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New Mexico Register

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

Volume XXVII - Issue 11 - June 15, 2016

New Mexico Register

Volume XXVII, Issue 11
June 15, 2016

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A = Amended, E = Emergency, N = New, R = Repealed, Rn = Renumbered

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Telephone: (505) 476-7942; Fax: (505) 476-7910; E-mail: staterules@state.nm.us.

The ***New Mexico Register*** is available free at http://www.nmcpr.state.nm.us/nmregister

Notices of Rulemaking and Proposed Rules

CRIME VICTIMS REPARATION COMMISSION

NOTICE OF PUBLIC HEARING

The New Mexico Crime Victims Reparation Commission (NMCVRC) will hold a public hearing on 10 NMAC.40.1 "General Provisions", 10.40.2 NMAC "Compensation" and 10 NMAC.40.3 "Federal Grant Programs". The hearing will be held on Thursday, July 28th at 9:00 a.m. at the NMCVRC office located at 6200 Uptown Blvd. NE, Suite 210, Albuquerque, New Mexico 87110.

The public hearing will be conducted to receive public comments regarding the proposed repeal and replacement to the General Provisions, Compensation and Federal Grant Programs rules in order to better address the needs of crime victims and funding practices.

A copy of the proposed rules can be obtained from:

Dorothy Padilla
6200 Uptown Blvd. NE, Suite 210
Albuquerque, New Mexico 87110
505-841-9432
Dorothyd.padilla@state.nm.us

The changes may also be reviewed between 8:00 a.m. and 5:00 p.m. at the NMCVRC Office at 6200 Uptown Blvd. NE, Suite 210, Albuquerque, NM by contacting Dorothy Padilla at 505-841-9432.

Please submit any written comments regarding the proposed rules to the attention of Dorothy Padilla at the above address or via e-mail prior to the hearing. If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in the hearing, please contact Dorothy Padilla by telephone at (505) 841-9432. The Commission requests at least ten (10) days advance notice to provide requested special accommodations.

CULTURAL AFFAIRS, DEPARTMENT OF
NATURAL HISTORY AND SCIENCE, MUSEUM OF

NOTICE OF PUBLIC HEARING

The New Mexico Museum of Natural History and Science will hold a public hearing from 1:30 pm to 2:00 pm on July 22, 2016 at the Museum of Natural History and Science, in the Museum Conference Room, on the 2nd Floor, at 1801 Mountain Road, NW in Albuquerque.

The board will consider amending 4.53.2 NMAC, to adopt museum admission fee increases. Proposed public admissions prices for the New Mexico Museum of Natural History and Science are as follows: current adult fee is $7, may be increased to $8; current senior (60+) fee is $6, may be increased to $7; current children (3-12) fee is $4, may be increased to $5. Possible amended Planetarium fees are as follows: adult fee currently is $7, may be increased to $8; current senior (60+) fee is $6, may be increased to $7; current children (3-12) fee is $4, may be increased to $5.

Copies of the draft amendment and meeting agenda will be available on the museum's website at www.NMnaturalhistory.org or by calling Dianna Flores at (505) 841-2819.

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 Dianna Flores, at (505) 841-2819 at least one week prior to the meeting or as soon as possible.

HUMAN SERVICES DEPARTMENT
INCOME SUPPORT DIVISION

NOTICE OF PUBLIC HEARING

The Human Service Department is required by Federal Law to file a State Plan that describes how the Department will administer the State's Low Income Home Energy Assistance Program (LIHEAP). The State Plan must be submitted every year to the United States Department of Health and Human Services (DHHS), Administration for Children and Families (ACF). The Department is required to offer a 30-day comment period for the LIHEAP State Plan that includes Weatherization prior to submittal.

A public hearing to receive testimony on this proposed regulation will be held on July 21, 2016, at 10:00 a.m. The hearing will be held in the Income Support Division conference room, located on the first floor of Pollon Plaza at 2009 S. Pacheco St., Santa Fe, NM 87505. Parking accessible for persons with physical impairments is available.

If you are a person with a disability and you require this information in an alternative format, or you require a special accommodation to participate in any HSD public hearing, program, or service, please contact the American Disabilities Act Coordinator, at 505-827-7701 or through the New Mexico Relay system, at 711 or toll free at 1-800-659-1779. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

The Department proposes the New Mexico LIHEAP State Plan covering the period of October 1, 2016 to September 30, 2017. All comments received will be considered for the New Mexico LIHEAP State Plan.

A copy of the proposed LIHEAP State Plan is available in written format upon request. Please call the Income Support Division at 1-888-523-0051 or 1-505-827-7258 to request a copy. You may also send a request to:

Human Services Department
Income Support Division
Attn: Work and Family Support Bureau/ LIHEAP
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

The proposed State Plan is available on and can be printed from the Department's website at: http://www.hsd.state.nm.us/LookingForInformation/income-support-division-plans-and-reports.aspx.

Interested persons may address written or recorded comments to:

Human Services Department
P.O. Box 2348 Pollon Plaza
Santa Fe, NM 87504-2348

Interested persons may also address comments via electronic mail to: HSD-isdrules@state.nm.us.

PUBLIC REGULATION COMMISSION

NOTICE OF PROPOSED RULEMAKING

The New Mexico Public Regulation Commission (NMPRC or Commission) gives notice of its intention to adopt, pursuant to the Transportation Network Company Services Act permanent rules defining and regulating Transportation Network Companies (TNC's), in the form of those rules adopted on an emergency basis as interim rules by the commission's ***Order Adopting Emergency Interim Rules and Issuing Proposed Rulemaking*** issued May 11, 2016.

Copies of the ***Order Adopting Emergency Interim Rules and Issuing Proposed Rulemaking,*** together with exhibits containing additional information, including the proposed permanent rules, as well as filing instructions, may be downloaded from the proposed rulemaking section of the commission's website at http://www.nmprc.state.nm.us under **Case No. 16-00077-TRP** or by calling the commission's records management bureau at (505) 827-6968.

Initial comments and response comments shall be filed in writing with the commission's records management bureau at P.O. Box 1269, Santa Fe, NM 87504-1269 or by hand delivery to the NMPRC records management bureau at 1120 Paseo de Peralta, Room 406, Santa Fe, NM 87501 by the following ***DEADLINES***:

Initial comments not later than **June 29, 2016** and response comments not later than **July 13, 2016**. All comments must refer to **Case No. 16-00077-TRP**.

A public hearing will be held on **Wednesday, July 20, 2016** *beginning at **1:00 p.m***. at the offices of the commission located in the 4th Floor Hearing Room of the old PERA Building, at 1120 Paseo de Peralta, in Santa Fe. The purpose of the hearing is to give interested individuals an opportunity to give oral comments. The commission may limit the time for each comment to three minutes. The record of this case will close **8 days** following the **July 20, 2016** public hearing unless the commission rules otherwise or chooses to take action on the proposed rule immediately upon conclusion of the **July 20, 2018** public hearing.

Interested persons should contact the commission to confirm the date, time, and place of this public hearing because hearings are occasionally rescheduled. Any person with a disability requiring special assistance in order to participate in the hearing should contact the commission's office of general counsel at (505) 827-4501 at least 48 hours prior to the commencement of the hearing.

Statutory Authority: New Mexico Constitution, Article XI, Sec. 2; NMSA 1978, Section 8-8-4(B)(10)(1998).

REGULATION AND LICENSING DEPARTMENT
BARBERS AND COSMETOLOGISTS, BOARD OF

PUBLIC RULE HEARING AND REGULAR BOARD MEETING

Notice is hereby given that the New Mexico Board of Barbers and Cosmetologists will hold a Rule Hearing on Monday, Monday, August 29, 2016. Following the Rule Hearing, the Board will convene a Regular Board Meeting to adopt the rules and take care of regular business. The Rule Hearing will begin at 9:00 a.m. and the Regular Board Meeting will convene following the Rule Hearing. The Meetings be held at the Regulation and Licensing Department, 5500 San Antonio Dr. NE, Albuquerque, NM 87109, in the main conference room.

The purpose of the Rule Hearing is to consider adoption of proposed amendments and additions to the following Board Rules and Regulations in 16.34.1 NMAC, General Provisions; 16.34.2 NMAC, Licensing; 16.34.4 NMAC, Special Licenses; 16.34.5 NMAC, Regular Licenses; 16.34.6 NMAC, Licensing by Reciprocity: Credit for Out-Of-State Training; and 16.34.14 NMAC, Fees.

The Board's proposed rules are available on the Board's website at: www.rld.state.nm.us/boards/Barbers and Cosmetologists Members and Meetings. Individuals requesting copies of proposed rules may also contact the New Mexico Board of Barbers and Cosmetologists, P.O. Box 25101, Santa Fe, New Mexico 87504, or by calling (505) 476-4622. A copy of the Agenda for the Regular Board Meeting will be available at least seventy-two (72) hours prior to the meeting and will be posted on the Board's website. The Agenda may also be obtained by contacting the Board Office.

In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comments regarding the proposed rules must present them to the Board Office in writing no later than Monday, August 15, 2016. Persons wishing to present their comments at the hearing will need (10) copies of any comments or proposed changes for distribution to the Board and staff.

During the Regular Meeting, the Board may enter into Executive Session pursuant to NMSA 1978, §10-15-1 (H) (1) and (3), of the Open Meetings Act, to discuss matters related to the issuance, suspension, renewal or revocation of licenses, and administrative adjudicatory proceedings.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but you need a reader, amplifier, qualified signed language interpreter, or any other form of auxiliary aid or service to participate, please call the Board office at (505) 476-4622 at least two weeks prior to the meeting or as soon as possible.

Pauline M. Varela, Executive Director
P.O. Box 25101, Santa Fe, NM 87504

REGULATION AND LICENSING DEPARTMENT
PHARMACY, BOARD OF

NOTICE TO THE PUBLIC REGULAR BOARD MEETING – JUNE 27TH & 28TH, 2016

The New Mexico Board of Pharmacy will convene on June 27th & 28th , 2016 at 9:00 a.m. and continue until finished in the Board of Pharmacy Conference Room located at 5500 San Antonio Dr., NE, Albuquerque, NM 87109 for the purpose of conducting a regular board meeting.

You may view and obtain copies of the agenda (tentative) starting June 20, 2016 through the board's website: www.rld.

state.nm.us/boards/pharmacy.aspx.

Individuals petitioning the board regarding requests/waivers and/or interested persons wishing to comment on proposed language regarding rule hearings must submit documentation for presentation; via fax (505) 222-9845, mail or email to the Executive Director, Ben Kesner, ben.kesner@state.nm.us no later than Monday, June 13, 2016, if in attendance must provide 12 copies of the documentation for distribution to board members. *(Board staff is not required to make copies.)*

The Board will address:

Rule Hearings:
16.19.20 NMAC CONTROLLED SUBSTANCES

Disciplinary Hearings:
CASE NO. 2015-070 CRAIG COLLYER - RP5334
CASE NO. 2015-026 MICHAEL (MIKE) GALLEGOS - RP6838
CASE NO. 2015-055 CHRISTOPHER TRUJILLO - RP7033

*Executive Director's Report:

Any special needs accommodations for board meetings or hearings should contact Debra Wilhite, Administrative Secretary, at (505) 222-9835 or e-mail debra.wilhite@state.nm.us as soon as possible.

*The board may go into Executive Session to discuss these items and any other items pursuant to Section 10-15-1H(1), Section 10-15-1H(2), Section 10-15-1H(3) or Section 10-15-1H(7) of the Open Meeting Act. Agenda items may be executed at any time during the meeting to accommodate hearings.

Published in the Albuquerque Journal May 24, 2016

REGULATION AND LICENSING DEPARTMENT
SUBSTITUTE CARE ADVISORY COUNCIL

Public Rule Hearing and Regular Council Meeting

LEGAL NOTICE

The New Mexico Substitute Care Advisory Council will hold a rule hearing on Wednesday, July 20, 2016. Following the rule hearing the New Mexico Substitute Care Advisory Council will convene a regular meeting to adopt the rules and take care of regular business. The New Mexico Substitute Care Advisory Council rule hearing will begin at 9:30 a.m. and the regular meeting will convene following the rule hearing. The meetings will be held in the Toney Anaya Building, hearing room 1 at the Regulation and Licensing Department, located at 2550 Cerrillos Road, Santa Fe, New Mexico.

The purpose of the rule hearing is to consider adoption of the New Mexico Substitute Care Advisory Council rules and regulations for Section 32A-8-1 to 32A-8-7 NMSA 1978 (effective 7-1-16), Part 8.26.7 NMSA Citizen Substitute Care Review.

The council may go into executive session pursuant to 10-15-1.H of the Open Meetings Act to discuss pending complaints. A final agenda for the council meeting will be available at the council office at least 72 hours prior to the meeting and can be obtained on the website at www.rld.state.nm.us.

Persons desiring to present their views on the proposed rules may write to request draft copies from the council office at the Toney Anaya Building located at 2550 Cerrillos Road in Santa Fe, New Mexico, or call (505) 476-4622 after ***June 16, 2016*** or from the Board's website http://www.rld.state.nm.us. In order for the council members to review the comments in their meeting packets prior to the meeting, persons wishing to make comments regarding the proposed rules must present them to the council office in writing ***no later than July 11, 2016.*** Persons wishing to present their comments at the hearing will need (10) copies of any comments or proposed changes for distribution to the council and staff.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the council office at (505) 476-4622 at least two weeks prior to the meeting or as soon as possible.

Kathy Ortiz, Deputy Director, Boards and Commissions
PO Box 25101, Santa Fe, NM 87505

DEPARTMENT OF TRANSPORTATION

NOTICE OF PUBLIC HEARING

The New Mexico Department of Transportation (NMDOT) will hold a public hearing for the purpose of receiving oral and written public comment on proposed amendments to 18.31.6 NMAC, State Highway Access Management Requirements. The purpose of the amendments to the rule are to (1) add provisions that clarify the authority of the New Mexico State Transportation Commission to approve all access control changes in addition to requested breaks in interstate access controlled rights of way; and (2) make certain other technical updates to the rule to bring it into compliance with current standards.

The hearing is scheduled on July 21, 2016, from 1:30 p.m. to 4:30 p.m. at the New Mexico Department of Transportation, General Office, Training Rooms 1 and 2, located at 1120 Cerrillos Road, Santa Fe, New Mexico. Please contact Rebecca Romero, State Maintenance Division, New Mexico Department of Transportation, P.O. Box 1149, State Building 4, Santa Fe, New Mexico 87504-1149, Telephone (505) 995-7903 to request a copy of the rule.

The hearing will be held before Andrew Gallegos P.E., Traffic Operations Director, NMDOT. Interested persons may also present their views by written statements submitted on or before July 7, 2016, to New Mexico Department of Transportation, P.O. Box 1149, State Building 4, Santa Fe, New Mexico 87504-1149, Telephone (505) 995-7903.

Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule in an accessible form may contact Rebecca Romero at (505) 995-7903 at least ten (10) days before the hearing.

End of Notices of Rulemaking and Proposed Rules

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Adopted Rules

Effective Date and Validity of Rule Filings

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

HEALTH, DEPARTMENT OF

This is an amendment to 7.4.3 NMAC, Sections 7, 9, 11 and 13, effective June 15, 2016.

7.4.3.7 DEFINITIONS: As used in these provisions, the following terms shall have the meaning given to them, except where the context clearly requires otherwise.

A. "Acute care hospital" means a hospital providing emergency services, in-patient medical and nursing care for acute illness, injury, surgery or obstetrics; ancillary services such as pharmacy, clinical laboratory, radiology, and dietary are required for acute care hospitals.

B. "Cancer" means all malignant neoplasms and in situ neoplasms and all intracranial neoplasms, regardless of the tissue of origin.

C. "Carrier" means an infected person or animal that harbors a specific infectious agent without clinical symptoms and that serves as a potential source of infection for humans.

D. "Condition of public health significance" means a condition dangerous to public health or safety.

E. "Designee" means an agency or instititution designated by the department of health to receive reports of notifiable conditions on its behalf for the purpose of public health surveillance.

F. "Disease" means an illness, including those caused by infectious agents or their toxic products which may be transmitted to a susceptible host.

G. "Division" means the epidemiology and response division of the department of health, P.O. Box 26110, Santa Fe, NM 87502-6110.

H. "Health care professional" means any licensed doctor of medicine or osteopathy, nurse, physician's assistant, midwife, veterinarian or other licensed health care provider [~~unless the context clearly requires otherwise~~].

I. "Isolation, detention or quarantine" means the complete separation or partial restriction of movement and association in such manner and for such period [~~as will~~] to prevent the direct and indirect transmission of the infectious agent.

J. "Laboratory" means the scientific laboratory division of the department of health or any other laboratory which performs diagnostic tests on specimens obtained from New Mexico sources for diseases and conditions covered by these rules.

K. "Notifiable condition" means a disease or condition of public health significance required by statute or these rules to be reported to the [~~division~~] department of health.

L. "Other person" includes but is not limited to: laboratory staff; an official in charge of any health facility; hospital records or administrative personnel; the principal or person in charge of any private or public school, or child care center; teachers and school nurses; and a householder or any other person, in the absence of a health care professional having direct knowledge of a disease or condition of public health significance.

M. "Regional or local public health office" means a public health office designated by the public health division of the department of health.

N. "Report" means a notification to the [~~division~~] department of health pursuant to these rules.

O. "Specimen" means any material derived from humans or animals for examination for diagnosis, prevention or treatment of any disease or condition of public health significance. [7.4.3.7 NMAC - Rp, 7.4.3.7 NMAC, 04/30/2009; A, 02/29/2012; A, 6/15/2016]

7.4.3.9 CONTROL OF DISEASE AND CONDITIONS OF PUBLIC HEALTH SIGNIFICANCE:

A. Responsibility for protection of public health: The department of health may take such measures as are deemed necessary and proper for the protection of the public health.

B. Coordination among agencies: The department of health shall coordinate the efforts of other concerned or interested federal, state and local agencies and shall cooperate with local health care professionals and health care facilities.

C. Imposition of isolation or quarantine: The department of health may establish or require isolation or quarantine of any animal, person, institution, community or region.

D. Case incidence in schools or health facilities: Where any case of communicable disease occurs or is likely to occur in a public, private, or parochial school, child care facility, or in a health care facility, the department of health may require the school or facility to:

(1) [~~exclusion of~~] exclude infected persons and non-immune persons, whether students, patients, employees or other persons;

(2) [~~closure and discontinuance of~~] close and discontinue operations if there is likelihood of an epidemic.

E. Refusal of voluntary treatment, detention or observation: When a person who is actively infectious with a threatening communicable disease refuses voluntary treatment, detention or observation, the department of health may seek a court order to detain the person pursuant to Section 24-1-15 NMSA 1978 of the Public Health Act until the person is no longer a contagious threat to the public or the person voluntarily complies with appropriate treatment and contagion precautions.

F. Other public health orders: The department of health may issue orders for the testing of particular populations or groups of persons or animals to identify carriers of disease, including immigrants, travelers, students or preschoolers and others who have been at risk of transmission or exposure. The department of health may require that all tests be done under the control of the scientific laboratory division or by a laboratory approved for that purpose.

G. Enforcement of public health orders: Any order issued by the department of health under the Public Health Act or these rules shall

be enforceable as provided by law and violation is punishable in accordance with Section 24-1-21 NMSA 1978.

H. Medical records: To carry out its duties to investigate and control disease and conditions of public health significance, the department of health or designee shall have access to all medical records of persons with, or suspected of having, notifiable diseases or conditions of public health significance. The department of health is a "public health authority" as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Privacy Rule. The department of health is authorized to receive protected health information without patient authorization for purposes of public health surveillance, investigation and interventions and as otherwise required by law. The division or designee may periodically review medical records to ensure the completeness and quality of reporting.

I. Confidentiality of reports: All notifiable condition reports are confidential. Disclosure to any person of report information, except for disclosure for the purpose of prevention, treatment or control, is prohibited unless disclosure is required by law.

J. Research use of notifiable condition data: Researchers authorized by the division or its designee who certify to the satisfaction of the division that confidentiality of data will be maintained in accordance with applicable state and federal confidentiality requirements, may conduct studies utilizing notifiable condition data, including studies of the sources and causes of conditions of public health significance, evaluations of the cost, quality, efficacy and appropriateness of screening, diagnostic, therapeutic, rehabilitative and preventive services and programs relating to conditions of public health significance and other clinical or epidemiologic research.

[7.4.3.9 NMAC - Rp, 7.4.3.9 NMAC, 04/30/2009; A, 02/29/2012; A, 6/15/2016]

7.4.3.11 HEALTHCARE-ASSOCIATED INFECTION REPORTING: Acute care hospitals only will submit data to the New Mexico department of health using the centers for disease control and prevention national healthcare safety network (NHSN) and confer rights to access the data to the New Mexico department of health for central line-associated bloodstream infections and clostridium difficile infections. All carbapenem-resistant enterobacteriaceae and carbapenem-resistant pseudomonas aeroginosa cases, including non-healthcare-associated, will be reported to the New Mexico department of health.

[7.4.3.11 NMAC - N, 02/29/2012; A, 6/15/2016]

7.4.3.13 NOTIFIABLE DISEASES OR CONDITIONS IN NEW MEXICO:

A. All reports including electronic laboratory reports of notifiable conditions, must include:

(1) the disease or condition being reported;

(2) patient's name, date of birth/age, gender, race/ethnicity, address, patient telephone numbers, and occupation;

(3) physician or licensed healthcare professional name and telephone number; and

(4) healthcare facility or laboratory name and telephone number, if applicable.

B. Laboratory or clinical samples for conditions marked with (*) are required to be sent to the scientific laboratory division.

C. Emergency reporting of diseases or conditions: The following diseases, confirmed or suspected, require **immediate reporting** by telephone to the epidemiology and response division at (505) 827-0006. [~~If no answer, call 1-866-885-6485~~].

(1) Infectious diseases:

(a) anthrax*;

(b) avian or novel influenza*;

(c) bordetella species (including pertussis)*;

(d) botulism (any type)*;

(e) cholera*;

(f) diphtheria*;

(g) haemophilus influenzae invasive infections*;

(h) measles;

(i) Middle East respiratory syndrome;

(j) meningococcal infections, invasive*;

[~~(j)~~] **(k)** plague*;

[~~(k)~~] **(l)** poliomyelitis, paralytic and non-paralytic;

[~~(l)~~] **(m)** rabies;

[~~(m)~~] **(n)** rubella (including congenital);

[~~(n)~~] **(o)** severe acute respiratory syndrome (SARS)*;

[~~(o)~~] **(p)** smallpox*;

[~~(p)~~] **(q)** tularemia*;

[~~(q)~~] **(r)** typhoid fever*;

(s) viral hemorrhagic fever;

[~~(r)~~] **(t)** yellow fever.

(2) Other conditions:

(a) suspected foodborne illness in two or more unrelated persons*;

(b) suspected waterborne illness or conditions in two or more unrelated persons*;

(c) illnesses or conditions suspected to be caused by the intentional or accidental release of biologic or chemical agents*;

(d) acute illnesses or conditions of any type involving large numbers of persons in the same geographic area;

(e) severe smallpox vaccine reaction;

(f) other illnesses or conditions of public health significance.

(3) Infectious diseases in animals:

(a) anthrax;

(b) plague;

(c) rabies;

(d) tularemia.

D. Routine reporting of diseases or conditions:

(1) Infectious diseases (report case within 24 hours to epidemiology and response division by fax at 505-827-0013 or by phone at 505-827-0006; or contact the local health office).

(a) arboviral disease;

(b) brucellosis;

[~~(b)~~] **(c)** campylobacter infections*;

(d) chikungunya virus disease;

[~~(c)~~] **(e)** clostridium difficile*;

[~~(d)~~] **(f)** coccidioidomycosis;

~~[(c)]~~ (g) Colorado tick fever;

~~[(f)]~~ (h) cryptosporidiosis;

~~[(g)]~~ (i) cysticercosis;

~~[(h)]~~ (j) cyclosporiasis;

~~[(i)]~~ (k) dengue;

~~[(j)]~~ (l) E. coli 0157:H7 infections*;

~~[(k)]~~ (m) E. coli, shiga-toxin producing (STEC) infections*;

~~[(l)]~~ (n) encephalitis, other;

~~[(m)]~~ (o) giardiasis;

~~[(n)]~~ (p) group A streptococcal invasive infections*;

~~[(o)]~~ (q) group B streptococcal invasive infections*;

(r) Hansen's disease/leprosy;

~~[(p)]~~ (s) hantavirus pulmonary syndrome;

~~[(q)]~~ (t) hemolytic uremic syndrome;

~~[(r)]~~ (u) hepatitis A, acute;

~~[(s)]~~ (v) hepatitis B, acute or chronic;

~~[(t)]~~ (w) hepatitis C, acute or chronic;

~~[(u)]~~ (x) hepatitis E, acute;

~~[(v)]~~ (y) influenza-associated pediatric death;

~~[(w)]~~ (z) influenza, laboratory confirmed hospitalization only;

~~[(x)]~~ (aa) legionnaires' disease;

~~[(y)]~~ (bb) leptospirosis;

~~[(z)]~~ (cc) listeriosis*;

~~[(aa)]~~ (dd) lyme disease;

~~[(bb)]~~ (ee) malaria;

~~[(cc)]~~ (ff) mumps;

~~[(dd)]~~ (gg) necrotizing fasciitis*;

~~[(ee)]~~ (hh) psittacosis;

~~[(ff)]~~ (ii) q fever;

~~[(gg)]~~ (jj) relapsing fever;

~~[(hh)]~~ (kk) Rocky Mountain spotted fever;

~~[(ii)]~~ (ll) salmonellosis*;

~~[(jj)]~~ (mm) shigellosis*;

~~[(kk)]~~ (nn) St. Louis encephalitis infections;

~~[(ll)]~~ (oo) streptococcus pneumoniae, invasive infections*;

~~[(mm)]~~ (pp) tetanus;

~~[(nn)]~~ (qq) trichinellosis;

~~[(oo)]~~ (rr) toxic shock syndrome;

~~[(pp)]~~ (ss) varicella;

~~[(qq)]~~ (tt) vibrio infections*;

~~[(rr)]~~ (uu) west nile virus infections;

~~[(ss)]~~ (vv) western equine encephalitis infections;

~~[(tt)]~~ (ww) yersinia infections*.

(2) Infectious diseases in animals (report case within 24 hours to epidemiology and response division at 505-827-0006; or contact the local health office).

(a) arboviral, other;

(b) brucellosis;

(c) psittacosis;

(d) west nile virus infections.

(3) Tuberculosis* [~~or other nontuberculous mycobacterial infections (including Mycobacterium avium complex or leprosy). Report suspect or confirmed cases within 24 hours to tuberculosis program, NM Department of Health, P. O. Box 26110, Santa Fe, NM 87502-6110; or call (505-827-2471) or 505-827-2473.~~] Report suspect or confirmed cases to NM department of health tuberculosis program by fax at 505-827-0163 or by phone at 505-827-2471 or 505-827-2473: active disease within 24 hours; infection within 72 hours.

(4) Sexually transmitted diseases. Report to infectious disease bureau - STD program, NM department of health, P.O. Box 26110, Santa Fe, NM 87502-6110, fax 505-476-3638; or call 505-476-3636.

(a) chancroid;

(b) chlamydia trachomatis infections;

(c) gonorrhea;

(d) syphilis.

(5) HIV (human immunodeficiency virus) and AIDS (acquired immunodeficiency syndrome). Report to HIV and hepatitis epidemiology program, 1190 St. Francis Dr., N1350, Santa Fe, NM 87502, fax 505-476-3544 or call 505-476-3515.

(a) all confirmed positive HIV antibody tests (screening test plus confirmatory test);

(b) all tests for HIV RNA or HIV cDNA ('-viral load tests-');

(c) all tests to detect HIV proteins;

(d) all positive HIV cultures;

(e) all HIV genotype tests;

(f) all CD4 lymphocyte tests (count and percent);

(g) opportunistic infections, cancers and any other test or condition indicative of HIV or AIDS.

(6) Occupational illness and injury. Report to epidemiology and response division, NM department of health, P.O. Box 26110, Santa Fe, NM 87502-6110; or call 505-827-0006.

(a) asbestosis;

(b) coal worker's pneumoconiosis;

(c) hypersensitivity pneumonitis;

(d) mesothelioma;

(e) noise induced hearing loss;

(f) occupational asthma;

(g) occupational burn hospitalization;

(h) occupational injury death;

(i) occupational pesticide poisoning;

(j) occupational traumatic amputation;

(k) silicosis;

(l) other illnesses or injuries related to occupational exposure.

(7) Health conditions related to environmental exposures and certain injuries. Report to epidemiology and response division, NM department of health, P.O. Box 26110,

Santa Fe, NM 87502-6110; or call 505-827-0006.

(a) Environmental exposures:

(i) all pesticide poisoning;

(ii) arsenic in urine greater than 50 micrograms/liter;

(iii) carbon monoxide poisoning;

(iv) infant methemoglobinemia;

(v) lead (all blood levels);

(vi) mercury in urine greater than 3 micrograms/liter or mercury in blood greater than 5 micrograms/liter;

(vii) uranium in urine greater than 0.2 micrograms/liter or 0.2 micrograms/gram creatinine;

(viii) other suspected environmentally-induced health conditions.

(b) Injuries:

(i) drug overdose;

(ii) firearm injuries;

(iii) fracture due to fall among older adults;

(iv) traumatic brain injuries.

(8) Adverse vaccine reactions. Report to vaccine adverse events reporting system, http://www.vaers.hhs.org. Send copy of report to immunization program vaccine manager, NM department of health, P.O. Box 26110, Santa Fe, NM 87502-6110; fax 505-827-1741.

(9) Healthcare-associated infections. [~~Central line-associated bloodstream infections (CLABSI) events;~~]

(a) Acute care hospitals only report through NHSN and confer rights to NM department of health.

(i) central line-associated bloodstream infections (CLABSI) events;

(ii) clostridium difficile infections.

(b) Report all infections, including non-healthcare-associated, within 24 hours to epidemiology and response division by fax at 505-827-0013 or by phone at 505-827-0006.

(i) carbapenem-resistant enterobacteriaceae*;

(ii) carbapenem-resistant pseudomonas aeruginosa*.

(10) Cancer. Report to designee. Report all malignant and in situ neoplasms and all intracranial neoplasms, regardless of the tissue of origin, using the prevailing standards promulgated by the national cancer institute, the centers for disease control and prevention, the North American association of central cancer registries, and the American college of surgeons.

(11) Human papillomavirus (HPV). Laboratories report the following tests to designee:

(a) papanicolaou test results (all results);

(b) cervical, vulvar and vaginal pathology results (all results);

(c) HPV test results (all results).

(12) Birth defects.

(a) Report to epidemiology and response division, NM department of health, P.O. Box 26110, Santa Fe, NM 87502-6110; or call 505-827-0006.

(b) All birth defects diagnosed by age 4 years, including:

(i) defects diagnosed during pregnancy;

(ii) defects diagnosed on fetal deaths;

(iii) defects found in chromosome testing on amniotic fluid, chorionic villus sampling and products of conception for trisomy 13, trisomy 18 and trisomy 21.

(13) Genetic and congenital hearing screening. Report to children's medical services, 2040 S. Pacheco, Santa Fe, NM 87505; or call 505-476-8868.

(a) neonatal screening for congenital hearing loss (all results);

(b) suspected or confirmed congenital hearing loss in one or both ears;

(c) all conditions identified through statewide newborn genetic screening;

(d) newborn critical congenital heart defects screening (all results).

[7.4.3.13 NMAC - Rn & A, 7.4.3.12 NMAC, 02/29/2012; A, 6/15/2016]

PUBLIC REGULATION COMMISSION

TITLE 18 TRANSPORTATION AND HIGHWAYS
CHAPTER 7 TRANSPORTATION NETWORK COMPANIES
PART 1 GENERAL PROVISIONS

18.7.1.1 ISSUING AGENCY: New Mexico Public Regulation Commission.
[18.7.1 NMAC - N/E, 05/20/16]

18.7.1.2 SCOPE: This rule applies to all transportation network companies subject to the jurisdiction of the commission.
[18.7.1.2 NMAC - N/E, 05/20/16]

18.7.1.3 STATUTORY AUTHORITY: This part is promulgated pursuant to the provisions of the Transportation Network Company Services Act; and Section 8-8-4 NMSA 1978.
[18.7.1.3 NMAC - N/E, 05/20/16]

18.7.1.4 DURATION: Until adoption of permanent rules.
[18.7.1.4 NMAC - N/E, 05/20/16]

18.7.1.5 EFFECTIVE DATE: May 20, 2016, unless a later date is cited at the end of a section.
[18.7.1.5 NMAC - N/E, 05/20/16]

18.7.1.6 OBJECTIVE: The purpose of this rule is to set forth rules governing permit application processes, vehicle inspections, and proof of financial responsibility for transportation network companies in New Mexico. This rule relates directly to the safety of vehicles to be used in providing transportation services under the Transportation Network Company Services Act (TNCSA) and is adopted on an emergency basis pursuant to Section 8-8-4 NMSA 1978 to preserve the public peace, health, safety or general welfare. This rule shall remain in effect until the permanent rules are adopted in compliance with Section 8-8-15 NMSA 1978 which may exceed 60 days.
[18.7.1.6 NMAC - N/E, 05/20/16]

18.7.1.7 DEFINITIONS: In addition to the definitions contained in Section 65-7-2 NMSA 1978, as used in this rule:

A. "Act" means the Transportation Network Company

Services Act, Sections 65-7-1 to 65-7-22 NMSA 1978.

B. "Commission" means the New Mexico public regulation commission.

[18.7.1.7 NMAC - N/E, 05/20/16]

18.7.1.8 TRANSPORTATION NETWORK COMPANY VEHICLE INSPECTIONS:

A. A transportation network company shall cause to be inspected, by a mechanic certified by the national institute for automotive service excellence (ASE) or qualified pursuant to the requirements of 49 CFR 396.19 of the code of federal regulations, every motor vehicle used by a driver to provide prearranged rides before allowing the driver to use the motor vehicle to provide prearranged rides and not less than once each year thereafter, as set forth in Subsection C of Section 65-7-13 NMSA 1978.

B. The inspection required by Subsection A of 18.7.1.8 NMAC must include, without limitation, an inspection of the foot and emergency brakes, steering, windshield, rear window, other glass, windshield wipers, headlights, taillights, turn indicator lights, braking lights, front seat adjustment mechanisms, doors, horn, speedometer, bumpers, muffler, exhaust, tires, rear view mirrors and safety belts of the vehicle which ensures the proper functioning of each component or an inspection complying with the requirements of 49 CFR 396.17 or 49 CFR 396.23, as well a brake inspection performed by an inspector qualified pursuant to the requirements of 49 CFR 396.25 of the code of federal regulations.

C. Records of all inspections performed pursuant to section shall be maintained in accordance with the requirements of Title 49, Section 396.21 of the code of federal regulations and the act.

[18.7.1.8 NMAC - N/E, 05/20/16]

18.7.1.9 TRANSPORTATION NETWORK COMPANY PERMIT APPLICATION PROCESS:

A. A transportation network company shall apply for a transportation network company permit from the commission in writing on the form prescribed by the director of the commission's transportation division in accordance with 18.3.1.12 NMAC.

B. An application for a transportation network company permit shall contain the following information and documents:

(1) the applicant's name;

(2) if the applicant is a sole proprietorship or a partnership, the applicants' social security number(s) for purposes of verifying parental responsibility act compliance;

(3) the applicant's doing business as (d/b/a) name, if applicable;

(4) the applicant's principal place of business and mailing address;

(5) the applicant's electronic mail address;

(6) if the applicant is a corporation;

(a) the names and addresses of two principal officers;

(b) evidence that the applicant is authorized by the office of the secretary of state to do business in New Mexico and is in good corporate standing.

(7) if the applicant is other than a corporation, a description of the form of ownership and the names and addresses of all principal owners and managers;

(8) appointment of an agent for service of process;

(9) a statement and general description of the type of services to be performed by the applicant;

(10) an annual permit fee of $10,000 as set forth in Subsection C of Section 65-7-4 NMSA 1978;

(11) a copy of the insurance policy that meets the requirements set forth in Section 65-7-8 NMSA 1978;

(12) a copy of the insurance coverage disclosures that meets the requirements set forth in Section 65-7-9 NMSA 1978;

(13) the applicant's combined reporting system (CRS) number obtained from the New Mexico taxation and revenue department;

(14) a certification that the applicant complies or, once permitted in the state, will comply with the requirements of the Transportation Network Company Services Act.

C. Upon receipt of a completed application and upon a determination by the director that an applicant meets the requirements for the issuance of a permit, the director will issue a permit to the applicant within 15 calendar days after receipt of the application.

D. A permit issued to a transportation network company by the commission shall be effective for one year.

[18.7.1.9 NMAC - N/E, 05/20/16]

18.7.1.10 PROOF OF FINANCIAL RESPONSIBILITY:

A. Each transportation network company must file proof of financial responsibility with the commission in the exact legal and d/b/a names as the name in which the permit is issued demonstrating compliance with Transportation Network Company Services Act, Section 65-7-8 NMSA 1978.

B. The commission will accept as proof of the required financial responsibility a completed form t, uniform bodily injury and property damage liability certificate of insurance for use by transportation network companies, showing the issuance of an insurance policy with the required uniform endorsement by a company authorized to do business in the state of New Mexico or with a surplus lines insurer eligible pursuant to the New Mexico insurance code, on uniform filing form t, uniform bodily injury and property damage liability certificate of insurance for use by transportation network companies, available from the office of the commission.

C. Cancellation of the insurance policy required under the act may be effected only by giving 30 days' notice in writing to the commission, with such 30 days' notice to commence from the date notice is actually received in the office of the commission.

[18.7.1.10 NMAC - N/E, 05/20/16]

HISTORY OF 18.7.1 NMAC: [RESERVED]

PUBLIC SCHOOL FACILITIES AUTHORITY
PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL

This is an amendment to 6.27.3 NMAC, Section 12, effective June 15, 2016.

6.27.3.12 APPLICATIONS: MINIMUM REQUIREMENTS:

A. The application must verify that the school district has submitted a five-year facilities plan. The facilities plan must include:

(1) enrollment projections, which are updated at the beginning of each fiscal year and reflect

the final funded membership for the prior school year;

(2) projections for facilities needed to maintain a full-day kindergarten program;

(3) the school district's mission statement, facility goals and objectives, and the steps taken by the school district to address the priority of needs. The goals and objectives should address how the master plan supports the educational programs and needs of the district;

(4) a prioritization of the district's capital needs, including maintenance-related capital renewal;

(5) description of community involvement in the development of the master plan;

(6) if the application or master plan establish ranked priorities for public school capital outlay projects within the district that do not conform with the condition index rankings of public school buildings within the school district, the school district must provide a detailed explanation as to the rationale for the difference;

(7) a map of the school district addressing, at a minimum, the following factors: location of all current sites, land owned by the school district, location of any planned expansion (indicating whether the site is owned by the school district), school district growth areas and other school district facilities; and

(8) addressing of the facilities needs of charter schools located within the school district.

B. The application must assure that the school district is willing and able to pay any portion of the public school capital outlay project that is not funded with grant assistance from the fund and must provide information on the anticipated source of the local share, the timelines for ensuring the local share and any known contingencies in ensuring the local share.

C. The application must address the needs of any charter school located in the school district or provide documentation that the facilities of the charter school has a smaller deviation from the statewide adequacy standards than other district facilities included in the application.

D. The application must include a preventive maintenance program meeting the requirements of 6.27.3.11 NMAC.

E. The application must address how the school district preventive maintenance program complies with the requirements of 6.27.3.11 NMAC.

F. If the proposed project exceeds the statewide adequacy standards, the application must provide a detailed explanation of the variance and a cost analysis of the cost of meeting the statewide adequacy standards and the excess costs associated with exceeding the statewide adequacy standards.

G. If the application is for a charter school located in privately owned facilities, the district must include documentation sufficient to ensure that the provisions of Article IX, Section 14 of the Constitution of New Mexico (the "anti-donation clause") are not violated and that there were no violations of any conflict of interest laws.

H. Special provision: [~~roof repair and replacement~~] building systems initiative.

(1) A school district desiring a grant award for [~~roof repair or replacement~~] building system repair, renovation or replacement shall submit an application on a form approved by the council. The application shall include an assessment of [~~roofs on school district buildings that create a threat of significant property damage~~] the building system that the repair, renovation or replacement of which would extend the useful life of the building itself.

(2) The authority shall verify the assessment. The council shall prioritize applications for assistance pursuant to the [~~roof repair and replacement~~] building systems initiative using a special condition ranking index [~~for roofs~~].

(3) The council shall approve applications on the established priority basis to the extent of available funds. No project shall be approved unless the council determines that the school district is willing and able to pay the portion of the total project cost not funded with grant assistance from the fund. The state share of the cost of an approved project is calculated pursuant to the methodology in Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978.

(4) [~~Roof repairs~~] Building system repair, renovation or replacement funded under this program shall be expeditiously completed. Any grants made pursuant to this subsection shall be expended by the school district [~~on or before to the date specified by the council~~] within three years of the grant allocation.

[6.27.3.12 NMAC - N, 06/15/04; A, 08/31/05; A, 07/15/10; A, 06/15/16]

RACING COMMISSION

Explanatory paragraph: This is an amendment to 15.2.6 NMAC, Sections 9 and 10, effective June 15, 2016. In Section 9, Subsections A, D, F, H, I, K, L and N were not published as there were no changes. In Section 10, Subsections A, C and E were not published as there were no changes.

15.2.6.9 MEDICATIONS AND PROHIBITED SUBSTANCES: The "uniform classification guidelines for foreign substances and recommended penalties and model rule", December 2015, version 11.00 and "[~~arci~~] association of racing commissioners international inc controlled therapeutic medication schedule for horses", version 2.2 revised April 2015 (furosemide has been modified in the "[~~arci~~] association of racing commissioners international inc controlled therapeutic medication schedule, refer to Subsection E of 15.2.6.9 NMAC for current rule) as issued by the association of racing commissioners international, are incorporated by reference. Upon a finding of a violation of any medication and prohibited substances rule, which includes the possession of contraband as listed in 15.2.6.9 NMAC, the stewards shall consider the classification level of the violation as listed at the time of the violation by the uniform classification guidelines of foreign substances as promulgated by the association of racing commissioners international and impose penalties and disciplinary measures as determined by the New Mexico racing commission.

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B. PENALTIES:

(1) In issuing penalties against individuals found guilty of medication and drug violations, a regulatory distinction shall be made between the detection of therapeutic medications used routinely to treat racehorses and those drugs that have no reason to be found at any concentration in the test sample on race day.

(2) The stewards or the commission will use the association of racing commissioner's international recommended penalty as a starting place in the penalty stage of the deliberations for a rule violation for any drug listed in the association of racing commissioners international uniform classification guidelines for foreign substances.

(3) If a

licensed veterinarian is administering or prescribing a drug not listed in the association of racing commissioners international uniform classification guidelines for foreign substances, the identity of the drug shall be forwarded to the New Mexico racing commission designee to be forwarded to the racing medication and testing consortium for classification.

(4) Any drug or metabolite thereof found to be presenting a pre- or post-race sample which is not classified in the association of racing commissioners international uniform classification guidelines for foreign substances shall be assumed to be an association of racing commissioners international class 1 drug and the trainer and owner shall be subject to those penalties as set forth in penalty category A unless satisfactorily demonstrated otherwise by the racing medication and testing consortium, with a penalty category assigned.

(5) The penalty categories and their related schedules, if applicable, shall be based on the following criteria:

(a) whether the drug is approved by the [~~U.S.~~] United States food and drug administration for use in the horse;

(b) whether the drug is approved by the [~~U.S.~~] United States food and drug administration for use in any species;

(c) whether the drug as approved has any legitimate therapeutic application in the equine athlete;

(d) whether the drug was identified as "necessary" by the racing medication and testing consortium veterinary advisory committee;

(e) whether legitimate, recognized therapeutic [~~alternate~~] alternatives exist; and

(f) the association of racing commissioner's international classification of the drug.

(6) [~~The penalty categories A, B, and C and their related schedules for trainers and owners are shown in 15.2.6.9 NMAC.~~]

[~~**(7)**~~] The recommended penalty for a violation involving a drug that carries a category "D" penalty is a written warning to the trainer and owner. Multiple violations may result in fines or suspensions.

[~~(8)~~] (7) When the penalty assessed against a licensee for a medication or drug violation in a trial race results in a disqualification [~~or~~] and loss of purse, [~~or both,~~] the licensee is subject to the same penalties for any race for which the trial race was conducted.

[~~(9)~~] (8) Any licensee of the commission, including veterinarians, found responsible for the improper or intentional administration of any drug resulting in a positive test may, after proper notice and hearing, be subject to the same penalties set forth for the licensed trainer.

[~~**(10)**~~] **(9)** The licensed owner, veterinarian or any other licensed party involved in a positive laboratory finding shall be notified in writing of the hearing and any resulting action. In addition their presence may be required at any and all hearings relative to the case.

[~~**(11)**~~] **(10)** Any veterinarian found to be involved in the administration of any drug carrying the penalty category of "A" shall be referred to the state licensing board of veterinary medicine for consideration of further disciplinary action or license revocation. This is in addition to any penalties issued by the stewards or the commission.

[~~**(12)**~~] **(11)** Any person who the stewards or the commission believe may have committed acts in violation of criminal statues may be referred to the appropriate law enforcement agency. Administrative action taken by the stewards or the commission does not prohibit a prosecution for a criminal act, nor does a potential criminal prosecution stall administrative action by the stewards or the commission.

[~~**(13)**~~] **(12)** Procedures shall be established to ensure that a licensed trainer is not able to benefit financially during the period for which the individual has been suspended. This includes, but is not limited to, ensuring that horses are not transferred to a licensed person within the first degree of affinity (marriage relationship) or first degree of consanguinity (blood relationship):

(a) first degree of affinity shall mean [~~license holder's~~] the licensee's spouse or spouse's mother, father, brother, sister, son or daughter;

(b) first degree of consanguinity shall mean [~~license holder's~~] the licensee's mother, father, brother, sister, son or daughter.

C. PENALTY RECOMMENDATIONS:

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continued on the following page

(1) Category A penalties will be assessed for violations due to the presence of a drug carrying a category A penalty. Recommended penalties for category A violations are as follows:
LICENSED TRAINER:
1st offense:
A minimum one-year suspension [~~to~~] absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum three-year suspension. A minimum fine of $10,000 or ten percent of total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of $25,000 or [~~25%~~] twenty-five percent of total purse (greater of the two) and may be referred to the commission for any further action deemed necessary by the commission.
2nd LIFETIME offense in any jurisdiction:
A minimum three-year suspension [~~with~~] absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a three-year period. A minimum fine of $25,000 or twenty-five percent of total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of $50,000 or [~~50%~~] fifty percent of total purse (greater of the two), and may be referred to the commission for further action deemed necessary by the commission.
3rd LIFETIME offense in any jurisdiction:
A minimum five-year suspension [~~with~~] absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a five-year period. A minimum fine of $50,000 or fifty percent of total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of $100,000 or [~~100%~~] one hundred percent of the purse [~~(whichever of the two is greater)~~] (greater of the two), and may be referred to the commission for any further action deemed necessary by the commission.
LICENSED OWNER:
1st offense:
Disqualification, loss of purse and horse shall be placed on the veterinarian's list for 90 days and must pass a commission-approved examination before becoming eligible to be entered.
2nd LIFETIME offense in stable (365-day period) in any jurisdiction:
Disqualification, loss of purse and horse shall be placed on the veterinarian's list for 120 days and must pass a commission-approved examination before becoming eligible to be entered.
3rd LIFETIME offense in stable (365-day period) in any jurisdiction:
Disqualification, loss of purse, [~~$100,000~~] $50,000 fine, and horse shall be placed on the veterinarian's list for 180 days and must pass a commission-approved examination before becoming eligible to be entered, and referral to the commission with a recommendation of a suspension for a minimum of 90 days.
(2) Category B penalties will be assessed for violations due to the presence of a drug carrying a category B penalty and for the presence of more than one NSAID in a plasma/serum sample in accordance with Paragraphs (3) and (4) of Subsection P of 15.2.6.9 NMAC. Recommended penalties for category B violations [~~and for the presence of more than one NSAID in a plasma/serum sample~~] are as follows:
LICENSED TRAINER:
1st offense:
A minimum 15-day suspension [~~to~~] absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum 60-day suspension. [~~and~~] A minimum fine of $500 absent mitigating circumstances or the presence of aggravating factors could be used to impose a $1,000 fine.
2nd LIFETIME offense (365-day period) in any jurisdiction:
A minimum 30-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum 180-day suspension. [~~and~~] A minimum $1,000 absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of $2,500. [~~fine.~~]
3rd LIFETIME offense (365-day period) in any jurisdiction:
A 60-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of a one year suspension. A minimum fine of $2,500 absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum $5,000 fine or [~~5%~~] five percent of purse (greater of the two) and may be referred to the commission for any further action deemed necessary by the commission.
LICENSED OWNER:
1st offense:
Disqualification, loss of purse (in the absence of mitigating circumstances)* and horse must pass a commission-approved examination before becoming eligible to be entered.

2nd LIFETIME offense in stable (365-day period) in any jurisdiction:
Disqualification, loss of purse (in the absence of mitigating circumstances)* and horse must pass a commission-approved examination before becoming eligible to be entered.
3rd LIFETIME offense in stable (365-day period) in any jurisdiction:
Disqualification, loss of purse, and in the absence of mitigating circumstances a $5,000 fine* and horse shall be placed on the veterinarian's list for 45 days and must pass a commission-approved examination before becoming eligible to be entered.
(3) Category C penalties will be assessed for violations due to the presence of a drug carrying a category C penalty and overages for NSAID's, the presence of more than one NSAID in a plasma or serum sample in accordance with Subparagraph (f) of Paragraph (4) of 15.2.6.9 P NMAC and furosemide (all concentrations are for measurements in serum or plasma). Recommended penalties for category C violations [~~overages for permitted NSAID's and furosemide~~] are as follows:
LICENSED TRAINER:
1st offense (365-day period) in any jurisdiction in the following levels, the penalty is a minimum of a written warning to maximum fine of $500: phenylbutazone ([>]2.1-5.0 mcg/ml) flunixin (21-100 ng/ml) ketoprofen (11 [~~ng~~]-50 ng/ml) furosemide (≥101 ng/ml) no detectable furosemide concentration when identified as administered.
2nd offense (365-day period) in any jurisdiction in the following levels, the penalty is a minimum of a written warning to maximum fine of $750: phenylbutazone (2.1-5.0 mcg/ml) flunixin (21-100 ng/ml) ketoprofen (11 [~~ng~~]-50 ng/ml) furosemide (≥101 ng/ml) no detectable furosemide concentration when identified as administered.
3rd offense (365-day period) in any jurisdiction in the following levels, the penalty is a minimum fine of $500 to a maximum fine of $1,000: phenylbutazone (2.1-5.0 mcg/ml) flunixin (21-100 ng/ml) ketoprofen (11 [~~ng~~]-50 ng/ml) furosemide (≥101 ng/ml) no detectable furosemide concentration when identified as administered.
LICENSED OWNER:
1st offense (365-day period) in any jurisdiction in the following levels, the penalty is the horse may be required to pass a commission-approved examination before being eligible to run: phenylbutazone ([>]2.1-5.0 mcg/ml) flunixin (21-100 ng/ml) ketoprofen (11 [~~ng~~]-50 ng/ml) furosemide (≥101 ng/ml) no detectable furosemide concentration when identified as administered.
2nd offense (365-day period) in any jurisdiction in the following levels, the penalty is the horse may be required to pass a commission-approved examination before being eligible to run: phenylbutazone (2.1-5.0 mcg/ml) flunixin (21-100 ng/ml) ketoprofen (11 [~~ng~~]-50 ng/ml) furosemide (≥101 ng/ml) no detectable furosemide concentration when identified as administered.
3rd offense (365-day period) in any jurisdiction in the following levels, the penalty is disqualification, loss of purse and horse must pass a commission-approved examination before being eligible to run: phenylbutazone (2.1-5.0 mcg/ml) flunixin (21-100 ng/ml) ketoprofen (11 [~~ng~~]-50 ng/ml) furosemide (≥101 ng/ml**)** no detectable furosemide concentration when identified as administered.
LICENSED TRAINER:

1st offense (365-day period) in any jurisdiction in the following levels, the penalty is a minimum fine of $1,000: phenylbutazone (5.1 mcg/ml or greater) flunixin (101 ng/ml or greater) ketoprofen (51 ng/ml or greater) penalty class C violations.
2nd offense (365-day period) in any jurisdiction in the following levels, the penalty is a minimum fine of $1,500 and 15 day suspension: phenylbutazone (5.1 mcg/ml or greater) flunixin (101 ng/ml or greater) ketoprofen (51 ng/ml or greater) penalty class C violations.
3rd offense (365-day period) in any jurisdiction in the following levels, the penalty is a minimum fine of $2,500 and a 30 day suspension: phenylbutazone (5.1 mcg/ml or greater) flunixin (101 ng/ml or greater) ketoprofen (51 ng/ml or greater) penalty class C violations.
LICENSED OWNER:
1st offense (365-day period) in any jurisdiction in the following levels, the penalty is the horse may be required to pass a commission-approved examination before being eligible to run: phenylbutazone (5.1 mcg/ml or greater) flunixin (101 ng/ml or greater) ketoprofen (51 ng/ml or greater) penalty class C violations.
2nd offense (365-day period) in any jurisdiction in the following levels, the penalty is disqualification, loss of purse and if same horse, that horse shall be placed on veterinarian's list for 45 days and must pass a commission-approved examination before being eligible to run: phenylbutazone (5.1 mcg/ml or greater) flunixin (101 ng/ml or greater) ketoprofen (51 ng/ml or greater) penalty class C violations.
3rd offense (365-day period) in any jurisdiction in the following levels the penalty is [~~a~~] disqualification, loss of purse, minimum $5,000 fine and if same horse that horse shall be placed on veterinarian's list for 60 days and must pass a commission-approved examination before being eligible to run: phenylbutazone (5.1 mcg/ml or greater) flunixin (101 ng/ml or greater) ketoprofen (51 ng/ml or greater) penalty class C violations.
(4) Any violation subsequent to a third violation will carry the same terms as imposed for a third violation. Penalties will run consecutively for a trainer or owner.
(5) If the trainer has not had more than one violation involving a drug that carries a category C penalty within the previous two years, the stewards [~~may~~] are encouraged to issue a warning in lieu of a fine provided the reported level in phenylbutazone is below 3.0 micrograms per milliliter.
(6) After a two-year period, if a licensee has had no further violations involving a drug that carries a category C penalty, any penalty due to an overage in the 2.0-5.0 micrograms per milliliter [~~in~~] range for phenylbutazone will be expunged from the licensee's record for penalty purposes.

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E. FUROSEMIDE:

(1) Furosemide [~~**(Salix)**~~**]** may be administered intravenously to a horse, which is entered to compete in a race. Except under the instructions of the official veterinarian for the purpose of removing a horse from the veterinarian's list or to facilitate the collection of a post-race urine sample, furosemide [~~**(Salix)**~~**]** shall be permitted only after the trainer enters the horse on the bleeder list by so declaring it as a bleeder on the entry card.

(2) The use of furosemide [~~**(Salix)**~~**]** shall be permitted under the following circumstances on association grounds where a detention barn is utilized: furosemide [~~**(Salix)**~~**]** shall be administered by the official veterinarian, the racing veterinarian, or practicing veterinarian no less than four hours prior to post [~~for~~] in which the horse is entered. [~~and no less than four hours prior to post time for a thoroughbred race for which a horse is entered.~~] A horse qualified for [a] furosemide [~~**(Salix)**~~**]** administration must be brought to the detention barn one hour prior to the four-hour administration requirement specified above. After treatment, the horse shall be required by the commission to remain in the detention barn in the care, custody and control of its trainer or the trainer's designated representative under association or commission security supervision until called to the saddling paddock.

(3) The use of furosemide [~~**(Salix)**~~**]** shall be permitted under the following circumstances on association grounds where a detention barn is not utilized: furosemide [~~**(Salix)**~~**]** shall be administered by the official veterinarian, the racing veterinarian, or practicing veterinarian no less than four hours prior to post [~~for~~] in which a horse is entered; the horse must be logged in at the stable gate with time and location no less than one hour prior to administration; the furosemide [~~**(Salix)**~~**]** dosage administered shall not exceed 500 milligrams nor be less than 150 milligrams; the trainer of the treated horse shall cause to be delivered to the official veterinarian or his/her designee no later than one hour prior to post time for the race for which the horse is entered the following information under oath on a form provided by the commission: the racetrack name, the date and time the furosemide [~~**(Salix)**~~**]** was administered to the entered horse; the dosage amount of furosemide [~~**(Salix)**~~**]** administered to the entered horse; the printed name and signature of the attending licensed veterinarian who administered the furosemide [~~**(Salix)**~~**]**.

(4) The specific gravity of post-race urine samples may be measured to ensure that samples are sufficiently concentrated for proper chemical analysis. The specific gravity shall not be below 1.010. If the specific gravity of the urine is found to be below 1.010 or if a urine sample is unavailable for testing, quantitation of furosemide in serum or plasma shall be performed.

(5) Quantitation of furosemide in serum or plasma shall be performed when specific gravity of the corresponding urine sample is not measured or if measured below 1.010. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.

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G. PERMISSIBLE MEDICATIONS WITH ACCEPTABLE LEVELS: The official urine test sample may contain one of the following drug substances listed below or the drugs listed on "[~~rci~~] association of racing commissioners international inc controlled therapeutic medication schedule", their metabolites or analogs, in any amount that does not exceed the specified levels.

(1) Atropine: The use of atropine shall be permitted under the following conditions: any horse to which atropine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of atropine shall not exceed 10 nanograms per milliliter of urine.

(2) Benzocaine: The use of benzocaine shall be permitted under the following conditions: any horse to which benzocaine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of benzocaine shall not exceed 50 nanograms per milliliter of urine.

(3) [~~**Procaine:** The use of procaine shall be permitted under the following conditions: any horse to which procaine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of procaine shall not exceed 50 nanograms per milliliter of urine.~~]

[~~**(4)**~~**]** **Promazine:** The use of promazine shall be permitted under the following conditions: any horse to which promazine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of promazine shall not exceed 25 nanograms per milliliter of urine.

[~~**(5)**~~**]** **(4) Salicylates:** The use of salicylates shall be permitted under the following conditions: any horse to which salicylates have been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of salicylates shall not exceed 750 micrograms per milliliter of urine.

[~~**(6)**~~**]** **(5) Dipyrone:** The use of dipyrone shall be permitted under the following conditions: any horse to which dipyrone has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of dipyrone shall be administered in such dosage amount that the official test sample shall not exceed 1000 nanograms per milliliter of urine.

[~~**(7)**~~**]** **(6) Flumethasone:** The use of flumethasone shall be permitted under the following conditions: any horse to which flumethasone has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of flumethasone shall be administered in such dosage amount that the official test sample shall not exceed 10 nanograms per milliliter of urine.

[~~**(8)**~~**]** **(7) Isoxsuprine:** The use of isoxsuprine shall be permitted under the following conditions: any horse to which isoxsuprine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of isoxsuprine shall be administered in such dosage amount that the official test sample shall not exceed 1000 nanograms per milliliter of urine.

[~~**(9)**~~**]** **(8) Naproxen:** The use of naproxen shall be permitted under the following conditions: any horse to which naproxen has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of naproxen shall be administered in such dosage amount that the official test sample shall not exceed 5000 nanograms per milliliter of urine.

[~~**(10)**~~**]** **(9) Pentoxifylline:** The use of pentoxifylline shall be permitted under the following conditions: any horse to which pentoxifylline has been administered shall be subject to having a blood sample or a

urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of pentoxifylline shall be administered in such dosage amount that the official test sample shall not exceed 50 nanograms per milliliter of urine.

[~~**(11)**~~] **(10)**

Pyrilamine: The use of pyrilamine shall be permitted under the following conditions: any horse to which pyrilamine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of pyrilamine shall be administered in such dosage amount that the official test sample shall not exceed 50 nanograms per milliliter of urine.

[~~**(12) Ulcer medications, i.e., cimethdine**, **sucraflate**, **rantidine:** The use of ulcer medications shall be permitted until further notice.~~]

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J. ALKALINIZING SUBSTANCES: The use of agents that elevate the horses TCO2 [~~or base excess level~~] above those existing naturally in the untreated horse at normal physiological concentrations is prohibited. The following levels also apply to blood gas analysis:

(1) the regulatory threshold for TCO2 is 37.0 millimoles per liter of plasma/serum plus the measurement uncertainty of the laboratory analyzing the sample. [~~or a base excess level of 10.0 millimoles per liter of plasma/serum;~~]

(2) the decision level to be used for the regulation of TCO2 is 37.0 millimoles per liter of plasma/serum plus the measurement uncertainty of the laboratory analyzing the sample. [~~or a base excess level of 10.4 millimoles per liter of plasma/serum;~~]

(3) such violation is that of a [~~class 4~~] penalty class B drug. [~~and shall be the maximum penalty - 60 days suspension, $1,000 fine and loss of purse.~~]

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M. CONTRABAND:

(1) No person on association grounds where horses are lodged or kept, excluding licensed veterinarians, shall have in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with Subsection [~~J~~] I of 15.2.6.9 NMAC. This restriction includes, but is not limited to, locations on the association grounds where that person occupies, in that person's personal property, effects or vehicle.

(2) The New Mexico racing commission may confiscate any contraband named in Subsection [~~J~~] I of 15.2.6.9 NMAC and any drug or illegal substance that is found on association premises which a licensed trainer occupies or has the right to occupy, or in that trainer's personal property, effects or vehicle in that trainer's care, custody or control.

(3) Upon finding a violation of this subsection, the stewards shall consider the classification level [~~of the violation~~] as it is listed in the uniform classification guidelines for foreign substances and recommended penalties [~~of foreign substances~~] as promulgated by the association of racing commissioners international. [~~and impose penalties and disciplinary measures adopted by the New Mexico racing commission.~~]

(4) If the contraband is required to be tested by the official laboratory, payment of all costs for testing **shall** be borne by the licensee upon final decision by the stewards that the substance is prohibited pursuant to these rules.

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O. SUSPENSION OF AUTHORIZED MEDICATION:

(1) After a public meeting that has been noticed in accordance with the Open Meetings Act, Sections 10-15-1 through 10-15-4 NMSA 1978, the commission may, for any cause, temporarily suspend the authorized administration to a horse [~~entered to race of any drug, substance or medication that is otherwise permitted under the commission rules~~] of any drug, substance or medication that is otherwise permitted under the commission rules.

(2) The temporary suspension of the authorized administration of a drug, substance or medication may be for a race, breed, or race meeting, provided all horses in the same race compete under the same conditions.

(3) The commission shall notify in writing the racing association, the trainer's organization, and licensed veterinarians of any temporary suspension of authorization to administer a drug, substance or medication to a horse entered to race. The written notification shall include at minimum:

(a) [~~state~~] the authorized medication [~~whose use~~] is temporarily suspended,

(b) the period of time for which the use of the authorized medication is temporarily suspended; and

(c) whether the temporary suspension is for a specific breed or a race meeting.

(4) A suspension of authorization to administer a drug, substance or medication to a horse entered to race shall not exceed 12 months.

P. Non-Steroidal Anti-Inflammatory Drugs (NSAIDs): The use of NSAIDs shall be governed by the following conditions:

(1) NSAIDs included in the [~~arci~~] "association of racing commissioner's international inc controlled therapeutic medication schedule for horses" are not to be used in a manner inconsistent with the restrictions contained herein. NSAIDs not included on the "[~~arci~~] association of racing commissioner's international inc controlled therapeutic medication schedule for horses" are not to be present in a racing horse's [~~biological~~] official sample [~~at~~] above the official laboratory [~~concentration~~] limit of detection.

(2) The presence of more than one NSAID may constitute a NSAID stacking violation.

(3) A [~~class 1~~] NSAID stacking violation with a penalty class B occurs when two non-steroidal anti-inflammatory drugs are found at individual levels determined to exceed the following restrictions:

(a) Diclofenac - 5 nanograms per milliliter of plasma or serum;

(b) Firocoxib - 20 nanograms per milliliter of plasma or serum;

(c) Flunixin - 20 nanograms per milliliter of plasma or serum;

(d) Ketoprofen - 2 nanograms per milliliter of plasma or serum;

(e)

Phenylbutazone - 2 micrograms per milliliter [~~of~~] of plasma or serum; or

(f) all other non-steroidal anti-inflammatory drugs - official laboratory [~~concentration~~] limit of detection.

(4) A [~~class 1~~] NSAID stacking violation with a penalty class B occurs when three or more non-steroidal anti-inflammatory drugs are found at individual levels determined to exceed the following restrictions:

(a) Diclofenac - 5 nanograms per milliliter of plasma or serum;

(b) Firocoxib - 20 nanograms per milliliter of plasma or serum;

(c) Flunixin - 3 nanograms per milliliter of plasma or serum;

(d) Ketoprofen - 1 nanogram per milliliter of plasma or serum;

(e) Phenylbutazone - 0.3 micrograms per milliliter of plasma or serum; or

(f) all other non-steroidal anti-inflammatory drugs - official laboratory [~~concentration~~] limit of detection.

(5) A [~~class 2~~] NSAID stacking violation with a penalty class C occurs when any one substance noted in [~~paragraph c~~] at or below the restrictions in Subparagraphs (a) through (e) of Paragraph 3 above is found in excess of the restrictions contained therein in combination with any one of the following substances at levels below the restrictions so noted but in excess of the following levels:

(a) Flunixin - 3 nanograms per milliliter of plasma or serum;

(b) Ketoprofen - 1 nanogram per milliliter of plasma or serum;

(c) Phenylbutazone - 0.3 micrograms per milliliter of plasma or serum.

(6) A [~~class 3~~] NSAID stacking violation with a penalty class C (fines only) occurs when any combination of two of the following non-steroidal anti-inflammatory drugs are found at or below the restrictions in Subparagraphs (a) through (e) of Paragraph 3 above but in excess of the noted restrictions:

(a) Flunixin - 3 nanograms per milliliter of plasma or serum;

(b) Ketoprofen - 1 nanogram per milliliter of plasma or serum;

(c) Phenylbutazone - 0.3 micrograms per milliliter of plasma or serum.

(7) Any horse to which a NSAID has been administered shall be subject to having a blood sample or urine sample, or both blood and urine sample(s), taken at the direction of the official veterinarian to determine the quantitative NSAID level(s). [~~or the presence of other drugs which may be present in the blood or urine sample(s) or both the quantitative NSAID level(s) and the presence of other drugs which may be present in the blood or urine sample(s).~~]

[15.2.6.9 NMAC - Rp, 15 NMAC 2.6.9, 04/13/2001; A, 08/30/2001; A, 07/15/2002; A, 08/15/2002; A, 09/29/2006; A, 10/31/2006; A, 08/30/2007; A, 01/31/2008; A, 03/01/2009; A, 06/15/2009; A, 06/30/2009; A, 09/15/2009; A, 12/15/2009; A, 03/16/2010; A, 07/05/2010; A, 09/01/2010; A, 12/01/2010; A, 11/01/2011; A, 02/15/2012; A, 04/30/2012; A, 07/31/2012; A, 12/14/2012; A, 05/01/2013; A/E, 05/02/2013; A, 09/30/2013; A, 04/01/2014; A, 05/16/2014; A, 08/15/2014; A, 09/15/2014; A, 03/16/2015; A, 09/16/15; A, 03/15/2016; A, 06/15/2016]

15.2.6.10 TESTING:

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B. SAMPLE COLLECTION:

(1) Sample collection shall be done in accordance with the [~~RCI~~] association of racing commissioner's international drug testing and quality assurance program external chain of custody guidelines, or other guidelines and instructions provided by the official veterinarian.

(2) The official veterinarian shall determine a minimum sample volume requirement for the primary testing laboratory. A primary testing laboratory must be accredited by ISO 17025 and approved by the commission.

(3) If the specimen obtained from a horse is less than the minimum sample requirement, the entire specimen shall be sent to the primary testing laboratory.

(4) If a specimen obtained is greater than the minimum sample requirement but less than twice that amount, the portion of the sample that is greater than the minimum sample requirement shall be secured as the split sample.

(5) If a specimen obtained is greater than twice the minimum sample requirement, a portion of the sample approximately equal to the amount provided for the primary testing laboratory shall be secured as the split sample.

(6) No split samples will be collected for determination of TCO2 levels.

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D. STORAGE AND SHIPMENT OF SPLIT SAMPLES:

(1) Split samples obtained in accordance with Paragraphs (3) and (4) Subsection B, of 15.2.6.10 NMAC above shall be secured and made available for further testing. A split sample shall be secured in the test barn under the same manner as the portion of the specimen acquired for shipment to a primary laboratory until such time as specimens are packed and secured for shipment to the primary laboratory. Split samples shall then be transferred to a freezer at a secure location as provided by state statute or approved by the commission.

(2) A trainer, owner or designee of a horse having been notified that a written report from a primary laboratory states that a prohibited substance has been found in a specimen obtained pursuant to these rules may request that a split sample corresponding to the portion of the specimen tested by the primary laboratory be sent to another testing laboratory that is accredited by ISO 17025 and approved by the commission. The request must be made and confirmed with the commission not later than 48 hours excluding weekends and holidays after the trainer of the horse receives notice of the findings of the primary laboratory. The trainer's first choice, second choice and third choice of laboratories, for the split sample to be sent to, shall be listed within that 48 hours and kept on file with the horsemen's association. Any request not received within the specified deadline shall be considered a positive test. Any split sample so requested must be shipped within seven [~~(7)~~] working days after the trainer's 48 hour deadline or the New Mexico horsemen's association may be subject to disciplinary action.

(3) The owner, trainer or designee requesting testing of a split sample shall be responsible for the cost of shipping and testing. Failure of

the owner, trainer or designee to appear at the time and place designated by the commission or the commission's designee shall constitute a waiver of all rights to split sample testing. Prior to shipment, the New Mexico horsemen's association shall confirm the split sample laboratory's willingness to provide the testing requested, the laboratory's willingness to send results to both the person requesting the testing and the commission, and arrangements for payment satisfactory to the split sample laboratory. A split sample testing laboratory must be accredited by ISO 17025 and approved by the commission. If a reference laboratory will accept split samples, that laboratory must be included among the laboratories approved for split sample testing.

(4) Prior to opening the split sample freezer, the commission shall provide a split sample chain of custody verification form that shall provide a place for recording the following information and such other information as the commission may require. The form shall be fully completed during the retrieval, packaging, and shipment of the split sample.

(5) Split sample chain of custody form requirements: the date and time the sample is removed from the split sample freeze; the sample number; the address where the split sample is to be sent; the name of the carrier and the address where the sample is to be taken for shipment; verification of retrieval of the split sample from the freezer; verification of each specific step of the split sample packaging in accordance with the recommended procedure verification of the address of the split sample laboratory on the split sample package; verification of the condition of the split sample package immediately prior to transfer of custody to the carrier; the date and time custody of the sample is transferred to the carrier.

(6) A split sample shall be removed from the split sample freezer by a commission representative in the presence of a representative of the horsemen's association.

(7) The owner, trainer or designee shall pack the split sample for shipment in the presence of the representative of the commission, in accordance with the packaging procedures recommended by the commission. A form shall be signed by both the horsemen's representative and the commission representative to confirm the packaging of the split sample. The exterior of the package shall be secured and identified with initialed tape, evidence tape or other means to prevent tampering with the package.

(8) The package containing the split sample shall be transported in a manner prescribed by the commission to the location where custody is transferred to the delivery carrier charged with delivery of the package to the commission-approved laboratory selected by the owner or trainer.

(9) The owner, trainer or designee and the commission representative shall inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.

(10) The split sample chain of custody verification form shall be completed and signed by the representatives of the commission and the owner or trainer. A commission representative shall keep the original and provide a copy for the owner or trainer.

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[15.2.6.10 NMAC - Rp, 15 NMAC 2.6.10, 04/13/2001; A, 03/30/2007; A, 09/01/2010; A, 07/31/2012; A, 05/01/2013; A, 05/16/2014; A, 06/15/2016]

END OF ADOPTED RULES

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