

New Mexico Register

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

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New Mexico Register

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September 9, 2025

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Notices of Rulemaking and Proposed Rules

AGING AND LONG-TERM SERVICES DEPARTMENT

NOTICE OF RULEMAKING AND PUBLIC HEARING

Notice is hereby given that the Aging & Long-Term Services Department (ALTSD) will hold a public hearing in person and via video conference regarding a proposed new rule in the New Mexico Administrative Code (NMAC). ALTSD proposes to add rule 9.2.26 NMAC - Criminal History Records Check.

Legal Authority: Authority for the amendment of the rules is provided by Subsection E of Section 9-23-6 NMSA 1978, which states the following: "The secretary may make and adopt such reasonable procedural rules as may be necessary to carry out the duties of the department and its divisions."

Public Rule Hearing: The Department will hold a public hearing in person and via Microsoft Teams on October 10, 2025 at 9:00 a.m. MST to take comments regarding the proposed amendments to the rules. To participate virtually, please use the meeting ID below to attend the hearing.
Hearing Date and Time: October 10, 2025 at 9:00 am
Physical Location: Willie Ortiz Auditorium, 2600 Cerrillos Rd. Santa Fe, NM 87505.

To join Virtually:
Microsoft Teams Meeting ID: 245 016 029 536 9
Passcode: NL99x7ex
Dial in by phone:
+1 505-312-4308,,996789434#
United States, Albuquerque
(888) 506-1357,,996789434# United States (Toll-free)
Phone conference ID: 996 789 434#

Copies of the notice of rulemaking and proposed rule are available on the New Mexico Sunshine Portal at

<https://ssp.nm.gov/> and on the ALTSD website at <https://www.aging.nm.gov/admin/records-check/>.

Public Comments: Interested parties may submit written comments to: Aging & Long-Term Services Department, Office of the Secretary, ATTN: NMAC Revisions Public Comments, 2550 Cerrillos Rd., Santa Fe, New Mexico 87505. Interested persons may also send comments via e-mail to: kathryn.farquhar@altsd.nm.gov. Written mail and electronic mail must be received no later than 5:00 p.m. MST on October 9, 2025. Written comments will be given the same consideration as oral comments made at the public hearing. All written comments received will be posted as they are received on the ALTSD website at <https://www.aging.nm.gov/admin/records-check/> along with the applicable register and rule. **The public posting will include the name and any contact information provided by the commenter.** All written comments will be posted on the Department's website within (3) three days of receipt.

If you are a person with a disability and you require this information in an alternative format or require an auxiliary aid or a special accommodation to participate in the public hearing or to provide comments, please contact ALTSD in Santa Fe at (505) 476-4799 or send your request via email to: kathryn.farquhar@altsd.nm.gov. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations. Copies of all comments will be made available by ALTSD upon request by providing copies directly to a requestor or by making them available on the ALTSD website or at an ALTSD location nearest to the county of the requestor.

Summary: The New Mexico Aging and Long-Term Services Department proposes this new rule, 9.2.26 NMAC, to come into compliance with Section

9-23-14 NMSA 1978 which mandates that ALTSD promulgate rules for the investigation and determination of qualifications of its employees, selected applicants, and volunteers. The purpose of the proposed rule is to ensure that ALTSD follows a consistent process in conducting background checks pursuant to 9-23-14 NMSA 1978.

To obtain an electronic copy of the full text of the proposed rules, please visit: <https://www.aging.nm.gov/admin/records-check/>

To obtain the full text of the proposed rules in nonelectronic form, please contact: kathryn.farquhar@altsd.nm.gov. A reasonable fee may be charged to provide any records in nonelectronic form. See Subsection B of 14-4-5.2 NMSA 1978.

EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT

NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Early Childhood Education and Care Department (ECECD) hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rules regarding SOCIAL SERVICES CHILD CARE ASSISTANCE REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS FOR CLIENT AND CHILD CARE PROVIDERS, CHILD CARE LICENSING; CHILD CARE CENTERS, OUT OF SCHOOL TIME PROGRAMS, FAMILY CHILD CARE HOMES, AND OTHER EARLY CARE AND EDUCATION PROGRAMS, and NON-LICENSED CHILD CARE; REQUIREMENTS GOVERNING REGISTRATION OF NON-LICENSED FAMILY CHILD CARE HOMES as authorized by Subsection E of Section 9-29-6 NMSA 1978;

8.9.3 NMAC - CHILD CARE ASSISTANCE REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS FOR CLIENTS AND CHILD CARE PROVIDERS

8.9.4 NMAC - CHILD CARE LICENSING; CHILD CARE CENTERS, OUT OF SCHOOL TIME PROGRAMS, FAMILY CHILD CARE HOMES, AND OTHER EARLY CARE AND EDUCATION PROGRAMS

8.9.5 NMAC - NON-LICENSED CHILD CARE; REQUIREMENTS GOVERNING REGISTRATION OF NON-LICENSED FAMILY CHILD CARE HOMES

No technical scientific information was consulted in drafting these proposed rules.

Purpose of proposed rules: ECECD is promulgating these rules to codify requirements for the child care assistance program and child care licensing compliance.

Summary of Proposed Rules:

In summary, the proposed rule amendments to 8.9.3 NMAC, 8.9.4 NMAC, and 8.9.5 NMAC will update regulations to codify requirements for the child care assistance program and child care licensing compliance. Changes made include removal of income eligibility requirements for all families; restructure of the co-payment schedule; exclusion of activity requirements for grandparents eligible to participate in the child care assistance program; provider rate increases; revision of hours of care; inclusion of presumptive eligibility; inclusion of extended eligibility when additional children are added to households; requirements to report attendance; revisions to at-risk child care; provider participation requirements in the Professional Development Information System; provider participation requirements in the quality rating and improvement system; provider compliance with state and federal laws for inclusion of children with disabilities;

provider compliance with policy and procedure; exemptions from participation in Child and Adult Care Food Program for certain non-licensed providers; and updated terms and definitions.

As part of the amendment process, ECECD will hold a public rule hearing for the proposed amendments on October 9, 2025, from 9:00 a.m. to 11:30 a.m.

Copies of the proposed amended rules may be found at ECECD's website at www.nmececd.org/regulation-changes/ 30 days prior to the public hearing.

Notice of public rule hearing: The public rule hearing will be held on October 9, 2025, from 9:00 a.m. to 11:30 a.m. for proposed rule amendments to 8.9.3 NMAC, 8.9.4 NMAC, and 8.9.5 NMAC. The hearing will be held in Apodaca Hall of the PERA Building located at 1120 Paseo de Peralta, Santa Fe, New Mexico 87502 and via virtual web platform (Zoom), email, and telephonic means. The public hearing will be conducted in a fair and equitable manner by an ECECD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided with a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Members of the public will be given two minutes to provide oral comments. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact ECECD at ECECD-ECS-PublicComment@ECECD.NM.Gov or call 505-670-8993. ECECD will make every effort to accommodate all reasonable requests but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

Notice of acceptance of written

public comment: Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public may be submitted via email to ECECD-ECS-PublicComment@ECECD.NM.Gov with the subject line "8.9.3 NMAC, 8.9.4 NMAC, and 8.9.5 NMAC Public Comment" or via first class mail to PO. Drawer 5619, Santa Fe, New Mexico 87502-5619. Written comments may be delivered to the PERA Building at 1120 Paseo De Peralta on October 9, 2025, from 9:00 a.m. to 11:30 a.m. Written comments will be accepted from the publication of this notice to the deadline at the end of the public hearing on October 9, 2025.

Any interested member of the public may attend the hearing in person, or via the virtual web platform or telephone, and offer public comments on the proposed rule during the hearing. To access the hearing by telephone: place call to 1-669-444-9171, Meeting ID: 875 0072 3914. You will be able to hear the full hearing, and your telephone comments will be recorded. To access the hearing via the internet: please go to <https://nmececdorg.zoom.us/j/87500723914> and follow the instructions indicated on the screen – Meeting ID: 875 0072 3914. This will be a live stream of the hearing. You may also provide comment via chat during the live streaming.

FINANCE AND ADMINISTRATION DEPARTMENT STATE BOARD OF FINANCE

NOTICE OF PROPOSED RULEMAKING AND PUBLIC RULE HEARING

The State Board of Finance (SBOF) hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 2.1.2.8 NMAC that it proposes the adoption of a new rule, Proposed Rule 2.61.2 NMAC, Dedication of a

Portion of the State's Gross Receipts Tax Increment for Metropolitan Redevelopment (Proposed Rule). By publishing this notice, the SBOF resolves to undertake the rulemaking in conformity with the Metropolitan Redevelopment Code, Sections 3-60A-1 to -49 NMSA 1978 (1979, as amended through 2025), the State Rules Act, Sections 14-4-1 to -11 NMSA 1978 (1967, as amended through 2017), and Adoption of Rules by the State Board of Finance, 2.1.2 NMAC (10/17/2017).

Purposes of Proposed Rule: The purposes of the Proposed Rule are to establish requirements, procedures, and criteria for: (i) implementing the dedication of a state gross receipts tax increment for the purpose of funding a metropolitan redevelopment plan; and (ii) determining the amount of the state gross receipts tax increment to be dedicated to a metropolitan redevelopment plan pursuant to the Metropolitan Redevelopment Code.

Summary of Proposed Rule: The Proposed Rule is designed to accomplish the legislature's instructions to develop procedures to allow the SBOF to both: (i) review a request for the use of the state gross receipts tax increment in support of a metropolitan redevelopment plan; and (ii) determine if the proposed dedication of the state gross receipts tax increment to meet the goals of a metropolitan redevelopment plan is reasonable and in the best interest of the state.

The Proposed Rule establishes definitions for terms used throughout the Proposed Rule. The definitions provide important details regarding applicable requirements for any proposed dedication of the state gross receipts tax increment, which are intended to provide the SBOF with the information necessary to meaningfully review any proposed use of the state gross receipts tax increment to support a metropolitan redevelopment plan.

The Proposed Rule provides details regarding the contents of any

application to be submitted to the SBOF in support of a dedication of the state gross receipts tax increment to fund a municipality or county's metropolitan redevelopment plan. The Proposed Rule establishes that any application for such a dedication contain a table of contents, an executive summary, a comprehensive summary of the administrative and legislative history of the applicable metropolitan redevelopment area (including copies of documents memorializing such history) and certain information, studies, and plans to support a municipality or county's application. In total, an application for a dedication of the state gross receipts tax increment under the Proposed Rule would be comprised of twenty-one parts but would permit the SBOF to waive certain parts in appropriate circumstances.

The Proposed Rule establishes the timeline for a county or municipality to file an application for a dedication of the state gross receipts tax increment in support of its metropolitan redevelopment plan and for the SBOF's consideration of the application. The Proposed Rule provides the methodology of review by the SBOF and details concerning the effective date and duration of any dedication of a portion of the state gross receipts tax increment that may be approved by the SBOF. The Proposed Rule also establishes ongoing reporting requirements for any municipality or county for which the SBOF has approved a dedication of the state gross receipts tax increment to support that municipality or county's metropolitan redevelopment plan.

Statutory Authority: The SBOF is authorized to promulgate rules and regulations to carry out its duties by Subsection E of Section 6-1-1 NMSA 1978 (1989). In addition, the SBOF is authorized to promulgate rules to implement the dedication of state gross receipts tax increment for the purpose of funding a metropolitan redevelopment project and for determining the amount

of the increment pursuant to the Metropolitan Redevelopment Code, Sections 3-60A-1 to -49 NMSA 1978 (1979, as amended through 2025) by Subsection D of Section 3-60A-21 NMSA 1978 (2025).

Technical Information that Served as a Basis for the Proposed Rule: New Mexico Administrative Code, Title 2, Chapter 61, Part 3 - Dedication of a Portion of the State's Gross Receipts Tax Increment, available at https://nmonesource.com/nmos/nmac/en/nav_date.do.

Access to Full Text of Proposed Rule: The full text of the proposed rule may be obtained by contacting Ashley Leach, State Board of Finance Director, 181 Bataan Memorial Building, 407 Galisteo Street, Santa Fe, NM 87501, (505) 827-4980, Ashley.Leach@dfa.nm.gov, to request a copy of the rule. The full text and this notice are also available on SBOF's website: <https://www.nmdfa.state.nm.us/board-of-finance/> and at the SBOF's office located at 181 Bataan Memorial Building, 407 Galisteo Street, Santa Fe, NM 87501.

Public Comment: A person may submit, by mail or electronic form, written comments on the proposed rule through the end of the public comment period, which ends October 17, 2025. Written comments should be submitted to Ashley Leach, State Board of Finance Director, Department of Finance & Administration, 181 Bataan Memorial Building, 407 Galisteo Street, Santa Fe, NM 87501. Written comments also will be accepted by email: Ashley.Leach@dfa.nm.gov. All written comments received by the agency will be posted on <https://www.nmdfa.state.nm.us/board-of-finance/> no more than 3 business days following receipt to allow for public review. Written comments will also be available for public inspection at the SBOF's administrative office located at 181 Bataan Memorial Building, 407 Galisteo Street, Santa Fe, NM 87501.

Public Hearing: A public rule hearing on the proposed rule will be held before hearing officer Michael S. Sanchez, SBOF Secretary and member, or his designee, on October 22, 2025 from 1:30 p.m. at Mabry Hall, which is located in the Jerry Apodaca Education Building, 300 Don Gaspar Ave., Santa Fe, NM 87501. Individuals may submit data, views or arguments pertaining to the proposed rule orally or in writing at the public rule hearing. Persons offering written comments at the hearing must have 2 copies for the hearing officer.

Any individual with a disability: in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule in an accessible form may contact SBOF Administrator Roberto Vasquez at (505-827-4980) at least 10 days before the hearing.

PUBLIC SAFETY, DEPARTMENT OF

NOTICE OF PUBLIC HEARING ON PROPOSED PERMANENT RULE AMENDMENT

Public Notice. The New Mexico Department of Public Safety [“DPS”] gives notice that it will hold a public hearing at DPS’s Law Enforcement Academy, Auditorium, at 4491 Cerrillos Rd, Santa Fe, NM 87507, and via Microsoft Teams, on Tuesday, October 14, 2025, at 1:00 p.m. on the proposed permanent rule amendments to 10.2.8 NMAC PUBLIC SAFETY AND LAW ENFORCEMENT, WEAPONS AND EXPLOSIVES, CARRYING CONCEALED HANDGUNS. The members of the public may attend at DPS or via Microsoft Teams on a computer, mobile device, or telephone. The videoconference’s Meeting ID and Password, videoconference link, and telephone number are:

Join Microsoft Teams Meeting on Your Computer or Mobile App:

<https://tinyurl.com/CCU-Amendment>

Meeting ID: 240 019 157 952 8
Passcode: vF3Zn7Hj

Or Call in (Audio Only)

+1 (505) 312-4308

Phone Conference ID: 818 339 157#

Purpose of the Proposed Permanent Rule Amendment. The purpose of this public hearing is to receive public comment and input on a proposal to make permanent the emergency rule amendments made to 10.2.8 NMAC *Public Safety and Law Enforcement, Weapons and Explosives, Carrying Concealed Handguns*. The primary purpose of the amendments is:

1. Amendments to Sections 12, 14, 17, and 22 of 10.8.2 NMAC so that DPS will comply with the federal requirements to obtain new fingerprints from applicants and licensees for new and renewal applications, which without amendment to the rule, would place DPS in violation of federal law, imperil federal funding, and decrease public safety by hampering DPS’ ability to identify potential risks before people are issued concealed carry handgun licenses.

2. Other amendments to Sections 7, 10, 11, 12, 13, 14, 15, 16, 17, 21, 22, 24, 26, 27, 30, 31, and 32 of 10.8.2 NMAC include:

- ☐ Grammar, punctuation, and gender-neutral language improvements;
- ☐ Updating DPS’s website references and the Concealed Carry Unit’s location;
- ☐ Updating and clarifying firearms training requirements;
- ☐ Changing the term “may” to “shall” to remove subjectivity and provide more uniform and objective decisions, preventing grounds for appeals to district courts by avoiding agency decisions that are arbitrary, capricious, an abuse of discretion, not supported by substantial evidence, or otherwise not in

accordance with the law;

- ☐ Adding additional administrative hearing procedural rules to provide more details and due process protections with similarity to the rules under the New Mexico Administrative Procedures Act, Sections 12-8-1 to 12-8-25 NMSA 1978 [“APA”], which is not applicable to the Concealed Carry Act, since DPS has not “made [it] subject to its coverage by law, or by agency rule or regulation....” Section 12-8-23 NMSA 1978;
- ☐ Changing references to law-enforcement officers to peace officers, which is broader and aligns with and is defined in 10.8.2.7 NMAC. It also aligns with other public safety statutes and rules involving DPS concerning law enforcement officers and training; and
- ☐ Updating and clarifying terms for retired law enforcement officers, military service personnel, and their dependents.

Legal Authority Authorizing the Proposed Permanent Rule Amendment.

The proposed permanent rule amendment is promulgated pursuant to Subsection E of Section 9-19-6, NMSA 1978, and Sections 29-19-1 through 29-19-15, 30-7-2, 30-7-2.1, and 30-7-2.4, NMSA 1978.

Summary of Proposed Amended Rules.

Below is a summary of the proposed permanent rule amendments.

10.8.2.7 NMAC DEFINITIONS

- ☐ Updates and clarifies various terms and definitions related to concealed carry licensing.

10.8.2.10 NMAC DEPARTMENT-PRESCRIBED FORMS

- ☐ Updates department website information.

- ☐ Adds Concealed Carry location in Albuquerque.

10.8.2.11 NMAC APPLICATION REQUIREMENTS FOR A LICENSE

- ☐ Adds method for application submittal to include online submissions.
- ☐ Removes “cash” from fees.
- ☐ Updates completeness requirements.

10.8.2.12 NMAC OTHER REQUIRED DOCUMENTS FOR A LICENSE

- ☐ Updates proof of residency requirements.
- ☐ Updates proof of age to gender neutral terms.
- ☐ Clarifies the language of what can be filed.
- ☐ Updates requirements for fingerprints.

10.8.2.13 NMAC LICENSE APPLICATION REVIEW AND ISSUANCE

- ☐ Clarifies the terms of a license.
- ☐ Updates language from discretionary action to a mandatory one, removing flexibility and requiring compliance.

10.8.2.14 NMAC FINGERPRINTING OF APPLICANTS

- ☐ Updates the requirements for fingerprints.
- ☐ Adds time limit for fingerprint submission.

10.8.2.15 NMAC FIREARMS TRAINING FOR APPLICANTS AND LICENSEES

- ☐ Updates and clarifies terms for firearms training.
- ☐ Updates and clarifies various subsections related to firearms training requirements.
- ☐ Updates certificates of completion language of firearms training.

10.8.2.16 NMAC TERMS AND CONDITIONS OF LICENSE

- ☐ Updates carrying while impaired provisions.
- ☐ Updates the display of a license on demand to gender neutral terms.
- ☐ Updates language from discretionary action to a mandatory one, removing flexibility and requiring compliance.
- ☐ Updates a notice of change in circumstances for criminal offenses.

10.8.2.17 NMAC LICENSE RENEWAL AND TRANSFER

- ☐ Updates and clarifies terms for renewing a New Mexico concealed carry license.
- ☐ Updates requirements for fingerprints.
- ☐ Updates and clarifies the terms for transferring a license from another state to New Mexico.

10.8.2.21 NMAC DENIAL, SUSPENSION AND REVOCATION OF A LICENSE

- ☐ Updates grounds for denial, suspension, and revocation language for criminal offenses.
- ☐ Updates language from discretionary action to a mandatory one, removing flexibility and requiring compliance.
- ☐ Updates language for the term of suspension or revocation and reapplication.

10.8.2.22 NMAC DEPARTMENT APPROVAL OF INSTRUCTORS AND FIREARMS TRAINING COURSES

- ☐ Updates language from discretionary action to a mandatory one, removing flexibility and requiring compliance.
- ☐ Updates requirements for fingerprints.
- ☐ Updates and clarifies the terms of requirements for approvals.
- ☐ Updates and clarifies the terms of determination by

the department for approvals.

- ☐ Updates and clarifies the terms of authority to carry and the requirements of the concealed carry application.

10.8.2.23 NMAC BACKGROUND INVESTIGATIONS OF APPLICANTS AND INSTRUCTOR APPLICANTS

- ☐ Updates and clarifies the terms of background investigations.

10.8.2.24 NMAC RESPONSIBILITIES OF APPROVED INSTRUCTORS

- ☐ Updates and clarifies the terms of guest instructors.
- ☐ Updates to gender neutral terms.

10.8.2.26 NMAC SUSPENSION AND REVOCATION OF AN INSTRUCTOR PERMIT

- ☐ Updates and clarifies terms for notice of suspension or revocation and surrender of instructor permit.
- ☐ Updates language from discretionary action to a mandatory one, removing flexibility and requiring compliance.

10.8.2.27 NMAC HEARING PROCEDURES

- ☐ Updates and clarifies the terms of the written notice required for hearing procedures.
- ☐ Updates and clarifies the terms of the contents of the notice required for hearing procedures.
- ☐ Updates and clarifies the terms of notice of hearing.
- ☐ Updates and clarifies the terms of exhibits.
- ☐ Updates and clarifies the terms of entry of appearance and substitutions of counsel.
- ☐ Updates and clarifies the terms of communications with the department.
- ☐ Updates and clarifies the terms of the stipulation.

10.8.2.30 NMAC CURRENT LAW ENFORCEMENT OFFICERS OR MOUNTED PATROL OFFICERS

- ☐ Updates and clarifies the terms of the required documents for current law enforcement or mounted patrol officers.
- ☐ Updates language from discretionary action to a mandatory one, removing flexibility and requiring compliance.

10.8.2.31 NMAC RETIRED LAW ENFORCEMENT OFFICERS

- ☐ Updates and clarifies the terms of the required documents for retired law enforcement officers.

10.8.2.32 NMAC MILITARY SERVICE PERSONS

- ☐ Updates and clarifies terms for military service personnel's eligibility.
- ☐ Updates and clarifies terms for military service personnel's dependents.

Copies of the Rule. Copies of the rule may be obtained at all DPS districts, field offices, ports of entry, and regional offices, at the DPS website at <https://www.dps.nm.gov/public-information/rule-making/>, the sunshine portal at https://statenm.my.salesforce-sites.com/public/SSP_RuleHearingSearchPublic, or by contacting Herbert Strassberg, Assistant General Counsel, at 505.637.1506 or herbert.strassberg@dps.nm.gov.

Comment on the Rule Amendment.

Interested persons may comment on the proposed permanent rule amendment either at the hearing, by submitting written statements to Monique Barreras, DPS Office of Legal Affairs Law Clerk at 4491 Cerrillos Rd., P.O. Box 1628, 87504-1628, or by email at moniquet.barreras@dps.nm.gov. All mailed statements must be received by October 14, 2025. Early submission of written statements is encouraged.

Interested persons may also comment in writing at the public hearing.

Permanent Rule. The proposed amendment will be a permanent rule amendment.

Reasonable Accommodation.

Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing, including a reader, amplifier, qualified sign language interpreter or any form of auxiliary aid or service are asked to contact Monique Barreras by telephone at 505.660.9270 or by email at moniquet.barreras@dps.nm.gov as soon as possible and no later than October 3, 2025. DPS requires at least ten calendar days' advance notice to provide special accommodations.

**REGULATION
AND LICENSING
DEPARTMENT
REAL ESTATE APPRAISERS
BOARD**

**NOTICE OF PUBLIC RULE
HEARING AND REAL ESTATE
APPRAISERS BOARD MEETING**

The New Mexico Real Estate Appraisers Board and the Regulation and Licensing Department will hold a rule hearing on Friday, October 10, 2025, at 9:00 a.m., immediately followed by a meeting of the Real Estate Appraisers Board for adoption of the proposed rules listed below. The hearing and subsequent board meeting will be held at the Regulation and Licensing Department, located at 5500 San Antonio Drive SE., Albuquerque, New Mexico 87109.

The hearing and subsequent Real Estate Appraisers Board meeting will also be held via Microsoft Teams for those desiring to attend virtually.

Join the meeting now

Meeting ID: 278 309 632 185 9
Passcode: o2EJ9vm3

Dial in by phone

+1 505-312-4308,,44853101# United States, Albuquerque
(888) 506-1357,,44853101# United States (Toll-free)

Phone conference ID: 448 531 01#

The purpose of the rule hearing is to consider the initiation of rulemaking for the following rules:

16.62.2 NMAC – GENERAL PROVISIONS**16.62.3 NMAC – APPLICATION FOR LICENSED RESIDENTIAL****16.62.4 NMAC – APPLICATION FOR RESIDENTIAL CERTIFICATION****16.62.5 NMAC – APPLICATION FOR GENERAL CERTIFICATION****16.62.7 NMAC – ISSUANCE/ RENEWAL OF APPRENTICE REGISTRATION/ LICENSES/ CERTIFICATIONS****16.62.8 NMAC – EDUCATION PROGRAMS/CONTINUING EDUCATION****16.62.12 NMAC – FEES****16.65.2 NMAC – REGISTRATION REQUIREMENTS****16.65.3 NMAC – APPLICATION FOR REGISTRATION**

The agenda for the rule hearing and board meeting will be posted and available at least 72 hours before the meeting on the Real Estate Appraisers Board website at <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/real-estate-appraisers/statutes-rules-and-rule-hearings/>. Copies of the agenda may also be obtained by contacting the Board Administrator, Pamela Predika at (505) 220-3164. The New Mexico Real Estate Appraisers Board will begin accepting written public comment regarding the proposed rule changes beginning on Thursday, October 9, 2025 at 8:00 a.m. and ending Thursday, October 9, 2025, 5:00 p.m. Written comments may be submitted by email to nm.reab@state.nm.us or by postal mail to the following address:

New Mexico Regulation and Licensing Department
Attn: Real Estate Appraisers Board
5500 San Antonio Drive SE
Albuquerque, NM 87109

***Public comment will also be accepted during the rule hearing and may be presented orally, or in writing. Individuals who would like to participate and offer public comment *must appear in person*.**

The members of the New Mexico Real Estate Appraisers Board will not engage in substantive discussion of public comments during the rule hearing but will consider all public comments during the board meeting following the conclusion of the rule hearing.

For inclement weather: If New Mexico state offices are placed on a two-hour delay due to inclement weather, the rule hearing will be pushed back two hours from the noticed hearing time. If New Mexico state offices are closed due to inclement weather, the rule hearing will be rescheduled as soon as possible.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact the Board Administrator Pamela Predika at 505-220-3164 at least 7 days prior to the rule hearing and regular board meeting.

Statutory Authority:

The rule changes are authorized by the Real Estate Appraisers Act (ACT), Section 61-30-1 through 61-30-24 NMSA 1978, which provides explicit authority for the Real Estate Appraisers Board (Board) to protect public health and safety and adopt rules for the administration of the Act. The rulemaking and public rule hearing is governed by the State Rules Act, Sections 14-4-1 through 14-4-11 NMSA 1978, and the Default Procedural Rule for Rulemaking promulgated by the New Mexico

Department of Justice, Parts 1.24.25 through 1.24.25.16 NMAC.

Purpose of the Proposed Rules:

The proposed rule changes aim to implement changes to reflect the modifications to the Real Property Appraiser Qualification Criteria adopted by the Appraiser Qualifications Board (AQB) requiring valuation bias and fair housing laws and regulations education for real property appraisers. The changes also to implement fees for returned checks and for an administrative electronic application annual fee. Generally, the proposed rules are intended to provide greater clarity in existing regulatory and statutory requirements, ensure continued high levels of professionalism among licensees and certificate holders.

Summary of Proposed Changes:

The Board summarizes its proposed changes to its administrative rules as follows:

16.62.2 NMAC – General Provisions amending education requirements pursuant to modification of the Real Property Appraiser Qualification Criteria adopted by AQB and to set a timeframe for required responses to the Board.

16.62.3 NMAC – Application for Licensed Residential amending education requirements pursuant to modification of the Real Property Appraiser Qualification Criteria adopted by AQB and to set a timeframe for required responses to the Board.

16.62.4 NMAC – Application for Residential Certification amending education requirements pursuant to modification of the Real Property Appraiser Qualification Criteria adopted by AQB and to set a timeframe for required responses to the Board.

16.62.5 NMAC – Application for General Certification amending education requirements pursuant to modification of the Real Property

Appraiser Qualification Criteria adopted by AQB and to set a timeframe for required responses to the Board.

16.62.7 NMAC – Issuance/Renewal of Apprentice Registration/Licenses/Certifications amending education requirements pursuant to modification of the Real Property Appraiser Qualification Criteria adopted by AQB.

16.62.8 NMAC – Education Programs/Continuing Education amending education requirements pursuant to modification of the Real Property Appraiser Qualification Criteria adopted by AQB and to set a timeframe for required responses to the Board.

16.62.12 NMAC – Fees to implement returned check and administrative electronic application annual fees to pay for ongoing technological expenses incurred while using Salesforce/NM-Plus system.

16.65.2 NMAC – Registration Requirements amending education requirements pursuant to modification of the Real Property Appraiser Qualification Criteria adopted by AQB.

16.65.3 NMAC – Application for Registration amending education requirements pursuant to modification of the Real Property Appraiser Qualification Criteria adopted by AQB.

REGULATION AND LICENSING DEPARTMENT SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY AND HEARING AID DISPENSING PRACTICE BOARD

NOTICE OF PUBLIC RULE HEARING AND BOARD MEETING

The New Mexico Speech-Language

Pathology, Audiology and Hearing Aid Dispensing Practice Board and the Regulation and Licensing Department will hold a rule hearing on Friday, October 10, 2025, at 10:00 a.m. Immediately following the rule hearing, the Board will convene a regular board meeting to consider adoption of rules and take care of regular business. The hearing and board meeting will be held at the New Mexico Commission for the Blind in the Conference Room, located at 2200 Yale Blvd SE, Albuquerque, NM 87106.

The hearing and subsequent Speech-Language Pathology, Audiology and Hearing Aid Dispensing board meeting may also be accessed virtually via Microsoft Teams.

Meeting Link: <https://teams.microsoft.com/join/2239948412545?p=uIxzGlrRxM2Em0RtZf>
Meeting ID: 223 994 841 254 5
Passcode: ZS65BY2J

Dial in by phone

+1 505-312-4308, 137505456#
United States, Albuquerque

Phone conference ID: 137505456#

The purpose of the rule hearing is to consider the initiation of rulemaking for the following rules:

16.26.2 – Licensure Requirements
16.26.4 – Annual Renewal of Licenses
16.26.6 – Fees
16.26.7 – Grounds for Disciplinary Action

On Tuesday, September 9, 2025, copies of the proposed rules may be obtained through the New Mexico Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/speech-language-pathology-audiology-and-hearing-aid-dispensing-practices/statutes-rules-and-rule-hearings/>, or by contacting Ruth Romero, the Board Administrator for the Board, at

speech.hearing@rld.nm.gov or (505) 476-4622.

The New Mexico New Mexico Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board and the Regulation and Licensing Department will begin accepting written public comment regarding the proposed rule changes beginning Tuesday, September 9, 2025, 8:00 a.m. and ending Friday, October 10, 2025, 9:00 a.m. Written comments may be submitted either by email to speech.hearing@rld.nm.gov or by postal mail to the following address:

New Mexico Regulation and Licensing Department

Attn: New Mexico Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board

P.O. Box 25101

Santa Fe, NM 87504

Written comments received during the public comment period (September 9, 2025 – October 10, 2025) will be posted to the website page linked above. Public comment will also be accepted during the rule hearing and may be submitted in writing or presented orally by those attending in-person. The members of the New Mexico Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board will not engage in substantive discussion of public comments during the rule hearing but will consider all public comments during the regular board meeting immediately following the conclusion of the rule hearing.

The agenda for the New Mexico Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board regular meeting which will begin immediately after the public rule hearing, will be posted and available at least 72 hours before the meeting on the Board website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/speech-language-pathology-audiology-and-hearing-aid-dispensing-practices/board->

information/. Copies of the agenda may also be obtained by contacting Ruth Romero, Board Administrator.

For inclement weather: If New Mexico state offices are placed on a two-hour delay due to inclement weather, the rule hearing will be pushed back two hours from the noticed hearing time. If New Mexico state offices are closed due to inclement weather, the rule hearing will be rescheduled as soon as possible.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact Ruth Romero, Board Administrator at (505) 476-4622 at least 7 days prior to the rules hearing and regular board meeting. Public documents, including the proposed rules, meeting agenda and minutes, can be provided in various accessible formats.

Statutory Authority:

The rule changes are authorized by the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act, NMSA 1978, Section 61-14B-1 through 61-14B-25, specifically authorizes the Board to adopt and file in accordance with the State Rules Act, [Chapter 14, Article 4, 1978] rules necessary to carry out the provision of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act, in accordance with the provision of the Uniform Licensing Act.

Purpose of the Proposed Rules: The proposed rule changes are intended to address changes to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act, to provide greater clarity regarding Hearing Aid Dispenser Exams, CFY Renewals, aligns rules for the Electronic Application Process Fee for NM-Plus and clarifies lettering order for Disciplinary Action.

Summary of Proposed Changes:

The Board summarizes its proposed

changes to its administrative rules as follows:

16.26.2 NMAC – Licensure Requirements – Clarifies language for the Board Approved Hearing Aid Dispenser exam.

16.26.4 NMAC – Annual Renewal of Licenses – Adds clarity for CFY Renewals which are not eligible for renewal if the exam is not passed within the first year of licensure.

16.26.6 NMAC – Fees – Adds a \$10.00 Electronic Application Process Fee for initial license and \$10.00 per year fee for all renewals and will pay for the ongoing cost of utilizing Salesforce/NM-Plus system.

16.26.7 NMAC – Grounds for Disciplinary Action corrects the lettering and numbering for clarification of requirements.

SUPERINTENDENT OF INSURANCE, OFFICE OF

NOTICE OF EXPANDED COMMENT PERIOD FOR CERTAIN SECTIONS OF 13.10.37 NMAC, DENTAL PLAN PROVIDER CREDENTIALING REQUIREMENTS

The Office of Superintendent of Insurance (OSI) held a hearing and received public comment on proposed new rule 13.10.37 NMAC, on July 29, 2025. After reviewing all comments submitted during the public comment period, at the hearing, and during the response comment period, the Superintendent of Insurance (Superintendent) finds it necessary to extend the comment period to receive additional comments on certain sections of 13.10.37 NMAC. The Superintendent has identified sections requiring additional comment in her *Partial Final Order and Notice of Extension of Comment Period for Certain Sections of Proposed New Rule 13.10.37 (Partial Final Order)*, issued on August 22, 2025. The *Partial Final Order* is available on

the OSI eDocket in Docket No. 2025-0092, or on the Sunshine Portal. You may also request a copy of the *Partial Final Order* from gloria.regensberg@osi.nm.gov or by phone at: 505-500-9079.

Pursuant to Section 14-4-5.3 NMSA 1978, and Subsection D of 13.1.4.11 NMAC, the expanded comment period will begin on September 9, 2025, and will go through September 22, 2025, at 4:00 p.m. Written comments shall be filed electronically through the OSI eDocket. Please copy the following link into your browser to get to the eDocket: <https://edocket.osi.state.nm.us/case-view/6133>

Written comments may be sent via U. S. Mail to:

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

Written comments must be received by OSI and stamped as accepted between the hours of 8:00a.m. and 4:00p.m. Monday through Friday except on state holidays. The Superintendent will consider all timely submitted written comments requested by this Notice and in the *Partial Final Order*. Docket No. 2025-0092, and the title below, must be indicated on all written comments submitted to OSI:

IN THE MATTER OF REPEAL OF 13.10.34.24 NMAC, REPEAL OF 13.10.36 NMAC, AND NEW RULE 13.10.37 NMAC

There will be no additional hearing scheduled that is associated with this expanded comment period. This notice will be provided to the public pursuant to Subsection E of 14-4-2 NMSA 1978 and Subsection D of 13.1.4.11 NMAC.

TAXATION AND REVENUE, DEPARTMENT OF NOTICE OF PROPOSED RULEMAKING

The New Mexico Taxation and Revenue Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to repeal certain rules and regulations pertaining to the Income Tax General Provisions Act, Corporate Income and Franchise Tax Act, Gross Receipts and Compensating Tax Act and Alternative Energy Production Manufactures Tax Credit Act.

Summary of Proposed Changes:
The New Mexico Taxation and Revenue Department proposes to repeal the following rule(s):

Income Tax General Provisions Act

Section 7-2-18.14 NMSA 1978
(Repealed 07/01/2025)

3.3.28.1 – *Issuing Agency*

3.3.28.2 – *Scope*

3.3.28.3 – *Statutory Authority*

3.3.28.4 – *Duration*

3.3.28.5 – *Effective Date*

3.3.28.6 – *Objective*

3.3.28.7 – *Definitions*

3.3.28.8 – *General Provisions*

3.3.28.9 – *Application*

3.3.28.10 – *Application Review Process*

3.3.28.11 – *Safety, Codes, and Standards*

3.3.28.12 – *Solar Collector and Module Orientation and Sun Exposure*

3.3.28.14 – *Innovative Solar Energy Systems*

3.3.28.15 – *Certification*

3.3.28.16 – *Calculating the Solar Energy System Cost*

3.3.28.17 – *Calculating the State Tax Credit*

3.3.28.18 – *Claiming the State Tax Credit*

3.3.28.19 – *Consumer Information*

3.3.28.20 – *Inspection of Solar Energy Systems*

Section 7-2-18.19 NMSA 1978
(Repealed 07/01/2025)

3.3.29.1 – Issuing Agency
3.3.29.2 – Scope
3.3.29.3 – Statutory Authority
3.3.29.4 – Duration
3.3.29.5 – Effective Date
3.3.29.6 – Objective
3.3.29.7 – Definitions
3.3.29.8 – General Provisions
3.3.29.9 – Verifier Eligibility
3.3.29.10 – Application for the Sustainable Building Tax Credit
3.3.29.11 – Application Review Process
3.3.29.12 – Calculating the Credit
3.3.29.13 – Claiming the State Tax Credit

3.3.30.1 – Issuing Agency
3.3.30.2 – Scope
3.3.30.3 – Statutory Authority
3.3.30.4 – Duration
3.3.30.5 – Effective Date
3.3.30.6 – Objective
3.3.30.7 – Definitions
3.3.30.8 – General Provisions
3.3.30.9 – Verifier Eligibility
3.3.30.10 – Application for the Sustainable Building Tax Credit
3.3.30.11 – Application Review Process
3.3.30.12 – Verification of the Alternative Method used for the Energy Reduction Requirement
3.3.30.13 – Calculating the Tax Credit
3.3.30.14 – Claiming the State Tax Credit

Corporate Income and Franchise Tax Act

Section 7-2A-21 NMSA 1978
(Repealed 07/01/2025)

3.4.16.1 – Issuing Agency
3.4.16.2 – Scope
3.4.16.3 – Statutory Authority
3.4.16.4 – Duration
3.4.16.5 – Effective Date
3.4.16.6 – Objective
3.4.16.7 – Definitions
3.4.16.8 – General Provisions
3.4.16.9 – Verifier Eligibility
3.4.16.10 – Application for the Sustainable Building Tax Credit
3.4.16.11 – Application Review Process
3.4.16.12 – Claiming the Tax Credit

3.4.16.13 – Claiming the State Tax Credit

3.4.17.1 – Issuing Agency
3.4.17.2 – Scope
3.4.17.3 – Statutory Authority
3.4.17.4 – Duration
3.4.17.5 – Effective Date
3.4.17.6 – Objective
3.4.17.7 – Definitions
3.4.17.8 – General Provisions
3.4.17.9 – Verifier Eligibility
3.4.17.10 – Application for the Sustainable Building Tax Credit
3.4.17.11 – Application Review Process
3.4.17.12 – Verification of the Alternative Method Used for the Energy Reduction Requirement
3.4.17.13 – Claiming the Tax Credit
3.4.17.14 – Claiming the State Tax Credit

Gross Receipts and Compensating Tax Act

Section 7-9-10 NMSA 1978 (Repealed 07/01/2025)

3.2.13.1 – Issuing Agency
3.2.13.2 – Scope
3.2.13.3 – Statutory Authority
3.2.13.4 – Duration
3.2.13.5 – Effective Date
3.2.13.6 – Objective
3.2.13.7 – Definitions
3.2.13.8 – Reserved
3.2.13.9 – Reserved
3.2.13.10 – Collection of Compensating Tax by Broadcasters

Section 7-9-79.2 NMSA 1978
(Repealed 07/01/2025)

3.13.21.1 – Issuing Agency
3.13.21.2 – Scope
3.13.21.3 – Statutory Authority
3.13.21.4 – Duration
3.13.21.5 – Effective Date
3.13.21.6 – Objective
3.13.21.7 – Definitions
3.13.21.8 – General Provisions
3.13.21.9 – Certificate of Eligibility Applications
3.13.21.10 – Application Review Process
3.13.21.11 – Claiming the Biodiesel Blending Facility Tax Credit

Alternative Energy Product Manufacturers Tax Credit Act

Section 7-9J-1 through 7-9J-8 NMSA 1978 (Repealed 07/01/2025)

3.13.7.1 – Issuing Agency
3.13.7.2 – Scope
3.13.7.3 – Statutory Authority
3.13.7.4 – Duration
3.13.7.5 – Effective Date
3.13.7.6 – Objective
3.13.7.7 – Definitions
3.13.7.8 – [Reserved]
3.13.7.9 – Items not “Manufacturing Equipment”
3.13.7.10 – Items which may be included as “Manufacturing Equipment”
3.13.7.11 – Value of Qualified “Manufacturing Equipment”
3.13.7.12 – Application of the Credit
3.13.7.13 – Carry Forward of Unused Credits
3.13.7.14 – Using the Credit
3.13.7.15 – Equivalent of One Full-Time Employee
3.13.7.16 – Reporting Number of Employees - Estimates

Technical Information: No technical information was consulted in drafting these proposed rule changes.

Purpose of Proposed Rule: The proposed repeals are associated with statutes that were repealed during the 2025 legislative session in House Bill-218. All statutes were repealed as of July 1, 2025.

Notice of Public Rule Hearing: A public hearing will be held on the proposed rule changes on Thursday, October 9, 2025, from 11AM to 12AM at the 3rd floor in the Montoya Building, 1100 South St. Francis Drive, Santa Fe, New Mexico 87504. The hearing will be recorded, and oral comments can be made during the public hearing. Written comments can be submitted as outlined at the end of this notice.

Virtual meeting access also available using Microsoft Teams:
https://teams.microsoft.com/l/meetup-join/19%3ameeting_YTQ5NjlmM

zMtZDkzMC00ZGEzLTk3M2QtZGFiNmViMjgyYmZl%40thread.v2/0?context=%7b%22id%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22oid%22%3a%22124fc7fc-ea47-4a9a-84d4-010bce6239a%22%7d

Meeting ID: 227 240 579 610 5
Passcode: KK6gU2Q3

Dial in by phone +1 505-312-4308
Conference ID: 782 424 380#

The rule proposals were placed on file in the Office of the Secretary on August 24, 2025. Pursuant to Regulation 3.1.2.9 NMAC under Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final of the proposals, if filed, will be filed as required by law on or about November 4, 2025.

Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact the Tax Information and Policy Office at policy.office@tax.nm.gov. The Taxation and Revenue Department will make every effort to accommodate all reasonable requests but cannot guarantee accommodation of a request that is not received at least ten calendar days prior to the scheduled hearing.

Copies of the proposed rules

may be found at: <https://www.tax.newmexico.gov/all-nm-taxes/proposed-regulations-hearing-notices/> or are available upon request by contacting the Tax Policy Office at policy.office@tax.nm.gov.

Notice of Acceptance of Written

Public Comment: Written comments on the proposals can be submitted by email to policy.office@tax.nm.gov or by mail to the Taxation and Revenue Department, Tax Information and Policy Office, Post Office Box 630, Santa Fe, New Mexico 87504-0630 on or by 5PM on Thursday, October 9, 2025.

All written comments received by the agency will be posted on <https://>

www.tax.newmexico.gov/all-nm-taxes/proposed-regulations-hearing-notices/ no more than 3 business days following receipt to allow for public review.

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.

ALBUQUERQUE- BERNALILLO COUNTY, AIR QUALITY CONTROL BOARD

At a hearing on August 13, 2025, the Albuquerque-Bernalillo County Air Quality Control Board repealed 20.11.20 NMAC – Fugitive Dust Control, effective September 9, 2025, and adopted new requirements by replacing that rule with 20.11.20 NMAC – Fugitive Dust Control, September 9, 2025.

ALBUQUERQUE- BERNALILLO COUNTY, AIR QUALITY CONTROL BOARD

TITLE 20 ENVIRONMENTAL PROTECTION CHAPTER 11 ALBUQUERQUE - BERNALILLO COUNTY AIR QUALITY CONTROL BOARD PART 20 FUGITIVE DUST CONTROL

20.11.20.1 ISSUING

AGENCY: Albuquerque - Bernalillo County Air Quality Control Board. P.O. Box 1293, Albuquerque, New Mexico 87103. Telephone: (505) 768-2601.
[20.11.20.1 NMAC - Rp, 20.11.20.1 NMAC, 9/9/2025]

20.11.20.2 SCOPE:

A. 20.11.20 NMAC is applicable to all sources of fugitive dust in Bernalillo county, unless otherwise exempt.

B. Exempt: 20.11.20 NMAC does not apply to sources within Bernalillo county that are:

(1) located on Indian lands over which the Albuquerque - Bernalillo county air quality control board lacks jurisdiction;

(2) hard rock mining pits and operations contained within the mining pit and permitted pursuant to the state of New Mexico Mining Act; for the purposes of 20.11.20 NMAC, sand and gravel mining operations are not exempt;

(3) emergency maintenance operations that are intended to address an imminent threat to property or persons; however, reasonably available control measures must be employed once the emergency has been addressed, if appropriate, and a report of all activities shall be filed with the department no later than 10 days after the incident has been concluded and the department shall determine if additional action, including a permit application submittal, is required before additional non-emergency activities occur at the site; and

(4) stationary source operations subject to 20.11.41 NMAC, *Authority to Construct*, or 20.11.42 NMAC, *Operating Permits*, that produce fugitive dust as defined in 20.11.20 NMAC, but only if the source of fugitive dust is addressed and controlled through permit conditions required by a 20.11.41 NMAC or 20.11.42 NMAC permit; however construction at a stationary source site, whether it involves new construction or a site modification, is subject to 20.11.20 NMAC.

C. Conditionally

Exempt: The following five sources of fugitive dust emissions in Bernalillo county shall be conditionally exempt from the requirements of 20.11.20 NMAC, unless the department determines that the fugitive dust emitted from a conditionally exempt source's active operations or inactive disturbed surface area may adversely and significantly affect human health within Bernalillo county:

(1) areas zoned for agriculture and used for growing a crop;

(2) bicycle trails, hiking paths and pedestrian paths, horse trails or similar paths used exclusively for purposes other than travel by motor vehicles;

(3) unpaved roadways on privately-owned easements serving residential dwellings;

(4) lots smaller than three-quarters of an acre used for any purpose; and

(5) unpaved roadways within properties used for ranching, or properties owned or controlled by the United States department of energy or department of defense, or United States department of agriculture forest service lands or United States department of interior park service lands if the public does not have motor vehicle access to the roadways.

[20.11.20.2 NMAC - Rp, 20.11.20.2 NMAC, 9/9/2025]

20.11.20.3 STATUTORY

AUTHORITY: 20.11.20 NMAC is adopted pursuant to the authority provided in the New Mexico Air Quality Control Act, Sections 74-2-4 & 74-2-5 NMSA 1978; the Joint Air Quality Control Board Ordinance; Bernalillo county Ordinance No. 94-5, Sections 4 and 5; and the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994 Sections 9-5-1-4 and 9-5-1-5.
[20.11.20.3 NMAC - Rp, 20.11.20.3 NMAC, 9/9/2025]

20.11.20.4 DURATION:

Permanent.

[20.11.20.4 NMAC - Rp, 20.11.20.4 NMAC, 9/9/2025]

20.11.20.5 EFFECTIVE

DATE: September 9, 2025, unless a later date is cited at the end of a section.

[20.11.20.5 NMAC - Rp, 20.11.20.5 NMAC, 9/9/2025]

20.11.20.6 OBJECTIVE: To ensure that every person shall use reasonably available control measures or other effective measures on an ongoing basis to prevent or abate fugitive dust, if the fugitive dust may with reasonable probability injure human health or animal or plant life or as may unreasonably interfere with the public welfare, visibility or the reasonable use of property, as required by 20.11.20 NMAC.
[20.11.20.6 NMAC - Rp, 20.11.20.6 NMAC, 9/9/2025]

20.11.20.7 DEFINITIONS:

In addition to the definitions in 20.11.20.7 NMAC, the definitions in 20.11.1 NMAC apply unless there is a conflict between definitions, in which case the definition in 20.11.20.7 NMAC shall govern.

A. “Accredited” or “accreditation” when referring to a person or laboratory means that such person or laboratory is accredited in accordance with Section 206 of Title II of the Toxic Substances Control Act, 15 U.S.C. 2601, *et seq.*

B. “Active operations” means any anthropogenic activity that is capable of generating, or generates fugitive dust, including but not limited to: bulk material storage, handling or processing; earth moving; soil or surface disturbance (e.g. discing, trenching, blading, scraping, clearing, grubbing, topsoil removal); construction, renovation, or demolition activities; movement of motorized vehicles on any paved or unpaved roadway or surface, right-of-way, lot or parking area; or the tracking out or transport of bulk material onto any paved or unpaved roadway.

C. “Anthropogenic” means human-caused changes in the natural or built condition of the environment.

D. “Bulk material” means sand, gravel, soil, aggregate or any other inorganic or organic solid material capable of creating fugitive dust.

E. “Business day” means Monday through Friday, except city of Albuquerque holidays.

F. “Construction activity” means any activity preparatory to or related to building, altering, rehabilitating, demolishing or improving property that results in a disturbed surface area, including but not limited to grading, excavation, loading, crushing, pavement milling, cutting, clearing, grubbing, topsoil removal, blading, shaping, dry sweeping, blasting and ground breaking.

G. “Crop” means an agricultural plant harvested for consumption, utilization or sale.

H. “Disturbed surface area” or “surface disturbance” means the natural or manmade area of the earth’s surface that, as a result of anthropogenic activity, may become a source of transported material, track-out, or visible fugitive dust.

I. “Division” means the city of Albuquerque air quality division or its successor agency.

J. “Dust suppressant” means hygroscopic materials, or non-toxic chemical stabilizers used to reduce or control fugitive dust emissions during suspended operations and as a long term reasonably available control measure.

K. “Earth moving activity” means grading, cutting, filling, soil disturbance (e.g. discing, trenching, blading, scraping, clearing, topsoil removal, grubbing), soil mulching, loading or unloading of dirt or other bulk materials, including adding to or removing from open storage piles or stockpiles of bulk materials.

L. “Fugitive dust” or “dust” means organic or inorganic particulate matter. Water vapor, steam, or particulate matter emissions emanating from a duct or stack of process equipment are not fugitive dust.

M. “Fugitive dust control construction permit” or “permit” means a fugitive dust control permit approved by the department and issued pursuant to 20.11.20 NMAC that contains an approved fugitive dust control plan and authorizes active operations to begin when the permit is signed by a division manager, supervisor, scientist, field operations officer or health specialist.

N. “Fugitive dust control plan” or “plan” means the part or portion of the fugitive dust control construction permit or programmatic permit application that details the reasonably available control measures and other effective measures the permit applicant commits to use to reduce the quantity of visible fugitive dust, transported material, or track-out leaving the property or area under the control of the permittee and shall include contingency fugitive dust control measures, which shall be a requirement of every fugitive dust control permit.

O. “Greenwaste” means organic matter including, grass clippings, leaves, weeds, small shrub or tree limb cuttings, brush, stumps, and soils.

P. “High wind event” means a condition announced by the department consisting of wind speeds of approximately 30 miles per hour or greater that, when accompanied by dry soil conditions, that is likely to result in widespread reduced visibility due to blowing fugitive dust and that may result in elevated monitored particulate levels that may cause or contribute to an exceedance or violation of the national ambient air quality standards.

Q. “Inactive disturbed surface area” means any disturbed surface area on which active operations have been suspended.

R. “Large area disturbance” means a project or development, totaling more than 25 acres upon which active operations have been conducted and includes areas used for storage of bulk material, building or construction materials, machinery or vehicles.

S. “Open storage pile” means the accumulation of bulk material that is not fully enclosed, covered or chemically stabilized.

T. “Owner or operator” means a person who owns, leases, operates, controls, or supervises a source that directly or indirectly produces or is capable of producing fugitive dust.

U. “Parking lot” or “parking area” means a location where motor vehicles routinely park whether or not the area is zoned for parking.

V. “Paved” or “paving” or “paved roadway” means asphalt, recycled asphalt, concrete or asphaltic concrete, routinely-maintained asphalt millings, or combinations thereof, that cover a surface traveled or used by motor vehicles.

W. “Permittee” means a person and all legal heirs, successors, and assigns who has applied for and obtained a fugitive dust control construction or programmatic permit issued by the department pursuant to 20.11.20 NMAC.

X. “Person” means an individual, firm, partnership, corporation, association, organization, company, joint stock association, business trust, owner, or body politic, including a municipality, local, state or federal government agency or political subdivision, and includes an employee, officer, operator, contractor, supplier, installer, user, leaseholder, trustee, receiver, assignee or other person acting in a similar representative capacity with the authority to control transported material or emissions of particulate matter generated at a disturbed surface area or generated by activities associated with a disturbed surface area or inactive disturbed surface area.

Y. “Privately-owned” means real property that is not wholly or partially owned, leased or otherwise controlled by a federal, state or local government or governmental agency or political subdivision.

Z. “Programmatic permit” means a fugitive dust control permit valid for up to five years issued to a permittee that performs routine maintenance or routine ongoing active operations on real property, but does not include full depth reconstruction of a roadway or substantial removal and replacement of a manmade facility. A programmatic permit shall include an approved fugitive dust control plan and shall be effective when signed by a division manager, supervisor, scientist, field operations officer or health specialist.

AA. “Property line” means the exterior boundary of real property, as indicated by plats, plot maps or other indication of ownership limits.

BB. “Publicly-maintained” means under the jurisdiction of, or maintained by a federal, state, or local government or governmental agency or political subdivision.

CC. “Publicly-owned” means real property that is wholly or partially owned, leased or otherwise controlled by a federal, state or local government or governmental agency or political subdivision. Publicly-owned real property includes easements and rights-of-ways, streets, roadways, sidewalks, alleys and other public ways, parks, irrigation and drainage facilities, and any other publicly controlled real property that can be the source of fugitive dust.

DD. “Reasonably available control measure” or “control measure” means a device, system, process modification, apparatus, technique, work practice, or combination thereof, that mitigates fugitive dust and includes the measures in 20.11.20.23 NMAC and any other regulatory control program that results in equivalent protection of a disturbed surface or inactive disturbed surface area, whether or not the purpose of the control measure is to mitigate dust or to meet another requirement of 20.11.20 NMAC or any other statute or regulation.

EE. “Responsible person” means the person designated in a fugitive dust control permit

application or permit amendment who agrees to be and shall be responsible for complying with 20.11.20 NMAC, and with the permit and plan to the extent specified in the permit.

FF. “Short cut” means a non-dedicated roadway or route used by motor vehicle drivers to save time by avoiding use of a dedicated and authorized roadway.

GG. “Silt” means bulk material that passes through a 200-mesh screen using the ASTM-D 2487-93, “*classification of soils for engineering purposes (united soil classification system)*” method, or most current ASTM (American society for testing and materials) method. Material that will pass through a 200-mesh screen is 74 microns or less in size.

HH. “Source” or “source of fugitive emissions” means the origin of fugitive dust emissions.

II. “Stabilized” or “stabilization” means ongoing practices that are sufficient to prevent elevated monitored particulate levels that may cause or contribute to an exceedance or violation of the national ambient air quality standards by meeting the objective established in 20.11.20.6 NMAC and the requirements of the general provisions established in 20.11.20.12 NMAC.

JJ. “Stockpile” means the depositing of bulk material by mechanical means for the purpose of creating a pile formation on top of an existing natural or man-made surface.

KK. “Stop work order” means an order issued by the department pursuant to the provisions of 20.11.20 NMAC that requires a person to cease active operations.

LL. “Track-out” or “tracking” means bulk material deposited by a motor vehicle or vehicles upon an unpaved or paved publicly or privately owned roadway if the bulk material can become airborne due to mechanical or wind action.

MM. “Transfer of permit” means an agreement approved in writing by the department that meets the conditions outlined in Paragraphs (1) through (6) of Subsection D of 20.11.20.14 NMAC.

NN. “Transported material” means particulate matter transported by wind, water or other action that, once deposited, can become airborne due to mechanical or wind action.

OO. “Unpaved roadway” means an unpaved route traveled by a motorized vehicle.

PP. “Visible fugitive dust” means airborne particulate matter from a source, resulting in particulate matter emissions that can be detected by the human eye or a detection method approved by the department. Visible fugitive dust can be an indicator of PM₁₀.

QQ. “Visible fugitive dust detection method” means the method described in 20.11.20.26 NMAC, which is one method used to determine compliance with 20.11.20 NMAC.

[20.11.20.7 NMAC - Rp, 20.11.20.7 NMAC, 9/9/2025]

20.11.20.8 VARIANCES: A person may request a variance from 20.11.20 NMAC in accordance with the procedures established in 20.11.7 NMAC.

[20.11.20.8 NMAC - Rp, 20.11.20.8 NMAC, 9/9/2025]

20.11.20.9 SAVINGS

CLAUSE: An amendment to *Fugitive Dust Control*, 20.11.20 NMAC, which is filed with the state records center and archives shall not affect actions pending for violation of a city or county ordinance, or prior versions of 20 NMAC 11.20 and 20.11.20 NMAC, *Airborne Particulate Matter*, 20.11.20 NMAC *Fugitive Dust Control*, or a permit. Prosecution for a violation of a prior statute, ordinance, part or permit shall be governed and prosecuted under the statute, ordinance, part or permit wording in effect at the time the violation was committed.

[20.11.20.9 NMAC - Rp, 20.11.20.9 NMAC, 9/9/2025]

20.11.20.10 SEVERABILITY:

If any section, subsection, sentence, phrase, clause or wording of 20.11.20 NMAC or the federal standards

incorporated herein is for any reason held to be unconstitutional or otherwise invalid by any court or the United States environmental protection agency, the decision shall not affect the validity of remaining portions of 20.11.20 NMAC.

[20.11.20.10 NMAC - Rp, 20.11.20.10 NMAC, 9/9/2025]

20.11.20.11 DOCUMENTS:

Documents incorporated and cited in 20.11.20 NMAC may be viewed at the Albuquerque environmental health department, 400 Marquette NW, Albuquerque, NM.

[20.10.20.11 NMAC - Rp, 20.11.20.11 NMAC, 9/9/2025]

20.11.20.12 GENERAL PROVISIONS:

A. Each person shall use reasonably available control measures or any other effective control measure during active operations or on inactive disturbed surface areas, as necessary to prevent the release of fugitive dust, whether or not the person is required by 20.11.20 NMAC to obtain a fugitive dust control permit. It shall be a violation of 20.11.20 NMAC to allow fugitive dust, track out, or transported material from any active operation, open storage pile, stockpile, paved or unpaved roadway disturbed surface area, or inactive disturbed surface area to cross or be carried beyond the property line, right-of-way, easement or any other area under control of the person generating or allowing the fugitive dust if the fugitive dust may:

(1) with reasonable probability injure human health or animal or plant life;

(2) unreasonably interfere with the public welfare, visibility or the reasonable use of property; or

(3) be visible for a total of 15 minutes or more during any consecutive one hour observation period using the visible fugitive dust detection method in 20.11.20.26 NMAC or an equivalent method approved in writing by the department.

B. Failure to comply with 20.11.20.12 NMAC, a fugitive dust control permit, plan, term or condition shall be a violation of 20.11.20 NMAC.

C. Prior to issuing a fugitive dust control construction permit authorizing commencement of active operations, the department shall:

(1) document, in the form of photographs in electronic or hard copy formats or video recordings, the conditions of the properties that are closest to the property subject to the permit and any other properties the department believes are appropriate;

(2) maintain the documentation for one year after completion of the permitted project;

(3) include in the permit a requirement that the permittee remedy damage to real properties caused by a violation of the permit; and

(4) make the documentation available as evidence, upon request, to all parties involved in a property damage dispute allegedly caused by fugitive dust.

D. A permittee whose violation of 20.11.20 NMAC results in fugitive dust being deposited upon real property beyond the limits of the permitted area shall take all actions necessary to remedy damage caused by a violation proven with credible evidence. Such remedies may include, but not be limited to, compensation, removal of the fugitive dust and/or repair of any damage after obtaining permission from property owners or operators before doing any remedial work on the damaged property. It shall be a separate violation of 20.11.20 NMAC to fail to remove the fugitive dust and repair the damage as specified in a written schedule or any extension agreed to by the permittee and the owner of the damaged property. If the parties cannot agree to a schedule, the department may establish deadlines and failure to comply with the deadlines shall be a separate violation of 20.11.20 NMAC. No violation will occur if the failure to

perform the corrective action is for reasons beyond the control of the person performing the work including without limitation acts of God or government preemption in connection with a national emergency or if the owner of the allegedly damaged property refuses to grant reasonable permission and access to conduct the remediation activities.

E. Stockpiles shall be no higher than 15 feet above the existing natural or man-made grade that abuts the stockpile, unless otherwise approved in advance and in writing by the department.

F. Each person shall comply with all applicable provisions of the Clean Air Act, the New Mexico Air Quality Control Act, joint air quality control board ordinances, regulations of the board, and permits issued by the department.
[20.11.20.12 NMAC - Rp,
20.11.20.12 NMAC, 9/9/2025]

20.11.20.13 FUGITIVE DUST CONTROL PROGRAMMATIC PERMITS:

A. A fugitive dust control programmatic permit is required for single or multiple facility locations to address real property totaling three-quarters of an acre or more that is subject to routine maintenance, routine surface disturbance activities, or routine ongoing active operations. A programmatic permit application and fugitive dust control plan shall be submitted on forms provided by the department. Programmatic permits are valid for up to five years. The permittee shall pay the annual programmatic permit fee required by 20.11.2 NMAC, *Fees*, for each year covered by the programmatic permit. Receipt of the annual fee by the department shall result in an automatic annual renewal of the programmatic permit. A new programmatic permit application and fugitive dust control plan shall be submitted every five years or sooner if the surface disturbance activities or fugitive dust abatement strategies are modified. A filing and review fee is not required for a programmatic permit.

B. A person responsible for sloped (i.e. slopes having a steepness of three-to-one or steeper) and bottom portions of interior and riverside drains and canals used for irrigation purposes, and arroyos and public flood control facilities subject to routine maintenance or repair, sedimentation and water erosion shall obtain either a variance as provided by 20.11.7 NMAC or a programmatic permit as provided by Subsection A of 20.11.20.13 NMAC if the person does not elect to submit an application and obtain a fugitive dust control construction permit pursuant to 20.11.20.14 NMAC.

C. No signs or photographic documentation shall be required for the permits or activities subject to 20.11.20.13 NMAC. Appropriate permit application documentation shall be determined by the department.
[20.11.20.13 NMAC - Rp,
20.11.20.13 NMAC, 9/9/2025]

20.11.20.14 FUGITIVE DUST CONTROL CONSTRUCTION PERMITS:

A. A person who does not elect to obtain or who does not qualify for a fugitive dust control programmatic permit pursuant to 20.11.20.13 NMAC and who plans to conduct active operations that will disturb three-quarters of an acre or more shall comply with either Subsection A or B of 20.11.20.18 NMAC and obtain a fugitive dust control construction permit. No active operations shall commence until a department manager, supervisor, scientist, field operations officer or health specialist signs the fugitive dust control construction permit (permit) and a copy of the signed permit is available at the site of active operations. A permit shall consist of a complete permit application a fugitive dust control plan, any appended documents, any conditions attached to the permit by the department, and a signature and effective date affixed by a department manager, supervisor, scientist, field operations officer or health specialist.

B. The permittee shall comply with the terms of the permit unless the department approves a transfer of the permit or issues a new permit for the active or inactive disturbed surface area of operation to a new permittee. If three-quarters of an acre or more of the real property that is subject to the permit is transferred or sold the new owner is responsible for complying with either 20.11.20.13 NMAC or 20.11.20.14 NMAC unless exempt. Upon receipt of an amended permit signed by a department manager, supervisor, scientist, field operations officer or health specialist, the permittee who transferred or sold the real property no longer will be responsible for control of fugitive dust originating from the real property that has been transferred or sold. Permit amendment fees shall be paid as required by 20.11.20.14 NMAC.

C. If a person other than the permittee will be responsible for complying with the permit and 20.11.20 NMAC, then the permittee shall designate the responsible person or persons in the permit application who shall be responsible for active operations and inactive disturbed surface areas to the extent specified in the application. Before a responsible person shall be liable for a violation of the permit or 20.11.20 NMAC, the responsible person shall agree in writing to accept responsibility for compliance with the permit conditions. The responsible person shall be the first person the department attempts to contact regarding a violation of the permit or 20.11.20 NMAC. In addition, the department may approve, in writing, a permit amendment that adds or changes the responsible person who has agreed in writing to be responsible for complying with the permit and plan, to the extent specified in the permit. If the responsible person and permittee fail to comply with the provisions of 20.11.20 NMAC, the owner or operator, if different from the responsible person or permittee, shall be responsible for compliance with the permit.

D. An approved permit shall be valid for one year from the date of issuance by the department or until the project expiration date provided in the permit application, whichever is longer, but no more than five years from the date of issuance. If the project plan, expiration date, total disturbed surface area, completion date or the proposed control measures change in any manner, an amended or new permit is required. At least 10 business days before the expiration date, a fugitive dust control permit shall be renewed by the then-current permittee, or the permit shall expire as of the expiration date. Permit amendment or renewal fees shall be paid as required by Subsection H of 20.11.20.14 NMAC. Permits may be transferred to legal heirs, successors, and assigns, who shall become the new permittee. Permit transfers may qualify as an administrative amendment if:

(1) the department has received, on a form provided by the department, a written transfer agreement signed by the current and new permittee, and, if different than the new permittee, by the owner of the real property subject to the permit;

(2) a specific date of the transfer of the permit and plan responsibility, coverage, and liability is established in the transfer agreement;

(3) the department has determined that no change to the permit and plan other than the administrative change is necessary;

(4) the new permittee and owner have submitted the application information required by 20.11.20.15 NMAC if changes have been made to the permit and plan as deemed necessary by the department;

(5) no grounds exist for permit termination, as otherwise provided by 20.11.20 NMAC; and

(6) the transfer agreement has been approved in writing by the department.

E. After a permit is issued and before the start of active operations, the permittee shall install and maintain a project sign provided by the department or a project sign that meets the requirement of 20.11.20.14 NMAC. The department will establish uniform design guidelines for the sign to ensure that the sign is reasonably legible to the public. If the required information is provided in an existing project sign that has been established for another purpose, an additional sign shall not be required to comply with 20.11.20 NMAC. At a minimum, the sign shall contain the following:

- (1) project name;
- (2) permittee name;
- (3) phone number of designated responsible person or owner;
- (4) subcontractor name (optional);
- (5) subcontractor phone number (optional);
- (6) air quality division phone number;
- (7) fugitive dust control permit number; and
- (8) total acres of area to be disturbed.

F. The permittee or responsible person shall make the permit available to all employees, agents, sub-contractors, and other persons performing work in the area of active operations or inactive disturbed surface areas to assist in maintaining compliance with 20.11.20 NMAC. The permittee or responsible person shall explain the requirements of the permit to appropriate employees, contractors and agents working at the site. Upon request, the permittee shall provide information regarding how to obtain a copy of the permit from the department.

G. It is the responsibility of the permittee or responsible person to ensure that the permit or amended permit contains current contact information and that a copy is maintained at the work site and is provided to the department

upon request. Failure to maintain and provide up-to-date contact information shall be a violation of 20.11.20 NMAC.

H. The department may amend or renew the permit if requested to do so by the permittee. No fee shall be charged for amending or renewing a permit, unless there will be an increase in the number of acres subject to surface disturbance. Both the department and the permittee must sign an amended permit before it will be effective. The department is not required to sign a renewed permit unless the renewed permit increases the number of acres subject to surface disturbance. An amended or renewed permit that involves an increase in the number of acres subject to surface disturbance shall require payment of fees as required by 20.11.2 NMAC. [20.11.20.14 NMAC - Rp, 20.11.20.14 NMAC, 9/9/2025]

20.11.20.15 FUGITIVE DUST CONTROL CONSTRUCTION PERMITS; MINIMUM PERMIT APPLICATION REQUIREMENTS:

Proposed fugitive dust control construction permit applications shall be submitted on forms provided by the department. Fugitive dust control plans may be submitted in any format including a copy of a program that complies with any other statute or regulation so long as the plan provides reasonably available control measures whose purpose is to mitigate fugitive dust and the plan meets the objectives of 20.11.20 NMAC. If extraneous information is supplied that does not apply to mitigation of fugitive dust, then the dust control measures shall be clearly identified in the plan or the permit application shall be deemed incomplete and shall be rejected. An incomplete permit application shall be processed as described in Subsection C of 20.11.20.18 NMAC. Proposed fugitive dust control permit applications shall include the following:

A. name, address, telephone number and fax number of permittee;

B. owner's name, address, telephone number and fax number if different from permittee;

C. if different than the permittee, the name, address, telephone number and fax number of the responsible person who is agreeing to, and shall be responsible for activities on the permitted site; the department shall first attempt to contact the responsible person regarding a violation of the permit;

D. anticipated project start date which shall be no fewer than 10 business days from the department's receipt of the permit application for areas containing greater than three quarters of an acre but no greater than 25 acres, and no fewer than 20 business days from the department's receipt of the permit application for areas containing more than 25 acres;

E. anticipated project completion date;

F. project description;

G. project location including, if available, street address, major cross streets or nearby intersection;

H. total area of disturbance in acres or square feet;

I. a check or money order for the fees due, calculated using the tables provided on the permit application form, payable to the 'city of Albuquerque permits program' (fund 242);

J. a description of the sequencing of the active operations, if phasing is used to reduce the total disturbed area at any time;

K. estimated total volume of bulk material being handled in cubic yards, including any bulk material being imported, exported or relocated;

L. location from which bulk material is being imported to the site and a statement regarding whether the site where the imported material originates will have a separate fugitive dust control permit, or provide written information to the department as soon as known;

M. location to which bulk material from the site is being exported and a statement regarding

whether the site to which the material is to be exported will have a separate fugitive dust control permit, or provide written information to the department as soon as known;

N. whether an approved drainage plan exists pursuant to city of Albuquerque or Bernalillo county ordinances and, upon request by the department, provide a copy of the drainage plan;

O. site map (e.g. zone atlas page, aerial photograph);

P. type of work being performed and appropriate reasonably available control measures, as described in 20.11.20.23 NMAC, or other effective control measures proposed to be used in the fugitive dust control plan;

Q. a statement that effective contingency fugitive dust control measures shall be taken by the permittee if the control measures required by Subsection P of 20.11.20.15 NMAC are not effective in maintaining compliance with 20.11.20 NMAC;

R. a commitment to comply with provisions of Subsection B of 20.11.20.16 NMAC if the permittee chooses to preserve the ability to qualify for a high wind affirmative defense;

S. high wind contingency measures that will be implemented when high winds occur;

T. a description of the actions the permittee will take to mitigate damage caused by fugitive dust if generated by active operations or an inactive disturbed surface area on the permitted site;

U. other proposed conditions;

V. signature of the permittee, and, if a different person, signature of the owner, operator and/or any responsible person certifying that the information in the fugitive dust control permit application is true, accurate and complete, and certifying that all actions necessary to comply with 20.11.20 NMAC will be taken, including suspending active operations if necessary to comply with the provisions of 20.11.20 NMAC; and

W. a statement regarding whether bulk material will be stockpiled at the project site, the dimension of each stockpile, and the reasonably available control measures or other effective control measures that will be used at the stockpile area to comply with 20.11.20 NMAC. [20.11.20.15 NMAC - Rp, 20.11.20.15 NMAC, 9/9/2025]

20.11.20.16 HIGH WIND EVENT REQUIREMENTS; HIGH WIND EVENT AFFIRMATIVE DEFENSE:

A. General requirements: during a high wind event, all persons responsible for fugitive dust control activities on publicly or privately-owned real property where active operations are occurring or inactive disturbed surface areas exist shall use reasonably available control measures or other effective measures to prevent fugitive dust from leaving the property. All such persons shall implement the control measure required by Paragraph (5) of Subsection C, of 20.11.20.16 NMAC.

B. High wind affirmative defense: if the department initiates an administrative enforcement action against either a permittee or a responsible person, or both (respondent) alleging a violation of a permit or 20.11.20 NMAC during a high wind event, the respondent may assert an affirmative defense in the enforcement action if the respondent establishes by credible evidence that respondent complied with the requirements established in Subsection C of 20.11.20.16 NMAC. In order to successfully assert the affirmative defense, during the entire duration of a permit the respondent shall utilize the applicable controls described in Subsection C of 20.11.20.16 NMAC, regardless of whether or not a high wind event exists, with the exception of Paragraph (5) of Subsection C of 20.11.20.16 NMAC, which shall be required during a high wind event. The affirmative defense shall not be available if respondent has failed to diligently perform the control

measures specified in Paragraphs (1) through (5) of Subsection C of 20.11.20.16 NMAC. The availability of the affirmative defense shall not change the respondent's potential liability for any damage caused by fugitive dust leaving the permitted property, and the affirmative defense shall not change the permittee's obligation to remove fugitive dust originating from the permitted source, or otherwise remedy the damage, as required by Subsection D of 20.11.20.12 NMAC. The board, its members, and employees and officials of the city of Albuquerque and the county of Bernalillo shall not incur individual liability for damage to persons or property caused by fugitive dust leaving the permitted property.

C. Mandatory control measures: to assert a high wind event affirmative defense as described in Subsection B of 20.11.20.16 NMAC, a permittee shall utilize the applicable control measures in Paragraphs (1) and (2) of Subsection C of 20.11.20.16 NMAC on an ongoing basis. Without prior notice to the department, the permittee may use the measure in Paragraph (3) of Subsection C of 20.11.20.16 NMAC in place of the measure in Paragraph (1) of Subsection C of 20.11.20.16 NMAC. After receiving written permission from the department, the permittee may substitute the measures in Paragraph (4) for the measures in Paragraphs (1) and (2), or (2) and (3) of Subsection C of 20.11.20.16 NMAC. All permittees, whether or not they intend to assert a high wind affirmative defense, shall implement the measure in Paragraph (5) of Subsection C of 20.11.20.16 NMAC during a high wind event.

(1) Use of wet suppression sufficient to attain and maintain eighty percent of the optimal moisture content of the soil as determined by a proctor analysis performed by a certified public or private materials testing laboratory. For proctor analyses, either the standard proctor (ASTM D-698) or the modified proctor (ASTM D-1557) may be used. Daily, representative testing of the soil moisture content

shall be taken on exposed new surfaces after the top one-half to one inch of the soil is removed at the sampling area. Three times each day, at intervals that are equally spaced throughout the work day, the respondent shall test and record the soil moisture content at three separate representative locations on the permitted property, which will result in a minimum of nine tests each day. To demonstrate compliance, any set of three tests shall average 80 percent of the optimal moisture content of the soil and no individual test shall be less than 70 percent of the optimal moisture content of the soil. Failure to meet the soil moisture content standards as required by Subsection C of 20.11.20.16 NMAC for any set of three tests shall require that the respondent immediately apply necessary control measures at the portion or portions of the representative area where the soil moisture content tested as insufficient, and re-test the same representative locations, as necessary, until the soil moisture content complies with the standards as required by Subsection C of 20.11.20.16 NMAC. The respondent or the department shall use a reasonably accurate commercially-available instrument to determine soil moisture content. Where possible, methods for determining soil moisture content shall be consistent with ASTM standards (e.g. ASTM D-1556-90 - sand cone test, ASTM D2922-91 - nuclear density). All tests for soil moisture content shall be documented and retained for the duration of the permit, and shall be made available to the department upon request.

(2) Use of properly-maintained fabric fencing material around the perimeter of the disturbed surface area with openings no wider than necessary to allow vehicles to enter or exit the area. The fencing material shall be anchored approximately six inches below the surface on the bottom edge, and when installed shall be approximately 24 or more inches above the existing natural or man-made surface. The fence shall be installed in a durable manner. For example, one durable

installation method involves use of steel T-posts spaced approximately eight to 10 feet apart with steel mesh wire used as a reinforcement backing to the fabric. Use of fabric fencing standards associated with the national pollutant discharge system may be approved by the department if they are consistent with the requirements of Paragraph (2) of Subsection C of 20.11.20.16 NMAC. The department may also approve alternative fencing material if it provides equal or better control of fugitive dust. Alternatives may include solid walls or sturdy fences that effectively control fugitive dust. To maintain effectiveness of the fence, fugitive dust that accumulates on either side of the fencing shall be removed promptly.

(3) Use of chemical dust suppressants applied in amounts, frequency and rates recommended by the manufacturer, and maintained as recommended by the manufacturer sufficient to substantially reduce fugitive dust leaving the fugitive dust source while active operations are idle, usually used when active operations are suspended for more than 48 hours.

(4) A department-approved alternative dust control measure or measures that provide fugitive dust control that is equal to or better than measures in Paragraphs (1) and (2), or (2) and (3) of Subsection C of 20.11.20.16 NMAC. Before a permittee may substitute an alternative control measure, the department must approve the control measure in writing as a permit amendment.

(5) Stopping active operations that are capable of producing fugitive dust.

D. Active operations during an announced high wind event: The department shall use national weather service (NWS) data, recorded at either the Albuquerque international airport (Sunport) or Double Eagle II airport, in order to determine forecasted or actual wind speeds when announcing that a high wind event may or will occur. Wind velocity measurements taken in the field by the department, the

responsible person, or permittee shall be taken at a representative active operation area on the permitted property or by the department within 200 feet of the permitted property being evaluated to determine whether active operations can be continued, resumed or initiated. Wind measurement results shall be documented and retained throughout the duration of the permit, and shall be made available to the department and the permittee and/or person responsible for controlling fugitive dust at the permitted property. A continuous one-hour wind velocity measurement with an average wind speed of less than 20 miles per hour, along with on-site stable soil conditions and effective dust control measures, as stated in the fugitive dust control plan, shall be sufficient to allow active operations during an announced high wind event. However, fluctuations in average wind speed and high wind gusts may re-occur and can cause ineffective dust control during active operations, which may result in a violation of 20.11.20 NMAC. Therefore, the responsible person or permittee shall continuously assess wind conditions and on-site soil conditions during an announced high wind event and shall maintain the reasonably available control measures which include stopping active operations as required by Paragraph (5) of Subsection C of 20.11.20.16 NMAC.

E. Limitations on use of affirmative defense: A respondent may not assert the affirmative defense described in 20.11.20.16 NMAC:

(1) against an action for injunctive relief; or

(2) to prohibit the EPA or a citizen's group from taking an enforcement action.

[20.11.20.16 NMAC - Rp, 20.11.20.16 NMAC, 9/9/2025]

20.11.20.17 FILING, REVIEW AND INSPECTION FEES: The fees required by 20.11.20 NMAC are located in 20.11.2 NMAC, Fees. The filing and review fee portion of the total permit application fee due when a fugitive dust control construction

application is filed is non-refundable. [20.11.20.17 NMAC - Rp, 20.11.20.17 NMAC, 9/9/2025]

20.11.20.18 FUGITIVE DUST CONTROL CONSTRUCTION PERMIT APPLICATION PROCESSING:

A. A person who is required to submit a fugitive dust control construction permit (permit) application and plan for active operations that will disturb at least three-quarters of an acre, but no more than 25 acres, shall submit the permit application and plan with the applicable fees to the department no fewer than 10 business days prior to the start of active operations. Within 10 business days of the department receiving the permit application, plan and fees, the department will approve the permit, approve the permit with conditions or deny the permit.

B. A person who is required to submit a permit application and plan for active operations that will disturb more than 25 acres shall submit the permit application and plan with the applicable fees to the department no fewer than 20 business days prior to the start of active operations. Within 20 business days of the department receiving the permit application, plan and fees, the department will approve the permit, approve the permit with conditions or deny the permit.

C. The fugitive dust control plan may be in any form including a copy of a program that complies with any other statute or regulation so long as the plan provides reasonably available control measures whose purpose is to mitigate fugitive dust and the plan meets the objectives of 20.11.20 NMAC. If the plan does not specifically enumerate the control measures proposed to mitigate fugitive dust, the permit application shall be deemed incomplete and shall be rejected. If an incomplete application is rejected, a new or amended application may be filed and the time limits in Subsections A or B of 20.11.20.18 NMAC shall apply as if the initial application had not been filed.

D. If all requirements of 20.11.20 NMAC have been met by the applicant, the department shall issue a permit to the permittee, which shall authorize commencement of active operations. If the department has not approved, denied, or notified the applicant regarding the permit application within 30 business days of the department's receipt of the permit application, plan and fees, then the permit shall be automatically approved and operations may commence if the permittee uses the reasonably available control measures and fugitive dust control plan as submitted in the application. However, if the measures and plan are not effective, the department may initiate an enforcement action for violation of 20.11.20 NMAC. [20.11.20.18 NMAC - Rp, 20.11.20.18 NMAC, 9/9/2025]

20.11.20.19 PUBLIC AND PRIVATE UNPAVED ROADWAYS, SHORT-CUTS AND UNPAVED PARKING AREAS:

A. No unpaved roadway greater than one-quarter mile in length and no unpaved parking areas may be constructed or allowed to be constructed or reconstructed on any publicly-owned land or privately-owned real property, unless the owner has applied for and received a permit pursuant to 20.11.20.13 NMAC or 20.11.20.14 NMAC. Owners in possession of a valid fugitive dust control permit that wish to construct additional unpaved roadways shall apply for an amendment to their permit which shall include payment of any fees required by 20.11.2 NMAC. In addition, no unpaved short-cut of any length on private or public property may be constructed or be allowed to remain usable when it is evident the short cut is being used by motor vehicle drivers to save time by avoiding use of a dedicated and authorized roadway. A variance from Subsection A of 20.11.20.19 NMAC may be granted by the board in a manner consistent with the variance procedures provided in 20.11.7 NMAC.

B. Owners or operators shall use reasonably available control measures on all unpaved roadways and unpaved parking areas and shall comply with the general provisions established in 20.11.20.12 NMAC.

C. Public unpaved roadway; complaints. If the department receives a fugitive dust complaint regarding an unpaved public roadway, the department will forward the complaint by hand delivery, inter-office mail delivery or certified mail, return receipt requested, to the governmental agency responsible for maintenance of the roadway. Within 45 calendar days from the date the complaint was received by the responsible agency, the responsible agency shall make a reasonable effort to address the complaint, and the governmental agency shall provide the department with a written report of the actions taken to resolve the complaint. Failure of the responsible agency to submit a timely report shall be a violation of 20.11.20 NMAC. [20.11.20.19 NMAC - Rp, 20.11.20.19 NMAC, 9/9/2025]

20.11.20.20 ABRASIVE PRESSURE BLASTING

OPERATIONS: A person who performs abrasive pressure blasting operations shall employ reasonably available control measures or other effective control measures at all times to comply with 20.11.20.12 NMAC and shall substantially reduce fugitive dust emissions that are leaving the property where the abrasive pressure blasting operations are taking place. A person who is conducting abrasive pressure blasting operations is not required to obtain a fugitive dust control permit from the department. However, stationary source permitting regulations, such as 20.11.41 NMAC and 20.11.42 NMAC, may apply to pressure blasting operations. [20.11.20.20 NMAC - Rp, 20.11.20.20 NMAC, 9/9/2025]

20.11.20.21 CONTROL OF GREENWASTE MATERIAL: To prevent greenwaste from becoming ground up by the abrasive action of

tires, which may then be entrained into the atmosphere as particulate matter, all persons causing, directing or authorizing greenwaste to be deposited on publicly-owned real property shall promptly remove or cause the removal of the greenwaste. [20.11.20.21 NMAC - Rp, 20.11.20.21 NMAC, 9/9/2025]

20.11.20.22 DEMOLITION AND RENOVATION ACTIVITIES; FUGITIVE DUST CONTROL CONSTRUCTION PERMIT AND ASBESTOS NOTIFICATION

REQUIREMENTS: No person shall demolish any building containing over 75,000 cubic feet of space without first delivering to the department a fugitive dust control construction permit application and fugitive dust control plan with the fee required by 20.11.2 NMAC. No active operations shall commence until a department manager, supervisor, scientist, field operations officer or health specialist signs a fugitive dust control construction permit and a copy of the signed permit is available at the site of active operations. Failure to obtain a fugitive dust control construction permit prior to commencement of demolition activities as described in 20.11.20.22 NMAC shall be a violation of 20.11.20 NMAC. All demolition and renovation activities shall employ reasonably available control measures at all times, and, when removing asbestos containing materials (ACM), shall also comply with the federal standards incorporated in 20.11.64 NMAC, *Emission Standards for Hazardous Air Pollutants for Stationary Sources*. Any inspection for asbestos containing material must be conducted by an accredited inspector. A person who demolishes or renovates any commercial building, residential building containing five or more dwellings, or a residential structure that will be demolished in order to build a nonresidential structure or building shall file an asbestos notification with the department no fewer than 10 calendar days before the start

of such activity. Written asbestos notification certifying to the presence of ACM is required even if regulated ACM is not or may not be present in such buildings or structures. Failure to provide proper asbestos notification shall be a violation of the requirements of 20.11.64 NMAC. Knowingly violating provisions of 20.11.64 NMAC is a fourth-degree felony pursuant to the New Mexico Air Quality Control Act, 74-2-14.C.3 NMSA 1978. [20.11.20.22 NMAC - Rp, 20.11.20.22 NMAC, 9/9/2025]

20.11.20.23 REASONABLY AVAILABLE CONTROL MEASURES FOR FUGITIVE

DUST: The permittee may include in the permit application one or more of the reasonably available control measures included in 20.11.20.23 NMAC or one or more alternative fugitive dust control measures, including measures taken to comply with any other statute or regulation if the measures will effectively control fugitive dust during active operations or on inactive disturbed surface areas. At minimum, all projects requiring a fugitive dust control construction permit shall utilize paved or gravel entry/exit aprons, steel grates or other devices capable of removing mud and bulk material from vehicle traffic tires, and erect a properly-maintained fabric fencing material around the perimeter of the disturbed surface area with openings no wider than necessary to allow vehicles to enter or exit the area. The fencing material shall be anchored approximately six inches below the surface on the bottom edge, and when installed shall be approximately 30 or more inches above the existing natural or man-made surface. To maintain effectiveness of the entry/exit apron, steel grate or other similar device (device), accumulated materials shall be removed promptly. To maintain effectiveness of the fence, fugitive dust that accumulates on either side of the fencing shall be removed promptly.

A. Unpaved roadways:

(1) paving using recycled asphalt, routinely-maintained asphalt millings, asphaltic concrete, concrete, or petroleum products legal for such use;

(2) using dust suppressants applied in amounts, frequency and rates recommended by the manufacturer and maintained as recommended by the manufacturer;

(3) using wet suppression; or

(4) using traffic controls, including decreased speed limits with appropriate enforcement; other traffic calming methods, vehicle access restrictions and controls; road closures or barricades; and off-road vehicle access controls and closures.

B. Paved roadways:

(1) cleaning up spillage and track out as necessary to prevent pulverized particulates from being entrained into the atmosphere;

(2) using on-site wheel washes; or

(3) performing regularly scheduled vacuum street cleaning or wet sweeping with a sweeper certified by the manufacturer to be efficient at removing particulate matter having an aerodynamic diameter of less than 10 microns (i.e. PM_{10}).

C. Trucks hauling bulk materials on public and private roadways:

(1) using properly secured tarps or cargo covering that covers the entire surface area of the load;

(2) preventing leakage from the truck bed, sideboards, tailgate, or bottom dump gate;

(3) using wet suppression to increase moisture content of the bulk materials being hauled;

(4) using dust suppressants applied in amounts, frequency and rates recommended by the manufacturer; or

(5) maintaining a minimum of six inches of freeboard from the rim of the truck bed; freeboard means the vertical

distance from the highest portion of the load abutting the bed and the lowest part of the top rim of the truck bed.

D. Active operations in construction areas and other surface disturbances:

(1) Short term control measures may include:

(a)

wet suppression;

(b)

dust suppressants applied in amounts, frequency and rates recommended by the manufacturer and maintained as recommended by the manufacturer;

(c)

watering the site at the end of each workday sufficiently to stabilize the work area;

(d)

applying dust suppressants in amounts, frequency and rates recommended by the manufacturer on the worksite at the end of each workweek if no active operations are going to take place over the weekend or if active operations stop for more than two consecutive days;

(e)

starting construction at the location that is upwind from the prevailing wind direction and stabilizing disturbed areas before disturbing additional areas;

(f)

stopping active operations during high wind; or

(g)

clean up and removal of track-out material.

(2) Long term control measures may include:

(a)

site stabilization using dust suppressants applied in amounts, frequency and rates recommended by the manufacturer and maintained as recommended by the manufacturer;

(b)

reseeding using native grasses as specified in 20.11.20.24 NMAC;

(c)

xeriscaping;

(d)

installing parallel rows of fabric fencing or other windbreaks set perpendicular to the prevailing wind

direction either onsite or on a nearby property with the permission of the nearby property owner;

(e)

surfacing with gravel or other mulch material with a size and density sufficient to prevent surface material from becoming airborne;

(f)

mulching and crimping of straw or hay as specified in Subsection D of 20.11.20.24 NMAC;

(g)

installing permanent perimeter and interior walls;

(h)

using conventional landscaping techniques; or

(i)

clean up and removal of track-out material.

E. Bulk material handling:

(1) using spray bars;

(2) applying wetting agents (surfactants) to bulk material;

(3) using wet suppression through manual or mechanical application;

(4) adding dust suppressants to bulk materials in amounts, frequency and rates recommended by the manufacturer and maintained as recommended by the manufacturer;

(5) stopping bulk material handling, processing, loading or unloading during high wind conditions;

(6) reducing process speeds; or

(7) reducing drop heights.

F. Industrial sites:

(1) paving roadways and parking area with recycled asphalt, asphaltic concrete, concrete, or petroleum products legal for use;

(2) performing regularly scheduled vacuum street cleaning or wet sweeping;

(3) regularly using wet suppression on unpaved areas;

(4) using dust suppressants applied in amounts, frequency and rates recommended by the manufacturer, and maintained as recommended by the manufacturer;

(5) installing wind breaks;

(6) installing enclosures;

(7) installing on-site anemometers to measure wind speed; the anemometer should trigger a suitable warning mechanism such as a strobe light or an audible alarm (that will not violate any applicable noise ordinance) to notify on-site personnel of high wind conditions;

(8) increasing wet suppression applications before and during high wind conditions; or

(9) stopping active operations during high wind conditions.

G. Demolition and renovation activities when asbestos-containing materials are not present:

(1) using constant wet suppression on the debris piles during demolition;

(2) using water or dust suppressants on the debris pile, applied in amounts, frequency and rates recommended by the manufacturer;

(3) using enclosures;

(4) using curtains or shrouds;

(5) using negative pressure dust collectors; or

(6) stopping demolition during high wind conditions.

H. Milling, grinding or cutting of paved or concrete surfaces:

(1) constantly using wet suppression;

(2) continuous wet sweeping during milling, grinding, or cutting operations;

(3) using dust suppressants applied in amounts, frequency and rates recommended by the manufacturer, and maintained as recommended by the manufacturer;

(4) using enclosures; or

(5) using curtains or shrouds.

I. Pressure blasting operations:

(1) using non-friable abrasive material;

(2) using curtains, enclosures or shrouds;

(3) using negative pressure dust collectors;

(4) using constant wet suppression;

(5) maintaining ongoing clean up of abrasive material; or

(6) stopping active operations during high wind conditions.

J. Spray painting and other coatings:

(1) using enclosures that comply with applicable fire codes; or

(2) using curtains, enclosures or shrouds.

K. High wind contingency measures:

(1) installing and using on-site anemometers to measure wind speed; the anemometer should trigger a suitable warning mechanism such as a strobe light or an audible alarm that will not violate any applicable noise ordinance to notify on-site personnel of high wind conditions;

(2) using constant wet suppression;

(3) using dust suppressants applied in amounts, frequency and rates recommended by the manufacturer;

(4) using wetting agents or surfactants on disturbed areas, bulk materials or stockpiles;

(5) slowing down process; or

(6) shutting down active operations.

L. Stockpile Formation:

(1) **Active**

(a) applying wet suppression on a regular basis;

(b) utilizing wind breaks (fabric fencing or other materials);

(c) reducing vehicle speeds or using other traffic calming measures (e.g. sculpted piles); or

(d) restricting access to stockpile areas during non-work hours.

(2) Inactive stockpiles:

(a) maintaining a stable outer crust over stockpile area;

(b) using dust suppressants applied in amounts, frequency and rates recommended by the manufacturer, and maintained as recommended by manufacturer;

(c) restricting access to stockpile areas; or

(d) utilizing wind breaks (fabric fencing or other materials).

[20.11.20.23 NMAC - Rp,
20.11.20.23 NMAC, 9/9/2025]

20.11.20.24 NATIVE GRASS SEEDING AND MULCH SPECIFICATIONS:

A. If the fugitive dust control permit includes provisions to revegetate a disturbed area, the permittee may use the specifications described in 20.11.20.24 NMAC. When properly applied and maintained, these specifications have provided reasonably successful results in the past in Bernalillo county. They are included here as a reference for permittees and others who choose to use native revegetation as a long-term reasonably available control measure. However, use of these specifications does not guarantee success. Failure of any revegetation method as a long-term reasonably available control measure requires re-application or other control method approved by the department. The disturbed area shall maintain compliance with 20.11.20 NMAC.

(1) The native seed species used and rate of application should be as provided in Subsection F of 20.11.20.24 NMAC.

(a)

If the area to be seeded is along a recreational trail of any type, the seed mixes for either type of soil listed in Subsection F of 20.11.20.24 NMAC should not include four-wing saltbush and the seeding rate should be reduced by one pound per acre.

(b)

Seeds may be pre-mixed by a seed dealer. Each pre-mixed bag of seed should be sealed and labeled by the seed dealer in accordance with federal seed laws and New Mexico department of agriculture labeling laws. The label should include: variety, kind of seed, lot number, purity, germination, percent crop, percent inert, percent weed (including noxious weeds), origin, test data and net weight. Federal seed laws require that analysis shall be no older than five months for seed shipped interstate and no older than nine months for seed shipped intra-state.

(c)

48 hours before seeding, the owner or operator should give written notice to the department by hand delivery or facsimile, requesting inspection of the sealed seed bags to be used. The department may inspect the sealed seed bags and labels.

(2) Fertilizer

and soil amendments: unless otherwise specified in the fugitive dust control permit, no fertilizer or other soil amendments are required on areas to be reseeded.

(3) Mulch:

areas to be reseeded should be mulched as described below unless otherwise specified in the permit.

(a)

Hay mulch: perennial native or introduced grasses of fine-stemmed varieties should be used unless otherwise specified in the plan. At least 65 percent of the herbage by weight of each bale of hay should be 10 inches in length or longer. Hay with noxious seed or plants should not be used. Rotted, brittle, or moldy hay are not considered acceptable. Marsh grass or prairie hay composed of native grass of species to be seeded is considered acceptable. Tall wheat grass, intermediate wheat grass,

switch grass, or orchard hay will be acceptable if cut prior to seed formation. Marsh grass hay should be composed of mid and tall native, usually tough and wiry grass and grass-like plants found in the lowland areas within the Rocky Mountain region. Hay should be properly cured prior to use. Hay that is brittle, short fibered or improperly cured is not considered acceptable. Hay mulch should be crosshatched crimped to minimum depth of two inches.

(b)

Straw mulch: small grain plants such as wheat, barley, rye, or oats should not be used. Alfalfa or the stalks of corn, maize or sorghum are not considered acceptable. Material which is brittle, shorter than 10 inches or which breaks or fragments during the crimping operation are not considered acceptable. Straw mulch should be crosshatched crimped to minimum depth of two inches.

(c)

Gravel mulch: gravel mulch should be a maximum of three-quarter to one inch in diameter and must have been crushed or screened with a minimum of one angular face. Experience has demonstrated that gravel mulch provides very successful results on steep slopes and other areas that may be difficult to stabilize.

(d)

Erosion control mats, fabric or blankets: the type of erosion control mats, fabric or blankets used should be specified in the fugitive dust control permit.

B. Seed bed

preparation:

(1) Prior to

starting seed bed preparation, the final grades of all earthwork should be inspected and certified by a New Mexico licensed engineer, and a copy of the certification should be delivered to the department:

(a) no

soil preparation should be performed when the surface is wet or muddy or when the soil is so moist that the soil is not fully loosened by the disking operation;

(b)

if erosion, crusting or re-compaction

occurs in an area before seeding, mulching and crimping are successfully completed, the area should be reworked, beginning with seedbed preparation.

(2)

Mechanical preparation: the seedbed should be loosened to a minimum depth of six inches by disc or harrow. Areas of heavy or compacted soil may require additional preparation by chiseling or ripping if disking alone does not result in preparation to the full minimum depth of six inches. The soil should be worked to a smooth surface and should be free of clods, stones four inches in diameter and larger, and debris or foreign material that could interfere with seeding or crimping operations.

(3) Hand

preparation: areas which cannot be prepared with mechanized equipment because of small size, irregular shape or slope may be prepared to a minimum depth of two inches using hand tools or a rototiller, as specified in the permit.

C. Seeding:**(1) Should not**

start until the seed bed preparation has been inspected and certified by a New Mexico licensed engineer, a New Mexico licensed landscape architect, or other professional approved by the department (e.g. a department certified erosion control specialist). Notice in writing or by facsimile providing certification pertaining to the seed bed preparation should be given to the department at least 48 hours prior to beginning seeding operations so that the department has an opportunity to inspect the site. No seeding operations should be conducted when steady wind speeds exceed 10 miles per hour.

(2) Seed

application:

(a)

Drill seeding: drill seeding is highly recommended. Seed should be applied with a "rangeland" type seed drill equipped with packer wheels. Seed should be drilled to a maximum depth of one-half inch. Direction of seeding should be across slopes and on the contour whenever possible.

(b)

Broadcast seeding: seed may be applied using the broadcast method when size, irregular shape, or slope exceeding three to one, prevents the use of a seed drill. Seed may be broadcast by hand or by a mechanical seeder provided that the seed is evenly distributed over the seeding area. Areas that are broadcast seeded should be seeded at a rate that is double the rate used for drill seeding. Areas of broadcast seeding should be hand raked to cover seed.

(c)

Seeding with gravel mulch: areas to be gravel mulched should be seeded at double the standard seed rate with one-half the seed applied prior to application of gravel and one-half of the seed applied on the surface of the gravel. Water should be applied in a quantity sufficient to wash seed from the surface and into the gravel.

(d)

Hydro seeding: hydro seeding with native grass will normally only be successful on areas that will be irrigated.

D. Hay or straw mulching:

(1) All seeded

areas should be mulched unless otherwise specified in the fugitive dust control permit. On seeded areas that are level or have slopes that are a ratio of three to one or less, any of the four types of mulching below may be used. On erosion control areas or slopes steeper than a ratio of three to one, only gravel mulch or erosion control materials should be used.

(2) Hay mulch

should be applied at a minimum rate of one and one-half tons per acre of air dry hay.

(3) Straw

mulch should be applied at a minimum rate of two and one-half tons per acre of air dry straw.

(4) Hay or

straw mulch should be crosshatched crimped into the soil to a minimum depth of two inches.

(a)

The mulch should be spread uniformly over the area either by hand or with a mechanical mulch spreader.

(b)

When spread by hand, the bales of mulch should be torn apart and fluffed before spreading.

(c)

Mulching should stop when wind speeds exceed 15 miles per hour.

(d)

The mulch should be wetted down and allowed to soften for approximately 15 to 20 minutes prior to crimping.

(e)

A heavy disc should be used to crimp or anchor the mulch into the soil to a minimum depth of two inches. A mulch-tiller with flat serrated discs at least one-quarter of an inch in thickness, having dull edges with discs spaced six inches to eight inches apart or similar equipment should be used. The discs should be of sufficient diameter to prevent the frame of the equipment from dragging the mulch.

(f)

The crimping operations should be across the slope where practical, but not parallel to prevailing winds. In general, crimping should be in a north-south direction or in tight interlocking "S" curves to avoid straight east-west crimp lines.

(g)

If small grain straw mulch is used, the mulch should be crimped in two directions in a cross-hatch pattern.

(5) Gravel

mulch: gravel mulch should be laid evenly by hand or by equipment to a thickness of two inches.

(6) Erosion

control mats, fabric or blankets: the type of erosion control mats, fabric or blankets used should be as specified in the fugitive dust control permit. Anchoring of the erosion control materials should be consistent with the manufacturer's recommendations.

(7) Upon

completion of the reseeding project, the permittee should deliver written notice to the department in a timely manner, certifying completion of seeding project.

E. Protection of native grass seeded area: the person, owner or operator who has

elected to use native seeding as a control measure shall be responsible for protecting and caring for the seeded area until plants are fully established. After project completion, the owner or operator shall repair any damage to seeded areas caused by pedestrian or vehicular traffic or vandalism. During periods of low rainfall, supplemental watering may be required to successfully establish the native grass seed. Because the owner is responsible for the fugitive emissions leaving the property, failure of the reseeding project shall not be a defense to enforcement of 20.11.20 NMAC. The owner or operator may find it necessary to reseed or use other reasonably available control measures to bring the property into compliance. The department strongly recommends that any area being seeded or mulched be adequately fenced and posted to prevent trespass traffic.

F. Seed specifications and rates should be used as established by the most recent edition of "*city of Albuquerque standard specifications for public works construction - native grass seeding*" section as updated by the city or as approved in writing by the department.

G. Variations in seeding due to special environmental conditions: the owner or operator may use a different seeding mixture in order to address special environmental conditions that make it unlikely for success of the reseeding effort. Use of an annual rye (*Lolium sp.*) or cool season grasses (e.g. barley at 10 pounds per acre) may be added to the seed specification in order to help stabilize soils, especially for disturbed areas comprising 25 acres or more when a significant amount of the publicly-owned land or privately-owned real property is not expected to be built upon within one year.

[20.11.20.24 NMAC - Rp, 20.11.20.24 NMAC, 9/9/2025]

20.11.20.25 REVIEW MEETING: TIMELY PETITION FOR HEARING BEFORE THE BOARD: If a permit applicant

or permittee (requestor) asks the department to meet informally to review and reconsider the department's decision regarding the applicant's permit application in the manner provided by 20.11.20.25 NMAC, the process shall not extend the 30-day deadline for filing a timely petition for a hearing before the board as provided by 20.11.81 NMAC. If a requestor is adversely affected by, or disagrees with the department's decision regarding the requestor's permit application, the requestor may request an informal review meeting to discuss the department's decision. The request shall be in writing or on a form provided by the department. Within five business days after the requestor receives the department's decision regarding the permit application, the requestor shall deliver the written request to a division manager. Within five business days after a division manager receives the request, a division manager or designee shall hold an informal review meeting with the requestor and an additional division representative (e.g. the person assigned to the permit application review) in an attempt to resolve disagreements. Within two business days after the informal review meeting, a division representative shall mail, hand deliver or deliver by facsimile a statement to the requestor stating whether the department has changed its decision regarding the permit application, and, if so, specifying the change and the reason for the change. A person who participated in a 20.11.20 NMAC permitting action before the department and who is adversely affected by the decision made by the department, may follow the procedures described in 20.11.81 NMAC to petition for a hearing before the board.

[20.11.20.25 NMAC - Rp,
20.11.20.25 NMAC, 9/9/2025]

20.11.20.26 VISUAL DETERMINATION OF FUGITIVE DUST EMISSIONS:

The following method, hereafter called the "visible fugitive dust detection method", is used to visually

determine the total amount of time that fugitive dust emissions are visible during a continuous one-hour observation period. If a trained department observer records visible fugitive dust crossing a property line of the property being investigated, for a total of 15 minutes or more during a continuous one-hour period, a violation of 20.11.20 NMAC has occurred. The observer does not have to be certified in procedures found in 40 CFR 60, Method 9, *Visual Determination of the Opacity of Emissions from Stationary Sources* (EPA Method 9). However, the observer shall receive training regarding how to identify a violation of 20.11.20 NMAC that is caused by anthropogenic activities and to distinguish fugitive dust that emanates from a source that is not required by a board regulation other than 20.11.20 NMAC to obtain a permit. Training shall consist of attendance at and completion of the lecture portion of a Method 9 certification course and familiarity with the written materials provided during the course. The method described in Subsections A through D of 20.11.20.26 NMAC does not require the opacity of emissions to be determined during the observation period.

A. To correctly perform this method, the observer shall use two stopwatches. One stopwatch shall be used to record the continuous one-hour time period during which the observation is conducted. This period shall be known as the "observation period."

The second stopwatch shall be used to record the total accumulated amount of time that visible fugitive dust is crossing a property line during the observation period. The second stopwatch shall establish the "visible fugitive dust emission time".

B. Prior to the observation, the observer shall:

(1) determine the location of potential fugitive dust source(s) and the location of the downwind property line for the source;

(2) sketch the location of the fugitive dust

source(s), and, when available during the observation, record the observer's location on a copy of the fugitive dust control permit map or aerial photograph;

(3) sketch or photograph the location of the downwind property line and physical features that help define the property line;

(4) sketch or photograph the observer's location during the observations;

(5) sketch the position of the sun relative to the observer;

(6) document that the visible fugitive dust is not originating from an upwind source other than the source being evaluated; and

(7) maintain a minimum distance of at least 15 feet from the visible fugitive dust being observed, and a maximum distance of no more than one-quarter mile away.

C. The observer shall record:

(1) observer's name and affiliation;

(2) date of observation;

(3) company name, property owner or operators, if known;

(4) description of the fugitive dust sources;

(5) wind speed and direction (explain method of determining the wind speed, i.e., hand-held anemometer); and

(6) sky conditions.

D. The observer shall record the time of day when the observation begins. The observer shall start the first stopwatch to begin recording the observation period and shall observe along the property line. With the second stopwatch, the observer shall record the length of time visible fugitive dust is crossing the property line. The observer shall stop the second stopwatch when the visible fugitive dust is no longer detected crossing the property line. The observer shall continue this procedure during the continuous one-

hour observation period or until the visible fugitive dust emission time totals 15 minutes or greater during the continuous one-hour observation period, which is a violation of 20.11.20 NMAC. The observer shall record the time of day when the observation ends. If the observer determines that the visible fugitive dust being observed is of an intensity that may cause immediate danger to human health or safety, then, before the observation period is completed, the observer shall attempt to immediately contact the responsible person, permittee or owner. [20.11.20.26 NMAC - Rp, 20.11.20.26 NMAC, 9/9/2025]

20.11.20.27 ENFORCEMENT:

A. All persons shall use control measures that are effective in maintaining compliance with 20.11.20 NMAC. Violation of a fugitive dust control permit or fugitive dust control plan approved by the department is a violation of 20.11.20 NMAC. If a violation occurs or is occurring, the department may issue a verbal warning, issue a written warning, initiate an administrative enforcement action and assess an administrative civil penalty, and take all other actions authorized by law and equity, including issuing a stop work order as authorized by 20.11.20.27 NMAC.

B. If the department determines a person has violated or is violating a requirement or prohibition of 20.11.20 NMAC, the department may initiate an administrative enforcement action and assess an administrative civil penalty for a past or current violation, or both, as authorized by Paragraph (1) of Subsection A of Section 74-2-12 NMSA 1978. As also authorized by Paragraph (2) of Subsection A of Section 74-2-12 NMSA 1978 and Section 74-2-12.1 NMSA 1978, the department may commence a civil action in New Mexico district court for appropriate relief, including a temporary or permanent injunction. In addition, as authorized by Section 74-2-14 NMSA 1978, the department also may commence or cause a criminal action to be commenced.

C. As authorized by Subsection H of Section 74-2-12 NMSA 1978, in connection with an administrative enforcement action, the director may issue subpoenas for attendance and testimony of witnesses and the production of relevant papers, books and documents and may adopt rules for discovery procedures.

D. If a person (requestor) asks the department for an informal review meeting to consider the department's decision regarding an administrative compliance order in the manner provided by 20.11.20.27 NMAC, the process shall not extend the 30-day deadline for submitting a written request to the department director requesting a public hearing as provided by Subsection C of Section 74-2-12 NMSA 1978. If a person receives an administrative compliance order from the department, that person ("requestor") may request an informal review meeting to discuss the administrative compliance order. The request shall be in writing or on a form provided by the department. The requestor shall deliver the written request for an informal review meeting to the director and a division manager within five business days after the requestor has received the administrative compliance order. Within five business days of receiving the request, a division manager or designee shall hold an informal review meeting with the requestor and a division representative (e.g. division manager, compliance officer, or person issuing the order) in an attempt to resolve the administrative compliance order. Within two business days after the informal review meeting, a division representative shall mail, hand deliver or deliver by facsimile a statement to the requestor with the department's final decision regarding the administrative compliance order and the reasons for the decision. If the requestor is adversely affected by the final decision made by the department, the requestor may follow the procedures described in Subsection E of 20.11.20.27 NMAC.

E. A person who receives an administrative compliance

order and chooses not to sign the compliance order or similar document as requested by the department, and comply with its terms, may request a hearing consistent with Subsection C of Section 74-2-12 NMSA 1978. The decision following the hearing may be appealed consistent with Subsection A of Section 74-2-9 NMSA 1978.

F. Payment of an administrative civil penalty shall not prevent the department from taking additional enforcement actions, if the violation is repeated or an additional violation occurs. Payment of an administrative civil penalty for a prior or additional violation shall not be a defense to a subsequent action taken by the department to resolve an additional violation. Actions by the department may include suspension or revocation of a permit, as provided by Subsection B of Section 74-2-12 NMSA 1978, and issuance of a stop work order.

G. The permittee or responsible person as identified in the permit shall take all actions required by the permit to prevent a violation of 20.11.20 NMAC, including stopping active operations, if necessary. If the permittee or responsible person as identified in the permit fails to take all required actions, the owner or operator, if different, shall take all actions required to prevent or satisfactorily resolve a violation of 20.11.20 NMAC, including stopping active operations, if necessary.

H. The department may issue a stop work order, which shall suspend all active operations except for the required application of reasonably available control measures. The department also may revoke a permit issued by the department if the permittee fails to implement the reasonably available control measures required by the fugitive dust control permit.

I. If a person fails to obtain a permit as required by 20.11.20 NMAC, the department may issue a stop work order which shall require all active operations at a site to stop except for application of reasonably available control measures.

J. The stop work order, which shall be effective 24 hours after the person, permittee, owner, operator, or responsible person named in a permit receives the stop work order, unless an earlier deadline for stopping work or other activities is imposed by the department for good reason. The stop work order shall remain in effect until the person, permittee, owner, operator, or responsible person named in the permit demonstrates to the satisfaction of the department that the activities of the person, permittee, owner, operator or responsible person named in the permit comply with the provisions of 20.11.20 NMAC. [20.11.20.27 NMAC - Rp, 20.11.20.27 NMAC, 9/9/2025]

20.11.20.28 PUBLIC OUTREACH AND TRAINING:

A. The department shall provide or approve public education regarding reducing fugitive dust. The department shall maintain an electronic information system using the Internet in order to provide access to the general public and regulated business community regarding fugitive dust control programs, activities, regulations, regulatory requirements, forms and information.

B. The department shall implement a program to provide training at no cost to individuals who are or may be required to comply with provisions of 20.11.20 NMAC. Approximately twice per year, the department shall provide or approve training workshops on fugitive dust and its control to persons who conduct or participate in projects involving active operations and to other interested persons. When a person attends the training and successfully passes a test, the department or approved trainer shall issue a certificate stating that the person has successfully completed the training. [20.11.20.28 NMAC - Rp, 20.11.20.28 NMAC, 9/9/2025]

20.11.20.29 COMPLAINTS:

The department shall respond to complaints from residents, businesses

and others in a timely manner, but in no case shall the initial response take longer than three business days. [20.11.20.29 NMAC - Rp, 20.11.20.29 NMAC, 9/9/2025]

HISTORY OF 20.11.20 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center and archives. Regulation No. 8, Airborne Particulate Matter, filed 3/24/82. Regulation No. 8, Airborne Particulate Matter, filed 2/17/83.

Other History: Regulation No. 8, Airborne Particulate Matter (filed 2/17/83) was renumbered and reformatted into first version of the New Mexico Administrative Code as 20 NMAC 11.20, Airborne Particulate Matter, effective 12/01/95. 20 NMAC 11.20, Airborne Particulate Matter (filed 10/27/95) replaced by 20 NMAC 11.20, Airborne Particulate Matter, effective 07/01/96. 20 NMAC 11.20, Airborne Particulate Matter (filed 5/29/96) renumbered, reformatted and replaced by 20.11.20 NMAC, Fugitive Dust Control, effective 3/1/04.

History of Repealed Material:

20 NMAC 11.20, Airborne Particulate Matter (filed 5/29/96); repealed 3/1/04. 20.11.20 NMAC, Fugitive Dust Control (filed 1/28/04) repealed 3/17/08. 20.11.20 NMAC, Fugitive Dust Control (filed 1/28/04) replaced by 20.11.20 NMAC, Fugitive Dust Control, effective 3/17/2008. 20.11.20 NMAC Fugitive Dust Control, filed 3/17/2008, was repealed and replaced by 20.11.20 NMAC Fugitive Dust Control, effective 9/9/2025.

**ENVIRONMENT
DEPARTMENT
ENVIRONMENTAL
PROTECTION DIVISION**

20.2.70 NMAC, Operating Permits,

filed 1/7/2013, is hereby repealed and replaced with 20.2.70 NMAC, Operating Permits, effective 9/15/2025. The New Mexico Environmental Improvement Board adopted this change during their 7/18/2025 regular meeting.

**ENVIRONMENT
DEPARTMENT
ENVIRONMENTAL
PROTECTION DIVISION**

**TITLE 20 ENVIRONMENTAL
PROTECTION
CHAPTER 2 AIR QUALITY
(STATEWIDE)
PART 70 OPERATING
PERMITS**

20.2.70.1 ISSUING

AGENCY: Environmental Improvement Board. [20.2.70.1 NMAC - Rp, 20.2.70.1 NMAC, 9/15/2025]

20.2.70.2 SCOPE: All persons who own or operate a major source or any other source required to obtain a permit under this part. [20.2.70.2 NMAC - Rp, 20.2.70.2 NMAC, 9/15/2025]

20.2.70.3 STATUTORY

AUTHORITY: Environmental Improvement Act, Paragraphs (4) and (7) of Subsection A of Section 74-1-8 NMSA 1978, and Air Quality Control Act, Sections 74-2-1 et seq., NMSA 1978, including specifically, Subsections A, B, D and E of Section 74-2-5 NMSA 1978. [20.2.70.3 NMAC - Rp, 20.2.70.3 NMAC, 9/15/2025]

20.2.70.4 DURATION:

Permanent. [20.2.70.4 NMAC - Rp, 20.2.70.4 NMAC, 9/15/2025]

20.2.70.5 EFFECTIVE

DATE: September 15, 2025, except where a later date is cited at the end of a section. [20.2.70.5 NMAC - Rp, 20.2.70.5 NMAC, 9/15/2025]

20.2.70.6 OBJECTIVE: The objective of this part is to establish

the requirements for obtaining an operating permit.
[20.2.70.6 NMAC - Rp, 20.2.70.6 NMAC, 9/15/2025]

20.2.70.7 DEFINITIONS:

In addition to the terms defined in 20.2.2 NMAC (definitions), as used in this part the following definitions shall apply.

A. "Acid rain source" has the meaning given to "affected source" in the regulations promulgated under Title IV of the federal act, and includes all sources subject to Title IV of the federal act.

B. "Affected programs" means all states, local air pollution control programs, and Indian tribes and pueblos, that are within 50 miles of the source.

C. "Air pollutant" means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive (including source material, special nuclear material, and byproduct material) substance or matter which is emitted into or otherwise enters the ambient air. Such term includes any precursors to the formation of any air pollutant, to the extent the administrator has identified such precursor or precursors for the particular purpose for which the term "air pollutant" is used. This excludes water vapor, nitrogen (N₂), oxygen (O₂), and ethane.

D. "Air pollution control equipment" means any device, equipment, process or combination thereof, the operation of which would limit, capture, reduce, confine, or otherwise control regulated air pollutants or convert for the purposes of control any regulated air pollutant to another form, another chemical or another physical state. This includes, but is not limited to, sulfur recovery units, acid plants, baghouses, precipitators, scrubbers, cyclones, water sprays, enclosures, catalytic converters, and steam or water injection.

E. "Applicable requirement" means all of the following, as they apply to a Part 70 source or to an emissions unit at a Part 70 source (including

requirements that have been promulgated or approved by the board or US EPA through rulemaking at the time of permit issuance but have future-effective compliance dates).

(1) Any standard or other requirement provided for in the New Mexico state implementation plan approved by US EPA, or promulgated by US EPA through rulemaking, under Title I of the federal act to implement the relevant requirements of the federal act, including any revisions to that plan promulgated in 40 CFR, Part 52.

(2) Any term or condition of any preconstruction permit issued pursuant to regulations approved or promulgated through rulemaking under Title I, including Parts C or D, of the federal act, unless that term or condition is determined by the department to be no longer pertinent.

(3) Any standard or other requirement under Section 111 of the federal act, including Section 111(d).

(4) Any standard or other requirement under Section 112 of the federal act, including any requirement concerning accident prevention under Section 112(r)(7) of the federal act.

(5) Any standard or other requirement of the acid rain program under Title IV of the federal act or the regulations promulgated thereunder.

(6) Any requirements established pursuant to Section 504(b) or Section 114(a)(3) of the federal act.

(7) Any standard or other requirement under Section 126(a)(1) and (c) of the federal act.

(8) Any standard or other requirement governing solid waste incineration under Section 129 of the federal act.

(9) Any standard or other requirement for consumer and commercial products under Section 183(e) of the federal act.

(10) Any standard or other requirement for tank

vessels under Section 183(f) of the federal act.

(11) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the federal act, unless the administrator has determined that such requirements need not be contained in a Title V permit.

(12) Any national ambient air quality standard or increment or visibility requirement under Part C of Title I of the federal act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the federal act. This means that general permits for temporary sources must consider these requirements, but they are not applicable for other operating permits under this part.

(13) Any rule adopted by the board pursuant to the New Mexico Air Quality Control Act, Subsection B of Section 74-2-5, NMSA 1978.

F. "CFR" means the Code of Federal Regulations.

G. "Draft permit" means a version of a permit which the department offers for public participation or affected program review.

H. "Emission limitation" means a requirement established by US EPA, the board, or the department, that limits the quantity, rate or concentration, or combination thereof, of emissions of regulated air pollutants on a continuous basis, including any requirements relating to the operation or maintenance of a source to assure continuous reduction.

I. "Emissions allowable under the permit" means:

(1) any state or federally enforceable permit term or condition that establishes an emission limit (including a work practice standard) requested by the applicant and approved by the department or determined at issuance or renewal to be required by an applicable requirement; or

(2) any federally enforceable emissions cap

that the permittee has assumed to avoid an applicable requirement to which the source would otherwise be subject.

J. “Emissions unit” means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any air pollutant listed pursuant to Section 112(b) of the federal act. This term is not meant to alter or affect the definition of the term “unit” for purposes of Title IV of the federal act.

K. “Federally enforceable” means all limitations and conditions which are enforceable by the administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within the New Mexico state implementation plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I, including 40 CFR 51.165 and 40 CFR 51.166.

L. “Final permit” means the version of an operating permit issued by the department that has met all review requirements of 20.2.70.400 NMAC - 20.2.70.499 NMAC.

M. “Fugitive emissions” are those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

N. “General permit” means an operating permit that meets the requirements of 20.2.70.303 NMAC.

O. “Greenhouse gas” for the purpose of this part is defined as the aggregate group of the following six gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

P. “Hazardous air pollutant” means an air contaminant that has been classified as a hazardous air pollutant pursuant to the federal act.

Q. “Insignificant activities” means those activities which have been listed by the

department and approved by the administrator as insignificant on the basis of size, emissions or production rate.

R. “Major source” means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person(s)) in which all of the pollutant emitting activities at such source belong to the same major group (i.e., all have the same two-digit code), as described in the standard industrial classification manual, 1987, and that is described in Paragraphs (1), (2) or (3) of Subsection R of 20.2.70.7 NMAC.

(1) A major source under Section 112 of the federal act, which is defined as the following.

(a) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons or more per year of any hazardous air pollutant which has been listed pursuant to Section 112 (b) of the federal act, 25 or more tons per year of any combination of such hazardous air pollutants (including any major source of fugitive emissions of any such pollutant, as determined by rule by the administrator), or such lesser quantity as the administrator may establish by rule. Notwithstanding the preceding sentence, hazardous emissions from any oil or gas exploration or production well (with its associated equipment) and hazardous emissions from any pipeline compressor or pump station shall not be aggregated with hazardous emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources.

(b) For radionuclides, “major source” shall have the meaning specified by the administrator by rule.

(2) A major stationary source of air pollutants that directly emits or has the potential to emit, 100 or more tons per year of any air pollutant subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by rule by the administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of Paragraph (2) of Subsection R of 20.2.70.7 NMAC, unless the source belongs to one of the following categories of stationary sources:

- (a)** coal cleaning plants (with thermal dryers);
- (b)** kraft pulp mills;
- (c)** portland cement plants;
- (d)** primary zinc smelters;
- (e)** iron and steel mills;
- (f)** primary aluminum ore reduction plants;
- (g)** primary copper smelters;
- (h)** municipal incinerators capable of charging more than 250 tons of refuse per day;
- (i)** hydrofluoric, sulfuric, or nitric acid plants;
- (j)** petroleum refineries;
- (k)** lime plants;
- (l)** phosphate rock processing plants;
- (m)** coke oven batteries;
- (n)** sulfur recovery plants;
- (o)** carbon black plants (furnace process);
- (p)** primary lead smelters;
- (q)** fuel conversion plant;
- (r)** sintering plants;

(s) secondary metal production plants;

(t) chemical process plants;

(u) fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(v) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(w) taconite ore processing plants;

(x) glass fiber processing plants;

(y) charcoal production plants;

(z) fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(aa) any other stationary source category, which as of August 7, 1980, is being regulated under Section 111 or 112 of the federal act.

(3) A major stationary source as defined in Part D of Title I of the federal act, including:

(a) for ozone non-attainment areas, sources with the potential to emit 100 tons or more per year of volatile organic compounds or nitrogen oxides in areas classified as "marginal" or "moderate," 50 tons or more per year in areas classified as "serious," 25 tons or more per year in areas classified as "severe," and 10 tons or more per year in areas classified as "extreme," except that the references in Subparagraph (a) of Paragraph (3) of Subsection R of 20.2.70.7 NMAC to 100, 50, 25, and 10 tons per year of nitrogen oxides shall not apply with respect to any source for which the administrator has made a finding, under Section 182(f)(1) or (2) of the federal act, that requirements under Section 182(f) of the federal act do not apply;

(b) for ozone transport regions established pursuant to Section 184 of the federal act, sources with the potential to emit 50 tons or more per year of volatile organic compounds;

(c) for carbon monoxide non-attainment areas (1) that are classified as "serious," and (2) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the administrator, sources with the potential to emit 50 tons or more per year of carbon monoxide; and

(d) for particulate matter (PM10) non-attainment areas classified as "serious," sources with the potential to emit 70 tons or more per year of PM10.

S. "Operating permit" or "permit" (unless the context suggests otherwise) means any permit or group of permits covering a source that is issued, renewed, modified or revised pursuant to this Part.

T. "Operator" means the person or persons responsible for the overall operation of a facility.

U. "Owner" means the person or persons who own a facility or part of a facility.

V. "Part" means an air quality control regulation under Title 20, Chapter 2 of the New Mexico Administrative Code, unless otherwise noted; as adopted or amended by the board.

W. "Part 70 source" means any source subject to the permitting requirements of this part, as provided in 20.2.70.200 NMAC - 20.2.70.299 NMAC.

X. "Permit modification" means a revision to an operating permit that meets the requirements of significant permit modifications, minor permit modifications, or administrative permit amendments, as defined in 20.2.70.404 NMAC.

Y. "Permittee" means the owner, operator or responsible official at a permitted Part 70 source, as identified in any permit application or modification.

Z. "Portable source" means any plant that is mounted on any chassis or skids and which can be moved by the application of a lifting or pulling force. In addition, there

shall be no cable, chain, turnbuckle, bolt or other means (except electrical connections) by which any piece of equipment is attached or clamped to any anchor, slab, or structure, including bedrock, that must be removed prior to the application of a lifting or pulling force for the purpose of transporting the unit. Portable sources may include sand and gravel plants, rock crushers, asphalt plants and concrete batch plants which meet this criteria.

AA. "Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is federally enforceable. The potential to emit for nitrogen dioxide shall be based on total oxides of nitrogen.

AB. "Proposed permit" means the version of a permit that the department proposes to issue and forwards to the administrator for review in compliance with 20.2.70.402 NMAC.

AC. "Regulated air pollutant" means the following:

(1) nitrogen oxides or any volatile organic compounds;

(2) any pollutant for which a national ambient air quality standard has been promulgated;

(3) any pollutant that is subject to any standard promulgated under Section 111 of the federal act;

(4) any class I or II substance subject to any standard promulgated under or established by Title VI of the federal act;

(5) any pollutant subject to a standard promulgated under Section 112 or any other requirements established under Section 112 of the federal act, including Sections 112(g), (j), and (r), including the following;

(a) any pollutant subject to requirements under Section 112(j) of the federal act; if the administrator fails to promulgate a standard by the date established pursuant to Section 112(e) of the federal act, any pollutant for which a subject source would be a major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to Section 112(e) of the federal act; and

(b) any pollutant for which the requirements of Section 112(g)(2) of the federal act have been met, but only with respect to the individual source subject to a Section 112(g)(2) requirement; or

(6) any other pollutant subject to regulation as defined in Subsection AL of 20.2.70.7 NMAC.

AD. “Renewal” means the process by which a permit is reissued at the end of its term.

AE. “Responsible official” means one of the following:

(1) for a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(a) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(b) the delegation of authority to such representative is approved in advance by the department;

(2) for a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(3) for a municipality, state, federal or other

public agency: either a principal executive officer or ranking elected official; for the purposes of this part, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a regional administrator of US EPA); or

(4) for an acid rain source: the designated representative (as defined in Section 402(26) of the federal act) in so far as actions, standards, requirements, or prohibitions under Title IV of the federal act or the regulations promulgated thereunder are concerned; and for any other purposes under 40 CFR Part 70.

AF. “Section 502(b) (10) changes” are changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

AG. “Shutdown” means the cessation of operation of any air pollution control equipment, process equipment or process for any purpose.

AH. “Solid waste incineration unit” means a distinct operating unit of any facility which combusts any solid waste material from commercial or industrial establishments or the general public (including single and multiple residences, hotels, and motels). The term “solid waste incineration unit” does not include:

(1) incinerators or other units required to have a permit under Section 3005 of the federal Solid Waste Disposal Act;

(2) materials recovery facilities (including primary or secondary smelters) which combust waste for the primary purpose of recovering metals;

(3) qualifying small power production facilities, as defined in Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)), or qualifying cogeneration facilities, as defined in Section 3(18)

(B) of the Federal Power Act (16 U.S.C. 796(18)(B)), which burn homogeneous waste (such as units which burn tires or used oil, but not including refuse-derived fuel) for the production of electric energy or in the case of qualifying cogeneration facilities which burn homogeneous waste for the production of electric energy and steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating or cooling purposes; or

(4) air curtain incinerators, provided that such incinerators only burn wood wastes, yard wastes and clean lumber and that such air curtain incinerators comply with opacity limitations established by the administrator by rule.

AI. “Startup” means the setting into operation of any air pollution control equipment, process equipment or process for any purpose.

AJ. “Stationary source” or “source” means any building, structure, facility, or installation, or any combination thereof that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the federal act.

AK. “Subsidiary” means a business concern which is owned or controlled by, or is a partner of, the applicant or permittee.

AL. “Subject to regulation” means, for any air pollutant, that the pollutant is subject to either a provision in the act, or a nationally-applicable regulation codified by the administrator in Subchapter C of 40 CFR Chapter I, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(1) “greenhouse gases” (GHGs) shall not be subject to regulation, unless, as of July 1, 2011, the GHG emissions are at a stationary source emitting or having the potential to emit 100,000

tons per year CO₂e equivalent emissions;

(2) the term **“tons per year CO₂e equivalent emissions”** (CO₂e) shall represent the aggregate amount of GHGs emitted by the regulated activity, and shall be computed by multiplying the mass amount of emissions (tons per year), for each of the six greenhouse gases in the pollutant GHGs, by the gas’s associated global warming potential published at Table A-1 to Subpart A of 40 CFR Part 98 - Global Warming Potentials, and summing the resultant value for each gas; for purposes of Paragraph (2) of Subsection AL of 20.2.70.7 NMAC, prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of non-fossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material);

(3) if a federal court stays, invalidates or otherwise renders unenforceable by the US EPA, in whole or in part, the prevention of significant deterioration and Title V greenhouse gas tailoring rule (75 FR 31514, June 3, 2010), the definition “subject to regulation” shall be enforceable by the department only to the extent that it is enforceable by US EPA.

AM. “Temporary source” means any plant that is situated in one location for a period of less than one year, after which it will be dismantled and removed from its current site or relocated to a new site. A temporary source may be semi-permanent, which means that it does not have to meet the requirements of a portable source. Temporary sources may include well head compressors which meet this criteria.

AN. “Title I modification” means any modification under Sections 111 or 112 of the federal act and any physical change or change in method of operations that is subject to the preconstruction regulations promulgated under Parts C and D of the federal act.
[20.2.70.7 NMAC - Rp, 20.2.70.7 NMAC, 9/15/2025]

20.2.70.8 AMENDMENT AND SUPERSESSION OF PRIOR REGULATIONS: This Part amends and supersedes Air Quality Control Regulation (“AQCR”) 770, - Operating Permits, filed November 15, 1993, as amended (“AQCR 770”). The original effective date of AQCR 770 was December 19, 1994, which was the effective date of approval, by the administrator, of the New Mexico operating permit program. (See 59 FR 59656, November 18, 1994).

A. All references to AQCR 770 in any other rule shall be construed as a reference to this part.

B. The amendment and supersession of AQCR 770 shall not affect any administrative or judicial enforcement action pending on the effective date of such amendment nor the validity of any permit issued pursuant to AQCR 770.

[20.2.70.8 NMAC - Rp, 20.2.70.8 NMAC, 9/15/2025]

20.2.70.9 DOCUMENTS: Documents cited in this part may be viewed at the New Mexico Environment Department, Air Quality Bureau. [As of April 2013, the Air Quality Bureau is located at 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico 87505]
[20.2.70.9 NMAC - Rp, 20.2.70.9 NMAC, 9/15/2025]

20.2.70.10 to 20.2.70.199 [RESERVED]

20.2.70.200 PART 70 SOURCES: Operating permits must be obtained from the department for the following sources:

- A.** any major source;
- B.** any source,

including an area source, subject to a standard or other requirement promulgated under Section 111 -- Standards of Performance for New Stationary Sources, or Section 112 -- Hazardous Air Pollutants, of the federal act, but not including any source which:

(1) is exempted under Subsection B of 20.2.70.202 NMAC; or

(2) would be required to obtain a permit solely because it is subject to regulations or requirements under Section 112(r) of the federal act;

C. any acid rain source; and

D. any source in a source category so designated by the administrator, in whole or in part, by regulation, after notice and comment.
[20.2.70.200 NMAC - Rp, 20.2.70.200 NMAC, 9/15/2025]

20.2.70.201 REQUIREMENT FOR A PERMIT:

A. A Part 70 source may operate after the time that it is required to submit a timely and complete application under this Part only if:

(1) the source is in compliance with an operating permit issued by the department or EPA; or

(2) a timely permit (including permit renewal) application has been submitted consistent with 20.2.70.300 NMAC; the ability to operate under these circumstances shall cease if the applicant fails to submit by the deadline specified in writing by the department any additional information identified as being needed to process the application.

B. Revocation or termination of a permit by the department terminates the permittee’s right to operate.

C. The submittal of a complete operating permit application shall not protect any source from any applicable requirement, including any requirement that the source have a preconstruction permit under Title I of the federal act or state regulations.

D. Requirement for permit under 20.2.72 NMAC.

(1) Part 70 sources that have an operating permit and do not have a permit issued under 20.2.72 NMAC or 20.2.74 NMAC shall submit a complete application for a permit under 20.2.72 NMAC within 180 days of September 6, 2006. The department shall consider and may grant reasonable requests for extension of this deadline on a case-by-case basis.

(2) Part 70 sources that do not have an operating permit or a permit under 20.2.72 NMAC upon the effective date of 20.2.70.201 NMAC shall submit an application for a permit under 20.2.72 NMAC within 60 days after submittal of an application for an operating permit.

(3) Paragraphs (1) and (2) of Subsection D of 20.2.70.201 NMAC shall not apply to sources that have demonstrated compliance with both the national and state ambient air quality standards through dispersion modeling or other method approved by the department and that have requested incorporation of conditions in their operating permit to ensure compliance with these standards.

[20.2.70.201 NMAC - Rp, 20.2.70.201 NMAC, 9/15/2025]

20.2.70.202 SOURCE CATEGORY EXEMPTIONS:

A. The following source categories are exempted from the obligation to obtain an operating permit:

(1) all sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 60, Subpart AAA -- Standards of Performance for New Residential Wood Heaters;

(2) all sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 61, Subpart M -- National Emission Standard for Hazardous Air Pollutants for Asbestos, Section

61.145, Standard for Demolition and Renovation;

(3) except as required under Sections 20.2.70.500 NMAC - 20.2.70.599 NMAC, any source that would be required to obtain a permit solely because of emissions of radionuclides; and

(4) any source in a source category exempted by the administrator, by regulation, after notice and comment.

B. Non-major sources, including those subject to Sections 111 or 112 of the federal act, are exempt from the obligation to obtain a Part 70 (20.2.70 NMAC) permit until such time that the administrator completes a rulemaking that requires such sources to obtain operating permits.

C. Any source exempted from the requirement to obtain an operating permit may opt to apply for a permit under this part.

D. No permit for a solid waste incineration unit shall be issued by the department if a New Mexico state agency is responsible, in whole or in part, for the design and construction or operation of the unit. In such cases, applications shall be made to the administrator. Department review or approval of solid waste incineration units shall not constitute responsibility for the design, construction, or operation of the unit.

[20.2.70.202 NMAC - Rp, 20.2.70.202 NMAC, 9/15/2025]

20.2.70.203 EXISTING MAJOR SOURCES WHICH ARE NOT REQUIRED TO HAVE A PERMIT UNDER 20.2.72 NMAC (CONSTRUCTION PERMITS):

The owner or operator of any major source may reverse or avoid designation as a major source under this Part by obtaining a permit under 20.2.72 NMAC (Construction Permits) which includes federally enforceable conditions which restrict the potential to emit of the source to non-major emission rates. Such conditions may include emissions limitations, process restrictions or limitations or both, restrictions on

annual hours of operation, or other conditions which reduce the facility's potential to emit.

[20.2.70.203 NMAC - Rp, 20.2.70.203 NMAC, 9/15/2025]

20.2.70.204 BERNALILLO COUNTY:

For the operation of sources within Bernalillo county, the applicant shall make such applications to the air pollution control division of the Albuquerque environmental health department or its successor agency or authority.

[20.2.70.204 NMAC - Rp, 20.2.70.204 NMAC, 9/15/2025]

20.2.70.205 INDIAN TRIBAL JURISDICTION:

The requirements of this part do not apply to sources within Indian Tribal jurisdiction. For the operation of sources in that jurisdiction, the applicant should make such applications to the Tribal authority or to the administrator, as appropriate.

[20.2.70.205 NMAC - Rp, 20.2.70.205 NMAC, 9/15/2025]

20.2.70.206 to 20.2.70.299 [RESERVED]

20.2.70.300 PERMIT APPLICATIONS:

A. Duty to apply. For each Part 70 source, the owner or operator shall submit a timely and complete permit application in accordance with this part.

B. Timely application. A timely application for a source applying for a permit under this part is:

(1) for first time applications, one that is submitted within 12 months after the source commences operation as a Part 70 source;

(2) for purposes of permit renewal, one that is submitted at least 12 months prior to the date of permit expiration;

(3) for the acid rain portion of permit applications for initial phase II acid rain sources under Title IV of the federal act, by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides.

C. Completeness of application.

(1) To be deemed complete, an application must provide all information required pursuant to Subsection D of 20.2.70.300 NMAC, except that applications for permit modifications need supply such information only if it is related to the proposed change.

(2) If, while processing an application, regardless of whether it has been determined or deemed to be complete, the department determines that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response.

(3) Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application or in a supplemental submittal shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide further information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

(4) The applicant's ability to operate without a permit, as set forth in Paragraph (2) of Subsection A of 20.2.70.201 NMAC, shall be in effect from the date a timely application is submitted until the final permit is issued or disapproved, provided that the applicant adequately submits any requested additional information by the deadline specified by the department.

D. Content of application. Any person seeking a permit under this Part shall do so by filing a written application with the department. The applicant shall submit three copies of the permit application, or more, as requested by the department. An applicant may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate

the fee amount required under 20.2.71 NMAC (Operating Permit Emissions Fees). Fugitive emissions shall be included in the permit application in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source. All applications shall meet the following requirements.

(1) Be made on forms furnished by the department, which for the acid rain portions of permit applications and compliance plans shall be on nationally-standardized forms to the extent required by regulations promulgated under Title IV of the federal act.

(2) State the company's name and address (and, if different, plant name and address), together with the names and addresses of the owner(s), responsible official and the operator of the source, any subsidiaries or parent companies, the company's state of incorporation or principal registration to do business and corporate or partnership relationship to other permittees subject to this part, and the telephone numbers and names of the owners' agent(s) and the site contact(s) familiar with plant operations.

(3) State the date of the application.

(4) Include a description of the source's processes and products (by standard industrial classification code) including any associated with alternative scenarios identified by the applicant, and a map, such as the 7.5-minute topographic quadrangle map published by the United States geological survey or the most detailed map available showing the exact location of the source. The location shall be identified by latitude and longitude or by Universal Transverse Mercator (UTM) coordinates.

(5) For all emissions of all air pollutants for which the source is major and all emissions of regulated air pollutants, provide all emissions information, calculations and computations for the source and for each emissions unit, except for insignificant activities (as

defined in 20.2.70.7 NMAC). This shall include:

(a) a process flow sheet of all components of the facility which would be involved in routine operations and emissions;

(b) identification and description of all emissions points in sufficient detail to establish the basis for fees and applicability of requirements of the state and federal acts;

(c) emissions rates in tons per year, pounds per hour and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method;

(d) specific information such as that regarding fuels, fuel use, raw materials, or production rates, to the extent it is needed to determine or regulate emissions;

(e) identification and full description, including all calculations and the basis for all control efficiencies presented, of air pollution control equipment and compliance monitoring devices or activities;

(f) the maximum and standard operating schedules of the source, as well as any work practice standards or limitations on source operation which affect emissions of regulated pollutants;

(g) if requested by the department, an operational plan defining the measures to be taken to mitigate source emissions during startups, shutdowns and emergencies;

(h) other relevant information as the department may reasonably require or which are required by any applicable requirements (including information related to stack height limitations developed pursuant to Section 123 of the federal act); and

(i) for each alternative operating scenario identified by the applicant, all of the information required in Subparagraphs (a) through (h) of Paragraph (5) of Subsection D of

20.2.70.300 NMAC, as well as additional information determined to be necessary by the department to define such alternative operating scenarios.

(6) Provide a list of insignificant activities (as defined in 20.2.70.7 NMAC) at the source, their emissions, to the extent required by the department, and any information necessary to determine applicable requirements.

(7) Provide a citation and description of all applicable air pollution control requirements, including:

(a) sufficient information related to the emissions of regulated air pollutants to verify the requirements that are applicable to the source; and

(b) a description of or reference to any applicable test method for determining compliance with each applicable requirement.

(8) Provide an explanation of any proposed exemptions from otherwise applicable requirements.

(9) Provide other specific information that may be necessary to implement and enforce other requirements of the state or federal acts or to determine the applicability of such requirements, including information necessary to collect any permit fees owed under 20.2.71 NMAC (Operating Permit Emissions Fees).

(10) Provide certification of compliance, including all of the following.

(a) A certification, by a responsible official consistent with Subsection E of 20.2.70.300 NMAC, of the source's compliance status for each applicable requirement. For national ambient air quality standards, certifications shall be based on the following.

(i) For first time applications, this certification shall be based on modeling submitted with the application for a permit under 20.2.72 NMAC.

(ii)

For permit renewal applications, this certification shall be based on compliance with the relevant terms and conditions of the current operating permit.

(b) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods.

(c) A statement that the source will continue to be in compliance with applicable requirements for which it is in compliance, and will, in a timely manner or at such schedule expressly required by the applicable requirement, meet additional applicable requirements that become effective during the permit term.

(d) A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the department.

(e) A statement indicating the source's compliance status with any enhanced monitoring and compliance certification requirements of the federal act.

(11) For sources that are not in compliance with all applicable requirements at the time of permit application, provide a compliance plan that contains all of the following.

(a) A description of the compliance status of the source with respect to all applicable requirements.

(b) A narrative description of how the source will achieve compliance with such requirements for which it is not in compliance.

(c) A schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with such applicable requirements. The schedule of compliance shall be at least as stringent as that contained in any

consent decree or administrative order to which the source is subject, and the obligations of any consent decree or administrative order shall not be in any way diminished by the schedule of compliance. Any such schedule of compliance shall be supplemental to, and shall not prohibit the department from taking any enforcement action for noncompliance with, the applicable requirements on which it is based.

(d) A schedule for submission of certified progress reports no less frequently than every six months.

(e) For the portion of each acid rain source subject to the acid rain provisions of Title IV of the federal act, the compliance plan content requirements specified in Paragraph (11) of Subsection D of 20.2.70.300 NMAC, except as specifically superseded by regulations promulgated under Title IV of the federal act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

E. Certification. Any document, including any application form, report, or compliance certification, submitted pursuant to this part shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

[20.2.70.300 NMAC - Rp, 20.2.70.300 NMAC, 9/15/2025]

20.2.70.301 CONFIDENTIAL INFORMATION PROTECTION:

A. All confidentiality claims made regarding material submitted to the department under this part shall be reviewed under the provisions of the New Mexico Air Quality Control Act Section 74-2-11 NMSA 1978 and the New Mexico Inspection of Public Records Act, Sections 14-2-1 et seq. NMSA 1978.

B. In the case where an applicant or permittee has submitted information to the department under a claim of confidentiality, the department may also require the applicant or permittee to submit a copy of such information directly to the administrator.

C. An operating permit is a public record, and not entitled to protection under Section 114(c) of the federal act.

[20.2.70.301 NMAC - Rp,
20.2.70.301 NMAC, 9/15/2025]

20.2.70.302 PERMIT CONTENT:

A. Permit conditions.

(1) The department shall specify conditions upon a permit, including emission limitations and sufficient operational requirements and limitations, to assure compliance with all applicable requirements at the time of permit issuance or as specified in the approved schedule of compliance. The permit shall:

(a) for major sources, include all applicable requirements for all relevant emissions units in the major source;

(b) for any non-major source subject to 20.2.70.200 NMAC - 20.2.70.299 NMAC, include all applicable requirements which apply to emissions units that cause the source to be subject to this part;

(c) specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based;

(d) include a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit;

(e) include a provision to ensure that the permittee pays fees to the department consistent with the fee schedule in 20.2.71 NMAC (Operating Permit Emissions Fees); and

(f) for purposes of the permit shield, identify any requirement specifically identified in the permit application or significant permit modification that the department has determined is not applicable to the source, and state the basis for any such determination.

(2) Each permit issued shall, additionally, include provisions stating the following.

(a) The permittee shall comply with all terms and conditions of the permit. Any permit noncompliance is grounds for enforcement action. In addition, noncompliance with federally enforceable permit conditions constitutes a violation of the federal act.

(b) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

(c) The permit may be modified, reopened and revised, revoked and reissued, or terminated for cause in accordance with 20.2.70.405 NMAC.

(d) The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance shall not stay any permit condition.

(e) The permit does not convey any property rights of any sort, or any exclusive privilege.

(f) Within the period specified by the department, the permittee shall furnish any information that the department may request in writing to determine whether cause exists for reopening and revising, revoking and reissuing, or termination of the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the department copies of records required by the permit to be maintained.

(3) The terms and conditions for all alternative operating scenarios identified in the application and approved by the department:

(a) shall require that the permittee maintain a log at the permitted facility which documents, contemporaneously with any change from one operating scenario to another, the scenario under which the facility is operating; and

(b) shall, for each such alternative scenario, meet all applicable requirements and the requirements of this part.

(4) The department may impose conditions regulating emissions during startup and shutdown.

(5) All permit terms and conditions which are required under the federal act or under any of its applicable requirements, including any provisions designed to limit a source's potential to emit, are enforceable by the administrator and citizens under the federal act. The permit shall specifically designate as not being federally enforceable under the federal act any terms or conditions included in the permit that are not required under the federal act or under any of its applicable requirements.

(6) The issuance of a permit, or the filing or approval of a compliance plan, does not relieve any person from civil or criminal liability for failure to comply with the provisions of the Air Quality Control Act, the federal act, federal regulations thereunder, any applicable regulations of the board, and any other applicable law or regulation.

(7) The department may include part or all of the contents of the application as terms and conditions of the permit or permit modification. The department shall not apply permit terms and conditions upon emissions of regulated pollutants for which there are no applicable requirements, unless the source is major for that pollutant.

(8) Fugitive emissions from a source shall be included in the operating permit in

the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

(9) The acid rain portion of operating permits for acid rain sources shall additionally:

(a) state that, where an applicable requirement of the federal act is more stringent than an applicable requirement of regulations promulgated under Title IV of the federal act, both provisions shall be incorporated into the permit and shall be enforceable by the administrator; and

(b) contain a permit condition prohibiting emissions exceeding any allowances that the acid rain source lawfully holds under Title IV of the federal act or the regulations promulgated thereunder; no permit modification under this part shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit modification under any other applicable requirement; no limit shall be placed on the number of allowances held by the acid rain source; the permittee may not use allowances as a defense to noncompliance with any other applicable requirement; any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the federal act.

B. Permit duration. The department shall issue operating permits for a fixed term of five years.

C. Monitoring.

(1) Each permit shall contain all emissions monitoring requirements, and analysis procedures or test methods, required to assure and verify compliance with the terms and conditions of the permit and applicable requirements, including any procedures and methods promulgated by the administrator.

(2) Where the applicable requirement does

not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), the permit shall require periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to Subsection E of 20.2.70.302 NMAC. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement.

(3) The permit shall also contain specific requirements concerning the use, maintenance, and, when appropriate, installation of monitoring equipment or methods.

D. Recordkeeping.

(1) The permit shall require recordkeeping sufficient to assure and verify compliance with the terms and conditions of the permit, including recordkeeping of:

(a) the date, place as defined in the permit, and time of sampling or measurements;

(b) the date(s) analyses were performed;

(c) the company or entity that performed the analyses;

(d) the analytical techniques or methods used;

(e) the results of such analyses; and

(f) the operating conditions existing at the time of sampling or measurement.

(2) Records of all monitoring data and support information shall be retained for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Supporting information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

E. Reporting. The

permit shall require reporting sufficient to assure and verify compliance with the terms and conditions of the permit and all applicable requirements, including all of the following.

(1) Submittal of reports of any required monitoring at least every six months. The reports shall be due to the department within 45 days of the end of the permittee's reporting period. All instances of deviations from permit requirements, including emergencies, must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with Subsection E of 20.2.70.300 NMAC.

(2) Prompt reporting of all deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The report shall be contained in the report submitted in accordance with the timeframe given in Paragraph (1) of Subsection E of 20.2.70.302 NMAC.

(3) Submittal of compliance certification reports at least every 12 months (or more frequently if so specified by an applicable requirement) certifying the source's compliance status with terms and conditions contained in the permit, including emission limitations, standards, or work practices. The reports shall be due to the department within 30 days of the end of the permittee's reporting period. Such compliance certifications shall be submitted to the administrator as well as to the department and shall include:

(a) the identification of each term or condition of the permit that is the basis of the certification;

(b) the compliance status of the source;

(c) whether compliance was continuous or intermittent;

(d) the method(s) used for determining the compliance status of the source,

currently and during the reporting period identified in the permit; and

(e) such other facts as the department may require to determine the compliance status of the source.

(4) Such additional provisions as may be specified by the administrator to determine the compliance status of the source.

F. Portable and temporary sources. The department may issue permits for portable and temporary sources which allow such sources to relocate without undergoing a permit modification. Such permits shall not apply to acid rain sources and shall include conditions to assure that:

(1) the source is installed at all locations in a manner conforming with the permit;

(2) the source shall comply with all applicable requirements and all other provisions of this Part at all authorized locations;

(3) the owner or operator shall notify the department in writing at least 15 calendar days in advance of each change in location;

(4) notification shall include a legal description of where the source is to be relocated and how long it will be located there; and

(5) emissions from the source shall not, at any location, result in or contribute to an exceedance of a national ambient air quality standard or increment or visibility requirement under Part C of Title I of the federal act; the department may require dispersion modeling to assure compliance at any location.

G. Compliance. To assure and verify compliance with the terms and conditions of the permit and with this part, permits shall also include all the following.

(1) Require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized representatives of the department to perform the following:

(a) enter upon the permittee's premises where a source is located or emission related activity is conducted, or where records must be kept under the conditions of the permit;

(b) have access to and copy any records that must be kept under the conditions of the permit;

(c) inspect any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(d) sample or monitor any substances or parameters for the purpose of assuring compliance with the permit or applicable requirements or as otherwise authorized by the federal act.

(2) Require that sources required under Paragraph (11) of Subsection D of 20.2.70.300 NMAC to have a schedule of compliance submit progress reports to the department at least semiannually, or more frequently if specified in the applicable requirement or by the department. Such progress reports shall be consistent with the schedule of compliance and requirements of Paragraph (11) of Subsection D of 20.2.70.300 NMAC and shall contain:

(a) dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(b) an explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(3) Include such other provisions as the department may require.

H. Operational flexibility.

(1) Section 502(b)(10) changes.

(a) The permittee may make Section 502(b)(10) changes, as defined in 20.2.70.7 NMAC, without applying

for a permit modification, if those changes are not Title I modifications and the changes do not cause the facility to exceed the emissions allowable under the permit (whether expressed as a rate of emissions or in terms of total emissions).

(b) For each such change, the permittee shall provide written notification to the department and the administrator at least seven days in advance of the proposed changes. Such notification shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change.

(c) The permittee and department shall attach each such notice to their copy of the relevant permit.

(d) If the written notification and the change qualify under this provision, the permittee is not required to comply with the permit terms and conditions it has identified that restrict the change. If the change does not qualify under this provision, the original terms of the permit remain fully enforceable.

(2) Emissions trading within a facility.

(a) The department shall, if an applicant requests it, issue permits that contain terms and conditions allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emissions cap that is established in the permit in addition to any applicable requirements. Such terms and conditions shall include all terms and conditions required under 20.2.70.302 NMAC to determine compliance. If applicable requirements apply to the requested emissions trading, permit conditions shall be issued only to the extent that the applicable requirements provide for trading such increases and decreases without a case-by-case approval.

(b)
The applicant shall include in the application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. The department shall not include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall require compliance with all applicable requirements.

(c)
For each such change, the permittee shall provide written notification to the department and the administrator at least seven days in advance of the proposed changes. Such notification shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit.

(d)
The permittee and department shall attach each such notice to their copy of the relevant permit.

I. Off-permit changes.

(1) Permittees are allowed to make, without a permit modification, changes that are not addressed or prohibited by the operating permit, if:

(a)
each such change meets all applicable requirements and shall not violate any existing permit term or condition;

(b)
such changes are not subject to any requirements under Title IV of the federal act and are not Title I modifications;

(c)
such changes are not subject to permit modification procedures under 20.2.70.404 NMAC; and

(d)
the permittee provides contemporaneous written notice to the department and US EPA of each such change, except for changes that qualify as insignificant activities. Such written notice shall describe each such change, including the date, any change in emissions,

pollutants emitted and any applicable requirement that would apply as a result of the change.

(2) The permittee shall keep a record describing changes made at the source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from those changes.

J. Permit shield.

(1) Except as provided in this Part, the department shall expressly include in a Part 70 (20.2.70 NMAC) permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

(a)
such applicable requirements are included and are specifically identified in the permit; or

(b)
the department, in acting on the permit application or significant permit modification, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.

(2) A Part 70 (20.2.70 NMAC) permit that does not expressly state that a permit shield exists for a specific provision shall be presumed not to provide such a shield for that provision.

(3) Nothing in Subsection J of 20.2.70.302 NMAC or in any Part 70 (20.2.70 NMAC) permit shall alter or affect the following:

(a)
the provisions of Section 303 of the federal act - Emergency Powers, including the authority of the administrator under that section, or the provisions of the New Mexico Air Quality Control Act, Section 74-2-10 NMSA 1978;

(b)
the liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;

(c)
the applicable requirements of the acid rain program, consistent with Section 408(a) of the federal act; or

(d)
the ability of US EPA to obtain information from a source pursuant to Section 114 of the federal act, or the department to obtain information subject to the New Mexico Air Quality Control Act, Section 74-2-13 NMSA 1978.

(4) The permit shield shall remain in effect if the permit terms and conditions are extended past the expiration date of the permit pursuant to Subsection D of 20.2.70.400 NMAC.

(5) The permit shield shall extend to terms and conditions that allow emission increases and decreases as part of emissions trading within a facility pursuant to Paragraph (2) of Subsection H of 20.2.70.302 NMAC, and to all terms and conditions under each operating scenario included pursuant to Paragraph (3) of Subsection A of 20.2.70.302 NMAC.

(6) The permit shield shall not extend to administrative amendments under Subsection A of 20.2.70.404 NMAC, to minor permit modifications under Subsection B of 20.2.70.404 NMAC, to Section 502(b)(10) changes under Paragraph (1) of Subsection H of 20.2.70.302 NMAC, or to permit terms or conditions for which notice has been given to reopen or revoke all or part under 20.2.70.405 NMAC. [20.2.70.302 NMAC - Rp, 20.2.70.302 NMAC, 9/15/2025]

20.2.70.303 GENERAL PERMITS:

A. Issuance of general permits.

(1) The department may, after notice and opportunity for public participation and US EPA and affected program review, issue a general permit covering numerous similar sources. Such sources shall be generally homogenous in terms of operations, processes and emissions, subject to the same or substantially similar

requirements, and not subject to case-by-case standards or requirements.

(2) Any general permit shall comply with all requirements applicable to other operating permits and shall identify criteria by which sources may qualify for the general permit.

B. Authorization to operate under a general permit.

(1) The owner or operator of a Part 70 source which qualifies for a general permit must:

(a) apply to the department for coverage under the terms of the general permit; or

(b) apply for an operating permit consistent with 20.2.70.300 NMAC.

(2) The department may, in the general permit, provide for applications which deviate from the requirements of Subsection D of 20.2.70.300 NMAC, provided that such applications meet the requirements of the federal act and include all information necessary to determine qualification for, and to assure compliance with, the general permit. The department shall review the application for authorization to operate under a general permit for completeness within 30 days after its receipt of the application.

(3) The department shall authorize qualifying sources which apply for coverage under the general permit to operate under the terms and conditions of the general permit. The department shall take final action on a general permit authorization request within 90 days of deeming the application complete.

(4) The department may grant a request for authorization to operate under a general permit without repeating the public participation procedures required under 20.2.70.401 NMAC. Such an authorization shall not be a permitting action for purposes of administrative review under New Mexico Air Quality Control Act Subsection H of Section 74-2-7, NMSA 1978. Permitting action for the purposes of Section 74-2-7 NMSA 1978 shall be the issuance of the general permit.

(5) Authorization to operate under a general permit shall not be granted for acid rain sources unless otherwise provided in regulations promulgated under Title IV of the federal act.

(6) The permittee shall be subject to enforcement action for operation without an operating permit if the source is later determined not to qualify for the conditions and terms of the general permit.

[20.2.70.303 NMAC - Rp, 20.2.70.303 NMAC, 9/15/2025]

20.2.70.304 [RESERVED]

[20.2.70.304 NMAC - Rp, 20.2.70.304 NMAC, 9/15/2025]

20.2.70.305 to 20.2.70.399 [RESERVED]

20.2.70.400 ACTION ON PERMIT APPLICATIONS:

A. A permit (including permit renewal) or permit modification shall only be issued if all of the following conditions have been met:

(1) the department has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under 20.2.70.303 NMAC;

(2) except for administrative and minor permit modifications, the department has complied with the requirements for public participation procedures under 20.2.70.401 NMAC;

(3) except for administrative amendments, the department has complied with the requirements for notifying and responding to affected programs under 20.2.70.402 NMAC;

(4) the conditions of the permit provide for compliance with all applicable requirements and the requirements of this part; and

(5) the administrator has received a copy of the proposed permit and any notices

required under 20.2.70.402 NMAC, and has not objected to issuance of the permit within the time period specified within 20.2.70.402 NMAC.

B. The department shall, within 60 days after its receipt of an application for a permit or significant permit modification, review such application for completeness. Unless the department determines that an application is not complete, requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application shall be deemed complete. When additional information is requested by the department prior to ruling an application complete, receipt of such information shall be processed as a new application for purposes of 20.2.70.400 NMAC. If the application is judged complete, a certified letter to that effect shall be sent to the applicant. If the application is judged incomplete a certified letter shall be sent to the applicant stating what additional information or points of clarification are necessary to judge the application complete.

C. The department shall take final action on each permit application (including a request for permit renewal) within 18 months after an application is ruled complete by the department, except that:

(1) for sources in operation on or before December 19, 1994 and which submit to the department timely and complete applications in accordance with 20.2.70.300 NMAC, the department shall take final action on one-third of such applications annually over a period not to exceed three years after such effective date;

(2) any complete permit application containing an early reduction demonstration under Section 112(i)(5) of the federal act shall be acted on within nine months of deeming the application complete; and

(3) the acid rain portion of permits for acid rain sources shall be acted upon in accordance with the deadlines in

Title IV of the federal act and the regulations promulgated thereunder.

D. If a timely and complete application for a permit renewal is submitted, consistent with 20.2.70.300 NMAC, but the department has failed to issue or disapprove the renewal permit before the end of the term of the previous permit, then the permit shall not expire and all the terms and conditions of the permit shall remain in effect until the renewal permit has been issued or disapproved.

E. Permits being renewed are subject to the same procedural requirements, including those for public participation, affected program and US EPA review, that apply to initial permit issuance.

F. The department shall state within the draft permit the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions).

G. The department shall grant or disapprove the permit based on information contained in the department's administrative record. The administrative record shall consist of the application, any additional information submitted by the applicant, any evidence or written comments submitted by interested persons, any other evidence considered by the department, and, if a public hearing is held, the evidence submitted at the hearing.

H. If the department grants or disapproves a permit or permit modification, the department shall notify the applicant by certified mail of the action taken and the reasons therefor. If the department grants a permit or modification, the department shall mail the permit or modification, including all terms and conditions, to the applicant by certified mail.

I. Voluntary discontinuation. Upon request by the permittee, the department shall permanently discontinue a Part 70 (20.2.70 NMAC) permit. Permit discontinuance terminates the permittee's right to operate the source under the permit. The

department shall confirm the permit discontinuance by certified letter to the permittee.

J. No permit shall be issued by failure of the department to act on an application or renewal. [20.2.70.400 NMAC - Rp, 20.2.70.400 NMAC, 9/15/2025]

20.2.70.401 PUBLIC PARTICIPATION:

A. Proceedings for all permit issuances (except administrative and minor permit modifications, pursuant to Paragraph (2) of Subsection A of 20.2.70.400 NMAC) including renewals, significant permit modifications, reopenings, revocations and terminations, and all modifications to the department's list of insignificant activities, shall include public notice and provide an opportunity for public comment. The department shall provide 30 days for public and affected program comment. The department may hold a public hearing on the draft permit, a proposal to suspend, reopen, revoke or terminate a permit, or for any reason it deems appropriate, and shall hold such a hearing in the event of significant public interest. The department shall give notice of any public hearing at least 30 days in advance of the hearing.

B. Public notice and notice of public hearing shall be given by publication in a newspaper of general circulation in the area where the source is located or in a state publication designed to give general public notice, to persons on a mailing list developed by the department, including those who request in writing to be on the list, and by other means if necessary to assure adequate notice to the affected public.

C. The public notice shall identify:

- (1) the affected facility;
- (2) the names and addresses of the applicant or permittee and its owners;
- (3) the name and address of the department;
- (4) the activity

or activities involved in the permit action;

(5) the emissions change(s) involved in any permit modification;

(6) the name, address and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, and relevant supporting materials;

(7) a brief description of the comment procedures required by the department; and

(8) as appropriate, a statement of procedures to request a hearing, or the time and place of any scheduled hearing.

D. Notice of public hearing shall identify:

(1) the affected facility;

(2) the names and addresses of the applicant or permittee and its owners;

(3) the name and address of the department;

(4) the activity or activities involved in the permit action;

(5) the name, address and telephone number of a person from whom interested persons may obtain additional information;

(6) a brief description of hearing procedures; and

(7) the time and place of the scheduled hearing.

E. Public hearings shall be held in the geographic area likely to be impacted by the source. The time, date, and place of the hearing shall be determined by the department. The department shall appoint a hearing officer. A transcript of the hearing shall be made at the request of either the department or the applicant and at the expense of the person requesting the transcript. At the hearing, all interested persons shall be given a reasonable chance to submit data, views or arguments orally or in writing and to examine witnesses testifying at the hearing.

F. The department shall keep a record of the commenters

and also of the issues raised during the public participation process so that the administrator may fulfill his or her obligation under Section 505(b)(2) of the federal act to determine whether a citizen petition may be granted. Such records shall be available to the public upon request.

G. The department shall provide such notice and opportunity for participation by affected programs as is provided for by 20.2.70.402 NMAC.

[20.2.70.401 NMAC - Rp, 20.2.70.401 NMAC, 9/15/2025]

20.2.70.402 REVIEW BY THE ADMINISTRATOR AND AFFECTED PROGRAMS:

A. Notification: The department shall not issue an operating permit (including permit renewal or reissuance), minor permit modification or significant permit modification, until affected programs and the administrator have had an opportunity to review the proposed permit as required under 20.2.70.402 NMAC. Permits for source categories waived by the administrator from this requirement and any permit terms or conditions which are not required under the federal act or under any of its requirements are not subject to administrator review or approval.

(1) Within five days of notification by the department that the application has been determined complete, the applicant shall provide a copy of the complete permit application (including the compliance plan and all additional materials submitted to the department) directly to the administrator. The permit or permit modification shall not be issued without certification to the department of such notification. The department shall provide to the administrator a copy of each draft permit, each proposed permit, each final operating permit, and any other relevant information requested by the administrator.

(2) The department shall provide notice of each draft permit to any affected program on or before the time that the department provides this notice to

the public under 20.2.70.401 NMAC, except to the extent that minor permit modification procedures require the timing of the notice to be different.

(3) The department shall keep for five years such records and submit to the administrator such information as the administrator may reasonably require to ascertain whether the state program complies with the requirements of the federal act or related applicable requirements.

B. Responses to objections:

(1) No permit for which an application must be transmitted to the administrator under this Part shall be issued by the department if the administrator, after determining that issuance of the proposed permit would not be in compliance with applicable requirements, objects to such issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information.

(2) If the administrator does not object in writing under Paragraph (1) of Subsection B of 20.2.70.402 NMAC, any person may, within 60 days after the expiration of the administrator's 45-day review period, petition the administrator to make such objection. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in 20.2.70.401 NMAC, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the administrator objects to the permit as a result of a petition filed under Paragraph (2) of Subsection B of 20.2.70.402 NMAC, the department shall not issue the permit until the administrator's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to the administrator's objection.

(3) The department, as part of the submittal of the proposed permit to the administrator (or as soon as possible after the submittal for minor permit modification procedures allowed under Subsection B of 20.2.70.404 NMAC), shall notify the administrator and any affected program in writing of any refusal by the department to accept all recommendations for the proposed permit that the affected program submitted during the public or affected program review period. The notice shall include the department's reasons for not accepting any such recommendation. The department is not required to accept recommendations that are not based on federally enforceable applicable requirements. [20.2.70.402 NMAC - Rp, 20.2.70.402 NMAC, 9/15/2025]

20.2.70.403 PETITIONS FOR REVIEW OF FINAL ACTION:

A. Hearing before the board:

(1) Any person who participated in a permitting action before the department and who is adversely affected by such permitting action may file a petition for hearing before the board. For the purposes of 20.2.70.403 NMAC, permitting action shall include the failure of the department to take final action on an application for a permit (including renewal) or permit modification within the time specified in this Part.

(2) The petition shall be made in writing to the board within 30 days from the date notice is given of the department's action and shall specify the portions of the permitting action to which the petitioner objects, certify that a copy of the petition has been mailed or hand-delivered as required by Paragraph (2) of Subsection A of 20.2.70.403 NMAC, and attach a copy of the permitting action for which review is sought. Unless a timely request for hearing is made, the decision of the department shall be final. The petition shall be copied simultaneously to the department

upon receipt of the appeal notice. If the petitioner is not the applicant or permittee, the petitioner shall mail or hand-deliver a copy of the petition to the applicant or permittee. The department shall certify the administrative record to the board.

(3) If a timely request for hearing is made, the board shall hold a hearing within 60 days of receipt of the petition in accordance with New Mexico Air Quality Control Act Section 74-2-7 NMSA 1978.

B. Judicial review:

(1) Any person who is adversely affected by an administrative action taken by the board pursuant to Subsection A of 20.2.70.403 NMAC may appeal to the court of appeals in accordance with New Mexico Air Quality Control Act, Section 74-2-9 NMSA 1978. Petitions for judicial review must be filed no later than 30 days after the administrative action.

(2) The judicial review provided for by 20.2.70.403 NMAC shall be the exclusive means for obtaining judicial review of the terms and conditions of the permit.

[20.2.70.403 NMAC - Rp,
20.2.70.403 NMAC, 9/15/2025]

20.2.70.404 PERMIT MODIFICATIONS:

A. Administrative permit amendments:

(1) An administrative permit amendment is one that:

(a) corrects typographical errors;

(b) provides for a minor administrative change at the source, such as a change in the address or phone number of any person identified in the permit;

(c) incorporates a change in the permit solely involving the retiring of an emissions unit;

(d) requires more frequent monitoring or reporting by the permittee; or

(e) any other type of change which has been determined by the department

and the administrator to be similar to those in Paragraph (1) of Subsection A of 20.2.70.404 NMAC.

(2) Changes in ownership or operational control of a source may be made as administrative amendments provided that:

(a) a written agreement, containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee, has been submitted to the department, and either the department has determined that no other change in the permit is necessary, or changes deemed necessary by the department have been made;

(b) the new owners have submitted the application information required in Paragraph (2) of Subsection D of 20.2.70.300 NMAC;

(c) no grounds exist for permit termination, as set out in Subparagraphs (b) and (c) of Paragraph (3) of Subsection A of 20.2.70.405 NMAC; and

(d) the permittee has published a public notice of the change in ownership of the source in a newspaper of general circulation in the area where the source is located.

(3) The department may incorporate administrative permit amendments without providing notice to the public or affected programs, provided that it designates any such permit modifications as administrative permit amendments and submits a copy of the revised permit to the administrator.

(4) The department shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request. The permittee may implement the changes outlined in Subparagraphs (a) through (d) of Paragraph (1) of Subsection A of 20.2.70.404 NMAC immediately upon submittal of the request for the administrative amendment. The permittee may implement the changes outlined in Subparagraph (e) of Paragraph (1) of

Subsection A of 20.2.70.404 NMAC or Paragraph (2) of Subsection A of 20.2.70.404 NMAC upon approval of the administrative amendment by the department.

B. Minor permit modifications:

(1) Minor permit modification procedures may be used only for those permit modifications that:

(a) do not violate any applicable requirement;

(b) do not involve relaxation of existing monitoring, reporting, or recordkeeping requirements in the permit;

(c) do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(d) do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the permittee has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include any federally enforceable emissions cap assumed to avoid classification as a Title I modification and any alternative emissions limit approved pursuant to regulations promulgated under Section 112(i)(5) of the federal act;

(e) are not Title I modifications; and

(f) are not required by the department to be processed as a significant modification pursuant to Subsection C of 20.2.70.404 NMAC.

(2) A permittee shall not submit multiple minor permit modification applications that may conceal a larger modification that would not be eligible for minor permit modification procedures. The department may, at its discretion, require that multiple

related minor permit modification applications be submitted as a significant permit modification.

(3) An application requesting the use of minor permit modification procedures shall meet the requirements of Subsections C and D of 20.2.70.300 NMAC and shall include:

(a) a description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(b) the applicant's suggested draft permit;

(c) certification by a responsible official, consistent with Subsection E of 20.2.70.300 NMAC, that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and

(d) if the requested permit modification would affect existing compliance plans or schedules, related progress reports, or certification of compliance requirements, an outline of such effects.

(4) The department shall, within 30 days after its receipt of an application for a minor permit modification, review such application for completeness. Unless the department determines that an application is not complete, requests additional information or otherwise notifies the applicant of incompleteness within 30 days of receipt of an application, the application shall be deemed complete. If the application is judged complete, a certified letter to that effect shall be sent to the applicant. If the application is judged incomplete a certified letter shall be sent to the applicant stating what additional information or points of clarification are necessary to judge the application complete.

(5) Within five working days of notification by the department that the minor permit modification application has been determined complete, the applicant shall meet its obligation under

Subsection A of 20.2.70.402 NMAC to notify the administrator of the requested permit modification. The department promptly shall send any notice required under Paragraph (2) of Subsection A of 20.2.70.402 NMAC and Subsection B of 20.2.70.402 NMAC to the administrator and affected programs.

(6) The permittee may make the change proposed in its minor permit modification application immediately after such application is deemed complete. After the permittee makes the change allowed by the preceding sentence, and until the department takes any of the actions specified in Paragraph (7) of Subsection B of 20.2.70.404 NMAC below, the permittee must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the permittee need not comply with the existing permit terms and conditions it seeks to modify. If the permittee fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

(7) The department may not issue a final minor permit modification until after the administrator's 45-day review period of the proposed permit modification or until US EPA has notified the department that the administrator will not object to issuance of the permit modification, although the department may approve the permit modification prior to that time. Within 90 days of ruling the application complete under minor permit modification procedures or within 15 days after the end of the administrator's 45-day review period, whichever is later, the department shall:

(a) issue the permit modification as it was proposed;

(b) disapprove the permit modification application;

(c) determine that the requested

modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or

(d) revise the draft permit modification and transmit to the administrator the new proposed permit modification as required by Subsection A of 20.2.70.402 NMAC.

C. Significant permit modifications:

(1) A significant permit modification is:

(a) any revision to an operating permit that does not meet the criteria under the provisions for administrative permit amendments under Subsection A of 20.2.70.404 NMAC or for minor permit modifications under Subsection B of 20.2.70.404 NMAC above;

(b) any modification that would result in any relaxation in existing monitoring, reporting or recordkeeping permit terms or conditions;

(c) any modification for which action on the application would, in the judgment of the department, require decisions to be made on significant or complex issues; and

(d) changes in ownership which do not meet the criteria of Paragraph (2) of Subsection A of 20.2.70.404 NMAC.

(2) For significant modifications which are not required to undergo preconstruction permit review and approval, changes to the source which qualify as significant permit modifications shall not be made until the department has issued the operating permit modification.

(3) For significant modifications which have undergone preconstruction permit review and approval, the permittee shall:

(a) before commencing operation, notify the department in writing of any applicable requirements and operating permit terms and conditions

contravened by the modification, emissions units affected by the change, and allowable emissions increases resulting from the modification; and

(b)

within 12 months after commencing operation, file a complete operating permit modification application.

(4) Where

an existing operating permit would specifically prohibit such change, the permittee must obtain an operating permit modification before commencing operation or implementing the change.

(5) Significant

permit modifications shall meet all requirements of this Part for permit issuance, including those for applications, public participation, review by affected programs and review by the administrator.

(6) The

department shall complete review on the majority of significant permit modification applications within nine months after the department rules the applications complete.

D. Modifications to acid rain sources: Administrative permit amendments and permit modifications for purposes of the acid rain portion of the permit shall be governed by regulations promulgated by the administrator under Title IV of the federal act.

[20.2.70.404 NMAC - Rp,
20.2.70.404 NMAC, 9/15/2025]

20.2.70.405 PERMIT REOPENING, REVOCATION OR TERMINATION:

A. Action by the department:

(1) Each

permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised for any of the following, and may be revoked and reissued for Subparagraphs (c) or (d) of Paragraph (1) of Subsection A of 20.2.70.405 NMAC:

(a)

additional applicable requirements under the federal act become

applicable to a major source with a remaining permit term of three or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms or conditions have been extended past the expiration date of the permit pursuant to Subsection D of 20.2.70.400 NMAC;

(b)

additional requirements (including excess emissions requirements) become applicable to a source under the acid rain program promulgated under Title IV of the federal act. Upon approval by the administrator, excess emissions offset plans shall be deemed to be incorporated into the permit;

(c)

the department or the administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the terms or conditions of the permit; or

(d)

the department or the administrator determines that the permit must be revised or revoked and reissued to assure compliance with the applicable requirements.

(2)

Proceedings to reopen and revise, or revoke and reissue, a permit shall affect only those parts of the permit for which cause to reopen or revoke exists. Units for which permit conditions have been revoked shall not be operated until permit reissuance. Reopenings shall be made as expeditiously as practicable.

(3) A permit,

or an authorization to operate under a general permit, may be terminated when:

(a)

the permittee fails to meet the requirements of an approved compliance plan;

(b)

the permittee has been in significant or repetitious non-compliance

with the operating permit terms or conditions;

(c)

the applicant or permittee has exhibited a history of willful disregard for environmental laws of any state or Tribal authority, or of the United States;

(d)

the applicant or permittee has knowingly misrepresented a material fact in any application, record, report, plan, or other document filed or required to be maintained under the permit;

(e)

the permittee falsifies, tampers with or renders inaccurate any monitoring device or method required to be maintained under the permit;

(f)

the permittee fails to pay fees required under the fee schedule in 20.2.71 NMAC (Operating Permit Emissions Fees); or

(g)

the administrator has found that cause exists to terminate the permit.

(4) The

department shall, by certified mail, provide a notice of intent to the permittee at least 30 days in advance of the date on which a permit is to be reopened or revoked, or terminated, except that the department may provide a shorter time period in the case of an emergency. The notice shall state that the permittee may, within 30 days of receipt, submit comments or request a hearing on the proposed permit action.

B. Action by the

administrator: Within 90 days, or longer if the administrator extends this period, after receipt of written notification that the administrator has found that cause exists to terminate, modify or revoke and reissue a permit, the department shall forward to the administrator a proposed determination of termination, modification, or revocation and reissuance, as appropriate. Within 90 days from receipt of an administrator objection to a proposed determination, the department shall address and act upon the administrator's objection.

C. Compliance orders:
Notwithstanding any action which may be taken by the department or the administrator under Subsections A and B of 20.2.70.405 NMAC, a compliance order issued pursuant to New Mexico Air Quality Control Act Section 74-2-12 NMSA 1978 may include a suspension or revocation of any permit or portion thereof.
[20.2.70.405 NMAC - Rp, 20.2.70.405 NMAC, 9/15/2025]

20.2.70.406 CITIZEN SUITS:
Pursuant to Section 304 of the federal act, 42 USC 7604, any person may commence certain civil actions under the federal act.
[20.2.70.406 NMAC - Rp, 20.2.70.406 NMAC, 9/15/2025]

20.2.70.407 VARIANCES:
Pursuant to New Mexico Air Quality Control Act Section 74-2-8 NMSA 1978, applicants and permittees may seek a variance from the non-federally enforceable provisions of this part.
[20.2.70.407 NMAC - Rp, 20.2.70.407 NMAC, 9/15/2025]

20.2.70.408 ENFORCEMENT:
Notwithstanding any other provision in the New Mexico state implementation plan approved by the administrator, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of the terms or conditions of a permit issued pursuant to this Part.

A. Information from the use of the following methods is presumptively credible evidence of whether a violation has occurred at the source:

(1) a monitoring or information gathering method approved for the source pursuant to this Part and incorporated in an operating permit; or
(2) compliance methods specified in the New Mexico state implementation plan.

B. The following testing, monitoring or information gathering methods are presumptively credible testing, monitoring or information gathering methods:

(1) any federally enforceable monitoring or testing methods, including those in 40 CFR Parts 51, 60, 61 and 75; and
(2) other testing, monitoring or information gathering methods that produce information comparable to that produced by any method under Subsection A of 20.2.70.408 NMAC or Paragraph (1) of Subsection B of 20.2.70.408 NMAC.
[20.2.70.408 NMAC - Rp, 20.2.70.408 NMAC, 9/15/2025]

20.2.70.409 NMAC to 20.2.70.499 NMAC [RESERVED]

20.2.70.500 NMAC to 20.2.70.599 NMAC [RESERVED]

HISTORY OF 20.2.70 NMAC:
Pre NMAC History: The material in this Part was derived from that previously filed with the commission of public records - state records center and archives.
EIB/AQCR 770, Air Quality Control Regulation 770 - Operating Permits, filed 11/15/1993.

History of Repealed Material:
20.2.70 NMAC, Operating Permits, effective 06/14/2002 – Repealed, effective 9/15/2025 and replaced by 20.2.70 NMAC, Operating Permits, effective 9/15/2025.

Other History:
EIB/AQCR 770, Air Quality Control Regulation 770 - Operating Permits, filed 11/15/1993 was **renumbered** into first version of the New Mexico Administrative Code as 20 NMAC 2.70, Operating Permits, filed 10/30/1995;
20 NMAC 2.70, Operating Permits, filed 10/30/1995 was **renumbered, reformatted and replaced** by 20.2.70 NMAC, Operating Permits, effective 06/14/2002.

GAMING CONTROL BOARD

The New Mexico Gaming Control Board approved the repeal of its rule

15.1.7 NMAC - Gaming Machines, New Games and Associated Equipment (filed 11/13/1998) and replaced it with 15.1.7 NMAC - Gaming Machines, New Games and Associated Equipment (adopted on 8/20/2025), and effective 9/9/2025.

GAMING CONTROL BOARD

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 1 GAMES AND GAMING GENERAL PROVISIONS
PART 7 GAMING MACHINES, NEW GAMES AND ASSOCIATED EQUIPMENT

15.1.7.1 ISSUING AGENCY: New Mexico Gaming Control Board.
[15.1.7.1 NMAC - Rp, 15.1.7.1 NMAC 9/9/2025]

15.1.7.2 SCOPE: This rule applies to all licensees or applicants for licensure, registration, certification, renewal, and other approval relating to gaming operations under the New Mexico Gaming Control Act.
[15.1.7.2 NMAC - Rp, 15.1.7.2 NMAC 9/9/2025]

15.1.7.3 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.
[15.1.7.3 NMAC - Rp, 15.1.7.3 NMAC 9/9/2025]

15.1.7.4 DURATION: Permanent.
[15.1.7.4 NMAC - Rp, 15.1.7.4 NMAC 9/9/2025]

15.1.7.5 EFFECTIVE DATE: September 9, 2025, unless a later date is cited at the end of a section.
[15.1.7.5 NMAC - Rp, 15.1.7.5 NMAC 9/9/2025]

15.1.7.6 OBJECTIVE: This rule establishes standards for the evaluation, testing, approval, modification, maintenance, and disposition of gaming machines, games and associated equipment.
[15.1.7.6 NMAC - Rp, 15.1.7.6 NMAC 9/9/2025]

15.1.7.7 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 Gaming Control Act.

B. “Central monitoring system” means the hardware and software at the board’s designated location used to control, monitor, and retrieve information from, all licensed gaming machines.

C. “Component” means a part of a gaming machine that is necessary for the proper operation and essential function of the gaming machine, including but not limited to a hopper, coin acceptor, microprocessor and related circuitry, programmed erasable programmable read-only memory (EPROM), bill acceptor, progressive system, monitoring system, and meter and any other parts the board determines are components; a component is necessary for the proper operation and essential function of a gaming machine if it affects, directly or indirectly, the gaming machine’s operation, game outcome, security, recordkeeping, or communication with the central monitoring system; parts such as light bulbs, buttons, wires, decorative glass, fuses, batteries, handles, springs, brackets, and locks are not components.

D. “Conversion” means a change from one pre-approved configuration to another pre-approved configuration.

E. “Critical memory” means memory that is used to store all data that is critical to the continued operation of the gaming device, including, but not limited to all electronic meters as required including last bill data, power up and door open metering; current credits; gaming device/game configuration data; information pertaining to a minimum of the last 10 plays with the random number generators (RNG) outcome (including the current game, if incomplete); and software state (the last normal state, last status or tilt status the gaming device software was in before interruption).

F. “Delayed ticket” means a ticket generated by a ticket-in, ticket-out (TITO) enabled slot machine which contains all information necessary for validation, but for which the TITO system has not yet received the validation information.

G. “Event” means an occurrence of elements or particular combinations of elements that are available on the particular gaming device.

H. “Game outcome” means the final result of the wager.

I. “Gaming device” means associated equipment or a gaming machine and includes a system for processing information that can alter the normal criteria of random selection that affects the operation of a game or determines the outcome of a game.

J. “Gaming media” means any associated equipment that contains software which can only be used in a gaming device, affects game outcome and is programmed by the gaming machine manufacturer.

K. “Incomplete ticket” means a ticket that contains, at a minimum, the ticket validation number printed across the leading edge of the ticket, but is not of a quality that can be validated and redeemed through the automated functionality of a TITO system.

L. “Machine entry access log” means a written record that documents the names and activities of persons accessing the

interior of the gaming machine and the most recent of which is maintained by a gaming operator licensee inside the locked cabinet of a gaming machine.

M. “Modification” means a change or alteration in an approved gaming machine that affects the manner or mode of play or the percentage paid by the gaming machine, including a change in control or graphics programs.

N. “Multigame” means a gaming device that offers a menu of more than one game to the player.

O. “Multi-station” means a gaming device that incorporates more than one player-terminal.

P. “Online ticket” means a ticket which contains all information necessary for validation, which may be presented for redemption to the TITO system before its expiration.

Q. “Redeemed ticket” means a ticket which has been properly validated and redeemed by the TITO system and is no longer reflected as an active (i.e., unredeemed) ticket in the TITO system database.

R. “Terminal controller” means the central hardware and software that monitors and controls one or more gaming machines on the licensed premises.

S. “Ticket redemption kiosk” means a device which uses bi-directional communications to the TITO system for redemption of tickets in exchange for cash or tokens. Kiosks are not capable of gaming functionality and may not issue tickets in exchange for cash or tokens.

T. “TITO system” means a ticket-in-ticket-out system which has a centralized TITO validation component and allows for issuance, validation, and acceptance of online tickets at TITO-enabled gaming devices or kiosks, for gaming operations.

U. “TITO validation component” means that function of the TITO system whereby the

TITO system receives information about a ticket which is presented for validation, compares the questioned ticket information to its database of known ticket information, and determines the validity of the questioned ticket. The TITO validation component is a bi-directional, centralized function within the TITO system which serves to validate the tickets for redemption.

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

[15.1.7.7 NMAC - Rp, 15.1.7.7 NMAC 9/9/2025]

15.1.7.8 EVALUATION OF NEW GAMING MACHINES AND MODIFICATIONS TO PREVIOUSLY-APPROVED GAMING MACHINES:

A. All gaming machines operated in the state shall meet the specifications set forth in this section and shall conform to the exact specifications of the prototype tested and approved by the board or a board approved independent gaming test laboratory.

B. No electronic or mechanical gaming machine shall be used prior to licensure by the board. Once the board has approved a new gaming machine or a modification to a pre-approved gaming machine, a gaming operator licensee shall file an application to obtain a gaming machine license or a notice of modification to pre-approved gaming machine before offering the machine for play.

C. Except as otherwise determined by the board, the following shall not be used for gaming by any gaming operator licensee without the prior written approval of the board: bill acceptors, coin or token acceptors, progressive controllers, progressive displays, or associated equipment as determined by the board.

D. Any license or approval issued by the board shall specifically describe the gaming machine or gaming device approved.

E. All of the following must be tested before licensure or approval for use:

- (1) a gaming machine;
- (2) other devices or equipment as the board deems necessary to ensure compliance with the act and this rule; and
- (3) any modification to the gaming machines and equipment described in this section.

F. The board has the authority to take, authorize, or require any of the following actions with respect to testing a gaming machine or modification to an existing gaming machine:

- (1) employ the services of an outside independent gaming test laboratory to conduct the testing;

- (2) bill a licensee who requests licensure or approval of a gaming machine or equipment through any billing mechanism the board deems appropriate for all costs of testing;

- (3) if not already in the laboratory’s possession, require transportation of one working model of a new gaming machine to an independent gaming laboratory designated by the board or to some other location for review and inspection; with each gaming machine submitted for approval, the applicant must submit two copies of prints, schematics, block diagrams, circuit analyses, technical and operation manuals, program source codes, and any other information requested by the board; the gaming laboratory may disassemble the model and may destroy electronic components to fully evaluate the gaming machine;

- (4) require that the applicant provide specialized equipment or the services of an independent technical expert to evaluate the gaming machine;

- (5) require the manufacturer seeking approval of the gaming machine to pay all costs of transportation, review, inspection and testing; and

- (6) if requested by the board, require transportation of one working model of a new gaming machine, and any

associated equipment to the board for communications testing.

G. Any applicant whose application is denied by the board under this rule may request a hearing before the board to appeal the denial.

[15.1.7.8 NMAC - Rp, 15.1.7.8 NMAC 9/9/2025]

15.1.7.9 SECURITY AND AUDIT SPECIFICATIONS:

A. A gaming machine shall meet all of the following security and audit specifications:

- (1) be controlled by a microprocessor;
- (2) be connected and communicating to an approved central monitoring system and conform exactly to the protocol and internal control procedures employed by the central monitoring system provider and the board;
- (3) have an internal enclosure for the logic board that is locked or sealed, or both, before game play;
- (4) be capable of continuing a game without loss of data after a power failure;
- (5) have game data recall for the current game and, at a minimum, the previous four games;
- (6) have a random selection process that satisfies the ninety-nine percent confidence level using any of the following tests: standard chi-squared, runs, serial correlation, or other standard mathematical test for randomness as approved by the board;
- (7) clearly display applicable rules of play and the payout schedule; and
- (8) display an accurate representation of each game outcome utilizing rotating reels, video monitors, or other type of display mechanism that accurately depicts the outcome of the game.

B. The gaming machine shall display an external registration tag. The registration tag shall be placed on the approved gaming device at the licensed premises in a location that is clearly

visible for inspection by an agent of the board.

[15.1.7.9 NMAC - Rp, 15.1.7.9 NMAC 9/9/2025]

15.1.7.10 CONTROL PROGRAM SPECIFICATIONS:

A. Except as otherwise authorized by the board all gaming devices which have control programs residing in storage media that is not alterable through any use of the circuitry or programming of the gaming device itself shall employ a mechanism to verify executable program code and data which may affect payouts or game outcome.

B. The mechanism used shall detect ninety-nine point ninety-nine percent of all possible media failures and shall reside in and execute from storage media that is not alterable through any use of the circuitry or programming of the gaming device.

C. All gaming devices that have control programs residing in storage media that are alterable through any use of the circuitry or programming of the gaming device itself shall:

(1) employ a mechanism approved by the board which verifies that all control program components, including data and graphic information, are authentic copies of the approved components; the board may require tests to verify that components used by licensees are approved components; the verification mechanism shall prevent the execution of any control program component if any component is determined to be invalid; any program component of the verification mechanism shall reside in and execute from storage media that is not alterable through any use of the circuitry or programming of the gaming device;

(2) employ a mechanism which tests unused or unallocated areas of any alterable memory for unintended programs or data and tests the structure of the storage media for integrity; the mechanism shall prevent further play of the gaming device if unexpected

data or structural inconsistencies are found;

(3)

provide a mechanism for keeping a record, anytime a control program component is added, removed, or altered; the record shall contain the date and time of the action, identification of the component affected, the reason for the modification and any pertinent validation information;

(4) provide

a mechanism for extracting the validation information for all control program components on demand via a communication port; a separate mechanism shall be provided that tests the integrity of the validation information delivered via the communication port.

D. Any gaming device executing control programs from electrically erasable or other volatile memory shall employ a mechanism which verifies on a continuous basis, that all control program components residing therein, including fixed data and graphic information are authentic copies of the approved components. Additionally, control program components, excluding graphics and sound components, shall be fully verified at the time of loading into the electrically erasable or other volatile memory and upon any significant event, including but not limited to door closings, game resets, and power up. The mechanism shall prevent further play of the gaming device if an invalid component is detected.

E. Unless otherwise approved any gaming device that allows the adding, removing, or alteration of any control program components through a data communication facility shall employ a mechanism for preventing any change from taking place that would interrupt a game in progress. Any device, technique or network which may be used to accomplish the adding, removing, or alteration of any control program components may be considered a gaming device that shall receive separate approval.

F. Gaming devices with control programs or other

security programs residing in conventional read only memory (ROM) devices such as EPROM's or fusible-link PROM's shall have the unused portions of the memory device that contains the program set to zero.

G. Gaming device

control programs shall check for any corruption of random access memory locations used for crucial gaming device functions including, but not limited to, information pertaining to the play and final outcome of the most recent game, at minimum 10 games prior to the most recent game, random number generator outcome, credits available for play, and any error states. These memory areas shall be checked for corruption following game initiation but prior to display of the game outcome to the player. Detection of any corruption that cannot be corrected shall be deemed to be a game malfunction and shall result in a tilt condition.

H. All gaming

devices shall have the capacity to display a complete play history for the most recent game played and 10 games prior to the most recent game. Retention of play history for additional prior games is encouraged. The display shall indicate the game outcome (or a representative equivalent), intermediate play steps (such as a hold and draw sequence or a double-down sequence), credits available, bets placed, credits or coins paid, and credits cashed out. Gaming devices offering games with a variable number of intermediate play steps per game may satisfy this requirement by providing the capability to display the last 50 play steps. The board may waive this standard for a particular device or modification if the hardware platform on which the device is based was originally approved prior to the adoption of this standard as modified and the manufacturer can demonstrate to the board's satisfaction that the imposition of the full standard would hinder the design of the device or would otherwise pose a hardship due to capacity limitations in the approved platform

I. The control program shall provide the means for

on-demand display of the electronic meters utilizing a key switch on the exterior of the gaming device.

J. Either the TITO system or TITO-enabled gaming devices shall maintain an audit log that records, at a minimum, the last 25 ticket-in transactions. Upon ticket redemption, the log shall properly update with the ticket redemption information, including the date and time of redemption, amount of ticket, and at least the last four digits of the ticket validation number.

K. Either the TITO system or TITO-enabled gaming devices shall maintain an audit log that records, at a minimum, the last 25 ticket out transactions. Upon ticket issuance, the log shall properly update with the ticket issued information, including the date and time of issuance, amount of ticket, and at least the last four digits of the ticket validation number.

[15.1.7.10 NMAC - Rp, 15.1.7.10 NMAC 9/9/2025]

15.1.7.11 GENERAL TICKETING STANDARDS:

A. Racetrack licensees may offer ticketing systems whereby TITO-enabled slot machines accept and issue tickets in exchange for cash, tokens, free play credits, or tickets using TITO systems.

B. TITO-enabled slot machines shall be capable of issuing and accepting only the racetrack licensee's tickets. The board must approve the design of all tickets.

C. All tickets shall have the following minimum characteristics:

(1) a primary validation number, which must be printed on the leading edge of the ticket;

(2) a secondary validation number, identical to the primary validation number, which shall be printed on the body of the ticket;

(3) at least one unique identifier, such as a barcode;

(4) property name;

(5) date and time the ticket was generated;

(6) dollar value of the ticket printed both numerically and in text;

(7) a statement that the ticket will expire 180 days after issuance; and

(8) sequence number of the ticket printed by the slot machine.

D. TITO systems shall provide for on-line, real-time validation of online tickets. Prior to issuing or authorizing issuance of consideration (whether cash, tokens, credits, or another ticket) in exchange for a ticket, the TITO system shall validate the ticket from the TITO validation component. Racetrack licensees shall have at least one TITO validation component which may be located in a cashier cage.

E. If a ticket has a value that is not evenly divisible by the wagering denomination, when inserted into a TITO-enabled slot machine, the machine shall:

(1) return the ticket to the patron;

(2) accept the ticket and allow for insertion of additional wagering consideration if the ticket value is less than the wagering denomination; or

(3) accept the ticket and either display the indivisible portion of the ticket on a credit meter or issue another ticket for that indivisible portion.

F. A TITO-enabled slot machine shall be capable of generating two types of tickets: on-line tickets and delayed tickets.

(1) On-line tickets: If a TITO-enabled slot machine is properly communicating with the TITO system, the machine will be able to generate an on-line ticket. When a patron requests the issuance of a ticket in this situation, the machine will generate a ticket that utilizes the validation information generated by the TITO system or the machine, and communicate to the TITO system that it has successfully completed the transaction.

(2) Delayed tickets: If a TITO-enabled slot machine loses communication with a TITO system before validation information is successfully communicated to the TITO system for the last ticket out transaction, then all subsequent cash out attempts must result in the gaming machine issuing payment to the player via another available means such as, but not limited to, a hopper pay or a hand pay. The gaming machine shall be capable of storing delayed ticket data until such time that it has been successfully communicated to the TITO system.

(a) TITO systems may include a function whereby, prior to the restoration of communications, delayed ticket information may be manually input into the TITO system at a cashier station or other secure location.

(b) When communications are restored, delayed ticket information provided by the machine to the TITO system must be reconciled to the delayed tickets that were manually redeemed.

G. Tickets expire 180 days after issuance which is explicitly stated on each ticket. Upon expiration, the ticket is no longer valid for gaming purposes. TITO systems must recognize expired tickets as invalid and unredeemable.

H. The reporting requirements for ticketing transactions are defined in the minimum internal control standards established by the board.

I. Ticket redemption kiosks shall perform to the same security standards as TITO-enabled slot machines, and shall include logs as required throughout this rule.

J. Kiosks shall also have a total in meter which accumulates the total value of all tickets accepted by the device, and a total out meter which accumulates the total value of payments issued by the device.

K. Kiosks redeem valid tickets for cash and tokens only; they may not generate and issue tickets. [15.1.7.11 NMAC - Rp, 15.1.7.11 NMAC 9/9/2025]

**15.1.7.12 ACCOUNTING
METER SPECIFICATIONS:**

A. A gaming machine shall be equipped with electronic meters.

B. A gaming machine's electronic meters shall tally totals to eight digits and be capable of rolling over when the maximum value is reached.

C. A gaming machine's control program shall provide the means for on-demand display of the electronic meters utilizing a key switch on the exterior of the machine.

D. Electronic meters shall have an accuracy rate of ninety-nine point ninety-nine percent or better.

E. The required electronic meters shall comply with the following:

(1) the coin-in meter shall cumulatively count the value or number of credits, coins or tokens that are wagered by actual credits, coins or tokens that are inserted, or credits bet, or both;

(2) the coins-out meter or amount won meter shall cumulatively count the value or number of coins, credits, or tokens won as a result of game play, including hand-paid jackpots; notwithstanding the foregoing, a manufacturer may choose to incorporate a coin-out meter and hand-pay jackpot meter as separate meters;

(3) the coins-dropped meter shall maintain a cumulative count of the value or number of coins or tokens diverted into a drop bucket plus the value of the bills that have been inserted into the bill acceptor;

(4) the games played meter shall display the cumulative number of games played;

(5) a cabinet door meter shall display the number of times the front cabinet door was opened and a MEAL log to record each of them; and

(6) the drop door meter shall display the number of times the drop door or the bill acceptor door was opened;

(7) the ticket/voucher-in meter shall cumulatively count the value or number of tickets accepted by the machine;

(8) the ticket/voucher-out meter shall cumulatively count the value or number of tickets issued by the machine.

F. If a gaming device is equipped with a bill acceptor, then the device shall be equipped with a bill acceptor meter that records the following:

(1) the total number of bills that were accepted;

(2) an accounting of the number of each denomination of bill accepted; and

(3) the total dollar amount of bills accepted.

G. A gaming machine shall have meters that continuously display all of the following information relating to current play or monetary transaction:

(1) the number of coins, tokens, or credits wagered in the current game;

(2) the number of coins, tokens, or credits won in the current game, if applicable;

(3) the number of coins or tokens paid by the hopper for a credit cash-out or a hand pay from a winning outcome; and

(4) the number of credits available for wagering, if applicable.

H. Electronically stored meter information required by this rule shall be preserved after a power loss to the gaming device and must be maintained for a period of not less than 180 days.

I. A gaming machine shall not have a mechanism that causes the required electronic accounting meters to clear automatically when an error occurs.

J. The required electronic accounting meters shall be cleared only if approved by the board.

K. Required meter readings shall be recorded before and after the electronic accounting meter is cleared.

[15.1.7.12 NMAC - Rp, 15.1.7.12 NMAC 9/9/2025]

**15.1.7.13 RANDOMNESS
EVENTS AND RANDOMNESS
TESTING:**

A. A random event is an event with a given set of possible outcomes that has a given probability of occurrence called the distribution. Two events are called independent if the outcome of one event does not have an influence on the outcome of the other event and the outcome of one event does not affect the distribution of another event.

B. A gaming machine shall be equipped with a random number generator to make the selection process. A selection process is considered random if all of the following specifications are met:

(1) the random number generator satisfies not less than a ninety-nine percent confidence level using the standard chi-squared analysis;

(2) the random number generator does not produce a statistic with regard to producing patterns of occurrences; the random number generator is considered random if it meets the ninety-nine percent confidence level with regard to the runs test or any similar pattern testing statistic;

(3) the random number generator produces numbers that are independently chosen without regard to any other symbol produced during that play; this test is the correlation test; the random number generator is considered random if it meets the ninety-nine percent confidence level using standard correlation analysis;

(4) the random number generator produces numbers that are chosen without reference to the series of outcomes in the previous game; this test is the serial correlation test; the random number generator is considered random if it meets the ninety-nine percent confidence level using standard serial correlation analysis;

(5) the random number generator and random selection process shall be impervious to influences from outside the gaming device, including, but not limited

to, electromagnetic interference, electrostatic interference, and radio frequency interference; and

(6) a gaming machine shall use appropriate communication protocols to protect the random number generator and random selection process from influence by associated equipment that is conducting data communications with the gaming machine.

[15.1.7.13 NMAC - Rp, 15.1.7.13 NMAC 9/9/2025]

15.1.7.14 SAFETY AND POWER SUPPLY SPECIFICATION:

A. Electrical and mechanical parts and design principles shall not subject a player to physical hazards. A gaming machine shall be electronically tested to the UL-22 standard for amusement and gaming devices or an equivalent standard. Testing may be done by any nationally or internationally recognized electrical safety testing laboratory.

B. Spilling a conductive liquid on the gaming machine shall not create a safety hazard or alter the integrity of the gaming device's performance.

C. The power supply used in a gaming machine shall be designed to minimize leakage of current in the event of an intentional or inadvertent disconnection of the alternate current power ground.

D. A surge protector shall be installed on each gaming machine. The surge protector may be internal to the power supply or external.

E. An on and off switch that controls the electrical current used to operate the gaming machine shall be located in an accessible place in the interior of the gaming machine.

F. The gaming machine power supply filtering shall be sufficient to prevent disruption of the gaming machine by a repeated switching on and off of the AC power.

G. Except in the case of total memory failure, if the

gaming machine is still operable, a gaming machine shall be capable of continuing the current play with all the current play features after a gaming device malfunction is cleared. [15.1.7.14 NMAC - Rp, 15.1.7.14 NMAC 9/9/2025]

15.1.7.15 COIN AND TOKEN ACCEPTOR SPECIFICATIONS:

A. At least one electronic coin or token acceptor shall be installed in each gaming machine unless the gaming machine accepts bills only.

B. A coin or token acceptor shall be evaluated by an independent testing laboratory approved by the board and approved by the board to indicate that it meets the requirements of this rule.

C. The coin or token acceptor shall be designed to accept designated coins or tokens and to reject others.

D. The coin or token acceptor on a gaming machine shall be designed to prevent the use of cheating methods, including, but not limited to, slugging, stringing, or spooning.

E. A coin or token that is accepted but not credited to the current game shall be returned to the player by activating the hopper or crediting toward the next play of the gaming device. The gaming device control program must be capable of handling rapidly fed tokens so that instances where a token is accepted but not credited to the current game are minimized.

F. A gaming device must use a coin or token acceptor that accepts or rejects a token on the basis of metal composition, mass, composite makeup, or equivalent security.

[15.1.7.15 NMAC - Rp, 15.1.7.15 NMAC 9/9/2025]

15.1.7.16 BILL ACCEPTOR SPECIFICATIONS:

A. A gaming device may have a bill acceptor installed into which a patron may insert currency or a ticket in exchange for an equal

value of gaming device credits. The patron shall be able to obtain an equal number of tokens or credits for the amount of currency that was inserted into the bill acceptor.

B. A bill acceptor shall have software programs that enable the acceptor to differentiate between genuine and counterfeit bills to a high degree of accuracy. Bill acceptors may utilize flash technology upon approval of the board after evaluation by an independent testing laboratory.

C. A bill acceptor shall be equipped with a bill acceptor drop box to collect the currency inserted into the bill acceptor. The bill acceptor shall:

(1) be housed within the gaming machine or, if mounted on the outside of the gaming machine, be contained in a locked compartment; the key to such compartment shall be different from any other key on the gaming machine; and

(2) be equipped with a bill acceptor drop box that includes a stacker; the drop box shall be identifiable to the gaming machine from which it was removed and have a separate lock to access the contents of the bill acceptor drop box; the key to the lock shall not access any other area of the gaming machine. [15.1.7.16 NMAC - Rp, 15.1.7.16 NMAC 9/9/2025]

15.1.7.17 AUTOMATIC LIGHT ALARM SPECIFICATIONS:

A light shall be installed on the top of the gaming machine that automatically illuminates when the door to the gaming machine is opened or when associated equipment that may affect the security or operation of the gaming machine is exposed, if the equipment is physically attached to the gaming machine.

[15.1.7.17 NMAC - Rp, 15.1.7.17 NMAC 9/9/2025]

15.1.7.18 INTERIOR OF GAMING MACHINE; LOGIC BOARDS:

A. The internal space of a gaming device must not be readily accessible when the cabinet

door is closed. The cabinet door of the gaming device must be both locked and monitored.

B. Access to the area described in Subsection C of 15.1.7.18 NMAC is prohibited without prior notice to the board, including the name of the person seeking access, the person's affiliation with the gaming operator licensee or owner of the gaming device, and the date, time, and purpose of such access. Unauthorized tampering or entrance into the logic area without prior notice is grounds for disciplinary action.

C. The logic boards, program storage medium, and RAM or non-volatile memory of a gaming device must be contained in a separate, locked enclosure within the gaming device.
[15.1.7.18 NMAC - Rp, 15.1.7.18 NMAC 9/9/2025]

15.1.7.19 HARDWARE SWITCH SPECIFICATIONS:

A. A hardware switch shall not be installed if it alters the pay tables or payout percentages in the operation of a gaming machine.

B. A hardware switch may be installed to control graphic routines, speed of play, sound, or other board-approved cosmetic play features.
[15.1.7.19 NMAC - Rp, 15.1.7.19 NMAC 9/9/2025]

15.1.7.20 MULTIGAMES:

A. A multigame may have various games with configurable percentages. A multigame may be approved by the board if, in addition to any other requirements in this rule, the following eight-digit electronic meters are available upon display for each game offered on the menu: credits wagered or equivalent, and credits won or equivalent.

B. If the method of configuring the game menu may be accomplished by entering a configuration mode of the device, then the method employed shall meet both of the following standards:

(1) the method has sufficient safeguards to prevent unauthorized access; and

(2) the method does not result in data loss or corruption of data sent to the central monitoring system.
[15.1.7.20 NMAC - Rp, 15.1.7.20 NMAC 9/9/2025]

15.1.7.21 DISPLAY OF RULES OF PLAY:

A. The rules of play for a gaming machine shall be displayed on the face or screen of the gaming device or capable of display at the player's option through use of an easily-accessible help screen.

B. The rules of play shall be evaluated by the independent testing laboratory designated by the board and shall be approved by the board. The board may reject the rules if the board determines that the rules are incomplete, conflicting, confusing, or misleading.

C. The rules of play shall be kept under glass or other transparent substance.

D. The rules of play shall not be altered without prior approval from the board.

E. The display of the rules of play, stickers or other removable devices shall not be placed on the gaming device face unless their placement is approved by the board.
[15.1.7.21 NMAC - Rp, 15.1.7.21 NMAC 9/9/2025]

15.1.7.22 ERROR CONDITIONS AND AUTOMATIC CLEARING:

A. A gaming machine shall be capable of detecting and displaying the following conditions: power reset, door open, and inappropriate coin-in or token-in if the coin or token is not automatically returned to the player.

B. The conditions described in Subsection A of 15.1.7.22 NMAC above shall be automatically cleared by the gaming machine upon initiation of a new play sequence.
[15.1.7.22 NMAC - Rp, 15.1.7.22 NMAC 9/9/2025]

15.1.7.23 ERROR CONDITIONS AND CLEARING BY AN ATTENDANT:

A. A gaming machine shall be capable of detecting and displaying, and an attendant may clear, all of the following error conditions:

(1) coin- or token-in jam;
(2) coin- or token-out jam;
(3) hopper empty or timed-out;
(4) RAM error;
(5) hopper runaway or extra coin or token paid out;
(6) coin- or token-in error conditions;
(7) reel spin error of any type, including a misindex condition of rotating reels; the specific reel number must be identified in the error indicator; and
(8) low RAM battery, for batteries external to the RAM itself, or low power source.

B. A description of the gaming machine error codes and their meanings shall be contained inside each gaming machine.
[15.1.7.23 NMAC - Rp, 15.1.7.23 NMAC 9/9/2025]

15.1.7.24 HOPPER MECHANISM SPECIFICATIONS:

A. If a gaming machine is equipped with a hopper, the hopper shall be designed to detect all of the following and force the gaming device into a tilt condition if one of the following occurs:

(1) jammed coin or token;
(2) extra coin or token paid out;
(3) hopper runaway; or
(4) hopper empty condition.

B. The gaming machine control program shall monitor the hopper mechanism for the error conditions specified in Subsection A of 15.1.7.24 NMAC above in all game conditions.

C. All coins or tokens paid from the hopper mechanism shall be accounted for by the gaming

machine, including, to the extent possible, coins or tokens paid as extra coins or tokens during a hopper malfunction.

D. Hopper pay limits shall be designed to permit compliance by a gaming operator licensee with all applicable tax laws, rules and regulations.
[15.1.7.24 NMAC - Rp, 15.1.7.24 NMAC 9/9/2025]

15.1.7.25 TICKET PRINTER SPECIFICATIONS:

A. A ticket printer shall be capable of producing the following:

- (1) date and time;
- (2) identification number of the gaming machine;
- (3) credits and their values; and
- (4) validation number.

B. The ticket printer shall be capable of sensing a paper out condition and completing printing of any unprinted tickets after the paper out fault has been cleared.

C. The machine shall either keep a duplicate copy or print only one copy to the player but have the ability to retain the last ticket-out information to resolve player disputes. In addition, a system approved by the board shall be used to validate the payout ticket, and the ticket information on the system shall be retained at least as long as the ticket is valid at that location.

D. Ticket printers shall be mounted inside a secure area of the TITO-enabled gaming device.
[15.1.7.25 NMAC - Rp, 15.1.7.25 NMAC 9/9/2025]

15.1.7.26 BIDIRECTIONAL COMMUNICATION:

A gaming machine that is capable of bidirectional communication with internal or external associated equipment shall use a communication protocol that ensures that erroneous data or signals will not adversely affect the operation of the gaming device.

[15.1.7.26 NMAC - Rp, 15.1.7.26 NMAC 9/9/2025]

15.1.7.27 THEORETICAL PERCENTAGE PAYOUT REQUIREMENTS:

A. During the expected lifetime of the gaming machine, the gaming machine shall not pay out less than eighty percent.

B. The theoretical payout percentage shall be determined using standard methods of the probability theory. The percentage shall be calculated using the highest level of skill where player skill impacts the payback percentage.

C. A gaming machine shall have a probability of obtaining the single highest posted maximum payout of more than 1 in 50,000,000.
[15.1.7.27 NMAC - Rp, 15.1.7.27 NMAC 9/9/2025]

15.1.7.28 REVOCATION OF LICENSE OR APPROVAL:

A. The board may revoke the license or approval of a gaming machine if the board determines, in its discretion, that the gaming machine:

- (1) does not perform in the manner described in the application;
- (2) is defective or malfunctions;
- (3) has a detrimental impact on the conduct of the gaming operation; or
- (4) adversely affects the computation of taxes due, but not limited to, inaccurate computation, defects, or malfunctions.

B. The board shall notify, in writing, the manufacturer or distributor of the gaming machine of the revocation of the license or approval. The board shall advise the manufacturer or distributor of the date on which use of the gaming machine shall cease.

C. The board shall notify, in writing, the gaming operator licensees that use the gaming machine of the revocation of the license or approval. The board shall advise the licensees of the date on which use of the gaming machine must cease.

D. A gaming operator licensee or applicant shall cease using, on the date established by the board, the gaming machine for which the license or approval has been revoked. The licensee shall notify the board, in writing, if the licensee believes it cannot cease use of the gaming machine by the established date and shall request an extension of time. The board shall advise the gaming operator licensee or applicant, in writing, whether the requested extension is approved or denied.
[15.1.7.28 NMAC - Rp, 15.1.7.28 NMAC 9/9/2025]

15.1.7.29 NEW OR MODIFIED GAMING DEVICES; ADDITIONAL NOTICE REQUIREMENTS:

A. The manufacturer or distributor of gaming machine shall notify the board, in writing, of any problems, defects, or malfunctions of any gaming machine that has been approved by the board if the problem, defect, or malfunction affects game integrity or is recurring.

B. The manufacturer or distributor of a gaming machine shall advise the board, in writing, if any other jurisdiction has revoked the approval of any gaming machine approved or licensed by the board.

C. A gaming operator licensee or applicant shall notify the board, in writing, of any problems, defects, or malfunctions that affect the fairness or integrity of the operation or play of any gaming machine that has been approved by the board and is used by the licensee, or is proposed for use by the applicant, in the state.

D. A gaming operator licensee or applicant shall notify the board, in writing, if the approval of a gaming machine approved by the board and used by the gaming operator licensee, or proposed to be used by the gaming operator licensee applicant, has been revoked by any other jurisdiction.

[15.1.7.29 NMAC - Rp, 15.1.7.29 NMAC 9/9/2025]

15.1.7.30 APPROVAL OF ASSOCIATED EQUIPMENT

AND MODIFICATION OF PREVIOUSLY APPROVED ASSOCIATED EQUIPMENT;

APPROVAL REQUIRED: Except as otherwise determined by the board, a manufacturer or distributor of associated equipment shall not distribute associated equipment or any modification thereto to a gaming operator licensee unless the board has approved the associated equipment or modification.

[15.1.7.30 NMAC - Rp, 15.1.7.30 NMAC 9/9/2025]

15.1.7.31 ASSOCIATED EQUIPMENT AND MODIFICATIONS; APPLICATION FOR APPROVAL:

A. An applicant for approval of, or modification of existing associated equipment shall; submit an application to the board on forms provided or approved by the board.

B. The following information shall be included on the application:

(1) the name, business address, and business telephone number of the manufacturer or distributor;

(2) the federal identification number and New Mexico taxpayer identification number, or social security number of the manufacturer or distributor;

(3) a list of the jurisdictions that have approved the associated equipment and a copy of the document of approval from each jurisdiction; and

(4) additional information deemed necessary by the board to enable complete understanding of the operation and function of the associated equipment for which approval is sought.

C. The board has the authority to take, authorize, or require each of the following actions:

(1) employ the services of an outside independent gaming test laboratory to conduct the testing;

(2) bill a licensee who requests licensure or approval of associated equipment

through any billing mechanism the board deems appropriate for all costs of testing;

(3) require transportation of not more than two working models of the associated equipment to a designated independent laboratory for review and inspection. The laboratory may dismantle the associated equipment and may destroy the electronic components in order to fully evaluate the equipment;

(4) require that the applicant provide specialized equipment or the services of an independent technical expert to evaluate the associated equipment; and

(5) require the manufacturer or distributor seeking approval of the associated equipment to pay all the costs of transportation, review, inspection and testing.

D. If the board requires the manufacturer or distributor of associated equipment to submit the associated equipment to an independent laboratory for testing, then the manufacturer or distributor shall provide the following information to the independent laboratory:

(1) the information set forth in Paragraphs (1) through (5) of Subsection B of 15.1.7.31 NMAC above;

(2) a complete, comprehensive, and technically accurate description and explanation of the associated equipment and its intended use in both technical and lay language; the document must be signed under penalty of perjury;

(3) detailed operating procedures of the associated equipment; and

(4) details of all tests previously performed on the associated equipment, the conditions and standards under which the tests were performed, and the person or persons who conducted the tests.

E. Upon testing of any associated equipment, the independent laboratory shall provide the board with documentation of the following:

(1) details of the tests performed on the associated equipment;

(2) results of tests performed on the associated equipment;

(3) detailed operating procedures of the associated equipment;

(4) percentage calculations of the associated equipment, if applicable, and

(5) any other information deemed necessary by the board to ensure compliance with the act and this rule.

F. A gaming operator licensee shall only install or use associated equipment that has been approved by the board after determination that the associated equipment is in compliance with the technical standards set forth in this rule.

G. After the board determines whether to approve or disapprove the associated equipment, the board shall notify the manufacturer or distributor of its decision, in writing.

H. A gaming operator licensee shall not alter the manner in which associated equipment operates or revise or modify the associated equipment without the prior written approval of the board.

[15.1.7.31 NMAC - Rp, 15.1.7.31 NMAC 9/9/2025]

15.1.7.32 WAIVER OF EVALUATION AND TESTING REQUIREMENTS:

The board may waive, in the board's discretion, the evaluation and testing requirements described in this rule if the applicant provides evidence satisfactory to the board that the gaming device sought to be approved is identical in all material respects to a model that has been specifically tested and approved for current play by gaming officials in Nevada or New Jersey.

[15.1.7.32 NMAC - Rp, 15.1.7.32 NMAC 9/9/2025]

15.1.7.33 REVOCATION OF APPROVAL OF ASSOCIATED EQUIPMENT OR MODIFICATION:

A. The board may revoke approval of associated equipment or any modification thereto, if the board finds that the associated equipment:

- (1) does not perform in the manner described in the application;
- (2) is defective or malfunctions frequently;
- (3) has a detrimental impact on the conduct of a gaming operation; or
- (4) adversely affects the computation of taxes for reasons including, but not limited to, inaccurate computation, defects, or malfunctions.

B. The board shall notify, in writing, the manufacturer or distributor of the associated equipment of the revocation of approval. The board shall advise the manufacturer or distributor of the associated equipment of the date on which use of the associated equipment must cease.

C. The board shall notify, in writing, the gaming operator licensees that use, or applicants that propose to use, the associated equipment of revocation of approval. The board will advise the gaming operator licensee or applicant of the date on which the use of the associated equipment must cease.

D. A gaming operator licensee or applicant shall cease using the associated equipment for which approval has been revoked by the date established by the board. The licensee shall notify the board, in writing, if the licensee believes it cannot cease use of the associated equipment by the established date and shall request an extension of time. The board shall advise the gaming operator licensee or applicant, in writing, whether the requested extension is approved or denied.

[15.1.7.33 NMAC - Rp, 15.1.7.33 NMAC 9/9/2025]

15.1.7.34 ASSOCIATED EQUIPMENT; ADDITIONAL NOTICE REQUIREMENTS:

A. The manufacturer or distributor of associated

equipment shall notify the board, in writing, of any problems, defects, or malfunctions of any associated equipment that has been approved by the board if the problem, defect, or malfunction affects game integrity or is recurring.

B. The manufacturer or distributor of associated equipment must advise the board, in writing, if any other jurisdiction has revoked the approval of any associated equipment approved by the board.

C. A gaming operator licensee or applicant shall notify the board, in writing, of any material problems, defects, or malfunctions that affect the fairness or integrity of the operation or play of any associated equipment that has been approved by the board and is used by the licensee, or is proposed for use by the applicant, in the state.

D. A gaming operator licensee or applicant shall notify the board, in writing, if the approval of associated equipment approved by the board and used by the gaming operator licensee, or proposed to be used by the gaming operator license applicant, has been revoked by any other jurisdiction.

[15.1.7.34 NMAC - Rp, 15.1.7.34 NMAC 9/9/2025]

15.1.7.35 RETENTION OF ASSOCIATED EQUIPMENT RECORDS:

A. A manufacturer or distributor of associated equipment shall maintain the following records:

- (1) all applications for approval of associated equipment submitted to the board;
- (2) detailed operating procedures of the associated equipment;
- (3) approvals of associated equipment received from any gaming jurisdiction;
- (4) a complete, comprehensive, and technically accurate description and explanation of the associated equipment and its intended use in both technical and lay language;
- (5) any alterations, modifications, or revisions

and the requisite approvals that have been conducted on associated equipment used by gaming operator licensees or applicants;

(6) details of tests performed on the associated equipment by the manufacturer or distributor of the associated equipment; and

(7) the revocation of any approval for associated equipment issued by any gaming jurisdiction.

B. Manufacturer, distributor, and gaming operator licensees shall maintain documentation that indicates problems, defects, or malfunctions of the associated equipment and any other information or records the board deems necessary to ensure compliance with the act and this rule. [15.1.7.35 NMAC - Rp, 15.1.7.35 NMAC 9/9/2025]

15.1.7.36 MARKING OF GAMING MACHINES:

A. A manufacturer or distributor shall not distribute a gaming machine in New Mexico unless the machine has:

(1) a unique, permanent serial number, which shall be clearly visible and permanently stamped or engraved on the metal frame or other permanent component of the gaming machine or on a metal plate attached to the metal frame or other permanent component of the gaming machine;

(2) a metal plate that provides the manufacturer's name, model, date of manufacture, and permanent serial number of the machine; the metal plate must be attached to the cabinet of the gaming machine, and

(3) the board-issued license number and any modification approval number affixed to all program storage media placed in the machine.

B. Each manufacturer or distributor shall keep a written list of the date of each distribution, the serial numbers of the gaming machines, and the names, addresses, and telephone numbers of the persons

to whom the machines have been distributed and shall provide the list to the board immediately upon request.

C. In addition to the requirements in Subsection A of 15.1.7.36 NMAC above, no gaming operator shall place a gaming machine in a licensed premises for play unless the gaming machine bears the board-issued license number affixed to the machine. No person other than the board or its authorized employee or other agent shall affix or remove the license number.

[15.1.7.36 NMAC - Rp, 15.1.7.36 NMAC 9/9/2025]

15.1.7.37 SUMMARY SUSPENSION OF APPROVAL OF GAMING DEVICES:

A. The board, with or without prior notice to the manufacturer, distributor, or licensee, may issue a summary order suspending approval of a gaming device if the board determines that the device does not operate, or is not being operated, in the manner certified by the manufacturer or as approved by the board.

B. After issuing the summary suspension order, the board may seal or seize all modes of that gaming device and shall thereafter comply with provisions of the act and this rule governing emergency orders of the board.

[15.1.7.37 NMAC - Rp, 15.1.7.37 NMAC 9/9/2025]

15.1.7.38 MAINTENANCE, REPAIR AND SERVICING OF GAMING DEVICES:

A. A licensee shall not alter the operation of approved gaming machines or associated equipment and shall ensure that the gaming machines and associated equipment are maintained in proper condition.

B. Only the following persons shall service or repair a gaming machine or associated equipment:

- (1) a licensed manufacturer;
- (2) an employee of a licensed manufacturer; or

(3) a technician approved by the board and employed by a distributor or gaming operator licensee.

C. A licensed manufacturer shall maintain a certification program for the purpose of training and certifying technicians to service and repair gaming devices manufactured by the licensed manufacturer. Upon request, the licensed manufacturer shall provide evidence of such program to the board, including a full description of the program, models of gaming devices for which training is provided, criteria for certification, information concerning instructor qualifications, and copies of training materials and tests. Any program deemed insufficient by the board shall be modified at the board's request.

D. The licensed manufacturer shall ensure that its technician employees have received sufficient and appropriate training in the service and repair of each of its approved gaming machine models before the gaming machine may be placed in operation in the state.

E. A licensed manufacturer that certifies other persons as technicians shall ensure that the technicians have received sufficient and appropriate training in the service and repair of the approved gaming machine to be operated by the gaming operator licensee, or distributed by the licensed distributor, employing the technician.

F. A gaming operator and a licensed distributor shall establish written standards for qualifications of a gaming device technician, which shall be submitted to the board for consideration and approval. Approval of the standards shall not be unreasonably denied so long as they include manufacturer gaming device certifications or a reasonable equivalent of work experience in the gaming industry. The educational and work experience requirements may be substituted by a background in electronics or mechanics; a limited background in these areas may be compensated for by an in-house training program

whereby the individual is closely supervised by an approved technician for a specified period of time.

(1) In order to be approved to service a gaming device, a person shall submit an application for a work permit and shall submit documentation of the qualifications required in Subsection F of 15.1.7.38 NMAC.

(2) The board shall notify the technician and their employer of whether the submitted qualifications are approved within seven days of receipt of the documentation. Notification of approval of the application for work permit shall be done by the normal process as set out in parts 15.1.5 NMAC and 15.1.13 NMAC.

G. The gaming operator licensee shall ensure that all service and repairs on its gaming machines, including the installation or repairs of component parts such as bill acceptors, monitoring systems, or other parts that would significantly alter the current or subsequent operation of a gaming machine, are made correctly and in compliance with board requirements.

H. The gaming operator licensee shall notify the board's information systems division prior to performing any maintenance or service that requires access to the logic area of a gaming machine. The gaming operator licensee shall not perform any maintenance that requires access to the logic area of a gaming machine, as defined in board rule 15.1.7.18 NMAC, until the board's information systems division disables the gaming machine from service and approves performance of the maintenance or service.

I. The gaming operator licensee shall notify the board's information systems division by telephone to obtain authorization prior to taking out of service any gaming machine that is deemed to be in an error condition that requires the gaming machine to be powered down for more than the remainder of the gaming day.

J. The gaming operator licensee shall not install

gaming media in a gaming machine without prior written approval of the board's information systems division.

K. The gaming operator licensee shall not perform any maintenance on a gaming machine that will result in clearing any critical memory of the machine without prior written approval of the board's information systems division.

L. Except for qualified technicians, no employee of the gaming operator licensee shall perform service or repairs on the licensee's gaming machines other than incidental repairs, unless such service or repairs are performed under the direct supervision of a qualified technician as part of an in-house training program approved by the board. Incidental repairs are repairs that do not affect any of the machine's major systems or require that the person making the repair access any internal space of the gaming machine.

M. The board may allow, at the board's discretion, on-site training by a qualified technician as long as the technician's qualifications have been approved by the board. Technicians in training shall work under the direct supervision of a qualified technician and shall obtain board qualification by satisfactorily completing all required training within 30 days of employment.

N. The gaming operator licensee shall keep a machine access entry log inside the main cabinet access area of each gaming machine. Every person who gains entry into any internal space of a gaming machine shall sign the machine entry access log, indicate the date and time of entry and list all areas inspected, repaired or serviced. The gaming operator licensee shall retain the maintenance log for a period of five years and shall make the maintenance log available to the board or its authorized agents upon request.

O. In addition to the machine entry access log required by Subsection J of 15.1.7 NMAC, a gaming operator licensee shall maintain a written log in a form

acceptable to the board for recording service or repairs performed on the licensee's gaming machines by qualified technicians employed by a manufacturer or distributor licensee whose principal place of business is outside the state. Any qualified technician employed by such a manufacturer or distributor who performs service or repairs on the gaming machines of a gaming operator shall make a complete entry on the log at the time of the service or repairs, recording, at a minimum, the name and work permit number of the qualified technician performing the service or repairs, the dates and times of the service or repairs and a brief description of the service or repairs performed.

[15.1.7.38 NMAC - Rp, 15.1.7.38 NMAC 9/9/2025]

15.1.7.39 SALE AND TRANSPORTATION OF GAMING MACHINES FOR HOME OWNERSHIP:

A. A manufacturer or distributor license by the board may offer gaming machines for sale for home use provided the manufacturer or distributor complies with this section of this part. The manufacturer or distributor selling a gaming machine for home use shall only transport such a gaming machine to a private residence.

B. A manufacturer or distributor selling a gaming machine for home use shall retain a written record of the sale of the gaming machine. The written record shall include the date of the sale, the name and address of the purchaser, the serial number and a description of the gaming machine, and the address to which the gaming machine is delivered.

C. A manufacturer or distributor selling a gaming machine for home use shall notify the board of the sale and transport of the gaming machine and provide the board with a copy of the written record of the sale prior to transporting the gaming machine to the residence of the person purchasing the machine.

D. A manufacturer or distributor selling a gaming machine for home use shall transport and deliver the gaming machine to the residence of the purchaser. No gaming machine sold for home ownership shall be transported by any person or entity other than the distributor or manufacturer selling the machine.

E. A gaming machine sold for home ownership shall:

(1) have a conspicuous and indelible notice prominently affixed to the front of the machine stating that the machine is only legal for play in a private residence;

(2) have a conspicuous and indelible notice prominently affixed to the rear of the gaming machine stating that the sale and transportation of the gaming machine by other than a licensed manufacturer or distributor is a fourth (4th) degree felony; and

(3) either provide a payback value for each credit played, determined over time, of one hundred percent or be manufactured or modified in such a way as to be operable only with tokens.

F. A manufacturer or distributor selling a gaming machine for home use shall provide written notice to the purchaser:

(1) that the machine shall be played only at a private residence;

(2) that no person shall make money from play on the machine except through winnings as a player;

(3) that commercial gambling is a fourth degree felony;

(4) that it is illegal to resell the machine to any person or entity other than a licensed manufacturer or distributor; and

(5) that it is illegal for any person or entity other than a licensed manufacturer or distributor to transport the machine.

G. A manufacturer or distributor selling a gaming machine for home use shall require

as a condition of purchase that the purchaser acknowledge in writing that he has received the written notice described in Subsection F of 15.1.7 NMAC.

H. A manufacturer or distributor shall comply with all board regulations concerning transportation of any electronic media to be placed in a gaming machine being used in a private residence. A manufacturer or distributor shall report all sales of electronic media for home gaming machines in accordance with Subsection B of 15.1.7 NMAC. [15.1.7.39 NMAC - Rp, 15.1.7.39 NMAC 9/9/2025]

15.1.7.40 RETENTION OF RECORDS: The licensee shall maintain all records required pursuant to this rule within New Mexico for a period of five years. [15.1.7.40 NMAC - Rp, 15.1.7.40 NMAC 9/9/2025]

HISTORY OF 15.1.7 NMAC:
Pre NMAC History: None.

History of Repealed Material:
15.1.7 NMAC, Gaming Machines, New Games and Associated Equipment (filed 11/13/1998)
Repealed effective 9/9/2025.

Other History:
15 NMAC 1.7, Gaming Machines, New Games and Associated Equipment, effective 11/30/1998.
15 NMAC 1.7, Gaming Machines, New Games and Associated Equipment (filed 11/13/1998) reformatted, renumbered, amended and replaced by 15.1.7 NMAC, Gaming Machines, New Games and Associated Equipment, effective, 3/31/2000.
15.1.7 NMAC, Gaming Machines, New Games and Associated Equipment (filed 11/13/1998) Replaced by 15.1.7 NMAC, Gaming Machines, New Games and Associated Equipment effective 9/9/2025.

GAMING CONTROL BOARD

This is an amendment to 15.4.1. NMAC, Section 7, effective 9/9/2025.

15.4.1.7 DEFINITIONS:
Unless otherwise defined below, terms used in this chapter have the same meanings as set forth in the New Mexico Bingo and Raffle Act. The definitions set forth below shall be applicable to all parts of this chapter.

A. Definitions beginning with A:

(1)
“**Accountant**” means a game accountant as defined in the act who further is an individual licensed by the board and designated by the bingo manager to fulfill duties relating to accounting procedures and reporting including filing of all board required quarterly reports and associated obligations, on behalf of the licensee.

(2) “Act”
means the New Mexico Bingo and Raffle Act.

(3) “Agent”
means any member or employee of the New Mexico gaming control board or any other person authorized to act on the board’s behalf.

(4)
“**Appellant**” means a person aggrieved by an action of the New Mexico gaming control board, who files a request for hearing before the board.

(5)
“**Appellee**” means the New Mexico gaming control board, its agents or its representatives.

(6)
“**Applicant**” means a person who has applied for a license or approval of an act or transaction for which approval is required or allowed pursuant to the provisions of the act.

(7)
“**Approved record**” means those records required by the act, or regulations promulgated there under which shall be maintained on forms prescribed or approved by the New Mexico gaming control board.

(8) “Alternate bingo manager” means an assistant to the bingo manager permitted by the board who assumes overall responsibility for supervising and managing the operation of games of chance in the bingo manager’s absence. The alternate bingo manager derives their authority from the licensed bingo manager. If an organization does not have a licensed bingo manager, they cannot conduct games of chance.

(9) “Audit”
means an examination of an applicant’s or licensee’s accounting records, financial situation, and business practices to determine compliance with, state law, or rules adopted by the New Mexico gaming control board.

(10)
“**Auxiliary**” means an organization that has a qualified affiliation with a licensee in accordance with a national and local charter, articles of incorporation, bylaws, or rules of an official auxiliary organization.

B. Definitions beginning with B:

(1) “Bingo”
means a game of chance in which each player has one or more bingo cards printed with different numbers on which to place markers when the respective numbers are drawn and announced by a bingo caller. Bingo also includes those games of chance that do not contain an instant win component but contain numbers that must be exposed by the player and the winning combination is exposed by the draw of a bingo ball or by some other approved specific event. The approved specific event must consist of a method of randomly selecting numbers that correspond to the numbers printed by the manufacturer.

(2) “Bingo caller” means the individual who, in the game of bingo, draws and announces numbers.

(3) “Bingo employee” as defined in the act, means a person, paid or volunteer, connected directly with a game of chance but does not include nongaming personnel such as

bartenders, cocktail servers or other persons engaged solely in preparing or serving food or beverages; secretarial or janitorial personnel; or stage, sound and light technicians. All bingo employees shall be permittees.

(4) **“Bingo manager”** means the person responsible for overseeing bingo and pull-tab activities conducted pursuant to a bingo license.

(5) **“Bingo operating account”** means an independent operating bank account established for bingo operations only for which all gross receipts and proceeds shall be maintained separately from licensee’s general operating accounts.

(6) **“Bingo tax”** means the excise tax imposed pursuant to Section 60-2F-21 NMSA 1978.

(7) **“Bingo winning combination”** means numbers which have been announced by the bingo caller, and a player has covered the predetermined arrangement and declares bingo, after which the pattern on the winning card is independently verified by a bingo employee.

(8) **“Board”** means the gaming control board or its designee.

C. Definitions beginning with C:

(1) **“Change fund”** means the cash used for making change.

(2) **“Charitable purposes”** means activities that promote, directly or indirectly, the well-being of the public at large or that benefit of an indefinite number of persons in the state.

(3) **“Completed application”** means that the application has been entirely filled in, the appropriate fee is attached, additional documentation requested is provided and signatures with proper notary are included.

(4) **“Credit report”** means a credit report generated by any of the three major credit agencies in the United States,

which are equifax, experian and transunion.

D. Definitions beginning with D:

(1) **“Deal”** means a predetermined pool of pull-tabs with the same serial number and a predetermined number of winners.

(2) **“Direct relative”** means the individual’s spouse or spousal equivalent, parent, mother-in-law, father-in-law, brother-in-law, sister-in-law, brother, sister, child or stepchild.

(3) **“Door-prize”** means a promotional drawing where no additional consideration is charged for the chance to play.

E. Definitions beginning with E:

(1) **“Electronic transfer”** means transactions initiated through a financial institution which include ATM transactions, direct deposits, withdrawals or point-of-sale transactions.

(2) **“Employee”** means a person, paid or volunteer, who works in the service of the licensee, bingo or pull tab operation or works for the qualified organization.

(3) **“Enforcement action”** means an action by the board or its agents that limits, conditions, suspends or revokes a license or prior approval issued by the board, or an assessment of a fine by the board, or any combination of the foregoing.

(4) **“Executive director”** means the chief administrative officer appointed by the board.

(5) **“Extra cards”** means other cards sold at the door during a bingo occasion along with the master card. These cards are controlled by a separate color or size and serial number from the master card. This does not include special cards.

F. Definitions beginning with F:

(1) **“Fee”** includes all license, approval, investigative costs, taxes and fines imposed by the board or its agents.

(2) **“Fine”** means any monetary penalty assessed by the board or its agents for a violation of the act after an administrative hearing has been held or as negotiated between the board or its agents and the applicant or licensee in settlement proceedings.

G. Definitions beginning with G:

(1) ~~“(+)”~~ **“Game of chance”** means an event in which payment for participation is required, a winner or winners are identified by an act of fate and prizes are awarded to the winners.] **“Gross receipts”** means proceeds received by a bingo licensee from the sale of bingo cards, raffle tickets or pull-tab tickets, the sale of rights in any manner connected with participation in a game of chance or the right to participate in a game of chance, including any admission fee or charge, the sale of playing materials, and all other miscellaneous receipts.

H. Definitions beginning with H:

(1) **“Hard cards”** means a reusable bingo card.

(2) **“House rules”** means rules established by each licensee for items not covered by the act, or regulations promulgated under the act or other provisions of law.

(3) **“Hybrid game”** means a game of chance using pull-tabs as defined in the act which have both instant and non-instant winnings. The non-instant winnings are selected by drawing using a bingo blower or a seal card provided by the manufacturer of the game. This type of pull-tab game may be referred to as an “event game” or “side game.” Hybrid game pull-tabs may only be sold during a bingo occasion. Instant winnings must be announced by the bingo caller during the same occasion in which a hybrid game pull-tab deal is sold

I. Definitions beginning with I: [RESERVED]

J. Definitions beginning with J: [RESERVED]

K. Definitions beginning with K: [RESERVED]

L. Definitions
beginning with L: “**Licensed premises**” means the area that has been approved to conduct games of chance.

M. Definitions
beginning with M:
(1)

“Manufacturers central system”
means the hardware and software used to control, monitor, and retrieve information from, all board approved pull-tab electronic dispensers.

[~~(1)~~] (2) “Master board” means the tray with five rows and 15 columns that holds bingo balls removed from the hopper in spaces specifically designated for each ball. This is the official score board for a bingo game.

[~~(2)~~] (3) “Master card” means the main bingo card in use for the occasion that each player is required to have in their possession to play bingo. This is sometimes referred to as the door or admission card. This card is usually controlled by using only one color or size card.

N. Definitions
beginning with N: [RESERVED]

O. Definitions
beginning with O: [RESERVED]

P. Definitions
beginning with P:
(1) “Person”
 means a legal entity or individual.

(2)
“Petitioner” means the board or the board’s representative.

(3) “Point of sale system” means the hardware and software to process payments and complete pull-tab transactions.

[~~(3)~~] (4)
“Premises” means the land together with all buildings, improvements and personal property located on the land, either leased or owned by the licensee.

[~~(4)~~] (5)
“Promotional games” means all bingo games, raffle tickets and pull-tabs that are awarded as a door prize, bingo prize, pull-tab prize or a free or reduced priced game, offered to any player for any reason.

[~~(5)~~] (6) “Pull-tab dispenser” means a mechanical

or electromechanical device that dispenses pull-tabs or reads a bar-code printed on the exterior of the pull-tab and displays the win or loss status of the pull-tab on a video display.

Q. Definitions
beginning with Q: [RESERVED]

R. Definitions
beginning with R:
(1) “Records”

mean inventory records, bank records, accounting records, receipts, invoices, deposits, employee logs, payroll, taxes, bingo and occasion documentation, and any other document that is required under the current rules and the act.

(2)
“Respondent” means a licensee or person to which an approval has been granted and who is the subject of a complaint issued by the board or its agents.

(3) “Retail value” means the price set by a licensee to participate in a game of chance.

S. Definitions
beginning with S:

(1) “Special card” means a bingo card used for a specific game or games which is controlled by a separate color, serial number and manufacturer’s identification number. Special cards are additional bingo cards sold separately that entitle purchasers to participate in bingo games that cannot be played on either a master card or an extra card.

(2) “Staff permit badge” means a hard plastic card issued by the board or its agents with the licensee’s name, expiration date and photograph.

(3) “State”
 means the state of New Mexico.

T. Definitions
beginning with T: **“Ticket in / ticket out”** TITO means a bingo operator licensee using a ticket in ticket out technology on a pull-tab dispenser shall require the patron to personally present the ticket for redemption at the licensee’s premises. A licensee shall not redeem ticket by mail or by any common carrier. TITO tickets

shall be redeemed at the end of every session or they are void.

U. Definitions
beginning with U: [RESERVED]

V. Definitions
beginning with V:
(1)

“Variance” means a temporary exemption from a specific part or subpart of Title 15, Chapter 4, not to exceed the date of renewal of a license.

(2) “Vendor”
 means distributors and manufacturers of “equipment” as defined in the act.

W. Definitions
beginning with W: **“Willfully”**
 means knowingly or purposefully.

X. Definitions
beginning with X: [RESERVED]

Y. Definitions
beginning with Y: [RESERVED]

Z. Definitions
beginning with Z: [RESERVED]
 [15.4.1.7 NMAC - Rp, 15.4.1.7 NMAC, 2/23/2021; A, 9/9/2025]

GAMING CONTROL BOARD

This is an amendment to 15.4.5 NMAC Section 17, effective 9/9/2025.

15.4.5.17 HOUSE RULES:

A. A licensee shall establish house rules applicable to the conduct of games of chance as long as the rules do not conflict with the act or this title. Before any licensee enacts, adopts or modifies any house rules, the rules shall be submitted to the board for approval.

B. A copy of the house rules shall be in the licensee’s possession at all times and made available to any person on request.

C. Houses rules shall be posted inside and near all entrances to the licensed premise.

D. Postings shall have at the top “house rules” in a minimum 24 point non-cursive font followed by the rules in a 14 point non-cursive font.

E. At a minimum house rules shall address the following:

(1) last number called, required or not;

(2) temporary suspension of bingo occasion or game;

(3) explanation of tiered payouts and if refunds are or are not given;

(4) how “bingo” is signaled and who must receive the signal to stop the game;

(5) multiple prize awards;

(6) condition under which a winning pull-tab will be paid;

(7) check cashing policy;

(8) age requirements;

(9) smoking;

(10) reserving seats;

(11) promotional games;

(12) tipping;

[and] (13) rules of play, and award procedures for progressive pull-tab games; and ~~(13)~~ (14) procedures and forms required to be completed by the patron and licensee in the event of a patron dispute or complaint.

[15.4.5.17 NMAC - Rp, 15.4.5.17 NMAC, 2/23/2021; A, 9/9/2025]

GAMING CONTROL BOARD

This is an amendment to 15.4.6 NMAC Section 10, effective 9/9/2025.

15.4.6.10 PULL-TAB EQUIPMENT:

A. No licensee shall permit the display or operation of any pull-tabs which may have in any manner been marked, defaced, tampered with or otherwise placed in a condition, or operated in a manner which may deceive the public.

B. Electronic and video pull-tab machines are prohibited.

C. Pull-tab dispensers shall be maintained in good repair and sound working condition.

D. All pull-tabs in a deal shall be sold at the same price.

E. A deal shall not exceed 25,000 tickets.

F. The seller or lessor of pull-tab dispensers shall report to the board the sale or lease of the device prior to the delivery or placement of the device on a licensed premise.

G. Deals intended for use in a pull-tab dispenser comprised of multiple rolls shall have all rolls indistinguishable from every roll in the deal.

H. The bingo operator licensee shall keep a dispenser access entry log inside the main cabinet access area of each pull-tab dispenser. Every person who gains entry into any internal space of a dispenser shall sign the access entry log, indicate the date and time of entry and list all areas inspected, repaired or serviced. The bingo operator licensee shall retain the dispenser log for a period of three years and shall make the dispenser log available to the board or its authorized agents upon request.

I. A pull-tab dispenser leased by more than one licensee shall not be used by another licensee unless and until the licensee has removed its pull-tab deals from play prior to use by the next licensee.

J. The keys to pull-tab dispensers must be on the premises and in the possession and control of the bingo licensee.

K. The board or its agents may examine and inspect any individual pull-tab dispenser and shall have immediate access to the dispenser and unlimited inspection of all parts of the dispenser.

L. All pull-tabs in any one column or sleeve of the dispenser must be of the same deal.

M. No licensee may display, use or otherwise furnish a dispenser which has in any manner been marked, defaced, tampered with, or which otherwise may deceive the public or affect a person’s chances of winning.

N. No person shall initiate transport of any pull-tab equipment other than a licensed manufacturer or distributor. Equipment is shipped or transported into the state when the starting point for shipping or transporting begins: (1) outside the state and terminates in the state; (2) in state and terminates in the state; and (3) between distributors / manufacturers and bingo operator licensees.

O. Notice for transport of pull-tab equipment shall be made on transport request tracking (TRT) forms approved by the board for transportation of the type of equipment to be transported.

P. A manufacturer or distributor licensee shipping or transporting one or more pieces of equipment into the state shall notify the board’s operations division of the shipment prior to the time the shipment is made so the board’s operations division can assign a control number to the transport request tracking (TRT) form and notify the manufacturer or distributor licensee shipping the device(s) of the assigned control number within three business days of receipt of the completed TRT form prior to shipping.

Q. The transport request tracking (TRT) form, shall at a minimum include the following information:

- (1) the full name, address, and license number of the person making the shipment;
- (2) the method of shipment and the name of the carrier, if any;
- (3) the full name, address, and license number of the person to whom the equipment is being sent and the destination of the shipment, if different from the address;
- (4) the number of pieces of equipment in the shipment;
- (5) the serial number of each piece of equipment;
- (6) the model

number and description of each piece of equipment;

(7) the expected arrival date of the equipment at its destination within the state; and

(8) such other information as required by the board.

R. Transport request tracking (TRT) forms shall be filled out completely and legibly, signed by the person completing the form and notarized. The completed forms shall be transmitted to the board's operations division by emailing a copy of the form to the operations division.

S. The board's operations division shall assign a control number to the transport request tracking (TRT) form and notify the manufacturer or distributor licensee shipping the equipment of the assigned control number within three business days of receipt of the completed TRT form.

T. The manufacturer or distributor shipping the equipment to a licensee, may ship it to the receiving licensee upon receipt of the control number by the board. The shipping licensee shall note the assigned control number on the transport request tracking (TRT) form for the equipment and shall include the original TRT form in the shipment. The original TRT form shall have the control number on it and accompany the equipment coming into or being moved around New Mexico.

U. A licensee receiving shipment of equipment shall notify the board's enforcement division of the receipt of the shipment. Following notification an agent of the board's enforcement division shall inspect the shipment, and the transport request tracking (TRT) form included with the shipment to ensure that the TRT form accurately identifies the equipment included in the shipment.

V. A licensee receiving a shipment of pull-tab equipment shall not remove the packaging in which it was shipped until an agent of the board has inspected the shipment and released it to the receiving licensee. Equipment transported into the

state shall not be made available for play until an agent of the board has inspected it and released it for play.

W. Any and all removable media requires a separate transport request tracking (TRT) form. For purpose of conduct of the pull-tab deal, the network connection to a manufacturer central system shall be used to facilitate point of sale system, manufacturer central system or ticket in ticket out functions.

[15.4.6.10 NMAC - Rp, 15.4.6.10 NMAC, 2/23/2021; A, 9/9/2025]

HEALTH, DEPARTMENT OF

The New Mexico Department of Health approved the repeal of its rule 7.27.2 NMAC - Licensing of Emergency Medical Services Personnel (filed 11/30/2017) and replaced it with 7.27.2 NMAC - Licensing of Emergency Medical Services Personnel adopted on 8/26/2025, and effective 9/9/2025.

The New Mexico Department of Health approved the repeal of its rule 7.27.4 NMAC - Emergency Medical Services Fund Act (filed 7/29/2004) and replaced it with 7.27.4 NMAC - Emergency Medical Services Fund Act adopted on 8/26/2025, and effective 9/9/2025.

The New Mexico Department of Health approved the repeal of its rule 7.27.5 NMAC - Certification of air Ambulance (filed 12/16/2005) and replaced it with 7.27.5 NMAC - Certification of air Ambulance adopted on 8/26/2025, and effective 9/9/2025.

The New Mexico Department of Health approved the repeal of its rule 7.27.6 NMAC - Emergency Medical Services Advance Directives (filed 12/16/2005) and replaced it with 7.27.6 NMAC - Emergency Medical Services Advance Directives adopted on 8/26/2025, and effective 9/9/2025.

The New Mexico Department of Health approved the repeal of its

rule 7.27.11 NMAC - Supplemental Licensing Provisions (filed 11/30/2017) and replaced it with 7.27.11 NMAC - Supplemental Licensing Provisions adopted on 8/26/2025, and effective 9/9/2025.

HEALTH, DEPARTMENT OF

TITLE 7 HEALTH CHAPTER 27 EMERGENCY MEDICAL SERVICES PART 2 LICENSING OF EMERGENCY MEDICAL SERVICES PERSONNEL

7.27.2.1 ISSUING

AGENCY: New Mexico department of health (DOH), emergency medical systems bureau (EMSB).

[7.27.2.1 NMAC - Rp, 7.27.2.1 NMAC, 9/9/2025]

7.27.2.2 SCOPE: These

rules apply to New Mexico emergency medical services, including the service directors and medical directors of those services; approved New Mexico EMS education programs and graduates of approved New Mexico EMS education programs; New Mexico licensed EMS personnel including those previously licensed; persons trained, certified, or licensed in another state or territory seeking to acquire licensure in New Mexico; EMS licensing commission; individuals certified with the national registry of emergency medical technicians; and any other entity associated with the licensing of emergency medical services personnel in New Mexico.

[7.27.2.2 NMAC - Rp, 7.27.2.2 NMAC, 9/9/2025]

7.27.2.3 STATUTORY

AUTHORITY: These rules are promulgated pursuant to the following statutory authorities: the New Mexico Department of Health Act, Subsection E of Section 9-7-6 NMSA 1978, which authorizes the secretary of the department of health to "make and adopt such reasonable and procedural

rules and regulations as may be necessary to carry out the duties of the department and its divisions”; the Emergency Medical Services Act, Subsection A of Section 24-10B-5 NMSA 1978, which authorizes the department to adopt and enforce licensure requirements by regulation; and Paragraph (3) of Subsection B of Section 24-10B-5 NMSA 1978, which authorizes the department to establish a schedule of reasonable fees for application, examination, licensure and regular renewal thereof.

A. Administration:

Administration and enforcement of these rules is the responsibility of the emergency medical systems bureau of the center for health protection, public health division, department of health.

B. Guidelines:

In the absence of specific direction in the law or these rules as to the standard of practice, the current national standard for emergency cardiac care (ECC), the national highway traffic safety administration of the United States department of transportation standard curriculum, and the EMT code of ethics, as adopted in 1978 by the national association of emergency medical technicians, shall serve as guidelines.

C. Use of certain

terms prohibited: The use of “licensed emergency medical dispatcher”, “licensed emergency medical dispatch instructor”, “licensed emergency medical services first responder”, “licensed emergency medical technician (EMT)-basic”, “licensed EMT-intermediate”, or “licensed EMT-paramedic”, or display of the “star of life” except as allowed in the United States department of transportation (US-DOT) trademark specifications, or similar terms or emblems connoting expertise in basic or advanced life support by any person not licensed hereunder is hereby prohibited. This includes use of the graphic utilized by the bureau as the state patch and emblem of New Mexico EMS. See Emergency Medical Services Act, Paragraph (1) of Subsection C of 24-10B-5 NMSA 1978.

[7.27.2.3 NMAC - Rp, 7.27.2.3 NMAC, 9/9/2025]

7.27.2.4 DURATION:

Permanent.

[7.27.2.4 NMAC - Rp, 7.27.2.4 NMAC, 9/9/2025]

7.27.2.5 EFFECTIVE

DATE: September 9, 2025, unless a later date is cited at the end of a section.

[7.27.2.5 NMAC - Rp, 7.27.2.5 NMAC, 9/9/2025]

7.27.2.6 OBJECTIVE:

These rules will inform the emergency medical services community of licensure requirements for emergency medical services personnel. It is the purpose of these rules to provide for the licensure of emergency medical dispatchers, emergency medical dispatch-instructors, emergency medical services first responders, and emergency medical technicians, and to assist in the provision of a comprehensive system of emergency medical services in the state of New Mexico.

[7.27.2.6 NMAC - Rp, 7.27.2.6 NMAC, 9/9/2025]

7.27.2.7 DEFINITIONS:

A. Definitions beginning with “A”:

(1)

“Academy” means a separately funded emergency medical services education program administered through the department of emergency medicine of the university of New Mexico school of medicine.

(2) “Act”

means the Emergency Medical Services Act, Section 24-10B-1, *et seq.*, NMSA 1978.

(3)

“Advance directive” means a written instruction, such as a living will, durable power of attorney for health care, or emergency medical services do not resuscitate form recognizable under state law and relating to the provision of health care when an individual is incapacitated.

(4) “Advisory

committee” means the statewide emergency medical services advisory committee appointed by the secretary of health.

(5)

“Ambulance service” means any provider of ambulance service subject to the jurisdiction of the department of health pursuant to and subject to the jurisdiction of the New Mexico department of transportation, pursuant to the Ambulance Standards Act, Section 65-6-1, *et seq.*, NMSA 1978, Article XI of the New Mexico Constitution, the Municipal Transit Law Section 3-52-1, *et seq.*, NMSA 1978, and other laws.

(6)

“Applicant” means a person who has indicated an intention to gain licensure as an EMS first responder, emergency medical dispatcher, emergency medical dispatcher instructor, or an EMT in the state of New Mexico, as evidenced by submission of the proper fees, documentation, and bureau approved application form.

(7)

“Approved emergency medical services education program” means an emergency medical services education program that is sponsored by a post-secondary educational institution, accredited by a national educational accrediting organization for emergency medical services or active in the accreditation process and is approved by the joint organization on education committee and participates in the joint organization on education committee.

B. Definitions

beginning with “B”:

(1) “Basic

emergency medical technician” or “EMT-B” means a provider who has been licensed by the department to provide patient care according to the current scopes of practice.

(2) “Bureau”

means the emergency medical systems bureau of the center for health protection of the New Mexico department of health.

(3) “Bureau

approved” means any course, form, or official document that has received the approval of the bureau for use in an education or licensure context.

C. Definitions

beginning with “C”:

(1) **“Cardio-pulmonary resuscitation (CPR)”** means training required for licensure that meets the intent of the current national emergency cardiac care (ECC) guidelines for professional rescuers, as approved by the bureau.

(2) **“Certified emergency medical service”** means an organization that meets minimum standards to provide emergency services and is approved by the bureau, including emergency medical dispatch agencies, pre-hospital or inter-facility care services, and special event services organized to provide emergency medical services.

(3) **“Contact hour”** means a unit of measurement of 60 minutes of bureau-approved organized learning experience which is designed to meet educational objectives for continuing education.

(4) **“Commission”** means the New Mexico emergency medical services licensing commission appointed by the secretary of health.

(5) **“Continuing education”** or **“CE”** means EMS education that is approved by the bureau and is required every two years for renewal of licensure.

(6) **“Controlled substance”** means a controlled substance as defined in the New Mexico Controlled Substance Act, Section 30-31-2 NMSA 1978.

(7) **“Conviction”** means an adjudication of guilt, and does not include a deferred adjudication that results in dismissal of a charge or an adjudication that is expunged.

(8) **“Curriculum”** means a program of study utilizing approved minimum curricula content based on the national standard curriculum for EMS as published by the national highway and traffic safety administration (NHTSA) and approved by the joint organization on education for formal education courses required for EMS first responder, EMT-basic, EMT-intermediate, and EMT-paramedic.

D. Definitions beginning with “D”:

(1) **“Department”** means the New Mexico department of health (DOH).

(2) **“Disqualifying criminal offense”** means a criminal offense identified in Section 7.27.2.18 NMAC.

(3) **“Distance education - asynchronous”, also known as distributive education** means a method of delivering training and education that does not require an educator and student to interact in real time. This may include computer-based-training and education, self-study modules, recorded broadcasts via satellite, internet, or other media, and other methods of out-of-classroom didactic education that includes an evaluation component.

(4) **“Distance education - synchronous”** means a method of delivering training and education via electronic media that links an educator and students, allowing them to interact in real time despite being in different places. This includes live, instructor interactive satellite broadcasts, or webcasts that allow for live video, audio, or other immediate feedback, and communication between the instructor and the students.

E. Definitions beginning with “E”:

(1) **“Emergency medical dispatcher”** or **“EMD”** means a person who is trained and licensed pursuant to Subsection G of Section 24-10B-4 NMSA 1978 to receive calls for emergency medical assistance, provide pre-arrival medical instructions, dispatch emergency medical assistance and coordinate its response.

(2) **“Emergency medical dispatch agency”** or **“EMDA”** means any organization, or a combination of organizations working cooperatively, that routinely accepts calls for emergency medical assistance and employs emergency medical dispatch priority reference system (EMDPRS) techniques.

(3) **“Emergency medical dispatch priority reference system”** or **“EMDPRS”** means a medically approved reference system used by an emergency medical dispatch agency (EMDA) to dispatch aid to medical emergencies, which includes systematized caller interrogation; systematized pre-arrival instructions to the caller based upon protocols matching the dispatcher’s evaluation of injury or illness severity; and prioritized vehicle response.

(4) **“Emergency medical services”** or **“EMS”** means the services rendered by licensed providers in response to an individual’s need for immediate medical care to prevent loss of life or aggravation of physical or psychological illness or injury.

(5) **“Emergency medical services first responder”** or **“EMSFR”** means a person who is licensed by the department, and who functions within the emergency medical services system to provide initial emergency aid according to the current scopes of practice.

(6) **“Emergency medical services instructor/coordinator”** or **“EMT-I/C”** means an individual who has met the qualifications of the joint organization on education and has been approved by an EMS education institution to conduct and instruct EMS education programs.

(7) **“Emergency medical technician”** or **“EMT”** means a provider who has been licensed by the department to provide patient care according to the current scopes of practice.

(8) **“Examination attempt”** means an attempt to successfully complete the bureau approved EMS licensing examination. An attempt constitutes taking a written or practical examination. Retests of either a written or practical examination are considered an examination attempt.

F. Definitions beginning with “F”: **Fully licensed** means an individual licensed to

practice medical patient care at a specified level.

G. Definitions

beginning with “G”: **“Graduate license”** means a license issued to graduates of a bureau approved EMS education program used for performing EMS duties under supervision and direct observation prior to full licensure. The graduate license shall be valid for a period of up to six months from the date of course completion or until failure of any part of the bureau approved licensing examination.

H. Definitions

beginning with “H”: [RESERVED]

I. Definitions

beginning with “I”:

(1)

“Immediate suspension” means (except in reference to summary suspension) the immediate suspension of an EMS provider license that is made pursuant to a preliminary injunction, in accordance with this rule and the Uniform Licensing Act at Subsection A of Section 61-1-25.1 NMSA 1978.

(2) “Initial

licensure” means the first time a person is licensed in New Mexico as an EMD, EMD instructor, EMS first responder, EMT, or subsequent licensure of a previously licensed New Mexico EMT, who has retaken a full curriculum or accomplished re-entry procedures to regain an expired license.

(3)

“Intermediate emergency medical technician” or **“EMT-I”** means a provider who has been licensed by the department to provide patient care according to the current scopes of practice.

J. Definitions

beginning with “J”: [RESERVED]

K. Definitions

beginning with “K”: [RESERVED]

L. Definitions

beginning with “L”: **“License”** means a full, temporary or graduate license issued by the department to all EMDs, first responders, and EMTs pursuant to the Emergency Medical Services Act, Section 24-10B-5 NMSA 1978.

M. Definitions

beginning with “M”:

(1) “Medical

control” means supervision provided by or under the direction of physicians to providers by written protocols or direct communication.

(2) “Medical

direction” means guidance or supervision provided by a physician to a provider or emergency medical services system and which includes authority over and responsibility for emergency medical dispatch, direct patient care and transport of patients, arrangements for medical control and all other aspects of patient care delivered by a provider.

(3) “Medical

direction committee” means a committee of physicians and EMTs, appointed by the secretary of health to advise the bureau on all matters relating to medical control and medical direction.

(4) “Medical

director” means a physician who is responsible for all aspects of patient care provided by an EMS system or EMS provider service, in accordance with 7.27.3 NMAC.

(5) “Moral

turpitude” means conduct contrary to justice, honesty, modesty or good morals including such acts as fraud, theft, sexual assault, and other similar behavior.

N. Definitions

beginning with “N”: **“National**

registry” means the national registry of emergency medical technicians based in Columbus, Ohio.

O. Definitions

beginning with “O”:

(1) “Offline

medical control” means performing EMS actions or medication administration under standing orders or protocols.

(2) “Online

medical control” means direct voice contact with a medical control physician.

(3) “Out-

of-state transition course” means a standardized education course required and approved by the bureau for an out-of-state EMT applicant seeking licensure in New Mexico.

P. Definitions

beginning with “P”:

(1)

“Paramedic” or **“EMT-P”** means a provider who has been licensed by the department to provide patient care according to the current scopes of practice.

(2)

“Physician” means a doctor of medicine or doctor of osteopathy who is licensed or otherwise authorized to practice medicine or osteopathic medicine in New Mexico.

(3) “Protocol”

means a predetermined, written medical care plan approved by the medical director and includes standing orders.

(4)

“Provider” means a person who has been licensed by the department to provide patient care pursuant to the Emergency Medical Services Act.

Q. Definitions

beginning with “Q”: [RESERVED]

R. Definitions

beginning with “R”:

(1) “Re-

entry” means a process for a person, whose license has been expired for less than two years, to accomplish a given set of requirements to re-enter a previously held level of licensure.

(2) “Regional

office” means an emergency medical services planning and development agency formally recognized and supported by the bureau.

(3) “Re-

instatement” means a process for those persons who have completed the renewal requirements but fail to renew licensure by March 31st, to have their licensure reinstated between April 1st and May 31st of the expiration year.

(4)

“Renewal” means re-licensure every two years after completion of all requirements for specified levels prior to expiration of licensure.

(5) “Retest”

means licensing examination given after failure of the applicant’s initial examination.

S. Definitions

beginning with “S”:

(1) **“Secretary”** means the New Mexico secretary of health.

(2) **“Special skills”** means a set of procedures or therapies that are beyond the usual scope of practice of a given level of licensure and that have been approved by the medical direction committee for use by a specified provider.

(3) **“Standing orders”** means strictly defined written orders for actions, techniques or drug administration, signed by the medical director, to be utilized when communication has not been made with an online medical control physician.

(4) **“State emergency medical services medical director”** means a physician designated by the department to provide overall medical direction to the statewide emergency medical services system, whose duties include serving as a liaison to the medical community and chairing the medical direction committee.

(5) **“Summary suspension”** means the immediate suspension, in accordance with this rule, of an individual’s EMS provider license without a hearing when evidence in the department’s possession indicates that the licensee has either been adjudged mentally incompetent by a final order or adjudication by a court of competent jurisdiction, or pled guilty or no contest (nolo contendere) to, or been found guilty of, a disqualifying criminal offense.

T. Definitions beginning with “T”: **“Temporary license”** means a license issued by the department to applicants that are fully licensed in another state or certified with the national registry of EMTs, as determined by the bureau. The temporary license shall be valid for a period of up to six months from the date issued, or until failure of any part of the licensing examination.

U. Definitions beginning with “U”: [RESERVED]

V. Definitions beginning with “V”: [RESERVED]

W. Definitions beginning with “W”: [RESERVED]

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

Y. Definitions beginning with “Y”: [RESERVED]

Z. Definitions beginning with “Z”: [RESERVED] [7.27.2.7 NMAC - Rp, 7.27.2.7 NMAC, 9/9/2025]

7.27.2.8 GENERAL LICENSURE:

A. Authorizations to practice: No person shall function as or represent themselves as an emergency medical services provider or offer, whether or not for compensation, any services described within the scopes of practice, unless currently licensed as an emergency medical dispatcher (EMD), emergency medical dispatcher instructor (EMD-I), EMS first responder, or EMT under these rules. This provision is enforceable by civil action and criminal prosecution as provided by state law.

B. Licensing agency: As provided by law, the agency responsible for the licensure of an EMD, EMD-I, EMS first responder, and EMTs in New Mexico is the emergency medical systems bureau of the center for health protection of the department of health.

C. Eligibility: Initial licensure as an EMD, EMD-I, EMS first responder, or EMT is open to all persons who have met the requirements prescribed in these rules, whether or not they are affiliated with an ambulance service, fire department, rescue service, or other emergency medical service in New Mexico, and irrespective of their monetary remuneration for such service. Applicants for licensure must complete the criminal history background screening process as described at Section 24-10B-5.2 NMSA 1978.

D. The New Mexico registry of emergency medical services personnel: The New Mexico registry of emergency medical services personnel is

established and maintained at the bureau. The registry is a database containing contact and other relevant licensure information for all licensed New Mexico EMS licensees.

E. Authorized classifications: The six classifications of fully licensed EMS providers that are recognized in the New Mexico registry of emergency medical services personnel are as shown below. The most recently attained level of provider licensure will be shown on the person’s certificate and licensure card. This section does not apply to a graduate license.

(1) Emergency medical dispatcher (EMD).

(2) Emergency medical dispatcher instructor (EMD-I).

(3) Emergency medical services first responder (EMSFR).

(4) Emergency medical technician - basic (EMT-B).

(5) Emergency medical technician - intermediate (EMT-I).

(6) Emergency medical technician - paramedic (EMT-P).

F. General education standards: New Mexico EMS education programs shall meet the education standards for approval by the joint organization on education and EMS bureau. The joint organization on education and EMS bureau shall periodically evaluate the education standards in each approved EMS education program, which may include an on-site inspection and review for compliance with the standards outlined in this section. Failure to maintain compliance with these standards may result in the loss of the approved program status, as determined by the joint organization on education. The joint organization on education and EMS bureau approved New Mexico EMS education program shall:

(1) when requested by the bureau or joint organization on education, submit a report to the joint organization on

education and the EMS bureau that contains the following elements:

- (a) number of courses that were instructed by the education program by level of education, i.e., EMS first responder, EMT-basic, EMT-intermediate, EMT-paramedic, EMS instructor-coordinator;
- (b) pass/fail rate of each course of instruction where students are enrolled to receive course completion certificates, including the name of the course and the name of the instructor-coordinator;
- (c) aggregate pass/fail rate of each level of EMS instruction where students are enrolled to receive course completion certificates;
- (d) list of current instructor-coordinators employed with the bureau approved education program;
- (e) list of new instructor-coordinators employed with the education program over the time period of the report;
- (f) any changes in the status of any instructor-coordinator;
- (g) any changes to the EMS curriculum at any level of instruction;
- (h) summary of any quality improvement activities accomplished during the time period of the report;
- (i) list of clinical skills required for course completion by level, if applicable;
- (j) list of satellite campuses; and
- (k) contact information of key staff with the education program;
- (2) be accredited by a national education accrediting organization for emergency medical services;
- (3) utilize approved minimum curricula content based on the national standard curriculum for EMS as published by the national highway and traffic safety

administration (NHTSA) and approved by the joint organization for education committee (JOE);

- (4) have, at a minimum, an administrative director, an EMS medical director, and a lead instructor-coordinator for each EMS licensing or refresher course;
- (5) ensure that an instructor-coordinator is in attendance at all didactic and practical education sessions, with substitution permissible as approved by the joint organization;
- (6) inform the bureau if an instructor/coordinator is terminated due to inappropriate conduct or negligence; the bureau shall be notified by the education program of the termination within 10 working days;
- (7) develop and utilize an instructional quality assurance program to review course and instructor effectiveness; a copy of the quality assurance program shall be provided to the joint organization on education and the EMS bureau; complaints, reports, or course trends may indicate the need for a quality assurance review by the joint organization on education and the EMS bureau;
- (8) submit to the bureau for approval, refresher course curricula that follow the New Mexico refresher course blueprints as outlined in 7.27.2.11 NMAC of these rules, whether the course is conducted by the education program or through a service education agreement, which has been approved by the education program;
- (9) use distributive and distance education for initial formal education courses as deemed necessary by the approved EMS education program, based on the education guidelines provided by the joint organization on education committee;
- (10) review and approve any formal EMS courses and course content that will allow graduates to apply for EMS licensure in the state of New Mexico, prior to delivery by an instructor-coordinator;

(11) ensure that all affiliated instructor-coordinators are approved by the joint organization on education;

(12) ensure that a formal preceptor program is developed and utilized for all field and clinical education; the preceptor program shall include the following standards:

- (a) EMS providers functioning as preceptors within an EMS service have written approval from the EMS service director, the EMS service medical director, the education program service director, and the education program medical director; preceptors shall be licensed as a provider at or above the student's level of education; preceptors shall ensure that only approved skills, commensurate with the student's scope of education, are performed by the student under direct observation by the approved preceptor;
- (b) students practicing in a field education environment shall function under a formal field preceptorship agreement between the EMS service and the education program;
- (c) students performing field or clinical skills as part of a bureau approved EMT-intermediate or EMT-paramedic education program must be fully licensed at a minimum of the New Mexico EMT-basic level, or have been granted special permission by the EMS bureau; and
- (d) students from approved New Mexico EMS education programs may participate in a field education environment (which includes both clinical and internship experience) within the state of New Mexico; EMS educational programs based out of state must be nationally accredited by an EMS bureau approved accrediting organization, and obtain permission from the EMS bureau and JOE for their students to participate in a field education environment within the state of New Mexico. Out-of-state based students performing field or clinical skills as part of a bureau

approved EMT-intermediate or EMT-paramedic education program must be fully licensed at a minimum of their state's EMT-basic level, or have been granted special permission by the EMS bureau;

G. Education program instructor-coordinator standards: Approved New Mexico EMS education programs shall maintain instructor-coordinator standards to ensure quality of instruction. Instructor-coordinators shall:

- (1) be affiliated with an approved EMS education program;
- (2) successfully complete an instructor-coordinator education course that meets or exceeds the national standard curriculum for EMS instructor-coordinators as published by NHTSA and approved by the joint organization on education and the EMS bureau;
- (3) be currently licensed as a New Mexico EMS provider; and
- (4) shall meet the qualifications for instructor-coordinators as established by the joint organization on education committee.

H. Scope of practice: The scope of practice for each level of licensure is found in 7.27.11 NMAC and shall be updated at least annually and issued by the bureau in accordance with the EMS Act, Paragraph (4) of Subsection C of Section 24-10B-7 NMSA 1978. Licensed EMDs, EMSFRs and EMTs shall only perform those skills, techniques, medications, and procedures found within the New Mexico scope of practice and as authorized by the service medical director (also see EMS medical direction rule 7.27.3 NMAC).

I. Training and education required: As outlined in the New Mexico scopes of practice, prior to utilizing any new skill, technique, medication, or procedure designated as "service medical director approved", it shall be documented by the service director,

medical director, or bureau approved EMS education program that the EMS provider has been appropriately trained to administer the medications or perform the skills, techniques, medications, or procedures. Additionally, each EMS provider must have a signed authorization from the services medical director on file at the EMS services headquarters, or administrative offices.

J. Medical direction approval/control required: Medical control is required for certain skills and medications use at all levels of EMS as outlined in the New Mexico scopes of practice. Those EMS personnel who function without medical direction shall only perform those skills, techniques, and procedures that do not require medical director approval. Any person who is issued a temporary or graduate license shall only administer the medications or perform the skills, techniques, medications, and procedures for the approved level, as established by the medical direction committee and found in the applicable scope of practice.

K. Special skills: Special skills, which are all considered advanced life support, are skills outside the usual scope of practice for a level of licensure. EMS services or systems that wish to apply for special skills authorization shall submit a written application as set forth in 7.27.11.10 NMAC. Services or systems may apply for any skill at any level. Personnel who successfully complete a special skills program shall be authorized to utilize advanced skills and drugs only with medical director approval and under the medical control of the EMS system that received the program approval.

L. Licensing application procedures: Persons seeking New Mexico licensure in any of the six classifications shall apply using the appropriate forms as provided by the bureau and present the required documentation, which shall remain in the person's licensure file. Applications and forms can be obtained from the bureau.

M. Licensure periods and expiration dates: The length of an EMS license varies depending on the date that an individual is licensed, but is (on average) approximately 24 months in length. The expiration date for every license is March 31 of a given year. Requirements for renewal of licensure shall be completed prior to the March 31 expiration date. License expiration dates are as follows:

(1) Licenses issued in January through June: A license that is issued on a date in January through the end of June will expire March 31 in the second year after the year in the license was issued. For example, if an initial license is issued on February 28, 2025, the license will expire on March 31, 2027.

(2) Licenses issued in July through December: A license that is issued on a date in July through the end of December will expire March 31 in the third year after the year in which the license was issued. For example, if an initial license is issued on October 14, 2025, the license will expire on March 31, 2028.

N. New Mexico EMS bureau approved licensing examinations: All EMS candidates must successfully complete the bureau approved licensing examination.

(1) The initial licensing examination shall be completed within 12 months based from the date of course completion. Successful completion of the licensing examination process that results in the issuance of a license shall be completed within 24 months based from the date of course completion. Should a candidate fail to become licensed within 24 months, not complete the initial licensing examination attempt within 12 months of course completion, or fail to successfully complete the bureau approved licensing examination within six attempts, the candidate must complete a new initial education course. The EMS bureau chief or designee may approve an initial licensing testing extension on a case-by-case basis.

(2) Applicants for state licensure shall pay the appropriate licensing fee upon submission of application to the bureau (see 7.27.2.13 NMAC for a complete description of licensing fees).

(3) There will be no refund of fees, except in unusual circumstances as determined by the bureau.

O. Graduate license for all EMT levels: The function of the EMS graduate license is to grant graduates of a bureau approved EMS education program authorization to practice skills commensurate with their scope of training and education in the field setting under the direct observation and supervision of a New Mexico EMS provider licensed at or above the graduate's education program level. The graduate license shall only be used under approved medical direction. The EMS service director and the EMS service medical director shall identify and maintain a list of approved preceptors. The graduate licensee shall be fully supervised by the preceptor when performing patient care. The preceptor will be responsible for all patient care including patient care activities in the patient compartment when transporting to a medical facility. This will necessitate a vehicle driver in addition to the licensed EMT preceptor and the graduate licensee. During a mass casualty incident, the graduate licensee shall only provide assessment and treatment at the level for which the graduate licensee is fully licensed; if the graduate licensee is not fully licensed at a lower level, they shall only provide non-medical assistance. The EMS graduate license shall remain in effect for a period of six months after the course completion date or until failure of any portion of the bureau approved licensing examination. A graduate license may not be upgraded to full licensure. Individuals holding a graduate license who wish to obtain full licensure must apply for and complete all aspects of an initial licensing application, including payment of fees. All

applicants for graduate licensure shall:

(1) submit a completed bureau approved license application form, including completing the criminal background check;

(2) provide evidence of current bureau approved CPR certification;

(3) provide evidence of current bureau approved ACLS certification (paramedic only);

(4) provide a course completion certificate from a bureau approved EMS education program; and

(5) pay all licensure fees as required by these rules.

P. Americans with Disabilities Act: When requested by an applicant who otherwise meets the minimum qualifications, the department shall reasonably accommodate the qualified person with disabilities in the licensure process, in accordance with the Americans with Disabilities Act and other applicable state and federal laws. Persons requiring accommodations must make an advance request at least 30 calendar days prior to the EMS bureau scheduled activity. The request for accommodation shall be forwarded to the bureau for consideration of such an accommodation, to include supporting documentation from the applicant's health care provider and a medical or professional diagnosis.

Q. Recognition of out-of-state licensure for emergency incidents and other short term and mission specific situations: During emergency situations and other short term and mission specific situations, the bureau may waive initial licensure requirements for out-of-state EMS personnel based on the following:

(1) an individual or agency must be responding to a specific emergency incident;

(2) an individual or agency shall contact the EMS bureau prior to beginning EMS operations in New Mexico;

(3) the individual or agency shall provide evidence (copies) of individual certification or licensure from another state or the national registry;

(4) if wildland fire, an individual or agency shall provide a national wildland fire "request for recognition" form;

(5) an individual or agency shall provide evidence of agency medical direction, written medical protocols and scope of practice; the bureau may restrict the provided scope of practice;

(6) the individual or agency shall contact the local EMS system for coordination of services; and

(7) the maximum approved time for out-of-state licensure for a specific emergency incident is 30 days and may be renewed on a case-by-case basis.

[7.27.2.8 NMAC - Rp, 7.27.2.8 NMAC, 9/9/2025]

7.27.2.9 INITIAL LICENSURE:

A. General: This section specifies requirements for initial licensure. This section applies to all applicants who are graduates of bureau approved EMS education programs. Any person applying for New Mexico licensure from out-of-state, other programs, or with national registry certification shall meet the requirements for licensure described in Section 7.27.2.10 NMAC. Specific time periods apply for EMS licensing examinations, according to Subsection O of 7.27.2.8 NMAC. Initial licensure may only be obtained as described in this section; initial licensure requirements are not subject to waiver.

B. Licensed emergency medical dispatcher (EMD): Licensure as an emergency medical dispatcher in New Mexico is mandatory for all persons who provide pre-arrival medical instructions to the emergency and non-emergency caller.

(1) An applicant for licensure as an EMD shall:

(a) be 18 years of age, and be of good character;

(b) provide evidence of a current bureau approved CPR certification; or, if physically unable to be CPR certified, provide written documentation of current knowledge and practical applications of CPR, as defined in these rules;

(c) successfully complete an EMD education course, which has been approved by the bureau, that meets or exceeds the U.S. department of transportation (USDOT) standards for EMD, within the previous 12 months;

(d) meet all other licensing requirements found in 7.27.2.8 NMAC of these rules;

(e) submit the required application and licensure fees as required by these rules; and

(f) provide a valid personal (i.e., non-service or business) address in the application materials.

(2) Persons who do not have a certificate of completion from a New Mexico approved EMD education program but are currently certified or licensed in another state as an EMD, or have successfully completed an equivalent out-of-state EMD education course as determined by the bureau, within the previous 12 months, may apply for licensure by submitting an application along with documentation of current out-of-state certification or licensure, or an out-of-state EMD course completion certificate.

(3) Upon recognition by the bureau, the person may be fully licensed as an EMD.

C. Licensed EMD-instructor: An applicant for licensure as an EMD-instructor shall:

(1) be a licensed EMT-basic, or higher level of licensure; or, if physically unable to be licensed as an EMT-basic, provide verification of successful course completion from an EMT-B education program;

(2) have graduated from high school or possess a general education diploma (GED);

(3) be 18 years of age, and be of good character;

(4) provide evidence of a current bureau approved CPR certification; or, if physically unable to be certified for CPR, provide written documentation of current knowledge and practical applications of CPR, as defined by these regulations;

(5) be currently licensed as an EMD;

(6) have successfully completed, within the previous 12 months, an EMD-instructor education course from an EMD program which is approved by the bureau;

(7) provide a valid personal (i.e., non-service or business) address in the application materials; and

(8) meet all other licensing requirements found in 7.27.2.8 NMAC of these rules, and submit the required application and licensure fees as required by these rules.

D. Licensed emergency medical services

first responder: An applicant for licensure as an EMS first responder shall meet the following requirements:

(1) the applicant shall be of good character; and

(2) the applicant shall be at least 18 years of age; or the applicant shall be at least 16 years of age and meet the following requirements:

(a) be affiliated with a service, and shall submit a letter of support from the service director;

(b) shall notify the bureau, in writing, of any change of service affiliation; and

(c) shall submit a notarized parental or guardian consent;

(3) all applicants shall meet the following requirements:

(a) submit a completed, bureau approved license application form;

(b) provide evidence of current bureau approved CPR certification;

(c) present a certificate of completion from an EMSFR course completed within the previous 24 months at a bureau approved EMS education program;

(d) successfully complete the bureau approved EMSFR licensing examination within six attempts; the initial licensing examination shall be completed within 12 months from the date of course completion; successful completion of the licensing examination process that results in the issuance of a license shall be completed within 24 months from the date of course completion; the EMS bureau may, at the discretion of the EMS bureau chief, accept successful completion of the approved EMSFR course final as completion of an EMSFR licensing examination;

(e) provide documentation of successful completion of an approved exam, which may include a copy of national registry of EMTs emergency medical responder certification card or, in approved circumstances, a copy of the course completion certificate acquired after bureau approved course and examination completion;

(f) provide a valid personal (i.e., non-service or business) address in the application materials;

(g) meet all other licensing requirements found in 7.27.2.8 NMAC of these rules; and

(h) pay all licensure fees as required by these rules.

E. Emergency medical technician basic (EMT-B):

An applicant for licensure as an EMT-B shall meet the following requirements:

(1) the applicant shall be of good character; and

(2) the applicant shall be at least 18 years old; or

(3) the applicant shall be at least 17 years of age and meet the following requirements:

(a) be affiliated with an EMS service, and shall submit a letter of support from the service director;

(b) shall notify the bureau, in writing, of any change of service affiliation; and

(c) shall submit a notarized parental or guardian consent;

(4) all applicants who are graduates of a bureau approved EMS education program may apply for graduate licensing, which allows them to work temporarily under direct supervision, as outlined in 7.27.2.8 NMAC of these rules;

(5) all applicants applying to be licensed, shall meet the following requirements:

(a) submit a completed, bureau approved license application form;

(b) provide evidence of current bureau approved CPR certification;

(c) present a certificate of completion from an EMT-B course completed at a bureau approved EMS education program, and accomplished within the previous 24 months;

(d) successfully complete the bureau approved EMT-B licensing examination within six attempts; the initial licensing examination shall be completed within 12 months based on the date of course completion; successful completion of the licensing examination process that results in the issuance of a license shall be completed within 24 months based on the date of course completion;

(e) provide documentation of successful completion of an approved exam, which may be a copy of national registry of EMTs emergency medical technician certification card acquired

after bureau approved course and examination completion;

(f) provide a valid personal (i.e., non-service or business) address in the application materials;

(g) meet all other licensing requirements found in 7.27.2.8 NMAC of these rules;

(h) pay all licensure fees as required by these rules.

G. Emergency medical technician-intermediate (EMT-I): An applicant for licensure as an EMT-I shall meet the following requirements:

(1) the applicant shall be at least 18 years old, and be of good character;

(2) the applicant shall submit a completed, bureau approved license application form;

(3) the applicant shall provide evidence of current bureau approved CPR certification;

(4) the applicant shall be fully licensed as an EMT-basic;

(5) the applicant shall present a certificate of completion from an approved EMT-I course completed at a bureau approved EMS education program, and accomplished within the previous 24 months;

(6) the applicant shall successfully complete the bureau approved EMT-I licensing examination within six attempts; the initial state licensing examination shall be completed within 12 months based on the date of course completion; successful completion of the licensing examination process that results in the issuance of a license shall be completed within 24 months based on the date of course completion;

(7) the applicant shall provide documentation of successful completion of an approved exam, which may include a copy of national registry of EMTs advanced emergency medical

technician certification card acquired after bureau approved course and examination completion;

(8) the applicant shall provide a valid personal (i.e., non-service or business) address in the application materials;

(9) the applicant shall meet all other licensing requirements found in 7.27.2.8 NMAC of these rules;

(10) the applicant shall pay all licensure fees as required by these rules; and

(11) all applicants who are graduates of a bureau approved EMS education program may apply for graduate licensing which allows them to work temporarily under supervision, as outlined in 7.27.2.8 NMAC of these rules.

H. Emergency medical technician paramedic (EMT-P): All applicants applying to be licensed at the EMT-P level shall meet the following requirements:

(1) the applicant shall be at least 18 years old, and be of good character;

(2) the applicant shall present, at a minimum, a high school diploma or general education diploma (GED);

(3) the applicant shall submit a completed bureau approved license application form;

(4) the applicant shall be fully licensed as an EMT-B or EMT I;

(5) the applicant shall provide evidence of current bureau approved CPR certification;

(6) the applicant shall present proof of current bureau approved education which meets or exceeds the current national standard for advanced cardiac life support (ACLS) on emergency cardiac care (ECC);

(7) the applicant shall provide a valid personal (i.e., non-service or business) address in the application materials;

(8) the applicant shall pay all licensure fees as required by these rules;

(9) the applicant shall submit a certificate of completion from the education program; successful completion of the EMT-P education program must have been accomplished within the previous 24 months;

(10) the applicant shall successfully complete the bureau approved EMT-P licensing examination;

(11) the applicant shall submit a copy of national registry of EMTs paramedic certification card acquired after bureau approved course and examination completion;

(12) the applicant shall meet all other licensing requirements found in 7.27.2.8 NMAC of these rules; and

(13) all applicants who are graduates of a bureau approved EMS education program may apply for graduate licensing which allows them to work temporarily under direct supervision, as outlined in 7.27.2.8 NMAC.

I. Surrendering a license in order to downgrade to a lower level of licensure: EMS personnel may petition the bureau to surrender their current license and downgrade to a lower level of licensure in accordance with the following:

(1) the provider shall be in good standing at the current level of licensure;

(2) the provider shall meet the eligibility and renewal requirements (if doing this at the time of renewal) for the lower EMS level (i.e., CE, CPR, criminal background check, etc.); and

(3) if the provider requests that the downgraded license be upgraded to the original level of licensure, the provider shall meet the re-entry requirements to reacquire the original level of licensure in accordance with Subsection L of 7.27.2.11 NMAC of this rule.

[7.27.2.9 NMAC - Rp, 7.27.2.9 NMAC, 9/9/2025]

7.27.2.10 RECIPROCITY:

A. Individuals who are currently licensed or certified in another state or governmental jurisdiction may apply for New Mexico EMS licensure as provided in this section. Individuals holding a certification with the national registry of EMTs at any level must also be licensed/certified by a state or other recognized jurisdictional authority to be eligible for reciprocity, unless otherwise approved by the bureau. The individual shall meet the following requirements:

(1) the individual shall submit an application for the appropriate licensure level along with a copy of a current state certification/licensure card;

(2) the individual shall provide a copy of a current bureau approved CPR certification card;

(3) if applying for the EMT-P level, the individual shall provide a copy of current bureau approved education which meets or exceeds the current national standard for advanced cardiac life support (ACLS) on emergency cardiac care (ECC);

(4) the individual shall pay the appropriate out-of-state reciprocity fee as required by these rules; there will be no refund of fees, except in unusual circumstances; as determined by the bureau;

(5) if applying for the EMSFR, EMT-B and EMT-I level, the individual shall successfully complete a bureau approved transition course for out-of-state applicants, as determined by the EMS bureau;

(6) if the applicant has joined an EMS agency as a volunteer or employee and this is verified by agency leadership, the agency's medical director may verify the applicant's competency in lieu of the applicant taking a bureau exam; if the applicant is not associated with an EMS agency, they must successfully complete the New Mexico reciprocity written examination at the appropriate licensure level within three attempts and if, requested by the EMS bureau,

successfully demonstrate appropriate practical skills proficiency; the initial state reciprocity examination shall be completed within nine months from the date the application was received at the EMS bureau; successful completion of the examination process that results in the issuance of a NM EMS license shall be complete within 12 months from the date the application was received at the EMS bureau; and

(7) the individual shall meet all other licensing requirements found in 7.27.2.8 NMAC of these rules.

B. Additional provisions:

(1) **Frequency:** an out-of-state reciprocity application for an individual will only be accepted once in a 12-month time period.

(2) **Temporary licensure:** a reciprocity applicant may be granted a temporary license to practice at the appropriate licensure level for a period of up to six months or until failure of any part of the reciprocity examination, whichever occurs first.

(a) While under a temporary license, those applicants seeking full New Mexico licensure at the EMSFR, EMT-B, or EMT-I level shall complete a bureau approved out-of-state transition course and complete the New Mexico reciprocity examination; applicants applying at the EMT-P level shall complete the New Mexico paramedic reciprocity examination;

(b) Applicants holding a temporary license shall be fully licensed when they have successfully completed New Mexico EMS reciprocity examination at the appropriate licensure level and remit payments of required fees, all applicants are required to keep their out-of-state license or certification current until the New Mexico reciprocity process is successfully completed;

(c) Temporary licenses issued to out-of-

state reciprocity candidates shall only be issued once during a 12-month period;

(d)

Temporary licensure commences on the issue date of the temporary license from the bureau;

(e)

A temporary license may be issued only upon application and payment of required fees.

(3) **Seasonal**

licensure: an out-of-state EMS caregiver may apply for a seasonal license. A seasonal license will allow the caregiver to provide care at a scope of practice approved by the bureau, not to exceed the New Mexico scope of practice. The following requirements apply:

(a)

seasonal licenses issued to applicants for a seasonal license shall be issued once in a 12-month period, unless otherwise determined by the bureau for good cause; the seasonal license is valid for three months from the date of issue, except as otherwise approved by the bureau;

(b)

the applicant must provide proof of licensure from another state, unless otherwise determined by the bureau;

(c)

applicants for a seasonal license must show proof of New Mexico medical direction provided by a medical director in accordance with 7.27.3 NMAC, and provide the bureau with the medical director approved protocols; and

(d)

the applicant must submit a completed application with appropriate fees. [7.27.2.10 NMAC - Rp, 7.27.2. 10 NMAC, 9/9/2025]

7.27.2.11 LICENSURE

RENEWAL: All licensed New Mexico EMS providers are required to renew their license every two years. Current renewal documents and information may be obtained from the bureau, website, or by requesting them from the bureau. Individuals renewing their New Mexico EMS provider's license shall submit

verification of the required number of continuing education (CE) hours, as described for each licensure level. Required certification or education, such as *advanced cardiac life support* (ACLS) or cardiopulmonary resuscitation (CPR), may each be used once to fulfill a portion of the CE hour requirement during each two year renewal period. Additional cards may not be used for additional CEs. New Mexico license renewal requirements may not match those of national registry or other states; it is the individual's responsibility to assure their completed CE meets the requirements of other states or the national registry if they want to renew those certifications and licensures. A maximum of one-half of the required number of CEs necessary for renewal for each level may come from asynchronous distance/distributive learning programs as defined later in this rule. This may differ from the requirement for maintaining national registry certification.

A. Receipt of licensure renewal from the EMS bureau: Licensing renewal is the responsibility of each individual licensee. A renewal applicant shall provide a valid personal (i.e., non-service or business) address in the application materials. If an individual licensee fails to notify the bureau of a change of address within one year from the date of relocation, as determined by the bureau, a bad address fee may be assessed by the bureau. For individuals who have submitted their complete licensure renewal packet to the bureau in a timely manner, the bureau will review the renewal requests in the order they are received.

(1) If there is a

delay in notification from the bureau about the status of the licensure renewal beyond the expiration of the license, the individual shall remain licensed until:

(a)

notified by the bureau that the license application has been denied or the license expired without renewal; or

(b)

they receive their license from the

bureau or the bureau website lists the individual as licensed.

(2) If an

individual's renewal application is incomplete, the individual shall be notified by the bureau by electronic mail.

(3) If an

individual licensee is notified that a renewal problem exists with their license, and the license has expired, the individual shall not remain licensed, and their name will be removed from the list of those licensed on the bureau website.

B. Renewal deadlines:

Specific renewal requirements must be completed prior to licensure expiration. Required CPR and ACLS certifications and education must be current at the time of renewal. In order to pay the standard renewal fees, renewal applications must be received by the bureau by the last day of February prior to expiration of licensure. Renewal applications received after the last day of February, but before March 31, will be accepted but will be assessed a higher fee as described later in this rule.

(1) Once the

renewal period is announced to be open, the applicant may submit the completed renewal application to the bureau as soon as requirements are complete; the completed renewal application shall be submitted no later than the final month of licensure. A standard renewal fee is assessed for renewal applications submitted prior to the final month of licensure.

(2) Renewal

applications received during the final month of licensure will be accepted, but will be assessed a higher renewal fee due to the requirement for speedier processing.

(3)

Applications for renewal of licensure shall be submitted no later than the last day of licensure (March 31st).

C. Mandatory

updates: The bureau may require mandatory updates to education in any given year of licensure. Mandatory updates may include required content hours during specific continuing education courses or other mandatory classes.

D. Audits: The bureau may require full documentation of continuing education, including copies of certification cards, course completion certificates, and any other relevant documents from any individual applying for renewal of their license.

E. Waivers: The licensing commission may, for good cause shown, waive portions of these rules pertaining to licensure renewal pursuant to 7.27.2.14 NMAC of these rules. Persons requesting waivers for licensure renewal shall submit requests in writing to the EMS licensing commission, in care of the bureau.

F. Inactive or limited scope status: A licensee who is not currently providing care through an EMS provider service and does not have a service medical director may request that the bureau designate the licensee as being on inactive status, which will remain in effect until the bureau is notified of the applicant obtaining medical direction. No patient care should be performed until the inactive status is removed by the bureau.

G. Licensed emergency medical dispatcher (EMD): Renewal for a licensed EMD is required within each licensure period. Documentation must show that all renewal requirements have been completed before expiration of licensure. Cardiopulmonary resuscitation (CPR) education/certification must be current at the time of renewal. If the EMD is concurrently licensed as an EMT-B, EMT-I, or EMT-P, the renewal dates for EMD licensure may be adjusted by the bureau to match the renewal dates for the EMT-B, EMT-I, or EMT-P license. The following requirements are necessary for a person to renew their EMD license. The renewal applicant shall:

(1) submit copies of course completion certificates or verification showing a minimum of 20 contact hours of CE activity; of which at least 10 hours shall be medical subjects/skills of bureau approved CE activity and 10

hours of dispatch related subjects/skills, unless the EMD is also licensed at the EMT-B, EMT-I, or EMT-P level; the EMD may then use those contact hours of CE activity obtained during the renewal period for the EMT-B, EMT-I, or EMT-P licensure toward the medical renewal requirements;

(2) provide evidence of current bureau approved CPR certification and education; or, if physically unable to be certified for CPR, provide written documentation of current knowledge and practical applications of CPR; and

(3) submit required application and payment of all license renewal fees as required by these rules.

H. Licensed emergency medical dispatcher-instructor: Renewal of a licensed EMD-instructor is required within each licensure period. Documentation must show that all renewal requirements have been completed prior to expiration of licensure. Cardiopulmonary resuscitation (CPR) education/certification must be current at the time of renewal. The following requirements are necessary for a person to renew their EMD-I license. The renewal applicant shall:

(1) submit verification from a bureau approved EMD education program showing that the EMD- instructor is current and in good standing with the approved EMD education program;

(2) submit verification of completion of all EMD CE renewal requirements;

(3) submit a copy of current licensure at the EMT-B or higher level;

(4) provide evidence of current bureau approved cardiopulmonary resuscitation (CPR) education or certification; or, if physically unable to be certified for CPR, provide written documentation of current knowledge and practical applications of CPR; and

(5) submit the required application and payment of all licensure renewal fees as required by these rules.

I. Emergency medical services first responder:

Renewal of the EMSFR license is required within each licensure period. Documentation must show that all renewal requirements have been completed prior to expiration of licensure. Cardiopulmonary resuscitation (CPR) education/certification shall be current at the time of renewal. The following requirements are necessary for a person to renew their license. The renewal applicant shall:

(1) submit a completed renewal application;

(2) submit verification of a minimum of twenty contact hours of bureau approved CE activity consisting of the following subjects and minimum hours per subject:

(a) preparatory/operations, two hours;

(b) airway and ventilation, three hours;

(c) cardiovascular emergencies, two hours;

(d) medical emergencies, four hours;

(e) trauma emergencies, four hours;

(f) special considerations, five hours, two of which must consist of pediatric content;

(3) provide evidence of current bureau approved cardiopulmonary resuscitation education or certification;

(4) provide a statement of verification, signed by the service medical director, that the applicant is competent in all EMSFR skills listed in the current scopes of practice that require medical direction; and

(5) submit payment of all licensure renewal fees as required by these rules.

J. Emergency medical technician basic (EMT-B):

Renewal of the EMT-B license is required within each licensure period. Documentation must show that all renewal requirements have been completed prior to expiration

of licensure. Cardiopulmonary resuscitation (CPR) education/certification shall be current at the time of renewal. The following requirements are necessary for an EMT-B to renew their license; portions of a bureau approved EMT-I or EMT-P course may, within the bureau's discretion, fulfill CE requirements. The renewal applicant shall:

(1) submit a completed renewal application;
(2) submit verification of a minimum of 40 contact hours of bureau approved CE activity, consisting of the following subjects and minimum hours per subject:

(a) preparatory/operations, four hours;
(b) airway and ventilation, six hours;
(c) cardiovascular emergencies, six hours;
(d) medical emergencies, eight hours;
(e) trauma emergencies, eight hours;
(f) special considerations, eight hours, four of which must consist of pediatric content;

(3) provide evidence of current bureau approved cardiopulmonary resuscitation (CPR) education or certification;

(4) provide a statement of verification, signed by the service medical director, that the applicant is competent in all EMT-basic skills listed in the current scopes of practice that require medical direction; and

(5) submit payment of all licensure renewal fees as required by these rules.

K. Emergency medical technician intermediate (EMT-I): Renewal of the EMT-I license is required within each licensure period. Documentation must show that all renewal requirements have been met prior to expiration of licensure. Cardiopulmonary resuscitation (CPR) education/certification shall be

current at the time of renewal. The following requirements are necessary for an EMT-I to renew their license; provided that portions of a bureau approved EMT-P course may, within the bureau's discretion, fulfill CE requirements. The renewal applicant shall:

(1) submit a completed renewal application;
(2) submit verification of a minimum of 50 contact hours of bureau approved CE activity, consisting of the following subjects and minimum hours per subject:

(a) preparatory/operations, four hours;
(b) airway and ventilation, eight hours;
(c) cardiovascular emergencies, six hours;
(d) medical emergencies, 12 hours;
(e) trauma emergencies, 10 hours;
(f) special considerations, 10 hours, five of which must consist of pediatric content.

(3) provide evidence of current bureau approved cardiopulmonary resuscitation (CPR) education or certification; and

(4) provide a statement of verification, signed by the service medical director, that the applicant is competent in all EMT-intermediate skills listed in the current scopes of practice that require medical direction; and

(5) submit payment of all licensure renewal fees as required by 7.27.2.13 NMAC of these rules.

L. Emergency medical technician paramedic (EMT-P): Renewal of the EMT-P license is required within each licensure period. Documentation must show that all renewal requirements have been completed on or before expiration of licensure. Cardiopulmonary resuscitation (CPR) education/certification and advanced emergency cardiac care education/advanced cardiac life support (ACLS)

certifications shall be current at the time of renewal. The following requirements are necessary for an EMT-P to renew their license. The renewal applicant shall:

(1) submit a completed renewal application;
(2) submit verification of a minimum of 60 contact hours of bureau approved CE activity at any level, consisting of the following subjects and minimum hours per subject:

(a) preparatory/operations, six hours;
(b) airway and ventilation, eight hours;
(c) cardiovascular emergencies, 10 hours;
(d) medical emergencies, 14 hours;
(e) trauma emergencies, 10 hours;
(f) special considerations, 12 hours, six of which must consist of pediatric content;

(3) provide a statement of verification, signed by the service medical director, that the applicant is competent in all EMT-paramedic skills listed in the current scopes of practice that require medical direction.

(4) submit proof of current bureau approved education which meets or exceeds the current national standards for advanced emergency cardiac care education, or advanced cardiac life support (ACLS) certification;

(5) provide evidence of current bureau approved cardiopulmonary resuscitation (CPR) education or certification; and

(6) submit payment of all licensure renewal fees as required by 7.27.2.13 NMAC of these rules.

M. Re-attaining a license after expiration for all categories: The bureau provides three methods for expired licensees to regain their licensure: reinstatement, re-entry, and re-licensure.

(1) **Reinstatement:** Those persons who have completed the renewal

requirements but failed to renew licensure by March 31st, may apply for reinstatement between April 1st and May 31st of the expiration year. A complete renewal application for reinstatement must be received at the bureau by May 31st. Applications for reinstatement submitted after March 31 will be assessed an additional late fee (see fees, 7.27.2.13 NMAC).

(2) Re-entry:

A person whose license is expired, who does not meet the circumstances of Paragraph (1) of Subsection M of 7.27.2.11 NMAC, but whose date of expiration of the previously held license is less than two years, may re-enter EMS at the previously held or lower level if the person left EMS in good standing and successfully completes the requirements below. The re-entry process may only be attempted once; if a candidate for re-entry does not successfully complete the exam within two testing attempts, the re-entry candidate shall complete a full licensure course at the appropriate licensure level to be eligible for NM EMS licensure. The individual shall:

(a)

for basic, intermediate and paramedic, complete a minimum of half of the number of hours of bureau approved continuing education at the appropriate level within the 12 months preceding the date of application for re-entry; the number and subjects of CEs must equal a minimum of half of the requirements for renewal of the level for which the individual is applying for, as described herein;

(b)

for first responder, complete a minimum of 10 hours of bureau approved continuing education within the 12 months preceding the request for re-entry; the number and subjects of CEs must equal a minimum of half of the requirements for renewal of the first responder level as described herein;

(c)

provide evidence of current bureau approved cardiopulmonary resuscitation (CPR) education or

education, which may not be used as part of the CE hour requirement;

(d)

successfully complete an approved New Mexico licensing examination and other practical examinations, as determined by the bureau, at the appropriate provider licensure level (maximum of two examination attempts allowed), if applicable;

(e)

if EMD or EMD-I applicant, provide verification of a minimum of 10 contact hours of bureau approved CE activity, of which five hours shall be medical subjects/skills and five hours shall be dispatch related subjects/skills of bureau approved CE activity;

(f) if

an EMT-P applicant, provide evidence of bureau approved advanced emergency cardiac care education/ advanced cardiac life support (ACLS) certification education which may not be used as part of the CE hour requirement; and

(g)

submit required application and payment of licensure fees as identified for the appropriate level in 7.27.2.13 NMAC of these rules.

(3) Re-

licensure: A person whose license has been expired for more than two years from the date of expiration shall be considered an initial licensure applicant. To become licensed, a person must complete the requirements of 7.27.2.9 NMAC of these rules.

N. Expiration of

licensure: All New Mexico EMS personnel whose licensure expires on March 31st of any given year will receive notification of EMS license expiration, and that they are no longer authorized to perform patient care. The bureau will send this notice to the email address of record notifying the former licensee of expiration during the first week of April, remove the former licensee from the bureau website list of licensed personnel, and notify the national registry of EMTs if applicable.

O. Bureau approved

continuing education: Continuing education (CE) credit may be granted for any education that has been approved in advance by the bureau. All individuals or EMS services wishing to grant CE credit to licensed EMDs, EMD-Is, EMSFRs, EMTs, and paramedics in New Mexico shall submit the appropriate documentation to the bureau at least 30 days in advance. Bureau approved CEs must include information that addresses the New Mexico scope of practice. CEs submitted to the bureau for approval after education has been completed may be denied, and will be reviewed for approval or disapproval on a case-by-case basis. Application for CE approval shall be made utilizing the bureau's "notification of intent to conduct a CE program" application form available online from the bureau. Information regarding CEs may be found on the bureau website.

(1) Purpose:

Continuing education is designed to meet three main objectives:

(a) to

provide exposure to new and current trends in the area of patient care;

(b)

to review areas of patient assessment and management that are not used on a frequent basis; and

(c) to

meet licensure renewal requirements.

(2)

Continuing education categories:

The EMS bureau has adopted the CE category designations similar to those published by many states and national EMS organizations. A more detailed explanation of these categories can be found in the "EMS CE user's guide" available from the bureau. The CE categories are:

(a)

preparatory and operations topics: preparatory topics include roles and responsibilities, well-being of the EMT, injury prevention, medical/legal issues, ethics, anatomy/physiology, principles of pathophysiology, principles of pharmacology, IV therapy and medication administration, therapeutic communications; operations topics

include ambulance operations, medical incident command, rescue awareness and operations, hazardous materials incidents, crime scene awareness;

(b)

airway and ventilation;

(c)

cardiovascular emergencies:

general topics include treatment of cardiac arrest, post resuscitation care, congestive heart failure, ventricle assist devices, acute coronary syndrome, multi-lead ECG, myocardial infarction, general cardiology, stroke (stroke may also be considered neurology/medical emergency);

(d)

medical emergencies: general topics include pulmonary, neurology, endocrinology, allergies and anaphylaxis, gastroenterology, urology/renal, toxicology, hematology, environmental conditions, infectious and communicable diseases, behavioral and psychiatric disorders, gynecology, obstetrics;

(e)

trauma emergencies: general topics include kinematics, blunt trauma, penetrating trauma, hemorrhage and shock, soft tissue trauma, burns, head and facial trauma, spinal trauma, thoracic trauma, abdominal trauma, musculoskeletal trauma; and

(f)

special considerations: general topics include neonatology, pediatrics, geriatrics, abuse and neglect, patients with special challenges, acute interventions for the home health care patient.

(3) Forms of

CE: The following forms of CE are currently recognized by the bureau. The bureau reserves the right to approve additional forms of CE as necessary. More detailed information may be found in the "EMS CE user's guide" available from the bureau.

(a)

Classroom instruction: Standard instructor-student relationship in the classroom or field setting.

(b)

Pre-approved courses: A list of

national and statewide recognized certification courses that are pre-approved for CE credit is found in the CE guide available online and from the bureau. Individuals completing any of these courses need only to submit their course completion certificate or card when renewing their licenses. Courses that are approved by a bureau approved nationally recognized CE course approval entity are, at the discretion of the bureau, pre-approved for credit in New Mexico.

(c)

EMS related college courses: Credit may be awarded to individuals who are attending college courses relevant to EMS. Individuals who are interested in receiving credit should submit a copy of their unofficial student transcript and course syllabus. The EMS bureau will determine relevance and the number of CE hours allowed.

(d)

Teaching bureau approved courses: Licensed individuals who teach bureau approved courses may receive the same number of CE hours as students who are taking the program; refer to the "EMS CE user's guide" for a more complete description.

(e)

Field or clinical preceptorship: A maximum of 20 hours of CE may be allowed for EMS preceptor activities; documentation of preceptor activities must be on letterhead from an approved New Mexico EMS education institution or EMS service director.

(f)

Asynchronous distance/distributive education learning programs: This is a method of delivering training and education that does not require an educator and student to interact in real time. This may include EMS videos, computer-based-education, self-study modules, recorded broadcasts via satellite, internet, or other media, and other methods of out-of-classroom didactic education that includes a student evaluation component (i.e.: post course test/quiz). A maximum of one-half of the required number of CEs necessary for renewal for each

level may come from asynchronous distance/distributive learning programs. Please note, this may differ from the requirement for maintaining national registry certification. The licensing commission may waive, or authorize the EMS bureau to waive, this maximum upon receipt of a waiver request.

(g)

Synchronous distance education learning programs: This is a method of delivering training and education via electronic media that links an educator and students, allowing them to interact in real time despite being in different places. This includes live, instructor interactive satellite broadcasts or webcasts that allow for live video, audio, or other immediate feedback and communication between the instructor and the students. There is no limit to the number of CE hours a licensed individual may obtain through this method. The CE certification must document that the offering was provided and completed via a live broadcast. The decision regarding a CE being accepted as synchronous distance learning is discretionary and rests with the EMS bureau alone.

(h)

EMS agency/fire department medical director courses: The medical director may conduct CE courses without a bureau approved CE number. All other requirements for conducting an EMS CE course must be followed, and records must be maintained by the agency/department CE coordinator, including class roster and teaching outlines. CEs submitted as medical director courses must include the physician's signature.

(i)

On-the-job education/staff meetings: A maximum of eight hours of CE will be accepted for agency/department staff meetings, job orientation classes, take home work sheets, etc., for each renewal period;

(j)

Meetings/committees: A maximum of eight hours of CE will be accepted for attending EMS related committees/ meetings for each renewal period.

<p>(k) Unacceptable CE: CEs obtained for completing evaluations for any EMS classes or conferences, participating in EMS related surveys, etc., will not be accepted.</p>	<p>(viii) the statement: “reviewed and approved by the New Mexico EMS bureau for CE”;</p>	<p>(c) CE complaint audit: this audit is a preliminary investigation conducted by the EMS bureau based on a complaint concerning falsification of the CE process.</p>
<p>(4) Record keeping: Once approval of a CE program is obtained and the course is presented, records of attendance must be maintained. The bureau may audit the CE records of an approved CE program. Attendance records with original signatures of course participants and a copy of any course presentation material must be kept for a minimum of 36 months by the service, for bureau audit purposes.</p>	<p>(ix) method of delivery (classroom, asynchronous, or synchronous distance program); and</p>	<p>(6) Refreshers: The EMS bureau does not require a refresher certificate for renewal, but refresher certificates from approved New Mexico EMS education institutions may be used to satisfy an equivalent number of hours for the CE requirement. The refresher documentation submitted must describe the number of CE hours for each CE category, and the number of synchronous and asynchronous hours that were delivered in the class. If a portion of the refresher was completed in an online or other asynchronous distance/distributive education format, the CE hours will be categorized as asynchronous CE by the bureau, and will count towards the maximum number of asynchronous education. For a formal refresher certificate from entities other than New Mexico approved institutions to be accepted for CEs, the course curriculum must be approved prior to an applicant completing the refresher. [7.27.2.11 NMAC - Rp, 7.27.2.11 NMAC, 9/9/2025]</p>
<p>(a) In order for participating EMS personnel to receive credit, each individual shall be given a certificate, letter of attendance/completion, or copy of course attendance roster and advised to retain it until their licensure renewal. Many EMD Agencies (EMDA) and EMS services have computerized records of their personnel concerning CE. The EMS bureau will recognize CE summary documentation, on letterhead, from EMDA or EMS service directors, education coordinators, medical directors, or CE coordinators with appropriate original signatures.</p>	<p>(x) EMS bureau approval number.</p> <p>(5) CE audits for EMS services and personnel: The bureau may periodically perform audits of CE programs. These audits are usually provided as a way for services to evaluate their current program, identify areas in which the program excels, as well as areas that may be problematic. The following types of CE audits may be conducted by the bureau:</p>	<p>7.27.2.12 IDENTIFICATION OF EMS PERSONNEL: Licensed EMDs, EMD- Is, EMSFRs, EMTs, and paramedics will receive one digital license certificate, and one uniform patch (if available).</p>
<p>(b) Course completion letters, certificates, and course rosters shall contain the following information:</p>	<p>(a) CE course audit: this audit evaluates the actual class or course being conducted; the purpose of this audit is to provide written feedback to the instructor on presentation, content, and participant evaluations conducted at the end of the class; this audit is usually unannounced;</p>	<p>A. The bureau shall charge a reasonable fee for replacement of lost documents. The bureau shall also charge a reasonable fee for additional uniform patches, pursuant to 7.27.2.12 NMAC of these rules.</p>
<p>(i) location and date of the CE program;</p>	<p>(b) CE recordkeeping audit: this audit evaluates the CE program sponsor recordkeeping process; records of prior classes or courses conducted are inspected for completeness and feedback is provided to the CE program sponsor that identify areas for improvement; CE program sponsors will be given at least five days advance notification of these audits; records that will be inspected include:</p>	<p>B. Licensed EMDs, EMD-Is, EMSFRs, EMTs, and paramedics shall be listed as fully licensed on the bureau’s list of licensed personnel, and upon demand, present proof of this listing and licensure status.</p>
<p>(ii) title and short description of the class or course;</p>	<p>(i) original copies of attendance rosters with the signatures of course participants;</p>	<p>C. Licensed EMDs, EMD-Is, EMSFRs, EMTs, and paramedics shall promptly notify the</p>
<p>(iii) number of actual contact hours (half hour increments are acceptable);</p>	<p>(ii) course presentation materials/outlines or learning objectives;</p>	
<p>(iv) CE category;</p>	<p>(iii) handouts that were given to participants;</p>	
<p>(v) name of participant;</p>	<p>(iv) any evaluation tools, including written exams or practical skill forms; and</p>	
<p>(vi) CE coordinator’s name with designation “CE coordinator” placed after the name;</p>	<p>(v) CE approval letter or approval numbers;</p>	
<p>(vii) signature of CE coordinator;</p>		

bureau of any changes of name, address or EMS employment/affiliation status.

D. All volunteer, paid, and career EMS agencies regulated by the DOT or the EMS bureau that utilize EMS caregivers to perform patient care are required to verify the license of any volunteer or career EMS caregiver via direct contact with the EMS bureau or by accessing the bureau's license verification list. National Registry certification does not constitute licensure. Any other organization, business, or individual that employs or otherwise utilizes licensed EMS caregivers to provide medical care utilizing emergency medical dispatchers or emergency medical technicians including paramedics is strongly advised to verify the New Mexico license of the emergency medical dispatchers or emergency medical technicians via direct contact with the bureau or by accessing the bureau's license verification list. [7.27.2.12 NMAC - Rp, 7.27.2.12 NMAC, 9/9/2025]

7.27.2.13 FEES:

A. Examination, licensure, renewal and assorted fees: The bureau shall charge reasonable fees for the examination, licensure, and renewal of licensed EMS providers in New Mexico, according to the following schedule.

(1) In-state application fees will apply to individuals who have completed an EMS licensing course through a bureau approved New Mexico EMS education program.

(2) Reciprocity and seasonal licensure application fees will apply to individuals applying for licensure through the reciprocity and seasonal process education.

B. Initial license fees:

DESCRIPTION	IN-STATE APPLICATION FEE	RECIPROCITY & SEASONAL APPLICATION FEE
Licensed EMD	\$25.00	\$50.00
Licensed EMD-instructor	\$35.00	\$70.00
Licensed EMS first responder	\$25.00	\$50.00
Licensed EMT-basic	\$65.00	\$130.00
Licensed EMT-intermediate	\$75.00	\$150.00
Licensed EMT-paramedic	\$85.00	\$170.00

C. Reciprocity & re-entry examination re-test fees:

DESCRIPTION	RE-TEST FEE FOR IN-STATE AND OUT OF STATE APPLICATION
First responder examination retest fee	\$25.00
EMT-basic examination fee	\$30.00
EMT-intermediate written/practical examination fee	\$35.00
EMT-paramedic written/practical examination fee	\$40.00

D. Licensure renewal application fees:

DESCRIPTION	FEE TYPE	FEE
Licensed EMD	standard fee	\$20.00
	March renewal fee	\$60.00
Licensed EMD-instructor	standard fee	\$25.00
	March renewal fee	\$75.00
Licensed EMS first responder	standard fee	\$20.00
	March renewal fee	\$60.00
Licensed EMT-basic	standard fee	\$30.00
	March renewal fee	\$90.00
Licensed EMT-intermediate	standard fee	\$40.00
	March renewal fee	\$120.00

Licensed EMT-paramedic	standard fee	\$50.00
	March renewal fee	\$150.00

E. Reinstatement application fees:

DESCRIPTION	FEE
Licensed EMD	\$120.00
Licensed EMD-instructor	\$150.00
Licensed EMS first responder	\$120.00
Licensed EMT-basic	\$180.00
Licensed EMT-intermediate	\$240.00
Licensed EMT-paramedic	\$300.00

F. Re-entry application fees:

DESCRIPTION	FEE
Licensed EMD	\$60.00
Licensed EMD-instructor	\$75.00
Licensed EMS first responder	\$60.00
Licensed EMT-basic	\$90.00
Licensed EMT-intermediate	\$120.00
Licensed EMT-paramedic	\$150.00

G. Miscellaneous fees:

DESCRIPTION	FEE
Additional patches-each	Bureau cost
Bad check fee-each occurrence	\$20.00
National healthcare practitioner query fee-each occurrence as determined by the bureau	\$15.00
Bad address fee-each occurrence, as determined by the bureau	\$20.00

H. Use of fees: Fees collected by the bureau under these rules shall be used expressly for licensing related operations.

I. Payment of fees: State fees shall be made payable to the bureau by check, money order or other bureau approved method of payment. Licensure and examination fees are due and payable at the time of licensure application. Licensure applications will not be processed until payment of the required fees.

J. Waiver of fees: Applicants for licensure under these rules who, for good cause, are unable to pay the licensure fees may petition the bureau for a waiver. Applications for fee waiver under these rules shall be submitted to the bureau in the form of a written letter, and shall document the exact nature of the applicant's inability to pay. Waiver requests shall be submitted to the EMS bureau chief or designee for approval.

[7.27.2.13 NMAC - Rp, 7.27.2.13 NMAC, 9/9/2025]

7.27.2.14 ENFORCEMENT:
A. EMS licensing commission:

(1) Statutory basis: The emergency medical services licensing commission is established pursuant to Section 24-10B-5.1 NMSA 1978.

(2) Duties: The duties of the commission are to:
(a) provide a forum for the receipt of public comment regarding emergency medical services licensing matters;
(b) oversee the bureau's licensing and enforcement functions;

(c) receive complaints, direct investigations, and authorize the initiation of actions by the bureau regarding contemplated refusal to grant initial licensure and for disciplinary actions against licensees; and

(d) grant waivers, for good cause shown, of regulations pertaining to licensure renewal.

(3) Organization: Members of the commission are appointed by the secretary as provided by law.

(a) Commission members shall serve until their successors have been appointed by the secretary.

(b) In the event of a vacancy on the commission by resignation or removal, the bureau shall immediately notify the secretary so as to expedite the appointment of a new commission member. The secretary shall appoint such vacancies.

(c) The commission may recommend to the secretary removal of any commission member for the following reasons:

(i) failing to attend or otherwise participate in two consecutive meetings without a valid reason; or
(ii) any other good cause.

(d) The commission shall elect a chair and vice-chair annually. The term of office

begins with the meeting at which the officer is elected.

(e)

The bureau shall serve as staff for the commission.

(4)

Commission meetings: The commission shall meet as needed, but not less than semi-annually.

(a)

Commission meetings for receipt of public comment regarding emergency medical services licensing functions and oversight of the bureau's licensure function shall be subject to the Open Meetings Act, Section 10-15-1, *et seq.*, NMSA 1978.

(b)

Meetings pertaining to the issuance, suspension, renewal or revocation of a license, or other personnel matters, are closed meetings as provided by the Open Meetings Act.

(c) A

meeting notice resolution, consistent with the provisions of the Open Meetings Act, shall be adopted by the commission and shall be reviewed in November of each year at a regularly scheduled meeting of the commission.

(d)

Minutes of meetings shall be taken and maintained in accordance with the Open Meetings Act.

(e)

A commission member may attend a meeting of the commission via telephone or other teleconferencing technology, if it otherwise difficult or impossible for the member to attend in person.

(5) **Receipt**

of public comment: There shall be an opportunity for receipt of public comment regarding licensure matters, in writing or orally, at each open commission meeting.

(a)

Written public comment intended for consideration by the commission shall be mailed to the bureau. The comments must include the person's name, address, and telephone number, if available. Unidentified comments may or may not be considered by the commission.

(b)

The commission, upon receipt of

public comments, may make an appropriate recommendation to the bureau to take action based on those comments.

(6) **Oversight:**

During each regularly scheduled meeting, the bureau will provide a report of its licensure functions to the commission. Commission members may, at any time, request information about licensure functions from the bureau.

B. Complaint/ incident procedures: Any person may communicate a written complaint or knowledge of an incident to the bureau or the commission.

(1) When

the bureau has knowledge of a complaint that may affect a person's license, it shall notify the chair of the commission as soon as practicable.

(2) Similarly,

when the commission has knowledge of a complaint or incident affecting licensure, it shall notify the bureau.

(3) Other

complaints, which would not affect licensure, will be directed to, and examined by the bureau.

(4) The bureau

shall communicate to the chair or designee its opinion as to whether or not an investigation of the complaint should be initiated.

(5) Upon

knowledge of a complaint, the chair, or designee, after consultation with other members of the commission, as feasible, shall authorize that an investigation be conducted.

(6) The chair

or designee shall direct the course of the investigation through periodic communication with the bureau as necessary.

(7) If an

investigation indicates that the complaint may affect a person's license, the licensee shall be notified that the bureau is conducting an investigation, unless extenuating circumstances reasonably preclude notification.

(a)

At the conclusion of the bureau's investigation, the bureau shall report its findings to the commission in a

closed meeting at which a majority of commission members participate, either in person or by means of a conference telephone or other similar communications equipment.

(b)

The commission, after consideration of the bureau's report, may authorize the initiation of an action by the bureau regarding contemplated refusal to grant initial licensure, or for disciplinary action against a licensee, by a majority vote of commission members participating in the closed meeting. The commission may immediately authorize a cease and desist order for any of the grounds for disciplinary action identified in this rule.

(c)

Summary suspension: The commission may authorize the bureau to summarily suspend an EMS provider's license or place a licensee on probation without a hearing if the individual has been adjudged mentally incompetent by a final order or adjudication by a court of competent jurisdiction, or if the individual has pled guilty to or been found guilty of a disqualifying criminal offense.

(d)

Preliminary injunction for immediate suspension: When the commission finds that evidence in the department's possession indicates that a licensee poses a clear and immediate danger to the public health and safety if the licensee continues to practice, the commission may authorize the bureau to seek a preliminary injunction for the immediate suspension of the individual's license. The injunction may be sought in the district court in the county in which the principal office of the licensee is located or, if the principal office is not in New Mexico, in the district court for Santa Fe county. If the injunction is granted, an expedited administrative hearing regarding the suspension of the license or probation of the licensee shall be held, in accordance with Subsection G of Section 7.27.2.14 NMAC.

(e)

Upon receipt of authorization from the commission to initiate an action,

the bureau may deny, suspend or revoke licensure or take other disciplinary action, in accordance with this rule.

C. Conduct of investigations: Investigations shall be conducted by the bureau or its agent(s).

(1) Preliminary investigations: When the bureau receives information that might form the basis for disciplinary action against a person, it shall begin a preliminary investigation. This is a fact finding, information gathering investigation that will attempt to determine for the commission whether justification exists for the commission to authorize the bureau to initiate an action or to conduct a formal investigation. The results of the preliminary investigation will be presented to the commission.

(2) Formal investigations: Formal investigations are authorized by the commission for the purpose of obtaining additional information to allow the commission to determine if it will authorize the bureau to initiate an action. The results of the formal investigation will be presented to the commission. Notice will be given to the person who is the subject of the formal investigation unless extenuating circumstances exist which would reasonably preclude notification.

D. Subpoena authority: In accordance with Subsection C of Section 24-10B-5. 1 NMSA 1978 of the EMS Act and Subsection A of Section 61-1-4 NMSA 1978 of the Uniform Licensing Act, the EMS licensing commission or the bureau, pursuant to the commissions authorization may, subject to the rules of privilege and confidentiality recognized by law, require the furnishing of information, the attendance of witnesses, and the production of books, records, papers or other objects necessary and proper for the purposes before it, and may take sworn statements of witnesses, including parties.

E. Waivers: The commission, upon good cause or for extenuating circumstances shown

by a licensee, may grant a waiver of a specific regulation or regulations pertaining to licensure renewal for that licensee.

(1) A licensee shall demonstrate good cause to the commission by submitting written justification that identifies any extenuating circumstances, to the bureau. The licensee shall include any reasonable supporting documentation relevant to the request.

(2) The bureau shall distribute the submitted written justification and supporting documentation to the members of the commission prior to their next meeting.

(3) The commission, as soon as practicable, shall determine if good cause exists to grant a waiver by a majority vote of commission members meeting in a closed meeting. To accomplish this, the commission shall evaluate the documentation and, if necessary, review other pertinent documentation requested from the licensee.

(4) The commission may also meet with the licensee at a closed meeting of the commission prior to rendering its decision as to whether good cause exists to grant a waiver.

(5) If the commission grants the waiver to the licensee, it shall direct the bureau to take appropriate action to implement the terms and conditions of the waiver.

(6) A licensee applying for a waiver shall be notified by the bureau of the commission's decision in writing within 20 calendar days of receipt of the commission's decision.

(7) The chair or his designee, with a recommendation from the bureau, may authorize a temporary waiver for licensure renewal, where they feel it may be justified, i.e., loss of employment, pecuniary interests, etc., subject to subsequent commission review and approval.

F. Impaired practitioner program: An EMT who voluntarily self-identifies to the

bureau or the impaired practitioner committee that he is experiencing a physical or mental impairment shall be considered for the impaired practitioner program ("diversion program"). Consideration may not result in participation in the diversion program. Also, any impaired-EMT who the bureau, with the advice of the commission, determines may benefit from the impaired practitioner program may be compelled to attend the impaired practitioner committee.

(1) The bureau, with the advice of the commission, may appoint an impaired-EMT rehabilitation committee to organize and administer a program that will:

(a) serve as a diversion program to which the bureau may refer licensees in lieu of, or in addition to, other disciplinary action taken by the bureau under these regulations; and

(b) be a source of referral for EMTs who, on a voluntary basis, desire to avail themselves of treatment for behavioral health based or chemical-dependence impairments.

(2) The impaired practitioner committee shall be composed as a minimum of:

(a) one bureau staff member;
(b) one commission member;
(c) one mental health specialist; and
(d) one physician.

(3) The impaired practitioner committee shall:

(a) arrange evaluations for EMTs who request participation in the diversion program;

(b) review and designate treatment facilities and services to which EMTs in the diversion program may be referred;

(c) receive and review information concerning the status and progress of participants in the diversion program;

(d) publicize the diversion program in coordination with EMS professional organizations and the bureau; and

(e) prepare and provide reports as needed to the bureau and the commission.

(4) Each EMT entering the diversion program shall be informed of the procedures applicable to the diversion program, of the rights and responsibilities associated with participation in the diversion program and of the possible consequences of failure to participate in the diversion program. Failure to comply with any treatment requirement of the diversion program may result in termination of the diversion program participation. The bureau shall report termination of diversion program participation to the commission. Participation in the diversion program shall not be a defense against, but may be considered in mitigating any disciplinary action authorized by the commission and taken by the bureau. The commission is not precluded from authorizing the bureau to commence a disciplinary action against an EMT who is participating in the diversion program or has been terminated from the diversion program.

G. Denial, suspension, and revocation: A license may be denied, suspended, or revoked, or may be subject to other disciplinary action, in accordance with the following:

(1) upon authorization by the commission, the bureau may suspend, revoke, or refuse to issue any license, or take other disciplinary action, in accordance with the provisions of the EMS Act, Subsection B of Section 24-10B-5 NMSA 1978 and the Uniform Licensing Act, Section 61-1-1, *et seq.*, NMSA 1978, for any of the reasons outlined below;

(2) if final disciplinary action is taken against a licensed EMS provider by the bureau, upon authorization from the commission, the bureau may publish the action in a periodical

or other medium that has statewide distribution, and will notify the national registry of EMTs and other appropriate certification or licensing entities of the disciplinary action;

(3) grounds for denial, suspension, revocation or other disciplinary action are:

(a) misconduct in obtaining licensure;

(b) fraud, deceit, misrepresentation in obtaining licensure, including, but not limited to, cheating on an examination or attempting to subvert the initial or renewal licensing process;

(c) unprofessional conduct, whether committed while on duty or off duty, to include but not limited to, the following:

(i) dissemination of a patient's health information to individuals not entitled to such information and where such information is protected by law from disclosure;

(ii) falsifying or altering patient records or personnel records;

(iii) misappropriation of money, drugs, or property;

(iv) obtaining or attempting to obtain any fee for patient services for one's self or for another through fraud, misrepresentation, or deceit;

(v) aiding, abetting, assisting or hiring an individual to violate the EMS Act or these duly promulgated rules;

(vi) failure to follow established procedure and documentation regarding controlled substances;

(vii) failure to make or keep accurate, intelligible entries in records as required by law, policy and standards for the practice of pre-hospital emergency care;

(viii) failure to report an EMS provider who is suspected of violating the New Mexico Emergency Medical Services Act or these rules;

(ix) intentionally engaging in sexual contact with or toward a patient;

(d) conviction for a disqualifying criminal offense, when the conviction relates directly to the profession or the practice of emergency medical services;

(e) a plea of guilty or no contest (*nolo contendere*) to a criminal charge for an offense identified in 7.27.2.18 NMAC, when the offense relates directly to the profession or the practice of emergency medical services;

(f) negligence in the delivery of emergency medical services to include, but not limited to:

(i) practicing outside the standard of care, scope of licensure or without appropriate medical direction;

(ii) malpractice;

(iii) incompetence in performance of pre-hospital emergency medical functions, whether direct patient care or the administration or management of that care. An EMS provider is under legal duty to possess and to apply the knowledge, skill and care that is ordinarily possessed and exercised by other EMS providers of the same licensure status and required by the generally accepted standards of the profession; the failure to possess or to apply to a substantial degree such knowledge, skill and care constitutes incompetence for purposes of disciplinary proceedings. It shall not be necessary to show that actual harm resulted from the act or omission or series of acts or omissions, so long as the conduct is of such a character that harm could have resulted to the patient or to the public;

(iv) patient abandonment: patient abandonment occurs when the EMS provider has accepted the patient assignment thus establishing a provider-patient relationship and then severs the relationship without giving reasonable notice to a qualified person

who can make arrangements for the continuation of care;	(ii)	(5) procedures
(g) unauthorized disclosure of medical or other confidential information;	(iii)	for enforcement of the Parental Responsibility Act:
(h) physical or mental incapacity which could result or has resulted in performance of emergency medical service duties in a manner which endangers the health and safety of the patient or others;	(iv)	(a) the New Mexico human services department (HSD) shall issue to the bureau a certified list of obligors (meaning persons who have been ordered to pay child support pursuant to a judgment and order for support issued by a district or tribal court) not in compliance with their judgment and order of support;
(i) any demonstrated pattern of alcohol or other substance abuse; or any single instance of alcohol or substance abuse in the performance of emergency medical services duties;	(q)	(b) upon determination by the bureau that the name and social security number of an applicant for licensure, a licensed person, or licensee, appears on the certified list, the bureau shall require that applicants for licensure provide a statement of compliance from HSD to the bureau no later than 48 hours prior to scheduled attendance at a state EMS examination site; or provide a statement of compliance from HSD to the bureau no later than the close of business, 60 days from the date of the letter of notification. If the applicant fails to provide a statement of compliance, the bureau shall be authorized by the commission to issue a notice of contemplated action to deny the application. Persons currently licensed shall provide the bureau with a statement of compliance from HSD by the earlier of the application for licensure renewal or a specified date not to exceed 60 days. If the licensed person fails to provide the statement of compliance, the bureau shall be authorized by the commission to issue a notice of contemplated action to take appropriate action;
(j) failure to successfully complete the impaired practitioner program; or failure to meet the terms and conditions of an impaired practitioner agreement;	(r)	
(k) failure to meet licensure requirements;	(s)	
(l) dispensing, administering, or distributing of a controlled substance, other than as authorized in the applicable scope of practice, or diversion of a controlled substance;	(t)	
(m) failure to report revocation, suspension, denial, or other adverse actions taken in any other state or jurisdiction affecting the ability to practice emergency medical services;	(u)	
(n) misrepresentation of the level of licensure or certification;	(v)	
(o) performing duties as a licensed EMT without being licensed by the bureau to perform the authorized scope of practice for a level of licensure, including practicing after expiration of a license;	(w)	
(p) any false, fraudulent, or deceptive statement in any document connected with the practice of emergency medical services, including, but not limited to, documents associated with:	(4) the	(c) upon authorization by the commission to issue a notice of contemplated action concerning violation of the Parental Enforcement Act, the bureau shall serve upon an applicant for licensure or licensee a notice of contemplated action in accordance with the Uniform Licensing Act stating that the bureau has grounds to take such action, and that the bureau shall take such action unless the applicant or licensed person mails a letter (certified mail, return
(i) initial licensure;	provisions of the New Mexico Criminal Offender Employment Act, Section 28-2-1 <i>et seq.</i> , NMSA 1978, shall apply to disciplinary actions proposed pursuant to this rule;	

receipt requested) within 20 days after service of the notice requesting a hearing, or provides the bureau, within 30 days of receipt of the notice of contemplated action, a statement of compliance from HSD; if the applicant or licensed person disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant or licensed person shall contact the HSD child support enforcement division;

(d) in any hearing under this paragraph, the following standards shall apply:

(i) a statement of non-compliance is conclusive evidence that requires the bureau to take appropriate action, unless the applicant or licensee provides the bureau with a subsequent statement of compliance, which shall preclude the bureau from taking any further action under this section;

(ii) when an action is taken against an applicant or licensee solely because the applicant or licensed person is not in compliance with a judgment and order for support, the order shall state that the application, license shall be reinstated upon presentation to the bureau of a subsequent statement of compliance.

(e) the secretary may also include in the order any other conditions necessary to comply with requirements for reapplication and re-issuance of licensure, including, but not limited to, requiring a surcharge fee of \$50, in addition to any other applicable fees;

(6) **right to a hearing:** in accordance with the provisions of the Uniform Licensing Act, Sections 61- 1-1, *et seq.*, NMSA 1978, every applicant or person licensed, shall be afforded notice and opportunity for a hearing, before the department shall have authority to take action, the effect of which would be to deny permission to take an examination for licensure for which application has been duly made, or to deny, suspend, or revoke a certification or license, or take other disciplinary action; exception:

(a) a person whose license is summarily suspended or immediately suspended may request an expedited hearing before a hearing officer appointed by the secretary to contest the action, by depositing in the mail a certified return receipt letter addressed to the bureau that contains a request for a hearing within 30 days after service of either the notice of summary suspension or the court order granting a preliminary injunction for the immediate suspension (as applicable);

(b) upon receipt of a timely request for a hearing, the department shall appoint a hearing officer and schedule a hearing, in accordance with the hearings portion of this rule;

(7) **records management:** a licensing record is maintained for every licensed EMT in New

Mexico; any request for records maintained by the bureau will be processed in accordance with the Inspection of Public Records Act; if the bureau begins a preliminary or formal investigation, a separate confidential record will be created containing all investigatory material;

(a) **confidentiality:** the commission and the bureau will take every precaution to ensure that preliminary and formal investigations are conducted in a confidential manner; if the commission authorizes the bureau to initiate an action, all records not exempt from disclosure under the Inspection of Public Records Act, Sections 14-2-1, *et seq.*, NMSA 1978, will be placed in the licensee's licensing record, if one exists;

(b) **records confidentiality:** in accordance with the Emergency Medical Services Act at Section 24-10B-4.1 NMSA 1978, any files or records in the possession of the bureau, a regional office or a provider containing identifying information about individuals requesting or receiving treatment or other health services and any unsubstantiated complaints received by the bureau regarding any provider

shall be confidential and not subject to public inspection; such files, records and complaints may be subject to subpoena for use in any pending cause, in any administrative proceeding, or in any of the courts of this state, unless otherwise provided by state or federal law.

H. Unlicensed activity: In accordance with the Uniform Licensing Act at Section 61-1-3.2 NMSA 1978, a person who, while not holding an active NM EMT license, engages in the performance of emergency medical services in New Mexico may be subject to a civil monetary penalty imposed by the department of health, in an amount not to exceed \$10,000 for each violation. A person who is subject to a proposed monetary penalty for unlicensed activity shall be entitled to notice from the bureau and an administrative hearing, and the provisions of Section 7.27.2.15 NMAC shall apply as though the person was a licensee or applicant appealing a proposed disciplinary action.

I. Enforcement of education standards:

(1) **Process for non-compliance:** The bureau will make every attempt to resolve non-compliance of education standards at the lowest level possible. The following process shall be utilized:

(a) the bureau will notify the approved New Mexico education program, in writing, of any suspected or reported non-compliance of education standards received by complaint, report or course trends;

(b) the approved New Mexico education program will provide a plan to correct items of noncompliance and will submit the plan to the bureau in writing within 30 days;

(c) the bureau will re-evaluate the plan and progress reports for compliance of the education standards in three month increments until the problem is resolved; and

(d)
if the bureau determines that non-compliance has not been adequately resolved, the bureau may initiate an enforcement action against the education program or the licensed EMT who is an instructor-coordinator.

(2)
Complaint/incident procedures:
Any person may communicate a complaint or knowledge of an incident to the bureau. Complaints shall be submitted in signed written form to the bureau. The bureau may begin an investigation if there is sufficient cause.

(a)
When a complaint is received by the bureau, written acknowledgment shall be made within 10 working days and the bureau staff shall decide whether or not a preliminary or formal investigation of the complaint shall be initiated.

(b)
Approved New Mexico EMS education programs being formally investigated shall receive written notification within 10 working days after a decision is made to begin a formal investigation.

(c)
At the conclusion of the bureau's formal investigation, the bureau may report its findings to the investigated education program in written form. If the bureau investigation warrants an enforcement action, the education program will be given a notice of contemplated action.

(d)
If no investigation is warranted, the education program or person filing a complaint will be notified, as determined by the bureau.

(3)
Investigations: The bureau shall normally conduct preliminary and formal investigations.

(a)
Preliminary investigations: When the bureau receives information that forms the basis for an enforcement action, it shall begin a preliminary investigation. This is a fact finding, information gathering investigation that will attempt to determine for the bureau whether justification exists

to initiate an action or to conduct a formal investigation.

(b)
Formal investigations: Formal investigations are for the purpose of obtaining additional information to allow the bureau to determine if it will initiate an action. Notice will be given of the formal investigation, unless extenuating circumstances exist which would reasonably preclude notification.

(c)
Confidentiality: The bureau will take every precaution to insure that preliminary and formal investigations are conducted in a confidential manner.

(d)
Records: An official record is maintained for every approved New Mexico EMS education program. If the bureau begins a preliminary or formal investigation, a separate confidential record will be created containing all investigation material. If the bureau initiates an action, all records not exempt from disclosure under the Inspection of Public Records Act, Sections 14-2-1, *et seq.*, NMSA 1978, will be placed in the education program's official record. Any request for records maintained by the bureau will be processed in accordance with the Inspection of Public Records Act.

(4)
Grounds for enforcement actions: Enforcement actions may result in an action taken against an approved New Mexico EMS education program or an instructor-coordinator affiliated with the education program. These enforcement actions may result in the following actions:

(a)
probation or suspension of the education program for a specified period of time;

(b)
non-recognition of an education program course;

(c)
withdrawal of approval status of a education program by the bureau;

(d)
under 7.27.2.14 NMAC, a licensing action may be initiated against an

instructor-coordinator when the bureau determines that there may be inappropriate conduct or negligence; grounds for enforcement actions include, but are not limited to the following:

(i)
failure to comply with law or rules including but not limited to the failure to properly educate students on the licensure process; failure to comply with the education standards or non-compliance with a education standard found in these rules;

(ii)
falsifying documents to include use of any false, fraudulent, or deceptive statement in any document;

(iii)
failure to cooperate with an investigation to include failure to furnish the bureau with requested information, as provided by law;

(iv)
failure of students or instructors to function within the approved New Mexico scopes of practice, New Mexico treatment guidelines and the drug formulary, as approved by the medical direction committee;

(v)
failure to report required documentation including patient care data and annual education reports.

(5) **Right to appeal:** Any approved New Mexico EMS education program may appeal a decision by the bureau to take an enforcement action.

(6) **Notice of contemplated action:** When the bureau contemplates taking any action specified in this section, it shall serve upon the approved New Mexico EMS education program a written notice containing a statement of the grounds or subject upon which the proposed action is based and the rule(s) violated.

(7) **Right to hearing:** The approved New Mexico EMS education program may request a hearing before a hearing officer appointed by the secretary to contest the proposed enforcement action, by mailing a certified return receipt letter addressed to the bureau within 20 days after service of the notice.

(8) Hearing:

Upon receipt of a timely request for a hearing, the department of health shall appoint a hearing officer and schedule a hearing, to be held in Santa Fe, New Mexico, within 45 working days of receipt of the timely request for a hearing.

(9) Notice of

hearing: The department shall notify the approved New Mexico EMS education program of the date, time, and place of the hearing, the identity of the hearing officer, and the subject matter of the hearing, not less than 30 days prior to the date of the hearing.

(10) Hearing

officer duties: The hearing officer shall preside over the hearing, administer oaths, take evidence, decide evidentiary objections, and rule on any motions or other matters that arise prior to the hearing.

(11) Discovery:

Upon written request to another party, any party is entitled to: obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and inspect and copy any documents or items, which the other party will or may introduce in evidence at the hearing.

(12) Conduct

of hearing: Hearings are open to the public unless either party makes a request for closed meeting.

(13)**Hearing officer written report and**

recommendation(s): The hearing officer shall make a written report and recommendation(s) to the secretary containing a statement of the issues raised at the hearing proposed findings of fact and conclusions of law, and a recommended determination. The hearing officer or designee shall record the hearing by means of a mechanical sound recording device provided by the department for a record of the hearing. The hearing officer written report shall be submitted to the secretary no later than 30 working days after the close of the hearing.

(14)

Secretary's determination: The

secretary shall render a final determination within 45 calendar days of the submission of the hearing officer's written report. A copy of the final decision shall be mailed to the appealing party by certified mail, return receipt requested. A copy shall be provided to legal counsel for the bureau.

[7.27.2.14 NMAC - Rp, 7.27.2.14 NMAC, 9/9/2025]

7.27.2.15 HEARINGS:**A. Right to appeal:**

A licensee or applicant may appeal a decision by the department to take a disciplinary action against the licensee or applicant under this rule.

B. Right to hearing:**(1) A**

licensee or applicant may request a hearing before a hearing officer appointed by the secretary to contest a proposed action under this rule, by mailing a written request for hearing via certified letter, return receipt requested, to the bureau within 20 days after service of the notice of the contemplated action.

(2) Exception;

summary suspensions, and immediate suspensions pursuant to an injunction: a licensee may request a hearing to contest either the summary suspension of the individual's license, or the immediate suspension of the individual's license pursuant to a court-ordered preliminary injunction, by mailing a certified letter that contains a request for hearing, return receipt requested, to the bureau within either 30 days after service of the notice of the summary suspension or 30 days after service of the court order granting a preliminary injunction for immediate suspension. If a licensee or applicant fails to request a hearing in the time and manner required by this section, the licensee or applicant shall forfeit the right to a hearing, and the proposed action shall become final and not subject to judicial review.

C. Scheduling the**hearing:****(1)****Appointment of hearing officer:**

Upon the bureau's receipt of a timely

request for a hearing, the department shall appoint a hearing officer and schedule a hearing.

(2) Hearing**date:****(a)**

The hearing shall be held not more than 60 days and not less than 15 days from the date of service of the notice of the hearing.

(b)

Exception for summary suspensions, and immediate suspensions pursuant to an injunction; expedited hearing: In the event that the bureau summarily suspends an individual's license or obtains a preliminary injunction immediately suspending an individual's license, the department shall afford the individual an expedited hearing within 15 days of the date of the bureau's timely receipt of the licensee's request for a hearing, except as otherwise specified in an order granting a preliminary injunction or as reasonably requested by the licensee.

(3) Notice of**hearing:****(a)**

The department shall notify the licensee or applicant of the date, time, and place of the hearing and the identity of the hearing officer, and shall identify the statute(s) and regulation(s) authorizing the department to take the contemplated action (unless previously disclosed), within 20 days of the bureau's timely receipt of the request for hearing.

(b)

Exception for summary suspensions, and immediate suspensions pursuant to an injunction: In the event that the bureau summarily suspends an individual's license or obtains a preliminary injunction immediately suspending an individual's license, the department shall notify the individual of the expedited hearing not less than seven days prior to the scheduled date of the expedited hearing.

(4) Hearing**venue:****(a)**

The hearing shall be held in the county in which the person whose license is involved maintains his

residence, or at the election of the hearing officer, in any county in which the acts complained of occurred. In any case, the hearing officer may, with the agreement of the parties, hold the hearing in some other county, or by remote video or telephonic conference.

(b)

Exception: Hearings in cases involving initial licensure shall be held in Santa Fe, New Mexico.

D. Method of service:

Any notice or decision required to be served under this section may be served either personally or by certified mail, return receipt requested, directed to the licensee or applicant at the last known mailing address (or, if service is made personally, by the last known physical address) shown by the records of the bureau. If the notice or decision is served personally, service shall be made in the same manner allowed by the rules of civil procedure for the state district courts of New Mexico. Where the notice or decision is served by certified mail, it shall be deemed to have been served on the date borne by the return receipt showing delivery, or the date of the last attempted delivery of the notice or decision, or the date of the addressee's refusal to accept delivery.

E. Excusal of the hearing officer:

(1)

Peremptory excusal: A party shall have the ability to excuse one hearing officer. The party may request the peremptory excusal by submitting to the secretary a motion for peremptory excusal at least 20 days prior to the date of the hearing, or at least five days prior to the date of an expedited hearing concerning the summary suspension or immediate suspension of an individual's license.

(2) Excusal

for good cause shown: A party may request that a hearing officer be excused for good cause shown by submitting to the secretary a motion of excusal for good cause at least 20 days prior to the date of the hearing, or at least five days prior to an expedited hearing concerning the

summary suspension or immediate suspension of an individual's license.

F. Hearing officer

duties: The hearing officer shall conduct the hearing, rule on any motions or other matters that arise prior to the hearing, and issue a written report and recommendation(s) to the secretary following the close of the hearing.

G. Official file: Upon appointment, the hearing officer shall establish an official file which shall contain all notices, hearing requests, pleadings, motions, written stipulations, evidence, briefs, and correspondence received in the case. The official file shall also contain proffered items not admitted into evidence, which shall be so identified and shall be separately maintained. Upon conclusion of the proceeding and following issuance of the final decision, the hearing officer shall tender the complete official file to the department for its retention as an official record of the proceedings.

H. Powers of hearing

officer: The hearing officer shall have all the powers necessary to conduct a hearing and to take all necessary action to avoid delay, maintain order, and assure development of a clear and complete record, including but not limited to the power to: administer oaths or affirmations; schedule continuances; direct discovery; examine witnesses and direct witnesses to testify; subpoena witnesses and relevant books, papers, documents, and other evidence; limit repetitious and cumulative testimony; set reasonable limits on the amount of time a witness may testify; decide objections to the admissibility of evidence or receive the evidence subject to later ruling; receive offers of proof for the record; take notice of judicially cognizable facts or take notice of general, technical, or scientific facts within the hearing officer's specialized knowledge (provided that the hearing officer notifies the parties beforehand and offers the parties an opportunity to contest the fact so noticed); direct parties to appear and confer for the settlement or simplification

of issues, and otherwise conduct pre-hearing conferences; impose appropriate evidentiary sanctions against a party who fails to provide discovery or who fails to comply with a subpoena; dispose of procedural requests or similar matters; and enter proposed findings of fact and conclusions of law, orders, reports and recommendations. The hearing officer may utilize his or her experience, technical competence, or specialized knowledge in the evaluation of evidence presented.

I. Minimum

discovery; inspection and copying of documents: Upon written request to another party, any party shall have access to documents in the possession of the other party that are relevant to the subject matter of the appeal, except confidential or privileged documents.

J. Minimum

discovery; witnesses: The parties shall each disclose to each other and to the hearing officer, either orally or in writing, the names of witnesses to be called, together with a brief summary of the testimony of each witness. In situations where written statements will be offered into evidence in lieu of a witness's oral testimony, the names of the persons making the statements, and a brief summary of the statements shall be disclosed. The parties shall also exchange exhibit lists and exhibits to be offered at hearing, by the deadline established by the hearing officer.

K. Depositions:

Depositions may be taken by any party after service of notice in accordance with the Rules of Civil Procedure for the district courts. Depositions may be used as in proceedings governed by those rules.

L. Subpoenas:

A party may have subpoenas and subpoenas duces tecum (to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence) issued as of right prior to the commencement of a hearing upon making written request therefor to the hearing officer. The issuance of such subpoenas after the

commencement of the hearing rests in the discretion of the hearing officer.

M. Subpoena limits; service: Geographical limits upon the subpoena power shall be the same as if the hearing officer were a district court sitting at the location at which the hearing or discovery proceeding is to take place. The method of service shall be the same as that under the rules of civil procedure for the district courts, except that rules requiring the tendering of fees shall not apply to the department.

N. Pre-hearing disposition: The subject matter of any hearing may be disposed of by stipulation, settlement or consent order, unless otherwise precluded by law. Any stipulation, settlement, or consent order reached between the parties shall be written and shall be signed by the hearing officer and the parties or their attorneys.

O. Postponement or continuance: The hearing officer, at his or her discretion, may postpone or continue a hearing upon his or her own motion, or upon the motion of a party, for good cause shown. Notice of any postponement or continuance shall be given in person, by telephone, or by mail to all parties within a reasonable time in advance of the previously scheduled hearing date.

P. Conduct of hearing: Hearings shall be open to the public; provided, however, that hearings may be closed in whole or in part to prevent the disclosure of confidential information, including but not limited to health information protected by state and federal laws.

Q. Telephonic testimony: Upon timely notice to the opposing party and the hearing officer, and with the approval of the hearing officer, the parties may present witnesses by telephone or live video (if available).

R. Legal representation: A licensee or applicant may be represented by an attorney licensed to practice in New Mexico, or by a licensed EMT, or both. The department may be represented by a department employee or an attorney licensed to practice in New Mexico, or both.

S. Recording: The hearing officer or a designee shall record the hearing by means of a mechanical sound recording device provided by the department for a record of the hearing. Such recording need not be transcribed, unless requested by a party who shall arrange and pay for the transcription.

T. Burden of proof: Except as otherwise provided in this rule, the department has the burden of proving by a preponderance of the evidence the basis for the proposed action. Exception in denied application cases: in cases arising from the denial of permission to take a licensing examination for which application has been properly made, denial of a license for any cause other than failure to pass an examination, or denial of a license for which application has been properly made on the basis of reciprocity or endorsement or acceptance of a national certificate of qualification, the applicant shall bear the initial burden of proving by a preponderance of the evidence the applicant's qualifications.

U. Order of presentation; general rule: Except as provided in this rule, the order of presentation for hearings in all cases shall be:

(1) **appearances:** opening of proceeding and taking of appearances by the hearing officer;

(2) **pending matters:** disposition by the hearing officer of preliminary and pending matters;

(3) **opening statements:** the opening statement of the department; and then the opening statement of the party challenging the department's action or proposed action;

(4) **cases:** the department's case-in-chief, and then the case-in-chief of the party challenging the department's action;

(5) **rebuttal:** the department's case-in-rebuttal;

(6) **closing argument:** the department's closing

statement, which may include legal argument; and then the closing statement of the party opposing the department's action or proposed action, which may include legal argument; and

(7) **close:** close of proceedings by the hearing officer.

V. Order of presentation in denied application cases: The order of presentation in cases arising from the denial of permission to take a licensing examination for which application has been properly made, denial of a license for any cause other than failure to pass an examination, denial of a license for which application has been properly made on the basis of reciprocity or endorsement or acceptance of a national certificate of qualification, and any other case in which the applicant or licensee bears the burden of proof shall be:

(1) **appearances:** opening of proceeding and taking of appearances by the hearing officer;

(2) **pending matters:** disposition by the hearing officer of preliminary and pending matters;

(3) **opening statements:** applicant's or licensee's opening statement; and then the opening statement of the department;

(4) **cases:** the applicant's or licensee's case-in-chief, and then the department's case-in-chief;

(5) **rebuttal:** the applicant's or licensee's case-in-rebuttal;

(6) **closing argument:** the applicant's or licensee's closing statement, which may include legal argument; and then the department's closing statement, which may include legal argument; and

(7) **close:** close of proceedings by the hearing officer.

W. Admissible evidence; rules of evidence not applicable: The hearing officer

may admit evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs. Rules of evidence, such as the New Mexico rules of evidence for the district courts, shall not apply but may be considered in determining the weight to be given any item of evidence. The hearing officer may at his or her discretion, upon his or her motion or the motion of a party or a party's representative, exclude incompetent, irrelevant, immaterial, or unduly repetitious evidence, including testimony, and may exclude confidential or privileged evidence.

X. Objections: A party may timely object to evidentiary offers by stating the objection together with a succinct statement of the grounds for the objection. The hearing officer may rule on the admissibility of evidence at the time an objection is made or may receive the evidence subject to later ruling.

Y. Official notice: The hearing officer may take notice of any facts of which judicial notice may be taken, and may take notice of general, technical, or scientific facts within his or her specialized knowledge. When the hearing officer takes notice of a fact, the parties shall be notified either before or during the hearing of the fact so noticed and its source, and the parties shall be afforded an opportunity to contest the fact so noticed.

Z. Record content: The record of a hearing shall include all documents contained in the official file maintained by the hearing officer, including all evidence received during the course of the hearing, proposed findings of fact and conclusions of law, the recommendations of the hearing officer, and the final decision of the secretary.

AA Written evidence from witnesses: The hearing officer may admit evidence in the form of a written statement made by a witness, when doing so will serve to expedite the hearing and will not substantially prejudice the interests of the parties.

BB. Failure to appear:

If a party who has requested a hearing or a party's representative fails to appear on the date, time, or location announced for a hearing, and if no continuance was previously granted, the hearing officer may proceed to hear the evidence of such witnesses as may have appeared or may accept offers of proof regarding anticipated testimony and other evidence, and the hearing officer may further proceed to consider the matter and issue his report and recommendation(s) based on the evidence presented; and the secretary may subsequently render a final decision. Where a person fails to appear at a hearing because of accident, sickness, or other cause, the person may within a reasonable time apply to the hearing officer to reopen the proceeding, and the hearing officer may, upon finding sufficient cause, fix a time and place for a hearing and give notice to the parties.

CC. Hearing officer written report and recommendation(s): The hearing officer shall submit a written report and recommendation(s) to the secretary that contains a statement of the issues raised at the hearing, proposed findings of fact and conclusions of law, and a recommended determination. Proposed findings of fact shall be based upon the evidence presented at the hearing or known to all parties, including matters officially noticed by the hearing officer. The hearing officer's recommended decision is a recommendation to the secretary of the New Mexico department of health and is not a final order.

DD. Submission for final decision: In accordance with the Uniform Licensing Act at Subsection B of Section 61-1-7 NMSA 1978, and except as otherwise agreed upon by the parties, the hearing officer's report and recommendation(s) shall be submitted together with the complete official file to the secretary of the New Mexico department of health for a final decision no later than 30 days after the hearing.

EE. Secretary's final decision:

In accordance with the Uniform Licensing Act at Subsection B of Section 61-1-13 NMSA 1978, the secretary shall render a final decision within 90 days after the close of the hearing. The final decision shall contain a statement informing the applicant or licensee of their right to judicial review and the time within which such review must be brought (see below). A copy of the final decision shall be mailed to the appealing party by certified mail, return receipt requested, within 15 days after the final decision is rendered and signed. A copy shall be provided to legal counsel for the bureau.

FF. Right to judicial review: Pursuant to Section 39-3-1.1 NMSA 1978, a licensee or applicant who is entitled to a hearing under this rule and who is aggrieved by an adverse final decision may obtain a judicial review of the decision by filing in state district court a notice of appeal within 30 days of the entry of the final decision by the secretary.

GG. Court-ordered stay: Filing for judicial review shall not itself stay enforcement of the final decision. Any party may petition the court whose jurisdiction has been properly invoked for an order staying enforcement.
[7.27.2.15 NMAC - Rp, 7.27.2.15 NMAC, 9/9/2025]

7.27.2.16 CRIMINAL HISTORY SCREENING:

A. Authority; use of criminal history information: The emergency medical services (EMS) bureau is authorized to obtain the criminal history records of applicants and licensees, and to exchange fingerprint data directly with the federal bureau of investigation, department of public safety (DPS) and any other law enforcement agency or organization. The EMS bureau shall require fingerprinting of applicants and licensees for the purposes of this section. Information regarding felonies may form the basis of a denial, suspension or revocation of licensure, and other disciplinary

action when the conviction relates directly to the profession or the practice of emergency medical services.

B. Procedure for applicants and licensees:

(1) If an applicant or licensee otherwise meets the application and eligibility requirements, then the bureau shall require the applicant or licensee to submit a request to the federal bureau of investigation, DPS or a DPS designated vendor for a current criminal history screening through the national crime information center ("NCIC"). The applicant or licensee shall undergo the criminal history screening when first applying for either initial or renewal licensure after the effective date of this rule, and every four years thereafter.

(2) The department shall provide applicants and licensees with the department's originating agency identification (ORI) number for the purposes of criminal history screening.

(3) An applicant or licensee shall provide to DPS or a DPS designated vendor a criminal background screening request, fingerprints, and supporting documentation including an authorization for release of information to the department in accordance with the procedures of DPS or the DPS designated vendor.

(4) DPS or the DPS designated vendor will review state records and also transmit the fingerprints to the federal bureau of investigation for a national screening. The results of the screening will be made available to the department for review.

(5) Applicants and licensees shall bear any costs associated with ordering or conducting criminal history screening. Fees are determined by and payable to DPS or a DPS designated vendor. Fees cannot be waived by the department.

(6) The EMS bureau may, within its discretion, waive the criminal history screening requirements of this section for

an applicant or licensee who has submitted to, and provided proof of, an equivalent criminal history screening through DPS or through the DPS designated vendor within the previous nine months and was found to have no criminal convictions.

(7) The EMS bureau shall comply with applicable confidentiality requirements of the DPS and the federal bureau of investigation regarding the handling and dissemination of criminal history information.

C. EMS bureau review of criminal history screening information:

(1) The EMS bureau shall conduct a review of applicants and licensees with an associated history of felonies. The bureau may require the submission of additional information in writing from the applicant or licensee in order to determine whether to pursue disciplinary action. Such information may include (but not be limited to) evidence of acquittal or dismissal, information concerning conviction of a lesser included crime, or evidence of rehabilitation.

(2) The Criminal Offender Employment Act, Section 28-2-1 *et seq.*, NMSA 1978 shall govern any consideration of criminal records required or permitted by this section. In accordance with Section 28-2-4 NMSA 1978 of that act, the following provisions shall apply: If an applicant or licensee has been convicted of a felony, or if the applicant has pled guilty or nolo contendere to a felony offense, and if the criminal offense relates directly to the profession or the practice of emergency medical services, the department may deny, suspend, or revoke licensure, or take other disciplinary action, on the basis of the conviction(s) or plea(s). The burden of proof shall rest with the applicant or licensee to prove that he or she has been sufficiently rehabilitated.

(3) Factors that may be considered by the EMS bureau in determining whether to pursue disciplinary action against a licensee or applicant on the basis of

the individual's criminal history may include, but shall not be limited to:

(a) the total number of convictions, or the total number of guilty or no contest (nolo contendere) pleas entered;

(b) the time elapsed since the most recent conviction or plea;

(c) the circumstances and severity of the crime(s), including whether drugs or violence were involved;

(d) activities evidencing rehabilitation, including but not limited to completion of probation and completion of drug or alcohol rehabilitation programs;

(e) any false or misleading statements made by the applicant or licensee in an application or other materials; and

(f) evidence concerning whether an applicant or licensee poses a risk of harm to the health and safety of patients or the public.

(4) An applicant or licensee whose license is denied, suspended, or revoked, or who is otherwise made the subject of a contemplated disciplinary action based on information obtained in a criminal history background screening, shall be entitled to review the information obtained pursuant to this section and to appeal the decision pursuant to the Uniform Licensing Act, Section 61-1-1 *et seq.*, NMSA 1978, in accordance with department rules.

[7.27.2.16 NMAC - Rp, 7.27.2.16 NMAC, 9/9/2025]

**7.27.2.17 REVOCATION:
A. Effect of
revocation of NM EMS licensure:**

(1) Any person whose New Mexico EMSFR, EMT-B, EMT-I, or EMT-P licensure was revoked shall be ineligible to apply for EMSFR, EMT-B, EMT-I, or EMT-P licensure, except as otherwise permitted by this rule section.

(2) Any person whose New Mexico EMD or EMD-I licensure was revoked shall

be ineligible to apply for EMD or EMD-I licensure, except as otherwise permitted by this rule section.

(3) A person whose NM EMS licensure was previously revoked cannot utilize the re-entry or reciprocity processes to become relicensed.

B. Application for preliminary approval for licensure after revocation:

(1) A person whose New Mexico licensure was revoked no less than five years ago and whose application for relicensure is prohibited as stated above (hereafter, a "revoked individual") may request preliminary approval for licensure at the first responder, EMT basic or EMD level by submitting a preliminary approval application to the EMS bureau.

(2) A revoked individual who applies for preliminary approval for licensure shall submit all documentation that they wish to be considered in support of the request, including any records to demonstrate rehabilitation. Records that demonstrate rehabilitation are materials that demonstrate that it is likely that the revoked individual will not engage in conduct that is the same or similar to that which resulted in the revocation, and which demonstrate that the revoked individual warrants the public trust.

(3) At all times in this licensure process, the burden shall rest solely with the revoked individual to demonstrate their rehabilitation and their fitness to practice emergency medicine.

(4) The EMS bureau's receipt of an application for preliminary approval for licensure of an individual whose license was previously revoked shall in no way guarantee that the application will be granted or that the revoked individual will be permitted to apply for licensure.

C. Final decision on application for preliminary approval for licensure after revocation:

(1) The EMS bureau shall review the application

for preliminary approval and shall submit that application and any attached materials to the licensing commission for its consideration in the closed session of a regularly scheduled meeting of the commission. The EMS bureau shall make a recommendation to the licensing commission to grant or deny the application, and the commission shall review the application, during a closed meeting at which a majority of commission members participate, either in person or by means of a conference telephone or similar communications equipment. The licensing commission shall authorize the EMS bureau to grant or deny the application for preliminary approval for licensure by a majority vote of the commission members in attendance.

(2) Upon receiving authorization from the commission to grant or deny an application for preliminary approval for licensure, the bureau may render the final decision via written notice to the applicant.

(3) The bureau's grant or denial of an application for preliminary approval for licensure constitutes the final administrative action on that application, and, except as otherwise provided by law, that decision shall not be subject to any further proceeding or appeal. Nothing in this rule section conveys a right of action to any person with respect to a final decision concerning licensure after revocation, and nothing in this rule generates a right of judicial appeal with respect to that decision.

(4) A revoked individual whose application for preliminary approval for licensure is denied shall be prohibited from applying for licensure, and may not thereafter reapply for preliminary approval for licensure, until the passage of at least three years from the date of the denial.

(5) A revoked individual whose application for preliminary approval for licensure is granted may apply for licensure, and shall complete all applicable requirements of the rule in order to

become licensed at this initial level and all subsequent levels of desired licensure.

D. Effect of licensure after revocation: The licensure after revocation process enables a revoked individual to again obtain NM EMS licensure. This licensure does not constitute reinstatement, revival or renewal of a license that was previously issued or revoked. The record of a revoked individual's prior revocation shall remain a part of their EMS licensing file, and shall remain a matter of public record, without regard to the outcome of the preliminary approval process. [7.27.2.17 NMAC - N, 12/12/2017; Rp, 9/9/2025]

7.27.2.18 DISQUALIFYING CRIMINAL OFFENSES:

A. Disqualifying criminal offenses include criminal offenses in any jurisdiction (including but not limited to state and federal jurisdictions) for any of the following felonies or their equivalents, any aggravated form of the following felony offenses, and any offense whose elements would otherwise satisfy the criteria for the following felony offenses. Any such criminal offense may disqualify an applicant or licensee from receiving or retaining a license to practice as an EMS provider, in accordance with this rule.

(1) Physical Harm to Others:

(a) Section 30-2-1 NMSA 1978, "Murder".

(b) Section 30-2-3 NMSA 1978, "Manslaughter".

(c) Section 30-3-1 NMSA 1978, "Assault".

(d) Section 30-3-4 NMSA 1978, "Battery".

(e) Section 30-3-7 NMSA 1978, "Injury to pregnant woman".

(f) Section 30-3-9.2 NMSA 1978, "Aggravated assault upon a health care worker".

(g)
Section 30-3-9.2 NMSA 1978,
“Battery upon a health care worker”.

(h)
Section 30-3-12 NMSA 1978,
“Aggravated assault against a
household member”.

(i)
Section 30-3-15 NMSA 1978,
“Aggravated battery against a
household member”.

(j)
Section 30-6-1 NMSA 1978,
“Abandonment or abuse of a child”.

(k)
Section 30-4-1 NMSA 1978,
“Kidnapping”.

(l)
Section 30-4-3 NMSA 1978, “False
imprisonment”.

(m)
Section 30-9-19 NMSA 1978, “Sexual
assault”.

(n)
Section 30-22-17 NMSA 1978,
“Assault by prisoner”.

(o)
Section 30-22-22 NMSA 1978,
“Aggravated assault upon a peace
officer”.

(p)
Section 30-22-23 NMSA 1978,
“Assault with intent to commit violent
felony upon a peace officer”.

(q)
Section 30-22-24 NMSA 1978,
“Battery upon a peace officer”.

(r)
Section 30-47-4 NMSA 1978, “Abuse
of a care facility resident”.

(s)
Section 30-47-5 NMSA 1978,
“Neglect of a care facility resident”.

(t)
Section 30-47-6 NMSA 1978,
“Exploitation of a care facility
resident”.

(2) **Property**
Damage:

(a)
Section 30-3-18 NMSA 1978,
“Criminal damage to property of a
household member”.

(b)
Section 30-7-5 NMSA 1978,
“Dangerous use of explosives”.

(c)
Section 30-15-1 NMSA 1978,

“Criminal damage to property”.

(d)
Section 30-15-1.1 NMSA 1978,
“Unauthorized graffiti on personal or
real property.”

(e)
Section 30-17-5 NMSA 1978, “Arson
and negligent arson”.

(3) **Fraud:**

(a)
Section 30-16-6 NMSA 1978,
“Fraud”.

(b)
Section 7-1-73 “NMSA 1978, Tax
fraud”.

(c)
Chapter 59a, Article 16c NMSA 1978,
felony violations of the Insurance
Fraud Act.

(d)
Section 30-28-2 “NMSA 1978,
“Conspiracy”.

(e)
Section 30-44-4 NMSA 1978,
“Falsification of documents” under
the Medicaid Fraud Act.

(f)
Section 30-44-5 NMSA 1978,
“Failure to retain records in
connection with the Medicaid Fraud
Act”.

(g)
Section 30-44-6 NMSA 1978,
“Obstruction of investigation in
connection with the Medicaid Fraud
Act”.

(h)
Section 30-44-7 NMSA 1978,
“Medicaid fraud”.

(i)
Section 30-51-4 NMSA 1978,
“Money laundering”.

(4) **Theft:**

(a)
Section 30-14-8 NMSA 1978,
“Breaking and entering”.

(b)
Section 30-16-1 NMSA 1978,
“Larceny”.

(c)
Section 30-16-2 “NMSA 1978,
Robbery”.

(d)
Section 30-16-3 NMSA 1978,
“Burglary”.

(e)
Section 30-16-20 NMSA 1978,
“Shoplifting”.

(f)
Section 30-16-24.1 NMSA 1978,
“Theft of identity”.

(g)
Section 30-16-26 NMSA 1978, “Theft
of a credit card”.

(h)
Section 30-16-11 NMSA 1978,
“Receiving stolen property”.

(i)
Section 30-47-6 NMSA 1978,
“Exploitation of a care facility
resident’s property”.

(5) **Financial**
Crimes:

(a)
Section 30-16-8 NMSA 1978,
“Embezzlement”.

(b)
Section 30-16-9 NMSA 1978,
“Extortion”.

(c)
Section 30-16-10 NMSA 1978,
“Forgery”.

(d)
Section 30-41-1 NMSA 1978,
“Soliciting and receiving illegal
kickbacks”.

(e)
Section 30-42-4 NMSA 1978,
“Racketeering”.

(6) **Drug**
Offenses:

(a) Section 30-31-20 NMSA
1978, “Trafficking of controlled
substances”.

(b)
Section 30-31-21 NMSA 1978,
“Distribution to a minor”.

(c)
Section 30-31-22 NMSA 1978,
“Intentionally distributing or
possessing with intent to distribute a
controlled substance.”

(d)
Section 30-31-23 NMSA 1978,
“Possession of controlled substances”.

(e)
Section 30-31-24 NMSA 1978,
“Violations of the administrative
provisions of the Controlled
Substances Act”.

(f)
Section 30-31-25 “NMSA 1978,
Engaging in other acts prohibited by
the Controlled Substances Act”.

<p>(g) Section 30-31-25.1 NMSA 1978, “Delivering drug paraphernalia to a person under eighteen years of age and who is at least three years the person’s junior”.</p>	<p>(h) Section 30-9-14.3 NMSA 1978, “Aggravated indecent exposure”. (i) Section 30-6A-3 NMSA 1978, “Sexual exploitation of children”.</p>	<p>(f) Section 61-6-25 NMSA 1978, “Making a false statement under oath or submitting a false affidavit, in connection with the Medical Practice Act”.</p>
<p>(h) Section 30-31A-4 NMSA 1978, “Manufacturing, distributing or possessing with intent to distribute an imitation controlled substance”.</p>	<p>(j) Section 30-6A-4 NMSA 1978, “Sexual exploitation of children by prostitution”.</p>	<p>(g) Section 26-1-26 NMSA 1978, “Violation of the New Mexico Drug, Device and Cosmetic Act”.</p>
<p>(i) Section 30-31A-5 NMSA 1978, “Intentionally selling an imitation controlled substance to a person under the age of eighteen years”.</p>	<p>(k) Subsection P of Section 29-11A-4 NMSA 1978, “Failure to register as required by sex offender registration and notification act”.</p>	<p>(h) Section 12-10-20 NMSA 1978, “Failure to comply with proclamation of the governor made under Riot Control Act”.</p>
<p>(j) Section 30-31A-6 NMSA 1978, “Intentionally possessing an imitation controlled substance with the intent to distribute”.</p>	<p>(8) Abuse of animals: (a) Section 30-18-1 NMSA 1978, “Cruelty to animals or extreme cruelty to animals”.</p>	<p>(i) Section 30-3-19 NMSA 1978, “Threatening a judge or immediate family member of a judge”.</p>
<p>(k) Section 30-31B-12 NMSA 1978, “Certain violations of the Drug Precursor Act”.</p>	<p>(b) Section 30-18-3 NMSA 1978, “Unlawful branding of animals”.</p>	<p>(j) Section 30-7-16 NMSA 1978, “Receipt, transport, or possession of a firearm or destructive device by certain persons”.</p>
<p>(l) Section 30-6-3 NMSA 1978, “Contributing to the delinquency of a minor”.</p>	<p>(c) Section 30-18-6 NMSA 1978, “Transporting stolen livestock”. (d) Section 30-18-9 NMSA 1978, “Dog fighting or cock fighting”.</p>	<p>(k) Section 30-16D-6 NMSA 1978, “Altering an engine number or other numbers”.</p>
<p>(m) Section 30-22-13 NMAC, “Furnishing drugs or liquor to a prisoner”.</p>	<p>(e) Section 30-18-12 NMSA 1978, “Injury to livestock”.</p>	<p>(l) Section 30-22-4 NMSA 1978, “Harboring or aiding a felon”.</p>
<p>(7) Sex Crimes: (a) Section 30-37A-1 NMSA 1978, “Unauthorized distribution of sensitive images”.</p>	<p>(9) Miscellaneous: (a) Section 30-3A-3 NMSA 1978, “Stalking”.</p>	<p>(m) Section 30-22-5 NMSA 1978, “Tampering with evidence”.</p>
<p>(b) Section 30-37-3.2 NMSA 1978, “Child solicitation by electronic communication device”.</p>	<p>(b) Section 30-20-12 NMSA 1978, “Use of telephone to terrify, intimidate, threaten, harass, annoy or offend another.</p>	<p>(n) Section 30-22-8 NMSA 1978, “Escape from jail”.</p>
<p>(c) Section 30-37-3.3 NMSA 1978, “Criminal sexual communication with a child”.</p>	<p>(c) Section 30-22-7 NMSA 1978, “Unlawful rescue” (defined as “intentionally, and without lawful authority, rescuing any person lawfully in [the] custody or confinement” of a law enforcement officer).</p>	<p>(o) Section 30-22-9 NMSA 1978, “Escape from penitentiary”.</p>
<p>(d) Section, 30-52-1 NMSA 1978, “Human trafficking”.</p>	<p>(d) Section 66-8-102 NMSA 1978, “Driving under the influence of intoxicating liquor or drugs”.</p>	<p>(p) Section 30-22-11 NMSA, “Assisting escape”.</p>
<p>(e) Section 30-9-11 NMSA 1978, “Criminal sexual penetration”.</p>	<p>(e) Section 61-6-20 NMSA 1978, “Practicing medicine without a license”.</p>	<p>(q) Section 30-22-12 NMSA, “Furnishing articles for prisoner’s escape”.</p>
		<p>(r) Section 30-22-16 NMSA 1978, “Possession of deadly weapon or explosive by a prisoner”.</p>
		<p>(s) Section 30-24-1 NMSA 1978, “Bribery of a public officer or employee”.</p>
		<p>(t) Section 30-24-2 NMSA 1978, “Demanding or receiving a bribe by a public officer or employee”.</p>

(u)

Section 30-24-3 NMSA 1978,
“Bribery or intimidation of a
witness”.

(v)

Section 30-24-3.1 NMSA 1978,
“Acceptance of a bribe by a witness”.

(w)

Sections 1-20-1 through -24 NMSA
1978, A violation of the Election
Code.

(10) Attempt,

solicitation, conspiracy: Sections
30-28-1 through -3 NMSA 1978, An
attempt, solicitation or conspiracy
involving any offense identified in this
section.

B. The foregoing list
of disqualifying offenses shall not
limit the ability of the department
to deny, suspend, revoke, or take
other disciplinary action against an
applicant or licensee for any other
basis described in department rule.
An individual may be subject to
such disciplinary action irrespective
of whether they were convicted
of a crime for the conduct, and
irrespective of whether the crime for
which they were convicted is listed as
a disqualifying criminal offense.
[7.27.2.18 NMAC - N, 9/9/2025]

History of 7.27.2 NMAC:**Pre-NMAC History:**

Material in this part was derived
from that previously filed with the
commission of public records - state
records center and archives as:
DOH Regulation 9/5/2004
(CHSD), Regulations Governing
the Certification and Licensing of
Emergency Services Personnel, filed
10/25/1995.

History of Repealed Material:

7 NMAC 27.2, Certification and
Licensing of Emergency Medical
Services Personnel (filed 11/26/1996)
repealed 09/13/2001.
7.27.2 NMAC, Certification and
Licensing of Emergency Medical
Services Personnel (filed 08/30/2001)
repealed 01/01/2006.
7.27.2 NMAC, Certification and
Licensing of Emergency Medical
Services Personnel (filed 12/16/2005)
repealed 12/15/2008.

7.27.2 NMAC, Certification and
Licensing of Emergency Medical
Services Personnel (filed 12/2/2008)
repealed 10/30/2012.

7.27.2 NMAC, Licensing of
Emergency Medical Services
Personnel (filed 10/15/2012) repealed
8/15/2004.

7.27.2 NMAC, Licensing of
Emergency Medical Services
Personnel, (filed 7/28/2014), repealed
12/12/2017.

7.27.2 NMAC, Licensing of
Emergency Medical Services
Personnel, (filed 11/30/2017),
repealed 9/9/2025.

Other History:

DOH Regulation 9/5/2004
(CHSD), Regulations Governing
The Certification and Licensing
of Emergency Medical Services
Personnel (filed 10/25/1995), was
renumbered and reformatted to
and replaced by 7 NMAC 27.2
NMAC, Certification and Licensing
of Emergency Medical Services
Personnel, effective 01/01/1997.
7 NMAC 27.2 NMAC, Certification
and Licensing of Emergency
Medical Services Personnel (filed
11/26/1996) was replaced by 7.27.2
NMAC, Certification and Licensing
of Emergency Medical Services
Personnel, effective 09/13/2001.
7.27.2 NMAC, Certification and
Licensing of Emergency Medical
Services Personnel (filed 08/30/2001)
was replaced by 7.27.2 NMAC,
Certification and Licensing of
Emergency Medical Services
Personnel, effective 01/01/2006.
7.27.2 NMAC, Certification and
Licensing of Emergency Medical
Services Personnel (filed 12/16/2005)
was replaced by 7.27.2 NMAC,
Licensing of Emergency Medical
Services Personnel, effective
12/15/2008.

7.27.2 NMAC, Certification and
Licensing of Emergency Medical
Services Personnel (filed 12/2/2008)
was replaced by 7.27.2 NMAC,
Licensing of Emergency Medical
Services Personnel, effective
10/30/2012.

7.27.2 NMAC, Licensing of
Emergency Medical Services

Personnel (filed 10/15/2012) was
replaced by 7.27.2 NMAC, Licensing
of Emergency Medical Services
Personnel, effective 8/15/2014.
7.27.2 NMAC, Licensing of
Emergency Medical Services
Personnel (filed 7/28/2014) was
replaced by 7.27.2 NMAC, Licensing
of Emergency Medical Services
Personnel, effective 12/12/2017.
7.27.2 NMAC, Licensing of
Emergency Medical Services
Personnel (filed 11/30/2017) was
replaced by 7.27.2 NMAC, Licensing
of Emergency Medical Services
Personnel, effective 9/9/2025.

HEALTH, DEPARTMENT OF

TITLE 7 HEALTH CHAPTER 27 EMERGENCY MEDICAL SERVICES PART 4 EMERGENCY MEDICAL SERVICES FUND ACT

7.27.4.1 ISSUING

AGENCY: New Mexico department
of health.

[7.27.4.1 NMAC - Rp, 7.27.4.1
NMAC, 9/9/2025]

7.27.4.2 SCOPE: The
Emergency Medical Services Fund
Act shall apply to requests made
for funds available pursuant to the
Emergency Medical Services Fund
Act, Section 24-10A-1 et seq., NMSA
1978.

[7.27.4.2 NMAC - Rp, 7.27.4.2
NMAC, 9/9/2025]

7.27.4.3 STATUTORY

AUTHORITY: This rule is
promulgated pursuant to the following
statutory authorities: the Department
of Health Act, Subsection E of
Section 9-7-6 NMSA 1978, which
authorizes the secretary of the
department of health to “. . . make and
adopt such reasonable and procedural
rules and regulations as may be
necessary to carry out the duties of the
department and its divisions”, and the
Emergency Medical Services Fund
Act, Section 24-10A-3.1 NMSA 1978,
which authorizes the department of

health to adopt rules to carry out the provisions of the act.

[7.27.4.3 NMAC - Rp, 7.27.4.3 NMAC, 9/9/2025]

7.27.4.4 DURATION:
Permanent.

[7.27.4.4 NMAC - Rp, 7.27.4.4 NMAC, 9/9/2025]

7.27.4.5 EFFECTIVE DATE: September 9, 2025, unless a later date is cited at the end of a section.

[7.27.4.5 NMAC - Rp, 7.27.4.5 NMAC, 9/9/2025]

7.27.4.6 OBJECTIVE:
The objective of this rule is to establish standards and procedures for regulating programs under the Emergency Medical Services Fund Act. These standards and procedures are designed for the purpose of making funds available to municipalities and counties, in proportion to their needs, for use in the establishment and enhancement of local emergency medical services in order to reduce injury and loss of life. This rule will inform New Mexico municipalities and counties of the procedures to access funds. The department of health, through the emergency medical systems bureau, will administer the fund pursuant to the Emergency Medical Services Fund Act and this rule.
[7.27.4.6 NMAC - Rp, 7.27.4.6 NMAC, 9/9/2025]

7.27.4.7 DEFINITIONS:

A. Definitions beginning with "A":

(1) **"Accumulation"** means the expenditure or disposition in the current fiscal year of funds distributed in the prior fiscal year. However, a municipality or county may accumulate balances to purchase vehicles or equipment if the accumulation and a purchase plan have been approved by the bureau.

(2) **"Act"** means the Emergency Medical Services Fund Act, Section 24-10A-1 et seq., NMSA 1978.

(3) **"Advisory committee"** means those individuals, representing specific agencies, organizations, and consumers appointed by the secretary to advise the bureau on statewide EMS policy matters.

(4) **"Ambulance service"** means a publicly or privately owned entity holding a current certificate of the New Mexico public regulation commission as an emergency response ambulance service and subject to the rules of the public regulation commission or its successor agency.

(5) **"Applicant"** means an incorporated municipality or county applying on behalf of a local recipient. For special funding applications (i.e., statewide and local system improvement projects), applicant may also include an EMS regional office, approved training institution or the bureau.

(6) **"Area"** for purposes of pro-rata allocation of designated funds by county as described in Subsection D of 7.27.4.11 NMAC means the area, expressed in square miles, for each New Mexico county as reported by the U.S. department of commerce.

B. Definitions beginning with "B":
"Bureau" means the emergency medical systems bureau of the office of health emergency management, New Mexico department of health.

C. Definitions beginning with "C":
"Chief" means the chief of the emergency medical systems bureau.

D. Definitions beginning with "D":

(1) **"Department"** means the New Mexico department of health.

(2) **"Director"** means the director of the epidemiology and response division.

(3) **"Division"** means the epidemiology and response division.

E. Definitions beginning with "E":

(1) **"Eligible item"** means a cost or item of proposed expenditure under the local EMS funding program, which is eligible for funding under the act and includes those categories listed in Subsection N of 7.27.4.11 NMAC.

(2) **"Emergency medical dispatch agency (EMDA)"** means an organization, or a combination of organizations working cooperatively, that routinely accepts calls for emergency medical assistance and employs emergency medical dispatch priority reference system (EMDPRS) techniques.

(3) **"Emergency medical services" or "EMS"** means the services rendered by emergency medical technicians, licensed emergency medical services first responders or emergency medical dispatchers in response to an individual's need for immediate medical care to prevent loss of life or aggravation of physical or psychological illness or injury.

(4) **"EMS regional office"** means those regional planning and development agencies formally recognized and supported by the bureau.

F. Definitions beginning with "F":

(1) **"Fiscal year"** means the state fiscal year that runs from July 1 through June 30 each year.

(2) **"Federal fiscal year"** means the federal fiscal year that runs from October 1 through September 30 each year.

(3) **"Fund"** means the emergency medical services fund.

G. Definitions beginning with "G": [RESERVED]

H. Definitions beginning with "H": [RESERVED]

I. Definitions beginning with "I": [RESERVED]

J. Definitions beginning with "J": [RESERVED]

K. Definitions beginning with "K": [RESERVED]

L. Definitions beginning with "L":

(1) "Licensing

fees" mean the licensure fees, licensure renewal fees, and travel and per-diem expenses associated with the licensing and the certification process in New Mexico required of emergency medical technicians and licensed EMS first responders under current rules governing the certification and licensing of EMS personnel.

(2) "Local

EMS personnel" means an individual who is authorized to provide pre-hospital care and is affiliated with a local recipient.

(3) "Local

emergency medical services system" means coordinated system of health care in a defined geographic area, including but not limited to community education and prevention programs, centralized access, emergency medical dispatch, law enforcement, licensed EMS personnel, fire medical rescue, ambulance, and hospital which support, respond to or provide emergency medical care in an organized fashion to the real or perceived needs of sick or injured persons in New Mexico and its border areas. For the purpose of funding, local emergency medical service system means one or more local recipients within a single EMS system.

(4) "Local

recipient" means a publicly owned or contracted ambulance or air ambulance service, medical rescue service, fire department rescue service, regionalized emergency medical service agency; or other prehospital emergency medical service care provider based in the state:

(a)

that routinely responds to an individual's need for immediate medical care in order to prevent loss of life or aggravation of physical or psychological illness or injury;

(b)

whose application for funding through the Emergency Medical Services Fund Act is sponsored by a municipality or county;

(c)

that meets department guidelines concerning personnel training, use of bureau-approved run forms, participation in mutual aid agreements and medical control; and

(d)

receives funds distributed under the act and this rule.

**M. Definitions
beginning with "M":**

(1) "Medical

director" means a physician currently licensed or otherwise authorized to practice in New Mexico who directs or supervises the practice of EMS personnel, or assists in the development and approval of local protocols and who participates in the development and implementation of quality assurance activities and training programs in connection with an EMS provider.

(2) "Medical-

rescue service" means a provider that is part of the emergency medical services system but not subject to the authority of the public regulation commission or its successor agency, under the Ambulance Standards Act (Sections 65-6-1 to 65-6-6 NMSA 1978) and which may be dispatched to the scene of an emergency to provide rescue or medical care.

**N. Definitions
beginning with "N": [RESERVED]**

**O. Definitions
beginning with "O": [RESERVED]**

**P. Definitions
beginning with "P": [RESERVED]**

(1)

"Population" for purposes of pro-rata allocation of designed funds by county as described in Paragraph (1) of Subsection D of 7.27.4.11 NMAC of this rule, means the population estimates for each New Mexico county as shown in the most recent population report of the U.S. department of commerce.

(2) "Pre-

hospital data base program" means the routine submission of essential pre-hospital data elements as defined by the bureau via bureau provided run forms or other methods.

(3)

"Prevention program" means

a planned activity with a defined purpose, stated objectives, implementation schedule and an evaluation component that seeks to prevent or reduce illness or injury. Examples include but not limited to bicycle helmet promotion, seat belt awareness campaign, child car seat distribution program, DWI prevention and first aid training.

**Q. Definitions
beginning with "Q": "Qualified instructor"** means an individual who through education, training, and experience is approved by an approved EMS training program to teach local EMS personnel or by the bureau to teach continuing education.

**R. Definitions
beginning with "R":**

(1)

"Regionalized emergency medical service agency" means a rural or frontier emergency medical service agency composed of multiple geographic districts with response area populations of fewer than two hundred fifty people per square mile.

(2)

"Routinely responds" means the local recipient is available and may be dispatched to a medical or traumatic emergency 24 hours per day, seven days per week.

(3) "Run"

means an EMS response dispatched to an existing or potential medical event, by one or more local recipients to provide EMS assistance or transportation of a patient, regardless of the number of patients on scene.

**S. Definitions
beginning with "S":**

(1) "Salaries

and benefits" means regular compensation for services or work, including other payments made in accord with a salary agreement, such as insurance, retirement, leave accrual, etc.

(2)

"Secretary" means the secretary of the New Mexico department of health.

(3)

"Statewide" for the purpose of statewide EMS system improvement projects means two or more EMS

local systems, a county, a training institution, an EMS regional office or the bureau, which support, respond to or provide medical care in an organized fashion to the real or perceived needs of at risk, sick or injured persons in New Mexico and its border areas.

T. Definitions
beginning with “T”:

(1) **“Training program”** means a course provided by an approved EMS training program or any continuing education approved by the bureau.

(2) **“Tuition”** means those charges, including fees and textbooks, for the enrollment of students in approved EMS training programs, continuing education, and conferences relevant to the education and training of local EMS personnel.

U. Definitions
beginning with “U”: [RESERVED]

V. Definitions
beginning with “V”: [RESERVED]

W. Definitions
beginning with “W”:
[RESERVED]

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

Y. Definitions
beginning with “Y”: [RESERVED]

Z. Definitions
beginning with “Z”: [RESERVED]
[7.27.4.7 NMAC - Rp, 7.27.4.7 NMAC, 9/9/2025]

7.27.4.8 DUTY OF THE BUREAU: The bureau shall administer the fund and provide for the distribution of the fund pursuant to the act and this rule. The bureau shall certify the names and the amount distributed to each applicant and local recipient in accordance with the provisions of the act and this rule. To accumulate funds, municipalities or counties shall submit an accumulation and purchase plan, in writing to the bureau. The bureau shall review and approve/disapprove the plan in writing. Accumulated funds shall only be expended as outlined in the bureau approved purchase plan.
[7.27.4.8 NMAC - Rp, 7.27.4.8 NMAC, 9/9/2025]

7.27.4.9 ANNUAL REPORT: The bureau shall prepare an annual report which includes a summary of the current fiscal year distribution, the number of approved applications for the local funding program, local and statewide system support projects, the vehicle purchase program and the approved budgets for administration and the trauma support program. In addition, the report will include the dollar amounts requested, amount of appropriation, average distribution amount, the types of local recipients, total number of runs, and a breakdown of the distribution by county. The report shall be made available to public entities and the public on request.
[7.27.4.9 NMAC - Rp, 7.27.4.9 NMAC, 9/9/2025]

7.27.4.10 EXTENSION OF TIME: An extension of time for the filing of an application or document may be granted, if the person seeking the extension can show good cause to the satisfaction of the chief. Requests for extension of time shall be received by email in advance of the date on which the application or document is due to be filed. No extension shall exceed 10 calendar days. Extensions shall be confirmed or denied by email.
[7.27.4.10 NMAC - Rp 7.27.4.10 NMAC, 9/9/2025]

7.27.4.11 LOCAL EMS FUNDING PROGRAM: In a fiscal year, no less than seventy-five percent of the money in the fund shall be used for the local emergency medical services funding program. The program shall provide for: the establishment or enhancement of local emergency medical services; operational costs other than salaries and benefits of local emergency medical services personnel, purchase, repair and maintenance of emergency medical services vehicles, equipment and supplies; implementation of prevention program and the training and licensing of local emergency services personnel.

A. Assurances: The bureau shall authorize distributions from money in the fund to the extent

funds are available during a fiscal year. Distribution from money in the fund shall be made only to applicants on behalf of local recipients, that:

(1) submit an approved online application to the bureau;

(2) demonstrate a need for a distribution from the fund and the amount required;

(3) agree to expend funds distributed from the fund only for the purposes stated in the application and approved by the bureau;

(4) obtain authorization from the chief executive of the incorporated municipality or county on behalf of the local recipient upon vouchers issued by the treasurer or fiscal agent of each political subdivision; accountability and reporting of these funds shall be in accordance with the requirements set forth by the local government division of the New Mexico department of finance and administration; and

(5) agree that the funds distributed under the act will not supplant other funds budgeted and designated for emergency medical service purposes by the applicant; applications for distributions of money from the fund shall be accompanied by a certified statement that the applicant shall not supplant any other public monies available for these same purposes.

B. Upper funding limitation - statutory requirement: No more than one percent of the amount appropriated to the local emergency medical services funding program shall be distributed from the fund to the benefit of a single local recipient in any fiscal year pursuant to the local emergency medical services funding program, with the exception of a regionalized emergency medical service agency, to ensure that appropriate emergency medical service is available statewide. The advisory committee will annually recommend maximum funding amount prior to the (November) availability of the online application.

C. Minimum funding base established - regulatory requirement:

In a fiscal year, each local recipient which has been approved pursuant to this rule, may be allocated a minimum distribution based on the criteria established in this section. Approved applications requesting less than the minimum will be funded in the amount requested. For the purpose of determining funding eligibility, local EMS personnel cannot be affiliated with more than one local recipient.

(1)

Emergency medical service - start-up funding level:

This level is eligible to receive a one time, minimum distribution of seven thousand dollars (\$7,000) upon recommendation from the advisory committee. The minimum requirements for this level are to submit a:

(a)

letter of commitment from the chief;

(b)

letter of review and recommendation from the respective EMS regional office;

(c)

letter of support from the medical director; and

(d)

have been issued an EMS agency certification or DOT certification.

(2) Medical

rescue service - entry level: This level is eligible to receive a minimum distribution of seven thousand dollars (\$7,000) if the following criteria are met and are verified by the applicant. The minimum criteria for this level are:

(a)

at least fifty percent of EMS runs covered by a licensed first responder within two years of the initial request for funding;

(b)

the service has at least basic medical supplies and equipment;

(c)

the service has at least one written mutual aid agreement or other written cooperative plan with a transporting ambulance and will submit online a

copy or copies of this agreement(s) as part of the online application;

(d)

the service has a designated training coordinator; and

(e)

the service shall participate in the bureau's pre-hospital data collection system as determined by the bureau, by using the bureau's software, website or by submitting compatible data.

(3) Medical

rescue or ambulance service - stand

ready level:

This level is eligible to receive a distribution of seven thousand dollars (\$7,000) if the following criteria are met and are verified by the applicant. The criteria for this level are:

(a)

the service responds to less than seven EMS runs in the previous federal fiscal year, with at least eighty percent of EMS runs covered by a licensed EMS caregiver;

(b)

the service has at least basic medical supplies and equipment;

(c)

the service has at least one written mutual aid agreement or other written cooperative plan with a transporting ambulance and will submit online a copy or copies of this agreement(s) as part of the online application;

(d)

the service has a designated training coordinator;

(e)

the service shall participate in the bureau's pre-hospital data collection system as determined by the bureau, by using the bureau's software, website or by submitting compatible data; and

(f)

the service has been issued an EMS agency certification or DOT certification.

(4) Medical

rescue service - first responder

level:

This level of service is eligible to receive a minimum distribution of ten thousand dollars (\$10,000) if the following criteria are met and are verified by the applicant. The minimum criteria for this level are:

(a)

at least eighty percent of EMS runs were covered in the prior federal fiscal year (October 1 - September 30), by a licensed EMS first responder or higher licensed medical personnel and shall continue to demonstrate that EMS response level; there shall be a minimum of at least two licensed EMS first responders with the service;

(b)

the service has at least basic medical supplies and equipment;

(c)

the service has at least one written mutual aid agreement or other written cooperative plan with a transporting ambulance and submit online a copy or copies of this agreement(s) as part of the online application;

(d)

the service has a designated training coordinator;

(e)

the service shall participate in the bureau's pre-hospital data collection system, as determined by the bureau, by using the bureau's software, website or by submitted compatible data;

(f)

the service has a medical director; and

(g)

the service has been issued a DOH EMS agency certification or DOT certification.

(5) Medical

rescue service or ambulance - basic

level:

This level of service is eligible to receive a minimum distribution of twenty thousand dollars (\$20,000) if the following criteria are met and are verified by the applicant. The minimum criteria for this level are:

(a)

at least eighty percent of EMS runs were covered in the prior federal fiscal year (October 1 - September 30), by a licensed EMT-basic or higher level of licensed medical personnel and shall continue to demonstrate that EMS response level; there shall be a minimum of at least two licensed EMT basics with the service;

(b)

the service has at least basic medical supplies and equipment;

(c)

the service has at least one written

mutual aid agreement or other written cooperative plan with first response or transporting ambulance service(s) and submit online a copy or copies of this agreement(s) as part of the online application;

(d) the service has a designated training coordinator;

(e) the service shall participate in the bureau's pre-hospital data collection system as determined by the bureau by using the bureau's software, website or by submitting compatible data;

(f) the service has a service medical director and appropriate medical protocols; and

(g) the service complies with department of transportation rule 18.4.2 NMAC, if applicable, or such other rules as may be adopted by the DOT or its successor agency regarding certified ambulances or have an EMS agency certification.

(6) **Medical rescue service or ambulance - advanced level:** This level is eligible to receive a minimum distribution of twenty-eight thousand dollars (\$28,000) if the following criteria are met and are verified by the applicant. The minimum criteria for this level are:

(a) at least eighty percent of EMS runs were covered in the prior federal fiscal year (October 1 - September 30), by licensed EMT intermediate or paramedic level personnel; or, if an emergency medical dispatch priority reference system (EMDPRS) is utilized, at least eighty percent of all runs determined by dispatch to require an advance level response shall be covered by licensed EMT intermediate or paramedic level personnel and there shall be a least one additional licensed EMT with the service;

(b) the service has at least basic and advanced medical supplies and equipment;

(c) the service shall maintain at least one transport capable vehicle if appropriate within the local EMS system;

(d) the service has at least one written mutual aid agreement or other written cooperative agreement with first response or transporting ambulance service(s) and submit online a copy or copies of this agreement(s) as part of the online application;

(e) the service shall participate in the bureau's pre-hospital data collection system as determined by the bureau by using the bureau's software, website or by submitting compatible data;

(f) the service has a designated training coordinator;

(g) the service has a service medical director and appropriate BLS and ALS medical protocols;

(h) the service routinely responds when dispatched for all medical and traumatic emergencies within its primary response area;

(i) the service complies with department of transportation rule 18.4.2 NMAC, if applicable, or such other rules as may be adopted by the DOT or its successor agency regarding registered certificated ambulances or have an EMS bureau EMS agency certification; and

(j) the service complies with the department's certification of air ambulance services rules where applicable.

(7) **Consecutive failure to apply for funding:** - Agencies that fail or are prohibited to apply for EMS Fund monies for three or more years and want to re-initiate the application process and receive funding are eligible to receive a re-entry year distribution of seven thousand dollars (\$7,000). The following criteria must be met and verified by the applicant.

The minimum criteria for re-entry into the EMS Fund process are:

(a) at least eighty percent of EMS runs covered by a licensed EMS caregiver during the application cycles that were missed;

(b) the service has at least basic medical supplies and equipment;

(c) the service has at least one written mutual aid agreement or other written cooperative plan with a transporting ambulance and will submit online a copy or copies of this agreement(s) as part of the online application;

(d) the service has a designated training coordinator;

(e) the service has participated in the bureau's pre-hospital data collection system during the application cycles that were missed, using the bureau's software, website or by submitting compatible data; and

(f) have been issued an EMS bureau EMS agency certification or DOT certification.

D. Funding formula definition: If the money available is not sufficient to meet the funding requested in the applications of all local recipients at the statutory maximum, the bureau shall allocate the funds according to the following formula.

(1) After computation of the sum of minimum allocations pursuant to Subsection C of 7.27.4.11 NMAC, a total county share shall be determined. The balance of funds shall be divided into two equal portions. For each county, the first portion shall be prorated according to area of the county as a percentage of total state area, and the other portion shall be prorated according to population of the county as a percentage of total state population.

(2) From the county share established above, the individual allocation to each local recipient shall be determined based on the relative number of runs in the

prior federal fiscal year (October 1 through September 30) as reflected in the application of the local recipient and verified through the bureau's pre-hospital data base program.

(3) In the event that an incorporated municipality or county supports the applications of more than one local recipient, the bureau shall determine the pro-rata share for each local recipient in the allocation of funds based on the number of annual runs reported.

E. Special conditions emergency funding: Subject to the availability of funds, the bureau will entertain applications for funding at any time based on the following criteria.

(1) The local recipient needs some immediate financial support for first year, startup services and the local community cannot provide adequate initial funding support. Financial need shall be verified by the bureau.

(2) The local recipient does not have financial support to continue operations due to an emergency situation. The bureau will consider an application for a one-time special financial award. The request for financial assistance will be verified by the bureau. To be eligible for emergency funding, applicant and local recipient shall provide a letter of support for the emergency funding from their respective EMS regional director and shall document the need for emergency funding based on the following criteria:

(a) the need for emergency funding is unanticipated;

(b) emergency funding is necessary to protect life, health and safety; and

(c) applicant and local recipient have exhausted all reasonable alternative funding sources.

(3) The bureau will advise the advisory committee of such distributions.

(4) The decision is subject to the appeal provision of Subsection J of this section.

F. Distribution method to ensure compliance with statutory limitation: To comply with the statutory limitation per local recipient, the department shall certify for distribution only funds computed and allocated according to Subsection G of this section. Individual distribution amounts computed that are in excess of the maximum amount for a local recipient shall be pro-rated in accordance with Paragraph (2) of Subsection D of this section, to all other eligible remaining local recipients in that county. If funding of all local recipients within a county is at the maximum amount set by the statewide emergency medical services advisory, and there still remains an overage in the county share, the balance shall be reallocated as described in Subsection G of this section to all other counties, and distributed to local recipients within those counties still remaining eligible, in addition to their first distribution.

G. Individual distribution: Subject to Subsection F of this section, the distribution to each local recipient shall be the sum of its share as calculated under Paragraph (2) of Subsection D of this section and the minimum allocation under Subsection C of 7.27.4.11 NMAC, unless the entity's total distribution shall have been otherwise established pursuant to the exception in Subsection B of this section.

H. Application: Applications will be made available online to service directors and EMS Operations officers of all counties, municipalities and local recipients.

I. Application cycle: The following cycle will apply for the local emergency medical services funding program.

(1) Application availability will be announced via email to all service directors and EMS operations officers November 15 of each year.

(2) The local recipient and applicant shall submit to the bureau, a completed application which shall be completed online by a day chosen by the bureau during the third week of January.

(3) The bureau shall review the applications, calculate the distribution of funds and notify the applicant and local recipients of its determination by May 1 of each year.

J. Procedures for appeal of determination: Pursuant to Section 24-10A-5 NMSA 1978, an applicant (county or municipality) desiring reconsideration of the bureau's determination as to its application for funding may appeal the determination by notifying the chief.

(1) The appeal shall be in writing and shall be received by the bureau within 10 working days after notification to the applicant of the bureau's determination.

(2) The bureau shall refer the appeal to the advisory committee for its review and recommendation. Upon receiving the advisory committee's recommendation, the secretary shall issue a final determination and send notice of that determination to the party appealing within 15 days of receiving the appeal.

K. Disbursement: The chief shall certify final determination to the state treasurer and the department of finance and administration on or before June 30 for distribution as early as possible in the next fiscal year.

L. Reporting requirements: The bureau may require special reports from applicants or local recipients regarding the appropriate use, maintenance and disposition of any items acquired with funds distributed under this section.

M. Eligible items of expenditure: Items eligible for funding are:

(1) purchase, repair, and maintenance of ambulance or rescue vehicles;

(2) purchase, repair, and maintenance of medical and rescue training equipment;

(3) purchase, installation, repair, and maintenance of communications systems for use by local EMS systems;

(4) payment of EMS training program tuition, per-diem, and mileage for local EMS personnel to attend EMS related training and continuing education programs, either in-state or within 150 miles of New Mexico's borders; training beyond the 150-mile limit shall be justified and receive prior written approval from the bureau, in order to be an eligible expense;

(5) payment of fees to qualified instructors and reasonable expenses associated with the development and provision of EMS related training and continuing education programs on a local or regional basis;

(6) payment of fees for medical direction;

(7) the cost of New Mexico examination, certification or licensing fees for EMS personnel;

(8) payment of costs related to legally mandated health and safety measures for the protection of local EMS personnel, such as vaccine, chest x-rays, etc;

(9) all other operating expenses, including rent, utilities, insurance, gas and oil, etc., except those listed in Subsection N of this section;

(10) per-call stipends for volunteer members of recipient agencies, as well as reimbursement for such items as uniforms, cleaning expenses, meals, travel, etc. for volunteer or career members of recipient agencies when on duty; and

(11) expenditures associated with the implementation of a community EMS program.

N. Ineligible items of expenditure: Costs which are not eligible for funding include:

(1) land;
(2) buildings and construction, except as provided in Paragraph (3) of Subsection M of this section;

(3) certification fees charged by the national registry of EMTs, unless required for New Mexico licensure;

(4) costs for salaries and benefits of career emergency medical services personnel; and

(5) medical care expenses for EMS personnel, except as provided in Subsection M of this section.

O. Budget adjustments:

(1) An applicant or a local recipient may request a budget adjustment for any of the following reasons or other good cause shown:

(a) to permit the expenditure of any balance of funds subsequent to the purchase of an eligible item;

(b) to permit expenditure on a pro-rata basis of funds allocated when the allocations are insufficient to fund the cost of the eligible item;

(c) to change priorities or change requested items;

(d) to permit expenditure of all or part of a given fiscal year's distribution in the following fiscal year; the deadline to request the bureau's approval to carry over funds shall be made by email by October 31;

(e) to allow and facilitate intra-county or geographical region re-distribution of allocations to maximize the available funding; an intra-county or geographical region re-distribution of funds shall be requested by the applicant(s) and have the written concurrence of all involved local recipients.

(2) Each proposed budget adjustment shall be submitted by email to the bureau and shall receive the bureau's approval prior to expending or encumbering the reallocated funds.

(3) Budget adjustments totaling less than one thousand five hundred dollars (\$1,500) do not require bureau approval except as provided in Paragraph (2) of this subsection.

(4) Agencies or their fiscal agent must provide

expenditure reports for the previous fiscal year by December 1st of each calendar year for bureau review of local system fund expenditures and plans for any funds approved for carryover into the current fiscal year.

P. Other considerations:

(1) In the event a county and one or more incorporated municipalities apply on behalf of the same local recipient, only the county's application shall be accepted and certified for distribution.

(2) Individual applications may be approved by the bureau for separate locations of a local recipient that are at least 15 miles apart from the next closest station, as measured by the driving distance using the most direct route between the two locations.

(3) Local recipient shall not submit multiple applications for the purpose of receiving additional EMS Fund Act distributions, except in special situations, as approved by the bureau on a case-by-case basis.

Q. Transition:

(1) In the event that a local recipient ceases operations, an itemized year-to-date expenditure report of EMS Fund Act money shall be submitted to the bureau.

(2) It is the responsibility of the applicant to inventory and redistribute all equipment purchased with the EMS Fund Act money, to other local recipients in its county or municipality, and provide a report to the bureau.

[7.27.4.11 NMAC - Rp, 7.27.4.11 NMAC, 9/9/2025]

7.27.4.12 LOCAL EMS SYSTEM IMPROVEMENT PROJECTS, EMS VEHICLE PURCHASE PROJECTS, STATEWIDE EMS SYSTEM IMPROVEMENT PROJECTS AND EMD AGENCY SUPPORT PROGRAMS:

A. Local EMS system improvement projects, EMS vehicle purchase projects, statewide EMS

system improvement projects and EMD agency support programs:

In a fiscal year, no more than eighteen percent of the fund may be used for local and statewide emergency medical services system improvement projects, the purchase of emergency medical services vehicles, and funding for certified emergency medical dispatch agencies. Applicants shall be funded on a competitive basis. Applications under this section shall be submitted online by incorporated municipalities or counties on behalf of local recipients, unless it is a statewide system improvement application, where applicant may be a training institution, EMS regional office or the bureau.

B. Application: The applications will be made available online to all applicants and local recipients.

C. Application cycle: The bureau shall make applications available to service directors and EMS operations officers for local EMS system improvement projects, EMS vehicle purchase projects, statewide EMS system improvement projects, and certified EMD agencies as set forth below.

(1) The bureau shall make these applications available to service directors and EMS operations officers by November 1.

(2) The applicant or EMS service, with authorization from its fiscal agent, shall submit to the bureau a completed application online by January 1. Technical assistance may be provided by the EMS regional office.

(3) The bureau shall make available digital copies of each local EMS system improvement application and EMS vehicle purchase project application to the respective EMS regional office and the statewide EMS system improvement applications to the EMS operations manager by no later than December 1 of each year.

D. Review process: The EMS regional offices shall review all applications for local EMS system

improvement projects and EMS vehicle purchase projects submitted by applicants within their respective regional areas. Each regional EMS advisory committee/governing board shall review the applications within its region and submit a prioritized listing of applications for funding to the advisory committee no later than March 1 of each year. EMS regional offices and the bureau shall collaboratively assign applications to the appropriate category of funding (statewide system or local system improvement) which shall not be changed unless recommended by a majority of the advisory committee. The advisory committee will review the prioritized listing and make recommendations to the bureau at their annual spring meeting. The bureau shall make its determination on projects to be funded by May 1.

E. Local EMS system improvement projects: At a minimum, an application for the local EMS system improvement projects shall address the following areas:

(1) a complete description of the existing EMS system for which the local EMS system improvement project is requested; this description should include all pertinent information which describes all local EMS components that would be affected by the project;

(2) a complete description of the proposed local EMS system improvement project including a detailed analysis of the need and a narrative showing how the project will contribute to the enhancement or integration of the local EMS system;

(3) a detailed proposed budget depicting all anticipated costs for implementation of the proposed project including a clear demonstration of local support via cash or in-kind participation; the demonstration of local support will be considered in the final determination;

(4) assurances of support and involvement from all parties involved in the project proposal;

(5) a one-page abstract of the proposed project summarizing the request;

(6) notarized signature(s) of the appropriate municipal or county officials; and

(7) request for vehicles (ambulance, rescue, administrative etc.) are not considered to be a local system improvement project; requests for any type vehicle should be submitted under the EMS vehicle purchase program.

F. EMS vehicle purchase projects: The following are required for the EMS vehicle purchase projects:

(1) the county or municipality submitting the application shall commit to providing matching funds of at least twenty-five percent of the base price of purchasing the vehicle only, without regard to equipment or operation costs; there shall be no restrictions on the source of the matching funds;

(2) a complete description of the proposed vehicle including a detailed analysis of the need and a narrative showing how the purchase will contribute to the enhancement or integration of the local EMS system;

(3) assurances by the applicant that the local recipient is capable of operating and maintaining the requested vehicle as evidenced by a proposed budget identifying all associated costs of equipping and operating the vehicle;

(4) the applicant shall submit online the emergency medical service vehicle assessment form, which shall be completed at the time of application;

(5) assurances of support from all parties involved in the project proposal;

(6) a one-page abstract of the proposed project summarizing the request;

(7) notarized signature(s) of the appropriate municipal or county officials; and

(8) upon approval, local recipient will affix a bureau provided decal on the outside of the vehicle; the logo should always face, or be nearer to, the street side of the vehicle (i.e., left, rear left, driver side).

G. Statewide EMS system improvement projects:

No more than three percent of the fund is authorized for projects, which improve the health, safety and training of emergency medical services personnel statewide.

(1)

Applications may be submitted by applicants, local recipients, EMTs or other interested parties.

(2)

The bureau will present a prioritized listing to the advisory committee for its review and consideration. The advisory committee will make a final recommendation to the bureau at its spring meeting.

(3)

The bureau will make a final determination by May 1.

(4)

Funds not committed for statewide EMS system improvement projects may be allocated for additional vehicle purchase or local EMS system improvement projects consistent with recommendations from the advisory committee.

H. EMD agency support program: Certified EMD agencies may apply for funding for allowable operational costs as an EMS system improvement project, as determined by the bureau, when funds are available. Funding of this program shall be recommended to the bureau by the advisory committee based on the available funds.

I. Procedures for reconsideration: Applicants desiring reconsideration of the bureau's determination as to its application for funding under this rule may appeal the determination by notifying the chief.

(1)

The request for reconsideration shall be by email and shall be received by the bureau within 10 working days after notification to the applicant of the bureau's determination.

(2)

Upon receipt of the request for reconsideration, the chief shall issue a final determination and notify all parties on or before June 15.

J. Disbursement:

The chief shall certify the results of final determination to the state treasurer on or before the last working day in June for distribution as early as possible in the next fiscal year.

K. Reporting requirements:**(1)**

All applicants that receive funding for local EMS system improvement projects, vehicle purchase projects and statewide EMS system improvement projects shall submit a final report of the project no later than 120 calendar days following project completion, or annually, whichever occurs first. Certification will be provided when the bureau provided decal is affixed to the vehicle which has been purchased with EMS Fund Act funds pursuant to Paragraph (8) of Subsection F of this section no later than 120 calendar days following delivery of vehicle.

(2)

At a minimum, this report will include the name of the county or municipality, address, phone and contact person, the date submitted, the names of the local recipients involved in the project, the year the project was awarded, a brief description of the project, a fiscal accounting or summary of expenditures, total expenditures and any funds remaining, the project achievements and any changes from the originally submitted application.

(3)

The bureau may require a special report from an applicant funded on the appropriate use and maintenance of any eligible item acquired with funds distributed under section for local EMS system improvement projects, EMS vehicle purchase projects or statewide EMS system improvement projects.

L. Budget adjustments: For local EMS system improvement projects, EMS vehicle purchase projects and statewide EMS system improvement projects, the following will apply:

(1)

an applicant or a local recipient may request a budget adjustment for any of the following reasons or other good cause shown:

(a)

to permit the expenditure of any balance of funds subsequent to the purchase of an approved item;

(b)

to change priorities or change requested items; and

(c)

to permit expenditure of all or part of an approved project in the following fiscal year; the deadline to request the bureau's approval to carry over funds shall be made in writing by October 31;

(2)

each proposed budget adjustment shall be stated in writing to the bureau and shall receive the bureau's approval prior to expending or encumbering the reallocated funds; and

(3)

Agencies or their fiscal agent must provide expenditure reports for any special project funds for the previous fiscal year by December 1st of each calendar year for bureau review. [7.27.4.12 NMAC - Rp, 7.27.4.12 NMAC, 9/9/2025]

7.27.4.13 STATEWIDE TRAUMA CARE SYSTEM PROGRAM AND STATEWIDE EMERGENCY MEDICAL SERVICES SYSTEM SUPPORT:

A. Statewide trauma care system program: The statewide trauma care system program shall provide for the support, development and expansion of the statewide trauma care system in accordance with rules adopted by the department. No more than two percent will be set aside from the fund for the purpose of supporting the statewide trauma care system program.

(1)

Program: The program mission shall include but not be limited to the continued support of the trauma registry database, statewide trauma system leadership, and the development, implementation, expansion, monitoring and support of the statewide trauma care system.

(2)

Report: The bureau will submit a final report to the advisory committee on the program by the end of the fiscal year.

At a minimum the report will include current activities, improvements, evaluation of areas in need and future plans for the continued enhancement of the state trauma care program.

B. Regional emergency medical services system report:

No more than two percent of will be set aside for the purpose of local and statewide emergency medical systems support projects which may be completed by EMS regional offices on behalf and at the direction of the bureau.

[7.27.4.13 NMAC - Rp, 7.27.4.13 NMAC, 9/9/2025]

7.27.4.14 ADMINISTRATION:

A. Administration:

From the fund, three percent may be used by the bureau and EMS regional offices for administrative costs, including monitoring and providing technical assistance, as set forth in this section.

B. Inspection -

statutory requirement: Inspections, pursuant to Section 24-10A-9 NMSA 1978 are to be constructive and informative to the local recipient to insure the highest possible standards of equipment and training are instituted by the local recipient and to identify any areas which could be of danger or harmful to the health, safety and welfare of staff and the public for whom service is provided.

(1)

Applicants and local recipients shall be subject to reasonable visitation by authorized representatives of the bureau. Vehicle maintenance records, records of service under warranties, continuing education records, training certificates, and similar records shall be open for inspection, as well as tariff billings and fiscal and expenditure records relative to an area for which full or partial funding was made under the act.

(2)

Upon completion of an inspection, the findings shall be discussed with the applicant's or local recipient's representative.

(3)

If deficiencies are indicated, the applicant or local recipient shall

submit a report stating how the deficiencies will be corrected and the estimated date of completion. In most cases corrections should be completed within 30 calendar days.

C. Loss of funding eligibility - statutory requirement:

A municipality, county or local recipient that the bureau finds has expended money in violation of the act including misrepresentation on the EMS Fund Act application, may be ineligible to receive funding from the bureau for a period of not less than one year or more than three years; additionally, if it is found that an agency has unspent local system or special project funds from the previous fiscal year(s) that were not approved for carryover, the agency will be subject to a reduction of up to one hundred percent of local system funding or not being eligible for special project funds; this will apply to the next fiscal year following the discovery, through the process set forth below:

(1)

When a violation is suspected, the bureau will notify the applicant or local recipient in writing identifying the concerns and requesting an explanation or response.

(2)

The applicant or local recipient shall respond by email within 20 working days.

(3)

The bureau may initiate a formal investigation, including a formal audit, if deemed necessary.

(4)

Based upon their findings, the bureau will notify the applicant or local recipient in writing of their determination and associated penalty, which can range from one to three years of ineligibility.

(5)

The bureau may refer the matter to appropriate law enforcement agencies.

D. Oversight of mutual aid and regionalization plans:

The bureau shall encourage the development of appropriate county EMS regionalized integrated response plans and mutual aid agreements between local recipients

to ensure compliance with the act and this rule.

E. Coordination:

The bureau shall facilitate the coordination of services between state agencies, EMS regional offices, applicants, and local recipients to execute the requirements of the act and this rule for the efficient and effective use of these funds.

F. Evaluation and

audit of programs: The bureau shall be responsible for the periodic evaluation of all programs and projects receiving funds under the act. This evaluation may include initiation of an objective audit, if deemed necessary.

G. Technical

assistance: The bureau shall be responsible to provide, as needed, technical assistance to counties, municipalities, EMS regional offices, state and local agencies and any other parties involved in any of the programs funded through the act and this rule.

[7.27.4.14 NMAC - Rp, 7.27.4.14 NMAC, 9/9/2025]

History of 7.27.4 NMAC:

Pre NMAC: The material in this part was derived from that previously filed with the commission of public records - state records center and archives: HED 78-9-1, Emergency Medical Services Fund Act Regulations, filed 9/29/1978.

HED 80-7 (HSD), Emergency Medical Services Fund Act Regulations, filed 10/9/1980.

HED 84-2 (HSD), Emergency Medical Services Fund Act Regulations, filed 8/8/1984.

HED 87-11 (PHD/HSD), Emergency Medical Services Fund Act Regulations, filed 10/26/1987.

DOH Regulation 94-11 (CHSD), Regulations Governing the

Emergency Medical Services Fund Act for the State of New Mexico, filed 12/30/1994.

DOH Regulation 95-05 (CHSD), Regulation Governing the Emergency Medical Services Fund Act, filed 10/25/1995.

History of Repealed Material:

7 NMAC 27.4, Emergency Medical Services Fund Act (filed 11/26/1996), repealed 7/1/2000.

7.27.4 NMAC, Emergency Medical Services Fund Act (filed 06/16/2000), repealed 9/13/2001.

7.27.4 NMAC, Emergency Medical Services Fund Act (filed 7/29/2004), repealed 9/9/2025.

Other History:

7 NMAC 27.4, Emergency Medical Services Fund Act (filed 11/26/1996) replaced by 7.27.4 NMAC, effective 7/1/2000.

7.27.4 NMAC, Emergency Medical Services Fund Act (filed 06/16/2000) replaced by 7.27.4 NMAC, Emergency Medical Services Fund Act, effective 9/13/2001.

7.27.4 NMAC, Emergency Medical Services Fund Act (filed 7/29/2004) replaced by 7.27.4 NMAC, Emergency Medical Services Fund Act, effective 9/9/2025.

HEALTH, DEPARTMENT OF

TITLE 7 HEALTH CHAPTER 27 EMERGENCY MEDICAL SERVICES PART 5 CERTIFICATION OF AIR AMBULANCE

7.27.5.1 ISSUING

AGENCY: New Mexico department of health, emergency medical systems bureau.

[7.27.5.1 NMAC - Rp, 7.27.5.1 NMAC, 9/9/2025]

7.27.5.2 SCOPE: This regulation applies to any air ambulance service within New Mexico that transports persons requiring medical care including, but not limited to: basic life support (BLS), advanced life support (ALS), critical care, or specialty care. Out-of-state air ambulance services that fly into New Mexico to pick up medical patients shall be certified in accordance with these rules. Out-of-state air ambulance services that fly into New Mexico to deliver medical patients shall be certified in their

originating state and are obligated to perform to the same medical standards of care required of other EMS air ambulance services certified in New Mexico. The United States department of defense and the New Mexico department of military affairs are exempt from this rule when conducting official military operations. Governmental public safety agencies that routinely provide air ambulance services shall be certified.

[7.27.5.2 NMAC - Rp, 7.27.5.2 NMAC, 9/9/2025]

7.27.5.3 STATUTORY

AUTHORITY: These rules are promulgated pursuant to the following statutory authorities: the Department of Health Act, Subsection E of Section 9-7-6 NMSA 1978, which authorizes the secretary of the department to "... make and adopt such reasonable and procedural rules and rules as may be necessary to carry out the duties of the department and its divisions," and the Emergency Medical Services Act, Subsection H of Section 24-10B-4, NMSA 1978, which authorizes the department to adopt regulations for the certification of air medical transport. Administration and enforcement of these regulations is the responsibility of the emergency medical systems bureau of the center for health protection, department of health.

[7.27.5.3 NMAC - Rp, 7.27.5.3 NMAC, 9/9/2025]

7.27.5.4 DURATION:

Permanent.

[7.27.5.4 NMAC - Rp, 7.27.5.4 NMAC, 9/9/2025]

7.27.5.5 EFFECTIVE

DATE: September 9, 2025, unless a later date is cited at the end of a section.

[7.27.5.5 NMAC - Rp, 7.27.5.5 NMAC, 9/9/2025]

7.27.5.6 OBJECTIVE:

The purpose of this document is to inform the public and air ambulance services about the requirements and standards for the certification of air

ambulance services operating within New Mexico, and the process and procedures to become certified as specified below.

A. These rules provide the minimum criteria and process for the certification of both fixed and rotor wing air ambulance services that operate within the state of New Mexico; provide minimum standards for certified services to abide by; and, to assist in the provision of a comprehensive system of emergency medical services in the state of New Mexico.

B. These rules are designed to assist air ambulance services in preparing for, achieving, and maintaining certification as a certified air ambulance service in the state of New Mexico. The bureau shall certify an air ambulance service following review and approval of the application, a successful inspection, and payment of necessary fees and approval by the bureau.

[7.27.5.6 NMAC - Rp, 7.27.5.6 NMAC, 9/9/2025]

7.27.5.7 DEFINITIONS:

A. Definitions
beginning with "A":

(1) **"Act (EMS Act)"** means the Emergency Medical Services Act, Sections 24-10B-1, et seq., NMSA 1978.

(2) **"Advanced life support air ambulance service"** means an organization, certified by the bureau, to transport in an air ambulance, patient(s) who require basic life support (BLS) or advanced life support (ALS) care.

(3) **"Advanced life support (ALS)"** means advanced pre-hospital and inter-facility care and treatment, as authorized by regulation, which may be performed only by a person licensed by the department as an emergency medical technician - paramedic (EMT-P), or otherwise licensed by the state as a clinical provider authorized to practice ALS.

(4) **"Air ambulance certificate"** means a document issued by the department

as evidence that an air ambulance service meets the requirements for certification at the advanced life support, critical or specialty care level, as found in these rules.

(5) **“Air ambulance service”** or **“service”** means any governmental or private service that provides air transportation specifically designed to accommodate the medical needs of a person who is ill, injured or otherwise mentally or physically incapacitated and who requires in-flight medical supervision.

(6) **“Aircraft type”** means a particular make and model of helicopter or fixed wing aircraft.

(7) **“Aircraft operator”** means the vendor or owner who operates and maintains the aircraft utilized by an air ambulance service.

(8) **“Air medical transport advisory committee (AMTAC)”** or **“air transport advisory committee”** means a subcommittee of the statewide EMS advisory committee as authorized by the EMS Act at Subsection A of Section 24-10B-7 NMSA 1978.

B. Definitions
beginning with “B”:

(1) **“Base location”** means the physical address where an air ambulance, including crew, medical equipment, and supplies, are located.

(2) **“Basic life support (BLS)”** means basic pre-hospital and inter-facility care and treatment as authorized by regulation;

(3) **“Bureau”** means the emergency medical systems bureau of the center for health protection of the department of health.

C. Definitions
beginning with “C”:

(1) **“Certification evaluation team”** means a team appointed by the bureau for the purpose of performing an initial or subsequent inspection of air medical services seeking certification, or of those already certified.

(2) **“Combination service”** means any service that has more than one type of aircraft, for example, fixed wing and rotor wing.

(3) **“Critical care”** means interfacility care and treatment that exceeds the advanced life support (ALS) level, as authorized by regulation. Critical care involves patients whose conditions require medical interventions beyond the routine scope of practice of a standard paramedic or registered nurse, including but not limited to continuous and invasive monitoring, mechanical ventilation, administration of multiple vasoactive or sedative agents, advanced airway management, blood product administration, or other therapies typically provided in an intensive care unit (ICU). The critical care mission shall consist of at least one critical care provider and at least one additional provider licensed at or above the ALS level of care or specifically trained in the area of care required, such as a respiratory therapist. Additional providers may be added as necessary.

(4) **“Critical care air ambulance service”** means an organization certified by the bureau to transport patients that require critical care in an air ambulance.

(5) **“Critical care provider”** means a licensed paramedic with a bureau-approved critical care or flight paramedic credential, a registered nurse, physician assistant, nurse practitioner, or physician, who has training and experience in the delivery of critical care transport.

D. Definitions
beginning with “D”:

(1) **“Deemed status”** means certification by the bureau on the basis of an air ambulance service being fully accredited by a bureau approved national or international accreditation service and having otherwise satisfied the requirements of this rule.

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

E. Definitions
beginning with “E”: **“Emergency medical services (EMS)”** means the services rendered by providers in response to an individual’s need for immediate medical care to prevent loss of life or aggravation of physical or psychological illness or injury.

F. Definitions
beginning with “F”: **“Federal aviation regulations (FAR)”** means regulations promulgated by the federal aviation administration of the U.S. department of transportation, governing the operation of all aircraft within the United States.

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

H. Definitions
beginning with “H”: [RESERVED]

I. Definitions
beginning with “I”: **“Intermediate life support (ILS)”** means intermediate pre-hospital and inter-facility care and treatment as authorized by regulation.

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

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

L. Definitions
beginning with “L”: **“Level of service”** means the highest level at which the air ambulance service is certified to function 24 hours a day, seven days a week.

M. Definitions
beginning with “M”:

(1) **“Medical control”** means supervision, provided by or under the direction of physicians to providers by written protocol or direct communication.

(2) **“Medical direction”** means guidance or supervision provided by a physician to a provider or emergency medical services system and which includes authority over and responsibility for emergency medical dispatch, direct patient care and transport of patients, arrangements for medical control and all other aspects of patient care delivered by a provider.

(3) **“Medical direction committee”** means a committee of physicians and emergency medical technicians,

appointed by the secretary of health to advise the bureau on all matters relating to medical control and medical direction.

(4) **“Medical director”** means a physician who has the responsibility for oversight of patient care of an EMS system or EMS provider service, including providing for or ensuring the medical control of emergency medical technicians, the development, implementation, and evaluation of medical protocols, and quality assurance activities.

N. Definitions
beginning with “N”: [RESERVED]

O. Definitions
beginning with “O”: [RESERVED]

P. Definitions
beginning with “P”:

(1)
“Physician” means a doctor of medicine or doctor of osteopathy who is licensed or otherwise authorized to practice medicine or osteopathic medicine in New Mexico.

(2) **“Protocol”**
means a predetermined, written medical care plan and includes standing orders.

(3)
“Provider” means a person who has been licensed by the appropriate agency to provide patient care at the ALS, critical or specialty care level.

Q. Definitions
beginning with “Q”: [RESERVED]

R. Definitions
beginning with “R”: **“Regional office”** means an emergency medical services planning and development agency formally recognized and supported by the bureau.

S. Definitions
beginning with “S”:

(1)
“Secretary” means the secretary of health.

(2) **“Service”**
means a certified air ambulance service authorized to operate in the state of New Mexico under these rules.

(3) **“Specialty care”** means interfacility care and treatment that exceeds the scope of standard critical care transport,

and requires condition-specific knowledge, equipment, or personnel. Specialty care transport is provided by a team with specialized clinical training or experience in managing patients with complex diagnoses, therapies, or technologies. This includes but is not limited to: neonatal or pediatric intensive care, extracorporeal membrane oxygenation (ECMO), advanced obstetrical monitoring including fetal heart monitoring, psychiatric stabilization involving specialized providers, use of pulmonary vasodilators, advanced ventilator modes, or other condition-specific interventions typically delivered by a dedicated specialty team. The specialty care mission shall consist of at least one specialty care provider and one additional provider licensed at or above the ALS level of care or specifically trained in the area of care required. Additional providers may be added as necessary.

(4) **“Specialty care provider”** means a caregiver appropriately trained and licensed to provide condition-specific patient care as defined by the specialty care mission. Specialty care providers may include, but are not limited to: neonatal or pediatric specialists, respiratory therapists, physicians, advanced practice providers, or other personnel with documented expertise in the relevant area.

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

U. Definitions
beginning with “U”: [RESERVED]

V. Definitions
beginning with “V”: [RESERVED]

W. Definitions
beginning with “W”:
[RESERVED]

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

Y. Definitions
beginning with “Y”: [RESERVED]

Z. Definitions
beginning with “Z”: [RESERVED]
[7.27.5.7 NMAC - Rp, 7.27.5.7 NMAC, 9/9/2025]

7.27.5.8 USE OF TERMS AND ADVERTISING: An air ambulance service shall not advertise

or perform air ambulance services, or use the title “certified air ambulance service,” in New Mexico, unless it is certified or otherwise authorized pursuant to this rule.

[7.27.5.8 NMAC - Rp, 7.27.5.8 NMAC, 9/9/2025]

7.27.5.9 DISCLOSURE TO THE PUBLIC: At the initiation of contact with a potential client, patient or the public, the certified air ambulance service shall disclose the current level of state of New Mexico certification and what level of service can be provided.

[7.27.5.9 NMAC - Rp, 7.27.5.9 NMAC, 9/9/2025]

7.27.5.10 FULL CERTIFICATION PERIOD: The certification period for all air ambulance services shall be for a three-year period. The bureau may, upon the request of an air ambulance service, adjust a certification period to match the service’s accreditation period.

[7.27.5.10 NMAC - Rp, 7.27.5.10 NMAC, 9/9/2025]

7.27.5.11 REPORTING: Certified air ambulance services shall complete a patient run report for each patient that is transported by air. The minimum data elements identified by the bureau shall be compiled and submitted to the bureau within five days of the date of patient transport, or as determined by the bureau. Review of completed patient care reports may be required during initial or subsequent inspections. An air ambulance’s certification may be suspended by the bureau if the air ambulance service’s data submission is not functioning, incomplete, or not current.

[7.27.5.11 NMAC - Rp, 7.27.5.11 NMAC, 9/9/2025]

7.27.5.12 EMERGENCY INFORMATION REQUIRED: Certified air ambulance services shall provide, during initial/renewal of certification, emergency information about the service to the bureau. This information shall

be used by the bureau to provide effective communications and resource management, in the event of a statewide or localized disaster/emergency situation. The information is included in the initial/renewal application for certification of air ambulance services, and any changes shall be updated in the licensing management system.

[7.27.5.12 NMAC - Rp, 7.27.5.12 NMAC, 9/9/2025]

7.27.5.13 CERTIFICATION PROCESS AND PROCEDURES:

A. Air ambulance certification; levels of service: Prior to beginning air ambulance operations within the state of New Mexico, air ambulance certification is required for the following authorized levels of service. Every service is required to remain with the patient until licensed caregivers capable of continuing the level of care assume care of and responsibility for the patient.

(1) Advanced life support (ALS) air ambulance service: the air medical crew shall consist of two licensed health care providers, capable of providing ALS level care (minimum licensed EMT-paramedic).

(2) Basic life support (BLS) or intermediate life support (ILS) air ambulance service: the air medical crew shall consist of at least two licensed health care providers who shall at a minimum be licensed at the New Mexico EMT-basic level or EMT-intermediate level. Basic life support may be performed only by a person licensed by the department as an emergency medical technician - basic (EMT-B), intermediate (EMT-I), paramedic (EMT-P), or otherwise licensed by the state as a clinical provider authorized to practice BLS. Intermediate life support may be performed only by a person licensed by the department as an intermediate (EMT-I), paramedic (EMT-P), or otherwise licensed by the state as a clinical provider authorized to practice ILS.

(3) Critical care air ambulance service: conducts interfacility transports of patients

whose conditions require care beyond the ALS level, as defined by bureau rule. The mission shall consist of at least one critical care provider and at least one additional provider who is licensed at or above the ALS level or specifically trained in the area of care required. Additional personnel may be added as necessary based on the patient's condition. Critical care air ambulance services must be capable of delivering ICU-level interventions, including but not limited to invasive monitoring, mechanical ventilation, administration of vasoactive or sedative agents, or blood product administration, in accordance with bureau-approved protocols.

(4) Specialty care air ambulance services are certified to conduct interfacility transports of patients whose conditions require condition-specific medical care beyond the scope of standard critical care transport. The mission shall consist of at least one specialty care provider and at least one additional provider who is licensed at or above the ALS level or specifically trained in the required specialty care. Additional providers may be added as necessary. Specialty care air ambulance services shall be equipped and staffed to provide specialized interventions, which may include but are not limited to neonatal or pediatric intensive care, ECMO support, high-risk obstetric monitoring, or psychiatric stabilization. Critical or specialty care services utilizing paramedics shall obtain and maintain special skills from the NM medical direction committee for interventions that exceed the paramedic NM scopes of practice. All special skills applications shall include a list of employees who have been approved for each special skill. Generally, services certified to provide critical care are certified to perform advanced or BLS/ILS air ambulance service care; certification at the critical care or specialty care level does not obligate a service to provide every possible intervention described. In all such cases, the minimum level of certified/licensed health care provider

staffing, for each level of certification, shall be aboard the aircraft.

(4) Specialty care air ambulance service: the specialty care mission shall consist of at least one specialty care provider and at least one additional provider who shall be licensed at the ALS, specialty, or critical care level, or specifically trained in the care required; additional providers may be added as necessary. Specialty care services utilizing paramedics shall obtain and maintain special skills from the NM medical direction committee for interventions that exceed the paramedic NM scopes of practice. All special skills applications shall include a list of employees who have been approved for each special skill.

B. Certification: Prior to transporting patients within the state of New Mexico, an air ambulance service:

(1) shall submit to the bureau a completed bureau approved New Mexico air ambulance application with appropriate fees;

(2) shall ensure compliance with all federal and state requirements, such as proof of insurance, aircraft inspection certificates, FAA Part 135 certificate, board of pharmacy permit(s), and drug enforcement agency permits. NM board of pharmacy and drug enforcement agency permits/licenses must be issued in the name of the air ambulance agency and include the name of the air agency's consultant pharmacist; and

(3) shall complete the initial bureau certification evaluation team inspection process if required. Upon successful completion, the bureau shall issue an air ambulance certificate for a period of up to three years for one of the approved levels of service.

C. Certification evaluation team (CET): The CET shall typically consist of the membership listed below. The bureau shall convene the membership of the CET as necessary to perform either the initial, temporary service

inspections, or whenever the bureau deems necessary.

(1) The CET membership is composed of the following individuals, as determined by the bureau:

- (a) bureau representative - team leader;
- (b) state EMS medical director or a designated physician;
- (c) state aviation representative;
- (d) EMS communications representative;
- (e) other members as deemed necessary by the bureau.

(2) Services shall be given advanced notice, in writing, of those personnel selected for the CET. A service which has a good faith belief that selected individual(s) on the CET may be biased or have a possible conflict of interest, may request that the bureau select a new member. In all such cases, the bureau shall make the final determination of CET membership.

(3) When out-of-state travel is required of the CET, the service applying for certification shall be responsible for reimbursement of travel expenses.

D. Deemed status; minimum standards: The bureau may, on a case-by-case basis, grant deemed status for certification to services that are fully accredited by either the European aero-medical institute (EURAMI), the National accreditation alliance of medical transport applications (NAAMTA), the commission on accreditation of medical transport systems (CAMTS), or another bureau-approved national or international air ambulance accreditation service, provided that the accreditation service meets the following minimum standards:

- (1) provides accreditation for no more than three consecutive years without an updated inspection and reaccreditation;
- (2) has a multi-disciplinary board of directors representing medical transport organizations;

(3) uses trained site-surveyors with experience in medical transport at the level of accreditation and license;

(4) assures services that have identified standards deficiencies will implement corrective action or improvement plans to correct any deficiencies;

(5) has an open process that encourages and accepts comments on changes to its accreditation standards;

(6) provides transparency to the public on its standards, accreditation process, list of accredited programs, and policies and procedures; and

(7) allows immediate access for bureau inspection of any documentation required in this rule.

E. Deemed status; fees; discretionary approval; reapplication: Deemed status recognition is intended to streamline the bureau licensure process for air ambulance services by reducing duplicative documentation. The bureau reserves the right to verify and inspect all equipment and documentation at any time to ensure that the air ambulance service maintains full compliance with bureau requirements related to the air ambulance service licensure.

(1) Services that seek or hold deemed status are subject to the same fees that apply to other services.

(2) Deemed status is granted at the discretion of the bureau and is not guaranteed regardless of the accreditation status of a service applying for certification.

(3) A service certified through deemed status that subsequently loses its accreditation status shall apply for certification as described in this rule.

F. Changing the level of service: Changing a level of service shall require the service to submit an initial application for that level of service, along with certification fees. Changing from a rotor or fixed wing service to a combination service will also require

a new application and fee. Changing from a combined rotor wing and fixed wing service to a single type of aircraft service will require a new application and fee for the service(s) involved.

G. Renewal of certification and inspection: Services shall retain state certification by renewing their certification every three years. This is accomplished by submitting the required renewal application and fee and possible CET inspection of a certified air ambulance service, as determined by the bureau.

H. Base locations: The bureau may conduct announced and unannounced inspections at any location of a licensed or certified air medical service that operates at any time, including nights or weekends, to determine compliance with these rules and regulations. Each base location must maintain security measures in place that protect medical supplies and equipment onboard the air ambulance from tampering and unauthorized access, including scheduled drugs and other pharmaceuticals.

I. Inspection checklists: Each air ambulance operator shall ensure that all medical equipment is appropriate to the air medical service's scope and mission and maintained in working order according to the manufacturer's recommendations. Medical equipment shall be available on the aircraft to meet the local/state protocols for EMS providers in which the service intends to operate and in line with the mission of the air ambulance service. Inspection standards and requirements for medical equipment, EMS training and licensing documents, protocol and special skill documents and other required items are listed by and available from the bureau, and shall be posted on the bureau's website. [7.27.5.13 NMAC - Rp, 7.27.5.13 NMAC, 9/9/2025]

7.27.5.14 FEES:

A. A fee shall be assessed by the bureau for certification to operate an air

ambulance in the state of New Mexico. The bureau, with the advice of the air medical transport advisory committee and the statewide EMS advisory committee, shall set the amount of the fee. Exceptions: fees shall not apply to:

- (1) a licensed air ambulance service from another state assisting in the response to a major disaster, mass casualty incident or other emergency; and
- (2) a licensed air ambulance service transferring patients to or from New Mexico no more than two times per month.

B. Fees table:

(1) Initial certification fees: The \$1,875.00 base fee for initial certification of single aircraft type includes one aircraft or \$2,775.00 initial certification fee for combination service includes two aircraft. An additional \$300.00 fee is required for each additional assigned/operating aircraft or base, not to exceed \$6,000.00 per service. Additional fees may be assessed if additional travel is required to accommodate out-of-state applicants.

Type of service	In-state fee	Out-of-state fee	Additional aircraft fee
Rotor wing service	\$1,875.00	\$3,375.00	\$300.00 per aircraft
Fixed wing service	\$1,875.00	\$3,375.00	\$300.00 per aircraft
Combination service	\$2,775.00	\$4,250.00	\$300.00 per aircraft

(2) Renewal certification fees: The following fees are to be submitted along with the air ambulance service renewal application whether based in-state or out-of-state:

Type of service	Fee
Rotor wing service	\$750.00
Fixed wing service	\$750.00
Combination service	\$750.00

(3) Changes to air ambulance service after certification:

Type of service	In-state fee	Out-of-state fee
Rotor or fixed wing service to combination service	\$950.00	\$950.00
Combination services to rotor or fixed wing service	\$950.00	\$950.00
Adding additional aircraft after certification	\$300.00 per aircraft	\$300.00 per aircraft
Changing level of service (e.g. ALS to critical care)	\$950.00	\$950.00

[7.27.5.14 NMAC - Rp, 7.27.5.14 NMAC, 9/9/2025]

7.27.5.15 ENFORCEMENT:

A. Complaint/ incident procedures: Any person may communicate a complaint or knowledge of an incident to the bureau. Complaints shall be submitted in signed written form to the bureau as soon as practical. The bureau may begin an investigation if it finds sufficient cause.

(1) When a complaint is received by the bureau, written acknowledgement shall be made to the complainant and the staff shall decide whether a preliminary or formal investigation of the complaint shall be initiated.

(2) If the bureau determines that no investigation is warranted, the service or person filing the complaint will be notified, as determined by the bureau.

(3) Services being formally investigated shall receive written notification within 10

working days after a decision is made to begin a formal investigation, unless extenuating circumstances exist which would reasonably preclude notification.

(4) At the conclusion of the bureau's investigation, the bureau may report its findings to the investigated service in written form. If the bureau investigation warrants disciplinary action against a service, the service will be issued a notice of contemplated action (see right to appeal and hearing in 7.27.5.15 NMAC).

(5) If the bureau makes a good faith judgment that the health or safety of the public would be jeopardized, it may take immediate action to suspend an air ambulance service's certification to prevent a service from operating within New Mexico. The suspended service shall be afforded an expedited

appeal and hearing process.

B. Investigations: Investigations shall be conducted by the bureau or its agent(s).

(1) **Preliminary investigations:** When the bureau receives information that might form the basis for disciplinary action against a service, it shall begin a preliminary investigation. This is a fact finding/information gathering investigation that will attempt to determine for the bureau whether justification exists to initiate an action or to conduct a formal investigation.

(2) **Formal investigations:** Formal investigations are for the purpose of obtaining additional information to allow the bureau to determine if it will initiate an action. Notice will be given to the service that is the subject of the formal investigation, unless extenuating circumstances exist that would reasonably preclude notification.

(3) Records:

An official record is maintained for every New Mexico air ambulance service, certified under these rules. If the bureau begins an investigation, a separate confidential record will be created containing all investigation material. If the bureau initiates an action, all records not exempt from disclosure under the Inspection of Public Records Act, Sections 14-2-1, et seq., NMSA 1978, will be placed in the service's official record. Any request for records maintained by the bureau will be processed in accordance with the Inspection of Public Records Act.

C. Grounds for denial, suspension, revocation, or other disciplinary action: Air ambulance certification may be denied, suspended, or revoked, or subject to other disciplinary action, based on the following grounds:

(1) failure to meet any certification or accreditation requirement of this rule;

(2) fraud, deceit, misrepresentation in obtaining certification, including misrepresentation during the initial or renewal certification process;

(3) negligence in the delivery of air ambulance medical services, including but not limited to:

(a) malpractice or substandard medical care or treatment;

(b) using non-licensed personnel or personnel performing outside the standard of care/scope of practice;

(c) failure to have operational equipment and failure to carry the required equipment, or inappropriate use of equipment during a flight; and

(d) unauthorized disclosure of medical or other confidential information;

(4) loss of Federal aviation administration (FAA) certification or failure to notify the bureau of such loss of certification;

(5) failure to report revocation, suspension, denial, or other adverse action taken in any

other state or jurisdiction concerning the ability to provide air ambulance services;

(6) performing air ambulance operations without being certified by the department to perform the authorized level of service, including providing service after expiration of a certification;

(7) the use of any false, fraudulent, or deceptive statement in any document connected with the operation of an air ambulance service;

(8) failure to cooperate with a bureau investigation or to furnish the bureau with requested information;

(9) failure to submit required documentation, including patient run report data, into the New Mexico EMS tracking and reporting system (NMEMSTARS);

(10) failure of a service to comply with a rotor wing response protocol or the fixed/rotor wing inter-facility transportation protocol developed by the air medical transport advisory committee and implemented by a regional trauma advisory committee, or any other bureau protocol or patient care-related policy as outlined in these rules;

(11) knowingly allowing a person to perform emergency medical services in the state of New Mexico when the person is not licensed or otherwise authorized by the department of health to perform emergency medical services;

(12) any instance of inappropriate billing practices;

(13) financial insolvency of the air medical transport service;

(14) loss of federal drug enforcement administration or New Mexico board of pharmacy licensure or failure to notify the bureau of such loss of licensure;

(15) failure to ensure that the air medical transport service receives and complies with medical direction that conforms to applicable medical direction requirements (see 7.27.3 NMAC);

(16) failure to complete the application or renewal process, to pay required certification fees, or to pay an outstanding balance owed to the bureau;

(17) failure to implement and maintain infection control practices;

(18) failure of an air medical transport service to notify the bureau upon learning that a flight crew member has been convicted of a felony or misdemeanor while employed by the air medical transport service;

(19) conduct on the part of air medical transport service personnel that constitutes a significant threat to the health or safety of individuals receiving emergency care, including but not limited to the following:

(a) intentionally providing incorrect response time information to agencies requesting a scene response;

(b) repeated delay of transport of critical patients from scene responses for completion of patient care tasks when rapid evacuation to definitive care at an appropriate hospital is critical;

(20) unprofessional conduct on the part of the air medical transport service personnel, including but not limited to the following:

(a) falsification or alteration of patient care records or air medical transport service records;

(b) aiding, abetting, assisting or hiring an individual that violates the EMS Act or these duly promulgated rules; and

(c) failure to follow established procedure and documentation regarding controlled substances;

(21) failure to demonstrate that the air ambulance service is compliant with federal rules;

(22) the entry or pendency of a sanction or disciplinary action by the department or by any local, state, or federal agency against an owner or manager of an air ambulance service;

(23) operating an air ambulance service while the service's certificate is under suspension;

(24) operation within the state of New Mexico without certification required by this rule;

(25) failure to correct deficiencies identified by the bureau;

(26) providing false or misleading claims or advertising to clients or the public regarding the service;

(27) failure to notify the bureau of any accidents or major incidents occurring within the course of business as defined in this rule;

(28) having been found in violation of any local, state, or federal code or rule pertaining to EMS operations or business practices; or violating any rule or standard that could jeopardize the health or safety of any person; and

(29) failure to comply with any requirement of this rule.

D. Immediate

suspension: The EMS bureau may issue an immediate suspension order to any certified air ambulance service if the bureau has reasonable cause to believe that the continued operation of the air ambulance service would create an imminent danger to public health or safety.

(1) An immediate suspension issued by the bureau is effective immediately without a prior hearing. Notice to the license holder shall be deemed established upon the issuance of the signed immediate suspension order to the individual listed as the administrator of the service at the address shown in the current records of the department.

(2) A copy of the immediate suspension order shall be sent to the provider's listed medical director at the addresses shown in the current records of the bureau.

(3) An air ambulance service holds ultimate

responsibility for the operation of its service. A certified air ambulance service may be subject to disciplinary action when any of its staff members, acting with or without the consent or knowledge of the air ambulance service or its management, commits a violation described in this section.

E. Right to appeal:

Any service may appeal a decision by the department to deny, suspend or revoke air ambulance certification, or to take any other disciplinary action.

F. Notice of contemplated action: When the bureau contemplates taking any action specified in this section, it shall serve upon the applicant or certified service a written notice containing a statement of the grounds or subject upon which the proposed action is based, and identifying the rule(s) violated.

G. Right to hearing:

The applicant or certified service may request a hearing before a hearing officer appointed by the secretary to contest a proposed action, by mailing to the bureau a written request for hearing via certified U.S. postal mail, return receipt requested, within 20 days after service of the notice. A service whose certification is immediately suspended may request a hearing before a hearing officer appointed by the secretary to contest the immediate suspension, by mailing to the bureau a written request for hearing via certified U.S. postal mail, return receipt requested, within 15 days after service of the notice.

H. Hearing: Upon receipt of a timely request for a hearing, the department shall appoint a hearing officer and schedule a hearing within 45 days of the date that the request for hearing is received by the bureau. Exception: upon receipt of a timely request for hearing concerning the immediate suspension of an air ambulance's certification, a hearing will be held within 20 days of the date that the request for hearing is received by the bureau. Hearings shall be held in Santa Fe, New Mexico; or, with the agreement of the parties, may be held in another county, or be held by remote video or telephonic conference

I. Notice of hearing:

The department shall notify the applicant or certified service of the date, time, and place of the hearing, the identity of the hearing officer, and the subject matter of the hearing, not less than 30 days prior to the date of the hearing. Exception: in the event of an immediate suspension to protect the safety and health of the public, notice will be provided of an expedited hearing within 10 days of the bureau's receipt of the request for hearing.

J. Hearing officer

duties: The hearing officer shall preside over the hearing, administer oaths, take evidence and decide evidentiary objections and rule on any motions or other matters that arise prior to the hearing.

K. Discovery: Upon written request to another party, any party is entitled to:

(1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and

(2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing.

L. Conduct of

hearing: Hearings are open to the public unless a request for closed meeting is made by either party.

M. Hearing

officer written report and recommendation(s): The hearing officer shall make a written report and recommendation(s) to the secretary containing a statement of the issues raised at the hearing, proposed findings of fact, conclusions of law, and a recommended determination. The hearing officer or designee shall record the hearing by means of a mechanical sound recording device provided by the department for a record of the hearing. The hearing officer's written report shall be submitted to the secretary no later than 30 days after the last submission by a party.

N. Secretary's

determination: The secretary shall render a final determination within

90 days after the secretary's receipt of the hearing officer's written report. Exception: the secretary's decision regarding the immediate suspension of an air ambulance certificate shall be rendered within 15 days after the secretary's receipt of the hearing officer's written report. A copy of the final decision shall be mailed to the appealing party by certified mail, return receipt requested. A copy shall be provided to legal counsel for the bureau.

O. Re-application after revocation, voluntary surrender during pendency of proposed disciplinary action, or expiration during suspension:

(1) An air ambulance service may petition the department in writing for re-application for certification either two years after either the revocation of a certificate or the voluntary surrender of a certificate while a proposed disciplinary action is pending. Expiration of a certificate during the suspension period shall not affect the two-year waiting period required before a petition can be submitted.

(2) The petitioner shall bear the burden of proving fitness for re-certification.

(3) The bureau may allow an application for certification if there is proof that the health, safety, and confidence of the public will be protected.

(4) The bureau may deny a petitioner if, in the judgment of the bureau, the reason for the original action continues to exist or if the petitioner has failed to offer sufficient proof that there is no longer a threat to public health, safety, or confidence.

(5) A service whose certificate expires during a suspension period shall not reapply for certification until the end of the suspension period.

(6) **Surrender of a certification:** Surrender of a certificate shall not deprive the bureau of jurisdiction regarding disciplinary action against the certificate holder. A service who wishes to surrender their certificate prior to the expiration of the license may do so by:

(a) completing a surrender of certification statement; and

(b) if a notice of contemplated action is issued to an air ambulance service, and if the affected service surrenders its certificate prior to the action proposed in the notice of contemplated action becoming final, the surrender of the certificate by the service shall constitute an admission to the allegations of the notice of contemplated action, and the action proposed in the notice of contemplated action shall become effective and shall be deemed a final action not subject to judicial review.

(7) **Notification of disposition:** An order of final disposition of any disciplinary action shall be sent to the certificate holder at the address shown in the current records of the department. A copy of the order shall also be sent to the service's medical director at the address shown in the current records of the department.

[7.27.5.15 NMAC - Rp, 7.27.5.15 NMAC, 9/9/2025]

7.27.5.16 STANDARDS: Air ambulance services shall meet the following standards:

A. Rotor wing scene response protocol (rotor wing): All rotor wing air ambulance services certified to operate in the state of New Mexico shall adhere to the response and transportation policy outlined below. Failure to adhere to the response protocol policy may be investigated by the department and may result in disciplinary action against the service(s) involved in the non-compliance. The department recognizes that air ambulance services may need to occasionally deviate from this policy in the best interest of patient care.

(1) **Response:** When a request from an EMS provider, law enforcement officer, or the incident commander for a rotor wing air ambulance is received by telephone or radio at a dispatch center to respond to a scene, the dispatcher or air ambulance service shall ensure

that the closest available service shall respond, and that a realistic response time is provided. If another rotor wing service is closer to the scene and their aircraft is available to respond, the request shall be transferred and communicated to that service, without delay.

(2) **Transportation:** All patients shall be transported by the rotor wing air ambulance service to the closest appropriate facility. For trauma patients and other patients with time-critical conditions, the regional or local trauma transportation protocols/guidelines should guide the destination decision, with rapid transport being a priority. Regional or EMS system transportation protocols/guidelines shall also guide transportation decisions.

B. Inter-facility transportation protocol (rotor wing and fixed wing): The department follows the federal Emergency Medical Treatment and Labor Act (EMTALA) for inter-facility transfers.

(1) For inter-facility transfers, it is the responsibility of the physician at the sending facility to arrange an "appropriate transfer" under the EMTALA requirements. The EMTALA requirements include as part of arranging an "appropriate transfer" that the sending physician secure an appropriate method of transportation that is consistent with the patient's needs. (It is recommended that the sending physician and the receiving physician consult when making the decision about the appropriate method of transportation.)

(2) Physicians arranging inter-facility transfers must remain current on available EMS transportation options within their area. In New Mexico, the following options are available in many geographical areas; Regular ground ambulance (BLS and ALS), critical care ground ambulance, fixed wing air ambulances (BLS, ALS, and critical care), and rotor wing air ambulances (critical care).

C. General standards:

Compliance with the following standards must be documented before an applicant will be licensed:

(1) applicants for licensure must demonstrate liability coverage for injuries to persons and for loss or property damages resulting from negligence by the service or medical crew. A license holder should immediately notify the department/agency and cease operations if the coverage required by this section is cancelled or suspended.

(2) the applicant must show evidence of medical professional liability insurance that requires the insurer to compensate for injuries to persons or unintentional damage to property. Applicants should provide a copy of the current certificates of insurance demonstrating coverage for each air ambulance medical crew member that demonstrates, at a minimum, aggregate limits of \$1,000,000 per claim made and a total of \$3,000,000 for all claims made against the provider during the policy year.

(3) air ambulance services shall report all aviation incidents and accidents to the cooperative network call for emergency regional notification (CONCERN) network or other national accident/incident tracking network, and all other appropriate government agencies required by law. An incident is an occurrence other than an accident that affects or could affect the safety of the patient or medical crew availability. An accident is an occurrence is associated with the operation of an air ambulance where any person suffers death or serious injury, or in which the aircraft was substantially damaged. The air agency is required to notify, at its earliest opportunity, the EMS Bureau of accidents and major incidents that affect patient missions and missions that support the service's operations. Major incidents include but are not limited to:

(a) A fatality or serious injury to a crew member, patient, or ground personnel;

(b) Substantial damage to the aircraft or essential medical equipment;

(c) An unplanned aircraft emergency landing due to mechanical failure or in-flight emergency;

(d) Interruption of flight due to fire, smoke, or suspected hazardous material exposure;

(e) A patient safety event requiring hospital admission that was directly caused by the actions or inactions of the air medical crew during transport;

(f) Any event requiring notification to the National Transportation Safety Board (NTSB) under 49 CFR §830; or

(g) Any situation declared a "major incident" by the medical director, safety officer, or accountable manager due to potential systemic risk or public interest.

(4) a clinical care supervisor shall be an EMT-P or higher level of licensure.

(5) the air ambulance service shall have standards for EMS personnel duty time and assuring a rested and fit-for-duty-EMS staff;

(6) air medical transport services shall include the bureau contact representatives in their emergency call down list (post accident incident plan).

(7) all air ambulance services shall enter and maintain their operational status in a web -based program designated by the NMDOH bureau of health emergency management, e.g. "EM Systems" or "ReadyOp."

(8) all EMT-paramedics shall be certified as a flight paramedic by a bureau approved national certification entity or receive bureau approved equivalent education within two years of their employment with the flight service. Air ambulance service-based training and orientation may meet this requirement.

(9) all levels of EMTs who work on air ambulances will receive specialized training

to handle the unique challenges of providing care in a helicopter or fixed-wing aircraft. These training components ensure that EMTs are well-prepared to provide high-quality care in the unique and often critical environment of air medical transport. EMTs who work on air ambulances shall be trained in the following:

(a) aviation safety: understanding aircraft operations, safety protocols, and emergency procedures specific to aviation;

(b) aeromedical concepts: training in the physiological effects of flight, including hypoxia, barotrauma, and changes in blood pressure and circulation;

(c) aeromedical patient care: proficiency in basic, intermediate, and advanced life support, trauma management, and neonatal/pediatric care, including any education for air ambulance service approved special skills;

(d) communication skills: effective communication with pilots, dispatch, and other medical personnel, often in high-stress situations;

(e) environmental considerations: managing patient care in confined spaces and learning how to secure patients safely during flight;

(f) equipment familiarization: proficiency with specialized equipment used in air medical transport, such as portable monitors, ventilators, and medications;

(g) processes of patient transport: skills in loading and unloading patients quickly and safely, including use of stretchers and securing equipment in-flight.

(10) the air medical service shall provide documentation showing compliance with all federal regulations pursuant to patient safety during transport. The bureau will require proof of compliance with federal regulations from the appropriate federal agencies;

(11) any issues identified with aircraft that have the potential to be unsafe for patient care and safety will be referred to the appropriate federal authorities. If warranted, certification shall be withheld or suspended until federal approval and notification of compliance is provided to the bureau. [7.27.5.16 NMAC - Rp, 7.27.5.16 NMAC, 9/9/2025]

7.27.5.17 RADIO COMMUNICATION FREQUENCIES:

A. Radio equipment capable of transmitting and receiving medical control communications on all New Mexico emergency medical services communication (EMSCOM) system UHF medical channels is required in all air ambulance vehicles (fixed and rotor wing).

B. The ability to have communications with ground-based EMS, public safety, and other resources is required. This may be via additional equipment such as a cell or satellite phone, or supplementary radio frequencies and channels.

C. All communications equipment shall be maintained in full operating condition and good repair. [7.27.5.17 NMAC - Rp, 7.27.5.17 NMAC, 9/9/2025]

7.27.5.18 APPLICATION FOR AIR AMBULANCE

CERTIFICATION: All applications for certification as an air ambulance shall contain the following:

A. service name;

B. ownership structure: sole proprietor, partnership, corporation, etc.;

C. service mailing address;

D. physical location of facilities: use additional sheets as necessary;

E. communications information, to include:

(1) business telephone;

(2) e-mail address;

(3) dispatch center telephone;

(4) emergency point of contact;

(5) operations telephone; and

(6) cellular telephone.

F. physical location of the communications center;

G. medical service management personnel information, to include:

(1) program administrator: name, telephone, facsimile, and other contact information as applicable;

(2) medical director: name, license number, telephone, facsimile, and other contact information as applicable;

(3) clinical care supervisor: name, telephone, facsimile, and other contact information as applicable.

H. hours of operations: 24 hour, seven days a week, or other (please explain);

I. type of air ambulance certificate requested: (1) fixed wing only;

(2) rotor wing only; or

(3) combination service.

J. level of service requested: (1) advanced life support;

(2) critical care; or

(3) specialty care.

K. service affiliation: (1) private or government service; or

(2) hospital, police, independent, or municipal.

L. aircraft certificate holder information, to include:

(1) service name;

(2) contact person;

(3) address;

(4) business telephone;

(5) facsimile number; and

(6) certificate number.

M. type of aircraft, to include:

(1) make of aircraft(s);

(2) model of aircraft(s); and

(3) tail number(s).

N. staffing plan, to include:

(1) EMS personnel: EMT-P and the number of each;

(2) nursing personnel: number and type;

(3) physician(s): number and type; and

(4) other personnel: number and type.

O. emergency information, to include emergency contact information for the service director, clinical care supervisor, medical director, and dispatch agency;

P. if accredited, a certificate of accreditation from an EMS bureau-approved national or international air ambulance accrediting organization.

[7.27.5.18 NMAC - Rp, 7.27.5.19 NMAC, 9/9/2025]

7.27.5.19 AIRCRAFT EQUIPMENT STANDARDS:

Each air ambulance operator shall ensure that all medical equipment is appropriate to the air medical service's scope and mission and maintained in working order according to the manufacturer's recommendations.

A. Medical equipment shall be available on the aircraft that meets the state scope for EMS providers for the area in which the service intends to operate, and in line with the mission of the air ambulance service. The medical equipment shall (commensurate with the applicable scopes of practice for the air ambulance service's staff) include, but not be limited to, the following:

(1) isolation equipment:

(a) isolation goggles and masks or mask/shield combination;

isolation gowns;	(b)	(20) advanced	being stopped at the oxygen source
isolation gloves.	(c)	(21) approved	from inside the air ambulance and
(2) high		medications, including blood or blood	measurement of the liter flow and
particulate filter washes (high		products, with equipment to maintain	quantity of oxygen remaining is
efficiency particulate air (HEPA) filter		temperatures within manufacturer	accessible to air medical personnel
or N95 mask-assorted sizes;		recommendations and medical	while in flight):
(3) containers		standards;	(a)
(bags) for infectious medical waste;		(22) security	main oxygen source;
(4) sharps		of medications, fluids, and controlled	(b)
container;		substances maintained by each air	wall mounted oxygen gauge 0-15 L/
(5)		ambulance licensee in compliance	min. minimum. Oxygen equipment
disinfectant/germicidal;		with local, state, and federal drug	shall be furnished capable of
(6) waterless		laws;	adjustable flow from 2 to 15 liters per
hand cleaner;		(23)	minute. Masks and supply tubing for
(7) airway		electrocardiogram (ECG) monitor/	adult and pediatric patients shall allow
equipment:		defibrillator and appropriate adult	administration of variable oxygen
(a)		and infant pads, including external	concentrations from twenty-four
complete set of oropharyngeal airway		pacemaker pads (secure positioning	percent to ninety-five percent fraction
devices: adult, pediatric, and infant;		of cardiac monitors, defibrillators, and	inspired oxygen. Medical oxygen
(b)		external pacers so that displays are	shall be provided for one-hundred and
complete set of nasopharyngeal		visible to medical personnel);	fifty percent of the scheduled flight
airway devices: adult, pediatric, and		(24) pulse	time by a unit secured within the air
infant;		oximeter (adult and pediatric);	ambulance.
(c)		(25) spare	(37)
complete set of intubation equipment-		batteries as appropriate for powered	compressed air as appropriate
adult, pediatric, and infant.		medical devices;	(each gas outlet clearly marked for
(8) extra		(26) ventilator	identification);
batteries and bulbs;		as approved by medical director;	(38) portable
(9) syringes,		(27) bleeding/	oxygen unit;
assorted sizes;		burns equipment;	(39) portable
(10) stylets		(28) gauze	variable flow regulator 0-15 liters per
(adult, pediatric and infant);		(29) universal	minute minimum;
(11) magill		trauma dressings;	(40) bag-valve-
forceps (adult and pediatric);		(30) suction	mask with reservoir one hundred
(12) booted		equipment including tubing:	percent oxygen flow (adult, pediatric,
hemostat or device appropriate clamp;		(a)	and infant);
(13) adult		wall mounted suction unit;	(41) transparent
endotracheal tubes;		(b)	oxygen masks, simple and non-
(14) pediatric/		portable suction unit powered or hand	rebreather (adult, pediatric, and infant
infant endotracheal tubes a. 2 sizes		operated.	oxygen mask);
of each tube that corresponds to the		(31) hard tip	(42) nasal
required pediatric weight-based tape,		suction;	cannulas (adult and pediatric);
chart or wheel. Medical directors can		(32) soft tip	(43) oxygen
choose tube sizes based on protocol		suction catheters set:	connective tubing and appropriate
and evidence based guidelines;		(a)	adapters;
(15) pediatric		adult sizes;	(44) oxygen
weight based drug tape, chart or		(b)	humidifier/nebulizer and appropriate
wheel;		pediatric sizes.	connecting tubing;
(16) water		(33) suction	(45) adjunct
soluble lubricant;		bags (package) or equivalent;	equipment, to include:
(17)		(34) french	(a)
laryngoscope handle;		suction catheters;	(b)
(18)		(35) sterile	stethoscope (adult and pediatric);
laryngoscope blades, curved and		(36) oxygen	(c)
straight, sizes 0-1-2-3;		equipment (oxygen flow capable of	tourniquets.
(19) end-tidal			(46) blood
carbon dioxide (CO2) monitor;			pressure cuffs: (large adult, adult,
			pediatric, infant);

(47) penlight;
 (48) patient hearing protection;
 (49) assorted tape;
 (50) exam gloves;
 (51) obstetrical kit;
 (52) nasogastric tubes (adult and pediatric);
 (53) patient restraints;
 (54) pediatric restraining system;
 (55) intravenous equipment;
 (56) alcohol, chlorhexidine, or betadine skin cleanser (preferably prep pads);
 (57) intravenous (IV) administration sets;
 (58) IV infusion pump tubing;
 (59) IV catheters and butterfly needles, assorted sizes 24-14;
 (60) intraosseous needles;
 (61) needles, assorted sizes;
 (62) IV solutions, per protocol;
 (63) associated adjunct equipment;
 (a) invasive line set-up;
 (b) pressure bags.
 (64) one or more cots/stretchers capable of being secured in the aircraft which:
 (a) can accommodate an adult of a height and weight appropriate for the capacity of the air ambulance. There shall be restraining devices or additional appliances available to provide adequate restraint of all patients including those under 60 pounds or 36 inches in height;
 (b) shall have the head of the primary stretcher capable of being elevated up to 30 degrees. The elevating section shall not interfere with or require that the patient or stretcher securing straps and hardware be removed or loosened;

(c) shall be sturdy and rigid enough that it can support cardiopulmonary resuscitation. If a backboard or equivalent device is required to achieve this, such device will be readily available;

(d) shall have a pad or mattress impervious to moisture and easily cleaned and disinfected according to Occupational Safety and Health Administration (OSHA) bloodborne pathogen requirements (29 C.F.R. 1910.1030).

(65) supply of linen for each patient; and
 (66) survival kit for all medical crew members and patients.

[7.27.5.19 NMAC - Rp, 7.27.5.20 NMAC, , Rp, 9/9/2025]

7.27.5.20 [RESERVED]
 [7.27.5.20 NMAC - Repealed, 9/9/2025]

7.27.5.21 [RESERVED]
 [7.27.5.21 NMAC - Repealed, 9/9/2025]

HISTORY of 7.27.5 NMAC:
Pre NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center and archives:
 DOH Regulation 94-09 (CHSD), Regulations Governing The Certification Of Air Ambulance Services For The state Of New Mexico, filed 12/30/1994.

History of repealed material:
 7 NMAC 27.5, Certification of Air Ambulance Services, repealed 9/13/2001.
 7.27.5 NMAC, Certification of Air Ambulance, repealed 01/01/2006.
 7.27.5 NMAC, Certification of Air Ambulance, (filed 12/16/2005) Repealed 9/9/2025.

Other History:
 DOH Regulation 94-09 (CHSD), Regulations Governing The Certification Of Air Ambulance Services For The State of New

Mexico (filed 12/30/1994), renumbered and reformatted to and replaced by 7 NMAC 27.5 NMAC, Certification of Air Ambulance Services, effective 9/13/2001.
 7 NMAC 27.5 NMAC, Certification of Air Ambulance Services (filed 11/26/1996) replaced by 7.27.5 NMAC, Certification of Air Ambulance, effective 9/13/2001.
 7.27.5 NMAC, Certification of Air Ambulance (filed 8/30/2001) replaced by 7.27.5 NMAC, Certification of Air Ambulance, effective 01/01/2006.
 7.27.5 NMAC, Certification of Air Ambulance (filed 12/16/2005) replaced by 7.27.5 NMAC, Certification of Air Ambulance, effective, 9/9/2025.

HEALTH, DEPARTMENT OF

TITLE 7 HEALTH CHAPTER 27 EMERGENCY MEDICAL SERVICES PART 6 EMERGENCY MEDICAL SERVICES ADVANCE DIRECTIVES

7.27.6.1 ISSUING AGENCY: New Mexico department of health, emergency medical systems bureau.
 [7.27.6.1 NMAC - Rp, 7.27.6.1 NMAC, 9/9/2025]

7.27.6.2 SCOPE: This regulation applies to all people of New Mexico who have capacity, or by a person duly appointed under a durable power of attorney for health care, physicians, advanced practice nurses, or physician assistants, and emergency medical services personnel.
 [7.27.6.2 NMAC - Rp, 7.27.6.2 NMAC, 9/9/2025]

7.27.6.3 STATUTORY AUTHORITY: These regulations are promulgated pursuant to the Department of Health Act, Subsection E of Section 9-7-6 NMSA 1978, which authorizes the secretary of the department of health to "make and adopt such reasonable and

procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions”; and the Emergency Medical Services Act, Subsection I of Section 24-10B-4 NMSA 1978, which authorizes the department of health to adopt “regulations pertaining to authorization of providers to honor advance directives to withhold or terminate care in certain pre-hospital or inter-facility circumstances, as guided by local medical protocols”. [7.27.6.3 NMAC - Rp, 7.27.6.3 NMAC, 9/9/2025]

7.27.6.4 DURATION:

Permanent.

[7.27.6.4 NMAC - Rp, 7.27.6.4 NMAC, 9/9/2025]

7.27.6.5 EFFECTIVE

DATE: September 9, 2025, unless a later date is cited at the end of a section.

[7.27.6.5 NMAC - Rp, 7.27.6.5 NMAC, 9/9/2025]

7.27.6.6 OBJECTIVE:

These regulations will inform the public and New Mexico emergency medical services providers of the procedures to authorize the use of advance directives in pre-hospital and inter-facility settings.

[7.27.6.6 NMAC - Rp, 7.27.6.6 NMAC, 9/9/2025]

7.27.6.7 DEFINITIONS:

A. Definitions

beginning with “A”:

(1)

“**Advance directive**” means a written instruction, such as a living will, durable power of attorney for health care or emergency medical services do not resuscitate form recognizable under state law and relating to the provision of health care when an individual is incapacitated.

(2)

“**Advanced practice nurse**” means a registered nurse who has completed the required education and training and received state of New Mexico approval to practice as a certified nurse midwife or advanced practice registered nurse.

(3)

“**Authorized health care decision maker**” means a person authorized under a durable power of attorney to make health care decisions on behalf of another, a court-appointed guardian or the parent of a minor or any other person authorized by law to make health care decisions for another.

B. Definitions

beginning with “B”: “**Bureau**” means the emergency medical systems bureau of the office of health emergency management of the epidemiology and response division of the department.

C. Definitions

beginning with “C”: “**Capacity**” means an individual’s ability to understand and appreciate the nature and consequences of proposed health care, including its significant benefits, risks and alternatives to proposed health care and to make and communicate an informed health-care decision.

D. Definitions

beginning with “D”:

(1)

“**Designee**” means a physician assistant, registered nurse or nurse practitioner, licensed or otherwise authorized to practice, who is designated by a physician to explain an EMS DNR order to a person who may execute the order.

(2) “Durable

power of attorney” means a document executed according to the provisions of Sections 45-5-501 through 45-5-502 NMSA 1978 of the New Mexico Probate Code, which designates an individual to make health care decisions for the person executing the document, or an advance health-care directive executed according to the provisions of Sections 24-7A-1 through 24-7A-18 NMSA 1978 of the New Mexico Uniform Health-Care Decisions Act, which designates an agent or surrogate to make health care decisions for an individual.

E. Definitions

beginning with “E”:

(1)

“**Emergency medical services (EMS)**” means the services rendered

by emergency medical technicians or certified emergency medical services first responders in response to an individual’s need for immediate medical care to prevent loss of life or aggravation of physical or psychological illness or injury.

(2) “EMS

bracelet” means a bracelet, medallion or some other item of personal wear, approved by the bureau for indicating in a standard, readily-recognizable manner that the person has executed an EMS DNR order.

(3) “EMS do

not resuscitate (DNR) order” means an order issued by a physician, and signed by the person or authorized health care decision maker, on a form approved by the bureau, indicating that resuscitative measures should not be performed.

(4) “EMS

personnel” means persons currently licensed or certified by the bureau to practice as emergency medical technicians (EMTs) or emergency medical services first responders in New Mexico.

F. Definitions

beginning with “F”: [RESERVED]

G. Definitions

beginning with “G”: [RESERVED]

H. Definitions

beginning with “H”: [RESERVED]

I. Definitions

beginning with “I”: [RESERVED]

J. Definitions

beginning with “J”: [RESERVED]

K. Definitions

beginning with “K”: [RESERVED]

L. Definitions

beginning with “L”: [RESERVED]

M. Definitions

beginning with “M”: “**Medical control**” means supervision provided by or under the direction of physicians to EMS personnel by written protocol or direct communications.

N. Definitions

beginning with “N”: “**New Mexico Medical Orders for Scope of Treatment (MOST) form**” is a bureau approved advanced healthcare directive/healthcare decision that may be used either in conjunction with or as an alternative to the EMS

DNR order; it must be signed by a physician, advanced practice nurse, or physician's assistant and by the patient or patient's healthcare decision maker.

O. Definitions
beginning with "O": [RESERVED]

P. Definitions
beginning with "P":

(1)

"Physician" means a doctor of medicine or doctor of osteopathy licensed or otherwise authorized to practice medicine or osteopathic medicine.

(2)

"Physician's Assistant (PA)" means a person who has received the education, training and approval from the State of New Mexico to practice as a PA in New Mexico.

(3) "Pre-

hospital setting" means any setting outside of a hospital where EMS personnel are called for assistance, including but not limited to long term care facilities, private homes or during transport.

Q. Definitions
beginning with "Q": [RESERVED]

R. Definitions
beginning with "R": [RESERVED]

S. Definitions
beginning with "S": [RESERVED]

T. Definitions
beginning with "T": [RESERVED]

U. Definitions
beginning with "U": [RESERVED]

V. Definitions
beginning with "V": [RESERVED]

W. Definitions
beginning with "W":
[RESERVED]

X. Definitions
beginning with "X": [RESERVED]

Y. Definitions
beginning with "Y": [RESERVED]

Z. Definitions
beginning with "Z": [RESERVED]

[7.27.6.7 NMAC - Rp, 7.27.6.7 NMAC, 9/9/2025]

7.27.6.8 EMS DO NOT RESUSCITATE (DNR) ORDER:

A. Execution and duration of an EMS DNR order, including Section A of the MOST form:

(1) Any

physician, advanced practice nurse, or PA may execute an EMS DNR order on behalf of any person with capacity, with the person's informed consent. The physician, advanced practice nurse, or PA or designee shall explain to the person the full meaning of the order, the available alternatives, how the order may be revoked, and answer any questions the person may have about the order. Both the physician, or the physician's designee upon a verbal order from the physician, and the person for whom the order is executed, shall sign the document, as well as the physician, advanced practice nurse, or PA. A registered nurse may sign the EMS DNR or MOST if a verbal order for the EMS DNR or MOST has been received from a physician, advanced practice nurse, or PA; the name of the physician, advanced practice nurse, or PA must be printed beneath the signature.

(2) If the

person for whom an EMS DNR order is contemplated has appointed an agent under a durable power of attorney, and the person for whom the DNR order is contemplated lacks capacity, the physician, advanced practice nurse, or PA or designee may discuss the situation with the person's authorized health care decision maker, if any. The physician, advanced practice nurse, PA, or designee shall explain to the authorized health care decision maker the full meaning of the order, the available alternatives, how the order may be revoked, and answer any questions the authorized health care decision maker may have about the order. If the authorized health care decision maker gives informed consent to the order, the decision maker will sign the EMS DNR or MOST, as will the physician, advanced practice nurse, or PA. A registered nurse may sign the EMS DNR or MOST if a verbal order for the EMS DNR or MOST has been received from a physician, advanced practice nurse, or PA; the name of the physician, advanced practice nurse, or PA must be printed beneath the signature.

(3) An EMS

DNR or MOST order shall remain in effect indefinitely unless revoked or unless an expiration date is specified in the document.

(4) An

EMS DNR or MOST order shall be periodically reviewed by the person for whom the EMS DNR order is executed or by the authorized health care decision maker.

(5) A person

for whom an EMS DNR order is executed may choose to wear an optional EMS bracelet indicating the existence of the order.

B. Revocation of an EMS DNR or MOST order:

(1) An EMS

DNR or MOST order may be revoked at any time orally, by executing a subsequent order, or by performing an act which indicates an attempt to revoke the order, such as by burning, tearing, canceling, obliterating or destroying the order or any part of it, by the person on whose behalf it was executed.

(2) If an

EMS DNR or MOST order is revoked, EMS personnel shall initiate appropriate resuscitation measures.

C. Execution and duration of a durable power of attorney:

(1) Any adult

with decisional capacity may execute a durable power of attorney.

(2) A durable

power of attorney shall remain in effect indefinitely unless revoked or unless an expiration date is specified in the document.

D. Revocation of a durable power of attorney: a durable power of attorney may be revoked at any time by executing a subsequent durable power of attorney or by performing an act which indicates an attempt to revoke the durable power of attorney, such as by burning, tearing, canceling, obliterating or destroying the document, or any part of it, by the person who executed it. It may also be revoked by an oral statement by the person who executed it.

[7.27.6.8 NMAC - Rp, 7.27.6.8 NMAC, 9/9/2025]

7.27.6.9 EMS**PERSONNEL AND PROCEDURES:**

A. Authorization of EMS personnel: EMS personnel shall follow EMS DNR orders, MOST form instructions or durable powers of attorney when encountering persons in pre-hospital settings in accordance with these regulations and local EMS medical protocols.

B. EMS procedures for verifying EMS DNR orders: EMS personnel shall comply with the following procedures when encountering a possible EMS DNR order:

(1) primary assessment - perform initial primary assessment, i.e., assess airway, breathing and carotid pulse;

(2) verification of identification - verify by:

(a) using a driver's license or other signed photo identification;

(b) identification by a family member; or

(c) positive third-party identification by someone who knows the person;

(3) verification of existence of the appropriately completed MOST form by the steps in Subsection D of this section;

(4) verification of EMS DNR or MOST order - verify the existence of an EMS DNR or MOST order for the person, using the following indicators:

(a) EMS DNR order only: if a valid EMS DNR order is immediately accessible, proceed to Subsection C of this section;

(b) intact EMS bracelet: if the person is wearing an EMS bracelet that is fully intact and not defaced, proceed to Subsection C of this section;

(c) non-intact or defaced EMS bracelet with an EMS DNR order: if the person is wearing an EMS bracelet that is not fully intact or is defaced, but an EMS DNR order is immediately accessible, proceed to Subsection C of this section;

(d) non-intact or defaced EMS bracelet without an EMS DNR order: follow the regular resuscitation protocol and ask family member(s) or others present to locate the EMS DNR order; if the EMS DNR order is located, proceed to Subsection C of this section; if the EMS DNR order is not located, continue the regular resuscitation protocol and contact medical control for consultation;

(e) no EMS bracelet and no EMS DNR order: if the person is not wearing an EMS bracelet but there are other indications that the person is on DNR status, follow the regular resuscitation protocol and ask family member(s) or others present to locate the EMS DNR order; if the EMS DNR order is located, proceed to Subsection C of this section; if the EMS DNR order is not located, continue the regular resuscitation protocol and contact medical control for consultation;

(5) if there is any question about the validity of an EMS DNR order or MOST form, or there is any indication of an attempted homicide, initiate resuscitation until such time that the questions have been answered; if possible, contact medical control for consultation.

C. EMS procedures for implementing EMS DNR orders or MOST form instructions: if a person has a valid EMS DNR order or MOST form as evidenced by the steps in Subsection B of this section, proceed as follows:

(1) for all persons: the following procedures may be initiated for the comfort of the person if they have not been refused by the person or by the authorized health care decision maker:

(a) administering oxygen by mask or cannula;

(b) suctioning;

(c) managing airways except intubation and other advanced airway maneuvers;

(d) administering analgesics, as

authorized by the New Mexico scopes of practice

(e) controlling bleeding;

(f) other care indicated on MOST form if utilized;

(g) making patient comfortable; and

(g) comforting family.

(2) for all persons in cardiac or respiratory arrest: the following procedures shall be withheld:

(a) external cardiac compressions;

(b) artificial ventilations, intubation or other advanced airway maneuvers;

(c) defibrillation/external cardiac pacing;

(d) administration of cardiac medications; and

(e) artificial respiration.

(3) if there is any question about the validity of an EMS DNR order, or there is evidence of an attempted homicide, initiate resuscitation until such time that the questions have been answered; if possible, contact medical control for consultation.

D. EMS procedures for implementing the instructions on the MOST form or other durable powers of attorney:

(1) EMS personnel shall comply with the following procedures when encountering a MOST form, a DNR or advance directive form from any other source, or other durable power of attorney:

(a) primary assessment - perform initial primary assessment, i.e., assess airway, breathing and carotid pulse;

(b) verification of identification - verify, using a driver's license or other signed photo identification, by family member's positive identification, or identification by a person who knows the person, that the person is the one who executed the durable power of

attorney; verify the identification of the person identified in the durable power of attorney as the authorized health care decision maker; if needed, contact medical control for consultation and then follow that person's instructions as authorized by the MOST form, other DNR form, other advance directive, or durable power of attorney;

(2) if there is any question about the validity of a MOST form, other DNR form, or other durable power of attorney, initiate resuscitation until such time that the questions have been answered; if possible, contact medical control for consultation.

E. Relationship of EMS DNR orders to durable powers of attorney: Where a person has both an EMS DNR order and a MOST form or other durable power of attorney, the most recent document shall prevail for EMS treatment only. [7.27.6.9 NMAC - Rp, 7.27.6.9 NMAC, 9/9/2025]

7.27.6.10 ENFORCEABILITY AND PROGRAM ADMINISTRATION:

A. Enforceability of DNR orders and durable powers of attorney from other states: EMS personnel may honor DNR orders and durable powers of attorney that are executed in another state or jurisdiction in compliance with the laws of that state or jurisdiction, or in compliance with the laws of New Mexico, to the extent the document is not inconsistent with the public policy of New Mexico.

B. Program administration: the bureau shall distribute, or arrange for the distribution of, EMS DNR order forms and relevant information to interested citizens and appropriate health care providers. These materials shall include specific guidance on how to obtain additional forms and the EMS bracelet. [7.27.6.10 NMAC - Rp, 7.27.6.10 NMAC, 9/9/2025]

HISTORY OF 7.27.6 NMAC:

Pre-NMAC History: The material

in this part was derived from that previously filed with the state records center:

DOH Regulation 94-10 (CHSD), Regulations Governing EMS Advance Directives For The State Of New Mexico, filed 12/28/1994.

History of Repealed Material:

DOH Regulation 94-10 (CHSD), Regulations Governing EMS Advance Directives For The State Of New Mexico (filed 12/28/94) repealed 01/1/2006.

7.27.6 NMAC, Emergency Medical Services Advance Directives, (filed 12/16/2005) Repealed effective 9/9/2025.

Other History:

DOH Regulation 94-10 (CHSD), Regulations Governing EMS Advance Directives For The State Of New Mexico (filed 12/28/94) was renumbered, reformatted and replaced by 7.27.6 NMAC, Emergency Medical Services Advance Directives, effective 01/1/2006.

7.27.6 NMAC, Emergency Medical Services Advance Directives, (filed 12/16/2005) Replaced by 7.27.6 NMAC, Emergency Medical Services Advance Directives, effective 9/9/2025.

HEALTH, DEPARTMENT OF

TITLE 7 HEALTH CHAPTER 27 EMERGENCY MEDICAL SERVICES PART 11 SUPPLEMENTAL LICENSING PROVISIONS

7.27.11.1 ISSUING

AGENCY: New Mexico Department of Health (DOH), emergency medical systems bureau (EMSB). [7.27.11.1 NMAC - Rp, 7.27.11.1 NMAC, 9/9/2025]

7.27.11.2 SCOPE: These rules apply to New Mexico emergency medical services (EMS), including mobile integrated health, community EMS, critical care EMS, special event, healthcare facilities,

and other entities that employee and utilize New Mexico licensed EMS personnel. These rules also apply to the service directors and medical directors of those services; approved New Mexico emergency medical service (EMS) training programs and graduates of approved New Mexico EMS training programs; New Mexico licensed EMS personnel including those previously licensed; persons trained, certified or licensed in another state or territory, or certified by the national registry of emergency medical technicians, seeking to acquire licensure in New Mexico; EMS licensing commission; and any other entity associated with the licensing of emergency medical services personnel in New Mexico. In the event of a public health emergency that stresses the emergency medical service system and disrupts delivery of medical services, the New Mexico department of health, working with the emergency medical systems bureau, may limit or expand these rules, and may institute certain crisis standards of care, through emergency rulemaking.

[7.27.11.2 NMAC - Rp, 7.27.11.2 NMAC, 9/9/2025]

7.27.11.3 STATUTORY

AUTHORITY: These rules are promulgated pursuant to the following statutory authorities: the New Mexico Department of Health Act, Subsection E of Section 9-7-6 NMSA 1978, which authorizes the secretary of the department of health to "make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions," and the Emergency Medical Services Act, Section 24-10B-4 NMSA 1978 ("bureau; duties"). [7.27.11.3 NMAC - Rp, 7.27.11.3 NMAC, 9/9/2025]

7.27.11.4 DURATION:

Permanent. [7.27.11.4 NMAC - Rp, 7.27.11.4 NMAC, 9/9/2025]

7.27.11.5 EFFECTIVE

DATE: September 9, 2025, unless a later date is cited at the end of a section.

[7.27.11.5 NMAC - Rp, 7.27.11.5 NMAC, 9/9/2025]

7.27.11.6 OBJECTIVE:

These rules are intended to supplement the emergency medical services licensure requirements for emergency medical services personnel, to provide supplemental and additional standards for the licensure of emergency medical dispatchers, emergency medical dispatch-instructors, emergency medical services first responders and emergency medical technicians, and to assist in the provision of a comprehensive system of emergency medical services in the state of New Mexico.

[7.27.11.6 NMAC - Rp, 7.27.11.6 NMAC, 9/9/2025]

7.27.11.7 DEFINITIONS:

Refer to 7.27.2.7 NMAC.

[7.27.11.7 NMAC - Rp, 7.27.11.7 NMAC, 9/9/2025]

7.27.11.8 SCOPES OF PRACTICE FOR LICENSED EMERGENCY MEDICAL SERVICES PERSONNEL:

A. Medical director means a physician functioning as the service EMS medical director as defined and described in 7.27.3 NMAC, medical direction for emergency medical services. Medical control means supervision provided by or under the direction of a physician.

B. Prior to approving a new skill, technique, medication, or procedure, it shall be documented by the service director, medical director, or approved EMS training institution that the EMS provider has been appropriately trained to perform those new skills, techniques, medications, or procedures.

C. Service medical director approved: All service medical director approved skills, techniques, medications, or procedures are

considered advanced life support. Prior to utilizing any skill, technique, medication or procedure designated as service medical director approved, it shall be documented by the service director, medical director, or approved EMS training institution that the EMS provider has been appropriately trained to administer the medications or perform the skills, techniques, medications or procedures. Additionally, each EMS provider must have a signed authorization from the service's medical director on file at the EMS service's headquarters or administrative offices.

D. Any device in an EMS agency's treatment guideline/protocol designed and utilized to facilitate successful completion of a skill or other treatment modality, including but not limited to cardiopulmonary resuscitation (CPR) devices, intraosseous placement devices, and positive pressure ventilation devices, must be approved by the service medical director.

E. Wilderness protocols: The following skills shall only be used by providers who have a current wilderness certification from a bureau approved wilderness caregiver course, who are functioning in a wilderness environment as a wilderness provider (an environment in which time to a hospital is expected to exceed two hours, except in the case of an anaphylactic reaction, in which no minimum transport time is required), and are authorized by their medical director to provide the treatment:

- (1) minor wound cleaning and management;
- (2) cessation of CPR;
- (3) field clearance of the cervical-spine;
- (4) reduction of dislocations resulting from indirect force of the patella, digit, and anterior shoulder.

F. Community emergency medical services and mobile integrated health programs: Community EMS (CEMS) and mobile integrated health (MIH) programs shall be provided by EMS caregivers

who, after completing a bureau approved CEMS/MIH caregiver course, are functioning as part of a program that has been reviewed and approved by the EMS bureau. The providers must be authorized by their medical director to perform the skills listed in their application as part of the program. These programs may include referrals that involve transport to non-hospital locations, and for non-transport decisions. Skills and interventions may include any of the approved skills and interventions for the appropriate level; any skill that exceeds the scope of practice must be approved through the special skill process. Skills may include, but are not limited to:

- (1) education of patients in self-medication administration, and assessment of compliance with physician recommendations for health conditions;
- (2) assessments for preventing falls and other sources of injury by identifying risks in patient homes;
- (3) provide education on disease prevention;
- (4) administering immunizations;
- (5) in collaboration with a healthcare team, assist in developing a care plan, and educate the patient in following the care plan;
- (6) perform in home patient assessments commensurate with level of education and licensure and facilitate telemedicine clinician contact if available in order to provide information to a care team as to the progress or condition of a patient receiving therapies for medical conditions;
- (7) provide assistance in locating and contacting appropriate providers of needed social services;
- (8) treat discovered acute healthcare issues, transporting to emergency department if necessary;
- (9) for chronic and non-acute issues, confirmed with

online medical direction and agreed to by the patient, options other than EMS transport may be considered, including:

- (a) arrange for non-emergent and non-EMS transportation to and care at an appropriate facility, such as a physician's office or urgent care center;
- (b) provide referral information and arrange for follow up by appropriate care team members or social service personnel; and
- (10) assist with ongoing prescribed wound care.

G. Critical care transport services skills: Paramedic critical care transport skills shall be used only by paramedic providers who have successfully completed a bureau approved critical care transport paramedic or critical care flight paramedic course. Subsequent to completing the approved course, the critical care paramedic must successfully complete a bureau administered or approved third party exam within one year. Additionally, the paramedics shall be functioning as part of a ground or air EMS agency with an approved critical care transport special skill and authorized by the agency medical director to utilize these skills. Critical care transport program skills are only authorized for use during inter-facility critical care transport activities, with the exception of air ambulance agencies providing emergency scene response; or ground critical care agencies requested to a scene by the local authorized and certified 911 response and transport agencies. Critical care transport special skills and medications that may be administered include, but are not limited to any of the below skills and medications; service specific skills and medication requests must be listed on the EMS agency critical care transport special skill application completed per 7.27.11.10 NMAC:

(1) monitoring of infusions including but not limited to anti-arrhythmics, nitrates, vasopressors, blood products,

thrombolytics, sedation, pain management and antihypertensive medications that have required titration within the past two hours and may need to have their dosages adjusted during transport;

(2) performance of skills not listed in the paramedic scope of practice, such as but not limited to escharotomy, fasciotomy, insertion of chest tubes, pericardiocentesis, blood administration, and nerve blocks; administration of medications, initiation of infusions, and utilization of routes, not listed on the paramedic scope but requested in the EMS agency's special skill application and approved by the medical direction committee and EMS bureau;

(3) utilization of advanced patient monitoring, such as invasive hemodynamic monitoring via monitoring of central venous pressure, pulmonary artery pressure, intracranial pressure monitoring, Swan-Ganz catheters, arterial lines, fetal monitoring, point of care lab values, and other monitoring or tests not listed in the paramedic scope, but requested in the EMS agency's special skill application and approved by the medical direction committee and EMS bureau;

(4) utilization of intensive care unit (ICU) level ventilator support, to include ventilators delivering positive end expiratory pressure, with multiple adjustable mode and setting parameters that include inspiratory plateau pressures, pressure regulated volume control, pressure support ventilation, pressure control ventilation, airway pressure release ventilation and others; also, any ventilator delivering a mixture of nitric oxide or other beneficial gas mixtures;

(5) transport of patients with intra-aortic balloon pump, temporary internal cardiac pacing, left ventricular assist device or a bi-ventricular assist device and other appropriate devices to address hemodynamic instability as requested in the EMS agency's special skill application and approved by the

medical direction committee and EMS bureau;

(6) administer paralytics and sedatives to maintain airway control previously initiated, and administer and perform rapid sequence airway pharmacology and techniques in order to secure an airway in response to patient condition, as requested in the EMS agency's special skill application and approved by the medical direction committee and EMS bureau;

(7) pediatric intubation or endotracheal tube management as requested in the EMS agency's special skill application and approved by the medical direction committee and EMS bureau.

H. Utilization of pharmacological agents for the primary purpose of sedation, induction, or muscle relaxation to facilitate placement of an advanced airway requires medical direction committee special skills approval.

I. Over the counter (OTC) medications and products: A physician medical director may approve a list of over the counter (OTC) medications and products (i.e. NSAID's, antihistamines, anti-diarrheal, laxatives, antacids, vitamin supplements, hygiene products and other products) for distribution by an EMS caregiver working under medical direction to a requesting individual during scheduled stand-by situations. Examples are long-term wildfire responses, public events (concerts, rodeos, etc.), various industry situations such as movie production and ski patrol, long-term construction & manufacturing projects, long-term search and rescue or tactical operations, and other situations where scheduled stand-by EMS is provided.

(1) The OTC medication/product must be properly labeled in individual dose packaging when distributed to the patient. Distribution from a bulk or multi-dose container is not permitted by this scope of practice, as well as other state and federal laws and regulations; medications will be distributed per manufacturer recommendations and labeling directions.

(2) The agency/EMS caregiver will maintain a written guideline that contains the list of physician approved OTC medications/products and the conditions for which they may be distributed. Specific dosing information and indications for pediatric patients must be included.

(3) The EMS agency/EMS caregiver must develop a method of documentation for the appropriate distribution of the OTC medications/products. This documentation shall include the OTC medication documentation and appropriate patient care report, per 7.27.10.12 NMAC (records and data collection) and 7.27.11.11 NMAC. Public regulation commission (PRC) certified ambulance agencies shall complete patient care documentation per 18.3.14.22 NMAC.

(4) OTC medications/products are distributed for the patient's self-administration and use. EMS caregivers will not administer OTC medications/products, unless approved elsewhere in the scope of practice for specific EMS patient care situations.

J. Licensed emergency medical dispatcher (EMD):

(1) Medical direction is required for all items in the EMD scope of practice.

(2) The following allowable skills may be performed by EMDs who are licensed by the EMS bureau and functioning with an EMS bureau certified New Mexico emergency medical dispatch agency utilizing protocols and any EMD priority reference system approved by the EMS bureau and service medical director.

(a) Process calls for medical assistance in a standardized manner, eliciting required information for evaluating, advising, and treating sick or injured individuals, and dispatching an appropriate EMS response.

(b) Provide pre-arrival instructions to the patient through the caller when possible and appropriate to do so

while functioning in compliance with an emergency medical dispatch priority reference system (EMDPRS).

K. EMS first responders (EMSFR):

(1) The following allowed drugs may be administered and skills and procedures may be performed without medical direction:

- (a) basic airway management;
- (b) use of basic adjunctive airway equipment;
- (c) suctioning;
- (d) cardiopulmonary resuscitation, according to current ECC guidelines;
- (e) obstructed airway management;
- (f) bleeding control via direct pressure and appropriate tourniquet use;
- (g) spinal motion restriction;
- (h) splinting (does not include femoral traction splinting);
- (i) scene assessment, triage, scene safety;
- (j) use of statewide EMS communications system;
- (k) emergency childbirth;
- (l) glucometry;
- (m) oxygen;
- (n) other non-invasive procedures as taught in first responder courses adhering to United States Department of Transportation curricula.

(2) The following require service medical director approval:

- (a) allowable skills:
 - (i) mechanical positive pressure ventilation utilizing a device that may have controls for rate, tidal volume, FiO₂, and pressure relief/alarm and does not have multiple automatic ventilation modes; this skill includes

devices that provide non-invasive positive pressure ventilation via continuous positive airway pressure (CPAP);

(ii) application and use of semi-automatic defibrillators, including cardiac rhythm acquisition for ALS caregiver interpretation or transmission to a care facility; this includes multi-lead documentation;

(iii) hemostatic dressings for control of bleeding;

(iv) insertion of laryngeal and supraglottic airway devices (examples: king airway, LMA), excluding multi-lumen airways).

(b) administration of approved medications via the following routes:

- (i) nebulized inhalation;

(ii) nasal mucosal atomization (MA);

(iii) intramuscular or subcutaneous;

(iv) oral (PO).

(c) allowable drugs:

- (i) oral glucose preparations;

(ii) aspirin PO for adults with suspected cardiac chest pain;

(iii) atropine and pralidoxime via IM auto-injection for treatment of chemical or nerve agent exposure;

(iv) albuterol (including isomers) via inhaled administration;

(v) naloxone via nasal mucosal atomizer;

(vi) epinephrine, 1:1000, no single dose greater than 0.3 ml, subcutaneous or intramuscular injection with a pre-measured syringe (including autoinjector) or 0.3 ml TB syringe for anaphylaxis or status asthmaticus refractory to other treatments.

(d) patient's own medication that may be administered:

(i) bronchodilators using pre-measured or metered dose inhalation device;	(i) fraction of inspired oxygen (FiO ₂) and pressure relief/alarm and does not have multiple automatic ventilation	(iv) acetaminophen PO;
(ii) naloxone, if provided with a nasal MA or IM delivery system.	(ii) modes; this skill includes devices that provide non-invasive positive pressure ventilation via continuous positive airway pressure (CPAP);	(v) ondansetron PO;
L. EMT-Basic (EMT-B):	(ii) use of multi-lumen, supraglottic, and laryngeal airway devices (examples: PTLA, combi-tube, king airway, LMA) to include gastric suctioning;	(vi) atropine and pralidoxime via IM autoinjection for treatment of chemical or nerve agent exposure.
(1) The following allowed drugs may be administered and skills and procedures may be performed without medical direction:	(iii) application and use of semi-automatic defibrillators, including cardiac rhythm acquisition for ALS caregiver interpretation or transmission to a care facility; this includes multi-lead documentation;	(vii) albuterol (including isomers), via inhaled administration;
(a) basic airway management;	(iv) acupressure;	(viii) ibuprofen PO in pediatric or adults to treat fever or pain;
(b) use of basic adjunctive airway equipment;	(v) transport of patients with gastric tubes, urinary catheters, heparin/saline locks, PEG tubes, or vascular access devices intended for outpatient use;	(ix) ipratropium, via inhaled administration, in combination with or after albuterol administration;
(c) suctioning;	(vi) performing point of care testing; examples include serum lactate values, cardiac enzymes, electrolytes, and other diagnostic values;	(x) naloxone by SQ, IM, or IN route;
(d) cardiopulmonary resuscitation, according to current ECC guidelines;	(vii) hemostatic dressings for control of bleeding.	(xi) epinephrine, 1:1000, no single dose greater than 0.3 ml, subcutaneous or intramuscular injection with a pre-measured syringe (including autoinjector) or 0.3 ml TB syringe for anaphylaxis or status asthmaticus refractory to other treatments.
(e) obstructed airway management;	(b) administration of approved medications via the following routes:	(d) patient's own medication that may be administered;
(f) bleeding control to include appropriate tourniquet usage;	(i) nebulized inhalation;	(i) bronchodilators using pre-measured or metered dose inhalation device;
(g) spinal motion restriction;	(ii) subcutaneous;	(ii) sublingual nitroglycerin for unrelieved chest pain, with on line medical control only;
(h) splinting;	(iii) intramuscular;	(iii) situations may arise involving patients with uncommon conditions requiring specific out of hospital administered medications or procedures; family members or the designated caregiver trained and knowledgeable of the special needs of the patient should be recognized as the expert regarding the care of the patient; EMS can offer assistance in airway management appropriate to their level of licensure, and administer the patient's prescribed medications where appropriate only if the medication is in the EMS provider's scope of practice; EMS services are not expected to provide the prescribed medications for these special needs patients.
(i) scene assessment, triage, scene safety;	(iv) nasal mucosal atomization (MA);	
(j) use of statewide EMS communications system;	(v) oral (PO);	
(k) childbirth (imminent delivery);	(vi) intradermal.	
(l) glucometry;	(c) allowable drugs:	
(m) oxygen;	(i) oral glucose preparations;	
(n) other non-invasive procedures as taught in EMT-B courses adhering to DOT curricula;	(ii) aspirin PO for adults with suspected cardiac chest pain;	
(o) wound management.	(iii) activated charcoal PO;	
(2) The following require service medical director approval:		
(a) allowable skills:		
(i) mechanical positive pressure ventilation utilizing a device that may have controls for rate, tidal volume,		

<p>(3) Immunizations and biologicals: Administration of immunizations, vaccines, biologicals, and TB skin testing is authorized under the following circumstances:</p> <p>(a) to the general public as part of a department of health initiative or emergency response, utilizing department of health protocols; the administration of immunizations is to be under the supervision of a physician, nurse, or other authorized health provider;</p> <p>(b) TB skin tests may be applied and interpreted if the licensed provider has successfully completed required department of health training;</p> <p>(c) in the event of a disaster or emergency, the state EMS medical director or chief medical officer of the department of health may temporarily authorize the administration of pharmaceuticals or tests not listed above.</p> <p>M. EMT-Intermediate (EMT-I):</p> <p>(1) The following allowed drugs may be administered and skills and procedures may be performed without medical direction:</p> <p>(a) basic airway management;</p> <p>(b) use of basic adjunctive airway equipment;</p> <p>(c) suctioning;</p> <p>(d) cardiopulmonary resuscitation, according to ECC guidelines;</p> <p>(e) obstructed airway management;</p> <p>(f) bleeding control including appropriate use of tourniquet;</p> <p>(g) spinal motion restriction;</p> <p>(h) splinting;</p> <p>(i) scene assessment, triage, scene safety;</p> <p>(j) use of statewide EMS communications system;</p>	<p>(k) childbirth (imminent delivery);</p> <p>(l) glucometry;</p> <p>(m) oxygen;</p> <p>(n) wound management.</p> <p>(2) The following require service medical director approval:</p> <p>(a) allowable skills:</p> <p>(i) mechanical positive pressure ventilation utilizing a device that may have controls for rate, tidal volume, F_{IO_2}, and pressure relief/alarm and does not have multiple automatic ventilation modes; this skill includes devices that provide non-invasive positive pressure ventilation via continuous positive airway pressure (CPAP);</p> <p>(ii) use of multi-lumen, supraglottic, and laryngeal airway devices (examples: PTLA, combi-tube, king airway, LMA) to include gastric suctioning;</p> <p>(iii) application and use of semi-automatic defibrillators, including cardiac rhythm acquisition for ALS caregiver interpretation or transmission to a care facility; this includes multi-lead documentation;</p> <p>(iv) acupuncture;</p> <p>(v) transport of patients with gastric tubes, urinary catheters, heparin/saline locks, PEG tubes, or vascular access devices intended for outpatient use;</p> <p>(vi) peripheral venous puncture/access;</p> <p>(vii) blood drawing;</p> <p>(viii) intraosseous access for patients eight years old and older; for patients seven years old or younger, only proximal tibia and distal femur sites may be used;;</p> <p>(ix) adult intraosseous access;</p> <p>(x) point of care testing; examples include serum lactate values, cardiac</p>	<p>enzymes, electrolytes, and other diagnostic values;</p> <p>(xi) hemostatic dressings for control of bleeding.</p> <p>(b) administration of approved medications via the following routes:</p> <p>(i) intravenous;</p> <p>(ii) nasal mucosal atomization (MA);</p> <p>(iii) nebulized inhalation;</p> <p>(iv) sublingual;</p> <p>(v) intradermal;</p> <p>(vi) intraosseous;</p> <p>(vii) oral (PO);</p> <p>(viii) intramuscular;</p> <p>(ix) subcutaneous.</p> <p>(c) allowable drugs:</p> <p>(i) oral glucose preparations;</p> <p>(ii) aspirin PO for adults with suspected cardiac chest pain;</p> <p>(iii) activated charcoal PO;</p> <p>(iv) acetaminophen;</p> <p>(v) ibuprofen PO to pediatrics and adults for pain or fever; IV or IM ketorolac for pain;</p> <p>(vi) IM autoinjection of the following agents for treatment of chemical or nerve agent exposure: atropine, pralidoxime;</p> <p>(vii) albuterol (including isomers) via inhaled administration;</p> <p>(viii) ipratropium, via inhaled administration in combination with or after albuterol administration;</p> <p>(ix) naloxone;</p> <p>(x) I.V. fluid therapy (except blood or blood products);</p>
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(xi) tranexamic acid; for patients >15 years of age with traumatic hemorrhagic shock or post-partum bleeding; for patients 15 years of age or less, MCEP order must be obtained for approval and dosing;	(d) patient's own medication that may be administered:	of reactions for which to monitor and the appropriate action to take before assuming responsibility for patient care.
(xii) oxytocin for post-partum patients;	(i) bronchodilators using pre-measured or metered dose inhalation device;	(f) immunizations and biologicals: administration of immunizations, vaccines, biologicals, and TB skin testing is authorized under the following circumstances:
(xiii) dextrose;	(ii) sublingual nitroglycerin for unrelieved chest pain; must have intravenous access established prior to administration or approval of online medical control if IV access is unavailable;	(i) to the general public as part of a department of health initiative or emergency response, utilizing department of health protocols; the administration of immunizations is to be under the supervision of a physician, nurse, or other authorized health provider;
(xiv) epinephrine (1:1000), SQ or IM (including autoinjector) for anaphylaxis and known asthmatics in severe respiratory distress (no single dose greater than 0.3 cc);	(iii) glucagon;	(ii) administer vaccines to EMS and public safety personnel;
(xv) epinephrine (1:10,000) in pulseless cardiac arrest for both adult and pediatric patients; epinephrine may be administered via the endotracheal tube in accordance with most current ACLS and PALS guidelines;	(iv) situations may arise involving patients with uncommon conditions requiring specific out of hospital administered medications or procedures; family members or the designated caregiver trained and knowledgeable of the special needs of the patient should be recognized as the expert regarding the care of the patient; EMS can offer assistance in airway management appropriate to their level of licensure, IV access, and the administration of the patient's prescribed medications where appropriate only if the medication is in the EMS provider's scope of practice; online (direct contact) medical control communication must be established with the medical control physician approving the intervention; EMS services are not expected to provide the prescribed medications for these special needs patients.	(iii) TB skin tests may be applied and interpreted if the licensed provider has successfully completed required department of health training;
(xvi) nitroglycerin (sublingual); must have intravenous access established prior to administration or approval of online medical control if IV access is unavailable;	(e) drugs allowed for monitoring during interfacility transport:	(iv) in the event of a disaster or emergency, the state EMS medical director or chief medical officer of the department of health may temporarily authorize the administration of pharmaceuticals or tests not listed above.
(xvii) morphine, fentanyl, or dilaudid for use in pain control with approval of on-line or off-line (written protocol) medical control;	(i) potassium; intermediate EMT's may monitor IV solutions that contain potassium during transport (not to exceed 20 mEq/1000cc or more than 10 mEq/hour);	N. EMT-Paramedic (EMT-P):
(xviii) diphenhydramine for allergic reactions or dystonic reactions;	(ii) antibiotics and other anti-infectives utilizing an infusion pump; intermediate EMT's may monitor antibiotic or other anti-infective agents, provided a hospital-initiated infusion has been running for a minimum of 30 minutes prior to the intermediate initiating the transfer, and the intermediate EMT is aware	(1) The following allowed drugs may be administered and skills and procedures may be performed without medical direction:
(xix) glucagon, to treat hypoglycemia in diabetic patients when intravenous access is not obtainable;	(i) potassium; intermediate EMT's may monitor IV solutions that contain potassium during transport (not to exceed 20 mEq/1000cc or more than 10 mEq/hour);	(a) basic airway management;
(xx) anti-emetic agents, for use as an anti-emetic only;	(ii) antibiotics and other anti-infectives utilizing an infusion pump; intermediate EMT's may monitor antibiotic or other anti-infective agents, provided a hospital-initiated infusion has been running for a minimum of 30 minutes prior to the intermediate initiating the transfer, and the intermediate EMT is aware	(b) use of basic adjunctive airway equipment;
(xxi) corticosteroids for respiratory illness or allergic reaction;	(i) potassium; intermediate EMT's may monitor IV solutions that contain potassium during transport (not to exceed 20 mEq/1000cc or more than 10 mEq/hour);	(c) suctioning;
(xxii) hydroxycobalamine;	(ii) antibiotics and other anti-infectives utilizing an infusion pump; intermediate EMT's may monitor antibiotic or other anti-infective agents, provided a hospital-initiated infusion has been running for a minimum of 30 minutes prior to the intermediate initiating the transfer, and the intermediate EMT is aware	(d) cardiopulmonary resuscitation, according to current ECC guidelines;
(xxiii) lidocaine two percent, preservative and epinephrine free for IV use) for administration into the intraosseous space on pain responsive adult patients while receiving intraosseous fluids or medications.	(i) potassium; intermediate EMT's may monitor IV solutions that contain potassium during transport (not to exceed 20 mEq/1000cc or more than 10 mEq/hour);	(e) obstructed airway management;
	(ii) antibiotics and other anti-infectives utilizing an infusion pump; intermediate EMT's may monitor antibiotic or other anti-infective agents, provided a hospital-initiated infusion has been running for a minimum of 30 minutes prior to the intermediate initiating the transfer, and the intermediate EMT is aware	(f) bleeding control including the appropriate use of tourniquet;

spinal motion restriction;	(g)	body in patients 13 and older; for	(ix)
splinting;	(h)	patients 12 and under, for removal of foreign body only;	(x)
scene assessment, triage, scene safety;	(i)	endotracheal intubation for patients over the age of 12;	(xi)
use of statewide EMS communications system;	(j)	thoracic decompression (needle thoracostomy);	(xii)
childbirth (imminent delivery);	(k)	surgical cricothyroidotomy;	(c)
glucometry;	(l)	insertion of gastric tubes;	(i)
oxygen;	(m)	cardioversion and manual defibrillation;	(ii)
wound management.	(n)	external cardiac pacing;	(iii)
(2) The following require service medical director approval:	(a)	cardiac monitoring;	(iv)
allowable skills:	(i)	use of infusion pumps;	(v)
mechanical positive pressure ventilation utilizing a device that may have controls for rate, tidal volume, FiO2, and pressure relief/alarm and has multiple automatic ventilation modes; this skill includes devices that provide non-invasive positive pressure ventilation (including continuous positive airway pressure (CPAP) and bi-level positive airway pressure (BPAP));	(ii)	initiation of blood and blood products; must have online medical control for patients under 12 years old;	(vi)
use of multi-lumen, supraglottic, and laryngeal airway devices (examples: PTLA, combi-tube, king airway, LMA) to include gastric suctioning;	(iii)	intraosseous access;	(vii)
transport of patients with gastric tubes, urinary catheters, heparin/saline locks, PEG tubes, or vascular access devices;	(iv)	performing point of care testing; examples include serum lactate values, cardiac enzymes, electrolytes, and other diagnostic values;	(viii)
application and use of semi-automatic defibrillators;	(v)	hemostatic dressings for control of bleeding;	(ix)
acupressure;	(vi)	vagal maneuvers.	(x)
peripheral venous puncture/access;	(vii)	(b) administration of approved medications via the following routes:	(xi)
blood drawing;	(viii)	intravenous;	(xii)
I.V. fluid therapy;	(ix)	nasal mucosal atomization (MA);	(xiii)
direct laryngoscopy for endotracheal intubation and removal of foreign		nebulized inhalation;	(xiv)
		sublingual;	(xv)
		intradermal;	(xvi)
		intraosseous;	(xvii)
		oral (PO);	(xviii)
		intramuscular;	(xix)
		topical;	(xx)
		rectal;	(xxi)
		IV drip;	(xxii)
		subcutaneous.	(xxiii)
		allowable drugs:	(xxiv)
		acetaminophen;	
		activated charcoal;	
		adenosine;	
		albuterol (including isomers);	
		amiodarone;	
		aspirin;	
		atropine sulfate;	
		benzodiazepines;	
		blood and blood products;	
		calcium preparations;	
		corticosteroids;	
		dextrose;	
		diphenhydramine;	
		epinephrine;	
		furosemide;	
		glucagon;	
		hydroxycobalamine;	
		ipratropium;	
		lidocaine;	
		magnesium sulfate;	
		naloxone;	
		narcotic analgesics;	
		nitroglycerin;	
		nonsteroidal anti-inflammatory	

drugs (NSAIDS) to pediatric or adult patients with pain or fever;

(xxv)

oral glucose preparations;

(xxvi)

oxytocin;

(xxvii)

phenylephrine nasal spray;

(xxviii)

pralidoxime, IM auto-injection for treatment of chemical and nerve agent exposure;

(xxix)

anti-emetic agents, for use as an anti-emetic only;

(xxx)

sodium bicarbonate;

(xxxi)

thiamine;

(xxxii)

topical anesthetic ophthalmic solutions;

(xxxiii)

tranexamic acid for patients >15 years of age;

(xxxiv)

vasopressor agents;

(xxxv)

intravenous fluids;

(xxxvi)

haloperidol, droperidol, and olanzapine for chemical restraint in agitated patients.

(3) Drugs

allowed for monitoring during inter-facility transports: (initiated and administered by the sending facility with defined dosing parameters and requiring an infusion pump when given by continuous infusion unless otherwise specified); any titration of one of these medications outside of the predefined dosing parameters requires online physician medical control:

(a)

potassium (no infusion pump needed if concentration not greater than 20mEq/1000cc;

(b)

anticoagulation type blood modifying agents (such as fibrolytic drugs, heparin, glycoprotein IIb-IIIa inhibitors/antagonists);

(c)

procainamide;

(d)

mannitol;

(e)

aminophylline;

(f)

antibiotics and other anti-infective agents;

(g)

sodium nitroprusside;

(h)

insulin;

(i)

terbutaline;

(j)

octreotide;

(k)

nutritional supplements;

(l)

beta blockers;

(m)

calcium channel blockers;

(n)

dobutamine;

(o)

nesiritide;

(p)

propofol in patients that are intubated prior to transport;

(q)

proton pump inhibitors and H2 antagonists;

(r)

crotalidae polyvalent immune fab (ovine) ("crofab") or anavip (crotalidae immune fab2 (equine)); either may be monitored during inter-facility transport provided the facility-initiated infusion has been running for a minimum of 30 minutes prior to the paramedic initiating the transfer and assuming responsibility for patient care;

(s)

medications not otherwise covered by scope of practice, in limited circumstances: infrequent interfacility transport situations may arise where a patient may be receiving medications not covered by scope of practice, and appropriate hospital caregivers are not available to accompany or transfer the patient. If the sending and receiving physician agree, and with the service medical director's approval, the paramedic may transfer the patient to the appropriate receiving facility, aircraft, or ground unit. The sending physician must provide the appropriate briefing on the specific medication, effects,

assessment and monitoring requirements, potential adverse reactions, and rescue interventions. The paramedic has the right to refuse the transport if not adequately briefed by the sending physician or otherwise not comfortable monitoring the medication.

(4)

Immunizations and biologicals:

administration of immunizations, vaccines, biologicals, and TB skin testing is authorized under the following circumstances:

(a)

to the general public as part of a department of health initiative or emergency response, utilizing department of health protocols; the administration of immunizations is to be under the supervision of a physician, nurse, or other authorized health provider;

(b)

administer vaccines to EMS and public safety personnel;

(c)

TB skin tests may be applied and interpreted if the licensed provider has successfully completed required department of health training;

(d)

in the event of a disaster or emergency, the state EMS medical director or chief medical officer of the department of health may temporarily authorize the administration of other pharmaceuticals or tests not listed above.

(5) Skills

approved for monitoring in transport:

(a)

internal cardiac pacing;

(b)

chest tubes.

(6)

Medications for administration during patient transfer:

(a)

retavase (second dose only);

(b)

protamine sulfate;

(c)

non-depolarizing neuromuscular blocking agents in patients that are intubated prior to transport;

(d) acetylcysteine.

(7) **Patient's own medication that may be administered:**

(a) epoprostenol sodium, treprostinil sodium, or other medications utilized for certain types of pulmonary hypertension;

(b) bronchodilators using pre-measured or metered dose inhalation device;

(c) sublingual nitroglycerin for unrelieved chest pain; must have intravenous access established prior to administration;

(d) glucagon;

(e) situations may arise involving patients with uncommon conditions requiring specific out of hospital administered medications or procedures; family members or the designated caregiver trained and knowledgeable of the special needs of the patient should be recognized as the expert regarding the care of the patient; EMS can offer assistance in airway management appropriate to their level of licensure, IV access, and the administration of the patient's prescribed medications where appropriate only if the medication is in the EMS provider's scope of practice; online (direct contact) medical control communication must be established with the medical control physician approving the intervention; EMS services are not expected to provide the prescribed medications for these special needs patients.
[7.27.11.8 NMAC - Rp, 7.27.11.8 NMAC, 9/9/2025]

7.27.11.9 APPROVED TRAINING PROGRAMS:

"Approved emergency medical services training program" means a New Mexico emergency medical services training program that is sponsored by a post-secondary educational institution, is accredited by a bureau approved national accrediting organization for emergency medical services or active

in the accreditation process, and is approved by the joint organization on education (JOE) and participates in the joint organization on education. Currently, there are 7 approved EMS training programs. However, additional programs may attain accreditation and JOE approval prior to this rule being updated.

A. Emergency medical services academy: University of New Mexico, (700 Camino De Salud NE., Albuquerque, New Mexico 87106, Tel: 505-272-5757). The EMS academy is designated as the lead training agency for providers in New Mexico as stated in Section 24-10B-12 NMSA 1978. The EMS academy teaches formal EMS education courses including EMS first responder, EMT-basic, EMT-intermediate, and EMT-paramedic.

B. Dona Ana community college: New Mexico state university, (Box 30001, Las Cruces, NM 88003-8001, Tel: 505-527-7530). Dona Ana community college teaches formal EMS education courses including EMS first responder, EMT-basic, EMT-intermediate, and EMT-paramedic.

C. Eastern New Mexico university: EMS program, (Box 6000, Roswell, NM 88202-6000, Tel: 505-624-7000). The eastern New Mexico university teaches formal EMS education courses including EMS first responder, EMT-basic, EMT-intermediate, and EMT-paramedic.

D. Central New Mexico community college: EMS program, (525 Buena Vista Rd. SE, Albuquerque, NM 87106, Tel: 505-224-4000). Central New Mexico community college teaches formal EMS education courses including EMS first responder, EMT-basic, EMT-intermediate, and EMT-paramedic.

E. San Juan college EMS program: (4601 College Blvd; Farmington, NM 87402; 505-566-3857). San Juan College conducts formal EMS education courses including EMS first responder, EMT-basic, EMT-intermediate, and EMT-paramedic.

F. Santa Fe community college: EMS Program, (6401 Richards Ave, Santa Fe, NM 87508, 505-428-1820) SFCC conducts formal EMS education courses including EMS first responder, EMT-basic, EMT-intermediate, and EMT-paramedic.

G. Clovis community college EMS program: (417 Schepps Blvd., Clovis, NM 88101 575-769-4976). Clovis Community College conducts formal EMS education courses including EMS first responder, EMT-basic, EMT-intermediate, and EMT-paramedic.
[7.27.11.9 NMAC - Rp, 7.27.11.9 NMAC, 9/9/2025]

7.27.11.10 SPECIAL SKILLS APPLICATION AND REPORTING PROCEDURES:

A. Purpose: Special skills are those skills, procedures, and medications that are requested by an EMS service to enhance emergency treatment capabilities beyond the normal scope of practice, as defined in the Emergency Medical Services Act. Applications are reviewed and approved or disapproved by the medical direction committee, and once approved, become a legally recognized addition to the service capabilities.

B. General: All levels of EMS personnel, including licensed EMS first responders and all levels of licensed EMTs are eligible for special skills consideration for any procedure, skill or medication.

C. Application procedure: The EMS service medical director, or his designee, shall coordinate with the EMS service director, and shall apply for special skills to the EMS medical direction committee.

D. Application process: The completed application shall be submitted via the EMS licensing management system portal no later than 30 days prior to the medical direction committee meeting. While the degree of detail in each section may vary to match the nature of the skill requested, all applications should include the following elements, in order:

(1) application cover page: titled to state the requested special skill, date of application, name of service, service director name and medical director name;

(2) contact information page: must include address and contact information for the service, service director and medical director;

(3) letters of support: must include individual letters of support from the service director and medical director; additional letters of support from the local medical community or evidence of notification of the local medical community may be required; the need for letters of notification and support from the local medical community and who provides the letters must be adjusted to match the nature of the special skill requested;

(4) service description: provide a concise description of the EMS service; this includes such items as basic call demographics relevant to the applicant, level of licensure of providers and names and locations of the primary receiving medical facilities;

(5) description of the special skill: provide a description of the procedure, medication or requested skill; include information on risks, benefits, indications and contraindications;

(6) justification and statement of need: provide a statement explaining why the special skill is needed; this should include a description of the current medical intervention or alternative practice to the special skill and a risk or benefit analysis that supports the special skill requested; the estimated number of potential interventions per year, other relevant statistical data and a statement indicating the level of current scientific information/studies to support the requested special skill; the level of scientific justification can be adjusted to match the level of the special skill requested;

(7) protocol: provide a copy of the treatment

protocol; include other operational protocols relevant to the special skill, if applicable;

(8) training: provide a training syllabus; this must include learning objectives and the training hours for initial and continuing education; this section should also include a description of the instructors, how training will be completed, and a description of the method used to initially evaluate the skill; once initial training is completed, a list of trained and approved personnel shall be provided to the medical direction committee; these special skill authorized licensed EMS personnel must appear on the service's personnel list on the *New Mexico EMS tracking and reporting system database*.

(9) QA/QI program: provide a description of the QA/QI process for the special skill, including frequency of evaluation, names and qualifications of the personnel involved in the process; include a copy of the evaluation tool or forms that will be used, if applicable; and

(10) the application and all supporting documentation shall be submitted to the EMS bureau, attn: EMS program manager.

E. Upon receipt, the state EMS medical director and state EMS program manager will review the application. The service will be notified if the application is found to be incomplete or to contain significant errors.

F. Applications must be received at the bureau at least 30 days prior to the next regularly scheduled medical direction committee meeting to be placed on the agenda of that meeting for consideration by the medical direction committee.

G. The medical direction committee shall take action on all special skills applications on the agenda at their regularly scheduled meeting. The medical direction committee may take the following actions on the application: approved with limitations or restrictions, denied

or tabled with a request for a formal presentation or additional information by the requesting service medical director or their designee.

H. The medical direction committee may give an approval subject to specific conditions, limitations or restrictions. This may include a written and practical examination.

I. Within 10 working days following the decision of the medical direction committee, the state EMS program manager shall provide a written or email response to the applicant regarding the action of the medical direction committee.

J. Special skills may not be utilized until receipt of the special skill approval letter from the bureau any specific conditions or limitations will be evidenced in the approval letter from the bureau.

K. **Monitoring:** It is expected that EMS services with approved special skills will continuously comply with the requirements of their application and approval letter. This includes, but is not limited to, such items as training curricula, approved instructors, quality assurance, protocols and data collection. Any changes to the approved application shall be sent to the state EMS program manager for concurrence/coordination with the medical direction committee.

L. The medical direction committee may immediately suspend or revoke special skill privileges for an individual or service that loses medical direction, or fails to comply with the stated requirements, or for any other reason to protect the health and welfare of the people of New Mexico.

M. If a new medical director assumes control of a service with an active special skill program, the bureau shall receive a letter of support from the new medical director within 30 days or the special skill approval may be withdrawn.

N. The service shall maintain a current list of all providers trained and approved to utilize the special skill. This list must be provided to the bureau upon request.

O. Reporting: During the first year, a semi-annual (six month) report shall be submitted for review by the medical direction committee; subsequent reports shall be due one year from date of initial approval, and annually on the approval anniversary date thereafter. The EMS bureau or medical direction committee may request a report at any time. The medical direction committee may excuse an agency from the yearly report based on adequate surveillance being available from the state patient care report database. If the medical direction committee determines a special skill program will not be renewed, the state EMS program manager shall provide a written notification to the service director and the service medical director within 10 working days. The special skills program will be placed on the agenda of the next, or subsequent, regularly scheduled meeting of the medical direction committee and final determination regarding renewal will be made.

P. Report document: The report to the medical direction committee should focus particular attention on special skill utilization and patient outcomes after this utilization; patient identifiers shall not be included; all adverse outcomes, protocol deviations, dosing errors, or quality assurance issues related to the special skill must be reported. The written special skill report shall include the following minimum elements:

- (1) report cover page: titled to state the special skill reported, date, name of service, service director and medical director;
- (2) contact information page: shall include address and contact information for the service, service director and medical director;
- (3) letters of support: must include individual letters of continued support from the service director and service medical director;
- (4) statistics and outcome data: provide data on the utilization and patient outcomes

involving the special skill; do not include patient identifiers; all adverse outcomes related to the special skill must be reported;

(5) continuing education: provide evidence of the continuing education program and refresher program;

(6) personnel list: provide a list of all personnel authorized to perform the special skill; these special skill authorized licensed EMS personnel must appear on the service's personnel list required for the New Mexico EMS tracking and reporting system database;

(7) QA/QI program: provide evidence of the ongoing QA/QI program; and

(8) renewal: during a regularly scheduled meeting, the medical direction committee shall review all ongoing individual special skills programs on their three-year anniversary and make a determination on renewal.

Q. Special skills programs will remain active until a final determination regarding renewal has been made.

R. Special skills application: Special skills applications shall include, but need not be limited to, the following content:

- (1) general section;
- (2) EMS service name;
- (3) address;
- (4) service chief/director;
- (5) contact phone number;
- (6) physician medical director;
- (7) physician/medical director contact phone number;
- (8) special skill proposed;
- (9) level of licensure necessary for special skill(s);
- (10) estimated number of personnel to be trained;
- (11) estimated date of initial training;

(12) training/quality assurance;

(13) curriculum description, including learning objectives, training hours, etc.;

(14) lead instructor and brief summary of their qualifications, or resume;

(15) resumes of any new instructors;

(16) letter of commitment from supporting institution, if training/experience is required;

(17) proposed continuing education plan;

(18) attach a description of quality assurance plan, including periodic case reviews and ongoing problems;

(19) identification and steps for remedial action if necessary; and

(20) signature and acknowledgement of person completing the application.

[7.27.11.10 NMAC - Rp, 7.27.11.10 NMAC, 9/9/2025]

7.27.11.11 EMS PERSONNEL JOB DESCRIPTIONS:

A. Introduction: The bureau is providing the following general position description for the New Mexico EMS provider positions for first responder, EMT-basic, EMT-intermediate, and EMT-paramedic. It is the ultimate responsibility of an employer to define specific job descriptions within each EMS service.

B. Qualifications:

- (1) successfully complete a recognized training course from an approved EMS training institution;
- (2) possess a valid course completion certificate, and accomplish all state licensure examination application requirements;
- (3) additionally, applicants shall meet all established requirements for initial licensing as identified by the current EMS licensure regulations;
- (4) a copy of these regulations is available through the EMS bureau;

(5) generally, the knowledge and skills required demonstrate the need for a high school education or equivalent;

(6) ability to communicate verbally; via telephone and radio equipment;

(7) ability to lift, carry, and balance up to 125 pounds (250 pounds with assistance);

(8) ability to interpret written, oral, and diagnostic form instructions;

(9) ability to use good judgment and to remain calm in high-stress situations;

(10) ability to work effectively in an environment with loud noises and flashing lights;

(11) ability to function efficiently throughout an entire work shift;

(12) ability to calculate weight and volume ratios and read small English print, both under life threatening time constraints;

(13) ability to read and understand English language manuals and road maps;

(14) accurately discern street signs and address numbers;

(15) ability to interview patient, family members, and bystanders;

(16) ability to document, in writing, all relevant information in a prescribed format;

(17) ability to converse orally and in written form in English with coworkers and hospital staff as to status of patient;

(18) good manual dexterity, with ability to perform all tasks related to the highest quality of patient care;

(19) ability to assume a variety of postural positions to carry out emergency and non-emergency patient care, including light extrication; from crawling, kneeling, squatting, twisting, turning, bending, to climbing stairs and ladders, and the ability to withstand varied environmental conditions such as extreme heat, cold, and moisture; and

(20) ability to work in low light, confined spaces and other dangerous environments.

C. Competency areas:

(1) Licensed

EMS first responder: Must demonstrate competency handling emergencies utilizing all basic life support equipment and skills in accordance with all behavioral objectives of the approved New Mexico curriculum of first responder, to include the ability to demonstrate competency for all skills and procedures currently approved for the first responder, as identified by the current scope of practice document.

(2)

Emergency medical technician-basic: Must demonstrate competency handling emergencies utilizing all basic life support equipment and skills in accordance with all behavioral objectives of the approved New Mexico curriculum of EMT-basic, and to include the ability to demonstrate competency for all skills and procedures currently approved for the EMT-basic, as identified by the current scope of practice document.

(3)

Emergency medical technician-intermediate: Must demonstrate competency handling emergencies utilizing all basic life support and intermediate life support equipment and skills in accordance with all behavioral objectives of the approved New Mexico curriculum of EMT-intermediate, and to include the ability to demonstrate competency for all skills and procedures currently approved for the EMT-intermediate, as identified by the current scope of practice document.

(4)

Emergency medical technician-paramedic: Must demonstrate competency handling emergencies utilizing all basic life support and advanced life support equipment and skills in accordance with all behavioral objectives of an approved New Mexico curriculum of EMT-paramedic, and to include the ability to demonstrate competency for all skills and procedures currently approved for the EMT-paramedic,

as identified by the current scope of practice document.

D. Description of tasks for all EMS levels:

(1) Receives

call from dispatcher, responds verbally to emergency calls, reads maps, may drive emergency vehicle to emergency site, uses most expeditious route, and observes traffic ordinances and regulations.

(2) May use

equipment and other devices and procedures as authorized by level of licensure and scope of practice.

(3) Assists

in lifting, carrying, and transporting patient to an ambulance and to a medical facility.

(4) Reassures

patients and bystanders and searches for medical identification emblem to aid in care.

(5) Extricates

patient from entrapment, assesses extent of injury, uses prescribed techniques and appliances, radio dispatcher for additional assistance or services, provides light rescue service if required and trained, provides additional emergency care following service established protocols.

(6) Complies

with regulations in handling deceased, notifies authorities, arranges for protection of property and evidence at scene.

(7) Determines

appropriate facility to which patient will be transported, report nature and extent of injuries or illness to the facility, asks for direction from hospital physician or emergency department staff.

(8) Observes

patient in route and administers care as directed by physician or service-established protocols.

(9) Identifies

diagnostic signs that require communication with facility.

(10) Assists in

removing patient(s) from ambulance and into emergency facility.

(11) Reports

verbally, and in writing, observations about and care of patient at the scene, en-route to facility, and to the

receiving facility. Written reports shall be completed for all patient interactions, which include any visual, verbal, or physical patient contact, by the most appropriate EMS caregiver, whether or not the patient was transported to a facility, including patient refusals.

(12) Provides assistance to emergency department staff as required.

(13) Replaces supplies, sends used supplies for sterilization, checks all equipment for future readiness, maintains ambulance in operable condition, ensures ambulance cleanliness and orderliness of equipment and supplies, decontaminates vehicle interior, determines vehicle readiness by checking oil, gas, water in battery and radiator, and tire pressure, maintains familiarity with all specialized equipment.

[7.27.11.11 NMAC - Rp, 7.27.11.11 NMAC, 9/9/2025]

HISTORY OF 7.27.11 NMAC: [RESERVED]

History of Repealed Material:

7.27.11 NMAC, Supplemental Licensing Provisions (filed 12/17/2012) Repealed 8/15/14.
7.27.11 NMAC, Emergency Medical Services - Supplemental Licensing Provisions filed 7/28/2014 - repealed effective 12/12/2017.
7.27.11 NMAC, Emergency Medical Services - Supplemental Licensing Provisions (filed 11/30/2017) - repealed effective 9/9/2025.

Other History:

7.27.11 NMAC, Emergency Medical Services - Supplemental Licensing Provisions (filed 7/28/2014) was replaced by 7.27.11 NMAC, Emergency Medical Services - Supplemental Licensing Provisions, effective 12/12/2017.
7.27.11 NMAC, Emergency Medical Services - Supplemental Licensing Provisions (filed 11/30/2017) was replaced by 7.27.11 NMAC, Emergency Medical Services - Supplemental Licensing Provisions, effective 9/9/2025.

REGULATION AND LICENSING DEPARTMENT ATHLETIC TRAINERS PRACTICE BOARD

This is an amendment to 16.3.2 NMAC, Section 8, effective 9/9/2025.

16.3.2.8 SCOPE OF PRACTICE:

The practice of athletic training includes preventive services, emergency care, clinical assessment, therapeutic intervention and rehabilitation of injuries and medical conditions of athletes. Athletic trainers act as allied medical providers through collaboration with licensed physicians, pursuant to the written prescription, standing order or protocol of a licensed physician. In the absence of specific direction in the act or these regulations as to standards of practice, the standards of practice established by the national athletic trainers association, the BOC and the New Mexico athletic trainers association shall serve as guidelines.

A. The current competencies in athletic training issued by the NATA, the BOC or its successor organization are adopted as establishing the standard of practice and the authorized use of exercise and physical modalities by persons licensed under these regulations. Information for obtaining a copy of the competencies in athletic training may be obtained by calling or writing the board office.

B. The athletic trainer shall maintain the name and address of the licensed physician and standing orders or protocols which are currently established for the athletic trainer's practice. These records must be provided upon the request of the board or their designee.

C. The athletic trainer shall maintain records which shall include:

- (1) documentation in accordance with Subsection B or 16.3.2.8 NMAC;
- (2) athlete's case records which shall be confidential and consistent with the

NATA's or its successor organization's current code of ethics.

D. The New Mexico Telehealth Act does not alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

[1/16/2000; 16.3.2.8 NMAC - Rn & A, 16 NMAC 3.2.8, 8/16/2001; A, 12/24/2021; A, 9/9/2025]

REGULATION AND LICENSING DEPARTMENT ATHLETIC TRAINERS PRACTICE BOARD

This is an amendment to 16.3.4 NMAC, Section 8, effective 9/9/2025.

16.3.4.8 APPLICANTS FOR LICENSURE BY EXAMINATION:

Applicants for licensure by examination must possess the following qualifications and provide the required documentation with the application.

A. Application for licensure shall be made on forms prescribed by the board.

(1) Completed application [~~signed and dated:~~] online and signed electronically.

(2) Applications must be accompanied by the required fee, which shall be non-refundable.

(3) Education requirements: holds a baccalaureate degree.

(4) Current BOC certification.

(5) Current competence in cardiopulmonary resuscitation (CPR) and; use of automated electrical defibrillator units (AED).

B. Documentation required for licensure:

(1) completed application;

(2) one hundred twenty-five (\$125.00) application fee (non-refundable);

(4) proof of current BOC certification;

(5) proof of current competence in CPR and; use of AED;

(6) demonstrates professional competence by satisfactorily passing the New Mexico jurisprudence examination; and

(7) demonstrates professional competency by satisfactorily passing the BOC examination; and

(8) proof of disqualifying criminal convictions as provided in 16.3.4.9 NMAC, if applicable.

C. Each applicant must, in addition to the other requirements, pass an examination on the New Mexico laws and regulations pertaining to the practice of athletic training before an initial license may be issued (jurisprudence examination).

[1/16/2000; 16.3.4.8 NMAC - Rn & A, 16 NMAC 3.4.8, 8/16/2001; A, 11/23/2006; A, 12/24/2021; A, 12/30/2022; A, 9/9/2025]

REGULATION AND LICENSING DEPARTMENT ATHLETIC TRAINERS PRACTICE BOARD

This is an amendment to 16.3.7 NMAC, Section 9, effective 9/9/2025.

16.3.7.9 CONTINUING EDUCATION REQUIREMENTS:

A. Each licensee shall be required to maintain good standing with BOC CEU requirements.

B. Continuing education (CEU) required to obtain or maintain an *ACTIVE* license: A individual who has submitted records or completion, or a attestation on their renewal application as evidence of compliance with CEU requirements and is found, as the result of a random audit, not to be in compliance will be subject to a minimum fine determined by the board and any other penalties

deemed appropriate by the board as permitted by the Athletic Trainers Practices Act.

[16.3.7.9 NMAC - N, 8/16/2001; A, 11/23/2006; A, 12/24/2021; A, 9/9/2025]

REGULATION AND LICENSING DEPARTMENT ATHLETIC TRAINERS PRACTICE BOARD

This is an amendment to 16.3.8 NMAC, Section 8, effective 9/9/2025.

16.3.8.8 FEES: The board will charge the following fees, which are non-refundable:

A. one hundred twenty five dollars (\$125.00) application fee;

B. one hundred dollars (\$100.00) fee for a provisional athletic trainer permit;

C. one hundred dollars (\$100.00) initial licensing fee;

D. one hundred and sixty five dollars (\$165.00) annual renewal fee;

E. seventy-five dollars (\$75.00) late renewal fee;

F. ten dollars (\$10.00) fee for replacement or duplicate of a license;

G. twenty dollars (\$20.00) fee for address labels of the New Mexico licensed athletic trainers;

H. ten dollars (\$10.00) fee for address lists of New Mexico licensed athletic trainers;

I. ten dollars (\$10.00) fee for written license verification;

J. fifty dollars (\$50.00) fee for CEU approval;

K. ~~[twenty-five dollars (\$25.00) charge for return checks]~~ thirty five dollars (\$35.00) charge for return checks, or electronic checks;

L. ten dollars (\$10.00) administrative fee.

[1/16/2000; 16.3.8.8 NMAC - Rn, 16 NMAC 3.8.8, 8/16/2001; A, 8/9/2002; A, 11/23/2006; A, 9/9/2025]

REGULATION AND LICENSING DEPARTMENT NUTRITION AND DIETETIC PRACTICE BOARD

At its hearing on 8/27/2025, the New Mexico Nutrition and Dietetic Practice Board with rulemaking authority is approving a repeal of its rule 16.14.2 NMAC – Fees, filed 08/01/2011, and replaced with 16.14.2 NMAC - Fees, effective 09/09/2025.

REGULATION AND LICENSING DEPARTMENT NUTRITION AND DIETETIC PRACTICE BOARD

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 14 NUTRITION AND DIETETIC PRACTITIONERS PART 2 FEES

16.14.2.1 ISSUING

AGENCY: Nutrition and Dietetic Practice Board, P.O. Box 25101, Santa Fe, NM 87504.

[16.14.2.1 NMAC - Rp, 16 NMAC 14.2.1 NMAC, 09/09/2025]

16.14.2.2 SCOPE: The provisions of Part 2 apply to all individuals licensed or applying for licensure to practice as a dietitian, nutritionist, or nutrition associate and to anyone who requests a list or labels of licensees.

[16.14.2.2 NMAC - Rp, 16 NMAC 14.2.2, 09/09/2025]

16.14.2.3 STATUTORY

AUTHORITY: Section 61-7A-11 NMSA 1978 (1993 Repl. Pam.). [16.14.2.3 NMAC - Rp, 16 NMAC 14.2.3, 09/09/2025]

16.14.2.4 DURATION:

Permanent.

[16.14.2.4 NMAC - Rp, 16 NMAC 14.2.4, 09/09/2025]

16.14.2.5 EFFECTIVE

DATE: 09/09/2025, unless a later date is cited at the end of a section. [16.14.2.5 NMAC - Rp, 16 NMAC 14.2.5 09/09/2025]

16.14.2.6 OBJECTIVE:

To establish fees to generate revenue adequate to fund the cost of program administration.

[16.14.2.6 NMAC - Rp, 16 NMAC 14.2.6, 09/09/2025]

16.14.2.7 DEFINITIONS:

[RESERVED]

16.14.2.8 FEES:

A. All fees are non-refundable.

B. Initial application fee of fifty dollars (\$50.00).

C. Initial license fee of one hundred and fifty dollars (\$150.00) for each license must be paid after application approval and before license issuance, pursuant to Paragraph (1) of Subsection A of 16.4.3.11 NMAC.

D. A license renewal fee of seventy-five dollars (\$75.00).

E. A reinstatement fee of fifty dollars (\$50.00) must be paid in addition to any other fees due at the time of reinstatement.

F. A duplicate license fee of twenty dollars (\$20.00).

G. Insufficient Fee (Check or Electronic Payment) thirty-five dollars (35.00).

[16.14.2.8 NMAC - Rp, 16 NMAC 14.2.8, 09/09/2025]

16.14.2.9 TRANSFER OF LICENSE CATEGORY:

Within the first year of licensure, the licensee may transfer categories for which he is eligible, by submitting an additional application form and application fee of fifty dollars (\$50.00).

[16.14.2.9 NMAC - Rp, 16 NMAC 14.2.9, 09/09/2025]

HISTORY OF 16.14.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:

N&D Rule 90-9, Fees, filed 2/28/90.

N&D Rule 90-9, Fees, filed 9/6/90.

Rule 92-9, Fees, filed 3/26/92.

Rule 6, Fees, filed 3/8/93.

History of Repealed Material:

16 NMAC 14.2, Fees, filed 8/19/1996

- Repealed effective 08/01/2011.

16 NMAC 14.2, Fees, filed

08/01/2011 – Repealed effective

09/09/2025

**REGULATION
AND LICENSING
DEPARTMENT
NUTRITION AND DIETETIC
PRACTICE BOARD**

This is an amendment to 16.14.3 NMAC, Sections 8, 9, 10, and 11 , effective 09/09/2025

16.14.3.8 REQUIREMENTS FOR DIETITIAN LICENSE:

A. Prerequisites:

(1) valid current registration with CDR which includes successful completion of the CDR examination and gives the applicant the right to use the term “registered dietitian” or “RD” or

(2) license in another state which has standards for licensure not less stringent than those in New Mexico.

B. Documentation:

Each applicant for a license to practice as a dietitian must submit the required fees and following documentation:

(1) a completed and signed application;

(2) a copy of CDR card;

(3) applicants who are currently, or have previously been, licensed in another state(s) must provide a copy of each license and a verification of license status directly to the board from the state(s) where licensed. [; and

~~(4) a background check shall be conducted within past 90 days for initial licensure only.]~~

C. Disqualifying convictions:
Conviction by a court of competent

jurisdiction of any of the following potentially disqualifying felony criminal convictions:

(1) homicide, involuntary or voluntary manslaughter;

(2) manufacturing of controlled substances, trafficking in controlled substances or distribution of controlled substances, driving while under the influence of drugs or intoxicating liquor;

(3) kidnapping, false imprisonment, simple assault, simple battery, aggravated assault or aggravated battery or domestic violence offenses;

(4) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, or other related felony sexual offenses;

(5) crimes involving adult/elder abuse, neglect, endangerment or financial exploitation;

(6) crimes involving child abuse or neglect, child endangerment;

(7) crimes involving robbery, larceny, extortion, burglary, tampering with evidence or receiving stolen property;

(8) crimes involving fraud (including but not limited to insurance, medicare, medicaid and prescription), forgery, embezzlement, credit card fraud or misappropriation of funds.

D. Other convictions:
This includes a conviction of an offense which, if committed in this state, would be deemed a felony under either state or federal law, without regard to its designation elsewhere. The term “conviction” shall include a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal proceeding, regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon or an appeal of the conviction has been sought.

E. Mental competency:
Having been declared mentally incompetent by a regularly constituted authority within or outside this state.

(1) Any such adjudication shall be grounds for suspension of the license of any such person and shall prevent the reissuance or renewal of any license so suspended for as long as the adjudication of incompetence is in effect unless the board, upon a finding that the licensee is mentally competent, orders otherwise.

(2) Any applicant who has been so adjudged to be mentally incompetent shall not receive a license unless the board, upon a finding that the applicant is mentally competent, orders otherwise.

F. Scope of conduct: Nothing in this rule prevents the board from denying an application or disciplining a licensee on the basis of an individual's conduct to the extent that such conduct violated the Nutrition and Dietetics Act, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the potentially disqualifying felony convictions listed in Subsection A of this rule.

G. Prohibited disclosure: In connection with an application for licensure or licensure renewal, the board shall not use, distribute, disseminate or admit into evidence at an adjudicatory proceeding any criminal records of any of the following:

(1) an arrest not followed by a valid conviction;

(2) a conviction that has been sealed, dismissed, expunged or sealed;

(3) a juvenile adjudication; or

(4) a conviction for any crime other than the potentially disqualifying felony criminal convictions listed in Subsection A of this rule.

H. Notice and hearing: If the board reserves approval of an applicant or licensee due to a potentially disqualifying felony criminal conviction, the applicant/ licensee will receive notice and opportunity for a hearing.
[3/30/1990...8/31/1996; 16.14.3.8

NMAC - Rn, 16 NMAC 14.3.8, 11/22/2005; A, 8/1/2011; A, 2/9/2022, A, 09/09/2025]

16.14.3.9 REQUIREMENTS FOR NUTRITIONIST LICENSE:

A. Education requirements: Each applicant for a license as a nutritionist must have a master's degree or doctorate in human nutrition, nutrition education, foods and nutrition, or public health nutrition from a college or university accredited by a member of the council on post-secondary accreditation.

B. Additional requirements:

(1) pass an examination related to entry level nutrition practice and nutrition care services which has been approved by the board; or

(2) be licensed in another state which has standards for licensure not less stringent than those in New Mexico.

C. Documentation: Each applicant for license to practice as a nutritionist must submit the required fees and following documentation:

(1) completed and signed application;

(2) official transcript verifying degree required in Paragraph (1) of Subsection A of 16.14.3.9 NMAC, mailed directly from the college or university; or

(3) proof of membership in the organizations specified in Paragraph (2) of Subsection A of 16.14.3.9 NMAC;

(4) applicants who are currently, or have previously been, licensed in another state(s) must provide a copy of each license and a verification of license status directly to the board from the state(s) where licensed;

~~[(5) a background check shall be conducted within past 90 days for initial licenses only]~~

D. Disqualifying convictions: Conviction by a court of competent jurisdiction of any of the following potentially disqualifying felony criminal convictions:

(1) homicide, involuntary or voluntary manslaughter;

(2) manufacturing of controlled substances, trafficking in controlled substances or distribution of controlled substances, driving while under the influence of drugs or intoxicating liquor;

(3) kidnapping, false imprisonment, simple assault, simple battery, aggravated assault or aggravated battery or domestic violence offenses;

(4) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, or other related felony sexual offenses;

(5) crimes involving adult/elder abuse, neglect, endangerment or financial exploitation;

(6) crimes involving child abuse or neglect, child endangerment;

(7) crimes involving robbery, larceny, extortion, burglary, tampering with evidence or receiving stolen property;

(8) crimes involving fraud (including but not limited to insurance, medicare, medicaid and prescription), forgery, embezzlement, credit card fraud or misappropriation of funds.

E. Other convictions: This includes a conviction of an offense which, if committed in this state, would be deemed a felony under either state or federal law, without regard to its designation elsewhere. The term "conviction" shall include a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal proceeding, regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon or an appeal of the conviction has been sought.

F. Mental competency: Having been declared mentally incompetent by a regularly constituted authority within or outside this state.

(1) Any such adjudication shall be grounds for suspension of the license of

any such person and shall prevent the reissuance or renewal of any license so suspended for as long as the adjudication of incompetence is in effect unless the board, upon a finding that the licensee is mentally competent, orders otherwise.

(2) Any applicant who has been so adjudged to be mentally incompetent shall not receive a license unless the board, upon a finding that the applicant is mentally competent, orders otherwise.

G. Scope of conduct: Nothing in this rule prevents the board from denying an application or disciplining a licensee on the basis of an individual's conduct to the extent that such conduct violated the Nutrition and Dietetics Act, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the potentially disqualifying felony criminal convictions listed in Subsection A of this rule.

H. Prohibited disclosure: In connection with an application for licensure or licensure renewal, the board shall not use, distribute, disseminate or admit into evidence at an adjudicatory proceeding any criminal records of any of the following:

- (1) an arrest not followed by a valid conviction;
- (2) a conviction that has been sealed, dismissed, expunged or sealed;
- (3) a juvenile adjudication; or
- (4) a conviction for any crime other than the potentially disqualifying felony criminal convictions listed in Subsection A of this rule.

I. Notice and hearing: If the board reserves approval of an applicant or licensee due to a potentially disqualifying felony criminal conviction, the applicant/ licensee will receive notice and opportunity for a hearing.

[3/30/1990...8/31/1996; 16.14.3.9 NMAC - Rn, 16 NMAC 14.3.9, 11/22/2005; A, 8/1/2011; A, 2/9/2022; A, 10/22/2024, A, 09/09/2025]

16.14.3.10 REQUIREMENTS FOR NUTRITION ASSOCIATE LICENSE:

A. Education
requirements: Each applicant for a license as a nutrition associate must have:

- (1) a baccalaureate or higher degree from a college or university accredited by a member of the council on post-secondary accreditation; and
- (2) completion of the academic requirements that qualify the applicant for an internship or equivalent program as approved by the commission on dietetic registration; and

B. Additional requirements:
(1) pass an examination related to entry level nutrition practice and nutrition care services which has been approved by the board; or

- (2) be licensed in another state which has standards for licensure not less stringent than those in New Mexico.

C. Documentation:
Each applicant for a license to practice as a nutrition associate must submit the required fees and following documentation:

- (1) completed and signed application;
- (2) official transcript verifying degree required in Paragraph (1) of Subsection A of 16.14.3.10 NMAC, mailed directly from the college or university; and
- (3) American dietetic association verification statement completed by a program director which verifies eligibility for an internship or equivalent program approved by CDR; and

(4) applicants who are currently, or have previously been, licensed in another state(s) must provide a copy of each license and a verification of license status directly to the board from the state(s) where licensed;

- (5) completed employment information form documenting supervision by a New Mexico licensed dietitian

or nutritionist; documentation is required for subsequent changes in employment or supervision; and

~~[(6) a background check shall be conducted within past 90 days for initial licenses only.]~~

D. Disqualifying convictions: Conviction by a court of competent jurisdiction of any of the following potentially disqualifying felony criminal convictions:

- (1) homicide, involuntary or voluntary manslaughter;
- (2) manufacturing of controlled substances, trafficking in controlled substances or distribution of controlled substances, driving while under the influence of drugs or intoxicating liquor;
- (3) kidnapping, false imprisonment, simple assault, simple battery, aggravated assault or aggravated battery or domestic violence offenses;
- (4) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, or other related felony sexual offenses;
- (5) crimes involving adult/elder abuse, neglect, endangerment or financial exploitation;
- (6) crimes involving child abuse or neglect, child endangerment;
- (7) crimes involving robbery, larceny, extortion, burglary, tampering with evidence or receiving stolen property.
- (8) crimes involving fraud (including but not limited to insurance, medicare, medicaid and prescription), forgery, embezzlement, credit card fraud or misappropriation of funds

E. Other convictions:
This includes a conviction of an offense which, if committed in this state, would be deemed a felony under either state or federal law, without regard to its designation elsewhere. The term "conviction" shall include a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere

in a criminal proceeding, regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon or an appeal of the conviction has been sought.

F. Mental competency: Having been declared mentally incompetent by a regularly constituted authority within or outside this state.

(1) Any such adjudication shall be grounds for suspension of the license of any such person and shall prevent the reissuance or renewal of any license so suspended for as long as the adjudication of incompetence is in effect unless the board, upon a finding that the licensee is mentally competent, orders otherwise.

(2) Any applicant who has been so adjudged to be mentally incompetent shall not receive a license unless the board, upon a finding that the applicant is mentally competent, orders otherwise.

G. Scope of conduct: Nothing in this rule prevents the board from denying an application or disciplining a licensee on the basis of an individual's conduct to the extent that such conduct violated the Nutrition and Dietetics Act, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the potentially disqualifying felony criminal convictions listed in Subsection A of this rule.

H. Prohibited disclosure: In connection with an application for licensure or licensure renewal, the board shall not use, distribute, disseminate or admit into evidence at an adjudicatory proceeding any criminal records of any of the following:

- (1) an arrest not followed by a valid conviction;
- (2) a conviction that has been sealed, dismissed, expunged or sealed;
- (3) a juvenile adjudication; or
- (4) a conviction for any crime other than the potentially disqualifying

felony criminal convictions listed in Subsection A of this rule.

I. Notice and hearing: If the board reserves approval of an applicant or licensee due to a potentially disqualifying felony criminal conviction, the applicant/ licensee will receive notice and opportunity for a hearing. [3/30/1990...8/31/1996; 16.14.3.10 NMAC - Rn, 16 NMAC 14.3.10, 11/22/2005; A, 8/1/2011; A, 2/9/2022, A, 09/09/2025]

16.14.3.11 INITIAL LICENSES AND LICENSE PERIOD:

A. The board shall issue an initial license to an applicant who meets the requirements of the Nutrition and Dietetics Practice Act and has paid the fees required under Part 2. If the applicant fails to pay all required fees within 30 days of notification of board approval, the application shall be deemed withdrawn. The applicant shall then be required to reapply and pay all fees required under Part 2.

B. All licenses will be valid for one year.

(1) The issue date for all initial licenses will be the date payment is received following board approval of the request for licensure.

(2) Each renewal license shall be valid for a period of one year beginning the day after the date of expiration of the license being renewed.

(3) Licenses which lapse and are then reinstated will be valid for one year from the first day of the month following board approval of reinstatement.

(4) New licenses which are issued as the result of a change of licensing category will be valid for one year from the date of issuance of the new license.

C. Applications for registration shall be completed on a form provided by the Nutrition and Dietetics board.

D. The applicant shall provide a complete application that includes the following information:

- (1) Applicant's full name;
- (2) current mailing address;
- (3) current electronic mail address, if any;
- (4) date of birth; and,
[~~(5)~~] ~~background check, if required; and~~
[~~(6)~~] (5) proof as described in subsection C below.

E. The applicant shall provide the following satisfactory evidence as follows:

- (1) applicant is currently licensed and in good standing in another jurisdiction, including a branch of the United States armed forces;
- (2) applicant has met the minimal licensing requirements in that jurisdiction and the minimal licensing requirements in that jurisdiction are substantially equivalent to the licensing requirements for New Mexico; and
- (3) the following documentation:
 - (a) for military service member: copy of military orders;
 - (b) for spouse of military service members: copy of military service member's military orders, and copy of marriage license;
 - (c) for spouses of deceased military service members: copy of decedent's DD 214 and copy of marriage license;
 - (d) for dependent children of military service members: copy of military service member's orders listing dependent child, or a copy of military orders and one of the following: copy of birth certificate, military service member's federal tax return or other governmental or judicial documentation establishing dependency;
 - (e) for veterans (retired or separated): copy of DD 214 showing proof of honorable discharge.

F. The license or registration shall be issued by the board as soon as practicable but no later than thirty days after a qualified military service member, spouse, dependent child, or veteran files a complete application and provides a background check if required for a license, and any required fees.

G. Military service members and veterans shall not pay and the board shall not charge a licensing fee for the first three years for a license issued pursuant to this rule.

H. A license issued pursuant to this section shall be valid for the time period that is specified in the Nutrition and Dietetics Act. [4/7/1993; 16.14.3.11 NMAC - Rn, 16 NMAC 14.3.11, 11/22/2005; A, 2/9/2022, A, 09/09/2025]

REGULATION AND LICENSING DEPARTMENT NUTRITION AND DIETETIC PRACTICE BOARD

This is an amendment to 16.14.6 NMAC, Section 10, effective 09/09/2025

16.14.6.10 CONTINUING EDUCATION REQUIREMENTS:

A. Dietitians must verify current registration with CDR as set in CDR guidelines. These guidelines are available from CDR website.

B. Nutritionists and nutrition associates must provide proof of completion of [~~at least fifteen (15)~~] 15 clock hours or verify current registration with CDR. Excess hours, up to a total of [~~fifteen (15)~~] 15 hours, may be carried over to the next licensing period.

C. The board does not maintain a list of continuing education providers. The licensee must determine where to obtain the required continuing education.

D. Each licensee will maintain documentation of all

completed continuing education, including contact information for the provider of each course.

E. If all continuing education requirements are not met by the expiration date of license or granted extension date, the licensee shall be subject to disciplinary action:

(1) renewing licensees will be randomly selected for audit; then board may audit continuing education records at any time before the next scheduled renewal or when deemed appropriate by the board;

(2) the licensee will be notified by email when selected for audit and will be given a deadline to submit the continuing education proof of completion;

(3) Failure to respond to request by the board may be subject to a fine and other penalties determined appropriate by the board;

(4) The board may, at its discretion, accept a sworn affidavit of evidence of certificate/ license holder compliance with continuing education requirements in support of renewal application in lieu of documented evidence of such.

F. An individual who submits records or sworn affidavit on their renewal application to demonstrate compliance with continuing education requirements but is found to be non-compliant during a random audit will be subject to fines and other penalties determined appropriate by the board.

[16.14.6.10 NMAC - Rp, 16 NMAC 14.6.10, 8/1/2011 A, 09/09/2025]

REGULATION AND LICENSING DEPARTMENT NUTRITION AND DIETETIC PRACTICE BOARD

This is an amendment to 16.14.10 NMAC, adding a new Section 9 , effective 09/09/2025

16.14.10.9 SCOPE OF TELEHEALTH:

A. The New Mexico

Telehealth Act does not alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

B. Nothing in the New Mexico Telehealth Act shall be construed to alter supervision requirements set forth by a health care provider's applicable licensing board. A health care provider shall provide telehealth services under the same level of supervision required for in-person practice.

[N, 09/09/2025]

REGULATION AND LICENSING DEPARTMENT NUTRITION AND DIETETIC PRACTICE BOARD

This is an amendment to 16.14.11 NMAC, Sections 11 , effective 09/09/2025.

16.14.11.11 DISCIPLINARY GUIDELINES: In accordance with the provisions contained within the Uniform Licensing Act, the board may take disciplinary action if the board determines the applicant or licensee has violated the Nutrition & Dietetics Act or the board's regulations. The following shall subject the licensee to disciplinary action by the board:

A. Fraud or deceit in procuring or attempting to procure a license to practice as a dietitian or nutritionist.

B. Knowingly practicing as dietitian or nutritionist or using any designation with his/ her name tending to imply, without a valid license, that he/she is a nutritionist/dietitian; or knowingly aiding, assisting, procuring, advising, or encouraging any unlicensed person to practice as a nutritionist/dietitian or use any designation with his/her name tending to imply that he/she is a nutritionist/dietitian without a valid license.

C. Failure of licensee to furnish the board within

10 business days of request, its investigators or representative with information requested by the board.

~~D.~~ failure to appear before the board when requested by the board in any disciplinary proceeding.

~~E.~~ failure to be in compliance with the Parental Responsibility Act Section 40-5A-3 NMSA 1978 et seq.

~~F.~~ Fraudulent record keeping.

~~G.~~ failure to comply with Continuing Education Audit. If all continuing education requirements are not met by the expiration date of the license or granted extension date, the licensee shall be subject to disciplinary action.

~~[C:] H.~~ Conviction by a court of competent jurisdiction of any of the following disqualifying felony criminal convictions:

(1) homicide, involuntary or voluntary manslaughter;

(2) manufacturing of controlled substances, trafficking in controlled substances or distribution of controlled substances, driving while under the influence of drugs or intoxicating liquor;

(3) kidnapping, false imprisonment, simple assault, simple battery, aggravated assault or aggravated battery or domestic violence offenses;

(4) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, or other related felony sexual offenses;

(5) crimes involving adult/elder abuse, neglect, endangerment or financial exploitation;

(6) crimes involving child abuse or neglect, child endangerment;

(7) crimes involving robbery, larceny, extortion, burglary, tampering with evidence or receiving stolen property.

(8) crimes involving fraud (including but not limited to insurance, medicare,

medicaid and prescription), forgery, embezzlement, credit card fraud or misappropriation of funds

~~[D:] I.~~ This includes a conviction of an offense which, if committed in this state, would be deemed a felony under either state or federal law, without regard to its designation elsewhere. The term "conviction" shall include a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal proceeding, regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon or an appeal of the conviction has been sought.

~~[E:] J.~~ Having been declared mentally incompetent by a regularly constituted authority within or outside this state.

(1) Any such adjudication shall be grounds for suspension of the license of any such person and shall prevent the reissuance or renewal of any license so suspended for as long as the adjudication of incompetence is in effect unless the board, upon a finding that the licensee is mentally competent, orders otherwise.

(2) Any applicant who has been so adjudged to be mentally incompetent shall not receive a license unless the board, upon a finding that the applicant is mentally competent, orders otherwise

~~[F:] K.~~ Nothing in this rule prevents the board from denying an application or disciplining a licensee on the basis of an individual's conduct to the extent that such conduct violated the Nutrition and Dietetics Act, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the potentially disqualifying felony criminal convictions listed in Subsection A of this rule.

~~[G:] L.~~ In connection with an application for licensure or licensure renewal, the board shall not use, distribute, disseminate or admit into evidence at an adjudicatory proceeding any criminal records of any of the following:

(1) an arrest not followed by a valid conviction;

(2) a conviction that has been sealed, dismissed, expunged or sealed;

(3) a juvenile adjudication; or

(4) a conviction for any crime other than the potentially disqualifying felony criminal convictions listed in Subsection A of this rule.

~~[H:] M.~~ If the board reserves approval of an applicant or licensee due to a potentially disqualifying felony criminal conviction, the applicant/licensee will receive notice and opportunity for a hearing. [16.14.11 NMAC – N, 2/9/2022, A, 09/09/2025]

SUPERINTENDENT OF INSURANCE, OFFICE OF

The Superintendent of Insurance, after hearing held on July 29, 2025, approved the repeal of 13.10.36 NMAC, Health Care Affordability Fund, filed 6/1/2022, in her *Partial Final Order and Notice of Extension of Comment Period for Certain Sections of Proposed New Rule 13.10.37 NMAC*, on August 22, 2025, repeal is effective September 9, 2025.

SUPERINTENDENT OF INSURANCE, OFFICE OF

This is an amendment to 13.10.34 NMAC, repealing Section 24, effective 09/09/2025.

13.10.34.24 ~~[CONTINUING EDUCATION:]~~

~~A. License required.~~
All producers selling excepted benefits plans under this rule must maintain current licensure with the state in accordance with the New Mexico Insurance Code.

~~B. Continuing education.~~ Producers transacting in excepted benefits must complete at least two hours in specialized training in excepted benefits in order to meet

continuing education requirements found in 13.4.7 NMAC.

~~C. Course offering.~~
Carriers offering excepted benefits for sale in New Mexico must offer two-hour specialized training courses for producers. Courses shall comply with all provisions of 13.4.7 NMAC.

~~D. Effective date.~~ The requirements of this section shall go into effect on April 1, 2026 or upon the final adoption of the amended rule at 13.4.7 NMAC, whichever is later. Licensees, defined under 13.4.7.7 NMAC and subject to this rule, must comply with its requirements prior to the next compliance period.]

[RESERVED]

[13.10.34.24 NMAC - N, 4/1/2026;
Repealed, 09/09/2025]

End of Adopted Rules

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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
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Issue 9	April 24	May 6
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