses in their care. The name of the assistant trainer shall be shown on the official program along with that of the employing trainer.

(2)

Qualifications for obtaining an assistant trainer's license shall be prescribed by the stewards and the commission may include those requirements prescribed in Paragraph (1) of Subsection A of 16.47.1.10 NMAC.

(3)

An assistant trainer must be licensed for a minimum of two years as an assistant trainer before being eligible to obtain a trainer's license.

(4)

If an assistant trainer passed the written examination with a minimum score of 80 percent in each category within the previous 48 months, the licensee is not required to retake the test in order to obtain their trainer's license.

(5)

An assistant trainer shall assume the same duties and responsibilities as imposed on the licensed trainer.

(6)

The trainer shall be jointly responsible for the assistant trainer's compliance with the rules governing racing.

(7)

A trainer that is involved in, or notified of, or under suspension for 30 days or more of a drug or rule violation, shall not transfer their horses to his or her assistant trainer or an employee of the trainer.

#### E. Substitute

##### trainers:

(1)

If any licensed trainer is prevented from performing his duties or is absent from the track where he is participating, the stewards shall be immediately notified, and at the same time, a substitute trainer or assistant trainer, acceptable to the stewards, shall be appointed. The stewards shall be advised when the regular trainer resumes his duties.

(2)

A substitute trainer must accept responsibility for the horses in writing and be approved by the stewards.

(3)

A substitute trainer and the absent trainer shall be jointly responsible as absolute insurers of the condition of their horses entered in an official workout or race pursuant to Paragraphs (1), (2) and (3) of Subsection B of 16.47.1.10 NMAC.

#### F. Program trainers:

(1)

A program trainer, as defined in 15.2.1 NMAC, is a licensed trainer who, solely for the purposes of the official race program, is identified as the trainer of a horse that is actually under the control of, and trained by another person who may or may not hold a current trainer's license in any jurisdiction. Any trainer shall be deemed a program trainer if they:

(a)

enter into an agreement on behalf of an unlicensed, ineligible or suspended trainer for the sole purpose of completing an entry form for a race;

(b)

pay an entry, nomination or starter fee on behalf of an unlicensed, ineligible or suspended trainer;

(c) receive a financial or beneficial interest from an unlicensed, ineligible or suspended trainer for the sole purpose of being listed as the trainer on the official race program; or

(d) obtain official works within New Mexico's jurisdiction on behalf of an unlicensed, ineligible or suspended trainer; or

(e) solicit or accepts a loan of anything of value from the unlicensed, ineligible or suspended trainer; or

(f) use the farm or individual name of the unlicensed, ineligible or suspended trainer when billing customers; or

(g) pay any compensation to the unlicensed, ineligible, or suspended trainer.

(2) A licensed trainer who violates Paragraph (1) of this subsection will be subject to the following penalties:

(a) First offense - six month suspension and a \$5,000 fine.

(b) Second offense - one year suspension and a \$10,000 fine.

(c) Third offense - license revocation with a three year ban on re-application and \$20,000 fine.

(d) A fourth or subsequent offense shall carry the same penalty as that imposed for a third offense, and the penalties will run consecutively.

(3) On request by the commission or any of its agents, a person who assumes the care, custody or control of the horses of the unlicensed, ineligible or suspended trainer, shall permit the commission or its agents to examine all financial or business records to ensure compliance with this section. [16.47.1.10 NMAC - Rp, 16 NMAC 47.1.10, 3/15/2001; A, 11/15/2001; A, 3/30/2007; A, 8/30/2007; A, 6/30/2009; A, 9/15/2009; A, 7/5/2010; A, 5/16/2014; A, 9/15/2014; A, 3/15/2016; A, 6/1/2016; A, 12/16/16; A, 3/14/2018; A, 2/25/2020; A, 12/28/2021; A, 4/9/2024]

**16.47.1.17 HUMAN DRUG OR CONTROLLED SUBSTANCE AND ALCOHOL TESTING:**

**A. [General provisions:]** ~~The following rules in this chapter establish and describe requirements, criteria, standards and procedures for human substance abuse testing for occupational licensees licensed by the commission. If a licensee has a medical condition which makes it necessary to possess or use a prohibited substance, or prescribed or controlled substance pursuant to Subsection B of 15.2.6.8 NMAC, the licensee shall provide to the stewards a letter signed by a licensed physician, physician assistant, or nurse practitioner certifying that the consumption of the prohibited, or prescribed, or controlled substances will not adversely affect the divided attention, psychophysical abilities of the licensee, to include but not limited to reaction time and the ability to judge time and distance. The letter must certify that the prohibited, or prescribed, or controlled substance will not affect a licensee's ability to carry out their responsibilities properly and safely while in the performance of their duties which includes being in actual physical control of a large equine animal or operating mechanical equipment on the grounds of the association and will not jeopardize the health, safety and welfare of the other individuals participating.~~

**B. [Prohibited actions:]** ~~All licensees shall be deemed to be exercising the privileges of their license, and to be subject to the requirements of these rules, when engaged in activities that could affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas:~~

**C.] Restricted activities:** All licensees may be subject to testing for controlled substances, drugs and alcohol. It shall be [an offense to exercise the privileges granted by a license from this commission] a violation for a licensee to utilize their commission issued license if the licensee:

(1) is engaged in illegal sale or distribution of alcohol or a controlled substance;

(2) possesses, without a valid prescription, a controlled substance;

(3) is intoxicated or under the influence of alcohol [or a controlled substance];

(4) is addicted, having been determined to be so by a professional evaluation, to alcohol or other drugs and not engaged in an abstinence-based program of recovery acceptable to the commission;

(5) has in [his/her] their possession within the [enclosure] association grounds, any equipment, products or materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled dangerous substance;

(6) refuses to submit to drug [urine or] or controlled substances or alcohol testing, [when notified that such testing is based on a random drug testing procedure, is based on reasonable suspicion that the person is using drugs or alcohol or is based on the licensee's acting as if in an impaired condition] or both; [or]

(7) presently has drugs [(controlled substances)] or controlled substances or alcohol in [his/her] their body. [With regard to alcohol, the results of a test showing a reading of more than five hundredths percent of alcohol in the blood, urine, saliva or other bodily fluids of licensees in non-safety sensitive positions shall be the criterion for a finding of alcohol present in the body. With regard to other controlled substances, presence of the drug in any quantity measured by the testing instrument establishes the presence of the drug for purposes of this paragraph. Licensees in safety sensitive positions, jockeys, starters, assistant starters, exercise riders, pony

persons, ambulance personnel, and outriders are in violation of this rule if they have any measurable level of alcohol.]

C. With regard to alcohol, the results of a breath test showing a reading of more than .08 BAC in the sample provided by a licensee in a non-safety sensitive position shall be the criterion for a finding of alcohol present in the body. Such results shall operate as prima facie evidence of the presence of alcohol in a prohibitive amount in a licensee.

D. Licensees in safety positions, as determined by the stewards are in violation of this rule if they have any measurable level of alcohol, as determined by a breathalyzer test. Such results shall operate as prima facie evidence of the presence of alcohol in a prohibitive amount in the licensee.

E. There is zero tolerance for trainers and assistant trainers to be under the influence of controlled substances or alcohol or both while saddling horses in the paddock.

[16.47.1.17 NMAC - Rp, 16 NMAC 47.1.16, 3/15/2001; Rp, 16.47.1.16 NMAC, 7/1/2017; A, 9/26/2018; A, 4/9/2024]

#### 16.47.1.18 TESTING PROCEDURES:

##### A. ~~[General:]~~ **Controlled substance and drug testing:**

(1) At its discretion, the commission may conduct random or episodic random drug testing, as well as testing based on reasonable suspicion, in order to ensure safety on the [racetrack] association grounds.

(2) [When conducted, random drug testing shall apply, equally, to all licensees who are, at the time of the random testing, exercising the privileges of their license in such ways as may affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.] All licensees may be subject to testing for controlled substances and drugs.

(3) No advance notice need be given [as to onset or cessation of random testing].

~~(4)~~ (4) Refusing to test, failing to appear for a test, leaving before the test is over or otherwise failing to cooperate shall be considered a positive test. If this occurs during a race meet, the licensee is subject to and may be ejected from association grounds.

~~(4)~~ (5) For licensees who are testing under the provisions in this chapter, and whose urine testing shows the presence of drugs [~~controlled substances~~] or alcohol, any field screening test results] or controlled substances shall be confirmed by a laboratory acceptable to the commission [which shall include gas chromatography/mass spectrometry (GC/MS) procedures].

~~(5)~~ (6) An association [with] shall provide a drug [~~controlled substances~~] and alcohol] or controlled substance screening test for all applicants for [groom] grooms, exercise riders, jockey valets, starters, assistant starters, ambulance personnel, and pony persons when making application for license. The cost for the drug-screening test will be borne by the applicant payable to the association at a reasonable cost approved by the commission.

~~(6)~~ (7) The licensee being tested may request a confirmation test when the sample quantity permits. Such request shall be made in writing immediately after a positive result of the test and be directed to the commission agent involved in the testing. The licensee requesting a confirmation test, or their agent, shall be present during the preparation and packing of the sample for delivery to the commission's testing laboratory. The licensee and the commission shall both be notified of the confirmation testing results.

~~[B: Split sample:~~ When the sample quantity permits, each test sample shall be divided into portions so that one portion may be used for the confirmation procedure and another portion may be utilized by the licensee to obtain

an independent analysis of the urine sample.]

~~(8)~~ (8) **Chain of custody:** The commission shall provide for a secure chain of custody for the confirmation sample [to be made available to the licensee]. The commission shall retain ownership of all samples.

~~(9)~~ (9) **Financial responsibility:** All costs for the transportation and confirmation testing for the sample portion [made available for the licensee] shall be the financial responsibility of the [requesting person] commission, unless otherwise noted in a stewards' ruling. [Payment to the testing laboratory shall be due from the requesting person at the time the request is made to have the split sample tested]

##### B. **Alcohol testing:**

(1) At its discretion, the commission may conduct random or episodic breath alcohol testing as well as testing based on reasonable suspicion, in order to ensure safety on the association grounds.

(2) All licensees may be subject to breath alcohol testing.

(3) No advance notice need be given as to random breath alcohol testing.

(4) Refusing to test, failing to appear for a test, leaving before the test is over or otherwise failing to cooperate shall be considered a positive test. If this occurs during a race meet, the licensee is subject to and may be ejected from association grounds.

(5) If the breath testing results for non-safety position licensees show a reading of more than .08 BAC in the sample, such licensees shall be relieved of their duties for that day.

(6) For a licensee's second breath testing violation in any jurisdiction, the licensee shall be referred to the board of stewards and shall be fined no less than two hundred dollars and shall be suspended for a period of not more than 60 days.



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(7) For a licensee's third breath testing violation in any jurisdiction, the licensee shall be fined two hundred dollars, suspended for a minimum of 60 days, and referred to the commission's board of stewards for further action.

[16.47.1.18 NMAC - Rp, 16 NMAC 47.1.16, 3/15/2001; Rp, 16.47.1.17 NMAC, 7/1/2017; A, 4/9/2024]

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**End of Adopted Rules**

# 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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