

New Mexico Register

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

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Notices of Rulemaking and Proposed Rules

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 rule regarding SOCIAL SERVICES CHILD CARE ASSISTANCE; REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS FOR CLIENT AND CHILD CARE PROVIDERS as authorized by the Child Care Assistance Program Act and Subsection A of Section 32A-32-3 NMSA 1978; the Early Childhood Education and Care Department Act and Subsection E of Section 9-29-6 NMSA 1978; and the Public Health Act, Sections 24-1-1 to 24-1-22 NMSA 1978, Subsection D of Section 24-1-2 NMSA 1978, Subsection I of Section 24-1-3 NMSA 1978, and Section 24-1-5 NMSA 1978.

8.9.3 NMAC - CHILD CARE ASSISTANCE; REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS

ECECD is also proposing to adopt amendments to CHILD CARE LICENSING; CHILD CARE CENTERS, OUT OF SCHOOL TIME PROGRAMS, FAMILY CHILD CARE HOMES, AND OTHER EARLY CARE AND EDUCATION PROGRAMS as authorized by the Early Childhood Education and Care Department Act and Subsection E of Section 9-29-6 NMSA 1978; Section 3-21-1 NMSA 1978; Section 59A-52-18 NMSA 1978; and the Public Health Act, Sections 24-1-1 to 24-1-22 NMSA 1978, Subsection D of Section 24-1-2 NMSA 1978, Subsection I of Section 24-1-3 NMSA 1978, and Section 24-1-5 NMSA 1978.

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.

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

Purpose of proposed rules: The purpose of the proposed rulemaking is to amend 8.9.3 NMAC and 8.9.4 NMAC to align them with applicable state and federal requirements. The proposed amendments to 8.9.3 NMAC will update the child care assistance copayment schedule to provide for a gradual progression in copayments as household income increases. The proposed amendments to 8.9.4 NMAC will align regulatory requirements with Senate Bill 96, which took effect on July 1, 2026. On that date, ECECD adopted an emergency rule amendment to 8.9.4.31 to address a conflict between the state law and existing regulations. Based on community feedback since the implementation of the emergency rule, ECECD is proposing amendments to replace the requirement for written zoning approval with a requirement that licensed home applicants submit proof of zoning designation. In addition, ECECD is proposing to remove the requirement for written approval from the state fire marshal's office or other applicable fire prevention authority and instead mandate that applicants be responsible for knowing and following applicable local rules and ordinances. The proposed amendments clarify requirements for applicants and are necessary for consistency with state law.

Summary of proposed rules: In summary, the proposed amendments to 8.9.3 NMAC will revise the child care assistance copayment schedule to provide for a more gradual progression in copayment responsibility as household income

increases. The Child Care Assistance Program Act establishes a sliding scale copayment schedule under which copayments are waived for households with income at or below 600% of the federal poverty level (FPL), shall be three percent or less of annual household income for households with income above 600% but not exceeding 900% FPL, and shall be seven percent or less of annual household income for households with income above 900% FPL. The proposed copayment schedule would provide a gradual progression in copayment responsibility as household income increases, while maintaining the statutory limits on copayments. As outlined in the Child Care Assistance Program Act, the state pays the copayment for families whose income is at or below 600% FPL.

The proposed amendments to 8.9.4 NMAC will require licensed home applicants to provide ECECD with proof of zoning designation for the licensed home location, removes requirements to obtain approval from local or state fire authorities other than ECECD, and will require that applicants be aware of and follow all applicable rules and ordinances related to the operation of their business.

Amended NMAC Sections for 8.9.3:
8.9.3.14.

Amended NMAC Sections for 8.9.4:
8.9.4.31.

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 rule hearing.

Notice of public rule hearing: A public rule hearing will be held on November 20, 2026, from 2 p.m. to 4 p.m. for proposed amendments to 8.9.3 NMAC and 8.9.4 NMAC. The hearing will take place in Apodaca Hall of the PERA Building at 1120 Paseo de Peralta, Santa Fe, New

Mexico 87502, and will also be accessible via virtual web platform (Zoom) and by telephone. The hearing will be conducted in a fair and equitable manner by an ECECD agency representative or hearing officer and will be recorded. Any interested member of the public may attend in person, by Zoom, or by telephone and will be provided a reasonable opportunity to offer public comment on the proposed rules during the hearing, either orally or in writing, including presentation of data, views, or arguments. Members of the public will have two minutes to provide oral comments. To attend by telephone, dial 669-444-9171, Webinar ID: 829 9075 5483; callers will be able to hear the full hearing, and comments made by telephone will be recorded. To attend via the internet, go to <https://nmecccd.org.zoom.us/j/82990755483> and follow the on-screen instructions using Webinar ID: 829 9075 5483. The hearing will be livestreamed, and comments may also be submitted via the platform's chat feature.

Notice of acceptance of written public comment: Written public comments, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public may be submitted by email to ECECD-ECS-PublicComment@ECECD.NM.Gov with the subject line "8.9.3 NMAC / 8.9.4 NMAC Public Comment," or by first class mail to PO. Drawer 5619, Santa Fe, New Mexico 87502-5619. Written comments may also be delivered in person at the PERA Building located at 1120 Paseo De Peralta in Santa Fe, New Mexico, on November 20, 2026, between 2:00 p.m. and 4:00 p.m. Written comments will be accepted from the date this notice is published until the conclusion of the public rule hearing on November 20, 2026.

Spanish interpretation will be provided on Zoom and in person. American Sign Language (ASL) interpretation will be provided on Zoom. If you are a person with a disability and would like to request

accommodations, or a person with limited English proficiency and need interpretation other than Spanish or ASL, please contact the Early Childhood Education and Care Department at ECECD-ECS-PublicComment@ECECD.NM.Gov or call 505-670-8993 at least ten calendar days before the scheduled public rule hearing.

HEALTH, DEPARTMENT OF

NOTICE OF PUBLIC HEARING

The New Mexico Department of Health (Department) will hold a public hearing on the proposed adoption of a new rule, 7.35.4 NMAC, and the proposed amendment of existing rule section 7.35.2.7 NMAC, concerning the New Mexico Medical Psilocybin Program ("Program"). The hearing will be held on Friday, November 20, 2026 at 9:00 a.m. in the Harold Runnels Building auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico. The hearing will also be broadcast via a live web-based video conference, and via telephone. Members of the public who wish to submit public comment regarding the proposed rule will be able to do so in person at the hearing, via video conference, or via telephone during the hearing, and by submitting written comment.

The proposed rule 7.35.4 NMAC would adopt standards for the Medical Psilocybin Treatment Equity Fund. The rule includes, but is not limited to, the following:

- ☐ Eligibility standards and submittal requirements for qualified New Mexico patients
- ☐ Covered medical services
- ☐ Claim and invoice submittal requirements
- ☐ Reimbursement standards
- ☐ Record retention and audit requirements
- ☐ Permitted travel expenses
- ☐ Program monitoring

- ☐ Grounds for denial, payment holds, and suspensions
- ☐ Recovery of overpayments
- ☐ Process for review of adverse determinations

The proposed amendment of 7.35.2.7 NMAC would adopt revisions to the Definitions of that rule section, which would be incorporated by reference at 7.35.4.7 NMAC.

The purpose of the proposed rule and rule amendment is to implement the Medical Psilocybin Act, sections 26-2D-1 through -11, NMSA 1978.

The legal authority authorizing the adoption of the rule and rule amendment by the Department is 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 Medical Psilocybin Act, at Section 26-2D-11(A), NMSA 1978, which requires the Department to administer the Medical Psilocybin Treatment Equity Fund, and at Section 26-2D-7(A)(7), NMSA 1978, which requires the Department to establish "other requirements, restrictions and limitations promulgated by the department to ensure an efficacious program."

A free copy of the full text of the proposed rule and proposed rule amendment can be obtained online from the New Mexico Department of Health's website at <http://nmhealth.org/about/asd/cmo/rules/> or by contacting the Department using the contact information below.

The public hearing will be conducted to receive public comment on the proposed rule and proposed rule amendment. Any interested member of the public may attend the hearing and may submit data, views, or arguments on the proposed rule either orally or in writing during the hearing.

The hearing will be held on November 20, 2026 at the Harold Runnels Building auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico.

To access the hearing via the Internet: please go to <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting> and then enter the following meeting i.d. code and passcode where indicated on the screen: meeting i.d. code 237 178 592 421 542 and passcode 43sT9gU2 and then click the "Join a meeting" button.

To access the hearing by telephone: please call 1-505-312-4308 and enter phone conference i.d. 589 114 62#

Individuals who wish to receive an e-mailed calendar invitation for the hearing may register online at <https://events.gcc.teams.microsoft.com/event/583e4227-4971-47f7-b0bc-0fb1241afdc0@04aa6bf4-d436-426f-bfa4-04b7a70e60ff>

All comments will be recorded.

Written public comment regarding the proposed rule can be submitted either by e-mail to Jacob Clark at jacob.clark@doh.nm.gov, or by U.S. postal mail to the following address:

Jacob Clark
NMDOH OGC
P.O. Box 26110
1190 St. Francis Dr., Suite N-4095
Santa Fe, NM 87502-6110

Written comments must be received by the close of the public rule hearing on November 20, 2026. All written comments will be published on the agency website at <https://www.nmhealth.org/about/asd/cmo/rules/> within 3 days of receipt, and will be available at the New Mexico Department of Health for public inspection.

If you are an individual with a disability and need special assistance or accommodation to attend or participate in the hearing, please contact Jacob Clark by telephone at (505) 827-2997. The Department

requests at least ten (10) days' advance notice to provide special accommodation.

PUBLIC EDUCATION DEPARTMENT

NOTICE OF PROPOSED RULEMAKING

Public Hearing

The New Mexico Public Education Department (PED) gives notice on Tuesday, October 20, 2026, that it will conduct public hearings for the following proposed rulemakings on Thursday, November 19, 2026, and Friday, November 20, 2026. The hearing on Thursday, November 19, 2026, will be via Zoom (<https://us02web.zoom.us/j/83883186299>) and begin at 9:00 am. The hearing on Friday, November 20, 2026, will be in the Willie Ortiz Auditorium, 2600 Cerrillos Road, Santa Fe, NM 87505, and begin at 9:00 am. The public hearings are scheduled until noon and will be extended if necessary.

New rule 6.11.3 NMAC, Student Data Privacy

Amendment to 6.19.4 NMAC, Accreditation Procedures

New rule 6.30.14 NMAC, Mathematics Instructional Leadership Framework, Instruction, Interventions, Screening and Professional Learning

Amendment to 6.30.17 NMAC, Structured Literacy Instruction, Interventions, and Professional Development

New rule 6.30.20 NMAC, Organization of Grade Levels, Reorganization, and Approval by the Secretary

Amendment to 6.65.2 NMAC, Professional Learning Framework New rule 6.69.1 NMAC, Definitions and General Provisions

Repeal and replace of 6.69.2 NMAC, Competency Areas and Elements for Teachers Repeal and replace of 6.69.3 NMAC, Competency Areas and

Elements for Site Administrators Repeal and replace of 6.69.4 NMAC, Competency Areas for Licensed School Staff Other Than Teachers and Site Administrators Repeal and replace of 6.69.5 NMAC, Evaluation Cycle, Evidence, and Rubrics Repeal and replace of 6.69.6 NMAC, Unsatisfactory Work Performance of Licensed School Personnel Repeal of 6.69.7 NMAC, Performance Evaluation Requirements for Principals and Assistant Principals Repeal of 6.69.8 NMAC, Teacher and School Leader Effectiveness

The PED will give a verbal summary statement, on record, at the hearing.

The purpose of the public hearing is to receive public input on the proposed rulemakings. Attendees who wish to provide public comments on the record will be given three minutes to make a statement concerning the proposed rulemaking. To submit written comments, please see the Public Comment section of this notice.

Explanation of Purpose of Rulemaking, Summary of Text, and Statutory Authority

6.11.3 NMAC, Student Data Privacy

Explanation: Establish student data privacy and security requirements for contracts between education technology vendors and PED, school districts, and charter schools, including limitations on vendor use and disclosure of student information and requirements for data security, retention, and destruction.

Summary: The proposed new rule would establish student data privacy and security requirements for contracts between education technology vendors and PED, school districts, and charter schools. It would restrict vendors' access to and use of student data, including its

use for targeted advertising, student profiling, disclosure to third parties, or commercial purposes. Vendors would also be required to follow defined retention and destruction procedures, undergo privacy and security assessments before contracting, report unauthorized disclosures or access, and protect de-identified and aggregate data from re-identification.

Statutory Authority: Sections 9-24-8, 22-2-1, and 22-2-2 NMSA 1978; the Assessment and Accountability Act, Chapter 22, Article 2C NMSA 1978; and the Family Educational Rights and Privacy Act, 20 U.S.C. Section 1232g and 34 CFR Part 99.

6.19.4 NMAC, Accreditation Procedures

Explanation: Update public school accreditation procedures and annual accreditation-review requirements to reflect current department requirements for budgeting, reporting, instructional, financial, and school reorganization and remove obsolete provisions.

Summary: The proposed amendment would acknowledge that a public school's accreditation status to be determined separately from its district's status. It would revise the annual review requirements to address whether budgets and expenditures align with state funding, whether schools and districts can meet their financial obligations, and whether instructional time is accurately budgeted, reported, and implemented. The amendment would also incorporate compliance with special education and distance-learning requirements, address unapproved organizational changes, update required instructional subject areas, clarify the approval requirements for accrediting entities, and remove an outdated restriction involving school-based early childhood programs.

Statutory Authority: Sections 9-24-8, 12-6-1, et seq., 22-1-11, 22-2-1, 22-2-2.1, 22-2-2, 22-2-8.1, 22-2-14, 22-4-3, 22-5-4.13, 22-5-13, 22-8-6,

22-8-11, 22-8-13, 22-8-13.1, 22-8B-5, 22-8B-12.2, 22-8-19, 22-13-1, 22-13-1.1, 22-13-14, 22-23A-7, and 24-5-4 NMSA 1978, and Section 1111(c) (4)(E) of the federal Every Student Succeeds Act.

6.30.14 NMAC, Mathematics Instructional Leadership Framework, Instruction, Interventions, Screening and Professional Learning

Explanation: This promulgates a new rule to satisfy the statutory requirements enacted with Senate Bill 29 from the 2026 legislative session. The proposed rulemaking establishes the mathematics professional learning, screening, and intervention requirements for public schools.

Summary: The proposed rulemaking establishes a department-approved mathematics instructional leadership framework that outlines the requirements and criteria for public schools' mathematics professional learning plans. It establishes requirements for schools to implement department-approved mathematics screening assessments in kindergarten through grade three and implementation of mathematics student support plans for any student demonstrating mathematics difficulty per screener assessment results. It also establishes parent or legal guardian notification requirements for students demonstrating mathematics difficulty in kindergarten through grade three.

Statutory Authority: Sections 9-24-8, 22-2-1, 22-2-2, 22-15E-2, 22-15E-3, 22-15E-7, and 22-15E-8 NMSA 1978

6.30.17 NMAC, Structured Literacy Instruction, Interventions, and Professional Development

Explanation: This proposed rule serves to meet the statutory requirements enacted with Senate Bill 37 from the 2026 legislative session and better aligns with current department guidance.

Summary: Amends existing parent notification requirements for students in kindergarten through grade 3 to include read-at-home plans. It modifies the screening and intervention requirements to include characteristics of dyslexia and reading difficulties and revises intervention requirements accordingly. It also amends the requirements for public school literacy plans to align with current department guidance and science of reading requirements. Lastly, it adds requirements for placement of department-assigned literacy coaches in schools performing in the bottom quartile of reading proficiency state-wide and specifications for coaching activities.

Statutory Authority: Sections 9-24-8, 22-2-2, 22-15G-1 through 22-15G-5, and 22-36-5 NMSA 1978

6.30.20 NMAC, Organization of Grade Levels, Reorganization, and Approval by the Secretary

Explanation: This rule establishes a consistent process for Department approval of changes to a local education agency's organizational structure. The rule is intended to ensure changes are consistent with educational adequacy, fiscal accountability, equity, and applicable state and federal requirements, and establishes consequences for implementing changes without required approval.

Summary: The proposed rulemaking sets the requirements and procedures for the notification, review, approval, implementation, and departmental recognition of changes to the organizational structure of local school districts and charter schools, including the establishment, reorganization, closure, relocation, or discontinuation of public schools and educational programs; changes to grade configurations and attendance areas; and changes to distance learning schools and programs.

Statutory Authority: Sections 9-24-8, 22-2-1, 22-2-2, 22-5-4.13, and 22-8B-12.2 NMSA 1978.

Chapter 064 Name Changes

Explanation: As part of the department’s broader licensure rulemaking project, the title of Chapter 64 NMAC and the titles of its several parts are being updated to more clearly and accurately describe their respective rules’ contents. The chapter title will change from “**School Personnel – Competencies for Licensure**” to “**School Personnel – Licensure Endorsements,**” and the individual part titles will identify the endorsement addressed by each part. These title changes do not alter the substantive requirements of the affected rules.

Part	Current Title	New Title
6.64.2	Competencies for Entry-Level Language Arts Teachers	Language Arts Endorsement
6.64.3	Competencies for Entry-Level Reading Teachers	Reading Endorsement
6.64.4	Competencies for Entry-Level Mathematics Teachers	Mathematics Endorsement
6.64.5	Competencies for Entry-Level Science Teachers	Science Endorsement
6.64.6	Competencies for Entry-Level History, Geography, Economics, Civics and Government Teachers	History, Geography, Economics, Civics and Government Endorsement
6.64.7	Competencies for Entry-Level Health Education Teachers	Health Education Endorsement
6.64.8	Competencies for Entry-Level Library Media Specialists	Library Media Endorsement
6.64.9	Competencies for Entry-Level Information Technology Coordinators	Information Technology Coordinator Endorsement
6.64.10	Competencies for Entry-Level Bilingual Education Teachers (was repealed and replaced with new part name on 2/10/2026)	Bilingual Endorsement
6.64.11	TESOL Competencies	TESOL Endorsement
6.64.12	Competencies for Entry-Level Modern, Classical and Native Language Teachers	Modern, Classical and Native Language Endorsement
6.64.13	Competencies for Entry-Level Performing Arts and Visual Arts Education Teachers	Performing Arts and Visual Arts Education Endorsement
6.64.14	Competencies for Entry-Level Physical Education Teachers	Physical Education Endorsement
6.64.15	Competencies for Entry-Level Family and Consumer Sciences Teachers	Family and Consumer Sciences Endorsement
6.64.16	Competencies for Entry-Level Technology Studies/Education Teachers	Technology Education Endorsement
6.64.17	Competencies for Entry-Level Agricultural Education Teachers	Agricultural Education Endorsement
6.64.18	Competencies for Teaching Gifted Students	Teaching Gifted Students Endorsement
6.64.19	Competencies for Elementary Mathematics Specialists	Elementary Mathematics Specialist Endorsement
6.64.20	Competencies for Secondary Computer Science Teachers	Secondary Computer Science Endorsement

6.65.2 NMAC, Professional Learning Framework

Explanation: This proposed rule amends the department’s standards for professional learning to those published by Learning Forward and aligns rule to current department practice and guidance.

Summary: Amends existing standards and requirements for professional learning design, implementation, and

evaluation including requirements for biannual department review of professional learning plans. It also specifies that professional learning plans must meet those standards and requirements to be eligible for state or federal funding. The proposed rulemaking also makes technical amendments to improve conciseness and clarity.

Statutory Authority: Sections 22-2-2, 22-2-8, 22-10A-19, 22-15E-3, and 22-15E-7 NMSA 1978

Chapter 069 – School Personnel – Performance

Explanation: The proposed rulemakings are part of a broader department project to bring the department’s licensure rules into alignment with current practice. Chapter 69 currently distributes related requirements among overlapping parts, uses outdated evaluation terminology and procedures, and contains provisions that duplicate or contradict one another. The proposed restructuring would change the chapter title from “School Personnel – Performance” to “School Personnel – Evaluations”; place chapter-wide definitions in the formerly “Reserved” Part 1; organize role-specific evaluation standards in Parts 2 through 4; consolidate evaluation cycles, evidence, ratings, rubrics, training, and waivers in Part 5; place corrective employment procedures in Part 6; and repeal Part 7 and Part 8. Licensure-advancement and micro-credential requirements would remain governed by 6.60.6 NMAC and would not be duplicated in Chapter 69. The project is intended to make the rules consistent with current department practice and clarify which provisions apply to each category of licensed school employees.

6.69.1 NMAC, Definitions and General Provisions

Explanation: Adopt a new part containing definitions and general provisions that apply throughout

Chapter 69. This rulemaking is part of the department’s comprehensive restructuring of the school personnel evaluation rules to align the rules with current evaluation and licensure practices and to remove outdated, duplicative, or contradictory provisions.

Summary: The proposed rulemaking would consolidate definitions now located in multiple parts of Chapter 69. It would establish uniform terms for the department-approved educator evaluation system.

Statutory Authority: Sections 9-24-8, 22-2-1, 22-2-2, 22-10A-2, and 22-10A-19 NMSA 1978.

6.69.2 NMAC, Competency Areas and Elements for Teachers

Explanation: Replace the current unsatisfactory-work-performance rule with current, role-specific competency areas and elements for teacher evaluation. The restructuring places evaluation standards, evaluation procedures, corrective procedures, and licensure advancement in separate parts so that requirements are easier to locate and apply consistently. The unsatisfactory-work-performance provisions currently located in this part would move to proposed 6.69.6 NMAC.

Summary: The proposed rulemaking would establish four teacher competency areas and 22 related elements based on the Danielson Framework, addressing instructional planning and readiness, supportive learning conditions, instructional practice and student learning, and professional practice and responsibility. These provisions would update and relocate the teacher competencies and indicators currently located in 6.69.4.12 NMAC. The current unsatisfactory-work-performance procedures in 6.69.2 NMAC would move to proposed 6.69.6 NMAC, and the current teacher evaluation cycle would move to proposed 6.69.5 NMAC. Licensure-advancement and micro-credential

provisions in current 6.69.4 NMAC would not be carried forward because those requirements are addressed in 6.60.6 NMAC. Obsolete core-subject qualification and professional development dossier provisions would also not be carried forward.

Statutory Authority: Sections 9-24-8, 22-2-1, 22-2-2, 22-10A-7, 22-10A-8, 22-10A-10, 22-10A-11, 22-10A-11.1, and 22-10A-19 NMSA 1978.

6.69.3 NMAC, Competency Areas and Elements for Site Administrators

Explanation: Replace overlapping administrator evaluation rules with one set of current essential practices and elements for principals, assistant principals, and other site administrators. This consolidation removes the present separation between the administrator provisions in 6.69.3 NMAC and the principal and assistant principal provisions in 6.69.7 NMAC.

Summary: The proposed rulemaking would establish five site-administrator essential practices and 18 related elements addressing organizational advancement, the instructional core, talent, culture and safety, and personal integrity. It would replace and modernize the administrator competencies now in 6.69.3.8 NMAC and the principal and assistant-principal competencies now in 6.69.7.9 NMAC. The procedural components of site administrator evaluation, including conferences, professional growth planning, evidence collection, and annual summative evaluation, would move to proposed 6.69.5 NMAC.

Statutory Authority: Sections 9-24-8, 22-2-1, 22-2-2, 22-10A-11.6, and 22-10A-19 NMSA 1978.

6.69.4 NMAC, Competency Areas for Licensed School Staff Other Than Teachers and Site Administrators

Explanation: Create a consistent

evaluation framework for licensed school employees who are not teachers or site administrators. The current rules establish occupation-specific evaluation requirements for school counselors and librarian-teachers but do not provide an evaluation framework for all other licensed school employees. Section 22-10A-19(A) NMSA 1978 requires the department to adopt criteria and minimum standards for the annual performance evaluation of all licensed school employees. The proposal replaces the two occupation-specific rules with a generalized framework that describes role-appropriate, department-approved evaluation rubrics for all licensed school employees who are not evaluated under the teacher or site-administrator standards.

Summary: The proposed rulemaking would establish annual evaluations for licensed school staff other than teachers and site administrators. Districts would use a department-approved rubric specific to an employee's license or endorsement when available. If no specific rubric exists, staff with an underlying professional license would be evaluated using standards from the relevant licensing board, while other staff would be evaluated under a general rubric covering six performance areas. Districts would verify underlying professional licenses annually and could add local standards that supplement, but not supplant, the department-approved rubric. The new framework would replace the separate evaluation provisions for librarian-teachers and school counselors and extend evaluation standards to all other licensed school staff.

Teacher standards in 6.69.4 NMAC would move to proposed 6.69.2 NMAC, and teacher evaluation procedures would move to proposed 6.69.5 NMAC. The professional development dossier submission, review, and expired transition provisions in current 6.69.4 NMAC would not be carried forward.

Statutory Authority: Sections 9-24-8, 22-2-1, 22-2-2, 22-10A-17, and 22-10A-19 NMSA 1978.

6.69.5 NMAC, Evaluation Cycle, Evidence, and Rubrics

Explanation: Place the common procedures for annual evaluations in one part and replace conflicting requirements with a consistent evidence and rating framework. The proposal separates procedural rules from the role-specific competency standards in the proposed 6.69.2 through 6.69.4 NMAC.

Summary: The proposed rulemaking would consolidate the annual evaluation cycles for teachers, site administrators, and other licensed school staff in one part. Teacher evaluation procedures would move from current 6.69.4.10 and 6.69.8.11 NMAC, while site administrator procedures would move from current 6.69.7.8 and 6.69.8.10 NMAC. The evaluation procedures for librarian-teachers and school counselors in current 6.69.5 and 6.69.6 NMAC would also be incorporated and updated to correspond with the generalized framework in proposed 6.69.4 NMAC.

Under the consolidated framework, districts would use department-approved rubrics and sufficient evidence from multiple measures. Employees would be allowed to review and respond to the evidence before their evaluations are finalized. Four performance ratings - "innovating," "applying," "developing," and "not demonstrating" - would replace the current five-level scale, and "not demonstrating" would be treated as a substantive finding rather than a substitute for missing evidence. For the annual summative evaluation, each element would receive the highest rating assigned to that element across all observations conducted during the school year. The annual summative evaluation would be unsuccessful if more than 40 percent of those element ratings are "not

demonstrating". The rule would preserve evaluation confidentiality, establish evaluator-training and charter-waiver requirements, eliminate the fixed percentage formula in current 6.69.8 NMAC, and prohibit the use of student achievement data as evaluation evidence.

Statutory Authority: Sections 9-24-8, 22-2-1, 22-2-2, 22-2-2.1, 22-8B-5, 22-10A-7, 22-10A-8, 22-10A-10, 22-10A-11, 22-10A-11.1, 22-10A-11.6, 22-10A-17, 22-10A-18, and 22-10A-19 NMSA 1978.

6.69.6 NMAC, Unsatisfactory Work Performance of Licensed School Personnel

Explanation: Relocate and update the procedures for correcting unsatisfactory work performance before an employment discharge or termination decision. The proposal separates corrective employment procedures from the evaluation standards and cycles that produce the underlying performance record.

Summary: The proposed rulemaking would move the unsatisfactory-work-performance and performance-growth-plan processes from current 6.69.2 NMAC to 6.69.6 NMAC. An employee rated unsuccessful would be placed on a 90-school-day performance growth plan, receive at least four observations and written results during the plan, and receive written notice of whether the deficiencies were corrected. If satisfactory progress is not made, the superintendent would determine whether to discharge or terminate the employee under the School Personnel Act. The proposed part would not carry forward the current provisions allowing a district to request suspension of a level 3-A teaching license or issuance of a level 2 license based on unsatisfactory work performance. School-counselor competencies now in 6.69.6 NMAC would move into the broader rubric framework in proposed 6.69.4 NMAC, and the annual evaluation cycle for counselors would be governed by proposed 6.69.5 NMAC.

Statutory Authority: Sections 9-24-8, 22-2-1, 22-2-2, 22-10A-18, 22-10A-19, 22-10A-21, 22-10A-24, 22-10A-27, and 22-10A-30 NMSA 1978.

6.69.7 NMAC, Performance Evaluation Requirements for Principals and Assistant Principals

Explanation: Repeal the separate principal and assistant-principal evaluation rule because the reorganized chapter establishes one evaluation framework for principals, assistant principals, and other site administrators.

Summary: The proposed repeal would remove the separate evaluation rule for principals and assistant principals. The definitions and leadership competencies in current 6.69.7.7 and 6.69.7.9 NMAC would be updated and incorporated into proposed 6.69.1 and 6.69.3 NMAC. The annual professional development plan, observations, midyear conference, reflection, and summative evaluation requirements in current 6.69.7.8 NMAC would be updated and incorporated into the site-administrator evaluation cycle in proposed 6.69.5 NMAC.

Statutory Authority: Sections 9-24-8, 22-2-1, and 22-2-2 NMSA 1978.

6.69.8 NMAC, Teacher and School Leader Effectiveness

Explanation: Repeal 6.69.8 NMAC because it contains outdated evaluation requirements that overlap with or conflict with the reorganized evaluation rules. Relevant provisions would be updated and relocated.

Summary: Definitions from current 6.69.8 NMAC would move to proposed 6.69.1 NMAC. Site administrator standards would be addressed in proposed 6.69.3 NMAC, while teacher and site administrator evaluation cycles, observations, evidence requirements, ratings, evaluator training, annual reporting, and confidentiality would move to proposed 6.69.5 NMAC. The

proposed rules would replace the current fixed percentage formula and five-level effectiveness scale with a role-relevant evidence framework and four performance ratings. Student achievement data would no longer be used as evaluation evidence.

Statutory Authority: Sections 9-24-8, 22-2-1, and 22-2-2 NMSA 1978.

No technical information served as a basis for these proposed rule changes.

Public Comment

Interested parties may provide comments at the public hearing or may submit written comments by mail or e-mail.

Mailing Address

Policy and Legislative Affairs
Division
New Mexico Public Education
Department
300 Don Gaspar Avenue, Room 121
Santa Fe, New Mexico 87501

E-Mail Address

Rule.Feedback@ped.nm.gov

Written comments must be received no later than 5 p.m. (MDT) on Friday, November 20, 2026. The PED encourages early submission of written comments.

Public Comment Period

The public comment period is from Tuesday, October 20, 2026, to Friday, November 20, 2026, at 5:00 p.m. (MDT). The PED will review all feedback received during the public comment period and issue communication regarding a final decision of the proposed rulemaking at a later date.

Copies of the proposed rule may be obtained from Denise Terrazas at (505) 470-5303 during regular business hours or may be accessed through the PED Policy and Legislative Affairs webpage titled, "Proposed Rules," at <http://webnew.ped.state.nm.us/bureaus/>

policy-innovation-measurement/rule-notification/.

Individuals with disabilities who require the above information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Denise Terrazas at (505) 470-5303 as soon as possible before the date set for the public hearing. The PED requires at least 10 calendar days advance notice to provide any special accommodations requested.

REGULATION AND LICENSING DEPARTMENT PHYSICAL THERAPY BOARD

NOTICE OF PUBLIC RULE HEARING AND PHYSICAL THERAPY BOARD MEETING

The New Mexico Physical Therapy Board and the Regulation and Licensing Department will hold a rule hearing on Monday, December 7, 2026, at 10:00 a.m., immediately followed by a meeting of the Physical Therapy board for adoption of the proposed rules listed below. The hearing and subsequent board meeting will take place at the Regulation and Licensing Department, located at 5500 San Antonio Dr. SE., Albuquerque, New Mexico 87109.

The hearing and subsequent Physical Therapy board meeting may also be accessed virtually via Microsoft Teams.

Meeting Link: <https://teams.microsoft.com/meet/266777351912874?p=QwocsEdAQuJe5Iog3s>

or <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>

Meeting ID: 266 777 351 912 874
Passcode: ps9WA9Ax

Dial in by phone

1 505-312-4308, passcode:
624486229# United States,
Albuquerque

(888) 506-1357, passcode:
624486229# United States (Toll-free)

Phone conference ID: 624 486 229#

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

Rule 16.20.5 NMAC – SCHEDULE OF FEES

On Friday, November 4, 2026, copies of the proposed rules may be obtained through the New Mexico Physical Therapy Board website at <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/physical-therapy/board-information/physical-therapy-board-meetings/> or by contacting the Board Administrator, Alejandro Ortiz at (505) 476-4622

The New Mexico Physical Therapy Board and the Regulation and Licensing Department will begin accepting written public comment regarding the proposed rule changes beginning Friday, November 3, 8:00 a.m. and ending Friday December 4, 2026, 11:30 a.m. Written public comment may be submitted either by email to the Physical Therapy Board email: or by postal mail to the following address: physical.therapy@rld.nm.gov

Attn: New Mexico Physical Therapy Board
P.O. Box 25101
Santa Fe, NM 87504

Written comments received during the public comment period (November 3, 2026, and December 4, 2026) will be posted to the website page linked above. Public comments 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 Physical Therapy Board will not enter substantive discussion of public comments during the rule hearing but will consider and deliberate any public comment

during the regular board meeting immediately following the conclusion of the public rule hearing.

The agenda for the New Mexico Physical Therapy Board regular meeting, which will begin immediately after the public rule hearing, will be available no less than 72 hours prior to the meeting, and available on the website linked above or by contacting the Board Administrator Alejandro Ortiz at physical.therapy@rld.nm.gov.

If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or the regular board meeting, please contact the 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.

For inclement weather: If the New Mexico state offices are placed on a two-hour delay 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.

Statutory Authority:

The rule changes are authorized by the Physical Therapy Act (Act), Section 61-12D-1 through 61-12D-19 NMSA 1978, which provides explicit authority for the Physical Therapy 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 1.24.25.1 through 1.24.25.16 NMAC.

Purpose of Proposed Rules:

The proposed rule changes aim to implement changes to the fees to align with the Board's intent. More 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 to generally satisfy the Physical Therapy Board's statutory obligation to promote, preserve and protect the public health, safety and welfare.

Summary of Proposed Changes:

16.20.5 NMAC -Schedule of Fees. License fees will revert back to the amount required prior to the latest rule change:

Application for full licensure

Physical Therapist from \$160 to \$250
Physical Therapist Assistant from \$120 to \$200

Biennial renewal

Physical Therapist from \$85 to \$160
Physical Therapist Assistant from \$60 to \$120.

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.

AGRICULTURE, DEPARTMENT OF

The Regents of New Mexico State University, approved at its 10/01/2026 meeting, to repeal rule 21.18.3 NMAC – Commercial Feeds, filed 9/30/2013, and replace it with 21.18.3 NMAC-Commercial Feeds, adopted on 10/01/2026, and effective 10/20/2026.

The Regents of New Mexico State University approved, at its 10/01/2026 meeting, to repeal rule 21.17.27 NMAC – Japanese Beetle Exterior Quarantine, filed 6/30/2011, and replace it with 21.17.27 NMAC- Japanese Beetle Exterior Quarantine, adopted on 10/01/2026 and effective 9/01/2027.

The Regents of New Mexico State University approved, at its 10/01/2026 meeting, to repeal rule 21.17.51 NMAC – Control of Wood Destroying Pests, filed 7/01/1997, and replace it with 21.17.51 NMAC- Control of Wood Destroying Pests, adopted on 10/01/2026 and effective 4/01/2027.

The Regents of New Mexico State University approved, at its 10/01/2026 meeting, to repeal rule 21.17.53 NMAC – Continuing Education Units for Pesticide Applicators, filed 12/01/1996, and replace it with 21.17.53 NMAC- Continuing Education Units for Pesticide Applicators, adopted on 10/01/2026 and effective 4/01/2027.

The Regents of New Mexico State University approved, at its 10/01/2026 meeting, to repeal rule 21.17.56 NMAC – Restricted-Use Pesticides, filed 12/01/1996, and replace it with 21.17.56 NMAC – Restricted-Use Pesticides, adopted on 10/01/2026 and effective 4/01/2027.

The Regents of New Mexico State University approved, at its 10/01/2026 meeting, to repeal rule 21.17.57 NMAC – M-44 Capsules and the Livestock Protection Collar, filed 5/16/1991, and replace it with 21.17.57 NMAC- M-44 Capsules and the Livestock Protection Collar, adopted on 10/01/2026 and effective 4/01/2027.

AGRICULTURE, DEPARTMENT OF

TITLE 21 AGRICULTURE AND RANCHING CHAPTER 17 PEST, DISEASE, AND WEED CONTROL PART 27 JAPANESE BEETLE EXTERIOR QUARANTINE

21.17.27.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture, MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007
[21.17.27.1 NMAC - Rp, 21.17.27.1 NMAC, 9/01/2027]

21.17.27.2 SCOPE: Part 27 shall apply to all persons transporting regulated articles into and through New Mexico.
[21.17.27.2 NMAC - Rp, 21.17.27.2 NMAC, 9/01/2027]

21.17.27.3 STATUTORY AUTHORITY: Granted to the board of regents of New Mexico state university under the Pest Control Act, Chapter 76, Article 6, Sections 1 through 9 NMSA 1978 compilations.
[21.17.27.3 NMAC - Rp, 21.17.27.3 NMAC, 9/01/2027]

21.17.27.4 DURATION: Permanent.
[21.17.27.4 NMAC - Rp, 21.17.27.4 NMAC, 9/01/2027]

21.17.27.5 EFFECTIVE DATE: September 1, 2027 unless a later date is cited at the end of a section.
[21.17.27.5 NMAC - Rp, 21.17.27.5 NMAC, 9/01/2027]

21.17.27.6 OBJECTIVE: Japanese beetle continues to be introduced into previously uninfested western states, primarily through the shipment of infested nursery stock originating from infested areas. Improper insecticide applications (timing, rate etc.), disregard of destination states' quarantines, and transshipment of nursery stock all contribute to Japanese beetle spread. The objective of Part 27, Chapter 17 is to reduce the risk of introducing Japanese beetle into New Mexico by requiring compliance agreements and state phytosanitary certificates associated with nursery stock shipments into New Mexico. Note that New Mexico does not recognize all elements of the Japanese beetle harmonization plan.
[21.17.27.6 NMAC - Rp, 21.17.27.6 NMAC, 9/01/2027]

21.17.27.7 DEFINITIONS:
A. "Board" means the board of regents of New Mexico state university or any officer or employee to whom authority to act in their stead has been or hereafter may be delegated.

B. "Compliance agreement" means a written and signed contract issued by the department to the origin state department of agriculture, exporting nursery and other parties. Compliance agreements shall state import

requirements, including phytosanitary certificate declarations, insecticide treatment requirements, and trapping protocols that will support the movement of regulated articles from quarantined areas to New Mexico.

C. “Department”

means the New Mexico department of agriculture.

D. “Director”

means the director of New Mexico department of agriculture.

E. “Free of soil”

means absence of soil or planting media in an amount that may harbor Japanese beetle as determined by the department.

F. “Gramineous”

means plants belonging to the poales order that display long, narrow (linear), grass-like leaves and grow with roots embedded in or in contact with soil or soilless media including ornamental grasses, sedges, rushes, and grass sod. For the purpose of this quarantine, gramineous excludes soilless plugs.

G. “Infested” means the presence of Japanese beetle or circumstances that indicate Japanese beetle may be present or the actual status of the presence of Japanese beetle is not determinable as determined by the department.

H. “Nongramineous”

means any plant that is not gramineous, as defined in 21.17.27.7 NMAC.

I. “Nursery”

means any location in which nursery stock is propagated, cultivated or maintained including sod farms.

J. “Phytosanitary

Certificate” an official document or equivalent issued by the origin state’s department of agriculture affirming compliance with quarantine rule or compliance agreement requirements.

K. “Transship”

means to ship nursery stock previously maintained or growing at a location other than the nursery exporting to New Mexico within the previous 12 months.

[21.17.27.7 NMAC - Rp, 21.17.27.7 NMAC, 9/01/2027]

21.17.27.8 JAPANESE BEETLE EXTERIOR QUARANTINE:

A. Pest: Japanese beetle, *Popillia japonica*.

B. Areas under quarantine: All states of the United States including the District of Columbia; and Canadian provinces of New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island and Quebec.

C. Any areas not listed in Subsection B of 21.17.27.8 NMAC where Japanese beetle has been found or areas where Japanese beetle is believed by the department to occur or their status has not been determined shall be included as an area under quarantine.

D. Regulated articles:

(1)

Japanese beetle in any living state of development.

(2) All

gramineous plants.

(3)

Nongramineous plants with roots and soil or soilless medium.

(4) Bulbs,

corms, tubers, and rhizomes, unless free of soil.

(5)

Unsterilized soil or soilless media.

(6) Any

other articles not covered by this subsection are regulated articles when determined by the department that they present a risk of introducing Japanese beetle into New Mexico.

[21.17.27.8 NMAC - Rp, 21.17.27.8 NMAC, 9/01/2027]

21.17.27.9 SHIPPING RESTRICTIONS

A. All regulated articles are prohibited entry into New Mexico from areas under quarantine without a current and signed compliance agreement. All shipments shall be accompanied by a copy of a valid compliance agreement and a phytosanitary certificate as stipulated in the compliance agreement.

B. Shipping

documents, phytosanitary certificates, and compliance agreements associated with regulated articles

shall be retained by the New Mexico nursery for at least 12 months after delivery. Documents shall be made available to the department upon request.

C. Transshipped regulated articles are prohibited entry into New Mexico unless it originates from a department approved nursery location or otherwise complies with requirements within an approved compliance agreement.

[21.17.27.9 NMAC - Rp, 21.17.27.9 NMAC, 9/01/2027]

21.17.27.10 COMPLIANCE AGREEMENT OPTIONS AND REQUIREMENTS: Compliance agreements may allow for shipments of regulated articles based on one of the following options:

A. Single-Nursery

Japanese Beetle Free Compliance

Agreement: Regulated articles including gramineous plants originating in locations not infested based on a department approved trapping program. Traps shall be monitored by the origin state department of agriculture, or a department approved third party. Trapping shall have been conducted during the entire previous Japanese beetle flight season at each growing location. Transshipment requirements shall be addressed in each compliance agreement. Transshipments may be allowed from a department approved location. Other requirements as stated by the department apply.

B. Areawide-Nursery

Japanese Beetle Free Compliance

Agreement: Regulated articles originating in an area, county or state not infested based on a department approved extensive and annual areawide trapping program. Traps shall be monitored by the origin state department of agriculture, or a department approved third party. Trapping shall have been conducted during the entire previous Japanese beetle flight season throughout the area covered under the compliance agreement and in proximity to exporting nurseries. Transshipments, shipments of gramineous plants, prevention measures and treatment

requirements shall be addressed in each compliance agreement. Requirements for insecticide treatments shall be based on current and previous Japanese beetle trapping data and shall be addressed within the compliance agreement and in accordance with 21.17.27.11 NMAC. Transshipments may be allowed from a department approved location. Shipment of sod into New Mexico is prohibited under this agreement. Other requirements as stated by the department apply.

C. Exclusionary Facility Compliance Agreement: Regulated articles including gramineous plants grown in certified Japanese beetle exclusion greenhouses located in an infested area or in an area in which the status of Japanese beetle is unknown. Greenhouses to be certified by origin state's department of agriculture as meeting requirements to exclude Japanese beetle. Inspections shall be made annually by the origin state's department of agriculture and inspection reports shall be made available to the department. Compliance agreements issued under this option shall cover only individual nurseries. Transshipment, shipments of gramineous plants, prevention measures and treatment requirements shall be addressed in each compliance agreement. Requirements for insecticide treatments shall be based on current and previous Japanese beetle trapping data and shall be addressed within the compliance agreement and in accordance with 21.17.27.11 NMAC. Transshipments may be allowed from a department approved location. Shipment of sod into New Mexico is prohibited under this agreement. Other requirements as stated by the department apply.

D. Infested Area Single-Nursery Compliance Agreement: Regulated articles grown in field or in a greenhouse not certified for exclusion in infested locations or in a location in which the status of Japanese beetle is unknown. All regulated articles shall be treated to destroy Japanese beetle infestations in accordance with 21.17.27.11

NMAC. Transshipments, shipments of gramineous plants, prevention measures and treatment requirements shall be addressed in each compliance agreement. Requirements shall include properly timed treatments and a department approved method (e.g., trapping program in the area, degree-day model validated for the area) for determination of first Japanese beetle emergence to ensure proper treatment timing. Compliance agreements issued under this option shall cover only individual nurseries. Shipment of gramineous plants including sod into New Mexico is prohibited under this agreement. Other requirements as stated by the department apply. [21.17.27.10 NMAC - N, 9/01/2027]

21.17.27.11 CHEMICAL TREATMENT REQUIREMENTS: Treatment of regulated articles as addressed in rule or compliance agreements shall be carried out according to the following requirements.

A. Active ingredients and method of application shall be approved by the department prior to application.

B. Applications shall be timed to ensure all hatching Japanese beetle larvae are eradicated. Timing shall be based on a department approved method (e.g., trapping program in the area, degree-day model validated for the area).

C. Nursery stock treated solely during or following flight period is prohibited from entering New Mexico.

D. Regulated stock requiring treatment must be accompanied by a phytosanitary certificate listing treatment active ingredient and method with the following additional declaration. "The rooted plants were treated to control *Popillia japonica* using a method approved by New Mexico Department of Agriculture."

E. Regulated stock requiring treatment and covered under a compliance agreement must list the compliance agreement number in the phytosanitary certificate. [21.17.27.1 NMAC - N, 9/01/2027]

21.17.27.12 EXCEPTIONS:

A. Houseplants maintained in the home and not for sale are exempt.

B. Nongramineous plants with roots and soil or soilless medium attached and growing in containers that have a horizontal diameter less than 78.5 square inches (i.e. 10 inch diameter pot) or shipped as "ball and burlap" with rootballs less than 10 inches in diameter can be shipped without a compliance agreement if they have been treated to destroy Japanese beetle infestations and are accompanied by a phytosanitary certificate. Treatments shall be carried out in accordance with 21.17.27.11 NMAC.

C. Soil samples of one pound or less which are packaged so that no soil will be spilled in transit are exempt.

D. Soil samples of any size collected and shipped to any United States army corps of engineers soil laboratory are exempt.

E. Exceptions may be granted or limited upon departmental review.

[21.17.27.12 NMAC - Rp, 21.17.27.10 NMAC, 9/01/2027]

21.17.27.13 DISPOSITION OF VIOLATIONS: Failure to comply with the Japanese beetle quarantine shall be subject to penalties as provided under Chapter 76, Article 6, Section 9, NMSA 1978. Any non-compliant regulated article will be subject to immediate quarantine and expulsion from the state or destruction under parameters set forth by the department, or other method of disposition as directed by the department that serves the best interest of the state. All mitigation methods including transportation, treatment and disposal of non-compliant regulated articles will be at the expense of the owners, agents or both and performed under the direction of the department. If necessary for the department to incur any cost associated with the disposition of non-compliant regulated articles, the owner, agents or both shall reimburse the

department for all costs, including attorney's fees and cost, incurred by the department. Reimbursement to the department is required within 30 days after notification via issuance of invoice requesting payment. If payment is not received within 30 days of notification, the department shall initiate legal action to collect or recuperate actual cost.

[21.17.27.13 NMAC - Rp, 21.17.27.11 NMAC, 9/01/2027]

21.17.27.14 FEES: Special inspections or other requested services provided by the department will be subject to fees as authorized under Sections 1 through 10 of 21.1.2 NMAC
[21.17.27.14 NMAC – N, 9/01/2027]

21.17.27.15 LIABILITY DISCLAIMER: The board disclaims liability for any costs incurred from inspection or compliance with the provisions of this rule.
[21.17.27.15 NMAC - Rp, 21.17.27.12 NMAC, 9/01/2027]

21.12.27.16 ADDITIONAL LAWS AND REGULATIONS: All regulated articles are further subject to the provisions of any other law, regulation, or regulatory order of the state of New Mexico, the United States or both now in effect or which may hereafter be promulgated.
[21.17.27.16 NMAC - N, 9/01/2027]

History of 21.17.27 NMAC:
21.17.27 NMAC - Japanese Beetle Exterior Quarantine, filed 6/30/2011 was repealed and replaced by 21.17.27 NMAC - Japanese Beetle Exterior Quarantine, effective 9/01/2027.

AGRICULTURE, DEPARTMENT OF

TITLE 21 AGRICULTURE AND RANCHING CHAPTER 17 PEST, DISEASE, AND WEED CONTROL PART 51 CONTROL OF WOOD DESTROYING PESTS

21.17.51.1 ISSUING AGENCY: New Mexico State University, New Mexico Department of Agriculture.
[21.17.51.1 NMAC - Rp. 21.17.51.1 NMAC, 04/01/2027]
[MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007]

21.17.51.2 SCOPE: Part 51 shall apply to all commercial applicators applying pesticides in structures for the control of wood destroying pests or persons making recommendations for pesticides for the control of wood destroying pests in structures.
[21.17.51.2 NMAC - Rp. 21.17.51.2 NMAC, 04/01/2027]

21.17.51.3 STATUTORY AUTHORITY: Granted to the board of regents of New Mexico state university under the New Mexico Pesticide Control Act, Chapter 76, Article 4, Sections 1 through 39, NMSA 1978 Compilation.
[21.17.51.3 NMAC - Rp. 21.17.51.3 NMAC, 04/01/2027]

21.17.51.4 DURATION: Permanent.
[21.17.51.4 NMAC - Rp. 21.17.51.4 NMAC, 04/01/2027]

21.17.51.5 EFFECTIVE DATE: April 01, 2027, unless a late date is cited at the end of a section.
[21.17.51.5 NMAC - Rp. 21.17.51.5 NMAC, 04/01/2027]

21.17.51.6 OBJECTIVE: The objective of Part 51 of Chapter 17 is to establish certification, supervision, and record keeping requirements for persons treating structures for wood destroying organisms, principally termites.
[21.17.51.6 NMAC - Rp. 21.17.51.6 NMAC, 04/01/2027]

21.17.51.7 DEFINITIONS:
[RESERVED]

21.17.51.8 TESTING AND EXPERIENCE REQUIREMENTS:
A. Certified applicators

shall have at least one year of experience in the classification of wood destroying pest control, have attended four hours of approved training and pass the required certification examination in category 7D, wood destroying pest control, and shall attend four hours of approved training annually thereafter.

B. Wood destroying pest operators shall have attended four hours of initial, approved training and pass a special test on the proper use for controlling wood destroying pests. Furthermore, wood destroying pest operators shall attend four hours of approved training annually thereafter.

C. Any person who performs inspections for wood destroying pests shall be licensed as a wood destroying pest operator, pest management consultant or commercial applicator in category 7D, and shall meet the training requirements in Subsection A of 21.17.51.8 NMAC.

D. Failure to meet the annual training requirements shall result in loss of certification in category 7D.
[21.17.51.1 NMAC - Rp. 21.17.51.9 NMAC, 04/01/2027]

21.17.51.9 DIRECT SUPERVISION: No pesticide shall be recommended, mixed or applied for the control of wood destroying pests except by an applicator, pest management consultant, public pest management consultant, or licensed wood destroying pest operator certified in category 7D, wood destroying pest control.
[21.17.51.9 NMAC - Rp. 21.17.51.1 NMAC, 04/01/2027]

21.17.51.10 RECORDS:

A. In addition to any other records required under the Pesticide Control Act, Chapter 76, Article 4, Sections 1 through 39, NMSA 1978 Compilation, each person certified in category 7D -- wood destroying pest control shall keep the following:

(1) name of the person for whom the pesticide was applied;

(2) mailing address of the person for whom the pesticide was applied;

(3) location of the treated property;

(4) brand name(s) and U.S. environmental protection agency registration number(s) of the pesticide(s);

(5) concentration expressed in percentage by weight and volume (gallons) of the pesticide applied;

(6) name of the certified applicator or wood destroying pest operator who was in direct supervision of the application at the job site;

(7) detailed drawing on graph paper of the foundation plan of the structure treated showing the type of building construction and the areas treated.

B. Records shall be accessible to the department for inspection and copying during normal business hours.

[21.17.51.10 NMAC - Rp.
21.17.51.10 NMAC, 04/01/2027]

HISTORY OF 21.17.51 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under: NMDA Rule 83-5, Control of Wood Destroying Pests, filed 12/13/1983. NMDA Rule 89-1, Control of Wood Destroying Pests, filed 3/30/1989.

History Of Repealed Material: [RESERVED]

Other History:

21.17.51 NMAC – Control of Wood Destroying Pests, filed 7/1/1997, was repealed and replaced by 21.17.51 NMAC – Control of Wood Destroying Pests, effective 04/01/2027.

AGRICULTURE, DEPARTMENT OF

TITLE 21 AGRICULTURE AND RANCHING CHAPTER 17 PEST, DISEASE, AND WEED CONTROL

PART 53 CONTINUING EDUCATION UNITS FOR PESTICIDE APPLICATORS

21.17.53.1 ISSUING

AGENCY: New Mexico State University, New Mexico Department of Agriculture

[21.17.53.1 NMAC – Rp, 21.17.53.1 NMAC, 04/01/2027]

[MSC 3189, Box 30005, Las Cruces, New-Mexico 88003-8005, Telephone No. (575) 646-3007]

21.17.53.2 SCOPE: This rule shall apply to all persons certified to use restricted-use pesticides -- commercial applicators, private applicators, public applicators and non-commercial applicators.

[21.17.53.2 NMAC – Rp, 21.17.53.2 NMAC, 04/01/2027]

21.17.53.3 STATUTORY

AUTHORITY: Granted to the board of regents of New Mexico state university under the New Mexico Pesticide Control Act, Chapter 76, Article 4, Sections 1 through 39, NMSA 1978 Compilation.

[21.17.53.3 NMAC – Rp, 21.17.53.3 NMAC, 04/01/2027]

21.17.53.4 DURATION:

Permanent.

[21.17.53.4 NMAC – Rp, 21.17.53.4 NMAC, 04/01/2027]

21.17.53.5 EFFECTIVE

DATE: April 01, 2027, unless a different date is cited at the end of a section or paragraph.

[21.17.53.5 NMAC – Rp, 21.17.53.5 NMAC, 04/01/2027]

21.17.53.6 OBJECTIVE:

The objective of Part 53 of Chapter 17 is to establish the mechanism for granting continuing education units for the recertification of private, commercial, non-commercial and public pesticide applicators.

[21.17.53.6 NMAC – Rp, 21.17.53.6 NMAC, 04/01/2027]

21.17.53.7 DEFINITIONS:

A. “Continuing education unit” (CEU) means a

credit granted for the attendance and successful completion of an approved training or educational workshop or seminar held for the certification or recertification of private, commercial, non-commercial or public pesticide applicators, and pest management consultants with the 7D category on their license.

B. “Certification period” means:

(1) the one year period following the year of issuance of a commercial, public, non-commercial applicator, or pest management consultant license;

(2) the five year period following the year of issuance of a private applicator license.

C. “Recertification training” means workshops, seminars, classes or similar educational forums with instruction on pesticide use approved by the New Mexico department of agriculture (NMDA);

D. “Core education” means training in basic safety, principles of integrated pest management, information on best management practices, and other similar topics as approved by NMDA. [21.17.53.7 NMAC – Rp, 21.17.53.7 NMAC, 04/01/2027]

21.17.53.8 RECERTIFICATION: The requirements contained in this section are the minimum required for recertification.

A. All commercial applicators, non-commercial applicators, public applicators, public pest management consultants, and pest management consultants (with a 7D Category) shall be recertified annually following the initial issuance of their license. Applicators and consultants shall recertify by one of the following methods:

(1) Complete the original certification requirements by passing each required examination with a score of seventy percent or above: or

(2) Participate in approved continuing education courses to accumulate a minimum of

four CEUs during the license year, to consist of one CEU in laws and rules, one CEU in Core education topics, and two CEUs in each category covered by their certification, other than Categories 7D, 9, and 10. Applicants certified in category 7D must comply with requirements listed in 21.17.51.8 NMAC. Applicants certified in Categories 9 or 10 will be recertified in those categories provided they earn the required CEUs in the other categories covered by their certifications.

(3)

Consultants, public or private, with a 7D category – participate in approved continuing education courses to accumulate a minimum of four CEUs during the license year in the category 7D as specified in 21.17.51.8 NMAC.

B. All operators shall be recertified annually following the issuance of their license. Operators shall recertify by one of the following methods:

(1) Complete the original certification requirements by passing each required examination with a score of seventy percent or above; or

(2) Participate in approved continuing education courses to accumulate a minimum of three CEUs during the license year, to consist of one CEU in laws and rules and two CEUs in Core education topics and/or category groups. Wood destroying pest operators must participate in a minimum of four CEUs in the wood destroying pests category to maintain that certification as listed in 21.17.51.8 NMAC.

C. All private applicants shall be recertified every five years following the issuance of their license. Private applicants shall recertify by one of the following methods:

(1) Complete the original certification requirements by passing each required examination with a score of seventy percent or above; or

(2) Participate in approved certification education courses to accumulate a minimum of five CEUs during the license period

of five years, to consist of two CEUs in laws and rules and three CEUs in Core education topics or category groups related to agricultural pest control.

D. Maximum CEUs: Applicants who earn 10 or more CEUs including one in laws and rules, one in Core education, and eight or more in certification categories will be eligible for certification in all their categories except 7D (Termite and other wood-destroying pests), 11A (Soil fumigation), 11B (Structural fumigation), and 12B (Predator control). [21.17.53.8 NMAC – Rp, 21.17.53.8 NMAC, 04/01/2027]

21.17.53.9 APPROVAL OF RECERTIFICATION TRAINING:

NMDA shall have final and sole authority in the awarding of CEUs for any approved educational program. CEUs shall be awarded only for core educational topics including safe, effective use of pesticides and the state and federal laws and rules governing pesticide use.

A. Persons seeking approval of educational programs for CEUs shall submit to NMDA for review, at least 15 days prior to the beginning date for the program, information on the program including a copy of the program complete with topics, copies of any handouts or other materials to be used in the program, detailed description of each topic for which CEUs are sought, the length of the presentation per topic, names and qualifications of speakers, and other information required by the director.

B. Persons sponsoring an approved educational program shall allow at least two NMDA employees to attend and monitor the program without payment of any registration fee.

C. Persons sponsoring recertification training shall complete and return to NMDA a copy of the meeting attendance roster no later than 10 days from the last day of the program.

D. One CEU shall be awarded for each hour of approved instruction or training.

E. One CEU shall be the smallest unit awarded.

F. Educational programs that fail to cover the topics submitted for recertification credit shall be subject to revocation of any awarded CEUs. [21.17.53.9 NMAC – Rp, 21.17.53.9 NMAC, 04/01/2027]

21.17.53.10

CATEGORY GROUPS FOR RECERTIFICATION: CEUs for recertification of categories shall be grouped. NMDA shall make the final determination, based on sponsors' descriptions of recertification training, as to what category or category group any approved educational program shall apply.

A. Category groups include:

(1)

Agricultural CEU group: Categories 1A, 1B, 1C, 2, 6B, PRAP

(2)

Ornamental and turf CEU group: Categories 3A, 3B, 2, 6B

(3) Structural

CEU group: Categories 7A, 7B

B. CEUs for recertification of the following categories shall not be grouped:

(1) 1D –

Aerial application,

(2) 4 – Seed

treatment,

(3) 5 – Aquatic

pests and weeds,

(4) 6A –

Industrial wood preservation,

(5) 7D –

Termite and other wood-destroying pests,

(6) 8 – Public

health pests,

(7) 11A – Soil

fumigation,

(8) 11B –

Structural fumigation,

(9) 11C –

Rodent burrow fumigation,

(10) 12A –

Wildlife pests,

(11) 12B –

Predator control, and

(12) 13 – Other

limited use.

C. Applicators may request a variance from the director in the event that limited training was available for a specific category during the license year. The request shall be made in writing within 30 days after the license expiration date. [21.17.53.10 NMAC – Rp, 21.17.53.10 NMAC, 04/01/2027]

21.17.53.11 AWARDING CONTINUING EDUCATION UNITS:

A. One CEU shall be awarded for each hour of approved instruction or training, except for the following.

(1) One CEU shall be the maximum awarded for any approved product sales meeting.

(2) One CEU shall be the maximum awarded for any approved in-house training program.

B. One hour of instruction or training shall be equal to at least 45 minutes of contact time.

C. One CEU shall be the smallest unit awarded.

D. CEUs shall be awarded only for topics relating to the safe effective use of pesticides and the laws and rules governing pesticide use.

E. Persons seeking approval of programs for CEUs shall submit, at least 15 days prior to the beginning date for the meeting, a copy of the program including: 1) topics; 2) short description of each topic; 3) length of presentation per topic; and 4) speakers.

F. Persons seeking approval of programs for CEUs shall allow at least two NMDA employees to attend any training program for purposes of monitoring the training without payment of any registration fee.

G. Persons awarded approval for CEUs for an approved program shall complete and return to NMDA a copy of the meeting attendance roster.

H. Attendance rosters must be submitted to NMDA no later than 10 days from the last day of the training workshop or seminar.

I. NMDA may accept CEUs from state or federal agencies on submittal of acceptable documentation. [21.17.53.11 NMAC – Rp, 21.17.53.11 NMAC, 04/01/2027]

HISTORY OF 21.17.53 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under: NMDA Rule 92-2, Continuing Education Units for Certified Applicators, filed 12/29/1992.

History of Repealed Material: [RESERVED]

Other History:

21.17.53 NMAC - Continuing Education Units for Pesticide Applicators, filed 12/01/1996, was repealed and replaced by 21.17.53 NMAC - Continuing Education Units for Pesticide Applicators, effective 04/01/2027.

AGRICULTURE, DEPARTMENT OF

**TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 17 PEST, DISEASE, AND WEED CONTROL
PART 56 RESTRICTED-USE PESTICIDES**

21.17.56.1 ISSUING

AGENCY: New Mexico State University, New Mexico Department of Agriculture [21.17.56.1 NMAC – Rp, 21.17.56.1 NMAC, 04/01/2027] [MSC 3189, Box 30005, Las Cruces, New-Mexico 88003-8005, Telephone No. (575) 646-3007]

21.17.56.2 SCOPE: This rule shall apply to all persons using, selling, or distributing restricted-use pesticides.

[21.17.56.2 NMAC – Rp, 21.17.56.2 NMAC, 04/01/2027]

21.17.56.3 STATUTORY AUTHORITY: Granted to the

board of regents of New Mexico state university under the New Mexico Pesticide Control Act, Chapter 76, Article 4, Sections 1 through 39, NMSA 1978 Compilation. [21.17.56.3 NMAC – Rp, 21.17.56.3 NMAC, 04/01/2027]

21.17.56.4 DURATION:

Permanent.

[21.17.56.4 NMAC – Rp, 21.17.56.4 NMAC, 04/01/2027]

21.17.56.5 EFFECTIVE

DATE: April 01, 2027, unless a later date is cited at the end of a section.

[21.17.56.5 NMAC – Rp, 21.17.56.5 NMAC, 04/01/2027]

21.17.56.6 OBJECTIVE: The objective of Part 56 of Chapter 17 is to establish the classification and restrictions for purchase and use of certain pesticides.

[21.17.56.6 NMAC – Rp, 21.17.56.6 NMAC, 04/01/2027]

21.17.56.7 DEFINITIONS: [RESERVED]

21.17.56.8 FEDERAL CLASSIFICATION OF

PESTICIDES: Any pesticide product or use classified for restricted-use by the U.S. environmental protection agency shall be classified for restricted use in New Mexico.

[21.17.56.8 NMAC – Rp, 21.17.56.8 NMAC, 04/01/2027]

21.17.56.9 USE OF PESTICIDE IN A MANNER INCONSISTENT WITH ITS LABELING:

It shall be unlawful to use any pesticide in a manner inconsistent with the directions on its labeling; provided, the term “inconsistent with the directions” shall not include:

A. applying a pesticide at any dosage, concentration, or frequency less than that specified on the labeling, provided this paragraph shall not apply to the use of termiticides;

B. applying a pesticide against any target pest not specified on the labeling if the application is

to the crop, animal, or site specified on the labeling, unless the U.S. environmental protection agency has required that the labeling specifically state the pesticide may be used only for the pests specified on the labeling and the U.S. environmental protection agency has determined the use of the pesticide against other pests would cause an unreasonable adverse effect on the environment;

C. mixing a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the labeling;

D. any use of a pesticide in conformance with sections 5, 18, or 24 of the federal Insecticide, Fungicide, and Rodenticide Act.
[21.17.56.9 NMAC – Rp, 2.17.56.9 NMAC, 04/01/2027]

21.17.56.10 PURCHASE OF RESTRICTED-USE PESTICIDES:

A. It shall be unlawful for any person other than a licensed, commercial, non-commercial, or public applicator or certified private applicator to purchase a federal or state restricted-use pesticide.

B. It shall be unlawful for a pesticide dealer to sell any restricted-use pesticide to any person who is not a certified applicator, provided individuals under the direct supervision of a certified applicator may receive and transport restricted-use pesticides for the certified applicator.
[21.17.56.10 NMAC – Rp, 2.17.56.10 NMAC, 04/01/2027]

21.17.56.11 STATE RESTRICTED-USE PESTICIDES:

The board disclaims liability for any costs incident to inspection or compliance with the provisions of this rule.

A. State restricted-use insecticides: **[REPEALED]**

B. State restricted-use herbicides: In order to prevent unreasonable adverse effects on the environment, all formulations of the herbicides listed in this section shall be classified for restricted use in New Mexico, provided their labels

or labeling contain directions for use on agronomic crops, range or pasture lands, rights-of-way, forest, or non-croplands. Those products labeled solely for use in ornamental, turf, or home garden plantings shall remain unrestricted.

(1) 2,4-D/2,4-Dichlorophenoxyacetic acid.

(2) 2,4-DB/4-(2,4-Dichlorophenoxy)butyric acid.
[21.17.56.11 NMAC – Rp, 2.17.56.11 NMAC, 04/01/2027]

21.17.56.12 [RESERVED]
[21.17.56.12 NMAC – Rp, 2.17.56.12 NMAC, 04/01/2027]

21.17.56.13 [RESERVED]
[21.17.56.13 NMAC – Rp, 2.17.56.13 NMAC, 04/01/2027]

21.17.56.14 [RESERVED]
[21.17.56.14 NMAC – Rp, 2.17.56.14 NMAC, 04/01/2027]

21.17.56.15 APPLICATOR RECORDS:

A. Any New Mexico licensed and certified pesticide applicator shall maintain the following records for two years for all pesticide applications:

(1) all records as required under 21.17.50.10 NMAC for restricted use pesticides;

(2) other records not listed above, when required by the worker protection standard, 40 code of federal regulations Part 170, under authority of the federal Insecticide, Fungicide, and Rodenticide Act; and

(3) other records not listed above, when required under the United States department of agriculture private applicator recordkeeping program.

B. For pesticide applications made by a commercial pesticide applicator, application information shall be exchanged in the timeframe and manner specified with any landowner who is an agricultural employer under 40 code of federal regulations Part 170, the federal worker protection standard.

[21.17.56.15 NMAC – Rp, 2.17.56.15 NMAC, 04/01/2027]

21.17.56.16 DEALER RECORDS [RESERVED]

[21.17.56.16 NMAC – Rp, 2.17.56.16 NMAC, 04/01/2027]

21.17.56.17 LIMITATION OF LIABILITY:

The board disclaims liability for any costs incident to inspection or compliance with the provisions of this rule.

[21.17.56.17 NMAC – N, 04/01/2027]

HISTORY OF 21.17.56 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under: DOA 73-8, Regulatory Order No.

1, Pesticide Regulations, filed 9/13/1973.

DOA 74-5, Regulatory Order No.

2, Pesticide Regulations, filed 4/10/1974.

DOA 75-5, Regulatory Order No.

3, Pesticide Regulations, filed 9/15/1975.

DOA 79-3, Regulatory Order No.

6, Establishes the Classification of Certain Pesticides, filed 11/29/1979.

DOA 80-4, Regulatory Order No.

6, Establishes the Classification of Certain Pesticides, filed 3/27/1980.

NMDA Rule No. 84-1, Restricted-Use Pesticides, filed 3/19/1984.

NMDA Rule No. 87-2, Restricted-Use Pesticides, filed 5/18/1987.

NMDA Rule No. 88-1, Restricted-Use Pesticides, filed 2/19/1988.

NMDA Rule No. 89-2, Restricted-Use Pesticides, filed 3/30/1989.

History of Repealed Material:

21 NMAC 17.56.11.1, State Restricted-Use Insecticides, repealed 12/1/1996.

21 NMAC 17.56.12, Restricted-Use, Hormone-Type Herbicide Permits, repealed 12/1/1996.

21 NMAC 17.56.13, Purchase of Restricted-Use, Hormone-Type Herbicide, repealed 12/1/1996.

21 NMAC 17.56.16, Dealer Records, repealed 12/1/1996.

[21 NMAC 17.56.14, Application of a Restricted-Use, Hormone-Type Herbicide in Regulated Counties, repealed 08/16/1910]

Other History:

21.17.56 NMAC - Restricted-Use Pesticides, filed 12/01/1996, was repealed and replaced by 21.17.56 NMAC - Restricted-Use Pesticides, effective 04/01/2027.

**AGRICULTURE,
DEPARTMENT OF**

**TITLE 21 AGRICULTURE
AND RANCHING
CHAPTER 17 PEST, DISEASE,
AND WEED CONTROL
PART 57 M-44 CAPSULES
AND THE LIVESTOCK
PROTECTION COLLAR**

21.17.57.1 ISSUING

AGENCY: New Mexico State University, New Mexico Department of Agriculture
[21.17.57.1 NMAC – Rp, 21.17.57.1 NMAC, 04/01/2027]
[MSC 3189, Box 30005, Las Cruces, New-Mexico 88003-8005, Telephone No. (575) 646-3007]

21.17.57.2 SCOPE: This rule shall apply to all persons using, selling or distributing M-44 capsules or livestock protection collars.
[21.17.57.2 NMAC – Rp, 21.17.57.2 NMAC, 04/01/2027]

21.17.57.3 STATUTORY AUTHORITY: Granted to the board of regents of New Mexico state university under the New Mexico Pesticide Control Act, Chapter 76, Article 4, Sections 1 through 39, NMSA 1978 Compilation.
[21.17.57.3 NMAC – Rp, 21.17.57.3 NMAC, 04/01/2027]

21.17.57.4 DURATION: Permanent.
[21.17.57.4 NMAC – Rp, 21.17.57.4 NMAC, 04/01/2027]

21.17.57.5 EFFECTIVE DATE: April 01, 2027, unless a

different date is cited at the end of a section.
[21.17.57.5 NMAC – Rp, 21.17.57.5 NMAC, 04/01/2027]

21.17.57.6 OBJECTIVE: The objective of Part 57 of Chapter 17 is to establish limitations and the parameters for selling, distributing or using M-44 capsules or compound 1080 in livestock protection collars.
[21.17.57.6 NMAC – Rp, 21.17.57.6 NMAC, 04/01/2027]

21.17.57.7 DEFINITIONS: In addition to the definitions contained in the Pesticide Control Act, 76-4-3, NMSA 1978, the following definitions shall also apply.

A. “Department” means the New Mexico department of agriculture.

B. “Livestock protection collar” means a collar-like device which contains the active ingredient sodium fluoroacetate (compound 1080) and is registered with the U.S. environmental protection agency (EPA) for the protection of livestock. The term “livestock protection collar” may be referred to as “LPC”.

C. “M-44 capsule” means the sodium cyanide capsule, registered with the EPA for use in the M-44 device.

D. “M-44 device” means the patented spring-operated device designed to eject the sodium cyanide in an M-44 capsule into the mouth of target organisms.
[21.17.57.7 NMAC – Rp, 21.17.57.7 NMAC, 04/01/2027]

21.17.57.8 PROHIBITED ACTS: It shall be unlawful:

A. to sell or transfer LPCs or M-44 capsules used in the M-44 device to persons not certified to use LPC or M-44 capsules respectively;

B. for any person to sell or transfer M-44 capsules unless licensed as an authorized M-44 pesticide dealer;

C. for any person to transfer LPCs except through the registrant;

D. to use LPCs or M-44 capsules without a copy of the label in the possession of the certified applicator;

E. to fill, load, or remove the toxicant from any LPC or M-44 capsule.

[21.17.57.1 NMAC – Rp, 21.17.57.1 NMAC, 04/01/2027]

21.17.57.9 LICENSING OF PERSONS USING M-44 CAPSULES OR LIVESTOCK PROTECTION COLLARS:

A. The LPC certification category is in addition to any other pesticide certification category. No other certification category covers the use of LPCs in the state.

B. The M-44 certification category is in addition to any other pesticide certification category. No other certification category covers the use of M-44 capsules in the state.

C. No person shall be certified or licensed to use LPCs or M-44 capsules unless they are a livestock producer, an employee of a livestock producer employed no less than six months per year, or work for a government animal damage control program.

D. Any person using LPCs or M-44 capsules shall be a certified applicator, with a current department issued license. No LPCs or M-44 capsules shall be applied under the direct supervision of any other certified applicator.

E. The department may require re-training or re-testing when any applicator fails to comply with the LPC or M-44 capsule label or labeling, New Mexico Pesticide Control Act or its rules.

[21.17.57.1 NMAC – Rp, 21.17.57.1 NMAC, 04/01/2027]

21.17.57.10 RECORDKEEPING, MONITORING AND REPORTING:

A. Each dealer or registrant shall maintain sales records for LPCs or M-44 capsules on forms prescribed by the department for at least two years after the date of sale,

and shall submit copies of those records annually to the department.

B. Where the department is the registrant, each order for registered M-44 capsules shall be accompanied by a record of livestock losses as specified in Section III, Subsection A of the M-44 label.

(1) Orders shall not be processed until a record of livestock predation is on file.

(2) Documented livestock losses shall not be older than 90 days prior to the date of the order for M-44 capsules, except that historic seasonal losses in a specified area shall be updated annually.

C. Dealer records shall include:

- (1) the date of sale or transfer;
- (2) license or certification number of each LPC or M-44 applicator who purchased or received a collar or M-44 capsules;
- (3) the number of LPCs sold or transferred;
- (4) the serial number of each LPC; and
- (5) the number of M-44 capsules sold or transferred.

D. Any applicator using LPCs shall maintain for a period of two years from the date of use the following records:

- (1) the serial number and quantity of the LPC attached to the livestock;
- (2) the pasture(s) where collared livestock were placed;
- (3) the dates of each attachment, inspection and removal;
- (4) the number and locations of livestock found with ruptured LPCs, and the apparent cause of the damage;
- (5) the number, dates and approximate location of LPCs lost;
- (6) the species, locations and dates of all animals suspected to have been killed by LPCs;
- (7) all suspected poisonings of humans,

domestic animals or non-target wild animals resulting from LPC use, and all other accidents involving the release of compound 1080;

(8) the number of LPCs in storage; and

(9) records of disposal of contaminated collars and carcasses including date and location of disposal.

E. Any applicator using M-44 capsules shall maintain for a period of two years from the date of use the following records:

- (1) copies of all Animal Damage Confirmation Reports submitted by the applicator for purchase or use of M-44 devices;
- (2) records of notification provided to local medical personnel per Section III, Subsection B of the label;
- (3) number of devices placed and their specific GPS coordinates for each M-44 device;
- (4) dates of placement, inspection, and removal for each M-44 device;
- (5) number and location of each M-44 device which have been discharged and the apparent reason for each discharge;
- (6) species of animals taken;
- (7) all accidents or injuries to humans or non-target animals;
- (8) current inventory of M-44 devices;
- (9) notification records of residences located on private land where M-44 devices are/were placed per Section IV, Subsection D of the label;
- (10) notification records related to occupied residences located within 0.5 miles of a M-44 device placement per Section IV, Subsection E of the label;
- (11) records related to written permissions from property owner per Section IV, Subsection F of the label; and
- (12) records related to disposal of damaged or unused M-44 devices.

F. Holders of private applicator licenses for M-44 sodium

cyanide capsules shall submit to the director by September 15, their field records on the use of the M-44 capsules for the preceding period of September 1 through August 31 as stated in 21.17.50.10 NMAC.

[21.17.57.1 NMAC – Rp, 21.17.57.1 NMAC, 04/01/2027]

21.17.57.11 ACCIDENT REPORTING:

A. Each in-state dealer or certified applicator shall report accidents involving any suspected or actual poisoning of threatened or endangered species or humans involving LPCs or M-44 capsules used in the M-44 device to the department within one working day by telephone. Phone 575-646-3007.

B. Each certified applicator shall report takings of domestic animals or non-target wild animals involving LPCs or M-44 capsules used in the M-44 device to the department within 30 days of the end of each calendar quarter. [21.17.57.1 NMAC – Rp, 21.17.57.1 NMAC, 04/01/2027]

HISTORY OF 21.17.57 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under: NMDA Rule No. 91-1, Livestock Protection Collar and the M-44 Device, filed 5/16/1991.

History of Repealed Material: [RESERVED]

Other History:

21.17.57 NMAC - M-44 Capsules and the Livestock Protection Collar, filed 5/16/1991, was repealed and replaced by 21.17.57 NMAC - M-44 Capsules and the Livestock Protection Collar, effective 04/01/2027.

AGRICULTURE, DEPARTMENT OF

TITLE 21 AGRICULTURE AND RANCHING CHAPTER 18 SEEDS, FEEDS, AND FERTILIZERS

PART 3 COMMERCIAL FEEDS

21.18.3.1 ISSUING

AGENCY: New Mexico State University, New Mexico Department of Agriculture.

[21.18.3.1 NMAC - Rp, 21.18.3.1 NMAC, 10/20/2026]

[MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007]

21.18.3.2 SCOPE: Part 3 shall apply to any person distributing commercial feeds in New Mexico. [21.18.3.2 NMAC - Rp, 21.18.3.2 NMAC, 10/20/2026]

21.18.3.3 STATUTORY

AUTHORITY: Granted to the board of regents of New Mexico state university under the New Mexico Commercial Feed Act, Chapter 76, Article 19A, Sections 1 through 17, New Mexico Statutes Annotated 1978.

[21.18.3.3 NMAC - Rp, 21.18.3.3 NMAC, 10/20/2026]

21.18.3.4 DURATION:

Permanent.

[21.18.3.4 NMAC - Rp, 21.18.3.4 NMAC, 10/20/2026]

21.18.3.5 EFFECTIVE

DATE: October, 20, 2026, unless a later date is cited at the end of a section.

[21.18.3.5 NMAC - Rp, 21.18.3.5 NMAC, 10/20/2026]

21.18.3.6 OBJECTIVE:

The objective of Part 3 of Chapter 18 is to protect the consumers of commercial feed products by establishing standards for their labeling, registration, and sale.

[21.18.3.6 NMAC - Rp, 21.18.3.6 NMAC, 10/20/2026]

21.18.3.7 DEFINITIONS:

A. The names and definitions for commercial feeds shall be the official definition of feed ingredients adopted by the association of American feed control officials, except as the department designates otherwise in specific cases.

B. The terms used in reference to commercial feeds shall be the official feed terms adopted by the association of American feed control officials, except as the department designates otherwise in specific cases.

C. The following commodities are hereby declared exempt from the definition of commercial feed, under the provisions of Section 76-19A-5A NMSA 1978: raw meat and loose salt when unground and when not mixed or intermixed with other materials: provided that these commodities are not adulterated within the meaning of Section 76-19A-8 NMSA 1978.

D. The definitions in Section 76-19A-2 NMSA 1978 shall apply in addition to the following:

(1) Principal display panel means the part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

(2) Ingredient statement means a collective and contiguous listing on the label of the ingredients of which the pet food or specialty pet food is composed.

(3) Immediate container means the unit, can, box, tin, bag, or other receptacle or covering in which a pet food or specialty pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers.

(4) All life stages means gestation/lactation, growth, and adult maintenance life stages for dogs, cats, and other mammals or adult (including breeding animals) and juvenile life stages for non-mammalian species.

(5) Family means a group of products, which are nutritionally adequate for any or all life stages based on their nutritional similarity to a lead product, which has been successfully test-fed according to an association of American feed control officials feeding protocol(s).

(6) Daily food means a specialty pet food product, other than a treat, food mixer or food supplement, for specialty pet

species with no recognized nutritional authority.

(7) Familiar household unit means a typical feeding unit in volume or count (e.g., can, measuring cup, treat, or piece).

(8) Food mixer means a pet or specialty pet food product that is intended to top, accompany, or contribute to a complete diet but is not generally intended to be a complete diet.

(9) Food supplement means a pet or specialty pet food product that is intended to supply specific nutrient(s) or other food components but is not a complete diet.

(10) Pet nutrition facts means a graphic box located on the label containing nutritional information for a pet food product.

(11) Specialty pet nutrition facts means a graphic box located on the label containing nutritional information for a specialty pet food product.

(12) Veterinary diet means a pet or specialty pet food product that is intended only to be used at the direction of and under the supervision of a licensed veterinarian.

(13) Raw milk means any milk or milk product, exclusive of USDA licensed veterinary biologics, from any species other than humans, that has not been pasteurized in accordance with processes recognized by the US food and drug administration.

(14) Prescription diet see Veterinary diet.

E. Department means the New Mexico department of agriculture.

[21.18.3.7 NMAC - Rp, 21.18.3.7 NMAC, 10/20/2026]

21.18.3.8 LABEL

FORMAT:

A. Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this regulation on the principal display panel of the product and in the following format:

(1) product name and brand name, if any,

as stipulated in Subsection A of 21.18.3.9 NMAC;

(2) if a drug is used, label as stipulated in Subsection B of 21.18.3.9 NMAC;

(3) purpose statement as stipulated in Subsection C of 21.18.3.9 NMAC;

(4) guaranteed analysis as stipulated in Subsection D of 21.18.3.9 NMAC;

(5) feed ingredients as stipulated in Subsection E of 21.18.3.9 NMAC and in 21.18.3.12 NMAC;

(6) directions for use and precautionary statements as stipulated in Subsection F of 21.18.3.9 NMAC and in 21.18.3.13 NMAC;

(7) name and principal mailing address of the manufacturer or person responsible for distributing the feed as stipulated in Subsection G of 21.18.3.9 NMAC;

(8) quantity statement.

B. Principal display panel:

(1) The information as required in Paragraphs (1), (2), (3), and (8) of Subsection A of 21.18.3.8 NMAC must appear in its entirety on the principal display panel.

(2) The information required by Paragraphs (4), (5), (6), and (7) of Subsection A of 21.18.3.8 NMAC shall be displayed in a prominent place on the feed tag or label, but not necessarily on the principal display panel. When a precautionary statement required by Paragraph (6) of Subsection A of 21.18.3.8 NMAC does not appear on the principal display panel, it must be referenced on the principal display panel with a statement such as "See back of label for precautions."

C. None of the information required by 21.18.3.8 NMAC shall be subordinated or obscured by other statements or designs.

D. Customer-formula feed shall be accompanied with the information prescribed in this regulation using labels, invoice, delivery ticket, or other shipping

document bearing the following information:

(1) the name and address of the manufacturer;

(2) the name and address of the purchaser;

(3) the date of sale or delivery;

(4) the customer-formula feed name and brand name if any;

(5) the product name and net quantity of each registered commercial feed and each other ingredient used in the mixture;

(6) the direction for use and precautionary statements as required by 21.18.3.13 NMAC and 21.18.3.14 NMAC.

(7) If a drug containing product is used:

(a) the purpose of the medication (claim statement);

(b) the established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with Subsection D of 21.18.3.10 NMAC. [21.18.3.8 NMAC - Rp, 21.18.3.8 NMAC, 10/20/2026]

21.18.3.9 LABEL INFORMATION: Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this regulation.

A. Product name and brand name, if any.

(1) The brand or product name must be appropriate for the intended use of the feed and must not be misleading. If the name indicates the feed is made for a specific use, the character of the feed must conform therewith. A commercial feed for a particular animal class must be suitable for that purpose.

(2) Commercial, registered brand, or trade names are not permitted in guarantees or ingredient listings and only in the product name of feeds produced by or for the firm holding the rights to such a name.

(3) The name of a commercial feed shall not be derived from one or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing any components of a mixture unless all components are included in the name: Provided that if any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as a part of the brand name or product name if the ingredients or combination of ingredients is quantitatively guaranteed in the guaranteed analysis, and the brand or product name is not otherwise false or misleading.

(4) The word "protein" shall not be permitted in the product name of a feed that contains added non-protein nitrogen.

(5) When the name carries a percentage value, it shall be understood to signify protein or equivalent protein content only, even though it may not explicitly modify the percentage with the word "protein": provided that other percentage values may be permitted if they are followed by the proper description and conform to good labeling practice. Digital numbers shall not be used in such a manner as to be misleading or confusing to the customer.

(6) Single ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients as recognized by the association of American feed control officials unless the department designates otherwise.

(7) The word "vitamin," or a contraction thereof, or any word suggesting vitamin can be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in Subsection C of 21.18.3.10 NMAC.

(8) The term "mineralized" shall not be used in the

name of a feed except for "TRACE MINERALIZED SALT." When so used, the product must contain significant amounts of trace minerals, which are recognized as essential for animal nutrition.

(9) The term "meat" and "meat by-products" shall be qualified to designate the animal from which the meat and meat by-products is derived unless the meat and meat by-products are made from cattle, swine, sheep and goats.

(10) If the commercial feed consists of raw milk, the words "Raw (blank) Milk" shall appear conspicuously on the principal display panel. (Blank is to be completed by using the species of animal from which the raw milk is collected.)

B. If a drug is used:

(1) The word "medicated" shall appear directly following and below the product name in type size no smaller than one-half the type size of the product name.

(2) Purpose statement as required in Subsection C of 21.18.3.9 NMAC.

(3) The purpose of medication (claim statement).

(4) An active ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with Subsection D of 21.18.3.10 NMAC.

C. Purpose statement:

(1) The statement of purpose shall contain the specific species and animal class(es) for which the feed is intended as defined in Subsection D of 21.18.3.9 NMAC.

(2) The manufacturer shall have flexibility in describing in more specific and common language the defined animal class, species, and purpose while being consistent with the category of animal class defined in Subsection D of 21.18.3.9 NMAC which may include, but is not limited to, weight range(s), sex, or ages of the animal(s) for which the feed is manufactured.

(3) The purpose statement may be excluded from the label if the product name includes a description of the species and animal class(es) for which the product is intended.

(4) The purpose statement of a premix for the manufacture of feed may exclude the animal class and species and state "For Further Manufacture of Feed" if the nutrients contained in the premix are guaranteed and sufficient for formulation into various animal species feeds and premix specifications are provided by the end user of the premix. (This section applicable to commercial feeds regulated under Item (x) of Subparagraph (b) of Paragraph (11) of Subsection D of 21.18.3.9 NMAC.)

(5) The purpose statement of a single purpose ingredient blend, such as a blend of animal protein products, milk products, fat products, roughage products, or molasses products may exclude the animal class and species and state "For Further Manufacture of Feed" if the label guarantees of the nutrients contained in the single purpose nutrient blend are sufficient to provide for formulation into various animal species feeds. (This section applicable to commercial feeds regulated under Item (x) of Subparagraph (b) of Paragraph (11) of Subsection D of 21.18.3.9 NMAC.)

(6) The purpose statement of a product shall include a statement of enzyme functionality if enzymatic activity is represented in any manner.

(7) The statement of purpose for single ingredient feeds shall be stated as "single ingredient feed" or "feed ingredient." The manufacturer of a single ingredient feed or feed ingredient shall have flexibility in describing in more specific and common language the intended use of the feed ingredient dependent on species and class.

(8) The purpose statement of a feed intended as a treat for a designated species (exclusive of pets and specialty pets)

shall include the words "treat" or "snack" and the intended species conspicuously on the principal display panel.

D. Guarantees - crude protein, equivalent crude protein from non-protein nitrogen, amino acids, crude fat, crude fiber, acid detergent fiber, calcium, phosphorus, salt, and sodium shall be the sequence of nutritional guarantees when such guarantee is stated. Other required and voluntary guarantees should follow in a general format such that the units of measure used to express guarantees (percentage, parts per million, international units, etc.) are listed in a sequence that provides a consistent grouping of the units of measure.

(1) Required guarantees for swine formula feeds.

(a)

animal classes:

- (i) pre-starter - 2 to 11 pounds;
- (ii) starter - 11 to 44 pounds;
- (iii) grower - 44 to 110 pounds;
- (iv) finisher - 110 to market weight;
- (v) gilts, sows, and adult boars;
- (vi) lactating gilts and sows;

(b)

guaranteed analysis for swine complete feeds and supplements (all animal classes):

- (i) minimum percentage of crude protein;
- (ii) minimum percentage of lysine;
- (iii) minimum percentage of crude fat;
- (iv) maximum percentage of crude fiber;
- (v) minimum and maximum percentage of calcium;
- (vi) minimum percentage of phosphorus;
- (vii) minimum and maximum percentage of salt (if added);
- (viii) minimum and maximum percentage

(b) guaranteed analysis for poultry complete feeds and supplements (all animal classes):

- (i) minimum percentage of crude protein;
- (ii) minimum percentage of lysine;
- (iii) minimum percentage of methionine;
- (iv) minimum percentage of crude fat;
- (v) maximum percentage of crude fiber;
- (vi) minimum and maximum percentage of calcium;
- (vii) minimum percentage of phosphorus;
- (viii) minimum and maximum percentage of salt (if added);
- (ix) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.

(b)
guaranteed analysis for beef complete feeds and supplements (all animal classes):

- (i) minimum percentage of crude protein;
- (ii) maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) when added;
- (iii) minimum percentage of crude fat;
- (iv) maximum percentage of crude fiber;
- (v) minimum and maximum percentage of calcium;
- (vi) minimum percentage of phosphorus;
- (vii) minimum and maximum percentage of salt (if added);
- (viii) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;
- (ix) minimum percentage of potassium;
- (x) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added);

(c)
guaranteed analysis for beef mineral feeds (if added):

- (i) minimum and maximum percentage calcium;
- (ii) minimum percentage of phosphorus;
- (iii) minimum and maximum percentage of salt;
- (iv) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;
- (v) minimum percentage of magnesium;
- (vi) minimum percentage of potassium;
- (vii) minimum copper in parts per million (ppm);

(viii) minimum selenium in parts per million (ppm);	(iii) minimum percentage of crude fat;	(iv) performance (including stallions);
(ix) minimum zinc in parts per million (ppm);	(iv) maximum percentage of crude fiber;	(b) guaranteed analysis for equine complete feeds and supplements (all animal classes):
(x) minimum vitamin A, other than precursors of vitamin A, in international units per pound.	(v) maximum percentage of acid detergent fiber (ADF);	(i) minimum percentage of crude protein;
(4) Required guarantees for dairy formula feeds.	(vi) minimum and maximum percentage of calcium;	(ii) minimum percentage of crude fat;
(a) animal classes:	(vii) minimum percentage of phosphorus;	(iii) maximum percentage of crude fiber;
(i) veal milk replacer - milk replacer to be fed for veal production;	(viii) minimum selenium in parts per million (ppm);	(iv) maximum percentage of acid detergent fiber (adf)
(ii) herd milk replacer - milk replacer to be fed for herd replacement calves;	(ix) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added);	(v) maximum percentage of neutral detergent fiber (ndf)
(iii) starter - approximately 3 days to 3 months;	(d) required guaranteed analysis for dairy mixing and pasture mineral (if added):	(vi) minimum and maximum percentage of calcium;
(iv) non-lactating dairy cattle: replacement dairy heifers, dairy bulls and dairy calves	(i) minimum and maximum percentage of calcium;	(vii) minimum percentage of phosphorus;
(v) lactating dairy cattle;	(ii) minimum percentage of phosphorus;	(viii) minimum copper in parts per million (ppm);
(vi) non-lactating dairy cattle;	(iii) minimum and maximum percentage of salt;	(ix) minimum selenium in parts per million (ppm);
(b) guaranteed analysis for veal and herd replacement milk replacer:	(iv) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;	(x) minimum zinc in parts per million (ppm);
(i) minimum percentage crude protein;	(v) minimum percentage of magnesium;	(xi) minimum vitamin A, other than the precursors of vitamin A, in international units per pound (if added).
(ii) minimum percentage crude fat;	(vi) minimum percentage of potassium;	(c) guaranteed analysis for equine mineral feeds (all animal classes):
(iii) maximum percentage of crude fiber;	(vii) minimum selenium in parts per million (ppm);	(i) minimum and maximum percentage of calcium;
(iv) minimum and maximum percentage calcium;	(viii) minimum vitamin A, other than the precursors of vitamin A, in international units per pound.	(ii) minimum percentage of phosphorus;
(v) minimum percentage of phosphorus;	(5) Required guarantees for equine formula feeds.	(iii) minimum and maximum percentage of salt (if added);
(vi) minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added);	(a) animal classes:	(iv) minimum and maximum percentage of sodium shall be guaranteed only when the total sodium exceeds that furnished by the maximum salt guarantee;
(c) guaranteed analysis for dairy cattle complete feeds and supplements:	(i) growing;	(v) minimum copper in parts per million (ppm);
(i) minimum percentage of crude protein;	(ii) broodmare;	
(ii) maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) when added;	(iii) maintenance;	

minimum selenium in parts per million (ppm);	(vi)	parts per million (ppm) (if added);	(xi)	minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).	(xi)
minimum zinc in parts per million (ppm);	(vii)	minimum selenium in parts per million (ppm);	(xii)	(8) Required guarantees for duck and geese formula feeds.	(a)
minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).	(viii)	minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).	(7) Required guarantees for sheep formula feeds:	animal classes:	(i)
(6) Required guarantees for goat formula feeds.	(a)	animal classes:	(a)	ducks: 1) starter - 0 to 3 weeks of age; 2) grower - 3 to 6 weeks of age; 3) finisher - 6 weeks to market; 4) breeder developer - 8 to 19 weeks of age; 5) breeder - 22 weeks to end of lay;	(i)
animal classes:	(a)	starter;	(i)	geese: 1) starter - 0 to 4 weeks of age; 2) grower - 4 to 8 weeks of age; 3) finisher - 8 weeks to market; 4) breeder developer - 10 to 22 weeks of age; 5) breeder - 22 weeks to end of lay.	(ii)
starter;	(i)	grower;	(ii)		
grower;	(ii)	finisher;	(iii)		
finisher;	(iii)	breeder;	(iv)		
breeder;	(iv)	lactating;	(v)		
lactating;	(v)	guaranteed analysis for sheep complete feeds and supplements (all animal classes):	(b)	guaranteed analysis for duck and geese complete feeds and supplements (for all animal classes):	(b)
guaranteed analysis for goat complete feeds and supplements (all animal classes):	(b)	minimum percentage of crude protein;	(i)	minimum percentage of crude protein;	(i)
minimum percentage of crude protein;	(i)	maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) when added;	(ii)	minimum percentage of crude fat;	(ii)
maximum percentage of equivalent crude protein from non-protein nitrogen (NPN) when added;	(ii)	minimum percentage of crude fat;	(iii)	maximum percentage of crude fiber;	(iii)
minimum percentage of crude fat;	(iii)	maximum percentage of crude fiber;	(iv)	minimum and maximum percentage of calcium;	(iv)
maximum percentage of crude fiber;	(iv)	minimum and maximum percentage of calcium;	(v)	minimum percentage of phosphorus;	(v)
maximum percentage of acid detergent fiber	(v)	minimum percentage of phosphorus;	(vi)	minimum and maximum percentage of salt (if added);	(vi)
minimum and maximum percentage of calcium;	(vi)	minimum and maximum percentage of salt (if added);	(vii)	minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee.	(vii)
minimum percentage of phosphorus;	(vii)	minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;	(viii)	(9) Required guarantees for fish complete feeds and supplements.	(a)
minimum and maximum percentage of salt (if added);	(viii)	minimum and maximum copper in parts per million (ppm) (if added, or if total copper exceeds 20 ppm);	(ix)	animal species shall be declared in lieu of animal class:	(i)
minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee;	(ix)	minimum selenium in parts per million (ppm);	(x)	trout;	(ii)
minimum and maximum copper in	(x)			catfish;	

species other than trout or catfish;	(iii)	in Paragraphs (1) through (9) of Subsection D of 21.18.3.9 NMAC shall include the following items, unless exempt in Paragraph (12) of Subsection D of 21.18.3.9 NMAC, in the order listed:	its intended purpose and guarantee those nutrients relevant to such stated purpose.
guaranteed analysis for all fish complete feeds and supplements:	(b)		(12) Required
minimum percentage of crude protein;	(i)		guarantees for treats (all animal classes and species, exclusive of pets and specialty pets):
minimum percentage of crude fat;	(ii)	(a) animal class(es) and species for which the product is intended.	(a)
maximum percentage of crude fiber;	(iii)	(b) guaranteed analysis:	Minimum percentage of crude protein
minimum percentage of phosphorus.	(iv)	(i) minimum percentage crude protein;	(b) Minimum percentage of crude fat
(10) Required		(ii) maximum or minimum percentage of equivalent crude protein from non-protein nitrogen as required in Subsection E of 21.18.3.10 NMAC;	(c) Maximum percentage of crude fiber
guarantees for rabbit complete feeds and supplements.		(iii) minimum percentage of crude fat;	(d)
animal classes:	(a)	(iv) maximum percentage of crude fiber;	Other guarantees, as needed to support nutrient content claims in the labeling as per Paragraph (3) of Section 76-19A-9A NMSA 1978, and in accordance with terminology, order of guarantees and units of expression as specified in Subsection D of 21.18.3.9 NMAC and 21.18.3.10 NMAC
grower - 4 to 12 weeks of age;	(i)	(v) minerals in formula feeds, to include in the following order: 1) minimum and maximum percentages of calcium; 2) minimum percentage of phosphorus; 3) minimum and maximum percentage of salt (if added); 4) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee; 5) other minerals;	(13) Exemptions.
breeder - 12 weeks of age and over;	(b)	(vi) minerals in feed ingredients - as specified by the official definitions of the association of American feed control officials;	(a) A
guaranteed analysis for rabbit complete feeds and supplements (all animal classes):		(vii) vitamins in such terms as specified in Subsection C of 21.18.3.10 NMAC;	mineral guarantee for feed, excluding those feeds manufactured as complete feeds and for feed supplements intended to be mixed with grain to produce a complete feed for swine, poultry, fish, and veal and herd milk replacers, is not required when:
minimum percentage of crude protein;	(i)	(viii) total sugars as invert on dried molasses products or products being sold primarily for their sugar content;	(i) the feed or feed ingredient is not intended or represented or does not serve as a principal source of that mineral to the animal; or
minimum percentage of crude fat;	(ii)	(ix) viable lactic acid producing microorganisms for use in silages in terms specified in Subsection G of 21.18.3.10 NMAC;	(ii) the feed or feed ingredient is intended for non-food producing animals and contains less than six and one-half percent total mineral.
minimum and maximum percentage of crude fiber (the maximum crude fiber shall not exceed the minimum by more than 5.0 units);	(iii)	(x) a commercial feed (e.g. vitamin/mineral premix, base mix, etc.) intended to provide a specialized nutritional source for use in the manufacture of other feeds, must state	(b) Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement.
minimum and maximum percentage of calcium;	(iv)		(c) Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, such as drug premixes, mineral or vitamin supplements, and molasses.
minimum percentage of phosphorus;	(v)		
minimum and maximum percentage of salt (if added);	(vi)		
minimum and maximum percentage of total sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee;	(vii)		
minimum vitamin A, other than precursors of vitamin A, in international units per pound (if added).	(viii)		
(11) The			
required guarantees of grain mixtures with or without molasses and feeds other than those described			

(d)

Guarantees for microorganisms are not required when the commercial feed is intended for a purpose other than to furnish these substances or they are of minor significance relating to the primary purpose of the product and no specific label claims are made.

(e)

The indication for animal class(es) and species is not required on single ingredient products if the ingredient is not intended, represented, or defined for a specific animal class(es) or species.

E. Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of Subsection 4 of Section 76-19A-9A NMSA 1978.

(1) The name of each ingredient as defined in the official publication of the association of American feed control officials, common or usual name, or one approved by the department.

(2) Collective terms for the grouping of feed ingredients as defined in the official definitions of feed ingredients published in the official publication of the association of American feed control officials in lieu of the individual ingredients; provided that:

(a)

when a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label;

(b)

the manufacturer shall provide the feed control official, upon request, with a list of individual ingredients, within a defined group, that are or have been used at manufacturing facilities distributing in or into the state.

(3) The registrant may affix the statement, "ingredients as registered with the state" in lieu of ingredient list on the label. The list of ingredients must be on file with the department. This list shall be made available to the feed purchaser upon request.

F. Directions for use and precautionary statements

or reference to their location if the detailed feeding directions and precautionary statements required by 21.18.3.13 NMAC and 21.18.3.14 NMAC appear elsewhere on the label.

G. Name, city, state, and zip code of the manufacturer or person responsible for distributing the feed.

H. Quantity statement.

(1) Net

quantity shall be declared in terms of weight, liquid measure, or count based on applicable requirements under the Fair Packaging and Labeling Act (Title 15 U.S.C. 1453).

(2) Net

quantity labeled in terms of weight shall be expressed both in pounds, with any remainder in terms of ounces or common or decimal fractions of the pound and in appropriate Si metric system units; or in the case of liquid measure, both in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint of quart and in appropriate Si metric system units.

(3) When the declaration of quantity of contents by count does not give adequate information as to the quantity of feed in the container, it shall be combined with such statement of weight, liquid measure, or size of the individual units as will provide such information.

[21.18.3.9 NMAC - Rp, 21.18.3.9 NMAC, 10/20/2026]

21.18.3.10 EXPRESSION OF GUARANTEES:

A. The guarantees for crude protein, equivalent crude protein from non-protein nitrogen, lysine, methionine, other amino acids, crude fat, crude fiber, and acid detergent fiber shall be in terms of percentage.

B. Mineral guarantees
(1) When the calcium, salt, and sodium guarantees are given in the guaranteed analysis, such shall be stated and conform to the following:

(a)

When the minimum is below two and a half percent the maximum shall not exceed the minimum by more than 0.5 percentage point.

(b)

When the minimum is two and a half percent but less than five percent the maximum shall not exceed the minimum by more than one percentage point.

(c)

When the minimum is above five percent or greater, the maximum shall not exceed the minimum by more than twenty percent of the minimum and in no case shall the maximum exceed the minimum by more than five percentage points.

(2) When

stated, guarantees for minimum and maximum total sodium and salt: minimum potassium, magnesium, sulfur, phosphorus, and maximum fluorine shall be in terms of percentage. Other minimum mineral guarantees shall be stated in parts per million (ppm) when the concentration is less than 10,000 ppm and in percentage when the concentration is 10,000 ppm (one percent) or greater.

(3) Products

labeled with a quantity statement (e.g., tablets, capsules, granules, or liquid) may state mineral guarantees in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with the quantity statement and directions for use.

C. Guarantees for minimum vitamin content of commercial feeds shall be listed in the order specified and are stated in mg/lb or in units consistent with those employed for the quantity statement unless otherwise specified:

(1) vitamin A, other than precursors of vitamin A, in international units per pound.

(2) vitamin D-3 in products offered for poultry feeding, in international chick units per pound.

(3) vitamin D for other uses, international units per pound.

(4) vitamin E, in international units per pound.

(5) concentrated oils and feed additive premixes containing vitamins A, D or E may, at the option of the distributor, be stated in units per gram instead of units per pound.

(6) vitamin B-12, in milligrams or micrograms per pound.

(7) all other vitamin guarantees shall express the vitamin activity in milligrams per pound in terms of the following: menadione; riboflavin; d-pantothenic acid; thiamine; niacin; vitamin B-6; folic acid; choline; biotin; inositol; p-amino benzoic acid; ascorbic acid; and carotene.

(8) Products labeled with a quantity statement (e.g., tablets, capsules, granules, or liquid) may state vitamin guarantees in milligrams per unit (e.g., tablets, capsules, granules, or liquids) consistent with the quantity statement and directions for use.

D. Guarantees for drugs shall be stated in terms of percent by weight, except:

(1) antibiotics, present at less than 2,000 grams per ton (total) of commercial feed shall be stated in grams per ton of commercial feed;

(2) antibiotics present at 2,000 or more grams per ton (total) of commercial feed, shall be stated in grams per pound of commercial feed;

(3) the term "milligrams per pound" may be used for drugs or antibiotics in those cases where a dosage is given in "milligrams" in the feeding directions.

E. Commercial feeds containing any added non-protein nitrogen shall be labeled as follows:

(1) For ruminants

(a) Complete feeds, supplements, and concentrates containing added non-protein nitrogen and containing more than five percent protein from natural sources shall be guaranteed as follows:

(i) crude protein, minimum, _____ %

(ii) This includes not more than _____ % equivalent crude protein from non-protein nitrogen.

(b) Mixed feed concentrates and supplements containing less than five percent protein from natural sources may be guaranteed as follows: equivalent crude protein from non-protein nitrogen, minimum, _____ %

(c) Ingredient sources of non-protein nitrogen such as urea, diammonium phosphate, ammonium polyphosphate solution, ammoniated rice hulls, or other basic non-protein nitrogen ingredients defined by the association of American feed control officials shall be guaranteed as follows:

(i) nitrogen, minimum, _____ %

(ii) equivalent crude protein from non-protein nitrogen, minimum, _____ %
(2) For non-ruminants

(a) Complete feeds, supplements, and concentrates containing crude protein from all forms of non-protein nitrogen, added as such, shall be labeled as follows:

(i) crude protein, minimum _____ %

(ii) this includes not more than _____ % equivalent crude protein which is not nutritionally available to (species of animal for which feed is intended).

(b) Premixes, concentrates, or supplements intended for non-ruminants containing more than one and one-quarter percent equivalent crude protein from all forms of non-protein nitrogen, added as such, must contain adequate directions for use and a prominent statement:

"WARNING: This feed must be used only in accordance with directions furnished on the label."

F. Mineral phosphatic materials for feeding purposes shall be labeled with the guarantee for minimum and maximum percentage of calcium (when present), the minimum percentage of phosphorus,

and the maximum percentage of fluorine.

G. Guarantees for microorganisms shall be stated in colony forming units per gram (CFU/g) when directions are for using the product in grams or in colony forming units per pound (CFU/lb) when directions are for using the product in pounds. A parenthetical statement following the guarantee shall list each species in order of predominance.

H. Guarantees for enzymes shall be stated in units of enzymatic activity per unit weight or volume, consistent with label directions. The source organism for each type of enzymatic activity shall be specified, such as: protease (*Bacillus subtilis*) 5.5 mg amino acids liberated/min./milligram. If two or more sources have the same type of activity, they shall be listed in order of predominance based on the amount of enzymatic activity provided.

I. Guarantees for dietary starch, sugars, and fructans for Commercial Feeds, other than customer-formula feed, Pet Food and Specialty Pet Food Products:

(1) A commercial feed which bears on its labeling a claim in any manner for levels of "dietary starch," "sugars," "fructans," or words of similar designation, shall include on the label:

(a) guarantees for maximum percentage of dietary starch and maximum percentage sugars, in the Guaranteed Analysis section immediately following the last fiber guarantee;

(b) a maximum percentage guarantee for fructans immediately following sugars, if the feed contains forage products.

(2) When such guarantees for dietary starch, sugars or fructans for commercial feeds appear on the label, feeding directions shall indicate the proper use of the feed product and a recommendation to consult with a veterinarian or nutritionist for a recommended diet. [21.18.3.10 NMAC - Rp, 21.18.3.10 NMAC, 10/20/2026]

21.18.3.11 SUBSTANTIATION OF NUTRITIONAL SUITABILITY:

A. A commercial feed, other than a customer-formula feed, shall be nutritionally suitable for its intended purpose as represented by its labeling.

B. If the department has reasonable cause to believe a commercial feed is not nutritionally suitable, the department may request the feed manufacturer to either submit an "Affidavit of Suitability" or an alternative procedure acceptable to the department, certifying the nutritional adequacy of the feed. The affidavit of suitability or alternate procedure of suitability shall serve as substantiation of the suitability of the feed.

C. If an affidavit of suitability or alternative procedure acceptable to the department is not submitted by the feed manufacturer within 30 days of written notification, the department may deem the feed adulterated in accordance with Section 76-19A-8M NMSA 1978 and order the feed removed from the marketplace.

D. The affidavit of suitability shall contain the following information:

- (1) the feed company's name;
 - (2) the feed's product name;
 - (3) the name and title of the affiant submitting the document;
 - (4) a statement that the affiant has knowledge of the nutritional content of the feed and based on valid scientific evidence the feed is nutritionally adequate for its intended purpose;
 - (5) the date of submission; and,
 - (6) the signature of the affiant notarized by a certified notary public.
- [21.18.3.11 NMAC - Rp, 21.18.3.11 NMAC, 10/20/2026]

21.18.3.12 INGREDIENTS:

A. The name of each ingredient or collective term for

the grouping of ingredients, when required to be listed, shall be the name as defined in the official definitions of feed ingredients as published in the official publication of the association of American feed control officials, the common or usual name, or one approved by the department.

B. The name of each ingredient must be shown in letters or type of the same size.

C. No reference to quality or grade of an ingredient shall appear in the ingredient statement of a feed.

D. The term "dehydrated" may precede the name of any product that has been artificially dried.

E. A single ingredient product defined by the association of American feed control officials is not required to have an ingredient statement.

F. Tentative definitions for ingredients shall not be used until adopted as official, unless no official definition exists or the ingredient has a common accepted name that requires no definition, (i.e. sugar) unless approved by the department.

G. When the word "iodized" is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.007% iodine, uniformly distributed.
[21.18.3.12 NMAC - Rp, 21.18.3.12 NMAC, 10/20/2026]

21.18.3.13 DIRECTIONS FOR USE AND PRECAUTIONARY STATEMENTS:

A. Directions for use and precautionary statements on the labeling of all commercial feeds and customer-formula feeds containing additives (including drugs, special purpose additives, or non-nutritive additives) shall:

- (1) be adequate to enable safe and effective use for the intended purposes by users with no special knowledge of the purpose and use of such articles; and
- (2) include, but not be limited to, all information described by all applicable regulations

under the Federal Food, Drug and Cosmetic Act.

B. Adequate directions for use and precautionary statements are required for feeds containing non-protein nitrogen as specified in 21.18.3.14 NMAC.

C. Adequate directions for use and precautionary statements necessary for safe and effective use are required on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound.

D. Raw milk distributed as commercial feed shall bear the following statement: "WARNING: NOT FOR HUMAN CONSUMPTION - THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA." This statement shall be displayed in a conspicuous manner and shall not be smaller than the height of the minimum font required by the Federal Fair Packaging and Labeling Act for the quantity statement as shown in the following table:

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Panel Size	Minimum Warning Statement Type Size
≤ 5 in. ²	1/16 in.
$>5-\leq 25$ in. ²	1/8 in.
$>25-\leq 100$ in. ²	3/16 in.
$>100-\leq 400$ in. ²	1/4 in.
>400 in. ²	1/2 in.

E. Distribution of raw milk for use as commercial feed for any species shall be decharacterized with food coloring approved by the Federal Food, Drug, and Cosmetic Act, according to 21 CFR §§ 73.1 et seq. and 21 CFR §§ 74.101 et seq. or in the case of raw milk labeled as organic, approved by the US Department of Agriculture;

(1) Not affect nutritive value;

(2) Matches the color on the Color Requirement card. Any person decharacterizing milk and milk products may obtain a Color Requirement card from the New Mexico department of agriculture.

F. Milk or milk products intended for commercial feed shall not be displayed, sold, or stored at premises where food is sold or prepared for human consumption, unless it meets Grade A standards or is decharacterized and properly labeled as required by 21.18.3.8 NMAC.

[21.18.3.13 NMAC - Rp, 21.18.3.13 NMAC, 10/20/2026]

21.18.3.14 NON-PROTEIN NITROGEN:

A. Urea and other non-protein nitrogen products defined in the official publication of the association of American feed control officials are acceptable ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein. If the commercial feed contains more than 8.75% of equivalent crude protein from all forms of non-protein nitrogen, added as such, or the equivalent crude protein from all forms of non-protein nitrogen, added as such, exceeds one third of the total

crude protein, the label shall bear adequate directions for the safe use of feeds and a precautionary statement: "CAUTION: USE AS DIRECTED."

The directions for use and the caution statement shall be in type of such size so placed on the label that they will be read and understood by ordinary persons under customary conditions of purchase and use.

B. Non-protein nitrogen ingredients defined in the official publication of the association of American feed control officials, when so indicated, are acceptable ingredients in commercial feeds distributed to non-ruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from non-protein nitrogen sources when used in non-ruminant rations shall not exceed one and one-quarter percent of the total daily ration.

C. On labels such as those for medicated feeds, which bear adequate feeding directions and warning statements, the presence of added non-protein nitrogen shall not require a duplication of the feeding directions or the precautionary statements as long as those statements include sufficient information to ensure the safe and effective use of this product due to the presence of non-protein nitrogen.

D. Feeding or use directions for those feeds in which more than fifty percent of the protein content is derived from non-protein nitrogen sources should include recommendations as to providing adequate supplies of drinking water, sources of energy, forages being fed, minerals, adaptation ("warm-up") periods and stress conditions when necessary.

[21.18.3.14 NMAC - Rp, 21.18.3.14 NMAC, 10/20/2026]

21.18.3.15 DRUG AND FEED ADDITIVES:

A. Prior to approval of a registration application or approval of a label for commercial feed which contain additives (including drugs, other special purpose additives, or non-nutritive additives) the distributor may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.

B. Satisfactory evidence of safety and efficacy of a commercial feed may be:

(1) when the commercial feed contains such additives, the use of which conforms to the requirements of the applicable regulation in the "Code of Federal Regulations, Title 21", or which are "prior sanctioned" or "informal review sanctioned" or "generally recognized as safe" for such use; or

(2) when the commercial feed is itself a drug as defined in Section 76-19A-21, NMSA 1978 and is generally recognized as safe and effective for the labeled use or is marketed subject to an application approved by the food and drug administration under Title 21 U.S.C. 360 b; or

(3) when one of the purposes for feeding a commercial feed is to impart immunity (that is to act through some immunological process) the constituents imparting immunity have been approved for the purpose through the Federal Virus, Serum and Toxins Act of 1913, as amended; or

(4) when the commercial feed is a direct fed microbial product and:

(a) the product meets the particular fermentation product definition; and

(b)

the microbial content statement, as expressed in the labeling, is limited to the following: "contains a source of live (viable) naturally occurring microorganisms;" this statement shall appear on the label; and

(c) the source is stated with a corresponding guarantee expressed in accordance with Subsection G of 21.18.3.10 NMAC;

(5) when

the commercial feed is an enzyme product and:

(a)

the product meets the particular enzyme definition defined by the association of American feed control officials; and

(b)

the enzyme is stated with a corresponding guarantee expressed in accordance with Subsection H of 21.18.3.10 NMAC.
[21.18.3.15 NMAC - Rp, 21.18.3.15 NMAC, 10/20/2026]

21.18.3.16 ADULTERANTS:

A. For the purpose of Section 76-19A-8A NMSA 1978, a commercial feed shall be deemed adulterated if:

(1) it bears

or contains any added poisonous, deleterious, or non-nutritive substance that is unsafe within the meaning of Section 406 of the federal Food, Drug and Cosmetic Act, other than one that is a pesticide chemical in or on a raw agricultural commodity or a food additive;

(2) it is or it

bears or contains any food additive that is unsafe pursuant to Section 409 of the federal Food, Drug and Cosmetic Act;

(3) it is a raw

agricultural commodity and it bears or contains a pesticide chemical that is unsafe within the meaning of Section 408 (a) of the federal Food, Drug and Cosmetic Act; provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of that act and

such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling the residue of the pesticide chemical remaining in or on such processed commercial feed shall not be deemed unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal that is unsafe within the meaning of Section 408 (a) of the federal Food, Drug and Cosmetic Act;

(4) it is or it

bears or contains any color additive that is unsafe within the meaning of Section 721 of the federal Food, Drug and Cosmetic Act;

(5) it is or it

bears or contains any new animal drug that is unsafe within the meaning of Section 512 of the federal Food, Drug and Cosmetic Act;

(6) it consists

in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for feed; or

(7) it has

been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or

(8) it is, in

whole or in part, the product of a diseased animal or of an animal that has died otherwise than by slaughter that is unsafe within the meaning of Section 402 (a)(1) or (2) of the federal Food, Drug and Cosmetic Act;

(9) its

container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

(10) it has been

intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to

Section 409 of the federal Food, Drug and Cosmetic Act;

B. For the purpose of Section 76-19A-8A NMSA 1978, the terms "poisonous or deleterious substances" include, but are not limited to, the following:

(1) Fluorine

and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.20% for breeding and dairy cattle; 0.30% for slaughter cattle; 0.30% for sheep; 0.35% for lambs; 0.45% for swine; and 0.60% for poultry.

(2) Fluorine

bearing ingredients when used in such amounts that they raise the fluorine content of the total ration (exclusive of roughage) above the following amounts: 0.004% for breeding and dairy cattle; 0.009% for slaughter cattle; 0.006% for sheep; 0.01% for lambs; 0.015% for swine, and 0.03% for poultry.

(3) Fluorine

bearing ingredients incorporated in any feed that is fed directly to cattle, sheep or goats consuming roughage with or without limited amounts of grain that results in a daily fluorine intake in excess of 50 milligrams of fluorine per 100 pounds of body weight.

(4) Soybean

meal, flakes, or pellets or other vegetable meals, flakes, or pellets which have been extracted with trichloroethylene or other chlorinated solvents.

(5) Sulfur

dioxide, sulfurous acid, and salts of sulfurous acid when used in or on feeds or feed ingredients which are considered or reported to be a significant source of vitamin B1 (Thiamine).

(6) Raw

leather residue from tanning or leather manufacturing.

C. All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as such to the ultimate consumer, shall be ground fine enough or otherwise treated to destroy the viability of

such weed seeds so that the finished product complies with 21.18.4.8 NMAC concerning prohibited weed seeds per pound and 21.18.4.9 NMAC concerning viable restricted weed seeds per pound.

[21.18.3.16 NMAC - Rp, 21.18.3.16 NMAC, 10/20/2026]

21.18.3.17 GOOD MANUFACTURING

PRACTICES: For the purposes of enforcement of Section 76-19A-8N NMSA 1978 the board adopts the following as current good manufacturing practices:

A. The regulations prescribing good manufacturing practices for type B and type C medicated feeds as published in the "Code of Federal Regulations, Title 21", Part 225, Sections 225.1 through 225.202.

B. The regulations prescribing good manufacturing practices for type A Medicated Articles as published in the "Code of Federal Regulations, Title 21," Part 226, Sections 226.1 through 226.115. [21.18.3.17 NMAC - Rp, 21.18.3.17 NMAC, 10/20/2026]

21.18.3.18 CERTAIN MAMMALIAN PROTEINS PROHIBITED IN RUMINANT FEED:

A. Pursuant to Section 76-19A-8A or 76-19A-8C, NMSA 1978, the board adopts the requirements of "Code of Federal Regulations, Title 21", 589.2000.

B. Pursuant to Section 76-19A-8A or 76-19A-8C, NMSA 1978, the board adopts the requirements of "Code of Federal Regulations, Title 21", 589.2001. [21.18.3.18 NMAC - Rp, 21.18.3.18 NMAC, 10/20/2026]

21.18.3.19 PET FOOD AND SPECIALTY PET FOOD LABEL FORMAT AND LABELING:

A. Pet food and specialty pet food shall be labeled with the following information:

(1) product name and brand name, if any, on the principal display panel as stipulated in 21.18.3.20 NMAC;

(2) a statement specifying the purpose of the products as stipulated in Subsection A of 21.18.3.21 NMAC;

(3) quantity statement, as defined in Subsection (1) of Section 76-19A-9A NMSA 1978 and Subsection H of 21.18.3.9 NMAC, by weight (pounds and ounces and metric), liquid measure (quarts, pints, and fluid ounces and metric), or by count on the principal display panel;

(4) pet Nutrition Facts or Specialty Pet Nutrition Facts as specified in 21.18.3.22 NMAC;

(5) ingredient statement as specified in Subsection A of 21.18.3.23 NMAC;

(6) feeding directions as required in 21.18.3.25 NMAC;

(7) name and address of the manufacturer or distributor as specified in 21.18.3.28 NMAC; and

(8) handling and Storage Instructions may be displayed as required in 21.18.3.29 NMAC.

B. When a pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information shall appear on the outer container or wrapper.

C. A vignette, graphic, or pictorial representation on a pet food or specialty pet food label shall not misrepresent the contents of the package.

D. The use of the word "proven" in connection with a label claim for a pet food or specialty pet food is not permitted unless the claim is substantiated by scientific or other empirical evidence.

E. No statement shall appear upon the label or labeling of a pet food or specialty pet food which makes false or misleading comparisons between that product and any other product.

F. A personal or commercial endorsement is permitted on a pet food or specialty pet food label provided the endorsement is not

false or misleading.

G. A statement on a pet food or specialty pet food label stating "improved," "new," or similar designation shall be substantiated and limited to 6 months production.

H. A statement on a pet food or specialty pet food label stating preference or comparative attribute claims shall be substantiated and limited to 1 year production, after which the claim shall be removed or re-substantiated.

I. Raw milk distributed as pet food or specialty pet food shall bear the following statement "WARNING: NOT FOR HUMAN CONSUMPTION - THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA." This statement shall be displayed in a conspicuous manner and shall not be smaller than the height of the minimum font required by the Federal Fair Packaging and Labeling Act for the net quantity statement as shown in the following table:

Continued Next Page

Panel Size	Minimum Warning Statement Type Size
≤ 5 in. ²	1/16 in.
$>5-\leq 25$ in. ²	1/8 in.
$>25-\leq 100$ in. ²	3/16 in.
$>100-\leq 400$ in. ²	1/4 in.
>400 in. ²	1/2 in.

J. When pet food or specialty pet food consists of raw milk, the words, “Raw [blank] Milk” shall appear conspicuously on the principal display panel (blank is to be completed by using the species of animal from which the raw milk is collected).

[21.18.3.19 NMAC - Rp, 21.18.3.19 NMAC, 10/20/2026]

21.18.3.20 PET FOOD AND SPECIALTY PET FOOD BRAND AND PRODUCT NAMES:

A. The names of the ingredient(s) used in the brand or product name or elsewhere on the product label shall appear in order of predominance by weight in the product. Names of flavors due to their varying intensity can be in any order.

B. The words “100%” or “All” or words of similar designation shall not be used in the brand or product name of a pet food or specialty pet food if the product contains more than one ingredient, not including water sufficient for processing, decharacterizing agents, or trace amounts of preservatives and condiments.

C. An ingredient or a combination of ingredients may form a part of the product name of a pet food or specialty pet food:

(1) When the ingredient(s) constitutes at least ninety-five percent of the total weight of the product. Water sufficient for processing may be excluded when calculating the percentage; however, the ingredient(s) shall constitute at least seventy percent of the total product weight.

(2) When any ingredient(s) constitutes at least twenty-five percent of the weight of the product, provided that:

(a) water sufficient for processing may be excluded when calculating the percentage; however, the ingredients(s) shall constitute at least ten percent of the total product weight; and

(b) a descriptor is used with the ingredient name(s); this descriptor shall imply other ingredients are included in the product formula; examples of descriptors include “dinner,” “platter,” “entrée,” “formula,” and “recipe”; and

(c) the descriptor shall be in the same size, style, and color print as the ingredient name(s).

(3) When a combination of ingredients, which are included in the product name in accordance with Subsection B of 21.18.3.20 NMAC, meets all of the following:

(a) Each ingredient constitutes at least three percent of the product weight, excluding water sufficient for processing; and,

(b) All such ingredient names appear on the label in the same size, style, and color print.

D. When the name of any ingredient appears in the product name of a pet food, specialty pet food, or elsewhere on the product label and includes a descriptor such as “with” or similar designation, the named ingredient(s) must each constitute at least three percent of the product weight exclusive of water for processing. If the names of more than one ingredient are shown, they shall appear in their respective order of predominance by weight in the product. The three percent minimum level shall not apply to claims for nutrients such as, but not limited to, vitamins, minerals, and fatty acids as well as condiments. The word “with,” or similar designation and named ingredients shall be in the same size, style, color, and case print and be of no greater size than:

Panel Size	Maximum “with claim” Type Size
< 5 sq. in.	1/8”
5-25 sq. in.	1/4”
25-100 sq. in.	3/8”
100-400 sq. in.	1/2”
400 sq. in +	1”

E. A flavor designation may be included as part of the product name or elsewhere on the label of a pet food or specialty pet food when the flavor designation meets all of the following:

(1) the flavor designation:

(a) conforms to the name of the ingredient as listed in the ingredient statement; or

(b) is identified by the source of the flavor in the ingredient statement; and

(2) the word “flavor” is printed in the same size type and with an equal degree of conspicuousness as the name of the flavor designation; and

(3) substantiation of the flavor designation, the flavor claim, or the ingredient source is provided upon request.

F. Contractions or coined names referring to ingredients shall not be used in the brand name of a pet food or specialty pet food unless it is in compliance with Subsections C, D or E of 21.18.3.20 NMAC.

G. Unless a pet food and specialty pet food is identified on the principal display panel as a stew, gravy, sauce, broth, aspic, juice, milk replacer, or other such name, the maximum moisture declared on a pet food or specialty pet food label shall not exceed seventy-eight percent or the natural moisture content of the ingredients, whichever is higher. [21.18.3.20 NMAC - Rp, 21.18.3.20 NMAC, 10/20/2026]

21.18.3.21 PURPOSE STATEMENT AND NUTRITIONAL ADEQUACY CLAIMS:

A. A statement identifying the purpose of a pet food or specialty pet food is required on the principal display panel of the label in accordance with the following:

(1) The purpose of a pet food or specialty pet food shall be stated as:

(a) “Complete [Species] Food” – for food

products intended to be the complete diet for all life stages and sizes of a pet or specialty pet in accordance with the unqualified claims in Subsection B of 21.18.3.21 NMAC;

(b) For food products intended to be the complete diet for a limited life stage or size of a pet or specialty pet in accordance with the qualified claims in Subsection C of 21.18.3.21 NMAC, one of the two following statements shall be used:

(i) Complete food for [blank] where the blank shall be filled with One or more of the following: 1) “adult [species];” 2) “puppies,” “kittens,” or “juvenile [species other than dog or cat];” 3) “puppies (<70 lb. As an adult);” 4) “dogs (except puppies >70 lb. As an adult);” or

(ii) Complete [blank] food where the blank shall be filled with One or more of the following: 1) “adult [species];” 2) “puppy,” “kitten,” or “juvenile [species other than dog or cat];” 3) “puppy (<70 lb. As an adult);” or 4) “dog (except puppies >70 lb. As an adult);”

(c) Veterinary diet for [species] – for food products intended to be used under veterinary supervision only in accordance with regulation pf4(d);

(d) “[species] treat” – for food products for pets or specialty pets, provided occasionally for enjoyment, training, entertainment, or other purposes, and not generally intended or represented to be a complete food or nutritional supplement;

(e) “[species] food supplement” – for food products for pets or specialty pets that are intended to supply specific nutrient(s) or other food components but are not a complete diet;

(f) “[species] food mixer” – for food products for pets or specialty pets that are intended to top, accompany, or contribute to a complete diet but are not generally intended or represented to be a complete diet; or

(g) “daily [specialty pet species] food” – for food products that are intended to be the daily diet for specialty pets where no recognized nutritional authority exists. A limited life stage may be indicated, i.e., “daily [specialty pet species] food for [juveniles or adults].”

(2) This purpose statement shall:

(a) appear within the bottom thirty percent of the area of the label principal display panel in lines generally parallel to the base on which the package rests as it is designed to be displayed and shall be repeated on the alternate principal display panel, if present. However, on packages having a principal display panel of 5 square inches or less, the requirement for placement within the bottom thirty percent of the area of the label panel shall not apply;

(b) be at least as large as the statement of net quantity, consistent with 16 CFR 500.21;

(c) appear in the same color and style as the statement of net quantity and on the same background color as the statement of net quantity; and

(d) be separated by at least a space equal to the height of the letter “n” used in the statement of net quantity from other printed label Information appearing above or below it and by at least a space equal to twice the width of the letter “n” of the style of type used in the quantity of contents statement from other printed label information appearing to the left or right of it.

B. The label of a pet food or specialty pet food which is intended for all life stages and sizes of the pet or specialty pet may make unqualified claims, directly or indirectly, such as “complete and balanced,” “perfect,” “scientific,” or “100% nutritious” if at least one of the following apply:

(1) the product meets the nutrient requirements for all life stages and sizes

Established by an Association of American feed control officials-recognized nutrient profile; or

(2) the product meets the criteria for all life stages as substantiated by completion of the appropriate Association of American feed control officials-recognized animal feeding protocol(s);

(a) unqualified claims of nutritional adequacy that include large size dogs (greater than 70 lb. As an adult) can be substantiated by completing the appropriate protocols using large size dogs; or

(b) can be substantiated by completing the appropriate protocols using dogs less than 70 lb. Adult weight while containing no more calcium and phosphorus than the maximum limits for large size dogs listed in the Association of American feed control officials dog food nutrient profiles; or

(3) the product is a member of a product family which is nutritionally similar to a lead product which contains a combination of ingredients that has been fed to a normal animal as the sole source of nourishment in accordance with the testing procedures established by Association of American feed control officials for all life stages, provided that:

(a) the nutritional similarity of the family product can be substantiated according to the procedures for establishing pet food product families developed by Association of American feed control officials; and

(b) the family product meets the criteria for all life stages; and

(c) under circumstances of reasonable doubt, the [state control official] may require the manufacturer to perform additional testing of the family product in order to substantiate the claim of nutritional adequacy.

C. The label of a pet food or specialty pet food which is intended for a limited purpose (such as size of dog) or a specific life stage, but not for all life stages and sizes,

may make qualified claims, directly or indirectly, such as “complete and balanced,” “perfect,” “scientific,” or “100% nutritious” when the product and claim meet both of the following:

(1) The claim is qualified with a statement of the limited purpose or specific life stage for which the product is intended or suitable, for example, “complete and balanced for puppies (or kittens).” The claim and the required qualification shall be juxtaposed on the same label panel and in the same size, style, and color print; and

(2) The product meets at least one of the following:

(a) the nutrient requirements for the limited purpose or specific life stage established by an Association of American feed control officials-recognized nutrient profile; or

(b) the criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate Association of American feed control officials-recognized animal feeding protocol(s);

(i) qualified claims of nutritional adequacy that include large size dogs can be substantiated by completing the appropriate protocols using large size dogs; or

(ii) can be substantiated by completing the appropriate protocols using dogs less than 70 lb. Adult weight while containing no more calcium and phosphorus than the maximum limits for large size dogs listed in the Association of American feed control officials dog food nutrient profiles; or

(c) the requirements of a product family which is nutritionally similar to a lead product which contains a combination of ingredients which, when fed for such limited purpose, will satisfy the nutrient requirements for such limited purpose and has had its capabilities in this regard demonstrated by adequate testing, and provided that:

(i) the nutritional similarity of the

family product can be substantiated according to the procedures for establishing pet food product families developed by Association of American feed control officials; and

(ii) the family product meets the criteria for such limited purpose; and

(iii) under circumstances of reasonable doubt, the department may require the manufacturer to perform additional testing for the family product to substantiate the claim of nutritional adequacy.

D. A product intended for use by, or under the supervision or direction of, a veterinarian shall clearly indicate the nutritional adequacy of the product in accordance with regulation Subparagraph (f) of Paragraph (3) of Subsection A of 21.18.3.22 NMAC or Subparagraph (f) of Paragraph (2) of Subsection B of 21.18.3.22 NMAC as would be required for any other pet food or specialty pet food.

E. A signed affidavit attesting that the product meets the requirements of Subsection B of 21.18.3.21 NMAC or Subsection C of 21.18.3.21 NMAC shall be submitted to the upon request.

F. If the nutrient content of a product does not meet those nutrient requirements established by an Association of American feed control officials-recognized nutrient profile, or if no requirement has been established by an Association of American feed control officials-recognized nutritional authority for the life stage(s) of the intended species, the claimed nutritional adequacy of the product shall be scientifically substantiated.

G. The following Association of American feed control officials-recognized nutritional authority, nutrient profile, and/or animal feeding protocol shall be acceptable as the basis for a claim of nutritional adequacy:

(1) As an Association of American feed control officials-recognized nutrient profile or nutritional authority:

(a)
For dogs, the Association of American feed control officials dog food nutrient profiles;

(b)
For cats, the Association of American feed control officials cat food nutrient profiles;

(c)
For specialty pets, the nutrient recommendations approved by the committee on animal nutrition of the national research council of the national academy of sciences, provided that, this nutrient recommendation is recognized only for the specific specialty pet for which the profile is intended.

(2) As an Association of American feed control officials-recognized animal feeding protocol(s), the Association of American feed control officials dog and cat food feeding protocols.

H. When the label of a pet food or specialty pet food includes a comparison of the nutrient content of the food with levels established by an Association of American feed control officials-recognized nutrient profile such as a table of comparison, a percentage, or any other designation referring to an individual nutrient or all of the nutrient levels, the following apply;

(1) The product shall meet the Association of American feed control officials-recognized nutrient profile; and

(2) The statement of comparison shall be preceded by a statement that the product meets the Association of American feed control officials-recognized profile; however, the statement that the product meets the Association of American feed control officials-recognized nutrient profile is not required provided that the nutritional adequacy statement as per regulation Paragraph (1) of Subsection B of 21.18.3.21 NMAC or Subparagraph (a) of Paragraph (2) of Subsection C of 21.18.3.21 NMAC appears elsewhere on the product label; and

(3) The statement of comparison of the

nutrient content shall constitute a guarantee and shall be in the nutrient guarantees within the pet or specialty pet nutrition facts; and

(4) The statement of comparison shall appear on the label separate and apart from the nutrient guarantees within the pet or specialty pet nutrition facts.
[21.18.3.21 NMAC - Rp, 21.18.3.21 NMAC, 10/20/2026]

21.18.3.22 PET AND SPECIALTY PET NUTRITION FACTS:

A. Pet Nutrition Facts shall be displayed in a prominent place on the label of all pet foods (including treats, food supplements, veterinary diets, and food mixers), but not necessarily on the principal display panel. The information shall be set off in a box by use of hairlines and shall be all black or one-color type, printed on a white or other neutral contrasting background so as to be clearly visible under the heading "Pet Nutrition Facts" that is centered in the top row of the box and twice the size of all other text in the box. A hairline rule that is centered between the lines of text shall separate "Pet Nutrition Facts" from the next line of text. The box contains the following required elements with all text the same size and style in the following order:

(1) the stated whole familiar household unit (e.g., can, measuring cup, treat, or piece), consistent with the feeding directions, and its weight in grams shall be right justified. This is set off by a bold line centered between this and the next line of text.

(2) a statement of calorie content, determined as specified in 21.18.3.26 NMAC shall include the following:

(a) the calorie content of the product shall be stated after the left justified heading:

(i) "Calories per [familiar household unit]†: [#]" when the calorie content is determined in accordance with

Paragraph (1) of Subsection A of 21.18.3.26 NMAC or

(ii) "Calories per [familiar household unit] (fed): [#]" when the calorie content is determined in accordance with 21.18.3.26(A)2 NMAC.

(b) Below the calorie content statement, the number of calories contributed by Protein, Fat, and Carbohydrate shall be declared, in that order, after "From:.". The "From:." line shall be indented to reflect that it is a component of the total calories on the line above. If the total calorie content of the product is determined by feeding trial in accordance with Paragraph (2) of Subsection A of 21.18.3.26 NMAC then "†" shall be declared immediately after the number of calories from carbohydrates. The determination of calories from protein, fat, and carbohydrate are as described in Subsection C of 21.18.3.26 NMAC. This is set off by a bold line centered between this and the next line of text.

(3) The nutrient guarantees shall appear under the headers "Nutrients" that is left justified to the edge of the box, "Guaranteed" that is right justified to a vertical hairline that runs from this line of text to the last guaranteed nutrient value, and "per [familiar household unit]" that is right justified to the edge of the box. The amount "per [familiar household unit]" for each nutrient is determined by multiplying the guaranteed amount (concentration) by the number of grams in the familiar household unit and shall include the resultant unit of such amount (e.g., grams, milligrams, or international units). The guarantees shall be listed in the following order with a hairline centered between each line of text:

(a) A pet food label shall list the following required guaranteed amounts, stated as a maximum or minimum, as appropriate:

(i) "Protein" is minimum percentage of crude protein;

(ii) “Fat” is minimum percentage of crude fat;	control officials Dog (or Cat) Food Nutrient Profiles following ash, if also listed, or moisture, if ash is not listed.	not been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size
(iii) “Total Carbohydrate†” is maximum percentage equal to $[100 - (\text{Crude Protein} + \text{Crude Fat} + \text{Moisture} + \text{Ash})]$;	(ii) guarantees for substances not listed in the Association of American feed control officials Dog (or Cat) Food Nutrient Profiles, or not otherwise	growing dogs; or 2) “Animal feeding tests using association of American feed control officials procedures substantiate that (Name of Product)
(iv) “Dietary Fiber” is maximum percentage of total dietary fiber. The dietary fiber guarantee shall be indented to reflect that it is a component of the total carbohydrate guarantee on the line above;	provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and be accompanied by an asterisk. For any such guarantees, a hairline shall be centered between the last and the next line of text; the disclaimer “*not recognized as an essential nutrient	provides complete and balanced nutrition for [blank].” (Blank is to be completed by using the stage or stages of the pet’s life tested, such as, gestation/lactation, growth, maintenance, or the words “All Life Stages”); or 3) “(Name of Product)
(v) “Moisture” is maximum percentage of moisture; and	by the association of American feed control officials Dog (or Cat) Food Nutrient Profiles” shall appear immediately after “†calculated value”.	provides complete and balanced nutrition for [blank] (Blank is to be completed by using the stage or stages of the pet’s life, such as gestation, lactation, growth, maintenance, or the words “All Life Stages”)
(vi) Maximum percentage of crude fat (“Fat”) shall be listed between the minimum percentage of crude fat and the maximum percentage “Total Carbohydrate” if required by Regulation PF9;	(f) The statement of nutritional adequacy shall appear immediately below the bold line separating it from the disclaimers which follow the guarantees:	and is comparable in nutritional adequacy to a product which has been substantiated using association of American feed control officials feeding tests.”
(vii) additional required or voluntary guarantees shall follow moisture or ash, if listed.	(i) a statement that the dog or cat food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation/ lactation, growth, maintenance, and all life stages. It shall be stated verbatim as one of the following: 1) (Name of product) is formulated to meet the nutritional levels established by the association of American feed control officials dog (or cat) food nutrient profiles for [blank]. (Blank is to be completed by using the stage or stages of the pet’s life, such as gestation/ lactation, growth, maintenance, or the words “All Life Stages”). For a dog food, when the blank includes the words “Growth” or “All Life Stages,” one of the following phrases must also be added verbatim to the end of the claim: “including growth of large size dogs (70 lb. or more as an adult)” if the product has been formulated to meet the levels of nutrients specifically referenced in the Dog Food Nutrient Profiles as being applicable to large size growing dogs. Or “except for growth of large size dogs (70 lb. or more as an adult)” if the product has	(ii) A nutritional or dietary statement for purposes other than those listed in Subsections B or C of 21.18.3.21 NMAC if the statement is scientifically substantiated; or
(b) When “Ash” is listed, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.		(iii) The statement: “This product is intended for intermittent or supplemental feeding only,” if a product does not meet the requirements of Subsections of B or C of 21.18.3.21 NMAC or any other special nutritional or dietary need and so is suitable only for limited or intermittent or supplementary feeding.
(c) When listed on the label of a dog or cat food product, guarantees for “Dietary Starch” and “Sugars” shall be stated as maximum guaranteed amounts. Neither guaranteed amount shall be listed without the other. The guaranteed amount for dietary starch shall follow dietary fiber with the same indentation. The guaranteed amount for sugars shall follow dietary starch with the same indentation.		B. Specialty Pet Nutrition Facts shall be displayed in a prominent place on the label of all specialty pet foods (including treats, food supplements, veterinary diets, and food mixers), but not necessarily on the principal display panel. The information shall be set off in a box by use of hairlines and shall be all black or one-color type, printed on a white or other neutral contrasting background so as to be clearly visible under the heading “Specialty Pet Nutrition Facts” that is centered in the top row of the box and twice the size of all other text in the box. A hairline
(d) The “†calculated value” shall appear immediately after the last guarantee below a bold line.		
(e) Other additional required or voluntary guarantees shall appear in accordance with the following:		
(i) guarantees for nutrients are in the same order and units of the nutrients in the Association of American feed		

rule that is centered between the lines of text shall separate “Specialty Pet Nutrition Facts” from the next line of text. The box contains the following required elements with all text the same size and style in the following order:

(1) The stated whole familiar household unit (e.g., can, measuring cup, treat, or piece), consistent with the feeding directions, and its weight in grams shall be right justified. This is set off by a bold line centered between this and the next line of text.

(2) The nutrient guarantees shall appear under the headers “Nutrients” that is left justified to the edge of the box, “Guaranteed” that is right justified to a vertical hairline that runs from this line of text to the last guaranteed nutrient values, and “per [familiar household unit]” that is right justified to the edge of the box. The amount “per [familiar household unit]” for each nutrient is determined by multiplying the guaranteed amount (concentration) by the number of grams in the familiar household unit and shall include the resultant unit of such amount (e.g., grams, milligrams, or international units). The guarantees shall be listed in the following order with a hairline centered between each line of text:

- (a) A specialty pet food label shall list the following required guaranteed amounts, stated as a maximum or minimum, as appropriate:
- (i) “Protein” is minimum percentage of crude protein;
 - (ii) “Fat” is minimum percentage of crude fat;
 - (iii) “Total Carbohydrate†” is maximum percentage equal to $[100 - (\text{Crude Protein} + \text{Crude Fat} + \text{Moisture} + \text{Ash})]$;
 - (iv) “Dietary Fiber” is maximum percentage of total dietary fiber. The dietary fiber guarantee shall be indented to reflect that it is a

component of the total carbohydrate guarantee on the line above; and

(v) “Moisture” is maximum percentage of moisture;

(vi) additional required or voluntary guarantees shall follow moisture or ash, if listed.

(b) When “Ash” is listed, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.

(c) When listed on the label of a specialty pet food product, guarantees for “Dietary Starch” and “Sugars” shall be stated as maximum guaranteed amounts. Neither guaranteed amount shall be listed without the other. The guaranteed amount for dietary starch shall follow dietary fiber with the same indentation. The guaranteed amount for sugars shall follow dietary starch with the same indentation.

(d) The “†calculated value” shall appear immediately after the last guarantee below a bold line.

(e) Other additional required or voluntary guarantees shall appear in accordance with the following:

(i) these guarantees shall follow ash, if also listed, or moisture, if ash is not listed;

(ii) guarantees for nutrients are in the same order and units of the nutrients in an association of American feed control officials-recognized nutrient profile for the intended animal species; however, if no species-specific association of American feed control officials-recognized nutrient profile is available, the order and units shall follow the same order and units of nutrients in the association of American feed control officials cat food nutrient profile;

(iii) for those specialty pet species with an association of American feed control officials-recognized nutrient profile for the intended animal species, guarantees for substances not listed

in that profile, or not otherwise provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and be accompanied by an asterisk. For any such guarantees, a hairline shall be centered between the last and the next line of text. The disclaimer “*not recognized as an essential nutrient by the [blank].” (Blank is to be completed by listing the specific association of American feed control officials-recognized nutrient profile) shall appear immediately after the last such guaranteed amounts. No such disclaimer shall appear unless an association of American feed control officials-recognized nutrient profile is available for the specific species of specialty pet.

(f) The statement of nutritional adequacy shall appear immediately below the bold line separating it from the guarantees as one of the following:

(i) for daily foods for those specialty pet species where no recognized nutritional authority exists, the statement: “This product is intended to be a daily food.”

(ii) for all other specialty pet foods:

- 1) A statement substantiating that the specialty pet food meets the requirements for nutritional adequacy in Subsections B or C of 21.18.3.21 NMAC by an association of American feed control officials-recognized nutritional authority. It shall be stated verbatim as the following: “(Name of product) is formulated to meet the nutritional levels established by [the association of American feed control officials-recognized authority] for [blank].” (Blank is to be completed by stating the species and the stage or stages of the specialty pet’s life.);
- 2) A nutritional or dietary claim for purposes other than those listed in Subsections B or C of 21.18.3.21 NMAC if the claim is scientifically substantiated; or
- 3) the statement: “This product is intended for intermittent or supplemental feeding only,” if a product is suitable only for limited or intermittent or supplementary feeding.

C. The “Pet Nutrition Facts” or “Specialty Pet Nutrition Facts” box of a pet food or a specialty pet food which is formulated as and represented to be a food supplement shall include all of the information required in Subsection A of 21.18.3.22 NMAC or Subsection B of 21.18.3.22 NMAC except that guarantees shall only be displayed on a per feeding unit (e.g., tablets, capsules, granules, or liquids) basis:

(1) for a food supplement that is intended to be a source of nutrients, guarantees shall appear for all nutrients that the product is intended to provide under the headers “Nutrients” that is left justified to the edge of the box and “per [feeding unit]” that is right justified to the edge of the box:

(a) for nutrients with an established requirement by an association of American feed control officials-recognized nutrient profile, minimum guarantees shall be declared in the same order and units (i.e., g, mg, or IU) specified in the association of American feed control officials-recognized nutrient profile for the intended species; or

(b) when no species-specific nutrient profile has been recognized by association of American feed control officials, minimum guarantees shall be declared in the same order and units (i.e., g, mg, or IU) specified in the association of American feed control officials cat food nutrient profiles; and

(c) guarantees for substances not listed in an association of American feed control officials-recognized nutrient profile for the intended animal species, or not otherwise provided for in these Regulations, shall immediately follow the listing of the recognized nutrients and be accompanied by an asterisk.

(i) For any such guarantees, a hairline shall be centered between the last and the next line of text;

(ii) the disclaimer “*not recognized as an essential nutrient by the

[blank].” (Blank is to be completed by listing the specific association of American feed control officials-recognized nutrient profile) shall appear immediately after the last such guaranteed amounts. No such disclaimer shall appear unless an association of American feed control officials-recognized nutrient profile is available for the specific species of specialty pet.

(2) For a food supplement that is intended to supply microorganisms and/or enzymes, guarantees shall be declared as stipulated in Subsection G and/or H of 21.18.3.11 NMAC on a per feeding unit (e.g., tablets, capsules, granules, or liquids) basis. The enzyme activity unit meaning should follow the disclaimer within the box.

D. The sliding scale method of expressing a guaranteed amount on a pet food or specialty pet food label (for example, “Protein 15–18% Min”) is prohibited.

E. Protein, fat, calculated total carbohydrate, or dietary fiber are not required when the pet food or specialty pet food is intended for purposes other than to furnish these substances or they are of minor significance relative to the primary purpose of the product, such as a mineral or vitamin supplement.

F. For small packages with a total printable area of more than 12 square inches and less than or equal to 40 square inches, all information required in Subsections A, B, or C of 21.18.3.22 NMAC shall appear, but may appear in a linear format. This information shall appear in one place without other intervening material. In the linear format, the required information shall:

(1) appear in the same order as required by Subsections A, B, or C of 21.18.3.22 NMAC but without the formatting described;

(2) text shall be all black or one-color type and all text shall be the same size and style, except that the heading “Pet Nutrition Facts” or “Specialty Pet Nutrition Facts” shall be bolded;

(3) the text shall be sufficiently large so as to be conspicuous and must not be smaller than 1/16 inch;

(4) the guaranteed amount shall appear immediately after the amount “per [familiar household unit]” for each nutrient with the guaranteed amount enclosed in parentheses and all units clearly identified;

(5) the following abbreviations may be used: Total Carbohydrate as “Carb†,” Dietary Fiber as “Fiber”.

G. For very small packages with a total printable area of less than or equal to 12 square inches, the information required elsewhere in 21.18.3.22 NMAC is not required to appear on the label. However, all information specified elsewhere in 21.18.3.22 NMAC for the particular product type shall be determined and shall be submitted to the department upon request. The following limited information is required to appear on the label:

(1) this information shall appear in one place without other intervening material;

(2) text shall be all black or one-color type and all text shall be the same size and style, except that the heading “Nutrition Facts” shall be bolded;

(3) the text shall be sufficiently large so as to be conspicuous and must not be smaller than 1/16 inch;

(4) for pet foods, only total calories are required and shall be stated as:

(a) “Cal (calc): [#]” when the Calorie content is determined in accordance with Paragraph (1) of Subsection A of 21.18.3.26 NMAC; or

(b) “Cal (fed): [#]” when the Calorie content is determined in accordance with Paragraph (2) of Subsection A of 21.18.3.26 NMAC.

(5) Guaranteed amounts shall be stated in weight per entire contents (e.g., grams per pouch). The following required guaranteed amounts stated

as a maximum or minimum, as appropriate:

- (a) “Protein” is crude protein;
- (b) “Fat” is crude fat;
- (c) “Carb” is calculated from $[100 - (\% \text{ Crude Protein} + \% \text{ Crude Fat} + \% \text{ Moisture} + \% \text{ Ash})]$;

(d) “Fiber” is total dietary fiber;

(e) “Moisture” is moisture; and

(f) additional required or voluntary guarantees shall follow moisture or ash, if listed, and shall comply with the requirements for such guarantees in Paragraph (3) of Subsection A of 21.18.3.22 NMAC or Paragraph (2) of Subsection B of 21.18.3.22 NMAC, as appropriate, except that they shall be stated in only in weight per entire contents.

[21.18.3.22 NMAC - Rp, 21.18.3.22 NMAC, 10/20/2026]

21.18.3.23 PET FOOD AND SPECIALTY PET FOOD INGREDIENTS:

A. Each ingredient of a pet food or specialty pet food shall be listed in the ingredient statement as follows:

(1) the names of all ingredients in the ingredient statement shall be shown in letters or type of the same size, style, and color, except where the defined name of the ingredient includes genus and species (e.g., microorganisms) which may be shown in italics;

(2) the ingredients shall be listed in descending order by their predominance by weight in non-quantitative terms, except if the ingredient is a vitamin and/or mineral premix, the premix may be declared in order of predominance by the name “vitamins” or “minerals,” as appropriate, followed by a parenthetical listing of all the vitamins and/or minerals in the premix, each in their order of predominance by weight as listed on the ingredient statement of the premix label;

(3) ingredients shall be listed and identified by the name established in the association of American feed control officials official Common or Usual Names and Definitions of Feed Ingredients, except any ingredient for which no association of American feed control officials ingredient name exists shall be identified by the common or usual name;

(4) any ingredient suitable for use in pet food or specialty pet food for which there is a codified standard of identity in Title 9 or 21 of the Code of Federal Regulations shall be declared in accordance with the applicable regulation, which includes the name of the standardized food followed by a parenthetical listing of its ingredients, if necessary, as provided in the regulation;

(5) the ingredients “meat,” “poultry,” “poultry by-products,” or “meat by-products” shall be qualified to designate the animal from which the ingredients are derived unless the meat or meat by-products are derived from cattle, swine, sheep, goats, or any combination thereof or the poultry or poultry meal are derived from chickens, turkeys, ducks, geese, guineas, ratites, or squabs, or any combination thereof. For example, ingredients derived from deer shall be listed as “venison” or “venison by-products;”

(6) for ingredients consisting of fish, “fish meal,” or “fish by-products,” the name of the ingredient may include “fish” without further specification of the type of the fish or if it bears a name descriptive of its kind (e.g., “ocean whitefish” or by using the acceptable market name(s) or common name (but not any vernacular or slang names) of the individual fish species in the ingredient as established by the FDA Seafood List), it must correspond thereto; and

(7) for purposes of ingredient labeling of pet food or specialty pet food, the ingredient “sugar” shall refer to sucrose, which is obtained from sugar

cane or sugar beets in accordance with the provisions in Title 21 of the Code of Federal Regulations. For all other labeling purposes outside the ingredient list, the term “sugar” shall be synonymous with “sugars” as defined in the Official Feed Terms.

B. Brand or trade names shall not be used in the ingredient statement.

C. Reference to quality or grade of an ingredient shall not appear in the ingredient statement.

D. If properly used as specified by the USDA National Organic Program (7 CFR Part 205), the term “organic” does not apply to Subsection C of 21.18.3.23 NMAC.

E. A reference to the nature, form, or other attribute of an ingredient shall be allowed in the ingredient statement when that attribute imparts a distinctive characteristic to the pet food or specialty pet food.

F. Any reference to the percentage of an ingredient or combination of ingredients, by symbol or word, in the brand or product name or elsewhere on a pet food or specialty pet food label, shall be based in relation to the total weight of all ingredients in the product.

(1) The names of the ingredient(s) shall appear in order of predominance by weight in the product, provided that names of flavors due to their varying intensity can be in any order.

(2) Where water sufficient for processing is excluded from the declared percentage, the exclusion of water shall be indicated in words juxtaposed to, the same style and color print, and at least one-half the print size of the stated percentage (e.g., “95% beef exclusive of water” or “95 percent chicken and liver exclusive of water”).

[21.18.3.23 NMAC - Rp, 21.18.3.23 NMAC, 10/20/2026]

21.18.3.24 PET FOOD AND SPECIALTY PET FOOD DRUGS AND ADDITIVES:

A. An artificial color may be used in a pet food or specialty pet food only if it has been shown to be harmless to pets or specialty pets. The permanent or provisional listing of an artificial color in the United States Food and Drug regulations as safe for use, together with the conditions, limitations, and tolerances, if any, incorporated therein, shall be deemed to be satisfactory evidence that the color is, when used pursuant to such regulations, harmless to pets or specialty pets.

B. Evidence may be required to prove the safety and efficacy or utility of a pet food or specialty pet food which contains additives or drugs, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food or specialty pet food may be established:

(1) when the pet food or specialty pet food contains such additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are “prior sanctioned” or “informal review sanctioned” or “Generally Recognized as Safe” for such use; or

(2) when the pet food or specialty pet food itself is a drug or contains a drug as defined in 76-19A-2I NMSA 1978 and is “generally recognized as safe and effective” for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 360(b).

C. When a drug is included in a pet food or specialty pet food, the format required by 21.18.3.9 A(2) NMAC for labeling medicated feeds shall be used.
[21.18.3.24 NMAC - Rp, 21.18.3.24 NMAC, 10/20/2026]

21.18.3.25 PET FOOD AND SPECIALTY PET FOOD FEEDING DIRECTIONS:

A. All pet foods and specialty pet foods shall bear feeding directions consistent with the purpose statement on the principal display panel.

B. Dog or cat food, including treats and food mixers, labeled as complete and balanced for any or all life stages as provided in Subsection B of 21.18.3.21 NMAC or Subsection C of 21.18.3.21 NMAC, except those pet foods labeled in accordance with Subsection D of 21.18.3.21 NMAC, shall list feeding directions on the product label. These directions shall be expressed in common terms and shall appear prominently on the label. Feeding directions shall, at a minimum, include the amount of familiar household unit of product per weight of dog (or cat). The frequency of feeding shall also be specified.

C. Specialty pet food, including treats and food mixers, labeled as complete and balanced for any or all life stages as provided in Subsection B of 21.18.3.21 NMAC or Subsection C of 21.18.3.21 NMAC or as a daily food, shall list feeding directions on the product label. These feeding directions shall be adequate to meet the feeding requirements of the intended species of specialty pet. These directions shall be expressed in common terms and shall appear prominently on the label. The frequency of feeding shall also be specified.

D. Food supplements shall list feeding directions on the product label that, at minimum, include the quantity of feeding unit (e.g., tablets, capsules, granules, or liquids) per weight of animal. The frequency of feeding shall also be specified.

E. When a pet food or specialty pet food is intended for use by or under the supervision or direction of a veterinarian, the statement: “Use only as directed by your veterinarian” may be used in lieu of feeding directions.
[21.18.3.25 NMAC - Rp, 21.18.3.25 NMAC, 10/20/2026]

21.18.3.26 DETERMINATION OF CALORIE CONTENT FOR PET FOODS:

A. The statement shall be determined in terms of

metabolizable energy (ME) on an “as fed” moisture basis by one of the following methods then converted to Calories (kcal) per the familiar household unit (i.e., can, measuring cup, treat, or piece):

(1) By calculation (indicated with a “†” in the Pet Nutrition Facts) using the following “Modified Atwater” formula: $ME (kcal/kg) = 10[(3.5 \times CP) + (8.5 \times CF) + (3.5 \times NFE)]$, where ME = metabolizable energy, CP = % crude protein “as fed,” CF = % crude fat “as fed,” NFE = % nitrogen-free extract (carbohydrate) “as fed,” and the percentages of CP and CF are the average values of these components in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product. The NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash (determined in the same manner as CP and CF); or

(2) in accordance with testing procedures determined by association of American feed control officials (indicated as “(fed)” in the Pet Nutrition Facts).

B. An affidavit shall be provided upon the request of the department substantiating that the Calorie content was determined by:

(1) Paragraph (1) of Subsection A of 21.18.3.26 NMAC in which case the summary data used in the calculation shall be included in the affidavit; or

(2) Paragraph (2) of Subsection A of 21.18.3.26 NMAC in which case the summary data used in the determination of Calorie content shall accompany the affidavit.

C. The Calories from protein, fat, and carbohydrate as required in the Pet Nutrition Facts are determined using the following calculation, then converted to Calories (kcal) per the familiar household unit (i.e., can, measuring cup, treat, or piece):

(1) Protein: ME (kcal/kg) = $10(3.5 \times \text{CP})$, where ME = metabolizable energy, CP = % crude protein "as fed" and the percentage of CP is the average value in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

(2) Fat: ME (kcal/kg) = $10(8.5 \times \text{CF})$, where ME = metabolizable energy, CF = % crude fat "as fed" and the percentage of CF is the average value in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

(3) Carbohydrate: ME (kcal/kg) = $10(3.5 \times \text{NFE})$, where ME = metabolizable energy, NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash; CP = % crude protein "as fed," CF = % crude fat "as fed" and the percentages are the average values of these components in the product as determined by sound scientific methods, such as, but not limited to scientifically accurate calculations made from the formula of the product or upon chemical analysis of the product.

D. Comparative claims shall not be false, misleading, or given undue emphasis and shall be based on the same methodology for the products compared.
[21.18.3.26 NMAC - Rp, 21.18.3.26 NMAC, 10/20/2026]

21.18.3.27 PET FOOD AND SPECIALTY PET FOOD DESCRIPTIVE TERMS:

A. Calorie terms (1) "Light" (a)

A dog food product which bears on its label the terms "light," "lite," "low calorie," or words of similar designation shall:

(i) contain no more than 3100 kcal ME/kg for products containing less than 20% moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for products containing 65% or more moisture; and

(ii) include on the label feeding directions which reflect a reduction in calorie intake consistent with the purpose.

(b) A cat food product which bears on its label the terms "light," "lite," "low calorie," or words of similar designation shall:

(i) contain no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and

(ii) include on the label feeding directions which reflect a reduction in calorie intake consistent with the purpose.

(2) "Less" or "reduced calories"

(a) A dog or cat food product which bears on its label a claim of "less calories," "reduced calories," or words of similar designation shall include on the label:

(i) the name of the product of comparison and the percentage of calorie reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and

(ii) the comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and

(iii) feeding directions which reflect a reduction in calories compared to feeding directions for the product of comparison.

(b) A comparison between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

B. Fat terms

(1) "Lean"

(a)

A dog food product which bears on its label the terms "lean," "low fat," or words of similar designation shall:

(i) contain no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture;

(ii) include on the product label in the guaranteed analysis: 1) A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Paragraph (3) of Subsection A of 21.18.3.22; and 2) A maximum crude fat guarantee which is no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture.

(b)

A cat food product which bears on its label the terms "lean," "low fat," or words of similar designation shall:

(i) contain a maximum percentage of crude fat which is no more than 10% crude fat for products containing less than 20% moisture, no more than 8% crude fat for products containing 20% or more but less than 65% moisture, and no more than 5% crude fat for products containing 65% or more moisture; and

(ii) include on the product label in the guaranteed analysis: 1) A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis

information as specified in Paragraph (3) of Subsection A of 21.18.3.22 NMAC; and 2) A maximum crude fat guarantee which is no more than 10% crude fat for products containing less than 20% moisture, no more than 8% crude fat for products containing 20% or more but less than 65% moisture, and no more than 5% crude fat for products containing 65% or more moisture.

(2) "Less" or "reduced fat"

(a) A dog or cat food product which bears on its label a claim of "less fat," "reduced fat," or words of similar designation, shall include on the label:

(i) the name of the product of comparison and the percentage of fat reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and

(ii) the comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and

(iii) a maximum crude fat guarantee in the guaranteed analysis immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in Paragraph (1) of Subsection A of 21.18.3.21 NMAC.

(b) A comparison on the label between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

C. Carbohydrate Terms
(1) "Low" Carbohydrate, Dietary Starch, and Sugars Claims. A claim of "low carbohydrates," "low dietary starch," "low sugars" (or a combination thereof) is not allowed.

(2) "Less" or "Reduced" Carbohydrates, Dietary Starch, and Sugars claims.

(a) A dog or cat food product that bears on its label a claim of "less" or "reduced [blank]" (blank is to be completed by using "carbohydrates," "dietary starch," or "sugars"), or words of similar designation, shall include on the label:

(i) The name of the product of comparison and the percentage of reduction in total dietary starch plus sugars (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label on which the term appears; and

(ii) the comparative statement printed in type of the same color and style and not less than one-half the size used in the claim; and

(iii) maximum guarantees for dietary starch and sugars as stated in Paragraph (3) of Subsection A of 21.18.3.22 NMAC.

(b) A comparison between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.
[21.18.3.27 NMAC - Rp, 21.18.3.27 NMAC, 10/20/2026]

21.18.3.28 PET FOOD AND SPECIALTY PET FOOD MANUFACTURER OR DISTRIBUTOR; NAME AND ADDRESS:

A. The label of a pet food or specialty pet food shall specify the business or corporate name and address of the manufacturer or distributor. This information shall appear under the header "Manufactured for (blank)," "Distributed by (blank)," or any other wording that expresses the facts, if the business whose name appears on the label is not the manufacturer. The statement of the place of business shall include the street address, city, state, and zip code; however, the street address may be omitted if such street address is shown in a readily accessible, widely published, and

publicly available resource, including but not limited to a printed directory, electronic database, or website.

B. When a person manufactures or distributes a pet food or specialty pet food in a place other than the principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such pet food or specialty pet food was manufactured or packaged or from where each package is to be distributed.

[21.18.3.28 NMAC - Rp, 21.18.3.28 NMAC, 10/20/2026]

21.18.3.29 HANDLING AND STORAGE INSTRUCTIONS:

A. A product which bears handling and storage instructions shall display such instructions under the bolded header "Handling and Storage Instructions:" that is separate and distinct from any feeding directions. A header is not required for small packages with a total printable area less than 40 square inches. If any graphics are used to support handling and storage instructions, only the following graphics may be included, with the handling and storage instructions section, as applicable. The graphics with color and accompanying text shall be obtained from the association of American feed control officials website.

Continued Next Page



B. The handling and storage instructions, if present, shall be displayed in a conspicuous manner so to render them likely to be read under typical conditions of use. Any use of the handling and storage instructions graphics shall be no smaller than:

Panel Size	Minimum Graphic Size (top of circle to bottom of text)
$\leq 40 \text{ in.}^2$	1/2 in.
$> 40 - \leq 100 \text{ in.}^2$	1 in.
$> 100 - \leq 400 \text{ in.}^2$	1 3/4 in.
$> 400 \text{ in.}^2$	2 in.

[21.18.3.29 NMAC - N, 10/20/2026]

21.18.3.30 REGISTRATION EXPIRATION DATE: For the purpose of Section 76-19A-4A, NMSA 1978, all registrations shall expire annually on December 31.

[21.18.3.30 NMAC - Rp, 21.18.3.29 NMAC, 10/20/2026]

21.18.3.31 INSPECTION FEES:

A. An inspection fee of twenty cents (\$0.25) per ton is hereby established to be effective on all commercial feeds sold; except that feed for which the department has not developed an inspection service at this time.

B. An inspection fee of twenty-five dollars (\$25.00) is hereby established for each brand of commercial feed distributed in individual packages of ten (10) pounds or less sold in New Mexico.

[21.18.3.31 NMAC - Rp, 21.18.3.30 NMAC, 10/20/2026]

21.18.3.32 SPAY AND NEUTER PROGRAM FEE:

A. Additional Fees.

In addition to the commercial feed registration fee, an additional annual spay and neuter program fee of one hundred dollars (\$100.00) shall be collected on each pet food registered with the department.

B. Exemptions

(1) A pet food manufacturer shall be exempt of the spay and neuter program fees upon submission of a notarized affidavit attesting that tax-year annual gross revenue from the distribution of pet food is no more than three million dollars. The spay and neuter program fee exemption affidavit shall be submitted to the department on a form furnished by the department.

(2) A pet food manufacturer shall be exempt of the spay and neuter program fees for a specific product upon submission of a notarized affidavit attesting that the specific product meets the definition of prescription diet. The spay and neuter program fee exemption affidavit shall be submitted to the department on a form furnished by the department.

C. Distribution, ninety-six percent of this additional fee collected shall be deposited with the state treasurer to credit the statewide spay and neuter subaccount of the animal care and facility fund. Four percent of this additional fee collected shall be distributed to the department to administer New Mexico Commercial Feed Act.

[21.18.3.32 NMAC - Rp, 21.18.3.31 NMAC, 10/20/2026]

HISTORY OF 21.18.3 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMDA Rule 73-2, Regulatory Order No. 4, Feed Regulations, filed 5/15/1973.

NMDA Rule 73-3, Regulatory Order No. 5, Commercial Feed Regulations, filed 5/15/1973.

NMDA Rule 73-3, Amendment No. 1, Regulatory Order No. 8, Commercial Feed Exemptions, filed 7/1/1976.

NMDA Rule 73-10, Regulatory Order No. 6, filed 11/27/1973.

NMDA Rule 76-5, Regulatory Order No. 7, Feed Inspection Fees, filed 9/28/1976.

NMDA Rule 84-2, Additional Requirements for Liquid Feed Labeling, filed 10/23/1984.

History of Repealed Material:

21.18.3 NMAC - Commercial Feeds, filed 05/12/2009 - Duration expired effective 9/30/2013.

21.18.3 NMAC - Commercial Feeds, filed 9/30/2013 was repealed and replaced by 21.18.3 NMAC – Commercial Feeds, effective October, 20, 2026.

AGRICULTURE, DEPARTMENT OF

This is an amendment to 21.17.50 NMAC, Sections 7 - 11, 13, 15, 17 - 22 and 25, effective April 01, 2027.

21.17.50.7 DEFINITIONS:

A. "Active

ingredient" means any ingredient which will prevent, destroy, repel, control or mitigate a pest or which will act as a regulator, defoliant or desiccant.

[B.] "Aircraft" means any fixed-wing aerial equipment or helicopter used to apply pesticides.

[C.] **Bait** means an edible material containing a pesticide attractive to a pest.

[D.] **Certified applicator**" means any person who has complied with the certification requirements established by the department to use or supervise the use of any pesticide covered by a valid license issued by the department.

[E.] **Competent** means properly qualified to perform

functions associated with pesticide application and/or use, the degree of capability required being directly related to the nature of the activity and the associated responsibility.

[F.] **Defoliant**

means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

[G.] **Desiccant**

means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

[H.] **Direct**

supervision" means verifiable instruction to a competent person as follows:

(1) detailed guidance for applying ~~and/or~~ and using the pesticide properly; ~~and~~

(2) provisions for contacting the certified applicator in the event ~~he~~ the certified applicator is needed; ~~or~~

(3) actual physical presence of a certified applicator when required by the label; and

(4) providing and maintaining records of WPS training of employees if you are a private applicator.

[I.] **Disposal**

means to abandon, deposit, inter, or otherwise discard of waste as a final action after its use has been achieved or a use is no longer intended.

[J.] **Fungus**

any ~~non-chlorophyll-bearing thallophyte (that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts) as, for example, rust, smut,~~ member of a kingdom of eukaryotic organisms that contain defined nuclei but lack chlorophyll, such as mushrooms, mildew, mold and yeast, except those on or in processed food, beverages, or pharmaceuticals.

[K.] **Ground**

equipment" means any equipment used to supply pesticides that is operated on the ground and is self-propelled, or is mounted, drawn, or transported by a tractor, truck or other vehicle, and that is:

(1) gravity

fed;

(2)

mechanically driven by chain, gears or belts; or

(3) obtains

power or pressure from a power-take-off or engine.

[L.] **Hazardous**

pesticide waste" means any pesticide waste in a concentration or quantity, or a waste pesticide container which the board declares to be hazardous to the public health and safety, domestic livestock or wildlife or property.

[M.] **Illegal residue**

means the amount of pesticide remaining in or on food or feed crops and crop by-products, or in meat, meat by-products, or in the fat or milk of animals in excess of tolerances established by the U.S. environmental protection agency (EPA).

[N.] **Inert ingredient**

means any ingredient which has no active properties.

[O.] **Manual**

equipment" means any pressurized or electrically operated equipment (excluding hand-sized pressurized containers containing pesticides) used to apply pesticides that is carried or drawn as a complete unit by the person who applies the pesticide.

[P.] **Open burning**

means the combustion of pesticide waste in any fashion other than by incineration in an incinerator approved and permitted by the New Mexico environment department and designed for that waste.

[Q.] **Open dumping**

means the placing of pesticide waste in a land site other than a sanitary landfill as defined herein.

[R.] **Operator**

[technician]" means any person who uses any pesticide as an employee of a commercial applicator.

[S.] **Permit**

means a written certificate of authority issued by the department to use or apply pesticides.

[T.] **Pest**

means any living organism injurious to other living organisms (except man and viruses, bacteria, or other microorganisms in or on other living

organisms other than plants) that is a vector of a disease, or is a parasite on another organism and includes, but is not limited to, organisms in the phyla, Platyhelminthes (flatworms, flukes, tapeworms), Nematelminthes (roundworms), Mollusca (snails), Annelida (earthworms), Arthropoda (centipedes, millipedes, spiders, mites, ticks, insects) and Chordata (fish, amphibians, reptiles, birds, mammals, excluding man).

[E:] T. “Pest control operator” means a commercial applicator certified in one or more of the license classification(s) 7A, 7B, 7C, or 7D of Paragraphs (10) through (13) of Subsection B of 21.17.50.8 NMAC.

[V:] U. “Pesticide waste” means any active or inert ingredient, or any combination thereof, of a labeled pesticide in either its packaged concentration or diluted for use which is intended for disposal. The term “pesticide waste” does not include any pesticide packaged in a form suitable for use in the household, or for agricultural use by a farmer or rancher.

[W:] V. “Protective equipment” means clothing, respirators, goggles or other equipment or materials used to shield an applicator against unintended exposure to pesticides.

[X:] W. “Public pest management consultant” means any individual who is employed by a governmental agency or municipality and who offers or supplies technical advice or makes recommendations to a user of restricted-use pesticides.

[Y:] X. “Sanitary landfill” means a land site for the disposal of wastes as specified under the environmental improvement board’s solid waste management regulations in such a manner so as to preclude hazards to public health and safety, domestic livestock or wildlife, and loss of property by utilizing the principles of engineering to confine the wastes to the smallest practical area and to cover with soil.

[Z:] Y. “Service container” means any container utilized to hold, store or transport a

pesticide concentrate or a pesticide use-dilution preparation other than 1) the original labeled container provided by the manufacturer or 2) the application equipment. Containers used for waste pesticides are not deemed to be service containers.

[AA:] Z. “Service vehicle” means any vehicle used to transport pesticide application equipment, or use-dilution preparation to the application site.

[BB:] AA. “Use-dilution preparation” means a pesticide preparation which is mixed with a diluent and at a rate specified on the label or labeling which produces the concentration of the pesticide provided on the registered label or labeling.

[CC:] BB. “Waste pesticide container” means any container intended for disposal which formerly held pesticides.

[DD:] CC. “Water dumping” means the disposal of pesticide waste in or on lakes, ponds, rivers, sewers, arroyos or any watercourse, except properly designed and constructed manmade facilities approved by the New Mexico environmental improvement division.

[EE:] DD. “Weed” means any plant which grows where not wanted.
[21.17.50.7 NMAC – Rp, 21.17.50.7 NMAC, 10/07/2025; A, 04/01/2027]

21.17.50.8 LICENSE CATEGORIES:

[A:] Certification categories: This section delineates the license categories and the scope of operations which may be performed under each category. These license categories represent the certification examinations taken by commercial, public and non-commercial applicators, pest management consultants and public pest management consultants.

[B:] License category and code number:

(1) A. 1A -- Agricultural [~~pest control~~] pests -- includes the use of pesticides for the control of insects [~~mites,~~ plant,] and other invertebrates, plant

diseases, nematodes, and [~~the use of soil fumigants, on agronomic crops~~] similar pests in agricultural sites.

(2) B. 1B -- Agricultural [~~weed control~~] weeds -- includes the use of pesticides for the control of undesirable plants [~~that compete with agricultural crops for water and plant nutrients and includes the use of~~] or as desiccants [~~, fumigants and~~] or defoliant in agricultural sites.

(3) C. 1C -- [~~Animal pest control~~] Pests of animals -- includes [~~spraying, dusting, dipping, or administering pesticides internally~~] the use of pesticides to control [~~pests such as~~] lice, mites, [bots,] fleas [and], flies [on] and other pests of pets [and], livestock or [treatment of] other animals, and the use of pesticides in places where animals are confined.

D. 1D -- Aerial Application -- includes the application of pesticides by manned or unmanned fixed or rotary wing aircraft.

(4) E. 2-- Forest [~~pest control~~] pests and weeds -- includes the [~~application~~] use of pesticides to control pests and weeds in forests [~~and~~] and forest nurseries [and forest seed producing areas].

(5) F. 3A -- Ornamental and turf [~~pest control: insecticides and fungicides~~] invertebrate and disease pests -- includes the use of pesticides to control [~~of insect~~] insects and [disease] other invertebrates, plant diseases, nematodes, and similar pests in [~~the maintenance and production of~~] ornamental [trees, shrubs, flowers and turf] sites such as lawns, landscapes, parks, golf courses, nurseries, and athletic fields.

(6) G. 3B -- Ornamental and turf [~~pest control: herbicides~~] weeds -- includes the use of pesticides to control [~~of undesirable vegetation in the maintenance and production of~~] weeds in ornamental [trees, shrubs, flowers and turf] sites such as lawns, landscapes, parks, golf courses, nurseries, and athletic fields.

(7) H. 4 -- Seed treatment -- includes the [~~treatment~~]

of] use of pesticides on plant seeds to control insects, plant diseases and other pests.

(8) L. 5 --

Aquatic [~~pest control~~] pests and weeds -- includes the [~~application of a pesticide to standing or running water~~] use of pesticides to control algae, undesirable fish and other aquatic organisms, excluding public health [~~pest control~~] pests, in aquatic sites.

J. 6A

-- Industrial wood preservation -- includes the use of pesticides to control wood destroying organisms such as insects or fungi in wood products before those products are used in construction, and to treat in place utility poles, pilings, bridge supports, and similar elements. Applicators shall demonstrate knowledge of common pests, application techniques, disposal, application equipment, calibration of equipment, label interpretation, and usage of pesticides as they relate to wood treatment.

(9) K. 6B

-- Right-of-way [~~pest control~~] and industrial weeds -- includes the use of pesticides to control [of] vegetation along public roads, electric powerlines, pipelines, railway rights-of-way, around oil [we] wells, storage areas, airports and similar areas.

(10) L. 7A --

Structural [~~pest control~~] invertebrate pests -- includes the use of pesticides other than gases to control [of household pests, fabric pests and stored product pest] household invertebrate pests in and around structures such as residences, schools, hospitals, offices, and other buildings.

(11) M. 7B --

Structural Vertebrate [~~animal control~~] pests -- includes the use of pesticides other than gases to control [of rodents, birds, [~~bats and predators of wildlife and domestic animals~~] and other vertebrate pests in and around structures such as residences, schools, hospitals, offices, warehouses, and other buildings.

(12) -- 7C

-- Fumigation -- includes the use

of gases such as methyl bromide, hydrogen cyanide and phosphine to control pests in structures, railroad ears, stored grain and similar areas.

(13) N. 7D --

(Termite and other) Wood destroying [~~pest control~~] pests -- includes the use of pesticides to control [of] termites, carpenter ants, [~~wood-boring or tunneling~~] beetles, fungi and other [~~organisms~~] pests which attack lumber in structures or sawed [lumber] timber.

(14) O. 8 --

Public health [~~pest control~~] pests -- includes the use of pesticides to control [of] pests such as mosquitoes, flies, fleas and other vectors that transmit human or animal diseases.

(15) P. 9 --

Regulatory [~~pest control~~] pests -- includes [~~state, federal or other governmental~~] the use of pesticides by federal or state employees [~~who~~] to control regulated [~~and/or~~] or quarantined pests. Applicators must hold at least one specific pest control category in addition to Regulatory pests.

(16) Q. 10A --

Demonstration [~~and research~~] pest control -- [~~includes:~~] Individuals who demonstrate to the public the proper use of restricted use pesticides. Applicator must hold at least one specific pest control category in addition to Demonstration.

(a) --

individuals who demonstrate to the public the proper use of restricted-use pesticides; or

(b) --

who conduct field research with pesticides;]

(17) R. 11 --

-- Other -- to be assigned by the director.] 10B -- Research pest control -- Individuals who conduct field research with pesticides. Applicator must hold at least one specific pest control category in addition to Research.

S. 11A --

Fumigation -- includes the use of fumigants to control pests in agricultural soil.

T. 11B --

Structural fumigation -- includes the use of

fumigants to control pests in and around structures such as residences, schools, hospitals, offices, and other buildings associated with human use, and pests of bulk commodities in structures such as rail cars, grain silos, or other confined spaces.

U. 11C --

Rodent burrow fumigation -- includes the use of fumigants to control burrowing rodent pests.

V. 12A --

Wildlife pests -- includes the use of pesticides to control rodents, birds, and other wildlife, other than predators, away from structures.

W. 12B --

Predator control -- the use of LPCs or M-44s to control predators of livestock, other domestic animals, or wildlife. Open only to permanent employees of government animal damage control agencies.

X. 13 --

Other Limited Use -- The use of a very limited number of specialized pesticides in or on a very limited number of sites and situations not adequately covered by other categories in this section. Requirements for this category shall be assigned by the director.

(1) 13A --

Cooling Tower -- Includes the use of pesticides to control microbial growth in water cooling towers. Applicators must demonstrate a practical knowledge of types of operating systems and characteristics that affect target organisms, application methods, and potential hazards associated with treatment methods and procedures used for control.

(2) 13B --

Grain Storage -- Includes the use of non-fumigant pesticides to control pests in grain storage areas. Applicators must demonstrate a practical knowledge of types of application methods, safety procedures, usage calculations, knowledge of common pests, label interpretation, proper protective equipment use and safety measures for working in grain storage sites.

(3) 13C --

Sewer Root Control -- Includes the use of pesticides to control roots growing in sewer pipes. Applicators must

demonstrate practical knowledge of label interpretation, regulations, application techniques, disposal, environmental impacts, integrated pest management, and usage calculations as they pertain to sewer root control.

(4) 13D – Zona

Stat – Includes the use of a restricted use pesticide for the control of wild horses in conservation programs.

Applicator must demonstrate a practical knowledge about the Zona Stat product, safety measures when using the Zona Stat product, application methods, and protective equipment requirements as well as label use restrictions and treatment timing.

[21.17.50.8 NMAC – Rp, 21.17.50.8 NMAC, 10/07/2025; A, 04/01/2027]

21.17.50.9 EXPIRATION

DATE OF LICENSES: The annual registration of pesticides and any licenses or certifications provided for in the Pesticide Control Act shall expire on the dates indicated in this section unless it has been revoked or suspended prior thereto by the director.

A. The annual pesticide or device registration shall expire on January 31 following issuance.

B. The annual pesticide dealer license shall expire on January 31 following issuance.

C. The annual pest management consultant license shall expire on January 31 following issuance.

D. The annual commercial applicator license shall expire on January 31 following issuance.

E. The annual [~~operator/technician~~] operator license shall expire on January 31 following issuance.

F. The annual non-commercial applicator license shall expire on January 31 following issuance.

G. The annual public applicator license shall expire on [~~January~~] January 31 following issuance.

H. The annual public pest management consultant license shall expire on January 31 following issuance.

I. The private applicator certification shall expire on January 31 five years following the year of issuance.

[21.17.50.9 NMAC – Rp, 21.17.50.9 NMAC, 10/07/2025; A, 04/01/2027]

21.17.50.10 RECORDS:

A. Each commercial applicator, non-commercial applicator and public applicator shall keep records for pesticides applied by them or persons under their direct supervision which shall include the following:

(1) name of the person for whom the pesticide was applied;

(2) target pest(s) and crop or site;

(3) year, month, day, and time the pesticide was applied;

(4) brand name or common name of the pesticide and U.S. environmental protection agency registration number(s) of the pesticide(s);

(5) direction and [estimated] velocity of the wind and the temperature at the application site at the time the pesticide was applied; this requirement shall not apply to application of baits in bait stations or pesticide applications in or [~~immediately adjacent to~~] bordering structures;

(6) concentration of the pesticide(s) applied; example: pounds, ounces or pints of pesticide formulation per gallon applied;

(7) volume of use-dilution preparation applied, if applied in categories 1A, 1B, 2, 3A, 3B, 5, 6, 7D and 8 as defined in Section 8. Total volume of all restricted use pesticides when applied for any license category;

(8) location of the land or city address to which pesticide was applied;

(9) if applicable, all aircraft identification numbers;

(10) name and address of the business or agency and the name of the individual making the application;

(11) License/certification number of persons making/supervising the pesticide application;

(12) Size of the area treated; and

(13) any other records required under 40 code of federal regulations 171.201(e).

B. Pesticide application records shall be completed and available to the department within 24 hours after the pesticide is applied.

C. Pesticide application records shall be kept for a period of two years from the date of the application of any pesticide. Upon request, in writing, the department shall be furnished with a copy of these records.

D. Upon written request, the customer shall be provided with a record of each application of pesticide applied to his land which includes all information given under Subsection A of 21.17.50.10 NMAC.

E. Holders of private applicator licenses for M-44 sodium cyanide capsules shall submit to the director by September 15, their field records on the use of the M-44 capsules for the preceding period of September 1 through August 31. [21.17.50.10 NMAC – Rp, 21.17.50.10 NMAC, 10/07/2025; A, 04/01/2027]

21.17.50.11 INSPECTION AND CARE OF EQUIPMENT:

A. Equipment used for applying pesticides by a commercial applicator shall be kept in good mechanical condition. Parts that show signs of wear or malfunction shall be replaced to prevent leakage and to assure uniform dispersal of the pesticide. Equipment, where applicable, shall be calibrated accurately to dispense the prescribed amount of pesticide. Hoses or parts

not suitable or not intended for use on spray equipment shall not be used.

B. Equipment to be licensed shall be inspected for, but not limited to, the following:

- (1) nozzle condition and function;
- (2) suitable type of hose;
- (3) tank condition;
- (4) hose and pipe connections and condition;
- (5) proper functioning of pressure regulators, if equipped;
- (6) proper functioning of emergency dump valve;
- (7) proper functioning of pump;
- (8) decal or license plate affixed to the equipment.

C. When the same equipment is used to apply different types of pesticides, it shall be cleaned thoroughly if:

- (1) an insecticide is used following the use of a herbicide or defoliant; or
- (2) residue from material used previously is not compatible with other pesticides to be used; or
- (3) a pesticide has been used that would cause an illegal residue on cultivated crops or processed food.

D. Equipment shall be cleaned in a manner that no residues remain that will cause injury to land, humans, desirable plants or animals when making subsequent application of pesticides.

E. A uniform mixture shall be maintained in the equipment at all times while applying pesticides.

F. Pesticides that remain in spray equipment after a job is completed, and for which no further legal use is intended, shall be disposed of in a manner [and location] that would not cause unreasonable adverse effects on the environment. Pesticides from any equipment shall not be dumped along public highways, into streams, or at any location that would cause

unreasonable adverse effects on the environment.

G. Bait boxes and watering stations placed by commercial applicators, non-commercial applicators, and public applicators shall be legibly marked with the business name of the commercial applicator or name of the public agency; the brand name or common name or chemical name of the pesticide or the active ingredient(s); the EPA registration number; and current phone number of the New Mexico poison control center in Albuquerque, New Mexico.

H. In food handling establishments rodenticides shall be placed in bait boxes or watering stations marked with the information required in Subsection G of 21.17.50.11 NMAC.

I. Service containers shall have affixed to them a legible label with the common name of the active ingredient(s) or the brand name of pesticide contained therein.

J. Securing pesticides and equipment on service vehicles: any container or portable application equipment containing pesticides or pesticide residues shall not be left unattended on a service vehicle unless the container or equipment is in a locked compartment or secured in such a manner so as to render it inaccessible to an unauthorized person.

[21.17.50.11 NMAC – Rp, 21.17.50.11 NMAC, 10/07/2025; A, 04/01/2027]

21.17.50.13 APPLICATION OF PESTICIDES:

A. A [icensed] certified applicator shall apply only those pesticides registered for use in New Mexico under his license category(s). Any person applying pesticides shall follow directions, rates and precautions stated on the approved label and labeling. Application or use of a pesticide in a manner inconsistent with the directions on the approved label and labeling shall constitute an illegal use of the pesticide. Restricted-use pesticides shall be applied only by

licensed certified applicators or persons under their direct supervision.

B. If a commercial pesticide applicator uses a liability insurance policy as proof of financial responsibility, the applicator shall not apply pesticides exempted in the policy.

C. Requirements for the certified applicator.

(1) The certified applicator must have a practical knowledge of applicable Federal, State, and Tribal supervisory requirements, including any requirements on the product label and labeling regarding the use of restricted use pesticides by non-certified applicators.

(2) The certified applicator must be certified in each category as set forth in 40 code of federal regulations 171.101 and 40 code of federal regulations 171.105(a) through (c) applicable to the supervised pesticide use.

D. The certified applicator must ensure that each non-certified applicator using a restricted use pesticide under his or her direct supervision meets all of the following requirements before using a restricted use pesticide:

(1) The non-certified applicator has satisfied the qualification requirements under paragraph (c) of 40 code of federal regulations 171.201.

(a) The non-certified applicator has been trained in accordance with 40 code of federal regulations 171.201(d) within the last 12 months.

(b) The non-certified applicator has met the training requirements for an agricultural handler under 40 code of federal regulations 170.501 within the last 12 months.

(c) The non-certified applicator has met the requirements established by a certifying authority that meet or exceed the standards in 40 code of federal regulations 171.201(c)(1).

(2) The non-certified applicator has been instructed within the last 12 months in

the safe operation of any equipment he or she will use for mixing, loading, transferring, or applying pesticides.

(3) The non-certified applicator has met the minimum age of 18 years old required to use restricted use pesticides under the supervision of a certified applicator.

E. Use-specific conditions that must be met in order for a non-certified applicator to use a restricted use pesticide. The certified applicator must ensure that all of the following requirements are met before allowing a non-certified applicator to use a restricted use pesticide under his or her direct supervision:

(1) The certified applicator must ensure that the non-certified applicator has access to the applicable product labeling at all times during its use.

(2) Where the labeling of a pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, the certified applicator must ensure that any non-certified applicator has clean, labeling-required personal protective equipment in proper operating condition and that the personal protective equipment is worn and used correctly for its intended purpose.

(3) The certified applicator must provide to each non-certified applicator before use of a restricted use pesticide instructions specific to the site and pesticide used. These instructions must include labeling directions, precautions, and requirements applicable to the specific use and site, and how the characteristics of the use site (e.g. surface and ground water, endangered species, local populations) and the conditions of application (e.g. equipment, method of application, formulation) might increase or decrease the risk of adverse effects. The certified applicator must provide this information in a manner that the non-certified applicator can understand.

(4) The certified applicator must ensure that

before each day of use equipment used for mixing, loading, transferring, or applying pesticides is in proper operating condition as intended by the manufacturer, and can be used without risk of reasonably foreseeable adverse effects to the non-certified applicator, other persons, or the environment.

(5) The certified applicator must ensure that a means to immediately communicate with the certified applicator is available to each non-certified applicator using restricted use pesticides under his or her direct supervision.

(6) If the certified applicator is a commercial applicator, the certified applicator must create or verify the existence of the records required by 40 code of federal regulations 171.201(e)(iii). The applicator must maintain records of this training for inspection by the department for a period of two years from the date of training.

(7) For operators under the supervision of a commercial applicator, the commercial applicator must create or verify records containing the following: name of operator, expiration date of license, license number and date exam was passed. [21.17.50.13 NMAC – Rp, 21.17.50.13 NMAC, 10/07/2025; A, 04/01/2027]

21.17.50.15 DISPLAY AND STORAGE OF PESTICIDES:

A. Pesticides intended for distribution or sale shall be displayed or stored within an enclosed building or fenced area and shall not be displayed on sidewalks, parking lots or similar open areas.

B. Pesticides shall be stored in a manner that will reasonably ~~insure~~ ensure that human foods, pet foods, drugs, animal feeds, commercial fertilizers, seeds or clothing will not be contaminated.

C. Pesticides in leaking, broken, corroded or otherwise damaged containers or with damaged or obscured labels, shall not be displayed or offered for sale.

[21.17.50.15 NMAC – Rp, 21.17.50.15 NMAC, 10/07/2025; A, 04/01/2027]

21.17.50.17 PESTICIDE DEALERS:

A. Each applicant for a pesticide dealer license for outlets within New Mexico shall provide adequate facilities for the storage and distribution of restricted-use pesticides.

B. Each pesticide dealer shall keep a record of the sale or distribution of all restricted-use pesticides for two years from the date of sale/distribution. Information to be recorded shall include:

(1) name, address of residence or principal place of business, and license number of the certified and non-certified applicator;
(2) expiration date and certification categories of the certified applicator relevant to the pesticide sold;

~~[(2)]~~ **(3)** date of sale;

~~[(3)]~~ **(4)** brand name of the pesticide product and its EPA registration number;

~~[(4)]~~ **(5)** quantity of restricted-use pesticide sold; and

(6) emergency exemption of state special local need registration number if applicable.

C. A pesticide dealer license shall be, in addition to any other license or permit, required by law for offering or supplying technical advice, supervision or aid or making a recommendation to the user of highly toxic pesticides, restricted use pesticides, or both, by a dealer or his employees.

D. It shall be unlawful for a pesticide dealer to ~~knowingly~~ sell any restricted-use pesticide to any person who is not a licensed certified applicator, provided individuals under the direct supervision of a certified applicator may receive and transport restricted-use pesticides for a certified applicator.

[21.17.50.17 NMAC – Rp, 21.17.50.17 NMAC, 10/07/2025]; A, 04/01/2027

21.17.50.18 LICENSE APPLICATION AND EXAMINATION: CERTIFICATION AND LICENSING:

A. The applicant may elect to be examined in one or more of the classifications of pest control shown on the application. The examination fee, if applicable, shall be paid prior to administering any examination. If the applicant fails to pass any required examination, he may request, to take such failed examination at another date provided an additional examination fee, if applicable, is paid. A grade of 70 shall be passing on all examinations.

B. If an applicant has not completed all license requirements within 60 days from the date of the original application, then said applicant will be subject to the fees and requirements of a new applicant.

C. [The director shall not consider any license application by any individual during the effective period of the license suspension or revocation of any license issued under the Pesticide Control Act.] Certification exams shall meet or exceed standards set by US EPA in 40 code of federal regulations Part 171.103(a)(2).

D. All persons seeking to become a certified applicator must be at least 18 years old at the time of examination for certification. Operators under the direct supervision of a commercial applicator and noncertified applicators under the direct supervision of a private applicator must be at least 18 years old.

(1)

Examinations standards:

(a)

The examination must be presented and answered in writing.

(b)

The examination must be proctored by an individual designated by the certifying authority and who is not seeking certification at any examination session that he or she is proctoring.

(c)

Each person seeking certification must present at the time of examination valid, government-issued photo identification or other form of similarly reliable identification authorized by the certifying authority as proof of identity and age to be eligible for certification.

(d)

Candidates must be monitored throughout the examination period.

(e)

Candidates must be instructed in examination procedures before beginning the examination.

(f)

Examinations must be kept secure before, during, and after the examination period so that only the candidates have access to the examination, and candidates have access only in the presence of the proctor.

(g)

Candidates must not have verbal or non-verbal communication with anyone other than the proctor during the examination period.

(h)

No portion of the examination or any associated reference materials described in Item (i) of Paragraph (1) of Subsection D of 21.17.50.18 NMAC may be copied or retained by any person other than a person authorized by the certifying authority to copy or retain the examination or any associated reference materials described in Item (i) of Paragraph (1) of Subsection D of 21.17.50.18 NMAC.

(i)

The only reference materials used during the examination are those that are approved by the certifying authority and provided and collected by the proctor.

(j)

Reference materials provided to examinees are reviewed after the examination is complete to ensure that no portion of the reference material has been removed, altered, or destroyed.

(k)

The proctor reports to the certifying authority any examination

administration inconsistencies or irregularities, including but not limited to cheating, use of unauthorized materials, and attempts to copy or retain the examination.

(l)

The examination must be conducted in accordance with any other requirements of the certifying authority related to examination administration.

(m)

The certifying authority must notify each candidate of the results of his or her examination.

E. If an applicant has not completed all license requirements within 60 days from the date of the original application, then said applicant will be subject to the fees and requirements of a new applicant.

F. The director shall not consider any license application by any individual during the effective period of the license suspension or revocation of any license issued under the Pesticide Control Act.

G. Persons seeking certification as certified applicators must demonstrate practical knowledge of the principles and practices of pest control and proper and effective use of restricted use pesticides by passing a written examination. Written examinations for all certified (Commercial, Non-Commercial, Public) applicators must address all of the areas of competency as listed in code of federal regulations Title 40: Protection of Environment Part 171, Subpart B 171.103(c) Core standards for all categories of certified applicators and 40 code of federal regulations 171.105(a) Standards for certification of private applicators. [21.17.50.18 NMAC – Rp, 21.17.50.18 NMAC, 10/07/2025; A, 04/01/2027]

21.17.50.19 REVIEW OF CERTIFICATION AND LICENSES:

The director may review any certification, license, or permit to determine if there are grounds for denial, suspension, or revocation action. A review shall be warranted in the case of:

A. violation of some provision of the Pesticide Control Act or regulations promulgated thereunder;

B. criminal conviction under Section 14(b) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended;

C. a final order imposing civil penalty under Section 14(a) of amended FIFRA;

D. certification obtained by cheating on an examination or providing false information about attendance or completion of required training or continuing education;

E. a license is obtained or utilized for reasons other than the intended purpose of allowing purchase or use of pesticides as required under the New Mexico Pesticide Control Act or regulations promulgated thereunder.

F. conclusion of a state enforcement action for the violations of state laws.

[21.17.50.19 NMAC – Rp, 21.17.50.19 NMAC, 10/07/2025; A, 04/01/2027]

21.17.50.20 OPERATOR/~~TECHNICIAN~~ TRAINING PERMITS:

A new employee of a licensed commercial applicator [~~may work up to~~] shall work no more than 60 calendar days under [a] an operator/~~technician~~ training permit provided another commercial applicator or operator [~~technician~~] licensed in New Mexico at least 6 months is present on the application site. Prior to expiration of the [~~operator/technician~~] operator training permit, permittees shall take the required examination(s). The permit shall be issued on the request of a licensed commercial applicator. The [~~operator/technician~~] operator training permit can not be extended.

[21.17.50.20 NMAC – Rp, 21.17.50.20 NMAC, 10/07/2025; A, 04/01/2027]

21.17.50.22 MINIMUM COVERAGE REQUIREMENTS:

A. Surety bond – \$100,000

B. Liability insurance:

(1) Aircraft.

(a)

Bodily injury – [~~\$25,000~~] \$250,000 each occurrence, [~~\$50,000~~] \$500,000 aggregate.

(b)

Property damage – [~~\$50,000~~] \$300,000 each occurrence.

(c)

Single limit bodily injury and property damage – [~~\$100,000~~] \$500,000.

(2) Ground or manual.

(a)

Bodily injury – [~~\$10,000~~] \$200,000 each occurrence – [~~\$25,000~~] \$400,000 aggregate.

(b)

Property damage – [~~\$25,000~~] \$250,000 each occurrence.

(c)

Single limit bodily injury and property damage – [~~\$50,000~~] \$500,000.

[~~(3) — Maximum amount of deductible (if applicable) — \$1,000.~~]

[21.17.50.22 NMAC – Rp, 21.17.50.22 NMAC, 10/07/2025; A, 04/01/2027]

21.17.50.25 FEES:

A. The annual registration fee for each pesticide or device registered shall be one hundred and fifty dollars (\$150.00).

B. The annual pesticide dealer license fee for each location or outlet within the state, or if there is no outlet within the state, for the principal out-of-state location or outlet, shall be one hundred dollars (\$100.00).

C. The annual pest management consultant license fee shall be one hundred dollars (\$100.00).

D. The annual commercial applicator license fee shall be one hundred dollars (\$100.00).

E. The annual [~~operator/agricultural pilot/serviceman~~] operator license fee shall be [~~seventy-five~~] seventy-five dollars (\$75.00).

F. The annual non-commercial applicator license fee shall be one hundred dollars (\$100.00).

G. The private applicator certification fee, or renewal thereof, shall be twenty-five dollars (\$25.00).

H. The fee for each additional inspection required to certify a unit of aircraft, ground or manual equipment that fails to pass inspection shall be twenty-five dollars (\$25.00).

I. The examination fee for each examination needed to qualify the applicant as a pest management consultant, commercial applicator, non-commercial applicator or [~~operator/agricultural pilot/serviceman~~] operator shall be twenty dollars (\$20.00) per examination. [21.17.50.25 NMAC – Rp, 21.17.50.25 NMAC, 10/07/2025; A, 04/01/2027]

HISTORY OF 21.17.50 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under: NMDA Rule 67-2, Pesticide Regulations, Regulatory Order No. 1, filed 6/12/1967. NMDA Rule 68-1, Pesticide Regulations, Regulatory Order No. 1, Amended, filed 6/12/1967. NMDA Rule 70-1, Pesticide Regulations, Regulatory Order No. 1, Section 3, filed 3/4/1970. NMDA Rule 70-2, Pesticide Regulations, Regulatory Order No. 2, filed 3/4/1970. NMDA Rule 70-3, Pesticide Regulations, Regulatory Order No. 1, filed 12/24/1970. NMDA Rule 71-4, Pesticide Regulations, Regulatory Order No. 2, filed 12/15/1971. NMDA Rule 72-2, Pesticide Regulations, Regulatory Order No. 3, filed 3/6/1972. NMDA Rule 73-8, Pesticide Regulations, Regulatory Order No. 1, filed 9/13/1973. NMDA Rule 74-5, Pesticide Regulations, Regulatory Order No. 2, filed 7/10/1974.

NMDA Rule 75-5, Pesticide Regulations, Regulatory Order No. 3, filed 9/15/1975.

NMDA Rule 78-3, Regulatory Order No. 4, Storage/Disposal of Pesticides, filed 9/21/1978.

NMDA Rule 79-2, Regulatory Order No. 5, Definitions, Licensing, Equipment Inspections, Record Keeping of Pesticides by Regulated Applicators, filed 11/21/1979.

NMDA Rule 79-4, Regulatory Order No. 7, Establishes Financial Responsibility for Commercial Applicators, filed 11/21/1979.

NMDA Rule 79-5, Regulatory Order No. 8, Establishes Fee for Pesticide Registration and Licenses, filed 11/21/1979.

NMDA Rule 81-2, Regulatory Order No. 10, Establishes Fee for Pesticide Registration and Licenses, filed 5/21/1981.

NMDA Rule 85-4, Fees for Pesticide Registrations and Licenses, filed 8/7/1985.

NMDA Rule 88-2, Fees for Pesticide Registrations and Licenses, filed 3/23/1988.

History of Repealed Material:

21.17.50 NMAC – Pesticides, filed 7/1/1997, was repealed and replaced by 21.17.50 NMAC – Pesticides, effective 10/07/2025.

HEALTH CARE AUTHORITY

This is an amendment to 8.106.631 NMAC, Sections 8 and 9 effective 10/21/2026.

8.106.631.8 PROGRAM

ELIGIBILITY: ~~[Benefits shall be processed annually at the beginning of the federal fiscal year dependent on the availability of funding.]~~

A. Limited to current SNAP recipients: no application is needed for an individual or groups of individuals who reside together that do not pay separate heating or cooling costs and do not receive the heating and cooling standard utility allowance (HCSUA).

B. Household:

Eligible household include those who:

(1)

are receiving SNAP after being determined eligible as outlined in 8.139.110 NMAC;

(2) have gross

income less than two hundred percent of the poverty level; [and]

(3) do not pay

for any heating or cooling expenses, including the payment of a fee to use an air conditioner; [and]

(4) are not

receiving the maximum SNAP benefit; [and]

(5) have an

identifiable shelter cost; and

(6) include an

elderly or disabled household member.

C. Eligible

households: ~~[will receive the HCSUA in accordance with 8.139.510.11 NMAC.]~~ will receive the HCSUA in accordance with 8.139.520.11 NMAC.

[8.106.631.8 NMAC - Rp,
8.106.631.8 NMAC 3/1/2025; A/E,
11/1/2025; A, 10/21/2026]

8.106.631.9 BENEFIT DELIVERY:

A. Effective

date: ~~[At the beginning of every federal fiscal year, October 1, a one-time energy assistance cash payment will be issued to eligible households as defined in Subsection A of 8.106.631.9 NMAC.]~~ At the beginning of every federal fiscal year, a one-time energy assistance cash payment will be issued to eligible households as defined in Subsection B of 8.106.631.8 NMAC.

B. Benefit issuance:

~~[Heat and Eat benefits are issued through a direct deposit into a household's EBT account. EBT cards are issued and maintained as defined at 8.139.610 NMAC. A Heat and Eat participating household has a definite issuance date so that benefits are received on or about the same time annually.]~~ The Heat and Eat benefit is a cash payment issued through a direct deposit onto the households EBT card and is issued one time per federal fiscal year. For

new SNAP households the initial cash payment is issued upon approval of the SNAP benefits. A heat and eat benefit will not be issued if a payment was already received in the current federal fiscal year. For active and ongoing SNAP households, the cash payment will be issued at the start of each Federal fiscal year, on or about October 1. Cash payment benefits are issued and maintained pursuant to 8.106.610 NMAC.

C. Benefit amount:

Dependent on the availability of state general fund a cash payment of no less than \$20 will be issued.

D. Eligible uses for

benefit: This Cash benefit is intended to help the household meet their heating or cooling needs. Please refer to 8.106.610.8 NMAC for uses of Cash benefit.

[8.106.631.9 NMAC - Rp,
8.106.631.9 NMAC 3/1/2025; A/E,
11/1/2025; A, 10/21/2026]

HEALTH CARE AUTHORITY

This is an amendment to 8.139.520 NMAC, Section 6, 9, 10 and 11 effective 10/21/2026.

8.139.520.6 OBJECTIVE:

Issuance of the revised ~~[food stamp program]~~ SNAP policy manual is intended to be used in administration of the ~~[food stamp program]~~ SNAP program in New Mexico. This revision incorporated the latest federal policy changes in the ~~[food stamp program]~~ SNAP not yet filed. In addition, current policy citations were rewritten for clarification purposes or were simply reformatted. Issuance of the revised policy manual incorporated a new format which is the same in all income support division policy manuals. A new numbering system was designated so that similar topics in different programs carry the same number. The revised format and numbering standards were designed to create continuity among ISD programs and to facilitate access to policy throughout ~~[the human services~~

department] the health care authority.
[8.139.520.6 NMAC - Rp,
8.139.520.6 NMAC, 11/21/2023; A/E,
11/1/2025; A, 10/21/2026]

8.139.520.9 INCOME STANDARDS

A. Earned income:

Earned income includes the following:

(1) Wages

and salaries: All wages and salaries paid to an employee.

(2) Sick pay:

Sick pay is counted as earned income if the person receiving sick pay will be returning to work after recovery and is still considered an employee by the employer.

(3) Military

personnel: A household consisting of one or more military personnel receiving a basic allowance for quarters or basic allowance for subsistence instead of free housing or food shall have such funds counted as earned income.

(4) Self/

employment: The gross income from a self/employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, minus the costs of doing business, is considered earned income. This is the gross income of the self/employed individual.

(5) Rental

property: Income from rental property is considered earned only if a household member is actively engaged in the management of the property an average of at least 20 hours per week. The owner is allowed the cost of doing business.

(6) Roomer

or boarder: Payments from a roomer or boarder are considered self/employment income. The 20 hours per week provision applied to rental property does not apply to roomer or boarder situations.

(7) Training

allowances: A training allowance from a vocational and rehabilitative program recognized by federal, state or local governments, such as DVR, is considered earned income, to the

extent the training allowance is not a reimbursement.

(8) VISTA

payments: Payments under Title I (VISTA, university year for action, etc.) of the Domestic Volunteer Service Act of 1973 (Pub. L. 93/113 Stat., as amended) are considered earned income to applicant households not receiving [~~food-stamp~~] SNAP benefits at the time the household member joined VISTA.

(9) Workforce

Investment Act: Earnings of an individual participating in an on/the/ job training program under Section 204 (b) (1) (C) or Section 254 (c) (1) (A) of the Workforce Investment Act (WIA). This provision does not apply to household members under 19 years of age who are under the parental control of an adult member, regardless of school attendance or enrollment. Earnings include monies paid under the WIA and monies paid by the employer. This section includes adult and youth programs and summer youth employment and training programs, but does not include job corps, E&T programs for Native Americans, migrant and seasonal farm workers, and veterans employment programs.

B. Unearned income:

Unearned income includes, but is not limited to, the following:

(1) Federal

assistance programs: Assistance payments from federal or federally aided cash assistance programs, such as supplemental security income (SSI), Title IV/A (temporary assistance to needy families), general assistance (GA), or other assistance programs based on need. Assistance payments from programs which require, as a condition of eligibility, the actual performance of work without compensation other than the assistance payments themselves, shall be considered unearned income.

(2) Other

benefits: Annuities, pensions, retirement, veteran's or disability benefits, workman's compensation, unemployment compensation benefits (UCB), OASDI, and strike benefits are unearned income.

(3) Foster

care payments: Foster care payments for children or adults shall be counted in their entirety unless the household providing the foster care chooses to exclude the foster child household member.

(4) Support

or alimony: Support or alimony payments made directly to the household from non/household members.

(5)

Educational funds: Scholarships, educational grants, fellowships, deferred payment loans for education, and veteran's educational benefits, are counted, after allowable deductions, unless the educational assistance is excluded in its entirety in Subsection E of 8.139.520.9 NMAC. Gifts or money a student may receive from parents or other private source on a periodic basis shall be counted as unearned income, including the portion used to pay for tuition and mandatory fees.

(6)

Government/sponsored programs: Payments to individuals from individual Indian monies and grants from the bureau of Indian affairs.

(7) Gain

or benefit: Dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or a benefit to the household. Interest income includes payments on a bank account that are simply posted in a bank book and not paid directly to a household.

(8) Trust

funds: Money withdrawn or dividends that are or could be received by a household from a trust fund considered an excludable resource. Such trust withdrawals shall be considered income in the month received, unless excluded in Subsection D of 8.139.520.9 NMAC. Dividends which the household has the option of either receiving as income or reinvesting in the trust shall be considered income in the month they become available to the household, unless excluded per Subsection D of 8.139.520.9 NMAC.

(9) Rental

property: Income from rental property shall be considered unearned when a household member engages in the management of the property less than 20 hours per week. The gross income minus the cost of doing business is counted as household income.

(10) Sponsored

alien income: The amount of monthly income of an alien's sponsor and the sponsor's spouse (if living with the sponsor) that is deemed to be that of the alien (Subsection G of 8.139.420.9 NMAC).

(11)

Termination pay: Severance pay (e.g., two weeks pay instead of notice) and supplementary unemployment benefits (a series of payments similar to UCB, but paid by the employer) received after termination shall be considered unearned income.

(12) Vacation

or sick pay: Unused vacation or sick pay paid in installments over a period of at least two months is considered unearned income in the months received. If paid as a lump sum at termination of employment, the income is considered a resource in the month received.

(13) Cash

awards, gifts, prizes: Cash awards, gifts, prizes and winnings shall be considered unearned income in the month received, subject to the \$30.00 per quarter exclusion, even if paid on a one/time basis.

(14) One/time

income: The distinction between one/time income and a one/time lump sum resource is that a lump sum is money owed the household from a past period and paid retroactively.

C. Other countable

income:

(1) Legal

entitlement: Any payment that a household is legally entitled to receive, but is diverted by the provider of the payment to a third party for an expense incurred or owed by the household shall be counted as income. The distinction is whether the individual or organization making a payment on behalf of a household

is using funds that otherwise must be paid to the household, such as wages, cash assistance grant, or child support or alimony payments. In these cases, a household is legally entitled to the money. If an employer, agency, or former spouse who owes such funds to a household diverts the money to a third party to pay for a household expense, the money is still counted as income, unless a court orders the money diverted.

(2) Garnished

wages: Wages earned by a household member that are garnished or diverted by an employer and paid to a third party for a household expense shall be counted as income.

(3) Public

assistance: All or part of a public assistance grant that is normally provided by a money payment to a household, but is diverted to a third party or to a protective payee for purposes of managing expenses, shall be counted as income.

(4) Third

party energy assistance payments: ~~[Any payment made to a household under a state law to provide energy assistance shall be considered money payable directly to the household, unless under the law the payment cannot be provided in cash.]~~ Any payment made to a household that does not contain an elderly or disabled household member, under a state law to provide energy assistance shall be considered money payable directly to the household, unless under the law the payment cannot be provided in cash.

D. Excluded income:

The following income shall be excluded in determining FS benefits:

(1) Federal

laws: Income excluded by federal laws. The comprehensive list is found in 8.139.527 NMAC.

(2) In/kind

benefits: Any gain or benefit which is not in the form of money paid directly to the household, including non/monetary or in/kind benefits such as meals, clothing, public housing, gifts for special occasions, or produce from a garden.

(3) Vendor

payments: Money payments that a household is not legally entitled to receive, and which are paid directly to a third party for a household expense are considered a vendor payment. A money payment made on behalf of a household is considered a vendor payment whenever an individual or organization outside the household uses its own funds to make a direct payment to a household's creditors, or to a person or organization providing a service to a household. Vendor payments include but are not limited to:

(a)

rent paid directly to the landlord by a friend or relative, who is not a household member;

(b)

rent or mortgage payments made to landlords or the mortgagee by the department of housing and urban development (HUD) or by a state or local housing authority;

(c)

payments by a government agency to a child care institution to provide day care for a household member;

(d)

insurance company payments made directly to titleholders or loan companies when a household member becomes disabled or dies and is covered by credit life and disability insurance;

(e)

housing assistance payments made to a third party on behalf of a household residing in transitional housing for the homeless;

(f)

a rent payment by an employer made directly to the landlord, in addition to paying the household its regular wages, is considered a vendor payment and is excluded as income.

(4) Energy

assistance: Any payment or allowance made for the purpose of providing energy assistance under any federal law, except for a payment or allowance provided under Title IV/A of the Social Security Act; any federal or state one/time assistance for weatherization or emergency repair or replacement of heating or cooling devices.

(5) **State or local general assistance:** Any general assistance provided to a household which cannot, under state law, be provided in cash directly to a household.

(6) **Child care food program:** Payments made to a household from the child care food program for child care, or any amount received as payment for care or reimbursement for costs incurred is excluded income.

(7) **Plan for achieving self/support (PASS) program:** Income of an SSI recipient necessary for the fulfillment of a plan for achieving self/support which has been approved under Sections 1612 (b)(4) (A)(iii) or 1612(b)(4)(B)(iv) of the Social Security Act. The income may be spent in accordance with an approved PASS or deposited into a PASS savings account for future use.

(8) **Infrequent/irregular income:** Any income received in the certification period which is received too infrequently or irregularly to be reasonably anticipated. The income received cannot exceed \$30.00 in a quarter.

(9) **Lump/sum payment:** Money received in the form of a nonrecurring lump sum payment, including but not limited to income tax refunds; rebates or credits; retroactive lump sum social security or SSI; cash assistance; railroad retirement; or other similar payments. Lump sum insurance settlements and refunds of security deposits on rental property or utilities are counted as resources in the month received, unless specifically excluded from consideration as a resource by federal law.

(10) **TANF diversion:** A TANF payment made to divert a family from becoming dependent on cash assistance shall be considered as a nonrecurring lump/sum payment if the payment is not defined as ongoing monthly assistance.

(11) **Loans:** All loans, including loans from private individuals as well as

commercial institutions, other than educational loans on which repayment is deferred.

(12) **Charitable donations:** Charitable cash donations based on need from one or more private, nonprofit charitable organizations, not to exceed \$300 in a federal fiscal quarter (January through March, April through June, July through September, and October through December).

(13) **Earned income tax credit (EITC):** EITC payments received either as a lump sum, or advance payments of earned income tax credits received as part of a paycheck or as a reduction in taxes that otherwise would have been paid at the end of the year.

(14) **Diverted retirement income:** The portion of a civil service retirement annuity or military retirement payment that is diverted to a former spouse by court order in a divorce decree is excluded from the income of the retiree.

(15) **Annual clothing allowance:** The clothing allowance provided each year to an TANF household whose children are entering or returning to school.

(16) **Utility reimbursements:** Any amount paid by the department of housing and urban development (HUD) or farmers home administration (FmHA) to a household as a utility reimbursement, or to a utility provider on behalf of a household, is excluded income.

(17) **Third party energy assistance payments:** Any payment provided under a state law to a household that contains elderly or disabled members shall be excluded as income.

E. Educational expenses:

(1) **Title IV/ BIA:** Cash assistance received under Title IV of the higher education amendments of 1992, including federal college work study authorized under Title IV, or cash assistance received from bureau of Indian affairs student assistance programs shall be excluded in determining eligibility and [food stamp] SNAP benefit

amounts effective for award years beginning on or after July 3, 1993.

(2) **Title XIII:** Financial assistance received under Title XIII of the Tribal Development Student Assistance Act shall be excluded in determining eligibility and food stamp benefit amounts effective October 1, 1992.

(3) **Earmarked funds:** All educational assistance, including, but not limited to, educational loans on which payment is deferred, grants, scholarships, fellowships, veteran's educational benefits, and the like, provided for a student to participate in or attend a recognized institution of post/secondary education, school for the handicapped, vocational education program, or program that provides for the completion of a secondary (i.e., high school) diploma or equivalency (GED), shall be excluded to the extent that the assistance is either used or made available for:

- (a) tuition;
- (b) mandatory fees, including rental or purchase of any equipment, materials, and supplies required to pursue the course of study involved;
- (c) books and supplies;
- (d) transportation expenses;
- (e) origination fees and insurance premiums on student loans; and
- (f) miscellaneous personal expenses (other than living expenses) incidental to a student's attendance at a school, institution, or program.

(4) Restrictions:

- (a) Educational assistance provided for normal living expenses (room, board, and dependent care) shall not be excluded as income.
- (b) Educational expenses in excess of the educational assistance provided may not be deducted from other income.
- (c) A student household eligible for

a deduction for dependent care expenses may claim only the amount which exceeds the amount of educational assistance made available for dependent care.

(5) **Deferred payment educational loans:** Any amount of state, local, or private deferred payment educational loans shall be excluded to the extent that the lender specifically earmarks or budgets part of or all of the loan for educational expenses. If the institution, school, program, or other lender does not earmark or budget amounts from the loan for educational expenses, students receive an exclusion for amounts verified as an educational expense.

F. **Reimbursements:**
(1) **Past or future expenses:** Reimbursements for past or future expenses, to the extent they do not exceed actual expenses, and do not represent a gain or benefit to the household, shall be excluded.

(2) **Identified expense:** Reimbursements made for an identified expense, other than normal living expenses, and used for the purpose intended, shall be excluded.

(3) **Normal living expenses:** Reimbursements for normal living expenses, such as rent or mortgage, clothing, or food eaten at home, shall be considered a gain or benefit to a household and are not excluded.

(4) **Multiple expenses:** If a reimbursement, including a flat allowance, covers multiple expenses, each expense does not need to be identified separately, as long as none of the reimbursement covers normal living expenses. The amount by which a reimbursement exceeds the actual incurred expense shall be counted as income.

(5) **Excludable reimbursements:**
(a)

Job/training related: Reimbursements or flat allowances for job or training/related expenses, such as travel, per diem, uniforms, and transportation to and from the

job or training site. Reimbursements provided over and above the basic wages for such expenses are excluded. However, these expenses, if not reimbursed, are not otherwise deductible from income.

(b) **Migrant worker expenses:** Reimbursements for travel expenses incurred by migrant workers.

(c) **Volunteers:** Reimbursements for out/of/pocket expenses incurred by volunteers in the course of their work.

(d) **Medical or dependent care:** Medical or dependent care reimbursements.

(e) **Nonfederal educational expense:** Nonfederal reimbursements or allowances for students for specific educational expenses, such as travel or books, but not allowances for normal living expenses such as food, rent, or clothing shall be excluded. Portions of a general grant or scholarship must be specifically earmarked by the grantor as an educational expense rather than for living expenses to be excludable as a reimbursement.

(f) **Title XX services:** Reimbursements received by households to pay for services provided by Title XX of the Social Security Act.

(g) **E&T program:** Reimbursements for expenses necessary for participation in an education component to fulfill E&T work requirements in a work program.

(6) **Nonexcludable reimbursements:**
(a)

Title IV/A grant: No portion of an title IV/A grant shall be excluded as a reimbursement if the grant is increased to adjust for work/related or child care expenses.

(b) **Educational funds:** No portion of any federal or nonfederal (state, local, private) educational loan, grant, scholarship, fellowship, veteran's educational benefit and the like shall be excluded as a reimbursement, to

the extent that it provides income assistance for normal living expenses.

G. **Payments for third party beneficiary:** Payments received and used for the care and maintenance of a third/party beneficiary who is not a household member shall be excluded as income. If the intended beneficiaries of a single payment include both household and non/household members, any identifiable portion of the payment intended and used for the care and maintenance of a nonmember is excluded. If the nonmember's share cannot be readily identified, the payment is divided equally among intended beneficiaries. The exclusion is applied to the nonmember's pro rata share, or the amount actually used for the nonmember's care and maintenance, whichever is less.

H. **Earned income of a student:** The earned income of an elementary or secondary school student living in the same [food stamp] SNAP household with a natural, adoptive or step/parent, or under the parental control of another member of the same [food stamp] SNAP household other than a parent, shall be excluded if the student is:

(1) under age 18, and is
(2) attending classes, including GED classes, at least half/time.

(3) **Temporary interruptions:** The exclusion shall continue to apply during temporary interruptions in school attendance for semester or vacation breaks, provided that the child's enrollment will resume following the break.

(4) **Child's/other members income:** If a child's earnings or amount of work performed cannot be differentiated from that of other household members, the total earnings shall be divided equally among the working members and the child's pro rata share shall be excluded.

(5) **Child turns 18 years old:** The earnings of students shall be counted beginning

the month following the month the student turns 18.

I. Money owed to other sources:

(1) Money withheld to repay previous overpayments: Money withheld to repay prior overpayments (recoupments) or money voluntarily or involuntarily returned from an assistance payment, earned income, or other income source shall be excluded from income, provided that:

(a) repayment is made from the same income source, and

(b) the income is from a countable income source.

(c) this exclusion applies only to recoupment or repayment situations.

(2) Other withholding: Money withheld for any other purpose is considered income. Money withheld for other purposes include: Medicare premiums; processing fees for child support payments collected by CSED; and deductions (taxes, insurance, etc.) from unearned income, such as civil service, PERA, and military retirement benefits.

(3) Failure to comply with another assistance program's requirements or fraud: A household's [food stamp] SNAP benefit amount shall not increase when benefits received from another program have been decreased (reduced, suspended or terminated) because of a determination by the other program of intentional failure to comply with a requirement of the other program or an act of fraud. This provision applies in cases where the other program is a means/ tested, federal, state or local welfare or public assistance program, which is governed by welfare or public assistance laws or regulations and which distributes public funds.

(a) **Conditions:** **(i)** If the department is not able to obtain necessary cooperation from another federal, state or local means/

tested welfare or public assistance program to enable it to comply with the requirements of this provision, the department is not held responsible as long as a good faith effort to obtain the information has been made.

(ii) A household's current [food stamp] SNAP benefit amount shall not be reduced, suspended or terminated when the benefits under another assistance program have been decreased.

(iii) [food stamp] SNAP benefits shall be adjusted when eligible members are added to the [food stamp] SNAP household regardless of whether or not the household is prohibited from receiving benefits for the additional member under another federal, state, or local welfare or public assistance means/tested program.

(iv) Changes in household circumstances which are not related to a penalty imposed by another federal, state or local welfare or public means/ tested assistance program shall not be affected by this provision.

(b) This provision does not apply to individuals or households subject to disqualification for noncompliance with E & T work requirements which are comparable to Title IV or UCB work requirements in Subsection H of 8.139.410.12 NMAC. In such cases, an individual or household disqualification occurs and [food stamp] SNAP benefits are reduced.

(c) There is no time restriction on the application of this provision. The prohibition against increasing food stamp benefits shall apply for the duration of the penalty imposed by the welfare or public assistance program.

(d) **Recoupments:** [Food stamp] SNAP benefits shall not increase in cases where the household is subject to either a reduction in benefits or recoupment due to intentional failure to comply with the other program's requirements. [Food stamp] SNAP benefits shall not increase as long as a reduction or recoupment is in effect.

(e) This provision does not result in a reduction, termination, or suspension of a household's current [food stamp] SNAP benefit amount; therefore, a caseworker need not send an adverse action notice. A caseworker may send adequate notice to a household affected by this provision.

(4) Child support payments transferred under title IV/D: A child support payment received by a cash assistance household that must be transferred to or retained by the child support enforcement division (title IV/D) to maintain cash assistance eligibility, shall be excluded as income.

J. Guaranteed Based Income: Guaranteed basic income provides an individual or household a one time or recurring cash payment or transfer funded from a public or private source intended to support the basic needs of individuals or households by reducing poverty, promoting economic mobility, or increasing the financial stability.

(1) Exempt: Any payments that is funded solely with private funds or a mixture of private and public funds will be excluded as income.

(2) Counted: Any payment that is funded solely with public funds will be counted as income.

K. Universal Basic Income: Universal basic income is a government-guaranteed program that provides a modest cash income at regular intervals (e.g., each month or year) to every individual or household to meet basic needs.

(1) Exempt: Any payments that is funded solely with private funds or a mixture of private and public funds will be excluded as income.

(2) Counted: Any payment that is funded solely with public funds will be counted as income.
[8.139.520.9 NMAC - Rp, 8.139.520.9 NMAC, 11/21/2023; A/E, 11/1/2025; A, 10/21/2026]

8.139.520.10 COUNTING

INCOME:

**A. Income averaging:
(1) Optional**

income averaging: Income received by a household may be averaged at the household's option (See 8.139.500.10 NMAC) except as specified below.

(2)

Mandatory income averaging:

Averaging is mandatory for income received under the following circumstances:

(a)

contract or self/employment income;

(b)

educational monies.

B. Rounding off:

Calculations shall be rounded to the nearest dollar. Figures between one cent and forty/nine cents are rounded down; figures between 50 cents and 99 cents are rounded up. When adding gross amounts received weekly, biweekly or semi/monthly to arrive at the monthly income, cents are retained until the total monthly amount is determined; the total monthly amount is rounded as the final step. Cents resulting from the computation of the twenty percent earned income deduction are rounded before being subtracted from earned income. Cents are retained in the computation of shelter and medical expenses until the final step.

C. Ineligible or disqualified household members:

An ineligible or disqualified household member shall not be included when:

(1)

determining the maximum [food stamp] SNAP benefit amount for the household's size;

(2)

comparing the household's monthly income with the income eligibility standards; or

(3)

comparing the household's resources with the resource eligibility limits.

(4)

Intentional program violation (IPV) or work disqualified:

(a)

The income and resources of individuals disqualified for IPV or

noncompliance with E&T work requirements shall be counted in their entirety.

(b)

A household's allowable deductions for earned income, medical expenses, dependent care expenses, excess shelter expenses, and the standard deduction continue to apply to the remaining household members.

(c)

[HSD] HCA shall make sure that a household's [food stamp] SNAP benefit amount is not increased as a result of the disqualification of one or more members.

(5) Ineligible

alien or SSN disqualified:

(a)

Resources: Resources of ineligible aliens, or individuals disqualified for failure or refusal to apply for or provide a social security number, shall be counted in their entirety.

(b)

Income and deductions of ineligible aliens:

(i)

Income belonging to the ineligible alien shall be counted on a pro rata basis to remaining eligible household members. The prorated share is calculated by first subtracting any allowable exclusions from the ineligible alien's income, then dividing the income evenly by all household members, including the excluded member(s). The result is multiplied by the number of eligible household members to determine countable income.

(ii)

The twenty percent earned income deduction is applied to the countable income attributed to the remaining eligible household members.

(iii)

The allowable expense(s) either billed to or paid by the ineligible alien shall be allowed in its entirety as a household expense.

(c)

Income and deductions for ABAWD or SSN disqualified individuals:

(i)

Income belonging to an individual disqualified because of ABAWD status or failure or refusal to

provide a social security number shall be counted on a pro rata basis to remaining eligible household members. The prorated share is calculated by first subtracting any allowable exclusions from the disqualified member's income, then dividing the income evenly by all household members, including the excluded member(s). The result is multiplied by the number of eligible household members to determine countable income.

(ii)

The twenty percent earned income deduction is applied to the countable income attributed to the remaining household members.

(iii)

The portion an allowable expense either paid by or billed to a disqualified individual(s) is divided evenly among all household members, including the disqualified individual(s). All but the disqualified individual's share is counted as a deductible expense for the remaining household members.

(6)

Reduction/termination during certification period: When an individual is excluded or disqualified during the certification period, the caseworker shall determine the eligibility of the remaining household members based on information already in the case record.

(7)

Excluded

for IPV disqualification: If a household's benefits are reduced or terminated during the certification period because one of its members was disqualified for an IPV, the caseworker shall notify the remaining household members of changes in eligibility and [food stamp] SNAP benefit amount at the same time the excluded member is notified of the disqualification. The household is not entitled to an adverse action notice but may request a fair hearing to contest the reduction or termination of benefits, unless it has already had a fair hearing on the amount of the claim as a result of consolidation of the administrative disqualification hearing with the fair hearing.

(8) Excluded for other causes: If a household's benefits are reduced or terminated during the certification period because one or more of its members is an ineligible alien, is disqualified for failure to comply with E&T work requirements, disqualified for failing or refusing to apply for or provide a social security number, the caseworker shall issue an adverse action notice informing the household of the individual's ineligibility, the reason for the ineligibility, the eligibility and benefit amount of the remaining member(s), and the actions the household must take to end the disqualification.	(b) If the household's share cannot be identified, the caseworker shall divide the earned income among all those whom it was intended to cover and count a prorated share to the household. E. Self/employed household: The following guidelines shall be used to determine eligibility and [food stamp] SNAP benefit amount for self/employed households, including those households that own or operate commercial boarding houses.	annual income from self/employment and have no other source of income may be certified for up to 12 months. (b) Anticipated income: (i) If the average annualized amount or self/employment income received on a monthly basis does not accurately reflect a household's actual circumstances because it has experienced a substantial increase or decrease in business, self/employment income shall be calculated on anticipated earnings. (ii) Income shall not be calculated based on previous income (e.g., income tax returns) if a self/employed household has experienced a substantial increase or decrease in business.
D. Non-household members: (1) Income and resources: The income and resources of non-household members, such as certain students, roomers, and boarders, are not considered available. Cash payments from a non-household member to the household shall be counted as income (Subsection E of 8.139.520.8 NMAC). Vendor payments (Subsection D of 8.139.520.9 NMAC) shall be excluded as income.	(1) Averaging self/employment income: (a) Annualizing: (i) Households which by contract or self/employment derive their annual income in a period of time shorter than one year shall have income averaged over a 12 month period, provided that the income from the contract is not received on an hourly or piecework basis. (ii) Annualizing shall not apply to seasonal or migrant farm workers. (iii) Self/employment income representing a household's annual income shall be averaged over a 12 month period, even if the income is received within only a short period of time. (iv) The self/employment income shall be annualized even if the household receives income from other sources in addition to self/employment. (v) Self/employed households include, but are not limited to, school employees, sharecroppers, and farmers. Tenured teachers who may not actually have a signed contract shall have their income considered on this basis. (vi) For self/employed households that receive their annual income in a short period of time, an initial certification period is assigned to bring the household into the annual cycle. (vii) Households which receive their	(c) Projected income: If a household's self/employment enterprise has been in existence for less than one year, the income from self/employment shall be averaged over the period of time the business has been in operation. The resulting monthly amount shall be projected for the coming year. If the business has been in operation for such a short time that there is insufficient information to make a reasonable projection, the household shall be certified for short periods of time until the business has been in operation long enough to make a longer projection. (d) Seasonal income: Self/employment income which is intended to meet the household's needs for only part of the year shall be averaged over the period of time the income is intended to cover.
(2) Deductible expenses: If a household shares deductible expenses with a non-household member, only the amount actually paid or contributed by the household is deductible as an expense. If the payments or contributions cannot be differentiated, the expenses shall be divided evenly among individuals actually paying or contributing to the expense; only the household's pro rata share is deducted. (3) Combined income of household/non-household members: When the earned income of one or more household members and the earned income of a non-household member are combined as one wage, the income for the household shall be determined as follows. (a) If the household's share can be identified, it is counted as earned income.	(b) If the household's share cannot be identified, the caseworker shall divide the earned income among all those whom it was intended to cover and count a prorated share to the household. E. Self/employed household: The following guidelines shall be used to determine eligibility and [food stamp] SNAP benefit amount for self/employed households, including those households that own or operate commercial boarding houses. (1) Averaging self/employment income: (a) Annualizing: (i) Households which by contract or self/employment derive their annual income in a period of time shorter than one year shall have income averaged over a 12 month period, provided that the income from the contract is not received on an hourly or piecework basis. (ii) Annualizing shall not apply to seasonal or migrant farm workers. (iii) Self/employment income representing a household's annual income shall be averaged over a 12 month period, even if the income is received within only a short period of time. (iv) The self/employment income shall be annualized even if the household receives income from other sources in addition to self/employment. (v) Self/employed households include, but are not limited to, school employees, sharecroppers, and farmers. Tenured teachers who may not actually have a signed contract shall have their income considered on this basis. (vi) For self/employed households that receive their annual income in a short period of time, an initial certification period is assigned to bring the household into the annual cycle. (vii) Households which receive their	(c) Projected income: If a household's self/employment enterprise has been in existence for less than one year, the income from self/employment shall be averaged over the period of time the business has been in operation. The resulting monthly amount shall be projected for the coming year. If the business has been in operation for such a short time that there is insufficient information to make a reasonable projection, the household shall be certified for short periods of time until the business has been in operation long enough to make a longer projection. (d) Seasonal income: Self/employment income which is intended to meet the household's needs for only part of the year shall be averaged over the period of time the income is intended to cover. (2) Determining monthly self/employment income: (a) For the period of time over which self/employment income is averaged, the caseworker shall add all self/employment income, including capital gains, exclude the cost of producing the self/employment income, and divide the self/employment income by the number of months over which the income shall be averaged.

(b)

A capital gain is defined as proceeds from the sale of capital goods or equipment. Capital gains are counted in full as income to determine self/employment income.

(c)

For households with self/employment income calculated on an anticipated basis, the caseworker shall add any capital gains the household anticipates receiving in the next 12 months, beginning with the date the application is filed. The resulting amount is counted in successive certification periods during the 12 months, except that a new average monthly amount is calculated if the anticipated amount of capital gains changes.

(3)

Determining net self/employment income:

(a)

A household's total self/employment income, minus the allowable costs of producing the income, shall be counted as gross income to the household. The gross self/employment income shall be added to any other earned income.

(b)

The total monthly gross earned income, after allowing the twenty percent earned income deduction, is added to all monthly unearned income to determine income eligibility.

(c)

For households anticipating income, the cost of producing income is calculated by anticipating allowable costs of producing the self/employment income.

(d)

Expenses exceeding self/employment income shall not be deducted from other income.

(e)

If a self/employment enterprise is a farming or ranching operation, expenses exceeding self/employment income may be offset against any other countable household income, provided that the farming or ranching operation grosses or is anticipated to gross at least \$1,000 annually.

(4) **Allowable**

costs: Allowable costs of producing

self/employment income include, but are not limited to:

(a)

identifiable costs of labor, stock, raw material, seed and fertilizer.

(b)

payments on the principal of the purchase price of income/producing real estate and capital assets, equipment, machinery, and other durable goods;

(c)

interest paid to purchase income/producing property;

(d)

insurance premiums, and taxes paid on income/producing property;

(e)

transportation costs necessary to produce self employment income, such as farmers carrying grain to elevators, or trips to obtain needed supplies, are allowable costs of doing business; costs are allowed at twenty-five cents per mile;

(f)

payment of gross receipts taxes.

(5) **Costs not**

allowed: In determining net self/employment income, the following shall not be allowed as a cost of doing business:

(a)

net losses from previous periods;

(b)

federal, state, and local personal income taxes, money set aside for retirement purposes, and other work/related personal expenses (such as transportation to and from work), since these expenses are accounted for by the twenty percent earned income deduction (Paragraph (3) of Subsection E of 8.139.520.10 NMAC);

(c)

charitable contributions and entertainment; and

(d)

depreciation.

F. Boarders:

(1) **Individuals**

paying a reasonable amount for room and board shall be excluded from a household when determining the household's eligibility and [food stamp] SNAP benefit amount.

(2) **Payments**

from a boarder shall be counted as self/employment income.

(3)

Household income eligibility is determined as follows.

(a)

Income from a boarder includes all direct payments to the household for room and meals, including contributions for shelter expenses.

(b)

Shelter expenses paid by a boarder directly to someone outside the household shall not be counted as income. Such payments are considered vendor payments and are not used to determine reasonable compensation (Paragraph (4) of Subsection C of 8.139.400.11 NMAC), or as a shelter expense for the household.

(4)

After determining the income received from a boarder, the caseworker shall exclude the portion of the boarder payment which is a cost of doing business. The cost of doing business is equal to either of the following, provided that the amount allowed as a cost of doing business does not exceed the payment the household receives from the boarder for lodging and meals:

(a)

the amount of the maximum [food stamp program] SNAP allotment for a household size that is equal to the number of boarders (Subsection E of 8.139.500.8 NMAC); or

(b)

the actual documented cost of providing room and meals if the actual cost exceeds the appropriate maximum [food stamp] SNAP allotment; if actual costs are used, only separate and identifiable costs of providing room and meals to boarders are excluded.

[8.139.520.10 NMAC - Rp, 8.139.520.10 NMAC, 11/21/2023; A/E, 11/1/2025; A, 10/21/2026]

8.139.520.11 GENERAL DEDUCTIONS:

A. Use of deductions:

A household must qualify for deductions by first meeting a gross income test. A household is not

eligible if gross income is more than the standard listed in Subsection E of 8.139.500.8 NMAC for a household size. If income falls below the gross income limit, a household shall be allowed deductions, where applicable, to make a final eligibility and benefit amount determination. Households that include elderly or disabled members, as defined, automatically qualify for deductions; eligibility is determined based on net rather than gross income.

B. Standard

deduction: All households are allowed a standard deduction from income. The standard deduction is listed in Paragraph (3) of Subsection F of 8.139.500.8 NMAC, tables, and is adjusted effective every October 1st.

C. Earned income

deduction: Twenty percent of gross earned income shall be deducted. Excluded income is not used for purposes of computing the earned income deduction.

(1)

Computing an over issuance: The earned income deduction (EID) shall not be allowed when calculating the income to be used in determining an over issuance which is due to the failure of a household to report earned income in a timely manner.

(2) Work

supplementation programs: The EID shall not be allowed for any amount of income which is earned under a work supplementation or support program and is attributable to public assistance.

D. Medical

deductions: Allowable medical deductions include:

(1) Elderly/

disabled: Medical expenses in excess of \$35.00 per month, excluding special diets, incurred by any household member who is elderly or disabled.

(2)

Emergency SSI: Individuals receiving emergency SSI benefits based on presumptive eligibility shall be eligible for the medical deduction.

(3) Death:

A medical expense incurred by a

household member who dies shall be allowed as a deduction if the member was eligible for the deduction at the time of death and if the remaining household members are legally responsible for payment.

(4) Hospital/ outpatient/nursing home: Medical expenses, such as hospitalization or outpatient treatment, nursing care and nursing home care, including payments by a household for an individual who was an eligible household member immediately before entering a hospital or nursing home facility recognized by the state, are allowable deductions.

(5) Not

eligible: Spouses, children or other individuals in the household who are not elderly or disabled, shall not be entitled to claim the medical deduction.

(6) Allowing medical expenses:

(a)

One/time only expense:

(i)

A household may choose to have a one/time only expense, reported at certification, deducted in a lump sum or averaged over the certification period.

(ii)

If a household incurs a one/time medical expense and has made arrangements with the provider to make monthly installments (beyond the current certification period), the expense may be allowed each month as arranged.

(iii)

A household reporting a one/time only medical expense during its certification period may choose to have a one/time deduction or to have the expense averaged over the remaining months of the certification period.

(b)

Households certified for 24 months:

A household certified for 24 months cannot have a one/time medical expense averaged over the 24/month certification period.

(i)

A one/time medical expense may be deducted in the first month of

the 24/month certification period; or the one/time medical expense may be deducted and averaged over the first 12 months of the 24/month certification period.

(ii)

One/time medical expenses reported after the first 12 months of the certification period shall be averaged over the remaining months.

(c)

Expense in last month of certification: If a household is billed for and reports an expense during the last month of its certification period, the deduction shall not be allowed. If the expense will be paid in installments during the following certification period, the deduction shall be allowed during the appropriate number of months in the subsequent certification period.

(d)

Fluctuating expenses: Fluctuating medical expenses shall be allowed as deductions if regularly recurring, reasonably anticipated, and verified. Once determined, the household is not required to report changes of \$25 or less or reverify expenses each month.

(e)

Anticipated changes in expenses: At certification and recertification the household must report and verify all medical expenses. The household's monthly medical deduction for the certification period shall be based on:

(i)

anticipated changes in the household's medical expenses that can reasonably be expected to occur during the certification period based on available information about the recipient's medical condition, public or private insurance coverage, and current verified medical expenses; and

(ii)

expenses that occurred during the certification period that will continue in the new certification period; and

(iii)

consideration of unpaid and past due medical expenses that will continue in the certification period.

(f)

If a household reports an allowable medical expense at the time of certification but cannot provide

verification at that time, and if the amount of the expense cannot be reasonably anticipated based upon available information about the recipients' medical condition and public or private medical insurance coverage, the household shall have the non-reimbursable portion of the medical expense considered at the time the amount of the expense or reimbursement is reported and verified.

(g)

A household shall not be required to file reports about its medical expenses during the certification period. If a household voluntarily reports a change in its medical expenses, the caseworker shall act on the change in accordance with regulations in Subparagraph (c) of Paragraph (1) of Subsection B of 8.139.120.10 NMAC.

(7) **Past due**

and unpaid medical expenses: The medical expense deduction shall not be determined by averaging past due or unpaid monthly medical expenses. Such expenses shall be used only as an indicator of what can reasonably be anticipated. Medical expenses which the household might reasonably anticipate receiving include but are not limited to costs of medical services and treatment received regularly, but less often than monthly, and prescription drugs.

(8) **Medical**

and dental care: Medical and dental care, psychotherapy, and rehabilitation services, provided by licensed practitioners authorized by state law, or other qualified health professional, shall be allowed as medical expense deductions. State licenses in New Mexico are authorized by occupational licensing boards. A state/licensed practitioner has such a license. Native American practitioners (medicine men) are not licensed, but are recognized as health practitioners for this purpose.

(9)

Prescription drugs and medical supplies: Prescription drugs, when prescribed by a licensed practitioner authorized under state law, and over-the-counter medications (including insulin) when approved by a licensed

practitioner or other qualified health professional, shall be allowed as deductions. In addition, costs for medical supplies, sick/room equipment (including rental), or other prescribed equipment are deductible.

(10)

Health and hospitalization/

medicare premiums: Health and hospitalization insurance premiums, and medicare premiums, as well as any cost sharing or spend/down expenses incurred by medicaid recipients, are allowable deductions. If a medical insurance policy includes benefits for household members not eligible for a deduction, only that portion of the premium assigned to the eligible member(s) may be considered a deduction. In the absence of specific information about how much of the premium is for the eligible member(s), a pro rata amount may be used. This system may be used even if the policy holder does not qualify for the deduction but the policy includes a person(s) who does qualify. The cost of life or health and accident policies, such as those payable in lump sum settlements for death or dismemberment, or income maintenance policies that continue mortgage or loan payments while the beneficiary is disabled, are not deductible.

(11)

Transportation and lodging costs:

Reasonable costs of transportation and lodging to obtain medical treatment or services are deductible. The allowance for mileage in privately owned vehicles is the same as the amount allowed state employees. Lodging costs may not exceed the daily expense amount allowed (per diem) for state employees.

(12)

Maintaining an attendant: Costs of maintaining an attendant, homemaker or home health aide, child care services, or housekeeper that are necessary because of age, infirmity, or illness are deductible medical expenses. In addition, an amount equal to the [food stamp] SNAP benefit amount for one person is deductible if the household furnishes the majority of the attendant's meals.

The [food stamp] SNAP benefit amount for the meal/related deduction is the one in effect at the time of initial certification. The caseworker shall update the [food stamp] SNAP benefit amount for meals at the next scheduled recertification. If a household incurs attendant care expenses that could qualify under both the medical deduction and the dependent care deduction, the caseworker shall treat the expense as a medical expense.

(13) **Other**

expenses: Other deductible expenses include but are not limited to:

(a)

dentures, hearing aids, prosthetics;

(b)

securing and maintaining a seeing-eye or hearing dog, or other service animal, including the cost of dog food and veterinary bills; and

(c)

eyeglasses or contact lenses prescribed by an ophthalmologist or an optometrist.

(14)

Prescription drug card expense:

(a)

An individual participating in the [food stamp] SNAP program who has enrolled for the medicare/approved drug discount card shall have \$23.00 credited to the monthly medical expense allowed for that individual.

(b)

An individual participating in the [food stamp] SNAP program who receives a \$600.00 transitional assistance credit on the medicare/approved drug discount card for the calendar years 2004 and 2005 shall have \$50.00 credited to the monthly medical expense allowed for that individual for each month after September 2004, through December 2005, and not beyond that month.

E. Dependent care expenses:

(1) **Deductible**

amounts: Payments may be deducted for the actual cost of the care of children or other dependents when necessary for a household member to accept or continue employment, comply with E&T work requirements, or an equivalent effort by those not

required to comply with E&T work requirements, or attend training or pursue education which is preparatory to employment or leads to a degree. Allowable costs include:

- (a) the costs of care given by an individual care provider or care;
- (b) transportation costs to and from the care facility; and
- (c) activity or other fees associated with the care provided to the dependent that are necessary for the household to participate in the care.

(2)

Household member provides care:

If a household member provides dependent care, the payment is neither income to the payee nor a deduction for the payor (see Subsection A of 8.139.500.11 NMAC).

F. Household expenses:

(1) Shelter expenses:

(a) Definition: Continuing charges for the shelter occupied by a household include rent, mortgage payment, or other continuing charges leading to the ownership of the shelter, such as loan repayments for the purchase of a mobile home and interest on such payments. If payments are made on more than one mortgage on the home, each payment is counted for the period the payment is intended to cover. Security deposits on rental property and downpayments for the purchase of a home are not allowed as shelter expense deductions. Closing costs shall not be allowed as a shelter expense, unless the closing costs can be itemized to identify costs that are allowable deductions, such as insurance and property taxes.

(b)

Excess shelter expense deduction: Monthly shelter expenses in excess of fifty percent of a household's income, after all other deductions have been allowed may be deducted, subject to the following restrictions:

- (i) The shelter deduction may not exceed the maximum amount indicated

in Paragraph (3) Subsection F of 8.139.500.8 NMAC, unless the household contains a member who is elderly or disabled, as defined.

(ii)

Households may not claim shelter expenses if the expense shall be paid as a vendor payment by an individual or organization outside the household.

(iii)

The household must be responsible for payment of the shelter expense; however, the household need not have paid the expense to claim the deduction. A current billing statement is used to establish the expense. The expense may not be allowed more than once.

(2) Taxes and

insurance: Property taxes, state and local assessments, and insurance on the structure itself, but not separate costs for insuring furniture or personal belongings, are deductible expenses.

(3) Natural

disasters: Expenses for the repair of a home that has been substantially damaged or destroyed by a natural disaster such as fire or flood may be deducted. Expenses shall not be allowed if the household has been or will be reimbursed by public or private relief agencies, insurance companies, or any other source. Expense deductions are limited to the repair of the home and not its furnishings.

(4) Costs of

temporarily unoccupied home:

(a)

If the home is temporarily unoccupied by a household because of employment or training away from home, illness, or abandonment caused by a natural disaster or casualty loss, the shelter costs for the home may be deducted. However, a household may claim only one SUA.

(b)

For costs of a home vacated by the household to be included in its shelter costs:

- (i) the household must intend to return to the home;
- (ii) the current occupants of the home, if any, cannot be claiming shelter

expenses for [food stamp] SNAP purposes;

(iii)

the home cannot be leased or rented during the household's absence.

(c)

Verification is required of households claiming this deduction if the cost is questionable or would result in a deduction.

(5) Maximum

deduction limit adjustment: The maximum deduction limit for excess shelter expenses will be revised as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as follows: effective January 1, 1997 through September 30, 1998, the deduction will be \$250; from October 1, 1998 through September 30, 2000 the deduction will be \$275; and effective from October 1, 2000 the deduction will be \$300; and will remain so indefinitely.

(6) Homeless

shelter standard: A household in which all household members are defined as homeless, within the definition at Paragraph (40) of Subsection A of 8.139.100.7 NMAC, shall be allowed the homeless shelter standard if the household incurs any shelter expenses at any time during the month.

(a)

The homeless household may claim actual shelter expenses if the expenses exceed the homeless shelter standard and the expenses are verified. Verification standards at Subsection A of 8.100.130.15 NMAC and 8.100.130.9 NMAC shall be used to verify shelter expenses, as well as other reasonable documentation determined to establish the homeless household's actual expenses.

(b)

The caseworker shall assist the homeless household in determining whether claiming the homeless shelter standard or actual expenses would be most beneficial to the household.

(c)

The homeless shelter standard shall be deducted from the household's countable net income.

(7) Utility	(ii)	
expenses:	~~[receives or received a direct payment~~	be allowed the telephone standard
(a)	~~or a payment is made on behalf of~~	if the household incurs an expense
Allowable expenses for the mandatory utility standards:	~~the household under the Low Income Home Energy Assistance Act of 1981; or] with an elderly or disabled member that received a payment, or on behalf of which a payment was made, under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) or other similar energy assistance program, if in the current month or in the immediately preceding 12 months, the household either received such a payment, or such a payment was made on behalf of the household, that was greater than \$20 annually; or~~	only for the telephone used by the household. The telephone standard shall be allowed for only one telephone charge for the residence.
Allowable expenses that may be used to determine the mandatory utility standards include the cost of home heating or cooling; cooking fuel; electricity; water and sewerage; garbage and trash collection fees; the service fee for one telephone, including but not limited to, basic service fees, wire maintenance fees, subscriber line charges, relay center surcharges, 911 fees, taxes; and fees charged by the utility provider for initial installation of the utility.		G. Child support deduction:
(i) A one/time deposit is not allowed as a utility expense.	(iii) receives or received a payment or a payment is made on behalf of the household under any other similar energy assistance program as long as the household still incurs out/of/ pocket heating or cooling expenses in excess of the energy assistance provided; or	A deduction shall be allowed for child support payments paid by a household member to or for a non/household member, provided that the household member has a legal obligation to pay child support and such payments are being made.
(ii) Expenses billed to a landlord or housing unit, but separately identifiable from the rent as an expense to the household, are allowable expenses.		(1) Legal obligation and verification:
(iii) A household shall not be allowed actual utility expenses, even if the expenses exceed the amount of the mandatory utility standard for which the household is eligible.	(iv) lives in a public housing unit that has central utility meters, incurs a heating or cooling expense, and the household is charged only for excess heating or cooling usage.	The household's legal obligation to pay child support, the amount of the obligation, and the monthly amount of child support the household actually pays shall be verified. Any document that verifies the household's legal obligation to pay child support, such as a court or administrative order, or legally enforceable separation agreement shall be acceptable verification. Documents that are accepted as verification of the household's legal obligation to pay child support shall not be accepted as verification of the household's actual monthly child support payments. Actual payment of child support shall be verified by documentation including, but not limited to, cancelled checks, wage withholding statements, verification of withholding from unemployment compensation, and statements from the custodial parent regarding direct payments or third party payments the non/custodial parent pays or expects to pay on behalf of the custodial parent. The department shall be responsible for obtaining verification of the household's child support payments if the payments are made to the child support enforcement division.
(iv) A household that is determined eligible for a mandatory utility standard deduction shall receive only one standard deduction during the household's ~~[food stamp]~~ SNAP certification period.	(c) Mandatory limited utility standard: A ~~[food stamp]~~ SNAP household shall be allowed a limited utility allowance (LUA) if the household does not incur a heating or cooling expense but does incur two or more of the following expenses:	(2) Determining the deduction amount:
(b)	(i)	(a)
Mandatory heating or cooling standard: A ~~[food stamp]~~ SNAP household shall be allowed the heating/cooling standard utility allowance (HCSUA) during the household's certification period. The HCSUA includes all utility expenses for heating or cooling the household's home. ~~[The household's heating or cooling expense must be billed separately from other shelter expenses.]~~ The HCSUA shall be allowed if the household:	(ii) electricity or fuel, for purposes other than heating or cooling;	Household with at least three months of payment history:
(i) incurs a heating or cooling expense separate from other shelter expenses; or	(iii) water;	Average the last three month period, taking into account any anticipated changes in the legal obligation. This average is the child support
	(iv) sewerage;	
	(v) well and septic tank installation or maintenance;	
	(vi) garbage or trash collection; and	
	(d) Mandatory telephone standard: A ~~[food stamp]~~ SNAP household shall	

deduction amount. In the event that the client has at least a three month payment history and the payment includes arrearages, the amount paid toward arrearages shall be used in the average.

(b)

Household with less than three months of payment history: The department shall estimate the anticipated payments according to the obligation and discussion with the client. This anticipation shall not include payments toward arrearages.

H. Non-deductible expenses:

(1) **Excluded reimbursement/vendor payments:**
(a)

That portion of any allowable expense that is reimbursed to the household or that is paid through a vendor payment to a third party is not allowable as a deduction.

(b)

Actual utility expense deductions or the SUA, as appropriate, shall be allowed for households receiving payments from LIHEAP, or receiving energy assistance payments under a program other than LIHEAP, as long as the household continues to incur out/of/pocket expenses for home heating or cooling.

(c)

A reimbursement paid by HUD or FHA to a household, or indirectly to a utility provider, is not allowed as a deductible expense.

(d)

A household receiving HUD or FHA utility reimbursements shall be entitled to the SUA if it incurs heating or cooling costs exceeding the amount of excluded utility reimbursements.

(2) **Household member provides service:**

(a)

When one household member pays another household member to provide a product or service, the money that is exchanged is neither an expense for one nor income for the other household member. Expenses are deductible only when a product or service is provided by someone outside the household and the household makes a money payment for the product or service.

(b)

Similarly, income is not counted for one household member who is paid by another household member to obtain wood for home heating. The actual cost of the wood is allowed as a utility expense if an outside money payment is made. Money exchanged between household members is not considered income to the individual receiving the money and is not an expense to the member paying it.

(3) **Past**

due shelter expenses: Payment on delinquent rent, mortgage, property taxes or utilities are not allowed as deductible expenses even if not previously billed.

[8.139.520.11 NMAC - Rp, 8.139.520.11 NMAC, 11/21/2023; A/E, 11/1/2025; A, 10/21/2026]

PAROLE BOARD

This is an amendment to 22.510.3 NMAC, Section 8 effective 10/20/2026.

22.510.3.8 POLICY STATEMENT PERTAINING TO THE GRANTING OF PAROLE, DENIAL OF PAROLE, REVOCATION OR RESCISSION OF PAROLE AND TO THE DISCHARGE OF PAROLEE:

A. The provisions of Subsection A of 22.510.3.8 NMAC apply to persons serving determinate sentences for crimes committed on or after July 1, 1979, except for persons serving indeterminate life sentences for crimes committed on or after July 1, 1979.

(1) **Before**

release of an individual in this category, the board shall furnish to each inmate, as a prerequisite to [his] their release under its supervision, a written statement of the conditions of parole which will be accepted and agreed to by the inmate as evidenced by his signature affixed to a duplicate copy to be retained in the files of the board. The board shall also require, as a prerequisite to release, the submission and approval of a parole plan which shall include, unless

waived by the board, evidence of having secured gainful employment or satisfactory evidence of self support.

(2) In setting conditions of parole and in approving a parole plan for the inmate, the following factors will be considered by the board:

(a)

the inmate's employment history and [his] their occupational skills and training, both civilian [and/or] or military, and any skills [he] they may have attained while in the corrections system;

(b)

the inmate's plans, including proposed residence, proposed employment and other intended pursuits when released;

(c)

the inmate's past use of narcotics, other controlled substances or excessive use of alcohol;

(d)

any pre-sentence or pre-release investigative reports prepared in with accordance with Section 31-21-9 NMSA 1978;

(e)

the inmate's criminal record, including parole and probation history;

(f)

reports of physical and mental examinations as have been made, conclusions and recommendations made therein;

(g)

whether the inmate should be paroled for hospitalization/treatment;

(h)

the inmate's institutional record;

(i)

the availability of community resources to assist the inmate when paroled;

(j)

whether or not parole costs are required to be included as a parole condition for a crime committed on or after June 19, 1981, and the amount thereof;

(k)

whether or not victim restitution has been ordered by the court with accordance with Section 31-17-1 NMSA 1978;

(l)
any other factor which is deemed relevant by the board in a particular case.

B. The provisions of Subsection B of 22.510.3.8 NMAC apply to persons serving indeterminate life sentences for crimes committed on or after July 1, 1979. Before ordering the parole of an inmate sentenced to life imprisonment in this category, the board shall:

(1) interview the inmate at the institution where [he is] they are committed;

(2) consider all pertinent information concerning the inmate including:

(a) the circumstances of the offense;

(b) mitigating and aggravating circumstances;

(c) whether a deadly weapon was used in the commission of the offense;

(d) whether an inmate is a habitual offender;

(e) any pre-sentence or pre-release investigative reports filed under Section 31-21-9 NMSA 1978;

(f) the reports of such physical and mental examinations as have been made while in prison; the board may require mental examinations in appropriate cases;

(3) make a determination that parole is in the best interest of society and the inmate;

(4) make a determination that the inmate is able and willing to fulfill the obligations of a law abiding citizen.

C. The provisions of Subsection C of 22.510.3.8 NMAC apply to persons serving indeterminate sentences for crimes committed prior to July 1, 1979. Where appropriate, the provisions of this section also apply to persons serving indeterminate life sentences for crimes committed on or after July 1, 1979. In accordance with Section 31-21-25 NMSA 1978,

the parole board hereby adopts a written policy specifying the criteria to be considered by the board in determining whether to grant, deny or revoke parole or to discharge a parolee from supervision.

(1) An inmate of an institution who was sentenced to life imprisonment for a crime committed as an adult becomes eligible for a parole hearing after the inmate has served 30 years of the sentence, which shall be construed as the retributive portion of the life sentence.

(2) Upon reaching eligibility, parole consideration for release shall focus on:

(a) risk and readiness for release, as demonstrated by the inmate substantially complying with the rules of the institution to which the inmate has been confined;

(b) whether the inmate has participated in or completed an educational, vocational or another program where available, while confined; and

[(H)] (3) With respect to the grant or denial of parole, the following criteria will [also] be considered by the parole board in making a determination:

(a) whether the inmate has given evidence of having secured gainful employment or satisfactory evidence of self-support;

(b) whether the inmate can be released without detriment to [himself] themselves or to the community;

(c) whether the inmate is able and willing to fulfill the obligations of a law-abiding citizen;

(d) criteria (a), (b) and (c) of this paragraph must be met in order for an inmate to be paroled to the community.

[(2)] (4) In determining whether criteria (a), (b) and (c) have been met, the following factors will be considered by the board:

(a) the inmate's ability and readiness to assume the obligations and responsibilities provided in the parole certificate;

(b) the degree to which the inmate has [elose] community ties, support structure to family [and/or] or friends;

(c) [the degree to which the type of residence or community in which the inmate plans to live is conducive to good behavior while on parole] the parole plan meets the inmate and community's individual needs;

(d) the inmate's employment history and his occupational skills and training, both civilian or military, and any skills [he] they may have attained while in the custody of the corrections department;

(e) the inmate's plans, including residence, employment and other intended pursuits if released;

(f) the inmate's past use of narcotics or excessive use of alcohol; and efforts to address any substance use;

(g) any recommendation made by the sentencing court, district attorneys, law enforcement agencies, and probation and parole officers;

(h) the inmate's conduct during his term of imprisonment;

(i) any pre-sentence or pre-release investigative reports prepared in accordance with Section 31-21-9 NMSA 1978;

(j) the inmate's criminal record;

(k) reports of physical and mental examinations as have been made, and conclusions and recommendations made therein; the board may require mental examinations in appropriate cases;

(l) the inmate's behavior and attitude during confinement;

(m) the inmate's behavior and attitude

while on probation or parole from any other sentence and the recentness of such probation or parole;

(n)

the availability of community resources to assist the inmate if paroled;

(o)

the circumstances of the offense of which the inmate was convicted and sentenced;

(p)

any recommendations or comments filed with the board regarding the inmate's suitability for parole;

(q)

the inmate's previous social history, including his reputation in his home community;

(r)

the inmate's positive efforts on behalf of others;

(s)

the inmate's culture, language, values, mores, judgments, communicative ability and other unique qualities;

(t)

whether or not victim restitution has been ordered by the court;

(u)

whether or not parole costs are required to be included as a parole condition for a crime committed on or after June 19, 1981, and the amount thereof;

(v)

any other relevant factor deemed appropriate by the parole board in any particular case.

D. The provisions of Subsection D of 22.520.3.8 NMAC apply to inmates serving indeterminate sentences for crimes committed prior to July 1, 1979, and to persons serving indeterminate life sentences for crimes committed on or after July 1, 1979. With respect to the parole of an inmate in this category to a detainer or to a consecutive sentence, the following criteria will be considered by the board in making a determination:

(1) The

inmate must sufficiently demonstrate the attitude that [he] they could, if released to the community, be able and willing to be a law-abiding citizen.

(2) The inmate

must sufficiently demonstrate the attitude that, if [he] they were released to the community, [he] they would not be a detriment to [himself] themselves or to the community.

(3) The

parole of an inmate to a detainer or to a consecutive sentence must be in the best interest of the applicant and society.

E. The provisions of Subsection E of 22.510.3.8 NMAC apply to all applicants for parole. With respect to the parole of an inmate for hospitalization, the following criteria will be considered by the board in making a determination:

(1) It must

appear that the inmate needs and will benefit from physical or mental treatment.

(2) It must

appear that such treatment, if successful, would probably render the inmate a suitable candidate for parole to the community.

F. The provisions of Subsection F of 22.510.3.8 NMAC apply to all persons facing possible parole revocation. With respect to the revocation of parole, the following criteria apply:

(1) whether

the parolee has violated a condition of parole. Whether the violation or violations of one or more conditions of parole demonstrate a disregard of or careless attitude towards the conditions of parole; whether the parolee, whose violation of parole is established, should be recommitted to the custody of the corrections department or should other steps be taken to protect society and improve chances of rehabilitation;

(2) if the

violation is sufficiently justified by the parolee, the board may continue parole or may enter any other order it deems appropriate;

(3) if the

violation is not established, the parolee will be reinstated on parole;

(4) when

a parolee has been returned to a correctional facility of the corrections

department, bail or bond release cannot be accomplished by the parole board during final parole revocation hearing;

(5) an

electronic recording will be made of all violation hearings.

G. The provisions of Subsection G of 22.510.3.8 NMAC apply to persons serving [~~indeterminate~~] determinate sentences for crimes committed on or after July 1, 1979. With respect to the criteria to be considered by the board in determining whether to discharge a parolee, the following will be considered: persons serving determinate sentences will be discharged upon completion of the mandatory parole period and a certificate of parole discharge will be issued.

H. The provisions of Subsection H of 22.510.3.8 NMAC, apply to persons serving indeterminate sentences for crimes committed prior to July 1, 1979, and to persons serving indeterminate life sentences for crimes committed on or after July 1, 1979. With respect to the criteria to be considered by the board in determining whether to discharge a parolee, the following will be considered:

(1) Upon

recommendation by field services division, a parolee who has performed the obligations of [his] their release for such time as will satisfy the board that [his] their final release is not incompatible with [his] their welfare and that of society, the board will, consistent with Paragraphs (2) and (3) below, make final order of parole discharge to the parolee.

(2) For

persons sentenced for crimes committed prior to July 1, 1979, no such order of discharge will be made in any case within a period of less than one year after the date of parole release, except where the sentence expires prior thereto.

(3) For

persons serving life sentences for crimes committed on or after July 1, 1979, no such order of discharge shall be made in any case until after the

parolee has served at least five years on parole.

I. The parole board should review these policies at least every four years as practical to incorporate evidence based updates. The board shall provide training to all incoming members on these policies and best practices and should convene comprehensive training at least every four years to ensure alignment with current standards in discretionary parole decision making.

[22.510.3.8 NMAC – Rp & A, 22.510.3.8 NMAC, 3/9/2021; A, 10/20/2026]

PUBLIC EDUCATION DEPARTMENT

The New Mexico Public Education Department repealed 6.20.2 NMAC, GOVERNING BUDGETING AND ACCOUNTING FOR NEW MEXICO PUBLIC SCHOOLS AND SCHOOL DISTRICTS, filed 11/1/1997, and replaced it with 6.20.2 NMAC, GOVERNING BUDGETING AND ACCOUNTING FOR NEW MEXICO PUBLIC SCHOOLS AND SCHOOL DISTRICTS, adopted 10/08/2026, effective 10/20/2026.

PUBLIC EDUCATION DEPARTMENT

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 20 PUBLIC SCHOOL FINANCE - BUDGETING AND ACCOUNTING PART 2 GOVERNING BUDGETING AND ACCOUNTING FOR NEW MEXICO PUBLIC SCHOOLS AND SCHOOL DISTRICTS

6.20.2.1 ISSUING AGENCY: Public Education Department, hereinafter the department.
[6.20.2.1 NMAC - Rp, 6.20.2.1 NMAC, 10/20/2026]

6.20.2.2 SCOPE: This regulation applies to public school districts, charter schools, and regional education cooperatives in the state of New Mexico.

[6.20.2.2 NMAC - Rp, 6.20.2.2 NMAC, 10/20/2026]

6.20.2.3 STATUTORY AUTHORITY: This rule is adopted pursuant to Sections 9-24-8, 22-2-1, 22-2-2, 22-5-7, 22-8-5, 22-8-6 through 22-8-12.1, 22-8-39, 22-8-40, 22-8-41, 22-13-13, 22-16-1, and 22-29-1 through 22-29-10 NMSA 1978.
[6.20.2.3 NMAC - Rp, 6.20.2.3 NMAC, 10/20/2026]

6.20.2.4 DURATION: Permanent.
[6.20.2.4 NMAC - Rp, 6.20.2.4 NMAC, 10/20/2026]

6.20.2.5 EFFECTIVE DATE: October 20, 2026, unless a later date is cited at the end of a section.
[6.20.2.5 NMAC - Rp, 6.20.2.5 NMAC, 10/20/2026]

6.20.2.6 OBJECTIVE: Establish standards in budgets and uniform financial accounting for New Mexico public schools and school districts. All budgets and financial accounting of public schools and school districts shall be maintained in accordance with the Public School Code, Chapter 22, NMSA 1978, Generally Accepted Accounting Principles (GAAP), and federal laws and regulations.
[6.20.2.6 NMAC - Rp, 6.20.2.6 NMAC, 10/20/2026]

6.20.2.7 DEFINITIONS:
A. “Bonded to practical capacity” - A determination by the department that a public school district has substantially utilized its available bonding capacity. In making this determination, the department may consider bonding capacity, outstanding indebtedness, assessed valuation, debt service obligations, projected capital needs, and any other relevant financial information.

B. “Budget” - A written plan of financial operation for one fiscal year to include an estimate of revenues and proposed expenditures.

C. “Fiscal year” - A 12-month period, beginning July 1 and ending June 30, to which the annual operating budget applies.

D. “Fixed assets” - Land, buildings, improvements other than buildings, equipment, machinery, construction work in progress, and capital leased assets with a cost of \$5000 or more. The definition of fixed assets applies to all assets purchased regardless of funding source.

E. “GAAP” - generally accepted accounting principles.

F. “Local school board” or “board” - the governing body of a school district or charter school.

G. “Operating budget” - The budget submitted and approved by the local school board by June 20 and certified by the department on or before July 1.

H. “School district” - A public school district, charter school or regional education cooperative (REC).
[6.20.2.7 NMAC - Rp, 6.20.2.7 NMAC, 10/20/2026]

6.20.2.8 PROCEDURAL REQUIREMENTS:

A. School districts shall account for financial transactions and develop and maintain their budgets in accordance with the Public School Code, GAAP, and department procedures for public school accounting and budgeting.

B. The submittal deadlines for required reports and documents identified in this regulation may be extended by the secretary of education or their designee after a request has been submitted by the school district, provided the extension is not in violation of state or federal law.

C. If reporting requirements and deadlines are not met, the department may withhold

funds, suspend payments, or both, pursuant to 6.21.2.10 NMAC and 6.21.2.11 NMAC.

D. Business officials, serving in the capacity of a supervisor or director or manager of accounting or bookkeeping as mentioned in 6.63.12.8 NMAC, responsible for the preparation and presentation of financial documentation and budget maintenance will meet the competency requirements enumerated in 6.63.12.9 NMAC. [6.20.2.8 NMAC - Rp, 6.20.2.8 NMAC, 10/20/2026]

6.20.2.9 BUDGET PREPARATION STANDARDS:

A. School districts shall follow budget requirements stated in Sections 22-8-5 and 22-8-6 through 22-8-12.1 NMSA 1978, and procedures of the department in preparing, submitting, maintaining, and reporting budgetary information. Budgetary control shall be at the function level. Over-expenditure of a function shall not be allowed.

B. The proposed budget for the ensuing fiscal year shall be submitted to the department by April 15 of each year, unless extended to a later date by the secretary of education.

C. The department shall review the school district's projected revenues, including estimated tax production based on the most current assessed valuation from the local taxing authority and estimated cash carryover for all funds. The budget shall prioritize resources toward proven programs and methods that are linked to improved student achievement and demonstrate parental involvement in the budgeting process was solicited. The department shall confer with the school district before determining where additions or reductions to the budget will be incorporated.

D. Approval of the proposed budget by the local school board shall be in a public hearing held prior to June 20. The notice of public hearing for the adoption of the budget shall be published in accordance

with the Open Meetings Act, Section 10-15-1 et seq. NMSA 1978, Public School Code, and local school board policy. Certification of the proposed budget by the department shall be on or before July 1. The approved and certified budget then constitutes the operating budget.

E. On or before the last working day of February, unless extended to a later date by the secretary of education, school districts shall determine their audited cash balances from the prior fiscal year in all funds and report them on the most current form prescribed by the department. Cash balance carried forward from the previous fiscal year in the operational fund shall not be used for salaries and benefits.

F. Public school districts shall submit a written request to the department prior to expending money from its operational fund for the acquisition of a building site or the construction of a new structure pursuant to Section 22-8-41 NMSA 1978. The requirements of this subsection shall not apply to charter schools or RECs.

(1) The department shall determine whether the public school district has bonded itself to practical capacity for the fiscal year and project identified in the request. At a minimum, the request shall include:

(a) a description of the proposed project;

(b) the amount of operational funds proposed to be expended;

(c) the estimated total project cost;

(d) a description of capital funding sources that have been utilized, considered, or determined to be unavailable for the project, including an analysis of whether expenditures currently budgeted in capital funds may be appropriately reallocated to other funding sources, thereby making capital funds available for the proposed project; and

(e) an explanation of why the expenditure of operational funds is necessary.

(2) If the department determines the public school district has not bonded itself to practical capacity, the department may require additional information necessary for the secretary's determination and certification, including information regarding alternative capital funding sources, the public school district's financial condition, whether expenditures currently budgeted in capital funds may be appropriately funded from other sources, whether the proposed expenditure is necessary for an adequate public educational program, whether the proposed expenditure will unduly hamper current operations, information obtained through consultation with the public school facilities authority, and any other information deemed relevant by the department.

(3) A determination that a public school district has bonded itself to practical capacity and any certification by the secretary shall be valid only for the project and fiscal year identified in the request.

G. The operating budget and any authorized adjustments shall be integrated into the school district's accounting system after required approvals. Encumbrances shall be used as an element of control and integrated into the budget system.

H. School districts shall submit membership projections and budget requests that support projected enrollment growth and associated growth units. If a school district's projected enrollment growth is not supported by reliable estimates, reasonable assumptions, or available evidence, the department may require additional supporting documentation. The department may revise projected enrollment growth and reduce budgeted projected growth units when the projection is unsupported. [6.20.2.9 NMAC - Rp, 6.20.2.9 NMAC, 10/20/2026]

6.20.2.10 BUDGET MAINTENANCE STANDARDS:

A. Budget adjustment

requests shall be submitted on the most current form prescribed by the department. The school district shall maintain a log of all budget adjustment requests to account for status, numerical sequence, and timely approval at each level. The log is to be retained for audit purposes.

B. School districts shall submit budget adjustment requests for the operating budget to the department for budget increases, budget decreases, transfers between functional categories, and transfers from the emergency reserve account. The department shall take action on budget adjustment requests within 30 calendar days from the date of receipt by the department or such requests will otherwise be considered approved. Expenditures shall not be made by the school district until budget authority has been established and approved by the department. Budget adjustments shall not be incorporated into the school district's accounting system until approved by the department.

C. School districts shall submit periodic financial reports using the department-approved format. Reporting shall be monthly or quarterly, at the discretion of the department. The school district shall be notified of its required reporting frequency in writing by the department. Required reporting frequency may be changed by the department at any time during the year. Reports are due at the department by the last working day of the month following the end of the required reporting period, unless extended to a later date by the secretary of education.

[6.20.2.10 NMAC - Rp, 6.20.2.10 NMAC, 10/20/2026]

6.20.2.11 INTERNAL CONTROL STRUCTURE STANDARDS:

A. School districts shall establish and maintain an internal control structure to provide school district management with reasonable assurance that assets are safe-guarded against loss from unauthorized use or disposition,

that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of general purpose financial statements in accordance with GAAP, and that state and federal programs are managed in compliance with applicable laws and regulations. The internal control structure shall include written administrative controls (rules, procedures and practices, and policies) and accounting controls (activity cycles, financial statement captions, accounting applications, including computer systems) that are in accordance with GAAP.

B. School districts shall establish and maintain written internal accounting controls that provide for segregation of duties, authorization and recording procedures, and sound accounting practices. Segregation of duties shall require that the authorization, recording, and custody of assets for any transaction be performed by different individuals.

(1) When granting authorization to execute school district business, school district management shall prioritize protection of public trust.

(2) School districts shall ensure that employees handling significant amounts of cash are adequately bonded and that access to assets is limited to authorized personnel.

(3) Receipts, checks or warrants, purchase orders, and vouchers shall be sequentially pre-numbered.

(4) School districts shall have proper safeguards to protect unused checks and other pre-numbered forms, undeposited cash and other receipts, and facsimile signature plates.

(5) School districts shall record transactions as necessary to support GAAP-compliant financial statements and shall establish any additional criteria required to maintain asset accountability.

(6) School districts shall conduct independent

checks on performance and proper valuation of recorded amounts, such as clerical checks, reconciliations, comparison of assets with recorded accountability, computer-programmed controls, management review of reports that summarize the detail of account balances, and user review of computer generated reports.

C. An internal control structure is required to demonstrate the school district's ability to record, process, summarize, and report financial data consistent with the following financial statement assertions:

- (1)** rights and ownership;
- (2)** existence and occurrence;
- (3)** valuation and allocations;
- (4)** completeness; and,
- (5)** presentation and disclosure.

D. The internal control structure shall identify applicable laws and regulations and include procedures providing reasonable assurance of compliance. Internal control procedures shall be established, implemented, and documented through school district correspondence, manuals, training, and other additional methods. Appropriate internal control procedures shall be adopted by the local school board within a school district to safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies. The internal control structure shall address all school district transactions. [6.20.2.11 NMAC - Rp, 6.20.2.11 NMAC, 10/20/2026]

6.20.2.12 ORGANIZATIONAL STRUCTURE: School districts shall develop, establish, and maintain an effective organizational structure that includes the following:

A. A system for measuring and ensuring accountability for employee performance.

B. A policy delegating

responsibility for employee actions combined with sufficient authority to perform assigned activities;

C. Creation and maintenance of budgets and financial reports which facilitate the discharge of assigned responsibilities and monitors activities at each level of the organizational structure; and

D. A system of checks and balances which separates incompatible activities to preclude absolute control by any individual or unit and provides for supervision and monitoring of overall school district activities by higher levels of management.

[6.20.2.12 NMAC - Rp, 6.20.2.12 NMAC, 10/20/2026]

6.20.2.13 FINANCIAL STANDARDS:

A. General ledger: School districts shall establish and maintain a general ledger in accordance with GAAP. The general ledger will be comprised of individual funds and account groups using the department's uniform chart of accounts and shall be reconciled every fiscal year with department records.

B. Funds and account groups: School districts shall use funds and account groups to report their financial position and operating results. Funds are classified into three broad categories: a) governmental funds, b) proprietary funds, and c) fiduciary funds. There are two account groups: a) general fixed assets and b) general long-term debt.

C. Chart of accounts: School districts shall prepare, maintain, and report budget and financial information utilizing a standard and uniform chart of accounts.

D. Basis of accounting: In accordance with Government Accounting Standards Board Statement No. 34 (GASB 34), school districts shall use a full accrual basis of accounting in preparation of annual financial statements and cash basis of accounting for budgeting and reporting.

E. Financial statements: The school district

bears responsibility for its financial statements and shall maintain adequate accounting records, prepare financial statements in accordance with GAAP and GASB 34, and provide complete, accurate, and timely information to the independent public accountant (IPA) upon request. If there are differences between the financial statements, school district records, and department records, the IPA should provide the adjusting entries to the school district to reconcile the report to the school district records. If the IPA prepared the financial statements, this fact shall be disclosed in the notes to the financial statements. If the IPA prepared the financial statements, this fact shall be disclosed in the notes to the financial statements. The school district shall make all reasonable efforts to assist the IPA with financial statement preparation.

F. Financial and compliance audit: School districts shall undergo a yearly audit of financial records as required by Section 12-6-3, NMSA 1978.

G. Financial reporting: School districts shall provide periodic financial information to the local school board as prescribed by local school board action. Information shall be presented at a regularly scheduled board meeting.

[6.20.2.13 NMAC - Rp, 6.20.2.13 NMAC, 10/20/2026]

6.20.2.14 CASH CONTROL STANDARDS:

A. School districts shall establish and maintain a cash management program to safeguard cash and ensure prompt, accurate reporting in compliance with applicable state and federal laws and regulations.

B. The school district shall issue a factory pre-numbered receipt for all money received. Pre-numbered receipts are to be controlled and secured. If a receipt is voided, all copies shall be marked "VOID" and retained in the receipt book.

C. Money received and receipted shall be deposited in the bank within 24 hours or one

banking day. If the distance to the bank is considerable, or the cash collection is limited to small amounts or low volume and it is impractical to meet the 24-hour or one banking day requirement, the local school board may request approval from the department for an alternative plan. The bank deposit slip shall have the numbers from applicable receipts entered on it or attached as a reference. An alternative deposit plan approved by the department shall remain valid for one fiscal year.

D. A cash receipts journal is to be used for each fiscal year beginning July 1 and ending June 30, and is to be presented to the school district's auditor during the annual audit.

E. The school district shall verify that there are sufficient cash and budget prior to the disbursement of cash. A revenue ledger is required for each revenue code as approved in the finalized budget, and additional revenue ledgers may be added as necessary.

F. The school district shall establish and maintain a cash control ledger for each fund or subfund in which all transactions affecting cash are recorded. Cash balances reported to the department shall match the school district's cash control ledger and annual audit. Inter-fund transfers of cash among separate and distinct funds are not receipts or expenditures. Permanent transfers of previously receipted cash require local school board and department approval prior to the transfer. Pursuant to Section 6-10-43 NMSA 1978, requests to transfer any remaining balance in an interest or sinking fund after all bonded obligations have been satisfied shall be submitted to the department. Upon departmental review, the request will be forwarded to the secretary of finance and administration for approval. No such transfer shall occur without approval of the secretary of finance and administration. All other types of cash transfers require only local school board approval.

(1) Temporary transfers of cash are to be posted as

“due from” and “due to” to indicate inter-fund receivables and payables.

(2) Posting errors are not to be erased, crossed out, or otherwise altered in the ledger. Corrections shall be made by separate entry, with a cross-reference to the original error noted in the description column.

G. Clearing accounts or pooled accounts may be used to combine more than one fund in one bank account. Clearing accounts shall reconcile to a zero balance at the end of each month. Bank reconciliations for clearing accounts shall be completed on a monthly basis.

H. A local school board, through the issuance of a formal board resolution, may authorize the superintendent of schools or their designee to approve vouchers for payment prior to a board meeting. A summary listing of the vouchers and any additional information prescribed by the local school board shall be presented at the next regular local school board meeting for formal approval and entry in the minutes.

I. Vouchers shall be numbered in such a manner as to provide a cross-reference between the voucher, the check, and the check register. All blank checks shall be properly safeguarded and an inventory of unused checks shall be taken periodically. Completed vouchers and supporting documentation are to be placed in numerical sequence, by the month in which they were paid, and filed for future reference and annual audit.

(1) Each warrant or check issued shall have printed on its face the words, “void after one year from date”. The fiscal officer shall cancel any warrant or check outstanding for one year or more in accordance with Section 6-10-57(A) NMSA 1978.

(2) The fiscal officer shall keep a register of all canceled warrants or checks. The register shall show the number, date and amount, name of payee, fund out of which it was payable, and date of cancellation. The face amount shall

revert and be credited to the fund against which the warrant or check was drawn.

J. All bank accounts shall be reconciled on a monthly basis. A business official shall review reconciled bank statements monthly. The bank statement, deposit slips, and canceled checks shall be made available to the school district’s auditor during the annual audit.

K. The school district shall submit cash reports to the department by the last working day of the month following the end of the reporting period, unless extended to a later date by the secretary of education.

L. If the department determines that a school district’s cash balance, financial condition, or fiscal practices warrant additional safeguards, the department may require that budget authority be reserved in a designated emergency reserve account. Such reserves may be required to preserve fiscal stability, improve cash balances, restore solvency, or otherwise protect the financial interests of the school district and the state. Amounts reserved pursuant to this subsection shall not be transferred or expended without the prior written approval of the secretary. Before requiring an emergency reserve, the department shall provide the school district with written notice that includes:

(1) the specific condition giving rise to the reserve;
(2) the amount required to be reserved; and
(3) the evidence used to determine the amount.

M. If a school district maintains a negative cash balance, the department may issue a corrective action plan or request additional monthly financial reporting. If the school district fails to comply, the department may consider suspending the school district’s board of finance, pursuant to Section 22-8-39 NMSA 1978.

N. Petty cash funds shall be utilized only in rare instances to facilitate small payments. Petty

cash funds are established by drawing a check made payable to the employee charged with responsibility for the fund. The petty cash fund shall contain cash or invoices totaling the full amount of the petty cash fund and is to remain at the amount originally established.

(1) Petty cash funds are to be reflected on the school district’s balance sheet as cash on hand.

(2) Petty cash and change funds shall not be used to make loans to employees or for cashing checks.

(3) Petty cash may not contain more than \$100 unless a higher amount is authorized through local school board action.

(4) Change funds shall be established pursuant to school district procedure.

O. School districts shall obtain a surety bond for persons who handle or manage cash or funds. [6.20.2.14 NMAC - Rp, 6.20.2.14 NMAC, 10/20/2026]

6.20.2.15 INVESTMENTS:

A. The school district shall account for public money placed in interest-bearing deposits in accordance with Subsections (C) through (G) of Sections 22-8-40, 6-10-17, and 6-10-31, NMSA 1978, and other federal and state laws applicable to the investment of public school money.

B. Pledged collateral: School districts shall require pledged collateral for all cash and investments in accordance with Section 22-8-40 NMSA 1978. [6.20.2.15 NMAC - Rp, 6.20.2.15 NMAC, 10/20/2026]

6.20.2.16 WAREHOUSE AND SUPPLY INVENTORY:

School districts that maintain a warehouse shall conduct a physical inventory of expendable goods and materials at the end of each fiscal year and shall establish internal accounting controls over supplies inventory in accordance with GAAP.

[6.20.2.16 NMAC - Rp, 6.20.2.16 NMAC, 10/20/2026]

6.20.2.17 PURCHASING:

A. School districts shall establish and implement written policies and procedures for purchasing in compliance with applicable grant requirements and the Procurement Code, Section 13-1-21 et seq. NMSA 1978. An internal control structure over purchasing shall be established and maintained to ensure compliance with school district policy and state and federal regulations.

B. A school district may contract with a business holding a current price agreement with the state purchasing agent or a central purchasing office of another school district, for services, construction, or items of tangible personal property without the use of competitive sealed bids or competitive sealed proposals, subject to the following conditions:

(1) the services or construction meet the same standards and specifications as the items to be procured;

(2) the total quantity to be purchased would not exceed the quantity which may be purchased under the existing applicable price agreement;

(3) the purchase order clearly identifies the price agreement relied upon;

(4) the price agreement relied upon is available for public and auditor inspection; and

(5) where the agreement belongs to another school district's central purchasing office, that school district has provided written consent to its reliance.

[6.20.2.17 NMAC - Rp, 6.20.2.17 NMAC, 10/20/2026]

6.20.2.18 PAYROLL:

The local school board shall establish written payroll policies and procedures which comply with state and federal payroll regulations and maintain strict internal controls, close supervision, and financial accounting in accordance with GAAP. School districts shall maintain and have available for inspection the following employee record documentation:

A. employment contracts (including increments)

B. personnel/payroll action forms;

C. certification records;

D. employment eligibility verification (federal form I-9 for citizenship certification);

E. federal and state withholding allowance certificates;

F. pay deduction authorizations;

G. pay or position change notices;

H. Educational Retirement Act plan application and

I. direct deposit authorizations.

[6.20.2.18 NMAC - Rp, 6.20.2.18 NMAC, 10/20/2026]

6.20.2.19 TRAVEL AND

TRAINING: School districts shall establish and implement written policies and procedures for travel and training in compliance with the Per Diem and Mileage Act, Sections 10-8-1 through 10-8-8, NMSA 1978, and department of finance and administration (DFA) regulations. [6.20.2.19 NMAC - Rp, 6.20.2.19 NMAC, 10/20/2026]

6.20.2.20 INSURANCE:

A. Each school district shall maintain adequate insurance coverage addressed in the Tort Claims Act, Section 41-4-1 et seq. NMSA 1978; the Workers' Compensation Act, Section 52-1-1 et seq. NMSA 1978; Insurance of Public Buildings, Section 13-5-1 et seq. NMSA 1978; Officers and Surety Bonds, Section 22-5-7 NMSA 1978; and the Public School Insurance Authority Act, Sections 22-29-1 through 22-29-10 NMSA 1978.

B. Surety bonds paid from the operational fund shall be approved by the department and filed with the secretary of DFA pursuant to Subsection D of Section 22-5-7 NMSA 1978.

[6.20.2.20 NMAC - Rp, 6.20.2.20 NMAC, 10/20/2026]

6.20.2.21 DEBT SERVICE AND BONDS:

A. School districts

shall create a debt service fund to account for resources used to service general long-term debt, which shall be recorded in the general long-term debt account group. General long-term debt includes noncurrent bonds, as well as other noncurrent liabilities that might arise from compensated absences.

B. Debt service funds shall be established only when legally required or when resources are being accumulated to meet future principal and interest payments. A single debt service fund shall account for any restricted portion of a general property tax used to finance principal and interest payments on all general obligation bonds. Debt service funds shall be used only for the retirement of general long-term debt and for payment of county collection costs. Remaining funds after satisfaction of all debts may be transferred upon approval by the department and DFA pursuant to Section 6-10-43 NMSA 1978.

C. All general obligation bonds, except refunding bonds, shall be issued in accordance with Sections 6-15-3 through 6-15-8 NMSA 1978. Refunding bonds shall be governed by Sections 6-15-11 through 6-15-13 NMSA 1978.

D. No school district shall issue or sell bonds after three years from the initiation of proceedings for the election authorizing the issue, except as provided in Sections 6-15-9 and 6-15-10 NMSA 1978.

E. Arbitrage: School districts shall not earn any income on invested bond proceeds exceeding what would have been earned at the bond yield rate, nor issue tax-exempt bonds to invest proceeds at a profit. Long-term investments of bond proceeds shall not exceed the interest rate on the tax-exempt bonds. [6.20.2.21 NMAC - Rp, 6.20.2.21 NMAC, 10/20/2026]

6.20.2.22 FIXED ASSETS:

A. Governmental fixed assets shall be recorded at cost. Donated assets shall be recorded at

their estimated fair market value at the time of the donation.

B. Fixed assets related to specific proprietary or trust funds shall be accounted for in those funds. All other fixed assets shall be accounted for in the general fixed asset account group.

C. Property control system: The local school board shall adopt a complete property control system for the acquisition and accounting of long-term assets, including land and ground improvements, buildings and related improvements, remodeling, additions, furniture, machinery, and equipment. The system shall comply with GAAP, General Services Department rules, the Procurement Code, and applicable state and federal requirements.

D. Capital projects: The acquisition, accountability, and disposition of fixed assets for capital projects shall be in accordance with GAAP. Funds used to erect, remodel, make additions to school buildings, or to purchase and improve public school grounds shall be classified under capital projects.
[6.20.2.22 NMAC - Rp, 6.20.2.22 NMAC, 10/20/2026]

6.20.2.23 OTHER SERVICES:

A. Food services: Food service funds shall be accounted for in the special revenue fund or the enterprise fund. All monies collected from the sale of food for the food service operation are to be accounted for in accordance with GAAP, U.S. department of agriculture (USDA) requirements, and Section 22-13-13 NMSA 1978.

B. Legal fees: No school district funds shall be used for payment of personal legal fees, including attorney's fees and costs, of any school district or charter school employee or local school board member. Any payment of legal fees shall serve a clearly identifiable public interest. Personal legal fees include:

(1) legal fees expended in obtaining or retaining any elected position;

(2) legal

fees incurred by any employee or local school board member in any civil action filed by or against the employee or local school board member in one's personal capacity, unless, in the case of an action against the employee or local school board member, the allegations arise from acts taken in the course and scope of one's employment or service;

(3) legal fees incurred by any employee or local school board member in the defense of any criminal case, unless the charges arise from acts taken in the course and scope of one's employment or service.

C. Federal and state grants:

(1) Flowthrough funds: School districts shall use flowthrough grant funds for their awarded purpose, submit complete and accurate required reports within prescribed timeframes, and account for such funds in accordance with GAAP, applicable federal regulations, and the grant award.

(2) Direct funds: School districts shall use direct grant funds for their awarded purpose, submit complete and accurate required reports within prescribed timeframes, and account for such funds in accordance with GAAP, applicable federal regulations, and the grant award. These direct funds shall be incorporated into the school district operating budget without prior approval provided that the school district submits a budget adjustment request to the department.

D. Student activity funds (non-instructional activities): Funds set aside for non-instructional activities shall be accounted for in the same manner as other operational fund budgets. Other assets held by the school district in a fiduciary capacity for school or student organizations shall be accounted for in accordance with GAAP and are not required to be budgeted. School districts are responsible for the accountability of fiduciary funds. These funds are not considered public money for purposes of the state

Procurement Code. School districts shall follow appropriate internal controls over such funds and shall comply with all applicable laws, rules and regulations governing the receipt, custody, and disbursement of activity funds.

E. Joint powers agreements: Accounting for joint powers agreements, entered into pursuant to the Joint Powers Agreement Act, Sections 11-1-1 through 11-1-7 NMSA 1978, shall be in accordance with the agreement.
[6.20.2.23 NMAC - Rp, 6.20.2.23 NMAC, 10/20/2026]

6.20.2.24 OTHER ADMINISTRATIVE STANDARDS:

A. Transportation: Student transportation is provided for in Section 22-16-1 et seq. NMSA 1978. Monies allocated by the transportation unit of the department shall be utilized for transportation expenditures only and accounted for in accordance with department transportation regulations and GAAP.

B. Records retention and disposition: The management of school district records shall be in accordance with the Public Records Act, Section 14-3-1 et seq. NMSA 1978.

C. Open Meetings Act: School districts shall comply with the provisions of the Open Meetings Act, Section 10-15-1 et seq. NMSA 1978.
[6.20.2.24 NMAC - Rp, 6.20.2.24 NMAC, 10/20/2026]

6.20.2.25 SEVERABILITY:

In the event that any one or more of the sections of this rule, in whole or in part, should be held to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining sections of this rule shall not in any way be affected or impaired.
[6.20.2.25 NMAC - N, 10/20/2026]

HISTORY OF 6.20.2 NMAC:

PRE-NMAC HISTORY: The material in this regulation is derived from that previously with the State

Records Center & Archives under: SBE Rule 89-7, Manual of Procedure for Uniform Financial Accounting and Budgeting for New Mexico School Districts, filed 12/8/1989; SBE Rule 93-1, Governing Budgeting and Accounting for New Mexico Public Schools and Schools Districts, filed 2/3/1993.

Other History: 6.20.2 NMAC - Governing Budgeting and Accounting For New Mexico Public Schools and School Districts filed 11/01/1997, was repealed and replaced by 6.20.2 NMAC - Governing Budgeting and Accounting For New Mexico Public Schools and School Districts, effective 10/20/2026.

REGULATION AND LICENSING DEPARTMENT ATHLETIC COMMISSION

This is an amendment to 15.6.17 NMAC, Sections 8, 9, 10, 12, 14, 15, 16, and 17 effective 10/20/2026.

15.6.17.8 PREREQUISITE LICENSURE REQUIREMENTS FOR PROFESSIONAL AND AMATEUR UNARMED

COMBATANTS: Applicants must submit the following documentation to the commission.

- A.** Completed commission-approved application.
- B.** A copy of driver's license or state issued identification card proving the applicant is at least 18 years of age.
- C.** The applicable license fee as set forth in Subsection B of 15.6.14 NMAC.
[15.6.17.8 NMAC - N, 03/23/2002; A, 08/26/2012; A, 01/15/2015; A, 10/20/2026]

15.6.17.9 PREREQUISITE LICENSURE REQUIREMENTS FOR REFEREES:

All applicants for a referee's license must.

[A.] Submit a completed commission-approved application for licensure:

B. Submit proof of a minimum of 10 fights as a referee-trainee:]

A. A referee trainee must be a New Mexico resident.

B. All referees must be actively licensed in their home state and in good standing with the applicable governing authority.

C. All referees must be certified by the association of boxing commissions (ABC) and shall maintain current certification status. Referees are required to renew or update their ABC certification every two years, not exceed three years; to remain in compliance with the most current rules, safety protocols, and officiating criteria adopted by the ABC.

D. A referee trainee must complete a minimum of 20 supervised training sessions and 10 in the ring/cage with no procedural or judgement errors in each combat sport for which licensure is being sought before being considered for approval of an official referee's license. The commission reserves the discretion to require additional training as deemed necessary to ensure competency, safety awareness, and consistency in officiating performance.

E. The referee applicant shall be designated as a "referee trainee" until completion of the training period.

F. Submit a completed commission approved application for licensure, along with certification of training.

[G.] G. Submit the applicable license fee as set forth in Paragraph (3) of Subsection B of 15.6.14 NMAC.

[H.] H. Submit copy of driver's license or state issued identification card proving the applicant is at least 18 years of age.

I. Applicants who hold a referee's license in a jurisdiction other than New Mexico must currently be ABC Certified, with at least two years of experience; submit a completed commission-approved application for licensure and requisite fee. These out-of-state referees are not required to: (1)

complete a written exam;(2) observe a training period; or (3) be designated as a "referee-trainee" unless the commission in its discretion deems any of these requirements necessary.
[15.6.17.9 NMAC - N, 03/23/2002; A, 08/26/2012; A, 01/15/2015; A, 10/20/2026]

15.6.17.10 PREREQUISITE LICENSURE REQUIREMENTS FOR JUDGES:

All applicants for a judge's license must.

[A.] Submit a completed commission-approved application for licensure:]

A. A judge trainee must be a New Mexico resident.

B. All judges must be certified by the association of boxing commissions (ABC) and shall maintain current certification status. Judges are required to renew or update their ABC certification every two years and not to exceed three years; to remain in compliance with the most current scoring criteria and standard adopted by the ABC.

C. A judge trainee must successfully score a minimum of 20 bouts in each combat sport for which licensure is being sought. The commission reserves the discretion to require additional training sessions or rounds as deemed necessary.

D. The judge applicant shall be designated as a "judge-trainee" until completion of the training period.

E. Submit a completed commission approved application for licensure along with certification of training.

[B.] F. Submit the applicable license fee as set forth in Paragraphs (13) or (14) of Subsection B of 15.6.14 NMAC.

[G.] Take and satisfactorily pass a written exam designated by the commission before being assigned to a required actual training period of no less than three unarmed combat events where he will actually score bouts under the supervision of a commission-designated instructor.

D. The judge applicant shall be designated as a "judge-

trainee” until completion of the training period.]

[~~E~~] **G.** Submit a copy of driver’s license or state issued identification card proving the applicant is at least 18 years of age.

[~~F~~] **H.** Applicants who hold a judge’s license in a jurisdiction other than New Mexico must currently be ABC Certified, with at least two years of experience; submit a completed commission-approved application for licensure and requisite fee. These out-of-state judges are not required to: (1) complete a written exam; (2) observe a training period; or (3) be designated as a “judge-trainee” unless the commission in its discretion deems any of these requirements necessary. [15.6.17.10 NMAC - N, 03/23/2002; A, 08/26/2012; A, 01/15/2015; A, 10/20/2026]

15.6.17.12 REGISTERED ADDRESS OF LICENSEE: All commission notices and bulletins will be sent to the licensee at the last email address on file in the commission office. The licensee shall be responsible for notifying the commission of any change in email address.

[15.6.17.12 NMAC - N, 03/23/2002; A, 10/20/2026]

15.6.17.14 [PREREQUISITE] LICENSURE REQUIREMENTS FOR ANNOUNCERS: All applicants for an announcer’s license must.

A. Submit a completed commission-approved application for licensure.

B. Submit the applicable license fee as set forth in Subsection B of 15.6.14 NMAC.

C. Submit a copy of driver’s license or state issued identification card proving the applicant is at least 18 years of age. [15.6.17.14 NMAC - N, 08/26/2012; A, 10/20/2026]

15.6.17.15 [PREREQUISITE] LICENSURE REQUIREMENTS FOR TIMEKEEPERS: All applicants for a timekeeper’s license must.

A. Submit a completed commission-approved application for licensure.

B. Take and satisfactorily pass a written exam designated by the commission before being assigned to a required actual training period of no less than [~~three~~] five professional unarmed combat [~~shows~~] events where they will actually keep time for bouts under the supervision of a commission-designated instructor.

C. Submit the applicable license fee as set forth in Subsection B of 15.6.14 NMAC.

D. Submit a copy of driver’s license or state issued identification card proving the applicant is at least 18 years of age. [15.6.17.15 NMAC - N, 08/26/2012; A, 10/20/2026]

15.6.17.16 LICENSURE REQUIREMENTS FOR

PROMOTERS: All applicants for a promoter’s license must.

A. Submit a completed commission-approved application for licensure.

B. Submit the applicable license fee as set forth in Subsection B of 15.6.14 NMAC.

C. Submit copy of \$10,000 Surety Bond. [15.6.17.16 NMAC - N, 10/20/2026]

15.6.17.17 APPROVAL OF OFFICIALS AND PROMOTER’S APPLICATIONS:

A. An initial application submitted by an official or promoter shall be reviewed by the executive secretary or commission staff to determine compliance with all commission application requirements.

B. When the application is deemed complete, the application will be considered at the next regularly scheduled commission meeting. [15.6.17.17 NMAC - N, 10/20/2026]

HISTORY of 15.6.17 NMAC: Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state

records center and archives: NMAC 80-1, The Commission, Its Powers And Procedures, filed 9/24/1980.

Those relevant portions of NMAC Rule 92-2, The Commission, Its Powers and Procedures, filed 8/17/1992.

NMAC 80-4, Conduct of Licensees, filed 9/24/1980.

Those relevant portions of NMAC Rule 92-6, Conduct of Licensees, filed 8/17/1992.

History of Repealed Material:

NMAC Rule 92-2 (aka 15 NMAC 6.1), The Commission, Its Powers And Procedures, filed 8/17/1992; repealed effective 03/23/2002.

NMAC Rule 92-6 (aka 15 NMAC 6.4), Conduct of Licensees, filed 8/17/1992; repealed effective 03/23/2002.

Other History:

NMAC Rule 92-2 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.1 and named General Provisions.

NMAC Rule 92-6 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.4 and named Conduct of Licensees.

15.6.17 NMAC, License Provisions, replaced those relevant portions of 15 NMAC 6.1, General Provisions, and 15 NMAC 6.4, Conduct of Licensees, effective 03/23/2002.

SUPERINTENDENT OF INSURANCE, OFFICE OF

TITLE 13 INSURANCE CHAPTER 10 HEALTH INSURANCE PART 41 COVERAGE FOR SPECIFIED SEX TRAIT MODIFICATION PROCEDURE

13.10.41.1 ISSUING

AGENCY: Office of Superintendent of Insurance.

[13.10.41.1 NMAC – N/E, 05/05/2026; N, 10/20/2026]

13.10.41.2 SCOPE: This rule only applies to health insurers who issue an individual or group health insurance policy, health care plan or certificate of health insurance for a resident of this state. This rule does not apply to any short-term health plan or excepted benefits plan under Section 59A-23G-2 NMSA 1978.
[13.10.41.2 NMAC - N/E, 05/05/2026; N, 10/20/2026]

13.10.41.3 STATUTORY AUTHORITY: Sections 14-4-1 *et seq.*, NMSA 1978, State Rules Act, and Sections 59A-23E-11 and 59A-16-13 NMSA 1978.
[13.10.41.3 NMAC - N/E, 05/05/2026; N, 10/20/2026]

13.10.41.4 DURATION: Permanent.
[13.10.41.4 NMAC - N/E, 05/05/2026; N, 10/20/2026]

13.10.41.5 EFFECTIVE DATE: October 20, 2026, unless a later date is cited at the end of a section. This rule applies beginning with plan year 2027 and each plan year thereafter.
[13.10.41.5 NMAC – N/E, 05/05/2026; N, 10/20/2026]

13.10.41.6 OBJECTIVE: To clarify coverage requirements for specified sex trait modification procedure healthcare and pharmacy benefits.
[13.10.41.6 NMAC - N/E, 05/05/2026; N, 10/20/2026]

13.10.41.7 DEFINITIONS: Unless inconsistent with a term defined in this rule, or the usage of a term in this rule, the definitions in 13.10.29 NMAC apply:

A. “BeWell”
New Mexico’s health insurance marketplace for Affordable Care Act plans;

B. “gender identity”
means emotional, physical, and social expression of an individual’s preferred sex traits;

C. “health insurer”
means an entity subject to the

insurance laws and regulations of this state, including a health insurance company, a health maintenance organization, a hospital and health services corporation, a provider service network, a non-profit health care plan or any other entity that contracts or offers to contract, or enters into agreements to provide, deliver, arrange for, pay for or reimburse any costs of health care services, or that provides, offers health benefits plans or managed health care plans in this state;

D. “medically necessary” means health care services determined by a provider, in consultation with the health insurance carrier, to be appropriate or necessary, according to:

(1) Any applicable generally accepted principles and practices of good medical care;

(2) Practice guidelines developed by the federal government, national or professional medical societies, boards and associations, or

(3) Any applicable clinical protocols or practice guidelines developed by the health insurance carrier consistent with such federal, national and professional practice guidelines. These standards shall be applied to decisions related to the diagnosis or direct care and treatment of a physical or behavioral health condition, illness, injury or disease;

E. “provider”
means, in addition to the definition in Paragraph (13) of Subsection P of 13.10.29.7 NMAC, pharmacists authorized to prescribe drugs for any specified sex trait modification procedure directly to patients pursuant to 16.19.26.14 NMAC;

F. “specified sex trait modification procedure” has the same meaning as defined in 45 C.F.R. Section 156.400; and

G. “superintendent”
has the same meaning as defined in Section 59A-1-12 NMSA 1978.
[13.10.41.7 NMAC - N/E, 05/05/2026; N, 10/20/2026]

13.10.41.8 NONDISCRIMINATION: A health insurer who is required to provide coverage for any specified sex trait modification procedure under this rule shall do so without discriminating against the covered person on the basis of race, color, national origin, sex, sexual orientation, gender identity, marital status, age, citizenship, immigration status, or disability.
[13.10.41.8 NMAC - N/E, 05/05/2026; N, 10/20/2026]

13.10.41.9 COVERAGE REQUIREMENTS: A health insurer has an obligation to cover any specified sex trait modification procedure that an insured’s provider determines to be medically necessary in consultation with the health insurer.
[13.10.41.9 NMAC - N/E, 05/05/2026; N, 10/20/2026]

13.10.41.10 REQUEST TO SUPERINTENDENT FOR DEFRAYAL:

A. Only health insurance plans sold on BeWell are eligible for defrayal under this rule.

B. Only in-network claims, or out-of-network claims eligible for coverage pursuant to provider network adequacy rules under 13.10.22 NMAC, are eligible for defrayal under this rule.

C. By October 1, 2028, and each year on this date thereafter, a health insurer seeking defrayal of costs for the previous plan year under this rule shall provide information related to claims, consistent with criteria that the superintendent establishes, incurred during the prior full calendar year for specified sex trait modification procedures.

D. The superintendent shall not use federal funds for defrayal of costs associated with specified sex trait modification procedures.

E. Health insurers shall create an allocation account with adequate funds through which they exclusively administer claims for all specified sex trait modification procedures and drugs.
[13.10.41.10 NMAC - N/E, 05/05/2026; N, 10/20/2026]

13.10.41.11 CONFIDENTIALITY:

A. A health insurer shall maintain confidentiality of claims and services pursuant to state and federal law, including the Domestic Abuse Insurance Protection Act, Sections 59A-16B-1 *et seq.* NMSA 1978.

B. The superintendent shall treat all information received to support requests for defrayal as confidential.

[13.10.41.11 NMAC - N/E, 05/05/2026; N, 10/20/2026]

13.10.41.12 DESCRIPTION

OF COVERAGE: A health insurer shall annually describe coverage for specified sex trait modification procedures in evidence of coverage summary.

[13.10.41.12 NMAC - N/E, 05/05/2026; N, 10/20/2026]

13.10.41.13 PENALTIES:

In addition to any applicable suspension, revocation or refusal to continue any certificate of authority or license under the Insurance Code, a penalty for any violation of this rule may be imposed against an insurer in accordance with Sections 59A-1-18 and 59A-46-25 NMSA 1978.

[13.10.41.13 NMAC - N/E, 05/05/2026; N, 10/20/2026]

13.10.41.14 SEVERABILITY:

If any section of this rule, or the applicability of any section to any person or circumstance, is for any reason held invalid by a court of competent jurisdiction, the remainder of the rule, or the applicability of such provisions to other persons or circumstances, shall not be affected.

[13.10.41.14 NMAC - N/E, 05/05/2026; N, 10/20/2026]

History of 13.10.41 NMAC:
[RESERVED]

**WORKFORCE
SOLUTIONS,
DEPARTMENT OF**

This is an amendment to sections 11.1.2 NMAC, Sections 18, 20 and 21, effective 1/1/2027

11.1.2.18 JOB CLASSIFICATIONS AND DESCRIPTIONS:

The job classifications and descriptions for public works projects shall be as follows:

A. Asbestos heat and frost insulator: The preparation, alteration, application, erection, assembling, molding, spraying, pouring, mixing, hanging, adjusting, repairing, dismantling, reconditioning, maintenance, finishing or weatherproofing of cold or hot thermal insulations with such materials as may be specified when those materials are to be installed for thermal purpose in voids, or to create voids, or on either piping, fittings, valves, boilers, ducts, flues, tanks, vats and equipment, or on any hot or cold surfaces for the purpose of thermal control, or to be installed for sound control on mechanical devices; equipment; piping and surfaces related in an integral way to the thermal insulation of such mechanical devices, except for materials applied inside sheet metal ducts and fittings. This work also includes all labor connected with:

(1) insulation for: temperature control (excluding batt and blown-in); personnel protection or safety; prevention of condensation; fire proofing of building penetrations.

(2) distribution of, cleanup of, and removal from surfaces as described above, which surfaces will be reinsulated with (excluding demolition which is covered under the laborers classification) the materials they apply.

B. Boilermaker: Assembles prefabricated boiler parts and fittings to build steam boilers, tanks, vats and other vessels made of ten gauge or heavier metal, and installs catwalks, platforms, stairways and ladders which are erected on, and supported by storage tanks for liquid or gas when such tanks were erected by boilermakers, and installs

all catwalks, platforms, stairways and ladders which are erected on and exclusively supported by a pressure vessel.

[B:] C. Bricklayer, blocklayer, stonemason: Constructs partitions, fences, walks, fireplaces, chimneys, smokestacks, etc., using brick, structural tile, concrete and other types of structural block. This classification shall include the setting of stone, marble, slate, and artificial stone. All cutting, grouting and pointing of materials listed above shall be a part of this classification. May also build or repair brick, block, or stone retaining walls, cutting or placing of brick in mortar or other similar material.

[C:] D. Carpenter or lather: Sets batterboards, builds and sets forms for concrete, or structural stud except as provided elsewhere. Builds and erects wood and metal products for the framing of structure or building, including bearing and non-bearing walls, framework in buildings, including partitions, floor and ceiling joists, studding, and rafters. Installs wood subflooring and hardwood flooring. Builds wood stairways, cabinets, steps, etc. Installs wood or premanufactured molding, paneling, doors, windows, etc., products and components related to office interiors - partitions, draperies, shelving, panels, doors, (metal, wood, etc.); including hardware; insulation around concrete slabs. Install pin metal or steel studs and wood furring (except on roofs). Carpenters may shoot grades for surveying and attaches "sheetrock" and similar wallboard materials to walls and ceilings. Installs insulation material in walls, ceilings, and under floors of buildings where such insulation is not laid in cement or other plastic materials. Sets all woodworking equipment and operates same. Builds forms and structural element for pre-cast and pre-stressed concrete of all types and shapes on project site. Erects self-supporting scaffolding. Installs light iron and metal furring such as rods, channels and other bars or systems to which metal lath, rock lath or other materials used as a

substitute for lath are to be attached. Installs metal lath, rock lath, and other materials used as a substitute for lath. Installs metal plastering accessories such as corner beads, door and window casing beads, metal picture mold, chair rails and other metal plastering accessories which are covered and serve as a ground or guard, except that metallic corner beads, when installed by using plastic material, shall be installed under the "plasterer" classification. Cuts wood materials using a stationary or portable power saw of one or more horsepower. Sharpens by use of files, all types of saws and saw blades used for the cutting of wood materials.

[D-] E. Carpenter (millwright): Performs work necessary to assemble, level, align, secure, dismantle, adjust and maintain permanent stationary pumps, motors, generators, turbines, fans, compressors or torque converters which require precision leveling and alignment of such equipment. Installs reduction gear boxes, fluid drives, and speed increasers, including the connection of same to pump or compressor coupling. May align and secure other direct drive motors and machines requiring precision alignment. Installation, repair, or removal of all pulleys, sheaves, sprockets, gears and flywheels including all belts, cables and chains. Fabricates or installs all templates, soleplates, grout pads and wedge blocks for all machinery requiring foundation or bolts. Installs all machinery, equipment and conveying devices in all classes of plants, factories, buildings, amusement parks, mills, shops stores, warehouses and construction or mining sites.

[E-] E. Carpenter (piledriver): Rigs piledriving equipment, signals pile rig and guides pile and leads to point pile is driven, aligns and plumbs pile using tape and level during driving; splices piles before, during and after driving, cuts off piles, realigns piles after driving. In "piledriving" operations, handles wood, metal, sheetpiling, steel H-beams, concrete, or pipe, fastens them to cable of wench or piledriver,

shifts timber piles with cant hook, cleans and points pile with axe or shovel. May drill pilot holes.

[F-] G. Cement mason (composition or mastic - finishing machine operator): Finishes concrete to a specified finish and grade on footings, floors, walks, steps and all concrete surfaces by using tools of the trade such as trowels, floats, screeds, etc. Sets to grade and aligns screeds one board high. Sets to grade and aligns forms for sidewalk, curbs and gutters. Fabricate, cut, bend and tie reinforcing steel and mesh to be placed within the forms for sidewalk, curbs and gutters. Patching, filling of voids and rubbing of concrete to a specified finish, which requires the use of power tools and tools of the trade. Bushhammer and related finish procedure. Concrete saw operation when used on new construction to saw control joints. Vibrating screeds and rollers to achieve final level of concrete. Gunite, in cement mason operation, when it is less than one and one-half inches in thickness, the handling and control of the nozzle shall be the work of the "cement mason." All work involving the laser screed including the ride-on, laser-guided, vibratory screeding machine that establishes grades by laser which disperses concrete by auger and thoroughly vibrates and consolidates the concrete. Applies coloring material to concrete, also uses mastic to level and waterproof concrete, where tools of the trade are involved. Operates troweling and floating machines which are used in the finishing of concrete. Cementitious insulation, screed wet material to required thickness and darby joints to leave a surface suitable for roofing.

[G-] H. Electrician classifications and description - Outside:

(1)

Groundman (outside): Assists "lineman" and "equipment operator" in their tasks except that the "groundman" does not climb poles or towers.

(2)

Equipment operator (outside): Operates power driven equipment used in

the erection and installation of materials and apparatus outlined under the "lineman" classification. Includes directional boring to install underground pipe, conduit or cable.

(3) Lineman

or technician (outside):

(a)

Performs all electrical construction work outside of isolated plants and the property lines of any given property, but not electric signs, and not street electrical decorations, except when messenger or guy wire is necessary for support and when fed and controlled from the street.

(b)

Street lighting, traffic signalization, and related wiring when fed and controlled from the street. All line work consisting of wood, concrete or metal (or substitutes therefore), poles or towers, including wires, cables or other apparatus supported therefrom. Line work in public, private or amusement parks.

(c)

All work necessary to the assembling, installation, erection, operation, maintenance, repair, control, inspection and supervision of all electrical apparatus, devices, wires, cables, supports, insulators, conductors, ducts and raceways when part of distributing systems outside of buildings, railroads and outside and directly related railroad property and yards. Installing and maintaining the catenary and trolley work on railroad property, and bonding of rails. All underground ducts and cables when they are installed by and are part of the system of a distributing company, except in power stations during new construction, including ducts and cables to adjacent switch racks or substations. All outdoor substations and electrical connections up to and including the setting of transformers and all connecting of the secondary buses thereto, and all other related work.

(4) Cable

splicer (outside): Splices or terminates power cables which are designed to be used for voltages above 2,000. Splices or terminate gas or liquid filled power cables, when

part of a distribution system outside of buildings.

(5)

Journeyman technician (outside): Limited to performing only street lighting, traffic signals, and wiring when fed and controlled from the street.

~~(6)~~

~~Journeyman—substation technician: Non-energized, installation, removal and replacement of electrical substation systems and structures only.~~

~~(7)~~

~~Journeyman—transmission technician: non-energized, installation, removal and replacement of electrical transmission systems and structures only.]~~

[H:] L Electrician

classifications and descriptions - Inside:

(1) Wireman

or technician (inside): Installs wiring for automatic doors. Plans and executes the layout and installation of electrical conduit, switch panels, buss bars, outlet boxes, electrical wires and cables, lighting standards, lighting fixtures, receptacles, switches, and other electrical devices and apparatus necessary for the complete installation of wiring systems on commercial, industrial, and residential jobs, except electrical work which is incidental to the installation of elevators and escalators and is described under "elevator constructor". Analyzes proposed telephone and communication systems during the pre-installation stage to detect any basic conflicts in either equipment arrangements or plant facilities. Isolated trouble conditions in inoperable telephone communications systems. Installs a variety of equipment relating to telephone interconnect communication systems and devices including private branch exchange (PBX-PABX), key equipment and associated devices.

(2) Cable

splicer (inside): Splices or terminates power cables which are designed to be used for voltages above 2,000. Splices or terminates gas or liquid filled power cables.

[H:] J Low voltage

electrician classification: Low Voltage Technician: Installs pathways (j-hooks) and wiring for low voltage cabling coax or fiber optic and terminates ends of the different types of cables levels and tests. This work includes voice, data security, access control, building automation and video surveillance. Repairs and services inter-communications systems, i.e. speakers, buzzers, microphones, signal lights or other units or components that are an integral part of such system.

[J:] K Elevator

constructor: Assembles and installs machinery and devices incidental to a complete elevator or escalator installation, including elevator cars, cables, counterweights, guide rails, hoisting machinery, etc. Installs all electrical wiring which is incidental to the installation of automatic elevators and escalators with the exception of power feed wires to the controller, which shall be classified as a task of "electricians". Steel trusses, girders, and supports for escalators, where riveted or welded and metal frames and bucks for elevator door openings shall be installed under the "ironworker" classification.

[K:] L Elevator constructor

helper: Assist elevator constructor in the performance of all phases of their work.

[L:] M Glazier: Installs

metal window and door frames without glass, curtain wall systems, window wall systems, cable net systems, canopy systems, structural glazing systems, unitized systems, interior glazing systems, photovoltaic panels and systems, suspended glazing systems, louvers, skylights, entranceway systems including doors and hardware, revolving and automatic door systems, patio doors, store front systems including the installation of all metals, column covers, panels and panel systems, glass hand rail systems, decorative metals as part of the glazing system, and the sealing of all architectural metal and glass systems for weatherproofing and structural reasons, using vinyl, molding,

rugger, lead, sealants, silicone and all types of mastics in wood, iron, aluminum, sheet metal or vinyl sash, doors, frames or any materials of the above systems as part of the glazing systems. Installs glass, including plate and window glass, mirrors, beveled plate, rough ribbed, wire, figured, colored, art and other type glass or substitute for glass when set in sash, frames, doors, skylights, etc., when set with putty, molding or other methods which are common to the glazing trade.

[M:] Heat and frost-

insulator: The preparation, alteration, application, erection, assembling, molding, spraying, pouring, mixing, hanging, adjusting, repairing, dismantling, reconditioning, maintenance, finishing or weatherproofing of cold or hot thermal insulations with such materials as may be specified when those materials are to be installed for thermal purpose in voids, or to create voids, or on either piping, fittings, valves, boilers, ducts, flues, tanks, vats and equipment, or on any hot or cold surfaces for the purpose of thermal control, or to be installed for sound control on mechanical devices; equipment; piping and surfaces related in an integral way to the thermal insulation of such mechanical devices, except for materials applied inside sheet metal ducts and fittings. This work also includes all labor connected with:

~~(1)~~ insulation-

~~for: temperature control (excluding batt and blown-in); personnel protection or safety; prevention of condensation; fire proofing of building penetrations:~~

~~(2)~~ distribution

~~of, cleanup of, and removal from surfaces as described above, which surfaces will be reinsulated with (excluding demolition which is covered under the laborers classification) the materials they apply.]~~

N. Ironworker:

(1)

Journeyman Ironworker: Installs reinforcing iron and steel for concrete structures. Installs fabricated steel

members such as girders, columns, beams, and bracing in structures to form the steel framework. Installs metal stairways, catwalks, ladders, and decking. Installs ornamental iron and steel. Erects structural steel radio and television towers. Sets wall bearing steel bar joists in building structures. Performs layout work for rods within project area. Fastens rods in place with wire or fasteners; bends or adjusts as required. Selects and places steel bars or spirals in concrete forms to reinforce concrete; fastens rods together with wire or patented fasteners; may cut rods with hack-saw or oxyacetylene torch. May bend rod, using rod bending machine, performs layout work and proper placing of steel in the concrete forms. May prefabricate reinforcement assembly for placement complete in forms. Works as a member of a group that raises and places fabricated or precast concrete beams or structural steel members, such as girders, plates, columns, and units them permanently to form a completed structural steel framework. Heats rivets, signals erection crane, splices cables, rigs equipment. May include dismantling and erecting large units of equipment. May suspension bridge cables. Erects, trims, and fits together by means of bolts and clamps, iron grills, grating, and special stairways. Erects ornamental enclosures and other iron work not included in structural ironwork. Fastens ironwork to walls of buildings by means of bolts, brackets or anchors. Fastens newel posts, balauser, and other parts of stairways by fastening to supports or embedding them in sockets. Forges, welds, drills and cuts as needed.

(2)

Probationary Ironworker:
Probationary ironworkers shall be paid at the rate of eighty percent of the journeyman ironworker wage rate and may only work under this classification for no more than 30 days.

O. Painter (brush):

Applies paint, stain, lacquer, varnish, etc., to surfaces in, on or around building structures, using appropriate brushes, rollers, sprayers

or trowels. Does preparation of surfaces to receive paint, including sandblasting, small patching, sanding and spackling. Mixes and prepares paints and other materials which are to be applied by painters. Seals, sands and varnishes hardwood flooring. Paints structural steel framework of bridges; guard rails and cables of bridges; and all other surfaces requiring paint. May erect and rig stages and platforms from which painters are to work, including swing stage scaffolding, bosun's chairs, mechanical, staging, cornice or roof hooks, scaffolding, and other devices and apparatus necessary to provide safe forking conditions for painters. Operates gasoline-powered compressor striping machine and walking type sprayers for striping parking lots, etc.

P. Paperhanger:

Applies wallpaper, fabric, or other materials used in the same manner as wallpaper, to the interior of rooms. Performs work necessary to prepare surfaces to receive wallpaper or other similar material including removal of old wall paper.

Q. Drywall finisher

or taper: Prepares drywall type construction to receive paint, texture, etc. by pointing, taping, bedding, texturing, skimming, wire brushing, stripping, wax, or acid application and finishing.

R. Plasterer:

Applies interior and exterior plastering of cement, stucco and stone imitation or any patented materials when cast. Applies acoustical plaster or materials used as substitutes for acoustical plaster, as well as the preparatory pointing and taping of drywall surfaces to receive these finishes. Applies scratch and brown coats on walls and ceilings where tile, mosaic or terrazzo is to be applied. Molds and sets ornamental plaster and trim and runs ornamental plaster cornice and molding. Install metal corner beads when stuck by using plastic materials. Applies gunite, in plastering operations, when it is one and one-half inches in thickness, the handling and control of the nozzle should be the work of the plasterer.

Spray fire proofing material on steel beams or columns. Trowel or sprayed on foam insulation on walls before stucco, etc. Patching outside concrete walls.

S. Plumbers and

pipefitters: Fabricates and installs piping, and tubing systems, including installation of all necessary hangers and supports, which are to conduct water, steam, air, and other fluids or gases in and around buildings. Also installs vacuum piping systems. Installs drainage and sewage lines (laterals) from buildings to the point of attachment to mains. Installs plumbing fixtures, such as sinks, faucets, drinking fountains, commodes, etc. Installs refrigeration equipment. Performs cutting, welding and burning which is incidental to the work of plumbing or pipefitting, except as is described under "lead burner". May do other work in connection with the installation and testing of heating and cooling apparatus and control devices.

T. Plumbers and

pipefitters (lead burner): Performs cutting, burning and welding operations on lead pipes, tanks, reservoirs, etc.

U. Roofer:

(1) Roofer

Journeyman: Installs alters or repairs roof systems on new or existing roof decks to create a weatherproof and waterproof protective membrane, with or without insulation, using asphalt, pitch, tar, sealants, single ply or multiple ply materials, felt, shakes, shingles, roof tile, slate, coatings, urethane, urethane foam, metal or any other approved roofing materials, including the preparatory work necessary to bring such surfaces to a condition where roofing can be installed, sealed, or repaired. Includes cutting, shaping fabricating and installing or wood, metal or other approved materials for fascias, soffits, copings, cornices, canals, flashing, gutters, leaders, rainwater downspouts, pans, prefabricated chimneys, at or near roof lines, metal flues, prefabricated roof curbs. Installs roofing insulation, and other necessary waterproofing and damp

proofing on walls and floors below ground. May perform other water-proofing operations using methods which are common to the roofing trade. Handles all roofing materials at job site and performs all roofing clean-up. Tears off old roof when roof is to be replaced.

(2) Roofer

Helper: Roofer helpers shall be paid at the rate of sixty percent of the journeyman roofer wage rate. There is no restriction on the type of work that the roofer helper may perform. The ratio of helper to journeyman is one helper for every three journeymen.

V. Sheet metal worker:

Fabricates and installs heating and air conditioning ducts and other ductwork. Fabricates and installs hangers, brackets, etc., used in the installation of sheet metal, and installs grills, registers, etc., which are part of duct systems. Fabricates or installs architectural sheet metal in and around buildings, including metal panel systems, canopies, awnings, exhaust louvers, and cupolas. Installs warm air furnaces except where necessary piping for gas or oil is performed under the plumbing and pipefitting classification. Performs the testing, measuring, adjusting of air and hydronic flows in a building to meet design specifications and local building codes to ensure thermal comfort, indoor air quality, and system energy efficiency are optimized, performs periodic inspections of fire, smoke and combination fire and smoke dampers and conducts differential pressure measurements across, and force testing of stairwell egress doors and performs the functional testing and general required maintenance of smoke control systems and is responsible for recognizing the proper installation, application, and usage of smoke control systems. May install other heating and cooling devices which are in connection with duct systems. Ductwork fabricated in accordance with engineered and stamped approved drawings for public works projects shall be subject to prevailing wage requirements.

W. Soft floor layer:

Cleans and prepares floors and other surfaces to which linoleum and floor tile is to be applied. Lays carpets. Applies appropriate cement to floors and surfaces and installs materials such as sheet rubber, sheet vinyl, asphalt tile, cork tile, linoleum, rubber tile, artificial turf and other resilient floor coverings. Rolls finished floors and surfaces to smooth and press down coverings which have been applied. Mixes and pours liquid seamless floor covering on floor, gyms, etc. Installs decorative or protective trim to and adjoining the above materials including the attaching of cap strips, nosing, and slats.

X. Sprinkler fitter:

Fabricates, assembles, and installs all piping and auxiliary devices which are necessary for the complete installation of sprinkling systems for fire protection in buildings.

Y. Tile setter: Applies glazed, unglazed, mosaic, and other ceramic tiles which are used as a surface on floors, walls, ceilings and other surfaces and which must be set to a specified grade. Applies and floats all setting beds which these tiles are set into. Levels and plumbs these tiles to the specified grade.

Z. Tile setter helper:

Handles and mixes materials to be used in floating beds, generally assists tile setter by delivering materials, cleaning and caring for tools.

AA. Power equipment operators - group I performs the following tasks or operate the following equipment:

(1) Concrete paving curing machine (Bridge type): Operates self-propelled machine and operates pump on the machine which sprays curing compound on freshly poured concrete. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(2) Fireman: Hand strokes or fires by gas or oil, a portable or semi-portable steam boiler, such as is used on steam shovels, pile drivers, cranes, dredges, hoisting equipment and asphalt plants.

(3) Oiler: A service man who lubricates

mechanical equipment, gives signals to operator when applicable, changes oil, greases and filters, refuels equipment. May assist mechanic, head oiler or operator in assembling, setting up, adjusting, maintaining (including operation of steam cleaners) and repairing all types of construction equipment. May, when servicing equipment, drive a truck which carries fuels, oils and greases. May use the tools of the trade at and under the direction of a mechanic, head oiler or operator.

(4)

Screedman: Manipulates handwheels or other devices to raise or lower screeds of asphalt machine.

Regulated width of screed and depth of material. May oil, grease, or otherwise service and make necessary adjustments to equipment as needed.

(5) Scale operator such as (bin-a-batch).

(6) Tractor (under 50 drawbar h.p. without attachments): Operates a small diesel or gasoline powered rubber-tired, farm -type tractor, with no attachments, to pull by drawbar, seed drills, etc. May oil, grease, or otherwise service and make necessary adjustments.

(7) Industrial locomotive brakeman: A semi-skilled operator who hooks and unhooks various cars, throws switches, operates car dumps, signals locomotive operator, manipulates controls of loading devices (hopper conveyors, etc.) and assists locomotive operator. May oil, grease or otherwise service and make necessary adjustments.

(8) Helpers: mechanic, welder, grease truck and crane oiler.

AB. Power equipment operators - group II performs the following tasks or operate the following equipment:

(1) Tractor (under 50 drawbar h.p. with attachments): Operates a small diesel or gasoline powered rubber-tired or crawler tractor. May be used with attachments such as dozer, tampers, posthole diggers, postdrivers, etc.

May be used to pull brooms, sleds, trailers, etc. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(2) Air compressor (315 c.f.m. and over): Keeps compressor fueled, oiled, clean and ready for service. Keeps oilers and air lines working properly, full of proper oil, sets and checks valves on oiler, sets and checks air pressure, cut off valve and gauges, checks and maintains air tools, keeps moisture drained from air tanks, checks governor, sets throttle to avoid compressor damage. Checks and repairs air brakes on compressor and repairs air hose.

(3) Pumps (six inch intake or over): Operates water pump which pumps water for roadway, prewetted, pumping by transmission line from water source to job area or other use. May oil, grease, prime, or otherwise service and make necessary adjustment to equipment as needed.

(4) Mixer, concrete (one cubic yard and less): Operates a small, portable concrete mixing machine to mix sand, gravel, cement and water to make concrete. Starts power unit and does or oversees loading of materials. Controls the mixing by levers to discharge concrete from drum. This small machine is sometimes charged by shoveling in the proportions of materials directly into the mixing drum and some others have a skip into which materials are shoveled before being hoisted into the mixing drum. Rinses drum with water to remove adhering concrete. May oil, grease or otherwise service and make necessary adjustments as needed.

(5) Roller (sheepsfoot or pneumatic self-propelled without dozer): Operates a diesel or gasoline driven self-propelled machine used for compaction. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(6) Service truck operator (head oiler-type B or C work): An operator of a truck equipped with high pressure grease

and oil dispensing equipment. Maintains service records and performs preventative maintenance and visual inspection. Reports vehicle discrepancies to foreman or mechanic.

(7) Screening plants: Operates a screening plant to sort and segregate material. Regulates flow of material through chute to screener. May perform other related work. May oil, grease, or otherwise service and make necessary adjustments or repairs to equipment as needed.

(8) Belt type conveyors (material and concrete): Operates an endless belt-type conveyor that is a machine designed so the belt operates between a head pulley and tail pulley which are located on the opposite ends of the conveyor frame. The belt rides on carrier rollers so formed in shape and positioned that the belt forms a trough to carry the loose material. The operator starts and stops the belt as necessary, maintains the carrier rollers and belt splices, regulates belt speed for correct loading for efficient operation and belt life, maintains belt alignment to insure the belt is not loaded on one side which results in excessive belt wear. Conveyors are used efficiently in confined areas particularly in the placement of concrete with portable type conveyors. (Conveyor systems which are part of a plant shall be operated by the plant operator). May oil, grease or otherwise service and make necessary adjustments.

(9) Concrete paving joint or saw machine or grinder span type: Operates a self-propelled machine which travels on paving form or pavement and cuts grooves for expansion and contraction joints in freshly poured concrete or cured pavement. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(10) Hoist (one drum): Operates a single drum machine powered by air, electric, gasoline or diesel. Actuates valves, levers, brakes or other control devices which regulates linepull, hold or line

release in accordance with signals received by sight, hearing or other signaling devices as necessary. Machines are used for various pulling and hoisting operations on construction work such as to hoist and lower material in various elevations or to hoist and lower material in construction and assembly. May oil, grease or otherwise service and make necessary adjustments.

(11) Air tugger

(12) Elevating

belt type loaders: Operates a self-propelled or tractor-drawn elevating grader, bucket, or belt loader. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(13) Lumber stacker: Operates machine designed to straddle bundles or stacks of lumber or other objects suitable to be handled by this specialized machine, hoists and moves materials to various locations. May oil, grease or otherwise service and make necessary adjustments.

(14) Winch truck: Drive a heavy duty gasoline or diesel truck equipped with a winch and gin poles or other hoisting devices. Shifts winch gears in accordance with signals from helper on ground. May service and make necessary adjustments for proper operation of equipment.

(15) Front end loader (under two cubic yards): Operates a runner tired or crawler-type tractor with an attached bucket on front end. Machine is used to load materials from stockpiles, excavation, charging batch plants, loading trucks. May oil, grease, or otherwise service and make necessary adjustments to equipment as needed.

(16) Fork lift: Operates a machine powered by gasoline, diesel or electric power that is equipped with a vertical hoisting and lowering device that may be canted forward and reverse of vertical center by means of control devices. Machine is equipped with fork lifting and designed to slide under loads, machine is used for lifting and transporting loads. May oil, grease or

otherwise service and make necessary adjustments.

(17) Power plant (electric generator or welding machine): Operates a diesel or gasoline driven machine that generates A.C or D.C. current of 15 K.W. or more used for lighting and electrical power. Keeps cycle and synchronization control board in adjustment adhering to manufacturers specifications. Keeps governor relay in adjustment. Operates welding machine in bank, for arc-welding, uses armature dressing stone as required and resets welding heats as required. May oil grease or otherwise service and make necessary adjustment. May perform other related duties. (Electric power plants, when the principal use is to furnish electric power for camp sites, shall be excluded).

(18) Cat head winch

(19) Oiler with CDL

(20) Concrete curbing machine

(21) Inside and outside material and personnel elevators

(22) Industrial locomotive motorman: An operator of gasoline, diesel or electric powered railroad locomotive used to push, pull or switch railroad cards of various designs loaded with muck, concrete, aggregate, or other applications suitable for rail transport. May oil, grease or otherwise service and make necessary adjustments.

AC. Power equipment operators - group III performs the following tasks or operate the following equipment:

(1) Bituminous distributors

(2) Boilers

(3) Asphalt

Retort heater: Operates a stationary or portable piece of equipment designed to apply heat to a tank, tank car, or tank truck containing asphalt. Starts fire, controls heat applied to tank by regulating burners. Starts, stops and controls flow of recirculating pumps. Maintains

desired temperature in asphalt, regulates valves for discharge of asphalt from tank. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(4) Mixer, concrete (over one cubic yard): Operates a large, portable or sometimes stationary concrete mixing machines to mix sand, gravel, cement and water to make concrete. Starts power unit and oversees the loading of proper proportions of materials into the skip and then manipulates levers that control feeding of material into mixing drum. Starts drum rotating to mix materials; manipulates lever to discharge concrete from drum, either by tilting drum forward or by opening a discharge chute. Rinses drum with water to remove adhering concrete. May oil, grease, or otherwise service and make necessary adjustments to equipment as needed.

(5) Concrete paver mixer (single drum): Operates a paving machine that mixes and dumps concrete, the machine consisting primarily of a skip, concrete mixer, and a boom equipped with a traveling bucket and a power plant, all mounted upon a crawler or wheel unit. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(6) Drilling machine (cable, core or rotary): Sets up and operates a portable cable, core, diamond or rotary drill for the purpose of drilling water wells or exploratory drilling. May drill pilot holes for piling. May oil, grease, or otherwise service and make necessary adjustments.

(7) Shaft and tunnel type equipment:

(a) Refrigeration: Operates a plant designed to circulate brine or other refrigerant through piping system to freeze specified areas for purpose of drilling, trenching, boring, blasting and stabilizing formations to permit such operations. Maintains pressures, vacuum, intercooling and other related functions. May keep brine or other refrigerants at proper levels in supply tanks.

(b)

Slusher operator: Operates hoist as described under one or two drum hoist to raise and lower, drag and release a bucket similar to dragline bucket without a bottom in it. To move loose material into dump chute or other purposes. Sheaves to control line direction are usually secured to roof, side or face of excavation by rock bolts. May oil, grease or otherwise service and make necessary adjustments.

(c)

Jumbo form or drilling stage: Operates a specialized machine usually mounted on rails or rubber-tired wheels which has surrounding it, expandable, retractable forms. Drilling stage consists of one or more drilling stages from which drilling operations at the phase are performed for blasting. The operator positions machine for drilling, removes it for blasting, connects and disconnects air and water lines from the source as needed. May oil, grease or otherwise service and make necessary adjustments.

(8) Trenching

machine: Operates a power-driven machine that digs trenches for sewer, water, drainage, oil and gas pipelines, footings, etc. The trenching machine is mounted on crawler treads or rubber tires with the digging equipment usually consisting of an endless chain or wheel or edged buckets that excavate and deposit the material on a conveyor belt which in turn discharges the material at the side of the trench. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(9) Pumpcrete

machine: Operates a concrete pumping machine that pumps fresh concrete from mixer to forms that mold fresh concrete. Sets up pump, operates power unit of pump and allows fresh concrete to flow into hopper or pump. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(10) Gunite

machine: Operates a machine designed to pump dry sand and cement mixture forced under high air

pressure to various areas specified for gunite treatment. May oil, grease or otherwise service and make necessary adjustments.

(11) Concrete slip-form paving machine: Operates a self-propelled machine with long forms attached which move along with the machine. Machine vibrates, screeds, spreads and finishes the surface. Operates a roto-mill machine (machine with plane to smooth). May oil, grease or other service and make necessary adjustments to equipment as needed.

(12) Mechanical bull floats

(13) Concrete paving spreader: Operates a self-propelled machine that rides on the paving forms. Operates controls to spread fresh concrete evenly over subgrade or in concrete forms. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(14) Concrete paving finishing machine: Operates self-propelled machine which travels on subgrade or paving forms and levels fresh concrete to approximate grade and contour by pushing and pulling screeds over the surface. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(15) Subgrade or base finisher: Sets and adjusts machine to grade or string line. Operates necessary controls for grading, cutting and finishing subgrade or treated and untreated base material. May oil, grease, or otherwise service and make necessary adjustments to equipment as needed.

(16) Concrete paving sub grader: Operates a machine that finishes subgrade. Machine runs on concrete paving forms or subgrade and is equipped with knives or blades to loosen material and eject same from subgrade. May oil, grease or otherwise service equipment as needed.

(17) Concrete paving form grader: Operates a machine that controls subgrade under forms used in concrete paving and

is equipped with knives or blades to loosen dirt and eject same from the form line grade. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(18) Concrete paving gang vibrator: Operates a self-propelled machine which travels on paving forms and operates levers to lower multiple vibrator heads into freshly poured concrete. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(19) Concrete paving longitudinal float: Operates a self-propelled machine which travels on paving forms and moves levers to strike off the concrete to correct elevation. Machine has one or more screeds traveling longitudinally. Operates milling machine (makes ridges). May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(20) Bituminous finishing machines

(21) Certified forklift

(22) Asphalt distributor: Sets spray bar and operates valves and levers of distributor to control distribution of oil or bituminous liquid, also may drive truck on one-man operated distributor. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(23) Asphalt paving or laydown machine: Manipulates controls of paving machine that spreads and levels asphaltic concrete. May oil, grease, or otherwise service and make necessary adjustments to equipment as needed.

AD. Power equipment operators-group IV performs the following tasks or operates the following equipment:

(1) Front end loader (two through ten cubic yards): Operates a rubber tired or crawler-type tractor with an attached bucket on front end. Machine is used to load materials from stockpiles, excavation, charging batch plants, loading trucks. May oil, grease, or otherwise service

and make necessary adjustments to equipment as needed.

(2) Rollers steel wheeled (all types): Operates a self-propelled machine with steel flat wheels which is used to compact and smooth earth fills, flexible bases, bituminous roads surfaces. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(3) Bulldozer: Operates a tractor with a concave steel scraper blade mounted in front of the chassis to level, distribute and push earth; regulates height of blade. Uses tractor as a pusher in loading earth carrying equipment. May oil, grease or otherwise service and make minor repairs to equipment as needed.

(4) Scrapers (motor or towed): Operates a tractor or self-propelled machine to pull a steel bowl-like scoop (scraper) mounted on wheels that scrapes up earth and transports it to a designated place; manipulates necessary scraper controls. May oil, grease or otherwise service and make necessary adjustments to equipment as needed, twin bowl scraper and quad eight or nine pushers (\$.35 over base rate). Three bowl scraper (\$.60 over base rate).

(5) Batch or continuous mix plant (concrete, soil, cement or asphalt): Sets up and operates a large portable or stationary plant for batching concrete, soil-cement or asphaltic materials and aggregates; responsible for control of mixture and plant. May oil, grease, or otherwise service and make necessary adjustments to equipment as needed.

(6) Bobcat with hydraulic backhoe with buckets up to one (1) and one quarter cubic yards.

(7) Backhoes with buckets up to $\frac{3}{4}$ cubic yard-Type B or C work.

(8) Small Articulating Truck

AE. Power equipment operators-group V performs the following tasks or operates the following equipment:

(1) Concrete paver (double drum): Operates a paving machine that mixes and dumps concrete, the machine consisting primarily of a skip, concrete mixer and a boom equipped with a traveling bucket and a power plant, all mounted upon a crawler or wheel unit. May oil, grease, or otherwise service and make necessary adjustments to equipment as needed.

(2) Hoist (two drums): Operates a two drum machine powered by air, electric, gasoline or diesel. Actuates valves, levers, brakes or other control devices which regulates linepull, hold or line release in accordance with signals received various pulling and hoisting operations on construction work such as: to hoist and lower material in various elevations; to hoist and lower material in construction and assembly. May oil, grease or otherwise service and make necessary adjustments.

(3) Cat cranes

(4) Hysters

(5) Forklifts

over 20,000 lbs. lifting capacity

(6) Auto fine

grader

AF. Power equipment operators-group VI performs the following tasks or operates the following equipment:

(1) Mucking machine (all types): Operates a machine designed especially to work in confined spaces, generally operated by air or electric power to minimize air pollution, underground. Rocker shovel types have front-mounted buckets that are loaded by being pushed into the material and lifted over the machine and dumped into an attached car, or lifted to a point that gravity dumps the material from the back of the loaded bucket onto a conveyor belt that runs over the machine to a dumping point or into attached car. This type mucking machine usually operates on tracks or are crawler mounted. The bucket is hinged to a boom which in turn is hinged to a turntable on the main frame which allows the main frame to travel in one direction while the

swinging action of the bucket can reach out to the sides to remove such loose material generally called muck. These machines are especially suited for underground, emptying into conveyors or into cars. May oil, grease or otherwise service and make necessary adjustments.

(2) Tractor with hydraulic backhoe.

(3) Backhoes with buckets up to one and one quarter cubic yards- Type B or C work.

(4) Service truck operator (head oiler-type A or H work): An operator of a truck equipped with high pressure grease and oil dispensing equipment, which may have gasoline and diesel fuel tanks, who lubricates, changes oil and filters and refuels equipment. Maintains service records and performs preventative maintenance and visual inspection. Reports vehicle discrepancies to foreman or mechanic.

(5) Motor grader (rough): Operates motor grader. Blade is mounted on a carrying and turning circle under the frame of the machine. Equipment is used in leveling dirt to grade and in laying asphalt and flexible base materials. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

AG. Power equipment operators-group VII performs the following tasks or operates the following equipment:

(1) Steam engineers

(2) Front end loader (over 10 cubic yards): Operates a rubber tired or crawler-type tractor with an attached bucket on front end. Machine is used to load materials from stockpiles, excavation, charging batch plants, loading trucks. May oil, grease, or otherwise service and make necessary adjustments to equipment as needed.

(3) Concrete pump (snorkel type)

(4) Mining machine

(5) Concrete batching plant operator

(6) Asphalt plant operator

(7) Crushing plant operator- Operates a crusher to control flow of materials through plant. Regulates flow of rock through chute to crusher. May perform other related work. May oil, grease, or otherwise service and make necessary adjustments or repairs to equipment as needed.

(8) Hot plant operator

(9) Roof Bolting Machine

(10) Shuttle Car Operator

AH. Power equipment operators-group (VIII-All shovel type equipment that does not require a State of New Mexico crane license) performs the following tasks or operates the following equipment:

(1) Side boom: Operates a diesel or gasoline powered rubber-tired or crawler-tractor on which is mounted a side boom attachment with necessary hoisting devices. Positions tractor, manipulates control levers, clutches, brakes, and other controls to raise or lower boom, raise or lower load. By tractor motivation, loads may be transported to desired location. May oil, grease or otherwise service and make necessary adjustments.

(2) Crane (crawler or mobile under ten tons): Operates crane type equipment to hoist and move materials and perform other related operations. Such equipment is used for pouring concrete, setting steel or other miscellaneous tasks for which crane type equipment is required. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(3) Backhoes with buckets over one and one quarter cubic yards- Type B or C work.

(4) Backhoes over a 3/4 yard bucket—Type A or H work.

(5) Derrick,

cableway: Operates guy, stiff leg or other derrick, cableway. (Derricks are distinguished from cranes by being stationary and being supported by cables, or structural member, but may be repositioned to higher levels as construction progresses). Derricks use a hoist as described in building hoists, two drums and up, but may vary with different designs, as the source of power for line pull, hold or release through sheaves on the particular derrick or cableway for lifting and moving materials to higher, lower, or the same levels in construction. The operator controls in accordance with signals received by sight, hearing or other signaling devices. If necessary may oil, grease or otherwise service and make necessary adjustments.

(6) Track or excavator backhoe

(7) Pipemobile

(8) Pile driver:

Operates the basic machine, and applicable hammer controls to which pile driving attachments are attached. Pile driving attachments normally consists of leads, to service as a guide for the weight, hammer or extractor. The drop hammer is a weight hoisted by cable along the leads and released to fall by gravity onto the pile. Steam, compressed air, hydraulic, sonic and diesel hammers ride along the leads resting on top of pile or pile cap striking blows on the down stroke of the hammer, from its power source, onto the pile being driven. The extractor is a steam or air hammer that strikes its blows on the upstroke of the hammer equipped with devices for attachment onto the piling to be pulled. May drill or jet pilot holes. May oil, grease or otherwise service and make necessary adjustments.

(9) Mine hoists: Operates hoists used in mining operations and in compliance with the department of mines regulations. Hoists and lowers men and materials in shafts and inclines in accordance to authorized signals. May oil, grease or otherwise service and make necessary adjustments.

(10) Motor grader (finish)

(11) Mechanic and welder: Assembles, sets up, adjust and maintains and repairs all types of construction equipment, such as internal combustion engines, air compressors, pumps, concrete mixers, heavy earth moving equipment, rock crushers and paving equipment.

(12) Mole operator: Operates a horizontal boring machine which is the vertical rotating cutter head which deposits muck onto conveyor that passes over the machine to a dump point. The operator controls the elevation and direction and travel by hydraulic rams. The machine is a specialized piece of machinery for tunnel boring. May oil, grease or otherwise service and make necessary adjustments.

(13) Mobile pipeline inspection camera

(14) Operator or rigger

(15) Crane inspector

(16) Continuous mining machine

(17) VAC jet rodder

(18) Equipment instructor

(19) Heavy equipment robotics operator or mechanic

(20) Ultra high pressure waterjet cutting tool system operator/mechanic

(21) Vacuum blasting machine operator or mechanic

(22) Master environmental maintenance mechanic

AI. Power equipment operators-group IX: operate hydraulic cranes with less than 150 feet of boom and over 10 tons but less than 100 tons lifting capacity including boom trucks (NM, Class II, license required).

AJ. Power equipment operators-group X: operate hydraulic cranes and boom trucks (100 tons and over); cranes and draglines with booms and jibs over 150 feet through 199 feet; \$.75 above base rate per hour additional; cranes 200

feet and over \$1.00 additional; tower cranes (NM, Class I Crane License Required).

AK. Truck drivers group I:

(1) Pickup truck 3/4 ton or under: Drives a light truck for transporting small loads of construction materials, tools or equipment. May service and make necessary adjustments for proper operation of equipment.

(2) Service station attendant: Maintains service station. Washes, lubricates, fuels and otherwise services vehicles and equipment. Changes and repairs tires and tubes. Operates and maintains service station equipment.

(3) Swamper or rider helper: Assists truck driver. Shares with a driver the duties of loading and unloading a truck, shifting articles about on truck, handling cumbersome articles and may drive to relieve driver.

AL. Truck drivers-group II:

(1) Bus or taxi: Drives a bus or taxi to transport employees to and from construction project. May oil, grease, or otherwise service and make necessary adjustments to equipment as needed.

(2) Dump or batch truck: Drives a truck, under eight cubic yards, for transporting loads of construction material. May service and make necessary adjustments for proper operation of equipment.

(3) Flatbed (bobtail) two ton and under: Drives a truck for transporting loads of construction materials or equipment. May load and unload truck. May service and make necessary adjustments for proper operation of equipment.

AM. Truck drivers-group III:

(1) Dump trucks (including all highway and off highway): Drives a truck, eight cubic yards and under 16 cubic yards, for transporting loads of construction material. May service and make

necessary adjustments for proper operation of equipment.

(2) Tank truck:

Drives a truck or truck with trailer or semi-trailer, on which is mounted a tank, under 3,000 gallons, for transporting loads of liquid products or construction material. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(3) Flatbed

(bobtail) over two tons: Drives a truck for transporting loads of construction materials or equipment. May load and unload truck. May service and make necessary adjustments for proper operation of equipment.

AN. Truck driver-group

IV:

(1) Distributor

(asphalt): Only drives truck equipped with tank and controls for regulating distribution of bituminous materials. Does not operate levers or valves (See Power Equipment Operators-Group III). May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(2) Heavy tire

repairman

(3) Lumber

carrier: Drives truck that hauls logs and lumber with truck trailer or bobtail.

(4) Transit mix

or agitator (two or three axle bobtail equipment): Drives a truck upon which is mounted a concrete mixer. Drives truck under loading hopper to receive sand, gravel and cement. Fills water tank and starts and stops mixer. Drives truck to location for unloading. Dumps concrete into chute leading to forms. Cleans mixer drum. May service and make necessary adjustments for proper operation of equipment.

(5) Scissor

truck

(6) Trailer or

semi-trailer dump: Drives a truck to which is attached a trailer or semi-trailer dump used in transporting construction materials.

(7) Field

equipment servicemen

AO. Truck driver-group

V:

(1) Dumpster

or dumptor: Operator of a self-propelled, four-wheeled, rubber-tired truck type machine which is used in hauling of materials. Machine is normally used off the highway, working around rock crushers or excavation. Being reverse steer, the operator rides facing the dump-bed which is dumped by release of safety lock and sudden stop of machine, which causes off center loading of truck bed to dump. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(2) Tank truck:

Drives a truck or truck with trailer or semi-trailer, on which is mounted a tank, 3,000 to 6,000 gallons, for transporting loads of liquid products or construction material. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(3) Lowboy,

light equipment: Drives a truck to which is attached a trailer with a low frame or bed upon which light equipment or material is hauled.

May service and make necessary adjustments for proper operation of equipment.

(4) Euclid type

tank wagon under 6,000 gallons.

AP. Truck driver-group

VI:

(1) Vacuum

truck

(2) Dump

trucks (including all highway and off highway): Drives truck, 16 cubic yards and under 22 cubic yards, for transporting loads of construction material. May service and make necessary adjustments for proper operation of equipment.

AQ. Truck driver VII:

(1) Transit

mix or agitator (semi or four axle equipment): Drives a truck upon which is mounted a concrete mixer. Drives truck under loading hopper to receive sand, gravel and cement. Fills water tank and starts and stops mixer. Drives truck to location for unloading. Dumps concrete into chute leading

to forms. Cleans mixer drum.

May service and make necessary adjustments for proper operation of equipment.

(2) Flaherty

truck type spreader box: Drives a self-propelled vehicle, consisting primarily of a hopper mounted on pneumatic-tired wheels, used to spread crushed aggregate on bituminous roadway material. May service and make necessary adjustments for proper operation of equipment.

(3) Slurry

truck driver

(4) Bulk

cement driver

(5) Semi

doubles driver

(6) Four axle

bobtail driver

(7) Dump

trucks (including all highway and off highway): Drives truck, 22 cubic yards and under 36 cubic yards, for transporting loads of construction material. May service and make necessary adjustments for proper operation of equipment.

(8) Head field

equipment servicemen.

AR. Truck driver VIII:

(1) Diesel-

powered transport (non-self-loading) 10 yards and over: Drives diesel powered Euclid Turnarocker, Terra Cobra, D.W.-10, D.W.-20 Le Tourneau pulls and similar diesel powered equipment when used to haul material and assigned to a "teamster".

(2) Lowboy,

heavy equipment: Drives a truck to which is attached a trailer with a low frame or bed upon which light equipment or material is hauled. May service and make necessary adjustments for proper operation of equipment.

(3) Tank truck:

Drives a truck or truck with trailer or semi-trailer, on which is mounted a tank 6,000 gallons and over, for transporting loads of liquid products or construction material. May oil, grease or otherwise service and make necessary adjustments to equipment as needed.

(4) Semi-trailer drivers (flatbed or van, tandems)

(5) Light equipment mechanic

(6) Dump trucks (including all highway and off highway): Drives truck, 36 cubic yards and over, for transporting loads of construction material. May service and make necessary adjustments for proper operation of equipment.

AS. Truck driver IX:

(1) Warehouseman: Maintains warehouse for construction supplies and materials. May operate necessary equipment and machinery within warehouse area.

(2) Cardex men

(3) Expediter

(4) Lowboy (heavy equipment double gooseneck)

(5) Heavy equipment mechanic

(6) Welder (body and fender man)

AT. Semi-skilled laborers Group II:

(1) Carpenter tender: Performs labor such as hand handling of materials used by carpenters. Assists in erecting and removing of forms, removes nails and clears lumber.

(2) Concrete worker or buggy operator: Pours and performs other work in relation to the lining with concrete. Operates buggy by pushing or pulling by hand between mixer or other source to site of work.

(3) Curbing machine, asphalt or cement: Operates a machine which applies asphalt or concrete along the edge of highways or parking aprons to form a small curb.

(4) Scaffold tender: Tends to the scaffold builder.

(5) Certified flagman: Supervises flag and signing personnel. Prepares revision to the traffic control plan.

(6) Bleacher seating: Unloads, moves to place of erection, assembles and installation of all stadium seating.

(7) Fence builder: Digs post holes, pours concrete for posts, sets posts, stretches fencing material.

(8) Guardrail builder: Attaches and assists in the installation of guardrails, (other than guardrails on bridges) guardrail posts, informational signs and metal fencing; including barb wire, woven wire, and chain link which is used to define right of way, medians or driving lanes or provide safety for such areas. May require the use of small hand tools such as hammer and spud wrench.

(9) Form stripper: Strips, cleans and oils all types of concrete forms.

(10) Gabian basket builders: Assembles wire baskets for rip rap.

(11) Rip rap stoneman: One who places stones into gabian baskets.

(12) Drywall, stocking and handling: Carries and handles of all materials by hand to a point adjacent to place of erection. Assists in placement of materials.

(13) Fly ash vacuum operator: Installs vacuum lines and operates nozzle of vacuum hose at power plants in the cleanup of ash.

(14) Landscaping and planter: Duties include site development, soil preparation, rototilling, fine grading, soil amending, installation of plants, seeded and sodded grasses, gravel and bark mulches. Installation of landscape sprinkler systems including landscape irrigation backflow preventers, and all components downstream including pipe, valves, low voltage control wiring, irrigation controllers, sprinkler heads, and drip components. May operate small behind and stand-on only landscape equipment (including miniskid steers with attachments). Maintenance of landscapes including weeding, mowing, and irrigation repair. Duties do not include electrical work, fencing, concrete retaining walls or other work that is generally performed

by skilled craftsmen.

(15) Manhole builder: Constructs a means of permanent access to water, electrical and sewer lines for maintenance purposes.

(16) Tool room person: manages, inspects and coordinates all tool room activities and exchanges.

(17) Rodmen: holds survey rod.

(18) Tenderers (to cement mason and plasterer): Assists in the pouring of concrete by spreading concrete, cleaning and caring of cement mason's tools, mixes mortar used in the patching of concrete. Mixes mortar for plasterers and delivers same to location where plasterers are working. Sets up scaffolding as directed by foreman where necessary, and cleans and cares for tools and equipment used in the preparation and application of plaster.

AU. Skilled laborers: Group III:

(1) Air and power tool man (not a carpenter's tool): A worker who uses a tool driven by compressed air, gas or electric power to perform such work as breaking old pavement, loosening or digging hard earth, trimming bottom and sides of trenches, breaking large rocks, driving sheeting, chipping concrete, trimming or cutting stone, calking steel plates, or compaction of earthen backfill. Install plastic and PVC linings on ponds. Rotary man operates a hand-held device to make cuts on road with a person holding a nozzle to fill cuts with oil.

(2) Asphalt raker: Distributes asphaltic road-building materials evenly over road surface by raking and brushing materials to correct thickness; may control straight edge to regulate width and depth of materials; directs "asphalt shovelers" when to add or take away material to fill low spots or to reduce high spots. Applies color to tennis courts, etc. by using a squeegee. Applies epoxy on concrete floors to seal.

(3) Asphalt heaterman: Tends a stationary or

portable liquid asphalt kettle, starts fires (usually fuel oil) under the kettle, controls heat applied to the kettle by regulating dials or burners, maintains desired temperature in asphalt, and regulates valves for discharge of asphalt from kettle.

(4) Asphalt jointman: Cleans and pours asphalt joints in concrete paving with nozzle or can. Takes care of asphalt kettle heaters.

(5) Chain sawman: Operates a power driven chain saw to clear areas of timber. Fells trees, and sometimes cuts the fallen trees into short sections to facilitate their removal.

(6) Oxy or Gasoline torch operators: Uses cutting torch only for demolition work on steel or other metal structures.

(7) Cutting torch or welding torch operator or burner person: Uses cutting torch only for demolition work on steel or other metal structures.

(8) Gunite rebound men: A laborer who shoots gunite into place.

(9) Concrete power buggy operator: Drives self-propelled buggy to transport concrete from mixer or source of supply to place of deposit. Operates levers to dump load.

(10) Sandblaster: Cleans and prepares surfaces by the use of sandblasting equipment other than preparation for painting (see painter).

(11) Potman: Cleans screens and feeds sand to hopper or pot of sandblasting machine.

(12) Wagon, air track, drill and diamond driller (outside): Sets up and operates air driven drilling mechanism that drills holes into concrete or rock. Levels machine by placing timbers under wheels. Inserts and fastens drill steel in chuck. Adjusts angle of drill tower and bolts into position. Controls drilling and speed of drill by moving levers. May make other adjustments to equipment as needed.

(13) Multi-plate

setter: Assembles large diameter metal culverts by bolting together semi-circular pieces of metal to form a complete circle, and bolts each section of this circle to similar sections which are placed adjacently, repeating these processes until the required length of culvert is formed.

(14) Concrete burner: Operates a devise used to burn holes, etc., through concrete. This devise consists of a consumable aluminum-magnesium rod inside a small iron pipe. Oxygen is forced through the pipe under pressure, and the end of the assembly is lighted. The concrete is melted by the intense heat of the device.

(15) Mortar mixer and mason tender: Mechanically mixes mortar ingredients to proper consistency and delivers to mason on scaffold or at site of work. Keeps materials supplied to mason.

(16) Batching plant scaleman: Manually operates a stationary or portable batching scale that weighs out concrete materials. Adjusts scales for required weight of the materials. Operates controls that admit materials separately from storage hoppers to weighing bins. Observes scales or indicators that show when proper amount of materials have been made. Discharges materials from weighing bin into truck or other carrier or mixer. He may measure materials by volume instead of weight.

(17) Concrete touch-up man: Prepares the surfaces of concrete masonry which is not to be finished (using tools other than those normally used by "cement masons") by patching holes and broken corners, and removing high spots and defective concrete.

(18) Concrete sawman - coring machine: Operates a power driven, hand guided, water-cooled saw or diamond driller which is used to cut through slabs of concrete, except as otherwise provided elsewhere.

(19) Metal form setter-road: Fits together, aligns and grades metal road forms for holding

concrete in place on road and street surfaces. Dismantles, moves and cleans forms after concrete hardens.

(20) Grade setter or checker: Keeps stakes and stringline set in place out in front of trenching machine so that machine will cut ditch in correct location. Sets stakes so that pipelayers can fine-grade ditch and measure from the batter board down to correct depth of ditch.

(21) Gunite, pumpcreteman and nozzleman: Assists operator and handles the equipment and directs the placing of concrete or mortar that is moved by pressures or pneumatic equipment, such as gunite. May fine-grade and place wire mesh at times.

(22) Vibrator operator (hand type): Lowers hose-like flexible shaft of vibrator into newly poured concrete. Starts power unit and holds shaft, allowing hammerhead on shaft to vibrate, thus compacting the concrete. Air, electric or gasoline operated vibrators are used.

(23) Vibratory compactor (hand type): Operates hand guided vibratory or impact compactor. Adjusts levers, throttles and other devices necessary for operation.

(24) Hod carrier: Assists brickmasons, stonemasons and blockmasons by preparing mortar mix, either by hand or machine, delivers material to masons on scaffold, operates small material moving equipment such as power buggy, hoists, mortar mix pumps and other similar equipment. May erect and dismantle bricklayer scaffolds.

(25) Pipelayer: Unloading, handling, distribution and installation, concrete, corrugated metal pipe and corrugated and smooth wall plastic pipe, PVC and polyethylene pipe. Receives pipe lowered from top of trench; joins pipe ends; adjusts pipe to line and grade; seals joints with cement or other sealing compound. Lowers pipe.

(27) Plaster spreader operator: Mixes plaster to be

used in a machine which is designed to apply plaster to surfaces by means of a hose. Handles and maintains hose, places and moves machine, and services and maintains machine.

(28) Jack

hammer and chipping hammer operator: Operates jackhammer, chipping hammer, whether powered by air or electric or any other means.

(29) Tamper

operator: Performs the compacting of soil using walk or stand behind equipment.

(30) Scaffold

builder: Erects and dismantles all types of scaffolding, except wood scaffolding, for job site.

(31)

Powderman tender: Carries powder or other explosive to blaster or powderman and assists by placing prepared explosive in hole, connecting lead wire to blasting machine, and performing other duties as directed.

(32) Water

pump tender: fuels and tends to all water pumps under 6" for the purpose of moving water on the job site.

(33) Certified

scissor lift or man lift operator: Person who completes competent person training certification in the operation of scissor and man lifts.

AV. Specialty laborer:

Group IV:

(1) Asbestos

abatement remover: A person who has proper certifications for removal of asbestos from pipes, ceiling and other parts of existing buildings, either by scraping or by using pressure by water. In addition, this definition includes a person who cleans up and disposes of asbestos after it has been removed.

(2) Toxic and

hazardous waste remover: Person who has the proper certification for the removal of toxic and hazardous materials.

(3) Lead base

paint remover: Person who has the proper certifications for the removal of lead base paints.

(4)

Powderman and blaster: Prepares

blasting material and inserts this material into predrilled holes.

Performs electrical wiring necessary for detonation and assures that all charges have detonated before other workmen resume work in the area made hazardous by the charges.

(5) Pest

technician (Licensed by the Bureau of Rodent Management): Technician certified for the removal and handling of rodents and pests.

(6) Radiation

worker II: Person that completes proper training for work in areas containing radiation.

AW. Unskilled laborers:

Group I:

(1) Chainman,

stake driver, stake hopper: Carries supplies, drags chain, holds survey rod, drives stakes and assists surveyor in other related duties.

(2) Building

and common laborer: A general term used on construction work covering many unskilled occupations. A laborer works with all crews doing everything from pick and shovel work to cleaning up lumber with hammer; shoveling and placing concrete; applying coats of oil to inside face of forms; stripping forms; working on rock crusher to feed trap; opening cement sacks at batch plant; working with dirt crew to move construction layout stakes; working as flagman, signalman or spotter to control traffic; serving as dumpman; spreading hot asphaltic material over roadbed with shovel; operating hand concrete buggy or wheelbarrow; helping painter to prepare surfaces for painting and cleaning paint equipment. Does not include roofing cleanup.

(3) Concrete

buggy operator (hand): Operating buggy by pushing or pulling by hand between mixer or other source to site of work.

(4) Fire watch:

a laborer who watches the work area for fires when craftsmen are cutting or welding.

(5) Flagman:

Flagman is stationed at strategic

locations to control flow of traffic by hand held flags or other hand held warning device.

(6) Window

washer: Cleans and washes windows.

(7) Unloading

of furniture and fixtures: Unloads furniture and fixtures from trucks and moves them to the place of installation or storage.

(8) Heat

tenders: Fuels and tends to heaters use on the job sites.

AX. Underground

laborers: Group I

Tunnel workers:

Outside laborer, minimum tunnel, labor, dry houseman and hand muckers, top landers, trackmen.

AY. Underground

laborers: Group II

Chuck tender, cable or base tenders, concrete laborers, dumpmen, whirley pump operators, tenders on shotcrete, gunniting and sandblasting, tenders core and diamond drills, pot tenders, concrete specialist (1) including finishing, grouting, patching, and curing, concrete specialist tender (2), applying of concrete processing materials, concrete worker, (including all chipping and finishing underground).

AZ. Underground

Laborers: Group III

Shaft Miner,

tunnel miner, air tugger operators, collapsible form movers and setters, machine men and bit grinders, nippers, powdermen and blasters, reinforcing steel setters, timbermen (steel or wood tunnel support, including the placement of sheeting when required), tunnel liners, plate setters, all cutting and welding incidental to miners' work, vibrator men, internal and external, unloading, stopping and starting of moran agitator cars, diamond and core drill operators, shotcrete operator, gunnite nozzlemen.

[11.1.2.18 NMAC - Rp, 11.1.2.17 NMAC, 12/30/2016; A, 1/1/2023; A, 5/19/2023; A, 1/1/2024; A, 10/21/2025; A, 1/1/2027]

11.1.2.20 PREVAILING WAGE AND FRINGE BENEFIT AND APPRENTICESHIP CONTRIBUTION

RATES: Pursuant to 11.1.2.13 NMAC, the director of the labor relations division of the department of workforce solutions hereby publishes the 2026 prevailing wage and fringe benefit rates and apprenticeship contributions that will apply to all wage rate decisions issued from ~~[July 1, 2026]~~ January 1, 2027 through December 31, ~~[2026]~~ 2027.

A. TYPE A: STREET, HIGHWAY, UTILITY AND LIGHT ENGINEERING			
Trade Classification	Base Rate	Fringe Rate	Apprenticeship
Bricklayer/block layer/stonemason	33.41	12.04	.60
Bricklayer/block layer/stonemason: Curry, DeBaca, Quay and Roosevelt counties	23.10	8.98	.60
Bricklayer/block layer/stonemason: Dona Ana, Otero, Eddy, and Lea counties	29.56	14.10	.60
Carpenter/lather	~~[32.12]~~ <u>33.43</u>	~~[14.28]~~ <u>14.81</u>	.60
Carpenter: Los Alamos county	38.56	14.70	.60
Cement mason	~~[21.75]~~ <u>23.47</u>	~~[7.43]~~ <u>8.87</u>	.60
Drywall Finisher/Taper	~~[31.60]~~ <u>32.79</u>	~~[9.58]~~ <u>10.05</u>	.60
Drywall Finisher/Taper: Los Alamos County	~~[35.85]~~ <u>35.85</u>	~~[12.82]~~ <u>13.02</u>	.60
Glazier/Fabricator	~~[22.75]~~ <u>24.00</u>	~~[7.70]~~ <u>8.40</u>	.60
Glazier/Fabricator: Los Alamos County	~~[22.75]~~ <u>24.00</u>	~~[7.70]~~ <u>8.40</u>	.60
Ironworker			
Ironworker journeyman	~~[29.45]~~ <u>30.50</u>	~~[19.51]~~ <u>19.69</u>	.60
Probationary ironworker	~~[23.56]~~ <u>24.40</u>	~~[19.51]~~ <u>19.69</u>	.60
Painter	~~[21.00]~~ <u>24.00</u>	~~[5.75]~~ <u>5.95</u>	.60
Painter: Los Alamos county	~~[35.85]~~ <u>35.85</u>	~~[12.82]~~ <u>13.02</u>	.60
Paper Hanger	~~[21.00]~~ <u>24.00</u>	~~[5.75]~~ <u>5.95</u>	.60
Paper Hanger: Los Alamos county	~~[36.85]~~ <u>35.85</u>	~~[12.82]~~ <u>13.02</u>	.60
Plumber/pipefitter	~~[44.32]~~ <u>45.57</u>	~~[18.00]~~ <u>18.75</u>	.60
Roofer			
Roofer journeyman	31.20	9.36	.60
Roofer helper	18.72	9.36	.60
Electricians – outside classifications: Zone 1			
Ground man	~~[28.54]~~ <u>29.97</u>	~~[13.36]~~ <u>13.40</u>	.60
Equipment operator	~~[40.94]~~ <u>42.99</u>	~~[17.73]~~ <u>17.79</u>	.60
Lineman <u>or technician</u>	~~[51.71]~~ <u>54.30</u>	~~[21.43]~~ <u>22.08</u>	.60
Journeyman technician	~~[48.15]~~ <u>50.56</u>	~~[20.53]~~ <u>21.14</u>	.60
[Journeyman – Transmission technician	47.58	20.40	.60]
Cable splicer	~~[52.98]~~ <u>55.63</u>	~~[21.75]~~ <u>22.41</u>	.60
Electricians – outside classifications: Zone 2			
Ground man	~~[28.54]~~ <u>29.97</u>	~~[13.36]~~ <u>13.40</u>	.60
Equipment operator	~~[40.94]~~ <u>42.99</u>	~~[17.73]~~ <u>17.79</u>	.60
Lineman <u>or technician</u>	~~[51.71]~~ <u>54.30</u>	~~[21.43]~~ <u>22.08</u>	.60
Journeyman technician	~~[48.15]~~ <u>50.56</u>	~~[20.53]~~ <u>21.14</u>	.60
[Journeyman – substation technician	48.15	20.53	.60]
–Journeyman – Transmission technician	47.58	20.40	.60]

Cable splicer	[52.98] <u>55.63</u>	[21.75] <u>22.41</u>	.60
Electricians – outside classifications: Los Alamos County			
Ground man	[29.35] <u>30.82</u>	[13.38] <u>13.42</u>	.60
Equipment Operator	[42.12] <u>44.23</u>	[17.76] <u>17.83</u>	.60
Lineman or technician	[53.07] <u>55.72</u>	[21.77] <u>22.43</u>	.60
Journeyman technician	[49.55] <u>52.03</u>	[20.89] <u>21.51</u>	.60
Cable Splicer	[58.28] <u>61.19</u>	[23.07] <u>23.80</u>	.60
Laborers			
Group I – Unskilled	[18.41] <u>19.56</u>	[7.74] <u>8.19</u>	.60
Group II – Semi-Skilled	[19.41] <u>20.56</u>	[7.74] <u>8.19</u>	.60
Group III – Skilled	[19.91] <u>21.06</u>	[7.74] <u>8.19</u>	.60
Group IV - Specialty	[20.41] <u>21.56</u>	[7.74] <u>8.19</u>	.60
Operators			
Group I	[23.69] <u>24.87</u>	[6.95] <u>7.45</u>	.60
Group II	[24.72] <u>25.96</u>	[6.95] <u>7.45</u>	.60
Group III	[27.03] <u>28.38</u>	[6.95] <u>7.45</u>	.60
Group IV	[28.65] <u>30.08</u>	[6.95] <u>7.45</u>	.60
Group V	[28.79] <u>30.23</u>	[6.95] <u>7.45</u>	.60
Group VI	[29.05] <u>30.50</u>	[6.95] <u>7.45</u>	.60
Group VII	[29.28] <u>30.74</u>	[6.95] <u>7.45</u>	.60
Group VIII	[30.27] <u>31.78</u>	[6.95] <u>7.45</u>	.60
Group IX	[40.08] <u>42.08</u>	[6.95] <u>7.45</u>	.60
Group X	[44.72] <u>46.96</u>	[6.95] <u>7.45</u>	.60
Soft Floor Layer	[21.52] <u>23.02</u>	[9.40] <u>9.90</u>	.60
Soft Floor Layer: Los Alamos county	35.87	[12.92] <u>13.14</u>	.60
<u>Sprinkler fitter</u>	<u>42.31</u>	<u>29.08</u>	<u>.60</u>
Truck drivers			
Group I – IX	21.70	9.65	.60
B. TYPE B: GENERAL BUILDING			
Trade Classification	Base Rate	Fringe Rate	Apprenticeship
Asbestos workers/heat & frost insulators	[39.23] <u>40.91</u>	[12.16] <u>12.73</u>	.60
Asbestos workers/heat & frost insulators: Los Alamos County	[41.36] <u>43.04</u>	[12.16] <u>12.73</u>	.60
Boilermaker/blacksmith	35.88	32.28	.60
Boilermaker/blacksmith: San Juan County	36.83	31.88	.60
Bricklayer/block layer/stonemason	33.41	12.04	.60
Bricklayer/block layer/stonemason: Curry, DeBaca, Quay, and Roosevelt counties	23.10	8.98	.60
Bricklayer/block layer/stonemason: Dona Ana, Otero, Eddy, and Lea	26.42	8.98	.60
Carpenter/lather	[32.12] <u>33.43</u>	[14.28] <u>14.81</u>	.60
Carpenter: Los Alamos county	38.56	14.70	.60
Millwright/pile driver	51.77	22.13	.60

Cement mason	26.26	[11.61] 13.36	.60
Electricians – outside classifications: Zone 1			
Ground man	[28.54] 29.97	[13.36] 13.40	.60
Equipment operator	[40.94] 42.99	[17.73] 17.79	.60
Lineman or technician	[51.71] 54.30	[21.43] 22.08	.60
Cable splicer	[52.98] 55.63	[21.75] 22.41	.60
Electricians – outside classifications: Zone 2			
Ground man	[28.54] 29.97	[13.36] 13.40	.60
Equipment operator	[40.94] 42.99	[17.73] 17.79	.60
Lineman or technician	[51.71] 54.30	[21.43] 22.08	.60
Cable splicer	[52.98] 55.63	[21.75] 22.41	.60
Electricians – outside classifications: Los Alamos County			
Ground man	[29.35] 30.82	[13.38] 13.42	.60
Equipment operator	[42.12] 44.23	[17.76] 17.83	.60
Lineman or technician	[53.07] 55.72	[21.77] 22.43	.60
[Journeyman technician	49.55	20.89	.60]
Cable splicer	[58.28] 61.91	[23.07] 23.80	.60
Electricians – inside classifications: Zone 1			
Wireman/low voltage technician	[42.30] 44.20	[13.42] 14.03	.60
Cable splicer	[46.53] 48.62	[13.55] 14.16	.60
Electricians – inside classifications: Zone 2			
Wireman/low voltage technician	[46.11] 48.18	[13.53] 14.15	.60
Cable splicer	[50.34] 52.60	[13.67] 14.28	.60
Electricians – inside classifications: Zone 3			
Wireman/low voltage technician	[48.65] 50.83	[13.60] 14.22	.60
Cable splicer	[52.88] 55.25	[13.74] 14.36	.60
Electricians – inside classifications: Zone 4			
Wireman/low voltage technician	[53.30] 55.69	[13.75] 14.37	.60
Cable splicer	[57.53] 60.11	[13.87] 14.50	.60
Electricians – inside classifications: Dona Ana, Hidalgo, Luna and Otero counties			
Wireman/low voltage technician	[40.00] 42.00	[9.92] 10.43	.60
Cable splicer	[40.00] 42.00	[9.92] 10.43	.60
Electricians – inside classifications: Los Alamos County			
Wireman/low voltage technician	[48.65] 50.83	[16.04] 16.76	.60
Cable splicer	[52.88] 55.25	[16.38] 17.12	.60
Elevator constructor	[53.27] 55.11	[40.89] 41.74	.60
Elevator constructor helper	[37.30] 38.58	[40.89] 41.74	.60
Glazier/Fabricator	[22.75] 24.00	[7.70] 8.40	
Glazier: Los Alamos county	[22.75] 24.00	[7.70] 8.40	.60
Ironworker			

Ironworker journeyman	[29.45] <u>30.50</u>	[19.51] <u>19.69</u>	.60
Probationary ironworker	[23.56] <u>24.40</u>	[19.51] <u>19.69</u>	.60
Painter	[21.00] <u>24.00</u>	[5.75] <u>5.95</u>	.60
Painter: Los Alamos county	[35.85] <u>35.85</u>	[12.82] <u>13.02</u>	.60
Paper Hanger	[21.00] <u>24.00</u>	[5.75] <u>5.95</u>	.60
Paper Hanger: Los Alamos county	[36.85] <u>35.85</u>	[12.82] <u>13.02</u>	.60
Drywall Finisher/Taper	[31.60] <u>32.79</u>	[9.58] <u>10.05</u>	.60
Drywall Finisher/Taper: Los Alamos County	[35.85] <u>35.85</u>	[12.82] <u>13.02</u>	.60
Plasterer	[27.16] <u>28.06</u>	[9.59] <u>9.94</u>	.60
Plumber/pipefitter	[39.92] <u>40.92</u>	[16.85] <u>17.60</u>	.60
Roofer			
Roofer journeyman	31.20	9.36	.60
Roofer helper	18.72	9.36	.60
Sheet metal worker			
Zone 1	[40.74] <u>42.36</u>	19.29	.60
Zone 2 – Industrial	[41.74] <u>43.36</u>	19.29	.60
Zone 3 – Los Alamos county	[42.74] <u>44.36</u>	19.29	.60
Soft floor layer	[21.52] <u>23.02</u>	[9.40] <u>9.90</u>	.60
Soft floor layer: Los Alamos County	35.87	[12.92] <u>13.14</u>	.60
Sprinkler fitter	[39.94] <u>42.31</u>	[28.08] <u>29.08</u>	.60
Tile setter	24.46	8.81	.60
Tile setter finisher	16.53	8.81	.60
Laborers			
Group I – Unskilled	[22.37] <u>23.37</u>	[8.48] <u>8.68</u>	.60
Group II – Semi-Skilled	[22.37] <u>23.37</u>	[8.48] <u>8.68</u>	.60
Group III – Skilled	[23.37] <u>24.37</u>	[8.48] <u>8.68</u>	.60
Group IV – Specialty	[25.62] <u>26.62</u>	[8.48] <u>8.68</u>	.60
Operators			
Group I	[26.61] <u>27.91</u>	[8.22] <u>9.62</u>	.60
Group II	[29.07] <u>30.37</u>	[8.22] <u>9.62</u>	.60
Group III	[29.61] <u>30.91</u>	[8.22] <u>9.62</u>	.60
Group IV	[30.11] <u>31.41</u>	[8.22] <u>9.62</u>	.60
Group V	[30.33] <u>31.63</u>	[8.22] <u>9.62</u>	.60
Group VI	[30.57] <u>31.87</u>	[8.22] <u>9.62</u>	.60
Group VII	[30.68] <u>31.98</u>	[8.22] <u>9.62</u>	.60
Group VIII	[34.14] <u>35.45</u>	[8.22] <u>9.62</u>	.60
Group IX	[36.89] <u>38.19</u>	[8.22] <u>9.62</u>	.60
Group X	[40.77] <u>42.07</u>	[8.22] <u>9.62</u>	.60
Truck drivers			
Group I – VII	16.65	8.27	.60
Group VIII	16.71	8.27	.60
Group IX	18.65	8.27	.60
C. TYPE C: RESIDENTIAL			

Trade classification	Base rate	Fringe rate	Apprenticeship
Asbestos workers/heat- & frost insulators	[39.23] <u>40.91</u>	[12.16] <u>12.73</u>	.60
Asbestos workers/heat & frost insulators: Los Alamos County	[41.36] <u>43.04</u>	[12.16] <u>12.73</u>	.60
Boilermaker/blacksmith	35.88	32.28	.60
Boilermaker/blacksmith: San Juan County	36.83	31.88	.60
Bricklayer/block layer/stonemason	33.41	12.04	.60
Bricklayer/block layer/stonemason: Curry, DeBaca, Quay, and Roosevelt counties	23.10	8.98	.60
Bricklayer/block layer/stonemason: Dona Ana, Otero, Eddy and Lea counties	26.42	8.98	.60
Carpenter/lather	[32.12] <u>33.43</u>	[14.28] <u>14.81</u>	.60
Carpenter: Los Alamos county	38.56	14.70	.60
Cement mason	26.26	11.61	.60
Electricians – outside classifications: Zone 1			
Ground man	[28.54] <u>29.97</u>	[13.36] <u>13.40</u>	.60
Equipment operator	[40.94] <u>42.99</u>	[17.73] <u>17.79</u>	.60
Lineman or technician	[51.71] <u>54.30</u>	[21.43] <u>22.08</u>	.60
[Journeyman technician	48.15	20.53	.60]
Journeyman transmission technician	47.58	20.40	.60]
Cable splicer	[52.98] <u>55.63</u>	[21.75] <u>22.41</u>	.60
Electricians – outside classifications: Zone 2			
Ground man	[28.54] <u>29.97</u>	[13.36] <u>13.40</u>	.60
Equipment operator	[40.94] <u>42.99</u>	[17.73] <u>17.79</u>	.60
Lineman or technician	[51.71] <u>54.30</u>	[21.43] <u>22.08</u>	.60
[Journeyman technician	48.15	20.53	.60]
[Journeyman transmission technician	47.58	20.40	.60]
Cable splicer	[52.98] <u>55.63</u>	[21.75] <u>22.41</u>	.60
Electricians – outside classifications: Los Alamos county			
Ground man	[29.35] <u>30.82</u>	[13.38] <u>13.42</u>	.60
Equipment operator	[42.12] <u>44.23</u>	[17.76] <u>17.83</u>	.60
Lineman	[53.07] <u>55.72</u>	[21.77] <u>22.43</u>	.60
Journeyman technician	[49.55] <u>52.03</u>	[20.89] <u>21.51</u>	.60
Cable splicer	[58.28] <u>61.19</u>	[23.07] <u>23.80</u>	.60
Electricians – inside classifications: Zone 1			
Wireman/low voltage technician	[42.30] <u>44.20</u>	[13.42] <u>14.03</u>	.60
Cable splicer	[46.53] <u>48.62</u>	[13.55] <u>14.16</u>	.60
Electricians – inside classifications: Zone 2			
Wireman/low voltage technician	[46.11] <u>48.18</u>	[13.53] <u>14.15</u>	.60
Cable splicer	[50.34] <u>52.60</u>	[13.67] <u>14.28</u>	.60
Electricians – inside classifications: Zone 3			
Wireman/low voltage technician	[48.65] <u>50.83</u>	[13.60] <u>14.22</u>	.60
Cable splicer	[52.88] <u>55.25</u>	[13.74] <u>14.36</u>	.60

Electricians – inside classifications: Zone 4			
Wireman/low voltage technician	[53.30] <u>55.69</u>	[13.75] <u>14.37</u>	.60
Cable splicer	[57.53] <u>60.11</u>	[13.87] <u>14.50</u>	.60
Electricians – inside classifications: Dona Ana, Hidalgo, Luna and Otero counties			
Wireman/low voltage technician	[40.00] <u>42.00</u>	[9.92] <u>10.43</u>	.60
Cable splicer	[40.00] <u>42.00</u>	[9.92] <u>10.43</u>	.60
Electricians – inside classifications: Los Alamos County			
Wireman/low voltage technician	[48.65] <u>50.83</u>	[16.04] <u>16.76</u>	.60
Cable splicer	[52.88] <u>55.25</u>	[16.38] <u>17.12</u>	.60
Elevator constructor	[53.27] <u>55.11</u>	[40.89] <u>41.74</u>	.60
Elevator constructor helper	[37.30] <u>38.58</u>	[40.89] <u>41.74</u>	.60
Glazier/Fabricator	[22.75] <u>24.00</u>	[7.70] <u>8.40</u>	.60
Glazier/Fabricator: Los Alamos County	[22.75] <u>24.00</u>	[7.70] <u>8.40</u>	.60
Ironworker			
Ironworker journeyman	[29.45] <u>30.50</u>	[19.51] <u>19.69</u>	.60
Probationary ironworker	[23.56] <u>24.40</u>	[19.51] <u>19.69</u>	.60
Painter	[19.00] <u>20.00</u>	[5.75] <u>5.95</u>	.60
Painter: Los Alamos County	35.85	[12.82] <u>13.02</u>	.60
Drywall Finisher/Taper – Light commercial & residential	[27.78] <u>28.82</u>	[9.58] <u>10.05</u>	.60
Drywall Finisher/Taper: Los Alamos County	35.85	[12.82] <u>13.02</u>	.60
Paper hanger	[19.00] <u>20.00</u>	[5.75] <u>5.95</u>	.60
Paper Hanger: Los Alamos County	[36.85] <u>35.85</u>	[12.82] <u>13.02</u>	.60
Plasterer	[27.16] <u>28.06</u>	[9.59] <u>9.94</u>	.60
Plumber/pipefitter	[31.94] <u>32.74</u>	8.40	.60
Roofer			
Roofer Journeyman	31.20	9.36	.60
Roofer Helper	18.72	9.36	.60
Sheet metal worker			
Zone 1	[40.74] <u>42.36</u>	19.29	.60
Zone 2 – Industrial	[41.74] <u>43.36</u>	19.29	.60
Zone 3 – Los Alamos county	[42.74] <u>44.36</u>	19.29	.60
Soft floor layer	[21.52] <u>23.02</u>	[9.40] <u>9.90</u>	.60
Soft floor layer: Los Alamos County	35.87	[12.92] <u>13.14</u>	
Sprinkler fitter	[39.94] <u>42.31</u>	[27.08] <u>29.08</u>	.60
Tile setter	24.46	8.81	.60
Tile setter finisher	16.53	8.81	.60
Laborers			
Group I – Unskilled	[15.37] <u>16.37</u>	[8.43] <u>8.68</u>	.60
Group II – Semi-skilled	[15.37] <u>16.37</u>	[8.43] <u>8.68</u>	.60
Group III – Skilled	[16.37] <u>17.37</u>	[8.43] <u>8.68</u>	.60
Group IV – Specialty	[17.37] <u>18.37</u>	[8.43] <u>8.68</u>	.60

Operators			
Group I	[21.20] <u>22.50</u>	[8.22] <u>9.62</u>	.60
Group V	[23.18] <u>24.48</u>	[8.22] <u>9.62</u>	.60
Group VII	[27.99] <u>29.29</u>	[8.22] <u>9.62</u>	.60
Group VIII	[30.38] <u>31.68</u>	[8.22] <u>9.62</u>	.60
Truck drivers			
Group I – IX	20.75	6.27	.60
D. TYPE H: HEAVY ENGINEERING			
Trade Classification	Base Rate	Fringe Rate	Apprenticeship
Asbestos workers/heat& frost insulators	[39.23] <u>40.91</u>	[12.16] <u>12.73</u>	.60
Asbestos workers/heat & frost insulators: Los Alamos County	[41.36] <u>43.04</u>	[12.16] <u>12.73</u>	.60
Boilermaker/blacksmith	35.88	32.28	.60
Boilermaker/blacksmith: San Juan County	36.83	31.88	.60
Bricklayer/block layer/stonemason	33.41	12.04	.60
Bricklayer/block layer/stonemason: Curry, DeBaca, Quay and Roosevelt counties	23.10	8.98	.60
Bricklayer/block layer/stonemason: Dona Ana, Otero, Eddy, and Lea counties	26.42	8.98	.60
Carpenter/lather	[32.12] <u>33.43</u>	[14.28] <u>14.81</u>	.60
Carpenter: Los Alamos county	38.56	14.70	.60
Millwright/pile driver	51.77	22.13	.60
Cement mason	[26.31] <u>28.06</u>	[7.43] <u>9.94</u>	.60
Electricians – outside classifications: Zone 1			
Ground man	[28.54] <u>29.97</u>	[13.36] <u>13.40</u>	.60
Equipment operator	[40.94] <u>42.99</u>	[17.73] <u>17.79</u>	.60
Lineman or technician	[51.71] <u>54.30</u>	[21.43] <u>22.08</u>	.60
[Journeyman technician	48.15	20.53	.60]
~~Journeyman transmission technician~~	47.58	20.40	~~.60]~~
Cable splicer	[52.98] <u>55.63</u>	[21.75] <u>22.41</u>	.60
Electricians – outside classifications: Zone 2			
Ground man	[28.54] <u>29.97</u>	[13.36] <u>13.40</u>	.60
Equipment operator	[40.94] <u>42.99</u>	[17.73] <u>17.79</u>	.60
Lineman or technician	[51.71] <u>54.30</u>	[21.43] <u>22.08</u>	.60
[Journeyman technician	48.15	20.53	.60]
[Journeyman transmission technician	47.58	20.40	.60]
Cable splicer	[52.98] <u>55.63</u>	[21.75] <u>22.41</u>	.60
Electricians – outside classifications: Los Alamos county			
Ground man	[29.35] <u>30.82</u>	[13.38] <u>13.42</u>	.60
Equipment operator	[42.12] <u>44.23</u>	[17.76] <u>17.83</u>	.60
Lineman or technician	[53.07] <u>55.72</u>	[21.77] <u>22.43</u>	.60
[Journeyman technician	49.55	20.89	.60]
Cable splicer	[58.28] <u>61.19</u>	[23.07] <u>23.80</u>	.60

Electricians – inside classifications: Zone 1			
Wireman/low voltage technician	[42.30] <u>44.20</u>	[13.42] <u>14.03</u>	.60
Cable splicer	[46.53] <u>48.62</u>	[13.55] <u>14.16</u>	.60
Electricians - inside classifications: Zone 2			
Wireman/low voltage technician	[46.11] <u>48.18</u>	[13.53] <u>14.15</u>	.60
Cable splicer	[50.34] <u>52.60</u>	[13.67] <u>14.28</u>	.60
Electricians - inside classifications: Zone 3			
Wireman/low voltage technician	[48.65] <u>50.83</u>	[13.60] <u>14.22</u>	.60
Cable splicer	[52.88] <u>55.25</u>	[13.74] <u>14.36</u>	.60
Electricians - inside classifications: Zone 4			
Wireman/low voltage technician	[53.30] <u>55.69</u>	[13.75] <u>14.37</u>	.60
Cable splicer	[57.53] <u>60.11</u>	[13.87] <u>14.50</u>	.60
Electricians – inside classifications: Dona Ana, Hidalgo, Luna and Otero counties			
Wireman/low voltage technician	[40.00] <u>42.00</u>	[9.92] <u>10.43</u>	.60
Cable splicer	[40.00] <u>42.00</u>	[9.92] <u>10.43</u>	.60
Electricians – inside classifications: Los Alamos County			
Wireman/low voltage technician	[48.65] <u>50.83</u>	[16.04] <u>16.76</u>	.60
Cable splicer	[52.88] <u>55.25</u>	[16.38] <u>17.12</u>	.60
Glazier/Fabricator	[22.75] <u>24.00</u>	[7.70] <u>8.40</u>	.60
Glazier/Fabricator: Los Alamos County	[22.75] <u>24.00</u>	[7.70] <u>8.40</u>	.60
Ironworker			
Ironworker journeyman	[29.45] <u>30.50</u>	[19.51] <u>19.69</u>	.60
Probationary ironworker	[23.56] <u>24.40</u>	[19.51] <u>19.69</u>	.60
Painter – Industrial	[24.00] <u>26.00</u>	[6.70] <u>6.90</u>	.60
Painter – Industrial: Los Alamos County	35.85	[12.82] <u>13.02</u>	.60
Paperhanger	[24.00] <u>26.00</u>	[6.70] <u>6.90</u>	.60
Paperhanger: Los Alamos County	[36.85] <u>35.85</u>	[12.82] <u>13.02</u>	.60
Drywall Finisher/Taper – Industrial	[32.57] <u>33.80</u>	[9.58] <u>10.05</u>	.60
Drywall Finisher/Taper – Industrial: Los Alamos County	35.85	[12.82] <u>13.02</u>	.60
Plumber/pipefitter	[44.32] <u>45.57</u>	[18.00] <u>18.75</u>	.60
Roofer			
Roofer journeyman	31.20	9.36	.60
Roofer helper	18.72	9.36	.60
Sheet metal worker	[41.74] <u>42.36</u>	19.29	.60
Operators			
Group I	[27.02] <u>28.37</u>	[6.95] <u>7.45</u>	.60
Group II	[27.25] <u>28.61</u>	[6.95] <u>7.45</u>	.60
Group III	[28.31] <u>29.73</u>	[6.95] <u>7.45</u>	.60
Group IV	[28.91] <u>30.36</u>	[6.95] <u>7.45</u>	.60
Group V	[29.03] <u>30.48</u>	[6.95] <u>7.45</u>	.60

Group VI	[29.31] <u>30.77</u>	[6.95] <u>7.45</u>	.60
Group VII	[29.33] <u>34.79</u>	[6.95] <u>7.45</u>	.60
Group VIII	[32.39] <u>34.01</u>	[6.95] <u>7.45</u>	.60
Group IX	[39.15] <u>41.10</u>	[6.95] <u>7.45</u>	.60
Group X	[43.52] <u>45.69</u>	[6.95] <u>7.45</u>	.60
Laborers			
Group I – Unskilled	[20.76] <u>21.91</u>	[7.74] <u>8.19</u>	.60
Group II – Semi-Skilled	[22.21] <u>23.36</u>	[7.74] <u>8.19</u>	.60
Group III – Skilled	[23.02] <u>24.17</u>	[7.74] <u>8.19</u>	.60
Group IV- Specialty	[23.42] <u>24.57</u>	[7.74] <u>8.19</u>	.60
Laborers – Underground			
Group I	[22.87] <u>24.02</u>	[7.12] <u>8.19</u>	.60
Group II	[23.67] <u>24.82</u>	[7.12] <u>8.19</u>	.60
Group III	[24.39] <u>25.54</u>	[7.12] <u>8.19</u>	.60
Soft Floor Layer	[21.52] <u>23.02</u>	[9.40] <u>9.90</u>	.60
Soft Floor Layer: Los Alamos County	35.87	[12.92] <u>13.14</u>	.60
Truck drivers			
Group I	[21.70] <u>21.80</u>	[9.65] <u>9.85</u>	.60
Group II	[21.70] <u>22.00</u>	[9.65] <u>9.85</u>	.60
Group III	[21.70] <u>24.00</u>	[9.65] <u>9.85</u>	.60
Group IV	[21.70] <u>24.50</u>	[9.65] <u>9.85</u>	.60
Group V	[21.70] <u>25.00</u>	[9.65] <u>9.85</u>	.60
Group VI	[21.70] <u>24.75</u>	[9.65] <u>9.85</u>	.60
Group VII	[21.70] <u>25.00</u>	[9.65] <u>9.85</u>	.60
Group VIII	[21.70] <u>25.00</u>	[9.65] <u>9.85</u>	.60
Group IX	[27.70] <u>33.00</u>	[9.65] <u>9.85</u>	.60

[11.1.2.20 NMAC - N, 02-29-2016; Rp, 1/1/2017; A, 1/1/2018, A, 1/1/2019; A, 1/1/2020; A, 1/1/2021; A, 1/1/2022; A, 1/1/2023; A, 1/1/2024; A, 1/1/2025; A, 1/1/2026; A, 7/1/2026; A, 1/1/2027]

11.1.2.21 Subsistence, zone, and incentive pay rates. All contractors are required to pay subsistence, zone, and incentive pay according to the particular trade.

A. Asbestos workers or heat and frost insulators

(1) Zone 1 shall consist of the area lying within the city limits of a circle whose radius is 66 miles from the city hall in Albuquerque or the city hall in El Paso - \$0.00 per day.

(2) Zone 2 shall consist of Los Alamos county – [~~\$40.00~~] \$50.00 per day if not furnished a company owned vehicle.

(3) Zone 3 shall consist of the area lying beyond

a circle whose radius is over 66 miles from the city hall in Albuquerque or the city hall in El Paso – [~~\$85.00~~] \$115.00 per day.

B. Boilermakers/blacksmiths

(1) Per diem is calculated from city hall of the dispatch city or the employee's home address, whichever is closer to the job location.

(2) Per diem is \$55.00 per day for travel between 70 and 120 miles and \$85.00 per day for travel over 120 miles.

C. Bricklayers

(1) For Albuquerque area contractors, the starting point shall be at the

intersection of I-40 and I-25 and shall continue to the job site. All other areas, the starting point shall be the employer's main office address.

(2) Between 50 and 75 miles from the starting point, \$35.00 per day.

(3) 76 or more miles from the starting point, \$55.00 per day.

(4) All covered refractory work over 75 miles from the intersection of I-40 and I-25, \$80.00 per day.

D. Carpenters

(1) Zone 1: Free zone up to 70 miles from the Albuquerque union meeting hall.

(2) Zone 2:

Work travel between 71 miles and 100 miles from the Albuquerque union meeting hall shall be compensated at \$50.00 per day worked.

(3) Zone 3:

Work travel above 101 miles from the Albuquerque union meeting hall shall be compensated at \$100.00 per day worked.

(4) Work

performed in the City of Santa Fe shall be compensated at \$25.00 per day.

(5) There is

a residential "free zone" extending 70 miles around any individual's residence.

[D-] E. Cement Masons

(1) For

employees traveling more than 50 miles to a job site in Santa Fe, \$20.00 per day.

(2) In all other

work performed more than 50 miles from the employer's main office, \$50.00 per day.

(3) Mutually

agreed-upon lodging or transportation paid for by the employer will substitute for subsistence pay.

[E-] E. Drywall Finishers and Tapers:

(1) All zones

are measured from the Albuquerque City Hall.

(2) Up to 70

miles is a free zone.

(3) Between

71 and 100 miles shall be paid a \$30.00 expense allowance per day worked.

(4) Over 101

miles shall be paid \$80.00 expense allowance per day worked.

(5) Employees

who travel from Santa Fe to Albuquerque will be paid \$30.00 per day or other mutually agreed upon lodging or transportation.

(6) An area

within a 50-mile radius of the address where an employee permanently resides at the time of hire, outside of Santa Fe or Albuquerque, shall be a free zone.

(7) When the

employer pays for the hotel for out-of-town work, the employee shall

receive \$30.00 per day for expenses. Each room shall not house more than two people per room.

[F-] G. Electricians (inside classifications)

(1) For

Albuquerque only:

(a)

Zone 1 is classified as being within 40 miles from the main post office.

(b)

Zone 2 shall extend up to 10 miles beyond zone 1. Work performed within zone 2 shall be compensated nine percent above the journeyman rate for zone 1.

(c)

Zone 3 shall extend up to 20 miles beyond zone 1. Work performed within zone 3 shall be compensated fifteen percent above the journeyman rate for zone 1.

(d)

Zone 4 shall extend 20 miles or more beyond zone 1. Work performed within zone 4 shall be compensated twenty six percent above the journeyman rate for zone 1.

(2) For

Los Alamos county only: work performed within the county shall be compensated fifteen percent above the zone 1 journeyman rate.

(3) For all

other counties:

(a)

Zone 1 is:

(i)

within six miles from the main post office for Raton, Tucumcari, and Farmington.

(ii)

within eight miles from the main post office for Las Vegas.

(iii)

within ten miles from the main post office for Santa Fe and Gallup.

(iv)

within twelve miles from the main post office for Belen, Carrizozo, Clovis, Los Lunas, Portales, Roswell, Ruidoso, Artesia, Carlsbad, Hobbs, and Lovington.

(v)

within fourteen miles from the main post office for Espanola.

(b)

Zone 2 shall extend up to 20 miles

beyond zone 1. Work performed within zone 2 shall be compensated nine percent above the journeyman rate for zone 1.

(c)

Zone 3 shall extend up to 30 miles from zone 1. Work performed within zone 3 shall be compensated fifteen percent above the journeyman rate for zone 1.

(d)

Zone 4 shall extend beyond 30 miles from zone 1. Work performed within zone 4 shall be compensated twenty six percent above the journeyman rate for zone 1.

(4)

Commuting time to and from a job site at the beginning and end of each workday is not compensable. However, if workers are required to report to the shop at the start of the day or return to the shop at the end of the day, then that time spent traveling is compensable. Similarly, time spent traveling from job to job is compensable. In both cases, workers shall be paid for the time spent traveling and shall be furnished transportation by the employer. Under these conditions the Zone 1 rate and any applicable overtime will be paid.

[G-] H. Electricians (outside classification – Zone 2): \$50.00 per diem to be paid for work 30 miles outside of Santa Fe and 60 miles outside of Albuquerque. No per diem in Los Alamos county.

[H-] I. Glaziers

(1) When

out-of-town travel is required, the employer shall provide suitable lodging with no more than two people per room and \$30.00 per day for expenses, or;

(2) Pay \$100

per day for expenses, plus their regular rate of pay.

(3) Employees

required to use a personal vehicle for travel to a jobsite beyond a 50-mile radius from their residence or the employer's shop, whichever is closest to the job, shall be compensated at the current IRS rate for actual mileage incurred beyond the 50-mile radius, plus their regular rate of pay for travel time.

~~[H.] Heat and frost insulators~~

~~(1) Zone 1 shall consist of the area lying within the city limits of a circle whose radius is 66 miles from the city hall in Albuquerque or the city hall in El Paso - \$0.00 per day.~~

~~(2) Zone 2 shall consist of Los Alamos county - \$40.00 per day if not furnished a company owned vehicle.~~

~~(3) Zone 3 shall consist of the area lying beyond a circle whose radius is over 66 miles from the city hall in Albuquerque or the city hall in El Paso - \$85.00 per day.]~~

[F.] J. Ironworkers:

(1) Travel more than 50 miles from the interchange of Interstate 25 and Interstate 40 or from the employee's home should be paid at \$10.00 per hour.

(2) If travel is within Santa Fe county, travel should be paid at [~~\$3.00~~] \$4.00 per hour.

[F.] K. Laborers:

(1) Type A:
(a)

Work travel between 50 and 85 miles from the union halls of Albuquerque, Espanola, Farmington or Las Cruces should be compensated at \$3.50 per hour.

(b)

Work travel 86 miles or greater from the union halls of Albuquerque, Espanola, Farmington or Las Cruces should be compensated at \$5.00 per hour.

(2) Types B and C:

(a)

Work travel over 70 miles from the union halls of Albuquerque, Espanola, Farmington or Las Cruces shall be paid at [~~\$7.00~~]\$8.00 per hour in travel pay, not to exceed 10 hours per day.

(b)

If an overnight stay is necessary, the employer shall pay \$40.00 per day for meals, in addition to travel pay.

(3) Type H - no zone subsistence pay.

(4) If an employer provides the employee

transportation and mutually agreeable, suitable lodging in areas where overnight stays are necessary, subsistence rates do not apply.

[K:] L. Millwrights

(1) All zone pay shall be calculated from the address of the city hall of the respective dispatch point using the "shortest route" filter on Google Maps.

(2) Zone 1: Work traveled up to 45 miles from the address of the city hall of the respective dispatch points is a free zone.

(3) Zone 2: Work traveled between 45 miles and 100 miles shall be compensated at \$4.00 per hour above base wage.

(4) Zone 3: Work traveled 101 miles or more shall be compensated at \$6.00 per hour above base wage.

(5) If employer fails to provide suitable lodging, employer shall pay \$110.00 per diem.

(6) If an employee's principal place of residence is within 45 road miles from the project, no subsistence or travel time shall be paid.

[L:] M. Operating Engineers

(1) Type A operators should be compensated for zone and subsistence as follows:

(a) Work travel between 50 and 85 miles from the interchange of Interstate 25 and Interstate 40 in Albuquerque, or from the Farmington City Hall in Farmington, should be compensated at \$2.50 per hour.

(b) Work travel 86 miles or more from the interchange of Interstate 25 and Interstate 40 in Albuquerque or from the Farmington City Hall in Farmington, should be compensated at \$4.00 per hour.

(2) Type B and C operators:

(a) Base points for operators are 30 miles and beyond from the following base points or the employee's home, whichever is closer:

(i) Bernalillo county courthouse in Albuquerque;

(ii) state capital building in Santa Fe;

(iii) city hall in Farmington.

(b) Zone and subsistence for Albuquerque, Santa Fe and Farmington are as follows:

(i) work travel between 30 and 50 miles from the base point compensated at [~~\$20.00~~] \$25.00 per day;

(ii) work travel between 51 and 100 miles from the base point compensated at [~~\$50.00~~] 55.00 per day;

(iii) work travel over 100 miles from the base point that involves an overnight stay compensated at [~~\$100.00~~] \$110.00 per day.

(c) Zone and subsistence for Los Alamos county, [~~\$100.00~~] \$110.00 per day. This takes precedence of the 50-mile radius for Santa Fe zone and subsistence.

(d) If an employer provides the employee transportation and mutually agreeable, suitable lodging in areas where overnight stays are necessary, subsistence rates do not apply.

(e) Employees traveling to sites that would otherwise require subsistence but do not stay overnight and instead commute back to their homes, \$7.00 per hour more for travel pay.

(3) Type H operators are not eligible for zone and subsistence pay.

[M:] N. Painters

(1) When out-of-town travel is required, the employer shall provide suitable lodging with no more than two people per room and \$30.00 per day for expenses.

(2) When out-of-town travel is required and employer does not provide lodging, employer shall pay \$100 per day for expenses, plus their regular rate of pay.

(3) Employees required to use a personal vehicle for travel to a jobsite beyond a 60-mile radius from their residence or the employer's shop, whichever is closest to the job, shall be compensated at the current IRS rate for actual mileage incurred beyond the 60-mile radius, plus their regular rate of pay for travel time.

[N:] O. Paper hangers

(1) When out-of-town travel is required, the employer shall provide suitable lodging with no more than two people per room and \$30.00 per day for expenses.

(2) When out-of-town travel is required and employer does not provide lodging, employer shall pay \$100 per day for expenses, plus their rate of pay.

(3) Employees required to use a personal vehicle for travel to a jobsite beyond a 60-mile radius from their residence or the employer's shop, whichever is closest to the job, shall be compensated at the current IRS rate for actual mileage incurred beyond the 60-mile radius, plus their regular rate of pay for travel time.

[O:] P. Plasterers

(1) Employees who travel from Albuquerque to Santa Fe should be compensated at \$20.00 per day or other mutually agreed suitable lodging.

(2) Except for employees who travel from Santa Fe to Albuquerque, work travel over 75 miles from the employer's office over the most typically traveled route should be compensated at \$5.00 per hour and capped at \$40.00 per day or mutually agreed suitable lodging.

[P:] Q. Plumbers and pipefitters

(1) Work travel for 90 or more miles from an employee's primary residence, and involving an overnight stay, should be compensated at \$120.00 per day.

(2) No zone or subsistence pay is required should the employer elect to cover the room cost.

[Q:] R. Roofers

(1) Employees

assigned to jobs located more than 60 miles from the employer's place of business shall received transportation to and from the job.

(2) Overnight stays required by employer, \$90.00 or more per diem per day to cover all room and board expenses.

[R:] S. Sheet metal workers

(1) Subsistence will be paid in any area outside the employer's home zone unless the jobsite is within 90 miles, by most direct regularly traveled route, of an employee's principal place of residence, in which case the employer will not be required to pay subsistence to that employee while working on that jobsite.

(2) If an overnight stay is required, \$120.00 subsistence will be paid for each day worked outside of the employer's home zone. If no overnight stay is required, travel time will be paid both ways during each day worked outside of the employer's home zone.

(3) No subsistence pay is required should employer decide to cover room costs at a suitable location and no more than two workers are in a room.

(4) Zone 1: any area within an employer's home zone. An employer's home zone shall consist of 90 miles by most direct regularly traveled route from the main post office in the municipality of the employer's primary place of business, and including Los Alamos and Espanola, regardless of mileage.

(5) Zone 2 (Industrial):

(a) Industrial work will be defined as all new construction work performed on the following types of facilities: electrical generation plants, co-generation plants 50 megawatts and over, refineries, natural and LP gas plants, mills, mines, and concentrators. Maintenance and retrofit work are excluded.

(b) the minimum rate of pay for all work described in subsection (a) of this section will be as indicated under

zone 2 of the public works prevailing wage rates in 11.1.2.20 NMAC.

(6) Zone 3 (Los Alamos):

(a) All work on Los Alamos National Laboratory property, and all prevailing wage work within the county of Los Alamos.

(b) The minimum rate of pay for all work described in subsection (a) of this section will be as indicated under zone 3 of the public works prevailing wage rates in 11.1.2.20 NMAC.

(7) Travel: (a)

All time spent traveling during the regular workday will be considered time worked and will be paid at the zone 1 rate of pay, provided such travel is directed by the employer. Travel before or after the regular workday will not be considered time worked and will not be paid unless required by federal or state law. If required by law, all time spent traveling outside the regular workday will be paid at the overtime rate of time and a half times two thirds the regular zone 1 rate of pay.

(b) If an employer sends an employee to perform work outside the territorial jurisdiction of the United States or Canada, travel pay and subsistence arrangements shall be negotiated locally.

[S:] T. Soft floor layer

~~[(4)] Zone 1: Base pay for an area within a 30-mile radius from the main post office in the city or town where the employee permanently resides. Albuquerque, Santa Fe, and Belen shall be considered Zone 1.~~

~~(2) Zone 2: Work travel between 30 and 75 miles from the main post office in the town where an employee permanently resides shall be compensated at \$1.00 per hour above base pay.~~

~~(3) Zone 3: Work travel 75 miles or more from the main post office in the town where an employee permanently resides shall be compensated at \$3.13 per hour above base pay.]~~

(1) Zone 1:

Free zone up to 70 miles from the Albuquerque city hall.

(2) Zone 2:

Work travel between 71 miles and 100 miles from the Albuquerque city hall shall be compensated at \$30.00 per day worked.

(3) Zone

3: Work travel above 101 miles from the Albuquerque city hall shall be compensated at \$80.00 per day worked.

(4) Employer will furnish transportation or gasoline for all work performed beyond the 30 mile radius that encompasses the free cities of Albuquerque, Santa Fe, or Belen (30 miles from each).

(5) When the employee is directed to report to a job site and the distance to the job site requires the employee to stay out of town overnight, the employer shall provide housing arrangements.

[F:] U. Sprinkler fitters

(1) Work travel between 60 and 80 miles from the employee's primary residence should be compensated at [~~\$30.00~~] 32.00 per day.

(2) Work travel between 81 and 100 miles from the employee's primary residence should be compensated at [~~\$39.00~~] 41.00 per day.

(3) Work travel of 101 miles or more from the employee's primary residence should be compensated at [~~\$150.00~~] 155.00 per day.

(4) No zone or subsistence pay shall be paid when the employer provides daily transportation and the employee elects to travel back and forth from home.
[11.1.2.21 NMAC - N, 1/1/2019; A, 1/1/2020; A, 1/1/2021; A, 1/1/2022; A, 1/1/2023; A, 1/1/2024; A, 1/1/2025; A, 1/1/2026; A, 1/1/2027]

End of Adopted Rules

2026 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXXVII, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 2	January 13
Issue 2	January 15	January 27
Issue 3	January 29	February 10
Issue 4	February 12	February 24
Issue 5	February 26	March 10
Issue 6	March 12	March 24
Issue 7	March 26	April 7
Issue 8	April 9	April 21
Issue 9	April 23	May 5
Issue 10	May 7	May 19
Issue 11	May 21	June 10
Issue 12	June 11	June 23
Issue 13	June 25	July 14
Issue 14	July 16	July 28
Issue 15	July 30	August 11
Issue 16	August 13	August 25
Issue 17	August 27	September 9
Issue 18	September 11	September 22
Issue 19	September 24	October 6
Issue 20	October 8	October 20
Issue 21	October 22	November 3
Issue 22	November 5	November 17
Issue 23	November 19	December 8
Issue 24	December 10	December 22

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