

New Mexico Register

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

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Notices of Rulemaking and Proposed Rules

ALBUQUERQUE - BERNALILLO COUNTY - AIR QUALITY CONTROL BOARD

ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD NOTICE OF RULEMAKING HEARING TO CONSIDER AMENDMENT OF EXISTING RULE 20.11.20 NMAC- FUGITIVE DUST CONTROL AND SIP REVISION

The Albuquerque-Bernalillo County Air Quality Control Board (AQCB) will hold a public hearing on November 18, 2026 at 5:30 p.m. to consider AQCB Petition No. 2026-3, filed by the City of Albuquerque Environmental Health Department (EHD). The hearing will be held in-person (with a remote option) at the Plaza del Sol Building, Basement Hearing Room, 600 Second Street NW, Albuquerque, NM 87102. Final details will be posted online no later than November 13, 2026.

Contact Information – to learn more, receive updates, or submit comments. Websites: www.cabq.gov/airquality/air-quality-control-board and www.cabq.gov/airquality/regulation-development/public-notice-and-comment-opportunities. Phone: Hearing Clerk, at (505)-768-1915.

Email: airboard@cabq.gov. In-Person Address: EHD, One Civic Plaza NW, 3rd Floor, Room 3023, Albuquerque, NM 87102 (8 am - 5 pm). Postal Mail Address: EHD/AQP, PO Box 1293, Albuquerque, NM 87103.

Hearing Details. The proposed regulatory change would amend existing rule 20.11.20 NMAC-*Fugitive Dust Control*, to add language that clarifies the scope of programmatic fugitive dust permits, require stabilization of the disturbed site before closing a permit, allow for greater use of electronic mail, and summarize applicable federal and

local regulations regarding asbestos, among other things. The updated rule will then be submitted to the US Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP).

The docket, including copies of the proposed regulatory change, is accessible at www.cabq.gov/airquality/air-quality-control-board. A link to the record can also be found under the heading “Rulemaking Procedures” on the AQCB’s website. The proposed text is identified as Exhibit B to EHD’s petition. Copies may also be obtained by contacting the AQCB Hearing Clerk. EHD charges fifty (50) cents per page for paper copies.

The hearing will be conducted in accordance with the Air Quality Control Act, NMSA 1978, Section 74-2-6; the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994, Section 9-5-1-6; Bernalillo County Code, Article II, Section 30-35; 20.11.82 NMAC, Rulemaking Procedures-AQCB; and other applicable procedures, including any pre-hearing orders. Pre-hearing orders will be included in the docket.

Public Participation. AQCB hearings are open to the public. All interested persons are encouraged to participate and will be given a reasonable opportunity to submit relevant data, views or arguments, orally or in writing, and to examine witnesses by filing a notice of intent to present technical testimony (“NOI”), filing an entry of appearance, or participating as a member of the general public.

Technical Testimony. Persons intending to present technical testimony must file a written NOI at least fifteen (15) days before the hearing. In addition to any requirements in a pre-hearing order, an NOI shall: (1) identify the person for whom the witness(es) will testify; (2) identify each technical witness and state the qualifications of that witness, including a description of

their education and work background; (3) include a copy of the direct testimony of each technical witness and state the anticipated duration of the testimony; (4) include the text of any recommended modifications to the proposed regulatory change; (5) list and attach an original copy of all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules; and (6) be served pursuant to 20.11.82.16 NMAC and pre-hearing orders, including served on EHD. Unless otherwise provided for in a pre-hearing order, a NOI filing shall be accomplished by delivering the document to the AQCB Hearing Clerk via the email, in-person address, or postal mail address listed in the Contact Information.

Entry of Appearance. Any person who is or may be affected by the proposed regulatory change may file, and serve upon all parties, an entry of appearance at least fifteen (15) days prior to the hearing date and shall be a party. A timely NOI shall be considered an entry of appearance.

Non-Technical Testimony/Public Comment. Any member of the general public may present non-technical testimony and/or offer non-technical exhibits. No prior notification is required. A member of the general public, who wishes to submit a non-technical written statement for the record instead of oral testimony, shall file the written statement prior to the hearing or submit it at the hearing. Unless otherwise provided for in a pre-hearing order, written statements submitted prior to the hearing shall be delivered to the AQCB Hearing Clerk in the same manner described above for filing a NOI. The public comment period will begin on September 22, 2026 and conclude on October 22, 2026.

Notice to Persons with Disabilities or Special Needs. If you have a disability or require special assistance to participate, including interpretation or an auxiliary aid, please contact

the AQCB Hearing Clerk as soon as possible but no later than seventy-two (72) hours before the hearing. Those in need of hearing assistance can call 711.

Nondiscrimination Notice. The AQCB does not discriminate on the basis of race, color, national origin, sex, age or disability. If you believe you have been discriminated against, you may submit a complaint at www.cabq.gov/airquality/non-employee-discrimination-complaints.

Nếu bạn muốn thông báo này được dịch sang tiếng Việt, vui lòng truy cập www.cabq.gov/airquality/regulation-development/public-notices-and-comment-opportunities và sử dụng tính năng Dịch ở đầu trang.

**AVISO DE AUDIENCIA DE
REGLAMENTACIÓN PARA
CONSIDERAR LA ENMIENDA
A LA NORMATIVA VIGENTE
20.11.20 NMAC- CONTROL DE
POLVO FUGITIVO POR PARTE
DE LA JUNTA DE CALIDAD
DEL AIRE DEL CONDADO DE
ALBUQUERQUE-BERNALILLO
Y REVISIÓN AL PLAN DE
IMPLEMENTACIÓN ESTATAL
(SIP, POR SUS SIGLAS EN
INGLÉS).**

La Junta de Calidad del Aire del Condado de Albuquerque-Bernalillo (AQCB, por sus siglas en inglés) llevará a cabo una audiencia el 18 de noviembre de 2026, a las 5:30 pm, para considerar la Petición No. 2026-3 de la AQCB, presentada por el Departamento de Salud Ambiental de la Ciudad de Albuquerque (EHD, por sus siglas en inglés). La audiencia presencial (con participación a través del internet) se realizará en el edificio Plaza del Sol, en la sala de audiencias del sótano, 600 Second St. NW, Albuquerque, NM 87102. Los detalles finales serán publicados en línea a más tardar el 13 de noviembre de 2026.

Información de contacto - para saber más, recibir actualizaciones, o enviar comentarios.

Páginas web: www.cabq.gov/airquality/air-quality-control-board and www.cabq.gov/airquality/regulation-development/public-notices-and-comment-opportunities.
Teléfono: Secretaría de audiencia de la AQCB, al (505) 768-1915.
Correo electrónico: airboard@cabq.gov.
Dirección en persona: EHD, One Civic Plaza NW, 3rd Floor, Room 3023, Albuquerque, NM 87102 (8 am – 5 pm).
Dirección de correo postal: EHD, PO Box 1293, Albuquerque, NM 87103.

Detalles de la Audiencia. El cambio normativo propuesto enmendaría la normativa vigente 20.11.20 del Código Administrativo de Nuevo México (NMAC, por sus siglas en inglés)- *Control de Polvo Fugitivo*, para clarificar el alcance de los permisos programáticos del polvo fugitivo, requerir estabilización de un sitio perturbado antes de cerrar el permiso, permitir más utilización del correo electrónico, y resumir las normas federales y locales con respecto al amianto, entre otras cosas. La norma actualizada será presentada a la Agencia de Protección Ambiental de los Estados Unidos como una revisión al Plan de Implementación Estatal (SIP, por sus siglas en inglés).

Se puede acceder al expediente normativo, incluyendo copias del cambio normativo propuesto, en <https://www.cabq.gov/airquality/air-quality-control-board>. También se puede encontrar un enlace al registro normativo bajo el encabezado “Rulemaking Procedures” (Procedimientos de Normativas) en la página de la AQCB. El texto propuesto de se identifica como Anexo B a la petición del EHD. Se puede obtener copias comunicándose con la Secretaría de Audiencias de la AQCB. El EHD cobra cincuenta (50) centavos por página.

La audiencia se llevará a cabo de acuerdo al Acta de Control de Calidad del Aire de los Estatutos Anotados de Nuevo México (NMSA, por sus siglas en inglés), 1978, Sección 74-2-

6; Ordenanza de la Junta de Calidad del Aire, Ordenanzas Revisadas de Albuquerque 1994, Sección 9-5-1-6; Código del Condado de Bernalillo, Artículo II, Sección 30-35; 20.11.82 NMAC, Procedimientos de Normativas-AQCB; y otros procedimientos aplicables, incluyendo todas las órdenes previas a la audiencia. Las órdenes previas a la audiencia se incluirán en el expediente normativo.

Participación pública. Las audiencias de la AQCB están abiertas al público. Todas las personas interesadas se les alienta a participar y se otorgará una oportunidad razonable para presentar datos relevantes, opiniones o argumentos, de forma oral o escrita, e interrogar a testigos luego de completar un aviso de intención de presentar testimonio técnico (NOI, por sus siglas en inglés), una actuación de comparecencia, o al participar como miembro del público general.

Testimonio técnico. Las personas que pretendan presentar testimonio técnico deberán completar un NOI escrita al menos quince (15) días antes de la audiencia. Además de todos los requisitos que una orden previa a la audiencia debe tener, un NOI deberá: (1) identificar a la persona en favor de la cual testificará el testigo; (2) identificar a cada testigo técnico e indicar las calificaciones de ese testigo, incluyendo una descripción de sus antecedentes de educación y de trabajo; (3) incluir una copia del testimonio directo de cada testigo técnico e indicar la duración estimada del testimonio; (4) incluir el texto de todas modificaciones recomendadas al cambio normativo propuesto; (5) enumerar y adjuntar una copia original de todas las pruebas que se espera que esa persona ofrezca en la audiencia, incluyendo todas las declaraciones de las razones propuestas para la adopción de las normativas; y (6) ser notificado de conformidad a 20.11.82.16 NMAC y a las órdenes previas a la audiencia, incluidas las del EHD Salvo que se proporcionen en una orden previa a la

audiencia, un NOI se debe completar y enviar a la Secretaría de Audiencia de la AQCB por medio de correo electrónico, la dirección en persona o correo postal que se detalla en la información de contacto.

Actuación de comparecencia.

Cualquier persona que se vea o pueda verse afectada por el cambio normativo propuesto puede completar y presentar una personación a todas las partes al menos quince (15) días antes de la fecha de la audiencia y queda constituido como parte. Un NOI oportuno será considerado una actuación de comparecencia.

Testimonio no técnico/opinión

pública. Cualquier miembro del público general puede presentar un testimonio no técnico y/o presentar pruebas no técnicas. No se necesita notificación previa. Un miembro del público general que desee entregar una declaración por escrito para el registro en lugar de testimonio oral deberá presentarlo antes o durante la audiencia. A menos que se entreguen en una orden previa a la audiencia, las declaraciones por escrito presentadas antes de la audiencia deberán entregarse a la secretaria de audiencia de la AQCB, de la misma forma en la que se debe enviar un NOI. El período de comentario público comenzará el 22 de septiembre de 2026 y se acabará el 22 de octubre de 2026.

Aviso para personas con discapacidades o necesidades especiales. Si usted tiene una discapacidad o requiere de asistencia especial para participar, incluyendo interpretación o una asistencia auxiliar, comuníquese con la secretaria de audiencia de AQCB lo antes posible, pero no después de setenta y dos (72) horas antes de la audiencia. Aquellos que necesiten asistencia auditiva pueden llamar al 711.

Aviso de no discriminación. La AQCB no discrimina por motivos de raza, color, nacionalidad de origen, sexo, edad o discapacidad. Si usted cree que se lo ha discriminado,

puede enviar una queja a www.cabq.gov/airquality/non-employee-discrimination-complaints.

ENVIRONMENT DEPARTMENT

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD NOTICE OF RULEMAKING HEARING TO CONSIDER THE ADOPTION OF PROPOSED NEW RULE 20.2.51 NMAC – METHANE ABATEMENT, EIB 26-78 (R)

The New Mexico Environmental Improvement Board (“EIB”) will hold a public hearing beginning on December 1, 2026, at 9:00 a.m. to consider EIB 26-78 (R) – In the Matter of Proposed Adoption of 20.2.51 NMAC – Methane Abatement. The hearing will last as long as required to hear all testimony, evidence, and public comment, and is expected to last approximately six days. The EIB may deliberate and make a decision on the proposed regulatory change at the conclusion of the hearing or may convene a meeting after the hearing to consider action on the proposal.

The hearing will be conducted in a hybrid format to allow for both in-person and virtual participation. The in-person component will be held at the New Mexico State Capitol, 490 Old Santa Fe Trail (also listed as 411 South Capitol Street), Santa Fe, New Mexico 87501. Hearing details, including the meeting room number and how to participate virtually, will be available on the New Mexico Environment Department (“NMED”) events calendar at <https://www.env.nm.gov/events-calendar/>, under the calendar entry corresponding to the hearing start date. For more information contact Pamela Jones, EIB Administrator, at (505) 660-4305 or pamela.jones@env.nm.gov.

The purpose of the hearing is for the EIB to consider and take possible

action on a petition by NMED requesting that the EIB adopt proposed new rule 20.2.51 NMAC – Methane Abatement. The petition, statement of reasons (attached to the petition as Exhibit A), and proposed new rule 20.2.51 NMAC (attached to the petition as Exhibit B) are available on NMED’s docketed matters website at <https://www.env.nm.gov/opf/docketed-matters/>. To access these documents, click on “Environmental Improvement Board” to display the drop-down list of matters before the EIB, then click on “EIB 26-78 (R): In the Matter of Proposed Adoption of 20.2.51 NMAC – Methane Abatement” to display the drop-down list of all documents filed in conjunction with this matter. The proposed rule and related information, including technical information, may be reviewed on NMED’s proposed air quality regulations and plans website at <https://www.env.nm.gov/air-quality/proposed-regs>; during regular business hours at the NMED Air Quality Bureau, 525 Camino de los Marquez, Suite 1, Santa Fe, NM 87505; or by contacting the Air Quality Bureau’s Control Strategies Unit at (505) 476-4300 or AQB-ControlStrategies@env.nm.gov.

Proposed new rule 20.2.51 NMAC establishes a state-level methane super-emitter program in New Mexico modeled after the federal methane super-emitter program. For purposes of the proposed new rule, a super-emitter event means any emissions event that is detected using remote detection methods and has a quantified emission rate of 50 kg/hr of methane or greater. Under the new state methane super-emitter program, qualified entities may apply to NMED for certification as a third-party notifier. Once certified, a third-party notifier may submit notifications of super-emitter events detected using approved remote methane sensing technologies to NMED. NMED must then review the notification for completeness and accuracy and provide it to the owner or operator of any source located within 50 meters of the location of the detected super-

emitter event. The owner or operator is then required to conduct an investigation to determine the source of the super-emitter event, repair the responsible methane leak(s), and submit an event report to NMED providing a detailed account of the investigation.

Proposed new rule 20.2.51 NMAC also requires all process controller designated facilities to emit zero methane to the atmosphere beginning January 1, 2031, either by routing the emissions to a process through a closed vent system or by using self-contained natural gas-driven process controllers. For purposes of the proposed new rule, a process controller designated facility means the collection of natural gas-driven process controllers at a gathering and boosting station, natural gas processing plant, tank battery, transmission compressor station, or well site. Natural gas-driven process controllers that function as emergency shutdown devices and process controllers that are not driven by natural gas are exempt from the designated facility. To ensure compliance with the new zero methane emission standard, proposed new rule 20.2.51 NMAC specifies design and operating requirements for closed vent systems and initial and periodic inspection requirements for closed vent systems and self-contained natural gas-driven process controllers, and requires owners or operators to submit annual reports to NMED documenting all inspections and repairs.

The purpose of proposed new rule 20.2.51 NMAC is to implement the New Mexico Climate Action Plan, the State's roadmap for achieving the greenhouse gas emissions reduction target set by Governor Michelle Lujan Grisham in 2019; fill the regulatory gap created by the delay in implementation of the federal methane super-emitter program so that major methane leaks can be found and repaired more quickly; and reduce methane emissions from existing sources in the oil and gas sector to,

in part, satisfy federal requirements. The EIB has the authority to adopt proposed new rule 20.2.51 NMAC pursuant to the Environmental Improvement Act, NMSA 1978, Sections 74-1-1 to 74-1-18, including specifically Section 74-1-8(A)(4), and the Air Quality Control Act, NMSA 1978, Sections 74-2-1 to 74-2-17, including specifically Sections 74-2-5(B) and (D)(6).

The hearing will be conducted in accordance with 20.1.1 NMAC, Rulemaking Procedures – Environmental Improvement Board; the Environmental Improvement Act, NMSA 1978, Section 74-1-9; the Air Quality Control Act, NMSA 1978, Section 74-2-6; orders issued by the hearing officer appointed by the EIB; and other applicable procedures.

PUBLIC PARTICIPATION: The EIB's hearings and meetings are open to the public, and the general public is encouraged to participate. All interested persons will be given a reasonable opportunity to participate in one or more of the following ways: 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" includes 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 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.

TECHNICAL TESTIMONY:

Any person who wishes to present technical testimony at the hearing must file a written notice of intent with the EIB Administrator no later than November 11, 2026, unless an earlier filing deadline is ordered by the appointed hearing officer, and shall be a party. All orders issued by the hearing officer during this rulemaking proceeding, including any order changing the deadline to file a notice of intent, will be posted on NMED's docketed matters website at the URL above. The notice of intent shall: (1) identify the person for whom the witness(es) will testify; (2) identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background; (3) if the hearing will be conducted at multiple locations, indicate the location or locations at which the witnesses will be present; (4) include a copy of the direct testimony of each technical witness in narrative form; (5) include the text of any recommended modifications to the proposed regulatory change; and (6) list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules. Any person who files a notice of intent shall serve a copy on NMED.

ENTRY OF APPEARANCE:

Any person may file an entry of appearance as a party. The entry of appearance shall be filed with the EIB Administrator no later than November 11, 2026, unless an earlier filing deadline is ordered by the appointed hearing officer. All orders issued by the hearing officer during the course of this rulemaking proceeding, including any order changing the deadline to file an entry of appearance, will be posted on NMED's docketed matters website at the URL above.

PUBLIC COMMENT: The general public may submit a written public comment or testify orally at the hearing. A member of the general public who wishes to submit a written public comment as a statement for the record, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing or submit it at the hearing. Those wishing to submit a written public comment prior to the hearing may submit the written public comment online at <https://nmed.commentinput.com/?id=AQifkZx2sH>, email the written public comment to pamela.jones@env.nm.gov, or mail the written public comment to EIB Administrator, New Mexico Environment Department – Harold Runnels Building, P.O. Box 5469, Santa Fe, New Mexico 87502. Additionally, there will be an opportunity each day of the hearing for oral testimony from members of the general public. No prior notification is required for the general public to present non-technical testimony at the hearing. The general public may also offer non-technical exhibits in connection with their written public comment or oral testimony, so long as the exhibits are not unduly repetitious of the testimony and comply with 20.1.1.402 NMAC. The appointed hearing officer shall determine the process and times for the general public to testify during the hearing.

ACCESSIBILITY: Persons requiring language interpretation services or having a disability who need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing should contact the EIB Administrator at least 14 days prior to the hearing or as soon as possible at (505) 660-4305 or pamela.jones@env.nm.gov. To access this number via Relay New Mexico dial 711, or call (800) 659-8331 (TTY) or (800) 659-1779 (voice).

NOTICE 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, (505) 827-2855, nd.coordinator@env.nm.gov. You may also visit our website at <https://www.env.nm.gov/non-employee-discrimination-complaint-page/> to learn how and where to file a complaint of discrimination.

ENVIRONMENT DEPARTMENT

AVISO DE LA JUNTA DE MEJORA AMBIENTAL DE NUEVO MÉXICO SOBRE LA AUDIENCIA DE ELABORACIÓN DE NORMAS PARA CONSIDERAR LA ADOPCIÓN DE LA NUEVA NORMA PROPUESTA 20.2.51 NMAC – REDUCCIÓN DE METANO, EIB 26-78 (R)

La Junta de Mejoramiento Ambiental de Nuevo México ("EIB" por sus siglas en inglés) llevará a cabo una audiencia pública a partir del 1 de diciembre de 2026 a las 9:00 a.m. para considerar la EIB 26-78 (R) – En el asunto de la Adopción Propuesta de 20.2.51 NMAC – Reducción de

metano. La audiencia durará el tiempo que sea necesario para escuchar todos los testimonios, pruebas y comentarios públicos, y se espera que dure aproximadamente seis días. La EIB puede deliberar y tomar una decisión sobre el cambio regulatorio propuesto al concluir la audiencia o puede convocar a una reunión después de la audiencia con el fin de considerar las acciones con respecto a la propuesta.

La audiencia se llevará a cabo en un formato híbrido con el objetivo de permitir la participación tanto en persona como virtual. El componente en persona se llevará a cabo en el Capitolio del Estado de Nuevo México, 490 Old Santa Fe Trail (también listado como 411 South Capitol Street), Santa Fe, Nuevo México 87501. Los detalles de la audiencia, incluyendo el número de la sala de juntas y cómo participar virtualmente, estarán disponibles en el calendario de eventos del Departamento de Medio Ambiente de Nuevo México ("NMED") en <https://www.env.nm.gov/events-calendar/>, en la entrada del calendario correspondiente a la fecha de inicio de la audiencia. Para obtener más información, comuníquese con Pamela Jones, Administradora de la EIB, al (505) 660-4305 o a pamela.jones@env.nm.gov.

El propósito de la audiencia es que la EIB considere y tome posibles medidas sobre una petición del NMED solicitando que la EIB adopte la nueva norma propuesta 20.2.51 NMAC – Reducción de Metano. La petición, la declaración de motivos (adjunta a la petición como Anexo A) y la nueva norma propuesta 20.2.51 NMAC (adjunta a la petición como Anexo B) están disponibles en el sitio web de asuntos registrados del NMED en <https://www.env.nm.gov/opf/docketed-matters/>. Para tener acceso a estos documentos, haga clic en "Junta de Mejora Ambiental" para mostrar la lista desplegable de asuntos ante la EIB, luego haga clic en "EIB 26-78 (R): En el Asunto de la Adopción Propuesta de 20.2.51

NMAC - Reducción de Metano” para mostrar la lista desplegable de todos los documentos presentados junto con este asunto. La norma propuesta y la información relacionada, incluida la información técnica, pueden consultarse en el sitio web del NMED sobre propuestas de reglamentos y planes de calidad del aire (<https://www.env.nm.gov/air-quality/proposed-regs>) ; durante el horario laboral habitual en la Oficina de Calidad del Aire del NMED (NMED Air Quality Bureau), ubicada en 525 Camino de los Marquez, Suite 1, Santa Fe, NM 87505; o comunicándose con la Unidad de Estrategias de Control de dicha oficina al teléfono (505) 476-4300 o a la dirección de correo electrónico AQB-ControlStrategies@env.nm.gov.

La nueva norma propuesta 20.2.51 NMAC establece un programa a nivel estatal de super emisores de metano en Nuevo México siguiendo el modelo del programa federal de super emisores de metano. Para los fines de la nueva norma propuesta, un evento de super emisor significa cualquier evento de emisiones que se detecte a través de métodos de detección remota y que tenga una tasa de emisión cuantificada de 50 kg/h de metano o más. De acuerdo con el nuevo programa estatal de super emisores de metano, las entidades calificadas pueden solicitar al NMED la certificación como notificador externo. Una vez certificado, un notificador externo puede enviar notificaciones de eventos de super emisores detectados utilizando tecnologías aprobadas de detección remota de metano al NMED. Luego, el NMED debe revisar la notificación para verificar que esté completa y sea precisa y así proporcionársela al propietario u operador de cualquier fuente ubicada dentro de los 50 metros de la ubicación del evento de super emisor detectado. Después, se requiere que el propietario u operador lleve a cabo una investigación con el fin de determinar la fuente del evento del super emisor, reparar la(s) fuga(s) de metano responsable(s) y presentar un informe del evento al NMED que

proporcione una descripción detallada de la investigación.

La nueva norma propuesta 20.2.51 NMAC también requiere que todas las instalaciones designadas como controladores de procesos emitan cero metano a la atmósfera a partir del 1 de enero de 2031, ya sea al dirigir las emisiones a un proceso a través de un sistema de ventilación cerrado o por medio de controladores de procesos autocontenidos impulsados por gas natural. Para los propósitos de la nueva norma propuesta, una instalación designada como controlador de procesos significa la colección de controladores de procesos impulsados por gas natural en una estación de recolección e impulso, una planta de procesamiento de gas natural, una batería de tanques, una estación compresora de transmisiones o un sitio de pozo. Los controladores de procesos impulsados por gas natural que funcionan como dispositivos de apagado de emergencia, así como los controladores de procesos que no estén impulsados con gas natural están exentos de la instalación designada. Con el fin de garantizar el cumplimiento de la nueva norma de cero emisiones de metano, la nueva norma propuesta 20.2.51 NMAC especifica los requisitos de diseño y operación para los sistemas de ventilación cerrados y los requisitos de inspección inicial y periódica correspondientes a los sistemas de ventilación cerrados y controladores de procesos autocontenidos impulsados por gas natural, y requiere que los propietarios u operadores presenten informes anuales al NMED que documenten todas las inspecciones y reparaciones.

El propósito de la nueva norma propuesta 20.2.51 NMAC es implementar el Plan de Acción Climática de Nuevo México, la hoja de ruta del Estado para lograr el objetivo de reducción de emisiones de gases de efecto invernadero establecido por la Gobernadora Michelle Lujan Grisham en 2019; llenar el vacío regulatorio creado por

el retraso en la implementación del programa federal de super emisores de metano cuyo fin es que las principales fugas de metano puedan ser encontradas y reparadas de forma más rápida; y reducir las emisiones de metano de fuentes existentes en el sector de petróleo y gas para, en parte, satisfacer los requisitos federales. La EIB tiene autoridad para adoptar la nueva norma propuesta 20.2.51 NMAC de conformidad con la Ley de Mejora Ambiental, NMSA 1978, Secciones 74-1-1 a 74-1-18, incluyendo específicamente la Sección 74-1-8(A)(4), y la Ley de Control de Calidad del Aire, NMSA 1978, Secciones 74-2-1 a 74-2-17, incluyendo específicamente las Secciones 74-2-5(B) y (D)(6).

La audiencia se llevará a cabo de acuerdo con 20.1.1 NMAC, Procedimientos de Reglamentación – Junta de Mejoramiento Ambiental; la Ley de Mejora Ambiental, NMSA 1978, Sección 74-1-9; la Ley de Control de la Calidad del Aire, NMSA 1978, Sección 74-2-6; órdenes emitidas por el funcionario de la audiencia designado por la EIB; y otros procedimientos aplicables.

PARTICIPACIÓN PÚBLICA: Las audiencias y reuniones de la EIB están abiertas al público y se anima al público en general a participar. A todas las personas interesadas se les dará una oportunidad razonable de participar de una o más de las siguientes maneras: presentando un aviso de intención de presentar un testimonio técnico, presentando un aviso de comparecencia o participando como miembro del público en general. “Testimonio técnico” significa testimonio científico, de ingeniería, económico u otro testimonio especializado, pero no incluye argumentos legales, comentarios generales ni declaraciones de política o posición con respecto a los asuntos en cuestión en la audiencia. “Público en general” incluye cualquier persona que asista a una audiencia y que no haya presentado un aviso de intención de presentar un testimonio técnico.

Cualquier miembro del público en general podrá testificar en la audiencia. Cualquier persona que realice un testimonio en la audiencia está sujeta a un contrainterrogatorio sobre el tema de su testimonio y sobre cuestiones que afecten su credibilidad. Cualquier persona que asista a la audiencia tiene derecho a realizar el contrainterrogatorio que sea necesario para una revelación completa y verdadera de los asuntos en cuestión en la audiencia. Todos los testimonios se tomarán bajo juramento o afirmación y podrán realizarse en masa o de forma individual.

TESTIMONIO TÉCNICO:

Cualquier persona que desee presentar un testimonio técnico en la audiencia debe presentar un aviso de intención por escrito al Administrador de la EIB a más tardar el 11 de noviembre de 2026, a menos que el funcionario de la audiencia designado ordene una fecha límite de presentación anterior a esta fecha, y constituirá una de las partes. Todas las órdenes emitidas por el funcionario de la audiencia durante este procedimiento de reglamentación, incluyendo cualquier orden que cambie la fecha límite para presentar un aviso de intención, se publicarán en el sitio web de asuntos registrados del NMED en la URL anterior. El aviso de intención deberá: (1) identificar a la persona por quien el/los testigo(s) testificará(n); (2) identificar cada testigo técnico que la persona pretende presentar y declarar las calificaciones de dicho testigo, incluyendo una descripción de sus antecedentes educativos y laborales; (3) si la audiencia se llevará a cabo en múltiples lugares, debe indicar el lugar o lugares en los que estarán presentes los testigos; (4) incluir una copia del testimonio directo de cada testigo técnico en forma narrativa; (5) incluir el texto de cualquier modificación recomendada al cambio regulatorio propuesto; y (6) enumerar y adjuntar todas las pruebas que se prevé ofrecerá esa persona en la audiencia, incluyendo cualquier declaración propuesta de motivos para la adopción de normas. Cualquier persona que presente un aviso de

intención deberá entregar una copia al NMED.

AVISO DE COMPARECENCIA:

Cualquier persona puede presentar un aviso de comparecencia como una parte. El aviso de comparecencia se presentará ante el Administrador de la EIB a más tardar el 11 de noviembre de 2026, a menos que el funcionario de la audiencia designado ordene una fecha límite de presentación anterior. Todas las órdenes emitidas por el funcionario de la audiencia durante el curso de este procedimiento de reglamentación, incluyendo cualquier orden que cambie la fecha límite para presentar un aviso de comparecencia, se publicarán en el sitio web de asuntos registrados del NMED en la URL anterior.

COMENTARIO PÚBLICO:

El público en general puede presentar un comentario público por escrito o testificar oralmente en la audiencia. Un miembro del público en general que desee presentar un comentario público por escrito como declaración para que conste en acta, en lugar de brindar un testimonio oral en la audiencia, deberá presentar la declaración escrita antes de la audiencia o durante la misma. Aquellos que deseen enviar un comentario público escrito antes de la audiencia pueden enviar el comentario público escrito en línea en <https://nmed.commentinput.com/?id=AQifkZx2sH>, enviar el comentario público escrito por correo electrónico a pamela.jones@env.nm.gov, o enviar el comentario público escrito por correo al Administrador de la EIB, Departamento de Medio Ambiente de Nuevo México – Harold Runnels Building, P.O. Box 5469, Santa Fe, Nuevo México 87502. Además, cada día de la audiencia habrá una oportunidad para que miembros del público en general brinden un testimonio oral. No se requiere notificación previa para que el público en general presente testimonios no técnicos en la audiencia. El público en general también puede ofrecer pruebas no técnicas en relación con

su comentario público escrito o testimonio oral, siempre y cuando las pruebas no sean indebidamente repetitivas del testimonio y cumplan con 20.1.1.402 NMAC. El funcionario de la audiencia designado determinará el proceso y los horarios para que el público en general testifique durante la audiencia.

ACCESIBILIDAD:

Las personas que requieran servicios de interpretación de idiomas o que tengan una discapacidad que necesiten un lector, un amplificador, un intérprete de lenguaje de señas calificado o cualquier otra forma de ayuda o servicio auxiliar para asistir o participar en la audiencia deben comunicarse con el Administrador de la EIB al menos 14 días antes de la audiencia o lo antes posible al (505) 660-4305 o a pamela.jones@env.nm.gov. Para tener acceso a este número a través de Relay New Mexico, marque 711 o llame al (800) 659-8331 (TTY) o al (800) 659-1779 (voz).

AVISO 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 exigen las leyes y regulaciones aplicables. El NMED se hace responsable de coordinar los esfuerzos de cumplimiento y 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, según estuviera modificada; Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Título IX de las Enmiendas a la Educación de 1972 y la Sección 13 de las Enmiendas a la Ley Federal de Control de la Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o cualquiera de los programas, políticas o procedimientos de no discriminación del NMED, o si considera que ha sido discriminado con respecto a 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, (505) 827-2855,
nd.coordinator@env.nm.gov.
También puede visitar nuestro sitio
web en [https://www.env.nm.gov/
non-employee-discrimination-
complaint-page/](https://www.env.nm.gov/non-employee-discrimination-complaint-page/) para saber cómo
y dónde presentar una queja por
discriminación.

GAMING CONTROL BOARD

NOTICE OF PROPOSED RULEMAKING

The Gaming Control Board hereby
gives notice that the Board, at a
Regular Board Meeting open to the
public on August 27, 2026, during the
open session, approved the initiation
of rulemaking regarding the rules
listed below.

The Rules Hearing will be held on
Wednesday, November 4, 2026,
beginning at 9:00 am at the Gaming
Control Board, 4900 Alameda Blvd.
NE, Albuquerque, NM 87113.
Interested individuals may also attend
via Zoom:

[https://us06web.zoom.us/j/883127352
19?pwd=X2ypeRvstT51cIXoBROv7v
JEe3XaAi.1](https://us06web.zoom.us/j/88312735219?pwd=X2ypeRvstT51cIXoBROv7vJEe3XaAi.1)

Meeting ID: 883 1273 5219

Passcode: 8XmRr3

To Join Telephonically:

Phone Number: 1-253-205-0468

Meeting ID: 883 1273 5219

Passcode: 051661

Join instructions

[https://us06web.zoom.us/meetings/
88312735219/invitations?signature=i2-
fF1g466yb_KZhu6OfvxQOSNBP65
OVymXD3BPKZFc](https://us06web.zoom.us/meetings/88312735219/invitations?signature=i2-fF1g466yb_KZhu6OfvxQOSNBP65OVymXD3BPKZFc)

The public comment period for this
rulemaking continues through to
the upcoming November 4, 2026,
Hearing date.

15.4.1.7 NMAC - DEFINITIONS:

Purpose: Add definition of “Primary
Executive” and amend the definition
of “Point of sale system.”

Summary: Adding a definition for
Primary Executive is to support the
change in rule requiring the owners
and primary executives of Bingo
Manufacturers and Distributors to
be licensed and will also support
the establishment of a Primary Staff
Permit. Amending the definition of
the point of sale system is done to
allow patrons time after closing to
cash out their TITO tickets on the
same day they are won as required by
rule.

15.4.2.9 NMAC - LICENSE CLASSIFICATIONS:

Purpose: Amending to add subsection
C to add “Bingo, Pull-Tab Halls”
which will prohibit any person or
entity licensed with by the board from
acting as a lessor to a non-profit bingo
operator and requiring that lease or
contract agreements shall be approved
or disapproved by the Board.

Summary: Allows licensed bingo
operators to lease facilities to hold
games of chance. Prohibits lessors
from attempting to interfere or exert
control in bingo operators operations
and protects against a licensee
attempting to participate in a revenue
sharing scheme which is prohibited
by law.

15.4.2.12 NMAC– APPLICATION FOR STAFF PERMIT:

Purpose: Amending to add subsection
H to allow for a provisional staff
permit. Giving a staff permit or
primary staff permit applicant time so
that an applicant can begin training
and working while their application is
being processed.

Summary: This will prevent nonprofit
bingo operators from having to shut
down while a staff permit or primary
staff permit application is pending.
The loss of certain personnel can
cause a bingo operator to close.

15.4.2.13 NMAC– APPLICATION FOR MANUFACTURER’S AND DISTRIBUTOR’S PRIMARY EXECUTIVES AND OWNERSHIP, PRIMARY STAFF PERMIT:

Purpose: Amend to add rule requiring
the licensing of the ownership of
manufacturers and distributors.

Summary: Manufacturer and
Distributor ownership and decision
makers, in the past have not been
required to license in the state. With
the growth in nonprofit charitable
gaming it’s necessary to replicate this
from the gaming side. Substantial
increase in revenue especially justifies
this.

15.4.11.9 NMAC– VARIANCE PROCEDURES:

Purpose: Amend this subpart to allow
all current and valid licensees the
ability to submit a variance request to
a rule.

Summary: Currently, the rule only
permits a bingo manager to submit a
variance request. Again, the growth
in nonprofit gaming has indicated the
need for other valid licensees to be
able to do this.

Authority: Section 60-2F-3 NMSA
1978 and Section 60-2E-7 NMSA
1978.

Details for Obtaining a Copy of
Rule and Submitting Oral or Written
Comments:

Copies of the proposed rules are
available on the Gaming Control
Board’s website at [https://www.
gcb.nm.gov/rulemaking/](https://www.gcb.nm.gov/rulemaking/) or can be
obtained by emailing GCB-PIO@
gcb.nm.gov. The proposed rules
are also available on the New
Mexico Sunshine Portal. Interested
individuals may provide comments at
the hearing scheduled for November
4, 2026, 9am to 1pm. Before the
hearing, written comments may be
sent to GCB-PIO@gcb.nm.gov, or by
regular mail at:

Attn: Angela M. Armstrong, Staff
Counsel

Proposed Bingo Rulemaking
New Mexico Gaming Control Board
4900 Alameda Blvd. NE,
Albuquerque, NM 87113

The deadline to receive written comment is Tuesday November 3, 2026. All written public comments received by USPS mail or email, will be posted on the website throughout the written comment period at: <https://www.gcb.nm.gov/new-mexico-gaming-control-board-legal-resources/#Rulemaking>.

Any person with a disability who needs a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact (505) 841-9700.

HEALTH CARE AUTHORITY INCOME SUPPORT DIVISION

NOTICE OF EMERGENCY RULEMAKING

The Health Care Authority (HCA) Income Support Division (ISD) will implement a temporary emergency rule effective October 1, 2026.

Each year the Authority is required to make changes to the income and resource eligibility standards and the deduction amounts available to otherwise eligible households. These amounts are determined by the United States Department of Agriculture (USDA) and Food and Nutrition Administration (FNA).

The Authority received notification of the adjusted amounts on August 21, 2026, and will make the adjustments effective October 1, 2026, for Federal Fiscal Year (FFY) 2027 to comply with federal law and regulations.

The Authority received the notice of the federal Cost-of-Living Adjustments (COLA) with less than sixty days to implement the changes to be effective on October 1 and has insufficient time to follow the regular

rulemaking process. The Authority is implementing an emergency rule to remain federally compliant as failure to implement beyond October 1 would place the Authority in violation of Federal law.

The emergency rule will amend the New Mexico Administrative Code (NMAC) sections: 8.102.500 NMAC, 8.106.500 NMAC, 8.139.120 NMAC, 8.139.500 NMAC:

8.102.500

Section 8:

☐ Updating Subsection B. Gross income limits to include the language: "The income eligibility limits are revised and adjusted annually in October. The authority will publish the federal poverty guidelines annually on the HCA website." And the gross income table will be removed.

☐ Updating Subsection C. Eligibility for support services to include the language: "The income eligibility limits are revised and adjusted annually in October. The Authority will publish the federal poverty guidelines annually on the HCA website."

☐ The gross income table is being removed from the rule as well.

☐ Updated Subsection D. Standard of Need table "three persons" to reflect correct amount of \$550.

☐ No other language in section 8 is under review at this time.

8.106.500

Section 8:

☐ Updating Subsection D. Gross income test to include the language: "The income eligibility limits are revised and adjusted annually in October. The Authority will publish the federal poverty guidelines annually on the HCA website."

☐ The gross income table is being removed from the rule as well.

☐ No other language in section 8 is under review at this time.

8.139.120

Section 9:

☐ Updating subsection E (1) with the amount of \$150.

☐ Updating subsection E (3) (b) with the amount of \$150.

8.139.500

Section 8:

☐ Updated Subsection D (2) the FNS link with new FNA link and updated.

☐ Updated Subsection E (2) with the language: The income eligibility limits are revised and adjusted annually in October. The authority will publish the federal poverty guidelines annually on the HCA website.

☐ Updated the FNS link with new FNA link and updated the HCA new link.

☐ No other language in section 8 is under review at this time.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations necessary to carry out the duties of the Authority and its divisions. Regulations issued pursuant to the act are contained in 45 CFR Parts 200-299 and 7 CFR 270-282.

Administration of the HCA, including its authority to promulgate regulations, is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983). The emergency rule will remain in effect until a permanent rule takes effect under normal rulemaking process.

The Health Care Authority Register Vol. 49 No.36 outlining the temporary emergency regulations is available on the HSD's website at: Income Support Division Registers - New Mexico Health Care Authority

HEALTH CARE AUTHORITY MEDICAL ASSISTANCE DIVISION

NOTICE OF RULEMAKING

The New Mexico Health Care Authority (HCA), through the

Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rule 8.308.9, *Managed Care Program, Benefit Package* and 8.324.4, *Adjunct Services, Pharmacy Services, Prescribing, and Practitioner Administered Drug Items*.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: September 22, 2026
Hearing Date: October 23, 2026
Adoption Date: Proposed as January 1, 2027
Technical Citations: 2023 Legislative Session House Bill 53 and 2025 Legislative Session Senate Bill 39

Background

HCA is proposing to amend 8.308.9 and 8.324.4 NMAC to include required changes that resulted from the implementation of a unified Preferred Drug List (PDL), an amendment to the Prior Authorization Act, NMSA 1978, and expand coverage of over-the-counter items and diabetic equipment, supplies, and appliances.

The HCA is proposing to amend the rules as follows:

Throughout both NMACs:

1. Language has been added to include the prescription drug formulary or PDL as directed by the Agency for coverage of generic drugs first that are available from multiple manufactures as equivalent and interchangeable generic versions unless a Brand name drug is determined to be more economical to cover on the PDL over the generic.
2. Language has been amended to remove prior authorization or step therapy requirements for FDA approved drugs as outlined in the 2025 Legislative Session, Senate Bill 39, which amends the Prior Authorization Act, NMSA 1978.

3. Language has been added to expand over-the counter items in the therapeutic classes as listed in the HCA/MAD website.

4. Language has been amended to update coverage and reimbursement for diabetic supplies as outlined in the 2023 Legislative Session, House Bill 53.

5. Human Services Department (HSD) has been changed to Health Care Authority (HCA).

6. The mission statement has been amended to include the Departments current mission statement.

7. Amendments have been made to align with updated language and formatting requirements.

8.308.9 NMAC

Section 7

The definition for Serious Mental Illness has been added to align with updates to New Mexico Medicaid behavioral health services.

Section 12

This section has been updated to include services that have been added to the New Mexico Medicaid benefit package. NMAC citations have been updated to include the current NMACs.

Section 15

Children in state custody (CISC) have special healthcare needs and require timely well-child visits (WCV) upon entry into custody. This added language ensures CISC have a WCV within 30 days of entry into custody, the WCV satisfies all required services according to the child's age and needs and that the MCO will pay for this WCV, even if the child has had a recent WCV prior to custody.

Section 17

This section has been amended to include pregnant people with substance use disorder that causes newborn withdrawal symptoms after birth shall be referred to have a plan

of safe care as part of the CARA program.

Section 19

This section has been updated to remove detailed service descriptions and to instead reference 8.321.2 NMAC and 8.321.12 NMAC which include completed behavioral health service descriptions.

Section 23

The Medicaid home visiting benefit has transitioned from an 1115 waiver to a Turquoise Care benefit. Medicaid home visiting programs are jointly overseen by the NM HCA and the Early Childhood Education and Care Department. Multiple evidence based programs support families, children, and pregnant or postpartum people.

8.324.4 NMAC

Section 14

Removed language on no drug coverage when a recipient has a gap in Medicare Part D and added language that MAD does not cover copayments for any annual out-of-pocket Medicare cost cap.

Section 15

Added and corrected language on counseling MAP eligible recipients upon receipt of a new prescription. An alternative form of patient information can supplement patient counseling when appropriate. Examples include, but are not limited to: pictogram labels, written information leaflets, and QR codes that link to digital drug information.

Section 16

Language is added to clarify that pregnancy termination services are paid through state funds only.

I. RULE

These proposed rule changes will be contained in NMACs 8.308.9 and 8.324.4. This register and the proposed rule are available on the HCA website at: <https://www.hca.nm.gov/lookingforinformation/registers/> and <https://www.hca.nm.gov/2026-comment-period-open/>.

If you do not have internet access, a copy of the proposed register and rule may be requested by contacting MAD at (505) 827-1337.

II. EFFECTIVE DATE

The Health Care Authority proposes implementing these rules effective January 1, 2027.

III. PUBLIC HEARING

A public hearing to receive testimony on these proposed rules will be held on **October 23, 2026, at 9:00 a.m. Mountain Time (MT)**. The hearing will be held in the ASD – Large Conference Room at the Administrative Services Division (ASD), 1474 Rodeo Rd, Santa Fe, NM 87505 and via Microsoft Teams.

Join Teams Meeting

Join: <https://teams.microsoft.com/meet/243083888109509?p=6zDVEsKNmjKT06zSHI>
Meeting ID: 243 083 888 109 509
Passcode: Uc9r7Xa6

Dial in by phone

+1 505-312-4308,,464885449#
United States, Albuquerque
Phone conference ID: 464 885 449#

If you are a person with a disability and you require this information in an alternative format or require special accommodation to participate in the public hearing, please contact the MAD in Santa Fe at (505) 827-1337. The HCA requests at least ten (10) working days advance notice to provide requested alternative formats and special accommodation.

Copies of all comments will be made available by MAD upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

IV. ADDRESS

Interested persons may address written comments to:

New Mexico Health Care Authority
Office of the Secretary
ATTN: Medical Assistance Division

Public Comments
P.O. Box 2348
Santa Fe, New Mexico 87504-2348

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: HCA-madrules@hca.nm.gov. Written mail, electronic mail and recorded comments must be received **no later than 5:00 p.m. MT on October 23, 2026**. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HCA website at <https://www.hca.nm.gov/lookingforinformation/registers/> and <https://www.hca.nm.gov/2026-comment-period-open/> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

SUPERINTENDENT OF INSURANCE, OFFICE OF

NOTICE OF PROPOSED RULEMAKING

The OSI eDocket Number for this rulemaking is: 2026-0171

NOTICE IS HEREBY GIVEN that the Office of Superintendent of Insurance (OSI or Superintendent) will hold a public hearing in person, via video conference, and via telephone conference regarding a repeal and replace of 13.10.40 NMAC, Vaccine Purchasing Fund. **The hearing in this rulemaking will commence on Tuesday, October 27, 2026, at 10:00 a.m., MDT.**

PURPOSE OF THE PROPOSED RULE: The purpose of this rulemaking is to: 1) update the definitions section of the rule to clarify the use of new terms added to and referenced in the rule; 2) update the procedures and enforcement mechanisms used by the OSI to ensure compliance with the Vaccine Purchasing Act; 3) remove the

requirement of publication in Section 13.10.40.10 NMAC because it is not required by statute; and, 4) more fully align operational processes between OSI and the Department of Health.

STATUTORY AUTHORITY: State Rules Act, Sections 14-4-1 *et seq.*, NMSA 1978, Sections 24-5A-6, 24-5A-8 NMSA 1978 of the Vaccine Purchasing Act, and Section 59A-2-9 NMSA 1978.

TO ATTEND THE HEARING IN PERSON: Office of Superintendent of Insurance - 1120 Paseo de Peralta, (PERA Building), 4th Floor Hearing Room, Santa Fe, NM 87501

PLEASE NOTE: The entrance to the PERA Building is on the ground floor. All guests must sign in with the ground floor receptionist, then each guest will be escorted to the 4th Floor Hearing Room. Please give yourself extra time to check in before 10:00 a.m.

TO ATTEND THE HEARING BY ELECTRONIC VIDEO CONFERENCE VIA MS TEAMS MEETING:

Meeting ID: 289 734 209 408 959 -
Passcode: yR6aB7Hv

Please copy the link below into your browser to get to the video conference meeting

<https://teams.microsoft.com/meet/289734209408959?p=VmHdi7Rt2Ct5V4ouqI>

TO ATTEND THE HEARING DIAL BY PHONE:

+1 505-312-4308,,643982754# -
Phone conference ID: 643 982 754#

PUBLIC COMMENT: The Superintendent designates Brenda Newell, as the hearing officer for this hearing. Oral comments will be accepted at the public hearing from members of the public and other interested parties in-person or via electronic video conference. Copies of the Notice of Proposed

Rulemaking and proposed rule are available by electronic download from the OSI eDocket: <https://edocket.osi.state.nm.us/home>, you must login or register to get access if you are not already registered.

You may also request copies of the Notice of Proposed Rulemaking and proposed rule by emailing Jillian Storm: jillian.storm@osi.nm.gov or by phone at: 505-946-7357, email communication is preferred. To view all filings in OSI's rulemaking information, please visit the OSI website, the OSI rulemaking record is filed on the eDocket (**please follow the instructions on the web page for using the eDocket, there is no charge for using the eDocket, to find this rulemaking use the following eDocket Number: 2026-0171**), or on the Sunshine Portal at: https://statenm.my.salesforce-sites.com/public/SSP_RuleHearingSearchPublic (from the "Agency" drop down menu, select "Office of Superintendent of Insurance") <https://www.osi.state.nm.us/en/legal-information/rulemaking/>, the OSI rulemaking record is filed on the eDocket (**please follow the instructions on the web page for using the eDocket, there is no charge for using the eDocket, to find this rulemaking use the following eDocket Number: 2026-0171**), or on the Sunshine Portal at: https://statenm.my.salesforce-sites.com/public/SSP_RuleHearingSearchPublic (from the "Agency" drop down menu, select "Office of Superintendent of Insurance")

DEADLINE TO SUBMIT

WRITTEN COMMENTS: Written comments will be accepted through 4:00 p.m. on Thursday, October 22, 2026. Responses to written comments or to oral comments delivered at the hearing will be accepted through 4:00 p.m. on Wednesday, October 28, 2026. All comments shall be filed electronically through the OSI eDocket. Please copy the following link into your browser to get to the eDocket: <https://edocket.osi.state.nm.us/home>, you must login or register to get access.

To find this rulemaking use the following Docket Number: 2026-0171.

FILING WRITTEN COMMENTS:

To file written comments on the OSI eDocket please send written comments to the following email address: **osi-docketfiling@state.nm.us**

Please send written comments by at least 3:30p.m. to ensure filing by the 4:00p.m. deadline.

To access filings on the OSI eDocket, please copy the following link into your browser to get to the eDocket: <https://edocket.osi.state.nm.us/home>, you must login or register to get access. **To find this rulemaking use the following Docket Number: 2026-0171.**

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

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

Written comments must be received by OSI and stamped as accepted between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday except on state holidays. The Superintendent will consider all oral comments and will review and consider all timely submitted written comments and written responses. For help submitting a filing, please send an email to: osi-docketfiling@state.nm.us. **The docket number and title below must be indicated on all written comments submitted to the OSI:**

**Docket Number: 2026-0171
IN THE MATTER OF REPEAL
AND REPLACE OF 13.1040
NMAC, VACCINE PURCHASING
FUND**

SPECIAL NEEDS: Any person with a disability requiring special assistance to participate in the hearing should contact Andrea Padilla, at 505-531-7171 no later than ten (10) business days prior to the hearing.

TRANSPORTATION, DEPARTMENT OF

NOTICE OF PROPOSED RULEMAKING

The New Mexico Department of Transportation (NMDOT) is proposing to amend Rule 18.27.5 NMAC, Contractor Prequalification Rule.

Purpose: Pursuant to an agreement between NMDOT and the Federal Highway Administration, and New Mexico State Transportation Commission Policy 4, dated November 21, 2024, NMDOT Contractor Prequalification Rule shall be reviewed by the appropriate Department division or other organization unit every five years. The review found that 18.27.5 NMAC should be purposed as an amended Rule, and approval of the initial rulemaking action for the rule was granted to NMDOT by the New Mexico State Transportation Commission on August 27, 2026, pursuant to NMSA 1978, Section 67-3-11.

Summary of Full Text: Rule 18.27.5 NMAC applies to NMDOT construction projects and to all contractors and subcontractors seeking or anticipating the performance of work within project limits. The Rule establishes policies and procedures for a determination of responsibility through a contractor prequalification system that directly rewards good performers and encourages poor performers to improve.

Full Text of the Proposed Rule: A copy of the full text of the amended rule may be found on the NMDOT website for 30 days prior to the public hearing scheduled in this rulemaking, October 30, 2026, under the following tabs:

Legal Notices - <https://www.dot.nm.gov/public-legal-notices>, and
Public Notices - <https://www.dot.nm.gov/public-involvement>.

A copy of the proposed rule may also

be requested by contacting Tisha Clark by phone: (505) 490-1175 or by email: Tisha.Clark@dot.nm.gov. A reasonable fee may be charged for printed copies.

Rulemaking Hearing: NMDOT will hold a public hearing for the purpose of receiving oral and written public comments from interested parties on the proposed amended Rule, 18.27.5 NMAC. The hearing is scheduled for Friday, October 30, 2026, from 10:00 a.m. to 12:00 p.m. at the NMDOT, General Office, Training Rooms 1 and 2, 1120 Cerrillos Road, Santa Fe, NM 87504-1149. Any further information regarding the public hearing may be provided on the NMDOT website under the following tabs:

Legal Notices - <https://www.dot.nm.gov/public-legal-notice>, and
Public Notices - <https://www.dot.nm.gov/public-involvement>.

Written Comments: To submit written comments on or before October 30, 2026, please send to Tisha Clark, New Mexico Department of Transportation, 750 N. Solano Dr., Las Cruces, NM, 88001, Phone: (505) 490-1175; Email: Tisha.Clark@dot.nm.gov. Written comments will be accepted from the date this notice is published in the New Mexico Register, September 22, 2026, until the close of the hearing scheduled in this rulemaking, October 30, 2026. If you plan to submit written comments, please make sure any documentation contains your name, phone number and email, and if you plan to submit written comments at the hearing, please bring three copies of any documents to the hearing. If submitting written comments by email, please indicate the rule 18.27.5 NMAC in the subject line. Oral comments will only be accepted at the public hearing, and may be subject to time limitations. After the close of the hearing scheduled in this rulemaking, the rulemaking record will be closed, and no other comments will be accepted. All written comments will be posted on the NMDOT's website within three days of receipt.

Accommodations: Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing may contact: Tisha Clark by phone: (505) 490-1175 or by email: Tisha.Clark@dot.nm.gov at least ten days before the hearing.

End of Notices of Rulemaking and Proposed Rules

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Adopted Rules

Effective Date and Validity of Rule Filings

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

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION COMMISSION

This is a short-form amendment to 19.15.2.7 NMAC, Subsections A, B, E, I, L and T, effective 9/22/2026.

Short form amendment explanatory statement. Subsections C, D, F-H, J-K, M-S, and U- through W were not shown as no changes were made to those subsections.

19.15.2.7 DEFINITIONS:
These definitions apply to 19.15.2 NMAC through 19.15.39 NMAC.

A. Definitions beginning with the letter "A".

(1) "Abate"

means to investigate, contain, remove or mitigate water pollution.

(2)

"**Abatement**" means the investigation, containment, removal or other mitigation of water pollution.

(3)

"**Abatement plan**" means a description of operational, monitoring, contingency and closure requirements and conditions for water pollution's prevention, investigation and abatement.

(4) "Act" or

"**Oil and Gas Act**" means Chapter 70, Article 2 NMSA 1978, as it may be modified or amended.

(5)

"**Adjoining spacing units**" mean those existing or prospective spacing units in the same pool that are touching at a point or line on the subject spacing unit.

(6) "Adjusted

allowable" means the allowable production a well or proration unit receives after all adjustments are made.

(7) "AFE"

means authorization for expenditure.

(8) "Affected

persons" means the following persons owning interests in a spacing unit or other identified tract:

(a)

the operator, as shown in division records, of a well on the tract, or, if the tract is included in a division-approved or federal unit, the designated unit operator;

(b)

in the absence of an operator, or with respect to an application wherein the operator of the spacing unit or identified tract is the applicant, each working interest owner whose interest is evidenced by a written conveyance document either of record or known to the applicant as of the date the applicant files the application;

(c)

as to any tract or interest therein that is not subject to an existing oil and gas lease, each mineral interest owner whose interest is evidenced by a written conveyance document either of record or known to the applicant as of the date the applicant filed the application; and

(d)

if the United States or state of New Mexico owns the mineral estate in the spacing unit or identified tract or any part thereof, the BLM or state land office, as applicable; or

(e) if

the mineral estate in the spacing unit or identified tract or any part thereof is tribal land, the BLM, the United States department of the interior, bureau of Indian affairs, and the relevant tribe.

(9) "Allocated

pool" means a pool in which the total oil or gas production is restricted and is allocated to various wells in the pool in accordance with proration schedules.

(10)

"**Allowable production**" means that number of barrels of oil or cubic feet of gas the division authorizes to be produced from an allocated pool.

(11) "APD"

means application for permit to drill.

(12) "API"

means the American petroleum institute.

(13)

"**Approved temporary abandonment,**" "**temporary abandonment,**" or "**temporarily abandoned status**" means the status of a well that is inactive, has been approved in accordance with 19.15.25.13 NMAC and complies with 19.15.25.12 NMAC through 19.15.25.14 NMAC.

(14) "Aquifer"

means a geological formation, group of formations or a part of a formation that can yield a significant amount of water to a well or spring.

(15) "ASTM"

means ASTM International - an international standards developing organization that develops and publishes voluntary technical standards for a wide range of materials, products, systems and services.

B. Definitions beginning with the letter "B".

(1) "Back

allowable" means the authorization for production of an underproduction resulting from pipeline proration.

(2)

"**Background**" means, for purposes of ground water abatement plans only, the amount of ground water contaminants naturally occurring from undisturbed geologic sources or water contaminants occurring from a source other than the responsible person's facility. This definition does not prevent the director from requiring abatement of commingled

plumes of pollution, does not prevent responsible persons from seeking contribution or other legal or equitable relief from other persons and does not preclude the director from exercising enforcement authority under any applicable statute, rule or common law.

(3) **“Barrel”**

means 42 United States gallons measured at 60 degrees fahrenheit and atmospheric pressure at the sea level.

(4) **“Barrel of oil”**

means 42 United States gallons of oil, after deductions for the full amount of basic sediment, water and other impurities present, ascertained by centrifugal or other recognized and customary test.

(5) **“Barrel of oil equivalent”** is determined by converting the volume of gas the well produced to barrels of oil by using a ratio of 6,000 cubic feet to one barrel of oil.

(5) (6) **“Below-grade tank”** means a vessel, excluding sumps and pressurized pipeline drip traps, where a portion of the tank’s sidewalls is below the surrounding ground surface’s elevation. Below-grade tank does not include an above ground storage tank that is located above or at the surrounding ground surface’s elevation and is surrounded by berms.

(7) **“Beneficial purposes” or “beneficial use”** means an oil or gas well that is being used in a productive or beneficial manner including production, injection or monitoring.

(6) (8) **“Berm”** means an embankment or ridge constructed to prevent the movement of liquids, sludge, solids or other materials.

(7) (9)

“Biopile”, also known as biocell, bioheap, biomound or compost pile, means a pile of contaminated soils used to reduce concentrations of petroleum constituents in excavated soils through biodegradation. This technology involves heaping contaminated soils into piles or “cells” and stimulating aerobic microbial activity within the soils

through the aeration or addition of minerals, nutrients and moisture.

(8) (10)

“BLM” means the United States department of the interior, bureau of land management.

(9) (11)

“Bottom hole pressure” means the gauge pressure in psi under conditions existing at or near the producing horizon.

(10) (12)

“Bradenhead gas well” means a well producing gas through wellhead connections from a gas reservoir that has been successfully cased off from an underlying oil or gas reservoir.

(11) (13)

“BS&W” means basic sediments and water.

(12) (14)

“BTEx” means benzene, toluene, ethylbenzene and xylene.

E. Definitions beginning with the letter “E”.

(1) **“EC”**

means electrical conductivity.

(2)

“Enhanced oil recovery project” means the use or the expanded use of a process for the displacement of oil from an oil well or division-designated pool other than a primary recovery process, including but not limited to the use of a pressure maintenance process; a water flooding process; an immiscible, miscible, chemical, thermal or biological process; or any other related process.

(3) **“EOR project”**

means an enhanced oil recovery project.

(4)

“EPA” means the United States environmental protection agency.

(5)

“Exempted aquifer” means an aquifer that does not currently serve as a source of drinking water, and that cannot now and will not in the foreseeable future serve as a source of drinking water because:

(a) it

is hydrocarbon producing;

(b)

it is situated at a depth or location that makes the recovery of water

for drinking water purposes economically or technologically impractical; or

(c)

it is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption.

(6)

“Exempt waste” means oil field waste exempted from regulation as hazardous waste pursuant to Subtitle C of RCRA and applicable regulations.

(7) **“Existing spacing unit”**

means a spacing unit containing a producing well.

(8) **“Expired temporary abandonment” or “expired temporary abandonment status”**

means the status of a well that is inactive and has been approved for temporary abandoned status in accordance with 19.15.25.13 NMAC, but that no longer complies with 19.15.25.12 NMAC through 19.15.25.14 NMAC.

I. Definitions beginning with the letter “I”.

(1) **“Illegal gas”**

means gas produced from a gas well exceeding the division-determined allowable.

(2) **“Illegal oil”**

means oil produced exceeding the allowable the division fixes.

(3) **“Illegal product”**

means a product of illegal gas or illegal oil.

(4) **“Inactive well”**

means a well that has had no production or injection for 12 consecutive months or is not being used for beneficial purposes [such as] including production, injection or monitoring and that is not being drilled, completed, repaired or worked over.

(5) **“Injection well”**

means a well used for the injection of air, gas, water or other fluids into an underground stratum.

L. Definitions beginning with the letter “L”.

(1) **“Limiting gas-oil ratio”** means the gas-oil ratio the division assigns to a particular oil pool to limit the volumes of casinghead gas that may be produced from the various oil producing units within that particular pool.

(2) **“Liner”** means a continuous, low-permeability layer constructed of natural or human-made materials that restricts the migration of liquid oil field wastes, gases or leachate.

(3) **“LLDPE”** means linear low-density polyethylene.

(4) **“Load oil”** means oil or liquid hydrocarbon that has been used in remedial operation in an oil or gas well.

(5) **“Log”** means a systematic detailed and correct record of formations encountered in drilling a well.

(6) **“Low producing well”** means an oil or gas well that produced less than 180 days and less than 1,000 barrels of oil equivalent within a consecutive 12 month period.

T. Definitions beginning with the letter “T”.

(1) **“Tank bottoms”** means that accumulation of hydrocarbon material and other substances that settles naturally below oil in tanks and receptacles that are used in oil’s handling and storing, and which accumulation contains more than two percent of BS&W; provided, however, that with respect to lease production and for lease storage tanks, a tank bottom shall be limited to that volume of the tank in which it is contained that lies below the bottom of the pipeline outlet to the tank.

(2) **“TDS”** means total dissolved solids.

(3) **“Temporary abandonment” or “temporarily abandoned status”** means the status of a well that is inactive.]

(4) (3) **“Top proration unit allowable for gas”**

means the maximum number of cubic feet of gas, for the proration period, the division allocates to a gas producing unit in an allocated gas pool.

(5) (4) **“Top proration unit allowable for oil”** means the maximum number of barrels for oil daily for each calendar month the division allocates on a proration unit basis in a pool to non-marginal units. The division shall determine the top proration unit allowable for a pool by multiplying the applicable depth bracket allowable by the market demand percentage factor in effect.

(6) (5) **“TPH”** means total petroleum hydrocarbons.

(7) (6) **“Treating plant”** means a plant constructed for wholly or partially or being used wholly or partially for reclaiming, treating, processing or in any manner making tank bottoms or other waste oil marketable.

(8) (7) **“Tribal lands”** means those lands for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe. This includes reservations, pueblo land grants, tribal trust lands and individual trust allotments.

(9) (8) **“Tribal leases”** means those leases of minerals or interests in or rights to minerals for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe.

(10) (9) **“Tribal minerals”** means those minerals for which the United States government has a trust responsibility to a native American tribe or a member of a native American tribe.

(11) (10) **“True vertical depth”** means the difference in elevation between the ground level at the surface location of the well and the deepest point in the well bore.

(12) (11) **“Tubingless completion”** means a well completion in which the production string of casing has an

outside diameter of 2.875 inches or less.

(13) (12) **“Tubingless multiple completion”** means completion in which two or more common sources of supply are produced through an equal number of casing strings cemented in a common well bore, each such string of casing having an outside diameter of 2.875 inches or less, with the production from each common source of supply completely segregated by cement.

[19.15.2.7 NMAC - Rp, 19.15.1.7 NMAC, 12/1/2008; A, 3/31/2015; A, 6/30/2016; A, 6/26/2018; A, 1/15/2019; A, 10/13/2020; A, 8/23/2022; A, 7/29/2025; A, 9/22/2026]

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION COMMISSION

This is an amendment to 19.15.5 NMAC, Section 9, effective 9/22/2026.

19.15.5.9 COMPLIANCE:

A. An operator is in compliance with Subsection A of 19.15.5.9 NMAC if the operator:

(1) currently meets the financial assurance requirements of 19.15.8 NMAC;

(2) is not subject to a division or commission order, issued after notice and hearing, finding the operator to be in violation of an order requiring corrective action;

(3) does not have a penalty assessment that is unpaid more than 30 days after issuance of the order assessing the penalty; [and]

(4) [has no more than the following number of wells out of compliance with 19.15.25.8 NMAC that are not] currently meets the requirements of 19.15.25.8 NMAC or is subject to

an agreed compliance or final order setting a schedule for bringing the wells into compliance with 19.15.25.8 NMAC and imposing sanctions if the schedule is not met; and

~~[(a) — two wells or fifty percent of the wells the operator operates, whichever is less, if the operator operates 100 wells or less;]~~

~~(b) — five wells if the operator operates between 101 and 500 wells;~~

~~(c) — seven wells if the operator operates between 501 and 1000 wells; and~~

~~(d) — 10 wells if the operator operates more than 1000 wells;]~~

(5) — currently meets the requirements of Subsections A to D of 19.15.27.8 NMAC.

B. Inactive wells.

(1) The division shall make available on its website, and update daily, an “inactive well list” listing each well, by operator, that according to division records:

(a) shows no production or injection for past ~~[15]~~ 14 months or has had a final determination of no beneficial use under 19.15.25.9 NMAC;

(b) does not have its well bore plugged in accordance with ~~[19.15.25.9]~~ 19.15.25.10 NMAC through [19.15.25.11] 19.15.25.12 NMAC;

(c) is not in approved temporary abandonment in accordance with ~~[19.15.25.12]~~ 19.15.25.13 NMAC through [19.15.25.14] 19.15.25.15 NMAC; and

(d) is not subject to an agreed compliance or final order setting a schedule for bringing the well into compliance with 19.15.25.8 NMAC.

(2) A well inactive for more than ~~[15]~~ 14 months creates a rebuttable presumption that the well is out of compliance with 19.15.25.8 NMAC.

C. Financial assurance. The division shall make available on its website and update

weekly the status of operators’ financial assurance that 19.15.8 NMAC requires, according to division records.

[19.15.5.9 NMAC - Rp, 19.15.1.40 NMAC, 12/1/2008; A, 11/30/2016, A, 2/25/2020; A, 9/22/2026]

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION COMMISSION

This is an amendment to 19.15.8 NMAC, Section 9, 10 and 12 effective 9/22/2026.

19.15.8.9 CATEGORIES AND AMOUNTS OF FINANCIAL ASSURANCE FOR WELL PLUGGING:

A. Applicability. An operator who has drilled or acquired operating authority under 19.15.9.9 NMAC, is drilling or proposes to drill or acquire operating authority under 19.15.9.9 NMAC of an oil, gas or injection or other service well within this state shall furnish a financial assurance acceptable to the division in accordance with 19.15.8.9 NMAC and in the form of an irrevocable letter of credit, plugging insurance policy or cash or surety bond running to the state of New Mexico conditioned that the well be plugged and abandoned and the location restored and remediated in compliance with commission rules, unless the well is covered by federally required financial assurance. The division shall not approve and the operator shall not proceed with any proposed drilling or acquisition of operating authority under 19.15.9.9 NMAC until the operator has furnished the required financial assurance. This Subsection A applies to Subsections B through H of this section.

B. A financial assurance shall be conditioned for well plugging and abandonment and location restoration and remediation only, and not to secure payment for

damages to livestock, range, crops or tangible improvements or any other purpose.

C. Active wells. An operator shall provide financial assurance for wells that ~~[are covered by Subsection A of 19.15.8.9 NMAC and]~~ are not subject to Subsections D, E and F of 19.15.8.9 NMAC ~~[in]~~ via one of the following categories:

(1) a one well plugging financial assurance in the amount of ~~[\$25,000 plus \$2 per foot of the projected depth of a proposed well or the depth of an existing well; the depth of a well is the true vertical depth for vertical and horizontal wells and the measured depth for deviated and directional wells;]~~ \$150,000 per well; or

(2) a blanket plugging financial assurance in the ~~[following amounts]~~ amount of \$250,000 covering all the wells of the operator subject to Subsection C of 19.15.8.9 NMAC.

~~[(a) — \$50,000 for one to 10 wells;~~
~~(b) — \$75,000 for 11 to 50 wells;~~
~~(c) — \$125,000 for 51 to 100 wells; and~~
~~(d) — \$250,000 for more than 100 wells;]~~

D. Low producing wells. Notwithstanding the provisions in Paragraph (2) of Subsection C in this section:

(1) As of September 22, 2026, a transferee operator shall provide a one well plugging financial assurance of \$150,000 for each low producing well prior to transfer, unless the well being transferred is already covered by a one well financial assurance under Paragraph (2) of Subsection D, Subsection E or Subsection F of 19.15.8.9 NMAC.

(2) Beginning May 1, 2029, an operator shall provide a one well plugging financial assurance for each low producing well that is not covered by a one well financial assurance under Subsection E or F of 19.15.8.9 NMAC. Each operator with one or more low producing well or wells shall annually

review the number of low producing wells registered to the operator and shall update the one well plugging financial assurance by May 1 of each year.

(3) An operator of a low producing well may request a variance to the one well plugging financial assurance requirement of \$150,000 upon a demonstration satisfactory to the division that there is a physical impediment limiting the well's midstream takeaway capacity or interference from nearby operations, stimulation or drilling impacting safe or prudent pressure practices. The demonstration shall include a certification from the operator detailing the nature of the constraint, explaining why the constraint is outside the control of the operator, detailing the alternatives that were or are being explored to address the constraint, and an estimated date when the constraint will be corrected. The demonstration shall also include the notification from the midstream operator required pursuant to Subsection D of 19.15.28.8 NMAC.

(4) Upon receipt of an operator's written variance request, the division shall have 60 days to accept or deny the operator's variance. The division's failure to act on the variance request within such period shall be deemed a denial. If the division denies the operator's variance, the operator shall have 30 days in which to file a request for hearing with the division pursuant to 19.15.4 NMAC.

(5) An operator may furnish all necessary one well plugging financial assurance in the form of a single instrument.

E. Operators with twenty percent or more of wells in inactive, approved temporarily abandoned or expired temporarily abandoned status.

(1) Beginning May 1, 2029, an operator with twenty percent or more of their wells in inactive status, approved temporarily abandoned status or expired temporarily abandoned status, or a combination thereof, shall

provide a one well plugging financial assurance in the amount of \$150,000 for each well that is registered to the operator but not covered by a one well financial assurance under Subsection D or F of 19.15.8.9 NMAC, until the percentage of the operator's wells in such statuses is decreased below twenty percent. Each operator with wells in this financial assurance category shall annually review the number of wells in inactive status, approved temporarily abandoned status and expired temporarily abandoned status registered to the operator and shall update the one well plugging financial assurance by May 1 of each year.

(2) An operator may furnish all necessary one well plugging financial assurance in the form of a single instrument.

[D] F. [Inactive wells]

Wells that are in approved temporarily abandoned status for more than two years, inactive wells, and wells that are in expired temporarily abandoned status.

[An operator shall provide financial assurance for wells that are covered by Subsection A of 19.15.8.9 NMAC that have been in temporarily abandoned status for more than two years] An operator shall provide financial assurance for wells that are in approved temporarily abandoned status for more than two years, in inactive status, or in expired temporarily abandoned status or for which the operator is seeking approved temporary abandonment pursuant to 19.15.25.13 NMAC in one of the following categories:

(1) a one well plugging financial assurance in the amount of [\$25,000 plus \$2 per foot of the projected depth of a proposed well or the depth of an existing well; the depth of a well is the true vertical depth for vertical and horizontal wells and the measured depth for deviated and directional wells] \$150,000 per well; or

(2) a blanket plugging financial assurance equal to an average of \$150,000 per well covering all wells of the operator subject to [Subsection D] Subsection F of 19.15.8.9 NMAC.

[E:] G. Operators who have on file with the division a blanket plugging financial assurance that does not cover additional wells shall file additional [single] one well [bond] plugging financial assurance for any wells not covered by the existing blanket [bond] plugging financial assurance in an amount as determined by 19.15.8.9 NMAC, subject to any limitations in Section 70-2-14 NMSA 1978 or, in the alternative, may file a [replacement blanket bond] financial assurance in the form of a single instrument.

H. Beginning January 1, 2032, the division may adjust the financial assurance amounts provided by Paragraph (1) of Subsections C, D, E and F of this section by multiplying the financial assurance as of January 1, 2031 by a fraction, the numerator of which is the consumer price index ending in September of the previous year and the denominator of which is the consumer price index ending September 2030; provided that any financial assurance shall not be adjusted below the minimum amounts required in Paragraph (1) of Subsection C, D, E and F of this section as a result of a decrease in the consumer producer price index. By November 1, 2031, and by November 1 of each successive year, the division shall post on its website the financial assurance requirements in Subsections A through E of this section for the next year. As used in this subsection, "consumer price index" means the consumer price index, not seasonally adjusted, for all urban consumers, United States city average for all items, or its successor index, as published by the United States department of labor for a 12 month period ending September 30. The division may adjust the applicable financial assurance amounts in accordance with this section but may not do so more frequently than three years from the date of the last adjustment.

[19.15.8.9 NMAC - Rp, 19.15.3.101 NMAC, 12/1/2008; A, 6/30/2015; A, 1/15/2019; A, 9/22/2026]

19.15.8.10 ADDITIONAL REQUIREMENTS FOR CASH AND SURETY BONDS:

A. Surety bonds shall be issued by a reputable corporate surety authorized by the office of the superintendent of insurance to do business in the state. The surety shall be listed on U.S. department of the treasury circular 570.

B. The operator shall deposit cash representing the full amount of the bond in an account in a federally-insured financial institution located within the state, such account to be held in trust for the division. Authorized representatives of the operator and the depository institution shall execute a document evidencing the cash bond's terms and conditions. The operator shall file the document with the division prior to the bond's effective date. If the operator's financial status or reliability is unknown to the director, the director may require the filing of a financial statement or such other information as may be necessary to evaluate the operator's ability to fulfill the bond's conditions. From time to time, any accrued interest over and above the bond's face amount may be paid to the operator.

[19.15.8.10 NMAC - Rp, 19.15.3.101 NMAC, 12/1/2008; A, 6/30/2015; A, 9/22/2026]

19.15.8.12 RELEASE OF FINANCIAL ASSURANCE:

A. The division shall release a financial assurance document upon the operator's or surety's written request if all wells drilled or acquired under that financial assurance have been plugged and abandoned and the location restored and remediated and released pursuant to 19.15.25.9 NMAC through 19.15.25.11 NMAC, or have been covered by another financial assurance the division has approved.

B. Transfer of a property or a change of operator does not of itself release a financial assurance. The division shall not approve a request for change of operator for a well until the new operator has the required financial

assurance in place and is otherwise in compliance with the requirements of 19.15.9.9 NMAC.

[19.15.8.12 NMAC - Rp, 19.15.3.101 NMAC, 12/1/2008; A, 9/22/2026]

**ENERGY, MINERALS
AND NATURAL
RESOURCES
DEPARTMENT
OIL CONSERVATION
COMMISSION**

This is an amendment to 19.15.9 NMAC, Sections 8 and 9, effective 9/22/2026.

19.15.9.8 OPERATOR REGISTRATION:

A. Prior to commencing operations, an operator of a well or wells in New Mexico shall register with the division as an operator. Applicants shall provide the following to the financial assurance administrator in the division's Santa Fe office:

(1) an oil and gas registration identification (OGRID) number obtained from the division, the state land office or the taxation and revenue department;

(2) a current address of record to be used for notice and a current emergency contact name and telephone number for each district in which the operator operates wells; and

(3) the financial assurance 19.15.8 NMAC requires.

B. Prior to commencing operations, an operator shall provide to the division a certification by a representative designated by the operator that within the past 10 years the new operator has not been subject to any final administrative forfeiture demand from any state or federal agency, has not forfeited financial assurance to any state or federal agency, and has not been out of compliance with an adjudicated order or settlement agreement with a state or federal agency for any state or federal violation related to oil and gas

laws or regulations in any domestic jurisdiction in which the new operator does business; a disclosure of any officer, director, partner in the new operator or person with an interest in the new operator exceeding twenty-five percent, who is or was within the past five years an officer, director, partner, or person with an interest exceeding twenty-five percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC; and a disclosure whether the new operator is or was within the past five years an officer, director, partner, or person with an interest exceeding twenty-five percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC.

~~[B:]~~ **C.** The division may deny registration as an operator if:

(1) the applicant is not in compliance with Subsection A of 19.15.5.9 NMAC;

(2) the applicant within the past 10 years has had a final administrative forfeiture demand from any state or federal agency, has forfeited financial assurance to any state or federal agency, or has been out of compliance with an adjudicated order or settlement agreement with a state or federal agency for any state or federal violation related to oil and gas laws or regulations in any domestic jurisdiction in which the applicant does business;

~~[(2)]~~ (3) an officer, director, partner in the applicant or person with an interest in the applicant exceeding twenty-five percent, is or was within the past five years an officer, director, partner or person with an interest exceeding twenty-five percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC;

~~[(3)]~~ (4) the applicant is or was within the past five years an officer, director, partner or person with an interest exceeding twenty-five percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC; or

~~[(4)] (5)~~ the applicant is a corporation, ~~[or]~~ limited liability company, limited liability limited partnership, or limited partnership and is not registered or is not in good standing with the ~~[public-regulation commission]~~ New Mexico secretary of state to do business in New Mexico.

~~[(5)] — the applicant is a limited partnership and is not registered with the New Mexico secretary of state to do business in New Mexico.~~

~~—~~ **D.** An operator shall inform the division of its current address of record and emergency contact names and telephone numbers by submitting changes in writing to the division's financial assurance administrator in the division's Santa Fe office within 30 days of the change.

~~[(D)] E.~~ [The division may require an] A representative designated by the operator [or applicant to] [identify] shall certify compliance annually of its current and past officers, directors and partners and its current and past ownership interest in other operators consistent with Paragraphs (2) and (3) of Subsection C of 19.15.9.8 NMAC. [19.15.9.8 NMAC - Rp, 19.15.3.100 NMAC, 12/01/2008; A, 9/22/2026]

19.15.9.9 CHANGE OF OPERATOR:

A. A change of operator occurs when the entity responsible for a well or a group of wells changes. A change of operator may result from a sale, assignment by a court, a change in operating agreement or other transaction. Under a change of operator, wells are moved from the OGRID number of the operator of record with the division to the new operator's OGRID number.

B. The operator of record with the division and the new operator shall apply for a change of operator by jointly filing a form C-145 using the division's web-based online application. If the operator of record with the division is unavailable, the new operator shall

apply to the division for approval of change of operator without a joint application. The new operator shall make such application in writing and provide documentary evidence of the applicant's right to assume operations; a certification by a representative designated by the operator of the new operator that within the past 10 years the new operator has not been subject to any final administrative forfeiture demand from any state or federal agency, has not forfeited financial assurance to any state or federal agency, and has not been out of compliance with an adjudicated order or settlement agreement with a state or federal agency for any state or federal violation related to oil and gas laws or regulations in any domestic jurisdiction in which the new operator does business; a plugging and abandonment plan; a disclosure of any officer, director, partner in the new operator or person with an interest in the new operator exceeding twenty-five percent, who is or was within the past five years an officer, director, partner, or person with an interest exceeding twenty-five percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC; and a disclosure whether the new operator is or was within the past five years an officer, director, partner, or person with an interest exceeding twenty-five percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC. The new operator shall not commence operations until the division approves the application for change of operator. The plugging and abandonment plan shall be certified by a representative designated by the new operator and shall demonstrate that the new operator has and will have the financial ability to meet the plugging and abandonment requirements of 19.15.25 NMAC for the well or wells to be transferred in light of all the operator's assets and liabilities. The division may request the operator to provide additional information including corporate credit rating, corporate financial statements, long-term liabilities, reserves

and economics report, records of the operator's historical costs for decommissioning activities, estimate of the operator's decommissioning obligations, and history of inactive wells and returning wells to production.

C. The director or the director's designee may deny a change of operator if:

(1) the new operator is not in compliance with Subsection A of 19.15.5.9 NMAC ~~[or]~~

~~[(2)] — the new operator is acquiring wells, facilities or sites subject to a compliance order requiring remediation or abatement of contamination, or compliance with 19.15.25.8 NMAC, and the new operator has not entered into an agreed compliance order setting a schedule for compliance with the existing order].~~

(2) within the past 10 years the new operator has had a final administrative forfeiture demand from any state or federal agency, has forfeited financial assurance to any state or federal agency, or has been out of compliance with an adjudicated order or settlement agreement with a state or federal agency for any state or federal violation related to oil and gas laws or regulations in any domestic jurisdiction in which the new operator does business;

(3) any officer, director, partner in the new operator or person with an interest in the new operator exceeding twenty-five percent, who is or was within the past five years an officer, director, partner, or person with an interest exceeding twenty-five percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC;

(4) the new operator is or was within the past five years an officer, director, partner, or person with an interest exceeding twenty-five percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC;

(5) the applicant is a corporation, limited

liability company, limited liability limited partnership, or limited partnership and is not registered or is not in good standing with the New Mexico secretary of state to do business in New Mexico; or

(6)

the certification or disclosure requirements set forth in Subsection B of this section disclose a substantial risk that the new operator would be unable to satisfy the plugging and abandonment requirements of 19.15.25 NMAC for the well or wells the new operator intends to take over.

D. In determining whether to grant or deny a change of operator when the new operator is not in compliance with Subsection A of 19.15.5.9 NMAC, the director or the director's designee shall consider such factors as whether the non-compliance with Subsection A of 19.15.5.9 NMAC is caused by the operator not meeting the financial assurance requirements of 19.15.8 NMAC, being subject to a division or commission order finding the operator to be in violation of an order requiring corrective action, having a penalty assessment that has been unpaid for more than 70 days since the issuance of the order assessing the penalty or having ~~[more than the allowed number of]~~ wells out of compliance with 19.15.25.8 NMAC]. If the non-compliance is caused by the operator having ~~[more than the allowed number of]~~ wells not in compliance with 19.15.25.8 NMAC, the director or director's designee shall consider the number of wells not in compliance, the length of time the wells have been out of compliance and the operator's efforts to bring the wells into compliance.

E. No well, facility or site that is out of compliance with Subsection A of 19.15.5.9 NMAC, 19.15.29 NMAC, or 19.15.30 NMAC shall be transferred unless, prior to transfer, the current operator brings the associated well, facility or site into compliance or the new operator submits a schedule of compliance approved by the division. [19.15.9.9 NMAC - Rp, 19.15.3.100 NMAC, 12/01/2008; A, 9/22/2026]

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION COMMISSION

This is an amendment to 19.15.25 NMAC, Section 8, 9, 10, 11, 12, 13, 14, 15, 16, effective 9/22/2026.

19.15.25.8 WELLS TO BE PROPERLY ABANDONED:

A. The operator of wells drilled for oil or gas or services wells including seismic, core, exploration or injection wells, whether cased or uncased, shall plug the wells as Subsection B of 19.15.25.8 NMAC requires.

B. The operator shall either properly plug and abandon a well or apply to the division to place the well in approved temporary abandonment in accordance with 19.15.25 NMAC within [90] 60 days after:

(1) a 60 day period following suspension of drilling operations, except a well that has been drilled and properly cased but not completed for less than 18 months and a well that has been completed but has not produced for less than 18 months, unless the well is a dry hole;

(2) a determination that a well is no longer usable for beneficial purposes; or

(3) a period of one year in which a well has been continuously inactive. [19.15.25.8 NMAC - Rp, 19.15.4.201 NMAC, 12/1/2008; A, 9/22/2026]

19.15.25.9 PRESUMPTIONS OF NO BENEFICIAL USE:

A. For oil and gas production wells, there is a rebuttable presumption that a well is not capable of beneficial use if, in a consecutive 12 month period, the well has not produced at least 90 barrels of oil equivalent.

B. For injection or salt water disposal wells, there is a rebuttable presumption that a well is not capable of beneficial use if, in a

consecutive 12 month period, the well has not injected at least 100 barrels of fluid.

C. The rebuttable presumptions in this Section do not apply to wells that have been drilled but not completed for less than 18 months and wells that have been completed but have not produced for less than 18 months.

D. Within 30 calendar days after notice from the division that a well or wells are presumed to not being used for beneficial purposes, a well operator may submit an application for administrative review to the division. Upon request by the operator, the division may use its discretion to grant an extension of the 30 day rebuttal period for good cause. The division shall issue a final determination based on the application, information available in division records, and any information requested by the division. An operator may file an application for hearing within 30 days of the division's final determination pursuant to 19.15.4 NMAC. Applications shall demonstrate beneficial use of a well or wells and the operator shall provide any information requested by the division. Such documentation may include:

(1) a demonstration that the well is reasonably projected to produce in an economically beneficial manner;

(2) a demonstration that the well has effectively produced or injected at least 90 days within the consecutive 12 month period and there is no downhole mechanical integrity problem;

(3) a demonstration that the operator maintains adequate capitalization or reasonably projected revenue sufficient to meet all reasonably anticipated plugging and environmental liabilities of the well or wells and associated production facilities, not inclusive of any financial assurance associated with the well or wells;

(4) a plugging and abandonment plan as described

in Subsection B of 19.15.9.9 NMAC;
and

(5) other
relevant information requested by the
division or provided by the operator
or a regulatory agency.

E. This subsection
shall become effective 12 months
after September 22, 2026, except
that as to operators that the division
determines are substantially out of
compliance with 19.15.7.24 NMAC,
19.15.8.9 NMAC, or 19.15.25.8
NMAC, this subsection shall become
effective on September 22, 2026.
[19.15.25.9 NMAC - Rp, 19.15.4.202
NMAC, 12/1/2008, A, 9/22/2026]

**[19.15.25.9] 19.15.25.10 NOTICE
OF PLUGGING:**

A. The operator shall
file notice of intention to plug with
the division on form C-103 prior to
commencing plugging operations.
The notice shall provide all the
information 19.15.7.14 NMAC
requires including operator and
well identification and proposed
procedures for plugging the well.

B. In addition, the
operator shall provide a well bore
diagram showing the proposed
plugging procedure.

C. The operator shall
notify the division 24 hours prior to
commencing plugging operations.
In the case of a newly drilled dry
hole, the operator may obtain verbal
approval from the appropriate district
supervisor or the district supervisor's
representative of the plugging method
and time operations are to begin. The
operator shall file written notice in
accordance with 19.15.25.11 NMAC
with the division within 10 days
after the district supervisor has given
verbal approval.

[19.15.25.10 NMAC - Rn, 19.15.25.9
NMAC, 9/22/2026]

**[19.15.25.10] 19.15.25.11
PLUGGING:**

A. Before an operator
abandons a well, the operator shall
plug the well in a manner that
permanently confines all oil, gas
and water in the separate strata in
which they are originally found. The

operator may accomplish this by
using mud-laden fluid, cement and
plugs singly or in combination as
approved by the division on the notice
of intention to plug.

B. The operator shall
mark the exact location of plugged
and abandoned wells with a steel
marker not less than four inches in
diameter set in cement and extending
at least four feet above mean ground
level. The operator name, lease
name and well number and location,
including unit letter, section, township
and range, shall be welded, stamped
or otherwise permanently engraved
into the marker's metal. A person
shall not build permanent structures
preventing access to the wellhead
over a plugged and abandoned
well without the division's written
approval. A person shall not remove
a plugged and abandonment marker
without the division's written
approval.

C. The operator may
use below-ground plugged and
abandonment markers only with the
division's written approval when an
above-ground marker would interfere
with agricultural endeavors. The
below-ground marker shall have a
steel plate welded onto the abandoned
well's surface or conductor pipe and
shall be at least three feet below the
ground surface and of sufficient size
so that all the information 19.15.16.8
NMAC requires can be stenciled
into the steel or welded onto the
steel plate's surface. The division
may require a re-survey of the well
location.

D. As soon as
practical, but no later than one year
after the completion of plugging
operations, the operator shall:

(1) level the
location;

(2) remove
deadmen and other junk; and

(3) take other
measures necessary or required by the
division to restore the location to a
safe and clean condition.

E. The operator shall
close all pits and below-grade tanks
pursuant to 19.15.17 NMAC.

F. Upon completion
of plugging and clean up restoration
operations as required, the operator
shall contact the appropriate division
district office to arrange for an
inspection of the well and location.
[19.15.25.11 NMAC - Rn,
19.15.25.10 NMAC, 9/22/2026]

**[19.15.25.11] 19.15.25.12
REPORTS FOR PLUGGING
AND [ABANDONMENT]
ABANDONMENT:**

A. The operator
shall file form C-105 as provided in
19.15.7.16 NMAC.

B. Within 30 days
after completing required restoration
work, the operator shall file with the
division a record of the work done on
form C-103 as provided in 19.15.7.14
NMAC.

C. The division shall
not approve the record of plugging
or release a bond until the operator
has filed necessary reports and the
division has inspected and approved
the location.
[19.15.25.12 NMAC – Rn & A,
19.15.25.11 NMAC, 9/22/2026]

**[19.15.25.12] 19.15.25.13
APPROVED TEMPORARY
ABANDONMENT:**

A. The division may
place a well in approved temporary
abandonment for a period of up to
five years [Prior to the expiration of
an approved temporary abandonment
the operator shall return the well
to beneficial use under a plan the
division approves, permanently plug
and abandon the well and restore and
remediate the location or apply for a
new approval to temporarily abandon
the well. An operator is limited
to placing the following numbers
of wells in approved temporary
abandonment:

A. one well, if the
operator operates between one and
five wells; or

B. one-third of all
wells (rounded to the nearest whole
number), if the operator operates
more than five wells.] upon a
demonstration from the operator that
the well will be used for beneficial

use within the approved period of temporary abandonment.

(1) The operator's demonstration shall include an explanation why the well should be placed in temporary abandonment, how the well will be put to beneficial use in the future including supporting technical data, a plan that describes the ultimate disposition of the well, and the time frame for that disposition.

(2) The operator shall provide any other information the division determines appropriate, including a current and complete well bore diagram; geological evidence; geophysical data; well casing information; waste removal and disposition; production engineering; geophysical logs, e.g., cement bond logs, caliper logs, and casing inspection logs; economic data; and health, safety, and environmental information.

(3) If the division denies a request, the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location.

B. Prior to the expiration of an approved temporary abandonment, the operator shall return the well to beneficial use under a plan the division approves, permanently plug and abandon the well and restore and remediate the location, or apply for a new approval to temporarily abandon the well for a period of up to two years in accordance with Subsection A of 19.15.25.13 NMAC and demonstrate the well's mechanical integrity in accordance with Sections 19.15.25.14 and 15 NMAC. A second term shall not exceed two additional years, upon which time the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location.

C. Extension.

(1) Prior to the expiration of a renewal of an approved temporary abandonment, the operator shall return the well

to beneficial use under a plan the division approves, permanently plug and abandon the well and restore and remediate the location, or apply for an extension to continue to place the well in temporary abandonment for a period of up to five years.

(2) To obtain an extension, the operator shall apply to the division to extend temporary abandonment status. The division shall provide at least 30 days' notice of the application for extension on its website and to the division mailing list. The operator, division, or other person with standing may request a hearing on the application for extension before the division. Any such hearing shall be conducted pursuant to the procedures for adjudicatory proceedings in 19.15.4 NMAC. If a hearing is not requested, the division shall proceed with processing the application for extension.

(a) To obtain an extension, the operator shall demonstrate to the division that the well has future beneficial use.

(b) The application for extension shall include:

(i) a plan of development for the well that includes documentation that the plan is technically feasible and financially viable;

(ii) a description of any work completed and in progress under the plan of development;

(iii) documentation demonstrating why the well was not brought back to beneficial use as had been proposed or plugged and abandoned during the prior period of temporary abandonment;

(iv) a plan that describes the ultimate disposition of the well including the time frame for that disposition; and

(v) documentation demonstrating the well's casing and cementing meet the requirements Sections 19.15.25.14 and 15 NMAC and that monitoring procedures are in place to ensure

such requirements will be met and maintained during the period of temporary abandonment.

(c) The operator shall provide any other relevant information requested by the division including engineering information, geological information, financial information, and applicable contracts that support the future beneficial use.

(3) An operator may reapply for an extension for periods of up to five years under the same terms and conditions as provided for in this subsection. If the division denies a request for extension, the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location.

D. An operator is limited to placing the following numbers of wells in approved temporary abandonment:

(1) one well, if the operator operates between one and five wells; or

(2) one-third of all wells (rounded to the nearest whole number), if the operator operates more than five wells.

E. Implementation schedule for existing wells.

(1) Inactive wells (that are not in approved or expired temporary abandonment).

Wells that have been inactive as of September 22, 2026, for less than three years are eligible for temporary abandonment status in accordance with Subsection A of this section. Wells that have been inactive for three or more years shall apply to the division to extend temporary abandonment status in accordance with Subsection B of this section.

(2) Wells in approved temporary abandoned status.

Any operator of a well in temporary abandoned status as of September 22, 2026, shall apply to the division to extend temporary abandonment status in accordance with Subsection B of this section prior to the date temporary abandonment status terminates. Unless an operator

of a well has renewed a temporary abandonment in accordance with this paragraph, the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location.

(3) Wells in expired temporary abandoned status. Any operator of a well in expired temporary abandoned status as of September 22, 2026, shall apply to the division to extend temporary abandonment status in accordance with Subsection B of this section. Unless an operator of a well has renewed a temporary abandonment in accordance with this paragraph, the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location.

F. The timeframes Subsections A, B and C in this section shall be implemented consistent with any applicable federal requirements. [19.15.25.13 NMAC – Rn & A, 19.15.25.12 NMAC, 9/22/2026]

[19.15.25.13] 19.15.25.14 REQUEST FOR APPROVAL AND PERMIT FOR APPROVED TEMPORARY ABANDONMENT:

A. An operator seeking approval for approved temporary abandonment shall submit [a notice of intent] the request on form C-103 to seek approved temporary abandonment for the well setting forth the demonstration required in 19.15.25.13 NMAC and describing the proposed temporary abandonment procedure the operator will use. The operator shall not commence work until the division has approved the request. The operator shall give 24 hours' notice to the appropriate division district office before beginning work.

B. The division shall not approve a permit for approved temporary abandonment until the operator furnishes evidence demonstrating that the well's casing and cementing are mechanically and physically sound and in such condition as to prevent:

(1) damage to the producing zone;

(2) noncontainment of well bore fluids to the atmosphere or migration of hydrocarbons or water;

(3) the contamination of fresh water or other natural resources; and

(4) the leakage of a substance at the surface.

C. The operator shall demonstrate both internal and external mechanical integrity pursuant to Subsection A of [19.15.25.14] 19.15.25.15 NMAC.

D. Upon successful completion of the work on the temporarily abandoned well, the operator shall submit a request for approved temporary abandonment to the appropriate division district office on form C-103 together with other information Subsection E of [19.15.7.14] 19.15.7.15 NMAC requires.

E. The division shall not approve a permit for approved temporary abandonment until the operator provides financial assurance for the well that complies with [Subsection D of] 19.15.8.9 NMAC.

F. The division shall specify the permit's expiration date. [which shall be not more than five years from the date of approval:] [19.15.25.14 NMAC – Rn & A, 19.15.25.13 NMAC, 9/22/2026]

[19.15.25.14]

19.15.25.15 DEMONSTRATING MECHANICAL INTEGRITY:

A. An operator may use the following methods of demonstrating internal casing integrity for casing repairs and wells to be placed in approved temporary abandonment, for wells for which approved temporary abandonment is to be renewed, and for wells for which an extension is to be granted.

(1) the operator may set a cast iron bridge plug within 100 feet of uppermost perforations or production casing shoe, load the casing with inert fluid and pressure test to 500 psi surface pressure with a pressure drop of

not more than ten percent over a 30 minute period;

(2) the operator may run a retrievable bridge plug or packer to within 100 feet of uppermost perforations or production casing shoe, and test the well to 500 psi surface pressure for 30 minutes with a pressure drop of not greater than ten percent over a 30 minute period; or

(3) the operator may demonstrate that the well has been completed for less than five years [and has not been connected to a pipeline].

B. During the testing described in Paragraphs (1) and (2) of Subsection A of [19.15.25.14] 19.15.25.15 NMAC the operator shall:

(1) open all casing valves during the internal pressure tests and report a flow or pressure [change] occurring immediately before, during or immediately after the 30 minute pressure test;

(2) top off the casing with inert fluid prior to leaving the location; and

(3) report flow during the test in Paragraph (2) of Subsection A of [19.15.25.14] 19.15.25.15 NMAC to the appropriate division district office prior to completion of the temporary abandonment operations; the division may require remediation of the flow prior to approving the well's temporary abandonment.

(4) Any isolation device used to test mechanical integrity pursuant to Subsection A of this section shall remain in place for the duration of the temporary abandonment.

(5) The operator shall perform a caliper log and casing integrity log. Taking into account the purpose and duration of the temporary abandonment, the division may waive this requirement upon a demonstration by the operator of the current and anticipated internal casing integrity of the well and that such integrity shall be maintained throughout the period of temporary abandonment.

C. An operator may use any method approved by the EPA in 40 C.F.R. section 146.8(c) to demonstrate external casing and cement integrity for wells to be placed in approved temporary abandonment.

D. The division shall not accept mechanical integrity tests or logs conducted more than 12 months prior to submittal.

E. The operator shall record mechanical integrity tests on a chart recorder with a maximum two hour clock and maximum 1000 pound spring, which has been calibrated within the six months prior to conducting the test. Witnesses to the test shall sign the chart. The operator shall submit the chart, caliper log, and casing integrity log with form C-103 requesting approved temporary abandonment.

F. The division may approve other testing methods the operator proposes if the operator demonstrates that the test satisfies the requirements of Subsection B of ~~[19.15.25.13]~~ 19.15.25.14 NMAC. 19.15.25.15 NMAC – Rn & A, 19.15.25.14 NMAC, 9/22/2026]

~~[19.15.25.15]~~ 19.15.25.16 **WELLS TO BE USED FOR FRESH WATER:**

A. When a well to be plugged may safely be used as a fresh water well and the landowner agrees to take over the well for that purpose, the operator does not need to plug the well above the sealing plug set below the fresh water formation.

B. The operator shall comply with other requirements contained in ~~[19.15.25.9]~~ 19.15.25.10 NMAC through ~~[19.15.25.11]~~ 19.15.25.12 NMAC regarding plugging, including surface restoration and reporting requirements.

C. Upon completion of plugging operations, the operator shall file with the division a written agreement signed by the landowner whereby the landowner agrees to assume responsibility for the well. Upon the filing of this agreement and division approval of well abandonment operations, the operator

is no longer responsible for the well, and the division may release bonds on the well.
[19.15.25.16 NMAC – Rn & A, 19.15.25.15 NMAC, 9/22/2026]

**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; N, 9/23/2026]

8.106.640.2 SCOPE: This rule applies to the general public.
[8.106. 640.2 NMAC - N/E, 4/1/2026; N, 9/23/2026]

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; N, 9/23/2026]

8.106.640.4 DURATION:
Permanent.
[8.106.640.4 NMAC - N/E, 4/1/2026; N, 9/23/2026]

8.106.640.5 EFFECTIVE
DATE: September 23, 2026 unless a later date is cited at the end of a section.
[8.106.640.5 NMAC - N/E, 4/1/2026; N, 9/23/2026]

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; N, 9/23/2026]

**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 are currently ineligible solely due to due to changes in the treatment of their immigration status pursuant to the July 4, 2025, amendment to 7 USC § 2015(f).

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) was, or is a current SNAP recipient; and

(2) has submitted a timely recertification; and

(3) lost SNAP benefits during recertification solely due to changes in the treatment of their immigration status pursuant to the July 4, 2025, amendment to 7 USC § 2015(f).

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) will be calculated based upon a percentage of the average of the recipient's SNAP benefits issued over a six-month period; and

(3) the total amount of the funds appropriated; and

(4) the number of individuals that lost SNAP benefits during recertification solely due to changes in the treatment of their immigration status pursuant to the July 4, 2025, amendment to 7 USC § 2015(f).

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; N, 9/23/2026]

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; N, 9/23/2026]

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.

Other: 8.106.640 NMAC, Description of Program/Benefits - Benefit Corrections, filed 3/12/2026 as an emergency new rule effective 4/1/2026.

8.106.640 NMAC, Description of Program/Benefits - Benefit Corrections, filed 3/12/2026 as an emergency new rule is filed permanently as new rule effective 9/23/2026.

**HEALTH CARE
AUTHORITY
INCOME SUPPORT DIVISION**

This is an emergency amendment to 8.106.500 NMAC Section 8 effective 10/1/2026.

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. The income eligibility limits are revised and adjusted annually in October. The authority will publish the federal poverty guidelines annually on the HCA website.

~~[(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	\$1,109
	(b)
two persons	\$1,499

	(e)
three persons	\$1,888
	(d)
four persons	\$2,278
	(e)
five persons	\$2,667
	(f)
six persons	\$3,057
	(g)
seven persons	\$3,447
	(h)
eight persons	\$3,836
	(i)
add \$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 health care authority 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; A/E, 10/1/2026]

**HEALTH CARE
AUTHORITY
INCOME SUPPORT DIVISION**

This is an emergency amendment to 8.102.500 NMAC Section 8 effective 10/1/2026.

**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. The income eligibility limits are revised and adjusted annually in October. The authority will publish the federal poverty guidelines annually on the HCA website.

~~[(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	\$1,109
	(b)
two persons	\$1,499
	(c)
three persons	\$1,888
	(d)
four persons	\$2,278
	(e)
five persons	\$2,667
	(f)
six persons	\$3,057
	(g)
seven persons	\$3,447
	(h)

eight persons — \$3,836

(i)

add \$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 income eligibility limits are revised and adjusted annually in October. The authority will publish the federal poverty guidelines annually on the HCA website.

[The gross income guidelines for the size of the benefit group are as follows:

(1) one person
\$1,305

(2) two persons \$1,763

(3) three persons \$2,221

(4) four persons \$2,680

(5) five persons \$3,138

(6) six persons \$3,596

(7) seven persons \$4,055

(8) eight persons \$4,513

(9) add \$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 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] \$550

(d) four persons \$663

(e) five persons \$775

(f) six persons \$887

(g) seven persons \$999

(h) eight persons \$1,134

(i) add \$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; A/E 10/1/2026]

**HEALTH CARE
AUTHORITY
INCOME SUPPORT DIVISION**

This is an emergency amendment to 8.139.120 Section 9 effective 10/01/2026.

8.139.120.9 SIMPLIFIED REPORTING: All households will be assigned to simplified reporting (SR). Households must submit an interim report once every six or twelve months, depending on their certification period. Households

assigned to a 12-month certification period have an interim report form due at six months. Households assigned to a 24-month certification period have an interim report form due at 12 months.

A. Household Certification Periods: A household that is approved for SNAP benefits shall be assigned the longest certification period possible in accordance with the household's circumstances. Households wherein all adult members are elderly or disabled, with no earned income, will be assigned a 24-month certification period. All other households will be assigned a 12-month certification period.

B. Household responsibility to turn in interim report form:

(1) A household assigned to a 12-month certification period shall be required to file an interim report form no later than the 10th day of the sixth month of the certification period in order to receive uninterrupted benefits.

(2) A household assigned to a 24-month certification period shall be required to file an interim report form no later than the 10th day of the 12-month of the certification period in order to receive uninterrupted benefits.

C. Information that ISD is responsible to provide to households regarding simplified reporting: At the initial certification and at recertification, ISD shall provide the household with the following:

(1) a written and oral explanation of how simplified reporting works;

(2) a written and oral explanation of the reporting requirements including:

(a) what needs to be reported and verified;

(b) when the interim report form is due;

(c) how to obtain assistance; and

(d) the consequences of failing to file an interim report form.

(3) special assistance in completing and filing interim reports to households whose adult members are all either mentally or physically handicapped or are non-English speaking or otherwise lacking in reading and writing skills such that they cannot complete and file the required report; and

(4) a toll-free number which the household may call to ask questions or to obtain help in completing the interim report.

D. Information requirements for the interim report form: The interim report form will be written in clear, simple language, include information on the availability of a bilingual version of the document described in 7 CFR 272.4(b), and shall specify:

(1) the deadline date to submit the form to ISD to ensure uninterrupted benefits if the household is determined eligible;

(2) the consequences of submitting a late or incomplete form including whether ISD shall delay benefits if the form is not received by the due date;

(3) verification the household must submit with the form;

(4) a statement to be signed by a member of the household indicating their understanding that the information provided may result in a reduction or termination of benefits;

(5) where to call for help in completing the form;

(6) a statement explaining that ISD will not change certain deductions until the household's next recertification and identify those deductions if ISD has chosen to disregard reported changes that affect certain deductions in accordance with paragraph (c) of section 7 CFR 273.12;

(7) a brief explanation of fraud penalties; and

(8) how the agency may use social security numbers.

E. The following information, along with required verification, must be returned to ISD with the interim report form:

(1) a change of more than [~~\$125~~] \$150 in the amount of unearned income, except changes relating to public assistance (PA) or general assistance (GA) programs when jointly processed with SNAP cases;

(2) a change in the source of income, including starting or stopping a job or changing jobs, if the change in employment is accompanied by a change in income;

(3) changes in either:

(a) the wage rate or salary or a change in full-time or part-time employment status as defined in Subsection C of 8.102.461.11 NMAC, provided the household is certified for no more than six months; or

(b) a change in the amount earned of more than one hundred twenty-five dollars [~~\$125~~] \$150 a month from the amount last used to calculate the household's allotment, provided the household is certified for no more than six months.

(4) all changes in household composition, such as the addition or loss of a household member;

(5) changes in residence and the resulting shelter costs;

(6) the acquisition of a licensed vehicle, unless the household is categorically eligible as defined at Sections 8 and 9 of 8.139.420 NMAC or the vehicle is not fully excludable under 8.139.527 NMAC;

(7) when cash on hand, stocks, bonds and money in a bank account or savings institution reach or exceed the resource limit set at 8.139.510.8 NMAC, unless the household is categorically eligible as defined at 8.139.420.8 and 8.139.420.9 NMAC;

(8) changes in the legal obligation to pay child support;

(9) for able-bodied adults subject to the time limit of 7 CFR 273.24, any changes in work hours that bring an individual below 20 hours per week, averaged

monthly, as defined in 7 CFR 273.24(a)(1)(i); and

(10) In accordance with 7 CFR 273.12(a)(2), SNAP households must report substantial lottery and gambling winnings;

(a) if the substantial lottery and gambling winning is won by multiple beneficiaries and is over the elderly and disabled resource standard, each SNAP member's share must be reported;

(b) if the winning is less than the elderly and disabled resource standard it does not need to be reported;

F. ISD's responsibility with interim report forms:

(1) Interim report form is not received: If a household fails to file a report by the specific filing date, defined in Subsection B of 8.139.120.9 NMAC, ISD will send a notice to the household advising of the missing report no later than 10 calendar days from the date the report should have been submitted. If the household does not respond to the notice, the household's participation shall be terminated.

(2) Incomplete interim report form is received:

(a) An interim report form that is not signed shall be returned to the household for a signature. The household:

(i) shall be notified that the form is incomplete;

(ii) what needs to be completed to complete the interim report form; and

(iii) shall be given 10 calendar days to provide the signed interim report form to be reviewed for completeness.

(b) An interim report form that is incomplete because required verification is not provided shall not be returned to the household. The household:

(i) shall be notified that the form is incomplete;

(ii) what information must be provided to complete the interim report form; and

(iii) shall be given 10 calendar days to provide the verification to process the interim report form.

(3) Complete interim report form is received:

(a) A form that is complete and all verifications are provided, shall be processed within 10 calendar days of receipt.

(b) A form that is complete, and all verifications are provided except for verification of an allowable deduction, shall be processed, unless the verification is otherwise questionable, in accordance with 8.100.130.12 NMAC. The household:

(i) shall be notified that verification is questionable; and

(ii) shall be given 10 calendar days to provide the verification to process the allowable deduction.

(c) A deduction that is verified within the month the interim report form is due shall be processed as part of the interim report form.

(d) A deduction that is verified in the month after the interim report form is due shall be processed as a change reported by the household.

(e) If the household files a timely and complete report resulting in reduction or termination of benefits, ISD shall send a notice of case action. The notice must be issued so that the household will receive it no later than the time that its benefits are normally received. If the household fails to provide sufficient information or verification regarding a deductible expense, ISD will not terminate the household, but will instead determine the household's benefits excluding the deduction from the benefit calculation.

G. Changes that must be reported at any time during certification period: Households must

report changes no later than 10 days from the end of the calendar month in which the change occurred, provided that the household has at least 10 calendar days within which to report the change. If there are not 10 days remaining in the month, the household must report within 10 days from the date the work hours fall below 20 hours per week, averaged monthly or when income exceeding the gross federal poverty limit as mentioned below is first received. The interim report form is the sole reporting requirement for any information that is required to be reported on the form, except that a household must report at any time during the certification period:

(1) the household must report when its monthly gross income exceeds one hundred thirty percent of the poverty level. If the household was last certified with monthly gross income which exceeds one hundred thirty percent of the poverty level, and the household is a categorically eligible household defined in accordance with 8.139.420.8 NMAC, is only required to report any additional changes to their monthly gross income at their next interim report or recertification; and

(2) able-bodied adults subject to the time limit in accordance with 7 CFR 273.24 shall report whenever their work hours fall below 20 hours per week, averaged monthly; and.

(3) in accordance with 7 CFR 273.12(a)(2), SNAP households must report substantial lottery and gambling winnings within 10 days of the end of the month in which the household received the winnings.

(a) if the substantial lottery and gambling winning is won by multiple beneficiaries and is over the elderly and disabled resource standard, each SNAP member's share must be reported.

(b) if the winning is less than the elderly and disabled resource standard it does not need to be reported.

H. Action on changes reported outside of the interim report form: In addition to changes that must be reported in accordance with Subsection G of 8.139.120.9 NMAC, ISD must act on changes in between interim report forms, if it would increase the household's benefits. ISD shall not act on changes that would result in a decrease in the household's benefits unless:

(1) The household has voluntarily requested that its case be closed.

(2) ISD has information about the household's circumstances considered verified upon receipt. Verified upon receipt is defined:

(a) information is not questionable; and

(b) the provider of the information is the primary source of information; or

(c) the recipient's attestation exactly matches the information received from a third party.

(3) A household member has been identified as a fleeing felon or probation violator in accordance with 7 CFR 273.11(n);

(4) There has been a change in the household's cash grant, or where cash and SNAP cases are jointly processed in accordance with 7 CFR 273.2(j)(2).

I. Responsibilities on reported changes outside of the interim report form: When a household reports a change, ISD shall take action to determine the household's eligibility or SNAP benefit amount within 10 working days of the date the change is reported.

(1) During the certification period, action shall not be taken on changes to medical expenses of households eligible for the medical expense deduction which ISD learns of from a source other than the household and which, in order to take action, requires ISD to contact the household for verification. ISD shall act only on those changes in medical expenses that it learns about from a source other than the household,

if those changes are verified upon receipt and do not necessitate contact with the household.

(2) Decreased or termination of benefits: For reported and verified changes that result in a decrease or termination of household benefits, ISD shall act on the change as follows:

(a) Issue a notice of adverse action within 10 calendar days of the date the change was reported and verified unless one of the exemptions to the notice of adverse action in 7 CFR 273.13 (a)(3) or (b) applies.

(b) When a notice of adverse action is used, the decrease in the benefit level shall be made effective no later than the allotment for the month following the month in which the notice of adverse action period has expired, provided a fair hearing and continuation of benefits have not been requested.

(c) When a notice of adverse action is not used due to one of the exemptions in 7 CFR 273.13 (a)(3) or (b), the decrease shall be made effective no later than the month following the change. Verification which is required by 7 CFR 273.2(f) must be obtained prior to recertification.

(3) Increased benefits: For reported and verified changes that result in an increase of household benefits, ISD shall act on the change as follows:

(a) For changes which result in an increase in a household's benefits, other than changes described in Paragraph (b) of this section, ISD shall make the change effective no later than the first allotment issued 10 calendar days after the date the change was reported to ISD.

(b) For changes which result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease of \$50 or more in the household's gross monthly income, ISD shall make the change effective

not later than the first allotment issued 10 calendar days after the date the change was reported.

(i) In no event shall these changes take effect any later than the month following the month in which the change is reported.

(ii) If the change is reported after the last day to make changes and it is too late for ISD to adjust the following month's allotment, ISD shall issue a supplement or otherwise provide an opportunity for the household to obtain the increase in benefits by the 10th day of the following month, or the household's normal issuance cycle in that month, whichever is later.

(4) No change in SNAP benefit amount: When a reported change has no effect on the SNAP benefit amount, ISD shall document the change in the case file and notify the household of the receipt of the report.

(5) Providing verification: The household shall be allowed 10 calendar days from the date a change is reported to provide verification, if necessary. If verification is provided at the time a change is reported or by the deadline date, the increase in benefits shall be effective in accordance with (a) and (b) above. If the household fails to provide the verification by the deadline date, but does provide it at a later date, the increase shall be effective in the month following the month the verification is provided. If the household fails to provide necessary verification, its' SNAP benefit amount shall revert to the original benefit amount.

J. Resolving unclear information:

(1) During the certification period, ISD may obtain information about changes in a household's circumstances from which ISD cannot readily determine the effect of the change on the household's benefit amount. The information may be received from a third party or from the household itself. ISD must pursue clarification and verification of household

circumstances using the following procedure if unclear information received outside the periodic report is:

(a) information fewer than 60 days old relative to the current month of participation; and,

(b) if accurate, would have been required to be reported under simplified reporting rules, in accordance with 8.139.120.9 NMAC.

(c) ISD must pursue clarification and verification of household circumstances in accordance with the process outlined in Subsection B of 8.100.130.12 NMAC, for any unclear information that appears to present significantly conflicting information from that used by ISD, at the time of certification.

(2) Unclear information resulting from certain data matches:

(a) if the HCA receives match information from a trusted data source as described in 7 CFR 272.13 or 7 CFR 272.14, ISD shall send a notice in accordance with Subsection B of 8.100.130.12 NMAC in accordance with 7 CFR 272.13(b)(4) and 7 CFR 272.14 (c)(4). The notices must clearly explain what information is needed from the household and the consequences of failing to respond to the notice.

(b) if the household fails to respond to the notice or does respond but refuses to provide sufficient information to clarify its circumstances, ISD shall remove the individual and the individual's income from the household and adjust benefits accordingly. As appropriate, ISD shall issue a notice of adverse action.

K. Failure to report changes: If ISD discovers that the household failed to report a change as required, ISD shall evaluate the change to determine whether the household received benefits to which it was not entitled or if the household is entitled to an increased benefit amount.

(1) Decreased benefit amount: After verifying the change, ISD shall initiate a claim against the household for any month in which the household was over issued SNAP benefits. The first month of the over issuance is the month following the month the adverse action notice time limit would have expired had the household timely reported the change. If the discovery is made within the certification period, the household is entitled to a notice of adverse action if its benefits will be reduced. No claim shall be established because of a change in circumstances that a household is not required to report in accordance with Subsection G of 8.139.120.9 NMAC above.

(2) Increased benefit amount: When a household fails to make a timely report of a change which will result in an increased SNAP benefit amount, the household is not entitled to a supplement for any month prior to and including the month in which the change was reported. The household is entitled to an increased benefit amount effective no later than the first benefit amount issued 10 calendar days after the date the change was reported.

[8.139.120.9 NMAC - Rp 8.139.120.9 NMAC, 7/16/2024; A 3/1/2025; A/E 10/01/2026]

HEALTH CARE AUTHORITY INCOME SUPPORT DIVISION

This is an emergency amendment to 8.139.500 NMAC Section 8 effective 10/1/2026.

8.139.500.8 BASIS OF ISSUANCE:

A. Income standards: Determination of need in SNAP is based on federal guidelines. Participation in the program is limited to households whose income is determined to be a substantial limiting factor in permitting them to obtain a nutritious diet. The net and gross income eligibility standards are

based on the federal income poverty levels established in the Community Services Block Grant Act 42 USC 9902(2).

B. Gross income standards: The gross income eligibility standards for the 48 contiguous states, District of Columbia, Guam and the Virgin Islands is one hundred thirty percent of the federal income poverty levels for the 48 states and the District of Columbia. One hundred thirty percent of the annual income poverty guidelines is divided by 12 to determine monthly gross income standards, rounding the results upward as necessary. For households larger than eight, the increment in the federal income poverty guidelines is multiplied by one hundred thirty percent, divided by 12, and the results rounded upward if necessary.

C. Net income standards: The net income eligibility standards for the 48 contiguous states, District of Columbia, Guam and the Virgin Islands are the federal income poverty levels for the 48 contiguous states and the District of Columbia. The annual income poverty guidelines are divided by 12 to determine monthly net income eligibility standards, (results rounded upward if necessary). For households larger than eight, the increment in the federal income poverty guidelines is divided by 12, and the results rounded upward if necessary.

D. Yearly adjustment: Income eligibility limits are revised each October 1st to reflect the annual adjustment to the federal income poverty guidelines for the 48 contiguous states and the District of Columbia and can be found at [<https://www.fns.usda.gov/snap/cost-living-adjustment-cola-information>]. SNAP Cost-of-Living Adjustment (COLA) Information | Food and Nutrition Administration.

E. Deductions and standards:

(1) Determination: Expense and standard deduction amounts are determined by federal guidelines and may be adjusted each year. Households

eligible based on income and resource guidelines, and other relevant eligibility factors, are allowed certain deductions to determine countable income.

(2) Yearly adjustment: The expense and standard deductions may change each year. If federal guidelines mandate a change, it is effective each October 1st, and can be found at [<https://www.fns.usda.gov/snap/cost-living-adjustment-cola-information>] SNAP Cost-of-Living Adjustment (COLA) Information | Food and Nutrition Administration and [http://www.HCA.state.nm.us/LookingForInformation/Federal_Poverty_Level_Guidelines.aspx] Federal Poverty Level Guidelines - Income Eligibility – New Mexico Health Care Authority. [8.139.500.8 NMAC - Rp 8.139.500.8 NMAC, 7/16/2024; A/E 10/1/2026]

HEALTH CARE AUTHORITY MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.200.410 NMAC, Sections 8, 10, 11, 12, 13, 14, 15, 16, and 18, effective 10/1/2026.

8.200.410.8 MISSION: ~~[To transform lives. Working with our partners, we design and deliver innovative, high quality health and human services that improve the security and promote independence for New Mexicans in their communities]. We ensure that New Mexicans attain their highest level of health by providing whole-person, cost-effective, accessible, and high-quality health care and safety-net services.~~
[8.200.410.8 NMAC - A, 1/1/2022; A, 10/1/2026]

8.200.410.10 USE OF SOCIAL SECURITY NUMBER (42 CFR 435.910): Federal law requires, as a condition of eligibility, that each individual (including children) seeking medicaid furnish each of [his-

or her] their social security numbers (SSN).

A. [HSD] HCA will advise the applicant of:

(1) the statute or other authority under which the agency is requesting the applicant's SSN; and

(2) the uses [HSD] HCA will make of each SSN, including its use for verifying income, eligibility, and amount of medical assistance payments per 42 CFR 435.940 through 435.960.

B. If an applicant cannot recall [his or her] their SSN or SSNs or has not been issued a SSN [HSD] HCA will:

(1) assist the applicant in completing an application for an SSN;

(2) obtain evidence required under the social security administration (SSA) regulations to establish the age, the citizenship or non-citizen status, and the true identity of the applicant; and
(3) either send the application to SSA or, if there is evidence that the applicant has previously been issued a SSN, request SSA to furnish the number.

C. [HSD] HCA cannot deny or delay services to an otherwise eligible individual pending issuance or verification of the individual's SSN by SSA or if the individual meets one of the exceptions in Paragraph (5) of Subsection A of 8.200.410.10 NMAC.

D. [HSD] HCA will verify the SSN furnished by an applicant or beneficiary with SSA to ensure the SSN was issued to that individual, and to determine whether any other SSNs were issued to that individual.

E. Exception:
(1) The requirement of Paragraph (3) of Subsection A of 8.200.410.10 NMAC does not apply and [HSD] HCA may give a medicaid identification number to an individual who:

(a) is not eligible to receive an SSN;
(b) does not have an SSN and may only be issued an SSN for a valid non-

work reason in accordance with 20 CFR 422.104; or

(c) refuses to obtain an SSN because of well-established religious objections.

(2) The identification number may be either an SSN obtained by [HSD] HCA on the applicant's behalf or another unique identifier.

(3) The term well established religious objections means that the applicant;

(a) is a member of a recognized religious sect or division of the sect; and

(b) adheres to the tenets or teachings of the sect or division of the sect and for that reason is conscientiously opposed to applying for or using a national identification number.

(4) [HSD] HCA may use the medicaid identification number established by [HSD] HCA to the same extent as an SSN is used for purposes described in Subparagraph (b) of Paragraph (1) of Subsection A of 8.200.410.NMAC. [8.200.410.10 NMAC - Rp, 8.200.410.10 NMAC, 10/1/2017; A, 10/1/2026]

8.200.410.11 CITIZENSHIP STATUS ELIGIBILITY: ~~[To be eligible for medicaid, an individual must be a citizen of the United States; United States national or a non-citizen who meets the requirements set forth in either Subsection A or B of 8.200.410.11 NMAC.~~

~~A. Non-citizens who entered the United States prior to August 22, 1996:~~ Non-citizens who entered the United States prior to August 22, 1996, will not be subject to the five-year bar for purposes of medicaid eligibility. These classes of non-citizens are as follows:

(1) Qualified non-citizens who entered the United States prior to August 22, 1996 and obtained their qualified non-citizens status prior to that date, are eligible for medicaid without the five-year waiting period.

(2) Non-citizens who entered the United

States prior to August 22, 1996, and remained continuously present in the United States until the date they obtained qualified non-citizen status on or after August 22, 1996; any single absence from the United States of more than 30 days, or a total aggregate of absences of more than 90 days, is considered to interrupt "continuous presence".

(3) Lawful Permanent Residents (LPRs) are qualified non-citizens per 8 USC 1641.

(4) A non-qualified non-citizen who was permanently residing in the United States under color of law (PRUCOL) on or before August 22, 1996, does not lose medicaid eligibility provided all other factors of eligibility continue to be met. These non-citizens are "grandfathered". For these individuals, non-citizen eligibility may continue to be based on the PRUCOL standard. An individual eligible under the PRUCOL standard retains his or her grandfathering rights even if benefits terminate.

B. Qualified non-citizens who entered the United States on or after August 22, 1996:

(1) Qualified non-citizens who entered the United States on or after August 22, 1996, are barred from medicaid eligibility for a period of five years, other than emergency services (under Category 085), unless meeting an exception below. LPRs who adjust from a status exempt from the five-year bar are not subject to the five-year bar. The five-year bar begins on the date the non-citizen obtained qualified status. The following classes of qualified non-citizens are exempt from the five-year bar:

(a) a non-citizen admitted to the United States as a refugee under Section 207 of the Immigration and Nationality Act;

(b) a non-citizen granted asylum under Section 208 of the Immigration and Nationality Act;

(c) a non-citizen whose deportation is

withheld under Section 243(h) of the Immigration and Nationality Act;

(d) a non-citizen who is lawfully residing in the state and who is a veteran with an honorable discharge not on account of non-citizen status; is on active duty other than on active duty for training, in the armed forces of the United States; or the spouse or unmarried dependent child under the age of 18 of such veteran or active duty non-citizen;

(e) a non-citizen who was granted status as a Cuban and Haitian entrant, as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;

(f) a non-citizen granted Amerasian immigrant status as defined under Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988;

(g) victims of a severe form of trafficking, in accordance with Paragraph (1) of Subsection B of Section 107 of the Trafficking Victims Protection Act of 2000, P.L. 106-386;

(h) members of a federally recognized Indian tribe, as defined in 25 U.S.C. 450b(e);

(i) American Indians born in Canada to whom Section 289 of the Immigration and Nationality Act applies;

(j) Afghan and Iraqi special immigrants under Section 8120 of Pub. L. 111-118 of the Department of Defense Appropriations Act, 2010;

(k) non-citizens receiving SSI; and

(l) battered non-citizens who meet the conditions set forth in Section 431(e) of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) as added by Section 501 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L. 104-208 (HRIRA), and amended by Section 5571 of the Balanced Budget Act of 1997, P.L.

105-33 (BBA), and Section 1508 of the Violence Against Women Act of 200, P.L. 106-386; Section 431(e) of PRWORA, as amended, is codified at 8 USC 1641(e). HSD covers battered non-citizens with state general funds until the five-year bar is met.

(2) Qualified non-citizen: A "qualified non-citizen", for purposes of this regulation, is a non-citizen, who at the time the non-citizen applies for, receives, or attempts to receive a federal public benefit, is:

(a) a non-citizen who is lawfully admitted for permanent residence under the Immigration and Nationality Act;

(b) a non-citizen who is granted asylum under Section 208 of such act; or

(c) a refugee who is admitted to the United States under Section 207 of the act; or

(d) an Amerasian who is admitted to the United States under Section 207 of the act; or

(e) a non-citizen who is paroled into the United States under Section 212(d)(5) of such act for a period of at least one year; or

(f) a non-citizen whose deportation is being withheld under Section 243(h) of such act or under Section 241(b) (3); or

(g) a non-citizen who is granted conditional entry pursuant to 203(a)(7) or such act as in effect prior to April 1, 1980; or

(h) a non-citizen who is a Cuban or Haitian entrant (as defined in Section 501(e) of the Refugee Education Assistance Act of 1980); or

(i) certain battered women and non-citizen children of battered parents (only those who have begun the process of becoming a lawful permanent resident under the Violence Against Women Act); or

(j) victims of a severe form of trafficking and their spouses, children, siblings, or parents; or

(k) members of a federally recognized Indian tribe, as defined in 25 U.S.C. 450b(c); or

(l) American Indians born in Canada to whom Section 289 of the Immigration and Nationality Act applies; or

(m) Afghan and Iraqi special immigrants under Section 8120 of Pub. L. 111-118 of the Department of Defense Appropriations Act, 2010.

C. Lawfully present:

New Mexico medicaid covers certain individuals who are lawfully residing in the United States. An individual is lawfully residing in the United States if they are lawfully present and otherwise meet the eligibility requirements, such as state residency and income requirements, in the state plan. The following individuals are lawfully present and are exempt from the five-year bar:

(1) Children under age 21 and pregnant individuals under Section 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA 214 option). A child or pregnant individual is considered lawfully present if they are:

(a) a qualified non-citizen as defined in Section 431 of PRWORA (8 USC Section 1641);

(b) a non-citizen in nonimmigrant status who has not violated the terms of the status under which they were admitted or to which they have changed after admission as defined under 8 USC 1101(a)(15);

(c) a non-citizen who has been paroled into the United States pursuant to Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. Section 1182(d)(5)) for less than one year, except for a non-citizen paroled for prosecution, for deferred inspection or pending removal proceedings;

(d) a non-citizen who belongs to one of the following classes:

(i) non-citizen currently in temporary

resident status pursuant to Section 210 or 245A of the Immigration and Nationality Act (8 U.S.C. Section 1160 or 1255a, respectively);

(ii) non-citizens granted temporary protected status (TPS) pursuant to Section 244 of the Immigration and Nationality Act (8 U.S.C. Section 1254a), and pending applicants for TPS who have been granted employment authorization;

(iii) non-citizens who have been granted employment authorization under 8 CFR 274a.12(c)(9), (10), (16), (18), (20), (22), or (24);

(iv) family unity beneficiaries pursuant to Section 301 of Pub. L. 101-649, as amended including individuals who are granted benefits under Section 1504 of the Legal Immigration and Family Equity (LIFE) Act amendments of 2000;

(v) non-citizens currently under deferred enforced departure (DED) pursuant to a decision made by the president;

(vi) non-citizens currently in deferred action status except those with deferred action under "deferred action for childhood arrivals" who are not considered lawfully present.

(vii) non-citizens who have pending or approved visa petitions and who have a pending application for adjustment of status;

(e) a non-citizen with pending applicants for asylum under Section 208(a) of the INA (8 U.S.C. Section 1158) or for withholding of removal under Section 241(b)(3) of the INA (8 U.S.C. Section 1231) or under the convention against torture who has been granted employment authorization, or is an applicant under the age of 14;

(f) children who have pending or approved applications for special immigrant juvenile status as described in Section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C. Section 1101(a)(27)(J)); or

(g) victims of trafficking;

(2) Effective December 27, 2020, per section 208 of the Consolidated Appropriations Act, 2021 individuals who are considered compact of free association migrants (COFA) are also referred to as compact citizens. COFA is an agreement between the United States and the three Pacific Island sovereign states of federated states of Micronesia, the republic of the Marshall Islands, and the republic of Palau known as freely associated states.]

A. To be eligible for medicaid, an individual must be:

(1) a citizen of the United States;

(2) United States national;

(3) Lawful Permanent Residents (LPRs) who have met the five-year waiting period calculated from the time they obtain LPR status;

(4) A noncitizen who has been granted the status of Cuban or Haitian entrant, as defined in section 501(e) of the Refugee Education and Assistance Act of 1980 (Public Law 96-422);

(5) Individuals who are considered compact of free association migrants (COFA) are also referred to as compact citizens under section 1612(b)(2)(G) of title 8. COFA is an agreement between the United States and the three Pacific Island sovereign states of federated states of Micronesia, the republic of the Marshall Islands, and the republic of Palau as freely associated states; or

(6) A non-citizen who meets the requirements set forth in either Subsection A, B, or C of 8.200.410.11 NMAC.

B. Qualified non-citizens: Other than those individuals listed in Subsection A of this section, qualified non-citizens who entered the United States on or after August 22, 1996, are barred from medicaid eligibility other than emergency services (under category 085) for a period of five years after obtaining LPR status, unless they meet an

exception below. LPRs who adjust from a status listed below (previously exempt from the five-year bar) are not subject to the five-year bar after obtaining LPR status. The five-year bar begins on the date the non-citizen obtained the qualified status. The following categories of qualified non-citizens are exempt from the five-year bar immediately upon obtaining LPR status:

(1) a non-citizen admitted to the United States as a refugee under Section 207 of the Immigration and Nationality Act;

(2) a non-citizen granted asylum under Section 208 of the Immigration and Nationality Act;

(3) a non-citizen whose deportation is withheld under Section 243(h) of the Immigration and Nationality Act;

(4) a noncitizen who is lawfully residing in the state and who is a veteran with an honorable discharge not on account of non-citizen status; is on active duty other than on active duty for training, in the armed forces of the United States; or the spouse or unmarried dependent child under the age of 18 of such veteran or active duty non-citizen; and

(5) a non-citizen admitted to the United States as an Amerasian immigrant pursuant to Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988:

C. Children and Pregnant Individuals: Children under age 21 and pregnant individuals under Section 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA 214 option). A child or pregnant individual is considered lawfully present if they are:

(1) a non-citizen who is lawfully residing in the state and who is a veteran with an honorable discharge not on account of non-citizen status; is on active duty other than on active duty for training, in the armed forces of the United States; or the spouse or unmarried

dependent child under the age of 18 of such veteran or active duty non-citizen;

(2) a non-citizen who is granted asylum under Section 208 of INA; or

(3) a refugee who is admitted to the United States under Section 207 of the act; or

(4) an Amerasian who is admitted to the United States under Section 207 of the act; or

(5) a non-citizen who is paroled into the United States under Section 212(d)(5) of such act for a period of at least one year; or

(6) a non-citizen whose deportation is being withheld under Section 243(h) of such act or under Section 241(b)(3); or

(7) a non-citizen who is granted conditional entry pursuant to 203(a)(7) or such act as in effect prior to April 1, 1980; or

(8) a non-citizen admitted to the United States as an Amerasian immigrant pursuant to Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988; or

(9) as qualified under Violence Against Women Act (VAWA), an individual who has been battered or subjected to extreme cruelty in the U.S. by a spouse or a parent, or by a member of the spouse's or parent's family residing in the same household as the non-citizen but only if (in the opinion of HCA) there is a substantial connection between such battery or cruelty and the need for the benefits to be provided. This also includes noncitizen parents of battered children and noncitizen children of a battered parent; or

(10) victims of a severe form of trafficking and their spouses, children, siblings, or parents; or

(11) members of a federally recognized Indian tribe, as defined in 25 U.S.C. 450b(e); or

(12) American Indians born in Canada to whom Section 289 of the Immigration and

Nationality Act applies; or

(13) Afghan and Iraqi special immigrants under Section 8120 of Pub. L. 111-118 of the Department of Defense Appropriations Act, 2010; or

(14) a qualified non-citizen as defined in Section 431 of PRWORA (8 USC Section 1641); or

(15) a non-citizen in nonimmigrant status who has not violated the terms of the status under which they were admitted or to which they have changed after admission as defined under 8 USC; or

(16) a non-citizen who belongs to one of the following classes:

(a) non-citizen currently in temporary resident status pursuant to Section 210 or 245A of the Immigration and Nationality Act (8 U.S.C. Section 1160 or 1255a, respectively);

(b) non-citizens granted temporary protected status (TPS) pursuant to Section 244 of the Immigration and Nationality Act (8 U.S.C. Section 1254a), and pending applicants for TPS who have been granted employment authorization;

(c) non-citizens who have been granted employment authorization under 8 CFR 274a.12(c)(9), (10), (16), (18), (20), (22), or (24);

(d) family unity beneficiaries pursuant to Section 301 of Pub. L. 101-649, as amended including individuals who are granted benefits under Section 1504 of the Legal Immigration and Family Equity (LIFE) Act amendments of 2000;

(e) non-citizens currently under deferred enforced departure (DED) pursuant to a decision made by the president;

(f) non-citizens currently in deferred action status except those with deferred action under "deferred action for childhood arrivals" who are not considered lawfully present;

(g) non-citizens who have pending or

approved visa petitions and who have a pending application for adjustment of status;

(17) a non-citizen with pending applicants for asylum under Section 208(a) of the INA (8 U.S.C. Section 1158) or for withholding of removal under Section 241(b)(3) of the INA (8 U.S.C. Section 1231) or under the convention against torture who has been granted employment authorization, or is an applicant under the age of 14;

(18) children who have pending or approved applications for special immigrant juvenile status as described in Section 101(a)(27)(J) of the Immigration and Nationality Act (8 U.S.C.).

D. The income and resources of a non-citizen sponsor, of any individual applying for medicaid, are deemed available to the applicant, when an affidavit of support is executed pursuant to Section 213 of the Immigration and Nationality Act, on or after August 22, 1996. This counting of non-citizen sponsor income and resources is effective until the sponsored non-citizen achieves citizenship.

E. The state assures that it provides limited medicaid services for treatment of an emergency medical condition, not related to an organ transplant procedure, as defined in 1903(v)(3) of the social security act and 8.285.400 NMAC and implemented at 42 CFR 440.255, to the following individuals who meet all medicaid eligibility requirements, except documentation of citizenship or satisfactory immigration status or present an SSN.

(a) qualified non-citizens subject to the five-year waiting period described in 8 USC 1613; or

(b) non-qualified non-citizens, unless covered as a lawfully residing child or pregnant individual by the state under the option in accordance with 1903(v)(4) and implemented at 42 CFR 435.406(b).

[8.200.410.11 NMAC - Rp, 8.200.410.11 NMAC, 10/1/2017; A/E, 1/18/2018; A, 8/1/2018; A, 1/1/2022; A, 9/1/2024; A, 10/1/2026]

8.200.410.12 TYPES OF ACCEPTABLE DOCUMENTARY EVIDENCE OF CITIZENSHIP (42 CFR 435.407):

A. Stand-alone evidence of citizenship: The following must be accepted as sufficient documentary evidence of citizenship:

(1) A U.S. passport, including a U.S. passport card issued by the department of state, without regard to any expiration date as long as such passport or card was issued without limitation.

(2) A certificate of naturalization.

(3) A certificate of U.S. citizenship.

(4) A valid state-issued driver's license if the state issuing the license requires proof of U.S. citizenship, or obtains and verifies a SSN from the applicant who is a citizen before issuing such license.

(a) A real ID issued on or after November 14, 2016 is sufficient documentary evidence of citizenship.

(b) A driver authorization card (DAC) is not sufficient documentary evidence of citizenship.

(5) Documentary evidence issued by a federally recognized Indian tribe identified in the federal register by the bureau of Indian affairs within the U.S. department of the interior, and including tribes located in a state that has an international border, which;

(a) Identifies the federally recognized Indian tribe that issued the document;

(b) Identifies the individual by name; and

(c) Confirms the individual's membership, enrollment, or affiliation with the tribe.

(d) Documents described in Paragraph (5) of Subsection A of 8.200.410.12 NMAC include, but are not limited to:

(i) A tribal enrollment card;

(ii) A certificate of degree of Indian blood;

(iii) A tribal census document;

(iv) Documents on tribal letterhead, issued under the signature of the appropriate tribal official, that meet the requirements of Paragraph (5) of Subsection A of 8.200.410.12 NMAC.

(6) A data match with the SSA.

B. Evidence of citizenship: If an applicant does not provide documentary evidence from the list in Subsection A of 8.200.410.12 NMAC, the following must be accepted as satisfactory evidence to establish citizenship if also accompanied by an identity document listed in Subsection C of 8.200.410.12 NMAC:

(1) A U.S. public birth certificate showing birth in one of the 50 States, the District of Columbia, Guam, American Samoa, Swain's Island, Puerto Rico (if born on or after January 13, 1941), the Virgin Islands of the U.S. or the Commonwealth of the Northern Mariana Islands (CNMI) (if born after November 4, 1986, (CNMI local time)). The birth record document may be issued by a state, commonwealth, territory, or local jurisdiction. If the document shows the individual was born in Puerto Rico or the Northern Mariana Islands before the applicable date referenced in Paragraph (1) of Subsection B of 8.200.410.12 NMAC, the individual may be a collectively naturalized citizen. The following will establish U.S. citizenship for collectively naturalized individuals:

(a) Puerto Rico: Evidence of birth in Puerto Rico and the applicant's statement that they were residing in the U.S., a U.S. possession, or Puerto Rico on January 13, 1941;

(b) Northern Mariana Islands (NMI) (formerly part of the Trust Territory of the Pacific Islands (TTPI));

(i) Evidence of birth in the NMI, TTPI

citizenship and residence in the NMI, the U.S., or a U.S. Territory or possession on November 3, 1986, (NMI local time) and the applicant's statement that they did not owe allegiance to a foreign state on November 4, 1986 (NMI local time);

(ii)

Evidence of TTPI citizenship, continuous residence in the NMI since before November 3, 1981 (NMI local time), voter registration before January 1, 1975, and the applicant's statement that they did not owe allegiance to a foreign state on November 4, 1986 (NMI local time);

(iii)

Evidence of continuous domicile in the NMI since before January 1, 1974, and the applicant's statement that they did not owe allegiance to a foreign state on November 4, 1986 (NMI local time). Note: If a person entered the NMI as a nonimmigrant and lived in the NMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.

(2) A

certification of report of birth, issued to U.S. citizens who were born outside the U.S.

(3) A report of birth abroad of a U.S. citizen.

(4) A

certification of birth in the U.S.

(5) A U.S.

citizen identification card.

(6) A Northern

Marianas identification card issued by the U.S. department of homeland security (or predecessor agency).

(7) A final

adoption decree showing the child's name and U.S. place of birth, or if an adoption is not final, a statement from a state-approved adoption agency that shows the child's name and U.S. place of birth.

(8) Evidence

of U.S. civil service employment before June 1, 1976.

(9) U.S.

military record showing a U.S. place of birth.

(10) A data

match with the Systematic Alien Verification for Entitlements (SAVE)

Program or any other process established by the department of homeland security (DHS) to verify that an individual is a citizen.

(11)

Documentation that a child meets the requirements of section 101 of the Child Citizenship Act of 2000 as amended (8 U.S.C. 1431).

(12) Medical

records, including, but not limited to, hospital, clinic, or doctor records or admission papers from a nursing facility, skilled care facility, or other institution that indicate a U.S. place of birth.

(13) Life,

health, or other insurance record that indicates a U.S. place of birth.

(14) Official

religious record recorded in the U.S. showing that the birth occurred in the U.S.

(15) School

records, including pre-school, head start and daycare, showing the child's name and U.S. place of birth.

(16) Federal

or state census record showing U.S. citizenship or a U.S. place of birth.

(17) If the

applicant does not have one of the documents listed in Subsection A or Paragraph (1) through (17) of Subsection B of 8.200.410.12 NMAC, they may submit an affidavit signed by another individual under penalty of perjury who can reasonably attest to the applicant's citizenship, and that contains the applicant's name, date of birth, and place of U.S. birth. The affidavit does not have to be notarized.

C. Evidence of identity:

(1) [HSD]

HCA will accept the following as proof of identity, provided such document has a photograph or other identifying information sufficient to establish identity, including, but not limited to, name, age, sex, race, height, weight, eye color, or address:

(a)

Identity documents listed at 8 CFR 274a.2 (b)(1)(v)(B)(1), except a driver's license issued by a Canadian government authority.

(b)

Driver's license issued by a state or territory.

(c)

School identification card.

(d)

U.S. military card or draft record.

(e)

Identification card issued by the federal, state, or local government.

(f)

Military dependent's identification card.

(g)

U.S. coast guard merchant mariner card.

(h)

For children under age 19, a clinic, doctor, hospital, or school record, including preschool or day care records.

(i)

Two other documents containing consistent information that corroborates an applicant's identity. Such documents include, but are not limited to, employer identification cards; high school, high school equivalency and college diplomas; marriage certificates; divorce decrees; and property deeds or titles.

(2) Finding

of identity from a federal or state governmental agency. The agency may accept as proof of identity a finding of identity from a federal agency or another state agency including but not limited to a public assistance, law enforcement, internal revenue or tax bureau, or corrections agency, if the agency has verified and certified the identity of the individual.

(3) If

the applicant does not have any document specified in Paragraph (1) of Subsection C of 8.200.410.12 NMAC and identity is not verified under Paragraph (2) of Subsection C of 8.200.410.12 NMAC, the agency must accept an affidavit signed, under penalty of perjury, by a person other than the applicant who can reasonably attest to the applicant's identity. Such affidavit must contain the applicant's name and other identifying information establishing identity, as described in Paragraph (1) of Subsection C of 8.200.410.12

NMAC. The affidavit does not have to be notarized.

D. Verification of citizenship by a federal agency or another state: [HSD] HCA may rely, without further documentation of citizenship or identity, on a verification of citizenship made by a federal agency or another state agency, if such verification was done on or after July 1, 2006.

E. Assistance with obtaining documentation: [HSD] HCA will provide assistance to individuals who need assistance in securing satisfactory documentary evidence of citizenship in a timely manner.

F. Documentary evidence: A photocopy, facsimile, scanned or other copy of a document must be accepted to the same extent as an original document under this section, unless information on the copy submitted is inconsistent with other information available to [HSD] HCA or [HSD] HCA otherwise has reason to question the validity of, or the information in, the document. [8.200.410.12 NMAC - N, 10/1/2017; A, 1/1/2022; A, 9/1/2024; A, 10/1/2026]

8.200.410.13 REASONABLE OPPORTUNITY PERIOD (42 CFR 435.956(b)):

A. [HSD] HCA provides a reasonable opportunity period to individuals who have made a declaration of citizenship or satisfactory immigration status in accordance with 42 CFR 435.406, and for whom the [HSD] HCA is unable to verify citizenship or satisfactory immigration status. During the reasonable opportunity period, the [HSD] HCA continues efforts to complete verification of the individual's citizenship or satisfactory immigration status, or request documentation if necessary. The [HSD] HCA provides notice of such opportunity that is accessible to persons who have limited English proficiency and individuals with disabilities, consistent with 42 CFR 435.905(b). During such reasonable opportunity period, the [HSD] HCA

must, if relevant to verification of the individual's citizenship or satisfactory immigration status:

(1) in the case of individuals declaring citizenship who do not have an SSN at the time of such declaration, assist the individual in obtaining an SSN in accordance with 42 CFR 435.910 and Paragraph (2) of Subsection A of 8.200.410.10 NMAC, and attempt to verify the individual's citizenship once an SSN has been obtained and verified;

(2) provide the individual with information on how to contact the electronic data source so that they can attempt to resolve any inconsistencies defeating electronic verification directly with such source, and pursue verification of the individual's citizenship or satisfactory immigration status if the individual or source informs the [HSD] HCA that the inconsistencies have been resolved; and

(3) provide the individual with an opportunity to provide other documentation of citizenship or satisfactory immigration status, in accordance with section 1137(d) of the Act and 42 CFR 435.406 or 435.407 and 8.200.410.12 NMAC.

B. The reasonable opportunity period:

(1) begins on the date on which the notice is received by the individual. The date on which the notice is received is considered to be five days after the date on the notice, unless the individual shows that they did not receive the notice within the five-day period; and

(2) ends on the earlier of the date the [HSD] HCA verifies the individual's citizenship or satisfactory immigration status or determines that the individual did not verify [his or her] their citizenship or satisfactory immigration status or 90 days except that;

(3) [HSD] HCA extends the reasonable opportunity period beyond 90 days, allowing for up to three 10 day extensions, for individuals declaring

to be in a satisfactory immigration status if the [HSD] HCA determines that the individual is making a good faith effort to obtain any necessary documentation or the agency needs more time to verify the individual's status through other available electronic data sources or to assist the individual in obtaining documents needed to verify [his or her] their status.

(4) if, by the end of the reasonable opportunity period, the individual's citizenship or satisfactory immigration status has not been verified the [HSD] HCA will take action within 30 days to terminate eligibility. [8.200.410.13 NMAC - N, 10/1/2017; A, 9/1/2024; A, 10/1/2026]

8.200.410.14 RESIDENCE:

To be eligible for medicaid, an applicant or eligible recipient must be living in New Mexico on the date of application and final determination of eligibility and have demonstrated an intention to remain in the state.

A. Establishing residence: Residence is established by living in the state and carrying out the types of activities associated with day-to-day living, such as occupying a home, enrolling a child in school or getting a state driver's license. An applicant or recipient who is homeless is considered to have met the residence requirements if they intend to remain in the state.

B. Recipients receiving benefits out-of-state: An applicant or an eligible recipient who receives financial or medical assistance in another state which makes residence in that state a condition of eligibility are considered residents of that state until the ISD office receives verification from the other state agency indicating that it has been notified by an applicant or eligible recipient of the abandonment of residence in that state.

C. Individuals court ordered into full or partial responsibility of the state children youth and families department (CYFD): When CYFD places a child in a new state of residence, the

new state of residence is responsible for the provision of medicaid; however, the state must provide limited medicaid coverage for medicaid services that are part of the state medicaid benefit package and not available in the new state of residence.

D. Abandonment:

Residence is not abandoned by temporary absences. Temporary absences occur when an eligible recipient leaves the state for specific purposes with time-limited goals. Residence is considered abandoned when the applicant or the eligible recipient leaves the state for any of the following reasons:

- (1) intends to establish residence in another state;
- (2) for no specific purpose with no clear intention of returning;
- (3) applies for financial, food or medical assistance in another state which makes residence in that state a condition of eligibility; or
- (4) for more than 30 consecutive calendar days, without notifying [HSD] HCA of [his-or-her] their departure or intention of returning.

E. Evidence of immigration status may not be used to determine that an individual is not a state resident per 42 CFR 435.956 (c) (2).

[8.200.410.14 NMAC - Rp, 8.200.410.12, 10/1/2017; A, 9/1/2024; A, 10/1/2026]

8.200.410.15 NON-CONCURRENT RECEIPT OF ASSISTANCE:

A. An applicant or an eligible recipient receiving medicaid in another state is not medical assistance program eligible in New Mexico except when:

- (1) institutional care medicaid begins on a specific date within the month rather than automatically reverting to the first day of the month, if an applicant for institutional care medicaid (Category 081, 083 or 084) moves to New Mexico from another state and it

can be verified that the other state will terminate the individual's medicaid eligibility under that state program prior to the initial eligibility date in New Mexico, the application may be approved even though the individual receives medicaid from the other state for part of the month; coverage in New Mexico begins after the end date of services from the other state;

(2) an individual is court ordered into full or partial responsibility CYFD; when CYFD places a child in a new state of residence, the new state of residence is responsible for the provision of medicaid; however, New Mexico must provide limited medicaid coverage for medicaid services that are part of New Mexico's medicaid benefit package and not available in the new state of residence.

B. An individual who is eligible for a full-coverage medicaid program may also be eligible for one of the medicare cost sharing medical assistance program categories. See 8.200.400 NMAC.

C. When a supplemental security income (SSI) recipient enters into a nursing home or hospital (institutionalized), SSA will re-evaluate SSI and related medicaid eligibility.

(1) When SSA determines that the individual remains eligible for SSI while institutionalized, the SSI benefit is adjusted as follows:

(a) if institutionalized for more than 90 calendar days - the SSI benefit is limited to thirty (\$30) a month; or

(b) if institutionalized for 90 calendar days or less - the SSI benefit continues at the regular amount.

(2) When SSA determines that the individual is not eligible for SSI, the individual or [his-or-her] their authorized representative should file an application at [HSD] HCA for institutional care medicaid. If the individual meets all factors of eligibility, approval of the institutional care medicaid application should be coordinated with the SSI closure date. If eligible, there will not be a break in

eligibility and the individual shall not receive both SSI and institutional care medicaid in the same month pursuant to 8.281.400.10 NMAC.

[8.200.410.15 NMAC - Rp, 8.200.410.13, 10/1/2017; A, 10/1/2026]

8.200.410.16 APPLICATIONS FOR OTHER BENEFITS:

As a condition of eligibility, a medicaid applicant or an eligible recipient must take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled, within 30 calendar days from the date [HSD] HCA furnishes notice of the potential benefit, unless they can show good cause for not doing so.

A. Benefit types:

Annuities, pensions, retirement and disability benefits include, but are not limited to, veterans' compensation and pensions, old age survivors and disability insurance (OASDI) benefits, railroad retirement benefits, and unemployment compensation.

B. Exceptions to general requirement/good cause:

An individual may request a good cause waiver to this requirement by presenting ISD with corroborating evidence that:

(1) applying for other benefits is against the best interest of the individual, child or others, including physical or emotional harm to a child, parent or caregiver relative, adoption proceedings, and potential for emotional impairment; or

(2) exceptions applicable to institutional care medicaid, the SSI-related categories and the home and community based waivers are pursuant to Subsection B of 8.215.500.9 NMAC, Subsection B of 8.281.500.9 NMAC, and Subsection B of 8.290.500.9 NMAC.

C. Failure to apply for and take steps to determine eligibility for other benefits: When the parent(s) or where applicable the specified relative fails or refuses to apply for and take steps to determine eligibility within 30 calendar days from the date [HSD] HCA furnishes notice of the potential benefit,

the parent(s) or specified relative is not eligible for medicaid. An eligible recipient under the age of 18 years shall not lose ~~[his or her]~~ their medicaid eligibility under this provision.

[8.200.410.16 NMAC - Rp, 8.200.410.14, 10/1/2017; A, 10/1/2026]

8.200.410.18 AUTOMATIC ENROLLMENT INTO MEDICARE PART B COVERAGE:

A. Beginning August 1, 2019, ~~[HSD]~~ HCA automatically enrolls into medicare part B individuals:

(1) who are active on a full medicaid or medicare savings program category of eligibility with the exception of the following categories:

(a) other adults (COE 100);

(b) newborn (COE 031);

(c) children, youth and families department medicaid categories (COEs 017, 037, 046, 047, 066, and 086);

(d) family planning (COE 029);

(e) pregnancy services (COE 301);

(f) refugee (COE 049 and 059);

(g) qualified disabled working individuals (COE 050);

(h) breast and cervical cancer (COE 052); and

(2) who are enrolled in medicare part A and eligible for and not enrolled in medicare part B.

B. ~~[HSD]~~ HCA informs applicants and recipients in writing who may be eligible for automatic enrollment into medicare part B. ~~[HSD]~~ HCA will automatically enroll eligible individuals into medicare part B regardless of whether general or open enrollment of medicare part B is allowed under federal law at the

time an individual is approved for medicaid.

[8.200.410.18 NMAC - N, 8/1/2019; A, 10/1/2026]

**PUBLIC LANDS,
COMMISSIONER OF**

This is an amendment to 19.2.100 NMAC, Section 23, effective 9/28/2026.

**19.2.100.23 [SURETY-
TO PROTECT SURFACE
PURCHASER AND LESSEE-
WAIVERS:**

A. Before any lessee shall commence development or operations, including any and all prospecting activities upon the lands, such lessee or operator shall execute and file with the commissioner a good and sufficient bond or other surety, in an amount to be fixed by the commissioner but not less than ten thousand dollars (\$10,000) in favor of the state of New Mexico for the benefit of the appropriate trust beneficiary and the state's contract purchasers, patentees and surface lessees, to secure payment to the extent allowed by law for such damage to their interests and tangible improvements upon such lands as may be suffered by reason of development, use and occupation of the lands by the oil and gas lessee.

B. A bond or other surety in the minimum amount of ten thousand dollars (\$10,000) for each lease shall be deemed sufficient unless and until the commissioner determines, or one or more surface lessees or purchasers show the commissioner, that such an amount is not adequate in a given case. Provided, however, that if a lessee holds more than one oil and gas lease, a blanket bond or other surety in the amount of twenty thousand dollars (\$20,000) will be acceptable unless and until the commissioner determines, or one or more surface lessees or purchasers show the commissioner, that such an amount is not adequate in a given case. Provided further, that if any purchaser,

patentees or surface lessees shall file with the commissioner a waiver duly executed and acknowledged by the purchaser, patentee or surface lessee of the purchaser's, patentee's or surface lessee's right to require such bond or other surety pursuant to Section 19-10-26 NMSA 1978 the development, occupation and use of the lands by the oil and gas lessee may in the discretion of the commissioner be permitted without said surety.

C. With the approval of the commissioner, in lieu of the single and blanket bonds for oil and gas lessees, a twenty-five thousand dollar (\$25,000) bond or other surety may be used at the option of lessee for the use and benefit of the commissioner, to secure surface improvement damage and the performance of the lessee under one or more state leases or permits for minerals, oil and gas, coal or geothermal resources or as holder under one or more state rights of way or easements which the lessee has executed with the commissioner. The lessee will be obligated to perform and keep all terms, covenants, conditions and requirements of all state leases for minerals, oil and gas, coal or geothermal resources and of all state rights of way and easements executed with the commissioner, including the payment of royalties when due and compliance with all established mining plans and reclamation requirements.]

FINANCIAL ASSURANCE:

A. Minimum financial assurance requirements.

(1) Prior to the development, use, or occupation of any lease acreage that is state-owned surface, an oil and gas lessee shall execute and file with the commissioner good and sufficient bond or acceptable alternative form of financial assurance ("financial assurance") in an amount to be fixed by the commissioner but not less than \$150,000 per lease, except as otherwise set forth under this part, in favor of the commissioner and state land office for the benefit of the applicable trust beneficiary and surface lessees of the affected acreage

and their respective grantees or successors in interest, to protect the commissioner and state land office against damage to state trust land, and to ensure the lessee's compliance with all lease obligations. Damage to state trust land includes, but is not limited to, the failure to plug inactive wells located on the lease acreage; remediate spills and releases of hydrocarbons, produced water, or other contaminants; and reclaim surface disturbance.

(2) A lessee of a mineral-only lease (a lease where the surface is owned by another party) may execute and file with the commissioner minimum financial assurance in an amount to be fixed by the commissioner but not less than \$100,000 per lease.

(3) In the event the commissioner executes a deed or contract for the sale of state trust land whose acreage is encompassed by one or more active oil and gas leases, each oil and gas lessee or well operator shall file a good and sufficient bond, in an amount to be fixed by the commissioner, but not less than \$2,000 per lease, on behalf of the purchaser to secure the payment for such damage to the livestock, range, water, crops or tangible improvements on such lands as may be caused by operations under the oil and gas lease; provided that if the purchaser shall file with the commissioner a duly executed and acknowledged waiver of the purchaser's right to require such a bond, the development, occupation, and use of the lands by the oil and gas lessee may be permitted without the deed/purchaser bond.

B. Heightened financial assurance requirements.

(1) The commissioner may require the lessee to file heightened financial assurance, in an amount to be determined by the commissioner not to exceed one-hundred percent of estimated applicable plugging, remediation, and reclamation costs, if a lease includes on its premises any of the following conditions:

(a) an inactive well (a well for which no production or injection has been reported for a continuous period of one year or more), except for a well:

(i) that is in approved temporary abandonment status and has been in such status with the New Mexico oil conservation division for a period of five years or less, but this exception shall not apply to any lessee or well operator which has ten percent or more of all wells it operates on state trust lands in approved temporary abandonment status; or

(ii) that has received an approved shut-in or extension from the commissioner or that is located on a lease which has received an approved shut-in from the commissioner.

(b) a production well that has produced less than 1,000 barrels of oil or the equivalent volume of gas, or a disposal well that has injected less than 5,000 barrels in the preceding 12 months;

(c) a spill or release of hydrocarbons, produced water, or other contaminants whether or not reported to the oil conservation division, that has not been completely remediated pursuant to both state land office and oil conservation division rules and requirements within the latter of one year of occurrence or discovery, or one year from the effective date of this part;

(d) a pattern of repeated spills or releases of hydrocarbons, produced water, or other contaminants on the lease premises or on the lessee's other state oil and gas lease; or

(e) the lessee has failed to file an annual report or certification of no change for the prior year or other prior years.

(2) If any of the following conditions have occurred in the past 10 years, the commissioner may require the lessee to file a heightened financial assurance, in an amount to be determined by the commissioner

not to exceed one-hundred percent of estimated applicable plugging, remediation, and reclamation costs:

(a) the commissioner or another government agency has claimed the lessee's financial assurance filed with the commissioner or such other government agency to redress the lessee's compliance deficiencies related to operations in New Mexico;

(b) the commissioner has filed suit against the lessee for failing to remedy damage to state trust land caused by oil and gas operations on a lease held by the lessee; or

(c) the lessee is out of compliance with an agreed compliance order, stipulated final order, other final order of the oil conservation division, a final order of another agency of the state or the United States or a court order or settlement agreement from a legal proceeding involving the state land office, oil conservation division, or another state or united states agency, that pertains to environmental damage caused by lessee's oil and gas operations in New Mexico.

(3) A lessee may submit written documentation showing that the conditions that trigger the heightened financial assurance requirement are being diligently addressed. In the commissioner's sole discretion, the commissioner may defer the heightened financial assurance requirement for a period of up to 180 days upon determining that there are sufficient efforts being taken to plug wells, remediate spills or releases of hydrocarbons, produced water, or other contaminants, or to address other conditions that trigger the heightened financial assurance requirement by a date agreeable to the commissioner. The deferment may be extended in the commissioner's sole discretion based on the lessee's progress addressing the compliance deficiencies, provided that any subsequent deferment period shall not exceed 90 days.

(4) In addition to the heightened financial assurance

factors identified in Paragraphs (1) and (2) of Subsection B, the commissioner may require a heightened level of financial assurance on an individual lease basis, based on the commissioner's assessment of other factors pertinent to the lessee's oil and gas operations in New Mexico, including the number of wells on a given lease, the environmental condition or compliance status of the lease premises or other oil and gas operations in the state, or significant changes in compliance costs.

(5) In the event a heightened level of financial assurance is required under any provision of this part, the commissioner will provide written notice to the address, associated with the oil and gas lease on file with the oil, gas, and mineral division of the state land office, by certified mail or courier to the lessee of the required amount and the reasons for the heightened financial assurance requirement. The lessee shall have 90 days from the date of the mailing to update its financial assurance; except that in instances where the commissioner requires a heightened level of financial assurance because the commissioner has been paid on a claim against the lessee's prior financial assurance, or because the commissioner has filed a claim against the lessee's prior financial assurance and the surety, bank, or other third party issuing the financial assurance has refused to honor the commissioner's claim, the lessee shall have 30 days.

(6) Leases subject to heightened financial assurance requirements may be subject to additional reporting requirements, including, but not limited to, an estimation of asset retirement obligations for wells and associated infrastructure located on such leases.

(7) A list of leases subject to heightened financial assurance requirements shall be made public on the state land office's website.

C. Bulk financial assurance.

(1) Lessees holding 10 or more leases may, with the commissioner's written approval, submit a single bond or other financial assurance instrument to cover multiple leases, according to the following schedule, except that no lease that is subject to heightened financial assurance requirements is eligible for inclusion in, or coverage under, a bulk financial assurance instrument:

between 2 and 9 leases: \$150,000 per lease;
between 10 and 19 leases: \$130,000 per lease;
between 20 and 49 leases: \$110,000 per lease;
50 or more leases: \$100,000 per lease.

(2) In the event the commissioner accepts one or more bulk financial assurance instruments from a particular lessee, the lessee shall provide a schedule listing all leases subject to the bulk financial assurance instrument, and the wells located on each lease. The commissioner shall require the lessee to update such schedules annually, or upon any lease assignment, expiration or cancellation as the commissioner may require.

(3) Excluding any lease subject to a heightened financial assurance requirement, the total amount required of a single lessee shall not exceed \$40,000,000.

D. Reporting requirements.

(1) Each lessee shall file an annual report on or before July 1 of each year, beginning on July 1, 2027, certified by a person with authority to bind the lessee. Operators of communitized wells subject to communitization agreements approved by the commissioner may in lieu of the

lessee, and upon written approval by the commissioner, submit the annual report upon which the communitized well(s) has a location, provided that (a) the lessee in writing agrees to be bound by the operator's report and (b) the operator-submitted report encompasses the entire lease and is not limited to only the communitized well(s) located on the lease(s).

(2) The report shall cover activities for the previous calendar year (January 1 – December 31) and include the following for each lease held by that lessee:

(a) inventory of active and inactive wells on the lease, for each well with reference to well name, API number, operator, date of last production, total reported oil production (in BBLs) and gas production (in BOE) reported during the previous calendar year for production wells and total reported injection (in BBLs) for injection or disposal wells, and whether the well is part of an oil and gas unit, a communitization agreement, or both;

(b) inventory of other fixed infrastructure on the lease acreage that is related to oil and gas lease operations, including, but not limited to, tank batteries, ponds, separators, but not including transient equipment such as vehicles;

(c) list of any spills or releases of hydrocarbons, produced water, or other contaminants on lease premises, whether or not the incident was reported to the oil conservation division, with reference to latitude/longitude coordinates, substance(s) released, estimated quantity, responsible party, and status of remediation, to the extent known by the lessee;

(d) identification of any wells plugged in the previous 12 months and a summary and cost of plugging, remediation, and reclamation performed for associated areas of operations;

(e) identification of any warning letters,

notices of violation, fines, penalties, civil actions, criminal actions, or judgments issued or initiated by any governmental entity with respect to oil and gas operations on the lease premises, by reference to date, nature of the alleged violation or action, and issuing or initiating entity; and

(f)

identification of any civil litigation not initiated by a governmental entity concerning or arising out of oil and gas operations on the lease premises.

(3)

For a lease for which the lessee holds the record title and is not the operator of wells on the lease, the lessee shall include information to the extent known by the lessee after performing reasonable due diligence and inquiry of operator(s) on the lease.

(4)

The commissioner may prescribe a form and submission format (e.g., web portal and template) for the annual report. To the extent there is no change from a prior year's report in any particular category or overall and the lessee has performed reasonable due diligence, a lessee or communitized well operator (if applicable) may so certify in writing, in lieu of filing a full report.

(5)

In the event that any errors or omissions are identified, the lessee shall amend and resubmit the annual report within 30 days.

(6)

Lessees shall reasonably cooperate with the commissioner's inquiries regarding all matters pertaining to state land office financial assurance requirements or to the related reporting requirements of this Part. Based on compliance issues related to a particular lease or lessee, the commissioner may request, and the lessee shall provide, additional information to be submitted in a lessee's annual reporting.

(7)

Information contained in annual reports will be available for public inspection.

E. Periodic adjustment and review of financial assurance levels.

(1)

The

monetary amounts of all financial assurances shall be adjusted every five years for inflation based on the preceding calendar year's change in the consumer price index for All Urban Consumers (CPI-U), United States City Average for All Items, published by the United States department of labor. The effective date of the adjustment shall be January 1 of the sixth year (the first day following each five-year review cycle).

(2)

The commissioner will periodically, but no less than every five years, review the sufficiency of each lessee's financial assurance. Factors the commissioner may consider include the status of the lease (e.g., number of active and inactive wells, lease acreage, number of operators on the lease), the compliance history of lessee with respect to the specific lease in question and other state land office instruments, and changes to actual or estimated costs of plugging, remediation, reclamation, and other compliance activities. In the event the commissioner determines a given financial assurance is inadequate to protect the state land office and applicable trust beneficiary, the commissioner shall send written notice by certified mail or courier to the lessee of the change and lessee shall have 90 days from the date of mailing to update its financial assurance. Failure of the commissioner to engage in financial assurance sufficiency review of any particular lease or lessee in accordance with this paragraph shall not be evidence or an admission of the commissioner's acceptance of the lessee's current financial assurance as adequate and shall not prevent any subsequent financial assurance sufficiency review.

(3)

In the event that a well bond or other financial assurance on file with the New Mexico oil conservation division covers operations on a particular lease and provides the commissioner access to such financial assurance, the commissioner may adjust downward the monetary value of the financial

assurance required under this part by up to the amount of the bond or other financial assurance on file with the New Mexico oil conservation division that is applicable to wells on state trust land.

F.

Forms of financial assurance.

(1)

A surety bond shall be written on a form prescribed or approved by the commissioner. The surety must be certified by the United States department of the treasury to issue surety bonds and must be authorized to do business in New Mexico. The bond shall be non-cancellable.

(2)

In lieu of a surety bond, but in the same amounts and subject to the same substantive requirements set forth in this Part, with commissioner approval a lessee may post:

(a)

an irrevocable letter of credit, on a form prescribed or approved by the commissioner, issued by a federally-insured financial institution either doing business in New Mexico or that has agreed in writing to submit itself to the jurisdiction of New Mexico courts. Irrevocable letters of credit shall require the issuing bank to notify the commissioner in writing of any decision to not renew the letter of credit at least 120 days in advance, and shall provide the commissioner the right to redeem the letter of credit prior to non-renewal;

(b)

a cash deposit submitted to the commissioner, which shall be held in suspense unless and until the financial assurance is eligible for release or the commissioner makes a claim against the deposit. Any interest on a cash deposit shall incur to the benefit of the commissioner and state land office, for the benefit of the applicable trust beneficiary; or

(c)

other alternative forms of financial assurance, which may be considered on a case-by-case basis, at the commissioner's sole discretion, except that self-insurance is categorically prohibited.

G.

Waivers. A lessee

may request a waiver of the financial assurance requirement if the lessee does not intend to conduct or allow any development of oil and gas on the lease acreage, which waiver is at the commissioner's sole discretion. Any request for a waiver must be made within 30 days of lease issuance or assignment. Waivers are not available for leases whose acreage contains producing or inactive wells, unremediated spills or releases of hydrocarbons, produced water, or other contaminants, or infrastructure related to oil and gas development from the lease acreage. In the event a lessee obtains a waiver, but then proceeds, or allows another to proceed, with oil and gas development on the lease, the lessee must so notify the state land office and post the required financial assurance 30 days prior to commencement of such development. In the event a lessee obtains a waiver of the financial assurance requirement, proceeds with oil and gas development on the lease, but fails to notify the state land office and post the required financial assurance, the lessee shall be ineligible for any financial assurance waiver for a period of five years.

H. "Riders" limited. The commissioner will not accept riders or amendments to financial assurance instruments that change the name of the lessee, that change the scope of coverage, or that add multiple lessees, including subsidiaries or affiliates, to the same financial assurance instrument without specific written approval of the same. Lessees who under the pre-existing version of this part are sharing the same financial assurance instrument via rider shall obtain their own separate financial assurance in conformity with the phase-in schedule listed in Subsection K.

I. Claims on financial assurance.

(1) The commissioner shall provide written notice to a lessee by certified mail or courier of any claim made against a financial assurance instrument on file with the commissioner, at the lessee's last address of record on file with

the state land office's oil, gas, and minerals division. The commissioner may, but has no obligation to, notify any party other than the surety or issuing financial institution, and lessee of record, regarding any financial assurance claim.

(2) The commissioner may require heightened financial assurance, or a different form of financial assurance, based on payment of the financial assurance claim.

(3) In the event a surety (for a surety bond) or issuing bank (for a letter of credit) fails to respond to a claim against the bond or letter of credit, or fails to honor a substantiated claim, the commissioner may reject the bond or letter of credit and require the lessee to obtain within 30 days a new form of financial assurance that is in conformity with this part.

(4) The commissioner's claim against financial assurance for any particular lease does not affect the status of financial assurance instruments the same lessee may have submitted for the coverage of other leases.

(5) In the event a lease lacks adequate financial assurance and the lease acreage is included in a communitization agreement, at the commissioner's sole discretion, the commissioner may accept financial assurance posted by an operator of a well subject to the communitization agreement in lieu of the lessee, provided the financial assurance is written to cover the entire affected lease and is not limited to the communitized well or the communitized well operator. An operator providing a financial assurance in lieu of a lessee shall not transfer the operatorship of the communitized well(s) without the prior written consent of the commissioner.

J. Notifications.

(1) A notification by the state land office that a lease will be canceled for failure to file adequate financial assurance shall be made by certified mail. A notification that heightened

financial assurance is required or that a claim is made against a financial assurance instrument shall be made by certified mail or courier. All other notifications or communications by the state land office may be made by certified mail or courier, regular mail, or electronic mail. No proof of receipt is required for any of the notices referenced in this paragraph. The agency has no obligation to mail any correspondence to an address other than the address of record on file with the oil, gas, and minerals division of the state land office.

(2) Lessees shall notify the state land office within 30 days of any change of name or change of address of a surety or financial institution issuing a letter of credit or in the event lessee is informed of any change to or non-renewal of the financial assurance or the insolvency of the surety or other entity issuing the financial assurance.

K. Release of financial assurance. Financial assurance may only be released upon one of the following events: (1) the lessee submits a substitute form of financial assurance in compliance with this part and the commissioner approves the substitution; or (2) the lessee no longer holds any state oil and gas leases and the commissioner has confirmed in writing there are no outstanding compliance or performance issues with respect to lessee's lease(s), and no financial assurance shall be released unless all plugging, remediation, reclamation and other lease obligations have been completed to the commissioner's satisfaction, unless the commissioner, in the commissioner's sole discretion, authorizes the release of the financial assurance for the specific purpose of meeting such obligations.

L. Phase-in schedule for financial assurances. The requirements of this section shall apply to all new oil and gas leases, or existing leases for which no financial assurance acceptable to the commissioner has been filed (but which is required to be filed), immediately upon the effective date of this section. The requirements of this

section shall become applicable to all oil and gas leases pre-existing the effective date of this section, and for which financial assurance acceptable to the commissioner has been filed, according to the following schedule:

(1) any lease subject to any heightened financial assurance requirements shall be in compliance within 90 days of written notice by the commissioner by certified mail or courier that heightened financial assurance is required (subject to any authorized deferral by the commissioner); except that in instances where the commissioner requires a heightened financial assurance because the commissioner has been paid on a claim against the lessee's prior financial assurance, or because the commissioner has filed a claim against the lessee's prior financial assurance and the surety, bank, or other third party issuing the financial assurance has been unresponsive to the commissioner's claim, the lessee shall have 30 days;

(2) lessees holding 50 or more oil and gas leases shall bring all their leases into compliance with this part by March 1, 2027; and

(3) all other lessees shall bring their leases into compliance with this part by June 1, 2027.

[19.2.100.23 NMAC - Rp, 19.2.100.23 NMAC, 6/30/2016; A, 6/11/2019; A, 9/28/2026]

REGULATION AND LICENSING DEPARTMENT ATHLETIC COMMISSION

This is an amendment to 15.6.4 NMAC, Sections 8, 10, 12, 20, 21 and 26, effective 09/22/2026.

15.6.4.8 DUTY TO SAFEGUARD BUILDING, PREMISES, AND SAFETY OF ATTENDEES:

A. Duty to safeguard premises: All promoters licensed by the commission are required

to assure the commission that all necessary arrangements have been made to safeguard the premises where unarmed combat contests, [~~wrestling, or martial arts exhibitions~~] are to be conducted in order to ensure that adequate protection is provided by state licensed uniformed security guards and companies, law enforcement agency or security guards exempt from licensure pursuant to the Private Investigations Act, Section 61-27B-4 NMSA 1978, to prevent riot, stampede, or disorderly conduct on the premises.

(1) Any disorderly conduct, act of assault or breach of decorum on the part of any commission licensee is prohibited.

(2) Any violation of this section by a commission licensee shall subject the licensee to penalties as deemed appropriate by the commission.

B. Building equipment and safety requirements: All premises, buildings, or structures used or intended for use in holding or televising unarmed combat boxing, wrestling, or martial arts matches or exhibitions shall:

(1) be properly ventilated;

(2) [~~RESERVED~~] have proper lighting

(3) provide an adequate fire alert system, fire extinguishers, emergency and fire exits; and

(4) shall, in all manner, conform to the laws, ordinances, building codes and regulations pertaining to buildings in the village, town, city or state where the building is situated.

C. Sale of alcoholic beverages on the premises: Alcoholic beverages may be sold at a [~~match or event~~] contest only by special permission by the commission may allow the sale of alcoholic beverages and limit the content of sales at each event.

(1) The commission may allow the sale of alcoholic beverages and limit the content of sales at each event.

(2) If sale of

alcoholic beverages at an event is approved by the commission, there must be a valid license to sell alcohol in place issued by the proper state licensing agency.

(3) If an unruly crowd or incident occurs at any event where the sale of alcoholic beverages has been approved by the commission, the official in charge of the event may immediately suspend the sales of alcoholic beverages.

(4) No alcohol is allowed within the technical zone.

D. Ambulance at live events: The promoter shall ensure that there is an ambulance on stand-by or medical personnel with appropriate resuscitation equipment at ringside at all live unarmed combat contests. [~~boxing, wrestling, or full contact karate or kickboxing events.~~]

[15.6.4.8 NMAC - N, 03/23/2002; A, 08/26/2012; A, 09/22/2026]

15.6.4.10 DUTY TO PROVIDE INSURANCE FOR LICENSED CONTESTANTS:

A. Any person, party, or corporation holding a promoter's license issued by the commission shall continuously provide insurance protection for licensed unarmed combat, boxing, wrestling, or martial arts contestants appearing in unarmed combat, boxing contests, wrestling or martial arts matches, or exhibitions.

B. Insurance coverage shall provide the licensee reimbursement for medical, surgical, and hospital care for any injuries sustained while participating in a match.

C. The minimum insurance limit shall be \$2500.00 for injuries sustained by the contestant while participating in any program, event, match, or exhibition operated under the control of the licensed promoter.

D. Failure by the licensed promoter to provide and pay premiums on insurance as provided in this section shall be cause for the suspension or the revocation of the promoter's license.

[15.6.4.10 NMAC - N, 03/23/2002; A, 08/26/2012, A, 09/22/2026]

15.6.4.12 DUTY TO COMPENSATE EVENT PARTICIPANTS:

The promoter of an event will be required to pay all fees due to event participants and personnel.

A. Fees set by the commission: The commission shall annually adopt a policy to set fees to be paid to referees, judges, deputy inspectors, ~~[and timekeepers]~~ timekeepers, and event coordinators.

B. Fees set by the medical advisory board: With the approval of the commission, the medical advisory board shall determine fees to be paid to ringside physicians.

C. Negotiated fees: The promoter shall negotiate fees with other event personnel (e.g. security officers, announcers, ticket sellers, ticket takers, doormen, etc.) on an individual basis.
[15.6.4.12 NMAC - N, 03/23/2002; A, 08/26/2012; A, 01/15/2015, A, 09/22/2026]

15.6.4.20 DUTY TO OBTAIN EVENT PERMITS:

A licensed promoter must obtain an event permit prior to each professional and amateur program, match, event, contest or exhibition.

A. ~~[The commission will issue a permit upon receipt from the promoter of a completed commission-approved application, and all other required documentation.]~~ Upon receipt of a complete event permit application and required documentation, the commission shall approve the event and notify the promoter.

B. ~~[The application and attachments must be approved with the commission not later than 72 hours prior to the regularly scheduled meeting before the contest.]~~ The application and all required attachments must be submitted in a form approved by the commission not less than 30 days prior to the scheduled event date. The application must contain the following information and documentation:

(1) Any main event combatants must hold a

current and valid license issued by the commission.

~~[(1)]~~ **(2)** evidence of a current promoter's license;

~~[(2)]~~ **(3)** date of the contest;

~~[(3)]~~ **(4)** copy of the contract for the event location;

~~[(4)]~~ **(5)** proof of contest insurance;

~~[(5)]~~ **(6)** name of the main event participants and contracts;

~~[(6)]~~ **(7)** number of scheduled rounds of all unarmed combatant contests on the event card;

~~[(7)]~~ **(8)** verification of adequate security;

~~[(8)]~~ **(9)** verification of ambulance and medical technicians [and]

~~[(9)]~~ report on all unarmed combatants from fightfax.com or mixedmartialarts.com, or other nationally or industry-recognized reporting service.]

C. The promoter must provide the commission with the signed and witnessed formal contracts for the main event executed on forms ~~[supplied]~~ approved by the commission and executed in accordance with 15.6.2 NMAC.

D. Each applicant for an event permit agrees to grant the commission, or its authorized representative, the right to examine the books of accounts and other records of the applicant relating to each event for which an event permit application is made.

[15.6.4.20 NMAC - N, 03/23/2002; A, 08/26/2012; A, 01/15/2017; A, 09/22/2026]

15.6.4.21 APPROVAL OF EVENT PERMITS:

Before approving any event permit, the commission, or the two commissioners acting under the commission's delegated authority, will consider the relative merits of the contestants, their past records, and whether or not they are suitable opponents. The commission reserves the right to disapprove any match or unarmed combatant contest on

the grounds that it is not in the best interest of unarmed combatant boxing, wrestling, or martial arts, or of the health and safety of either of the contestants.

A. Each application for an event permit will be reviewed by the administrator or by commission staff to assure compliance with all application requirements of the commission.

B. When the application is complete, the ~~[events-coordinator or]~~ commission staff will review the event permit request with two commission members to obtain their approval. The two commissioners have the authority to provide final approval. However, if they are unwilling to grant approval of the event permit application, the following shall occur:

(1) the event permit request will be considered at the next regularly scheduled commission meeting; or

(2) the commission reserves the right to not approve an event for failure to submit a timely application; the commission may approve an application that is untimely if the applicant demonstrates extenuating circumstances.

C. Upon approval of the event permit, the promoter shall register the event with Combat Registry, BoxRec, or another commission-approved database.

[15.6.4.21 NMAC - N, 03/23/2002; A, 08/26/2012; A, 09/22/2026]

15.6.4.26 [RESERVED] ELIGIBILITY FOR FEDERAL IDENTIFICATION CARD

(AMATEUR BOXERS): An applicant seeking issuance of a federal identification card to compete as professional boxer must have participated in no fewer than five amateur bouts prior to application.

A. The applicant must provide documentation acceptable to the commission verifying the required number of amateur bouts.

B. The commission may waive the minimum bout

requirements upon a showing of good cause.

[15.6.4.26 NMAC – N, 09/22/2026]

REGULATION AND LICENSING DEPARTMENT ATHLETIC COMMISSION

This is an amendment to 15.6.6 NMAC, Sections 7, 8, 10, 11, and 14, effective 09/22/2026.

15.6.6.7 DEFINITIONS:

“Officials” [refers to the event referees, announcers, timekeepers, and judges.] Means any individual licensed by the commission to perform duties at a sanctioned unarmed combat event, including but not limited to referees, judges, timekeepers, and announcers. The term also includes any other person designated or approved by the commission to perform official functions or assume a position of authority during an event.

[15.6.6.7 NMAC - N, 03/23/2002; A, 08/26/2012; A, 09/22/2026]

15.6.6.8 ~~[REFEREES AND JUDGES ARE ASSIGNED]~~ **OFFICIALS APPROVED BY THE COMMISSION:**

A. Commission assigns officials for bouts and exhibitions: [The] Upon submission of event permit application, the commission shall [assign] review and approve list of event coordinators, deputy inspectors, physicians, timekeeper, referees and judges to each professional unarmed combat, bout, program, match, or exhibition conducted by a licensed promoter in New Mexico.

(1)

In making assignments, the commission will consider an official's past performance, safety record, experience, knowledge, and judgement. The assignment of officials will be made at the will of, and in the sole discretion of, the commission.

(2)

Licensure does not guarantee that the

commission will assign a licensed individual as an official.

(3)

All officials shall execute an acknowledgement and signing Code of Conduct form affirming that they have read, understand, and agree to adhere to, comply with, and be bound by the New Mexico Athletic Commission Code of Conduct.

B. Officials paid by promoter: All officials assigned and directed by the commission to be in attendance at any event, bout, program, match, or exhibition shall be paid by the licensed promoter for the event in accordance with the fee schedule furnished by the commission to the promoter. Official fees may be reviewed and amended annually at the discretion of the commission, including adjustments based on changes in the cost of living.

C. Number and substitution of officials: The number of officials required to be in attendance, or the substitution of officials for any reason or at any time during the event, bout, program, match, or exhibition, shall be solely within the power and discretion of the commission. Once the commission has approved number of bouts on the event permit, the following number of officials will apply:

(1) eight

bouts or less: one physician, two referees, three judges, one timekeeper, minimum of eight deputy inspectors;

(2) nine

to 14 bouts: one physician, three referees, four judges, one timekeeper, minimum of ten deputy inspectors;

(3) 15 to

24 bouts: two physicians, three referees, four judges, one timekeeper, minimum of 10 to 12 deputy inspectors.

[15.6.6.8 NMAC - N, 03/23/2002; A, 08/26/2012; A, 01/15/2015; A, 09/22/2026]

15.6.6.10 THE UNARMED COMBAT REFEREE:

A. License required:
[A referee must be licensed by the commission before he will be

permitted, assigned, or directed by the commission to assume the duties and powers of a referee.]

(1) No person

shall act as a referee in a match held in New Mexico without first having obtained a referee license.

(2) A referee

must be licensed by the commission before he will be permitted, assigned, or directed by the commission to assume the duties and powers of a referee.

(3) A referee

shall also not be licensed as a promoter, matchmaker, unarmed combatant, representative of a promoter, second, or trainer.

(4) No referee

shall have a financial or pecuniary interest in any participant.

B. Duties and powers:

The unarmed combatant referee shall have the following duties and powers:

(1) Inspecting

the ring cage or fighting area per 15.6.7 NMAC.

(2) To instruct

the contestants.

(3) To inspect

each unarmed combatant gloves and make sure that no foreign, harmful, or detrimental substances have been applied to either the gloves or to the bodies of the boxers.

(4) To stop

a bout or contest at any stage on the grounds that it is too one-sided. In such an event, the referee may award the bout to the superior contestant as a technical knockout.

(5) To stop

a bout or contest at any stage if he determines that one or both of the unarmed combatant are not competing in earnest. In such an event, the referee may disqualify one or both of the contestants. If only one contestant is disqualified, the referee may award the bout as a technical knockout to the other contestant.

(6) To

stop a bout or contest at any stage on account of a major foul being committed by either contestant. In such an event, in a boxing contest the referee may award the decision to the boxer who was fouled.

(7) If, during the course in a match, the referee receives an injury or is unable to continue acting in the capacity as referee, the commission representative shall:

(a)

Select another qualified person to act as referee for the remainder of the match and program of matches; or

(b)

If no qualified person is available, cancel the remainder of the match and program of matches.

(8) Enforce

discipline and the rules, as set forth herein, pertaining to the conduct and behavior of participants, manager, trainers, and seconds.

[15.6.6.10 NMAC – N, 03/23/2002; A, 08/26/2012; A, 09/22/2026]

15.6.6.11 [RESERVED]

THE JUDGE:

A. License required:

(1) No person

shall act as a judge in a match held in New Mexico without first having obtained judge license.

(2) A judge

shall not also be licensed as a promoter, matchmaker, participant, representative of promoter, second, or trainer.

(3) No judge

shall have a financial or pecuniary interest in any unarmed combatant.

B. Duties:

(1) Be fully

informed of and conversant with the rules, regulations, standards, guidelines and policies of New Mexico Athletic Commission and ABC Boxing Commission.

(2) Observe

carefully at all times during the match the performance of the participants.

(3) Appraise

such performance fairly, accurately and professionally in accordance with the ABC Boxing Rules and Guidelines.

(4) Record

the results of each appraisal after every round on the round score card in accordance with the ABC Boxing scoring criteria.

(5) Complete

and sign the round card and deliver it to the referee at the conclusion of each round.

[15.6.6.11 NMAC - N, 09/22/2026]

15.6.6.14 THE

TIMEKEEPER:

A. License required:

A timekeeper must be licensed by the commission before ~~he will be~~ being permitted by the commission to assume the duties of a timekeeper. Unlicensed persons may not be employed by the promoter to act as timekeepers for an event being conducted by the promoter.

B. Location of the timekeeper: The timekeeper must sit outside the ring, cage or fighting area and close to the gong.

C. Tools of the timekeeper: Each timekeeper must have either a whistle or a gong and a stopwatch, which must be submitted for approval by the commission representative in attendance at the unarmed combat event.

D. Knockout

protocol: In the event that a bout terminates by a knockout during any round, the timekeeper shall inform the announcer of the exact duration of the round.

E. Ten-second signals required: The timekeeper shall signal 10 seconds prior to the beginning of any round. At such signal, all seconds must leave the inside of the ring, cage or fighting area and all stools and equipment must be removed from the ring, cage or fighting area. The timekeeper must not signal during the progress of a round except to indicate that only 10 seconds remain in the round.

F. Signal end of

round: The timekeeper must use the appropriate ~~time-keeper~~ timekeeper signal to indicate the ending of each round.

[15.6.6.14 NMAC - N, 03/23/2002; A, 08/26/2012; A, 09/22/2026]

REGULATION AND LICENSING DEPARTMENT ATHLETIC COMMISSION

This is an amendment to 15.6.14 NMAC, Section 8, effective 09/22/2026.

15.6.14.8 FEES:

A. All fees are non-refundable.

B. Annual licensing fees are set as follows:

(1) in-state promoters license: \$250.00

(2) foreign co-promoters: \$500.00

(3) referees: \$[25.00] 35.00

(4) timekeeper: \$[25.00] 35.00

(5) announcers: \$[25.00] 35.00

(6) seconds: \$[25.00] 35.00

(7) trainers: \$[25.00] 35.00

(8) managers: \$[25.00] 35.00

(9) professional boxer: \$[25.00] 35.00

(10) professional wrestlers: \$[35.00] 45.00

(11) [booking-agent: \$35.00]

(12) matchmaker: \$[35.00] 35.00

(13) judges: \$[25.00] 35.00

[(14)] judge-trainee: \$10.00

[(15)] (14) professional mixed martial arts: \$[25.00] 35.00

[(16)] (15) amateur mixed martial arts: \$ [25.00] 35.00

(16) returned check or e-check \$35.00

C. Officials fee schedule: Event officials fees are set as follows:

(1) Under eight bouts within 148 miles round trip;

(a) referee: \$215.00

(b) judge: \$165.00

(c) timekeeper: \$140.00

(d)
deputy inspector: \$140.00
(e)
ringside physician: \$465.00
(f)
event coordinator: \$315.00
(2) Nine to 14
bouts within 148 miles round trip;
(a)
referee: \$250.00
(b)
judge: \$200.00
(c)
timekeeper: \$175.00
(d)
deputy inspector: \$175.00
(e)
ringside physician: \$480.00
(f)
event coordinator: \$350.00
(3) 15 to 24
bouts within 148 miles round trip;
(a)
referee: \$265.00
(b)
judge: \$215.00
(c)
timekeeper: \$190.00
(d)
deputy inspector: \$190.00
(e)
ringside physician: \$515.00
(f)
event coordinator: \$365.00
(4) Under
eight bouts for 149 miles or more
round trip;
(a)
referee: \$360.00
(b)
judge: \$310.00
(c)
timekeeper: \$285.00
(d)
deputy inspector: \$285.00
(e)
ringside physician: \$610.00
(f)
event coordinator: \$460.00
(5) Nine to
14 bouts for 149 miles or more round
trip;
(a)
referee: \$395.00
(b)
judge: \$345.00
(c)
timekeeper: \$320.00

(d)
deputy inspector: \$320.00
(e)
ringside physician: \$645.00
(f)
event coordinator: \$495.00
(6) 15 to 24
bouts for 149 miles or more round
trip;
(a)
referee: \$410.00
(b)
judge: \$360.00
(c)
timekeeper: \$335.00
(d)
deputy inspector: \$335.00
(e)
ringside physician: \$660.00
(f)
event coordinator: \$510.00

[C:] D. Regulatory fee: In an amount established semi-annually by the commission sufficient to cover the costs of regulating professional contests, up to four percent of the total gross receipts derived by the promoter from any professional contest conducted live in New Mexico.

[D:] E. Supervisory fee: In an amount established semi-annually by the commission sufficient to cover the costs of supervising the exhibition of professional contests on a closed-circuit telecast, podcast or webcast or motion picture, up to five percent of the total gross receipts derived from the exhibition.
[15.6.14.8 NMAC - N, 03/23/2002; A/E, 10/11/2005; A, 08/26/2012; A, 01/15/2015; A, 09/22/2026]

**REGULATION
AND LICENSING
DEPARTMENT
PHARMACY, BOARD OF**

The New Mexico Board of Pharmacy is approving a repeal of its rule 16.19.13 NMAC- Temporary Business Licenses, filed 12/02/2002 and replaced with 16.19.13 NMAC- Temporary Business Licenses, adopted 9/1/2026 and effective 9/22/2026.

**REGULATION
AND LICENSING
DEPARTMENT
PHARMACY, BOARD OF**

**TITLE 16 OCCUPATIONAL
AND PROFESSIONAL
LICENSING**

**CHAPTER 19 PHARMACISTS
PART 13 TEMPORARY
BUSINESS LICENSES**

16.19.13.1 ISSUING

AGENCY: Board of Pharmacy
[16.19.13.1 NMAC - Rp, 16.19.13.1, 9/22/2026]

16.19.13.2 SCOPE: All business entities that possess, administer, dispense or distribute prescription drugs and/or devices for the purpose of providing pharmaceutical products and services.
[16.19.13.2 NMAC - Rp, 16.19.13.2, 9/22/2026]

**16.19.13.3 STATUTORY
AUTHORITY:** Paragraph (1) of Subsection B of Section 61-11-6 NMSA 1978 authorizes the board to delegate its authority to the executive director to issue temporary licenses as provided in Subsection H of Section 61-11-14 NMSA 1978.
[16.19.13.3 NMAC - Rp, 16.19.13.3, 9/22/2026]

16.19.13.4 DURATION:
Permanent
[16.19.13.4 NMAC - Rp, 16.19.13.4, 9/22/2026]

**16.19.13.5 EFFECTIVE
DATE:** September 22, 2026, unless a later date is cited at the end of a Section.
[12-15-97; 16.19.13.5 NMAC - Rp, 16.19.13.5, 9/22/2026]

16.19.13.6 OBJECTIVE: To expedite the licensure of business entities providing pharmaceutical products and services. Temporary licenses shall only be issued after the applicant has completed a deficiency free facility inspection.
[16.19.13.16 NMAC - Rp, 16.19.13.6, 9/22/2026]

16.19.13.7 DEFINITIONS:

All terms defined in the Pharmacy Act or elsewhere in the board regulations shall have the same meaning in this regulation unless otherwise defined below:

“Deficiency Free Inspection” means compliance with all board pre-licensing inspection requirements. For non-resident facilities, the board may accept an inspection conducted by an appropriate entity.

[16.19.13.7 NMAC - Rp, 16.19.13.7, 9/22/2026]

16.19.13.8 PROCEDURE FOR TEMPORARY LICENSURE OF BUSINESS ENTITIES THAT POSSESS, ADMINISTER, DISPENSE AND/OR DISTRIBUTE PRESCRIPTION DRUGS AND/OR DEVICES:

A. Prior to issuance of a permanent license, an applicant may apply once, for each location, for a temporary license. The applicant shall submit required application and fee to the Board office.

B. The applicant shall submit a “Request for Inspection” and the inspection fee, where applicable, a minimum of fourteen days in advance of the requested date for inspection. Non-resident facilities may submit an application conducted by a state or federal regulatory agency, or third party recognized by the board.

C. Upon receipt of a deficiency free inspection report and application the executive director may issue a temporary facility license for this location.

D. The board shall consider the license application at its next meeting and shall cause a license to be issued or denied in accordance with the Uniform Licensing Act 61-1-1 to 61-1-37 NMSA 1978.

E. The temporary license shall expire at the close of business on the last day of the next regular board meeting.

[16.19.13.8 NMAC - Rp, 16.19.13.8, 9/22/2026]

HISTORY OF 16.19.13 NMAC:
[RESERVED]

History of Repealed Material:

16.19.13 NMAC, Temporary Business Licenses, filed 12/01/1997, expired on 06-30-99. 16.19.13 NMAC, Temporary Business Licenses, filed 12/02/2002, was repealed and replaced, effective 9/22/2026

Other History: 16.19.13 NMAC, Temporary Business Licenses, effective 12/15/2002

**REGULATION
AND LICENSING
DEPARTMENT
PHARMACY, BOARD OF**

This is an amendment to 16.19.10 NMAC, Section 3, 7, 10, 11 and 12 effective 9/22/2026.

16.19.10.3 STATUTORY

AUTHORITY: Paragraph (6) of Subsection A of Section 61-11-6 NMSA 1978 requires the board of pharmacy to provide for the licensing of industrial and public health clinics and for the inspection of their facilities and activities. Pursuant to Paragraphs (6), (7), and (12) ~~[-and-(13)-]~~ of Subsection B of Section 61-11-14 NMSA 1978, the board is authorized to issue drug permits, as defined and limited by board regulation, for industrial health clinics, community health clinics, and animal control facilities. ~~[-and-wholesalers,retailersand-distributors-of-veterinary-drugs-]~~ Subsection A of Section 26-1-16 NMSA 1978 prohibits the sale, disposal or possession of any dangerous drug except by individuals and entities identified in the statute, including clinics licensed by the board. [2/15/1996; A, 3/31/1998; 16.19.10.3 NMAC - Rn, 16 NMAC 19.10.3, 3/30/2002; A, 9/13/2022; A, 9/22/2026]

16.19.10.7 DEFINITIONS:

All terms defined in the Pharmacy Act or elsewhere in the board regulations shall have the same meanings in this regulation unless otherwise defined below:

A. “Administer”,

means the direct application of a drug to the body of a patient or research subject by injection, inhalation, ingestion or any other means as a result of an order of a licensed practitioner.

~~[A:]~~ **B. “Clinic”,** means any facility where one or more licensed practitioners diagnose and treat patients, and where drugs are stored, dispensed, distributed or administered for the diagnosis and treatment of the facility’s patients; provided that this definition shall not include the privately owned practice of any licensed practitioner or group of licensed practitioners exempt under Section 61-11-22 of the Pharmacy Act.

~~[B:]~~ **C. “Dispensing unit”,** means a container or containers of a drug entity, either prepackaged (repackaged per board requirements) or the manufacturer’s original container(s), containing a quantity suitable for the prescribed treatment or condition.

~~[C:]~~ **D. “Distribute”** means delivery of a dispensing unit (as defined in this section) by a licensed practitioner to a patient of the clinic by means other than dispensing.

~~[D:]~~ **E. “Drug storage Area”,** means an area restricted to the storage, dispensing and distribution of dangerous drugs.

~~[E:]~~ **F. “Medical records”,** means the medical information gathered and maintained for a clinic’s patient, including but not restricted to the patient’s weight, height, sex, D.O.B., allergies, diagnosis and treatments.

~~[F:]~~ **G. “Mobile narcotic treatment program”** means a narcotic treatment program (NTP) operating from a motor vehicle, as defined in this section, that serves as a mobile component (conveyance) and is operating under the registration of the NTP, and engages in maintenance and/ or detoxification treatment with narcotic drugs in schedules II–V, at a location or locations remote from, but within the same state as, its registered location. Operating a mobile NTP is a coincident activity of an existing NTP.

~~[G:]~~ **H. “Motor vehicle”**

means a vehicle propelled under its own motive power and lawfully used on public streets, roads, or highways with more than three wheels in contact with the ground. This term does not include a trailer.

[H:] L. “Transfer”, means the direct delivery, physically or electronically, of dangerous drug stock unopened containers, except samples, from a clinic or the clinic’s supplier to a pharmacy to be dispensed by the pharmacy to patients of the clinic.

[02-15-96; 16.19.10.7 NMAC - Rn, 16 NMAC 19.10.7, 3/30/2002; A, 9/13/2022; A, 9/22/2026]

16.19.10.10 ANIMAL CONTROL CLINICS:

A. The New Mexico board of pharmacy acknowledges the establishment of animal control clinics. In order to protect the people who utilize such clinics, laws and safeguards pertaining to drugs must be observed. Medications must occasionally be used and therefore require board of pharmacy supervision.

B. The veterinarian in charge of and responsible for the clinic must specify the dangerous drugs to be used in such clinic. In order to purchase and stock any controlled substances, the clinic must obtain a separate controlled substance registration to be issued under the name of the clinic.

C. All dangerous drugs must be under lock when the veterinarian or **[his] their** designee is not in attendance. Extra precautions **[should] shall** be provided for security of controlled substances.

D. A record indicating the following information shall be kept to account for the administration of all dangerous drugs:

- (1) Date of administration;
- (2) Type of animal;
- (3) Name of medication;
- (4) Dosage administered;

(5) Name of veterinarian responsible for the order;

(6) Name of individual administering the dose.

E. SCHEDULE II - Controlled substances administration records must be kept in a separate record with the same information recorded.

F. SCHEDULE III, IV, and V controlled substances may be kept in the same record in which dangerous drugs are recorded provided a mechanism is employed to identify these entries (such as a red “C” marked in the margin of these entries).

G. The record must be kept up-to-date at all times and is subject to inspection by the board of pharmacy drug inspectors.

H. Any clinic licensed by the board of pharmacy is required to have a consultant pharmacist.

(1) If the animal control facility does not use any controlled substance in its’ operation, a consultant pharmacist **[should] shall** visit the facility at least annually.

(2) If the animal control facility uses any controlled substance in its’ operation, a consultant pharmacist **[should] shall** visit the facility at least quarterly. [3/7/1980; 7/29/1993; 16.19.10.10 NMAC - Rn, 16 NMAC 19.10.10, 3/30/2002; A, 9/13/2022; A, 9/22/2026]

16.19.10.11 PUBLIC HEALTH CLINICS:

A. Clinic licensure: All clinics where dangerous drugs are administered, distributed or dispensed shall obtain a limited drug permit as described in Paragraph (7) **and** (8) of Subsection B of Section 61-11-14 NMSA 1978 of the Pharmacy Act which consists of the following types:

(1) Class A clinic drug permit for clinics where:

(a) dangerous drugs are administered to patients of the clinic;

(b) more than 12,500 dispensing units of dangerous drugs are dispensed or

distributed annually;

(c) clinics dispensing only one class of dangerous drug or controlled substance, such as oral contraceptives, may be approved by the board as a Class B3 clinic;

(2) Class B clinic drug permit for clinics where dangerous drugs are:

(a) administered to patients of the clinic; and

(b) dispensed or distributed to patients of the clinic. Class B drug permits shall be issued by categories based on the number of dispensing units of dangerous drugs to be dispensed or distributed annually, as follows:
1. CATEGORY 1 up to 2,500 dispensing units; 2. CATEGORY 2 from 2,501 - 7,500 dispensing units; 3. CATEGORY 3 from 7,501 - 12,500 dispensing units;

(3) Class C clinic drug permit for clinics where dangerous drugs are administered to patients of the clinic.

(4) Class D clinic drug permit for school based emergency medicine (SBEM) clinic (which does not include a Class A, B, or C school based health clinic) - any school based facility that chooses to possess a stock supply of emergency dangerous drugs; these emergency dangerous drugs are albuterol aerosol canisters with spacers and epinephrine standard-dose and pediatric-dose auto-injectors; these emergency dangerous drugs are for administration to students of the school; these emergency dangerous drugs shall be the property of the facility; these facilities will not stock **[of]** any other dangerous drug.

(5) Class E Narcotic Treatment Program (NTP) clinic drug permit for clinics where opioid agonist treatment medications that are approved by the Food and Drug Administration under section 505 of the Federal Food, Drug, and Cosmetic Act [(21 U.S.C. 355)] for use in the treatment of opioid use disorder are used. An NTP shall be licensed and certified as required

by state and federal law, including registration under 21 USC 823(g) (1) and certified as an Opioid Treatment Program by the Substance Abuse and Mental Health Services Administration in accordance with 42 CFR 8.11.

B. Formularies:

(1) For all clinic types, drug procurement and storage is limited to the drugs listed in the ~~[dispensing]~~ formulary for the clinic. The formulary shall be developed by the pharmacy and therapeutics committee of the facility, or if no such committee exists, by the pharmacist and medical director of the clinic. The formulary drugs shall be appropriate for the scope of medical services provided at the clinic facility. A dangerous drug with the same generic name is considered one drug within the formulary (ie) all dosage forms and packages of ampicillin are considered one drug.

~~[(2) For all clinic types, drug procurement and storage is limited to the drugs listed in the administration formulary for on-site administration. The formulary shall be developed by the pharmacy and therapeutics committee of the facility, or if no such committee exists, by the pharmacist and medical director of the clinic. The formulary drugs shall be appropriate for the scope of medical services provided at the clinic facility. A dangerous drug with the same generic name is considered one drug within the formulary (ie) all dosage forms and packages of ampicillin are considered one drug.]~~

~~[(3)]~~ (2) For Class D, (SBEM) clinic may only stock the approved dangerous drugs; albuterol aerosol canisters with spacers and epinephrine standard-dose and pediatric-dose auto-injectors.

~~[(4)]~~ (3) A clinic may petition the board for an alternative dispensing formulary as set forth in Subsection R of 16.19.10.11 NMAC.

C. Consultant Pharmacist:

(1) Any facility licensed as a clinic by the

board which does not employ a staff pharmacist must engage the services of a consultant pharmacist, whose duties and responsibilities are described in Subsection C of 16.19.4.11 NMAC.

(2) The consultant pharmacist shall wear an identification badge listing his name and job title while on duty in the clinic.

D. Pharmacy Technicians and Support Personnel:

(1) Pharmacy technicians, working in a clinic under the supervision of the pharmacist, may perform activities associated with the preparation and distribution of medications, including prepackaging medications and the filling of a prescription or medication order. ~~[These activities may include counting, pouring, labeling and reconstituting medications.]~~ and vaccine administration consistent with 16.19.22.16 NMAC

(2) The pharmacist shall ensure that the pharmacy technician has completed the initial training required in Subsection A of 16.19.22.9 NMAC and if applicable 16.19.22.16 NMAC.

(3) A written record of the initial training and education will be maintained by the clinic pursuant to requirements of Subsection C of 16.19.22.9 NMAC and if applicable 16.19.22.16 NMAC.

(4) The permissible ratio of pharmacy technicians to pharmacists on duty is to be determined by the pharmacist in charge or consultant pharmacist.

(5) Support personnel may perform clerical duties associated with clinic pharmacy operations, including computer data entry, typing of labels, processing of orders for stock, duties associated with maintenance of inventory and dispensing records.

(6) The pharmacist is responsible for the actions of personnel; allowing actions outside the limits of the regulations shall constitute unprofessional conduct on the part of the pharmacist.

(7) Name tags

including job title, shall be required of all personnel while on duty in the clinic.

E. Procurement or Receipt of Dangerous Drugs:

(1) The system of procurement for all drugs shall be the responsibility of the pharmacist.

(2) Records of receipt of dangerous drugs and inventories of controlled substances shall be maintained as required by the Drug, Device and Cosmetic Act 26-1-16 and the Controlled Substances Act 30-31-16 and board of pharmacy regulation 16.19.20 NMAC.

F. Repackaging:

(1) Repackaging from bulk containers to dispensing units for distribution at locations other than the site of repackaging requires FDA registration, whether or not the repackaged drugs enter interstate commerce. (See FDA Regulations Title 21, Sections 207, 210 and 211).

(2) Repackaging of ~~[drug]~~ drugs from bulk containers into multiple dispensing units for future distribution to clinic patients at the site of repackaging may be done by a physician, dentist, pharmacist, or by a pharmacy technician under the supervision of the pharmacist as defined in Subsection ~~[B-]~~ A of 16.19.22.7 NMAC. All drugs repackaged into multiple dispensing units by a pharmacy technician must undergo a final check by the pharmacist.

(3) A record of drugs repackaged must be maintained, to include the following.

(a) Date of repackaging.

(b) Name and strength of drug.

(c) Lot number or control number.

(d) Name of drug manufacturer.

(e) Expiration date (per USP requirements).

(f) Total number of dosage units (tabs, caps) repackaged (for each drug).

(g) Quantity per each repackaged unit container.

(h) Number of dosage units (tabs, caps) wasted.

(i) Initials of repackager.

(j) Initials of person performing final check.

(4) All dispensing units of repackaged medication must be labeled with the following information.

(a) Name, strength, and quantity of the drug.

(b) Lot number or control number.

(c) Name of manufacturer.

(d) Expiration date.

(e) Date drug was repackaged.

(f) Name or initials of repackager.

(g) Federal caution label, if applicable.

(5) —
~~Repackaged units must be stored with the manufacturer's package insert until relabeled for dispensing as specified under Subsection G of 16.19.10.11 NMAC.]~~

G. Clinic Dispensing or Distributing:

(1) Drugs shall be dispensed or distributed only to clinic patients on the order of a licensed practitioner of the clinic.

(2) The clinic practitioner shall record the prescribed drug therapy on the patient medical record indicating the name, strength, quantity and directions for use of the prescribed drug. This information shall be initialed or signed by the practitioner. A separate prescription form in addition to the medical record may be used.

(3) The prescription order may then be prepared by the practitioner, pharmacist or technician under the supervision of the pharmacist and a dispensing label affixed to the

dispensing unit of each drug. The following information shall appear on the label affixed to the dispensing unit.

(a) Name of patient.

(b) Name of prescriber.

(c) Date of dispensing.

(d) Directions for use.

(e) Name, strength, and quantity of the drug.

(f) Expiration date.

(g) Name, address and phone number of the clinic.

(h) Prescription number, if applicable.

(4) The pharmacist or practitioner must then provide a final check of the dispensing unit and sign or initial the prescription or dispensing record.

(5) Refill prescription orders must also be entered on the patient's medical record and the dispensing record.

H. Patient Counseling:

(1) Each clinic licensed by the board shall develop and provide to the board policies and procedures addressing patient counseling which are at least equivalent to the requirements of Subsection F of 16.19.4.16 NMAC.

(2) If the consultant pharmacist is absent at the time of dispensing or distribution of a prescription from clinic drug stock to a clinic patient, the patient shall be provided written information when appropriate on side effects, interactions, and precautions concerning the drug or device provided. Alternative forms of patient information may be used to supplement patient counseling when appropriate. Examples include, but not limited to, written information leaflets, pictogram labels and video programs. The clinic shall make the consultant pharmacist's phone number available to patients for consultation on drugs provided by the clinic.

I. Dispensing records: A record shall be kept of the dangerous drugs dispensed indicating the date the drug was dispensed, name and address of the patient, the name of the prescriber, and the quantity and strength of the drug dispensed. The individual recording the information and the pharmacist or clinic practitioner who is responsible for dispensing the medication shall initial the record.

J. Sample drugs: samples of medications which are legend drugs or which have been restricted to the sale on prescription by the New Mexico board of pharmacy are subject to all the record keeping, storage and labeling requirements for prescription drugs as defined by Section 26-1-16 NMSA 1978 and other applicable state and federal laws.

K. Drug storage:
(1) Space for the storage and dispensing of drugs shall have proper ventilation, lighting, temperature controls, refrigeration and adequate security as defined by the board or its' agent. Minimum space requirements for main drug storage areas are as follows:

(a) for Class A clinics - 240 square foot room;

(b) for Class B clinics; categories 1, and 2 - 48 square foot room; and

(ii) category 3 - 96 square foot room;

(c) for Class C clinics - an area adequate for the formulary.

(d) for Class D clinics - an area adequate for the formulary:

(i) medication is stored in its original packaging until the time of administration, and secured in a secondary tamper-evident container;

(ii) ~~[the] dangerous [drug] drugs [is-] are~~ stored in a restricted area, secure but unlocked, and readily accessible to authorized, trained personnel;

(iii)	(2) Options	(g)
for Class D clinics only, the pre-licensing inspection may be completed by a New Mexico board of pharmacy state drug inspector's approval of record keeping procedures; the policy and procedure manual; any other required forms or documents; and photographs of the proposed dangerous drug storage area, secondary tamper-evident container, and drug storage area thermometer; this pre-licensing inspection may not require an onsite inspection.	for disposal are destruction under the supervision of the pharmacist, <u>reverse distribution</u> or return to the legitimate source of supply. Controlled substance disposition shall occur in accordance with 16.19.20.38 NMAC.	policies and procedures for (i) security;
(e) for Class E clinics – 96 square foot room.	M. Reference material: adequate <u>current drug</u> reference materials are to be maintained in the clinic. [These shall include a current product information reference such as USPDI, facts and comparisons, or American hospital formulary service; a copy of the] <u>The clinic shall have access to the current</u> state drug laws and regulations and a [poison-treatment chart with the] regional poison control center's telephone number.	(ii) equipment;
(2) Controlled substances must be stored as defined in 16.19.20.48 NMAC.	N. Procedures manual: (1) Written policies and procedures shall be developed by the pharmacy and therapeutics committee, or if none, by the pharmacist-in-charge and clinic's executive director, and implemented by the pharmacist-in-charge.	(iii) sanitation;
(3) All drug containers in the facility shall be clearly and legibly labeled as required under Subsection F of 16.19.10.11 NMAC – (REPACKAGING and Sections 26-1-10 and 26-1-11 of the Drug, Device and Cosmetic Act).	(2) The policy and procedure manual shall include but not be limited to the following:	(iv) licensing;
(4) Purchase, storage and control of drugs shall be designed to prevent having outdated, deteriorated, impure or improperly standardized drugs in the facility.	(a) a current list of the names [and addresses] of the [pharmacist-in-charge,] consultant- [pharmacist] <u>pharmacist(s)</u> , staff pharmacist(s), supportive personnel designated to provide drugs and devices, and the supportive personnel designated to supervise the day-to-day pharmacy related operations of the clinic in the absence of the pharmacist;	(v) reference materials;
(5) Access to the drug storage area shall be limited to clinic practitioners, the pharmacist, and supportive personnel who are performing pharmacy-related functions.	(b) functions of the [pharmacist-in-charge,] consultant [pharmacist] <u>pharmacist(s)</u> , staff pharmacist(s) and supportive personnel;	(vi) drug storage;
(6) Clinics licensed by the board prior to adoption of this regulation are exempt from the minimum space requirements set forth in Paragraph (1) of Subsection K of 16.19.10.11 NMAC. When these facilities change ownership, remodel the drug storage area, or relocate after May 15, 1996, the requirements of Paragraph (1) of Subsection K of 16.19.10.11 NMAC shall apply.	(c) clinic objectives;	(vii) packaging and repackaging;
L. Disposition of unwanted or outdated drugs:	(d) formularies;	(viii) dispensing and distributing;
(1) The pharmacist shall be responsible for removal of recalled, outdated, unwanted or otherwise unusable drugs from the clinic inventory.	(e) a copy of the written agreement, if any, between the <u>consultant</u> pharmacist and the clinic;	(ix) supervision;
	(f) date of the last review or revision of policy and procedure manual; and	(x) labeling and relabeling;
		(xi) samples;
		(xii) drug destruction and returns;
		(xiii) drug and device procuring;
		(xiv) receiving of drugs and devices;
		(xv) delivery of drugs and devices;
		(xvi) record keeping; and
		(xvii) scope of practice.
		(3) The procedures manual shall be reviewed on at least an annual basis <u>by the consultant pharmacist and clinic personnel with medication-related duties</u> . A copy of the manual shall be [kept] <u>available</u> at the clinic at all times.
		(4) A written agreement defining specific procedures for the transfer, storage, dispensing and record keeping of clinic dangerous drug stock from a licensed New Mexico pharmacy will be included in the procedures manual. The agreement will be signed by a clinic official and pharmacy official and reviewed annually.
		O. Patient Record: clinics shall maintain patient records as defined in Subsection C of 16.19.4.16 NMAC.

P. Drug transfer to a pharmacy: (1) Dangerous drug stock unopened containers, except samples, may be transferred physically or electronically to a pharmacy licensed in New Mexico for dispensing to clinic patients. (a) record of transfer shall be maintained at the clinic and the pharmacy. It will include: (i) date of transfer or shipment; (ii) name and strength of drug; (iii) package size; (iv) number of packages; (v) manufacturer or repackager; and (vi) lot number and expiration date, unless transferred from a clinic supplier to a pharmacy. (b) A copy of the transfer or shipment record will be provided to the pharmacy at the time of transfer. This record will be compared with the drugs for accuracy and retained by the pharmacy as the receipt document separate from other receiving records of the pharmacy. (c) Transferred clinic drugs will be stored in the restricted area of the pharmacy and physically separated from all other pharmacy drugs. (d) Drugs returned to the clinic by the pharmacy will be documented in a transfer record as described in Subparagraph (a) of Paragraph (1) of Subsection P of 16.19.10.11 NMAC. A copy will be maintained by the pharmacy and the clinic. (2) A clinic may petition the board for an alternative drug transfer system as set forth in Subsection Q of 16.19.10.11 NMAC. (3) The formulary of transferred drugs for pharmacy dispensing is restricted to the clinic's scope of practice. Q. Pharmacy	dispensing: Clinic drug stock may be transferred to, and maintained by, a pharmacy for dispensing to clinic patients as provided in this regulation. Clinic drug stock may be dispensed by the pharmacy if: (1) the drugs are dispensed only to a clinic patient with a valid prescription from a practitioner of that clinic; (2) clinic prescriptions for clinic drugs are maintained separately from other prescriptions of the pharmacy; (3) the prescription is dispensed in a container with a label attached which reads "DISPENSED FOR (clinic name and address) BY (pharmacy name and address)"; (4) all packaging and labeling requirements for prescriptions dispensed by a pharmacy have been met; and (5) patient records and counseling requirements have been maintained separately for all clinic patients whose prescriptions were filled by the pharmacy from clinic drug stock. R. Petition for alternative plan: (1) A clinic may petition the board for an alternative visitation schedule, dispensing formulary, or drug transfer system (each an "alternative plan") as follows. (a) Prior to implementation of any alternative plan, the clinic shall provide to the board a written petition that describes the proposed alternative plan and justifies the request. The petition shall include an affidavit that states that the clinic has a current policy and procedures manual on file, has adequate security to prevent diversion of dangerous drugs, and is in compliance with all rules applicable to the clinic. The affidavit shall be signed by the medical director, the consultant pharmacist, and the owner or chief executive officer of the clinic. In addition, a petition for an alternative drug transfer system must include a detailed, written description of the	proposed alternative transfer system in the policy and procedures manual describing: (i) drug ownership; (ii) drug ordering; (iii) drug shipping; (iv) drug receiving; (v) drug accountability system; (vi) formulary for transfer; and (vii) records of transfer. (b) The board may approve or deny the petition for an alternative plan, at the board's discretion. The board may consider the following: (i) degree of compliance by the clinic on past compliance inspections; (ii) size and type of the patient population; (iii) number and types of drugs contained in the clinic's formulary; (iv) the clinic's objectives; and (v) impact on the health and welfare of the clinic's patients. (2) A copy of the board approved alternative plan shall be maintained at the clinic's license location for review by the board or its agent. (3) The board may terminate the alternative plan if the board determines that the clinic's status or other circumstances justifying the alternative plan have changed. S. Class D (SBEM) clinic: (1) Only trained personnel may administer epinephrine. Trained personnel can be a school employee, agent or volunteer who has completed epinephrine administration training documented by the school nurse, school principal or school leader and approved by the New
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Mexico department of health and who has been designated by the school principal or school leader to administer epinephrine on a voluntary basis outside of the scope of employment. Epinephrine is administered on the standing order of a health care practitioner employed or authorized by the New Mexico department of health. If administering epinephrine, written policies and procedures must be maintained on the premises. These policies and procedures must follow New Mexico department of health requirements as well as any policy or procedure requirement listed in 16.19.10.11 NMAC. Documentation of New Mexico department of health required training must be maintained on-site for each trained and authorized person.

(2) Only a school nurse may administer albuterol to a student who is perceived to be in respiratory distress. Written policies and procedures must be maintained at the licensed location. Documentation of New Mexico department of health required training must be maintained on-site for each nurse.

(3) The following records must be kept on-site and available for inspection for three years:

- (a) receipt records;
- (b) destruction or other disposition records;
- (c) storage records; storage records include daily (on school days) documented drug storage area temperature; documented verification that medication is sealed in its original packaging until the time of administration, and secured but unlocked in a secondary tamper-evident container; dangerous drugs are stored in a restricted area, unlocked, and readily accessible to trained personnel; policies and procedures must be in place to ensure proper drug storage conditions on non-school days;
- (d) usage records; if a dangerous drug

is used, a record must be kept; the consultant pharmacist must be notified within a 72-hour period in order to review the record; in addition, all New Mexico department of health guidelines must be followed;

(e) annual self-assessment form; this form will be supplied by the New Mexico board of pharmacy and shall be reviewed by the consultant pharmacist at least annually;

(f) consultant pharmacist record of activities and comments;

(g) a current copy of facility's New Mexico board of pharmacy registration and the consultant pharmacist's current license will be posted in the drug storage area;

(h) policy and procedure manual

(4) Albuterol and epinephrine must be stored in a secure but unlocked, [temper] tamper-evident, container. This container must be in a restricted area but readily accessible to trained personnel. A list of the contents, including expiration dates, must be posted on the outside of the container.

T. NTP clinic:
(1)

Administering, dispensing, distributing or supplying:

(a) Drugs shall be administered, dispensed, distributed, or supplied only to clinic patients on the order of a licensed practitioner of the clinic. This provision does not prohibit guest dosing pursuant to policies and procedures and in compliance with federal law, or supplying an opioid antagonist for rescue use.

(b) The clinic practitioner shall record the prescribed drug therapy on the patient medical record indicating the name, strength, quantity and directions for use of the prescribed drug.

(c) The order may then be prepared by the practitioner, pharmacist, or technician under the supervision of the pharmacist and a dispensing label affixed to the dispensing unit of each

drug. The pharmacist or practitioner must then provide a final check of the dispensing unit and sign or initial the prescription or dispensing record.

(d) Methadone for take-home purposes may be supplied to a clinic patient in a properly labeled dispensing unit by a registered nurse or licensed practical nurse employed by the NTP. Supplying of methadone in this manner (pouring and labeling the take home dose) is not considered dispensing.

(e) The following information shall appear on the label affixed to the take home medication unit:

- (i) Name of patient;
- (ii) Name of prescriber;
- (iii) Date of dispensing;
- (iv) Directions for use;
- (v) Name, strength, and quantity of the drug;
- (vi) Expiration date;
- (vii) Name, address and phone number of the clinic;
- (viii) Prescription number, if applicable; and
- (ix) Additional required information, such as federal statement(s)

(2) Records and Reports:

- (a) Each NTP clinic, including a mobile NTP, shall maintain records with the following information for each dangerous drug administered, dispensed, distributed or supplied indicating:
 - (i) Name of substance;
 - (ii) Strength of substance;
 - (iii) Dosage form;
 - (iv) Date dispensed;

(v) Adequate identification of the patient; (vi) The name of the prescriber (vii) Amount consumed; (viii) Amount, units, and dosage form taken home by patient; and (ix) Initials of personnel who administered, dispensed, distributed or supplied. (b) These records will be maintained in an administration or dispensing, distributing or supplying log at the NTP site, or in the case of a mobile NTP, at the registered site of the NTP. (c) As an alternative to maintaining a paper administration or dispensing, distributing [øf] or supplying log, an NTP or its mobile component may also use an automated/computerized data processing system for the storage and retrieval of the program's dispensing records, if the following conditions are met: (i) The automated system maintains the information required in paragraph (a) above; (ii) The automated system has the capability of producing a hard copy printout of the program's administration or dispensing, distributing or supplying records; (iii) The NTP or its mobile component prints a hard copy of each day's administration or dispensing, distributing or supplying log, which is then initialed appropriately by each person who administered, dispensed, distributed or supplied medication to the program's patients; (iv) The automated system is approved by DEA; (v) The NTP or its mobile component maintains an off-site back-up of all computer generated program information; and (vi) The automated system is capable of	producing accurate summary reports for both the registered site of the NTP and any mobile component, for any time-frame selected by board personnel during an investigation. If these summary reports are maintained in hard copy form, they must be kept in a systematically organized file located at the registered site of the NTP. (d) The NTP must retain all records for the NTP as well as any mobile component for three years from the date of execution. (3) Patient counseling: Each NTP clinic shall develop and provide to the board policies and procedures addressing patient counseling which are at least equivalent to the requirements of Subsection F of 16.19.4.16 NMAC. When a medication is started, the patient should be provided with patient information to supplement patient counseling. Examples of patient information include, but <u>are</u> not [are] limited to, written information leaflets, pictogram labels and video programs. The clinic shall maintain a mechanism for the patient to be provided with medication information and counseling as requested. (4) Policies and procedures: In addition to requirements of Subsection N of 16.19.10.11 NMAC (Procedures Manual), NTPs must maintain procedures to: (a) ensure appropriate training and qualifications of personnel for competent performance of assigned functions. (b) ensure appropriate medication administration and supplying, (c) ensure appropriate supervision consistent with state and federal law. (d) support prevention of medication errors, including through adequate staffing, training, and supervision. (5) Controls: each NTP clinic must maintain effective controls and procedures to	ensure maintenance of required records in proper form and to identify theft or diversion of NTP clinic controlled substances. (6) Responsibility: While the consultant pharmacist is responsible for overall clinic pharmacy services, a corresponding responsibility rests with the NTP clinic, the practitioner, and nurses for ensuring proper completion of medication related functions and record maintenance as applicable. (7) Prescription Monitoring Program (PMP) Utilization: The consultant pharmacist shall request and review a PMP report covering at least a one year time period and another states' report (if applicable) for each program patient receiving an opioid, at least quarterly. The pharmacist will use professional judgement to determine whether more frequent monitoring is appropriate, as in the case of patients who are receiving a benzodiazepine or carisoprodol, or an opioid prescribed outside of the NTP. The pharmacist will use professional judgment in taking steps to avoid or resolve potential issues identified on PMP report review. The pharmacist shall document review of these PMP reports, and his or her action regarding such reports. (8) Mobile NTP: An NTP may operate one or more mobile NTPs, subject to: (a) For any NTP intending to operate a mobile NTP, the NTP must notify the Board, in writing, of its intent to do so, and the NTP must receive written approval from the board prior to operating the mobile NTP. The mobile NTP may only operate in New Mexico. (b) An NTP clinic is not required to obtain a separate clinic license or registration for conveyances (mobile components) utilized by the NTP to transport controlled substances away from registered locations for administration or provision of take home doses at unregistered locations as part of a mobile NTP. Vehicles
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must possess valid county/city and state information (e.g., a vehicle information number (license plate number) on file at the registered location of the NTP.

(i)

A mobile NTP is not permitted to reverse distribute, share, or transfer controlled substances from one mobile component to another mobile component while deployed away from the registered location. NTPs with mobile components are not allowed to modify their registrations to authorize their mobile components to act as collectors under 21 CFR 1301.51 and 1317.40. Mobile components of NTPs may not function as hospitals, long-term care facilities, or emergency medical service vehicles, and will not transport patients.

(ii)

A mobile NTP may operate at any remote location or locations within the state, including correctional facilities, so long as doing so is otherwise consistent with applicable federal, state, tribal, and local laws and regulations, and so long as the local DEA office, does not otherwise direct.

(c)

Physical security controls, mobile NTP; storage areas:

(i)

For any conveyance operated as a mobile narcotic treatment program (NTP), a safe must be installed and used to store narcotic drugs in schedules II–V for the purpose of maintenance or detoxification treatment, when not located at the clinic's registered location. The safe must conform to the requirements set forth in 21 CFR 1301.72 (a)(1).

(ii)

The mobile component must also be equipped with an alarm system that conforms to the requirements set forth 21 CFR 1301.70 (a)(1)(iii).

(iii)

Accessibility to storage areas.

The controlled substances storage areas shall be accessible only to an absolute minimum number of specifically authorized employees. When it is necessary for employee maintenance personnel, nonemployee

maintenance personnel, business guests, or visitors to be present in or pass through controlled substances storage areas, the NTP shall provide for adequate observation of the area by an employee specifically authorized in writing. The storage area for controlled substances in a mobile component of an NTP must not be accessible from outside of the vehicle. Personnel transporting the controlled substances on behalf of the mobile NTP are required to retain control over all controlled substances when transferring them between the registered location and the conveyance, and when providing medication to patients at remote locations. At all other times during transportation, all controlled substances must be properly secured in the safe. Upon completion of the operation of the mobile NTP on a given day, the conveyance must be immediately returned to the registered location, and all controlled substances must be removed from the conveyance and secured within the registered location. After the conveyance has returned to the registered location and the controlled substances have been removed, the conveyance may be parked until its next use at the registered location or any secure, fenced-in area, once the local DEA office has been notified of the location of this secure, fenced-in area. All NTPs with mobile components shall be required to establish a standard operating procedure to ensure, if the mobile component becomes inoperable (mechanical failure, accidents, fire, etc.), that all controlled substances on the inoperable conveyance are accounted for, removed from the inoperable conveyance, and secured at the registered location.

(iv)

Upon completion of the operation of the mobile NTP on a given day, the conveyance must be immediately returned to the registered location, and all controlled substances must be removed from the conveyance and secured within the registered location. An NTP may apply for an exception to this requirement after receiving an exception from the DEA.

(d)

Other security controls: Persons enrolled in any NTP, including those receiving treatment at a mobile NTP, will be required to wait in an area that is physically separated from the narcotic storage and preparation area by a physical entrance such as a door or other entryway. Patients must wait outside of a mobile NTP component if that conveyance does not have seating or a reception area that is separated from the narcotic storage and preparation area. This requirement will be enforced by the program practitioner and NTP employees.

(e)

Any controlled substances being transported for disposal from the remote location of a mobile NTP shall be secured and disposed of in compliance with 21 CFR part 1317, and all other applicable Federal, State, tribal, and local laws and regulations.

(f) A

conveyance used as part of a mobile NTP may only be supplied with narcotic drugs by the registered NTP that operates such conveyance. [5/15/1996; 16.19.10.11 NMAC - Rn, 16 NMAC 19.10.11, 3/30/2002; A, 8/12/2013; A, 10/24/2014; A, 12/13/2015; A, 9/13/2022; A, 6/13/2023; A, 9/22/2026]

16.19.10.12 INPATIENT HOSPICE FACILITIES:

A. Licensure:

(1) All

inpatient hospice facilities which maintain custody of patients' drugs, and such drugs are administered by the facilities' designated personnel shall obtain a custodial care facility license as described in Subsection A or B of 16.19.11.7 NMAC.

(2) All

inpatient hospice facilities where dangerous drugs are acquired and maintained for administration, to patients of the facility shall obtain a limited drug clinic permit as described in [16.19.10.11(A)] Subsection A of 16.19.10.11 NMAC.

(3) All

inpatient hospice facilities holding a limited drug clinic permit where controlled substances are maintained

for administration from stock to patients of the facility shall obtain controlled substance registration as described in 16.19.20.8 NMAC through 16.19.20.10 NMAC.

B. Consultant pharmacist: All licensed inpatient hospice facilities shall engage the services of a pharmacist whose duties and responsibilities are described in ~~[16.19.4.11(2)]~~ 16.19.4.11 NMAC.

C. Drug control:
(1) Inpatient hospice facilities holding a license as described in 16.19.11 NMAC shall comply with 16.19.11 NMAC.

(2) Inpatient hospice facilities holding a license as described in Subsection A of 16.19.10.11 NMAC shall comply with ~~[16.19.10.11.A.(1), 11.C.]~~ Subsection A of 16.19.10.11 through [11.K] Subsection O of 16.19.10.11 NMAC.

D. Procedure Manual:
(1) Inpatient hospice facilities holding a license as described in 16.19.11 NMAC shall comply with ~~[16.19.11.H.(1)]~~ Subsection B of 16.19.11.8 NMAC.
(2) Inpatient hospice facilities holding a license as described in Subsection A of 16.19.10.11 NMAC shall comply with ~~[16.19.10.11(12)]~~ Subsection N of 16.19.10.11 NMAC.

E. Fees:
(1) Inpatient hospice facilities holding a license as described in 16.19.11 NMAC shall submit application with license fees as described in 16.19.12.14 NMAC.

(2) Inpatient hospice facilities holding a license as described in Subsection A of 16.19.10.11 NMAC shall submit application with fees as described in 16.19.12.15 NMAC.

(3) Inpatient hospice facilities holding a license as described in Subsection A of 16.19.10.11 NMAC shall submit application with fees as described in 16.19.12.18 NMAC for initial inspection of facility prior to issuance of license.

(4) An inpatient hospice facility whose board license has expired and who seeks

reinstatement shall submit application with fees as described in 16.19.12.20 NMAC.

[12-15-97; 16.19.10.12 NMAC - Rn, 16 NMAC 19.10.12, 3/30/2002; A, 9/22/2026]

TAXATION AND REVENUE DEPARTMENT

The New Mexico Taxation and Revenue Department approved, at its 8/27/2026 hearing, to repeal its rules 3.1.2 NMAC, Tax Administration - Promulgation of Regulations filed 12/15/2000 and replace it with 3.1.2 NMAC, Tax Administration - Promulgation of Regulations effective 9/22/2026.

The New Mexico Taxation and Revenue Department approved, at its 8/27/2026 hearing, to repeal its rules 3.9.1 NMAC, Cigarette and Tobacco Products Taxes - General Provisions filed 12/1/2000 and replace it with 3.9.1 NMAC, Cigarette and Tobacco Products Taxes - General Provisions effective 9/22/2026.

The New Mexico Taxation and Revenue Department approved, at its 8/27/2026 hearing, to repeal its rules 3.9.2 NMAC - Shipment of Unstamped Cigarettes in New Mexico (filed 12/1/2000) and replace it with, 3.9.2 NMAC - Shipment of Unstamped Cigarettes in New Mexico effective 9/22/2026.

TAXATION AND REVENUE DEPARTMENT

TITLE 3 TAXATION CHAPTER 1 TAX ADMINISTRATION PART 2 PROMULGATION OF REGULATIONS

3.1.2.1 ISSUING AGENCY: Taxation and revenue department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM

87504-0630.

[3.1.2.1 NMAC - Rp, 3.1.2.1 NMAC 09/22/2026]

3.1.2.2 SCOPE: This part applies to the taxation and revenue department and to every person subject to any statute the administration or enforcement of which is charged to the taxation and revenue department.
[3.1.2.2 NMAC - Rp, 3.1.2.2 NMAC 09/22/2026]

3.1.2.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[3.1.2.3 NMAC - Rp, 3.1.2.3 NMAC 09/22/2026]

3.1.2.4 DURATION: Permanent.
[3.1.2.4 NMAC - Rp, 3.1.2.4 NMAC 09/22/2026]

3.1.2.5 EFFECTIVE DATE: September 22, 2026, unless a later date is cited at the end of a section, in which case the later date is the effective date.
[3.1.2.5 NMAC - Rp, 3.1.2.5 NMAC 09/22/2026]

3.1.2.6 OBJECTIVE: The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Taxation and Revenue Department Act.
[3.1.2.6 NMAC - Rp, 3.1.2.6 NMAC 09/22/2026]

3.1.2.7 DEFINITIONS: [RESERVED]
[3.1.2.7 NMAC - Rp, 3.1.2.7 NMAC 09/22/2026]

3.1.2.8 RULINGS - GENERAL:
A. Persons may request a ruling from the secretary for clarification of the consequences of a specified set of circumstances or interpretation of any statute the administration or enforcement of which is charged to the taxation and revenue department. The request must be in writing. The department may require the requester to state

whether the requester is under audit by the department, has an outstanding assessment related to the subject matter of the request or is involved in a protest or litigation with the department over the subject matter of the request. The secretary's ruling will be in writing addressed to the requesting party with an assigned ruling number, signed by the secretary and by legal counsel of the department.

B. In a proceeding pursuant to the Tax Administration Act, the department shall be estopped pursuant to Section 7-1-60 NMSA 1978 from obtaining or withholding the relief requested if it is shown by the party adverse to the department that the party's action or inaction subject to dispute was in accordance with any ruling addressed to the party by the secretary, unless the ruling had been rendered invalid or had been superseded by statute, regulation or by another ruling addressed to the party at the time the asserted liability for tax arose.

C. Persons requesting a ruling from the secretary must be subject to the statute for which an interpretation is requested or to which the set of circumstances relate. In particular the requester must be a taxpayer as defined in Section 7-1-3 NMSA 1978 for taxes and tax acts covered by the Tax Administration Act. A representative, such as an accountant or attorney, of the requester may request the ruling on behalf of the requester but must disclose the name of the requester. The secretary will not issue a ruling addressed to the requester's representative, whether or not the name of the requester is disclosed. A copy of a ruling addressed to the requester will be sent to a requester's representative when requested.

D. The secretary may modify or withdraw any previously issued ruling and shall withdraw or modify any ruling when subsequent legislation, regulations, final court decision or other rulings have invalidated a ruling or portions of a ruling.

E. Although the secretary is not required by statute to issue a ruling even if the request is in proper form, every ruling request shall be given careful and diligent consideration.

[3.1.2.8 NMAC – Rp, 3.1.2.8 NMAC 09/22/2026]

3.1.2.9 HEARING FOR PROPOSED REGULATIONS:

A. For the purpose of obtaining comments of interested persons regarding issuance of regulations, the secretary shall schedule a public hearing on a date approximately 30 days from the day of issuing and filing a proposed regulation in the office of the secretary for public inspection. The hearing date shall be publicized in a manner so that individuals, professionals and industry groups who have an interest in the promulgation of proposed regulations will have an opportunity to attend the meeting and express their comments. The secretary or a designated hearing officer shall hear and weigh all comments and suggestions on the proposed regulation. The secretary may incorporate revisions into the proposed regulations including those derived from written or verbal comments of interested persons. The decision of the secretary on the substance and form of the regulation is final.

B. Revisions to a proposed regulation may be incorporated by the secretary at any time during the 60-day waiting period, and the modified regulation need not be reissued as proposed before becoming final.

[3.1.2.9 NMAC – Rp, 3.1.2.9 NMAC 09/22/2026]

3.1.2.10 COOPERATIVE AGREEMENT; RATE CHANGES; EFFECTIVE DATE:

A. A cooperative agreement or an amended cooperative agreement entered into pursuant to Section 9-11-12.1 NMSA 1978 or Section 9-11-12.2 NMSA 1978, shall become effective on July 1 provided that the cooperative agreement or

amended cooperative agreement is signed by both the pueblo or tribe and the secretary by March 31 of the same year.

B. A tribal or pueblo government shall provide a resolution, ordinance, or other documentation authorized by tribal law to impose, amend, or repeal the gross receipts tax rate with an effective date of July 1 unless the emergency provisions of Section 9-11-12.1 NMSA 1978 or Section 9-11-12.2 NMSA 1978 are established and then the imposition of the tax shall become effective on January 1.

C. To be effective as of July 1, gross receipts tax rate changes must be submitted to the department by March 31 of the same year.

D. If emergency provisions are established, to be effective as of January 1, gross receipts tax rate changes must be submitted to the department by September 30 of the previous year. [3.1.2.10 NMAC – Rp, 3.1.2.10 NMAC 09/22/2026]

3.1.2.11 SECRETARY MAY DESIGNATE REPORTING REQUIREMENTS OF SOME RECEIPTS:

The secretary may require receipts from sales that occur on the tribal land of a pueblo or tribe that has entered into a gross receipts tax cooperative agreement with the state of New Mexico pursuant to Section 9-11-12.1 NMSA 1978 to be reported as located on tribal land regardless of where the taxpayer's place of business is maintained. [3.1.2.11 NMAC – Rp, 3.1.2.11 NMAC 09/22/2026]

HISTORY OF 3.1.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:

TRD Regulations TRD 6.2:1 & 2, Regulations Pertaining to the Taxation and Revenue Department Act Section 9-11-6.2 NMSA 1978, filed 11/17/1995.

NMAC History:

3 NMAC 1.2, Tax Administration -

Promulgation of Regulations, filed 4/1/1997.

3.1.2 NMAC, Tax Administration - Promulgation of Regulations, filed 12/15/2000.

History of Repealed Material:

3.1.2 NMAC, Tax Administration - Promulgation of Regulations, filed 12/15/2000, Repealed effective 09/22/2026.

Other: 3.1.2 NMAC, Tax Administration - Promulgation of Regulations, filed 12/15/2000 Replaced by 3.1.2 NMAC, Tax Administration - Promulgation of Regulations, effective 09/22/2026.

TAXATION AND REVENUE DEPARTMENT

TITLE 3 TAXATION CHAPTER 9 CIGARETTE AND TOBACCO PRODUCTS TAXES PART 1 GENERAL PROVISIONS

3.9.1.1 ISSUING

AGENCY: Taxation and revenue department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630.
[3.9.1.1 NMAC - Rp, 3.9.1.1 NMAC 9/22/2026]

3.9.1.2 SCOPE:

Provisions of this part apply to all persons who sell, distribute or otherwise deal in cigarettes or tobacco products.
[3.9.1.2 NMAC - Rp, 3.9.1.2 NMAC 9/22/2026]

3.9.1.3 STATUTORY

AUTHORITY: Section 9-11-6.2 NMSA 1978.
[3.9.1.3 NMAC - Rp, 3.9.1.3 NMAC 9/22/2026]

3.9.1.4 DURATION:

Permanent.
[3.9.1.4 NMAC - Rp, 3.9.1.4 NMAC 9/22/2026]

3.9.1.5 EFFECTIVE

DATE: September 22, 2026, unless a later date is cited at the end of a section, in which case the later date is the effective date.
[3.9.1.5 NMAC - Rp 3.9.1.5 NMAC 9/22/2026]

3.9.1.6 OBJECTIVE:

The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Cigarette Tax Act and the Tobacco Products Tax Act.
[3.9.1.6 NMAC - Rp, 3.9.1.6 NMAC 9/22/2026]

3.9.1.7 DEFINITIONS:

CIGARETTES DEFINED: For purposes of the Cigarette Tax Act, a "cigarette" is:

A. "Carton" means any cigarette packages that are sold together as a single item.

B. "Cigarette" is:
(1) a roll of tobacco wrapped in paper or any substance not containing tobacco; or
(2) a roll of

tobacco that is wrapped in a substance containing tobacco other than one hundred percent natural leaf tobacco, that weighs no more than three pounds per thousand sticks, and that has three or more of the following characteristics:

(a) it has a typical cigarette size and shape;

(b) it has a cellulose acetate or other cigarette-type integrated filter;

(c) it has a filler primarily consisting of flue-cured, burley, oriental, or unfermented tobaccos or has a filler material yielding the smoking characteristics of any of those tobaccos;

(d) it has a filler, binder and wrapper that together contain three percent or more by weight of total reducing sugars and four percent or less by weight of non-reducing sugars;

(e) it is sold in soft packs, hard packs, flip-top boxes, clam shells, or other cigarette-type packages;

(f)

it is sold in a package that labels the product as a cigarette or a cigarette substitute, or in a package that does not clearly and conspicuously declare that the product is a cigar;

(g)

it is available for sale in packages of five, ten, twenty or twenty-five sticks;

(h)

it is available for sale in cartons of ten packages;

(i)

it is marketed or advertised to consumers as a cigarette or cigarette substitute; or

(3) a bidi or

kretek.

C. "Manufacturing

Labels" are labels on packages of cigarettes, including small cigars, that are in compliance with federal requirements. These labels are not false and fraudulent manufacturing labels for purposes of the Cigarette Tax Act.

[3.9.1.7 NMAC - Rp, 3.9.1.7 NMAC 9/22/2026]

3.9.1.8 [RESERVED]

[3.9.1.8 NMAC - Repealed 9/22/2026]

3.9.1.9 DOCUMENTATION TO SUBSTANTIATE THE ISSUANCE OF A TRIBAL

LICENSE: Any documentation showing that a governing body or, if the governing body has delegated the licensing function to an administrative agency, the appropriate administrative agency, has authorized the enrolled tribal member to use or sell cigarettes on that tribe's reservation or pueblo grant is sufficient to claim the exemption under Section 7-12-4 NMSA 1978.

[3.9.1.9 NMAC - Rp, 3.9.1.9 NMAC 9/22/2026]

3.9.1.10 DOCUMENTATION TO SUBSTANTIATE SALES OF CIGARETTES TO EXEMPT FEDERAL OR STATE

GOVERNMENT ENTITIES:

A. A distributor shall sell packages of cigarettes bearing a tax-exempt stamp only to:

(1) the United States or any agency or instrumentality thereof;

(2) the state of New Mexico or any political subdivision thereof;

(3) an Indian tribe, as defined in Subsection A of 3.2.4.7 NMAC, for use or sale on that tribe's reservation or pueblo grant; or

(4) a person who is recognized by the governing body of an Indian tribe to be an enrolled member of that Indian tribe and who is authorized by that Indian tribe to sell cigarettes on the reservation or pueblo grant of that Indian tribe for use or sale on that tribe's reservation or pueblo grant.

B. The distributor must maintain records demonstrating that the sale is to an entity or person described in Subsection A above.

C. For sales to a purchaser described in Paragraphs (1) and (2) of Subsection A above, the distributor shall retain documentation related to the transaction showing the entity's name, such as purchase orders, copies of warrants issued in payment and contracts related to the cigarettes sold.

D. For sales to a purchaser described in Paragraph (3) of Subsection A above, the distributor shall obtain a statement, signed by the purchaser of the cigarettes that the purchaser is an Indian tribe, as defined by Subsection A of 3.2.4.7 NMAC, and that the cigarettes are being purchased for use or sale on that tribe's reservation or pueblo grant. The statement must be attested to by a tribal official.

E. For sales to a purchaser described in Paragraph (4) of Subsection A above, the distributor shall obtain a statement signed by an official of the purchaser's Indian tribe confirming that the purchaser is an enrolled member of that Indian tribe. The statement of membership may also be provided to the distributor by the Indian tribe on behalf of one or more of its members, if attested to by a tribal official. This documentation shall be conclusive evidence, and the only material evidence, that the

purchaser is an enrolled member of an Indian tribe.

F. For sales to a purchaser described in Paragraph (4) of Subsection A above, the distributor shall also obtain documentation that the purchaser is authorized by, or under, the authority of the governing body of the purchaser's Indian tribe to sell or use cigarettes on the reservation or pueblo grant of that Indian tribe. This documentation must be attested to by a tribal official. The purchaser of the cigarettes shall also affirm in writing to the distributor that the cigarettes are being purchased for use or sale on that tribe's reservation or pueblo grant. [3.9.1.10 NMAC - Rp, 3.9.1.10 NMAC 9/22/2026]

3.9.1.11 QUALIFICATIONS FOR A STAMP TO BE CONSIDERED AFFIXED: In order for a stamp to be considered affixed, a package must have at least sixty percent of the stamp visible, including the entire serial number. Packages of cigarettes that do not meet these requirements shall be considered contraband cigarettes and may be subject to the penalties imposed under Section 7-12-13.1 NMSA 1978. [3.9.1.11 NMAC - Rp, 3.9.1.11 NMAC 9/22/2026]

3.9.1.12 CIGARETTE STAMP QUANTITIES: The minimum order for cigarette stamps is 1,500, and the minimum order for tax-exempt stamps is 15,000. [3.9.1.12 NMAC - Rp, 3.9.1.12 NMAC 9/22/2026]

3.9.1.13 CIGARETTE DISTRIBUTOR AND MANUFACTURER LICENSE - LICENSING FEE: Any person that applies for a cigarette distributor's license or a manufacturer's license shall pay a licensing fee of one hundred dollars (\$100.00). The licensing fee will be imposed for every license, including annual renewals. [3.9.1.13 NMAC - Rp, 3.9.1.13 NMAC 9/22/2026]

3.9.1.14 CIGARETTES NOT PURCHASED FROM A LICENSED DISTRIBUTOR: If a cigarette retailer has in its possession cigarettes determined by the department to have been purchased from a source other than a licensed distributor, the retailer may be subject to penalties under Section 7-12.13.1 NMSA 1978. [3.9.1.14 NMAC - Rp, 3.9.1.14 NMAC 9/22/2026]

3.9.1.15 CIVIL PENALTIES: The department will impose the penalties authorized by Section 7-12-13.1 NMSA 1978 in accordance with the following schedule at each individual location subject to penalty.

A. The penalty for a first offense shall be imposed as follows:

(1) one hundred dollars (\$100) for a violation involving a quantity of fewer than two cartons or equivalent number of packs of contraband cigarettes;

(2) two hundred fifty dollars (\$250) for a violation involving a quantity of between two cartons or equivalent number of packs and not more than twenty-five cartons of contraband cigarettes;

(3) five hundred dollars (\$500) for a violation involving a quantity of between twenty-six cartons and not more than two hundred ninety-nine cartons or equivalent number of packs of contraband cigarettes; or

(4) one thousand dollars (\$1,000) for a violation involving a quantity of three hundred or more cartons or equivalent number of packs of contraband cigarettes.

B. The penalty for a second offense shall be imposed as follows:

(1) one thousand five hundred dollars (\$1,500) for a violation involving a quantity of fewer than two cartons or equivalent number of packs of contraband cigarettes;

(2) one thousand seven hundred fifty dollars (\$1,750) for a violation involving a quantity of between two cartons or equivalent number of packs and not more than twenty-five cartons of contraband cigarettes;

(3) two thousand dollars (\$2,000) for a violation involving a quantity of between twenty-six cartons or equivalent number of packs and not more than two hundred ninety-nine cartons of contraband cigarettes; or

(4) two thousand five hundred dollars (\$2,500) for a violation involving a quantity three hundred or more cartons or equivalent number of packs of contraband cigarettes.

C. The penalty for a third or subsequent offense shall be imposed as follows:

(1) five thousand dollars (\$5,000) for a violation involving a quantity of fewer than two cartons or equivalent number of packs of contraband cigarettes;

(2) seven thousand five hundred dollars (\$7,500) for a violation involving a quantity of more than two cartons and not more than twenty-five cartons or equivalent number of packs of contraband cigarettes;

(3) ten thousand dollars (\$10,000) for a violation involving a quantity of between twenty-six cartons and not more than two hundred ninety-nine cartons or equivalent number of packs of contraband cigarettes; or

(4) fifty thousand dollars (\$50,000) for a violation involving a quantity of three hundred or more cartons or equivalent number of packs of contraband cigarettes.

D. The level of the penalty imposed for a second or subsequent offense is determined only on the quantity of cigarettes involved with that offense, and not on cigarettes involved in a prior offense.

E. If the stamps are not properly affixed to the package and the issue is found to be the quality of

the stamp manufacturer's product, civil penalty will not be applied.
[3.9.1.15 NMAC - Rp, 3.9.1.15 NMAC 9/22/2026]

3.9.1.16 REPORTING UNDER SECTION 7-12-18 NMSA

1978: Persons required to submit reports concerning their cigarette transactions, under Section 7-12-18 NMSA 1978, shall do so on a monthly basis. These reports, the *cigarette distributor's monthly report* and the *cigarette manufacturer's monthly report* shall be submitted to the department on or before the 25th day of the month after the reporting period.

[3.9.1.16 NMAC - Rp, 3.9.1.16 NMAC 9/22/2026]

3.9.1.17 DOCUMENTATION OF CIGARETTES SHIPPED OUT OF NEW MEXICO: A cigarette distributor who ships cigarettes outside New Mexico must report the quantity of cigarette packages shipped out of state for each report period using the *Schedule C - Itemized Distribution Inventory* form as an attachment to the form *Cigarette Distributor's Monthly Report*. In addition to the reporting function the distributor must maintain the following documentation for three years with respect to each shipment:

- A. bill of lading;
- B. delivery receipts;
- C. the name and

address of persons to whom cigarettes are shipped out of state.

[3.9.1.17 NMAC - Rp, 3.9.1.17 NMAC 9/22/2026]

3.9.1.18 [RESERVED]
[3.9.1.18 NMAC - Repealed 9/22/2026]

3.9.1.19 POSSESSION OF CONTRABAND CIGARETTES; SEIZURE: Cigarettes in the possession of any person which are contraband cigarettes pursuant to Section 7-12-2 NMSA 1978 may be immediately seized by the department. The department shall not be required to obtain a warrant

or court order prior to the seizure of contraband cigarettes pursuant to Section 7-12-13.1 and 7-12.13.2 NMSA 1978.

[3.9.1.19 NMAC - Rp, 3.9.1.19 NMAC 9/22/2026]

3.9.1.20 RIGHT OF APPEAL:

A. Any person may appeal the department's determination that cigarettes seized are contraband under Section 7-12-2 NMSA 1978.

B. Any person may appeal the department's decision to deny, suspend or revoke the issuance of a cigarette distributor or manufacturer license.

C. Any person that disputes either matter described in Subsection A or B of this section may appeal by submitting a written appeal within ninety days of receipt of the *inventory list cigarette compliance*.

D. A written appeal shall:

(1) identify the taxpayer and the reason for appeal;

(2) state the grounds on which the appeal is based and summarizes evidence supporting each ground asserted; and

(3) state the affirmative relief requested.

E. The department shall acknowledge the appeal submittal and inform the taxpayer if the appeal does not include all required information outlined in Subsection D of this section.

F. The department shall make a determination within 180 days, if additional time is needed, the taxpayer must be informed.
[3.9.1.20 NMAC - Rp, 3.9.1.20 NMAC 9/22/2026]

3.9.1.21 [RESERVED]
[3.9.1.21 NMAC - Repealed 9/22/2026]

3.9.1.22 FORFEITURE: In the absence of the filing of a timely appeal under regulation

3.9.1.20 NMAC or protest pursuant to the Tax Administration Act of a seizure of contraband cigarettes, the cigarettes seized by the department shall be deemed forfeited and shall be destroyed by the department unless needed for evidence in other proceedings.
[3.9.1.22 NMAC - Rp, 3.9.1.22 NMAC 9/22/2026]

HISTORY OF 3.9.1 NMAC:
Pre-NMAC History: [RESERVED]

NMAC History:
3 NMAC 9.1, Cigarette and Tobacco Products Taxes - General Provisions, filed 4/19/1999.
3.9.1 NMAC, Cigarette and Tobacco Products Taxes - General Provisions, filed 12/1/2000.

History of Repealed Material:
3.9.1 NMAC, Cigarette and Tobacco Products Taxes - General Provisions, filed 12/1/2000, Repealed effective 9/22/2026.

Other: 3.9.1 NMAC, Cigarette and Tobacco Products Taxes - General Provisions, filed 12/1/2000, Replaced by 3.9.1 NMAC, Cigarette and Tobacco Products Taxes - General Provisions effective 9/22/2026.

**TAXATION AND
REVENUE DEPARTMENT**

**TITLE 3 TAXATION
CHAPTER 9 CIGARETTE
AND TOBACCO PRODUCTS
TAXES
PART 2 SHIPMENT OF
UNSTAMPED CIGARETTES IN
NEW MEXICO**

3.9.2.1 ISSUING
AGENCY: Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630
[3.9.2.1 NMAC – Rp, 3.9.2.1 NMAC 9/22/2026]

3.9.2.2 SCOPE: Provisions of this part apply to the transportation

of unstamped cigarettes in New Mexico by any person.
[3.9.2.2 NMAC – Rp, 3.9.2.2 NMAC 9/22/2026]

**3.9.2.3 STATUTORY
AUTHORITY:** Section 9-11-6.2 NMSA 1978.

[3.9.2.3 NMAC – Rp, 3.9.2.3 NMAC 9/22/2026]

3.9.2.4 DURATION:
Permanent.
[3.9.2.4 NMAC – Rp, 3.9.2.4 NMAC 9/22/2026]

**3.9.2.5 EFFECTIVE
DATE:** September 22, 2026, unless a later date is cited at the end of a section, in which case the later date is the effective date.
[3.9.2.5 NMAC – Rp, 3.9.2.5 NMAC 9/22/2026]

3.9.2.6 OBJECTIVE: The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Cigarette Tax Act.
[3.9.2.6 NMAC – Rp, 3.9.2.6 NMAC 9/22/2026]

3.9.2.7 DEFINITIONS:
[RESERVED]
[3.9.2.7 NMAC – Rp, 3.9.2.7 NMAC 9/22/2026]

**3.9.2.8 TRANSPORTING
UNSTAMPED CIGARETTES
INTO NEW MEXICO:** A person filing a notice with the department, pursuant to Section 7-12-12 NMSA 1978, shall include in the notice the following information:
 A. name and address of the person receiving the unstamped cigarettes in New Mexico;
 B. the quantity of unstamped cigarettes being shipped into the state to that person;
 C. the brands of the cigarettes being shipped into the state to that person; and
 D. the date of shipment.
[3.9.2.8 NMAC – Rp, 3.9.2.8 NMAC 9/22/2026]

HISTORY 3.9.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:
TRD Regulation CIG 12:1, Regulation Pertaining to the Cigarette Tax Act, Section 7-12-12 NMSA 1978, filed 10/2/1992.

NMAC History:
3 NMAC 9.2, Shipment of Unstamped Cigarettes in New Mexico, filed 9/3/1996.
3.9.2 NMAC, Shipment of Unstamped Cigarettes in New Mexico, filed 12/1/2000.

History of Repealed Material: 3.9.2 NMAC - Shipment of Unstamped Cigarettes in New Mexico (filed 12/1/2000) Repealed effective 9/22/2026.

Other: 3.9.2 NMAC - Shipment of Unstamped Cigarettes in New Mexico (filed 12/1/2000) Replaced by 3.9.2 NMAC - Shipment of Unstamped Cigarettes in New Mexico effective 9/22/2026.

End of Adopted Rules

2026 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXXVII, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 2	January 13
Issue 2	January 15	January 27
Issue 3	January 29	February 10
Issue 4	February 12	February 24
Issue 5	February 26	March 10
Issue 6	March 12	March 24
Issue 7	March 26	April 7
Issue 8	April 9	April 21
Issue 9	April 23	May 5
Issue 10	May 7	May 19
Issue 11	May 21	June 10
Issue 12	June 11	June 23
Issue 13	June 25	July 14
Issue 14	July 16	July 28
Issue 15	July 30	August 11
Issue 16	August 13	August 25
Issue 17	August 27	September 9
Issue 18	September 11	September 22
Issue 19	September 24	October 6
Issue 20	October 8	October 20
Issue 21	October 22	November 3
Issue 22	November 5	November 17
Issue 23	November 19	December 8
Issue 24	December 10	December 22

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