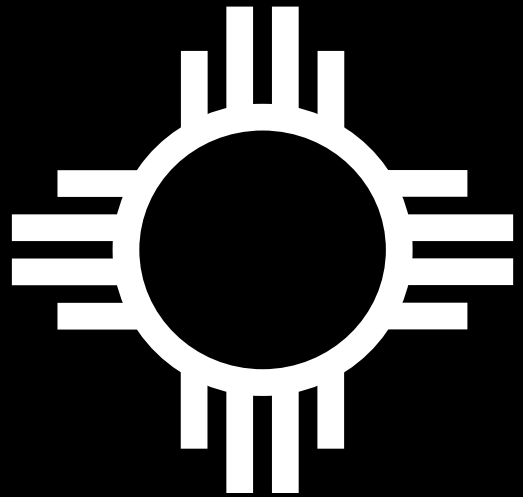


**NEW
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REGISTER**

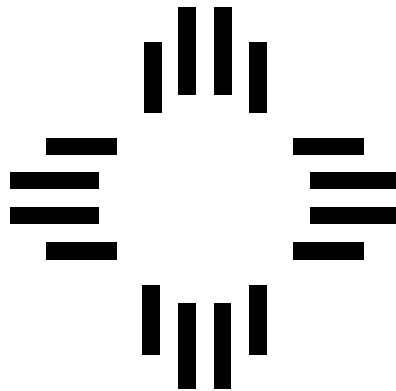


Volume XV
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May 28, 2004

New Mexico Register

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May 28, 2004



The official publication for all notices of rulemaking and filings of adopted, proposed and emergency rules in New Mexico

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2004

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New Mexico Register

Volume XV, Number 10

May 28, 2004

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Telephone: (505) 476-7907; Fax (505) 476-7910; E-mail rules@rain.state.nm.us.

Notices of Rulemaking and Proposed Rules

**NEW MEXICO
CHILDREN, YOUTH AND
FAMILIES DEPARTMENT
PROTECTIVE SERVICES
DIVISION**

**NEW MEXICO
CHILDREN, YOUTH AND FAMILIES
DEPARTMENT
PROTECTIVE SERVICES**

NOTICE OF PUBLIC HEARING

Protective Services (PS) will hold a public hearing in Santa Fe on June 1, 2004 from 1:00 p.m. to 2:00 p.m. at CYFD, P.E.R.A. Building Room 227, 1120 Paseo de Peralta, Santa Fe, NM 87501 (call 505 827-8400 for directions). This hearing will consider public comment regarding the proposed repeal of the following obsolete policies and all their related amendments (if any): CYFD ICD Rule 1, CYFD-OTS-1, HSSD 74-12, HSSD 74-19, HSSD 75-1, HSSD 75-3, HSSD 75-8, HSSD 77-8, SSD 12.0, SSD 100.0000, SSD 270.0000, SSD 405.000, SSD B12.0.0, SSD 11.3.0, SSD 432.0000, SSD 434.0000, SSD 450.0000, SSD 461.0000, SSD 84-1, SSD 86.2, SSD 86-3, SSD 231.0, SSD 232.0, SSD 233.0, SSD 234.0, SSD 235.0, SSD 236.0, SSD 6.2.0, SSD 6.3.0, SSD 11.0.0, SSD B12.1.0, SSD B12.2.0, SSD B12.3.0, SSD 13.0.0, SSD 14.0.0, SSD A13.0.0, SSD B13.0.0, SSD C13.0.0, SSD D13.0.0, SSD E13.0.0, SSD F13.0.0, SSD G13.0.0.

The P.E.R.A. building is accessible to people with disabilities. Written comments are provided the same weight as comments received during the public hearing. Documents are available in different formats to accommodate a particular disability. Anyone seeking such assistance must provide two weeks notice to receive any written material in an alternative format by calling 505-827-8400. If assistance is required to attend the hearing, please call 505-827-8400 to arrange accommodation.

Paper copies can be secured by contacting Mark Ruttkay, Manager, CYFD-PS, P.O. Drawer 5160, Santa Fe, NM 87502-5160, or by calling 505-827-8445. Paper copies can also be requested through the use of the New Mexico relay system by calling 505-827-7586.

**NEW MEXICO OFFICE OF
THE STATE ENGINEER**

**STATE ENGINEER PROPOSED RULES
AND REGULATIONS
AND NOTICE OF PUBLIC HEARING**

**OFFICE OF THE STATE ENGINEER
P.O. BOX 25102
SANTA FE, NEW MEXICO 87504-5102
(505) 827-6120
www.ose.state.nm.us**

Upon review of the existing Manual of Rules and Regulations Governing the Appropriation and Use of the Surface Waters of the State of New Mexico, the State Engineer of the State of New Mexico discovered the following deficiencies:

- 1) Existing regulations do not adequately address revisions and additions to state law that have occurred since the last revision of the regulations.
- 2) Existing regulations do not adequately address revised methods in the accounting and administration of the waters of the state.
- 3) Existing regulations do not adequately address the conjunctive management of surface water and underground water.

To address the deficiencies found in the existing rules and regulations, the State Engineer of the State of New Mexico revised the existing Manual of Rules and Regulations Governing the Appropriation and Use of the Surface Waters of the State of New Mexico. The proposed rules and regulations are available at the Office of the State Engineer in Santa Fe, Albuquerque, Las Cruces, Roswell, Deming, Aztec, and Cimarron. The proposed rules and regulations are also posted on the Office of the State Engineer web site and may be accessed on the web site as follows:

- a) Start from the OSE home page at www.ose.state.nm.us
- b) On the OSE home page click on "Hot Topics"
- c) On the "Hot Topics" page, click on "Proposed New Surface Water Administration Rules and Regulations"

To request a copy of the rules and regulations be mailed to you, please contact Paul Wells at 505-827-6120. There is a \$5.00 charge to have a copy of the proposed regulations mailed to you. There is no charge for the regulations if they are picked up at any office of the Office of the State Engineer.

The proposed Rules and Regulations Governing the Appropriation and Use of the Surface Water contain the following sections: (1) Issuing Agency, (2) Scope, (3) Statutory Authority, (4) Duration, (5) Effective Date, (6) Objective, (7) Definitions, (8) Declaration of a Water Right Developed Prior to March 19, 1907, (9) Notice of Intention to File Application for Permit to Appropriate Surface Water, (10) Application for Permit to Appropriate Surface Water, (11) Changes to Declared, Adjudicated, Licensed or Permitted Rights, (12) Application Processing, (13) Permits, (14) Livestock Water Impoundments, (15) Ponds and Other Impoundments, (16) Change of Ownership, (17) Lease of Water Rights, (18) Water Development Plans, (19) Forfeiture and Abandonment of a Water Right, (20) Application Maps, (21) Format for Plan Drawings, Proof of Beneficial Use and Declaration Maps, (22) Liberal Constructions, (23) Severability

A public hearing will be held on the above described proposed rules and regulations for the appropriation and use of surface water at the Old Senate Chambers, room 238 of the Bataan Memorial Building, 407 Galisteo Road, Santa Fe, New Mexico, on June 21, 2004, beginning at 9:00 a.m. June 22 - 23 are reserved in case additional days for the hearing are required. Any person who is or may be affected by these proposed rules and regulations may appear and testify. If you are an individual with a disability who is in need of special assistance or accommodation to attend or participate in the hearing, please contact Paul Wells at (505) 827-6120. The Office of the State Engineer requests ten days advance notice to provide any special accommodation.

Written comments on the proposed regulations may be submitted to the Office of the State Engineer in Santa Fe or any of the district offices. Comments and questions may also be emailed to pwells@ose.state.nm.us. Please submit your written comments to the Office of the State Engineer no later than June 15th, 2004. After June 15th, comments may be submitted at the hearing in Santa Fe on June 21, 2004.

**NEW MEXICO OFFICE OF
THE STATE ENGINEER**

NOTICE OF PUBLIC HEARING

**STATE ENGINEER PROPOSED RULES
AND REGULATIONS
FOR DAM DESIGN, CONSTRUCTION
AND DAM SAFETY**

John R. D'Antonio, Jr., P.E., State Engineer of New Mexico, has issued the following proposed new rules and regulations for the safety of dams:

Title 19 Natural Resources and Wildlife
Chapter 25 Administration and Use
of Water - General Provisions
Part 12 Dam Design, Construction and
Dam Safety

The State Engineer proposes to adopt the new rules and regulations to address the submittal requirements to obtain a permit to construct and a license to operate a new dam, construction conditions for the new dam and submittal requirements for changes to an existing dam. The proposed rules and regulations also address the State Engineer's authority over existing dams including the requirements for operation and maintenance manuals and emergency action plans.

The proposed Dam Design, Construction and Dam Safety rules and regulations cover dams that are over 10 feet in height as measured from the downstream toe to the dam crest or dams that impound more than 10 acre-feet of water as measured by the volume of water from the downstream toe to the spillway crest. Erosion control dams, as defined in the proposed rules and regulations, that store less than or equal to 10 acre-feet and are in a safe condition are exempt from these proposed rules and regulations.

The proposed Dam Design, Construction and Dam Safety rules and regulations consist of the following twenty-two sections: 1. Issuing Agency, 2. Scope, 3. Statutory Authority, 4. Duration, 5. Effective Date, 6. Objective, 7. Definitions, 8. Fee Schedule, 9. Size Classification, 10. Hazard Potential Classification, 11. Design of a New Dam, 12. Certifications, 13. Construction and Operation Conditions, 14. Proof of Completion of Works, 15. Certificate of Construction of a Dam, 16. License to Operate a Dam, 17. Operation and Maintenance Manual, 18. Emergency Action Plan, 19. Changes to an Existing Dam, 20. Changes to an Existing Non-jurisdictional Dam, 21. Existing Dams, 22. Severability.

The proposed Dam Design, Construction and Dam Safety rules and regulations may be picked up at the Office of the State Engineer in Santa Fe and at the district or field offices in Albuquerque, Las Cruces, Roswell, Deming, Aztec and Cimarron or by contacting the Dam Safety Bureau at (505) 827-6122. The proposed rules and regulations may also be downloaded from the Office of the State Engineer website:

www.ose.state.nm.us, navigate to "Hot Topics" and click on "Proposed New Dam Design, Construction and Dam Safety Rules and Regulations". A copy of the proposed rules and regulations may also be obtained by sending a written request to the following address: Office of the State Engineer, Dam Safety Bureau, P.O. Box 25102, Santa Fe, New Mexico 87504.

Pursuant to Section 72-2-8 NM Statutes Annotated (1985 Repl. Pamp) notice is hereby given that a hearing will be held on June 24, 2004, at 9:00 AM in the Old Senate Chambers, Hearing Room 238, Bataan Memorial Building, 407 Galisteo Rd., Santa Fe, New Mexico, concerning the adoption of the proposed new Dam Design, Construction and Dam Safety rules and regulations. Any person who is or may be affected by the proposed rules and regulations may appear and testify. If you are an individual with a disability who is in need of special assistance or accommodation to attend or participate in the hearing, please contact Elaine Pacheco at (505) 827-6111. The Office of the State Engineer requests ten days advance notice to provide any special accommodation.

Individuals may also submit written or recorded comments. Written or recorded comments must be received by 5:00 PM on June 15, 2004. Written or recorded comments shall be sent to: Office of the State Engineer, Dam Safety Bureau, P.O. Box 25102, Santa Fe, New Mexico 87504 or any of the district or field offices. Electronic comments may be sent to: epacheco@ose.state.nm.us. To submit comments after June 15, 2004, please attend the hearing in Santa Fe on June 24, 2004.

NEW MEXICO OFFICE OF THE STATE ENGINEER

STATE ENGINEER PROPOSED RULES
AND REGULATIONS
AND NOTICE OF PUBLIC HEARING

OFFICE OF THE STATE ENGINEER
P.O. BOX 25102
SANTA FE, NEW MEXICO 87504-5102
(505) 827-6120
www.ose.state.nm.us

The State Engineer is proposing new rules and regulations concerning Active Water Resource Management (AWRM). AWRM provides guidance for the State Engineer's water administration to areas and rivers within the state, provides the framework for water administration in advance of the completion of adjudication, and facilitates the State Engineer's administration of water allocations in accordance with the water

right priorities recorded with, or declared, or otherwise available to the State Engineer. The proposed rules and regulations are available at the Office of the State Engineer in Santa Fe, Albuquerque, Las Cruces, Roswell, Deming, Aztec, and Cimarron. The proposed rules and regulations are also posted on the Office of the State Engineer web site and may be accessed on the web site as follows:

- a) Start from the OSE home page at www.ose.state.nm.us
- b) On the OSE home page click on "Hot Topics"
- c) On the "Hot Topics" page, click on "Active Water Resource Management (AWRM), Proposed Rules and Regulations"

To request a copy of the rules and regulations be mailed to you, please contact Paul Wells at 505-827-6120. There is a \$5.00 charge to have a copy of the proposed regulations mailed to you. There is no charge for the regulations if they are picked up at any office of the Office of the State Engineer.

The proposed Rules and Regulations Governing Active Water Resource Management (AWRM) contain the following sections: (1) Issuing Agency, (2) Scope, (3) Statutory Authority, (4) Duration, (5) Effective Date, (6) Objective, (7) Definitions, (8) Construction, (9) Preface, (10) State Engineer Authority, (11) Determination of Administrable Water Rights, (12) Water not to be diverted or delivered unless it will be placed to actual beneficial use; Water master determination of beneficial use requirements, (13) Farm delivery and project diversion requirement determinations, (14) Supercession by court, (15) Creation of water master district, (16) Changing of water master district, (17) Creation of water master subdistricts, (18) Appointment of water master, (19) General authority of water master, (20) Water master supervision of measurement, (21) Headgates and measuring devices required, (22) Specific duties of water master, (23) Water masters administration of an administrative date, (24) Water master entry on private land, (25) Water master reports, (26) No change in ditch system management, (27) Formation of water user groups, (28) Objections to water master and state engineer decisions, (29) Court appointment of the state engineer as water master; rules proposed, (30) Administration by administration date, (31) Application for approval of replacement plans, (32) Replacement plans by water user groups, (33) Approval of replacement plans, (34) Amendment and renewal of replacement plans, (35)

Accuracy or insufficiency of information modification, (36) Revocation of replacement plans, (37) Fallowing requirements, (38) Hydrologic analysis for expedited marketing and leasing, (39) Knowledge of and compliance with statutes, rules, regulations and codes, (40) Enforcement, (41) State Engineer Option to revise rules, (42) Liberal construction.

A public hearing will be held on the above described proposed rules and regulations for Active Water Resource Management (AWRM), in Room 318, State Capital Building (Roundhouse), Santa Fe, New Mexico, on June 28, 2004, beginning at 9:00 a.m. June 29 - 30 are reserved in case additional days for hearing are required. Any person who is or may be affected by these proposed rules and regulations may appear and testify. If you are an individual with a disability who is in need of special assistance or accommodation to attend or participate in the hearing, please contact Paul Wells at (505) 827-6120. The Office of the State Engineer requests ten days advance notice of the hearing to provide any special accommodation.

Written comments on the proposed regulations may be submitted to the Office of the State Engineer in Santa Fe or any of the district offices. Comments and questions may also be emailed to pwells@ose.state.nm.us. Please submit your written comments to the Office of the State Engineer no later than June 24, 2004. After June 24, comments may be submitted at the hearing in Santa Fe on June 28, 2004.

**NEW MEXICO
DEPARTMENT OF HEALTH
BEHAVIORAL HEALTH SERVICES
DIVISION**

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on 7.32.8 NMAC "Opioid Treatment Programs". The Hearing will be held at 9:00 a.m. on Monday June 28, 2004 in the Harold Runnels Building Auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico.

The public hearing will be conducted in order to establish standards for the Opioid Treatment Program to be consistent with the SAMHSA/CSAT federal regulations and the OTP accreditation requirements of nationally recognized accreditation bodies approved by SAMHSA/CSAT, such as CARF and JCACHO.

A copy of the proposed regulation can be

obtained from:

Jim Masica, Program Manager
Behavioral Health Services
Division/Community Programs Bureau
New Mexico Department of Health
1190 St. Francis Drive
P.O. Box 26110
Santa Fe, New Mexico 87502-6110
505-827-2371

Please submit any written comments regarding the proposed regulation to the attention of Jim Masica at the above address prior to the hearing.

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 aide or service to attend or participate in the hearing, please contact Jim Masica by telephone at 505-827-2371. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

**NEW MEXICO
DEPARTMENT OF HEALTH
PUBLIC HEALTH DIVISION**

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on 7.4.4 NMAC "Control of Communicable Disease in Health Facility Personnel". The Hearing will be held at 1:00 p.m. on Monday June 28, 2004 in the Harold Runnels Building Auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico.

The public hearing will be conducted in order to repeal this regulation, which requires persons employed or who are seeking employment or who volunteer in health facilities and day care centers to be tested and maintain certification that they are free from Tuberculosis (TB) in a transmissible form.

Any questions or request can be forwarded to:

Christine Jameson, Program Manager
Public Health Division/TB and Refugee
Health Program
New Mexico Department of Health
1190 St. Francis Drive
P.O. Box 26110
Santa Fe, New Mexico 87502-6110
505-827-2106

Please submit any written comments regarding the proposed repeal of 7.4.4 NMAC "Control of Communicable Disease in Health Facility Personnel" to the atten-

tion of Christine Jameson at the above address prior to the hearing.

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 aide or service to attend or participate in the hearing, please contact Christine Jameson by telephone at 505-827-2106. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

**NEW MEXICO LIVESTOCK
BOARD**

NEW MEXICO LIVESTOCK BOARD

**NOTICE OF HEARING AND
REGULAR BOARD MEETING**

NOTICE IS HEREBY GIVEN that a hearing and regular board meeting will be held on Wednesday June 16, 2004, at Taos County Courthouse, Taos County Commission Chambers, 105 Albright Street, Taos, New Mexico, at 9:00 a.m. The Board will set the Mill Levy, have a hearing on estray's #14194, 14199, and 14222, and other matters of general business

Copies of the agenda can be obtained by contacting Daniel Manzanares, Executive Director, New Mexico Livestock Board, 300 San Mateo, N. E., Suite 1000, Albuquerque, NM 87108-1500, (505) 841-6161.

Anyone who requires special accommodations is requested to notify the New Mexico Livestock Board office at (505) 841-6161 of such needs at least five days prior to the meeting.

**End of Notices and
Proposed Rules Section**

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Adopted Rules

**ALBUQUERQUE /
BERNALILLO COUNTY
AIR QUALITY CONTROL
BOARD**

**TITLE 20 ENVIRONMENTAL
PROTECTION
CHAPTER 11 ALBUQUERQUE /
BERNALILLO COUNTY AIR QUALITY CONTROL BOARD
PART 8 AMBIENT AIR
QUALITY STANDARDS**

20.11.8.1 ISSUING AGENCY: Albuquerque/Bernalillo County Air Quality Control Board. P.O. Box 1293, Albuquerque, NM 87103. Telephone: (505) 768-2600.
[20.11.8.1 NMAC - N, 7/1/04]

20.11.8.2 SCOPE:
A. 20.11.8 NMAC is applicable to the city of Albuquerque and Bernalillo county.
B. Exempt: 20.11.8 NMAC does not apply to sources within Bernalillo county, which are located on Indian lands over which the Albuquerque/Bernalillo county air quality control board lacks jurisdiction.
[20.11.8.2 NMAC - N, 7/1/04]

20.11.8.3 STATUTORY AUTHORITY: 20.11.8 NMAC is adopted pursuant to the authority provided in the New Mexico Air Quality Control Act, NMSA 1978 Sections 74-2-4, 74-2-5C; the Joint Air Quality Control Board Ordinance, Bernalillo County Ordinance 94-5 Sections 3 & 4; the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994 Sections 9-5-1-3 & 9-5-1-4.
[20.11.8.3 NMAC - N, 7/1/04]

20.11.8.4 DURATION: Permanent.
[20.11.8.4 NMAC - N, 7/1/04]

20.11.8.5 EFFECTIVE DATE: The effective date of Part 8 is, July 1, 2004, unless a later date is cited at the end of a section. The effective date of a specific section is located at the end of each section within the historical brackets. As required by the New Mexico Air Quality Control Act, Chapter 74, Article 2, Section 6 NMSA 1978, no regulation or emission control requirement or amendment thereto, or repeal thereof, shall become effective until 30 days after its filing under the State Rules Act, Chapter 14, Article 4 NMSA 1978.

[20.11.8.5 NMAC - N, 7/1/04]

20.11.8.6 OBJECTIVE: The objective of 20.11.8 NMAC is to adopt local ambient air quality standards that are identical to the federal National Primary and Secondary Ambient Air Quality Standards codified at 40 CFR Part 50, and to adopt applicable state Ambient Air Quality Standards codified at 20.2.3 NMAC.
[20.11.8.6 NMAC - N, 7/1/04]

20.11.8.7 DEFINITIONS: The definitions in 20.11.1 NMAC apply to 20.11.8 NMAC.
[20.11.8.7 NMAC - N, 7/1/04]

20.11.8.8 SAVINGS CLAUSE: Any amendment to Ambient Air Quality Standards, 20.11.8 NMAC, that is filed with the state records center, shall not affect actions pending for violation of a city or county ordinance, the air quality regulations for Albuquerque and Bernalillo county or a permit issued by the department. Prosecution for a violation under a prior statute, ordinance, regulation or permit shall be governed and prosecuted under the statute, ordinance or regulation in effect at the time the violation was committed.
[20.11.8.8 NMAC - N, 7/1/04]

20.11.8.9 SEVERABILITY: If any section, paragraph, sentence, clause or word of 20.11.8 NMAC or any federal standards incorporated herein is for any reason held to be unconstitutional or otherwise invalid by any court, the decision shall not affect the validity of remaining provisions of 20.11.8 NMAC.
[20.11.8.9 NMAC - N, 7/1/04]

20.11.8.10 DOCUMENTS: Documents incorporated and cited in 20.11.8 NMAC may be viewed at the Albuquerque environmental health department, 400 Marquette NW, Albuquerque, NM.
[20.11.8.10 NMAC - N, 7/1/04]

20.11.8.11 INCORPORATION OF FEDERAL AMBIENT AIR QUALITY STANDARDS: Except as otherwise provided, the National Primary and Secondary Ambient Air Quality Standards of the United States environmental protection agency including the General Provisions thereto, codified at 40 CFR Part 50, as amended through July 18, 1997, are hereby incorporated into 20.11.8 NMAC. Section 20.11.8.13 NMAC is a summary of the federal and state standards incorporated in 20.11.8 NMAC.
[20.11.8.11 NMAC - N, 7/1/04]

20.11.8.12 INCORPORATION OF STATE AMBIENT AIR QUALITY STANDARDS: Except as otherwise provided, the state Ambient Air Quality Standards of the environmental improvement board codified at 20.2.3 NMAC, effective October 31, 2002, are hereby incorporated into 20.11.8 NMAC. Section 20.11.8.13 NMAC is a summary the federal and state standards incorporated in 20.11.8 NMAC.
[20.11.8.12 NMAC - N, 7/1/04]

20.11.8.13 SUMMARY OF FEDERAL AND STATE AMBIENT AIR QUALITY STANDARDS:

<u>Pollutant</u>	<u>Standards</u>		
	Federal Primary	Federal Secondary	New Mexico State
Carbon Monoxide (CO)	8-hour average	9.0 ppm	8.7 ppm
	1-hour average	35 ppm	13.1 ppm
Nitrogen Dioxide (NO₂)	24-hour average	none	0.10 ppm
	Annual arithmetic mean	0.053 ppm	0.05 ppm

Ozone (O₃)			
1-hour average	0.120 ppm	0.120 ppm	none
8-hour average	0.08 ppm	0.08 ppm	none
Sulfur Dioxide (SO₂)			
24-hour average	0.14 ppm	none	0.10 ppm
3-hour average	none	0.5 ppm	none
Annual arithmetic mean	0.03 ppm	none	0.02 ppm
Particulate Matter (PM_{2.5})			
24-hour average	65 µg/m ³	65 µg/m ³	none
Annual arithmetic mean	15 µg/m ³	15 µg/m ³	none
Particulate Matter (PM₁₀)			
24-hour average	150 µg/m ³	150 µg/m ³	none
Annual arithmetic mean	50 µg/m ³	50 µg/m ³	none
Lead (Pb)			
Quarterly arithmetic mean	1.5 µg/m ³	1.5 µg/m ³	none
Hydrogen Sulfide			
1-hr average	none	none	0.010 ppm
Total Reduced Sulfur			
1/2-hour average	none	none	0.003 ppm
Particulate Matter (TSP)			
24-hour average	none	none	150 µg/m ³
7-day average	none	none	110 µg/m ³
30-day average	none	none	90 µg/m ³
Annual geometric mean	none	none	60 µg/m ³

20.11.8.14 INTERPRETATION: Except as expressly provided to the contrary in these regulations, whenever two or more parts of these regulations limit, control or regulate the emissions of a particular air contaminant, the more restrictive or stringent shall govern. [20.11.8.14 NMAC - N, 7/1/04]

HISTORY OF 20.11.8 NMAC:

None

ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.1 NMAC, Sections 3, 5, 6, 7 & 13, effective 7/1/04. Included among these amendments to 20.11.1 NMAC, General Provisions is the deletion the unenforceable Bernalillo County Air Quality Goals and Enforceable Ambient Air Quality Standards, Section 20.11.1.13 NMAC, and incorporation of the remaining enforceable standards into the new 20.11.8 NMAC Ambient Air Quality Standards.

20.11.1.3 STATUTORY AUTHORITY: This part is adopted pursuant to the authority provided in the New Mexico Air Quality Control Act, NMSA 1978 Sections 74-2-4, 74-2-5.C; the Joint Air Quality Control Board Ordinance, Bernalillo County Ordinance 94-5 [Section] Sections 3 & 4; the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994 [Section] Sections 9-5-1-3 & 9-5-1-4. [6/14/71. . . 12/1/95; 20.11.1.3 NMAC - Rn, 20 NMAC 11.01.1.3, 10/1/02; A, 7/1/04]

20.11.1.5 EFFECTIVE DATE: The effective date of Part 1 is, December 1, 1995, unless a later date is cited at the end of a section. The effective date of a specific [sections] section is located at the end of [each] that section within the historical brackets. As required by the New Mexico Air Quality Control Act, Chapter 74, Article 2, Section 6 NMSA 1978, no regulation or emission control requirement or amendment thereto, or repeal thereof, shall become effective until 30 days after its filing under the State Rules Act, Chapter 14, Article 4 NMSA 1978. [12/1/95. . . 8/1/96; 20.11.1.5 NMAC - Rn, 20 NMAC 11.01.1.5 & A, 10/1/02; A, 12/1/03; A, 7/1/04]

20.11.1.6 OBJECTIVE: The objective of this part is to provide definitions [~~and ambient air quality standards,~~] which are generally applicable to Albuquerque/Bernalillo county air quality control board regulations. [12/1/95; 20.11.1.6 NMAC - Rn, 20 NMAC 11.01.1.6 & A, 10/1/02; A, 7/1/04]

20.11.1.7 DEFINITIONS: The definitions of this part apply unless there is a conflict between definitions in other parts, in which case the definition found in the applicable part shall govern. The definitions include the measurements, abbreviations, and acronyms in Subsection GGGG, of 20.11.1.7 NMAC.

A. "Abnormal operating conditions" means the startup or shutdown of air pollution control device(s) or process equipment.

B. "Administrator" means the administrator of the United States environmental protection agency or his or her designee.

C. "Affected source or facility" means any stationary source, or any other source of air pollutants, that must comply with an applicable requirement.

D. "Air agency, department or EHD" means the environmental health department (EHD) of the city of Albuquerque. The EHD, or its successor agency or authority, as represented by the department director or his/her designee, is the lead air quality planning agency for the Albuquerque/Bernalillo county nonattainment/maintenance area. The EHD serves as staff to the Albuquerque/Bernalillo county air quality control board, (A/BC AQCB), and is responsible for the administration and enforcement of the A/BC AQCB regulations.

E. "Air contaminant or air pollutant" means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special

nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant; to the extent the EPA has identified such precursor or precursors for the purpose for which the term "air pollutant" is used. This excludes water vapor, nitrogen (N₂), carbon dioxide (CO₂), oxygen (O₂), methane and ethane.

F. "Air pollution" means the emission, except as such emission occurs in nature, into the outdoor atmosphere of one or more air contaminants in such quantities and duration as may with reasonable probability injure human health, animal or plant life, or as may unreasonably interfere with the public welfare, visibility or the reasonable use of property.

G. "Air quality control act" means the State of New Mexico Air Quality Control Act, Chapter 74, Article 2, NMSA 1978 as amended.

H. "Air quality control board, board or A/BC AQCB" means the Albuquerque/Bernalillo county air quality control board, which is empowered by federal act, the Air Quality Control Act, and ordinances, to prevent or abate air pollution within the boundaries of Bernalillo county, except for Indian lands over which the board lacks jurisdiction.

I. "Allowable emissions" means:

(1) Any department or federally enforceable permit term or condition which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limits the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous reduction that are requested by the applicant and approved by the department or, determined at the time of issuance or renewal of a permit to be an applicable requirement.

(2) Any federally enforceable emissions cap that the permittee has assumed to avoid an applicable requirement to which the source would otherwise be subject.

J. "Ambient" means that portion of the atmosphere, external to buildings, to which the general public has access.

K. "Applicable requirement" means any of the following, and includes requirements that have been promulgated or approved by the board or EPA through rulemaking:

(1) Any standard or other requirement provided for in the New Mexico state implementation plan approved by EPA, or promulgated by EPA through rulemaking, under Title I, including parts C or D, of the federal act.

(2) Any term or condition of any pre-construction permit issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the federal act.

(3) Any standard or other requirement:

(a) under Section 111 or 112 of the federal act;

(b) of the acid rain program under Title IV of the federal act or the regulations promulgated thereunder;

(c) governing solid waste incineration under Section 129 of the federal act;

(d) for consumer and commercial products under Section 183(e) of the federal act;

(e) of the regulations promulgated to protect stratospheric ozone under Title VI of the federal act, unless the Administrator has determined that such requirements need not be contained in a Title V permit.

(4) Any requirements established pursuant to Section 504(b) or Section 114(a)(3) of the federal act.

(5) Any national or state ambient air quality standard.

(6) Any increment or visibility requirement under Part C of Title I of the federal act applicable to temporary sources permitted pursuant to Section 504(e) of the federal act.

(7) Any regulation adopted by the board in accordance with the Joint Air Quality Control Board Ordinances pursuant to the Air Quality Control Act, and the laws and regulations in effect pursuant to the Air Quality Control Act.

L. "Breakdown, malfunction or upset" means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, or process equipment, which causes a process to not operate in a normal manner. Failures that are caused by process imbalance, poor maintenance or careless operation are not breakdowns.

M. "Carbon monoxide or CO" means a colorless, odorless, poisonous gas composed of molecules containing a single atom of carbon and a single atom of oxygen with a molecular weight of 28.01 g/mole.

N. "Chemical process" means any manufacturing processing operation in which one or more changes in chemical composition or chemical properties are involved.

O. "Coal burning equipment" means any device used for the burning of coal for the primary purpose of producing heat or power by indirect heat transfer in which the products of combustion do not come into direct contact with other materials.

P. "Commenced" means

that an owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a binding agreement or contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

Q. "Construction" means fabrication, erection, or installation of an affected facility.

R. "Crematory" means any combustion unit designed and used solely for cremating human or animal remains or parts and tissues thereof, and other items normally associated with the cremation process, but not including pathological waste.

S. "Department" means the Albuquerque environmental health department, which is the administrative agency of the Albuquerque/Bernalillo county air quality control board.

T. "Director" means the administrative head of the Albuquerque environmental health department or a designated representative(s).

U. "Emission limitation or standard" means a requirement established by EPA, the State Implementation Plan (SIP), the Air Quality Control Act, local ordinance, permit, or board part or regulation, that limits the quantity, rate or concentration, or combination thereof, of emissions of regulated air pollutants on a continuous basis, including any requirements relating to the operation or maintenance of a source to assure continuous reduction.

V. "EPA" means the United States environmental protection agency or the EPA's duly authorized representative.

W. "Excess emissions" means emissions of an air pollutant in excess of an emission limit or standard.

X. "Excess emissions report" means a report submitted by a stationary source at the request of the department in order to provide data on the source's compliance with emission limits and operating parameters.

Y. "Federal act, act or CAA" means the Federal Clean Air Act, 42 U.S.C. Section 7401 through 7671 et seq., as amended.

Z. "Federal class I wilderness areas" means areas designated by the EPA as such. Federal class I wilderness areas within 100 kilometers of Bernalillo county are Bandelier wilderness, Pecos wilderness, and San Pedro Parks wilderness.

AA. "Fluid" means either of the two states of matter, liquid or gaseous.

BB. "Fugitive emissions"

means any emissions which cannot reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening or is not otherwise collected, unless the emission is otherwise regulated by the federal act, the Air Quality Control Act, or the laws and regulation in effect pursuant to the act.

CC. "Grain" means that unit of weight, which is equivalent to 0.0648 grams.

DD. "Hazardous air pollutant" means an air contaminant, which has been classified pursuant to the federal act, the Air Quality Control Act, or laws and regulations in effect pursuant to the act.

EE. "Hydrocarbons or HC" means any chemical compound of a class of aliphatic, cyclic, or aromatic chemical compounds containing mostly hydrogen and carbon. Hydrocarbons are highly reactive in the presence of nitrogen oxides and sunlight. All are precursors to more serious air pollutants such as ozone and nitrogen dioxide.

FF. "Hydrogen sulfide or H₂S" means the chemical compound containing two atoms of hydrogen and one of sulfur with a molecular weight of 34.07 g/mole.

GG. "Incinerator" means any furnace used in the process of burning solid waste for the purpose of reducing the volume, by removing combustible matter.

HH. "Inedible animal by-product processing" means operations primarily engaged in rendering, cooking, drying, dehydration, digesting, evaporating and/or concentrating of animal proteins and fats.

I. "Kraft mill" means any pulping process, which uses an alkaline solution for a cooking liquor.

JJ. "Lead or Pb" means a heavy metal, with a molecular weight of 207.19 g/mole that is hazardous to health if breathed or swallowed.

KK. "Modification" means any physical change in or change in the method of operation of a stationary source which increases the potential to emit any air contaminant emitted by the stationary source or which results in the emission of any air contaminant not previously emitted.

LL. "New source" means any stationary source, the construction or modification of which is commenced after the filing of a regulation applicable to the stationary source.

MM. "Nitrogen dioxide or NO₂" means a reddish brown, poisonous gas composed of molecules containing a single atom of nitrogen and two of oxygen with a molecular weight of 46.0 g/mole.

NN. "Nitrogen oxides or NO_x" is a class of chemicals containing varying quantities of nitrogen and oxygen

that are created from combustion processes taking place at high temperatures and high pressures (e.g., inside automotive engine cylinders or in high temperature boilers). Examples of nitrogen oxides are NO, NO₂, NO₃, N₂O₂, and N₂O₅. Nitrogen oxides are also referred to as oxides of nitrogen.

OO. "NMAC" means New Mexico administrative code, which contains the rules adopted by all rulemaking agencies of the state of New Mexico and the rules adopted by the A/BC AQCB.

PP. "Open burning" means the combustion of any material without the following characteristics:

(1) control of combustion air to maintain adequate temperature for efficient combustion;

(2) containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

(3) emission controls for the gaseous combustion products.

QQ. "Operator" means the person(s) responsible for the overall operation of a source.

RR. "Owner" means the person(s) who owns a source or part of a source.

SS. "Ozone or O₃" means a pungent, colorless gas composed of molecules containing three atoms of oxygen with a molecular weight of 48.0 g/mole.

TT. "Part" means the regulation number in the NMAC.

UU. "Particulate matter or PM" means any airborne finely divided solid or liquid material such as dust, smoke, mist, fumes or smog found in air or emissions.

VV. "Particulate matter emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by the reference method in 40 CFR 60, Appendix A, Method 5, or an equivalent method approved by the EPA.

WW. [Reserved]

XX. "Pathological waste destructor" means any equipment, which is used to dispose of pathological waste by combustion or other process, which is approved by EPA.

YY. "Performance test" means the data, which is the result of a test performed as required by the department to determine compliance.

ZZ. "Permit" means any permit or group of permits, modifications, renewals or revisions authorizing the construction or operation of a stationary source pursuant to the federal act, the Air Quality Control Act, or laws and regulations in effect pursuant to the act.

AAA. "Permittee" means the owner or operator identified in any permit application or permit.

BBB. "Person" means any individual, partnership, firm, public or private corporation, association, trust, estate, political subdivision or agency, or any other legal entity or their legal representatives, agents or assigns.

CCC. "Photochemical oxidants" means an air pollutant, which is formed by the action of sunlight on oxides of nitrogen and hydrocarbons.

DDD. "PM₁₀, PM_{2.5} or PM₁" means particulate matter with an aerodynamic diameter less than or equal to 10, 2.5, or 1 micrometers, respectively.

EEE. "PM_{2.5} emissions" means finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted into the ambient air as measured by the reference method in 40 CFR Part 50, Appendix L, approved by the EPA.

[EEE-]FFF. "PM₁₀ emissions" means finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted ~~to~~ into the ambient air as measured by the reference method in 40 CFR Part 50, Appendix J and M, or equivalent method approved by the EPA

[FFF. Reserved]

GGG. "Pollution control device or air pollution control equipment" means any device, equipment, process or combination thereof, the operation of which may limit, capture, reduce, confine, or otherwise control regulated air pollutants or convert for the purposes of control any regulated air pollutant to another form, another chemical or another physical state. This includes, but is not limited to, sulfur recovery units, acid plants, baghouses, precipitators, scrubbers, cyclones, water sprays, enclosures, catalytic converters, and steam or water injection.

HHH. "Portable or temporary stationary source" means a stationary source capable of changing its location with limited dismantling or reassembly which is associated with a specific construction project or increased production demand.

III. "Potential to emit or pre-controlled emission rate" means the maximum capacity of a stationary source to emit any air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its

design if the limitation is federally enforceable or is included in a permit issued by the department. However, the potential to emit for nitrogen dioxide shall be based on total oxides of nitrogen.

JJJ. "Process equipment" means any equipment used for storing, handling, transporting, processing or changing any materials whatsoever but excluding that equipment specifically defined in these regulations as incinerators, crematories, pathological waste destructors, pathological destructors and medical waste destructors.

KKK. "Process weight" means the total weight of all materials introduced into any specific process, which causes any discharge of air contaminants into the atmosphere. Solid fuels introduced into any specific process will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not.

LLL. "Process weight rate" means the hourly rate derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, or from the beginning to the completion of a typical portion thereof, excluding any time during which the equipment is idle.

MMM. [Reserved]

NNN. "Regulated air pollutant" means the following:

(1) any pollutant for which a national, state, or local ambient air quality standard has been promulgated;

(2) any pollutant that is subject to any standard promulgated under Section 111 of the federal act;

(3) any Class I or II substance subject to any standard promulgated under or established by Title VI of the federal act; or

(4) any pollutant subject to a standard promulgated under Section 112 or any other requirements established under Section 112 of the federal act.

OOO. "Responsible official" means one of the following:

(1) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for, or subject to a permit and either:

(a) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(b) the delegation of authority to such representatives is approved in advance

by the department.

(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively.

(3) For a municipality, state, federal or other public agency: either a principal executive officer or ranking elected official. For the purposes of this regulation, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a regional administrator of EPA).

(4) For an acid rain source: the designated representative (as defined in Section 402(26) of the federal act) in so far as actions, standards, requirements, or prohibitions under Title IV of the federal act or the regulations promulgated thereunder are concerned, and for any other purposes under 40 CFR, Part 70.

PPP. "Shutdown" means the cessation of operation of any air pollution control equipment, process equipment or process for any purpose.

QQQ. [Reserved]

SSS. "Smoke" means small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon, soot and combustible material.

TTT. "Solid waste" means garbage; refuse; yard waste; food wastes; plastics; leather; rubber; sludge; and other discarded combustible or noncombustible waste, including solid, liquid, semisolid; or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community or residential activities, and from waste treatment plants, water supply treatment plants, or air pollution control facilities; but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permit under Section 402 of the Federal Water Pollution Control Act, or source, special nuclear, or byproduct material as defined by the Atomic Energy Act.

UUU. [Reserved]

VVV. "Stack, chimney, vent, or duct" means any conduit or duct emitting particulate or gaseous emissions into the open air.

WWW. "Standard conditions" means the conditions existing at a temperature of 70° F (25° C) and pressure of 14.7 psia (760 mmHg).

XXX. "Standard cubic foot" means a measure of the volume of one cubic foot of gas at standard conditions.

YYY. "Startup" means the setting into operation of any air pollution control equipment, process equipment or

process for any purpose.

ZZZ. "Stationary source" means any building, structure, facility or installation, which [~~of any machine, equipment, article or other contrivance whose location~~] is either permanent or temporary, [~~which~~] excluding a private residence, that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the federal act, the Air Quality Control Act, or the laws and regulations in effect pursuant to the act. Several buildings, structures, facilities, or installations, or any combinations will be treated as a single stationary source if they belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person, or persons, or are under common control. Pollutant-emitting activities shall be treated as the same industrial grouping if they have the same first two digits of an applicable standard industrial classification (SIC) code as described in the standard industrial classification manual.

AAAA. "Sulfur dioxide or SO₂" means a pungent, colorless, poisonous gas composed of molecules containing a single atom of sulfur and two atoms of oxygen with a molecular weight of 64.07 g/mole.

BBBB. "Total reduced sulfur" means any combination of sulfur compounds, except sulfur dioxide and free sulfur, which test as reduced sulfur, including, but not limited to, hydrogen sulfide, methyl mercaptan, and ethyl mercaptan.

CCCC. "Total suspended particulate or TSP" means particulate matter as measured by the method described in 40 CFR Part 50, Appendix B.

DDDD. "Vapors" means the gaseous form of a substance, which exists in the liquid or solid state at standard conditions.

EEEE. "Visible emission" means an emission that can be seen because its opacity or optical density is above the threshold of vision.

FFFF. "Volatile organic compounds or VOC" means any compound of carbon which participates in atmospheric photochemical reactions excluding carbon monoxide; carbon dioxide; carbonic acid; metallic carbides or carbonates; ammonium carbonate; methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-

tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HCFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); perchlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene (tetrachloroethylene) and perfluorocarbon compounds; and, any additional compounds which the EPA determines to have negligible photochemical reactivity.

GGGG. "Measurements, abbreviations, and acronyms"

A/BC AQCB-Albuquerque/Bernalillo County Air Quality Control Board
ABT-Averaging, Banking and Trading (Program)
AIRS-Aerometric Information Retrieval System
AMPA-Albuquerque Metropolitan Planning Area
APCD-Air Pollution Control Division
API-American Petroleum Institute
AQIA-Air Quality Impact Assessment
AQS-Air Quality Services
ASE-National Institute for Automotive Service Excellence
ASTM-American Society for Testing and Materials
ATS-Allowance Tracking System
BACT-Best Available Control Technology
Bhp-Brake horsepower
Btu-British thermal unit
C-Celsius
CAA(A)-federal Clean Air Act (Amendments)
CEM-Continuous Emission Monitor
CFC(s) -Chlorofluorocarbon(s)
cfh-cubic feet per hour
cfm-cubic feet per minute
CFR-Code of Federal Regulations
CO₂-carbon dioxide.
CO-carbon monoxide.
COG-Mid-Region Council of Governments
CMAQ-Congestion Mitigation and Air Quality
cu. in.-cubic inch(es)
DER-Discrete Emission Reduction
DOE-Department of Energy
DOT-U.S. Department of Transportation
DPM-Development Process Manual
DRB-Development Review Board
EA-Environmental Assessment
EHD-Environmental Health Department
EI-Emission Inventory
EIS-Environmental Impact Statement
EPA-U.S. Environmental Protection Agency
EPC-Environmental Planning Commission
ERC-Emission Reduction Credit
F-Fahrenheit.
FHWA-Federal Highway Administration,

DOT
FMVCP-Federal Motor Vehicle Control Program
FR-Federal Register
ft.-feet
FTA-Federal Transit Administration, DOT
g-gram(s)
g/mole-grams per mole
gal -U.S. gallon(s)
GVW-Gross vehicle weight
GVWR-Gross vehicle weight rating
h-hour(s)
HAP-Hazardous Air Pollutants
HC-hydrocarbon(s)
Hg-mercury
hp-horsepower
I/M-Inspection/Maintenance
in.-inch(es)
ISTEA-Intermodal Surface-Transportation Efficiency Act
K-Kelvin
kg-kilogram(s)
km-kilometer(s)
kPa-kilopascal(s)
lb.-pound(s)
lb/day-pounds per day
lb-ft-pound-feet
lb/hr-pounds per hour
lb/yr-pounds per year
LAER-Lowest Achievable Emission Rate
LNG-Liquefied Natural Gas
LPG-Liquefied Petroleum Gas
L RTP-Long Range Transportation Plan
m-meter(s)
MACT-Maximum Achievable Control Technology
max.-maximum
MCO-Manufacturer's Certificate of Origin
µg-microgram
µg/m³-microgram per cubic meter
mg-milligram(s)
mg/m³-milligram per cubic meter
mi.-mile(s)
min-minute(s)
ml-milliliter(s)
mm-millimeter(s)
MMBtu-million Btu
mmHg-millimeters of Mercury
mph-miles per hour
MPO-Metropolitan Planning Organization
~~[MRGCOG Middle Rio Grande~~
~~COG]~~**MRCOG**-Mid-Region Council of Governments
MSERC-Mobile Source Emission Reduction Credits
MSMTC-Mobile Source Modeling Technical Committee
MTBE-methyl tertiary butyl ether
MVD-Motor Vehicle Division
MWe-megawatt electrical
N₂-nitrogen.
NAAQS-National Ambient Air Quality Standards
NAMS-National Air Monitoring Station
NDIR-nondispersive infrared
NEPA-National Environmental Policy Act

NESCAUM/MARAMA-Northeast States for Coordinated Air Use Management/Mid-Atlantic Regional Air Management Association
NESHAP-National Emission Standards for Hazardous Air Pollutants
NIST-National Institute of Standards and Technology
NM-New Mexico
NMAC-New Mexico Administrative Code
NMSA-New Mexico Statutes Annotated
NO-nitric oxide
NO₂-nitrogen dioxide
NO_x -oxides of nitrogen
No-number
NOV-Notice of Violation
NMHC-Non-methane Hydrocarbons
NSPS-New Source Performance Standards
NSR-New Source Review
O₂-oxygen
O₃-ozone
OMTR-Open Market Trading Rule
OTAG-Ozone Transport Assessment Group
OTC-Ozone Transport Commission
Pb-lead
PIC-Public Involvement Committee
PM-Particulate Matter
PM_{2.5}-Particulate Matter Less Than 2.5 microns
PM₁₀-Particulate Matter Less Than 10 microns
ppm-parts per million by volume
ppm C-parts per million, carbon
PSD-Prevention of Significant Deterioration
PSI-Pollutant Standard Index
psi-pounds per square inch
psia-pounds per square inch absolute
psig-pounds per square inch gauge
PTE-Potential To Emit
PWD-Pathological Waste Destructor
QF-Qualifying Facility
R-Rankin
RACT-Reasonably Available Control Technology
R&D-Research & Development
RECLAIM-Regional Clean Air Incentives Market
ROG-Reactive Organic Gases
rpm-revolutions per minute
RTA-Regional Transit Authority
RTC-RECLAIM Trading Credit
RVP-Reid vapor pressure
s-second(s)
SAE-Society of Automotive Engineers
SBAP-Small Business Assistance Program
scf-standard cubic foot
SI-International system of units
SIP-State Implementation Plan
SLAMS-State and Local Air Monitoring Station
SMOG-SMoke + fOG
SO₂-Sulfur Dioxide
~~State DOT-[NM Highway & Transportation Department]~~ **New Mexico**

- Department of Transportation
- STIP-State Transportation Improvement Program
- TCC-Transportation Coordinating Committee
- TCM-Transportation Control Measure
- TES-Transportation Evaluation Study
- TIP-Transportation Improvement Program
- TMA-Transportation Management Association
- ton/yr-tons per year
- TPTG-Transportation Program Task Group
- tpy-tons per year
- TSP-Total Suspended Particulate
- UPWP-Unified Planning Work Program
- UTPPB-Urban Transportation Planning Policy Board
- U.S.-United States
- UV-Ultraviolet
- VE-Visible Emission(s)
- VIN-Vehicle Identification Number
- VMT-Vehicle Miles Traveled
- VOC-Volatile Organic Compounds
- VPMD-Vehicle Pollution Management Division
- %-percent
- o-degree(s)
- [3/21/77. . .11/12/81, 11/21/81, 3/16/89, 6/16/92, 2/26/93, 9/23/94, 12/16/94, 12/1/95, 8/1/96; 20.11.1.7 NMAC - Rn, 20 NMAC 11.01.1.7, 10/1/02; A, 7/1/04]

20.11.1.13 ~~[BERNALILLO COUNTY AIR QUALITY GOALS AND ENFORCEABLE AMBIENT AIR QUALITY STANDARDS:~~

A. It is the intent of the board that the ambient air quality standards in this section establish a level of air quality designed to protect human health, animal and plant life and property; they are further intended to protect against interference with public welfare, visibility and the use of property. The board has adopted goals and guidelines to assist the department in determining the need for and the extent of air pollution control regulations and emission limitations. The Bernalillo county air quality goals are not enforceable. Federal and New Mexico ambient air quality standards are enforceable.

B. ~~[Reserved]~~

C. ~~[Reserved]~~

D. ~~Ambient Air Quality Goals and Enforceable Standards~~

Pollutant	Goals	Enforceable Standards		
	A/BC AOCB	New Mexico State	Federal Primary	Federal Secondary
Carbon Monoxide (CO)				
8-hour average	-	8.7 ppm	9.0 ppm	9.0 ppm
1 hour average	13 ppm	13.1 ppm	35 ppm	35 ppm
Nitrogen Dioxide (NO₂)				
24 hour average	.062 ppm	.10 ppm	-	-
Annual arithmetic mean	.053 ppm	.05 ppm	.053 ppm	.053 ppm
Ozone (O₃)				
1 hour average	.120 ppm	-	.120 ppm	.120 ppm
Sulfur Dioxide (SO₂)				
24 hour average	.10 ppm	.10 ppm	-	.140 ppm
3 hour average	-	-	-	.5 ppm
Annual arithmetic mean	.004 ppm	.02 ppm	.03 ppm	-
Particulate Matter (PM₁₀)				
24 hour average	150 µg/m ³	-	150 µg/m ³	-
Annual arithmetic mean	-	-	-	50 µg/m ³
Lead (Pb)				
Quarterly arithmetic mean	1.5 µg/m ³	-	1.5 µg/m ³	1.5 µg/m ³

Hydrogen Sulfide

1 hr average .003 ppm .010 ppm

Total Reduced Sulfur

1/2 hour average .003 ppm

1 hour average .003 ppm

Particulate Matter (TSP)

24 hour average 150 µg/m³ 150 µg/m³

7 day average 110 µg/m³

30 day average 90 µg/m³

Annual geometric mean 60 µg/m³ 60 µg/m³

[Reserved]

[11/12/81. . .3/24/82, 8/1/96; 20.11.1.13 NMAC - Rn, 20 NMAC 11.01.II.2, 10/1/02; Repealed, 7/1/04]

**NEW MEXICO ENERGY,
MINERALS AND NATURAL
RESOURCES
DEPARTMENT
OIL CONSERVATION DIVISION**

Explanatory paragraph: This is an amendment to 19.15.1 NMAC, Section 18, to be effective 05/28/04. Minor correction to internal numeration of Section 34 was also accomplished.

**19.15.1.18 [L I N E D
PITS/BELOW GRADE TANKS:**

A. After January 1, 1986, lined pits and below grade tanks may be used to contain produced water, sediment oil, tank bottoms, miscellaneous hydrocarbons, or other fluids subject to the jurisdiction of the division under the Oil and Gas Act only upon prior approval of the division. Applications for approval of lined pits and below grade tanks should be made in accordance with applicable special rules or, in the absence of special rules, in accordance with division "guidelines".

B. To protect migratory birds, all tanks exceeding 16 feet in diameter, exposed pits and ponds shall be screened, netted or covered. Upon written application by the operator, an exception to screening, netting or covering of a facility may be granted by the district supervisor upon a showing that an alternative method will protect migratory birds or that the facility is not hazardous to migratory birds.]

[RESERVED.]

[9-23-85; 9-1-89...2-1-96; 19.15.1.18 NMAC - Rn, 19 NMAC 15.A.18, 5-15-01; Repealed, 5-28-04]

**NEW MEXICO ENERGY,
MINERALS AND NATURAL
RESOURCES
DEPARTMENT**

OIL CONSERVATION DIVISION

This is an amendment to 19.15.3 NMAC, Section 105, to be effective 05/28/04.

**19.15.3.105 [PIT FOR CLAY,
SHALE, DRILL FLUID AND DRILL
CUTTINGS:**

A. In order to assure a supply of proper material for mud laden fluid to confine oil, gas, or water to their native strata during the drilling of any well, operators shall provide before drilling is commenced an adequate pit for the accumulation of drill cuttings. Drilling fluids and drill cuttings must be disposed of at the well site in a manner to prevent contamination to surface or subsurface waters. Removal of drilling fluids or drill cuttings for offsite disposal will be permitted only by approval of the appropriate division district supervisor.

B. To protect migratory birds, pits used for drilling, completion, blowdown, workover or an emergency immediately after cessation of the activity must have oil removed from their surface or be screened, netted or covered.]

[RESERVED.]

[1-1-50, 9-1-89...2-1-96; 19.15.3.105 NMAC - Rn, 19 NMAC 15.C.105, 11-15-01; Repealed, 5-28-04]

**NEW MEXICO
DEPARTMENT OF
FINANCE AND
ADMINISTRATION**

LOCAL GOVERNMENT DIVISION

10 NMAC 6.2, Enhanced 911 Requirements, filed February 2, 1998, is hereby repealed and replaced by 10.6.2 NMAC, Enhanced 911 Requirements, effective 05-28-2004.

**NEW MEXICO
DEPARTMENT OF
FINANCE AND
ADMINISTRATION**

LOCAL GOVERNMENT DIVISION

**TITLE 10 PUBLIC SAFETY
AND LAW ENFORCEMENT
CHAPTER 6 LOCAL GOVERN-
MENT LAW ENFORCEMENT AGEN-
CIES**

**PART 2 ENHANCED 911
REQUIREMENTS**

10.6.2.1 ISSUING AGENCY: Department of Finance and Administration, Local Government Division. [10.6.2.1 NMAC - Rp, 10 NMAC 6.2.1, 05-28-2004]

10.6.2.2 SCOPE: The state, Indian reservations, counties and incorporated cities, towns and villages. [10.6.2.2 NMAC - Rp, 10 NMAC 6.2.2, 05-28-2004]

10.6.2.3 STATUTORY AUTHORITY: This rule is promulgated pursuant to the authority granted in 63-9D-11.1 NMSA 1978, as amended, and is deemed necessary to carry out the provisions of the E911 Act [Sections 63-9D-1 to 63-9D-11.1 NMSA 1978, as amended]. [10.6.2.3 NMAC - Rp, 10 NMAC 6.2.3, 05-28-2004]

10.6.2.4 DURATION: Permanent. [10.6.2.4 NMAC - Rp. 10 NMAC 6.2.4, 05-28-2004]

10.6.2.5 EFFECTIVE DATE: May 28, 2004, unless a later date is cited at the end of a section. [10.6.2.5 NMAC - Rp, 10 NMAC 6.2.5, 05-28-2004]

10.6.2.6 OBJECTIVE: The objective of Part 2, Chapter 6 is to carry out the provisions of the E911 Act. These rules and regulations are designed to assist in the development, operation and maintenance of a reliable, uniform E911 system. This act establishes a program to provide for the purchase, lease, installation and maintenance of E911 equipment, telecommunicator training, database preparation, database updates, compliance with federal communications commission (FCC) requirements for phase I and phase II wireless E911 service, and E911 network costs as necessary for a 911 system.

[10.6.2.6 NMAC - Rp, 10 NMAC 6.2.6, 05-28-2004]

10.6.2.7 DEFINITIONS:

A. "ADA" means Americans with Disabilities Act of 1990.

B. "Alternate routing" means an optional feature that is capable of automatically rerouting 911 calls to a designated alternate location if all 911 trunks from a central office or a public safety answering point (PSAP) are out of service.

C. "Answering position" means a location within a PSAP equipped with an ANI and/or ALI display, printer or electronic storage media, telephone, and / or wireless call map display that is used to receive and display incoming E911 calls.

D. "Automatic location identification (ALI)" means a feature of E911, which displays the physical address of the telephone number that is being used to place the call. It requires a data storage and retrieval system, which matches a telephone number to its physical address. ALI information can include address (including room or floor), names of law enforcement, fire and medical agencies responsible for that address, type of service (e.g., residence, PBX, Centrex, coin), and name associated with the telephone number.

E. "Automatic number identification (ANI)" means a feature of E911, and sometimes basic 911 that automatically displays the telephone number of the person placing the 911 call at the PSAP. This is normally the telephone number of the person placing the call, but not always. For example, on older PBX systems, the ANI telephone number is normally the main number of the system. Therefore, off-premises stations will be identified as if they had the main telephone number (ANI) and as if they were located at the primary address of these older PBXs.

F. "Basic 911 service" means a telephone service that automatically connects a person dialing the three-digit number 911 to an established public safety answering point through normal telephone service facilities.

G. "Board" means the state board of finance.

H. "Called party hold" means a feature of basic 911 service that enables a PSAP telecommunicator to retain control of an incoming 911 call even if the caller hangs up.

I. "Central office (CO)" means telephone company equipment that provides telephone service to the public. More than one CO may be located in the E911 service area.

J. "Continuous logging recorder" means a device, which records date, time, voice and TDD/TTY communications, and other transactions involved in the processing of calls to and from the PSAP on a 24/7 basis.

K. "Database" means a software containing the automatic location identification (ALI) records that are retrieved by the PSAPs when a 911 call is received.

L. "Default routing (default answering)" means a standard feature of E911 activated when an incoming 911 call cannot be selectively routed due to ANI failure, garbled digits, or other causes.

M. "Diverse routing" means (if available) the practice of routing calls through different circuit paths in order to prevent total loss of the 911 system in the event an individual circuit is disabled.

N. "Division" means the local government division of the department of finance and administration.

O. "Emergency service number (ESN)" means a number used by the database providers to identify emergency service providers within the 911 service area.

P. "E911 fund" means the fund created in the state treasury to be used for the purchase, lease, installation or maintenance of equipment necessary for a 911 system.

Q. "Enhanced 911 service (E911)" means a level of 911 service, with the aid of a database management system and electronic switching that provides rapid and reliable public service response to emergency calls. The system provides tandem routing or selective routing of calls to the appropriate PSAP, automatic number identification (ANI) and automatic location identification (ALI).

R. "E911 service area" means the geographic area in which one or more entities participating in E911 service are responsible for responding to all 911 calls and for ensuring that appropriate emergency assistance is dispatched.

S. "Forced disconnect" means a basic 911 feature, which allows a PSAP attendant to disconnect a 911 call. Prevents intentionally jamming of 911 lines

by callers who refuse to hang up. E911 uses the "time-out" CO feature to "force disconnect".

T. "Grantee" means the board of county commissioners of a county or the governing body of a municipality as defined in the Municipality Code that have received a grant pursuant to the E911 Act.

U. "Instant playback recorder" means a device that allows for the instant playback of the audio portion of a 911 call and a radio call at the E911 position.

V. "Local exchange access line" means a telephone line connecting a telephone to the telecommunications company's central office.

W. "Local exchange area" means a geographic area encompassing one or more local communities served by a telecommunications company.

X. "Master street address guide (MSAG)" means the document or computer file that lists the physical street names (including the street prefix, suffix, and directional), address ranges, emergency service number and other routing codes used in the data management system (DMS) of an E911 system equipped with selective routing and/or automatic location identification.

Y. "National emergency number association (NENA)" means the national association of telecommunications professionals involved with 911 service. NENA recommends PSAP policies and guidance on wireless E911 call taking. Membership includes employees of federal, state and local government agencies, telecommunication companies, and other communications service and equipment vendors.

Z. "Network" means any system designed to provide one or more access paths for communications between users at different geographic locations; provided that a system may be designed for voice, data, or both, and may feature limited or open access and may employ appropriate analog, digital switching or transmission technologies.

AA. "Network and database surcharge fund" means the fund created in the state treasury and funded by the network and database surcharge to be billed by local exchange telephone (telecommunication) companies, except as provided by Section 63-9D-5 NMSA 1978, as amended, on all local exchange access lines, and administered by the division.

BB. "911 line/trunk" means a line/trunk accessed by dialing 911 terminating at a PSAP. 911 lines on basic 911 systems are one-way incoming only. Outgoing calls can only be made while an incoming 911 call is on the trunk, to confer-

ence and/or transfer to another location.

CC. "911 PSAP equipment" means the public safety answering point (PSAP) equipment directly related to the operation of an E911 system including, but not limited to, automatic number identification (ANI) displays, automatic location identification (ALI) displays, controllers, combined ANI/ALI displays, printers, uninterruptible power supply (UPS), capability for the hearing impaired (TDD) 24/7 continuous logging recorders, work stations, wireless phase I and/or II mapping equipment, software associated with the system, telephones and other miscellaneous equipment necessary to dispatch emergency E911 calls.

DD. "Phase I cellular service" means the wireless carriers deliver a cellular 911 call to the PSAP nearest to the caller. At the PSAP the caller's phone number (ANI) will be available along with a map location of the carrier's tower receiving the wireless call, mapping an area from where the caller is located. This area may range from a square mile within a municipality, to several miles along a highway.

EE. "Phase II cellular service" means the wireless carriers will not only deliver a cellular 911 call to the PSAP nearest to the caller, but provide the caller's phone number (ANI) and the caller's approximate location (ANI) using the latitude and longitude of the caller.

FF. "Primary public safety answering point" means a PSAP equipped with automatic number identification and automatic location identification displays, wireless mapping equipment, and the first point of reception of an E911 call. It serves the 911 service area in which it is located, and other municipalities as may be determined by the service area committee.

GG. "PSAP consolidation" means the combining of one or more PSAPs within a county to form a single PSAP to serve the constituents previously served by the individual PSAPs.

HH. "PSAP serving area" means the geographic area containing a PSAP that is capable of answering all 911 calls and responding to them appropriately.

II. "Public safety agency" means a public agency that provides law enforcement, fire, medical, and/or other emergency services.

JJ. "Public safety answering point (PSAP)" means a twenty-four local jurisdiction communications facility that receives 911 service calls and directly dispatches emergency response services or that relays calls to the appropriate public or private safety agency.

KK. "Secondary public safety answering point" means a facility equipped with automatic number identifica-

tion, automatic location identification displays and all other features common to primary PSAPs. It receives 911 calls only when they are transferred from the primary PSAP or on an alternate routing basis when calls cannot be completed to the primary PSAP.

LL. "Selective transfer" means that on systems with selective transfer, calls are routed to the proper secondary PSAP(s).

MM. "Service area" means the geographic area in which one or more entities participating in a 911 system are responsible for responding to all 911 calls and for ensuring that appropriate emergency assistance is dispatched.

NN. "Speed calling" means abbreviated dialing which can be programmed in a central office to allow calling of seven or ten digit numbers by dialing only one or two digits. On E911, a separate 30 number (two digit) speed call list may be provided for each primary and secondary PSAP as a standard feature.

OO. "Tandem routing or selective routing" means a feature that permits an E911 call to be routed to the designated primary PSAP based upon the telephone number of the calling party. This feature routes calls to the primary PSAP responsible for emergencies at the address of the telephone placing the call based on the ANI telephone number and associated emergency service number (ESN) in the tandem office.

PP. "Telecommunications company" means an individual, corporation, partnership, joint venture, company, firm, association, proprietorship or other entity that provides public telecommunication services capable of originating a 911 call, to include any database management company contracted to create or maintain the PSAP's MSAG.

QQ. "Telephone devise for the hearing impaired/teletype (TDD/TTY)" means a telecommunication device consisting of modems that permit typed telephone conversations with or between hearing or speech-impaired people.

RR. "Wireless / cellular" means a telephone linked to the public switched telephone network (PSTN) via a radio link through a company providing the radio link from various tower / antenna sites through which their switching equipment connects the wireless caller to the PSTN. Phase I wireless companies connect the wireless caller to the nearest PSAP by using the cell tower location being used by the cellular caller and selective routing.

SS. "Wireless surcharge fund" means the fund created in the state treasury to be used for the purchase, lease, installation, maintenance of equipment, and

the network and database, necessary for 911 wireless equipment. The wireless surcharge is billed by wireless companies, on each activated wireless subscribers, and administered by the division.

TT. "Wireless working group (WWG)" means an advisory committee consisting of members directly involved in the phase I and phase II implementation of a PSAP. and may consist of personnel from the division, the PSAP, the local and/or Qwest telephone company, wireless call-routing vendor, NM department of public safety (DPS) and the applicable local staff that provides local geographic information services (GIS). This advisory committee serves at the discretion of the division and may dissolved when no longer needed.

UU. "Uninterruptible power supply (UPS)" means a system designed to provide power, during a period when the normal power supply is incapable of performing up to par.

[10.6.2.7 NMAC - Rp, 10 NMAC 6.2.7, 05-28-2004]

10.6.2.8 INTRODUCTION:

A. In New Mexico, the responsibility and authority for delivering emergency medical services, public fire protection, and law enforcement generally rests with the state, counties, and municipalities. This is true even when supplemental services are performed by others, such as private ambulance companies or independent public authorities and non-profit organizations with limited internal fire protection and security forces.

B. An E911 telephone emergency system provides:

(1) expansion of the capabilities of the basic 911 emergency telephone number;

(2) faster response time, which minimizes the loss of life and property;

(3) automatic routing to the appropriate public safety answering point;

(4) immediate visual display of the telephone number, name, and address of the calling party; and,

(5) identifies callers, curtailing abuse of the emergency system.

[10.6.2.8 NMAC - Rp, 10 NMAC 6.2.8, 05-28-2004]

10.6.2.9 GUIDELINES:

A. Guidelines for basic and E911 service, system, equipment and network design and maintenance shall be established by the division following the best nationally accepted concepts and operating practices.

B. E911 call information shall follow the national NENA standards.

[10.6.2.9 NMAC - Rp, 10 NMAC 6.2.9, 05-

28-2004]

10.6.2.10 DATABASE DEVELOPMENT REQUIREMENTS:**A. Database:**

(1) The grantee shall work with the telecommunication company(s) to verify street names, number ranges, and emergency service zones (ESZ) and other information needed by the grantee for the MSAG and ALI.

(2) The E911 coordinator, as defined by Subsection D of 10.6.2.11 NMAC and the telecommunication company shall ensure that changes, deletions and additions to the master street address guide (MSAG) database are corrected.

(3) All PSAPs shall review the MSAG and ALI yearly to ensure the accuracy of the data and ESN.

(4) Beginning on July 1, 1999 the MSAG and ALI must be maintained at the level of accuracy agreed to by the division and the grantee.

(5) All telecommunication companies shall update the "selective router", MSAG and ALI within 48 hours of completion of a service order by the telecommunication company.

B. ALI:

(1) Every telecommunication company providing ALI shall present uniform data, as defined by the NENA standards.

(2) The ALI shall be displayed and printed or archived immediately in the database when the 911 call is made.

(3) Each ALI data set shall include as a minimum:

(a) area code and telephone number;

(b) class of service;

(c) time in a 24-hour format (may be printed and not displayed);

(d) date (may be printed and not displayed);

(e) subscriber name or designation of non-published number;

(f) house (building) number;

(g) house number (building) suffix;

(h) directional prefix (NE, NW, SE, SW);

(i) street name including type;

(j) emergency service number location;

(k) community name;

(l) the state name;

(m) emergency service number;

(n) pilot number;

(o) emergency service number translation;

(p) any comments present;

(q) emergency response names of law enforcement, fire and EMS.

(4) ALI information shall use

conventional English or NENA standard abbreviations where necessary and shall not use single letter or digit codes.

C. Database development of physical addresses: Addressing guidelines shall be established by the division. These guidelines must be followed by grantees that seek reimbursement for costs from the network and database fund.

D. Other classes of service:

(1) The wireless working group shall advise the division on the development of procedures for:

(a) the delivery of cellular / wireless service to the 911 service area, and;

(b) the establishment of a statewide standard PSAP screen display format for the phase I and phase II information.

(2) Personal communications networks and any other future mobile and/or personal communications systems shall also be required to adhere to Subsection D of 10.6.2.10 NMAC above.

(3) Following date of approval of 10.6.2 NMAC, all new or upgraded customer owned or leased private branch exchanges (PBX) will incorporate a software package that when 911 is dialed from any extension, the extension number, name of the extension user, building address, room number and building floor, is passed through to the proper PSAP handling the call

(4) Following date of approval of 10.6.2 NMAC, the owner or lessee shall remit to the department of taxation and revenue the E911 surcharge for each activated telephone extension on the PBX.

[10.6.2.10 NMAC - Rp, 10 NMAC 6.2.11, 05-28-2004]

10.6.2.11 PSAP EQUIPMENT, ACQUISITION AND DISBURSEMENT OF FUNDS:

A. The PSAP equipment must be capable of handling emergency call volumes to meet the needs of the public. This equipment must be compatible with that of the telecommunication company providing the 911 network and database.

B. In order to qualify for a PSAP, an applicant shall have a 24 hour, 7 days per week (24/7) communication facility.

C. A public safety answering point, at a minimum shall be equipped with the following features:

(1) ANI;

(2) ALI;

(3) call detail information;

(4) default routing (default answering) until selective routing is approved by the division;

(5) ability to print call detail information with either paper or electronic

media;

(6) ability to transfer voice or TDD/TTY and data;

(7) selective and fixed button transfer on E911 systems;

(8) a minimum of thirty (30) minutes uninterruptible power supply;

(9) TDD/TTY communications capability at each 911 answering position;

(10) switch hook status;

(11) for basic 911 be able to "ring back", i.e. phone back the 911 caller, put the caller on hold: disconnect the caller;

(12) 911 related calls, which pass through switching equipment, must provide transfer, conference, speed dialing and supervision of all calls until successfully transferred or terminated;

(13) each PSAP shall be equipped with at least one E911 answering position; when there is more than one answering position, they shall be similarly equipped with access to all incoming 911 lines, outgoing dedicated/switched lines, tie lines, and dial out lines;

(14) each PSAP shall be equipped with a continuous logging recorder; this logging recorder shall have:

(a) the capacity to record both sides of a conversation on each incoming 911 call and all radio communications while dispatching the 911 call;

(b) the ability to continuously document the year, date and time of each recorded event and the capability to record both voice and TDD/TTY;

(15) to maintain reliability, each PSAP shall be equipped with instant playback voice recorders at each call answering and radio position;

(16) each 911 trunk will have incoming emergency calls identified by both audible and visual and different indicators for landline and wireless trunks;

(17) each PSAP shall have sufficient 911 answering positions and staff to ensure that ninety percent (90%) of all 911 calls are answered in no more than ten (10) seconds and the balance of the calls within twenty (20) seconds during normal peak operating periods; staffing levels may vary during the working day to meet this requirement;

(18) for quality assurance and training purposes, PSAP answering equipment shall be provided for supervisors so they can monitor incoming emergency calls;

(19) each PSAP will be provided equipment furniture to adequately support the E911 and radio equipment, and the call takers and dispatchers;

(20) each PSAP will have a backup generator capable of keeping the PSAP operating until commercial power is restored; and

(21) each PSAP will have a written agreement with a nearby fully equipped PSAP capable of taking the PSAP's calls and dispatching the appropriate emergency response; PSAP transfer is accomplished by use of the "make busy" circuit, or calling the E911 center to reroute their 911 calls to the agreed upon PSAP.

D. PSAP administration:

(1) Every grantee participating in the E911 system shall designate someone to serve as a coordinator to work with the division and the telecommunication company regarding 911 issues.

(2) All coordinators working with the division and the telecommunication company regarding 911 issues will have personal work email address for receiving information regarding training classes, consolidation efforts, and transmittal of information required by this office.

(3) Only incorporated municipalities, counties, state police or native American tribes or pueblos, public safety agencies or their authorized agents may receive 911 calls.

(4) The 911 number shall be used to receive incoming emergency calls transferred to the PSAP by other PSAPs for certain alternate and default routing arrangements.

(5) 911 trunks shall not be used to make outgoing calls, but may be used to make outgoing transfer 911 calls if there is an incoming 911 call on the line/trunk.

(6) 911 trunks shall be used solely to receive emergency 911 calls at primary PSAPs and the transfer of 911 calls to another PSAPs.

(7) There shall be at least one PSAP operating 24 hours a day within the 911 service area. Municipalities and counties shall participate and assist with the operational costs necessary to maintain the service.

(8) Each PSAP shall maintain an up-to-date detailed profile of the PSAP. This profile shall include at a minimum:

(a) exact address of the PSAP;

(b) number and type of positions;

(c) type of equipment to include E911 call answering equipment, telephone switching equipment, wireless mapping equipment; and CAD system, radio system, and make and model of UPS and back-up generator;

(d) number and type of dedicated/switched voice/data circuits;

(e) routing central office and PSAP end office;

(f) maintenance control center to include name of company, physical address, telephone number, email address, and your point of contact for E911 equipment and voice logging recorder, if different from E911 equipment maintainer;

(g) PSAP coordinator and alternate contact name, address, phone number, and their PSAP email address;

(h) type and manufacturer of CAD system, if any, and type and manufacturer of voice logging recorder;

(i) GIS representative to include physical address, telephone number, and email address.

(9) Each PSAP shall maintain at least one unpublished seven-digit emergency number. This number shall also be used to receive incoming emergency calls transferred to the PSAP by other PSAPs for certain alternate and default routing arrangements.

(10) The PSAP shall be responsible for coordinating the "emergency service listing" on the inside front page(s) of their local telephone directories. Each PSAP will have a published seven-digit number for non-emergency calls

(11) Subscriber information provided in accordance with the 911 system shall be used only for the purpose of responding to emergency calls or for use in any ensuing investigation or prosecution directly resulting from a 911 call, including the investigation of false or intentionally misleading reports of incidents requiring emergency service.

(12) All voice and TDD/TTY recordings of incoming 911 calls shall be retained in accordance with state records center and archives regulations for municipal police and county sheriff records.

(13) Except for those devices, such as TDD/TTY, used by disabled persons requesting emergency assistance, no individual or company shall be allowed to send an automatic alarm or use an alerting device that causes 911 to be automatically dialed and to transmit a prerecorded signal or message to the PSAP on a 911 line.

(14) PSAP personnel shall program and maintain a list of the fixed and auto-dial transfer features. This feature will allow the PSAP to use the dedicated/switched 911 network to transfer 911 calls pertaining to emergencies outside its jurisdiction, to the appropriate PSAP. When a 911 caller is transferred, the transferring PSAP shall announce to the receiving PSAP that they are transferring a call for service. Will remain on the line and will inform the receiving PSAP that this is a transferred call for service.

(15) Call handling procedures and other related PSAP operations shall be implemented according to the training guidelines established by the division. Each PSAP shall have the ability to:

(a) transfer 911 calls to their back-up PSAP or another PSAP within or outside their 911 service area;

(b) directly dispatch public safety

services. or relay information to a public safety agency. All PSAPs that transfer 911 calls to a 7-digit administrative telephone line for the purpose of an outside the PSAP agency dispatching emergency services will obtain from, and have on file, a release of liability from the dispatch agency, and must forward a copy of the release to LGD for file; or,

(c) directly dispatch public safety services.

(16) Any emergency unit dispatched to a location outside its jurisdiction in response to a request shall render services to the requesting party until relieved by the public safety agency responsible for that geographical area.

(17) All PSAPs shall be staffed 24-hours-a-day, seven-days-a-week, and operated by personnel certified by the state department of public safety pursuant to Section 29-7A-4 NMSA 1978, as amended. Staffing levels may vary during the working day to meet this requirement.

(18) Special circumstances:

(a) In accordance with ADA each PSAP shall establish procedures to handle calls from speech and hearing impaired individuals via TDD/TTY including the use of TDD call detectors and diverters.

(b) PSAPs shall develop procedures for handling an unanswered or silent 911 call and are urged to dispatch a public safety response unit(s) if the PSAP receives no response to the call back.

(19) Every PSAP will prepare an annual report for the division to include the information in Paragraphs (8), (9), (14) and (18) of Subsection D of 10.6.2.11 NMAC, above. Send the report electronically (email), or if email is not available, by regular mail to arrive at the division not later than June 30th of each year.

(20) Callers to 911 may only be transferred once to another PSAP. If, after the transfer, the 911 caller is not connected to the appropriate PSAP, the receiving PSAP shall take all of the necessary information to handle the call and then contact the appropriate PSAP for response.

(21) When a 911 caller is transferred, the transferring PSAP shall announce to the receiving PSAP that they are transferring a call for service. The transferring PSAP may stay on the line until such time as they are released.

(22) Each PSAP shall devise a contingency plan to provide continued emergency service when the PSAP is out of service.

E. Funding assistance, eligible costs:

(1) The 911 equipment costs associated with installation costs, equipment furniture, and maintenance costs necessary to provide E911 service; can be recovered

from the equipment fund; with the exception of wireless E911 equipment (covered by the E911 wireless fund); CAD; radio systems; and logging recorder maintenance.

(2) Money for other equipment indirectly related to the 911 system is the responsibility of the grantee, unless, the division approves of such equipment.

(3) The network capability costs and database and services necessary for an E911 system can be recovered from the network and database fund.

(4) Costs for addressing including equipment and labor may be funded based upon demonstrated need and the availability of network and database funds. Demonstrated need may include the maintenance on all software that the GIS / rural addressing departments use to create data for the PSAPs

(5) Grantees that have received approval from the division may incur and recover course registration costs to train telecommunicators from the network and database fund.

(6) Upon prior approval of the division, travel mileage and / or per diem for telecommunicator training may be reimbursed, while any request for travel mileage and / or per diem without prior approval will NOT be reimbursed.

(7) Mapping equipment and network for wireless phase I and phase II, and cost recovery for wireless service providers.

F. Funding assistance, ineligible costs:

(1) basic termination charges incurred due to the disconnection of telephone equipment to be replaced with 911 equipment;

(2) capital outlay expenditures, such as, buildings, remodeling, moveable chattels, and equipment not directly related to a 911 telecommunicator position;

(3) mobile radios or cellular telephones;

(4) seven-digit transfer-to-lines;

(5) incoming emergency seven-digit line group;

(6) costs associated with implementing or maintaining basic or E 911 systems or features not approved in writing by the division;

(7) private line circuit costs unless approved by the division;

(8) directory listings;

(9) call volume indicators used after the initial twelve month implementation or when not otherwise justified;

(10) maintenance costs for radio equipment and other miscellaneous equipment that is not determined to be 911 PSAP equipment;

(11) direct or indirect overhead costs, such as contributions to retirement, health insurance, labor, departmental opera-

tion overhead, rent, utilities or building remodeling;

(12) Reimbursement for equipment not previously approved by the division, prior to purchase.

[10.6.2.11 NMAC - Rp, 10 NMAC 6.2.12, 13, 15 & 16, 05-28-2004]

10.6.2.12 REVIEW AND APPROVAL PROCESS:

A. The PSAP makes a formal written request to the E911 program manager at the division for funding assistance in upgrading their current equipment or adding new equipment to meet new PSAP responsibilities.

B. If applicable, a project manager from the division will make a site visit to the PSAP to determine the need and funding eligibility for the requested equipment and its conformance with advancing short or long-term policy to consolidate PSAPs.

C. If after discussions with the PSAP manager and his/her clients, the division believes the request has merit, is eligible for funding, and is consistent with PSAP consolidation policy, the PSAP in conjunction with the division will request price proposals from appropriate state price agreement vendors. The division promotes the consolidation of PSAPs and discussions will be held with all participants to determine the feasibility of consolidation. Discussion items will consist of the following:

(1) age and useful life remaining of existing equipment;

(2) estimated maintenance costs of continued use of existing equipment;

(3) equipment manufacturer's commitment to continued maintenance support of the existing equipment;

(4) continued use of analog technology vs. updating to digital technology;

(5) potential impact of wireless E911 implementation on PSAP and its continued use of existing equipment;

(6) PSAP vendors and telephone companies' readiness to install equipment;

(7) desire of PSAPs and their clients to consolidate all PSAP / dispatch functions at that time; and,

(8) the municipal and county governments' ability to fund supporting infrastructure for a consolidated PSAP.

D. If the division believes the request does not have merit, it will be returned to the PSAP as "not approved by the division".

E. Validated PSAP requests that have passed the above process, will be forwarded in writing to the division director for approval to place the request(s) on the board of finance meeting agenda.

F. Any item(s) that the

division director feels are inappropriate will not be approved for inclusion in the board's meeting agenda. Rejected requests will be returned to the PSAP as "not approved by the division.

G. The division will present the E911 funding project list to the board for approval.

H. Fully executed grant agreement(s) and subcontract(s) shall be provided to the division for the official file. If necessary, subcontracts shall be procured in accordance with the New Mexico Procurement Code and applicable regulations.

[10.6.2.12 NMAC - Rp, 10 NMAC 6.2.18, 05-28-2004]

10.6.2.13 GEOGRAPHIC INFORMATION SYSTEMS (GIS) STANDARDS:

In order to ensure that road centerline shapefiles can be effectively used and integrated at a statewide level, standards are needed for attribute data consistency and the development of spatial data by entities creating them with geographic information systems (GIS)

A. The attribution data content was derived from standards established by the national emergency number association (NENA). The attribution data format and structure is also based on, but not identical to, NENA standards

B. The datum for geographic data must be North American Datum 1983 (NAD 83) and the data must be in a New Mexico state plane or universal transverse mercator (zone 12 or 13) projection. The geographic data must be spatially complete for each GIS entity's defined area of responsibility, but must not extend past their geographic area of responsibility. Additionally, any road feature that extends beyond one entity's geographic area of responsibility must align spatially with the same feature maintained by the adjacent entity.

C. Spatial accuracy of geographic features is required to be such that they are representative of the actual feature at a scale of 1:5000. All geographic features must have clean topology and must be able to be utilized to form a statewide road network with connectivity. All attribution and geographic data must be kept current through regular maintenance.

[10.6.2.13 NMAC - N, 05-28-2004]

10.6.2.14 PLANNING AND IMPLEMENTATION OF ENHANCED WIRELESS SERVICE:

A. E911 service to include phase I and phase II wireless shall be provided to the entire telecommunication company(s) service area(s) and should be implemented on a countywide or regional basis.

B. Where a telecommunication company's local exchange area extends into or encompasses two or more E911 service areas, the wireless working group (WWG) shall be responsible for initiating and establishing E911 wireless service areas.

C. The division shall have final approval authority after the PSAP and the telecommunication company identify the need for selective routing and the associated network through which all calls for service are to be processed. The WWG through the division shall have final authority over the selective routing of the wireless venter coverage areas.

D. If the grantee requests a MSAG and/or a copy of the telecommunication company's "old-to-new" records in either printed or electronic format the telecommunication company shall comply within 45 days.

E. When the MSAG and ALI have been completed and loaded onto the database, they shall be jointly owned by the PSAP and the telecommunications company.

F. The telecommunication company shall provide an updated MSAG to the PSAP upon installation completion and thereafter as requested by the PSAP.

G. The data management system and selective routing database shall be updated by the telecommunication's company within 48 hours of completion of a service order by the telecommunications company.

H. The division shall have final approval authority of the addressing system, and GIS system used to develop the database adequate to support E911 and E911 wireless services.
[10.6.2.14 NMAC - N, 05-28-2004]

10.6.2.15 PSAP CONSOLIDATION:

A. The division requires that municipal and county public safety answering points (PSAPs) within their contiguous county boundaries consolidate their 911 call answering and radio dispatch functions within one consolidated PSAP in the county. Only the consolidated PSAP in the county may apply for and receive funding for E911 equipment, equipment maintenance, training reimbursement, trunk and ALI lines; and E911 call taking and mapping equipment from the E911 fund for phase I and phase II enhanced wireless service.

B. Albuquerque police department PSAP and Bernalillo county's PSAP are excluded from 10.6.2.15 NMAC due to the large population served. The department of public safety district PSAPs;

and native American pueblos and tribal police and also excluded from 10.6.2.15 NMAC.

C. Exceptions to 10.6.2.15 NMAC may be requested in writing with full justification to the division.

(1) Justification shall include cost considerations, population served, and proximity to the PSAP's back-up PSAP.

(2) The division's decision on granting an exception to 10.6.2.15 NMAC is final and not appealable.

D. Municipal and county PSAPs within one county's contiguous boundaries have one year from the approval date of 10.6.2 NMAC to develop a consolidation plan and enter into an approved joint powers agreement (JPA) for the consolidation of their E911 call answering and radio dispatch functions within one consolidated PSAP in the county.

(1) Consolidation plans will be approved / disapproved by the division.

(2) If the consolidation plan and JPA requirements are not met within one year, the applicable 911 grant agreement with the PSAPs governing bodies will be terminated in accordance with the terms and conditions of the grant agreement.

E. The division will work with municipal and county governments to prepare their consolidation plan in order to meet the requirements identified in this section.
[10.6.2.15 NMAC - N, 05-28-2004]

10.6.2.16 TELECOMMUNICATOR / DISPATCHER TRAINING:

In accordance with 10.29.7 NMAC telecommunicators and dispatchers will be certified for two years and recertified for two-year intervals after that. In order to maintain certification, 20 hours of specified training will be required in each two-year interval. Course requirements needed for recertification are listed in 10.29.7 NMAC. Each PSAP manager or supervisor will appoint in writing a training officer. The training officer's name, duty phone number, and email address will be forward to the division, and resubmitted whenever the training officer is replaced. The training officer will be responsible for the following:

A. development of PSAP policies and procedures for ensuring every telecommunicator and dispatcher receives the required training;

B. keeping accurate written records on each individual's training; and

C. submitting, through the PSAP manager or supervisor, semi-annual reports in June and January to the division on the PSAP's training progress to include; number of telecommunicators and dispatchers trained, and the courses completed by

each individual; and type and amount of training yet to be completed, and any problems encountered in meeting the training requirements of 10.29.7 NMAC; for information on training reimbursement see Subsection E of 10.6.2.11 NMAC.
[10.6.2.16 NMAC - N, 05-28-2004]

HISTORY OF 10.6.2 NMAC:

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

DFA-LGD Rule No. 93-3, Enhanced 911 Rules and Regulations, filed 5-20-94.

History of Repealed Material:

10 NMAC 6.2, Enhanced 911 Requirements, filed 2/2/98 - Repealed effective 05-28-2004.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.200.430 NMAC, Sections 13 and 16, that will be effective on June 1, 2004. The Medical Assistance Division amended the sections to clarify the deeming methodology for the WDI program, allow only one \$20.00 disregard, increase the co-payment amount, and allow net earned income to be used when an applicant/recipient for WDI is self-employed.

8.200.430.13 ASSIGNMENT OF SUPPORT

~~[A]~~ **Assignment of medical support rights:** A medicaid applicant/recipient must assign his/her right to medical support or other third party payments to the state. See 42 CFR Section 433.146 (a)(1); NMSA 1978 Section 27-28(G)(1)(Repl. Pam. 1991):

~~[+]~~ **A.** assignment of medical support rights occurs through the application for and/or receipt of medicaid benefits.

~~[=]~~ **B.** medicaid is not denied to an otherwise eligible recipient solely because he/she cannot legally assign his/her own medical support rights and the individual who is legally able to assign his/her rights refuses to assign or cooperate, as required by law.

~~[B]~~ **Assignment of Parental Support Rights:** Assignment of parental support rights occur automatically when an application for Medicaid is signed on behalf of a minor with absent parent(s) or deceased parent(s). See Section MAD-425, ELIGIBILITY ASSIGNMENT AND COOPERATION REQUIREMENTS.

~~C.~~ Medicaid is not denied to an otherwise eligible recipient solely because he/she cannot legally assign his/her own support rights if the individual who is

legally able to assign his/her rights refuses to assign or cooperate, as required by law.] [2-1-95; 8.200.430.13 NMAC - Rn, 8 NMAC 4.MAD.434, 1-1-01; A, 6-1-04]

8.200.430.16 RECIPIENT FINANCIAL RESPONSIBILITIES: Providers who participate in medicaid agree to accept the amount paid as payment in full, see 42 CRF 447.15, with the exception of co-payment amounts required ~~[for categories 032 children in families with income between 185-235% FPL (State Children's Health Insurance Program) and 043 the Working Disabled Individuals program. Other than the copayments required for the categories 032 SCHIP and 043 WDI recipients,] in certain medicaid categories. Other than the copayments, a provider cannot bill a recipient for any unpaid portion of the bill or for a claim that is not paid because of provider administrative error or failure of multiple providers to communicate eligibility information. [Effective July 1, 2000,] Native Americans [under SCHIP and WDI programs] are exempt from co-payment requirements.~~

A. Direct recipient responsibility for payment

(1) **Failure to follow managed care policies:** A recipient must be aware of the physicians, pharmacies, hospitals, and another provider who participate in their health maintenance organization (HMO) or other managed care plan. A recipient is responsible for payment for services if he/she uses a provider who is not a participant in his/her plan or if he/she receives any services without complying with the rules, policies, and procedures of the plan.

(2) **Denied emergency room claims:** A recipient is responsible for payment of a hospital outpatient emergency room claims if a determination is made by MAD or its designee that an emergency did not exist at the time the service was furnished.

(a) A provider can bill the recipient directly for the denied emergency room charge.

(b) The recipient cannot be billed for denied ancillary services, such as laboratory and radiology services.

(3) **Other recipient payment responsibilities:** If all the following conditions are met before a service is furnished, a recipient can be billed directly by a provider for services and is liable for payment:

(a) the recipient is advised by a provider that the particular services is not covered by medicaid or are advised by a provider that he/she is not a medicaid provider;

(b) the recipient is informed by a provider of the necessity, options, and charges for the services and the option of

going to other provider who is a medicaid provider; and

(c) the recipient agrees in writing to have the service provided with full knowledge that he/she is financially responsible for the payment.

(4) **Co-payment responsibility for SCHIP and WDI recipients:** It is the recipient's responsibility to pay the co-payment to the provider. Children eligible for category 032 with family income between 185-235% of poverty (SCHIP) and working disabled individuals (WDI), category 043, will have co-payment requirements as follows:

~~[(a) \$5 per outpatient physician visit, other practitioner visit, clinic visit, urgent care visit, outpatient therapy session, or behavioral health session.~~

~~(b) \$5 per dental visit~~

~~(c) \$15 per emergency room visit~~

~~(d) \$25 per inpatient hospital admission~~

~~(e) \$2 per prescription, applies to prescription and non-prescription drug items.~~

~~(f) \$5 for a missed appointment.~~

~~Based on standard provider practice, a recipient may be billed for cancellation of an appointment without adequate notice. This provision, (f), does not apply to the Working Disabled Individuals (WDI), category 043.]~~

(a) WDI

(i) \$7 per outpatient physician visit, other practitioner visit, clinic visit, urgent care visit, outpatient therapy session, or behavioral health session;

(ii) \$7 per dental visit;

(iii) \$20 per emergency room visit;

(iv) \$30 per inpatient hospital admission;

(v) \$5 per prescription, applies to prescription and non-prescription drug items.

(b) SCHIP

(i) \$5 per outpatient physician visit, other practitioner visit, clinic visit, urgent care visit, outpatient therapy session, or behavioral health session;

(ii) \$5 per dental visit;

(iii) \$15 per emergency room visit;

(iv) \$25 per inpatient hospital admission;

(v) \$2 per prescription, applies to prescription and non-prescription drug items.

(5) **Co-payment exclusions:** Certain services and populations are exempt from co-payment responsibilities:

~~[(e)] (a) preventive [and], prenatal care services and contraceptive management services are exempt from the copayment requirement. [Services provided at~~

~~Indian Health Service facilities, by urban Indian providers, and by tribal 638s are also exempt.]~~

(b) services provided at Indian health service facilities, by urban Indian providers and by tribal 638s are also exempt from the co-payment requirement.

~~[(H)] (c) there is no co-payment required during presumptive eligibility or retroactive eligibility periods.~~

~~[(H)] (d) there is no co-payment required for services provided to Native Americans.~~

~~[(j) It is the responsibility of the provider to collect the copayments.]~~

~~[(S)] (6) Co-payment maximum for SCHIP and WDI:~~ It is the responsibility of the family to track and total the co-payments paid. Once the family yearly maximum amount for SCHIP and WDI recipients has been paid by the family via co-payments on medicaid covered services, the recipient must notify the medical assistance division. Verification must be provided to the medical assistance division that the co-payment maximum for SCHIP and WDI recipients has been paid. The first month that co-payments will no longer be required by the SCHIP and WDI recipient is the month following the month in which it has been verified by the medical assistance division that the maximum amount has been met. If the determination is made after the twenty-fifth (25th) of the month, the change is made effective the second month after the request. No retroactive eligibility for the "met co-payment maximum" criteria is allowed. Subsequent to establishing that the co-payment maximum amount has been met, the WDI recipient and the family of SCHIP recipients is not responsible for payment of co-payments for the remainder of that calendar year.

(a) Co-payment maximum amounts for SCHIP recipients are calculated at initial determination and re-determination of eligibility by ISD. The co-payment maximum amount calculated at the re-determination is effective for the following year.

(b) If the family income decreases to below 185% of federal income poverty guidelines, the family may report that change and have the children changed to category 032 eligibility up to 185% of poverty, with no co-payment requirements. The change is effective in the month following the month of such determination. If the determination is made after the twenty-fifth (25th) of the month, the effective date of the change is the second month after such verification.

(c) The family maximum co-payment amounts for SCHIP recipients are as follows:

(i) families with income between 185-200% FPL- maximum is 3%

(ii) families with income between 201-215% FPL- maximum is 4%

(iii) families with income between 216-235% FPL- maximum is 5%

(d) The co-payment maximum varies depending on the recipient's earned and unearned income. Once the recipient has reached his/her co-payment maximum on covered medicaid services, co-payments cease for the rest of that calendar year, only after the recipient has fulfilled the required steps. For SCHIP, see Paragraph (5) of Subsection A of Section 16 of 8.200.430 NMAC; for WDI, see Section 9 of 8.243.600 NMAC.

(e) Co-payment maximum amounts for WDI recipients are calculated at initial determination, based on the income received the first month of eligibility, and every twelve months thereafter. The co-payment maximum amount calculated at the initial determination is prorated for the rest of the calendar year and is also determined for the following calendar year. At each annual periodic review, the co-payment maximum will be calculated for the following calendar year.

(i) Recipients with earned income below 100% FPL - maximum is \$600.

(ii) ~~Recipients~~ Recipients with earned income between 100-250% FPL - maximum is \$1500. [2-1-95, 3-1-99, 7-1-00; 8.200.430.16 NMAC - Rn, 8 NMAC 4.MAD.437 & A, 1-1-01; A, 1-1-02; A, 6-1-04]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.215.500 NMAC, Section 21, which will be effective on June 1, 2004. The Medical Assistance Division amended the section to clarify the deeming methodology for the WDI program.

8.215.500.21 DEEMED INCOME:

A. **Availability:** Deemed income is income which must be considered available to members of an assistance unit regardless of whether the income is actually made available.

B. **Situations in which deeming occurs:** For household member(s) who are not members of the assistance unit but who have a support obligation to the assistance unit member(s), income can only be deemed from a parent(s) to his/her minor child(ren) who live in the same household and from one spouse to the other when both live in the same household.

C. **Parent or spouse receiving benefits based on economic**

need: In a deeming situation where one parent or the spouse is receiving a needs benefit, the benefit plus all of the income ~~of~~ of the spouse/parent who receives the benefit is excluded from the deeming process. This exclusion applies only to the income of the individual who receives the benefit.

(1) **Needs benefit defined:** "Needs benefit" is any benefit or assistance which is paid by a governmental agency on the basis of economic need.

(2) **Consideration of household membership:** Even if the income of one parent is excluded from the deeming process, the parent is considered a member of the household for purposes of determining the parental allocation. This does not apply to benefits received under the aid to families with dependent children (AFDC) program. No income is allocated to a parent or child if that parent or child is receiving AFDC assistance.

D. Applicant living with ineligible spouse:

(1) If an applicant/recipient is living in the same household with an ineligible spouse, income may be deemed from the ineligible spouse to the applicant/recipient.

(2) The methodology described below does not apply to the qualified medicare beneficiaries (QMB) program. See Sections QMB 523.2 through QMB 523.23 for methodology applicable to the QMB program only.

(a) **Evaluation of applicant's income:** ~~The ISS determines~~ Determine the amount of income available to the applicant using only the applicant's own income and ~~allows~~ allow the twenty dollar (\$20) disregard. If the applicant/recipient has earned income, the first sixty-five dollars (\$65) plus one-half of the remainder is also disregarded.

(i) If an applicant/recipient's own income exceeds the income standard for an individual, the applicant/recipient is ineligible. No further calculation needs to be done.

(ii) If an applicant/recipient's countable income is less than the standard for an individual, ~~the ISS determines~~ determine the ineligible spouse's gross income.

(b) **Evaluation of ineligible spouse's gross income:** ~~The ISS determines~~ Determine the ineligible spouse's gross income (both earned and unearned); ~~then subtracts~~ Subtract the twenty dollar (\$20) general disregard plus the first sixty-five dollars (\$65) and one-half of the remainder ~~of~~ from any earned income.

~~(+)~~ (+) If there are no children in the household, ~~the ISS compares~~ compare the ineligible spouse's countable income to one-half of ~~an~~ the SSI federal

benefit rate (FBR) for an individual not living in the household of others. If the ineligible spouse's countable income is less than one-half of the SSI FBR, no income is deemed from the ineligible spouse to the applicant/recipient. If the ineligible spouse's countable income equals or exceeds one-half of the SSI FBR, income is deemed from the ineligible spouse to the applicant.

E. Applicant living with ineligible spouse and children:

(1) A "child" is under eighteen (18) years of age or under twenty-one (21) years of age if a full-time student at an accredited institution of learning.

~~(+)~~ (+) If there are children in the household, ~~the ISS subtracts~~ subtract a living allowance for each ineligible child from the ineligible spouse's countable income. The living allowance is one-half of the monthly SSI FBR for an individual not living in a household with others less any income attributable to the child. If the remaining amount is less than one-half of the SSI FBR, no income is deemed from the ineligible spouse to the applicant/recipient. If the remaining amount equals or exceeds one-half of the SSI FBR, income is deemed from the ineligible spouse to the applicant/recipient.

~~(iii) A "child" must be under eighteen (18) years of age or under twenty one (21) years of age if a full-time student at an accredited institution of learning.~~

~~(+)~~ (+) (3) **Determination of countable income:** ~~The ISS adds~~ Add the total gross unearned income of the ineligible spouse to the total gross unearned income of the applicant/recipient. The twenty dollar (\$20) disregard is deducted from the combined total of the couple's unearned income. If the total unearned income is less than twenty dollars (\$20), the remainder is deducted from the combined total of the couple's earned income. The first sixty-five dollars (\$65) and 1/2 of the remainder is subtracted from the combined total of the couple's earned-income. After all applicable disregards have been subtracted, the remaining earned and unearned income amounts are combined to arrive at the total countable income. If the total countable income is less than the income standard for a couple, the applicant/recipient is eligible.

~~(E)~~ E. **Applicant child living with ineligible parents:** A "child" applicant/recipient is under eighteen (18) years of age. The ~~ISS~~ FAA determines the total gross monthly amount of parental income, both unearned and earned. The ~~ISS~~ FAA applies appropriate income disregards to calculate the countable deemed income. See 8.200.520.18 NMAC, *Deemed Income*

Worksheet. If the deemed income plus the child's separate income exceeds the income standard for an applicant/recipient, the child is not eligible for that month.

[F.] G. Applicant/recipient parent and applicant/recipient child(ren): If a household is composed of an applicant/recipient parent and an applicant/recipient child(ren), the income is deemed from the ineligible spouse to the applicant/recipient spouse if appropriate. See Subsection B of 8.215.500.21 NMAC.

(1) If there is enough total income to make the applicant/recipient parent ineligible, the remainder of the income is carried over to be deemed to the child(ren). Deemed income is divided equally among the applicant/recipient children.

(2) If the total countable income of the child, including the deemed income, is more than the applicable income standard, the child is ineligible.

[G. Applicant Couple: ~~When computing eligibility for an applicant couple, the ISS totals all of the couple's earned and unearned income. A single twenty dollar (\$20) disregard is applied in accordance with 8.215.500.22.B NMAC. A disregard of the first sixty five dollars (\$65) of combined earned income, plus one half of the remainder, is deducted in accordance with 8.215.500.22.C NMAC. If the resulting total combined countable income is less than the applicable income standard for a couple, the couple is eligible on the factor of income.]~~

[2-1-95, 7-31-97; 8.215.500.21 NMAC - Rn, 8 NMAC 4.SSI.523, 3-1-01; A, 6-1-04]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.235.400 NMAC, Sections 9, 10, 13, 14, 18 and 20, which will be effective on June 1, 2004. The Medical Assistance Division amended the sections to shorten the Medicaid eligibility certification period from twenty-four (24) months to twelve (12) months.

8.235.400.9 P R E G N A N C Y - RELATED SERVICES ONLY AND FAMILY PLANNING SERVICES - CATEGORY 035:

A. Pregnancy related services only: ~~[Applicants/recipients who meet]~~ An applicant/recipient who meets specified eligibility standards and whose pregnancy [have] has been medically verified [can] may be eligible for medicaid coverage for pregnancy-related services [through the two (2) months] until the end of the second month following the month in which the child is born or the pregnancy terminates.

B. Family planning services: Effective ~~[July 1, 1998,]~~ June 1, 2004, women of child-bearing age who meet specified eligibility standards ~~[can] may be eligible for medicaid coverage [of] for family planning services for a [two year period regardless of changes in income] twelve (12)-month period.~~

[2/1/95, 6/30/98; 8.235.400.9 NMAC - Rn, 8 NMAC 4.PSO.400, 7/1/03; A, 6/1/04]

8.235.400.10 BASIS FOR DEFINING THE GROUP: For pregnancy-related services only, the composition of the ~~[assistance unit] household~~ is based on the relationship of individuals in the household to the unborn child. In determining eligibility and the standard of need, the needs and income of the unborn child are considered as if the child were born and living with the mother.

[2/1/95; 8.235.400.10 NMAC - Rn, 8 NMAC 4.PSO.402, 7/1/03; A, 6/1/04]

8.235.400.13 CITIZENSHIP: Refer to ~~[Medical Assistance Program Manual Section]~~ 8.200.410.11 NMAC.

[2/1/95; 4/30/98; 8.235.400.13 NMAC - Rn, 8 NMAC 4.PSO.412, 7/1/03; A, 6/1/04]

8.235.400.14 RESIDENCE: To be eligible for medicaid, an applicant/recipient must be physically present in New Mexico on the date of application or final determination of eligibility and must have demonstrated an intent to remain in the state. A temporary absence from the state does not prevent eligibility. A temporary absence exists if the applicant/recipient leaves the state for a specific purpose with a time-limited goal, and intends to return to New Mexico when the purpose is accomplished.

[2/1/95; 8.235.400.14 NMAC - Rn, 8 NMAC 4.PSO.413, 7/1/03; A, 6/1/04]

8.235.400.18 PRESUMPTIVE ELIGIBILITY [FOR PREGNANT WOMEN]:

A. For pregnant women, presumptive eligibility allows medicaid payment for ambulatory prenatal services furnished to a pregnant woman while her application for medicaid is being processed. Only one presumptive eligibility period is allowed per pregnancy. A pregnant woman ~~[may be eligible to] can~~ receive ambulatory prenatal care from the date of the presumptive eligibility determination until the end of the month following the month the determination was made. ~~[The purpose of the presumptive eligibility is to allow medicaid payment for ambulatory prenatal services furnished to a pregnant woman while her application for medicaid is being processed. Only one presumptive eligibility period is allowed per pregnancy.]~~

(1) ~~[The period of] For~~ presumptive eligibility, ~~[begins when] an approved presumptive eligibility provider [verifies] must verify that the woman is pregnant based on a medical determination [and that her family income is below 185 percent of the federal income poverty guidelines of a family of the size involved].~~

(2) The needs and income of the unborn child(ren) ~~[is] are~~ considered in determining ~~[the standard of needs as if the child(ren) was born and living with the mother. Presumptive eligibility does not apply to family planning services.] if the woman's family income is below 185% of the federal poverty level for her family size.~~

B. Presumptive eligibility does not apply to family planning.

C. Relaying presumptive eligibility information: The medical assistance division (MAD) authorizes certain providers to make presumptive eligibility determinations. The provider must notify MAD through its claims processing contractor of the presumptive eligibility determination within ~~[five (5)] 5~~ working days of the determination ~~[of presumptive eligibility].~~

[6/30/98; 8.235.400.18 NMAC - Rn, 8 NMAC 4.PSO.426, 7/1/03; A, 6/1/04]

8.235.400.20 ASSIGNMENTS OF MEDICAL SUPPORT: Refer to ~~[Medical Assistance Program Manual]~~ Subsection F of 8.200.420.12 NMAC.

[2/1/95; 8.235.400.20 NMAC - Rn, 8 NMAC 4.PSO.434 & A, 7/1/03; A, 6/1/04]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.243.400 NMAC, Sections 9, 10 and 20, which will be effective on June 1, 2004. The Medical Assistance Division amended the sections to clarify the deeming methodology for the WDI program.

8.243.400.9 WORKING DISABLED INDIVIDUALS (WDI) - CATEGORY 043: The working disabled individuals program covers:

A. disabled individuals who are ~~[either] employed; or [who]~~

B. disabled individuals who have lost eligibility for supplemental security income (SSI) and medicaid due to initial receipt of social security disability insurance (SSDI) and who [do not yet qualify] are not yet qualified for medicare; this group is referred to as "medigap"; once the medigap individual begins receiving medicare, they must become employed, as defined in Paragraph (1) of Subsection C of 8.243.400.10 NMAC, to retain their eligi-

bility for WDI.

[8.243.400.9 NMAC - N, 1-1-01; A, 6-1-04]

8.243.400.10 BASIS FOR DEFINING THE GROUP: Individuals eligible for medicaid coverage under the working disabled individuals program (WDI) must meet the following requirements:

A. must meet the social security administration disability criteria without regard to "substantial gainful activity", and

B. must have a recent attachment to the workforce.

C. **Recent attachment to workforce defined:** Medicaid for the working disabled individuals defines recent attachment to the workforce as either:

(1) having enough gross earnings in a quarter to meet social security administration's definition of a qualifying quarter, see 8.200.520.20 NMAC; or

(2) having lost SSI and medicaid due to the initial receipt of SSDI benefits, [until Medicare entitlement] and being within the 24-month waiting period for medicare.

[8.243.400.10 NMAC - N, 1-1-01; A, 6-1-04]

8.243.400.20 REPORTING REQUIREMENTS: An applicant/recipient is responsible to report changes affecting eligibility by the end of the calendar quarter in which the change took place. ~~[A redetermination of eligibility is made every 12 months.]~~

[8.243.400.20 NMAC - N, 1-1-01; A, 6-1-04]

NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.243.500 NMAC, Sections 9, 17, 18 and 20, which will be effective on June 1, 2004. The Medical Assistance Division amended the sections to clarify the deeming methodology for the WDI program, allow only one \$20.00 disregard, and allow net earned income to be used when an applicant/recipient for WDI is self-employed.

8.243.500.9 WORKING DISABLED INDIVIDUALS: ~~[SSI methodology is used in determining countable resources and income for the Working Disabled Individuals program except where otherwise noted in this section.]~~ Income and resources are determined based on SSI methodology, except when deeming income from an ineligible spouse. See 8.215.500 NMAC. Individuals must meet all financial and ~~[nonfinancial]~~ non-financial eligibility criteria in the month(s) for which a determi-

nation of eligibility is made.

[8.243.500.9 NMAC - N, 1-1-01; A, 6-1-04]

8.243.500.17 INCOME: [See 8.215.500.18 NMAC.]

A. **Earned income** consists of the total gross income received by an ~~[individual]~~ applicant/recipient for services performed as an employee or net income as a result of self-employment.

(1) **Royalties** earned in connection with the publication of the applicant's/recipient's work and any honoraria/fees received for services rendered are considered earned income.

(2) In any given calendar quarter, ~~[a self-employed individual]~~ an applicant/recipient must have earnings equal to social security administration's definition of a covered quarter. See 8.200.520.20 NMAC.

B. **Unearned income** consists of all other income (minus exclusions and disregards) that is not earned in the course of employment or self employment.

C. **Deemed income** is income which must be considered available to the applicant/recipient from ~~[one spouse to the other]~~ the ineligible spouse when both live in the same household. Deemed income is counted in determining eligibility for the applicant/recipient.

[8.243.500.17 NMAC - N, 1-1-01; A, 1-1-02; A, 6-1-04]

8.243.500.18 INCOME STANDARDS: The applicable income standard of countable earned income for this category is 250% of the federal poverty level for a household size of one. See ~~[8.200.520.10.H NMAC. An individual]~~ Subsection H of 8.200.520.11 NMAC. The applicant/recipient must meet two income tests to qualify for working disabled individuals. These are as follows:

~~[A. **TEST 1.** Individual's gross monthly earnings, less the following disregards:~~

(1) ~~\$20.00 general disregard~~(2) ~~\$65.00 earned income disregard~~(3) ~~Disregard 1/2 of remainder of income.~~(4) ~~Disregard work related expenses for the blind or disabled.~~

(5) ~~The resulting countable earned income must be less than 250% of the applicable Federal Poverty Level (FPL). Proceed to TEST 2. If the individual's income is equal to or greater than 250% of the FPL, the individual is not eligible.~~

~~B. **TEST 2.** Total countable monthly income for eligibility:~~

(1) ~~Applicant's/recipient's gross unearned income,~~(2) ~~\$20 general disregard~~(3) ~~Spouse's countable income~~(4) ~~Subtract amount equal to the current SSI Federal Benefit Rate (FBR)~~(5) ~~Compare to SSI FBR for an individual owning or renting.]~~A. TEST 1(1) Determine applicant's/recipient's gross monthly earnings.(2) Apply a \$20.00 general disregard.(3) Apply a \$65.00 earned income disregard.(4) Disregard 1/2 of the remainder of income.(5) Disregard work-related expenses for the blind or disabled.(6) If the countable earned income is greater than 250% of the applicable federal poverty level (FPL) for a household of one, the individual is not eligible.(7) If the countable earned income is equal to or less than 250% of the applicable FPL for a household size of one, determine if there is an ineligible spouse and/or children in the household.

B. If applicant/recipient lives with an ineligible spouse, see 8.215.500.21 NMAC to determine if deeming income is applicable.

C. TEST 2(1) Determine applicant's/recipient's gross unearned income.(2) Add ineligible spouse's deemable income, if applicable.(3) Apply a \$20.00 disregard.(4) Subtract an amount equal to the current SSI federal benefit rate (FBR) for an individual. See 8.200.520.13 NMAC.(5) Compare the total countable income to the SSI FBR for an individual or couple, as applicable.(6) If the total countable income is greater than the applicable SSI FBR, the individual is not eligible.(7) If the total countable income is equal to or less than the applicable SSI FBR, the individual is eligible.
[C.] D. Income exclusions:

Income exclusions for the applicant/recipient are applied before income disregards. Exclusions are not applied ~~[in determining eligibility]~~ to the income [belongs to the individual or to an individual] of the ineligible spouse from whom income [is] may be deemed.

[8.243.500.18 NMAC - N, 1-1-01; A, 6-1-04]

8.243.500.20 DEEMED INCOME: [See 8.215.500.21 NMAC.] RESERVED [8.243.500.20 NMAC - N, 1-1-01; Repealed, 6-1-04]

**NEW MEXICO HUMAN
SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

This is an amendment to 8.243.600 NMAC, Sections 9 and 12, which will be effective on June 1, 2004. The Medical Assistance Division amended the sections to clarify the deeming methodology for the WDI program and increase the co-payment amount.

8.243.600.9 GENERAL BENEFIT DESCRIPTION: An individual who is eligible for medicaid coverage under the Working Disabled Individuals program is eligible to receive the full range of medicaid covered services.

A. **C o - p a y m e n t Responsibility for WDI Recipients:** Eligible recipients have co-payment requirements as follows:

(1) ~~[\$2]~~ \$5 per prescription, applies to covered prescription and non-prescription drug items

(2) ~~[\$5]~~ \$7 per dental visit

(3) ~~[\$5]~~ \$7 per outpatient physician visit, other practitioner visit, clinic visit, urgent care visit, outpatient therapy session, or behavioral health session

(4) ~~[\$15]~~ \$20 per emergency room visit

(5) ~~[\$25]~~ \$30 per inpatient hospital admission

B. **Co-payment maximum:**

(1) The co-payment maximum varies depending on the recipient's ~~earned~~ income. Once the recipient has reached his/her co-payment maximum on covered medicaid services, co-payments cease for the rest of that calendar year, only after the recipient has fulfilled the required steps listed below.

(2) Co-payment maximum amounts for WDI recipients are calculated at initial determination, based on the income received in the first month of eligibility, and every twelve months thereafter. The co-payment maximum amount calculated at the initial determination is prorated for the rest of the calendar year and is also determined for the following calendar year. At each annual periodic review, the co-payment maximum will be calculated for the following calendar year.

(a) Recipients with earned income below 100% FPL - maximum is \$600.

(b) ~~Recipients~~ Recipients with earned income between 100-250% FPL - maximum is \$1500.

(3) It is the responsibility of the recipient to track and total the co-payments paid.

(4) Once the yearly maximum amount has been paid on co-payment for

medicaid covered services, the recipient must notify the medical assistance division that the maximum amount has been met.

(5) Verification must be provided to the medical assistance division that the co-payment maximum has been paid.

(6) The first month that co-payments will no longer be required by the WDI recipient is the month following the month in which it has been verified by the medical assistance division that the maximum amount has been met.

(7) If the determination is made after the twenty-fifth (25th) of the month, the change is made effective the second month after the request.

(8) No retroactive eligibility for the "met co-payment maximum" criteria is allowed.

[8.243.600.9 NMAC - N, 1-1-01; A, 1-1-02; A, 6-1-04]

8.243.600.12 ONGOING BENEFITS: ~~[An applicant/recipient is responsible to report changes affecting eligibility by the end of the calendar quarter in which the change took place. Changes in eligibility status will be effective the first day of the following quarter. A redetermination of eligibility is made every twelve (12) months.] A re-determination of eligibility is made every twelve (12) months or at such time the recipient begins receiving medicare benefits.~~

[8.243.600.12 NMAC - N, 1-1-01; A, 6-1-04]

**NEW MEXICO HUMAN
SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

This is an amendment to 8.235.500 NMAC, Sections 11 through 13, which will be effective on June 1, 2004. The Medical Assistance Division amended the sections to show that Medicaid is discontinuing continuous eligibility when there is a change in income that puts the case over the income limit. This rule was renumbered from 8 NMAC 4.PSO.500 to 8.235.500 NMAC to conform to NMAC requirements.

8.235.500.11 INCOME STANDARDS: The income ~~limit~~ standard used in the eligibility determination for pregnancy-related services only is 185 percent of the federal poverty income ~~[guidelines] level. [Guidelines are adjusted annually effective April 1.] The federal poverty level is adjusted annually effective April 1.~~ The income standard is determined by the number of members in the assistance unit ~~[-and includes].~~ The assistance unit is based on the relationship of individuals in the household to the unborn child(ren) if any. For pregnancy related services, the needs of the unborn [child] child(ren), if any, are includ-

ed.

A. **Income exclusions:** The income of a stepparent of a minor applicant woman is not considered available unless the income is actually made available to the applicant. If the applicant is a sponsored alien, refer to ~~[Medical Assistance Program Manual Section]~~ 8.200.410.11 NMAC.

B. **Earned income deductions and disregards:** Earned income deductions and disregards applicable ~~[for AFDC]~~ to the cash assistance program preceding TANF (the AFDC program) are used in the eligibility determination for category 035.

(1) Work related expenses: A \$90.00 deduction per month is given for each individual in the assistance unit with earned income.

(2) Child care expenses: The actual cost of child care, provided the child is under the age of 13, is deducted with the following limitations:

(a) If the wage earner is employed full time (>=30 hours per week), deduct up to \$200.00 per month per child under age two years and up to \$175.00 per month per child between the ages two years and twelve years of age.

(b) If the wage earner is employed part time (< 30 hours per week), up to \$100.00 per month is deducted for each child under the age of two and up to \$87.50 is deducted per month for each child from age two through twelve.

[2/1/95, 6/30/98; 8.235.500.11 NMAC - Rn, 8 NMAC 4.PSO.520, 521.1 & 521.2 & A, 6/1/04]

8.235.500.12 [D E E M I N G] DEEMED INCOME: The gross income of the parent(s) of a minor parent, after certain disregards, is deemed available to a minor parent who lives in ~~[his/her]~~ her parent's household. The gross income of the unborn's biological father, if living in the household, is deemed available to the applicant. Income deemed available to a minor parent is considered available to the assistance unit to which ~~[he/she]~~ she belongs. [2/1/95, 8.235.500.12 NMAC - Rn, 8 NMAC 4.PSO.523 & A, 6/1/04]

8.235.500.13 TOTAL COUNTABLE INCOME: Earned income remaining after the applicable deductions and disregards are taken, together with the gross amount of any unearned income received by the assistance unit, is compared to ~~[the appropriate percentage of federal income poverty guidelines]~~ 185% of the federal poverty level to determine eligibility. [2/1/95; 8.235.500.13 NMAC - Rn, 8 NMAC 4.PSO.524 & A, 6/1/04]

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

This is an amendment to 8.235.600 NMAC, Sections 9, 10, 12, 13 and 15 which will be effective on June 1, 2004. The Medical Assistance Division amended the sections to shorten the Medicaid eligibility certification period from twenty-four (24) months to twelve (12) months and to show that a woman must re-certify her eligibility every 12 months to continue getting Family Planning services. This rule was renumbered from 8 NMAC 4.PSO.600 to 8.235.600 NMAC to conform to NMAC requirements.

8.235.600.9 GENERAL BENEFIT DESCRIPTION:

~~[Pregnancy related services cover only those services which are related to pregnancy. Medicaid does not cover procedures, services, or miscellaneous items which are not related to pregnancy. Family planning services covers services, including consultations, and supplies related to birth control and pregnancy prevention services prescribed and furnished by physicians, hospitals, clinics, pharmacies and other Medicaid providers.]~~

A. Pregnancy-related services only: ~~A woman determined eligible for Medicaid under pregnancy-related services only receives services restricted to and related to pregnancy only. These services do not cover procedures, services, pharmaceuticals, or miscellaneous items which are not related to pregnancy.~~

B. Family planning services: ~~A woman determined eligible for family planning services only receives services, consultations, and supplies related to birth control and pregnancy prevention which are prescribed and furnished by physicians, hospitals, clinics, pharmacies, and other Medicaid providers.~~

[2/1/95; 6/30/98; 8.235.600.9 NMAC - Rn, 8 NMAC 4.PSO.600 & A, 6/1/04]

8.235.600.10 BENEFIT DETERMINATION:

~~**A.** Eligibility for the application month and for each month between the application month and the month of approval must be determined in its own right. A signed application must be submitted to the income support specialist (ISS) before eligibility can be determined.~~

B. Processing time limit: ~~All applications must be processed within forty five (45) days from the date of application. The time limit begins on the day the signed application is received. Applications must be acted upon and notice of approval, denial or delay sent out within the required~~

~~time limit. The ISS explains the time limit and that the applicant may request an administrative hearing if the application pends longer than the time limit allows.] Eligibility is determined once a signed application is submitted to the income support division. For pregnancy-related services, a woman may qualify under presumptive eligibility first. See Section 8.235.400.18 NMAC.~~

[2/1/95; 8.235.600.10 NMAC - Rn, 8 NMAC 4.PSO.620 & A, 6/1/04]

8.235.600.12 ONGOING BENEFITS: ~~[No periodic reviews are required for category of eligibility 035. Following each 24 month certification period for family planning services, a periodic review is required.]~~

A. Pregnancy-related services: ~~A woman eligible for pregnancy-related services remains eligible throughout her pregnancy and for two months after the month of delivery or after the month in which the pregnancy terminates. Changes in household income do not affect her eligibility during this period. No periodic reviews are required during this period. After the two-month post partum period, the woman will automatically be converted to family planning services.~~

B. Family planning services: ~~A woman who is eligible for family planning services or who is automatically converted to family planning services after her pregnancy-related services end remains eligible for 12- months. No periodic reviews are required during this period. Changes in household income do not affect her eligibility during this period. If the woman should become pregnant during this period, she should contact her income support division worker to explore eligibility for other Medicaid categories. If she moves out of state or requests case closure, she loses eligibility.~~

[2/1/95; 6/30/98; 8.235.600.12 NMAC - Rn, 8 NMAC 4.PSO.624 & A, 6/1/04]

8.235.600.13 RETROACTIVE BENEFIT COVERAGE:

~~Up to three (3) months of retroactive Medicaid coverage can be furnished to applicants who have received Medicaid-covered services, [including family planning services,] during the retroactive period and who would have met applicable eligibility criteria had they applied during the three (3) months prior to the month of application [42 CFR Section 435.914]. [There is no retroactive coverage under family planning services prior to July 1, 1998.]~~

A. Pregnancy related: ~~If a woman is determined eligible for any one (1) of the three (3) months retroactive period, but determined not eligible in the month~~

~~of application, she is eligible throughout her entire pregnancy and the two-month post partum period.~~

B. Application for retroactive benefit coverage: ~~Applications for retroactive coverage can be submitted [even] after a pregnancy ends. [If the mother was not eligible for and receiving Medicaid at the time of delivery or when the pregnancy terminated, retroactive coverage for category 035 can only be extended through the month the pregnancy ended. Application for retroactive Medicaid can be made by checking "yes" in the "application for retroactive Medicaid payments" box on the application/redetermination of eligibility for Medicaid assistance (MAD 381) form or by checking "yes" to the question on "does anyone in your household have unpaid medical expenses in the last three (3) months?" on the application for assistance (ISD 100 S) form. Applications for retroactive Medicaid benefits must be made by 180 days from the date of application for assistance. Medicaid covered services which were furnished more than two (2) years prior to application are not covered.~~

B. Approval requirements: ~~To establish retroactive eligibility, the ISS must verify that all conditions of eligibility were met for each of the three (3) retroactive months and that the applicant received Medicaid covered services. Each month must be approved or denied on its own merits. Retroactive eligibility can be approved on either the ISD2 system or on the retroactive Medicaid eligibility authorization (ISD 333) form.~~

C. Notice:

~~(1) Notice to applicant: The applicant must be informed if any of the retroactive months are denied.~~

~~(2) Recipient responsibility to notify provider: After the retroactive eligibility has been established, the ISS must notify the recipient that he/she is responsible for informing all providers with outstanding bills of the retroactive eligibility determination. If the recipient does not inform all providers and furnish verification of eligibility which can be used for billing and the provider consequently does not submit the billing within 120 days from the date of approval of retroactive coverage, the recipient is responsible for payment of the bill.] Application for retroactive Medicaid benefits, if not made at the time the original application was filed, must be made no later than 180 days from the date of the original application for assistance.~~

[2/1/95; 6/30/98; 8.235.600.13 NMAC - Rn, 8 NMAC 4.PSO.625 & A, 6/1/04]

8.235.600.15 CHANGES IN ELIGIBILITY DUE TO INCOME:

A. Pregnancy related

services only - A recipient who is pregnant and [~~initially eligible under any medicaid category~~] who loses eligibility solely because of a change in family income remains eligible under category 035 throughout the remainder of the pregnancy and the two (2) months following the month the pregnancy ends. This provision applies even if the family income exceeds the federal poverty income guidelines.

~~[(1) Coverage is limited to pregnancy services only.~~

~~[(2) A new application is not required.]~~

B. Family planning services: [~~A recipient receiving medicaid coverage of family planning services remains eligible for two years, regardless of changes in income.~~] A woman who is receiving family planning services only under medicaid will not lose eligibility at any time during the 12-month certification period, because of an increase in family income which exceeds the federal poverty income limit.

~~[B. Changes in eligibility due to other factors:~~

~~[(1) Pregnancy related services only: A recipient who is pregnant and who loses medicaid eligibility under any medicaid category for reasons other than an increase in family income, can still qualify for pregnancy services only under category 035. However, to receive pregnancy services only medicaid coverage, a woman who is pregnant must complete a new application for category 035.~~

~~[(2) Family planning services: A recipient will not lose eligibility for family planning services for a two year period, unless she moves out of the state of New Mexico, becomes pregnant, or requests case closure.]~~

~~[2/1/95; 6/30/98; 8.235.600.15 NMAC - Rn, 8 NMAC 4.PSO.630 & A, 6/1/04]~~

NEW MEXICO LIVESTOCK BOARD

21 NMAC 32.3, Transportation of Livestock (filed 03-01-1999), repealed and replaced by 21.32.3 NMAC, Transportation of Livestock, effective 05-28-2004.

NEW MEXICO LIVESTOCK BOARD

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 32 BRANDS, OWNERSHIP, AND TRANSPORTATION OF ANIMALS
PART 3 TRANSPORTATION OF LIVESTOCK

21.32.3.1 ISSUING AGENCY:

New Mexico Livestock Board, 300 San Mateo, NE, Suite 1000; Albuquerque, New Mexico 87108; telephone: (505) 841-6161.
[21.32.3.1 NMAC - Rp, 21 NMAC 32.3.1, 5-28-2004]

21.32.3.2 SCOPE: All owners, transporters, or handlers of livestock in the state of New Mexico and those that apply to bring livestock into the state for any reason. Additional requirements for livestock owners governing livestock business activities can be found in 21.30, 21.33 and 21.35 NMAC.

[21.32.3.2 NMAC - Rp, 21 NMAC 32.3.2, 5-28-2004]

21.32.3.3 STATUTORY AUTHORITY: Section 77-2-7, A. 6, 7, 8, 9, & 12, Section 77-3-1, NMSA 1978.

[21.32.3.3 NMAC - Rp, 21 NMAC 32.3.3, 5-28-2004]

21.32.3.4 DURATION: Permanent

[21.32.3.4 NMAC - Rp, 21 NMAC 32.3.4, 5-28-2004]

21.32.3.5 EFFECTIVE DATE: May 28, 2004 unless a later date is cited at the end of a section.

[21.32.3.5 NMAC - Rp, 21 NMAC 32.3.5, 5-28-2004]

21.32.3.6 OBJECTIVE: To establish ownership and health rules governing transportation of livestock within, into, and out of New Mexico.

[21.32.3.6 NMAC - Rp, 21 NMAC 32.3.6, 5-28-2004]

21.32.3.7 DEFINITIONS:

A. "Approved eartag" shall be any tag that has received the approval of the livestock board prior to application. The tag must clearly and conspicuously show the owner of the calf prior to sale. The owner may be shown by use of the actual name to which the brand is recorded, brand image, brand master number or milk permit number.

B. "Baby calf" means a bovine animal less than sixty days of age born at a bona fide dairy or feedlot and which has never been bought or sold since birth.

C. "Board" means the New Mexico livestock board.

D. "Calf-raising facility and or feed yard" means an established entity in the state of New Mexico for the primary purpose of raising baby calves that are not part of a cow-calf pair that have multiple herds of origin.

E. "Cow-calf pair" means a cow and its suckling progeny; a cow nurs-

ing an adopted calf does not qualify as a "cow-calf pair."

F. "Dairy" means an established entity in the state of New Mexico in business for the primary purpose of fluid milk production and which has been assigned a dairy I.D. number by the New Mexico department of agriculture.

G. "Director" means the executive director of the New Mexico livestock board.

H. "Feedlot" means an established entity in the state of New Mexico for the primary purpose of feeding cattle.

I. "Inspector" means any duly authorized or commissioned officer of the livestock board.

J. "Livestock or animal" means cattle, sheep, swine, bison, goats, horses, mules, asses, poultry, ratites, camelids, and farmed cervidae.

K. "New Mexico livestock" means any livestock raised or pastured or fed within the state of New Mexico.

L. "Person" means an individual, partnership, association, or operation.

M. "Quarantine" or "quarantined area" means any area within the state of New Mexico whose physical boundaries have been established by order of the board or a duly authorized agent of the board for the purpose of controlling the movement of livestock to prevent the spread of disease.

N. "Quarantined livestock" means any livestock found by the board or its duly authorized agent to be exposed or affected by a contagious or infectious disease and the order of restricted movement is imposed.

O. "Telephone permit" means the authorization to transport livestock to an approved New Mexico auction without prior inspection, by use of a confidential number issued to the owner or owner's agent, which identifies the specific animals and shipment to a specific auction.

P. "Transient livestock" means livestock transported through the state of New Mexico from another state or country whose destination is not within the state of New Mexico.

Q. "Transient livestock with New Mexico destination" means livestock imported in the state of New Mexico from another state or country, or being transported within the state and not having reached the final destination for feed or pasture purpose.

[21.32.3.7 NMAC - Rp, 21 NMAC 32.3.7, 5-28-2004]

21.32.3.8 CREATING DISTRICTS:

A. The board shall, as it deems necessary, create such districts within the state for the purpose of controlling the movement of livestock.

B. The districts shall be known as "livestock inspection districts" and will coincide with the boundaries of the districts shown on the "livestock inspection districts map" dated June 21, 1997 and available at the office of the New Mexico livestock board.

C. Upon approval of the livestock inspector in charge, livestock may move within the designated district without inspection. All livestock intended for shipment from one district to another must be inspected prior to leaving the district, unless the inspector in charge shall designate another location outside the district of origin where the livestock will be subsequently inspected. [21.32.3.8 NMAC - Rp, 21 NMAC 32.3.8, 5-28-2004]

21.32.3.9 DESIGNATED PLACE OF INSPECTION:

A. Any person desiring to move or transport livestock from one district to another, or beyond the limits of this state, except as provided in Section 77-9-42, NMSA 1978, and in 21.32.3.11 NMAC, must first notify the inspector in his district of his intention of move within a reasonable period of time. The inspector, or his deputy shall set a time and location for inspection of such livestock and, upon inspection, shall issue the necessary certificate for livestock movement.

B. Fees for inspection of livestock shall be due and payable at the time the certificate for livestock movement is issued. Any unpaid fee shall constitute a lien on all such livestock in accordance with Section 77-9-38, NMSA 1978, until such fees are paid.

C. Notwithstanding the provisions of Subsections A and B of 21.32.3.9 NMAC above and Subsection E of 21.32.3.10 NMAC below, any person desiring to move or transport cattle, sheep, and/ or horses, from one district to another within the limits of this state may move such livestock without prior inspection, provided that:

(1) for the purposes of this paragraph "livestock" shall be horses, cattle, or sheep; and

(2) the livestock are to be moved to a licensed livestock auction market within the state to be sold; and

(3) the cattle or sheep are legally branded or in the case of horses they are branded or identified by another means in accordance New Mexico statutes or board rules; and

(4) such person first notifies the

inspector or proper authority at such licensed livestock auction market prior to such intended movement and, provides that person with the brand, number, description of such livestock, the name of the person owning said livestock; and

(5) provided further the inspector, his deputy, or proper authority shall confirm the information with the person intending to transport such livestock to be sold and shall issue a non-transferable permit number to the person stating the date the livestock auction will be held and said permit will be void on this date; and

(6) upon request by any livestock inspector, the person transporting livestock under a non-transferable permit number, shall reveal such number, the name of the inspector issuing the number, and such other information as is necessary to verify the legality of the livestock movement; and

(7) upon receiving any livestock moved or transported under a telephone authorization number the person receiving such livestock to be sold shall maintain them separately and shall notify the livestock inspector that such livestock are available for inspection; such livestock shall remain separate from any other livestock until such time as an inspector or his deputy has completed an actual inspection as provided in Sections 77-9-41 and 77-10-5, NMSA 1978, and a certificate of inspection has been issued to the owner or his agent; and

(8) should any person receiving a telephone authorization to transport livestock to be sold transport any livestock not in his ownership, said person will be responsible to the rightful owner and will transport those livestock back to the point of origin to the rightful owner, under the direction and supervision of the New Mexico livestock board; and

(9) all fees and expenses incurred in returning livestock to the rightful owner will be the responsibility of the shipper or persons who caused the animals to be shipped in error.

D. Notwithstanding the provisions of Subsections A and B of 21.32.3.9 NMAC above, any person desiring to move or transport cattle, sheep, bison, and/ or horses, from one district to another for the purpose of slaughter within the limits of this state may move such livestock without prior inspection, provided that:

(1) the livestock are to be moved to a licensed slaughter facility within the state to be slaughtered; and

(2) the slaughter facility has requested and been approved by the board to permit movement of livestock to their plant in accordance with this rule; and

(3) the cattle or sheep are legally branded or in the case of horses they are

branded or identified by another means in accordance New Mexico statutes or board rules; and

(4) such person first notifies the inspector or proper authority at such slaughter facility prior to such intended movement and, provides that person with the brand, number, description of such livestock, the name of the person owning said livestock; and

(5) provided further the inspector, his deputy, or proper authority shall confirm the information with the person intending to transport such livestock to be slaughtered and shall record that information on a form approved by the board and issue a non-transferable permit number to the person stating the date the livestock will be slaughtered and said permit shall be void after that date; and

(6) upon request by any livestock inspector, the person transporting livestock under a non-transferable permit number, shall reveal such number, the name of the proper authority or inspector issuing the number, and such other information as is necessary to verify the legality of the livestock movement; and

(7) upon receiving any livestock moved or transported under a telephone authorization number the person receiving such livestock to be slaughtered shall maintain them separately and shall notify the livestock inspector that such livestock are available for inspection; such livestock shall remain separate from any other livestock and shall not be slaughtered until such time as an inspector or his deputy has completed an actual inspection as provided in Sections 77-9-41 and 77-10-5, NMSA 1978, and a certificate of inspection has been issued to the owner or his agent; and

(8) should any person receiving a telephone authorization to transport livestock to be slaughtered transport any livestock not in his ownership, said person will be responsible to the rightful owner and will transport livestock back to the point of origin to the rightful owner, under the direction and supervision of the New Mexico livestock board; and

(9) all fees and expenses incurred in returning livestock to the rightful owner will be the responsibility of the shipper or persons who caused the animals to be shipped in error.

E. Fees for inspection of any livestock transported or moved pursuant to a confidential authorization number shall be due and payable at the time of the actual inspection and issuance of inspection certificate. Any unpaid fees shall constitute a lien on all such livestock in accordance with Section 77-9-38, NMSA 1978, until such fees are paid.

F. Consignments of live-

stock grossing under \$150.00 at auction markets are exempt from service charges. [21.32.3.9 NMAC - Rp, 21 NMAC 32.3.9, 5-28-2004]

21.32.3.10 EXPORTATION OF SHEEP AND GOATS:

A. All sheep and goats being moved out of the state of New Mexico shall be inspected for brands and marks by an inspector of the New Mexico livestock board.

B. The transportation of New Mexico sheep or goats to points in other states without proper release and inspection provided by law and these regulations may result in the shipper or owner, becoming subject to prosecution and fined upon conviction as provided by law.

C. For the exportation of sheep or goats to other states, inspectors are required to check with the shipper to ascertain his familiarity with import requirements of the state of destination.

D. An inspection fee will be charged to the shipper on all sheep and goats leaving New Mexico, except sheep or goats which are leaving this state directly from a licensed auction market and upon which the inspection fees have been collected as required for the inspection of sheep and goats passing through such markets.

E. A brand and health certificate issued by the New Mexico livestock board inspector is required for all movements of sheep and goats from the livestock inspection district of origin, except as provided by Subsection C of 21.32.3.9 NMAC above.

[21.32.3.10 NMAC - Rp, 21 NMAC 32.3.10, 5-28-2004]

21.32.3.11 INSPECTION AND TRANSPORTATION OF BABY CALVES:

A. Notwithstanding the provisions of 21.32.3.9 NMAC, any owner of a dairy or feedlot may sell calves born to his or her cows and commit the calves to transportation without prior inspection by a duly authorized livestock inspector of the New Mexico livestock board, provided the conditions of this section (21.32.3.11 NMAC) are met.

B. All calves that are to be sold and moved under the provisions of this section shall be eartagged with an approved eartag, which shall clearly and conspicuously show the owner of the calf prior to sale. The owner may be shown by use of the actual name to which the brand is recorded, brand image, brand master number or milk permit number.

C. All calves that are to be sold and moved under the provisions of this section shall be eartagged and accounted for

by eartag number on the approved bill of sale distributed by the New Mexico livestock board for dairy and feedlot calves. The bill of sale shall contain the information required by Section 77-9-22, NMSA 1978, and shall include the eartag number, description of the individual calf by sex, age, and breed (color). The bill of sale shall list the destination to which the calves are to be shipped, the fees charged for the New Mexico livestock board and the beef check-off, a statement that the calf inspection/bill of sale form is not valid for shipment out of New Mexico, and the form will be serial numbered for accountability. An individual form showing the sale of calves shall be used for no more than one destination. Separate destinations shall not be mixed on one form.

D. The bills of sale used to document the sale of baby calves in accordance with this section, shall be obtained from the New Mexico livestock board inspector.

E. The eartagging of calves in accordance with this section, shall occur prior to the calf's departure from the dairy or feedlot of origin.

F. The bill of sale required by this section shall be completed upon change of ownership and in no case after change of possession.

G. The approved eartags used to identify the dairy or feedlot of origin and the individual calf may be procured from any source provided the eartag meets the minimum requirements of information in Subsection B of 21.32.3.11 NMAC above.

H. The dairy or feedlot owner is responsible for maintaining the serial numbered forms and all monies collected for the month. The New Mexico livestock board inspector will meet with the dairy owner monthly to reconcile the month's activities, update the form inventory, and collect all monies accumulated for the preceding month.

I. The New Mexico livestock board inspector shall record the totals to his/her monthly report to the main office of the board and deposit, to the main office in the normal manner, all monies collected.

J. The New Mexico livestock board inspector is responsible for maintaining inventory accountability and ensuring the forms issued to the dairy or feedlot owner are listed by serial number sequence on an issue document signed by that dairy or feedlot owner and the inspector issuing the forms. The original of that issue document will be held by the inspector and a copy supplied to the dairy or feedlot owner.

K. A fee set by the New Mexico livestock board shall be charged for

each calf tagged and forms inspected. The fees are payable at the time the inspector inspects the forms and accomplishes the monthly reconciliation with the dairy or feedlot owner.

L. The beef checkoff shall be collected in accordance with state and federal laws and regulations. The amount collected will be the amount set by federal mandate through the Beef Promotion and Research Act and order.

[21.32.3.11 NMAC - Rp, 21 NMAC 32.3.11, 5-28-2004]

21.32.3.12 RE-SALE OF BABY CALVES:

A. All baby calves identified under the provisions of 21.32.3.11 NMAC, and which are re-sold, must have the original eartag intact and readable except that the original ear tag from the premise of origin may be replaced by an approved eartag of the buyer, provided that said buyer has a record keeping system system approved by the livestock board. This record keeping system must be capable of identifying premise of origin and other owners, (if any), and any corresponding bill of sales in less than 24 hours. The seller must furnish the buyer a copy of the baby calf bill of sale from the original owner, which identifies the calf by eartag number. All subsequent buyers of the calf will maintain the eartag and a copy of the corresponding original bill of sale, provided by the seller.

B. Any sale of calves after being branded and the brands being peeled and healed, will be accomplished in the same manner as described in Section 77-9-21 through 77-9-23, NMSA 1978, and a tag leading to a premise of origin must be retained in the calf's ear.

C. All baby calves that are not part of a cow-calf pair imported into New Mexico from outside the state must be ear tagged from the premise of origin.

[21.32.3.12 NMAC - Rp, 21 NMAC 32.3.12, 5-28-2004]

HISTORY OF 21.32.3 NMAC

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

NMLB 67-1, Cattle Sanitary Board of New Mexico Instructions to Inspectors, filed 05-03-67;

NMLB 70-1, Rules and Regulations of the New Mexico Livestock Board, filed 03-11-70;

NMLB 76-1, New Mexico Livestock Board Rules and Regulations, filed 05-06-76;

NMLB 69-2, Notice-All NM Sheepmen rebranding, filed 12-10-69;

NMLB 72-2, Resolution re: Cattle Scabies

Outbreak, filed 01-31-72;
 NMLB 72-3, Resolution re: Cattle Scabies
 Outbreak, filed 01-31-72;
 NMLB 72-4, Resolution re: Cattle Scabies
 Outbreak, filed 01-31-72;
 NMLB -1, New Mexico Livestock Board
 Rules and Regulations, filed 10-17-79;
 NMLB -2, New Mexico Livestock Board
 Rules and Regulations, filed 11-04-81;
 NMLB Rule No. 3, New Mexico Livestock
 Board Rules and Regulations, filed 01-30-
 85.

History of Repealed Material: 21 NMAC
 32.3, Transportation of Livestock (filed 03-
 01-1999), repealed 5-28-2004.

Other History: Only that applicable por-
 tion of NMLB Rule No. 3, New Mexico
 Livestock Board Rules and Regulations,
 filed 01-30-1985 renumbered, reformatted,
 and amended to 21 NMAC 32.3,
 Transportation of Livestock, filed 03-01-
 1999.

21 NMAC 32.3, Transportation of
 Livestock, filed 03-01-1999 renumbered,
 reformatted, and replaced by 21.32.3
 NMAC, Transportation of Livestock, effec-
 tive 05-28-2004.

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 63 SCHOOL PERSON- NEL - LICENSURE REQUIREMENTS FOR ANCILLARY AND SUPPORT PERSONNEL PART 15 LICENSURE FOR SCHOOL HEALTH ASSISTANTS, GRADES K-12

6.63.15.1 ISSUING AGENCY:
 Public Education Department
 [6.63.15.1 NMAC - N, 05-28-04]

6.63.15.2 SCOPE: This rule
 governs licensure for school health assis-
 tants, grades K-12, for those persons seek-
 ing such licensure.
 [6.63.15.2 NMAC - N, 05-28-04]

**6.63.15.3 STATUTORY
 AUTHORITY:** Sections 22-2-1, 22-2-2,
 22-10A-3, and 22-10A-17, NMSA 1978.
 [6.63.15.3 NMAC - N, 05-28-04]

6.63.15.4 DURATION:
 Permanent
 [6.63.15.4 NMAC - N, 05-28-04]

6.63.15.5 EFFECTIVE DATE:
 May 28, 2004, unless a later date is cited in
 the history note at the end of a section.

[6.63.15.5 NMAC - N, 05-28-04]

6.63.15.6 OBJECTIVE: This
 rule establishes the requirements for school
 health assistant licensure for persons seek-
 ing such licensure.
 [6.63.15.6 NMAC - N, 05-28-04]

6.63.15.7 DEFINITIONS:
 A. "Administration of
 medications" is a process as defined in
 Paragraph (2) of Subsection A of 16.12.2.7
 NMAC whereby a prescribed drug or bio-
 logical agent is given to a patient/client by a
 person licensed to administer medications.
 The administration of medications is a pro-
 cedure which requires a knowledge of
 anatomy, physiology, pathophysiology, and
 pharmacology. When administering a medi-
 cation, the licensed person is required to
 assess the patient/client's health status and
 disease process before and after the admin-
 istration of the medication and to evaluate
 the patient/client's response to the drug or
 biologic agent.

B. "Assisting an individ-
 ual to take a medication" as defined by
 paragraph (9) of subsection A of 16.12.2.7
 NMAC implies that the individual is
 responsible for his own care or parent/legal
 guardian/surrogate can determine if the
 individual is receiving the expected
 response from the medication. The defini-
 tion of administration of medications by
 licensed persons as defined above should
 not be confused with assisting an individual
 to take a medication.

C. "Delegation" means
 that the nurse shall assign/delegate to
 licensed and unlicensed persons only those
 nursing functions which that person is pre-
 pared, qualified, or licensed to perform.

(1) The nurse is accountable for
 assessing the situation and is responsible for
 the decision to delegate or make the assign-
 ment.

(2) The delegating nurse is
 accountable for each activity delegated, for
 supervising the delegated function and/or
 activity, and for assessing the outcome of
 the delegated function and/or activity.

(3) The nurse may delegate nurs-
 ing activities other than the specific func-
 tions of medication administration, assess-
 ment, evaluation and nursing judgment to
 non-licensed persons, except for the admin-
 istration of medications as provided for in
 Paragraph (3) of Subsection B of 16.12.2.12
 NMAC.

D. "Supervision/direction"
 as defined in Paragraph (5) of Subsection S
 of 16.12.2.7 NMAC, means initial verifica-
 tion of a person's knowledge and skills in
 the performance of a specific function
 and/or activity followed by periodic obser-
 vation, direction and evaluation of that per-

son's knowledge and skills as related to the
 specific functions and/or activity.
 [6.63.15.7 NMAC - N, 05-28-04]

6.63.15.8 REQUIREMENTS:
 Persons seeking licensure as a school health
 assistant pursuant to the provisions of this
 rule shall meet the following requirements:

A. high school diploma or
 equivalency; and

B. be at least eighteen
 years of age; and

C. hold a current valid
 American red cross, American heart associ-
 ation or national safety council certification
 in cardiopulmonary resuscitation (CPR);
 and

D. hold a current valid
 American red cross or national safety coun-
 cil certification in first aid; and

E. complete a New
 Mexico department of health and public
 education department approved training for
 school health assistants, related to state/fed-
 eral laws, regulations and guidelines; and

F. provide verification by
 the public school superintendent or private
 school official that a local orientation relat-
 ed to assigned duties, and facilitated by the
 public education department licensed regis-
 tered nurse, was satisfactorily completed.
 [6.63.15.8 NMAC - N, 05-28-04]

**6.63.15.9 CONTINUING
 SCHOOL HEALTH ASSISTANT
 LICENSURE:** Persons holding a valid
 level 1 school health assistant license and
 seeking a level 2 license shall meet the fol-
 lowing requirements:

A. A completed applica-
 tion for continuing New Mexico licensure
 shall be submitted to the public education
 department.

B. The superintendent of
 the local school district or the governing
 authority of the state institution or private
 school by which the applicant has been
 most recently employed as of the date of
 application for continuing licensure must
 submit verification that the applicant satis-
 factorily demonstrates the competencies for
 school health assistant.
 [6.63.15.9 NMAC - N, 05-28-04]

**6.63.15.10 COMPETENCIES
 FOR ENTRY LEVEL SCHOOL
 HEALTH ASSISTANTS:** The school
 health assistant assists the public education
 department licensed school registered nurse
 with the implementation of the school
 health program, by providing delegated
 nursing services in the health room, includ-
 ing but not limited to, health screening,
 supervision of self-administration of medi-
 cations, basic first aid procedures, mainte-
 nance of student health records, mainte-

nance of a clean and orderly health room. The school health assistant may also perform nursing tasks as appropriately delegated by the public education department licensed registered nurse for the care of individual students with special needs, including but not limited to diapering, range of motion exercises, and feeding assistance. To carry out the duties, the school health assistant:

A. collects and reports data regarding health status of students, under the direction and supervision of the public education department licensed registered nurse by:

(1) assisting with routine vision, hearing, height and weight screening;

(2) assisting with the monitoring of students per individualized health care plan;

(3) sharing relevant information/observations with the public education department licensed registered nurse.

B. implements aspects of the nursing plan of care, commensurate with training and verified competency, under the direction and supervision of the public education department licensed registered nurse by:

(1) performing student-specific delegated nursing procedures and treatments in accordance with the individualized health plan;

(2) assisting with student self administration of medications in accordance with school district medication policy and in compliance with the Nursing Practice Act;

(3) assisting with the implementation of policies and procedures regarding the control of communicable diseases in schools;

(4) performing basic first aid and CPR, as needed.

C. assists with the maintenance of student health records, including immunization records, and shares relevant information with the public education department licensed registered nurse;

D. maintains confidentiality in accordance with state and federal laws and district policy;

E. shares responsibility for the care of district inventory, as well as the proper and safe use of facilities, equipment and supplies, reporting safety hazards promptly;

F. maintains a clean, organized and orderly health room environment;

G. demonstrates effective interpersonal and communication skills (written and oral) with diverse populations, including students, parents, co-workers and supervisor(s);

H. displays a desire to

work with students and responds to students as individuals;

I. serves as a healthy role model for students, families and staff;

J. maintains competency through training and in-service educational activities.

[6.63.15.10 NMAC - N, 05-28-04]

**HISTORY OF 6.63.15 NMAC:
[RESERVED]**

**NEW MEXICO
PUBLIC EDUCATION
DEPARTMENT**

**TITLE 6 PRIMARY AND
SECONDARY EDUCATION**

**CHAPTER 63 SCHOOL PERSONNEL -
LICENSURE REQUIREMENTS
FOR ANCILLARY AND SUPPORT
PERSONNEL**

**PART 16 LICENSURE FOR
SCHOOL LICENSED PRACTICAL
NURSES, GRADES K-12**

6.63.16.1 ISSUING AGENCY:

Public Education Department

[6.63.16.1 NMAC - N, 05-28-04]

6.63.16.2 SCOPE:

This rule governs licensure for school licensed practical nurses, grades K-12.

[6.63.16.2 NMAC - N, 05-28-04]

6.63.16.3 STATUTORY

AUTHORITY: Sections 22-2-1, 22-2-2, 22-10A-3, and 22-10A-17, NMSA 1978.

[6.63.16.3 NMAC - N, 05-28-04]

6.63.16.4 DURATION:

Permanent

[6.63.16.4 NMAC - N, 05-28-04]

6.63.16.5 EFFECTIVE DATE:

May 28, 2004, unless a later date is cited in the history note at the end of a section.

[6.63.16.5 NMAC - N, 05-28-04]

6.63.16.6 OBJECTIVE:

This regulation establishes the requirements for school licensed practical nurses, grades K-12, for persons seeking such licensure.

[6.63.16.6 NMAC - N, 05-28-04]

6.63.16.7 DEFINITIONS:

A. "Administration of medications" is a process as defined in Paragraph (2) of Subsection A of 16.12.2.7 NMAC whereby a prescribed drug or biological agent is given to a patient/client by a person licensed to administer medications. The administration of medications is a procedure which requires a knowledge of anatomy, physiology, pathophysiology, and pharmacology. When administering a med-

ication, the licensed person is required to assess the patient/client's health status and disease process before and after the administration of the medication and to evaluate the patient/client's response to the drug or biologic agent.

B. "Assessment" as defined in Paragraph (7) of Subsection A of 16.12.2.7 NMAC means the review and interpretation by a licensed individual of specific data necessary to determine the patient/client's care and treatment needs.

C. "Assisting an individual to take a medication" as defined by Paragraph (9) of Subsection A of 16.12.2.7 NMAC implies that the individual is responsible for his own care or parent/legal guardian/surrogate can determine if the individual is receiving the expected response from the medication. The definition of administration of medications by licensed persons as defined above should not be confused with assisting an individual to take a medication.

D. "Competency in nursing" as defined by Paragraph (3) of Subsection C of 16.12.2.7 NMAC, is the ability to perform skillfully and proficiently the role of the licensee. The role encompasses essential knowledge, judgment, attitudes, values, skills and abilities, which are varied in range and complexity. Competency is a dynamic concept and is based on educational training, preparation, and expertise.

E. "Delegation" means that the nurse shall assign/delegate to licensed and unlicensed persons only those nursing functions which that person is prepared, qualified, or licensed to perform.

(1) The nurse is accountable for assessing the situation and is responsible for the decision to delegate or make the assignment.

(2) The delegating nurse is accountable for each activity delegated, for supervising the delegated function and/or activity, and for assessing the outcome of the delegated function and/or activity.

(3) The nurse may delegate nursing activities other than the specific functions of medication administration, assessment, evaluation and nursing judgment to non-licensed persons, except for the administration of medications as provided for in Paragraph (3) of Subsection B of 16.12.2.12 NMAC.

F. "Licensed practical nursing" as defined in Subsection I of Section 61-3-3, NMSA 1978, means the practice of a directed scope of nursing requiring basic knowledge of the biological, physical, social and behavioral sciences and nursing procedures, which practice is at the direction of a registered nurse, physician, or dentist licensed to practice in this state. This

practice includes but is not limited to:

(1) contributing to the assessment of the health status of individuals, families and communities;

(2) participating in the development and modification of the plan of care;

(3) implementing appropriate aspects of the plan of care commensurate with education and verified competence;

(4) collaborating with other health care professionals in the management of health care; and

(5) participating in the evaluation of responses to interventions.

G. "Nursing Practice Act" means Chapter 61, Article 3 NMSA 1978 regulating the practice of nursing, schools of nursing, hemodialysis technicians and medication aides in the state.

H. "Professional registered nursing" as defined in Subsection M of Section 61-3-3, NMSA 1978, means the practice of the full scope of nursing requiring substantial knowledge of the biological, physical, social and behavioral sciences and of nursing theory and may include advanced practice pursuant to the Nursing Practice Act. This practice includes but is not limited to:

(1) assessing the health status of individuals, families, and communities;

(2) establishing a nursing diagnosis;

(3) establishing goals to meet identified health care needs;

(4) developing a plan of care;

(5) determining nursing interventions to implement the plan of care;

(6) implementing the plan of care commensurate with education and verified competence;

(7) evaluating responses to interventions;

(8) teaching based on the theory and practice of nursing;

(9) managing and supervising the practice of nursing;

(10) collaborating with other health care professionals in the management of health care; and

(11) conducting nursing research.

I. "Scope of practice" as defined in Subsection O of Section 61-3-3, NMSA 1978, means the parameters within which nurses practice based upon education, experience, licensure, certification and expertise.

J. "Supervision/direction" as defined in Paragraph (5) of Subsection S of 16.12.2.7 NMAC, means initial verification of a person's knowledge and skills in the performance of a specific function and/or activity followed by periodic observation, direction and evaluation of that person's knowledge and skills as related to the specific functions and/or activity.

[6.63.16.7 NMAC - N, 05-28-04]

6.63.16.8 REQUIREMENTS:

Persons seeking licensure as a school licensed practical nurse (LPN) pursuant to the provisions of this rule shall meet the following requirements:

A. high school diploma or equivalency; and

B. minimum 18 years of age; and

C. current valid American red cross, American heart association or national safety council certification in cardiopulmonary resuscitation (CPR); and

D. completion of a state approved and/or nationally accredited program of study for practical nursing; and

E. current valid practical nursing license issued by the New Mexico board of nursing or any successor licensing board for nurses; and

F. minimum of one year of supervised clinical nursing experience, outside of a school setting; and

G. verification by the public school superintendent or private school official that a local orientation related to assigned duties, and facilitated by the public education department licensed registered nurse, was satisfactorily completed.

[6.63.16.8 NMAC - N, 05-28-04]

6.63.16.9 CONTINUING LICENSURE FOR SCHOOL LICENSED PRACTICAL NURSES:

Persons holding a valid level 1 school licensed practical nurse and seeking a level 2 license shall meet the following requirements:

A. A completed application for continuing New Mexico licensure shall be submitted to the public education department.

B. The superintendent of the local school district or the governing authority of the state institution or private school by which the applicant has been most recently employed as of the date of application for continuing licensure must submit verification that the applicant satisfactorily demonstrates the competencies for school licensed practical nurse.

[6.63.16.9 NMAC - N, 05-28-04]

6.63.16.10 COMPETENCIES FOR ENTRY LEVEL SCHOOL LICENSED PRACTICAL NURSES:

The principle role of the school licensed practical nurse is to assist the public education department licensed registered nurse with the implementation of the school health program, by providing practical nursing care for students in the health room, and by meeting the complex needs of medically fragile/severely disabled students. This

includes, but is not limited to, nursing procedures, medication administration, assisting in the assessment and monitoring of the health and immunization status of students, and communicating effectively with parents, students, medical providers and school staff. These functions may be carried out in the health room or classroom, traveling to and from school, and on field trips for community based instruction.

A. Contributes to the assessment of the health status of individual students and schools.

(1) uses basic nursing knowledge to assess and monitor the status of individual students;

(2) participates in the routine health screening, and assists in the assessment of screening results;

(3) assists in the assessment of the immunization status of the student population.

B. Participates in the development of the nursing plan for care for individual students and the school population.

(1) assists with the development of individualized health/emergency care plans;

(2) assists with school planning related to health and safety.

C. Implements aspects of the nursing plan of care, commensurate with education and verified competency, under the direction and supervision of the public education department licensed registered nurse.

(1) provides nursing/medically prescribed interventions including, but not limited to: tube feeding, urinary catheterization, glucose monitoring, tracheal suctioning, nebulizer treatment, peak flow measurement and ventilator care;

(2) administers medications to students who are unable to self administer their medications in compliance with the Nursing Practice Act;

(3) assists in the implementation of policies and procedures regarding the control of communicable diseases in schools;

(4) prepares and maintains accurate and complete records and reports as required by law, state directives, district policy and administrative regulations.

D. Collaborates with public education department licensed registered nurses, health assistants, site administrators, school staff, parents and students regarding the provision of health care for individual students and the school population as a whole.

E. Participates in the evaluation of responses to nursing interventions.

F. Maintains professional competence through individual and staff

training, in-service educational activities and self-selected professional growth activities.

G. Shares the responsibility for the care of district inventory, as well as the proper and safe use of facilities, equipment and supplies, reporting safety hazards promptly.

H. Maintains confidentiality in accordance with state and federal laws and district policy.

I. Demonstrates effective interpersonal and communication skills (written and oral) with diverse populations. [6.63.16.10 NMAC - N, 05-28-04]

6.63.16.11 NOTIFICATION REQUIREMENT: All persons issued a license as school licensed practical nurses, grades K-12, by the public education department shall continuously hold a license issued by the board of nursing for so long as they hold licensure issued by the public education department.

A. Should this underlying license expire, be suspended or revoked, or its renewed or initial issuance denied, a person seeking or holding a license as a school licensed practical nurse, grades K-12 from the public education department shall notify the local school superintendent and professional licensure in writing within fourteen (14) calendar days of such suspension, revocation, denial or expiration.

B. Suspension, revocation, denial or expiration of the license issued by the board of nursing shall constitute just cause for discharge or termination from employment, and for suspension, revocation or denial of renewed or initial issuance of an instructional support provider license. [6.63.16.11 NMAC - N, 05-28-04]

HISTORY OF 6.63.16 NMAC:
[RESERVED]

**NEW MEXICO
PUBLIC EDUCATION
DEPARTMENT**

**TITLE 6 PRIMARY AND
SECONDARY EDUCATION
CHAPTER 64 SCHOOL PERSONNEL - COMPETENCIES FOR LICENSURE
PART 15 COMPETENCIES FOR ENTRY-LEVEL FAMILY AND CONSUMER SCIENCES TEACHERS**

6.64.15.1 ISSUING AGENCY: Public Education Department [6.64.15.1 NMAC - N, 05-28-04]

6.64.15.2 SCOPE: All institutions of higher education in New Mexico that establish or maintain a curriculum for

persons seeking an endorsement in family and consumer sciences to a state educator license.

[6.64.15.2 NMAC - N, 05-28-04]

6.64.15.3 STATUTORY AUTHORITY: Sections 22-2-1, 22-2-2, and 22-10A-7 NMSA 1978.

[6.64.15.3 NMAC - N, 05-28-04]

6.64.15.4 DURATION: Permanent

[6.64.15.4 NMAC - N, 05-28-04]

6.64.15.5 EFFECTIVE DATE: May 28, 2004, unless a later date is cited in the history note at the end of a section.

[6.64.15.5 NMAC - N, 05-28-04]

6.64.15.6 OBJECTIVE: This regulation establishes entry-level competencies that are based on what family and consumer sciences teachers must know and be able to do to provide effective family and consumer sciences programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico content standards and benchmarks, the national family and consumer sciences standards, and must be used by New Mexico institutions of higher education to establish family and consumer sciences preparatory programs.

[6.64.15.6 NMAC - N, 05-28-04]

6.64.15.7 DEFINITIONS: [RESERVED]

[6.64.15.7 NMAC - N, 05-28-04]

6.64.15.8 CORE LICENSURE REQUIREMENTS: Persons seeking an endorsement in family and consumer sciences to a New Mexico educator license must complete the following core requirements:

A. Beginning teachers seeking an endorsement in family and consumer sciences to an initial level 1 New Mexico teaching license, must satisfy all of the requirements of the license as provided in the public education department's ("department") rule for that license, which includes, among other requirements, 24-36 semester hours in family and consumer sciences.

B. Teachers seeking to add an endorsement in family and consumer sciences to an existing New Mexico teaching license of any level where the candidate has less than five full academic years of teaching experience, shall meet one of the following requirements:

(1) pass the content knowledge test(s) of the New Mexico teacher assessments, or predecessor New Mexico teacher licensure examination or accepted compara-

ble licensure test(s) from another state, if available, in family and consumer sciences, or

(2) successfully complete an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major or a graduate degree in family and consumer sciences, or

(3) obtain certification in family and consumer sciences for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.

C. Persons seeking to add an endorsement in family and consumer sciences to an existing New Mexico teaching license of any level where the candidate has at least five full academic years of teaching experience, may do so by meeting the requirements of Paragraphs (1), (2), or (3) of Subsection B of 6.64.15.8 NMAC, or by demonstrating the teaching competencies for entry level family and consumer sciences teachers as provided in 6.64.2.9 NMAC through the state's high objective uniform standard of evaluation (HOUSE) for demonstrating competence in the core academic subjects and other endorsement areas as set forth in 6.69.4.9 NMAC.

[6.64.15.8 NMAC - N, 05-28-04]

6.64.15.9 COMPETENCIES FOR ENTRY-LEVEL FAMILY AND CONSUMER SCIENCES TEACHERS: The family and consumer sciences teacher has a basic knowledge of the following concepts related to:

A. Foundations of family and consumer sciences: The family and consumer sciences teacher:

(1) integrates the knowledge and skills of family and consumer sciences to prepare students for personal, family, community, and career roles;

(2) has basic knowledge of cultural, economic, and gender influences on families, work, and society;

(3) has basic knowledge of the interrelationships among career decisions and personal/family life, including parenting and care giving;

(4) has basic knowledge of historical and current events, public policies, and research results and their effect upon the family, community, and work environment;

(5) planning, implementing and evaluating family and consumer sciences education;

(6) implementing family, career, and community leaders of America (FCCLA) programs and projects to promote students' growth;

(7) the management processes, resources, and procedures required for maintaining an effective family and consumer sciences program; and

(8) job-related competencies and skills needed for employment in family and consumer sciences related industries.

B. Family studies and human services: The family and consumer sciences teacher understands the areas of personal development, relationships, and management of work and family to enhance quality of life across the life span, and understands career opportunities in family studies and human services. Personal and family development concepts include:

(1) factors contributing to the development of effective relationships within families;

(2) management tools and strategies for successfully balancing work and family life;

(3) societal, cultural, demographic, gender, economic, and environmental issues affecting individuals and families across the life span;

(4) career and entrepreneurial opportunities in family studies and human services; and

(5) societal attitudes about individual and family roles within a culture.

C. Human development, education, and services: The family and consumer sciences teacher understands:

(1) human growth and development, parent/foster parent/guardian/educator roles and responsibilities;

(2) career opportunities in human development, education, and services;

(3) physical, social, ethical, emotional, and cognitive development of humans from conception through late adulthood;

(4) parent/foster parent/guardian/educator/community roles and responsibilities related to human growth and development; and

(5) entrepreneurship and career opportunities in human development, education, and services.

D. Nutrition, wellness, food science, and hospitality: The family and consumer sciences teacher understands:

(1) the principles of food science, food technology, and nutrition and their relationships to growth, development, health and wellness, and applies this understanding to support informed decision-making that promotes good health;

(2) career opportunities in nutrition, wellness, food science, and hospitality;

(3) current nutrition and dietary guidelines for each phase of the life span;

(4) health and wellness;

(5) employment and entrepreneurial opportunities in nutrition, wellness, food science and technology, and hospitality;

(6) food preparation and meal management techniques in family, community, and industry settings;

(7) factors that affect the production, supply, and distribution of food;

(8) food product development, processing, packing, and availability;

(9) cultural influences on food preferences and decisions; and

(10) principles and procedures of health, safety, sanitation, and environmental protection.

E. Consumer and resource management: The family and consumer sciences teacher understands:

(1) consumer practices, consumer responsibilities, and resource management processes, and how these affect and are applied to personal, family, and work life;

(2) career opportunities in consumer and resource management;

(3) resource management (i.e., money, time, energy);

(4) the effects of public policy on resource utilization and conservation for consumers, families, and the environment;

(5) strategies and tools for financial planning;

(6) techniques for managing the multiple roles of individual, worker, family member, community member, and wage earner throughout the life span;

(7) issues related to consumer decision making;

(8) cultural, demographic, and societal factors that influence family decisions;

(9) employment and entrepreneurial opportunities in consumer and resource management; and

(10) consumer rights and responsibilities.

F. Textiles and apparel: The family and consumer sciences teacher understands:

(1) the design, production, marketing, consumption, and maintenance of textile and apparel products;

(2) the career opportunities in the textiles and apparel industries;

(3) the psychological/sociological aspects of textile and apparel throughout the life span;

(4) the employment and entrepreneurial opportunities in textiles and apparel;

(5) the selection, use, and care of textile and apparel products; and

(6) aesthetic principles related to the near environment.

G. Environmental design: The family and consumer sciences teacher understands:

(1) the design and construction of interior and exterior environments;

(2) career opportunities in the housing, design, furnishings, and equipment management and service industries;

(3) maintaining a safe environment for families;

(4) housing choices available to

individuals and families throughout the life span;

(5) home maintenance;

(6) consumer issues and considerations affecting housing, accessories, furnishings, materials, and equipment decisions;

(7) employment and entrepreneurial opportunities in housing, design, furnishings, and equipment;

(8) elements of art and principles of design as related to interior and exterior environments; and

(9) the influence of cultural, demographic, societal, and environmental factors on housing.

[6.64.15.9 NMAC - N, 05-28-04]

6.64.15.10 IMPLEMENTATION:

Institutions of higher education that prepare teachers shall deliver these competencies in a department-approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit. For secondary and K-12 licensed teachers, a minimum of twelve (12) semester hours must be upper-division credit.

[6.64.15.10 NMAC - N, 05-28-04]

HISTORY OF 6.64.15 NMAC: [Reserved]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

Explanatory paragraph: This is an amendment to Sections 1, 3, 7, 8, and 10 of 6.61.2 NMAC (LICENSURE IN ELEMENTARY EDUCATION, GRADES K-8). The amendments to Section 10 (REFERENCED MATERIAL) make a technical change to Paragraph (5) of Subsection A and amend Paragraph (2) (Reading and language arts) of Subsection J (Knowledge of content) by replacing the paragraph in its entirety. The remaining provisions of Section 10 remain unchanged.

6.61.2.1 ISSUING AGENCY:
[~~State Board of Education~~] Public Education Department

[11-14-98, 7-30-99; 6.61.2.1 NMAC - Rn, 6 NMAC 4.2.3.2.1, 10-31-00; A, 05-28-04]

6.61.2.3 STATUTORY AUTHORITY: Sections 22-1-1, 22-1-1.1, 22-1-1.2, 22-2-1, 22-2-2 [~~and 22-2-8.7~~], 22-10A-3, 22-10A-4, and 22-10A-6, NMSA 1978.

[11-14-98; 6.61.2.3 NMAC - Rn, 6 NMAC 4.2.3.2.3, 10-31-00; A, 06-01-02; A, 05-28-04]

6.61.2.7 DEFINITIONS:

A. "A highly qualified beginning elementary teacher," under this rule, means a teacher who is fully qualified for teaching in grades K-8, who is new to the profession, who has pursued a standard route to licensure, and who:

(1) meets all the requirements for elementary K-8 licensure ~~[as]~~ required by Subsections A or B in [6.61.2.8 NMAC] Section 8 of this rule, and

(2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason, and

(3) has passed all applicable competency or teacher testing requirements for licensure in 6.60.5.8 NMAC (Competency Testing for Licensure).

B. "A highly qualified beginning middle or junior high school teacher holding elementary K-8 licensure," under this rule, means a teacher who is fully qualified to teach the core academic subjects in a public middle or junior high school, who is new to the profession, who has pursued a standard route to licensure, and who:

(1) meets all the requirements for elementary K-8 licensure ~~[as]~~ required by Subsections A or B [in 6.61.2.8 NMAC] of Section 8 of this rule, and

(2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason, and

(3) has passed all applicable competency or teacher testing requirements for elementary K-8 licensure in 6.60.5.8 NMAC (Competency Testing for Licensure), and

(4) has passed the content knowledge test(s) of the New Mexico teacher assessments or comparable licensure tests from another state in each core academic subject the teacher teaches and in which the teacher is required to have a licensure endorsement, or

(5) has successfully completed an undergraduate academic major or coursework equivalent to an undergraduate major, or a graduate degree in each core academic subject the teacher teaches and in which the teacher is required to have a licensure endorsement.

C. "Core academic subjects" means English, language arts, reading, mathematics, science, modern and classical languages, except the modern and classical Native American languages and cultures of New Mexico tribes and pueblos, the arts, including music and visual arts, and social studies, which includes civics, government, economics, history, and geography.

D. "Undergraduate academic major" under this rule, means twenty-four (24) to thirty-six (36) semester hours in a core academic subject area.

[6.61.2.7 NMAC - N, 06-30-03; A, 05-28-04]

6.61.2.8 REQUIREMENTS:

A. Persons seeking licensure in elementary education pursuant to the provisions of this regulation shall meet the requirements ~~[of]~~ enumerated in Subsection A [of 6.61.5.8 NMAC] or Subsection B of [6.61.2.8 NMAC] this section.

(1) bachelor's degree from a regionally accredited college or university and including, for those students first entering a college or university beginning in the fall of 1986, the following:

(a) twelve (12) semester hours in English;

(b) twelve (12) semester hours in history including American history and western civilization;

(c) six (6) semester hours in mathematics;

(d) six (6) semester hours in government, economics or sociology;

(e) twelve (12) semester hours in science, including biology, chemistry, physics, geology, zoology, or botany;

(f) six (6) semester hours in fine arts; and

(2) credits from a regionally accredited college or university which include thirty to thirty-six (30-36) semester hours of professional education in an elementary education program approved by the ~~[state board of education "(state board")]~~ public education department ("department"), including completion of the ~~[state board's]~~ department's approved functional areas and related competencies in professional education; and

(3) a mandatory student teaching component; and

(4) twenty-four to thirty-six (24-36) semester hours in one teaching field such as mathematics, science(s), language arts, reading, and social studies (or other content related areas). Individuals must also complete the ~~[state board's]~~ department's approved functional areas and related competencies in the teaching field; and

(5) in addition to the requirements specified in Subsection A, Paragraphs (1), (3), (4), (6) and (7) of 6.61.2.8 NMAC, six (6) hours in the teaching of reading for those who have first entered any college or university on or after August 1, 2001 regardless of when they graduate or earn their degree; and

(6) pass all required portions of the New Mexico teacher assessments or any successor teacher examination adopted by the ~~[SBE]~~ department; and

(7) if new to the profession after June 30, 2006, or hired after the first day of school of the 2002-2003 school year and assigned to work in a Title I targeted assis-

tance program or a Title I school-wide, and teaching in an elementary school, satisfy the requirements of a highly qualified beginning elementary teacher, and

(8) if new to the profession after June 30, 2006, or hired after the first day of school of the 2002-2003 school year and assigned to work in a Title I targeted assistance program or a Title I school-wide teaching the core academic subjects in a middle or junior high school, satisfy the requirements of a highly qualified beginning middle or junior high school teacher holding elementary K-8 licensure, or

B. Persons seeking licensure in elementary education grades K-8 pursuant to the provisions of this rule must possess a valid certificate issued by the national board for professional teaching standards for the appropriate grade level and type.

[11-14-98; 6.61.2.8 NMAC - Rn, 6 NMAC 4.2.3.2.8 & A, 10-31-00; A, 06-01-02; A, 06-30-03; A, 05-28-04]

6.61.2.10 REFERENCED MATERIAL: Competencies for entry level elementary teachers

A. Professionalism

(1) The teacher reflects on, analyzes, and evaluates the effect of his or her choices and actions on others, including students, parents, and other professionals in the learning community, and will be able to use this knowledge to improve the learning process.

(2) The teacher is aware of the need to actively seek out opportunities to grow professionally, including participation in professional organizations and professional development such as conferences, workshops, classes and research, and use this information to improve professional practices and to become a life-long learner.

(3) The teacher participates in an on-going process of researching current educational issues and practices, applying them in the classroom, and monitoring their effects.

(4) The teacher understands his or her role in the educational decision-making process as an advocate for children, school, district, community, and self.

(5) The teacher is aware of and adheres to the ~~[state Professional code of ethics of the Education Profession for Educators]~~ educator code of ethics and professional standards.

(6) The teacher demonstrates an awareness of relevant legal requirements of teachers and schools.

(7) The teacher demonstrates an awareness of the structure of local, state, and federal agencies and educational systems.

(8) The teacher critically reviews,

selects, and adapts materials, resources, and technologies and analyzes them for:

- (a) age appropriateness;
- (b) developmental level;
- (c) cultural and linguistic background;
- (d) exceptionalities;
- (e) biases and stereotypes;
- (f) content appropriateness in regard to curriculum;

- (g) reading level;
- (h) relevance to students.

J. Knowledge of content:

(2) Reading and language arts:

~~[(a) The teacher understands children's developmental stages in learning to speak, read, write, and listen effectively.~~

~~(b) The teacher models effective reading, writing, listening, and speaking.~~

~~(c) The teacher designs instructional programs and strategies that result in students becoming competent users of language.~~

~~(d) The teacher provides a balanced reading program that includes, but is not limited to, graphophonemics (phonics), semantics and syntactics, context, vocabulary development, and meaningful text.~~

~~(e) The teacher provides a variety of opportunities for students to demonstrate reading comprehension.~~

~~(f) The teacher teaches students strategies to discover meaning from print and to monitor their own comprehension.~~

~~(g) The teacher is familiar with and uses a variety of reading materials, including children's literature, non-fiction, stories, poems, biographies, and texts from various subject areas.~~

~~(h) The teacher helps students to become aware of different purposes and situations for reading, and to think critically about and respond to what they have read.~~

~~(i) The teacher helps students understand different types of writing for and speaking with different audiences and in different situations.~~

~~(j) The teacher helps students develop listening skills.~~

~~(k) The teacher provides opportunities for students to understand, consider, respond to, and discuss spoken and written materials.~~

~~(l) The teacher recognizes preconceptions, error patterns, and misconceptions found in students' language use and makes appropriate modifications.~~

~~(m) The teacher plans and uses grammar instruction within authentic contexts.]~~

(a) Foundations: the teacher understands the foundations of reading and language arts development, including but not limited to:

- (i) research on reading;
- (ii) how children learn

to speak, read, write, and listen:

(iii) cultural, linguistic, environmental, and physiological factors in reading and language arts development;

(iv) children's developmental processes;

(v) characteristics of proficient and non-proficient readers;

(vi) relationship between oral and written language;

(vii) language structure including graphophonics, semantics, syntax, and pragmatics systems.

(b) Assessment:

(i) The teacher understands the use of classroom reading assessment to diagnose students' instructional needs and modify instruction appropriately.

(ii) The teacher links assessment and instruction to New Mexico language arts content standards, benchmarks and performance standards.

(c) Methods of instruction: the teacher differentiates methods of instruction based on needs of students and designs instruction based on the following reading and language arts components:

(i) oral language development;

(ii) phonemic awareness and phoneme manipulations, such as blending, segmentation, and substitution;

(iii) phonics instruction, including a variety of strategies such as systematic, explicit instruction and the use of phonics in reading and writing;

(iv) vocabulary development, including both explicit instruction and indirect vocabulary development through authentic literature and students' experiences;

(v) comprehension strategies, including: instruction on predicting, re-reading, questioning, sequencing, summarizing, retelling, reading for pleasure and analytical and critical reading; activities to develop fluency, the ability to read text accurately and rapidly; and study strategies, for example, planning, accessing and organizing information from a variety of texts and sources;

(vi) writing instruction, including: different types of writing for different audiences and purposes; spelling generalizations; grammar instruction within authentic contexts; and writing processes, including drafting, revising, and editing;

(d) Teacher designs comprehensive reading and writing instruction that results in students becoming proficient in the language arts content standards, benchmarks, and performance standards, including:

(i) the use of culturally relevant pedagogy that promotes an understanding of the importance of resources stu-

dents bring to the classroom;

(ii) evaluation of text for quality, cultural, and linguistic appropriateness;

(iii) connecting identified needs of students based on data with appropriate research-based resources and materials;

(iv) creation of opportunities for students to consider, respond to and discuss spoken and written materials;

(v) the use of a variety of reading materials, including children's literature, non-fiction, technological media, stories, poems, biographies, texts from various subject areas;

[11-14-98; 6.61.2.10 NMAC - Rn, 6 NMAC 4.2.3.2.10 & A, 10-31-00; A, 05-28-04]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

Explanatory paragraph: This is an amendment to Sections 1, 3, 8, 9, and 10 of 6.61.6 NMAC (LICENSURE IN SPECIAL EDUCATION K-12). Subsection 10 (REFERENCED MATERIAL) is amended to add a new Paragraph (8) (Teaching of reading) to Subsection D (Curriculum and development). Numerous words throughout the section have also been changed to conform with the state records center and archives' requirements with respect to use of the upper case and lower case.

6.61.6.1 ISSUING AGENCY: [~~State Board of Education~~] Public Education Department

[11-14-98, 7-30-99; 6.61.6.1 NMAC - Rn, 6 NMAC 4.2.3.6.1, 10-31-00; A, 05-28-04]

6.61.6.3 STATUTORY AUTHORITY: Sections 22-1-1, 22-1-1.1, 22-1-1.2, 22-2-1, 22-2-2, [and 22-2-8-7] 22-10A-3, 22-10A-4, and 22-10A-6, NMSA 1978.

[11-14-98; 6.61.6.3 NMAC - Rn, 6 NMAC 4.2.3.6.3, 10-31-00; A, 06-01-02; A, 05-28-04]

6.61.6.8 REQUIREMENTS:

A. Persons seeking licensure in special education pursuant to the provisions of this regulation shall meet all the requirements ~~[of]~~ enumerated in Subsections A or B of ~~[6.61.6.8 NMAC]~~ this section.

(1) bachelor's degree from a regionally accredited college or university and including, for those ~~[students]~~ licensees or applicants first entering a college or university beginning in the fall of 1986, the following:

(a) twelve (12) semester hours in

English;

(b) twelve (12) semester hours in history including American history and western civilization;

(c) six (6) semester hours in mathematics;

(d) six (6) semester hours in government, economics or sociology;

(e) twelve (12) semester hours in science, including biology, chemistry, physics, geology, zoology, or botany;

(f) six (6) semester hours in fine arts; and

(2) credits from a regionally accredited college or university which include: thirty (30) semester hours of professional education in a special education program approved by the ~~[State Board]~~ public education department ("department"), including completion of the ~~[State Board]~~ department's approved functional areas and related competencies; and including

(3) a mandatory student teaching component and at the option of the college or university, a practicum component; and

(4) twenty-four (24) semester hours in one of the following teaching fields: mathematics, science(s), language arts, reading, and social studies (or other content related areas); and

(5) in addition to the requirements specified in ~~[Subsection A, Paragraphs (1), (3), (4) and (6) of 6.61.6.8 NMAC]~~, Subsection A of this section, six (6) hours of reading in subject matter content for those licensees or applicants who have first entered any college or university on or after August 1, 2001 regardless of when they graduate or earn their degree; and

(6) passage of all required portions of the current ~~[SBE approved]~~ New Mexico teacher test or any successor teacher test adopted by the department; or

B. A valid certificate issued by the national board for professional teaching standards for the appropriate grade level and type.

[11-14-98; 6.61.6.8 NMAC - Rn, 6 NMAC 4.2.3.6.8 & A, 10-31-00; A, 06-01-02; A, 05-28-04]

6.61.6.9 IMPLEMENTATION:

All persons holding a valid endorsement in special education areas (excluding educational diagnosticians, speech pathologists, and related services personnel who do not currently hold special education licensure) on June 30, 1987, shall be entitled to licensure in special education. Such licensure may be further continued pursuant to regulation(s) as established by the ~~[State Board]~~ department.

[11-14-98; 6.61.6.9 NMAC - Rn, 6 NMAC 4.2.3.6.9 & A, 10-31-00; A, 05-28-04]

6.61.6.10

REFERENCED

MATERIAL: Competencies for entry level special education teachers

D. Curriculum and development

(8) Teaching of reading

(a) Foundations: the teacher understands the foundations of reading and language arts development, including but not limited to:

(i) research on reading;

(ii) how children learn to speak, read, write, and listen;

(iii) cultural, linguistic, environmental, and physiological factors in reading and language arts development;

(iv) children's developmental processes;

(v) characteristics of proficient and non-proficient readers;

(vi) relationship between oral and written language; and

(vii) language structure including graphophonics, semantics, syntax, and pragmatics systems.

(b) Assessment

(i) the teacher understands the use of classroom reading assessment to diagnose students' instructional needs and modify instruction appropriately; and

(ii) the teacher links assessment and instruction to New Mexico language arts content standards, benchmarks and performance standards;

(c) Methods of instruction: the teacher differentiates methods of instruction based on needs of students and designs instruction based on the following reading and language arts components:

(i) oral language development;

(ii) phonemic awareness and phoneme manipulations, such as blending, segmentation, and substitution;

(iii) phonics instruction, including a variety of strategies such as systematic, explicit instruction and the use of phonics in reading and writing;

(iv) vocabulary development, including both explicit instruction and indirect vocabulary development through authentic literature and students' experiences;

(v) comprehension strategies, including: instruction on predicting, re-reading, questioning, sequencing, summarizing, retelling, reading for pleasure and analytical and critical reading; activities to develop fluency, the ability to read text accurately and rapidly; study strategies, for example, planning, accessing and organizing information from a variety of texts and sources;

(vi) writing instruction, including: different types of writing for different audiences and purposes; spelling

generalizations; grammar instruction within authentic contexts; and writing processes, including drafting, revising, and editing.

(d) Teacher designs comprehensive reading and writing instruction that results in students becoming proficient in the language arts content standards, benchmarks, and performance standards, including:

(i) the use of culturally relevant pedagogy that promotes an understanding of the importance of resources students bring to the classroom;

(ii) evaluation of text for quality, cultural, and linguistic appropriateness;

(iii) connecting identified needs of students based on data with appropriate research-based resources and materials;

(iv) creation of opportunities for students to consider, respond to and discuss spoken and written materials; and

(v) the use of a variety of reading materials, including children's literature, non-fiction, technological media, stories, poems, biographies, and texts from various subject areas.

[11-14-98; 6.61.6.10 NMAC - Rn, 6 NMAC 4.2.3.6.10 & A, 10-31-00; A, 05-28-04]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to Sections 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 of 6.61.9 NMAC. The part name is also amended from SUBSTANDARD LICENSURE to CERTIFICATES OF WAIVER.

PART 9 [SUBSTANDARD LICENSURE] CERTIFICATES OF WAIVER

6.61.9.1 ISSUING AGENCY: ~~[State Board of Education]~~ Public Education Department

[6.61.9.1 NMAC - N, 07-16-01; A, 05-28-04]

6.61.9.2 SCOPE: All individuals seeking initial or continuing licensure who do not possess all the qualifications for standard teaching licensure or endorsements for providing instructional services in certain areas. This regulation governs the circumstances for the issuance and duration of ~~[substandard licenses]~~ waivers to those individuals who do not meet the requirements for initial or renewed standard licensures, or endorsements required for providing instructional services in certain areas. This regulation also governs individuals with a standard license who do not possess the

specific endorsement to teach in a given area.

[6.61.9.2 NMAC - N, 07-16-01; A, 05-28-04]

6.61.9.3 STATUTORY

AUTHORITY: Sections 22-2-1, 22-2-2, and ~~[22-2-5]~~ 22-10A-14, NMSA 1978

[6.61.9.3 NMAC - N, 07-16-01; A, 08-15-03; A, 05-28-04]

6.61.9.6 OBJECTIVE:

This regulation establishes guidelines for ~~[those local school boards]~~ local superintendents, charter schools, or governing authorities of state institutions that seek to employ individuals under the authority of ~~[substandard licenses]~~ waivers. While compliance with the law requires all public school positions requiring licensed individuals to be filled with persons holding valid licenses, the ~~[state board of education ("state board")]~~ secretary of public education ("secretary") acknowledges that certain emergent situations necessitate the brief staffing of those positions with individuals holding ~~[substandard licenses]~~ waivers. In any event, it is the objective of the ~~[state board]~~ secretary to ensure that all public school and state institution teaching positions are filled with only individuals holding valid standard, alternative, substitute or substandard licenses.

[6.61.9.6 NMAC - N, 07-16-01; A, 05-28-04]

6.61.9.7 DEFINITIONS:

A. "Standard license" means a certificate or license issued by the ~~[state board]~~ secretary authorizing a person to teach, supervise an instructional program, counsel, provide special instructional services or administer in the public schools or state institutions of the state, where the holder of the ~~[substandard license]~~ certificate of waiver does not meet the requirements for a standard license but is issued ~~[license]~~ certification on an emergency basis.

B. ~~["Substandard license"]~~ "Certificate of waiver" means a one-year certificate ~~[or license]~~ issued by the ~~[state board]~~ secretary authorizing a person to teach, ~~[supervise an instructional program, counsel, provide special instructional services or administer]~~ in the public schools or state institutions of the state, where the holder of the ~~[substandard license]~~ certificate of waiver does not meet the requirements for a standard license but is issued ~~[license]~~ certification on an emergency basis.

C. "Emergency declaration" means the situation where a local ~~[school board]~~ superintendent, governing authority of a charter school or state institution, has declared that, due to circumstances beyond the control of the local ~~[school board]~~ superintendent, governing authority of a charter school or state institution, a

vacancy or vacancies exist in a ~~[public school]~~ teaching position that requires the holding of a standard license for a position that must be filled immediately or as soon as practicable to avoid a deterioration of significant services.

D. ~~["Waiver of standard licensure"]~~ "Waiver" means the situation where, for up to a school year, the ~~[state board]~~ secretary, through the professional licensure bureau of the public education department ("PLB"), authorizes a local ~~[school board]~~ superintendent, a charter school or governing authority of a state institution to fill an existing licensed teaching position in a public school or state institution with an individual designated by the local ~~[school board]~~ superintendent, to receive a ~~[substandard license]~~ certificate of waiver or certificate of assignment of waiver.

E. ~~["Waiver of assignment"]~~ "Certificate of assignment waiver" means the situation where, for up to a school year, the ~~[state board]~~ secretary authorizes a local ~~[school board]~~ superintendent, a charter school or governing authority of a state institution to fill an existing public school or state institution teaching vacancy with an individual holding a standard license who does not hold the specific endorsement required for that position. A ~~[waiver of assignment]~~ certificate of assignment waiver is issued ~~[by means of a substandard license]~~ in a manner identical to a certificate of waiver.

F. "School year" means the total number of teaching days offered by public schools in a school district during a period of twelve consecutive months, but more specifically means the period of time, usually August through May of the following year, in which a local school district is in session and has licensed teachers providing instructional services.

G. "Specific method, date and duration of recruitment" means the media used to recruit the filling of a vacancy, the name of the media used, and the date(s) and duration the recruitment for a specific vacant position was disseminated by the media.

H. "Documentation supporting recent recruiting effort" means a paper copy of any medium or method used to recently recruit the filling of a vacancy, including but not limited to a newspaper listing, a bulletin board listing, an e-mail, a fax, or a memorandum actually sent or posted.

I. "Recent recruitment effort" means within 12 months preceding the date the application for substandard licensure is submitted with the ~~[professional licensure unit of the department of education ("PLU")]~~ PLB.

J. "Core academic subjects" means English, language arts, reading, mathematics, science, modern and classical languages, except the modern and classical Native American languages and cultures of New Mexico tribes or pueblos, the arts, including music and visual arts, and social studies, which includes civics, government, economics, history, and geography.

K. "Highly qualified", under this rule, means a teacher of the core academic subjects who has had no certification or licensure requirements waived on an emergency basis.

[6.61.9.7 NMAC - N, 07-16-01; A, 08-15-03; A, 05-28-04]

6.61.9.8 TEACHER SHORTAGES:

A. Finding: The ~~[state board]~~ secretary acknowledges that there is a shortage of licensed teachers ~~[and administrators]~~ in New Mexico. In keeping with ~~[its]~~ the strategic goal of staffing all ~~[its]~~ public schools with duly qualified, licensed teachers ~~[while at the same time discharging its duties under state law, the state board]~~ the secretary recognizes the annual dilemma of local ~~[school boards]~~ superintendents, charter schools and state institutions confronted with teacher shortages. While seeking to fill all available positions with licensed teachers, local boards are faced with insufficient qualified applicants. Oftentimes, individuals desiring to teach in K-12 have not fulfilled their college coursework or testing requirements that would allow them to obtain the credentials necessary to be fully licensed in the area they seek to teach or where the local ~~[district]~~ superintendents, charter schools or state institution seeks to place them. Other times, local ~~[districts]~~ superintendents, charter schools or state institutions faced with teacher shortages conclude that their best option is to fill a classroom for a year with a licensed teacher not possessing the endorsement required for a given area.

B. Delegation: The ~~[PLU]~~ PLB, shall, on behalf of the ~~[state board]~~, secretary receive and evaluate all requests for ~~[substandard licenses including waivers of assignment]~~ waivers. At least annually but no later than ~~[the June meeting of the state board,]~~ June 30th of each school year, the director of professional licensure ("director") shall for the preceding school year compile and present to the secretary the numbers of ~~[substandard licenses it issued and the number of substandard licenses it]~~ waivers it issued and declined to issue.

[6.61.9.8 NMAC - N, 07-16-01; A, 05-28-04]

6.61.9.9 REQUESTING INITIAL SUBSTANDARD LICENSURE:

A. ~~[All individuals seeking to teach, supervise an instructional program, counsel, provide special instructional services or administer in the public schools or state institutions of the state, shall hold either a standard, substandard, alternative or substitute license. Initial substandard licensure, if approved, is valid for one year only with the possibility of renewals. The substandard licensure process is commenced by a local school board or state institution after it makes an emergency declaration by a vote.] All individuals seeking to teach, in the public schools or state institutions of the state, shall hold a valid waiver, standard license or other certificate issued by the secretary. Initial waivers, if approved, are valid for one year with the possibility of annual renewals. The waiver process is commenced by a local superintendent, charter school, or state institution after they make an emergency declaration. The emergency declaration shall:~~

(1) name the individual(s) for whom ~~[substandard licensure] waiver~~ is sought;

(2) state the emergency justifying the local ~~[board's] superintendent's, charter school's,~~ or state institution's request for the ~~[substandard licensure] waiver~~;

(3) indicate whether the individual(s) for whom ~~[substandard licensure] waiver~~ is being sought has at any time during the past school year performed services under substandard licensure from the department;

(4) indicate the class, course, or position for which the candidate for ~~[substandard licensure] waiver~~ is being sought;

(5) describe the qualification that deems the candidate for ~~[substandard licensure] waiver~~ to be a suitable selection.

B. Valid emergencies justifying the granting of ~~[substandard licensure] waiver~~ include but are not limited to:

(1) a full time position that has been vacant for at least one school year and has been intermittently filled by a substitute teacher(s) or an existing staff member(s);

(2) the repeated inability by a school to keep a position filled for longer than one school year by the same person;

(3) the sudden vacancy of a position due to illness, resignation, administrative action, or unexcused departure;

(4) the required creation of a full time position that has not yet been filled with a person holding a license;

(5) the lack of qualified applicants; or

(6) a state or federal court order requiring the offering of a course or program.

C. In no event shall an

individual request his own ~~[substandard licensure] waiver~~. All requests for initial or renewed ~~[substandard licensure] waiver~~ shall be made within 60 days of the beginning date of the ~~[substandard licensure] waiver~~ candidate's employment contract with his local school district or state institution. ~~[If the local school board or governing authority of the state institution does not meet until after a candidate is considered for employment, the procedures contained in Subsection A above must be followed at the next available local school board or state institution meeting.]~~ Under no circumstances will a request for initial or renewed ~~[substandard licensure] waiver~~ be processed if not received by the close of business on April 15th of the affected school year.

D. All ~~[substandard licensure] waivers~~ issued by the director shall be for one school year only and shall commence on July 1st of the school year and expire on June 30th of the same school year.

E. All requests for initial ~~[substandard licensure] waiver~~ shall be submitted to the ~~[PLB]~~ PLB by the local district's superintendent or his designee, or by a state institution, on a form substantially similar to a form available from the ~~[professional licensure unit] PLB~~. No ~~[substandard licensure] waiver~~ shall be issued to any individual who does not unqualifiedly consent in writing to perform all or any instructional services by means of a ~~[substandard licensure] waiver~~.

(1) Initial substandard licensure requests based on the emergencies listed at paragraphs 1, 2, 3, 5 of subsection B of 6.61.9.9 NMAC above must be submitted together with, either documentation supporting the state institution or local district's recent recruitment effort, or a certification from someone with knowledge that certifies to the specific method, date, and duration of recent recruitment efforts for the subject vacant position. It is acceptable to submit recent recruitment documentation or a certification that covers multiple positions for which ~~[substandard licensure is] waivers~~ are being sought.

(2) Initial ~~[substandard licensure] waiver~~ requests based on the emergencies listed at paragraphs 4 or 6 of subsection B of 6.61.9.9 NMAC above must be submitted and justified in the same manner as paragraph 1 of subsection E of 6.61.9.9 NMAC above; however, if a district has within 90 days preceding the date of submission of the application for ~~[substandard licensure] waiver~~ been ordered to fill a position or provide a course or a program, then only a copy of the order need be submitted to support the application.

(3) Initial ~~[substandard licensure] waiver~~ requests should also contain a plan from the local district detailing how the

individual will complete college coursework during the time the individual is holding a ~~[substandard licensure] waiver~~. The plan should require the individual to complete at least 9 credit hours at an identified institution of higher education ("IHE") during the school year. The specific program or curriculum or coursework to be taken should be detailed in the plan; or, a photocopy of the program, curriculum, or course description from the IHE's catalog can be provided as the plan. Plans may include coursework to be taken during summers off between school years.

F. The ~~[professional licensure unit] PLB~~ shall determine if, during the period of the ~~[substandard licensure] waiver~~, the candidate for ~~[substandard licensure] waiver~~ is reasonably capable of completing the coursework or earning the degree, that would enable them to obtain the credentials for a standard license or endorsement if required in the teaching area where the local ~~[board] superintendent, charter school,~~ or state institution seeks to place the individual. If the individual is not reasonably capable of completing the coursework or earning the degree, that would enable them to obtain the credentials for a standard license or the endorsement if required in the area for which the local ~~[board] superintendent, charter school,~~ or state institution seeks to place the individual, then the ~~[substandard licensure] waiver~~ request will almost certainly be denied.

G. The ~~[professional licensure unit] PLB~~ may also deny a ~~[substandard licensure] waiver~~ request if it determines that the local ~~[board] superintendent, charter school~~ has not adequately justified or supported its request as where it fails to state any justification, fails to attach a plan, fails to attach a certification, or fails to allege an emergency.

H. A single emergency declaration otherwise correct as to form that justifies granting a ~~[substandard licensure] waiver~~ to more than one individual will be scrutinized to determine whether each individual qualifies for consideration of the declared emergency.

I. With regard to taking and passing portions of the New Mexico teacher assessments ("NMTA"), ~~[substandard licensure] waiver~~ shall be evaluated, issued and renewed as follows:

(1) No provision of this rule shall in any way restrict or prohibit the granting of a one-year nonrenewable ~~[substandard licensure] certificate of waiver~~ to take the NMTA that is permitted by section 9 of 6.60.5 NMAC, ("competency testing for licensure").

(2) Unless prohibited by other ~~[state board of education] rules of the secretary,~~ an applicant for initial licensure who

applies at any time on or after January 1st may be issued a one-time-only ~~substandard licensure~~ certificate of waiver for an additional school year within which to take and pass all portions of the NMTA.

(3) Where an individual possesses other favorable qualifications but for good cause shown has not taken any portion of the NMTA, the ~~PLU~~ PLB may renew that individual's ~~substandard licensure~~ certificate of waiver once during which time he/she must take and pass the NMTA within the time set by the ~~PLU~~ PLB.

(4) An applicant for teacher licensure who possesses other favorable qualifications shall be entitled to a renewed ~~substandard licensure~~ certificate of waiver, provided that he/she takes and passes the ~~general knowledge and~~ basic skills portions of the NMTA within one school year of receiving a ~~substandard licensure~~ certificate of waiver, and takes and passes the assessment of teacher competency portion of the NMTA within the time set by the ~~PLU~~ PLB, who in setting a deadline shall take into consideration the type of license sought and the individual's academic preparation to date.

[6.61.9.9 NMAC - N, 07-16-01; A, 08-15-03; A, 05-28-04]

6.61.9.10 EVALUATION OF SUBSTANDARD LICENSURE REQUESTS: To achieve consistent results, the ~~professional licensure unit~~ PLB shall evaluate requests for ~~substandard licensure~~ waiver as follows:

A. The ~~licensure unit~~ PLB consultants will determine whether local ~~districts~~ superintendents, charter schools, or state institutions have included documentation to support any assertion that they have been unsuccessful in recruiting qualified applicants; for those districts that choose to submit a supporting certification, the consultants will determine if that certification attests to a specific method, date and duration of recruitment. Applications submitted either without supporting documentation or a certification attesting to a specific method, date and duration of recruitment will almost certainly result in a denial of the request.

B. The ~~licensure unit~~ PLB consultants will identify the type of degree held by the applicant and whether the candidate for ~~substandard licensure~~ waiver, given that degree and coursework taken, could later reasonably be qualified to receive a standard license in the area requested by the local school ~~districts~~ superintendents, charter schools, or state institutions. If the candidate's degree or college coursework are too far removed from the focus area of the ~~substandard licensure~~, the ~~substandard licensure~~ waiver, the waiv-

er request will almost certainly be denied.

C. The ~~licensure unit~~ PLB consultants will determine if the ~~substandard licensure~~ waiver candidate has a completed application packet, as determined by the ~~PLU~~ PLB, on file with the ~~PLU~~ PLB. If the ~~PLU~~ PLB does not receive a completed application packet within 30 days of its receipt of the ~~substandard licensure~~ waiver request concerning that candidate, then the ~~substandard licensure~~ waiver request will be denied.

D. Requests for ~~substandard licensure~~ waiver must be made with the knowledge and consent of the candidate. Any ~~substandard licensure~~ waiver request received without the unqualified written consent of the candidate for ~~substandard licensure~~ waiver will be denied.

E. Completion of at least 9 college credit hours within a school year, including summers, is deemed to be a reasonable attempt to attain ~~substandard licensure~~ waiver. Therefore, the ~~licensure unit~~ PLB consultants will determine whether the local school ~~district's~~ plan contains a component requiring a ~~substandard licensure~~ waiver candidate to complete at least 9 college credit hours per year. Ultimately, the consultants shall evaluate ~~substandard licensure~~ waiver requests to determine if during the period of the ~~substandard licensure~~ waiver the candidate is reasonably capable of completing the coursework or earning the degree that would enable them to obtain the credentials for a standard license or endorsement if required in the teaching area where the local ~~board~~ superintendents, charter schools, or state institutions seeks to place the individual.

F. The ~~licensure unit~~ PLB consultants will determine if a candidate for initial ~~substandard licensure~~ waiver has ever been issued ~~substandard licensure~~ waiver. If such a candidate has held ~~substandard licensure~~ a waiver for more than three years, whether or not consecutive, further ~~substandard licensure~~ waiver will almost certainly be denied.

G. The ~~licensure unit~~ PLB consultants will determine if a candidate for initial ~~substandard licensure~~ waiver has ever been issued ~~substandard licensure~~ a waiver but failed to comply with any conditions established by the director. If such a candidate has previously failed to comply with conditions established by the director, including taking and passing required testing, further ~~substandard licensure~~ waiver will almost certainly be denied.

H. The ~~licensure unit~~ PLB consultants will notify the local school ~~district~~ superintendents, of their allowance or denial of the requested ~~substandard licensure~~ waiver for an individual. If the

~~substandard licensure~~ waiver is allowed, the notification will detail the conditions under which the ~~licensure~~ waiver is granted. If the ~~substandard licensure~~ waiver is denied, the notification will state reasons why it was denied. The denial notification will also state the ~~district's~~ superintendent's, charter school's, or state institution's rights for requesting a review.

I. A request not made within 60 days of the beginning date of the ~~substandard licensure~~ waiver candidate's employment contract with his local school ~~district~~ superintendent, charter school, or state institution will almost certainly be denied unless good cause is shown why it was submitted beyond the 60-day deadline. [6.61.9.10 NMAC - N, 07-16-01; A, 05-28-04]

6.61.9.11 DENIAL OF INITIAL ~~SUBSTANDARD LICENSURE~~ WAIVER: Upon denial by the ~~professional licensure unit~~ PLB of initial or renewed ~~substandard licensure~~ waiver, a superintendent or his administrative designee, a charter school or a state institution may seek review of the denial. To obtain review, the following procedure shall be used:

A. A request for review must be in writing, must be addressed to the director of ~~professional licensure~~ the PLB, and must be received by the director within thirty days of the local school district's receipt of ~~professional licensure's~~ PLB's denial of the request for ~~substandard licensure~~ a waiver. During this review period, an individual may not provide instructional services in the classroom for which ~~substandard licensure~~ a waiver is being sought unless that individual holds a valid educational assistant K-12 license or is a duly licensed substitute and is performing services as a substitute teacher pursuant to Section 22-10A-15, NMSA 1978 and 6.63.10 NMAC ("~~Licensure~~ Certification for Substitute Teachers").

B. A request for review must contain not only a statement of reasons why ~~substandard licensure~~ a waiver should be issued or renewed, but must contain a written plan from the district, charter school or state institution that details the ~~substandard licensure~~ waiver candidate's progress if any toward completion of the college coursework, attainment of a degree, or taking/retaking the testing necessary to obtain standard licensure within the duration of the waiver if issued or renewed. The plan should address the candidate's progress to-date toward meeting the goals of completing college coursework, attaining a degree, or taking/retaking necessary testing, and what steps will be taken to fulfill these goals.

C. The director shall issue a decision on the request for review and forward it to the local school district, charter school, or state institution as soon as practicable. The decision of the director shall be final and not subject to review, reversal, clarification or reconsideration. [6.61.9.11 NMAC - N, 07-16-01; A, 05-28-04]

6.61.9.12 RENEWAL OF [SUBSTANDARD LICENSURE] A WAIVER: ~~Every substandard licensure. Although a waiver is valid for one year [only] and must be based on an emergency, it can be renewed if the teacher provides to his employer satisfactory evidence of continued progress toward meeting the requirements for level one licensure or licensure endorsement.~~

A. For requests to renew substandard licensure, the licensure unit consultants will evaluate the candidate's progress in complying with established conditions and commitments, or passing the required testing. If the candidate has not complied with established conditions or commitments, has only nominally complied, or has failed the required testing, the ~~[substandard licensure] renewed waiver~~ request will almost certainly be denied.

B. All requests for renewal of ~~[substandard licensure] waiver~~ shall be submitted by the local district's superintendent or his designee, or a charter school or a state institution, on a form substantially similar to a form available from the ~~[professional licensure unit] PLB~~. No renewed ~~[substandard licensure] waiver~~ shall be issued to any individual who does not unqualifiedly consent to performing all or any instructional services by means of a ~~[substandard licensure] waiver~~. ~~[Substandard licensure] Waiver~~ renewal requests must be submitted together with documentary evidence that demonstrates the individual's compliance with all conditions imposed by ~~[professional licensure] the PLB~~ for issuance of a ~~[substandard licensure] waiver~~ during the preceding school year. It shall be the sole responsibility of the local school ~~[district] charter school, or state institution~~ to submit this documentary evidence to the ~~[licensure unit] PLB~~.

C. Provided that the holder of a ~~[substandard licensure] waiver~~ has complied with all conditions for the issuance of a ~~[substandard licensure] waiver~~ imposed during the preceding school year, there shall be no need for a local ~~[district] charter school, or state institution~~ to reestablish the existence of an emergency. Provided further that a licensed teacher or administrator who has observed the individual considered for renewed ~~[substandard licensure] waiver~~ shall include a document at the time the

renewal application is filed with ~~[professional licensure] the PLB~~ that certifies that the individual has satisfied Level-I competencies for that license or endorsement.

D. Except for good reason shown, any individual who fails to complete and earn credit for their college coursework to obtain the requisite credentials or obtain the degree for the endorsement required in the area for which the local ~~[board] superintendent, charter school,~~ or state institution seeks to place the individual, shall almost certainly be denied a renewal of their ~~[substandard licensure] waiver~~. Non-use of the ~~[substandard licensure] waiver~~ shall be deemed an invalid reason to renew ~~[substandard licensure] a waiver~~.

E. Any ~~[substandard licensure] waiver~~ approved by ~~[professional licensure] the PLB~~ shall be valid for only the current school year and may be renewed, provided however, that a candidate for renewal must have satisfied all conditions imposed by ~~[professional licensure] the PLB~~ for the issuance of a ~~[substandard licensure] waiver~~ during the preceding school year. [6.61.9.12 NMAC - N, 07-16-01; A, 05-28-04]

6.61.9.13 DENIAL OF RENEWAL OF [SUBSTANDARD LICENSURE] A WAIVER: In other than the proposed suspension or revocation of a ~~[substandard licensure] waiver~~, the procedure for seeking a review of any denial of renewal of ~~[substandard licensure] waiver~~, shall be as follows:

A. A request for review must be in writing, must be addressed to the director of ~~[professional licensure's] the PLB~~, and must be received by the director within thirty days of the local school district's receipt of ~~[professional licensure] the PLB's~~ denial of the request for a renewal of a ~~[substandard licensure] waiver~~. During this review period, an individual may not provide instructional services in the classroom for which ~~[substandard licensure] waiver~~ is being sought unless that individual holds a valid educational assistant K-12 license or is a duly ~~[licensed] certified~~ substitute and is performing services as a substitute teacher pursuant to 6.63.10 NMAC ("Licensure for Substitute Teachers") or Section 22-10A-15 NMSA 1978.

B. A request for review must contain a statement of reasons why ~~[substandard licensure] waiver~~ should be renewed together with any documents not previously submitted that justify the individual's failure to satisfy all conditions imposed by ~~[professional licensure] the PLB~~ for the issuance of a ~~[substandard licensure] waiver~~ during the preceding school year.

C. The director shall issue a decision on the request for review and forward it to the local school district, charter school, or state institution as soon as practicable. The decision of the director shall be final and not subject to review, reversal, clarification or reconsideration. [6.61.9.13 NMAC - N, 07-16-01; A, 05-28-04]

6.61.9.14 PRE - EXISTING HOLDING OF [SUBSTANDARD LICENSURE] A WAIVER: Upon the effective date of this section and even if he/she has failed a portion of the NMTA, including Prueba de Español para la Certificación Bilingüe, anyone holding a ~~[substandard licensure] waiver~~ for the 2001-2002 school year, may be eligible for a renewed ~~[substandard licensure] waiver~~ that would expire July 31, 2003, provided that no other terms and conditions were imposed by the ~~[PLB] PLB~~ on the previous ~~[substandard licensure] waiver~~, and provided further that their employing school district, charter school, or state institution requests this one-year ~~[substandard licensure] waiver~~. After July 31, 2003, should the local district, charter school, or state institution seek to continue using that individual's services for another school year to perform services for which they are not appropriately licensed, including those individuals who have taken but failed Prueba de Español para la Certificación Bilingüe, a request for renewal of ~~[substandard licensure] waiver~~ is subject to being denied where the individual covered by this section has failed a portion of the NMTA, including Prueba de Español para la Certificación Bilingüe. [6.61.9.14 NMAC - N, 07-16-01; A, 07-15-02; A, 02-14-03; A, 05-28-04]

6.61.9.15 STATUS OF [SUBSTANDARD LICENSURE] A WAIVER:
A. At the sole discretion of the ~~[state board] secretary~~ and pursuant to the procedures of this ~~[regulation] rule~~, a person who does not meet the requirements for a standard license may be issued a one-year ~~[substandard licensure] waiver~~, provided that a local school district, charter school or state institution certifies that an emergency exists in the hiring of a qualified person.

B. A person issued a ~~[substandard licensure] waiver~~ shall not acquire a property interest in that ~~[license] waiver~~, nor shall the time a person provides services under a waiver be counted toward or considered for advancement to level two or level three licensure. ~~[Nor shall a person issued a substandard licensure] A person issued a waiver shall not~~ acquire professional status by reason of being issued that ~~[license] certificate~~ and holding it from year to year. Except for a suspension, revoca-

tion, or denial of renewal of a waiver based upon those reasons contained in Sections 12 or 13 of 6.61.9 NMAC, any other suspension, revocation, or denial of renewal of a waiver need not follow the procedures set forth in the Uniform Licensing Act (Sections 61-1-1 through 61-1-31 NMSA 1978). Accordingly, a ~~substandard license~~ waiver may be suspended, revoked, or its renewal denied for any reason other than those contained in Sections 12 or 13 of 6.61.9 NMAC, without a hearing at any time by ~~[a vote of the state board upon a recommendation by the state superintendent of public instruction or his designee]~~ the secretary or the secretary's designee upon a recommendation by the director.

C. The individual whose ~~substandard license~~ waiver is considered for suspension, revocation, or denial of renewal for any reason other than those contained in Sections 12 or 13 of 6.61.9 NMAC, shall be given notice from the ~~state superintendent~~ secretary of the reason for the proposed suspension, revocation or denial of renewal of his ~~license~~ certificate, the date and time when the ~~state board~~ secretary will consider taking final action against his ~~license~~ certificate, and an opportunity to address the ~~state board~~ secretary or the secretary's designee.

[6.61.9.15 NMAC - N, 07-16-01; A, 05-28-04]

6.61.9.16 SAVINGS CLAUSE:

Upon the effective date of this ~~regulation~~ rule, individuals who have held ~~substandard licensure~~ waiver for more than three years, whether or not consecutive, may be eligible to receive one final ~~substandard license~~ waiver pursuant to the following conditions.

A. Any renewal shall be governed by Subsection C of Section 9 of 6.61.9 NMAC above and Subsections A, B, C, and D of Section 12 of 6.61.9 NMAC above.

B. A ~~substandard license~~ waiver issued under this provision may be renewed once for a period up to and including, June 30, 2002.

C. The ~~professional licensure unit~~ PLB shall evaluate all ~~substandard licensure~~ waiver requests submitted under this provision pursuant to Subsections A, B, C, D, E, G, H and I of 6.61.9.10 NMAC above, provided however, that it shall determine under Subsection E of 6.61.9.10 NMAC if by June 30, 2002 the candidate for ~~substandard licensure~~ waiver is reasonably capable of completing the coursework or earning the degree that would enable the candidate to obtain the credentials for a standard license or endorsement if required in the teaching area where the local ~~board~~ superintendent,

charter school or state institution seeks to place the individual. If it is determined that the individual is not, by June 30, 2002, reasonably capable of completing the coursework or earning the degree that would enable the candidate to obtain the credentials for a standard license or the endorsement if required in the area for which the local ~~board~~ superintendent, charter school or state institution seeks to place the individual, then the ~~substandard licensure~~ waiver request will almost certainly be denied and the individual shall be deemed ineligible for future substandard licensure.

[6.61.9.16 NMAC - N, 07-16-01; A, 05-28-04]

6.61.9.17 RESTRICTIONS ON THE USE AND ISSUANCE OF ~~SUBSTANDARD LICENSURE~~ A WAIVER:

A. Consistent with Title I, Sec. 1119(a)(1) and Title IX, Sec. 9101(23)(A)(ii) of the No Child Left Behind Act, if a teacher was initially employed after the first day of school of the 2002-2003 school year and is not highly qualified ~~[and has been issued a substandard license by the state board of education]~~, he shall not be issued a waiver by the secretary in the core academic subjects, and local education agencies receiving funds under Title I of the Act shall not assign that teacher to teach the core academic subjects in a Title I targeted assistance program or schoolwide program ~~[if he/she was initially employed after the first day of school of the 2002-2003 school year]~~.

B. Consistent with Title I, Sec. 1119(a)(2) and Title IX, Sec. 9101(23)(A)(ii) of the No Child Left Behind Act, which requires that all teachers of the core academic subjects be highly qualified by the end of the 2005-2006 school year, the ~~state board of education~~ secretary will not issue ~~substandard licenses in~~ waivers to teachers who teach the core academic subjects after June 30, 2006.

C. Consistent with Subsection D of Section 22-10A-14 NMSA 1978, no teacher holding a waiver shall be assigned to a school that has not made adequately yearly progress for two consecutive years.

[6.61.9.17 NMAC - N, 08-15-03; A, 05-28-04]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to Sections 1, 3, 8, 9, 10 and 11 of 6.63.12 NMAC (SCHOOL BUSINESS OFFICIAL LICENSURE).

6.63.12.1 ISSUING AGENCY:
~~[State Board of Education]~~ Public

Education Department

[6.63.12.1 NMAC - N, 01-01-03; A, 05-28-04]

6.63.12.3 STATUTORY

AUTHORITY: Sections 22-1-1, 22-1-1.1, 22-1-1.2, 22-2-1 22-2-2, ~~[22-2-5, 22-10-3, 22-10A-3, and 22-10A-4]~~, NMSA 1978.

[6.63.12.3 NMAC - N, 01-01-03, A, 05-28-04]

6.63.12.8 REQUIREMENTS FOR RECEIVING THIS LICENSE:

A. Any person serving or seeking to serve as the school business official of a local school district, including charter schools, and any person ~~[serving or]~~ seeking to serve in a local school district, including charter schools, in the capacity of a business manager, or any district official charged with the direct management of the business of a school district, excluding the superintendent, or a supervisor or director or manager of accounting and/or bookkeeping shall be required to hold this license. A person seeking this license shall have earned or completed one or more of the following:

(1) a current certified public accountant certificate; or

(2) a bachelor's, master's, or doctorate degree in accounting, business, or a related field with at least twenty four semester hours in accounting or business coursework ~~[or a related field]~~ from a regionally accredited or ~~state board of education~~ ("SBE") department approved college or university; or

(3) an associate's degree in accounting or a related field from a regionally accredited or ~~state board of education~~ ("SBE") department approved college or university including at least twenty-four semester hours in accounting or business courses from a regionally accredited or approved college or university plus at least three (3) years of verifiable, employment experience ~~[related to accounting or bookkeeping; or]~~ as a school business official.

~~[(4) A high school diploma or G.E.D. plus at least five (5) years of verifiable, employment experience related to accounting or bookkeeping.]~~

B. In addition to satisfying the requirements contained in Subsection A of Section 8 of ~~[6.63.12 NMAC]~~ this rule, a person receiving an initial school business license shall be issued a one-year conditional license that shall convert automatically to a three-year level I license provided that during this first year the person satisfactorily completes a training program approved by the ~~state board~~ public education department ("department").

C. A business manager of a school district with a membership in

excess of three thousand students must hold or be eligible to hold a level II school business official license.

[6.63.12.8 NMAC - N, 01-01-03; A, 05-28-04]

6.63.12.9 COMPETENCIES:

To qualify for receipt of a level II license, a person shall comply with the competency requirements enumerated as follows:

A. Legal issues: The school business official understands and demonstrates the ability to:

(1) identify the state and federal constitutional rights that apply to individuals within the public education system;

(2) review and analyze appropriate statutory and constitutional authority regarding the administration of public schools;

(3) review and analyze significant statutory issues relative to financial resource management.

B. Financial resource management: School business officials must be able to demonstrate, understand, and comprehend the principles associated with school finance, budgeting, financial planning, accounting, auditing, financial reporting, cash management, investments, debt management and technology for school business operations.

(1) Principles of school finance: The school business official understands and demonstrates the ability to apply all New Mexico state statutes and regulations as they apply to public schools including but not limited to:

(a) Procurement Code, Sections 13-1-28 to 13-1-199, NMSA 1978, as may be amended or reenacted;

(b) New Mexico ~~[state department of education]~~ public education department manual of procedures [~~(Attachment "A")~~] in its most current form;

(c) department of finance and administration rules as set forth in Title 2 of the NMAC, as may be amended, replaced, or otherwise changed; and

(d) New Mexico state auditor rules as set forth in Title 2 of the NMAC, as may be amended, replaced, or otherwise changed;

(2) Budgeting and financial planning: The school business official understands and demonstrates the ability to:

(a) apply the legal requirements for budget adoption;

(b) prepare a local budget calendar to meet the time constraints of budget preparation;

(c) recognize and analyze significant social, demographic and economic changes which may impact the financial plan of the district;

(d) recognize and forecast the

major sources of revenue available to public schools from local, state and federal levels of government;

(e) analyze the impact of shifts in local, state and federal funding and its effect on local spending plans;

(f) recognize and explain internal and external influences on the budget;

(g) recognize multiple approaches to determine reliable enrollment and personnel projections;

(h) interpret the state funding model;

(i) prepare revenue projections and estimates of expenditures for school sites and district-wide budgets;

(j) identify various methods of budget analysis and management;

(k) exercise budgetary management; and

(l) apply analytical procedures for budgetary analysis;

(3) Accounting, auditing, and financial reporting: The school business official understands and demonstrates the ability to:

(a) understand the use and role of internal and external audits;

(b) prepare and analyze interim and annual financial statements;

(c) report the financial status and operating results to the local board of education;

(d) determine revenues and expenditures by fund using state-approved charts of accounts;

(e) develop and maintain all fixed assets inventory in accordance with applicable governmental accounting standards board pronouncements;

(f) use the annual audit report to improve financial tracking and reporting; and

(g) apply the appropriate basis of accounting in accordance with applicable governmental accounting standards board pronouncements in measuring financial position and operating results.

(4) Cash management, investments, and debt management: If applicable to the school district in which he or she is employed, the school business official understands and demonstrates the ability to:

(a) use lease purchasing and joint powers agreements;

(b) select banking and other financial services;

(c) recognize the statutory limitations on investment options available to a school district;

(d) apply procedures for implementing and monitoring internal transfers and loans; and

(e) apply the process of issuing long-term general obligation bonds including the bond rating process and the role of

the bonding attorney and rating services. [6.63.12.9 NMAC - N, 01-01-03; A, 05-28-04]

6.63.12.10 ETHICS AND REPORTING REQUIREMENTS:

~~[Holders of a]~~ Applicants for and holders of a school business ~~[official's]~~ official license shall discharge their duties in a manner that maximizes the public's confidence and trust in the integrity of public school fiscal practices. Accordingly, they shall be held to the highest standards of accounting practices with a goal of maintaining the public trust and ethical management of their school district's financial assets. ~~[Holders of this license shall be deemed to be bound by significant portions of 6.60.9 NMAC ("Licensure Requirements, Code of Ethical Responsibility of the Education Profession"), which is hereby incorporated by reference.]~~

A. ~~[Holders of the School Business Official License shall be held to the enumerated Standards of Professional Conduct of Section 9, Subsections B and C of 6.60.9 NMAC, which imposes minimal standards of accepted ethical behavior.]~~ Applicants for and holders of a school business official license are bound by the prohibited practices enumerated in the Standards of Professional Conduct (6.60.9 NMAC), and any failure to comply therewith may constitute grounds for such adverse licensure action as authorized by the Uniform Licensing Act, Sections 61-1-1 et seq., NMSA 1978, including but not limited to denial, non-renewal, suspension or revocation.

B. ~~[Section 10 of 6.60.9 NMAC shall also apply to holders of the school business official license.]~~ [Reserved]

C. ~~[Any violation of statutory or regulatory requirements may constitute grounds for suspension, revocation or non-renewal of a school business official license.]~~ [Reserved]

D. Material deviations ~~[of]~~ from accepted accounting standards that result in substantial financial loss to a local school district shall constitute grounds for ~~[suspension, revocation or non-renewal of a school business official license]~~ adverse licensure action.

E. Use of public school funds for other than approved official school purposes shall constitute grounds for ~~[suspension, revocation or non-renewal of a school business official license]~~ adverse licensure action.

F. ~~[Holders of the]~~ School business official ~~[license]~~ licensees shall promptly report material misuse of public school funds to their superintendent, and/or whichever person or entity seems most appropriate under the circumstances. Non-

reporting of material misuse of public school funds that results in substantial financial loss to a local school district may constitute grounds for ~~[suspension, revocation or non-renewal of a school business official license]~~ adverse licensure action.

G. Falsifying any record, account or report required to be kept or filed pursuant to the Public School Finance Act (Sections 22-8-1 through 22-8-45 NMSA 1978) shall constitute grounds for adverse licensure action pursuant to the Uniform Licensing Act.
[6.63.12.10 NMAC - N, 01-01-03, A, 05-28-04]

6.63.12.11 CONTINUING LICENSURE: An initial school business license is considered to be a level I license and renewed licenses shall be level II licenses except as provided in 6.60.6 NMAC, Continuing Licensure for Licensed Educators in New Mexico.

A. The one-year conditional license shall be considered as part of the three-year level I license. The initial school business official license is valid for three (3) years and becomes effective on July first of a year and expires the 30th of June three years thereafter.

B. As a condition for receipt of a level II license, a person applying for such licensure shall satisfactorily demonstrate the competencies contained in this rule and must have three (3) full school years of experience under a level I license.

C. All renewed level II school business official licenses are valid for nine (9) years and become effective on July first of a year and expire the 30th of June nine years thereafter.

D. The holder of a level I or level II school business official license must complete sixteen (16) contact hours per year of training or coursework in any combination of subjects identified in section 9 of this rule.

[6.63.12.11 NMAC - N, 01-01-03; A, 05-28-04]

NEW MEXICO DEPARTMENT OF PUBLIC SAFETY

This is an amendment to 10.10.2 NMAC, Sections 9, 10, 11, 13, 14, and 15, effective 05-28-04

10.10.2.9 DISTRIBUTION OF FORMULA FUNDS: Variable pass-through: state shall distribute to its local units of government and non-profits, in the aggregate, the portion of the state's formula grant funds equal to the local government share of total state and criminal justice expenditures for the previous fiscal year

(Sec. 506. (b) (1) of the Act). A minimum of 49.29% must be passed through to local units of government and non-profits; and, no more than 50.71% can be used by state agencies. States may exceed the minimum pass-through by providing funds not used at the state level to local units of government. In distributing funds among urban, rural, and suburban units of local government, the state shall give priority to those jurisdictions with the greatest need (Sec. 506. (b) (2) of the Act). The state is required to set-aside 5% of the total award for criminal ~~[history]~~ justice records improvement. The U.S. department of justice has authorized states that have signed a waiver, to utilize criminal ~~[history]~~ justice records improvement set-aside funds for anti-terrorism plan and programs. The amount contained in the set-aside is not counted against the local pass-through minimum. Spending will be consistent with the criminal ~~[history]~~ justice records improvement plan approved by BJA.

[10.10.2.9 NMAC - Rp 10 NMAC 10.2.9, 3-15-00; A, 05-31-02; A, 05-28-04]

10.10.2.10 AUTHORIZED PROJECTS/PROGRAM AREAS

~~[A. Authorized programs for 2002 funding are listed below. For additional information on priorities and areas of emphasis, see the 2002 New Mexico Drug and Violent Crime Control Strategy. Descriptions for each program can be found in Attachment E, of the application package. Approved Program Abstracts:~~

~~(1) Law Enforcement (02, 07a, 08, 21, 22, 24)~~

~~(2) Treatment for Offenders (11, 12, 13, 15a, 20)~~

~~(3) Criminal Justice Information Systems/Homeland Security/Anti-Terrorism (7b, 09, 15b, 26)~~

~~(4) Domestic Violence (14, 18, 27)~~

~~(5) Evaluation and Research (19)~~

~~(6) Developing and implementing anti-terrorism plans and training programs~~

~~(7) Purchasing equipment for local law enforcement anti-terrorism projects~~

~~(8) Improving community crime prevention and security~~

~~(9) Creating multi-jurisdictional task forces in response to organized crime~~

~~(10) Facilitating interagency and intelligence coordination~~

~~(11) Integrating criminal justice information systems]~~

A. Authorized programs for 2004 funding are listed below. For additional information on priorities and areas of emphasis, see the 2004 New Mexico Drug and Violent Crime Control Strategy. Descriptions for each program can be found

in attachment A. Approved program abstracts:

(1) law enforcement (01, 02, 07a, 08, 22, 24, 25, 27)

(2) treatment for offenders (13)

(3) criminal justice information systems/homeland security/anti-terrorism (15b, 26)

(4) domestic violence (18)

(5) evaluation and research (19)

(6) innovative programs (16)

B. Applicants may request copies of the [2002] 2004 New Mexico drug and violent crime control strategy by writing the Department of Public Safety, Grants Management Bureau, Post Office Box 1628, Santa Fe, New Mexico 87504 or by calling (505) 827-3338.

[10.10.2.10 NMAC - Rp 10 NMAC 10.2.10, 3-15-00; A, 05-31-02; A, 05-28-04]

10.10.2.11 APPLICATION REQUIREMENTS: All applicants for funding under the DCSI formula grant program must adhere to the following procedures.

A. Each applicant shall forward **an original and five (5) copies** of the application to the Grants Management Bureau, Department of Public Safety, 4491 Cerrillos Road, P.O. Box 1628, Santa Fe, New Mexico 87504-1628, phone number 827-3338.

B. The application should be single-spaced and single-sided on 8 1/2 x 11" paper. Print styles and sizes should be conducive to easy reading, i.e., no italics unless used for highlighting. The entire application packet should not exceed forty (40) pages.

C. Application deadline: All applications must be received at the department of public safety no later than 5:00 P.M., ~~[June 28, 2002]~~ June 18, 2004. It is the responsibility of the applicant to ensure that the application is received by the grants management bureau, department of public safety. Any applications not received by the grants management bureau will not be considered once the deadline has expired.

D. Single purpose area rule: Only applications proposing to carry out a project in one single program area will be accepted for funding consideration. Refer to program purpose area addendum, attachment [E] A. Applicants may, however, incorporate design elements of other program purpose areas in their project.

E. Proposed project term: The term of the project proposed in the application may exceed 12 months; however, funding beyond the initial award for 12 months is not guaranteed. Availability of limited funds restricts the state in granting award amounts on a year-to-year basis. The

state recognizes that continued funding of successful projects is paramount to the success of the overall program. Projects should be designed to be consistent with the multi-year state strategy.

F. Certification requirements: Drug free workplace requirement: This applies to state agencies **ONLY**. Title V, Section 5153, of the Anti-Drug Abuse Act of 1988 provides that all state agencies receiving federal funds shall certify and submit proof to the granting agency that it will provide a drug-free workplace.

G. Debarment, suspension, ineligibility, and voluntary exclusion: All applicants for funds will be required to complete a certification stating that the applicant has not been suspended, debarred, or is otherwise ineligible to participate in this federal program.

H. Disclosure of lobbying activities requirement: Section 319 of Public Law 101-121 generally prohibits recipients of federal contracts, grants and loans from using appropriated funds for lobbying the executive or legislative branches of the federal government in connection with a specific contract, grant or loan. Section 319 also requires each person who requests or receives a federal contract, grant, cooperative agreement, loan or a federal commitment to insure or grant a loan, to disclose lobbying. The term "recipient" as used in this context does not apply to Indian tribes, organizations, or agencies.

I. Disclosure of federal participation requirement: Section 8136 of the Department of Defense Appropriations Act (Stevens Amendment) enacted in October 1988, requires that when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with federal money, all grantees receiving federal funds, including but not limited to state and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with federal money, and (2) the dollar amount of federal funds for the project or program. This applies only to subgrantees who receive \$500,000 or more in the aggregate during a single funding year.

J. General financial requirements: Grants funded under the formula grant program are governed by the provisions of 28 CFR Part 66, Common Rule, Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Government and the Office of Management and Budget (OMB) Circulars applicable to financial assistance. These circulars along with additional information and guidance contained in "OJP financial guide for

grants" (current edition), are available from OJP and from the grants management bureau. This guideline manual provides information on cost allowability, methods of payment, audits, accounting systems and financial records.

K. Audit requirement: Agencies applying for federal funds must assure that they will comply with the appropriate audit requirement. Subgrantees receiving \$500,000 or more a year shall have an audit made in accordance with OMB Circular A-133, as amended.

L. Confidential funds requirement: State agencies and local units of government may apply for and receive grants to conduct law enforcement undercover operations. Each agency must certify that it will develop policies and procedures to protect the confidentiality of the operations. Agencies must also certify that they will comply with the office of justice programs manual OJP financial guide current edition.

M. Civil rights requirement: ~~[No person in any State shall on the grounds of race, color, religion, national origin or sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under or denied employment in connection with any program or activity funded in whole or part with funds made available under this title. Sec. 809 (C) (1) of the Act. All recipients of federal funds must certify that they are an Equal Opportunity Employer.]~~ The applicant certifies that it will comply with the non-discrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended; Title II of the Americans With Disabilities Act of 1990 42 U.S.C. 12131; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973, as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; the Department of Justice Nondiscrimination Regulations 28 CFR Part 35 and 42, Subparts C, D, E and G; and Executive Order 11246, as amended by Executive Order 11375, and their implementing regulations. This applicant further certifies that if a federal or state court or the administrative agency makes a finding of discrimination, it will immediately forward a copy of the finding to the grantor agency, for submission to the office of civil rights, office of justice programs, U.S. department of justice within 30 days of receipt.

N. Period of project support:

(1) 48-month limitation: Projects funded under this program may be funded for a maximum of four years (48 months) in the aggregate, including any period occurring before the effective date of the Anti-

Drug Abuse Act. The limitation on funding applies to all projects which have received 48 months in the aggregate of formula and/or discretionary grant funding under the Omnibus Crime Control and Safe Streets Act as amended. This includes the justice assistance and the state and local law enforcement assistance programs or combinations of these programs. Sec 504 (f) of the Act. The 48-month grant period need not comprise of consecutive funding years as long as the project is substantially the same.

(2) Exception: The limitation on funding applies to all projects except multi-jurisdictional drug task forces (purpose area 02, [07a]), multi-jurisdictional gang task forces (purpose area 24).

[10.10.2.11 NMAC - Rp 10 NMAC 10.2.11, 3-15-00; A, 05-31-02; A, 05-28-04]

10.10.2.13 MATCH REQUIREMENTS: ~~[FY 2002]~~ DCSI funds may be used to pay up to 75 percent of the cost of a project. All subgrantees must provide a match of at least 25 percent of the **total project cost**. Agencies which are able to "over match" are encouraged to do so and to document these expenditures.

A. Hard (cash) match requirements: The non-federal share of expenditures shall be paid in cash (Section 504 (e) of the Act). Funds required to pay the non-federal portion of the cost of each program and project for which the grant is made shall be in addition to funds that would otherwise be made available for law enforcement by the recipients of the grant funds (Section 503 (a) (3) of the Act). Hard (cash) match may be applied from the following sources **only**:

(1) funds from state and local units of government that have been specifically appropriated or designated as matching funds for certain programs or projects;

(2) funds available through the equitable sharing (federal asset sharing) program;

(3) funds contributed from private sources; and

(4) program income funds as a result of any method used to generate program income, i.e., seized assets, forfeitures, client fees, etc.

(5) Indian pueblos/tribes which perform law enforcement functions (as determined by the secretary of the interior) are not required to ~~[pay any]~~ match, (Section 504 (a) (2) of the Act). Joint projects which include Indian pueblos/tribes must prorate the pueblo's or tribe's portion of grant funds and apply the same percentage to the match in order to reduce the required match amount proportionately.

B. Use of proceeds received under the equitable sharing program (federal asset sharing) as match: State

and local units of government may use cash they received under the equitable sharing program to cover the non-federal portion of costs of any OJP project or program.

C. Use of proceeds from asset forfeitures as match: A state or local unit of government may use forfeiture funds as match if state and local statutes allow for the collection and retention of such funds.

D. Use of confidential funds as match: A state or local unit of government may use confidential funds as match as long as they can be tracked as a one-time expenditure during the life of the grant-funded project based on "chain of custody" documents.

[10.10.2.13 NMAC - Rp 10 NMAC 10.2.13, 3-15-00; A, 05-31-02; A, 05-28-04]

10.10.2.14 APPLICATION FORMAT AND RATING CRITERIA

A. Application format:

(1) Letter of transmittal - A letter from the agency director briefly stating the purpose of the application. This letter may take any form, but it should not exceed one page in length.

(2) Application cover sheet - This standard form must accompany the application packet. (Refer to Attachment ~~A~~ B, for a copy of this form.)

(3) Table of contents - A list of page locations for the executive summary, the various sections of the application narrative, and items in the appendix. The table of contents should list the contents of the application in the order that they appear.

(4) Executive summary - A brief description of the project, and a brief but thorough description of the problem or issue to which it is designed to respond. **Executive summaries should not exceed one page in length.**

(5) Application narrative and budget summary and detailed budget justification - [Refer to Attachment ~~F~~ for a detailed description of the format for the narrative. The narrative should provide a detailed description of how the proposed project meets each of the project rating criteria.] Refer to attachment C for a detailed description of the format for the narrative and attachment D and D-1 for a detailed format of the budget summary and detailed budget justification. The narrative and the detailed budget justification should provide a detailed description of how the proposed project meets each of the project rating criteria.

(6) Appendix - The location for attachments, forms, letters, graphs, and other pertinent information. The appendix should include, at a minimum, the following items:

(a) Letters of support, letters of commitment, joint powers agreements

(JPA), memorandums of understanding (MOU), etc. Letters of support must be addressed to the [DPS] cabinet secretary and included in the application; but they should not be mailed to him directly. Letters of commitment should be addressed to the head of the agency applying for the funds. JPAs and MOUs must be signed by all agencies participating in joint applications.

(b) [~~A completed Budget Summary and a Budget Justification Sheet (refer to Attachment B, for a copy of this form. New Mexico Department of Finance & Administration Expenditure Line Items must be used (refer to Attachment D and).~~] A completed budget summary and a detailed budget justification (refer to attachment D and D-1, for a sample of these forms). New Mexico department of finance & administration expenditure line items (refer to attachment D-2) must be used in completing the budget summary and the detailed budget justification (refer to attachment D and D-1).

(c) Certified assurances (refer to attachment ~~C~~ E for a copy of this form).

(d) Any other items which you believe are pertinent to the application process and which only address information requested in this rule.

B. Rating criteria (total value - 100 points) - The rating will be based on the oral presentations and must follow the format of the application submitted as set forth in 10.10.2.14 NMAC.

~~(1)~~ Applicable program purpose areas [(refer to attachment ~~E~~ Δ):]

~~(a)~~ Law Enforcement

~~(b)~~ Treatment for Offenders

~~(c)~~ Criminal Justice Information Systems/Homeland Security/Anti-Terrorism

~~(d)~~ Domestic Violence

~~(e)~~ Evaluation and Research

~~(f)~~ Developing and implementing anti-terrorism plans and training programs

~~(g)~~ Purchasing equipment for local law enforcement anti terrorism projects

~~(h)~~ Improving community crime prevention and security

~~(i)~~ Creating multi-jurisdictional task forces in response to organized crime

~~(j)~~ Facilitating interagency and intelligence coordination

~~(k)~~ Integrating criminal justice information systems

C. Problem Statement and Project Impact (50 Points):

(1) Clearly define the nature and extent of drug related and/or violent crimes in your area and their impact on the State of New Mexico.

(2) Refer to the 2002 New Mexico Drug and Violent Crime Strategy

~~and correlate the priority issues with the identified crime problem(s) in your area.~~

~~(3) Provide Uniform Crime Reporting data and other statistical data from January 1, 2001 through December 31, 2001 to demonstrate the need and serve as a baseline for measuring progress, impact, and results. The assessment should identify the jurisdiction, and data sources.~~

~~(4) Project Design and Performance (45 Points)~~

~~(a) [Describe project development and implementation plans~~

~~(b) Describe how the project will comply with the applicable Program Purpose Area (refer to Attachment E)~~

~~(c) Describe in detail your project's proposed major accomplishments and what you expect to accomplish during the upcoming funding year.~~

~~D. Project Cost (5 Points)~~

~~(1) Provide a detailed Budget Justification Narrative (Attachment B1) on proposed expenditures and revenue sources for the Federal grant funds being requested and the match funds which will be provided. Use the New Mexico Department of Finance and Administration (DFA) Line Item Codes (Attachment D).~~

~~(2) Complete the Budget Summary sheet (Attachment B) and make reference to it in the Budget Narrative.]~~

C. Application narrative - utilize the rating criteria (refer to attachment C) to develop the narrative by responding to the questions under each of following sections:

(1) projected impact.

(2) project design and performance.

(3) prior performance.

(4) complete the applicable section pertaining to your program purpose area.

(a) multi-jurisdictional task forces; or

(b) other program purpose areas.

D. Budget summary and detailed budget justification.

(1) Provide a detailed budget justification narrative (attachment D-1) on proposed expenditures and revenue sources for the federal grant funds being requested and the match funds which will be provided. Use the New Mexico department of finance and administration (DFA) line item codes (attachment D-2).

(2) Complete the budget summary sheet (attachment D) and make reference to it in the detailed budget justification narrative.

[10.10.2.14 NMAC - Rp 10 NMAC 10.2.14, 3-15-00; A, 05-31-02; A, 05-28-04]

10.10.2.15 SELECTION PROCESS: The department of public safe-

ty will make a decision on each complete application within 45 days of receipt. An applicant shall be deemed approved by the state unless the state informs the applicant in writing within 45 days of the specific reason for disapproval. The state shall not disapprove any application without first affording the applicant reasonable notice and opportunity for reconsideration (Sec 508 (a) of the Act). The failure of an application to conform to state program priorities or to meet criteria set forth in this document may constitute reason for disapproval. The selection process is as follows:

~~[A. Upon receipt of applications, Grants Management Staff will review rate, and rank them for eligibility, completeness, and compliance.~~

~~B. Recommended awards will be forwarded to the Drug Enforcement Advisory Council for consideration and submittal to Department of Public Safety Secretary for final approval~~

~~C. The Secretary of the Department of Public Safety has the final authority in the awarding of grants.~~

~~D. Unsuccessful applications may be appealed if the applicant feels any Federal or State regulation involving selection was violated. A three member appeal Panel comprising representatives from the Drug Enforcement Advisory Council shall review the alleged violation, decide on its validity, and make a recommendation to the Secretary of the Department of Public Safety. The Secretary's decision shall be final.]~~

A. Upon receipt of applications, the grants management bureau staff will review the applications for eligibility, completeness, and compliance. The grants management bureau staff will then schedule the eligible applicants for oral presentations before the selection panel.

B. Eligible applications will be forwarded to a panel for review and use during the oral presentations conducted for applicants. The selection panel through the grants management bureau will submit their recommendations for consideration to the cabinet secretary.

C. The cabinet secretary of the department of public safety has the final authority in the awarding of grants.

D. Unsuccessful applications may appeal if the applicant feels any federal or state regulation involving selection was violated. A three-member appeal panel shall review the alleged violation, decide on its validity, and make a recommendation to the cabinet secretary of the department of public safety. The cabinet secretary's decision shall be final.

[10.10.2.15 NMAC - Rp 10 NMAC 10.2.15, 3-15-00; A, 05-28-04]

End of Adopted Rules Section

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Other Material Related to Administrative Law

**NEW MEXICO
DEPARTMENT OF
AGRICULTURE**

Public Meeting Notice

A meeting of the Acequia and Community Ditch Fund Committee will be held to determine distribution of the 2004 Acequia and Community Ditch Fund. The meeting will be held on Monday, July 12, 2004, at 1:30 p.m., in Santa Fe, New Mexico, Room 303, State Capitol Building.

Copies of the agenda may be obtained by contacting the New Mexico Department of Agriculture, at (505) 646-5152, or by writing New Mexico Department of Agriculture, General Services, MSC-3GSD, P O Box 30005, Las Cruces, New Mexico 88003-8005.

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in this meeting, please contact the New Mexico Department of Agriculture at least three (3) days prior to the meeting, at (505) 646-5152. Disabled persons who need documents such as agendas or minutes in accessible form should contact the Department.

**NEW MEXICO HUMAN
SERVICES DEPARTMENT
INCOME SUPPORT DIVISION**Notice of NMAC Chapter Name Change

By request of the Human Services Department, the Commission of Public Records considered and approved the creation of Chapter 106 of Title 8 NMAC, which shall be called "State Funded Assistance Programs." This new chapter will take effect upon the next official filing of a new rule in Chapter 106 of Title 8 NMAC.

**End of Other Related
Material Section**

SUBMITTAL DEADLINES AND PUBLICATION DATES

2004

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

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rule making, proposed rules, adopted rules, emergency rules, and other similar material. The Commission of Public Records, Administrative Law Division publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978. For further subscription information, call 505-476-7907.