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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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## **The New Mexico Register**

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# New Mexico Register

Volume XXXV, Issue 2

January 30, 2024

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**Notices of Rulemaking and Proposed Rules**

**GAME AND FISH DEPARTMENT**

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

The New Mexico State Game Commission (“Commission”) will be hosting a meeting and rule hearing on Friday March 8, 2024, beginning at 9:00 a.m. at the New Mexico Game and Fish Department, Northwest Area Office, 7816 Alamo Rd. NW, Albuquerque, NM 87120. The purpose of this meeting is to hear and consider action as appropriate on the presentation of proposed changes to the Hunting and Fishing Licenses and Application Rule 19.31.3.

**Synopsis**

The proposal is to amend the Hunting and Fishing Licenses Application Rule 19.31.3 NMAC which will become effective April 1, 2024.

**PROPOSED CHANGES TO THE HUNTING AND FISHING LICENCES APPLICATION RULE**

The New Mexico Legislature passed an amendment to 32A-3A-12 during the 2023 Legislative Session. The new law creates a free fishing license for foster parents and children in the custody of foster parents, young adults enrolled in the fostering connections program and children who are in the custody of the children, youth and families department or in tribal custody. The new law further establishes that eligibility shall be contingent on demonstration of proof of identity, residency and status as a foster parent, child in the custody of a foster parent, young adult enrolled in the fostering connections program or child in the custody of the children, youth and families department or in tribal custody in accordance with rules of the state game commission. The Commission is therefore required by the law to amend 19.31.3 NMAC in order to

establish the documentation required to demonstrate eligibility for the new free license.

A full text of changes for all rules will be available on the Department’s website at: [www.wildlife.state.nm.us](http://www.wildlife.state.nm.us).

Interested persons may submit comments on the proposed changes for the Hunting and Fishing Licenses and Application Rule to: [special.hunts@dgf.nm.gov](mailto:special.hunts@dgf.nm.gov).

Individuals may also submit written comments to the physical address below. Comments are due by 1:00 p.m. on March 7, 2024. The final proposed rules will be voted on by the Commission during a public meeting on March 8, 2024. Interested persons may also provide data, views or arguments, orally or in writing, at the public rule hearings to be held on March 8, 2024.

Full copies of text of the proposed new rules, technical information related to proposed rule changes, and the agenda can be obtained from the Office of the Director, New Mexico Department of Game and Fish, 1 Wildlife Way, Santa Fe, New Mexico 87507, or from the Department’s website at [www.wildlife.state.nm.us/commission/proposals-under-consideration/](http://www.wildlife.state.nm.us/commission/proposals-under-consideration/). This agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director’s Office at (505) 476-8000, or the Department’s website at [www.wildlife.state.nm.us](http://www.wildlife.state.nm.us) for updated information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Department at (505) 476-8000 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please

contact the Department at 505-476-8000 if a summary or other type of accessible format is needed.

Legal authority for this rulemaking can be found in the General Powers and Duties of the State Game Commission 17-1-14, et seq. NMSA 1978; Commission’s Power to establish rules and regulations 17-1-26, et seq. NMSA 1978.

**GAME AND FISH DEPARTMENT**

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

The New Mexico State Game Commission (“Commission”) will be hosting a rule hearing on Friday, March 8, 2024 beginning at 9:00 a.m. at the New Mexico Department of Game and Fish Northwest Area Office, 7816 Alamo Rd. NW, Albuquerque, NM 87120. For instructions on how to attend this meeting, either in-person or virtually, visit the Department’s website at <https://www.wildlife.state.nm.us/commission/webcast/>. The purpose of this meeting is to hear and consider action as appropriate on proposed changes for the Hunter Education Rule.

**Synopsis for the Hunter Education Rule**

The proposal is to update the Hunter Education Rule, 19.36.3 NMAC, which will include changes to the existing rule and will become effective April 1, 2024 through March 31, 2028.

**PROPOSED CHANGES TO THE HUNTER EDUCATION RULE**

The proposed changes to the Hunter Education Rule will restrict the acceptance of out-of-state Hunter Education certifications to ages 9 and above, due to some states

having no minimum age restrictions on their online Hunter Education certifications. The proposed changes will be added to the existing Hunter Education Rule and will become effective April 1, 2024 through March 31, 2028.

A full text version of changes in available on the Department's website at: [www.wildlife.state.nm.us](http://www.wildlife.state.nm.us).

Interested persons may submit comments on the proposed changes to the Hunter Education Rule at: [DGF-HunterEducation-Rule@state.nm.us](mailto:DGF-HunterEducation-Rule@state.nm.us); or individuals may submit written comments to the physical address below. Comments are due by 5:00 p.m. on March 6, 2024. The final proposed rules will be voted on by the Commission during a rule hearing on March 8, 2024. Interested persons may also provide data, views or arguments, orally or in writing.

Full copies of the text of the proposed new rule, technical information related to the proposed rule changes, and the agenda can be obtained from the Office of the Director, New Mexico Department of Game and Fish, 1 Wildlife Way, Santa Fe, New Mexico, 87507, or from the Department's website at <https://www.wildlife.state.nm.us/commission/proposals-under-consideration/>. This agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director's Office at (505) 476-8000, or the Department's website at [www.wildlife.state.nm.us](http://www.wildlife.state.nm.us) for updated information.

If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Department at (505) 476-8000 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Department at (505) 476-8000 if a summary or other type of accessible format is needed.

Legal authority for this rulemaking can be found in the General Powers and Duties of the State Game Commission 17-1-14, et seq. NMSA 1978; Commission's Power to establish rules and regulations 17-1-26, et seq. NMSA 1978.

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## GAME AND FISH DEPARTMENT

### CANCELLATION NOTICE OF PUBLIC HEARING

**Public Notice.** The State Game Commission gives notice that the public rule hearing scheduled January 12, 2024, has been cancelled. This rule hearing will be rescheduled and noticed at a later date.

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## End of Notices of Rulemaking and Proposed Rules

## 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.

**ENERGY, MINERALS  
AND NATURAL  
RESOURCES  
DEPARTMENT  
FORESTRY DIVISION AND  
TAXATION AND REVENUE  
DEPARTMENT**

**This is an amendment to 3.13.20 NMAC, amending Sections 7 through 15, effective 1/30/2024.**

**Explanatory statement: Statute citations throughout the rule were corrected to conform to correct legislative styles.**

**3.13.20.7 DEFINITIONS:**

**A. “Applicant”**  
means a taxpayer who on or after January 1, 2004, donates or partially donates (or for purposes of 3.13.20.8 NMAC plans to donate or partially donate) through a bargain sale for a conservation or preservation purpose, a perpetual less-than-fee interest in land that appears to qualify as a charitable contribution under 26 U.S.C. section 170(h) and its implementing regulations or a fee interest in land, which is subject to a perpetual conservation easement, to a public or private conservation agency. If more than one taxpayer owns an interest in the land or interest in land that is the donated or partially donated, they shall be considered one applicant, but the application shall include the names and addresses of all taxpayers that own an interest in the donated land or interest in land.

**B. “Appraisal bureau”** means the taxation and revenue department, property tax division, appraisal bureau.

**C. “Bargain sale”**  
means a sale where the taxpayer is paid less than the fair market value of the land or interest in land.

**D. “Building envelope”** means a designated area within a conservation easement [that is] identified in the deed of conservation easement that contains existing structures and activities or will contain future structures and activities [that are] for the grantor’s continued use of the property but that are prohibited elsewhere within the conservation easement.

**E. “Committee”**  
means the committee established pursuant to the Natural Lands Protection Act, Sections 75-5-1 *et seq.* NMSA 1978.

**F. “Conservation or preservation purpose”** means open space, natural area preservation, land conservation or preservation, natural resource or biodiversity conservation including habitat conservation, forest land preservation, agricultural preservation, watershed preservation or historic or cultural property preservation, or similar uses or purposes such as protection of land for outdoor recreation purposes. The resources or areas contained in the donation must be significant or important.

**G. “Cultural property”** means a structure, place, site or object having historic, archaeological, scientific, architectural or other cultural significance.

**H. “Development approach”** means a method of appraising undeveloped land having a highest and best use for subdivision into lots. This approach consists of estimating a final sale price for the total number of lots into which the property could best be divided and then deducting all development costs, including the developer’s anticipated profit. The remaining sum, the residual, represents the raw land’s market value.

**I. “Governmental body”** means the state of New Mexico or any of its political subdivisions.

**J. “Interest in land”** means a right in real property, including access, improvement, water right, fee simple interest, easement, land use easement, mineral right, remainder interest or other interest in or right in real property that complies with the requirements of 26 U.S.C. section 170(h)(2) and its implementing regulations, or any pertinent successor of 26 U.S.C. section 170(h)(2).

**K. “Land”** [~~means real property, including rights of way, easements, privileges, water rights and all other rights or interests connected with real property~~] is defined in Subsection B of Section 75-9-3 NMSA 1978.

**L. “Less-than-fee interest”** means an interest in land that is less than the entire property or all [of] the rights in the property or a non-possessory interest in land that imposes a limitation or affirmative obligation such as a conservation, land use or preservation restriction or easement.

**M. “National register of historic places”** means the register [that] the United States secretary of the interior maintains of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology, engineering or culture.

**N. “Pass-through entity”** means a business association other than a sole proprietorship; an estate or trust; a corporation, limited liability company, partnership or other entity not a sole proprietorship taxed as a corporation for federal income tax purposes for the taxable year; or a partnership [that is] organized as an investment partnership in which



the partners' income is derived solely from interest, dividends and sales of securities.

**O. "Public or private conservation agency"** ~~[means a governmental body or a private non-profit charitable corporation or trust authorized to do business in New Mexico organized and operated for natural resources, land or historic conservation purposes and has tax-exempt status as a public charity under 26 U.S.C. section 501(c)(3) and meets the requirements of 26 U.S.C. section 170(h)(3) and its implementing regulations, and has the power to acquire, hold or maintain land or interests in land] is defined in Subsection C of Section 75-9-3 NMSA 1978.~~

**P. "Qualified appraisal"** means a qualified appraisal as defined in 26 C.F.R. section ~~[1.170A-13(e)(3)]~~ 1.170A-17(a) or subsequent amendments and does not use the development approach as the sole means of determining fair market value. The appraisal for a conservation easement or restriction shall state whether the donation increases the value of other property the donor or a related person owns. In accordance with 26 C.F.R. section 1.170A-14(h)(3)(i), if the donation increases the value of other property the donor or a related person owns the appraisal shall reflect the value of enhancement, whether or not the other property is contiguous with the donated property. The conservation contribution shall be reduced by the amount of the increase in value to the other property.

**Q. "Qualified appraiser"** means a qualified appraiser as defined in 26 C.F.R. section ~~[1.170A-13(e)(5)]~~ 1.170A-17(b) or subsequent amendments and who is a certified general real estate appraiser.

**R. "Qualified intermediary"** means any person who has not been previously convicted of a felony, who has not had a professional license revoked, who is not engaged in the practice of public accountancy as defined in

Section 61-28B-3 NMSA 1978 or who is not identified in the Section 61-29-2 NMSA 1978, which governs real estate brokers and salespersons, or who is not an entity owned wholly or in part by or employing a person who has been previously convicted of a felony, who has had a professional license revoked, who is engaged in the practice of public accountancy as defined in Section 61-28B-3 NMSA 1978 or who is identified in Section 61-29-2 NMSA 1978.

**S. "Taxpayer"** ~~[means a United States citizen or resident, a United States domestic partnership, a limited liability company, a United States domestic corporation, an estate, including a foreign estate, or a trust] is defined in Paragraph (2) of Subsection K of Section 7-2-18.10 NMSA 1978 and Paragraph (2) of Subsection K of Section 7-2A-8.9 NMSA 1978.~~ A non-profit may be a taxpayer if organized as a United States domestic partnership, a limited liability company, a United States domestic corporation or a trust. A governmental body or other governmental entity is not a taxpayer.

**T. "Tax filer"** means a New Mexico taxpayer who files a New Mexico income tax return claiming a tax credit pursuant to the Land Conservation Incentives Act together with valid numbered documentation from the taxation and revenue department or valid sub-numbered documentation from a qualified intermediary.

**U. "Secretary"** means the secretary of energy, minerals and natural resources department or ~~[his or her]~~ the secretary's designee. [3.13.20.7 NMAC - Rp, 3.13.20.7 NMAC, 6/16/2008; A, 12/30/2010; A, 2/12/2016; A, 1/30/2024]

### 3.13.20.8 GENERAL PROVISIONS:

**A.** Only an applicant may apply for a land conservation incentives tax credit.

**B.** A taxpayer shall be listed as an owner on the deed conveying the land or interest in land to be eligible for the land conservation incentives tax credit (see

Subsection N of 3.13.20.8 NMAC for use of a land conservation tax credit issued to a pass-through entity).

**C.** A taxpayer is not eligible for a land conservation incentives tax credit if they are or have been a subsidiary, partner, manager, member, shareholder or beneficiary of a domestic partnership, limited liability company, domestic corporation or pass-through entity that owns or has owned the donated land or interest in land in the five years preceding the date that the applicant conveyed the land or interest in land.

**D.** Qualified donations include a conveyance, on or after January 1, 2004, in perpetuity for a conservation or preservation purpose of a less-than-fee interest in land that appears to qualify as a charitable contribution under 26 U.S.C. section 170(h) and its implementing regulations or a fee interest in land.

**E.** Dedications of land for open space for the purpose of fulfilling density requirements to obtain subdivision or building permits do not qualify for the land conservation incentives tax credit.

**F.** For a donation of a fee interest in land or less-than-fee interest in land ~~[that]~~ the applicant conveys, the total amount of the land conservation incentives tax credit for the donation for which an applicant applies shall not exceed fifty percent of the fair market value of the land or interest in land ~~[that]~~ the applicant donated in perpetuity, regardless of the value of the land or interest in land donated or the number of taxpayers ~~[that own]~~ owning an interest in the donated property. An applicant shall only apply for one land conservation incentives tax credit per taxpayer per taxable year.

**G.** For donations made prior to January 1, 2008, a taxpayer ~~[that owns]~~ owning an interest in the donated land or interest in land may receive a land conservation incentives tax credit worth the lesser of \$100,000 or the taxpayer's proportionate share, as determined by the taxpayer's ownership interest in the donated land or interest in land, of fifty percent of the donated

land's or interest in land's fair market value. For donations made on or after January 1, 2008, a taxpayer ~~[that owns]~~ owning an interest in the donated land or interest in land may receive a land conservation incentives tax credit worth the lesser of \$250,000 or the taxpayer's proportionate share, as determined by the taxpayer's ownership interest in the donated land or interest in land, of fifty percent of the donated land or interest in land's fair market value. No matter the number of taxpayers ~~[that]~~ owning the donated land or interest in land ~~[has]~~, the total land conservation incentives tax credit all taxpayers receive for the donated land or interest in land cannot exceed fifty percent of the donated land's or interest in land's fair market value. Therefore, if the applicant conveyed the donation on or after January 1, 2008, and there are 10 taxpayers ~~[that have]~~ owning an equal interest in donated land or interest in land ~~[that is]~~ worth \$2,000,000, each taxpayer's land conservation incentives tax credit would be limited to \$100,000.

**H.** For donations conveyed prior to January 1, 2008, ~~[a husband and wife]~~ married individuals who both own a recorded interest in the donated land or interest in land, as opposed to one spouse not being named on the deed but having a community property interest, may each receive a land conservation incentives tax credit worth the lesser of \$100,000 or ~~[his or her]~~ the spouse's proportionate share, as determined by ~~[his or her]~~ the spouse's ownership interest in the donated land or interest in land, of fifty percent of the donated land's or interest in land's fair market value. For donations made on or after January 1, 2008, ~~[a husband and wife]~~ married individuals who both own a recorded interest in a donated land or interest in land, as opposed to one spouse not being named on the deed but having a community property interest, may each receive a land conservation incentives tax credit worth the lesser of \$250,000 or ~~[his or her]~~ the spouse's proportionate share, as determined by ~~[his or her]~~

the spouse's ownership interest in the donated land or interest in land, of fifty percent of the donated land's or interest in land's fair market value.

**I.** The land conservation incentives tax credit originates in the year the applicant conveys the donation, which shall be determined by the date ~~[that]~~ the deed is recorded with the county clerk where the land or interest in land is located. Pursuant to Section 7-1-26 NMSA 1978, an applicant who files a tax return may amend ~~[his or her]~~ the tax return and claim the land conservation incentives tax credit for three calendar years after the applicant has paid the tax. An applicant may apply for the land conservation incentives tax credit and then amend the applicant's tax return to the year the applicant conveyed the donation as long as the applicant receives approval of the land conservation incentives tax credit and files the amendment within the three year period provided in Section 7-1-26 NMSA 1978. The applicant may carry over portions of the land conservation incentives tax credit that are unused in prior taxable years for a maximum of 20 consecutive years following the taxable year in which the applicant donated the land or interest in land until fully expended.

**J.** If the applicant donated a portion of the land or interest in land's value, but received payment for the remaining fair market value of the land or interest in land, the applicant may claim only the land conservation incentives tax credit on that portion of the value ~~[that]~~ the applicant donated.

**K.** An applicant claiming a tax credit pursuant to the Land Conservation Incentives Act shall not claim a credit pursuant to a similar law for costs related to the same donation.

**L.** A tax filer may claim the land conservation incentives tax credit against the tax liability ~~[that]~~ the Income Tax Act or the Corporate Income and Franchise Tax Act impose.

**M.** The amount of the land conservation incentives tax

credit a tax filer uses in a taxable year may not exceed the amount of the individual income or corporate income tax otherwise due.

**N.** A land conservation incentives tax credit ~~[that]~~ a pass-through tax entity claims may be used either by the pass-through tax entity if it is the tax filer on behalf of the pass-through tax entity or by the member, manager, partner, shareholder or beneficiary, as applicable, in proportion to the interest in the pass-through tax entity if the income, deductions and tax liability pass through to the member, manager, partner, shareholder or beneficiary. Either (1) the pass-through tax entity or (2) the member, manager, partner, shareholder or beneficiary, but not both (1) and (2) may claim the land conservation incentives tax credit for the same donation.

[3.13.20.8 NMAC - Rp, 3.13.20.8 NMAC, 6/16/2008; A, 1/30/2024]

### **3.13.20.9 ASSESSMENT APPLICATION:**

**A.** An applicant who plans to apply for a land conservation incentives tax credit shall apply for an assessment by the energy, minerals and natural resources department of the donation the applicant made or proposes to make for a conservation or preservation purpose of a fee interest in land or a less-than-fee interest in land. An applicant may submit the assessment application to the energy, minerals and natural resources department either prior to conveying the fee interest in land or less-than-fee interest in land or after conveying the fee interest in land or less-than-fee interest in land. The applicant does not need to submit an appraisal with the assessment application package.

**B.** An applicant may obtain an assessment application form from the energy, minerals and natural resources department.

**C.** An applicant shall submit the assessment application package, which shall include one signed, completed paper original and ~~[either eight paper copies or eight electronic copies]~~ one electronic copy,

to the energy, minerals and natural resources department. ~~If submitting electronic copies, the applicant may submit the eight copies~~ For the electronic copy the applicant shall submit a PDF of the assessment application package on a ~~compact or digital video disc or other electronic medium such as a~~ USB flash drive or by other method the energy, minerals and natural resources department approves. Any photographs submitted shall be in color.

**D.** The assessment application package shall consist of an assessment application form ~~that contains~~ containing the applicant's name, address, telephone number, e-mail address if available and signature, with the following required attachments:

(1) a donation assessment report that includes:

(a) a detailed description of the donation or proposed donation including:

(i) whether the donation or proposed donation is a fee interest in land or a less-than-fee interest in land;

(ii) if the donation or proposed donation is a fee interest in land, ~~in order~~ to ensure ~~that~~ the conservation or preservation purpose is protected in perpetuity, a description of who holds or will hold a conservation easement ~~that~~ the applicant has placed or will place on the land and assurance ~~that~~ the conservation easement will contain a provision that the conservation restrictions run with the land in perpetuity and ~~that~~ any reserved use shall be consistent with the conservation or preservation purpose and ~~that~~ separate donees will hold the fee interest and conservation easement;

(iii) the donation or proposed donation's conservation or preservation purpose and how the donation or proposed donation protects that purpose in perpetuity;

(iv) significant natural or cultural resources present on the property; and

(v) a description of any water rights associated with the property and whether the conservation easement or deed requires or will require any water rights associated with the property to remain with the property;

(b) the current property characteristics and condition with clear maps of appropriate scale to illustrate relevant details, and showing the property's location and boundaries including a survey plat if available, directions to the property, topography, relation to other properties applicant owns ~~that are~~ within a 10 mile radius of the property, and relation to adjacent land uses and ownership (*i.e.* federal, tribal, state, private, etc.) and other properties whose conservation or preservation purposes are protected in perpetuity that are adjacent to the property or within a five mile radius of the property;

(c) the size of the property in acres;

(d) a description of all structures existing on the property;

(e) if a donation or proposed donation is a less-than-fee interest, a description of any building envelopes including their size and exact location and the size of the buildings allowed within each building envelope;

(f) if a donation or proposed donation is a less-than-fee interest, a description of the reserved rights and permitted activities ~~that~~ the applicant has or plans to retain or a copy of the completed or draft conservation easement;

(g) if a conservation or preservation purpose is for the preservation of a historically important land area, documentation ~~that~~ the donation meets the requirements of 26 C.F.R. section 1.170A-14(d)(5); historically important land areas include an independently significant land area ~~that meets~~ meeting the national register criteria for evaluation in 36 C.F.R. section 60.4, a land area (including related historic resources)

within a registered historic district including a building on the land area that can reasonably be considered as contributing to the district's significance and a land area adjacent to a property listed individually in the national register of historic places where the land area's physical or environmental features contribute to the property's historic or cultural integrity;

(h) if a conservation or preservation purpose is for the preservation of a certified historic structure, which means buildings, structures or land areas, documentation ~~that~~ the structure is listed in the national register of historic places or is located in a registered historic district and is certified by the secretary of the interior to the secretary of treasury as being of historic significance to the district and ~~that~~ the donation meets the requirements of 26 C.F.R. section 1.170A-14(d)(5);

(i) if a conservation or preservation purpose is for the preservation of land areas for outdoor recreation by or for the education of the general public, a detailed description of how the conservation easement or deed will provide for the general public's substantial and regular use;

(j) if a conservation or preservation purpose is for the protection of a relatively natural area, a detailed description of the vegetative cover, wildlife use, how the property contributes to the functioning of the larger regional ecosystem and watershed and how the conservation easement will protect the soil, native plant cover and wildlife use of the property;

(k) if a conservation or preservation purpose is for the preservation of open space pursuant to a clearly delineated federal, state or local government policy, documentation of such policy and a detailed description identifying the significant public benefit;

(l) if a conservation or preservation purpose is for the preservation of

open space that is not pursuant to a clearly delineated federal, state or local government policy, a detailed description of how the conservation easement or deed will provide for the general public’s scenic enjoyment and identifying the significant public benefit;

**(m)**

if a conservation or preservation purpose is for the protection of agricultural land, a detailed description of the property’s crop or animal production potential, documentation [~~that~~] the portion of the property claimed as agricultural land is currently subject to the special method of valuation of land used primarily for agricultural purposes as described in Section 7-36-20 NMSA 1978 (i.e., classified as either irrigated agricultural land, dryland agricultural land or grazing land under Paragraph (2) of Subsection F of 3.6.5.27 NMAC as shown on the statement of value issued by the county in which the land is located) and a description of how the conservation easement or deed will provide for agricultural use and the continued use of any water rights;

**(n)**

the results of and a description of the physical inspection of the property the donee or proposed donee conducted for any indications of potentially hazardous materials or activities that have or may result in environmental contamination such as landfills, leaking petroleum storage tanks, hazardous material containers or spills, polychlorinated biphenyl containing equipment, asbestos insulation and abandoned mineral mining or milling facilities or other past activities using hazardous materials and the results of and a description of the interview the donee or proposed donee conducted with the landowner concerning the landowner’s knowledge of such potentially hazardous materials or activities;

**(2)** if

the donee or proposed donee or landowner identified the potential for potentially hazardous materials or activities in the donation assessment

report, a phase I environmental site assessment of the property and a phase II environmental site assessment if recommended by the phase I environmental assessment;

**(3)**

a copy of any formal donor or donee plan for management or stewardship of the property’s conservation or preservation values;

**(4)**

signed authorization from the applicant [~~that allows~~] allowing personnel from the energy, minerals and natural resources department or members of the committee to enter upon the land or interest in land to view the conservation or preservation values conveyed or to be conveyed by the applicant for the purposes of reviewing the assessment application, upon the personnel or committee members providing the applicant with 48 hours prior notice; and

**(5)**

a report from the public or private land conservation agency that has accepted or plans to accept the donation that provides the following:

**(a)**

the number of fee lands held for conservation or preservation purposes or conservation easements [~~that~~] the agency holds in New Mexico;

**(b)**

the number of acres of each fee land held for conservation or preservation purposes or conservation easement [~~that~~] the agency holds in New Mexico;

**(c)**

the names of board members if the agency is a private nonprofit organization or the names of elected or appointed officials if the organization is a public entity; and

**(d)**

a signed statement from the public or private conservation agency describing its commitment to protect the donation’s conservation or preservation purposes, its resources to provide stewardship of and management for fee lands or to enforce conservation easement restrictions and, if a conservation easement, its resources and policies to annually monitor the conservation easement.

**E.** The secretary

reviews the assessment applications in consultation with the committee. The secretary initiates consultation by sending the assessment application package to the committee members for review and comment or by calling a meeting of the committee. The secretary shall accept assessment application packages on a rolling basis or not fewer than three times per year spaced throughout the year, the deadlines for which shall be published in advance on the energy, minerals and natural resources department’s website. The committee shall meet not fewer than three times per year (within approximately 45 days after a set deadline for assessment application package submittals or otherwise spaced throughout the year) to consider timely and complete assessment applications unless no assessment applications are currently pending or the limited volume of the assessment application enables the secretary to consult with the committee without the need for a formal meeting. The secretary, in consultation with the committee, shall assess the donation or proposed donation, using the factors in 3.13.20.13 NMAC, to determine if the donation or proposed donation is for a conservation or preservation purpose and will protect the conservation or preservation purpose in perpetuity and [~~that~~] the resources or areas contained in the donation or proposed donation are significant or important.

**F.** If the secretary

finds [~~that~~] the donation as conveyed or proposed is for a conservation or preservation purpose and will protect the conservation or preservation purpose in perpetuity and [~~that~~] the resources or areas contained in the donation or proposed donation are significant or important, the secretary shall notify the applicant by letter [~~that~~] the applicant may file an application for certification of eligibility as provided in 3.13.20.10 NMAC. Approval of the application for certification of eligibility is contingent upon the applicant meeting the requirements in 3.13.20.10 NMAC, the completed

conservation easement or deed accurately reflecting the donation or proposed donation described in the donation assessment report and the appraisal bureau issuing a favorable recommendation of the appraisal. ~~[In order to]~~ To apply for certification of eligibility, the applicant may not change a proposed donation, donation assessment report or, if a proposed donation, the public or private conservation agency to which the applicant is making the donation after the applicant submits the assessment application. If the applicant makes such changes, the applicant shall submit a new assessment application or a letter describing the specific changes made and must receive a favorable finding from the secretary before applying for certification of eligibility.

**G.** The secretary shall reject an assessment application that is not complete or correct. If the secretary rejects the assessment application because the assessment application is incomplete or incorrect or finds ~~[that]~~ the donation or proposed donation is not for a conservation or preservation purpose, the donation or proposed donation may not or will not protect the conservation or preservation purpose in perpetuity or ~~[that]~~ the resources or areas contained in the donation or proposed donation are not significant or important, the applicant may not submit an application for certification of eligibility for the land conservation incentives tax credit. The secretary's letter shall state the specific reasons why the secretary found the assessment application incomplete or incorrect, ~~[that]~~ the donation or proposed donation is not for a conservation or preservation purpose, ~~[that]~~ the donation or proposed donation may not or will not protect the conservation or preservation purpose in perpetuity or ~~[that]~~ the resources or areas contained in the donation or proposed donation are not significant or important.

**H.** If the secretary rejects the assessment application because the assessment application is incomplete or incorrect; or

although the assessment application is complete and correct and the donation or proposed donation is for a conservation or preservation purpose the resources or areas contained in the donation or proposed donation are not significant or important; or the donation or proposed donation may not or will not protect the conservation or preservation purpose in perpetuity, the applicant may resubmit the application package with the complete or correct information ~~[that addresses]~~ addressing the requirement ~~[that]~~ the resources or areas contained in the donation or proposed donation be significant or important or ~~[that]~~ the donation or proposed donation protect the conservation or preservation purpose in perpetuity. The secretary shall place the resubmitted assessment application in the review schedule as if it were a new assessment application.

[3.13.20.9 NMAC - N, 6/16/2008; A, 12/30/2010; A, 1/30/2024]

### **3.13.20.10 APPLICATION FOR CERTIFICATION OF ELIGIBILITY:**

**A.** An applicant who submitted an assessment application to the energy, minerals and natural resources department and received a finding from the secretary ~~[that]~~ the donation or proposed donation is for a conservation or preservation purpose and will protect that conservation or preservation purpose in perpetuity and ~~[that]~~ the resources or areas contained in the donation or proposed donation are significant or important may apply for certification of eligibility for a land conservation incentives tax credit. An applicant may not apply for certification of eligibility for a land conservation incentives tax credit without first submitting an assessment application pursuant to 3.13.20.9 NMAC and receiving a favorable finding from the secretary. The applicant shall certify in writing ~~[that]~~ the applicant has not changed the donation or proposed donation, donation assessment report or the public or private conservation agency to which the applicant conveyed

or planned to convey the donation since the applicant submitted the assessment application; or, if the applicant has made changes, the applicant shall describe the changes and provide a redline copy showing the changes or provide a letter describing the specific changes made. If the applicant has not made changes or the changes consist solely of increasing the acreage of the donation or decreasing the size of or removing a building envelope, the secretary shall review the application for certification of eligibility. If the applicant has made changes other than increasing the acreage of the donation or decreasing the size of or removing a building envelope the applicant shall submit a new assessment pursuant to 3.13.20.9 NMAC application or a letter describing the specific changes made and receive a favorable finding from the secretary before applying for certification of eligibility.

**B.** The applicant may obtain a land conservation incentives tax credit certification of eligibility application form from the energy, minerals and natural resources department.

**C.** An applicant shall submit the certification of eligibility application package, which shall include one signed, completed paper original and ~~[two paper copies]~~ one paper copy and one electronic copy of the application package, to the energy, minerals and natural resources department. For the electronic copy the applicant shall submit a PDF of the certification application package on a USB flash drive or by other method the energy, minerals and natural resources department approves. Any photographs shall be provided in color. The applicant shall certify ~~[that]~~ the information and documents included in the application for certification of eligibility are true and correct.

**D.** The completed application for certification of eligibility shall contain the applicant's name, address, telephone number, e-mail address if available, signature, federal employer identification number or social security number,

and, if available, the New Mexico ~~combined reporting system (CRS)~~ business tax identification number (BTIN) as well as the certifications, information and attachments required by Subsections E through I of 3.13.20.10 NMAC, as applicable. If more than one taxpayer owns the donated land or interest in land, the application shall include each taxpayer's federal employer identification number or social security number and, if available, New Mexico ~~CRS identification number~~ BTIN. The applicant shall indicate on the application whether the applicant is a United States citizen or resident, a United States domestic partnership, a limited liability company, a United States domestic corporation, an estate or a trust. If more than one taxpayer owns the donated land or interest in land, the application shall include each taxpayer's status.

**E.** The application shall state whether the applicant made the donation as part of a bargain sale. If the applicant made the donation as part of a bargain sale, the application shall include the amount the applicant received from the sale of the land or interest in land.

**F.** The applicant shall certify on the certification of eligibility application ~~[that]~~ none of the taxpayers listed on the certification of eligibility application is or was a subsidiary, partner, manager, member, shareholder or beneficiary of a domestic partnership, limited liability company, domestic corporation or pass-through entity that owns or has owned the land or interest in land in the five years preceding the date ~~[that]~~ the applicant conveyed the land or interest in land. If an individual and a domestic partnership, limited liability company, domestic corporation or pass-through entity are listed as owners on the deed conveying the land or interest in land, the applicant shall certify on the certification of eligibility application ~~[that]~~ the individual is not a partner, manager, member, shareholder or beneficiary of the domestic partnership, limited liability company,

domestic corporation or pass-through entity. If more than one domestic partnership, limited liability company, domestic corporation or pass-through entity are listed as an owner on the deed conveying the land or interest in land, the applicant shall certify on the certification of eligibility application ~~[that]~~ none of the named entities is a subsidiary, partner, manager, member, shareholder or beneficiary of any of the other entities listed on the deed.

**G.** The certification of eligibility application package shall consist of a land conservation incentives tax credit application form, with the following required attachments as well as any attachments required in Subsection H of 3.13.20.10 NMAC for fee donations or Subsection I of 3.13.20.10 NMAC for less-than-fee donations:

(1) a copy of the letter from the secretary stating ~~[that]~~ after reviewing the applicant's assessment application ~~[that]~~ the donation or proposed donation is for a conservation or preservation purpose and will protect the conservation or preservation purpose in perpetuity and ~~[that]~~ the resources or areas contained in the donation or proposed donation are significant or important;

(2) written certification signed by the applicant ~~[that]~~ since the applicant submitted the assessment application and received approval of the assessment application or pursuant to Subsection F of 3.13.20.9 NMAC changes to the assessment application the applicant has not changed the

(a) donation or proposed donation or donation assessment report, or if the applicant has made changes, the changes consist solely of increasing the acreage of the donation or decreasing the size of or removing a building envelope, or

(b) ~~[the]~~ public or private conservation agency to which the applicant conveyed or planned to convey the donation ~~[since the applicant submitted the assessment application];~~

(3) a copy of the conservation easement or deed recorded with the county clerk of the county or counties where the land is located, which reflects the ownership interest of each individual or entity conveying the land or interest in land;

(4) a qualified appraisal of the land or interest in land donated ~~[that]~~ a qualified appraiser prepared showing the fair market value of the land or interest in land with a statement from the appraiser ~~[that]~~ who prepared the appraisal certifying ~~[that]~~ the appraisal is a qualified appraisal and ~~[that]~~ the appraiser is a qualified appraiser; the appraisal shall not be made more than 60 days prior to the date of the donation; the appraisal shall be a fully documented appraisal report commensurate with the complexity of the assignment;

(5) if the donation is to a private conservation agency, a copy of that agency's 501(c)(3) certification from the United States internal revenue service;

(6) a signed statement from the applicant certifying ~~[that]~~ the applicant did not donate the land or interest in land for open space for the purpose of fulfilling density requirements to obtain subdivision or building permits;

(7) if the applicant owns other properties within a 10 mile radius of the donated land or interest in land, a legal description of those properties;

(8) signed authorization from the applicant ~~[that authorizes]~~ authorizing personnel from the appraisal bureau to contact the appraiser that prepared the appraisal for the donation;

(9) a title opinion certifying ~~[that]~~ the applicant owned the donated land or interest in land as of the date of the donation or a title insurance policy for the land or interest in land showing ~~[that]~~ the applicant owned the donated land or interest in land as of the date of the donation;

(10) if the applicant owns the mineral interest

under the land or the interest in land, a title opinion certifying such ownership, other documentation establishing such ownership or a report from a professional geologist ~~[that]~~ finding the probability of surface mining occurring on such property is so remote as to be negligible, and a provision in the conservation easement or deed ~~[that prohibits]~~ prohibiting any extraction or removal of minerals by any surface mining method; methods of mining that have limited, localized negative effects on the land and ~~[that]~~ are not irretrievably destructive of significant conservation interests may be allowed if the secretary finds ~~[that]~~ the methods will have limited, localized negative effects and are not irretrievably destructive of significant conservation interests; and

(11) if the ownership of the surface estate and mineral interest has been separate and remains separate, a report, satisfactory to the secretary, from a professional geologist ~~[that]~~ finding the probability of surface mining occurring on such property is so remote as to be negligible; the secretary may have a geologist ~~[that]~~ the state employs review the report; if the secretary finds the report unsatisfactory the secretary's letter denying certification of eligibility shall state the reasons ~~[that]~~ the report is unsatisfactory.

H. If the applicant donated the land in fee, the applicant shall also include the following attachments with the application package:

(1) a statement from the public or private conservation agency to which the applicant donated the land ~~[that]~~ the applicant donated the land for conservation or preservation purposes and the public or private conservation agency will hold the land for such purposes;

(2) a copy of United States internal revenue service form 8283 for the donation signed by the public or private conservation agency and the appraiser who prepared the appraisal for the donation; and

(3) to ensure the land will be used in perpetuity for the purposes of the donation, documentation in the form of a conservation easement ~~[that complies]~~ complying with 26 U.S.C. section 170(h) and its implementing regulations placed on the land ~~[that contains]~~ containing a provision ~~[in the conservation easement that]~~ the conservation restrictions run with the land in perpetuity and ~~[that]~~ any reserved use shall be consistent with the conservation or preservation purpose (separate donees must hold the fee and conservation easement).

I. If the applicant donated a less-than-fee interest in land, the applicant shall also include the following attachments with the application package:

(1) a copy of United States internal revenue service form 8283 for ~~[that]~~ the donation signed by the public or private conservation agency and the appraiser who prepared the appraisal for the donation;

(2) a provision in the conservation easement ~~[that identifies]~~ identifying the donation's conservation or preservation purpose or purposes;

(3) a provision in the conservation easement ~~[that provides that]~~ providing the conveyance of the less-than-fee interest does not and will not adversely affect contiguous landowners' existing property rights;

(4) if a conservation or preservation purpose is for the conservation or preservation of land areas for outdoor recreation by or for the education of the general public, a provision in the conservation easement ~~[that provides]~~ providing for the general public's substantial and regular use;

(5) if a conservation or preservation purpose is for the protection of a relatively natural habitat, a provision in the conservation easement ~~[that describes]~~ describing the habitat;

(6) if a conservation or preservation purpose is for the preservation of open space

pursuant to a clearly delineated federal, state or local government policy, a provision in the conservation easement identifying such policy and identifying the significant public benefit;

(7) if a conservation or preservation purpose is for the preservation of open space that is not pursuant to a clearly delineated federal, state or local government policy, a provision in the conservation easement stating how the easement or restriction provides for the general public's scenic enjoyment and ~~[identifies]~~ identifying the significant public benefit;

(8) if a conservation or preservation purpose is for the property's continued use for irrigated agriculture, a provision ~~[that provides that]~~ providing sufficient water rights will remain with the property;

(9) a provision in the conservation easement ~~[that]~~ the conservation restrictions run with the land in perpetuity;

(10) a provision in the conservation easement ~~[that]~~ any reserved use shall be consistent with the conservation or preservation purpose;

(11) a provision in the conservation easement ~~[that prohibits]~~ prohibiting the donee from subsequently transferring the interest in land unless the transfer is to another public or private conservation agency and the donee, as a condition of the transfer, ~~[requires that]~~ requiring the conservation or preservation purposes for which the donation was originally intended continue to be carried out;

(12) a provision in the conservation easement ~~[that provides that]~~ providing the donation of the less-than-fee interest is a property right, immediately vested in the donee, and ~~[provides that]~~ providing the less-than-fee interest has a fair market value ~~[that is]~~ at least equal to the proportionate value ~~[that]~~ the conservation restriction at the time of the donation bears to the property as a whole at that time; the provision shall further provide

[that] if subsequent unexpected changes in the conditions surrounding the property make impossible or impractical the property's continued use for conservation or preservation purposes and judicial proceedings extinguish the easement or restrictions then the donee is entitled to a portion of the proceeds from the property's subsequent sale, exchange or involuntary conversion at least equal to the perpetual conservation restriction's proportionate value;

(13) if the applicant reserves rights [that] if exercised may impair the conservation interests associated with the property, documentation sufficient to establish the property's condition at the time of the donation and a provision in the conservation easement whereby the applicant agrees to notify the public or private conservation agency receiving the donation before exercising any reserved right that may adversely impact the conservation or preservation purposes; and

(14) if the interest in land is subject to a mortgage, a subordination agreement, recorded with the county clerk of the county or counties where the land that is located, from the mortgage holder [that the mortgage holder subordinates] subordinating the mortgage holder's rights in the interest in land to the right of the public or private conservation agency to enforce the conservation or preservation purposes of the donation in perpetuity.

[3.13.20.10 NMAC - Rp, 3.13.20.9 NMAC, 6/16/2008; A, 12/30/2010; A, 2/12/2016; A, 1/30/2024]

**3.13.20.11 CERTIFICATION OF ELIGIBILITY APPLICATION REVIEW PROCESS AND CERTIFICATION OF ELIGIBLE DONATION:**

**A.** Authority to review. The secretary reviews certification of eligibility applications.

**B.** Appraisal review. Upon receiving the certification of eligibility application, the secretary requests that the taxation and revenue department review the appraisal and

forwards the appraisal to the appraisal bureau for review. The appraisal bureau shall review the appraisal and advise the secretary whether the appraisal meets the requirements of 3.13.20 NMAC including whether the appraisal complies with the uniform standards of professional appraisal practice and whether the appraiser used proper methodology and reached a reasonable conclusion concerning value.

(1) If the appraisal bureau determines that the appraisal meets the requirements of 3.13.20 NMAC including whether the appraisal complies with the uniform standards of professional appraisal practice and [that] the appraiser used proper methodology and reached a reasonable conclusion concerning value the appraisal bureau shall issue a final review of the appraisal to the energy, minerals and natural resources department.

(2) If the appraisal bureau determines [that that] the appraisal does not meet the requirements of 3.13.20 NMAC, the uniform standards of professional appraisal practice or [that] the appraiser did not use proper methodology or reach a reasonable conclusion concerning value the appraisal bureau shall send a preliminary review of the appraisal to the energy, minerals and natural resources department identifying the reasons for the appraisal bureau's determination.

(3) The appraisal bureau's review does not preclude further audit by the taxation and revenue department or the United States internal revenue service.

**C.** Rejection of certification of eligibility applications. The secretary shall reject a certification of eligibility application if:

(1) the certification of eligibility application is incomplete or incorrect;

(2) since the applicant submitted and received approval of the assessment application or pursuant to Subsection F of 3.13.20.9 NMAC changes to the

assessment application, the applicant changed the

(a) donation or proposed donation or donation assessment report, and the changes consist of more than increasing the acreage of the donation or decreasing the size of or removing a building envelope, or

(b) [the] public or private conservation agency to which the applicant conveyed or planned to convey the donation [~~since the applicant submitted the assessment application~~];

(3) the donation does not meet the requirements of 3.13.20.8 NMAC or 3.13.20.10 NMAC;

(4) the completed conservation easement or deed does not accurately reflect the donation the applicant described in the applicant's assessment application; or

(5) the appraisal bureau provides a final unfavorable recommendation of the appraisal.

**D.** Notice of cause to reject. If the secretary determines that there is cause to reject the certification of eligibility application, the secretary shall issue notice to the applicant pursuant to 3.13.20.12 NMAC.

**E.** Resubmittal of rejected certification of eligibility applications.

(1) If the secretary rejects the certification of eligibility application because the certification of eligibility application was incomplete or incorrect; does not meet the requirements of 3.13.20.8 NMAC or 3.13.20.10 NMAC; the filed conservation easement or deed does not accurately reflect the donation the applicant described in the applicant's assessment application; or the appraisal bureau provides a final unfavorable recommendation of the appraisal, the applicant may resubmit the application package for the rejected certification of eligibility application with the complete or correct information or additional information [that addresses] addressing the



requirements the donation does not meet. The secretary shall place the resubmitted certification of eligibility application in the review schedule as if it were a new certification of eligibility application.

(2) The applicant shall submit a new assessment application pursuant to 3.13.20.8 NMAC, if the secretary rejects the certification of eligibility application because the applicant changed the

(a) donation or proposed donation[;] or donation assessment report, and the changes consist of more than increasing the acreage of the donation or decreasing the size of or removing a building envelope, or

(b) the public or private conservation agency to which the applicant conveyed or planned to convey the donation since the applicant submitted the assessment application [~~the applicant shall submit a new assessment application pursuant to 3.13.20.8 NMAC~~].

F. Approval of certification of eligibility applications.

(1) The secretary approves the certification of eligibility application if the secretary finds:

(a) the donation of land or interest in land meets the requirements of 3.13.20.8 NMAC or 3.13.20.10 NMAC;

(b) the secretary issued a favorable finding on the applicant's assessment application and the applicant has not changed the donation or proposed donation, donation assessment report or the public or private conservation agency to which the applicant conveyed or planned to convey the donation since the applicant submitted the assessment application;

(c) the completed conservation easement or deed accurately reflects the donation the applicant described in the applicant's assessment application; the donation does not adversely affect contiguous landowners' property rights; and

(d) the appraisal meets the requirements of 3.13.20 NMAC including compliance with the uniform standards of professional appraisal practice and [that] the appraiser used proper methodology and reached a reasonable conclusion concerning value.

(2) The secretary's approval is given by the issuance of a letter to the applicant. This letter shall certify [that] the donation of land or interest in land includes the conveyance in perpetuity, on or after January 1, 2004, for a conservation or preservation purpose of a fee interest in land or a less-than-fee interest in land that meets the requirements of the Land Conservation Incentives Act; Sections 7-2-18.10 or 7-2A-8.9 NMSA 1978; and 3.13.20 NMAC, and include a calculation of the maximum amount of the land conservation incentives tax credit for which each taxpayer is eligible.

[3.13.20.11 NMAC - Rp, 3.13.20.10 NMAC, 6/16/2008; A, 12/30/2010; A, 1/30/2024]

**3.13.20.12 NOTICE TO APPLICANT OF PROPOSED REJECTION OF CERTIFICATION OF ELIGIBILITY APPLICATION; APPLICANT RESPONSE; FINAL ACTION:**

A. If after review of a certification of eligibility application, the secretary determines [that] there is cause to reject the certification of eligibility application, the secretary shall issue a letter advising the applicant [that] the secretary is proposing to reject the certification of eligibility application and stating the specific reasons for the proposed rejection. If the proposed rejection involves an unfavorable preliminary review of the appraisal from the appraisal bureau, the energy, minerals and natural resources department shall include a copy of the unfavorable preliminary review of the appraisal with the secretary's letter.

B. The applicant shall have 45 days after the issuance of

the letter to respond in writing to the reasons for the proposed rejection and submit a revised appraisal, information or other documentation [~~that demonstrates~~] demonstrating the application meets the requirements.

C. If the secretary's proposed rejection involves an unfavorable preliminary review of the appraisal from the appraisal bureau and the applicant responds to the preliminary review of the appraisal within 45 days of the issuance of the letter, the energy, minerals and natural resources department shall forward the applicant's response to the appraisal bureau for review of the response and issuance of the appraisal bureau's final review of the appraisal. If the applicant does not respond to the preliminary review of the appraisal within 45 days of the issuance of the letter, the energy, minerals and natural resources department shall notify the appraisal bureau [that] the energy, minerals and natural resources department did not receive a response to the preliminary review of the appraisal from the applicant. After reviewing the applicant's response, if any, the appraisal bureau shall issue a final review of the appraisal and advise the secretary whether the appraisal meets the requirements of 3.13.20 NMAC including whether the appraisal complies with the uniform standards of professional appraisal practice and whether the appraiser used proper methodology and reached a reasonable conclusion concerning value.

D. After reviewing the applicant's response, if any, and the appraisal bureau's final review of the appraisal the secretary shall determine whether the information or documents the applicant has supplied satisfactorily address and resolve the specific reasons for the proposed rejection and issue a letter either rejecting the certification of eligibility application or approving the certification of eligibility application. If the secretary determines [that] the applicant's response does not satisfactorily resolve the reasons for the rejection or if the appraisal bureau

has issued a final unfavorable recommendation of the appraisal, the secretary shall issue a letter denying the certification of eligibility application. The secretary’s letter shall state the specific reasons why the secretary rejected the certification of eligibility application.

[3.13.20.12 NMAC - N, 6/16/2008; A, 12/30/2010; A, 2/12/2016; A, 1/30/2024]

**3.13.20.13 FACTORS IN DETERMINING SUITABILITY FOR CERTIFICATION OF ELIGIBILITY:**

- A.** The donation shall meet the following three criteria for the secretary to consider the donation for certification eligibility:
- (1) the land or interest in land fits one or more of the descriptions of purposes in Subsection D of 3.13.20.7 NMAC;
  - (2) the recipient is a public or private conservation agency with the ability and commitment to monitor and ensure the grantor’s compliance with the conservation easement or provide stewardship of the fee land, as applicable; and
  - (3) the donation provides for the protection in perpetuity of the conservation or preservation purposes for which the applicant donated the land or interest in land through a conservation easement.

**B.** In determining an application’s suitability for certification of eligibility, the secretary considers several factors including the following:

- (1) property size;
- (2) property condition or potential;
- (3) presence of significant natural or cultural resources;
- (4) property’s location relative to other lands protected for conservation or preservation purposes;
- (5) current and future management and use;
- (6) contribution to local, regional or state conservation or preservation objectives;
- (7) terms of the conservation easement or deed;
- (8) qualifications and stewardship capacity of the public or private conservation agency [~~that holds~~] holding the fee or conservation easement; and
- (9) other factors affecting the property’s long-term protection and viability.

**C.** The secretary also considers the criteria listed in the following table in determining whether the resources or areas contained in the donation are significant or important: These criteria relate to the property’s overall condition and viability as well as the compatibility of future management and uses and surrounding land uses for maintenance of conservation values.

Ranking	Site Condition	Development	Uses	Surroundings	Stewardship or Monitoring
Favorable	Site is of uniformly good condition and sufficient size to maintain the conservation or preservation purposes, assuming other favorable factors such as good potential for restoration if needed	Additional development of the property is specifically prohibited or additional development that is allowed is consistent with the conservation or preservation purposes	Allowed uses of the property are consistent with the conservation or preservation purposes	Surrounding land uses are entirely compatible with site conservation or preservation purposes, or site serves as a connection between other conservation lands or provides significant or important open space	If a fee donation, the recipient has sufficient resources as well as a formal plan to provide stewardship for the conservation or preservation purposes. If a less-than-fee donation the recipient has sufficient resources to monitor and ensure the grantor's compliance with the conservation's easement's terms.

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Marginal	Site is of minimum size and condition to maintain the conservation or preservation purposes, assuming other favorable factors	Additional development allowed that may impair the conservation or preservation purposes	Allowed uses of the property may be incompatible for long-term maintenance of the conservation or preservation purposes	Surrounding lands uses are not consistent with site conservation or preservation purposes, and site does not serve as a connection between other conservation lands or provide significant or important open space, but surrounding land uses do not seriously compromise site integrity	If a fee donation, the recipient has no formal plan and marginal capacity to provide stewardship of the conservation or preservation purposes. If a less-than-fee donation, the recipient has marginal resources to monitor and ensure the grantor's compliance with the conservation's easement's terms.
Unfavorable	Maintenance of conservation or preservation values is severely compromised by the site's size, configuration, location or condition	Additional development allowed that is inconsistent with the conservation or preservation purposes	Allowed uses are clearly incompatible with the long-term maintenance of the conservation or preservation purposes	Surrounding land uses are clearly incompatible with site conservation or preservation and threaten site integrity and the site does not serve as a connection between other conservation lands or provide significant or important open space	If a fee donation, the recipient has no plan or resources to provide stewardship of the conservation or preservation purposes. If a less-than-fee donation, the recipient has no or limited resources to monitor and ensure the grantor's compliance with the conservation's easement's terms.

**D.** The secretary evaluates each application in the context of the property’s unique geographic setting and characteristics, but the secretary will not apply rigid standards relating to tract size or other factors. Instead, the secretary evaluates the donation’s overall contribution to the indicated conservation or preservation purpose as well as the probability the purposes will be supported in perpetuity.  
[3.13.20.13 NMAC - N, 6/16/2008; A, 1/30/2024]

**3.13.20.14 FILING REQUIREMENTS:**

**A.** After obtaining a certificate of eligibility from the energy, minerals and natural resources department, the applicant shall apply for the land conservation incentives tax credit with the taxation and revenue department on a form the taxation and revenue department develops. The applicant shall attach the certificate of eligibility received from the secretary.

**B.** If the applicant complies with all the requirements in Section 7-2-18.10 or Section

[7-2-8.9] 7-2A-8.9 NMSA 1978 and has received the certificate of eligibility from the secretary, the taxation and revenue department shall issue a document granting the land conservation incentives tax credit, which is numbered for identification and includes its date of issuance and the amount of the land conservation incentives tax credit allowed.

**C.** A tax filer shall use a claim form the taxation and revenue department develops to apply the land conservation incentives tax credit to the tax filer’s income taxes. A tax filer shall submit the claim

form with [its] the tax filer's income tax return.

**D.** A tax filer who has both a carryover credit and a new credit derived from a qualified donation in the taxable year for which the tax filer is filing the return shall first apply the amount of carryover credit against the income tax liability. A tax filer may apply one or more tax credits against the liability in a given year; provided however, [that] the tax credits applied shall not exceed the liability for that year. If the amount of liability exceeds the carryover credit, then the tax filer may apply the current year credit against the liability.

**E.** If an applicant claims a charitable deduction on the applicant's federal income tax for a contribution for which the applicant also claims a tax credit pursuant to the Land Conservation Incentives Act, the applicant's itemized deduction for New Mexico income tax shall be reduced by the deduction amount for the contribution to determine the applicant's New Mexico taxable income.

[3.13.20.14 NMAC - Rp, 3.13.20.11 NMAC, 6/16/2008; A, 12/30/2010; A, 1/30/2024]

**3.13.20.15 TRANSFER OF THE LAND CONSERVATION INCENTIVES TAX CREDIT:**

**A.** An applicant may sell, exchange or otherwise transfer an approved land conservation incentives tax credit, represented by the document [that] the taxation and revenue department issues, for a conveyance made on or after January 1, 2008. A land conservation incentives tax credit or increment of a land conservation incentives tax credit may only be transferred once. An applicant may transfer the applicant's land conservation incentives tax credit to any tax filer.

**B.** A tax filer to whom an applicant has transferred a land conservation incentives tax credit may use the land conservation incentives tax credit in the year [that] the transfer occurred and carry forward unused amounts to succeeding taxable years,

but may not use the land conservation incentives tax credit for more than 20 years after the taxation and revenue department originally issued the land conservation incentives tax credit. [In order to] To use the land conservation incentives tax credit for that taxable year, the transfer of the land conservation incentives tax credit must occur on or before December 31 of that taxable year, if the individual or entity who will use the land conservation incentives tax credit has a taxable year of January 1 to December 31, or on or before the end of the taxable year if the individual or entity has a taxable year that is not January 1 to December 31.

**C.** An applicant may only transfer a land conservation incentives tax credit in increments of \$10,000 or more.

**D.** An applicant shall use a qualified intermediary to transfer a land conservation incentives tax credit. The qualified intermediary shall notify the taxation and revenue department of the transfer and the date of the transfer on a taxation and revenue department-developed form within 10 days following the transfer. The qualified intermediary shall keep an account of the land conservation incentives tax credit transferred.

**E.** A qualified intermediary may issue sub-numbers registered with and obtained from the taxation and revenue department.

**F.** If an individual who owns an interest in the donated property dies prior to selling, exchanging or otherwise transferring the land conservation incentives tax credit, the donor's estate may sell, exchange or otherwise transfer the land conservation incentives tax credit.

[3.13.20.15 NMAC - N, 6/16/2008; A, 12/30/2010; A, 1/30/2024]

**HEALTH, DEPARTMENT OF**

**This is an amendment to 7.30.13 NMAC, Sections 7, 9, 24 & 29 effective, 1/30//2024.**

**7.30.13.7 DEFINITIONS:**

~~**A.** "Administrator" means the person who is delegated the administrative responsibility for interpreting, implementing, and applying policies and procedures at the crisis triage center. The administrator is responsible for establishing and maintaining safe and effective management, control and operation of the CTC and all of the services provided at the CTC including fiscal management. The administrator must meet the minimum administrator qualifications in these regulations:~~

~~**B.** "Advanced practice registered nurse" means a registered nurse that includes a certified nurse practitioner, or a clinical nurse specialist as defined and licensed under the Nursing Practice Act, as amended, and related regulations, and is currently in good standing:~~

~~**C.** "Applicant" means the individual or legal entity that applies for a CTC license to provide services in a particular facility. If the applicant is a legal entity, the individual signing the license application on behalf of the legal entity must have written legal authority from the legal entity to act on its behalf and execute the application. The license applicant must be the legal owner of the entity providing services, but not necessarily the facility:~~

~~**D.** "Basic life support" (BLS) means training and current certification in adult cardiopulmonary resuscitation equivalent to American heart association class C basic life support and in emergency treatment of a victim of cardiac or respiratory arrest through cardiopulmonary resuscitation and emergency cardiac care:~~

~~**E.** "Caregivers criminal history screen" means pursuant to the criminal history screening for Caregivers Act, Section 29-17-1 through Section 29-17-5 NMSA 1978, the process for health facilities and medicaid home and community-based waiver providers~~

to complete a caregiver criminal history screening for all caregivers no later than 20 calendar days after the employment hire date. The screening or background check includes the submission of fingerprints required for obtaining state and federal criminal history used to conduct the fitness determination. The caregiver's criminal history screening program receives and processes background check

applications for criminal history screenings from care providers in the state of New Mexico. Caregivers may be prohibited from employment if the caregiver has a disqualifying condition.

——— **F.** ——— **“Chemical restraint”** means a drug or medication when it is used as a restriction to manage a client's behavior or restrict a client's freedom of movement and is not a standard treatment or dosage for a client's condition. If a drug or medication is used as a standard treatment to address the assessed current symptoms and needs of a client with a particular medical or psychiatric condition, its use is not considered a chemical restraint.

——— **G.** ——— **“CLIA”** means clinical laboratory improvement amendments of 1988 as amended.

——— **H.** ——— **“Client”** means any person who receives care at a crisis triage center.

——— **I.** ——— **“Compliance”** means the CTC's adherence to these regulations, as well as all other applicable state and federal statutes and regulations. Compliance violations may result in sanctions, civil monetary penalties and revocation or suspension of the CTC license.

——— **J.** ——— **“Crisis stabilization services”** means behavioral health services that are provided to help the client return his baseline level of functioning before the crisis.

——— **K.** ——— **“CYFD”** means the New Mexico children youth and families department.

——— **L.** ——— **“CYFD criminal**

**records and background checks”** means pursuant to the Criminal Offender Employment Act, Section 28-2-1 to Section 28-2-6 NMSA 1978, the New Mexico Children's and Juvenile Facility Criminal Records Screening Act, Section 32A-15-1 to Section 32A-15-4 NMSA 1978, amended, and Section 8.8.3 NMAC, the process of conducting a nationwide criminal history records check, background check and employment history verification on all operators, staff and employees and prospective operators, staff and employees of treatment facilities and programs with the objective of protecting children/youth and promoting the children's/youth's safety and welfare while receiving service from the facilities and programs. The process shall include submission of electronic fingerprints for those individuals to the department of public safety and the federal bureau of investigation for the purpose of conducting a criminal history and background check; identification of information in applicants' background bearing on whether they are eligible to provide services; a screening of CYFD's information databases in New Mexico and in each state where the applicant resided during the preceding five years; and any other reasonably reliable information about an applicant in order to identify those persons who pose a continuing threat of abuse or neglect to care recipients in settings to which these regulations apply.

——— **M.** ——— **“Deficiency”** means a violation of or failure to comply with any provision(s) of these regulations.

——— **N.** ——— **“Department”** means the New Mexico department of health.

——— **O.** ——— **“Employee”** means any person who works at the CTC and is a direct hire of the owner entity or management company, if applicable.

——— **P.** ——— **“Facility”** means the physical premises, building(s) and equipment where the crisis triage center services are provided, whether owned or leased and which is licensed pursuant to these regulations.

——— **Q.** ——— **“High risk behavior”** means behaviors that place clients, staff or visitors' physical and mental health and safety at risk.

——— **R.** ——— **“HSD”** means the NM human services department.

——— **S.** ——— **“Incident”** means any known, alleged or suspected event of abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

——— **T.** ——— **“Incident management system”** means the written policies and procedures adopted or developed by the CTC for reporting abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

——— **U.** ——— **“Incident report form”** means the reporting format issued by the department for the reporting of incidents or complaints.

——— **V.** ——— **“Level III-7-D: Medically Monitored Inpatient Detoxification”** means the types of detoxification services described by American Society of Addiction Medicine (ASAM) in its *Patient Placement Criteria, Second Edition, Revised* (PPC-2R) Level III & D includes 24-hour medically supervised detoxification services requiring 24-hour nursing care and physician visits as necessary, unlikely to complete detox, without medical, nursing monitoring and more intensive detoxification services.

——— **W.** ——— **“Licensee”** means the person(s) or legal entity that operates the CTC and in whose name the CTC license has been issued and who is legally responsible for compliance with these regulations.

——— **X.** ——— **“Licensing authority”** means the New Mexico department of health.

——— **Y.** ——— **“Licensed mental health professional”** means a psychologist, social worker, physician, psychiatrist, physician assistant, registered nurse, practical nurse, advanced practice registered nurse, each shall have behavioral health training and shall be licensed in the state of New Mexico.

——— **Z.** ——— **“Management company”** means the legal entity that manages the CTC program, if

different from the legal owner of the facility.

——— **AA.** ——"NFA" means the national fire protection association which sets codes and standards for fire and life safety. NFA 101 and related standards, current edition as required by the department.

——— **BB.** ——"NMSA" means the New Mexico Statutes Annotated 1978 compilation and all subsequent amendments, revisions and compilations.

——— **CC.** ——"Outpatient services" means immediate crisis stabilization services provided to clients who are not admitted to the residential setting. Outpatient crisis stabilization services are not ongoing behavioral health treatment services.

——— **DD.** ——"Physical restraint" means the use of physical force, consistent with State and Federal laws and regulations, without the use of any device or material that restricts the free movement of all or a portion of a body, but does not include: briefly holding a client in order to calm or comfort the client; holding a client's hand or arm to escort the client safely from one area to another; or intervening in a physical fight.

——— **EE.** ——"Physician" means a licensed individual, currently in good standing, authorized to practice medicine as defined and licensed under the New Mexico Medical Practice Act, Section 61-6-1 to Section 61-6-34 NMSA 1978, as amended, and related regulations or osteopathic medicine as defined and licensed under Section 61-10-1 to Section 61-10-22 NMSA 1978, as amended, and related regulations.

——— **FF.** ——"Physician's assistant" means an individual, currently in good standing, who is licensed and authorized to provide services to patients under the supervision and direction of a licensed physician under the Physician Assistant Act, Section 61-6-7 to Section 61-6-10 NMSA 1978, as amended and related regulations, or is authorized and licensed to provide services to patients under the supervision and direction of a

licensed osteopathic physician under the Osteopathic Physicians' Assistants Act, Section 61-10A-1 to Section 61-10-7 NMSA 1978 as amended, and related regulations.

——— **GG.** ——"Plan of correction" (POC) means the plan submitted by the licensee or its representative(s) addressing how and when deficiencies identified through a survey or investigation will be corrected. A plan of correction is a public record once it has been approved by the regulatory authority and is admissible for all purposes in any adjudicatory hearing and all subsequent appeals relating to a CTC license, including to prove licensee compliance violations or failures.

——— **HH.** ——"Policy" means a written statement that guides and determines present and future CTC decisions and actions.

——— **H.** ——"Premises" means all of the CTC including buildings, grounds and equipment.

——— **JJ.** ——"Primary source verification" means the act of obtaining credentials directly from the original or primary source(s).

——— **KK.** ——"Procedure" means the action(s) that must be taken in order to implement a written policy.

——— **LL.** ——"Quality assurance" means the CTC's ongoing comprehensive self-assessment of compliance with these regulations and other applicable statutes and regulations.

——— **MM.** ——"Quality committee" means a committee comprised of a minimum of the administrator, clinical director, director of nursing, licensed mental health professional, and psychiatrist. Other committee members may be specified by rules governing payor requirements. The committee shall establish and implement quality assurance and quality improvement systems that monitor and promote quality care to clients.

——— **NN.** ——"Quality improvement system" means systematic and continuous actions that lead to measurable improvement in

services and focus on reduction and stabilization of crises for clients.

——— **OO.** ——"Registered nurse" means an individual, currently in good standing, who is licensed and authorized to provide nursing services under the Nursing Practice Act, Section 61-3-1 to Section 61-3-30 NMSA 1978, as amended, and related regulations.

——— **PP.** ——"Residential services" means any crisis stabilization services provided to a client admitted to the residential setting.

——— **QQ.** ——"Restraint clinician" means a New Mexico licensed medical doctor, doctor of osteopathy, advanced practice registered nurse, clinical nurse specialist, physician assistant or doctoral level psychologist (Psy.D., Ph.D., or E.D.), who is trained in the use of emergency safety interventions.

——— **RR.** ——"Sanitize clothes" means the use of water at a temperature of 212 degrees or use of a disinfectant agent to wash clothes.

——— **SS.** ——"Scope of practice" means the procedures, actions, and processes that a healthcare practitioner is permitted to undertake under the terms of their professional license. The scope of practice is limited to that which the applicable law allows for specific education, training, experience and demonstrated competency.

——— **TT.** ——"Seclusion" means the involuntary confinement of a client alone in a room where the client is physically prevented from leaving.

——— **UU.** ——"Short-term residential stay" means the limit of a client's stay is eight days for the residential setting.

——— **VV.** ——"Staff" means any person who works at the CTC, and includes employees, contracted persons, independent contractors and volunteers who perform work or provide goods and services at the CTC.

——— **WW.** ——"U/L approved" means approved for safety by the national underwriter's laboratory.

——— **XX.** ——"Violation" means all actions or procedures by the CTC

or licensee that are not in compliance with these regulations and all other applicable state and federal statutes and regulations.

**YY.** **“Variance”** means a written decision, made at the licensing authority’s sole discretion, to allow a CTC to deviate from a portion(s) or a provision(s) of these regulations for a period that expires upon remodel of the CTC or change of ownership, providing the variance does not jeopardize the health, safety or welfare of the CTC’s clients, visitors and staff and is not in violation of other applicable state and federal statutes and regulations. A variance can be renewed upon approval of the licensing authority. A variance may be revoked at the discretion of the licensing authority due to changes in state or federal regulations and statutes, or change of circumstances that may jeopardize the health, safety or welfare of clients.

**ZZ.** **“Waiver”** means a written decision, made at the licensing authority’s sole discretion, to allow a CTC to deviate from a portion(s) or a provision(s) of these regulations for a limited and specified time period not to exceed the duration of the license, providing the waiver does not jeopardize the health, safety or welfare of the CTC’s clients, visitors and staff and is not in violation of other applicable state and federal statutes and regulations. A waiver can be renewed on an annual basis upon approval of the licensing authority. A waiver may be revoked at the discretion of the licensing authority due to changes in state or federal regulations, or change of circumstances that may jeopardize the health, safety or welfare of clients.

**AAA.** **“Withdrawal management”** means the immediate psychological stabilization, diagnosis and treatment of a client who is intoxicated, incapacitated, or experiencing withdrawal of alcohol or drugs.

**BBB.** **“Youth”** means residents 14 years of age and older up to age 18.

**CCC.** **“Youth Staff”** means a person who has contact

with youth in a licensed facility and includes the owner, operator or director of a program, volunteers, full-time, part-time, and contract employees.]

**A. Definitions beginning with “A”:**

**(1)**  
**“Administrator”** means the person who is delegated the administrative responsibility for interpreting, implementing, and applying policies and procedures at the crisis triage center. The administrator is responsible for establishing and maintaining safe and effective management, control and operation of the CTC and all of the services provided at the CTC including fiscal management. The administrator must meet the minimum administrator qualifications in these regulations.

**(2)**  
**“Advanced practice registered nurse”** means a registered nurse that includes a certified nurse practitioner, or a clinical nurse specialist as defined and licensed under the Nursing Practice Act, as amended, and related regulations, and is currently in good standing.

**(3)**  
**“Applicant”** means the individual or legal entity that applies for a CTC license to provide services in a particular facility. If the applicant is a legal entity, the individual signing the license application on behalf of the legal entity must have written legal authority from the legal entity to act on its behalf and execute the application. The license applicant must be the legal owner of the entity providing services, but not necessarily the facility.

**B. Definitions beginning with “B”:** **“Basic life support” (BLS)** means training and current certification in adult cardiopulmonary resuscitation equivalent to American heart association class C basic life support and in emergency treatment of a victim of cardiac or respiratory arrest through cardiopulmonary resuscitation and emergency cardiac care.

**C. Definitions beginning with “C”:**

**(1)**  
**“Caregivers criminal history screen”** means pursuant to the criminal history screening for Caregivers Act, Section 29-17-1 through Section 29-17-5 NMSA 1978, the process for health facilities and medicaid home and community-based waiver providers to complete a caregiver criminal history screening for all caregivers no later than 20 calendar days after the employment hire date. The screening or background check includes the submission of fingerprints required for obtaining state and federal criminal history used to conduct the fitness determination. The caregiver’s criminal history screening program receives and processes background check applications for criminal history screenings from care providers in the state of New Mexico. Caregivers may be prohibited from employment if the caregiver has a disqualifying condition.

**(2)**  
**“Chemical restraint”** means a drug or medication when it is used as a restriction to manage a client’s behavior or restrict a client’s freedom of movement and is not a standard treatment or dosage for a client’s condition. If a drug or medication is used as a standard treatment to address the assessed current symptoms and needs of a client with a particular medical or psychiatric condition, its use is not considered a chemical restraint.

**(3)**  
**“CLIA”** means clinical laboratory improvement amendments of 1988 as amended.

**(4)** **“Client”** means any person who receives care at a crisis triage center.

**(5)**  
**“Compliance”** means the CTC’s adherence to these regulations, as well as all other applicable state and federal statutes and regulations. Compliance violations may result in sanctions, civil monetary penalties and revocation or suspension of the CTC license.

(6) “Crisis stabilization services” means behavioral health services that are provided to help the client return his baseline level of functioning before the crisis.

(7) “Crisis triage center” means a health facility that:

(a) is licensed by the department of health; and

(b) provides stabilization of behavioral health crises and may include residential and nonresidential stabilization.

(8) “CYFD” means the New Mexico children youth and families department.

(9) “CYFD criminal records and background checks” means pursuant to the Criminal Offender Employment Act, Section 28-2-1 to Section 28-2-6 NMSA 1978, the New Mexico Children’s and Juvenile Facility Criminal Records Screening Act, Section 32A-15-1 to Section 32A-15-4 NMSA 1978, amended, and 8.8.3 NMAC, the process of conducting a nationwide criminal history records check, background check and employment history verification on all operators, staff and employees and prospective operators, staff and employees of treatment facilities and programs with the objective of protecting children/ youth and promoting the children’s/ youth’s safety and welfare while receiving service from the facilities and programs. The process shall include submission of electronic fingerprints for those individuals to the department of public safety and the federal bureau of investigation for the purpose of conducting a criminal history and background check; identification of information in applicants’ background bearing on whether they are eligible to provide services; a screening of CYFD’s information databases in New Mexico and in each state where the applicant resided during the preceding five years; and any other reasonably reliable information about

an applicant in order to identify those persons who pose a continuing threat of abuse or neglect to care recipients in settings to which these regulations apply.

D. Definitions beginning with “D”:

(1) “Deficiency” means a violation of or failure to comply with any provision(s) of these regulations.

(2) “Department” means the New Mexico department of health.

E. Definitions beginning with “E”: “Employee” means any person who works at the CTC and is a direct hire of the owner entity or management company, if applicable.

F. Definitions beginning with “F”: “Facility” means the physical premises, building(s) and equipment where the crisis triage center services are provided, whether owned or leased and which is licensed pursuant to these regulations.

G. Definitions beginning with “G”: **[RESERVED]**

H. Definitions beginning with “H”: (1) “High risk behavior” means behaviors that place clients, staff or visitors’ physical and mental health and safety at risk.

(2) “HSD” means the New Mexico human services department.

I. Definitions beginning with “I”: (1) “Incident” means any known, alleged or suspected event of abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

(2) “Incident management system” means the written policies and procedures adopted or developed by the CTC for reporting abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

(3) “Incident report form” means the reporting format issued by the department for the reporting of incidents or complaints.

J. Definitions beginning with “J”: **[RESERVED]**

K. Definitions beginning with “K”: **[RESERVED]**

L. Definitions beginning with “L”:

(1) “Level III.7-D: Medically monitored inpatient detoxification” means the types of detoxification services described by American Society of Addiction Medicine (ASAM) in its *Patient Placement Criteria, Second Edition, Revised* (PPC-2R) Level III &-D includes 24-hour medically supervised detoxification services requiring 24-hour nursing care and physician visits as necessary, unlikely to complete detox, without medical, nursing monitoring and more intensive detoxification services.

(2) “Licensee” means the person(s) or legal entity that operates the CTC and in whose name the CTC license has been issued and who is legally responsible for compliance with these regulations.

(3) “Licensing authority” means the New Mexico department of health.

(4) “Licensed mental health professional” means a psychologist, social worker, physician, psychiatrist, physician assistant, registered nurse, practical nurse, advanced practice registered nurse, each shall have behavioral health training and shall be licensed in the state of New Mexico.

M. Definitions beginning with “M”: “Management company” means the legal entity that manages the CTC program, if different from the legal owner of the facility.

N. Definitions beginning with “N”:

(1) “NFPA” means the national fire protection association which sets codes and standards for fire and life safety. NFPA 101 and related standards, current edition as required by the department.

(2) “NMSA” means the New Mexico Statutes Annotated 1978 compilation and all



subsequent amendments, revisions and compilations.

**O. Definitions**

**beginning with “O”:**

(1) **“Onsite medical professional”** means in this regulation a registered nurse, emergency medical service provider, emergency medical technician, licensed practical nurse, medical assistant, mental health technician, and certified nurse assistant.

(2) **“Outpatient services”** means immediate crisis stabilization services provided to clients who are not admitted to the residential setting. Outpatient crisis stabilization services are not ongoing behavioral health treatment services.

**P. Definitions**

**beginning with “P”:**

(1) **“Physical restraint”** means the use of physical force, consistent with state and federal laws and regulations, without the use of any device or material that restricts the free movement of all or a portion of a body, but does not include: briefly holding a client in order to calm or comfort the client; holding a client’s hand or arm to escort the client safely from one area to another; or intervening in a physical fight.

(2) **“Physician”** means a licensed individual, currently in good standing, authorized to practice medicine as defined and licensed under the New Mexico Medical Practice Act, Section 61-6-1 to Section 61-6-34 NMSA 1978, as amended, and related regulations or osteopathic medicine as defined and licensed under Section 61-10-1 to Section 61-10-22 NMSA 1978, as amended, and related regulations.

(3) **“Physician’s assistant”** means an individual, currently in good standing, who is licensed and authorized to provide services to patients under the supervision and direction of a licensed physician under the Physician Assistant Act, Section 61-6-7 to Section 61-6-10 NMSA 1978, as amended and related regulations, or is authorized and licensed to

provide services to patients under the supervision and direction of a licensed osteopathic physician under the Osteopathic Physicians’ Assistants Act, Section 61-10A-1 to Section 61-10-7 NMSA 1978 as amended, and related regulations.

(4) **“Plan of correction”** (POC) means the plan submitted by the licensee or its representative(s) addressing how and when deficiencies identified through a survey or investigation will be corrected. A plan of correction is a public record once it has been approved by the regulatory authority and is admissible for all purposes in any adjudicatory hearing and all subsequent appeals relating to a CTC license, including to prove licensee compliance violations or failures.

(5) **“Policy”** means a written statement that guides and determines present and future CTC decisions and actions.

(6) **“Premises”** means all of the CTC including buildings, grounds and equipment.

(7) **“Primary source verification”** means the act of obtaining credentials directly from the original or primary source(s).

(8) **“Procedure”** means the action(s) that must be taken in order to implement a written policy.

**O. Definitions**

**beginning with “O”:**

(1) **“Quality assurance”** means the CTC’s ongoing comprehensive self-assessment of compliance with these regulations and other applicable statutes and regulations.

(2) **“Quality committee”** means a committee comprised at a minimum of the administrator, clinical director, director of nursing, licensed mental health professional, and psychiatrist. Other committee members may be specified by rules governing payor requirements. The committee shall establish and implement quality assurance and quality improvement systems that monitor and promote quality care to clients.

(3) **“Quality improvement system”** means systematic and continuous actions that lead to measurable improvement in services and focus on reduction and stabilization of crises for clients.

**R. Definitions**

**beginning with “R”:**

(1) **“Registered nurse”** means an individual, currently in good standing, who is licensed and authorized to provide nursing services under the Nursing Practice Act, Section 61-3-1 to Section 61-3-30 NMSA 1978, as amended, and related regulations.

(2) **“Residential services”** means any crisis stabilization services provided to a client admitted to the residential setting.

(3) **“Restraint clinician”** means a New Mexico licensed medical doctor, doctor of osteopathy, advanced practice registered nurse, clinical nurse specialist, physician assistant or doctoral level psychologist (Psy.D., Ph.D., or E.D.), who is trained in the use of emergency safety interventions.

**S. Definitions**

**beginning with “S”:**

(1) **“Sanitize clothes”** means the use of water at a temperature of 212 degrees or use of a disinfectant agent to wash clothes.

(2) **“Scope of practice”** means the procedures, actions, and processes that a healthcare practitioner is permitted to undertake under the terms of their professional license. The scope of practice is limited to that which the applicable law allows for specific education, training, experience and demonstrated competency.

(3) **“Seclusion”** means the involuntary confinement of a client alone in a room where the client is physically prevented from leaving.

(4) **“Short-term residential stay”** means the limit of a client’s stay is eight days for the residential setting.

(5) **“Staff”** means any person who works at the CTC, and includes employees,

contracted persons, independent contractors and volunteers who perform work or provide goods and services at the CTC.

**T. Definitions**  
**beginning with “T”:** [RESERVED]

**U. Definitions**  
**beginning with “U”:** “U/L approved” means approved for safety by the national underwriter’s laboratory.

**V. Definitions**  
**beginning with “V”:**

(1)  
“Variance” means a written decision, made at the licensing authority’s sole discretion, to allow a CTC to deviate from a portion(s) or a provision(s) of these regulations for a period that expires upon remodel of the CTC or change of ownership, providing the variance does not jeopardize the health, safety or welfare of the CTC’s clients, visitors and staff and is not in violation of other applicable state and federal statutes and regulations. A variance can be renewed upon approval of the licensing authority. A variance may be revoked at the discretion of the licensing authority due to changes in state or federal regulations and statutes, or change of circumstances that may jeopardize the health, safety or welfare of clients.

(2)  
“Violation” means all actions or procedures by the CTC or licensee that are not in compliance with these regulations and all other applicable state and federal statutes and regulations.

**W. Definitions**  
**beginning with “W”:**

(1) “Waiver” means a written decision, made at the licensing authority’s sole discretion, to allow a CTC to deviate from a portion(s) or a provision(s) of these regulations for a limited and specified time period not to exceed the duration of the license, providing the waiver does not jeopardize the health, safety or welfare of the CTC’s clients, visitors and staff and is not in violation of other applicable state and federal statutes and regulations. A waiver can be renewed on an annual basis upon approval of the licensing

authority. A waiver may be revoked at the discretion of the licensing authority due to changes in state or federal regulations, or change of circumstances that may jeopardize the health, safety or welfare of clients.

(2)  
“Withdrawal management” means the immediate psychological stabilization, diagnosis and treatment of a client who is intoxicated, incapacitated, or experiencing withdrawal of alcohol or drugs.

**X. Definitions**  
**beginning with “X”:** [RESERVED]

**Y. Definitions**  
**beginning with “Y”:**  
(1) “Youth” means residents 14 years of age and older up to age 18.

(2) “Youth staff” means a person who has contact with youth in a licensed facility and includes the owner, operator or director of a program, volunteers, full-time, part-time, and contract employees.

**Z. Definitions**  
**beginning with “Z”:** [RESERVED]  
[7.30.13.7 NMAC - N, 10/30/2018; A/E, 8/3/2023; A, 1/30//2024]

**7.30.13.9 SCOPE OF SERVICES:**

**A. General scope of services:** These regulations apply to crisis triage centers (CTC) which are health facilities offering youth and adult outpatient and residential care services. A CTC provides stabilization of behavioral health crises as outpatient stabilization or short-term residential stabilization in a residential rather than institutional setting, which may provide an alternative to hospitalization or incarceration. The CTC services may vary in array of services offered to meet the specific needs of different communities in New Mexico. A CTC may provide limited detoxification services but is differentiated from a detoxification center in that it does treat individuals who require treatment beyond Level III.7-D: Medically Monitored Inpatient Detoxification. The CTC provides emergency behavioral health triage

and evaluation [~~and on a voluntary basis~~]. The CTC may serve individuals 14 years of age or older who meet admission criteria. The CTC shall offer services to manage individuals at high risk of suicide or intentional self-harm. The CTC shall not refuse service to any individual who meets criteria for services.

**B. Type of services:**  
(1) a CTC structured for less than 24-hour stays providing only outpatient withdrawal management or other stabilization services;

(2) a CTC providing outpatient and residential crisis stabilization services; and  
(3) a CTC providing residential crisis stabilization services.

**C. Limitations on scope of services:**  
(1) the CTC may accept voluntary admissions, individuals who are voluntarily seeking treatment, involuntary admissions and individuals who are not voluntarily seeking treatment [~~shall not accept involuntary commitments or individuals who are not voluntarily seeking treatment~~];

(2) the CTC shall not provide detoxification services beyond Level III.7-D: Medically Monitored Inpatient Detoxification services;

(3) the CTC shall not provide medical care not related to crisis triage intervention services beyond basic medical care of first aid and CPR;

(4) the CTC shall not provide residential services in excess of 14 calendar days, unless an involuntary admission is accepted and the CTC shall comply with all hearing and treatment provisions of Section 43-1-1 et al. NMSA;

(5) the CTC shall not provide ongoing outpatient behavioral health treatment;

(6) the CTC shall not exceed the capacity for which the CTC is licensed;

(7) a CTC with both adult and youth occupants must locate youth rooms and

restrooms in a unit or wing that is physically separated from the adult facilities;

**(8) A CTC**

shall not administer emergency psychotropic medications as described in Subsection M of Section 43-1-15 NMSA 1978 if admitting only voluntary admissions. Any use of emergency psychotropic medications for involuntary admissions shall only be done in accordance with Subsection M of Section 43-1-15 NMSA 1978.

**D. License required:**

**(1) a CTC**

shall not be operated without a license issued by the department;

**(2) any facility**

providing the services described in these regulations on the effective date of these regulations, shall apply for a CTC license within 180 days;

**(3) a CTC**

licensed under these regulations shall not assert, represent, offer, provide or imply that the CTC is or may render care or services other than the services it is permitted to render under these regulations and within the scope of all applicable professional license(s);

**(4) if an**

unlicensed CTC is found to be providing services for which a license is required under these regulations, the secretary may issue a cease-and-desist order, to protect human health or safety or welfare. The unlicensed facility may request a hearing that shall be held in the manner provided under these regulations and all other applicable regulations.

[7.30.13.9 NMAC - N, 10/30/2018; A/E, 8/3/2023; A, 1/30/2024]

**7.30.13.24 RISK ASSESSMENT:**

**A.** The CTC shall develop policies and procedures addressing risk assessment and mitigation including, but not limited to: assessments, crisis intervention plans, treatment, approaches to supporting, engaging, and problem solving, staffing, levels of observation and documentation. The policies and procedures must prohibit seclusion and address physical restraint, if used,

and the CTC's response to clients that present with imminent risk to self or others, assaultive and other high-risk behaviors.

**B.** Use of seclusion is prohibited unless the facility is joint commission accredited, and unless the facility has obtained a prior waiver from the department authorizing the facility to use seclusion. The use of physical restraint or seclusion must be consistent with federal and state laws and regulation (e.g., Section 32A-6A-10 NMSA 1978, concerning physical restraint and seclusion of minors.)

**C.** Physical restraint, as defined in these regulations, shall be used only as an emergency safety intervention of last resort to ensure the physical safety of the client and others, and shall be used only after less intrusive or restrictive interventions have been determined to be ineffective.

**D.** Physical restraint shall not be used as punishment or for the convenience of staff.

**E.** Physical restraint is implemented only by staff who have been trained and certified by a CYFD or HSD recognized program in the prevention and use of physical restraint. This training emphasizes de-escalation techniques and alternatives to physical contact with clients as a means of managing behavior and allows only the use of reasonable force necessary to protect the client or other person from imminent and serious physical harm. Clients and youth do not participate in the physical restraint of other clients and youth.

**F.** Crisis intervention plans must document the use of physical restraints and address: the client's medical condition(s); the role of the client's history of trauma in their behavioral patterns; specific suggestions from the client regarding prevention of future physical interventions.

**G.** All clients physically restrained shall be afforded full privacy away from other clients receiving services.

**H.** A chemical restraint shall not be utilized under any

circumstance. A chemical restraint is a drug or medication when it is used as a restriction to manage the client's behavior or restrict the client's freedom of movement, and is not a standard treatment or dosage for the client's condition. If a drug or medication is used as a standard treatment to address the assessed current symptoms and needs of a client with a particular medical or psychiatric condition, its use is not considered a chemical restraint.

**I.** Mechanical restraint shall not be utilized under any circumstances unless the facility is joint commission accredited, and unless the facility has obtained a prior waiver from the department authorizing it to utilize mechanical restraint. Mechanical restraint is the use of a mechanical device(s) to physically restrict a client's freedom of movement, performance of physical activity or normal access to [~~his~~ ~~or her~~] their body and is distinct from physical restraint. The use of mechanical restraint must be consistent with federal and state laws and regulation (e.g., Section 32A-6A-10 NMSA 1978, concerning mechanical restraint of minors).

**J.** The staff implementing the physical restraint shall conduct a debriefing, with the client present if possible, immediately following the incident to include the identification of the precipitating event, unsafe behavior and preventive measures with the intent of reducing or eliminating the need for future physical restraint. The debriefing shall be documented in the client's record.

**K.** The client's crisis intervention plan shall be updated: within 24 hours of admission or prior to discharge, whichever comes first; and following physical restraint use to incorporate the debriefing and changes needed to lessen the chance of the situation reoccurring.

**L.** Each incident of physical restraint shall be documented in the client's record including:

**(1)** the less intrusive interventions that were attempted or determined to be inappropriate prior to the incident;

(2) the precipitating event immediately preceding the behavior that prompted the use of physical restraint;

(3) the behavior that prompted the use of a physical restraint;

(4) the names of the mental health professional who observed the behavior that prompted the use of the physical restraint;

(5) the names of the staff members implementing and monitoring the use of physical restraint; and

(6) a description of the of the physical restraint incident, including the type and length of the use of physical restraint, the client’s behavior during and reaction to the physical restraint and the name of the supervisor informed of the use of physical restraint.

**M.** Physical restraints orders are issued by a restraint/clinician within one hour of initiation of physical restraint and include documented clinical justification for the use of physical restraint.

(1) if the client has a treatment team physician or advanced practice registered nurse and he or she is available, only he or she may order physical restraint;

(2) if physical restraint is ordered by a restraint clinician, not the client’s treatment team physician or advanced practice registered nurse, the restraint clinician will contact the client’s treatment team physician or advanced practice registered nurse as soon as possible to inform him or her of the situation requiring the physical restraint, and document in the client’s record the date and time the treatment team physician or advanced practice registered nurse was consulted and the information imparted;

(3) if the order for physical restraint is verbal, the verbal order must be received by a restraint/clinician or a New Mexico licensed registered nurse (RN) or practical nurse (LPN). The restraint/clinician must verify the verbal order in a signed, written form placed in the

client’s record within 24 hours after the order is issued;

(4) each order for physical restraint must be documented in the client’s record and must include:

- (a) the name of the restraint/clinician ordering the physical restraint;
- (b) the date and time the order was obtained;
- (c) the emergency safety intervention ordered, including the length of time;
- (d) the time the emergency safety intervention began and ended;
- (e) the time and results of one-hour assessment(s), if ordered;
- (f) the emergency safety situation that required the client to be physically restrained; and
- (g) the name, title, and credentials of staff involved in the emergency safety intervention.

**N.** Suicide risk interventions must include the following:

- (1) a registered nurse or other licensed mental health professional may initiate suicide precautions and must obtain physician or advanced practice registered nurse order within one hour of initiating the precautions;
- (2) modifications or removal of suicide precautions shall require clinical justification determined by an assessment and shall be ordered by a physician or advanced practice registered nurse and documented in the clinical record;
- (3) staff and client shall be debriefed immediately following an episode of a suicide attempt or gesture, identifying the circumstances leading up to the suicide attempt or gesture;
- (4) an evaluation of the client by a medical, psychiatric or independently licensed mental health provider must be done immediately, or the client must be

transferred to a higher level of care immediately.  
[7.30.13.24 NMAC - N, 10/30/2018; A, 1/30//2024]

**7.30.13.29 STAFFING REQUIREMENTS:**

**A. Minimum staffing requirements:**

(1) The CTC shall have an on-site administrator, which can be the same person as the clinical director.

(2) The CTC shall have a full time clinical director appropriately licensed to provide clinical oversight.

(3) The CTC shall have an RN present on-site 24 hours a day, seven days a week or as long as clients are present in programs that do not offer residential services, to provide direct nursing services. This requirement does not apply to CTCs offering 23 hours or less non-residential services; instead these CTCs may have onsite medical professionals who have access to immediate support and supervision by an RN or a higher-level provider in accordance with Section 24-25-1 et al. NMSA 1978 New Mexico Telehealth Act.

(4) An on-call physician or advanced practice registered nurse shall be available 24 hours a day by phone, and available on-site as needed or through telehealth.

(5) Consultation by a psychiatrist or prescribing psychologist may be provided through telehealth.

(6) The CTC shall maintain sufficient staff including direct care and mental health professionals to provide for supervision and the care of residential and non-residential clients served by the CTC, based on the acuity of client needs.

(7) At least one staff trained in basic cardiac life support (BCLS) and first aid shall be on duty at all times. In addition, one staff trained in the use of the automated external defibrillator (AED) equipment shall also be on duty.

**B. Other staff requirements:**

(1) The CTC shall ensure that the type and number of professional staff are:

(a) licensed, certified or credentialed in the professional field as required, and practice within the scope of the license;

(b) present in numbers to provide services, supports, care, treatment and supervision to clients as required; and

(c) experienced and competent in the profession they are licensed or practice.

(2) The CTC shall comply with all applicable laws, rules and regulations governing caregivers' criminal history screen requirements and employee abuse registry requirements.

(3) The CTC shall ensure that, within the first sixty days of providing direct care to individuals, all staff, volunteers and contractors having direct contact with clients shall receive required training.

(4) The CTC shall be staffed to ensure the safety of clients when staff are accused of abuse, neglect or exploitation.

(5) In instances of involuntary admission as allowed under amendments to Section 43-1-1 NMSA, Mental Health and Developmental Disabilities Code, adequate staffing must be provided to ensure patient and staff safety, and the CTC must meet medical records requirements for licensure of psychiatric hospitals as set forth, in 7.7.2.40 NMAC.

[7.30.13.29 NMAC - N, 10/30/2018; A/E, 8/3/2023; A, 1/30/2024]

**REGULATION  
AND LICENSING  
DEPARTMENT  
ATHLETIC COMMISSION**

**TITLE 15 GAMBLING AND LIQUOR CONTROL  
CHAPTER 6 BOXING, WRESTLING, AND MARTIAL ARTS  
PART 21 BARE KNUCKLE MODIFIED**

**15.6.21.1 ISSUING AGENCY:** New Mexico Athletic Commission.  
[15.6.21.1 NMAC - N, 01/30/2024]

**15.6.21.2 SCOPE:** The provisions in Part 21 apply to all licensees of the commission.  
[15.6.21.2 NMAC - N, 01/30/2024]

**15.6.21.3 STATUTORY AUTHORITY:** Part 21 of Chapter 6 of Title 15 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pam.); specifically Sections 60-2A-2, 60-2A-4, 60-2A-8, 60-2A-9, 60-2A-10, 60-2A-20, 60-2A-21, 60-2A-29, and 60-2A-31.  
[15.6.21.3 NMAC - N, 01/30/2024]

**15.6.21.4 DURATION:** Permanent.  
[15.6.21.4 NMAC - N, 01/30/2024]

**15.6.21.5 EFFECTIVE DATE:** January 30, 2024, unless a later date is cited at the end of a section.  
[15.6.21.5 NMAC - N, 01/30/2024]

**15.6.21.6 OBJECTIVE:** The objective of Part 21 of Chapter 6 is to set forth all commission requirements for the conduct of any bare-knuckle modified contests regulated by the commission.  
[15.6.21.6 NMAC - N, 01/30/2024]

**15.6.21.7 DEFINITIONS:**

**A. "Contests"** are considered "bare-knuckle modified contests" and not "fights" or "prize fights."

**B. "Down"** means that some part of the contestant's body other than their feet is on the ring floor; or the contestant is hanging helplessly on the ring ropes/cage; or the contestant is rising from a down position.

**C. "KO"** means loss by a knockout

**D. "TKO"** means loss by a technical knockout and refers to the ending of a bout by a referee for any reason other than a count-out or a disqualification.  
[15.6.21.7 NMAC - N, 01/30/2024]

**15.6.21.8 CHANGES IN ANNOUNCED OR ADVERTISED BARE-KNUCKLE MODIFIED PROGRAMS:**

**A. Notice of change required:** A notice of any change in the announced or advertised programs for any main event contest must be filed with, and approved by, the commission at least 48 hours before the weighing-in time of the contest.

**B. Posting of notice:** Notices of any such change or substitution must also be conspicuously posted at all box offices on the premises and announced from the ring before the opening contest.

**C. Refund policy:** If any patrons apply for refunds on their purchased tickets, the promoter or promoting corporation shall make such refunds upon demand, provided such tickets are presented at the box office on the day or night of the contest.  
[15.6.21.8 NMAC - N, 01/30/2024]

**15.6.21.9 DURATION OF MATCHES:** All matches must be between three and five rounds with all championship fights lasting five rounds.  
[15.6.21.9 NMAC - N, 01/30/2024]

**15.6.21.10 BARE-KNUCKLE MODIFIED ROUNDS:**

**A. Number of rounds allowed:** There shall be no less than 17 scheduled rounds on any one program, unless otherwise approved by the commission.

**B. Round duration and intermission between rounds for contestants:** Each round shall be no more than two minutes in duration and there shall be a 60 second rest period intermission allowed between rounds.

[15.6.21.10 NMAC - N, 01/30/2024]

**15.6.21.11 CONTESTANTS' SECONDS:**

**A. Approval of seconds by commission:** the commission must approve all seconds.

(1) Each contestant must submit the name of his chief second and his assistant second to the commission for approval.

(2) Only seconds approved by the commission shall be permitted in the contestant's corner.

(3) Before the fight begins, the referee must be informed who the chief second is.

**B. Number of seconds per contestant:**

(1) The maximum number of seconds a contestant may have is three.

(2) Only one of a fighter's seconds will be permitted inside the ring/ropes/cage between rounds.

**C. Conduct of seconds:**

(1) Seconds must remain seated during each round.

(2) Seconds must not interfere with or move a fighter who has been knocked down until they are instructed to do so by the ringside physician.

(3) Seconds are prohibited from entering the ring between rounds and assisting a contestant back to his corner unless the contest has been terminated by the referee or ringside physician.

(4) A second may step on the ring apron to retire their fighter in defeat.

[15.6.21.11 NMAC - N, 01/30/2024]

**15.6.21.12 CONTESTANTS' EQUIPMENT:**

**A. Wrapped Hands:**

The following requirements apply to the wrapping of a fighter's hands for a bareknuckle fight.

(1) Hands shall be wrapped with gauze and athletic tape that ends no closer than one inch from the fighter's knuckles. The wrap must include the wrist and may travel up to three inches past the junction of the wrist bone.

(2) Gauze may be applied to the wrist, palm of the hand, back of the hand, and thumb. The length of gauze to be utilized may not exceed a length of 10 feet per hand.

(3) Tape may be applied to the wrist, palm of the hand, back of the hand, and thumb. The tape shall not be greater than one inch in width and shall not exceed 10 feet in length per hand.

(4) The use of water, plaster, ointments, Vaseline, glues or any other liquid or materials to the hand wraps or bandages is strictly prohibited.

**B. Gloves:** The following requirements apply to the gloves that must be used by contestants in an event.

(1) Gloves for main events shall be new.

(2) Gloves are to be furnished by the licensed promoter or licensed promoter corporation and approved by the Commission.

(3) No contestant shall supply his or her own gloves for participation unless approved by the commission.

(4) Gloves used in any amateur bare knuckle modified event must weigh at least six ounces.

(5) Gloves shall be identical and shall not be altered in any manner.

**C. Shoes:** Shoes are required and must be soft material that are not fitted with spikes, cleats, hard soles, or hard heels shall be permitted in the ring.

**D. Mouthpieces:** Each contestant shall wear an individually fitted mouthpiece that shall remain

in the contestant's mouth at all times during the competition.

(1) The round cannot begin until the contestants are wearing mouthpieces.

(2) If the mouthpiece is dislodged during competition, the referee will call time at the first opportune moment without interfering with the immediate action and have the mouthpiece replaced.

(3) The referee shall direct the other contestant to the farthest neutral corner and escort the contestant with the dislodged mouthpiece to the contestant's corner to have the mouthpiece rinsed and replaced.

(4) The referee may deduct points or disqualify a participant if he deems that the mouthpiece is being intentionally spit out.

**E. Abdominal guards:** Contestants may wear an abdominal guard of a standard type that provides sufficient protection to withstand any low blow. The use of this equipment shall be determined by the fighters or promotion on an individual basis.

**F. Attire and groin protection:** All contestants shall be required to wear shorts or boxing trunks, the belt of which shall not extend above the waistline and protective cups/groin protectors that are properly fitted and shall be firmly in place before the contestant enters the ring. All trunks shall be without pockets.

[15.6.21.12 NMAC - N, 01/30/2024]

**15.6.21.13 NUMBER OF BARE-KNUCKLE CONTEST OFFICIALS REQUIRED:**

There shall be at least two physician in attendance at all times, one of which must remain ringside. In addition, at least the following officials shall be present at each contest:

- A. one referee;
- B. three judges;
- C. one timekeeper; and
- D. one announcer.

[15.6.21.13 NMAC - N, 01/30/2024]

**15.6.21.14 POSITION OF JUDGES AND PHYSICIANS:**

**A. Judges:** The judges shall be stationed at opposite sides of the ring.

**B. Physicians:** The physician shall be stationed at places designated by the commission representative in charge.

[15.6.21.14 NMAC - N, 01/30/2024]

**15.6.21.15 FEMALE**

**FIGHTERS:** The weight classes for female fighter shall be the same as used by male fighters.

**A.** A female fighter shall not engage in a contest with a male fighter.

**B.** Female contestants shall be permitted to wear a body shirt or blouse without buttons, buckles or ornaments. Other apparel or equipment is prohibited.

**C.** All female fighters must provide a **negative pregnancy test** prior to each bout.

[15.6.21.15 NMAC - N, 01/30/2024]

**15.6.21.16 BARE-KNUCKLE MODIFIED CONTESTANTS:**

**A. All event contestants:** All contestants, participating in the program must report to the designated dressing room of the event premises no later than one hour before the commencement of the first scheduled contest unless otherwise permitted by the New Mexico athletic commission.

**B. Confinement to dressing rooms:** All contestants will remain in their dressing rooms until ordered to the ring by the commission representative in charge.

**C. Physical appearance:** All finger nails must not extend past the tip of the fingers and thumbs.

**D. Contestant's ring costume:**

(1) Each contestant on a program must provide himself with a ring costume approved by the commission.

(2) No makeup or cosmetics shall be applied to a fighter's face.

**E. Contestant's conduct after contest is finished:**

After the decision of any contest has been announced, each contestant and his seconds must leave the ring at once and retire to the contestant's dressing room after being cleared by a ring-side physician.

**F. Contestant's minimum age:** No fighter shall be less than 18 years old at the time the sign a contract to fight.

[15.6.21.16 NMAC - N, 01/30/2024]

**15.6.21.17 WEIGHING-IN CEREMONIES:**

**A. Schedules of ceremonies:** The times and places of all weigh-in ceremonies for indoor or outdoor programs shall be determined by the commission. However, all weigh-ins shall take place no later than 12 o'clock noon on the day of the contest.

**B. Contestant weigh-ins:** All contestants shall be weighed-in on scales approved by the commission, and in the presence of their opponents and the commission representative.

**C. Postponement of weigh-in:** In the event a contest is postponed, for any reason whatsoever, more than 24-hours prior to the contest, a second weigh-in and additional physical examinations may be required on the day to which the contest has been rescheduled.

[15.6.21.17 NMAC - N, 01/30/2024]

**15.6.21.18 LICENSURE OF AGENTS REQUIRED:** The commission shall issue licenses to all agents present to perform functions representative of the commission at a bare-knuckle program. This requirement shall include, cut men, seconds, managers, and any others performing duties specified and ordered by the commission at a program.

[15.6.21.18 NMAC - N, 01/30/2024]

**15.6.21.19 THE REFEREE:**

**A. Referee's wearing apparel:** The commission shall prescribe the type, style, and color of the referee's apparel.

**B. Referee instructs the contestants:**

Before the start of each contest, the referee must call the contestants together for final instructions. Each contestant may only be accompanied by his chief second, except in cases where a contestant also requires the services of an interpreter. After receiving the referee's instructions, the contestants shall shake hands and retire to their respective corners to await the gong for the first round.

[15.6.21.19 NMAC - N, 01/30/2024]

**15.6.21.20 INSPECTORS:**

**A. Appointed by the commission:** The commission shall appoint inspectors to be present at all contests. Inspectors shall work in cooperation and in conjunction with any police officers as may be detailed for this duty at contests.

**B. Prohibitions to assigning officials:** The commission will not and shall not assign officials who are directly or indirectly associated with, including but not limited to any financial interest in, the management of any contestant; or who is an individual promoter; or who is a stockholder in, or employee of, a promoter corporation or an unincorporated club or association engaged in the promotion of contests.

[15.6.21.20 NMAC - N, 01/30/2024]

**15.6.21.21 PROHIBITED ACTIVITIES:**

**A. Excessive spraying of water on contestant:** Any excessive or undue spraying or throwing of water on any contestant between rounds is forbidden.

**B. Application of monsel's solution:** The application of monsel's solution, or any use of its derivatives on the body of the contestant between rounds, is prohibited.

**C. Persons forbidden to coach contestants:** The licensed promoter, matchmaker and any promotion employees or contract employees are forbidden from coaching any contestant at any time during the progress of any contest.

**D. Persons disqualified from officiating:** Officials, directors, matchmakers, or stockholders of any promoting corporation or licensed club are disqualified from officiating in any capacity at any contest conducted by such corporation. They are also prohibited from interfering in any way with the contestants participating in said program.

**E. Persons prohibited from holding financial interest in contest:** No official or employee of this commission, or of its medical panels or medical advisory board, and no judge or referee licensed by this commission may, directly or indirectly, have any financial interest in any contestant, wrestler, promoting corporation, or in any manager’s contract with any licensed athlete, or in any assignment thereof.  
[15.6.21.21 NMAC - N, 01/30/2024]

**15.6.21.22 OUTDOOR CONTESTS:** The following special rules and regulations pertain to outdoor programs only. All other rules and regulations of the commission not affected or modified below remain in full force and effect for all outdoor contests, as well as, other programs.

**A. Postponement of event:** In the event of rain immediately before or during the course of any outdoor program, except during the course of the main event, the promoter may postpone the program to a time and place approved by the commission.

(1) An announcement giving the full details of the postponement shall be made by the promoter.

(2) Any patron desiring a refund of the purchase price of his ticket may apply for the refund at the box office on the premises, except when the main contest is held on the scheduled date or one of the successive rain-out dates indicated on the ticket.

(3) All contestants who have fulfilled their contracts before the rain-out, shall be paid in full by the promoter.

(4) On the date to which the program is postponed, the promoter shall have scheduled substitute contests in such number and duration as directed by the commission.

**B. Rearrangement or shortening of program:** In the event of threatening weather and rain, the program of contests may be rearranged or shortened by the promoter with the consent of the commission representative in charge.

**C. Reimbursement of expenses to contestants:** All contestants in a contest who were unable to compete because of weather conditions or a rearrangement or shortening of the program, shall have their expenses and other fees paid by the promoter as the commission representative in charge may direct.

**D. Stopping the contest because of rain:** In the event that rain occurs after the main event is completed, the program shall be considered as having been completed.

(1) In the event of rain during the progress of the main event, the contest shall be continued or stopped at the discretion of the commission representative in charge.

(2) If the main contest is stopped, the provisions of Subsection A of 15.6.21.22 NMAC as to postponement and refunds shall apply.  
[15.6.21.22 NMAC - N, 01/30/2024]

**15.6.21.23 UNIFORM REGULATIONS FOR BARE KNUCKLE MODIFIED:**

**A. Contest elements considered:** In scoring a contest, the elements of offense, defense, clean hitting, ring generalship and sportsmanship shall be carefully considered.

**B. Scoring judges:** Three judges approved by the commission shall evaluate each contest and score the contest.

**C. “10 point” must system:** The 10-point must system will be the standard system of scoring a bare-knuckle contest.

**D. Winner’s points:** The winner of any round is marked a “10”.

**E. Loser’s points:** The loser of any round is marked “one” to “nine”.

**F. Mandatory eight-count:** Mandatory eight-count will be the standard procedure in all contests.

**G. Three knockdown rule:** There shall be NO three-knockdown rule called in any contest.

**H. 20 second count:** A contestant shall receive a 20-second count if he is knocked out of the ring and onto the floor.

**I. Referee is sole arbiter:** The referee is the sole arbiter of a contest and is the only individual authorized to stop a bout.

**J. Knockdown rated:** The referee shall call a knockdown as such as soon as it occurs.

**K. Ring generalship:** The contestant who takes advantage of the full “nine” count should be credited with “ring generalship”, which would not be credited to him if he arose immediately and tried to continue in a possibly groggy condition.

**L. Foul blows:** The use of foul blows and other tactics shall result in a penalty of one point for each foul committed, and the referee shall advise the judges immediately of the number of points to be deducted.

**M. Disqualification for second’s assist:** Contestants are to be unassisted by their seconds. If a contestant is assisted by his second, the referee shall disqualify the fighter.

**N. Saved by the bell:** A contestant who has been knocked down cannot be saved by the bell in any round.  
[15.6.21.23 NMAC - N, 01/30/2024]

**15.6.21.24 KNOCKDOWNS:**

**A. Judges scoring knockdowns:** The judges may score a knockdown in any one round as either one or two points in favor of a contestant who scored the knockdown.

**B. Judges score independently:** Each judge must



determine for himself which value shall be placed on the knockdown. [15.6.21.24 NMAC - N, 01/30/2024]

**15.6.21.25 PROTOCOL FOR USING SCORECARDS, THE TALLY AND DECISION:**

**A. The Rounds**

**Scoring:** Judges shall clearly write their decision and sign their scorecards; and they must mark their cards in ink or in indelible pencil at the end of each round.

**B. The tally:** At the conclusion of the round, each judge must tally up the points he has awarded each contestant and submit the scorecard to the referee.

**C. The decision:** After the scorecards have all been checked by the commission representative, they must be returned to the announcer who shall announce the decision of the judges from the ring.

**D. Main event protocol on announcing the decision:** In main events, the announcer shall call out the points awarded by each judge. The decision must then be awarded to the contestant with the greatest number of points on two of the scorecards. [15.6.21.25 NMAC - N, 01/30/2024]

**15.6.21.26 MAJOR FOULS:**

**A.** The following are major fouls.

- (1) Hitting an opponent who is down or who is rising from the down position.
- (2) Using the knee against the opponent.
- (3) Purposely going down without being hit.
- (4) Failure to heed the referee's warning concerning low blows or other minor fouls.
- (5) Any dangerous and un-sportsmanlike conduct in the ring.
- (6) Throwing an opponent out of the ring or fenced area.
- (7) Attacking an opponent who is under the care of the referee.
- (8) Timidity, including, without limitation,

avoiding contact with an opponent, intentionally or consistently dropping the mouthpiece or faking an injury.

(9) Tripping an opponent.

(10) Use of body lock throws to move your "opponent."

**B.** The referee may disqualify the offending contestant and award the bout or any points to the contestant being fouled.

**C.** Disqualification on fouls to the body may only occur if the referee deems that these fouls are flagrant or continual.

[15.6.21.26 NMAC - N, 01/30/2024]

**15.6.21.27 MINOR FOULS:**

**A.** The following are minor fouls.

(1) Holding an opponent.

(2) Hitting with the inside or butt of the hand, the wrist, or the elbow.

(3) Backhanded blows.

(4) Low blows.

(5) Hitting or flicking with an open hand.

(6) Wrestling or roughing the ropes.

(7) Deliberately striking at the part of the body over the kidneys.

(8) Use of a pivot blow or rabbit punch.

(9) Hitting on the break.

(10) Butting with the head.

(11) Eye gouging of any kind.

(12) Biting.

(13) Hair pulling.

(14) Fish hooking.

(15) Groin attacks of any kind.

(16) Putting a finger into any orifice or into any cut or laceration on an opponent

(17) Small joint manipulation.

(18) Striking to the spine or the back of the head.

(19) Throat strikes of any kind, including, without limitation, grabbing the trachea.

(20) Clawing, pinching or twisting the flesh.

(21) Grabbing the clavicle.

(22) Holding the shorts or wrists of an opponent.

(23) Spitting at an opponent.

(24) Holding the ropes or the fence.

(25) Using abusive language in the ring or fenced area.

(26) Interference by the corner.

**B.** It is within the discretion of the referee to determine whether the offending contestant should merely be warned, or have points deducted, for committing a minor foul.

**C.** If a fighter injures themselves while attempting to intentionally foul their opponent, the referee will not take any action in his favor, and this injury will be the same as one produced by a fair blow.

**D.** The use of body grease, gels, balms, lotions, oil or other substances is a violation and is prohibited from being applied to the hair, face, or body. This includes excessive amounts of water being discarded in a manner at the designated time could be penalized or subject to disqualification.

[15.6.21.27 NMAC - N, 01/30/2024]

**15.6.21.28 LEGAL**

**TECHNIQUES:** Legal strikes are considered those done with a clenched fist, which is a punch thrown with fists between opponents. Standard face-to-face punches are legal from the waist to the top of the head, including fighting in the clinch. Participants in the clinch may hold their opponent by the back of the neck in a downward position and punch any legal strike zone of the opponent, with the exception of punches to the back of the head.

[15.6.21.28 NMAC - N, 01/30/2024]

**15.6.21.29 REFEREE’S NOTICE TO JUDGES CONCERNING FOULS:**

**A.** In the event that the referee determines that a foul has been committed, he shall notify the judges immediately.

**B.** The judges shall deduct one point from the offending contestant’s scores.

**C.** On any illegal blow to the body the referee may order a deduction of points and will give the necessary time for recovery to the injured fighter (with a maximum of five minutes) after consulting with the ringside physician. If the referee rules this foul was accidental and after five minutes the injured fighter can’t continue, the rules governing accidental fouls shall apply. A contestant who is hit with an accidental low blow must continue after the five-minute rest or he will lose the bout.

**D.** There may be a deduction of points by the referee at any time for illegal blows or conduct by the fighter or their corner men.

**E.** In the case of a clear and intentional foul that causes an injury and the contest can still continue, the contestant who was doing the fouling will have two points deducted.

**(1)** The referee must stop the action and inform all judges and the commission or commission representative of this deduction.

**(2)** Point deductions for intentional fouls will be at the referee discretion.

**(3)** The referee has the authority to stop a bout or contest at any stage on account of an intentional foul being committed by either contestant. In such an event, in a bare-knuckle contest the referee may award the decision to the boxer who was intentionally fouled.

[15.6.21.29 NMAC - N, 01/30/2024]

**15.6.21.30 CONDITIONS FOR COUNTING A**

**CONTESTANT OUT:** A fighter who is hit with an accidental low blow must continue the contest after a

reasonable time, but no more than five minutes, or he will lose the contest. [15.6.21.30 NMAC - N, 01/30/2024]

**15.6.21.31 WRITTEN REPORT TO COMMISSION REGARDING FOULS:**

If, in any contest, a contestant is penalized with the loss of three or more rounds due to fouls, the referee and each judge must report the matter to the commission, in writing, within 24 hours.

[15.6.21.31 NMAC - N, 01/30/2024]

**15.6.21.32 TECHNICAL KNOCKOUTS; TECHNICAL DECISIONS; TECHNICAL DRAWS; DISQUALIFICATIONS; NO CONTESTS:**

**A. Technical knockouts.**

**(1)** When a cut is produced by a legal punch and the contest is stopped because of that cut, the injured fighter shall lose by a technical knockout and the commissions shall enter the letters TKO in the record.

**(2)** When a referee stops a contest to save any contestant from further punishment, he must award the other contestant the decision by a technical knockout.

**(3)** If a fighter sustains an injury from a fair blow and the injury is severe enough to terminate the bout, the injured fighter will lose by a TKO.

**(a)** Any contestant losing by a TKO shall receive a minimum of a 30 day medical suspension.

**(b)** Any contestant losing by a KO shall receive a minimum of a 60 day medical suspension.

**B. Technical decisions.**

**(1)** In the case where a clear and intentional foul causes an injury and the injury results in the contest being stopped in a *later* round, the injured contestant will win by a technical decision if he is ahead on the score cards.

**(2)** If the accidental foul occurs after the

completion of four rounds and the bout must be stopped immediately because the fouled contestant is injured severely enough that he cannot continue, a technical decision shall be awarded to the contestant who is ahead on the score cards at the time the bout is stopped.

**(a)** Partial or incomplete rounds will be scored.

**(b)** At the discretion of the Judges, if no action has occurred, the round may be scored as an *even* round.

**(3)** If in the later rounds, the injury has worsened as a result of legal blows, and the injured fighter cannot continue, a decision shall be rendered by referring to the scorecards. The judges, who must inform the commission and both contestants that the foul is the result of an accidental foul, shall score partial rounds.

**C. Technical draws.**

**(1)** In the case where a clear and intentional foul causes an injury and the injury results in the contest being stopped in a *later* round, a technical draw will be declared if the injured contestant is even or behind on the scorecards.

**(2)** If an accidental foul occurs before the completion of four rounds and the injured contestant cannot continue, the contest will be declared a technical draw.

**D. Disqualifications.**

**(1)** In the case where an intentional foul causes an injury, and the injury is severe enough to terminate the bout immediately; the contestant causing the injury shall lose by disqualification, even if he is the injured contestant.

**(2)** If the referee deems that a contestant has conducted himself in an un-sportsman-like manner, he may stop the bout and disqualify that contestant.

**E. No contests:** If, before four rounds are completed in a contest, an accidental foul causes an injury severe enough for the referee to stop the bout immediately, the bout

will result in a no contest.

[15.6.21.32 NMAC - N, 01/30/2024]

### 15.6.21.33 COUNTING:

**A. Timekeeper calls off the seconds:** When a contestant is down, the timekeeper shall immediately commence calling off the seconds indicating the count with a motion of his arm.

**B. Referee picks up the count:** When the timekeeper commences calling off the seconds, the referee must immediately order the other contestant to a neutral corner and shall pick up the count from the timekeeper, indicating the count with a motion of his arm.

**C. Reaching the count of ten.**

(1) If a contestant is unable to continue at the count of 10, the referee shall declare the other contestant the winner by a knockout.

(2) If a contestant who has fallen or has been knocked out of the ring during the contest fails to be on his feet in the ring before the expiration of 10 seconds, the referee shall count him out as if he were down.

(3) A contestant who has fallen or has been knocked out of the ring must return to the ring unassisted.

(4) If a contestant who has fallen fails to be on his feet in the ring at the time the round terminates, the timekeeper or referee, whoever has the count at the time, shall continue the count to 10. If the contestant fails to rise before the count of 10, the bout shall be awarded to the other contestant by a knockout in the round just ended.

(5) If a contestant has been knocked out of the ring at the time the round terminates, the timekeeper or referee, whoever has the count at the time, shall continue the count to 20. If the contestant fails to rise before the count of 20, the bout shall be awarded to the other contestant by a knockout in the round just ended.

The contestant must return to the ring unaided.

[15.6.21.33 NMAC - N, 01/30/2024]

### 15.6.21.34 WEIGHT LIMITS FOR BARE-KNUCKLE MODIFIED CONTESTS:

**A.** The classes for bare-knuckle modified fighters competing in contests or exhibitions and the weights for each class are shown in the following schedule.

- (1) Atomweight 105 to 115 lbs.
- (2) Strawweight: over 115 to 125 lbs.
- (3) Flyweight: over 125 to 135 lbs.
- (4) Featherweight: over 135 to 145 lbs.
- (5) Lightweight: over 145 to 155 lbs.
- (6) Welterweight: over 155 to 170 lbs.
- (7) Middleweight: over 170 to 185 lbs.
- (8) Light heavyweight: over 185 to 205 lbs.
- (9) Heavyweight: over 205 to 265 lbs.
- (10) Super heavyweight: anything over 265 lbs.

**B.** Weight loss of up to two lbs. is allowed. Fighters have up to one hour to lose weight. The weight loss described must not occur later than one hour after the initial weigh-in. Unarmed combatants over weight may be fined, have their license suspended, and have their license revoked by the commission.

[15.6.21.34 NMAC - N, 01/30/2024]

**History of 15.6.21 NMAC:**  
[RESERVED]

## REGULATION AND LICENSING DEPARTMENT ATHLETIC COMMISSION

**This is an amendment to 15.6.5 NMAC, Section 11, effective 1/30/2024.**

### 15.6.5.11 SPECIFICATIONS FOR HAND BANDAGES ON UNARMED COMBATANTS' HANDS:

**A.** Hand bandages on the hands of a unarmed combatant shall be restricted to soft gauze not more than [~~20 yards~~] 60 feet in length and two inches in width; and held in place by not more than [~~eight~~] 10 feet of adhesive tape not more than one and one-half inches for each hand. Wrapping of hands is mandatory.

**B.** The use of adhesive tape over the knuckles is strictly prohibited. The tape shall not cover any part of the knuckles when the hand is clenched to make a fist. One strip of tape one-quarter inch may be placed between each finger to secure the wraps. Tape must be behind the knuckles one-half inch.

**C.** The use of water or any other liquid or material on the tape is strictly prohibited.

**D.** The hand bandages shall be placed and adjusted in the dressing room in the presence of a representative designated by the commission and, if requested, one representative of the other unarmed combatant.

**E.** Under no condition are gloves to be placed on the hands of the contestant until the commission representative stamps or signs the commission's approval on the hand bandages.

**F.** No spirits of ammonia may be used in the ring or cage.

**G.** Only discretionary use of petroleum jelly may be used on the face prior to the start of the fight.

**H.** In case of cuts, only the following solutions are allowed:

- (1) a sealed solution of adrenaline 1/1000 at ringside;
- (2) avetine;
- and
- (3) thrombin.

**I.** All first aid equipment used by a second, trainer or manager shall in all cases and at all times be subject to inspection by the commission or its representative, or assigned physician and the decision as to the use shall be final.

**J.** No prescribed inhalers or any other type of aerosol inhaler may be used in the corner of any fighter. A prescribed inhaler may be given to the ringside physician prior to the start of the bout.  
[15.6.5.11 NMAC - N, 3/23/2002; A, 8/26/2012; A, 1/30/2024]

**REGULATION  
AND LICENSING  
DEPARTMENT  
ATHLETIC COMMISSION**

**This is an amendment to 15.6.8 NMAC, Sections 11, 15, 16, and 18, effective 1/30/2024**

**15.6.8.11 CONTESTANTS' SECONDS:**

**A. Approval of seconds by commission:** the commission must approve all seconds.

**(1)** Each contestant must submit the name of his chief second and his assistant second to the commission for approval.

**(2)** Only seconds approved by the commission shall be permitted in the contestant's corner.

**(3)** Before the fight begins, the referee must be informed who the chief second is.

**B. Number of seconds per contestant:**

**(1)** The maximum number of seconds a contestant may have is three.

**(2)** Only one of a boxer's seconds will be permitted inside the ring ropes between rounds.

**C. Conduct of seconds:**

~~[(1) Seconds are prohibited from coaching any of the contestants during the progress of the round.]~~

~~[(2) (1) Seconds must remain seated during each round.~~

~~[(3) (2) Seconds must not interfere with or move a boxer who has been knocked down until they are instructed to do so by the ringside physician.~~

**(3)** Seconds are prohibited from entering the ring between rounds and assisting a contestant back to his corner unless the boxing contest has been terminated by the referee or ringside physician.

**(4)** Seconds are prohibited from throwing any towel, sponge, etc., into the ring as a token of defeat.

**(5)** A second may step on the ring apron to retire his boxer in defeat.  
[15.6.8.11 NMAC - N, 3/23/2002; A, 1/30/2024]

**15.6.8.15 FEMALE BOXERS:** The weight classes for female boxers shall be the same as used by male boxers.

**A.** A female boxer must be qualified to perform as a boxing contestant before she enters the ring.

**B.** A female boxer shall not engage in a contest with a male boxer.

**C.** In addition to meeting such requirements of the commission's rules that are applicable to boxers generally, a female boxer shall comply with the following rules:

**(1)** use a mouthpiece specifically designed for her mouth;

**(2)** use glove sizes as follows:

**(a)** female boxers up to 154 lbs. shall use 8 ounce gloves, properly fitted; and

**(b)** female boxers over 154 lbs. shall use 10 ounce gloves, properly fitted.

~~[(3) wear breast protectors and groin protectors that are both properly fitted;]~~

~~[(4) (3) secure her hair with soft and non-abrasive material in a manner that does not interfere with the vision or safety of either contestant; and~~

~~[(5) (4) not use facial cosmetics.~~

**D.** Female contestants shall be permitted to wear a body shirt or blouse without buttons, buckles or ornaments. Other apparel or equipment is prohibited.

**E.** All female boxers must provide a **negative pregnancy test** prior to each bout.

**F.** A contest between female boxers must be limited to 10 rounds of two minutes duration, with one minute rest periods between rounds.

**G.** The promoters of a contest between female boxers shall provide the female contestants with adequate dressing rooms separate from the dressing rooms of male boxers.

[15.6.8.15 NMAC - N, 3/23/2002; A, 1/30/2024]

**15.6.8.16 BOXING CONTESTANTS:**

**A. Non-main event contestants:** All contestants, except main event contestants, participating in the boxing program must report to the designated dressing room of the event premises no later than one half hour before the commencement of the first scheduled boxing contest.

**B. Arrival of main event contestants to event city:** Not less than 24 hours before the contest, a main event contestant shall report in person to the promoter in the city where the match will take place.

**(1)** Promoters shall immediately notify the commission that the main event contestants have arrived.

**(2)** If the bout is of sufficient importance, the contestants shall complete their training in the city concerned. The commission shall determine the number of days required for this purpose.

**C. Main event contestants report for event:** Main event contestants may report to the contest location no later than one hour before the commencement of the first boxing contest.

**D. Confinement to dressing rooms:** All contestants will remain in their dressing rooms until ordered to the ring by the commission representative in charge.

**E. Physical appearance:** Before entering the ring, ~~[contestants must have a clean,~~

shaven appearance]. Their hair must be trimmed [~~not braided~~], and when necessary, tied back in such a way as to not cover the contestant's face or to interfere with the vision or safety of either contestant.

**F. Contestant's ring costume:**

(1) Each contestant on a program must provide himself with a ring costume approved by the commission.

(2) Each contestant's costume must include a foul-proof groin protector of the contestant's own selection, but of a type to be approved by the commission, which will avert any claims of a low blow being made during the contest.

**G. Contestant's conduct after boxing contest is finished:**

(1) After the decision of any boxing contest has been announced, each contestant and his seconds must leave the ring at once and retire to the contestant's dressing room.

(2) Each contestant is prohibited from indicating in any way to the officials or the spectators his opinion as to whether he won or lost the boxing contest.  
[15.6.8.16 NMAC - N, 3/23/2002; A, 1/30/2024]

**15.6.8.18 ADJUSTMENT OF CONTESTANT'S GLOVES:**

In all boxing contests, the gloves of each contestant will be adjusted under the supervision of the commission representative in charge.

**A. Laces:** The laces of each glove shall be knotted on the back of the wrists.

**B. Adhesive Tape:** A strip of one-inch to two-inch adhesive tape shall be placed on the wrists of the gloves, over the laces.

**C. Removal of gloves:** The contestant's gloves must be removed after the boxing contest and before the contestant leaves the ring.  
[15.6.8.18 NMAC - N, 3/23/2002; A, 1/30/2024]

**REGULATION  
AND LICENSING  
DEPARTMENT  
ATHLETIC COMMISSION**

**This is an amendment to 15.6.11 NMAC, Sections 16, 17, 21 and 22, effective 1/30/2024**

**15.6.11.16 MANAGERS AND PROMOTERS: [RESERVED]**

~~[A. The commission prohibits any person licensed and acting as a wrestling promoter from also acting as a wrestling manager.~~

~~[B. The commission prohibits any person licensed and acting as a wrestling manager from also acting as a wrestling promoter.]~~

[15.6.11.16 NMAC - N, 3/23/2002; Repealed, 1/30/2024]

**15.6.11.17 MEDICAL EXAMINATION OF A WRESTLER:**

**A. Conducted by physician designate:** Before any wrestler may enter the ring, a physician designated by the commission shall examine all wrestlers, referees, and any other licensed person entering the ring and engaging in a professional exhibition.

**B. Medical examination schedule:** All wrestlers, referees, and any other person who will enter the ring, must present themselves for such examination within ~~[one hour]~~ one calendar day prior to the commencement of the exhibition.

**C. Disclosure required:** No wrestler shall conceal any known illness or disability from the examining physician.

**D. Drug testing of wrestlers:** The commission has the right to drug test any wrestler at any given time.

(1) The drug test can consist of the following: cocaine, marijuana, [steroids,] etc.

(2) If the wrestler tests positive, his license will be withheld or suspended, and he is prohibited from wrestling in New Mexico until he appears before

the commission and proves that he is drug-free.

**E. Wrestler prohibited from wrestling:** The examining physician shall not permit any wrestler to enter the ring who is suffering from any illness or disability that in any way interferes with or prevents the wrestler from giving a full, complete, and satisfactory exhibition of his ability and skill; or endangers his health or the health of his opponent.

[15.6.11.17 NMAC - N, 3/23/2002; A, 1/30/2024]

**15.6.11.21 [CONDUCTING WRESTLING EXHIBITION:**

The following special rules and regulations apply particularly to wrestling exhibitions:

~~**A. Scoring of exhibitions:** All wrestling exhibitions shall be scored as follows:~~

~~(1) One-fall match: In a one-fall match, the wrestler winning the fall within the time limit shall be declared the winner; or the match can be declared a draw if it goes the time limit.~~

~~(2) Two-out-of-three-fall match: In a two-out-of-three-fall match, the wrestler who first wins the two falls within the time limit shall be declared the winner. If only one-fall occurs within the time limit, the wrestler scoring the fall shall be declared the winner; or the match can be declared a draw if it goes the time limit and no falls occur.~~

~~**C. When exhibitions terminate:** An exhibition shall be terminated by one-fall in a one-fall match; or by two-out-of-three-falls in a two-out-of-three-fall match, unless otherwise approved by the commission.~~

~~**D. [RESERVED]**~~

~~**E. How referee awards falls:** The referee shall immediately slap the back or the shoulder of the wrestler scoring a fall, and raise the wrestler's hand in victory.~~

~~**F. Intermission between falls:** If the exhibition provides for two-out-of-three falls, wrestlers shall be allowed one minute~~

rest period between falls:

~~G. [RESERVED]~~

~~H. Wrestler refuses or is unable to continue:~~ At the referee's command, an exhibition shall be terminated when a wrestler refuses, or is physically unable, to continue an exhibition, and the decision shall be awarded to the opponent] ~~[RESERVED]~~ [15.6.11.21 NMAC - N, 3/23/2002; Repealed, 1/30/2024]

**15.6.11.22 [TAG TEAM WRESTLING]:** Following are the rules specifically for tag team wrestling. In all other instances, the general rules governing wrestling shall be applicable.

~~A.~~ The exhibition shall commence between one man from each opposing team while their respective partners remain on the apron of the ring outside the ropes in each respective team's corner.

~~(1)~~ The outside partner is prohibited from entering the ring unless the inside partner is defeated or is able to touch the outside team member's hand to be relieved.

~~(2)~~ At all times while awaiting his turn, the outside partner must maintain a hold of a regulation three-foot double rope with a knot in one end, and the other looped over the ring post of his team's corner.

~~B.~~ When a tag contact occurs between partners, the outside partner must have both feet on the apron floor and may only reach over the top rope to make the tag contact.

~~C.~~ The referee must see to it that the wrestler in the ring retires to the outside of the ring upon tagging his partner, so that his partner may enter the ring.

~~D.~~ Team falls occur only when either man from one team has lost a fall by pin or submission.

~~E.~~ When a fall occurs, team partners may relieve each other.

~~F.~~ Time-out must be taken after an injury to permit the injured contestant to be removed from the ring.

~~G.~~ If a wrestler is

unable to continue the contest, his partner must carry-on the contest alone.

~~H.~~ If neither team has been able to win a fall, the match can be declared a draw, or the referee can make a decision.

~~I.~~ After one warning to the offending wrestler of a foul infraction, the referee shall disqualify the offender.

~~(1)~~ It shall be a foul for a contestant to assist his partner or to interfere in any way with the opponent while waiting his turn on the apron.

~~(2)~~ It shall be a foul for a contestant to release his hold on the rope in his corner for any reason whatsoever while waiting his turn on the apron until he is officially replaced by his partner or the referee] ~~[RESERVED]~~

[15.6.11.22 NMAC - N, 3/23/2002; Repealed, 1/30/2024]

**REGULATION AND LICENSING DEPARTMENT ATHLETIC COMMISSION**

**This is an amendment to 15.6.20 NMAC, Section 12 and 19, effective 1/30/2024**

**15.6.20.12 WEIGHT CLASSES OF UNARMED COMBATANTS; WEIGHT LOSS AFTER WEIGH-IN:**

**A.** The classes for unarmed combatants competing in contests or exhibitions of mixed martial arts and the weights for each class are shown in the following schedule.

~~(1)~~ Atom weight up to 105 lbs.

~~(2)~~ Straw Weight up to 115 lbs.

~~(1)~~ (3) Flyweight: up to 125 lbs.

~~(2)~~ (4) Bantamweight: over 125 to 135 lbs.

~~(3)~~ (5) Featherweight: over 135 to 145 lbs.

~~(4)~~ (6) Lightweight: over 145 to 155 lbs.

~~(5)~~ (7)

Welterweight: over 155 to 170 lbs.

~~(6)~~ (8)

Middleweight: over 170 to 185 lbs.

~~(7)~~ (9) Light

heavyweight: over 185 to 205 lbs.

~~(8)~~ (10)

Heavyweight: over 205 to 265 lbs.

~~(9)~~ (11)

Super heavyweight: all over 265 lbs.

**B.** Weight loss of up to two lbs. is allowed. Unarmed combatants have up to one hour to lose weight. The weight loss described must not occur later than one hour after the initial weigh-in. Unarmed combatants over weight may be fined, have their license suspended, and have their license revoked by the commission. [15.6.20.12 NMAC - N, 8/26/2012; A, 1/15/2015; A, 1/30/2024]

**15.6.20.19 CERTAIN RULES APPLICABLE:**

**A.** There may be three licensed cornermen for all non-title fights or four for a title fight, positioned in a designated area by a cage or fenced area or positioned in each corner.

**B.** Two cornermen may enter the cage or fenced area to tend a fighter between rounds and at the end of the fight. At no time will more than two cornermen be allowed in the cage with the fighter, if a cut man is being utilized then only one cornermen will be allowed in the cage with the fighter. Cut man counts as a cornerman during the bout.

~~[C.]~~ There may be no loud yelling or profanity from anyone working the corner.]

~~[D.]~~ **C.** Any person violating any rule working the corner may be disqualified for the remainder of the event and may be suspended.

~~[E.]~~ **D.** Weigh in rules meeting shall be conducted before or immediately following the weigh-in of contestants to communicate certain rules and procedures for the event, not limited to such things as hand wraps, arrival times, garments, or uniforms.

~~[F.]~~ **E.** Pre-fight rules meeting shall be held in both a group setting, where rules are reviewed

by referees contracted, as well as any individual question and answer sessions as needed, per fighter. [15.6.20.19 NMAC - N, 8/26/2012; A, 1/30/2024]

**REGULATION  
AND LICENSING  
DEPARTMENT  
CONSTRUCTION INDUSTRIES  
DIVISION**

The Construction Industries Commission approved at its January 17, 2024, meeting, to repeal its rules 14.7.6 NMAC - 2018 New Mexico Residential Energy Conservation Code and 14.7.9 NMAC - 2018 New Mexico Commercial Energy Conservation Code, filed 9/25/2020 and replace them with **14.7.6 NMAC-2021 New Mexico Residential Energy Conservation Codes** and 14.7.9 NMAC- 2021 New Mexico Commercial Energy Conservation Code.

The Construction Industries Commission approved at its January 17, 2024, meeting, to repeal its rules 14.7.6 NMAC - 2018 New Mexico Residential Energy Conservation Code and 14.7.9 NMAC - 2018 New Mexico Commercial Energy Conservation Code, filed 9/25/2020 and replace them with 14.7.6 NMAC-2021 New Mexico Residential Energy Conservation Codes and **14.7.9 NMAC- 2021 New Mexico Commercial Energy Conservation Code**.

**REGULATION  
AND LICENSING  
DEPARTMENT  
CONSTRUCTION INDUSTRIES  
DIVISION**

**TITLE 14 HOUSING AND  
CONSTRUCTION  
CHAPTER 7 BUILDING  
CODES GENERAL  
PART 6 2021 NEW  
MEXICO RESIDENTIAL  
ENERGY CONSERVATION  
CODE**

**14.7.6.1 ISSUING AGENCY:** Construction Industries Division (CID) of the Regulation and Licensing Department. [14.7.6.1 NMAC - Rp, 14.7.6.1 NMAC, 01/30/2024]

**14.7.6.2 SCOPE:** This rule applies to all residential contracting work performed in New Mexico on or after January 30, 2024, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date. [14.7.6.2 NMAC - Rp, 14.7.6.2 NMAC, 01/30/2024]

**14.7.6.3 STATUTORY AUTHORITY:** Sections 60-13-9 and 60-13-44 NMSA 1978. [14.7.6.3 NMAC - Rp, 14.7.6.3 NMAC, 01/30/2024]

**14.7.6.4 DURATION:** Permanent. [14.7.6.4 NMAC - Rp, 14.7.6.4 NMAC, 01/30/2024]

**14.7.6.5 EFFECTIVE DATE:** January 30, 2024 unless a later date is cited at the end of a section. From the date of publication of this rule in the New Mexico register, until month July 30, 2024, permits may be issued under either the previously-adopted rule, or this rule. After month July 30, 2024, permits may be issued only under this rule. [14.7.6.5 NMAC - Rp, 14.7.6.5 NMAC, 01/30/2024]

**14.7.6.6 OBJECTIVE:** The purpose of this rule is to establish minimum standards for energy conservation for residential construction in New Mexico. [14.7.6.6 NMAC - Rp, 14.7.6.6 NMAC, 01/30/2024]

**14.7.6.7 DEFINITIONS:** See 14.5.1 NMAC, General Provisions and Chapter 2 [RE] of the IECC as amended in 14.7.6.10 NMAC. [14.7.6.7 NMAC - Rp, 14.7.6.7 NMAC, 01/30/2024]

**14.7.6.8 ADOPTION OF THE 2021 NEW MEXICO RESIDENTIAL ENERGY CONSERVATION CODE:**

**A.** This rule adopts by reference the 2021 international energy conservation code (IECC), as amended by this rule.

**B.** In this rule, each provision is numbered to correspond with the numbering of the 2021 international residential energy conservation code.

**C.** This rule is to be applied to each of the following New Mexico building codes, including the NMRBC, NMEBC, NMPC, NMMC and the NMEC.

[14.7.6.8 NMAC - Rp, 14.7.6.8 NMAC, 01/30/2024]

**14.7.6.9 CHAPTER 1 [RE] SCOPE AND ADMINISTRATION:** See this chapter of the IECC except as provided below.

**A. Section R101 Scope and general requirements.**

**(1) Section R101.1 Title.** Delete this section of the IECC and substitute with the following: This rule shall be known as 14.7.6 NMAC, the 2021 New Mexico Residential Energy Conservation Code (NMRECC).

**(2) Section R101.2 Scope.** Delete this section of the IECC and see 14.7.6.2 NMAC, Scope.

**(3) Section R101.3 Intent.** Delete this section of the IECC and see 14.7.6.6 NMAC, Objective.

**(4) Section R101.5.1 Compliance materials.** Delete this section of the IECC and substitute with the following: The code official shall be permitted to approve specific computer software, worksheets, compliance manuals and other similar materials that meet the intent of this code, including but not limited to ResCheck, and worksheet or trade-off sheets from the New Mexico energy conservation code residential applications manual, issued by the New Mexico department of energy, minerals, and natural resources.

**B. Section R103 Construction Documents.** See this section of the IECC except as provided below.

**(1) Section R103.1 General.** Delete this section of the IECC and see 14.5.2 NMAC, Permits.

**(2) Section R103.2 Information on construction documents.** See this section of the IECC and 14.5.2 NMAC, Permits.

**(3) Section R103.3 Examination of documents.** Delete this section of the IECC and see 14.5.2 NMAC, Permits.

**(4) Section R103.4 Amended construction documents.** Delete this section of the IECC and see 14.5.2 NMAC, Permits.

**(5) Section R103.5 Retention of construction documents.** Delete this section of the IECC and see 1.21.2 NMAC, Retention and Disposition of Public Records.

**C. Section R104 Fees.** Delete this section of the IECC and see 14.5.5 NMAC, Fees.

**D. Section R105 Inspections.** Delete this section of the IECC and see 14.5.3 NMAC, Inspections.

**E. Section R106 Notice of approval.** Delete this section of the IECC and see 14.5.3 NMAC, Inspections.

**F. Section R107 Validity.** Delete this section of the IECC and see 14.5.2 NMAC, Permits.

**G. Section R108 Referenced standards.** Delete this section of the IECC and substitute with the following: All references to the international residential code shall be deemed references to 14.7.3 NMAC, the New Mexico residential building code (NMRBC). All references to the international plumbing code shall be deemed references to 14.8.2 NMAC, the New Mexico plumbing code (NMPC). All references to the international mechanical code shall be deemed references to 14.9.2 NMAC, the

New Mexico mechanical code (NMMC). All references to the IEC or international electrical code shall be deemed references to 14.10.4 NMAC, the New Mexico electrical code (NMEC). All references to the international energy conservation code shall be deemed references to 14.7.6 NMAC, the New Mexico residential energy conservation code (NMRECC). All references to the international fuel gas code are deemed references to the NMMC or the 19.15.40 NMAC LP gas standards, and sections 70-5-1 through 70-5-23 NMSA 1978.

**H. Section R109 Stop work order.** Delete this section of the IECC and see 14.5.3 NMAC, Inspections.

**I. Section R110 Means of appeals.** Delete this section of the IECC and see 14.5.1 NMAC, General Provisions. [14.7.6.9 NMAC - Rp, 14.7.6.9 NMAC, 01/30/2024]

**14.7.6.10 CHAPTER 2 [RE] DEFINITIONS:** See this chapter of the IECC except as provided below.

**A. Section R201.1 Scope.** See this section of the IECC and add the following: If the same term is defined in the New Mexico construction codes and in the IECC, the term shall have the meaning given it in the New Mexico construction codes.

**B. Section R201.3 Terms defined in other codes.** Delete this section of the IECC and substitute with the following: Terms that are not defined in this code but are defined in the NMRBC, NMMC, NMPC, NMEC, or any other New Mexico building code shall have the meanings ascribed to them in those codes.

**C. Section R202 General definitions.** See this section of the IECC except as provided below.

**(1) NMRECC** means 2021 New Mexico Residential Energy Conservation Code.

**(2) NMRBC** means 14.7.3 NMAC, current adopted New Mexico Residential Building Code.

**(3) NMPC** means current adopted 14.8.2 NMAC, New Mexico Plumbing Code.

**(4) NMMC** means 14.9.2 NMAC, NMMC current adopted New Mexico Mechanical Code.

**(5) NMEC** means 14.10.4 NMAC, NMEC current adopted New Mexico Electrical code.

**(6) RESCHECK.** A document describing the overall efficiency of the insulation of a building which works by performing a simple U-factor x Area (UA) calculation for each building assembly to determine the overall UA of a building. The UA of the proposed project building is compared to the code requirements.

**(7) RESNET Software.** Is an approved software program to meet the performance requirements of the IECC.

**(8) ASTM.** Means the American society for testing and materials, an international standards organization that develops and publishes voluntary consensus building technical standards for a wide range of materials utilized in construction.

**(9) HERS.** Means the home energy rating system index and is the industry standard by which home energy efficiency is measured. It is also the nationally recognized system for inspecting and calculating home energy performance.

**(10) Electric vehicle (EV).** Add the following definition to the IECC: An automotive-type vehicle for on-road use, such as passenger automobiles, buses, trucks, vans, neighborhood electric vehicles, and electric motorcycles, primarily powered by an electric motor that draws current from a building electrical service, EVSE, a rechargeable storage battery, a fuel cell, a photovoltaic array, or another source of electric current. Plug-in hybrid electric vehicles are electric vehicles that have a second source of motive power. Off-road, self-propelled electric mobile equipment such as industrial trucks, hoists, lifts,



transports, golf carts, airline ground support equipment, tractors, boats, and the like are not considered electric vehicles.

(11) **Electric vehicle supply equipment (EVSE).** Add the following definition to the IECC: Equipment for plug-in power transfer including the ungrounded, grounded and equipment grounding conductors, and the electric vehicle connectors, attachment plugs, personal protection system and all other fittings, devices, power outlets or apparatus installed specifically for the purpose of transferring energy between the premises wiring and the electric vehicle.

(12) **Unconditioned space.** Add the following definition to the IECC: Space within a building that is not mechanically heated or cooled and is outside the building thermal envelope.

(13) **Vapor retarder class.** Add the following definition to the IECC: A measure of a material or assembly's ability to limit the amount of moisture that passes through that material or assembly. Vapor retarder class shall be defined using the desiccant method of ASTM E96 as follows:

- (a) **class I:** 0.1 perm or less;  
 (b) **class II:** > 0.1 perm ≤1.0 perm;  
 (c) **class III:** > 1.0 perm ≤10 perm.

[14.7.6.10 NMAC - Rp, 14.7.6.10 NMAC, 01/30/2024]

**14.7.6.11 CHAPTER 3 [RE] GENERAL REQUIREMENTS:** See this chapter of the IECC except as provided below.

**A. Section R301 Climate zones.** See this Chapter of the IECC except as provided below.

**B. Section R301.1 General.** Delete this section of the IECC and substitute with the following: The table below in conjunction with Table 301.3(2) shall be used to determine the applicable requirements for chapter 4. Locations not listed in the table below shall use either Table 301.1, Section 301.3, or the building official may designate a climate zone consistent with the elevation, HDD & CDD from the table below.

**C. Table 301.2 New Mexico Climate Zones Based on Heating and Cooling Degree Days.** Add the following table to the IECC.

City	County	Elev. (feet)	Heating Degree Days (HDD) 65°F Day	Cooling Degree Days (CDD) 50°F Day	Climate Zone
Abiquiu Dam	Rio Arriba	6380	5872		5B
Angel Fire	Colfax	8406	9769	195	7B
Alamogordo	Otero	4350	3053	5309	3B
Albuquerque	Bernalillo	5312	4332	4462	4B
Artesia	Eddy	3380	3366	5374	3B
Aztec Ruins	San Juan	5644	5757		5B
Belen	Valencia	4800	4432	5012	3B
Bernalillo	Sandoval	5052	4782	4138	4B
Bloomfield	San Juan	5456	5490		5B
Bosque del Apache	Socorro	4520	3916	5012	3B
Carlsbad	Eddy	3295	2813	5997	3B
Carrizozo	Lincoln	5438	4234	3631	4B
Cedar Crest	Bernalillo	6581	5703		5B
Chaco Canyon	San Juan	6200	6137		5B
Chama	Rio Arriba	7871	8254		6B
Clayton	Union	5056	5150	3170	4B
Cloudcroft	Otero	8801	7205		6B
Clovis	Curry	4268	4033	4252	4B
Corona	Valencia	6690	5389	3631	4B
Cuba	Sandoval	7035	7122		5B
Deming	Luna	4305	3347	5292	3B
Dulce	Rio Arriba	6793	7979		6B
Eagle Nest	Colfax	8262	9254		7B
Edgewood	Santa Fe	6649	6146		5B

Espanola	Rio Arriba	5643	5641		5B
Farmington	San Juan	5395	5747		5B
Fence Lake	Cibola	7055	6396		5B
Fort Sumner	De Baca	4032	3799	4616	3B
Gallup	McKinley	6465	6207		5B
Glenwood	Catron	4725	3632	4427	4B
Grants	Cibola	6460	6143		5B
Hatch	Dona Ana	4052	3270	5904	3B
Hobbs	Lea	3622	2954	5181	3B
Jemez Springs	Sandoval	6198	5260	2059	4B
Las Cruces	Dona Ana	4000	3223	5904	3B
Las Vegas	San Miguel	6424	5738		5B
Lordsburg	Hidalgo	4250	3213	5210	3B
Los Alamos	Los Alamos	7320	6381		5B
Los Lunas	Valencia	4856	4725	4462	4B
Magdalena	Socorro	6572	5074	2093	4B
Mescalero	Otero	6611	5540		5B
Moriarty	Torrance	6220	4735	3786	4B
Mosquero	Harding	5485	5209	3631	4B
Mountainair	Torrance	6520	5558		5B
Organ	Dona Ana	5245	3215	4919	3B
Placitas	Sandoval	5955	4917	3701	4B
Portales	Roosevelt	4006	3845	4347	4B
Raton	Colfax	6680	6001		5B
Red River	Taos	8671	8742	179	7B
Reserve	Catron	5847	5483		5B
Rio Rancho	Sandoval	5282	4880	3949	4B
Roswell	Chaves	3573	3565	5505	3B
Ruidoso	Lincoln	6920	6309		5B
Sandia Crest	Bernalillo	10680	10034		7B
Sandia Park	Bernalillo	7077	7510		6B
Santa Fe	Santa Fe	7260	6001		5B
Santa Rosa	Guadalupe	4620	3749	4714	3B
Shiprock	San Juan	4892	5475		5B
Silver City	Grant	5895	4438	3975	4B
Socorro	Socorro	4603	3984	5147	3B
Springer	Colfax	5797	5653		5B
Taos	Taos	6967	6827		5B
Taos Ski Valley	Taos	9321	9769		7B
Tatum	Lea	3999	3680	4721	3B
Thoreau	McKinley	7200	5789		5B
Tierra Amarilla	Rio Arriba	7425	7901		6B
Tijeras	Bernalillo	6322	6338		5B
Tohatchi	McKinley	6447	5418		5B
Truth or Consequences	Sierra	4245	3394	5103	3B
Tucumcari	Quay	4096	3767	4429	4B
Tularosa	Otero	4508	3056	5130	3B
Zuni	McKinley	6293	5742		5B

[14.7.6.11 NMAC - Rp, 14.7.6.11 NMAC, 01/30/2024]

**14.7.6.12 CHAPTER 4 [RE] RESIDENTIAL ENERGY EFFICIENCY:** See this Chapter of the IECC except as provided below.

**A. Section R401**

**General.** See this section of the IECC except as provided below.

**(1) Section**

**R401.2 Application.** Delete this section of the IECC and substitute with the following: Residential buildings shall comply with one of the following sections: R401.2.1, R401.2.2, R401.2.3, or 401.2.4.  
**Exception:** Additions, alterations, repairs, and changes of occupancy to existing buildings complying with Chapter 5.

**(2) Section**

**R401.2.4 Tropical climate region option.** Delete this section of the IECC and substitute with the following: **Code programs recognized by the state of New Mexico.** Programs such as build green New Mexico, LEED-H, or other programs approved under IECC section 102.1.1.

**(3) Section**

**R401.2.5 Additional energy efficiency.** Delete this section of the IECC.

**(4) Section**

**R401.3 Certificate.** Delete this section of the IECC.

**B. Section R402**

**Building thermal envelope.** See this section of the IECC except as provided below.

**(1) Table**

**402.1.2 Maximum assembly U-factors and fenestration requirements.** See this table in the IECC except as provided below.

**(a)**

See this table in the IECC except in the ceiling U-Factor column change 0.026 to 0.028 in climate zone 3.

**(b)**

See this table in the IECC except in the ceiling U-Factor column change 0.024 to 0.026 in climate zones 4 except marine, 5 and marine 4, 6, 7 and 8.

**(2) Table**

**402.1.3 Insulation minimum R-values and fenestration requirements by component.** See

this table in the IECC except as provided below.

**(a)**

See this table in the IECC except in the ceiling R-value column change 49 to 38 in climate zone 3.

**(b)**

See this table in the IECC except in the ceiling R-value column change 60 to 49 in climate zones 4 except marine, 5 and marine 4, 6, 7 and 8.

**(c)**

See this table in the IECC except in the slab R-value and depth column change 10ci, 4ft to 10ci, 2ft in climate zones 4 except marine, 5 and marine 4.

**(3) Section**

**402.4 Air leakage.** See this section of the IECC except as provided below.

**(a)**

**Section 402.4.1.2 Testing.** See this section of the IECC except delete the last paragraph of the section and substitute with the following: Mechanical ventilation shall be provided in accordance with chapter 4 of the uniform mechanical code, as applicable, or with other approved means of ventilation.

**(b)**

**Section R402.4.1.4 Visual inspection option.** Add the following section to the IECC: Building envelope tightness, and insulation installation shall be considered acceptable with the items listed in table 402.1.2 or table 402.1.3 applicable to the method of construction. It shall be field verified by the code official as part of the inspection process, and the builder or an energy rater may also field verify using the state of New Mexico acceptable processes. Acceptable processes include but are not limited to the following: construction industries division thermal bypass visual inspection checklist, a thermal bypass certification or checklist from a HERS rater, a build green NM checklist, or an energy star program checklist from the New Mexico energy, minerals, and natural resources department.

**(c)**

**R402.4.1.5 Based on census.** Add the following section to the IECC: Based on census rural urban mapping

the following areas will be required to comply with R402.4.1 building thermal envelope, R402.4.1.2 testing, and R403.3.5 Duct testing: San Juan County, Sandoval County, Santa Fe County, Bernalillo County, Tarrant County, and Dona Ana County.

**(d)**

**R402.4.1.5 State of New Mexico Thermal Bypass Inspection Checklist and Duct Sealing Visual Inspection Checklist.** Add the

following section to the IECC: In accordance with sections R402.4.1, R402.4.1.2 and R403.3.5 the thermal bypass inspection checklist and duct sealing visual inspection checklist will be provided at the time of issuance of building permit or can also be accessed at [www.rld.nm.gov/construction-industries/](http://www.rld.nm.gov/construction-industries/) under forms and applications.

**C. Section R403**

**Systems.** See this section of the IECC except as provided below.

**(1) Section**

**R403.1.1 Programmable thermostat.** See this section

of the IECC except add the following exceptions to the end of the section:

**(a)**

When a water circulation system is utilized to heat and/or cool the residence, no programmable set-back thermostat is required.

**(b)**

Where the home is registered in a performance-based certification program, the requirements for a programmable thermostat shall be waived.

**(c)**

Where approved alternative methods of construction and/or materials are being used, programmable thermostats may be omitted.

**(2) Section**

**R403.3.5 Duct testing.** See this section of the IECC and add the following to the methods: 3. Duct sealing shall be considered in compliance with R403.3.5 when field inspected by the code official and verified by the builder or an energy rater using the state of New Mexico duct sealing visual inspection checklist which can be accessed

at [www.rld.nm.gov/construction-industries](http://www.rld.nm.gov/construction-industries).

(3) **Section R403.4 Mechanical system piping insulation.** See this section of the IECC and add the following exception: In-floor radiant heating or cooling systems do not require insulation.

**D. Section R404 Electrical power and lighting systems.** See this section of the IECC except as provided below.

(1) **Section R404.4 Electric vehicle power transfer infrastructure.** Add this section to the IECC. New residential automobile parking spaces for residential buildings shall be provided with electric vehicle power transfer infrastructure in accordance with Section R404.4.1 and Section R404.4.2.

(2) **Section R404.4.1 Quantity for single- and two-family dwellings.** Add this section to the IECC. New one- and two-family dwellings and townhouses as defined in 14.7.3 NMAC with a designated attached or detached garage or other onsite private parking provided adjacent to the dwelling unit shall be provided with the following:

(a) One electrical receptable box

(b) 8 ga. wiring from receptable box to a 50-amp circuit breaker in the electrical panel

(c) The circuit breaker in the electrical panel and the receptable box shall be marked "For future electrical vehicle charging equipment".

(3) **Section R404.4.2 Quantity for residential buildings with R-2, R-3, R-4 Occupancy classifications.** Add this section to the IECC. New R-2, R-3, and R-4 buildings that are three stories or less above grade plane shall comply with Section C405.13 of the NMCECC.

**E. Section R408 Additional efficiency package**

**options.** See this section of the IECC except as provided below.

(1) **Section R408.1 Scope.** Delete this section of the IECC and substitute with the following: This section establishes additional efficiency package options.

(2) **Section R408.2 Additional efficiency package options.** Delete this section of the IECC and substitute with the following: Additional efficiency package options are set forth in Sections R408.2.1 through R408.2.10.

(a) **Section R408.2.1 Enhanced envelope performance option.** See this section of the IECC.

(b) **Section R408.2.2 More efficient HVAC equipment performance option.** See this section of the IECC.

(c) **Section R408.2.3 Reduced energy use in service water-heating option.** See this section of the IECC.

(d) **Section R408.2.4 More efficient duct thermal distribution system option.** See this section of the IECC.

(e) **Section R408.2.5 Improved air sealing and efficient ventilation system option.** See this section of the IECC.

(f) **Section R408.2.6 Electric readiness.** Add this section to the IECC. Water heaters, household clothes dryers, and cooking appliances that use *fuel gas* or *liquid fuel* shall comply with the requirements of Sections R408.2.7 through R408.2.10.

(g) **Section R408.2.7 Cooking appliances.** Add this section to the IECC. A dedicated branch circuit with a rating not less than 240-volts, 40-amperes shall be installed and terminate within three feet (304 mm) of conventional cooking tops, conventional ovens or cooking appliances combining both. **Exception:** Cooking appliances not installed in an individual dwelling unit.

(h) **Section R408.2.8 Household clothes**

**dryers.** Add this section to the IECC. A dedicated branch circuit with a rating not less than 240-volts, 30-amperes shall be installed and terminate within three feet (304 mm) of each household clothes dryer. **Exception:** Clothes dryers not installed in an individual dwelling unit.

(i) **Section R408.2.9 Domestic hot water heaters.** Add this section to the IECC. A dedicated branch circuit with a rating not less than either 240-volts, 30-amperes or 120V, 20-amperes shall be installed and terminate within three feet (304 mm) of each domestic hot water heater. **Exception:** Water heaters serving multiple dwelling units serving an R-2 occupancy.

(j) **Section R408.2.10 Electrification-ready circuits.** Add this section to the IECC. The unused conductors required by sections R408.2.6 through R408.2.9 shall be labeled with the word appropriate to the appliance terminus. Capacity for the circuits required by Sections R408.2.6 through R408.2.9 shall be included in the load calculations of the original installation. [14.7.6.12 NMAC - Rp, 14.7.6.12 NMAC, 01/30/2024]

**dryers.** Add this section to the IECC. A dedicated branch circuit with a rating not less than 240-volts, 30-amperes shall be installed and terminate within three feet (304 mm) of each household clothes dryer. **Exception:** Clothes dryers not installed in an individual dwelling unit.

(i) **Section R408.2.9 Domestic hot water heaters.** Add this section to the IECC. A dedicated branch circuit with a rating not less than either 240-volts, 30-amperes or 120V, 20-amperes shall be installed and terminate within three feet (304 mm) of each domestic hot water heater. **Exception:** Water heaters serving multiple dwelling units serving an R-2 occupancy.

(j) **Section R408.2.10 Electrification-ready circuits.** Add this section to the IECC. The unused conductors required by sections R408.2.6 through R408.2.9 shall be labeled with the word appropriate to the appliance terminus. Capacity for the circuits required by Sections R408.2.6 through R408.2.9 shall be included in the load calculations of the original installation. [14.7.6.12 NMAC - Rp, 14.7.6.12 NMAC, 01/30/2024]

**14.7.6.13 CHAPTER 5 [RE] EXISTING BUILDINGS:** See this Chapter of the IECC. [14.7.6.13 NMAC - Rp 14.7.6.13 NMAC, 01/30/2024]

**14.7.6.14 CHAPTER 6 [RE] REFERENCED STANDARDS:** See this Chapter of the IECC. [14.7.6.14 NMAC - Rp 14.7.6.14 NMAC, 01/30/2024]

**HISTORY OF 14.7.6 NMAC:**  
**Pre NMAC History:** None.

**History of Repealed Material:**  
14.7.6 NMAC, 2003 New Mexico Energy Conservation Code (filed 5/27/2004) repealed 1/7/2004.  
14.7.6 NMAC, 2006 New Mexico Energy Conservation Code (filed 8/16/2007) repealed 1/28/2011.

14.7.6 NMAC, 2009 New Mexico Energy Conservation Code (filed 12/28/2010) repealed 8/1/2011.  
 14.7.6 NMAC, 2009 New Mexico Energy Conservation Code (filed 6/15/2011) repealed 6/28/2013.  
 14.7.6 NMAC, 2009 New Mexico Energy Conservation Code (filed 6/28/2013) repealed 9/25/2020.

**NMAC History:**

14.7.6 NMAC, 2003 New Mexico Energy Conservation Code (filed 5/27/2004) replaced by 14.7.6 NMAC, 2006 New Mexico Energy Conservation Code, effective 1/1/2008.  
 14.7.6 NMAC, 2006 New Mexico Energy Conservation Code (filed 8/16/2007) replaced by 14.7.6 NMAC, 2009 New Mexico New Mexico Energy Conservation Code, effective 1/28/2011.  
 14.7.6 NMAC, 2009 New Mexico Energy Conservation Code (filed 12/28/2010) replaced by 14.7.6 NMAC, 2009 New Mexico Energy Conservation Code, effective 8/1/2011.  
 14.7.6 NMAC, 2011 New Mexico Energy Conservation Code (filed 6/15/2011) replaced by 14.7.6 NMAC, 2013 New Mexico Energy Conservation Code, effective 6/28/2013.  
 14.7.6 NMAC, 2009 New Mexico Energy Conservation Code (filed 6/28/2013) replaced by 14.7.6 NMAC, 2018 New Mexico Energy Conservation Code, effective 9/25/2020.  
 14.7.6 NMAC, 2018 New Mexico Energy Conservation Code (filed 9/25/2020) replaced by 14.7.6 NMAC, 2021 New Mexico Energy Conservation Code, effective 1/30/2024.

**REGULATION  
AND LICENSING  
DEPARTMENT  
CONSTRUCTION INDUSTRIES  
DIVISION**

**TITLE 14 HOUSING AND  
CONSTRUCTION  
CHAPTER 7 BUILDING**

**CODES GENERAL  
PART 9 2021 NEW  
MEXICO COMMERCIAL  
ENERGY CONSERVATION  
CODE**

**14.7.9.1 ISSUING**

**AGENCY:** Construction Industries Division (CID) of the Regulation and Licensing Department.  
 [14.7.9.1 NMAC – Rp, 14.7.9.1 NMAC, 01/30/2024]

**14.7.9.2 SCOPE:** This rule applies to all commercial contracting work performed in New Mexico on or after January 30, 2024, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date.

[14.7.9.2 NMAC – Rp, 14.7.9.2 NMAC, 01/30/2024]

**14.7.9.3 STATUTORY**

**AUTHORITY:** Sections 60-13-9 and 60-13-44 NMSA 1978.

[14.7.9.3 NMAC – Rp, 14.7.9.3 NMAC, 01/30/2024]

**14.7.9.4 DURATION:**

Permanent.

[14.7.9.4 NMAC - Rp, 14.7.9.4 NMAC, 01/30/2024]

**14.7.9.5 EFFECTIVE**

**DATE:** January 30, 2024 unless a later date is cited at the end of a section. From the date of publication of this rule in the New Mexico register, until month July 30, 2024 permits may be issued under either the previously-adopted rule, or this rule. After month July 30, 2024, permits may be issued only under this rule.

[14.7.9.5 NMAC – Rp, 14.7.9.5 NMAC, 01/30/2024]

**14.7.9.6 OBJECTIVE:**

The purpose of this rule is to establish minimum standards for energy conservation for commercial construction in New Mexico.

[14.7.9.6 NMAC – Rp, 14.7.9.6 NMAC, 01/30/2024]

**14.7.9.7 DEFINITIONS:**

See 14.5.1 NMAC, General Provisions and Chapter 2 [CE] of the IECC as amended in 14.7.6.10 NMAC.  
 [14.7.9.7 NMAC – Rp, 14.7.9.7 NMAC, 01/30/2024]

**14.7.9.8 ADOPTION  
OF THE 2021 NEW MEXICO  
COMMERCIAL ENERGY  
CONSERVATION CODE:**

**A.** This rule adopts by reference the 2021 international energy conservation code (IECC) as amended by this rule.

**B.** In this rule, each provision is numbered to correspond with the numbering of the 2021 international energy conservation code.

**C.** This rule is to be applied where appropriate to each of the following New Mexico building codes, including the NMCBC, NMEBC, NMPC, NMMC and the NMEC.

[14.7.9.8 NMAC – Rp, 14.7.9.8 NMAC, 01/30/2024]

**14.7.9.9 CHAPTER 1 [CE]  
SCOPE AND ADMINISTRATION.**

See this chapter of the IECC except as provided below.

**A. Section C101  
Scope and general requirements.**

**(1) Section C101.1 Title.** Delete this section of the IECC and substitute: This rule shall be known as 14.7.6 NMAC, the 2021 New Mexico Commercial Energy Conservation Code (NMCECC).

**(2) Section C101.2 Scope.** Delete this section of the IECC and see 14.7.9.2 NMAC, Scope.

**(3) Section C101.3 Intent.** Delete this section of the IECC and see 14.7.9.6 NMAC, Objective.

**(4) Section C101.5.1 Compliance materials.** Delete this section of the IECC and substitute with the following: The code official shall be permitted to approve specific computer software, worksheets, compliance manuals and

other similar materials that meet the intent of this code, including but not limited to ComCheck, and worksheet or trade-off sheets from the New Mexico energy conservation code commercial applications manual issued by the New Mexico department of energy, minerals, and natural resources.

**B. Section C102 Alternative Materials, Design and Methods of Construction and Equipment.** See this section of the IECC.

**C. Section C103 Construction documents.** See this section of the IECC except as provided below.

**(1) Section C103.1 General.** Delete this section of the IECC and see 14.5.2 NMAC, Permits.

**(2) Section C103.2 Information on construction documents.** See this section of the IECC and 14.5.2 NMAC, Permits.

**(3) Section C103.3 Examination of documents.** Delete this section of the IECC and see 14.5.2 NMAC, Permits.

**(4) Section C103.4 Amended construction documents.** Delete this section of the IECC and see 14.5.2 NMAC, Permits.

**(5) Section C103.5 Retention of construction documents.** Delete this section of the IECC and see 1.21.2 NMAC, Retention and Disposition of Public Records.

**(6) Section C103.6 Building documentation and closeout submittal requirements.** Delete section and substitute with the following: The construction documents shall specify that the documents described in this section be provided to the building owner or owner's authorized agent.

**D. Section C104 Fees.** Delete this section of the IECC and see 14.5.5 NMAC, Fees.

**E. Section C105 Inspections.** Delete this section of the IECC and see 14.5.3 NMAC, Inspections.

**F. Section C106 Notice of approval.** Delete this section of the IECC and see 14.5.2 NMAC, Inspections.

**G. Section C107 Validity.** Delete this section of the IECC and see 14.5.2 NMAC, Permits.

**H. Section C108 Referenced standards.** Delete this section of the IECC and substitute with the following: All references in the IECC to the international building code shall be deemed references to 14.7.2 NMAC, the New Mexico Commercial Building Code (NMCBC). All references to the international plumbing code shall be deemed references to 14.8.2 NMAC, the New Mexico Plumbing Code (NMPC). All references to the international mechanical code shall be deemed references to 14.9.2 NMAC, the New Mexico Mechanical Code (NMMC). All references to the IEC or international electrical code shall be deemed references to 14.10.4 NMAC, the New Mexico Electrical Code (NMEC). All references to the international energy conservation code shall be deemed references to 14.7.9 NMAC, the New Mexico Commercial Energy Conservation Code (NMCECC). All references to the international fuel gas code are deemed references to the NMMC or the LP gas standards found at 19.15.40 NMAC, and Sections 70-5-1 through 70-5-23 NMSA 1978.

**I. Section C109 Stop work order.** Delete this section of the IECC and see 14.5.3 NMAC, Inspections.

**J. Section C110 Board of appeals.** Delete this section of the IECC and See 14.5.1 NMAC, General Provisions. [14.7.9.9 NMAC – Rp, 14.7.9.9 NMAC, 01/30/2024]

**14.7.9.10 CHAPTER 2 [CE] DEFINITIONS.** See this chapter of the IECC except for as provided below.

**A. Section C201.1 Scope.** See this section of the IECC and add the following: If the same term is defined in the New Mexico construction codes and in the IECC, the term shall have the meaning given it in the New Mexico construction codes.

**B. Section C201.3 Terms defined in other codes.** Delete this section of the IECC and substitute with the following: Terms that are not defined in this code but are defined in the NMCBC, NMEBC, NMMC, NMPC, NMEC, or any other New Mexico building code shall have the meanings ascribed to them in those codes.

**C. Section C202 General definitions.** See this section of the IECC and add the following definitions:

**(1) NMCECC** means 2021 New Mexico Commercial Energy Conservation Code.

**(2) NMCBC** means 14.7.3 NMAC, the current adopted New Mexico Commercial Building Code.

**(3) NMEBC** means 14.7.7 NMAC, the current adopted New Mexico Existing Building Code.

**(4) NMPC** mean 14.8.2 NMAC, the current adopted New Mexico Plumbing Code.

**(5) NMMC** means 14.9.2 NMAC, the current adopted New Mexico Mechanical Code.

**(6) NMEC** means 14.10.4 NMAC, the current adopted New Mexico Electrical Code.

**(7) COMCHECK** is the U.S. department of energy commercial energy compliance software tool that determines whether a new commercial building meets the requirements of IECC prescriptive based paths or ASHRAE Standard 90.1.-

**(8) ASTM** means the American society for testing and materials, is an international standards organization that develops and publishes voluntary consensus technical standards for a wide range of materials utilized in construction.

**(9) Electric vehicle (EV).** Add the following definition to the IECC: An automotive-type vehicle for on-road use, such as passenger automobiles, buses, trucks, vans, neighborhood electric vehicles,

and electric motorcycles, primarily powered by an electric motor that draws current from a building electrical service, EVSE, a rechargeable storage battery, a fuel cell, a photovoltaic array, or another source of electric current. Plug-in hybrid electric vehicles are electric vehicles that have a second source of motive power. Off-road, self-propelled electric mobile equipment such as industrial trucks, hoists, lifts, transports, golf carts, airline ground support equipment, tractors, boats, and the like are not considered electric vehicles.

(10) **Electric vehicle capable space (EV Capable Space).** Add the following definition to the IECC: An automobile parking space provided with electrical infrastructure, such as, but not limited to, raceways, cables, enclosures, electrical capacity, and electrical distribution equipment space, necessary for connection to EVSE.

(11) **Electric vehicle supply equipment (EVSE).** Add the following definition to the IECC: Equipment for plug-in power transfer including the ungrounded, grounded and equipment grounding conductors, and the electric vehicle connectors, attachment plugs, personal protection system and all other fittings, devices, power outlets or apparatus installed specifically for the purpose of transferring energy between the premises wiring and the electric vehicle.

(12) **Unconditioned space.** Add the following definition to the IECC: Space within building that is not mechanically heated or cooled and is outside the building thermal envelope.

(13) **Vapor retarder class.** Add the following definition to the IECC: A measure of a material or assembly's ability to limit the amount of moisture that passes through that material or assembly. Vapor retarder class shall be defined using the desiccant method of ASTM E96 as follows:

- (a) **class I:** 0.1 perm or less;
- (b) **class II:** > 0.1 perm ≤1.0 perm;
- (c) **class III:** > 1.0 perm ≤10 perm.

[14.7.9.10 NMAC – Rp, 14.7.9.10 NMAC, 01/30/2024]

**14.7.9.11 CHAPTER 3 [CE] GENERAL REQUIREMENTS.** See this chapter of the IECC except as provided below.

**A. Section C301 Climate zones.** See this section of the IECC except as provided below.

**Section C301.1 General.** Delete this section of the IECC and substitute with the following: Climate zones from table C301.2 in conjunction with table C301.3(2) shall be used to determine the applicable requirements for Chapter 4. Locations not listed in the table below shall use either table C301.1 or figure C301.1, section C301.3 or the building official may designate a climate zone consistent with the elevation, HDD, and CDD from table C301.2.

**B. Table C301.2 New Mexico Climate Zones Based on Heating and Cooling Degree Days.** Add the following table to the IECC.

City	County	Elev. (feet)	Heating Degree Days (HDD) 65°F Day	Cooling Degree Days (CDD) 50°F Day	Climate Zone
Abiquiu Dam	Rio Arriba	6380	5872		5B
Angel Fire	Colfax	8406	9769	195	7B
Alamogordo	Otero	4350	3053	5309	3B
Albuquerque	Bernalillo	5312	4332	4462	4B
Artesia	Eddy	3380	3366	5374	3B
Aztec Ruins	San Juan	5644	5757		5B
Belen	Valencia	4800	4432	5012	3B
Bernalillo	Sandoval	5052	4782	4138	4B
Bloomfield	San Juan	5456	5490		5B
Bosque del Apache	Socorro	4520	3916	5012	3B
Carlsbad	Eddy	3295	2813	5997	3B
Carrizozo	Lincoln	5438	4234	3631	4B
Cedar Crest	Bernalillo	6581	5703		5B
Chaco Canyon	San Juan	6200	6137		5B
Chama	Rio Arriba	7871	8254		6B
Clayton	Union	5056	5150	3170	4B
Cloudcroft	Otero	8801	7205		6B
Clovis	Curry	4268	4033	4252	4B

Corona	Valencia	6690	5389	3631	4B
Cuba	Sandoval	7035	7122		5B
Deming	Luna	4305	3347	5292	3B
Dulce	Rio Arriba	6793	7979		6B
Eagle Nest	Colfax	8262	9254		7B
Edgewood	Santa Fe	6649	6146		5B
Espanola	Rio Arriba	5643	5641		5B
Farmington	San Juan	5395	5747		5B
Fence Lake	Cibola	7055	6396		5B
Fort Sumner	De Baca	4032	3799	4616	3B
Gallup	McKinley	6465	6207		5B
Glenwood	Catron	4725	3632	4427	4B
Grants	Cibola	6460	6143		5B
Hatch	Dona Ana	4052	3270	5904	3B
Hobbs	Lea	3622	2954	5181	3B
Jemez Springs	Sandoval	6198	5260	2059	4B
Las Cruces	Dona Ana	4000	3223	5904	3B
Las Vegas	San Miguel	6424	5738		5B
Lordsburg	Hidalgo	4250	3213	5210	3B
Los Alamos	Los Alamos	7320	6381		5B
Los Lunas	Valencia	4856	4725	4462	4B
Magdalena	Socorro	6572	5074	2093	4B
Mescalero	Otero	6611	5540		5B
Moriarty	Torrance	6220	4735	3786	4B
Mosquero	Harding	5485	5209	3631	4B
Mountainair	Torrance	6520	5558		5B
Organ	Dona Ana	5245	3215	4919	3B
Placitas	Sandoval	5955	4917	3701	4B
Portales	Roosevelt	4006	3845	4347	4B
Raton	Colfax	6680	6001		5B
Red River	Taos	8671	8742	179	7B
Reserve	Catron	5847	5483		5B
Rio Rancho	Sandoval	5282	4880	3949	4B
Roswell	Chaves	3573	3565	5505	3B
Ruidoso	Lincoln	6920	6309		5B
Sandia Crest	Bernalillo	10680	10034		7B
Sandia Park	Bernalillo	7077	7510		6B
Santa Fe	Santa Fe	7260	6001		5B
Santa Rosa	Guadalupe	4620	3749	4714	3B
Shiprock	San Juan	4892	5475		5B
Silver City	Grant	5895	4438	3975	4B
Socorro	Socorro	4603	3984	5147	3B
Springer	Colfax	5797	5653		5B
Taos	Taos	6967	6827		5B
Taos Ski Valley	Taos	9321	9769		7B
Tatum	Lea	3999	3680	4721	3B
Thoreau	McKinley	7200	5789		5B
Tierra Amarilla	Rio Arriba	7425	7901		6B
Tijeras	Bernalillo	6322	6338		5B
Tohatchi	McKinley	6447	5418		5B



Truth or Consequences	Sierra	4245	3394	5103	3B
Tucumcari	Quay	4096	3767	4429	4B
Tularosa	Otero	4508	3056	5130	3B
Zuni	McKinley	6293	5742		5B

[14.7.9.11 NMAC – Rp, 14.7.9.11 NMAC 01/30/2024]

**14.7.9.12 CHAPTER 4 [CE] COMMERCIAL ENERGY EFFICIENCY:** See this Chapter of the IECC except as provided below.

**A. Section C401 General.** See this section of the IECC except as provided below. **Section C401.3 Thermal envelope certificate.** Delete this section of the IECC.

**B. Section C402 Building envelope requirements.** See this section of the IECC except as provided below. **Section C402.4.2.1 Lighting controls in toplit daylight zones.** Delete this section of the IECC without substitution.

**C. Section 403 Building mechanical systems.** See this section of the IECC except as provided below. **Section C403.7.1 Demand control ventilation.** See this section of the IECC except delete “Table 403.3.1.1 of the International mechanical code” and replace with “Table 402.1 of the uniform mechanical code” wherever referenced in this section.

**D. Section 405 Electrical power and lighting systems.** See this section of the IECC except as provided below.

**(1) Section C405.2.4.3 Toplit zone.** Delete this section of the IECC.

**(2) Section C405.6 Dwelling electrical meter.** Delete this section of the IECC and substitute with the following: Each dwelling unit located in an apartment house, live/work unit, or vacation time share property with an R-2 occupancy shall have a separate electrical meter.

**(3) Section C405.10 Voltage drop.** Delete this section of the IECC.

**(4) Section C405.13 Electric vehicle power transfer infrastructure.** Add this section to the IECC. Parking facilities shall be provided with electric vehicle power transfer infrastructure in accordance with design requirements and Sections C405.13.1 through C405.13.6.

**(a) Section C405.13.1 Quantity.** Add this section to the IECC. The number of required EV spaces and EV capable spaces shall be determined in accordance with this section and Table C405.13.1 based on the total number of automobile parking spaces and shall be rounded up to the nearest whole number. For R-2 buildings, the table requirements shall be based on the total number of dwelling units or the total number of automobile parking spaces, whichever is less.

**(i)** Where more than one parking facility is provided on a building site, the number of required automobile parking spaces required to have EV power transfer infrastructure shall be calculated separately for each parking facility.

**(ii)** Where one shared parking facility serves multiple building occupancies, the required number of spaces shall be determined proportionally based on the floor area of each building occupancy.

**(iii)** Installed EVSE spaces that exceed the minimum requirements of this section may be used to meet minimum requirements for EV capable spaces.

**(iv)** Requirements for a Group S-2 parking garage shall be determined by the occupancies served by that parking garage. Where new automobile spaces do not serve specific occupancies, the values for Group S-2 parking garage in Table C405.13.1 shall be used.

**Exception:** Parking facilities, serving occupancies other than R-2 with fewer than 10 automobile parking spaces.

**(b) Table C405.13.1 Required EV Power Transfer Infrastructure.** Add this table to the IECC. **TABLE C405.13.1 REQUIRED EV POWER TRANSFER INFRASTRUCTURE**

Occupancy	EVSE Spaces	*EV Capable Spaces
Group A	5%	10%
Group B	5%	5%
Group E	5%	5%
Group F	2%	5%
Group H	1%	0%
Group I	5%	10%

Group M	5%	10%
Group R-1	5%	15%
Group R-2	5%	15%
Group R-3 and R-4	2%	5%
Group S exclusive of Parking Garages	1%	0%
Group S-2 Parking Garages	5%	10%

\*EV Capable Spaces are in addition to the required EVSE Spaces.

(c)  
**Section C405.13.2 EV Capable Spaces.** Add this section to the IECC. Each EV capable space used to meet the requirements of section C405.13.1 shall comply with the following:

(i) A continuous raceway or cable assembly shall be installed between an enclosure or outlet located within 6 feet (914 mm) of the first EV capable space it serves and electrical distribution equipment.

(ii) EV capable space raceway or cable assembly may be installed to a point at an island or median in the parking lot to provide future EV spaces without being required to provide each space with an EV capable space.

(iii) Installed raceway or cable assembly shall be sized and rated to supply a minimum circuit capacity in accordance with Section C405.13.5.

(iv) The electrical distribution equipment to which the raceway or cable assembly connects shall have dedicated overcurrent protection device space and electrical capacity to supply a calculated load in accordance with Section C405.13.5.

(v) The enclosure or outlet and the electrical distribution equipment directory shall be marked: "For electric vehicle supply equipment (EVSE)".

(vi) Accessible parking shall be in accordance with section 1107 of the IBC.

(d)  
**Section C405.13.3 EVSE Spaces.** Add this section to the IECC. An installed EVSE with multiple output

connections shall be permitted to serve multiple EVSE spaces. Each EVSE installed to meet the requirements of section C405.13.1, serving either a single EVSE space or multiple EVSE spaces, shall comply with the following:

(i) Have a minimum system and circuit capacity in accordance with section C405.13.5.

(ii) Have a nameplate rating of not less than 6.2kW.

(iii) Be located within 6 feet (914 mm) of each EVSE space it serves.

(iv) Be installed in accordance with Section C405.13.6.

(v) The EVSE space shall be in a location that will not obstruct a public walkway when the EVSE is being utilized by a user.

(vi) Accessible parking shall be in accordance with section 1107 of the IBC.

(e)  
**Section C405.13.4 System and circuit capacity.** Add this section to the IECC. The system and circuit capacity shall comply with C405.14.5.1 and C405.14.5.2.

(f)  
**Section C405.13.4.1 System capacity.** Add this section to the IECC. The electrical distribution equipment supplying the branch circuit(s) serving each EV capable space and EVSE space shall comply with one of the following:

(i) Have a calculated load of 7.2 kVA or the nameplate rating of the equipment, whichever is larger, for each EV capable space and EVSE space.

(ii) Meets the requirements of section C405.13.5.3.1.

(g)  
**Section C405.13.4.2 Circuit Capacity.** Add this section to the IECC. The branch circuit serving each EV capable space and EVSE space shall comply with one of the following:

(i) Have a rated capacity of not less than 50 amperes or the nameplate rating of the equipment, whichever is greater.

(ii) Meets the requirements of section C405.13.5.3.2.

(h)  
**Section C405.14.4.3 System and circuit capacity management.** Add this section to the IECC. Where system and circuit capacity management are selected in section C405.13.5.1(2) or section C405.13.5.2(2), the installation shall comply with sections C405.13.4.3.1 and C405.13.4.3.2.

(i)  
**Section C405.13.4.3.1 System capacity management.** Add this section to the IECC. The maximum equipment load on the electrical distribution equipment supplying the branch circuit(s) serving EV capable spaces and EVSE spaces controlled by an energy management system shall be the maximum load permitted by the energy management system, but not less than 3.3 kVA per space.

(j)  
**Section C405.13.4.3.2 Circuit Capacity Management.** Add this section to the IECC. Each branch circuit serving multiple EVSE spaces or EV capable spaces controlled by an

energy management system shall comply with one of the following:

- (i) Have a minimum capacity of 25 amperes per space.
- (ii) Have a minimum capacity of 20 amperes per space for R-2 occupancy type.
- (k) **C405.13.5 EVSE Installation.** EVSE shall be installed in accordance with NFPA 70

and shall be listed and labeled in accordance with UL 2202 or UL 2594.

**D. Section C408 Maintenance Information and System Commissioning.** See this section of the IECC except as provided below.

**(1) Section C408.2 Mechanical systems and service water-heating systems commissioning and completion requirements.** Delete this section of the IECC and substitute with the following: Prior to the final mechanical and plumbing inspections, the registered design professional or approved agency, shall provide evidence of mechanical systems commissioning and completion in accordance with the provisions of this section. Construction document notes shall clearly indicate provisions for commissioning requirements in accordance with this section and are permitted to refer to specifications for further requirements. Copies of all documentation shall be given to the building owner or owners authorized agent.

**Exceptions:** The following systems are exempt:

- (a) Mechanical systems and service water heater systems in buildings where the total mechanical equipment capacity is less than 480,000 Btu/h (140.7 kW) cooling capacity and 600,000 Btu/h (175.8 kW) combined service water-heating and space-heating capacity.
- (b) Systems included in Section C403.5 that serve individual dwelling units and sleeping units.

**(2) Section C408.2.4 Preliminary commissioning report.** See this section of the IECC.

**(3) Figure C408.2.4 Commissioning compliance checklist.** Delete this figure from the IECC and substitute with the following figure:

**FIGURE C408.2.4  
COMMISSIONING COMPLIANCE CHECKLIST**

Project Information: \_\_\_\_\_ Project Name: \_\_\_\_\_

Project Address: \_\_\_\_\_

Commissioning Authority: \_\_\_\_\_

Commissioning Plan (Section C408.2.1)

- Commissioning Plan was used during construction and includes all items required by Section C408.2.1
- Systems Adjusting and Balancing shall be completed per plans and specifications.
- HVAC Equipment Functional Testing shall be completed per plans and specifications.
- HVAC Controls Functional Testing shall be completed per plans and specifications.
- Economizer Functional Testing shall be completed per plans and specifications.
- Lighting Controls Functional Testing shall be completed per plans and specifications.
- Service Water Heating System Functional Testing shall be completed per plans and specifications.
- Manual, record documents and training shall be completed per plans and specifications.
- Preliminary Commissioning Report shall be submitted to the owner and includes all items required by Section C408.2.4.
- The above-referenced items are scheduled to be provided on:



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**Other Material Related to Administrative Law**

**HUMAN SERVICES  
DEPARTMENT  
INCOME SUPPORT DIVISION**

**NOTICE OF MINOR,  
NONSUBSTANTIVE  
CORRECTION**

The Human Services Department, Income Support Division gives Notice of a Minor, Nonsubstantive Correction to 8.102.520 NMAC, published in issue 20 of the NEW MEXICO REGISTER on October 24, 2023.

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 rules, as follows:

Section 9: Subsections N, O & P are corrected to read:

N. subsidized private sector employment: as outlined at Subsection B of 8.102.461.12 NMAC.

O. guaranteed basic income: any payments that is funded solely with private funds or mixture of private and public funds will be excluded income.

P. universal basic income: any payments that is funded solely with private funds or mixture of private and public funds will be excluded income.

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

**REGULATION  
AND LICENSING  
DEPARTMENT  
ATHLETIC COMMISSION**

**NOTICE OF MINOR,  
NONSUBSTANTIVE  
CORRECTION**

The Athletic Commission, Regulation and Licensing Department, gives Notice of a Minor, Nonsubstantive Correction to 15.6.20 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 19: Changed numbering for subsections D thru F to C thru E, to conform to correct legislative style.

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

**SUPERINTENDENT OF  
INSURANCE, OFFICE OF**

**NOTICE OF MINOR,  
NONSUBSTANTIVE  
CORRECTION**

The Office of the Superintendent of Insurance gives Notice of a Minor, Nonsubstantive Correction to 13.8.7 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 8: NOTIFICATION REQUIREMENT was incorrectly numbered as Section 7. Section 7, per Subsection F of 1.24.10.8 NMAC, is always entitled "DEFINITIONS" and

reserved as such. The section number was changed, and Section 7 was re-inserted into the body of the part.

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

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

# 2024 New Mexico Register

## Submittal Deadlines and Publication Dates

### Volume XXXV, Issues 1-24

<b>Issue</b>	<b>Submittal Deadline</b>	<b>Publication Date</b>
<b>Issue 1</b>	<b>January 4</b>	<b>January 16</b>
<b>Issue 2</b>	<b>January 18</b>	<b>January 30</b>
<b>Issue 3</b>	<b>February 1</b>	<b>February 13</b>
<b>Issue 4</b>	<b>February 15</b>	<b>February 27</b>
<b>Issue 5</b>	<b>February 29</b>	<b>March 12</b>
<b>Issue 6</b>	<b>March 14</b>	<b>March 26</b>
<b>Issue 7</b>	<b>March 28</b>	<b>April 9</b>
<b>Issue 8</b>	<b>April 11</b>	<b>April 23</b>
<b>Issue 9</b>	<b>April 25</b>	<b>May 7</b>
<b>Issue 10</b>	<b>May 9</b>	<b>May 21</b>
<b>Issue 11</b>	<b>May 23</b>	<b>June 11</b>
<b>Issue 12</b>	<b>June 13</b>	<b>June 25</b>
<b>Issue 13</b>	<b>July 8</b>	<b>July 16</b>
<b>Issue 14</b>	<b>July 18</b>	<b>July 30</b>
<b>Issue 15</b>	<b>August 1</b>	<b>August 13</b>
<b>Issue 16</b>	<b>August 15</b>	<b>August 27</b>
<b>Issue 17</b>	<b>August 29</b>	<b>September 10</b>
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<b>Issue 19</b>	<b>September 26</b>	<b>October 8</b>
<b>Issue 20</b>	<b>October 10</b>	<b>October 22</b>
<b>Issue 21</b>	<b>October 24</b>	<b>November 5</b>
<b>Issue 22</b>	<b>November 7</b>	<b>November 19</b>
<b>Issue 23</b>	<b>November 26</b>	<b>December 10</b>
<b>Issue 24</b>	<b>December 12</b>	<b>December 23</b>

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