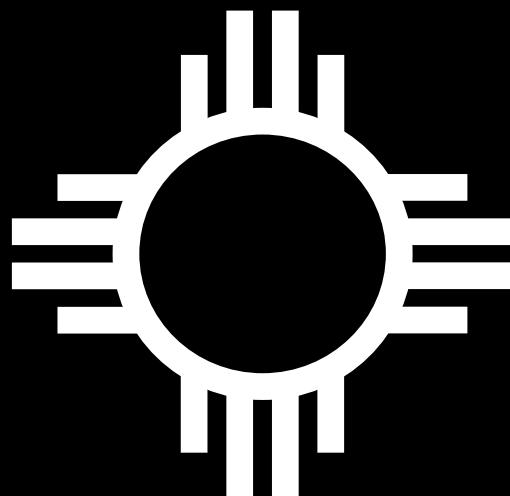


**NEW
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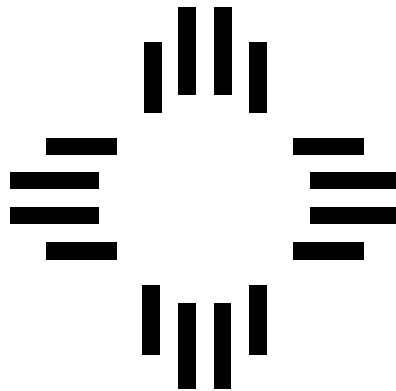


Volume XV
Issue Number 17
September 15, 2004

New Mexico Register

Volume XV, Issue Number 17

September 15, 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 17

September 15, 2004

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Effective Date and Validity of Rule Filings

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Notices of Rulemaking and Proposed Rules

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT FAMILY SERVICES DIVISION

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT FAMILY SERVICES LICENSING AND CERTIFICATION AUTHORITY & CHILD CARE LICENSING & FAMILY NUTRITION BUREAU NOTICE OF PUBLIC HEARING

The New Mexico Children, Youth and Families Department, Family Services Licensing and Certification Authority & Child Care Licensing & Family Nutrition Bureau will hold a formal public hearing on Friday, October 15 from 9 a.m. to 11 a.m., in the conference room at the Family Services Offices at 1920 5th Street; Santa Fe, New Mexico, to receive public comments regarding a limited amendment of **7.20.11 NMAC** Certification Requirements for Child and Adolescent Mental Health Services (this regulation sets forth the certification requirements for behavioral health services provided to children and adolescents through the Medicaid program) and also **8.16.2 NMAC** Child Care Licensing for Child Care Centers, Out of School Time Programs, Family Child Care Homes, and Other Early Care and Education Programs (this regulation sets forth licensing requirements for various child care providers), and also **8.17.2 NMAC** Requirements Governing Registration of Non-Licensed Family Child Care Homes (this regulation sets forth registration requirements for receipt of nutrition assistance).

Effective July 30, 2004, the New Mexico Department of Health repealed its regulation requiring tuberculosis (TB) testing for employees and volunteers of health facilities and day care centers. The proposed amendments to **7.20.11 NMAC**, **8.16.2 NMAC**, and **8.17.2 NMAC** have the limited purpose of bringing these regulations into conformity with current Department of Health practice on TB testing, by repealing mandatory staff TB testing requirements. The single remaining TB testing requirement shall be for staff who are identified by the New Mexico/OSHA Consensus Document (primarily the staff of JCAHO accredited residential treatment services facilities, in **7.20.11 NMAC**). It is anticipated that other changes will be proposed for **7.20.11 NMAC** and **8.16.2 NMAC** with-

in the next year. This amendment does not encompass those upcoming amendments, but rather has the limited purpose of conforming to the Department of Health repeal of the TB testing requirement.

The proposed amendments may be reviewed, or a copy obtained during the regular business hours of Family Services; 1920 5th Street; Santa Fe, New Mexico 87505. Please address inquiries to the attention of Kurt Johnson.

Interested persons may testify at the hearing or submit written comments at the above address no later than 9:00 a.m. October 15, 2004. Written comments will be given the same consideration as oral testimony given at the hearing.

If you are a person with a disability and you require this information in an alternative format or require special accommodations to participate in the public hearing, please contact Family Services at 505-827-9932. Family Services requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD NOTICE OF PUBLIC HEARING TO CONSIDER REPEAL AND REPLACEMENT OF LIQUID WASTE DISPOSAL REGULATION, 20.7.3 NMAC

The New Mexico Environmental Improvement Board (Board) will hold a public hearing on December 7, 8 and 9, 2004 at 9:30 a.m. at the New Mexico State Capitol Building, Room 317, at the corner of Don Gaspar and Paseo de Peralta, Santa Fe, New Mexico. The purpose of the hearing is to consider the repeal and replacement of the Liquid Waste Disposal Regulation, 20.7.3 NMAC. The New Mexico Environment Department is the proponent of the repeal and replacement regulation.

The replacement regulation is proposed to: (i) address the growing concern of ground water contamination generated by septic systems; (ii) provide greater clarity by describing "areas of concern" that invoke stricter standards; (iii) provide for a time period for undeveloped lots to come within current standards over a period of time; (iv) provide language to permit unpermitted

systems; and (v) provide maintenance standards for conventional and non-conventional systems. The replacement regulation differs from the current regulation that would be repealed as follows (section numbers are to the proposed replacement regulation):

20.7.3.2 (B) Scope: Non-substantive technical changes.

20.7.3.7 Definitions: Definitions are extensively revised and new definitions are added.

20.7.3.8 General Provisions: Non-substantive changes; deleted language relocated.

20.7.3.201 Procedures- General Requirements: Reorganization of existing language; new language includes Area of Concern.

20.7.3.202 Procedures- Modification of Existing Systems: Language for modifying a liquid waste system.

20.7.2.203 Procedures; Inspection and Testing: Includes language from relocated current sections.

20.7.3.301 Standards; Lot Size Requirements: Includes relocated language; new language for the development of small lots added.

20.7.3.302 Standards; Setback Requirements: Relocated language.

20.7.3.304 Standards; Clearance Requirements: Relocated language.

20.7.3.304 Standards; Prohibitions: Relocated language with new language dealing with recreational vehicle waste and water softeners.

20.7.3.305 Standards; Waste Interceptors: Relocated language.

20.7.3.306 Standards; Septage: Relocated language.

20.7.3.307 Standards; Abandoned Sewers and On-Site Liquid Waste Systems: Relocated language.

20.7.3.401 Design; General Requirements: Reorganized and relocated language; language to permit unpermitted systems added.

20.7.3.402 Permitting; Conventional Treatment and Disposal System: Relocated language.

20.7.3.403 Permitting; Advanced Treatment or Alternative Disposal: New section for advanced technologies; includes language requiring an amendment to the permit upon change of ownership.

20.7.3.404 Permitting; Experimental Systems: Relocated language.

20.7.3.405 Permitting; Variances: Relocated language.

20.7.3.406 Permitting; Appeals: Relocated language.

20.7.3.501 Design; Liquid Waste Treatment Units; General: Relocated and new language.

20.7.3.502 Design; Conventional Treatment Units; Construction Standards: Relocated

language.

20.7.3.601 *Design; Advanced Treatment Units; General*: New language dealing with the general requirements specific to advanced treatment units.

20.7.3.602 *Design; Secondary Treatment Standards*: New language establishing secondary treatment levels.

20.7.3.603 *Design; Tertiary Treatment Standards*: New language establishing tertiary treatment levels.

20.7.3.604 *Design; Disinfection Treatment Standards*: New language establishing disinfection standards.

20.7.3.605 *Design; Minimum Required Treatment Levels for Site Conditions*: New language establishing the minimum treatment levels required for site conditions.

20.7.3.701 *Design; Conventional Disposal Field; Design and Construction*: Relocated and new language.

20.7.3.702 *Design; Seepage Pit; Design and Construction*: Non-substantive technical change.

20.7.3.703 *Design; Area of Disposal Field and Seepage Pits*: Relocated language.

20.7.3.801 *Design; Alternative Disposal*: New section describing what alternative disposal is.

20.7.3.802 *Privies*: New language setting forth the requirements for privies.

20.7.3.803 *Cluster Systems*: New language setting forth the requirements for cluster systems.

20.7.3.804 *Composting and Incinerating Toilets*: New language setting forth the requirements for composting and incinerating toilets.

20.7.3.805 *Irrigation/Reuse Systems*: New language setting forth the requirements for irrigation/reuses systems.

20.7.3.806 *Evapotranspiration Systems*: New language setting forth the requirements for evapotranspiration systems.

20.7.3.807 *Mound Systems*: New language setting forth the requirements for mound systems.

20.7.3.808 *Low Pressure Dosed Disposal System*: New language setting forth the requirements for low pressure dosed systems.

20.7.3.809 *Holding Tank Requirements*: Relocated language.

20.7.3.810 *Graywater Discharges*: Relocated language.

20.7.3.811 *Graywater Systems*: New language setting forth the requirements for graywater systems not covered by Section 810.

20.7.3.812 *Pump Stations and Equipment*: Relocated language.

20.7.3.813 *Building Sewer*: Relocated language.

20.7.3.901 *Monitoring*: New language setting forth monitoring requirements.

20.7.3.902 *Operation and Maintenance*: New language dealing with operation and

maintenance requirements and requirements for inspection at time of property transfers.

20.7.3.903 *Maintenance Service Providers (MSP) for Conventional and Advanced On-site Liquid Waste Systems*: New language establishing requirements for MSP's.

20.7.3.904 *Requirements For Certification*: New language establishing certification requirements for various aspects of the liquid waste industry.

20.7.3.905 *Technical Advisory Committee*: References the Technical Advisory Committee set up by state statute.

20.7.3.906 *Administrative Enforcement*: New language establishing administrative enforcement procedures.

20.7.3.907 *Authority to Disconnect Source of Water Supply*: Relocated language.

Please note formatting and minor technical changes in the regulations may occur. In addition, the Board may make other changes to the proposed regulation as necessary to accomplish the purpose of providing public health and safety in response to public comments and evidence presented at the hearing.

The proposed replacement rule may be reviewed during regular business hours at the office of the Environmental Improvement Board and the four New Mexico Environment Department district offices as follows:

- (1) Environmental Improvement Board, Harold Runnels Building, 1190 St. Francis Drive, Room N-2153 Santa Fe, NM, 87505
- (2) District I, 4131 Montgomery Blvd, N.E., Albuquerque, NM 87109
- (3) District II, 4 Calle Medico, Santa Fe, NM 87505
- (4) District III, 1170 North Solano Drive, Suite M, Las Cruces, NM 88001
- (5) District IV, 1914 W. Second, Roswell, NM 88201

Copies of the proposed replacement rule may be downloaded from the New Mexico Environment Department webpage, <http://www.nmenv.state.nm.us/fod/LiquidWaste/reg.rewrite.html>, or may be obtained by contacting Geraldine Madrid-Chavez at (505) 827-2425 or by email at Geraldine_Chavez@nmenv.state.nm.us. Please refer to Docket No. EIB 04-07. Written comments regarding the proposed replacement regulation may be addressed to Ms. Madrid-Chavez at the above address, and should reference docket number EIB 04-07.

The hearing will be conducted in accordance with 20.1.1 NMAC (Rulemaking Procedures) Environmental Improvement Board, the Environmental Improvement Act, Section 74-1-9 NMSA 1978, and other applicable procedures.

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

Persons wishing to present technical testimony must file with the Board a written notice of intent to do so. The notice of intent shall:

- * Identify the person or entity for whom the witness(es) will testify;
- * Identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of their education and work background;

- * Summarize or include a copy of the direct testimony of each technical witness and state the anticipated duration of the testimony of that witness;

- * List and describe, or attach, each exhibit anticipated to be offered by that person at the hearing; and,

- * Attach the text of any recommended modifications to the proposed changes.

Notices of intent for the hearing must be received in the Office of the Environmental Improvement Board not later than 5:00 pm on November 19, 2004, and should reference the name of the regulation, the date of the hearing, and docket number EIB 04-07. Failure to conform to the requirements to present technical testimony may result in exclusion of the technical testimony. Notices of intent to present technical testimony should be submitted to:

Geraldine Madrid-Chavez
Office of the Environmental Improvement Board
Harold Runnels Building
1190 St. Francis Dr., Room N-2153
Santa Fe, NM 87502

If you are an individual with a disability and you require assistance or an auxiliary aid, e.g. sign language interpreter, to participate in any aspect of this process, please contact the Office of the Environmental Improvement Board by November 19, 2004 at Sally Worthington, Office of the Environmental Improvement Board, 1190 St. Francis Dr., Room, P.O. Box 26110, Santa Fe, NM 87502, (505) 827-2002. TDD or TDY users may access this number via the New Mexico Relay Network (Albuquerque TDD users: (505) 275-7333; outside of Albuquerque: 1-800-659-1779.)

The Board may make a decision on the repeal of the current rule and its replacement with the proposed rule at the conclusion of the hearing, or the Board may convene a meeting after the hearing to consider action on the proposal.

NEW MEXICO GAME COMMISSION

STATE GAME COMMISSION PUBLIC MEETING AND RULE MAKING NOTICE

On Wednesday, September 22, 2004, beginning at 9:30 a.m. at the El Meson Lodge at Chama & Conference Center, South 84-64 Highway, Chama, New Mexico 87520, the State Game Commission will hold a Commission Short-course. This is a training and information session for the Commission. No Commission action will take place at this meeting.

On Thursday, September 23, 2004, beginning at 9:00 a.m. at the El Meson Lodge at Chama & Conference Center, South 84-64 Highway, Chama, New Mexico 87520, the State Game Commission will meet in Public Session to consider action as appropriate on the following: Santa Ana Pueblo will request Commission approval for assistance with their turkey management program including transplanting of turkeys; the Department will request budget authority to spend Bond Interest Retirement Funds for Capital Projects; Voluntary Public Access Programs. There will also be a closed Executive Session to discuss personnel, litigation, and land acquisitions as per 10-15-1 NMSA.

The Commission will open the following rules for amendment or adoption: [Final action on those rule amendments identified with an asterisk (*) will occur at the September 23, 2004, Game Commission Meeting in Chama, NM.]

*Amend 19.30.6.11, NMAC, Regarding Preventative Cougar Control in Bighorn Sheep Ranges;

*Biennial Review of New Mexico Threatened and Endangered Species (19.33.6, NMAC);

*Presentation of Final Recommendations for Adoption for the Big Game and Turkey Rule (19.31.8, NMAC);

*Amend Big Game Rules (19.31.8.30, NMAC) Regarding Allowing Ibex Hunting in Big Hatchet WMA, During 2004-2005 Hunting Season;

*Amend 19.30.4, NMAC, Boundary Description Rule;

*Amend 19.31.3, NMAC, Hunting and Fishing License Application Rule;

*Amend 19.31.10, NMAC, Manner and Method Rule to Incorporate Changes Made in the Big Game Rule;

*Amend 19.30.7, NMAC, Quality Hunt Criteria and Areas Rule; and

*Amend 19.32.2, NMAC, Trapping and Furbearers Rule;

*Amend 19.31.5, NMAC, Upland Game Rule Regarding 2004 Valencia County Pheasant Hunt;

Present Draft Recommendations to Amend the Depredation Assistance Rule 19.30.2, NMAC; and

Presentation of Draft Recommendations for Amending the Private Land Elk License Application Rule, 19.30.5, NMAC.

A copy of the agenda or any of the affected rules can be obtained from the Office of the Director, New Mexico Department of Game and Fish, P.O. Box 25112, Santa Fe, New Mexico 87504. This agenda is subject to change up to 24 hours prior to the meeting. Please contact the Director's Office at (505) 476-8008, or the Department's web site at www.wildlife.state.nm.us for updated information.

NEW MEXICO GAMING CONTROL BOARD

NEW MEXICO GAMING CONTROL BOARD

NOTICE OF HEARING ON AMENDMENTS TO RULES

The New Mexico Gaming Control Board ("Board") will hold a public hearing at 9:00 a.m. on November 2, 2004, at the New Mexico Gaming Control Board, 6400 Uptown Blvd., N.E., Suite 100-E, Albuquerque, New Mexico 87110 to consider amendments for the following rules: **15.1.5 NMAC, Application for Licensure Under the Gaming Control Act**, **15.1.6 NMAC, Premises Licensed under the Gaming Control Act**, **15.1.8 NMAC, Accounting Requirements under the Gaming Control Act**, **15.1.9 NMAC, Internal Control Minimum Standards for Gaming Devices under the Gaming Control Act**, **15.1.10 NMAC, Conduct of Gaming under the Gaming Control Act**, **15.1.14, Enforcement Proceedings under the Gaming Control Act**, **15.1.16 NMAC, Transportation, Receipt, and Placement of Gaming Devices**, **15.1.18 NMAC, Compulsive Gambling Assistance Plan Standards.**

Copies of the proposed amendments are available on request to the New Mexico Gaming Control Board, 6400 Uptown Blvd., N.E., Suite 100-E,

Albuquerque, New Mexico 87110, or by calling (505) 841-9733. The proposed changes are also available on our website at www.gcb.state.nm.us. The Board can provide public documents in various accessible formats.

The hearing will be held before a hearing officer appointed by the Board. All interested parties may attend the hearing and present their views orally or submit written comments prior to the hearing. Written comments should be directed to the Gaming Control Board, 6400 Uptown Blvd., N.E., Suite 100-E, Albuquerque, New Mexico 87110.

If you are an individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, please contact Denise Leyba, Gaming Control Board, at least one week prior to the hearing at (505) 841-9733.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

NOTICE

The New Mexico Human Services Department (HSD) will hold 2 separate public hearings on October 14, 2004, at the New Mexico State Library, Room 207 (1205 Camino Carlos Rey), Santa Fe, New Mexico.

From 1:30-2:30 p.m. the subject of the hearing will be Emergency Services for Undocumented Aliens. Proposed changes are being made in section 16 of 8.325.10 NMAC, *Emergency Services for Undocumented Aliens, Utilization Review*, to be consistent with other Medicaid utilization policies. The proposed change is being made in the Reconsideration subsection.

From 3:00-4:00 p.m. the subject of the hearing will be Changes to Payments for Oxygen in Nursing Facilities. The New Mexico Human Services Department, Medical Assistance Division currently allows for Nursing Facilities to include oxygen administration equipment and the purchase of oxygen as a reimbursable cost in their annual cost report. It is proposed that no longer will oxygen be a reimbursable cost in the cost report for Nursing Facilities, but rather the Medical Assistance Division will pay the Durable Medical Equipment providers directly as outlined in 8.321.5 NMAC.

Interested persons may submit written comments no later than 5:00 p.m., October 14, 2004, to Pamela S. Hyde, J.D., Secretary,

Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in any HSD public hearing, program or services, please contact the NM Human Services Department toll-free at 1-888-997-2583, in Santa Fe at 827-3156, or through the department TDD system, 1-800-609-4833, in Santa Fe call 827-3184. The Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

Copies of the Human Services Register are available for review on our Website at www.state.nm.us/hsd/mad.html or by sending a **self-addressed stamped envelope** to Medical Assistance Division, Planning & Program Operations Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348.

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

NOTICE

The New Mexico Human Services Department (HSD) will hold 3 separate public hearings on October 15, 2004, at the New Mexico State Library, Room 2022 (1205 Camino Carlos Rey), Santa Fe, New Mexico.

From 9:00-10:00 a.m. the subject of the hearing will be Hospice Care Services.

The proposed changes are to make the Hospice Care Services policy consistent with other Medicaid policies. The changes are related to eligibility verification, documentation of services and to make wording consistent with other sections of the Medicaid program regulations. The proposed revisions are reflected in section MAD-763.2, *Provider Responsibilities*, and section 763.5, *Prior Approval and Utilization Review*, of the *Hospice Care Services* Part of the Medical Assistance Program Manual.

From 10:00-11:00 a.m. the subject of the hearing will be Durable Medical Equipment and Supplies Services.

Review of Medicaid policy and Medicare guidelines has resulted in the following proposed oxygen coverage changes: Refer to Section 8.324.5.12.E(2) and (3).

* Medicaid will cover the rental of oxygen equipment in long-term care facilities.

* Medicaid will cover stationary

and portable gas and liquid oxygen systems and concentrators based on medical necessity, as defined by established Medicaid criteria.

* Monthly rental fees will be paid for stationary and portable oxygen systems and concentrators. Monthly service and repair fees currently reimbursed for concentrators (in place of the monthly rental after twelve months of use) will be discontinued. Clarification has been made regarding the need to obtain prior approval for gastric suction pumps.

From 1:30-2:30 p.m. the subject of the hearing will be Presumptive Eligibility.

Effective December 1, 2004, the Human Services Department is proposing to allow one Presumptive Eligibility period each six (6) months in Children's Medicaid category (032).

In July of 2004, regulations changing the certification period in this category from once per twelve (12) month period to once per (6) six months were put into rule. Because eligibility in these categories must be determined every six (6) months, the Department proposes to allow one Presumptive Eligibility period per six-month period for children, in order to avoid possible breaks in service.

Interested persons may submit written comments no later than 5:00 p.m., October 15, 2004, to Pamela S. Hyde, J.D., Secretary, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in any HSD public hearing, program or services, please contact the NM Human Services Department toll-free at 1-888-997-2583, in Santa Fe at 827-3156, or through the department TDD system, 1-800-609-4833, in Santa Fe call 827-3184. The Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

Copies of the Human Services Register are available for review on our Website at www.state.nm.us/hsd/mad.html or by sending a **self-addressed stamped envelope** to Medical Assistance Division, Planning & Program Operations Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348.

NEW MEXICO BOARD OF EXAMINERS FOR OCCUPATIONAL THERAPY

PUBLIC RULE HEARING AND REGULAR BOARD MEETING

Notice is hereby given that the New Mexico Board of Examiners for Occupational Therapy will convene a public rule hearing at 9 a.m. on Friday, November 12, 2004, followed by a regular business meeting hearing during which action will be taken on the proposed rules. During the regular meeting, the Board may enter into Executive Session to discuss licensing matters. The hearing and meeting will be held at Presbyterian Healthplex, Classroom C located at 6301 Forest Hills Dr., NE Albuquerque, New Mexico.

The purpose of the rule hearing is to consider for adoption proposed amendments to the following Board Rules and Regulations 16.15 NMAC: PART 2, "Licensing Requirements"; and "Expired License"; PART 3, "Supervision"; and PART 4, "Continuing Education".

Persons desiring to present their views on the proposed rules may write to request draft copies from the Board office at 2550 Cerrillos Rd. Santa Fe, New Mexico 87505 or call (505) 476-4654 OR 476-4596. All written comments, mailed to the Board office or e-mailed to Connie.romero@state.nm.us be received no later than Friday, November 3, 2004, in order for the Board members to receive the comments in their meeting packets for review before the rule hearing. Persons wishing to present their comments at the hearing will need nine (9) copies of any comments or proposed changes for distribution to the Board and staff.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the Board office at (505) 476-4654 at least two weeks prior to the meeting or as soon as possible.

NEW MEXICO STATE PERSONNEL BOARD

State Personnel Board Public Rules Hearing

The State Personnel Board will convene a Public Rules Hearing in Santa Fe, New Mexico on Monday October 4, 2004. The meeting will be held during the Board's regular business meeting beginning at 9:00 a.m., located at the Leo Griego Auditorium in the Willie Ortiz Building (State Personnel Office) at 2600 Cerrillos

Road, Santa Fe, New Mexico, 87503.

The purpose of the Rule Hearing is to consider amending provisions to the Involuntary or Voluntary Separation rule. As a note, previous notice was given that a Special Meeting of the Board would occur on September 10, 2004 to consider this rule. Due to unforeseen circumstances the rule was not ready for public comment and therefore has had to be delayed.

A final agenda for the board meeting will be available at the board office on Tuesday September 28, 2004.

Persons desiring to present their views on the proposed amendments may appear in person at said time and place or may submit written comments no later than 5:00 p.m. Thursday, September 30, 2004 to the board office, PO Box 26127, 2600 Cerrillos Road, Santa Fe, New Mexico, 87503, attention, Dianna DeJarnette. Copies of the proposed rules are available on request from the Board office at the address listed above, by phone (505) 476-7805, or on the Internet at www.state.nm.us/spo/ beginning September 1, 2004.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service in order to attend or participate in the hearing, please contact the Director at 2600 Cerrillos Road, Santa Fe, New Mexico prior to the meeting. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact the Director if a summary or other type of accessible format is needed.

NEW MEXICO RACING COMMISSION

**NEW MEXICO RACING COMMISSION
NOTICE OF RULEMAKING AND PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that a rulemaking and public hearing will be held in the High Desert Room, Sunray Park and Casino, #39 Road 5568, Farmington, New Mexico, commencing in executive session at 8:30 o'clock a.m. on Wednesday, September 29, 2004. The public session will begin at 9:30 o'clock a.m. on Wednesday, September 29, 2004. The Commission will consider adoption of proposed amended rules for incorporation into the Rules Governing Horse Racing in New Mexico No. Subsection C of 15.2.7.8

NMAC (regarding pari-mutuel tickets) and other matters of general business.

Copies of the proposed rule may be obtained from India Hatch, Agency Director, New Mexico Racing Commission, 300 San Mateo N.E., Suite 110, Albuquerque, New Mexico 87108, (505) 841-6400. Interested persons may submit their views on the proposed rules to the Commission at the above address and/or may appear at the scheduled meeting and make a brief verbal presentation of their view.

Anyone who requires special accommodations is requested to notify the Commission of such needs at least five days prior to the meeting.

India Hatch
Agency Director

Dated: August 30, 2004

NEW MEXICO DEPARTMENT OF TRANSPORTATION

New Mexico Department of Transportation (NMDOT)

Announces a

PUBLIC HEARING for Revision to Rule Number 18.28.3 NMAC

This rule names the positions of the Professional Services Selection Committee (PSSC) Members for the New Mexico Department of Transportation (NMDOT). 18.28.3 NMAC may be renumbered and formatted in accordance with NMAC rules. The proposed rule change identifies new positions for the voting members of the PSSC. The Public Hearing Officer is Andres Aragon Viamonte, Deputy Secretary Planning and Design for the NMDOT.

The Public Hearing will be held in Santa Fe, New Mexico at the NMDOT Training Rooms, 1 and 2 located at 1120 Cerrillos Road.

DATE: October 18, 2004
TIME: 3:00 pm to 4:30 pm with a presentation starting at 3:00 pm.
PLACE: NMDOT Training Rooms 1& 2 at the NMDOT General Office

This Rule was filed as: 18 NMAC 28.3

Title 18 Transportation and Highways Chapter 28 HIGHWAY CON-

TRACTING AND BIDDING PART 3 SELECTION COMMITTEE FOR QUALIFICATIONS BASED PROPOSALS

The public hearing will include an informal review of the past composition of the PSSC. The public hearing will include an informal review of the revised voting membership as well as a formal description of the revised voting members of the PSSC. This brief summary of the revised PSSC will be followed by an opportunity for questions and comments from the public. The public hearing will also provide an opportunity to comment in writing. All comments must be received by October 18, 2004- 4:00 pm, or as allowed in NMDOT Commission Policy 44. Request for Americans with Disabilities Act (ADA)-related accommodations should be directed to Ernie Padilla, Office of OEO for the NMDOT, at (505) 827-1648 or by email at ernie.padilla@nmshtd.state.nm.us.

The Rule Revision Rule Number will have a 30-day comment period from September 15, 2004 to October 15, 2004. The Rule Revision will be available for viewing at the NMDOT Website address under "Doing Business with Us" PSSC Rule Change 18 NMAC 28.3:

Written comments will be accepted at the hearing, or they may be mailed, faxed, or sent by e-mail to NMDOT, NMDOT Legal Counsel, PO Box 1149, Cerrillos Road, Santa Fe New Mexico 87504-1149, Attention Kendall Fischer care of Loretta Bustamante, fax (505) 827-0709, or e-mail: Loretta.Bustamante@nmshtd.state.nm.us

NEW MEXICO BOARD OF VETERINARY MEDICINE

NOTICE OF REGULARLY SCHEDULED BOARD MEETING AND PUBLIC HEARING

The New Mexico Board of Veterinary Medicine will hold a regularly scheduled board meeting and public hearing on Friday and Saturday, October 1-2, 2004 from 8:30 a.m. to 5:00 p.m. and 8:30 a.m. to 12:00 p.m., respectively, at the Albuquerque TVI Workforce Training Center located at 5600 Eagle Rock Ave. NE in Albuquerque, New Mexico. At 9:00 a.m. the board will conduct a regulation hearing to clean up language and amend the following sections: NMAC 16.25.1.1, 16.25.2.1, 16.25.3.1, 16.25.4.1, 16.25.5.1, 16.25.6.1, 16.25.7.1, 16.25.8.1, 16.25.11.1 ISSUING AGENCY, 16.25.8.10 A, LICENSE RENEWAL, 16.25.2.14 C, 60-DAY TEMPORARY LICENSE, and 16.25.2.20 A (2), FEES FOR EXAMINATION AND LICENSURE.

Parts 3 and 11 will also be reformatted. Interested persons may secure copies of the proposed language changes by contacting the office of the Board of Veterinary Medicine. The board may go into executive session at any time to discuss licensee and/or personnel matters.

The New Mexico Board of Veterinary Medicine does not discriminate against persons with special needs. Any individual who wishes to attend this meeting and who requires special accommodations should contact the board office at least five working days prior to the meeting. This will afford us the time necessary to make arrangements to accommodate your special needs. Meeting materials may also be provided in various accessible forms upon request.

Board of Veterinary Medicine
7301 Jefferson NE Suite C
Albuquerque, New Mexico 87109
(505) 841-9112
(505) 841-9127
www.state.nm.us/vetbd
vetboard.info@state.nm.us

**End of Notices and
Proposed Rules Section**

Adopted Rules

NEW MEXICO DEPARTMENT OF CULTURAL AFFAIRS ARTS DIVISION

This is an amendment to 4.12.1 NMAC, replacing the "New Mexico Arts - Funding Guidelines 2005" with the "New Mexico Arts - Funding Guidelines 2006", effective 09-15-04.

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

This is an amendment to 19.15.1. NMAC, Section 7, to be effective 9/15/04.

19.15.1.7 DEFINITIONS:

A. Definitions beginning with the letter "A".

(1) Abate or abatement shall mean the investigation, containment, removal or other mitigation of water pollution.

(2) Abatement plan shall mean a description of any operational, monitoring, contingency and closure requirements and conditions for the prevention, investigation and abatement of water pollution.

(3) Adjoining spacing units are those existing or prospective spacing units in the same pool(s) that are touching at a point or line the spacing unit that is the subject of the application.

(4) Adjusted allowable shall mean the allowable production a well or proration unit receives after all adjustments are made.

(5) Allocated pool is one in which the total oil or natural gas production is restricted and allocated to various wells therein in accordance with proration schedules.

(6) Allowable production shall mean that number of barrels of oil or standard cubic feet of natural gas authorized by the division to be produced from an allocated pool.

(7) Aquifer shall mean a geological formation, group of formations, or a part of a formation that is capable of yielding a significant amount of water to a well or spring.

B. Definitions beginning with the letter "B".

(1) Back allowable shall mean the authorization for production of any shortage or underproduction resulting from pipeline proration.

(2) Background shall mean, for purposes of ground-water abatement plans

only, the amount of ground-water contaminants naturally occurring from undisturbed geologic sources or water contaminants occurring from a source other than the responsible person's facility. This definition shall not prevent the director from requiring abatement of commingled plumes of pollution, shall not prevent responsible persons from seeking contribution or other legal or equitable relief from other persons, and shall not preclude the director from exercising enforcement authority under any applicable statute, regulation or common law.

(3) Barrel shall mean 42 United States gallons measured at 60 degrees fahrenheit and atmospheric pressure at the sea level.

(4) Barrel of oil shall mean 42 United States gallons of oil, after deductions for the full amount of basic sediment, water and other impurities present, ascertained by centrifugal or other recognized and customary test.

(5) Below-grade tank shall mean a vessel, excluding sumps and pressurized pipeline drip traps, where any portion of the sidewalls of the tank is below the surface of the ground and not visible.

(6) Berm shall mean an embankment or ridge constructed for the purpose of preventing the movement of liquids, sludge, solids, or other materials.

(7) Bottom hole or subsurface pressure shall mean the gauge pressure in pounds per square inch under conditions existing at or near the producing horizon.

(8) Bradenhead gas well shall mean any well producing gas through well-head connections from a gas reservoir which has been successfully cased off from an underlying oil or gas reservoir.

C. Definitions beginning with the letter "C".

(1) Carbon dioxide gas shall mean noncombustible gas composed chiefly of carbon dioxide occurring naturally in underground rocks.

(2) Casinghead gas shall mean any gas or vapor or both gas and vapor indigenous to and produced from a pool classified as an oil pool by the division. This also includes gas-cap gas produced from such an oil pool.

(3) Commission shall mean the oil conservation commission.

(4) Common purchaser for natural gas shall mean any person now or hereafter engaged in purchasing from one or more producers gas produced from gas wells within each common source of supply from which it purchases.

(5) Common purchaser for oil shall mean every person now engaged or hereafter engaging in the business of pur-

chasing oil to be transported through pipelines.

(6) Common source of supply. See pool.

(7) Condensate shall mean the liquid recovered at the surface that results from condensation due to reduced pressure or temperature of petroleum hydrocarbons existing in a gaseous phase in the reservoir.

(8) Contiguous shall mean acreage joined by more than one common point, that is, the common boundary must be at least one side of a governmental quarter-quarter section.

(9) Conventional completion shall mean a well completion in which the production string of casing has an outside diameter in excess of 2.875 inches.

(10) Correlative rights shall mean the opportunity afforded, as far as it is practicable to do so, to the owner of each property in a pool to produce without waste his just and equitable share of the oil or gas, or both, in the pool, being an amount, so far as can be practically determined, and so far as can be practically obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas, or both, under such property bears to the total recoverable oil or gas, or both, in the pool, and for such purpose to use his just and equitable share of the reservoir energy.

(11) Cubic feet of gas or standard cubic foot of gas, for the purpose of these rules, shall mean that volume of gas contained in one cubic foot of space and computed at a base pressure of 10 ounces per square inch above the average barometric pressure of 14.4 pounds per square inch (15.025 psia), at a standard base temperature of 60 degrees fahrenheit.

D. Definitions beginning with the letter "D".

(1) Deep pool shall mean a common source of supply which is situated 5000 feet or more below the surface.

(2) Depth bracket allowable shall mean the basic oil allowable assigned to a pool and based on its depth, unit size, or special pool rules, which, when multiplied by the market demand percentage factor in effect, will determine the top unit allowable for the pool.

(3) Director shall mean the director of the oil conservation division of the New Mexico energy, minerals and natural resources department.

(4) Division shall mean the oil conservation division of the New Mexico energy, minerals and natural resources department.

E. Definitions beginning with the letter "E".

(1) Exempted aquifer shall mean an aquifer that does not currently serve as a

source of drinking water, and which cannot now and will not in the foreseeable future serve as a source of drinking water because: is hydrocarbon producing;

(a) it is hydrocarbon producing;

(b) it is situated at a depth or location which makes the recovery of water for drinking water purposes economically or technologically impractical; or,

(c) it is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption.

(2) Existing spacing unit is a spacing unit containing a producing well.

F. Definitions beginning with the letter "F".

(1) Facility shall mean any structure, installation, operation, storage tank, transmission line, access road, motor vehicle, rolling stock, or activity of any kind, whether stationary or mobile.

(2) Field means the general area which is underlaid or appears to be underlaid by at least one pool; and field also includes the underground reservoir or reservoirs containing such crude petroleum oil or natural gas, or both. The words field and pool mean the same thing when only one underground reservoir is involved; however, field unlike pool may relate to two or more pools.

(3) Fresh water (to be protected) includes the water in lakes and playas, the surface waters of all streams regardless of the quality of the water within any given reach, and all underground waters containing 10,000 milligrams per liter (mg/l) or less of total dissolved solids (TDS) except for which, after notice and hearing, it is found there is no present or reasonably foreseeable beneficial use which would be impaired by contamination of such waters. The water in lakes and playas shall be protected from contamination even though it may contain more than 10,000 mg/l of TDS unless it can be shown that hydrologically connected fresh ground water will not be adversely affected.

G. Definitions beginning with the letter "G".

(1) Gas lift shall mean any method of lifting liquid to the surface by injecting gas into a well from which oil production is obtained.

(2) Gas-oil ratio shall mean the ratio of the casinghead gas produced in standard cubic feet to the number of barrels of oil concurrently produced during any stated period.

(3) Gas-oil ratio adjustment shall mean the reduction in allowable of a high gas oil ratio unit to conform with the production permitted by the limiting gas-oil ratio for the particular pool during a particular proration period.

(4) Gas transportation facility

shall mean a pipeline in operation serving gas wells for the transportation of natural gas, or some other device or equipment in like operation whereby natural gas produced from gas wells connected therewith can be transported or used for consumption.

(5) Gas well shall mean a well producing gas or natural gas from a gas pool, or a well with a gas-oil ratio in excess of 100,000 cubic feet of gas per barrel of oil producing from an oil pool.

(6) Ground water shall mean interstitial water which occurs in saturated earth material and which is capable of entering a well in sufficient amounts to be utilized as a water supply.

(7) Groundwater sensitive area shall mean an area specifically so designated by the division after evaluation of technical evidence where groundwater exists that would likely exceed water quality control commission standards if contaminants were introduced into the environment.

H. Definitions beginning with the letter "H".

(1) Hazard to public health exists when water which is used or is reasonably expected to be used in the future as a human drinking water supply exceeds at the time and place of such use, one or more of the numerical standards of Subsection A of 20.6.2.3103 NMAC, or the naturally occurring concentrations, whichever is higher, or if any toxic pollutant as defined at Subsection VV of 20.6.2.7 NMAC affecting human health is present in the water. In determining whether a release would cause a hazard to public health to exist, the director shall investigate and consider the purification and dilution reasonably expected to occur from the time and place of release to the time and place of withdrawal for use as human drinking water.

(2) High gas-oil ratio proration unit shall mean a unit with at least one producing oil well with a gas-oil ratio in excess of the limiting gas-oil ratio for the pool in which the unit is located.

I. Definitions beginning with the letter "I".

(1) Illegal gas shall mean natural gas produced from a gas well in excess of the allowable determined by the division.

(2) Illegal oil shall mean crude petroleum oil produced in excess of the allowable as fixed by the division.

(3) Illegal product shall mean any product of illegal gas or illegal oil.

(4) Inactive well shall be a well which is not being utilized for beneficial purposes such as production, injection or monitoring and which is not being drilled, completed, repaired or worked over.

(5) Injection or input well shall mean any well used for the injection of air, gas, water, or other fluids into any underground stratum.

J. Reserved.

K. Reserved.

L. Definitions beginning with the letter "L".

(1) Limiting gas-oil ratio shall mean the gas-oil ratio assigned by the division to a particular oil pool to limit the volumes of casinghead gas which may be produced from the various oil producing units within that particular pool.

(2) Load oil is any oil or liquid hydrocarbon which has been used in remedial operation in any oil or gas well.

(3) Log or well log shall mean a systematic detailed and correct record of formations encountered in the drilling of a well.

M. Definitions beginning with the letter "M".

(1) Marginal unit shall mean a proration unit which is incapable of producing top unit allowable for the pool in which it is located.

(2) Market demand percentage factor shall mean that percentage factor of 100 percent or less as determined by the division at an oil allowable hearing, which, when multiplied by the depth bracket allowable applicable to each pool, will determine the top unit allowable for that pool.

(3) Mineral estate is the most complete ownership of oil and gas recognized in law and includes all the mineral interests and all the royalty interests.

(4) Mineral interest owners are owners of an interest in the executive rights, which are the rights to explore and develop, including oil and gas lessees (i.e., "working interest owners") and mineral interest owners who have not signed an oil and gas lease.

(5) Minimum allowable shall mean the minimum amount of production from an oil or gas well which may be advisable from time to time to the end that production will repay reasonable lifting cost and thus prevent premature abandonment and resulting waste.

(6) Multiple completion (combination) shall mean a multiple completion in which two or more common sources of supply are produced through a combination of two or more conventional diameter casing strings cemented in a common well-bore, or a combination of small diameter and conventional diameter casing strings cemented in a common well-bore, the conventional diameter strings of which might or might not be a multiple completion (conventional).

(7) Multiple completion (conventional) shall mean a completion in which two or more common sources of supply are produced through one or more strings of tubing installed within a single casing string, with the production from each common source of supply completely segregat-

ed by means of packers.

(8) Multiple completion (tubing- less) shall mean completion in which two or more common sources of supply are produced through an equal number of casing strings cemented in a common well-bore, each such string of casing having an outside diameter of 2.875 inches or less, with the production from each common source of supply completely segregated by use of cement.

N. Definitions beginning with the letter "N".

(1) Natural gas or gas shall mean any combustible vapor composed chiefly of hydrocarbons occurring naturally in a pool classified by the division as a gas pool.

(2) Non-aqueous phase liquid shall mean an interstitial body of liquid oil, petroleum product, petrochemical, or organic solvent, including an emulsion containing such material.

(3) Non-marginal unit shall mean a proration unit which is capable of producing top unit allowable for the pool in which it is located, and to which has been assigned a top unit allowable.

O. Definitions beginning with the letter "O".

(1) Official gas-oil ratio test shall mean the periodic gas-oil ratio test made by order of the division by such method and means and in such manner as prescribed by the division.

(2) Oil, crude oil, or crude petroleum oil shall mean any petroleum hydrocarbon produced from a well in the liquid phase and which existed in a liquid phase in the reservoir.

(3) Oil field wastes shall mean those wastes produced in conjunction with the exploration, production, refining, processing and transportation of crude oil and/or natural gas and commonly collected at field storage, processing, disposal, or service facilities, and waste collected at gas processing plants, refineries and other processing or transportation facilities.

(4) Oil well shall mean any well capable of producing oil and which is not a gas well as defined herein.

(5) Operator shall mean any person who, duly authorized, is in charge of the development of a lease or the operation of a producing property, or who is in charge of the operation or management of a facility.

(6) Overage or overproduction shall mean the amount of oil or the amount of natural gas produced during a proration period in excess of the amount authorized on the proration schedule.

(7) Owner means the person who has the right to drill into and to produce from any pool, and to appropriate the production either for himself or for himself and another.

P. Definitions beginning

with the letter "P".

(1) Penalized unit shall mean a proration unit to which, because of an excessive gas-oil ratio, an allowable has been assigned which is less than top unit allowable for the pool in which it is located and also less than the ability of the well(s) on the unit to produce.

(2) Person shall mean an individual or any other entity including partnerships, corporation, associations, responsible business or association agents or officers, the state or a political subdivision of the state or any agency, department or instrumentality of the United States and any of its officers, agents or employees.

(3) Pit shall mean any surface or sub-surface impoundment, man-made or natural depression, or diked area on the surface. Excluded from this definition are berms constructed around tanks or other facilities solely for the purpose of safety and secondary containment.

(4) Playa lake shall mean a level or nearly level area that occupies the lowest part of a completely closed basin and that is covered with water at irregular intervals, forming a temporary lake.

(5) Pool means any underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of a general structure, which zone is completely separated from any other zone in the structure, is covered by the word "pool" as used herein. "Pool" is synonymous with "common source of supply" and with "common reservoir."

(6) Potential shall mean the properly determined capacity of a well to produce oil, or gas, or both, under conditions prescribed by the division.

(7) Pressure maintenance shall mean the injection of gas or other fluid into a reservoir, either to maintain the existing pressure in such reservoir or to retard the natural decline in the reservoir pressure.

(8) Produced water shall mean those waters produced in conjunction with the production of crude oil and/or natural gas and commonly collected at field storage, processing, or disposal facilities including but not limited to: lease tanks, commingled tank batteries, burn pits, LACT units, and community or lease salt water disposal systems and which may be collected at gas processing plants, pipeline drips and other processing or transportation facilities.

(9) Producer shall mean the owner of a well or wells capable of producing oil or natural gas or both in paying quantities.

(10) Product means any commodity or thing made or manufactured from crude petroleum oil or natural gas, and all derivatives of crude petroleum oil or natural gas, including refined crude oil, crude tops,

topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, treated crude oil, fuel oil, residuum, gas oil, naphtha, distillate, gasoline, kerosene, benzene, wash oil, lubricating oil, and blends or mixtures of crude petroleum oil or natural gas or any derivative thereof.

(11) Proration day shall consist of 24 consecutive hours which shall begin at 7 a.m. and end at 7 a.m. on the following day. The language in this paragraph is different than that which was filed 02-28-97 (effective

(12) Proration month shall mean the calendar month which shall begin at 7 a.m. on the first day of such month and end at 7 a.m. on the first day of the next succeeding month.

(13) Proration period shall mean for oil the proration month and for gas the twelve-month period which shall begin at 7 a.m. on January 1 of each year and end at 7 a.m. on January 1 of the succeeding year or other period designated by general or special order of the division.

(14) Proration schedule shall mean the order of the division authorizing the production, purchase, and transportation of oil, casinghead gas, and natural gas from the various units of oil or of natural gas in allocated pools.

(15) Proration unit is the area in a pool that can be effectively and efficiently drained by one well as determined by the division or commission (See NMSA 1978 Section 70-2-17.B) as well as the area assigned to an individual well for the purposes of allocating allowable production pursuant to a prorationing order for the pool. A proration unit will be the same size and shape as a spacing unit. All proration units are spacing units but not all spacing units are proration units.

(16) Prospective spacing unit is a hypothetical spacing unit that does not yet have a producing well.

Q. Reserved.

R. Definitions beginning with the letter "R".

(1) Recomplete shall mean the subsequent completion of a well in a different pool from the pool in which it was originally completed.

(2) Regulated naturally occurring radioactive material (regulated NORM) shall mean naturally occurring radioactive material (NORM) contained in any oil-field soils, equipment, sludges or any other materials related to oil-field operations or processes exceeding the radiation levels specified in 20.3.14.1403 NMAC.

(3) Release shall mean all breaks, leaks, spills, releases, fires or blowouts involving crude oil, produced water, condensate, drilling fluids, completion fluids or other chemical or contaminant or mixture

thereof, including oil field wastes and natural gases to the environment.

(4) Remediation plan shall mean a written description of a program to address unauthorized releases. The plan may include appropriate information, including assessment data, health risk demonstrations, and corrective action(s). The plan may also include an alternative proposing no action beyond the submittal of a spill report.

(5) Responsible person shall mean the owner or operator who must complete division approved corrective action for pollution from releases.

(6) Royalty interest owners are owners of an interest in the non-executive rights including lessors, royalty interest owners and overriding royalty interest owners. Royalty interests are non-cost bearing.

S. Definitions beginning with the letter "S".

(1) Secondary recovery shall mean a method of recovering quantities of oil or gas from a reservoir which quantities would not be recoverable by ordinary primary depletion methods.

(2) Shallow pool shall mean a pool which has a depth range from 0 to 5000 feet.

(3) Shortage or underproduction shall mean the amount of oil or the amount of natural gas during a proration period by which a given proration unit failed to produce an amount equal to that authorized in the proration schedule.

(4) Shut-in shall be the status of a production well or an injection well which is temporarily closed down, whether by closing a valve or disconnection or other physical means.

(5) Shut-in pressure shall mean the gauge pressure noted at the wellhead when the well is completely shut in, not to be confused with bottom hole pressure.

(6) Significant modification of an abatement plan shall mean a change in the abatement technology used excluding design and operational parameters, or relocation of 25% or more of the compliance sampling stations, for any single medium, as designated pursuant to Subsection E, Paragraph (4), Subparagraph (b), Subsubparagraph (iv) of Section 19.15.5.19 NMAC.

(7) Spacing unit is the area allocated to a well under a well spacing order or rule. Under the Oil & Gas Act, NMSA 1978, Section 70-2-12.B(10), the commission has the power to fix spacing units without first creating proration units. See *Rutter & Wilbanks Corp. v. Oil Conservation Comm'n*, 87 NM 286 (1975). This is the area designated on division form C-102.

(8) Subsurface water shall mean ground water and water in the vadose zone

that may become ground water or surface water in the reasonably foreseeable future or may be utilized by vegetation.

T. Definitions beginning with the letter "T".

(1) Tank bottoms shall mean that accumulation of hydrocarbon material and other substances which settles naturally below crude oil in tanks and receptacles that are used in handling and storing of crude oil, and which accumulation contains in excess of two (2%) percent of basic sediment and water; provided, however, that with respect to lease production and for lease storage tanks, a tank bottom shall be limited to that volume of the tank in which it is contained that lies below the bottom of the pipeline outlet thereto.

(2) Temporary abandonment shall be the status of a well which is inactive and has been approved for temporary abandonment in accordance with the provisions of these rules.

(3) Top unit allowable for gas shall mean the maximum number of cubic feet of natural gas, for the proration period, allocated to a gas producing unit in an allocated gas pool.

(4) Top unit allowable for oil shall mean the maximum number of barrels for oil daily for each calendar month allocated on a proration unit basis in a pool to non-marginal units. The top unit allowable for a pool shall be determined by multiplying the applicable depth bracket allowable by the market demand percentage factor in effect.

(5) Treating plant shall mean any plant constructed for the purpose of wholly or partially or being used wholly or partially for reclaiming, treating, processing, or in any manner making tank bottoms or any other waste oil marketable.

(6) Tubingless completion shall mean a well completion in which the production string of casing has an outside diameter of 2.875 inches or less.

U. Definitions beginning with the letter "U".

(1) Underground source of drinking water shall mean an aquifer which supplies water for human consumption or which contains ground water having a total dissolved solids concentration of 10,000 mg/l or less and which is not an exempted aquifer.

(2) Unit of proration for gas shall consist of such multiples of 40 acres as may be prescribed by special pool rules issued by the division.

(3) Unit of proration for oil shall consist of one 40-acre tract or such multiples of 40-acre tracts as may be prescribed by special pool rules issued by the division.

(4) Unorthodox well location shall mean a location which does not conform to the spacing requirements established by the rules and regulations of the

division.

V. Definitions beginning with the letter "V". Vadose zone shall mean unsaturated earth material below the land surface and above ground water, or in between bodies of ground water.

W. Definitions beginning with the letter "W".

(1) Waste, in addition to its ordinary meaning, shall include:

(a) underground waste as those words are generally understood in the oil and gas business, and in any event to embrace the inefficient, excessive, or improper use or dissipation of the reservoir energy, including gas energy and water drive, of any pool, and the locating, spacing, drilling, equipping, operating, or producing, of any well or wells in a manner to reduce or tend to reduce the total quantity of crude petroleum oil or natural gas ultimately recovered from any pool, and the use of inefficient underground storage of natural gas;

(b) surface waste as those words are generally understood in the oil and gas business, and in any event to embrace the unnecessary or excessive surface loss or destruction without beneficial use, however caused, of natural gas of any type or in any form, or crude petroleum oil, or any product thereof, but including the loss or destruction, without beneficial use, resulting from evaporation, seepage, leakage, or fire, especially such loss or destruction incident to or resulting from the manner of spacing, equipping, operating or producing a well or wells, or incident to or resulting from the use of inefficient storage or from the production of crude petroleum oil or natural gas, in excess of the reasonable market demand;

(c) the production of crude petroleum oil in this state in excess of the reasonable market demand for such crude petroleum oil; such excess production causes or results in waste which is prohibited by the Oil and Gas Act; the words "reasonable market demand" as used herein with respect to crude petroleum oil, shall be construed to mean the demand for such crude petroleum oil, for reasonable current requirements for current consumption and use within or outside of the state, together with the demand of such amounts as are reasonably necessary for building up or maintaining reasonable storage reserves of crude petroleum oil or the products thereof, or both such crude petroleum oil and products;

(d) the non-ratable purchase or taking of crude petroleum oil in this state; such non-ratable taking and purchasing causes or results in waste, as defined in Subparagraphs (a), (b), and (c) of this definition and causes waste by violating Section 70-2-16 of the Oil and Gas Act;

(e) the production in this state of

natural gas from any gas well or wells, or from any gas pool, in excess of the reasonable market demand from such source for natural gas of the type produced or in excess of the capacity of gas transportation facilities for such type of natural gas; the words "reasonable market demand," as used herein with respect to natural gas, shall be construed to mean the demand for natural gas for reasonable current requirements, for current consumption and for use within or outside the state, together with the demand for such amounts as are necessary for building up or maintaining reasonable storage reserves of natural gas or products thereof, or both such natural gas and products.

(2) Water shall mean all water including water situated wholly or partly within or bordering upon the state, whether surface or subsurface, public or private, except private waters that do not combine with other surface or subsurface water.

(3) Water contaminant shall mean any substance that could alter if released or spilled the physical, chemical, biological or radiological qualities of water. "Water contaminant" does not mean source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954.

(4) Watercourse shall mean any lake bed, or gully, draw, stream bed, wash, arroyo, or natural or human-made channel through which water flows or has flowed.

(5) Water pollution shall mean introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or the use of property.

(6) Well blowout shall mean a loss of control over and subsequent eruption of any drilling or workover well or the rupture of the casing, casinghead, or wellhead or any oil or gas well or injection or disposal well, whether active or inactive, accompanied by the sudden emission of fluids, gaseous or liquids, from the well.

(7) Wellhead protection area shall mean the area within 200 horizontal feet of any private, domestic fresh water well or spring used by less than five households for domestic or stock watering purposes or within 1000 horizontal feet of any other fresh water well or spring. Wellhead protection areas shall not include areas around water wells drilled after an existing oil or natural gas waste storage, treatment, or disposal site was established.

(8) Wetlands shall mean those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life

in saturated soil conditions in New Mexico. Constructed wetlands used for wastewater treatment purposes are not included in this definition.

(9) Working interest owners are the owners of the operating interest under an oil and gas lease who have the exclusive right to exploit the oil & gas minerals. Working interests are cost bearing. [1-5-50...2-1-96; A, 7-15-96; Rn, 19 NMAC 15.A.7.1 through 7.84, 3-15-97; A, 7-15-99; 19.15.1.7 NMAC - Rn, 19 NMAC 15.A.7, 5-15-001; A, 3/31/04; A, 9/15/04]

NEW MEXICO GENERAL SERVICES DEPARTMENT

RISK MANAGEMENT DIVISION

1 NMAC 6.2 (General Government Administration, Risk Management, Premium Rating for Certain Risks), filed 6/2/1997 and recompiled 11/30/2001, has been renumbered as 1.6.2 NMAC to comply with the current New Mexico Administrative Code requirements, effective 9/15/2004. It is anticipated that 1.6.2 NMAC may be amended, in whole or in portion(s), within one year from the date of this notice, on or before 9-15-2005.

1 NMAC 6.3 (General Government Administration, Risk Management, Budgeting and Payment of Assessments for Unemployment Compensation Benefits by State Agencies and Local Public Bodies), filed 6/2/1997 and recompiled 11/30/2001, has been renumbered as 1.6.3 NMAC to comply with the current New Mexico Administrative Code requirements, effective 9/15/2004. It is anticipated that 1.6.3 NMAC may be amended, in whole or in portion(s), within one year from the date of this notice, on or before 9-15-2005.

GSD Rule 91-703 (General Government Administration, Risk Management, State Loss Control Program), filed 11/14/1991 and recompiled 11/30/2001, has been renumbered as 1.6.4 NMAC to comply with the current New Mexico Administrative Code requirements, effective 9/15/2004. It is anticipated that 1.6.4 NMAC may be amended, in whole or in portion(s), within one year from the date of this notice, on or before 9-15-2005.

NEW MEXICO INFORMATION TECHNOLOGY COMMISSION

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 12 INFORMATION TECHNOLOGY
PART 10 I N T E R N E T ,

INTRANET, EMAIL, AND DIGITAL NETWORK USAGE

1.12.10.1 ISSUING AGENCY. Information Technology Commission, 404 Montezuma, Santa Fe, NM 87501. [1.12.10.1 NMAC - N, 9-15-04]

1.12.10.2 SCOPE. The policy governs the use of state of New Mexico information technology (IT) and data telecommunications resources. [1.12.10.2 NMAC - N, 9-15-04]

1.12.10.3 STATUTORY AUTHORITY. Section 15-1C-5 NMSA 1978. [1.12.10.3 NMAC - N, 9-15-04]

1.12.10.4 DURATION. Permanent. [1.12.10.4 NMAC - N, 9-15-04]

1.12.10.5 EFFECTIVE DATE. September 15, 2004, unless a later date is cited at the end of a section. [1.12.10.5 NMAC - N, 9-15-04]

1.12.10.6 OBJECTIVE. The purpose of this policy is to provide state of New Mexico staff with guidance on the proper use of the state's information technology resources, including but not limited to the internet, the intranet, email, and the state's digital network and supporting systems. [1.12.10.6 NMAC - N, 9-15-04]

1.12.10.7 DEFINITIONS. As used in this policy:

A. access means the ability to read, change, or enter data using a computer or an information system;

B. equipment means computers, monitors, keyboards, mice, routers, switches, hubs, networks, or any other information technology assets;

C. freeware or shareware means software that is available free of charge and available for download from the internet. Freeware is protected by a copyright and is subject to applicable copyright laws;

D. information technology resources (IT resources) means computer hardware, software, databases, electronic message systems, communication equipment, computer networks, telecommunications circuits, and any information that is used by a state agency to support programs or operations that is generated by, transmitted within, or stored on any electronic media;

E. malicious code means any type of code intended to damage, destroy, or delete a computer system, network, file, or data;

F. pirated software means licensable software installed on a computer system for which a license has not been purchased or legally obtained;

G. security mechanism means a firewall, proxy, internet address-screening or filtering program, or other system installed to prevent the disruption or denial of services or the unauthorized use, damage, destruction, or modification of data and software;

H. sexually explicit or extremist materials means images, documents, or sounds that can reasonably be construed as:

(1) discriminatory or harassing;

or

(2) defamatory or libelous; or

(3) obscene or pornographic; or

(4) threatening to an individual's physical or mental well-being; or

(5) read or heard for any purpose that is illegal; and

I. user means any person authorized by a state agency to access state IT resources, including a state employee, officer or contractor; a user for purposes of this rule does not include a person who accesses state telecommunications resources offered by the state for use by the general public.

[1.12.10.7 NMAC - N, 9-15-04]

1.12.10.8 POLICY. The internet and other information technology resources are important assets that the state can use to gather information to improve external and internal communications and increase efficiency in business relationships. To encourage the effective and appropriate use of the state's IT resources, the following policies govern the use of the state's IT resources:

A. State agencies shall provide all users with a written copy of this rule.

(1) All users shall sign and date a statement indicating they have received and read this policy.

(2) Each user's signed statement shall be kept on file for as long as the user is employed by, has a contract with or otherwise provides services to the agency.

B. For the purposes of this rule, IT resources usage includes but is not limited to all current and future internet/intranet communications services, the world wide web, state intranets, voice over IP, file transfer protocol (FTP), TELNET, email, peer-to-peer exchanges, and various proprietary data transfer protocols and other services.

C. The state of New Mexico may undertake all prudent and reasonable measures to secure the systems it uses for internet communications and the data transmitted by these systems and services, at the direction of the governor or his

designee(s).

D. The state of New Mexico and/or its agencies may install software and/or hardware to monitor and record all IT resources usage, including email and web site visits. The state retains the right to record or inspect any and all files stored on state systems.

E. State IT resources shall be used solely for state business purposes (except as described in Section 1.12.10.10 NMAC) and users shall conduct themselves in a manner consistent with appropriate behavior standards as established in existing state policies. All state of New Mexico policies relating to intellectual property protection, privacy, misuse of state equipment, sexual harassment, sexually hostile work environment, data security, and confidentiality shall apply to the use of IT resources.

F. Users shall have no expectations of privacy with respect to state IT resource usage. Serious disciplinary action up to and including termination of employment or contract may result from evidence of prohibited activity obtained through monitoring or inspection of electronic messages, files, or electronic storage devices. Illegal activity involving state IT resource usage may be referred to appropriate authorities for prosecution.

[1.12.10.8 NMAC - N, 9-15-04]

1.12.10.9 PROHIBITED INTERNET USE. State IT resources shall not be used for anything other than official state business unless otherwise specifically allowed by the agency head or as permitted under Section 1.12.10.10 NMAC.

A. No software licensed to the state nor data owned or licensed by the state shall be uploaded or otherwise transferred out of the state's control without explicit authorization from the agency head.

B. IT resources shall not be used to reveal confidential or sensitive information, client data, or any other information covered by existing state or federal privacy or confidentiality laws, regulations, rules, policies, procedures, or contract terms. Users who engage in the unauthorized release of confidential information via the state's IT resources, including but not limited to newsgroups or chat rooms, will be subject to sanctions in existing policies and procedures associated with unauthorized release of such information.

C. Users shall respect the copyrights, software, licensing rules, property rights, privacy, and prerogatives of others, as in any other business dealings.

D. Users shall not download executable software, including freeware and shareware, unless it is required to complete their job responsibilities.

E. Users shall not use state IT resources to download or distribute pirat-

ed software or data, including music or video files.

F. Users shall not use state IT resources to deliberately propagate any malicious code.

G. Users shall not use state IT resources to intentionally disable or overload any computer system or network, or to circumvent any system intended to protect the privacy or security of the state's IT resources.

H. Unauthorized dial-up access to the internet is prohibited from any device that is attached to any part of the state's network. The state's IT resources shall not be used to establish connections to non-state internet service providers without prior authorization in writing by the office of the chief information officer or the state chief information technology security officer.

I. Users shall not access, store, display, distribute, edit, or record sexually explicit or extremist material using state IT resources.

(1) In agencies or offices where the display or use of sexually explicit or extremist materials falls within legitimate job responsibilities, an agency head may exempt a user in writing from the requirements of this subsection. The agency issuing the exemption letter shall keep the letter on file for as long as the user is employed by, has a contract with, or otherwise provides services to the agency.

(2) The incidental and unsolicited receipt of sexually explicit or extremist material, such as might be received through email, shall not constitute a violation of this section, provided that the material is promptly deleted and neither stored nor forwarded to other parties.

J. Users are prohibited from accessing or attempting to access IT resources for which they do not have explicit authorization by means of user accounts, valid passwords, file permissions or other legitimate access and authentication methods.

K. Users shall not use state IT resources to override or circumvent any security mechanism belonging to the state or any other government agency, organization or company.

L. Users shall not use state IT resources for illegal activity, gambling, or to intentionally violate the laws or regulations of the United States, any state or local jurisdiction, or any other nation.

[1.12.10.9 NMAC - N, 9-15-04]

1.12.10.10 PERSONAL USE OF THE INTERNET. Occasional and incidental personal use of the state's IT resources and internet access is allowed subject to limitations. Personal use of the internet is prohibited if:

A. it materially interferes with the use of IT resources by the state or any political subdivision thereof; or

B. such use burdens the state or any political subdivision thereof with additional costs; or

C. such use interferes with the user's employment duties or other obligations to the state or any political subdivision thereof; or

D. such personal use includes any activity that is prohibited under this rule.
[1.12.10.10 NMAC - N, 9-15-04]

1.12.10.11 AGENCY POLICIES.

All agencies shall implement this policy immediately upon its effective date. At the discretion of the agency head, an agency may adopt additional agency-specific IT resources usage policies that are more restrictive than this rule, but in no case shall an agency adopt policies that are less restrictive than this rule. This rule shall control in the event of any conflict between an agency policy and this rule.

[1.12.10.11 NMAC - N, 9-15-04]

HISTORY OF 1.12.10 NMAC:
[RESERVED]

**NEW MEXICO
NAPRAPATHIC
PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL
AND PROFESSIONAL LICENSING
CHAPTER 6 N A P R A P A T H I C
PRACTITIONERS
PART 1 GENERAL PROVI-
SIONS**

16.6.1.1 ISSUING AGENCY:
New Mexico Naprapathic Practice Board.
[16.6.1.1 NMAC - N, 09-30-04]

16.6.1.2 SCOPE: This part applies to the board, licensees, applicants, and the general public.
[16.6.1.2 NMAC - N, 09-30-04]

**16.6.1.3 S T A T U T O R Y
AUTHORITY:** This part is adopted pursuant to and in accordance with the Naprapathic Practice Act, Sections 61-12E-1 through 61-12E-17 NMSA 1978.
[16.6.1.3 NMAC - N, 09-30-04]

16.6.1.4 D U R A T I O N :
Permanent.
[16.6.1.4 NMAC - N, 09-30-04]

16.6.1.5 EFFECTIVE DATE:
September 30, 2004, unless a later date is cited at the end of a section.
[16.6.1.5 NMAC - N, 09-30-04]

16.6.1.6 OBJECTIVE: This part establishes definitions of terms for rules filed in this chapter, the purpose and organization structure of the board, requirements for display of license, unlicensed practices prohibition, record keeping requirements and inspection of public records limitations.
[16.6.1.6 NMAC - N, 09-30-04]

16.6.1.7 DEFINITIONS:

A. "Applicant" means a person who is applying to be licensed for the first time as a naprapath in New Mexico.

B. "Naprapath" means a person who practices naprapathy licensed by the board and has met all requirements.

C. "Naprapathy" means a branch of medicine, that focuses on the evaluation and treatment of neuro-musculoskeletal conditions. Doctors of naprapathy are connective tissue specialists.

D. "Superintendent" means the superintendent of regulation and licensing department.

E. "Board" means the naprapathy practice board.

F. "Department" means the regulation and licensing department.

G. "Fund" means the naprapathy fund.

H. "License" means an authorization by the superintendent that permits a person to practice naprapathy in the state.

I. "Licensee" means a person licensed by the superintendent as a naprapath

J. "Director" means the director of boards and commissions.

K. "Advertising" means any communication whatsoever, disseminated by any means whatsoever, to or before the public or any portion thereof, with the intent of furthering the purpose, either directly or indirectly, of selling professional services, educating the public, or including members of the public to enter into any obligation relating to such professional services.

L. "Revocation" means a permanent loss of licensure.

M. "Suspension" means a loss of licensure for a certain period, after which the person may be required to file for reinstatement.

N. "Complaint" means a sworn written complaint.

O. "Complainant" means the complaining party of the complaint filed against a licensee or applicant for licensure, who is regulated by the naprapathic practice board.

P. "Respondent" means a licensee or applicant for licensure who is regulated by the naprapathic practice board.

Q. "Notice of contemplated action" means the administrative process used by the board for a licensee or applicant for licensure to be afforded notice and an opportunity to be heard in a formal hearing before the board has any authority to take any action which could result in denial, suspension, revocation, restricting, monitoring, censuring, etc., of a license or application or licensure.
[16.6.1.7 NMAC - N, 09-30-04]

16.6.1.8 PURPOSE OF THE BOARD:

The purpose of the board is to protect the health, safety, and welfare of the public by ensuring that regulated professionals or licensed naprapaths and licenses meet prescribed standards of education, competence and practice. To accomplish this mission, we will:

A. establish standards and measures to complete all board processes in a timely and effective manner;

B. provide open and immediate access to accurate and relevant public information to all users;

C. communicate the board's roles, responsibilities, and services as a consumer protection agency;

D. give priority attention to the elimination of unlicensed and potentially harmful activity;

E. invest in employees and board members through training and professional development;

F. develop and implement a long-range plan to ensure efficient, effective regulation, which provides consumer protection; it is further declared to be a matter of public interest and concern that the practice of naprapathy receives the confidence of the public and only qualified persons be authorized to practice naprapathy in the state of New Mexico.
[16.6.1.8 NMAC - N, 09-30-04]

16.6.1.9 ORGANIZATION:

A. The naprapathic practice board is created and administratively attached to the department.

B. The board shall annually elect a president, vice president, and secretary-treasurer who shall be chosen among its members. Each officer shall hold office until his or her successors have been duly elected and qualified.

C. The board shall consist of five (5) members, three of which must be licensed naprapaths in the state of New Mexico. The governor shall appoint the members for four (4) year terms. No member shall serve more than two (2) terms, except that a person who is appointed to complete an un-expired term of a member of the board may also serve two (2) full terms.

D. **Meetings:** The board

shall meet at least two (2) times per year for the purpose of transacting such business as may lawfully come before the board. Times and places of the meetings will be established by the board and advertised prior to the meetings. Three members shall conduct a quorum. Meetings will be conducted in compliance with the annual notice requirements adopted by the board.

E. **Committees:** The presiding officer at any meeting of the board is authorized to appoint special and standing committees from the membership and board approved licensees of the board. The duties of such committees shall be assigned at the time the committee is appointed. [16.6.1.9 NMAC - N, 09-30-04]

16.6.1.10 DISPLAY OF LICENSE: Every licensee must display a current license issued by the naprapathic practice board in a conspicuous location where the holder practices naprapathy. [16.6.1.10 NMAC - N, 09-30-04]

16.6.1.11 UNLICENSED PRACTICE:

A. Persons practicing naprapathy without a license, misrepresenting themselves or aiding and abetting unlicensed practice may be fined up to \$1000.00 after notice and hearing.

B. Aiding unauthorized practice: The naprapath shall not aid or abet another person in his or her professional credentials or illegally engaging in the practice of naprapathy. [16.6.1.11 NMAC - N, 09-30-04]

16.6.1.12 RECORD KEEPING: Every naprapath shall keep a record of naprapathic examinations and treatments made that shall include the names of persons examined and treated. The records shall be signed by the licensed naprapath and preserved by him/her in the office in which the professional service was rendered. The records shall be preserved by the naprapath for a period no less than three (3) years after the last date of service. A copy of the patient's file shall be provided, upon written request, to the person examined and treated or to his/her designee. [16.6.1.12 NMAC - N, 09-30-04]

16.6.1.13 INSPECTION OF PUBLIC RECORDS: Only board members and board staff may have access to non-public records, unless approved by the board attorney or ordered by a court of competent jurisdiction. [16.6.1.13 NMAC - N, 09-30-04]

HISTORY OF 16.6.1 NMAC: [Reserved]

**NEW MEXICO
NAPRAPATHIC
PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL
AND PROFESSIONAL LICENSING
CHAPTER 6 NAPRAPATHIC
PRACTITIONERS
PART 2 CODE OF CONDUCT**

16.6.2.1 ISSUING AGENCY: New Mexico Naprapathic Practice Board. [16.6.2.1 NMAC - N, 09-30-04]

16.6.2.2 SCOPE: This part applies to the board, licensees, applicants, and the general public. [16.6.2.2 NMAC - N, 09-30-04]

16.6.2.3 STATUTORY AUTHORITY: This part is adopted pursuant to and in accordance with the Naprapathic Practice Act, Sections 61-12E-1 through 61-12E-17 NMSA 1978. [16.6.2.3 NMAC - N, 09-30-04]

16.6.2.4 DURATION: Permanent. [16.6.2.4 NMAC - N, 09-30-04]

16.6.2.5 EFFECTIVE DATE: September 30, 2004, unless a later date is cited at the end of a section. [16.6.2.5 NMAC - N, 09-30-04]

16.6.2.6 OBJECTIVE: This part establishes the ethical requirements for applicants and licensees. [16.6.2.6 NMAC - N, 09-30-04]

16.6.2.7 DEFINITIONS: [Reserved]

16.6.2.8 CODE OF CONDUCT: Refer to the American Naprapathic Association (ANA) Code of Conduct. [16.6.2.8 NMAC - N, 09-30-04]

HISTORY OF 16.6.2 NMAC: [Reserved]

**NEW MEXICO
NAPRAPATHIC
PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL
AND PROFESSIONAL LICENSING
CHAPTER 6 NAPRAPATHIC
PRACTITIONERS
PART 3 FEES**

16.6.3.1 ISSUING AGENCY: New Mexico Naprapathic Practice Board. [16.6.3.1 NMAC - N, 09-30-04]

16.6.3.2 SCOPE: This part

applies to the board, licensees, applicants, and the general public. [16.6.3.2 NMAC - N, 09-30-04]

16.6.3.3 STATUTORY AUTHORITY: This part is adopted pursuant to and in accordance with the Naprapathic Practice Act, Sections 61-12E-1 through 61-12E-17 NMSA 1978. [16.6.3.3 NMAC - N, 09-30-04]

16.6.3.4 DURATION: Permanent. [16.6.3.4 NMAC - N, 09-30-04]

16.6.3.5 EFFECTIVE DATE: September 30, 2004, unless a later date is cited at the end of a section. [16.6.3.5 NMAC - N, 09-30-04]

16.6.3.6 OBJECTIVE: This part establishes the fee structure for application, licensure, license renewal, inactive status, reactivation, reinstatement and miscellaneous charges. [16.6.3.6 NMAC - N, 09-30-04]

16.6.3.7 DEFINITIONS: [Reserved]

16.6.3.8 FEES: All fees payable to the board are non-refundable.

A. **PROCESSING FEE:** An applicant for licensure may request an application packet from the board. The application must be accompanied by seventy-five dollars (\$75.00) non-refundable fee.

B. **INITIAL LICENSURE FEE:** The initial certificate of licensure shall be five hundred dollars (\$500.00).

C. **RENEWAL FEE:** The renewal fee shall be five hundred dollars (\$500.00) due no later than July 1st of each year. In the event that a licensee fails to renew his/her license by the deadline of any year, the board is required to assess a late fee.

D. **LATE FEE:** If a renewal is post-marked past the deadline of July 1st, the board is required to charge a late fee of one hundred dollars (\$100.00). If a licensee fails to renew within 90 days from the expiration date, he/she must pay a three hundred dollar (\$300.00) late fee, submit a new application accompanied by the processing fee and reinstatement fee.

E. **INACTIVE STATUS FEE:** A licensee may submit a request in writing to the board office to be placed on inactive status. The fee for inactive status is one hundred dollars (\$100.00) annually. Once a license is placed on inactive status, the licensee cannot practice naprapathy.

F. **REACTIVATION FROM INACTIVE STATUS:** If the inactive licensee requests reactivation from inactive status to active status, he/she must

complete an application for reactivation form provided by the board.

G. REINSTATEMENT FEE: If the expired licensee requests to reinstate his/her license, he/she will be required to pay a five hundred dollar (\$500.00) reinstatement fee, submit a new application accompanied by the processing fee and initial licensure fee. The applicant may be required to re-take the national examination.

H. DUPLICATE LICENSE: The fee for a duplicate of original certificate of licensure to replace a lost certificate of licensure, or a replacement certificate of licensure with a new name, or for a board verified copy of certificate of licensure shall be fifty dollars (\$50.00).

I. OTHER MISCELLANEOUS CHARGES:

- (1) license list \$75.00
- (2) license labels \$100.00
- (3) list/labels for commercial use \$150.00
- (4) copying; records request \$.30per page
- (5) copying; over and undersize copies \$1.00 per page
- (6) rules and regulations \$10.00
- (7) continuing education provider fee \$75.00

[16.6.3.8 NMAC - N, 09-30-04]

HISTORY OF 16.6.3 NMAC: [Reserved]

**NEW MEXICO
NAPRAPATHIC
PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 6 NAPRAPATHIC PRACTITIONERS
PART 4 LICENSE EXPIRATION AND RENEWAL**

16.6.4.1 ISSUING AGENCY: New Mexico Naprapathic Practice Board.
[16.6.4.1 NMAC - N, 09-30-04]

16.6.4.2 SCOPE: This part applies to the board, licensees, applicants, and the general public.
[16.6.4.2 NMAC - N, 09-30-04]

16.6.4.3 STATUTORY AUTHORITY: This part is adopted pursuant to and in accordance with the Naprapathic Practice Act, Sections 61-12E-1 through 61-12E-17 NMSA 1978.
[16.6.4.3 NMAC - N, 09-30-04]

16.6.4.4 DURATION:

Permanent.
[16.6.4.4 NMAC - N, 09-30-04]

16.6.4.5 EFFECTIVE DATE: September 30, 2004, unless a later date is cited at the end of a section.
[16.6.4.5 NMAC - N, 09-30-04]

16.6.4.6 OBJECTIVE: This part establishes the requirements for license renewal.
[16.6.4.6 NMAC - N, 09-30-04]

16.6.4.7 DEFINITIONS: [Reserved]

16.6.4.8 LICENSE EXPIRATION AND RENEWAL:

A. License renewal: Each licensee shall renew his/her license annually, postmarked on or before on or before July 1st of every year by remitting to the board office a renewal fee of five hundred dollars (\$500.00) with the renewal application form provided by the board. Continuing education hours shall be documented yearly and submitted with renewal application form.

B. Licensee responsibility: Renewal application notices will be mailed to the last known address on file with the board office. It is the responsibility of the licensee to keep the board informed of any changes in address or phone numbers. Failure to receive the application notice shall not relieve the licensee of the responsibility of renewing his/her license(s) before the expiration date.

C. Renewal after July 1st: The board will allow no more than thirty (30) days after license has expired to pay late fee.

(1) A license that has been expired more than thirty days, but less than 90, must pay a three hundred dollar (\$300.00) late fee.

(2) A license that has been expired for over 90 days, must submit a new application, pay processing fee, late charge for expired license fee, as well as a reinstatement fee.

[16.6.4.8 NMAC - N, 09-30-04]

HISTORY OF 16.6.4 NMAC: [Reserved]

**NEW MEXICO
NAPRAPATHIC
PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 6 NAPRAPATHIC PRACTITIONERS
PART 5 INACTIVE STATUS**

16.6.5.1 ISSUING AGENCY:

New Mexico Naprapathic Practice Board.
[16.6.5.1 NMAC - N, 09-30-04]

16.6.5.2 SCOPE: This part applies to the board, licensees, applicants, and the general public.
[16.6.5.2 NMAC - N, 09-30-04]

16.6.5.3 STATUTORY AUTHORITY: This part is adopted pursuant to and in accordance with the Naprapathic Practice Act, Sections 61-12E-1 through 61-12E-17 NMSA 1978.
[16.6.5.3 NMAC - N, 09-30-04]

16.6.5.4 DURATION: Permanent.
[16.6.5.4 NMAC - N, 09-30-04]

16.6.5.5 EFFECTIVE DATE: September 30, 2004, unless a later date is cited at the end of a section.
[16.6.5.5 NMAC - N, 09-30-04]

16.6.5.6 OBJECTIVE: This part establishes the requirements for placement of a license on inactive status.
[16.6.5.6 NMAC - N, 09-30-04]

16.6.5.7 DEFINITIONS: [Reserved]

16.6.5.8 INACTIVE STATUS:
A. A current licensee in good standing is eligible to be placed on inactive status.

B. A licensee who wishes to be placed on inactive status shall notify the board administrator/staff in writing before his/her license expires. The board will acknowledge receipt of the notification.

C. A licensee shall pay the fees established by the board to be placed on inactive status by July 1st of every year.

D. An inactive licensee is required to submit proof of continuing education required by an active licensee. Refer to Part 16.6.6 NMAC.

E. Once a license is placed on inactive status, the licensee shall not practice naprapathy in New Mexico.

F. A licensee on inactive status shall at all times comply with the provisions of code of code of conduct.
[16.6.5.8 NMAC - N, 09-30-04]

HISTORY OF 16.6.5 NMAC: [Reserved]

**NEW MEXICO
NAPRAPATHIC
PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 6 NAPRAPATHIC PRACTITIONERS**

PART 6 CONTINUING EDUCATION

16.6.6.1 ISSUING AGENCY:
New Mexico Naprapathic Practice Board.
[16.6.6.1 NMAC - N, 09-30-04]

16.6.6.2 SCOPE: This part applies to the board, licensees, applicants, and the general public.
[16.6.6.2 NMAC - N, 09-30-04]

16.6.6.3 STATUTORY AUTHORITY: This part is adopted pursuant to and in accordance with the Naprapathic Practice Act, Sections 61-12E-1 through 61-12E-17 NMSA 1978.
[16.6.6.3 NMAC - N, 09-30-04]

16.6.6.4 DURATION:
Permanent.
[16.6.6.4 NMAC - N, 09-30-04]

16.6.6.5 EFFECTIVE DATE:
September 30, 2004, unless a later date is cited at the end of a section.
[16.6.6.5 NMAC - N, 09-30-04]

16.6.6.6 OBJECTIVE: This part establishes continuing education requirements for license renewal.
[16.6.6.6 NMAC - N, 09-30-04]

16.6.6.7 DEFINITIONS:
[Reserved]

16.6.6.8 CONTINUING EDUCATION:

A. The licensee must report no less than 30 hours of continuing professional education hours (CPE) per year at the time of renewal. Three of the thirty continuing education hours must be in ethics.

B. The board will accept any courses approved by the American naprapathic association. The naprapathic practice board may make recommendations to the superintendent for approval of continuing education courses that meet standard requirements.

C. A licensee that has allowed a license to expire and is seeking reinstatement, must conform to continuing education requirements before license will be granted.

[16.6.6.8 NMAC - N, 09-30-04]

HISTORY OF 16.6.6 NMAC: [Reserved]

**NEW MEXICO
NAPRAPATHIC
PRACTICE BOARD**

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING**CHAPTER 6 NAPRAPATHIC PRACTITIONERS****PART 7 LICENSURE BY ENDORSEMENT AND EXAMINATION**

16.6.7.1 ISSUING AGENCY:
New Mexico Naprapathic Practice Board.
[16.6.7.1 NMAC - N, 10-1-04]

16.6.7.2 SCOPE: This part applies to the board, licensees, applicants, and the general public.
[16.6.7.2 NMAC - N, 10-1-04]

16.6.7.3 STATUTORY AUTHORITY: This part is adopted pursuant to and in accordance with the Naprapathic Practice Act, Sections 61-12E-1 through 61-12E-17 NMSA 1978.
[16.6.7.3 NMAC - N, 10-1-04]

16.6.7.4 DURATION:
Permanent.
[16.6.7.4 NMAC - N, 10-1-04]

16.6.7.5 EFFECTIVE DATE:
October 1, 2004, unless a later date is cited at the end of a section.
[16.6.7.5 NMAC - N, 10-1-04]

16.6.7.6 OBJECTIVE: This part establishes the requirements for licensure by endorsement.
[16.6.7.6 NMAC - N, 10-1-04]

16.6.7.7 DEFINITIONS:
[Reserved]

16.6.7.8 LICENSURE BY ENDORSEMENT OR EXAMINATION:
The superintendent may, at the recommendation from the board, issue a license to practice naprapathy to individuals who satisfy the following criteria:

A. has passed the national examination administered by the national board of naprapathic examiners and provides the board with evidence of successful completion;

B. provide two (2) letters of recommendation from individuals licensed as a naprapaths, in good standing, at the time the letters were written;

C. provide one (1) letter of personal reference from anyone with whom the applicant has worked within the past three years;

D. for endorsement candidates only provide verification of licensure, in good standing, in another jurisdiction.

[16.6.7.8 NMAC - N, 10-1-04]

HISTORY OF 16.6.7 NMAC: [Reserved]

**NEW MEXICO
NAPRAPATHIC
PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 6 NAPRAPATHIC PRACTITIONERS****PART 8 PRACTICE PROCEDURES**

16.6.8.1 ISSUING AGENCY:
New Mexico Naprapathic Practice Board.
[16.6.8.1 NMAC - N, 09-30-04]

16.6.8.2 SCOPE: This part applies to the board, licensees, applicants, and the general public.
[16.6.8.2 NMAC - N, 09-30-04]

16.6.8.3 STATUTORY AUTHORITY: This part is adopted pursuant to and in accordance with the Naprapathic Practice Act, Sections 61-12E-1 through 61-12E-17 NMSA 1978.
[16.6.8.3 NMAC - N, 09-30-04]

16.6.8.4 DURATION:
Permanent.
[16.6.8.4 NMAC - N, 09-30-04]

16.6.8.5 EFFECTIVE DATE:
September 30, 2004, unless a later date is cited at the end of a section.
[16.6.8.5 NMAC - N, 09-30-04]

16.6.8.6 OBJECTIVE: This part establishes diagnostic procedures, meridian therapy and rehabilitation of the neuromusculoskeletal system.
[16.6.8.6 NMAC - N, 09-30-04]

16.6.8.7 DEFINITIONS:
[Reserved]

16.6.8.8 DIAGNOSTIC PROCEDURES:

A. Naprapathic physicians are authorized to perform diagnostic procedures specified in this regulation, which shall include the authority to perform and take:

- (1) medical case history;
- (2) physical examination of all body systems including, but not limited to:
 - (a) skin, hair, nails, head, eyes, ears, nose;
 - (b) cardio-vascular and respiratory system, including auscultation;
 - (c) musculo-skeletal system;
 - (d) neurological system.

B. Authority to order diagnostic procedures naprapathic physicians are authorized to order any diagnostic procedure reasonably necessary to clinically correlate a physical examination to a diag-

nostic impression; which shall include, but not be limited to laboratory procedures involving the collection of human fluids, such as saliva, blood, urine, vaginal and seminal fluids, hair, feces and special imaging, such as x-ray; CT scan, MRI, nuclear scans, ultrasonography, thermography, B.E.A.M., EEG, EKG, ECG and surface or needle EMG.

[16.6.8.8 NMAC - N, 09-30-04]

16.6.8.9 MERIDIAN THERAPY:

A. Naprapaths who practice meridian therapy must do so in conjunction with standard naprapathic adjusting and/or manipulative techniques.

B. Naprapaths who practice meridian therapy may not advertise or promote themselves in the media to be acupuncturists unless licensed pursuant to the Acupuncture Act.

[16.6.8.9 NMAC - N, 09-30-04]

16.6.8.10 REHABILITATION OF THE NEUROMUSCULOSKETAL SYSTEM:

Naprapathic physicians may use all necessary mechanical, hygienic and sanitary measures incident to the care of the body including but not limited to air, sound, cold, diet, exercise, heat, light, massage, physical culture, rest, ultrasound, water, and electricity.

[16.6.8.10 NMAC - N, 09-30-04]

HISTORY OF 16.6.8 NMAC: [Reserved]

**NEW MEXICO
NAPRAPATHIC
PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 6 NAPRAPATHIC PRACTITIONERS
PART 9 SUPERVISION OF INTERNS**

16.6.9.1 ISSUING AGENCY: New Mexico Naprapathic Practice Board.
[16.6.9.1 NMAC - N, 09-30-04]

16.6.9.2 SCOPE: This part applies to the board, licensees, applicants, and the general public.
[16.6.9.2 NMAC - N, 09-30-04]

16.6.9.3 STATUTORY AUTHORITY: This part is adopted pursuant to and in accordance with the Naprapathic Practice Act, Sections 61-12E-1 through 61-12E-17 NMSA 1978.
[16.6.9.3 NMAC - N, 09-30-04]

16.6.9.4 DURATION: Permanent.

[16.6.9.4 NMAC - N, 09-30-04]

16.6.9.5 EFFECTIVE DATE: September 30, 2004, unless a later date is cited at the end of a section.

[16.6.9.5 NMAC - N, 09-30-04]

16.6.9.6 OBJECTIVE: This part establishes the requirements for and supervision of interns.

[16.6.9.6 NMAC - N, 09-30-04]

16.6.9.7 DEFINITIONS: [Reserved]

16.6.9.8 SUPERVISION OF INTERNS:

A. The purpose for the intern program in New Mexico shall be to safely complete advanced training for the graduating naprapathic intern in the areas including, but not limited to, history taking, exams, patient report of findings, treatment recommendations, treatment room control, staff management, general clinic policies, problem solving skills, team concepts, goal setting, administrative skills, and other training the doctor may feel appropriate to complete the intern's advanced naprapathic training. This purpose enhances the professional training of the intern, the naprapathic college curriculum, the teaching skills of the doctor, the professional status of the profession of naprapathic and the professional standard of naprapathic health care available to New Mexico consumers.

B. Supervising doctor must have a current New Mexico license in "good standing" with the New Mexico board of naprapathic examiners and have been in active practice for at least three years.

C. Supervising doctor must have written verification from the college that intern is in a CCE, or board approved equivalent thereof, accredited naprapathic college sanctioned intern program, and the doctor must assure compliance to the guidelines of the intern program.

D. Supervising doctor must personally train intern in naprapathic procedure.

E. Supervising doctor must be physically in the same treatment room overseeing the intern to provide care for any patient.

F. Public must be informed that the intern is an "intern naprapath, not licensed in the state", and must sign an informed consent document approved by the board to this effect.

G. Supervising doctor may allow intern to assist in various exams and therapies after being trained and cleared by the supervising doctor on proper naprapathic procedures.

H. The supervising doctor

must inform the college if the intern is deemed professionally incompetent in diagnosis or treatment or if the intern has other personal habits (alcoholism, drug addiction, moral turpitude, etc.) that would be unsafe for the public.

I. A supervising doctor may not supervise more than two interns at one time.

J. Supervising doctor must register with the New Mexico board of naprapathic practice examiners the interns' names, the college they are from, and the term of the internship, and provide proof of malpractice insurance for the supervising doctor in minimum amount of \$1,000,000 per person - \$3,000,000 per occurrence coverage, at least 15 days before the first day of the internship.

K. The board is to be sent a copy of any regular report sent to the college involving the intern at the time the report is sent to the college.

[16.6.9.8 NMAC - N, 09-30-04]

HISTORY OF 16.6.9 NMAC: [Reserved]

**NEW MEXICO
NAPRAPATHIC
PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 6 NAPRAPATHIC PRACTITIONERS
PART 10 NAPRAPATHIC ASSISTANTS**

16.6.10.1 ISSUING AGENCY: New Mexico Naprapathic Practice Board.
[16.6.10.1 NMAC - N, 09-30-04]

16.6.10.2 SCOPE: This part applies to the board, licensees, applicants, and the general public.
[16.6.10.2 NMAC - N, 09-30-04]

16.6.10.3 STATUTORY AUTHORITY: This part is adopted pursuant to and in accordance with the Naprapathic Practice Act, Sections 61-12E-1 through 61-12E-17 NMSA 1978.
[16.6.10.3 NMAC - N, 09-30-04]

16.6.10.4 DURATION: Permanent.
[16.6.10.4 NMAC - N, 09-30-04]

16.6.10.5 EFFECTIVE DATE: September 30, 2004, unless a later date is cited at the end of a section.
[16.6.10.5 NMAC - N, 09-30-04]

16.6.10.6 OBJECTIVE: This part regulates the licensing and practice of naprapathic assistants and their supervision by licensed naprapaths.

[16.6.10.6 NMAC - N, 09-30-04]

16.6.10.7 DEFINITIONS: "under the supervision of the naprapathic physician" means that:

A. the naprapathic physician shall have a current New Mexico license in "good standing" with the New Mexico naprapathic practice board;

B. the naprapathic physician shall personally train the naprapathic assistant in any procedure they practice; and

C. the naprapathic physician must be physically present in the same treatment room and immediately available in order for the naprapathic assistant to treat the patient.

[16.6.10.7 NMAC - N, 09-30-04]

16.6.10.8 NAPRAPATHIC ASSISTANT:

A. The minimum education requirement for a naprapathic assistant is high school graduation or equivalent with the completion of an ANA/NMNA approved naprapathic assistant course and supervised training in the specific duties and procedures the naprapathic assistant will perform.

B. The naprapathic assistant can, under the supervision of the naprapathic physician, perform and administer the use of any or all natural agencies imbued with the healing act such as food, water, heat, cold, electrical mechanical appliances, herbs, nutritional supplements and homeopathic remedies.

[16.6.10.8 NMAC - N, 09-30-04]

HISTORY OF 16.6.10 NMAC:

[Reserved]

**NEW MEXICO
NAPRAPATHIC
PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL
AND PROFESSIONAL LICENSING
CHAPTER 6 NAPRAPATHIC
PRACTITIONERS
PART 11 PARENTAL
RESPONSIBILITY ACT**

16.6.11.1 ISSUING AGENCY: New Mexico Naprapathic Practice Board.
[16.6.11.1 NMAC - N, 09-30-04]

16.6.11.2 SCOPE: This part applies to the board, licensees, applicants, and the general public.
[16.6.11.2 NMAC - N, 09-30-04]

16.6.11.3 STATUTORY AUTHORITY: This part is adopted pursuant to and in accordance with the Naprapathic Practice Act, Sections 61-12E-

1 through 61-12E-17 NMSA 1978.
[16.6.11.3 NMAC - N, 09-30-04]

16.6.11.4 DURATION: Permanent.
[16.6.11.4 NMAC - N, 09-30-04]

16.6.11.5 EFFECTIVE DATE: September 30, 2004, unless a later date is cited at the end of a section.
[16.6.11.5 NMAC - N, 09-30-04]

16.6.11.6 OBJECTIVE: This part establishes the requirements for compliance of the Parental Responsibility Act as it pertains to licensees and applicants for licensure.
[16.6.11.6 NMAC - N, 09-30-04]

16.6.11.7 DEFINITIONS: A. "HSD" means the New Mexico human services department.

B. "Statement of compliance" means a certified statement from HSD stating that an applicant or licensee is in compliance with a judgment and order for support.

C. "Statement of non-compliance" means a certified statement from HSD stating that an applicant or licensee is not in compliance with a judgment and an order for support.
[16.6.11.7 NMAC - N, 09-30-04]

16.6.11.8 PARENTAL RESPONSIBILITY ACT:

A. The board adopts this section pursuant to the Parental Responsibility Act (Ch. 25, Laws of 1995).

B. All terms defined in the Parental Responsibility Act shall have the same meanings in this section.
[16.6.11.8 NMAC - N, 09-30-04]

16.6.11.9 DISCIPLINARY ACTION: If an applicant or licensee is not in compliance with a judgment and order for support, the board:

A. shall deny an application for a license;

B. shall deny the renewal of a license; and

C. has grounds for suspension or revocation of the license.
[16.6.11.9 NMAC - N, 09-30-04]

16.6.11.10 CERTIFIED LIST: Upon receipt of HSD's certified list of obligors not in compliance with a judgment and order for support, the board shall match the certified list against the current list of board licensees and applicants. Upon the later receipt of an application for license or renewal, the board shall match the applicant against the current certified list. By the end of the month in which the certified list is received, the board shall report to HSD the

names of board applicants and licensees who are on the certified list and the action the board has taken in connection with such applicants and licensees.
[16.6.11.10 NMAC - N, 09-30-04]

16.6.11.11 INITIAL ACTION: Upon determination that an applicant or licensee appears on the certified list, the board shall:

A. commence a formal proceeding in accordance with the Uniform Licensing Act (61-1-1 et seq.) to take the appropriate action pursuant to the Parental Responsibility Act; or

B. for current licensees only, informally notify the licensee that the licensee's name is on the certified list, and that the licensee must provide the board with a subsequent statement of compliance from HSD by the earlier of the application for license renewal or a specified date not to exceed thirty days. If the licensee fails to provide this statement, the board shall commence a formal proceeding in accordance with the Uniform Licensing Act.
[16.6.11.11 NMAC - N, 09-30-04]

16.6.11.12 NOTICE OF CONTEMPLATED ACTION: Prior to taking any action pursuant to the Uniform Licensing Act, the board shall serve upon the applicant or licensee a written notice stating that:

A. the board has grounds to take such action, and that the board shall take such action unless the licensee or applicant:

(1) mails a letter (certified mail return receipt requested) within twenty (20) days after service of the notice requesting a hearing; or

(2) provides the board, within thirty (30) days of the date of the notice, with a statement of compliance from HSD;

B. if the applicant or licensee disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant or licensee should contact the HSD child support enforcement division.
[16.6.11.12 NMAC - N, 09-30-04]

16.6.11.13 EVIDENCE AND PROOF: In any hearing pursuant to the Uniform Licensing Act, relevant evidence is limited to the following:

A. A statement of non-compliance is conclusive evidence that requires the board to take the appropriate action pursuant to the Parental Responsibility Act, unless:

B. The applicant or licensee provides the board with a subsequent statement of compliance which shall preclude the board from taking any action under the Uniform Licensing Act.

[16.6.11.13 NMAC - N, 09-30-04]

16.6.11.14 ORDER: When a disciplinary action is taken pursuant to the Uniform Licensing Act solely because the applicant or licensee is not in compliance with a judgment and order for support, the order shall state that the application or license shall be reinstated upon presentation of a subsequent statement of compliance. The board may also include any other conditions necessary to comply with board requirements for re-applications or reinstatement of lapsed licensees.

[16.6.11.14 NMAC - N, 09-30-04]

HISTORY OF 16.6.11 NMAC:
[Reserved]

NEW MEXICO WATER QUALITY CONTROL COMMISSION

This is an amendment to 20.6.2 NMAC, Sections 7 and 3103, effective 9-01-04. Unnecessary capitalization and punctuation were removed in accordance with the current NMAC requirements.

20.6.2.7 DEFINITIONS:

Terms defined in the Water Quality Act, but not defined in this part, will have the meaning given in the act. As used in this part:

A. "abandoned well" means a well whose use has been permanently discontinued or which is in a state of disrepair such that it cannot be rehabilitated for its intended purpose or other purposes including monitoring and observation;

B. "abate" or "abatement" means the investigation, containment, removal or other mitigation of **water pollution**;

C. "abatement plan" means a description of any operational, monitoring, contingency and closure requirements and conditions for the prevention, investigation and abatement of water pollution, and includes Stage 1, Stage 2, or Stage 1 and 2 of the abatement plan, as approved by the secretary;

D. "adjacent properties" means properties that are contiguous to the discharge site or property that would be contiguous to the discharge site but for being separated by a public or private right of way, including roads and highways.

E. "background" means, for purposes of ground-water abatement plans only and for no other purposes in this part or any other regulations including but not limited to surface-water standards, the amount of ground-water contaminants naturally occurring from undisturbed geologic sources or water contaminants which the responsible person establishes are occurring

from a source other than the responsible person's facility; this definition shall not prevent the secretary from requiring abatement of commingled plumes of pollution, shall not prevent responsible persons from seeking contribution or other legal or equitable relief from other persons, and shall not preclude the secretary from exercising enforcement authority under any applicable statute, regulation or common law;

F. "casing" means pipe or tubing of appropriate material, diameter and weight used to support the sides of a well hole and thus prevent the walls from caving, to prevent loss of drilling mud into porous ground, or to prevent fluid from entering or leaving the well other than to or from the injection zone;

G. "cementing" means the operation whereby a cementing slurry is pumped into a drilled hole and/or forced behind the casing;

H. "cesspool" means a "drywell" that receives untreated domestic liquid waste containing human excreta, and which sometimes has an open bottom and/or perforated sides. A large capacity cesspool means a cesspool that receives greater than 2,000 gallons per day of untreated domestic liquid waste;

I. "collapse" means the structural failure of overlying materials caused by removal of underlying materials;

J. "commission" means:
(1) the New Mexico water quality control commission or
(2) the department, when used in connection with any administrative and enforcement activity;

K. "confining zone" means a geological formation, group of formations, or part of a formation that is capable of limiting fluid movement from an injection zone;

L. "conventional mining" means the production of minerals from an open pit or underground excavation; underground excavations include mine shafts, workings and air vents, but does not include excavations primarily caused by in situ extraction activities;

M. "daily composite sample" means a sample collected over any twenty-four hour period at intervals not to exceed one hour and obtained by combining equal volumes of the effluent collected, or means a sample collected in accordance with federal permit conditions where a permit has been issued under the national pollutant discharge elimination system or for those facilities which include a waste stabilization pond in the treatment process where the retention time is greater than twenty (20) days, means a sample obtained by compositing equal volumes of at least two grab samples collected within a period of not more than twenty-four (24) hours;

N. "department", "agency", or "division" means the New Mexico environment department or a constituent agency designated by the commission;

O. "discharge permit modification" means a change in requirements of a discharge permit as requested by the discharger as a result of past, present or anticipated changes in the quality or quantity of effluent or the location of the discharge; or as required by the secretary;

P. "discharge plan" means a description of any operational, monitoring, contingency, and closure requirements and conditions for any discharge of effluent or leachate which may move directly or indirectly into ground water;

Q. "discharge permit" means a discharge plan approved by the department;

R. "discharge site" means the entire site where the discharge and associated activities will take place;

S. "disposal" means to abandon, deposit, inter or otherwise discard a fluid as a final action after its use has been achieved;

T. "domestic liquid waste" means human excreta and water-carried waste from typical residential plumbing fixtures and activities, including but not limited to waste from toilets, sinks, bath fixtures, clothes or dishwashing machines and floor drains;

U. "domestic liquid waste treatment unit" means a watertight unit designed, constructed and installed to stabilize only domestic liquid waste and to retain solids contained in such domestic liquid waste, including but not limited to aerobic treatment units and septic tanks;

V. "drywell" means a well, other than an improved sinkhole or subsurface fluid distribution system, completed above the water table so that its bottom and sides are typically dry except when receiving fluids;

W. "experimental technology" means a technology which has not been proven feasible under the conditions in which it is being tested;

X. "fluid" means material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state;

Y. "ground water" means interstitial water which occurs in saturated earth material and which is capable of entering a well in sufficient amounts to be utilized as a water supply;

Z. "hazard to public health" exists when water which is used or is reasonably expected to be used in the future as a human drinking water supply exceeds at the time and place of such use,

one or more of the numerical standards of Subsection A of 20.6.2.3103 NMAC, or the naturally occurring concentrations, whichever is higher, or if any toxic pollutant affecting human health is present in the water; in determining whether a discharge would cause a hazard to public health to exist, the secretary shall investigate and consider the purification and dilution reasonably expected to occur from the time and place of discharge to the time and place of withdrawal for use as human drinking water;

AA. "improved sinkhole" means a naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface;

BB. "injection" means the subsurface emplacement of fluids through a well;

CC. "injection zone" means a geological formation, group of formations, or part of a formation receiving fluids through a well;

DD. "motor vehicle waste disposal well" means a well which receives or has received fluids from vehicular repair or maintenance activities;

EE. "non-aqueous phase liquid" means an interstitial body of liquid oil, petroleum product, petrochemical, or organic solvent, including an emulsion containing such material;

FF. "operational area" means a geographic area defined in a project discharge permit where a group of wells or well fields in close proximity comprise a single class III well operation;

GG. "owner of record" means an owner of property according to the property records of the tax assessor in the county in which the discharge site is located;

HH. "packer" means a device lowered into a well to produce a fluid-tight seal within the casing;

II. "person" means an individual or any other entity including partnerships, corporation, associations, responsible business or association agents or officers, the state or a political subdivision of the state or any agency, department or instrumentality of the United States and any of its officers, agents or employees;

JJ. "petitioner" means a person seeking a variance from a regulation of the commission pursuant to Section 74-6-4(G) NMSA 1978;

KK. "plugging" means the act or process of stopping the flow of water, oil or gas into or out of a geological formation, group of formations or part of a formation through a borehole or well penetrating these geologic units;

LL. "project discharge permit" means a discharge permit which describes the operation of similar class III wells or well fields within one or more individual operational areas;

MM. "refuse" includes food, swill, carrion, slops and all substances from the preparation, cooking and consumption of food and from the handling, storage and sale of food products, the carcasses of animals, junked parts of automobiles and other machinery, paper, paper cartons, tree branches, yard trimmings, discarded furniture, cans, oil, ashes, bottles, and all unwholesome material;

NN. "responsible person" means a person who is required to submit an abatement plan or who submits an abatement plan pursuant to this part;

OO. "secretary" or "director" means the secretary of the New Mexico department of environment or the director of a constituent agency designated by the commission;

PP. "sewer system" means pipelines, conduits, pumping stations, force mains, or other structures, devices, appurtenances or facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal;

QQ. "sewerage system" means a system for disposing of wastes, either by surface or underground methods, and includes sewer systems, treatment works, disposal wells and other systems;

RR. "significant modification of Stage 2 of the abatement plan" means a change in the abatement technology used excluding design and operational parameters, or re-location of 25 percent or more of the compliance sampling stations, for any single medium, as designated pursuant to Paragraph (4) of Subsection E of 20.6.2.4106 NMAC;

SS. "subsurface fluid distribution system" means an assemblage of perforated pipes, drain tiles, or other mechanisms intended to distribute fluids below the surface of the ground;

TT. "subsurface water" means ground water and water in the vadose zone that may become ground water or surface water in the reasonably foreseeable future or may be utilized by vegetation;

UU. "TDS" means total dissolved solids as determined by the "calculation method" (sum of constituents), by the "residue on evaporation method at 180 degrees" of the *"U.S. geological survey techniques of water resource investigations,"* or by conductivity, as the secretary may determine;

VV. "toxic pollutant" means a water contaminant or combination of water contaminants in concentration(s) which, upon exposure, ingestion, or assimilation either directly from the environment

or indirectly by ingestion through food chains, will unreasonably threaten to injure human health, or the health of animals or plants which are commonly hatched, bred, cultivated or protected for use by man for food or economic benefit; as used in this definition injuries to health include death, histopathologic change, clinical symptoms of disease, behavioral abnormalities, genetic mutation, physiological malfunctions or physical deformations in such organisms or their offspring; in order to be considered a toxic pollutant a contaminant must be one or a combination of the potential toxic pollutants listed below and be at a concentration shown by scientific information currently available to the public to have potential for causing one or more of the effects listed above; any water contaminant or combination of the water contaminants in the list below creating a lifetime risk of more than one cancer per 100,000 exposed persons is a toxic pollutant:

- (1) acrolein
- (2) acrylonitrile
- (3) aldrin
- (4) benzene
- (5) benzidine
- (6) carbon tetrachloride
- (7) chlordane
- (8) chlorinated benzenes
 - (a) monochlorobenzene
 - (b) hexachlorobenzene
 - (c) pentachlorobenzene
- (9) 1,2,4,5-tetrachlorobenzene
- (10) chlorinated ethanes
 - (a) 1,2-dichloroethane
 - (b) hexachloroethane
 - (c) 1,1,2,2-tetrachloroethane
 - (d) 1,1,1-trichloroethane
 - (e) 1,1,2-trichloroethane
- (11) chlorinated phenols
 - (a) 2,4-dichlorophenol
 - (b) 2,4,5-trichlorophenol
 - (c) 2,4,6-trichlorophenol
- (12) chloroalkyl ethers
 - (a) bis (2-chloroethyl) ether
 - (b) bis (2-chloroisopropyl) ether
 - (c) bis (chloromethyl) ether
- (13) chloroform
- (14) DDT
- (15) dichlorobenzene
- (16) dichlorobenzidine
- (17) 1,1-dichloroethylene
- (18) dichloropropenes
- (19) dieldrin
- ~~(20)~~ 2,4 dinitrotoluene
- ~~(21)~~(20) diphenylhydrazine
- ~~(22)~~(21) endosulfan
- ~~(23)~~(22) endrin
- ~~(24)~~(23) ethylbenzene
- ~~(25)~~(24) halomethanes
 - (a) bromodichloromethane
 - (b) bromomethane
 - (c) chloromethane
 - (d) dichlorodifluoromethane
 - (e) dichloromethane

(f) tribromomethane
 (g) trichlorofluoromethane
 [(26)](25) heptachlor
 [(27)](26) hexachlorobutadiene
 [(28)](27) hexachlorocyclohexane (HCH)
 (a) alpha-HCH
 (b) beta-HCH
 (c) gamma-HCH
 (d) technical HCH
 [(29)](28) hexachlorocyclopentadiene
 (29) high explosives (HE)
 (a) 2,4-dinitrotoluene (2,4,DNT)
 (b) 2,6-dinitrotoluene (2,6,DNT)
 (c) octrahydro-1,3,5,7-tetranitro-1,3,5,7 tetrazocine (HMX)
 (d) hexahydro-1,3,5-trinitro-1,3,5-triazine (RDX)
 (e) 2,4,6-trinitrotoluene (TNT)
 (30) isophorone
 (31) methyl tertiary butyl ether
 [(31)](32) nitrobenzene
 [(32)](33) nitrophenols
 (a) 2,4-dinitro-o-cresol
 (b) dinitrophenols
 [(33)](34) nitrosamines
 (a) N-nitrosodiethylamine
 (b) N-nitrosodimethylamine
 (c) N-nitrosodibutylamine
 (d) N-nitrosodiphenylamine
 (e) N-nitrosopyrrolidine
 [(34)](35) pentachlorophenol
 (36) perchlorate
 [(35)](37) phenol
 [(36)](38) phthalate esters
 (a) dibutyl phthalate
 (b) di-2-ethylhexyl phthalate
 (c) diethyl phthalate
 (d) dimethyl phthalate
 [(37)](39) polychlorinated biphenyls (PCB's)
 [(38)](40) polynuclear aromatic hydrocarbons (PAH)
 (a) anthracene
 (b) 3,4-benzofluoranthene
 (c) benzo (k) fluoranthene
 (d) fluoranthene
 (e) fluorene
 (f) phenanthrene
 (g) pyrene
 [(39)](41) tetrachloroethylene
 [(40)](42) toluene
 [(41)](43) toxaphene
 [(42)](44) trichloroethylene
 [(43)](45) vinyl chloride
 [(44)](46) xylenes
 (a) o-xylene
 (b) m-xylene
 (c) p-xylene
 [(45)](47) 1,1-dichloroethane
 [(46)](48) ethylene dibromide
 (EDB)
 [(47)](49) cis-1,2-dichloroethylene
 [(48)](50) trans-1,2-dichloroethylene

[(49)](51) naphthalene
 [(50)](52) 1-methylnaphthalene
 [(51)](53) 2-methylnaphthalene
 [(52)](54) benzo-a-pyrene

WW. "vadose zone" means earth material below the land surface and above ground water, or in between bodies of ground water;

XX. "wastes" means sewage, industrial wastes, or any other liquid, gaseous or solid substance which will pollute any waters of the state;

YY. "water" means all water including water situated wholly or partly within or bordering upon the state, whether surface or subsurface, public or private, except private waters that do not combine with other surface or subsurface water;

ZZ. "water contaminant" means any substance that could alter if discharged or spilled the physical, chemical, biological or radiological qualities of water; "water contaminant" does not mean source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954;

AAA. "watercourse" means any river, creek, arroyo, canyon, draw, or wash, or any other channel having definite banks and beds with visible evidence of the occasional flow of water;

BBB. "water pollution" means introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or the use of property;

CCC. "well" means: (1) A bored, drilled, or driven shaft; (2) A dug hole whose depth is greater than the largest surface dimension; (3) An improved sinkhole; or (4) A subsurface fluid distribution system;

DDD. "well stimulation" means a process used to clean the well, enlarge channels, and increase pore space in the interval to be injected, thus making it possible for fluids to move more readily into the injection zone; well stimulation includes, but is not limited to, (1) surging, (2) jetting, (3) blasting, (4) acidizing, (5) hydraulic fracturing.

[1-4-68, 4-20-68, 11-27-70, 9-3-72, 4-11-74, 8-13-76, 2-18-77, 6-26-80, 7-2-81, 1-29-82, 9-20-82, 11-17-84, 3-3-86, 8-17-91, 8-19-93, 12-1-95; 20.6.2.7 NMAC - Rn, 20 NMAC 6.2.I.1101, 1-15-01; A, 1-15-01; A, 12-1-01; A, 9-15-02; A, 9-26-04]

20.6.2.3103 STANDARDS FOR GROUND WATER OF 10,000 mg/l TDS CONCENTRATION OR LESS: The following standards are the allowable pH range and the maximum allowable concentration in ground water for the contaminants

specified unless the existing condition exceeds the standard or unless otherwise provided in Subsection D of Section 20.6.2.3109 NMAC. Regardless of whether there is one contaminant or more than one contaminant present in ground water, when an existing pH or concentration of any water contaminant exceeds the standard specified in Subsection A, B, or C of this section, the existing pH or concentration shall be the allowable limit, provided that the discharge at such concentrations will not result in concentrations at any place of withdrawal for present or reasonably foreseeable future use in excess of the standards of this section. These standards shall apply to the dissolved portion of the contaminants specified with a definition of dissolved being that given in the publication "methods for chemical analysis of water and waste of the U.S. environmental protection agency," with the exception that standards for mercury, organic compounds and non-aqueous phase liquids shall apply to the total unfiltered concentrations of the contaminants.

A. Human Health Standards-Ground water shall meet the standards of Subsection A and B of this section unless otherwise provided. If more than one water contaminant affecting human health is present, the toxic pollutant criteria as set forth in the definition of toxic pollutant in Section 20.6.2.1101 NMAC for the combination of contaminants, or the Human Health Standard of Subsection A of Section 20.6.2.3103 NMAC for each contaminant shall apply, whichever is more stringent. Non-aqueous phase liquid shall not be present floating atop of or immersed within ground water, as can be reasonably measured.

[continued on page 900]

(1) Arsenic (As).....	0.1 mg/l
(2) Barium (Ba).....	1.0 mg/l
(3) Cadmium (Cd).....	0.01 mg/l
(4) Chromium (Cr).....	0.05 mg/l
(5) Cyanide (CN).....	0.2 mg/l
(6) Fluoride (F).....	1.6 mg/l
(7) Lead (Pb).....	0.05 mg/l
(8) Total Mercury (Hg).....	0.002 mg/l
(9) Nitrate (NO ₃ as N).....	10.0 mg/l
(10) Selenium (Se).....	0.05 mg/l
(11) Silver (Ag).....	0.05 mg/l
(12) Uranium (U).....	5.0 0.03 mg/l
(13) Radioactivity: Combined Radium-226 & Radium-228.....	30 pCi/l
(14) Benzene.....	0.01 mg/l
(15) Polychlorinated biphenyls (PCB's).....	0.001 mg/l
(16) Toluene.....	0.75 mg/l
(17) Carbon Tetrachloride.....	0.01 mg/l
(18) 1,2-dichloroethane (EDC).....	0.01 mg/l
(19) 1,1-dichloroethylene (1,1-DCE).....	0.005 mg/l
(20) 1,1,2,2-tetrachloroethylene (PCE).....	0.02 mg/l
(21) 1,1,2-trichloroethylene (TCE).....	0.1 mg/l
(22) ethylbenzene.....	0.75 mg/l
(23) total xylenes.....	0.62 mg/l
(24) methylene chloride.....	0.1 mg/l
(25) chloroform.....	0.1 mg/l
(26) 1,1-dichloroethane.....	0.025 mg/l
(27) ethylene dibromide (EDB).....	0.0001 mg/l
(28) 1,1,1-trichloroethane.....	0.06 mg/l
(29) 1,1,2-trichloroethane.....	0.01 mg/l
(30) 1,1,2,2-tetrachloroethane.....	0.01 mg/l
(31) vinyl chloride.....	0.001 mg/l
(32) PAHs: total naphthalene plus monomethylnaphthalenes.....	0.03 mg/l
(33) benzo-a-pyrene.....	0.0007 mg/l

B. Other Standards for Domestic Water Supply

(1) Chloride (Cl).....	250.0 mg/l
(2) Copper (Cu).....	1.0 mg/l
(3) Iron (Fe).....	1.0 mg/l
(4) Manganese (Mn).....	0.2 mg/l
(6) Phenols.....	0.005 mg/l
(7) Sulfate (SO ₄).....	600.0 mg/l
(8) Total Dissolved Solids (TDS).....	1000.0 mg/l
(9) Zinc (Zn).....	10.0 mg/l
(10) pH.....	between 6 and 9

C. Standards for Irrigation Use - Ground water shall meet the standards of Subsection A, B, and C of this section

unless otherwise provided.

(1) Aluminum (Al).....	5.0 mg/l
(2) Boron (B).....	0.75 mg/l
(3) Cobalt (Co).....	0.05 mg/l
(4) Molybdenum (Mo).....	1.0 mg/l
(5) Nickel (Ni).....	0.2 mg/l

[2-18-77, 1-29-82, 11-17-83, 3-3-86, 12-1-95; 20.6.2.3103 NMAC - Rn, 20 NMAC 6.2.III.3103, 1-15-01; A, 9-26-04]

[Note: For purposes of application of the amended numeric uranium standard to past and current water discharges (as of 9-26-04), the new standard will not become effective until June 1, 2007. For any new water discharges, the uranium standard is effective 9-26-04.]

End of Adopted Rules Section

Other Material Related to Administrative Law

**NEW MEXICO HOISTING
OPERATOR LICENSURE
EXAMINING COUNCIL**

HOISTING OPERATOR'S LICENSURE
EXAMINING COUNCIL MEETING

Notice is hereby given that the Hoisting Operator Licensure Examining Council will hold its regular meeting on Friday, October 15, 2004. The meeting will commence at 1:30 p.m. in the Construction Industries Division Conference Room, 5200 Oakland NE in Albuquerque, New Mexico. Council Members will consider agenda items and discuss other business that may require action. A copy of the Agenda will be available at the office of the Program Administrator prior to said meeting.

Anyone needing special accommodations is requested to notify the Program Administrator at 505-222-9809 - 5200 Oakland NE, Albuquerque, New Mexico of such needs at least ten days prior to the meeting.

**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

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