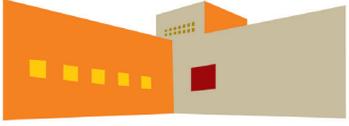


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# New Mexico Register

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

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## **The New Mexico Register**

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# New Mexico Register

Volume XXXVII, Issue 6

March 24, 2026

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**Notices of Rulemaking and Proposed Rules**

**ENVIRONMENT  
DEPARTMENT**

**NEW MEXICO WATER  
QUALITY CONTROL  
COMMISSION  
NOTICE OF PUBLIC  
RULEMAKING HEARING  
PROPOSED SURFACE WATER  
QUALITY STATE PERMITTING  
PROGRAM  
DOCKETED MATTER WQCC  
25-74(R)**

The Water Quality Control Commission (“WQCC”) will hold a public hearing for this matter beginning at 9:00 a.m. on Monday, June 8, 2026, and continuing for approximately nine (9) business days through Thursday, June 18, 2026, as necessary. The hearing will be conducted in-person at the New Mexico State Capitol Building, 490 Old Santa Fe Trail, Santa Fe, New Mexico, 87501, and virtually via a video conferencing platform. The hearing will last as long as required to hear all testimony, evidence, and public comment. Detailed information concerning the time, location, and the virtual meeting link can be found on the New Mexico Environment Department’s (“NMED”) event calendar at <https://www.env.nm.gov/events-calendar/>. Please visit the WQCC website prior to the hearing for any updates at <https://www.env.nm.gov/opf/water-quality-control-commission/>, Docketed Matter WQCC 25-74(R). The WQCC may make a decision on the proposed regulatory change at the conclusion of the hearing.

The purpose of the public rulemaking hearing is two-fold: (1) to consider proposed amendments to 20.6.2 NMAC *Ground and Surface Water Protection* regulations to create a State-led surface water permitting program that controls the discharge of pollutants, including dredged and fill material, to “surface waters of the State” under the authority of the New Mexico Water Quality Act, and

(2) to consider the proposed new rule 20.6.5 NMAC *New Mexico Pollutant Discharge Elimination System* to enable the State to administer and enforce the federal NPDES Program that controls the discharge of pollutants to “waters of the United States” under the authority of the federal Clean Water Act. These amendments and new rules are responsive to statutory updates to the New Mexico Water Quality Act (NMSA 1978, §§ 74-6-1 through -17) and the creation of the New Mexico Pollutant Discharge Elimination System Act (NMSA 1978, §§ 74-6C-1 through -11) during the 2025 Regular Session of the New Mexico Legislature.

The proposed amendments to 20.6.2 NMAC and proposed new rule 20.6.5 NMAC establish a comprehensive permitting program with statewide application. The proposed amendments to 20.6.2 NMAC add new definitions and add clarification in several existing sections to distinguish between discharges to ground water and to surface waters. The proposed amendments create a 2300 series in 20.6.2 NMAC that applies specifically to surface water permitting and surface water discharges. The proposed amendments detail several topics and timelines, including: when a surface water discharge permit is required, exemptions, individual permits, general permits, general permit coverage, permit conditions, permit processing and issuance, public notice and participation, Secretary review, public hearings, Water Quality Control Commission review, judicial review, and fees. The proposed new rule at 20.6.5 NMAC covers these same topics and timelines and also includes components specific to EPA requirements for state NPDES programs.

The proposed regulations and supporting information may be reviewed online at <https://www.env.nm.gov/opf/docketed-matters/>. Technical information that served

as a basis for the proposed rule was: the New Mexico Water Quality Act (NMSA 1978, §§ 74-6-1 through -17), the New Mexico Pollutant Discharge Elimination System Act (NMSA 1978, §§ 74-6C-1 through -11), the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and 40 C.F.R. Parts 122, 123, 124, 125, 233, Subchapter N, Part 403, and Subchapter O, Part 503. Such technical information may be obtained from the Petitioners upon request. Any person who wishes to review a physical copy of the proposed amendments should contact the WQCC Administrator at the address provided below.

The WQCC’s hearings are open to the public, and the general public is encouraged to participate. All interested persons will be given the reasonable opportunity to participate by filing a notice of intent to present technical testimony, filing an entry of appearance, or participating as a member of the general public. “‘Technical testimony’ means scientific, engineering, economic or other specialized testimony, but does not include legal argument, general comments, or statements of policy or position concerning matters at issue in the hearing.” “‘General public’ means any person attending a hearing who has not submitted a notice of intent to present technical testimony.”

Any member of the general public may testify at the hearing. Any person who provides testimony at the hearing is subject to cross-examination on the subject matter of his or her direct testimony and matters affecting his or her credibility. Any person attending the hearing is entitled to conduct such cross-examination as may be required for a full and true disclosure of matters at issue in the hearing. All testimony will be taken under oath or affirmation which may be accomplished in mass or individually.

No person shall discuss ex parte the

merits of the proceeding with any WQCC member or the appointed hearing officer.

Pursuant to 20.1.6.203 NMAC, any person may file an entry of appearance as a party. Pursuant to 20.1.6.100 NMAC and the pre-hearing order issued by the hearing officer dated January 15, 2026, entries of appearance and notices of intent to present technical testimony shall be filed on or before April 15, 2026, 5:00 p.m. This pre-hearing order can be accessed online at <https://www.env.nm.gov/opf/wp-content/uploads/sites/13/2026/02/2026-01-15-WQCC-25-74-Pre-hearing-Order-pj.pdf>.

Pursuant to 20.1.6.202 NMAC the form and content of the notice of intent to present technical testimony shall: identify the person for whom the witness(es) will testify; identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their education and work background; include a copy of the direct testimony of each technical witness in narrative form, and state the estimated duration of the direct oral testimony of that witness; include the text of any recommended modifications to the proposed regulatory change; and list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

Any party who files a notice of intent to present technical testimony shall conform to the requirements in 20.1.6.104 NMAC, as modified by any pre-hearing order, and reference the docket number, WQCC 25-74(R).

Entries of appearance and notices of intent to present technical testimony shall be filed with:  
Pamela Jones, WQCC Administrator  
New Mexico Environment  
Department  
Harold Runnels Building  
P.O. Box 5469  
Santa Fe, NM 87502  
Telephone: (505) 660-4305

Email: [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov)

Those wishing to do so may offer non-technical public comment at the hearing in person or virtually. The hearing officer will provide an opportunity for non-technical public comment each day of the hearing in a manner that accommodates the public pursuant to 20.1.6.204 NMAC.

Non-technical written statements may be submitted at or before the hearing in lieu of oral testimony. Written comments should reference docket number WQCC 25-74(R) and may be submitted electronically or as a single original document addressed to Pamela Jones, WQCC Administrator, at the above address. Written public comment submitted to the WQCC Administrator is unlimited and must be received prior to adjournment of the hearing. Additionally, the WQCC will receive and consider electronic written public comments submitted through NMED's public comment portal at: <https://nmed.commentinput.com/comment/search>.

The hearing will be conducted in accordance with the WQCC Rulemaking Procedures (20.1.6 NMAC); the Water Quality Act, (Sections 74-6-1 to -17 NMSA 1978 (1967 as amended through 2019); the State Rules Act, (Section 14-4-5.3 NMSA 1978), other applicable procedures and any additional procedural order or scheduling order issued by the WQCC or hearing officer. These documents are available online at <https://www.env.nm.gov/opf/docketed-matters/> or by contacting the WQCC Administrator at [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov).

If any person requires assistance, language interpretation, or auxiliary aid to participate in this process, please contact Pamela Jones, WQCC Administrator, at the above address, at least 14 days prior to the hearing date. (TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

#### STATEMENT OF NON-DISCRIMINATION

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

#### ENVIRONMENT DEPARTMENT

**COMISIÓN DE CONTROL DE  
LA CALIDAD DEL AGUA DE  
NUEVO MÉXICO  
AVISO DE AUDIENCIA PÚBLICA  
PARA LA ELABORACIÓN DE  
NORMAS  
PROPUESTA DE PROGRAMA  
ESTATAL DE PERMISOS  
DE CALIDAD DE AGUAS  
SUPERFICIALES  
ASUNTO REGISTRADO WQCC  
25-74(R)**

La Comisión de Control de la Calidad del Agua ("WQCC") llevará a cabo

una audiencia pública para este asunto a partir de las 9:00 a.m. del lunes 8 de junio de 2026, la cual continuará durante aproximadamente nueve (9) días hábiles hasta el jueves 18 de junio de 2026, según sea necesario. La audiencia se llevará a cabo de forma presencial en el Capitolio del Estado de Nuevo México, 490 Old Santa Fe Trail, Santa Fe, Nuevo México, 87501, y de forma virtual a través de una plataforma de videoconferencia. La audiencia durará el tiempo que sea necesario para escuchar todos los testimonios, pruebas y comentarios públicos. Se puede encontrar información detallada sobre el horario, la ubicación y el enlace de la reunión virtual en el calendario de eventos del Departamento de Ambiente de Nuevo México (“NMED”) en <https://www.env.nm.gov/events-calendar/>. Por favor, visite el sitio web de la WQCC antes de la audiencia para enterarse de cualquier novedad en <https://www.env.nm.gov/opf/water-quality-control-commission/>, Asunto Registrado WQCC 25-74(R). La WQCC puede tomar una decisión sobre el cambio regulatorio propuesto al finalizar la audiencia.

El propósito de la audiencia pública para la elaboración de normas es doble: (1) considerar las enmiendas propuestas a los reglamentos de *Protección de Aguas Subterráneas y Superficiales* 20.6.2 NMAC a fin de crear un programa de permisos de aguas superficiales dirigido por el Estado que controle la descarga de contaminantes, incluyendo material de dragado y relleno, en las “aguas superficiales del Estado” bajo la autoridad de la Ley de Calidad del Agua de Nuevo México; y (2) considerar la nueva norma propuesta 20.6.5 NMAC, *Sistema de Eliminación de Descargas de Contaminantes de Nuevo México*, a fin de permitir que el Estado administre y haga cumplir el programa federal NPDES que controla la descarga de contaminantes en las “aguas de los Estados Unidos” bajo la autoridad de la Ley Federal de Agua Limpia. Estas enmiendas

y nuevas normas responden a las actualizaciones estatutarias de la Ley de Calidad del Agua de Nuevo México (NMSA 1978, §§ 74-6-1 a -17) y a la creación de la Ley del Sistema de Eliminación de Descargas de Contaminantes de Nuevo México (NMSA 1978, §§ 74-6C-1 a -11) durante la Sesión Ordinaria de 2025 de la Legislatura de Nuevo México.

Las enmiendas propuestas a 20.6.2 NMAC y la nueva norma propuesta 20.6.5 NMAC establecen un programa integral de permisos con aplicación en todo el estado. Las enmiendas propuestas a 20.6.2 NMAC agregan nuevas definiciones y aclaraciones en varias secciones existentes a fin de distinguir entre las descargas a aguas subterráneas y a aguas superficiales. Las enmiendas propuestas crean una serie 2300 en 20.6.2 NMAC que se aplica específicamente a la concesión de permisos para aguas superficiales y a las descargas en aguas superficiales. Las enmiendas propuestas detallan diversos temas y cronogramas, que incluyen: cuándo se requiere un permiso de descarga en aguas superficiales, exenciones, permisos individuales, permisos generales, cobertura de permisos generales, condiciones de los permisos, procesamiento y emisión de permisos, aviso y participación pública, revisión de la Secretaría, audiencias públicas, revisión de la Comisión de Control de la Calidad del Agua, revisión judicial y tarifas. La nueva norma propuesta en 20.6.5 NMAC cubre estos mismos temas y plazos, y también incluye componentes específicos de los requisitos de la EPA para los programas estatales del NPDES.

Los reglamentos propuestos y la información de apoyo pueden revisarse en línea en <https://www.env.nm.gov/opf/docketed-matters/>. La información técnica que sirvió de base para la norma propuesta fue: la Ley de Calidad del Agua de Nuevo México (NMSA 1978, §§ 74-6-1 a -17), la Ley del Sistema de Eliminación de Descargas de Contaminantes de Nuevo México

(NMSA 1978, §§ 74-6C-1 a -11), la Ley Federal de Control de la Contaminación del Agua (33 U.S.C. § 1251 et seq.), y 40 C.F.R. Partes 122, 123, 124, 125, 233, Subcapítulo N, Parte 403, y Subcapítulo O, Parte 503. Dicha información técnica puede ser obtenida de los Peticionarios previa solicitud. Cualquier persona que desee revisar una copia física de las enmiendas propuestas debe comunicarse con el Administrador de la WQCC en la dirección abajo indicada.

Las audiencias de la WQCC están abiertas al público y se motiva al público en general a participar. Todas las personas interesadas tendrán la oportunidad razonable de participar a través de la presentación de un aviso de intención de presentar testimonio técnico, la presentación de un aviso de comparecencia o participando como miembro del público en general. “Testimonio técnico” se refiere a testimonio científico, de ingeniería, económico u otro testimonio especializado, pero no incluye argumentos legales, comentarios generales o declaraciones de política o posición sobre los asuntos en cuestión en la audiencia”. “Público en general” se refiere a cualquier persona que asista a una audiencia y que no haya presentado un aviso de intención de presentar testimonio técnico”.

Cualquier miembro del público en general puede testificar en la audiencia. Cualquier persona que proporcione testimonio en la audiencia está sujeta a un contrainterrogatorio sobre el objeto de su testimonio directo y sobre asuntos que afecten su credibilidad. Cualquier persona que asista a la audiencia tiene derecho a realizar dicho contrainterrogatorio según sea necesario para una divulgación completa y verdadera de los asuntos en cuestión en la audiencia. Todos los testimonios se tomarán bajo juramento o afirmación, lo cual puede realizarse de forma colectiva o individual.

Ninguna persona deberá discutir ex

parte los méritos del procedimiento con ningún miembro de la WQCC ni con el oficial de audiencias designado.

De conformidad con 20.1.6.203 NMAC, cualquier persona puede presentar una notificación de comparecencia como parte interesada. De conformidad con 20.1.6.100 NMAC y la orden previa a la audiencia emitida por el oficial de audiencias con fecha del 15 de enero de 2026, las notificaciones de comparecencia y los avisos de intención de presentar testimonio técnico deberán presentarse en o antes del 15 de abril de 2026, a las 5:00 p.m. Se puede acceder a esta orden previa a la audiencia en línea en: <https://www.env.nm.gov/opf/wp-content/uploads/sites/13/2026/02/2026-01-15-WQCC-25-74-Pre-hearing-Order-pj.pdf>.

De conformidad con 20.1.6.202 NMAC, la forma y el contenido del aviso de intención de presentar testimonio técnico deberán: identificar a la persona en para quien testificarán los testigos; identificar a cada testigo técnico que la persona pretenda presentar e indicar las cualificaciones de dicho testigo, incluyendo una descripción de su educación y experiencia laboral; incluir una copia del testimonio directo de cada testigo técnico en forma narrativa, e indicar la duración estimada del testimonio oral directo de ese testigo; incluir el texto de cualquier modificación recomendada al cambio reglamentario propuesto; y mencionar y adjuntar todas las pruebas que la persona prevea suministrar en la audiencia, incluyendo cualquier declaración de motivos propuesta para la adopción de las normas.

Cualquier parte que presente un aviso de intención de presentar testimonio técnico deberá cumplir con los requisitos de 20.1.6.104 NMAC, según lo modificado por cualquier orden previa a la audiencia, y hacer referencia al número de expediente, WQCC 25-74(R).

Las notificaciones de comparecencia y los avisos de intención de presentar

testimonio técnico deberán presentarse ante:

Pamela Jones, Administradora de la WQCC  
Departamento de Ambiente de Nuevo México (NMED)  
Edificio Harold Runnels  
P.O. Box 5469  
Santa Fe, NM 87502  
Teléfono: (505) 660-4305  
Correo electrónico: [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov)

Quienes deseen hacerlo pueden ofrecer comentarios públicos no técnicos en la audiencia, ya sea de manera presencial o virtual. El oficial de audiencias brindará una oportunidad para comentarios públicos no técnicos cada día de la audiencia, de manera que se adapte al público conforme a 20.1.6.204 NMAC.

Se pueden presentar declaraciones por escrito no técnicas en la audiencia o antes de la misma en lugar del testimonio oral. Los comentarios escritos deben hacer referencia al número de expediente WQCC 25-74(R) y se pueden presentar vía electrónica o como un único documento original dirigido a Pamela Jones, Administradora de la WQCC, a la dirección arriba mencionada. El comentario público por escrito presentado a la Administradora de la WQCC es ilimitado y se debe recibir antes del aplazamiento de la audiencia. Además, la WQCC recibirá y considerará los comentarios públicos escritos electrónicos presentados a través del portal de comentarios públicos del NMED en: <https://nmed.commentinput.com/comment/search>.

La audiencia se realizará de conformidad con los Procedimientos de Elaboración de Normas de la WQCC (20.1.6 NMAC); la Ley de Calidad del Agua (Secciones 74-6-1 a -17 NMSA 1978, de 1967 en su versión enmendada hasta 2019); la Ley de Normas Estatales (Sección 14-4-5.3 NMSA 1978), otros procedimientos aplicables y cualquier orden procesal u orden de

programación adicional emitida por la WQCC o el oficial de audiencias. Estos documentos se encuentran disponibles en línea en <https://www.env.nm.gov/opf/docketed-matters/> o comunicándose con la Administradora de la WQCC a través de [pamela.jones@env.nm.gov](mailto:pamela.jones@env.nm.gov).

Si alguna persona requiere asistencia, interpretación de idiomas o ayuda auxiliar para participar en este proceso, comuníquese con Pamela Jones, Administradora de la WQCC, a la dirección arriba indicada, al menos 14 días antes de la fecha de audiencia. (Los usuarios de TDD o TTY deben acceder al número a través de la Red de Retransmisión de Nuevo México, 1-800-659-1779 (voz); usuarios de TTY: 1-800-659-8331).

#### **DECLARACIÓN DE NO DISCRIMINACIÓN**

El NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo requieren las leyes y reglamentos aplicables. El NMED es responsable de coordinar los esfuerzos de cumplimiento y de recibir consultas relacionadas con los requisitos de no discriminación implementados por 40 C.F.R. Partes 5 y 7, incluyendo el Título VI de la Ley de Derechos Civiles de 1964, en su versión enmendada; la Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975; el Título IX de las Enmiendas de Educación de 1972; y la Sección 13 de las Enmiendas de 1972 a la Ley Federal de Control de la Contaminación del Agua. Si tiene alguna pregunta sobre este aviso o sobre cualquiera de los programas, políticas o procedimientos de no discriminación del NMED, o si cree que ha sido discriminado en relación con un programa o actividad del NMED, puede comunicarse con: Kate Cardenas, Coordinadora de No Discriminación, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM, 87502, o (505) 827-2855, o [nd.coordinator@env.nm.gov](mailto:nd.coordinator@env.nm.gov). Si cree que ha sido

discriminado en relación con un programa o actividad del NMED, puede comunicarse con la Coordinadora de No Discriminación identificada anteriormente.

**HEALTH CARE  
AUTHORITY  
INCOME SUPPORT DIVISION**

**NOTICE OF EMERGENCY RULE  
FILING**

The Health Care Authority will implement a temporary emergency rule effective April 1, 2026.

During October 2026 Special Legislative Session, \$12 million was appropriated to provide food assistance to SNAP recipients affected by House of Representatives (H.R. 1), Section 10108 (Immigration SNAP Eligibility) that President Donald J. Trump signed into law on July 4, 2025. Under H.R. 1, Section 10108, SNAP eligibility for certain lawfully present noncitizens, resulting in the loss of benefits for individuals who were previously eligible.

The Authority is implementing emergency rule to open a new section 8.106.640 NMAC State Funded Assistance program which is a State Funded Assistance Program. The objective of the New Mexico State funded food assistance program is to provide households affected by HR 1.

**8.106.640 NMAC**

This part is being opened to add the rules for the State Funded Food Assistance Program.

Regulations to the State Funded Assistance Programs administered by the Health Care Authority (HCA), including its authority to promulgate regulation, and is governed by Chapter 9, Article 8, NMSA (Repl. 1983).

The Authority is developing a new State Funded Assistance Food Program, that will benefit the households affected by HR 1.

The rule is being developed under the following statutory authority: New Mexico Statutes Annotated 1978 (Chapter 27, Articles 1 and 2) authorize the state to administer the aid to these families.

The register and rule language is available on the HCA website at: <https://www.hca.nm.gov/lookingforinformation/income-support-division-registers-2/>. If you do not have internet access, a copy of the final register and rules may be requested by contacting HCA Office of the Secretary at (505) 827-7750.

**HEALTH,  
DEPARTMENT OF**

**NOTICE OF PUBLIC HEARING**

The New Mexico Department of Health will hold a public hearing on the proposed repeal and replacement of rule 7.4.3 NMAC, "Control of Disease and Conditions of Public Health Significance." The hearing will be held on April 30, 2026, at 10:00 a.m. via the Microsoft Teams Internet-based video conferencing system, and via telephone. Members of the public who wish to submit public comment regarding the proposed repeal and replacement of the rule will be able to do so via video conference and via telephone during the course of the hearing, and by submitting written comment.

The Department proposes to repeal and replace the entirety of rule 7.4.3 NMAC, to incorporate various new and modified provisions, including but not limited to provisions concerning:

- Additional language on Statutory Authority (section 3);
- Definitions (section 7);
- Methods and requirements to report notifiable conditions (section 8);
- Addition of sentinel surveillance of infectious and non-infectious diseases or conditions that are not already included under section

13 and details about the requirements for sentinel surveillance to be initiated (section 9)

- Listing of required emergency department visit variables (section 10);
- Move Healthcare Associated Infections to section 13 where the other notifiable conditions are listed (section 11);
- Add new notifiable conditions and modify certain existing notifiable conditions to update terminology or provide current laboratory test requirements (tuberculosis is one example) (section 13);

The purpose of the proposed repeal and replacement of 7.4.3 NMAC is to implement the Public Health Act. Administration and enforcement of these rules are the responsibility of the Epidemiology and Response Division of the Department of Health, under Section 24-1-3, which authorizes the department to "investigate, control and abate the causes of disease, especially epidemics, sources of mortality and other conditions of public health," and to "maintain and enforce rules for the control of communicable diseases deemed to be dangerous to public health." 7.4.3 NMAC has not been updated since 2016 and therefore requires extensive updates to allow the department to effectively address its duties.

The legal authority authorizing the proposed repeal and replacement of the rule by the Department is at 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 to "maintain and enforce such rules as may be necessary to carry out the provisions of the Public Health Act and to publish the rules." (Public Health Act Section 24-1-3). And by the authority of and in conformity with the Public Health Act, Subsections B through G, Q through

S, Y and Z of Section 24-1-3, NMSA 1978, Sections 24-1-7, 24-1-15, 24-1-15.2, 24-1-15.3, and 24-1-36, NMSA 1978 and pursuant to the Hospital-Acquired Infection Act, Sections 24-29-1 through 24-29-6, NMSA 1978.

A free copy of the full text of the proposed repeal and replacement 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 repeal and replacement. 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.

To access the hearing via the Internet: please go to <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>, then enter the following meeting i.d. code and passcode where indicated on the screen: meeting i.d. code 219 293 526 532 36 and passcode Py3c8pF6 and then click the "Join a meeting" button.

To access the hearing by telephone: please call (888) 506-1357 and enter phone conference i.d. 217586114#

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](mailto:jacob.clark@doh.nm.gov), or 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 April 30, 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 who is in need of special assistance or accommodations 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.

## HEALTH, DEPARTMENT OF

### NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on the emergency amendment of sections of rule 7.30.12 NMAC, "Emergency Medications in Schools". The hearing will be held on Friday, May 15, 2026 at 9:00 a.m. via the Microsoft Teams Internet-based video conferencing system, and via telephone. Members of the public who wish to submit public comment regarding the amendments will be able to do so via video conference and via telephone during the course of the hearing, and by submitting written comment.

On February 23, 2026, the Department filed emergency amendments with the State Records Administrator to enact the following revisions to sections of 7.30.12 NMAC:

□ "Definitions" (section 7): replaced previous rule definition of "trained personnel" with statutory definition from the Emergency Medication in Schools Act at section 22-33-2, NMSA 1978, effectively removing the rule requirement that persons who administer epinephrine in schools be designated by a school nurse, and allowing the designation to be made by a school principal or school leader; replaced "means" with "includes" in definition of "governing body", consistent with statutory definition;

□ "Emergency Medications" (section 8): removed references to "school nurse" at sections 8(A)(3), 8(B), and 8(C), effectively authorizing schools that are without a school nurse to obtain medications from a pharmacy and decide whether to maintain and administer emergency medications; added "school leader" at section 8(D)(3), authorizing records to be kept by either the school nurse or school leader;

□ "Training" (section 9): added "schools" to section 9(A), in recognition that both schools and school districts may decide whether to maintain emergency medications; removed "PED licensed" at section 8(A)(1) and (A)(4), in recognition that not all school nurses are licensed by PED;

□ "Administration of Emergency Medications" (section 10): removed "PED licensed" from section 10(A)(1); added "school leader" at 10(B)(7), authorizing both school nurses and school leaders to maintain logs; and

□ "Prevention" (section 11): replaced "school district" with "school" at section 11(C), in reference to schools accessing NMDOH resources; and updated the listed website for NMDOH Office of School and Adolescent Health.

The purpose of the amendment of 7.30.12 NMAC is to implement the Emergency Medication in Schools Act, at sections 22-33-1 through -4, NMSA 1978, which requires the Department of Health to adopt and promulgate rules concerning the administration of albuterol and epinephrine in schools.

The legal authority authorizing the amendment of these rule sections 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,;" the Emergency Medication in Schools Act, at section

22-33-4, NMSA 1978, which requires NMDOH to adopt rules concerning administration of albuterol and epinephrine in schools; and the State Rules Act at section 14-4-5.6, NMSA 1978, which authorizes agencies to adopt emergency rules if “the agency find that the time required to complete the procedures would ... cause an imminent peril to the public health, safety or welfare”.

The reasons for the adoption of these emergency rule amendments are as stated in the letter of Cabinet Secretary, Gina DeBlassie, dated February 20, 2026, which can be obtained at the web address listed below. In accordance with the State Rules Act at section 14-4-5.6(E), NMSA 1978, the emergency rule amendments shall remain in effect until a permanent rule takes effect under the normal rulemaking process, and shall expire if no permanent rule is adopted within 180 days from the effective date of the emergency rule.

A free copy of the full text of the emergency amendments 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 amendments. 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.

To access the hearing via the Internet: please go to <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>, then enter the following meeting i.d. code and passcode where indicated on the screen: meeting i.d. code 299 572 009 742 99 and passcode 4Vt9MF3e 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. 709 603 487#

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](mailto: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 May 15, 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 who is in need of special assistance or accommodations 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.

**HEALTH,  
 DEPARTMENT OF**

**NOTICE OF PUBLIC HEARING**

The New Mexico Department of Health will hold a public hearing on the proposed adoption of a new rule, 7.35.2 NMAC, concerning the New Mexico Medical Psilocybin Program (“Program”). The hearing will be held on Friday, April 24, 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 course of the hearing, and by submitting written comment.

The rule 7.35.2 NMAC proposes to adopt standards for psilocybin producers and psilocybin testing laboratories in the NM Medical Psilocybin Program. The rule includes, but is not limited to, the following:

- Section 7, “Definitions”: defines various terms used in the rule;
- Section 8, “Permit Application Requirements”: sets requirements for applications for producer and laboratory permits;
- Section 9, “General Permittee Requirements”: sets requirements applicable to all producers and laboratories in the Program, including restrictions on transfer of permits and control and a prohibition on nominee, straw, and proxy ownership;
- Section 10, “General Producer Requirements”: sets general requirements particular to producers in the Program;
- Section 11, “Allowed Psilocybin Products”: prohibits adulteration of psilocybin products and requires homogenization of psilocybin products;
- Section 12, “Pesticides and Other Adulterants Prohibited”: prohibits application of pesticides to fungi or growing medium;
- Section 13, “Producer Policies and Procedures”: requires producers to create and maintain various policies and procedures concerning the production process and product waste;
- Section 14, “Packaging and Labeling; Product Information Document”: sets standards for labeling of medical psilocybin products and creation of an associated product information document;
- Section 15, “General Tracking Requirements”: requires tracking of batches and lots, and wasting of psilocybin material, using the Department’s identified traceability system;
- Section 16, “Implementation

and Administration of Traceability System”: requires designation of users of the Department-identified traceability system, training of users, and continuing education;

□ Section 17, “General Traceability System Use”: requires maintaining an accurate user list, and cancellation of user accounts for users who are no longer employed by the producer;

□ Section 18, “Compliance Notifications”: requires that producers and laboratories monitor compliance notifications and informational notifications in the traceability system;

□ Section 19, “Required Testing of Psilocybin Products”: sets standards for laboratory testing of psilocybin products for microbiological contaminants, water content, potency, heavy metals, and pesticides.

□ Section 20, “Additional Testing Services Offered by Psilocybin Testing Laboratories”: authorizes additional psilocybin testing for purposes of quality improvement, research and development, and labeling;

□ Section 21, “Wastage of Psilocybin and Psilocybin Products; Permitted Methods”: requires that any psilocybin product to which a pesticide has been applied be converted to waste;

□ Section 22, “Quality Assurance Testing; Complaint Procedure”: authorizes QA testing by the Department of Health, and describes how complaints can be submitted;

□ Section 23, “Producer Requirements for Sanitation and Product Handling”: incorporates various provisions of the 2022 FDA Model Food Code;

□ Section 24, “Requirements for the Transportation of Psilocybin”: sets requirements for transport of psilocybin products;

□ Section 25, “Monitoring and Corrective Actions”: authorizes the Department to perform on-site assessments of a permittee or permit applicant, interview persons affiliated with permittees; and

□ Section 26, “Disciplinary Actions and Appeals Process”: establishes procedures for disciplinary actions against permit holders and applicants for a permit, including grounds for disciplinary actions, and the process for requested administrative hearings.

The purpose of the proposed rule 7.35.2 NMAC is to implement the Medical Psilocybin Act, sections 26-2D-1 through -11, NMSA 1978.

The legal authority authorizing the adoption of this rule 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-7, NMSA 1978, which requires the Department to promulgate requirements, restrictions, and limitations for the Program, as well as necessary training, safety protocols, best practices, and requirements for data collection.

A free copy of the full text of the proposed rule 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. 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 April 24, 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 228 537 544 934 10 and passcode tL3eH7yM 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. 467 689 840#

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](mailto: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 April 24, 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.

## NURSING, BOARD OF

### NOTICE OF PROPOSED RULEMAKING

The New Mexico Board of Nursing (hereinafter the “Board”) will hold a public rule hearing on Tuesday, April 28, 2026, at 9:00 a.m. The rule hearing will be held in person at the

New Mexico Board of Nursing, 6301 Indian School Road NE, Suite 710, Albuquerque, NM 87110. A Board staff member will be available at the same location to accept written comments for submission and consideration through Friday, April 24, 2026, at the close of business (5:00 p.m.).

To attend the hearing:

Please attend the meeting at the New Mexico Board of Nursing, 6301 Indian School Road NE, Suite 710, Albuquerque, NM 87110.

The purpose of the rule hearing is to consider proposals to repeal and replace 16.12.5 NMAC (“Medication Aides”) and amend 16.12.13 NMAC (“Alternative to Discipline”).

Persons wishing to view the proposed rules may download them from <https://www.bon.nm.gov>. If you do not have internet access, a copy of the proposed rules may be requested by contacting the NM BON at (505) 841-9083.

The Board is currently accepting public comments on the proposed amendments. Written comments may be submitted via email to [sheena.ferguson@bon.nm.gov](mailto:sheena.ferguson@bon.nm.gov). Alternatively, members of the public may submit written comments by sending an original, signed copy to:

New Mexico Board of Nursing  
ATTN: NMBON Public Comments  
6301 Indian School Rd. NE, Suite 710  
Albuquerque, NM 87110

The Board will accept written public comments received on or before 5:00 p.m. on Friday, April 24, 2026. All written comments will be posted to the Board’s website within three business days following receipt to allow for public viewing.

The Board will preside over the hearing. The Board will hear public comments, review written comments, and consider any exhibits admitted during the hearing.

If you are a person with a disability and require this information in an alternative format or need special accommodations to participate in the public hearing, please contact the NMBON at (505) 841-9083. The NM BON requests at least ten (10) days’ advance notice to provide requested alternative formats and special accommodations.

**Statutory Authority:** Subsection A of Section 61-3-10 NMSA 1978 of the Nursing Practice Act, Sections 61-3-1 to -30 NMSA 1978, specifically authorizes the Board to “promulgate rules in accordance with the State Rules Act (Chapter 14, Article 4 NMSA 1078) as necessary to enable it to carry into effect the provisions of the Nursing Practice Act and to maintain high standards of practice.” In addition, Section 61-1-31.1 NMSA 1978 of the Uniform Licensing Act, requires the Board to “determine those states and territories of the United States and District of Columbia from which the board will not accept an applicant for expedited licensure and those foreign countries from which the board will accept an applicant for expedited licensure. The list of disapproved licensing jurisdictions shall be posted on the board’s website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval.”

**Purpose of the proposed rules:**

The proposed rules are intended to provide greater clarity in existing regulatory and statutory requirements, ensure continued high levels of professionalism among licensees and certificate holders, and to generally satisfy the Board’s statutory obligation to “promote, preserve and protect the public health, safety and welfare.” Section 1 of section 61-3-2 NMSA 1978.

**Summary of Proposed Changes:**

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

**16.12.5 NMAC - Medication Aides:**

The proposed amendments to 16.12.5 NMAC (Medication Aides) are intended to enhance administrative clarity, operational consistency, and alignment with national standards. The revisions include streamlining the site visit process, updating role titles to reflect current national terminology, and establishing clearly defined responsibilities for program directors, nurse educators, and facility oversight. Additionally, the amendments delineate the clinical functions of certified medication aides across outpatient and acute care settings to ensure uniform application and regulatory compliance.

**16.12.13 NMAC - Alternative to Discipline:**

The proposed changes to 16.12.13 NMAC (Alternative to Discipline) include correcting the spelling of “discipline” throughout Part 13, updating language in the section on monitoring participants by replacing terms such as “assure” with “ensure,” revising drug-screen requirements so they follow program-approved policy rather than board guidelines, modifying wording such as changing “observed” to “conducted,” and ensuring consistent grammatical accuracy throughout the document.

**Technical Information:** No technical information provided the basis for either of the proposed rules.

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**REGULATION  
AND LICENSING  
DEPARTMENT  
COUNSELING AND THERAPY  
PRACTICE BOARD**

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

The New Mexico Counseling and Therapy Practice Board and Regulation and Licensing Department will hold a rule hearing on Friday, May 1, 2026, at 9:00 a.m. Immediately following the rule hearing, the Board will convene a

regular board meeting to consider adoption of rules and take care of regular business. The hearing and board meeting will be held at the Regulation and Licensing Department, located at 5500 San Antonio Dr., Albuquerque, NM in the Sandia Conference Room.

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

Meeting Link: <https://teams.microsoft.com/meet/29536352493621?p=GP2F6epF5B8uiO8SoG>

Meeting ID: 295 363 524 936 21

Passcode: PZ3aU7M3

Dial in by phone

1 505-312-4308, United States, Albuquerque

Phone conference ID: 698 404 256#

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

Rule 16.27.2 NMAC – Mental Health Core Curriculum Requirements  
 Rule 16.27.6 NMAC – Requirements for Licensure as a Marriage and Family Therapist (LMFT)  
 Rule 16.27.9 NMAC – Requirements for Licensure as a Mental Health Counselor (LMHC)

On Wednesday, April 1, 2026, copies of the proposed rules may be obtained through the New Mexico Counseling and Therapy Practice Board website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/counseling-and-therapy-practice/statutes-rules-and-rule-hearings/> or by contacting the Board Administrator for the Board at (505) 476-4622.

The New Mexico Counseling and Therapy Practice Board and Regulation and Licensing Department will begin accepting written public

comment regarding the proposed rule changes beginning Wednesday, April 1, 2026, 8:00 a.m. and ending Friday, May 1, 2026, 8:00 a.m. Written comments may be submitted either by email to [counseling.board@rld.nm.gov](mailto:counseling.board@rld.nm.gov) or by postal mail to the following address:

New Mexico Regulation and Licensing Department  
 Attn: New Mexico Counseling and Therapy Practices Board  
 P.O Box 25101  
 Santa Fe, NM 87504

Written comments received during the public comment period (April 1, 2026- May 1, 2026) will be posted to the website page linked above. Public comment will also be accepted during the rule hearing and may be submitted in writing or presented orally by those attending in-person. The members of the New Mexico Counseling and Therapy Practices Board will not engage in substantive discussion of public comments during the rule hearing but will consider all public comments during the regular board meeting immediately following the conclusion of the rule hearing.

The agenda for the New Mexico Counseling and Therapy Practice Board regular meeting which will begin immediately after the public rule hearing, will be posted and available at least 72 hours before the meeting on the Board website: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/counseling-and-therapy-practice/board-information/>. Copies of the agenda may also be obtained by contacting Roxann Ortiz, Senior Board Administrator.

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

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

#### **Statutory Authority:**

The rule changes are authorized by the Counseling and Therapy Practice Act, NMSA 1978, Section 61-6A-1 through 61-6A-30, specifically authorizes the Board to adopt and file in accordance with 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, in accordance with the provision of the Uniform Licensing Act, NMSA 1978, Section 61-1-1 through 61-1-37.

#### **Purpose of the Proposed Rules:**

The proposed rule changes are intended to amend the rules to provide an alternative path to licensure for individuals who completed a clinical training program that did not require the necessary number of credit hours of practicum/internship. 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 certificate holders, and to generally satisfy the Counseling and therapy Practice Board's statutory obligation to promote, preserve and protect the public health, safety and welfare.

#### **Summary of Proposed Changes:**

16.27.2 NMAC-Mental Health Core Curriculum Requirements – The amendments to this rule establish an alternative pathway to licensure for individuals whose counseling degree programs do not satisfy the required

practicum and/or internship credit hour requirements.

16.27.6 NMAC – Requirements for Licensure as a Marriage and Family Therapist (LMFT)- The amendments to this rule create an alternative pathway to licensure for applicants who do not meet the prescribed practicum and/or internship credit hour requirements.

16.27.9 NMAC – Requirements for Licensure as a Mental Health Counselor (LMHC) – The amendments to this rule provide an alternative pathway to licensure for applicants who do not meet the required practicum and/or internship credit hour requirements.

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**End of Notices of  
Proposed Rulemaking**

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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.

**FINANCE AND  
ADMINISTRATION,  
DEPARTMENT OF  
BOARD OF FINANCE**

**TITLE 2 PUBLIC  
FINANCE  
CHAPTER 61 STATE  
INDEBTEDNESS AND  
SECURITIES  
PART 2 DEDICATION  
OF A PORTION OF THE  
STATE’S GROSS RECEIPTS  
TAX INCREMENT  
FOR METROPOLITAN  
REDEVELOPMENT**

**2.61.2.1 ISSUING**  
**AGENCY:** State Board of Finance.  
[2.61.2.1 NMAC - N, 3/24/2026]

**2.61.2.2 SCOPE:**  
Metropolitan redevelopment districts formed pursuant to the Metropolitan Redevelopment Code with respect to the state’s dedication of a portion of its gross receipts tax increment.  
[2.61.2.2 NMAC - N, 3/24/2026]

**2.61.2.3 STATUTORY AUTHORITY:** These regulations are promulgated pursuant to authority granted in Subsection E of Section 6-1-1 and Subsection D of Section 3-60A-21 NMSA 1978.  
[2.61.2.3 NMAC - N, 3/24/2026]

**2.61.2.4 DURATION:**  
Permanent.  
[2.61.2.4 NMAC - N, 3/24/2026]

**2.61.2.5 EFFECTIVE DATE:** March 24, 2026, unless a later date is cited at the end of a section.  
[2.61.2.5 NMAC - N, 3/24/2026]

**2.61.2.6 OBJECTIVE:**  
To establish rules and regulations governing the dedication of a

portion of the state’s gross receipts tax increment provided for by the Metropolitan Redevelopment Code (Sections 3-60A-1 through 3-60A-49 NMSA 1978); to provide guidance as to board evaluation of local government requests by defining terms setting forth the bases upon which the required findings are to be made, and outlining the methodological framework to be used; to set forth procedures for submittals of applications for a dedication; and to establish reporting requirements.  
[2.61.2.6 NMAC - N, 3/24/2026]

**2.61.2.7 DEFINITIONS:**  
As used in these rules:  
**A. “Blighted area”** has the same meaning herein as provided in the Metropolitan Redevelopment Code, as amended.  
**B. “Board”** means the state board of finance.  
**C. “Bonds”** has the same meaning herein as provided in the Metropolitan Redevelopment Code, as amended.  
**D. “District-level redevelopment activity”** means public infrastructure improvements, public programs, policies, or multiple private redevelopment activities undertaken over time within a metropolitan redevelopment area.  
**E. “Economic analysis study”** means an economic analysis that evaluates the economic feasibility of a project, including the analysis of costs, benefits, and projected economic impacts, prepared by a qualified professional or independent consultant approved by the board. An economic analysis study must include tables and charts generated from tools such as IMPLAN, REMI, and ESRI, a straightforward narrative of how data from the United States census bureau, United States bureau of

labor statistics, and other sources to substantiate the analysis, and an appendix with methodology details, including tools and data sources utilized, limitations of the analysis, and the following:

- (1)** An analysis and narrative detailing projected local business impacts, property value trends, infrastructure needs/utilization, and community effects, including:
  - (a)** the local business impacts segment, which must:
    - (i)** assess the proposed redevelopment’s projected impacts on existing businesses, including projections of new customer generation, projections of ancillary and complementary business creations, and projected effects on the existing business tax base; and
    - (ii)** include estimates of projected revenue changes for small and large businesses within the redevelopment area.
  - (b)** the property value trends segment, which must:
    - (i)** analyze projected impacts on existing property values and expected property value trends over the projected 20-year tax increment procedure period described by Subsection C of Section 3-60A-21 NMSA 1978;
    - (ii)** discuss the proposed redevelopment and expected property value trends and implications for residential and commercial landowners; and
    - (iii)** discuss the proposed redevelopment’s mitigation of the negative impacts of blight within the area.
- (c)** the infrastructure utilization segment,

which must evaluate the proposed redevelopment’s impact on existing infrastructure (e.g., transportation, utilities, etc.), identify public and private infrastructure gaps and required upgrades, and determine projected costs of public infrastructure creation or upgrades necessary to meet identified public infrastructure gaps; and

(d)

the community effects segment, which must:

(i)

discuss any anticipated displacement of residents or businesses, including mitigation strategies for minimizing adverse outcomes; and

(ii)

describe the proposed redevelopment’s mitigation or reduction of crime in the metropolitan redevelopment area or surrounding area, including any design elements, partnerships, or programming intended to improve public safety.

(2)

An analysis detailing projected multiplier effects (direct, indirect, and induced effects) of the proposed redevelopment, as well as projections for job retention, creation, workforce development, and economic mobility within the area. Additionally, the analysis must include the following:

(a)

the projected multiplier effects segment, which must:

(i)

quantify and measure the change in economic activity between current economic conditions and the quantifiable changes as a result of the proposed redevelopment;

(ii)

provide a detailed economic output analysis of direct and indirect effects within the metropolitan redevelopment area, with temporary construction activity effects identified separately;

(iii)

provide a detailed analysis of the proposed redevelopment’s induced economic effects, in particular the estimated increases in household income and spending from newly created jobs;

(iv)

discuss the spillover benefits to neighboring communities, including enhanced regional connectivity or other projected improvements to neighboring communities; and

(v)

include a “but for” analysis demonstrating that the proposed project would not occur at the same scale, quality, or timeline without public support. The analysis should present a comparison of outcomes with and without applicant receiving a dedication of a portion of the state gross receipts tax increment, using reasonable assumptions.

(b)

the discussion of job creation segment, which must:

(i)

clearly identify the estimated jobs created by the proposed redevelopment, including projections for indirect and induced employment effects in surrounding areas;

(ii)

provide a list of jobs classified at the three-digit level of the most recent NAICS, including employment and salary projections by industry (also as classified at the three-digit level of the most recent NAICS) in the proposed metropolitan redevelopment area by calendar year; and

(iii)

identify whether the jobs are temporary (i.e., construction) or permanent employment and whether the jobs are full-time or part-time. To the extent that it is reasonably possible, the segment should include information on health benefits for jobs in each category, market impact, anticipated regional and in-state competition.

(c)

the workforce development segment, which must:

(i)

identify workforce development initiatives included or recommended for the proposed redevelopment;

(ii)

provide detailed plans for collaboration with state and local training programs, community colleges, or similar institutions

to prepare residents for new job opportunities; and

(iii)

recommend anticipated efforts required to prioritize hiring from within the local community, particularly for underserved populations.

(d)

the economic mobility segment, which must:

(i)

provide a projected 20-year assessment of how the proposed redevelopment will contribute to sustainable employment growth within the area, such as attracting industries that offer career advancement; and

(ii) explain how the proposed redevelopment will create pathways for upward economic mobility through education, skills training, and entrepreneurship support.

(3) The

anticipated net revenue impact on the state and applicable local government general funds, calculated as follows:

(a)

The estimated sum of all general fund revenues generated by economic activity within the metropolitan redevelopment area by type of revenue (e.g., gross receipts tax from goods and services provided to New Mexico businesses, personal income tax, etc.), less:

(i)

the estimated sum of all general fund costs to the state associated with the provision of services to individuals and businesses (e.g., public schools);

(ii)

the estimated amount of tax incentives provided to promote economic development within the metropolitan redevelopment area under current law;

(iii)

the amount of the state gross receipts tax increment requested for the metropolitan redevelopment area; and

(iv)

the total amount of capital outlay appropriated for use in the metropolitan redevelopment area under current law.

(b) The net revenue impact on the state general fund must be expressed in constant dollar terms; and

(c) The net present value of general fund revenues less general fund costs over the 20-year or such other applicable maturity period for the bonds. A discount rate equal to five percent shall be used in the calculation.

**F. “Financing plan”** means a plan outlining the sources and uses of funds available from revenue or debt for the proposed redevelopment, detailing how the proposed redevelopment will be financed. A financing plan must include a description of the following:

(1) the metropolitan redevelopment area’s proposed plan for financing all or part of the public improvements and other actions required to facilitate the economic gains and mitigate any adverse effects identified in the economic analysis study. The plan must identify whether the metropolitan redevelopment area proposes to use gross receipts tax increment bonds or property tax revenues or both, including information supporting why gross receipts tax increment financing is needed for the proposed redevelopment and the economic advantage of using property tax revenue;

(2) the total estimated annual gross receipts tax increment to be generated by the proposed redevelopment and the portion of that gross receipts tax increment to be allocated during the period necessary to repay any bonds, as defined under these rules, issued pursuant to the redevelopment;

(3) the total estimated annual property tax increment to be generated by the project and the portion of that property tax increment to be allocated during the time necessary to complete the payment of the project;

(4) the anticipated structure and terms for gross receipts tax increment bonds, including:

(a) maturity date and estimated interest rates;

(b) a pro-forma for all bonds to be issued for the redevelopment; and

(c) projected coverage ratios for all bonds issued for the redevelopment.

(5) tabular data table showing cash flow projections of revenues from past and present property tax dedication approved and expenditures in the metropolitan redevelopment area;

(6) any proposed use of gross receipts tax increment revenues or property tax increment revenues other than to secure the payment of bonds;

(7) the source of funding for services, activities, grants, and payments, other than in connection with the construction or acquisition of public infrastructure and facilities;

(8) potential and identified additional sources of funding to complete the proposed redevelopment;

(9) a description of the source of funding for any private improvements and development, including the amount, type, and source of private investment and commitments to the redevelopment, and a corresponding financing plan; and

(10) a description of the accounting practices, in accordance with generally accepted governmental accounting and auditing standards, to be undertaken to track and monitor revenues deposited into the metropolitan redevelopment fund.

**G. “Governing body”** means the city council or city commission of a city, the board of trustees or council of a town or village or the board of county commissioners of a county.

**H. “Housing supply study”** means a scientific study providing a statistical description of the housing supply in the community prepared by a qualified professional or independent consultant approved

by the board, which includes the number of private and public units in existence or under construction, the annual rate of turnover of the various types of housing, the range of rents and sale prices, estimates of the number of persons residing in the metropolitan redevelopment area, and the number of families and individuals at risk of being displaced by redevelopment and also includes:

(1) an estimate of the total demand for housing in the metropolitan redevelopment area and surrounding areas, with the estimated capacity of private and public housing available to families and individuals displaced by the proposed redevelopment; and

(2) a detailed description of how redevelopment will impact low-income communities, minority groups, and other marginalized populations in the metropolitan redevelopment area.

**I. “Local government”** has the same meaning herein as provided in the Metropolitan Redevelopment Code, as amended.

**J. “Market absorption study”** means a study that evaluates the market demand for real property and components comprising the metropolitan redevelopment area and the rate at which the market can absorb the new supply, supported by detailed demographic and socioeconomic data for the metropolitan redevelopment area, prepared by a qualified professional or independent consultant approved by the board and including the following information:

(1) any blighted area(s), the severity of the blight, inclusive of a comparison analysis to other adjacent areas or comparable communities, and information on how the proposed redevelopment anticipates rehabilitating currently identified slum or blighted areas and preventing future slum or blight in the metropolitan redevelopment area;

(2) a population analysis, as defined in this Section 7 of this rule; and

(3) a housing supply study, as defined in this Section 7 of this rule.

**K. “Metropolitan redevelopment area”** has the same meaning herein as provided in the Metropolitan Redevelopment Code, as amended.

**L. “Metropolitan redevelopment plan”** has the same meaning herein as provided in the Metropolitan Redevelopment Code, as amended.

**M. “Metropolitan redevelopment project”** and **“project”** have the same meaning herein as provided in the Metropolitan Redevelopment Code, as amended.

**N. “NAICS”** means the North American industry classification system.

**O. “Operating plan”** means a detailed plan from the local government identifying how it will carry out the redevelopment activities for the metropolitan redevelopment area and a clear operational strategy, including roles and responsibilities of the management team, and the operational procedures to be followed for day-to-day operations of the proposed redevelopment, including management, staffing, and operational procedures. Additionally, the operating plan must identify the following:

(1) a general description of the local government’s plan to carry out the redevelopment activities for the metropolitan redevelopment area as a whole or plans for specific areas within the metropolitan redevelopment area;

(2) whether the governing body or another entity will provide oversight for the metropolitan redevelopment project;

(3) the method and metrics the oversight entity will utilize to determine compliance with and delivery of the redevelopment’s goals;

(4) a detailed depiction of how decisions will be made for activities, metropolitan redevelopment projects, and other day-to-day operational requirements; and

(5) where the local government delegates its powers in whole or in part to a metropolitan redevelopment entity or other agency or party, a description of the delegated powers, and the ordinance, resolution, or other document evidencing such delegation, must be provided.

**P. “Population analysis”** means a breakdown of the current population of the metropolitan redevelopment area by age, income level, employment status, and educational attainment, that identifies market size, labor availability, and potential customer base and also includes the following information for the metropolitan redevelopment area and surrounding areas:

(1) the projected number of residential (single-family and multi-family) units and the square footage of property type to be built by calendar year;

(2) the projected average price per square foot or by unit by type to be built per calendar year; and

(3) the market supply (or availability) and the value of each property type in the metropolitan redevelopment area and surrounding area(s), with reference to other planned development in the surrounding area(s).

**Q. “Slum area”** has the same meaning herein as provided in the Metropolitan Redevelopment Code, as amended.

**R. “State gross receipts tax increment”** means the value of the gross receipts tax imposed pursuant to Section 7-9-4 NMSA 1978 and sourced to the metropolitan redevelopment area in excess of the same gross receipts taxes sourced to the metropolitan redevelopment area in the base year, calculated in compliance with Subsection B of Section 3-60A-21 NMSA 1978, as amended.

**S. “Substantial change”** means any material modification to a metropolitan redevelopment plan that would:

(1) require the local government to hold a public hearing in advance of approving such

a change, as required by Section 3-60A-9 NMSA 1978;

(2) alter the boundary of the metropolitan redevelopment area; or

(3) provide a measurable impact on the projected outcomes for the market absorption study, operating plan, financing plan, economic analysis study, or housing supply study, included in the application.

**T. “Tax increment law”** means Sections 3-60A-19 through 3-60A-24 NMSA 1978, as amended, which is a part of the Metropolitan Redevelopment Code. [2.61.2.7 NMAC - N, 3/24/2026]

#### 2.61.2.8 APPLICATION ELEMENTS:

**A. Contents of application:** A local government requesting a dedication of a portion of the state gross receipts tax increment shall submit an application to the board that includes:

(1) a table of contents identifying all documents, studies, plans, images, and information, and, as practicable, following the order set forth in this Section 8;

(2) an executive summary of the local government’s application, including clear identification as to whether the application supports a request for district-level redevelopment activity or for a specific project or projects;

(3) a comprehensive summary of the administrative and legislative history of the designation of the metropolitan redevelopment area, local approval of the metropolitan redevelopment plan, and any amendment or modification to either, including, but not limited to a description of any gross receipts tax increment and property tax increment dedications by any local government, as well as a timeline, detailing all approvals and public hearings associated with the metropolitan redevelopment area and the metropolitan redevelopment plan. Where applicable, copies of the

following documents shall be attached to the comprehensive summary:

- (a) any resolutions supporting the comprehensive summary of administrative and legislative history of the governing body;
- (b) any resolutions of the governing body making a finding of necessity to address one or more slum area(s) or blighted area(s) existing in the local government’s jurisdiction;
- (c) any resolution of the governing body determining that a specific area is a slum area or a blighted area or a combination thereof and designating such area as appropriate for a metropolitan redevelopment project, and a written hearing record or meeting minutes from the public hearing;
- (d) any resolutions of the governing body electing to use the procedures set forth in the tax increment law, effective January 1, 2025, for funding metropolitan redevelopment projects;
- (e) any resolutions of the governing body making necessary findings and approving the metropolitan redevelopment plan for the metropolitan redevelopment area and a written hearing record or meeting minutes from the hearing held by the governing body or the local government’s planning commission relating to the proposed adoption of the metropolitan redevelopment plan;
- (f) any resolutions adopted by the governing body following the approval of a metropolitan redevelopment plan for the metropolitan redevelopment area, which approves a substantial change to the metropolitan redevelopment plan;
- (g) any resolutions of the governing body of any local government, within which the metropolitan redevelopment area is located, agreeing to dedicate up to seventy-five percent of a gross receipts tax

increment and, if applicable, property tax increment of those entities;

- (4) a copy of the metropolitan redevelopment plan containing a provision that a portion of a gross receipts tax increment may be dedicated for the purpose of funding a metropolitan redevelopment project for a period of up to 20 years in compliance with the tax increment law;
- (5) a map or maps clearly depicting the geographic boundaries of the metropolitan redevelopment area and any existing land uses, public/private ownership, and zoning, as applicable;
- (6) a description of the metrics used by the local government in designating the metropolitan redevelopment area as a slum area, a blighted area, or a combination thereof in connection with its preparation of the metropolitan redevelopment plan. If the metropolitan redevelopment area was established earlier than five years prior to the date of the application, the description must identify the current metrics established and measured by the local government for determining that the area remains a slum area, a blighted area, or a combination thereof;
- (7) a description of the activities undertaken by the local government and its accomplishments in addressing slum or blight since the designation of the metropolitan redevelopment area;
- (8) a description of the proposed redevelopment activities, which may include district-level redevelopment activities, specific redevelopment projects, or a combination thereof, and which shall be tailored to the nature of the metropolitan redevelopment area and the request for state participation. The description shall include:
  - (a) identification of projects, project areas, public infrastructure and facilities, financing incentives, and programmatic investments included in the activities;
  - (b) a description of how projected revenues

will be used to address slum or blight conditions;

- (c) a summary of how the redevelopment activities are designed to eliminate slums or blighted areas in the metropolitan redevelopment area and how the activities conform to the approved metropolitan redevelopment plan;
  - (d) a description and map identifying any proposed changes in land use, zoning, and ownership for the metropolitan redevelopment area resulting from the redevelopment activities;
  - (e) a description of the types of private improvements and development either planned or anticipated to occur as part of the redevelopment activities; and
  - (f) a proposed schedule for commencement and completion of the proposed redevelopment activities inclusive of major milestones, which should align with the pro-forma included in the financing plan.
  - (9) an operating plan, as defined in Section 7 of this rule;
  - (10) a financing plan, as defined in Section 7 of this rule;
  - (11) a market absorption study, as defined in Section 7 of this rule;
  - (12) an economic analysis study, as defined in Section 7 of this rule.
- B.** The board may consider the scale, complexity, and public investment associated with the local government’s request when determining the appropriate level of specificity, detail and analysis of the requirements under this section of the rule and may request additional best-practice elements as necessary to support informed decision-making. Where a requirement is not applicable to a local government’s metropolitan redevelopment plan, a waiver for such requirement will not be required. When a requirement is applicable to a local government’s metropolitan redevelopment plan, but the local government wishes to be exempt

from or modify such requirement, it shall seek formal approval of the board for a waiver of such application requirements, as described under Section 13 of this rule.

**C.** The board may accept existing metropolitan redevelopment plans, blight studies, tax-increment financing action plans, budgets, or other documents in lieu of specific application requirements. The local government, however, must seek approval from the board of the use of existing documents in lieu of specific and separate application requirements prior to submitting the application to the board and with sufficient time for the board to consider such request. Existing documents will be accepted only to the extent that they substantively convey the information required under any specific requirement of this rule and be sufficiently recent so as to provide the board with a reasonably accurate understanding of the information contained therein. Further, the local government must clearly identify how and where the existing documents address the requirement for which the existing documents are to be considered. [2.61.2.8 NMAC - N, 3/24/2026]

#### **2.61.2.9 APPLICATION TIMELINE AND SUBMITTAL:**

**A. Pre-application conferences:** Prior to initiating the preparation of an application, a local government is encouraged to schedule a “pre-application conference” to discuss the application elements, the metropolitan redevelopment plan and proposed redevelopment activities to be undertaken with state gross receipts tax increment financing with board staff and the economic analysis unit of the department of finance and administration, as well as consultants and professionals proposed to be utilized by the local government. The local government may consider submitting any waiver requests and requests for use of existing documents in lieu of specific application requirements at this time. The local government should be aware that requests for waivers

of any requirement of this rule may delay the board’s review process if not provided in advance. Board staff at this time may request an informational presentation to be made to the board prior to or in conjunction with the local government submitting its application.

#### **B. Requirements:**

**(1)** an application for the dedication of a portion of the state gross receipts tax increment shall be considered by the board either at its regular meeting in June or December of each year;

**(2)** complete applications must be submitted no later than the preceding November 1 for consideration at the board’s June meeting, or the preceding July 1 for consideration at the board’s December meeting;

**(3)** all required materials must be submitted electronically, and tables must be submitted as Microsoft Excel files with access to all data, including assumptions and formulae;

**(4)** if a governing body has not adopted a resolution pledging a portion of its gross receipts tax increment or its property tax increment, or both, by the deadline for submission of the application, that resolution shall be provided immediately upon its adoption and, if the adoption does not occur prior to the meeting at which the board is to consider the application, the board may take any action it deems appropriate, such as imposing a condition requiring such dedication or deferring action until a dedication is made;

**(5)** in addition to the requirements of Paragraphs (1) through (4) above, the board may require informational presentations at a meeting prior to the meeting at which the application is to be considered. The board may also require the submission of supplemental information during its review process; and

**(6)** all information submitted to the board pursuant to this Section 9 will be available for public inspection, unless otherwise provided by law.

#### **C. Concurrent**

**submittal:** In addition to submitting the application to the board, additional copies of an application must be submitted to the department of finance and administration, economic analysis unit; the New Mexico finance authority; the taxation and revenue department, office of the secretary; and the legislative finance committee’s staff at their respective offices.

[2.61.2.9 NMAC – N, 3/24/2026]

#### **2.61.2.10 APPLICATION REVIEW:**

**A. Basis of evaluation and use of consultants:** The board will evaluate each application proposing a dedication of state gross receipts tax increment within a metropolitan redevelopment area as a whole and evaluate each metropolitan redevelopment area on a stand-alone basis. The board will utilize the services of the department of finance and administration’s economic analysis unit and may seek the assistance of an economic consultant to evaluate each application. In evaluating applications, the board and its consultants shall consider the scale of the metropolitan redevelopment area, the type of redevelopment activities proposed, and the amount of state gross receipts tax increment requested. The local government must fully comply with any request to submit any additional data that may be helpful for use in its review of the application.

**B. Evaluation methodology:** The department of finance and administration’s economic analysis unit or any of the board’s economic consultants will use the following methodology in evaluating each application:

**(1)** validation of any economic impact models using standard economic impact tools;

**(2)** determination of the viability of the metropolitan redevelopment plan under the following scenarios;

**(a)** the dedication of the requested state gross receipts tax increment is approved;

(b) the dedication of the requested state gross receipts tax increment is not approved;

(c) the dedication of some portion of the requested state gross receipts tax increment is approved; and

(d) under staff-requested assumptions about economic factors.

(3) evaluation of the submitted application, recognizing other economic development efforts by other economic development entities, including other metropolitan redevelopment areas;

(4) assessment of impact on surrounding communities and non-participating governments;

(5) determination of the ratio of public to private capital contributions and the ratio of state contributions compared to local contributions; and

(6) validation of the finance plan, economic analysis study, market absorption study, and operating plan, or previously approved documents and information in lieu of separate analysis; the board may seek input from New Mexico finance authority staff regarding interest rates, coverage ratios, and other bond financing features to ensure that they are reasonable and appropriate.

[2.61.2.10 NMAC - N, 3/24/2026]

**2.42.2.11 BOARD APPROVAL: EFFECTIVE DATE, CONDITIONS, AND DURATION:**

**A. Effective date:** The board's approval of any dedication of the state gross receipts tax increment for metropolitan redevelopment shall be effective as provided in Sections 3-60A-23 and 3-60A-49 NMSA 1978, as amended.

**B. Conditional approval:** Dedications of up to seventy-five percent of the state gross receipts tax increment made by the board for metropolitan redevelopment shall be conditioned upon the requirements set forth at Subsection

C of Section 3-60A-23 NMSA 1978, and be otherwise consistent therewith.

**C. Subsequent changes:** Any proposed substantial change to the metropolitan redevelopment plan after the board has made a dedication must be reported to the board pursuant to Subsection E of 2.61.2.12 NMAC and will require advance board approval of such substantial change for proceeds from the sale of any bonds or notes to be applied to the purposes set forth in such modified metropolitan redevelopment plan.

**D. Expiration of dedication:** A dedication of a portion of the state gross receipts tax increment for metropolitan redevelopment shall expire in accordance with Subsection C of Section 3-60A-21 NMSA 1978, as amended, once all bonds secured in whole or in part by the state gross receipts tax increment are fully paid-off, or as otherwise stated in these rules.

[2.61.2.11 NMAC - N, 3/24/2026]

**2.61.2.12 REPORTING REQUIREMENTS:**

**A. Bond issuance:** Within 14 business days after a local government issues any bonds, the local government shall advise the board by letter of the date of issuance, the interest rate, and the total aggregate amount of each issue.

**B. Annual reporting:** On or before January 15 of each year following the issuance of any bonds, and until the bonds are fully paid-off, a local government that has received a dedication of a portion of the state gross receipts tax increment for metropolitan redevelopment shall provide to the board employment reports, as available, setting forth in reasonable detail the numbers and types of jobs created within the metropolitan redevelopment area on a full-time equivalent basis during the preceding 12-month period and the availability of workforce housing.

**C. Supplemental reporting:** Within thirty days of submitting any report or data required by the governing body,

the New Mexico finance authority, the legislature, or any legislative committee, the metropolitan redevelopment area shall transmit copies of these reports or data to the board and the economic analysis unit of the department of finance and administration.

**D. Substantial change and progress reporting:** By September 1 of each year, a local government that has an unexpired dedication of a portion of the state gross receipts tax increment for metropolitan redevelopment will submit a report describing any substantial change to the metropolitan redevelopment area or the metropolitan redevelopment plan, as well as any project described therein, that may have occurred since board approval of such dedication. In addition, the local government shall provide information concerning the infrastructure build-out, jobs created, employers, revenues and expenses, total bonds outstanding, new bond issuances, bond incurrences, or material contracts for construction or other services in support of the metropolitan redevelopment plan, and a status report of the metropolitan redevelopment area's achievements with respect to public facilities and community benefits, such as the provision of schools and workforce housing in the metropolitan redevelopment area, and any other information the applicant believes may be helpful to the board occurring over the prior 12 months.

**E. Periodic reporting:** In addition to all requirements set forth above, a local government must report from time to time any substantial change to the metropolitan redevelopment plan, as well as any project described therein, that is proposed to occur following the board's approval of a resolution dedicating a portion of the state gross receipts tax increment to the board.

**F. Application and duration of reporting requirements:** Sections A through E of 2.61.2.12 NMAC apply to any local government that has received a dedication of the state gross receipts tax increment

for metropolitan redevelopment until the applicable metropolitan redevelopment area is no longer designated as appropriate for a metropolitan redevelopment project or the board's approval of the increment has expired.  
[2.61.2.12 NMAC - N, 3/24/2026]

**2.61.2.13 WAIVER:** The board, in its sole and absolute discretion, may waive or modify application requirements where strict compliance would be impracticable or inconsistent with the nature of the redevelopment activity, unless such waiver would be contrary to the Metropolitan Redevelopment Code, or waiver would impair the board's ability to satisfy its obligations under Subsection C of Section 3-60A-23 NMSA 1978. Waiver requests must be submitted by the local government for formal board approval at least two months prior to submission of the complete application for board consideration. Where a requirement is not applicable to a local government's metropolitan redevelopment plan, a waiver for such requirement will not be required, provided that the local government has provided a sufficient justification for the requirement's non-applicability, as required by Subsection B of 2.61.2.8 NMAC.  
[2.61.2.13 NMAC - N, 3/24/2026]

**2.61.2.14 EFFECT OF PUBLICATION:** All sections shall be effective upon publication in the New Mexico Register.  
[2.61.2.14 NMAC - N, 3/24/2026]

**HISTORY OF 2.61.2 NMAC:**  
[RESERVED]

**HEALTH CARE  
AUTHORITY  
INCOME SUPPORT DIVISION**

**TITLE 8 SOCIAL  
SERVICES  
CHAPTER 106 STATE  
FUNDED ASSISTANCE  
PROGRAMS**

**PART 640 STATE FOOD  
ASSISTANCE PROGRAM**

**8.106.640.1 ISSUING AGENCY:** New Mexico Health Care Authority.  
[8.106.640.1 NMAC - N/E, 4/1/2026]

**8.106.640.2 SCOPE:** This rule applies to the general public.  
[8.106.640.2 NMAC - N/E, 4/1/2026]

**8.106.640.3 STATUTORY AUTHORITY:** New Mexico Statutes Annotated 1978 (Chapter 27, Articles 1 and 2) authorize the state to administer the aid to families with dependent children (AFDC), general assistance (GA), shelter care supplement, the burial assistance programs and such other public welfare functions as may be assumed by the state.  
[8.106.640.3 NMAC - N/E, 4/1/2026]

**8.106.640.4 DURATION:** Permanent.  
[8.106.640.4 NMAC - N/E, 4/1/2026]

**8.106.640.5 EFFECTIVE DATE:** April 1, 2026 unless a later date is cited at the end of a section.  
[8.106.640.5 NMAC - N/E, 4/1/2026]

**8.106.640.6 OBJECTIVE:** The objective of the New Mexico state funded food assistance program is to provide households with food assistance for those who do not qualify for supplemental nutrition assistance program (SNAP) under the Food and Nutrition Act of 2008.  
[8.106.640.6 NMAC - N/E, 4/1/2026]

**8.106.640.7 DEFINITIONS :**  
[RESERVED]

**8.106.640.8 One-time state funded food assistance payment for lawfully present individuals:**

**A. Purpose:** provide a one-time state-funded food assistance payment to lawfully present individuals who were receiving SNAP benefits and currently ineligible solely due to their immigration status due to house of representative bill (H.R. 1) federal eligibility changes.

**B. Method of payment:** a one-time lump sum payment will be issued into the EBT account accessible to the participant.

**C. Eligibility:** Must meet the following criteria:  
**(1)** must submit a re-certification; and  
**(2)** was a current SNAP recipient; and  
**(3)** lost SNAP benefit during recertification solely due to their immigration status.

**D. Benefit amount:** will be determined by the authority based on legislative intent and the availability of funds.

**(1)** this will be a one-time lump sum payment; and  
**(2)** determined by the number of identified lawfully that are projected to lose SNAP benefits at the time of re-certification due to immigration status and are eligible; and

**(3)** calculated as a percentage of the average of SNAP benefits issued over a six-month period; and  
**(4)** total amount of the funds appropriated.

**E. Receipt of payment** under this part does not establish an entitlement to ongoing or future benefits.

**F. Limitation of funds:**  
**(1)** the authority shall not issue benefits more than the amount appropriated;  
**(2)** no benefits shall be issued once the funds are exhausted.

**G. Disclosure:** Use or disclosure of information from SNAP applicants and recipient households who receive this one-time state food benefit shall be restricted to:

**(1)** Employees of the HCA who are investigating intentional program violations, deception, or fraud by recipients of this one-time state food assistance.

**(2)** Local, state, or federal law enforcement officers acting in their official capacity, upon written request by

such law enforcement officers that includes the name of the household member being sought, for the purpose of obtaining the address, social security number, and, if available, photograph of the household member, if the member is fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony (or a high misdemeanor in New Jersey), or is violating a condition of probation or parole imposed under a federal or state law. The state agency shall provide information regarding a household member, upon written request of a law enforcement officer acting in his or her official capacity that includes the name of the person being sought, if the other household member has information necessary for the apprehension or investigation of the other household member who is fleeing to avoid prosecution or custody for a felony, or has violated a condition of probation or parole imposed under federal or state law. The state agency must accept any document that reasonably establishes the identity of the household member being sought by law enforcement authorities. The HCA shall disclose only such information as is necessary to comply with a specific written request of a law enforcement agency authorized by this paragraph. [8.106.640.8 NMAC - N/E, 4/1/2026]

**8.106.640.9 NMAC: [RESERVED]**

**8.106.640.10 BENEFIT ISSUANCE AND DELIVERY:**

- A. Benefit issuance:** state funded food assistance will be issued through a direct deposit into a household's EBT account. EBT cards are issued and maintained as defined at 8.139.610 NMAC.
- B. Expungement:** the state food assistance shall be subject to expungement in accordance with 8.139.610.8 NMAC.
- C. Household use of state food assistance:** the household shall only be allowed to use the food assistance for food purchases in accordance with 8.139.610.11 NMAC.

[8.106.640.10 NMAC - N/E, 4/1/2026]

**History of 8.106.640 NMAC:** 8.106.640 NMAC, State Food Assistance Program was renamed and became effective 4/1/2026.

**History of repealed material:** 8.106.640 NMAC, Description of Program/Benefits - Benefit Corrections, filed 7/1/2004 - Repealed effective 4/1/2014.

**HEALTH CARE  
AUTHORITY  
INCOME SUPPORT DIVISION**

**This is an amendment to 8.102.500 NMAC, Section 1, 3, 8 effective 3/24/2026.**

**8.102.500.1 ISSUING AGENCY:** [~~New Mexico Human Services Department~~] New Mexico Health Care Authority. [8.102.500.1 NMAC - Rp 8.102.500.1 NMAC, 07/01/2001; A/E 10/1/2025; A, 3/24/2026]

**8.102.500.3 STATUTORY AUTHORITY:**

- A.** New Mexico Statutes Annotated 1978 (Chapter 27, Articles 1 and 2) authorize the state to administer the aid to families with dependent children (AFDC), general assistance (GA), shelter care supplement, the burial assistance programs and such other public welfare functions as may be assumed by the state.

- B.** Federal legislation contained in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 abolished the AFDC program. The federal act created the temporary assistance for needy families (TANF) block grant under Title IV of the Social Security Act. Through the New Mexico Works Act of 1998, the New Mexico works program was created to replace the aid to families with dependent children program.

- C.** Under authority granted to the governor by the federal Social Security Act, the [~~human services department~~] health care authority is designated as the state agency responsible for the TANF program in New Mexico.

- D.** Effective April 1, 1998, in accordance with the requirements of the New Mexico Works Act and Title IV-A of the federal Social Security Act, the department is creating the New Mexico works program as one of its cash assistance programs.

- E.** In close coordination with the NMW program, the department administers the food stamp employment and training program (E&T) pursuant to the Food Security Act of 1985 and federal regulations at Title 7, Code of Federal Regulations.

[8.102.500.3 NMAC - Rp 8.102.500.3 NMAC, 07/01/2001; A, 11/15/2007; A/E 10/1/2025; A, 3/24/2026]

**8.102.500.8 GENERAL REQUIREMENTS:**

- A. Need determination process:** Eligibility for NMW, state funded qualified aliens and EWP cash assistance based on need requires a finding that:

- (1) the benefit group's countable gross monthly income does not exceed the gross income limit for the size of the benefit group;

- (2) the benefit group's countable net income after all allowable deductions does not equal or exceed the standard of need for the size of the benefit group;

- (3) the countable resources owned by and available to the benefit group do not exceed the \$1,500 liquid and \$2,000 non-liquid resource limits;

- (4) the benefit group is eligible for a cash assistance payment after subtracting from the standard of need the benefit group's countable income, and any payment sanctions or recoupments.

- B. Gross income limits:** The total countable gross earned and unearned income of the

benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

(1) Income eligibility limits are revised and adjusted each year in October.

(2) The gross income limit for the size of the benefit group is as follows:

(a) one person [~~\$1,067~~] \$1,109

(b) two persons [~~\$1,448~~] \$1,499

(c) three persons [~~\$1,829~~] \$1,888

(d) four persons [~~\$2,210~~] \$2,278

(e) five persons [~~\$2,592~~] \$2,667

(f) six persons [~~\$2,972~~] \$3,057

(g) seven persons [~~\$3,353~~] \$3,447

(h) eight persons [~~\$3,735~~] \$3,836

(i) add [~~\$382~~] \$390 for each additional person.

**C. Eligibility for support services only:** Subject to the availability of state and federal funds, a benefit group that is not receiving cash assistance but has countable gross income that is less than one hundred percent of the federal poverty guidelines applicable to the size of the benefit group may be eligible to receive services. The gross income guidelines for the size of the benefit group are as follows:

(1) one person [~~\$1,255~~] \$1,305

(2) two persons [~~\$1,704~~] \$1,763

(3) three persons [~~\$2,152~~] \$2,221

(4) four persons [~~\$2,600~~] \$2,680

(5) five persons [~~\$3,049~~] \$3,138

(6) six persons [~~\$3,497~~] \$3,596

(7) seven persons [~~\$3,945~~] \$4,055

(8) eight persons [~~\$4,394~~] \$4,513

(9) add [~~\$449~~] \$459 for each additional person.

**D. Standard of need:**

(1) The standard of need is based on the number of participants included in the benefit group and allows for a financial standard and basic needs.

(2) Basic needs include food, clothing, shelter, utilities, personal requirements and the participant's share of benefit group supplies.

(3) The financial standard includes approximately [~~\$111~~] \$112 per month for each participant in the benefit group.

(4) The standard of need for the NMW, state funded qualified aliens, and EWP cash assistance benefit group is:

(a) one person \$327

(b) two persons \$439

(c) three persons \$549

(d) four persons \$663

(e) five persons \$775

(f) six persons \$887

(g) seven persons \$999

(h) eight persons \$1,134

(i) add [~~\$111~~] \$112 for each additional person.

**E. Special needs:**

(1) **Special clothing allowance:** A special clothing allowance may be issued to assist in preparing a child for school, subject to the availability of state or federal funds and a specific allocation of the available funds for this allowance.

(a) For purposes of determining eligibility for the clothing allowance, a child is considered to be of school age if the child is six years of age or older and less than age 19 by the end of August.

(b) The clothing allowance shall be allowed for each school-age child who is included in the NMW, TBP, state funded qualified aliens, or EWP cash assistance benefit group, subject to the availability of state or federal funds.

(c) The clothing allowance is not allowed in determining eligibility for NMW, TBP, state funded qualified aliens, EWP cash assistance, or wage subsidy.

(2) **Layette:** A one-time layette allowance of \$25 is allowed upon the birth of a child who is included in the benefit group. The allowance shall be authorized by no later than the end of the month following the month in which the child is born.

(3) **Special circumstance:** Dependent upon the availability of funds and in accordance with the federal act, the HSD secretary, may establish a separate, non-recurring, cash assistance program that may waive certain New Mexico Works Act requirements due to a specific situation. This cash assistance program shall not exceed a four month time period, and is not intended to meet recurrent or ongoing needs.

**F. Non-inclusion of legal guardian in benefit group:** Based on the availability of state and federal funds, the department may limit the eligibility of a benefit group due to the fact that a legal guardian is not included in the benefit group.

[8.102.500.8 NMAC - Rp 8.102.500.8 NMAC, 07/01/2001; A, 10/01/2001; A, 10/01/2002; A, 10/01/2003; A/E, 10/01/2004; A/E, 10/01/2005; A, 07/17/2006; A/E, 10/01/2006; A/E, 10/01/2007; A, 11/15/2007; A, 01/01/2008; A/E, 10/01/2008; A, 08/01/2009; A, 08/14/2009; A/E, 10/01/2009; A, 10/30/2009; A, 01/01/2011; A, 01/01/2011; A, 07/29/2011; A/E, 10/01/2011; A/E, 10/01/2012; A/E, 10/01/2013; A/E, 10/01/2014; A, 10/01/2015; A, 10/01/2016; A/E, 10/01/2017; A, 02/01/2018; A/E, 10/01/2018;

A, 03/01/2019; A/E, 10/01/2019;  
 A, 03/01/2020; A/E, 10/01/2020;  
 A, 03/01/2021; A/E, 10/01/2021;  
 A 04/01/2022; A/E,10/01/2022;  
 A, 04/01/2023; A/E 10/1/2023;  
 A, 3/1/2025; A/E 10/1/2025; A,  
 3/24/2026]

**HEALTH CARE  
 AUTHORITY  
 INCOME SUPPORT DIVISION**

**This is an amendment to 8.106.500  
 NMAC, Section 1 and 8 effective  
 3/24/2026.**

**8.106.500.1 ISSUING**

**AGENCY:** [~~New Mexico Human  
 Services Department~~] New Mexico  
 Health Care Authority.  
 [8.106.500.1 NMAC - Rp,  
 8.106.500.1 NMAC 3/1/2025; A/E  
 10/1/2025; A, 3/24/2026]

**8.106.500.8 GA - GENERAL  
 REQUIREMENTS:**

**A. Limited state**  
 funds may result in a suspension  
 or reduction in general assistance  
 benefits without eligibility and need  
 considered.

**B. Need**  
**determination process:** Eligibility  
 for the GA program based on need  
 requires a finding that the:

(1) countable  
 resources owned by and available to  
 the benefit group do not exceed either  
 the \$1,500 liquid or \$2,000 non-liquid  
 resource limit;

(2) benefit  
 group’s countable gross earned and  
 unearned income does not equal or  
 exceed eighty-five percent of the  
 federal poverty guideline for the size  
 of the benefit group; and

(3) benefit  
 group’s countable net income does not  
 equal or exceed the standard of need  
 for the size of the benefit group.

**C. GA payment**  
**determination:** The benefit group’s  
 cash assistance payment is determined  
 after subtracting from the standard  
 of need the benefit group’s countable  
 income and any payment sanctions or  
 recoupments.

**D. Gross income test:**

The total countable gross earned and  
 unearned income of the benefit group  
 cannot exceed eighty-five percent of  
 the federal poverty guidelines for the  
 size of the benefit group.

(1) Income  
 eligibility limits are revised and  
 adjusted each year in October.

(2) The gross  
 income limit for the size of the benefit  
 group is as follows:

(a)  
 one person [\$1,067] \$1,109

(b)  
 two persons [\$1,448] \$1,499

(c)  
 three persons [\$1,829] \$1,888

(d)  
 four persons [\$2,210] \$2,278

(e)  
 five persons [\$2,592] \$2,667

(f)  
 six persons [\$2,972] \$3,057

(g)  
 seven persons [\$3,353] \$3,447

(h)  
 eight persons [\$3,735] \$3,836

(i)  
 add [\$382] \$390 for each additional  
 person.

**E. Standard of need:**

(1) As  
 published monthly by the department,  
 the standard of need is an amount  
 provided to each GA cash assistance  
 benefit group on a monthly basis and  
 is based on availability of state funds,  
 the number of individuals included in  
 the benefit group, number of cases,  
 number of applications processed  
 and approved, application approval  
 rate, number of case closures, IAR  
 caseload number and expenditures,  
 and number of pending applications.

(2) Basic  
 needs include food, clothing, shelter,  
 utilities, personal requirements and  
 an individual benefit group member’s  
 share of supplies.

(3) **Notice:**  
 The department shall issue prior  
 public notice identifying any  
 change(s) to the standard of need  
 amounts for the next quarter, as  
 discussed at 8.106.630.11 NMAC.

**F. Net income test:**

The total countable earned and

unearned income of the benefit group  
 after all allowable deductions cannot  
 equal or exceed the standard of need  
 for the size of the GA benefit group.  
 After the countable net income is  
 determined it is rounded down prior  
 to the comparison of the household’s  
 income to the standard of need to  
 determine the households monthly  
 benefit amount.

**G. Special clothing  
 allowance for school-age dependent  
 children:**

A special clothing  
 allowance may be issued to assist in  
 preparing a child for school, subject  
 to the availability of state or federal  
 funds and a specific allocation of the  
 available funds for this allowance.

(1) For  
 purposes of determining eligibility  
 for the clothing allowance, a child  
 is considered to be of school age as  
 defined by PED.

(2) The  
 clothing allowance shall be allowed  
 for each school-age child who is  
 included in the GA cash assistance  
 benefit group, subject to the  
 availability of state or federal funds.

(3) The  
 clothing allowance is not counted in  
 determining eligibility for GA cash  
 assistance.

**H. Supplemental  
 issuance:** A one-time supplemental  
 issuance may be distributed to  
 recipients of GA for disabled adults  
 based on the sole discretion of the  
 secretary of the [~~human services  
 department~~] health care authority  
 department and the availability of  
 state funds.

(1) The one  
 time supplemental issuance may be no  
 more than the standard GA payment  
 made during the month the GA  
 payment was issued.

(2) To be  
 eligible to receive the one time  
 supplement, a GA application must  
 be active and determined eligible no  
 later than the last day of the month in  
 the month the one time supplement is  
 issued.

**I. Minimum Benefit**

**Amount:** Benefits less than ten  
 dollars (\$10.00) will not be issued  
 for the initial month or subsequent

months. ISD shall certify household beginning the month of application. [8.106.500.8 NMAC - Rp, 8.106.500.8 NMAC 3/1/2025; A/E 10/1/2025; A, 3/24/2026]

## PUBLIC LANDS, COMMISSIONER OF

Under SLO Rule Order 2026-01, dated 3/5/2026, the Commissioner of Public Lands approved repeal of rule 19.2.7 NMAC, Relating to Geothermal Resources Leases, filed 1/20/1984, as amended, and replacement of it with 19.2.7 NMAC, Relating to Geothermal Resources Leases, adopted on 3/5/2026 and effective 5/1/2026.

## PUBLIC LANDS, COMMISSIONER OF

### TITLE 19 NATURAL RESOURCES AND WILDLIFE CHAPTER 2 STATE TRUST LANDS PART 7 RELATING TO GEOTHERMAL RESOURCES LEASES

#### 19.2.7.1 ISSUING

**AGENCY:** Commissioner of Public Lands, New Mexico State Land Office, 310 Old Santa Fe Trail, P. O. Box 1148, Santa Fe, New Mexico 87501, Phone: (505) 827-5713. [19.2.7.1 NMAC - Rp, 19.2.7.1 NMAC, 5/1/2026]

**19.2.7.2 SCOPE:** This rule pertains to state lands (as defined in the Geothermal Resources Act, Chapter 19, Article 13 NMSA 1978, as amended) which are subject to the jurisdiction, custody and control of the commissioner of public lands, and governs the leasing of geothermal resources on state lands and leases entered into subsequent to the date of this rule.

[19.2.7.2 NMAC - Rp, 19.2.7.2 NMAC, 5/1/2026]

#### 19.2.7.3 STATUTORY

**AUTHORITY:** The commissioner's

jurisdiction over and authority with respect to management, care, custody, control and disposition of state trust lands is found in N.M. Const., Art. XIII, and in Section 19-1-1 NMSA 1978. In accordance with N.M. Const., Art. XXIV, §1 (pertaining to the issuance of leases and other contracts for the development and operation of geothermal steam and waters on state trust lands), the legislature enacted the Geothermal Resources Act (Chapter 19, Article 13 NMSA 1978, as amended) authorizing the commissioner of public lands to issue leases containing terms and conditions not inconsistent with the provisions of the Geothermal Resources Act and which the commissioner determines to be in the best interest of the state. The authority to promulgate this rule is found in Sections 19-1-2 and 19-13-25 NMSA 1978.

[19.2.7.3 NMAC - Rp, 19.2.7.3 NMAC, 5/1/2026]

#### 19.2.7.4 DURATION:

Permanent.

[19.2.7.4 NMAC - Rp, 19.2.7.4 NMAC, 5/1/2026]

#### 19.2.7.5 EFFECTIVE

**DATE:** May 1, 2026, unless a later date is cited at the end of a section.

[19.2.7.5 NMAC - Rp, 19.2.7.5 NMAC, 5/1/2026]

#### 19.2.7.6 OBJECTIVE:

The objective of 19.2.7 NMAC is to provide for the orderly and lawful administration and the appropriate development of geothermal resources on state trust lands in accordance with the Geothermal Resources Act.

[19.2.7.6 NMAC - Rp, 19.2.7.6 NMAC, 5/1/2026]

#### 19.2.7.7 DEFINITIONS:

The following terms as used in this rule shall have the meaning here indicated, unless otherwise clearly stated in the text:

**A. "Confidential information"** – Confidential contract, reserve data, or other confidential information clearly and appropriately marked as confidential and submitted

to the state land office subject to Section 19-1-2.1 NMSA 1978.

**B. "Contiguous"** - Adjoining or touching at a point or along at least one common side or boundary.

**C. "Due diligence lease"** – A lease issued pursuant to Subsection A of 19.2.7.11 NMAC.

**D. "EMNRD/ECAM"** - The energy conservation and management division of the energy, minerals and natural resources department or successor agency exercising authority under the Geothermal Resources Development Act (Chapter 71, Article 9 NMSA 1978, as amended).

**E. "Geothermal lease"** - A lease for the extraction and removal of geothermal resources from state trust lands or other use of geothermal resources from state trust lands.

**F. "Geothermal resources"** - The natural heat of the earth in excess of two hundred fifty degrees Fahrenheit or the energy, in whatever form, below the surface of the earth present in, resulting from, created by or which may be extracted from this natural heat in excess of two hundred fifty degrees Fahrenheit, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gasses, and steam, in whatever form, found below the surface of the earth, but excluding oil, natural gas (as defined in, Section 19-10-2 NMSA 1978, including carbon dioxide gas, helium gas, and hydrocarbon gas), hydrogen, and other hydrocarbon substances, and excluding the heating and cooling capacity of the earth not resulting from the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit, as may be used for the heating and cooling of buildings through an on-site geexchange heat pump or similar on-site system.

**G. "Lessee"** - The original geothermal lessee and the assignee of an assignment (other than a collateral assignment) duly approved and recognized by the commissioner in accordance with 19.2.7.29 NMAC.

**H. “Land”** - Includes all land owned by the state and subject to the jurisdiction, custody and control of the commissioner of public lands, including lands where the state owns and the commissioner of public lands exercises jurisdiction, custody and control over the mineral estate and such mineral estate includes the right to extract, remove or otherwise use the geothermal resources, regardless of whether state owns the surface estate.

**I. “Legal subdivision”** – Legal subdivision as designated by the U.S. public land survey system plats and New Mexico state land office tract books.

**J. “Low temperature resources lease”** – A lease issued pursuant to Subsection D of 19.2.7.11 NMAC.

**K. “Open acreage”** - Land not included in an existing geothermal lease and not withdrawn from leasing by the commissioner as shown on the tract books.

**L. “Person”** - Individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture or any legal or commercial entity.

**M. “Schedule of fees”** - A list of fees that must be paid for performance of certain administrative functions. The schedule of fees shall be published on the state land office website and is subject to change at the discretion of the commissioner. Unless otherwise noted in the schedule of fees or in this rule, the fee shall be non-refundable.

**N. “Tract books”** - Tract books kept and maintained at the New Mexico state land office for the purpose of recording geothermal leases, including automated or electronic versions.

**O. “Well”** - Any well for the discovery of geothermal resources or any well on lands producing or using geothermal resources or reasonably presumed to contain geothermal resources or otherwise extracting or using natural heat of the earth, including but not limited to an exploratory well,

development well, monitoring well, injection well, disposal well, thermal gradient well, geothermal observation well, or low-temperature thermal well, whether drilled or operated pursuant to a permit issued by the energy, minerals and natural resources department or otherwise.

[19.2.7.7 NMAC - Rp, 19.2.7.7 NMAC, 5/1/2026]

#### **19.2.7.8 APPLICATION**

**FOR LEASE:** An application for a geothermal lease may be filed for open acreage in a manner prescribed in these rules and under the Geothermal Resources Act.

[19.2.7.8 NMAC - Rp, 19.2.7.8 NMAC, 5/1/2026]

#### **19.2.7.9 LANDS SUBJECT**

**TO LEASE:** An application for a geothermal lease may be considered when the lands are shown to be open acreage on the tract books. The commissioner may withhold a tract or tracts from leasing at any time before or after an application for a geothermal lease has been submitted. Alternatively, in lieu of a geothermal lease, the commissioner may provide for a compensatory agreement as to any tract or tracts. The commissioner may, in the commissioner’s sole discretion, include or exclude tracts from the final lands offered at any particular lease sale.

[19.2.7.9 NMAC - Rp, 19.2.7.9 NMAC, 5/1/2026]

#### **19.2.7.10 REQUIREMENTS FOR APPLICATIONS:**

**A.** Each application for geothermal lease shall be made upon forms to be prescribed by the commissioner, with an applicant signature acknowledged before an officer authorized to administer oaths. An application for geothermal lease accompanying a sealed bid shall be executed under oath by the applicant, or by the applicant’s agent or attorney, duly authorized in writing, or by an officer or attorney-in-fact of a corporation, if application is by a corporation, and must be accompanied by a non-refundable application fee as set forth in the

schedule of fees and a deposit of the amount of the first year’s rental and bonus offered. Unless the commissioner has approved the applicant’s use of a non-certified exchange, payments shall be made in cash, electronic transfer, money order or certified check on a solvent bank. If a geothermal lease is not issued to the applicant, funds deposited by the applicant (but not the application fee) shall be refunded to the applicant.

**B.** A person seeking a due diligence lease to be issued in accordance with 19.2.7.11 NMAC shall submit an application specifically indicating that they are seeking a due diligence lease.

**C.** The applicant shall pay the application fee as set forth in the schedule of fees, which fee shall not be refunded.

[19.2.7.10 NMAC - Rp, 19.2.7.10 NMAC, 5/1/2026]

#### **19.2.7.11 DUE DILIGENCE LEASE; LOW-TEMPERATURE RESOURCES LEASE:**

**A.** Upon an application filed in accordance with Subsection B of 19.2.7.10 NMAC, the commissioner may issue a due diligence lease for up to five years allowing occupation and use of specified state trust lands for the sole and exclusive purpose of (i) exploring for the existence and location of geothermal resources; (ii) determining the extent and nature of geothermal resources; (iii) conducting other due diligence activities that do not involve extraction, removal or commercial use of geothermal resources. The lessee under a due diligence lease issued pursuant to this 19.2.7.11 NMAC may maintain as confidential any confidential information obtained as a result of its operations under the lease. If the lessee submits confidential information in accordance with Section 19-1-2.1 NMSA 1978, the commissioner and the commissioner’s employees and agents shall hold such information confidential in accordance with the statute. If confidential information concerns the nature or extent of geothermal resources that may be extracted or

used from the leased lands and at least one year has elapsed since the lease expired or terminated without the submission of an application under Subsection A or B. of 19.2.7.10 NMAC for a new lease as to some or all of the same lands, the state land office may disclose the confidential information.

**B.** The commissioner shall not issue more than one concurrent due diligence lease for the same land, and the commissioner shall retain discretion as to whether and when to issue a geothermal lease for any or all of the land included in a due diligence lease during and after the term of the due diligence lease. If a due diligence lease includes lands not designated by the commissioner as within a known geothermal resources field in accordance with Subsection A of Section 19-13-6 NMSA 1978, the due diligence lease may provide that the lessee shall, subject to terms and conditions that the commissioner may prescribe, have, in any sale of a subsequently issued geothermal lease that includes only some or all of the same lands and no other lands, the ability to meet the highest qualifying offer to obtain the geothermal lease. If a sale of a geothermal lease includes lands as to which there was no prior due diligence lease with a provision providing the ability to meet the highest qualifying offer to obtain the geothermal lease offered for sale, there shall be no such right, notwithstanding that the geothermal lease offered for sale includes some lands as to which there was a prior due diligence lease with a provision providing the ability to meet the highest qualifying offer in a subsequent sale of a geothermal lease.

**C.** Except where a provision states otherwise, the provisions of 19.2.7 NMAC pertaining to a geothermal lease shall apply to a due diligence lease.

**D.** The commissioner may issue a lease permitting the lessee to occupy and use land for the purpose of extracting or using naturally existing heat of the earth not in excess of two hundred fifty degrees Fahrenheit. Such leases

shall be issued in accordance with such procedures and containing such terms and conditions as the commissioner may prescribe, which need not comply with the Geothermal Resources Act or 19.2.7 NMAC. [19.2.7.11 NMAC - Rp, 19.2.7.11 NMAC, 5/1/2026]

**19.2.7.12 SEPARATE APPLICATIONS:** Separate applications shall be made for each geothermal lease, and an application shall be deemed to seek a geothermal lease for all acreage listed thereon or for that part thereof as may be available for leasing. An application shall be rejected if it seeks to lease: (i) lands that are not contiguous; (ii) more than 2,560 acres; or (iii) less than 640 acres or all of the land in a legal subdivision, unless the parcel is isolated from and not contiguous with other parcels available for lease. The commissioner may issue a geothermal lease for less than all of the acreage listed on an application. [19.2.7.12 NMAC - Rp, 19.2.7.12 NMAC, 5/1/2026]

**19.2.7.13 COMPETITIVE BIDDING:** Each geothermal lease (which excludes due diligence leases and low temperature leases issued in accordance with 19.2.7.11 NMAC) shall be issued to the person making the highest qualified bid after notice of a lease sale to be conducted by sealed bids or oral bidding or on-line bidding. [19.2.7.13 NMAC - Rp, 19.2.7.13 NMAC, 5/1/2026]

**19.2.7.14 NOMINATION OF TRACTS:** A party seeking a geothermal lease may nominate one or more tracts or request a lease auction by letter or by email message. Prior to the completion of the bidding initiated pursuant to a nomination or request made in accordance with this 19.2.7.14 NMAC, the state land office shall not disclose to anyone outside of the state land office the identity of a party making the nomination or request. [19.2.7.14 NMAC - Rp, 19.2.7.14 NMAC, 5/1/2026]

**19.2.7.15 DESIGNATION OF KNOWN GEOTHERMAL RESOURCES FIELDS:**

**A.** After consulting with the director of the New Mexico bureau of geology and mineral resources, the commissioner may designate or remove the designation of specified lands as constituting a known geothermal resources field in accordance with Subsection A of Section 19-13-6 NMSA 1978.

**B.** If any lands within a designated known geothermal resources field are offered for a geothermal lease, the lands shall be leased, if at all, to the highest responsible qualified bidder in accordance with 19.2.7.13 NMAC. The commissioner may issue a due diligence lease of such lands or a low temperature lease of such lands in accordance with 19.2.7.11 NMAC without an auction.

**C.** If any lands within a designated known geothermal resources field are leased for use of a geothermal resource as a renewable energy resource (i.e., to generate power and not exclusively to extract mineral products or chemical compounds), the lease shall require that the geothermal resource beyond the lands leased shall not be diminished beneath applicable natural seasonal fluctuations in the measurable quantity, quality or temperature. The commissioner shall presume that a lessee's use of geothermal resources complies with this subsection where it is conducted in accordance with a permit issued by EMNRD/ECAM upon a finding that the permitted activity will not impair correlative rights or cause waste. In addition, the lessee shall provide to the commissioner a copy of each temperature and pressure test report when submitted to EMNRD/ECAM for each well located on or producing or using geothermal resources on or under state trust lands or lands being operated jointly with state trust lands. [19.2.7.15 NMAC - Rp, 19.2.7.15 NMAC, 5/1/2026]

**19.2.7.16 [RESERVED]**  
[19.2.7.16 NMAC - Rn, 9/30/2002; Repealed, 5/1/2026]

**19.2.7.17** [RESERVED]  
[19.2.7.17 NMAC – Rn, 9/30/2002;  
Repealed, 5/1/2026]

**19.2.7.18 COMMISSIONER MAY WITHHOLD LAND FROM LEASING:** The commissioner, at the commissioner’s discretion, may at any time either before or after application is made, withhold any tract or tracts of land from geothermal resources leasing, if in the commissioner’s opinion the best interest of the trust would be served by so doing. A withdrawal from geothermal resources leasing may be posted in the tract books. Regardless of whether a withdrawal from geothermal resources leasing has been posted in the tract books, the commissioner may at any time prior to issuing a geothermal lease determine that issuance of a geothermal lease for a tract or tracts of land would not be in the best interests of the trust. Notwithstanding a withdrawal from geothermal resources leasing or a determination that a geothermal lease would not be in the best interests of the trust, the commissioner may exercise the full range of discretion to enter into or refuse to enter into a compensatory agreement as to such tract or tracts.  
[19.2.7.18 NMAC - Rp, 19.2.7.18 NMAC, 5/1/2026]

**19.2.7.19** [RESERVED]  
[19.2.7.19 NMAC – Rn, 9/30/2002;  
A, 6/11/2019; Repealed, 5/1/2026]

**19.2.7.20** [RESERVED]  
[19.2.7.20 NMAC – Rn, 9/30/2002;  
Repealed, 5/1/2026]

**19.2.7.21** [RESERVED]  
[19.2.7.21 NMAC – Rn, 9/30/2002;  
Repealed, 5/1/2026]

**19.2.7.22 NOTICE OF LEASE SALE POSTED:** Before any sale of a geothermal lease sale shall be held, the commissioner shall post in a conspicuous place in the state land office building in Santa Fe and on the state land office website, not less than 10 days before the date of the sale, a notice of same,

specifying the physical or online address, date and hour of the sale, and containing a description of the lands to be offered for lease and indicating whether the sale is to be by sealed bids or by oral bidding or on-line bidding.  
[19.2.7.22 NMAC - Rp, 19.2.7.22 NMAC, 5/1/2026]

**19.2.7.23 SEALED BIDS PROCEDURE:** In the event the sale is to be by sealed bids, bids will be received up to the deadline set forth in the notice of sale, and all bids submitted prior to the deadline set forth in the notice of sale will be opened at the appointed time, and the geothermal lease, if any, will be awarded to the highest bidder, subject to the right of the commissioner to reject all bids if the commissioner shall deem the bids too low or shall deem it in the best interest of the trust to do so. To qualify for consideration, sealed bids must be accompanied by remittance covering application fee, first year’s rental and bonus offered. If provided for at the discretion of the commissioner and as stated in the notice of lease sale posted in accordance with section 19.2.7.22 NMAC, sealed bids may be submitted, received and opened on-line via a computer network or other electronic telecommunications system generally available to the public allowing any and all qualified bidders to submit bids. When two or more sealed bids are equal and higher than all other bids, the commissioner shall notify the tied highest bidders that they may within 10 calendar days submit new sealed bids, which shall be higher than the previously submitted bids. The commissioner shall issue a geothermal lease, if any, to the bidder submitting the highest new sealed bid. If two or more of the new sealed bids are equal, the commissioner shall repeat the process. If none of the tied highest bidders submits a new sealed bid, the commissioner shall flip a coin to select and offer a geothermal lease, if any, to one of the tied highest bidders.  
[19.2.7.23 NMAC - Rp, 19.2.7.23 NMAC, 5/1/2026]

**19.2.7.24 ORAL OR ONLINE BIDS - PROCEDURE:** In the event sale is by oral bidding or on-line bidding, the successful bidder will be required to pay the lease application fee, the first year’s base rental and bonus offered in accordance with 19.2.7.10 NMAC on or before close of business on the date of sale. If the lease sale is conducted by on-line bidding, bidding shall be conducted via a computer network or other electronic telecommunications system generally available to the public allowing any and all qualified bidders to submit bids.  
[19.2.7.24 NMAC - Rp, 19.2.7.24 NMAC, 5/1/2026]

**19.2.7.25** [RESERVED]  
[19.2.7.25 NMAC – Rn, 9/30/2002;  
Repealed, 5/1/2026]

**19.2.7.26** [RESERVED]  
[19.2.7.26 NMAC – Rn, 9/30/2002;  
Repealed, 5/1/2026]

**19.2.7.27 GEOTHERMAL LEASE BASE RENT; ROYALTIES; PERCENTAGE RENT; LEASE TERM:**  
**A.** Each geothermal lease (which excludes due diligence leases and low temperature leases issued in accordance with 19.2.7.11 NMAC) shall provide for payment of the following base rent, royalties and percentage rent with respect to geothermal resources produced or sold from the lands included within the geothermal lease:

(1) a base lease rent based upon fair market value at the time of leasing as determined by the commissioner, which may provide for escalation from an amount payable prior to the lessee’s discovery and extraction or use of geothermal resources to an amount payable after the lessee discovers and begins extraction or use of geothermal resources;

(2) a royalty or percentage rent to be charged as a percentage of gross revenue derived from the production, sale or use of geothermal resources, or the energy produced therefrom, under

the geothermal lease as determined by the commissioner, who shall not determine a value below or above a range that could be determined by the federal bureau of land management, based on fair market value of the geothermal resource or use of the geothermal resource at the time of leasing, provided that the commissioner may require an escalation of the royalty or percentage rent over time;

(3) a royalty of the gross revenue received from the sale of mineral products or chemical compounds recovered from geothermal fluids, if any, based on fair market value of the mineral product as determined by the commissioner, except that as to any by-product or minerals covered by other mineral leasing statutes administered by the commissioner or rules or regulations of the commissioner, the rate of royalty for such mineral or by-product shall be the same as the then-existing rate of royalty under geothermal leases currently being issued by the commissioner.

**B.** A geothermal lease shall not preclude other uses of the land, including but not limited to leases on the same lands for deposits of other minerals. Provided, however, that operations under leases for other uses of the land shall not unreasonably interfere with or endanger operations under any geothermal lease, nor shall operations under a geothermal lease unreasonably interfere with or endanger operations under any lease for other use of the land.

**C.** If the commissioner determines that the lessee's production or use of geothermal energy creates an opportunity, with its existing operation plan, to economically produce other geothermal resources in commercially valuable quantities for which there is a market, the commissioner may require the lessee to produce and market the other geothermal resources.

**D.** A geothermal lease shall be for a primary term of five years and so long thereafter

as geothermal resources are being produced or utilized or are capable of being produced or utilized in commercial quantities from such lands or from lands unitized therewith. If the lessee fails to produce or utilize geothermal resources or to discover geothermal resources capable of being produced or utilized in commercial quantities from the lands or from lands unitized therewith during the initial five-year term, the lessee may continue the lease in full force and effect as to the portion held by the lessee for a secondary term of five years and so long thereafter as geothermal resources are being produced or utilized or are capable of being produced or utilized in commercial quantities from such lands or from lands unitized therewith by continued payment each year, in advance, of rentals at the rate set by the lease. Provided that if for any reason beyond the control of the lessee production or utilization of geothermal resources in commercial quantities ceases or if the capability to so produce is temporarily lost after the secondary term has expired, the producing lessee may, with the written permission of the commissioner, continue such lease as to the acreage held by the lessee in effect from year to year for an additional period not to exceed three years by continued payment of rentals as provided in the lease at the rate provided in the secondary term of the lease. In determining whether geothermal resources are being produced or utilized or are capable of being produced or utilized in commercial quantities in accordance with Subsection D of 19.2.7.27 NMAC, the commissioner may consult reports submitted to EMNRD/ECAM and may confer with EMNRD/ECAM.

[19.2.7.27 NMAC - Rp, 19.2.7.27 NMAC, 5/1/2026]

**19.2.7.28 LIMITATIONS OF ACREAGE:** Except as otherwise provided in the Geothermal Resources Act, no person shall take, hold, own or control at the same time, directly or indirectly and whether acquired

from the commissioner or otherwise, interest in one or more geothermal leases exceeding 51,200 acres. [19.2.7.28 NMAC - Rp, 19.2.7.28 NMAC, 5/1/2026]

**19.2.7.29 ASSIGNMENTS:** Subject to approval of the commissioner upon such conditions as the commissioner may require, a geothermal lease in good standing may be assigned in whole or in part; however, no assignment of an undivided interest in a geothermal lease or any part thereof, or any assignment of less than a legal subdivision or tract shall be recognized or approved by the commissioner. All assignments shall be filed in duplicate upon forms prescribed and furnished by the commissioner which shall recite, among other things, the consideration paid for the assignment. The fee for filing shall be as set forth in the schedule of fees. The commissioner may refuse to approve any assignment and may condition the commissioner's approval on such additional terms and compensation as the commissioner may deem in the best interests of the trust. An assignment shall not be approved if the assignment: (i) seeks to assign less than the assignor's interest in a legal subdivision (except where the transfer is by operation of law); (ii) seeks to assign acreage less than a legal subdivision; (iii) seeks to assign to more than two persons or legal entities; (iv) seeks to assign to a trust without setting forth the trust or the trust has more than two trustees; (v) seeks to assign an interest in a lease as to which a lis pendens has been filed; or (iv) seeks to assign interests in more than one lease. If the assignee changes its name or its mailing address, the assignee shall promptly notify the commissioner, in writing, of the change in name or mailing address. If and when the commissioner approves the lessee's assignment of a portion of a geothermal lease, the assigned and the retained portions of the geothermal lease shall be treated and considered as separate geothermal leases.

[19.2.7.29 NMAC - Rp, 19.2.7.29 NMAC, 5/1/2026]

**19.2.7.30 [RESERVED]**  
[19.2.7.30 NMAC – Rn, 9/30/2002; A, 6/30/2016; Repealed, 5/1/2026]

**19.2.7.31 [RESERVED]**  
[19.2.7.31 NMAC – Rn, 9/30/2002; A, 6/11/2019; Repealed, 5/1/2026]

**19.2.7.32 MISCELLANEOUS INSTRUMENTS:** The record owner of a geothermal lease may enter into a contract for the development of the leasehold premises or any portion thereof, or may create overriding royalties or obligations payable out of production, or enter into an agreements with respect to the development or operation of the leasehold premises. To the extent that the contract, agreement or instrument does not change ownership of the geothermal lease, it need not be approved by or filed with the office of the commissioner (but may be filed in the office of the county clerk wherein the lands are situated); it shall not shall relieve the record title owner of such geothermal lease from complying with any of the terms or provisions thereof; and the commissioner shall look solely and only to such record owner for compliance therewith. Documents pertaining to or affecting record title of a lease, including but not limited to mergers, death certificates, probate documents, and court orders, shall be filed as miscellaneous instruments, and the filing and recording thereof shall constitute notice to all the world of the existence and contents of the documents so filed. The fee for filing miscellaneous instruments with the commissioner shall be as set forth in the schedule of fees.

[19.2.7.32 NMAC - Rp, 19.2.7.32 NMAC, 5/1/2026]

**19.2.7.33 [RESERVED]**  
[19.2.7.33 NMAC – Rn, 9/30/2002; Repealed, 5/1/2026]

**19.2.7.34 [RESERVED]**  
[19.2.7.34 NMAC – Rn, 9/30/2002; A, 6/30/2016; Repealed, 5/1/2026]

**19.2.7.35 TRANSFER OF LEASE AFTER DEATH OF RESIDENT LESSEE:** After receipt of a death certificate or other official notice that a lessee has died, the geothermal lease may be carried on the records of the state land office in the name of the lessee’s estate until assigned by the duly appointed personal representative of the lessee’s estate in accordance with 19.2.7.29 NMAC. If a duly appointed personal representative of the lessee’s estate does not assign the geothermal lease within one year after the lessee’s death, the geothermal lease may be cancelled if not so assigned within 30 days after the state land office mails notice of the intent to cancel by certified mail to the address of record for the lessee.

[19.2.7.35 NMAC - Rp, 19.2.7.35 NMAC, 5/1/2026]

**19.2.7.36 TRANSFER OF LEASE AFTER DEATH OF FOREIGN LESSEE:** In the event a decedent lessee was a resident of a state other than New Mexico, the estate must be probated in the state of such residence and ancillary proceedings conducted in the proper New Mexico court, and certified copies of such proceedings showing proper legal authority to transfer must be filed with the commissioner within one year after the lessee’s death. The geothermal lease may be cancelled if not so assigned within 30 days after the state land office mails notice of the intent to cancel by certified mail to the address of record for the lessee.

[19.2.7.36 NMAC - Rp, 19.2.7.36 NMAC, 5/1/2026]

**19.2.7.37 SURETY TO PROTECT SURFACE LESSEE WAIVERS:**

**A.** Before the lessee or operator begins exploration, development or operations under a geothermal lease, such lessee shall execute and file with the commissioner a sufficient bond or other surety or other financial assurance, in an amount to be fixed by the commissioner, but not less than \$25,000.00, in favor of the

state of New Mexico, for the benefit of the state, its contract purchaser, patentee, or surface lessee, to secure the lessee’s payment for any damages to the land or tangible improvements upon the leased land as may be suffered by reason of exploration, development or operations upon the land by the lessee.

**B.** The bond may be either a corporate or individual surety bond and such sureties may be required to furnish proof that their net worth free and clear of all indebtedness or claims equals or exceeds the amount of the obligation.

**C.** In lieu of said bond, with the commissioner’s consent, the lessee may file with the commissioner:

(1) a financial assurance in the form of:

(a) an escrow account at an institution duly licensed in accordance with the Escrow Company Act, Sections 58-22-1 et. seq. NMSA 1978, acceptable to the commissioner, and subject to instructions to the trustee or institution acceptable to the commissioner;

(b) an irrevocable letter of credit at a state or federally chartered financial institution; or

(c) a cash deposit with the commissioner that will not pay interest to Lessee; or

(2) a waiver of bond or other surety duly executed and acknowledged by the applicable surface owner or holders owning improvements.

[19.2.7.37 NMAC - Rp, 19.2.7.37 NMAC, 5/1/2026]

**19.2.7.38 PERFORMANCE SURETY:** Before a geothermal lease shall issue, the lessee shall file with the commissioner a bond or other surety or other financial assurance in an amount to be set by the commissioner which the commissioner deems necessary to guarantee the lessee’s payment of rent and royalties as they become due and to guarantee the lessee’s performance of all lessee obligations under or

pertaining to the geothermal lease. If and when the lessee learns of a material change affecting the financial assurance, the lessee shall notify the state land office of such change within 30 days. The lessee's obligation under this 19.2.7.38 NMAC shall be in addition to any bond or other surety provided to EMNRD/ECAM. [19.2.7.38 NMAC - Rp, 19.2.7.38 NMAC, 5/1/2026]

**19.2.7.39 FORMS:** Forms for all bonds are prescribed and furnished by the commissioner. [19.2.7.39 NMAC - Rp, 19.2.7.39 NMAC, 5/1/2026]

**19.2.7.40 PRODUCTION REPORTS; RIGHT TO INSPECT RECORDS:** The lessee under a geothermal lease shall file production, percentage rent, and royalty reports at such times and upon forms as may be prescribed by the commissioner. The commissioner or the commissioner's representative shall have the right to inspect all lessee and operator records, books or accounts pertaining to geothermal resources existing on or under the lands leased under a geothermal lease and the use or extraction thereof. Without limiting the foregoing, the lessee and operator shall, at the commissioner's request, promptly furnish such reports, samples, logs, geophysical data and models, reservoir models, assays or cores within reasonable bounds as the commissioner may deem to be necessary for the proper administration of the state lands under a geothermal lease. [19.2.7.40 NMAC - Rp, 19.2.7.40 NMAC, 5/1/2026]

**19.2.7.41 SURFACE OPERATIONS:**

**A.** No person shall begin on-site exploration, development or production of geothermal resources without an operation plan approved in writing by the state land office addressing (i) well pad layout and design; (ii) a description of existing and planned access roads; (iii) a description of all ancillary facilities; (iv) the source of

drill pad and road building material; (v) the source of water or fluid used; (vi) a description of procedures to be used to protect the environment and other resources; (vii) plans for reclamation; and (viii) all other information that the state land office may require. The operation plan must include complete geological and engineering data presented in clear and understandable form.

The commissioner shall keep such data confidential for a period of six months or until such plan is approved, whichever occurs first, after which such data will be made a permanent part of the records and open for public inspection. Upon request, the commissioner may in writing approve maintaining the confidentiality of data for a longer period of time. If for any reason such proposed plan is not approved, the commissioner shall, upon request, return it to the person submitting it along with the accompanying data. The state land office may request updated information from the operator as the commissioner deems necessary, the operation plan may be updated from time to time, and the commissioner may allow a variance from the operation plan, which approval must be express and in writing signed by the commissioner or the commissioner's designee.

**B.** In addition to requiring compliance with the operation plan approved in accordance with Subsection A of 19.2.7.41 NMAC, state land office personnel may, from time to time, recommend compliance with reasonable use of the surface and prudent operator standards other than those specified in the approved operation plan.

**C.** The lessee shall ensure that all persons engaged in operations under the geothermal lease remove from the leased premises all surface trash and debris caused by their operations and shall keep such premises free and clear of such trash and debris. As used in 19.2.7.41 NMAC, "surface trash and debris" means all nonoperational and nonessential equipment resulting from

drilling and other operations under the geothermal lease and includes, but is not limited to, garbage, rubbish, junk or scrap.

**D.** All access roads shall be built, maintained and reclaimed in accordance with 19.2.20 NMAC. [19.2.7.41 NMAC - Rp, 19.2.7.41 NMAC, 5/1/2026]

**19.2.7.42 COLLATERAL ASSIGNMENTS OF LEASES:**

**A.** With the consent of the Commissioner, a geothermal lease in good standing, together with improvements placed on the land thereunder, may be assigned as collateral security to insure the payment of an indebtedness specified in said assignment.

**B.** A collateral assignment shall be in such form as prescribed by the commissioner, which the lessee shall submit to the commissioner for the commissioner's approval in duplicate together with the filing fee as set forth in the schedule of fees.

**C.** Upon approval of a collateral assignment by the commissioner, the assignee shall have a lien upon the lessee's interest in the geothermal lease, and the commissioner shall not subsequently approve the lessee's assignment or relinquishment of the geothermal lease unless the collateral assignee has released the collateral assignment, except that the commissioner may approve the lessee's assignment of the geothermal lease if the assignee agrees in writing to assume or take the geothermal lease subject to the rights of the collateral assignee.

**D.** If the collateral assignee changes its name or its mailing address, the collateral assignee shall promptly notify the commissioner, in writing, of the change in name or mailing address, upon a form prescribed by the commissioner.

**E.** The collateral assignee may foreclose on the collateral assignment in the manner provided by law for the foreclosure of chattel mortgages. If and when

the purchaser of a geothermal lease in a foreclosure sale is qualified to hold a geothermal lease and submits to the commissioner documentation showing bona fide foreclosure and purchase, along with a completed assignment form and the fee required for an assignment of the geothermal lease, the lessee's interest in the geothermal lease shall be assigned to the purchaser.

**F.** If the debt secured by the collateral assignment is satisfied or the collateral assignee otherwise seek to release the collateral assignment, the collateral assignee shall execute a release using a form prescribed by the commissioner and file it with the commissioner along with the required fee as set forth in the schedule of fees. If a collateral assignee fails to execute and file with the commissioner the release of a collateral assignment upon the satisfaction of the debt and the lessee submits to the commissioner documentation showing that the debt has been satisfied, the commissioner shall provide written notice to the collateral assignee at its address of record with the state land office that the collateral assignment will be deemed released unless the collateral assignee provides a sufficient showing that the debt has not been satisfied. If the collateral assignee fails to provide a timely showing that the debt has not been satisfied, the commissioner may deem the collateral assignment released.

[19.2.7.42 NMAC - Rp, 19.2.7.42 NMAC, 5/1/2026]

**19.2.7.43 CO-OPERATIVE OR UNITIZED DEVELOPMENT FOR OPERATION OF LEASES:**

**A.** The commissioner may consent to and approve agreements made by the lessee providing for cooperative or unit development for operation of a geothermal lease in accordance with Section 19-13-14 NMSA 1978.

**B.** In order to obtain the commissioner's consent and approval as required under Subsection A of 19.2.7.43 NMAC, the lessee shall file with the commissioner an

application containing a statement of facts showing that the proposed cooperative or unit development will serve the purpose of conserving geothermal resources.

**C.** When the commissioner has consented to and approved an agreement in accordance with Subsection A of 19.2.7.43 NMAC, the terms and conditions of the agreement shall supersede inconsistent terms and conditions of the geothermal lease, so far as they apply to lands within the unit area; provided that, all other terms and conditions of the geothermal lease shall remain in full force and effect. The agreement shall then be included in the lease file maintained in the state land office records division. If the agreement is not in the public records, there is a presumption no such agreement exists.

[19.2.7.43 NMAC - Rp, 19.2.7.43 NMAC, 5/1/2026]

**19.2.7.44 ENERGY CONSERVATION AND MANAGEMENT DIVISION REPORTS; OTHER COMPLIANCE NOTICES OR ORDERS:**

**A.** The lessee under a geothermal lease or due diligence lease shall at its own expense comply with applicable provisions of the Geothermal Resources Development Act (Section 71-9-1 et seq. NMSA 1978) and regulations promulgated thereunder by EMNRD/ECAM.

**B.** If and when the lessee or operator files with EMNRD/ECAM an application, report or notice regarding contemplated or actual operations under a geothermal or due diligence lease, including but not limited to notification of a fire, break, leak, spill or blowout, the person filing such an application or report shall contemporaneously submit to the state land office a true and correct copy of the application, report or notice. If and when the lessee or operator receives from EMNRD/ECAM a permit or citation or notice of violation, the lessee or operator shall promptly submit to the

state land office a true and correct copy.

**C.** The lessee shall notify the commissioner in writing within ten calendar days of the lessee's receipt of any compliance order, enforcement order, notice of violation, warning letter, or other written notice of final or contemplated enforcement action taken by any federal, state, or local governmental entity arising out of or concerning any operations on the leased premises. Upon the commissioner's request, the lessee shall promptly provide the commissioner with a copy of any such order, notice, or letter.

[19.2.7.44 NMAC - Rp, 19.2.7.44 NMAC, 5/1/2026]

**19.2.7.45 CLOSEOUT AND RECLAMATION:**

**A.** If a well has not been used to use or produce geothermal resources for a period of 180 days, the commissioner may deem the well abandoned and, in such case, shall notify the lessee that a well has been deemed abandoned. Upon issuance of a notice of abandonment, the lessee shall have 30 days to submit documentation showing that the well had not been abandoned, including but not limited to evidence of diligently pursued rework operations or an ongoing bona fide effort to allow the heat of the geothermal resources to be restored. The documentation shall include an engineering or operations plan, and operations shall be conducted in accordance with the engineering or operations plan.

**B.** Unless waived in writing by the commissioner, a well deemed abandoned in accordance with Subsection A of 19.2.7.45 NMAC shall be plugged within 180 days of abandonment in accordance with all applicable rules promulgated by EMNRD/ECAM.

**C.** If a geothermal lease is cancelled or expires, the lessee shall reclaim all lands disturbed as a result of activities conducted under the geothermal lease in accordance with 19.2.7.45 NMAC

or a reclamation plan approved in writing by the commissioner.

**D.** Within one year after the geothermal lease is cancelled or expires, the lessee shall:

(1) reclaim pads by ripping all caliche to the underlying material, replacing topsoil, and reseeding with a seed mix approved by the state land office:

(2) reclaim roads by ripping, reseeding, berming (closing) at the entrance, and constructing water bars as directed or approved by the state land office and performing all other work required under 19.2.20 NMAC;

(3) remove all surface pipelines and properly disable all buried pipelines;

(4) remove all above-ground power lines specific to the site and any associated poles, structures or equipment; and

(5) remove all lessee or operator buildings or structures.

[19.2.7.45 NMAC – N, 5/1/2026]

**HISTORY OF 19.2.7 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under: CPL 69-5, Rules and Regulations Concerning the Sale, Lease, and Other Disposition of State Trust Lands, filed 9/02/1969; CPL 71-2, filed 12/16/1971; CPL 77-1, filed 1/7/1977; Rule 7, Rules and Regulations Relating to Geothermal Resources Leases, filed 3/11/1981; SLO Rule 7, filed 1/20/1984; SLO Rule 7, Amendment No. 1, filed 6/16/1995.

**History of Repealed Material:**

19.2.7 NMAC - Relating To Geothermal Resources Leases, filed 1/20/1984 was repealed and replaced by 19.2.7 NMAC - Relating To Geothermal Resources Leases, effective 5/1/2026.

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**End of Adopted Rules**

# 2026 New Mexico Register

## Submittal Deadlines and Publication Dates

### Volume XXXVII, Issues 1-24

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

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