

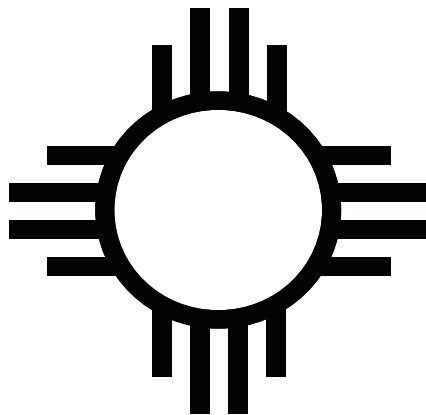
**NEW
MEXICO
REGISTER**



Volume XX
Issue Number 18
September 30, 2009

New Mexico Register

Volume XX, Issue Number 18
September 30, 2009



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
2009

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New Mexico Register

Volume XX, Number 18

September 30, 2009

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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.

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Notices of Rulemaking and Proposed Rules

NEW MEXICO AGING AND LONG-TERM SERVICES DEPARTMENT ADULT PROTECTIVE SERVICES DIVISION

NOTICE IS HEREBY GIVEN that the Secretary of the New Mexico Aging and Long-Term Services Department (ALTSD) is proposing the promulgation of regulations pursuant to her authority under the Aging and Long-Term Services Department Act, Sections 9-23-6.E and NMSA 1978, Section 28-4-6. ALTSD's Adult Protective Services Division (APS) will hold a Public Rule Hearing on October 27, 2009 at 1 p.m. in Hearing Room #2, Toney Anaya Building, 2550 Cerrillos Road, in Santa Fe, New Mexico, for the purpose of amending 8.11.3 NMAC, **ADULT PROTECTIVE SERVICES INVESTIGATIONS**. The proposed amendments to 8.11.3 NMAC, in summary, include, but are not limited to, the following: adding new definitions, clarifying other definitions, more clearly delineating process and procedures for investigations and the administrative review process.

Interested parties may access the proposed amendments on the Division's website at http://www.nmaging.state.nm.us/Adult_Protective_Services_Division.html. Copies may also be obtained by contacting APS at (505) 841-4537. Interested persons may testify at the hearing or submit written comments no later than 5:00 p.m. on October 26, 2009. Written comments regarding the proposed new rule and amendments to rules should be directed to Anthony Louderbough, Deputy Director, New Mexico Adult Protective Services Division, 625 Silver, SW Suite 400, Albuquerque, New Mexico 87102, or faxed to (505) 841-4520.

If you are an individual with a disability and/or require this information in an alternative format or request special accommodations to participate in the public hearing such as a reader, amplifier, qualified language interpreter or any other form of auxiliary aid or service to attend or participate in the upcoming hearing or meeting, please contact Tony Louderbough at the address and phone number listed above, at least one week prior to the hearing or as soon as possible.

NEW MEXICO AGING AND LONG-TERM SERVICES DEPARTMENT AGING NETWORK SERVICES DIVISION

NOTICE OF RULEMAKING

Cindy Padilla, the Secretary of the New Mexico Aging and Long-Term Services Department ("ALTSD"), is proposing the promulgation of new regulations pursuant to her authority under the Aging and Long-Term Services Department Act, NMSA 1978, Sections 9-23-6.E and NMSA 1978, Section 28-4-6. The ALTSD Aging Network Services Division Employment Programs Bureau shall hold a formal public hearing on October 14, 2009 from 1:00 to 3:00 p.m. in Hearing Room Number One on the 2nd floor of the Toney Anaya Building located at 2550 Cerrillos Road, Santa Fe, New Mexico 87505 to receive public comments regarding the proposed promulgation of rule 9.2.13 NMAC governing Employment Programs for Older Workers. The new proposed rule 9.2.13 NMAC shall repeal and replace the 9.2.13 NMAC filed by the ALTSD predecessor agency, the New Mexico State Agency on Aging, with the State Records Center, SSA Rule No. 93-13, Employment Programs for the Elderly, filed 4/13/95, and recompiled 10/01/01. The primary amendments to the proposed rule include, but are not limited to, adding new definitions, clarifying other definitions, more clearly delineating the different employment programs and establishing a grievance and appeal process by regulations.

The proposed rule, 9.2.13 NMAC, may be viewed and downloaded on the ALTSD website, <http://www.nmaging.state.nm.us/>, or a copy may be obtained by contacting Doug Calderwood, at 505-474-3800 extension 1001. Interested persons may testify at the hearing or submit written comments no later than 5:00 p.m. on October 14, 2009. Written comments shall be given the same consideration as oral testimony received at the hearing. Written comments should be addressed to Doug Calderwood, Chief, Employment Programs Bureau, Aging and Long-Term Services Department, 2550 Cerrillos Road, Santa Fe, New Mexico 87505, Fax Number 505-474-3886, email: doug.calderwood@state.nm.us.

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 Doug Calderwood, at 505-474-3800, Extension 1001. The Aging and Long-Term Services Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD NOTICE OF RULEMAKING HEARING

The New Mexico Environmental Improvement Board ("Board") will hold a public hearing on December 7, 2009 at 9:00 a.m. in the City of Farmington Council Chambers, City Hall at 800 Municipal Drive, Farmington, New Mexico. The purpose of the hearing is to consider adoption of new proposed Air Quality Control Regulations 20.2.50 NMAC (Ozone Control Areas) and 20.2.51 (Nitrogen Oxide Emissions from Engines in Ozone Control Areas).

The proponent of this regulatory adoption and revision is the New Mexico Environment Department ("NMED").

The purpose of the public hearing is to consider and take possible action on a petition from NMED regarding adoption of new proposed regulations 20.2.50 NMAC -Ozone Control Areas and 20.2.51 - Nitrogen Oxide Emissions from Engines in Ozone Control Areas. The first proposed rule, 20.2.50 NMAC would establish a mechanism to establish areas within its jurisdiction in which additional regulation of nitrogen oxides and volatile organic compounds is required, due to ambient ozone concentrations in excess of 95% of the current federal ozone standard. This rule would also designate two such areas that currently exist: one in the Sunland Park area of southern New Mexico, and one in the San Juan County area in northwestern New Mexico. The second proposed rule, 20.2.51 NMAC would impose new restrictions on emissions of nitrogen oxides from a substantial contributor of that pollutant in the San Juan County area, specifically, reciprocating engines used for natural gas compression.

The new proposed regulations may be reviewed during regular business hours at the NMED Air Quality Bureau office, 1301 Siler Road, Building B, Santa Fe, New Mexico or at the Farmington Field Office at 3400 Messina Drive, Suite 5000, Farmington, NM 87402. Full text of NMED's new proposed regulations are available on NMED's web site at www.nmenv.state.nm.us, or by contacting Mark Jones at (505) 566-9746 or mark.jones@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 with the Board a written notice of intent to do so. The notice of intent shall:

- (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) summarize or 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 for the hearing must be received in the Office of the Board not later than 5:00 pm on November 20, 2009, and should reference the docket number, EIB 09-10(R) and the date of the hearing. Notices of intent to present technical testimony should be submitted to:

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

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer exhibits in connection with his testimony, so long as the exhibit is not unduly repetitious of the testimony.

A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing, or submit it at the hearing.

Persons having a disability and needing help in being a part of this hearing process should contact Judy Bentley by November 20, 2009

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 please access her number via the New Mexico Relay Network at 1-800-659-8331.

The Board may make a decision on the proposed new regulations at the conclusion of the hearing, or the Board may convene a meeting at a later date to consider action on the proposal.

**NEW MEXICO
DEPARTMENT OF FINANCE
AND ADMINISTRATION
BOARD OF FINANCE**

NOTICE OF BOARD OF FINANCE RULE

The State Board of Finance is in the process of revising one of its rules: Procedures for Designating a Fiscal Agent of New Mexico. Copies of the existing rule and proposed changes are available in room 181, Bataan Memorial building, Santa Fe, NM 87501 and on the Board of Finance website, <http://board.nmdfa.state.nm.us>. The Board will consider adopting the proposed rule at its November 09, 2009 meeting, which takes place at 9:30 in the Governor's Cabinet Room, State Capitol building. Please mail or deliver written comments on the proposed changes to Olivia Padilla-Jackson, 181 Bataan Memorial building, Santa Fe, NM 87501 by October 30, 2009.

**NEW MEXICO
DEPARTMENT OF HEALTH**

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on 7.1.2 NMAC "Adjudicatory Hearings for Licensed Facilities". The Hearing will be held on Thursday, November 5, 2009 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 receive public comment regarding proposed changes to the rule.

A copy of the proposed regulation can be obtained from:

David Rodriguez, Director's Office
Division of Health Improvement
2040 S. Pacheco Street
2nd Floor, Suite 421
Santa Fe, New Mexico 87505
TEL: (505) 476-9007

FAX: (505) 476-9075

Please submit any written comments regarding the proposed regulation to Mr. Rodriguez at the address listed above.

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

If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in the hearing, please contact David Rodriguez at the above address or telephone number. The Department requests at least ten (10) days advance notice for special accommodations requests.

**NEW MEXICO HUMAN
SERVICES DEPARTMENT
CHILD SUPPORT ENFORCEMENT
DIVISION**

NOTICE OF PUBLIC HEARING

The Human Services Department, Child Support Enforcement Division, proposes to repeal and replace the Administrative Enforcement of Support Obligations 8.50.112 NMAC in order to address the recently passed legislation on gaming machine payouts, include changed from the Deficit Reduction Act (2005), and to clarify procedures regarding the administrative enforcement of support obligations.

A public hearing to receive testimony on this proposed regulation will be held on Friday, October 30, 2009 at 9:00 a.m.

The hearing will be held at the Child Support Enforcement Division Law Library located in Pollon Plaza, 2009 South Pacheco St., Santa Fe, NM 87505. Individuals wishing to testify may contact the Child Support Enforcement Division, P.O. Box 25110, Santa Fe, NM 87504, or by calling toll free 1-800-432-6217, or in Santa Fe at (505) 476-7203.

If you are a person with a disability and you require this information in an alternative format, or you require a special accommodation to participate in any HSD public hearing, program, or service, please contact the New Mexico Human Services Department toll free at 1-800-288-7207, in Santa Fe at (505) 476-7203, or through the New Mexico Relay system, toll free at 1-800-659-8331. The Department requests at least a ten (10) day advance notice to provide requested alternative formats and special accommodations.

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 p.m. on the date of the hearing. All written and oral testimony will be considered prior to issuance of the final regulation. Please send comments to:

Laura L. Galindo, Policy Manager
Human Services Department
P.O. Box 25110 Pollon Plaza
Santa Fe, N.M. 87504

You may send comments electronically to: laura.galindo@state.nm.us or via fax to (505) 476-7045

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

NEW MEXICO PUBLIC EDUCATION DEPARTMENT NOTICE OF PROPOSED RULEMAKING

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 Monday, November 2, 2009, from 9:00 A.M. to 11:00 A.M. The purpose of the public hearing will be to obtain input on the proposed amendments to 6.31.2 NMAC (Children with Disabilities/Gifted Children).

Interested individuals may testify either at the public hearing or submit written comments to Leah Erickson, Executive Secretary Administrative Assistant, Special Education Bureau, Public Education Department, 120 South Federal Place, Room 206, Santa Fe, New Mexico 87501, via email at (spedfeedback@state.nm.us), or fax (505) 827-954-0001. Copies of the proposed rules may be accessed on the Department's website (<http://ped.state.nm.us/>) or obtained from Ms. Erickson. Written comments must be received no later than 5:00 P.M. on the date of the hearing. 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 are asked to contact Ms. Erickson as soon as possible at (505) 827-1458. The Department requires at least ten (10) days advance notice to provide requested special accommodations.

NEW MEXICO PUBLIC REGULATION COMMISSION INSURANCE DIVISION

BEFORE THE NEW MEXICO SUPERINTENDENT OF INSURANCE

IN THE MATTER OF PROPOSED PAYEE NOTIFICATION IN THIRD PARTY SETTLEMENTS

DOCKET NO.
09-00282-IN

NOTICE OF PROPOSED RULEMAKING, HEARING AND PROCEDURAL ORDER

NOTICE IS HEREBY GIVEN that the New Mexico Superintendent of Insurance ("Superintendent") pursuant to NMSA 1978, Section 59A-2-9, proposes to promulgate a rule entitled "Payee Notification." The Superintendent, being otherwise fully advised, **FINDS and CONCLUDES THAT:**

1. The proposed regulation is based upon the ABA model rule for payee notification.

2. The model regulation is intended to prevent dishonest conduct from a claimant's lawyer in the receipt of third-party liability settlements. The provisions of the proposed regulation will ensure that claimants receive written notification from the insurer concerning the facts of the settlement.

COPIES OF PROPOSED RULEMAKING ARE AVAILABLE:

a. by downloading from the Public Regulation Commission's website, www.nmprc.state.nm.us, then clicking on the maroon-colored box labeled "Proposed Rules," scroll down to "Insurance," Docket No. 09-00282-IN, "Payee Notification."

b. by sending a written request with the docket number, rule names, and rule numbers to the Public Regulation Commission's Docketing Office, P.O. Box 1269, Santa Fe, NM 87504-1269 along with a self-addressed envelope and a check for \$1.25 made payable to the Public Regulation Commission to cover the cost of copying; or

c. for inspection and copying during regular business hours in the Public Regulation Commission's Docketing Office, Room 406, P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, NM.

COMMENTS ON RULEMAKING: The Superintendent requests written and oral comments from all interested persons and entities on the proposed rulemaking. All relevant and timely comments, including data, views, or arguments, will be considered

by the Superintendent. In reaching his decision, the Superintendent may take into account information and ideas not contained in the comments, providing that such information or a writing containing the nature and source of such information is placed in the docket file, and provided that the fact of the Superintendent's reliance on such information is noted in the order the Superintendent ultimately issues.

IT IS THEREFORE ORDERED that this Notice of Hearing on Proposed Rulemaking and Procedural Order be issued.

IT IS FURTHER ORDERED that an **informal public hearing** pursuant to Section 59A-4-18 NMSA 1978 be held on Wednesday, October 21, at 9:30 a.m. in the Public Regulation Commission, Fourth Floor Hearing Room, P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico for the purpose of receiving oral public comments including data, views, or arguments on the proposed rulemaking. All interested persons wishing to present oral comments may do so at the hearing. Interested persons should contact the Insurance Division ahead of time to confirm the hearing date, time and place since hearings are occasionally rescheduled.

IT IS FURTHER ORDERED that all interested parties may file **written comments** on the proposed rulemaking on or before October 12, 2009. An original and (2) two copies of written comments and suggested changes concerning the proposed rule, "Payee Notification," must be mailed or delivered to: NM Public Regulation Commission – Docketing Division, ATTN: Mariano Romero, RE: Proposed Rulemaking "Payee Notification" in Docket No. 09-00282-IN, Public Regulation Commission's Docketing Office, Room 406, PO Box 1269, Santa Fe, NM 87504-1269. Telephone: (505) 827-4368. If possible, please also e-mail a copy of written comments as an attachment in Microsoft Word format to Melinda.Silver@state.nm.us, or call her at 505-827-6904 to notify her that comments were submitted to the Docketing Office. Comments will be available for public inspection during regular business hours in the Docketing Office, Room 406, P.E.R.A. Building, 1120 Paseo de Peralta, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, NM.

IT IS FURTHER ORDERED that the Superintendent may require the submission of additional information, make further inquiries, and modify the dates and procedures if necessary to provide for a fuller record and a more efficient proceeding.

IT IS FURTHER ORDERED that Insurance Division Staff shall cause a copy

of this Notice to be published once in the New Mexico Register and once in the Albuquerque Journal.

PLEASE BE ADVISED THAT the New Mexico Lobbyist Regulation Act, Section 2-11-1 et seq., NMSA 1978 regulates lobbying activities before state agencies, officers, boards and commissions in rulemaking and other policy-making proceedings. A person is a lobbyist and must register with the Secretary of State if the person is paid or employed to do lobbying or the person represents an interest group and attempts to influence a state agency, officer, board or commission while it is engaged in any formal process to adopt a rule, regulation, standard or policy of general application. An individual who appears for himself or herself is not a lobbyist and does not need to register. The law provides penalties for violations of its provisions. For more information and registration forms, contact the Secretary of State's Office, State Capitol Building, Room 420, Santa Fe, NM 87503, (505) 827-3600.

PLEASE BE ADVISED THAT individuals with a disability, who are 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, may contact the Docketing Office at (505) 827-4368. Public documents associated with the hearing can be provided in various accessible forms for disabled individuals. Requests for summaries or other types of accessible forms should be addressed to Mr. Romero.

DONE, this 31 day of August, 2009.

**NEW MEXICO PUBLIC REGULATION COMMISSION
INSURANCE DIVISION**

Morris J. Chavez
Superintendent of Insurance

**NEW MEXICO PUBLIC REGULATION COMMISSION
INSURANCE DIVISION**

BEFORE THE NEW MEXICO SUPERINTENDENT OF INSURANCE

)
IN THE MATTER OF:)
)
TITLE INSURANCE RULES)
) **Docket No. 09-00329-IN**
FOR FILING RATES)
_____)

**AMENDED NOTICE OF HEARING AND PROCEDURAL ORDER
TO CONSIDER ADOPTION OF RULES FOR FILING TITLE INSURANCE RATES
LOWER THAN THE PROMULGATED TITLE INSURANCE RATES**

THIS MATTER comes before the New Mexico Superintendent of Insurance ("Superintendent") upon the Superintendent's own motion and pursuant to the statutory mandate of NMSA 1978, § 59A-30-6(F) (2009), which requires the Superintendent to adopt rules to establish standards and procedures by which a title insurance rate lower than the promulgated rate shall be filed and may be approved. Please take notice of the following:

1. A public hearing shall be held on **Monday, October 26, 2009, at 9:00 a.m.**, and continuing thereafter as necessary in the Public Regulation Commission Hearing Room, Fourth Floor, P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico. The hearing shall be held for the purpose of considering the adoption of rules to establish standards and procedures by which a title insurance rate lower than the promulgated rate shall be filed and may be approved. The proceeding shall be informal within the meaning of NMSA 1978, § 59A-4-18 (1984).

2. The hearing previously scheduled for September 28, 2009, is hereby canceled.

3. The staff of the Insurance Division ("Staff") has prepared a proposed rule to establish standards and procedures by which a title insurance rate lower than the promulgated rate shall be filed and may be approved. Staff's proposal is contained in Attachment A.

4. All interested persons may testify at the hearing.

5. Written comments on Staff's proposal as contained in Attachment A shall be filed in this docket on or before **Friday, October 16, 2009**. All written comments suggesting changes to Staff's proposal shall state and discuss the particular reasons for the suggested changes and, where necessary or appropriate to effectuate the changes being suggested, shall include specific language for incorporation into the proposal. Comments and other materials to be filed shall be submitted in person or by mail to the docketing office, citing the above-referenced docket. The docketing office is located in Room 406, P.E.R.A. Building, Corner of Paseo de Peralta and Old Santa Fe Trail, New Mexico and its mailing address is P.O. Box 1269, Santa Fe, New Mexico 87504-1269. An additional copy of all comments and other materials filed in this docket shall be delivered or mailed to Hearing Officer assigned to this matter at the following address: Title Insurance Hearing Officer, Insurance Division, Room 431, P.E.R.A. Building, Corner of Paseo de Peralta and Old Santa Fe Trail, P.O. Box 1269, Santa Fe, New Mexico 87504-1269.

6. All submissions shall be deemed filed as of the date and time stamped by the docketing office.

7. Comments will be available for public inspection during regular business hours at the Public Regulation Commission's docketing office.

8. Staff shall arrange for distribution and publication of this notice pursuant to NMSA 1978, § 59A-4-16, and other applicable law.

9. Any 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, should contact Mariano Romero, at (505) 827-4526, no later than **September 16, 2009**. Public documents, including the transcript, agenda or minutes, if any, can be provided in various accessible forms. Please contact Mariano Romero if a summary or other type of accessible form is needed.

10. Interested persons should contact the Docketing Office or Staff for confirmation of the hearing date, time, and place because hearings are rescheduled on occasion.

DONE AND ORDERED this 10th day of September, 2009.

**Thomas R. Rushton
Chief Deputy Superintendent,
Hearing Officer**

**NEW MEXICO WORKERS'
COMPENSATION
ADMINISTRATION**

NOTICE OF PUBLIC HEARING

Notice is hereby given that on Thursday, October 8, 2009, commencing at 1:30 p.m., the New Mexico Workers' Compensation Administration will conduct a public hearing on rule changes to Part 7 of the Workers' Compensation Administration Rules. The hearing will also consider changes to the medical fee schedule. The hearing will be conducted at the Workers' Compensation Administration (WCA), 2410 Centre Avenue S.E., Albuquerque, NM. Copies of the proposed changes to the rules and proposed changes to the fee schedule will be available on September 28, 2009.

Comments made in writing and at the public hearing will be taken into consideration. Written comments pertaining to these issues will be accepted until the close of business on Friday, October 28, 2009. Oral comments will be limited to five (5) minutes per speaker.

Copies of the proposed fee schedule and rule amendments will be available on the WCA website at <http://www.workerscomp.state.nm.us/> or at the WCA Clerk's Office, 2410 Centre Avenue S.E., Albuquerque, NM, 87106, (505) 841-6000. If you intend to request a hard copy by mail, please inquire at the WCA about the postage cost and envelope size needed to accommodate your request. Plan on including a post-paid, self-addressed envelope with your request. For further information call (505) 841-6000.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aide or service to attend or participate in the hearing or meetings, please contact Renee Blechner at (505) 841-6083. Or you may inquire about assistance through the New Mexico relay network at 1-800-659-8331.

**End of Notices and Proposed
Rules Section**

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Adopted Rules

ALBUQUERQUE- BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

**TITLE 20 ENVIRONMENTAL
PROTECTION
CHAPTER 11 ALBUQUERQUE
- BERNALILLO COUNTY AIR
QUALITY CONTROL BOARD
PART 49 EXCESS EMISSIONS**

20.11.49.1 ISSUING AGENCY:
Albuquerque - Bernalillo County Air Quality Control Board, c/o Environmental Health Department. P.O. Box 1293, Albuquerque, New Mexico 87103. Telephone: (505) 768-2601.
[20.11.49.1 NMAC - N, 10/13/09]

20.11.49.2 SCOPE:
A. 20.11.49 NMAC is applicable to every stationary source within Bernalillo county.

B. Exempt: 20.11.49 NMAC does not apply to sources within Bernalillo county that are located on indian lands over which the Albuquerque-Bernalillo county air quality control board lacks jurisdiction.
[20.11.49.2 NMAC - N, 10/13/09]

20.11.49.3 STATUTORY AUTHORITY: 20.11.49 NMAC is adopted pursuant to the authority provided in the New Mexico Air Quality Control Act, NMSA 1978 Sections 74-2-4, 74-2-5; the Joint Air Quality Control Board Ordinance, Bernalillo County Ordinance No. 94-5, Sections 4 and 5; and the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994, Sections 9-5-1-4 and 9-5-1-5.
[20.11.49.3 NMAC - N, 10/13/09]

20.11.49.4 DURATION: Permanent.
[20.11.49.4 NMAC - N, 10/13/09]

20.11.49.5 EFFECTIVE DATE: 10/13/09, unless a later date is cited at the end of a section.
[20.11.49.5 NMAC - N, 10/13/09]

20.11.49.6 OBJECTIVE: To implement requirements for the reporting of excess emissions and establish affirmative defense provisions for facility owners and operators for excess emissions.
[20.11.49.6 NMAC - N, 10/13/09]

20.11.49.7 DEFINITIONS: In

addition to the definitions in 20.11.49 NMAC, the definitions in 20.11.1 NMAC apply unless there is a conflict between definitions, in which case the definition in 20.11.49 NMAC shall govern.

A. "Air pollution control equipment" means any device, equipment, process or combination thereof, the operation of which may limit, capture, reduce, confine, or otherwise control regulated air pollutants or convert for the purposes of control any regulated air pollutant to another form, another chemical or another physical state (e.g. sulfur recovery units, acid plants, baghouses, precipitators, scrubbers, cyclones, water sprays, enclosures, catalytic converters, and steam or water injection).

B. "Air quality regulation or permit condition" means any regulation adopted by the board, including a federal new source performance standard or national emission standard for hazardous air pollutants incorporated by reference, or any condition of an air quality permit issued by the department.

C. "Bypass" means the diversion of a regulated air contaminant around air pollution control equipment or process equipment.

D. "Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two-digit code) as described in the *standard industrial classification manual, 1972*, as amended by the 1977 supplement (U.S. government printing office stock numbers 4101-0065 and 003-005-00176-0, respectively).

E. "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the permittee, including acts of God or nature, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, or careless or improper operation.

F. "Excess emission" means the emission of an air contaminant, including a fugitive emission, in excess of the quantity, rate, opacity or concentration

specified by an air quality regulation or permit condition.

G. "Malfunction" means any sudden and unavoidable failure of air pollution control equipment or process equipment beyond the control of the owner or operator, including malfunction during startup or shutdown. A failure that is caused entirely or in part by poor maintenance, careless operation, or any other preventable equipment breakdown shall not be considered a malfunction.

H. [Reserved]

I. "Regular business day" means any day on which city of Albuquerque government offices are open for normal business. Saturdays, Sundays, and official federal and city of Albuquerque holidays are not regular business days.

J. "Shutdown" means the cessation of operation of any air pollution control equipment or process equipment.

K. "Startup" means setting into operation any air pollution control equipment or process equipment.

L. "Stationary source" or "source" means any building, structure, facility, or installation which emits or may emit a regulated air pollutant.

[20.11.49.7 NMAC - N, 10/13/09]

20.11.49.8 VARIANCES:
[Reserved]
[20.11.49.8 NMAC - N, 10/13/09]

20.11.49.9 SAVINGS CLAUSE: Any amendment to 20.11.49 NMAC which is filed with the state records center shall not affect actions pending for violation of a city or county ordinance, or 20.11.49 NMAC. Prosecution for a violation under prior regulation wording shall be governed and prosecuted under the statute, ordinance, part, or regulation section in effect at the time the violation was committed.
[20.11.49.9 NMAC - N, 10/13/09]

20.11.49.10 SEVERABILITY: If for any reason any section, subsection, sentence, phrase, clause, wording or application of 20.11.49 NMAC is held to be unconstitutional or otherwise invalid by any court or the United States environmental protection agency, the decision shall not affect the validity or application of remaining portions of 20.11.49 NMAC.
[20.11.49.10 NMAC - N, 10/13/09]

20.11.49.11 DOCUMENTS: Documents incorporated and cited in 20.11.49 NMAC may be viewed at the Albuquerque environmental health department, 400 Marquette NW, Room 3023, Albuquerque, NM 87102.

[20.11.49.11 NMAC - N, 10/13/09]

20.11.49.12 COMPLIANCE WITH OTHER REGULATIONS:

Compliance with 20.11.49 NMAC does not relieve a person from the responsibility to comply with any other applicable federal, state, or local statute or regulation.

[20.11.49.12 NMAC - N, 10/13/09]

20.11.49.13 APPLICABILITY:

A. Any source:

(1) whose operation results in an emission of a regulated air pollutant, including a fugitive emission, in excess of the quantity, rate, opacity or concentration specified by an air quality regulation or permit condition; or

(2) subject to the requirements of 20.11.47 NMAC, *Emissions Inventory Requirements*, 20.11.41 NMAC, *Authority-To-Construct*, 20.11.42 NMAC, *Operating Permits*, 20.11.61 NMAC, *Prevention of Significant Deterioration*, or 20.11.60 NMAC, *Permitting In Nonattainment Areas*.

B. Deviations under 20.11.42 NMAC, *Operating Permits*, which do not result in excess emissions, are not subject to the provisions of 20.11.49 NMAC.

C. 20.11.49 NMAC does not create a separate cause of action for failure to obtain a permit under 20.11.41 NMAC, *Authority-To-Construct*, 20.11.42 NMAC, *Operating Permits*, 20.11.61 NMAC, *Prevention of Significant Deterioration*, or 20.11.60 NMAC, *Permitting In Nonattainment Areas*.

[20.11.49.13 NMAC - N, 10/13/09]

20.11.49.14 OPERATION RESULTING IN AN EXCESS EMISSION:

The emission of a regulated air pollutant in excess of the quantity, rate, opacity, or concentration specified in an air quality regulation or permit condition that results in an excess emission is a violation of the air quality regulation or permit condition and may be subject to an enforcement action. The owner or operator of a source having an excess emission shall, to the extent practicable, operate the source, including associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing emissions.

[20.11.49.14 NMAC - N, 10/13/09]

20.11.49.15 NOTIFICATION:

A. The owner or operator of a source having an excess emission shall report the following information to the department on forms provided by the department. The department may authorize the submittal of such reports in electronic format. The department may require that the owner or operator of a source provide supplemental information in addition to that already required by 20.11.49.15 NMAC.

The additional information shall be reported by the deadline specified by the department.

(1) **Initial report:** The owner or operator shall file an initial report, no later than the end of the next regular business day after the time of discovery of an excess emission. The initial report shall include all available information regarding each item required by Subsection B of 20.11.49.15 NMAC.

(2) **Final report:** No later than 10 days after the end of the excess emission, the owner or operator shall file a final report that contains specific and detailed information for each item required by Subsection B of 20.11.49.15 NMAC.

B. The report shall include the following information:

(1) the name of the source;

(2) the name of the owner and operator of the source;

(3) the name and title of the person preparing the report;

(4) identifying information (e.g. permit and database numbers);

(5) the specific date(s) and time(s) the excess emission occurred;

(6) identification of the equipment involved and the emission point(s) (including bypass) from which the excess emission occurred;

(7) the air quality regulation or permit condition that was exceeded;

(8) identification of the air contaminant(s) and the magnitude of the excess emission expressed in the units of the air quality regulation or permit condition;

(9) the method for determining the magnitude and duration of the excess emission;

(10) the cause and nature of the excess emission;

(11) the steps taken to limit the duration and magnitude of the excess emission;

(12) the corrective action(s) taken to eliminate the cause of the excess emission; if one or more corrective actions are required, the report shall include a schedule for implementation of those actions, with associated progress reports; if no corrective actions are required, the report shall include a detailed explanation for that conclusion.

(13) the corrective action(s) taken to prevent a recurrence of the excess emission;

(14) whether the owner or operator attributes the excess emission to malfunction, startup or shutdown;

(15) whether the owner or operator will claim an affirmative defense under Subsections A, B or C of 20.11.49.16 NMAC; if claiming an affirmative defense, an analysis and the supporting evidence for each reason shall be submitted no later than 30 days after submittal of the final report required by 20.11.49.15 NMAC; no

later than 30 days after the earlier of the department's receipt of the final report or the deadline for submitting the final report, if the department receives a request for an extension from the owner or operator of the source, the department may grant an extension to complete the analysis not to exceed 30 additional days; and

(16) the contents of the final report shall contain a signed certification of truth, accuracy, and completeness; the certification shall be signed by the person who is reporting the excess emission.

C. If the period of an excess emission extends beyond 10 days, the owner or operator shall submit the final report required by Subsection B of 20.11.49.15 NMAC to the department within 72 hours of the date and time the excess emission ceased.

D. Alternative reporting. If an owner or operator of a source is subject to both the excess emission reporting requirements of 20.11.49.15 NMAC and the reporting requirements of 40 CFR Parts 60, 61, and 63, and the federal reporting requirements duplicate the requirements of 20.11.49.15 NMAC, then the federal reporting requirements shall suffice.

[20.11.49.15 NMAC - N, 10/13/09]

20.11.49.16 AFFIRMATIVE DEFENSES: All periods of excess emissions regardless of cause are violations of the act and the rules promulgated thereunder, the New Mexico Air Quality Control Act and rules promulgated thereunder, and applicable permit or other authorization of the air board. 20.11.49 NMAC provides an affirmative defense to owners and operators for civil or administrative penalty actions brought for excess emissions during periods of startup, shutdown malfunction or emergency, unless otherwise prohibited by Subsection D of 20.11.49.16 NMAC. 20.11.49.15 NMAC shall not be construed as limiting EPA's or citizens' authority under the act. The department may require the owner or operator of a source to provide supplemental information in addition to that already required by 20.11.49.16 NMAC. The additional information shall be reported by the deadline specified by the department.

A. Affirmative defense for an excess emission during malfunction: The owner or operator of a source subject to 20.11.49 NMAC may claim an affirmative defense for an excess emission during malfunction, against a civil penalty imposed in an administrative or judicial enforcement action. There shall be no affirmative defense for an excess emission during malfunction, from the owner or operator's liability or the department's claim for injunctive relief for the excess emission. The owner or operator claiming an affirmative defense for an excess emission during malfunction, shall bear the

burden of proof including the demonstration of the following criteria:

(1) the excess emission was caused by a malfunction;

(2) the excess emission:

(a) did not stem from any activity or event that could have been foreseen and avoided, or planned for; and

(b) could not have been avoided by better operation and maintenance practices;

(3) to the maximum extent practicable the air pollution control equipment or processes were maintained and operated in a manner consistent with good practice for minimizing emissions;

(4) repairs were made in an expeditious fashion when the operator knew or should have known that applicable emission limitations were being exceeded; off-shift labor and overtime must have been utilized, to the extent practicable, to ensure that such repairs were made as expeditiously as practicable;

(5) the amount and duration of the excess emission (including any bypass) were minimized to the maximum extent practicable during periods of such emissions;

(6) all possible steps were taken to minimize the impact of the excess emission on ambient air quality;

(7) all emission monitoring systems were kept in operation if at all possible;

(8) the owner or operator's actions in response to the excess emission were documented by properly signed, contemporaneous operating logs, or other relevant evidence;

(9) the excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance; and

(10) the owner or operator complied with the notification requirements in 20.11.49.15 NMAC.

B. Affirmative defense for an excess emission during startup or shutdown:

The owner or operator of a source subject to 20.11.49 NMAC may claim an affirmative defense for an excess emission during startup or shutdown against a civil penalty imposed in an administrative or judicial enforcement action. There shall be no affirmative defense for an excess emission during startup or shutdown, from the owner or operator's liability or the department's claim for injunctive relief for the excess emission. The owner or operator claiming an affirmative defense for an excess emission during startup or shutdown shall bear the burden of proof including the demonstration of the following criteria:

(1) the excess emission occurred during a startup or shutdown;

(2) the periods of excess emissions that occurred during startup or shutdown were short and infrequent and could not have

been prevented through careful planning and design;

(3) the excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;

(4) if the excess emissions were caused by a bypass (an intentional diversion of control equipment), then the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(5) at all times, the source was operated in a manner consistent with good practices for minimizing emissions;

(6) the frequency and duration of operation in startup or shutdown mode was minimized to the maximum extent practicable;

(7) all possible steps were taken to minimize the impact of the excess emission on ambient air quality;

(8) all emissions monitoring systems were kept in operation if at all possible;

(9) the owner or operator's actions during the period of excess emissions were documented by properly signed, contemporaneous operating logs, or other relevant evidence; and

(10) the owner or operator complied with the notification requirements in 20.11.49.15 NMAC.

C. Affirmative defense for an emergency.

(1) An emergency constitutes an affirmative defense to an action brought for noncompliance with a technology-based emission limitation if the owner or operator of the source demonstrates through properly signed, contemporaneous operating logs, or other relevant evidence that:

(a) an emergency occurred and that the owner or operator can identify the cause(s) of the emergency;

(b) the source was being properly operated at the time;

(c) during the period of the emergency the owner or operator took all reasonable steps to minimize levels of emissions that exceeded the technology-based emission limitation; and

(d) the owner or operator fulfilled the notification requirements under Subsection A of 20.11.49.15 NMAC, including a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(2) In any enforcement proceeding, the owner or operator seeking to establish the occurrence of an emergency has the burden of proof.

D. Affirmative defenses prohibited.

The affirmative defense provisions of this section shall not be available for:

(1) claims for injunctive relief;

(2) SIP limits or permit limits that

have been set taking into account potential emissions during startup and shutdown, including, but not limited to, limits that indicate they apply during startup and shutdown, and limits that explicitly indicate they apply at all times or without exception;

(3) excess emissions that cause an exceedance of the NAAQS or PSD increments;

(4) failure to meet federally promulgated emission limits, including, but not limited to, 40 CFR Parts 60, 61 and 63; or

(5) violations of requirements that derive from 40 CFR Parts 60, 61 and 63 or any other federally enforceable performance standard or emission limit.

E. Department's determination of adequacy of affirmative defense.

The department may issue a determination regarding an owner or operator's assertion of the affirmative defense under Subsections A, B or C of 20.11.49.16 NMAC on the basis of any relevant information, including but not limited to information submitted pursuant to 20.11.49 NMAC or obtained through an inspection. Any such determination is not a final action and is not reviewable, shall not be a prerequisite to the commencement of an administrative or judicial enforcement action, does not constitute a waiver of liability pursuant to 20.11.49.18 NMAC, and shall not preclude an enforcement action by the federal government or a citizen pursuant to the federal Clean Air Act. A source may not assert an affirmative defense under Subsections A, B or C of 20.11.49.16 NMAC in an administrative or judicial enforcement action unless it asserted such defense pursuant to Paragraph (15) of Subsection B of 20.11.49.15 NMAC.

[20.11.49.16 NMAC - N, 10/13/09]

20.11.49.17 ROOT CAUSE AND CORRECTIVE ACTION ANALYSIS:

A. Upon receipt of a written demand by the department, the owner or operator of a source having an excess emission, shall prepare an analysis that uses analytical tools determined by the department to be appropriate. The analysis shall contain the following information:

(1) an analysis describing the root cause and all contributing causes of the excess emission; and

(2) an analysis of the corrective actions implemented or available to reduce the likelihood of a recurrence of the excess emission resulting from the causes identified under Paragraph (1) of Subsection A of 20.11.49.17 NMAC, including, as applicable:

(a) identification of implemented or available corrective action alternatives, such as changes in design, operation and maintenance;

(b) the estimated cost associated with each corrective action alternative;

(c) the probable effectiveness of each corrective action alternative;

(d) if no corrective action alternatives are available, a clear explanation providing an adequate justification for that conclusion; and

(e) if one or more corrective actions are identified, a schedule for implementation and progress reports.

B. The department shall make the demand for an analysis no later than 90 days after receipt of the final report required by Subsection A of 20.11.49.15 NMAC.

C. The department may require the analysis authorized by Subsection A of 20.11.49.17 NMAC after considering relevant factors. Examples of relevant factors include the significance of the excess emission, the nature or pattern of excess emissions, and the history of the source, as well as any other factors determined to be relevant by the department.

D. The completed analysis shall be submitted to the department no later than 60 days after the department's demand is received by the owner or operator of the source, pursuant to Subsection A of 20.11.49.17 NMAC. For good cause shown, the department may grant an extension to submit the analysis.

E. The owner or operator of a source complying with 20.11.49.17 NMAC may assert a claim for confidential information protection. [20.11.49.17 NMAC - N, 10/13/09]

20.11.49.18 FUTURE ENFORCEMENT ACTION: The department may commence an administrative or judicial enforcement action against the owner or operator of a source for an excess emission for which the department has made a determination pursuant to Subsection E of 20.11.49.16 NMAC if the department determines that the excess emission is related to a pattern of excess emission events, poor maintenance, careless or marginal operation, or other appropriate reason. [20.11.49.18 NMAC - N, 10/13/09]

HISTORY OF 20.11.49 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the Commission of Public Records - State Records Center and Archives. Regulation No. 19, Breakdown, Abnormal Operating Conditions, or Scheduled Maintenance; filed 3/24/82.

History of Repealed Material: 20.11.90.12 NMAC, Breakdown, Abnormal Operating Conditions, or Scheduled Maintenance (filed 8/30/02) was repealed and replaced by 20.11.49 NMAC, effective 10/13/09.

ALBUQUERQUE- BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.65 NMAC, Sections 1, 3, 6, 7, 11, 16 and 19, effective 10/13/2009.

20.11.65.1 ISSUING AGENCY: Albuquerque - Bernalillo County Air Quality Control Board. P.O. Box 1293, Albuquerque, New Mexico 87103. Telephone: (505) [768-2600] 768-2601. [3/23/87. . .12/1/95; 20.11.65.1 NMAC - Rn, 20 NMAC 11.65.I.1, 10/1/02; A, 10/13/09]

20.11.65.3 STATUTORY AUTHORITY: [This Part] 20.11.65 NMAC is adopted pursuant to the authority provided in the New Mexico Air Quality Control Act, NMSA 1978 Section 74-2-4, 74-2-5.C; the Joint Air Quality Control Board Ordinance, Bernalillo County Ordinance 94-5 Section 4; and the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994 Section 9-5-1-4. [3/23/87. . .12/1/95; 20.11.65.3 NMAC - Rn, 20 NMAC 11.65.I.3, 10/1/02; A, 10/13/09]

20.11.65.6 OBJECTIVE: [The objective of this Part is] To prevent or reduce emission of hydrocarbon vapors from facilities and sources not otherwise regulated or exempted by 40 CFR Part 60; including volatile organic compounds and petroleum liquids, in order to prevent the formation of photochemical oxidants in the atmosphere. [3/23/87. . .12/1/95; 20.11.65.6 NMAC - Rn, 20 NMAC 11.65.I.6, 10/1/02; A, 10/13/09]

20.11.65.7 DEFINITIONS: In addition to the definitions in 20.11.65.7 NMAC the definitions in 20.11.1 NMAC apply unless there is a conflict between definitions, in which case the definition in 20.11.65 NMAC shall govern.

A. "Active life" means the time from initial startup until final shut down of the facility. This would also include periods of scheduled or unscheduled maintenance, flow adjustments or system failure, all of which are subject to the provisions of [20.11.90 NMAC] 20.11.49 NMAC.

B. "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the EPA administrator's or the director's satisfaction, in specific cases, to produce results adequate for the determination of compliance.

C. "Contaminated" means a condition resulting from seepage,

drainage, or flow of gaseous or liquid substances from activities such as a leaking underground storage tank, usually detected by hydro-geologic investigations or underground storage tank excavation and removal.

D. "Cutback asphalt" means asphalt cement or other paving material, which has been diluted or blended with petroleum solvents such as kerosene, naphtha, diesel oil, gasoline, or similar petroleum distillate products.

E. "Decontamination facility" means a place where a portable or stationary treatment system is installed and operated to receive water, air, or other gaseous substances bearing VOC contaminants.

F. "Dispense" means to introduce organic liquids by temporary connection from a supply container, greater than 60 gallons capacity, into a receptor container, which is normally closed and sealed against spillage or evaporative loss.

G. "Equivalent approved by the director" means the authorization to substitute an alternative control process, which has been demonstrated to the satisfaction of the director to result in no greater emissions, than would occur with the control process otherwise required. The director may use federal EPA document AP-42 or any other reliable reference [and/or] or manufacturers data in completing the evaluation of the proposed alternative.

H. "Equivalent method" means any method of sampling and analyzing for an air pollutant which is not a reference method but which has been demonstrated to the EPA administrator's or the director's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

I. "Existing facilities" means those decontamination facilities, which were constructed and placed in operation prior to June 1, 1991.

J. "Gasoline" means a mixture of liquid hydrocarbons with Reid vapor pressure of 4.0 psi or greater which is suitable for use as a fuel in spark ignition internal combustion engines and includes oxygenated blends.

K. "Loading rack" means a gasoline loading facility, which was constructed prior to December 17, 1980, and it includes loading arms, pumps, meters, shutoff valves, relief valves, and other piping and valves necessary to fill tank trucks. Those constructed or refurbished after December 17, 1980, may be subject to 20.11.63 NMAC, *New Source Performance Standards*.

L. "Motor vehicle" means any wheeled conveyance propelled by an internal combustion engine and commonly

operated on roadways and which has a fuel tank capacity exceeding 5.0 U.S. gallons (18.93 liters).

M. "New facilities" means those decontamination facilities, which are authorized by an authority-to-construct permit issued by the department and dated June 1, 1991 or later.

N. "Organic fluid" means any substance or mixture thereof, which is liquid at standard conditions and contains carbon compounds that act as volatile organic compounds.

O. "Oxygenate" means an oxygen-containing, ashless organic compound such as alcohol or ether, which may be used as a motor vehicle fuel or fuel supplement.

P. "Reference method" means any method of sampling and analyzing for an air pollutant as described in Appendix A to 40 CFR 60.

Q. "Regenerate" means to drive off or cause the release of adsorbed or absorbed VOC from the collection media of a pollution control device.

R. "Stationary container" shall mean any aggregation or combination of containers which is:

- (1) possessed by one person;
- (2) located so that any portion of such aggregation or combination of containers can be encompassed within a circle 300 feet in diameter; and
- (3) was constructed prior to June 11, 1973; those constructed after June 11, 1973, may be subject to 20.11.63 NMAC, *New Source Performance Standards*.

S. "Strip" means to subject contaminated liquid to direct contact with a gaseous medium so that contamination products are transferred from the liquid to the gas, such as in a packed column.

T. "Submerged fill pipe" means any fill pipe, the discharge opening of which is entirely submerged when the fluid level is six (6) inches above the bottom of the container.

U. "Transportable container" means a gasoline or other organic fluid-containing vessel and its ancillary plumbing fixtures with a capacity greater than 500 gallons which is mounted on a truck or trailer chassis licensed for bulk movement of organic fluids by way of public roadways.

V. "Underground storage tank" means any single vessel buried or installed below ground and used for holding gasoline at a facility having an annual total volume of use [and/or] or sale in excess of 100,000 gallons of gasoline.

W. "Vapor pressure" means the true vapor pressure of the fluid mixture vapors as could reasonably be expected under the actual storage conditions. This would be the equilibrium.

X. "Ventilation" means to evaporate and flush VOC's from contaminated soil by increasing soil [by increasing—soil] temperature [and/or] or exposing it to air, steam or any other working gases.

Y. "Volatile organic compound" or "VOC" means any organic compound which participates in atmospheric photochemical reactions; or which is measured by a federal EPA reference method, an equivalent method, an alternative method, or which is determined by procedures specified under any subpart of 40 CFR 60 of the federal Code of Regulations.

[3/23/87. . .12/1/95; 20.11.65.7 NMAC - Rn, 20 NMAC 11.65.I.7, 10/1/02; A, 10/13/09]

20.11.65.11 DOCUMENTS : Documents incorporated and cited in [this—Part] 20.11.65 NMAC may be viewed at the Albuquerque Environmental Health Department, 400 Marquette NW, Albuquerque, NM.

[12/1/95; 20.11.65.11 NMAC - Rn, 20 NMAC 11.65.I.11 & A, 10/1/02; A, 10/13/09]

20.11.65.16 ORGANIC FLUIDS EXEMPT FROM VAPOR LOSS CONTROL UNDER 20.11.65 NMAC:

The handling, transport, loading, storage, or dispensing of organic fluid such as diesel fuels numbers 2-D and 4-D as specified by ASTM D975-78, fuels oils number 2 through 6 as specified by ASTM D396-78, and jet aircraft and gas turbine fuel oils number 2-GT through 4-GT as specified by ASTM D2880-82 and D1655-85A shall be exempt from vapor loss controls of [this Part] 20.11.65 NMAC.

[12/1/95; 20.11.65.16 NMAC - Rn, 20 NMAC 11.65.II.5, 10/1/02; A, 10/13/09]

20.11.65.19 CONTAMINATED SOILS [AND/OR] AND GROUNDWATER TREATMENT:

A. Applicability:

(1) **Existing decontamination facilities;** shall comply with the provisions of this subsection no later than June 1, 1991.

(2) **New decontamination facilities;** which are authorized by an authority-to-construct permit issued by the department, shall comply with the provisions of this subsection immediately upon startup.

B. VOC emission controls required: No person shall strip or extract VOC's from contaminated soils or water or regenerate or reactivate a VOC collecting material used within a pollution control device such that emissions to the ambient air be in excess of Albuquerque - Bernalillo County Air Quality Control Board, Ambient Air Quality Standards.

C. VOC emission controls - exceptions: Site excavation to examine

tanks and other underground conditions shall be exempt from this provision. Aeration of wastewater at sewage treatment facilities shall be exempt from this subsection.

D. Testing and reporting:

(1) Emission testing shall be performed by the operator of the stripper/extracting operation to insure pollution control device efficiency. Performance testing shall be performed and reported within 30 days from startup and quarterly thereafter throughout the active life of the project. This provision may be suspended, with the director's approval, upon receipt of the operator's petition demonstrating emissions have declined to negligible quantities. Testing shall quantify the emissions of VOC from each emission point of the pollution control device using EPA Method 25 - Determination of Total Gaseous Non-methane Organic Emissions as Carbon as published in 40 CFR 60 Appendix A, or an equivalent method approved by the director. In addition, testing shall quantify all hazardous air pollutants as listed in 40 CFR 61.01(a) and (b). This emissions testing shall be performed by EPA Method 18 - Measurement of Gaseous Organic Compound Emissions By Gas Chromatography as published in 40 CFR 60 Appendix A or equivalent. After the initial report, the emissions shall be tested no less frequently than annually to monitor any change in the emissions of hazardous air pollutants.

(2) All test reports shall be submitted to the department within 45 days of the test date.

[3/23/87; 20.11.65.19 NMAC - Rn, 20 NMAC 11.65.II.8, 10/1/02; A, 10/13/09]

ALBUQUERQUE- BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.69 NMAC, Sections 1, 6, 10, 22, 25, 26 and 28, effective 10/13/2009.

20.11.69.1 ISSUING AGENCY: Albuquerque - Bernalillo County Air Quality Control Board. P.O. Box 1293, Albuquerque, NM 87103. Telephone: (505) [768-2600] 768-2601.

[5/13/92. . .12/1/95; 20.11.69.1 NMAC - Rn, 20 NMAC 11.69.I.1, 10/1/02; A, 10/13/09]

20.11.69.6 OBJECTIVE: [The objective of 20.11.69 NMAC is] To assure that the citizens of Bernalillo county are not needlessly exposed to infectious or toxic substances in the air, which pathological waste destructors, might otherwise emit.

[5/13/92; 20.11.69.6 NMAC - Rn, 20 NMAC

11.69.I.6, 10/1/02; A, 10/13/09]

20.11.69.10 SEVERABILITY: If any section, paragraph, sentence, clause, or word of [this Part] 20.11.69 NMAC or any federal standards incorporated herein is for any reason held to be unconstitutional or otherwise invalid by any court, the decision shall not affect the validity of remaining provisions of 20.11.69 NMAC.

[12/1/95; 20.11.69.10 NMAC - Rn, 20 NMAC 11.69.I.10, 10/1/02; A, 10/13/09]

20.11.69.22 T E S T PROCEDURES:

A. Notice of the test date and a copy of the test protocol shall be submitted to the department at least thirty days prior to the actual test date.

B. A representative of the department shall be given the opportunity to be present during all emissions test required by 20.11.69 NMAC.

C. A written copy of all test results shall be furnished to the department within sixty days from the test date.

D. Emission tests shall be conducted utilizing the following methods:

(1) for total particulate matter 40 CFR Part 60, Appendix A, Methods 1 - 5 as amended;

(2) for PCDD/PCDF 40 CFR Part 60, Appendix A, Method 23 as amended;

(3) for cadmium chromium, and lead 40 CFR Part 60, Appendix A., Methods 1 - 4 and 12 as amended;

(4) for arsenic 40 CFR Part 61, Appendix B, Method 108 as amended;

(5) for beryllium 40 CFR Part 61, Appendix B, Method 104 as amended;

(6) for mercury 40 CFR Part 61, Appendix B., Method 101A as amended;

(7) for opacity 40 CFR Part 60, Appendix A, Method 9 as amended;

(8) for hydrogen chloride 40 CFR Part 60, Appendix A, Method 26 as amended;

(9) for carbon monoxide 40 CFR Part 60, Appendix A, Method 10 as amended;

(10) for sulfur dioxide 40 [CRF] CFR Part 60, Appendix A, Method 6 as amended; and

(11) for nitrogen oxide 40 CFR Part 60, Appendix A, Method 7 as amended.

E. The owner or operator may use test methods other than those in Subsection D of 20.11.69.22 NMAC if the department has approved the alternate test method prior to the test date. The department shall rule on proposed alternate test method acceptability within thirty days of receipt of the proposal.

[5/13/92; 12/1/95; 20.11.69.22 NMAC - Rn, 20 NMAC 11.69.II.11, 10/1/02; A, 10/13/09]

20.11.69.25 UPSET CONDITION:

A. The provisions of [20.11.90 NMAC] 20.11.49 NMAC shall not

apply to any PWD.

B. Whenever the temperature requirements of Sections [203 or 205] 15 or 17 of 20.11.69 NMAC or any emission limit in 20.11.69.13 NMAC for which compliance is based on continuous emissions monitoring, is exceeded, the operator shall take the following actions:

(1) cut off waste charging to the combustion unit;

(2) notify the department verbally of the exceedence within four [hour] hours of its occurrence or prior to twelve noon of the next business day should the exceedence occur during non-business hours;

(3) note in the operating record the time and date of the exceedence, when shutdown began, and when shutdown was complete;

(4) identify and correct the cause of the upset condition before resuming operation of the unit; and

(5) note in the operating record the corrective action taken and the time and date of startup.

[5/13/92; 20.11.69.25 NMAC - Rn, 20 NMAC 11.69.II.14, 10/1/02; A, 10/13/09]

20.11.69.26 H A N D L I N G , STORAGE, AND TRANSPORTATION OF ASH:

A. All handling and storage of fly ash and bottom ash shall be conducted in a closed system, which prevents ash from becoming airborne.

B. Transporters of pathological waste destructor ash (PWD ash):

(1) shall not accept or transport PWD ash unless it has been treated or is securely covered to prevent release of fugitive dust; and

(2) shall line or seal vehicles to prevent any leakage of liquids.

[(3)] C. There shall be no visible emissions (0 percent opacity) resulting from handling, storage, or transportation of PWD ash. Compliance with this requirement shall be determined by visual observation as specified in 40 CRF Part 60, Appendix A, Method 9 as amended.

[5/13/92; 20.11.69.26 NMAC - Rn, 20 NMAC 11.69.II.15, 10/1/02; A, 10/13/09]

20.11.69.28 C O M P L I A N C E SCHEDULE FOR EXISTING PATHOLOGICAL WASTE DESTRUCTORS:

A. PWDs in existence before the effective date of [this Part] 20.11.69 NMAC must achieve full compliance with this regulation within ten (10) days of the effective date of 20.11.69 NMAC. Each owner or operator of an existing PWD who intends to permanently cease operating the unit shall remove the unit from the facility within thirty days of the effective date of

20.11.69 NMAC. The department shall be notified of the intent to cease operating within the ten (10) day period specified above. Each owner or operator of an existing PWD shall either demonstrate compliance with the requirements of 20.11.69 NMAC or seek an assurance of discontinuance from the department within the ten (10) day period specified above.

B. Assurances of discontinuance shall contain the following:

(1) owner or operator's name and address;

(2) date of submittal;

(3) description of facility;

(4) description of the property upon which the facility is located;

(5) the following increments of progress:

(a) a date or dates by which contracts for each major phase of construction or installation of emission control systems, or process modification, or orders for their component parts, will be awarded;

(b) a date or dates of initiation of each major phase of on-site construction or installation of emission control equipment or process modification;

(c) a date or dates by which each major phase of on-site construction or installation of emission control equipment or process modification is to be completed; and

(d) a date or dates by which final compliance is to be achieved (no later than Nov 30, 1992 for < (less-than) 200pounds/hr units; or April 1, 1993 for single chamber units and ≥ (greater-than-or-equal-to) 200pounds/hr units);

[(e)] (6) a detailed description of the methods or devices to be used to achieve compliance.

[5/13/92; 20.11.69.28 NMAC - Rn, 20 NMAC 11.69.II.17, 10/1/02; A, 10/13/09]

ALBUQUERQUE- BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.90 NMAC, Sections 1, 2, 3, 6, 10, 11, 12, 13 and 14, effective 10/13/2009. This is also an amendment to the part name.

TITLE 20 ENVIRONMENTAL PROTECTION CHAPTER 11 ALBUQUERQUE - BERNALILLO COUNTY AIR QUALITY CONTROL BOARD PART 90 SURVEILLANCE; ADMINISTRATION AND ENFORCEMENT [—AND INSPECTION]

20.11.90.1 ISSUING AGENCY:

Albuquerque - Bernalillo County Air Quality Control Board, P.O. Box 1293, Albuquerque, NM 87103. Telephone: (505) [768-2600] 768-2601.

[3/21/77. . .12/1/95; 20.11.90.1 NMAC - Rn, 20 NMAC 11.90.I.1, 10/1/02; A, 10/13/09]

20.11.90.2 SCOPE:

A. [This—Part] 20.11.90 NMAC is applicable to any source within Bernalillo county.

B. Exempt: [This—Part] 20.11.90 NMAC does not apply to sources within Bernalillo county, which are located on Indian lands over which the Albuquerque - Bernalillo County Air Quality Control lacks jurisdiction.

[12/1/95; 20.11.90.2 NMAC - Rn, 20 NMAC 11.90.I.2, 10/1/02; A, 10/13/09]

20.11.90.3 S T A T U T O R Y

AUTHORITY: [This Part] 20.11.90 NMAC is adopted pursuant to the authority provided in the New Mexico Air Quality Control Act, NMSA 1978 Sections 74-2-4, 74-2-5.C; the Joint Air Quality Control Board Ordinance, Bernalillo County Ordinance 94-5 Section 4; and the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994 Section 9-5-1-4.

[3/21/77. . .12/1/95; 20.11.90.3 NMAC - Rn, 20 NMAC 11.90.I.3, 10/1/02; A, 10/13/09]

20.11.90.6 OBJECTIVE: [The

objective of this Part is] To minimize emissions from sources through inspection, enforcement, and good operating procedures. [12/1/95; 20.11.90.6 NMAC - Rn, 20 NMAC 11.90.I.6, 10/1/02; A, 10/13/09]

20.11.90.10 SEVERABILITY: If

any section, paragraph, sentence, clause, or word of [This Part] 20.11.90 NMAC or the federal standards incorporated herein is for any reason held to be unconstitutional or otherwise invalid by any court, the decision shall not affect the validity of remaining portions of [This Part] 20.11.90 NMAC.

[12/1/95; 20.11.90.10 NMAC - Rn, 20 NMAC 11.90.I.10, 10/1/02; A, 10/13/09]

20.11.90.11 D O C U M E N T S :

Documents incorporated and cited in [This—Part] 20.11.90 NMAC may be viewed at the Albuquerque Environmental Health Department, 400 Marquette NW, Albuquerque, NM.

[12/1/95; 20.11.90.11 NMAC - Rn, 20 NMAC 11.90.I.11 & A, 10/1/02; A, 10/13/09]

20.11.90.12 [B R E A K D O W N ; A B N O R M A L O P E R A T I N G C O N D I T I O N S , O R S C H E D U L E D M A I N T E N A N C E :]

Operation of any equipment or air pollution control devices or apparatus so as to cause emissions of air

contaminants in excess of limits set by these air pollution control regulations, which is a direct result of breakdown of equipment or of abnormal operating conditions, or is a direct result of the shutdown of such equipment or air pollution control devices or apparatus for scheduled maintenance is not a violation of these air pollution control regulations, provided:

A. As to scheduled maintenance, the occurrence is reported in advance to the Director during his working hours and that such work is performed during periods of non-operation and when the Air Pollution Potential Index is under 50:

B. As to breakdown of equipment or abnormal operating conditions, the occurrence has been reported to the Director as soon as practicable, but no later than two (2) hours after the occurrence; except that when the Director's office is closed, such report shall be made within two (2) hours after said office reopens for regular business:

C. Repairs are made with maximum, reasonable effort, including use of off-shift labor, overtime or work periods of non-operation:

D. The emission of air contaminants is minimized as much as reasonably possible during breakdown of equipment, abnormal operating conditions or scheduled maintenance:

E. In the event of emission of air contaminants of a nature or in quantities, which would endanger public health or safety, such emission is stopped entirely or reduced to harmless levels as soon as possible:

F. Breakdown of equipment or abnormal operating conditions do not occur with such frequency that careless, marginal, unsafe or deliberate abnormal operation is indicated. [Reserved] [3/21/77. . .3/24/82; 12/1/95; 20.11.90.12 NMAC - Rn, 20 NMAC 11.90.I.12 & Repealed, 10/1/02; Rn, 20 NMAC 11.90. II.1, 10/1/02; Repealed, 10/13/09]

20.11.90.13 S O U R C E S U R V E I L L A N C E :

A. The owner or operator of any stationary source of an air contaminant shall, upon notification by the director, maintain records of the nature and amounts of emissions, to which an air quality control emission regulation applies, from the source and [may] any other information as may be deemed necessary by the director to determine whether the source is in compliance with applicable regulations.

B. The information recorded as specified in Subsection A of 20.11.90.13 NMAC shall be summarized and reported to the director, on forms furnished by the director, and shall be submitted within [forty-five] 45 days after

the end of the reporting period. Reporting periods are November 1 through April 30 and May 1 through October 31 or such other periods as the director may deem necessary. Information reported to the director shall be signed by the person responsible for its accuracy.

C. Emission data obtained by the director shall be correlated with applicable emission limitations and other control measures and be made available to the public during normal business hours.

D. The owner or operator of a stationary source shall, to determine compliance with these regulations or to meet the source sampling requirements of a compliance schedule, conduct performance tests or allow the director to conduct performance tests as specified in Subsection F of 20.11.90.13 NMAC.

E. The director shall establish a periodic visual surveillance system to detect and investigate apparent violations of visible emission limitations and such complaints relating to apparent violations of the regulations as may occur.

F. Performance tests:

(1) As required by the director, the owner or operator of a stationary source shall conduct performance tests and furnish the director with a written report of the results.

(2) Performance tests shall be conducted and the results reported in accordance with the test method, as set forth in [the Federal Register, Volume 36, No. 247, December 23, 1971,] either 40 CFR Part 60.8, or an approved alternate test method. The director shall have [ten] 10 days prior notice before such testing is performed.

(3) The owner or operator shall permit the director to conduct performance tests at any reasonable time and shall operate the stationary source for such testing purposes as the director shall specify.

(4) Each performance test shall consist of three repetitions of the applicable test procedure. For the purpose of determining compliance with an applicable standard of performance, the average results of all repetitions shall apply.

(5) The director shall determine that the performance test method has been properly performed before accepting the results submitted by the owner or operator of the source.

[3/21/77. . .3/24/82; 20.11.90.13 NMAC - Rn, 20 NMAC 11.90.II.2, 10/1/02; A, 10/13/09]

20.11.90.14 ADMINISTRATION AND ENFORCEMENT:

A. Upon request of the director, the person responsible for the emission of air contaminants for which limits are established by the [20-11-NMAC] rules codified under Title 20, *Environmental Protection*, Chapter 11, *Albuquerque -*

Bernalillo County Air Quality Control Board, of the New Mexico Administrative Code, shall provide such facilities, utilities, and openings exclusive of instrument and sensing devices, as may be necessary for the proper determination of the nature, extent, quantity and degree of such air contaminants. Such facilities may be either temporary or permanent at the discretion of the person responsible for their provisions; and shall be suitable for determination consistent with emission limits established in these [Parts] rules.

B. As an additional means of enforcing the [20.11-NMAC] rules codified under Title 20, *Environmental Protection, Chapter 11, Albuquerque - Bernalillo County Air Quality Control Board, of the New Mexico Administrative Code*, the director may accept a written assurance of discontinuance of any act or practice deemed in violation of these [Parts] rules or any [Part] rule adopted pursuant thereto from any person engaging in, or who has engaged in, such act or practice, signed and acknowledged by the director and during which such discontinuance is to be accomplished.
[3/21/77. . . 3/24/82; 20.11.90.14 NMAC - Rn, 20 NMAC 11.90.II.3, 10/1/02; A, 10/13/09]

**NEW MEXICO
DEPARTMENT OF
CULTURAL AFFAIRS
ARTS DIVISION**

4.12.11 NMAC, Community Art Resources - Art in Public Places Program (filed 10-28-2003) is hereby repealed and replaced by 4.12.11 NMAC, Community Art Resources - Art in Public Places Program, effective 9-30-2009.

**NEW MEXICO
DEPARTMENT OF
CULTURAL AFFAIRS
ARTS DIVISION**

**TITLE 4 C U L T U R A L
RESOURCES
CHAPTER 12 COMMUNITY ART
RESOURCES
PART 11 ART IN PUBLIC
PLACES PROGRAM**

4.12.11.1 ISSUING AGENCY: Department of Cultural Affairs, New Mexico Arts Division, Art in Public Places Program. [4.12.11.1 NMAC - Rp, 4.12.11.1 NMAC, 9-30-2009]

4.12.11.2 SCOPE: All state departments and agencies, boards, councils,

institutions, commissions and quasi-corporations, including all state educational institutions enumerated in Article 12. Section 11 of the constitution of New Mexico, and all statutorily created post-secondary educational institutions.

[4.12.11.2 NMAC - Rp, 4.12.11.2 NMAC, 9-30-2009]

**4.12.11.3 S T A T U T O R Y
AUTHORITY:** Sections 9-4A-6, 13-4A-10, and 18-5-7 NMSA 1978.

[4.12.11.3 NMAC - Rp, 4.12.11.3 NMAC, 9-30-2009]

4.12.11.4 D U R A T I O N : Permanent.

[4.12.11.4 NMAC - Rp, 4.12.11.4 NMAC, 9-30-2009]

4.12.11.5 EFFECTIVE DATE: September 30, 2009 unless a later date is cited at the end of a section.

[4.12.11.5 NMAC - Rp, 4.12.11.5 NMAC, 9-30-2009]

4.12.11.6 OBJECTIVE: The objective of this part is to interpret, implement and enforce the provisions of the Art in Public Places (AIPP) Act, Section 13-4A-1 to 13-4A-11, NMSA 1978.

[4.12.11.6 NMAC - Rp, 4.12.11.6 NMAC, 9-30-2009]

4.12.11.7 DEFINITIONS: As used in this rule, in addition to those defined at 4.12.1.7 NMAC the following definitions apply.

A. "AIPP funds" means the 1% for art allocations from appropriations for new construction or renovations, as described in the arts in public places act, and is comprised of site-specific funds, see Section 13-4A-4(A) NMSA 1978, and auxiliary funds, see section 13-4A-4(B) NMSA 1978.

B. "AIPP program" means the arts in public places program of NMA that administers all aspects of the arts in public places program and the public art selection process.

C. "AIPP staff" means the project coordinator or contractor with the AIPP program who is assigned to facilitate the public art selection process.

D. "Art selection committee" means the committee that selects the artwork and the artist for a commission or purchase project. See Subsections (L), (S), and (W) of 4.12.11.7 NMAC for the different types of art selection committees.

E. "Art selection process" means the open and fair process of selecting artwork for placement in public buildings/property. The art selection process requires that representatives of the local community

or region participate in the selection of the artist or artwork as members of a selection committee.

F. "Artist submission" means a high-quality example of artistic work and supporting documentation that fulfills the submission requirements stated in the prospectus.

G. "Building" means a relatively permanent structure or facility which includes fixtures and other built-ins and that is used for any of a wide variety of activities, including but not limited to plazas, parks and arenas.

H. "Commission or" "commission project" means the process of selecting a work of art to be designed and created for a specific building or site. Commission projects have budgets of forty thousand dollars (\$40,000) or greater.

I. "Construct" means to make or form a building or make major renovations to a building and may include the cost of commissioning a building for energy efficient green building standards (i.e. LEED certification), as required by law; used interchangeably with "build".

J. "Deaccession" means the act of permanently removing an artwork from the state's public art collection.

K. "Finalist" means the individuals or artist teams selected from all artist submissions by the LSC to present maquettes, drawings, and other material for consideration as the selected artist for a commission project.

L. "Local selection committee or LSC" means the committee of five to eleven members excluding AIPP staff, that selects a site, develops a prospectus, and select an artist for the site.

M. "Maquette" means a finalist's scale model of the proposed artwork or other appropriate means of expressing the artist's idea.

N. "New Mexico artist" means an artist who resides in New Mexico. If an artist resides in New Mexico for only part of the year, to qualify as a New Mexican artist, the artist must reside in New Mexico for at least ninety days out of the year and have maintained this part-time residency for at least two years consecutively.

O. "Public art collection" means the collection of artwork which has been acquired by the NMA for display in public building throughout the state.

P. "Project director" means the delegated individual who is responsible for working with the AIPP staff to oversee the art selection process for a commission project. The project director is usually a representative or designee of the owner or the group using the building under construction or renovation.

Q. "Prospectus" means the document issued by the arts division for

the purpose of publicly stating the criteria for the specific project. The prospectus is made available to all artists who are interested in applying and are created for each commission project.

R. "Purchase project" or "purchase" means the process of acquiring an artwork that has previously been created by an artist and is selected by the RBC for their site. Projects with budgets up to forty thousand dollars (\$40,000) are purchase projects. NMA shall determine the maximum number of artworks a site may purchase.

S. "Regional buying committee" or "RBC" means the committee made up of two to three local representatives of a public building or site receiving AIPP funds for the purchase of artwork. The RBC is responsible for the selection of artwork for their site.

T. "Selection criteria" means a varying list of qualifications included in the prospectus, which an artist's submission must meet to be considered by an art selection committee for a public art project.

U. "Site" means the place where the public artwork shall be located.

V. "Site specific" means artwork that is created for, and tailored to a particular site and community. Pre-existing artwork does not qualify as site specific.

W. "Submission review panel" or "SRP" means the committee comprised of a minimum of five members who are artists or arts professionals that review artist submissions for purchase projects and make recommendations to NMA, following a set of criteria, for the selection of a manageable number of artworks to be viewed by RBC and purchased by public agencies.

[4.12.11.7 NMAC - Rp, 4.12.11.7 NMAC, 9-30-2009]

4.12.11.8 ADMINISTRATION OF AIPP PROGRAM AND FUNDS:

The AIPP program shall administer and use funds derived from the Art in Public Places Act to acquire works of art, in consultation with art selection committees through either the commission process, or the purchase process, or installation and display in public building throughout New Mexico which reflect the cultural, ethnic and artistic diversity of New Mexico, the region, and the nation. Public artworks may be an integral part of the building, attached to the building, detached within or outside the structures or placed on public lands, part of a temporary exhibit or loaned or exhibited by the agency in other public facilities.

A. The AIPP program may aggregate AIPP funds, when appropriate, for a more significant public art project.

B. The NMA shall

determine how auxiliary funds will be utilized.

C. If an individual project that is part of a statewide repair appropriation is for an amount over one hundred thousand dollars (\$100,000), then that project's funds are subject to the one percent allocation.

D. Determination of whether the Art in Public Places Act applies to a project is made by the AIPP Program and is based on the original appropriation.

E. R e a u t h o r i z e d appropriations for which the original appropriation was subject to the Art in Public Places Act shall remain subject to the AIPP allocation. In these instances, the one percent allocation shall be placed in the auxiliary fund. If the original appropriation was not subject to the Art in Public Places Act, then no funds will be allocated to the AIPP, regardless of the purpose of the reauthorized appropriation.

[4.12.11.8 NMAC - Rp, 4.12.11.8 NMAC, 9-30-2009]

4.12.11.9 G E N E R A L COMMISSION PROCEDURES:

A. Project director.

(1) Each AIPP project shall delegate a project director, who is responsible for making the selection process occur. The AIPP office works with the project director and assists them in guiding the selection process.

(2) The project director is usually a representative of the group actually using the particular building under construction, or may be a representative of the owner of the building, or any other designee.

(3) A description of the project director's responsibilities is available from the AIPP office.

B. The local selection committee.

(1) The most integral component of the AIPP program is that local community members are responsible for the selection of the artwork for their community.

(2) Local participation in decision-making is a major concern of the AIPP office.

C. M e m b e r s h i p appointment: The LSC members are appointed by the user or owner of the public building, or his designee, or the AIPP staff.

D. M e m b e r s h i p composition.

(1) The LSC is composed of five to eleven members excluding the AIPP staff.

(2) A majority of the individuals on this committee shall be residents of the community in which the project shall take place.

(3) The membership of the committee shall reflect the cultural diversity of the community involved.

E. Committee members shall include the following.

(1) A representative of the residents or *users* of the building.

(2) The owner representative or a designee, of the public building.

(3) An architect, preferably the architect of the construction project (or engineer or other appropriate design or construction professional, associated with the building if possible).

(4) One arts professional or community art representative.

(5) One artist who agrees to abstain from consideration for the project and works in similar media or style of artwork requested in the prospectus.

(6) **All five key members listed above shall be present for a meeting to occur.**

(7) Up to two community or student representatives or a member of the board of regents for a college or university shall serve on the LSC.

F. LSC responsibilities.

(1) The LSC is responsible for the selection of art for the identified public building, using a public selection process and adhering to the procedures developed by NMA.

(2) Each AIPP project has a defined amount of state money available for the commission of art.

(3) The LSC may raise additional funds through other sources to supplement the state funding or secure the donation of in-kind services to assist the selected artist in the creation of his artwork.

(4) The LSC shall collaborate with the AIPP staff to develop the specific criteria for the project to be included in the prospectus. The AIPP staff develops the prospectus and the LSC approves of the document prior to its circulation to the public.

(5) The LSC shall select the artist for the project based on the prospectus and specific criteria included in a written and tangible proposal for the proposed artwork.

(6) A two-thirds (2/3) majority vote is required for an artist to be selected as the final artist and the selection shall be formally approved, duly moved and seconded.

[4.12.11.9 NMAC - Rp, 4.12.11.9 NMAC, 9-30-2009]

4.12.11.10 G E N E R A L PURCHASE PROCEDURES:

A. NMA shall develop and advertise a prospectus that invites artists meeting specific criteria outlined in the prospectus, to apply with previously created artwork for review to be selected by sites having budgets up to forty thousand dollars (\$40,000).

B. The SRP shall review the artist submissions based on criteria specific to the prospectus and determine which artworks will be presented to the RBC

for selection of artwork for a site.

C. The RBC representatives from a site shall review and select artwork for their specific site.

D. It is desired that a visual art professional or artist participate in the RBC art selection process to serve as a resource person.

[4.12.11.10 NMAC - N, 9-30-2009]

4.12.11.11 OVERVIEW OF ART SELECTION PROCESS:

A. An AIPP staff member shall guide the art selection committee through the art selection process.

B. Meetings of the LSC shall be held at the building site or any other suitable location. RBC meetings shall take place at a central public location within each region.

C. There shall be a minimum number of meetings for the RBC to purchase artwork, although the LSC may meet numerous times for a commission project.

D. After a prospectus is developed and advertised, artists may submit for the project according to the terms of the prospectus.

E. The art selection committee shall evaluate the artist submissions and select an artist or artwork for the project.

F. Each of these steps may vary in length of time and number of meetings necessary to accomplish the acquisition or commissioning of the artwork. [4.12.11.11 NMAC - Rp, 4.12.11.11 NMAC, 9-30-2009]

4.12.11.12 DEVELOPMENT OF THE PROSPECTUS:

A. There are two types of prospectuses.

(1) Purchase prospectus - created by AIPP staff for several sites having budgets up to forty thousand dollars (\$40,000). Each site's RBC selects artwork for its facility.

(2) Commission prospectus - created by AIPP staff in collaboration with the LSC for sites having budgets beyond forty thousand dollars (\$40,000). These are site-specific works created exclusively for a certain location.

B. For a commission prospectus, the LSC shall consider various criteria in order to identify what type of art it is looking for.

C. The criteria must be written into a prospectus.

D. LSC members have a responsibility to determine as much about what they want as possible and to include that information in the prospectus, in order not to waste their own time reviewing needless submissions, or the time of artists in preparing inappropriate submissions.

E. Factors to be considered for the prospectus include the following.

(1) Location - interior, exterior and any other particular locations should be considered. When possible, AIPP staff encourages the art selection committee to select artwork that can be an integral part of the structure.

(2) Medium - determination of suitable materials composing the artwork, size/scale of the artwork, two or three dimensional artwork, maintenance and the budget available in relation to the scope of the project and potential sites.

(3) Style - the style an artist uses to express his ideas. For example, traditional, folk-art, abstract, non-objective, figurative, representational, etc.

(4) Eligibility - all competitions are open to New Mexico artists, depending on the scope of a project, the competition may be open to larger regions.

(5) Receipt deadline - the designated date when artist submissions must be received by NMA to remain eligible for the project. The art selection committee shall not review late submissions or incomplete artist submissions.

(6) Art selection process - all AIPP projects must be open and fair competitions.

(7) Submission requirements - the specific materials the artist must submit as part of the artist submission.

F. Distribution of the prospectus - the prospectus shall be advertised and distributed in such a way as to reach as many artists as possible and shall include one or more of the following methods:

(1) NMA newsletter, *artspeak*, and the NMA website - the NMA staff shall publish the availability of prospectuses in its quarterly newsletter, which is mailed to artists and galleries throughout the United States. The current prospectuses are posted on the NMA website at www.nmarts.org.

(2) Public service announcements - the NMA staff shall send public service announcements to appropriate media, including newspapers, arts publications, and radio stations, locally, statewide and nationally.

(3) Press advertisements - the art selection committee may designate one member who shall make sure the project is advertised in the local media.

(4) Other information outlets - traditional media outlets are often insufficient to generate the participation of certain artists. If an art selection committee is interested in a particular constituency group, the art selection committee members shall make an effort to make whatever contact possible with members of that group and enlist their help in spreading the word.

(5) Invitational competition. - in addition to having a competition open to

all eligible artists, prospectuses may be distributed to targeted artists to encourage them to apply.

[4.12.11.12 NMAC - Rp, 4.12.11.12 NMAC, 9-30-2009]

4.12.11.13 REVIEW OF ARTIST SUBMISSIONS:

A. The art selection committee shall review the submissions of the artists who have responded to the prospectus with complete and timely submissions.

B. At a purchase review meeting, the SRP shall determine the artwork that will travel to the purchase sites for RBC review.

C. For most commission projects, a number of finalists shall be identified, who are then requested to submit additional materials, usually a site-specific tangible (both written and created) proposal for the artwork and a presentation to the LSC. No more than five finalists shall be selected for each site.

[4.12.11.13 NMAC - Rp, 4.12.11.13 NMAC, 9-30-2009]

4.12.11.14 FINAL SELECTION:

A. The final selection of an artist and artwork for a commission project shall be made by the LSC, as described at 4.12.11.9 above. The final selection of the artwork for a purchase project shall be decided by the site's RBC.

B. AIPP staff shall notify the selected artist in writing, addressing any follow-up information requested by the art selection committee.

C. In the notification letter, AIPP staff must clarify that although the artist has been selected, no binding agreement is in place unless and until a contract is signed by the artist, the owner, and NMA.

D. Notice shall also be provided by AIPP staff to those artists who submitted but were not selected for the project.

[4.12.11.14 NMAC - Rp, 4.12.11.14 NMAC, 9-30-2009]

4.12.11.15 VARIATIONS TO PROCEDURES:

A. NMA has established these procedures as guidelines to be followed in the art selection process.

B. Opportunities may be identified during the art selection process that may require modification to these procedures.

C. Variations may be incorporated into the art selection process with the approval of the AIPP program manager.

[4.12.11.15 NMAC - Rp, 4.12.11.15 NMAC, 9-30-2009]

4.12.11.16 CONTRACT DEVELOPMENT:

- A.** NMA has established these procedures as guidelines to be followed in the art selection process.
- B.** All responsibilities involved in the execution, delivery and installation of the work of art must be delineated in the contract.
- C.** No art selection process shall be considered final and binding unless and until all the required signatures on the contract have been obtained. The contract shall be signed by the artist, the owner agency, NMA and any other state agency as may be required by state law.
- D.** After all signatures required on the contract have been obtained, the artist or holder of the artwork shall be notified and the work of art may be either delivered or created.
- [4.12.11.16 NMAC - Rp, 4.12.11.16 NMAC, 9-30-2009]

HISTORY of 4.12.11 NMAC:**Pre-NMAC History:**

The material in this part was derived from that previously filed with the state records center & archives under:
 NMAD 88-1, New Mexico Arts Division Grants Guidelines 1988-89, filed 3-28-88.
 NMAD 89-1, New Mexico Arts Division Grants Guidelines 1989-90, filed 1-9-89.
 NMAD 89-3, New Mexico Arts Division: Arts in Education Grants Guidelines 1989-1990, filed 3-24-89.
 NMAD 90-1, New Mexico Arts Division 1990-91 Program Guidelines, filed 2-7-90.
 NMAD 91-1, New Mexico Arts Division 1991-92 Program Guidelines, filed 2-26-91.
 NMAD 91-1, Amendment 1, filed 12-20-91.
 NMAD 93-1, New Mexico Arts Division 1993-94 Program Guidelines, filed 1-8-93.
 NMAD 93-1, Amendment 1, New Mexico Arts Division 1994-95 Program Guidelines, filed 6-30-94.

History of Repealed Material:

4 NMAC 12.11, Art In Public Places Program - Repealed 7-31-2000.
 4.12.11 NMAC, Art In Public Places Program (filed 7-12-2000) - Repealed 11-13-2003.
 4.12.11 NMAC, Art In Public Places Program (filed 10-28-2003) - Repealed 9-30-2009.

Other History:

NMAD 93-1, New Mexico Arts Division 1993-94 Program Guidelines (filed 1-8-93) that relevant portion replaced by 4 NMAC 12.11 NMAC, Community Art Resources - Art in Public Places Program, effective 10-15-1998.
 4 NMAC 12.11 NMAC, Community Art Resources - Art in Public Places Program (filed 9-30-1998) replaced by 4.12.11 NMAC, Community Art Resources - Art in Public Places Program, effective 7-31-2000.
 4.12.11 NMAC, Community Art Resources - Art in Public Places Program (filed 7-12-2000) replaced by 4.12.11 NMAC, Community Art Resources - Art in Public Places Program, effective 11-13-2003.
 4.12.11 NMAC, Community Art Resources - Art in Public Places Program (filed 10-28-2003) replaced by 4.12.11 NMAC, Community Art Resources - Art in Public Places Program, effective 9-30-2009.

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an emergency amendment to 19.31.6 NMAC, Sections 10 and 11, effective 9-15-2009.

19.31.6.10 SPECIES, OPEN AREAS, SEASON DATES, AND DAILY BAG LIMITS:

A. 2009-2010 season; all dates are 2009 unless otherwise specified:			
SPECIES	OPEN AREAS	SEASON OPEN	DAILY BAG LIMIT
Dove: Mourning and white-winged dove	north zone	Sept. 1-Nov. 9	15 (singly or in aggregate)
	south zone	Sept. 1-Oct. 9 & Dec. 1-31	15 (singly or in aggregate)
Eurasian-collared dove	statewide	Sept. 1-Dec. 31	no bag or possession limit
Band-tailed pigeon (free permit required)	southwest BPHA	Oct. 1-20	5
	regular BPHA	Sept. 1-20	5
Sandhill crane (free permit required)	eastern	Oct. 31- Jan. 31, 2010	3
Sandhill crane (special draw permit required)	MRGV	Oct. 31- Nov. 1	3 (6 per season)
	EV	Oct. 31 - Nov. 8	3
	SW	Oct. 31 - Nov. 8	3
	MRGV	Nov. 21-22	3 (6 per season)
	MRGV	Dec. 5-6	3 (6 per season)
	SW	Jan. 2-3, 2010	3 (6 per season)
	MRGV	Jan. 9-10, 2010	3 (6 per season)
	MRGV youth-only	Nov. 14	3
			(possession-6, regular and special seasons combined)

CENTRAL FLYWAY

SPECIES	SEASON DATES	DAILY BAG LIMIT
September teal: blue-winged teal, green-winged teal, and cinnamon teal	Sept. 19-27	4 (singly or in the aggregate)
Youth waterfowl days: north zone	Oct. 3-4	6 (singly or in the aggregate) -- that consists of no more than 5 mallard (of which only 2 may be female mallard, [Mexican-like ducks are included towards the mallard bag limit]), 3 wood duck, 2 redhead, 2 hooded mergansers, 2 scaup, 1 pintail, 1 canvasback
Youth waterfowl days: south zone	Oct. 17-18	same as north zone
Ducks: north zone	Oct. 10 - Jan. 13, 2010	6 (singly or in the aggregate) -- that consists of no more than 5 mallard (of which only 2 may be female mallard, [Mexican-like ducks are included towards the mallard bag limit]); 3 wood duck; 2 redhead; 2 hooded mergansers; 2 scaup, 1 pintail, and 1 canvasback
south zone	Oct. 28 - Jan. 31, 2010	same as north zone
American coot	same as above zone dates	15
Common moorhen	Oct. 3 - Dec. 11	1
Common snipe	Oct. 17 - Jan. 31, 2010	8
Virginia rail & sora	Sept. 19 - Nov. 27	10 daily (singly or in the aggregate)
Dark goose: Canada & white-fronted geese (regular season closed in Bernalillo, Sandoval, Sierra, Socorro, and Valencia counties)	Oct. 17 - Jan. 31, 2010	4
Special MRGV season (free permit required)	Jan. 2 - Jan. 24, 2010	1 (1 per season)
Light goose: Ross's & snow geese	Oct. 17 - Jan. 31, 2010	20/80 possession
Light goose conservation order	Feb. 1, 2010 - Mar. 10, 2010	no bag or possession limit

PACIFIC FLYWAY

SPECIES	SEASON DATES	DAILY BAG LIMIT
Youth waterfowl days	Oct. 10-11	same as regular season below including scaup
Ducks:	Oct. 19 - Jan. 31, 2010	7 (singly or in the aggregate)-- that consists of no more than 2 female mallard, 2 redhead, 1 pintail, 1 canvasback
scaup	Nov. 07 - Jan. 31, 2010	2 daily
American coot & common moorhen	Oct. 19 - Jan. 31, 2010	12 daily (singly or in the aggregate)
Common snipe	Oct. 17 - Jan. 31, 2010	8
Virginia rail & sora	Sept. 19 - Nov. 27	10 daily (singly or in the aggregate)
Goose: north zone	Sept. 19 - Oct. 4 <u>Sept. 26 - Oct. 11</u> and Nov. 2 - Jan. 31, 2010	3 dark geese, 10 light geese
south zone	Oct. 17 - Jan. 31, 2010	2 dark geese, 10 light geese

B. Light goose conservation measures: Under the director's discretion with the verbal concurrence of the state game commission chairman or his designee, the department may implement the light goose conservation measures approved by the U.S. fish and wildlife service (USFWS). Methods, bag and possession limits, and dates allowed shall be those as approved by the USFWS. A free permit

is required.

[19.31.6.10 NMAC - Rp, 19.31.6.10 NMAC, 8-31-2009; A/E, 9-15-2009]

19.31.6.11 F A L C O N R Y SEASONS:

A. Species that can be taken, open areas, and hunting seasons; 2009-2010 season, all dates are 2009 unless otherwise specified:

(1) The season for dove shall be statewide and shall be open September 1 through November 12 and November 28 through December 31.

(2) The season for band-tailed pigeon shall be September 1 through December 16 for the regular hunting area and October 1 through January 15, 2010 for the southwest hunting area. A free permit is required.

(3) The season for sandhill crane shall be in the eastern New Mexico sandhill crane hunt area and shall be open from October 17 through January 31, 2010. A free permit is required.

(4) The season for sandhill crane in the Estancia valley shall be October 31 through December 29. A special season permit is required.

(5) Duck and Coot: Central flyway seasons shall be open in the North zone - September 19-27, October 3-4, and October 10 through January 13, 2010; South zone - September 19-27, October 17-18, and October 28 through January 31, 2010. Pacific flyway seasons shall be as follows: October 10-11, and October 19 through January 31, 2010.

(6) Light goose: Central flyway seasons shall be open October 17 through January 31, 2010. Pacific flyway season shall be north zone - ~~[September 19 through October 4;]~~ September 26 - October 11 and November 2 through January 31, 2010; south zone - October 17 through January 31, 2010.

(7) Dark goose: Central flyway seasons shall be open October 17 through January 31, 2010. Pacific flyway season shall be north zone - ~~[September 19 through October 4;]~~ September 26 - October 11 and November 2 through January 31, 2010; south zone - October 17 through January 31, 2010.

(8) Common snipe: Central and Pacific flyways seasons shall be: October 17 through January 31, 2010.

(9) Common moorhen: Central flyway season shall be: October 3 through January 17, 2010. Pacific flyway season shall be: October 17 through January 31, 2010.

(10) Sora and Virginia rails: Central and Pacific flyways seasons shall be: September 19 through January 3, 2010.

B. Daily bag limits: shall be three birds (singly or in the aggregate) and

possession limits shall be six birds (singly or in the aggregate) as established herein.

(1) There is no daily bag or possession limit on Eurasian-collared dove.

(2) Season limit for sandhill crane in the Estancia valley shall be 9 birds.

[19.31.6.11 NMAC - Rp, 19.31.6.11 NMAC, 8-31-2009; A/E, 9-15-2009]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

Explanatory paragraph: This is an amendment to 8.307.8 NMAC, Sections 16 and 17 which will be effective 9-30-09. The Medical Assistance Division made the following amendments to correct duplicate language: strike duplicate Paragraph (6) of Subsection C of 8.307.8.16 NMAC; and strike duplicate Paragraph (3) of Subsection A of 8.307.8.17 NMAC.

8.307.8.16 STANDARDS FOR PREVENTIVE HEALTH SERVICES:

The CoLTS MCO shall follow current national standards for preventive health services including behavioral health preventive services. Standards are derived from several sources, including the U.S. preventive services task force, the centers for disease control and prevention; and the American college of obstetricians and gynecologists. Any preventive health guidelines developed by the CoLTS MCO under these standards shall be adopted and reviewed at least every two years, updated when appropriate and disseminated to service provider and member. Unless a member refuses and the refusal is documented, the CoLTS MCO shall provide the following preventive health services or screens or document that the services (with the results) were provided by other means. The CoLTS MCO shall document medical reasons not to perform these services for an individual member. Member refusal is defined to include refusal to consent to and refusal to access services.

C. Screens: The CoLTS MCO shall adopt policies which will ensure that, to the extent possible, within six months of enrollment or within six months of a change in screening standards, asymptomatic members receive at least the following preventive screening services.

~~[(6) Screening for obesity: Members shall receive body weight and height/length measurements with each physical exam.]~~

(6) *Screening for obesity:* Members shall receive body weight and height/length measurements with each physical exam. Children shall receive a BMI percentile designation.

[8.307.8.16 NMAC - N, 8-1-08; A, 9-1-09;

A, 9-30-09]

8.307.8.17 STANDARDS FOR MEDICAL RECORDS:

A. Standards and policies: The CoLTS MCO/SE shall require that member medical records be maintained on paper or electronic format. Member medical records shall be maintained timely, and be legible, current, detailed and organized to permit effective and confidential patient service and quality review.

~~[(3) For patients who receive two or more services from a behavioral health provider through the SE within a 12-month period, the documentation standards shall meet medicaid requirements and require that the following items also be included in the medical record in addition to the above:]~~

(3) For behavioral health patients, documentation shall include all elements listed above in addition to the following:

(a) a mental status evaluation that documents affect, speech, mood, thought content, judgment, insight, concentration, memory and impulse control;

(b) DSM-IV diagnosis consistent with the history, mental status examination or other assessment data;

(c) a treatment plan consistent with diagnosis that has objective and measurable goals and time frames for goal attainment or problem resolution;

(d) documentation of progress toward attainment of the goal; and

(e) preventive services such as relapse prevention and stress management.

[8.307.8.17 NMAC - N, 8-1-08; A, 9-1-09; A, 9-30-09]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.201.500 NMAC, Sections 5, 10, and 12-15, effective October 1, 2009. This rule was also renumbered and reformatted from 8 NMAC 4.EXT.000 and 8 NMAC 4.EXT.500 to comply with NMAC requirements. Section 15, Countable Income, is being repealed from this part.

8.201.500.5 EFFECTIVE DATE: February 1, 1995, unless a later date is cited at the end of a section.

[2/1/95; 8.201.500.5 NMAC - Rn, 8 NMAC 4.EXT.000.5 & A, 10/1/09]

8.201.500.10 RESOURCE STANDARDS:

To be eligible for medicaid extension, applicants/recipients must meet SSI resource standards. Recipients initially eligible for medicaid extension under E01 status lose eligibility when their resources exceed the SSI resource maximum. See [Section SSI-510, Supplemental Security

~~Income—Methodology~~ 8.215.500.11 NMAC, *resource standards*, for information on exclusions, disregards, and countable resources.

[2/1/95; 8.201.500.10 NMAC - Rn, 8 NMAC 4.EXT.510 & A, 10/1/09]

8.201.500.12 I N C O M E STANDARDS: To be eligible for medicaid extension, an applicant/recipient must have countable income below the SSI FBR. See [Section ~~SSI-520, Supplemental Security Income Methodology~~] 8.215.500.18 NMAC, *income*, through 8.215.500.22 NMAC, *disregards*, for information on exclusions, disregards, and countable income.

[2/1/95; 8.201.500.12 NMAC - Rn, 8 NMAC 4.EXT.520 & A, 10/1/09]

8.201.500.13 COMPUTATION OF COLA DISREGARDS IN PICKLE AND 503 LEADS CASES:

A. An applicant/recipient's countable income, after exclusion of the Title II COLAs received following SSI termination, must be less than the current SSI federal benefit rate (FBR).

B. To determine the total amount of the applicant/recipient's Title II COLAs received since the applicant/recipient lost SSI, the following calculation must be completed:

(1) divide the current Title II amount by the percentage amount of the previous year's COLA;

(2) repeat this calculation for each Title II COLA benefit received after the applicant lost SSI; computations are based on the previous year's COLA and previous benefit; see [Section ~~MAD-520~~] 8.200.520.12 NMAC, *COLA disregard computation*, of 503 leads and pickle cases;

(3) when the last computation is completed, the result is the Title II benefit amount the applicant/recipient was receiving when he/she lost SSI;

(4) subtract this amount from the current Title II benefit amount; the result is the aggregate Title II COLAs the applicant/recipient received after losing SSI; and

(5) subtract the aggregate COLAs from the applicant/recipient's countable income to determine if the income is below the current SSI FBR.

C. If the resulting income is below the current SSI FBR, and the applicant/recipient meets all other requirements for SSI, he/she is eligible for medicaid extension.

[2/1/95; 8.201.500.13 NMAC - Rn, 8 NMAC 4.EXT.522 & A, 10/1/09]

8.201.500.14 DEEMED INCOME: If an applicant/recipient is a minor who lives with a parent(s), deemed income from the parent(s) must be considered. If an applicant/recipient is married and lives

with a spouse, deemed income from the spouse must be considered. See [Section ~~SSI-523, Supplemental Security Income Methodology~~] 8.215.500.21 NMAC, *deemed income*, for information on deemed income. If an applicant/recipient has a spouse or parent who receives Title II benefits, all COLAs received by the spouse/parent since the applicant/recipient lost SSI are deducted from the spouse/parent's income before it is deemed to the applicant/recipient.

[2/1/95; 8.201.500.14 NMAC - Rn, 8 NMAC 4.EXT.523 & A, 10/1/09]

8.201.500.15 [C O U N T A B L E I N C O M E]: ~~Any other countable income received by an applicant/recipient must be included in the calculation of countable income. See Section SSI-526, Supplemental Security Income Methodology for information on countable income and income guidelines for applicant/recipient couples. The first twenty dollars (\$20) of income of countable income received in a month is disregarded. Only one twenty dollar (\$20) disregard is allowed for determination of eligibility for an applicant/recipient couple.]~~ [RESERVED]

[2/1/95; 8.201.500.15 NMAC - Rn, 8 NMAC 4.EXT.526 & Repealed, 10/1/09]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.201.600 NMAC, Sections 5, 10, and 12-14, effective October 1, 2009. This rule was also renumbered and reformatted from 8 NMAC 4.EXT.000 and 8 NMAC 4.EXT.600 to comply with NMAC requirements.

8.201.600.5 EFFECTIVE DATE: February 1, 1995, unless a later date is cited at the end of a section.

[2/1/95; 8.201.600.5 NMAC - Rn, 8 NMAC 4.EXT.000.5 & A, 10/1/09]

8.201.600.10 B E N E F I T DETERMINATION: Application for the medicaid extension is made on the assistance application form. Applications must be acted on and notice sent to the applicant of the action taken within [~~forty-five (45)~~] 45 days after the date of application. 503 [~~lead~~] lead cases, [DACs] *disabled adult child (DACs)*, and ping-pongs nonpayment SSI status (E01), SSI child cases, and SSI extension cases do not require a separate application for initial processing.

[2/1/95; 4/30/98; 8.201.600.10 NMAC - Rn, 8 NMAC 4.EXT.620 & A, 10/1/09]

8.201.600.12 O N G O I N G BENEFITS: A periodic review is completed at least every [~~twelve (12)~~] 12 months.

[2/1/95; 8.201.600.12 NMAC - Rn, 8 NMAC 4.EXT.624 & A, 10/1/09]

8.201.600.13 SSI RETROACTIVE BENEFIT COVERAGE: Up to three [(3)] months of retroactive medicaid coverage can be furnished to applicants who **have** received medicaid-covered services during the retroactive period and would have met applicable eligibility criteria had they applied during the three [(3)] months prior to the month of application [42 CFR Section 435.914].

A. **Application for retroactive benefit coverage:** Application for retroactive medicaid can be made by checking "yes" in the "application for retroactive medicaid payments" box on the application/redetermination of eligibility for medical assistance [(MAD-381)] form or by checking "yes" to the question on "does anyone in your household have unpaid medical expenses in the last three [(3)] months?" on the application for assistance [(ISD-100-S)] form. Applications for retroactive SSI medicaid benefits for recipients of supplemental security income (SSI) must be made by 180 days from the date of approval for SSI. Medicaid-covered services which were furnished more than two [(2)] years prior to approval are not covered.

B. **Approval requirements:** To establish retroactive eligibility, the [ISS] *ISD worker* must verify that all conditions of eligibility were met for each of the three [(3)] retroactive months and that the applicant received medicaid-covered services. Eligibility for each month is approved or denied on its own merits.

(1) Applicable benefit rate: The federal benefit rate (FBR) in effect during the retroactive months based on the applicant's living arrangements is applicable for retroactive medicaid eligibility determinations. See [MAD-520, *Income Standards*] 8.200.520 NMAC, *Income Standards*. If the applicant's countable income in a given month [~~exceed~~] *exceeds* the applicable FBR, the applicant is not eligible for retroactive medicaid for that month. If the countable income is less than the FBR, the applicant is eligible on the factor of income for that month. A separate determination must be made for each of the three [(3)] months in the retroactive period.

(2) Disability determination required: If a determination is needed of the date of onset of blindness or disability, the [ISS] *ISD worker* must send a referral to disability determination services (ISD 305) to the disability determination unit.

C. **Notice:**

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

(2) Recipient responsibility

to notify provider: After the retroactive eligibility has been established, the [HSS] ISD worker must notify the recipient that he/she is responsible for informing all providers with outstanding bills of the retroactive eligibility determination. If the recipient does not inform all providers and furnish verification of eligibility which can be used for billing and the provider consequently does not submit the billing within 120 days from the date of approval of retroactive coverage, the recipient is responsible for payment of the bill.
[2/1/95; 8.201.600.13 NMAC - Rn, 8 NMAC 4.EXT.625 & A, 10/1/09]

8.201.600.14 CHANGES IN ELIGIBILITY: If a recipient becomes ineligible, advance notice of the closure is sent by the [HSS] ISD worker. If a recipient dies, the case is closed effective the following month.
[2/1/95; 8.201.600.14 NMAC - Rn, 8 NMAC 4.EXT.630 & A, 10/1/09]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 29 STANDARDS FOR EXCELLENCE PART 4 ENGLISH LANGUAGE ARTS

6.29.4.1 ISSUING AGENCY: Public Education Department, hereinafter the department.
[6.29.4.1 NMAC - N, 9-30-2009]

6.29.4.2 SCOPE: All public schools, state educational institutions and educational programs conducted in state institutions other than New Mexico military institute.
[6.29.4.2 NMAC - N, 9-30-2009]

6.29.4.3 STATUTORY AUTHORITY:
A. Section 22-2-2 NMSA 1978 grants the authority and responsibility for the assessment and evaluation of public schools, state-supported educational institutions and educational programs conducted in state institutions other than New Mexico military institute.

B. Section 22-2-2 NMSA 1978 directs the department to set graduation expectations and hold schools accountable. Section 22-2C-3 NMSA 1978 requires the department to adopt academic content and performance standards and to measure the performance of public schools in New Mexico.
[6.29.4.3 NMAC - N, 9-30-2009]

6.29.4.4 DURATION: Permanent.
[6.29.4.4 NMAC - N, 9-30-2009]

6.29.4.5 EFFECTIVE DATE: September 30, 2009, unless a later date is cited at the end of a section.
[6.29.4.5 NMAC - N, 9-30-2009]

6.29.4.6 OBJECTIVE: The New Mexico content standards with benchmarks and performance standards for English language arts are mandated for students in grades K-8 and the content standards and performance indicators are mandated for grades 9-12. The New Mexico content standards with benchmarks and performance standards for English language arts were adopted in April 1996 as part of 6 NMAC 3.2; they were revised in June 2000. The content standards, benchmarks and performance standards were revised for grades K-4 in April 2008, and the content standards and performance indicators for Grades 9-12 were revised in May 2009.
[6.29.4.6 NMAC - N, 9-30-2009]

6.29.4.7 DEFINITIONS:
[Reserved]

6.29.4.8 CONTENT STANDARDS WITH BENCHMARKS AND PERFORMANCE STANDARDS FOR ENGLISH LANGUAGE ARTS, Grades K-4:

A. Strand 1: Reading and listening for comprehension. Content standard 1. Students will apply strategies and skills to comprehend information that is read, heard and viewed.

(1) Grades K-4 benchmark 1-A: Listen to, read, react to and retell information.

(a) Grade K performance standards:

(i) Retell, reenact, or dramatize stories or parts of stories, including personal events.

(ii) Demonstrate sense of story (e.g., beginning, middle, end, characters, details).

(iii) Demonstrate familiarity with a variety of types of books and selections (e.g., picture books, caption books, short informational texts, nursery rhymes, word/finger/puppet plays, reenactments of familiar stories).

(iv) Role-play and act out stories (e.g., fairy tales, songs, rhymes).

(v) Follow simple oral instructions.

(b) Grade 1 performance standards:

(i) Listen to and retell short stories.

(ii) Recognize repetition and predict repeated phrases.

(iii) Respond and elaborate in answering "who, what, when, where and how" questions.

(iv) Discuss and explain response to "how, why, and what if" questions in sharing narrative and expository texts.

(v) Self-monitor comprehension by using questions, retelling and summarizing.

(vi) Follow simple written and oral instructions.

(vii) Increase vocabulary through reading, listening and interacting.

(c) Grade 2 performance standards:
(i) Independently recall facts and detail in text.

(ii) Increase vocabulary through reading, listening and interacting.

(d) Grade 3 performance standards:

(i) Interact with text before, during and after reading, listening or viewing to comprehend by: setting a purpose, previewing the text, making predictions, asking questions, locating information for a specific purpose, making connections, using story structure and text organization.

(ii) Summarize main idea(s) from written or spoken text succinctly.

(iii) Employ active listening skills.

(iv) Increase vocabulary through reading, listening and interacting.

(e) Grade 4 performance standards:

(i) Use meta-cognitive strategies to comprehend text and to clarify meaning of vocabulary (e.g., re-read the text, consult other sources, ask for help, paraphrase, question).

(ii) Visualize and recall story details, including characterization and sequence.

(iii) Read a variety of texts, including: fiction (e.g., legends, novels, folklore, science fiction), non-fiction (e.g., autobiographies, informational books, diaries, and journals), poetry, drama.

(iv) Increase vocabulary through reading, listening and interacting.

(2) Grades K-4 benchmark 1-B: Locate and use a variety of resources to acquire information across the curriculum.

(a) Grade K performance standards:

(i) Demonstrate familiarity with a variety of types of resources (e.g., picture books, caption books, short informational texts, nursery rhymes, word/finger/puppet plays, reenactment of familiar stories, electronic resources).

(ii) Generate questions of interest about a topic.

(b) Grade 1 performance standards: Demonstrate familiarity with a

variety of resources (e.g., story books, short chapter books, poems, newspapers, compact discs, software, telephone books, everyday print, skits, and short plays).

(c) Grade 2 performance standards:

(i) Identify and use appropriate sources of information to accomplish a specific learning task.

(ii) Use print and electronic resources to access information (e.g., images, sound, text, video).

(iii) Select an appropriate format to locate, gather, access, record, organize and present information.

(d) Grade 3 performance standards:

(i) Use reference materials (e.g., glossary, dictionary, thesaurus) to confirm decoding skills, verify spelling, discover and extend meaning of words.

(ii) Use encyclopedias, dictionaries and electronic resources to gather information.

(e) Grade 4 performance standards:

(i) Use key words, indices, cross-references and letters on volumes to find information.

(ii) Use multiple representations of information (e.g., maps, charts, photos) to find information.

(3) Grades K-4 benchmark 1-C: Demonstrate critical thinking skills to comprehend written, spoken, and visual information.

(a) Grade K performance standards:

(i) Understand oral and graphic instructions.

(ii) Create mental pictures to predict possible events in text before and during reading.

(iii) Compare different versions of the same story.

(iv) Relate experiences and observations.

(v) Formulate questions before beginning to read or listen (e.g., What will happen in this story? Where do you think this happens? Who might this be?).

(vi) Sequence a story to describe the beginning, middle and end.

(vii) Differentiate between non-fiction and fiction stories.

(b) Grade 1 performance standards:

(i) Associate target words with prior knowledge and explore an author's choice of words.

(ii) Predict and explain what will happen next in a story.

(iii) Demonstrate familiarity with a variety of texts (e.g., story books, short chapter books, poems, newspapers, telephone books, everyday print, skits and short plays).

(iv) Describe differences

and similarities between different stories (i.e., characters, plot, setting).

(c) Grade 2 performance standards:

(i) Pose possible "how, why and what if" questions to understand and interpret texts.

(ii) Recognize own difficulty in comprehending text.

(iii) Discuss similarities and differences in events and characters across stories.

(iv) Interpret information from diagrams, charts and graphs.

(d) Grade 3 performance standards:

(i) Draw conclusions, make generalizations, gather support by referencing the text.

(ii) Explain choice of reading materials congruent with purpose (e.g., solving problems, making decisions).

(e) Grade 4 performance standards:

(i) Respond to fiction, poetry, and drama using interpretive, critical and evaluative processes by: analyzing author's word choice and context, examining reasons for characters' actions, identifying and examining characters' motives, considering a situation or problems from different characters' perspectives.

(ii) Respond to non-fiction using interpretive, critical and evaluative processes.

(iii) Analyze characters, events and plots from different texts and cite supporting evidence.

(iv) Analyze how language and visuals bring characters to life, enhance plot development and produce a response.

(v) Demonstrate deductive and inductive reasoning by drawing logical conclusions.

(4) Grades K-4 benchmark 1-D: Acquire reading strategies which include: phonemic awareness, phonics, fluency, vocabulary and comprehension.

(a) Grade K performance standards:

(i) Demonstrate phonemic awareness and knowledge of alphabetic principles by: demonstrating understanding that spoken language is a sequence of identifiable speech sounds, demonstrating understanding that the sequence of letters in the written word represents the sequence of sounds in the spoken word, demonstrating understanding that words contain similar sounds by recognizing and producing initial sounds and by verbally producing individual phonemes from a series of three and four phoneme words.

(ii) Demonstrate decoding and word recognition strategies

and skills by: recognizing and naming upper and lower case letters of the alphabet, recognizing common words and signs by sight, recognizing beginning consonant letter-sound associations in one-syllable words; identifying upper and lower case letters from a random arrangement and producing verbally the individual letter sound when presented with v-c and c-v-c combinations.

(iii) Read or attempt to read one's own dictated story.

(iv) Attempt to read simple patterned text and predict texts using letter-sound knowledge and pictures to construct meaning.

(v) Use appropriate nouns to name objects.

(b) Grade 1 performance standards:

(i) Develop phonemic awareness and knowledge of alphabetic principles by: blending the phonemes of one-syllable words, segmenting the phonemes of one-syllable words that contain a minimum of three and four phonemes, and changing the beginning, middle and ending sounds to produce new words.

(ii) Demonstrate decoding and word recognition strategies and skills by: using phonics knowledge and sound-letter relationships to decode regular one-syllable words, recognizing high-frequency and common irregularly spelled words in text (e.g., whole, two, where, said, have); identifying upper and lower case letters from a random arrangement and producing verbally the individual sound of each letter or the whole word when presented with c-v and c-v-c combinations.

(iii) Read aloud grade-level text with fluency and comprehension by reading orally with fluency and accuracy (when presented with a grade-level passage of connected text).

(iv) Use pronunciation, sentence meaning, story meaning and syntax to confirm accurate decoding or to self-correct errors.

(v) Increase vocabulary through reading, listening and interacting.

(c) Grade 2 performance standards:

(i) Decode unknown words using basic elements of phonetic analysis (e.g., common letter-sound relationships) and structural analysis (e.g., syllables, suffixes, prefixes, root words).

(ii) Read most high-frequency and irregularly spelled words.

(iii) Self-monitor decoding by using letter-sound knowledge of all consonants and vowels by verbally producing the individual letter sound of each letter or the whole word when presented with c-v and c-v-c combinations.

(iv) Apply knowledge of all sources of information (e.g., meaning,

language, graphophonics) to read new text independently.

(v) Read grade-level text aloud with fluency, accuracy and comprehension when presented with a grade level passage of connected text.

(vi) Increase vocabulary through reading, listening and interacting.

(vii) Recognize and express difficulty in comprehending text.

(d) Grade 3 performance standards:

(i) Apply phonics and structural analysis to decode words (e.g., less common vowel patterns, syllable breaks).

(ii) Apply context clues to decode unknown words.

(iii) Use reference materials (e.g., glossary, dictionary, thesaurus) to confirm decoding skills, verify spelling and discover and extend meaning of words.

(iv) Use a variety of strategies to comprehend text (e.g., re-read, read ahead, ask for help, adjust reading speed, question, paraphrase, retell).

(v) Read aloud with fluency, accuracy and comprehension when presented with a grade-level passage of connected text.

(vi) Increase vocabulary through reading, listening and interacting.

(e) Grade 4 performance standards:
(i) Use word identification strategies appropriately and automatically when encountering words (e.g., graphophonic, syntactic, semantic).

(ii) Identify key words and discover their relationships.

(iii) Adjust speed of reading to suit purpose and difficulty of material.

(iv) Read aloud with fluency, accuracy and comprehension when presented with a grade level passage of connected text.

(v) Increase vocabulary through reading, listening and interacting.

B. Strand 2: Writing and speaking for expression. Content standard 2. Students will communicate effectively through speaking and writing.

(1) Grades K-4 benchmark 2-A: Demonstrate competence in speaking to convey information.

(a) Grade K performance standards:

(i) Retell, reenact or dramatize stories or parts of stories, including personal events.

(ii) Use correct words to name objects or tell actions.

(iii) Use speaking skills to connect experiences by: listening to and retelling stories, discussing and dramatizing stories, discovering relationships, taking turns, expressing ideas and asking questions.

(iv) Use a variety of sentence patterns.

(v) Ask questions to resolve confusion about a topic.

(vi) Clarify and sort words by general categories.

(b) Grade 1 performance standards:

(i) Read aloud grade-level text with fluency and comprehension.

(ii) Engage in discussions resulting in written products.

(iii) Select and use new vocabulary and language structures (e.g., retelling, using exclamatory phrases to express emotional response to events or ideas).

(c) Grade 2 performance standards:
(i) Increase vocabulary by listening and discussing responses to literature that is read and heard.

(ii) Explain and describe new concepts and information in own words.

(iii) Use oral communication to identify, organize and analyze information.

(iv) Respond appropriately when participating in discussions by adapting language and non-verbal behaviors to the situation.

(v) Identify and select an appropriate method to communicate that is relevant to the audience and purpose.

(vi) Read aloud grade-level text with fluency and comprehension.

(d) Grade 3 performance standards:

(i) Present information in a logical manner, with a clear main point.

(ii) Sustain conversation on a topic.

(iii) Answer open-ended questions.

(iv) Explain own learning.

(v) Read aloud grade-level text with fluency and comprehension.

(e) Grade 4 performance standards:
(i) Actively contribute to a discussion.

(ii) Use language to: present information and ideas clearly and concisely, interview, solve problems and make decisions.

(iii) Make oral presentations, using technologies when appropriate, with an awareness of audience and purpose.

(iv) Use appropriate non-verbal communication while giving presentations.

(v) Read aloud grade-level text with fluency and comprehension.

(2) Grades K-4 benchmark 2-B: Apply grammatical and language conventions to communicate.

(a) Grade K performance

standards:

(i) Locate the title, table of contents, name of author and illustrator of a text.

(ii) Use pictures and context to make predictions about story content.

(iii) Connect information and events in a text to make predictions.

(iv) Ask and answer questions about essential elements in a text.

(v) Recognize and make complete, coherent sentences when speaking.

(vi) Share information and ideas using complete sentences.

(vii) Develop spelling strategies and skills by: representing spoken language with emergent or conventional spelling; writing most letters of the alphabet; analyzing sounds in a word and writing dominant consonant letters.

(viii) Identify and use capital letters to write the word "I" and the first letter in one's own name.

(b) Grade 1 performance standards:

(i) Confirm predictions about what will happen next in a text by identifying key words.

(ii) Use context to resolve ambiguities about word and sentence meaning.

(iii) Relate prior knowledge to textual information.

(iv) Use phonetic knowledge and basic patterns to spell correctly three- and four-letter words.

(v) Apply phonics to write independently, using emergent or conventional spelling.

(vi) Write all upper and lower case letters of the alphabet using correct letter formation.

(vii) Use complete sentences to write simple text.

(viii) Use basic capitalization and punctuation for: first word in a sentence, proper names, using a period to end a declarative sentence, and a question mark to end an interrogative sentence.

(ix) Self-monitor composition by using re-reading and peer conferences.

(c) Grade 2 performance standards:

(i) Write compositions that show proper use of pronouns, adjectives, adverbial forms and coordinating conjunctions.

(ii) Spell correctly, using previously studied words, spelling patterns and analysis of sounds.

(iii) Identify format and mechanics in one's own writing.

(iv) Use capitalization, punctuation and paragraphs in one's own

writing.

(v) Use subject, predicate and modifiers in sentences.

(vi) Use editing to check and confirm correct use of conventions for complete sentences, correct word order in sentences and punctuation.

(vii) Use letter formation, lines and spaces to create readable documents.

(viii) Use plural forms of commonly used nouns and common age-appropriate contractions.

(ix) Use titles, tables, indexes and chapter headings to locate information in expository texts.

(x) Speak in a manner that guides the listener to understand important ideas by using proper phrasing, pitch and modulation.

(d) Grade 3 performance standards:

(i) Use correct subject and verb agreement.

(ii) Use correct capitalization and punctuation.

(iii) Use a variety of complete sentences (declarative, imperative, interrogative and exclamatory) in writing and speaking.

(iv) Compose two or more paragraphs with: topic sentences, supporting details, appropriate, logical sequence and sufficient elaboration.

(v) Use strategies for spelling (e.g., sound patterns, visual patterns, silent letters).

(vi) Proofread one's own writing for spelling and edit (with assistance) for language conventions and format.

(vii) Create readable documents with legible handwriting.

(viii) Write compositions that have few significant errors in use of pronouns, adjectives, adverbial forms and coordinating conjunctions.

(ix) Create and deliver recitations and presentations about familiar experiences or interests that are organized around a coherent statement.

(x) Demonstrate a command of standard English when speaking.

(e) Grade 4 performance standards:

(i) Use simple and compound sentences in writing and speaking.

(ii) Combine short, related sentences with appositives, participial phrases, adjectives, adverbs and prepositional phrases.

(iii) Identify and use regular and irregular verbs, adverbs, prepositions and coordinating conjunctions in writing and speaking.

(iv) Use parentheses, commas in direct quotations and apostrophes

in the possessive case of nouns and in contractions.

(v) Use underlining, quotation marks or italics to identify titles of documents.

(vi) When appropriate, capitalize names of magazines, newspapers, works of art, musical compositions, organizations, proper nouns and the first word in quotations.

(vii) Spell correctly roots, inflections, affixes and syllable constructions.

(viii) Compose multiple paragraphs with: topic sentences, specific, relevant details, logical progression and movement of ideas, coherence, elaboration and concluding statement related to the topic.

(ix) Speak in a manner that guides the listener to understand important ideas by using proper phrasing, pitch and modulation.

(3) Grades K-4 benchmark 2-C: Demonstrate competence in the skills and strategies of the writing process.

(a) Grade K performance standards:

(i) Develop writing strategies and skills by: representing spoken language with temporary or conventional spelling, writing most letters of the alphabet when they are dictated, analyzing sounds in a word and writing dominant consonant letters, using phonemic awareness and letter recognition to spell independently (using standard or emergent spelling).

(ii) Dictate a story based on one's own experience with a beginning, a middle and an end.

(iii) Write to express one's own meaning.

(iv) Write one's own name and names of others.

(b) Grade 1 performance standards:

(i) Write by using an author's model of language and extending the model (e.g., writing different endings for the story, composing an innovation of a poem).

(ii) Compose a variety of products (e.g., short stories, letters, simple poems, descriptions, journal entries).

(iii) Write descriptions of familiar persons, places or objects.

(iv) Compose fairly readable first drafts using appropriate parts of the writing process (some attention to planning, drafting, re-reading for meaning and some self-correction).

(v) Begin to utilize conventional spelling.

(c) Grade 2 performance standards:

(i) Plan and make judgments about what to include in written products (e.g., narratives of personal

experiences, creative stories, skits based on familiar stories/experiences).

(ii) Compose first drafts using the writing process and revise to clarify and refine (improve sequence, provide more descriptive detail, add variety of sentence types).

(iii) Write structured, informative presentations and narratives when given help with organization.

(iv) Begin to assist others to edit writing.

(v) Produce a variety of types of composition (e.g., stories, reports, correspondence) using media and technology to enhance the presentation/narrative for an audience for a specific purpose.

(d) Grade 3 performance standards:

(i) Compose a draft that conveys major ideas and maintains focus on the topic by using preliminary plans.

(ii) Compose a variety of fiction, nonfiction, poetry, and drama selections using self-selected topics and multimedia forms (e.g., poems, simple narratives, short reports, learning logs, letters, notes, directions, instructions).

(iii) Suggest and implement reflection and revision (with assistance) on target elements by: clarifying ideas, adding descriptive words and phrases, sequencing events and ideas, combining short, related sentences, strengthening word choice.

(iv) Begin to incorporate literary words and language patterns in writing (e.g., elaborate descriptions, use figurative wording).

(v) Combine information from multiple sources, using technology as a tool in writing reports and stories.

(vi) Write stories and essays that show an awareness of an intended audience and purpose.

(e) Grade 4 performance standards:

(i) Produce a variety of written compositions using: descriptive writing (e.g., using relevant details and ideas that figuratively recreate an event or experience), narrative writing (e.g., using sequence, point of view and character to tell a story), expository writing (e.g., identifying and staying on the topic; developing the topic with simple facts, details, examples and explanations).

(ii) Use planning strategies that generate topics and organize ideas (e.g., brainstorming, mapping, webbing, reading, discussion).

(iii) Focus revision on sequence of events and ideas, transitional words and sentence patterns.

C. Strand 3: Literature and media. Content standard 3. Students will use literature and media to develop an

understanding of people, societies and the self.

(1) Grades K-4 benchmark 3-A: Use language, literature and media to gain and demonstrate awareness of cultures around the world.

(a) Grade K performance standards:

(i) Listen and respond to stories based on familiar themes and plots.

(ii) Relate characters and events to their own life experiences.

(iii) Demonstrate familiarity with stories and activities related to various ethnic groups and countries.

(b) Grade 1 performance standards:

(i) Increase vocabulary and understand expressions found in appropriate literary works.

(ii) Identify the characters and simple story lines from selected myths and stories from around the world.

(iii) Describe events related to other nations or cultures (e.g., writing, drama, constructions, drawing).

(c) Grade 2 performance standards:

(i) Identify characteristics common to members of various world cultures (e.g., language, dress, food, traditions, homes) as found in literary works.

(ii) Increase vocabulary by listening to, reading and responding to literary works.

(iii) Identify cultural characteristics in literature and media.

(iv) Demonstrate how similar themes are represented by different versions of stories from many cultures.

(d) Grade 3 performance standards:

(i) Use language and media to make connections between own experiences and the experiences of others (e.g., local stories, stories about local culture and history).

(ii) Create and participate in responses to a variety of literature and media (e.g., dramatizations, presentations, fantasy plays).

(iii) Identify and discuss similarities and differences in events and characters across examples of literature and media.

(iv) Make informed judgments about the purpose of media productions.

(e) Grade 4 performance standards:

(i) Examine the reasons for characters' actions.

(ii) Identify and examine characters' motives.

(iii) Consider a situation or problem from different characters' point of view.

(iv) Trace the exploits of character types across literature and media depicting various cultures.

(2) Grades K-4 benchmark 3-B. Identify and use the types of literature according to their purpose and function.

(a) Grade K performance standards:

(i) Demonstrate familiarity with the types of books and selections (e.g., picture books, caption books, short informational texts, nursery rhymes, re-enactment of familiar stories).

(ii) Demonstrate understanding of plots of different types of stories (e.g., songs, rhymes and fairy tales).

(iii) Identify characters, setting and important events.

(b) Grade 1 Performance standards:

(i) Identify elements of plot and setting in a story.

(ii) Demonstrate understanding (e.g., act out, draw, write, talk) of sequence and characterization in a story.

(c) Grade 2 performance standards:

(i) Identify differences between poetry and expository writing.

(ii) Compare and contrast plots, settings and characters presented by different authors.

(iii) Identify the use of rhythm, rhyme and alliteration in writing.

(iv) Take part in creative responses to dramatizations, oral presentations and fantasy plays.

(d) Grade 3 performance standards:

(i) Read and create a variety of texts, including: fiction (short stories, novels, fantasies, fairy tales and fables), non-fiction (biographies, letters, articles, essays), poetry and drama (skits and plays).

(ii) Respond to fiction, non-fiction, poetry and drama using interpretive, critical and evaluative processes by: considering the differences among genres; relating plots, settings and characters to one's own experiences and ideas; considering the main character's point of view; participating in creative interpretations; making inferences and drawing conclusions about characters and events.

(e) Grade 4 performance standards:

(i) Identify beginning, middle and end of a story.

(ii) Describe the contextual differences of various forms of literature.

(iii) Describe the reasons why an author would choose a particular genre.

(iv) Compose fiction, non fiction, poetry and drama, using self-

selected or assigned topics and forms.

(v) Respond to fiction, non-fiction, poetry and drama, using interpretive, critical and evaluative processes by: analyzing author's word choice and context, examining reasons for characters' actions, identifying and examining characters' motives, considering a situation or problems from different characters' perspectives.

[6.29.4.8 NMAC - Rp, 6.30.2.13 NMAC, 9-30-2009]

6.29.4.9 C O N T E N T STANDARDS WITH BENCHMARKS AND PERFORMANCE STANDARDS FOR ENGLISH LANGUAGE ARTS, Grades 5-8:

A. Strand 1: Reading and listening for comprehension. Content standard 1. Students will apply strategies and skills to comprehend information that is read, heard and viewed.

(1) Grades 5-8 benchmark 1-A: Listen to, read, react to and interpret information.

(a) Grade 5 performance standards:

(i) Listen actively and critically by: asking questions, delving deeper into the topic, elaborating on the information and the ideas presented, evaluating information and ideas, making inferences and drawing conclusions and making judgments.

(ii) Make connections between texts by recognizing similarities and differences based on a common theme, lesson or message.

(iii) Read aloud grade-appropriate text with fluency, comprehension, expression and personal style, demonstrating an awareness of volume, pace, audience and purpose.

(iv) Follow oral instructions that provide information about a task or assignment.

(b) Grade 6 performance standards:

(i) Narrate a fictional or autobiographical account.

(ii) Relate details, main ideas, setting, action and main character(s).

(iii) Explore expressive materials that are read, heard or viewed.

(iv) Identify and interpret figurative language in an oral selection.

(v) Interact appropriately in group settings.

(vi) Reflect on learning experiences by describing personal learning growth and change in perspective.

(vii) Interpret how personal circumstances and background shape interaction with text.

(c) Grade 7 performance standards:

(i) Narrate an account

(e.g., news story, historical episode) that creates a coherent organizing structure appropriate to purpose, audience and context, and which orients and engages the reader.

(ii) Respond to informational materials that are read, heard or viewed by: summarizing the information, determining the importance of the information, making connections to related topics/information, monitoring comprehension, drawing inferences and generating questions.

(iii) Identify the effect of literary devices such as figurative language, diction, dialogue and description.

(d) Grade 8 performance standards:

(i) Narrate a personal account that: establishes a point of view and sharpens focus, uses remembered feelings, selects details that best illuminate the topic, connects events to self and society.

(ii) Interact in group activities or seminars to: share personal reactions to questions raised, give reasons and cite examples from texts to support opinions; clarify, illustrate or expand on a response;

ask classmates for similar expansion.

(iii) From oral selections, compare, contrast and evaluate for details, main ideas, themes, actions and main character.

(2) Grades 5-8 benchmark 1-B: Gather and use information for research and other purposes.

(a) Grade 5 performance standards:

(i) Understand the concept of primary source.

(ii) Research multiple sources to deepen understanding and integrate information and ideas across varied sources and content areas by: conducting research (with assistance) from a variety of sources for assigned or self-selected projects (e.g., using print and non-print texts, artifacts, people, libraries, databases, , computer networks), evaluating the usefulness and quality of information and ideas based on purpose, experiences, texts and graphics.

(iii) Make connections between print and non-print texts by recognizing similarities and differences using a variety of resources that contribute to informed decisions.

(b) Grade 6 performance standards:

(i) Interpret and synthesize information from a variety of sources by: reviewing the characteristics of informational works, restating and summarizing information, determining the importance of information, making connections to related topics and information, monitoring comprehension, drawing

inferences and generating questions.

(ii) Use multiple sources of print and non-print information in developing informational materials such as brochures, newsletters and advertisements by: exploring a variety of sources that provide information (e.g., books, newspapers, , electronic databases, CD-ROMs), distinguishing between primary and secondary sources.

(iii) Organize information gathered for a research topic into major components based on appropriate criteria.

(c) Grade 7 performance standards:

(i) Use a variety of resources to express individual perspectives in response to personal, social, cultural and historical issues.

(ii) Interpret and synthesize information by responding to information that is read, heard or viewed.

(iii) Develop informational products or presentations that cite multiple print and non-print sources by: identifying and using appropriate primary and secondary sources; comparing, contrasting and evaluating information from different sources about the same topic; evaluating information for extraneous details, inconsistencies, relevant facts and organization.

(iv) Examine critical relationships between and among elements of a research topic.

(d) Grade 8 performance standards:

(i) Use information for specific tasks by: analyzing and evaluating information to extend ideas, analyzing and evaluating themes and central ideas in relation to personal and societal issues, creating a research product in both written and presentation form.

(ii) Use images, videos and visual representations as informational research tools.

(3) Grades 5-8 benchmark 1-C: Apply critical thinking skills to analyze information.

(a) Grade 5 performance standards:

(i) Evaluate text to determine author's purpose and opinion by: evaluating inferences, conclusions and generalizations; identifying elements of fiction and non-fiction that support plot development, choice of words, effectiveness of figurative language and personification.

(ii) Evaluate the usefulness and quality of information and ideas based on purpose, experiences, text.

(iii) Respond to fiction, non-fiction, poetry and drama using interpretive, critical and evaluative processes by: analyzing word choice and content, examining reasons for a character's actions, creating and presenting a product

that demonstrates a personal response, examining alternative perspectives.

(iv) Make informed judgments about bias, propaganda, stereotyping and media techniques.

(v) Analyze cause and effect relationships; compare and contrast information, facts, characters and objects to predict a logical outcome based on the information in the selection.

(vi) Distinguish between fact and opinion.

(b) Grade 6 performance standards:

(i) Use critical thinking skills and create criteria to evaluate text and multimedia by: determining purpose through exploring bias, apparent messages, emotional factors or persuasive techniques; and by identifying and exploring the underlying assumptions of the author.

(ii) Recognize the point of view of the author by considering alternative points of view or reasons, remaining fair-minded and open to other interpretations.

(iii) Develop and apply appropriate criteria to evaluate the quality of communication by: using knowledge of language structure, literary or media techniques; drawing conclusions based on evidence, reasons or relevant information; considering the implications, consequences or impact of those conclusions.

(c) Grade 7 performance standards:

(i) Use the problem-solving process to refine understanding by: analyzing problems and solutions within various texts and situations, utilizing the problem-solving process within various contexts and situations, constructing essays and presentations that respond to a given problem by proposing a solution that includes relevant details.

(ii) Refine critical thinking skills and develop criteria that evaluate arguments and judgments by: stating a firm judgment; justifying the judgment with logical, relevant reasons, clear examples and supporting details; creating an organizing structure appropriate to purpose, audience and context.

(iii) Determine how the use of literary devices such as personification, metaphor, simile and alliteration convey the author's intent.

(iv) Interpret universal themes, values and conflicts in a selection.

(d) Grade 8 performance standards:

(i) Create a research product in both written and presentation form by: determining purpose, audience and context; choosing a relevant topic; selecting a presentation format (e.g., video, essay, interactive technology); evaluating information for extraneous

detail, inconsistencies, relevant facts and organization; researching and organizing information to achieve purpose using notes and memory aids to structure information; supporting ideas with examples, definitions, analogies and direct references to primary and secondary sources; citing sources used; employing graphics, charts, diagrams and graphs to enhance communication.

(ii) Analyze the inferences and conclusions from fictional and non-fictional contexts, events, characters, settings and themes.

(4) Grades 5-8 benchmark 1-D: Demonstrate competence in the skills and strategies of the reading process.

(a) Grade 5 performance standards:

(i) Apply enabling strategies and skills to read by: expanding and refining vocabulary through wide reading, word study, content area study, writing process elements, writing as a tool, debate, discussions, seminars and examining the author's craft; using word reference materials; selecting key vocabulary critical to the text and applying appropriate meanings for understanding; reading independently to increase fluency and build background knowledge.

(ii) Interact with the text by: making predictions; formulating questions; supporting answers from textual information, using previous experience or other sources; drawing on personal, literary and cultural understandings; seeking additional information.

(iii) Read a variety of texts (e.g., fiction, nonfiction, newspaper and magazine articles, poetry and drama).

(iv) Choose materials to read independently, identifying the main ideas and significant details, and determine the correct sequence of events or information.

(b) Grade 6 performance standards:

(i) Increase fluency, comprehension and insight through meaningful and comprehensive reading instruction by: using effective reading strategies to match types of texts; reading self-selected literature and other materials of individual interest; reading selections and other materials assigned; discussing selections in teacher-student discussions and small groups; taking an active role in whole-class seminars; discussing and analyzing the effects on texts of literary devices such as figurative language, dialogue and flashback; interpreting text by explaining elements such as plot, theme, point of view, characterization, mood and style; investigating examples of distortion and stereotypes; recognizing underlying messages in order to identify recurring themes.

(ii) Generate questions to be answered while reading, and reflect on what has been learned after reading.

(iii) Use specific strategies to clear up confusing parts of a text (e.g., re-read the text, consult another source, ask for help).

(iv) Follow oral and written directions for a procedure.

(v) Use knowledge of punctuation to assist in comprehension.

(c) Grade 7 performance standards:

(i) Respond to various texts and literary selections using interpretive and evaluative reading processes by: reading a variety of literary and other texts (e.g., mysteries, novels, science fiction, historical documents, newspapers, skits, lyric poems), analyzing what specific characteristics of literary works (fiction, nonfiction, drama, and poetry) have on the meaning of the work, analyzing what impact literary elements have on the meaning of the text, such as the influence of setting on the problem and its resolution.

(ii) Understand stories and expository texts from the perspective of the attitudes and values of the time period in which they were written.

(iii) Accurately identify the author's purpose and perspective.

(iv) Use knowledge of context and vocabulary to understand informational texts.

(d) Grade 8 performance standards:

(i) Analyze the purpose of the author or creator and the impact of that purpose, by evaluating bias, messages and underlying assumptions of a variety of texts and media.

(ii) Analyze and evaluate themes and central ideas in literary and other texts in relation to personal and societal issues.

(iii) Recognize when information presented in a text is new knowledge and describe how it can be used.

(iv) Use the various parts of a text to locate specific information (index, table of contents, glossary).

(v) Identify the topic sentence in a reading selection.

(vi) Independently apply the reading process and strategies to a variety of literary and informational texts and use the defining features and structures of those works to understand main elements, perspective and style.

B. Strand 2: Writing and speaking for expression. Content standard 2. Students will communicate effectively through speaking and writing.

(1) Grades 5-8 benchmark 2-A: Use speaking as an interpersonal communication tool.

(a) Grade 5 performance standards:

(i) Read aloud grade-level text with fluency, comprehension, expression and personal style, demonstrating

an awareness of volume, pace, audience and purpose.

(ii) Use language to: formulate hypotheses, evaluate information and ideas, present and support arguments and influence the thinking of others.

(iii) Make presentations to inform or persuade, selecting vocabulary for impact.

(b) Grade 6 performance standards:

(i) Assume a variety of roles in group discussions (e.g., active listener, discussion leader, facilitator, reporter/synthesizer).

(ii) Clarify, illustrate and expand upon topics in discussions.

(iii) Use oral clues to indicate levels of certainty (e.g., "what if," "very likely," "I'm unsure of").

(c) Grade 7 performance standards:

(i) Choose precise and engaging language, well suited to the topic and audience.

(ii) Use figurative language and a variety of speech patterns.

(iii) Choose between standard and non-standard English dialects as appropriate for the topic, purpose and audience.

(iv) Interact in group discussions by: offering personal opinions confidently but without dominating, giving valid reasons that support opinions, soliciting and considering others' opinions.

(v) Express an individual perspective in response to personal, social, cultural and historical issues.

(d) Grade 8 performance standards:

(i) Present similar content for various purposes and to different audiences, showing appropriate changes in delivery.

(ii) Create and present arguments that persuade by: engaging the audience by establishing a context, creating a persona and developing interest; developing an idea that makes a clear and informed conclusion; arranging details, reasons and examples persuasively; anticipating and addressing reader/listener concerns and counterarguments.

(iii) Identify formal and informal speaking contexts that are reflected in slang, jargon and different language styles.

(2) Grades 5-8 benchmark 2-B: Apply grammatical and language conventions to communicate.

(a) Grade 5 performance standards:

(i) Write sentences that use: independent and dependent clauses, transitions and conjunctions to connect ideas.

(ii) Identify and correctly use verbs that are often misused

(e.g., lie/lay, sit/set, rise/raise).

(iii) Use colons and quotation marks correctly.

(iv) Spell most commonly-used words accurately, using a multi-strategy approach to learn new spellings.

(v) Edit final product for grammar, language conventions and format.

(vi) Using a variety of media, create and deliver focused, coherent presentations that convey ideas clearly and relate to the background and interest of the audience.

(vii) Evaluate the content of oral communication.

(b) Grade 6 performance standards:

(i) Use simple, compound, complex and compound-complex sentences.

(ii) Use effective coordination and subordination of ideas to express complete thoughts.

(iii) Identify and properly use indefinite pronouns and present perfect, past perfect and future perfect verb tenses to convey appropriate meaning.

(iv) Use verbs that agree with compound subjects.

(v) Punctuate, using commas that link two clauses with a conjunction in compound sentences.

(vi) Correctly spell frequently misspelled words (e.g., there, their, they're).

(vii) Demonstrate an awareness of language conventions and usage during oral presentations.

(viii) Identify and correct errors in everyday speech.

(ix) Support opinions expressed with detailed evidence, and with visual or media displays that use appropriate technologies.

(c) Grade 7 performance standards:

(i) Place modifiers properly and use the active voice.

(ii) Identify and use infinitives and participles and make clear references between pronouns and antecedents.

(iii) Identify all parts of speech, types and structures of sentences.

(iv) Punctuate by correctly using hyphens, dashes, brackets and semicolons.

(v) Spell derivatives correctly by applying the spellings of bases and affixes.

(vi) Use a variety of sentences correctly by punctuating them properly and avoiding fragments and run-ons.

(vii) Apply the parts of speech to clarify language usage.

(viii) In a variety of

oral presentations, choose language that is precise, engaging and well suited to the topic and the audience.

(ix) Use figurative language and varying speech patterns to convey meaning.

(x) Analyze the effect on the viewer of images, text and sound of electronic journalism.

(xi) Provide constructive feedback to a speaker concerning his speech's content, delivery and overall impact.

(xii) Proofread, listen to and monitor oneself to correct errors.

(d) Grade 8 performance standards:

(i) Use correct and varied sentence types and sentence openings.

(ii) Identify and use parallelism to present ideas in a series.

(iii) Juxtapose items for emphasis.

(iv) Use subordination, coordination, apposition and other devices to indicate the relationship between ideas.

(v) Evaluate the use of dialects in standard and non-standard English.

(vi) Prepare an outline based upon a chosen pattern of organization to include an introduction; transitions, previews, summaries; a logically developed body and an effective conclusion.

(vii) Revise writing for word choice, appropriate organization, consistent point of view, and transitions between paragraphs, passages and ideas.

(3) Grades 5-8 benchmark 2-C: Demonstrate competence in the skills and strategies of the writing process.

(a) Grade 5 performance standards:

(i) Produce a variety of written products that demonstrate competence in: persuasive writing (e.g., states a clear position, elaborates on the position with reasons, examples, information and other evidence), autobiographical writing and essays that speculate on cause and effect.

(ii) Apply the writing process through: pre-writing, creating a rough draft, revising for clarity of thought and focused communication, editing, publishing and sharing of final product.

(iii) Create journals, notes, stories, reports and letters, using appropriate formats and multimedia technologies to communicate to an audience for a specific purpose.

(iv) Focus revision on creating simple and complex sentences for clarity and impact, and on developing a lead, characters or mood.

(b) Grade 6 performance standards:

(i) Compose a variety of writings that express individual perspectives

drawn from personal or related experience by: drafting, revising, editing and proofreading one's own written work; using direct feedback from peers to revise content; writing for public and private audiences.

(ii) Demonstrate competence in writing essays that present problems and solutions (e.g., identifies and defines the problem, describes a solution clearly and convincingly, presents logical and well-supported reasons).

(iii) Produce writings that incorporate a definite voice of the author appropriate to the writing purpose.

(iv) Use electronic media to effectively communicate with others.

(c) Grade 7 performance standards:

(i) Express individual perspectives in written response to personal, social, cultural and historical issues.

(ii) Differentiate shades of meaning and multiple meanings of words.

(iii) Produce research reports and technical writings that communicate information effectively to a specific audience.

(iv) Compose a variety of writings that develop sentence fluency to communicate ideas and information clearly, using a variety of multimedia technologies.

(d) Grade 8 performance standards:

(i) Describe the significance of the subject to the author.

(ii) Demonstrate competence in writing by using specific strategies (e.g., tension, suspense, eliminating extraneous details and inconsistencies).

(iii) Create written arguments to persuade by: establishing context; creating a persona; developing interest; developing a controlling idea that makes a clear and knowledgeable judgment; arranging details, reasons and examples effectively; anticipating and addressing reader/listener concerns.

C. Strand 3: Literature and media. Content standard 3. Students will use literature and media to develop an understanding of people, societies and the self.

(1) Grades 5-8 benchmark III-A: Use language, literature and media to understand various social and cultural perspectives.

(a) Grade 5 performance standards:

(i) Explain why similar character types are found in multiple cultures.

(ii) Identify social/cultural values and beliefs reflected in literature and media.

(iii) Identify archetypal patterns and symbols depicted through literature and media of various cultures.

(b) Grade 6 performance

standards:

(i) Describe how characters' actions reflect their cultures.

(ii) Respond to historically or culturally significant works of literature to develop an awareness of perspectives.

(iii) Examine connections between cultures worldwide and American society, as depicted through literature and media.

(c) Grade 7 performance standards:

(i) Identify and analyze recurring themes across works from a variety of cultures (e.g., values of bravery, loyalty, friendship).

(ii) Analyze themes and central ideas in literature and media in relation to personal issues and experiences.

(iii) Analyze a range of responses to literary works and determine the extent to which the literary characteristics of a society/culture shaped those responses.

(d) Grade 8 performance standards:

(i) Demonstrate familiarity with selected classic literature, mythology, classic fiction and non-fiction, poetry and drama.

(ii) Use literature and media to reflect on learning experiences by: evaluating personal perspectives and how they are influenced by society, cultural differences and historical issues; appraising learning as change in perspective; evaluating personal circumstances and background that shape interaction with literature and media.

(iii) Analyze a work of literature showing how it reflects the heritage, traditions, attitudes and beliefs of its author.

(2) Grades 5-8 benchmark 3-B: Identify ideas and make connections between literary works.

(a) Grade 5 performance standards:

(i) Identify main conflict in a plot and describe how it is resolved.

(ii) Contrast the actions and motives of characters in literary works.

(iii) Explain the importance of a character's actions to the plot and theme of a literary work.

(b) Grade 6 performance standards:

(i) Describe the author's use of various techniques (e.g., appeal of characters, logic and credibility of plots and setting, use of figurative language and emotional impact) to influence readers' perspectives.

(ii) Identify the various themes in literary works.

(iii) Compare and contrast print and non-print versions of a literary work.

(c) Grade 7 performance standards:

(i) Identify examples of

distortion and stereotypes in literary works.

(ii) Identify recurring themes in literary works.

(iii) Critique the credibility of characterization and the degree to which a plot is contrived or realistic.

(d) Grade 8 performance standards:

(i) Identify conflict, rising action and resolution of conflict in a literary work.

(ii) Describe how tone and meaning are conveyed in poetry and expository writing through word choice, figurative language, sentence structure, line length, punctuation, rhythm, repetition and rhyme.

(iii) Identify significant literary devices (e.g., metaphor, symbolism, dialect, irony) to understand the author's meaning and perspective.

(iv) Identify the defining characteristics of classic literature and themes.

[6.29.4.9 NMAC - Rp, 6.30.2.13 NMAC, 9-30-2009]

6.29.4.10 C O N T E N T STANDARDS WITH BENCHMARKS AND PERFORMANCE STANDARDS FOR ENGLISH LANGUAGE ARTS, Grades 9-12:

Note on the parenthetical examples throughout the document: They are intended to provide useful examples, not to be all-encompassing, prescriptive definitions of specific elements that must be mastered. Strands include: Strand 1: Reading, Strand 2: Language, Strand 3: Communication, Strand 4: Writing, Strand 5: Research, Strand 6: Logic, Strand 7: Informational text, Strand 8: Media, Strand 9: Literature.

A. Strand 1: Reading. Content standard 1. Students read and understand a variety of materials.

(1) Benchmark 1-A: Use comprehension strategies for unfamiliar vocabulary.

(a) Grades 9-10 performance indicators:

(i) Use knowledge of roots, prefixes, suffixes (e.g., Greek/Latin) and etymology to determine the meaning of unfamiliar vocabulary.

(ii) Use knowledge of word families and word suffixes to determine meaning (e.g., *educate-educational-educationally*).

(iii) Use general and specialized dictionaries, thesauri and glossaries (print and electronic) to determine the definition and pronunciation of unfamiliar words.

(b) Grades 11-12 performance indicators:

(i) Use etymology, the principles behind spelling and usage of

words to determine meaning.

(ii) Analyze the context of sentences and larger sections of text to clarify the meaning of unknown or ambiguous words, detect nuances, make inferences and differentiate among possible meanings of words.

(iii) Analyze texts to identify specialized terminology or jargon needing clarification or definition.

(2) Benchmark 1-B: Use comprehension strategies to understand the meaning of a text.

(a) Grade 9 performance indicators:

(i) Identify the author's main purpose.

(ii) Recognize and recall main ideas by selecting topic sentences, identifying thesis statements, selecting key words and phrases, and summarizing the material.

(iii) Recognize and recall specific and important details (e.g., who, what, where, when, why, how), narrational or chronological sequences and cause-effect relationships.

(b) Grade 10 performance indicators:

(i) Use prior knowledge in understanding text.

(ii) Recognize primary organizing structures: narrative, descriptive, expository, persuasive.

(c) Grades 11-12 performance indicators: Recognize and recall the use of literary devices and rhetorical modes in texts (e.g., illustration, classification, persuasion, comparison/contrast, cause/effect).

(3) Benchmark 1-C: Infer, analyze and synthesize to increase comprehension.

(a) Grade 9 performance indicators:

(i) Interpret information from graphs, charts, diagrams and the like.

(ii) Evaluate texts according to text-specific standards (e.g., book reports according to a book report rubric).

(b) Grade 10 performance indicators:

(i) Recognize the presence and effect of a specific point of view.

(ii) Recognize the sources of information (whether primary or secondary) in a text.

(c) Grade 11 performance indicators:

(i) Make reasonable inferences from implied ideas to predict outcomes, derive reasonable generalizations, differentiate fact from opinion, and differentiate literal from figurative meanings.

(ii) Recognize how history and culture influence text.

(iii) Recognize the types

of claims made in a text (e.g., factual, value judgment).

(d) Grade 12 performance indicators:

(i) Recognize limitations in a text (e.g., logical fallacies, rhetorical flaws and lack of support).

(ii) Recognize the types of evidence offered in a text (e.g., experiment, expert testimony, statistics, case study or common sense).

(iii) Evaluate information in a text (e.g., for specificity, relevance, importance, sufficiency of evidence, soundness of reasoning, internal consistency, persuasive techniques and credibility).

(iv) Evaluate texts using various critical lenses (e.g., multi-cultural or disciplinary perspectives).

(4) Benchmark 1-D: Use meta-cognitive strategies; Grades 9-12 performance indicators:

(a) Use multiple strategies to monitor one's pace and comprehension.

(b) Draw conclusions from information in texts to arrive at new knowledge.

(c) Evaluate texts by determining the value to oneself.

(d) Analyze texts to determine how much prior and specialized knowledge is needed.

B. Strand 2: Language. Content standard 2. Students write and speak using correct grammar, syntax, usage, punctuation, capitalization and spelling.

(1) Benchmark 2-A: Demonstrate control of standard English through the effective use of syntax.

(a) Grade 9 performance indicators:

(i) Recognize that the relationships of nouns, verbs and modifiers create different syntactic structures (e.g., that a transitive verb creates a SV sentence pattern, transitive verbs create a SVDO pattern, and linking verbs create SLVPA and SLVPN patterns).

(ii) Use coordinating conjunctions to create parallel structures and balanced and compound sentences.

(iii) Use knowledge of sentence structure to eliminate run-ons, fused sentences and inappropriate fragments.

(b) Grade 10 performance indicators:

(i) Use contrasting subordinate conjunctions to express contrasts or contradictions between ideas.

(ii) Use knowledge of sentence structure to eliminate comma splices and dangling or misplaced modifiers.

(c) Grade 11 performance indicators:

(i) Use knowledge of sentence patterns to control the relationship

of ideas within and among the clauses of compound and complex sentences.

(ii) Use subordinating elements (e.g., relative pronouns and conjunctive adverbs) to express complex relationships among various elements and ideas within sentences.

(iii) Recognize and eliminate faulty subordination from one's writing.

(d) Grade 12 performance indicators: Use one's knowledge of various syntactic possibilities in English in order to develop greater sentence variety and to construct grammatically sound writing that expresses complex ideas.

(2) Benchmark 2-B: Demonstrate control of standard English through correct grammar and usage.

(a) Grade 9 performance indicators:

(i) Correctly use words that sound the same but have different meanings (e.g. *their*, *there*, *they're*).

(ii) Correctly use basic parts of speech: nouns, verbs, adjectives, adverbs and prepositional phrases that act as adjectives or adverbs.

(iii) Correctly use appositives (and appositive phrases) to rename and define nouns.

(iv) Recognize and control subject/verb and basic pronoun/antecedent agreement.

(v) Correctly use various noun and adverb clauses.

(b) Grade 10 performance indicators:

(i) Correctly use gerunds (and gerund phrases).

(ii) Correctly use adjective participles (and adjective participle phrases) to modify nouns.

(iii) Correctly use infinitives (and infinitive phrases) as nouns, adjectives and adverbs.

(iv) Correctly use relative, reflexive and indefinite pronouns.

(v) Correctly use both essential and non-essential adjective and adverb clauses.

(c) Grades 11-12 performance indicators:

(i) Recognize the different effects of active and passive voice in order to control their use.

(ii) Correctly use all parts of speech and sentence elements, including control of verb tense, use of person and use of phrase and clause elements in compound and complex sentences.

(3) Benchmark 2-C: Demonstrate control of standard English through the correct use of punctuation, capitalization and spelling.

(a) Grade 9 performance indicators:

(i) Develop legible manuscript forms (e.g., paragraphs and text structures, especially for open-ended academic responses or requirements of the work force).

(ii) Correctly capitalize proper nouns and appropriate words in sentences, titles and elsewhere.

(iii) Correctly apply basic rules of spelling in all forms of writing.

(iv) Correctly use end marks, apostrophes and quotation marks with direct quotations.

(v) Correctly use commas for the following purposes: items in a series, date/year, city/state, direct address, appositives, direct quotations and compound sentences.

(b) Grade 10 performance indicator: Correctly use commas for the following purposes: initial adverbial phrases and clauses, non-essential adjective phrases and clauses, coordinate adjectives, contradictory elements, tag questions and interjections.

(c) Grade 11 performance indicator: Correctly use semi-colons and colons, hyphens and dashes, italics (or underlining) and quotation marks with titles.

(d) Grade 12 performance indicators:

(i) Correctly use ellipses and order of operations with brackets and parentheses.

(ii) Correctly punctuate and format quotations, citations and references, including works cited.

C. Strand 3. Communication. Content standard 3: Students communicate effectively through listening and speaking.

(1) Benchmark 3-A: Give spoken instructions to perform specific tasks, to answer questions or to solve problems. Grades 9-12 performance indicators:

(a) Identify purposes and audience to determine the important information to communicate and the language needed to convey it.

(b) Use specific strategies to improve the effectiveness of spoken instructions (e.g., repeating the instructions to ensure recall, following a process, emphasizing key points and employing appropriate diction).

(2) Benchmark 3-B: Make oral presentations with a logical structure appropriate to the audience, context and purpose.

(a) Grade 9 performance indicators:

(i) Employ proper eye contact, speaking rate, volume, enunciation, inflection and gestures to communicate ideas effectively.

(ii) Group related ideas and maintain a consistent focus, include

smooth transitions, support judgments with sound evidence and well-chosen details, make skillful use of rhetorical devices, provide a coherent conclusion.

(iii) Select precise vocabulary to appeal to an intended audience.

(b) Grade 10 performance indicators:

(i) Consider purpose and context (e.g., time limit and setting); analyze characteristics of the audience (e.g., prior knowledge and experiences related to the topic, needs, interests, values, beliefs, culture, age and gender); select and adapt the topic to the audience; develop a theme; guide language choices and plan the presentation.

(ii) Use an appropriate organizational pattern (e.g., topical, spatial, chronological, sequential, problem/solution, compare/contrast, cause/effect or claim/evidence).

(iii) Develop main ideas based on audience's prior knowledge and interests; use signposts and transitions to highlight important ideas and signal clear connections among ideas; develop an introduction that engages audience attention and previews presentation content; and develop a conclusion that summarizes main ideas, restates thesis and leaves a strong impression on the audience.

(iv) Select from among a variety of presentational aids or performance props to enhance ideas for audience response.

(v) Rehearse the presentation orally to gain fluency, build confidence and develop poise. Use feedback from others to evaluate whether the presentation leaves a strong impression on the audience and whether the presentation appeals to the audience and achieves its purpose and goals.

(vi) Employ a formal or informal tone as appropriate to the occasion.

(c) Grade 11 performance indicators:

(i) Evaluate and adapt strategies for developing credibility (e.g., demonstrating knowledge, appearing confident and speaking truthfully).

(ii) Create logical messages using appropriate reasoning patterns, supporting ideas with evidence, avoiding fallacies and making emotional appeals (e.g., to evoke fear or affection).

(iii) Monitor audience feedback in real time and make inferences about audience engagement, understanding and agreement; adjust for effectiveness and what changes to make in future presentations.

(d) Grade 12 performance indicators:

(i) Make oral presentations that exhibit a logical structure appropriate to the audience, context and purpose.

(ii) Group related

ideas and maintain a consistent focus with smooth transitions, support judgments with sound evidence and well-chosen details, strategically use rhetorical devices, provide a coherent conclusion.

(iii) Employ language and diction to establish credibility and authority, create a mood, suggest a specific attitude toward a subject, and appeal to a specific audience.

(3) Benchmark 3-C: Follow spoken instructions to perform tasks, to answer questions or to solve problems. Grades 9-12 performance indicators:

(a) Consider the purpose and the speaker in order to understand what is being communicated and the language being used to convey the message.

(b) Use strategies such as: repeating instructions to oneself to ensure recall, and identifying key points.

(4) Benchmark 3-D: Summarize and paraphrase information presented orally by others.

(a) Grades 9-10 performance indicators:

(i) Use a variety of strategies to enhance comprehension of complex literal messages in order to summarize information presented orally (e.g., listening for contextual clues to infer meaning of unknown words; interpreting figurative language; interpreting non-verbal clues; listening in order to distinguish between main ideas and details; listening for transitions; noting sequence and organization of ideas; extending the speaker's ideas based on prior knowledge and personal experience; determining the need for further information or research; visualizing using mnemonic devices; summarizing and synthesizing; and considering significance, value and possible uses of information).

(ii) Practice listening skills to enhance the ability to complete a task from oral instructions.

(b) Grades 11-12 performance indicator: Use a variety of response strategies to clarify, elaborate and synthesize the explicit and implicit meanings of messages given orally and in writing (e.g., integrating new learning with prior knowledge; asking questions to guide and clarify inferences and interpretations; asking the speaker to extend or elaborate ideas; and paraphrasing meaning back to the speaker).

(5) Benchmark 3-E: Identify the thesis of a speech and determine the essential elements that elaborate it, including logos, ethos and pathos.

(a) Grade 9 performance indicator: Identify a speaker's thesis, either directly stated or implied, and determine the significance of the speaker's message to oneself.

(b) Grade 10 performance indicator: Use visual models to analyze the

components of a communication event and to critique the communication's effectiveness in achieving its intended goals.

(c) Grade 11 performance indicators:

(i) Draw on one's prior knowledge and experience to make connections with the speaker's message and analyze the speaker's values and beliefs to guide interpretation.

(ii) Evaluate the speaker's argument including the use of logos, ethos and pathos (e.g., mentally anticipating direction and significance of arguments; attending to the entirety of the message before forming conclusive judgments; taking notes when appropriate; reviewing standards of evidence and reasoning; asking oneself questions about the speakers' implicit and explicit messages; relating the message to one's personal beliefs, values and experiences).

(d) Grade 12 performance indicators:

(i) Analyze the speaker's motivation, explicit and implicit purposes for speaking.

(ii) Use information from prior communications to interpret the speaker's current perspectives on a topic.

(iii) Analyze the internal variables that affect a communication (e.g., the speaker and listener's background knowledge, experiences, culture, beliefs, emotional states, language) in order to critique the communication.

(6) Benchmark 3-F: Participate productively in self-directed work teams for particular purposes (e.g., to interpret literature, critique a proposal, solve a problem or make a decision).

(a) Grade 9 performance indicator: Pose relevant questions, listen with civility to the ideas of others, extract essential information from others' input, build on the ideas of others and contribute relevant information and ideas in group discussion, gain the floor in a respectful way, define individuals' roles and responsibilities and set clear goals, acknowledging the ideas and contributions of others in the group.

(b) Grade 10 performance indicator: Identify the purpose of team projects and the ground rules for decision-making, maintain independence of judgment, dissent courteously, avoiding premature consensus and tolerating ambiguity and a lack of consensus, select leaders or spokespersons when necessary.

(c) Grade 11 performance indicators:

(i) Analyze internal variables (e.g., prior knowledge, experiences, interests, opinions, values, needs, feelings) in order to participate in, reflect on and evaluate group processes.

(ii) Elicit feedback and

analyze others' internal variables to enhance group effectiveness, to frame and adapt messages, to build group cohesion and to achieve group goals.

(iii) Analyze contextual variables (e.g., the type of group, its purposes and goals, its progress toward those goals, the roles and relationships within the group, group norms and discussion conventions) in order to monitor and adjust discussion strategies, agenda setting, responding to questions, building consensus, checking for understanding and encouraging participation.

(d) Grade 12 performance indicator:

(i) Analyze and refine personal and group purposes and goals (e.g., clarify ideas, change group members' opinions, build relationships and adapt strategies for developing credibility), and critique effectiveness in refining these goals.

(ii) Use a variety of response strategies to clarify, elaborate and synthesize explicit and implicit meanings of messages (e.g., integrate new learning with prior knowledge, ask questions to guide and clarify inferences and interpretations, integrate new learning with prior knowledge, paraphrase meaning back to the speaker and predict ways in which speaker's content may be used).

(iii) Evaluate one's personal effectiveness in self-directed work teams and make corrections as necessary, depending on the purpose of the collaborative activity.

D. Strand 4. Writing. Content standard 4. Students write effectively for a variety of purposes and audiences.

(1) Benchmark 4-A: Demonstrate proficiency in producing a variety of compositions.

(a) Grades 9-10 performance indicators:

(i) Demonstrate proficiency in the creation of narrative texts (e.g., biography, autobiography, history, personal anecdotes or short stories) that: engage the reader by establishing a context and point of view, establish plot and setting, develop characters, employ concrete sensory details and conclude effectively.

(ii) Practice the creation of imaginative and expressive texts (e.g., poetry, drama, screenplays, monologues and song lyrics) that: engage the reader by establishing a context and point of view, develop characters and plot when appropriate, creatively employ figurative language and conclude effectively.

(iii) Demonstrate proficiency in the creation of expository and process essays that: introduce the situation, provide necessary background knowledge and clearly state the thesis or purpose;

follow an organizational pattern particular to type; offer evidence for the validity of the descriptions or proposed solutions (including direct quotations, indirect quotations and paraphrases from supporting material when necessary); and make effective use of factual descriptions, concrete images, shifting perspectives and vantage points, and sensory detail.

(b) Grades 11-12 performance indicators:

(i) Demonstrate proficiency in the creation of critical response essays to fiction and non-fiction that engage the reader by: establishing a context, demonstrating a strong grasp of the main idea of the text, making a meaningful personal connection to the text, making a clear critical judgment about the text, supporting key ideas and judgments through accurate and detailed references to the text and to other credible sources, and demonstrating awareness of how the author of the text uses rhetorical strategies.

(ii) Demonstrate proficiency in the creation of persuasive essays that: engage the reader by establishing a context and a point of view; structure ideas and arguments in a sustained and logical fashion; clarify and defend positions with precise and relevant evidence, including facts, expert opinions, quotations, illustrations, commonly accepted beliefs and logical reasoning; use specific rhetorical devices to back up assertions; and anticipate and address the reader's concerns and counter-claims.

(iii) Demonstrate proficiency in the creation of documented persuasive essays that: engage the reader by establishing a context and a point of view; structure ideas and arguments in a sustained and logical fashion; clarify and defend positions with precise and relevant evidence (e.g., facts, expert opinions, quotations, illustrations, commonly accepted beliefs and logical reasoning); use specific rhetorical devices to support assertions; anticipate and address the reader's concerns and counter-claims; and employ an accepted academic manuscript style, such as that of the modern language association (MLA) or the American psychological association (APA).

(iv) Demonstrate proficiency in the creation of a formal research paper.

(2) Benchmark 4-B: Plan writing by taking notes, writing informal outlines and researching.

(a) Grades 9-10 performance indicators:

(i) Use a variety of pre-writing strategies to guide the generation of content by activating prior knowledge (e.g., brainstorming, idea-mapping, free-writing, outlining, keeping a journal, asking journalist's questions such as *who, what,*

when, where, why and how).

(ii) Select major ideas and develop them with relevant reasons, supporting examples and details.

(b) Grades 11-12 performance indicators:

(i) Identify, evaluate and analyze a variety of primary and secondary sources of information for credibility and usefulness as part of a pre-writing process.

(ii) Analyze strengths and weaknesses in one's research findings (e.g., coherence, validity or gaps, misinformation and fallacies).

(iii) Anticipate and address an audience's varying interpretations of one's findings.

(3) Benchmark 4-C: Use formal or informal literary or technical language appropriate for the purpose, audience and context of the communication.

(a) Grades 9-10 performance indicators:

(i) Use vivid language to create sensory images in the mind of the reader.

(ii) Use language to stimulate the emotions of the reader.

(iii) Use knowledge of one's audience to select an appropriate level of language to communicate in writing.

(b) Grades 11-12 performance indicators:

(i) Use language persuasively in addressing a particular issue.

(ii) Use grammatical, metaphorical or rhetorical devices to inform or persuade the reader.

(iii) Use knowledge of one's subject and purpose to select appropriate language to communicate in writing.

(4) Benchmark 4-D: Organize ideas in writing, with a thesis statement in the introduction, well-constructed paragraphs, a conclusion and transition sentences that connect paragraphs into a coherent whole.

(a) Grades 9-10 performance indicators:

(i) Organize and deliver an argument by wording the claim clearly, specifying convincing reasons to support the claim and adopting a stance and appropriate tone toward the issue.

(ii) Select and use appropriate structures and organizational pattern (e.g., problem/solution, compare/contrast, cause/effect) to represent ideas, make connections and generate new insights.

(iii) Construct focused paragraphs with topic sentences leading toward a logical conclusion.

(iv) Provide supporting evidence from texts and other outside sources (e.g., direct quotations, paraphrasing and examples).

(v) Draw a reasonable

conclusion, connected to the topic sentence and supporting evidence.

(b) Grades 11-12 performance indicator: Organize and compose arguments and multi-paragraph compositions that use complex organizational patterns, including a well-developed thesis statement with supporting paragraphs, appropriate transitions and a logical ending that does not merely repeat the thesis.

(5) Benchmark 4-E: Drawing on readers' comments on working drafts, revise documents to develop or support ideas more clearly, address potential objections, ensure effective transitions between paragraphs, and correct errors in logic.

(a) Grades 9-10 performance indicators:

(i) Use a rubric, outline or organizational map to check the development of the draft to see if paragraph focus is clear, transitions are apparent and the organizational patterns are well-developed.

(ii) Analyze whether claims and opinions are supported by evidence in the form of reasons, examples or facts.

(iii) Analyze whether counter-arguments are anticipated and addressed.

(iv) Delete material that disturbs the flow and development of a paragraph.

(v) Analyze and revise one's own work and the work of others for consistency of facts and ideas and development of argument or plot.

(b) Grades 11-12 performance indicators:

(i) Analyze whether opinion or use of sources displays bias.

(ii) Analyze whether the conclusion is appropriate, persuasive and compelling.

(iii) Identify areas requiring further investigation and research.

(6) Benchmark 4-F: Edit one's own work for grammar, style and tone appropriate to audience, purpose and context.

(a) Grades 9-10 performance indicators:

(i) Correct errors in spelling, grammatical conventions, format and structure.

(ii) Evaluate for audience, purpose and readability (e.g., word choice, vocabulary, sentence construction).

(iii) Consult editing resources (e.g., handbooks, style manuals, spell-check, dictionaries, thesauri and style sheets) to correct errors.

(b) Grades 11-12 performance indicators:

(i) Use a variety of strategies (e.g., reading aloud, seeking feedback from a reviewer, and reading a

draft from the audience's perspective) to evaluate diction, language, tone, sentence length and complexity, and voice.

(ii) Edit work for consistency of tone and voice, clarity and consciousness.

(7) Benchmark 4-G: Cite sources properly when paraphrasing or summarizing information, quoting or using graphics. Grades 9-12 performance indicator: Beginning in ninth grade, use appropriate publication manuals to cite source materials and to prepare bibliographies, lists of works cited and quoted passages: textbook appendices, *MLA handbook for writers of research papers*, *the Chicago manual of style*, *the publication manual of the American psychological association* and *the associated press stylebook*.

(8) Benchmark 4-H: Present written material, using basic software programs (e.g., *word*, *excel* and *power point*) so that graphics can be incorporated to present information and ideas best understood visually (e.g., charts, ratios and tables). Grades 9-12 performance indicators:

(a) Select production elements based on an analysis of one's purpose and the available media production resources.

(b) Incorporate into the final draft of written reports graphic materials appropriate for the particular communication (e.g., graphs, charts, tables, maps and photographs).

E. Strand 5. Research. Content standard 5. Students utilize the research process to produce a variety of products.

(1) Benchmark 5-A: Define and narrow a problem or research topic.

(a) Grades 9-10 performance indicator: Form and refine a question for investigation using a topic of personal choice or a topic prompted by a text or texts.

(b) Grades 11-12 performance indicator: Form and refine a question for investigation based on a literary, historical or cultural movement or a complex contemporary issue.

(2) Benchmark 5-B: Gather relevant information for a research topic from a variety of print and electronic sources as well as from direct observation, interviews or surveys.

(a) Grades 9-10 performance indicators:

(i) Preview reading selections to determine whether a text contains relevant information relevant to one's topic.

(ii) Use multiple resources to gather information for evaluating particular problems and exploring solutions.

(iii) Use credible news sources for researching topics.

(b) Grades 11-12 performance

indicators:

(i) Use creative or critical research strategies (e.g., field studies, oral histories, interviews and experiments).

(ii) Use a variety of techniques for researching topics, including cross-referencing while gathering information.

(iii) Synthesize a variety of types of visual information, including pictures and symbols.

(3) Benchmark 5-C: Make distinctions about the credibility, reliability, consistency, strengths and limitations of various resources, including those on the internet.

(a) Grades 9-10 performance indicator: Read critically and independently from different sources in order to draw well-informed conclusions.

(b) Grades 11-12 performance indicator: Make extensive use of primary sources when researching a topic and make in-depth analyses of the validity and reliability of primary source information.

(4) Benchmark 5-D: Report research findings in an effective manner appropriate to a designated audience. Grades 9-12 performance indicators:

(a) Identify audience for whom one's researched findings might be meaningful.

(b) Develop written or oral presentations of appropriate length that effectively report one's research findings.

(5) Benchmark 5-E: Compose a researched project to be shared with an appropriate audience.

(a) Grades 9-10 performance indicators:

(i) Use primary and secondary sources to develop a researched topic.

(ii) Use evidence in support of a clear thesis statement and related claims.

(iii) Present a researched information and conclusion on a focused topic in an appropriate way to a specific audience (e.g., essay, speech, *power point*, brochure).

(iv) Paraphrase and summarize arguments and evidence supporting or refuting the thesis, as appropriate.

(v) Employ various modes as appropriate: cause and effect, comparison/contrast, process analysis.

(vi) Cite sources correctly and document quotations, paraphrases and other information, employing an accepted academic manuscript style such as that of MLA or APA.

(b) Grades 11-12 performance indicators:

(i) Synthesize information from multiple research studies

to draw conclusions that go beyond those found in any individual study.

(ii) Produce a research project on a well-defined topic (e.g., formal paper, multi-genre research paper, speech).

(iii) Examine complex issues by sharing and evaluating personal response, researching and summarizing data and developing a framework for discussion prior to writing the final draft.

(iv) Cite sources correctly and document quotations, paraphrases and other information, employing an accepted academic manuscript style such as MLA or APA.

F. Strand 6. Logic. Content standard 6. Students employ critical thinking and abstract reasoning to make and assess inferences, conclusions and predictions.

(1) Benchmark 6-A: Distinguish among facts and opinions, evidence and inferences, true and false premises.

(a) Grade 9 performance indicators:

(i) Identify relevant reasons and evidence used as a basis for argument in various texts.

(ii) Identify logical, authoritative and emotional arguments and evaluate their effectiveness, noting logical fallacies and propaganda devices.

(iii) Distinguish between evidence that is directly stated and evidence that is implied within an argument.

(b) Grade 10 performance indicators:

(i) Critically interpret and evaluate experiences, literature, language and ideas by distinguishing fact from fiction and recognizing personal bias.

(ii) Describe the structure of a multi-faceted argument with a stated main claim and conclusion.

(iii) Evaluate the connections between claims and supporting evidence.

(c) Grade 11 performance indicators:

(i) Evaluate the ideas of others by identifying clear, reasonable criteria for evaluation and applying those criteria.

(ii) Analyze similarities and differences in false statements and the role they play in specific types of persuasive arguments.

(iii) Identify and evaluate logical fallacies and propaganda devices in written and oral communication products.

(d) Grade 12 performance indicators:

(i) Apply established methods used to distinguish between factual claims and opinions.

(ii) Recognize personal

bias in an argument based on social, historical or cultural influences.

(2) Benchmark 6-B: Describe the structure of a given argument; identify its claims and evidence; evaluate connections among evidence, inferences and claims.

(a) Grade 9 performance indicator: Identify the structure of an argument, citing a main claim or conclusion and explicit or implied evidence.

(b) Grade 10 performance indicator: Critique an argument by evaluating the connections between claims and supporting evidence.

(i) Analyze elements of both deductive and inductive arguments.

(ii) Explain the different ways that premises support conclusions in deductive and inductive arguments.

(iii) Identify arguments that evaluate problems and offer solutions or recommendations.

(c) Grade 11 performance indicators:

(i) Identify and analyze personal, social, historical or cultural influences, contexts or biases.

(ii) Identify and analyze rhetorical strategies that support proposals.

(iii) Evaluate evidence for timeliness, relevance and believability.

(d) Grade 12 performance indicator: Determine the significance and predict the possible consequences of a speaker's arguments, conclusions and proposals.

(3) Benchmark 6-C: Evaluate the range and quality of evidence used to support or oppose an argument (including the use of logos, ethos, pathos).

(a) Grade 9 performance indicator: Use standard criteria to evaluate the quality and effectiveness of evidence used in oral or written communication.

(b) Grade 10 performance indicators:

(i) Identify, analyze and evaluate a variety of primary and secondary sources of information in order to prepare for all sides of an argument (e.g., student-generated data, interviews with experts, observations, surveys, professional journals, periodicals, documentaries, research bibliographies, electronic databases and books).

(ii) Demonstrate an awareness of possible questions, concerns or counter-arguments to an informed opinion.

(c) Grade 11 performance indicators:

(i) Create a rubric to evaluate the quality and effectiveness of evidence used in oral or written arguments.

(ii) Analyze multiple perspectives on issues (including logos, ethos and pathos) and use a systematic method for tracking sources.

(iii) Use a variety of strategies (e.g., reading the draft aloud, seeking feedback from a reviewer, capturing and evaluating the organization of the draft in an outline or organization map and reading the draft from the perspective of the intended audience) to evaluate whether: one's progression of ideas is coherent and smooth, the thesis claim is clear and substantive, claims and opinions are supported by evidence, the sources display bias, organization patterns are clear and developed, and the conclusion is appropriate.

(d) Grade 12 performance indicator: Adapt strategies for developing credibility (e.g., using appropriate reasoning patterns, supporting ideas with evidence and making emotional appeals through persuasive language).

(4) Benchmark 6-D: Recognize common fallacies used in an argument.

(a) Grade 9 performance indicators:

(i) Recognize propaganda as a purposeful technique.

(ii) Recognize, in written or oral communication, errors, false assumptions and faulty reasoning.

(b) Grade 10 performance indicators:

(i) Recognize how the type of information used (fact, opinion) can affect perception (e.g., acceptance of fallacies, false dilemmas, emotional responses).

(ii) Analyze written or oral communications for loaded terms, caricature, sarcasm and leading questions.

(c) Grade 11 performance indicators:

(i) Recognize how the medium of the presentation (print, visual) can affect perception.

(ii) Identify basic logical fallacies (e.g. appeal to pity, personal attack, false dilemma, bandwagon, glittering generalities, testimonial) and propaganda devices.

(iii) Evaluate ways a writer or speaker may be trying to influence an intended audience (e.g., by using false assumptions, errors, loaded terms, caricature, sarcasm, leading questions and faulty reasoning).

(d) Grade 12 performance indicators:

(i) Analyze uses of common fallacies and propaganda devices to determine why they are not effective, logical strategies (e.g., the appeal to pity - "argumentum ad misericordiam," the personal attack - "argumentum ad hominem," the appeal to general opinion - "argumentum ad populum," and the false dilemma - assuming only two options when there are more available).

(ii) Create and utilize

criteria for critiquing one's own work and the work of others for unintended fallacies.

(5) Benchmark 6-E: Understand the distinction between a deductive argument and an inductive argument in order to evaluate an argument's effectiveness.

(a) Grade 9 performance indicators:

(i) Identify deductive arguments in oral and written communication (in which, if all the premises are true and the argument's form is valid, the conclusion is inescapably true).

(ii) Identify inductive arguments in oral and written communication (in which the conclusion provides the best or most probable explanation of the truth of the premise but is not necessarily true).

(b) Grade 10 performance indicator: Select the appropriate type of argument (deductive or inductive) to produce an informed opinion on a particular topic.

(c) Grade 11 performance indicator: Address concerns of the opposition within an argument, using logical strategies (e.g., deduction, inductive reasoning, syllogisms or analogies).

(d) Grade 12 performance indicator: Analyze how stylistic and rhetorical devices, either inductive or deductive, support an argument by comparing the argument to the evidence.

(6) Benchmark 6-F: Construct oral and written arguments that demonstrate clear and knowledgeable judgment.

(a) Grade 9 performance indicators:

(i) Select a logical organizational pattern.

(ii) Develop main ideas based on an audience's prior knowledge and interests.

(iii) Draft a clear and substantive thesis claim.

(iv) Develop coherent and strategic progression of ideas, including support ideas.

(v) Identify areas needing supporting evidence, and support claims and opinions with evidence.

(vi) Draw a persuasive conclusion.

(vii) Demonstrate an awareness of possible questions, concerns and counter-arguments.

(viii) Recognize strategies that employ personal experience and narrative as evidence in an argument.

(b) Grade 10 performance indicators:

(i) Construct an argument that evaluates problems and offers solutions by clearly articulating a position through a thesis statement and by anticipating counter-arguments.

(ii) Develop arguments to support informed opinions (e.g.,

stating a progression of ideas; selecting appropriate style, tone and use of language for a particular effect; and describing and analyzing personal, social, historical or cultural influences).

(iii) Use a variety of strategies to generate valid content (e.g., activating prior knowledge, self-questioning, and selection and development of major ideas).

(iv) Anticipate an audience's questions and expectations, and determine the need for additional research.

(v) Use signposts and transitions to highlight important ideas and signal clear connections among ideas.

(c) Grade 11 performance indicators:

(i) Address counter-arguments through a variety of methods (e.g., examples and details, commonly accepted beliefs, expert opinions, quotations and citations, cause/effect and compare/contrast reasoning).

(ii) Structure ideas in a sustained and logical fashion (e.g., using a range of strategies to elaborate and persuade, including anecdotes, case studies, analogies and illustrations, clarifying and defending positions with relevant evidence, including facts, expressions of commonly accepted beliefs and logical reasoning).

(d) Grade 12 performance indicators:

(i) Use a variety of strategies to generate notes and content through reading primary and secondary sources (e.g., defining key terms, setting up comparisons, analyzing relationships such as cause/effect, analyzing connections to past events, predicting future outcomes, analyzing multiple points of view, listing strengths and weaknesses, identifying bias, and anticipating and refuting counter-arguments).

(ii) Use a variety of strategies to evaluate whether the thesis claim and the entire argument demonstrates clear and knowledgeable judgment (e.g., reading the draft aloud, seeking feedback from a reviewer, capturing and evaluating the organization of the draft in an outline or organization map, reading the draft from the perspective of the intended audience).

G. Strand 7. Informational text. Content standard 7. Students read and interpret a wide range of reference materials and other informational documents that may contain technical information.

(1) Benchmark 7-A: Follow instructions in informational or technical texts to perform specific tasks, answer questions or solve problems.

(a) Grade 9 performance indicators:

(i) Identify a wide variety of resources used to acquire information,

including technical information.

(ii) Evaluate the accuracy of a sequence of instructions or tasks.

(b) Grade 10 performance indicators:

(i) Read a wide variety of informational and technical texts and selections to inform oneself.

(ii) Read critically and independently in order to follow instructions, perform specific tasks, answer questions and solve problems.

(c) Grade 11 performance indicators: Use written technical information in order to complete multi-step instructions, perform complex tasks or solve problems.

(d) Grade 12 performance indicators:

(i) Make in-depth analyses of technical information.

(ii) Utilize informational and technical sources to evaluate and modify instructional tasks.

(2) Benchmark 7-B: Summarize informational and technical texts and explain the visual components that support them.

(a) Grade 9 performance indicators:

(i) Develop concise, well-organized mental, oral and written summaries of texts.

(ii) Examine various types of charts, graphs and other types of visual representations in different texts.

(iii) Identify types of graphical representations in texts: photographs, captions, maps, tables and timelines.

(b) Grade 10 performance indicators:

(i) Identify the validity of supporting visual components in informational resources.

(ii) Distinguish between a summary (fact) and a critique (opinion).

(iii) Accurately interpret information presented in a technical format (e.g., a chart, diagram, table).

(c) Grade 11 performance indicators:

(i) Summarize complex relationships among ideas in informational and technical texts.

(ii) Produce accurate summaries and effective critiques of informational and technical texts.

(iii) Describe the advantages and disadvantages of alternative methods of presenting information.

(iv) Evaluate the relevance of graphic information to information presented textually.

(d) Grade 12 performance indicators:

(i) Utilize appropriate graphic representations to accompany

technical presentations.

(ii) Reorganize technical concepts and details in informational texts in new ways and identify appropriate supporting visual components.

(iii) Interpret and use information in maps, charts, timelines, tables and diagrams.

(3) Benchmark 7-C: Synthesize information from a variety of informational and technical sources or texts.

(a) Grade 9 performance indicators:

(i) Demonstrate proficiency in accessing and sending information electronically.

(ii) Gather and synthesize information from primary and secondary informational sources.

(b) Grade 10 performance indicator: Identify and select appropriate informational texts using advanced technologies (e.g., web resources, interactive media, software, email and networks).

(c) Grade 11 performance indicator: Make connections across sources to develop new insights and determine the need for further research.

(d) Grade 12 performance indicator: Utilize technical sources as both primary and secondary support in a comprehensive project.

(4) Benchmark 7-D: Analyze the ways in which an informational or technical text's organizational structure supports or confounds its meaning or purpose.

(a) Grade 9 performance indicator: Analyze textual features (e.g., table of contents, organization, structure and graphics) to evaluate the importance of the information presented.

(b) Grade 10 performance indicator: Identify hierarchic structures in informational texts and relationships between the concepts and details in those structures.

(c) Grade 11 performance indicator: Pose questions prompted by informational or technical text, prioritizing and organizing information to produce complete and reasonable explanations.

(d) Grade 12. Create an effective informational or technical text that exhibits completeness and closure, combining a variety of sources.

(5) Benchmark 7-E: Evaluate informational and technical texts and presentations for their clarity, simplicity and coherence, and for the appropriateness of their graphic and visual appeal.

(a) Grade 9 performance indicator: Analyze a variety of graphical representations and evaluate the relevance of that information to the information presented textually.

(b) Grade 10 performance indicator: Evaluate the relevance and

effectiveness of graphical representations to information presented orally.

(c) Grade 11 performance indicator: Evaluate content, format, structure and visual appeal used in informational or technical print, non-print and oral presentations.

(d) Grade 12 performance indicator: Demonstrate an understanding of appropriate elements in informational and technical texts (e.g., structure, organization, graphics and format) by creating a clear, simple and coherent oral or written presentation.

H. Strand 8. Media. Content standard 8. Students create and evaluate a variety of media for particular purposes.

(1) Benchmark 8-A: Evaluate aural, visual and written images and other special effects used in television, radio, film and the internet for their ability to inform, persuade and entertain.

(a) Grade 9 performance indicators:

(i) Express personal reactions to aural and visual media.

(ii) Identify characteristics of types of popular media (e.g., radio, film, magazine, newspaper, television and the internet).

(iii) Identify target audiences of specific media.

(iv) Identify elements of media productions designed to appeal to particular audiences.

(b) Grade 10 performance indicators:

(i) Identify target audiences and persuasive elements used in common media advertising (e.g., propaganda, hidden messages, bandwagon, testimonial, glittering generalities and other advertising techniques).

(ii) Identify types of media biases (e.g., distorted representations of society, gender roles, stereotypes).

(iii) Recognize how visual and sound techniques convey or influence messages in various media (e.g., special effects, camera angles and music).

(c) Grade 11 performance indicators:

(i) Identify conventional uses of production elements (e.g., layout, pictures and type face in newspapers, magazines and print advertisements; camera shots, lighting, editing, dialogue, setting and sound in television; sound, dialogue and programming in radio; layout, navigation and dynamic and interactive elements on the web).

(ii) Evaluate the effectiveness of conventional uses of production elements to achieve special effects.

(iii) Describe how

production elements establish narrative in media productions (e.g., camera shots, montage, camera movements, sound, lighting, editing, casting and acting).

(iv) Establish criteria to evaluate how well elements of media productions inform, persuade or entertain.

(d) Grade 12 performance indicators:

(i) Evaluate the effectiveness of unconventional uses of production elements to achieve special effects.

(ii) Critique the credibility of a media communication by evaluating relevance, timeliness, accuracy, fairness and the inclusion of multiple viewpoints, in light of a media producer's purposes and goals.

(2) Benchmark 8-B: Evaluate the effectiveness of a particular medium (e.g., verbal, visual, photographic, television and the internet) in achieving a particular purpose.

(a) Grade 9-10 performance indicator: Recognize how perceptions of fact and opinion are affected by the use of fallacies, propaganda, emotional appeals and by presentation in different media (e.g., print, image, multimedia).

(b) Grade 11-12 performance indicator: Evaluate how effectively communication goals, aesthetic goals and usability goals for a media communication have been achieved (e.g., ease of access to the communication, ease of navigation of sites, diction, layout).

(3) Benchmark 8-C: Create coherent media productions using effective images, text, graphics, music and sound effects to present a distinctive point of view on a topic.

(a) Grade 9 performance indicators:

(i) Select appropriate media for a specific task (e.g., radio, film, video, internet, magazine, newspaper or television).

(ii) Use effective images, text, graphics and sound to present a distinctive point of view on a topic.

(b) Grade 10 performance indicator: Use an array of technology and media to complete production tasks (e.g., web resources, interactive media, software, storyboards, *power point*, videos, etc.).

(c) Grade 11 performance indicator: Select credible sources and present multiple points of view (if appropriate) within a media production.

(d) Grade 12 performance indicator: Use media to report research and represent data visually through graphs, charts or statistics.

I. Strand 9. Literature. Content standard 9. Students read and interpret a variety of literature to develop an

understanding of people, societies and the self.

(1) Benchmark 9-A: Demonstrate knowledge of significant literary works from around the world.

(a) Grade 9 performance indicator: Recognize common characteristics of significant works of literature from various genres, Hispanic and Native American oral and written literatures, multi-cultural and cross-cultural literary works, and recognized works in contemporary young adult literature.

(b) Grade 10 performance indicator: Demonstrate basic knowledge of 18th, 19th and 20th century works of literature, Hispanic and Native American oral and written literatures, common works from world mythologies and recognized classics of young adult literature.

(c) Grade 11 performance indicator: Analyze literary works and movements for their historical and literary significance, including key U.S. documents and significant modern and pre-20th century works of American literature as well as Hispanic and Native American literary works.

(d) Grade 12 performance indicator: Analyze literary works and movements for their historical and literary significance, especially significant modern and pre-20th century of world literature, including British literature and indigenous world literatures.

(2) Benchmark 9-B: Interpret significant literary elements across all forms of literature; use understanding of genre characteristics to allow deeper and subtler interpretations of texts.

(a) Grade 9 performance indicators:

(i) Recognize an author's manipulation of time and sequence (e.g., to create effects such as suspense).

(ii) Recognize common literary plot devices (e.g., foreshadowing and flashback).

(iii) Identify and distinguish between mood and tone in literary works.

(iv) Recognize an author's use of wit and humor.

(v) Recognize ways authors use figurative language (e.g., hyperbole, personification, metaphor and simile).

(b) Grade 10 performance indicators:

(i) Recognize ambiguities, contradictions and ironies in literary works.

(ii) Explore a range of works related to a single theme, identifying differences and similarities among them, and formulating a thesis explaining the interrelationships.

(iii) Analyze ways in which writers use sounds (including euphony and cacophony) and sensory images (aural, tactile, visual, etc.) to evoke emotion and facilitate understanding.

(iv) Analyze moral dilemmas in works of literature, as revealed by characters' motivation and behavior.

(c) Grade 11 performance indicators:

(i) Recognize culturally specific customs, traditions and symbols in literary works.

(ii) Analyze ways in which writers use lingual patterns in dialogue and narration (e.g., repetition, dialect, slang and formality).

(iii) Analyze ways in which writers play with language (e.g., the use of pun, euphemism, oxymoron, verbal irony, hyperbole and understatement).

(iv) Analyze the ways in which writers utilize narrative forms and features (e.g., chronological narratives, framed narratives, episodic or picaresque plots, character- or situation-driven plots, multiple narrators).

(d) Grade 12 performance indicators:

(i) Develop thematic connections within and among literary works and literary periods and interpret allusions, symbols and motifs.

(ii) Analyze specific forms and genres of humor in literary works (e.g., satire and parody).

(iii) Analyze the use of tragic elements in literary works.

(iv) Analyze ways in which writers manipulate ideas using dramatic irony, situational irony and paradox.

(v) Compare and contrast similar themes across different genres to discover how genre affects meaning.

(3) Benchmark 9-C: Analyze setting, plot, theme, characterization and narration in literary prose, particularly in classic and contemporary short stories and novels.

(a) Grade 9 performance indicators:

(i) Discover personal connections to prose writing.

(ii) Recognize why certain works might be considered classics by identifying common attributes of classical literature through the creation and application of personal rubrics.

(iii) Explain the various effects of common narrative points of view on the reader's understanding of a literary work (e.g., first person, third person limited, third person omniscient, objective).

(iv) Identify the defining characteristics of common cultural narratives

(e.g., myth, legend, folk tale, fairy tale/magic tale, beast tale, fable, tall tale and epic).

(v) Identify various types of characters in prose (e.g., antagonist/protagonist, hero/heroine, tragic hero, archetype, stock character, flat character/round character, static character/dynamic character, foil).

(b) Grade 10 performance indicators:

(i) Analyze various aspects of characterization (e.g., antagonist/protagonist, hero/heroine, tragic hero, archetype, stock character, flat character/round character, static character/dynamic character, foil).

(ii) Analyze essential elements of plot (e.g., setting, exposition, conflict, rising action, climax, denouement) and identify the various effects of flashback, foreshadowing and multiple subplots.

(iii) Identify characteristics of common genre fiction (e.g., science fiction, fantasy, magical realism, mystery, suspense, western, horror, romance, Gothic literature, manga, etc.).

(c) Grade 11 performance indicators:

(i) Assess the reliability of various narrators in literary works.

(ii) Identify the characteristics of common non-fiction forms (e.g., memoir, essay, biography, autobiography, documentary and history).

(iii) Analyze the overall style of prose works, including narration, imagery, diction, dialogue, plot and characterization.

(d) Grade 12 performance indicators:

(i) Analyze symbol, allegory, analogy and extended metaphor in literary works.

(ii) Analyze the style of prose works from different movements, eras and cultures, including cultural minorities (e.g., structural form, archaic diction, variations of syntax and sentence structure, dialogue and figurative/literal language).

(4) Benchmark 9-D: Demonstrate knowledge of the common elements of poetry: metrics, rhyme, rhythm, structure, diction, devices and other conventions.

(a) Grade 9 performance indicators:

(i) Discover personal connections to poetry.

(ii) Analyze basic elements of poetic structures, sound devices and language (e.g., voice and diction; stressed and unstressed syllables as they relate to meter and rhythm; end rhyme, rhyme scheme as sound devices; haiku, narrative and lyric poems and other poetic forms; regular and irregular stanzas as forms of poetic structure; hyperbole, simile, metaphor, personification and other poetic

devices; speaker, situation and purpose as they relate to the author's purpose).

(b) Grade 10 performance indicator: Analyze common elements of traditional poetic forms (e.g., end-stopped lines or enjambment; blank verse, free verse as they relate to meter and rhythm; internal rhyme, slant rhyme, alliteration, onomatopoeia and other sound devices; ballads, odes, dramatic poems and other poetic forms; specific structures such as concrete or acrostic poems; hyperbole and understatement and similar devices; speaker, situation and poetic structure as they correspond to theme development).

(c) Grade 11 performance indicator: Analyze specific elements of poetry from different eras, particularly from American literary movements (e.g., humor, symbolism and use of figurative or literal language; basic forms of meter such as iambic pentameter; assonance, consonance, euphony, cacophony and similar sound devices; particular forms for particular purposes such as an inaugural poem; forms as they relate to historical/literary movements such as jazz and Harlem renaissance; the use of formal section breaks or unconventional capitalization and punctuation, such as in the works of Emily Dickinson or e.e. cummings; extended metaphor, allusion and other sound devices; and how poetic structure and style pertain to a poem's meanings and the poet's purpose).

(d) Grade 12 performance indicator: Analyze complex elements of poetry from various times and places in literary history (e.g., denotation and connotation in relation to diction; the use of deliberately unconventional rhythm or meter; manipulation of mood through various sound devices; complex poetic forms such as sonnets, epic poems in heroic couplets, sestinas, etc.; antithesis, motif, allegory; and how various elements of a poem reinforce its theme and reveal meaning).

(5) Benchmark 9-E: Identify how elements of dramatic literature articulate a playwright's vision.

(a) Grade 9 performance indicators:

(i) Discover personal connections to dramatic literature.

(ii) Identify common characteristics of dramatic forms (e.g., monologue, one-act, three-act and five-act plays).

(iii) Identify elements of tragedy and tragic form in drama.

(iv) Identify examples of colloquial language in dramatic literature.

(b) Grade 10 performance indicators:

(i) Identify examples of the following acting conventions: dramatic monologue, soliloquy and aside.

(ii) Analyze

characterization and plot in drama by the use of stage directions, divisions between and length of scenes and acts, dialogue, internal and external conflicts.

(iii) Identify a play's intended audience (given the play's social, political or historical context) and identify elements of the dramatic production designed to reach the intended audience.

(c) Grade 11 performance indicators:

(i) Analyze the connections among set/setting, costume, lighting and other production elements, and the theme or intended meaning of a particular drama.

(ii) Identify elements of comedy and comic form (e.g., farce, situational comedy, high and low comedy, absurdism/surrealism and slapstick).

(iii) Evaluate a live performance (or a recording) of drama for the director's correspondence with the playwright's vision, and the production's effectiveness at conveying a particular theme or vision.

(d) Grade 12 performance indicators:

(i) Evaluate the ways in which tension is created, maintained and resolved in a drama (e.g., catharsis, conflict, suspense, resolution) including through the text and directorial decisions, and through the actors' performances.

(ii) Evaluate dramas that have been made into films (e.g., *Othello*, *The Merchant of Venice*, or *Macbeth*) by comparing elements in the play and in the film production (e.g., the way in which the theme is developed and conveyed; the way in which tension and conflict are presented; the way in which transitions are made between scenes/settings, including time progression and flashback; the way in which the director establishes a style via mood, tone, irony, humor, suspense, dialogue, stage direction/actors' interaction or special effects; the advantages of traditional staging with a live audience versus a film).

(6) Benchmark 9-F: Analyze works of literature for what they suggest about the time period and social or cultural context in which they were written.

(a) Grade 9 performance indicator: Identify a particular cultural perspective in a literary work from the past or present, including Native American and Hispanic oral traditions.

(b) Grade 10 performance indicator: Analyze how theme in literature is related to the historical and social/cultural issues of the time period in which it is written.

(c) Grade 11 performance indicator: Analyze how a particular piece of literature has changed societal and cultural attitudes.

(d) Grade 12 performance indicator: Analyze a recurring theme or pattern within a major literary movement or in the oral traditions of a particular culture. [6.29.4.10 NMAC - Rp, 6.30.2.13 NMAC, 9-30-2009]

HISTORY OF 6.29.4 NMAC:

Pre-NMAC HISTORY: The material in this part is derived from that previously filed with the State Records Center:

SDE 74-17, (Certificate No. 74-17), Minimum Educational Standards for New Mexico Schools, filed April 16, 1975.

SDE 76-9, (Certificate No. 76-9), Minimum Education Standards for New Mexico Schools, filed July 7, 1976.

SDE 78-9, Minimum Education Standards for New Mexico Schools, filed August 17, 1978.

SBE 80-4, Educational Standards for New Mexico Schools, filed September 10, 1980.

SBE 81-4, Educational Standards for New Mexico Schools, filed July 27, 1981.

SBE 82-4, Educational Standards for New Mexico Schools, Basic and Vocational Program Standards, filed November 16, 1982.

SBE Regulation No. 83-1, Educational Standards for New Mexico Schools, Basic and Vocational Program Standards, filed June 24, 1983.

SBE Regulation 84-7, Educational Standards for New Mexico Schools, Basic and Vocational Program Standards, filed August 27, 1984.

SBE Regulation 85-4, Educational Standards for New Mexico Schools, Basic, Special Education, and Vocational Programs, filed October 21, 1985.

SBE Regulation No. 86-7, Educational Standards for New Mexico Schools, filed September 2, 1986.

SBE Regulation No. 87-8, Educational Standards for New Mexico Schools, filed February 2, 1988.

SBE Regulation No. 88-9, Educational Standards for New Mexico Schools, filed October 28, 1988.

SBE Regulation No. 89-8, Educational Standards for New Mexico Schools, filed November 22, 1989.

SBE Regulation No. 90-2, Educational Standards for New Mexico Schools, filed September 7, 1990.

SBE Regulation No. 92-1, Standards for Excellence, filed January 3, 1992.

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6 NMAC 3.2, Standards for Excellence, filed October 17, 1996.

6.30.2 NMAC, Standards for Excellence,

filed November 2, 2000, replaced by 6.29.1 NMAC, General Provisions; 6.29.2 NMAC, Arts Education; 6.29.3 NMAC, Career and Technical Education; 6.29.4 NMAC, English Language Arts; 6.29.5 NMAC, English Language Development; 6.29.6 NMAC, Health Education; 6.29.7 NMAC, Mathematics; 6.29.8 NMAC, Modern, Classical and Native Languages; 6.29.9 NMAC, Physical Education; 6.29.10 NMAC, Science; 6.29.11 NMAC, Social Studies.

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.10.8 NMAC, Sections 6 through 11, effective September 30, 2009.

6.10.8.6 OBJECTIVE: To set forth the requirements for the implementation of the compulsory school attendance law. Specifically, this rule establishes requirements for the identification, reduction and reporting of truancy in all public schools including charter schools. In addressing truancy, the goal is to keep children in school until age eighteen and not to suspend, expel or outright punish them for being truant. [6.10.8.6 NMAC - N, 12-30-04; A, 09-30-09]

6.10.8.7 DEFINITIONS:

A. "Attendance" means students who are in class or in a school-approved activity. If a student is in attendance up to one half the total instructional time during a school day, the student will be counted as having attended one-half of a school day. If the student attends school for more than one-half of the total instructional time, the student will be counted as having attended for the full day.

B. "Early identification" means the process by which school districts including charter schools promptly determine and identify students who have excessive absences and tardiness from ~~[classes or school]~~ an instructional day. Early identification includes the school district's, individual school's or charter school's defined system for recording, reporting, and summarizing daily attendance of its students and then providing that data to the district's or charter school's central administration.

C. "Habitual truant" means a student who has accumulated the equivalent of ten or more unexcused absences within a school year.

D. "Home school" means the operation by the parent of a school-age person of a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies

and science.

E. "Home school truant" means a school age child whose parent(s)/guardian(s) have filed a home school notification about that child with the department but the child has failed or refused to participate in, or is no longer being offered, any home-study program of instruction.

F. "Intervention" means the partnering that schools engage in with other [state] agencies to implement administrative remedies, provide services and provide support programs that aggressively reduce if not eliminate truancy in a school district or charter school.

G. "Prevention" means school-based innovative or proven successful programs, including alternative programs whether school-based or non-school based, that encourage regular and on-time attendance for students.

H. "School-age person" means a person who is at least five years of age prior to 12:01 a.m. on September 1 of the school year and who has not received a high school diploma or its equivalent. A maximum age of twenty-one shall be used for a person who is classified as special education membership as defined in Section 22-8-21 NMSA 1978 or as a resident of a state institution.

~~I. "Truancy" means the unexcused absence of a student from school or class that results in the student being deemed truant.~~

~~J. "Truant" means a student who has accumulated five unexcused absences within any twenty-day period.]~~

~~I. "Student in need of early intervention" means a student who has accumulated five unexcused absences within a school year.~~

~~[H.] J. "Tribe" means an Indian nation, tribe or pueblo located within New Mexico.~~

K. "Unexcused absence" means an absence from school or a class for which the student does not have an allowable excuse pursuant to the compulsory school attendance law or rules of the local school board, governing authority of a private school, or governing board of a charter school.

[6.10.8.7 NMAC - N, 12-30-04; A, 09-30-09]

6.10.8.8 REQUIREMENTS:

A. It is the policy of this state that school age persons receive an education and do not dropout or otherwise withdraw prematurely prior to completing an educational program. To that end, a school-age person shall attend public school, private school, home school or a state institution until the school-age person is at least eighteen years of age unless that person

has graduated from high school or received a general educational development certificate. A parent may give written, signed permission for the school-age person to leave school in case of a documented hardship approved by the local superintendent.

[A-] B. Each local school board and charter school shall develop a written attendance policy that:

(1) in accordance with the definition of "attendance" stated in this rule, requires that class attendance be taken and maintained by class period for every instructional day for each student in each school or school program in the school district;

(2) requires each school to report unexcused absences of two or more classes up to fifty percent of an instructional day as one-half day absence, and the unexcused absence of more than fifty percent of an instructional day to be counted as one full-day absence;

~~[(2)]~~ (3) prohibits out-of-school suspension and expulsion as a punishment for unexcused absences and habitual truancy;

(4) uses withdrawal as provided in Section 22-8-2 NMSA 1978 only after exhausting intervention efforts to keep students in educational settings;

~~[(3)]~~ (5) provides for early identification of students with unexcused absences, ~~[truants] students in need of early intervention,~~ and habitual truants; provides for intervention ~~[that focuses on keeping truants] strategies that focus on keeping students in need of early intervention~~ in an educational setting; and further provides that:

(a) if a student is ~~[truant] in need of early intervention,~~ the school district or charter school shall contact the student's parent(s)/guardian(s) to inform them that the student ~~[is truant] has unexcused absences from school~~ and to discuss possible interventions unless the parent(s)/guardian(s) has contacted the school to explain the absence and the excuse compiles with the school district attendance policy;

(b) a representative of the school district or charter school shall meet with the student in need of early intervention and his or her parent(s)/guardian(s) to identify the causes for the student's ~~[truancy] unexcused absences,~~ identify what actions can be taken that might prevent the student's ~~[truancy] unexcused absences,~~ identify possible school district, charter school and community resources to address the causes for the student's ~~[truancy] unexcused absences,~~ and establish a corrective action plan to address the student's ~~[truancy] unexcused absences;~~

(c) the notification to the student's parent(s)/guardian(s) and the meeting with the parent(s)/guardian(s) must be respectful and in a language and in manner that is understandable to the student and the

parent(s)/guardian(s);

(d) the corrective action plan must contain follow-up procedures to ensure that the causes for the student's ~~[truancy]~~ unexcused absences are being addressed;

(e) if the student is a habitual truant, the local school board, charter school or their authorized representatives shall, in addition, give written notice of the habitual truancy by ~~[certified]~~ mail to or by personal service on the student's parent(s)/guardian(s); the notice shall include a date, time and place for the parent to meet with the local school district or charter to develop intervention strategies that focus on keeping the student in an educational setting;

(f) if there is another unexcused absence after delivery of a written notice of habitual truancy, the student shall within seven (7) days of this unexcused absence be reported to the probation services office of the judicial district where the student resides;

~~(g) if the student is a habitual truant the school shall document the following for each student identified as a habitual truant:~~

~~(i) attempts of the school to notify the parent that the student had unexcused absences;~~

~~(ii) attempts of the school to meet with the parent to discuss intervention strategies; and~~

~~(iii) intervention strategies implemented to support keeping the student in school.~~

[B:] C. If the habitual truant is not referred to the children's court by the juvenile probation office for appropriate disposition, including consideration of initial or renewed suspension of his or her driving privileges, the school district may contact the children's court attorney directly to determine what action will be taken.

[C:] D. If a determination and finding has been made by the juvenile probation office that the habitual truancy by a student may have been caused by the parent or guardian of the student, and no charges have been filed against the parent or guardian, the school district may contact the district attorney's office to determine what action will be taken.

[D:] E. A copy of the local school board or charter school's attendance policy shall be provided to the public education department's truancy ~~[officer]~~ prevention coordinator for approval within ten (10) days of its adoption by the local school board or governing body of a charter school.

[E:] E. The public education department's truancy ~~[officer]~~ prevention coordinator shall be permitted access to any records and information related to students in need of early intervention or habitual truancy in any school district, any particular school within a district, or any charter school.

[6.10.8.8 NMAC - N, 12-30-04; A, 09-30-09]

6.10.8.9

INTERGOVERNMENTAL

AGREEMENTS: In carrying out its duties under this rule and the compulsory school attendance law, school districts and charter schools shall take into consideration the sovereignty of a Native American tribe. While all children attending public schools will still be subject to being reported to the public education department if they are ~~[truant or]~~ habitually truant, a school district or charter school shall respect tribal laws and traditions in carrying out its duties of early identification, intervention, and parental notification. To do so, school districts and charter schools shall adopt policies that:

A. emphasize a better understanding of tribal customs, religious practices and laws,

B. consider entering into a memorandum of agreement, a memorandum of understanding, or some other form of intergovernmental agreement with Native American tribes,

C. consider respectful and effective ways to notify a parent(s)/guardian(s) of student in need of intervention and habitually truant Native American students,

D. consider follow-up or reinforcement procedures after Native American children have undergone intervention through Native American or other agreed upon resources.

[6.10.8.9 NMAC - N, 12-30-04; A, 09-30-09]

6.10.8.10 **REPORTING REQUIREMENT:**

A. Each school district and each individual charter school shall maintain class attendance records by class period for every instructional day for each student in each school or school program in the school district or charter school in a manner verifiable by the public education department.

[B:] ~~For the 2004-2005 school year, the local superintendent of each school district and the governing body or administrative head of a charter school shall provide the public education department with a report of all absences by school, including by charter school, simultaneous with the eightieth and one hundred twentieth days in a manner specified by the public education department. The report will compile the number of daily absences at the school building level, and of those absences, will indicate the number of absences that were excused and the number of absences that were unexcused. At the end of the 2004-2005 school year, the local superintendent or administrative head of a charter school will~~

~~provide the public education department with a report that sets forth the number of unexcused absences for the school year that were truant and the number of unexcused absences for the school year that were habitually truant.]~~

[C:] B. ~~[For~~ subsequent school years; The local superintendent of each school district or governing body or administrative head of a charter school will report absences with excused and unexcused identifiers through the [accountability data system] student teacher accountability reporting system and certify that the information is being reported consistently at intervals and in a manner as specified by the public education department.

[6.10.8.10 NMAC - N, 12-30-04; A, 09-30-09]

6.10.8.11 **HOME SCHOOLS:**

Upon receipt of verified information that a school age child whose parent(s)/guardian(s) have previously filed a home school notification about that child with the department but that child has failed or refused to participate in, or is no longer being offered, any home-study program of instruction, the department may obtain a reasonable assurance from the parent(s) or guardian that the child is actually engaged in a home-study program of instruction. In addition to any other remedies permitted by the compulsory school attendance law or the children's code, upon a determination that a home school student is repeatedly not (or no longer) engaged in a home-study program of instruction, the department may order that the home school habitual truant attend a public school, or at the election of his parent/guardian, a private school. Prior to pursuing these other remedies, the public education department shall make a reasonable effort to accommodate the parents'/guardians' preference for maintaining their child in a home school.

[6.10.8.11 NMAC - N, 12-30-04; A, 09-30-09]

NEW MEXICO REAL ESTATE APPRAISERS BOARD

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 65 REAL ESTATE APPRAISAL MANAGEMENT COMPANIES PART 1 GENERAL PROVISIONS

16.65.1.1 **ISSUING AGENCY:**

State of New Mexico Real Estate Appraisers Board.

[16.65.1.1 NMAC - N, 10/16/09]

16.65.1.2 SCOPE: All real estate appraisal management companies registered and applying for registration with the board. [16.65.1.2 NMAC - N, 10/16/09]

16.65.1.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Appraisal Management Company Registration Act (NMSA 1978, Sections 47-14-1 through -23). [16.65.1.3 NMAC - N, 10/16/09]

16.65.1.4 DURATION: Permanent. [16.65.1.4 NMAC - N, 10/16/09]

16.65.1.5 EFFECTIVE DATE: October 16, 2009, unless a later date is cited at the end of a section. [16.65.1.5 NMAC - N, 10/16/09]

16.65.1.6 OBJECTIVE: The objective of Part 1 is to set forth the provisions, which apply to all of Chapter 65, and to all persons affected or regulated by Chapter 65 of Title 16. [16.65.1.6 NMAC - N, 10/16/09]

16.65.1.7 DEFINITIONS: All words and terms defined in the Appraisal Management Company Registration Act have the same meaning in these rules.

A. Terms starting with the letter 'A' are defined as follows.

(1) "Act" means the Real Estate Appraisal Management Company Registration Act.

(2) "Applicant" means a company who has submitted an application to the board seeking registration.

(3) "Appraisal" means the act or process of developing an opinion of the value of real property in conformance with the uniform standards for professional appraisal practice published by the appraisal foundation.

(4) "Appraisal foundation" means the appraisal foundation incorporated as an Illinois not-for-profit corporation on November 30, 1987 and which reference is made in the federal Financial Institutions Examination Council Act of 1978, as amended by Title 11, Real Estate Appraisal Reform Amendments."

(5) "Appraisal management company (AMC)" means a corporation, partnership, sole proprietorship, subsidiary, limited liability company or other business entity that:

(a) contracts with independent appraisers to perform real estate appraisal services for clients;

(b) receives requests for real estate appraisal services from clients and for a fee paid by client, enters into an agreement with one or more independent appraisers to perform the real estate appraisal services

contained in the request;

(c) otherwise serves as a third-party broker of appraisal management service between clients and appraiser.

(6) "Appraisal management services" means the process of receiving a request for the performance of real estate appraisal services from a client, and for a fee paid by the client, entering into an agreement with one or more independent appraisers to perform the real estate appraisals services contained in the request.

(7) "Appraisal review" the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal, appraisal review, or appraisal consulting assignment.

(8) "Appraisal review report" is a report that develops or communicates an opinion about the quality of another appraiser work that was performed as part of an appraisal.

(9) "Appraisers Act" means the New Mexico Real Estate Appraisers Act as defined in NMSA 1978, Section 61-30-1 (1990).

B. Terms starting with the letter 'B' are defined as follows.

(1) "Board" means the New Mexico real estate appraisers board.

(2) "Board file" means all documents that an AMC is required to create and maintain for the board.

C. Terms starting with the letter 'C' are defined as follows.

(1) "Client" means a person or entity that contracts with, or otherwise enters into an agreement with an appraisal management company for the performance of real estate appraisal services.

(2) "Complaint committee" is a board appointed committee that is composed for the purpose of reviewing complaints and making recommendation to the board as to its findings.

(3) "Controlling person" (CP) means:

(a) an owner, officer or director of a corporation, partnership, limited liability company or other business entity seeking to offer appraisal management services in this state;

(b) an individual employed, appointed or authorized by an appraisal management company that has the authority to enter into a contractual relationship with clients for the performance of appraisal management services and that has the authority to enter into agreements with independent for the performance of real estate appraisal services; or

(c) an individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or polices of appraisal management companies.

(4) "Clerical review" is a non-

standard three review of the completeness of the appraisal.

D. Terms starting with the letter 'D'. [RESERVED]

E. Term starting with the letter 'E' is defined as follows: "employee in charge (EIC)" means a designated employee of the appraisal management company, with the responsibilities and obligations to the board set forth with these rules.

F. Term starting with the letter 'F' is defined as follows: "FIRREA" means the Financial Institutions Reform, Recovery and Enforcement Act of 1989, and its amendments.

G. Terms starting with the letter 'G'. [RESERVED]

H. Terms starting with the letter 'H'. [RESERVED]

I. Terms starting with the letter 'I'. [RESERVED]

J. Terms starting with the letter 'J'. [RESERVED]

K. Terms starting with the letter 'K'. [RESERVED]

L. Terms starting with the letter 'L'. [RESERVED]

M. Terms starting with the letter 'M'. [RESERVED]

N. Term starting with the letter 'N' is defined as follows: "nonresident appraiser" means an individual or entity that holds a current registration or license in another state.

O. Term starting with the letter 'O' is defined as follows: "outsourced appraisal review" is an appraisal review conducted by a licensed appraiser who is not an employee of the AMC.

P. Terms starting with the letter 'P' are defined as follows.

(1) "Panel" means a group of independent appraisers that have been selected by an appraisal management company to perform real estate appraisal services for the appraisal management company.

(2) "Peer review" is an opinion as to the completeness of an other appraiser's work; completed by a licensed appraiser of similar experience and qualifications for the purpose of making a recommendation to the board as to its findings.

Q. Terms starting with the letter 'Q'. [RESERVED]

R. Terms starting with the letter 'R'. [RESERVED]

S. Term starting with the letter 'S' is defined as follows: "staff appraiser" is an appraiser hired by an AMC as an employee, who is licensed by the board, to act as an appraiser and is subject to these rules.

T. Terms starting with the letter 'T'. [RESERVED]

U. Term starting with the letter 'U' is defined as follows: "uniform

standards of professional appraisal practice (USPAP)” means the uniform standards or professional appraisal practice promulgated by the appraisal foundation and adopted by rules pursuant to the Real Estate Appraiser Act. USPAP deals with the procedures to be followed in which an appraisal, analysis, or opinion is communicated.

V. Terms starting with the letter ‘V’. [RESERVED]

W. Term starting with the letter ‘W’ is defined as follows: “work file” is documentation necessary to support an appraiser’s analyses, opinions, and conclusions.

X. Terms starting with the letter ‘X’. [RESERVED]

Y. Terms starting with the letter ‘Y’. [RESERVED]

Z. Terms starting with the letter ‘Z’. [RESERVED]
[16.65.1.7 NMAC - N, 10/16/09]

16.65.1.8 PUBLIC RECORDS: Except as protected by law, public records shall be available for inspection in accordance with the provisions of the Inspection of Public Records Act (IPRA), NMSA 1978, Sections 14-2-1 through -12, (1974, as amended through 2009). Cost will be determined by regulation and licensing department.
[16.65.1.8 NMAC - N, 10/16/09]

16.65.1.9 SEVERABILITY: The provisions of these regulations are servable. If any part of the regulations is held invalid by a court of competent jurisdiction, the remaining provisions shall remain in force and effect, unless otherwise determined by a court of competent jurisdiction.
[16.65.1.9 NMAC - N, 10/16/09]

16.65.1.10 INCORPORATION: The rules and regulations of the New Mexico real estate appraisers board are hereby incorporated by reference and shall govern all appraisals conducted pursuant the Appraisal Management Company Registration Act.
[16.65.1.10 NMAC - N, 10/16/09]

HISTORY OF 16.65.1 NMAC:
[RESERVED]

NEW MEXICO REAL ESTATE APPRAISERS BOARD

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 65 REAL ESTATE APPRAISAL MANAGEMENT COMPANIES PART 2 REGISTRATION REQUIREMENTS

16.65.2.1 ISSUING AGENCY: State of New Mexico Real Estate Appraisers Board.
[16.65.2.1 NMAC - N, 10/16/09]

16.65.2.2 SCOPE: All real estate appraisal management companies registered and applying for registration with the board.
[16.65.2.2 NMAC - N, 10/16/09]

16.65.2.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the AMC Registration Act (NMSA 1978, Sections 47-14-1 through -23).
[16.65.2.3 NMAC - N, 10/16/09]

16.65.2.4 DURATION: Permanent.
[16.65.2.4 NMAC - N, 10/16/09]

16.65.2.5 EFFECTIVE DATE: October 16, 2009, unless a later date is cited at the end of a section.
[16.65.2.5 NMAC - N, 10/16/09]

16.65.2.6 OBJECTIVE: The objective of Part 2 is to set forth the requirements for registration, which apply to all persons affected or regulated by Chapter 65 of Title 16.
[16.65.2.6 NMAC - N, 10/16/09]

16.65.2.7 DEFINITIONS:
[RESERVED]

16.65.2.8 A M C REGISTRATION REQUIREMENTS: Each AMC applying to the board for registration shall:

A. designate one controlling person (CP) that will submit to service of process;

B. designate one employee in charge (EIC) that will be the main contact for all communication between the board and the AMC (CP may be designated as the EIC, if that person meets all qualification required by the board);

C. certify that all appraisers added to the panel of the AMC hold a New Mexico license and certificate in good standing as an appraiser;

D. the AMC shall evaluate all appraisers within the renewal period to ensure that the real estate appraisal services are being conducted in accordance with the uniform standards of professional appraisal practices and board rules;

E. maintains a board file, containing:

(1) a detailed record of each service request and the independent appraiser that performs the real estate appraisal services for the AMC;

(2) certification and evaluation of all appraisers, as required under Subsection

C and D;

(3) list of all non-taxable transaction certificates issued;

(4) a detail record of the process and criteria that the AMC has in place to review the work of appraisers; and

(5) written procedure for contracting and paying appraisers.
[16.65.2.8 NMAC - N, 10/16/09]

16.65.2.9 OWNER REGISTRATION REQUIREMENTS:

A. An AMC applying for registration may not be owned by a person or have any principal of the company, who has had a license or certificate to practice as an appraiser refused, denied, canceled or revoked in this state or in any other state.

B. Each person that owns, is an officer of, or has a financial interest in an AMC shall:

(1) execute an irrevocable consent to service of process form;

(2) be of good moral character; and

(3) submit to a state background investigation.
[16.65.2.9 NMAC - N, 10/16/09]

16.65.2.10 CONTROLLING PERSON (CP) REGISTRATION REQUIREMENTS: In order to serve as a CP of an AMC, a designee shall:

A. be of good moral character;

B. submit to a state background investigation;

C. not have had a license to practice as an appraiser refused, denied, canceled or revoked in this state or in any other state; and

D. submit an irrevocable server of process form.
[16.65.2.10 NMAC - N, 10/16/09]

16.65.2.11 EMPLOYEE IN CHARGE (EIC) REGISTRATION REQUIREMENTS: In order to serve as the EIC for a registered AMC, a designee shall:

A. not have had a license to practice as an appraiser refused, denied, canceled or revoked in this state or in any other state;

B. be of good moral character;

C. submit to a state background investigation; and

D. shall be responsible for;

(1) the selecting of appraisers for the performance of real estate appraisal services;

(2) have the responsibility of reviewing completed appraisals as part of the board file:

(a) shall ensure clerical review is conducted on all appraisals completed

within the renewal period;

(b) shall randomly select a statistically significant number, but not less than five percent, all fractions rounded up, of outsource appraisal reviews on appraisals completed within the renewal period;

(c) outsource appraisal reviews shall be completed by an appraiser with licensure equal to or greater than that of appraiser that is being reviewed.

(3) maintaining required documentation as part of the board file.

E. successfully complete a board approved 15 hour USPAP course for registration and a board approved 7 hour update for renewals.

[16.65.2.11 NMAC - N, 10/16/09]

16.65.2.12 AUDITS: Upon renewal, ten percent of AMC shall be subject to audit. Audited AMC's shall be with required to submit the board file for the 12 month period prior to renewal and any other documentation the board requests. Any costs incurred by the board during an audit may be attributed to the AMC.

[16.65.2.12 NMAC - N, 10/16/09]

16.65.2.13 KNOWLEDGE OF THE RULES: All AMC's and designees shall have knowledge of the board rules, and by acceptance to registration shall agree to abide by these rules.

[16.65.2.13 NMAC - N, 10/16/09]

HISTORY OF 16.65.2 NMAC:
[RESERVED]

NEW MEXICO REAL ESTATE APPRAISERS BOARD

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 65 REAL ESTATE APPRAISAL MANAGEMENT COMPANIES PART 3 APPLICATION FOR REGISTRATION

16.65.3.1 ISSUING AGENCY:
State of New Mexico Real Estate Appraisers Board.

[16.65.3.1 NMAC - N, 10/16/09]

16.65.3.2 SCOPE: All real estate appraisal management companies registered and applying for registration with the board.

[16.65.3.2 NMAC - N, 10/16/09]

16.65.3.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the AMC Registration Act (NMSA 1978, Sections 47-14-1 through 23).

[16.65.3.3 NMAC - N, 10/16/09]

16.65.3.4 DURATION:
Permanent.

[16.65.3.4 NMAC - N, 10/16/09]

16.65.3.5 EFFECTIVE DATE:
October 16, 2009, unless a later date is cited at the end of a section.

[16.65.3.5 NMAC - N, 10/16/09]

16.65.3.6 OBJECTIVE: The objective of Part 3 is to set forth the provisions for registration, registration renewal and expiration of registration, which apply to all persons affected or regulated by Chapter 65 of Title 16.

[16.65.3.6 NMAC - N, 10/16/09]

16.65.3.7 DEFINITIONS:
[RESERVED]

16.65.3.8 APPLICATION FOR REGISTRATION: Incomplete application and fees will be return to the applicant for supplementation of necessary documentation. All applicants must submit the following documentation to the board:

A. a completed application on a form prescribed by the board;

B. registration fee as provided in Part 5;

C. a notarized authorization for criminal background check for each person that owns, is an officer of or has a financial interest in the AMC with the prescribed fee;

D. a notarized authorization for criminal background check for the CP with the prescribed fee;

E. a notarized authorization for criminal background check for the EIC with the prescribed fee;

G. an irrevocable consent to service of process completed by the CP;

H. proof that the EIC has successfully completed a board approved 15 hour USPAP course.

[16.65.3.8 NMAC - N, 10/16/09]

16.65.3.9 EXPIRATION: All registrations will expire one year from the date on which it is issued.

[16.65.3.9 NMAC - N, 10/16/09]

16.65.3.10 RENEWAL PROCESS: Incomplete applications will be returned to the applicant for supplementation of necessary documentation. All AMC shall submit renewal form on or before their expiration date.

A. Renewals shall submit proof that the EIC has successfully completed a board approved 7 hour USPAP course.

B. Registrations shall be renewed on-line. If on-line renewal is a hardship the registrant must contact the board office and request an official renewal

form.

C. On-line renewal must be completed on or before the expiration date and completed renewal forms must be post-marked or delivered to the board office on or before the expiration date.

D. It is the registrant's responsibility to renew on or before the expiration date.

E. Incomplete renewal forms will be returned to the registrant. Returned renewal forms not completed and returned to the board office on or before the expiration date will be considered late and the registrant must pay a late fee.

F. Ten percent of all renewals will be audited and must submit all documentation requested by the board.

[16.65.3.10 NMAC - N, 10/16/09]

16.65.3.11 RENEWAL AFTER EXPIRATION:

A. An expired registration may not be renewed on-line. To renew after the expiration date the registrant must contact the board office and request an official renewal form.

B. An expired registration may be renewed within 30 days after expiration upon submission of an official renewal form with all necessary documentation, payment of the required renewal fee, and payment of a late fee.

C. Registrants that do not renew within 30 days after expiration must reapply for registration and must meet all the current requirements for initial registration.

[16.65.3.11 NMAC - N, 10/16/09]

16.65.3.12 BOARD NOTIFICATION:

A. Changes of address: registrant shall report immediately to the board in writing any change of business address. Failure to do so within 30 days is grounds for registration suspension.

B. Change of designees or ownership: registrant shall report immediately to the board in writing any change of ownership, CP or EIC. New designees shall comply with all application requirements. Failure to do so within 30 days is ground for registration suspension.

C. Notice of action on a panel member must be immediately submitted to the board.

D. Effective January 1, 2010 all AMC currently operating in New Mexico shall be registered by the board.

[16.65.2.12 NMAC - N, 10/16/09]

HISTORY OF 16.65.3 NMAC:
[RESERVED]

NEW MEXICO REAL ESTATE APPRAISERS BOARD

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 65 REAL ESTATE APPRAISAL MANAGEMENT COMPANIES PART 4 DISCIPLINE

16.65.4.1 ISSUING AGENCY: State of New Mexico Real Estate Appraisers Board. [16.65.4.1 NMAC - N, 10/16/09]

16.65.4.2 SCOPE: All real estate appraisal management companies registered and applying for registration with the board. [16.65.4.2 NMAC - N, 10/16/09]

16.65.4.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Appraisal Management Company Registration Act (NMSA 1978, Sections 47-14-1 through 23). [16.65.4.3 NMAC - N, 10/16/09]

16.65.4.4 DURATION: Permanent. [16.65.4.4 NMAC - N, 10/16/09]

16.65.4.5 EFFECTIVE DATE: October 16, 2009, unless a later date is cited at the end of a section. [16.65.4.5 NMAC - N, 10/16/09]

16.65.4.6 OBJECTIVE: The objective of Part 4 is to set forth the disciplinary provisions, which apply to all persons affected or regulated by the Appraisal Management Company Registration Act. [16.65.4.6 NMAC - N, 10/16/09]

16.65.4.7 DEFINITIONS: [Reserved]

16.65.4.8 DISCIPLINARY PROCEDURES:

A. The board may initiate disciplinary action upon:
(1) complaint;
(2) audit finding;
(3) any other knowledge the board receives of an alleged violation.

B. Upon receipt of a complaint or knowledge of an alleged violation the board may:

- (1) review or investigate the alleged violations;
- (2) referred the matter to a complaint committee; or
- (3) informally dispose of a complaint if it determines that there is insufficient information or lack of probable cause.

C. The registrant shall have an opportunity to response to the compliant in writing. Failure to respond may be deemed waiver of any defenses.

D. Based upon the review or investigations, the complaint committee or other board designee will make a recommendation to the board for action.

E. Every registration shall be afforded notice and an opportunity to be heard before the board uses its authority to take any action that would result in:

- (1) suspension;
- (2) revocation;
- (3) censure or reprimand; or
- (4) fine.

F. When the board is taking an action defined in Subsection E of this section, the board shall serve upon the registrant written notice of contemplated action (NCA) and indication an opportunity for hearing. The NCA shall be served by personnel service on the controlling person of the AMC.

G. If a registrant does not request a hearing within the time and in the manner required by the NCA, the board may take the action contemplated. [16.65.4.8 NMAC - N, 10/16/09]

16.65.4.9 HEARING PROCEDURES: hearings shall be conducted pursuant to the Uniform Licensing Act, NMSA 1978, Section 61-1-1 through -31. Registrants shall bear all costs of disciplinary proceeding unless they prevail at the hearing. [16.65.4.9 NMAC - N, 10/16/09]

HISTORY OF 16.65.4 NMAC: [RESERVED]

NEW MEXICO REAL ESTATE APPRAISERS BOARD

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 65 REAL ESTATE APPRAISAL MANAGEMENT COMPANIES PART 5 FEES

16.65.5.1 ISSUING AGENCY: State of New Mexico Real Estate Appraisers Board. [16.65.5.1 NMAC - N, 10/16/09]

16.65.5.2 SCOPE: All real estate appraisal management companies registered and applying for registration with the board. [16.65.5.2 NMAC - N, 10/16/09]

16.65.5.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Appraisal Management

Company Registration Act (NMSA 1978, Sections 47-14-1 through 23). [16.65.5.3 NMAC - N, 10/16/09]

16.65.5.4 DURATION: Permanent. [16.65.5.4 NMAC - N, 10/16/09]

16.65.5.5 EFFECTIVE DATE: October 16, 2009, unless a later date is cited at the end of a section. [16.65.5.5 NMAC - N, 10/16/09]

16.65.5.6 OBJECTIVE: The objective of Part 5 is to set forth the fees authorized pursuant to the Appraisal Management Company Registration Act. [16.65.5.6 NMAC - N, 10/16/09]

16.65.5.7 DEFINITIONS: [RESERVED] [16.65.5.7 NMAC - N, 10/16/09]

16.65.5.8 FEES: All fees are non-refundable.

- A.** Initial application fee \$1000.00.
- B.** Renewal fee \$550.00.
- C.** Late renewal fee \$250.00.

D. Criminal Background Fee fees as currently charged by department of public safety.

E. Duplicate/Replacement registration \$25.00.

F. Paper List of all registrants \$150.00

G. Electronic List of all registrants \$125.00

H. Administrative fee \$50.00.

I. Official verification of good standing \$25.00.

[16.65.5.8 NMAC - N, 10/16/09]

16.65.5.9 AUDIT: Any costs incurred by the board during an audit may be attributed to the AMC. [16.65.5.9 NMAC - N, 10/16/09]

16.65.5.10 DISCIPLINE: Registrant shall bear all cost of disciplinary proceeding unless they prevail at the hearing. [16.65.5.10 NMAC - N, 10/16/09]

HISTORY OF 16.65.5 NMAC: [RESERVED]

NEW MEXICO REAL ESTATE APPRAISERS BOARD

This is an amendment to 16.62.1 NMAC Sections 7, 9, 11, 12 and adding new Section 13, effective 10/16/2009.

16.62.1.7 DEFINITIONS: The following rules and regulations are for the purpose of implementing the provisions of the New Mexico Real Estate Appraisers Act.

A. Terms starting with the letter 'A' are defined as follows.

[A-] (1) "Acceptable" appraisal experience includes, but is not limited to the following: fee and staff appraisal, ad valorem tax appraisal, review appraisal, market analysis, real estate counseling/consulting, highest and best use analysis and feasibility analysis. All experience claimed after December 1, 1990, must be in conformance with applicable national uniform standards of professional appraisal practice (USPAP). Appraisal experience acceptable toward licensing or certification must have been gained under the supervision of an appraiser who is certified at a level equal to or greater than the license or certificate the applicant is seeking.

[B-] (2) "Appraisers act" or "act" means the New Mexico Real Estate Appraisers Act as defined in Section 61-30-1 NMSA 1978.

(3) "Appraisal management company (AMC)" means a corporation, partnership, sole proprietorship, subsidiary, limited liability company or other business entity that:

(a) contracts with independent appraisers to perform real estate appraisal services for clients;

(b) receives requests for real estate appraisal services from clients and for a fee paid by client, enters into an agreement with one of more independent appraisers to perform the real estate appraisal services contained in the request;

(c) otherwise serves as a third-party broker of appraisal management service between clients and appraiser.

(4) "Appraisal review" is the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal, appraisal review, or appraisal consulting assignment.

B. Terms starting with the letter 'B'. [RESERVED]

C. Terms starting with the letter 'C' are defined as follows.

[C-] (1) "Complaint committee" shall be appointed by the board. The chairperson of the committee shall be an appraiser board member. The board appointed complaint committee is for

the purpose of review of complaints and shall make recommendations to the board as to its findings. No real estate appraiser organization shall have a majority membership on the committee.

[D-] (2) "Complex" means a one to four family residential property appraisal [one] in which the property to be appraised, the form of ownership, or the market conditions are atypical [(bank—holding company supervision manual, 1999, page 10, section 2231-0-9-3)].

[E-] (3) "Content approval for distance education" non-academic credit college courses provided by a college shall be approved by the appraiser qualifications board (AQB) and the New Mexico real estate appraisers board.

D. Terms starting with the letter 'D' are defined as follows.

[F-] (1) "Direct supervision" means that a supervising appraiser is physically present to direct and oversee the production of each appraisal assignment.

[G-] (2) "Duly made application" means an application to the New Mexico real estate appraisers board including [paragraphs (1-7)] Subparagraphs (a) through (g) set out below, in addition to any other requirements of the board:

[(1)] (a) a completed application on the form provided by the board; the form must be signed by the applicant attesting to the truthfulness of the information provided in the application;

[(2)] (b) letters of verification from at least three individuals who are not related to the applicant but who are acquainted personally and professionally with him/her and who can attest that the applicant is of good moral character; and is competent;

[(3)] (c) a statement attesting that he/she is a native, a naturalized citizen or a legal resident of the United States;

[(4)] (d) transcripts or certificates or statements showing successful completion of the required appraisal courses;

[(5)] (e) a recent photograph of the applicant in which the applicant clearly is discernible; the photograph must be at least two inches by three inches in size;

[(6)] (f) a check or money order for the fees set out in 16.62.12.8 NMAC;

[(7)] (g) an appraiser experience log recorded on the forms approved by the board or on another approved form, if required.

E. Terms starting with the letter 'E' are defined as follows.

[H-] (1) "Education advisory committee" shall be appointed by the board for the purpose of review of applications for course approval and sponsorship approval of appraiser educational offerings and shall make recommendations to the board as to its findings. Membership in a professional organization or association shall not be a

prerequisite to serve on the committee. No real estate appraiser organization shall have a majority membership on the committee.

[I-] (2) "Ethics provision" emphasizes the personal and professional obligations and responsibilities of the individual appraiser.

[J-] (3) "Experience" is defined as verifiable time spent in performing tasks in accordance with the definition of "appraisal" and "appraisal assignment", as stated in the act, Section 61-30-3 NMSA 1978. Such tasks include inspecting and analyzing properties; assembling and analyzing relevant market data; forming objective opinions as to the value, quality or utility of such properties; and preparing reports or file memoranda showing data, reasoning and conclusions. Professional responsibility for the valuation function is essential for experience credit.

[K-] (4) "Experience" will be submitted to the board in the form of a log, which indicates assignment information and type, compensation status, time spent on the assignment and whether the applicant signed the report. Experience credit claimed on the log must be attested to by the supervising appraiser. Experience logs are subject to review and request for supporting documentation.

[L-] (5) "Experience review process" is the method by which appraiser experience is approved for credit toward licensure or certification. The process includes the review of the experience log submitted by the applicant; selection of three or more entries for review of the reports and any additional file memoranda; and approval of experience hours claimed and conformance of reports with applicable national uniform standards of professional appraisal practice (USPAP) standards.

F. Term starting with the letter 'F' is defined as follows: [M-] "FIRREA" means the Financial Institutions Reform, Recovery and Enforcement Act of 1989, and its amendments.

G. Terms starting with the letter 'G'. [RESERVED]

H. Terms starting with the letter 'H'. [RESERVED]

I. Terms starting with the letter 'I'. [RESERVED]

J. Terms starting with the letter 'J'. [RESERVED]

K. Terms starting with the letter 'K'. [RESERVED]

L. Terms starting with the letter 'L' are defined as follows.

[N-] (1) "Licensee" means an apprentice, license, residential certificate or general certificate.

[O-] (2) "Location" means the offices of the New Mexico real estate appraisers board will be located in Santa Fe, New Mexico.

M. Term starting with

the letter 'M' is defined as follows: [P:] "module" is an appraisal subject matter area (and required hours of coverage) as identified in the required core curriculum. All modules identified in the required core curriculum for a specific classification must be successfully completed to satisfy the educational requirements as set forth in the appraiser qualifications board (AQB) real property appraiser qualification criteria.

N. Term starting with the letter 'N' is defined as follows: [Q:] "nonresident appraiser" for the purpose of 61-30-20 of the New Mexico Real Estate Appraisers Act, nonresident applicants; reciprocity, means an individual who holds a current apprentice registration, license, or certificate, and is in good standing, in another state.

O. Terms starting with the letter 'O'. [RESERVED]

P. Terms starting with the letter 'P' are defined as follows.

[R:] (1) "Practicing appraiser" means a state licensed or certified appraiser in good standing, engaged in performing appraisal assignments.

[S:] (2) "Primary business location" means the geographical location of a business where the supervisor and trainee spend the majority of their time. A trainee may perform work only in areas where the supervising appraiser has competency in the geographical location and property type.

Q. Terms starting with the letter 'Q'. [RESERVED]

R. Term starting with the letter 'R' is defined as follows: [F:] "required core curriculum" is a set of appraisal subject matter (known as 'modules') which require a specified number of educational hours at each credential level; as set forth in the appraiser qualifications board (AQB) real property appraiser qualification criteria.

S. Term starting with the letter 'S' is defined as follows: [U:] "supervisor" means a certified residential or certified general appraiser in good standing in the training jurisdiction and not subject to any disciplinary action within the last two (2) years that affects the supervisor's legal ability to engage in appraisal practice.

T. Term starting with the letter 'T' is defined as follows:

[V:] "The board" may reject any application for an apprentice license or certificate for:

(1) incomplete, inaccurate or fraudulent application;

(2) application not submitted on the proper board-approved form;

(3) failure to pay the fees in full in a form acceptable to the board. [W:] "trainee" means an individual who is being taught to become a state licensed or certified appraiser under the direct supervision of a supervising

appraiser.

U. Term starting with the letter 'U' is defined as follows: [X:] "uniform standards of professional appraisal practice" (USPAP) [deal] means the uniform standard or the profession standard promulgated by the appraisal foundation and adopted by rules pursuant to the real estate appraiser act and deals with the procedures to be followed in which an appraisal, analysis, or opinion is communicated.

V. Terms starting with the letter 'V'. [RESERVED]

W. Term starting with the letter 'W' is defined as follows: "work file" is documentation necessary to support an appraiser's analyses, opinions, and conclusions.

X. Terms starting with the letter 'X'. [RESERVED]

Y. Terms starting with the letter 'Y'. [RESERVED]

Z. Terms starting with the letter 'Z'. [RESERVED]

[1/14/00; 16.62.1.7 NMAC - Rn & A, 16 NMAC 62.1.7, 09/13/2004; A, 11/25/06; A, 06/13/08; A, 11/15/08; A, 10/16/2009]

16.62.1.9 INSPECTION OF BOARD RECORDS:

[A.] ~~Except as otherwise provided by law, all applications, pleadings, petitions, motions, exhibits, decisions and orders entered following formal disciplinary proceedings conducted pursuant to the Uniform Licensing Act are matters of public record as of the time of filing with or by the board.~~

~~B. Any citizen of the state of New Mexico may examine all public records in the board's custody. People requesting inspection of public records shall:~~

~~(1) Give reasonable notice to the board's administrator. When the records requested are in active use or are in storage, the requestor must notify the administrator, in writing, five days in advance.~~

~~(2) Upon request, the board may provide copies of public records, lists, labels, and verifications and may charge a reasonable fee to defray copying and mailing charges. The administrator is not obligated to create lists, labels, or any materials which are not already in existence.~~

~~C. No person shall be permitted to remove documents from the board's office.] Except as otherwise provided by law or protected by public records shall be available for inspection in accordance with the provisions of the Inspection of Public Records Act (IPRA), NMSA 1978, Sections 14-2-1 through -12, (1974, as amended through 2009). Cost will be determined by regulation and licensing department standard IPRA fees.~~

[1/14/00; 16.62.1.9 NMAC - Rn, 16 NMAC 62.1.9, 09/13/2004; A, 10/16/2009]

16.62.1.11 TELEPHONIC ATTENDANCE BY BOARD MEMBERS:

A. Pursuant to the provisions of the Open Meetings Act, [Section 10-15.1.C NMSA 1978, as amended;] NMSA 1978, Sections 10-15-1 through -4, (1974, as amended through 2009) board members may participate in a meeting of the board by means of a conference telephone or similar communications equipment, and participation by such means shall constitute presence in person at the meeting. However, such participation by telephone may only occur when it is difficult or impossible, i.e., when circumstances beyond the member's control would make attendance in person extremely burdensome.

B. Each board member participating by conference telephone must be identified when speaking and all participants must be able to hear each other at the same time, and members of the public attending the meeting must be able to hear any member of the public who speaks during the meeting.

[1/14/00; 16.62.1.11 NMAC - Rn, 16 NMAC 62.1.11, 09/13/2004; A, 10/16/2009]

16.62.1.12 SUPERVISING APPRAISER/TRAINEE:

A. Supervision of trainees: An appraiser may engage a declared trainee to assist in the performance of real estate appraisals and related activities, provided the supervising certified real estate appraiser:

(1) has been certified for at least two years;

(2) has no more than three trainees working under his supervision at one time; prior to the date any trainee begins performing real estate appraisal and related activities under his or her supervision, the supervisor must inform the board of the name of the trainee on the declaration form prescribed by the board; the supervisor must also inform the board within ten days when a trainee is no longer working under his supervision;

(3) actively and personally supervises the trainee:

(a) when training for residential license or residential certification the supervisor must accompany the trainee on inspections of the subject property on the first 75 assignments; after that point, the trainee may perform the inspections without the presence of the supervisor provided the trainee is competent to perform those inspections in accordance with the competency rule of the national uniform standards of professional appraisal practice (USPAP) for the property type and provided the property is less than 100 miles from the supervisor's primary business location; the supervisor must accompany the trainee on all inspections of subject properties that

are located more than 100 miles from the supervisor's primary business location; the supervisor and trainee must have primary business location in the same state;

(b) when training for general certification the supervisor must accompany the trainee on inspections of the subject property on the first 10 non-residential assignments; after that point, the trainee may perform the inspections without the presence of the supervisor provided the trainee is competent to perform those inspections in accordance with the competency rule of the national uniform standards of professional appraisal practice (USPAP) for the property type and market area; the supervisor and trainee must have primary business location in the same state;

(4) reviews all appraisal reports and supporting data used in connection with appraisals in which the services of a trainee are utilized; the supervisor signs the appraisal report and certifies the report is in compliance with the uniform standards of professional appraisal practice (USPAP); the supervisor is required to sign the appraisal experience log at least every 30 days;

(5) must attend a supervisor/trainee education program approved by the appraisal board regarding the role of a supervisor prior to the declaration of the first new trainee or within 90 days after such supervision begins; if the supervisor does not take the class within 90 days after the supervision begins, the trainee may no longer work under the supervision of that supervisor until the class is taken; thereafter the supervisor must attend the class every other licensing cycle;

(6) shall not be employed by a trainee or by a company, firm or partnership in which the trainee has a controlling interest.

B. Trainee. All trainees shall perform all real estate appraisal and related activities under the immediate, active, and personal supervision of a certified real estate appraiser. All appraisal reports must be signed by the trainees declared supervisor. By signing the appraisal report, the certified appraiser accepts responsibility with the trainee for the content of and conclusions of the report. A trainee may assist in the performance of real estate appraisals provided the trainee:

(1) maintains a log on a form prescribed by the board that includes, but is not limited to, each appraisal performed by the trainee, the type of the property appraised, type of appraisal performed, complete street address of the subject property, the date the report was signed, the number of hours claimed, the name of the supervisor for that appraisal, the supervisor's certificate number, and whether the supervisor accompanied the trainee on the inspection of the subject; the log must show all appraisals and related activities performed by the trainee and must

be updated and signed by the supervisor at least every 30 days;

(2) must attend a supervisor/trainee education program approved by the appraisal board either before supervision begins or within 90 days after such supervision begins; if the trainee does not take the class within 90 days after supervision begins, the trainee shall not receive appraisal experience credit for appraisals performed until the class is taken;

(3) must assure that the supervisor has properly completed and sent the declaration form to the appraisal board on or before the day the trainee begins assisting the supervising appraiser;

(4) trainees shall not receive appraisal experience credit for appraisal and related activities performed in violation of Subsection B of 16.62.1.12 NMAC.

C. Board notification of existing supervisor. [~~Effective month/day/year~~] All certified appraisers who are currently supervising trainees must:

(1) declare with the board the name of each trainee on the declaration form prescribed by the board within 30 days of 06/13/08;

(2) not add any new trainees until they have met requirements of Subsections A and B of this section;

(3) trainees shall not receive appraisal experience credit for appraisal and related activities performed in violation of Subsection C of 16.62.1.12 NMAC.

D. Board notification of existing trainee. [~~Effective month/day/year~~] Every trainee who is currently being supervised must:

(1) assure that the supervisor has properly completed and sent the supervisor declaration form to the board within 30 days of 06/13/08;

(2) maintain the experience log, per part B1, on the form prescribed by the board effective month/day/year; all logs of appraisals and related activities completed prior to 06/13/08 are valid in accordance with regulations in place at the time they were performed;

(3) if training is not completed by 2009 renewal cycle, trainee must complete the approved supervisor/trainee education program prior to renewal.

[16.62.1.12 NMAC - N, 06/13/08; A, 10/16/2009]

16.62.1.13 KNOWLEDGE OF THE RULES: all appraisers shall have knowledge of the board rules and by acceptance to licensure shall agree to abide by these rules.

[16.62.1.13 NMAC - N, 10/16/2009]

NEW MEXICO REAL ESTATE APPRAISERS BOARD

This is an amendment to 16.62.10 NMAC Section 8, effective ; A, 10/16/09.

16.62.10.8 [~~APPLICANTS FOR TEMPORARY PRACTICE MUST SUBMIT ON A BOARD APPROVED FORM THE FOLLOWING:~~] **TEMPORARY PRACTICE PERMITS:**

A. All persons who engage in the business of, act in the capacity of, advertise or display in any manner or otherwise assume to engage in the business of, or act as, a state real estate appraiser must have a board license or permit.

B. A temporary permit may be issued to non-resident appraiser licensed and certified appraiser for the purpose of performing an appraisal or an appraisal review.

C. Applicants shall submit the following on a board approved form:

[A:] (1) verification of license history and good standing as obtained from the national registry of real estate appraisers;

[B:] (2) the classification of the license or certification they hold;

[C:] (3) whether they are subject to disciplinary action in the state in which they are licensed or certified;

[D:] (4) a statement certifying that the applicant's business in New Mexico is temporary and will not exceed 180 days;

[E:] (5) a statement identifying the specific assignment to which the temporary license will apply;

[F:] (6) an irrevocable statement consenting that suits and actions may be commenced against him/her in the proper court of any county of New Mexico arising from the applicant's actions as a state licensed or certified appraiser; and

[G:] (7) [~~a check or money order for~~]the fee specified in 16.62.12 NMAC;

(8) the board may obtain verification and certification from ASC website;

[H:] (9) [a] temporary permit extension may be obtained upon the written request submitted to the board office by the temporary permit holder, a 30-day extension will be granted to the established expiration date to complete the specified assignment.

[3/15/00; 16.62.10.8 NMAC - Rn, 16 NMAC 62.10.8, 09/13/2004; A, 11/25/06; A, 10/16/09]

**NEW MEXICO TAXATION
AND REVENUE
DEPARTMENT**

This is an amendment to 3.12.12 NMAC,
Section 9 effective 9/30/09.

3.12.12.9 **WEIGHT DISTANCE
TAX IDENTIFICATION PERMIT -
ADMINISTRATIVE FEE:** Any person
that applies for and receives a weight
distance tax identification permit shall
pay an administrative fee ~~[of two dollars
(\$2.00) for each permit.]~~ that shall not
exceed \$10.00. The administrative fee
shall be \$5.50 upon the effective date of
this regulation. The administrative fee may
be increased or decreased by the secretary
after due consideration of the costs of
issuing and administering weight distance
tax identification permits and of enforcing
permits use. Persons who have current
weight distance tax identification permits
will be notified if the secretary changes the
fee at least 30 days prior to effective date of a
change in the fee. The administrative fee will
be ~~[used to defray the costs incurred by the
department for the processing and issuing
of the weight distance tax identification
permits] deposited in the weight distance tax
identification permit fund to pay the costs of
issuing and administering weight distance tax
identification permits and costs incurred by
the department and the motor transportation
division of the department of public safety
to enforce the use of such permits by motor
carriers in accordance with the Weight
Distance Tax Act.~~ The administrative fee
will be imposed for every permit, including
annual renewals and replacements.
[3.12.12.9 NMAC - N, 7/1/04; A, 9/30/09]

End of Adopted Rules Section

Other Material Related to Administrative Law

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

NMAC Chapter Name Change

By request of the Regulation and Licensing Department, Financial Institutions Division, the State Records Administrator considered and approved the name change of Chapter 19 of Title 12. Chapter 19 is changed from "MORTGAGE COMPANIES" to "MORTGAGE LENDING." The name changes took effect on August 31, 2009.

**End of Other Related Material
Section**

Submittal Deadlines and Publication Dates 2009

Volume XX	Submittal Deadline	Publication Date
Issue Number 16	August 17	August 31
Issue Number 17	September 1	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	November 2	November 13
Issue Number 22	November 16	December 1
Issue Number 23	December 2	December 15
Issue Number 24	December 16	December 31

Submittal Deadlines and Publication Dates 2010

Volume XXI	Submittal Deadline	Publication Date
Issue Number 1	January 4	January 15
Issue Number 2	January 19	January 29
Issue Number 3	February 1	February 12
Issue Number 4	February 15	February 26
Issue Number 5	March 1	March 15
Issue Number 6	March 16	March 31
Issue Number 7	April 1	April 15
Issue Number 8	April 16	April 30
Issue Number 9	May 3	May 14
Issue Number 10	May 17	May 28
Issue Number 11	June 1	June 15
Issue Number 12	June 16	June 30
Issue Number 13	July 1	July 15
Issue Number 14	July 16	July 30
Issue Number 15	August 2	August 16
Issue Number 16	August 17	August 31
Issue Number 17	September 1	September 15
Issue Number 18	September 16	September 30
Issue Number 19	October 1	October 15
Issue Number 20	October 18	October 29
Issue Number 21	November 1	November 15
Issue Number 22	November 16	December 1
Issue Number 23	December 2	December 15
Issue Number 24	December 16	December 30

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