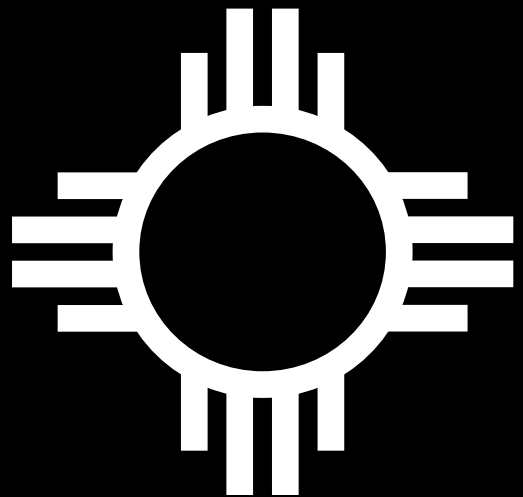


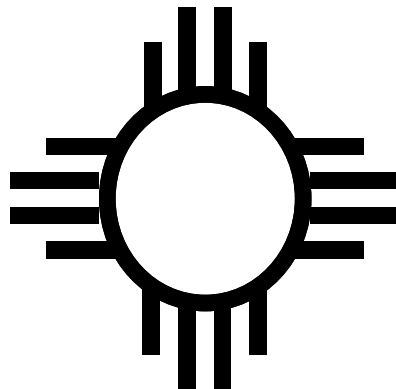
**NEW
MEXICO
REGISTER**



Volume XVIII
Issue Number 17
September 14, 2007

New Mexico Register

**Volume XVIII, Issue Number 17
September 14, 2007**



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

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Administrative Law Division
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New Mexico Register

Volume XVIII, Number 17

September 14, 2007

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Notices of Rulemaking and Proposed Rules

NEW MEXICO PUBLIC ACCOUNTANCY BOARD

PUBLIC ACCOUNTANCY BOARD NOTICE OF PROPOSED RULEMAKING

The New Mexico Public Accountancy Board ("Board") will convene a public hearing and regular Board meeting on Tuesday, October 23, 2007. The hearing and meeting will be held at 9:00 a.m. in the Conference Room of the Regulation and Licensing Department Building, 5200 Oakland NE, Albuquerque, New Mexico. Notice of the meeting is given in accordance with the Board's Open Meetings Policy. The hearing will be held for the purpose of affording members of the public the opportunity to offer comments on proposed amendments to existing Board rules.

The Board staff will recommend that the Board adopt amendments to the following rules:

NMAC NUMBER	RULE NAME
16.60.1 NMAC	General Provisions
16.60.3 NMAC	Licensure and Continuing Professional Education Requirements

Notice of the hearing and Board meeting has been published in the New Mexico Register and in the Albuquerque Journal. Interested parties may access the proposed amendments on the Board's website at www.rld.state.nm.us/b&c/accountancy. Copies may also be obtained by contacting the Board office at (505) 222-9853. Written comments regarding the proposed amendments should be directed to Ms. Marie Aragon, Licensing Manager, Public Accountancy Board, 5200 Oakland NE, Suite D, Albuquerque, New Mexico 87113 or faxed to (505) 222-9855. Comments must be received by 5:00 p.m. on Friday, October 19, 2007; however, the submission of written comments as soon as possible is encouraged.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting should contact the Board office at (505) 222-9852 by 5:00 p.m. on Tuesday, October 16, 2007.

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT JUVENILE JUSTICE DIVISION NOTICE OF PUBLIC HEARING

The Children, Youth and Families Department, Juvenile Justice Services, will hold a formal public hearing on October 17, 2007 from 1:00 p.m. to 3:00 p.m. in Room 565 on the 5th floor of the PERA building located at 1120 Paseo de Peralta, Santa Fe, New Mexico to receive public comments regarding a proposed amendment of regulation 8.14.4 NMAC, governing Facility Medical and Behavioral Health Services.

The proposed amendment to the regulation may be obtained by contacting Hiltona Mills at 505-827-7629. Interested persons may testify at the hearing or submit written comments no later than 3:30 p.m. on October 3, 2007. Written comments will be given the same consideration as oral testimony given at the hearing. Written comments should be addressed to: Hiltona

Mills, Juvenile Justice Services, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160, Fax Number: 505-827-8408.

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 Mrs. Mills at 505-827-7629. The Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT ENERGY CONSERVATION AND MANAGEMENT DIVISION NOTICE OF PUBLIC MEETING AND HEARING OF THE NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

The New Mexico Energy, Minerals and Natural Resources Department will hold a meeting and hearing at 1:00 P.M. Tuesday, October 2, 2007 in Porter Hall, Wendell Chino Building, 1220 So. Saint Francis Drive, Santa Fe, New Mexico.

During the meeting, the New Mexico Energy, Minerals and Natural Resources Department will conduct a public hearing on proposed rules for the administration of the Biodiesel Blending Facility Tax Credit.

Copies of the rules and the proposed changes are available from the New Mexico Energy, Minerals and Natural Resources Department, Energy Conservation and Management Division, 1220 South Saint Francis Drive, Santa Fe, NM 87505, on our website, <http://www.emnrd.state.nm.us/ecmd/>, or by contacting Colin Messer at 505-476-3314, colinj.messer@state.nm.us, or Fernando Martinez at 476-3312, fernando.r.martinez@state.nm.us.

All interested persons may participate in the hearing, and will be given an opportunity to submit relevant evidence, data, views, and arguments, orally or in writing.

A person who wishes to submit a written statement, in lieu of providing oral testimony at the hearing, shall submit the written statement prior to the hearing, or submit it at the hearing. No statements will be accepted after the conclusion of the hearing.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Colin Messer at least one week prior to the hearing or as soon as possible. Public documents can be provided in various accessible formats. Please contact Colin Messer at 476-3314, through Relay New Mexico at 1-800-659-1779 Voice or 1-800 659-8331 TTY, if a summary or other type of accessible format is needed.

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

ENERGY CONSERVATION AND
MANAGEMENT DIVISION

**NOTICE OF PUBLIC MEETING AND
HEARING
OF THE NEW MEXICO
ENERGY, MINERALS AND
NATURAL RESOURCES
DEPARTMENT**

The New Mexico Energy, Minerals and Natural Resources Department will hold a meeting and hearing at 9:00 A.M. Monday, October 2, 2007 in Porter Hall, Wendell Chino Building, 1220 S. St. Francis Drive, Santa Fe, New Mexico.

During the meeting, the New Mexico Energy, Minerals and Natural Resources Department will conduct a public hearing on proposed rules 3.3.29 NMAC and 3.4.16 NMAC for administration of the Sustainable Building Tax Credit for Residential Buildings and 3.3.30 NMAC and 3.4.17 NMAC for the administration of the Sustainable Building Tax Credit for Commercial Buildings.

Copies of the rules and the proposed changes are available from the New Mexico Energy, Minerals and Natural Resources Department, Energy Conservation and Management Division, 1220 South Saint Francis Drive, Santa Fe, NM 87505, on our website,

<http://www.emnrd.state.nm.us/ecmd/>, or by contacting Susie Marbury at 505-476-3254, susie.marbury@state.nm.us, or Louise Martinez at 476-3315, louise.n.martinez@state.nm.us.

All interested persons may participate in the hearing, and will be given an opportunity to submit relevant evidence, data, views, and arguments, orally or in writing.

A person who wishes to submit a written statement, in lieu of providing oral testimony at the hearing, shall submit the written statement prior to the hearing, or submit it at the hearing. No statements will be accepted after the conclusion of the hearing.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Susie Marbury at least one week prior to the hearing or as soon as possible. Public documents can be provided in various accessi-

ble formats. Please contact Susie Marbury at 476-3254, through Relay New Mexico at 1-800-659-1779 Voice or 1-800 659-8331 TTY, if a summary or other type of accessible format is needed.

**NEW MEXICO
ENVIRONMENTAL
IMPROVEMENT BOARD**

**NEW MEXICO ENVIRONMENTAL
IMPROVEMENT BOARD
NOTICE OF RULEMAKING
HEARING**

The New Mexico Environmental Improvement Board ("Board") will hold a public hearing on November 14, 2007, 9:00 a.m., and continuing on November 15, 2007, if necessary, at the New Mexico State Capitol Building, Room 321, 490 Old Santa Fe Trail, Santa Fe, NM 87501, for the purpose of hearing the matter in EIB No. 07-09 (R), the New Mexico Environment Department's ("NMED") proposal to adopt a new regulation, 20.2.88 NMAC (Emissions Standards for New Motor Vehicles). This regulation is part of a broader state effort to address emissions of greenhouse gases and is being proposed in accordance with Governor Richardson's Executive Order 2006-69.

The proposed regulation may be reviewed during regular business hours at the NMED Air Quality Bureau office, 2044 Galisteo, Santa Fe, New Mexico, on NMED's web site at www.nmenv.state.nm.us, or by contacting Andy Berger at (505) 955-8034 or andy.berger@state.nm.us.

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, the Air Quality Control Act, Section 74-2-6, 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.

Persons wishing to present technical testimony must file a written notice of intent including the following:

- (1) identify the person for whom the witness(es) will testify;
- (2) 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;

(3) include a copy of the direct testimony of each technical witness and state the anticipated duration of the testimony of that witness;

(4) list and describe, or attach, each exhibit anticipated to be offered by that person at the hearing; and

(5) attach the text of any recommended modifications to the proposed new and revised regulations.

Notices of intent should reference the docket number, EIB No. 07-09(R) and the date of the hearing, and must be received in the Board's Office at the following address no later than 5:00 pm on October 30, 2007:

Joyce Medina, Board Administrator
Office of the Environmental Improvement Board
Harold Runnels Building
1190 St. Francis Dr., Room N-2150 / 2153
Santa Fe, NM 87502
Phone: (505) 827-2425, Fax (505) 827-2836

Persons, including members of the public, wishing to present non-technical testimony may do so without prior notification. Any such person also may offer exhibits in support of his testimony. Alternatively, any such person may submit a written statement for the record prior to or at the hearing.

Persons having a disability and needing help in being a part of this hearing process should contact Judy Bentley by October 30, 2007 at the NMED, Personnel Services Bureau, P.O. Box 26110, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, telephone 505-827-9872. TDY users may access her number via the New Mexico Relay Network at 1-800-659-8331.

The Board may make a decision on the proposed regulation at the conclusion of the hearing or may convene another meeting for that purpose.

**NEW MEXICO HUMAN
SERVICES DEPARTMENT
INCOME SUPPORT DIVISION**

NOTICE OF PUBLIC HEARING

The Human Services Department will hold a public hearing to add a new part to the Food Stamp Program. The hearing will be held at 10:00 am on, October 15, 2007. The hearing will be held at the Income Support Division conference room, 2009 S. Pacheco St., Santa Fe, NM. The conference room is located in Room 120 on the lower level.

The Department is proposing changes to the

NMW Cash Assistance Program, Education Works Program, General Assistance Program, and Refugee Resettlement Program that will increase the monthly standard of need by 15%. The Department proposes amendments to subsection D at 8.102.500.8 NMAC and subsection D at 8.106.500.8 NMAC, and will also implement the mandated changes to the NMW Cash Assistance, General Assistance, Refugee Resettlement, and Education Works Programs. The Department is also proposing changes to subsection E at 8.102.500.8 NMAC and subsection F at 8.106.500.8 NMAC allowing an additional month of receipt of Special Clothing Allowance in January, subject to availability of funds.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact the Department toll free at 1-800-432-6217 or through the New Mexico Relay System toll free at 1-800-659-8331. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

Individuals wishing to testify or requesting a copy of the proposed regulation should contact the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, NM 87505-2348, or by calling toll free 1-800-432-6217.

Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 5:00 PM on the date of the hearing. Please send comments to:

Pamela S. Hyde, J.D., Secretary
Human Services Department
P.O. Box 2348 Pollon Plaza
Santa Fe, NM 87504-2348

You may send comments electronically to:
Vida.Tapia-Sanchez@state.nm.us

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

NOTICE

The New Mexico Human Services Department (HSD) will hold 2 separate public hearings on October 12, 2007, in the Human Services Department Law Library at Pollon Plaza, 2009 S. Pacheco Street, Santa Fe, New Mexico.

From 10:00 - 10:30 a.m. the subject of the

hearing will be Presumptive Eligibility.

The Human Services Department is proposing to shorten the time period for notification of eligibility for Presumptive Eligibility to the States' fiscal agent from 5 days to 24 hours. Notification to the State's fiscal agent of eligibility may be done by FAX.

In addition the Human Services Department is proposing to strengthen the language about submission of the recipient's application for Medicaid to the Income Support Division office. Submission of a signed application is mandatory.

From 10:30 - 11:00 a.m. the subject of the hearing will be Newborns Medicaid.

The New Mexico Human Services Department is proposing to add clarifying language authorized by the Tax Relief and Health Care Act of 2006 to Newborn Medicaid program policy.

This proposed change makes infants, born to mothers under the Emergency Medical Services for Undocumented Aliens, eligible for Newborn Medicaid for 12 months provided the child remains a member of the mother's household.

Interested persons may submit written comments no later than 5:00 p.m., October 12, 2007, 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, Program Oversight & Support Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348.

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
FINANCIAL INSTITUTIONS
DIVISION**

**NOTICE OF PROPOSED
RULEMAKING**

The Financial Institutions Division of the Regulation & Licensing Department (the "Division") hereby gives notice of proposed rulemaking. The Division is proposing to repeal the current regulations found at 12.7.18 NMAC (Terms and Conditions of Payday Loan Agreements) and replace them with new regulations pursuant new statutory provisions enacted in the 2007 regular session of the Legislature in House Bill 92, codified at Sections 14-7-7, 58-15-2, 58-15-3, 58-15-5, 58-15-9 through 58-15-12, 58-15-14.1, 58-15-17, 58-15.20, 58-15-23, 58-15-30, and 58-15-32 through 58-15-39 NMSA 1978. The proposed regulations are set forth below.

Interested parties may submit written comments to William J. Verant, 2550 Cerrillos Rd., Santa Fe, NM 87505. Comments will be accepted until 5:00 p.m. on Monday, October 15, 2007. In addition, the Division will hold informal public hearings on September 18 in Albuquerque, September 20 in Gallup and September 25 in Las Cruces. The specific place and time may be obtained by contacting the Division at (505) 476-4885.

**TITLE 12 TRADE,
COMMERCE AND BANKING
CHAPTER 18 LOAN COMPANIES
PART 7 TERMS AND CON-
DITIONS OF PAYDAY LOAN AGREEMENTS**

12.18.7.1 ISSUING AGENCY: Financial Institutions Division of the Regulation and Licensing Department.
[12.18.7.1 NMAC - Rp, 12.18.7.1 NMAC, 11/01/07]

12.18.7.2 SCOPE: Small loan licensees conducting payday loan business in the state of New Mexico.
[12.18.7.2 NMAC - Rp, 12.18.7.2 NMAC, 11/01/07]

12.18.7.3 STATUTORY AUTHORITY: Section 58-15-11 NMSA 1978.
[12.18.7.3 NMAC - Rp, 12.18.7.3 NMAC, 11/01/07]

12.18.7.4 DURATION: Permanent.
[12.18.7.4 NMAC - Rp, 12.18.7.4 NMAC,

11/01/07]

12.18.7.5 EFFECTIVE DATE:
November 1, 2007 unless a later date is cited at the end of a section.
[12.18.7.5 NMAC - Rp, 12.18.7.5 NMAC, 11/01/07]

12.18.7.6 OBJECTIVE: The objective of this part is to establish regulations governing the conduct of small loan licensees who provide payday loan products.
[12.18.7.6 NMAC - Rp, 12.18.7.6 NMAC, 11/01/07]

12.18.7.7 DEFINITIONS:
[RESERVED]
[12.18.7.7 NMAC - Rp, 12.18.7.7 NMAC, 11/01/07]

12.18.7.8 EXEMPTIONS: The exemption from the New Mexico Small Loan Act of 1955 provided by Section 58-15-3B shall not apply to a loan or line of credit in excess of two thousand five hundred dollars (\$2,500) if the borrower, or anyone acting for the benefit of the borrower, provides, as a condition of the loan, a debit authorization, draft authorization, wage assignment or a postdated check. If the borrower, or the person acting for the benefit of the borrower, chooses to provide a wage assignment, or a debit or draft authorization, such authorization may be revoked at any time upon the written request of the person providing the authorization. If the borrower, or the person acting for the benefit of the borrower, has provided one or more post dated checks, any such checks that have not been deposited shall be returned upon the written request of the person providing such checks.
[12.18.7.8 NMAC - N, 11/01/07]

12.18.7.9 HEARING PROCEDURES:

A. Venue for all hearings held pursuant to the New Mexico Small Loan Act of 1955 shall be in Santa Fe, New Mexico unless the director, upon motion by a party, finds that it would be appropriate to hold the hearing elsewhere in New Mexico.

B. Service of subpoenas, summary orders, findings, and final orders shall be made either:

(1) personally;
(2) by certified mail, return receipt requested, sent to the last known address of the person; or

(3) by such other means as are reasonably calculated to give actual notice.

C. Upon written request to another party, any party is entitled to:

(1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing;

and
(2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing.

D. Default orders: A respondent that has received actual or constructive notice of a hearing having been set and fails to appear, either in person or through counsel, at the time and place set for such hearing shall be deemed to have admitted the allegations set forth in the summary order or notice of intent that was entered in the matter before the hearing officer and shall be deemed to have consented to entry of a final order.
[12.18.7.9 NMAC - N, 11/01/07]

12.18.7.10 PROOF OF GROSS MONTHLY INCOME: Any licensee who makes a payday loan as defined in Section 58-15-2H shall retain a copy of the documentation used to determine the consumer's gross monthly income as required by Section 58-15-32A.
[12.18.7.10 NMAC - Rp, 12.18.7.8 NMAC, 11/01/07]

12.18.7.11 CALCULATION OF ADMINISTRATIVE FEES FOR PAYDAY LOANS: The administrative fee of fifteen dollars and fifty cents (\$15.50) per one hundred dollars (\$100) of principal permitted by Section 58-15-33B shall be pro rated for principal amounts not evenly divisible by 100. The following chart exemplifies that administrative fee permitted on loan from \$100 to \$2,500 in \$5.00 increments.

Principal Amount	Administrative Fee
100	15.5
105	16.27
110	17.05
115	17.82
120	18.6
125	19.37
130	20.15
135	20.92
140	21.7
145	22.47
150	23.25
155	24.02
160	24.8
165	25.57
170	26.35
175	27.12
180	27.9
185	28.67
190	29.45
195	30.22
200	31
205	31.77
210	32.55
215	33.32
220	34.1
225	34.87

230	35.65
235	36.42
240	37.2
245	37.97
250	38.75
255	39.52
260	40.3
265	41.07
270	41.85
275	42.62
280	43.4
285	44.17
290	44.95
295	45.72
300	46.5
305	47.27
310	48.05
315	48.82
320	49.6
325	50.37
330	51.15
335	51.92
340	52.7
345	53.47
350	54.25
355	55.02
360	55.8
365	56.57
370	57.35
375	58.12
380	58.9
385	59.67
390	60.45
395	61.22
400	62
405	62.77
410	63.55
415	64.32
420	65.1
425	65.87
430	66.65
435	67.42
440	68.2
445	68.97
450	69.75
455	70.52
460	71.3
465	72.07
470	72.85
475	73.62
480	74.4
485	75.17
490	75.95
495	76.72
500	77.5
505	78.27
510	79.05
515	79.82
520	80.6
525	81.37
530	82.15
535	82.92
540	83.7
545	84.47
550	85.25
555	86.02
560	86.8

565	87.57	900	139.5	1235	191.42
570	88.35	905	140.27	1240	192.2
575	89.12	910	141.05	1245	192.97
580	89.9	915	141.82	1250	193.75
585	90.67	920	142.6	1255	194.52
590	91.45	925	143.37	1260	195.3
595	92.22	930	144.15	1265	196.07
600	93	935	144.92	1270	196.85
605	93.77	940	145.7	1275	197.62
610	94.55	945	146.47	1280	198.4
615	95.32	950	147.25	1285	199.17
620	96.1	955	148.02	1290	199.95
625	96.87	960	148.8	1295	200.72
630	97.65	965	149.57	1300	201.5
635	98.42	970	150.35	1305	202.27
640	99.2	975	151.12	1310	203.05
645	99.97	980	151.9	1315	203.82
650	100.75	985	152.67	1320	204.6
655	101.52	990	153.45	1325	205.37
660	102.3	995	154.22	1330	206.15
665	103.07	1000	155	1335	206.92
670	103.85	1005	155.77	1340	207.7
675	104.62	1010	156.55	1345	208.47
680	105.4	1015	157.32	1350	209.25
685	106.17	1020	158.1	1355	210.02
690	106.95	1025	158.87	1360	210.8
695	107.72	1030	159.65	1365	211.57
700	108.5	1035	160.42	1370	212.35
705	109.27	1040	161.2	1375	213.12
710	110.05	1045	161.97	1380	213.9
715	110.82	1050	162.75	1385	214.67
720	111.6	1055	163.52	1390	215.45
725	112.37	1060	164.3	1395	216.22
730	113.15	1065	165.07	1400	217
735	113.92	1070	165.85	1405	217.77
740	114.7	1075	166.62	1410	218.55
745	115.47	1080	167.4	1415	219.32
750	116.25	1085	168.17	1420	220.1
755	117.02	1090	168.95	1425	220.87
760	117.8	1095	169.72	1430	221.65
765	118.57	1100	170.5	1435	222.42
770	119.35	1105	171.27	1440	223.2
775	120.12	1110	172.05	1445	223.97
780	120.9	1115	172.82	1450	224.75
785	121.67	1120	173.6	1455	225.52
790	122.45	1125	174.37	1460	226.3
795	123.22	1130	175.15	1465	227.07
800	124	1135	175.92	1470	227.85
805	124.77	1140	176.7	1475	228.62
810	125.55	1145	177.47	1480	229.4
815	126.32	1150	178.25	1485	230.17
820	127.1	1155	179.02	1490	230.95
825	127.87	1160	179.8	1495	231.72
830	128.65	1165	180.57	1500	232.5
835	129.42	1170	181.35	1505	233.27
840	130.2	1175	182.12	1510	234.05
845	130.97	1180	182.9	1515	234.82
850	131.75	1185	183.67	1520	235.6
855	132.52	1190	184.45	1525	236.37
860	133.3	1195	185.22	1530	237.15
865	134.07	1200	186	1535	237.92
870	134.85	1205	186.77	1540	238.7
875	135.62	1210	187.55	1545	239.47
880	136.4	1215	188.32	1550	240.25
885	137.17	1220	189.1	1555	241.02
890	137.95	1225	189.87	1560	241.8
895	138.72	1230	190.65	1565	242.57

1570	243.35	1905	295.27	2240	347.2
1575	244.12	1910	296.05	2245	347.97
1580	244.9	1915	296.82	2250	348.75
1585	245.67	1920	297.6	2255	349.52
1590	246.45	1925	298.37	2260	350.3
1595	247.22	1930	299.15	2265	351.07
1600	248	1935	299.92	2270	351.85
1605	248.77	1940	300.7	2275	352.62
1610	249.55	1945	301.47	2280	353.4
1615	250.32	1950	302.25	2285	354.17
1620	251.1	1955	303.02	2290	354.95
1625	251.87	1960	303.8	2295	355.72
1630	252.65	1965	304.57	2300	356.5
1635	253.42	1970	305.35	2305	357.27
1640	254.2	1975	306.12	2310	358.05
1645	254.97	1980	306.9	2315	358.82
1650	255.75	1985	307.67	2320	359.6
1655	256.52	1990	308.45	2325	360.37
1660	257.3	1995	309.22	2330	361.15
1665	258.07	2000	310	2335	361.92
1670	258.85	2005	310.77	2340	362.7
1675	259.62	2010	311.55	2345	363.47
1680	260.4	2015	312.32	2350	364.25
1685	261.17	2020	313.1	2355	365.02
1690	261.95	2025	313.87	2360	365.8
1695	262.72	2030	314.65	2365	366.57
1700	263.5	2035	315.42	2370	367.35
1705	264.27	2040	316.2	2375	368.12
1710	265.05	2045	316.97	2380	368.9
1715	265.82	2050	317.75	2385	369.67
1720	266.6	2055	318.52	2390	370.45
1725	267.37	2060	319.3	2395	371.22
1730	268.15	2065	320.07	2400	372
1735	268.92	2070	320.85	2405	372.77
1740	269.7	2075	321.62	2410	373.55
1745	270.47	2080	322.4	2415	374.32
1750	271.25	2085	323.17	2420	375.1
1755	272.02	2090	323.95	2425	375.87
1760	272.8	2095	324.72	2430	376.65
1765	273.57	2100	325.5	2435	377.42
1770	274.35	2105	326.27	2440	378.2
1775	275.12	2110	327.05	2445	378.97
1780	275.9	2115	327.82	2450	379.75
1785	276.67	2120	328.6	2455	380.52
1790	277.45	2125	329.37	2460	381.3
1795	278.22	2130	330.15	2465	382.07
1800	279	2135	330.92	2470	382.85
1805	279.77	2140	331.7	2475	383.62
1810	280.55	2145	332.47	2480	384.4
1815	281.32	2150	333.25	2485	385.17
1820	282.1	2155	334.02	2490	385.95
1825	282.87	2160	334.8	2495	386.72
1830	283.65	2165	335.57	2500	387.5
1835	284.42	2170	336.35		
1840	285.2	2175	337.12		
1845	285.97	2180	337.9		
1850	286.75	2185	338.67		
1855	287.52	2190	339.45		
1860	288.3	2195	340.22		
1865	289.07	2200	341		
1870	289.85	2205	341.77		
1875	290.62	2210	342.55		
1880	291.4	2215	343.32		
1885	292.17	2220	344.1		
1890	292.95	2225	344.87		
1895	293.72	2230	345.65		
1900	294.5	2235	346.42		

[12.18.7.11 NMAC - Rp, 12.18.7.8 NMAC, 11/01/07]

12.18.7.12 PAYDAY LOAN PRODUCTS - PROHIBITED ACTS:

A. The term "debt authorizations" as used in Section 58-15-34J includes debit authorizations and draft authorizations.

B. A licensee shall not deposit a post dated check before the date stated on the face of the check.

[12.18.7.12 NMAC - Rp, 12.18.7.10

NMAC, 11/01/07]

12.18.7.13 DISCLOSURE OF CONSUMER'S RIGHT TO PAYMENT PLAN:

Licensees who offer payday loan products shall provide the consumer with a notice of the consumer's right to enter into a payment plan at the time such payday loan is made as provided by Section 58-15-35. Such notice shall be on a form prescribed by the director. The licensee shall give a copy of the form to the consumer and retain a copy in the licensee's file. In addition to providing the written form to the consumer, the licensee shall read the notice orally to the consumer in either English or Spanish at the option of the consumer.

[12.18.7.13 NMAC - Rp, 12.18.7.12 NMAC, 11/01/07]

12.18.7.14 PAYDAY LOAN VERIFICATION:

Before entering into a payday loan agreement, a licensee shall:

A. conduct a search on the database of a certified consumer reporting service to determine the consumer's eligibility for a payday loan; the search shall be based on the consumer's date of birth and one of the following: social security number; alien registration number; or individual tax identification number (ITIN);

B. if the consumer is eligible for a payday loan, enter all of the required information necessary to have the payday loan registered on the database of the certified consumer reporting service;

C. if the certified consumer reporting service indicates that the proposed payday loan is eligible for funding, the licensee shall record a transaction identification number, generated by the certified consumer reporting service, on the loan document before entering into the payday loan.

[12.18.7.14 NMAC - Rp, 12.18.7.14 NMAC, 11/01/07]

12.18.7.15 MAINTENANCE OF PAYDAY LOAN INFORMATION:

A. Licensees who provide payday loan products shall immediately update all information that they have entered on the database of the certified consumer reporting service, if they become aware of any changes to information regarding the transaction or the identity of the borrower.

B. Licensees who provide payday loan products shall immediately update the information stored on the database of the certified consumer reporting service whenever:

(1) a payment on the payday loan has been made, including the date on which the payment check was deposited by the licensee or the date the ACH was submitted; if the payment completes the consumer's

payment obligations under the payday loan product, the licensee shall indicate that the transaction is closed;

(2) a consumer's check or ACH submission is returned to the lender as not collected and shall specify the return date; in addition, the licensee shall update the status of the payday loan product to change the status of the loan to "open" or "outstanding" if such status has changed.

C. If a consumer elects to rescind a payday loan agreement pursuant to Section 58-15-32C, the licensee shall immediately update the database of the certified consumer reporting service to indicate that the advance was rescinded, no fees were charged to the consumer and that the loan status is changed to "closed."

[12.18.7.15 NMAC - Rp, 12.18.7.14 NMAC, 11/01/07]

12.18.7.16 INFORMATION REGARDING CONSUMER INELIGIBILITY:

If an inquiry to the certified consumer reporting service results in a consumer being deemed ineligible for a proposed payday loan, the certified consumer reporting service shall provide notification to the licensee stating that the consumer is ineligible for such loan and further providing contact information regarding the consumer reporting service to enable the consumer to directly contact the consumer reporting service.

[12.18.7.16 NMAC - N, 11/01/07]

NEW MEXICO TAXATION AND REVENUE DEPARTMENT

NOTICE OF HEARING AND PROPOSED RULES

The New Mexico Taxation and Revenue Department proposes to amend the following regulation:

Cigarette Tax Act

3.9.1.7 NMAC Section 7-12-2 NMSA 1978

(Definitions: Cigarettes Defined)

The proposal was placed on file in the Office of the Secretary on September 1, 2007. Pursuant to Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final of the proposals, if filed, will be filed as required by law on or about November 15, 2007.

A public hearing will be held on the proposal on Wednesday, October 24, 2007, at 9:30 a.m. in the Secretary's Conference Room No. 3002/3137 of the Taxation and Revenue Department, Joseph M. Montoya Building, 1100 St. Francis Drive, Santa Fe, New

Mexico. Auxiliary aids and accessible copies of the proposals are available upon request; contact (505) 827-0928. Comments on the proposals are invited. Comments may be made in person at the hearing or in writing. Written comments on the proposals should be submitted to the Taxation and Revenue Department, Director of Tax Policy, Post Office Box 630, Santa Fe, New Mexico 87504-0630 on or before October 24, 2007.

3.9.1.7 [DEFINITIONS: **SMALL CIGARS DEFINED:** For purposes of the Cigarette Tax Act, small cigars are subject to the same requirements that apply to cigarettes. A "small cigar" is a roll of tobacco or any substitute for tobacco wrapped in paper or in anything that is not one hundred percent tobacco and weighs less than three pounds per thousand.] **CIGARETTES DEFINED:** For purposes of the Cigarette Tax Act, a "cigarette" is:

A. a roll of tobacco wrapped in paper or any substance not containing tobacco; or

B. a roll of tobacco that is wrapped in a substance containing tobacco other than one hundred percent natural leaf tobacco, that weighs less than three pounds per thousand sticks, and that has three or more of the following characteristics:

(1) it has a typical cigarette size and shape;

(2) it has a cellulose acetate or other cigarette-type integrated filter;

(3) it has a filler primarily consisting of flue-cured, burley, oriental, or unfermented tobaccos or has a filler material yielding the smoking characteristics of any of those tobaccos;

(4) it has a filler, binder and wrapper that together contain more than three percent by weight of total reducing sugars;

(5) it is sold in soft packs, hard packs, flip-top boxes, clam shells, or other cigarette-type packages;

(6) it is sold in a package that labels the product as a cigarette or a cigarette substitute, or in a package that does not clearly and conspicuously declare that the product is a cigar;

(7) it is available for sale in packages of five, ten, twenty or twenty-five sticks;

(8) it is available for sale in cartons of ten packages;

(9) it is marketed or advertised to consumers as a cigarette or cigarette substitute; or

C. a bidi or kretek.

[3.9.1.7 NMAC - N, 11/15/06; A, XXX]

**End of Notices and
Proposed Rules Section**

Adopted Rules

NEW MEXICO BOARD OF EXAMINERS FOR ARCHITECTS

This is an amendment to 16.30.3 NMAC, Section 9, effective September 22, 2007.

16.30.3.9 REGISTRATION THROUGH EDUCATION, TRAINING AND EXAMINATION:

A. Registration standards shall be in accordance with those of the national council of architectural boards (NCARB) as described under "standards of eligibility for council certification" in the latest editions of the NCARB handbook for interns and architects and the NCARB education standard.

B. Training requirements shall satisfy the NCARB standards of training. The applicant shall provide a ~~complete and bound~~ NCARB intern development program (IDP) record number showing ~~completion of the IDP training requirements as set forth in the latest editions of the NCARB Handbook for Interns and Architects, the NCARB Education Standard and the IDP Guidelines.~~ enrollment in IDP. The education standard shall be in accord with the NCARB guidelines as set forth in the latest edition of the NCARB handbook for interns and architects, the NCARB education standard and IDP guidelines. Copies of the latest editions of the NCARB handbook for interns and architects, the NCARB education standard and the IDP guidelines are available from the board office or NCARB.

C. Application for examination:

(1) Individuals applying for registration by examination shall request application forms from the board. The application, together with the application fee, shall be sent to the board office.

(2) Applications will be accepted at any time, for review and approval by the board. Approved examination candidates will schedule examinations with NCARB. The board may require applicants for examination to appear before it for a personal interview.

(3) To pass the architect registration examination (A.R.E.), an applicant must achieve a passing grade on each division. A passing grade for any division of the A.R.E. shall be valid for five (5) years, after which time the division must be retaken unless all divisions have been passed. NCARB may allow a reasonable extension of such period in circumstances where completion of all divisions is prevented by a medical condition, by active duty in mili-

tary service or by other like causes. The transition rules are as follows:

(a) for applicants who have passed all divisions of the A.R.E. by January 1, 2006, regardless of the time taken, such applicants will have passed the A.R.E.;

(b) for applicants who have passed one or more but not all divisions of the A.R.E. by January 1, 2006, such applicants will have five (5) years to pass all remaining divisions; a passing grade for any remaining division shall be valid for five (5) years, after which time the division must be retaken if the remaining divisions have not been passed; the five (5) year period shall commence after January 1, 2006, on the date when the first passed division is administered;

(c) for applicants who have passed no divisions of the A.R.E. by January 1, 2006, such applicants shall be governed by the above five (5) year requirement; the five (5) year period shall commence on the date when the first passed division is administered.

(4) In case an applicant does not qualify for examination, he or she shall be informed of the cause and apprised of his or her rights under the Uniform Licensing Act, Sections 61-1-1 through -31 NMSA 1978. Should the applicant subsequently meet the requirements for examination, he or she may resubmit the application.

D. Examination materials and results shall be confidential and shall not be considered public records. Nothing therein shall prevent the board from reporting an applicant's scores to the architectural registration boards in other jurisdictions or to the national council of registration boards (NCARB). The board shall give written notification to an applicant no later than thirty (30) days after the board receives the results from NCARB.

E. Special provisions for examinees with disabilities:

(1) Any examinee requiring special examination provisions to accommodate a qualifying temporary or permanent disability as defined by the Americans with Disabilities Act, including any modification of the Architect Registration Examination administration process, must submit a written request for such provisions at least ninety (90) days prior to the exam, including documentation justifying such request.

(2) The board shall have the right to solicit additional information within thirty (30) days of such request. The examinee shall provide such additional information within ten (10) days following receipt of the board's request.

F. Examination applica-

tion fee:

- | | |
|------------------|----------|
| (1) in-state | \$50.00 |
| (2) out-of-state | \$100.00 |

[16.30.3.9 NMAC - Rp 16 NMAC 30.3.9, 9/6/2001; A, 9/16/2004; A, 9/22/2007]

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT

FAMILY SERVICES DIVISION

8.16.3 NMAC, Requirements Governing The Child Care Facility Loan Act, filed October 3, 2005 is repealed and replaced by 8.16.3 NMAC, Requirements Governing The Child Care Facility Loan Act, effective September 14, 2007.

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT

FAMILY SERVICES DIVISION

TITLE 8 SOCIAL SERVICES CHAPTER 16 CHILD CARE LICENSING PART 3 REQUIREMENTS GOVERNING THE CHILD CARE FACILITY LOAN ACT

8.16.3.1 ISSUING AGENCY: Children, Youth and Families Department (CYFD).
[8.16.3.1 NMAC - Rp, 8.16.3.1 NMAC, 09/14/07]

8.16.3.2 SCOPE: The Child Care Facility Loan Act fund program regulations shall apply to the use of funds by eligible applicants available pursuant to the Child Care Facility Loan Act, Section 24-24-1, et seq., NMSA 1978.
[8.16.3.2 NMAC - Rp, 8.16.3.2 NMAC, 09/14/07]

8.16.3.3 STATUTORY AUTHORITY: The regulations set forth herein, have been promulgated by the secretary of the New Mexico children, youth and families department, by authority of the Children, Youth and Families Department Act, Section 9-2A-7 NMSA 1978, and the Child Care Facility Loan Act, Section 24-24-1 et seq NMSA 1978, in conjunction with the New Mexico finance authority.
[8.16.3.3 NMAC - Rp, 8.16.3.3 NMAC, 09/14/07]

8.16.3.4 DURATION: Permanent.
[8.16.3.4 NMAC - Rp, 8.16.3.4 NMAC, 09/14/07]

8.16.3.5 EFFECTIVE DATE: September 14, 2007 unless a later date is cited at the end of a section.
[8.16.3.5 NMAC - Rp, 8.16.3.5 NMAC, 09/14/07]

8.16.3.6 OBJECTIVE: The objective of 8.16.3 NMAC is to establish standards and procedures for administering loans under the Child Care Facility Loan Act. The Child Care Facility Loan Act directs the children, youth and families department in conjunction with the New Mexico finance authority to adopt rules to administer and implement the Child Care Facility Loan Act. The child care facility revolving loan fund provides long term, low interest funding for purposes of physical improvement, repair, safety and maintenance of child care facilities that are licensed by the department.
[8.16.3.6 NMAC - Rp, 8.16.3.6 NMAC, 09/14/07]

8.16.3.7 DEFINITIONS:

A. "Act" means the Child Care Facilities Loan Act (Sections 24-24-1 to 24-24-4 NMSA 1978).

B. "Agreement" means the document or documents signed by the authority and the eligible applicant that specifies the terms and conditions of a loan provided under the program.

C. "Applicant" means a provider which has filed a request for a loan with the department and the authority.

D. "Application" means a written document filed with the department and the authority by an applicant for the purpose of obtaining a loan. An application may include a form prescribed by the department and the authority, written responses to requests for information by the department and the authority, or other format as determined by the department and the authority.

E. "Application committee" means a six-member body, three members appointed by the executive director of the authority from the authority staff and three members appointed by the secretary of the department.

F. "Authority" means the New Mexico finance authority and any third party contractually designated by the board to act on behalf of the New Mexico finance authority.

G. "Authorized representative" means one or more individuals authorized by the governing body of an applicant to act on behalf of the applicant in connection with its application. An authorized representative may act on behalf of the applicant to the extent provided by law.

H. "Board" means the New Mexico finance authority board as created by the act NMSA 6, Article 21 1978.

I. "Department" means the New Mexico children, youth and families department.

J. "Facility" means a child care facility operated by a provider, including both family home-based and center-based programs, licensed by the department to provide care to infants, toddlers, and children.

K. "Fund" means the child care facility revolving loan fund held by the authority pursuant to the act.

L. "Loan" means a loan from the fund.

M. "Project" means health and safety improvements to a child care facility, including space expansion, in order to maintain an adequate and appropriate environment for a provider's clients.

N. "Provider" means a person licensed by the department to provide child care to infants, toddlers and children pursuant to 8.16.2 NMAC.
[8.16.3.7 NMAC - Rp, 8.16.3.7 NMAC, 09/14/07]

8.16.3.8 ELIGIBILITY GUIDELINES FOR LOANS TO CHILD CARE FACILITIES:

A. Loans to child care facilities must be used for health and safety improvements to a child care facility, including space expansion, in order to maintain an adequate and appropriate environment for a provider's clients.

B. An eligible applicant:

(1) has been licensed for three or more years;

(2) is not a head start grantee;

(3) has not received a loan in the last five years, unless the loan has been repaid;

(4) may be a private, for profit or non-profit provider;

(5) may be a family home that is a licensed facility;

(6) may be a provider moving to a new facility; and

(7) must comply with all applicable federal, state and local laws and regulations.

C. Priority for child care facility loans shall be given to eligible applicants that:

(1) have facilities serving a proportionately high number of state-subsidized clients and low-income families (by statute, this factor has priority over all others);

(2) intend to use the funds to increase the capacity of the facility;

(3) are non-profit organizations;

(4) intend to use the funds to serve children with special needs;

(5) intend to use the funds to reach levels 3, 4, and 5 of the department's stars program (please refer to 8.16.2 NMAC

for further details regarding the department's stars program);

(6) intend to use the funds to increase their capacity to provide care during non-traditional hours;

(7) the department may consider other factors in determining the programmatic priorities of the project, including the proposed loan structure (percentage of equity contribution), programmatic need, loan size requested, and the length of time as a provider.

D. Loans may not be used for:

(1) day-to-day operating costs such as salaries, rent and food purchases;

(2) working capital to cover shortfalls or delays in payments to families, government agencies, or other funding sources;

(3) training expenses;

(4) purchase of televisions, video-cassette recorders, DVD players, or related equipment;

(5) vehicle or transportation expenses; or

(6) repayment of loans or reimbursement of previously incurred expenses.

E. A provider that has received a loan from the fund in the immediately preceding five years shall not be given a loan.

[8.16.3.8 NMAC - Rp, 8.16.3.7 NMAC, 09/14/07]

8.16.3.9 LOAN APPLICATION PROCEDURES:

A. Contingent upon a sufficient balance in the fund, the department and the authority will accept applications and award loans on an on-going basis.

B. The department and the authority will provide forms for a loan application and applications must be submitted on that form. Application forms may be obtained from the department. The application shall be signed by the authorized representative and submitted to the department. Only applications that are complete will be considered for a loan. The application shall include the following:

(1) evidence of the eligibility of the applicant as a provider;

(2) a detailed description of the circumstances that demonstrate the need for the project, including:

(a) a description of how the project will benefit the health and safety of provider's clients; and

(b) number of state subsidized and low-income family clients and total number of clients;

(3) a detailed description of the project to be financed; including:

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

(b) the estimated cost of the proj-

ect;

(c) the target date for the initiation of the project and the estimated time to completion;

(d) the estimated useful life of the project and selected components, as detailed on the application form;

(e) proof of applicable licenses and certifications for the provider and the facility; and

(f) other data as requested by the department or the authority;

(4) if applicant is an entity, a copy of the applicant's formation and governance documents (e.g., articles of incorporation and bylaws) and if applicable a certificate of good standing from the public regulation commission;

(5) a letter certifying that the project was duly authorized and approved by the applicant's governing body;

(6) identification of the source funds to complete the project if the loan requested is not sufficient to cover the full cost of the project;

(7) identification of the source of funds for repayment of the loan and the source of funds to operate and maintain the project over its useful life;

(8) the applicant's financial reports for the most recent three years and/or federal and state tax returns and the applicant's projected cash flows for 3 or 5 years, depending on the amount of the requested loan;

(9) the applicant's business plan that details strategies for obtaining adequate funding and the handling of money is accompanied by a budget that balances income and expenses and demonstrates that the applicant is in compliance with all local, state and federal laws regarding the reporting of income and management of money, if the requested loan is for \$20,000 or more;

(10) written assurance that the project is allowed by the owner of the facility, if the owner is not the applicant;

(11) the requested loan payback period;

(12) information on the current and proposed services of the applicant to state-subsidized clients and low-income families; and

(13) additional information as requested by the department or board.

[8.16.3.9 NMAC - Rp, 8.16.3.8 NMAC, 09/14/07]

8.16.3.10 EVALUATION OF APPLICANT AND PROJECT:

A. Evaluations and determinations by department.

(1) The department will determine whether an application is complete.

(2) Once the application is complete, the department will evaluate the applicant and the proposed project for eligi-

bility and make a determination as to eligibility.

(3) If the department determines that an applicant is eligible, the department will determine the programmatic priority for each application.

(4) Upon completion of its evaluation of eligibility and determination of programmatic priority, the department will refer the applications that have been determined eligible and have been assigned a programmatic priority to the authority.

B. Financing approval by the authority.

(1) The authority will perform an independent analysis of the financial feasibility of each application for a loan. In evaluating an application the authority will consider:

(a) the ability of the eligible applicant to secure financing from other sources;

(b) the costs of the loan;

(c) the applicant's ability to repay the loan; and

(d) the applicant's ability and agreement to satisfy any other requirements for approval of the loan as the authority requires by policy or otherwise.

(2) The evaluation must include a finding that the useful life of the project will meet or exceed the final maturity of loans made or bonds purchased or issued by the board and must meet standards for reasonable costs set by the board.

(3) Restrictions on loans:

(a) An applicant shall not be given a loan if the applicant received a loan from the fund in the immediately preceding five years.

(b) An applicant shall not be given a loan if the applicant has not completed repayment of a previous loan from the fund.

(c) No more than twenty percent of the fund available for the funding cycle may be loaned to a single provider in a single loan.

(4) The authority will make a written recommendation to the application committee setting forth its recommendations for approval of specific applications.

C. Recommendations to board by application committee. Upon receipt of the authority's recommendation the application committee shall review and evaluate the loan applications and make a recommendation to the board. The application committee will review and evaluate the applications for eligibility, programmatic priority, feasibility and readiness to proceed. The application committee may confer with outside parties as necessary to obtain more information. The application committee will make a written recommendation to the board of the applications that are eligible, feasible and ready to proceed. The recommendation will include the esti-

mated costs of the projects and may include recommendations for loan covenants necessary to ensure programmatic integrity and adjustments to the department's programmatic prioritization of applications.

D. Approval by board. Upon receipt of the application committee's recommendation the board will act on the recommended applications and any associated loan documents or agreements no later than the next regular board meeting at which such item may be properly considered. The board may approve all or part of any application recommended or may disapprove the application and deny funding. Board approval may specify, at the board's discretion, terms and conditions of the loan as necessary to ensure repayment, including but not limited to maximum loan term and maximum annual payments. The authority will notify the applicant of the approval or disapproval of its application by telephone and will mail written notification by mail within seven (7) working days of board action.

E. Communications regarding applications. All communications regarding an applicant's original application shall be directed to the department.

F. Project feasibility. Although the department, the authority and the application committee will analyze each project to determine whether the project is feasible, a loan by the authority does not constitute a warranty or other guarantee as to the feasibility of the project and the authority shall not have any responsibility or liability with respect to any project. [8.16.3.10 NMAC - Rp, 8.16.3.9 NMAC, 09/14/07]

8.16.3.11 RECONSIDERATION OF DECISIONS BY DEPARTMENT AND BOARD:

A. Decision by department as to eligibility. An applicant may request reconsideration of a contrary decision by the department as to whether it is an eligible applicant under these regulations. Notice must be given to the department in writing within ten (10) working days of receipt of the department's decision as to eligibility. A request for reconsideration not timely or properly made will be barred. The department's secretary will promptly review each timely request for reconsideration. The decision of the department secretary as to eligibility is final.

B. Decision by board as to funding. An applicant may request reconsideration of a decision by the board denying funding to an applicant by notifying the executive director of the authority in writing within forty-five (45) days of the date on which notice of an adverse decision is given by the authority to an applicant. Notice of an adverse decision is deemed to be given

on the fifth business day following the date on which written notice of the adverse decision is mailed to the applicant by the authority by United States mail. A request for reconsideration is deemed to be given on the fifth business day following the date on which the request is mailed to the authority. A request for reconsideration not timely or properly made will be barred. The authority's executive director will promptly review each timely request for reconsideration and will recommend, at the next regular meeting of the board, action to be taken by the board. The board will review and take action on the request for reconsideration and will notify the applicant of the board's decision, in writing, within five (5) working days of the board's decision. The decision of the board is final.

[8.16.3.11 NMAC - Rp, 8.16.3.10 NMAC, 09/14/07]

8.16.3.12 LOAN TERMS, DOCUMENTS AND ENFORCEMENT:

A. The authority and the eligible applicant will enter into an agreement and any other applicable documentation to establish the terms and conditions of the loan from the authority. The agreement will include the terms of repayment and sanctions available to the authority in the event of a default.

B. The board will establish the interest rate for loans. The authority will set the rate at the lowest legally permissible interest rate. The interest rate shall not change during the term of the loan unless refinanced.

C. The agreement will contain provisions that require loan recipients to comply with all applicable federal, state and local laws and regulations.

D. The agreement will contain a provision that the eligible applicant agrees that any contract or subcontract executed for the completion of any project shall contain a provision that there shall be no discrimination against any employee or applicant for employment because of race, color, creed, sex, religion, sexual preference, ancestry or national origin. The authority shall not be responsible for monitoring the contracts or subcontracts for inclusion of that provision or compliance with it.

E. In order to receive a loan greater than \$20,000.00 the applicant shall require any contractor of a project to post a performance and payment bond in accordance with the requirements of Section 13-4-18 NMSA 1978 and its subsequent amendments and successor provisions.

F. The authority will monitor the terms and conditions of the agreement in conjunction with the department

and will enforce all terms and conditions thereof, including prompt notice and collection. The authority will take actions as necessary to ensure loan repayment and the integrity of the fund.

G. If any repayment of a loan is 30 days past due the authority and the department will report to each other and to the application committee as to the borrower's then current status as it relates to the loan, including licensure status and any reported or known violations of applicable laws or rules to which the facility is subject and any known change in financial status. If any repayment of a loan is 60 days past due the application committee shall develop a workout plan taking into account all actions, remedies and sanctions available to the department and the authority and will make recommendations to the department and the authority as needed to implement the workout plan. Any such workout plan and its implementation is in addition to and not instead of the courses of actions, remedies and sanctions available separately to the department or the authority under the act, these rules or the agreement or in any other manner available by law.

H. The department will monitor the performance of an eligible applicant under department licensure requirements and for programmatic requirements and will make the necessary site visits. The authority will not monitor the performance of an eligible applicant under department licensure requirements nor for programmatic requirements and will not make site visits. The authority will not be responsible for any act or omission of the applicant upon which any claim, by or on behalf of any person, firm, corporation or other legal entity, may be made, arising from the loan or any establishment or modification of the project or otherwise.

I. In the event the loan recipient defaults, the authority may enforce its rights by suit or mandamus and may utilize all other available remedies under state and federal law.

J. If an eligible applicant that has received a loan ceases to maintain its provider status or ceases to provide child care to infants, toddlers and children, the state shall have the following remedies available to it:

(1) the acceleration of the loan requiring the immediate repayment of all amounts due, including all accrued and unpaid interest;

(2) any other remedies available at law or in equity.

[8.16.3.12 NMAC - Rp, 8.16.3.11 NMAC, 09/14/07]

8.16.3.13 ADMINISTRATION OF THE CHILD CARE FACILITY

REVOLVING LOAN:

A. The fund shall be administered by the authority as a separate account, but may consist of such sub-accounts as the authority deems necessary to carry out the purposes of the fund.

B. Money from repayments of loans or payments on securities held by the authority for projects authorized specifically by law shall be deposited in the fund. The fund shall also consist of any other money appropriated, distributed or otherwise allocated to the fund for the purpose of financing projects authorized specifically by law.

C. The authority shall adopt a uniform accounting system for the fund and related accounts and sub-accounts established by the authority, based on generally accepted accounting principles.

[8.16.3.13 NMAC - Rp, 8.16.3.12 NMAC, 09/14/07]

HISTORY OF 8.16.3 NMAC:

History of Repealed Material:

8.16.3 NMAC, Requirements Governing the Child Care Facility Loan Act, filed 2/15/2005 - Repealed effective 10/17/2005.

8.16.3 NMAC, Requirements Governing the Child Care Facility Loan Act, filed 10/3/2005 - Repealed effective 9/14/2007.

NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT FORESTRY DIVISION

Explanatory Paragraph: This is an amendment to 19.20.4 NMAC, Section 7. The following definition was amended: commercial forest species. This definition was amended to include juniper and piñon species. No other changes were made to 19.20.4 NMAC. This amendment will be effective 9/14/07.

[Continued on page 841]

19.20.4.7

DEFINITIONS:

G. "Commercial forest species" means:

SCIENTIFIC NAME

- Abies concolor
- Abies lasiocarpa
- Abies lasiocarpa var. arizonica
- Cupressus arizonica
- Juniperus coahuilensis or erythrocarpa
- Juniperus deppeana
- Juniperus monosperma
- Juniperus osteosperma
- Juniperus pinchotii
- Juniperus scopulorum
- Picea engelmannii
- Picea pungens
- Pinus aristata
- Pinus arizonica
- Pinus cembroides
- Pinus discolor
- Pinus edulis
- Pinus engelmannii
- Pinus flexilis
- Pinus leiophylla
- Pinus monophylla
- Pinus ponderosa
- Pinus strobiformis
- Populus tremuloides
- Pseudotsuga menziesii
- Quercus spp.

COMMON NAME

- white fir
- subalpine fir
- corkbark fir
- Arizona cypress
- redberry juniper/rose-fruited juniper
- alligator juniper
- one seed juniper
- Utah juniper
- Pinchot juniper/redberry juniper
- Rocky Mountain juniper
- Engelmann spruce
- Colorado blue spruce
- bristlecone pine
- Arizona pine
- Mexican piñon
- border piñon
- piñon
- Apache pine
- limber pine
- Chihuahuan pine
- singleleaf piñon
- ponderosa pine
- southwestern white pine
- quaking aspen
- Douglas-fir
- oak species when in tree form or when harvested with other commercial forest species

[19.20.4.7 NMAC - N, 1/1/2002; A, 6/29/2007; A, 9/14/2007]

**NEW MEXICO
DEPARTMENT OF GAME
AND FISH**

This is an amendment to 19.31.4 NMAC, Sections 9, 10, 11, 14, 16, effective September 14, 2007

19.31.4.9 SEASON DATES:

A. General seasons: All trout and warm waters in New Mexico shall be open for the taking of game fish from April 1 through March 31 of the effective years, with the following exceptions:

(1) Special waters

(a) The following waters shall be open between 12 noon March 1 through 12 noon October 31: McAllister lake, upper and lower Charette lakes, Maxwell lakes 13 and 14, and Clayton lake.

(b) All waters in the Valle Vidal (Vermejo tract of the Carson national forest) shall be open from July 1 through December 31.

(c) Bonito lake shall be open from April 1 through November 30.

~~[(d) Santa Cruz lake shall be open from April 1 through October 31.]~~

~~[(e) (d) Burns canyon lake at Parkview]~~ Laguna del campo at Los Ojos trout hatchery shall be open from May 1 through October 31.

~~[(f) (e) Red River city ponds~~

shall be open from March 1 through November 15.

~~[(g) (f) Black canyon creek in Grant county upstream [from] from lower Black canyon campground shall be open from July 1 through September 30.~~

(2) Waters on national wildlife refuges shall be open for the taking of game fish in accordance with regulations of the U. S. fish and wildlife service; provided that season dates shall be from April 1 through March 31, on those national refuges for which the fish and wildlife service has not regulated season dates.

B. Special Kokanee salmon seasons, dates, and location

(1) The following waters shall be open October 1 through December 31 for the special kokanee salmon season: Abiquiu reservoir, Chama river from El Vado lake upstream to the west boundary of the Rio Chama wildlife and fishing area, Eagle Nest lake, El Vado lake, and Navajo lake.

(2) Heron lake and the Pine river shall be open for the special Kokanee salmon season from the second Friday in November through December 31.

(3) Heron lake, including the Willow creek tributary, and the Pine river shall be closed to Kokanee salmon fishing between October 1 and the second Thursday of November.

[19.31.4.9 NMAC - Rp 19.31.4.9 NMAC, 4-15-02; A, 10-31-02; A/E, 3-31-06; A, 5-1-07; A, 9-14-07]

19.31.4.10 HOURS OF FISHING:

A. Day and night fishing for all species of game fish shall be permitted in all waters during the open season, except Alto, Bonito, Butler street, and Eagle Nest lake where fish may be taken or fished for only between the hours of 5 a.m. and 10 p.m.; and U. S. fish and wildlife service waterfowl refuges where fish may be taken or fished for only during the hours posted at the refuge.

~~B. [Fishing at Burns canyon lake located at Parkview]~~ Laguna del campo located at Los Ojos trout hatchery, Red River hatchery pond at the Red River state fish hatchery, Glenwood pond at the Glenwood state fish hatchery, waters within the Valle Vidal portion of the Carson national forest, and Maddox lake shall be during **daylight hours only**.

C. Fishing at Ned Houk park lakes and Greene Acres shall be during the **hours posted** by the city of Clovis; fishing at Santa Cruz lake shall be between the **hours of 6 a.m. and 10 p.m.**

D. Fishing at Conservancy park/Tingley beach shall be only between sunrise and sunset.

[19.31.4.10 NMAC - Rp 19.31.4.10

NMAC, 4-15-02; A/E, 01-03-06; A, 9-14-07]

19.31.4.11 DAILY BAG, POSSESSION LIMITS AND REQUIREMENTS OR CONDITIONS:

A. Trout

(1) Waters with reduced bag limit: No person shall fish waters regulated for reduced limits while having in excess of that limit in possession.

(2) Brown, rainbow, cutthroat, lake, Brook trout and Kokanee salmon:

(a) The daily bag limit shall be 5 trout and no more than 10 trout shall be in possession.

(b) The daily bag limit for cutthroat trout shall be 2 trout and no more than 2 cutthroat trout may in possession. Cutthroat trout are included in the bag and possession limits for trout explained in 19.31.4.11(A. 2.a) NMAC (above).

(c) The daily bag limit for lake trout shall be 2 trout and no more than 4 lake trout shall be in possession.

(3) Special Kokanee salmon season: During the special Kokanee salmon season, the daily bag limit shall be 12 Kokanee salmon in addition to the daily bag limit for trout, and no more than 24 Kokanee salmon may be possessed in addition to the possession limit for trout. It shall be unlawful to possess Kokanee salmon at Heron lake and Pine river during the closed Kokanee salmon season (October 1 through the second Thursday of November).

(4) Special trout waters - On certain waters, hereafter referred to as "Special Trout Waters", the following exceptions shall apply:

(a) On those sections of the following waters the daily bag limit shall be 2 trout and no more than 2 trout shall be in possession. Anglers must stop fishing in those waters when the daily bag limit is reached: In Rio Arriba county: all waters lying within or adjacent to the Little Chama valley ranch (Edward Sargent wildlife area) including the Rio Chamito, Sexton creek, and Rio Chama, excluding Nabor creek and Nabor lake; In Colfax county: the Shuree lakes on the Valle Vidal; In Taos county: a posted portion of the Rio Pueblo between the bridge at mile marker 55 on state hwy. 518 upstream approximately 1 mile to the Canon Tio Maes trailhead; In San Miguel county: an approximately 1-1/2 mile posted portion of the Pecos river beginning approximately 1/2 mile above the confluence of the Mora river (Mora-Pecos) upstream to approximately 1/4 mile above the bridge crossing at Cowles; In Rio Arriba county: a posted portion of the Chama river approximately 2.9 miles within the boundaries of the Rio Chama wildlife and fishing area; In Catron county: a posted portion of Gilita creek from the Gila wilderness boundary

downstream approximately 5 miles to its confluence with Snow creek; In Rio Arriba county: a posted portion of the Rio de los Pinos from USFS Boundary 24 at the junction of forest road 284 and 87A, 2.5 miles upstream to the private property boundary; In Taos county: a posted portion of Red River from the confluence of Goose creek 1 mile upstream. In Catron county: Iron creek in the Gila wilderness upstream of the constructed waterfall barrier located in T12SR17WSec16NE. Every person angling for fish on this portion of Iron creek must be in possession of a Gila trout permit, issued in their name by the department or its designee. A photocopy, duplicate copy or computer printout of this permit will suffice as evidence of receiving such permit.

(b) In San Juan county, in a posted portion of the San Juan river, from a point beginning approximately 1/4 mile downstream of Navajo dam and extending downstream 3.5 miles to the east side of section 16: the daily bag limit shall be 1 trout and no more than 1 trout shall be in possession except in the catch-and-release section. The angler must stop fishing in the section defined once the daily bag limit is reached.

(c) On those sections of the following waters every person must comply with any special requirements listed and no fish may be kept or held in possession while fishing in the posted portions of the following waters: In San Juan county: a posted portion of the San Juan river from Navajo dam downstream approximately 1/4 mile; In Sandoval county: a posted portion of the Rio Cebolla from the Seven Springs day use area upstream to its headwaters; In Sandoval county: a posted portion of the San Antonio River from the Baca location boundary downstream approximately 2.0 miles (T. 19 N., R. 03 E., S 16 and 20); In Sandoval county: a posted portion of the Rio Guadalupe from the Porter landing bridge downstream approximately 1.3 miles to Llano Loco Spring; In Taos county: a posted portion of the Rio Costilla from the Valle Vidal tract of the Carson national forest downstream for approximately 2.4 miles to the confluence of Latir creek; In Sierra county: the Rio las Animas within the Gila national forest, Black range ranger district; In Mora county: the Pecos river in the Pecos wilderness, above Pecos falls; In Rio Arriba county: Nabor creek and Nabor lake on the Edward Sargent wildlife area; In San Miguel and Santa Fe counties: Doctor creek from 1/4 mile above its confluence with Holy Ghost creek upstream to its headwaters; In Mora county: Rio Valdez in the Pecos wilderness from 1/4 mile below Smith cabin upstream to its headwaters; In San Miguel and Mora counties: Jack's creek from the water falls located 1/4 mile downstream of NM Highway 63 crossing

upstream to its headwaters; In Taos and Colfax counties: any stream on the Valle Vidal (Vermejo tract - Carson national forest); In Grant county: Black canyon creek in Grant county upstream from lower Black canyon campground. Every person angling for fish on this portion of Black canyon must be in possession of a Gila trout permit, issued in their name by the department or its designee. A photocopy, duplicate copy or computer printout of this permit will suffice as evidence of receiving such permit.

(d) In Colfax county: on a posted section of the Cimarron river from the lower end of Tolby campground downstream approximately 1.4 miles to the first bridge of N.M. 64 the daily bag limit shall be 1 fish and no more than one fish may be in possession.

(e) At Conservancy park/Tingley beach in Albuquerque: the southernmost pond shall be catch-and-release only.

(5) On the following waters, the daily bag limit shall be 3 trout and no more than 3 trout may be in possession, although there are no special restrictions regarding the use of legal gear.

(a) In Taos county: a posted portion of the Rio Grande beginning at the New Mexico/Colorado state line downstream to the Taos junction bridge.

(b) In Taos county: a posted portion of the Red River beginning approximately 1/2 mile downstream of the walking bridge at Red River state fish hatchery downstream to its confluence with the Rio Grande.

(c) In Taos county: the designated fishing pond at Red River state fish hatchery.

(d) In Rio Arriba county: on a posted portion of the Rio Chama from the base of Abiquiu dam downstream approximately 7 miles to the river crossing bridge on U.S. 84 at Abiquiu.

(e) In Sierra county: the Rio Grande from Elephant Butte dam downstream to and including Caballo lake.

(f) In Lincoln county: The Rio Ruidoso from the boundary between the Mescalero Apache reservation and the city of Ruidoso downstream to Fridenbloom drive.

(g) In Rio Arriba county: ~~Durns canyon lake at Parkview~~ Laguna del campo at Los Ojos trout hatchery.

(h) In Taos county: the Red River city ponds.

(6) Gila trout: It shall be unlawful for any person to possess Gila trout (*Oncorhynchus gilae*).

B. Warm-water fishes: The daily bag limit for game fish other than trout shall be as listed below and the possession limit shall be twice the daily bag limit.

(1) striped bass 3 fish;

(2) largemouth, smallmouth, and spotted bass 5 fish;

(3) walleye 5 fish;

(4) crappie 20 fish;

(5) white bass and white bass x striped bass hybrid 25 fish;

(6) northern pike 10 fish;

(7) catfish (all species, except bullheads) 15 fish;

(8) yellow perch 30 fish;

(9) all other warm-water game species 20 fish.

C. The following exception shall apply:

(1) At Conservancy park/Tingley beach in Albuquerque; lake Van (Chaves county); Oasis state park; Greene Acres lake (Curry county); Burn lake (Dona Ana county); Escondida lake (Socorro county); McGaffey lake (McKinley county); Bataan lake (Eddy county); Chaparral lake (Lea county); Bosque Redondo (De Baca county); Carrizozo lake (Lincoln county); Green Meadow lake; Eunice lake; Estancia Park lake (Torrance county); Corona lake (Lincoln county); Grants city pond (Cibola county); and Jal lake (Lea county): the daily bag limit for channel catfish will be 2 fish and the possession limit shall be twice the daily bag limit.

(2) In San Juan county, in the San Juan and Animas rivers, not including Navajo lake, there is no daily bag limit or possession limit for channel catfish and striped bass.

(3) Statewide, all tiger muskie (*Esox lucius x E. masquinongy*) caught must immediately be released.

(4) In Eddy county, the Pecos river beginning at the north boundary of Brantley wildlife management area to Brantley reservoir dam including Brantley reservoir, all fish caught must immediately be released, except during official fishing tournaments during which fish may be held in a live well until they are weighed and measured, on site, and then immediately released back into the lake.

[19.31.4.11 NMAC - Rp 19.31.4.11 NMAC, 4-15-02; A, 10-31-02; A, 6-25-03; A, 8-13-04; A, 5-13-05; A, 9-15-05; A/E, 01-03-06; A, 1-31-06; A/E, 3-31-06; A/E, 5-31-06; A, 5-1-07; A, 9-14-07]

19.31.4.14 WATERS WITH AGE OR HANDICAPPED USE RESTRICTIONS:

A. Only persons **under 12 years of age** may fish in the following waters: Shuree kids' ponds on Valle Vidal (Vermejo tract-Carson national forest); valley improvement association ponds at Belen, Young pond in Las Cruces, Harris pond in Las Vegas, Spring river park in Roswell, ~~Grants city pond,~~ and the Brood pond at Seven Springs state fish hatchery.

B. Only persons **under 12**

years of age, those 65 years and over, and handicapped persons may fish in the designated Red River hatchery pond located at the Red River state fish hatchery, Blue Hole park pond (formerly Santa Rosa seniors pond), Estancia park lake at Estancia, Grants city pond in Grants and in ponds located in Harry McAdams park.

C. Only handicapped persons and those under 12 years of age may fish in the posted small pond at Cowles.

D. Olympic pond: Only persons under 12 years of age and those 65 years and over may fish in Olympic pond located at Angel Fire.

E. ~~[Burns canyon lake]~~ Laguna del campo: Only persons 14 years of age and under, those 65 years and over, handicap persons, or up to two parents/guardians in direct supervision of a child or children 14 years of age and under who are fishing, may fish in ~~[Burns canyon lake]~~ Laguna del campo located near ~~[Parkview]~~ Los Ojos trout hatchery.

F. Conservancy park/Tingley beach kids' pond: Only persons 12 years of age and under may fish in Conservancy park/Tingley beach kids' pond in Albuquerque.

G. Red River city east kids' pond: Only handicapped persons and those 12 years of age and under may fish in Red River city east kids' pond.

[19.31.4.14 NMAC - Rp 19.31.4.14 NMAC, 4-15-02; A, 10-31-02; A, 8-13-04; A, 5-13-05; A/E, 01-03-06; A/E, 3-31-06; A, 9-14-07]

19.31.4.16 CLOSED WATERS:

A. Waters closed to fishing

(1) In Catron county: Big Dry creek from Golden link cabin upstream through its headwaters.

(2) In Catron county: Little creek from the "barrier" upstream through all tributaries.

(3) In Catron county: Spruce creek.

(4) In Catron and Sierra counties: Main Diamond creek above the point of confluence with east fork of Diamond creek and the south Diamond creek drainage.

(5) In Colfax county: a posted area lying within 300 feet of Eagle Nest dam, which is closed to entry.

(6) In Colfax county: a posted area of Stubblefield and Laguna Madre lakes lying within 150 feet of the outlet structures.

(7) In Grant county: east fork of Mogollon creek upstream of waterfalls near FS Trail No. 153, including Trail canyon, south fork Mogollon, and Woodrow canyon creeks.

(8) In Grant county: McKnight

creek.

(9) In Grant county: Sheep corral creek.

(10) In Lincoln county: Pinelodge creek and posted areas of Alto reservoir and Bonito lake near the outlets.

(11) In Catron county: White creek from waterfall near White creek cabin upstream to headwaters.

(12) In Catron county: West fork of the Gila river and all tributaries above waterfalls between FS Trail No. 151 crossing of the West fork of the Gila river near White creek cabin and FS Trail No. 151 crossing of the West fork of the Gila river near Lilley canyon.

(13) In Sandoval county: Capulin creek on Bandelier national park and the Dome wilderness.

B. Taking fish from hatchery waters: No person shall take or attempt to take fish from the waters of any fish hatchery or rearing ponds owned and operated by state or federal agencies. During open season, however, angling for trout shall be permitted in the Glenwood pond at the Glenwood state fish hatchery, Red River hatchery pond at the Red River state fish hatchery, Brood pond at Seven Springs hatchery, and ~~[Burns canyon lake at Parkview]~~ Laguna del campo at Los Ojos state fish hatchery. Additionally, the director may expressly authorize other limited fishing at the state's fish hatcheries based on management needs.

C. Taking fish from or through the ice: Fish may be taken from or through the ice except on the following waters: Santa Cruz lake, Monastery lake, and Springer lake.

[19.31.4.16 NMAC - Rp 19.31.4.16 NMAC, 4-15-02; A, 6-25-03; A/E, 3-31-06; A/E, 7-18-06; A, 5-1-07; A, 5-15-07; A, 9-14-07]

NEW MEXICO MEDICAL BOARD

This is an amendment to 16.10.2 NMAC, Section 17, Effective September 27, 2007.

16.10.2.17 NATIONWIDE CRIMINAL HISTORY SCREENING.

All applicants for initial licensure in any category in New Mexico are subject to a state and national criminal history screening at their expense. All applicants must submit two (2) full sets of fingerprints, completed fingerprint certificate form, signed authorization for criminal background screening and fee at the time of application.

A. Applications for licensure will not be processed without submission of fingerprints, completed fingerprint certificate form, signed authorization for criminal background screening and fee.

B. Applications will be processed pending the completion of the nationwide criminal background screening and may be granted while the screening is still pending.

C. If the criminal background screening reveals a felony or a violation of the Medical Practice Act, the applicant/licensee will be notified to submit copies of legal documents and other related information to the board which will make the determination if the applicant is eligible for licensure or if disciplinary action will be taken.

~~**D.** Criminal background checks completed at the request of a medical board in another state within one year prior to the date of application will be accepted in lieu of a new criminal background screening.~~

[16.10.2.17 NMAC - N, 7/1/06; A, 9/27/07]

NEW MEXICO MEDICAL BOARD

This is an amendment to 16.10.3 NMAC, Section 10, Effective September 27, 2007.

16.10.3.10 Successful completion of examinations

A. An applicant must score a minimum of 75 on each component part of a board-approved examination as described in Subsection C of 16.10.3.8 NMAC. The minimum score of 75 may not be achieved for any component part of an examination by averaging that component's scores with scores of other component part(s).

B. A FLEX weighted average score of 75 or higher will be considered passing if obtained by testing prior to June 1984.

C. An applicant who has taken the Canadian medical licensing examination (LMCC) must achieve the minimum passing score established for the exam as documented by LMCC certification.

D. Except as set forth in below, an applicant may attempt six times to successfully complete any part of a board-approved examination, as long as the entire examination is successfully completed within seven years from the date the first step of the examination is passed.

E. An applicant taking a combination examination set forth above in 16.10.3.8 must successfully complete the combination examination by January 1 of the year 2000. If not, the applicant must successfully complete the USMLE (steps 1, 2, and 3). Either the combination examination or the USMLE must be successfully completed in a total of six attempts maximum for each part. The applicant must successfully complete a combination examina-

tion or the USMLE within seven years from the date any part of the combination examination was first passed. ~~[The board may grant exceptions to the seven year requirement when:~~

~~(1) the combination examination is successfully completed within ten years from the date the first step of the examination is passed, and;~~

~~(2) the applicant has:~~

~~(a) been continuously enrolled in postgraduate medical training;~~

~~(b) been continuously practicing in another country; or~~

~~(c) passed each part of the required examination within 2 attempts.]~~

F. The board may grant exceptions to the seven-year requirement for qualified applicants who have successfully completed the combination examination within ten years from the date the first step of the examination is passed. Qualified applicants must have had no adverse action taken against them by any other licensing jurisdiction, peer review body, health care entity, governmental agency, law enforcement agency or court, and no license restrictions or pending investigations in all jurisdictions where a medical license or resident or training license is or has been held. On a case by case basis the board may consider requests for exceptions if the applicant can demonstrate by substantial evidence that the applicant has:

(1) been continuously enrolled in postgraduate medical training;

(2) been continuously practicing medicine in another country;

(3) passed each part of the required examination within 2 attempts;

(4) current board certification in a specialty recognized by the American board of medical specialties;

(5) experienced a documented significant health condition which by its severity would necessarily cause a delay to the applicant's examination sequence;

(6) provided care for an immediate family member who has experienced a documented significant health condition which by its severity would necessarily cause a delay to the applicant's examination sequence; immediate family member means a spouse, domestic partner, child or parent of the applicant;

(7) been a victim of a federal or state declared major disaster or its equivalent;

(8) been serving in a branch of the US armed forces during a war or other armed conflict or unrest; or

(9) experienced other documented circumstances of extreme hardship or extraordinary situations that were not willful and were beyond the control of the applicant, when such circumstances would by their severity necessarily cause a delay to

the applicant's examination sequence.

~~**F.] G.** Applicants who are MD/PhD candidates must successfully complete the entire examination within ten years from the date the first step of the examination is passed.~~

~~**G.] H.** Applicants may repeat a previously passed step if they need to retake the exam in order to bring an entire sequence within the mandated time frame.~~

~~**H.] I.** The board may allow exceptions to the time limits established by this rule for qualified applicants with bona fides disabilities, as defined in the Americans with Disabilities Act, in a case by case basis.~~

[16.10.3.10 NMAC - Rp 16 NMAC 10.9.2, 4/18/02; A, 10/5/03; A, 10/7/05; A, 9/27/07]

NEW MEXICO MEDICAL BOARD

This is an amendment to 16.10.4 NMAC, Sections 1, 7, 8, 10, 11, 12, 13 and 15, Effective September 27, 2007.

16.10.4.1 ISSUING AGENCY:
[New Mexico Board of Medical Examiners] New Mexico Medical Board, hereafter called the board.

[16.10.4.1 NMAC - Rp 16 NMAC 10.4.1, 4/18/02; A, 9/27/07]

16.10.4.7 DEFINITIONS:

A. "AMA" means the American medical association.

B. "CME" means continuing medical education.

C. "ABMS" means American board of medical specialties.

[16.10.4.7 NMAC - N, 4/18/02; A, 9/27/07]

16.10.4.8 HOURS REQUIRED:

~~[Seventy five hours of continuing medical education are required during each triennial renewal cycle. CME may be earned at any time during the licensing period, July 1 through June 30 immediately preceding the triennial renewal date. After July 1, 2004, all CME must be obtained within the three-year renewal cycle or a deferral must be granted as defined in section 14 of this Part.]~~

A. Seventy-five hours of continuing medical education are required for all medical licenses during each triennial renewal cycle. CME may be earned at any time during the licensing period, July 1 through June 30 immediately preceding the triennial renewal date.

B. One hour of required CME must be earned by reviewing the New Mexico Medical Practice Act and these board rules. Physicians must certify that they have completed this review at the time they submit their triennial renewal applica-

tion.

C. Continuing medical education is not required for federal emergency, telemedicine, postgraduate training, public service, temporary teaching or youth camp or school licenses.
[16.10.4.8 NMAC - Rp 16 NMAC 10.4.8, 4/18/02; A, 4/3/05; A, 9/27/07]

16.10.4.10 ACCEPTABLE AS CME: The board will accept any of the following as fulfillment of CME requirements:

A. the physician's recognition award of the ~~[AMA;]~~ AMA PRA Category 1 Credit™,

B. ~~[The American Academy of Family Physicians (AAFP) Certificate of Continuing Education]~~ certificate of CME issued by any board or sub-board of the ABMS, or

C. certification or re-certification by an ABMS approved specialty board during the renewal period.
[16.10.4.10 NMAC - N, 4/18/02; A, 9/27/07]

16.10.4.11 ALLOWED COURSES AND PROVIDERS: The following courses and activities are acceptable for CME credit:

A. ~~[AMA CATEGORY 1;]~~ AMA PRA Category 1 Credit™ Clinical courses, lectures or grand rounds certified by an accredited sponsor of the AMA physician's recognition award, ~~[Category 1;]~~ AMA PRA Category 1 Credit™ are acceptable for credit whether taken in an on-site format or taken using the internet.

B. ~~[NM CATEGORY 1. Clinical courses certified by the New Mexico Medical Society Continuing Medical Education Committee as meeting the criteria for AMA category 1, but certified as New Mexico category 1 specific, are acceptable for credit.]~~ NEW MEXICO SPECIFIC CME. Activities certified by the New Mexico medical society (NMMS) continuing medical education committee are acceptable for credit whether taken in an on-site format or taken using the internet. Up to forty (40) credits in any three-year reporting period are allowed for participation in activities certified as New Mexico specific CME by the NMMS continuing education committee. New Mexico specific CME are issued by the NMMS for service, such as on the New Mexico medical review commission and on the impaired physician committee.

C. **POST GRADUATE EDUCATION.** ~~[Forty (40) credit hours per year]~~ A maximum of seventy-five (75) credit hours in any three-year reporting period are allowed for participation in a postgraduate education program, which has been approved by the board or by the AMA liai-

son committee on graduate medical education. This category includes internships, residencies and fellowships.

D. **A D V A N C E D DEGREES.** Forty (40) credit hours are allowed for each full academic year of study toward an advanced degree in a medical field or a medically related field as approved by the board.

~~[E. SELF-ASSESSMENT TESTS. Self assessment examinations certified for AMA Category 1 by an accredited sponsor of continuing medical education are acceptable if the examination is scored by an educational entity approved by the board.]~~

~~[F.]~~ **E. TEACHING.** One credit hour is allowed for each hour of teaching medical students or physicians in a United States medical school, an approved internship or residency or for teaching in other programs approved by the board for a maximum of forty (40) credit hours in any three-year reporting period.

~~[G.]~~ **E. PHYSICIAN PRECEPTORS.** A maximum of thirty (30) hours of credit during a three year reporting period is acceptable for licensed physicians who are acting as preceptors for students enrolled in an accredited medical or physician assistant school.

~~[H.]~~ **G. PAPERS AND PUBLICATIONS.** Ten (10) hours of credit are allowed for each original scientific medical paper or publication written by a licensee. For acceptance, papers must have been presented to a recognized national, international, regional or state society or organization whose membership is primarily physicians; or must have been published in a recognized medical or medically related scientific journal. Material used in a paper or publication may be given credit one time. A maximum of thirty (30) hours credit may be claimed during each three-year reporting period.

~~[I.]~~ **H. [CARDIO-PULMONARY RESUSCITATION, ADVANCED LIFE SUPPORT.]** Credit may be claimed during each three-year reporting period for successful completion of ACLS (advanced cardiac life support), PALS (pediatric advanced life support), ATLS (advanced trauma life support), ~~[and]~~ NALS (neonatal advanced life support), ~~and~~ ALSO (advanced life support in obstetrics) courses.

[16.10.4.11 NMAC - Rp 16 NMAC 10.4.8, 4/18/02; A, 4/3/05; A, 9/27/07]

16.10.4.12 [LIMITATIONS.] ~~During each renewal cycle credit will be given for a maximum of twenty five credit hours for CME that has been obtained using the Internet. Hours obtained online must be approved by the AMA or state equivalent.]~~ [Reserved]

[16.10.4.12 NMAC - N, 4/18/02; Repealed,

9/27/07]

16.10.4.13 VERIFICATION OF CME: ~~[Each physician renewing a license shall attest that they have obtained the required hours of CME. The Board will select renewal applications for audit to verify completion of acceptable CME. The Board may audit CME records at any time. CME records must be maintained for one year following the renewal cycle in which they are earned.]~~

A. Each physician renewing a license shall attest that they have obtained the required hours of CME. The board shall select renewal applications for audit to verify completion of acceptable CME. The board may audit CME records at any time. CME records must be maintained by the licensee for one year following the renewal cycle in which they are earned.

B. The board, or a designee of the board, may offer any physician who is unable to provide required documentation upon request a settlement in lieu of initiating disciplinary action. Settlements may include a letter of reprimand and a \$500 fine, reportable to the healthcare integrity and protection data bank.

C. Any physician who fails to respond to a CME audit shall be considered in violation of Section 61-6-15.D(23) of the Medical Practice Act, failure to provide the board with information requested by the board. Potential sanctions include fines, letters of reprimand, or license suspension or revocation.
[16.10.4.13 NMAC - N, 4/18/02; A, 9/27/07]

16.10.4.15 EMERGENCY DEFERRAL: A physician unable to fulfill the CME requirements prior to the date of license expiration may apply to the board for an emergency deferral of the requirements by submitting a request in writing no later than July 1 of the renewal year. A designee of the board may grant ~~[deferrals]~~ a deferral of up to 90 days.

A. In case of illness or other documented circumstances, the board may grant an additional extension of time in which the necessary credits may be earned. The request must be made in writing ~~[at the time of renewal]~~ prior to the end of the emergency deferral, and must be approved by the board.

B. A licensee practicing or residing outside the United States shall not be required to fulfill the CME requirements for the period of the absence. The board must be notified prior to license expiration that the licensee will be outside the US, including the period of the absence. Upon return to the US, the licensee shall complete the CME required for the years of practice

within the US during the renewal cycle, or apply for an emergency deferral.

[16.10.4.15 NMAC - N, 4/18/02; A, 9/27/07]

NEW MEXICO MEDICAL BOARD

This is an amendment to 16.10.7 NMAC, Sections 7, 9 and 18, Effective September 27, 2007.

16.10.7.7 DEFINITIONS:

A. "Inactive" means a license placed in a non-working status at the request of a physician not currently practicing in New Mexico.

B. "Retired" means a license that has been withdrawn from active or inactive status at the physician's request. A retired license cannot be used to practice medicine in New Mexico and a retired license may not subsequently be reinstated.

C. "Nationwide criminal history record" means information concerning a person's arrests, indictments, or other formal criminal charges and any dispositions arising there from, including convictions, dismissals, acquittals, sentencing and correctional supervision, collected by criminal justice agencies and stored in the computerized databases of the federal bureau of investigation, the national law enforcement telecommunications systems, the department of public safety or the repositories of criminal history information in other states.

D. "Nationwide criminal history screening" means a criminal history background investigation of a licensee applying for licensure renewal through the use of fingerprints reviewed by the department of public safety and submitted to the federal bureau of investigation, resulting in the generation of a nationwide criminal history record for that applicant.

[C-] E. "Statewide criminal history record" means information concerning a person's arrests, indictments, or other formal criminal charges and any dispositions arising there from, including convictions, dismissals, acquittals, sentencing and correctional supervision, collected by criminal justice agencies and stored in the computerized database of the department of public safety or the repositories of criminal history information in municipal jurisdictions.

[D-] F. "Statewide criminal history screening" means a criminal history background investigation of a licensee applying for licensure renewal through the use of ~~[social security number and date of birth]~~ fingerprints submitted to the department of public safety and resulting in the generation of a statewide criminal history

record for that licensee.

[E-] G. "Suspended for non-renewal" means a license that has not been renewed by September 30 of the expiration year. A license that has been suspended for non-renewal is not valid for practice in New Mexico.

[F-] H. "Voluntarily lapsed" means a license that is not renewed at the request of the physician.

[16.10.7.7 NMAC - N, 4/18/02; A, 4/3/05; A, 7/1/06; A, 1/10/07; A, 9/27/07]

16.10.7.9 R E N E W A L

PROCESS: To avoid additional penalty fees, a completed renewal application, accompanied by the required fees and documentation must be submitted through the online renewal system, post-marked or hand-delivered on or before July 1 of the renewal year.

A. All renewal applications will be subject to a one time nationwide and statewide criminal history screening. Renewal applications will be processed pending the completion of the statewide criminal history screening and may be granted while the screening still pending.

B. If the nationwide or statewide criminal background screening reveals a felony or a violation of the Medical Practice Act, the licensee will be notified to submit copies of legal documents and other related information to the board which will make the determination if the applicant is eligible for licensure or if disciplinary action will be taken.

[16.10.7.9 NMAC - N, 4/18/02; A, 4/3/05; A, 7/1/06; A, 9/27/07]

16.10.7.18 REINSTATEMENT

PROCESS: All applicants approved for reinstatement must pay the renewal fee indicated in 16.10.9.8 NMAC. Applicants with a license that has been placed on inactive status are not required to pay any additional fees. Applicants for reinstatement whose license has been suspended for non-renewal or voluntarily lapsed must pay the reinstatement fee indicated in 16.10.9.8 NMAC in addition to the renewal fee. Reinstatement licenses are issued for a period not less than 24 months or more than 36 months from the date of approval.

A. All reinstatement applications will be subject to a nationwide and statewide criminal history screening. Reinstatement applications shall be processed pending the completion of the statewide criminal history screening and may be granted while the screening still pending.

B. If the nationwide or statewide criminal background screening reveals a felony or a violation of the Medical Practice Act, the licensee will be

notified to submit copies of legal documents and other related information to the board which will make the determination if the applicant is eligible for licensure or if disciplinary action will be taken.

[16.10.7.18 NMAC - N, 4/18/02; A, 4/3/05; A, 7/1/06; A, 1/10/2007; A, 9/27/07]

NEW MEXICO MEDICAL BOARD

This is an amendment to 16.10.8 NMAC, Sections 7 and 8, Effective September 27, 2007.

16.10.8.7 DEFINITIONS:

Established physician-patient relationship means a relationship between a physician and a patient that is for the purpose of maintaining the patient's well-being. At a minimum, this relationship is established by an interactive encounter between patient and physician involving an appropriate history and physical and/or mental status examination sufficient to make a diagnosis and to provide, prescribe or recommend treatment, with the informed consent from the patient and availability of the physician or coverage for the patient for appropriate follow-up care. A medical record must be generated by the encounter.

[16.10.8.7 NMAC - Rp 16 NMAC 10.8.7, 7/15/01; A, 9/27/07]

16.10.8.8 UNPROFESSIONAL OR DISHONORABLE CONDUCT.

As defined in the Medical Practice Act, Section 61-6-15,D,(29), "unprofessional or dishonorable conduct" includes, but is not limited to, the following:

A. practicing medicine without an active license;

B. sexual misconduct, including sexual contact with patient surrogates, such as parents and legal guardians, that occurs concurrently with the physician-patient relationship;

C. violating a narcotic or drug law;

D. excessive prescribing or administering of drugs;

E. excessive treatment of patients;

F. impersonating an applicant in an examination or at a board interview;

G. making or signing false documents;

H. dishonesty;

I. deceptive or anonymous advertising;

J. improper use of a fictitious name;

K. violation of a term of a stipulation; or

L. ~~[prescribing drugs or~~

medical supplies to a patient when there is no established physician-patient relationship, which would include at a minimum an adequate history and physical examination and informed consent;

(1) ~~except for on-call physicians and physician assistants; and~~

(2) ~~except for the provision of treatment for partners of patients with sexually transmitted diseases when this treatment is conducted in accordance with the expedited partner therapy guidelines and protocol published by the New Mexico department of health.] prescribing, dispensing or administering drugs or medical supplies to a patient when there is no established physician-patient relationship, including prescribing over the internet or via other electronic means that is based solely on an on-line questionnaire; except for:~~

(1) on-call physicians and physician assistants;

(2) emergency room or urgent care physicians and physician assistants;

(3) prescriptions written to prepare a patient for examination(s);

(4) prescribing or dispensing for immunization programs; and

(5) the provision of treatment for partners of patients with sexually transmitted diseases when this treatment is conducted in accordance with the expedited partner therapy guidelines and protocol published by the New Mexico department of health. [16.10.8.8 NMAC - Rp 16 NMAC 10.8.8, 7/15/01; A, 1/10/07; A, 9/27/07]

NEW MEXICO MEDICAL BOARD

This is an amendment to 16.10.9 NMAC, Sections 8, 9 and 12, Effective September 27, 2007.

16.10.9.8 PHYSICIAN FEES:

A. Application fee of \$250 for applicants providing source documentation through FCVS or HSC.

B. Application fee of \$400 for applicants applying to the board and not using the federation credential verification service.

C. Triennial license renewal fee of \$300 plus a triennial fee to support the impaired physicians program of \$100.

D. Temporary license fee for a temporary camp or school license of \$25.

E. Temporary license fee for a temporary teaching/research license of \$100.

F. Processing fee of \$25 for placing a license on inactive status.

G. Late fee of \$100 for all

physicians who renew their license to active status, or provide required documentation after June 30 but no later than August 15 of the year of expiration.

H. Late fee of \$150 for physicians who renew their licenses to active status, or provide required documentation between August 16 and October 1 of the year of expiration.

I. Reinstatement fee of \$200, for reinstatement of a suspended license, which shall be in addition to other fees due and payable to the board.

J. Duplicate license fee of \$30.

K. Duplicate renewal certificate fee of \$15.

L. Postgraduate training license fee of \$10.

M. Public service license fee of \$50 annually.

~~[N. Biennial application fee of \$100 for a physician supervising a pharmacist clinician.]~~

~~[O. N. Telemedicine initial licensing and triennial renewal fee of \$300.~~

~~[P. O. Nationwide criminal history screening fee [of \$24 per screening or current department of public safety fee.] equal to the current federal bureau of investigation and department of public safety fee.~~

~~[Q. P. Statewide criminal history fee [of \$10 per screening, or] equal to the current department of public safety fee. [16.10.9.8 NMAC - Rp 16 NMAC 10.9.8.1, 7/15/01; A, 5/1/02; A, 7/14/02; A, 1/20/03; A, 4/3/05; A, 7/1/06; A, 1/10/07; A, 9/27/07]~~

16.10.9.9 PHYSICIAN ASSISTANT FEES:

A. Application fee of \$100.

B. Biennial renewal of licensure fee of \$100.

C. Change of primary supervising physician fee of \$25.

D. Late fee of \$25 for physician assistants who renew their license, or provide required documentation, after March 1 but by April 15 of the renewal year.

E. Late fee of \$50 for physician assistants who renew their license, or provide required documentation, between April 15 and May 30 of the renewal year.

F. Fee of \$25 for placing a physician assistants license on inactive status.

G. ~~[Renewal fee of \$75 for physician assistants renewing their license on, or prior to, August 31, 2004 for a license that is valid until March 1, 2006.~~

~~(1) A late fee of \$25 will be charged for licenses renewed after August 31, 2004 but no later than October 15, 2004.~~

~~(2) A late fee of \$50 will be charged for licenses renewed between October 15, 2004 and November 30, 2004.] Fee of \$100 for reinstatement of a physician assistants license.~~

H. Nationwide criminal history screening fee [of \$24 per screening] equal to the current federal bureau of investigation and department of public safety fee.

I. Statewide criminal history fee [of \$7 per screening] equal to the current department of public safety fee.

[16.10.9.8 NMAC - Rp 16 NMAC 10.9.8.2, 7/15/01; A, 8/6/04; A, 7/1/06; A, 9/27/07]

16.10.9.12 MISCELLANEOUS FEES:

A. Verification of exam scores fee of \$15.

B. Copying fee of [~~\$0.25~~] up to \$1.00 per page for public records [~~held in the board office~~].

C. License verification fee of [~~\$25~~] \$30 per license for a letter of good standing to confirm the verification.

D. License verification fee of \$5 per license with a minimum charge of \$15 for verification of a list of licenses when the list contains the license numbers and physicians' names. No letters of good standing shall be issued for verifications from a list of this kind and notations regarding each verification shall be made on the list provided.

~~[E. Copying fee of \$25 an hour to copy records stored in archives.]~~

~~[F. E. Fee of \$20 per copy for annual directory of physicians.~~

~~[G. E. Returned check fee of \$25.~~

~~[H. G. List of licensees on CD - \$100~~

~~[I. H. Physician mailing labels - \$250, physician assistant mailing labels - \$50.~~

~~L. Administrative reprocessing fee - no greater than current initial licensing fee.~~

J. Waiver. The board may waive or reduce miscellaneous fees but only for good cause shown and documented. The NMMS, NMAPA, and UNMHSC will each be given one free list or CD annually. [16.10.9.12 NMAC - Rn, 16.10.9.11 NMAC, 1/10/07; A, 9/27/07]

NEW MEXICO MEDICAL BOARD

This is an amendment to 16.10.15 NMAC, Sections 7, 9, 10, 11, 12 and 16, Effective September 27, 2007.

16.10.15.7 DEFINITIONS:

A. "AAPA" means American academy of physician assistants.

B. "Alternate supervising physician" means a physician who holds a current unrestricted [~~license~~] New Mexico medical license, is a cosignatory on the notification of supervision, agrees to act as the supervising physician in the supervising physician's absence and is approved by the board.

C. "Interim permit" means a document issued by the board that allows a physician assistant to practice pending completion of all licensing requirements.

D. "Effective supervision" means the exercise of physician oversight, control, and direction of services rendered by a physician assistant. Elements of effective supervision include:

(1) on-going availability of direct communication, either face-to-face or by electronic means;

(2) active, ongoing review of the physician assistants services, as appropriate, for quality assurance and professional support;

(3) delineation of a predetermined plan for emergency situations, including unplanned absence of the primary supervising physician; and

(4) identification and registration of alternate supervising physicians, as appropriate to the practice setting.

[D-] E. "Nationwide criminal history record," means information concerning a person's arrests, indictments, or other formal criminal charges and any dispositions arising there from, including convictions, dismissals, acquittals, sentencing and correctional supervision, collected by criminal justice agencies and stored in the computerized databases of the federal bureau of investigation, the national law enforcement telecommunications systems, the department of public safety or the repositories of criminal history information in other states.

[E-] E. "Nationwide criminal history screening," means a criminal history background investigation of an applicant for licensure by examination or endorsement, or a licensee applying for licensure renewal through the use of fingerprints reviewed by the department of public safety and submitted to the federal bureau of investigation, resulting in the generation of a nationwide criminal history record for that applicant.

[F-] G. "NCCPA" means national commission on certification of physician assistants.

[G-] "Oral communication" means ~~in person, telephonically, by two way radio, by email or other electronic means.~~

H. "Direct communication" means communication between the supervising physician and physician assis-

tant, in person, telephonically, by two-way radio, by email or other electronic means.

[H-] I. "Scope of practice" means duties and limitations of duties placed upon a physician assistant by their supervising physician and the board; includes the limitations implied by the field of practice of the supervising physician.

[I-] J. "Statewide criminal history record," means information concerning a person's arrests, indictments, or other formal criminal charges and any dispositions arising there from, including convictions, dismissals, acquittals, sentencing and correctional supervision, collected by criminal justice agencies and stored in the computerized database of the department of public safety or the repositories of criminal history information in municipal jurisdictions.

[J-] K. "Statewide criminal history screening," means a criminal history background investigation of a licensee applying for licensure renewal through the use of [~~social security number and date of birth~~] fingerprints submitted to the department of public safety and resulting in the generation of a statewide criminal history record for that licensee.

[K-] L. "Supervising physician" means a physician who holds a current unrestricted license, provides a notification of supervision, assumes legal responsibility for health care tasks performed by the physician assistant and is approved by the board.

[L-] M. "Emergency supervising physician" means a physician who is responsible for the operations of a team or group of health professionals, including physician assistants, who are responding to a major disaster.

[M-] N. "Major disaster" means a declaration of a major disaster by the federal emergency management agency (FEMA).

[16.10.15.7 NMAC - Rp 16 NMAC 10.15.7, 7/15/01; A, 10/7/05; A, 12/30/05; A, 7/1/06; A, 9/27/07]

16.10.15.9 LICENSURE PROCESS. Each applicant for a license as a physician assistant shall submit the required fees and following documentation:

A. A completed application for which the applicant has supplied all information and correspondence requested by the board on forms and in a manner acceptable to the board. Applications are valid for 1 year from the date of receipt.

B. Two letters of recommendation from physicians licensed to practice medicine in the United States or physician assistant program directors, or the director's designee, who have personal knowledge of the applicant's moral character and competence to practice. Letters of

recommendation must be sent directly to the board from the individual recommending the applicant.

C. Verification of licensure in all states where the applicant holds or has held a license to practice as a physician assistant, or other health care profession. Verification must be sent directly to the board from the other state board(s). Verification must include a raised seal; attest to current status, issue date, license number, and all other related information.

D. Verification of all work experience in the last five years, if applicable, provided directly to the board.

E. All applicants may be required to personally appear before the board or the board's designee for an interview and must present original documents, as the board requires. The initial license will be issued following completion of any required interview, and/or approval by a member or agent of the board.

F. The initial license is valid until March 1 of the year following NCCPA expiration.

G. License by endorsement from New Mexico board of osteopathic examiners. Applicants who are currently licensed in good standing by the New Mexico board of osteopathic examiners may be licensed by endorsement upon receipt of a verification of licensure directly from the New Mexico board of osteopathic examiners, a supervising physician form signed by the M.D. who will serve as supervising or alternate supervising physician, and a fee of \$25.00.

H. All applicants for initial licensure as a physician assistant are subject to a state and national criminal history screening at their expense. All applicants must submit two (2) full sets of fingerprints, completed fingerprint certificate form, signed authorization for criminal background screening and fee at the time of application.

(1) Applications for licensure will not be processed without submission of fingerprints, completed fingerprint certificate form, signed authorization for criminal background screening and fee.

(2) Applications will be processed pending the completion of the nationwide criminal background screening and may be granted while the screening is still pending.

(3) If the criminal background screening reveals a felony or a violation of the Medical Practice Act, the applicant/licensee will be notified to submit copies of legal documents and other related information to the board which will make the determination if the applicant is eligible for licensure or if disciplinary action will be taken.

~~[(4) Criminal background checks completed at the request of a medical board]~~

~~in another state within one year prior to the date of application will be accepted in lieu of a new criminal background screening.]~~
[16.10.15.9 NMAC - N, 7/15/01; A, 10/5/03; A, 8/6/04; A, 10/7/05; A, 7/1/06; A, 9/27/07]

16.10.15.10 ~~[INTERIM PERMITS]~~ **INTERIM AND TRAINING PERMITS**

A. Interim permits are issued to eligible applicants who have completed the application process and complied with all other licensure requirements except certification by the NCCPA.

~~[B.]~~ (1) Physician assistants not currently certified by NCCPA have a one-time grace period of one-year from the date of graduation from a program approved by ARC-PA or its successor agency to become certified.

~~[C.]~~ (2) Interim permits expire at the end of the one year grace period. Upon expiration of the interim permit the physician assistant may no longer practice, but may reapply upon NCCPA certification.

B. Training permits may be issued to eligible applicants, regardless of NCCPA certification status, who have completed the application process and who have not been actively and continuously in clinical practice for the two years prior to application and who are required by the board to undertake appropriate retraining prior to licensure or reinstatement. A training permit shall be valid for one year and may not be renewed.

[16.10.15.10 NMAC - N, 7/15/01; A, 10/5/03; A, 8/6/04; A, 7/1/06; A, 9/27/07]

16.10.15.11 **APPROVAL OF SUPERVISING PHYSICIANS.**

~~[A. Pursuant to Section 61-6-10 NMSA 1978, a physician may not supervise more than two (2) physician assistants, without prior written board approval. Section 61-6-10(C) NMSA 1978 provides certain exceptions to this limit which may be considered by the board. A committee composed of the board chair, board secretary and one other member or the medical director may grant approval for the supervision of more than two physician assistants.]~~

A. Pursuant to Section 61-6-10 NMSA 1978 a physician may supervise as many physician assistants as the physician can effectively supervise and communicate with in the circumstances of their particular practice setting.

B. All supervising physicians shall submit written notice of intent to supervise a physician assistant on forms prescribed by the board. These forms must be submitted and approved before the physician assistant begins work. Failure of the supervising physician to comply with the Medical Practice Act and the rules may

result in denial of approval for current or future physician assistant supervision.

C. Within thirty days after an employer terminates the employment of a physician assistant, the supervising physician and/or the physician assistant shall submit a written notice to the board providing the date of termination and reason for termination. The physician assistant shall not work as a physician assistant until the board approves another supervising physician.

D. A physician assistant who is employed by the United States government and who works on land or in facilities owned or operated by the United States government or a physician assistant who is a member of the reserve components of the United States and on official orders or performing official duties as outlined in the appropriate regulation of that branch may be licensed in New Mexico with proof that their supervising physician holds an active medical license in another state.

[16.10.15.11 NMAC - Rp 16 NMAC 10.15.11, 7/15/01; A, 10/7/05; A, 9/27/07]

16.10.15.12 **SUPERVISION OF PHYSICIAN ASSISTANT.** Supervision of a physician assistant must be rendered by a registered supervising physician or alternate supervising physician and not through a third party.

A. Responsibility of supervising physician.

(1) Provide direction to the physician assistant to specify what medical services should be provided under the circumstances of each case. This may be done through a written utilization plan or by ~~oral~~ other direct communications.

(2) Provide a means for immediate communication between the physician assistant and the supervising physician or alternate supervising physician.

(3) Comply with the quality assurance requirements specified in Subsection B of 16.10.15.12 NMAC.

(4) Designate an alternate supervising physician and notify the board in writing by letter, fax or email of any change from forms previously submitted.

B. Quality assurance requirements. A quality assurance program for review of medical services provided by the physician assistant must be in place.

C. Alternate supervising physician. A physician serving as alternate supervising physician must comply with all of the requirements of Subsection A of 16.10.15.12 NMAC.

D. Compensation of physician assistants.

(1) The salary of a physician assistant may be paid by an agency or person other than the supervising physician.

(2) Under no circumstances can a

physician assistant submit a separate bill to any patient of the physician.

[16.10.15.12 NMAC - Rp 16 NMAC 10.15.12, 7/15/01; A, 10/7/05; A, 9/27/07]

16.10.15.16 **LICENSE EXPIRATION, RENEWAL, CHANGE OF STATUS**

A. Physician assistant licenses expire on March 1 of the year following NCCPA expiration. To avoid additional penalty fees, a completed renewal application, accompanied by the required fees, proof of current NCCPA certification and other documentation must be submitted through the online renewal system, postmarked or hand-delivered on or before March 1 of the expiration year.

B. The board assumes no responsibility for renewal applications not received by the licensee for any reason. It is the licensee's responsibility to assure the board has accurate address information and to make a timely request for the renewal application if one has not been received prior to license expiration.

C. Renewal applications postmarked or hand-delivered after March 1 but prior to April 15 must be accompanied by the completed renewal application, proof of current NCCPA certification, the renewal fee and late fee indicated in 16.10.9.9 NMAC.

D. Renewal applications postmarked or hand-delivered on or after April 16 but prior to May 30 must be accompanied by the completed renewal application, proof of current NCCPA certification, the renewal fee and late fee indicated in 16.10.9.9 NMAC.

E. A physician assistant who has not passed the NCCPA six year recertification exam prior to the date of license expiration may apply to the board for an emergency deferral of the requirement. A designee of the board may grant deferrals of up to one year.

(1) A physician assistant who is granted an emergency deferral shall pay the renewal fee and additional late fee indicated in 16.10.9.9 NMAC.

(2) The license of a physician assistant who is granted an emergency deferral shall expire two years after the original renewal date, regardless of the duration of the emergency deferral.

F. The board shall summarily suspend on May 30 of the renewal year the license of any physician assistant who has failed within ninety days after the license renewal date to renew their license, to change the license status, to pay all required fees, to comply with NCCPA certification requirements, to provide required documentation, or to request an emergency deferral.

G. At the time of license

renewal a physician assistant may request a status change.

(1) A license that is placed on inactive status requires payment of a fee as defined in 16.10.9.9 NMAC. A license in inactive status is not valid for practice in New Mexico but may be reinstated in accordance with the provisions of 16.10.15.16 NMAC.

(2) On request, a license may be placed on retired status. There is no charge for this change in status. A retired license is not valid for practice in New Mexico and such license may not subsequently be reinstated. A physician assistant with a retired license who chooses to reinstate the license must re-apply as a new applicant.

(3) A physician assistant may inform the board that he does not wish to renew an active license to practice in New Mexico and will voluntarily allow the license to lapse. There is no charge for this change to inactive status. A voluntarily lapsed license is not valid for practice in New Mexico but may be reinstated in accordance with the provisions of 16.10.15.16 NMAC.

H. Re-instatement within two years. An inactive or suspended license may be placed on active status upon completion of a renewal application in which the applicant has supplied all required fees and proof of current NCCPA certification.

I. Re-instatement after two years. An inactive or suspended license may be placed on active status upon completion of a re-instatement application for which the applicant has supplied all required fees, information and correspondence requested by the board on forms and in a manner acceptable to the board. Applicants may be required to personally appear before the board or the board's designee for an interview.

J. All renewal and reinstatement applications will be subject to a one-time nationwide and statewide criminal history screening.

(1) Renewal and reinstatement applications will be processed pending the completion of the statewide criminal history screening and may be granted while the screening still pending.

(2) If the nationwide or statewide criminal background screening reveals a felony or a violation of the Medical Practice Act, the licensee will be notified to submit copies of legal documents and other related information to the board which will make the determination if the applicant is eligible for licensure or if disciplinary action will be taken.

[16.10.15.16 NMAC - N, 7/15/01; A 10/5/03; A, 8/6/04; A, 7/1/06; A, 9/27/07]

NEW MEXICO STATE PERSONNEL BOARD

This is an amendment to 1.7.9 NMAC, Section 8, effective 9-14-07, adopted by the State Personnel Board at a meeting on 8-23-07.

1.7.9.8 FORM:

~~A. [The performance and development of employees shall be documented on an appraisal form number SPB 232 approved by the director, incorporated by reference into 1.7.9 NMAC, and shall become a part of each employee's employment history.]~~ The performance and development of managers and employees shall be documented on a director approved appraisal form that includes:

(1) basic employee information (employee's name, working title, employee identification number, position number, anniversary date, and the name of their immediate supervisor);

(2) job assignments and goals;

(3) performance rating areas; and

(4) signature spaces for the employee, rater and reviewer to record initial, interim and final performance appraisal discussions.

B. A performance and development plan shall be initiated within 90 calendar days of appointment, reassignment, promotion, demotion, reduction, transfer and/or the employee's appraisal date, and shall become a part of each employee's employment history.

[1.7.9.8 NMAC - Rp, 1 NMAC 7.9.8, 07/07/01; A, 11/14/02; A, 3/31/04; A, 9-14-07]

NEW MEXICO COMMISSION OF PUBLIC RECORDS

Notice of Repeal

1.17.205 NMAC, Judicial Records Retention and Disposition Schedules for the Supreme Court Law Library, filed December 7, 2001, is hereby repealed with the new 1.17.205 NMAC, Judicial Records Retention and Disposition Schedules for the Supreme Court Law Library, effective October 1, 2007.

Notice of Repeal

1.18.333 NMAC, Executive Records Retention and Disposition Schedules for the Taxation and Revenue Department, filed December 5, 2003, is hereby repealed with the new 1.18.333 NMAC, Executive Records Retention and Disposition

Schedules for the Taxation and Revenue Department, effective October 1, 2007.

NEW MEXICO COMMISSION OF PUBLIC RECORDS

August 31, 2007

Leo R. Lucero,
Agency Analysis Bureau Chief
NM Commission of Public Records
1205 Camino Carlos Rey
Santa Fe, New Mexico 87507

Mr. Lucero:

You recently requested to publish a synopsis in lieu of publishing the full content of the following rules:

- * 1.17.205 NMAC J R R D S ,
Supreme Court Law Library, and
- * 1.18.333 NMAC E R R D S ,
Taxation and Revenue Department.

A review of the rules shows that their impact is limited to the individual agency to which it pertain, and it is "unduly cumbersome, expensive or otherwise inexpedient" to publish. Therefore, your request to publish a synopsis for it is approved.

Sincerely,

Sandra Jaramillo
State Records Administrator

SJ/lrl

NEW MEXICO COMMISSION OF PUBLIC RECORDS

SYNOPSIS

1.17.205 NMAC JRRDS, Supreme Court Law Library

1. Subject matter: 1.17.205 NMAC, Judicial Records Retention and Disposition Schedule for the Supreme Court Law Library. This rule is new and replaces 1.17.205 NMAC JRRDS, New Mexico Supreme Court Law Library an outdated version that was filed on 12/7/2001. This records retention and disposition schedule is a timetable for the management of specific records series for the Supreme Court Law Library. It describes each record series by record name, record function, record content, record filing system, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must

be maintained by the office as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State Records Administrator, the New Mexico Commission of Public Records and the Supreme Court Law Library.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the Supreme Court Law Library. Persons and entities normally subject to the rules and regulations of the Supreme Court Law Library may also be directly or indirectly affected by this rule.

3. Interests of persons affected: Interests include the records produced and maintained by the Supreme Court Law Library.

4. Geographical applicability: Geographical applicability is limited to areas within the State of New Mexico covered by the Supreme Court Law Library. Any person or entity outside the covered geographical area that conducts business with or through the Supreme Court Law Library may also be affected by this rule.

5. Commercially published materials incorporated: The New Mexico Statutes Annotated 1978 were used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of issuing agency: New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87507. Telephone number: (505) 476-7900.

7. Effective date of this rule: October 1, 2007.

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.17.205 NMAC JRRDS, Supreme Court Law Library.

Alvin Garcia Date
Assistant Attorney General

NEW MEXICO COMMISSION OF PUBLIC RECORDS

SYNOPSIS

1.18.333 NMAC ERRDS, Taxation and Revenue Department

1. Subject matter: 1.18.333 NMAC, Executive Records Retention and Disposition Schedule for the Taxation and Revenue Department. This rule is new and replaces 1.18.333 NMAC ERRDS, Taxation and Revenue Department an outdated re-numbered version that was filed on 12/5/2003. This records retention and disposition schedule is a timetable for the management of specific records series of the Taxation and Revenue Department. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State Records Administrator, the New Mexico Commission of Public Records and the Taxation and Revenue Department.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the Taxation and Revenue Department. Persons and entities normally subject to the rules and regulations of the Taxation and Revenue Department may also be directly or indirectly affected by this rule.

3. Interests of persons affected: Interests include the records produced and maintained by the Taxation and Revenue Department.

4. Geographical applicability: Geographical applicability is limited to areas within the State of New Mexico covered by the Taxation and Revenue Department. Any person or entity outside the covered geographical area that conducts business with or through the Taxation and Revenue Department may also be affected by this rule.

5. Commercially published materials incorporated: The New Mexico

Statutes Annotated 1978 were used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of issuing agency: New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505. Telephone number: (505) 476-7900.

7. Effective date of this rule: October 1, 2007.

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.333 NMAC ERRDS, Taxation and Revenue Department.

Alvin Garcia Date
Assistant Attorney General

NEW MEXICO COMMISSION OF PUBLIC RECORDS

This is an amendment to 1.18.630 NMAC, Section 338, effective 10/01/2007.

1.18.630.338 CHILD SUPPORT ENFORCEMENT SYSTEM (CSES):

A. Program: child support

B. Maintenance system: numerical by case and member number

C. Description: federally mandated system that maintains, monitors and tracks data on case load management for child support enforcement. Data may include legal case information, federal and state tax information, member demographics, employment and wage information, family violence case information, state case registry, electronic correspondence, etc.

D. Data retention: three consecutive federal fiscal years after case closed

E. Confidentiality: The information contained in child support enforcement system is subject to strict security and confidentiality rules, requirements, and potential penalties as outlined in 45 CFR 307.13 ("The state IV-D agency shall...have safeguards on the integrity, accuracy, completeness of access to, and use of data..."), as well as title 26 USC, section 6103 ("Returns and return information shall be confidential, and except as authorized...") and title 42 USC, Section 453 ("Information in the federal parent locator service...shall not be used or disclosed except as expressly provided in this section,

subject to Section 6103 of the internal revenue code...”)

F. Input: All documents used as input to the New Mexico child support enforcement system are filed in corresponding child support enforcement division case files located in field offices throughout the state pursuant to 1.18.630.347 NMAC. Multiple interfaces contain data files that subsequently provide input to CSES. Data uploaded from various external web applications to the CSES mainframe provide input to CSES.

G. Output: The child support enforcement system generates reports on a regularly scheduled basis and upon request or demand. Some of these reports include the federal OCSE 157 annual data report, the federal OCSE 34a quarterly report of collections, etc.

[1.18.630.338 NMAC - N, 10/01/07]

[Retention Note: Case must have remained closed for three consecutive years before related data may be deleted. For retention on output reports please see 1.15.2.117 NMAC]

End of Adopted Rules Section

Other Material Related to Administrative Law

**NEW MEXICO LIVESTOCK
BOARD****NOTICE OF REGULAR BOARD
MEETING**

NOTICE IS HEREBY GIVEN that a regular board meeting will be held on Thursday, September 20, 2007, at the New Mexico Livestock Board, 300 San Mateo Blvd. NE, Suite 1000, Albuquerque, New Mexico, at 9:00 a.m. The Board will discuss matters of general business.

Copies of the agenda can be obtained by contacting Myles C. Culbertson, Executive Director, New Mexico Livestock Board, 300 San Mateo Blvd. NE, Suite 1000, Albuquerque, NM 87108-1500, (505) 841-6161.

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

**End of Other Related
Material Section**

SUBMITTAL DEADLINES AND PUBLICATION DATES

2007

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

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rule making, proposed rules, adopted rules, emergency rules, and other similar material. The Commission of Public Records, Administrative Law Division publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978. For further subscription information, call 505-476-7907.