

# 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 XXXVI, Issue 9

May 6, 2025

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## Notices of Rulemaking and Proposed Rules

### ECONOMIC DEVELOPMENT DEPARTMENT

#### NOTICE OF PROPOSED RULEMAKING

Public Hearing. The New Mexico Economic Development Department (EDD) hereby gives notice that it will conduct a virtual public hearing on Tuesday, June 10, 2025, beginning at 9:00am. The purpose of the public hearing is to receive public commentary on the proposed rulemaking to amend 5.5.50 NMAC, Industrial Development Training Program, and to address any other proposed amendments suggested by interested parties during the public comment period. The Industrial Development Board will also receive public commentary on proposed policy amendment to the upskills training program, STEP-UP, under the Job Training Incentive Program.

The purpose of the public hearing is to receive public input on the proposed amendments to 5.5.50 NMAC, Industrial Development Training Program (Job Training Incentive Program) and address additional changes that may have been suggested by the Industrial Training Board or other interested parties during the public comment period.

Rule Change Information: The purpose of this proposed rule change is to consider the revision of policy related to the flat rates of reimbursement based on company location, for high-wage positions filled by trainees who do not meet the one-year residency requirement, increasing the reimbursement rate by 10% for urban, rural and frontier areas. Additionally, the revision of policy related to updating the wage table, increasing the minimum wage requirements per O\*NET Job Zones using the Consumer Price Index (CPI) as the guideline.

Statutory Authorization: Section 21-19-7 NMSA 1978 grants the Industrial Training Board the authority to promulgate and enforce rule.

Public comment: Interested individuals are strongly encouraged to submit written comments regarding the proposed policy amendments relating to the Job Training Incentive Program to Patrick Gannon, JTIP Program Manager, at [patrick.gannon@edd.nm.gov](mailto:patrick.gannon@edd.nm.gov). Written comments must be received no later than 5:00 pm on Friday, June 6, 2025. EDD encourages the early submission of written comments. Individuals may also testify at the public hearing.

For instructions on how to attend this meeting, visit the Department's website at: <https://edd.newmexico.gov/about-us/public-notice>.

The proposed policy amendments and current JTIP Policy Manual may be accessed through EDD's website <https://edd.newmexico.gov/about-us/public-notice> beginning May 6, 2025 or from Patrick Gannon at the contact above.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this hearing are asked to contact Patrick Gannon as soon as possible. The EDD requests at least ten days advance notice to provide requested special accommodations.

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

#### NOTICE OF PROPOSED RULEMAKING

The State of New Mexico, Energy, Minerals and Natural Resources Department (EMNRD), State Parks Division (Division) hereby gives

notice of the following proposed rulemaking. EMNRD proposes to repeal and replace its rule 19.5.1 General Provisions and amend its rules 19.5.2 Park Visitor Provisions and 19.5.6 Park Fees.

**Purpose of Amendment:** EMNRD proposes the amendments to include a definition of active-duty military, camping, developed camping, primitive camping, NM resident veteran, and utilities, clarify wording related to permits vs. passes, correct wording for Mesilla Valley Bosque state park, delete language allowing the division to require visitors to pay fees for their entire stay in advance, correct incorrect references to NMAC sections that have changed numbering, change the time a reservation site is available for other visitors if not occupied by the visitor holding the reservation, clarify language allowing the superintendent to restrict the number or size of tents, shade or screen shelters occupying a campsite or day use site, clarify language allowing the superintendent to restrict the number or size of vehicles, camping units or trailers occupying a campsite, day use site or parking area, add Rio Grande Nature Center state park to parks where annual day use passes are not valid, add restrictions to the use of annual day use passes, clarify that tribal or federal photo identification may be used for documentation in purchasing passes, delete language allowing a photocopy of the award letter the United States department of veterans affairs issues for the purchase of a disabled annual camping pass, change wording from active-duty military or honorably discharged veteran to active-duty military passes, clarify identification requirements for the purchase of active-duty military passes, add Rio Grande Nature Center state park to the parks where an annual camping pass is not valid, delete language related to disabled veterans passes and add language related to lifetime veteran passes, implement requirements for and procedures for issuing lifetime

veteran passes, add language making lifetime veteran passes free of charge.

EMNRD proposes to add the definition of active-duty military in 19.5.1.7.B.

EMNRD proposes to add the definition of camping in 19.5.1.7.D.

EMNRD proposes to add the definition of developed camping in 19.5.1.7.R

EMNRD proposes to add the definition of NM resident veteran in 19.5.1.7.AA.

EMNRD proposes to add the definition of primitive camping in 19.5.1.7.LL.

EMNRD proposes to add the definition of utilities in 19.5.1.7.UU.

EMNRD proposes to amend 19.5.2.12.A to correct wording for permits/passes and correct the name of Mesilla Valley Bosque state park.

EMNRD proposes to delete 19.5.2.12.H.

EMNRD proposes to amend 19.5.2.12.I to correct numbering and correct wording for permits/passes.

EMNRD proposes to amend 19.5.2.12.J to correct numbering and change the time reservation campsites shall become available to other visitors if the visitor holding the reservation does not occupy the site.

EMNRD proposes to amend 19.5.2.13.H to correct wording from permits to passes.

EMNRD proposes to amend 19.5.2.13.I to clarify the superintendent may restrict the number or size of tents, shade or screen shelters occupying a campsite or day use site by posting on the reservation website.

EMNRD proposes to amend 19.5.2.14.C to clarify the

superintendent may restrict the number or size of vehicles, camping units or trailers occupying a campsite, day use site or parking area by posting on the reservation website.

EMNRD proposes to amend 19.5.2.32.A to correct wording for permits/passes.

EMNRD proposes to amend 19.5.2.32.B to correct wording for permits/passes.

EMNRD proposes to amend 19.5.2.32.C(4) to correct numbering referencing NMAC sections that have been amended.

EMNRD proposes to amend 19.5.2.32.D to correct wording for permits/passes.

EMNRD proposes to amend 19.5.2.33 to correct wording for permits/passes.

EMNRD proposes to amend 19.5.2.34.B(2) to correct wording from permit to pass.

EMNRD proposes to amend 19.5.2.35 to correct wording for permits/passes.

EMNRD proposes to amend 19.5.2.35.A(1) to add Rio Grande Nature Center state park as a park where annual day uses passes are not valid.

EMNRD proposes to amend 19.5.2.35.A to add specific restrictions to the use of annual day use passes including making them non-transferable to individuals not residing in the same household as the original purchaser, specifying that non-residents may not use resident annual day use passes, and adding language indicating annual day use passes used in violation of park rules are subject to confiscation.

EMNRD proposes to amend 19.5.2.35.B to correct wording from permits to passes.

EMNRD proposes to amend 19.5.2.35.B(1) to correct wording for permits/passes.

EMNRD proposes to amend 19.5.2.35.B(2) to correct wording from permits to passes.

EMNRD proposes to amend 19.5.2.35.B(2)(a) to include tribal and federal issued photo identification as identification that may be used to verify residency.

EMNRD proposes to amend 19.5.2.35.B(2)(c) to remove reference to a photocopy of the award letter the United States department of veterans affairs issues indicating they have a one hundred percent service-connected disability as a verification document for purchasing a disabled annual camping pass.

EMNRD proposes to amend 19.5.2.35.B(2)(d) to change the active-duty military and veteran annual camping pass to just an active-duty military annual camping pass and clarify identification requirements for purchasing the pass.

EMNRD proposes to amend 19.5.2.35.B(3) to correct wording from permit to pass.

EMNRD proposes to amend 19.5.2.35.B(4) to correct wording from permits to passes and add Rio Grande Nature Center state park as a park where the annual camping pass is not valid.

EMNRD proposes to amend 19.5.2.35.B(5) to correct wording from permits to passes.

EMNRD proposes to amend 19.5.2.35.C to correct wording from permits to passes.

EMNRD proposes to amend 19.5.2.35.D to correct wording from permits to passes.

EMNRD proposes to amend 19.5.2.35.E to clarify the requirement to provide proof of purchase when purchasing a replacement pass and to correct wording from permits to passes.



EMNRD proposes to amend 19.5.2.36 to change the title from disabled veterans passes to lifetime veteran passes.

EMNRD proposes to delete 19.5.2.36.A through 19.5.2.36.B.

EMNRD proposes to amend 19.5.2.36 to add sections A through D adding language indicating that New Mexico resident veterans are eligible for free lifetime veteran passes that provide the individual with unlimited entry into state parks or recreation areas operated by the division and unlimited use of camping areas operated by the division subject to restrictions in NMAC and outlining eligibility and application requirements for the pass as well as stating that the pass is not valid for central reservation system contractor's services fees, group shelter fees, or meeting, event and lodging facility fees.

EMNRD proposes to amend 19.5.2.39 to correct numbering referencing NMAC sections that will be amended.

EMNRD proposes to amend section 19.5.6.10 deleting language referencing the disabled veterans pass.

EMNRD proposes to amend section 19.5.6.11 correcting wording from permit to pass, changing the New Mexico active-duty military or honorably discharged veteran pass to just active-duty military pass, and adding the lifetime veteran pass.

EMNRD proposes to amend section 19.5.6.12 to correct wording from permit to pass.

**Legal Authority:** EMNRD proposes this rule amendment under the authority of NMSA 1978, Section 9-1-5 and NMSA 1978, Section 16-2-7.

**The full text of the proposed rule amendment is available** from Jared Langenegger at 575-420-1733 or [jaredr.langenegger@emnrd.nm.gov](mailto:jaredr.langenegger@emnrd.nm.gov) or can be viewed on the EMNRD, State Parks Division's website at

<https://www.emnrd.nm.gov/spd/public-meetings/> or at the State Parks Division's office in Santa Fe.

**Public Hearing and Comment.**

EMNRD will hold a public hearing on the proposed rule amendments at 10:00 a.m. on Tuesday, June 10, 2025, at the Wendell Chino Building, Pecos Hall, 1220 South Saint Francis Drive, Santa Fe, NM.

Those wishing to comment on the proposed rule amendment may make oral comments or submit information at the hearing or may submit written comments by June 10, 2025 at 12:00 p.m. by mail or e-mail. Please mail written comments to Jared Langenegger, EMNRD, State Parks Division, 1220 South Saint Francis Drive, Santa Fe, NM 87505 or submit comments by e-mail to [emnrd-parkscomments@emnrd.nm.gov](mailto:emnrd-parkscomments@emnrd.nm.gov).

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

House Bill 161

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

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

**ENVIRONMENT  
DEPARTMENT**

**NEW MEXICO  
ENVIRONMENTAL  
IMPROVEMENT BOARD  
NOTICE OF RULEMAKING  
HEARING TO CONSIDER  
REPEAL AND REPLACEMENT  
OF 20.2.70 NMAC, OPERATING  
PERMITS AND TITLE V  
PROGRAM REVISION,  
EIB 25-10 (R)**

The New Mexico Environmental Improvement Board ("Board") will hold a public hearing beginning on July 18, 2025, at 9:00 a.m. to consider EIB 25-10 (R) – In the Matter of Proposed Repeal and Replacement of 20.2.70 NMAC – Operating Permits and Title V Program Revision. The Board may make a decision on the proposed repeal and replacement and Title V revision at the conclusion of the hearing, or the Board may convene a meeting after the hearing to consider action on the proposal.

The hearing will be conducted in a hybrid format to allow for both in-person and virtual participation. The in-person hearing will be held at the New Mexico State Capitol Building (Roundhouse), 490 Old Santa Fe Trail, Santa Fe, New Mexico 87505. Detailed information concerning the time and location and instructions on how to join the hearing virtually is available on the New Mexico Environment Department ("NMED") events calendar at [<https://www.env.nm.gov/events-calendar/?trueEmbed=view%3Devent%26eventid%3D182246140>], under the calendar entry corresponding to the hearing start date. From now until the conclusion of the hearing, comments may be submitted via the NMED public comment portal at [<https://nmed.commentinput.com/?id=ci5hWrFaZ>] or via electronic or physical mail to Pamela Jones, Board Administrator, P.O. Box 5469, Santa Fe, NM 87502, [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov).



The purpose of the hearing is for the Board to consider and take possible action on a petition by NMED requesting the Board to adopt New Mexico's proposed repeal and replacement of 20.2.70 NMAC, Operating Permits, to address a mandate by the U.S. Environmental Protection Agency ("EPA") directing the removal of certain affirmative defense provisions in New Mexico's Title V Operating Permit Program at 20.2.70.304 NMAC, Emergency Provision. In addition, EPA provided a comment to the Department, indicating that one of the "Applicable Requirements" cited at 40 CFR 70.2.(7) is missing from the definition of "Applicable Requirement", at Subsection E of 20.2.70.7 NMAC. To address this deficiency, new text is proposed at Paragraph (7) of Subsection E of 20.2.70.7 NMAC. The Department has also identified an incongruity between the federal rule at 40 CFR 70.2 Applicable Requirement, and the current NM Title V operating permit regulation at Paragraphs (11) and (12) of Subsection E of 20.2.70.7 NMAC. There is also an outdated reference to "total suspended particulate matter" at Paragraph (1) of Subsection AC of 20.2.70.7 NMAC. Specifically, the limits for maximum allowable concentrations of total suspended particulate ("TSP") in the ambient air previously stipulated by 20.2.3 NMAC, Ambient Air Quality Standards, at 20.2.3.109 NMAC, Total Suspended Particulates, were repealed, effective November 30, 2018. The Department must also update the regulation to meet current New Mexico Administrative Code requirements at Subsection C of 1.24.11.9 NMAC, which requires that "When an agency amends a part that was not filed in the current style and format, it shall reformat the entire part (or use the reformatting done by the records center) and officially adopt the current style and formatting requirements in conjunction with the amendment". The Department will address these changes at the same time as the affirmative defense provisions are removed.

The replacement rule, if adopted, will be submitted to the EPA as a revision to New Mexico's Title V program.

On July 12, 2023 (88 FR 47029, 7/21/23), the EPA removed the "emergency" affirmative defense provisions from Clean Air Act ("CAA") operating permit program (Title V) regulations at 40 CFR 70.6(g), which is applicable to state, local, and tribal permitting authorities, and 71.6(g), applicable when EPA is the permitting authority.

These provisions established an affirmative defense that stationary sources could have asserted to avoid liability in enforcement cases brought for noncompliance with technology-based emission limits contained in the source's Title V permit, provided that the source demonstrated that excess emissions occurred due to qualifying "emergency" circumstances.

These emergency affirmative defense provisions have never been required elements of state operating permit programs or of individual operating permits. Nonetheless, some state, local, and tribal programs have adopted such provisions and include these affirmative defenses in Title V permits.

The EPA is removing the emergency affirmative defense provisions in 40 CFR 70.6(g) and 71.6(g) because they are inconsistent with the EPA's current interpretation of the enforcement structure of the CAA in light of prior court decisions from the U.S. Court of Appeals for the D.C. Circuit - primarily the Court's 2014 decision in *Natural Resources Defense Council ("NRDC") v. EPA*, 749 F.3d 1055. (D.C. Cir. 2014).

State, local and tribal permitting authorities whose Title V programs contain impermissible affirmative defense provisions must submit program revisions to the EPA to remove such impermissible provisions from their EPA-approved Title V programs. The EPA expects that states with Title V programs containing

impermissible affirmative defense provisions will submit to the EPA either a program revision, or a request for an extension of time, within 12 months of the effective date of EPA's final rule. (i.e., by August 21, 2024). On August 21, 2024, the Department submitted a letter to EPA requesting an extension of this deadline until August 21, 2025. On September 17, 2024, this request was granted.

States must also remove Title V-based affirmative defense provisions contained in individual operating permits. The EPA encourages states to remove these provisions at their earliest convenience. EPA expects that any necessary permit changes should occur in the ordinary course of business as states process periodic permit renewals or other unrelated permit modifications. At the latest, states must remove affirmative defense provisions from individual permits during the next permit revision or periodic permit renewal for the source that occurs following either: (1) the effective date of EPA's final rule (i.e. August 21, 2023), for permit terms based on 40 CFR 70.6(g) or 71.6(g); or (2) the EPA's approval of state program revisions, for permit terms based on an affirmative defense provision in an EPA-approved title V program.

The full text of the Bureau's proposed amendments to Part 70, and related information, including technical information, may be reviewed on NMED's Proposed Air Quality Regulations and Plans web page at [ <https://www.env.nm.gov/air-quality/proposed-regs/> ]; or in hard copy during regular business hours at the Bureau's main office, 525 Camino de los Marquez, Santa Fe, New Mexico, 87505; or by contacting Neal Butt at (505) 629-2972, or [neal.butt@env.nm.gov](mailto:neal.butt@env.nm.gov).

The hearing will be conducted in accordance with Rulemaking Procedures - Environmental Improvement Board, 20.1.1 NMAC; the Environmental Improvement Act, Section 74-1-9 NMSA 1978; the Air

Quality Control Act, Section 74-2-6 NMSA 1978; and other applicable procedures.

All interested persons will be given a reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally and in writing; to introduce exhibits; and to examine witnesses. Any person who intends to present technical testimony at the hearing shall file a Notice of Intent to present technical testimony with the Board Administrator. The Notice of Intent shall: (1) identify the person for whom the witness(es) will testify; (2) identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background; (3) if the hearing will be conducted at multiple locations, indicate the location or locations at which the witnesses will be present; (4) include a copy of the direct testimony of each technical witness in narrative form; (5) include the text of any recommended modifications to the proposed regulatory change; and (6) list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Notices of intent to present technical testimony must be received by the Board no later than 5:00 pm on June 27, 2025, and should reference the docket number (EIB 25-10 (R)) and date of the hearing (July 18, 2025). Notices of intent to present technical testimony shall be submitted to Pamela Jones, Board Administrator, P.O. Box 5469, Santa Fe, NM 87502, [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov).

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer non-technical exhibits in connection with their testimony, so long as the exhibit is not unduly repetitious of the testimony. A member of the general public who wishes to submit

a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing or submit it at the hearing.

Persons requiring language interpretation services or having a disability who need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing should contact Pamela Jones at least 14 days prior to the hearing or as soon as possible at (505) 660-4305 or [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov). TDD or TDY users please dial 7-1-1 or 800-659-8331 to access this number via Relay New Mexico.

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact Kate Cardenas, Non-Discrimination Coordinator, New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, [nd.coordinator@env.nm.gov](mailto:nd.coordinator@env.nm.gov).

If you believe that you have been discriminated against with respect to an NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit <https://www.env.nm.gov/non-employee-discrimination-complaint->

[page/](#) to learn how and where to file a complaint of discrimination.

## ENVIRONMENT DEPARTMENT

### AVISO DE AUDIENCIA DE LA JUNTA DE MEJORA AMBIENTAL DE NUEVO MÉXICO SOBRE UNA PROPUESTA DE REGLAMENTACIÓN PARA CONSIDERAR LA DEROGACIÓN Y REEMPLAZO DE 20.2.70 NMAC, PERMISOS DE OPERACIÓN Y REVISIÓN DEL PROGRAMA DEL TÍTULO V, EIB 25-10 (R)

La Junta de Mejora Ambiental de Nuevo México (la "Junta") celebrará una audiencia pública a partir del 18 de julio de 2025 a las 9:00 a. m. para considerar la EIB 25-10 (R) – En el Asunto de la Propuesta de Derogación y Reemplazo de 20.2.70 NMAC – Permisos de Operación y Revisión del Programa del Título V. La Junta podrá tomar una decisión sobre la propuesta de derogación y reemplazo, así como sobre la revisión del Título V, al finalizar la audiencia, o bien podrá convocar una reunión después de la misma para considerar las medidas a tomar sobre la propuesta.

La audiencia se realizará en formato híbrido para permitir la participación tanto presencial como virtual. La audiencia presencial se llevará a cabo en edificio del Capitolio del Estado de Nuevo México (Roundhouse), ubicado en 490 Old Santa Fe Trail, Santa Fe, Nuevo México 87505. La información detallada sobre la hora, el lugar y las instrucciones para unirse virtualmente a la audiencia está disponible en el calendario de eventos del Departamento de Medio Ambiente de Nuevo México ("NMED") en [<https://www.env.nm.gov/events-calendar/?trumbaEmbed=view%3Devent%26eventid%3D182246140>], en la entrada del calendario correspondiente a la fecha de inicio de la audiencia. Desde ahora y hasta la conclusión de la audiencia se pueden

enviar comentarios a través del portal de comentarios públicos del NMED en [<https://nmed.commentinput.com/?id=ci5hWrFaZ>] o por correo electrónico o correo postal a Pamela Jones, administradora de la Junta, P.O. Box 5469, Santa Fe, NM 87502, [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov).

El propósito de la audiencia es que la Junta considere y tome posibles medidas sobre una petición de NMED que solicita a la Junta que adopte la derogación y el reemplazo propuestos por Nuevo México de 20.2.70 NMAC, Permisos de Operación, para abordar un mandato de la Agencia de Protección Ambiental de los Estados Unidos (EPA, por sus siglas en inglés), que ordena la eliminación de ciertas disposiciones de defensa afirmativa en el Programa de Permisos de Operación del Título V de Nuevo México, 20.2.70.304 NMAC, Disposición de Emergencia. Además, la EPA presentó un comentario al Departamento, indicando que uno de los “Requisitos Aplicables” citados en 40 CFR 70.2.(7) falta en la definición de “Requisito Aplicable”, en la Subsección E de 20.2.70.7 NMAC. Para abordar esta deficiencia, se propone un nuevo texto en el Párrafo (7) de la Subsección E de 20.2.70.7 NMAC. El Departamento también ha identificado una incongruencia entre la norma federal en 40 CFR 70.2, Requisito Aplicable y la regulación vigente de permisos de operación del Título V de Nuevo México, en los párrafos (11) y (12) de la Subsección E de 20.2.70.7 NMAC. Asimismo, existe una referencia obsoleta al “total de material particulado en suspensión” en el párrafo (1) de la Subsección AC de 20.2.70.7 NMAC. Específicamente, los límites para las concentraciones máximas permisibles de Partículas en Suspensión Totales (“TSP” por sus siglas en inglés) en el aire ambiente, previamente estipulados en 20.2.3 NMAC, Estándares de Calidad del Aire Ambiental, en 20.2.3.109 NMAC, Partículas en Suspensión Totales, fueron derogados, a partir del 30 de noviembre de 2018. El Departamento también debe actualizar la regulación

para cumplir con los requisitos actuales del Código Administrativo de Nuevo México, en la Subsección C de 1.24.11.9 NMAC, que exige que “Cuando una agencia enmiende una parte que no se presentó con el estilo y formato vigentes, volverá a formatear la parte completa (o utilizará el reformato realizado por el centro de registros) y adoptará oficialmente los requisitos de estilo y formato vigentes junto con la enmienda». El Departamento abordará estos cambios al mismo tiempo que se eliminen las disposiciones de defensa afirmativa.

La norma de reemplazo, de ser adoptada, se presentará a la EPA como una revisión del programa del Título V de Nuevo México.

El 12 de julio de 2023 (88 FR 47029, 21/7/23), la EPA eliminó las disposiciones de defensa afirmativa de “emergencia” de las regulaciones del programa de permisos de operación de la Ley de Aire Limpio (“CAA” por sus siglas en inglés) (Título V) en 40 CFR 70.6(g), que se aplica a las autoridades de permisos estatales, locales y tribales, y 71.6(g), aplicable cuando la EPA es la autoridad de permisos.

Estas disposiciones establecían una defensa afirmativa que las fuentes estacionarias podrían haber hecho valer para evitar la responsabilidad en casos de aplicación presentados por el incumplimiento de los límites de emisiones basados en la tecnología contenidos en el permiso del Título V de la fuente, siempre que la fuente demostrara que el exceso de emisiones se produjo debido a circunstancias de “emergencia” que califican.

Estas disposiciones de defensa afirmativa de emergencia nunca han sido elementos obligatorios de los programas estatales de permisos de operación ni de los permisos de operación individuales. No obstante, algunos programas estatales, locales y tribales han adoptado dichas disposiciones e incluyen estas

defensas afirmativas en los permisos del Título V.

La EPA está eliminando las disposiciones de defensa afirmativa de emergencia de 40 CFR 70.6(g) y 71.6(g) porque son inconsistentes con la interpretación actual de la EPA de la estructura de aplicación de la CAA, a la luz de decisiones judiciales previas del Tribunal de Apelaciones de los Estados Unidos para el Circuito de D.C., principalmente la decisión de 2014 del Tribunal en el caso Consejo de Defensa de los Recursos Naturales (“NRDC” por sus siglas en inglés) contra la EPA, 749 F.3d 1055 (D.C. Cir. 2014).

Las autoridades estatales, locales y tribales encargadas de la concesión de permisos cuyos programas del Título V contengan disposiciones de defensa afirmativa inadmisibles deben presentar revisiones del programa a la EPA para eliminar dichas disposiciones inadmisibles de sus programas del Título V aprobados por la EPA. La EPA espera que los estados con programas del Título V que contengan disposiciones de defensa afirmativa inadmisibles le presenten una revisión del programa o una solicitud de prórroga dentro de los 12 meses posteriores a la fecha de entrada en vigor de la norma final de la EPA. (es decir, a más tardar el 21 de agosto de 2024). El 21 de agosto de 2024, el Departamento presentó una carta a la EPA solicitando una prórroga de este plazo hasta el 21 de agosto de 2025. El 17 de septiembre de 2024, se concedió la solicitud.

Los estados también deben eliminar las disposiciones de defensa afirmativa basadas en el Título V contenidas en los permisos de operación individuales. La EPA insta a los estados a eliminar estas disposiciones lo antes posible. La EPA prevé que cualquier cambio necesario en los permisos se produzca en el curso normal de sus operaciones, a medida que los estados procesan las renovaciones periódicas de permisos u otras modificaciones de permisos no relacionadas. A más tardar, los estados

deben eliminar las disposiciones de defensa afirmativa de los permisos individuales durante la siguiente revisión del permiso o renovación periódica del permiso para la fuente que se produzca después de cualquiera de las dos: (1) la fecha de entrada en vigor de la norma final de la EPA (es decir, el 21 de agosto de 2023), para los términos de los permisos basados en 40 CFR 70.6(g) o 71.6(g); o (2) la aprobación por parte de la EPA de las revisiones del programa estatal, para los términos del permiso basados en una disposición de defensa afirmativa en un programa del Título V aprobado por la EPA.

El texto completo de las enmiendas propuestas por la Oficina a la Parte 70, así como la información relacionada, incluida la información técnica, puede consultarse en la página web de Regulaciones y Planes de Calidad del Aire Propuestos del NMED: [<https://www.env.nm.gov/air-quality/proposed-regs/>]; o en formato impreso durante el horario normal de oficina, en la principal Oficina ubicada en 525 Camino de los Marquez, Santa Fe, NM, 87505; o poniéndose en contacto con Neal Butt llamando al (505) 629-2972 o en [neal.butt@env.nm.gov](mailto:neal.butt@env.nm.gov).

La audiencia se llevará a cabo de conformidad con los Procedimientos de Reglamentación de la Junta de Mejora Ambiental, 20.1.1 NMAC; la Ley de Mejora Ambiental, 74-1-9 NMSA 1978; la Ley de Control de la Calidad del Aire, Sección 74-2-6 NMSA; y otros procedimientos aplicables.

Todas las personas interesadas tendrán una oportunidad razonable en la audiencia para presentar pruebas, datos, puntos de vista y argumentos relevantes, oralmente y por escrito; para presentar pruebas instrumentales; e interrogar a los testigos. Cualquier persona que tenga la intención de presentar testimonio técnico en la audiencia deberá presentar un Aviso de Intención de presentar testimonio técnico ante la administradora de la Junta. El Aviso de Intención deberá:

(1) identificar a la persona para quien el testigo o los testigos testificarán; (2) identificar a cada testigo técnico que la persona tiene la intención de presentar y declarar las cualificaciones de ese testigo, incluida una descripción de su historial académico y laboral; (3) si la audiencia se llevará a cabo en varias ubicaciones, indicar la ubicación o ubicaciones en las que estarán presentes los testigos; (4) incluir una copia del testimonio directo de cada testigo técnico en forma narrativa; (5) incluir el texto de cualquier modificación recomendada al cambio regulatorio propuesto; y (6) enumerar y adjuntar todas las pruebas instrumentales que se prevé que esa persona ofrezca en la audiencia, incluida cualquier declaración propuesta de los motivos para la adopción de las normas.

Los avisos de intención de presentar testimonio técnico deberán ser recibidos por la Junta a más tardar a las 5:00 p. m. del 27 de junio de 2025, e indicar el número de expediente (EIB 25-10 (R)) y la fecha de la audiencia (18 de julio de 2025). Los avisos de intención de presentar testimonio técnico deberán enviarse a Pamela Jones, administradora de la Junta, P.O. Box 5469, Santa Fe, NM 87502, [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov)

Cualquier persona del público podrá testificar en la audiencia. No se requiere aviso previo para presentar testimonio no técnico. Las personas también podrán presentar pruebas instrumentales no técnicas en relación con su testimonio, siempre que la prueba instrumental no repita indebidamente el testimonio. Si desea presentar una declaración por escrito para que conste en actas, en lugar de prestar testimonio oral en la audiencia, deberá presentar la declaración por escrito antes de la audiencia o durante la misma. Las personas que requieran servicios de interpretación de idiomas o tengan una discapacidad y necesiten un lector, amplificador, intérprete de lenguaje de señas cualificado o cualquier otro tipo de servicio o dispositivo auxiliar para asistir

o participar en la audiencia deben comunicarse con Pamela Jones al menos 14 días antes de la audiencia o lo antes posible llamando al (505) 660-4305 o en [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov). Los usuarios de TDD o TDY pueden llamar al 7-1-1 o al 800-659-8331 para acceder a este número a través de Relay New Mexico.

El NMED no discrimina por motivos de raza, color, nacionalidad, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigen las leyes y normativas aplicables. NMED es responsable de coordinar las iniciativas de cumplimiento y de recibir consultas sobre los requisitos de no discriminación implementados por 40 C.F.R. Partes 5 y 7, incluido el Título VI de la Ley de Derechos Civiles de 1964, en su versión modificada. Sección 504 de la Ley de Rehabilitación de 1973; la Ley contra la Discriminación por Edad de 1975; el Título IX de las Enmiendas a la Educación de 1972; y la Sección 13 de las Enmiendas a la Ley Federal de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o sobre cualquiera de los programas, políticas o procedimientos de no discriminación del NMED, puede comunicarse con Kate Cardenas, coordinadora de no discriminación del Departamento de Medio Ambiente de Nuevo México, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, [nd.coordinator@env.nm.gov](mailto:nd.coordinator@env.nm.gov).

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



## FINANCE AND ADMINISTRATION, DEPARTMENT OF

### NOTICE OF RULEMAKING

The Department of Finance and Administration, Financial Control Division has scheduled a public hearing for the proposed amendment of New Mexico Administrative Code (NMAC) rule 2.42.2, *Regulations Governing the Per Diem and Mileage Act*. The proposed amendment seeks to:

- Correct punctuation and grammatical errors contained in the rule;
- Set an allotment for meals per overnight period;
- Remove the requirement for itemized receipts for meals when traveling on actuals;
- Increasing the threshold for additional lodging approval from \$215 to \$350; and
- Remove the ability to be reimbursed for tips on meals.

Notice Date: May 6, 2025

Hearing Date: June 5, 2025

Adoption Date: Proposed as June 12, 2025

Effective Date: Proposed as June 24, 2025

Technical Citations: 2.42.2 NMAC

**The Department is proposing to amend 2.42.2 NMAC as follows:**

#### Section 7:

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**E. “Employee”** means any person who is ~~[in the employ of]~~ employed by any New Mexico state agency or local public body within New Mexico whose salary is paid either completely or partially from public money but does not include jurors or jury commissioners.

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**H. “Local public body”** means every political subdivision of the state, whether created under general or special act including, but not limited [,] to, counties, municipalities, drainage, conservancy, irrigation, school,

or other districts, that receives or expends public money from whatever source derived.

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**J. “Normal work day”** means eight hours within a nine-hour period for all public officers and employees, both salaried and non-salaried, regardless of the officers’ or employees’ regular work schedule.

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**O. “Travel”** means for per diem purposes, being on official business away from home as defined in Subsection [F] ~~☐~~ above and at least 50 miles from the designated post of duty of the public officer or employee. However, non-salaried public officers are eligible for per diem for attending meetings in accordance with Subsection C of 2.42.2.8 NMAC.

#### Section 8:

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**B. Per diem rate computation:** Except as provided in Subsections C through I of this section, per diem rates for travel by public officers and employees shall be computed as follows:

**(1)** ~~[Partial-day]~~ Same day travel per diem rate: Public officers or employees who occasionally and irregularly travel shall be reimbursed for travel which does not require overnight lodging, but extends beyond a normal work day as published on the department of finance and administration website on May 1 for the preceding fiscal year.

**(2)** Overnight travel: Regardless of the number of hours traveled, travel for public officers and employees where overnight lodging is required shall be reimbursed as published on the department of finance and administration website on May 1 for the preceding fiscal year or actual lodging and meal expenses under 2.42.2.9 NMAC.

**(3)** Return from overnight travel: On the last day of travel when overnight lodging is no longer required, partial day reimbursement shall be made in accordance with applicable rates, ~~[To calculate the number of hours in the~~

~~partial day, begin with the time the traveler initially departed. Divide the number of hours traveled by 24. The hours remaining constitute the partial day which shall be reimbursed]~~ as published on the department of finance and administration website on May 1 for the preceding fiscal year.

**(4)** Special area designations: For all officers and employees, the in-state special area shall be Santa Fe county.

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**D. Temporary assignment:** Public officers and employees may be reassigned temporarily to another duty station.

**(1)** Routine reassignment: Public officers and employees subject to periodic reassignment of duty stations or districts as a normal requirement of their employment will not be eligible for per diem rates after the time of arrival at the new duty station or district.

**(2)** Non-routine reassignment: Public officers or employees not normally subject to periodic reassignments who are temporarily assigned to another office of a state agency away from home will receive per diem for the first 30 calendar days of their assignment only, unless ~~[approval of the secretary is given to extend]~~ the secretary approves extending per diem payments upon showing that the assignment is necessary and temporary. Except in such extraordinary circumstances, after 30 calendar days, the place where the employee or officer is assigned will be regarded as the designated post of duty.

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**E. New Mexico department of transportation:** The New Mexico department of transportation may adopt special policies pertaining to payment of per diem rates for temporary assignments. Such policies shall be subject to the ~~[annual approval of the secretary]~~ secretary’s annual approval and must not exceed the rates set by the department of finance and administration.

**F. Department of public safety:** The department of public safety may adopt special policies pertaining to payment of per diem rates, mileage and subsistence allowances authorized by law for commissioned officers. Such policies shall be subject to ~~[annual approval of the secretary]~~ the secretary's annual approval and must not exceed the rates set by the department of finance and administration.

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**H. Per diem in conjunction with other leave:** While traveling, if a public officer or employee takes sick ~~[annual]~~ or authorized leave without pay for more than four hours of the normal work day, per diem shall not be allowed for that day unless authorized in writing by the agency head.

#### Section 9:

**A. Applicability:** Upon written request of a public officer or an employee, agency heads may ~~[grant written approval for]~~ approve a public officer or employee of that agency or local public body to be reimbursed actual expenses in lieu of the per diem rate where overnight travel is required.

**B. Overnight travel:** For overnight travel for state officers and employees where overnight lodging is required, the public officer or employee will be reimbursed as follows:

(1) Actual reimbursement for lodging: A public officer or an employee may elect to be reimbursed actual expenses for lodging not exceeding the single occupancy room charge (including tax) in lieu of the per diem rate set forth in 2.42.2.8 NMAC. Whenever possible, public officers and employees should stay in hotels which offer government or discounted rates. Agencies, public officers or employees who incur lodging expenses in excess of ~~[\$215.00]~~ \$350.00 per night must obtain the signature of the agency head or chairperson of the governing board on the travel voucher prior to requesting reimbursement and on the

encumbering document at the time of encumbering the expenditure.

(2) Actual reimbursement for meals: ~~[Actual expenses for meals are limited by]~~ A daily meal allotment is reimbursed in accordance with Paragraph (2) of Subsection K of Section 10-8-4 NMSA 1978 to the rates published on the department of finance and administration website on May 1st for the preceding fiscal year.

(3) Receipts required: The public officer or employee must submit receipts for the actual ~~[meal and]~~ lodging expenses incurred. Under circumstances where the loss of receipts would create a hardship, an affidavit from the officer or employee attesting to the expenses may be substituted for actual receipts. The affidavit must accompany the travel voucher and include the signature of the agency head or governing board.

**C. Return from overnight travel:** On the last day of travel when overnight lodging is no longer required, partial day reimbursement shall be made in accordance with Paragraph (2) of Subsection K of Section 10-8-4 NMSA 1978 to the rates published on the department of finance and administration website on May 1st for the preceding fiscal year. ~~[To calculate the number of hours in the partial day, begin with the time the traveler initially departed on the travel. Divide the total number of hours traveled by 24. The hours remaining constitute the partial day which shall be reimbursed as published on the department of finance and administration website on May 1 for the preceding fiscal year.]~~

No reimbursement for actual expenses will be granted in lieu of partial day per diem rates.

#### Section 12:

**A. Public officers and employees** may be reimbursed for the following expenses provided that receipts for all such expenses are attached to the reimbursement voucher:

- (1) taxi or other transportation fares at the destination of the traveler;
- (2) gratuities as allowed by the agency head or designee, not to exceed twenty percent per transaction, excluding meals;
- (3) parking fees;
- (4) actual costs for travel by common carrier, provided such travel is accomplished in the most economical manner practical;
- (5) rental cars or charter aircraft, provided less expensive public transportation is not available or appropriate;
- (6) registration fees for educational programs or conferences, provided, if the fee includes lodging or meals, then no per diem rates shall be paid and only actual expenses paid by the officer or employee and not included in the fee shall be reimbursed within the limits of 2.42.2.9 NMAC; and
- (7) professional fees or dues that are beneficial to the agency's operations or mission.
- (8) Under circumstances where the loss of receipts would deny reimbursement and create a hardship, an affidavit from the officer or employee attesting to the expenses may be substituted for actual receipts. The affidavit must accompany the travel voucher and include the signature of the agency head or governing board.

Appendix A: ~~[Deleted in its Entirety]~~  
Appendix B: ~~[Deleted in its Entirety]~~

These proposed rule changes will be contained in 2.42.2 NMAC. The register and the proposed rule are available on the DFA website at <https://www.nmdfa.state.nm.us/>. If you do not have internet access, a copy of the proposed register and rule may be requested by contacting DFA's General Counsel's officer at [dfalegal@dfa.nm.gov](mailto:dfalegal@dfa.nm.gov).

The DFA plans to adopt this rule on June 12, 2025.

A public hearing to receive testimony on this proposed rule will be held on June 5, 2025, at 9:30 a.m. The hearing will be held at the New Mexico Department of Finance and Administration, Bataan Memorial Building, 407 Galisteo St. Santa Fe, NM 87501, State Budget Conference Room and via Microsoft Teams.

**Join Microsoft Teams Meeting**

**Join the meeting now**

**Meeting ID: 257 637 764 205**

**Passcode: Fs7cX3on**

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 our staff to discuss your accessibility needs at least one week prior, or as soon as possible, by emailing the Department of Finance and Administration, General Counsel Office at: [dfalegal@dfa.nm.gov](mailto:dfalegal@dfa.nm.gov) or 505-827-3985.

DFA will make copies of all comments available upon request, either by providing copies directly to a requestor or by making them available on the DFA website or at a location within the requestor's county.

Interested persons may address written comments to:

Department of Finance and Administration, Financial Control Division  
ATTN: 2.42.2 NMAC Public Comments  
407 Galisteo St.  
Bataan Memorial Building  
Santa Fe, NM 87501

Recorded comments may be left at (505) 827-3985. Interested persons may also address comments via electronic mail to: [dfalegal@dfa.nm.gov](mailto:dfalegal@dfa.nm.gov). Written mail, electronic mail, and recorded comments must be received no later than 5:00 p.m. MT on June 5, 2025. 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 DFA website at <https://www.nmdfa.state.nm.us/> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

## GAME AND FISH DEPARTMENT

### STATE GAME COMMISSION MEETING AND RULE MAKING NOTICE

The New Mexico State Game Commission ("Commission") will be hosting a meeting and rule hearing on Friday June 13, 2025 beginning at 9:00 a.m. in Red River, NM Please check the Department's website for the exact location at <https://wildlife.dgf.nm.gov/event/nm-state-game-commission-meeting-red-river/>. The purpose of this meeting is to hear and consider action as appropriate on the proposed changes to the Migratory Game Bird Rule.

#### Synopsis:

#### **Migratory Game Bird Rule**

The proposal is to amend the Migratory Game Bird Rule 19.31.6 NMAC which will become effective September 1, 2025. The most recent version of the rule expired on March 31, 2025.

- Changes to regular waterfowl season dates based on public comment and calendar dates
- Based on population survey data, possible adjustment to sandhill crane permits in draw hunts
- Bag limit for northern pintail to increase from 1 to 3 per USFWS regulatory framework

A full text of changes for all rules will be available on the Department's website at: <https://wildlife.dgf.nm.gov/>. Interested persons may submit comments on the proposed

changes for the Migratory Game Bird Rule to [DGF-waterfowl@state.nm.us](mailto:DGF-waterfowl@state.nm.us). Individuals may also submit written comments to the physical address below. Comments are due by 5:00 p.m. on June 11, 2025. The final proposed rules will be voted on by the Commission during a public meeting on June 13, 2025. Interested persons may also provide data, views or arguments, orally or in writing, at the public rule hearings to be held on June 13, 2025.

Full copies of text of the proposed new rules, technical information related to proposed rule changes, and the agenda can be obtained from the Office of the Director, New Mexico Department of Game and Fish, 1 Wildlife Way, Santa Fe, New Mexico 87507, or from the Department's website at <https://wildlife.dgf.nm.gov/commission/proposals-under-consideration/>. This agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director's Office at (505) 476-8000, or the Department's website at <https://wildlife.dgf.nm.gov/> for updated information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Department at (505) 476-8000 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Department at 505-476-8000 if a summary or other type of accessible format is needed.

Legal authority for this rulemaking can be found in the General Powers and Duties of the State Game Commission 17-1-14, et seq. NMSA 1978; Commission's Power to establish rules and regulations 17-1-26, et seq. NMSA 1978.



## GAMING CONTROL BOARD

### NOTICE OF PROPOSED RULEMAKING

The Gaming Control Board hereby gives notice that the Board will conduct a public comment hearing on the described rules below.

The public comment hearing will be held on Monday, June 16, 2025 from 9:00 am to 12:00 pm at the Gaming Control Board, 4900 Alameda Blvd. NE, Albuquerque, NM 87113. The public may also participate via Zoom:

Join Zoom Meeting

<https://us06web.zoom.us/j/82555598587?pwd=sZLcquFExIPBNAPVDbfnnRfYeFUtE.1>

Meeting ID: 825 5559 8587

Passcode: 9nPa39

One tap mobile

+17207072699,,82555598587#,,,,\*066637# US (Denver)

+12532050468,,82555598587#,,,,\*066637# US

The public comment hearing allows members of the public an opportunity to submit data, testimony, and arguments in person on the proposed rule changes detailed below. All comments will be recorded by a court reporter and/or audio recording.

#### 15.1.7.7 NMAC Definitions:

Purpose: Repeal and replace rule to make it more current and applicable.

Summary of Full Text: In subsection B changing “central site” to “designated location” as “central site” suggests a very fixed location, but “designated location” can change in case of emergency or other necessity. In subsection J, removes second sentence of definition of “gaming media” because, even though it is not an exhaustive list, it is unnecessary to the definition.

In subsection L, the definition of “Machine entry access log”

is restructured to make a little more sense. The change does not substantively change the definition of “machine entry access log”.

In subsection T changes “ticket in/ ticket out” to “ticket-in-ticket-out” and adds acceptance of “online” tickets.

15.1.7.8 NMAC Evaluation of New Gaming Machines and Modifications to Previously-Approved Gaming Machines:

Purpose: Provides clarifying language.

Summary of Full Text: Adds to subsection A that gaming machines are to meet specifications of prototypes approved by the board “or a board approved independent gaming test laboratory” which would include GLI.

In subsection C changes “as set forth in this rule” to “as determined by the board” which provides more flexibility for prompt adaptation to changing circumstances.

15.1.7.9 NMAC Security and Audit Specifications

Purpose: Cleans up language.

Summary: Clarifies language in subsection B for what is required for display of gaming machine registration tags.

15.1.7.10 NMAC Security and Audit Specifications

Purpose: Updates language for current needs.

Summary: Subsections G and H are modified to require gaming machines to present a history of the outcome of ten games prior to the present game as opposed to four games.

15.1.7.11 NMAC General Ticketing Standards

Purpose: Cleans up language to make it more consistent with the rest of the rules.

Summary: In subsection A, adds “free play credits” to what can be offered at TITO-enabled slot machines.

Subsection B changes “casino’s” to “racetrack licensee’s” to keep language consistent with subsection A.

A technical change in subsection C removing the space between “a t”. “Validation” removed from subsection D as it is unnecessary and inconsistent with the style of the remainder of the rule; also changes “casino” to “racetrack licensee” for consistency. Subsection E removes “either” as it is unnecessary for the meaning of the subsection.

Subsection H changes “procedures” to “standards” so it reads “minimum internal control standards” which is consistent with how they are referenced everywhere else.

15.1.7.12 NMAC Accounting Meter Specifications

Purpose: Removes obsolete language.

Summary: Removes all references to anything “electromechanical” as that term is obsolete. Also cleans up language.

15.1.7.21 NMAC Display of Rules of Play

Purpose: Removes obsolete language.

Summary: Removes in subsection E “Except for posting of odds pursuant to Section 15.1.10.21 NMAC” because that section is reserved and does not currently contain any substantive material.

15.1.7.25 NMAC Ticket Printer Specifications

Purpose: Clarifies language.

Summary: Changes subsection C from “an approved system” to “a system approved by the board” for clarity.

15.1.7.28 NMAC Revocation of License or Approval

Purpose: Updates language.

Summary: Changes paragraph (2) of subsection A to remove “frequently” as to machine malfunctions. Changes “must” to “shall” in subsection B.

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

Details for Obtaining a Copy of Rule and Submitting Oral or Written Comments:

Copies of the proposed rules are available on the Gaming Control Board’s website at <https://www.gcb.nm.gov/rulemaking/> or can be obtained by emailing GCB-PIO@gcb.nm.gov. The proposed rules are also available on the New Mexico Sunshine Portal. Interested individuals may provide comments at the public hearing. Before the public hearing, written comments may be sent to GCB-PIO@gcb.nm.gov, or by regular mail at Attn: Michelle Pato - proposed rule, The Gaming Control Board, 4900 Alameda Blvd. NE, Albuquerque, NM 87113. The deadline to receive written comment is Monday, June 16, 2025. All written public comments will be posted on the website throughout the written comment period at: <https://www.gcb.nm.gov/rulemaking/>.

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

## HEALTH, DEPARTMENT OF

### NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on the proposed repeal and replacement of rules 7.27.2 (“Licensing of Emergency Medical Services Personnel”), 7.27.4 (“Emergency Medical Services Fund Act”), 7.27.5

(“Certification of Air Ambulance”), 7.27.6 (“Emergency Medical Services Advance Directives”), and 7.27.11 NMAC (“Supplemental Licensing Provisions”). The hearing will be held on Friday, June 6, 2025 at 9:00 a.m. via the Microsoft Teams Internet-based video conferencing system, and via telephone. Members of the public who wish to submit public comment regarding the proposed repeal and replacement of the rule will be able to do so via video conference and via telephone during the course of the hearing, and by submitting written comment.

The Department proposes to repeal and replace the entirety of rules 7.27.2, 7.27.4, 7.27.5, 7.27.6, and 7.27.11 NMAC, to incorporate various new and modified provisions to sections including but not limited to the following:

7.27.2.7 NMAC, Definitions;  
7.27.2.8 NMAC, General Licensure;  
7.27.2.9 NMAC, Initial Licensure;  
7.27.2.10 NMAC, Reciprocity;  
7.27.2.11 NMAC, Licensure Renewal;  
7.27.2.12 NMAC, Identification of EMS Personnel;  
7.27.2.13 NMAC, Fees;  
7.27.2.14 NMAC, Enforcement;  
7.27.2.15 NMAC, Hearings;  
7.27.2.16 NMAC, Criminal History Screening;  
7.27.2.17 NMAC, Revocation;  
7.27.2.18 NMAC, Disqualifying Criminal Offenses (new section);

7.27.4.7 NMAC, Definitions;  
7.27.4.8 NMAC, Duty of the Bureau;  
7.27.4.9 NMAC, Annual Report;  
7.27.4.10 NMAC, Extension of Time;  
7.27.4.11 NMAC, Local EMS Funding Program;  
7.27.4.12 NMAC, Local EMS System Improvement Projects, EMS Vehicle Purchase Projects, Statewide EMS System Improvement Projects, and EMS Agency Support Programs;  
7.27.4.13 NMAC, Statewide Trauma Care System Program and Statewide Emergency Medical Services System Support;  
7.27.4.14 NMAC, Administration;

7.27.5.7 NMAC, Definitions;  
7.27.5.8 NMAC, Use of Terms and Advertising;  
7.27.5.9 NMAC, Disclosure to the Public;  
7.27.5.10 NMAC, Full Certification Period;  
7.27.5.11 NMAC, Reporting;  
7.27.5.12 NMAC, Emergency Information Required;  
7.27.5.13 NMAC, Certification Process and Procedures;  
7.27.5.14 NMAC, Fees;  
7.27.5.15 NMAC, Enforcement;  
7.27.5.16 NMAC, Standards;  
7.27.5.17 NMAC, Radio Communication Frequencies;  
7.27.5.18 NMAC, Application for Air Ambulance Certification;  
7.27.5.19 NMAC, Aircraft Equipment Standards;

7.27.6.7 NMAC, Definitions;  
7.27.6.8 NMAC, EMS Do Not Resuscitate (DNR) Order;  
7.27.6.9 NMAC, EMS Personnel and Procedures;  
7.27.6.10 NMAC, Enforceability and Program Administration;

7.27.11.7 NMAC, Definitions;  
7.27.11.8 NMAC, Scopes of Practice for Licensed Emergency Medical Services Personnel;  
7.27.11.9 NMAC, Approved Training Programs;  
7.27.11.10 NMAC, Special Skills Application and Reporting Procedures; and  
7.27.11.11 NMAC, EMS Personnel Job Descriptions.

The legal authority authorizing the proposed repeal and replacement of these rules is at the Department of Health Act, Subsection E of Section 9-7-6 NMSA 1978, which authorizes the Secretary of the Department of Health to “...make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions,”; the Emergency Medical Services Act, Subsection A of Section 24-10B-5 NMSA 1978, requiring the Department to adopt rules concerning licensure requirements for EMTs; Subsection

H of Section 24-10B-4 NMSA 1978, requiring the Department to adopt rules for the certification of air ambulance services; Subsection I of Section 24-10B-4, requiring the Department to adopt rules pertaining to authorization of providers to honor advance directives to withhold or terminate care in certain pre-hospital or interfacility circumstances; and the Emergency Medical Services Fund Act at Section 24-10A-3.1, requiring the Department to adopt regulations to carry out the provisions of that Act.

The purpose of the proposed repeal and replacement of rules 7.27.2, 7.27.4, 7.27.5, 7.27.6, and 7.27.11 NMAC is to satisfy the Department's regulatory obligations pursuant to various sections of the Emergency Medical Services Act and Emergency Medical Services Fund Act, identified above.

A free copy of the full text of the proposed rules can be obtained online from the New Mexico Department of Health's website at <http://nmhealth.org/about/asd/cmo/rules/> or by contacting the Department using the contact information below.

The public hearing will be conducted to receive public comments on the proposed rules. Any interested member of the public may attend the hearing and may submit data, views, or arguments on the proposed rule either orally or in writing during the hearing.

To access the hearing via the Internet: please go to <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>, then enter the following meeting i.d. code and passcode where indicated on the screen: meeting i.d. code 217 722 493 474 and passcode hp6cN6gp and then click the "Join a meeting" button.

To access the hearing by telephone: please call 1-505-312-4308 and enter phone conference i.d. 716 287 922#.

All comments will be recorded.

Written public comment regarding

the proposed rule can be submitted either by e-mail to Stephanie Lopez at [stephanie.lopez@doh.nm.gov](mailto:stephanie.lopez@doh.nm.gov), or U.S. postal mail to the following address:

Stephanie Lopez  
NMDOH OGC  
P.O. Box 26110  
1190 St. Francis Dr., Suite N-4095  
Santa Fe, NM 87502-6110

Written comments must be received by the close of the public rule hearing on June 6, 2025. All written comments will be published on the agency website at <https://www.nmhealth.org/about/asd/cmo/rules/> within 3 days of receipt, and will be available at the New Mexico Department of Health for public inspection.

If you are an individual with a disability who is in need of special assistance or accommodation to attend or participate in the hearing, please contact Stephanie Lopez by telephone at (505) 690-3689. The Department requests at least ten (10) days' advance notice to provide special accommodation.

## HIGHER EDUCATION DEPARTMENT

### NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** that the New Mexico Higher Education Department (NMHED or Department) will hold a public rulemaking hearing on June 10, 2025. The hearing will begin at 10:00 a.m. and will be held via Microsoft Teams and in person at the New Mexico Higher Education Department. The purpose of the hearing is to take public comment regarding the repeal and replacement of **5.7.15 NMAC, GRADUATE SCHOLARSHIP PROGRAM.**

**Join via Microsoft Teams:**  
[https://teams.microsoft.com/join/19%3ameeting\\_OTM4MmJiZTYtOGUxNC00ZDQ5LW13](https://teams.microsoft.com/join/19%3ameeting_OTM4MmJiZTYtOGUxNC00ZDQ5LW13)

[YmQtNWYyMjVhMzFkOEVj%40t  
hread.v2.0?context+%7b%22Tud%2  
2%3a%2204aa6bf4-d436-426f-bfa4-  
04b7a70e60ff%22%2c%22Oid%22  
%3a%22c327f958-5970-4536-8f6b-  
03d48b60d29e%22%7d](https://www.nmhealth.org/about/asd/cmo/rules/)

### Or call in (audio only):

+1 (505) 312-4308  
Phone Conference ID: 794 694 193#

### Purpose:

The purpose of the proposed repeal and replacement of 5.7.15 NMAC is to align the rule with criteria established through the signing of H.B. 89 58th Leg., 1st Sess. (N.M. 2025) which changed requirements of the Graduate Scholarship Program.

### Summary of proposed rule:

The proposed rule includes the addition of scholarship eligibility requirements relating to New Mexico residency, completion of a bachelor's degree with a minimum grade point average or employment in a paid position supporting faculty teaching or research activities, and enrollment in at least six credit hours. The requirements that a recipient have U.S. citizenship or a permanent resident Visa, provide service in an unpaid internship or assistantship at the higher education institution and be enrolled full-time time are removed. Updated criteria relating to eligible institutions, requirements pertaining to the enrollment and grade point average of recipients, duration of the scholarship, award amounts and eligible graduate fields are included. Various grammatical and stylistic changes are included. Sections are added, removed or combined to ensure consistency with the criteria established by H.B. 89. Lastly, amendments are made to correct outdated references.

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

The proposed rule is posted on the NMHED website and may be accessed at <https://hed.nm.gov/> under the "Data, Reports & Rules" section. To request that a copy of the proposed rule be sent to you by mail or e-mail,



please contact HigherEd.Info@hed.nm.gov or (505)476-8411.

A public hearing will be held on June 10, 2025 from 10:00 a.m. until 11:00 a.m. via Microsoft Teams and in person at the NMHED Office located at **2044 Galisteo Street, Suite 4, Santa Fe, NM 87505**. Any person who is or may be affected by this proposed rule may participate. Interested persons may submit written comments to NMHED at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505 or HigherEd.Info@hed.nm.gov. **Written comments must be received no later than 4:00 p.m. on June 6, 2025.** Please note that any written or verbal comments received will become part of the rulemaking record, be posted to the New Mexico Sunshine Portal and be accessible to the public. If submitting written comments by email, please indicate in the subject line the number and section of each rule(s) for which you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations.

Legal authority for this rulemaking can be found in Section 9-25-1 et seq. NMSA 1978 and Section 21-21G et seq. NMSA 1978.

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter or auxiliary aid or service to attend or participate in the hearing should contact (505) 476-8411 or email HigherEd.Info@hed.nm.gov ten (10) business days prior to the hearing.

## HIGHER EDUCATION DEPARTMENT

### NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** that the New Mexico Higher Education Department (NMHED or Department) will hold a public rulemaking hearing on June 10, 2025. The hearing will begin at 9:00 a.m. and will be held

via Microsoft Teams and in person at the New Mexico Higher Education Department. The purpose of the hearing is to take public comment regarding the proposed amendment of **5.7.36 NMAC, COMMUNITY GOVERNANCE ATTORNEY PROGRAM**.

#### Join via Microsoft Teams:

[https://teams.microsoft.com/1/meetup-Join/19%3ameeting\\_ZGZINzQxYWUtMmQ4NC00ZDEzLWlzN2QtYWw4YjYxMDdjOGUw%40thread.v2/0?context=%7b%22Tid%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22Oid%22%3a%22c327f958-5970-4536-8f6b-03d48b60d29e%22%7d](https://teams.microsoft.com/1/meetup-Join/19%3ameeting_ZGZINzQxYWUtMmQ4NC00ZDEzLWlzN2QtYWw4YjYxMDdjOGUw%40thread.v2/0?context=%7b%22Tid%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22Oid%22%3a%22c327f958-5970-4536-8f6b-03d48b60d29e%22%7d)

#### Or call in (audio only):

+1 (505) 312-4308

Phone Conference ID: 725 894 881#

#### Purpose:

The purpose of the proposed amendment of 5.7.36 NMAC is to align the rule with criteria established in H.B. 24 58th Leg., 1st Sess. (N.M. 2025). H.B. 24 adjusts duties for the Community Governance Attorney Program which provides financial support to qualified third-year law students at the University of New Mexico School of Law and fifty percent of the salaries for the recipients' first two years of employment providing legal services to Acequias, Land Grants-Mercedes or low-income residents of Colonias. H.B. 24 updates requirements for the qualifying employers entering into contracts and clarifies that attorney services provided under the contracts shall be free. H.B. 24 also adjusts criteria for the salary of program participants and changes the Community Governance Attorney Commission (Commission) membership requirements. Lastly, the requirement for the matching funding from service providers to be "non-state" funding is removed.

#### Summary of proposed rule:

The proposed amendment updates duties of the Department, the Commission and the University

of New Mexico (University). The amendment also updates the make-up of the Commission and criteria for service providers and contracts. A new section is added for the responsibilities of the University. Subsequent sections are renumbered, and references are adjusted accordingly. Definitions are added and various grammatical and stylistic changes are included.

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

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

A public hearing will be held on June 10, 2025 from 9:00 a.m. until 9:30 a.m. via Microsoft Teams and in person at the NMHED Office located at **2044 Galisteo Street, Suite 4, Santa Fe, NM 87505**. Any person who is or may be affected by this proposed rule may participate. Interested persons may submit written comments to NMHED at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505 or HigherEd.Info@hed.nm.gov. **Written comments must be received no later than 4:00 p.m. on June 6, 2025.** Please note that any written or verbal comments received will become part of the rulemaking record, be posted to the New Mexico Sunshine Portal and be accessible to the public. If submitting written comments by email, please indicate in the subject line the number and section of each rule(s) for which you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations.

Legal authority for this rulemaking can be found in Section 9-25-1 et seq. NMSA 1978 and Section 21-21Q-1 et seq. NMSA 1978.

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter or auxiliary

aid or service to attend or participate in the hearing should contact (505) 476-8411 or email HigherEd.Info@hed.nm.gov ten (10) business days prior to the hearing.

## HIGHER EDUCATION DEPARTMENT

### NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** that the New Mexico Higher Education Department (NMHED or Department) will hold a public rulemaking hearing on June 10, 2025. The hearing will begin at 9:30 a.m. and will be held via Microsoft Teams and in person at the New Mexico Higher Education Department. The purpose of the hearing is to take public comment regarding the proposed adoption of a new rule **5.7.38 NMAC, VETERINARY MEDICAL LOAN REPAYMENT PROGRAM.**

#### Join via Microsoft Teams:

[https://teams.microsoft.com/join/meetup-join/19%3ameeting\\_ODJkNTc3M2U0OTQxZS00ZDEzLTk0NWU0M2E5YjZkOGRmNDY2%40thread.v2/0?context=%7b%22Tid%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22Oid%22%3a%22c327f958-5970-4536-8f6b-03d48b60d29e%22%7d](https://teams.microsoft.com/join/meetup-join/19%3ameeting_ODJkNTc3M2U0OTQxZS00ZDEzLTk0NWU0M2E5YjZkOGRmNDY2%40thread.v2/0?context=%7b%22Tid%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22Oid%22%3a%22c327f958-5970-4536-8f6b-03d48b60d29e%22%7d)

#### Or call in (audio only):

+1 (505) 312-4308  
Phone Conference ID: 965 949 272#

#### Purpose:

The Department proposes adoption of new rule 5.7.38 NMAC. The new proposed rule establishes regulations and procedures for the Veterinary Medical Loan Repayment Program created by S.B. 8, 58th Leg., 1st Sess. (N.M. 2025). The purpose of the program is to provide student loan repayment assistance to food-animal veterinarians who commit to working in a designated under-served area of New Mexico for at least four years.

#### Summary of proposed rule:

The proposed rule lays out the various duties of the Department, the Board of Veterinary Medicine, and the Veterinarian Selection Committee (Committee). The rule provides membership criteria for the Committee, requirements for participant eligibility, award criteria, contract terms and reporting requirements.

#### Details for Obtaining a Copy,

#### Public Hearing and Comments:

The proposed rule is posted on the NMHED website and may be accessed at <https://hed.nm.gov/> under the “Data, Reports & Rules” section. To request that a copy of the proposed rule be sent to you by mail or e-mail, please contact HigherEd.Info@hed.nm.gov or (505)476-8411.

A public hearing will be held on June 10, 2025, from 9:30 a.m. until 10:00 a.m. via Microsoft Teams and in person at the NMHED Office located at **2044 Galisteo Street, Suite 4, Santa Fe, NM 87505.** Any person who is or may be affected by this proposed rule may participate. Interested persons may submit written comments to NMHED at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505 or HigherEd.Info@hed.nm.gov. **Written comments must be received no later than 4:00 p.m. on June 6, 2025.** Please note that any written or verbal comments received will become part of the rulemaking record, be posted to the New Mexico Sunshine Portal and be accessible to the public. If submitting written comments by email, please indicate in the subject line the number and section of each rule(s) for which you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations.

Legal authority for this rulemaking can be found in Section 9-25-1 et seq. NMSA 1978.

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter or auxiliary

aid or service to attend or participate in the hearing should contact (505) 476-8411 or email HigherEd.Info@hed.nm.gov ten (10) business days prior to the hearing.

## STATE PERSONNEL OFFICE

### NOTICE OF PROPOSED RULEMAKING

**Public Notice:** The New Mexico State Personnel Board will hold a public hearing on Friday, June 13, 2025, at 9:00 a.m. The meeting will be held in person in the Willie Ortiz Auditorium, 2600 Cerrillos Road, Santa Fe, NM 87505.

**Purpose of Rule Hearing:** The purpose of the public hearing is to receive public input on the proposed amendments to 1.7.4 NMAC – Pay.

**Statutory Authority:** Personnel Act, Sections 10-9-10 and 10-9-12 NMSA 1978.

#### Purpose of the Proposed

**Amendments:** The purpose of these changes is to ensure uniform application of the rules and to clarify roles and obligations of the State Personnel Office director.

#### Summary of Proposed Changes

**to 1.7.4 NMAC Pay:** The sections being substantively amended are: *Section 1.7.4.7*, removing definitions for contributor proficiency zones and shift work schedule; *Section 1.7.4.9* changing the responsibility for appointing job evaluation committee members and providing job evaluation training to the State Personnel Office and eliminating the process for converting job evaluation points to the appropriate pay band; *Section 1.7.4.12*, establishing the compa-ratio at which an entry salary must receive approval from the State Personnel Office director, capping in pay band adjustments for demonstrated performance, or skill and competency development at 10% per fiscal year, changing the requirement for State

Personnel Office director approval of a salary increase upon promotion from 15% to 10%, removing pay allowances for performing first line supervisor duties, allowing for salary decreases for employee transfers, and requiring State Personnel Office director approval for temporary salary increases.

**How to Comment on the Proposed Rules:** Public comment addressing the proposed rule changes can be made in person using the Public Comment sign-in sheet, by mail to Denise Forlizzi, State Personnel Office, 2600 Cerrillos Rd., Santa Fe, New Mexico 87505 or by emailing your comment to DeniseM.Forlizzi@spo.nm.gov by 5:00 p.m. Thursday, June 12, 2025. Email comments must include the subject line, “Rule Changes to 1.7.4 NMAC”, the commenter’s name and contact information.

**Copies of Proposed Rules:** Copies of the proposed rules are available for download on the State Personnel Office’s website at [www.spo.state.nm.us](http://www.spo.state.nm.us). A copy of the proposed rules may also be requested by contacting Denise Forlizzi by phone at (505)365-3691 or by email DeniseM.Forlizzi@spo.nm.gov .

**Special Needs:** Individuals who require this information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Denise Forlizzi at (505)365-3691 as soon as possible to allow adequate time to provide the requested accommodation(s).

## SUPERINTENDENT OF INSURANCE, OFFICE OF

### NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** that the Office of Superintendent of Insurance (OSI or Superintendent) will hold a public hearing in person, via video conference, and via

telephone conference regarding a repeal and replace for 13.1.1, NMAC Administrative Provisions and 13.1.2 NMAC, Insurance Bulletins, and proposed corrections to 13.1.4.13 NMAC, Rulemaking Record and Adoption of Rule, and 13.21.3.13 NMAC Rulemaking Record and Adoption of Rule. **This hearing will commence on Tuesday, June 10, 2025, at 10:00 a.m., MDT.**

**PURPOSE OF THE PROPOSED RULE:** The purpose of this rulemaking is to: **1)** clean-up of the format of a citations in the rules, where necessary; **2)** update of the Issuing Agency, definitions, manner of receipt of OSI forms, and addition of procedure for electronic filing in 13.1.1 NMAC; and **3)** update of the Issuing Agency, definitions, gender neutral references, procedure for issuing bulletins in 13.1.2 NMAC; **4)** removal of 13.1.2.10 NMAC; and **5)** correction to 13.1.4.13 NMAC and 13.21.3.13 NMAC to remove reference to the 10 day response period that was removed in rulemaking finalized on September 10, 2024.

**STATUTORY AUTHORITY:** Sections 14-4-1 *et seq.*, NMSA 1978, State Rules Act. Sections and Sections 59A-2-8, 59A-2-9, and 59A-2-10 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, then each guest 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:**

Please copy the link below into your

browser to get to the video conference meeting:

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_NTA0Y2JhMTYtYmFmMS00ZDIwLWEwNmUtZGY1ZWJjY2NhZDE4%40thread.v2/0?context=%7b%22Tid%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22Oid%22%3a%2292f8d9f0-87c0-44c3-9357-ba0eb6121f10%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_NTA0Y2JhMTYtYmFmMS00ZDIwLWEwNmUtZGY1ZWJjY2NhZDE4%40thread.v2/0?context=%7b%22Tid%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22Oid%22%3a%2292f8d9f0-87c0-44c3-9357-ba0eb6121f10%22%7d)

Meeting ID: 241 149 582 813 8  
Passcode: Wx3Xt

**TO ATTEND VIA TELEPHONE:**  
+1-505-312-4308 Phone Conference ID: 324 012 748#

**PUBLIC COMMENT:** The Superintendent designates Placido D. Gonzales, as the hearing officer for this hearing. Oral comments will be accepted at the public hearing from members of the public and other interested parties in-person or via electronic video conference. Copies of the Notice of Proposed Rulemaking and proposed rule are available by electronic download from the OSI eDocket (<https://edocket.osi.state.nm.us/case-view/6070>). You may also request copies if the Notice of Proposed Rulemaking and proposed rule by emailing Gloria Regensberg at: [gloria.regensberg@osi.nm.gov](mailto:gloria.regensberg@osi.nm.gov) or by phone at: 505-500-9079, email communication is preferred. 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) (from the “Agency” drop down menu, select “Office of Superintendent of Insurance”)

**Written comments will be accepted through 4:00 p.m. on Thursday, June 5, 2025. Responses to written comments or to oral comments delivered at the hearing will be accepted through 4:00 p.m. on**



**Wednesday, June 11, 2025.** All comments shall be filed electronically through the OSI eDocket. Please copy the following link into your browser to get to the eDocket: <https://edocket.osi.state.nm.us/case-view/6070>

Written comments may be 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. 2025-0029 – Please copy the following link into your browser to get to the eDocket:** <https://edocket.osi.state.nm.us/case-view/6070>

**IN THE MATTER OF THE  
REPEAL AND REPLACE OF  
13.1.1 NMAC, AND 13.1.2 NMAC,  
AND CORRECTIONS TO  
13.1.4.13 NMAC AND 13.21.3.13  
NMAC**

**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.

## **PUBLIC EDUCATION DEPARTMENT**

### **NOTICE OF PROPOSED RULEMAKING**

#### **Public Hearing**

The New Mexico Public Education Department (PED) gives notice on Tuesday, May 6, 2025, that it will conduct a public hearing for the following proposed rulemaking on Thursday, June 5, 2025, from 1:30 p.m. to 2:30 p.m. (MDT) in Mabry Hall, located in the Jerry Apodaca Education Building, 300 Don Gaspar Ave., Santa Fe, New Mexico 87501:

#### **New rule 6.30.19 NMAC, Purple Star Public Schools Program**

The PED will give a verbal summary statement, on record, at the hearing.

The purpose of the public hearing is to receive public input on the proposed rulemaking. Attendees who wish to provide public comments on the record will be given three minutes to make a statement concerning the proposed rulemaking. To submit written comments, please see the Public Comment section of this notice.

#### **Explanation of Purpose of Rulemaking, Summary of Text, and Statutory Authority**

#### **6.30.19 NMAC, Purple Star Public Schools Program**

**Explanation:** The proposed rule provides standards and procedures for the New Mexico Purple Star Public Schools Program.

**Summary:** The proposed rule establishes the criteria and application process for the New Mexico Purple Star Public Schools Program, which supports the educational and emotional transition of military-connected students and recognizes military service in schools. The rule outlines required program elements for schools with and without military-connected students to obtain designation as a Purple Star Public School.

**Statutory Authority:** Sections 9-24-8, 22-2-1, 22-2-2, and 22-13-34 NMSA 1978.

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

#### **Public Comment**

Interested parties may provide comments at the public hearing or may submit written comments by mail or e-mail.

#### Mailing Address

Policy and Legislative Affairs  
Division  
New Mexico Public Education  
Department  
300 Don Gaspar Avenue, Room 121  
Santa Fe, New Mexico 87501

#### E-Mail Address

[Rule.Feedback@ped.nm.gov](mailto:Rule.Feedback@ped.nm.gov)

Written comments must be received no later than 5 p.m. (MDT) on Thursday, June 5, 2025. The PED encourages early submission of written comments.

#### **Public Comment Period**

The public comment period is from Tuesday, May 6, 2025, to Thursday, June 5, 2025, at 5:00 p.m. (MDT). The PED will review all feedback received during the public comment period and issue communication regarding a final decision of the proposed rulemaking at a later date.

Copies of the proposed rule may be obtained from Denise Terrazas at (505) 470-5303 during regular business hours or may be accessed through the PED Policy and Legislative Affairs webpage titled, "Proposed Rules," at <https://web.ped.nm.gov/bureaus/policy-innovation-measurement/rulemaking/rule-notification/>.

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



contact Denise Terrazas at (505) 470-5303 as soon as possible before the date set for the public hearing. The PED requires at least 10 calendar days advance notice to provide any special accommodations requested.

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

# Adopted Rules

## Effective Date and Validity of Rule Filings

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

### GAMING CONTROL, BOARD OF

The New Mexico Gaming Control Board approved the repeal of its rule 15.1.18 NMAC - Compulsive Gambling Assistance Plan Standards (filed 3/16/2000) and replaced it with 15.1.18 NMAC - Compulsive Gambling Assistance Plan Standards (adopted on 4/16/2025), and effective 5/06/2025.

### GAMING CONTROL, BOARD OF

#### TITLE 15 GAMBLING AND LIQUOR CONTROL CHAPTER 1 GAMES AND GAMING GENERAL PROVISIONS PART 18 COMPULSIVE GAMBLING ASSISTANCE PLAN STANDARDS

**15.1.18.1 ISSUING AGENCY:** New Mexico Gaming Control Board.  
[15.1.18.1 NMAC - Rp, 15.1.18.1 NMAC 5/06/2025]

**15.1.18.2 SCOPE:** This rule applies to all gaming operator licensees and applicants for gaming operators' licenses.  
[15.1.18.2 NMAC - Rp, 15.1.18.2 NMAC 5/06/2025]

**15.1.18.3 STATUTORY AUTHORITY:** Paragraph (3) of Subsection B of Section 60-2E-7 NMSA 1978 of the Gaming Control Act authorizes the board to develop, adopt and promulgate all regulations necessary to implement and administer the provisions of the Gaming Control Act. Subsection A of Section 60-2E-26 NMSA 1978 requires each applicant for licensure

as a gaming operator to submit with the application a plan for assisting in the prevention, education and treatment of compulsive gambling.  
[15.1.18.3 NMAC - Rp, 15.1.18.3 NMAC 5/06/2025]

**15.1.18.4 DURATION:** Permanent.  
[15.1.18.4 NMAC - Rp, 15.1.18.4 NMAC 5/06/2025]

**15.1.18.5 EFFECTIVE DATE:** May 6, 2025, unless a later date is cited at the end of a section.  
[15.1.18.5 NMAC - Rp, 15.1.18.5 NMAC 5/06/2025]

**15.1.18.6 OBJECTIVE:** The objective of this rule is to establish standards for the development of compulsive gambling assistance plans by applicants for gaming operators' licenses and the implementation and maintenance of such plans by licensed gaming operators.  
[15.1.18.6 NMAC - Rp, 15.1.18.6 NMAC 5/06/2025]

**15.1.18.7 DEFINITIONS:** [RESERVED]  
[15.1.18.7 NMAC - Repealed 5/06/2025]

**15.1.18.8 PLAN REQUIRED FOR LICENSURE:** An applicant for a gaming operator's license shall submit a compulsive gambling assistance plan with its application. The plan shall meet or exceed the minimum standards set forth in this rule. The development of such a plan by the applicant, and the approval of the plan by the board, are conditions of issuance of the original gaming operator's license. The maintenance of the plan as approved by the board is a condition of annual renewal of the license.  
[15.1.18.8 NMAC - Rp, 15.1.18.8 NMAC 5/06/2025]

### 15.1.18.9 MINIMUM STANDARDS FOR COMPULSIVE GAMBLING ASSISTANCE PLAN:

**A.** The compulsive gambling assistance plan shall include all of the following elements unless the applicant or gaming operator licensee obtains a written waiver of any element from the board:

**(1)** identification of a plan manager or other person responsible for ensuring that the plan is implemented and administered as approved by the board and monitored to maintain the minimum standards established by this rule;

**(2)** a mission statement that identifies the goals of the gaming operator licensee in administering the plan;

**(3)** policies concerning the handling of compulsive gambling problems, commitment to training, intervention, the employee's role and duties, management's role and duties, and the patron's responsibilities;

**(4)** specific, detailed procedures to determine appropriate intervention techniques in a given circumstance, and carrying out the intervention techniques;

**(5)** printed materials to educate patrons about compulsive gambling and inform them of local and statewide resources available to compulsive gamblers and their families; the materials shall include signs or posters located inside the licensed premises and brochures discussing compulsive gambling issues and sources of treatment and information, samples shall be attached; the primary purpose of all such printed material shall be for the purpose of promoting a responsible gambling message; the plan shall also specify the source of the printed materials, the authority for the use

of said materials and the proposed distribution methods and location;

(6) policy and procedures that prohibit facilitating, participating in, or allowing the issuance of any loans or extension of credit to a patron for gaming purposes; printed materials provided by racetrack operators shall be in both English and Spanish;

(7) a comprehensive employee training plan satisfactory to the board, including training manuals and other materials necessary to educate employees about compulsive gambling issues; the training plan shall include instruction in the psychology of the compulsive gambler, methods of recognizing compulsive gambling behavior, intervention techniques and other subjects as determined by the board;

(8) form for certifying, to the board's satisfaction, that each employee required to obtain the training has done so within the time period specified by this rule;

(9) details of a follow-up training program to periodically reinforce employee training;

(10) estimated costs for implementation and administration;

(11) timetable and procedures for implementing the compulsive gambling assistance plan; the plan must be implemented no later than 90 days from the date gaming commences on the licensed premises;

(12) details from licensee on the provider to whom referrals are made;

(13) treatment providers shall provide documentation showing that they are licensed, in good standing and have a documented competency in the field of problem gambling issues; and

(14) any other policies and procedures recommended by the state of New Mexico department of health and approved by the board or established by the board.

**B.** The board shall submit the entire plan to the responsible gaming coordinator

employed by the New Mexico gaming control board for evaluation. The responsible gaming coordinator shall recommend to the board approval or disapproval of the plan.  
[15.1.18.9 NMAC - Rp, 15.1.18.9 NMAC 5/06/2025]

#### **15.1.18.10 EMPLOYEE TRAINING:**

**A.** The compulsive gambling assistance plan shall be designed with employee training and education as fundamental aspects of the plan. The purpose of the training is to develop awareness of compulsive gambling and to provide resources to assist the employee in handling compulsive gambling issues.

**B.** The employee training program shall include training and materials on the following topics:

(1) characteristics and symptoms of compulsive gambling behavior;

(2) prevalence of compulsive gambling in the general population;

(3) relationship of compulsive gambling to other addictions;

(4) social costs of compulsive gambling, such as indebtedness, costs for treatment, suicide, criminal behavior, lost jobs, and counseling for family problems;

(5) identification of vulnerable populations, including women, low-income patrons, the elderly, and persons who abuse drugs and alcohol;

(6) intervention techniques to be employed where a compulsive gambling problem is identified or suspected; and

(7) assistance and referral programs, including specific resources and training on how to discuss compulsive gambling with a patron and give advice concerning access to available services.

**C.** Training must be conducted within 60 days of the employee's hire date and re-certification must be done annually. Certification and re-certification

of such training shall be submitted on a form provided or approved by the board. Failure to submit the required certification may result in administrative action against the gaming operator licensee.

**D.** This rule shall not be construed as requiring gaming employees to identify compulsive or other problem gamblers.  
[15.1.18.10 NMAC - Rp, 15.1.18.10 NMAC 5/06/2025]

**15.1.18.11 ANNUAL REPORT OF ACTIVITIES:** Each gaming operator licensee shall submit to the board, no later than March 31 annually, a report detailing the licensee's compulsive gambling activities for the previous 12-month period ending December 31. The report shall be in form and content prescribed or approved by the board.  
[15.1.18.11 NMAC - Rp, 15.1.18.11 NMAC 5/06/2025]

**15.1.18.12 COMPULSIVE GAMBLING FUNDS DISTRIBUTION:** A racetrack gaming operator shall spend all funds required by statute to fund or support programs for the treatment and assistance of compulsive gamblers each year within 120 days after the close of the licensees fiscal year.

**A.** Racetracks shall spend no more than fifteen percent on administrative costs, including the salary of the plan manager or other person responsible for ensuring that the plan is implemented and administered and for marketing of compulsive gambling issues.

**B.** Racetracks shall spend the remainder of the compulsive gambling funds on compulsive gambling training for employees, crisis intervention and prevention programs, gambling assistance and treatment, and a helpline as identified in the plan and approved by the board.  
[15.1.18.12 NMAC - Rp, 15.1.18.12 NMAC 5/06/2025]

**HISTORY OF 15.1.18 NMAC:**  
**Pre NMAC History: None.**

**History of Repealed Material:**

15.1.18 NMAC, Compulsive Gambling Assistance Plan Standards (filed 3/16/2000) Repealed effective 5/06/2025.

**Other History:**

15 NMAC 1.18, Compulsive Gambling Assistance Plan Standards, effective 4/15/1999.  
15 NMAC 1.18, Compulsive Gambling Assistance Plan Standards (filed 3/26/1999) reformatted, renumbered, amended and replaced by 15.1.18 NMAC, Compulsive Gambling Assistance Plan Standards, effective 3/31/2000.  
15.1.18 NMAC, Compulsive Gambling Assistance Plan Standards (filed 3/16/2000) Replaced by 15.1.18 NMAC, Compulsive Gambling Assistance Plan Standards effective 5/06/2025.

## GAMING CONTROL, BOARD OF

**This is an amendment to 15.1.5 NMAC, Sections 15 and 23, effective 5/06/2025.**

### 15.1.5.15 COMPULSIVE GAMBLING ASSISTANCE PLAN:

**A.** An applicant for a gaming operator's license shall submit with the application a plan for assisting in the prevention, education, and treatment of compulsive gambling. The plan shall include all information required in 15.1.18 NMAC.

**B.** No gaming operator's application shall be approved unless the board first approves the applicant's compulsive gambling assistance plan.

**C.** Failure to implement the compulsive gambling assistance plan or to satisfactorily maintain and administer the plan once implemented shall be grounds for suspension or revocation of the gaming operator's license, assessment of a fine, or both.

**D.** The [board shall establish] applicant shall comply

with the minimum standards for the content, structure and implementation of, and periodic reporting requirements on, the compulsive gambling assistance plan as listed in 15.1.18.9 NMAC.

**E.** The board may contract with the state of New Mexico department of health or such other entity deemed qualified by the department of health to provide technical assistance in reviewing and recommending to the board approval of compulsive gambling assistance plans.

[15.1.5.15 NMAC - Rp, 15.1.5.15 NMAC, 6/30/2016, A, 5/06/2025]

### 15.1.5.23 APPLICATION FEES:

**A.** The applicant shall pay, in the amount and manner prescribed by this rule, all license fees and fees and costs incurred in connection with the processing and investigation of any application submitted to the board.

**B.** Applicants shall submit the following nonrefundable fees with an application for licensure or other approval:

- (1) gaming machine manufacturer's license, \$10,000;
- (2) associated equipment manufacturer's license, \$2,500;
- (3) gaming machine distributor's license, \$5,000;
- (4) associated equipment distributor's license, [~~\$1,000~~] \$2,500;
- (5) gaming operator's license for racetrack, [~~\$25,000~~] \$37,500;
- (6) gaming operator's license for nonprofit organization, [~~\$100~~] \$250;
- (7) gaming machine license, [~~\$100~~] \$200 per machine;
- (8) work permit, \$75 work permit update \$25;
- (9) certification of finding of suitability, \$100 [~~for each person requiring investigation;~~] update to certification of finding of suitability \$50;

(10) limited use distributor's license, [~~\$1,000~~] \$2,500; and

(11) replacement fee for identification badge, \$10.

**C.** In addition to any nonrefundable license or approval fee paid, the applicant shall pay all supplementary investigative fees and costs, as follows:

(1) an applicant for a manufacturer's license, distributor's license, or gaming operator's license for a racetrack shall pay, in advance, an amount equal to the license fee as a deposit on fees and costs of the investigation; upon completion of the investigation and determination of the actual fees and costs, the board shall refund overpayments or charge the applicant for underpayments in an amount sufficient to reimburse the board for actual fees and costs;

(2) all other applicants shall reimburse the board in an amount sufficient to cover actual fees and costs of the investigation upon completion of the investigation; and

(3) all applicants shall fully reimburse the board within 30 days of receipt of notice of actual fees and costs incurred by the board for any underpayment or other amount owed by the applicant.

**D.** Investigative fees are charged at the rate of [~~\$50~~] \$75 per hour for each hour spent by investigators of the board or the board's agents in conducting an investigation. In addition to fees, costs to be paid by the applicant include transportation, lodging, meals, and other expenses associated with traveling, which expenses shall be reimbursed [~~based on state mileage and per diem rules~~] actual cost, and office expenses, document copying costs, and other reasonable expenses incurred. Checks shall be made payable to the New Mexico gaming control board.

**E.** In addition to any nonrefundable application and supplementary investigation fees



and costs, licensed manufacturers and distributors shall pay a gaming device inspection fee in an amount not to exceed the actual cost of the inspection. The manufacturer or distributor shall pay the estimated cost of the inspection in advance. Upon completion of the inspection and determination of the actual cost, the board shall refund overpayments or charge the manufacturer or distributor for underpayments in an amount sufficient to reimburse the board for the actual cost. The manufacturer or distributor shall fully reimburse the board within 30 days of receipt of notice of underpayment. Lab fees are charged at the rate of ~~[\$50]~~ \$75 per hour for each hour spent by the board's technical personnel to inspect or test a gaming device.

**F.** The board may refuse to take final action on any application unless all license, approval, and investigation fees and costs have been paid in full. The board shall deny the application if the applicant refuses or fails to pay all such fees and costs. In addition to any other limitations on reapplication, the applicant shall be debarred from filing any other application with the board until all such fees and costs are paid in full.

**G.** If the board determines at any time during the application process that the applicant is not qualified, or cannot qualify, to hold the license or other approval sought, the board shall notify the applicant, in writing. The board ~~[shall]~~ may discontinue investigation and processing of the application and ~~[shall]~~ may issue a final, written order denying the application.

**H.** The maximum fee for processing any application shall not exceed \$100,000, regardless of actual costs of supplemental investigations.

**I.** The board may contract with any state board or agency to conduct any investigation required or permitted to be conducted under the act or board regulations, as determined necessary by the board.

**J.** Neither the license or approval fees nor any other fees or

costs arising in connection with the application or investigation shall be refunded or waived on the grounds that the application was denied or withdrawn or that processing was otherwise terminated.

**K.** Gaming machine licensing fees may be pro-rated if the license is granted within three months of December 31.

[15.1.5.23 NMAC - Rp, 15.1.5.21 NMAC, 6/30/2016, A, 5/6/2025]

## HEALTH, DEPARTMENT OF

### TITLE 7            HEALTH CHAPTER 30    FAMILY AND CHILDREN HEALTH SERVICES PART 15        SCHOOL-BASED HEALTH CENTERS

**7.30.15.1            ISSUING**  
**AGENCY:** New Mexico department of health, public health division.  
[7.30.15.1 NMAC - N, 5/6/2025]

**7.30.15.2            SCOPE:** These rules apply to school-based health centers in New Mexico that are funded by the New Mexico department of health, and all persons who provide services within those SBHCs.  
[7.30.15.2 NMAC - N, 5/6/2025]

**7.30.15.3            STATUTORY**  
**AUTHORITY:** These rules are promulgated pursuant to the following statutory authorities: the Department of Health Act, Subsection E of Section 9-7-6 NMSA 1978, which authorizes the secretary of the department of health to "...make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions"; and the Public Health Act, Subsection F of Section 24-1-44 NMSA 1978, which authorizes the department to adopt and promulgate rules for the regulation, operation and oversight of school-based health centers receiving funding from the department.  
[7.30.15.3 NMAC - N, 5/6/2025]

**7.30.15.4            DURATION:**  
Permanent.  
[7.30.15.4 NMAC - N, 5/6/2025]

**7.30.15.5            EFFECTIVE**  
**DATE:** May 6, 2025, unless a later date is cited at the end of a section.  
[7.30.15.5 NMAC - N, 5/6/2025]

**7.30.15.6            OBJECTIVE:** The purpose of this rule is to implement Section 24-1-44 NMSA 1978 of the Public Health Act. This rule governs the regulation, operations and oversight of school-based health centers (SBHC) in New Mexico receiving funding from the department, and establishes minimum standards for implementation of the provisions of the statute. The school-based health center program supports communities in promoting the health and well-being of the school-age population and local community through the evidence-based best practice within a public health framework. These rules establish the procedure and criteria New Mexico department of health shall use to certify, suspend, and decertify school-based health centers. Certification of an SBHC by the state SBHC program is voluntary; an operating SBHC choose not to participate in certification, only certified SBHCs are eligible for funding from New Mexico department of health.  
[7.30.15.6 NMAC - N, 5/6/2025]

**7.30.15.7            DEFINITIONS:**  
**A.            Definitions**  
**beginning with "A":** [RESERVED]

**B.            Definitions**  
**beginning with "B":** "Behavioral health" means mental health, lifestyle and health behaviors, substance misuse, life stressors and crises.

**C.            Definitions**  
**beginning with "C":** "Child" means a person below the age of 18.

**D.            Definitions**  
**beginning with "D":** "Department" means the New Mexico department of health.

**E.            Definitions**  
**beginning with "E":** [RESERVED]

**F.            Definitions**  
**beginning with "F":** "FERPA"

means Family Educational Rights and Privacy Act.

**G. Definitions**

**beginning with “G”:** [RESERVED]

**H. Definitions**

**beginning with “H”:**

**(1) “Health”**

means a state of physical and mental well-being, not merely the absence of disease.

**(2) “HIPAA”**

means Health Insurance Portability and Accountability Act.

**I. Definitions**

**beginning with “I”:** [RESERVED]

**J. Definitions**

**beginning with “J”:** [RESERVED]

**K. Definitions**

**beginning with “K”:** [RESERVED]

**L. Definitions**

**beginning with “L”:** [RESERVED]

**M. Definitions**

**beginning with “M”:** “Medicaid” means medical assistance eligibility, pursuant to Title XIX of the Social Security Act, by the medical assistance division of the New Mexico health care authority.

**N. Definitions**

**beginning with “N”:** [RESERVED]

**O. Definitions**

**beginning with “O”:** [RESERVED]

**P. Definitions**

**beginning with “P”:**

**(1)**

**“Provider”** means any individual or entity furnishing health care at the SBHC.

**(2) “Primary**

**health care”** means basic care of a patient’s health needs across a wide continuum, including preventive and well care as well as minor and acute illness or injury.

**Q. Definitions**

**beginning with “Q”:** [RESERVED]

**R. Definitions**

**beginning with “R”:** “Reproductive health” means state of wellbeing in all matters related to the reproductive system and to its functions and process.

**S. Definitions**

**beginning with “S”:**

**(1) “School-**

**based health center (SBHC)”** means a health care clinic located in a school, a school campus or and is

organized through school and health provider agreements and offer both physical and behavioral health care.

**(2) “School-**

**based health center program (program; SBHC program)”**

means the New Mexico department of health, school-based health center program.

**(3) “SBHC**

**site”** means an individual SBHC clinic or access point.

**(4) “SBHC**

**system”** means the SBHC sponsoring agency and all the school-based health centers operating under that entity.

**(5)**

**“Sponsoring agency”** means an entity that provides, either directly or via contract with another entity, SBHC services that include (but need not be limited to):

**(a)**

funding;

**(b)**

staffing;

**(c)**

clinical oversight;

**(d)**

liability insurance; and

**(e)**

billing support.

**(6) “Student”**

means a child or adolescent who is enrolled in school.

**T. Definitions**

**beginning with “T”:** “Telehealth”

means patient care via a two-way, real-time interactive communication between a patient and a medical or behavioral health provider at a distant site through telecommunications equipment that includes, at a minimum, audio and visual equipment.

**U. Definitions**

**beginning with “U”:** [RESERVED]

**V. Definitions**

**beginning with “V”:** [RESERVED]

**W. Definitions**

**beginning with “W”:** [RESERVED]

**X. Definitions**

**beginning with “X”:** [RESERVED]

**Y. Definitions**

**beginning with “Y”:** [RESERVED]

**Z. Definitions**

**beginning with “Z”:** [RESERVED]

[7.30.15.7 NMAC - N, 5/6/2025]

**7.30.15.8 STANDARD OF COMPLIANCE:** The degree of compliance required throughout these rules is designated using the words “shall”, “must”, or “may”. “Shall” or “must” means mandatory. “May” means permissive. The use of the words, “proper” and “appropriate” mean the degree of compliance that is generally accepted throughout the professional field and by those who provide school-based health center services to the public in facilities governed by these rules. However, if any other applicable statute or rule requires mandatory or stricter compliance for school-based health center services than these rules, the school and the SBHC sponsoring agency must comply with the stricter compliance requirements.  
[7.30.15.8 NMAC - N, 5/6/2025]

**7.30.15.9 SCHOOL-BASED HEALTH CENTER OPERATIONS AND SERVICES:**

**A. Location:** A

school-based health center shall be located within a designated clinic space in a school, on a school campus, or adjacent to a school campus within a safe walking distance. School-based health care may also be delivered in a mobile clinic on or near a school campus or offered via telehealth as determined by the school and SBHC sponsoring agency. An SBHC shall operate within an appropriate physical space and comply with all federal, state, and local laws and regulations governing health care practices.

**B. Consent to**

**services:** An SBHC shall obtain parental, guardian, or student consent for services in accordance with applicable state and federal laws.

**C. Non-**

**discrimination:** In accordance with state and federal non-discrimination laws, an SBHC shall not discriminate against patients based upon race, color, sexual orientation, gender, gender identity, religion, national origin, immigration status disability, health insurance status, or ability to pay.

**D. Hours of**

**operation:** An SBHC shall be open during hours accessible to students.

**E. Clinical services:**

SBHC clinical services shall be provided by professionally qualified staff who are appropriately certified and professionally licensed in the state of New Mexico. SBHC clinical providers shall provide age appropriate, relevant health services to children and students. Services may include:

**(1)**

Comprehensive primary health care, including, health assessments, diagnosis, and treatment of minor, acute, and chronic medical conditions;

**(2)**

Well-child examinations, referrals to and follow-up for specialty care, mental health and substance use disorder assessments and treatment;

**(3)**

Crisis intervention, counseling and treatment;

**(4)**

Oral health services;

**(5)**

Vision services; and

**(6)**

Reproductive health services, including but not limited to diagnosis and treatment of sexually transmitted diseases, HIV testing and counseling, and provision of contraceptives.

**F. Storage of supplies**

**and medications:** SBHC sites shall abide by state regulations and standards for the proper storage of medical supplies, medications, 16.19.10 NMAC.

**G. Referral for**

**services:** SBHC shall refer to a continuum of health services not available at the SBHC, including those related to physical health conditions, mental health conditions, substance abuse services, vision and oral health services as needed, services may include but are not limited to:

**(1)**

vaccinations;

**(2)**

community support programs;

**(3)**

inpatient care; and

**(4)**

outpatient care and programs.

**H. Health coverage:**

All school-based health centers shall take steps to ascertain a student's insurance coverage, health plan, and primary care provider to ensure continuity of care.

[7.30.15.9 NMAC - N, 5/6/2025]

**7.30.15.10 SCHOOL-BASED HEALTH CENTER CERTIFICATION:**

School-based health centers must meet all requirements for certification in the New Mexico standards and benchmarks for school-based health Centers to be eligible to apply to the program for certification. The department may perform reviews of SBHCs as it deems necessary to ensure continued compliance with the New Mexico standards and benchmarks for school-based health centers. Reviews may include site visits, reviews of records and documents, or such other oversight as determined necessary by the department. An SBHC shall make documents and premises available for inspection upon the program's request.

[7.30.15.10 NMAC - N, 5/6/2025]

**7.30.15.11 DATA COLLECTION AND SHARING:****A. Medical record:**

A school-based health center shall maintain and store a medical record for each patient in accordance with applicable laws. *See, e.g.,* 16.10.17.10 NMAC ("Retention, Maintenance and Destruction of Medical Records").

**B. Data collection:**

An SBHC shall participate in data collection for statewide evaluation. Data measures shall be determined by the state of New Mexico school based health center program. School-based health centers shall ensure confidentiality in the storage and sharing of health information, in accordance with applicable state and federal confidentiality laws, including HIPAA and FERPA.

**C. Student**

**confidentiality:** SBHCs shall follow applicable state and federal laws concerning student confidentiality

when billing for services.

[7.30.15.11 NMAC - N, 5/6/2025]

**7.30.15.12 SBHC****STAFFING:**

**A.** AN SBHC shall provide services through health professionals who maintain up to date New Mexico licensure, training, and proper certification in their individual discipline for the population to be served.

**B.** The organizational structure of the SBHC must be adequate to provide for appropriate clinic supervision of staff, and to ensure that staff are assigned responsibilities that are consistent with their education and experience and legally within their scope of practice.

**C.** Staffing of the SBHC must include the designation of an individual as having overall responsibility for the management of the SBHC.

[7.30.15.12 NMAC - N, 5/6/2025]

**7.30.15.13 FINANCIAL SUSTAINABILITY:**

**A.** The SBHC sponsoring agency is responsible for employing financial practices that balance the long-term fiscal health of the SBHC.

**B.** The SBHC sponsoring agency shall maintain financial policies and procedures that:

**(1)**

Support and guide a sound business plan based on financial strategies that rely on stable and predictable funding sources, maximize patient revenue, and minimize the role of grants to support operations for the long-term; and

**(2)**

Require billing Medicaid and other insurers whenever possible.

[7.30.15.13 NMAC - N, 5/6/2025]

**7.30.15.14 WAIVERS:**

**A.** An SBHC system must notify the program within 20 calendar days of any change that brings an SBHC out of compliance with the certification requirements. An SBHC system must submit a request to the program that includes



an explanation of the non-compliant requirement, a plan for corrective action, and date for meeting compliance.

**B.** The program will review the waiver request and inform the SBHC system of approval or denial of the waiver within two weeks of submission.

**C.** If the waiver is approved, the SBHC must comply with certification requirements by the identified deadline for compliance.

**D.** If a waiver is denied; an SBHC site or system does not come into compliance by the deadline for compliance stated on the waiver; or an SBHC is out of compliance with certification requirements and has not submitted a waiver, the program may, within its discretion:

(1) require the SBHC to complete an additional waiver with an updated plan for corrective action and updated date for meeting compliance;

(2) issue a written warning with a timeline for corrective action; or

(3) issue a notice of contemplated action to suspend or revoke SBHC certification(s) or take other disciplinary action in accordance with this rule.

**E.** An SBHC site with its certification status suspended may have its suspension lifted once the program determines that compliance with certification requirements has been satisfactorily achieved.

**F.** An SBHC that has been decertified may reapply.

**G.** If these rules are amended in a manner that requires an SBHC to make any operational changes, the program will allow the SBHC system until the beginning of the next certification year or a minimum of 90 days to come into compliance.

**H.** The New Mexico school based health center program reserves the right to review any or all selected standards for compliance at all certified sites with a minimum notification of at least five center

working days if issues of compliance are raised or come into question. [7.30.15.14 NMAC - N, 5/6/2025]

### **7.30.15.15 DISCIPLINARY ACTION; RIGHT OF APPEAL:**

**A. Denial, suspension, and revocation:** SBHC certification may be denied, suspended, or revoked, or may be subject to any other disciplinary action, for violation of or failure to satisfy any requirement of this rule, and on any of the following grounds:

(1) abuse, neglect, or exploitation;

(2) failure to follow established procedures regarding controlled substances;

(4) disclosure of patient information in a manner not consistent with applicable law(s);

(3) dispensing, administering, or distributing medications in a manner not consistent with applicable law(s);

(4) failure to comply with other applicable law(s);

(5) any false, fraudulent, or deceptive statement made to the program;

(6) failure to cooperate with the program's review of the SBHC; and

(7) any conduct that poses a substantial risk of harm to public health or safety.

**B. Notification; other action:** If final disciplinary action is taken, the program may notify the New Mexico health care authority, licensing bodies, and others.

**C. Notice of contemplated action:** The program may issue a notice of contemplated action to deny, suspend, or revoke certification, or take other disciplinary action against an SBHC. The notice shall be served by certified U.S. postal mail (return receipt requested). The notice shall state the grounds for taking the proposed action, and shall state that the program will take the proposed action unless the SBHC or SBHC applicant mails, within 20 days after service of the notice, a letter (via certified mail, return receipt requested), requesting a hearing.

### **D. Right to appeal:**

An SBHC or SHBC applicant may request a hearing to be held before a hearing officer appointed by the cabinet secretary to contest a proposed action under this rule, by mailing a letter via certified mail, return receipt requested, to the program within 20 days after service of the notice of contemplated action. If an SBHC or SBHC applicant fails to request a hearing in the time and manner required, the SBHC or SBHC applicant shall forfeit the right to a hearing, and the proposed action shall become final.

[7.30.15.15 NMAC - N, 5/6/2025]

### **7.30.15.16 HEARINGS:**

**A. Scheduling the hearing:**

(1) **Appointment of hearing officer:**

Upon the program's receipt of a conforming request for hearing, the department shall appoint a hearing officer and schedule a hearing.

(2) **Hearing date:** The hearing shall be held not more than 60 days and not less than 15 days from the date of service of the notice of the hearing.

(3) **Notice of hearing:** The department shall notify the SBHC or SBHC applicant of the date, time, and place of the hearing and the identity of the hearing officer within 20 days of the program's receipt of the conforming request for hearing.

(4) **Hearing venue:** The hearing shall be held in Santa Fe, New Mexico, or may be held via internet-based web video conference by agreement of the parties.

**B. Method of service:** Any notice or decision required to be served under this section may be served either personally or by certified mail, return receipt requested, directed to the SBHC or SBHC applicant at the last known mailing address shown by the records of the program. The notice or decision shall be deemed to have been served on the date borne by the return receipt showing delivery, or the date of the last attempted delivery

of the notice or decision, or the date of the addressee's refusal to accept delivery.

**C. Hearing officer**

**duties:** The hearing officer shall conduct the hearing, rule on any motions or other matters that arise prior to the hearing, and issue a written report and recommendation(s) to the secretary following the close of the hearing.

**D. Official file:**

Upon appointment, the hearing officer shall establish an official file which shall contain all notices, hearing requests, pleadings, motions, written stipulations, evidence, briefs, and correspondence received in the case. The official file shall also contain proffered items not admitted into evidence, which shall be so identified and shall be separately maintained. Upon conclusion of the proceeding and following issuance of the final decision, the hearing officer shall tender the complete official file to the department for its retention as an official record of the proceedings.

**E. Powers of hearing officer:**

The hearing officer shall have all the powers necessary to conduct a hearing and to take all necessary action to avoid delay, maintain order, and assure development of a clear and complete record, including but not limited to the power to: administer oaths or affirmations; schedule continuances; direct discovery; examine witnesses and direct witnesses to testify; subpoena witnesses and relevant books, papers, documents, and other evidence; limit repetitious and cumulative testimony; set reasonable limits on the amount of time a witness may testify; decide objections to the admissibility of evidence or receive the evidence subject to later ruling; receive offers of proof for the record; take notice of judicially cognizable facts or take notice of general, technical, or scientific facts within the hearing officer's specialized knowledge (provided that the hearing officer notifies the parties beforehand and offers the parties an opportunity to contest the fact so noticed); direct parties to appear and confer for

the settlement or simplification of issues, and otherwise conduct pre-hearing conferences; impose appropriate evidentiary sanctions against a party who fails to provide discovery or who fails to comply with a subpoena; dispose of procedural requests or similar matters; and enter proposed findings of fact and conclusions of law, orders, reports and recommendations. The hearing officer may utilize his or her experience, technical competence, or specialized knowledge in the evaluation of evidence presented.

**F. Postponement or**

**continuance:** The hearing officer, at their discretion, may postpone or continue a hearing upon his or her own motion, or upon the motion of a party, for good cause shown. Notice of any postponement or continuance shall be given in person, by telephone, or by mail to all parties within a reasonable time in advance of the previously scheduled hearing date.

**G. Conduct of**

**hearing:** Hearings shall be open to the public; provided, however, that hearings may be closed in part to prevent the disclosure of confidential information, including but not limited to health information protected by state and federal laws.

**H. Recording:**

The hearing officer or a designee shall record the hearing by means of a mechanical sound recording device provided by the department for a record of the hearing. Such recording need not be transcribed, unless requested by a party who shall arrange and pay for the transcription.

**I. Burden of proof:**

Except as otherwise provided in this rule, the department has the burden of proving by a preponderance of the evidence the basis for the proposed action. Exception in denied application cases: in cases arising from the denial of an application for certification, the SBHC applicant shall bear the initial burden of proving by a preponderance of the evidence the applicant's qualifications.

**J. Order of**

**presentation; general rule:** Except as provided in this rule, the order of

presentation for hearings in all cases shall be:

**(1)**

**appearances:** opening of proceeding and taking of appearances by the hearing officer;

**(2) pending**

**matters:** disposition by the hearing officer of preliminary and pending matters;

**(3) opening**

**statements:** the opening statement of the department; and then the opening statement of the party challenging the department's action or proposed action;

**(4) cases:**

the department's case-in-chief, and then the case-in-chief of the party challenging the department's action;

**(5) rebuttal:**

the department's case-in-rebuttal;

**(6) closing**

**argument:** the department's closing statement, which may include legal argument; and then the closing statement of the party opposing the department's action or proposed action, which may include legal argument; and

**(7) close:**

close of proceedings by the hearing officer.

**K. Order of**

**presentation in denied application**

**cases:** The order of presentation in cases arising from the denial of an application for certification shall be:

**(1)**

**appearances:** opening of proceeding and taking of appearances by the hearing officer;

**(2) pending**

**matters:** disposition by the hearing officer of preliminary and pending matters;

**(3) opening**

**statements:** applicant's opening statement; and then the opening statement of the department;

**(4) cases:**

the applicant's case-in-chief, and then the department's case-in-chief;

**(5) rebuttal:**

the applicant's case-in-rebuttal;

(6) **closing argument:** the applicant’s closing statement, and then the department’s closing statement; and

(7) **close:** close of proceedings by the hearing officer.

**L. Admissible evidence; rules of evidence not applicable:** The hearing officer may admit evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs. Rules of evidence, such as the New Mexico rules of evidence for the district courts, shall not apply but may be considered in determining the weight to be given any item of evidence. The hearing officer may at his or her discretion, upon his or her motion or the motion of a party or a party’s representative, exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence, including testimony, and may exclude confidential or privileged evidence.

**M. Objections:** A party may timely object to evidentiary offers by stating the objection together with a succinct statement of the grounds for the objection. The hearing officer may rule on the admissibility of evidence at the time an objection is made or may receive the evidence subject to later ruling.

**N. Official notice:** The hearing officer may take notice of any facts of which judicial notice may be taken, and may take notice of general, technical, or scientific facts within his or her specialized knowledge. When the hearing officer takes notice of a fact, the parties shall be notified either before or during the hearing of the fact so noticed and its source, and the parties shall be afforded an opportunity to contest the fact so noticed.

**O. Record content:** The record of a hearing shall include all documents contained in the official file maintained by the hearing officer, including all evidence received during the course of the hearing, proposed findings of fact and conclusions of law, the recommendations of the

hearing officer, and the final decision of the secretary.

**P. Written evidence from witnesses:** The hearing officer may admit evidence in the form of a written statement made by a witness, when doing so will serve to expedite the hearing and will not substantially prejudice the interests of the parties.

**Q. Failure to appear:** If a party who has requested a hearing or a party’s representative fails to appear on the date, time, or location announced for a hearing, and if no continuance was previously granted, the hearing officer may proceed to hear the evidence of such witnesses as may have appeared or may accept offers of proof regarding anticipated testimony and other evidence, and the hearing officer may further proceed to consider the matter and issue his report and recommendation(s) based on the evidence presented; and the secretary may subsequently render a final decision. Where a person fails to appear at a hearing because of accident, sickness, or other cause, the person may within a reasonable time apply to the hearing officer to reopen the proceeding, and the hearing officer may, upon finding sufficient cause, fix a time and place for a hearing and give notice to the parties.

**R. Hearing officer written report and recommendation(s):** The hearing officer shall submit a written report and recommendation(s) to the secretary that contains a statement of the issues raised at the hearing, proposed findings of fact and conclusions of law, and a recommended determination. Proposed findings of fact shall be based upon the evidence presented at the hearing or known to all parties, including matters officially noticed by the hearing officer. The hearing officer’s recommended decision is a recommendation to the secretary of the New Mexico department of health and is not a final order.

**S. Submission for final decision:** The hearing officer’s report and recommendation(s) shall be submitted together with the complete official file to the secretary

of the New Mexico department of health for a final decision no later than 30 days after the last submission by a party.

**T. Secretary’s final decision:** The secretary shall render a final decision within 45 calendar days of the secretary’s receipt of the hearing officer’s written report. A copy of the final decision shall be mailed to the SBHC or SBHC applicant by certified mail, return receipt requested, within 15 days after the final decision is rendered and signed.

[7.30.15.16 NMAC - N, 5/6/2025]

**History of 7.30.15 NMAC:**  
[RESERVED]

## SUPERINTENDENT OF INSURANCE, OFFICE OF

The New Mexico Superintendent of Insurance repealed its rule 13.10.40 NMAC, Vaccine Purchasing Fund, filed 01/01/2023, and replaced it with a new rule entitled Vaccine Purchasing Fund, 13.10.40 NMAC, adopted 04/16/2025 and effective 05/06/2025.

## SUPERINTENDENT OF INSURANCE, OFFICE OF

**TITLE 13 INSURANCE**  
**CHAPTER 10 HEALTH**  
**INSURANCE**  
**PART 40 VACCINE**  
**PURCHASING FUND**

**13.10.40.1 ISSUING**  
**AGENCY:** Office of Superintendent of Insurance.

[13.10.40.1 NMAC – Rp, 13.10.40.1 NMAC, 05/06/2025]

**13.10.40.2 SCOPE:** These rules apply to every “health insurer” and “group health plan,” as defined in the Vaccine Purchasing Act (VPA), providing coverage to residents of New Mexico, regardless of location of the policy, and are therefore subject to compliance obligations under Sections 24-5A-1 through 24-5A-

9 NMSA 1978. For purposes of this rule, a multiple employer welfare arrangement as defined in Section 59A-1-8.1 NMSA 1978 is considered a “group health plan” subject to the VPA.  
[13.10.40.2 NMAC – Rp, 13.10.40.2 NMAC, 05/06/2025]

**13.10.40.3 STATUTORY AUTHORITY:** This rule is issued pursuant to the State Rules Act, Sections 14-4-1 *et seq.* NMSA 1978, Sections 24-5A-6, 24-5A-7, 24-5A-8 NMSA 1978 of the Vaccine Purchasing Act, and Section 59A-2-9 NMSA 1978.  
[13.10.40.3 NMAC – Rp, 13.10.40.3 NMAC, 05/06/2025]

**13.10.40.4 DURATION:** Permanent.  
[13.10.40.4 NMAC – Rp, 13.10.40.4 NMAC, 05/06/2025]

**13.10.40.5 EFFECTIVE DATE:** May 6, 2025, unless a later date is cited at the end of a section.  
[13.10.40.5 NMAC – Rp, 13.10.40.5 NMAC, 05/06/2025]

**13.10.40.6 OBJECTIVE:** To establish procedures to implement and enforce the provisions of the VPA.  
[13.10.40.6 NMAC – Rp, 13.10.40.6 NMAC, 05/06/2025]

**13.10.40.7 DEFINITIONS:** The following definitions apply to this rule and to the implementation of this rule only:

**A. “advisory committee or immunization practices”** has the same meaning as defined in Subsection A of Section 24-5A-2 NMSA 1978;

**B. “billing cycle”** means:

Billing Cycle	Department’s Invoices Date	Insurer’s and Group Health Plan’s Due Date
July 1 to September 30	September 1	October 1
October 1 to December 31	December 1	January 1
January 1 to March 31	March 1	April 1
April 1 to June 30	June 1	July 1

**C. “covered employer”** means any employer who offers group health insurance coverage to a resident of New Mexico through a group health plan or policy issued by a health insurer;

**D. “covered lives”** means the number of children who were enrolled in or participated in the plan during any part of the prior year, and who were under the age of 19 as of December 31, excluding any children who are not residents of New Mexico, were enrolled in Medicaid or in any medical assistance program administered by the department or the human services department, and children who are members of a Native American tribe;

**E. “day” or “days”** shall be calculated as follows, unless otherwise specified:

- (1) one to 10 days means only working days and excludes weekends and state holidays; and
- (2) 11 or more days means calendar days, including weekends and state holidays;

**F. “department”** has the same meaning as defined in Subsection B of Section 24-5A-2 NMSA 1978;

**G. “erroneous”** means incorrect or inaccurate related to a report required to be filed pursuant to the VPA that may include over reported covered lives or underreported covered lives.

**H. “fund”** has the same meaning as defined in Subsection C of Section 24-5A-2 NMSA 1978;

**I. “group health plan”** has the same meaning as defined in Subsection D of Section 24-5A-2 NMSA 1978;

**J. “health insurance coverage”** has the same meaning as defined in Subsection E of Section 24-5A-2 NMSA 1978;

**K. “health insurer”** has the same meaning as defined in Subsection F of Section 24-5A-2 NMSA 1978;

**L. “insured child”** has the same meaning as defined in Subsection G of Section 24-5A-2 NMSA 1978;

**M. “late report”** means a report submitted after the due date established by the office of superintendent;

**N. “non-report”** means a group health plan or health insurer who fails to submit a report by the established due date;

**O. “office of superintendent”** has the same meaning as defined in Subsection H of Section 24-5A-2 NMSA 1978;

**P. “OSI”** means the office of superintendent of insurance;

**Q. “policy”** has the same meaning as defined in Subsection I of Section 24-5A-2 NMSA 1978;

**R. “provider”** has the same meaning as defined in Subsection J of Section 24-5A-2 NMSA 1978;

**S. “TPA”** means a third party administrator;



**T. “VPA”** means the vaccine purchasing act, Chapter 24, Article 5A, NMSA 1978; and,

**U. “vaccines for children program”** has the same meaning as defined in Subsection K of Section 24-5A-2 NMSA 1978. [13.10.40.7 NMAC – Rp, 13.10.40.7 NMAC, 05/06/2025]

### **13.10.40.8 REPORTING**

**REQUIRED:** As directed in these rules, every health insurer and group health plan shall annually report to the office of superintendent the number of insured children who are residents of New Mexico under each policy and plan, who were under the age of 19 as of the previous December 31 even if that number is zero.

#### **A. Report deadline.**

The required report is due by the date established by the office of superintendent, but no later than July 31 of each year.

**(1) Late reports:** If a report is submitted after the deadline set by the office of superintendent, the group health plan or health insurer is subject to penalties as set forth below.

**(2) Non-Reports:** If a report is not submitted by the due date set by the office of superintendent, the group health plan or health insurer is subject to penalties as set forth below.

**(3) Failure to report by this deadline** shall result in a \$500 a day penalty pursuant to Subsection B of Section 24-5A-7 NMSA 1978. The office of superintendent shall issue written notice of failure to submit a timely report which specifies the statutory penalty to the designated contact person for each health insurer or group health plan.

#### **B. Report contents.**

The annual report shall include all information requested by the office of superintendent and, at a minimum, shall provide:

**(1)** the number of covered lives.

**(2)** the name of a designated contact person(s) for the reporting organization and the

group health plan, or health insurer, including title, a current email address, and office phone number.

#### **(a)**

If the contact person(s) name, title, email address or office phone number changes prior to the billing cycle or the following year’s reporting cycle, then an updated contact shall be provided to the department and the office of superintendent as soon as practicable after the change occurs, but no later than 30 days after the change.

#### **(b)**

Contact person(s) name, title, email address, or office phone number changes made to the OSI must be submitted via the VPA reporting system located on the OSI VPA page website.

#### **(c)**

Communications to and from the designated contact shall be treated as communications between the office of superintendent and the health insurer or group health plans for all purposes under the VPA. Failure to provide or update contact information shall not relieve a health insurer or group health plan of any obligation under the VPA.

#### **(d)**

Failure to provide or update contact person(s) name, title, email address, or office phone number shall not relieve a group health plan or health insurer of their obligations under the VPA.

**(3)** the names of employers or groups on behalf of whom the data is submitted.

**(4)** if a group health plan or health insurer did not cover any children during the prior year, an attestation of that circumstance.

**(5)** the annual report shall be submitted even if the number of children to report is zero.

#### **C. Method of**

**reporting.** A health insurer or group health plan shall report in the method prescribed by the office of superintendent.

**D. Responsibility for reporting.** A health insurer or group health plan is solely responsible for

reporting. A group health plan may delegate reporting obligations to an employer group or plan administrator, but the group health plan or health insurer remains responsible for any late report or reporting error, and corresponding statutory penalties. The office of superintendent is not obligated to remind a group health plan or health insurer of their obligations under the VPA.

#### **E. Mid-year plan**

**termination.** If an employer terminates its plan with a health insurer or group health plan mid-year, the new health insurer or group health plan shall be responsible for reporting and shall be responsible for reimbursing the vaccine purchasing fund for coverage of the prior years’ insured children.

#### **F. Report**

**amendments.** An erroneous report may be changed only as approved by the office of superintendent or upon determination of a good faith discrepancy in accordance with Subsection C of Section 24-5A-7 NMSA 1978:

**(1)** A request to amend a report shall be sent to: [vpa.data@osi.nm.gov](mailto:vpa.data@osi.nm.gov).

**(2)** A report amendment must explain the erroneous reporting to the number of covered lives, reporting organization name, contact person(s) name, title, email address, or office phone number to the reporting organization or TPA or group health plan, FEIN’s for group health plan.

**(3)** A report amendment will only be accepted if the dispute was submitted within thirty days of the date of the first quarter invoice.

**(4)** Requests to amend a report for over or under reported covered lives received by the office of superintendent after the 30-day date of the first quarter invoice, will be rejected by the office of superintendent and must be reconciled by the group health plan or health insurer on the following year’s VPA report.

**(5)** The office of superintendent will allow a

reconciliation of the previous year's report only once, and will not accept any report amendment requests for any other reporting year but the year that immediately precedes the current reporting year unless there is an under reporting of covered lives.

**G. Penalties.**

(1) Report discrepancies are subject to civil penalty of five hundred dollars (\$500) for each report filed for which the office of superintendent determines there is such a discrepancy pursuant to Subsection C of Section 24-5A-7 NMSA 1978.

(2) A failure of a health insurer or group health plan to make a timely payment of an amount invoiced pursuant to Subsection D of Section 24-5A-3 NMSA 1978 shall be subject to a civil penalty of five hundred dollars (\$500) for each day from the date the payment is due pursuant to Subsection D of 24-5A-7 NMSA 1978.

**H. Receivership**

**report.** Before any health insurer is placed into receivership, it shall report its latest count of covered children to the office of superintendent.  
[13.10.40.8 NMAC – Rp, 13.10.40.8 NMAC, 05/06/2025]

**13.10.40.9 BILLING AND ENFORCEMENT:**

**A.** Billing and initial review of invoices shall be conducted by the department pursuant to the VPA and to 7.5.4.13 NMAC.

**B. Referral.** The department shall refer to the office of superintendent any health insurer or group health plan that has failed to fully reimburse the department, including any applicable late penalties, within 30 days of the date of invoice. Referrals for invoices subject to review shall be made within 30 days of the department's decision. The department is responsible for resolving any questions or disputes that involve:

(1) basis for billing with covered entities that are responsible for paying the annual amount for the total covered lives reported as of December 31; and

(2) requests for reconciling and payment of invoices when a covered entity has closed, is going out of business, has a plan termination, is in receivership, or when a health plan exits the market.

**C. Notices.** Within 10 days of receipt of report of delinquent account, the office of superintendent shall:

(1) Inform a delinquent health insurer or group health plan of the failure to timely pay the invoice, the invoice amount, the \$500 a day civil penalty, calculated from the date payment on the invoice was due, and any applicable interest.

(2) Notices shall be delivered in writing to the group health plan or health insurer's designated contact person and shall include instructions about how to remit payment.

(3) The office of superintendent shall provide a copy of this notice to the department.  
[13.10.40.9 NMAC – Rp, 13.10.40.9 NMAC, 05/06/2025]

**13.10.40.10 PUBLICATION:**

The office of superintendent shall, by January 31 of each calendar year, make publicly available on their website, a comprehensive list of all health insurers and group health plans that:

**A.** maintained compliance with the VPA in the preceding year;

**B.** failed to comply with reporting requirements under the VPA; or

**C.** failed to make timely payments under the VPA.  
[13.10.40.10 NMAC – Rp, 13.10.40.10 NMAC, 05/06/2025]

**13.10.40.11 ACCOUNTING OF THE FUND:**

**A. Expenditures.** Money in the fund shall be expended only for the purposes specified in the VPA, by warrant issued by the secretary of finance and administration pursuant to vouchers approved by the secretary of health.

**B. Audit.** The fund shall be audited in the same manner as

other state funds are audited, and all records of payments made from the fund shall be open to the public.

**C. Balance.** Any balance remaining in the fund shall not revert or be transferred to any other fund at the end of a fiscal year.

**D. Investment.** Money in the fund shall be invested by the state investment officer in accordance with the limitations in Article 12 Section 7 of the constitution of New Mexico. Income from investment of the fund shall be credited to the fund.

**E. Estimate.** July 1 of each year thereafter, the department shall estimate the amount to be expended annually by the department to purchase, store, and distribute vaccines recommended by the advisory committee on immunization practices to all insured children in the state, including a reserve of ten percent of the amount estimated.

**F. Update.** The department may update its estimated amount to be expended annually and its reserve to take into account increases or decreases in the cost of vaccines or the costs of additional vaccines that the department determines should be included in the statewide vaccine purchasing program and adjust the amount invoiced to each health insurer and group health plan the following quarter.  
[13.10.40.11 NMAC – Rp, 13.10.40.11 NMAC, 05/06/2025]

**13.10.40.12 HEARING**

**RIGHTS:** Any person aggrieved by any action, threatened action, or failure to act by the office of superintendent shall have the same right to a hearing before the office of superintendent with respect thereto as provided for in general under Chapter 59A, Article 4 NMSA 1978 and the implementing rules. There shall be no right to hearing by the department.

**A.** A health insurer aggrieved pursuant to the VPA may request an informal hearing or an administrative review with the office of superintendent pursuant to their rules. The health insurer shall notify the immunization program manager if they are pursuing an informal hearing

or administrative review with the office of superintendent via email at [vpa.fund@doh.nm.gov](mailto:vpa.fund@doh.nm.gov).

**B.** A health insurer aggrieved pursuant to the VPA may appeal from an order of the superintendent made after an informal hearing or an administrative hearing pursuant to Section 59A-4-20, NMSA 1978. The appeal from the office of superintendent's order shall be taken to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

[13.10.40.12 NMAC – Rp,  
13.10.40.12 NMAC, 05/06/2025]

**History of 13.10.40 NMAC:**

13.10.40 NMAC, Vaccine Purchasing Fund, filed 01/01/2023 was repealed and replaced by 13.10.40 NMAC, Vaccine Purchasing Fund, effective 05/06/2025.

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**End of Adopted Rules**



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**Other Material Related to Administrative Law**

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**SUPERINTENDENT OF  
INSURANCE, OFFICE OF****NOTICE OF MINOR,  
NONSUBSTANTIVE  
CORRECTION**

The Office of Superintendent of Insurance gives Notice of a Minor, Nonsubstantive Correction to 13.10.40 NMAC.

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

Section 7: There are two Subsection B numbers. The second Subsection B has been corrected to Subsection C and all subsequent Subsections have been renumbered from C through T to D through U.

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

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

# 2025 New Mexico Register

## Submittal Deadlines and Publication Dates

### Volume XXXVI, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 3	January 14
Issue 2	January 16	January 28
Issue 3	January 30	February 11
Issue 4	February 13	February 25
Issue 5	February 27	March 11
Issue 6	March 13	March 25
Issue 7	March 27	April 8
Issue 8	April 10	April 22
Issue 9	April 24	May 6
Issue 10	May 8	May 20
Issue 11	May 23	June 11
Issue 12	June 12	June 24
Issue 13	June 26	July 15
Issue 14	July 17	July 29
Issue 15	July 31	August 12
Issue 16	August 14	August 26
Issue 17	August 28	September 9
Issue 18	September 11	September 23
Issue 19	September 25	October 7
Issue 20	October 9	October 21
Issue 21	October 23	November 4
Issue 22	November 6	November 18
Issue 23	November 20	December 9
Issue 24	December 11	December 23

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