

# 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 XXIX, Issue 17

September 11, 2018

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## Notices of Rulemaking and Proposed Rules

### AGRICULTURE, DEPARTMENT OF

#### NOTICE OF RULEMAKING HEARINGS

The New Mexico Department of Agriculture (NMDA) has scheduled rule hearings for:

**Friday October 12, 2018**

at 2:00pm at the New Mexico Department of Agriculture, at 3190 S. Espina, Las Cruces, NM, on the corner of Espina and Gregg.

**Monday October 15, 2018**

at 1:00pm at the Espanola Library Conference Room, at 313 N Paseo De Oñate, Española, NM.

**Monday October 15, 2018** at 6:00pm at Los Griegos Center, 1231 Candelaria Rd. NW Albuquerque, NM.

**Tuesday October 16, 2018**

at 11:00am at the Clovis Carver Public Library, 701 N Main St. Clovis, NM.

**Tuesday October 16,**

**2018** at 6:00pm at the River Walk Recreation Center - Power House Room, 400 River walk Drive Carlsbad, NM.

Formal hearings will be held to receive public input on the newly developed Hemp Cultivation Rule.

**Purpose:**

To develop a rule to accompany statutory language directing department of agriculture to develop and administer an industrial hemp program.

The 2014 farm bill included the first provision of federal law which allowed for hemp production and research. The farm bill allowed state departments of agriculture and instructions of higher education to pursue hemp production if legalized in the state.

During the 2017 legislative session SB 6 was passed and chaptered into law. SB 6 authorized the New

Mexico Department of Agriculture the authority to develop an industrial hemp program and promulgate rules for the administration of that program which would complement federal law. State statute also grants persons and institutions of higher education the ability to apply to the NMDA for an industrial hemp production license. The proposed rule establishes licensure requirements, fee caps, inspection/sampling requirements, and testing processes to ensure uniformity to the definition of hemp.

**Rule Summary:** To establishes a rule for the administration of the newly created hemp program at the New Mexico Department of Agriculture. The proposed rule establishes licensure requirements, fee caps, inspection/sampling requirements, and testing processes to ensure uniformity to the definition of hemp.

**Legal Authority authorizing the rule:**

Granted to the board of regents of New Mexico state university under the Industrial Hemp Research and Development Program Act, Chapter 76, Article 24, Section 1, NMSA 1978 Compilation.

Interested individuals may provide comments regarding the proposed rulemaking actions at the rule hearing and/or submit written comments via email at [comments@nmda.nmsu.edu](mailto:comments@nmda.nmsu.edu). Written comments must be received no later than 5:00 p.m. on August 14, 2018. The submission of written comments as soon as possible is encouraged. Persons offering written comments at the meeting must have 2 copies for the hearing officer.

The full text of the proposed rules is available on the webpage at [www.nmda.nmsu.edu](http://www.nmda.nmsu.edu) and available at the New Mexico Department of Agriculture located at 3190 S. Espina, Las Cruces, NM 88003.

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 (575) 646-3702 at least one week prior to the meeting or as soon as possible.

### AGRICULTURE, DEPARTMENT OF

#### NOTICE OF RULEMAKING HEARING

The New Mexico Department of Agriculture (NMDA) has scheduled a public hearing for Friday October 12, 2018 at 1 p.m. at the New Mexico Department of Agriculture, located at 3190 S. Espina, Las Cruces, NM. The purpose of the proposed public hearing is to receive public input on the repeals of 21.9.2 NMAC Conducting an election of district supervisors and 21.9.3 NMAC Conducting a referendum.

**Purpose:**

The NMDA is proposing the repeal of 21.9.2 NMAC Conducting an election of district supervisors and 21.9.3 NMAC Conducting a referendum in order to bring election protocol for soil and water conservation districts (SWCD) into compliance with the requirements of the recently chaptered Local Election Act. The Soil and Water Conservation District Act (SWCDA) grants the soil and water conservation commission (SWCC) the authority to promulgate rules to carry out the provisions of the SWCDA. The commission promulgated 21.9.2 NMAC Conducting an election of district supervisors and 21.9.3 NMAC Conducting a referendum, in order to provide the districts with protocol for pursuing an election or referendum. With the recent passage of the local election act, which standardizes elections throughout the state, the two previously mentioned rules are no longer necessary nor applicable. The

NMDA proposes the repeals of the two rules.

**Rule Summary:**

21.9.2 NMAC Conducting an election of district supervisors - provides standard procedures for the election of supervisors in accordance with law.

21.9.3 NMAC Conducting a referendum - provides standards to provide for referenda to be conducted in accordance with law.

**Legal authority:** Granted to the board of regents of New Mexico State University under the Soil and Water Conservation District Act, Sections 73-20-25 NMSA 1978.

Interested individuals may provide comments regarding the proposed rulemaking repeals at the rule hearing and/or submit written comments via email at [comments@nmda.nmsu.edu](mailto:comments@nmda.nmsu.edu). Written comments must be received no later than 5:00 p.m. on October 12, 2018. The submission of written comments as soon as possible is encouraged. Persons offering written comments at the meeting must have 2 copies for the hearing officer.

The full text of the rules are available on the webpage at [www.nmda.nmsu.edu](http://www.nmda.nmsu.edu) and available at the New Mexico Department of Agriculture located at 3190 S. Espina, Las Cruces, NM 88003.

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 (575) 646-3702 at least one week prior to the meeting or as soon as possible.

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

**NOTICE OF PUBLIC MEETING  
AND PUBLIC HEARING**

The State of New Mexico through its Oil Conservation Commission (Commission) hereby gives notice of the following meeting and public hearing to be held commencing at 9:00 a.m. on October 11, 2018, in Porter Hall, 1<sup>st</sup> floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico, before the Oil Conservation Commission. A preliminary agenda for the meeting will be available to the public no later than two weeks prior to the meeting. A final agenda will be available no later than 72 hours preceding the meeting.

**Case No. 16376: APPLICATION  
OF THE NEW MEXICO OIL  
CONSERVATION DIVISION  
TO AMEND RULES OF THE  
COMMISSION CONCERNING  
THE DRILLING, SPACING, AND  
OPERATION OF HORIZONTAL  
WELLS AND RELATED  
MATTERS BY AMENDING  
SECTION 15 OF RULE 19.15.16  
NMAC; STATEWIDE.**

The New Mexico Oil Conservation Division (OCD) proposes to amend Section 15 of 19.15.16 NMAC to correct clerical errors in Paragraph (8) of Subsection B and Subparagraph (b) of Paragraph (2) of Subsection E consisting of erroneous cross references in those provisions as adopted by the Commission in Order No. R-15957, issued on May 22, 2018, effective June 26, 2018.

**Purpose of Proposed Rule.** The proposed changes will make non-substantive changes to correct clerical errors in the recently adopted rule amendments.

**Legal Authority.** These amendments are authorized by the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through

70-2-38, and specifically Section 70-2-11(A) (which authorizes the adoption of rules to carry out the purposes of the Act) and Section 70-2-12(B)(10) (which authorizes the Commission to fix the spacing of wells). The rulemaking proceeding will be governed by the Commission's rule on rulemaking, 19.15.3 NMAC.

**The full text of the proposed  
rule amendments is available**

from Commission Clerk, Florene Davidson at (505) 476-3458 or can be viewed on the Rules page of the Oil Conservation Division's website at <http://www.emnrd.state.nm.us/ocd>, or at Oil Conservation Division offices in Santa Fe, Hobbs, Artesia, or Aztec.

**Public Hearing and Comment.**

The Commission will hold a public hearing on the proposed rules at the Commission meeting which will commence at 9:00 A.M. on October 11, 2018, in Porter Hall, 1st Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico. The hearing may be continued to following days if not completed.

**Written or electronic comments**

on the proposed rule may be hand delivered or mailed to the Commission Clerk, Florene Davidson, 3<sup>rd</sup> floor, 1220 South St. Francis Drive, Santa Fe, NM 87505, or e-mailed to [florene.davidson@state.nm.us](mailto:florene.davidson@state.nm.us). All written or electronic comments must be received by the Commission Clerk no later than 9:00 A.M. on October 11, 2018, unless the Commission or the Commission Chair extends this deadline.

**Persons intending to submit proposed  
modifications to the proposed rule  
amendments, to present technical  
testimony at the hearing, or to  
cross-examine witnesses**

must file six copies of a Pre-hearing Statement conforming to the requirements of Subsection B of 19.15.3.11 NMAC, no later than 5:00 P.M. on September 26, 2018. Pre-hearing Statements must be hand-delivered, mailed, or e-mailed to the Commission Clerk at the above address.



Any person who has not submitted a pre-hearing statement may present non-technical testimony or make an unsworn statement at the hearing. A person may also offer exhibits with the testimony so long as the exhibits are relevant to the proposed rule changes and do not unduly repeat the testimony. Any person who wishes to present non-technical testimony should indicate his or her intent on a sign-in sheet at the hearing. A person who testifies at the hearing is subject to cross-examination by the commissioners, commission counsel, or a party on the subject matter of the person's direct testimony.

**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 Ms. Davidson at (505) 476-3458 or through the New Mexico Relay Network at 1-800-659-1779 by September 26, 2018. Public documents can be provided in various accessible forms. Please contact Ms. Davidson if a summary or other type of accessible form is needed. A party who plans to use projection equipment at a hearing must contact Ms. Davidson seven business days prior to the hearing requesting the use of the projection equipment. Wireless internet is available; however, the person requesting to use the wireless connection must provide a laptop computer.

**There is no technical information** that served as a basis for the proposed amendments.

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

### NOTICE OF PUBLIC MEETING AND PUBLIC HEARING

The State of New Mexico through its Oil Conservation Commission (Commission) hereby gives notice

of the following meeting and public hearing to be held commencing at 9:00 a.m. on October 11, 2018, in Porter Hall, 1<sup>st</sup> floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico, before the Oil Conservation Commission. A preliminary agenda for the meeting will be available to the public no later than two weeks prior to the meeting. A final agenda will be available no later than 72 hours preceding the meeting.

#### **Case No. 16377: APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION TO AMEND RULES OF THE COMMISSION FOR PERMITTING OF WELLS FOR UNDERGROUND INJECTION BY AMENDING CERTAIN SECTIONS OF RULE 19.15.26 NMAC; STATEWIDE.**

The New Mexico Oil Conservation Division (OCD) proposes to amend Section 26 of 19.15.16 NMAC to clarify the scope of the rule, the notice provisions, and the type of fluids that may be injected into Class II wells pursuant to the federal Underground Injection Control program regulations.

**Purpose of Proposed Rule.** The amendments are proposed to clarify the scope of the rule, the notice provisions, and the type of fluids that may be injected into Class II wells pursuant to the federal Underground Injection Control program regulations.

**Legal Authority.** These amendments are authorized by the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, NMSA 1978, as amended, specifically Sections 70-2-12(B)(13) (which authorizes rules to regulate subsurface storage of oil or natural gas or products of either), (14) (which authorizes rules to permit injection of natural gas or other substances for repressuring, cycling, pressure maintenance, or secondary or other enhanced recovery operations), (15) (which authorizes rules to regulate the disposition of water produced or used in connection with drilling for oil or gas and to direct subsurface disposal

of water), and (21) (which authorizes rules to regulate the disposition of nondomestic wastes resulting from exploration, development, production, or storage of crude oil or natural gas). The rulemaking proceeding will be governed by the Commission's rule on rulemaking, 19.15.3 NMAC.

#### **The full text of the proposed rule amendments is available**

from Commission Clerk, Florene Davidson at (505) 476-3458 or can be viewed on the Rules page of the Oil Conservation Division's website at <http://www.emnrd.state.nm.us/ocd>, or at Oil Conservation Division offices in Santa Fe, Hobbs, Artesia, or Aztec.

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

The Commission will hold a public hearing on the proposed rules at the Commission meeting which will commence at 9:00 A.M. on October 11, 2018, in Porter Hall, 1st Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico. The hearing may be continued to following days if not completed.

#### **Written or electronic comments**

on the proposed rule may be hand delivered or mailed to the Commission Clerk, Florene Davidson, 3<sup>rd</sup> floor, 1220 South St. Francis Drive, Santa Fe, NM 87505, or e-mailed to [florene.davidson@state.nm.us](mailto:florene.davidson@state.nm.us). All written or electronic comments must be received by the Commission Clerk no later than 9:00 A.M. on October 11, 2018, unless the Commission or the Commission Chair extends this deadline.

**Persons intending to submit proposed modifications to the proposed rule amendments, to present technical testimony at the hearing, or to cross-examine witnesses** must file six copies of a Pre-hearing Statement conforming to the requirements of Subsection B of 19.15.3.11 NMAC, no later than 5:00 P.M. on September 26, 2018. Pre-hearing Statements must be hand-delivered, mailed, or e-mailed to the Commission Clerk at the above address.



Any person who has not submitted a pre-hearing statement may present non-technical testimony or make an unsworn statement at the hearing. A person may also offer exhibits with the testimony so long as the exhibits are relevant to the proposed rule changes and do not unduly repeat the testimony. Any person who wishes to present non-technical testimony should indicate his or her intent on a sign-in sheet at the hearing. A person who testifies at the hearing is subject to cross-examination by the commissioners, commission counsel, or a party on the subject matter of the person's direct testimony.

**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 Ms. Davidson at (505) 476-3458 or through the New Mexico Relay Network at 1-800-659-1779 by September 26, 2018. Public documents can be provided in various accessible forms. Please contact Ms. Davidson if a summary or other type of accessible form is needed. A party who plans to use projection equipment at a hearing must contact Ms. Davidson seven business days prior to the hearing requesting the use of the projection equipment. Wireless internet is available; however, the person requesting to use the wireless connection must provide a laptop computer.

**There is no technical information** that served as a basis for the proposed amendments.

## ENVIRONMENT DEPARTMENT

### NOTICE OF PUBLIC HEARING TO AMEND RULEMAKING PROCEDURES

The New Mexico Environment Department ("NMED") will hold a public hearing beginning at 1:30 p.m. on Friday, October 12, 2018, and continuing thereafter as necessary

in Room 311 of the State Capital Building, 490 Old Santa Fe Trail, Santa Fe, New Mexico. The hearing location may change prior to the hearing date, and those interested in attending should visit NMED's notice website: <https://www.env.nm.gov/public-notice/> prior to the hearing. The purpose of the hearing is to consider amendments to the Rulemaking Procedures for NMED, 20.1.9 NMAC ("Rules").

The amendments would bring the Rules into compliance with recent changes to the State Rules Act (NMSA 1978, Sections 14-4-1 to -11). Primarily, these amendments would add requirements to the methods and content for public notice throughout the rulemaking process, clarify retention of the rulemaking record, and add post-adoption filing and notice requirements for the Rules. Additionally, the proposed amendments better define the powers and duties of the hearing officer, add procedural requirements for filing and participation in a rulemaking hearing, and outline the conduct of hearings comparable to 20.1.1, Rulemaking Procedures – New Mexico Environmental Improvement Board and 20.1.6 NMAC, Rulemaking Procedures – New Mexico Water Quality Control Commission.

NMED proposes that the NMED Secretary adopt the amendments pursuant to his authority under NMSA 1978, Sections 9-7A-6(D) and 14-4-1 to -11. Please note that formatting and minor technical changes in the Rules, other than those proposed by NMED, may be proposed at the hearing. Additionally, the Secretary may make other changes as necessary in response to public comments and evidence presented at the hearing.

The proposed amendments may be reviewed during regular business hours at the NMED Hearing Office located in the Harold Runnels Building, 1190 South St. Francis Drive, Room S-2102, Santa Fe, NM 87505. The full text of the proposed amendments is also available online

at <https://www.env.nm.gov/public-notice/>.

The hearing will be conducted in accordance with the NMED Rulemaking Procedures (20.1.9 NMAC); the Department of Environment Act, NMSA 1978, Section 9-7A-6; the State Rules Act, NMSA 1978, Section 14-4-5.3; and other applicable procedures.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally or in writing; to introduce exhibits; and to examine witnesses. Any person wishing to submit a non-technical written statement for the record in lieu of oral testimony must file such statement prior to the close of the hearing.

Pursuant to the Procedural Order in this matter, those wishing to present technical testimony must file a written notice of intent to do so with the Hearing Office on or before 5:00 p.m. on Thursday, September 21, 2018. The notice of intent shall:

Identify the person or entity for whom the witness(es) will testify;

Identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of his or her education and work background;

Include a copy of the direct testimony of each technical witness in narrative form, and state the estimated duration of the direct oral testimony of that witness;

Include the text of any recommended modifications to the proposed regulatory change; and

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.

Notice of intent for the hearing must be received in the Hearing Office no later than 5:00 p.m. on Thursday, September 21, 2018, and should reference the name of the regulation, the date of the hearing, and docket number NMED

18-15 (R). Notices of intent to present technical testimony shall be submitted to:

John Baca, Hearing Office  
Administrator  
New Mexico Environment  
Department  
Harold Runnels Building  
P.O. Box 5469  
Santa Fe, NM 87502

Those wishing to do so may offer non-technical public comment at the hearing or submit a non-technical written statement in lieu of oral testimony at or before the hearing. Written comments regarding the proposed revisions may be addressed to Mr. John Baca, Hearing Office Administrator, at the above address, and should reference docket number NMED 18-15 (R).

If any person requires assistance, an interpreter, or an auxiliary aid to participate in this process, please contact John Baca, Hearing Office Administrator, by Tuesday, September 25, 2018, at 1190 St. Francis Drive, P.O. Box 5469, Santa Fe, NM, 87502, telephone (505) 827-2430 or john.baca2@state.nm.us. (TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

#### **Notice of Non-Discrimination**

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972.

If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact: Kristine Pintado, Non-Discrimination Coordinator,  
New Mexico Environment  
Department,  
1190 St. Francis Dr., Suite N4050,  
P.O. Box 5469, Santa Fe, NM 87502,  
(505) 827-2855,  
[nd.coordinator@state.nm.us](mailto:nd.coordinator@state.nm.us).

If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above.

### **ENVIRONMENT DEPARTMENT**

#### **AVISO DE AUDIENCIA PÚBLICA PARA ENMENDAR LOS PROCEDIMIENTOS DE REGLAMENTACIÓN**

El Departamento de Medio Ambiente de Nuevo México ("NMED", por sus siglas en inglés) llevará a cabo una audiencia pública que comenzará el viernes, 12 de octubre de 2018, a la 1:30 de la tarde y continuará según sea necesario en el Salón 311 del edificio del Capitolio del Estado, ubicado en 490 Old Santa Fe Trail, Santa Fe, Nuevo México. La ubicación de la audiencia puede cambiar antes de la fecha de la audiencia, por lo que los interesados en asistir deberían visitar el sitio web de notificación de NMED: <https://www.env.nm.gov/public-notices/> antes de la audiencia. El objetivo de la audiencia es considerar enmiendas a los Procedimientos de Reglamentación para NMED, 20.1.9 NMAC ("Reglas").

Las enmiendas pondrían las Reglas en conformidad con los cambios recientes a la Ley de Reglas del Estado (NMSA 1978, Secciones 14-4-1 a -11). Principalmente, estas enmiendas añadirían requisitos a los métodos y al contenido para avisos públicos a través

del proceso de reglamentación, clarificarían la retención del registro de reglamentación y añadirían requisitos de notificación y presentación posteriores a la adopción para las Reglas. Además, las enmiendas propuestas definen mejor los poderes y deberes del funcionario de audiencias, añaden requisitos de procedimiento para la presentación y participación en una audiencia de reglamentación y describen la conducción de audiencias comparables a 20.1.1, Procedimientos de Reglamentación - Junta de Mejora Ambiental de Nuevo México y 20.1.6 NMAC, Procedimientos de Reglamentación - Comisión de Control de Calidad del Agua de Nuevo México.

NMED propone que el Secretario de NMED adopte las enmiendas conforme a su autoridad bajo NMSA 9-7A-6 (D) y 14-4-1 a -11 NMSA 1978. Por favor tenga en cuenta que formatos y cambios técnicos menores en las Reglas, que no sean los propuestos por NMED, pueden ser propuestos en la audiencia. Además, el Secretario puede hacer otros cambios según sea necesario en respuesta a los comentarios del público y la evidencia presentada en la audiencia.

Las enmiendas propuestas pueden ser revisadas durante horas hábiles en la Oficina de Audiencias de NMED ubicada en Harold Runnels Building, 1190 South St. Francis Drive, Sala S-2102, Santa Fe, NM 87505. El texto completo de las enmiendas propuestas también está disponible en línea en <https://www.env.nm.gov/public-notices/>.

La audiencia se llevará a cabo de acuerdo con los Procedimientos de Reglamentación de NMED (20.1.9 NMAC); Ley del Departamento de Medio Ambiente, NMSA 1978, Sección 9-7A-6; Ley de Reglas del Estado, NMSA 1978, Sección 14-4-5.3; y otros procedimientos aplicables.

A todas las personas interesadas se les

dará oportunidades razonables en la audiencia para presentar evidencias, datos, puntos de vista y argumentos relevantes, oralmente o por escrito; para presentar documentos y objetos de pruebas; y para examinar a los testigos. Cualquier persona que desee presentar una declaración escrita de carácter no técnico para el registro en lugar de un testimonio oral debe presentar dicha declaración antes del cierre de la audiencia.

De conformidad con la Orden Procesal en este asunto, aquellos que deseen presentar testimonio de carácter técnico deben presentar un aviso por escrito de la intención de hacerlo en la Oficina de Audiencias no más tarde de las 5:00 p.m. del jueves, 21 de septiembre de 2018. El aviso de intención deberá:

Identificar a la persona o entidad para la cual testificará el testigo;

Identificar a cada testigo técnico que la persona tiene la intención de presentar y establecer las cualificaciones del testigo, incluida una descripción de su historial académico y laboral;

Incluir una copia del testimonio directo de cada testigo técnico en forma narrativa, y establecer la duración estimada del testimonio oral directo de ese testigo;

Incluir el texto de cualquier modificación recomendada al cambio regulatorio propuesto; y

Hacer una lista y adjuntar todos los documentos y objetos de pruebas que se anticipa que esa persona va a presentar en la audiencia, incluyendo cualquier declaración propuesta de motivos para la adopción de las reglas.

Los avisos de intención para la audiencia deben recibirse en la Oficina de Audiencias antes de las 5:00 p.m., del jueves, 21 de septiembre de 2018, y debe hacer referencia al nombre del reglamento, la fecha de la audiencia y el número de expediente NMED 18-15 (R). Los avisos de intención de presentar testimonio de carácter técnico deberán

enviarse a:

John Baca, Hearing Office  
Administrator  
New Mexico Environment  
Department  
Harold Runnels Building  
P.O. Box 5469  
Santa Fe, NM 87502

Aquellos que deseen hacerlo pueden ofrecer comentarios públicos de carácter no técnico en la audiencia o presentar una declaración escrita de carácter no técnico en lugar de un testimonio oral en o antes de la audiencia. Los comentarios escritos con respecto a las revisiones propuestas pueden dirigirse al Sr. John Baca, Administrador de la Oficina de Audiencias, a la dirección anterior, y deben hacer referencia al número de expediente NMED 18-15 (R).

Si alguna persona necesita ayuda, un intérprete o un auxiliar para participar en este proceso, comuníquese con John Baca, Administrador de la Oficina de Audiencias, a más tardar el martes, 25 de septiembre de 2018, en 1190 St. Francis Drive, P.O. Box 5469, Santa Fe, NM, 87502, teléfono (505) 827-2430 o [john.baca2@state.nm.us](mailto:john.baca2@state.nm.us). (Los usuarios de TDD o TTY pueden acceder al número a través de la Red de Retransmisión de Nuevo México, 1-800-659-1779 (voz); los usuarios de TTY: 1-800-659-8331).

#### **Aviso de No Discriminación**

El Departamento de Medio Ambiente de Nuevo México (NMED, por sus siglas en inglés) no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigido por las leyes y los reglamentos correspondientes. NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de consultas relativas a 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, según enmendada; Sección 504 de

la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, Título IX de las Enmiendas de Educación de 1972 y la Sección 13 de las Enmiendas a la Ley Federal de Control de Contaminación del Agua de 1972.

Si usted tiene preguntas sobre este aviso o sobre cualquier programa, política o procedimiento de no discriminación de NMED, usted puede comunicarse con la Coordinadora de No Discriminación: Kristine Pintado, Non-Discrimination Coordinator  
New Mexico Environment  
Department  
1190 St. Francis Dr., Suite N4050  
P.O. Box 5469  
Santa Fe, NM 87502  
(505) 827-2855  
[nd.coordinator@state.nm.us](mailto:nd.coordinator@state.nm.us)

Si usted piensa que ha sido discriminado/a con respecto a un programa o actividad de NMED, usted puede comunicarse con la Coordinadora de No Discriminación antes mencionada.

## **ENVIRONMENT DEPARTMENT**

### **NOTICE OF PUBLIC HEARING**

The Secretary of the New Mexico Environment Department ("Department") will hold a public hearing beginning at 9:00 a.m. on October 12, 2018 and continuing thereafter as necessary at the State Capitol Building, Room 311, 490 Old Santa Fe Trail, Santa Fe, New Mexico, 87501. The hearing location may change prior to the hearing date, and those interested in attending should visit the Department website prior to the hearing: <https://www.env.nm.gov/public-notices/>.

The purpose of the hearing is to consider repealing the current emergency version of 20.3.123 NMAC and replacing it with a new 20.5.123 NMAC of the Petroleum Storage Tank Regulations



("Regulations"). The emergency version of 20.5.123 NMAC went into effect on July 31, 2018 after 20.5.17 NMAC was erroneously repealed without the order of the Secretary. The Secretary enacted 20.5.123 NMAC on an emergency basis on July 31, 2018. The emergency version did not differ from 20.5.17 NMAC in any substantive way and was merely a renumbering to create consistency with the remainder of the Regulations. The remainder of the Regulations, 20.5.1 NMAC through 20.5.16 NMAC, 20.5.18 NMAC, and 20.5.19 NMAC, were promulgated by the Environmental Improvement Board ("Board"). On May 25, 2018, the Board voted to repeal and replace these regulations with 20.5.101 NMAC through 20.5.122 NMAC, 20.5.124 NMAC, and 20.5.125 NMAC, effective July 24, 2018. The Department's Petroleum Storage Tank Bureau ("Bureau") is the proponent of the proposed repeal and replace.

The U.S. Environmental Protection Agency ("EPA") required the Bureau and the Board to adopt many changes to the Regulations in order to maintain New Mexico's State Program Approval ("SPA") status. Primarily, these revisions strengthen the existing regulations by increasing emphasis on properly operating and maintaining UST equipment, which will then help prevent and detect UST releases. The Bureau also took this opportunity to propose updates to other areas of its regulations that were not required by SPA in order to streamline its processes and ensure that regulations matched current practices. Because the emergency version of 20.5.123 NMAC is promulgated by the Department Secretary rather than by the Board, the Bureau is proposing this additional repeal and replace to keep the Corrective Action Fund Administration Regulation (currently the emergency version of 20.5.123 NMAC) consistent with the repeal and replace of other Corrective Action Fund Regulations promulgated by the Board that took effect on July 24, 2018.

The changes in the proposed repeal and replace of the current emergency version of 20.5.123 NMAC with a new 20.5.123 NMAC are predominantly updates to ensure that the Bureau memorializes its current business practices and streamlines certain processes for stakeholders, such as in the introduction of a limited scope bid process for small remediation projects and of a more rapid administrative appeal process for offerors whose bids were not selected. The Department proposes the Secretary repeal the current emergency version of 20.5.123 NMAC and replace it with a new 20.5.123 NMAC of the Regulations pursuant to its authority under NMSA 1978, § 74-6B-13(C) and NMSA 1978, § 9-7A-6.

The proposed 20.5.123 NMAC may be reviewed during regular business hours at the Department Hearing Office located in the Harold Runnels Building, 1190 South St. Francis Drive, Santa Fe, NM, 87505. The full text of the proposed 20.5.123 NMAC is also available online at [https://www.env.nm.gov/petroleum\\_storage\\_tank/proposed-regulation-revisions/](https://www.env.nm.gov/petroleum_storage_tank/proposed-regulation-revisions/).

The hearing will be conducted in accordance with the Department's Rulemaking Procedures (20.1.9 NMAC); the Department of Environment Act, NMSA 1978, § 9-7A-6; the State Rules Act, NMSA 1978, § 14-4-5.3; and other applicable procedures. Written comments regarding the proposed regulations may be addressed to John Baca, Hearing Clerk, at the above address, referencing docket number PST 18-17.

Pursuant to the Revised Scheduling Order, if there are any preliminary matters that need to be addressed by motion, each interested party shall submit a motion in writing no later than September 21, 2018. No motions will be heard the day of the hearing. Each party is responsible for ensuring their own technical support during the hearing. Parties shall exchange exhibits by September 21,

2018. Exhibits shall be pre-filed with the Office of Public Facilitation by September 21, 2018. Those wishing to file notices of intent to present technical testimony shall do so no later than September 21, 2018.

The form and content of the notice shall:

- Identify the person for whom the witness(es) will testify;
- Identify each technical witness the person intends to present and state the qualification of that witness, including a description of their education and work background;
- Include a copy of the direct testimony of each technical witness in narrative form;
- Include the text of any recommended modifications to the proposed regulatory change; and
- 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.

Any member of the public may give oral comments at the hearing. Any such member may also submit documents in connection with his or her comments. Any person who wishes to submit a written statement, in lieu of giving oral comments, shall file the written statement prior to the hearing or submit it at the hearing.

If any person requires assistance, an interpreter or auxiliary aid to participate in this process, please contact John Baca, Hearing Clerk, by September 26, 2018, at P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, telephone (505) 827-2430 or email [John.Baca2@state.nm.us](mailto:John.Baca2@state.nm.us).

The Hearing Officer may allow the record to remain open for a reasonable period of time following conclusion of the hearing for written submission of additional comments, documents, arguments and proposed statements of reasons. The Hearing Officer's determination shall be announced at the conclusion of the hearing. If

the record is kept open, the Hearing Officer shall determine and announce the subject(s) on which submittals will be allowed and the deadline for filing the submittals.

The Hearing Officer will not make a decision on the proposed regulatory changes at the conclusion of the hearing. Pursuant to 20.1.9 NMAC, the Hearing Officer will consider the evidence presented and at the Department Secretary's discretion, may submit a report to the Department Secretary for his consideration. The Secretary shall render his final decision on the proposed regulatory changes within 60 days following the close of the record.

#### Notice of Non-Discrimination

The New Mexico Environment Department ("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. Part 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:

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

If you believe that you have been discriminated against with respect

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

## ENVIRONMENT DEPARTMENT

### AVISO DE AUDIENCIA PÚBLICA

El Secretario del Departamento del Medio Ambiente de Nuevo México ("Departamento") celebrará una audiencia pública que comenzará a las 9:00 de la mañana del 12 de octubre de 2018 y continuará posteriormente, según sea necesario, en la Sala 311 del Edificio del Capitolio Estatal, ubicado en 490 Old Santa Fe Trail, Santa Fe, Nuevo México, 87501. El lugar de la audiencia podrá cambiar antes de la fecha indicada, por lo que los interesados en asistir deberán visitar el sitio web del Departamento antes de la audiencia: <https://www.env.nm.gov/public-notice/>

El propósito de la audiencia es considerar la revocación de la versión actual de emergencia de 20.3.123 NMAC y su reemplazo con una nueva 20.5.123 NMAC del Reglamento sobre Tanques de Almacenamiento de Petróleo ("Reglamento"). La versión de emergencia de 20.5.123 NMAC entró en vigencia el 31 de julio de 2018 luego de que 20.5.17 NMAC fuera erróneamente revocada sin la orden del Secretario. El Secretario promulgó 20.5.123 NMAC con carácter de emergencia el 31 de julio de 2018. La versión de emergencia no difirió de 20.5.17 NMAC de ninguna manera sustancial y fue simplemente una nueva enumeración para hacerla congruente con el resto del Reglamento. El resto de las disposiciones del Reglamento, 20.5.1 NMAC a 20.5.16 NMAC, 20.5.18 NMAC y 20.5.19 NMAC, fueron promulgadas por la Junta para el Mejoramiento Ambiental ("Junta"). El 25 de mayo de 2018, la Junta

votó para revocar y reemplazar estas disposiciones por 20.5.101 NMAC a 20.5.122 NMAC, 20.5.124 NMAC y 20.5.125 NMAC, vigentes a partir del 24 de julio de 2018. La Oficina de Tanques de Almacenamiento de Petróleo ("Oficina") del Departamento es la entidad que propone la revocación y el reemplazo indicados.

La Agencia de Protección Ambiental de Estados Unidos ("EPA" por su sigla en inglés) exigió que la Oficina y la Junta adopten varios cambios en el Reglamento con el fin de mantener el estado de Aprobación de Programa Estatal ("SPA" por su sigla en inglés) de Nuevo México. Principalmente, estas revisiones fortalecen el reglamento existente al poner más énfasis en el funcionamiento y el mantenimiento correctos del equipo de tanques de almacenamiento subterráneo ("UST" por su sigla en inglés), que así ayudarán a prevenir y detectar pérdidas en tanques UST. La Oficina también aprovechó esta oportunidad para proponer actualizaciones en otras áreas de este reglamento que no fueron exigidas por SPA, con el fin de agilizar sus procesos y asegurar que el reglamento coincida con las prácticas actuales. Debido a que la versión de emergencia de 20.5.123 NMAC fue promulgada por el Secretario del Departamento en lugar de la Junta, la Oficina propone esta revocación adicional y su reemplazo para que el Reglamento de Administración del Fondo para la Acción Correctiva (actualmente la versión de emergencia de 20.5.123 NMAC) sea congruente con la revocación y el reemplazo de otras disposiciones del Reglamento del Fondo para la Acción Correctiva promulgado por la Junta, que entró en vigencia el 24 de julio de 2018.

Los cambios en la revocación y el reemplazo propuestos de la versión actual de emergencia de 20.5.123 NMAC por una nueva 20.5.123 NMAC son predominantemente actualizaciones para asegurar que la Junta haga constar por escrito sus prácticas empresariales actuales

y agilice ciertos procesos para los interesados, como la presentación de un proceso de licitación de alcance limitado para proyectos de remediaciones menores y un proceso administrativo de apelación más rápido para los oferentes cuyas ofertas no fueron seleccionadas. El Departamento propone que el Secretario revoque la versión actual de emergencia de 20.5.123 NMAC y la reemplace por una nueva 20.5.123 NMAC del Reglamento conforme a su autoridad según NMSA 1978, § 74-6B-13(C) y NMSA 1978, § 9-7A-6.

La versión propuesta de 20.5.123 NMAC podrá examinarse durante el horario de atención en la Oficina de Audiencias del Departamento ubicada en el Edificio Harold Runnels, 1190 South St. Francis Drive, Santa Fe, NM, 87505. El texto completo de la versión propuesta de 20.5.123 NMAC también se encuentra en línea en [https://www.env.nm.gov/petroleum\\_storage\\_tank/proposed-regulation-revisions/](https://www.env.nm.gov/petroleum_storage_tank/proposed-regulation-revisions/).

La audiencia se llevará a cabo conforme a los Procedimientos Normativos del Departamento (20.1.9 NMAC); la Ley del Departamento del Medio Ambiente, NMSA 1978, § 9-7A-6; la Ley Estatal para Reglamentos, NMSA 1978, § 14-4-5.3, y otros procedimientos correspondientes. Los comentarios escritos relativos al reglamento propuesto pueden enviarse a John Baca, Secretario de Audiencias, en la dirección antes indicada, y se debe incluir el número de expediente: PST 18-17.

Conforme a la Orden de Programación Revisada, si hubiera asuntos preliminares a tratar por pedimento, cada parte interesada deberá presentar un pedimento por escrito a más tardar el 21 de septiembre de 2018. No se escuchará ningún pedimento el día de la audiencia. Cada parte interesada es responsable de asegurarse de contar con su propio fundamento técnico durante la audiencia. Las partes

interesadas deberán intercambiar documentos y objetos de prueba antes del 21 de septiembre de 2018. Los documentos y objetos de prueba deberán presentarse para su archivo previo en la Oficina de Facilitación Pública antes del 21 de septiembre de 2018. Los interesados en presentar avisos de intención de presentar testimonio de carácter técnico deberán hacerlo antes del 21 de septiembre de 2018.

La forma y el contenido del aviso deberán:

- Identificar a la persona para quien testificará/n el/los testigo/s;
- Identificar a cada testigo técnico que esa persona desee presentar y establecer las cualificaciones de cada testigo, incluso una descripción de sus antecedentes educativos y laborales;
- Incluir una copia del testimonio directo de cada testigo técnico en forma narrativa;
- Incluir el texto de toda modificación recomendada para el cambio normativo propuesto; y
- Hacer una lista y adjuntar todos los documentos y objetos de prueba que se anticipa que esa persona presentará en la audiencia, incluso toda declaración propuesta de los motivos para la adopción de las reglas.

Cualquier persona del público podrá hacer comentarios orales durante la audiencia. También cualquier persona del público podrá presentar documentos relacionados con sus comentarios. Toda persona que desee presentar una declaración escrita, en lugar de comentarios orales, deberá presentar la declaración por escrito antes de la audiencia o presentarla en la audiencia.

Toda persona que necesite asistencia, intérprete o un dispositivo auxiliar para participar en este proceso deberá comunicarse con John Baca, Secretario de Audiencias antes del 26 de septiembre de 2018 en P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, teléfono (505) 827-2430 o por correo

electrónico: [John.Baca2@state.nm.us](mailto:John.Baca2@state.nm.us).

El Funcionario de Audiencias podrá permitir que las actas permanezcan abiertas por un período razonable de tiempo luego de la finalización de la audiencia con el fin de recibir comentarios adicionales por escrito, documentos, argumentos o declaraciones de razones propuestas. La determinación del Funcionario de Audiencias se anunciará al concluir la audiencia. Si las actas se mantienen abiertas, el Funcionario de Audiencias determinará y anunciará los temas sobre los que se permitirá presentar y la fecha límite para hacerlo.

El Funcionario de Audiencias no tomará una decisión sobre los cambios reglamentarios propuestos al finalizar la audiencia. Conforme a 20.1.9 NMAC, el Funcionario de Audiencias considerará las pruebas presentadas y, a discreción del Secretario del Departamento, podrá presentar un informe ante el Secretario del Departamento para su consideración. El Secretario dará a conocer su decisión final sobre los cambios reglamentarios propuestos dentro de los 60 días posteriores al cierre de las actas.

#### **Aviso de no discriminación**

El Departamento de Medio Ambiente de Nuevo México ("NMED" por sus siglas en inglés) no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigido por las leyes y los reglamentos correspondientes. NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de consultas relativas a 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, según enmendada; Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, Título IX de las Enmiendas de Educación de 1972 y la Sección 13 de las Enmiendas a la Ley Federal de



Control de Contaminación del Agua de 1972. Si usted tiene preguntas sobre este aviso o sobre cualquier programa, política o procedimiento de no discriminación de NMED, usted puede comunicarse con la Coordinadora de No Discriminación:

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

Si usted piensa que ha sido discriminado/a con respecto a un programa o actividad de NMED, usted puede comunicarse con la Coordinadora de No Discriminación antes indicada o visitar nuestro sitio web en <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para aprender cómo y dónde presentar una queja de discriminación.

## HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

### NOTICE OF RULEMAKING

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rule 8.200.510 NMAC Medicaid Eligibility-General Recipient.

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

Notice Date: September 11, 2018  
Hearing Date: October 12, 2018  
Adoption Date: Proposed as December 11, 2018  
Technical Citations: 42 CFR 435.725 subparts A-F, Federal SSI

and Impoverishment Standards for 2017 and 2018; CMS Resource and Cost-Sharing Limits for Low-Income Subsidy(LIS).

The proposed amendments are to implement the SSI and Spousal Impoverishment Standards updates for 2017 and 2018.

#### **Throughout the rule:**

#### **8.200.510 NMAC**

**Section 11** is amended to reflect the Community Spouse Resource Allowance (CSRA) increases for January 1, 2017, and January 1, 2018.

**Section 12** is amended to reflect the increased Personal Needs Allowance (PNA), for July 1, 2017, and July 1, 2018.

**Section 12** is amended to reflect the increase in the minimum monthly maintenance needs allowance (MMMNA) for July 1, 2017, and July 1, 2018.

**Section 12** is amended to reflect the increases shelter expenses of the community spouse minimum for July 1, 2017, and July 1, 2018.

**Section 12** is amended to reflect shelter expenses of the community spouse maximum for July 1, 2017, January 1, 2018, and July 1, 2018.

**Section 12** is amended to reflect the maximum total of the community spouse monthly income allowance for January 1, 2018.

**Section 13** is amended to reflect the average monthly cost of nursing facilities in the transfer of asset provisions for January 1, 2018.

**Section 14** is amended to reflect the resource amounts for supplemental Security Income (SSI) related to Medicare Savings programs (QMB, SLIM/QI1 and QD) amounts for January 1, 2017, and January 1, 2018.

**Section 15** is amended to conform to the excess home equity amount for long-term care services for January 1, 2018.

The register and the proposed rule will be available September 11, 2018, on the HSD website at: <http://www.hsd.state.nm.us/LookingForInformation/registers.aspx> and <http://www.hsd.state.nm.us/2017->

[comment-period-open.aspx](#). If you do not have internet access, a copy of the proposed register and rule may be requested by contacting (505) 827-6252.

The Department issued an emergency rule August 30, 2018, and is re-promulgating this section of the rule in full within six months of issuance of the emergency rule in accordance with the New Mexico State Rules Act. A public hearing to receive testimony on this rule will be held in Hearing Room 1, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico, 87505 on Friday, October 12, 2018, at 9:00 a.m., Mountain Daylight Time (MDT).

Interested parties may submit written comments directly to: Human Services Department, Office of the Secretary, ATT: Medical Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348.

Recorded comments may be left by calling (505) 827-1337. Electronic comments may be submitted to [madrules@state.nm.us](mailto:madrules@state.nm.us). Written, electronic and recorded comments will be given the same consideration as oral testimony made at the public hearing. All comments must be received no later than 5:00 p.m. MDT, October 12, 2018. All written comments received will be posted as they are received on the HSD website at <http://www.hsd.state.nm.us/2017-comment-period-open.aspx> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

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 MAD in Santa Fe at (505) 827-6252. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by the MAD upon request

by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

## PUBLIC EDUCATION DEPARTMENT

### NOTICE OF PROPOSED RULEMAKING

**Public Hearing.** The New Mexico Public Education Department (PED) gives notice that it will conduct a public hearing in Mabry Hall located at the Jerry Apodaca Education Building, 300 Don Gaspar Avenue, Santa Fe, New Mexico 87501, on Tuesday, October 16, 2018 from 9:00 a.m. to 11:00 a.m. (MDT). The purpose of the public hearing is to receive public input on the proposed repeal and replace of 6.75.2 NMAC, Relating to the Public Education Department Instructional Material Bureau. Attendees who wish to provide public comment on record will be given three (3) minutes to make a statement regarding the rule changes. Written comment will also be accepted at the hearing.

**Explanation of Purpose and Summary of Text.** The purpose of the proposed rule is to govern the procedures for the adoption, purchase, and delivery of instructional material ensuring that public schools and eligible state education institutions have equitable access to high quality instructional material. The proposed new language outlines pathways for open educational resources, open source curriculum, and district-created instructional material to be considered for the material list approved by the PED. Additionally, the proposed rule change defines a clear distinction between core instructional material and supplementary instructional material.

#### Statutory Authorizations:

Sections 9-24-8, 22-2-1, 22-15-4, and 22-15-8 NMSA 1978

No technical information served as a

basis for this proposed rule change.

#### Stakeholder Engagement.

Stakeholder engagement regarding this proposed rule change included teachers and district and school leaders.

**Public Comment.** Interested parties may provide comment at the public hearing or may submit written comments by mail to Jamie Gonzales, Policy Division, New Mexico Public Education Department, 300 Don Gaspar Avenue, Room 101, Santa Fe, New Mexico 87501, by electronic mail to [rule.feedback@state.nm.us](mailto:rule.feedback@state.nm.us), or by fax to (505) 827-6520. All written comments must be received no later than 5:00 p.m. (MDT) on Tuesday, October 16, 2018. The PED encourages the early submission of written comments. The public comment period is from Tuesday, September 11, 2018 to Tuesday, October 16, 2018 at 5:00 p.m. (MDT). The PED will review all feedback received during the public comment period and issue communication regarding the final decision at a later date.

Copies of the proposed rule may be accessed through the page titled, "Rule Notification," on the PED's website at <http://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/rule-notification/>, or may be obtained from Jamie Gonzales at (505) 827-7889 during regular business hours.

Individuals with disabilities who require the above information in an alternative format, or who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Jamie Gonzales at (505) 827-7889 as soon as possible before the date set for the public hearing. The PED requires at least ten (10) calendar days' advance notice to provide any special accommodations requested.

## RETIRE HEALTH CARE AUTHORITY

### NOTICE OF PROPOSED RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Retiree Health Care Authority (NMRHCA) is considering amending the part name of the existing rule 2.81.11 NMAC - ESTABLISHING SUBSIDY LEVELS ON THE BASIS OF YEARS OF CREDITABLE SERVICE, amending sections 6, 7, 8 and 9 and adopting a proposed new section 10 to be included in 2.81.11 NMAC. The purpose of the amendment of existing sections of the rule is to amend the subsidy schedule to increase the years for maximum subsidy for some plans. The purpose of the proposed new section is to establish a minimum age requirement to receive subsidy for coverage. The part name will be changed to "ESTABLISHING SUBSIDY LEVELS ON THE BASIS OF AGE AND YEARS OF CREDITABLE SERVICE" in order to reflect the proposed rule. A summary of the full text of the proposed rule follows:

Section 9 of the existing rule 2.8.11 NMAC provides for the NMRHCA to pay a percentage of the subsidy to monthly premiums of eligible retirees, which percentage is dependent on the years of credited service of the retiree and is 100% at 20 years of credited service. The amendment changes the years at which 100% is paid to 25 and changes the percentages for fewer years of credited service for retirees who are not members of an enhanced retirement plan and become eligible for participation on or after January 1, 2020. Section 7 of the existing rule is amended to include a definition for "members of an enhanced retirement plan." The new section 10 requires that eligible retirees who are not members of an enhanced retirement plan and become eligible for participation on or after January 1, 2020 be 55 years of age to receive subsidies. Section 8 is amended to clarify that disabled retirees receive a

100% subsidy regardless of years of service or age. Section 6 is amended to clarify that the objective of the part includes that subsidies will have a minimum age requirement for those retiring on or after January 1, 2020.

The NMRHCA is authorized to promulgate rules to implement the Retiree Health Care Act, NMSA 1978, Sections 10-7C-1 to -16 (1990, as amended through 2009) ("Act") by NMSA 1978, Section 10-7C-7 (1998). By resolution dated May 8, 2018, the NMRHCA resolved to undertake the rulemaking in conformity with the Act, the State Rules Act, NMSA 1978, Sections 14-4-1 to -11 (1967, as amended through 2017), the Default Procedural Rule for Rulemaking, 1.24.25 NMAC (4/10/2018) and the Open Meetings Act, NMSA 1978, Sections 10-15-1 to -4 (1974, as amended through 2013).

The NMRHCA is increasing the minimum years of service requirement to receive the maximum subsidy provided by the program to be consistent with requirements to receive a full pension benefit from both the Public Employee Retirement Association of New Mexico and the New Mexico Educational Retirement Board. In addition, the agency is establishing a minimum age requirement for folks not retiring from an enhanced retirement plan to promote and strengthen the solvency of the program. A study of NMRHCA's long-term solvency projections, NMRHCA 2017 Long-Term Solvency Model, is available at its website, [www.nmrhca.org/financial-documents.aspx](http://www.nmrhca.org/financial-documents.aspx).

The full text of the proposed rule may be obtained by contacting Greg Archuleta, Director of Communication and Member Engagement, New Mexico Retiree Health Care Authority, 4308 Carlisle Blvd. NE, Suite 104, Albuquerque, New Mexico 87107; telephone 505-222-6403, to request a copy of the rule. The full text and this notice are also available on NMRHCA's website: <http://www.nmrhca.org/>.

A person may submit, by mail or electronic form, written comments on the proposed rule through the end of the public comment period, which ends Oct. 19, 2018. Written comments should be submitted to Greg Archuleta, Director of Communication and Member Engagement, New Mexico Retiree Health Care Authority, 4308 Carlisle Blvd. NE, Suite 104, Albuquerque, New Mexico 87107. Written comments also will be accepted by email: [gregoryr.archuleta@state.nm.us](mailto:gregoryr.archuleta@state.nm.us) or by fax: (505) 884-8611. All written comments received by the agency will be posted on <http://www.nmrhca.org/> no more than 3 business days following receipt to allow for public review. Written comments will also be available for public inspection at New Mexico Retiree Health Care Authority, 4308 Carlisle Blvd. NE, Suite 104, Albuquerque, New Mexico 87107.

A public rule hearing on the proposed rule will be held before Greg Archuleta, Director of Communication and Member Engagement, NMRHCA, on Oct. 19, 2018 from 9:30-11:30 a.m. at the NMRHCA office's Alfredo R. Santistevan Board Room, located at 4308 Carlisle Blvd. NE, Suite 207 in Albuquerque, NM, 87107. Individuals may submit data, views or arguments orally or in writing to the proposed rule at the public rule hearing. Persons offering written comments at the hearing must have 2 copies for the hearing officer.

Any individual with a disability 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 Greg Archuleta at 505-222-6403 at least 10 days before the hearing.

## STATE PERSONNEL, OFFICE OF

### NOTICE OF RULE HEARING

The State Personnel Office ("SPO") hereby gives notice that SPO will conduct a public hearing to obtain public input on the following rulemaking actions:

Repeal of 1.7.6.12 NMAC –  
Rescission of Resignation

The hearing is scheduled to occur on Friday, October 12, 2018 at 9:00 am at the State Personnel Office Auditorium, 2600 Cerrillos Rd, Santa Fe, New Mexico.

Authority: Personnel Act, Section 10-9-10, NMSA 1978 and Section 10-9-12, NMSA 1978.

Purpose: The purpose of the repeal the 1.7.6.12 NMAC is to make an employee resignation effective immediately. Under the current rule, an employer must allow an employee three (3) days to rescind their resignation and the repeal of this rule will eliminate that time requirement.

Proposed Amendment:

**This is an amendment to 1.7.6 NMAC, repealing Section 12, effective xx/xx/2018.**

**1.7.6.12 [RESCISSION OF RESIGNATION:** ~~An employee may rescind a letter of resignation within three workdays of its submission and the agency must honor the rescission if it is submitted within the prescribed time limit.] [RESERVED]~~

[1-2-93 ... 5-15-96; Rn, 1 NMAC 7.8.16.2, 7-1-97; 1.7.6.12 NMAC - Rn, 1 NMAC 7.6.12, 11/30/00; A, 11/14/02; Repealed, xx/xx/2018]

Summary of full text: Removes the ability of an employee to rescind their resignation of employment within three (3) days.

Interested individuals may provide comments at the public hearing



and/or submit written or electronic comments to Justin Owens, via email at [Justin.owens@state.nm.us](mailto:Justin.owens@state.nm.us), fax (505) 476-7806, or mail to Attn: Justin Owens— Repeal of rule, State Personnel Office, 2600 Cerrillos Rd., Santa Fe, New Mexico.

Written comments must be received no later than 5:00 pm on the Thursday prior to the public hearing. However, the submission of written comments as soon as possible is encouraged. Persons may also submit written comments at the public hearing.

Copies of the proposed rule are available for download on the State Personnel Office's website at <http://www.spo.state.nm.us/> and available at the State Personnel Office located at 2600 Cerrillos Rd, Santa Fe, NM 87505. A copy of the proposed rule may also be requested by contacting Justin Owens at (505) 476-7759.

Individuals with disabilities 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 Justin Owens at (505) 476-7759 as soon as possible to provide requested special accommodations.

## **WORKFORCE SOLUTIONS, DEPARTMENT OF**

### **NOTICE OF RULEMAKING**

The New Mexico Department of Workforce Solutions ("Department") hereby gives notice that the Department will conduct a public hearing in the auditorium of the State Personnel Office located at 2600 Cerrillos Road, Santa Fe, New Mexico on October 16, 2018 from 9:00 am to 11:00 am. The purpose of the public hearing will be to obtain input and public comment on 11.1.2 NMAC, specifically addressing the amended prevailing wage and fringe benefit rates to be effective January 1, 2019.

Under Section 9-26-4, NMSA 1978, the Workforce Solutions Department is responsible for the administration of the labor relations division which oversees setting the prevailing wage and fringe benefit rates. Pursuant to Section 13-4-11, NMSA 1978, the Director of the Labor Relations Division shall determine the prevailing wage rates and the prevailing fringe benefit rates.

The Department is proposing an amendment to 11.1.2.20 NMAC to update the prevailing wage and fringe benefit rates for 2019. Additionally, the Department added section 11.1.2.21 NMAC detailing the zone and subsistence pay rates for 2019.

Interested individuals may testify at the public hearing or submit written comments to State of New Mexico Department of Workforce Solutions, 401 Broadway NE, P.O. Box 1928, Albuquerque, N.M., 87103, attention Andrea Christman. Written comments must be received no later than 5 p.m. on October 15, 2018. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rules may be accessed at <http://www.dws.state.nm.us/> or obtained by calling Andrea Christman at (505) 841-8478 or sending an email to Andrea.Christman@state.nm.us. The proposed rules will be made available to the public at least thirty days prior to the hearing.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact Ms. Christman as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

## **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.

### ENVIRONMENT DEPARTMENT

**This is an amendment to 20.7.5 NMAC, Sections 6, 7, 10, 11, 12, 13 and 14, effective 09-29-2018.**

**20.7.5.6 OBJECTIVE:** The objective of this part is to establish a program to provide low-cost financial assistance to state agencies, local authorities, interstate agencies, and other qualified borrowers for the acquisition, construction, or modification of wastewater facilities or other eligible projects or activities pursuant to the act.

[20.7.5.6 NMAC - Rp, 20.7.5.6 NMAC, 12/16/2015; A, 09/29/2018]

**20.7.5.7 DEFINITIONS:** as used in this part:

**A.** "Act" means the Wastewater Facility Construction Loan Act.

**B.** "Administrative fee" means a fee assessed and collected by the department from the [local authority] qualified borrower on each loan and expressed as a percentage per year on the outstanding principal amount of the loan, payable by the borrower on the same date that principal and interest on the loan are due, for deposit in the clean water administrative fund.

**C.** "Clean Water Act" means the federal Clean Water Act of 1977 and its subsequent amendments or successor provisions.

**D.** "Clean water state revolving loan administrative fund" means a separate fund created outside the wastewater facility construction loan fund/clean water state revolving fund designated solely for the costs of administering the clean water state revolving loan fund, in accordance with the Clean Water Act. Money remaining in the fund at the end of

any fiscal year shall not revert to the general fund but shall accrue to the loan administrative fund and shall be used explicitly for the purpose above.

**E.** "Commission" means the water quality control commission.

**F.** "Department" means the New Mexico environment department.

**G.** "Eligible project" means any project or activity that is eligible for funding assistance under Section 603(c) of the Clean Water Act, Section 1383 of Title 33 of the United States Code, as of January 1, 2018, including a wastewater facility project, a nonpoint source water pollution control project, and a watershed project that meet the criteria of the Clean Water Act.

**[G:] H.** "Final loan agreement" means an agreement executed by the [local authority] qualified borrower and the department upon completion of the project in order to [evidence] document the permanent financing of the final loan amount.

**[H:] I.** "Final loan amount" means the aggregate amount of the principal disbursed by the department to the [local authority] qualified borrower during the construction of the [wastewater facility] eligible project, together with accrued and unpaid interest on the aggregate principal thereof.

**[I:] J.** "Financial assistance" means loans, combination loan/grants, the purchase or refinancing of existing state agency or local political subdivision obligations, loan guarantees, credit enhancement techniques to reduce interest on loans and bonds, bond insurance and bond guarantees, or any combination of these purposes.

**[J:] K.** "Force account construction" means construction

performed by the employees of a local authority rather than through a contractor.

**[K:] L.** "Fund" means the wastewater facility construction loan fund established in Section 74-6A-4 NMSA 1978 of the [Wastewater Facility Construction Loan Act] act.

**[L:] M.** "Local authority" means any municipality, county, water and sanitation district or any similar district, recognized Indian tribe, mutual domestic water consumers association as defined by the Sanitary Projects Act, or other issuing agency created pursuant to a joint powers agreement acting on behalf of any entity listed in this subsection.] "Local authority" means a municipality, intermunicipal agency, county, incorporated county, mutual domestic water consumers association as defined by the Sanitary Projects Act, sanitation district, water and sanitation district or any similar district, recognized Indian tribe, or other issuing agency created pursuant to a joint powers agreement acting on behalf of any entity listed in this subsection.

**[M:] N.** "Payment" means a disbursement from the fund directly to the [local authority] qualified borrower.

**[N:] O.** "Priority list" means the list of eligible projects ranked according to the priority system pursuant to the [Wastewater Facility Construction Loan Act] act.

**[O:] P.** "Priority system" means the system approved by the commission for ranking eligible projects for which financial assistance applications have been received pursuant to the act.

**Q.** [Other terms will retain their definition as given in the act.] "Qualified borrower" means a creditworthy borrower with an identified and verifiable repayment



source that is eligible for funding pursuant to the Clean Water Act, as of January 1, 2018, including a state agency, an interstate agency, and a local authority.

**R.** “State agency” means an agency or department of the executive branch of government.

**[P:] S.** “Wastewater facility” means a publicly owned system for treating or disposing of sewage or wastes either by surface or underground methods, including any equipment, plant, treatment works, structure, machinery, apparatus or land in any combination, that is acquired, used, constructed or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation or treatment of water or wastes, or for the final disposal of residues resulting from the treatment of water or wastes, such as pumping and ventilating stations, facilities, plants and works, outfall sewers, interceptor sewers and collector sewers, and other real or personal property and appurtenances incidental to their use or operation. [“Wastewater facility” also includes a nonpoint source water pollution control or Brownfield redevelopment project as eligible under the Clean Water Act.]

[20.7.5.7 NMAC - Rp, 20.7.5.7 NMAC, 12/16/2015; A, 09/29/2018]

#### **20.7.5.10 ELIGIBILITY REQUIREMENTS FOR FINANCIAL ASSISTANCE:**

**A.** Only ~~[local authorities]~~ qualified borrowers will be eligible for financial assistance from the fund.

**B.** The project must appear on the current priority list at the time of the financial assistance award.

**C.** To be eligible for financial assistance from the fund, ~~[local authorities]~~ qualified borrowers shall:

(1) meet the requirements of financial capability set by the department to assure sufficient revenue to operate and maintain the facility for its useful life, if applicable, and to repay the

financial assistance;

(2) agree to operate and maintain the ~~[wastewater facility]~~ eligible project so that the ~~[facility]~~ project will function properly over its structural and material design life, if applicable;

(3) agree to maintain separate project accounts, to maintain project accounts properly in accordance with generally accepted accounting principles and to conduct an audit of the project’s financial records;

(4) agree to provide a written assurance prior to construction, signed by an attorney, or other authorized representative, that the ~~[local authority]~~ qualified borrower has or will acquire proper title, easements and rights-of-way to the property upon or through which the ~~[wastewater facility]~~ eligible project proposed for funding is to be constructed or extended;

(5) require the contractor of the ~~[construction]~~ eligible project to post a performance and payment bond in accordance with the requirements of Section 13-4-18 NMSA 1978 and its subsequent amendments and successor provisions;

(6) provide a written notice of project completion ~~[and start of operation of the wastewater facility]~~; and

(7) provide such information to the department as required ~~[by the commission]~~ in order to comply with the provisions of the Clean Water Act and state law.

**D.** Financial assistance shall be made only to ~~[local authorities]~~ qualified borrowers that establish one or more dedicated sources of revenue to repay the money received from the commission and to provide for operation, maintenance, and equipment replacement expenses. [20.7.5.10 NMAC - Rp, 20.7.5.10 NMAC, 12/16/2015; A, 09/29/2018]

#### **20.7.5.11 APPLICATION PROCEDURES FOR PRIORITY LIST PLACEMENT:**

**A.** Applications for financial assistance shall be made

by the ~~[local authority]~~ qualified borrower on a form specified by the department.

**B.** Applicants for financial assistance shall provide the department with:

(1) a description of the scope of work of the project;

(2) a cost estimate of the project; and

(3) a target date for initiation of construction.

**C.** The department will review the application for eligibility, and technical merits. The department will notify the ~~[local authority]~~ qualified borrower of any inadequacies in the submittal. The ~~[local authority]~~ qualified borrower may correct any inadequacies and resubmit the application.

**D.** Upon determination by the department that an application is eligible and complete, the application will be ranked utilizing the priority system and will be placed on the priority list.

[20.7.5.11 NMAC - Rp, 20.7.5.11 NMAC, 12/16/2015; A, 09/29/2018]

#### **20.7.5.12 PRIORITY SYSTEM AND PRIORITY LIST:**

**A.** Financial assistance shall only be made to ~~[local authorities]~~ qualified borrowers on the project priority list developed in accordance with the priority system as adopted by the commission.

**B.** The commission shall adopt a system for the ranking of projects for financial assistance.

**C.** The department shall prepare a priority list of applicants for financial assistance based on the priority system approved by the commission.

[20.7.5.12 NMAC - Rp, 20.7.5.12 NMAC, 12/16/2015; A, 09/29/2018]

#### **20.7.5.13 ELIGIBLE AND INELIGIBLE FINANCIAL ASSISTANCE ITEMS:**

**A.** Eligible items for financial assistance made from state-only funds include but are not limited to the costs of engineering ~~[feasibility]~~ reports, contracted

engineering design, inspection of construction, special engineering services, start-up services, contracted construction, materials purchased or equipment leased for force account construction, land, or acquisition of existing facilities. For financial assistance made from federal funds, eligible items are those identified pursuant to the Clean Water Act.

**B.** Financial assistance shall be made only to ~~[local authorities]~~ qualified borrowers that employ or contract with a ~~[registered]~~ New Mexico licensed professional engineer to provide and be responsible for engineering services on the project. Such services include, but are not limited to ~~[an engineering report]~~ engineering reports, construction contract documents, supervision of construction, and start-up services.

**C.** Ineligible for financial assistance made with state-only funds items include:

- (1) the costs of water rights;
  - (2) ~~[local]~~ administrative costs;
  - (3) fulfillment or partial fulfillment of requirements made of a subdivider by the provisions of the Land Subdivision Act or the New Mexico Subdivision Act;
  - (4) force account construction; and
  - (5) administrative ~~[fee]~~ fees.
- [20.7.5.13 NMAC - Rp, 20.7.5.13 NMAC, 12/16/2015; A, 09/29/2018]

#### **20.7.5.14 ADMINISTRATION OF THE LOAN PROGRAM AND FUND:**

**A.** The loan program and fund is administered by the department as agent for the commission. Pursuant to Paragraph (10) of Subsection A of Section 74-6A-9 ~~[A(10)]~~ NMSA 1978 of the ~~[Wastewater Facility Construction Loan]~~ act, the department shall develop new, and implement existing, policies, procedures, and guidelines necessary and appropriate to implement the provisions of the act

and the Clean Water Act.

**B.** The necessary administrative expenses required of the board, the commission, and the department to implement the provisions of the act will be appropriated from the fund.

**C.** The department may impose and collect a fee from each ~~[local authority]~~ qualified borrower that receives financial assistance from the fund, which fee shall be deposited into the clean water state revolving loan administrative fund, and used solely for the costs of administering the fund as follows:

(1) an administrative fee may be assessed on all financial assistance provided after January 1, 1996, and will be assessed on the refinancing of financial assistance after October 1, 1993;

(2) if an administrative fee is assessed pursuant to Paragraph (1) of Subsection C of 20.7.5.14 NMAC above, the total administrative fee assessed shall not exceed five percent of the total loan amount; the fee will be assessed on the outstanding principal balance of the loan payable; these fees are due on the same dates the payment of principal and interest on the loans are due, and shall be charged to each borrower, unless waived from the requirement by the department; the department may determine, establish and revise from time to time, the precise amount of the administrative fee to be charged, based on the projected costs of administering the program and other revenue available to pay such costs; the administrative fee payments must be deposited in the clean water state revolving loan administrative fund as they are received; interest on the clean water state revolving loan administrative fund shall be transferred to the administrative fund as it is received; and

(3) an administrative fee of two percent of the unpaid principal balance of the refinanced loan will be assessed against the ~~[local authority]~~ qualified borrower and shall be paid into the clean water state revolving loan

administrative fund at the time of closing of the refinancing.

**D.** Financial assistance agreements will be prepared by the department and executed by the ~~[local authority]~~ qualified borrower for the project which can be financed with available balances in the fund.

**E.** Repayment of the loan portion of the financial assistance shall begin no later than one year after completion of the project for which the loan was executed and shall be repaid in full no later than 30 years after completion of the project. All principal and interest on loan payments shall be deposited in the fund.

**F.** The interest rate for the loan portion of the financial assistance shall be the rate in effect when the final loan agreement is executed. The interest rate shall not change during the term of the financial assistance unless refinanced in accordance with Subsection I of 20.7.5.14 NMAC. The interest rate shall be the base rate provided in Subsection G of 20.7.5.14 NMAC unless the local authority qualifies for a hardship rate provided in Subsection H of 20.7.5.14 NMAC.

**G.** At the beginning of each state fiscal year, the commission may determine a base rate for the state fiscal year which is less than or greater than the current base rate.

**H.** Hardship rates shall be approved by the department when a local authority meets the associated conditions at the time the financial assistance agreement is executed:

(1) When the local authority's per capita income is less than the statewide per capita income based on the most current United States (U.S.) bureau of census statistics.

(2) The local authority's per capita income is less than three-fourths of the statewide per capita income based upon the most current U.S. bureau of census statistics.

(3) A combination of loan and grant funds in those years when grant funding is available for assistance to rural

communities.

(4) An interest rate of zero percent when:

(a) the local authority's average user cost is ~~[at least fifteen dollars per month or a higher amount as determined by the commission.] greater than one and eighty-two hundredths percent of the local authority's per capita income.~~ The calculation of average user cost shall be consistent with a statewide methodology established by the department; and

(b) the local authority's ~~[median household income]~~ per capita income is less than three-fourths of the statewide ~~[non-metropolitan median household income]~~ per capita income based upon the most current U.S. bureau of census statistics.

Interest Rate	Local Authority Criteria
2.375%	Per capita income equal to or above statewide average; base interest rate. (G.)
1.2%	Per capita income less than that statewide average. (H.)(1)
0.6%	Per capita income less than $\frac{3}{4}$ of the statewide average. (H.)(2)
0%	<del>[Median household income]</del> Per capita income less than <del>[<math>\frac{3}{4}</math>]</del> three-fourths <del>[if]</del> of the statewide <del>[median household income]</del> per capita income and the average user cost is <del>[equal to or greater than \$15.00 per month]</del> greater than one and eighty-two hundredths percent of the local authority's per capita income. (H.) (4)(a)(b)

**I.** The interest rate for a state agency shall be the lowest interest rate available above zero percent in Subsection H of Section 14 of 20.7.5 NMAC and the interest rate for all other eligible borrowers will be the base rate at the time the loan agreement is executed.

**[F.] J.** A local authority may refinance the loan portion of the financial assistance if the local authority later qualifies for a reduced rate. The refinancing may only occur at or after the execution of a final loan agreement.

**[F.] K.** Financial assistance recipients shall comply with all applicable federal, state, and local laws and regulations, including but not limited to:

- (1) procurement;
- (2) record keeping;
- (3) accounting;
- (4) audit and inspection;
- (5) occupational health and safety;
- (6) environmental review; and
- (7) non-discrimination.

**[K.] L.** In the event of default by the ~~[local authority]~~ qualified borrower, the department as agent for the commission may enforce its rights by suit or mandamus or may utilize all other available remedies under state law. [20.7.5.14 NMAC - Rp, 20.7.5.14 NMAC, 12/16/2015; A, 05/30/2017; A, 09/29/2018]

## GAME AND FISH DEPARTMENT

### TITLE 19 NATURAL RESOURCES AND WILDLIFE CHAPTER 31 HUNTING AND FISHING PART 12 BARBARY SHEEP, ORYX, AND PERSIAN IBEX

#### 19.31.12.1 ISSUING

**AGENCY:** New Mexico Department of Game and Fish.

[19.31.12.1 NMAC - Rp, 19.31.12.1 NMAC, 4-1-19]

#### 19.31.12.2 SCOPE:

Sportspersons interested in Barbary sheep, oryx, and Persian ibex management and hunting. Additional requirements may be found in Chapter 17, NMSA 1978, and Title 19 NMAC. [19.31.12.2 NMAC - Rp, 19.31.12.2 NMAC, 4-1-19]

#### 19.31.12.3 STATUTORY

**AUTHORITY:** 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected mammals, birds, and fish.

[19.31.12.3 NMAC - Rp, 19.31.12.3 NMAC, 4-1-19]

#### 19.31.12.4 DURATION:

April 1, 2019 through March 31, 2023.

[19.31.12.4 NMAC - Rp, 19.31.12.4 NMAC, 4-1-19]

#### 19.31.12.5 EFFECTIVE

**DATE:** April 1, 2019, unless a later date is cited at the end of an individual section.

[19.31.12.5 NMAC - Rp, 19.31.12.5 NMAC, 4-1-19]

#### 19.31.12.6 OBJECTIVE:

Establishing open hunting seasons and regulations, rules, and procedures governing the distribution and issuance of Barbary sheep, oryx, and Persian ibex licenses by the department.

[19.31.12.6 NMAC - Rp, 19.31.12.6 NMAC, 4-1-19]

#### 19.31.12.7 DEFINITIONS:

**A. "Broken-horned oryx" or "BHO"** shall mean an oryx of either sex that possesses at least one horn missing at least twenty-five percent of its normal growth. This may be determined by comparing the broken horn's length to the remaining horn or where it is readily apparent the terminal end would not taper to a point for another twenty-five percent of growth.

**B. "Department"** shall mean the New Mexico department of game and fish.

**C. "Director"** shall mean the director of the New Mexico department of game and fish.

**D. "Either sex" or "ES"** shall mean any one animal of the species.

**E. "Female or immature Persian ibex" or "F-IM"** shall mean any female Persian ibex, or a male Persian ibex with horns less than 15 inches long.

**F. "Game management units" or "GMUs"** shall mean those areas as described in state game commission rule 19.30.4 NMAC, Boundary Descriptions for Game Management Units.

**G. "Iraq/Afghanistan veterans" or "I/A vets"** shall refer to only New Mexico residents returning from military service in Iraq or Afghanistan as eligible to apply for designated oryx hunts.

**H. "Unlimited"** shall mean there is no set limit on the number of licenses established for the described hunt areas.

**I. "White Sands missile range" or "WSMR"** shall mean that portion of GMU 19 controlled by the department of defense.

**J. "Wildlife management areas" or "WMAs"** shall mean those areas as described in state game commission rule 19.34.5 NMAC Wildlife Management Areas. [19.31.12.7 NMAC - Rp, 19.31.12.7 NMAC, 4-1-19]

#### 19.31.12.8 ADJUSTMENT

**OF LICENSES:** The director, with the verbal concurrence of the chairperson or their designee, may adjust the number of licenses for oryx, Barbary sheep, or Persian ibex up or down to address significant changes in population levels or to address critical department management needs. The director may change or cancel all hunts on military lands to accommodate closures on those lands; if changed, the season length and bag limit shall remain the same as assigned on the original hunt code.

[19.31.12.8 NMAC - Rp, 19.31.12.8 NMAC, 4-1-19]

#### 19.31.12.9 BARBARY SHEEP, ORYX, AND PERSIAN IBEX LICENSE APPLICATION REQUIREMENTS AND RESTRICTIONS:

**A. Iraq/Afghanistan veteran hunts:** It shall be unlawful for anyone to apply for an Iraq/Afghanistan veteran's oryx license, except as allowed by 19.31.3 NMAC.

**B. Persian ibex once-in-a-lifetime:** It shall be unlawful for anyone to apply for a once-in-a-lifetime Persian ibex license if he or she has held a once in a lifetime license to hunt Persian ibex. Persian ibex hunts for population management, incentive hunts, youth, muzzle-loading rifles, bows, year-round off-mountain hunts, and hunts for female or immature (F-IM) Persian ibex, are not considered once-in-a-lifetime and anyone may apply for these hunts or hold these licenses even if they have held a once-in-a-lifetime Persian ibex license.

**C. Oryx once-in-a-lifetime:** It shall be unlawful, beginning April 1, 1993, for anyone to apply for a once-in-a-lifetime oryx license if he or she has held a once-in-a-lifetime license to hunt oryx. Oryx hunts for population management, broken-horned, youth, and incentive hunts are not considered once-in-a-lifetime and anyone may apply for these hunts or hold these licenses even if they have held a once-in-a-lifetime license.

[19.31.12.9 NMAC - Rp, 19.31.12.9 NMAC, 4-1-19]

**19.31.12.10 POPULATION  
MANAGEMENT HUNTS:**

**A.** The director or their designee may authorize population management hunts for oryx, Barbary sheep, or Persian ibex when justified in writing by department personnel.

**B.** The director or their designee shall designate the sporting arms, season dates, season lengths, bag limits, hunt boundaries, specific requirements or restrictions, and number of licenses to be issued.

**C.** In those instances where a population management hunt is warranted on deeded private lands, the landowner may suggest eligible hunters of their choice by submitting a list of prospective hunters' names to the department for licensing consideration. No more than one-half of the total number of licenses authorized shall be available to landowner identified hunters. The balance of prospective hunters shall be identified by the department.

[19.31.12.10 NMAC - Rp,  
19.31.12.11 NMAC, 4-1-19]

**19.31.12.11 BARBARY  
SHEEP HUNTING SEASONS:**

Barbary sheep hunts shall be as indicated below, listing the open GMUs or areas, eligibility requirements or restrictions, hunt dates, hunt codes, sporting arms, number of licenses, and bag limit. Public draw Barbary sheep licenses for GMUs 29, 30, 32, portions of 34, 36, and 37 are available only through application in the special entry draw. Private land-only licenses for GMUs 29, 30, 32, portions of 34, 36, and 37 shall not be issued through the public draw and shall only be valid on deeded private lands. All Barbary sheep licenses listed in Subsections A and B of Section 19.31.12.11 NMAC (with the exception of hunts on McGregor range when the license holder claimed residency as allowed by 17-3-4.A.5 NMSA 1978) shall also be valid for over-the-counter hunt areas with any legal sporting arm. The department shall issue military-only Barbary sheep hunting licenses for McGregor range to full time military personnel providing a valid

access authorization issued by Fort Bliss.

**Continued On The Following  
Page**



**A. Public draw hunts:**

open GMUs or areas	2019-2020 hunt dates	2020-2021 hunt dates	2021-2022 hunt dates	2022-2023 hunt dates	hunt code	licenses	bag limit
32, 34, 36, 37	1/1-1/15	1/1-1/15	1/1-1/15	1/1-1/15	BBY-2-100	75	ES
32, 34, 36, 37	10/12- 10/16	10/10-10/14	10/9-10/13	10/8-10/12	BBY-1-101	75	ES
32, 34, 36, 37	12/7-12/20	12/5-12/18	12/4-12/17	12/3-12/16	BBY-1-102	225	ES
32, 34, 36, 37	1/20-2/2	1/20-2/2	1/20-2/2	1/20-2/2	BBY-1-103	225	ES
32, 34, 36, 37	2/15-2/28	2/13-2/26	2/12-2/25	2/11-2/24	BBY-1-104	225	ES
29, 30	1/1-1/15	1/1-1/15	1/1-1/15	1/1-1/15	BBY-2-105	75	ES
29, 30	10/12- 10/16	10/10-10/14	10/9-10/13	10/8-10/12	BBY-1-106	100	ES
29, 30	12/7-12/20	12/5-12/18	12/4-12/17	12/3-12/16	BBY-1-107	250	ES
29, 30	1/20-2/2	1/20-2/2	1/20-2/2	1/20-2/2	BBY-1-108	250	ES
29, 30	2/15-2/28	2/13-2/26	2/12-2/25	2/11-2/24	BBY-1-109	250	ES
28 McGregor range	12/26- 12/27	12/31/2020- 1/1/2021	12/30- 12/31	12/29-12/30	BBY-1-110	20	ES
28 McGregor range, military only	12/26- 12/27	12/31/2020- 1/1/2021	12/30- 12/31	12/29-12/30	BBY-1-111	20	ES

**B. Private land-only hunts:** Private land-only Barbary sheep licenses shall be restricted to the hunt dates, eligibility requirements or restrictions, sporting arms type, and bag limit that corresponds to the draw hunt code listed in Subsection A of Section 19.31.12.11 NMAC for the GMU where the private landowner's property lies. Private land-only Barbary sheep licenses shall be unlimited and available from any license vendor and the department's web site. Private land-only Barbary sheep licenses are valid only on deeded private property where the licensee has written permission to hunt.

**C. Over-the-counter hunts:** The hunt area shall be statewide (including Water canyon WMA in GMU 9) except GMUs 8, 13, 14, 16, WSMR and Fort Bliss portions of GMU 19, 20, 22, 23, 24, 26, 27, and the draw areas of GMUs 28, 29, 30, 32, portions of 34, 36 and 37. The western portion of GMU 34 shall be open to over-the-counter licenses. The eastern portion of GMU 34 shall be closed to any license holder of a BBY-1-300 license. The boundary dividing the western portion of GMU 34 is the line beginning at the junction of NM Hwy 244 and the Mescalero Apache Indian Reservation and traveling south to US Hwy 82. Hwy 82 to NM Hwy 130 south to NM Hwy 6563 continuing south as it transitions to County Road E12 (Sacramento River Road). County Road E 12 south to the Unit 34/GMU 28 boundary.

open GMUs or areas	2019-2020 hunt dates	2020-2021 hunt dates	2021-2022 hunt dates	2022-2023 hunt dates	hunt code	licenses	bag limit
statewide, restrictions listed above	4/1/2019- 3/31/2020	4/1/2020- 3/31/2021	4/1/2021- 3/31/2022	4/1/2022- 3/31/2023	BBY-1-300	unlimited	ES

**D. Special management properties:** For private lands within GMUs 29, 30, 32, 34, 36 and 37, the department may work with interested landowners to develop appropriate bag limits, weapon types, season dates and authorization numbers for private land hunting needed to achieve the proper harvest on the deeded private land of the participating ranches.

[19.31.12.11 NMAC - Rp, 19.31.12.12 NMAC, 4-1-19]

**19.31.12.12 ORYX HUNTING SEASONS:**

**A. Oryx once-in-a-lifetime hunts** for any legal weapon shall be as indicated below, listing the open GMUs or areas, eligibility requirements or restrictions, hunt dates, hunt codes, number of licenses and bag limit.

open GMUs or areas	2019-2020 hunt dates	2020-2021 hunt dates	2021-2022 hunt dates	2022-2023 hunt dates	hunt code	licenses	bag limit
19 WSMR	9/13-9/15	9/11-9/13	9/10-9/12	9/9-9/11	ORX-1-100	65	ES
19 WSMR	9/27-9/29	9/25-9/27	9/24-9/26	9/23-9/25	ORX-1-101	65	ES



19 WSMR	10/25-10/27	10/23-10/25	10/22-10/24	10/21-10/23	ORX-1-102	65	ES
19 WSMR	11/8-11/10	11/6-11/8	11/5-11/7	11/4-11/6	ORX-1-103	65	ES
19 WSMR	12/6-12/8	12/4-12/6	12/3-12/5	12/2-12/4	ORX-1-104	65	ES
19 WSMR	1/3-1/5	1/15-1/17	1/14-1/16	1/13-1/15	ORX-1-105	65	ES
19 WSMR	1/17-1/19	1/29-1/31	1/28-1/30	1/27-1/29	ORX-1-106	65	ES
19 WSMR	2/14-2/16	2/12-2/14	2/11-2/13	2/10-2/12	ORX-1-107	65	ES
19 WSMR	2/28-3/1	2/26-2/28	2/25-2/27	2/24-2/26	ORX-1-108	65	ES
19 WSMR, mobility impaired	10/11-10/13	10/9-10/11	10/8-10/10	10/7-10/9	ORX-1-109	20	ES
19 WSMR, I/A vets	9/13-9/15	9/11-9/13	9/10-9/12	9/9-9/11	ORX-1-110	5	ES
19 WSMR, I/A vets	9/27-9/29	9/25-9/27	9/24-9/26	9/23-9/25	ORX-1-111	5	ES
19 WSMR, I/A vets	10/25-10/27	10/23-10/25	10/22-10/24	10/21-10/23	ORX-1-112	5	ES
19 WSMR, I/A vets	11/8-11/10	11/6-11/8	11/5-11/7	11/4-11/6	ORX-1-113	5	ES
19 WSMR, I/A vets	12/6-12/8	12/4-12/6	12/3-12/5	12/2-12/4	ORX-1-114	5	ES
19 WSMR, I/A vets	1/3-1/5	1/15-1/17	1/14-1/16	1/13-1/15	ORX-1-115	5	ES
19 WSMR, I/A vets	1/17-1/19	1/29-1/31	1/28-1/30	1/27-1/29	ORX-1-116	5	ES
19 WSMR, I/A vets	2/14-2/16	2/12-2/14	2/11-2/13	2/10-2/12	ORX-1-117	5	ES
19 WSMR, I/A vets	2/28-3/1	2/26-2/28	2/25-2/27	2/24-2/26	ORX-1-118	5	ES

**B. WSMR youth-only hunt** for any legal weapon shall be as indicated below, listing the open GMUs or areas, eligibility requirements or restrictions, hunt dates, hunt codes, number of licenses and bag limit

open GMUs or areas	2019-2020 hunt dates	2020-2021 hunt dates	2021-2022 hunt dates	2022-2023 hunt dates	hunt code	licenses	bag limit
19 WSMR, youth only	10/11-10/13	10/9-10/11	10/8-10/10	10/7-10/9	ORX-1-119	40	ES

**C. Oryx broken-horned on-range hunts** for any legal weapon shall be as indicated below, listing the hunt dates, hunt codes, number of licenses and bag limit.

open GMUs or areas	2019-2020 hunt dates	2020-2021 hunt dates	2021-2022 hunt dates	2022-2023 hunt dates	hunt code	licenses	bag limit
19 WSMR	9/13-9/15	9/11-9/13	9/10-9/12	9/9-9/11	ORX-1-120	15	BHO
19 WSMR	9/27-9/29	9/25-9/27	9/24-9/26	9/23-9/25	ORX-1-121	15	BHO
19 WSMR	10/25-10/27	10/23-10/25	10/22-10/24	10/21-10/23	ORX-1-122	15	BHO
19 WSMR	11/8-11/10	11/6-11/8	11/5-11/7	11/4-11/6	ORX-1-123	15	BHO
19 WSMR	12/6-12/8	12/4-12/6	12/3-12/5	12/2-12/4	ORX-1-124	15	BHO
19 WSMR	1/3-1/5	1/15-1/17	1/14-1/16	1/13-1/15	ORX-1-125	15	BHO
19 WSMR	1/17-1/19	1/29-1/31	1/28-1/30	1/27-1/29	ORX-1-126	15	BHO
19 WSMR	2/14-2/16	2/12-2/14	2/11-2/13	2/10-2/12	ORX-1-127	15	BHO
19 WSMR	2/28-3/1	2/26-2/28	2/25-2/27	2/24-2/26	ORX-1-128	15	BHO

**D. Oryx hunts off of White Sands missile range** shall be as indicated below, listing the open GMUs or areas, eligibility requirements or restrictions, hunt dates, hunt codes, number of licenses and bag limit. The department shall issue military only oryx hunting licenses for McGregor range to full time military personnel providing a valid access authorization issued by Fort Bliss (McGregor range, military only).

open GMUs or areas	2019-2020 hunt dates	2020-2021 hunt dates	2021-2022 hunt dates	2022-2023 hunt dates	hunt code	licenses	bag limit
statewide, off-range	6/1-6/30	6/1-6/30	6/1-6/30	6/1-6/30	ORX-1-204	80	ES

statewide, off-range, youth only	6/1-6/30	6/1-6/30	6/1-6/30	6/1-6/30	ORX-1-205	20	ES
statewide, off-range	7/1-7/31	7/1-7/31	7/1-7/31	7/1-7/31	ORX-1-206	80	ES
statewide, off-range, youth only	7/1-7/31	7/1-7/31	7/1-7/31	7/1-7/31	ORX-1-207	20	ES
statewide, off-range	8/1-8/31	8/1-8/31	8/1-8/31	8/1-8/31	ORX-1-208	80	ES
statewide, off-range, youth only	8/1-8/31	8/1-8/31	8/1-8/31	8/1-8/31	ORX-1-209	20	ES
statewide, off-range	9/1-9/30	9/1-9/30	9/1-9/30	9/1-9/30	ORX-1-210	80	ES
statewide, off-range, youth only	9/1-9/30	9/1-9/30	9/1-9/30	9/1-9/30	ORX-1-211	20	ES
statewide, off-range	10/1-10/31	10/1-10/31	10/1-10/31	10/1-10/31	ORX-1-212	80	ES
statewide, off-range, youth only	10/1-10/31	10/1-10/31	10/1-10/31	10/1-10/31	ORX-1-213	20	ES
statewide, off-range	11/1-11/30	11/1-11/30	11/1-11/30	11/1-11/30	ORX-1-214	80	ES
statewide, off-range, youth only	11/1-11/30	11/1-11/30	11/1-11/30	11/1-11/30	ORX-1-215	20	ES
statewide, off-range	12/1-12/31	12/1-12/31	12/1-12/31	12/1-12/31	ORX-1-216	80	ES
statewide, off-range, youth only	12/1-12/31	12/1-12/31	12/1-12/31	12/1-12/31	ORX-1-217	20	ES
statewide, off-range	1/1-1/31	1/1-1/31	1/1-1/31	1/1-1/31	ORX-1-218	80	ES
statewide, off-range, youth only	1/1-1/31	1/1-1/31	1/1-1/31	1/1-1/31	ORX-1-219	20	ES
statewide, off-range	2/1-2/29	2/1-2/28	2/1-2/28	2/1-2/28	ORX-1-220	80	ES
statewide, off-range, youth only	2/1-2/29	2/1-2/28	2/1-2/28	2/1-2/28	ORX-1-221	20	ES
statewide, off-range	3/1-3/31	3/1-3/31	3/1-3/31	3/1-3/31	ORX-1-222	80	ES
statewide, off-range, youth only	3/1-3/31	3/1-3/31	3/1-3/31	3/1-3/31	ORX-1-223	20	ES
28 McGregor range	12/21-12/22	12/19-12/20	12/18-12/19	12/17-12/18	ORX-1-224	25	ES
28 McGregor range, military only	12/21-12/22	12/19-12/20	12/18-12/19	12/17-12/18	ORX-1-225	25	ES
28 McGregor range	1/11-1/12	1/9-1/10	1/8-1/9	1/7-1/8	ORX-1-226	25	ES
28 McGregor range, military only	1/11-1/12	1/9-1/10	1/8-1/9	1/7-1/8	ORX-1-227	25	ES

**E. Private land-only oryx hunts:** Private land-only oryx licenses shall be valid only on deeded private land and restricted to the season dates, eligibility requirements or restrictions, sporting arms type, and bag limit that corresponds to the statewide public draw hunt codes listed in Subsection D of Section 19.31.12.12 NMAC above. Hunts on private land for April and May are restricted to the season dates, eligibility requirements or restrictions, sporting arms type, and bag limit that corresponds to the hunt codes listed below. The number of private land-only oryx licenses shall be unlimited.

open GMUs or areas	2019-2020 hunt dates	2020-2021 hunt dates	2021-2022 hunt dates	2022-2023 hunt dates	hunt code	bag limit
statewide, private land	4/1-4/30	4/1-4/30	4/1-4/30	4/1-4/30	ORX-1-2000	ES
	5/1-5/31	5/1-5/31	5/1-5/31	5/1-5/31	ORX-1-2020	ES

**F. Oryx incentive authorizations:** The director may annually allow up to two oryx authorizations to be issued by drawing for deer and elk hunters submitting their legally harvested animal for CWD testing. Authorizations to purchase the license may be used either by the applicant or any individual of the selected applicant's choice and may be transferred through sale, barter, or gift. Oryx incentive hunts shall be any one hunt selected from Subsection A of Section 19.31.12.12 NMAC. Bag limit shall be either sex with any legal sporting arms and hunt area of the selected hunt.

**G. Oryx hunt for injured service men and women:** The department shall annually issue up to 10 authorizations for hunting by injured service men and women on White Sands missile range. The director shall determine the procedures for issuing the authorizations, and the dates for each hunt.

[19.31.12.12 NMAC - Rp, 19.31.12.13 NMAC, 4-1-19]

**19.31.12.13 PERSIAN IBEX HUNTING SEASONS:** Persian ibex hunts shall be as indicated below, listing the open GMUs or areas, eligibility requirements or restrictions, hunt dates, hunt codes, number of licenses and bag limit. The IBX-1-525 hunt is restricted to only those who have never held an ibex once-in-a-lifetime license. The IBX-1-526 hunt is restricted to applicants who were successful harvesting one F-IM ibex during the IBX-1-520, IBX-1-521, IBX-1-522, IBX-1-523 hunts, or a population management hunt from the previous year and have presented the head within five days of harvest to a department office or department official for confirmation that they are eligible to enter a drawing for this hunt. Holders of the off-mountain license (IBX-1-528) may apply for any Florida mountains ibex hunt unless otherwise restricted by rule. Any valid Persian ibex license shall be valid during the off-mountain (IBX-1-528) hunts. Holders of a valid ibex license may take an unlimited number of ibex for the year-long off-mountain hunt. The Florida mountain hunt area is that portion of GMU 25 bounded by interstate 10 on the north, U.S.-Mexico border on the south, NM 11 on the west and the Dona Ana-Luna county line on the east. The year-long off-mountain hunt area is any public land open for hunting and private lands with written permission outside the Florida mountain hunt area.

open GMUs or areas	2019-2020 hunt dates	2020-2021 hunt dates	2021-2022 hunt dates	2022-2023 hunt dates	hunt code	licenses	bag limit
25 Florida mountains, youth only	12/27/2019-1/10/2020	12/27/2020-1/10/2021	12/27/2021-1/10/2022	12/27/2022-1/10/2023	IBX-1-500	15	ES
25 Florida mountains, restricted eligibility	11/15-11/29	11/15-11/29	11/15-11/29	11/15-11/29	IBX-1-526	5	ES
25 Florida mountains, once-in-a-lifetime	11/15-11/29	11/15-11/29	11/15-11/29	11/15-11/29	IBX-1-525	25	ES
25 Florida mountains	2/1-2/9	1/30-2/7	2/5-2/13	2/4-2/12	IBX-1-520	75	F-IM
	2/15-2/23	2/13-2/21	2/19-2/27	2/18-2/26	IBX-1-521	75	F-IM
	2/29-3/8	2/27-3/7	3/5-3/13	3/4-3/12	IBX-1-522	75	F-IM
	3/14-3/22	3/13-3/21	3/19-3/27	3/18-3/26	IBX-1-523	75	F-IM
	10/1-10/15	10/1-10/15	10/1-10/15	10/1-10/15	IBX-2-535	100	ES
	1/15-1/29	1/15-1/29	1/15-1/29	1/15-1/29	IBX-2-536	100	ES
	12/6-12/20	12/6-12/20	12/6-12/20	12/6-12/20	IBX-3-540	25	ES
Statewide, off-mountain, over-the-counter	4/1/2019-3/31/2020	4/1/2020-3/31/2021	4/1/2021-3/31/2022	4/1/2022-3/31/2023	IBX-1-528	unlimited	ES

[19.31.12.13 NMAC - Rp, 19.31.12.14 NMAC, 4-1-19]

#### **HISTORY OF 19.31.12 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under:

Regulation No. 482, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 5/31/67;

Regulation No. 487, Establishing 1967 Seasons On Javelina And Barbary Sheep, filed 12/15/67;

Regulation No. 489, Establishing Turkey Seasons For The Spring of 1968, filed 3/1/68;

Regulation No. 491, Establishing Big Game Seasons For 1968 For Jicarilla Reservation, filed 3/1/68;

Regulation No. 492, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 6/6/68;

Regulation No. 495, Establishing A Season On Bighorn Sheep, filed 10/2/68;

Regulation No. 496, Establishing An Elk Season In The Tres Piedras Area, Elk Area P-6, filed 12/11/68;

Regulation No. 502, Establishing Turkey Seasons For The Spring Of 1969, filed 3/5/69;  
 Regulation No. 503, Establishing 1969 Deer Seasons For Bowhunting Only And Big Game Seasons For The Jicarilla Indian Reservation, filed 3/5/69;  
 Regulation 504, Establishing Seasons on Deer, Bear, Turkey, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, And Barbary Sheep, filed 6/4/69;  
 Regulation No. 507, Establishing A Season On Bighorn Sheep, filed 8/26/69;  
 Regulation No. 512, Establishing Turkey Season For The Spring Of 1970, filed 2/20/70;  
 Regulation No. 513, Establishing Deer Season For Bowhunting Only In Sandia State Game Refuge, filed 2/20/70;  
 Regulation No. 514, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Barbary Sheep And Bighorn Sheep, filed 6/9/70;  
 Regulation No 520, Establishing Turkey Seasons For The Spring Of 1971, filed 3/9/71;  
 Regulation No. 522, Establishing 1971 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/9/71;  
 Regulation No. 523, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/9/71;  
 Regulation No. 531, Establishing A Season On Javelina, filed 12/17/71;  
 Regulation No. 532, Establishing Turkey Seasons For The Spring Of 1972, filed 3/20/72;  
 Regulation No. 534, Establishing 1972 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/20/72;  
 Regulation No. 536, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/26/72;  
 Regulation No. 542, Establishing A Season On Javelina, filed 12/1/72;

Regulation No. 545, Establishing Turkey Seasons For The Spring Of 1973, filed 2/26/73;  
 Regulation No. 546, Establishing 1973 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 2/26/73;  
 Regulation No. 547, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, And Javelina, filed 5/31/73;  
 Regulation No. 554, Establishing Special Turkey Seasons For The Spring of 1974, filed 3/4/74;  
 Regulation No. 556, Establishing 1974 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/14/74;  
 Regulation No. 558, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex, filed 5/29/74;  
 Regulation No. 565, Establishing Special Turkey Seasons For The Spring Of 1975, filed 3/24/75;  
 Regulation No. 567, Establishing 1975 Seasons On Deer, Bear, And Turkey On The Jicarilla Apache And Navajo Indian Reservations And On Elk On The Jicarilla Apache Indian Reservation, filed 3/24/75;  
 Regulation No. 568, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 6/25/75;  
 Regulation No. 573, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/76;  
 Regulation No. 583, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/11/77;  
 Regulation No. 590, Establishing Seasons On Deer, Turkey, Bear,

Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/15/78;  
 Regulation No. 596, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/79;  
 Regulation No. 603, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1980 through March 31, 1981, filed 2/22/80;  
 Regulation No. 609, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1981 through March 31, 1982, filed 3/17/81;  
 Regulation No. 614, Establishing Open Seasons On Deer, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1982 through March 31, 1983, filed 3/10/82;  
 Regulation No. 622, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1983 through March 31, 1984, filed 3/9/83;  
 Regulation No. 628, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1984 through March 31, 1985, filed 4/2/84;  
 Regulation No. 634, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1985 Through March 31, 1986, filed 4/18/85;  
 Regulation No. 640, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1986 through March 31, 1987, filed 3/25/86;  
 Regulation No. 645, Establishing



Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1987 through March 31, 1988, filed 2/12/87;  
Regulation No. 653, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1988 through March 31, 1989, filed 12/18/87;  
Regulation No. 663, Establishing Opening Spring Turkey For The Period April 1, 1989 through March 31, 1990, filed 3/28/89;  
Regulation No. 664, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1989 through March 31, 1990, filed 3/20/89;  
Regulation No. 674, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1990 through March 31, 1991, filed 11/21/89;  
Regulation No. 683, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1991 through March 31, 1992, filed 2/8/91;  
Regulation No. 689, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1992 through March 31, 1993, filed 3/4/92;  
Regulation No. 700, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1993 through March 31, 1995, filed 3/11/93.

**History of Repealed Material:**

19.31.8 NMAC, Big Game, filed 3-1-2001 - duration expired 3-31-2003.  
19.31.8 NMAC, Big Game and Turkey, filed 3-3-2003 - duration

expired 3-31-2005.  
19.31.8 NMAC, Big Game and Turkey, filed 12-15-2004 - duration expired 3-31-2007.

19.31.12 NMAC, Barbary Sheep, Oryx and Persian Ibex, filed 12-1-2006 - duration expired 3-31-2009.

19.31.12 NMAC, Barbary Sheep, Oryx and Persian Ibex, filed 3-13-2009 - duration expired 3-31-2011.

19.31.12 NMAC, Barbary Sheep, Oryx and Persian Ibex, filed 12-16-2013 - duration expired 3-31-2015.

19.31.12 NMAC, Barbary Sheep, Oryx and Persian Ibex, filed 3-17-2015, repealed 3-31-2016.

19.31.12 NMAC, Barbary Sheep, Oryx and Persian Ibex, filed 2-29-2016, duration expired 3-31-2019.

### HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

**This is an amendment to 8.200.510 NMAC, Sections 11 through 15, effective 8/30/2018.**

#### **8.200.510.11 COMMUNITY SPOUSE RESOURCE**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**S.** On or after January 1, 2007, the state minimum is \$31,290

and the federal maximum CSRA is \$101,640.

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

**U.** On or after January 1, 2009, the state minimum is \$31,290 and the federal maximum CSRA is \$109,560.

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

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

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

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

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

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

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

**CC.** On or after January 1, 2017, the state minimum is \$31,290 and the federal maximum CSRA is [~~\$119,220~~] \$120,900.

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

[8.200.510.11 NMAC - Rp, 8.200.510.11 NMAC, 7/1/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 8/30/2018]

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

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

#### **DEDUCTION AMOUNT**

**A.** Personal needs allowance for institutionalized spouse[~~\$69~~]

<b>(1)</b>	July 1,
<u>2018</u>	<u>\$72</u>

<b>(2)</b>	July 1,
<u>2017</u>	<u>\$70</u>

**B.** Minimum monthly maintenance needs allowance (MMMNA) [~~\$2,002~~]

<b>(1)</b>	July 1,
<u>2018</u>	<u>\$2,058</u>

<b>(2)</b>	July 1,
<u>2017</u>	<u>\$2,030</u>

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

**(1)** If allowable shelter expenses of the community spouse [~~exceed \$600~~] exceeds the minimum allowance then deduct an excess shelter allowance from community spouse's income that includes: expenses for rent; mortgage (including interest and principal); taxes and insurance; any maintenance charge for a condominium or cooperative; and an amount for utilities (if not part of maintenance charge above); use the standard utility allowance (SUA) deduction used in the food stamp program for the utility allowance.

<b>(a)</b>	
<u>July 1, 2018</u>	<u>\$617</u>

<b>(b)</b>	
<u>July 1, 2017</u>	<u>\$609</u>

**(2)** Excess shelter allowance may not exceed [a] the maximum [of \$1,021]

<b>(a)</b>	
<u>July 1, 2018</u>	<u>\$1,032</u>

<b>(b)</b>	
<u>Jan. 1, 2018</u>	<u>\$1,060</u>

<b>(c)</b>	
<u>July 1, 2017</u>	<u>\$993</u>

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

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

**F.** Non-covered medical expenses.

**G.** The maximum total of the community spouse monthly income allowance and excess shelter deduction may not exceed [~~\$3,023~~] \$3,090.

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

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

<b>DATE</b>	<b>AVERAGE COST PER MONTH</b>
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<b>A.</b>	July 1, 1988 - Dec. 31, 1989	\$1,726 per month
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<b>B.</b>	Jan. 1, 1990 - Dec. 31, 1991	\$2,004 per month
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<b>C.</b>	Jan. 1, 1992 - Dec. 31, 1992	\$2,217 per month
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<b>D.</b>	Effective July 1, 1993, for application month register on or after Jan. 1, 1993	\$2,377 per month
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<b>E.</b>	Jan. 1, 1994 - Dec. 31, 1994	\$2,513 per month
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<b>F.</b>	Jan. 1, 1995 - Dec. 31, 1995	\$2,592 per month
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<b>G.</b>	Jan. 1, 1996 - Dec. 31, 1996	\$2,738 per month
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<b>H.</b>	Jan. 1, 1997 - Dec. 31, 1997	\$2,889 per month
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<b>I.</b>	Jan. 1, 1998 - Dec. 31, 1998	\$3,119 per month
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<b>J.</b>	Jan. 1, 1999 - Dec. 31, 1999	\$3,429 per month
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<b>K.</b>	Jan. 1, 2000 - Dec. 31, 2000	\$3,494 per month
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<b>L.</b>	Jan. 1, 2001 - Dec. 31, 2001	\$3,550 per month
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<b>M.</b>	Jan. 1, 2002 - Dec. 31, 2002	\$3,643 per month
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<b>N.</b>	Jan. 1, 2003 - Dec. 31, 2003	\$4,188 per month
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<b>O.</b>	Jan. 1, 2004 - Dec. 31, 2004	\$3,899 per month
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<b>P.</b>	Jan. 1, 2005 - Dec. 31, 2005	\$4,277 per month
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<b>Q.</b>	Jan. 1, 2006 - Dec. 31, 2006	\$4,541 per month
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<b>R.</b>	Jan. 1, 2007 - Dec. 31, 2007	\$4,551 per month
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<b>S.</b>	Jan. 1, 2008 - Dec.	
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31, 2008	\$4,821 per month
<b>T.</b>	Jan. 1, 2009 - Dec.
31, 2009	\$5,037 per month
<b>U.</b>	Jan. 1, 2010 - Dec.
31, 2010	\$5,269 per month
<b>V.</b>	Jan. 1, 2011 - Dec.
31, 2011	\$5,774 per month
<b>W.</b>	Jan. 1, 2012 - Dec.
31, 2012	\$6,015 per month
<b>X.</b>	Jan. 1, 2013 - Dec.
31, 2013	\$6,291 per month
<b>Y.</b>	Jan. 1, 2014 - Dec.
31, 2014	\$6,229 per month
<b>Z.</b>	Jan. 1, 2015 - Dec.
31, 2015	\$6,659 per month
<b>AA.</b>	Jan. 1, 2016 - Dec.
31, 2016	\$7,786 per month
<b>BB.</b>	Jan. 1, 2017 - Dec.
31, 2017	\$7,485 per month
<b>CC.</b>	Jan. 1, 2018

\$7,025 per month

[8.200.510.13 NMAC - Rp,  
8.200.510.13 NMAC, 7/1/2015;  
A/E, 1/1/2016; A/E, 3/1/2017; A/E,  
8/30/2018]

**8.200.510.14 RESOURCE AMOUNTS FOR SUPPLEMENTAL SECURITY INCOME (SSI) RELATED MEDICARE SAVINGS PROGRAMS (QMB, SLIMB/QI1 AND QD):** The following resource standards are inclusive of the \$1,500 per person burial exclusion.

<b>A.</b>	Individual	[ <del>\$8,780</del> ]
	<b>(1)</b>	Jan. 1,
2018		\$9,060
	<b>(2)</b>	Jan. 1,
2017		\$8,890
<b>B.</b>	Couple	[ <del>\$13,930</del> ]
	<b>(1)</b>	Jan. 1,
2018		\$14,340
	<b>(2)</b>	Jan. 1,
2017		\$14,090

[8.200.510.14 NMAC - Rp,  
8.200.510.14 NMAC, 7/1/2015; A/E,  
8/30/2018]

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

<b>A.</b>	Jan. 2018	\$572,000
<b>[A-] B.</b>	Oct. 2017	\$560,000
<b>[B-] C.</b>	Jan. 2017	\$840,000
<b>[C-] D.</b>	Jan. 2016	\$828,000
<b>[D-] E.</b>	Jan. 2015	\$828,000
<b>[E-] F.</b>	Jan. 2014	\$814,000

<b>[F-] G.</b>	Jan. 2013	\$802,000
<b>[G-] H.</b>	Jan. 2012	\$786,000
<b>[H-] I.</b>	Jan. 2011	\$758,000
<b>[I-] J.</b>	Jan. 2010	\$750,000

[8.200.510.15 NMAC - Rp,  
8.200.510.15 NMAC, 7/1/2015; A/E,  
1/1/2016; A/E, 3/1/2017; A, 3/1/18;  
A/E, 8/30/2018]

### HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

**This is an amendment to 8.200.520 NMAC, Section 11-13, 15-16, and 20, effective 9/11/2018.**

#### 8.200.520.11 FEDERAL POVERTY INCOME GUIDELINES:

**A.** One hundred percent federal poverty limits (FPL):  
Size of budget group FPL per month

1	[ <del>\$1,005</del> ]	<u>\$1,012</u>
2	[ <del>\$1,354</del> ]	<u>\$1,372</u>
3	[ <del>\$1,702</del> ]	<u>\$1,732</u>
4	[ <del>\$2,050</del> ]	<u>\$2,092</u>
5	[ <del>\$2,399</del> ]	<u>\$2,452</u>
6	[ <del>\$2,747</del> ]	<u>\$2,812</u>
7	[ <del>\$3,095</del> ]	<u>\$3,172</u>
8	[ <del>\$3,444</del> ]	<u>\$3,532</u>

Add [~~\$349~~] \$360 for each additional person in the budget group.

\*Use only these two standards for the qualified medicare beneficiary (QMB) program.

**B.** One hundred twenty percent FPL: This income level is used only in the determination of the maximum income limit for specified low income medicare beneficiaries (SLIMB) applicants or eligible recipients.

Applicant or eligible recipient

	Amount
1 Individual	At least [ <del>\$1,005</del> ] <u>\$1,012</u> per month but no more than [ <del>\$1,206</del> ] <u>\$1,214</u> per month.
2 Couple	At least [ <del>\$1,354</del> ] <u>\$1,372</u> per month but no more than [ <del>\$1,624</del> ] <u>\$1,646</u> per month.

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

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

Size of budget group FPL per month

1	[ <del>\$1,337</del> ]	<u>\$1,346</u>
2	[ <del>\$1,800</del> ]	<u>\$1,825</u>
3	[ <del>\$2,264</del> ]	<u>\$2,304</u>
4	[ <del>\$2,727</del> ]	<u>\$2,782</u>
5	[ <del>\$3,190</del> ]	<u>\$3,261</u>
6	[ <del>\$3,654</del> ]	<u>\$3,740</u>
7	[ <del>\$4,117</del> ]	<u>\$4,219</u>
8	[ <del>\$4,580</del> ]	<u>\$4,698</u>

Add [~~\$463~~] \$479 for each additional person in the budget group.

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

1. Individual	
At least [ <del>\$1,206</del> ] <u>\$1,214</u> per month but no more than [ <del>\$1,357</del> ] <u>\$1,366</u> per month.	
2. Couple	
At least [ <del>\$1,624</del> ] <u>\$1,646</u> per month but no more than [ <del>\$1,827</del> ] <u>\$1,852</u> per month.	

**E.** One hundred eighty-five percent FPL:

Size of budget group FPL per month

1	[ <del>\$1,860</del> ]	<u>\$1,872</u>
2	[ <del>\$2,504</del> ]	<u>\$2,538</u>
3	[ <del>\$3,149</del> ]	<u>\$3,204</u>
4	[ <del>\$3,793</del> ]	<u>\$3,870</u>
5	[ <del>\$4,437</del> ]	<u>\$4,536</u>
6	[ <del>\$5,082</del> ]	<u>\$5,202</u>
7	[ <del>\$5,726</del> ]	<u>\$5,868</u>
8	[ <del>\$6,371</del> ]	<u>\$6,534</u>

Add [~~\$645~~] \$666 for each additional person in the budget group.

**F.** Two hundred percent FPL:

Size of budget group FPL per month

1	[ <del>\$2,010</del> ]	<u>\$2,024</u>
2	[ <del>\$2,707</del> ]	<u>\$2,744</u>
3	[ <del>\$3,404</del> ]	<u>\$3,464</u>
4	[ <del>\$4,100</del> ]	<u>\$4,184</u>
5	[ <del>\$4,797</del> ]	<u>\$4,904</u>
6	[ <del>\$5,494</del> ]	<u>\$5,624</u>
7	[ <del>\$6,190</del> ]	<u>\$6,344</u>
8	[ <del>\$6,887</del> ]	<u>\$7,064</u>

Add [~~\$697~~] \$720 for each additional person in the budget group.

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

Size of budget group    FPL per month

1	[ <del>\$2,362</del> ] <u>\$2,378</u>
2	[ <del>\$3,181</del> ] <u>\$3,224</u>
3	[ <del>\$3,999</del> ] <u>\$4,070</u>
4	[ <del>\$4,818</del> ] <u>\$4,916</u>
5	[ <del>\$5,637</del> ] <u>\$5,762</u>
6	[ <del>\$6,455</del> ] <u>\$6,608</u>
7	[ <del>\$7,274</del> ] <u>\$7,454</u>
8	[ <del>\$8,092</del> ] <u>\$8,300</u>

Add [~~\$818~~] \$846 for each additional person in the budget group.

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

Size of budget group    FPL per month

1	[ <del>\$2,513</del> ] <u>\$2,530</u>
2	[ <del>\$3,384</del> ] <u>\$3,430</u>
3	[ <del>\$4,255</del> ] <u>\$4,330</u>
4	[ <del>\$5,125</del> ] <u>\$5,230</u>
5	[ <del>\$5,996</del> ] <u>\$6,130</u>
6	[ <del>\$6,867</del> ] <u>\$7,030</u>
7	[ <del>\$7,738</del> ] <u>\$7,930</u>
8	[ <del>\$8,609</del> ] <u>\$8,830</u>

Add [~~\$871~~] \$900 for each additional person in the budget group.

[8.200.520.11 NMAC - Rp,  
8.200.520.11 NMAC, 8/28/2015;  
A/E, 4/1/2016; A/E, 9/14/2017;  
A, 2/1/2018; A/E, 5/17/2018; A,  
9/11/2018]

**8.200.520.12      COST OF  
LIVING ADJUSTMENT (COLA)  
DISREGARD COMPUTATION:**

The countable social security benefit without the COLA is calculated using the COLA increase table as follows:

**A.** divide the current gross social security benefit by the COLA increase in the most current year; the result is the social security benefit before the COLA increase;

**B.** divide the result from Subsection A above by the COLA increase from the previous period or year; the result is the social security benefit before the increase for that period or year; and

**C.** repeat Subsection B above for each year, through the year that the applicant or eligible recipient received both social security benefits and supplemental security income (SSI); the final result is the countable social security benefit.

**Continued on the  
following page**

COLA Increase and disregard table			
	Period and year	COLA increase	= benefit before
<u>1</u>	2018 Jan - Dec	<u>2.0</u>	<u>Jan 18</u>
<del>[1]</del> <u>2</u>	2017 Jan - Dec	0.3	Jan 17
<del>[2]</del> <u>3</u>	2016 Jan - Dec	0	Jan 16
<del>[3]</del> <u>4</u>	2015 Jan - Dec	1.017	Jan 15
<del>[4]</del> <u>5</u>	2014 Jan - Dec	1.015	Jan 14
<del>[5]</del> <u>6</u>	2013 Jan - Dec	1.017	Jan 13
<del>[6]</del> <u>7</u>	2012 Jan - Dec	1.037	Jan 12
<del>[7]</del> <u>8</u>	2011 Jan - Dec	0	Jan 11
<del>[8]</del> <u>9</u>	2010 Jan - Dec	1	Jan 10
<del>[9]</del> <u>10</u>	2009 Jan - Dec	1	Jan 09
<del>[10]</del> <u>11</u>	2008 Jan - Dec	1.058	Jan 08
<del>[11]</del> <u>12</u>	2007 Jan - Dec	1.023	Jan 07
<del>[12]</del> <u>13</u>	2006 Jan - Dec	1.033	Jan 06
<del>[13]</del> <u>14</u>	2005 Jan - Dec	1.041	Jan 05
<del>[14]</del> <u>15</u>	2004 Jan - Dec	1.027	Jan 04
<del>[15]</del> <u>16</u>	2003 Jan - Dec	1.021	Jan 03
<del>[16]</del> <u>17</u>	2002 Jan - Dec	1.014	Jan 02
<del>[17]</del> <u>18</u>	2001 Jan - Dec	1.026	Jan 01
<del>[18]</del> <u>19</u>	2000 Jan - Dec	1.035	Jan 00
<del>[19]</del> <u>20</u>	1999 Jan - Dec	1.025	Jan 99
<del>[20]</del> <u>21</u>	1998 Jan - Dec	1.013	Jan 98
<del>[21]</del> <u>22</u>	1997 Jan - Dec	1.021	Jan 97
<del>[22]</del> <u>23</u>	1996 Jan - Dec	1.029	Jan 96
<del>[23]</del> <u>24</u>	1995 Jan - Dec	1.026	Jan 95
<del>[24]</del> <u>25</u>	1994 Jan - Dec	1.028	Jan 94
<del>[25]</del> <u>26</u>	1993 Jan - Dec	1.026	Jan 93
<del>[26]</del> <u>27</u>	1992 Jan - Dec	1.03	Jan 92
<del>[27]</del> <u>28</u>	1991 Jan - Dec	1.037	Jan 91
<del>[28]</del> <u>29</u>	1990 Jan - Dec	1.054	Jan 90
<del>[29]</del> <u>30</u>	1989 Jan - Dec	1.047	Jan 89
<del>[30]</del> <u>31</u>	1988 Jan - Dec	1.04	Jan 88
<del>[31]</del> <u>32</u>	1987 Jan - Dec	1.042	Jan 87
<del>[32]</del> <u>33</u>	1986 Jan - Dec	1.013	Jan 86
<del>[33]</del> <u>34</u>	1985 Jan - Dec	1.031	Jan 85
<del>[34]</del> <u>35</u>	1984 Jan - Dec	1.035	Jan 84
<del>[35]</del> <u>36</u>	1982 Jul - 1983 Dec	1.035	Jul 82
<del>[36]</del> <u>37</u>	1981 Jul - 1982 Jun	1.074	Jul 81
<del>[37]</del> <u>38</u>	1980 Jul - 1981 Jun	1.112	Jul 80
<del>[38]</del> <u>39</u>	1979 Jul - 1980 Jun	1.143	Jul 79
<del>[39]</del> <u>40</u>	1978 Jul - 1979 Jun	1.099	Jul 78
<del>[40]</del> <u>41</u>	1977 Jul - 1978 Jun	1.065	Jul 77

[44] 42	1977 Apr - 1977 Jun	1.059	Apr 77
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[8.200.520.12 NMAC - Rp, 8.200.520.12 NMAC, 8/28/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018]

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

Year	Individual	Institution	Individual	Couple	Institution	Couple
	FBR	FBR	VTR	FBR	FBR	VTR
1/89 to 1/90	\$368	\$30	\$122.66	\$553	\$60	\$184.33
1/90 to 1/91	\$386	\$30	\$128.66	\$579	\$60	\$193.00
1/91 to 1/92	\$407	\$30	\$135.66	\$610	\$60	\$203.33
1/92 to 1/93	\$422	\$30	\$140.66	\$633	\$60	\$211.00
1/93 to 1/94	\$434	\$30	\$144.66	\$652	\$60	\$217.33
1/94 to 1/95	\$446	\$30	\$148.66	\$669	\$60	\$223.00
1/95 to 1/96	\$458	\$30	\$152.66	\$687	\$60	\$229.00
1/96 to 1/97	\$470	\$30	\$156.66	\$705	\$60	\$235.00
1/97 to 1/98	\$484	\$30	\$161.33	\$726	\$60	\$242.00
1/98 to 1/99	\$494	\$30	\$164.66	\$741	\$60	\$247.00
1/99 to 1/00	\$500	\$30	\$166.66	\$751	\$60	\$250.33
1/00 to 1/01	\$512	\$30	\$170.66	\$769	\$60	\$256.33
1/01 to 1/02	\$530	\$30	\$176.66	\$796	\$60	\$265.33
1/02 to 1/03	\$545	\$30	\$181.66	\$817	\$60	\$272.33
1/03 to 1/04	\$552	\$30	\$184.00	\$829	\$60	\$276.33
1/04 to 1/05	\$564	\$30	\$188	\$846	\$60	\$282.00
1/05 to 1/06	\$579	\$30	\$193	\$869	\$60	\$289.66
1/06 to 1/07	\$603	\$30	\$201	\$904	\$60	\$301.33
1/07 to 1/08	\$623	\$30	\$207.66	\$934	\$60	\$311.33
1/08 to 1/09	\$637	\$30	\$212.33	\$956	\$60	\$318.66
1/09 to 1/10	\$674	\$30	\$224.66	\$1,011	\$60	\$337
1/10 to 1/11	\$674	\$30	\$224.66	\$1,011	\$60	\$337
1/11 to 1/12	\$674	\$30	\$224.66	\$1,011	\$60	\$337
1/12 to 1/13	\$698	\$30	\$232.66	\$1,048	\$60	\$349.33
1/13 to 1/14	\$710	\$30	\$237	\$1,066	\$60	\$355
1/14 to 1/15	\$721	\$30	\$240	\$1082	\$60	\$361
1/15 to 12/15	\$733	\$30	\$244	\$1,100	\$60	\$367
1/16 to 12/16	\$733	\$30	\$244	\$1,100	\$60	\$367
1/17 to 12/17	\$735	\$30	\$245	\$1,103	\$60	\$368
1/18 to 12/18	<u>\$750</u>	<u>\$30</u>	<u>\$250</u>	<u>\$1,125</u>	<u>\$60</u>	<u>\$375</u>

**A.** Ineligible child deeming allocation is \$350.00.

**B.** Part B premium is \$134.00 per month.

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

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

[8.200.520.13 NMAC - Rp, 8.200.520.13 NMAC, 8/28/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018]

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

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

Payment amount:

[~~\$735~~] \$750 Individual

[~~\$1,103~~] \$1,125 Couple

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

Payment amount:

[~~\$735~~] \$750 - [~~\$245~~] \$250 = [~~\$490~~] \$500 Individual

[~~\$1,103~~] \$1,125 - [~~\$368~~] \$375 =

[~~\$735~~] \$750 Couple

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

Payment amount:

[~~\$735~~] \$750 - [~~\$245~~] \$250 = [~~\$490~~] \$500 Individual

[~~\$1,103~~] \$1,125 - [~~\$368~~] \$375 =

[~~\$735~~] \$750 Couple

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

Payment amount: [~~\$735~~] \$750

**E.** Individual in institution:

Payment amount: \$30.00

[8.200.520.15 NMAC - Rp, 8.200.520.15 NMAC, 8/28/2015; A/E, 3/1/2017; A/E, 5/17/2018; A, 9/11/2018]

**8.200.520.16 MAXIMUM COUNTABLE INCOME FOR INSTITUTIONAL CARE MEDICAID AND HOME AND COMMUNITY BASED WAIVER SERVICES (HCBS) CATEGORIES:** Effective January 1, **2017**, the maximum countable monthly income standard for institutional care medicaid and the home and community based waiver categories is [~~\$2,205~~] \$2,250. [8.200.520.16 NMAC - Rp,

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

**8.200.520.20 COVERED QUARTER INCOME STANDARD:**

Date Calendar Quarter Amount  
Jan 2018 - Dec. 2018

\$1,320 per calendar quarter

Jan 2017 - Dec. 2017

\$1,300 per calendar quarter

Jan 2016 - Dec. 2016

\$1,260 per calendar quarter

Jan 2015 - Dec. 2015

\$1,220 per calendar quarter

Jan 2014 - Dec. 2014

\$1,200 per calendar quarter

Jan 2013 - Dec. 2013

\$1,160 per calendar quarter

Jan 2012 - Dec. 2012

\$1,130 per calendar quarter

Jan. 2011 - Dec. 2011

\$1,120 per calendar quarter

Jan. 2010 - Dec. 2010

\$1,120 per calendar quarter

Jan. 2009 - Dec. 2009

\$1,090 per calendar quarter

Jan. 2008 - Dec. 2008

\$1,050 per calendar quarter

Jan. 2007 - Dec. 2007

\$1,000 per calendar quarter

Jan. 2006 - Dec. 2006

\$970 per calendar quarter

Jan. 2005 - Dec. 2005

\$920 per calendar quarter

Jan. 2004 - Dec. 2004

\$900 per calendar quarter

Jan. 2003 - Dec. 2003

\$890 per calendar quarter

Jan. 2002 - Dec. 2002

\$870 per calendar quarter

[8.200.520.20 NMAC - Rp, 8.200.520.20 NMAC, 8/28/2015; A/E, 1/1/2016; A/E, 03/01/2017; A/E, 5/17/2018; A, 9/11/2018]

**HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION**

This is an amendment to 8.291.430 NMAC, Section 10, effective 9/11/2018.

**8.291.430.10 FEDERAL POVERTY LEVEL (FPL):**

This part contains the monthly federal poverty level table for use in determining monthly income standards for MAP categories of eligibility outlined in 8.291.400.10 NMAC:

**Continued on the following page**



HOUSEHOLD SIZE	100%	133%	138%	190%	240%	250%	300%
1	[\$1,005]- \$1,012	[\$1,337]- \$1,346	[\$1,387]- \$1,397	[\$1,910]- \$1,923	[\$2,412]- \$2,428	[\$2,513]- \$2,530	[\$3,015]- \$3,035
2	[\$1,354]- \$1,372	[\$1,800]- \$1,825	[\$1,868]- \$1,893	[\$2,572]- \$2,607	[\$3,248]- \$3,292	[\$3,384]- \$3,430	[\$4,060]- \$4,115
3	[\$1,702]- \$1,732	[\$2,264]- \$2,304	[\$2,349]- \$2,390	[\$3,234]- \$3,291	[\$4,084]- \$4,156	[\$4,255]- \$4,330	[\$5,105]- \$5,195
4	[\$2,050]- \$2,092	[\$2,727]- \$2,782	[\$2,829]- \$2,887	[\$3,895]- \$3,975	[\$4,920]- \$5,020	[\$5,125]- \$5,230	[\$6,150]- \$6,275
5	[\$2,399]- \$2,452	[\$3,190]- \$3,261	[\$3,310]- \$3,384	[\$4,557]- \$4,659	[\$5,756]- \$5,884	[\$5,996]- \$6,130	[\$7,195]- \$7,355
6	[\$2,747]- \$2,812	[\$3,654]- \$3,740	[\$3,791]- \$3,881	[\$5,219]- \$5,343	[\$6,592]- \$6,748	[\$6,867]- \$7,030	[\$8,240]- \$8,435
7	[\$3,095]- \$3,172	[\$4,117]- \$4,219	[\$4,272]- \$4,377	[\$5,881]- \$6,027	[\$7,428]- \$7,612	[\$7,738]- \$7,930	[\$9,285]- \$9,515
8	[\$3,444]- \$3,532	[\$4,580]- \$4,698	[\$4,752]- \$4,874	[\$6,543]- \$6,711	[\$8,264]- \$8,476	[\$8,609]- \$8,830	[\$10,330]- \$10,595
+1	[\$349]- \$360	[\$463]- \$479	[\$480]- \$497	[\$662]- \$684	[\$836]- \$864	[\$871]- \$900	[\$1,045]- \$1,080

[8.291.430.10 NMAC - Rp, 8.291.430.10 NMAC, 11/16/2015; A/E, 4/1/2016; A/E, 9/14/2017; A, 2/1/2018; A/E, 5/17/2018; A, 9/11/2018]

## MEDICAL BOARD

The New Mexico Medical Board approved and adopted, at its 8/17/2018 Special Meeting, to repeal its rule 16.10.10 NMAC - Report of Settlements, Judgments, Adverse Actions and Credentialing Discrepancies (filed 6/8/2001) and replace it with 16.10.10 NMAC - Reporting Requirements for Licensees, Applicants and Other Persons and Entities, adopted on 8/17/2018 and effective 9/17/2018.

## MEDICAL BOARD

### TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 10 MEDICINE AND SURGERY PRACTITIONERS PART 10 REPORTING REQUIREMENTS FOR LICENSEES, APPLICANTS AND OTHER PERSONS AND ENTITIES

**16.10.10.1 ISSUING AGENCY:** New Mexico Medical Board (the “board”).

[16.10.10.1 NMAC - Rp 16.10.10.1 NMAC, 9/17/2018]

**16.10.10.2 SCOPE:** This part applies to all applicants and licensees under the jurisdiction of the Medical Practice Act, Sections 61-6-1 to -35 NMSA 1978, and entities falling within the scope of Section 61-6-16 NMSA 1978.

[16.10.10.2 NMAC - Rp 16.10.10.2 NMAC, 9/17/2018]

**16.10.10.3 STATUTORY AUTHORITY:** This part is adopted pursuant to Paragraph (21) of Subsection D of Sections 61-6-15 and 61-6-16 NMSA 1978, and in accordance with the Impaired Health Care Provider Act Sections 61-7-1 to 61-7-12 NMSA 1978.

[16.10.10.3 NMAC - Rp 16.10.10.3 NMAC, 9/17/2018]

**16.10.10.4 DURATION:** This part is permanent.

[16.10.10.4 NMAC - Rp 16.10.10.4 NMAC, 9/17/2018]

**16.10.10.5 EFFECTIVE DATE:** The effective date of this part is September 17, 2018, unless a later

date appears at the end of a section.

[16.10.10.5 NMAC - Rp 16.10.10.5 NMAC, 9/17/2018]

### **16.10.10.6 OBJECTIVE:**

This part has three objectives.

**A.** In accordance with Paragraph (21) of Subsection D of Section 61-6-15 NMSA 1978, this part defines the requirements for licensees and applicants to report to the board actions taken against them by other licensing jurisdictions, peer review bodies, health care entities, professional or medical societies and associations, governmental agencies, law enforcement agencies, and courts for acts or conduct similar to acts or conduct constituting grounds for action under the Medical Practice Act.

**B.** In accordance with Section 61-6-16 NMSA 1978, this part defines the requirements for affected entities to report to the board:

- (1) payments relating to malpractice actions or claims arising in New Mexico involving licensees and applicants;
- (2) professional review actions; and
- (3) actions taken against licensees'

and applicants' clinical privileges while the licensee or applicant is under investigation or in lieu of investigation by the affected entity.

**C.** In accordance with the board's statutory duty to protect the public health, safety and welfare, and the ethical standards adopted by the board in 16.10.8 NMAC, this part establishes mandatory reporting requirements for licensees and applicants to ensure the board is informed of impaired, incompetent, disruptive and unethical practitioners. [16.10.10.6 NMAC - Rp 16.10.10.6 NMAC, 9/17/2018]

#### 16.10.10.7 DEFINITIONS:

The following definitions apply to this section. All terms not defined have their general dictionary meaning.

**A. "Adverse action"** means any discipline, sanction or other action, whether equitable, administrative, civil or criminal, affecting a licensee, applicant or other person falling under the jurisdiction of the Medical Practice Act. The term embraces any action affecting the licensee's or applicant's practice, including, but not limited to revocations, suspensions, probation, monitoring, restrictions, and stipulations or other limitations, as well as fines, penalties and financial settlements. The term also includes any action taken to avoid disciplinary action, a sanction, or another action. An action does not need to involve clinical competence or patient care or affect clinical privileges in order to be "adverse".

**B. "Adversely affecting"** means reducing, restricting, suspending, revoking, denying, or failing to renew clinical privileges, or membership in a health care entity to include: terminating employment for cause, or without cause when based on incompetency or behavior affecting patient care and safety, or allowing the licensee or applicant to resign rather than being terminated for such reasons. These actions do not include those instances in which a peer review entity requires supervision of a licensee or applicant for purposes of evaluating that

licensee's or applicant's professional knowledge or ability.

**C. "Clinical privileges"** include privileges, membership on the medical staff, employment, and other circumstances under which a licensee or applicant is permitted by a health care entity to furnish medical care.

**D. "Termination of employment"** includes the termination of employment by a health care entity for cause, or without cause if related to clinical competence or behavior affecting patient safety/care, or allowing resignation in lieu of termination for such reason.

**E. "Health care entity"** means:

(1) a hospital, HMO, a physician group or other health care institution that is licensed to provide health care services in New Mexico;

(2) an entity that provides health care services and that follows a formal peer review process for the purpose of furthering quality health care;

(3) a professional society or a committee, or agent thereof, of licensed health care practitioners at the national, state or local level, that follows a formal peer review process for the purpose of furthering quality health care, including without limitation a health maintenance organization or other prepaid medical practice which is licensed or determined to be qualified by any state; and

(4) a health plan or network that partners payers, employers and health care providers and professionals, including preferred provider groups, specialty groups, physician-hospital organizations and workers' compensation networks.

**F. "Medical malpractice action or claim"** means a written claim or demand for compensation based on the furnishing, or failure to furnish, health care services, and includes, without limitation, the filing of a cause of action, based on the law of tort, brought in any court of any state or the United States seeking monetary

damages whether resulting in a settlement or in a judgment.

**G. "Professional review action"** means an action of a health care entity:

(1) taken in the course of professional review activity;

(2) based on the competence, conduct, or impairment of a licensed health care practitioner which affects or could affect adversely the health or welfare of a patient or patients; and,

(3) which adversely affects or may adversely affect the clinical privileges or membership in a professional society of a licensed health care professional.

**H. "Professional review activity"** means an activity of a health care entity with respect to an individual licensee or applicant:

(1) to determine whether the licensee or applicant may have clinical privileges with respect to, or membership in, the entity;

(2) to determine the scope or conditions of such privileges or membership; or

(3) to change or modify such privileges or membership.

**I. "Credentialing discrepancy"** means, for the purposes of this part, an error or omission in an application.

[16.10.10.7 NMAC - Rp 16.10.10.7 NMAC, 9/17/2018]

#### 16.10.10.8 REPORTING OF MEDICAL MALPRACTICE PAYMENTS BY ENTITIES AND PERSONS:

**A.** Each person or entity, including an insurance company, which makes a payment under a policy of insurance, self-insurance or otherwise, in settlement of, or in whole or partial satisfaction of, a judgment in a malpractice action or claim must file a report with the board within 30 days after any initial or complete payment is made.

**B.** Applicants and licensees must file a report with the board within 30 days after any initial

or complete payment is made by them, or directly or indirectly on their behalf.

**C.** Reports filed under this section shall include, at a minimum:

(1) the name, license number, and social security number of the named licensee or applicant;

(2) the name and address of the person or entity making the payment;

(3) the name, title and telephone number of the person submitting the report;

(4) the date or dates on which the act(s) or omission(s) giving rise to the claim occurred;

(5) the date of judgment or settlement;

(6) the amount paid, the date of payment and whether payment is made in satisfaction of a judgment or constitutes a settlement;

(7) a description of terms of the judgment or settlement and any conditions attached thereto, including terms of payment;

(8) a description of the alleged acts or omissions and injuries or illnesses upon which the action or claim is based; and,

(9) the official addendum to the licensee's or applicant's data bank report.

[16.10.10.8 NMAC - Rp 16.10.10.8 NMAC, 9/17/2018]

#### **16.10.10.9 REPORTING OF ACTIONS ADVERSELY AFFECTING CLINICAL PRIVILEGES:**

**A.** All health care entities, licensees and applicants shall report any action adversely affecting the clinical privileges of the licensee or applicant within thirty days after the action is taken.

**B.** Actions the health care entity must report include, but are not limited to:

(1) any professional review action adversely affecting the clinical privileges of

a licensee or applicant, except as provided in Subsection C of this section;

(2) the health care entity's acceptance of the surrender of clinical privileges or any restriction on such privileges as a result of or relating to possible incompetency or improper professional conduct while the licensee or applicant is under investigation, or in return for the health care entity's decision not to conduct an investigation or proceeding;

(3) any professional review action taken by a professional society adversely affecting the membership of a licensee or applicant in the society;

(4) the failure to complete medical records where the failure relates to the licensee's or applicant's professional competence or conduct, or the failure could or did adversely affect a patient's health or welfare; and

(5) a positive drug test for illegal substances, alcohol or prescribed or un-prescribed medications not supported by appropriate diagnosis (the board will not require name of the licensee or applicant if the licensee or applicant has voluntarily self-reported to the New Mexico health professional wellness program (HPWP), or any successor organization).

**C.** Reports of actions adversely affecting clinical privileges must include, at a minimum:

(1) the name, license number, and social security number of the licensee or applicant;

(2) a description of the act(s) or omission(s) or other reasons for the action or for the surrender of privileges;

(3) the action taken, the date the action was taken, and the effective date of the action; and,

(4) any official addendum to the licensee's or applicant's data bank report.

**D.** A health care entity is not required to report to the board:

(1) actions based on the licensee's or applicant's association, or lack of association, with a professional society or association;

(2) actions based on fees, advertising, or other competitive acts intended to solicit or retain business;

(3) actions based on the licensee's or applicant's participation in prepaid group health plans;

(4) actions based on the licensee's or applicant's association with, supervision of, delegation of authority to, support for, training of, or participation in a private group practice; or

(5) any other matter that does not relate to the competence or professional conduct of a licensee or applicant; and

(6) suspensions of clinical privileges resulting from a failure to complete medical records, except to the extent such failures are reportable under Paragraph (4) of Subsection A of this section, maintain insurance or perform other administrative obligations.

**E.** Subsequent disposition of an action adversely affecting the licensee or applicant, even if favorable, does not alter a health care entity's duty to report the action.

[16.10.10.9 NMAC - Rp 16.10.10.9 NMAC, 9/17/2018]

#### **16.10.10.10 REPORTING OF CREDENTIALING**

**DISCREPANCIES:** Any health care entity having information about a licensee or applicant that conflicts with information the licensee or applicant included on an application or re-application submitted with a signed attestation of accuracy, shall report the discrepancy to the board within 90 days.

[16.10.10.10 NMAC - Rp 16.10.10.10 NMAC, 9/17/2018]

#### **16.10.10.11 SANCTIONS FOR FAILURE TO REPORT:**

**A.** Medical malpractice

payments. Any health care entity or person failing to report malpractice payments required by this part shall be subject to a civil penalty not to exceed ten thousand dollars (\$10,000).

**B.** Actions adversely affecting clinical privileges. Any health care entity or professional review body failing to comply with the reporting requirements set forth in this part shall be subject to a civil penalty not to exceed ten thousand dollars (\$10,000). The board will report the failure to comply to the data bank as required by 42 U.S.C. Section 11133.

[16.10.10.11 NMAC - Rp 16.10.10.11 NMAC, 9/17/2018]

**16.10.10.12 CONFIDENTIAL COMMUNICATIONS:** Any information or report submitted to the board under this part, or pursuant to 42 U.S.C. 11131-11152, as amended, shall be confidential and shall be disclosed only to the licensee or applicant, unless otherwise authorized or required by law.

[16.10.10.12 NMAC - Rp 16.10.10.12 NMAC, 9/17/2018]

**16.10.10.13 REPORTING OF ADVERSE ACTIONS BY LICENSEES AND APPLICANTS:**

**A.** In addition to the reporting requirements contained in Section 16.10.10.8 and 16.10.10.9 NMAC, a licensee or applicant shall report to the board any adverse action affecting the licensee or applicant taken by another licensing jurisdiction; a peer review body; a health care entity; a professional or medical society or association; a governmental agency; a law enforcement agency, including arrests; and any court for acts or conduct similar to acts or conduct that would constitute grounds for action under the Medical Practice Act.

**B.** Licensees and applicants must report to the board any adverse action taken against them or their license within 30 days after the date the action occurs or is taken. For the purpose of this section, an "action occurs or is taken" on the

date an entity described in this section takes action, regardless of whether the action is subject to appeal or an appeal is taken. Any subsequent disposition of the adverse action, regardless of whether such disposition negates or affects the adverse action, does not alter this reporting requirement. In the case of an arrest, the licensee or applicant shall report the arrest within 30 days.

**C.** The failure to report any adverse action shall constitute unprofessional or dishonorable conduct under Subsection D of Section 61-6-15 NMSA 1978 of the Medical Practice Act.

[16.10.10.13 NMAC - Rp 16.10.10.13 NMAC, 9/17/2018]

**16.10.10.14 REPORTING IMPAIRED, INCOMPETENT, DISRUPTIVE OR UNETHICAL COLLEAGUES:**

**A.** Consistent with 16.10.8.9 NMAC (adopting the ethical standards of the American medical association), licensees and applicants having a good faith basis for believing that the public health and safety may be at risk must report impaired, incompetent, disruptive and unethical colleagues, including specifically other licensees and applicants. "Impaired" means any condition affecting the ability to engage safely and effectively in professional activities. "Incompetent" includes practices or conduct creating the potential for harm, whether or not harm has resulted. "Unethical" includes, but is not limited to corrupt, dishonest or illegal actions.

**B.** The duty to report imposed by this section does not limit or replace the duty to report to other organizations or entities, including law enforcement.

**C.** Reports under this section may be made anonymously, but must include sufficient information to allow investigation by the board.

**D.** Reports made under this section will be held in confidence in the same manner as all investigations by the board.

**E.** Specifically exempt

from the reporting requirements contained in this section are "peer review" communications protected by law.

**F.** The submission of a false or malicious report under this section constitutes unethical conduct subject to disciplinary action. [16.10.10.14 NMAC - Rp 16.10.10.14 NMAC, 9/17/2018]

**16.10.10.15 SELF-REPORTING:**

**A.** All applicants and licensees have a duty to self-report to the board any mental illness, physical illness (including but not limited to deterioration through the aging process or loss of motor skill), or habitual use or abuse of drugs, as defined in the Controlled Substances Act, Section 31-31-1 to 31-31-41 NMSA 1978, or alcohol that affects their ability to practice with reasonable skill or safety to patients.

**B.** Reports made under this section may subject the licensee or applicant to action by the board where necessary to ensure public health, safety and welfare.

**HISTORY OF 16.10.10 NMAC:**

**Pre-NMAC History:** Material in this part was derived from that previously filed with the Commission of Public Records - State Records Center and Archives:

Rule 16, Report of Settlements and Judgments and Adverse Action, 7/10/1990.

Rule 15, Report of Settlements and Judgments and Adverse Action, 6/21/1993.

**NMAC History:**

16 NMAC 10.15, Report of Settlements and Judgments and Adverse Action, 3/18/1996.

16 NMAC 10.10, Report of Settlements and Judgments and Adverse Action, 3/5/1997.

**History of Repealed Material:**

16 NMAC 10.10, Report of Settlements and Judgments and Adverse Action - Repealed 7/15/2001.

16.10.10 NMAC, Report of Settlements, Judgments, Adverse



Actions and Credentialing  
Discrepancies filed 6/8/2001 –  
Repealed effective 9/17/2018.

16.10.10 NMAC, Report of  
Settlements, Judgments, Adverse  
Actions and Credentialing  
Discrepancies filed 6/8/2001 was  
replaced by 16.10.10 NMAC,  
Reporting Requirements for  
Licensees, Applicants and Other  
Persons and Entities, effective  
9/17/2018.

## PUBLIC EDUCATION DEPARTMENT

**Explanatory paragraph: This is a short-form amendment to Subsection H of 6.31.2.13 NMAC, effective 9/11/2018. Subsections A - G were not published as there were no changes. Subsection H, Paragraphs 2 - 8 and Subsections I - M were not published as there were no changes.**

\*\*\*

**H.** State complaint  
procedures.  
**(1)** Scope and  
dissemination.

**(a)**  
This Subsection H of 6.31.2.13  
NMAC prescribes procedures to  
be used in filing and processing  
complaints alleging the failure of  
the department or a public agency  
to comply with state or federal laws  
or regulations governing programs  
for children with disabilities under  
the IDEA or with state statutes or  
regulations governing educational  
services for gifted children.

**(b)**  
The SEB shall disseminate  
information regarding state  
complaint procedures to parents  
and other interested individuals  
and organizations, as identified by  
the SEB, including parent centers,  
information centers, advocacy  
agencies [~~and attorneys, private  
advocates~~], independent living  
centers, and other appropriate entities  
throughout the state.

**(i)**  
The SEB shall place documents  
regarding state complaint procedures  
in English and Spanish, including  
state complaint forms, in an easily  
accessible location on the SEB  
website.

**(ii)**  
The SEB shall, on a yearly basis,  
send an email to [~~all parent centers,  
information centers, advocacy  
agencies and attorneys, private  
advocates, independent living  
centers, and other appropriate entities  
throughout the state as identified  
by the SEB;~~] the organizations and  
individuals identified in Subparagraph  
(b) of Paragraph (1) of Subsection  
H of 6.31.2.13 NMAC [~~to provide~~]  
providing information regarding  
state complaint procedures and  
[~~to encourage~~] encouraging these  
organizations and individuals to post  
a link to the SEB website on their  
website.

**(iii)**  
Upon request by any individual or  
organization, the SEB shall provide  
the information regarding state  
complaint procedures, as posted  
on the SEB's website, in print or  
electronic form.

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## PUBLIC RECORDS, COMMISSION OF

**This is an amendment to 1.13.10  
NMAC, Section 7, effective  
9/11/2018.**

### 1.13.10.7 DEFINITIONS:

**A. "Chief records  
officer"** means a person designated  
by an agency's records custodian to  
administrate the agency's records  
management program, refer to  
1.13.12.9 NMAC.

**B. "Custodial  
agency"** means the agency  
responsible for the creation,  
maintenance, safekeeping and  
preservation of public records,  
regardless of physical location.

**C. "Custody"** means  
the guardianship of records, archives

and manuscripts, which may include  
both physical possession (protective  
responsibility) and legal title (legal  
responsibility).

**D. "Destruction"**  
means the disposal of records of no  
further operational, legal, fiscal, or  
historical value by shredding, burial,  
puling, electronic overwrite or  
some other process, resulting in the  
obliteration of information contained  
on the record.

**E. "Disposition"**  
means final action that puts into effect  
the results of an appraisal decision  
for a series of records (i.e., transfer to  
archives or destruction).

**F. "Functional  
records retention and disposition  
schedule"** means a rule adopted by  
the commission pursuant to Section  
14-3-6 NMSA 1978 describing the  
function of records, establishing  
a timetable for their life cycle and  
providing authorization for their  
disposition.

**G. "Inactive record"**  
means a record no longer needed to  
conduct current business but required  
to be maintained for operational,  
legal, fiscal or historical purposes  
until it meets its retention.

**H. "Master  
microfilm"** means the original  
microform produced from which  
duplicates or intermediates can be  
obtained.

**I. "Microphotography"** means  
the transfer of images onto film  
and electronic imaging or other  
information storage techniques that  
meet the performance guidelines for  
legal acceptance of public records  
provided by information system  
technology pursuant to rules adopted  
by the commission.

**J. "Non-record"**  
means extra copies of documents kept  
solely for convenience of reference,  
stocks of publications, records not  
usually included within the scope  
of the official records of an agency  
or government entity and library  
material intended only for reference  
or exhibition. The following specific  
types of materials are non-records:  
materials neither made nor received in



pursuance of statutory requirements nor in connection with the functional responsibility of the officer or agency, extra copies of correspondence, preliminary drafts, blank forms, transmittal letters or forms that do not add information, sample letters and informational files.

**K. "Pending litigation"** means threatened, pending or active proceedings in a court of law whose activity is in progress but not yet completed.

**L. "Pick-up only personnel"** means personnel authorized by a records custodian, chief records officer or record liaison officer to only pick-up records from the records center.

**M. "Records liaison officer"** means a person designated by the records custodian to interact with the state commission of public records, refer to 1.13.12.10 NMAC.

**N. "Retention"** means the period of time during which records shall be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.

**O. "Trigger event"** means the [closing] event [of a record] which begins the retention period.  
[1.13.10.7 NMAC - Rp, 1.13.10.7 NMAC, 11/30/2015; A, 7/11/2017; A, 9/11/2018]

## PUBLIC RECORDS, COMMISSION OF

**This is an amendment to 1.13.30 NMAC, Section 7 effective 9/11/2018.**

### 1.13.30.7 DEFINITIONS:

**A. "Chief records officer"** means a person designated by an agency's records custodian to administrate the agency's records management program, refer to 1.13.12.10 NMAC.

**B. "Confidential"** means information provided to, created by or maintained by a government agency and that is exempt from release under state or federal

laws.

**C. "Custodial agency"** means the agency responsible for the creation, maintenance, safekeeping and preservation of public records, regardless of physical location.

**D. "Degaussing"** means the process of removing magnetism from magnetically recorded tape thereby rendering the information unreadable.

**E. "Destruction"** means the disposal of records of no further operational, legal, fiscal or historical value by shredding, burial, pulping, electronic overwrite or some other process, resulting in the obliteration of information contained on the record.

**F. "Disposition"** means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).

**G. "Functional records retention and disposition schedule"** means a rule adopted by the commission pursuant to Section 14-3-6 NMSA 1978 describing the function of records, establishing a timetable for their life cycle and providing authorization for their disposition.

**H. "Inactive record"** means a record no longer needed to conduct current business but required to be maintained for operational, legal, fiscal or historical purposes until it meets its retention.

**I. "Non-record"** means extra copies of documents kept solely for convenience of reference, stocks of publications, transitory records, records not usually included within the scope of the official records of an agency or government entity and library material intended only for reference or exhibition. The following specific types of materials are non-records: materials neither made nor received in pursuance of statutory requirements nor in connection with the functional responsibility of the officer or agency, extra copies of correspondence, preliminary drafts, blank forms, transmittal letters or forms that do not

add information, sample letters and informational files.

**J. "On-site destruction"** means destruction of records approved by the state records administrator to be destroyed at a location other than the records center.

**K. "Permanent records"** means records considered unique or so valuable in documenting the history or business of an organization that they are preserved in an archives.

**L. "Records"** means information preserved by any technique in any medium now known or later developed, that can be recognized by ordinary human sensory capabilities either directly or with the aid of technology.

**M. "Records liaison officer"** means a person designated by the records custodian to interact with the state commission of public records, refer to 1.13.12.11 NMAC.

**N. "Records management"** means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.

**O. "Recycling"** means the process that recovers the raw materials of a medium allowing for the reuse of various media. Overwriting on magnetic media is a means of recycling.

**P. "Retention"** means the period of time during which records shall be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.

**Q. "State archives"** means the principle location within the state records center and archives that maintains, preserves and makes available to the public the permanent and historical records of the state of New Mexico.

**R. "Transitory"** means messages which serve to convey information of temporary importance in lieu of oral communication. Transitory messages are only required for a limited time to ensure the completion of a routine action or the preparation

of a subsequent record. Transitory messages are not required to control, support or to document the operations of government.

**S. “Trigger event”**  
means the [closing] event [of a record] which begins the retention period.

[1.13.30.7 NMAC - Rp, 1.13.30.7 NMAC, 11/28/2017; A, 3/13/2018; A, 9/11/2018]

## PUBLIC RECORDS, COMMISSION OF

**This is an amendment to 1.21.2 NMAC, amending Sections 7, 9 and 428 and adding section 620 effective 9/11/2018.**

### 1.21.2.7 DEFINITIONS:

The following terms shall have the respective meanings provided in this rule. Terms not defined in this rule which are defined in the Public Records Act, Section 14-3-1 et seq. NMSA 1978 shall have the respective meanings accorded such terms in the act.

**A. “Archives”** means the permanent records of the state of New Mexico, which may include government and private collections of the Spanish, Mexican, territorial and statehood periods, assessed to have significant historical value to warrant their preservation by the state of New Mexico.

**B. “Disposition”**  
means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).

**C. “Executive level”** means elected and appointed officials, statutory agency heads and management personnel with decision making authority granted by the agency head.

**D. [“File closed”]**  
means the date the trigger event occurred, or, for electronic records, equivalent to the date last modified unless otherwise stated in retention.

**E. [“Historical”]**  
means records deemed to have archival value by the commission.

**[F:] E. “Non-record”**  
means extra copies of documents kept solely for convenience of reference, stocks of publications, transitory records, records not usually included within the scope of the official records of an agency or government entity and library material intended only for reference or exhibition. The following specific types of materials are non-records: materials neither made nor received in pursuance of statutory requirements nor in connection with the functional responsibility of the officer or agency, extra copies of official records, preliminary drafts, blank forms, transmittal letters or forms that do not add information, sample letters, and reading files or informational files.

**[G:] E. “Official copy of record”** the single record determined to be the official copy for the purposes of fulfilling the retention requirements.

**[H:] G. “Retention”** means the period of time during which the official copy of record shall be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.

**[I:] H. “Transitory”**  
means messages which serve to convey information of temporary importance in lieu of oral communication. Transitory messages are only required for a limited time to ensure the completion of a routine action or the preparation of a subsequent record. Transitory messages are not required to control, support or to document the operations of government.

**[J:] L. “Trigger event”**  
means the [closing] event [of a record] which begins the retention period.  
[1.21.2.7 NMAC - N, 10/1/2015; A, 11/30/2016; A, 9/11/2018]

### 1.21.2.9 INSTRUCTIONS:

**A.** The records retention and disposition schedule identifies the types of records maintained by all agencies and specifies a period of time for which the official copy of record must be

retained. A retention period may be stated in terms of months or years and is contingent upon the occurrence of a trigger event. Each record classification will be itemized by NMAC section number and title in the format listed below.

**(1) Category -**  
describes the hierarchy of the function

**(2) Description -** describes the function of the record classification

**(3) Retention**  
- defines the length of time records must be kept before they are eligible for destruction or archival preservation

**B. Record**  
classification descriptions are not intended to be exhaustive. Descriptions may include records that do not appear in the files, and conversely, files may include records not listed in the description.

**C.** Refer questions concerning the confidentiality of a record to legal counsel for the agency. For the destruction of confidential records, please refer to 1.13.30 NMAC.

**D.** Public records should be maintained in their native format (paper/digital). Records may be microfilmed or digitized provided a microphotography plan has been approved by the state records administrator. Refer to Section 14-3-17 NMSA 1978 and 1.14.2 NMAC. Such photographs, microfilms, photographic film or microphotographs shall be deemed to be an original record for all purposes.

**E.** Agencies are encouraged to create secondary and tertiary descriptors for each classification (e.g., account receivable - invoices - acme inc., goods and services - IT consulting - data hub LLC., infrastructure project files - railroad project - Lamy station upgrade, etc.). These additional descriptors will assist with the accessibility of the records.

**F.** Upon storage or disposition, public records shall be classified according to content and retained at a minimum for the length of time specified in the records

retention and disposition schedule.

**G.** For guidance on electronic messaging, refer to 1.13.4 NMAC.

**H.** For guidance on the destruction of non-record material, refer to 1.13.30 NMAC.

**I.** Records classifications related to the legislative [~~and judicial branches~~] branch of government provided herein are applicable for legislative [~~and judicial~~] agencies that utilize the records center services and permanent archival repository.

**J.** Non-scheduled public records created by an agency in pursuance of law or in connection with the transaction of public business shall have a retention period of permanent until such time the non-scheduled record has been scheduled and a retention period adhering to operational, legal, fiscal, historical or other purposes is established.

**K.** For guidance on classifying county and municipal records, refer to the records retention and disposition guidance for counties and municipalities.

**L.** For guidance on destruction of county records, refer to Section 14-1-8 NMSA 1978.

**M.** Classifications that have a disposition of transfer to archives may be submitted for direct transfer before the allotted time period specified in the retention with the approval of the custodial agency and state records administrator.

**N.** Upon adoption of this rule, records retained at the records center shall be reclassified according to the new records classifications for retention and disposition.

**O.** The official copy of a record may contain duplicates of other records. If your program requires the submission of documentation, and your agency is not required to submit this documentation to another agency for additional or final processing, your agency is the keeper of the official copy of record.

**P.** Records transferred to the state archives will be reviewed

for final disposition.

[1.21.2.9 NMAC - N, 10/01/2015; A, 11/30/2015; A, 11/30/2016; A, 9/11/2018]

#### **1.21.2.428 FINANCIAL - CAMPAIGN:**

**A. Category:**  
Governance and compliance - election management

**B. Description:**  
Records related to candidate, elected and appointed officials financial records.

**C. Retention:**  
~~[destroy five years from date file closed]~~ permanent, transfer to archives 10 years from date file closed  
[1.21.2.428 NMAC - N, 10/01/2015; A, 11/30/2015; A, 9/11/2018]

#### **1.21.2.620 COURT PROCEEDINGS:**

**A. Category:** Legal and judiciary - court administration

**B. Description:**  
records related to court proceedings including, but not limited to, tapes, court reporter notes, and transcripts.  
Does not include appellate case files.

**C. Retention:** destroy when associated case is no longer eligible for appeal or post-conviction proceedings in state or federal court  
[1.21.2.620 NMAC - N, 9/11/2018]

### **REGULATION AND LICENSING DEPARTMENT SECURITIES DIVISION**

#### **TITLE 12 TRADE, COMMERCE AND BANKING CHAPTER 11 SECURITIES PART 18 TRAINING AND REPORTING GUIDELINES UNDER THE PROTECTING VULNERABLE ADULTS FROM FINANCIAL EXPLOITATION ACT**

**12.11.18.1 ISSUING AGENCY:** Regulation and Licensing Department - New Mexico Securities Division.  
[12.11.18.1 NMAC - N, 9/11/2018]

**12.11.18.2 SCOPE:** All

persons, whether natural or legal entities, that transact business in New Mexico as a broker-dealer, an agent, an investment advisor, an investment adviser representative, or who serve in a supervisory, compliance or legal capacity for a broker-dealer or investment adviser.

[12.11.18.2 NMAC - N, 9/11/2018]

#### **12.11.18.3 STATUTORY**

**AUTHORITY:** Subsection A of Section 58-13C-605 NMSA 1978 authorizes the director to adopt rules necessary or appropriate to carry out the New Mexico Uniform Securities Act. Subsection A of Section 58-13D-7 NMSA 1978 instructs the director to promulgate, by rule, training guidelines that broker-dealers and investment advisors may use to comply with the requirements of the Protecting Vulnerable Adults from Financial Exploitation Act, Section 58-13D-1 to 8 NMSA 1978.

[12.11.18.3 NMAC - N, 9/11/2018]

#### **12.11.18.4 DURATION:**

Permanent.

[12.11.18.4 NMAC - N, 9/11/2018]

#### **12.11.18.5 EFFECTIVE**

**DATE:** September 11, 2018, unless a later date is cited at the end of a section.

[12.11.18.5 NMAC - N, 9/11/2018]

#### **12.11.18.6 OBJECTIVE:**

To provide training guidelines to broker-dealers and investment advisers who shall provide training concerning the financial exploitation of vulnerable adults to its employees who are required to be registered in New Mexico as agents or investment adviser representatives and who have contact with eligible adults and access to account information on a regular basis and as part of their job.

[12.11.18.6 NMAC - N, 9/11/2018]

#### **12.11.18.7 DEFINITIONS:**

**[RESERVED]**

[12.11.18.7 NMAC - N, 9/11/2018]

**12.11.18.8 TRAINING AND REPORTING GUIDELINES UNDER THE PROTECTING VULNERABLE ADULTS FROM FINANCIAL EXPLOITATION ACT:**

**A.** The standardized training curriculum for training provided pursuant to the Protecting Vulnerable Adults from Financial Exploitation Act shall include adequate detail and explanation regarding:

(1) The agencies to which disclosures must be made, including:

(a) agency contact information;  
(b) the designated functions and respective roles of the agencies; and  
(c) how to make a required disclosure to each agency;

(2) The key terms from Section 2, particularly:

(a) eligible adult;  
(b) financial exploitation;  
(c) incapacitated person; and  
(d) qualified individual;

(3) delaying disbursements or transactions; and  
(4) immunity.

**B.** Training developed by a broker-dealer or investment advisor shall cover all topics addressed in Subsection A of this section and shall be submitted to the director of the securities division for approval. Notice of approval of standardized training curriculum will be issued by the director after review of the curriculum and determination that it is satisfactory.

**C.** A broker-dealer or investment advisor specifically employing personnel that manage, oversee or perform the type of reporting mandated by the Protecting Vulnerable Adults from Financial Exploitation Act must provide documentation to the securities division showing that:

(1) the

personnel identified in Section C are given the appropriate training required by Section A and

(2) the broker-dealer's or investment advisor's reporting protocols comply with the provisions of the Protecting Vulnerable Adults from Financial Exploitation Act.

**D.** As a condition of registration, broker-dealers and investment advisors shall file a report pursuant to Paragraph (2) of Subsection A of Section 58-13C-406 NMSA 1978, confirming compliance with Section 7B of the Protecting Vulnerable Adults from Financial Exploitation Act.

**E.** A disbursement or transaction may be delayed pursuant to Section 58-13D-5 NMSA 1978 of the Protecting Vulnerable Adults from Financial Exploitation Act only if the broker-dealer, investment advisor or qualified individual who reasonably believes that executing the disbursement or transaction may directly result in the financial exploitation of an eligible adult and all other requirements provided in Section 58-13D-5 of the act are met. [12.11.18.8 NMAC; N, 9/11/2018]

**History of 12.11.18 NMAC:**  
**[RESERVED]**

**END OF ADOPTED RULES**



# 2018 New Mexico Register

## Submittal Deadlines and Publication Dates

### Volume XXIV, Issues 1-24

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

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