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New Mexico Register

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

Volume XXXVI - Issue 3 - February 11, 2024

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The New Mexico Register

Published by the Commission of Public Records,
Administrative Law Division

1205 Camino Carlos Rey, Santa Fe, NM 87507

The *New Mexico Register* is published twice each month by the Commission of Public Records, Administrative Law Division. The cost of an annual subscription is \$270.00. Individual copies of any Register issue may be purchased for \$12.00. Subscription inquiries should be directed to: The Commission of Public Records, Administrative Law Division, 1205 Camino Carlos

Rey, Santa Fe, NM 87507.

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New Mexico Register

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February 11, 2025

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Notices of Rulemaking and Proposed Rules

ENVIRONMENT DEPARTMENT

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD NOTICE OF STATE IMPLEMENTATION PLAN AND RULEMAKING HEARING TO CONSIDER ADOPTION OF PROPOSED REGIONAL HAZE STATE IMPLEMENTATION PLAN REVISION FOR THE SECOND PLANNING PERIOD AND PROPOSED COMPANION RULE 20.2.68 NMAC – REGIONAL HAZE REQUIREMENTS, EIB 24-49 (R)

The New Mexico Environmental Improvement Board (“Board”) will hold a public hearing beginning on April 28, 2025, at 9:00 a.m. to consider EIB 24-49 (R) – In the Matter of Regional Haze State Implementation Plan Revision for the Second Planning Period and Proposed Companion Rule 20.2.68 NMAC – Regional Haze Requirements. The hearing will last as long as required to hear all testimony, evidence, and public comment, and is expected to last approximately three days. The Board may make a decision on the proposed regional haze state implementation plan (“SIP”) revision and companion rule at the conclusion of the hearing, or the Board may convene a meeting after the hearing to consider action on the proposals.

The hearing will be conducted in a hybrid format to allow for both in-person and virtual participation. The in-person hearing will be held at the New Mexico State Capitol Building (Roundhouse), 490 Old Santa Fe Trail, Santa Fe, NM 87505. Detailed information concerning the time and location and instructions on how to join the hearing virtually is available on the New Mexico Environment Department (“NMED”) events calendar at <https://www.env.nm.gov/events-calendar/>, under the calendar entry corresponding

to the hearing start date. From now until the conclusion of the hearing, comments may be submitted via the NMED public comment portal at <https://nmed.commentinput.com?id=ft7HAYPUN> or via electronic or physical mail to Pamela Jones, Board Administrator, P.O. Box 5469, Santa Fe, NM 87502, pamela.jones@env.nm.gov.

The purpose of the hearing is for the Board to consider and take possible action on a petition by NMED requesting the Board to adopt New Mexico’s proposed regional haze SIP revision for the second planning period and a new companion rule at 20.2.68 NMAC. The requested action is mandated pursuant to 40 C.F.R. § 51.308(f), which requires states to submit a comprehensive regional haze SIP revision for the second planning period to the U.S. Environmental Protection Agency (“EPA”) by July 31, 2021. The SIP revision, if adopted, will be submitted to the EPA to satisfy federal Clean Air Act requirements at 42 U.S.C. § 7491.

The proposed regional haze SIP revision for the second planning period describes visibility conditions, including the uniform rate of progress, for each of New Mexico’s Class I areas; provides a long-term strategy addressing regional haze visibility impairment; establishes reasonable progress goals reflecting the visibility conditions that are projected to be achieved by the end of the second planning period as a result of the long-term strategy; provides a robust demonstration that all reasonable measures have been taken to improve visibility at Salt Creek Wilderness Area, the sole Class I area in New Mexico projected to be above the uniform rate of progress glidepath in 2028; and describes New Mexico’s strategy for measuring, characterizing, and reporting of regional haze visibility impairment in Class I areas. It also describes NMED’s coordination and consultation with Federal Land Managers (“FLMs”), EPA, states,

Tribes, and other interested parties during the development of the plan and includes a periodic progress report addressing the requirements of 40 C.F.R. § 51.308(g)(1)-(5) for the period since the most recent progress report.

The proposed companion rule at 20.2.68 NMAC establishes enforceable emission limitations, compliance schedules, and other measures that are necessary to make reasonable progress during the second planning period, and provisions to make these measures practicably enforceable, including averaging times, monitoring requirements, and recordkeeping and reporting requirements. Incorporation of the companion rule into the regional haze SIP revision after adoption will make the emission limitations and other measures in the rule federally enforceable at the time EPA grants final approval of the SIP revision.

As required by 42 U.S.C. § 7491(d) and 40 C.F.R. § 51.308(i) (2), NMED consulted with the appropriate FLMs on the proposed regional haze SIP revision and provided them the opportunity to discuss their assessment of, and recommendations on the development and implementation of strategies to address, visibility impairment in Class I areas. The FLMs were highly supportive of NMED’s plan engagement, source selection, control measure evaluations, and long-term strategy. The U.S. National Park Service provided critical comments regarding several aspects of NMED’s evaluation of selective catalytic reduction (“SCR”) for natural gas-fired combustion turbines. NMED carefully considered these comments and revised its SCR analyses and control measure determinations in response.

The proposed regional haze SIP revision, companion rule, and related information, including technical information, may be reviewed on NMED’s Regional Haze Planning

web page at <https://www.env.nm.gov/air-quality/reg-haze/>; during regular business hours at the NMED Air Quality Bureau, 525 Camino de los Marquez, Santa Fe, NM 87505; or by contacting Mark Jones at 505-629-6626 or mark.jones@env.nm.gov.

The hearing will be conducted in accordance with the Board's rulemaking procedures at 20.1.1 NMAC; the Environmental Improvement Act, Section 74-1-9 NMSA 1978; the Air Quality Control Act, Section 74-2-6 NMSA 1978; and other applicable procedures. The Board is authorized to adopt this rule under its authority to adopt, promulgate and publish rules to prevent or abate air pollution, including rules prescribing air standards within the geographic area of the Board's jurisdiction. NMSA 1978, § 74-2-5(B)(1). The Board may adopt this rule under its authority to adopt rules that "protect visibility in mandatory class I areas to prevent significant deterioration of air quality and to achieve national ambient air quality standards in nonattainment areas." NMSA 1978, § 74-2-5(D)(1).

All interested persons will be given a reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally and in writing; to introduce exhibits; and to examine witnesses. Persons wishing to present technical testimony must file a written Notice of Intent to Present Technical Testimony ("NOI") with the Board. The NOI shall: (1) identify the person for whom the witness(es) will testify; (2) identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background; (3) if the hearing will be conducted at multiple locations, indicate the location or locations at which the witnesses will be present; (4) include a copy of the direct testimony of each technical witness in narrative form; (5) include the text of any recommended modifications to the proposed regulatory change; and (6)

list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Pursuant to the order setting new pre-hearing deadlines entered by the hearing officer on December 9, 2024, NOIs must be received by the Board no later than 5:00 pm on March 3, 2025, and shall include the required NOI elements described above. In the event a party seeks to present rebuttal testimony, a rebuttal NOI must be filed. Rebuttal NOIs must be received by the Board no later than 5:00 p.m. on March 31, 2025, and shall include a copy of the rebuttal testimony in narrative form and all other required NOI elements described above. Entries of appearance filed pursuant to 20.1.1 NMAC must be received by the Board no later than 5:00 p.m. on April 8, 2025. NOIs, rebuttal NOIs, and entries of appearance shall be submitted to Pamela Jones, Board Administrator, P.O. Box 5469, Santa Fe, NM, 87502, pamela.jones@env.nm.gov, and served electronically on all parties reflected on the service list maintained by the Administrator.

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer non-technical exhibits in connection with their testimony, so long as the exhibit is not unduly repetitious of the testimony. A member of the general public who wishes to submit a written statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing or submit it at the hearing.

Persons requiring language interpretation services or having a disability who need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing should contact Pamela Jones at least 14 days prior to the hearing or as soon as

possible at (505) 660-4305 or pamela.jones@env.nm.gov. TDD or TDY users please dial 7-1-1 or 800-659-8331 to access this number via Relay New Mexico.

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact Kate Cardenas, Non-Discrimination Coordinator, New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@env.nm.gov.

If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.

**AVISO DE LA JUNTA DE
MEJORA AMBIENTAL DE
NUEVO MÉXICO SOBRE
EL PLAN ESTATAL DE
IMPLEMENTACIÓN Y LA
AUDIENCIA DE ELABORACIÓN
DE NORMAS PARA
CONSIDERAR LA ADOPCIÓN
DE LA REVISIÓN PROPUESTA
DEL PLAN ESTATAL DE
IMPLEMENTACIÓN DE
LA CONTAMINACIÓN
ATMOSFÉRICA REGIONAL**

**PARA EL SEGUNDO PERIODO
DE PLANIFICACIÓN Y LA
NORMA COMPLEMENTARIA
PROPUESTA 20.2.68
NMAC - REQUISITOS
DE CONTAMINACIÓN
ATMOSFÉRICA REGIONAL, EIB
24-49 (R)**

La Junta de Mejora Ambiental de Nuevo México (“Junta”) llevará a cabo una audiencia pública a partir del 28 de abril de 2025 a las 9:00 a. m. para considerar la EIB 24-49 (R) – En el asunto de la Revisión del Plan de Implementación Estatal de Contaminación Atmosférica Regional para el Segundo Período de Planificación y la Norma Complementaria Propuesta 20.2.68 NMAC – Requisitos de la Contaminación Atmosférica Regional. La audiencia durará el tiempo que sea necesario para escuchar todos los testimonios, pruebas y comentarios públicos, y se espera que dure aproximadamente tres días. La Junta puede tomar una decisión sobre la revisión propuesta del plan estatal de implementación (“SIP” por sus siglas en inglés) de la contaminación atmosférica regional y la norma complementaria al concluir la audiencia, o la Junta puede convocar una reunión después de la audiencia para considerar medidas sobre las propuestas.

La audiencia se llevará a cabo en un formato híbrido para permitir la participación tanto en persona como virtual. La audiencia en persona se llevará a cabo en el edificio del Capitolio del Estado de Nuevo México (Roundhouse), 490 Old Santa Fe Trail, Santa Fe, NM 87505. La información detallada sobre la hora y la ubicación y las instrucciones sobre cómo unirse a la audiencia virtualmente están disponibles en el calendario de eventos del Departamento de Medio Ambiente de Nuevo México (“NMED” por sus siglas en inglés) en <https://www.env.nm.gov/events-calendar/>, bajo de la entrada del calendario correspondiente a la fecha de inicio de la audiencia. Desde ahora y hasta la conclusión de la audiencia,

los comentarios pueden enviarse a través del portal de comentarios públicos de NMED en <https://nmed.commentinput.com?id=fT7HAYPUN> o por correo electrónico o físico a Pamela Jones, administradora de la Junta, P.O. Box 5469, Santa Fe, NM 87502, pamela.jones@env.nm.gov.

El propósito de la audiencia es que la Junta considere y tome posibles medidas sobre una petición del NMED que solicita a la Junta que adopte la revisión propuesta del SIP de contaminación atmosférica regional propuesta por Nuevo México para el segundo período de planificación y una nueva norma complementaria en 20.2.68 NMAC. La acción solicitada es obligatoria de conformidad con 40 C.F.R. § 51.308(f), que requiere que los estados envíen una revisión integral del SIP sobre la contaminación atmosférica regional para el segundo período de planificación a la Agencia de Protección Ambiental de los EE. UU. (“EPA” por sus siglas en inglés) a más tardar hasta el 31 de julio de 2021. La revisión del SIP, si se adopta, se enviará a la EPA para satisfacer los requisitos federales de la Ley de Aire Limpio en 42 U.S.C. § 7491.

La revisión propuesta del SIP de contaminación atmosférica regional para el segundo período de planificación describe las condiciones de visibilidad, incluida la tasa uniforme de progreso, para cada una de las áreas de Clase I de Nuevo México; proporciona una estrategia a largo plazo que aborda el deterioro de la visibilidad de la contaminación atmosférica regional; establece objetivos de progreso razonables que reflejan las condiciones de visibilidad que se proyectan lograr para el final del segundo período de planificación como resultado de la estrategia a largo plazo; proporciona una demostración sólida de que se han tomado todas las medidas razonables para mejorar la visibilidad en Salt Creek Wilderness Area, la única área de Clase I en Nuevo México que se proyecta que estará por encima

de la de tasa uniforme de progreso *glidepath* en 2028; y describe la estrategia de Nuevo México para medir, caracterizar e informar el deterioro de la visibilidad de la contaminación atmosférica regional en las áreas de Clase I. También describe la coordinación y consulta de NMED con los administradores de tierras federales (“FLM”), la EPA, los estados, las tribus y otras partes interesadas durante el desarrollo del plan e incluye un informe de progreso periódico que aborda los requisitos de 40 C.F.R. § 51.308(g)(1)-(5) para el período desde el informe de progreso más reciente.

La norma complementaria propuesta en 20.2.68 NMAC establece limitaciones de emisiones exigibles, calendarios de cumplimiento y otras medidas que son necesarias para lograr un progreso razonable durante el segundo período de planificación, y disposiciones para hacer que estas medidas sean exigibles en la práctica, incluidos los tiempos promedio, los requisitos de monitoreo y los requisitos de mantenimiento de registros e informes. La incorporación de la norma complementaria en la revisión del SIP regional sobre la contaminación atmosférica después de su adopción hará que las limitaciones de emisiones y otras medidas en la norma sean exigibles a nivel federal en el momento en que la EPA otorgue la aprobación final de la revisión del SIP.

Como lo exigen el Título 42 del Código de los Estados Unidos, artículo 7491(d) y el Título 40 del Código de Reglamentos Federales, artículo 51.308(i) (2), el NMED consultó con los FLM correspondientes sobre la revisión propuesta del SIP sobre la contaminación atmosférica regional y les brindó la oportunidad de discutir su evaluación y recomendaciones sobre el desarrollo y la aplicación de estrategias para abordar el deterioro de la visibilidad en áreas de Clase I. Los FLM apoyaron enfáticamente la participación del NMED en el plan, la selección de fuentes, las evaluaciones

de medidas de control y la estrategia a largo plazo. El Servicio de Parques Nacionales de los Estados Unidos brindó comentarios críticos sobre varios aspectos de la evaluación del NMED de la reducción catalítica selectiva (“SCR” por sus siglas en inglés) para turbinas de combustión a gas natural. El NMED consideró cuidadosamente estos comentarios y revisó sus análisis de SCR y las determinaciones de medidas de control en respuesta.

La revisión propuesta del SIP sobre la contaminación atmosférica regional, la norma complementaria y la información relacionada, incluida la información técnica, se pueden revisar en la página web de Planificación de contaminación atmosférica regional del NMED en <https://www.env.nm.gov/air-quality/reg-haze/>; durante el horario normal de oficina en la Oficina de Calidad del Aire del NMED, 525 Camino de los Márquez, Santa Fe, NM 87505; o llamando a Mark Jones al 505-629-6626 o en mark.jones@env.nm.gov.

La audiencia se llevará a cabo de conformidad con los procedimientos de elaboración de normas de la Junta establecidos en 20.1.1 NMAC; la Ley de Mejora Ambiental, Sección 74-1-9 NMSA 1978; la Ley de Control de la Calidad del Aire, Sección 74-2-6 NMSA 1978; y otros procedimientos aplicables. La Junta está autorizada a adoptar esta norma en virtud de su autoridad para adoptar, promulgar y publicar normas para prevenir o reducir la contaminación del aire, incluidas las normas que prescriben estándares de aire dentro del área geográfica de la jurisdicción de la Junta. NMSA 1978, § 74-2-5(B) (1). La Junta puede adoptar esta norma en virtud de su autoridad para adoptar normas que “protejan la visibilidad en áreas de clase I obligatorias para prevenir un deterioro significativo de la calidad del aire y lograr estándares nacionales de calidad del aire ambiental en áreas de incumplimiento”. NMSA 1978, § 74-2-5(D)(1).

En la audiencia, se dará a todas las personas interesadas una oportunidad razonable de presentar pruebas, datos, puntos de vista y argumentos pertinentes, oralmente y por escrito; de presentar pruebas instrumentales; y de interrogar a los testigos. Las personas que deseen presentar testimonio técnico deben presentar un Aviso de Intención de Presentar Testimonio Técnico (“NOI” por sus siglas en inglés) por escrito ante la Junta. El NOI deberá: (1) identificar a la persona para quien el testigo o los testigos testificarán; (2) identificar a cada testigo técnico que la persona pretende presentar y establecer las calificaciones de ese testigo, incluida una descripción de su historial académico y laboral; (3) si la audiencia se lleva a cabo en varias ubicaciones, indicar la ubicación o las ubicaciones en las que estarán presentes los testigos; (4) incluir una copia del testimonio directo de cada testigo técnico en forma narrativa; (5) incluir el texto de cualquier modificación recomendada al cambio regulatorio propuesto; y (6) enumerar y adjuntar todos las pruebas instrumentales que se prevé que esa persona ofrezca en la audiencia, incluida cualquier declaración propuesta de motivos para la adopción de normas.

De conformidad con la orden que establece nuevos plazos previos a la audiencia dictada por el funcionario de audiencias el 9 de diciembre de 2024, la Junta debe recibir los NOI a más tardar a las 5:00 p. m. del 3 de marzo de 2025, y deben incluir los elementos de NOI requeridos descritos anteriormente. En caso de que una parte busque presentar un testimonio de refutación, se debe presentar un NOI de refutación. La Junta debe recibir los NOI de refutación a más tardar a las 5:00 p. m. del 31 de marzo de 2025, y deben incluir una copia del testimonio de refutación en forma narrativa y todos los demás elementos de NOI requeridos descritos anteriormente. Las inscripciones de comparecencia presentadas de conformidad con 20.1.1 NMAC deben ser recibidas por

la Junta a más tardar a las 5:00 p. m. del 8 de abril de 2025. Los NOI, los NOI de refutación y las inscripciones de comparecencia se deben enviar a Pamela Jones, administradora de la Junta, P.O. Apartado Postal 5469, Santa Fe, NM 87502, pamela.jones@env.nm.gov, y notificado electrónicamente a todas las partes reflejadas en la lista de notificaciones mantenida por la administradora.

Cualquier miembro del público puede testificar en la audiencia. No se requiere aviso previo para presentar testimonio no técnico en la audiencia. Asimismo, cualquier miembro del público podrá presentar pruebas instrumentales no técnicas en relación con su testimonio, siempre que la prueba instrumental no repita indebidamente el testimonio. Cualquier miembro del público que desee presentar una declaración por escrito para el registro, en lugar de brindar testimonio oral en la audiencia, deberá presentar la declaración por escrito antes de la audiencia o presentarla durante la audiencia.

Las personas que requieran servicios de interpretación de idiomas o que tengan una discapacidad y necesiten un lector, amplificador, intérprete de lenguaje de señas calificado o cualquier otra forma de ayuda o servicio auxiliar para asistir o participar en la audiencia deben comunicarse con Pamela Jones a más tardar hasta el 2 de diciembre de 2024, llamando al (505) 660-4305 o por correo electrónico a pamela.jones@env.nm.gov. Los usuarios de TDD o TDY pueden marcar 7-1-1 o 800-659-8331 para acceder a este número a través de Relay New Mexico.

El NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigen las leyes y reglamentos aplicables. El NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de

consultas relacionadas con los requisitos de no discriminación implementados por 40 C.F.R. Partes 5 y 7, incluido el Título VI de la Ley de Derechos Civiles de 1964, en su forma enmendada; la Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Título IX de las Enmiendas de Educación de 1972 y la Sección 13 de las Enmiendas de la Ley Federal de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o cualquiera de los programas, políticas o procedimientos de no discriminación de NMED, puede comunicarse con Kate Cardenas, coordinadora de no discriminación, Departamento de Medio Ambiente de Nuevo México, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@env.nm.gov.

Si cree que ha sido objeto de discriminación con respecto a un programa o actividad de NMED, puede comunicarse con la coordinadora de no discriminación identificada anteriormente o visitar <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> para obtener información sobre cómo y dónde presentar una queja por discriminación.

FINANCE AUTHORITY WATER TRUST BOARD

NOTICE OF PROPOSED RULEMAKING AND PUBLIC HEARING

The New Mexico Water Trust Board (Board) will hold a public hearing on Friday, March 14, 2025, from 10:00 – 11:00 a.m. The hearing will be conducted virtually via Zoom; the public may attend the hearing using the following methods:

Friday, March 14, 2025, 10:00-11:00 a.m. Mountain Time

Zoom Meeting Link:

<https://nmfa-net.zoom.us/j/84700538751?pwd=RbIY04DPjhF1SwpvBG54v>

t0fLQmlJP.1

Meeting ID: 847 0053 8751

Passcode: 852858

To join the meeting by phone, dial:
+16694449171,,84700538751#,,,,*852858# US -or-
+17193594580,,84700538751#,,,,*852858# US

Find your local number: <https://nmfa-net.zoom.us/j/84700538751>

The purpose of the rule hearing is to obtain input and public comment on proposed rule amendments relating to 19.25.10 NMAC, review and eligibility of proposed water projects, consistent with changes made to the Water Project Finance Act, Laws 2024, Ch. 9 (House Bill 211 Approved February 28, 2024).

Copies of the proposed rule may be accessed online at <https://www.nmfinance.com/water-trust-board> or contact Board staff at OGC@nmfa.net, (505) 984-1454, or toll free 1-800-ASK-NMFA (1-877-275-6632).

The Board will accept written public comments on the proposed rule beginning February 11, 2025. Please submit written comments on the proposed rule to the NMFA via electronic mail at OGC@nmfa.net, or by regular mail at 810 W. San Mateo Road, Santa Fe, NM 87505. Written comments must be received no later than 5 p.m. on March 14, 2025. Comments received prior to the rule hearing will be posted to the Board website at <https://www.nmfinance.com/water-trust-board>. Interested persons will also be given the opportunity to present their comments during the rule hearing.

Individuals who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact the Board Staff as soon as possible at OGC@nmfa.net, (505) 984-1454, or toll free 1-800-ASK-NMFA (1-877-275-6632). The Board requests advance notice to provide required special accommodations at least one week prior to the meeting or as soon as possible.

Statutory Authority: Legal authority for this rulemaking may be found in the Water Project Finance Act, Section 72-4A-1 et seq., NMSA 1978, specifically 72-4A-5. Pursuant to Section 72-4A-6, NMSA 1978, the New Mexico Finance Authority is responsible for providing necessary administrative staff support to the Water Trust Board.

Proposed Amendment:

This is an amendment to 19.25.10 NMAC, Sections 6, 7, 8, 11, and 18, effective April 22, 2025.

19.25.10.6 OBJECTIVES:

A. Section 72-4A-5, NMSA 1978 provides that the New Mexico water trust board is required to adopt rules governing terms and conditions of grants and loans recommended by the board for appropriation by the state legislature from the water project fund giving priority to projects that have urgent needs, that have been identified for implementation of a completed regional water plan that is accepted by the interstate stream commission and that have matching contributions from federal or local funding sources; and authorizes qualifying water projects to the authority that are for: (1) storage, conveyance or delivery of water to end users; (2) implementation of federal Endangered Species Act of 1973; (3) restoration and management of watersheds; (4) flood prevention; and (5) conservation, recycling, treatment or reuse of water as provided by law. Additionally, the board shall create a drought strike team to coordinate responses to emergency water shortages caused by drought conditions. Section 72-4A-9, NMSA 1978, creates the “water project fund” within the New Mexico finance authority.

B. Section 72-4A-5, NMSA 1978, provides that the board shall give priority to qualifying water projects that (1) have been identified ~~by the board~~ as being urgent to ~~[meet the needs of a regional water planning area that has had a completed regional water plan accepted by the interstate~~

stream commission] address public health and safety issues; (2) have matching contributions from federal or local funding sources available and (3) have obtained all requisite state and federal permits and authorizations necessary to initiate the qualifying water project. The purpose of these rules is to set forth the intent of the board and to outline, in general terms, the criteria and procedures to be used in evaluating and funding qualifying water projects.

C. Section 72-4A-5, NMSA 1978, provides that the board shall evaluate projects, including their environmental impacts, and recommend projects to the interstate stream commission pursuant to the provisions of Section 72-14-45, NMSA 1978.

[C] D. Section 72-4A-6, NMSA 1978, provides that the authority shall provide support for the water trust board, develop application procedures and forms for qualifying entities to apply for grants and loans from the water project fund; and make loans or grants to qualifying entities for qualifying water projects authorized by the state legislature, provided that the service area for the project is wholly within the boundaries of the state or the project is an interstate project that directly benefits New Mexico.

[D] E. Section 72-4A-9, NMSA 1978, provides that the authority may adopt separate procedures and rules for administration of the water project fund and recover from the water project fund costs of administering the water project fund and originating grants and loans.

[19.25.10.6 NMAC - Rp, 19.25.10.6 NMAC, 7/31/2008; A, 4/22/2025]

19.25.10.7 DEFINITIONS:

A. “Act” means the Water Project Finance Act, Sections 72-4A-1 through 72-4A-10, NMSA 1978, as the same may be amended and supplemented.

B. “Agreement” means the document or documents signed by the board and a qualifying entity which specify the terms and

conditions of obtaining financial assistance from the water project fund.

C. “Applicant” means a qualifying entity which has filed a water project proposal with the authority for initial review and referral to the board’s project review committee.

D. “Authority” means the New Mexico finance authority.

E. “Authorized representative” means one or more individuals duly authorized to act on behalf of the qualifying entity in connection with its financial application, water project proposal or agreement.

F. “Board” means the New Mexico water trust board created by the act.

G. “Bylaws” means the bylaws of the board adopted on September 25, 2001, and amended on June 27, 2007, and as may be further amended and supplemented.

H. “Financial application” means a written document filed with the authority by an applicant for the purpose of evaluating the applicant’s qualifications for types of financial assistance which may be provided by the board.

I. “Financial assistance” means loans, grants and any other type of assistance authorized by the act, or a combination thereof, provided from the water project fund to a qualified entity for the financing of a qualifying water project.

J. “Policy committee” means a standing committee, appointed by the chairman of the board pursuant to the bylaws to review policies and policy related matters and make recommendations to the full board.

K. “Political subdivision” means a municipality, county, land grant-merced controlled and governed pursuant to Section 49-1-1 through 49-1-18 or 49-4-1 through 49-4-21 NMSA 1978, regional or local public water utility authority created by statute, irrigation

district, conservancy district, special district, acequia or soil and water conservation district, water and sanitation district, or an association organized and existing pursuant to the Sanitary Projects Act, Chapter 3, Article 29 NMSA 1978.

L. “Project review committee” means a standing committee, appointed by the chairman of the board from the members of the board pursuant to the bylaws to review water projects to be recommended for funding from the water project fund.

M. “Qualifying entity” means a state agency, a political subdivision of the state, an intercommunity water or natural gas supply association or corporation organized under Chapter 3, Article 28 NMSA 1978, a recognized Indian nation, tribe or pueblo, the boundaries of which are located wholly or partially in New Mexico or an association of such entities created pursuant to the Joint Powers Agreement Act, Chapter 11, Article 1 NMSA 1978 or other authorizing legislation for the exercise of their common powers.

N. “Qualifying water project” means a project recommended by the board for funding by the legislature which includes a water project serving an area wholly within the boundaries of the state for (1) storage, conveyance or delivery of water to end users; (2) implementation of federal Endangered Species Act of 1973 collaborative programs; (3) wastewater conveyance and treatment; (4) restoration and management of watersheds; [(4)] (5) flood prevention; or [(5)] (6) conservation, recycling, treatment or reuse of water as provided by law and which has been approved by the state legislature pursuant to Subsection B of Section 72-4A-9, NMSA 1978.

O. “State” means the state of New Mexico.

P. “State agency” means any agency or institution of the state.

Q. “Water project account” means a fund designated by a qualifying entity exclusively for receipt of financial assistance.

R. “Water project fund” means the fund of that name created in the authority by Section 72-4A-9, NMSA 1978.

S. “Water project proposal” means a written proposal submitted by a qualifying entity for review by the project review committee.

T. “Water trust fund” means the fund of that name created in the state treasury by Section 72-4A-8, NMSA 1978. [19.25.10.7 NMAC - Rp, 19.25.10.7 NMAC, 7/31/2008; A, 12/30/2013; A, 4/22/2025]

19.25.10.8 ELIGIBILITY: PRIORITIZATION OF WATER PROJECTS: The board will develop and consider a variety of factors in reviewing and evaluating water project proposals to determine which water projects to recommend as qualifying water projects for appropriation by the state legislature. The board shall give priority to projects that have urgent needs ~~[, that have been identified for implementation of a completed regional water plan that is accepted by the interstate stream commission]~~ and that have matching contributions from federal or local sources as provided for in Section 72-4A-5 NMSA 1978. Pursuant to Section 72-4A-5.1 NMSA 1978, the board, in conformance with the state water plan and pursuant to the provisions of the Water Project Finance Act, shall prioritize the planning and financing of water projects required to implement the plan. The board shall identify opportunities to leverage federal and other funding. The board shall establish policies for prioritization of water projects.

[19.25.10.8 NMAC - Rp, 19.25.10.8 NMAC, 7/31/2008; A, 12/30/2013; A, 4/30/2015; A, 4/22/2025]

19.25.10.11 QUALIFYING WATER PROJECTS AND ELIGIBLE COSTS:

A. The board may authorize the authority to provide financial assistance from the water project fund to qualifying entities

only for qualifying water projects as provided by Section 72-4A-6 and Section 72-4A-7, NMSA 1978.

B. Financial assistance shall be made only to qualify entities that:

(1) agree to provide for the operation and maintenance of the water project so that it will function properly over the structural and material design life ~~[, which shall not be less than twenty years];~~

(2) require the contractor of the construction project to post a performance and payment bond in accordance with the requirements of Section 13-4-18, NMSA 1978;

(3) provide written assurance signed by an attorney or provide a title insurance policy that the political subdivision has proper title, easements and rights of way to the property upon or through which the water project proposed for funding is to be constructed or extended;

(4) meet the requirements of the financial capability set by the ~~[board]~~ authority to ensure sufficient revenues to operate and maintain the water project for its useful life and to repay the loan;

(5) agree to properly maintain financial records ~~[and to do an audit of the project’s financial records]~~ in accordance with all applicable laws; and

(6) agree to pay costs of originating grants and loans as determined by rules adopted by the ~~[board]~~ authority.

C. Plans and specifications for a water project shall be approved by the ~~[New Mexico environment department or by another appropriate agency designated by the]~~ authority after review and upon the recommendation of the state engineer and the department of environment before grant or loan disbursements to pay for construction costs ~~[is]~~ are made to a qualifying entity. Plans and specifications for a water project shall incorporate available technologies and ~~[operations]~~ operational design for water efficiency.

D. Financial assistance shall be made for eligible items, which include:

- (1) matching requirements for federal and local cost shares;
- (2) engineering feasibility reports;
- (3) contracted engineering design;
- (4) inspection of construction;
- (5) special engineering services;
- (6) environmental or archeological surveys;
- (7) construction;
- (8) land acquisition;
- (9) easements and rights of way; and
- (10) legal costs ~~[and fiscal agent fees within limits set by the board].~~

E. A qualified entity which has had financial assistance approved by the state legislature for financing a qualifying water project may apply to the board to redirect the financial assistance to a different water project made necessary by unanticipated events. The decision to redirect the financial assistance to a different qualifying water project will be at the sole discretion of the board and subject to approval of the state legislature as required by Section 72-4A-9(B), NMSA 1978.

[19.25.10.11 NMAC - Rp, 19.25.10.11 NMAC, 7/31/2008; A, 5/28/2010; A, 4/22/2025]

19.25.10.18 ADMINISTRATION OF THE WATER PROJECT FUND:

A. The water project fund shall be administered by the authority as a separate account but may consist of such subaccounts as the authority deems necessary to carry out the purposes of the fund.

B. Money in the water project fund may be used by the authority to (i) make loans or grants to qualified entities recommended by the water trust board, (ii) hire

contractors to provide financial and administrative capacity development and direct technical assistance to entities on water projects, and (iii) pay administrative costs of the authority.

C. Money from repayments of loans made by the board for qualifying water projects shall be deposited in the water project fund. The water project fund shall also consist of any other money appropriated, distributed or otherwise allocated to the water project fund for the purpose of financing qualifying water projects.

[E] D. The authority shall adopt a uniform accounting system for the water project fund and each account and subaccount established by the authority, based on generally accepted accounting principles.

[D] E. The authority may establish procedures and adopt rules as required to administer the fund and to recover from the fund costs of administering the fund and originating grants and loans.

[19.25.10.18 NMAC - Rp,
19.25.10.18 NMAC, 7/31/2008; A,
4/22/2025]

LIVESTOCK BOARD

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Livestock Board (NMLB) will hold an in-person rulemaking hearing on March 26, 2025, at 1:00 p.m. in Las Cruces, New Mexico. The hearing will be held in-person only.

The NMLB will consider proposed Rule changes. The purpose of the proposed rule amendment/peel and replace it to make updated changes to the Trichomoniasis rules involving breeding bulls, official identification, pregnancy confirmation, and grammatical/stylistic changes. See generally 21.30.6.1 through 21.30.6.16 NMAC to TITLE 21, AGRICULTURE AND RANCHING; CHAPTER 30, ANIMALS AND ANIMAL INDUSTRY GENERAL

PROVISIONS, PART 6 BOVINE TRICHOMONIASIS.

Full copies of text of the proposed new rules can be obtained from the agency's website at www.nmlbonline.com. To request a copy of the proposed rule by mail, contact the NMLB at (505)841-6161. Visit www.nmlbonline.com for instructions on how to attend the virtual public hearing.

Interested persons may submit written comments on the proposed Rules 21.30.6.1 through 21.30.6.16 NMAC at www.nmlbonline.com or individuals may mail written comments to: NMLB/Rule Comments, 2105 Osuna Rd NE Building South, Albuquerque, NM 87113. Comments are due by 4:30 p.m. on Tuesday, March 25, 2025. The final proposed rules will be voted on by the Board during the public hearing on Wednesday, March 26, 2025. Interested persons may also provide data, views or arguments, orally or in writing, at the in-person and virtual public rule hearing to be held on March 26, 2025, at 1:00 p.m. in Las Cruces, New Mexico. All written comments will be posted on the agency's website within three (3) days of receipt.

Legal authority for this rulemaking can be found in the Livestock Code 77-2-7, et seq. NMSA 1978; Livestock Board's power to establish rules and regulations 77-2-7, et seq. NMSA 1978.

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 agency at (505) 841-6161 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 NMLB at (505) 841-6161 if a summary or other type of accessible format is needed.

LIVESTOCK BOARD

NOTICE OF SPECIAL MEETING

NOTICE IS HEREBY GIVEN that the New Mexico Livestock Board (NMLB) that on January 30 at 1:00 p.m the New Mexico Livestock Board during a special meeting at the New Mexico Gaming Control Board 4900 Alameda BLVD NE, Albuquerque, NM 87113, amended/ repeal and replaced 21.30.4 NMAC AGRICULTURE AND RANCHING; ANIMALS AND ANIMAL INDUSTRY GENERAL PROVISIONS as an emergency rule amendment/peel and replace.

The purpose of the proposed rule amendment/peel and replace is to provide rules for Equine Infectious Anemia (EIA) response that affect the safety and welfare of the public. The proposed rule amendment/peel and replace involves the testing, disposition and compliance of EIA horses in 21.30.4 NMAC AGRICULTURE AND RANCHING; ANIMALS AND ANIMAL INDUSTRY GENERAL PROVISIONS.

Full copies of text of the emergency rule change can be obtained from the agency's website at www.nmlbonline.com. To request a copy of the proposed rule by mail, contact the NMLB at (505)841-6161. Visit www.nmlbonline.com for instructions on how to attend the virtual public hearing.

Legal authority for this rulemaking can be found in the Livestock Code 77-2-7, et seq. NMSA 1978; 77-3-13, et. Seq. NMSA 1978; Livestock Board's power to establish rules and regulations 77-2-7, et seq. NMSA 1978.

A public comment period and public hearing, pursuant to Section 14-4-5.3 NMSA 1978, State Rules Act, Public Participation, Comments, and Rule Hearings, will be held in order to adopt a permanent rule within 180 days of the effective date of January 30, 2025, for 6.12.14 NMAC,

pursuant to 14-4-5.6 NMSA 1978, State Rules Act, Emergency rule.

Individuals with disabilities who require the above information in an alternative format are asked to contact Julie Gauman at 505-841-6161.

PUBLIC REGULATION COMMISSION

NOTICE OF PROPOSED RULEMAKING DOCKET NO. 25-00007-UT

The New Mexico Public Regulation Commission (“Commission”) gives notice of its initiation of a formal rulemaking to promulgate amendments to an existing rule, at Title 17, Chapter 11, Part 10, of the New Mexico Administrative Code, entitled “State Rural Universal Service Fund.” The amendments that may be adopted may include all, part, or none of the language in the proposed rule amendments.

Summary of the full text of the proposed rule amendments and short explanation of their purpose: The Commission intends to adopt amendments to the State Rural Universal Service Fund Rule, 17.11.10 NMAC (“Rule”), pursuant to amendments to the Rural Telecommunications Act of New Mexico (“RTA”), NMSA 1978, §§ 63-9H-1 to -14 (1999, as amended through 2023), adopted by the Legislature in 2023. The RTA provides for the establishment and maintenance of the State Rural Universal Service Fund (“SRUSF”). The Legislature’s amendments to the RTA, which became effective on July 1, 2023, concern Section 63-9H-6 of the RTA, which governs the SRUSF.

The Commission proposes amendments to conform the Rule to be consistent with the 2023 amendments to the RTA. The proposed rule amendments, if adopted, would impact the provision of access reduction support (“ARS”) from the SRUSF to rural incumbent local

exchange carriers. The Legislature’s amendments to the RTA set the dollar amounts of ARS payments, for the years 2024, 2025, and 2026, to be equal to the dollar amounts of ARS payments made in 2023. Moreover, the amendments to the RTA require that ARS payments be terminated after December 31, 2026. In addition, the Legislature eliminated the \$8,000,000 annual minimum limit upon the support that the Commission provides through its Broadband Program. Instead, the amended RTA requires the Commission to dedicate to the Broadband Program, on an annual basis, the funding that remains available within the \$30,000,000 cap upon the SRUSF, after all other statutory claims upon SRUSF funding have been satisfied. The Commission’s proposed amendments to the Rule would incorporate these amendments to the RTA into the Rule.

In addition to the amendments that are proposed for the purpose of conforming the Rule to the 2023 amendments to the RTA, the Commission proposes an additional amendment for the purpose of clarification of the Rule. The proposed amendment would eliminate, from Subsection B of 17.11.10.31 NMAC, the following sentence: “To the extent a year’s broadband program funding is not exhausted by grants awarded during that year, the funds will rollover to the following year.” The Commission proposes removing this sentence as this sentence could be read, incorrectly, to suggest that the Commission may award Broadband Program funding in an amount that exceeds the \$30 million annual statutory cap on the SRUSF, based upon an amount of funding that was not awarded in the previous year.

Legal authority authorizing the proposed rule amendments and the adoption of the proposed rule amendments: The Commission has the authority to promulgate and adopt the proposed rule amendments, pursuant to Section 62-19-9 NMSA 1978 and Section 63-9H-6 NMSA 1978.

How a copy of the full text of the proposed rule amendments can be obtained: A copy of the full text of the proposed rule amendments and instructions on how to access the complete rulemaking record, reports, and other items filed in the Commission’s e-docket system may be obtained from the Rulemaking Proceedings section of the Commission’s website at <https://www.prc.nm.gov/rulemaking-proceedings>, under Docket No. 25-00007-UT, or by calling LaurieAnn Santillanes of the Commission’s Office of General Counsel at (505) 670-4830.

How a person may comment on the proposed rule amendments, where comments will be received, and when comments are due: Written initial comments may be filed no later than **March 28, 2025**, written response comments may be filed no later than **April 7, 2025**. Filed comments shall refer to Docket No. 25-00007-UT. Comments may be electronically filed by sending them in PDF format to prc.records@prc.nm.gov. All written comments will be posted on the Commission’s e-Docket website within three days of their receipt by the Commission’s Records Management Bureau.

The record of this case closes on **April 23, 2025**. From that date through the completion of this proceeding, rulemaking participants shall be forbidden from communicating with the Commission or its representatives concerning substantive issues in this proceeding.

When and where a public comment hearing will be held and how a person may participate in the hearing: A public comment hearing on the proposed rule amendments and any proposed alternatives, to be presided over by the Commission or its designee, shall be held beginning at **10:00 A.M. on April 10, 2025**, at the Commission’s offices located at 142 W. Palace, Santa Fe, New Mexico, 87505, and via the Zoom video-conferencing platform.

Any interested person who wishes to

make a comment at the hearing may contact Patrick Rodriguez via email at public.comment@prc.nm.gov or by phone at (505) 490-7910 as soon as possible before the start of the hearing to sign up as a commenter. The Commission shall email a Zoom invitation to all commenters. The Zoom invitation shall include a call-in number for those commenters who are unable to access Zoom’s video-conferencing platform. The public comment hearing shall be held to receive oral comments. All commenters may be limited in time to speak, subject to the discretion of the Commission or its designee. The Commission or its designee may also determine that a spokesperson should be designated to speak on behalf of an organization, a group, or a group of individuals that shares the same message or seeks the same goals, in order to maximize the efficiency of the public hearing. No testimony or other evidence shall be taken at the hearing as this is a rulemaking proceeding. The subject matter of public comments shall be relevant to matters within the Commission’s jurisdiction. A court reporter shall prepare a transcript of the hearing for filing in this docket.

Any person with a disability requiring special assistance to participate in the hearing should contact the Office of Director of Administrative Services of the Commission at (505) 827-8019 as soon as possible prior to the commencement of the hearing. Technical information that served as a basis for the proposed rule amendments and how the information can be obtained: Not applicable.

RACING COMMISSION

NOTICE OF PUBLIC RULES HEARING AND MEETING

The NM Racing Commission will hold a Public Rules Hearing and Meeting on **Thursday, March 20, 2025**. This Public Rules Hearing and Meeting will be held during the Commission’s regular business

meeting with the public session beginning at 9:00 a.m. They will be held in person in the Boardroom, at 4900 Alameda Blvd., NE, Albuquerque, NM and virtually via Zoom.

Topic: Regular Commission Meeting
 Time: March 20, 2025 09:00 AM Mountain Time (US and Canada)
 Join Zoom Meeting
<https://us02web.zoom.us/j/83250635296?pwd=07rwVfb566yVDxTaqyAOFqjJRp9TM.1>
 Meeting ID: 832 5063 5296
 Passcode: 2KwG4u
 Dial by your location
 +1 346 248 7799 US (Houston)
 Meeting ID: 832 5063 5296
 Passcode: 936668
 Find your local number: <https://us02web.zoom.us/u/kd5sLK4NK>

The Commission is proposing the following amendments to Rules Governing Horse Racing in NM:

- 15.2.1 NMAC – General Provisions
- 15.2.2 NMAC – Associations
- 15.2.3 NMAC – Flat Racing Officials
- 15.2.5 NMAC – Rules of the Race
- 15.2.6 NMAC – Veterinary Practices, Equine Health, Medication, and Trainer Responsibility
- 16.47.1 NMAC – General Provisions (Occupational and Professional Licensing)

A copy of the proposed rules may be found at: <https://www.nmrc.state.nm.us/rules-regulations/>.

Written comments on the proposed rule may be submitted to DeniseM.Chavez@rc.nm.gov and/or you may appear at the meeting and provide brief, verbal comments. All written comments must be submitted to DeniseM.Chavez@rc.nm.gov and received no later than **5:00 p.m. March 11, 2025**.

The **final agenda** will be available 120 hours prior to the public hearing and meeting. The **final agenda** may be obtained from Denise Chavez or from NMRC’s website.

No technical information served as the basis for the proposed rule.

Anyone requiring special accommodations should notify NMRC of such needs at least 5 days prior to the public hearing and meeting.

Statutory Authority: Legal authority for NMRC rulemaking can be found at NMSA Section 60-1A-4(B)(1).

The following rule amendments are proposed:

Subsections D, E, I, M, R and S of 15.2.1.7 NMAC: This rule details definitions. The purpose of the proposed amendment is to clarify the definition of “Day;” remove the reference to the term “coupled entry” as it is no longer defined; add the definition “Industry Representative” to clarify representatives assisting Licensees in hearings before the stewards and appeals to the Hearing Officer and Commission. The purpose of the proposed amendment is to remove the definition of “meeting” and move it to “race meet” to correct the definition and make it consistent with the New Mexico Statute and lastly, the purpose of the proposed amendment is to add the definition of “Substitute Trainer” to clarify the duties of a substitute trainer.

Subsections A and B of 15.2.1.9 NMAC: These rules detail due process and disciplinary actions before the stewards and commission. The purpose of the proposed amendments is to clarify how disciplinary investigations and proceedings can be commenced on licensees, to refine the rights of a licensee, and to ensure attorneys representing licensees adhere to the laws of practicing in New Mexico and maintaining professionalism while representing a licensee. The purpose of the proposed amendment is to move the procedure in the event the NM Racing Commission receives notice from the State of New Mexico Human Services Department to a more appropriate location in

the rule book. Lastly, the purpose of the proposed amendments is to remove a process that is outdated when filing a pleading with the New Mexico Racing Commission and to clarify, reciprocate, accentuate, and recognize other recognized regulatory organizations' rulings.

Subsection E of 15.2.2.8 NMAC:

These rules detail the general duty and financial requirements for associations in New Mexico. The purpose of the proposed amendments is to assist the racing industry with the shortage of medical personnel throughout New Mexico.

Subsections A, B, D, F and N of 15.2.3.8 NMAC:

Subsection A details eligibility of racing officials; subsection B details disciplinary actions; subsection D details payment of purses; subsection F details duties of the horse identifier; and subsection N details requirements of the official veterinarian. The purpose of the proposed amendment to subsection A is to allow some flexibility to stewards due to shortage and the uncertainty of the racing officials accreditation program's future. The purpose of the proposed amendments to subsection B is to ensure the time to pay a fine is consistent with other references in the rule book. The proposed amendment to subsection D will allow associations to take payment from owners whose horses are subject to post-mortem examinations (necropsy) and subject to equine testing fees. The purpose of the proposed amendments to subsection F is to clarify the duties of the horse identifier. Finally, the purpose of the amendment to this rule is to be consistent with the New Mexico Veterinary Practice Act.

Subsections A and B of 15.2.5.12 NMAC:

This rule details conditions making horses ineligible to enter races. The purpose of the amendment is to reciprocate and protect the well-being of the equine athlete. This rule details conditions that make a horse ineligible to start in a race. The purpose of the amendments

is to update the rules of horse identification.

Subsection E of 15.2.5.13 NMAC:

This rule details rules of a horse race post to finish. The purpose of the amendment is to address interference, jostling or striking a horse during a race by a jockey and to allow the stewards to determine if the strike or touch was willful, careless and ultimately affected the outcome of the race.

Subsections A and B of 15.2.6.9 NMAC:

This rule details medications and prohibited substances and penalty recommendations. The purpose of the amendments to adhere to the statutory requirements to adopt and update the reference to the most recent version of the Uniform Classification Guidelines for Foreign Substances and Recommended Penalties and Model Rule and to clarify New Mexico's rule of reciprocity with other jurisdictions and to add penalties for out-of-competition testing violations.

Subsections A and C of 15.2.6.12 NMAC:

These rules detail pre-race examinations and postmortem examinations of horses. The purpose of these amendments is to implement best practices while a vet examines horses and to clarify the responsibilities for pre-race examinations and postmortem examinations of horses.

Subsection L of 16.47.1.8 NMAC:

This rule details grounds for disciplinary measures for a licensee, and refusal, denial, suspension, or revocation of a license. The purpose of these amendments is to clarify grounds for disciplinary measures for a licensee, and refusal, denial, suspension or revocation of a license, including but not limited to other recognized regulatory organizations and moving a rule to a more appropriate location in the rule book.

Subsections C and E of 16.47.1.10 NMAC:

This rule details the responsibilities of trainers. The purpose of the proposed amendment

is to reduce late scratches and hold trainers accountable for not adhering to their prior engagements of training their horses.

End of Notices of Rulemaking and Proposed Rules

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Adopted Rules

Effective Date and Validity of Rule Filings

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

ENVIRONMENT DEPARTMENT

This is an amendment to 20.6.4 NMAC, Section 9, effective 3/15/2025.

20.6.4.9 OUTSTANDING NATIONAL RESOURCE WATERS:

A. Procedures for nominating an ONRW: Any person may nominate a surface water of the state for designation as an ONRW by filing a petition with the commission pursuant to 20.1.6 NMAC, Rulemaking Procedures - Water Quality Control Commission. A petition to designate a surface water of the state as an ONRW shall include:

- (1) a map of the surface water of the state, including the location and proposed upstream and downstream boundaries;
- (2) a written statement and evidence based on scientific principles in support of the nomination, including specific reference to one or more of the applicable ONRW criteria listed in Subsection B of this section;
- (3) water quality data including chemical, physical or biological parameters, if available, to establish a baseline condition for the proposed ONRW;
- (4) a discussion of activities that might contribute to the reduction of water quality in the proposed ONRW;
- (5) any additional evidence to substantiate such a designation, including a discussion of the economic impact of the designation on the local and regional economy within the state of New Mexico and the benefit to the state; and

(6) affidavit of publication of notice of the petition in a newspaper of general circulation in the affected counties and in a newspaper of general statewide circulation.

B. Criteria for ONRWs: A surface water of the state, or a portion of a surface water of the state, may be designated as an ONRW where the commission determines that the designation is beneficial to the state of New Mexico, and:

- (1) the water is a significant attribute of a state special trout water, national or state park, national or state monument, national or state wildlife refuge or designated wilderness area, or is part of a designated wild river under the federal Wild and Scenic Rivers Act; or
- (2) the water has exceptional recreational or ecological significance; or
- (3) the existing water quality is equal to or better than the numeric criteria for protection of aquatic life and contact uses and the human health-organism only criteria, and the water has not been significantly modified by human activities in a manner that substantially detracts from its value as a natural resource.

C. Pursuant to a petition filed under Subsection A of this section, the commission may classify a surface water of the state or a portion of a surface water of the state as an ONRW if the criteria set out in Subsection B of this section are met.

D. Waters classified as ONRWs: The following waters are classified as ONRWs:

- (1) Rio Santa Barbara, including the west, middle and east forks from their headwaters downstream to the boundary of the Pecos Wilderness; and

(2) the waters within the United States forest service Valle Vidal special management unit including:

(a) Rio Costilla, including Comanche, La Cueva, Fernandez, Chuckwagon, Little Costilla, Powderhouse, Holman, Gold, Grassy, LaBelle and Vidal creeks, from their headwaters downstream to the boundary of the United States forest service Valle Vidal special management unit;

(b) Middle Ponil creek, including the waters of Greenwood Canyon, from their headwaters downstream to the boundary of the Elliott S. Barker wildlife management area;

(c) Shuree lakes;

(d) North Ponil creek, including McCrystal and Seally Canyon creeks, from their headwaters downstream to the boundary of the United States forest service Valle Vidal special management unit; and

(e) Leandro creek from its headwaters downstream to the boundary of the United States forest service Valle Vidal special management unit.

(3) the named perennial surface waters of the state, identified in Subparagraph (a) below, located within United States department of agriculture forest service wilderness. Wilderness are those lands designated by the United States congress as wilderness pursuant to the Wilderness Act. Wilderness areas included in this designation are the Aldo Leopold wilderness, Apache Kid wilderness, Blue Range wilderness, Chama River Canyon wilderness, Cruces Basin wilderness, Dome wilderness, Gila wilderness, Latir Peak wilderness, Pecos wilderness, San Pedro Parks

wilderness, Wheeler Peak wilderness, and White Mountain wilderness.

(a)

The following waters are designated in the Rio Grande basin:

(i)

in the Aldo Leopold wilderness: Byers Run, Circle Seven creek, Flower canyon, Holden Prong, Indian canyon, Las Animas creek, Mud Spring canyon, North Fork Palomas creek, North Seco creek, Pretty canyon, Sids Prong, South Animas canyon, Victorio Park canyon, Water canyon;

(ii)

in the Apache Kid wilderness Indian creek and Smith canyon;

(iii)

in the Chama River Canyon wilderness: Chavez canyon, Ojitos canyon, Rio Chama;

(iv)

in the Cruces Basin wilderness: Beaver creek, Cruces creek, Diablo creek, Escondido creek, Lobo creek, Osha creek;

(v)

in the Dome wilderness: Capulin creek, Medio creek, Sanchez canyon/creek;

(vi)

in the Latir Peak wilderness: Bull creek, Bull Creek lake, Heart lake, Lagunitas Fork, Lake Fork creek, Rito del Medio, Rito Primero, West Latir creek;

(vii)

in the Pecos wilderness: Agua Sarca, Hidden lake, Horseshoe lake (Alamitos), Jose Vigil lake, Nambe lake, Nat lake IV, No Fish lake, North Fork Rio Quemado, Rinconada, Rio Capulin, Rio de las Trampas (Trampas creek), Rio de Truchas, Rio Frijoles, Rio Medio, Rio Molino, Rio Nambe, Rio San Leonardo, Rito con Agua, Rito Gallina, Rito Jaroso, Rito Quemado, San Leonardo lake, Santa Fe lake, Santa Fe river, Serpent lake, South Fork Rio Quemado, Trampas lake (East), Trampas lake (West);

(viii)

in the San Pedro Parks wilderness: Agua Sarca, Cañon Madera, Cave creek, Cecilia Canyon creek, Clear creek (North SPP), Clear creek (South SPP), Corralitos creek, Dove creek, Jose Miguel creek, La Jara creek, Oso

creek, Rio Capulin, Rio de las Vacas, Rio Gallina, Rio Puerco de Chama, Rito Anastacio East, Rito Anastacio West, Rito de las Palomas, Rito de las Perchas, Rito de los Pinos, Rito de los Utes, Rito Leche, Rito Redondo, Rito Resumidero, San Gregorio lake;

(ix)

in the Wheeler Peak wilderness: Black Copper canyon, East Fork Red river, Elk lake, Horseshoe lake, Lost lake, Sawmill creek, South Fork lake, South Fork Rio Hondo, Williams lake.

(b)

The following waters are designated in the Pecos River basin:

(i)

in the Pecos wilderness: Albright creek, Bear creek, Beatty creek, Beaver creek, Carpenter creek, Cascade canyon, Cave creek, El Porvenir creek, Hollinger creek, Holy Ghost creek, Horsethief creek, Jack's creek, Jarosa canyon/creek, Johnson lake, Lake Katherine, Lost Bear lake, Noisy brook, Panchuela creek, Pecos Baldy lake, Pecos river, Rio Mora, Rio Valdez, Rito Azul, Rito de los Chimayosos, Rito de los Esteros, Rito del Oso, Rito del Padre, Rito las Trampas, Rito Maestas, Rito Oscuro, Rito Perro, Rito Sebadilloses, South Fork Bear creek, South Fork Rito Azul, Spirit lake, Stewart lake, Truchas lake (North), Truchas lake (South), Winsor creek;

(ii)

in the White Mountain wilderness: Argentina creek, Aspen creek, Bonito creek, Little Bonito creek, Mills canyon/creek, Rodamaker creek, South Fork Rio Bonito, Turkey canyon/creek.

(c)

The following waters are designated in the Gila River basin:

(i)

in the Aldo Leopold wilderness: Aspen canyon, Black Canyon creek, Bonner canyon, Burnt canyon, Diamond creek, Falls canyon, Fisherman canyon, Running Water canyon, South Diamond creek;

(ii)

in the Gila wilderness: Apache creek, Black Canyon creek, Brush canyon, Canyon creek, Chicken Coop canyon, Clear creek, Cooper canyon, Cow

creek, Cub creek, Diamond creek, East Fork Gila river, Gila river, Gilita creek, Indian creek, Iron creek, Langstroth canyon, Lilley canyon, Little creek, Little Turkey creek, Lookout canyon, McKenna creek, Middle Fork Gila river, Miller Spring canyon, Mogollon creek, Panther canyon, Prior creek, Rain creek, Raw Meat creek, Rocky canyon, Sacaton creek, Sapillo creek, Sheep Corral canyon, Skeleton canyon, Squaw creek, Sycamore canyon, Trail canyon, Trail creek, Trout creek, Turkey creek, Turkey Feather creek, Turnbo canyon, West Fork Gila river, West Fork Mogollon creek, White creek, Willow creek, Woodrow canyon.

(d)

The following waters are designated in the Canadian River basin: in the Pecos wilderness Daily creek, Johns canyon, Middle Fork Lake of Rio de la Casa, Middle Fork Rio de la Casa, North Fork Lake of Rio de la Casa, Rito de Gascon, Rito San Jose, Sapello river, South Fork Rio de la Casa, Sparks creek (Manuelitas creek).

(e)

The following waters are designated in the San Francisco River basin:

(i)

in the Blue Range wilderness: Pueblo creek;

(ii)

in the Gila wilderness: Big Dry creek, Lipsey canyon, Little Dry creek, Little Whitewater creek, South Fork Whitewater creek, Spider creek, Spruce creek, Whitewater creek.

(f)

The following waters are designated in the Mimbres Closed basin: in the Aldo Leopold wilderness Corral canyon, Mimbres river, North Fork Mimbres river, South Fork Mimbres river.

(g)

The following waters are designated in the Tularosa Closed basin: in the White Mountain wilderness Indian creek, Nogal Arroyo, Three Rivers.

(h)

The wetlands designated are identified on the *Maps and List of Wetlands Within United States Forest Service*

Wilderness Areas Designated as Outstanding National Resource Waters published at the New Mexico state library and available on the department’s website.

(4) The following waters are designated in the headwaters Pecos river watershed:

(a) The Pecos river from Dalton Canyon creek to the Pecos wilderness boundary;

(b) In the Dry Gulch-Pecos river subwatershed, Dalton Canyon creek from the Pecos river upstream to the headwaters, Wild Horse creek from Dalton Canyon creek upstream to the headwaters, Macho Canyon creek from the Pecos river upstream to the headwaters and Sawyer creek from the Pecos river upstream to the headwaters;

(c) In the Indian creek-Pecos river subwatershed, Indian creek from the Pecos river upstream to the headwaters, Holy Ghost creek from the Pecos river upstream to the Pecos wilderness boundary, Doctor creek from Holy Ghost creek upstream to the headwaters, Davis creek from the Pecos river upstream to the headwaters and Willow creek from the Pecos river upstream to the headwaters;

(d) In the Rio Mora subwatershed, Rio Mora from the Pecos river upstream to the Pecos wilderness boundary and Bear creek from the Rio Mora upstream to the Pecos wilderness boundary;

(e) In the Rio Mora-Pecos river subwatershed, Carpenter creek from the Pecos river upstream to the Pecos wilderness boundary, Winsor creek from the Pecos river upstream to the Pecos wilderness boundary and Jack’s creek from the Pecos river upstream to the Pecos wilderness boundary; and,

(f) In the Panchuela creek subwatershed, Panchuela creek from the Pecos river upstream to the Pecos wilderness boundary;

(g) Unnamed tributaries to waters in

Subparagraphs (a) through (f), Paragraph (4) of this Subsection (D) as identified in the *Maps and Lists for Unnamed Tributaries to Perennial Waters and Wetlands in the Headwaters Pecos River Watershed*, published at the New Mexico state library and available on the department’s website.

(h) Unnamed wetlands adjacent to waters in Subparagraphs (a) through (f), Paragraph (4) of this Subsection (D) as identified in the *Maps and Lists for Unnamed Tributaries to Perennial Waters and Wetlands in the Headwaters Pecos River Watershed*, published at the New Mexico state library and available on the department’s website.

(5) the Rio Grande from directly above the Rio Pueblo de Taos to the New Mexico-Colorado state border.

(6) the Rio Hondo from the Carson National Forest boundary to its headwaters; and Lake Fork creek from the Rio Hondo to its headwaters.

(7) the East Fork Jemez river from San Antonio creek to its headwaters; San Antonio creek from the East Fork Jemez river to its headwaters; and Redondo creek from Sulphur creek to its headwaters.

(8) The following waters located within a national or state park, national or state monument, or national or state wildlife refuge:

(a) in the Valles Caldera national preserve: La Jara creek, Sulphur creek, San Luis creek, Jaramillo creek, and Rito de los Indios;

(b) in the Bandelier national monument: Rito de los Frijoles, Lummis canyon, Alamo canyon, Capulin creek, and Medio creek;

(c) in the Cimarron canyon state park: Cimarron river;

(d) in the Pecos national historical park: Pecos river;

(e) in the Rio Grande del Norte national

monument: Rio San Antonio.
(9) The following waters located within a designated wilderness area: in the Columbine – Hondo wilderness areas: Columbine creek, Deer creek, Placer fork, Willow fork, Goose creek, Bear creek, Long canyon, Gavilan canyon, Italianos creek, Yerba creek, Manzanita creek, Gallina creek, Lobo creek, San Cristobal creek, and Lama canyon.

(10) The following wild rivers as designated by the federal Wild and Scenic Rivers Act:

(a) Rio Chama from the US forest service boundary to confluence with the Rio Nutrias;

(b) Red River from the confluence with the Rio Grande to four miles upstream.

(11) The following state special trout waters not already included in Paragraphs 8 through 10 of this Subsection:

(a) in the Edward Sargent wildlife management area: Rio Chamita, Nabor creek, Sixto creek, and Rio Chama;

(b) Rio Chama from Heron Reservoir outlet to Cottonwood flats;

(c) Rio de los Pinos from United States forest service road 87A to private land 2.5 miles upstream, Tanques creek, Canada Tio Grande;

(d) Cabresto creek from United States forest service boundary to headwaters, Frijoles creek, Palociento creek, and West Fork Luna creek;

(e) Rio Cebolla from Seven Springs day use area to its headwaters, Rio Gaudalupe from the confluence with Deer creek upstream to confluence with Stable creek;

(f) Capulin creek from the Dome wilderness boundary to headwaters. [20.6.4.9 NMAC - Rn, Subsections B, C and D of 20.6.4.8 NMAC, 5/23/2005; A, 5/23/2005; A,

7/17/2005; A, 2/16/2006; A, 12/1/2010; A, 1/14/2011; A, 4/23/2022; A, 09/24/2022; A, 03/15/2025]

GAMING CONTROL BOARD

The New Mexico Gaming Control Board approved the repeal of its rule 15.1.2 NMAC - Confidential Treatment of Certain Information (filed 1/17/2002) and replaced it with 15.1.2 NMAC - Confidential Treatment of Certain Information (adopted on 1/15/2025), and effective 2/11/2025.

The New Mexico Gaming Control Board approved the repeal of its rule 15.1.3 NMAC - Adoption, Construction and Severability of Rules Promulgated by the Gaming Control Board (filed 2/1/2002) and replaced it with 15.1.3 NMAC - Adoption, Construction and Severability of Rules Promulgated by the Gaming Control Board (adopted on 1/15/2025), and effective 2/11/2025.

The New Mexico Gaming Control Board approved the repeal of its rule 15.1.6 NMAC - Premises Licensed Under the Gaming Control Act (filed 10/2/2000) and replaced it with 15.1.6 NMAC - Premises Licensed Under the Gaming Control Act (adopted on 1/15/2025), and effective 2/11/2025.

GAMING CONTROL BOARD

**TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 1 GAMES AND GAMING GENERAL PROVISIONS
PART 2 CONFIDENTIAL TREATMENT OF CERTAIN INFORMATION**

15.1.2.1 ISSUING AGENCY: New Mexico Gaming Control Board.

[15.1.2.1 NMAC - Rp, 15.1.2.1 NMAC, 2/11/2025]

15.1.2.2 SCOPE: This rule applies to information provided to the gaming control board under the New Mexico Gaming Control Act and to the state gaming representative pursuant to an approved Indian gaming compact with the state of New Mexico.

[15.1.2.2 NMAC - Rp, 15.1.2.2 NMAC, 2/11/2025]

15.1.2.3 STATUTORY AUTHORITY: Paragraph (3) of Subsection B of Section 60-2E-7 NMSA 1978 of the Gaming Control Act authorizes the board to develop, adopt and promulgate all regulations necessary to implement and administer the provisions of the Gaming Control Act. Paragraph (11) of Subsection C of Sections 60-2E-8 and 60-2E-41 NMSA 1978 specifically direct the board to adopt regulations restricting access to confidential information obtained pursuant to the provisions of the Gaming Control Act.

[15.1.2.3 NMAC - Rp, 15.1.2.3 NMAC, 2/11/2025]

15.1.2.4 DURATION: Permanent.

[15.1.2.4 NMAC - Rp, 15.1.2.4 NMAC, 2/11/2025]

15.1.2.5 EFFECTIVE DATE: February 11, 2025, unless a later date is cited at the end of a section.

[15.1.2.5 NMAC - Rp, 15.1.2.5 NMAC, 2/11/2025]

15.1.2.6 OBJECTIVE: This rule establishes criteria for determining the confidentiality of information and data received by the gaming control board and circumstances under which the gaming control board may disclose confidential information in its possession.

[15.1.2.6 NMAC - Rp, 15.1.2.6 NMAC, 2/11/2025]

15.1.2.7 DEFINITIONS: Unless otherwise defined below, terms used in this rule have the same meanings as set forth in the Gaming Control Act:

A. “compact” means an approved gaming compact and revenue sharing agreement between a tribe and the state.

B. “gaming enterprise” means the tribal entity created and designated by the tribe as having authority to conduct Class III gaming pursuant to a valid gaming compact with the state of New Mexico.

C. “proprietary information” means written processes, data, or other internal records or materials developed by and available exclusively to the owner, the disclosure of which would seriously impair the owner’s operations or its ability to operate or compete against similar operations.

D. “State” means the state of New Mexico.

E. “State gaming representative” means the person designated by the gaming control board pursuant to the Gaming Control Act who is responsible for actions of the state set out in the compact.

F. “Tribe” means any Indian tribe or pueblo located within the state that has entered into an approved gaming compact and revenue sharing agreement with the state.

[15.1.2.7 NMAC - Rp, 15.1.2.7 NMAC, 2/11/2025]

15.1.2.8 CONFIDENTIAL INFORMATION:

A. Confidential information includes any information, document, or communication that is:

(1) required by law or rules promulgated by the board to be furnished in connection with an application submitted to the board or that may otherwise be obtained by the board in connection with the application;

(2) provided to the members or agents of the board by a licensee when such information is required to be submitted or disclosed

under the law or rules promulgated by the board;

(3) provided to the members or agents of the board by a governmental agency or a confidential informant;

(4) compiled by the members or agents of the board from other confidential information, including lists of persons who have been approved for, or denied, work permits by the board;

(5) obtained by the board in connection with an application for self-exclusion; or

(6) obtained or compiled by the board or its agents in the course of an investigation of an applicant or licensee; the information, document or communication remains confidential unless and until disclosure is permitted under the act.

B. Confidential information does not include:

(1) names and business addresses of applicants or the fact that an applicant has filed an application with the board;

(2) names and business addresses of any and all of an applicant's parent companies, affiliates, subsidiaries, partners, limited partners, major shareholders owning more than five percent of an applicant's stock, trustees, successor trustees, trust beneficiaries, or of any person that controls or is in a position to control or exercise other significant involvement in the operations of the applicant or licensee;

(3) names and business addresses of all officers and key employees of the applicant;

(4) names and business addresses of parties with whom the applicant or licensee contracts or expects to contract to support the gaming operations, including the names and addresses of landlords owning the premises where gaming will occur;

(5) names and business addresses of manufacturers and distributors with whom the applicant or licensee contracts or expects to contract for the sale, lease, or use of gaming devices;

(6) written order of final board approval or denial of an application and any other final action of the board taken on any other matter involving an applicant or licensee, including but not limited to, enforcement actions, investigations, rulings on motions and requests for legal determinations;

(7) legal documents submitted by applicants or licensees, including but not limited to, motions, requests for legal determinations, comments, briefs, notices of appeal, etc.; *provided*, however, that information contained or attached to such documents that otherwise meets the confidentiality requirements of this section will be treated accordingly pursuant to Subsection A of 15.1.2.8 NMAC and all its subparts above;

(8) documents or information that is available from another state agency, federal agency, or other public source;

(9) an administrative complaint filed by the board; or pleadings filed by any party to such an administrative complaint; or

(10) Any other information ruled by the board, in its discretion not to be confidential.

C. The board members or agents will receive, process, store and maintain all confidential information in a manner and location sufficient to ensure that the confidential information is secure and that access is strictly limited to authorized persons. Only members of the board or its agents, including persons designated by the board or authorized by law to conduct investigations of applicants and licensees, may have access to the confidential information, except that designated employees of gaming operator licensees shall have access to the names of persons self-excluded from gaming venues, as necessary to implement the state's self-exclusion program and as provided by rules promulgated by the board.

D. Confidential information shall be disclosed upon issuance of a lawful order by a court

of competent jurisdiction ordering the board to release such information. Absent such an order, confidential information will be disclosed only with the prior written consent of the subject applicant or licensee, except as required to implement the state's self-exclusion program and as provided by rules promulgated by the board.

[15.1.2.8 NMAC - Rp, 15.1.2.8 NMAC, 2/11/2025]

15.1.2.9 REQUESTS FOR DISCLOSURE OF CONFIDENTIAL INFORMATION:

A. Nothing in this rule may be construed as requiring the board to create any document or compilation of any confidential information for the purpose of responding to a request for disclosure.

B. Any person seeking access to confidential information in the board's possession may file a request for disclosure by the board. The request must be in writing, must state the purpose of the request and the proposed use of the information, and must be sufficient to adequately identify and limit the documents or information sought. A separate request must be filed for each applicant or licensee about whom information is sought. The procedure for requesting confidential information described herein does not apply to information subject to disclosure pursuant to the Inspection of Public Records Act, Section 14-2-1 et seq NMSA 1978.

C. Within 10 working days of receipt of the request, the board will make a preliminary assessment whether the request satisfies the requirements of Subsection B of 15.1.2.9 NMAC. If the request fails to satisfy the requirements of Subsection B of 15.1.2.9 NMAC, the board will deny the request on the basis of the deficiencies and will return the request to the person seeking the information with an explanation of the deficiencies. No further action will be required of the board.

D. Within 15 working days of receipt of the request, if the

request meets the requirements of Subsection B of 15.1.2.9 NMAC, the board will send a consent form and a copy of the request to the relevant applicant or licensee. The applicant or licensee must return the consent form to the board indicating the applicant's or licensee's consent or refusal to consent to disclosure of all or part of the requested information. Failure of the licensee or applicant to return the consent form within 10 working days of the date mailed by the board to the applicant or licensee will be deemed refusal of consent to the disclosure of the requested information.

E. The applicant's or licensee's refusal to consent to disclosure of the requested information is final and precludes the board from disclosing the requested information, except upon court order as set forth in Section 60-2E-42 NMSA 1978 of the act.

F. If the disclosure request is approved by the applicant or licensee, the board will permit inspection of the requested material as soon as practicable but in no event later than three days after the date approval of the disclosure was received. Before permitting inspection, the board will redact any information that reveals financial institution account numbers, social security numbers, and any other information protected from disclosure by state or federal law. The board may charge a reasonable fee for copying any of the documents subject to the request.

G. Any person may, at any time, seek a court order for release of the requested information pursuant to Section 60-2E-42 NMSA 1978 of the act.

H. The board, upon its own motion, may seek the release of confidential information by following the procedures outlined in this section and all its subparts.

I. That information described as non-confidential in Subsection B of 15.1.2.8 NMAC and in 15.1.2.10 NMAC is not subject to the disclosure procedures described in this rule.

[15.1.2.9 NMAC - Rp, 15.1.2.9 NMAC, 2/11/2025]

15.1.2.10 INFORMATION PROVIDED UNDER GAMING COMPACTS: Trade secrets, information relating to security and surveillance systems, cash handling and accounting procedures, building layout, gaming machine payouts, investigations into alleged violations of laws or regulations, personnel records, and proprietary information regarding the gaming enterprise of the tribe, Class III gaming conducted by the tribe, or the operation of Class III gaming, are considered confidential information. Such information may not be released without prior written approval of a duly authorized representative of the tribe.

[15.1.2.10 NMAC - Rp, 15.1.2.10 NMAC, 2/11/2025]

HISTORY OF 15.1.2 NMAC: [RESERVED]

Pre NMAC History: None.

History of Repealed Material: 15 NMAC 1.2, Confidential Treatment of Certain Information filed 11/13/1998, repealed effective 1/31/2002. 15.1.2 NMAC, Confidential Treatment of Certain Information filed 1/17/2002, repealed effective 2/11/2025.

Other History:

15 NMAC 1.2, Confidential Treatment of Certain Information, effective 11/30/1998.

15 NMAC 1.2, Confidential Treatment of Certain Information (filed 11/13/1998) reformatted, renumbered, amended and replaced by 15.1.2 NMAC, Confidential Treatment of Certain Information, effective, 1/31/2002.

15.1.2 NMAC, Confidential Treatment of Certain Information filed 1/17/2002, replaced by 15.1.2 NMAC, Confidential Treatment of Certain Information effective 2/11/2025.

GAMING CONTROL BOARD

TITLE 15 GAMBLING AND LIQUOR CONTROL CHAPTER 1 GAMES AND GAMING GENERAL PROVISIONS PART 3 ADOPTION, CONSTRUCTION AND SEVERABILITY OF RULES PROMULGATED BY THE GAMING CONTROL BOARD

15.1.3.1 ISSUING

AGENCY: New Mexico Gaming Control Board.

[15.1.3.1 NMAC - Rp, 15.1.3.1 NMAC, 2/11/2025]

15.1.3.2 SCOPE: This rule applies to all persons subject to regulations promulgated under the New Mexico Gaming Control Act by the gaming control board.

[15.1.3.2 NMAC - Rp, 15.1.3.2 NMAC, 2/11/2025]

15.1.3.3 STATUTORY

AUTHORITY: Paragraph (3) of Subsection B of Section 60-2E-7 NMSA 1978 of the Gaming Control Act authorizes the gaming control board to develop, adopt and promulgate all regulations necessary to implement and administer the provisions of the Gaming Control Act.

[15.1.3.3 NMAC - Rp, 15.1.3.3 NMAC, 2/11/2025]

15.1.3.4 DURATION:

Permanent.

[15.1.3.4 NMAC - Rp, 15.1.3.4 NMAC, 2/11/2025]

15.1.3.5 EFFECTIVE

DATE: February 11, 2025, unless a later date is cited at the end of a section.

[15.1.3.5 NMAC - Rp, 15.1.3.5 NMAC 2/11/2025]

15.1.3.6 OBJECTIVE:

This rule clarifies the role of the gaming control board in promulgating regulations and establish the scope and severability of such rules.

[15.1.3.6 NMAC - Rp, 15.1.3.6 NMAC, 2/11/2025]

15.1.3.7 DEFINITIONS:
[RESERVED]

15.1.3.8 ADOPTION, AMENDMENT AND REPEAL:
The board is authorized to adopt regulations pursuant to the Gaming Control Act, Sections 60-2E-1 through 60-2E-62 NMSA 1978. From time to time as the board deems necessary, the board will adopt, amend and repeal such regulations, consistent with the policy, objectives, and purposes of the Gaming Control Act.
[15.1.3.8 NMAC - Rp, 15.1.3.1 NMAC, 2/11/2025]

15.1.3.9 CONSTRUCTION:
Nothing contained in Title 15, Chapter 1 will be construed so as to conflict with any provision of the Gaming Control Act or any other applicable statute.
[15.1.3.9 NMAC - Rp, 15.1.3.9 NMAC, 2/11/2025]

15.1.3.10 SEVERABILITY:
The sections and subsections of the parts in Chapter 1 of Title 15 promulgated by the board are deemed severable. If any section or subsection is found invalid, unconstitutional, or otherwise contrary to the laws of New Mexico by opinion of a court of competent jurisdiction or by legislative enactment, the opinion or enactment will invalidate only that particular section or subsection. All other provisions of Title 15, Chapter 1 will remain in full force and effect.
[15.1.3.10 NMAC - Rp, 15.1.3.10 NMAC, 2/11/2025]

HISTORY OF 15.1.3 NMAC:
[RESERVED]
Pre NMAC History: None.

History of Repealed Material: 15 NMAC 1.3, Adoption, Construction And Severability Of Rules Promulgated By The Gaming Control Board filed 11/13/1998, Repealed effective 2/14/2002.

15.1.3 NMAC, Adoption, Construction And Severability Of Rules Promulgated By The Gaming Control Board filed 2/1/2002, Repealed effective 2/11/2025.

Other: 15 NMAC 1.3, Adoption, Construction And Severability Of Rules Promulgated By The Gaming Control Board filed 11/13/1998, Replaced by 15.1.3 NMAC, Adoption, Construction And Severability Of Rules Promulgated By The Gaming Control Board effective 2/14/2002.
15.1.3 NMAC, Adoption, Construction And Severability Of Rules Promulgated By The Gaming Control Board filed 2/1/2002, Replaced by 15.1.3 NMAC, Adoption, Construction And Severability Of Rules Promulgated By The Gaming Control Board effective 2/11/2025.

GAMING CONTROL BOARD

**TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 1 GAMES AND GAMING GENERAL PROVISIONS
PART 6 PREMISES LICENSED UNDER THE GAMING CONTROL ACT**

15.1.6.1 ISSUING AGENCY: New Mexico Gaming Control Board.
[15.1.6.1 NMAC - Rp, 15.1.6.1 NMAC, 2/11/2025]

15.1.6.2 SCOPE: This rule applies to all gaming operator licensees or applicants for gaming operator licenses under the New Mexico Gaming Control Act.
[15.1.6.2 NMAC - Rp, 15.1.6.2 NMAC, 2/11/2025]

15.1.6.3 STATUTORY AUTHORITY: Paragraph (3) of Subsection B of Section 60-2E-7 NMSA 1978 of the Gaming Control Act authorizes the board to develop, adopt and promulgate all regulations necessary to implement and administer the provisions of the

Gaming Control Act. Paragraph (6) of Subsection C of Section 60-2E-8 NMSA 1978 directs the board to adopt regulations defining the area, games and gaming devices allowed and the methods of operation of such games.
[15.1.6.3 NMAC - Rp, 15.1.6.3 NMAC, 2/11/2025]

15.1.6.4 DURATION:
Permanent.
[15.1.6.4 NMAC - Rp, 15.1.6.4 NMAC, 2/11/2025]

15.1.6.5 EFFECTIVE DATE: February 11, 2025, unless a later date is cited at the end of a section.
[15.1.6.5 NMAC - Rp, 15.1.6.5 NMAC, 2/11/2025]

15.1.6.6 OBJECTIVE:
This rule establishes standards and requirements for premises on which licensed gaming machines are operated by a gaming operator licensee pursuant to the Gaming Control Act.
[15.1.6.6 NMAC - Rp, 15.1.6.6 NMAC, 2/11/2025]

15.1.6.7 DEFINITIONS:
Unless otherwise defined below, terms used in this rule have the same meanings as set forth in the Gaming Control Act.

A. "Act" means the New Mexico Gaming Control Act.

B. "ATM" means a machine used for banking services, including withdrawals and deposits, balance inquiries, transfers, and other services; "ATM" includes credit card cash advance machines and other devices activated by debit or credit cards.

C. "Licensed premises" means the area that has been approved for gaming on the premises that is under the direct control of a gaming operator licensee and from which the licensee is authorized to operate and permit the play of gaming machines and conduct all activities associated with the operation of gaming.

D. “Premises” means the land together with all buildings, improvements and personal property located on the land.
[15.1.6.7 NMAC - Rp, 15.1.6.7 NMAC, 2/11/2025]

15.1.6.8 SUITABILITY OF PREMISES: The board shall approve any proposed licensed premises prior to commencement of gaming. The licensed premises shall meet the requirements of the act and regulations promulgated under the act. The board shall not approve any proposed licensed premises if the board determines that the proposed licensed premises are unsuitable for the conduct of gaming. Without limiting the generality of the foregoing, the proposed licensed premises shall be unsuitable if:

A. it is located in a place where gaming is prohibited by a valid zoning ordinance of the city or county or is otherwise in violation of any fire safety, health or building codes;

B. it is owned or controlled by any person that is unqualified or disqualified to hold a gaming license, regardless of the qualifications of the person who has applied for or holds the license to conduct gaming operations on the premises;

C. an ATM is located in the licensed premises;

D. the area to be used for gaming is not separated from the rest of the premises by a permanent physical barrier; or as defined in Subsection F of Section 60-2E-26 NMSA 1978.

E. the conduct of gaming on the proposed premises would otherwise be contrary to New Mexico law or public policy.
[15.1.6.8 NMAC - Rp, 15.1.6.8 NMAC, 2/11/2025]

15.1.6.9 AREA OF LICENSED PREMISES; RESTRICTIONS:

A. The area approved as the licensed premises shall be clearly marked. No gaming shall be permitted outside of the licensed

premises. All gaming devices shall be located within the licensed premises and such other locations for the storage, display, repair and maintenance of the gaming devices as may be approved in advance by the board.

B. Gaming shall not commence until the licensed premises have been constructed and, in accordance with applicable building codes, certificate of occupancy has been issued and the premises has been approved by the board.

C. No building shall contain, and no area shall constitute, a licensed premises for more than one licensee.

D. No gaming operator’s license shall encompass more than one licensed premises.

E. The area approved as the licensed premises shall be physically separated by a permanent barrier from all other general areas as defined in Subsection F of 60-2E-26 NMSA 1978.

F. No area that is a premises licensed under the New Mexico Liquor Control Act shall be designated as a racetrack gaming operator’s licensed premises under the act. Alcoholic beverages shall not be sold, served, delivered, or consumed on any racetrack operator’s gaming licensed premises.

[15.1.6.9 NMAC - Rp, 15.1.6.9 NMAC, 2/11/2025]

15.1.6.10 OWNERSHIP OF PREMISES:

A. Any applicant or licensee who leases all or part of the licensed premises or proposed licensed premises shall furnish the following information to the board within 30 days of the effective date of the lease:

(1) name, address, and brief statement of the nature of business of the lessor and owners of the premises;

(2) brief description of the material terms of the lease;

(3) copy of all documents by which the applicant or licensee has a right to possess the premises, including the lease;

(4) statement describing any business relationships between the licensee or applicant and the lessor or owners in addition to the lease; and

(5) any other information required by the board.

B. Every person who is a party to any lease with an applicant or a licensee shall provide any information requested by the board. Such information may include, but not be limited to, financial history, financial holdings, real and personal property ownership, interests in other companies, criminal history, personal history and associations, character, and reputation.

C. Failure to provide the information requested constitutes sufficient grounds for the board to deny the application or to require termination of the applicant’s or licensee’s lease with any person who failed to provide the requested information.

D. If the applicant or licensee owns all or part of the premises on which gaming is proposed to be conducted, the applicant or licensee shall fully disclose to the board complete information about the interest held by any other person, including an interest held under any mortgage, liens, deed of trust, bonds, or any other instrument, and all other information required by the board.

E. The licensee shall furnish to the board complete information pertaining to any change in any premises lease or any proposed change of ownership of, or interest in, the premises in which gaming is conducted and shall obtain prior written approval of the board or its designee before the effective date of such change.

[15.1.6.10 NMAC - Rp, 15.1.6.1 NMAC, 2/11/2025]

15.1.6.11 MODIFICATION OF LICENSED PREMISES:

A. No gaming operator licensee shall modify its licensed premises in any way without obtaining the prior written approval of the board or its designee, on a form approved by the board.

B. Modification of a licensed premises includes but is not limited to changing the location of gaming machines on the licensed premises. Any licensee seeking to change the location of gaming machines on the licensed premises shall notify the board in accordance with the provisions of this rule including 15.1.5.28 NMAC.

C. The board or its designee shall not approve any modification of a licensed premises unless the licensed premises, as modified, meets all the requirements of the act and these rules.

D. A gaming operator licensee shall notify the board or its designees in writing prior to modifying the licensed premises. [15.1.6.11 NMAC - Rp, 15.1.6.11 NMAC, 2/11/2025]

15.1.6.12 TRANSFER OF GAMING OPERATIONS TO NEW PREMISES:

A. No gaming operator licensee shall transfer its gaming operations to a different premises without the prior written approval of the board. An application for such a transfer shall be submitted to the board and shall contain the same information and satisfy the same requirements as required on an original licensing application with respect to approval of the premises.

B. Failure of the licensee to obtain the board’s prior approval of transfer of the gaming operations may subject the license to suspension or revocation, or the licensee to fines, or both. [15.1.6.12 NMAC - Rp, 15.1.6.12 NMAC, 2/11/2025]

HISTORY OF 15.1.6 NMAC:

15.1.6 NMAC, Premises Licensed Under The Gaming Control Act filed 10/22/2000 Repealed effective 2/11/2025.

Other: 15.1.6 NMAC, Premises Licensed Under The Gaming Control Act filed 10/22/2000 Replaced by 15.1.6 NMAC, Premises Licensed Under The Gaming Control Act effective 2/11/2025.

HIGHER EDUCATION DEPARTMENT

TITLE 5 POST-SECONDARY EDUCATION CHAPTER 9 ADULT EDUCATION PART 2 WORKFORCE TRAINING ECONOMIC SUPPORT PILOT PROGRAM

5.9.2.1 ISSUING AGENCY: New Mexico Higher Education Department. [5.9.2.1 NMAC - N, 2/11/2025]

5.9.2.2 SCOPE: Provisions of 5.9.2 NMAC apply to all participants of the program described in this rule. [5.9.2.2 NMAC - N, 2/11/2025]

5.9.2.3 STATUTORY AUTHORITY: Section 9-25-14 NMSA 1978. [5.9.2.3 NMAC - N, 2/11/2025]

5.9.2.4 DURATION: Permanent. [5.9.2.4 NMAC - N, 2/11/2025]

5.9.2.5 EFFECTIVE DATE: February 11, 2025, unless a later date is cited at the end of a section. [5.9.2.5 NMAC - N, 2/11/2025]

5.9.2.6 OBJECTIVE: The objective of the pilot program is to provide fixed monthly stipends to students in adult education programs who are also participating in integrated education and training (IET) programs and other workforce training programs as approved by the department. The purpose of the stipends is to support completion of the workforce training programs by reducing financial barriers to completion and to assist in the transition to employment in the occupation or occupational cluster addressed by the workforce training program. The amount of the stipend is \$1,000 per month while the participant is enrolled in an adult education program and one of its workforce training programs, for a

duration not to exceed 12 months. [5.9.2.6 NMAC - N, 2/11/2025]

5.9.2.7 DEFINITIONS:

A. “Adult education program” means an adult education program approved and funded by the department.

B. “Contractor” means an entity contracted with the department through a request for proposal process to deliver stipends to participants of the program.

C. “Department” means the New Mexico higher education department.

D. “Integrated education and training program” or “IET program” means a department-approved program that provides adult education activities concurrently and contextually with workforce preparation activities and workforce training for a specific occupation or occupational cluster for the purpose of educational and career advancement.

E. “Participant” means a New Mexico resident approved by the department to participate in the program.

F. “Pilot program” or “program” means the workforce training economic support pilot program which is a three-year study by the department to evaluate the expansion of workforce training programs.

G. “Workforce training program” means a department approved training or educational program or other work-based learning program that, upon successful completion, will lead the participant earning a certification, license or credential, or acquiring specialized qualifications or skills recognized within an industry or field as appropriate to obtain employment in that industry or field, and includes IET programs. [5.9.2.7 NMAC - N, 2/11/2025]

5.9.2.8 ADMINISTRATION: The department shall administer the program. The department may receive technical assistance from the health care authority department and may collaborate with other state agencies,

members of the business community, worker organizations, including trade unions, nonprofit organizations, and community organizations. The department shall provide for distribution of stipends which:

A. facilitate persistence in and completion of workforce training programs among adult education program students; and

B. increase financial stability and reduce poverty by providing economic support to:

(1) cover the costs associated with basic living needs, including housing, food and transportation, and the costs associated with enrolling in and attending a workforce training program;

(2) prevent income, housing and food insecurity during the process of acquiring that training;

(3) enable and assist participants to simultaneously complete academic coursework; workforce and employability skills training, stackable credentials and industry certifications; and

(4) increase potential for ongoing career advancement and employment with living wages.

[5.9.2.8 NMAC - N, 2/11/2025]

5.9.2.9 STUDENT ELIGIBILITY:

A. To be considered for the program, a student shall meet the following criteria:

(1) is 16 years of age or older by workforce training program start date;

(2) resides in the state of New Mexico at the program start date and for the duration of the workforce training program;

(3) is an active, enrolled participant of an adult education program;

(4) qualifies as indigent, which can be shown by the student experiencing at least one barrier to employment which may include:

(a) low literacy;

(b) low level of English language proficiency;

(c) lack of a high school diploma or equivalent;

(d) ex-offender status;

(e) migrant/seasonal farmworker status;

(f) displaced homemaker status;

(g) being unhoused;

(h) long-term unemployment;

(i) disability;

(j) cultural or linguistic barriers; or

(k) individual income level below four-hundred percent of the federal poverty level for the current year;

(5) is simultaneously an active, enrolled participant of a department-funded workforce training program;

(6) has completed a department-created application;

(7) voluntarily chooses to participate in the program, as evidenced by the participant's signature on a program agreement; and

(8) has not participated in the program for more than 12 months in the participant's lifetime.

B. The participant shall execute an agreement before a stipend is provided.

C. Once qualified and participating, no income, including state government public assistance, other state government funding, federal government funding, financial aid, educational and academic scholarships, pay for employment, etc. shall be counted as program funding nor disqualify the participant from receipt of the stipend.

D. Eligibility for the program shall not be contingent upon immigration status.

[5.9.2.9 NMAC - N, 2/11/2025]

5.9.2.10 SELECTION OF PROGRAMS: The department shall select workforce training programs to participate as pilot sites. Priority shall be given to workforce training programs in the following workforce training programs or fields:

A. health care, including behavioral health;

B. early childhood education or care;

C. natural resources management;

D. renewable energy;

E. broadband expansion;

F. first responder;

G. construction industries;

H. aerospace;

I. biosciences;

J. cybersecurity;

K. film and television;

L. outdoor recreation;

M. sustainable agriculture;

N. intelligent manufacturing; and

O. global trade.

[5.9.2.10 NMAC - N, 2/11/2025]

5.9.2.11 AGREEMENT: An agreement shall be drawn between each participant and the department. The agreement shall provide for:

A. a monthly stipend of \$1,000 for up to 12 months while a participant is actively enrolled in the workforce training program and completing all stated program requirements to the satisfaction of the adult education program director overseeing the workforce training program;

B. notification that the agreement may be terminated by the department in the event the participant no longer meets eligibility; and

C. notification of a potential reduction of monthly stipends by the department.

[5.9.2.11 NMAC - N, 2/11/2025]

5.9.2.12 CONTINUED ELIGIBILITY AND PROGRAM LIMITS:

A. A month in which a participant has received the full

program stipend shall be considered a month of receipt and counted towards the 12-month lifetime limit. This applies even if a participant stops attending the program and ceases to receive the stipend, and then later returns and again becomes a participant in good standing in the same workforce training program or a different workforce training program.

B. Previous participants may participate in this program subject to availability of funding, not to exceed the 12-month lifetime limit.

C. Notwithstanding provisions of Subsection A and B of this section, the stipend shall be extended for one additional month past the conclusion of the student’s participation in the pilot program whether by completion, voluntary exit, or participant removal for failure to meet program requirements not to exceed 12 months in a participant’s lifetime.

D. An agreement may be terminated at the participant’s request or upon death of the participant. [5.9.2.12 NMAC - N, 2/11/2025]

5.9.2.13 NOTICE: A participant shall be issued notice by the adult education program director or the director’s designee in the following cases:

A. upon determination of eligibility;

B. at the time the stipend is increased or decreased;

C. upon loss of eligibility for the program; or

D. if the program has been suspended pursuant to 5.9.2.14 NMAC.

[5.9.2.13 NMAC - N, 2/11/2025]

5.9.2.14 SUSPENSION OF PROGRAM: The stipend payment for participants may be denied for a designated time based on limited funds or a disruptive event, such as fire, flood, or pandemic. There shall be no stipend payments to a participant during the designated suspension period and any right to payment is lost. During a

designated suspension period, all new applications for the program shall be denied without consideration of eligibility.

[5.9.2.14 NMAC - N, 2/11/2025]

5.9.2.15 REPORTS: On or before December 1, 2025, and on or before December 1 of each subsequent calendar year of the program, in consultation with the health care authority department and any other appropriate state agency, the department shall provide a report to the legislative finance committee assessing the impact and outcomes of the program and providing department recommendations.

[5.9.2.15 NMAC - N, 2/11/2025]

History of 5.9.2 NMAC:
[RESERVED]

HIGHER EDUCATION DEPARTMENT

This is an amendment to 5.5.5 NMAC Section 13 effective 2/11/2025.

5.5.5.13 STUDENT COMPLAINTS:

A. An institution shall adopt student complaint procedures which allow students to seek resolution to complaints or grievances. Institutions shall retain records that make available the student complaint received and record of [its] the institution’s processing the complaint (that comports with the institution’s policies and procedures for handling grievances or complaints) ~~[for a minimum of three years]~~ as required by law. The institution shall have and make available to all students, the adopted complaint procedure that describes in detail, how students may register a complaint or grievance, how the institution will investigate the complaint, and how the institution will attempt to resolve the complaint. Such policies shall at a minimum include the following components:

(1) requirement that students with

complaints or grievances against an institution first seek to resolve their complaint or grievance directly with the institution;

(2) a timeframe within which the institution will investigate and respond to the complainant;

(3) assurance that the representative of the institution investigating or addressing the complaint will serve as an impartial representative and is not directly involved in the subject matter to which the complaint is related;

(4) assurance that no adverse action will be taken against the complainant for registering the complaint; and

(5) identification of the department as the agency to be contacted in cases where a complaint cannot be resolved and include the mailing address, website and phone number for the department.

B. The initial responsibility for the investigation and resolution of complaints resides with the institution. A student not satisfied with the outcome of a complaint or the institution’s handling of the complaint process may submit the complaint to the department. The department shall not engage in any complaint resolution procedures unless a student has exhausted all complaint procedures set by the institution or can demonstrate the institution’s refusal to utilize its complaint resolution procedures. If the student can demonstrate all complaint procedures of the institution have been exhausted and the student is not satisfied with the outcome, the department may help facilitate resolution where possible, if the complaint contains a question of fact or potentially involves a violation of or a deviation from policy, regulation, or law.

C. Complaints regarding student grades or student conduct violations shall be governed entirely by institutional policy and shall not be reviewed by the department. Complaints containing allegations of fraud, abuse, or consumer protection violations, rising

to the level of violation of state or federal law, as demonstrated through substantial evidence (evidence of such weight and quality that it is sufficient to persuade a reasonable person to support the allegation asserted), shall be reported to law enforcement, the United States department of education, and the institution's accreditor, or any other applicable oversight entities.

D. Upon receipt of a student complaint, the department shall determine whether the complaint meets initial criteria to permit use of the department's complaint procedure. The following initial complaint criteria must be satisfied:

(1) A student must file a complaint with the department within ~~[two]~~ three years of ~~[their] the student's~~ last date of enrollment ~~[or incident about which the complaint is made, whichever is latest in time].~~

(2) The complaint must be made to the department in writing utilizing the designated complaint form published by the department. The student may include supporting documentation or evidence related to the complaint. The department may request additional documentation from the student, as needed, to conduct an initial assessment.

(3) The complaint must detail and provide evidence that the student has exhausted all complaint procedures at the institution.

(4) The complaint must contain a question of fact or question regarding potential violation of or deviation from policy, regulation, or law.

E. If the department determines the complaint meets the initial complaint criteria, it shall serve as an intermediary in attempting to facilitate a resolution or to obtain information from the institution to eliminate questions of fact or possible violations or deviations from policy, regulation or law raised by the complaint. Satisfaction of initial complaint criteria, in no way means the department has assigned greater

weight to the student's allegations. If the department finds that the subject matter of the complaint falls within the investigatory purview of another entity, it may forward the complaint and cease further review (for example the office for civil rights).

(1) Acting as an intermediary, the department shall request a response from the institution addressing the student's complaint. The complaint and any documentation provided by the student shall be sent to the institution with a request for a written response. The institution shall have 10 days to forward its response to the department. The institution may request additional response time, if inquiry into the complaint requires greater than 10 days. The institution may provide any supporting documentation or evidence to address questions or concerns raised by the complaint with ~~[its]~~ the response.

(2) After considering the institution's response and any documentation or evidence supplied by the institution, the department may conduct further inquiry of the parties or may continue to serve as an intermediary for possible compromise between the parties. The department may seek additional clarifying information or supporting documentation from either party and may request additional response from either party.

(3) If the institution accepts the desired outcome proposed by the student in the complaint, the department shall inform the student. If the institution proposes an alternate desired outcome, the department shall convey such information to the student and the student shall indicate acceptance or denial of the alternate proposed outcome, or create a different proposed outcome, to allow for compromise. If at any point, the student and the institution reach an agreed upon outcome, the department may help facilitate fulfillment of the outcome, as necessary.

(4) If the parties are unable to reach a mutually agreeable outcome, the department may, but is not obligated to, convene

a meeting between the parties. Such meetings, if held, shall be informal and for the purpose of clarifying the facts surrounding the complaint and to facilitate the parties reaching a resolution or compromise, if possible. If a meeting is convened, the department shall give written notice to the institution and to the student, regarding the time, date, and place of the meeting.

F. The department may help facilitate a compromised resolution between the parties. However, the department shall not impose an outcome and shall not act as an adjudicatory entity. If the department has received evidence to support potential violation of or a deviation from policy, regulation, or law through ~~[its]~~ the department's inquiry, the department may refer the complaint to either law enforcement, the United States department of education, the institution's accreditor, or any other applicable oversight entities for further investigation, as applicable to the type of potential violation or deviation. If the department determines, at any time, that questions raised by the complaint are alleviated or the complaint relates to grades or student conduct violations, it shall cease further inquiry into the complaint and inform the student that the complaint will be closed with no further action by the department.

[5.5.5.13 NMAC - N, 12/11/2018; A, 2/11/2025]

HIGHER EDUCATION DEPARTMENT

This is an amendment to 5.100.6 NMAC Sections 14 and 18 effective 2/11/2025.

5.100.6.14 STUDENT COMPLAINT PROCEDURE:

An institution shall provide proof of an adopted complaint procedure that complies with the minimum requirements set by the department. Institutions shall retain records that make available the student complaint received and record of the

institution's processing the complaint (that comports with the institution's policies and procedures for handling grievances or complaints) as required by law. The institution shall have and make available to all students, the adopted complaint procedure that describes, in detail, how students or other parties may register a complaint or grievance, how the institution will investigate the complaint, and how the institution will attempt to resolve the complaint. Such policies shall at a minimum include the following components:

A. requirement that students or other parties with complaints or grievances against an institution first seek to resolve their complaint or grievance directly with the institution;

B. a time frame within which the institution will investigate the complaint and respond to the complainant;

C. assurance of the involvement of a person who will serve as an impartial representative of the institution but not be directly involved in the area of the complaint;

D. assurance that no adverse action will be taken against the complainant for registering the complaint; and

E. identification of the [higher education] department as the agency to be contacted in cases where a complaint cannot be resolved and include the mailing address, website and phone number for the department. [5.100.6.14 NMAC - N, 12/26/2017; A, 2/11/2025]

5.100.6.18 COMPLAINT TO THE DEPARTMENT:

[A.] A student or other party not satisfied with an institution's resolution of a complaint may submit a complaint to the department in writing on a form provided by the department. A student must file a complaint with the department within three years of their last date of enrollment.

B. Upon receipt of a written complaint, the department or its authorized representative shall verify that the complaint

involves one or more standards for registration of the institution and is therefore a legitimate subject of complaint to the department. If the complaint is determined to be legitimate, the department or its authorized representative shall forward the complaint to the institution for a written response and shall facilitate possible resolution of the complaint between the student and the institution. The institution shall have 10 days to forward its response to the department. A copy of the institution's response will be forwarded to the student with a request that the student indicate satisfaction or dissatisfaction with the response.

C. In attempting to resolve a complaint, the department or its authorized representative may, but is not obliged to, convene a hearing or meetings and shall give written notice to the institution and to all persons involved, regarding the time, date, and place of the hearing or meeting. Such hearings or meetings, if held, shall be informal and for the purpose of determining the facts surrounding the claim and if the parties can come to a resolution or compromise.

D. In the event that the institution refuses to respond or refuse to attend a hearing or meeting:

(1) The department shall make three attempts to contact the institution including at least one attempt through certified mail, to notify the institution of the complaint, request, action, hearing or meeting; and

(2) If the institution does not respond or fails to attend the hearing or meeting after three attempts to contact the institution by the department have been made, the department may invoke its powers to take such action as shall be necessary for the indemnification of the claimant.]

A. Upon receipt of a student complaint, the department shall determine whether the complaint meets initial criteria to permit use of the department's complaint procedure. The following initial complaint criteria must be satisfied:

(1) A student must file a complaint with the department within three years of the student's last date of enrollment.

(2) The complaint must be made to the department in writing utilizing the designated complaint form published by the department. The student may include supporting documentation or evidence related to the complaint. The department may request additional documentation from the student, as needed, to conduct an initial assessment.

(3) The complaint must detail and provide evidence that the student has exhausted all complaint procedures at the institution.

(4) The complaint must contain a question of fact or question regarding potential violation of or deviation from policy, regulation, or law.

B. If the department determines the complaint meets the initial complaint criteria, it shall serve as an intermediary in attempting to facilitate a resolution or to obtain information from the institution to eliminate questions of fact or possible violations or deviations from policy, regulation or law raised by the complaint. Satisfaction of initial complaint criteria, in no way means the department has assigned greater weight to the student's allegations. If the department finds that the subject matter of the complaint falls within the investigatory purview of another entity, it may forward the complaint and cease further review (for example the office for civil rights).

(1) Acting as an intermediary, the department shall request a response from the institution addressing the student's complaint. The complaint and any documentation provided by the student shall be sent to the institution with a request for a written response. The institution shall have 10 days to forward its response to the department. The institution may request additional response time, if inquiry into the complaint requires greater than 10 days. The institution may provide any supporting

documentation or evidence to address questions or concerns raised by the complaint with the response.

(2) After considering the institution's response and any documentation or evidence supplied by the institution, the department may conduct further inquiry of the parties or may continue to serve as an intermediary for possible compromise between the parties. The department may seek additional clarifying information or supporting documentation from either party and may request additional response from either party.

(3) If the institution accepts the desired outcome proposed by the student in the complaint, the department shall inform the student. If the institution proposes an alternate desired outcome, the department shall convey such information to the student and the student shall indicate acceptance or denial of the alternate proposed outcome, or create a different proposed outcome, to allow for compromise. If at any point, the student and the institution reach an agreed upon outcome, the department may help facilitate fulfillment of the outcome, as necessary.

(4) If the parties are unable to reach a mutually agreeable outcome, the department may, but is not obligated to, convene a meeting between the parties. Such meetings, if held, shall be informal and for the purpose of clarifying the facts surrounding the complaint and to facilitate the parties reaching a resolution or compromise, if possible. If a meeting is convened, the department shall give written notice to the institution and to the student, regarding the time, date, and place of the meeting.

C. The department may help facilitate a compromised resolution between the parties. However, the department shall not impose an outcome and shall not act as an adjudicatory entity. If the department has received evidence to support potential violation of or a deviation from policy, regulation, or law through the department's

inquiry, the department may refer the complaint to either law enforcement, the United States department of education, the institution's accreditor, or any other applicable oversight entities for further investigation, as applicable to the type of potential violation or deviation. If the department determines, at any time, that questions raised by the complaint are alleviated or the complaint relates to grades or student conduct violations, it shall cease further inquiry into the complaint and inform the student that the complaint will be closed with no further action by the department.

[5.100.6.18 NMAC - N, 12/26/2017; A, 2/11/2025]

HIGHER EDUCATION DEPARTMENT

This is an amendment to 5.100.7 NMAC Sections 10 and 12 effective 2/11/2025.

5.100.7.10 APPLICATION REQUIREMENTS: The institution must provide complete and accurate information to the department. The department may request additional supporting documentation. Upon request of the department, the applicant must supply any missing or requested information to the department. An applicant must respond to the department within deadlines set by the department. The department application will require institutions to supply information described in Subsections A through W of 5.100.7.10 NMAC:

A. Evaluation plan: The plan shall include measures of institutional success. The institution shall provide a plan for evaluation of the following:

(1) the satisfaction of its graduates and shall make available to the department all reports of these satisfaction assessments prepared during the past five years;

(2) a written plan for keeping courses current;

(3) a written

plan for faculty improvement in terms of content knowledge and relevant instructional techniques and the use of new and applicable technologies to support instruction; and

(4) if the institution is subject to the Student-Right-to-Know Act, it shall provide the department with copies of all reports submitted to the federal agency.

B. Tuition policy: Tuition and fee charges shall be the same for all students admitted to a given program for a given term of instruction. An institution may not discount its tuition and fees charged to individual students as an incentive for quick enrollment or early payment. An institution may negotiate special rates with business, industrial, governmental, or similar groups for group training programs and may establish special rates for students who transfer between programs. An institution may charge a reasonable carrying fee associated with deferred payments or payment plans. All tuition and fees must be comprehensively listed in the institution's catalog as required in Subsection G of 5.100.7.10 NMAC.

C. Tuition refund policy: An institution licensed by the department shall adhere to the following tuition refund policy:

(1) An institution accredited by agencies recognized by the United States department of education shall adhere to the tuition refund schedule established by the institution's accrediting body or the United States department of education. If an institution is required to adopt such refund schedule, it is required to provide proof of adoption and a copy of the refund schedule policy from either the accreditor or the United States department of education.

(2) If an institution is not required to adopt a refund schedule policy by an accreditor or the United States department of education, the following refund schedule policy set out by the department shall be adopted:

Date of student withdrawal as a % of the enrollment period for which the student was obligated	Portion of tuition and fees obligated and paid that are eligible to be retained by the institution
On 1st class day	0%
After 1st day; within 10%	10%
After 10%; within 25%	50%
After 25%; within 50%	75%
50% or thereafter	100%

(3) Any student signing an enrollment agreement or making an initial deposit or payment toward tuition and fees of the institution shall be entitled to a cooling off period as defined in 5.100.7.7 NMAC. During the cooling off period the agreement can be withdrawn and all payments shall be refunded. Evidence of personal appearance at the institution or deposit of a written statement of withdrawal for delivery by mail or other means shall be deemed as meeting the terms of the cooling off period.

(4) Following the cooling off period, but prior to the beginning of instruction, a student may withdraw from enrollment, effective upon personal appearance at the institution or deposit of a written statement of withdrawal for delivery by mail or other means, and the institution shall be entitled to retain no more than \$100 or five percent in tuition or fees, whichever is less, as the institution’s registration charges.

(5) In the case of students enrolling for non-traditional instruction, a student may withdraw from enrollment following the cooling off period, prior to submission by the student of any lesson materials and effective upon deposit of a written statement of withdrawal for delivery by mail or other means, and the institution shall be entitled to retain no more than \$100 or five percent in tuition or fees, whichever is less, as the institution’s registration charges or an alternative amount that the institution can demonstrate to have been expended in preparation for that particular student’s enrollment.

(6) Upon request by a student or by the department, the institution shall provide an accounting for such amounts retained under this standard within five work days.

D. Record maintenance and retention policy: Each private career school or non-regionally accredited college or university licensed by the department shall provide a records maintenance and retention plan.

(1) The plan shall consist of a records maintenance and disposal schedule that is in compliance with the functional records retention and disposition schedule in 1.21.2 NMAC, the records retention schedule set by the department, regulations of any other authorizing agency, or laws, regulations, and rules of any other authorizing jurisdiction or territory, whichever is longest in time. If another authorizing agency of the institution requires a longer period of retention than that of 1.21.2 NMAC, the longest retention period shall prevail.

(2) Each institution shall submit a certification of compliance with all applicable laws, rules and regulations that govern records management for closed institutions.

(3) Each institution shall report the percentage of all student transcripts since inception of the institution that are not digitalized at the time of application. If there are non-digitalized transcripts, the institution shall submit a plan to the department which describes how the institution will digitalize all student transcripts within a 12-month period.

(4) Each institution shall provide information regarding the custodian of records and the process for obtaining transcript records through the custodian at the time of application.

(5) If the department determines the plan for processing transcripts is not satisfactory, the institution shall:

(a) hire a professional digital credential firm to manage its student transcripts; or

(b) submit all of the student transcripts within a 12-month period to the department in a specified format and agree the department shall become custodian of record upon receipt of the transcripts.

(6) If the department becomes the custodian of record for an institution, it will be at no cost to the institution.

(7) If the department becomes the custodian of record for an institution that is in operation, the institution shall periodically submit updated transcripts to the department in a specified format. The submission schedule shall be based on end dates of programs offered by the institution.

(8) The department may contract with a professional digital credential firm to service the transcripts.

E. Materials and information: The department shall regulate the use of deceptive and misleading materials and information. An institution shall not disseminate material or information that is deceptive, misleading or untrue. The institution shall certify compliance with all laws and regulations related

to materials and information. The department may request copies of publications, advertisements, agreements, marketing collateral, or contracts in order to regulate the use of deceptive and misleading information. All materials and information shall comply with the following requirements:

(1)

Representation of accreditation and state authorization status:

(a)

An institution may not make claims to or advertise an accreditation status if the accrediting agency is not recognized by the United States department of education.

(b)

An institution not accredited by a United States department of education recognized accreditor shall clearly state that the institution is not accredited.

(c)

An institution licensed by the department may not use terms such as “accredited,” “endorsed,” or “recommended” in reference to its approval by the department.

(2) Enrollment

agreement: Before a student begins coursework at an institution, the institution shall execute an enrollment agreement with the student. An enrollment agreement will be binding only when it has been fully completed, signed, and dated by the student and authorized institution representative prior to the beginning of instruction. The institution shall retain the original enrollment agreement and a copy shall be delivered to the student at the time of execution or by mail when the enrollment is solicited by mail. A copy of the blank agreement or contract shall be submitted to the department. Each enrollment contract or agreement shall include at least the following:

(a)

information that will clearly and completely define the terms of the agreement between the student and the school;

(b)

names and addresses of the school and the student;

(c)

the program or course title in which the student is enrolling and the applicable catalog date or version reference;

(d)

the program start date and estimated end date;

(e)

the number of hours or units of instruction;

(f)

the school’s cancellation and refund policies;

(g)

an itemization of all charges, fees and required purchases being incurred by the student or their sponsor in order to complete the training, e.g., tuition, books, supplies and all other items of expense required by the school;

(h)

the method of payment and payment schedule being established; and

(i)

when applicable, a statement detailing the institution’s academic placement policy.

(3)

Advertising, marketing, promotional materials and recruitment: All advertisements and promotional literature must be truthful regarding the content of an institution’s educational program(s), the duration of the program(s), student attributes and skills needed for successful completion of the program(s), and costs of the program(s). An institution shall use no advertisements or promotional materials that are false, deceptive, inaccurate, or misleading. Materials must comply with all of the following requirements:

(a)

Advertisements and promotional literature shall not contain promises of job placement or employment, either explicitly or implicitly, but may refer to an institution’s services to assist students in obtaining employment.

(b)

Advertisements shall clearly indicate by their content and location in media that the institution is offering education or training and may not either explicitly or implicitly

suggest that the institution is offering employment.

(c)

An institution advertising salary ranges or averages for its graduates must have on file and available to inspection by students, the department, or their representatives current and accurate data that includes New Mexico employers and that validates such claims.

(d)

An institution shall not advertise the transferability of its courses or programs to another institution unless it has signed transfer or articulation agreements with that institution.

(e)

An institution shall not include in its advertising or promotional materials any photograph or other illustration of facilities unless those facilities serve predominantly as sites of instruction or related activities provided by the institution, either in New Mexico or in other states. Photographs or other illustrations must accurately depict the size and condition of any facilities or equipment illustrated.

(f)

No person shall for a fee solicit enrollment at an institution who is not employed by and under supervision of the institution. The institution shall be responsible for the representations of its employees.

(g)

Prospective students shall not be solicited by any representative of an institution on the sites of any government agency such as motor vehicle division offices, unemployment offices, or public assistance offices. However, leaflets or other promotional material may be made available at such sites.

(h)

Prospective students shall not be solicited by any representative of an institution on the site of any public school, except at the invitation of school personnel. No institution shall offer or provide financial inducement to any public school in return for permission to solicit students.

(i)

No institution shall solicit the enrollment of any student who is currently attending another

institution in New Mexico by using any inducement of greater financial assistance in meeting the costs of education.

(j)

On all materials, an institution shall use the full name in which it is licensed and list any other names in which the institution holds other government approvals. Permutations of its name, e.g., initials, or shortened name or nicknames, cannot be employed without prior written permission of the department.

(k)

On all materials, the name of an institution shall not be misleading.

F. Name of the

institution: The department reserves the right to deny licensure to an institution proposing to operate under a name that the department determines to be misleading or so similar to that of another institution operating within the state that it may result in substantial confusion. Institution names must comply with each of the following regulations:

(1) institutions

including the term “college” in their name must offer at least an associate degree and enroll a substantial portion of their students in such degree programs; and

(2) institutions

including the term “university” in their name must offer graduate degree programs and must enroll a preponderance of their students in baccalaureate and graduate degree programs.

G. Information

provided to students: Information shall be provided to students prior to their signing an enrollment agreement and the institution shall make reasonable effort to assure and verify that each student understands their academic and financial obligations prior to enrolling in the institution and maintain records of the institution’s effort for at least five years after the students enroll at the institution. An institution shall publish and make available to all students a catalog or other materials that clearly describe:

(1) accurate

representation of accreditation and

state authorization status as described in Paragraph (1) of Subsection E of 5.100.7.10 NMAC;

(2) admission

policies and procedures that provide criteria and methods used to assess and admit or deny admission;

(3) admission

methods and criteria used to assess student ability to complete program requirement;

(4) programs

offered, the program completion requirements of each program offered, and descriptions of all courses offered;

(5)

requirements and costs for those occupations that require professional or trade licensure and for which the institution is offering preparation;

(6) tuition,

fees and books and supplies, including cost for rental or purchase of equipment or materials required of all students;

(7) room,

board and transportation expenses incurred by a student;

(8) reasonable

costs associated with a program of study abroad approved for credit by a student’s home institution, if applicable;

(9) expenses

related to a student’s disability, including special services, personal assistance, transportation, equipment and supplies;

(10) refund

policies, consistent with the requirements in Subsection C of 5.100.7.10 NMAC;

(11) types of

financial aid available to students and the procedure for applying for such aid;

(12) the

institution’s policy regarding program or course cancellations;

(13) rules and

regulations pertaining to academic progress;

(14) rules and

regulations pertaining to student conduct;

(15) the

procedure to be followed in the

instance that a student decides to withdraw from the institution prior to completing a program;

(16) the

institution’s policy regarding student complaints and the resources available to students for resolving differences with the institution. The institution must adopt the student complaint process established by the department and published by the department; and

(17) the

institution’s policy regarding release of transcripts.

H. Financial aid:

Prior to a student signing a financial aid agreement, each student must be informed in writing regarding his or her obligations associated with receipt of financial aid and the institution must take reasonable steps to assure that the student understands that obligation. The institution shall provide financial aid resources to students.

I. Proof of teach-out

agreement: Each institution shall submit a teach-out plan or agreement.

(1) An

institution must submit proof of a teach-out agreement with at least one other private or public institution operating in the state or provide a teach-out plan that allows students to complete their program of study at the institution within a timeframe accepted by the department. Proof of such teach-out agreement(s) with another institution must be submitted to the department. The teach-out plan or agreement must address the ability of students to complete programs within a reasonable proximity to the physical location of the institution and shall be arranged at no additional cost to the students beyond that originally agreed to by the students.

(2) The

department may determine that a teach-out plan or agreement is not feasible after consideration of evidence submitted to the department. The department may find that teach-out arrangements are not feasible for students in one or more programs offered by the institution, in which case the institution shall plan to

refund all tuition and fees paid by the students in question for the current period of enrollment and shall plan to provide appropriate transcripts and evaluations to assist students in transferring their work to another institution.

(3) A teach-out plan or agreement shall be evaluated and updated by the institution annually upon submitting a license renewal application. If an institution closes or has a substantial change in location, the institution is subject to 5.100.8 NMAC. If the teach-out plan or agreement presented to the department during application for licensure becomes impossible or is no longer feasible due to institutional changes, the plan must be updated and submitted to the department within 90 days of the change.

J. Adoption of degree standards: Institutions accredited by a recognized United States department of education accreditor shall adopt degree standards governed by their accrediting body. Any non-accredited degree granting institution shall adopt the following degree standards for each credential as listed below:

(1) Associate degree program:

(a) associate degree programs must include both technical or vocational and general education instruction. Associate degree programs shall consist of 60 credit hours of study or the equivalent;

(b) associate of applied science degrees, associate of occupational studies degrees or comparable appellations must be based upon the institution's certification that the recipient is prepared for immediate employment in a specified career field and must be comprised primarily of technical or vocational study; and

(c) associate of arts or associate of science degrees must be based upon the institution's certification that the recipient is prepared both for immediate employment in a specified career field and transfer to another institution for more advanced

study; associate of arts and associate of science degree programs will normally consist of approximately equal numbers of technical or vocational and general education courses.

(2) Baccalaureate degree programs:

(a) baccalaureate degree programs must be comparable in quality to those offered by institutions operating in New Mexico that are accredited by agencies recognized by the United States department of education as authorities regarding the quality of such degree programs; award of degrees must be based upon the institution's certification that the recipient has met standards of performance and competency comparable to the standards of institutions so accredited; and

(b) at a minimum, issuance of a baccalaureate degree shall require 120 credit hours or the equivalent; the degree program must include 30 credit hours of general education core requirements.

(3) Master's degree programs:

(a) master's degree programs must be comparable in quality to those offered by institutions operating in New Mexico that are accredited by agencies recognized by the United States department of education as authorities regarding the quality of such degree programs; award of degrees must be based upon the institution's certification that the recipient has met standards of performance and competency comparable to the standards of institutions so accredited; and

(b) at a minimum, issuance of a master's degree shall require 30 credit hours of academic credit or the equivalent beyond a baccalaureate degree.

(4) Doctoral degree programs:

(a) at a minimum, issuance of a doctoral degree shall require 90 credit hours

of academic credit or the equivalent beyond a baccalaureate degree or 60 credit hours or the equivalent beyond the master's degree and shall require successful completion and defense of a major independent project, involving original research or application of knowledge. The research component shall provide no more than thirty percent of the degree credit requirement;

(b) research or project committees composed of no fewer than three qualified readers shall review the project at various stages of development; documentation shall be provided to support this requirement. The final version of the research or project shall be accompanied by the original signature of each committee member; and

(c) the institution shall maintain a copy of the final report of the research or project and make it available upon request.

(5) Honorary degree or certificate: Licensed, private degree-granting institutions may issue honorary degrees or certificates. An honorary degree or certificate shall identify in its title or name that it is an honorary degree or certificate and shall bear such on its face.

(6) Credit for life experience: If an institution offers academic credit for life experience or employment related experience, the institution must have and adhere to the following requirements:

(a) applicable life experience shall be limited to work experience, military experience or a combination of the two;

(b) no more than thirty percent of the credit in a student's degree program may be awarded for life or work experience;

(c) the institution shall utilize the methodologies outlined by the council for adult and experimental learning (CAEL) for evaluating life experience or shall have in place a comparable plan which describes procedures and

requirements for the assessment of experiential learning;

(d)

the institution shall maintain documentation for at least three years of all materials used to assess and award credit for experiential learning;

(e)

the institution shall clearly indicate on the student degree plan the course(s) for which the experiential learning is being substituted;

(f)

the institution shall evaluate extra-institutional learning only in subject areas in which it has or can arrange for faculty expertise or where it can rely on nationally validated examinations or other procedures for establishing credit equivalencies; and

(g) no

life experience credit shall be awarded toward the doctorate degree beyond master's level study.

K. Accreditation:

(1) Accredited

institutions shall be governed by their accrediting agencies in establishing degree and program standards. Accredited institutions shall submit:

(a)

formal documentation from the accreditor listing all approved campuses, degrees and programs; and

(b)

written notification of any changes related to accreditation.

(2) Institutions

proposing to change or add programs must formally notify the department. If the change or addition of the program requires the accreditor's approval, the institution must provide written proof of the approval. If the change or addition does not require approval by the accreditor, the institution shall provide proof that the accreditor was notified of the change or addition. The department shall review proposed changes. The department may review proposed changes on a set schedule defined by the department and charge an administrative fee for the processing of such requests. Upon final review, the department will provide a formal acknowledgment of the approved new degrees and programs. The institution

may begin to advertise the program based on the department's letter of acknowledgement. The complete list of programs offered by an institution will be listed on the license issued to the institution.

L. Accreditation for new degree-granting institutions or degree-granting institution seeking accreditation: New degree-granting institutions making application with the department will be required to obtain accreditation with an accrediting agency recognized by the United States department of education within three years of submitting the initial application. Non-accredited degree-granting institutions must submit a written accreditation plan, which shall include:

(1) the United

States department of education recognized accrediting agency with which the applicant intends to apply for institutional accreditation;

(2) the

planned timeline for application with and approval by the United States department of education recognized accrediting agency;

(3) any

contracts already made with the United States department of education recognized accrediting agency, including supporting documents;

(4)

certification that the institution will complete the accreditation process within the planned timeline provided to the department;

(5) submit

all documents as required for non-accredited non-degree granting institutions; and

(6) any

additional information which the department may request.

M. Non-accredited non-degree granting institutions: Applications for non-accredited non-degree granting institutions shall be evaluated by a department review committee described in 5.100.7.11 NMAC. A new non-accredited non-degree granting institution applying for licensure will be approved to offer no more than six degree programs during the first two years of operation.

Non-accredited non-degree granting institutions shall submit the following for review:

(1) Institution

curriculum requirements: For each program and course of instruction offered by an institution, the institution shall submit:

(a)

program outline, syllabus and curriculum materials that accurately describe the objectives, content, and methods of the program or course;

(b)

objectives, content, and methods of each program and course of instruction which demonstrate curriculum quality;

(c)

details of equipment and facilities utilized by a program which shall be sufficient for the number of students using them, and shall be applicable to the objectives set for the program; and

(d)

a report that demonstrates that each program is designed to provide training for an occupation that is recognized in New Mexico and that the training provided is sufficient in length and quality to prepare students for immediate employment in the occupation(s) or prepare students to complete licensing assessments.

(2) Faculty

qualifications: The institution must demonstrate the following:

(a)

each member of the teaching faculty has an educational background, including licensure or occupational or credential, and experience applicable to teaching assignments;

(b)

faculty degrees, licensure, certification, and credentials are in the applicable field of instruction unless the institution demonstrates to the satisfaction of the department and review committee, on an individual basis, that alternative qualifications are sufficient;

(c)

for degree-granting institutions faculty must hold degrees in the field of instruction from an accredited institution at a minimum of one degree level higher than the level of instruction, and in no case less than

a baccalaureate unless the institution demonstrates to the satisfaction of the department that alternative qualifications are sufficient;

(d)

for degree-granting institutions no more than twenty percent of the faculty of an institution may be employed under alternative qualifications;

(e)

for each proposed credential offering, the institution employs at least one faculty member with the applicable training who shall have the responsibility for providing oversight of the instructional program; and

(f)

faculty are sufficient in number to provide instruction and attention to the work of students of the institution.

(3) Student

outcomes: New institutions submitting first time application shall provide a plan for tracking program completion rates, withdrawal rates and satisfaction of students, and employers. Institutions renewing application with the department must submit required reporting for program completion rates, withdrawal rates, and satisfaction of students and employers.

(4) Non-

accredited non-degree institutions proposing to change existing programs or add new degree programs to their curriculum shall submit application on a form acceptable to the department, for review committee approval prior to marketing the program and enrolling students in the proposed program.

N. Maintenance of records certification: Each institution must submit a certification of compliance with all applicable laws, rules and regulations that govern records management for closed institutions.

O. Surety bond: Each institution licensed by the department shall maintain in force a surety bond or alternative surety accepted by the department, in an amount set by the department, and payable to the department. The institution must

have and adhere to the following requirements:

(1) the amount

of the bond or alternative surety shall be sufficient to indemnify any student damaged as a result of fraud or misrepresentation by a licensed institution or as a result of the institution ceasing operation prior to its students having completed the programs for which they have contracted. If a licensed institution closes, the department may draw upon the bond to pay costs associated with preservation of student records. The bond must also meet the following criteria:

(a)

the bond required for each institution shall be twenty percent of the institution's projected or actual gross annual tuition and fee revenue in New Mexico, which takes into consideration the size, number of students and total income and assets of an institution. In no case shall the bond be less than \$5,000; and

(b)

bonds provided by institutions must be accompanied by the name, office address and phone number of the issuing company representative.

(2) If an

institution seeks to cancel a surety bond, written notice must be delivered to the department. The institution may not cancel the surety bond until provided with written release by the department. The institution shall provide the department with a like surety or acceptable alternative in order to maintain licensure.

(3) Alternative

forms of surety: An institution may request a waiver from the bond requirement and provide to the department an explanation of the alternative form for which they are seeking approval. The department has the authority to accept or reject any request. Such alternative may be a cash deposit escrow account, irrevocable letter or credit, or similar alternative payable to the department in the amount equal to the bond requirement.

P. Proof of financial stability: Standards for reviewing

and analyzing financial stability are a critical component of the institution's overall assessment. The institution's financial stability will be reviewed by the department to assess the institution's ability to meet financial obligations including, but not limited to, obligations to enrolled students. In determining financial stability of the institution the department shall review the following requirements:

(1)

Insurance: Institutions licensed by the department shall maintain valid standard, commercial liability insurance, worker's compensation insurance, and property insurance sufficient to protect students, employees, and other citizens from hazards in the institution's facilities. Where applicable, institutions shall have liability insurance covering students involved in internships at sites and locations other than the institution.

(2) Financial

statement analysis: The department shall consider an institution's financial history when reviewing an application for licensure. In the case where an institution submits an audit report and management letter provided by a certified public accountant, the department shall normally accept the report as accurate and rely on the auditor's professional responsibility to evaluate and to make known their professional opinion.

(3) New

institutions not previously operating in any capacity in any state or jurisdiction shall demonstrate liquid assets sufficient to operate the institution for a period of one year exclusive of anticipated revenue from tuition and fees. These assets shall be sufficient to pay all projected salary and benefits of employees and the rent, utilities, insurance and other costs of operating the institution's facilities for a period of one year. If an institution has audited financials available for the year prior to that of the application, such audited financials shall be submitted for review. Any new institution shall submit the following:

(a)
bank statements, investor agreements, any other financial donations or gifts used to develop the institution;

(b)
the institution’s projected income statement certified as accurate by the institution. The income statement must include details of projected salaries and benefits of employees, rent, utilities, insurance, any financial obligations made by the institution, and any other operating costs; and

(c)
any additional information which the department may request.

(4) Existing institutions: If an institution has previously operated in any capacity in any jurisdiction, it must submit documents based on the following thresholds:

(a)
An institution with seven hundred fifty thousand dollars (\$750,000) or more in gross annual tuition revenue and all federal Title IV financial aid institutions shall submit, on a schedule set by the department, an audit report and management letter prepared by a certified public accountant in accordance with the New Mexico Public Accountancy Act, Section 61-28B-1 et seq. NMSA 1978 as amended. If the institution has been required to obtain a financial responsibility composite score as computed using the latest version of the United States department of education index score formula it shall provide the score to the department. The financial responsibility composite score must be 1.5 or above as computed using the latest version of the United States department of education index score formula. The composite score must be calculated by the United States department of education, a recognized accreditor, or a certified public accountant contracted at the expense of the institution.

(b)
An institution with gross annual tuition revenue of two hundred fifty thousand dollars (\$250,000) or more but less than seven hundred forty nine thousand nine hundred ninety-nine

dollars (\$749,999) shall submit, on a schedule set by the department, either an audit report and management letter prepared by a certified public accountant in accordance with the New Mexico Public Accountancy Act, Section 61-28B-1 et seq. NMSA 1978 as amended or a review of financial statements prepared by a certified public accountant in accordance with the New Mexico Public Accountancy Act. If the institution has been required to obtain a financial responsibility composite score as computed using the latest version of the United States department of education index score formula it shall provide the score to the department. The financial responsibility composite score must be 1.5 or above as computed using the latest version of the United States department of education index score formula. The composite score must be calculated by the United States department of education, a recognized accreditor, or a certified public accountant contracted at the expense of the institution.

(c)
An institution with gross annual tuition revenue of less than two hundred forty nine thousand nine hundred ninety-nine dollars (\$249,999) shall submit on a schedule set by the department either an audit report and management letter prepared by a certified public accountant in accordance with the New Mexico Public Accountancy Act, 61-28B-1 et seq. NMSA 1978 as amended, a review of financial statements prepared by a certified public accountant in accordance with the New Mexico Public Accountancy Act, or an income statement and balance sheet certified as accurate by the institution. In addition to the audit report and management letter, the review of financial statements, or the income statement and balance sheet as described in this paragraph, the institution shall submit copies of business tax returns and bank statements for the most current year. If the institution has been required to obtain a financial responsibility

composite score as computed using the latest version of the United States department of education index score formula it shall provide the score to the department. The financial responsibility composite score must be 1.5 or above as computed using the latest version of the United States department of education index score formula. The composite score must be calculated by the United States department of education, a recognized accreditor, or a certified public accountant contracted at the expense of the institution.

(5) Failure to satisfactorily meet financial requirements: If considerable concern is established as to the institution’s ability to maintain its operation, department staff may contact the school to request additional information regarding the institution’s financial picture. If concerns are not addressed through the additional information provided to the department, a department financial analyst may conduct a second financial review. If after the second review, substantial doubt remains about the institution’s ability to continue, the department may contract for further independent review of the records. All costs associated with contracting a third party independent reviewer will be charged to the institution. Following review and based on the determination of the department

(a)
the institution may be authorized for operation; or

(b)
the institution may be placed on probationary status and required to submit a management plan of action; and

(c)
the department may report the failure to satisfactorily meet financial requirements to the United States department of education and the institution’s accreditor. If the issue is not resolved, the department may take action to forward the file to the attorney general’s office for issuance of a notice of contemplated action to deny licensure.

Q. Procedure for resolution of student complaints: An institution shall provide proof of an adopted complaint procedure that complies with the minimum requirements set by the department. Institutions shall retain records that make available the student complaint received and record of the institution's processing the complaint (that comports with the institution's policies and procedures for handling grievances or complaints) as required by law. The institution shall have and make available to all students, the adopted complaint procedure that describes, in detail, how students or other parties may register a complaint or grievance, how the institution will investigate the complaint, and how the institution will attempt to resolve the complaint. Such policies shall at a minimum include the following components:

- (1) requirement that students or other parties with complaints or grievances against an institution first seek to resolve their complaint or grievance directly with the institution;
- (2) a time frame within which the institution will investigate the complaint and respond to the complainant;
- (3) assurance of the involvement of a person who will serve as an impartial representative of the institution but not be directly involved in the area of the complaint;
- (4) assurance that no adverse action will be taken against the complainant for registering the complaint; and
- (5) identification of the [higher education] department as the agency to be contacted in cases where a complaint cannot be resolved and include the mailing address, website and phone number for the department.

R. Student Services: The institution shall certify that it will provide the following:

- (1) Financial aid counseling: Institutions offering financial aid to students shall provide adequate personnel qualified to

administer the financial aid programs according to the regulations of all applicable agencies;

(2) Academic counseling and progress: Institutions shall provide adequate counseling for students regarding their academic progress. An institution shall have a clear policy and procedure for assessing the progress of students toward their program objectives and to inform student of progress. Students shall receive warning when their academic status is at risk and shall be given clear information about their academic status and whatever actions are needed to maintain satisfactory progress. The institution shall have a policy for terminating enrollment in manner that minimizes the financial cost to the student, when the student fails to meet the standards for academic progress. Records of the institution, including individual student records, shall reflect consistent application of such policy and procedure. The institution's catalog and other publications shall clearly inform students about the institution's standards for academic progress and any academic counseling and support services available to students.

(3) Employment counseling and placement: Institutions shall provide services that assist students in locating and qualifying for employment opportunities. Employment counseling and placement services must be provided at no additional charge to students. No institution shall be expected to provide employment counseling and placement services beyond providing academic and financial aid transcripts for more than one year following a student's receipt of a diploma, certificate, or degree, except by such policy of the institution. An institution offering placement services for its students and graduates shall maintain records listing, for each student who has been assisted, each placement conference held with the student and each placement contact made in behalf of the student.

S. Records standards and access:

(1) Transcript standards: An institution shall prepare for students a transcript of record. A sample transcript shall be submitted and include at minimum the following:

- (a) designation of the program(s) of study for which the student has been enrolled;
- (b) each course completed by the student and the grade or other indication of performance assigned; and
- (c) a dated statement of completion of the program and award of any certificate, diploma, or degree earned by the student.

(2) The method by which students and graduates may obtain transcripts and financial aid documents and applicable fees shall be described clearly in the institution's catalog or in other documents provided to students. All documents with reference to the method for obtaining transcripts and financial aid documents and fees must be submitted to the department for review.

(3) The institution shall certify that an official student file will be kept for each student and include at a minimum the following:

- (a) admission application and enrollment agreement;
- (b) official transcripts indicating qualification for admission;
- (c) when applicable actual test and scores from an ability-to-benefit assessment;
- (d) grades received (up-dated transcript);
- (e) all obligations incurred and all funds paid by the student to the institution;
- (f) student attendance information;
- (g) academic counseling and employment counseling records; and

(h) financial aid records.

T. Academic support resources: The institution shall provide or otherwise assist students in gaining access to learning resources needed for completion of their programs, including library materials, laboratories, facilities, equipment and materials, and relevant experiences needed to meet program requirements. No institution shall absolve itself from this requirement solely by referring students to the resources of other private or public institutions or facilities, except by written agreement with such institutions or facilities. The institution will certify that:

- (1) students have access to learning resources;
- (2) resources are adequate to support the programs;
- (3) students are adequately informed about learning resources available to them and how to access such resources and services;
- (4) training is made available for accessing learning resources;
- (5) resources are delivered within a reasonable period of time;
- (6) the facilities have satisfactorily met all applicable health and fire inspections; and
- (7) compliance with regulations pursuant to the American with Disabilities Act (ADA).

U. Admission policy: Each institution shall adopt an admission policy that includes the following standards:

- (1) No student shall begin a certificate or diploma program who has not received a high school diploma or the equivalent or who has not demonstrated ability to benefit from the program through a process of assessment that meets standards of the United States department of education or the department or who is participating in a concurrent enrollment program with a secondary school.

(2) Institutions enrolling students who are of compulsory school age or who are concurrently attending an elementary or secondary school shall have in their possession a signature or other written acknowledgement by elementary or secondary officials and by the student's parent or guardian.

(3) Institutions using an ability-to-benefit admission option shall provide the department with a clear and detailed statement describing their ability-to-benefit assessment programs (including cut off scores and validity data for any test used) and shall be able to demonstrate that ability-to-benefit assessment is performed in a consistent and valid manner.

(4) No student shall be admitted to an associate degree or baccalaureate degree program who has not received a high school diploma or the equivalent.

(5) No student shall be admitted to a graduate degree program who has not received a baccalaureate degree from an institution accredited by an agency recognized by the United States department of education, or received a baccalaureate degree from a non-accredited institution licensed by the department or by the cognizant state agency in another state, or qualified in an alternative manner approved by the department.

V. Cooperation: The institution shall provide copies of valid certificates from other federal, state and municipal agencies, and any other higher education authorities as proof of compliance with applicable bodies. At minimum the application submission must include:

- (1) a copy of the notification of good standing and ability to do business in New Mexico issued by the New Mexico secretary of state's office;
- (2) a copy of the New Mexico taxation and revenue department registration;
- (3) as applicable, a copy of the national council of state authorization reciprocity agreements (NC-SARA) welcome letter;

(4) as applicable, a list and copy of authorizations granted by other jurisdictions;

(5) as applicable, a list and copy of authorizations granted by other New Mexico boards, commission or agencies.

W. Ownership and administration: The institution shall provide the department with information about ownership, owners, and managers. An institution shall notify the department in writing within 10 working days whenever the institution changes ownership, whenever there is a change in control of the institution, or whenever changes are made to managers. No institution will be licensed in the state of New Mexico without completion certifications required by the department. Any changes or events that may trigger any certification to be untrue, must be immediately reported to the department, and shall be reported in no less than 10 working days.

(1) The institution shall provide a list of principal owners and provide a list of managers.

(2) The institution shall certify that no owner of the institution has:

- (a) been convicted of or has pled no contest or guilty to a crime involving abuse of public funds;
- (b) been convicted of or has pled no contest or guilty to a crime of dishonesty or felony within the last five years;

(c) controlled or managed an institution that has ceased operation during the past five years without providing for the completion of programs by its students; or

(d) filed bankruptcy associated with the operation of an educational institution during the past five years.

(3) The institution shall certify that no manager of the institution has:

(a) been convicted of or has pled no contest or guilty to a crime involving abuse of public funds;

(b) been convicted of or has pled no contest or guilty to a crime of dishonesty or felony within the last five years;

(c) controlled or managed an institution that has ceased operation during the past five years without providing for the completion of programs by its students; or

(d) filed bankruptcy associated with the operation of an educational institution during the past five years.

(4) The institution shall certify it:

(a) has not filed bankruptcy during the past five years;

(b) is not under the ownership of any person who has filed bankruptcy associated with the operation of an educational institution during the past five years;

(c) is not managed by any person who has filed bankruptcy associated with the operation of an educational institution during the past five years;

(d) has not been found to be operating illegally in another state for a least five years.

[5.100.7.10 NMAC - N, 12/26/2017; A, 12/11/2018; A, 12/29/2020; A, 10/24/2023; A, 2/11/2025]

5.100.7.12 COMPLAINT TO THE DEPARTMENT:

[A. A student not satisfied with an institution's resolution of a complaint may submit a complaint to the department in writing on a form provided by the department. A student must file a complaint with the department within three years of their last date of enrollment.

B. Upon receipt of a written complaint, the department or its authorized representative shall verify that the complaint

involves one or more standards for licensure of the institution and is therefore a legitimate subject of complaint to the department. If the complaint is determined to be legitimate, the department or its authorized representative shall forward the complaint to the institution for a written response and shall facilitate possible resolution of the complaint between the student and the institution. The institution shall have 10 days to forward its response to the department. A copy of the institution's response will be forwarded to the student with a request that the student indicate satisfaction or dissatisfaction with the response.

C. In attempting to resolve a complaint, the department or its authorized representative may, but is not obliged to, convene a hearing or meetings and shall give written notice to the institution and to all persons involved, regarding the time, date, and place of the hearing or meeting. Such hearings or meetings, if held, shall be informal and for the purpose of determining the facts surrounding the claim and whether the parties can come to a resolution or compromise.

D. In the event that the institution refuses to respond or refuses to attend a hearing or meeting:

(1) the department shall make three attempts to contact the institution including at least one attempt through certified mail, to notify the institution of the complaint, request, action, hearing or meeting;

(2) if the institution does not respond or fails to attend the hearing or meeting after three attempts to contact the institution by the department have been made, the department may invoke its powers to take such action as shall be necessary for the indemnification of the claimant.]

A. Upon receipt of a student complaint, the department shall determine whether the complaint meets initial criteria to permit use of the department's complaint procedure. The following initial complaint criteria must be satisfied:

(1) A student must file a complaint with the department within three years of the student's last date of enrollment.

(2) The complaint must be made to the department in writing utilizing the designated complaint form published by the department. The student may include supporting documentation or evidence related to the complaint. The department may request additional documentation from the student, as needed, to conduct an initial assessment.

(3) The complaint must detail and provide evidence that the student has exhausted all complaint procedures at the institution.

(4) The complaint must contain a question of fact or question regarding potential violation of or deviation from policy, regulation, or law.

B. If the department determines the complaint meets the initial complaint criteria, it shall serve as an intermediary in attempting to facilitate a resolution or to obtain information from the institution to eliminate questions of fact or possible violations or deviations from policy, regulation or law raised by the complaint. Satisfaction of initial complaint criteria, in no way means the department has assigned greater weight to the student's allegations. If the department finds that the subject matter of the complaint falls within the investigatory purview of another entity, it may forward the complaint and cease further review (for example the office for civil rights).

(1) Acting as an intermediary, the department shall request a response from the institution addressing the student's complaint. The complaint and any documentation provided by the student shall be sent to the institution with a request for a written response. The institution shall have 10 days to forward its response to the department. The institution may request additional response time, if inquiry into the complaint requires greater than 10 days. The institution may provide any supporting

documentation or evidence to address questions or concerns raised by the complaint with the response.

(2) After considering the institution's response and any documentation or evidence supplied by the institution, the department may conduct further inquiry of the parties or may continue to serve as an intermediary for possible compromise between the parties. The department may seek additional clarifying information or supporting documentation from either party and may request additional response from either party.

(3) If the institution accepts the desired outcome proposed by the student in the complaint, the department shall inform the student. If the institution proposes an alternate desired outcome, the department shall convey such information to the student and the student shall indicate acceptance or denial of the alternate proposed outcome, or create a different proposed outcome, to allow for compromise. If at any point, the student and the institution reach an agreed upon outcome, the department may help facilitate fulfillment of the outcome, as necessary.

(4) If the parties are unable to reach a mutually agreeable outcome, the department may, but is not obligated to, convene a meeting between the parties. Such meetings, if held, shall be informal and for the purpose of clarifying the facts surrounding the complaint and to facilitate the parties reaching a resolution or compromise, if possible. If a meeting is convened, the department shall give written notice to the institution and to the student, regarding the time, date, and place of the meeting.

C. The department may help facilitate a compromised resolution between the parties. However, the department shall not impose an outcome and shall not act as an adjudicatory entity. If the department has received evidence to support potential violation of or a deviation from policy, regulation, or law through the department's

inquiry, the department may refer the complaint to either law enforcement, the United States department of education, the institution's accreditor, or any other applicable oversight entities for further investigation, as applicable to the type of potential violation or deviation. If the department determines, at any time, that questions raised by the complaint are alleviated or the complaint relates to grades or student conduct violations, it shall cease further inquiry into the complaint and inform the student that the complaint will be closed with no further action by the department.

[5.100.7.12 NMAC - N, 12/26/2017; A, 2/11/2025]

LIVESTOCK BOARD

This is an emergency amendment to 21.30.4 NMAC, Sections 7, 11, 12 and 13 effective 2/11/2025.

21.30.4.7 DEFINITIONS:

A. "Board" means the New Mexico livestock board.

B. "Director" means the executive director of the New Mexico livestock board.

C. "Inspector" means any duly authorized or commissioned officer of the livestock board.

D. "Livestock" means cattle, sheep, swine, bison, goats, horses, mules, asses, poultry, ratites, camelids, and farmed cervidae.

E. "Hold order" means a directive by the New Mexico livestock board by or through the state veterinarian to stop movement of certain livestock because of the possibility those livestock are diseased or exposed to a contagious disease, but the disease has not been confirmed in those livestock.

F. "Premises" means a place where livestock is held for personal or commercial purposes.

G. "Restricted zone" a defined geographic portion of the state.]

A. "Board" means the New Mexico livestock board.

B. "Cohort(s)" equids considered to be exposed or high-risk due to epidemiological link to a positive animal.

C. "Director" means the executive director of the New Mexico livestock board.

D. "Hold order" means a directive by the New Mexico livestock board by or through the state veterinarian to stop movement of certain livestock because of the possibility those livestock are diseased or exposed to a contagious disease, but the disease has not been confirmed in those livestock.

E. "Inspector" means any duly authorized or commissioned officer of the livestock board.

F. "Livestock" means cattle, sheep, swine, bison, goats, horses, mules, asses, poultry, ratites, camelids, and farmed cervidae.

G. "Premises" means a place where livestock is held for personal or commercial purposes.

H. "Regulatory sample" means blood sample collected for confirmatory testing

I. "Restricted zone" a defined geographic portion of the state.

J. "Surveillance sample" means blood sample collected for routine testing [21.30.4.7 NMAC - Rp, 21.30.4.7 NMAC, 7/16/2024, A/E, 2/11/2025]

21.30.4.12 EQUINE INFECTIOUS ANEMIA RESPONSE (EIA):

A. **Equine infectious anemia (EIA):** is an infectious disease of equines caused by a lentivirus, equine infectious anemia virus (EIAV). The infection is characterized by three distinct forms: acute, chronic (both associated with clinical signs of disease), and inapparent.

B. **Official test:** The agar gel immunodiffusion (AGID) test, also known as the coggins test, the competitive enzyme-linked immunosorbent assay (CELISA) test, and other United States department of agriculture (USDA) licensed tests approved by the New Mexico livestock

board (NMLB), are the official tests for equine infectious anemia (EIA) in all equine species.

C. Authorization to conduct test: Only USDA approved laboratories are allowed to run the AGID and CELISA or other USDA licensed tests. Equine blood samples collected for official EIA tests shall be collected by a state or federal animal health official or an accredited veterinarian who is licensed in the state in which the animal being tested is located.

D. EIA infected animals: Any equid testing positive for EIA on surveillance sampling will be placed on a hold order at its current location, isolated from other equids by at least 200 yards, until confirmatory testing is completed at the USDA National veterinary services laboratory (NVSL). Cohorts of the EIA-positive equid(s) will also be subject to the hold order subject to the conditions listed in section E6.

(1) If an EIA-positive equid is located on a premises other than that of the owner at the time of quarantine, the Office of the State Veterinarian may authorize movement of the EIA-positive equid to the owner's premises or a premises approved for isolation by the NMLB. The movement shall occur under the direct supervision of the NMLB, and the trailer shall be sealed by a livestock inspector prior to leaving the origin. Seals shall be broken only by a livestock inspector at the destination.

(2) If NVSL determines the sample is negative based on AGID, the hold order will be released.

(3) If NVSL confirms the sample is positive based on AGID, the hold order will be upgraded to a quarantine within 24 hours of receipt of confirmation. Regulatory testing of the EIA-positive equid and its cohorts will be performed by a state or federal regulatory veterinarian within five days of NVSL confirmation of the surveillance sample.

E. Disposition of confirmed EIA-positive horses:

(1) EIA-positive equids must be:

(2) euthanized and buried or incinerated in accordance with local ordinance within five days of NVSL confirmation of the regulatory sample; or

(3) exported out of New Mexico within 30 days if the owner is able to obtain permission from the receiving state or country and USDA;

(4) Any EIA-positive equid that cannot be euthanized within five days of NVSL confirmation or any EIA-positive equid destined for export shall be branded (either freeze or hot-iron) with an 85A on the left neck or left shoulder in accordance with the USDA EIA uniform methods and rules within five days of NVSL confirmation.

Euthanasia or export shall occur within 30 days of NVSL confirmation. The owner is responsible for the cost of export or euthanasia and disposal of the EIA-positive equid(s) and shall not be indemnified by the state for any loss caused by the destruction or loss of value of the equid(s). The veterinarian performing the euthanasia shall provide a written affidavit to the office of the state veterinarian within 72 hours of performing the euthanasia.

F. Exposed or high-risk equids:

(1) exposed or high-risk equids are those determined to have an epidemiological link to the positive animal either by proximity, common ownership, or other factors.

An exposed or high-risk equid may or may not be located on the same premises as an EIA-positive equid. Equids considered to be exposed or high-risk may be tested by an accredited veterinarian at the owner's expense or by a state or federal regulatory veterinarian. Equids tested by an accredited veterinarian may be subject to a retest by a state or federal regulatory veterinarian at any time.

(2) exposed or high-risk equids shall be placed under a hold order until they have tested negative to EIA at least 60 days after the last known exposure.

(3) movement of exposed or high-risk equids may be allowed prior to the 60 day test if they

have a negative EIA test performed by an accredited veterinarian prior to movement and with approval of the office of the state veterinarian. Request for movement approval is required at least 48 hours prior to it occurring and shall include the following information:

(a) registered name of equid;

(b) all official identification of equid (including microchip or tattoo);

(c) name of owner;

(d) name of trainer;

(e) destination;

(f) purpose of movement;

(g) and length of stay.

(4) these equids shall be made available for their 60 day test regardless of their location.

G. Compliance: Livestock Inspectors who are certified peace officers, in accordance with Section 30-18-14 NMSA 1978 shall enforce the provisions of Chapter 30, Article 18 NMSA 1978 and other criminal laws relating to livestock. Livestock inspectors may arrest persons found in the act or whom they have probable cause to believe are guilty of driving, holding or slaughtering stolen livestock. Any person who violates the provisions of these rules may be subject to the criminal and civil penalties pursuant to Sections 77-2-9, 77-2-22 NMSA 1978. Penalties for misdemeanor crimes can include imprisonment of less than one year or fines up to \$1000 or both. Penalties for petty misdemeanors can include imprisonment not to exceed six months or fines up to \$500 or both. Furthermore, any person who violates a rule adopted under the power granted to the board unless the penalty has been fixed by law is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978. [21.30.4.12 NMAC - N/E, 2/11/2025]

~~[21.30.4.12]~~ **21.30.4.13**
VESICULAR STOMATITIS;
RESTRICTIONS AND
SAFEGUARDS DEEMED
PROPER TO PROTECT
LIVESTOCK IN NEW MEXICO:

A. Livestock cannot be removed from a VS-quarantined premise. Any livestock introduced onto VS-quarantined premises will be subject to the quarantine restrictions and remain on the premises until the quarantine has been lifted.

B. Transporters hauling any New Mexico origin livestock in New Mexico must have in possession a current brand inspection (form 1) or a permanent equine hauling card (form 1-H).

C. Participants in public events in which all livestock attending originate from New Mexico must:

(1) present and have verified by event officials a certificate of veterinary inspection (CVI), commonly known as a *health certificate*, for each animal brought by that participant and that has been issued within five days prior to arrival at the event, or

(2) have the livestock examined upon arrival at the event by designated officials as specified and provided by the event organizers; the designated official should be a veterinarian whose background and experience with livestock would allow them to recognize abnormalities in tissues that could be consistent with vesicular stomatitis.

(3) The state veterinarian may specify other restrictions consistent with the board's duty to protect the health and integrity of the livestock industry in New Mexico, including limiting any destinations of the horse.

D. Participants with livestock that originate in New Mexico attending public events in New Mexico where livestock from states other than New Mexico will be present must:

(1) present and have verified by event officials a certificate of veterinary inspection

(CVI), commonly known as a *health certificate*, for each animal brought by that participant and that has been issued within five days prior to arrival at the event, and

(2) have the livestock examined upon arrival at the event by a NM accredited veterinarian.

E. All livestock entering New Mexico public auctions facilities must receive a health examination prior to sale by a NM accredited veterinarian.

F. Out of state livestock entering New Mexico from any other state or territory must meet all current New Mexico entry requirements. Owners of livestock temporarily entering New Mexico are urged to contact their state animal health officials for requirements and restrictions to return to their home state from New Mexico.

[21.30.4.13 NMAC - Rp, 21 NMAC.30.4.12, 7/16/2024, Rn, 1/30/2025]

VETERINARY
MEDICINE, BOARD OF

This is an amendment to 16.25.10 NMAC, Sections 7 & 9 effective 02/11/2025

16.25.10.7 DEFINITIONS:

A. "Animal Sheltering Committee" is as established pursuant to Section 61-14-7.1, NMSA 1978.

B. "Disbursement" means payment of monies from the Animal Care and Facility Fund pursuant to the requirements in, Section 77-1B-4, NMSA 1978. Eligible applicants will receive monies in advance of services provided pursuant to the terms of the application, except that eligible individual applicants will receive reimbursement paid directly to providers for services performed.

C. "Eligible applicant" means:
 (1) an animal shelter, euthanasia agency, or non-profit organization in good standing

with the Secretary of State in the state of licensure; or

(2) an individual with a household income that does not exceed two hundred percent of the federal poverty level guidelines as published by the U.S. Department of Health and Human Services.

D. "Fund" means the Animal Care and Facility Fund established in Subsection (A) of Section 77-1B-4, NMSA 1978, including the statewide spay and neuter subaccount established in Subsection (D) of Section 77-1B-4, NMSA 1978.

E. "Monies" means fees, income and money in the Animal Care and Facility Fund, including money in the statewide spay and neuter subaccount.

F. "Qualified service provider" means a veterinarian in good standing [or other] licensed [provider of] to provide spay/neuter services to eligible New Mexico applicants in the jurisdiction where the services are rendered. [New-Mexico:]

G. "Qualified" means licensed to provide veterinary services in New Mexico and in good standing with the Board as well as with the provider's licensing entity.
 [16.25.10.7 NMAC-N, 1/14/2025, A, 2/11/2025]

16.25.10.9 OBLIGATIONS OF SUCCESSFUL APPLICANTS:

Applicants receiving disbursements from the Animal Care and Facility Fund shall:

A. maintain all relevant organizational documents showing that they are in good standing with the Secretary of State;

B. submit an amended application in the event that their proposed scope of services or proposed service provider(s) change, which amendment shall be submitted within 60 days of such change;

C. submit an annual report based on the date of initial approval, to the board that shall include:

(1) the number of spay and neuter surgeries that the organization has sponsored or performed during the relevant period, which is one year from the date of disbursement of money unless otherwise specified and sanctioned in the application;

(2) the average cost of each spay and neuter surgery performed;

(3) certification that the recipients of the services performed by non-profit organizations have household incomes not exceeding two hundred percent of the federal poverty [level] guidelines;

(4) any other information as determined by the Animal Sheltering Committee or the Board.

D. submit additional reports as required by the board.

E. perform or facilitate the performance of spay and neuter surgeries for cats and dogs residing in New Mexico.

F. monies unspent before the deadline given shall be returned to the NMBVM to be reverted to the Animal Care and Facility Fund.

[16.25.10.9 NMAC-N, 1/14/2025, A, 2/11/2025]

End of Adopted Rules

2025 New Mexico Register

Submittal Deadlines and Publication Dates

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Issue	Submittal Deadline	Publication Date
Issue 1	January 3	January 14
Issue 2	January 16	January 28
Issue 3	January 30	February 11
Issue 4	February 13	February 25
Issue 5	February 27	March 11
Issue 6	March 13	March 25
Issue 7	March 27	April 8
Issue 8	April 10	April 22
Issue 9	April 24	May 6
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Issue 13	June 26	July 15
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Issue 16	August 14	August 26
Issue 17	August 28	September 9
Issue 18	September 11	September 23
Issue 19	September 25	October 7
Issue 20	October 9	October 21
Issue 21	October 23	November 4
Issue 22	November 6	November 18
Issue 23	November 20	December 9
Issue 24	December 11	December 23

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