

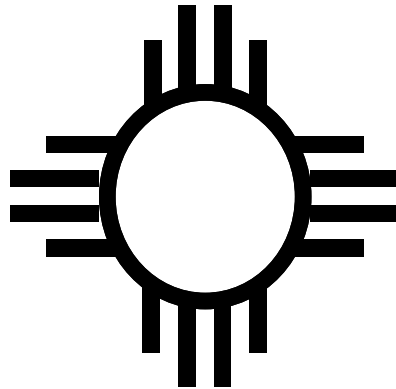
**NEW
MEXICO
REGISTER**



Volume XVIII
Issue Number 19
October 15, 2007

New Mexico Register

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October 15, 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
Santa Fe, New Mexico
2007

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New Mexico Register

Volume XVIII, Number 19

October 15, 2007

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Effective Date and Validity of Rule Filings

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

A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

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Notices of Rulemaking and Proposed Rules

ALBUQUERQUE- BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD NOTICE OF HEARING AND SPECIAL MEETING

On **November 26 and continuing on November 27 if necessary, 2007, at 9:00am**, the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) will hold a public hearing and a special meeting in the Albuquerque Convention Center, 401 2nd St NW, Albuquerque, NM 87102. The hearing will address:

1. Proposal to adopt a new regulation, **20.11.104 NMAC, Emissions Standards for New Motor Vehicles.**

This regulation is part of a broader effort by the State of New Mexico, the City of Albuquerque, and Bernalillo County to address emissions of greenhouse gases and is being proposed in accordance with Governor Richardson's Executive Order 2006-69, and at the request of Mayor Martin Chavez.

After the hearing closes, the Air Board is expected to convene a special meeting during which they will decide whether to adopt the proposed new regulation, 20.11.104 NMAC, Emissions Standards for New Motor Vehicles

The Air Quality Control Board is the federally delegated air quality authority for Albuquerque and Bernalillo County. Federal, State, and local delegation authorize the Air Board to administer and enforce the Clean Air Act, the New Mexico Air Quality Control Act, local air quality regulations, and to require local air pollution sources to comply with air quality standards.

Hearings and meetings of the Board are open to the public and all interested persons are encouraged to participate. All persons who wish to testify regarding the subject of the hearings may do so at the hearing and will be given a reasonable opportunity to submit relevant evidence, data, views, and arguments, orally or in writing, to introduce exhibits and to examine witnesses in accordance with the Joint Air Quality Control Board Ordinances, Section 9-5-1-6 ROA

1994 and Bernalillo County Ordinance 94-5, Section 6.

Anyone intending to present technical testimony at any of these hearings is asked to submit a written notice of intent to testify (NOI) before 5:00pm on November 21, 2007 to: Attn: November Hearing Record, Mr. Neal Butt, Albuquerque Environmental Health Department, P.O. Box 1293, Albuquerque, NM 87103, or, you may deliver your NOI to Room 3023, 400 Marquette Avenue NW. The NOI shall identify the name, address, and affiliation of the person testifying.

In addition, written comments to be incorporated into the public record for the November 28 & 29, 2007 hearings should be received at the above P.O. Box, or Environmental Health Department office, before 5:00 pm on November 21, 2007. Comments shall include the name and address of the individual or organization submitting the statement. Written comments may also be submitted electronically to nbutt@cabq.gov and shall include the required name and address information. Interested persons may obtain a copy of the proposed rules at the Environmental Health Department Office, or by contacting Mr. Neal Butt electronically at nbutt@cabq.gov or by phone (505) 768-2660.

NOTICE FOR PERSON WITH DISABILITIES: If you have a disability and/or require special assistance please call (505) 768-2600 [Voice] and special assistance will be made available to you to review any public meeting documents, including agendas and minutes. TTY users call the New Mexico Relay at 1-800-659-8331 and special assistance will be made available to you to review any public meeting documents, including agendas and minutes.

ALBUQUERQUE- BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD NOTICE OF HEARINGS AND SPECIAL MEETING

On **November 28 and if necessary, November 29, 2007, at 9:00am**, the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) will hold three public hearings and a special meeting in the

Albuquerque Convention Center, 401 2nd St NW, Albuquerque, NM 87102. The hearings will address:

1. Proposal to adopt a new regulation, **20.11.47 NMAC, Emissions Inventory Requirements**
2. Proposal to adopt a new regulation, **20.11.48 NMAC, Greenhouse Gas Emissions Reporting**
3. Proposal to incorporate 20.11.47 NMAC, Emissions Inventory Requirements into the New Mexico State Implementation Plan for air quality (SIP).

These regulations are part of a broader effort by the State of New Mexico, the City of Albuquerque, and Bernalillo County, to address emissions of greenhouse gases. The proposed new regulation 20.11.47 NMAC, Emissions Inventory Requirements, formalizes the Albuquerque Air Quality Division's authority to require criteria air pollutant and greenhouse gas reporting from sources in Bernalillo County. The proposed regulation, 20.11.48 NMAC, Greenhouse Gas Emissions Reporting, requires specific greenhouse gas reporting for three industrial sectors - power plants, refineries and cement manufacturing plants.

After the hearings close the Air Board is expected to convene a special meeting during which they will decide whether to adopt the proposed new regulations, 20.11.47 NMAC and 20.11.48 NMAC, and whether to incorporate 20.11.47 NMAC into the SIP.

The Air Quality Control Board is the federally delegated air quality authority for Albuquerque and Bernalillo County. Federal, State, and local delegation authorize the Air Board to administer and enforce the Clean Air Act, the New Mexico Air Quality Control Act, local air quality regulations, and to require local air pollution sources to comply with air quality standards.

Hearings and meetings of the Board are open to the public and all interested persons are encouraged to participate. All persons who wish to testify regarding the subject of the hearings may do so at the hearing and will be given a reasonable opportunity to submit relevant evidence, data, views, and arguments, orally or in writing, to introduce exhibits and to examine witnesses in accordance with the Joint Air Quality Control Board Ordinances, Section 9-5-1-6 ROA 1994 and Bernalillo County Ordinance 94-

5, Section 6.

Anyone intending to present technical testimony at any of these hearings is asked to submit a written notice of intent to testify (NOI) before 5:00pm on November 21, 2007 to: Attn: November Hearing Record, Mr. Neal Butt, Albuquerque Environmental Health Department, P.O. Box 1293, Albuquerque, NM 87103, or, you may deliver your NOI to Room 3023, 400 Marquette Avenue NW. The NOI shall identify the name, address, and affiliation of the person testifying.

In addition, written comments to be incorporated into the public record for the November 28 & 29, 2007 hearings should be received at the above P.O. Box, or Environmental Health Department office, before 5:00 pm on November 21, 2007. Comments shall include the name and address of the individual or organization submitting the statement. Written comments may also be submitted electronically to nbutt@cabq.gov and shall include the required name and address information. Interested persons may obtain a copy of the proposed rules at the Environmental Health Department Office, or by contacting Mr. Neal Butt electronically at nbutt@cabq.gov or by phone (505) 768-2660.

NOTICE FOR PERSON WITH DISABILITIES: If you have a disability and/or require special assistance please call (505) 768-2600 [Voice] and special assistance will be made available to you to review any public meeting documents, including agendas and minutes. TTY users call the New Mexico Relay at 1-800-659-8331 and special assistance will be made available to you to review any public meeting documents, including agendas and minutes

**NEW MEXICO ENERGY,
MINERALS AND NATURAL
RESOURCES
DEPARTMENT
STATE PARKS DIVISION**

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

The New Mexico Energy, Minerals and Natural Resources Department, State Parks Division will hold a meeting and hearing at 6:00 p.m. Wednesday, November 14, 2007 in Porter Hall, Wendell Chino Building,

1220 South Saint Francis Drive, Santa Fe, New Mexico.

During the meeting, the New Mexico Energy, Minerals and Natural Resources Department, State Parks Division will conduct a public hearing on the proposed rule for commercial filming in state parks and the proposed repeal of 19.5.4 NMAC, Lease Lot Provisions, as well as proposed changes to the following rules: 18.17.3 NMAC, Construction Visitor Provisions; 19.5.1 NMAC, General Provisions; 19.5.2 NMAC, Park Visitor Provisions; 19.5.3 NMAC, Park Management and Development Plan; 19.5.5 NMAC, Concession Activities; and 19.5.6 NMAC, Park Fees. Changes to 19.5.6 NMAC include the addition of the Vietnam Veterans Memorial and that there is not an admissions fee to the Vietnam Veterans Memorial. In addition, the changes reflect that the veterans permit eligibility requirement has been reduced from a 100% disability to at least a 50% disability.

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/PRD/>, or by contacting Alice Chavira at 505-476-3368, alice.chavira@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 Alice Chavira at least one week prior to the hearing or as soon as possible. Public documents can be provided in various accessible formats. Please contact Alice Chavira at 476-3368, 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 GAME
COMMISSION**

**STATE GAME COMMISSION
PUBLIC MEETING AND RULE
MAKING NOTICE**

On Thursday, November 1, 2007, beginning at 9:00 a.m., at the Raton Convention Center, 901 S. Third St., Raton, NM 87740, the State Game Commission will meet in Public Session to hear and consider action as appropriate on the following: Revocations; Presentation of FY'08 1st Quarter Depredation Report; USFWS Partners for Fish and Wildlife Program; Update on USDA Forest Service Travel Management Planning and Sportsmen's Interests in New Mexico; Pueblo of Santa Ana Pronghorn Restoration Project; Review of Rio Costilla Rio Grande Cutthroat Trout Restoration Project; Commission Policy Relative to Stocking of Whirling Disease Positive Fish; General Public Comments; Appointment of Citizen Advisors to the Habitat Stamp Program; Update on Department Modeling Efforts to Evaluate Elk-Wolf Interactions in the Blue Range Wolf Recovery Area; Update on Development of New Antelope-Private Land-Use System (A-PLUS) Program and Associated Rule; Wildlife Associated Recreation Planning Efforts on Wildlife Management Areas; Information Regarding Harvest Success and Competition for Drawing Special Entry Hunts; Closed Executive Session pursuant to Section 10-15-1(H), NMSA, 1978, to discuss litigation, personnel matters; and Land Conservation Appropriation Update and Action as Needed.

The following rules are open for public comment and consideration for adoption by the Commission:

- * Proposed Changes to the Fisheries Rule, 19.31.4, NMAC;
- * Rule Amendment for Oryx Hunting Prohibitions on White Sands Missile Range (19.32.12, NMAC);
- * Establishing Rules for Exemption to Hunting by Spotlight or Artificial Light Prohibited (Section 17-2-31, NMSA, 1978);
- * Opening Rule for Hunting and Fishing License Revocation (19.32.2, NMAC);
- * Adoption of Amendments to Portions of the Cougar Rule, 19.31.11, NMAC, to Conduct Preventative Cougar Control in Desert Bighorn Sheep Ranges and Select Rocky Mountain Bighorn Sheep Ranges; and
- * Adoption of Final Draft Rule 19.31.20, NMAC, titled Gould's Turkey Enhancement Permits.

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

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Shirley Baker at (505) 476-8030. Please contact Ms. Baker at least 3 working days before the set meeting date. Public documents, including the Agenda and Minutes can be provided in various accessible forms. Please contact Shirley Baker if a summary or other type of accessible form is needed.

**NEW MEXICO
DEPARTMENT OF HEALTH**

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on 7.27.9 NMAC "Trauma System Fund". The Hearing will be held on November 29, 2007 at 9:00 a.m. in the Harold Runnels Building Auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico.

The public hearing will be conducted to establish standards and procedures designed for the purpose of making funds available to sustain existing trauma centers, support the development of new trauma centers and develop a statewide trauma system.

A copy of the proposed regulation can be obtained from:

Liana Lujan, RN
Trauma System Manager
NMDOH/EMSB/Trauma Program
1301 Siler Road, Suite 201
Santa Fe, New Mexico 87507
(505) 476-8220

Please submit any written comments regarding the proposed regulation to:

Liana Lujan, RN
Trauma System Manager
NMDOH/EMSB/Trauma Program
1301 Siler Road, Suite 201
Santa Fe, New Mexico 87507
(505) 476-8220

The Department will accept public comment through the close of the hearing.

If you are an individual with a disability who is in need of special services to attend or participate in the hearing, please contact Liana Lujan by telephone at 505-476-8220. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

**NEW MEXICO HIGHER EDUCATION
DEPARTMENT**

NEW MEXICO HIGHER EDUCATION DEPARTMENT

The New Mexico Higher Education Department ("Department") hereby gives notice that the Department will conduct a public hearing at Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico, 87501-2786, on November 15, 2007, from 1:00 p.m. to 3:00pm. The purpose of the public hearing will be to obtain input on the following rule:

Rule Number	Rule Name	Proposed Action
5.55.4 NMAC	Dual Credit	Repeal and replace Dual Credit rule

Interested individuals may testify at the public hearing or submit written comments to Dr. Tanya I. Garcia, P20 Policy Analyst, New Mexico Higher Education Department, located at the New Mexico School for the Deaf, 1068 Cerrillos Rd., Santa Fe, New Mexico 87505 (tanya.garcia@state.nm.us) (telefax (505) 476-6557).

Written comments must be received no later than 5 p.m. on November 15, 2007. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rules may be accessed on the Department's website (<http://hed.state.nm.us/>) or obtained from Dr. Tanya I. Garcia at the address listed above, or by phone (505) 476-6550. The proposed rules will be made available at least thirty days prior to the hearings.

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

**NEW MEXICO HIGHER EDUCATION
DEPARTMENT**

NOTICE OF PROPOSED RULEMAKING

The New Mexico Higher Education Department ("Department") hereby gives notice that the Department will conduct a public hearing on Thursday, November 15, 2007. Information regarding the location of the meeting will be available at least ten days prior to the meeting from the Department staff at 505-476-6500. The purpose of the public hearing will be to obtain input on the following rule:

Rule Number	Rule Name	Proposed Action
5.3.13 NMAC	ALLOCATION AND DISTRIBUTION OF THE ADULT BASIC EDUCATION FUND ACT	Add non-profit community based organizations to the ABE formula

Copies of the proposed rule changes identified with (# 5.3.13) may be obtained from the Department. Written comments concerning the rules identified with (# 5.3.13) should be submitted to Pamela Etre-Perez, State Director for Adult Basic Education, 1068 Cerrillos Road, Santa Fe, NM 87505, by facsimile at (505) 476-6558, or via electronic mail at pam.etre-perez@state.nm.us. Comments will be accepted until 5 p.m. on November 15, 2007; however, 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, please contact the Department at (505) 476-6500 at least one week prior to the meeting, or as soon as possible.

Comments, questions, or requests for copies of the Agenda should be directed to the Department, 1068 Cerrillos Road, Santa Fe, NM 87505, Tel. 505-476-6500.

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

The Public Education Department ("Department") hereby gives notice that the Department will conduct a public hearing at Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico, 87501-2786, on November 15, 2007, from 1:00 p.m. to 3:00pm. The purpose of the public hearing will be to obtain input on the following rule:

Rule Number	Rule Name	Proposed Action
6.30.7 NMAC	Dual Credit	Repeal and replace Dual Credit rule

Interested individuals may testify at the public hearing or submit written comments to Marcia Knight, Career Technical Workforce Education Bureau, Public Education Department, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786 (marcia.knight@state.nm.us) (telefax (505) 827-1820).

Written comments must be received no later than 5 p.m. on November 15, 2007. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rule may be accessed on the Department's website (<http://ped.state.nm.us/>) or obtained from Marcia Knight, Education Administrator, Career Technical Workforce Education Bureau, Public Education Department, mailing address, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786 or physical address 120 Federal Place, Santa Fe, New Mexico, 87501 (505) 827-1802. The proposed rule will be made available at least thirty days prior to the hearing.

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

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

LEGAL NOTICE

Public Rule Hearing and Regular Board Meeting

The New Mexico Social Work Examiners Board will hold a Rule Hearing on November 30, 2007. Following the Rule Hearing the New Mexico Social Work Examiners Board will convene a regular meeting to adopt the rules and take care of regular business. The New Mexico Social Work Examiners Board Rule Hearing will begin at 9:00 a.m. and the Regular Meeting will convene following the rule hearing. The meetings will be held at the Regulation and Licensing Department, 5200 Oakland Ave NE, Albuquerque, NM.

The purpose of the rule hearing is to consider adoption of proposed amendments and additions to the following Board Rules and Regulations in 16.63 NMAC: Part 1 General Provisions, Part 3 Application for Licensure, Part 6 Licensure by Credentials, Part 7 Provisional License, Part 8 Fees, Part 9 Baccalaureate Social Worker, Part 10 Master Social Worker, Part 11 Independent Social Worker, Part 12 Continuing Education, and Part 16 Code of Conduct.

Persons desiring to present their views on the proposed rules may write to request draft copies from the Board office at the Toney Anaya Building located at the West Capitol Complex, 2550 Cerrillos Road in Santa Fe, New Mexico 87504, or call (505) 476-4890 after October 31, 2007. In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comment regarding the proposed

rules must present them to the Board office in writing no later than November 15, 2007. Persons wishing to present their comments at the hearing will need (10) copies of any comments or proposed changes for distribution to the Board and staff.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the Board office at (505) 476-4890 at least two weeks prior to the meeting or as soon as possible.

Vadra Baca, Administrator
PO Box 25101- Santa Fe, New Mexico
87504

**End of Notices and
Proposed Rules Section**

Adopted Rules

NEW MEXICO REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

This is an amendment to 14.5.1 NMAC Sections 2 and 7, effective January 1, 2008.

14.5.1.2 SCOPE: This rule applies to all contracting work performed in New Mexico on or after ~~July 1, 2004~~ January 1, 2008, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date. [14.5.1.2 NMAC - Rp, 14.1.1.2 NMAC, 7-1-04; A, 1-1-08]

14.5.1.7 DEFINITIONS: The definitions in this section are used throughout the CID rules contained in Chapters 5 through 10 of Title 14.

A. Building official means the bureau chief of each trade bureau of the division.

B. CID and division mean the construction industries division of the regulation and licensing department.

C. CID rules means the rules compiled in Title 14, Chapters 5 through 10 of the New Mexico administrative code.

D. CILA means the Construction Industries Licensing Act, NMSA 1978 Section 60-13-1 et seq.

E. Commission means the construction industries commission.

F. Contracting has the meaning given in NMSA 1978 Section 60-13-3.

G. Director has the meaning given it in NMSA 1978 Section 60-13-2.

H. IBC means the ~~[2003]~~ 2006 international building code.

I. IFC means the ~~[2003]~~ 2006 international fire code.

J. IRC means the ~~[2003]~~ 2006 international residential code.

K. LPG Standards means 19.15.40 NMSA, Liquefied Petroleum Gas Standards, and NMSA 1978 70-5-1 et seq., Liquefied and Compressed Gasses, collectively.

L. New Mexico construction code(s) means any of the rules compiled in Title 14, Chapters 7 through 10 of the New Mexico administrative code.

M. NMBSS means 14.7.5 NMAC, ~~[2003]~~ 2006 New Mexico Non-Load Bearing Baled Straw Construction

Building Standards.

N. NMCBC means 14.7.2 NMAC, ~~[2003]~~ 2006 New Mexico Commercial Building Code, which adopts by reference and amends the ~~[2003]~~ 2006 international building code.

O. NMEBC means 14.7.7 NMAC, ~~[2003]~~ 2006 New Mexico Existing Building Code, which adopts by reference and amends the ~~[2003]~~ 2006 international existing building code.

P. NMEBMC means 14.7.4 NMAC, ~~[2003]~~ 2006 New Mexico Earthen Building Materials Code.

Q. NMEC means 14.10.4 NMAC, ~~[2002]~~ 2005 New Mexico Electrical Code, which adopts by reference and amends the ~~[2002]~~ 2005 national electrical code.

R. NMECC means 14.7.6 NMAC, ~~[2003]~~ 2006 New Mexico Energy Conservation Code, which adopts by reference and amends the ~~[2003]~~ 2006 international energy conservation code.

S. NMESC means 14.10.5 NMAC, 2002 New Mexico Electrical Safety Code, which adopts by reference and amends the 2002 national electrical safety code.

T. NMCMC means 14.9.2 NMAC, ~~[2003]~~ 2006 New Mexico Mechanical Code, which adopts by reference and amends the ~~[2003]~~ 2006 uniform mechanical code.

U. NMPC means 14.8.2 NMAC, ~~[2003]~~ 2006 New Mexico Plumbing Code, which adopts by reference and amends the ~~[2003]~~ 2006 uniform plumbing code.

V. NMRBC means 14.7.3 NMAC, ~~[2003]~~ 2006 New Mexico Residential Building Code, which adopts by reference and amends the ~~[2003]~~ 2006 international residential code.

W. NMSEC means 14.9.6 NMAC, 2003 New Mexico Solar Energy Code, which adopts by reference and amends the 1997 uniform solar energy code.

X. NMSPC means 14.8.3 NMAC, 2003 New Mexico Swimming Pool, Spa, and Hot Tub Code, which adopts by reference and amends the 2000 uniform swimming pool, spa, and hot tub code.

Y. Published code means any code or standard published by an entity other than the state of New Mexico and adopted by reference, or referred to as a standard in the CID rules.

Z. ULA means NMSA 1978 Section 61-1-1 et seq., the Uniform Licensing Act. [14.5.1.7 NMAC - Rp, 14.1.1.7 NMAC, 7-1-04; A, 1-1-08]

NEW MEXICO REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

This is an amendment to 14.5.2 NMAC Sections 2, 9, 10, and 18, effective January 1, 2008.

14.5.2.2 SCOPE: This rule applies to all contracting work performed in New Mexico on or after ~~July~~ January 1, 2004 2008, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date. [14.5.2.2 NMAC - Rp, 14.5.2.2 NMAC, 7-1-04; A, 1-1-08]

14.5.2.9 EXCEPTIONS TO REQUIREMENT FOR PERMITS: Permits shall not be required for the following:

A. Commercial.

(1) One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11.15.m2).

(2) Fences not over 6 feet (1829) high.

(3) Oil derricks.

(4) Retaining walls that are not [over 4 feet (1,219 mm) in height measured from the bottom of the footing to the top of the wall] laterally supported at the top and that retain in excess of 36 inches (915 mm) of unbalanced fill, unless supporting a surcharge or impounding class I, II, or III-A liquids.

(5) Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18,927L) and the ratio of height to diameter or width does not exceed 2 to 1.

(6) Sidewalks and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below and which are not part of an accessible route.

(7) Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

(8) Temporary motion picture, television and theater stage sets and scenery.

(9) Prefabricated swimming pools accessory to a group R-3 occupancy, as applicable in the NMRBC, which are less than 24 inches (610mm) deep, do not exceed 5,000 gallons (19,000L) and are installed entirely above ground.

(10) Shade cloth structures constructed for nursery or agricultural purposes and not including services systems.

(11) Swings and other playground equipment accessory to one-and two-family dwellings.

(12) Window awnings supported by an exterior wall of group R-3, as applicable in the NMRBC, and group U occupancies.

(13) Moveable cases, counters and partitions not over 5 feet 9 inches (1,753mm) in height.

(14) Any work not otherwise regulated by the New Mexico construction codes and the CID rules.

B. Residential: Refer only to the "building" portion of Section R105.2 of the IRC, and add a new section: 10. Any work that is not otherwise regulated by a specific provision of the NMRBC.

C. Mechanical work. Refer to section 112.2 of the UMC.

D. Plumbing work. Refer to section 103.1.2 of the UPC.

E. Electrical work. No exceptions other than those set forth in CILA Section 60-13-45.

[14.5.2.9 NMAC - Rp, 14.7.2.10 NMAC, 14 NMAC 9.2.I 100-105 & 14 NMAC 9.2.II 100, 7-1-04; A, 1-1-08]

14.5.2.10 SUBMITTAL DOCUMENTS:

A. Submittal documents.

(1) With each application for a permit, and when required by the building official or elsewhere in the CID Rules, two (2) sets of the following documents (collectively, submittal documents) must be submitted:

- (a) type, occupancy and kind of structure;
- (b) plans;
- (c) specifications;
- (d) engineering calculations;
- (e) diagrams;
- (f) soil investigation reports;
- (g) other any other data or document required by the building official or the plan review official; and
- (h) exterior wall envelope; submittal documents for all buildings shall describe the exterior wall envelope in sufficient detail to enable the plan review to determine compliance with the NMCBC and the NMRBC; the submittal documents shall show the exterior wall envelope in detail as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves, or parapets, means of drainage, water-resistive membrane, and details around openings.

(2) For construction subject to the NMCBC, see sections 106.1.1, 106.1.2, 106.2 of the IBC for other requirements

regarding submittal documents, including form, means of egress, and site plans.

(3) For construction subject to NMRBC, see sections 106.1.1, 106.1.2, 106.1.3 and 106.2 of the IRC for other requirements regarding submittal documents, including form, manufacturer's installation instructions, construction in flood areas, and site plans.

(4) Upon approval, one (1) set of the submittal documents shall be retained by the division, and one (1) set shall be returned to the permittee, shall be available at the work site, and shall be available for inspection by the building official or inspector during the performance of the permitted work.

(5) The building official may require submission of any specifications, drawings or diagrams necessary to show clearly the kind and extent of building construction work for which a permit application has been submitted.

B. Professional seals requirements: The building official or the plan review official is authorized to require submittal documents to be prepared and sealed by an architect, registered in accordance with the New Mexico Architectural Act, and the rules promulgated pursuant thereto, and/or by a professional engineer, registered in accordance with the New Mexico Engineering and Surveying Practice Act, and the rules promulgated pursuant thereto. An architect and/or engineer stamp is required for all uses listed in table [1004.1.2] 1004.1.1 in the IBC.

C. Exceptions: The requirement for plans and specifications to be prepared by an architect and/or engineer shall not be required in any of the following instances unless, in the discretion of the building official, an exception is not in the best interests of public safety or health.

(1) Multiple dwellings of not more than two (2) stories in height and containing not more than four (4) dwelling units constructed of materials approved for use pursuant to the NMRBC, and provided that this exception is not construed to allow a person who is not an architect to design multiple clusters of four (4) dwelling units each where the total exceeds four (4) dwelling units on each lawfully divided lot.

(2) Garages or other structures not more than two (2) stories in height which are appurtenant to buildings described in paragraph (a) of this section.

(3) Group A, B, E divisions 1 and 2, F, M, S, U buildings or additions having a total occupant load of ten (10) or less (as defined in section 1003.2.2 and table 1003.2.2.2 of the IBC), and not more than two (2) stories in height.

(4) Alteration to buildings or structures that present no unusual conditions or hazards or change in occupancy.

(5) Single-family dwellings, not more than two (2) stories in height.

D. Submission may be waived. The building official may waive the submission of plans, calculations, construction inspection requirements and other data if it is found that the nature of the work applied for is such that plan review is not necessary to obtain compliance with the New Mexico construction codes.

E. Deferred submittals. For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted with the application for the permit, and that are to be submitted, thereafter, within a period specified by the building official or the plan review official.

F. Approval. Deferral of any submittal items must have the prior approval of the building official. The responsible design professional shall list the deferred submittals on the submittal documents accompanying the permit application. Submittal documents for deferred submittal items must be submitted to the responsible design professional who shall review and forward them to the division with a notation indicating that the deferred submittal documents have been reviewed and that they have been found to be in general conformance with the design of the building. The items identified in the deferred submittals shall not be installed until the building official has approved their design and submittal documents.

G. Responsible design professional. When submittal documents are required to be prepared by a registered design professional, the permit application shall indicate the registered design professional who shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building. This design professional shall be deemed to be the "responsible design professional." The permittee shall notify the division in writing within a reasonable period of time, not to exceed ten (10) business days, if the responsible design professional is changed or is unable to continue to perform the duties required.

H. Special submissions. The building official or the plan review official is authorized to require, before and after the commencement of a project, the submission of any specification, drawing or diagram necessary to adequately and clearly show the kind, extent, and occupancy of the general building, mechanical and/or plumbing, and electrical work on the project that is covered by the permit issued, or that is required to be permitted under the CID rules.

I. Phased approval. See

section 106.3.3 of the IBC for work subject to the NMCBC, and section 106.3.3 of the IRC for work subject to the NMRBC.

J. Correction of submittal documents. The issuance of a permit based on certain plans and specifications shall not prevent the building official from thereafter requiring the correction of any error in such plans or specifications, or from prohibiting work pursuant to those plans or specifications when a violation of the applicable code would result.

K. Electrical projects.

(1) Any installation with a calculated service capacity over 100 kVA single-phase or over 225 kVA three phase must be stamped by an electrical engineer, registered in accordance with the New Mexico Engineering and Surveying Practice Act. This requirement shall not apply to remote installations such as irrigation pumps. Any commercial project that requires an architect or engineer seal pursuant to this part, shall be submitted to the electrical bureau for review and approval.

(2) Submittal documents shall show the electrical riser, conductor size, grounding conductor size, method of grounding (available electrodes, etc.), load calculations, available fault calculations, size and location of disconnects, panel schedules, wiring methods, site and floor plan. General expressions such as "work shall be done in accordance with the New Mexico Electrical Code" or "work shall be done to the satisfaction of the state building official" shall be considered inadequate, and incomplete.

(3) No permit for electrical work shall be issued for the addition to, or alteration of, wiring of an existing building unless the building as it will be wired conforms to the requirements of the code for new buildings, except that those portions of the existing wiring that have not been disturbed and are deemed safe by the inspector may remain in service.

L. Mechanical projects.

(1) The building official is authorized to require the stamp of a professional engineer, registered in accordance with the New Mexico Engineering and Surveying Practice Act on permits for mechanical and/or plumbing work with a total value of \$50,000.00, or more, and/or for commercial buildings three stories and higher.

(2) For plans for buildings for more than two stories in height, other than R-3 and U occupancies, see the second paragraph of section 113.3 of the UMC.

M. Permit contents and display. Pursuant to CILA Section 60-13-59, every permit or notice of permit issued by the division shall:

(1) clearly indicate the name and address of the owner of the property;

(2) contain a legal description of the property being built on either by "lot and block" description in a subdivision, by street address in a municipality, or by township, range and section numbers if outside a municipality or platted subdivision;

(3) contain the name, address and license number of the contractor or the homeowner to whom the permit is to be issued, and the name of the architect and/or engineer as may be required by the building official; and

(4) be prominently displayed on the site where the permitted work is to be performed.

N. Retention. The division shall retain construction documents, including submittal documents and permit applications, in accordance with New Mexico state laws governing document retention.

O. Preliminary inspection. As part of the document review process, before issuing a building permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application for a building permit has been filed.

[14.5.2.10 NMAC - Rp, 14.5.2.8 NMAC, 14.5.2.9 NMAC, 14.5.2.10 NMAC, 14.7.2.10 NMAC, 14 NMAC 9.2.I.100, 14 NMAC 9.2.II.100 NMAC & 14.10.4.8 NMAC, 7-1-04; A, 1-01-08]

14.5.2.18 HOMEOWNER'S PERMIT:

A. Homeowner's permits are limited to ~~[R-3]~~ single-family dwellings, ~~[U-1]~~ appurtenant structures to single-family dwellings, such as private garages, carports, sheds and agricultural buildings, and ~~[U-2]~~ fences. No application for a homeowner's permit may be made to cover construction of any structure, or installations within any structure, or construction of part of a structure, where the use will be anything but residential purposes. This applies to additions to residential dwellings that will not be used for residential purposes. Further, homeowner's permits may not be used to cover construction of any structure, or installations within any structure, or construction of part of a structure, where the homeowner will not personally reside.

B. Any person applying for a homeowner's permit in order to construct a personal residence in accordance with Paragraph (10) of Subsection D of CILA Section 60-13-3 must sign a homeowner's permit responsibility sheet issued by the division, or its authorized local building department, acknowledging legal responsibilities and liabilities before obtaining such a permit.

C. The homeowner's permit covers general, residential construction

only.

D. A homeowner's permit may not be used to permit a project where a GB-2 or GB-98 contractor is acting as a general contractor on the project. Any contractor acting as a general contractor on a project where there is a homeowner's permit must obtain a building permit for his work, and shall be held responsible for any work performed at this site. Further, licensed subcontractors will be held responsible for their work, which also must be permitted separately.

E. A homeowner may do electrical and/or plumbing work on his home (single-family dwelling) only if he has sufficient knowledge and experience to do so, as determined by approval by the appropriate building official of the plans for the proposed work and after completing a written examination administered by the building official with a grade of seventy-five percent (75%) or more. If the examination is not passed, it may be repeated not sooner than thirty (30) days after the date of the failed exam.

F. After approval of the submitted plans and satisfactorily passing the written examination(s), the homeowner then must obtain the applicable permit(s) for the electrical and/or plumbing work and must pay the required inspection fees.

G. Homeowner's permit projects may not be placed on the market for sale while under construction. Such an action violates the requirements of paragraph (10) of Subsection D of CILA Section 60-13-3, and will result in the automatic void of the permit by the division. Such a violation may also result in initiation of unlicensed contracting charges against the homeowner in accordance with the requirement of CILA Section 60-13-52.

H. No more than one (1) homeowner's permit for ~~an R-3]~~ a single-family dwelling shall be issued to the same person within any twelve (12) month period.

I. Where a homeowner's permit is involved, a properly licensed contractor must install HVAC and natural gas or LP gas installations. This work shall be permitted and inspected pursuant to the standard requirements of the division.

[14.5.2.18 NMAC - Rp, 14.5.2.10 NMAC & 14.7.2.10 NMAC, 7-1-04; A, 1-1-08]

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

This is an amendment to 14.5.5 NMAC Section 14 effective January 1, 2008.

14.5.5.14 MISCELLANEOUS FEES:

A. Certificate of qualification. The fee for the issuance of a certificate of qualification shall be \$6.00, inclusive of gross receipts tax.

B. Replacement Fees.

(1) The fee for the replacement of a certificate of qualification shall be \$6.00, inclusive of gross receipts tax.

(2) The fee for the replacement of a contractor's license shall be \$6.00, inclusive of gross receipts tax.

(3) The fee for the replacement of a certificate of competence shall be \$6.00, inclusive of gross receipts tax.

(4) The fee for additional contractor's wallet cards (beyond the two initially issued) shall be \$6.00 for each such card, inclusive of gross receipts tax.

C. Photocopies. The fee for photocopies of documents shall be \$.25 per page.

D. Certified Photocopies. The fee for certified copies of documents shall be \$.50 per page.

E. Modular Approval. The fee for modular approval shall be \$5.00 per floor plan, or \$25.00, whichever is higher.

F. Manufactured Commercial Plan Review. The fee for review of plans for manufactured commercial units shall be \$50.00 for each unit.

G. Reinspections. A fee of [~~\$25.00~~] \$37.50 for re-inspection shall be paid when an inspection is requested and the structure either fails the inspection, the structure is not ready for the inspection and/or the inspector is required to return for an inspection for any other reason.

H. Annual permit fees. The fee for an annual permit is \$25.00.

I. Homeowner permit fees. The following fees are in addition to the regular permit fees:

(1) The fee for a homeowner's permit for the construction of a new residence or for a major addition or remodel of an existing residence is \$200.00.

(2) The fee for a homeowner's permit for construction of a lesser nature shall be calculated pursuant to 14.5.4.11 NMAC, with a minimum fee of \$25.00.

(3) A fee of \$25.00 for either an electrical or mechanical examination required in connection with electrical or

mechanical work performed by a homeowner under a homeowner's permit issued pursuant to 14.5.3 NMAC, Permits.

J. Reactivation of permit. CID may assess a fee for the reactivation of a suspended permit in an amount equal to one half (1/2) the amount of the original permit fee.

[14.5.5.14 NMAC - Rp, 14.5.5.8 NMAC, 14.7.2.10 NMAC, 14 NMAC 9.2.I 100, 14 NMAC 9.2.II 100, 7-1-04; A, 1-1-08]

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

This is an amendment to 14.9.5 NMAC Sections 3, 10, 13, 14 and 15, effective January 1, 2008.

14.9.5.3 STATUTORY AUTHORITY: [~~§ STATEWIDE AUTHORITY; STATEWIDE CODE AND RULE ADOPTION:~~ This rule is

~~adopted pursuant to Sections 60-13-9 (F) and (K) of the Construction Industries Licensing Act, NMSA 1978. These sections state: "The division shall adopt all building codes and minimum standards as recommended by the trade bureaus and approved by the commission so that the public welfare is protected, uniformity is promoted and conflicting provisions are avoided;" and "adopt, subject to commission approval, rules and regulations necessary to carry out the provisions of the Construction Industries Licensing Act and the LPG Act (70-5-1 to 70-5-22 NMSA 1978)."~~ NMSA 1978 Sections 60-13-9 and 60-13-44.

[6-30-00; 14.9.5.3 NMAC - Rn, 14 NMAC 9.5.3, 6-06-07, A, 01-01-08]

14.9.5.10 RENEWAL OF ENDORSEMENT REQUIRED:

A. Journeymen carrying a medical gas endorsement must take an approval re-certification course every 3 years in order to renew their journeyman's certificate WITH a medical gas endorsement.

B. The re-certification course must be a minimum of 32-hours, and the re-certification course curriculum requirements shall be established by the mechanical bureau with the approval of the construction industries commission.

C. The re-certification course must, at a minimum, address [~~NFPA 99-C, and any other applicable current state code addressing medical gas system installations, maintenance and repair work~~] those portions of the NMPC, and any other applicable state codes, that regulate medical gas system installations, maintenance or repair

work.

[6-30-00; 14.9.5.10 NMAC - Rn, 14 NMAC 9.5.10, 6-06-07, A, 01-01-08]

14.9.5.13 INSPECTION(S) MEDICAL GAS WORK:

A. Medical gas systems shall be inspected by third-party inspectors who meet the follow qualifications and requirements:

(1) successful completion of a medical gas certification course that is approved by the mechanical bureau; and

(2) have a minimum of two years hands-on experience in medical gas systems verification, as [~~described under 4-3-1.3 of NFPA 99-C, the 1996 edition, or the current adopted code edition's medical gas systems verification provisions~~] required by the NMPC; and

(3) shall not be, or work for, the installing contractor or manufacturer; and

(4) shall meet the inspection standards and requirements of the health care facility in which the system is being installed.

B. All inspections (systems verifications) done by a third-party inspector shall be done in accordance with, and in such a manner as to verify compliance with, the requirements of [~~section 4-3.4.1.3 of the NFPA 99-C, the 1996 edition, and the 1997 uniform plumbing code, or the current adopted code edition's medical gas systems verification provisions~~] the NMPC.

C. No state or local building inspector shall final (mechanical/plumbing final and general construction final) a project that includes medical gas system without first receiving proper and complete documentation [~~for~~] from the third-party inspector regarding the installation's code compliance.

D. If there is a dispute regarding code compliance between a third-party inspector and a state or local inspector, the mechanical bureau chief of the construction industries division shall make the final determination, subject to the appeal rights currently in effect under the construction industries division rules [~~and regulations~~].

[6-30-00; 14.9.5.13 NMAC - Rn, 14 NMAC 9.5.13, 6-06-07, A, 01-01-08]

14.9.5.14 APPLICABLE CODES:

A. All construction industries division systems shall be installed in compliance with Chapter 13 of the [~~1997 uniform plumbing code and NFPA 99-C, the 1996 edition, or the current adopted editions of these codes containing medical gas installation, inspection/verification, and the like, standards~~] NMPC; provided, however, that a dental office, as defined in Section 3.3.801 of the NFPA 99-C, 2002 edition, in

which nitrous oxide will be administered without a halogenated agent shall comply with the NFPA's level three piped gas and vacuum systems standard for waste anesthetic gas disposal systems.

B. If the code standards differ in any regard, the more restrictive provision shall apply.

[6-30-00; 14.9.5.14 NMAC - Rn & A, 14 NMAC 9.5.14, 6-06-07, A, 01-01-08]

14.9.5.15 FAILURE TO COMPLY WITH CODE STANDARDS OR REQUIREMENTS:

All contractors and/or journeymen failing to install a medical gas system in compliance with all ~~relevant~~ applicable codes, standards, rules and regulations adopted by the construction industries division, or the division's enabling act, shall be subject to possible revocation or suspension of their licenses and/or certificates of competence, and/or assessment of an administrative penalty pursuant to the Construction Industries Licensing Act, Sections 60-13-23 and 23.1, NMSA 1978.

[6-30-00; 14.9.5.15 NMAC - Rn, 14 NMAC 9.5.15, 6-06-07, A, 01-01-08]

NEW MEXICO SECRETARY OF STATE

This is an amendment to 1.10.27 NMAC, Sections 7, 8 and 9, effective October 15, 2007.

1.10.27.7 DEFINITIONS:

A. "Applicant candidate" means a candidate who is running for ~~the office of public regulation commission in the primary and general election. A candidate becomes an applicant candidate upon submittal of documents in Section 1-19A-3 NMSA 1978~~ a covered office and who is seeking to be a certified candidate in a primary or general election.

B. "Certified candidate" means a candidate running for ~~the office of public regulation commission~~ a covered office who chooses to obtain financing pursuant to the Voter Action Act and is certified as a Voter Action Act candidate. An applicant candidate becomes a certified candidate upon submittal and the secretary of state determination under Sections 1-19A-4 to 1-19A-6 NMSA 1978.

~~C. "Comparable offices" or "applicable elections" means the state corporation commission.~~

~~D. C.~~ "Election cycle" means the primary and general elections for the same term for the ~~office of public regulation commission~~ covered office. The first day of the primary election is the first day of the election cycle and ends on the primary election date. The first day of the

general election is first day after the primary election and ends on the general election date.

[1.10.27.7 NMAC - N, 9-30-2005; A, 10-15-2007]

1.10.27.8 QUALIFICATIONS AND CERTIFICATION:

A. A candidate choosing to obtain financing pursuant to the Voter Action Act shall abide by Section 1-19A-3 NMSA 1978 to become an applicant candidate.

B. A candidate choosing to become a certified candidate shall abide by Section 1-19A-4 NMSA 1978 for obtaining qualifying contributions.

C. A candidate choosing to become a certified candidate may abide by Section 1-19A-5 NMSA 1978 for obtaining seed money.

D. A candidate choosing to become a certified candidate shall abide by Section 1-19A-6 NMSA 1978 for submittal of certification documents. A candidate shall submit the qualifying contributions by a consolidated cashiers check or by cash.

E. The secretary of state shall determine whether an applicant candidate shall become a certified candidate pursuant to Section 1-19A-6 NMSA 1978.

[1.10.27.8 NMAC - N, 9-30-2005; A, 10-15-2007]

1.10.27.9 DETERMINATION OF FUND DISTRIBUTION:

A. ~~[On April 1]~~ On August 1, of every odd year, the secretary of state shall determine the amount of funds available for distribution pursuant to Section 1-19A-13 NMSA 1978.

B. To determine the amount available for a ~~public regulation commission~~ contested primary election, the secretary of state shall follow Subsection B of Section 1-19A-13 NMSA 1978.

C. To determine the amount available for a ~~public regulation commission~~ an uncontested primary election, the secretary of state shall follow Subsection C of Section 1-19A-13 NMSA 1978.

D. To determine the amount available for a ~~public regulation commission~~ contested general election, the secretary of state shall follow Subsection D of Section 1-19A-13 NMSA 1978.

E. To determine the amount available for a ~~public regulation commission~~ an uncontested general election, the secretary of state shall follow Subsection E of Section 1-19A-13 NMSA 1978.

E. The Voter Action Act does not include judicial retention elections.

[1.10.27.9 NMAC - N, 9-30-2005; A, 10-15-2007]

NEW MEXICO WATER QUALITY CONTROL COMMISSION

This is an amendment to 20.7.5 NMAC, Sections 20.7.5.7, 20.7.5.13, and 20.7.5.14 effective November 15, 2007.

20.7.5.7 DEFINITIONS: as used in this part.

~~(A)~~ A. "Act" means the Wastewater Facility Construction Loan Act.

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

~~(B)~~ C. "Clean Water Act" means the federal Clean Water Act of 1977 and its subsequent amendments or successor provisions.

D. "Clean water state revolving loan administrative fund" means a separate fund created outside the wastewater facility construction loan fund/clean water state revolving fund designated solely for the costs of administering the clean water state revolving loan fund, in accordance with the Clean Water Act. Money remaining in the fund at the end of any fiscal year shall not revert to the general fund but shall accrue to the loan administrative fund and shall be used explicitly for the purpose above.

~~(C)~~ E. "Commission" means the water quality control commission.

~~(D)~~ E. "Department" means the New Mexico environment department.

~~(E)~~ G. "Final loan agreement" means an agreement executed by the local authority and the department upon completion of the project in order to evidence the permanent financing of the final loan amount.

~~(F)~~ H. "Final loan amount" means the aggregate amount of the principal disbursed by the department to the local authority during the construction of the wastewater facility, together with accrued and unpaid interest on the aggregate principal thereof.

~~(G)~~ I. "Financial assistance" means loans, combination loan/grants, the purchase or refinancing of existing local political subdivision obligations, loan guarantees, credit enhancement techniques to reduce interest on loans and bonds, bond insurance and bond guarantees or any com-

mination of these purposes.

~~(8)~~ J. "Force account construction" means construction performed by the employees of a local authority rather than through a contractor.

~~(9)~~ K. "Fund" means the wastewater facility construction loan fund established in Section 74-6A-4.

~~(10)~~ L. "Local authority" means any municipality, county, water and sanitation district or any similar district, recognized Indian tribe or other issuing agency created pursuant to a joint powers agreement acting on behalf of any entity listed in this subsection.

~~(11)~~ M. "Payment" means a disbursement from the fund directly to the local authority.

~~(12)~~ N. "Priority list" means the list of eligible projects ranked according to the priority system pursuant to the Wastewater Facility Construction Loan Act.

~~(13)~~ O. "Priority system" means the system approved by the commission for ranking eligible projects for which financial assistance applications have been received pursuant to the act.

~~(14)~~ P. "Wastewater facility" means a publicly owned system for treating or disposing of sewage or wastes either by surface or underground methods, including any equipment, plant, treatment works, structure, machinery, apparatus or land in any combination, that is acquired, used, constructed or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation or treatment of water or wastes, or for the final disposal of residues resulting from the treatment of water or wastes, such as pumping stations, facilities, plants and works, outfall sewers, interceptor sewers and collector sewers and other real or personal property and appurtenances incidental to their use or operation. "Wastewater facility" also includes a non-point source water pollution control or Brownfield redevelopment project as eligible under the Clean Water Act.

Q. Other terms will retain their definition as given in the act. [2-5-87; 10-25-88; 11-18-93; 11-30-95; 09-30-98; NMAC - Rn, 20 NMAC 7.5.108 & A, 7/16/2000; A, 11/15/2007]

20.7.5.13 ELIGIBLE AND INELIGIBLE FINANCIAL ASSISTANCE ITEMS.

A. Eligible items include but are not limited to the costs of engineering feasibility reports, contracted engineering design, inspection of construction, special engineering services, start-up services, contracted construction, materials purchased or equipment leased for force account construction, land or acquisition of existing facilities. For financial assistance made from federal funds, eligible items are

those identified pursuant to the Clean Water Act.

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

C. Ineligible items include:

- (1) the costs of water rights;
- (2) local administrative costs;
- (3) fulfillment or partial fulfillment of requirements made of a subdivider by the provisions of the Land Subdivision Act or the New Mexico Subdivision Act;
- (4) force account construction;

and

- (5) administrative fee.

[2-5-87; 11-24-88; 11-18-93; 20.7.5.13 NMAC - Rn, 20 NMAC 7.5.203 & A, 7/16/2000; A, 11/15/2007]

20.7.5.14 ADMINISTRATION OF THE LOAN PROGRAM AND FUND.

A. The loan program and fund is administered by the department as agent for the commission. Pursuant to Section 74-6A-9.A (10), the department shall develop new, and implement existing, policies, procedures and guidelines necessary and appropriate to implement the provisions of the act and the Clean Water Act.

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

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

- (1) an administrative fee may be assessed on all financial assistance provided after January 1, 1996, and will be assessed on the refinancing of financial assistance after October 1, 1993;
- (2) if an administrative fee is assessed pursuant to Paragraph (1) of Subsection C of 20.7.5.14 NMAC above,

~~the total administrative fee assessed [will be two percent (2%) of the principal amount of the financial assistance provided to the local authority. The fee will increase the principal amount of the financial assistance and will be retained by the department. The local authority will be responsible for repayment of the entire principal amount of the financial assistance.] shall not exceed five percent of the total loan amount. The~~

fee will be assessed on the outstanding principal balance of the loan payable. These fees are due on the same dates the payment of principal and interest on the loans are due, and shall be charged to each borrower, unless waived from the requirement by the department. The department may determine, establish and revise from time to time, the precise amount of the administrative fee to be charged, based on the projected costs of administering the program and other revenue available to pay such costs. The administrative fee payments must be deposited in the clean water state revolving loan administrative fund as they are received. Interest on the clean water state revolving loan administrative fund shall be transferred to the administrative fund as it is received; and

- (3) an administrative fee of two-percent (2%) of the unpaid principal balance of the refinanced loan will be assessed against the local authority and shall be paid into the clean water state revolving loan administrative fund at the time of closing of the refinancing.

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

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

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

G. The base rate for the loan portion of the financial assistance shall ~~[be]~~ not exceed three percent. At the beginning of each state fiscal year, the commission may determine a base rate for the state fiscal year which is less than or greater than the current base rate.

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

- (1) An interest rate which ~~[is]~~ shall not exceed two percent, when the local authority's median household income is less

than the statewide non-metropolitan median household income based on the most current decennial U.S. bureau of census statistics.

(2) An interest rate ~~[of]~~ which shall not exceed one percent when the local authority's median household income is less than three-fourths of the statewide non-metropolitan median household income based upon the most current decennial U.S. bureau of census statistics.

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

(4) An interest rate of zero percent when:

(a) the local authority's average user cost is at least fifteen dollars (\$15.00) per month or a higher amount as determined by the commission. The calculation of average user cost shall be consistent with a statewide methodology established by the department; and

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

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

J. Financial assistance recipients shall comply with all applicable federal, state and local laws and regulations, including but not limited to:

(1) procurement;
 (2) record keeping;
 (3) accounting;
 (4) audit and inspection;
 (5) occupational health and safety;

(6) environmental review; and
 (7) nondiscrimination.

K. In the event of default by the local authority, the department as agent for the commission may enforce its rights by suit or mandamus or may utilize all other available remedies under state law. [11-18-93; 11-30-95; 09-30-98; 20.7.5.14 NMAC - Rn, 20 NMAC 7.5.204 & N, 7/16/2000; & A, 7/16/2000; A, 11/15/2007]

End of Adopted Rules Section

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Other Material Related to Administrative Law

**NEW MEXICO BOARD OF
EXAMINERS FOR
ARCHITECTS****New Mexico Board of Examiners for
Architects**

PO Box 509
Santa Fe, NM
505-982-2869

Regular Meeting

The New Mexico Board of Examiners for Architects will hold a regular open meeting of the Board in Santa Fe, New Mexico on Friday, November 9, 2007. The meeting will be held in the Conference Room of the Board office, #5 Calle Medico, Ste. C in Santa Fe beginning at 9:00 a.m. Disciplinary matters may also be discussed.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the meeting, please contact the Board Office at 982-2869 at least one week prior to the meeting. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact the Board Office if a summary or other type of accessible format is needed.

**End of Other Related
Material Section**

SUBMITTAL DEADLINES AND PUBLICATION DATES

2007

Volume XVIII	Submittal Deadline	Publication Date
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

2008

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