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New Mexico Register

The official publication for all official notices of rulemaking
and filing of proposed, adopted and emergency rules.

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Notices of Rulemaking and Proposed Rules

HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

NOTICE OF PUBLIC HEARING

The Human Services Department (HSD) is promulgating proposed regulations for the Cash Program administered by HSD, including its authority to promulgate regulation, and is governed by Chapter 9, Article 8, NMSA 1978 (Repl.1983). Proposing amendments to Section 12 of 8.102.461 NMAC, Section 9 of 8.102.520 NMAC, and Section 10 of 8.102.620.10 NMAC.

The Department is proposing to update NMAC sections to reflect changes in policy:

- Section 12 of 8.102.461 NMAC: Excluding income for TANF eligibility participants who receive Subsidized Private Sector Employment
- Section 9 of 8.102.520 NMAC: Update for pass-through distribution for TANF recipients who collect child support,
- Section 10 of 8.102.620.10 NMAC: Eliminate sanctioning for TANF recipients assigned to the limited participation work requirement for failure to meet hours or providing a timesheet.

Regulations issued pursuant to the act are contained in 45 CFR Parts 200-299 and 300-399. Administration of the Human Services Department (HSD), including its authority to promulgate regulations, is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983).

A public hearing to receive testimony on this proposed rule, pursuant to Section 14-4-5.6 NMSA 1978, will be held on Monday, November 14, 2022, 9:00 a.m-10:00 a.m. The hearing will be held virtually through GoTo Meeting, and a phone number will be provided for individuals that would like to participate by phone. <https://meet.goto.com/587458453> You can

also dial in using your phone. United States: +1 (646) 749-3122. Access Code: 587-458-453.

All Written comment may be dropped off during the scheduled hearing time at the HSD Sandoval County Field Office, 4363 Jager Dr., Rio Rancho, NM 87144.

Individuals wishing to testify may contact the Income Support Division (ISD), P.O. Box 2348, Santa Fe, NM 87504-2348, or by calling 505-396-0313. This register and proposed regulations are also available on the Human Services Department website at: <http://www.hsd.state.nm.us/LookingForInformation/income-support-division-registers.aspx>. If you do not have Internet access, a copy of the proposed regulations may be requested by contacting the Income Support Division, P.O. Box 2348, Santa Fe, New Mexico 87504-2348 or by calling 505-827-7250.

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 American Disabilities Act Coordinator, at 505-709-5468 or through the New Mexico Relay system, toll free at #711. The Department requests at least a 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, November 14, 2022. The agency shall post all written comments on its website, if one exists, as soon as practicable and no more than 3 business days following receipt to allow for public review. All written comments received by the agency shall also be available for public inspection at the main office of the agency. Please send comments to: Human Services Department P.O. Box

2348, Santa Fe, New Mexico 87504-2348.

You may send comments electronically to: HSD-isdrulesrules@state.nm.us.
rules@state.nm.us.

PUBLIC SAFETY, DEPARTMENT OF

NOTICE OF PUBLIC HEARING ON PROPOSED NEW PERMANENT RULE

Public Notice. The New Mexico Department of Public Safety ["DPS"] gives notice that it will hold a public hearing via Microsoft Teams on Tuesday, November 29, 2022, at 9:00 a.m. on the proposed new permanent rule 10.2.4 NMAC - LAW ENFORCEMENT RETENTION FUND REPORTING, MONITORING AND ADMINISTRATION. The members of the public may attend the Microsoft Teams meeting on a computer, mobile device or telephone. The videoconference's Meeting ID and Password, videoconference link and telephone number are:

Join Microsoft Teams Meeting on your computer or mobile app
<https://tinyurl.com/rn5bnu27>

Or call in (audio only)

+1 (505) 312-4308
Phone Conference ID: 140 050 985#

Purpose of the proposed permanent rule. The purpose of this public hearing is to receive public comment and input on a proposed new rule 10.2.4 NMAC *Law Enforcement Retention Fund Reporting, Monitoring and Administration*. This rule sets forth procedures : 1) for law enforcement agencies to follow in reporting (or requesting a waiver of the requirement to report) law enforcement officer retention information to DPS in order to obtain monies from the Law Enforcement Retention Fund ["LERF"] to provide

retention differential disbursements to eligible officers; 2) that DPS will follow in calculating, disbursing and, in the event of a shortfall in monies in the LERF, reducing the amount of money disbursed to law enforcement agencies for retention differential disbursements for eligible law enforcement officers; and 3) for law enforcement agencies to follow in returning unused monies to the DPS or in appealing DPS's calculation of the retention differential disbursement DPS intends to distribute to the requesting law enforcement agencies.

Legal authority authorizing the proposed permanent rule.

The proposed permanent rule is promulgated pursuant to Subsection G of Section 29-11A-5, NMSA 1978 and Paragraph (3) of Subsection H of Section 9-19-4, NMSA 1978.

Summary of the full text of the proposed permanent rule.

The proposed permanent rule defines the officers eligible to receive retention differential disbursements from the LERF as those officers who remain employed with the same law enforcement agency "one year and one day after reaching four, nine, 14 or 19 years of service" with that agency. Law enforcement agencies who seek retention differential disbursements for their eligible officers must request monies for the same in the fiscal year in which the officers complete four, nine, 14 or 19 consecutive years of service. The rule sets forth the information the law enforcement agency must report to DPS in order to receive monies from the LERF for retention differential disbursements and requires the agency to submit the required information no later than May 31. Assuming sufficient funds are available in the LERF to satisfy all requests, the DPS will calculate and disburse to the requesting law enforcement agency an amount equal to five per cent of the officer's salary on the date the officer completed four, nine, 14 or 19 consecutive years of service with the requesting law enforcement agency, together with an amount

equal to the employer's tax liability for the disbursement. DPS will disburse the LERF monies to the law enforcement agencies on December 15 of the fiscal year in which the officers are projected to be eligible for the same. The law enforcement agency in receipt of disbursed funds will place them in an interest bearing account and disburse the monies no sooner than the date the officer attains eligibility and no later than 30 days following the date of eligibility or the date the law enforcement agency receives the disbursement from DPS, whichever occurs last. The law enforcement agency disbursing funds is required to report the date of disbursement and the date of payment of the employer taxes on the DPS portal. Within 60 days after the end of the fiscal year in which monies from the LERF are disbursed by DPS to a law enforcement agency for retention differential disbursements and no later than August 31, any law enforcement agency which has not disbursed all monies provided, shall return the same to the DPS, together with any interest earned on the funds, in the form of a check. The law enforcement agency shall also report to the DPS the names of those officers who received a retention differential disbursement, the names of those officer who were projected to, but who did not receive a retention differential disbursement, the amounts returned, broken down by retention differential disbursement, employer tax and interest earned, and the reason any retention differential disbursement was not made. In the event that there are insufficient monies in the LERF to fully fund all the retention differential disbursement requests, the DPS will reduce the amount to be disbursed to each law enforcement agency on a pro rata basis to an amount permitted by the monies available in the LERF. The rule also sets forth a process by which a law enforcement agency may seek reconsideration and review of the DPS calculation of each retention differential disbursement and the employer taxes thereon.

Copies of the Rule.

Copies of the rule may be obtained at all DPS district, field, ports of entry, and regional offices, at the DPS website, <https://www.dps.nm.gov/public-information/rule-making/> on the sunshine portal, or by contacting Jason Greenlee, Chief Legal Counsel, at 505.467.9629 or jason.greenlee@state.nm.us.

Comment on the rule.

Interested persons may comment on the proposed permanent rule, at the hearing or by submitting written statements to DPS Sylvia M. Serna, Administrative Services Director at 4491 Cerrillos Rd., P.O. Box 1628 (87504-1628) or by e-mail at sylviam.serna@state.nm.us All mailed statements must be received by November 29, 2022. Early submission of written statements is encouraged. Interested persons may also comment in writing at the public hearing.

Permanent rule.

The proposed rule will be a permanent rule.

Reasonable

Accommodation. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing, including a reader, amplifier, qualified sign language interpreter or any form of auxiliary aid or service are asked to contact Sylvia M. Serna by telephone at 505.629.6865 or by e-mail at sylviam.serna@state.nm.us as soon as possible and no later than November 18, 2022. DPS requires at least ten calendar days advance notice to provide special accommodations.

**REGULATION
AND LICENSING
DEPARTMENT
ATHLETIC TRAINERS
PRACTICE BOARD**

**NOTICE OF PUBLIC RULE
HEARING AND REGULAR
BOARD MEETING**

Practice Board will hold a rule hearing on Monday, November 14, 2022, at 9:30 a.m. Following the rule hearing, the Board will convene a regular board meeting to adopt the rules and take care of regular business. The rule hearing and board meeting will be held at the Regulation and Licensing Department, 2550 Cerrillos Road, Santa Fe, NM, in the Rio Grande Conference Room for those desiring to attend in person.

The meeting will also be held via Cisco Webex Meetings for those desiring to attend virtually.

<https://nmrld.webex.com/nmrld/onstage/g.php?MTID=e3a707b7e2595fca3d94d5af00b8885c2>

To join the meeting by phone: 1-415-655-0002 United States Toll

Access Code: 2495 096 7905

The purpose of the rule hearing is to consider proposed amendments to the following rules:

- 16.3.4 NMAC – Initial Licensing Requirements
- 16.3.7 NMAC – Annual Renewal of Licenses
- 16.3.10 NMAC – Emergency Licensure
- 16.3.11 NMAC – Licensure for Military Service Members, Spouses, Dependent Children and Veterans

To obtain and review copies of the proposed changes and public comments, you may go to the Board’s website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/athletic-trainers/athletic-trainers-rules-and-laws/> or contact the Boards and Commissions Division at (505) 476-4622.

The Board is currently accepting public written comments on the proposed amendments. Please submit written comments on the proposed changes to Roxann Ortiz, Board Administrator, via electronic mail at: athletic.trainers@state.nm.us, or by regular mail at P.O. Box 25101,

Santa Fe, NM 87504, no later than Friday, November 11, 2022. Written comments received prior to the rule hearing will be posted to the RLD website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/athletic-trainers/athletic-trainers-rules-and-laws/>. Persons will also be given the opportunity to present their written or oral comments at the public rule hearing.

The agenda for the board meeting will be posted and available at least 72 hours before the meeting on the Board website at <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/athletic-trainers/athletic-trainers-board-information/athletic-trainers-board-meetings/> Copies of the rules or the agenda may also be obtained by contacting Roxann Ortiz, Board Administrator at (505) 476-4622.

An individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact Roxann Ortiz, Board Administrator at (505) 476-4622.

Statutory Authority:

Subsection F of Section 61-14D-9 of the Athletic Trainer Practice Act, NMSA 1978, Sections 61-14D-1 to -19, specifically authorizes the Board to “adopt and file, [...], rules and regulations necessary to carry out the provisions of the Athletic Trainer Practice Act.” In addition, 61-1-31.1 NMSA 1978 of the Uniform Licensing Act, Sections 61-1-1 to -36 NMSA 1978, provides that “A board by rule shall determine those states and territories of the United States and the District of Columbia from which the board will not accept an applicant for expedited licensure and those foreign countries from which the board will accept an applicant for expedited licensure.” Section 61-1-34(A) NMSA 1978 of the Uniform Licensing Act, requires that “as soon as practicable but no later than thirty days after a military service member or a veteran

file an application, and provides a background check if required” the Board must “process the application; and issue a license prima facie to a qualified applicant [...]” Additionally, Laws 2022, ch. 39, § 104 provides that a board that is required by Laws 2022, ch. 39 to change its licensing provisions to allow for new or different expedited licensure shall have rules in place and operational by January 1, 2023.

Purpose of the Proposed Rules:

The proposed rules are intended to provide greater clarity in existing regulatory and statutory requirements, ensure continued high levels of professionalism among expedited licensure applicants, and to generally satisfy the Board’s statutory obligation to provide for “the interest of public health, safety and welfare and to protect the public from the unprofessional, improper, incompetent and unlawful practice of athletic training [...]” Section 61-14D-2. In addition, the proposed rule changes are intended to comply with 2022 legislative changes made during the regular session in HB 191 Uniform Licensing Act signed into law by Governor Lujan Grisham on March 3, 2022.

Summary of Proposed Changes:

16.3.4 NMAC – Licensure by Examination
 The amendments to this part are to be in compliance with the 2022 legislative change regarding HB 191. The proposed rule removes generic “initial licensing” language and clarifies the process as “licensure by examination.” The proposed rule changes ensure the rule’s language regarding licensure by examination is consistent. Additionally, the proposed rule change clarifies licensure by examination’s scope and objective for all applicants.

16.3.7 NMAC – Annual Renewal of License

The amendments to this part are to be in compliance with the 2022 legislative change regarding HB 191. The proposed rule change clarifies the

annual license expiration and renewal cycle. The rule includes language that specifies that an initial license may be issued for a period greater than twelve months but must be less than twenty-four months to align license expiration dates with the renewal cycle.

16.3.10 NMAC – Expedited Licensure

The amendments to this part include a repeal and replace due to the 2022 legislative change regarding HB 191 Uniform Licensing Act. This proposed rule sets out the requirements to apply for an “expedited license” in New Mexico. It also lists the states and territories that are excluded from the expedited licensure process and the grounds for their exclusion. The proposed rule also includes a section defining the expedited licensure process for military service members and veterans. Lastly, the proposed rule defines an expedited license’s duration and the renewal process.

16.3.11 NMAC – Licensure for Military Service Members, Spouses and Veterans

The proposed rule change considers a repeal of 16.3.11 NMAC due to its provisions being incorporated into 16.3.10 NMAC. The proposed rule change repeals the Licensure for Military Service Members, Spouses and Veterans rule, which affords an expedited licensure process to members of the military, and consolidates the expedited licensure process into 16.3.10 for both military and non-military applicants.

SUPERINTENDENT OF INSURANCE, OFFICE OF

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Superintendent of Insurance (“OSI” or “Superintendent”) will hold a public video/telephone hearing regarding the proposed repealing and replacing of 13.7.4 NMAC-CATASTROPHIC CLAIMS. This

hearing will commence on **December 1, 2022, at 9:00 a.m.**

PURPOSE OF THE PROPOSED

RULE: The purpose of this rule is to establish definitions and procedures for implementing Subsection F of Section 59A-16-20 NMSA 1978 requiring all catastrophic claims to be settled within a 90-day period after the assignment of a catastrophic claim number when a catastrophic loss has been declared.

STATUTORY AUTHORITY:

Sections 59A-2-9, 59A-16-20 and 59A-16-20.1 NMSA.

TO ATTEND THE HEARING:

Join Zoom Meeting
<https://us02web.zoom.us/j/82672274847?pwd=cIA0RWVsdHVXRHh0Wk01Rjh5cUU4UT09>

Meeting ID: 826 7227 4847
 Passcode: 832563

Dial by your location: 346-248-7799

The Superintendent designates Lawrence M. Marcus to act as the hearing officer for this rulemaking. Oral comments will be accepted at the public hearing from members of the public and other interested parties. Any updates concerning the hearing date, time, or location will be available by subscribing to the “Rulemaking and Ratemaking” newsletter at: <https://newsletter.osi.state.nm.us/>.

Copies of the Notice of Proposed Rulemaking and proposed new rules are available by electronic download from the OSI eDocket <https://edocket.osi.state.nm.us/guest/case-view/5796> or by requesting a copy by calling (505) 372-9135.

Written comments will be accepted through 4:00 p.m. on December 1, 2022. Responses to written comments or oral comments will be accepted through 4:00 p.m. on December 12, 2022. All comments shall be filed electronically through the OSI

eDocket <https://edocket.osi.state.nm.us/guest/case-view/5796> or mailed to:

**OSI Records and Docketing
 NM Office of Superintendent of Insurance
 P.O. Box 1689, Santa Fe, NM
 87504-1689**

For help submitting a filing, please contact OSI-docketfiling@state.nm.us.

The below docket number must be indicated on filed comments.

Docket No. 2022-0075
 IN THE MATTER OF REPEALING AND REPLACING RULES CODIFIED AT 13.7.4 NMAC, CATASTROPHIC CLAIMS

All filings must be received between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday except on state holidays. The Superintendent will consider all oral comments and will review all timely submitted written comments and responses.

SPECIAL NEEDS: Any person with a disability requiring special assistance to participate in the hearing should contact Freya Joshi at 505-372-9135 no later than ten (10) business days prior to the hearing.

DONE AND ORDERED this 11th day of October, 2022
 /S/RUSSELL TOAL

**TRANSPORTATION,
 DEPARTMENT OF
 NOTICE OF PROPOSED
 RULEMAKING**

**PROPOSED NEW RULE, 18.11.10
 NMAC**

The Aviation Division of the New Mexico Department of Transportation (Aviation Division) is proposing an amendment to rule, 18.11.10 NMAC, Rural Air Service Enhancement Grant Program.

Approval of the initial rulemaking

action for the proposed new rule was granted to the Aviation Division by the New Mexico State Transportation Commission on May 20, 2021 pursuant to Sections 9-5-1, 67-3-8, 67-3-11, 67-1-13, 67-3-28 and 67-1-13 NMSA 1978. The legal authority authorizing this rulemaking is Section 64-1-13 NMSA 1978 and Senate Bill 133.

Purpose: The purpose of this rule is to implement the newly enacted Rural Air Service Enhancement Grant Program.

Summary of Full Text: In the 2021 regular session, the New Mexico legislature enacted Senate Bill 133 to create the Rural Air Service Enhancement Act and the Rural Air Service Enhancement Fund. Senate Bill 133 provides that legislative appropriations and other moneys are deposited in the Rural Air Service Enhancement Fund for the purpose of carrying out the Rural Air Service Enhancement Act. The Rural Air Service Enhancement Act was established to provide grant funds to municipalities and counties for use in establishing and maintaining rural air service. The Rural Air Service Enhancement Act is administered by the Aviation Division of the New Mexico Department of Transportation. The proposed rule describes the process by which municipalities and counties are to competitively select an air carrier to provide rural air service between two or more airports, necessary provisions that are to be included in a service agreement between the municipality or county and the selected air carrier, the contents of the grant application to be submitted to the Aviation Division, the criteria that the Aviation Division will use in awarding a grant, the process for the eventual award of grant to a municipality or county, and the reimbursement process.

Copy of the full text of the proposed amended rule may be found on the NMDOT website at the following Internet link, under the *Public Notices* tab: <https://www.dot.nm.gov/public->

legal-notices/. A copy of the amended rule may also be requested by contacting Pedro Rael at: Telephone (505) 629-5105 or Email: pedro.rael@dot.nm.gov.

NMDOT will hold a public hearing for the purpose of receiving oral and written public comment from interested parties on the proposed new rule, 18.11.10 NMAC. The hearing is scheduled on November 14th, 2022, from 10:00 a.m. to 11:30 a.m. at New Mexico Department of Transportation District 3, 7500 Pan American Freeway NE, Albuquerque, New Mexico.

To submit written views and comments on or before November 14th, 2022 please send to: Pedro Rael, Aviation Division, New Mexico Department of Transportation, P.O. Box 1149, Santa Fe, New Mexico 87504, Telephone (505) 629-5105; Email: pedro.rael@dot.nm.gov. Written comments will be accepted from the date this notice is published in the New Mexico Register, before and at the scheduled hearing, and until the close of the final hearing scheduled in this rulemaking. If you plan to submit written comments, argument or data at the hearing, please make sure any documentation contains your name, phone number and email address, and please bring (3) copies of any documents to the hearing. If submitting written comments by email, please indicate the rule number in the subject line. All public written comments will be posted on the Departments website within three days of receipt. Oral comments will only be accepted at the public hearing, and may be subject to time limitations. After the close of the final hearing scheduled in this rulemaking, the rulemaking record will be closed and no other comments will be accepted.

Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule revisions in an accessible form may contact Pedro

Rael at (505) 629-5105 at least ten days before the hearing.

End of Notices of Rulemaking and Proposed Rules

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Adopted Rules

Effective Date and Validity of Rule Filings

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

**REGULATION
AND LICENSING
DEPARTMENT
CANNABIS CONTROL
DIVISION**

**TITLE 16 OCCUPATIONAL
AND PROFESSIONAL
LICENSING
CHAPTER 8 COMMERCIAL
AND MEDICAL CANNABIS
PART 6 HEALTH AND
SAFETY, FOOD AND PRODUCT
SAFETY, ENVIRONMENTAL
IMPACTS, AND NATURAL
RESOURCES**

16.8.6.1 ISSUING
AGENCY: New Mexico Regulation and Licensing Department, Cannabis Control Division.
[16.8.6.1 NMAC – N, 10/11/2022]

16.8.6.2 SCOPE: This rule applies to all applicants for licensure pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act or division rules, and where applicable, the general public.
[16.8.6.2 NMAC - N, 10/11/2022]

16.8.6.3 STATUTORY AUTHORITY: The requirements set forth herein are promulgated by the cannabis control division pursuant to the authority granted under the Cannabis Regulation Act and the licensing provisions of the Lynn and Erin Compassionate Use Act.
[16.8.6.3 NMAC - N, 10/11/2022]

16.8.6.4 DURATION: Permanent.
[16.8.6.4 NMAC - N, 10/11/2022]

16.8.6.5 EFFECTIVE DATE: October 11, 2022, unless

a later date is cited at the end of a section.
[16.8.6.5 NMAC - N, 10/11/2022]

16.8.6.6 OBJECTIVE:
The objective of Part 6 is to set forth standards related to health and safety, food and product safety, environmental impacts, and natural resources to ensure public health, safety, and well-being. Part 6 is not applicable to personal use of cannabis pursuant to the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act.
[16.8.6.6 NMAC - N, 10/11/2022]

16.8.6.7 DEFINITIONS:
[RESERVED]

16.8.6.8 PREREQUISITE AND RESPONSIBILITY FOR OPERATION:

A. Except as specified in Subsection F of 16.8.6.7 NMAC, prior to the submission of a license application for a class II, III, or IV cannabis manufacture license, each applicant or licensee engaged in the manufacturing of edible or topical cannabis products or edible or topical cannabis finished products shall provide to NMED a certification that:

(1) the facility where the cannabis manufacturer operates, and the manufacturing equipment used will be constructed and maintained in accordance with the requirements of this part; and

(2) edible and topical cannabis products and edible and topical finished products will be stored, manufactured, packaged, repackaged, labeled, relabeled, tested, reworked, or wasted in accordance with the requirements of this part.

B. A certification shall include information specified in Subparagraphs (a) through (i) of

Paragraph (1) of Subsection A of 16.8.2.30 NMAC.

C. Any person signing a certification pursuant to this section shall include the following signed statement: “I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information.”

D. NMED shall provide confirmation of receipt to each applicant or licensee that provides a certification.

E. Each applicant or licensee shall provide the NMED confirmation to RLD as specified in Paragraph (1) of Subsection A of 16.8.2.30 NMAC.

F. Certification to NMED, as specified in Subsections A through E of 16.8.6.7 shall no longer be required after December 31, 2022.

G. Class II, III, or IV cannabis manufacturers that were licensed by RLD prior to the effective date of 16.8.6 NMAC, and that are also engaged in manufacturing of cannabis edible products or cannabis edible finished products, shall apply for a food permit from NMED or a home rule municipality by January 1, 2023.

H. Except as specified in Subsection F of 16.8.6.7 NMAC, class II, III, or IV cannabis manufacturers that were not licensed by RLD prior to the effective date

of 16.8.6 NMAC, and that are also engaged in manufacturing cannabis edible products or cannabis edible finished products, shall provide a certification to NMED as specified in Subsections A through E and apply for a food permit from NMED or a home rule municipality as specified in G of 16.8.6.7 NMAC.

I. Beginning April 1, 2023, Class II, III, or IV cannabis manufacturers that manufacture cannabis edible products or cannabis edible finished products shall not operate without a food permit from NMED or a home rule municipality. [16.8.6.8 NMAC - N, 10/11/2022]

16.8.6.9 MANAGEMENT AND PERSONNEL:

A. Adoption of food code parts 2-1, 2-3 and 2-4 and section 2-103.11. Except as otherwise provided, parts 2-1, 2-3 and 2-4 and section 2-103.11 of the 2017 United States food and drug administration model food code is hereby adopted and incorporated in its entirety.

B. A licensee shall have written procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the edible cannabis manufacturing facility. The procedures shall be maintained onsite and address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter.

C. Except as otherwise provided, the licensee shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the cannabis manufacturer facility during all hours of operation.

D. If edible or topical cannabis products or edible or topical cannabis finished products are manufactured as part of a vertically integrated cannabis establishment or integrated cannabis microbusiness that is the legal responsibility of the same licensee and that are located on the same licensed premises, the

licensee may designate a single person in charge who is present on the licensed premises during all hours of operation.

E. The person in charge shall have the education, training, or experience necessary to supervise the production of clean and safe edible or topical cannabis products or edible or topical cannabis finished products and ensure the cannabis manufacturer remains in compliance with this part, division rules, and the act at all times.

F. Personal care items on the premises shall be stored in a manner to protect edible and topical cannabis products, edible and topical cannabis finished products, other ingredients, equipment, and utensils from contamination at all times.

G. A licensee shall:

(1) immediately contact the division to report an illness of an employee or conditional employee as specified under Subsection A of this section;

(2) immediately discontinue operations and notify the division if an imminent health hazard may exist as specified in 16.8.6.13 NMAC; [16.8.6.9 NMAC - N, 10/11/2022]

16.8.6.10 EDIBLE AND TOPICAL CANNABIS MANUFACTURER REQUIREMENTS:

A. Adoption of 21 CFR 117. Except as otherwise provided, Subpart F and the sections, specified in paragraphs 1-7 of this subsection, of Subparts A and B of the United States code of federal regulations, title 21, part 117 are hereby adopted and incorporated in their entirety:

- (1)** 117.3 Definitions;
- (2)** 117.20 Plant and grounds;
- (3)** 117.35 Sanitary operations;
- (4)** 117.37 Sanitary facilities and controls;
- (5)** 117.40 Equipment and utensils;
- (6)** 117.80 Processes and controls; and

(7) 117.110

Defect action levels and Subpart F.
B. Modifications.

Except as otherwise provided, the following modifications are made to the incorporated subparts of 21 CFR 117:

(1) 117.301: All records required by this part are subject to all requirements of this subpart;

(2) 117.315(c): Offsite storage of records is permitted if such records can be retrieved and provided onsite within 24 hours of request for official review. Electronic records are considered to be onsite if they are accessible from an onsite location; and

(3) 117.320: All records required by this part must be made promptly available to the division for official review and copying upon oral or written request.

C. Omissions. Except as otherwise provided, the following omissions are made to the incorporated subparts of 21 CFR 117:

- (1)** 117.310;
- (2)** 117.315(d);
- (3)** 117.325;
- (4)** 117.335;

and
(5) The following terms are omitted from section 117.3 Definitions:

- (a)** Allergen;
- (b)** Food;
- (c)** Food-contact surfaces;
- (d)** Lot;
- (e)** Manufacturing/processing; and
- (f)** Packing.

D. Adoption of food code parts 4-5, 4-6 and 4-7. Except as otherwise provided, parts 4-5, 4-6, and 4-7 of the 2017 United States food and drug administration model food code is hereby adopted and incorporated in its entirety.

E. Modifications. Except as otherwise provided, the

following modifications are made to the incorporated subparts of the 2017 United States food and drug administration model food code, 4-603.12 Precleaning:

(1) Food or cannabis product debris on equipment and utensils shall be scraped over a waste disposal unit or garbage receptacle or shall be removed in a warewashing machine with a prewash cycle.

(2) If necessary, for effective cleaning, utensils and equipment shall be pre-flushed, presoaked, or scrubbed with abrasives. Ethyl alcohol (ethanol) or isopropyl alcohol (isopropanol) are acceptable for pre-flushing or presoaking.

F. Omissions. Except as otherwise provided, the following omissions are made to the incorporated subparts of the 2017 United States food and drug administration model food code:

- (1) 4-502.12;
- (2) 4-502.13(B);
- (3) 4-502.14;
- (4) 4-602.11(A)(1);
- (5) 4-602.11(B);
- (6) 4-602.11(D)(3); and
- (7) 4-602.11(E)(2)-(3).

G. Cannabis Product Ingredient Source.

(1) Ingredients shall be received from sources as specified in 7.6.2 NMAC.

(2) Cannabis products, ingredients, and edible or topical cannabis finished products intended for human consumption shall be transported under conditions that will protect against allergen cross-contact and against biological, chemical (including radiological), and physical contamination of the cannabis products, ingredients, and cannabis finished products, as well as against deterioration of the cannabis products, ingredients, and cannabis finished products and the container in accordance with the New Mexico

Food Service Sanitation Act and the New Mexico Food Act.

H. The current 21 CFR 111 and United States Federal Food, Drug, and Cosmetic Act, Title 21, Chapter 9 and 7.6.2 NMAC are hereby adopted as a technical reference and interpretation guide. [16.8.6.10 NMAC – N, 10/11/2022]

16.8.6.11 WATER SUPPLY AND SEWAGE:

A. Drinking water shall be obtained from an approved source that is:

- (1) a public water system; or
- (2) a non-public water system that is constructed, maintained, and operated according to law.

B. A drinking water system shall be flushed and disinfected before being placed in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system.

C. Except as specified under Subsection D of this section:

- (1) Water from a public water system shall meet the construction and drinking water quality standards specified in 20.7.10 NMAC; and
- (2) Water from a non-public water system shall meet:

(a) the construction requirements and drinking water quality standards of a non-community water system as specified in 20.7.10 NMAC; and

(b) the drinking water source setback requirements as specified in 20.7.3 NMAC.

D. A non-drinking water supply shall be used only if its use is approved and shall be used only for nonculinary purposes such as air conditioning, non-cannabis equipment cooling, and fire protection.

E. Except when used as specified in Subsection D of this section, water from a non-public water system shall meet the sampling requirements of a non-community

water system as specified in 20.7.10 NMAC.

F. The most recent sample report for the non-public water system shall be retained on file in the cannabis manufacturer facility or the report shall be maintained as specified by state water quality regulations.

G. Water shall be received from the source through the use of:

- (1) an approved public water main; or
- (2) one or more of the following that shall be constructed, maintained, and operated according to law:

(a) Non-public water main, water pumps, pipes, hoses, connections, and other appurtenances;

(b) Water transport vehicles; or

(c) Water containers.

H. Sewage shall be disposed of according to LAW. Liquid waste systems shall meet the requirements of 20.7.3 NMAC. [16.8.6.11 NMAC - N, 10/11/2022]

16.8.6.12 EDIBLE AND TOPICAL CANNABIS FINISHED PRODUCT TESTING:

A. Edible and topical cannabis finished products shall meet the requirements specified in division rules related to testing prior to being transported or transferred from the licensed premises, distributed, sold or otherwise made available to consumers.

B. Edible and topical cannabis finished products that do not meet the requirements of Subsection A of this section shall:

- (1) be segregated;
- (2) reworked, remediated or reconditioned as specified in division rules related to testing; or
- (3) destroyed, wasted, and disposed of in accordance with the wastage requirements of the division.

[16.8.6.12 NMAC – N, 10/11/2022]

16.8.6.13 EDIBLE AND TOPICAL CANNABIS FINISHED PRODUCT TESTING LABORATORIES: Testing required by the division shall be conducted by a division-approved cannabis testing laboratory that has no direct ownership or financial interest in the facility for which the testing is being conducted.
[16.8.6.13 NMAC - N, 10/11/2022]

16.8.6.14 CEASING OPERATIONS AND REPORTING:
A. Except as specified in Subsections B and C of this section, a licensee shall immediately discontinue operations if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne or cannabis-borne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health, employees, or the environment.

B. A licensee need not discontinue operations in an area of a cannabis manufacturer facility that is unaffected by the imminent health hazard.

C. Considering the nature of the potential hazard involved and the complexity of the corrective action needed, the division may allow the licensee to continue operations in the event of an extended interruption of electrical or water service if:

- (1) a written emergency operating plan has been approved by the division (NMED);
- (2) immediate corrective action is taken by the licensee to eliminate, prevent, or control any food safety risk and imminent health hazard associated with the electrical or water service interruption; and
- (3) the division (NMED) is informed upon implementation of the written emergency operating plan.

D. If operations are discontinued as specified in Subsection A of this section or otherwise according to law, the licensee shall obtain approval from the division (NMED) before resuming operations.
[16.8.6.14 NMAC - N, 10/11/2022]

16.8.6.15 SEVERABILITY:
If any part or application of this rule is held to be invalid, the remainder or its application to other situations or persons shall not be affected. Any section of this rule legally severed shall not interfere with the remaining protections and duties provided by this rule.
[16.8.6.15 NMAC – N, 10/11/2022]

History of 16.8.6 NMAC:
[RESERVED]

End of Adopted Rules

Other Material Related to Administrative Law

**GOVERNOR,
OFFICE OF THE
EXECUTIVE ORDER 2022-142**

**ORDER RESCINDING
EXECUTIVE ORDERS 2020-
016,
2020-017, 2020-21, 2020-025,
2021-006 AND 2021-062**

WHEREAS, I have issued numerous Executive Orders since March of 2020 to address a multitude of issues caused by the COVID-19 pandemic;

WHEREAS, many of the issues prompting these Orders have subsided due to the widespread availability of safe and effective vaccines, testing, and treatments; and

WHEREAS, the Orders addressing these previous issues are no longer necessary.

NOW, THEREFORE, I, Michelle Lujan Grisham, Governor of the State of New Mexico, by virtue of the authority vested in me by the Constitution and laws of the State of New Mexico, hereby **RESCIND** Executive Orders 2020-016, 2020-017, 2020-021, 2020-025, 2021-006, and 2021-062. Any Executive Orders rescinded by the foregoing Orders shall remain rescinded. This Order supersedes any previous orders, proclamations, or directives in conflict. This Order shall take effect immediately.

**ATTEST:
DONE AT THE EXECUTIVE
OFFICE THIS 27TH DAY OF
SEPTEMBER 2022**

**WITNESS MY HAND AND THE
GREAT SEAL OF THE STATE
OF NEW MEXICO**

/ S /

**MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE**

/ S /

**MICHELLE LUJAN
GRISHAM
GOVERNOR**

**REGULATION
AND LICENSING
DEPARTMENT
PHARMACY, BOARD OF**

**NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The New Mexico Pharmacy Board, gives Notice of a Minor, Nonsubstantive Correction to 16.19.10 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule:

Section 11: In subsection A, there was a paragraph (1) without a paragraph (2). The entire subsection was renumbered to conform to correct legislative style.

A copy of this Notification will be filed with the official version of each of the above rules.

**End of Other Material
Related to Administrative
Law**

2022 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXXIII, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 4	January 11
Issue 2	January 13	January 25
Issue 3	January 27	February 8
Issue 4	February 10	February 22
Issue 5	February 24	March 8
Issue 6	March 10	March 22
Issue 7	March 24	April 5
Issue 8	April 7	April 19
Issue 9	April 21	May 3
Issue 10	May 5	May 24
Issue 11	May 26	June 7
Issue 12	June 9	June 21
Issue 13	July 1	July 12
Issue 14	July 14	July 26
Issue 15	July 28	August 9
Issue 16	August 11	August 23
Issue 17	August 25	September 13
Issue 18	September 15	September 27
Issue 19	September 29	October 11
Issue 20	October 13	October 25
Issue 21	October 27	November 8
Issue 22	November 17	November 29
Issue 23	December 1	December 13
Issue 24	December 15	December 27

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rulemaking, proposed rules, adopted rules, emergency rules, and other material related to administrative law. 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.

The New Mexico Register is available free online at: <http://www.srca.nm.gov/new-mexico-register/>. For further information, call 505-476-7941.

2023 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXXIV, Issues 1-24

Issue	Submittal Deadline	Publication Date
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Issue 5	March 2	March 14
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Issue 7	March 30	April 11
Issue 8	April 13	April 25
Issue 9	May 4	May 16
Issue 10	May 18	May 31
Issue 11	June 1	June 13
Issue 12	June 15	June 27
Issue 13	July 7	July 18
Issue 14	July 20	July 31
Issue 15	August 3	August 15
Issue 16	August 17	August 29
Issue 17	August 31	September 12
Issue 18	September 14	September 26
Issue 19	September 28	October 10
Issue 20	October 12	October 24
Issue 21	October 26	November 7
Issue 22	November 9	November 21
Issue 23	November 22	December 5
Issue 24	December 7	December 19

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