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New Mexico Register

The official publication for all official notices of rulemaking
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The New Mexico Register

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New Mexico Register

Volume XXXIV, Issue 11

June 13, 2023

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Notices of Rulemaking and Proposed Rules

DEVELOPMENTAL DISABILITIES COUNCIL OFFICE OF GUARDIANSHIP

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the New Mexico Developmental Disabilities Council Office of Guardianship (NMDDC OOG) will hold a public rule hearing on **July 31, 2023**. The hearing will begin at 10:00 a.m. and will be held at the NMDDC OOG at 625 Silver Avenue SW, Suite 100, Albuquerque, NM 87102-3185, and via Zoom (<https://us02web.zoom.us/j/82414945939?pwd=dGtOS05rdWVrTXZaG5UM0ZTMlN1QT09>, Meeting ID: 824 1494 5939, Passcode: 090711, One tap mobile +17193594580,,82414945939#,,,,*090711# US). Following the public rule hearing, the NMDDC OOG will convene an executive leadership meeting to adopt the rules.

Statutory Authority: Legal authority for this rulemaking may be found in the Office of Guardianship Act, Section 28-16B-3 NMSA 1978, among other provisions which specifically authorize the NMDDC OOG to “promulgate rules in accordance with the State Rules Act [Chapter 14, Article 4 NMSA 1978] to carry out the provisions of the Office of Guardianship Act.”

Purpose: The purpose of the public rule hearing is to take public comments regarding the proposed repeal and replacement of **9.4.21 NMAC – GUARDIANSHIP SERVICES**. Every person attending the public rule hearing will be given the opportunity to present their comments. **Interested persons may submit their written comments to the NMDDC OOG at 625 Silver Avenue SW, Suite 100, Albuquerque, NM 87102-3185, or DDC.OOG-Rulemaking@ddc.nm.gov.** If submitting written comments by email, please indicate

in the subject line the number and section of each rule(s) for which you are providing comments. **Written comments must be received no later than 5:00 p.m. on July 30, 2023.** Any written comments received will become part of the rulemaking record, be posted to the New Mexico Sunshine Portal, and be accessible to the public.

Special Needs: Any person with a disability who needs a reader, amplifier, qualified signed language interpreter, auxiliary aid, or service to attend or participate in the public rule hearing should contact the NMDDC OOG at [DDC.OOG-Rulemaking@ddc.nm.gov](mailto:ddc.nm.gov) or (505) 526-0551 at least ten (10) business days prior to the hearing.

Details for Obtaining a Copy of Proposed Rules: The proposed rules are available at the NMDDC OOG located at 625 Silver Avenue SW, Suite 100, Albuquerque, NM 87102-3185, and are posted on the NMDDC OOG’s website at (URL). To request that a copy of the proposed rules be sent to you by mail or email, please contact the NMDDC OOG at DDC.OOG-Rulemaking@ddc.nm.gov or (505) 526-0551.

Summary of Proposed Repeal and Replacement: The NMDDC OOG proposes to repeal and replace 9.4.21 NMAC – Guardianship Services as follows:

9.4.21.7 Definitions.

Revising the definition of “complaint”; defining “comprehensive service review”, “corrective action plan”, and “service provider”; and deleting the definitions of “complaint against the office of guardianship”, “comprehensive evaluation”, “contracted guardianship provider”, “contractor”, and “designated entity”.

9.4.21.8 Eligibility.

Repealing language that is unclear and outdated and replacing it with language that uses defined terms and comports with the United States Department of Health and Human Services’ guidelines on poverty.

9.4.21.9 Prioritization of Service. Repealing language that uses the terms “high need guardianships” and “low need guardianships” and replacing it with the NMDDC OOG’s criteria that are used when prioritizing applications.

9.4.21.10 Designation of Service Area. Repealing language that specifies the area within which the NMDDC OOG provides services, and adding language that states services are provided within the jurisdiction of New Mexico courts.

9.4.21.11 Services to Be Provided by the NMDDPC Office of Guardianship. Repealing section.

9.4.21.12 Requirements of Contracted Guardianship Providers. Repealing section.

9.4.21.13 Referral Process. Repealing section.

9.4.21.14 Complaints Against a Contracted Provider with the NMDDPC Office of Guardianship. Repealing language that describes outdated processes and that limits the scope of the complaint process and replacing it with language that clearly communicates how the NMDDC OOG responsibly, promptly, and impartially handles and investigates complaints.

9.4.21.15 Complaints Against the NMDDPC Office of Guardianship. Repealing section.

9.4.21.16 Transfer of Protected Person from a Private Pay Guardianship to a Program Funded Through the NMDDPC Office of Guardianship. Repealing section.

9.4.21.17 Requests for Information. Repealing section.

9.4.21.18 Comprehensive Evaluations. Repealing section.

9.4.21.19 Comprehensive Service Reviews. Adding a new section with the minimum requirements of personnel that conduct comprehensive service reviews (CSR), the components of a CSR, and the provision of a CSR report.

9.4.21.20 Corrective Action Plans. Adding a new section to outline when the NMDDC OOG may

require a service provider to complete a corrective action plan upon failure to provide services in accordance with the service agreement or within the scope of the order granted by the court.

TITLE 9 HUMAN RIGHTS
CHAPTER 4 PERSONS WITH
DISABILITIES
PART 21 GUARDIANSHIP
SERVICES

9.4.21.1 ISSUING

AGENCY: New Mexico Developmental Disabilities [Planning] Council Office of Guardianship ([NMDDPC] NMDDC office of guardianship).

[9.4.21.1 NMAC – Rp, 9.4.21.1 NMAC, XX/XX/XXXX]

9.4.21.2 SCOPE: These rules apply to all New Mexico residents and other New Mexico [state] agencies requesting guardianship services from the [NMDDPC] NMDDC office of guardianship and other private businesses that contract directly with the [NMDDPC] NMDDC office of guardianship to provide guardianship services.

[9.4.21.2 NMAC – Rp, 9.4.21.2 NMAC, XX/XX/XXXX]

9.4.21.3 STATUTORY

AUTHORITY: Section 28-16B-1 through 28-16B-6 NMSA 1978 permits the [NMDDPC] NMDDC office of guardianship to promulgate rules in accordance with the State Rules Act to carry out the provisions of the Office of Guardianship Act.

[9.4.21.3 NMAC – Rp, 9.4.21.3 NMAC, XX/XX/XXXX]

9.4.21.4 DURATION:

Permanent.

[9.4.21.4 NMAC – Rp, 9.4.21.4 NMAC, XX/XX/XXXX]

9.4.21.5 EFFECTIVE

DATE: April 14, 2006, unless a later date is cited at the end of a section.

[9.4.21.5 NMAC – Rp, 9.4.21.5 NMAC, XX/XX/XXXX]

9.4.21.6 OBJECTIVE:

The objective of [this rule] these rules is to establish standards for the provision of guardianship and legal services [to income and resource-eligible incapacitated adults who are residents of the state of New Mexico, when there are no lesser forms of intervention, such as a power of attorney or surrogate decision maker, available,] and [to monitor contracts that provide guardianship services] the monitoring of service providers. [9.4.21.6 NMAC – Rp, 9.4.21.6 NMAC, XX/XX/XXXX]

9.4.21.7 DEFINITIONS:

Unless defined below, terms used in 9.4.21 NMAC correspond to those defined in Section 45-5-101 (2009) NMSA 1978, Section 45-1-201 NMSA 1978, or in Section 43-1-15 NMSA 1978. The following words and terms, when used in this part, shall have the following meanings [unless the context clearly indicates otherwise.]:

[A. —“Complaint”

means an allegation of wrongdoing by a contractor or a violation of the contract with the NMDDPC office of guardianship and the contractor, including but not limited to:

- _____ (1) — failure to provide appropriate services;
- _____ (2) — violations of the civil rights of the wards; and
- _____ (3) — abuse, neglect or exploitation of the ward]

[B. —“Complaint against the office of guardianship” means an allegation of wrongdoing by the NMDDPC office of guardianship or its staff, including but not limited to:

- _____ (1) — failure to appropriately monitor and supervise contractors;
- _____ (2) — violations of the due process rights of the protected person or contractor; and
- _____ (3) — failure to comply with complaint procedures as set forth herein.]

[C. —“Comprehensive evaluation” is an assessment using a variety of diagnostic tools to determine the appropriate level

of intervention, if any, in order to maximize self-reliance and independence for a [ward] protected person as mandated by, Section 45-5-301.1 (2009) NMSA 1978.]

[D. —“Contracted guardianship providers” means some private/public entity or individual under contract with the NMDDPC office of guardianship to act as guardian for an adjudicated incapacitated person who has no family or friends willing, able and appropriate to be his/her guardian.]

[E. —“Contractor” means an entity or individual under a contract with the NMDDPC office of guardianship to provide some type of guardianship service; i.e., attorneys, court visitors, or guardians.]

[F. —“Designated entity” is a person or organization contracted or appointed by the NMDDPC office of guardianship to conduct the comprehensive evaluations.]

A. —“Complaint”

means an individual’s report about the actions of a NMDDC office of guardianship service provider that allegedly harm the protected person, that do not support a person-centered approach, or that violate any contractual requirements, statutes, rules, regulations, or standards for guardianships.

B. —“Comprehensive service review” means annual monitoring activities to ensure a professional guardian complies with service agreements, and statutory and regulatory duties.

C. —“Corrective action plan” means a detailed plan of action that a professional guardian must complete to resolve noncompliance issues with minimum legal or contractual requirements, or standards of practice for guardianship services.

D. —“Professional guardian” means an individual or entity that serves as a guardian for more than two individuals who are not related to the guardian by marriage, adoption, or third degree of blood or affinity.

E. —“Protected person” means a person eighteen years of

age or older for whom a guardian or conservator has been appointed or other protective order has been made.

F. "Service provider"

means an entity or individual under a service agreement with the NMDDC office of guardianship to provide guardianship or legal services.

[9.4.21.7 NMAC – Rp, 9.4.21.7 NMAC, XX/XX/XXXX]

9.4.21.8 ELIGIBILITY:

A.—The alleged incapacitated person must be 18 years old to qualify for services from the NMDDPC office of guardianship.

B.—The alleged incapacitated person must be financially and otherwise eligible for medicaid or a similar public benefit.

C.—For a guardianship where the proposed guardian is not a contracted service provider, to obtain legal services the proposed guardian's household income must not exceed two hundred percent of the federally established poverty level as that term is defined by the federal HHS poverty guidelines:

(1)—Proof of income is required and is determined by the following:

(a)—providing the NMDDPC office of guardianship a copy of the proposed guardian's most recent federal income tax return and proof of all income and benefits such as unemployment compensation, child support, food stamps or social security income; or, if no income tax return, by completing a financial eligibility form provided by the office of guardianship; or

(b)—proof of qualification by the proposed guardian under any federal or state program with income restrictions equal to or greater than that required above.

(2)—At the discretion of the director of the NMDDPC office of guardianship, exceptions may be made for financial hardship.

(3)—The NMDDPC office of guardianship may develop a sliding-fee scale for private guardianships for persons who do not meet income eligibility guidelines.

(4)—This program is for low income New Mexicans with very limited resources who are unable to pay for private legal services to be appointed as the guardian. The proposed guardian will be required to attest to not having net liquid assets after appropriate exclusions (which are the principal residence, vehicles used for transportation, assets used in producing income and any other asset exempt from attachment under state or federal law) to pay for the legal services. Services may be declined to a proposed guardian whose income is at or below two hundred percent of the federal poverty level if evidence exists of sufficient resources to pay for private legal services.]

A. Any person seeking guardianship and legal services from the NMDDC office of guardianship for an alleged incapacitated person must submit an application, including any required supporting documentation. The application must meet the following requirements to qualify for services:

(1) The alleged incapacitated person must be 18 years old and physically present in New Mexico;

(2) For a guardianship where the proposed guardian is a professional guardian, the alleged incapacitated person must be income eligible and not exceed two-hundred percent of the federally-established poverty level as the United States department of health and human services poverty guidelines define that term;

(3) For a guardianship where the proposed guardian is not a professional guardian, both the alleged incapacitated person's and the proposed guardian's household income must not exceed two-hundred percent of the federally-established poverty level as the United States department of health and human services poverty guidelines define that term;

(4) For a guardianship where the proposed guardian is not a professional guardian, the applicant must provide a

copy of both the alleged incapacitated person's and each household member's most recent federal income tax return, or proof of all income; and

(5) For a guardianship where the proposed guardian is a professional guardian, the applicant must provide proof of income of the alleged incapacitated person.

B. The NMDDC office of guardianship may make exceptions to eligibility requirements at the discretion of the director.

C. Prior to providing services, the NMDDC office of guardianship will perform a legal sufficiency evaluation, pursuant to Chapter 45 of the Uniform Probate Code NMSA 1978.

[9.4.21.8 NMAC – Rp, 9.4.21.8 NMAC, XX/XX/XXXX]

9.4.21.9 PRIORITIZATION OF [SERVICE] SERVICES:

A.—In general, service will be provided based on the date of application.

B.—When service requests exceed capacity, funding or resources, individuals in the categories noted in Subparagraph C below will be prioritized to receive the first available services, as appropriate.

C.—Priority categories:

(1) high-need guardianships:

(a)—high need for a guardian of last resort (with no family member or other willing, able and appropriate to serve as guardian) for an adult protective services (APS) referral, military-veteran, Jackson-class member (former resident of the state training schools from 1987 to 1997), Foley-referral (former resident of the state training schools who was discharged between 1970 and 1987), and others;

(b)—high need for a guardian with a family member or other willing, able and appropriate to serve as guardian for a military-veteran, Jackson-class member or Foley-referral (does not include others);

(2) lesser need guardianships:

(a)
lesser need for a guardian of last resort for an APS referral, military veteran, Jackson class member or Foley referral (does not include others);

(b)
lesser need for guardian with a family member or other willing, able and appropriate to serve as guardian for a military veteran, Jackson class member or Foley referral (does not include others); requests for legal services paid by the state seeking to appoint family members or other willing, able and appropriate to serve as guardian are not in the priority categories unless the person to be served is a military veteran, Jackson class member or Foley referral.

D. If service requests in general, including those from the Subsection C categories above, exceed the NMDDPC office of guardianship's ability to provide services due to limited funding or resources, the NMDDPC office of guardianship may prioritize the requests by rating them according to a referred individual's need for guardianship. Rating criterion may include such factors as the status of an individual's support system, services, finances, medical needs, and safety and stability of placement or residence.].

A. In general, the NMDDC office of guardianship provides services based on the date the office of guardianship receives a completed application packet, which means all required documentation in addition to the application forms.

B. When service requests exceed capacity, funding, or resources, the NMDDC office of guardianship will prioritize applications that meet the following criteria:

(1) Agency referrals: Applications received from federal or state agencies, including the New Mexico children, youth & families department, New Mexico aging and long-term services department, and New Mexico department of health;

(2) Veterans:
Applications received on behalf of alleged incapacitated persons who served in the armed forces;

(3) Class action members: Applications received on behalf of alleged incapacitated persons or protected persons who are members of a class action lawsuit in which the state has reached a settlement agreement to provide services to the class members;

(4) Other priority considerations: The NMDDC office of guardianship may prioritize applications to meet public health demands or other unforeseen circumstances; and

(5) Emergency applications: Regardless of capacity, funding, or resources, the NMDDC office of guardianship will immediately provide services when an applicant submits an affidavit for emergency prioritization and the office of guardianship determines that the application likely meets the requirements for temporary guardianship, pursuant to Section 45-5-310 NMSA 1978.

[9.4.21.9 NMAC – Rp, 9.4.21.9 NMAC, XX/XX/XXXX]

9.4.21.10 DESIGNATION OF SERVICE AREA: [Services are to be provided throughout the state of New Mexico. The NMDDPC office of guardianship recognizes the individual sovereignty of each tribe and pueblo in the state of New Mexico.] The NMDDC office of guardianship provides services throughout New Mexico within the jurisdiction of New Mexico courts. [9.4.21.10 NMAC – Rp, 9.4.21.10 NMAC, XX/XX/XXXX]

9.4.21.11 [SERVICES TO BE PROVIDED BY THE NMDDPC OFFICE OF GUARDIANSHIP:

A. The provision of adult guardianship services to income-eligible, incapacitated persons as follows:

(1) contracting with attorneys to petition for the appointment of probate code guardians;

(2) contracting with entities/individuals to serve as probate code guardians;

(3) contracting with entities/individuals to serve as visitors (court visitors) in probate code guardianship proceedings;

(4) contracting with attorneys to serve as guardian ad litem in probate code guardianship proceedings;

(5) serving as an interested person pursuant to Subsection 6 of Section 28-16B-3, NMSA 1978;

(6) identifying available persons to serve as mental health treatment guardian;

(7) contracting to provide for recruitment and training for persons interested in serving as mental health treatment guardians;

(8) providing information regarding the duties and responsibilities of probate code guardianship, including less restrictive alternatives; and

(9) investigating and addressing complaints made against the NMDDPC office of guardianship contractors.

B. The provision of recruitment and training for persons interested in serving as probate code guardians.

C. The provision of information regarding the duties and responsibilities of probate code guardianship, including less restrictive alternatives.

D. The provision of investigative measures/ processes to address complaints made against entities and individuals providing contracted guardianship services.]

[RESERVED]

[9.4.21.11 NMAC – Repealed, XX/XX/XXXX]

9.4.21.12 [REQUIREMENTS OF CONTRACTED GUARDIANSHIP PROVIDERS:

A. meet RFP Requirements when published;

B. meet office of guardianship requirements including but not limited to:

_____ (1) _____ comply with all the terms of one's contract;

_____ (2) _____ agree to be paid at the state approved rate;

_____ (3) _____ must comply with the Caregivers Criminal History Screening Act (See NMSA, 1978 29-17-2);

_____ (4) _____ must become a registered guardian within 18 months after the award of a contract;

_____ (5) _____ assure the civil rights of the incapacitated persons;

_____ (6) _____ guarantee access to all records on incapacitated persons assigned through the office of guardianship; and

_____ (7) _____ comply with the office of guardianship individual caseloads, standards of practice and ethics. **[RESERVED]**
[9.4.21.12 NMAC – Repealed, XX/XX/XXXX]

9.4.21.13 [REFERRAL-PROCESS]: Any person interested in the well being of an alleged incapacitated person, and seeking guardianship services to be paid for by the NMDDPC office of guardianship, must submit or have submitted a completed application form and provide supporting documentation to the NMDDPC office of guardianship. **[RESERVED]**
[9.4.21.13 NMAC – Repealed, XX/XX/XXXX]

9.4.21.14 COMPLAINTS AGAINST A [CONTRACTED] SERVICE PROVIDER WITH THE [NMDDPC] NMDDC OFFICE OF GUARDIANSHIP:

[A. — A complaint shall be made in writing by the client or another person on behalf of the client, including but not limited to a friend, relative, advocate, or other interested person, such as a caregiver or provider. An exception to the requirement that a complaint shall be made in writing shall be made if a reasonable accommodation is necessary.

_____ B. — Except as provided in Subsection D of 9.4.21.14 NMAC,

below, prior to filing a complaint against a provider contracting with the NMDDPC office of guardianship, individuals shall first try to resolve their complaints with the contracted provider through that provider's grievance process.

_____ C. — If the complaining party and contractor are unable to reach a resolution or agreement then the complaining party may file a complaint with the office of guardianship and may file a copy with the contractor.

_____ D. — Exceptions shall be made to Subsections A & B of 9.4.21.14 NMAC when the NMDDPC office of guardianship has reason to believe that an emergency situation exists or that a delay of the investigation could result in harm to the protected person or retaliation by the contractor.

_____ E. — The complaint should include as much information as possible, including the following:

- _____ (1) _____ name of the incapacitated person;
- _____ (2) _____ name of the contact information for the individual making the complaint on behalf of the incapacitated person;
- _____ (3) _____ relationship of the complaining party to the incapacitated person;
- _____ (4) _____ name of the individual contractor against whom the complaint is being made;
- _____ (5) _____ name of the party who has attempted to resolve the complaint, if known;
- _____ (6) _____ what actions have been taken to attempt to resolve the complaint;
- _____ (7) _____ details of the complaint including the alleged wrongdoing, the involved parties and when and where the wrongdoing occurred;

_____ F. — The complaint made to the office of guardianship may be submitted by mail or fax unless a reasonable accommodation is necessary.

_____ G. — In order to preserve the confidentiality of the incapacitated person, the complaint shall be submitted to: The NMDDPC Office

of Guardianship; 810 W. San Mateo, Ste. C; Santa Fe, NM 87505-4144; (505) 476-7324; (505) 476-7322 (Fax).

_____ H. — Upon receipt of a verbal or written complaint, the NMDDPC office of guardianship shall:

- _____ (1) _____ acknowledge receipt of a the-complaint in writing;
- _____ (2) _____ notify all parties involved; and
- _____ (3) _____ initiate an investigation within 15 working days of the filing of the complaint with the NMDDPC office of the guardianship;
- _____ (4) _____ where sufficient information is provided to allow the NMDDPC office of guardianship to continue the investigation, the NMDDPC office of guardianship will make further inquiries if possible or discontinue the investigation; justification for closure of investigations based on insufficient information will be documented.

_____ I. — A determination decision shall be made within 60 working days after the complaint is filed with the NMDDPC office of guardianship unless a shorter time frame is required to protect the protected person.

_____ J. — A determination decision shall include:

- _____ (1) _____ the decision made;
- _____ (2) _____ the basis for the decision;
- _____ (3) _____ notice of the complaining party's right to file a complaint about the actions taken by the NMDDPC office of guardianship related to the investigational process pursuant to 9.4.21.15 NMAC;
- _____ (4) _____ further actions to be taken by the NMDDPC office of guardianship and the contractor which may include, but shall not be limited to:

_____ (a) _____ the imposition of a corrective action plan on the contractor; and

_____ (b) _____ a referral of the complaint to other agencies for investigation and prosecution.

_____K._____ Persons objecting to the process of the complaint investigation taken by the NMDDPC office of guardianship may file a grievance against the NMDDPC office of guardianship with the New Mexico human services department pursuant to 9.4.21.15 NMAC below:

_____L._____ None of these regulations restrict the due process rights of an individual to request a less restrictive guardianship or to overturn the decision of a guardianship contractor or the NMDDPC office of guardianship through a court of law.]

A. Right to file a complaint: A protected person or any interested party may file a complaint against a service provider with the NMDDC office of guardianship at any time.

B. Filing a complaint:
(1) If the complaint is against a professional guardian, the complainant must attempt to resolve the issue through the professional guardian's internal complaint procedures before submitting a complaint with the NMDDC office of guardianship.

(a) The professional guardian must notify the NMDDC office of guardianship within three days of receiving the complaint.

(b) The professional guardian must complete their internal complaint process and notify the NMDDC office of guardianship of the outcome within 30 days of receiving the complaint.

(c) Exceptions to Paragraph (1) of Subsection B of 9.4.21.14 NMAC shall be made when the NMDDC office of guardianship determines that delaying their investigation of the complaint could cause harm to the protected person.

(2) The complainant must complete the NMDDC office of guardianship's complaint form.

(3) The NMDDC office of guardianship shall make reasonable accommodations for the complainant when filing their

complaint, including assisting the complainant with completing the form.

(4) The NMDDC office of guardianship shall acknowledge receipt of the complaint in writing, notify all parties involved, including the complainant, the protected person, and the service provider, and initiate an investigation pursuant to the Office of Guardianship Act, Section 28-16B-6 NMSA 1978.

C. Investigating a Complaint: The NMDDC office of guardianship shall:

(1) Fairly, impartially, and objectively investigate complaints in accordance with its policies and procedures;

(2) Based on information gathered during the investigation, determine whether the service provider failed to comply with:

(a) The statutes, rules, or regulations pertaining to adult guardianships;

(b) The contractual requirements outlined in the service agreement between the service provider and the NMDDC office of guardianship; or

(c) National guardianship association standards.

(3) Notify the complainant, the protected person, and the service provider in writing of the NMDDC office of guardianship's decision.

D. Declining to Investigate: The NMDDC office of guardianship will notify the complainant in writing if it declines to investigate the complaint and may refer their complaint to other agencies for investigation or prosecution.

[[9.4.21.14 NMAC – Rp, 9.4.21.14 NMAC, XX/XX/XXXX]

9.4.21.15 [COMPLAINTS AGAINST THE NMDDPC OFFICE OF GUARDIANSHIP: Complaints against the NMDDPC office of guardianship or a staff member of the NMDDPC office of guardianship shall be filed with and investigated by the human services-

department, by sending a complaint in writing directly to the secretary of human services department with a copy sent to the director of the NMDDPC office of guardianship. (NMSA 2003-28-16B-6E)].

[RESERVED]

[[9.4.21.15 NMAC – Repealed, XX/XX/XXXX]

9.4.21.16 [TRANSFER OF PROTECTED PERSON FROM A PRIVATE PAY GUARDIANSHIP TO A PROGRAM FUNDED THROUGH THE NMDDPC OFFICE OF GUARDIANSHIP:

A. Purpose: It is not the intention of the NMDDPC office of guardianship to create a hardship on any private pay provider of guardianship services in cases where resources are being exhausted, but in order to work in a more collaborative fashion these procedures are being developed to move the private pay protected persons into the state-funded program under the NMDDPC office of guardianship in a timely and reasonable manner to minimize the impact on the protected person.

B. Requirements: In order to affect a protected person's transfer to a program funded through the NMDDPC office of guardianship, the private pay guardianship must do the following:

(1) obtain an application for services from the NMDDPC office of guardianship and fill it out completely (failure to do so will result in delay of transfer);

(2) the filing of the request for services with the NMDDPC office of guardianship does not guarantee the request will be granted;

(3) to be eligible for transfer into this program, a protected person must be financially eligible for institutional medicaid and medicaid in New Mexico;

(4) appropriate placement must be secured by the private pay guardians for the protected person prior to transfer to a publically funded guardian;

(5) all necessary medical and other

information regarding the protected person must be provided to the new guardian in a timely manner;

_____ (6) _____ any original legal documents such as birth certificates, social security cards, medicaid cards, etc. shall be turned over to the new guardian upon appointment;

_____ (7) _____ legal fees for the transferring of the case must be paid by the private provider (this would include the closing of the conservatorship);

_____ (8) _____ if the protected person has a conservatorship and no assets, then the conservatorship must be closed prior to transfer; if the conservatorship cannot be closed for some appropriate reason, then a complete accounting must be given to the NMDDPC office of guardianship at the time of transfer;

_____ (9) _____ there must be a burial policy for the ward; ownership is to be transferred by the private provider to the NMDDPC office of guardianship's appointed guardian;

_____ (10) _____ these transfers will not be given any priority status;

_____ (11) _____ the private pay provider will agree to cooperate with the new guardian on matters, including, but not limited to, providing any information the new guardian might need, which may be in the possession of the private guardian;

_____ (12) _____ these transfers will be effectuated according to, Section 45-5-307 NMSA 1978.;

[RESERVED]

[9.4.21.16 NMAC – Repealed, XX/XX/XXXX]

9.4.21.17 [REQUESTS FOR INFORMATION:

_____ A. _____ Any requests for non-confidential information will be treated as a request for inspection of public records under the state inspection of public records act. (Section 14-2-1 through 14-2-12 NMSA 1978).

_____ B. _____ Any requests for confidential information or client

specific information will be handled according to state and federal law. (Section 28-16B-4B (2003) NMSA 1978);] **[RESERVED]** [9.4.21.18 NMAC - N, 04/30/2007; A, 9/15/2011]

9.4.21.18 [COMPREHENSIVE EVALUATIONS:

_____ A. _____ Depending upon the availability of funding and resources, and unless otherwise provided for by another agency or program, comprehensive evaluations for protected persons with contracted providers may be obtained through a referral to the NMDDPC office of guardianship by the contract guardian if the protected person appears to have made gains in her/his capacity or to be in need of increased protection or other such that a request for review of the guardianship by the court appears indicated.

_____ B. _____ Comprehensive evaluations will occur in the following manner:

_____ (1) _____ The comprehensive evaluations will be done by the entity designated by the NMDDPC office of guardianship.

_____ (2) _____ All contracted guardianship providers will provide the names of their protected persons who meet the criterion in Subsection A of this section at any time and upon request by the NMDDPC office of guardianship. The referral process will be established by the NMDDPC office of guardianship.

_____ (3) _____ The components of the comprehensive evaluation will be determined by the designated entity after consultation with the guardian.

_____ (4) _____ The designated entity will set up the appointments.

_____ (5) _____ The contracted guardianship provider will provide written authorization for the protected person selected for a comprehensive evaluation.

_____ (6) _____ The contracted guardianship provider will provide the following documents at a time and place determined by the designated entity:

_____ (a) _____ name of the protected person, living arrangements of the ward, day placement and daily activity, and relevant contact information;

_____ (b) _____ medical history and assessment history of the protected person that may come from other state and federal programs such as the DD-waiver program, medicaid, schools, division of vocational rehabilitation, commission for the blind, etc.;

_____ (c) _____ the current level of guardianship, and;

_____ (d) _____ any additional information requested by the designated entity relevant to the comprehensive evaluation.

_____ (7) _____ These provisions are in addition to any terms and conditions regarding comprehensive evaluations as set forth in the contract between the NMDDPC office of guardianship and the contracted guardianship provider.

_____ (8) _____ If a protected person has undergone some part of the comprehensive evaluation within the last three years, the contracted guardianship provider may request to substitute that part of the evaluation for the report of the evaluation undergone within the last three years. The designated entity may deny the request, based on professional judgment, it should not be substituted. If a substitution is allowed, the contracted guardianship provider will provide the report of that evaluation to the designated entity.

_____ (9) _____ If the contracted guardianship provider has clear and convincing evidence that a protected person does not need an evaluation, the contracted guardianship provider will provide to the NMDDPC office of guardianship a short description explaining why the protected person should not be evaluated.

_____ (10) _____ The NMDDPC office of guardianship or its agent has the right to review the files and records of any protected person under contract between the NMDDPC office of guardianship and

a contracted guardianship provider for the purpose of determining whether the protected person should have a comprehensive evaluation:

(11) If the NMDDPC office of guardianship determines that a protected person should undergo an evaluation, despite the justification provided in Paragraph (9) of Subsection B of 9.4.21.18 NMAC, the NMDDPC office of guardianship will send a letter to the contracted guardianship provider so stating (“Notice Letter”). If, after receipt of the notice letter, the contracted guardianship provider does not agree with the NMDDPC office of guardianship that a protected person should undergo an evaluation, the following procedure will commence:

(a) Within 10 working days after receiving the notice letter, the contracted guardianship provider will contact the NMDDPC office of guardianship in writing with the basis for its disagreement with the notice letter and during that same time period set up a meeting at the office of the NMDDPC office of guardianship for the purpose of attempting to resolve this issue. The contracted guardianship provider attending the meeting must have full authority to resolve this issue. The proposed location of the meeting will be at the office of the NMDDPC office of guardianship at a day and time proposed by the NMDDPC office of guardianship. The contracted guardianship provider may propose a different time and location. The meeting must be held no more than 30 days from the date of receipt of the notice letter. If the parties cannot agree on a location and time, the NMDDPC office of guardianship may petition the court pursuant to Subparagraph (d) of Paragraph (11) of Subsection B of 9.4.21.18 NMAC:

(b) If the parties come to an agreement, the protected person may or may not undergo an evaluation depending on the agreement reached by the parties:

(c) The NMDDPC office of guardianship will confirm the outcome of the

meeting by letter (outcome letter) within two working days of the meeting between the parties:

(d) If there is no agreement, the NMDDPC office of guardianship may, within fourteen (14) working days from the date of the outcome letter, petition the court in which the guardian was appointed to have the protected person evaluated. **[RESERVED]** [9.4.21.18 NMAC – Repealed, XX/XX/XXXX]

9.4.21.19 COMPREHENSIVE SERVICE REVIEWS:

A. The NMDDC office of guardianship shall designate an attorney licensed in New Mexico and a certified professional guardian to conduct annual comprehensive service reviews.

B. Comprehensive service reviews will include:

(1) Interviews with service provider staff and contractors;

(2) Interviews with protected persons and, if necessary, third parties;

(3) Reviews of the service provider’s policies and procedures;

(4) Reviews of individual case files of protected persons; and

(5) Reviews of other documentation related to the service provider’s provision of services.

C. The designated attorney and certified professional guardian shall provide a written report to the NMDDC office of guardianship.

D. The NMDDC office of guardianship shall notify the service provider in writing of the results of the comprehensive service review.

[9.4.21.19 NMAC – N, XX/XX/XXXX]

9.4.21.20 CORRECTIVE ACTION PLANS:

The NMDDC office of guardianship may require a service provider to develop, implement, and complete a written

corrective action plan when it determines that the service provider failed to provide services in accordance with the service agreement or within the scope of the order granted by the court.

A. The service provider shall obtain the NMDDC office of guardianship’s approval of a corrective action plan that:

(1) Identifies the deficiencies;

(2) Establishes steps to resolve the deficiencies;

(3) Identifies the documentation the service provider must submit to confirm the deficiencies are resolved;

(4) Establishes a deadline by which the corrective action plan must be completed; and

(5) Includes any other requirements identified by the NMDDC office of guardianship.

B. The NMDDC office of guardianship shall monitor the service provider’s progress until the corrective action plan is complete.

C. When the NMDDC office of guardianship determines that the service provider has completed the corrective action plan, it shall notify the service provider in writing.

[9.4.21.20 NMAC – N, XX/XX/XXXX]

HISTORY OF 9.4.21 NMAC:

9.4.21 NMAC – Guardianship Services, filed 4/14/2006, was repealed and replaced by 9.4.21 NMAC – Guardianship Services, effective XX/XX/XXXX.

GAME AND FISH DEPARTMENT STATE GAME COMMISSION

STATE GAME COMMISSION MEETING AND RULE MAKING NOTICE

The New Mexico State Game Commission (“Commission”) will be hosting a meeting and rule hearing on Friday July 21, 2023 beginning at 9:00 a.m. at the New Mexico Department of Game and Fish office,

7816 Alamo Rd. NW, Albuquerque, NM 87120. The purpose of this meeting is to hear and consider action as appropriate on the following: presentation of proposed changes to the Migratory Game Bird Rule.

Synopsis:

The proposal is to amend the Migratory Game Bird Rule 19.31.6 NMAC which will become effective September 1, 2023. The most recent version of the rule expired on March 31, 2023.

PROPOSED CHANGES TO THE MIGRATORY GAME BIRD RULE:

- * Changes to regular waterfowl season dates based on public comment and calendar dates.
- * Bag limit for northern pintail to remain at 1 per USFWS regulatory framework.

A full text of changes for all rules will be available on the Department's website at: www.wildlife.state.nm.us.

Interested persons may submit comments on the proposed changes for the Migratory Game Bird Rule to DGF-waterfowl@state.nm.us. Individuals may also submit written comments to the physical address below. Comments are due by 5:00 p.m. on July 20, 2023. The final proposed rules will be voted on by the Commission during a public meeting on July 21, 2023. Interested persons may also provide data, views or arguments, orally or in writing, at the public rule hearings to be held on July 21, 2023.

Full copies of text of the proposed new rules, technical information related to proposed rule changes, and the agenda can be obtained from the Office of the Director, New Mexico Department of Game and Fish, 1 Wildlife Way, Santa Fe, New Mexico 87507, or from the Department's website at www.wildlife.state.nm.us/commission/proposals-under-consideration/. This agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director's Office at

(505) 476-8000, or the Department's website at www.wildlife.state.nm.us for updated information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Department at (505) 476-8000 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Department at 505-476-8000 if a summary or other type of accessible format is needed.

Legal authority for this rulemaking can be found in the General Powers and Duties of the State Game Commission Sections 17-1-14, et seq. NMSA 1978; Commission's Power to establish rules and regulations Sections 17-1-26, et seq. NMSA 1978.

**HOMELAND SECURITY
AND EMERGENCY
MANAGEMENT,
DEPARTMENT OF
STATE FIRE MARSHAL
OFFICE**

**AMENDMENT TO NOTICE OF
PUBLIC RULE HEARING**

Public Notice. The New Mexico State Fire Marshall's (SFMO) gives notice that the public rule hearing scheduled for June 15, 2023 has been extended to July 5, 2023 at 9:00 a.m. (MDT). This rule hearing is in person. The purpose of the public hearing is to receive public input on the proposed amendments to 10.25.2 NMAC to reflect inspection and testing requirements by adding (1) fire and smoke dampers to the enumerated bases for a certificate of fitness, and (2) application requirements for certification to inspect and test such dampers.

Physical Hearing Location is 725 6th Street Northwest Albuquerque New Mexico 87102.

Purpose. To amend 10. 25.2 NMAC to reflect inspection and testing requirements by adding (1) fire and smoke dampers to the enumerated bases for a certificate of fitness, and (2) application requirements for certification to inspect and test such dampers.

The statutory authorization: Section 59A-52-15 NMSA 1978.

No technical information serves as a basis for this proposed rule change.

Public comment. Interested parties may provide comment on the proposed amendments of this state rule at the public hearing or may submit written comments to Bureau Chief Aaron Garcia State Fire Marshal's Office Albuquerque, NM 87102, or by electronic mail to AaronM.Garcia@dhsem.nm.gov. All written comments must be received no later than 3:00 p.m. (MDT) on July 5, 2023. All written comments will be posted to the agency website within (3) three business days.

Copies of proposed rule. Copies of the proposed rules may be accessed through the Notice of Proposed Rulemaking and proposed rule are available by electronic download from the State Fire Marshal's Office website (www.nmdhsem.org/state-firemarshal) or the New Mexico Sunshine Portal. Copies of the proposed rule can also be obtained by the State Fire Marshall's office by calling (505)469-5870 or via email at AaronM.Garcia@dhsem.nm.gov.

SPECIAL NEEDS: Any person with a disability who needs a reader, amplifier, qualified sign language interpreter, or other auxiliary aid or service to attend or participate in the hearing should contact Danielle Gonzales at 505-476-0874 ten (10) business days prior to the hearing.

The Fire Marshal will review and consider all timely submitted written and oral comments and responses.

ISSUED this 1st day of June.

/s/ Fire Marshal Randy Varela

MEDICAL BOARD

CANCELLATION NOTICE OF PUBLIC HEARING

Public Notice. The New Mexico Medical Board (NMMB) gives notice that the public rule hearing scheduled June 21, 2023, at 4:00 p.m. (MDT) has been cancelled. This rule hearing will be rescheduled and noticed at a later date.

PUBLIC EDUCATION DEPARTMENT

NOTICE OF EMERGENCY RULEMAKING

This is an emergency rulemaking for 6.19.8 NMAC, effective May 23, 2023.

Public Notice. The New Mexico Public Education Department (PED) gives notice it is repealing 6.19.8 NMAC, Grading of Public Schools, filed December 31, 2018, and replacing it with 6.19.8 NMAC, School Improvement Designations, by emergency rule, adopted and effective May 23, 2023. The rule updates criteria for determining school improvement designations for low performing schools and required actions for improvement.

The new rule is implemented as an emergency rule. Pursuant to Section 14-4-5.6 NMSA 1978, State Rules Act, Emergency rule, PED finds that following the non-emergency rulemaking procedures in enacting updated school improvement designations and requirements would place the department in violation of the federal Elementary and Secondary Education Act (ESEA) as authorized

by the Every Student Succeeds Act (ESSA). This temporary emergency process does not permanently amend or repeal the existing rule. The emergency rule will only remain in effect until a permanent rule takes effect under normal rule making process.

Rule Information. The purpose of this rule is to update criteria for determining school improvement designations and required actions for improvement as required by ESEA as authorized by ESSA.

The statutory authorizations include:

Sections 9-24-8, 22-2-1, and 22-2-2 NMSA 1978 grant the authority of the secretary to adopt, promulgate, and enforce rules. Sections 22-2C-4, 22-2C-5, 22-2F-2, and 22-2C-11 NMSA 1978 relate to school accountability. 20 USC 6303 Sections 1003 and 1111 describe Title 1 funding grants to schools in school improvement designations and the requirement for New Mexico's state plan as required under ESSA.

No technical information served as a basis for this emergency rule change.

A public comment period and a public hearing, pursuant to Section 14-4-5.3 NMSA 1978, State Rules Act, Public Participation, Comments, and Rule Hearings, will be held to adopt a permanent rule within 180 days of the effective date of May 23, 2023, for 6.19.8 NMAC, pursuant to Section 14-4-5.6 NMSA 1978, State Rules Act, Emergency rule.

Copies of the rule may be accessed through the New Mexico Public Education Department's website under the "Rule Notification" link at <https://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/rule-notification/> or may be obtained from Denise Terrazas by contacting her at (505) 470-5303 during regular business hours.

Individuals with disabilities who require the above information in an

alternative format are asked to contact Denise Terrazas at (505) 470-5303.

REGULATION AND LICENSING DEPARTMENT HOME INSPECTORS BOARD

NOTICE OF TERMINATION

JANUARY 9, 2023 RULE MAKING NEW MEXICO HOME INSPECTORS BOARD

The New Mexico Home Inspectors Board is providing notice of termination of the Rule Making scheduled for January 9, 2023, at 9 a.m. at the Regulation and Licensing Department offices, 5500 San Antonio Drive, Albuquerque, New Mexico.

The notice of the Special Board Meeting and Rule Hearing was published on November 29, 2022 in Volume XXXIII, Issue 22 of the New Mexico Register.

Notice of the Rule Hearing was also published on the Regulation and Licensing Department website, and the New Mexico Sunshine Portal.

The purpose of the rule hearing was to consider and adopt rules pursuant to legislative mandates in House Bill 120 and Senate Bill 2 enacted by the 2021 legislature and the State Court of Appeals action on a joint stipulation by the Home Inspectors Board and the Examination Board of Professional Home Inspectors (EBPHI) dba National Home Inspectors Examination for a stay of enforcement of rules adopted by the Board on November 29, 2021.

The rule hearing will be re-scheduled by the Home Inspectors Board at a future date determined by the Board.

Volume XXXIV, Issue 11 Submittal date: June 1, 2023 Publication date: June 13, 2023

**SUPERINTENDENT OF
INSURANCE, OFFICE OF**

**NOTICE OF PROPOSED
RULEMAKING**

NOTICE IS HEREBY GIVEN that the Superintendent of Insurance (“OSI” or “Superintendent”) will hold a public hearing via videoconference regarding the **13.9.21 NMAC - TERM AND UNIVERSAL LIFE INSURANCE RESERVE FINANCING**. This hearing will commence on August 1, 2023, at 10:00 a.m. MDT.

PURPOSE OF THE PROPOSED RULE: The purpose of this rule is to conform with established, uniform, national standards governing reserve financing arrangements pertaining to life insurance policies containing guaranteed nonlevel gross premiums, guaranteed nonlevel benefits and universal life insurance policies with secondary guarantees.

STATUTORY AUTHORITY: Sections 59A-2-9 and 59A-12E-17 (2022) NMSA 1978.

TO ATTEND THE HEARING:

Click here to join the meeting
Meeting ID: 221 222 820 512
Passcode: NoTMpj

Or call in (audio only)
+1 505-312-4308, 33049199#
Phone Conference ID: 330 491 99#
The Superintendent designates Tatiana Perez to act as the hearing officer for this rulemaking. Oral comments will be accepted at the public hearing from members of the public and other interested parties. Any updates concerning the hearing date, time, or location will be available by subscribing to the “Rulemaking and Ratemaking” newsletter at: <http://newsletter.osi.state.nm.us/>.

Copies of the Notice of Proposed Rulemaking and proposed new rules are available by electronic download from the OSI eDocket. <https://edocket.osi.state.nm.us/guest/case-view/5873> or by requesting a copy by calling (505) 490-7103. Written comments will be accepted

through 4:00 p.m. on August 1, 2023. Responses to written comments or oral comments will be accepted through 4:00 p.m. on August 11, 2023. All comments shall be filed electronically through the OSI eDocket <https://edocket.osi.state.nm.us/guest/case-view/5873> or mailed to:

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

All filings must be received 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 all timely submitted written comments and responses. For help submitting a filing, please contact osi-docketfiling@state.nm.us. The below docket number must be indicated on filed comments.

**Docket No. 2023-0049
IN THE MATTER OF
NEW RULE CODIFIED AT
13.9.21 NMAC - TERM AND
UNIVERSAL LIFE INSURANCE
RESERVE FINANCING**

SPECIAL NEEDS: Any person with a disability requiring special assistance to participate in the hearing should contact Louella Pacheco at (505) 490-7103 no later than ten (10) business days prior to the hearing.

DONE AND ORDERED this June 13, 2023

/S/ JENNIFER A. CATECHIS

**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 FORESTRY DIVISION

TITLE 19 NATURAL RESOURCES AND WILDLIFE CHAPTER 20 FOREST MANAGEMENT PART 5 PRESCRIBED BURN MANAGER CERTIFICATION PROGRAM

19.20.5.1 ISSUING
AGENCY: Energy, Minerals and
Natural Resources Department,
Forestry Division.
[19.20.5.1 NMAC – N, 6/13/2023]

19.20.5.2 SCOPE: 19.20.5
NMAC applies to applicants for
prescribed burn manager certification
and individuals who are certified as
prescribed burn managers pursuant to
the Prescribed Burning Act, Sections
68-5-1 to 68-5-8 NMSA 1978.
[19.20.5.2 NMAC – N, 6/13/2023]

19.20.5.3 STATUTORY
AUTHORITY: 19.20.5 NMAC is
adopted pursuant to the Prescribed
Burning Act, Section 68-5-7 NMSA
1978 and Subsection E of Section
9-1-5 NMSA 1978.
[19.20.5.3 – N, 6/13/2023]

19.20.5.4 DURATION:
Permanent.
[19.20.5.4 NMAC - N, 6/13/2023]

19.20.5.5 EFFECTIVE
DATE: June 13, 2023, unless a later
date is cited at the end of a section.
[19.20.5.5 NMAC – N, 6/13/2023]

19.20.5.6 OBJECTIVE: To
create a prescribed burn manager
certification program for private lands

in New Mexico.
[19.20.5.6 NMAC – N, 6/13/2023]

19.20.5.7 DEFINITIONS:
For additional definitions refer to
Section 68-5-2 NMSA 1978.

A. “Act” means the
Prescribed Burning Act, Sections 68-
5-1 to 68-5-8 NMSA 1978.

**B. “Broadcast
burning”** means an activity where
fire is applied generally to most
or all of an area with well-defined
boundaries.

**C. “Broadcast burn
manager”** means the person acting
as the prescribed burn manager with
responsibility for ensuring all local
and state required permits are secured,
ensuring the burn plan is written
and sufficient for the prescribed
burn, coordinating fire resources
and equipment, monitoring weather
conditions and notifications and
directing the implementation of the
broadcast burn.

D. “Committee”
means a committee established
pursuant to 19.20.5.13 NMAC to
review applications for prescribed
burn manager certification; provide
oversight of the development and
updating of training modules,
refresher courses and recertification;
and cross-walk the training modules
with other training and experiences.

E. “Council” means
the New Mexico prescribed fire
council.

F. “Course” means
an online or in-person learning
experience taught by the cooperative
extension service, division, contractor
or other persons.

G. “Curriculum”
means the minimum topics to be
covered in a course.

**H. “National wildfire
coordinating group (NWCG)”**
means the organization of member

agencies and organizations that
provides national leadership to
establish interagency wildland fire
operations standards including
qualification requirements for
prescribed burning on federal lands.

**I. “Nine-element
course”** means training that covers
legal requirements, safety, weather,
fire behavior, smoke management,
prescribed burn techniques, public
relations, planning and contingencies
as specified in Subsection A of
Section 68-5-7 NMSA 1978.

**J. “Pile burn
manager”** means the person acting
as the prescribed burn manager
with responsibility for ensuring all
local and state required permitting is
secured, coordinating fire resources
and equipment, monitoring weather
conditions and notifications and
directing the implementation of the
pile burn. Specifically, it means a
burn of piles conducted with sufficient
moisture or other limiting factor such
as bare mineral soil to prevent the
spread of fire between piles.

**K. “Fire
management”** means all activities
for the management of wildland
fires to meet land management
objectives. Fire management
includes the entire scope of activities
from planning, prevention, fuels or
vegetation modification, prescribed
fire, hazard mitigation, fire response,
rehabilitation, monitoring and
evaluation.

**L. “Proficiency
workbook”** means a tool to provide
an observable, measurable and
standardized means to evaluate and
document proficiency for the distinct
attributes of a pile or broadcast burn
manager. Each proficiency workbook
shall be approved by the division,
made available in all its offices and on
its website and will have evaluation
elements with accompanying

signatures for demonstrating proficiency.
[19.20.5.7 NMAC – N, 6/13/2023]

19.20.5.8 LEVELS OF PRESCRIBED BURN MANAGER CERTIFICATION: The two levels of certification for prescribed burn managers from lowest to highest shall be:

- A. certified pile burn manager; and
 - B. certified broadcast burn manager.
- [19.20.5.8 NMAC – N, 6/13/2023]

19.20.5.9 REQUIREMENTS FOR PILE BURN MANAGER CERTIFICATION:

A. Individuals shall successfully complete the following requirements before applying for pile burn manager certification, unless receiving waivers or reciprocity pursuant to Subsections B or C of 19.20.5.9 NMAC. Individuals shall successfully complete the requirement in Paragraph (2) of Subsection A of 19.20.5.9 NMAC, before applying for pile burn manager certification if receiving a partial waiver pursuant to Subsection D of 19.20.5.9 NMAC.

(1) Prior to beginning the proficiency requirement in Paragraph (3) of Subsection A of 19.20.5.9 NMAC, individuals may complete the NWCG S-110 basic wildland fire orientation (15 minutes online) or other substitute orientation approved by the division. Any supplemental materials, such as videos the division may develop, or substitute orientation, will be made available and posted on the division's website.

(2) Individuals shall complete (passing score of seventy percent or better) the nine-element course, which may be an online or in-person training course.

(3) Individuals shall successfully complete the proficiency requirement, which consists of burning experience in the role of pile burn manager, which shall include demonstration of general knowledge of fire behavior, weather, holding, fire techniques, control lines,

smoke management, firing devices, tools and equipment. Successful demonstration of those elements shall be documented in a division approved proficiency workbook. The burning experience must be documented in the proficiency workbook by

- (a) a pile burn manager certified pursuant to 19.20.5.9 NMAC;
- (b) division personnel; or
- (c) an individual with at least NWCG prescribed burn boss type 3 qualifications.

B. Upon satisfactory review of their qualification documents by the committee, the division may grant pile burn manager certification by waiver to individuals with the following qualifications:

- (1) NWCG qualifications for single resource boss or above that are current or have lapsed within the past five years; or
- (2) a

nationally recognized structural firefighter I in accordance with national fire protection association (NFPA) 1001 with wildland fire training or experience that includes at least S-190 wildland fire behavior or NFPA equivalencies; and

(3) completion (passing score of seventy percent or better) of the following modules from the nine-element course specified in Subsection A of 19.20.5.11 NMAC: legal requirements, smoke management and permitting.

C. Reciprocity.

(1) The division may conduct a review of another state's certified prescribed burn manager program and post a list of states that the division grants reciprocity for pile burn manager certification on the division's website. Applicants from a state for which the division has granted reciprocity shall provide proof of a current certification in a reciprocity state. Applicants from a state for which the division has granted reciprocity shall complete (passing score of seventy percent or better) the following modules from the nine-element course specified

in Subsection A of 19.20.5.11 NMAC: legal requirements, smoke management and permitting.

(2) The committee shall determine whether an applicant who is not certified in a state on the reciprocity list qualifies for reciprocity based on proof of certification in that other state and successful completion of course work, field experience, proficiency requirements or other requirements that state requires for certification. An applicant for reciprocity of pile burn manager certification issued in another state not on the reciprocity list shall

(a) complete (passing score of seventy percent or better) the nine-element course;

(b) provide proof of certification in the other state; and

(c) provide proof of successful completion of the course work, field experience, proficiency requirements or other requirements that state requires for certification.

D. An individual who has prior prescribed burn manager experience, but who is not certified in another state as a prescribed burn manager, who does not possess NWCG qualifications for single resource boss or above that are current or have lapsed within the past five years or who is not qualified as a nationally recognized structural firefighter I in accordance with national fire protection association (NFPA) 1001 with wildland fire training or experience that includes at least S-190 wildland fire behavior or NFPA equivalencies, may apply for a waiver of the proficiency requirement in Paragraph (3) of Subsection A of 19.20.5.9 NMAC.

(1) An applicant shall provide a letter or other written documentation from a pile or broadcast burn manager certified pursuant to 19.20.5 NMAC, an individual with at least NWCG prescribed burn boss type 3 qualifications or a certified prescribed burn manager from another state on

the division reciprocity list attesting they have observed the applicant conducting pile burns as a pile burn manager and the applicant has satisfactorily conducted pile burns as a pile burn manager and demonstrated the proficiency requirement in Paragraph (3) of Subsection A of 19.20.5.9 NMAC.

(2)

The committee shall review the documentation of the applicant’s prescribed burn manager experience to determine if the applicant meets the proficiency requirement in Paragraph (3) of Subsection A of 19.20.5.9 NMAC. If the committee determines the applicant’s prior experience meets the proficiency requirement in Paragraph (3) of Subsection A of 19.20.5.9 NMAC, the division shall waive the proficiency requirement in Paragraph (3) of Subsection A of 19.20.5.9 NMAC and the requirements in Paragraph (1) of Subsection A of 19.20.5.9 NMAC. Applicants seeking a partial waiver under Subsection D of 19.20.5.9 NMAC shall complete (passing score of seventy percent or better) the nine-element course.

E. The renewal of pile burn manager certification is required every five years with completion of a division approved refresher course (not to exceed eight hours) that is available online. Certified pile burn managers shall provide documentation they have taken the refresher course to the division. If they fail to take the refresher course or to provide proof to the division, the division shall suspend their certification and provide written notification.

F. To obtain recertification after the division has suspended their certification, individuals shall take a refresher course and conduct at least one day of supervised burning by a pile or broadcast burn manager certified pursuant to 19.20.5 NMAC, division personnel or an individual with at least NWCG prescribed burn boss type 3 qualifications. Individuals seeking recertification shall provide documentation the individual has

completed both requirements to the division.
[19.20.5.9 NMAC – N, 6/13/2023]

19.20.5.10 REQUIREMENTS FOR BROADCAST BURN MANAGER CERTIFICATION:

A. Individuals shall successfully complete the following requirements before applying for broadcast burn manager certification, unless receiving waivers or reciprocity pursuant Subsections B or C of 19.20.5.10 NMAC.

(1)

Individuals, including those who have completed the training for pile burn manager certification, shall successfully complete the following prior to beginning the proficiency requirements in Paragraph (3) of Subsection A of 19.20.5.10 NMAC:

(a)

NWCG S-190 wildland fire behavior (eight hours) or a division approved substitute course;

(b)

NWCG S-290 intermediate fire behavior (32 hours) or a division approved substitute course; and

(c)

burn plan writing course approved by the division.

(2)

Individuals shall complete (passing score of seventy percent or better) the nine-element course. Individuals who have previously completed the training for pile burn manager certification do not need to retake the nine-element course.

(3)

Individuals shall successfully complete the proficiency requirement, which consists of burning experience in the role of broadcast burn manager, running a firing operation, managing smoke and managing a holding operation. Documentation of burning experience shall be in a division approved proficiency workbook. Documentation of burning experience in the specified roles shall also include demonstration of intermediate knowledge of fire behavior, weather, burn plan review, firing techniques, firing devices, holding, control lines, smoke management, tools

and equipment and procedures in the event of an escape. Successful demonstration of those elements shall be documented in the applicant’s proficiency workbook by

(a)

a broadcast burn manager who is certified pursuant to 19.20.5 NMAC;

(b)

division personnel; or

(c)

an individual with at least NWCG prescribed burn boss type 2 qualifications.

B.

The division may grant broadcast burn manager certification by waiver to individuals who possess NWCG burn boss type 1 or 2 qualifications with completion (passing score of seventy percent or better) of the following modules from the nine-element course: legal requirements, smoke management and permitting.

C.

(1)

The division may conduct a review of another state’s certified broadcast burn manager program and post a list of states with reciprocity for broadcast burn certification on the division’s website. Applicants from a state for which the division has granted reciprocity shall provide proof of a current certification in a reciprocity state in satisfaction of the certification requirements of 19.20.5.10 NMAC. Applicants from a state for which the division has granted reciprocity shall complete (passing score of seventy percent or better) the following modules from the nine-element course specified in Subsection A of 19.20.5.11 NMAC: legal requirements, smoke management and permitting.

(2)

The committee shall determine whether an applicant who is certified in a state not on the reciprocity list qualifies for reciprocity based on proof of certification in that other state and successful completion of course work, field experience, proficiency requirements or other requirements that state requires for certification. The applicant for reciprocity of broadcast burn manager certification

issued in another state not on the reciprocity list shall

(a) complete (passing score of seventy percent or better) the nine-element course;

(b) provide proof of certification in the other state; and

(c) provide proof of successful completion of the course work, field experience, proficiency requirements or other requirements that state requires for certification.

D. The renewal of broadcast burn manager certification is required every five years with completion of a division approved refresher course (not to exceed eight hours) that is available online. Certified broadcast burn managers shall provide documentation they have taken the refresher course to the division. If they fail to take the refresher course or provide documentation to the division, the division shall suspend their certification and provide written notification.

E. To obtain recertification of broadcast burn manager certification after the division has suspended their certification, individuals shall complete the refresher course and demonstrate one day of field proficiency experience with documentation provided by a broadcast burn manager who is certified pursuant to 19.20.5 NMAC, division personnel or an individual with at least NWCG prescribed burn boss type 2 qualifications. Individuals seeking recertification shall provide documentation the individual has completed both requirements to the division.

[19.20.5.10 NMAC – N, 6/13/2023]

19.20.5.11 DEVELOPMENT OF TRAINING AND BURN PLAN WRITING AND REFRESHER CURRICULUMS AND COURSES:

A. Training modules approved by the division shall be provided by New Mexico state university, cooperative extension

service to address at a minimum the first nine elements:

- (1) legal requirements;
- (2) safety;
- (3) weather;
- (4) fire behavior;
- (5) smoke management;
- (6) prescribed burn techniques;
- (7) public relations;
- (8) planning;
- (9) contingencies; and
- (10) other information specific to burning in New Mexico as determined necessary or appropriate.

B. The division shall develop the burn plan writing curriculum and course or may substitute an equivalent NWCG course.

C. The division shall develop the pile burn manager certification refresher curriculum and course.

D. The division shall develop the broadcast burn manager certification refresher curriculum and course.

E. The division shall make available information about any division approved substitute courses on the division’s website and in its offices.

F. The division shall post notice of prescribed burning opportunities on the division website and may provide other notifications such as posting in division offices. Organizations or entities may provide prescribed burning opportunities and may post opportunities by any means. [19.20.5.11 NMAC – N, 6/13/2023]

19.20.5.12 APPLICATION FOR CERTIFICATION:

A. The division shall develop application forms for certification, which shall include the applicant’s name, address, phone number, e-mail address, prescribed burning experience and training and the certification for which

the individual is applying, and to document completion of certification requirements.

B. Applicants shall submit applications with proficiency workbooks, training certificates, letters of experience records and any other relevant materials to the division.

C. Review of applications for certification.

(1) Applicants shall submit completed documentation of courses and field experience to the division.

(2) The division shall provide the committee with applications to review.

(3) The committee shall document its decision to approve or deny certification and the documentation shall be available to the applicant upon request.

D. The division shall issue the certification to the applicant or notify the applicant in writing of the denial and specify the reasons for denial.

E. Applicants may appeal a certification denial in writing to the state forester within 30 days of the denial. Applicant shall provide a written response stating why the application should not have been denied. The state forester shall review the application and denial and the applicant’s appeal and either provide a written decision upholding the denial or issue the requested certification.

[19.20.5.12 NMAC – N, 6/13/2023]

19.20.5.13 ESTABLISHMENT OF COMMITTEE:

A. The division shall establish a committee to review applications for prescribed burn manager certification and provide oversight of the development and updating of training modules, refresher courses and recertification and cross-walk the training modules with other training and experiences.

B. Members of the committee shall include one division employee appointed by the state forester, one non-governmental organization representative and one

council member representative. Ad-hoc members may be added at the request of the committee or the state forester.

C. Terms for the non-governmental organization and council member shall be for two years.

D. Minimum qualifications to serve on the committee as a non-governmental organization representative or council member representative include two years' experience planning and implementing prescribed burns.

E. Committee members may be nominated by submitting a letter with a description of qualifications to the state forester. The division shall post notice when nominations for committee members are being taken on the division's website.

F. The state forester shall select and appoint the committee members and shall have the authority to remove committee members prior to the end of their terms or replace the division employee appointed to the committee at the state forester's sole discretion.
[19.20.5.13 NMAC – N, 6/13/2023]

19.20.5.14 FEES:
[RESERVED]

HISTORY OF 19.20.5 NMAC:
Pre-NMAC History:
[RESERVED]
History of Repealed Material:
[RESERVED]
Other History:
[RESERVED]

**HUMAN SERVICES
DEPARTMENT
INCOME SUPPORT DIVISION**

This is an amendment to 8.102.501 NMAC, Section 8, 9, 10, 11 and 12 effective 7/1/2023.

**8.102.501.8 TRANSITION
BONUS PROGRAM:**

A. Purpose: The TBP provides a limited duration and fixed month cash assistance bonus incentive

to encourage NMW families to leave NMW cash assistance, participate in the TBP by [~~maintain~~] maintaining a certain number of hours in paid employment and leave the TBP due to increased earnings. This program also provides supportive services on an ongoing basis, provided that the participant is eligible to receive the services during the months provided.

B. Method of payment: TBP payments are paid by issuing funds into an electronic benefits transfer (EBT) account accessible to the participant. In some circumstances benefits may be issued by warrant.

C. Fixed benefit amount: A non-prorated, benefit amount of \$200.00 will be given to all TBP participants under [~~+50%~~] one hundred fifty percent of federal poverty guidelines. The benefit can be reduced to recoup an existing cash assistance overpayment in accordance with [~~8.102.640 NMAC~~] 8.100.640 NMAC. The benefit will be countable for the benefit group's eligibility for [~~food stamp~~] SNAP and Medicaid benefits unless otherwise excluded.

D. Lifetime limits:
(1) The TBP benefit shall not be provided to an adult, minor head of household or the spouse of a minor head of household for more than 18 months during the individual's lifetime. A benefit group as defined at 8.102.400 NMAC shall be ineligible if the benefit group contains at least one adult, minor head of household or spouse of the minor head of household who has received 18 or more months of the TBP benefit.

(2) Any month in which an adult, a minor head of household, or the spouse of a minor head of household, has received full or partial TBP benefit shall be considered a month of receipt and shall be counted towards the 18 month lifetime limit for any benefit group in which that individual is a member.

(3) [~~Participants who have received less than or equal to 30 months of NMW and are approved for the TBP program shall have each month of~~

~~receipt of the TBP benefit count toward the 60-month lifetime limit for NMW eligibility until the 30th month is received.] Participants who receive state funded TBP shall not have any month received count towards their 60-month lifetime limit for NMW eligibility.~~

(4) [~~Participants who have received more than or equal to 31 months and up to 60 months of NMW and are approved for the TBP program shall not have each month of receipt of the TBP count toward the 60-month lifetime limit for NMW eligibility.] Participants who receive federally funded TBP shall have each month received count toward the 60-month lifetime limit for NMW eligibility.~~

(5) When state and federal funds are appropriated, the lifetime limit will be applied as follows:

(a) any participant who has received 31 months or more of TANF will receive state funds;

(b) any participant who has received 30 months or less will receive federal funds.

E. Initial eligibility:
(1) The TBP program shall be subject to all federal and state NMW cash assistance application, eligibility, certification and reporting requirements, except where specified within the TBP regulations. Resources of the budget group are excluded in determining eligibility for the TBP.

(2) Application requirements: Active NMW benefit groups that meet the qualifications and eligibility requirements for the TBP shall be eligible without an application. An application will be required if the NMW case is closed.

(3) The TBP shall be available only to a benefit group that meets all of the following criteria:

(a) does not simultaneously participate in the NMW program;

(b) has left the NMW cash assistance program;

(c) meets all TBP requirements and voluntarily chooses to participate in the program;

(d) is currently engaged in paid unsubsidized or subsidized employment, except for subsidized employment funded with TANF, for a minimum of 30 hours per week ~~and averaged over a month~~ and earnings paid at federal minimum wage, or if self-employed, working a minimum of 30 hours per week, and receiving weekly earnings at least equal to the federal minimum wage multiplied by 30 hours;

(e) has gross income that does not exceed ~~[+50%] one hundred fifty percent~~ of federal poverty guidelines;

(f) has received NMW funded cash assistance for at least three months and one of the last three months; and

(g) does not include an adult, minor head of household or spouse of the minor head of household that participated in the TBP for 18 months in their lifetime or 60 months of TANF.

(4) Eligibility for the TBP shall be prospective for a six month period up to a lifetime limit of 18 months.

F. In accordance with Subsection B of 8.102.500.8 NMAC, income eligibility limits for the TBP will be revised and adjusted each year in October. [8.102.501.8 NMAC - N, 7/1/208; A, 8/14/2009; A, 7/1/2023]

8.102.501.9 CONTINUED ELIGIBILITY:

A. Six month reporting requirement: All benefit groups participating in the TBP shall be assigned to a six month reporting requirement. A benefit group assigned to a six month reporting shall be required to file a six month report no later than the tenth day of the sixth month or in conjunction with the ~~[food stamp semiannual]~~

interim report or SNAP recertification [report], whichever is appropriate. The benefit group must include the following information along with verification:

(1) any change in benefit group composition, whether a member has moved in or out of the home along with the date, the change took place;

(2) the amount of money received from employment by each benefit group member;

(3) the amount of unearned income received by each benefit group member;

(4) verification for residence, only if, there has been a change in residence since the last certification;

(5) changes in child support receipt; and

(6) changes in alien status for a benefit group member.

B. Continued eligibility at the six month reporting: For continued TBP eligibility, the benefit group must meet all of the following criteria:

(1) engaged in paid unsubsidized employment for at least 30 hours per week, averaged over a month, for at least four of the last six months;

(2) have earnings from paid unsubsidized employment that do not exceed ~~[+50%] one hundred fifty percent~~ of the federal poverty guidelines; and

(3) have not reached the benefit group's 18 month TBP lifetime limit or 60-month lifetime limit as an adult, minor head of household or spouse of a minor head of household.

C. Action on changes reported between reporting periods for benefit groups assigned to six month reporting:

(1) The department shall not act on reported changes between reporting periods that would result in a decrease in benefits with the following exceptions:

(a) a benefit group reports income in excess

of ~~[+50%] one hundred fifty percent~~ of federal poverty guidelines for size of the benefit group;

~~(b)~~ a benefit group reports loss of paid unsubsidized employment;

~~(b)~~ (c) a benefit group reports, or the department receives documented evidence that the benefit group has moved from the state or intends to move from the state on a specific date;

~~(c)~~ (d) a benefit group requests closure;

~~(d)~~ (e) the department receives documented evidence that the head of the benefit group has died; or

~~(e)~~ (f) at the time of a mass change.

(2) A newborn shall be added to the benefit group effective the month following the month the report is received, if the addition is reported to the agency by the benefit group or by the hospital for medicaid purposes.

D. Notice: An eligible benefit group that qualifies and is eligible for the bonus shall be issued notice in accordance with policy at 8.102.110.13 NMAC and for the following circumstances:

(1) **Approval:** An approval notice shall be issued at the time the benefit group is determined eligible. The approval notice shall identify the amount of approval and recertification date.

(2) **Benefit change:** A benefit group shall be issued a notice at the time the benefit group is increased or decreased. The amount of benefit is subject to change due to the availability of state or federal funds.

(3) **Ineligibility:** A benefit group shall be issued a notice when the benefit group no longer qualifies or is not eligible for the TBP due to a reportable change or at time of interim reporting. [8.102.501.9 NMAC - N, 7/1/208; A, 8/14/2009; A, 7/1/2023]

8.102.501.10 BENEFIT ISSUANCE AND DELIVERY:

A. **Benefit issuance:**

The TBP benefits are issued and placed into a benefit group’s electronic benefit transfer (EBT) cash assistance account as defined in 8.102.610.8 NMAC.

B. Supportive services: Participants of the TBP shall be eligible to receive NMW case management and supportive services in accordance with 8.102.620.14, 8.102.620.15, and 8.102.620.16 NMAC.

C. Special allowances: A special clothing allowance for school age children and layette payment shall be issued pursuant to 8.102.500.8 NMAC.

D. Expungement: The TBP benefit shall be subject to expungement in accordance with 8.102.610.9 NMAC.

E. Issuance and replacement of EBT card: To access and use the TBP benefit, the benefit group may use the same EBT card issued for the cash assistance benefits.

F. Approval notification: Upon approval of the [retention] transition bonus program benefit, the household shall be notified of the new benefit amount and the notice shall be mailed to the applicant per 8.102.110.13 NMAC. [8.102.501.10 NMAC - N, 7/1/208; A, 8/14/2009; A, 7/1/2023]

8.102.501.11 NMW PARTICIPATION

REQUIREMENTS: [An] A TBP recipient will be encouraged to participate in work program activities and shall be expected to attend and complete all required activities. such as the assessment, individual responsibility plan (IRP), work participation agreement (WPA) and monthly participation requirements in accordance with 8.102.460 NMAC if not otherwise meeting. Participation requirements apply to each benefit group member whether the benefit group is considered to be a two-parent or single-parent benefit group. No TBP participant shall be sanctioned for NMW non-cooperation.

A. Work participation agreement activity will include:

(1) 30 hours a week engaged in paid employment at federal minimum wage, or if self-employed, working a minimum of 30 hours per week, and receiving weekly earnings at least equal to the federal minimum wage multiplied by 30 hours.

(2) Career development that will lead towards meaningful employment.

B. Failure to comply with Subsection A of 8.102.501.11 NMAC will result in closure of TBP and return to regular TANF.

C. Regain eligibility: A participant can regain eligibility by showing they are complying with the TBP NMW participation requirements. [8.102.501.11 NMAC - N, 7/1/208; A, 8/14/2009; A, 04/01/2012; A, 7/1/2023]

8.102.501.12 SUSPENSION OF PROGRAM: The TBP payment for all benefit groups may be denied for a designated time period based on limited state or federal funds. During program suspension disposition of applications shall be made pursuant to 8.106.110.16 NMAC.

A. Application disposition: All applications for TBP shall be denied under this provision without consideration of eligibility.

(1) Interview: TBP applications denied on the basis of suspension shall not require an interview to meet the requirements specific to TBP, other categories of assistance requested by the applicant may require an interview to determine eligibility.

(2) Payment of assistance: There shall be no payment to the TBP recipient during the designated suspension period and any right to the payment is lost. Retroactive payments for pending applicants shall be authorized for months prior to a designated suspension period.

B. Notice to recipient and applicant: No later than 60 days prior to the effective change the department shall provide transition bonus recipients appropriate notice

regarding suspension or restoration of the grant based on the availability of state or federal funds. The notice shall include the citation to the state statute and regulation and fair hearing rights.

C. Public notice: The department shall issue a public notice 60 days prior to the changes made based on the availability of state or federal funds. Public notice shall include effective date of change and right to fair hearing consistent with mass change requirements at 8.100.180.15 NMAC.

D. Claims: Claims for overpayments shall be established in accordance with regulations outlined at 8.100.640.11 NMAC.

E. Expungement: Cash assistance benefits will be expunged in accordance with regulations outlined in Subsection B of 8.102.610.9 NMAC. [8.102.501.12 NMAC - N, 11/15/2010; A, 7/1/2023]

PUBLIC EDUCATION DEPARTMENT

By emergency rule, the New Mexico Public Education Department is repealing 6.19.8 NMAC, Grading of Public Schools, filed 12/31/2018, and replacing it with 6.19.8 NMAC, School Improvement Designations, adopted and effective on 05/23/2023.

PUBLIC EDUCATION DEPARTMENT

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 19 PUBLIC SCHOOL ACCOUNTABILITY PART 8 SCHOOL IMPROVEMENT DESIGNATIONS

6.19.8.1 ISSUING AGENCY: Public Education Department, hereinafter the department. [6.19.8.1 NMAC – Rp/E, 6.19.8.1 NMAC, 5/23/2023]

6.19.8.2 SCOPE: This rule shall apply to all public schools in New Mexico. If any part or application of this rule is held invalid, the remainder of the rule or its application in other situations shall not be affected.

[6.19.8.2 NMAC – Rp/E, 6.19.8.2 NMAC, 5/23/2023]

6.19.8.3 STATUTORY

AUTHORITY: Sections 9-24-8, 22-2-1, 22-2-2, 22-2C-4, 22-2C-5, 22-2F-2, and 22-2C-11 NMSA 1978; 20 USC 6303 Sections 1003 and 1111.

[6.19.8.3 NMAC – Rp/E, 6.19.8.3 NMAC, 5/23/2023]

6.19.8.4 DURATION:

Permanent.

[6.19.8.4 NMAC – Rp/E, 6.19.8.4 NMAC, 5/23/2023]

6.19.8.5 EFFECTIVE

DATE: May 23, 2023, unless a later date is cited at the end of a section.

[6.19.8.5 NMAC – Rp/E, 6.19.8.5 NMAC, 5/23/2023]

6.19.8.6 OBJECTIVE: The

purpose of this rule is to comply with requirements for school improvement designations as detailed by the state’s system of annual meaningful differentiation and actions required of the department by the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA). Additionally, this rule establishes criteria for determining the differentiation of performance of public schools and provides for the identification of, and support for, historically struggling or low-performing schools, including schools that are underserving student population subgroups, and the prioritization of funding for interventions for those schools.

[6.19.8.6 NMAC – Rp/E, 6.19.8.6 NMAC, 5/23/2023]

6.19.8.7 DEFINITIONS:

A. “All required indicators” means those indicators required in the state’s system of annual meaningful differentiation that are used in establishing the index score for each school.

B. “Annual meaningful differentiation” means the state system of accountability for defining school performance in compliance with 20 USC 6303 Section 1111.

C. “Chronic absenteeism” means the percentage of students missing ten percent or more of the school year for any reason, including excused absences, unexcused absences, and out-of-school suspensions.

D. “College and career readiness” or “CCR” means an indicator calculated for all high schools statewide, consisting of the number of high school students who participated in CCR opportunities, as defined by the department, divided by the number of students in the four-year graduation cohort.

E. “English learner” or “EL” means a student whose first or heritage language is not English and who does not yet understand, speak, read, or write English at a level comparable to grade-level English proficient peers and native English speakers.

F. “English learner progress” means a growth-to-proficiency indicator of the acquisition of English language proficiency for EL students. The indicator is calculated by comparing the student’s first English language proficiency level, the projected level of expected English language proficiency considering student’s grade level and the number of years the student has attended U.S. schools, and the actual English language proficiency level obtained in the current year.

(1) Each student identified as EL has an annual English language growth-to-proficiency target that is based on the student’s grade level at identification as an EL and the student’s initial English language proficiency level on the department-approved English language proficiency assessment.

(2) English language growth-to-proficiency targets are a measure of the extent to which students should be gaining

English language proficiency within five years as measured by the department-approved English language proficiency assessment.

G. “Graduation growth” means an indicator equal to the annual increase in the four-year cohort graduation rate. The indicator is calculated by subtracting the four-year graduation rate from the current four-year graduation rate and dividing it by two.

H. “Graduation rate” means an indicator equal to the percentage of students in a four-, five-, or six-year cohort who earned a New Mexico diploma of excellence within a specified number of years, with the cohort assigned based upon the year of high school completion and the first-time entry into ninth grade.

(1) Four-year cohort graduation rate means the percentage of students in the four-year cohort who earned a New Mexico diploma of excellence within four years.

(2) Five-year cohort graduation rate means the percentage of students in the five-year cohort who earned a New Mexico diploma of excellence within five years.

(3) Six-year cohort graduation rate means the percentage of students in the six-year cohort who earned a New Mexico diploma of excellence within six years.

I. “Local education agency” or “LEA” means a school district or a state-chartered charter school.

J. “Proficiency” means a student’s academic achievement score of proficient or above as defined by the department on the New Mexico statewide assessment.

K. “School index score” means the total score a school earns on all required measures as described in 6.19.8.9 NMAC.

L. “Science proficiency” means an indicator of student proficiency on the statewide assessment for science.

M. “Statewide assessment” means the collection of instruments administered annually that assess student academic performance and students’ progress toward meeting New Mexico content standards in prekindergarten through grade 12.

N. “Student growth” or “academic improvement” means an indicator of the extent to which students are increasing their mastery of state content standards and scoring proficient as determined and measured by the New Mexico statewide assessment in prekindergarten through grade 12.

O. “Student proficiency” means a measure demonstrating students’ grade level mastery of the knowledge and skills determined by the New Mexico assessments.

P. “Subgroup index score” means the total score for each student population subgroup at a school on all required measures described in 6.19.8.9 NMAC.

Q. “Supplemental accountability model school” or “SAM school” means any public school in which, based on the 40th day enrollment reporting, the following categories total thirty percent or more of the student population:

- (1) age 19 or older;
- (2) non-gifted students who qualify for level C or level D special education; or
- (3) pregnant or parenting teens; or
- (4) return to school students.

R. “Return to school students” means students who have every been off track to graduation for their grade level or have ever been chronically absent from school and are now enrolled in school.
[6.19.8.7 NMAC – Rp/E, 6.19.8.7 NMAC, 5/23/2023]

6.19.8.8 [RESERVED]
[6.19.8.8 NMAC – Repealed/E, 6.19.8.8 NMAC, 5/23/2023]

6.19.8.9 DETERMINATION OF A SCHOOL’S INDEX SCORE: Each school shall earn a school index score as described in this section. Each measure below is calculated by the department according to the state’s system for annual meaningful differentiation detailed in the state’s ESSA plan and any addendums approved by the United States department of education in accordance with 20 USC 6303 Section 1111. The school’s index score and subgroup index scores will be used to identify schools in need of intervention as required in 6.19.8.11 NMAC.

A. For the calculation of school index scores for the 2021-2022 school year, elementary and middle schools can earn a maximum of 100 points as a total of the following measures:

- (1) 25 points each for student proficiency in English language arts and mathematics;
- (2) 10 points for science proficiency;
- (3) 10 points each for improvement in student proficiency in English language arts and mathematics;
- (4) 10 points for attendance; and
- (5) 10 points for English learner progress.

B. For the calculation of school index scores for the 2021-2022 school year, high schools can earn a maximum of 100 points as a total of the following measures:

- (1) 15 points each for student proficiency in English language arts and mathematics;
- (2) 10 points for science proficiency;
- (3) five points each for improvement in student proficiency English language arts and mathematics;
- (4) 10 points for attendance;
- (5) five points for college and career readiness.

- (6) 30 points for graduation rate, calculated in the following manner:
 - (a) 10 points for the four-year rate;
 - (b) eight points for the five-year rate;
 - (c) seven points for the six-year rate; and
 - (d) five points for growth in the four-year rate; and
 - (7) five points for English learner progress.

C. All enrolled students in eligible grades and courses, as determined by the department, must be assessed with the appropriate department-approved assessment, including the department-approved alternate assessment when applicable.
[6.19.8.9 NMAC – Rp/E, 6.19.8.9 NMAC, 5/23/2023]

6.19.8.10 PRIORITIZATION OF RESOURCES:

A. As part of the annual budget approval process pursuant to Section 22-8-11 NMSA 1978, on or before July 1 of each year, the department shall ensure that a local school board or governing body of a charter school is prioritizing resources of public schools identified for intervention pursuant to 6.19.8.11 NMAC.

B. Expenditures for instruction, student support services, instructional support services, and compensation and benefits for school principals designated as the 1000, 2100, 2200, and 2400 functions, respectively, in fund 11000 of the department’s chart of accounts for expenditures shall be reported by the department every two years and posted on the department website.
[6.19.8.10 NMAC – Rp/E, 6.19.8.10 NMAC, 5/23/2023]

6.19.8.11 SCHOOL IDENTIFICATION AND INTERVENTIONS: The department shall identify schools for comprehensive support and improvement (CSI), additional targeted support and improvement

(ATSI), targeted support and improvement (TSI), and more rigorous interventions (MRI).

A. CSI identification.

A school shall be identified as a CSI school if the school:

- (1) is in the lowest performing five percent of Title I schools in New Mexico as identified by the school index score;
- (2) has a four-year graduation rate less than or equal to sixty-six and two-thirds percent for two of the past three years;
- (3) is a Title I school that was previously identified as an ATSI school due to low performing student subgroups that has not demonstrated sufficient improvement in those subgroups by the next identification cycle; or
- (4) the department may identify additional schools as CSI schools as deemed necessary.

B. CSI exit criteria.

An identified CSI school is expected to exit CSI status by the next identification cycle after initial identification. Exiting CSI status shall occur under the following conditions:

- (1) for schools identified for being among the bottom five percent of Title I schools, by improving the school index score so that it is no longer in the lowest-performing five percent of Title I schools as described in Paragraph (1) of Subsection A of 6.19.8.11 NMAC;
- (2) for high schools identified due to low graduation rates, the school must improve their four-year graduation rate to be above sixty-six and two-thirds percent for two out of the previous three years; or
- (3) for Title I schools previously identified with low-performing student subgroups, the school must improve the subgroup index scores of the identified low-performing subgroups so the subgroup index scores for those subgroups are above the school index score of any of the lowest-performing five percent of Title I schools as defined in Paragraph (1) of Subsection A of 6.19.8.11 NMAC.

C. ATSI

identification. A school shall be identified as an ATSI school if one or more subgroups have a subgroup index score at or below the school index score any of the lowest-performing five percent of Title I schools as defined in Paragraph (1) of Subsection A of 6.19.8.11 NMAC.

D. ATSI exit criteria.

Schools with one or more low-performing subgroups shall exit ATSI status at any time when the school improves the subgroup index scores of the identified low-performing subgroups so the subgroup index scores for those subgroups are above the school index score of any of the lowest-performing five percent of Title I schools as defined in Paragraph (1) of Subsection A of 6.19.8.11 NMAC.

E. TSI identification.

A school shall be identified as a TSI school if one or more subgroups meet the state’s definition of consistently underperforming as defined by the department for each identification cycle.

F. TSI exit criteria.

Schools with one or more low-performing subgroups shall exit TSI status at any time when the school improves the index scores of the identified low-performing subgroups so the index scores for those subgroups are above the score of all students at any of the lowest-performing five percent of Title I schools as defined in Paragraph (1) of Subsection A of 6.19.8.11 NMAC.

G. MRI identification.

A school shall be identified as an MRI school if the school has not exited CSI status by the next identification cycle after initial school identification.

H. MRI plans.

Once identified as an MRI school, LEAs shall identify and submit a plan to significantly restructure and redesign. Options for restructure and redesign include:

- (1) implementation of community schools strategies;
- (2) implementation of differentiated support and accountability for SAMs schools; or

(3)

significantly restructure and redesign through:

- (a) implementation of evidence-based strategies;
- (b) restart; or
- (c) school closure.

I. MRI plan

approval. If the LEA refuses to identify and obtain department approval for an MRI intervention in which to participate, the department will select the intervention for the school. The department reserves the right to approve or deny any MRI plan chosen and developed by an LEA. The department reserves the right to monitor and require execution of the approved MRI plan for the duration of the identification cycle.

J. MRI exit criteria.

An identified MRI school shall exit MRI designation by:

- (1) improving the school index score so that it is no longer in the lowest-performing five percent of Title I schools as described in Paragraph (1) of Subsection A of 6.19.8.11 NMAC; or
- (2) for high schools identified due to low graduation rates, improving their four-year graduation rate to be above sixty-six and two-thirds percent for two out of the previous three years. [6.19.8.11 NMAC – Rp/E, 6.19.8.11 NMAC, 5/23/2023]

6.19.8.12 SUPPLEMENTAL ACCOUNTABILITY MODEL:

A.

The department may supplement the calculation of a school index score for SAM schools in one or more ways as determined by the department and outlined in Subsections B and C of this section.

B.

The department may include the rate of senior completion, which consists of students who are not members of the four-year graduation cohort, when calculating the number of points earned for the four-year cohort graduation rate.

C. The department may include additional department-approved assessments when calculating the participation and success components of the college and career readiness indicator.

D. Schools eligible for SAM school status remain subject to the assessment participation requirement described in Subsection C of 6.19.8.9 NMAC. [6.19.8.12 NMAC – Rp/E, 6.19.8.12 NMAC, 5/23/2023]

6.19.8.13 DISTRICT AND STATE REPORT CARDS: The department shall generate and publish district and state report cards annually in accordance with federal and state law. [6.19.8.13 NMAC – Rp/E, 6.19.8.13 NMAC, 5/23/2023]

6.19.8.14 ACCOUNTABILITY FOR SCHOOLS DESIGNATED CSI AND MRI: For schools designated as CSI or MRI, the department reserves the right to require LEAs to:

A. Implement the use of department-approved high-quality materials, best practices, and evidence-based programs.

B. Conduct department-approved LEA support and readiness assessments and publicly post summary findings.

C. Conduct department-approved school support and readiness assessments and publicly post summary findings.

D. Participate in department bi-annual monitoring and technical assistance visits.

E. Require schools to redirect or repurpose funds in accordance with their department-approved CSI or MRI plan.

F. For MRI schools, require a department-provided transformational coach.

G. For MRI schools, require restart or closure of an MRI school that has failed to exit MRI status within three school years. [6.19.8.14 NMAC – N/E, 6.19.8.14 NMAC, 5/23/2023]

HISTORY OF 6.19.8 NMAC: 6.19.8 NMAC – Grading of Public Schools, filed 12/31/2018 was repealed and replaced via emergency rulemaking, by 6.19.8 NMAC – School Improvement Designations, effective 5/23/2023.

PUBLIC REGULATION COMMISSION

This is an emergency amendment to 18.7.1 NMAC, adding Section 11 effective 6/2/2023.

18.7.1.11 NON-EMERGENCY MEDICAL TRANSPORT SERVICES. This rule is adopted on an emergency basis pursuant to Section 62-19-21 NMSA 1978 and Section 14-4-5.6 NMSA 1978 to preserve the public peace, health, safety, or general welfare. Non-emergency medical transport services:

A. may be provided only to riders who do not require medical intervention to maintain their level of response, airway, breathing and circulatory status, with the exception that self-administered oxygen is not to exceed six liters per minute via a nasal cannula; the oxygen container must be secured in accordance with other state and federal laws; and

B. may not be provided to riders who are recumbent (for example, on transport gurneys) or require medical monitoring or medical intervention.

[18.7.1.11 NMAC - N/E, 6/2/2023]

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

The Construction Industries Commission approved at its May 17, 2023, meeting, to repeal its rules **14.7.2--2015 New Mexico Commercial Building Code**; 14.7.3--2015 New Mexico Residential

Building Code; and 14.7.7--2015 New Mexico Existing Building Code and replace them with 14.7.2--2021 New Mexico Commercial Building Code; 14.7.3--2021 New Mexico Residential Building Code; and 14.7.7 --2021 New Mexico Existing Building Code effective July 14, 2023.

The Construction Industries Commission approved at its May 17, 2023, meeting, to repeal its rules 14.7.2--2015 New Mexico Commercial Building Code; **14.7.3--2015 New Mexico Residential Building Code**; and 14.7.7--2015 New Mexico Existing Building Code and replace them with 14.7.2--2021 New Mexico Commercial Building Code; 14.7.3--2021 New Mexico Residential Building Code; and 14.7.7 --2021 New Mexico Existing Building Code effective July 14, 2023.

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REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

TITLE 14 HOUSING AND CONSTRUCTION CHAPTER 7 BUILDING CODES GENERAL PART 2 2021 NEW MEXICO COMMERCIAL BUILDING CODE

14.7.2.1 ISSUING AGENCY: Construction Industries Division (CID) of the Regulation and

Licensing Department.

[14.7.2.1 NMAC - Rp, 14.7.2.1 NMAC, 7/14/2023]

14.7.2.2 SCOPE: This rule applies to the construction, alteration, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of every building or structure or any appurtenances connected or attached to such building or structure performed in New Mexico on or after July, 14, 2023, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date.

A. Exception

1. Detached one and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories high with separate means of egress, and their accessory structures shall comply with the 14.7.3 NMAC, currently adopted New Mexico Residential Building Code (NMRBC).

B. Exception 2.

Existing buildings, not subject to the NMRBC, undergoing a change of occupancy, repair, alterations or additions shall comply with either 14.7.2 NMAC, currently adopted New Mexico Commercial Building Code, or 14.7.7 NMAC, currently adopted New Mexico Existing Building Code, as applicable.

[14.7.2.2 NMAC - Rp, 14.7.2.2 NMAC, 7/14/2023]

14.7.2.3 STATUTORY AUTHORITY: Sections 60-13-9, 60-13-10.3 and 60-13-44 NMSA 1978.

[14.7.2.3 NMAC - Rp, 14.7.2.3 NMAC, 7/14/2023]

14.7.2.4 DURATION: Permanent.

[14.7.2.4 NMAC - Rp, 14.7.2.4 NMAC, 7/14/2023]

14.7.2.5 EFFECTIVE DATE: July, 14, 2023, unless a later date is cited at the end of a section.

[14.7.2.5 NMAC - Rp, 14.7.2.5 NMAC, 7/14/2023]

14.7.2.6 OBJECTIVE: The purpose of this rule is to establish minimum standards for the general construction of commercial buildings in New Mexico.

[14.7.2.6 NMAC - Rp, 14.7.2.6 NMAC, 7/14/2023]

14.7.2.7 DEFINITIONS: See 14.5.1 NMAC, General Provisions and Chapter 2 of the 2021 International Building Code (IBC) as amended in 14.7.2.10 NMAC.

[14.7.2.7 NMAC - Rp, 14.7.2.7 NMAC, 7/14/2023]

14.7.2.8 ADOPTION OF THE 2021 INTERNATIONAL BUILDING CODE:

A. This rule adopts by reference the 2021 International Building Code, as amended by this rule.

B. In this rule, each provision is numbered to correspond with the numbering of the 2021 International Building Code.

C. This rule is to be applied in conjunction with 14.7.9 NMAC, the current adopted New Mexico Commercial Energy Conservation Code.

[14.7.2.8 NMAC - Rp, 14.7.2.8 NMAC, 7/14/2023]

14.7.2.9 CHAPTER 1 - ADMINISTRATION:

A. Section 101 - Scope and General Requirements.

(1) Section

101.1 - Title. Delete this section of the IBC and substitute: This code shall be known as the 2021 New Mexico Commercial Building Code (NMCBC).

(2) Section

101.2 - Scope. Delete this section of the IBC and see 14.7.2.2 NMAC, Scope.

(3) Section

101.2.1 - Appendices. This rule adopts the following appendices as amended herein:

(a)

Appendix C - Group U - Agricultural Buildings

(b)

Appendix E - Supplementary Accessibility Requirements

(c)

Appendix G - Flood-Resistant Construction

(d)

Appendix H - Signs

(e)

Appendix I - Patio Covers

(f)

Appendix J - Grading

(4) Section

101.3 - Purpose. Delete this section of the IBC and see section 14.7.2.6 NMAC, Objective.

(5) Section

101.4 - Referenced codes. The codes referenced in the NMCBC are:

(a)

Section 101.4.1 - Gas. Delete this section of the IBC and substitute: the currently adopted New Mexico Mechanical Code (NMMC) applies to “gas fittings” as that term is defined in CILA Section 60-13-32. All references in the IBC to the International Fuel Gas Code are deemed references to the NMMC or the LPG standards, 19.15.40 NMAC and Section 70-5-1 et seq. NMSA 1978, collectively. Gas piping systems and appliances for use with liquefied propane gas (LPG), or compressed natural gas (CNG), shall be governed by the LPG standards.

(b)

Section 101.4.2 - Mechanical.

Delete this section of the IBC and substitute: The currently adopted NMMC applies to the installation, repair and replacement of mechanical systems including piping systems, equipment, appliances, fixtures, fittings, and appurtenances including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators, and other energy related systems. All references in the IBC to the International Mechanical Code are deemed references to the NMMC.

(c)

Section 101.4.3 - Plumbing. Delete this section of the IBC and substitute: the currently adopted New Mexico Plumbing Code (NMPC) applies to the installation, alterations, repairs, and replacement of plumbing systems, including piping systems, equipment, appliances, fixtures, fittings and

appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. All references in the IBC to the International Plumbing Code are deemed references to the NMPC.

(d)

Section 101.4.4 - Property maintenance. Delete this section of the IBC.

(e)

Section 101.4.5 - Fire prevention. Delete this section of the IBC.

(f)

Section 101.4.6 - Energy. Delete this section of the IBC and substitute: the provisions of the current adopted New Mexico commercial energy conservation code (NMCECC) shall apply to the energy conservation aspects of general commercial construction.

B. Section 102 -

Applicability. See this section of the IBC except as provided below.

(1) **Section**

102.1 - General. Delete this section of the IBC and see 14.5.1 NMAC, General Provisions.

(2) **Section**

102.2 - Other laws. Delete this section of the IBC and see 14.5.1 NMAC, General Provisions.

(3) **Section**

102.3 - Application of references. Delete this section of the IBC and see 14.5.1 NMAC, General Provisions.

(4) **Section**

102.4 - Referenced codes and standards. Delete this section of the IBC and see 14.5.1 NMAC, General Provisions.

(5) **Section**

102.5 - Partial invalidity. Delete this section of the IBC and see 14.5.1 NMAC, General Provisions.

(6) **Section**

102.6 - Existing structures. Delete this section of the IBC and substitute: the legal occupancy of any structure existing on the effective date of this rule shall be authorized to continue without change, except as specifically provided in this rule, in the current adopted New Mexico Existing Building Code, or by the building official in consideration of the general safety and welfare of the occupants

of any such building and the general public.

C. Section 103 - Code Compliance Agency. Delete this section of the IBC.

D. Section 104 - Duties and Powers of Building Official. Delete this section of the IBC and see 14.5.1 NMAC, General Provisions.

E. Section 105 - Permits. Delete this section of the IBC and see 14.5.2 NMAC, Permits.

F. Section 106 - Floor and Roof Design Loads. See this section of the IBC.

G. Section 107 - Construction Documents. Delete this section of the IBC and see 14.5.2 NMAC, Permits.

H. Section 108 - Temporary Structures and Uses. Delete this section of the IBC and see 14.5.2 NMAC, Permits.

I. Section 109 - Fees. Delete this section of the IBC and see 14.5.5 NMAC, Fees.

J. Section 110 - Inspections. Delete this section of the IBC and see 14.5.3 NMAC, Inspections or 14.5.2 NMAC, Permits.

K. Section 111 - Certificate of Occupancy. Delete this section of the IBC and see 14.5.3 NMAC, Permits.

L. Section 112 - Service Utilities. Delete this section of the IBC and see 14.5.2 NMAC, Permits.

M. Section 113 - Means of Appeals. Delete this section of the IBC and see 14.5.1 NMAC, General Provisions.

N. Section 114 - Violations. Delete this section of the IBC and see 14.5.3 NMAC, Inspections.

O. Section 115 - Stop Work Order. Delete this section of the IBC and see 14.5.3 NMAC, Inspections.

P. Section 116 - Unsafe Structures and Equipment. Delete this section of the IBC and see 14.5.1 NMAC, General Provisions. [14.7.2.9 NMAC - Rp, 14.7.2.9 NMAC, 7/14/2023]

14.7.2.10 CHAPTER 2 - DEFINITIONS: See this section of the IBC except as provided below.

A. Section 201 - General. See this section of the IBC except as provided as provided below.

(1) Section 201.1 - Scope. See this section of the IBC except add the following: If the same term is defined in the New Mexico construction codes and the IBC, it shall have the meaning given it in the New Mexico construction codes.

(2) Section 201.3 - Terms defined in other codes. Delete this section of the IBC and substitute: If a term is not defined in this code and is defined in a New Mexico construction code, the term shall have the meaning given it in the New Mexico construction code.

B. Section 202 - Definitions. See this section of the IBC except as provided below.

(1) Positive roof drainage. Delete the definition in the IBC and substitute with the following: The drainage condition in which consideration has been made for all loading deflections of the roof deck, and the additional slope has been provided to ensure drainage of the roof within 48 hours of precipitation. Drainage has occurred when no more than one-half inch of standing water remains after 48 hours of precipitation in normal drying conditions.

(2) Primary entrance. Add this definition to this section of the IBC: The entrance through which most people enter the building or facility. A building or facility may have more than one primary entrance.

(3) Roof replacement. Delete this definition in the IBC and substitute with the following: The process of removing the existing roof covering to the structural roof deck, repairing any substrate, and installing a new roof covering.

(4) Standpipe System, Classes of: See this section of the IBC and add the following: **Exception:** 1.5-inch hoses and hose

cabinets shall not be provided, unless required by the New Mexico laws applicable to fire protection for class II and class III standpipe systems.

(5)

Unbalanced backfill height. Add this definition to this section of the IBC: The difference in height between the exterior finish ground level and the lower of the top of the concrete footing that supports the foundation wall or the interior finish ground level. Where an interior concrete slab on grade is provided and is in contact with the interior surface of the foundation wall, the unbalanced backfill height is permitted to be measured from the exterior finish ground level to the top of the interior concrete slab.

[14.7.2.10 NMAC - Rp, 14.7.2.10 NMAC, 7/14/2023]

14.7.2.11 CHAPTER 3 - OCCUPANCY CLASSIFICATION AND USE:

See this chapter of the IBC except as provided below. **Section 304 - Business Group B.** See this section of the IBC except as provided below. **Section 304.1 - Business group B.** See this section of the IBC and add the following to the list: Fire stations and police stations.

[14.7.2.11 NMAC - Rp, 14.7.2.11 NMAC, 7/14/2023]

14.7.2.12 CHAPTER 4 - SPECIAL DETAILED REQUIREMENTS BASED ON OCCUPANCY AND USE:

See this chapter of the IBC with the following exception: For **Sections 404.1 through 404.11**, the definition of the term "ATRIUM", is amended to substitute the words "floor levels" for the word "stories".

[14.7.2.12 NMAC - Rp, 14.7.2.12 NMAC, 7/14/2023]

14.7.2.13 CHAPTER 5 - GENERAL BUILDING HEIGHTS AND AREAS:

See this chapter of the IBC except as provided below. **Section 504 - Building Height and Number of Stories.** See this section of the IBC except as provided below.

A. Section 504.1 - General. See this section of the

IBC except as provided below. Add the following section: **504.1.3 - Stair enclosure pressurization increase.** For Group R-1 and R-2 located in buildings of type VA construction equipped throughout with an approved automatic sprinkler system in accordance with section 903.3.1.1, the maximum number of stories permitted in section 504.4 may be increased by one provided the interior exits stairways and ramps are pressurized in accordance with section 903.6.3 and 909.20. Legally required standby power shall be provided in accordance with section 909.11 and 2702.2.17 for buildings constructed in compliance with this section and shall be connected to stairway shaft pressurization equipment, elevators and lifts used for accessible means of egress (if provided), elevator hoistway pressurization equipment (if provided) and other life safety equipment as determined by the authority having jurisdiction. For the purposes of this section, legally required standby power shall comply with 2020 NEC section 701.12, options A, B, C, D, F, or G.

B. Section 504.4

- Number of stories. Delete this section and substitute with the following: The maximum numbers of stories of a building shall not exceed the limits specified in Table 504.4. [14.7.2.13 NMAC - Rp, 14.7.2.13 NMAC, 7/14/2023]

14.7.2.14 CHAPTER 6 - TYPES OF CONSTRUCTION:

See this chapter of the IBC except as provided below. **Section 603 - Combustible Material in Types I and II Construction.** See this section of the IBC except as provided below. **Section 603.1 - Allowable materials.** Add the following exceptions to subsection 2: **Exception 28.** Stairways within individual dwelling units and stairways serving a single tenant space are permitted to be of fire-retardant wood or heavy-timber construction. In other than Group R occupancies, such stairways shall not serve as a required means of egress. **Exception 29.** Stairways complying with section 510.2, item 4

permitted to be constructed of wood above the horizontal assembly are also permitted to be constructed of wood below the horizontal assembly. [14.7.2.14 NMAC - Rp, 14.7.2.14 NMAC, 7/14/2023]

14.7.2.15 CHAPTER 7 - FIRE AND SMOKE

PROTECTION FEATURES: See this chapter of the IBC except as provided below. **Section 708.4.2 - Fireblocks and draftstops in combustible construction.** See this section of the IBC except delete Exception 2.

[14.7.2.15 NMAC - Rp, 14.7.2.15 NMAC, 7/14/2023]

14.7.2.16 CHAPTER 8 - INTERIOR FINISHES:

See this chapter of the IBC.

[14.7.2.16 NMAC - Rp, 14.7.2.16, NMAC, 7/14/2023]

14.7.2.17 CHAPTER 9 - FIRE PROTECTION SYSTEMS:

See this chapter of the IBC except as provided below.

A. Section 903 -

Automatic Sprinkler Systems.

See this section of the IBC except as provided below. **Section 903.2 - Where required.** See this section of the IBC except delete the exception.

B. Section 909 -

Smoke Control Systems. See this section of the IBC except as provided below.

(1) Section

909.8 - Exhaust method. See this section of the IBC except as provided below. **Section 909.8.1 - Smoke layer.** Delete this section of the IBC and substitute with the following: The height of the lowest horizontal surface of the accumulating smoke layer shall be maintained at least six feet (1829 mm) above any walking surface which forms a portion of a required egress system within the smoke zone. The required exhaust rate for the zone shall be the largest of the calculated plume mass flow rates for the possible plume configurations. Provisions shall be made for a natural or mechanical supply of air from outside or adjacent smoke zones

to make up for the air exhausted. Makeup airflow rates, when measured at the potential fire locations shall not increase the smoke production rate beyond the capabilities of the smoke control system. The temperature of the makeup air shall be such that it does not expose temperature-sensitive fire protection systems beyond their limits.

(2) **Section 909.9 - Design fire.** Delete this section of the IBC and substitute with the following. The design fire shall be based on a rational analysis performed by a registered design professional and approved by the building official. The design fire shall be based on the analysis in accordance with Section 909.4 and this section. [14.7.2.17 NMAC - Rp, 14.7.2.17 NMAC, 7/14/2023]

14.7.2.18 CHAPTER 10 - MEANS OF EGRESS: See this chapter of the IBC except as provided below.

A. Section 1004 - Occupant Load. See this section of the IBC except as provided below. **Table 1004.5 - Maximum floor area allowances per occupant.** See this table of the IBC and amend as follows: under the *function of space* column, in the *institutional areas* block, below sleeping areas add: "correctional facilities and detention centers: 60 square feet gross floor area per occupant".

B. Section 1010 - Doors, Gates, and Turnstiles. See this section of the IBC except as provided below.

(1) **Section 1010.1.2 - Egress door types.** See this section of the IBC except delete exception #9.

(2) **Section 1010.1.2.1 - Direction of swing.** See this section of the IBC and add the following to the end: a double-acting door shall be provided with a view panel of not less than 200 square inches (0.129 m²): double-acting doors shall not be used as exits where any of the following conditions exist:

(a) 1. the occupant load served by the door is 100 or more,

(b) 2. the door is part of a fire assembly,
(c) 3. the door is part of a smoke- and draft-control assembly,

(d) 4. panic hardware is required or provided on the door.

(3) **Section 1010.2.14 - Controlled egress doors in Groups I-1 and I-2.** See this section of the IBC and add the words "when approved by the building official" at the beginning of the section.

(4) **Section 1010.2.13 - Delayed egress.** See this section of the IBC and add the words "when approved by the building official" at the beginning of the section.

C. Section 1019 - Exit Access Stairways and Ramps. See this section of the IBC except as provided below. Add the following to the end of the section: **Section 1019.5 - Occupancies other than H and I.** In other than Group H and I occupancies, the following are required:

(1) A maximum of fifty percent of egress stairways serving one adjacent floor are not required to be enclosed, provided at least two means of egress are provided from both floors served by the unenclosed stairways. Any two such interconnected floors shall not be open to other floors. Unenclosed exit stairways shall be remotely located as required in Section 1015.2 and complies with Section 1017.1 for travel distance locations.

(2) Interior egress stairways serving only the first and second stories of a building equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 are not required to be enclosed, provided at least two means of egress are provided from both floors served by the unenclosed stairways. Such inter-connected stories shall not be open to other stories. Unenclosed exit stairways shall be remotely located as required in Section 1015.2 and complies with Section 1017.1 for

travel distance locations. [14.7.2.18 NMAC - Rp, 14.7.2.18 NMAC, 7/14/2023]

14.7.2.19 CHAPTER 11 - ACCESSIBILITY: See this chapter of the IBC except as provided below.

A. Section 1102 - Compliance. See this section of the IBC except as provided below. **Section 1102.1 Design.** Delete this section of the IBC except and substitute with the following: Building and facilities shall be designed and constructed to be accessible in accordance with this chapter, Appendix E - Supplementary Accessibility Requirements, and the current adopted ICC A117.1.

B. Section 1104 - Accessible Route. See this section of the IBC except as provided below. **Section 1104.4 - Multistory buildings and facilities.** See this section of the IBC except as provided below. **Exception: 1.** Delete the exception of this section and substitute with the following: An accessible route is not required to stories, mezzanines and occupied roofs that have an area of not more than 3,000 square feet (278.7 m²) per story and are located either above and or below the accessible levels in buildings or facilities that are less than three (3) stories. This exception shall not apply to:

(1) **Subsection 1.1 -** See this section of the IBC.

(2) **Subsection 1.2 -** See this section of the IBC.

(3) **Subsection 1.3 -** See this section of the IBC.

(4) **Subsection 1.4 -** See this section of the IBC.

(5) **Subsection 1.5 -** See this section of the IBC.

C. Section 1105 - Accessible Entrances. See this section of the IBC except as provided below.

(1) **Section 1105.1 - Public Entrances.** Delete this section of the IBC and substitute with the following: In addition to accessible entrances required by Sections 1105.1.1 through 1105.1.7, at least 60 percent of all public

entrances, but not less than one primary entrance shall be accessible.

(2) **Section 1105.1.7 - Tenant spaces.** See this section of the IBC except add the following to the exceptions: **Exception 2.** Loading and service entrances that are not the only entrance to a tenant space are not required to be accessible.

D. Section 1106 - Parking and Passenger Loading Facilities. See this section of the IBC except delete table 1106.2 from the IBC and substitute with the following table:

Total Parking Spaces	Total Required Accessible Parking Spaces	Number Required to be Van Accessible
1-25	1	1
26-35	2	1
36-50	3	1
51-100	4	1
101-300	8	2
301-500	12	2
501-800	16	3
801-1000	20	4
1,001 and over	20 spaces plus 1 space for every 100 spaces, or fraction thereof, over 1,000	1 of every 6 accessible parking spaces, or fraction thereof

E. Section 1108 - Dwelling Units and Sleeping Units. See this section of the IBC except as provided below.

(1) **Table 1108.6.1.1 - Accessible dwelling units and sleeping units.** See this table in the IBC and add the following provision after the table. For publicly funded projects, the total number of accessible dwelling units and sleeping units shall be five percent, or fraction thereof. Of these accessible dwelling units and sleeping units, one percent, or fraction thereof, shall be provided with roll-in showers.

(2) **Section 1108.6.2.2 - Apartment houses, monasteries, and convents.** Delete this section of the IBC and substitute with the following: In occupancies group R-2 containing more than 20 dwelling units or sleeping units, at least two percent, but not less than one of the units shall be a type A unit. In type A units, one in five, but not less than one of the units shall be provided with a roll-in shower including a permanently mounted folding shower seat. All Group R-2 units on a site shall be considered to determine the total number of units and the required number of type A units. Type A units shall be dispersed among the various classes of units.

F. Section 1109 - Special Occupancies. See this section of the IBC except as provided below.

(1) **Section 1109.2.5 - Designated aisle seats.** See this section of the IBC and add the following section: **Section 1109.2.5.1 - Location.** At least one of each four required designated aisle seats shall be located not more than two rows from an accessible route serving such seats.

(2) **Section 1109.4.1.4 - Employee work stations.** See this section of the IBC except delete the last sentence without substitution.

G. Section 1110 - Other Features and Facilities. See this section of the IBC except as provided below.

(1) **Section 1110.2 - Toilet and bathing facilities.** See this section of the IBC except as provided below.

(a) Insert the following sentence at the end of the first paragraph: When 20 or more fixtures of any type are installed in an *accessible* toilet room or bathing room, at least two of that type shall be accessible.

(b) Add the following language as a new paragraph: With respect to construction of any new restroom in a place of public accommodation as defined in 14.5.2 NMAC, see 14.7.2.45 NMAC, Baby Changing Facilities.

(c) Add the following to the end of the exceptions. **Exception 10:** Toilet fixtures and bathing facilities that exceed the minimum number of plumbing fixtures pursuant to the New Mexico construction codes and located in private restricted areas in other than government owned or leased facilities.

(2) **Section 1110.8 Elevators.** See this section of the IBC and add the following sentence: Limited-use or limited-application elevators may be used to access spaces or areas that have five occupants or less.

(3) **Section 1110.9 - Lifts:** Delete item 5 without substitution.

H. Section 1111 - Recreational Facilities. See this section except as provided below. **Section 1111.4.13 - Play Areas.** See this section and add the following sentence to the end of the section: Play areas containing play

components designed and constructed for children shall be accessible and be located on an accessible route.-

I. Section 1112 -

Signage. See this section of the IBC except as provided below. **Section 1112.1 - Signs.** See this section of the IBC except as provided below.

Exception: Delete this exception and substitute with the following: Where the total number of parking spaces provided is four or less, the following provisions are required:

(1) 1.1

Accessible parking spaces shall be identified by a sign centrally located at the head of each parking space.

(2) 1.2 Van

accessible parking spaces shall have an additional sign mounted below the International Symbol of Accessibility identifying the space as “van accessible”. **Exception:** Where all the accessible parking spaces comply with the standards for van accessible parking spaces.

(3) 1.3

Accessible parking sign shall state, “Violators will be fined and/or towed”.

(4) 1.4

Accessible parking spaces shall provide pavement markings in compliance with the following sections 1.4.1 to 1.4.3.

(5) 1.4.1

Accessible parking spaces shall be identified by the International Symbol of Accessibility; a clearly visible depiction of the symbol shall be painted in blue on the pavement surface at the rear of the space; except where the total number of parking spaces provided is four or less.

(6) 1.4.2 The

access aisle shall be clearly marked by diagonal, blue pavement striping.

(7) 1.4.3 At

the rear of striped access aisle state “NO PARKING”. Lettering shall be one-foot-high minimum and two inches wide minimum.

[14.7.2.19 NMAC - Rp, 14.7.2.19 NMAC, 7/14/2023]

14.7.2.20 CHAPTER 12 - INTERIOR ENVIRONMENT: See this chapter of the IBC.

[14.7.2.20 NMAC - Rp, 14.7.2.20 NMAC, 7/14/2023]

14.7.2.21 CHAPTER 13 - ENERGY EFFICIENCY:

Delete this chapter of the IBC and see NMAC 14.7.9, New Mexico Commercial Energy Conservation Code.

[14.7.2.21 NMAC - Rp, 14.7.2.21 NMAC, 7/14/2023]

14.7.2.22 CHAPTER 14 - EXTERIOR WALLS: See this chapter of the IBC.

[14.7.2.22 NMAC - Rp, 14.7.2.22 NMAC, 7/14/2023]

14.7.2.23 CHAPTER 15 - ROOF ASSEMBLIES AND ROOFTOP STRUCTURES: See this chapter except as provided below:

A. Section 1503 - Weather Protection. See this section of the IBC except as provided below.

(1) Section

1503.3 - Parapet walls. Delete this section and replace with the following: Parapet walls shall be coped or covered in accordance with Sections 1503.3.1, 1503.3.2, and 1503.3.3. The top surface of the parapet wall shall provide positive drainage.

(2) Add the

following new section: **1503.3.3 - Plastered Parapets.** Plastered parapets shall require a seamless but permeable waterproof cover or weather barrier, capping the entire parapet and wrapping over each side. The cover shall extend past any break from the vertical a minimum of four inches on the wall side. On the roof side, the cover shall properly lap any rising roof felts or membranes and be properly sealed. A layer of expanded metal lath shall be installed over the cover before plaster or stucco is applied. The lath shall extend past any break from the vertical on the wall side a minimum of five inches and on the roof side, the same distance as the cover below, allowing for plaster stops or seals. No penetrating fasteners are allowed on the horizontal surface of parapets.

B. Section 1506 - Materials. See this section of the IBC and add the following new sections.

(1) Section

1506.4 - Loose granular fill. Pumice and other granular fill type materials are not permitted in roofing assemblies.

(2) Section

1506.5 - Roof deck transitions. Where roof sheathing is overlapped to create “crickets” or valleys to canals, taperboard or equivalent shall be used to transition between the two deck levels to create a uniform substrate.

(3) Section

1506.6 - Canales or scuppers. All canales and scuppers must have a metal pan lining extending not less than six inches (152 mm) past the inside of the parapet and not less than six inches (152 mm) from each side of the canale or scupper opening. All canales and scuppers must have positive drainage.

C. Section 1512

- Reroofing. See this section of the IBC except as provided below. **Section 1512.3 – Roof recovering.** See this section of the IBC and add the following sentence to the end: New roof coverings shall not be installed without first removing existing roof coverings down to the structural roof deck. Where pumice or other granular fill are present, the material must be removed prior to installing new roof.

[14.7.2.23 NMAC - Rp, 14.7.2.23 NMAC, 7/14/2023]

14.7.2.24 CHAPTER 16 - STRUCTURAL DESIGN: See this chapter of the IBC.

[14.7.2.24 NMAC - Rp, 14.7.2.24 NMAC, 7/14/2023]

14.7.2.25 CHAPTER 17 - SPECIAL INSPECTIONS AND TESTS: See this chapter of the IBC except as provided below.

A. Section 1705.3 - Concrete Construction. See this section of the IBC except as provided below.

(1) Subsection

2 - Delete this section of the IBC

and substitute: continuous concrete footings supporting walls of buildings three stories or less in height that are fully supported on earth or rock;

(2) **Subsection 3** - Delete this section of the IBC and substitute: nonstructural concrete slabs supported directly on the ground, except pre-stressed slabs-on-grade;

(3) **Subsection 4** - Delete this section of the IBC with no substitution.

B. Section 1705.4 - Masonry Construction. See this section of the IBC except delete Exception 2.

C. Section 1705.18 – Fire-resistant penetrations and joints. Delete this section of the IBC and substitute with the following: In buildings three stories or greater, in buildings to Risk Category III and IV, or in fire areas containing Group R occupancies with an occupant load greater than 200, special inspections for through-penetrations, membrane penetration firestops, fire-resistant joint systems and perimeter fire containment systems that are tested and listed in accordance with Sections 714.4.1.2, 714.5.1.2, 715.3.1 and 715.4 shall be in accordance with Section 1705.18.1 or 1705.18.2.

[14.7.2.25 NMAC - Rp, 14.7.2.25 NMAC, 7/14/2023]

14.7.2.26 CHAPTER 18 - SOILS AND FOUNDATIONS: See this chapter of the IBC except as provided below. **Section 1809 - Shallow Foundations.** See this section of the IBC except as provided below.

A. Section 1809.7 - Prescriptive footings for light-frame construction. Delete this section of the IBC and substitute with the following: Where a specific design is not provided, concrete footings supporting walls of light-frame construction shall be permitted to be designed in accordance with Table 1809.7. A turndown footing cast monolithically with the slab-on-grade may be used to support walls of light-frame construction for the number of floors outlined in Table 1809.7, provided the minimum width of the turndown footing is 12 inches and the depth meets the requirements of Sections 1809.4 and 1809.5.

B. Table 1809.7 - Delete this table and substitute with the following table:

TABLE 1809.7		
PRESCRIPTIVE FOOTINGS SUPPORTING WALLS OF LIGHT-FRAME CONSTRUCTION ^{a, b, c, d, e}		
NUMBER OF FLOORS SUPPORTED BY THE FOOTING	WIDTH OF FOOTING (inches)	THICKNESS OF FOOTING (inches)
1	16	8

C. Table 1809.7 Footnotes. See this section of the IBC except delete footnote “g” with no substitution.

D. Section 1809.8 Plain concrete footings. Delete this section of the IBC and substitute with the following: The edge thickness of plain concrete footings supporting walls other than light-frame construction shall be not less than 8 inches (203MM) where placed on soil or rock.

[14.7.2.26 NMAC - Rp, 14.7.2.26 NMAC, 7/14/2023]

14.7.2.27 CHAPTER 19 - CONCRETE: See this chapter of the IBC except as provided below.

A. Section 1906 Footings for Light-Frame Construction. Delete this section of the IBC with no substitution.

B. Section 1907 Minimum Slab Provisions. See this section of the IBC except as provided below. **Section 1907.1 General.** Delete this section and the exception and substitute with the following: The thickness of concrete floor slabs supported directly on the ground shall be not less than 3½ inches (89mm). When required by a geotechnical investigation, design professional, building official or where moisture sensitive flooring is present, a minimum A 6-mil (0.006 inch; 0.15mm) polyethylene vapor retarder with joints lapped not less than 6 inches (152mm) shall be placed between the base course or subgrade and the concrete floor slab, or other approved equivalent methods or materials shall be used to retard vapor transmission through the floor slab.

[14.7.2.27 NMAC - Rp, 14.7.2.27 NMAC, 7/14/2023]

14.7.2.28 CHAPTER 20 - ALUMINUM: See this chapter of the IBC.

[14.7.2.28 NMAC -Rp, 14.7.2.28 NMAC, 7/14/2023]

14.7.2.29 CHAPTER 21 - MASONRY: See this chapter of the IBC except as provided below.

A. Section 2111 - Masonry Fireplaces. See this section of the IBC except as provided below. **Section 2111.5 - Seismic Anchorage.** Delete this section of the IBC and substitute with the following: Two three-sixteenth-inch by one-inch (4.8 mm by 25.4mm) straps shall be embedded a minimum of 12 inches (305 mm) into the chimney with a 180-degree bend with a six-inch (152 mm) extension around the vertical reinforcing bars in the outer face of the

chimney. Each strap shall be fastened to the structural framework of the building with two one-half-inch (12.7 mm) diameter bolts per strap. Where the joists do not head into the chimney, the anchor strap shall be connected to two-inch by four-inch (51 mm by 102 mm) ties crossing a minimum of four joists. The ties shall be connected to each joist with two 16d nails. As an alternative to the two-inch by four-inch (51 mm by 102 mm) ties, each anchor strap shall be connected to the structural framework by two one-half-inch (12.7 mm) diameter bolts in an approved manner.

B. Section 2113

- Masonry Chimneys. See this section of the IBC except as provided below. **Section 2113.4 - Anchorage.** Delete this section of the IBC and substitute with the following: Two three-sixteenth-inch by one-inch (4.8 mm by 25.4mm) straps shall be embedded a minimum of 12 inches (305 mm) into the chimney with a 180 degree bend with a six-inch (152 mm) extension around the vertical reinforcing bars in the outer face of the chimney. Each strap shall be fastened to the structural framework of the building with two one-half-inch (12.7 mm) diameter bolts per strap. Where the joists do not head into the chimney, the anchor strap shall be connected to two-inch by four-inch (51 mm by 102 mm) ties crossing a minimum of four joists. The ties shall be connected to each joist with two 16d nails. As an alternative to the two-inch by four-inch (51 mm by 102 mm) ties, each anchor strap shall be connected to the structural framework by two one-half-inch (12.7 mm) diameter bolts in an approved manner. [14.7.2.29 NMAC - Rp, 14.7.2.29 NMAC, 7/14/2023]

14.7.2.30 CHAPTER 22 - STEEL: See this chapter of the IBC. [14.7.2.30 NMAC - Rp, 14.7.2.30 NMAC, 7/14/2023]

14.7.2.31 CHAPTER 23 - WOOD: See this chapter of the IBC except as provided below. **Section 2308 - Conventional Light-Frame**

Construction. See this section of the IBC except as provided below.

A. Section 2308.4.5

- Joists supporting bearing partitions. See this section of the IBC except delete the first sentence and substitute: bearing partitions parallel to joists shall be supported on beams, girders, built-up joists of sufficient size to carry the load, walls, or other bearing partitions.

B. Section 2308.7.6 -

Framing around openings. See this section of the IBC except delete the first sentence and substitute: Trimmer and header joists shall be of sufficient size to support the load.

[14.7.2.31 NMAC - Rp, 14.7.2.31 NMAC, 7/14/2023]

14.7.2.32 CHAPTER 24 -

GLASS AND GLAZING: See this chapter of the IBC except as provided below. **Section 2403 - General Requirements for Glass.** See this section of the IBC except as provided below.

A. Section 2403.1

- Identification. Delete the first paragraph of this section of the IBC and substitute: Each pane shall bear the manufacturer's label designating the type and thickness of the glass or glazing material. The identification shall not be omitted unless approved by the building official. The building official is authorized to require an affidavit from the glazing contractor certifying that each light is glazed in accordance with approved construction documents that comply with the provisions of this chapter. Safety glazing shall be identified in accordance with Section 2406.3.

B. Section 2403.2 -

Glass supports. Delete this section of the IBC and substitute: Where one or more sides of any pane of glass is not firmly supported, or is subject to unusual load conditions, detailed construction documents, detailed shop drawings and analysis or test data assuring safe performance for the specific installation shall be submitted when required by the building official. [14.7.2.32 NMAC - Rp, 14.7.2.32 NMAC, 7/14/2023]

14.7.2.33 CHAPTER 25

- GYPSUM BOARD, GYPSUM PANEL PRODUCTS AND PLASTER: See this chapter of the IBC except as provided below.

A. Section 2510 -

Lathing and Furring for Cement Plaster (Stucco). See this section of the IBC except as provided below. **Section 2510.6 - Weather - Resistant Barrier.** Delete this section and substitute with the following: Water-resistive barriers shall be installed as required in sections, 1403.2, 1405.3, and 1503.2 and, where applied over wood-based sheathing, shall comply with section 2510.6.1 or 2510.6.2.

B. Section 2512 -

Exterior Plaster. See this section of the IBC except as provided below.

(1) Section

2512.1.1 - On Grade Floor Slab.

Delete this section of the IBC and substitute with the following: On wood framed or steel stud construction with an on-grade concrete floor slab system, approved acrylic based exterior plaster systems and acrylic based color coats shall be applied in such a manner as to cover but not to extend below, the lath, paper, and screed. When a cement plaster stucco and cement plaster color coat is installed, and no perimeter insulation is on the exterior of a concrete or masonry foundation, the color coat shall terminate not further than six inches (153 mm) below finished grade. All excess plaster shall be removed from the site and no drip screeds shall comply with ASTM C 1063.

(2) Section

2512.1.2 - Weep Screeds. See this section of the IBC.

(3) Add

the following section to the IBC.

Section 2512.1.3 - Plaster to Roof Separation. A reglet and weep screed or equivalent metal flashing shall be applied where all stucco wall surfaces terminate at a roof.

[14.7.2.33 NMAC - Rp, 14.7.2.33 NMAC, 7/14/2023]

14.7.2.34 CHAPTER 26 -

PLASTIC: See this chapter of the IBC.

[14.7.2.34 NMAC - Rp, 14.7.2.34 NMAC, 7/14/2023]

14.7.2.35 CHAPTER 27 - ELECTRICAL: Delete this chapter of the IBC and see the NMEC except as provided below.

A. Section 2701 -

General. See this section of the IBC except as provided below.
2701.1 - Scope. Delete this section of the IBC and substitute: Electrical systems, including emergency and standby power systems, and electrical equipment, appliances, fixtures, fittings, and appurtenances thereto, shall be installed, altered, repaired, replaced, maintained, tested, and designed pursuant to the provisions of the NMEC.

B. Section 2702 -

Emergency and Standby Power Systems. See this section of the IBC except as provided below.

(1) Section

2702.1 - General. See this section of the IBC except as provided below.

(a)

Section 2702.1.1 - Stationary generators. Delete this section of the IBC.

(b)

Section 2702.1.3 - Installation. Delete this section of the IBC.

(c)

Section 2702.1.4 - Load transfer. Delete this section of the IBC.

(d)

Section 2702.1.5 - Load duration. Delete this section of the IBC.

(e)

Section 2702.1.6 - Uninterruptable power source. Delete this section of the IBC.

(f)

Section 2702.1.7 - Interchangeability. Delete this section of the IBC.

(2) Section

2702.2 - Where Required. See this section of the IBC except as provided below. Section 2702.2.5 Exhaust Systems. Delete this section of the IBC without substitution.

[14.7.2.35 NMAC - Rp, 14.7.2.35 NMAC, 7/14/2023]

14.7.2.36 CHAPTER 28 - MECHANICAL SYSTEMS: Delete

this chapter of the IBC and see the NMMC.

[14.7.2.36 NMAC - Rp, 14.7.2.36 NMAC, 7/14/2023]

14.7.2.37 CHAPTER 29 - PLUMBING SYSTEMS: Delete this chapter of the IBC and see the NMPC except as provided below.

A. Section 2901 -

General. See this section of the IBC except as provided below.

(1) Section

2901.1 Scope. Delete this section of the IBC and substitute with the following: Plumbing systems, including piping systems, equipment, appliances, fixtures, fittings and appurtenances, and when connected to a water or sewage system, and all aspects of a medical gas system, shall be installed, altered, repaired, replaced, maintained, tested and designed pursuant to the provisions of the NMPC.

(2) Section

2901.2. All references in Chapter 29 of the IBC to the International Plumbing Code are deemed references to the NMPC.

B. Section 2902 -

Minimum Plumbing Facilities. Section 2902.1 - Minimum Number of Fixtures. See this section of the IBC and add the following language to the end of the first paragraph: urinals may be substituted for up to fifty percent of the maximum number of water closets in other than A or E occupancies; in A and E occupancies, urinals may be substituted for up to sixty-seven percent of the maximum number of water closets.

(1) Table

2902.1 - Minimum Number of Required Plumbing Facilities. See this table in the IBC.

(2) Section

2902.1.1 - Fixture Calculations. See this section of the IBC.

[14.7.2.37 NMAC - Rp, 14.7.2.37 NMAC, 7/14/2023]

14.7.2.38 CHAPTER 30 - ELEVATORS AND CONVEYING SYSTEMS: See this chapter of the IBC.

[14.7.2.38 NMAC - Rp, 14.7.2.38 NMAC, 7/14/2023]

14.7.2.39 CHAPTER 31 - SPECIAL CONSTRUCTION: See this chapter of the IBC.

[14.7.2.39 NMAC - Rp, 14.7.2.39 NMAC, 7/14/2023]

14.7.2.40 CHAPTER 32 - ENCROACHMENTS INTO THE PUBLIC RIGHT-OF-WAY: See this chapter of the IBC.

[14.7.2.40 NMAC - Rp, 14.7.2.40 NMAC, 7/14/2023]

14.7.2.41 CHAPTER 33 - SAFEGUARDS DURING CONSTRUCTION: See this chapter of the IBC.

[14.7.2.41 NMAC - Rp, 14.7.2.41 NMAC, 7/14/2023]

14.7.2.42 CHAPTER 34 - EXISTING STRUCTURES: Delete this chapter of the IBC and see 14.7.7 NMAC.

[14.7.2.42 NMAC - Rp, 14.7.2.42 NMAC, 7/14/2023]

14.7.2.43 CHAPTER 35 - REFERENCED STANDARDS: See this chapter of the IBC.

[14.7.2.43 NMAC - Rp, 14.7.2.43 NMAC, 7/14/2021]

14.7.2.44 APPENDIX E - SUPPLEMENTARY ACCESSIBILITY

REQUIREMENTS: See the appendix of the IBC except as provided below.

A. E102 - Definitions.

See this section of the IBC and add the following definition: **Children's use** – Children's use are spaces and elements specifically designed for use primarily by occupants 12 years old and younger.

B. E105 - Other

Features and Facilities. See this section of the IBC except delete Subsection E105.1.

C. E107 - Signage.

See this section of the IBC except delete Subsection E107.1.

D. E111 - Children's

Accessible Elements. Add children's accessibility table as shown below.

TABLE E111 CHILDREN’S ACCESSIBLE ELEMENTS TABLE
 This is provided as a comprehensive reference guide to children’s standards within NMBC-2021 and ANSI A117.1-2017

Element	Children’s Requirements			
Children’s use definition	ANSI-2017Section 106. Children’s use: Spaces and elements specifically designed for use primarily by people 12 years old and younger.			
Scoping	E112 - Children’s Standards. The technical requirements in the main body of the 2021 International Building Code are based on adult dimensions and anthropometrics. This section contains technical requirements based on children’s dimensions and anthropometrics in addition to those in ICC ANSI – 2017 and 2010 ADA			
Scoping	E112.1. The predominant use of an element (rather than a building or facility) shall guide the determination of whether to use specifications for adults or children for that element. If children are the primary users of the element, children’s specifications shall be applied.			
Scoping	E112.2 - Children’s Accessible Elements. When children are the primary users of a building or facility (such as day care centers, schools, children’s areas of libraries, etc.), the accessibility standards shall correspond to the children’s provisions of this section.			
Element	Details	Ages 3 and 4 Pre-K	Ages 5 through 8 K through 2 nd grade	Ages 9 through 12 3 rd through 6 th grade
Forward or Side Reach Range <i>See 2010 ADA Advisory 308.1 and modify as shown to right</i>	High maximum	36 in (915 mm)	40 in (1015 mm)	44 in (1120 mm)
	Low minimum	20 in (510 mm)	18 in (455 mm)	16 in (405 mm)
Ramps <i>See ANSI 2017 and modify as shown to right</i>	Slope	1 :16	1 :16	1 :16
	Clear Width between handrails for single wheelchair	44” min (118 mm)	44” min (118 mm)	44” min (118 mm)
	Clear Width between handrails for two wheelchairs	88” min. (2236 mm)	88” min. (2236 mm)	88” min. (2236 mm)
	Rise for any ramp run	20 inches maximum.	20 inches maximum.	20 inches maximum.
	Handrails <i>See ANSI-505</i>	“34” – “38” 865 mm – 965 mm)	“34” – “38” 865 mm – 965 mm)	“34” – “38” 865 mm – 965 mm)
Element	Details	Ages 3 and 4 Pre-K	Ages 5 through 8 K through 2 nd grade	Ages 9 through 12 3 rd through 6 th grade
Drinking fountains and water coolers <i>See ANSI - 2017 and modify as shown to right. See IBC-2021 section 1110.5 Exception 2</i>	Spout outlet height for children’s wheelchair access. <i>See ANSI 602.2.1 Exception</i>	30 in. - 43 in. (760 mm – 1090 mm)	30” max. (760 mm)	30” max. (760 mm)
	Spout outlet for standing occupant. <i>See ANSI 602.3.2 Exception</i>	30 in. 43 in. (760 mm – 1090 mm)	Same	Same

Water closets for Toilet Rooms, Wheelchair Stalls, and Ambulatory Stalls <i>See ANSI-2017 604.11 and 604.1 See IBC-2021 section 1110.2 Exception 9</i>	Centerline <i>See ANSI 604.11.2</i>	12" max. (305 mm)	12"-15" (305-380 mm)	15"-18" (380-455 mm)	
	Clearance <i>See ANSI 604.11.3 and 604.3</i>	60" (1525 mm) wide by 56" (1420 mm) min. deep	60" (1525 mm) wide by 56" (1420 mm) min. deep	60" (1525 mm) wide by 56" (1420 mm) min. deep	
	Toilet seat height <i>See ANSI 604.11.4</i>	11"-12" (280-305 mm)	12"-15" (305-380 mm)	15"-17" (380-430 mm)	
	Horizontal grab bar height to centerline <i>See ANSI 604.11.5, 604.5 and 609.4.2</i>	18"-20" (455-510 mm)	20"-25" (510-635 mm)	25"-27" (635-685 mm)	
	Rear grab bar may be split or shifted. <i>ANSI 604.5.2 Exception 2 and 609.4.2</i>	18"-20" (455-510 mm)	20"-25" (510-635 mm)	25"-27" (635-685 mm)	
	Vertical grab bar 18" (455mm) long <i>See ANSI 604.11.5, 604.5.1, and 609.4.2</i>	Vertical grab bar bottom is 21" (533 mm) min. - 30" (760 mm) max. above the floor	Vertical grab bar bottom is 21" (533 mm) min. - 30" (760 mm) max. above the floor	Vertical grab bar bottom is 21" (533 mm) min. - 30" (760 mm) max. above the floor	Vertical grab bar bottom is 21" (533 mm) min. - 30" (760 mm) max. above the floor
		Centerline is 34 inches (865 mm) max. - 36" (915 mm) max. from the rear wall	Centerline is 34 inches (865 mm) max. - 36" (915 mm) max. from the rear wall	Centerline is 34 inches (865 mm) max. - 36" (915 mm) max. from the rear wall	Centerline is 34 inches (865 mm) max. - 36" (915 mm) max. from the rear wall
	Flush control <i>See ANSI 604.11.6</i>	36" Max. high (915mm)	36" max. high (915 mm)	36" max. high (915 mm)	
Dispensers <i>See ANSI-2017 section 604.11.7</i>	See this entire NEW section	Same	Same	Same	
Element	Details	Ages 3 and 4 Pre-K	Ages 5 through 8 K through 2nd grade	Ages 9 through 12 3rd through 6th grade	

<p>Family or Assisted-Use Toilet Rooms IBC-2021 section 1110.2.1.2 Exceptions</p>	<p>Family or assisted-use toilet rooms shall include only one water closet. and only one lavatory. A family or assisted-use bathing room in accordance with section 1110.2.1.3 shall be considered a family or assisted-use toilet room. Exception: The following additional fixtures shall be permitted in a family or assisted use toilet room: 1. A urinal 2. A child height water closet 3. A child height lavatory.</p>	<p>Same</p>	<p>Same</p>	<p>Same</p>
<p>Wheelchair water closet compartments <i>See ANSI-2017 604.11.8 and modify as shown to right.</i></p>	<p>Size <i>See ANSI 604.9.2.2</i></p>	<p>60" (1525 mm) min. wide by 59" (1500 mm) deep min.</p>	<p>60" (1525 mm) min. wide by 59" (1500 mm) deep min.</p>	<p>60" (1525 mm) min. wide by 59" (1500 mm) deep min.</p>
	<p>Toe clearance beneath front partition and one side partition <i>See ANSI 604.9.5.2</i></p>	<p>12" (305 mm) min high and extend 8" beyond the compartment side face of partition, exclusive of partition supports</p>	<p>Same</p>	<p>Same</p>
	<p>Toe clearance beneath front partition and one side partition. See ANSI 604.9.5.2 Exceptions 1& 2</p>	<p>Exception 1. Toe clearance at front partition is not required in a wheelchair accessible compartment greater than 67 inches (1700 mm) in depth</p>	<p>Same</p>	<p>Same</p>
		<p>2. Toe Clearance at side partition is not required in a wheelchair accessible compartment greater than 68 inches (1725 mm) in width</p>	<p>Same</p>	<p>Same</p>

Ambulatory water closet compartments <i>See ANSI-2017 604.11.8, 604.10 and modify as shown to right</i>	Stall Size <i>See ANSI 604.10.2</i>	60" (1525 mm) long by 35" (890 mm) wide	60" (1525 mm) long by 35" (890 mm) wide	60" (1525 mm) long by 35" (890 mm) wide
	Horizontal parallel grab bars on both sidewalls 42" (1065 mm) long <i>See ANSI 604.5.1</i>	18"-20" (455-510 mm)	Same	Same
	Vertical grab bars on both sidewalls 18" (455 mm) long <i>See ANSI 604.5.1</i>	Bottom of bar 21" (535 mm) to 30" (760 mm) above floor	Same	Same
		Centerline of bar 34" (865 mm) to 36" (915 mm) from the rear wall	Same	Same
Urinals <i>See ANSI- 2017 and modify as shown to right</i>	Top of rim	14" max. (355 mm)	14" max. (355 mm)	14" max. (355 mm)
Element	Details	Ages 3 and 4 Pre-K	Ages 5 through 8 K through 2nd grade	Ages 9 through 12 3rd through 6th grade
Lavatories and sinks <i>See ANSI - 2017 and modify as shown to right</i>	Sink rim <i>See ANSI 606.2 Exception 3 and 4</i>	22" max. (559 mm)	31" max. (797 mm)	31" max. (797 mm)
	Knee clearance height <i>See ANSI 606.2 Exception 2 and 3</i>	none required with parallel approach	24" min. (610 mm)	24" min. (610 mm)
Mirrors <i>See ANSI – 2017 section 603.3 and modify as shown to right.</i>	Full length mirror 60" (1525 mm) min. tall	Bottom of reflecting surface 12" (455 mm) max. above floor	Same	Same
	Mirrors over sinks	Bottom of reflecting surface 28" (710 mm) max. above floor	Bottom of reflecting surface 37" (940 mm) max. above floor	Bottom of reflecting surface 37" (940 mm) max. above floor
Signage, Braille <i>See ANSI – 2017 section 703.4.5 and modify as shown to right</i>	Centerline	36" (915 mm) min. 44" (1120 mm) max	Same	Same
Dining surfaces and work surfaces <i>See ANSI – 2017 section 902.5 and modify as shown to right</i>	Tops of tables and counters	26" (660 mm) min. 30" (760 mm) max.	Same	Same
Benches <i>See ANSI-2017 903.5 Exception and modify as shown to right</i>	Top of seat	11"-17" (280-430 mm)	Same	Same

Tray slides <i>See ANSI-2017 section 904.5.2 and modify as shown to right</i>	Top of tray slide	28" (710 mm) min. 30" (762 mm) max.	Same	Same
Storage <i>See ANSI-2017 section 905 and modify as shown to right</i>	Frontal approach height range	20"-36" (510-915 mm)	20"-40" (510-1015 mm)	20"-44" (510-1120 mm)
	Side approach height range	20"-36" (510-915 mm)	40" max. (1015 mm)	44" max. (1120 mm)

[14.7.2.44 NMAC - Rp, 14.7.2.44 NMAC, 7/14/2023]

14.7.2.45 BABY CHANGING FACILITIES

A. Construction of a new restroom, intended for use in a place of public accommodation, as defined in 14.5.2 NMAC, shall provide for at least one baby changing facility on each floor that has a public toilet facility and shall accommodate any person needing to utilize a baby changing facility, pursuant to Section 60-13-10.3 NMSA 1978.

B. Baby changing facilities shall be included in all required documentation including plans submitted under submittal documents pursuant to Subparagraph (b) of Paragraph (1) of Subsection A of 14.5.2 10 NMAC and shall be subject to plan review pursuant to Subsection A of 14.5.2.11 NMAC - Permits, and inspections pursuant to Subsection A of 14.5.3.8 NMAC.

C. All requirements for baby changing facilities must be complied with in order for a certificate of occupancy to be issued or a final inspection approved, whichever is appropriate.

D. Baby changing facilities shall comply with the American national standards institute (ANSI) A117.1-2017: Section 603.5 diaper changing tables; Section 305 floor space; Section 308.2.1 unobstructed access; Chapter 7 Communication Elements and Features; Chapter 9 built in furnishings and equipment; and Subsection K of 14.7.2.19 NMAC, Section 1111, signage.

[17.7.2.45 NMAC -Rp, 14.7.2.45 NMAC, 7/14/2023]

HISTORY OF 14.7.2 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

GCB-NMBC-83-1, 1982 New Mexico Building Code, filing date, 2/15/1983

CID-GCB-NMBC-85-1, 1985 New Mexico Building Code, filing date, 11/19/1985

CID-GCB-NMBC-88-1, 1988 New Mexico Building Code, filing date, 01/20/1989

CID-GCB-NMBC-91-1, 1991 New Mexico Building Code, filing date, 05/04/1993

History of Repealed Material:

14 NMAC 7.2, New Mexico Building Code, filed 10/30/1998 (with the exception of material incorporated by reference which was also filed 10/30/1998), repealed 12/1/2000.

14.7.2 NMAC, 1997 New Mexico Building Code (filed 10/16/2000), repealed 7/1/2004.

14.7.2 NMAC, 2003 New Mexico Commercial Building Code (filed 5-27-2004) repealed 1/1/2008.

14.7.2 NMAC, 2006 New Mexico Commercial Building Code (filed 08/16/2007) repealed 1/28/2011.

14.7.2 NMAC, 2009 New Mexico Commercial Building Code (filed 12/28/2010) repealed 11/15/2016.

Other History:

CID-GCB-NMBC 91-1, 1991 New Mexico Building Code (filed 5/4/1993) was replaced by 14 NMAC 7.2, Housing and Construction, Building Codes General, 1997 New

Mexico Building Code, effective 12/31/1998.

14 NMAC 7.2, Housing and Construction, Building Codes General, 1997 New Mexico Building Code (filed 10/30/1998) replaced by 14.7.2 NMAC, 1997 New Mexico Building Code, effective 12/1/2000. Those applicable portions of 14.7.2 NMAC, 1997 New Mexico Building Code (filed 10/16/2000) and those applicable portions of 14 NMAC 7.3, 1997 Uniform Building Code (filed 10/30/1998) replaced by 14.7.2 NMAC, 2003 New Mexico Commercial Building Code, effective 7/1/2004.

14.7.2 NMAC, 2003 New Mexico Commercial Building Code (filed 5/27/2004) replaced by 14.7.2 NMAC, 2006 New Mexico Commercial Building Code, effective 1/1/2008.

14.7.2 NMAC, 2006 New Mexico Commercial Building Code (filed 08/16/2007) replaced by 14.7.2 NMAC, 2009 New Mexico Commercial Building Code, effective 1/28/2011.

14.7.2 NMAC, 2009 New Mexico Commercial Building Code (filed 12/28/2010) replaced by 14.7.2 NMAC, 2015 New Mexico Commercial Building Code, effective 11/15/2016.

14.7.2 NMAC, 2015 New Mexico Commercial Building Code (filed 11/15/2016) replaced by 14.7.2 NMAC, 2021 New Mexico Commercial Building Code, effective 7/14/2023.

**REGULATION
AND LICENSING
DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 7 BUILDING
CODES GENERAL
PART 3 2021 NEW
MEXICO RESIDENTIAL
BUILDING CODE**

14.7.3.1 ISSUING

AGENCY: Construction Industries Division (CID) of the Regulation and Licensing Department.

[14.7.3.1 NMAC - Rp, 14.7.3.1 NMAC, 7/14/2023]

14.7.3.2 SCOPE: This

rule applies to all construction, alteration, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of all detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress, and their accessory structures that is performed in New Mexico on or after December 14, 2023, and that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date. Any repair, alteration or addition to such building that is associated with a change of occupancy, and any construction not addressed in the NMRBC, shall be subject to and shall comply with the NMCBC.

[14.7.3.2 NMAC - Rp, 14.7.3.2 NMAC, 7/14/2023]

14.7.3.3 STATUTORY

AUTHORITY: Section 60-13-9 and 60-13-44 NMSA 1978.

[14.7.3.3 NMAC - Rp, 14.7.3.3 NMAC, 7/14/2023]

14.7.3.4 DURATION:

Permanent.

[14.7.3.4 NMAC - Rp, 14.7.3.4 NMAC, 7/14/2023]

14.7.3.5 EFFECTIVE

DATE: July 14, 2023, unless a later date is cited at the end of a section. From the date of publication of this rule in the New Mexico register, until December 14, 2023, permits may be issued under either the previously adopted rule, or this rule. After December 14, 2023, permits may be issued only under this rule.

[14.7.3.5 NMAC – Rp, 14.7.3.5 NMAC, 7/14/2023]

14.7.3.6 OBJECTIVE: The

purpose of this rule is to establish minimum standards for the general construction of residential buildings in New Mexico.

[14.7.3.6 NMAC - Rp, 14.7.3.6 NMAC, 7/14/2023]

14.7.3.7 DEFINITIONS:

See 14.5.1 NMAC, General Provisions and Chapter 2 of the 2021 International Residential Code (IRC) as amended in 14.7.3.10 NMAC.

[14.7.3.7 NMAC - Rp, 14.7.3.7 NMAC, 7/14/2023]

**14.7.3.8 ADOPTION OF
THE 2021 INTERNATIONAL
RESIDENTIAL CODE:**

A. This rule adopts by reference the 2021 International Residential Code, as amended by this rule.

B. In this rule, each provision is numbered to correspond with the numbering of the 2021-International Residential Code.

[14.7.3.8 NMAC - Rp, 14.7.3.8 NMAC, 7/14/2023]

**14.7.3.9 CHAPTER 1
SCOPE AND ADMINISTRATION:**

See this chapter of the IRC except as provided below.

**A. Section R101
Scope and General Requirements.**

(1) Section R101.1 Title. Delete this section of the IRC and substitute: This code shall be known as the 2021 New Mexico residential building code (NMRBC).

(2) Section R101.2 Scope. Delete this section of the IRC and see 14.7.3.2 NMAC,

Scope and add the following:

Exception. Live/work units complying with the requirements of Section 508.5 of the *International Building Code* shall be permitted to be built as one- and two-family dwellings or townhouses. Automatic fire sprinkler systems required by Section 903.2.8 of the *International Building Code* when constructed under the *International Residential Code for One- and Two-family Dwellings* shall conform to Section P2904 of the *Residential Building Code*. A home office or business not utilizing hazardous materials as defined in the international building code with a work area less than 300 sq. ft. is not a live/work unit subject to the requirements of the *International Building Code*. A home office in dwelling units exceeding 3000 sq. ft. may occupy up to ten percent of the floor area.

(3) Section R101.3 Purpose. See 14.7.3.6 NMAC, Objective.

**B. Section R102
Applicability.**

(1) Section R102.1 General. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

(2) Section R102.2 Other laws. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

(3) Section R102.3 Application of references. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

(4) Section R102.4 Referenced codes and standards. Delete this section of the IRC and substitute the following: The codes referenced in the NMRBC are set forth below. See also 14.5.1 NMAC, General Provisions.

(a) Electrical. The NMEC applies to all electrical wiring as defined in Section 60-13-32 NMSA 1978. All references in the IRC to the international code council (ICC) electrical code are deemed references to the NMEC.

(b) Gas. The NMMC applies to “gas fittings” as that term is defined in

Section 60-13-32 NMSA 1978. All references in the IRC to the international mechanical code are deemed references to the NMMC. Gas piping systems, and appliances for use with liquefied propane gas (LPG), or compressed natural gas (CNG), shall be governed by the LPG standards (Section 70-5-1 et seq. NMSA 1978, LPG and CNG Act, and the rules promulgated pursuant thereto, 19.15.4.1 through 19.15.4.24 NMAC.)

(c) Mechanical. The NMMC applies to the installation, repair, and replacement of mechanical systems including piping systems, equipment, appliances, fixtures, fittings, or appurtenances including ventilating, heating, cooling, air conditioning, and refrigeration systems, incinerators, and other energy related systems. All references in the IRC to the international mechanical code are deemed references to the NMMC.

(d) Plumbing. The NMPC applies to the installation, alterations, repairs, and replacement of plumbing systems, including piping systems, equipment, appliances, fixtures, fittings, and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. All references in the IRC to the international plumbing code are deemed references to the NMPC.

(e) Energy. The NMRECC applies to all energy-efficiency-related requirements for the design and construction of buildings that are subject to the New Mexico construction codes. All references in the IRC to the international energy conservation code are deemed references to the NMRECC.

(5) Section R102.5 Appendices. This rule adopts the following appendices as amended herein.

- (a) Appendix AH - Patio covers.**
- (b) Appendix AJ - Existing buildings.**
- (c) Appendix AK - Sound transmission.**

(d) Appendix AR - Light straw clay construction.

(e) Appendix AS - Strawbale construction.

(f) Appendix AQ - Tiny Houses.

(6) Section R102.6 Partial invalidity. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

(7) Section R102.7 Existing structures. See this section, and Subsection R102.7.1, Additions, Alterations or Repairs, of the IRC, except that the references to the International Property Maintenance Code and the International Fire Code are deleted.

C. Section R103 Department of Building Safety. Delete this section of the IRC.

D. Section R104 Duties and Powers of the Building Official. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

E. Section R105 Permits. Delete this section of the IRC and see 14.5.2 NMAC, Permits.

F. Section R106 Construction Documents. Delete this provision of the IRC and see 14.5.2 NMAC, Permits.

G. Section R107 Temporary Structures and Uses. Delete this section of the IRC and see 14.5.2 NMAC, Permits.

H. Section R108 Fees. Delete this section of the IRC and see 14.5.5 NMAC, Fees.

I. Section R109 Inspections. Delete this section of the IRC and see 14.5.3 NMAC, Inspections.

J. Section R110 Certificate of Occupancy. Delete this section of the IRC and see 14.5.3 NMAC, Inspections.

K. Section R111 Service Utilities. Delete this section of the IRC and see 14.5.3 NMAC, Inspections.

L. Section R112 Board of Appeals. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

M. Section R113 Violations. Delete this section of the IRC and see CILA 60-13-1 et seq., and 14.5.3 NMAC, Inspections.

N. Section R114 Stop Work Order. Delete this section of the IRC and see 14.5.3 NMAC, Inspections. [14.7.3.9 NMAC – Rp, 14.7.3.9 NMAC, 7/14/2023]

14.7.3.10 CHAPTER 2 DEFINITIONS: See this chapter of the IRC except as provided below.

A. Section R201 General. See this section in the IRC except as provided below. **Section - R201.3 Terms defined in other codes.** Delete this section of the IRC and substitute the following: Defined terms not listed in this rule shall have the meanings given in 14.5.1.7 NMAC, General Provisions, and in the other New Mexico codes.

B. Section R202 Definitions.
(1) Building official. Delete this definition and see 14.5.1 NMAC, General Provisions.

(2) Decorative coating. A single coat of plaster, cementitious or other approved material applied to a concrete or masonry surface for cosmetic purposes only.

(3) Design professional and registered design professional. Delete these definitions and see 14.5.1 NMAC, General Provisions.

(4) Earthen building materials has the meaning given in 14.7.4 NMAC, New Mexico Earthen Building Materials Code.

(5) Exterior finish coating means a single coat of plaster, cementitious or other approved material applied to a concrete or masonry surface for cosmetic purposes only.

(6) ICC means the international code council.

(7) Manufactured home. Delete this definition from the IRC.

(8) Unbalanced backfill height is the difference in height between the

exterior finish ground level and the lower of the top of the concrete footing that supports the foundation wall, retaining wall or the interior finished ground level. Where an interior concrete slab on grade is provided and is in contact with the interior surface of the foundation wall, the unbalanced backfill height is permitted to be measured from the exterior finished ground level to the top of the interior concrete slab. [14.7.3.10 NMAC - Rp, 14.7.3.10 NMAC, 7/14/2023]

14.7.3.11 CHAPTER 3 BUILDING PLANNING: See this chapter of the IRC except as provided below.

A. Section R301 Design criteria. See this section of the IRC except as provided below:

(1) Section R301.2 Climatic and geographic design criteria. Amend footnote “f” as follows: The authority having jurisdiction shall fill in this part of the table with the seismic design category determined from Section R301.2.2.1 or information from the U.S.G.S. software “Design Values for Buildings” found online.

(2) Section 301.2.2 Seismic provisions. Add the following sentence to the end: **Exception:** Buildings in which earthen building materials form the bearing wall system located in seismic design categories A, B, C, Do and D₁ are exempt from the seismic requirements of this code.

(3) Section R301.2.2.1 Determination of seismic design category. Add the following text at the end of the section: or information from the U.S.G.S. software “Design Values for Buildings” found online.

B. Section R302 Fire-Resistant Construction. See this section of the IRC except as provided below.

(1) Section R302.1 Exterior. See this section of the IRC except as follows: Add the following exception: **Exception 6.** Exterior walls will read as follows: Where zoning or perpetual, platted, and recorded easements create a

non-buildable minimum fire separation distance of at least 10 feet between structures on adjacent properties. The “one hour” “fire resistive” rating shall not apply on the underside of the projections that project a maximum of 24 inches.

(2) Table R302.1(1) Exterior walls. Delete this table in the IRC without substitution.

(3) Table R302.1(2) Exterior walls – Dwellings with Fire Sprinklers. Delete the title of this table in the IRC and substitute with following: **Table R302.1 (1) Exterior walls.**

(4) Section R302.1.1 Zero lot line separation. Where perpetual, platted, and recorded easements create a non-buildable minimum fire separation distance of at least six feet between structures on adjacent properties, the one-hour fire-resistive rating shall not apply.

(5) Section R302.2 Townhouses. Add the following sentence to the beginning of the exception: The following exception applies if the *townhouse* has an automatic residential fire sprinkler system.

(6) Section R302.2.2 Common Walls. Delete the text “Chapters 34 through 43” from the second to the last sentence and replace with current adopted electrical code.

(7) Section R302.6 Dwelling-garage fire separation required. Delete the text of this section and substitute with the following: The garage shall be separated as required by Table 302.6. Attachment of gypsum board shall comply with Table R702.3.5. Openings in these walls shall be regulated by section R302.5. The wall separation provisions of Table R302.6 shall not apply to garage walls that are perpendicular to the adjacent dwelling unit wall.

(8) Table R302.6 Dwelling-garage separation. Delete the text of table R302.6 and replace with the following:

Table R302.6 DWELLING-GARAGE SEPARATION	
SEPARATION	MATERIAL
From the residence and attics	Not less than five-eighth-inch Type X gypsum board or equivalent applied to the garage side
From all habitable rooms above the garage	Not less than five-eighth-inch Type X gypsum board or equivalent applied to the interior side of exterior walls that are within this area
Structure(s) supporting floor/ceiling assemblies used for separation required by this section	Not less than five-eighth-inch gypsum board or equivalent
Garages located less than three feet from a dwelling unit on the same lot	Not less than five-eighth-inch gypsum board or equivalent

(9) Section R302.13 Fire protection of floors. Delete the text of this section without substitution.

C. Section R303 Light, Ventilation, and Heating. See this section of the IRC except as provided below. **Section R303.4 Mechanical ventilation.** Delete this section and substitute with the following: The dwelling unit ventilation shall be in accordance with 14.9.2 NMAC.

D. Section R309 Garages and Carports. See this section of the IRC except as provided below. **Section R309.1 Garages and carports.** Delete the text of this section of the IRC and substitute with the following: Garage floor surfaces shall be of approved noncombustible material. The

area of floor used for parking of automobiles or other vehicles shall be sloped to a minimum of one percent to facilitate the movement of liquids to a drain or toward the main vehicle entry doorway. The approach apron shall be recessed a minimum of three-fourths inch at the vehicle doorways to prevent entry of storm water into the garage.

E. Section R311

Means of Egress. See this section of the IRC except as provided below.

(1) Section

R311.7 Stairways. See this section of the IRC except as provided below.

(2) Section

R311.7.5 Stair treads and risers.

Stair treads and risers shall meet the requirements of this section. For the purposes of this section, dimensions and dimensioned surfaces shall be exclusive of carpets, rugs, or runners.

(a)

Section R311.7.5.1 Risers. Delete this section and substitute with the following: The riser height shall be not more than eight inches (203mm). The riser shall be measured vertically between the leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than three-eighth inches (9.5 mm). Risers shall be vertical or sloped from the underside of the nosing of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted provided that the openings located more than 30 inches (762 mm), as measured vertically, to the floor or grade below do not permit the passage of a four-inch-diameter (102 mm) sphere. Exceptions: (1) The opening between adjacent treads is not limited on spiral stairways. (2) The riser height of spiral stairways shall be in accordance with Section R311.7.10.1.

(b)

Section R311.7.5.2 Treads. Delete this section of the IRC and substitute with the following: The tread depth shall be not less than nine inches (229mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a

right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than three-eighths inch (9.5 mm).

F. Section R312

Guards and Window Fall

Protection. See this section of the IRC except as provided below.

Section R312.1.1 Where required.

Delete this section of the IRC and substitute with the following: Guards shall be provided for those portions of open-sided walking surfaces, including floors, stairs, ramps, and landings that are located more than 30 inches (762 mm) measured vertically to the floor or grade below. Insect screening shall not be considered as a guard.

G. Section R313

Automatic Fire Sprinkler Systems.

See this section of the IRC except as provided below.

(1) Section

R313.1 Townhouse automatic fire sprinkler systems. Delete this section and the exception and substitute with the following: Automatic-fire sprinklers systems in townhouses and one- and two-family dwellings are not required when the units are not more than three stories above grade plane in height and that have separate means of egress and their accessory structures.

(2) Section

313.2 One- and two- family dwellings automatic fire system systems. Delete this section of the IRC without substitution.

H. Section R320

Accessibility. Delete the text of this section and see Section 310.5 of the IBC.

I. Section R326

Swimming Pools. Delete the text of this section and see 14.7.3.24 NMAC. [14.7.3.11 NMAC - Rp, 14.7.3.11 NMAC, 7/14/2023]

14.7.3.12 CHAPTER 4

FOUNDATIONS: See this chapter of the IRC except as provided below. **Section R403 Footings.** See this section of the IRC except as provided below.

A. Section R403.1.3.2

Masonry stem walls with concrete

footings. See this section of the IRC and add the following sentence to the end of the section. Where the slabs-on-ground are cast monolithically and rigid insulation is used as a forming material, a minimum of one and one-half inch rigid insulation shall be used. Where sandy, silty sand or sandy gravel soils are present, rigid insulation shall not be used as a forming material. Forms must be constructed to prevent the possibility of failure or collapse. Forms shall be constructed and maintained so that the finished concrete complies with Section R401.2.

B. Section R403.1.4

Minimum depth. Delete the text of this section and substitute with the following: All exterior footings shall be placed at least 12 inches (305 mm) below grade. Where applicable, the depth of footings shall also conform to Sections R403.1.4.1 and R403.1.4.2.

[14.7.3.12 NMAC - Rp, 14.7.3.12 NMAC, 7/14/2023]

14.7.3.13 CHAPTER 5

FLOORS: See this chapter of the IRC.

[14.7.3.13 NMAC - Rp, 14.7.3.13 NMAC, 7/14/2023]

14.7.3.14 CHAPTER 6

WALL CONSTRUCTION: See this chapter of the IRC except as provided below. **Section R602 Wood Wall Framing.** See this section of the IRC except as provided below.

A. Section R602.3

Design and construction. Add the following to this section: Structural wall sheathing shall be fastened directly to structural framing members and plywood, or oriented strand board shall have a one-eighth inch space at panel edge and end joints.

(1) Section

R602.3.1 Stud size, height and spacing. See this section of the IRC except delete exception number two.

(2) Section

R602.3.4 Bottom (sole) plate.

Delete this section and replace with the following: Studs shall have full bearing on a nominal two-by (51 mm) or larger plate or sill having a width at least equal to the width of the studs.

Two-inch (51 mm) by six-inch (152 mm) or wider exterior wall bottom or sill plates may be cantilevered a maximum of one and one-half (38 mm) inches from concrete slab-on-grade to accommodate slab-on-grade perimeter insulation if the remaining bearing is sufficient to carry the structural load. Anchor bolts shall be placed a minimum of two inches from the exterior edge of the concrete. Two inch by four inch or wider exterior wall bottom or sill plates may be cantilevered a maximum of half inches from concrete slab-on-grade to accommodate slab-on-grade perimeter insulation if the remaining bearing is sufficient to carry the structural load. Anchor bolts shall be placed a minimum of two inches from the exterior edge of the concrete.

B. Figure R602.7.2

Rim board header construction: Figure detail is required except the following language shall be deleted: “where bearing distance is less than one and one-half inches”

C. Section R602.12

Simplified wall bracing. See this section of the IRC except as provided below: Note number 3. Delete 10 feet and replace with 12 feet.

D. Section R602.12.1

Circumscribed rectangle. Delete this section and replace with the following: Braced wall line spacing shall be required per section R602.10.1.3. When interior braced wall lines are required per Table R602.10.1.3, the required braced wall panels for the interior shall be per section R602.10.4.

E. Section R609.4.1

Garage door labeling. Delete section without substitution. [14.7.3.14 NMAC - Rp, 14.7.3.14 NMAC, 7/14/2023]

14.7.3.15 CHAPTER 7 WALL COVERING: See this chapter of the IRC except as provided below.

A. Section R702.7

Vapor retarders. See this section of the IRC except as follows: Vapor retarder materials shall be classified in accordance with Table R702.7(1). A vapor retarder shall be provided on the interior side of frame walls

of the class indicated in Table R702.7(2), including compliance with Table R702.7(3) or R702.7(4) where applicable. An approved design using accepted engineering practice for hygrothermal analysis shall be permitted as an alternative. The climate zone shall be determined in accordance with the Climate Zone Chart in 14.7.6 NMAC, New Mexico Residential Energy Conservation Code.

B. Section R703

Exterior covering. See this section of the IRC except as follows.

(1) Section

R703.7.2 Plaster. Insert the following at the end of the second paragraph: Plastering with Portland cement plaster shall be not less than three coats when applied over metal lath or wire lath and shall be not less than two coats when applied over masonry, concrete, pressure-preservative treated wood, or decay-resistant wood as specified in Section R317.1 or gypsum backing. If the plaster surface is completely covered by veneer or other facing material or is completely concealed, plaster application need be only two coats, provided the total thickness is as set forth in Table R702.1 (1). On wood-frame construction with an on-grade floor slab system, exterior plaster shall be applied to cover, but not extend below, lath, paper, and screed. All residual plaster or stucco material that accumulates at the base of the wall shall be removed before it is allowed to cure and no horizontal plaster or stucco material shall remain on the adjacent grade, footing, footing trench or, when provided, weep screed. All residual stucco material shall be removed from roof surfaces and roof substrates before it is allowed to cure. The proportion of aggregate to cementitious materials shall be as set forth in Table R702.1(3). **Exception:** Exterior plaster may be continued below the weep screed to below grade provided there is a complete break in the drainage plane of the building at the location of the horizontal weep screed. Weep holes in the screed shall not be plugged during the application of plaster materials used to cover foundation insulation.

(2) Section

R703.7.2.1 Weep screeds. Delete the text of this section of the IRC and substitute with the following: When an approved acrylic based exterior finish stucco system or acrylic based color coat is applied, a minimum 0.019 inch (0.48 mm) (No. 26 galvanized sheet gage), corrosion-resistant weep screed or plastic weep screed, with a minimum vertical attachment flange of three half inches (89 mm) shall be provided at or below the foundation plate line on exterior stud wall in accordance with ASTM C 926. The weep screed shall be placed a minimum of four inches (51mm) above the earth or half inch 13 mm above paved areas and shall be of a type that will allow trapped water to drain to the exterior of the building. The weather-resistant barrier shall lap the attachment flange. The exterior lath shall lap the attachment flange of the weep screed. Weep screeds are not required under covered porches or covered patios.

(3) Section

R703.7.3 Water-resistive barriers. Delete this section of the IRC and substitute with the following: Water-resistive barriers shall be installed as required in Section R703.2 and where applied over wood-based sheathing, shall include a water-resistive vapor-permeable barrier with performance at least equivalent to two layers of Grade D paper. Such felt or material shall be applied horizontally, with the upper layer lapped over the lower layer not less than two inches (51mm). Where vertical joints occur, the material and or felt shall be lapped not less than six inches (152mm). [14.7.3.15 NMAC - Rp, 14.7.3.15 NMAC, 7/14/2023]

14.7.3.16 CHAPTER

8 ROOF-CEILING

CONSTRUCTION: See this chapter of the IRC except as provided below. **Section R802.1.3 Structural log members.** See this section of the IRC and add the following section: **Section R802.1.3.1 Vigas.** Vigas shall be installed in accordance with Table R802.1.3.1.

Table R802.1.3.1 - The New Mexico Viga Span Chart

New Mexico Viga Span Tables - For Live Loads of up to 40 lbs/sq. ft. ⁽³⁾

Assumptions: DL=15 psf LL=40 psf Fb = 1350psi E=11000000psi TL Deflection<L/240 LL Deflection<L/360

Use the table below for selection of appropriate viga sizes for a floor or roof given a span and spacing.
 Example: 8" vigas 30" on center will span 14'-0". Under maximum design conditions such a viga will apply a load of 1,023 pounds at each end to the wall or beam below and might deflect as much as .66"

Nominal Diameter measured mid-span	On-center Spacing	Maximum Span	End Reaction Under Design Load	Deflection Under Design Load (Δ)
in	in	ft	lbs	in
5	24	8	454	0.36
	30	7.5	528	0.34
	36	7	589	0.31
	48	6.5	726	0.30
6	24	10.5	603	0.52
	30	9.5	676	0.43
	36	9	765	0.41
	48	8	900	0.34
7	24	12.5	729	0.57
	30	11.5	829	0.50
	36	11	944	0.50
	48	10	1,133	0.45
8	24	15	890	0.71
	30	14	1,023	0.66
	36	13	1,129	0.58
	48	12	1,372	0.55
9	24	17.5	1,059	0.84
	30	16.5	1,225	0.81
	36	15.5	1,364	0.75
	48	14	1,617	0.65
10	24	20	1,236	0.97
	30	18.5	1,398	0.86
	36	17.5	1,563	0.81
	48	16	1,869	0.74
11	24	22	1,391	1.00
	30	21	1,616	1.00
	36	20	1,814	0.97
	48	18.5	2,187	0.92
12	24	24.5	1,587	1.12
	30	23	1,806	1.04
	36	22	2,030	1.02
	48	20.5	2,456	0.99
14	24	26	1,776	0.51
	30	26	2,134	0.61
	36	26	2,491	0.70
	48	25	3,083	0.88
16	24	26	1,882	0.51
	30	26	2,240	0.61
	36	26	2,597	0.70
	48	26	3,312	0.88

⁽¹⁾ Diameter shall be measured as the least diameter at mid-span
⁽²⁾ Vigas shall have the bark removed to visually inspect for straightness, bending, splitting, loose knots or rot which would reduce strength.
⁽³⁾ This table shall not be used to size vigas for roof loads in areas where accumulated snow depths can be expected to exceed 32"
⁽⁴⁾ For pocket roofs supported on Vigas, pocket joists shall run perpendicular to the vigas no more than 24" on-center and shall be supported at every viga.
⁽⁵⁾ See IRC Section R503 for Floor Sheathing Requirements and IRC Section R803 for roof sheathing requirements.

[14.7.3.16 NMAC - Rp, 14.7.3.16 NMAC, 7/14/2023]

- 14.7.3.17 **CHAPTER 9 ROOF ASSEMBLIES:** See this chapter of the IRC except as provided below.
- A. **Section R903 Weather Protection.** See this section of the IRC except as provided below.

(1) **Section R903.2.1 Locations.** See this section of the IRC and the following to the end of the section: Approved reglets or an approved flashing shall be installed at wall and roof intersections, wherever there is a change in roof slope or direction and around roof openings. Where flashing is of metal, the metal shall be corrosion resistant with a thickness of not less than 0.019 inch (0.5 mm) (No. 26 galvanized sheet).

(2) **Section R903.3 Coping.** Delete the text of this section and substitute with the following: Plastered parapets shall require a seamless but permeable waterproof cover or weather barrier, capping the entire parapet and wrapping over each side. The cover shall extend past any break from the vertical a minimum of four inches on the wall side. On the roof side, the cover shall properly lap any rising roof felts or membranes and be properly sealed. A layer of furred expanded metal lath shall be installed over the cover before plaster or stucco is applied. The lath shall extend past any break from the vertical on the wall side a minimum of five inches and on the roof side, the same distance as the cover below, allowing for plaster stops or seals. No penetrating fasteners are allowed on the horizontal surface of parapets.

B. Section R904 Materials. See this section of the IRC except add the following new section: **Section R904.5 Loose granular fill.** Pumice and other granular fill type materials are not permitted in roof assemblies.

C. Section R905 Requirements for Roof Coverings. See this section of the IRC except add the following new sections.

(1) **Section R905.9 Built-up roofs.** See this section of the IRC except add the following sections:

(a) **Section R905.9.4 Roof deck transitions.** Where roof sheathing is overlapped to create drainage “crickets” or valleys to canales, taper board, or equivalent shall be used to

transition between the two deck levels to create a uniform substrate.

(b) **Section R905.9.5 Canales and scuppers.** All canales and scuppers must have a metal pan lining extending six inches minimum past the inside of the parapet and six inches minimum to each side of the canale or scupper opening. All canales or scuppers must have positive drainage.

(2) **Section R905.11 Modified bitumen roofing.** See this section of the IRC except add the following section: **Section R905.11.4 Roof deck transitions.** Where roof sheathing is overlapped to create drainage “cricket” or valleys to canales, taperboard or equivalent shall be used to transition between the two deck levels to create a uniform substrate.

(3) **Section R905.12 Thermoset single-ply roofing.** See this section of the IRC except add the following section: **Section R905.12.4 Roof deck transitions.** Where roof sheathing is overlapped to create drainage “crickets” or valleys to canales, taperboard or equivalent shall be used to transition between the two deck levels to create a uniform substrate.

(4) **Section R905.13 Thermoplastic single-ply roofing.** See this section of the IRC except add the following section: **Section R905.13.4 Roof deck transitions.** Where roof sheathing is overlapped to create drainage “crickets” or valleys to canales, taperboard or equivalent shall be used to transition between the two deck levels to create a uniform substrate.

D. Section R908 Reroofing. See this section of the IRC except as provided below. **Section R908.3 Roof Replacement.** Delete the text of this section and substitute with the following: New roof coverings shall not be installed without first removing existing roof coverings where any of the following conditions occur:

(1) The existing roof or roof covering is water soaked or has deteriorated to the

point that the existing roof or roof covering is not adequate as a base for additional roofing.

(2) The existing roof covering is wood shake, slate, clay, cement, or asbestos-cement tile.

(3) The existing roof has two or more applications of any type of roof covering.

(4) Where pumice or other granular fill are present, the material must be removed prior to installing a new roof. [14.7.3.17 NMAC - Rp, 14.7.3.17 NMAC, 7/14/2023]

14.7.3.18 CHAPTER 10 CHIMNEYS AND FIREPLACES:

See this chapter of the IRC. [14.7.3.18 NMAC - Rp, 14.7.3.18 NMAC, 7/14/2023]

14.7.3.19 CHAPTER 11 ENERGY EFFICIENCY: Delete this chapter of the IRC and see 14.7.6 NMAC.

[14.7.3.19 NMAC - Rp, 14.7.3.19 NMAC, 7/14/2023]

14.7.3.20 CHAPTERS 12 THROUGH 23 MECHANICAL:

Delete these chapters of the IRC and see 14.9.2 NMAC.

[14.7.3.20 NMAC - Rp, 14.7.3.20 NMAC, 7/14/2023]

14.7.3.21 CHAPTER 24 FUEL GAS: Delete this chapter of the IRC and see 14.9.2 NMAC.

[14.7.3.21 NMAC - Rp, 14.7.3.21 NMAC, 7/14/2023]

14.7.3.22 CHAPTERS 25 THROUGH 33 PLUMBING:

Delete these chapters of the IRC and see the 14.8.2 NMAC.

[14.7.3.22 NMAC - Rp, 14.7.3.22 NMAC, 7/14/2023]

14.7.3.23 CHAPTERS 34 THROUGH 43 ELECTRICAL:

Delete these chapters of the IRC and see the 14.10.4 NMAC.

[14.7.3.23 NMAC - Rp, 14.7.3.23 NMAC, 7/14/2023]

**14.7.3.24 CHAPTER 44
REFERENCED STANDARDS:**

See this section of the IRC.

[14.7.3.24 NMAC - Rp, 14.7.3.24 NMAC, 7/14/2023]

**14.7.3.25 Add the following
Chapter to the IRC: CHAPTER 45
SWIMMING POOLS:****A. Section R4501.1**

General. The provisions of this chapter shall control the design and construction of swimming pools, spas and hot tubs installed in or on the lot of a one- or two-family dwellings. **B. Section R4501.2 Pools in flood hazard areas.** Pools that are located in flood hazard areas established by Table R301.2(1) of the IRC, including above-ground pools, on-ground pools and in-ground pools that involve placement of fill, shall comply with Sections R4201.2.1 or R4201.2.2. of the IRC. **Exception:** Pools located in riverine flood hazard areas which are outside of designated floodways.

**C. Section R4501.2.1
Pools located in designated floodways.**

Where pools are located in designated floodways, documentation shall be submitted to the building official, which demonstrates that the construction of the pool will not increase the design flood elevation at any point within the jurisdiction.

D. Section R4501.2.2 Pools located where floodways have not been designated. Where pools are located where design flood elevations are specified but floodways have not been designated, the applicant shall provide a floodway analysis that demonstrates that the proposed pool will not increase the design flood elevation more than one foot (305 mm) at any point within the jurisdiction.

E. Section R4502.1 Definitions. For the purposes of these requirements, the terms used shall be defined as follows.

(1) **Above ground/on-ground pool.** See "Swimming pool."

(2) **Barrier.** A fence, wall, building wall or combination thereof, which

completely surrounds the swimming pool and obstructs access to the swimming pool.

(3) **Hot tub.**
See "Swimming pool."

(4) **In-ground pool.** See "Swimming pool."

(5) **Residential.** That which is situated on the premises of a detached one- or two-family dwelling or a one-family townhouse not more than three stories in height.

(6) **Spa, non-portable.** See "Swimming pool."

(7) **Spa, portable.** A non-permanent structure intended for recreational bathing, in which all controls, water-heating and water-circulating equipment are an integral part of the product.

(8) **Swimming pool.** Any structure intended for swimming or recreational bathing that contains water over 24 inches (610 mm) deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs, and spas.

(9) **Swimming pool, indoor.** A swimming pool which is totally contained within a structure and surrounded on all four sides by the walls of the enclosing structure.

(10) **Swimming pool, outdoor.** Any swimming pool which is not an indoor pool.

F. Section R4503.1 In-ground pools. In-ground pools shall be designed and constructed in conformance with ANSI/NSPI-4 as listed in section R4208 of the IRC.

G. Section R4503.2 Above-ground and on-ground pools. Aboveground and on-ground pools shall be designed and constructed in conformance with ANSI/NSPI-4 as listed in Section R4208 of the IRC.

H. Section R4503.3 Pools in flood hazard areas. In flood hazard areas established by Table R301.2 (1) of the IRC, pools in coastal high hazard areas shall be designed and constructed in conformance with ASCE 24.

I. Section R4504.1 Permanently installed spas and

hot tubs. Permanently installed spas and hot tubs shall be designed and constructed in conformance with ANSI/NSPI-3.

J. Section R4504.2 Portable spas and hot tubs. Portable spas and hot tubs shall be designed and constructed in conformance with ANSI/NSPI-6.

K. Section R4505.1 Barrier Requirements. The provisions of this chapter shall control the design of barriers for residential swimming pools, spas, and hot tubs. These design controls are intended to provide protection against potential drownings and near-drownings by restricting access to swimming pools, spas and hot tubs.

L. Section R4505.2 Outdoor swimming pool. An outdoor swimming pool, including an in-ground, above-ground or on-ground pool, hot tub or spa shall be surrounded by a barrier which shall comply with the following:

(1) The top of the barrier shall be at least 48 inches (1219 mm) above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be two inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an above-ground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be four inches (102 mm).

(2) Openings in the barrier shall not allow passage of a four-inch-diameter (102 mm) sphere.

(3) Solid barriers which do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.

(4) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed thirteen-fourth inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed thirteen-fourth inches (44 mm) in width.

(5) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall not exceed four inches (102 mm). Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed thirteen-fourth inches (44 mm) in width.

(6) Maximum mesh size for chain link fences shall be a twenty-one fourth-inch (57 mm) square unless the fence has slats fastened at the top or the bottom which reduce the openings to not more than thirteen-fourth inches (44 mm).

(7) Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than thirteen-fourth inches (44 mm).

(8) Access gates shall comply with the requirements of Section R4205.2 of the IRC, Items 1 through 7, and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches (1372 mm) from the bottom of the gate, the release mechanism and openings shall comply with the following:

(a) 8.1. The release mechanism shall be located on the pool side of the gate at least three inches (76 mm) below the top of the gate; and

(b) 8.2. The gate and barrier shall have no opening larger than half-inch (12.7 mm) within 18 inches (457 mm) of the release mechanism.

(9) Where a wall of a dwelling serves as part of the barrier, one of the following conditions shall be met:

(a) 9.1. The pool shall be equipped with a powered safety cover in compliance with ASTM F 1346; or

(b) 9.2. Doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and/or its screen, if present, are opened. The alarm shall be listed and labeled in accordance with UL 2017. The deactivation switch(es) shall be located at least 54 inches (1372 mm) above the threshold of the door; or

(c) 9.3. Other means of protection, such as self-closing doors with self-latching devices, which are approved by the governing body, shall be acceptable as long as the degree of protection afforded is not less than the protection afforded by Item 9.1 or 9.2 described above.

(10) Where an above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps:

(a) 10.1. The ladder or steps shall be capable of being secured, locked or removed to prevent access; or

(b) 10.2. The ladder or steps shall be surrounded by a barrier which meets the requirements of Section R4205.2, Items 1 through 9. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch-diameter (102 mm) sphere.

M. Section R4505.3
Indoor swimming pool. Walls surrounding an indoor swimming pool shall comply with Section R4205.2 of the IRC, Item 9.

N. Section R4505.4
Prohibited locations. Barriers shall be located to prohibit permanent structures, equipment, or similar objects from being used to climb them.

O. Section R4505.5
Barrier exceptions. Spas or hot tubs with a safety cover which complies with ASTM F 1346, as listed in Section R4507, shall be exempt from the provisions of this section.

P. Section R4506
Entrapment Protection for Swimming Pool and Spa. General. Suction outlets shall be designed and installed in accordance with ANSI/APSP-7.

Q. Section R4507
Abbreviations:

(1) **ANSI** - American national standards institute; 11 West 42nd Street; New York, NY 10036.

(2) **APSP** - Association of pool and spa professionals.

(3) **NSPI** - National spa and pool institute; 2111 Eisenhower Avenue; Alexandria, VA 22314.

(4) **ASCE** - American society of civil engineers; 1801 Alexander Bell Drive; Reston, VA 98411-0700.

(5) **ASTM** - ASTM International; 100 Barr Harbor Drive; West Conshohocken, PA 19428.

(6) **UL** - Underwriters laboratories; inc. 333 Pfingsten Road; Northbrook, IL 60062-2096.

R. Section R4508
Standards:

(1) **ANSI/NSPI-3-99** Standard for Permanently Installed Residential Spas R4204.1.

(2) **ANSI/NSPI-4-99** Standard for Above-ground/On-ground Residential Swimming Pools R4203.2.

(3) ANSI/
NSPI-5-2003 Standard for Residential In-ground Swimming Pools R4203.1.

(4) ANSI/
NSPI-6-99 Standard for Residential Portable Spas R4204.2.

(5) ANSI/
APSP-7-06 Standard for Suction Entrapment avoidance in Swimming Pools, Wading Pools, Spas, Hot Tubs and Catch Basins R4206.

(6) ASCE/
SEI-24-05 Flood Resistant Design and Construction R4203.3.

(7) ASTM
F 1346-91 (2003) Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs R4205.2, R4205.5 of the IRC.

(8) UL 2017-
2000 Standard for General-purpose Signaling Devices and Systems-with Revisions through June 2004 R4205.2 of the IRC.
 [14.7.3.25 NMAC - Rp, 14.7.3.25 NMAC, 7/14/2023]

14.7.3.26 APPENDIX AJ EXISTING BUILDINGS AND STRUCTURES: See this section of the IRC except as provided below: **Section AJ102 Compliance.** See this section of the IRC except add the following new section: **Section AJ102.4.5 Compliance.** When alterations are made to the exterior stud framed walls of existing bedrooms and exterior wall framing adjoining the window is exposed, then the replacement window shall be made to comply with section R310 of the IRC. When repairs are made to the exterior stud framed walls of existing bedrooms and exterior wall framing adjoining the window is exposed, then the replacement window shall be made to comply with section R310 of the IRC.

[14.7.3.26 NMAC - Rp, 14.7.3.26 NMAC, 7/14/2023]

14.7.3.27 APPENDIX AQ TINY HOUSES: Delete this section of the IRC and substitute with the following sections.

A. Section AQ101 General. Section AQ101.1 Scope. This appendix shall be applicable to tiny houses used as single dwelling units providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation and placed on a permanent foundation. Tiny houses shall comply with this code except as otherwise stated in this appendix. Tiny houses constructed in New Mexico or constructed outside New Mexico and transported into New Mexico shall be inspected to comply with New Mexico Residential Code requirements for in-state or out of state production of dwelling units. This shall include Appendix Q of the New Mexico Residential Code. Tiny houses constructed on a chassis with permanent axle shall be considered recreational vehicles and shall meet codes for and be licensed as recreational vehicles so long as the axle remains in place. If axles are removed and the unit placed on supports (foundation) the unit must comply with code requirements for tiny houses placed on a permanent foundation. Tiny houses placed upon a permanent foundation shall be constructed to comply with New Mexico Building Residential Codes including Appendix AQ (Tiny Houses) of the IRC.

B. Section AQ102 Definitions. Section AQ102.1 General Definitions. The following words and terms shall, for the purposes of this appendix, have the meanings shown herein. Refer to Chapter 2 of the IRC for general definitions.

(1) **Emergency egress.** A skylight, roof window, or other emergency egress opening designed and installed to satisfy the emergency escape and rescue opening requirements in Section R310.2.

(2) **Landing platform.** A landing measuring two treads deep and two risers tall, provided as the top step of a stairway or ladder accessing a loft.

(3) **Loft. A** floor level located more than 30 inches (762 mm) directly above the main floor and open to the main floor on at least one side with a ceiling height of less than 6 feet 8 inches (2032 mm), used as a living or sleeping space. The total area of all lofts shall not exceed 40 percent of the floor area.

(4) **Tiny house.** A dwelling that is 400 square feet (37 m²) or less in floor area excluding lofts and does not include recreational vehicles.

C. Section AQ103 Ceiling height. AQ103.1 Minimum ceiling height. Habitable space and hallways in tiny houses shall have a ceiling height of not less than 6 feet 8 inches (2032 mm). Bathrooms, toilet rooms, and kitchens shall have a ceiling height of not less than 6 feet 4 inches (1930 mm). Obstructions shall not extend below these minimum ceiling heights including beams, girders, ducts, lighting, and other obstructions. **Exception:** Ceiling heights in lofts are permitted to be less than 6 feet 8 inches (2032 mm).

D. Section AQ104 Lofts.
 (1) **Section AQ104.1 Minimum loft area and dimensions.** Lofts used as a sleeping or living space shall meet the minimum area and dimension requirements of Sections AQ104.1.1 through AQ104.1.3.

(a) **Section AQ104.1.1 Minimum area.** Lofts shall have a floor area of not less than 35 square feet (3.25 m²).

(b) **Section AQ104.1.2 Minimum dimensions.** Lofts shall be not less than 5 feet (1524 mm) in any horizontal dimension.

(c) **Section AQ104.1.3 Height effect on loft area.** Portions of a loft with a sloping ceiling measuring less than 3 feet (914 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft. **Exception:** Under gable roofs with a minimum slope of 6:12, portions of a

loft with a sloping ceiling measuring less than 16 inches (406 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.

(2) **Section AQ104.2 Loft access.** The access to and primary egress from lofts shall be any type described in Sections AQ104.2.1 through AV104.2.4.

(a) **Section AQ104.2.1 Stairways.** Stairways accessing lofts shall comply with this code or with Sections AQ104.2.1.1 through AQ104.2.1.5.

(i) **Section AQ104.2.1.1 Width.** Stairways accessing a loft shall not be less than 17 inches (432 mm) in clear width at or above the handrail. The minimum width below the handrail shall be not less than 20 inches (508 mm).

(ii) **Section AQ104.2.1.2 Headroom.** The headroom in stairways accessing a loft shall be not less than 6 feet 2 inches (1880 mm) as measured vertically from a sloped line connecting the tread or landing platform nosings in the middle of their width.

(iii) **Section AQ104.2.1.3 Treads and risers.** Risers for stairs accessing a loft shall be not less than 7 inches (178 mm) and not more than 12 inches (305 mm) in height. Tread depth and riser height shall be calculated in accordance with one of the following formulas: (a) The tread depth shall be 20 inches (508 mm) minus 4/3 of the riser height. (b) The riser height shall be 15 inches (381 mm) minus 3/4 of the tread depth.

(iv) **Section AQ104.2.1.4 Landing platforms.** The top tread and riser of stairways or ladders accessing lofts shall be constructed as a landing platform where the loft ceiling height is less than 6 feet 2 inches (1880 mm) at the point where the stairway or ladder meets the loft.

(v) **Section AQ104.2.1.5 Handrails.** Handrails shall comply with Section R311.7.8.

(vi) **Section AQ104.2.1.6 Stairway guards.** Guards at open sides of stairways shall comply with Section R312.1.

(b) **Section AQ104.2.2 Ladders.** Ladders accessing lofts shall comply with Sections AQ104.2.1 and AQ104.2.2, including the requirements for handrails in section R311.7.8, and R308.4.6 glazing adjacent to stairs and ramps, and shall be permanently attached to the loft structure by a device that prevents movement during use. Attachment shall not be accomplished by use of toenails or nails subject to withdrawal.

(i) **Section AQ104.2.2.1 Size and capacity.** Ladders accessing lofts shall have a rung width of not less than 12 inches (305 mm) and rungs shall be spaced with 10 inches (254mm) minimum to 14 inches (356mm) maximum spacing between rungs. Floor decking of lofts accessed by ladders shall be no more than 8½ feet above the main level floor. Ladders shall be capable of supporting a 200-pound (75 kg) load on any rung. Rung spacing shall be uniform within 3/8-inch (9.5 mm).

(ii) **Section AQ104.2.2.2 Incline.** Ladders shall be installed at 70 to 80 degrees from horizontal.

(c) **Section AQ104.2.3 Alternating tread devices.** Alternating tread devices accessing lofts shall comply with Sections R311.7.11.1 and R311.7.11.2. The clear width at and below the handrails shall be not less than 20 inches (508 mm).

(d) **Section AQ104.2.4 Ships ladders.** Ships ladders accessing lofts shall comply with Sections R311.7.12.1 and R311.7.12.2. The clear width at and below handrails shall be not less than 20 inches (508 mm).

(e) **Section AQ104.2.5 Loft Guards.** Loft guards shall be located along the open side of lofts. Loft guards shall not be less than 36 inches (914 mm) in height or one-half of the clear

height to the ceiling, whichever is less.

E. Section AQ105 Emergency escape and rescue openings: AQ105.1 General. Tiny houses shall meet the requirements of Section R310 for emergency escape and rescue openings including lofts of 35 square feet or greater. Egress roof access windows in lofts shall be deemed to meet the requirements of Section R310 when installed with the bottom of their opening no more than 44 inches (1118 mm) above the loft floor.

[14.7.3.27 NMAC – Rp, 14.7.3.27 NMAC, 7/14/2023]

14.7.3.28 APPENDIX AS STRAWBALE CONSTRUCTION: See this section of the IRC except as provided below. **Section AS101 General.** See this section of the IRC and add the following sections.

A. Section AS101.3 Construction Documents. Construction documents detailing the structural design of the structure shall be prepared by a licensed New Mexico architect or structural engineer. The architect or engineer stamp must be affixed to each page of the plans detailing construction of the structure with the design professionals signature and date affixed over each stamp.

B. Section AS101.4 Certificate of Occupancy. Prior to issuance of a certificate of occupancy by the construction industries division, an inspection report must be provided to the general construction inspector by the licensed New Mexico architect or structural engineer. The report shall attest to the building's structural integrity and conformance with the permitted drawings. [14.7.3.28 NMAC - Rp, 14.7.3.28 NMAC, 7/14/2023]

HISTORY OF 14.7.3 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the commission of public records - state records center and archives as: GCB-NMBC-83-1, 1982 New

Mexico Building Code, filing date, 2/15/1983.
 CID-GCB-NMBC-85-1, 1985 New Mexico Building Code, filing date, 11/19/1985.
 CID-GCB-NMBC-88-1, 1988 New Mexico Building Code, filing date, 01/20/1989.
 CID-GCB-NMBC-91-1, 1991 New Mexico Building Code, filing date, 05/04/1993.

History of Repealed Material:

14 NMAC 7.2, 1997 New Mexico Building Code (filed 10/30/1998) (with the exception of material incorporated by reference which was also filed 10/30/1998), repealed 12/1/2000.
 14.7.2 NMAC, 1997 New Mexico Building Code (filed 10-16-2000), repealed 7/1/2004.
 14.7.3 NMAC, 2003 New Mexico Residential Building Code (filed 5/27/2004), repealed 1/1/2008.
 14.7.3 NMAC, 2006 New Mexico Residential Building Code (filed 08/16/2007), repealed 1/28/2011.
 14.7.3 NMAC, 2009 New Mexico Residential Building Code (filed 12/28/2010), repealed 11/15/2016.

Other History:

CID-GCB-NMBC 91-1, 1991 New Mexico Building Code (filed 5/4/1993) was replaced by 14 NMAC 7.2, Housing and Construction, Building Codes General, 1997 New Mexico Building Code, effective 12/31/1998.
 14 NMAC 7.2, Housing and Construction, Building Codes General, 1997 New Mexico Building Code (filed 10/30/1998) replaced by 14.7.2 NMAC, 1997 New Mexico Building Code, effective 12/1/2000. Those applicable portions of 14.7.2 NMAC, 1997 New Mexico Building Code (filed 10/16/2000) and 14 NMAC 7.3, 1997 Uniform Building Code (filed 10/30/1998) replaced by 14.7.2 NMAC, 2003 New Mexico Commercial Building Code, effective 7/01/2004 and 14.7.3 NMAC, 2003 New Mexico Residential Building Code, effective 7/1/2004.
 14.7.3 NMAC, 2003 New Mexico Residential Building Code (filed

5/27/2004) was replaced by 14.7.3 NMAC, 2006 New Mexico Residential Building Code, effective 1/1/2008.
 14.7.3 NMAC, 2006 New Mexico Residential Building Code (filed 08/16/2007) was replaced by 14.7.3 NMAC, 2009 New Mexico Residential Building Code, effective 1/28/2011.
 14.7.3 NMAC, 2009 New Mexico Residential Building Code (filed 1/28/2011) was replaced by 14.7.3 NMAC, 2015 New Mexico Residential Building Code, effective 11/15/2016.
 14.7.3 NMAC, 2015 New Mexico Residential Building Code (filed 11/15/2016) was replaced by 14.7.3 NMAC, 2021 New Mexico Residential Building Code, effective 07/14/2023.

**REGULATION
 AND LICENSING
 DEPARTMENT
 CONSTRUCTION INDUSTRIES
 DIVISION**

**TITLE 14 HOUSING AND
 CONSTRUCTION
 CHAPTER 7 BUILDING
 CODES GENERAL
 PART 7 2021 NEW
 MEXICO EXISTING BUILDING
 CODE**

14.7.7.1 ISSUING AGENCY: Construction Industries Division (CID) of the Regulation and Licensing Department.
 [14.7.7.1 NMAC - Rp, 14.7.7.1 NMAC, 7/14/2023]

14.7.7.2 SCOPE: This rule applies to contracting performed on existing buildings in New Mexico, but not contracting performed on detached one- and two-family dwellings or townhouses not more than three stories above grade plane in height with a separate means of egress, and their accessory structures, on or after July 14, 2023, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received

by CID before that date, with the following exceptions:

A. Electrical.

Electrical wiring as defined in Section 60-13-32 NMSA 1978, including installation, repair, alteration, change of occupancy, addition and relocation of existing buildings shall be in accordance with 14.10.4 NMAC, the current adopted New Mexico electrical code (NMEC).

B. Mechanical.

All mechanical work, including installation, repair, alteration, change of occupancy, addition and relocation, on existing buildings shall be in accordance with 14.9.2 NMAC, the current adopted New Mexico mechanical code (NMMC).

C. Plumbing. All plumbing work, including installation, repair, alteration, change of occupancy, addition and relocation, on existing buildings shall be in accordance with 14.8.2 NMAC, the current adopted New Mexico plumbing code (NMPC).

D. LP gas. All liquid petroleum and compressed natural gas work, including installation, repair, alteration, change of occupancy, addition, and relocation, on existing buildings shall be in accordance with 14.9.2 NMAC or 19.15.40 NMAC. [14.7.7.2 NMAC - Rp, 14.7.7.2 NMAC, 7/14/2023]

14.7.7.3 STATUTORY AUTHORITY: Section 60-13-9 NMSA 1978.

[14.7.7.3 NMAC - Rp, 14.7.7.3 NMAC, 7/14/2023]

14.7.7.4 DURATION: Permanent.

[14.7.7.4 NMAC - Rp, 14.7.7.4 NMAC, 7/14/2023]

14.7.7.5 EFFECTIVE DATE: July 14, 2023, unless a later date is cited at the end of a section. [From the date of publication of this rule in the New Mexico register, until December 14, 2023, permits may be issued under either the previously adopted rule, or this rule. After December 14, 2023, permits may be issued only under this rule.]

[14.7.7.5 NMAC - Rp, 14.7.7.5 NMAC, 7/14/2023]

14.7.7.6 OBJECTIVE: The purpose of this rule is to establish minimum standards for construction work performed on existing buildings in New Mexico.

[14.7.7.6 NMAC - Rp, 14.7.7.6 NMAC, 7/14/2023]

14.7.7.7 DEFINITIONS: See 14.5.1 NMAC, General Provisions, and chapter 2 of the IEBC as amended in 14.7.7.10 NMAC.

[14.7.7.7 NMAC - Rp, 14.7.7.7 NMAC, 7/14/2023]

14.7.7.8 ADOPTION OF THE 2021 NEW MEXICO EXISTING BUILDING CODE:

A. This rule adopts by reference, and amends, the 2021 international existing building code.

B. In this rule, each provision is numbered to correspond with the numbering of the 2021 international existing building code.

[14.7.7.8 NMAC - Rp, 14.7.7.8 NMAC, 7/14/2023]

14.7.7.9 CHAPTER 1 SCOPE AND ADMINISTRATION:

A. Section 101 Scope and General Requirements. See this section of the IEBC except as provided below.

(1) Section 101.1 Title. Delete this section of the IEBC and substitute: This code shall be known as the 2021 New Mexico existing building code.

(2) Section 101.2 Scope. Delete this section of the IEBC and see 14.7.7.2 NMAC, Scope.

(3) Section 101.3 Purpose. Delete this section of the IEBC and see 14.7.7.6 NMAC, Objective.

(4) Section 101.4 Applicability. Delete this section of the IEBC and substitute: The legal occupancy of any structure existing on the effective date of this rule shall be permitted to continue without change, except as is specifically provided otherwise in this

rule, in the 2021 New Mexico existing building code, or by the building official in consideration of the general safety and welfare of the occupants of any such building and the general public.

(5) Section 101.5 Safeguards during construction. Delete this section of the IEBC.

(6) Section 101.6 Appendices. Delete this section of the IEBC and substitute: This rule adopts Appendices A and B of the IEBC as they may be amended herein.

(7) Section 101.7 Correction of violations of other codes. Delete this section of the IEBC.

B. Section 102 Applicability. See this section of the IEBC except as provided below.

(1) Section 102.1 General. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

(2) Section 102.2 Other laws. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

(3) Section 102.3 Application of references. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

(4) Section 102.4 Referenced codes. Delete this section of the IEBC and substitute with the following: All references in the IEBC to the international building code shall be deemed references to 14.7.2 NMAC, the current adopted New Mexico commercial building code (NMCBC). All references to the international residential code shall be deemed references to 14.7.3 NMAC, the current adopted New Mexico residential building code (NMRBC). All references to the international plumbing code shall be deemed references to 14.8.2 NMAC. All references to the international mechanical code shall be deemed references to 14.9.2 NMAC. All references to the international electrical code shall be deemed references to 14.10.4 NMAC. All

references to the international energy conservation code shall be deemed references to 14.7.6 NMAC and 14.7.9 NMAC. All references to the international fuel gas code are deemed references to 14.9.2 NMAC or 19.15.40 NMAC.

(5) Section 102.5 Partial invalidity. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

C. Section 103 Code Compliance Agency. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

D. Section 104 Duties and Powers of the Code Official. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

E. Section 105 Permits. Delete this section of the IEBC and see 14.5.2 NMAC, Permits.

F. Section 106 Construction Documents. Delete this section of the IEBC and see 14.5.2 NMAC, Permits.

G. Section 107 Temporary Structures and Uses. Delete this section of the IEBC and see 14.5.2 NMAC, Permits.

H. Section 108 Fees. Delete this section of the IEBC and see 14.5.5 NMAC, Fees.

I. Section 109 Inspections. Delete this section of the IEBC and see 14.5.3 NMAC, Inspections.

J. Section 110 Certificate of Occupancy. Delete this section of the IEBC and see 14.5.3 NMAC, Inspections.

K. Section 111 Service Utilities. Delete this section of the IEBC and see 14.5.2 NMAC, Permits; 14.5.1, General Provisions and NMSA 1978, section 60-13-42.

L. Section 112 Means of Appeals. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

M. Section 113 Violations. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

N. Section 114 Stop Work Order. Delete this section of the IEBC and see 14.5.3 NMAC, Inspections.

O. Section 115 Unsafe Structures and Equipment. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

P. Section 116 Emergency Measures. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.

Q. Section 117 Demolition. Delete this section of the IEBC and see 14.5.1 NMAC, General Provisions.
[14.7.7.9 NMAC - Rp, 14.7.7.9 NMAC, 7/14/2023]

14.7.7.10 CHAPTER 2 DEFINITIONS: See this chapter of the IEBC except as provided below.

A. Section 201.1 Scope. See this section of the IEBC and add the following: if the same term is defined in the New Mexico construction codes and in the IEBC, the term shall have the meaning given it in the New Mexico construction codes.

B. Section 201.3 Terms defined in other codes. Delete this section of the IEBC and substitute: If a term is not defined in this code but is defined in a New Mexico Construction Code, the term shall have the meaning given it in the New Mexico Construction Code.

C. Section 202 General Definitions. See this section of the IEBC except as follows.

Code Official. Delete this definition in the IEBC and substitute with the following: The CID general construction bureau chief.

[14.7.7.10 NMAC - Rp, 14.7.7.10 NMAC, 7/14/2023]

14.7.7.11 CHAPTER 3 PROVISIONS FOR ALL COMPLIANCE METHODS: See this chapter of the IEBC.

[14.7.7.11 NMAC - Rp, 14.7.7.11 NMAC, 7/14/2023]

14.7.7.12 CHAPTER 4 REPAIRS: See this chapter of the IEBC.

[14.7.7.12 NMAC - Rp, 14.7.7.12 NMAC, 7/14/2023]

14.7.7.13 CHAPTER 5 PRESCRIPTIVE COMPLIANCE METHOD: See this chapter of the IEBC.

[14.7.7.13 NMAC - Rp, 14.7.7.13 NMAC, 7/14/2023]

14.7.7.14 CHAPTER 6 CLASSIFICATION OF WORK: See this chapter of the IEBC.

[14.7.7.14 NMAC - Rp, 14.7.7.14 NMAC, 7/14/2023]

14.7.7.15 CHAPTER 7 ALTERATIONS - LEVEL 1: See this chapter of the IEBC except as provided below.

A. Section 701 General. See this section of the IEBC.

B. Section 702 Building Elements and Materials. See this section of the IEBC except make the following change to **Section 702.7 Materials and methods.**

Delete the text of this section of the IEBC and substitute: all new work shall comply with materials and methods requirements in the New Mexico construction codes (See Subsection L of 14.5.1.7 NMAC).
[14.7.7.15 NMAC - Rp, 14.7.7.15 NMAC, 7/14/2023]

14.7.7.16 CHAPTER 8 ALTERATIONS - LEVEL 2: See this chapter of the IEBC.

[14.7.7.16 NMAC - Rp, 14.7.7.16 NMAC, 7/14/2023]

14.7.7.17 CHAPTER 9 ALTERATIONS - LEVEL 3: See this chapter of the IEBC.

[14.7.7.17 NMAC - Rp, 14.7.7.17 NMAC, 7/14/2023]

14.7.7.18 CHAPTER 10 CHANGE OF OCCUPANCY: See this chapter of the IEBC.

[14.7.7.18 NMAC - Rp, 14.7.7.18 NMAC, 7/14/2023]

14.7.7.19 CHAPTER 11 ADDITIONS: See this chapter of the IEBC.

[14.7.7.19 NMAC - Rp, 14.7.7.19 NMAC, 7/14/2023]

14.7.7.20 CHAPTER 12 HISTORIC BUILDINGS: See this chapter of the IEBC.

[14.7.7.20 NMAC - Rp, 14.7.7.20 NMAC, 7/14/2023]

14.7.7.21 CHAPTER 13 PERFORMANCE COMPLIANCE METHODS: See this chapter of the IEBC except as follows: **Section 1301.1.1 Compliance with other codes.**

Delete the text of this section and substitute with the following: Buildings that are evaluated in accordance with this section shall comply with the New Mexico construction codes (See Subsection L of 14.5.1.7 NMAC).

[14.7.7.21 NMAC - Rp, 14.7.7.21 NMAC, 7/14/2023]

14.7.7.22 CHAPTER 14 RELOCATED OR MOVED BUILDINGS: See this chapter of the IEBC except provided below.

Section 1401.2 Conformance. See this section of the IEBC except delete the words "as determined by the International Fire Code and the International Property Maintenance Code."

[14.7.7.22 NMAC - Rp, 14.7.7.22 NMAC, 7/14/2023]

14.7.7.23 CHAPTER 15 CONSTRUCTION SAFEGUARDS: See this chapter of the IEBC.

[14.7.7.23 NMAC - Rp, 14.7.7.23 NMAC, 7/14/2023]

14.7.7.24 CHAPTER 16 REFERENCED STANDARDS: See this chapter of the IEBC.

[14.7.7.24 NMAC - Rp, 14.7.7.24 NMAC, 7/14/2023]

HISTORY OF 14.7.7 NMAC: Pre NMAC History: None.

History of Repealed Material:
14.7.7 NMAC, 2003 New Mexico Existing Building Code (filed 5/27/2004) repealed 1/1/2008.
14.7.7 NMAC, 2009 New Mexico Existing Building Code (filed 12/28/2010) repealed 11/15/2016.

Other History:

14.7.7 NMAC, 2003 New Mexico Existing Building Code (filed 5/27/2004) replaced by 14.7.7 NMAC, 2006 New Mexico Existing Building Code, effective 1/1/2008.
 14.7.7 NMAC, 2009 New Mexico Existing Building Code (filed 12/28/2010) replaced by 14.7.7 NMAC, 2015 New Mexico Existing Building Code, effective 11/15/2016.
 14.7.7 NMAC, 2015 New Mexico Existing Building Code (filed 11/15/2016) replaced by 14.7.7 NMAC, 2021 New Mexico Existing Building Code, effective 07/14/2023.

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This is an amendment to 14.5.2 NMAC, Sections 5, 9 and 14, effective 7/14/2023.

14.5.2.5 EFFECTIVE DATE: March 10, 2022, unless a later date is cited at the end of a section. From the date of publication of this rule in the New Mexico register, until 12/14/2023 permits may be issued under either the previously adopted rule or this rule. After 12/14/2303, permits may be issued only under this rule.

[14.5.2.5 NMAC – Rp, 14.5.2.5 NMAC, 3/10/2022; A, 07/14/2023]

14.5.2.9 EXCEPTIONS TO REQUIREMENT FOR PERMITS: Permits shall not be required for the following:

- A. Commercial.**
- (1) One-story detached accessory structures not used for habitation and used as tool or storage sheds, playhouses or similar uses, provided the floor area does not exceed 120 square feet (11.15.m2).
 derricks.
- (2) Oil
- (3) Retaining walls that retain less than 36 inches (915 mm) of unbalanced fill, and have a total height equal to or less than six

feet from top of wall to bottom of footing. Retaining walls supporting a surcharge load or impounding class I, II, or III-A liquids are not exempt from permit.

(4) Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18,927L) and the ratio of height to diameter or width does not exceed two to one.

(5) Sidewalks and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below and which are not part of an accessible route.

(6) Temporary motion picture, television and theater stage sets and scenery.

(7) Prefabricated swimming pools accessory to a group R-3 occupancy, as applicable in the NMRBC, that are installed entirely above ground with no permanent connections to water or power.

(8) Shade cloth structures constructed for nursery or agricultural purposes that do not include services systems.

(9) Swings and other playground equipment accessory to one-and two-family dwellings.

(10) Window awnings supported by an exterior wall of group R-3, as applicable in the NMRBC, and group U occupancies.

(11) Partitions not over five feet nine inches (1,753mm) in height.

B. Residential: See section R105 of the IRC except as provided below:

(1) **Section 105.2 (1)** - One-story detached accessory structures provided that the floor area does not exceed 120 square feet (18.58 m2).

(2) **Section R105.2 (2)** - Delete this section of the IRC.

(3) **Section R105.2 (3)** - Retaining walls that retain less than 36 inches (915mm) of unbalanced fill, and have a total height equal to or less than six

feet from top of wall to bottom of footing. Retaining walls supporting a surcharge load or impounding class I, II, or III-A liquids are not exempt from permit.

(4) **Section R105.2 (4)** - See this section of the IRC.

(5) **Section R105.2 (5)** - Delete this section of the IRC.

(6) **Section R105.2 (6)** - Delete this section of the IRC.

(7) **Section R105.2 (7)** - See this section of the IRC.

(8) **Section R105.2 (8)** - See this section of the IRC.

(9) **Section R105.2 (9)** - See this section of the IRC.

(10) **Section R105.2 (10)** - See this section of the IRC

C. Mechanical work.

Refer to [~~the exempt work section of the currently adopted NMMC-~~] 14.9.2 NMAC.

D. Plumbing work.

Refer to [~~the exempt work section of the currently adopted NMPC-~~] 14.8.2 NMAC.

E. Electrical work.

No exceptions other than those set forth in CILA Section 60-13-45. [14.5.2.9 NMAC - Rp, 14.5.2.9 NMAC, 3/10/2022; A, 07/14/2023]

14.5.2.14 EXPIRATION AND DEACTIVATION OF PERMIT:

A. Expiration. Every permit issued by the AHJ shall expire and be void if the work authorized by the permit is not commenced within 180 days from the issuance date.

B. Cancellation. If the work authorized by a permit is suspended, delayed or abandoned after the work is commenced and such suspension, delay or abandonment continues for greater than 180 days, the permit shall be cancelled. In order for work on the project to continue, a new permit application must be submitted, a new, full permit fee must

be remitted, and a new permit issued. The AHJ may require re-submittal of documents.

C. Extension of time. The CBO or TBC may extend the time of an active permit for an additional period not to exceed 180 days on receipt of a written request from the permit holder showing that circumstances beyond the control of the permittee have caused delay in the permitted work.

D. Penalties. Any work performed after a permit expires, cancels or becomes inactive shall be considered a violation pursuant to Subsection A of 14.5.2.8 NMAC and subject to discipline and to the provisions of ~~[4.5.2.16 NMAC]~~ 14.5.2.16 NMAC.
[14.5.2.14 NMAC - Rp, 14.5.2.14 NMAC, 3/10/2022; A, 07/14/2023]

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This is an amendment to 14.7.4 NMAC, Part name change and amending Sections, 5, 7, 8, 9, 10, 11 and 12, effective 7/14/2023.

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 7 BUILDING
CODES GENERAL
PART 4 ~~[2015]~~ 2021 NEW
MEXICO EARTHEN BUILDING
MATERIALS CODE**

14.7.4.5 EFFECTIVE DATE: November 15, 2016, unless a later date is cited at the end of a section. From the date of publication of this rule in the New Mexico register, until December 14, 2023, permits may be issued under either the previously adopted rule, or this rule. After December 14, 2023, permits may be issued only under this rule.
[14.7.4.5 NMAC – Rp, 14.7.4.5 NMAC, 11/15/2016; A, 07/14/2023]
~~[From the date of publication of this~~

~~rule in the New Mexico register, until July 1, 2017, permits may be issued under either the previously adopted rule, or this rule. After July 1, 2017, permits may be issued only under this rule.]~~

14.7.4.7 DEFINITIONS:

A. Amended soil
means improving an unqualified soil to a qualified state with the addition of other soils or amendments.

B. Amendments
means additive elements to soil, such as lime, Portland cement, fly ash, etc. which are “dry-mixed” into the main soil body as a percentage of total weight to achieve stabilization.

C. Buttress means a projecting structure providing lateral support to a wall. The buttress shall be incorporated into the foundation and wall system. (~~refer~~ Refer to figure 1 of the earthen building figures supplement).

D. CEB means compressed earth block.

E. Count Rumford fireplace means a fireplace with a typically square opening with coved sides and a shallow firebox depth of at least ~~[two]~~ 12 inches, but no shallower than one third of the width of the firebox. The fireback is vertical and does not slant forward. The throat is located at least two inches above the lintel and is a nozzle, rounded or streamlined so as to preserve laminar flow of the dilution air through the throat and with a cross-sectional area large enough to insure the elimination of all products of combustion.

F. Keyway means a groove on the vertical rammed earth wall surface for interlocking purposes. (~~refer~~ Refer to figure 3 of the earthen building figures supplement).

G. Lift means a course of rammed earth, placed within the forms, and then compacted.

H. Nailer means any material rammed into the wall that serves as an attachment device. (~~refer~~ Refer to figure 4 of the earthen building figures supplement).

I. Optimum moisture
means sufficient water (generally no

more than ten percent) mixed into the soil to attain sufficient compaction.

J. PSI means pounds per square inch.

K. Qualified soil
means any soil, or mixture of soils, that attains 300 psi compression strength and attains 50 psi. modulus of rupture.

L. Rammed earth means qualified soil that is mechanically or manually consolidated to full compaction.

M. Round-cap nails
means fasteners that include nails or screws in combination with caps of at least three-fourths inches diameter or three-fourths inch square.

N. Stabilization, stabilized means qualified soils that pass the wet strength test under American society for testing and materials (ASTM) D1633-00 or contain a minimum of six percent Portland cement by weight. Stabilization is achieved through the use of amendments.

O. Wet strength compression test means an approved testing laboratory process in which a fully cured rammed earth cylinder is completely submerged in water a minimum of four hours according to ASTM D1633-00, then subjected to a compression test.

[14.7.4.7 NMAC - Rp, 14.7.4.7 NMAC, 11/15/2016; A, 07/14/2023]

14.7.4.8 EARTHEN BUILDING MATERIALS:

A. General. The provisions of 14.7.4 NMAC, shall control the design and construction of one- and two-family dwellings in which earthen building materials form the bearing wall system.

B. Allowable wall heights for earthen structures. All earthen structures whether adobe, burned adobe, compressed earth block, rammed earth or terrón, shall conform to table 1. For purposes of using table 1, height is defined as the distance from the top of the slab or top of stem wall to the underside of the bond beam.

Maximum Sds	Wall Thickness	Maximum Height	Maximum Sds	Wall Thickness	Maximum Height
.25	10	120"	.3	10	120"
	12	128		12	128
	14	144		14	144
	16	144		16	144
	18	144		18	144
	24	144		24	144
.35	10	120"	.4	10	120"
	12	128		12	128
	14	144		14	144
	16	144		16	144
	18	144		18	144
	24	144		24	144
.45	10	104"	.5	10	96"
	12	128		12	112
	14	144		14	136
	16	144		16	144
	18	144		18	144
	24	144		24	144

This table is based on two story maximum, one and two family residential with seismic soil site class D1.
NOTE: Sds can also be referred to in the IRC Section R301.2.2.1 determination of seismic design category.

[14.7.4.8 NMAC - Rp, 14.7.4.8 NMAC, 11/15/2016; A, 07/14/2023]

14.7.4.9 ADOBE CONSTRUCTION:

A. General. Adobe shall not be used in any building more than two stories in height. The maximum height of every wall of adobe block without lateral support is specified in 14.7.4.8 NMAC, Table 1. The height of the wall is defined as the distance from the top of the slab or top of stem wall to the underside of the bond beam. The maximum height of exterior walls, which are laterally supported with those supports located no more than 24 feet apart, are as defined in 14.7.4.8 NMAC, Table 1. The bottom story of a two-story is allowed a minimum thickness of ~~four~~ 14 inches with the upper story allowed a thickness of 10 inches providing the structure meets the provisions of 14.7.4.8 NMAC, Table 1.

B. Fireplaces. Adobe or masonry fireplaces and chimneys in adobe structures shall comply with 14.7.3.18 NMAC. They shall be integrated into adjacent adobe walls during construction or secured to them by suitable steel ladder reinforcement or reinforcing rods.

C. Count Rumford fireplaces. Count Rumford fireplaces are allowed as provided in 14.7.3.18 NMAC.

D. Soil. Soil for use in adobe blocks should have a mixture of coarse sand, sand, silt and clay, naturally occurring, or amended with sand or straw, that will make a sun-dried ~~brick~~ block without serious warping or cracking. The best way to determine the fitness of a soil is to make sample blocks and allow them to ~~eture~~ dry in the open, protected from moisture. Then test as specified by Subsections C and D of 14.7.4.11 NMAC. The soil shall not contain more than two percent soluble salts.

E. Passive solar structures. Passive solar structures incorporating the use of solar mass walls (trombes), direct gain arrays or sunspaces (greenhouses) as defined by the passive solar heating worksheet, dated ~~June, 2004~~ September, 2021 and prepared by the state of New Mexico energy, minerals and natural resources department, are allowed.

[14.7.4.9 NMAC - A, 14.7.4.9 NMAC, 07/14/2023]

14.7.4.10 CLASSES OF ADOBE:

A. Stabilized adobe. The term "stabilized" is defined to mean water-resistant adobe made of soil to which certain admixtures are added in the manufacturing process in order to limit water absorption into the adobe.

Exterior walls constructed of stabilized mortar and adobe requires no additional protection. Cement stucco or other waterproof coating is not required. The test required is that a dried four inch cube cut from a sample unit shall not gain more than two and a half percent in weight when placed upon a constantly water-saturated porous surface for seven days. An adobe unit that meets this specification shall be considered "stabilized."

B. Unstabilized adobe. Unstabilized or "natural" adobes are adobes that do not meet the water absorption specifications indicated in Subsection A of 14.7.4.10 NMAC above. Use of unstabilized adobes is prohibited within four inches of the finished floor grade. Stabilized adobe or waterproof masonry units and mortar may be used for the first four inches above finished floor [grade].

C. Terrón. The term "terrón" shall refer to a cut sod brick. Their use is permitted if units are dry and the wall design is in conformance with this code.

D. Burned adobe. The term "burned adobe" shall refer to mud adobe bricks that have been cured by low-temperature kiln firing. This type of adobe is not generally dense enough to be "frost-proof" and may deteriorate with seasonal freeze-thaw cycles. Its use for exterior locations is discouraged in climate zones with daily freeze-thaw cycles. [14.7.4.10 NMAC - Rp, 14.7.4.10 NMAC, 11/15/2016; A, 07/14/2023]

14.7.4.11 PROPERTIES, SAMPLING AND TESTING:

A. General. Each of the tests prescribed in this section shall be applied to sample units selected at random at a ratio of five units per 25,000 bricks to be used or at the discretion of the building official.

B. Shrinkage cracks. Shrinkage cracks are allowed, providing that these cracks do not jeopardize the structural integrity of the blocks.

C. Compressive strength.

(1) Cured units shall have an average minimum compressive strength of 300 pounds per square inch when tested. One sample out of five may have a compressive strength of not less than 250 psi.

(2) The adobe block shall be tested in the flat position. The length of the test unit must be a minimum of twice the width. The surfaces must be smooth. The test unit shall be subjected to a uniform compressive load that is gradually increased at a rate of 500 psi/minute until failure occurs. A true platen should be used in the testing machine, along with swivel head to accommodate nonparallel bearing surfaces. The compressive strength is defined as P/A , where P = load and A = area of compression surface.

D. Modulus of

rupture. Cured units shall average 50 psi in modulus of rupture when tested according to the following procedures. A cured unit shall be laid over two-inch diameter cylindrical supports two inches from each end and extending across the full width of the unit. A cylinder two inches in diameter shall be laid midway between and parallel to the supports. Load shall be applied to the cylinder at a rate of 500 psi/minute until rupture occurs. The modulus of rupture is equal to: $3PL/2bt^2$ (P =rupture load in pounds, L =span between supports, b =width of block, t =thickness of block).

E. Mortar. The use of earth mortar is allowed if the earth mortar material is of the same type as the adobe blocks. Conventional lime/sand/cement mortars of types M, S, and N are also allowed. Mortar "bedding" joints shall be fully grouted, with partially open "head" joints allowable if the surface is to be plastered. All joints shall be lapped at least twenty-five percent of the visible block length.

F. Use. No adobe shall be laid in the wall until fully cured. Adobes shall be laid in level courses so that the top of any course

shall be at the same height above the stem around the structure.

G. Foundations.

Adobes may not be used for foundations or basement walls. All adobe walls, except as noted, shall have a continuous footing at least eight inches thick and not less than two inches wider on each side that supports the foundation stem walls above. All foundation stem walls that support adobe units shall extend to an elevation not less than six inches above the finish grade. Foundation stem walls shall be at least as thick as the adobe walls they support. Alternative foundation systems must be approved by the building official.

H. Bond beams. All bearing walls shall be topped with a continuous bond beam (except patio walls less than six feet high above stem). All bond beam construction shall be in accordance with accepted engineering practices.

I. Concrete bond beam. Concrete bond beams shall be a minimum of six inches high by 10 inches wide for walls up to 14 inches thick. Where adobe walls are wider than one course, two-thirds of each visible course top shall be covered by the concrete bond beam. All concrete bond beams shall be reinforced with a minimum of two no. 4 reinforcing rods at each floor and ceiling plate line.

J. Wood bond beam. Wood bond beams shall be a minimum of six inches deep by 10 inches wide for walls up to 14 inches thick. Where adobe walls are wider than one course, two-thirds of each visible course top shall be covered by a wood bond beam and the roof load shall be distributed over both bond beams. Wood bond beams may be solid in the six-inch dimension, or may be built up by applying layers of lumber. Ends of wood bond beams are to be lapped a minimum of the width of the wall and fully nailed. No wood layer shall be less than one inch nominal thickness. The building official shall approve all wooden bond beams for walls wider than 14 inches.

K. Lintels. Lintels of wood or concrete are allowed. When

an engineer's drawing and seal is not provided, all lintels shall conform to Table 2 or 3 below. The required bearing of any lintel shall not be reduced by a splayed or angled window or door opening.

L. Wood lintels. When an engineer's drawing and seal is not provided for lintels, all wood lintels shall conform to Table 2 and have a fiber stress rating of at least 850 psi.

MINIMUM FIBER STRESS 850 psi				
Wall Width	Max. Span	Size	Bearing length on earth wall	Load Capacity
10"	4'-0"	10" x 6"	12"	860 PLF
	6'-0"	10" x 8"	12"	1020 PLF
	8'-0"	10" x 10"	18"	1150 PLF
	10'-0"	10" x 12"	24"	1000 PLF
	12'-0"	10" x 14"	24"	1000 PLF
12"	4'-0"	10" x 6"	12"	860 PLF
	6'-0"	10" x 8"	12"	1020 PLF
	8'-0"	10" x 10"	18"	1150 PLF
	10'-0"	10" x 12"	24"	1000 PLF
	12'-0"	10" x 14"	24"	1000 PLF
14"	4'-0"	12" x 6"	12"	950 PLF
	6'-0"	12" x 8"	12"	1150 PLF
	8'-0"	12" x 10"	18"	1300 PLF
	10'-0"	12" x 12"	24"	1300 PLF
	12'-0"	12" x 14"	24"	1200 PLF

M. Concrete lintels. When an engineer's drawing and seal is not provided for lintels, all concrete lintels shall conform to table 3 and have a minimum strength of 3000 psi.

MIN.				
3000 psi				
Maximum Span	Minimum depth*	Reinforcing	Maximum Capacity per linear foot	Bearing length on earth wall
Less than 6' - 0"	8"	2 - # 4	1500 lbs.	12"
6' - 0" to 10' - 0"	12"	3 - # 5	1500 lbs.	18"
11' - 0" to 16' - 0"	16"	3 - # 6	1500 lbs.	24"
* SIZE Wall width X depth of lintel				

N. Anchorage. Roof and floor structures will be suitably anchored to bond beams. Wood joists, vigas or beams shall be attached to the wood or concrete bond beams with adequate metal fasteners. Door and window bucks shall be secured to the adobe wall with adequate metal fasteners. "Gringo blocks" or wood nailers, placed in the adobe walls as they are laid up, are allowed. Wood and metal partitions may be secured to nailing blocks laid up in the adobe wall or by other approved methods.

O. Plastering. [Add the following new provisions.]

(1) Portland-based [plasters] stucco or lime-based [stuccos] plaster used over insulation board or foam shall follow Subsection P of 14.7.4.11 NMAC.

(2) Unstabilized, uninsulated exterior adobe walls can be protected with plasters or stuccos with a minimum thickness of seven-eighths inch, if adequate roof, parapet, canal, and window flashing is provided.

(3) Portland-based plaster covering unstabilized, adobe walls must be reinforced with self-furring metal wire mesh, minimum 17 gauge by one and one-half inches openings, securely attached to the exterior adobe wall surface by nails or staples with a minimum penetration of one and one-half inches. Such mesh fasteners shall have a maximum spacing 16 inches from each other. Wood surfaces or areas of dissimilar materials to be covered with Portland-based plaster must be protected from moisture with asphalt felt, covered with expanded metal lath, securely attached to the adobe wall.

(4) Type S hydrated lime stuccos covering unstabilized adobe walls are allowed providing that adobe head joints are left partially open as provided by Subsection E of 14.7.4.11 NMAC. Lime-based stuccos do not require a wire mesh cover except when used over wood or dissimilar materials in which case the surface must be protected from moisture with asphalt felt, covered with expanded metal lath.

(5) Other plasters or coatings are allowed providing they do not constitute a vapor barrier. Interior gypsum or ~~mud~~ clay plasters may be applied directly to the wall, provided that adobe head joints have been left partially open. Expanded metal lath shall be used around window and door openings. If desired, exterior adobe walls may be protected with ~~mud~~ clay plaster. Alternative plastering or coating systems shall be submitted for approval by the building official.

P. Wall insulation.
[Add the following new provisions].

(1) Insulating boards or foams not exceeding two inches in thickness may be adhered to the exterior of the adobe wall. When insulation board is used, round-cap nails shall attach it to the adobe wall, with nails placed to avoid bed joints between courses. Cap nails shall have a maximum spacing of 16 inches from each other. Additionally, cap nails shall secure the rigid insulation boards around their perimeter edges, with nails spaced no less than two inches apart. All cap nails shall penetrate a minimum of two inches into the adobe wall. Insulating boards or foams shall not be used to form architectural shapes exceeding two inches in thickness.

(2) Insulations exceeding two inches in thickness may be used providing they do not form a vapor barrier. Their weight shall be supported by the stem wall below and contained within vertical furring strips, securely attached to the adobe wall. A sectional, scaled drawing for the proposed insulation

scheme must be submitted for review by the building official.

Q. Parapets. [Add the following new provisions].

(1) **Plastered parapets**, whether of adobe or frame construction, shall require a seamless ~~permeable~~ **impermeable** waterproof cover or weather barrier, capping the entire parapet and wrapping over each side. The cover shall extend past the bond beam a minimum of four inches on the wall side. On the roof side, the cover shall properly lap any rising roof felts or membranes and be properly sealed. A layer of expanded metal lath shall be installed over the cover before plaster or stucco is applied. The lath shall extend past the bond beam on the wall side a minimum of five inches and on the roof side, the same distance as the cover below, allowing for plaster stops or seals. No penetrating fasteners are allowed on the horizontal surface of parapets.

(2) **Exposed parapets** of adobe shall be laid in level courses of fully stabilized block and mortar. Bed and head joints shall be fully grouted and tightly tooled. Bedding joints at bond beams and around vents and canales shall be fully grouted and tightly tooled. The horizontal top of exposed adobe parapets shall be covered with a minimum three-fourths inch layer of fully stabilized mortar, troweled to conform with the parapet. Waterproof sealers are allowed, providing they are permeable. Other parapet covers, such as flagstone, Spanish mission tile or cement mortar are allowed providing they are securely attached to the parapet. A scaled, sectional drawing shall be provided to the building official showing the attachment scheme.

[14.7.4.11 NMAC - Rp, 14.7.4.11 NMAC, 11/15/2016; A, 07/14/2023]

14.7.4.12 RAMMED EARTH CONSTRUCTION:

A. General. The following provisions shall apply.

(1) Rammed earth shall not be used in any building more than two stories in height. The

height of every wall of rammed earth without lateral support is specified in Table 1 of 14.7.4.8 NMAC. The height of the wall is defined as the distance from the top of the slab or top of stem wall to the underside of the bond beam.

(2) Exterior rammed earth walls shall be a minimum of 18 inches in thickness. Exception: Exterior walls that are also designed as solar mass walls (trombe) as defined by the passive solar heating worksheet, dated June 2004 and prepared by the state of New Mexico energy, minerals and natural resources department, are allowed and shall be minimum thickness of 10 inches, not to exceed two inches. They shall be fully attached to or integrated with any adjacent structural wall and topped with a bond beam that fully attaches them to the bond beam of any adjacent structural wall as described in 14.7.4.17 NMAC.

(3) Interior rammed earth walls shall be a minimum of two inches in thickness.

(4) The first lift of rammed earth walls shall be of stabilized rammed earth or minimum 2500 psi concrete, rising not less than three and one half inches above finish floor level. Unstabilized rammed earth walls must be covered to prevent infiltration of moisture from the top of the wall at the end of each workday and prior to wet weather conditions, whether the walls are contained within forms or not.

(5) Fully stabilized rammed earth walls may be left unprotected from the elements.

(6) In no case shall a rammed earth wall be reduced in thickness with back to back channels or nailers. Channels or nailers rammed on both sides of a running wall shall not be opposite each other to avoid an hourglass configuration in the wall section. Channels or nailers on both sides of a running wall shall be separated from each other vertically at a distance no less than the rammed earth wall thickness. (Refer to Figure 4 of the earthen building figures supplement).

(7) An architect or engineer registered in the state of New Mexico shall design and seal structural portions of two-story residential rammed earth construction documents.

(8) The general construction of the building shall comply with all provisions of the [2009]-2001 New Mexico Residential Building Code (NMRBC), unless otherwise provided for in this rule.

(9) Passive solar structures incorporating the use of solar mass walls (trombe), direct gain arrays or sunspaces (greenhouses) as defined by the passive solar heating worksheet, dated June 2004 and prepared by the state of New Mexico energy, minerals and natural resources department, are allowed.

B. Fireplaces. Adobe or masonry fireplaces and chimneys in rammed earth structures shall comply with 14.7.3.18 NMAC. They shall be integrated into adjacent rammed earth walls during construction or secured to them by suitable steel ladder reinforcement or reinforcing rods.

C. Count Rumford fireplaces. Count Rumford fireplaces are allowed as provided in 14.7.3.18 NMAC.

D. Stop work. The building inspector shall have the authority to issue a "stop work" order if the provisions of this section are not complied with.

E. Lateral support. Lateral support shall occur at intervals not to exceed 24 feet. Rammed earth walls 18 inches to less than 24 inches thick shall be laterally supported with any one or combination of the following: a rammed earth wall of bond beam height that intersects the running wall with at least 60 degrees of support (refer to a Figure 5 of the earthen building figures supplement); an adobe wall of bond beam height and at least 10 inches in width that intersects with and attaches to the running wall with at least 60 degrees of support (refer to Figure 5 of the earthen building figures supplement); a minimum 20 gauge steel frame or wood frame wall of full height that intersects with and attaches to

the running wall with 90 degrees of support, that is properly cross-braced or sheathed (refer to Figure 6 of the earthen building figures supplement); a buttress configuration that intersects the running wall at 90 degrees, of adobe or rammed earth. The buttress base must project a minimum of three feet (or thirty-three percent of the wall height) from the running wall and support at least seventy-five percent of the total wall height (refer to Figure 7 of the earthen building figures supplement). The thickness of a rammed earth buttress shall be at least 18 inches. The thickness of an adobe buttress shall be a minimum 14 inches. Rammed earth walls greater than 24 inches in thickness are self-buttressing and do not require lateral support provided their design adheres to Table 1 of 14.7.4.8 NMAC and the other applicable provisions of this rule.

F. Openings. Door and window openings shall be designed such that the opening shall not be any closer to an outside corner of the structure as follows.

(1) In rammed earth walls 18 inches to less than 24 inches thick, openings shall not be located within three feet of any corner of the structure. (Refer to Figure 8 of the earthen building figures supplement). Exception: Openings may be located within three feet of any corner provided a buttress extending at least three feet from the structure supports the corner. A continuous footing below and a continuous bond beam above shall be provided across such openings.

(2) Rammed earth walls greater than 24 inches thick are self-buttressing, with no special consideration for placement of openings within the area of the wall.

G. Piers. Rammed earth piers supporting openings shall measure no less than three square feet in area and no dimension shall be less than 18 inches. (Refer to Figures 9-A and 9-B of the earthen building figures supplement). [14.7.4.12 NMAC - Rp, 14.7.4.12 NMAC, 11/15/2016; A, 07/14/2023]

**REGULATION
AND LICENSING
DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

This is an amendment to 14.7.8 NMAC, Part name change and Sections 2, 5, 7, 8, 10, 11, 12 and 13, effective 07/14/2023.

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 7 BUILDING
CODES GENERAL
PART 8 [2015] 2021 NEW
MEXICO HISTORIC EARTHEN
BUILDINGS**

14.7.8.2 SCOPE: This rule applies to all historic earthen buildings contracting work performed in New Mexico on or after [November 15, 2016] December 14, 2023 that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date. [14.7.8.2 NMAC – Rp, 14.7.8.2 NMAC, 11/15/2016; A, 07/14/2023]

14.7.8.5 EFFECTIVE DATE: November 15, 2016, unless a later date is cited at the end of a section.

[From the date of publication of this rule in the New Mexico register, until [July 1, 2017] December 14, 2023, permits may be issued under either the previously adopted rule, or this rule. After [July 1, 2017] December 14, 2023, permits may be issued only under this rule.]

[14.7.8.5 NMAC - Rp, 14.7.8.5 NMAC, 11/15/2016; A, 07/14/2023]

14.7.8.7 DEFINITIONS:

A. Alteration. As used in this chapter, alteration applies to those changes necessary to return a historic earthen building to a documented or physically evidenced historic condition. Alterations that are not necessary to return a building to a documented historic condition or that involve more than fifty percent of the aggregate area of the building shall comply with the applicable provisions

of [the New Mexico Existing Building Code] 14.7.7 NMAC.

B. Dangerous. Any building or structure or any individual member with any of the structural conditions or defects described below shall be deemed dangerous.

(1) The stress in a member or portion thereof due to all factored dead and live loads is more than one and one third the nominal strength allowed in the applicable New Mexico Building Code for new buildings of similar structure purpose, or location.

(2) Any portion, member, or appurtenance likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons.

(3) Any portion of a building, or any member, appurtenance, or ornamentation on the exterior, is not of sufficient strength or stability, or is not anchored, attached, or fastened in place, so as to be capable of resisting a wind pressure of two thirds of that specified in the applicable New Mexico Building Code for new buildings of similar structure, purpose, or location without exceeding the nominal strength permitted in the applicable New Mexico Building Code for such buildings.

(4) The building, or any portion of the building, is likely to collapse partially or completely because of dilapidation, deterioration, or decay; the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; the deterioration, decay, or inadequacy of its foundation; damage due to fire, earthquake, wind, or flood; or any other similar cause.

(5) The exterior wall or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.

C. Qualified historic earthen building. Any earthen building or structure that is (1) listed in the *national register of historic*

places or the *state register of cultural properties*; (2) designated as a historic building or structure by a state or local register, inventory, or survey; (3) certified as a contributing resource within a national or state register listed, or locally designated historic district; or (4) a building or structure that is certified, in writing by the state historic preservation office, as being eligible for listing in the *national register of historic places* or the *state register of cultural properties* either individually or as a contributing building to a historic district.

D. Registered design professional. An architect or an engineer registered or licensed in the state of New Mexico.

E. Repair. Renewal, renovation, or rehabilitation of an existing building or structure for the purpose of its continued use. [14.7.8.7 NMAC - Rp, 14.7.8.7 NMAC, 11/15/2016; A, 07/14/2023]

14.7.8.8 ENERGY CONSERVATION: General. Historic earthen buildings undergoing repairs, alterations, or change of occupancy are not required to comply with [the New Mexico Energy Conservation Code] 14.7.6 NMAC or 14.7.9 NMAC.

[14.7.8.8 NMAC - Rp, 14.7.8.8 NMAC, 11/15/2016; A, 07/14/2023]

14.7.8.10 REPAIRS: A. General. Repairs to any portion of a historic earthen building shall be permitted with original or like materials and original methods of construction, subject to the provisions of this chapter.

B. Dangerous buildings. When a historic earthen building is determined to be dangerous, as defined herein, no work shall be required except as necessary to correct the identified unsafe condition(s).

C. Replacement. Replacement of existing or missing features using original materials shall be permitted. Partial replacement for repairs that match the original in configuration, height, and size shall be permitted. Such replacements shall

not be required to meet the materials and methods requirements for new construction.

D. Replacement glazing. Replacement glazing in hazardous locations shall comply with the safety glazing requirements of [Chapter 24 of the New Mexico Commercial Building Code or Section R308 of the New Mexico Residential Building Code] 14.7.2 NMAC and 14.7.3 NMAC.

E. Exterior and interior finishes. The use of historic exterior or interior finishes may be continued provided that the materials and their methods of application are specified in a report or plan and presented to the code official. When deemed necessary by the code official, such report or plan shall be prepared by a registered design professional. [14.7.8.10 NMAC - Rp, 14.7.8.10 NMAC, 11/15/2016; A, 07/14/2023]

14.7.8.11 ALTERATIONS: General. In addition to the provisions of this part [chapter], alterations to a historic earthen building shall comply with [Sections 1103 and 1104 of the New Mexico Existing Building Code] 14.7.7 NMAC.

[14.7.8.11 NMAC - Rp, 14.7.8.11 NMAC, 11/15/2016; A, 07/14/2023]

14.7.8.12 CHANGE OF OCCUPANCY: General. In addition to the provisions of this part [chapter], historic earthen buildings undergoing a change of occupancy shall comply with [Sections 1201.2, 1201.3, and 1001.2.2 of the New Mexico Existing Building Code] 14.7.7 NMAC.

[14.7.8.12 NMAC - Rp, 14.7.8.12 NMAC, 11/15/2016; A, 07/14/2023]

14.7.8.13 STRUCTURAL: A. General. Historic earthen buildings undergoing repairs, alterations, or a change of occupancy shall comply with the applicable provisions of this section.

B. Intent. It is the intent of this section to preserve the integrity of qualified historic earthen buildings while providing

a reasonable level of safety for the building users.

C. Report. The structural condition of a historic earthen building undergoing repairs, alterations, or change of occupancy shall be investigated and evaluated in a written report that shall be filed with the code official. When deemed necessary by the code official, the report shall be prepared by a registered design professional.

D. Unsafe structural elements. Where it is determined that a component or a portion of a building or structure is dangerous, as defined herein, and is in need of repair, strengthening, or replacement, only that specific component or portion shall be required to be repaired, strengthened, or replaced.

E. Reduction of strength. Alterations shall not reduce the structural strength or stability of the building, structure, or any member thereof.

F. Repairs and alterations. Where the report finds that the majority of the existing building is in sound structural condition and capable of supporting the use for which it is intended, structural repairs and alterations shall be permitted with original or like materials and original methods of construction, subject to the provisions of this section.

G. Roofs. Earthen roofs may be repaired and their use continued where the structural report indicates that the supporting structure will adequately support the earthen material load and any additional materials introduced for repair to the earthen roof. A plan specifying materials used to repair an earthen roof and the method of application of such materials shall be prepared by a registered design professional and presented to the code official.

Exception. Subject to the approval of the code official, the requirement for a plan prepared by a registered design professional may be waived for minor repairs where the structural report indicates adequate support and where the repairs continue the use of the existing historic material

and construction details, and where any drainage deficiencies have been corrected.

H. Bond beams.

(1) When a wall is being replaced or is in need of substantial repair, and the existing building has no bond beam, provisions shall be made for adequately distributing any concentrated loads from the roof structure into the wall. When deemed necessary by the code official, such provisions shall be detailed by a registered design professional.

(2) Where the original roof structure is removed from more than fifty percent of the aggregate area of the building, a continuous bond beam shall be provided in accordance with the requirements of this code for new construction.

I. Walls. Walls that are being reconstructed or replaced shall be constructed in accordance with the maximum height-to-thickness ratios specified in [~~Table A1-g of the 2015 New Mexico Existing Building Code~~] Table A1-G of 14.7.7 NMAC. Minor repairs and infills may be constructed in a manner similar to the original walls without conforming to the requirements of Table A1-G.

J. Foundations.

Foundations constructed of historic materials may be repaired and their use continued when a design prepared by a registered design professional is provided to the code official and any deficiencies in the roof drainage system have been corrected.

Exception. Subject to the approval of the code official, the requirement for a design prepared by a registered design professional may be waived for minor repairs to otherwise sound foundations.

K. Change of occupancy. A change of occupancy to a historic earthen building shall be allowed to comply with the provisions of this section for repairs and alterations subject to the conditions listed below. A change of occupancy not meeting these conditions shall comply with [~~the New Mexico~~

~~Existing Building Code~~] 14.7.7 NMAC.

(1) The calculated occupant load of the new use does not exceed 299.

(2) The change of occupancy does not result in the building being placed in a higher seismic, wind, or occupancy category based upon Table 1604.5 of [~~the 2015 New Mexico Commercial Building Code~~] 14.7.2 NMAC.

(3) The change of occupancy does not result in an increase of more than five percent in uniform or concentrated loads based on Tables 1607.1 of [~~the 2015 New Mexico Commercial Building Code~~] 14.7.2 NMAC. **Exception.** The code official is authorized to accept existing floors and approve operational controls that limit the live loads on such floors.

[14.7.8.13 NMAC - Rp, 14.7.8.13 NMAC, 11/15/2016; A, 07/14/2023]

HISTORY OF 14.7.8 NMAC:

Pre-NMAC History: None.

History of Repealed Material:

14.7.8 NMAC, 2003 New Mexico Historic Earthen Buildings (filed 1/3/2006) repealed 1/1/2008.

14.7.8 NMAC, 2009 New Mexico Historic Earthen Buildings (filed 12/28/2010) repealed 11/15/2016.

Other History:

14.7.8 NMAC, 2003 New Mexico Historic Earthen Buildings (filed 1/3/2006) was replaced by 14.7.8 NMAC, 2006 New Mexico Historic Earthen Buildings, effective 1/1/2008.

14.7.8 NMAC, 2009 New Mexico Historic Earthen Buildings (filed 12/28/2010) was replaced by 14.7.8 NMAC, 2015 New Mexico Historic Earthen Buildings, effective 11/15/2016.

**REGULATION
AND LICENSING
DEPARTMENT
PHARMACY, BOARD OF**

This is an amendment to 16.19.10 NMAC, Section 11, effective 6/13/2023.

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) 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) 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) 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.

(2) The pharmacist shall ensure that the pharmacy technician has completed the initial training required in Subsection A of 16.19.22.9 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.

(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 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 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;

(i)

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 is stored in a restricted area, secure but unlocked, and readily accessible to authorized, trained personnel;

(iii)

or 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.

(e)

for Class E clinics - 96 square foot room.

(2) Controlled

substances must be stored as defined in 16.19.20.48 NMAC.

(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).

(4) Purchase,

storage and control of drugs shall be designed to prevent having outdated, deteriorated, impure or improperly standardized drugs in the facility.

(5) Access

to the drug storage area shall be limited to clinic practitioners, the pharmacist, and supportive personnel who are performing pharmacy-related functions.

(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.

L. Disposition of

Unwanted or Outdated Drugs:

(1) The

pharmacist shall be responsible for removal of recalled, outdated, unwanted or otherwise unusable drugs from the clinic inventory.

(2) Options

for disposal are destruction under the supervision of the pharmacist or return to the legitimate source of supply. Controlled substance disposition shall occur in accordance with 16.19.20.38 NMAC.

M. Reference Material:

Adequate 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 state drug laws and regulations and a poison treatment chart with the regional poison control center's telephone number.

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.

(2) The policy

and procedure manual shall include but not be limited to the following:

(a)

a current list of the names and addresses of the pharmacist-in-charge, consultant-pharmacist, 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;

(b)

functions of the pharmacist-in-charge, consultant pharmacist,

<p>staff pharmacist(s) and supportive personnel;</p> <p>(c) clinic objectives;</p> <p>(d) formularies;</p> <p>(e) a copy of the written agreement, if any, between the pharmacist and the clinic;</p> <p>(f) date of the last review or revision of policy and procedure manual; and</p> <p>(g) policies and procedures for security;</p> <p>(i) equipment;</p> <p>(ii) sanitation;</p> <p>(iv) licensing;</p> <p>(v) reference materials;</p> <p>(vi) drug storage;</p> <p>(vii) packaging and repackaging;</p> <p>(viii) dispensing and distributing;</p> <p>(ix) supervision;</p> <p>(x) labeling and relabeling;</p> <p>(xi) samples;</p> <p>(xii) drug destruction and returns;</p> <p>(xiii) drug and device procuring;</p> <p>(xiv) receiving of drugs and devices;</p> <p>(xv) delivery of drugs and devices;</p> <p>(xvi) record keeping; and</p> <p>(xvii) scope of practice.</p> <p>(3) The procedures manual shall be reviewed on at least an annual basis. A copy of the manual shall be kept at the clinic at all times.</p> <p>(4) A written agreement defining specific procedures for the transfer, storage, dispensing and record keeping of clinic dangerous drug stock from a</p>	<p>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.</p> <p>O. Patient Record: clinics shall maintain patient records as defined in Subsection C of 16.19.4.16 NMAC.</p> <p>P. Drug Transfer to a Pharmacy:</p> <p>(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.</p> <p>(a) record of transfer shall be maintained at the clinic and the pharmacy. It will include:</p> <p>(i) date of transfer or shipment;</p> <p>(ii) name and strength of drug;</p> <p>(iii) package size;</p> <p>(iv) number of packages;</p> <p>(v) manufacturer or repackager; and</p> <p>(vi) lot number and expiration date, unless transferred from a clinic supplier to a pharmacy.</p> <p>(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.</p> <p>(c) Transferred clinic drugs will be stored in the restricted area of the pharmacy and physically separated from all other pharmacy drugs.</p> <p>(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.</p>	<p>(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.</p> <p>(3) The formulary of transferred drugs for pharmacy dispensing is restricted to the clinic's scope of practice.</p> <p>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:</p> <p>(1) the drugs are dispensed only to a clinic patient with a valid prescription from a practitioner of that clinic;</p> <p>(2) clinic prescriptions for clinic drugs are maintained separately from other prescriptions of the pharmacy;</p> <p>(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)";</p> <p>(4) all packaging and labeling requirements for prescriptions dispensed by a pharmacy have been met; and</p> <p>(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.</p> <p>R. Petition for Alternative Plan:</p> <p>(1) A clinic may petition the board for an alternative visitation schedule, dispensing formulary, or drug transfer system (each an "alternative plan") as follows.</p> <p>(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</p>
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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 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 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 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 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 16.19.10.11(N) 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 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 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]

**REGULATION
AND LICENSING
DEPARTMENT
PHARMACY, BOARD OF**

This is an amendment to 16.19.20 NMAC, Section 41, 65, 66, 68 and 69, effective 6/13/2023.

**16.19.20.41
PRESCRIPTIONS:**

A. A prescription for a controlled substance may be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice, and who is registered under the Controlled Substances Act. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription.

B. A prescription may not be issued in order for a practitioner to obtain controlled substances for supplying the practitioner for the purpose of general dispensing to patients.

C. A prescription may not be issued for the dispensing of narcotic drugs listed in any schedule to a narcotic dependent person for the sole purpose of continuing his dependence upon such drugs, unless all the following conditions are met:

(1) the narcotic controlled drug is in Schedule III, IV, or V and is approved by the Food and Drug Administration specifically for use in maintenance or detoxification treatment; and

(2) the prescribing practitioner meets all state and federal requirements to prescribe the narcotic for maintenance or detoxification treatment (e.g. [DATA-waived-practitioner;] 21 CFR 1301.28 or successor regulation).

[16.19.20.41 NMAC - Rp 16.19.20.41 NMAC, 6/26/2018; A, 12/17/2019; A, 6/13/2023]

16.19.20.65 SCHEDULE I:

A. Section 30-31-6 NMSA 1978, schedule I shall consist of the following drugs and other substances, by whatever name, common or usual name, chemical name or brand name designated, listed in this section; **OPIOIDS**, unless specifically exempt or unless listed in another schedule, any of the following opioids, including its isomers, esters, ethers, salts and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters,

ethers, and salts is possible within the specific chemical designation.

- (1) Acetylmethadol;
- (2) Allylprodine;
- (3) Alphacetylmethadol;
- (4) Alphameprodine;
- (5) Alphamethadol;
- (6) Alpha-methyl fentanyl;
- (7) Benzethidine;
- (8) Betacetylmethadol;
- (9) Betameprodine;
- (10) Betamethadol;
- (11) Betaprodine;
- (12) Clonitazene;
- (13) Desmethyltramadol;
- (14) Dextromoramide;
- (15) Diampromide;
- (16) Diethylthiambutene;
- (17) Dimethylthiambutene;
- (18) Difenoxin;
- (19) Dimenoxadol;
- (20) Dimepheptanol;
- (21) Dimethylthiambutene;
- (22) Dioxaphetyl Butyrate;
- (23) Dipipanone;
- (24) Ethylmethylthiambutene;
- (25) Etonitazene;
- (26) Etoperidine;
- (27) Furethidine;
- (28) Hydroxypethidine;

(29) Isotonitazene;	(56) Para-Fluoro fentanyl;	(c) substitution in or on the piperidine ring with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;
(30) Ketobemidone;	(57) Thiofentanyl;	(d) replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; or
(31) Levomoramide;	(58) Acetyl fentanyl;	(e) replacement of the N-propionyl group by another acyl group; or
(32) Levophenacymorphane;	(59) Butyryl fentanyl;	(f) any combination of the above substances include, but are not limited to, the following substances: <u>(reserved)</u>
(33) Morpheridine;	(60) Betahydroxythiofentanyl;	(70) (†) Acrylfentanyl] Acryl Fentanyl];
(34) Noracymethadol;	(61) Furanyl fentanyl;	(††) (71) 4F-butyrfentanyl;
(35) Norlevorphanol;	(62) AH-7921; (3,4-dichloro-N-[(1-dimethylamino)cyclohexylmethyl]benzamide);	(†††) (72) 4-methoxybutyrfentanyl;
(36) Normethadone;	(63) U47700; (trans-3,4-dichloro-N-(2-(dimethylamino)cyclohexyl)-N-methylbenzamide);	(††††) (73) Fluorobutyrfentanyl;
(37) Norpipanone;	(64) MT-45; (1-(4-Nitrophenylethyl)piperidylidene-2-(4-chlorophenyl)sulfonamide);	(†††††) (74) Fluorofentanyl;
(38) Phenadoxone;	(65) W-15; (4-chloro-N-[1-(2-phenylethyl)-2-piperidylidene]-benzenesulfonamide);	(††††††) (75) FIBF; (Para Fluoro Isobutyryl Fentanyl);
(39) Phenampromide;	(66) W-18; (1-(4-Nitrophenylethyl)piperidylidene-2-(4-chlorophenyl)sulfonamide);	(†††††††) (76) Cyclopropyl fentanyl;
(40) Phenomorphan;	(67) U-50488; (2-(3,4-dichlorophenyl)-N-methyl-N-[(1R,2R)-2-pyrrolidin-1-ylcyclohexyl]acetamide);	(††††††††) (77) Thiofuranyl fentanyl (Thiophene fentanyl);
(41) Phenoperidine;	(68) U50488H; ((-)(trans)-3,4-dichloro-N-methyl-N-[2-(1-pyrrolidinyl)cyclohexyl]benzeneacetamide).	(†††††††††) (78) 3-methylfentanyl (N-3-methyl-1-(2-phenyl-ethyl)-4-Piperidyl)-N-phenylpropanamide, its optical and geometric isomers, salts and salts of isomers;
(42) Piritramide;	(69) Fentanyl-related substances, their isomers, esters, ethers, salts, and salts of isomers, esters and ethers. Fentanyl-related substance means any substance, unless specifically exempted or unless listed in another schedule, that is structurally related to fentanyl by one or more of the following modifications:	(††††††††††) (79) crotonyl fentanyl ((E)-N-(1-phenethylpiperidin-4-yl)-N-phenylbut-2-enamide);
(43) Proheptazine;	(70) Propiram;	(†††††††††††) (80) valeryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide);
(44) Properidine;	(71) Tilidine;	(81) N-(1-(2-fluorophenethyl)piperidin-4-yl)-N-(2-fluorophenyl)propionamide (2'-fluoro ortho-fluorofentanyl; 2'-fluoro 2-fluorofentanyl);
(45) Racemoramide;	(72) Trimeperidine	(82) N-(1-(4-methylphenethyl)piperidin-4-yl)-N-phenylacetamide (4'-methyl acetyl fentanyl);
(46) U-48800; (2-(2,4-dichlorophenyl)-N-((1S,2S)-2-(dimethylamino)cyclohexyl)-N-methylacetamide, monohydrochloride);	(73) U-49900; (trans-3,4-dichloro-N-[2-(diethylamino)cyclohexyl]-N-methylbenzamide);	
(47) Hydroxy-3-Methylfentanyl;	(74) Beta-3-Methylthiofentanyl;	
(48) 3-Methylthiofentanyl;	(75) Acetyl-Alpha-Methyl fentanyl ;	
(49) Alpha-Methylthiofentanyl ;	(76) Alpha-Methylthiofentanyl ;	
(50) hydroxfentanyl ;	(77) Beta-hydroxfentanyl ;	

(83)
beta-phenyl fentanyl or N-(1-phenethylpiperidin-4-yl)-N,3-diphenylpropanamide (β' -phenyl fentanyl; beta'-Phenyl fentanyl; 3-phenylpropanoyl fentanyl);

(84) beta-methyl fentanyl or N-phenyl-N-(1-(2-phenylpropyl)piperidin-4-yl)propionamide (β -methyl fentanyl);

(85)
N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide (ortho-fluorobutyryl fentanyl; 2-fluorobutyryl fentanyl);

(86)
(N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide (ortho-methyl acetylfentanyl; 2-methyl acetylfentanyl);

(87)
2-methoxy-N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide (ortho-methyl methoxyacetylfentanyl; 2-methyl methoxyacetyl fentanyl);

(88)
N-(4-methylphenyl)-N-(1-phenethylpiperidin-4-yl)propionamide (para-methylfentanyl; 4-methylfentanyl);

(89)
N-(1-phenethylpiperidin-4-yl)-N-phenylbenzamide (phenyl fentanyl; benzoyl fentanyl);

(90)
N-(1-phenethylpiperidin-4-yl)-N-phenylthiophene-2-carboxamide (thiofuranyl fentanyl; 2-thiofuranyl fentanyl; thiophene fentanyl)

(91) Ethyl (1-phenethylpiperidin-4-yl)(phenyl) carbamate (fentanyl carbamate);

(92)
N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)acrylamide (ortho-fluoroacryl fentanyl);

(93)
N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl) isobutyramide (ortho-fluoroisobutyryl fentanyl);

(94)
N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)furan-2-carboxamide (para-fluoro furanyl fentanyl);

(95)
cyclopentyl fentanyl;

(96) isobutyryl fentanyl;

(97) para-chloroisobutyryl fentanyl;

(98) para-methoxybutyryl fentanyl;

(99) para-fluorobutyryl fentanyl;

(100) ocfentanil;

(101) Ortho-Fluorofentanyl;

(102)
Tetrahydrofuranyl Fentanyl;

(103)
Methoxyacetyl Fentanyl;

(104)
4-Fluoroisobutyryl Fentanyl;

(105) Para-Fluorofentanyl;

(106)
Butonitazene (2-(2-(4-butoxybenzyl)-5-nitro-1Hbenzimidazol-1-yl)-N,N-diethylethan-1-amine);

(107)
Etodesnitazene; etazene (2-(2-(4-ethoxybenzyl)-1Hbenzimidazol-1-yl)-N,N-diethylethan-1-amine);

(108)
Metonitazene (N, N -diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1 H -benzimidazol-1-yl)ethan-1-amine);

(109)
Flunitazene (N, N -diethyl-2-(2-(4-fluorobenzyl)-5-nitro-1 H -benzimidazol-1-yl)ethan-1-amine);

(110)
Metodesnitazene (N,6 N -diethyl-2-(2-(4-methoxybenzyl)-1 H -benzimidazol-1-yl)ethan-1-amine);

(111)
Protonitazene (N, N -diethyl-2-(5-nitro-2-(4-propoxybenzyl)-1 H -benzimidazol-1-yl)ethan-1-amine);

(112) Brorphine (1-(1-(1-(4-bromophenyl)ethyl)piperidin-4-yl)-1,3-dihydro-2-H-benzo[d]imidazol-2-one);

(113) Zipeprol (1-methoxy-3-[4-(2-methoxy-2-phenylethyl)piperazin-1-yl]-1-phenylpropan-2-ol).

B. OPIUM

DERIVATIVES: Unless specifically exempt or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the

existence of such salts, isomers and salts of isomers is possible within the specific chemical designation.

(1)
Acetorphine;
(2) Acetyl dihydrocodeine;
(3) Benzyl morphine;
(4) Codeine methylbromide;
(5) Codeine-N-Oxide;
(6) Cyprenorphine;
(7) Desomorphine;
(8) Dehydro morphine;
(9) Etorphine;
(10) Heroin;
(11) Hydromorphanol;
(12) Methyldesorphine;
(13) Methyldihydromorphine;
(14) Morphine methylbromide;
(15) Morphine methylsulfonate;
(16) Morphine-N-Oxide;
(17) Myrophine;
(18) Nicocodeine;
(19) Nicomorphine;
(20) Normorphine;
(21) Pholcodine;
(22) Thebacon;
(23) Drotebanol;
(24) 6AM;
(6-acetylmorphine).

C. STIMULANTS:

Unless specifically exempted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers.

(1)
Fenethylamine;

(2) N-ethylamphetamine;
 (3) cis-4-methylaminorex;
 (4) N, N-dimethylamphetamine;
 (5) (BZP), 1-benzylpiperazine; N-benzylpiperazine;
 (6) (DCPP); 2,3-dichlorophenylpiperazine;
 (7) (DBZP); dibenzylpiperazine;
 (8) (MBZP); methylbenzylpiperazine;
 (9) (mCPP); meta-chlorophenylpiperazine;
 (10) (MDBZP); methylenedioxybenzylpiperazine;
 (11) (meOPP); para-methoxyphenylpiperazine;
 (12) (pCPP); para-chlorophenylpiperazine;
 (13) (pFPP); para-fluorophenylpiperazine;
 (14) (2-DPMP), desoxypipradrol; 2-diphenylmethylpiperidine;
 (15) D2PM, diphenylprolinol; diphenyl-2-pyrrolidinemethanol;
 (16) HDMP-28; methylnaphthidate;
 (17) Cocaine, (+)-CPCA; 3 α -carbomethoxy-4 β -(4-chlorophenyl)-N-methylpiperidine;
 (18) BTQ or butyltolylquinuclidine; (2-Butyl-3-(p-tolyl)quinuclidine);
(19) Methiopropamine; (N-methyl-1-(thiophen-2-yl)propan-2-amine);
(20) Mesocarb; (N-phenyl-N'-(3-(1-phenylpropan-2-yl)-1,2,3-oxadiazol-3-ium-5-yl) carbamimidate);
(21) Amineptine (7- [(10,11-dihydro-5H-dibenzo[a,d]cyclohepten-5-yl)amino] heptanoic acid);
(22) 4,4'-Dimethylaminorex (4,4'-DMAR; 4,5-dihydro-4-methyl-5-(4-methylphenyl)-2-oxazolamine; 4-methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine).

D. DEPRESSANTS:

Unless specifically exempt or

unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Mecloqualone;
- (2) Methaqualone;
- (3) Benzodiazepines; (a) Bromazepam; (b) Camazepam; (c) Cloxazolam; (d) Delorazepam; (e) Ethylloflazepate; (f) Fudiazepam; (g) Flunitrazepam; (h) Haloxazolam; (i) Ketazolam; (j) Loprazolam; (k) Lormetazepam; (l) Medazepam; (m) Nimetazepam; (n) Nitrazepam; (o) Nordiazepam; (p) Oxazolam; (q) Phenazepam; (r) Pinazepam; (s) Tetrazepam; (t) Flubromazepam;

- (u) Diclazepam;
- (v) Etizolam;
- (w) Flualprazolam;
- (x) Clonazolam;
- (y) Flubromazolam;
- (z) Bromazolam
- (4) Gamma hydroxybutyric acid and any chemical compound that is metabolically converted to GHB;
- (5) Gamma butyrolactone and any chemical compound that is metabolically converted to GHB;
- (6) 1-4 butane diol and any chemical compound that is metabolically converted to GHB
- (7) GHV or 4-methyl-GHB; γ -hydroxyvaleric acid;
- (8) GVL;
- (9) MMQ;
- (10) MBQ; mebroqualone.

E. HALLUCINOGENIC

SUBSTANCES: Unless specifically exempt or unless listed in another schedule, any material, compound, mixture or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation (for purpose of this sub-section only, the term "isomers" includes the optical, positional, and geometric isomers).

- (1) 3,4-methylenedioxy amphetamine;
- (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- (3) 3,4,5-trimethoxy amphetamine;
- (4) Bufotenine;
- (5) DET; (Diethyltryptamine);

(6) DMT; (Dimethyltryptamine);	(31) 25I-NBOMe; (2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine).	(m) JWH-210 (1-pentyl-3-(4-ethylnaphthoyl)indole);
(7) DOM or STP; (4-methyl-2,5-dimethoxyamphetamine);	(32) Synthetic cannabinoids: Unless specifically exempted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following synthetic cannabinoids which demonstrates binding activity to the cannabinoid receptor or analogs or homologs with binding activity. Substances include but are not limited to:	(n) WIN-49,098 (Pravadoline) (4-methoxyphenyl)-[2-methyl-1-(2-morpholin-4-ylethyl)indol-3-yl]methanone;
(8) Lysergic acid amide;		(o) WIN-55,212-2 (2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo-1,4-benzoxazin-6-yl)-1-naphthalenylmethanone);
(9) Lysergic acid diethylamide;		(p) any of the following synthetic cannabinoids, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation;
(10) Mescaline;	(a) CP 55,244 ((hydroxymethyl)-4-[2-hydroxy-4-(2-methyloctan-2-yl)phenyl] 1,2,3,4,4a,5,6,7,8,8a-decahydronaphthalen-2-ol);	(i) naphthoylindoles: any compound containing a 3-(1-naphthoyl) indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, JWH-210, JWH-398 and AM-2201;
(11) Peyote;	(b) CP 55,940 (5-hydroxy-2-(3-hydroxypropyl) cyclohexyl)-5-(2-methyloctan-2-yl)phenol);	(ii) naphthylmethylindoles: any compound containing a 1-Hindol-3-yl-(1-naphthyl) methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-175, JWH-184, and JWH-199;
(12) N-ethyl-3-piperidyl benzilate;	(c) JWH-081 (1-pentyl-3-[1-(4-methoxynaphthoyl)]indole);	(iii) naphthoylpyrroles: any compound containing a 3-(1-naphthoyl) pyrrole structure with substitution
(13) N-methyl-3-piperidyl benzilate;	(d) JWH-122 (1-pentyl-3-(4-methyl-1-naphthoyl)indole);	
(14) Psilocybin;	(e) JWH-133 3-(1,1-dimethylbutyl)-6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H dibenzo[b,d]pyran;	
(15) Psilocyn;	(f) JWH 203 1-pentyl-3-(2-chlorophenylacetyl)indole);	
(16) Parahexyl (synthetic analog of delta-9-tetrahydrocannabinol);	(g) JWH 210 4-ethylnaphthalen-1-yl-(1-pentylindol-3-yl)methanone;	
(17) 2, 5 -dimethoxyamphetamine; 2, 5-DMA;	(h) AM-694 (1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole);	
(18) 4-bromo-2, 5-dimethoxy-amphetamine; 2, 5-DMA;	(i) AM-1221 (1-(N-methylpiperidin-2-yl)methyl-2-methyl-3-(1-naphthoyl)-6-nitroindole);	
(19) PMA; 4-methoxyamphetamine;	(j) AM-2201 (1-(5-fluoropentyl)-3-(1-naphthoyl)indole);	
(20) PCE; (Ethylamine N-ethyl-1-phenylcyclohexylamine);	(k) RCS-4 or SR-19 (1-pentyl-3-[(4-methoxy)-benzoyl]indole);	
(21) Pyrrolidine 1-(1-phenylcyclohexyl)-pyrrolidine (PCPy), (PHP) analog of the drug phencyclidine;	(l) RCS-8 or SR-18 (1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole);	
(22) Thiophene (analog of phencyclidine) TCP or TPCP;		
(23) Alpha-ethyltryptamine;		
(24) 2, 5-dimethoxy-4-ethylamphet-amine;		
(25) Ibogaine;		
(26) 2C-T-7; (2,5-dimethoxy-4-(n)-propylthiophenethylamine);		
(27) AMT; (Alpha-methyltryptamine);		
(28) 5-MeO-DIPT; (5-methoxy-N,N-diisopropyltryptamine);		
(29) 25B-NBOMe; (2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine);		
(30) 25C-NBOMe; (2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine);		

at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-307;

(iv)

naphthylmethylindenes: any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl,

cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-176;

(v)

phenylacetylindoles: any compound containing a 3- phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent including, but not limited to, JWH-203, JWH-250, JWH-251, and RCS-8;

(vi)

cyclohexylphenols: any compound containing a 2-(3- hydroxycyclohexyl) phenol structure with substitution at the 5- position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not substituted in the cyclohexyl ring to any extent including, but not limited to, Cannabicyclohexanol (CP 47,497 C8 homologue), CP 47,497 and CP 55,490;

(vii)

benzoylindoles: any compound containing a 3-(benzoyl) [5]

OTS-3833.4 indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent including, but not limited to, AM-694, Pravadoline (WIN 48,098), RCS-4, and AM-1241;

(q)

UR-144 1-(pentyl-1H-indol-3-yl) (2,2,3,3-tetramethylcyclopropyl) methanone;

(r)

XLR11 1-(5-fluoro-pentyl)-1H-indol-3-yl(2,2,3,3-tetramethylcyclopropyl) methanone;

(s)

AKB48 N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide;

(t)

QUPIC; Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate;

(u)

5-fluoro-PB22; 5F-PB22; Quinolin-8-yl 1-(5-fluoropentyl-1H-indole-3-carboxylate);

(v)

AB-FUBINACA; N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide;

(w)

ADB-PINACA; N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide;

(x)

AB-CHMINACA; N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide;

(y)

AB-PINACA; N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide;

(z)

THJ-2201; [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl) methanone;

(aa)

FDU-PB-22 IUPAC: 1-Naphthyl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate;

(bb)

5-fluoro ABICA: N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide;

(cc)

FUB-144 or FUB-UR-144; [1-(4-fluorobenzyl)-1H-indol-3-yl] (2,2,3,3-tetramethylcyclopropyl) methanone;

(dd)

MN-18; N-(1-Naphthyl)-1-pentyl-1H-indazole-3-carboxamide;

(ee)

FUB-PB-22; Quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate;

(ff)

ADB-CHMINACA (N-[1-(aminocarbonyl)-2,2-dimethylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide);

(gg)

AMB-FUBINACA or FUB-AMB (methyl(1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)-L-valinate);

(hh)

5-fluoro-AMB (N-[[1-(5-fluoropentyl)-1H-indazol-3-yl] carbonyl]-L-valine, methyl ester);

(ii)

5-fluoro-ADB (N-[[1-(5-fluoropentyl)-1H-indazol-3-yl] carbonyl]-3-methyl-D-valine, methyl ester);

(jj)

Bk-DMBDB or dibutylone; 1-(Benzo[d][1,3]dioxol-5-yl)-2-(dimethylamino)butan-1-one;

(kk)

MMB-FUBINACA; methyl (1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)-L-valinate;

(ll)

MDMB-CHMICA; methyl (S)-2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate;

(mm)

NM2201; Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate;

(nn)

5-Fluoro-AKB48 or 5F-APINACA; N-((3s,5s,7s)-adamanta-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide;

(oo)

5-Fluoro-ADB; Methyl(S)-2-[1-

(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate;

(pp)

5-Fluoro-AMB; N-[[1-(5-fluoropentyl)-1H-indazol-3-yl]carbonyl]-L-valine, methyl ester;

(qq)

MAB-CHMINACA; N-[1-(aminocarbonyl)-2,2-dimethylpropyl]-1-(cycohexylmethyl)-1H-indazole-3-carboxamide;

(rr)

SDB-006; N-benxyl-1-pentyl-1H-indole-3-carboxamide;

(ss)

Cumyl-PINACA; 1-pentyl-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide;

(tt)

Cumyl-PICA; 1-pentyl-N-(2-phenylpropan-2-yl)-1H-indole-3-carboxamide;

(uu)

5F-CUMYL-PINACA; SGT-25; 1-(5-Fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide;

(vv)

5F-EDMB-PINACA; Ethyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate;

(ww)

methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate [5F-ADB; 5F-MDMB-PINACA];

(xx)

N-(Adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (FUB-AKB48; FUB-APINACA; AKB48 N-(4-fluorobenzyl));

(yy)

1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide (4-CN-CUMYL-BUTINACA, 4-cyano-CUMYL-BUTINACA, 4-CN-CUMYL BINACA, CUMYL-4CN-BINACA, or SGT-78);

(zz)

methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate (MMB-CHMICA or AMB-CHMICA);

(aaa)

1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3-

carboxamide (5F-CUMYL-P7AICA)

(33) Substances

determined by the board to have the pharmacological effect of the substance, the risk to the public health by abuse of the substance and the potential of the substance to produce psychic or physiological dependence liability is similar to the substances described in Paragraph (1) or (2) of 30-31-23C NMSA 1978. Substances include but are not limited to:

(a)

Salvia divinorum;

(b)

Salvinorin A (methyl (2S,4aR,6aR,7R,9S,10aS,10bR)-9-(acetyloxy)-2-(furan-3-yl)-6a,10b-dimethyl-4,10-dioxododecahydro-2H-benzo[f]isochromene-7-carboxylate);

(34) (4-MEC);

4-methyl-ethylcathinone;

(35) (4-EMC);

4-ethyl-methcathinone;

(36)

Ethcathinone; 2-ethylamino-1-phenylpropan-1-one;

(37) Ethylone;

3',4'-methylenedioxyethcathinone;

(38) Bk-MBDB,

butylone; beta-keto-N-methyl-3,4-benzodioxolybutanamine;

(39) (NRG-1),

naphyrone; naphthylpyrovalerone;

(40)

Metamfepramone; N,N-dimethylcathinone;

(41) Alpha-

PPP; alpha-pyrrolidinopropiophenone;

(42) (α -PBP);

alpha-pyrrolidinobutiophenone;

(43)

(MOPPP); 4'-methoxy-alpha-pyrrolidinopropiophenone;

(44)

(M α PPP); 4'-methyl- α -pyrrolidinopropiophenone;

(45) (MDPPP);

3',4'-methylenedioxy-alpha-pyrrolidinopropiophenone;

(46) (MDPBP);

3',4'-methylenedioxy-alpha-pyrrolidinobutiophenone;

(47) (MPBP);

4'-methyl- α -pyrrolidinobutiophenone;

(48)

Alpha-PVP; alpha-pyrrolidinovalerophenone;

(49) (MDAI);

5,6-methylenedioxy-2-aminoindane;

(50)

Buphedrone; alpha-methylamino-butyrophenone;

(51)

Eutylone; beta-keto-ethylbenzodioxolylbutanamine;

(52) beta-keto-

ethylbenzodioxolylpentanamine;

(53) beta-keto-

methylbenzodioxolylpentanamine (pentylone);

(54) 4-Bromo-

2,5-dimethoxyphenethylamine (2c-B, Nexus);

(55)

N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)-phenethylamine, and N-hydroxy MDA;

(56)

5-methoxy-N,N-dimethyltryptamine (5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT;

(57)

Mephedrone; 4-methylmethcathinone;

(58) (MDPV);

3,4-methylenedioxypropylvalerone;

(59) (2C-E);

2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine;

(60) (2C-D);

2-(2,5-Dimethoxy-4-methylphenyl)ethanamine;

(61)

(2C-T-2); 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine;

(62) (2C-

T4); 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine;

(63) (2C-H);

2-(2,5-Dimethoxyphenyl)ethanamine;

(64) (2C-N);

2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine;

(65)

(2C-P); 2-(2,5-Dimethoxy-4-(n-propylphenyl)ethanamine;

(66)

Methylone; 3,4-Methylenedioxy-N-methylcathinone;

(67) Aminorex

(2-amino-5-phenyl-2-oxazoline);

(68)

Pentadron;

(69) 4-FMC or flephedrone; 4-fluro-N-methylcathinone;	(89) (DOC); 2,5-Dimethoxy-4-chloroamphetamine;	(111) (ETH-LAD); 6-ethyl-6-nor-lysergic acid diethylamide;
(70) (3-FMC); 3-fluro-N-methylcathinone;	(90) (DOM); 2,5-Dimethoxy-4-methylamphetamine;	(112) (AL-LAD); 6-allyl-6-nor-LSD;
(71) (3-MMC); 3-methylmethcathinone;	(91) (TMA2); 2,4,5-trimethoxyamphetamine;	(113) (PRO-LAD); 10-didehydroergoline-8-carboxamide;
(72) (3,4 DMMC); 3,4-Dimethylmethcathinone;	(92) (TMA6); 2,4,6-trimethoxyamphetamine;	(114) <u>((1-(1,3-benzodioxol-5-yl)-2-(ethylamino)pentan-1-one, N-ethylpentylone);</u>
(73) (3-MEC); 3-Methyl-N-ethylcathinone;	(93) (MDAT); 6,7-methylenedioxy-2-aminotetralin;	(115) <u>(MPHP), 4'-methyl-alpha-pyrrolidinoheptaphenone;</u>
(74) 4-methylbuphedrone or 4-MeBP; 2-methylamino-1-(4-methylphenyl)butan-1-one	(94) (4-acetoxy DiPT, ipracetin); 4-acetoxy-N,N-diisopropyltryptamine;	(116) 4'-chloro-alpha-pyrrolidinovalerophenone <u>(4-chloro-α-PVP; 4'-chloro-α-pyrrolidinopentiophenone);</u>
(75) (4 MTA); 4-methylthioamphetamine;	(95) (4-acetoxy DMT, psilacetin); O-Acetylpsilocin;	(117) 4-methyl-alpha-ethylaminopentiophenone <u>(4-MEAP; 2-(ethylamino)-1-(4-methylphenyl)pentan-1-one);</u>
(76) (5-Me MDA); 5-methyl-3,4-methylenedioxyamphetamine;	(96) 4-HO MET, metocin; 4-hydroxy-N-methyl-N-ethyltryptamine;	(118) alpha-pyrrolidinoheptaphenone (PV8); <u>1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one);</u>
(77) (6-APB); 6-benzofuran;	(97) 4-HO MiPT, hats; 4-hydroxy-N-methyl-N-isopropyltryptamine;	(119) alpha-pyrrolidinohexanophenone (α -PHP); <u>α-pyrrolidinohexanophenone; 1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one);</u>
(78) (PMA); 4-methoxyamphetamine;	(98) 5-MeO- aMT, Alpha-O; 5-methoxy- α -methyltryptamine;	(120) N-ethylhexedrone <u>(α-ethylaminohexanophenone; 2-(ethylamino)-1-phenylhexan-1-one);</u>
(79) (2C-B); 2,5-dimethoxy-4-bromophenethylamine;	(99) (5-MeO- MiPT); N-[2-(5-methoxy-1H-indol-3-yl)ethyl]-N-methylpropan-2-amine;	(121) <u>Methoxetamine; 2-(ethylamino)-2-(3-methoxyphenyl)cyclohexan-1-one; 2-(3-methoxyphenyl)-2-(N-ethylamino)cyclohexanone; MXE).</u>
(80) (2C-C); 2,5-dimethoxy-4-chlorophenethylamine;	(100) (DiPT); N,N-diisopropyltryptamine;	F. Any material, compound, mixture or preparation which contains any quantity of the following substances.
(81) (2C-D); 4-methyl-2,5-dimethoxyphenethylamine;	(101) (DPT); dipropyltryptamine;	(1) 3, 4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;
(82) (2C-E, aquarust, cindy); 2,5-dimethoxy-4-ethylphenethylamine;	(102) (5-MeO-DALT); N,N-diallyl-5-methoxytryptamine;	(2) (MPPP); 1-methyl-4-phenyl-4-propionoxypiperidine its optical isomers, salts, and salts of isomers;
(83) (2C-G); 3,4-dimethyl-2,5-dimethoxyphenethylamine;	(103) (3-MeO PCP); 3-methoxyphencyclidine;	(3) 1-(-2-phenylethyl)-4-phenyl-4-acetoxy piperidine (PEPAP), its
(84) (2C-I); 2,5-dimethoxy-4-iodophenethylamine;	(104) (4-MeO PCP); 4-methoxyphencyclidine;	
(85) (2C- T21); 2-[2,5-dimethoxy-4-(2-fluoroethylthio)phenyl]ethanamine;	(105) (MK-801); dizocilpine;	
(86) (2C-B-FLY); 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine;	(106) (PCE, perchloroethylene, perchloroethene), Perc; tetrachloroethylene;	
(87) Bromo-DragonFLY or 3C-Bromo-Dragonfly or DOB-Dragonfly; 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine;	(107) (PCE, perchloroethylene, perchloroethene), Perc; tetrachloroethylene;	
(88) (DOB); 2,5-Dimethoxy-4-bromoamphetamine;	(108) (PCPr); phencyclamine, N-(1-phenylcyclohexyl)propanamine;	
	(109) (Tenocyclidine); 1-(1-(2-thienyl)cyclohexyl)piperidine	
	(110) (3-MeO PCE); 3-methoxyeticyclidine, N-ethyl-1-(3-methoxyphenyl)cyclohexanamine;	

optical isomers, salts and salts of isomers;	(17) ethyl-4-phenyl-piperidine-4-carboxylate;	(f) Tincture of opium;
(4) Cathinone;	(18) 1-methyl-4-phenylpiperidine-4-carboxylic acid;	(g) Codeine;
(5) Methcathinone;	(19) Phenazocine;	(h) Ethylmorphine;
(6) Tianeptene;	(20) Piminodine;	(i) Etorphine hydrochloride;
(7) <u>para-Methoxymethamphetamine (PMMA)</u>	(21) Racemethorphan;	(j) Hydrocodone;
[16.19.20.65 NMAC - Rp 16.19.20.65 NMAC, 6/26/2018; A, 12/17/2019; A, 9/14/2021; A, 6/13/2023]	(22) Racemorphan;	(k) Hydromorphone;
16.19.20.66 SCHEDULE II:	(23) Sufentanil;	(l) Metopon;
A. OPIOIDS: Unless specifically excepted or unless in another schedule any of the following opioids, including its isomers, esters, ethers, salts and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation except dextro and levopropoxyphene.	(24) Carfentanil;	(m) Morphine;
(1) Alphaprodine;	(25) (LAAM);	(n) Oxycodone;
(2) Anileridine;	(26) Tapentadol;	(o) Oxymorphone;
(3) Bezitramide;	(27) <u>Thiafentanil;</u>	(p) Thebaine;
(4) Diphenoxylate;	(28) <u>Norfentanyl;</u>	(q) Alfentanil;
(5) Dihydrocodeine;	(29) <u>Oliceridine.</u>	(r) Oripavine.
(6) Dextropropoxyphene (bulk) non-dosage form;	B. Shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name or brand name designated, listed in this section. Substance, vegetable origin or chemical synthesis. Unless specifically exempt or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.	(2) Any salt, compound derivative, or preparation thereof, which is chemically equivalent or identical with any of the substances referred to in Paragraph (1) of Subsection A of 16.19.20.66 NMAC, except that these substances shall not include the isoquinoline alkaloids of opium.
(7) Fentanyl;	(1) Opium and opiate, and any salts, compound, derivative, or preparation of opium or opiate excluding naloxone, dextrophan, nalbuphine, naltrexone and apomorphine but including the following:	(3) Opium poppy and poppy straw.
(8) Isomethadone;	(a) Raw opium;	(4) Coca leaves and any salt, compound, derivative or preparation of coca leaves and any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include de-cocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.
(9) Levomethorphan;	(b) Opium extracts;	C. STIMULANTS:
(10) Levorphanol;	(c) Opium fluid extracts;	Unless specifically exempt or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system. (See 16.19.21 NMAC- Drug Precursors)
(11) Metazocine;	(d) Powdered opium;	
(12) Methadone;	(e) Granulated opium;	
(13) 4-cyano-2-dimethylamino-4, 4-diphenylbutane;		
(14) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-dipehyl-propane-carboxylic acid;		
(15) Pethidine;		
(16) 4-cyano-1-methyl-4-phenylpiperidine;		

(1) Amphetamine, its salts, optical isomers and salts of its optical isomers.
 (2) Methamphetamine, its salts, isomers and salts of isomers.
 (3) Phenmetrazine and its salts.
 (4) Methylphenidate.
 (5) Lisdexamphetamine.

D. DEPRESSANTS:

Unless specifically exempt or unless listed in another schedule any material, compound mixture or preparation which contains any quantity of the substance having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers is possible within the specific chemical designation.

(1) Amobarbital;
 (2) Secobarbital;
 (3) Pentobarbital;
 (4) Phencyclidine;
 (5) Glutethimide;
 (6) 1-phenylcyclohexylamine;
 (7) 1-piperidinocyclohexanecarbonitrile;
 (8) Dronabinol
 in an oral solution in a drug product approved for marketing by the U.S. Food and Drug Administration.

E.

HALLUCINOGENIC SUBSTANCES: Unless specifically exempt or unless listed in another schedule, any material, compound, mixture or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purpose of this paragraph only, the term "isomers" includes the optical, positional, and geometric isomers):

(1) Nabilone;
 (2) Phenylacetone (P2P, benzyl methyl ketone; methyl benzyl ketone).
F. MISCELLANEOUS:
 (1) Dihydroetorphine;
 (2) Bulk dextropropoxyphene;
 (3) Remifentanyl.
 [16.19.20.66 NMAC - Rp 16.19.20.66 NMAC, 6/26/2018; A, 12/17/2019; A, 6/13/2023]

16.19.20.68 SCHEDULE IV: Shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

A. DEPRESSANTS:

Unless specifically exempt or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Alfaxalone;
 (2) Alprazolam;
 (3) Barbitol;
 (4) Chloral Betaine;
 (5) Chloral Hydrate;
 (6) Chlordiazepoxide;
 (7) Clobazam;
 (8) Clonazepam;
 (9) Clorazepate;
 (10) Clotiazepam
 (11) Diazepam;
 (12) Estazolam;
 (13) Ethchlorvynol;
 (14) Ethinamate;
 (15) Flurazepam;

(16) Fospropofol;
 (17) Halazepam;
 (18) Lorazepam;
 (19) Mebutamate;
 (20) Meprobamate;
 (21) Methohexital;
 (22) Methylphenobarbital;
 (23) Midazolam;
 (24) Oxazepam;
 (25) Paraldehyde;
 (26) Petrichloral;
 (27) Phenobarbital;
 (28) Prazepam;
 (29) Quazepam;
 (30) Remimazolam;
 (31) Suvorexant;
 (32) Temazepam;
 (33) Triazolam;
 (34)

Brexanolone.

~~[B. —~~

~~**FENFLURAMINE:** Any material, compound, mixture or preparation which contains any quantity of the following substance, including its salts, isomers (whether optical, positional, or geometric) and its salts, or such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:— Fenfluramine.~~

~~— [C.] **B. LORCASERIN:**~~

~~Any material, compound, mixture or preparation which contains any quantity of the following substance, including its salts, isomers (whether optical, positional, or geometric) and its salts, or such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Lorcaserin.~~

~~[D.] **C. STIMULANTS:**~~

~~Unless specifically exempt or unless listed in another schedule~~

any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, positional, or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Diethylpropion;
- (2) Phentermine;
- (3) Pemoline (including organometallic complexes and chelates thereon);
- (4) Pipradrol;
- (5) SPA ((-)-1-dimethyl amino-1,2-diphenylmethane);
- (6) Mazindol;
- (7) Cathine;
- (8) Fencamfamin;
- (9) Fenproporex;
- (10) Mefenorex;
- (11) Modafinil;
- (12) Sibutramine;
-
- (13) Solriamfetol;
-
- (14) Serdexmethylphenidate.
- [E:] D. OTHER SUBSTANCES:** Unless specifically exempt or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:
- (1) Dextropropoxyphene(Alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane);
- (2) Pentazocine;
- (3) Carisoprodol;
- (4) Nalbuphine Hydrochloride;
- (5) Butorphanol Tartrate;
- (6) Dezocine;

- (7) Dichloralphenazone;
- (8) Zaleplon;
- (9) Zolpidem;
- (10) Eszopiclone;
- (11) Tramadol;
- (12) Eluxadoline (5-[[[(2S)-2-amino-3-[4-aminocarbonyl]-2,6-dimethylphenyl]-1-oxopropyl][(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid) (including its optical isomers) and its salts, isomers, and salts of isomers

(13)

Lemborexant;

(14)

Daridorexant

[F:] E. NARCOTIC

DRUG: Unless specifically exempt or unless listed in another schedule, any material, compound, mixture or preparation containing limited quantities of any of the following narcotic drugs or any salts thereof: Not more than one milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

[G:] E. EXEMPTION

OF CHLORAL: When packaged in a sealed, oxygen-free environment, under nitrogen pressure, safeguarded against exposure to the air. Chloral when existing under the above conditions is a substance which is not intended for general administration to a human being or another animal, and contains no narcotic controlled substances and is packaged in such a form that the package quantity does not present any significant potential for abuse. All persons who engage in industrial activities with respect to such chloral are subject to registration; but shall be exempt from Section 30-31-16 through 19 of the New Mexico Controlled Substances Act and 16.19.20.19 NMAC through 16.19.20.52 NMAC of the board of pharmacy regulations.

[H:] G. EXEMPT

COMPOUNDS: Librax and Menrium are preparations which contain chlordiazepoxide, a depressant listed in schedule IV, Paragraph (6) of Subsection A

of 16.19.20.68 NMAC and other ingredients in such combinations, quantity, preparation or concentration as to vitiate the potential for abuse of chlordiazepoxide, and are hereby exempt preparations.

- (1) Librax;
- (2) Menrium,
- 5-2;
- (3) Menrium,
- 4-5;
- (4) Menrium,
- 10-4.
- [16.19.20.68 NMAC - Rp 16.19.20.68 NMAC, 6/26/2018; A, 9/14/2021; A, 6/13/2023]

16.19.20.69 SCHEDULE V:

A. Narcotic drugs containing non-narcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone.

- (1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.
- (2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
- (3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.
- (4) Not more than two and five-tenths milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
- (5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
- (6) Not more than five-tenths milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
- B. Stimulants.** Unless specifically exempted or excluded

or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers.

(1)
Pyrovalerone.

(2)
Pseudoephedrine as a drug that includes any compound, mixture, or preparation that contains any detectable quantity of pseudoephedrine, its salts or its optical isomers, or salts of its optical isomers. Pursuant to 30-31-10.C the following substances are excluded from schedule V controlled substances: pseudoephedrine products in liquid form including liquid filled gel caps and pseudoephedrine products already classified as dangerous drugs.

C. Depressants.
Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(1)
Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide];

(2)
Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid];

(3) Ezogabine
[N-[2-amino-4-(4-fluorobenzylamino-phenyl)]-carbamic acid ethyl ester];

(4)
Brivaracetam;

(5)
Cenobamate;

(6)
Lasmiditan;

(7)
Ganaxolone

[16.19.20.69 NMAC - Rp 16.19.20.69 NMAC, 6/26/2018; A, 12/17/2019, A, 12/15/2020; A, 9/14/2021; A, 6/13/2023]

**SECRETARY OF STATE,
OFFICE OF**

This is an amendment to 12.9.3 NMAC, Sections 7, 8, 10, 14, 15 and 16, effective 6/16/2023.

12.9.3.7 DEFINITIONS:

A. **“County clerk duties”** means the official duties performed by the county clerk or deputy county clerk as determined by the county clerk [~~pursuant to Paragraph (4) of Subsection A of Section 14-14A-9 NMSA 1978~~].

B. **“Deputy county clerk”** means a person authorized by the county clerk to be a deputy county clerk and who has taken an oath of office.

C. **“Electronic record”** means a record as defined pursuant to Subsection 7 of Section 14-16-2 NMSA 1978 and includes but is not limited to a PDF or Microsoft Word file.

D. **“In-person electronic notarization”** means that an electronic record is presented for notarization on a computer or mobile device with the individual signing the record and the notarial officer meeting physically face-to-face.

~~[E.]~~ **“Notary seal”** means official stamp and the terms ~~may be used interchangeably.~~

~~[F.]~~ **E. “Remote online notarization (RON)”** means that an electronic record is presented for notarization and the individual signing the record and the notary public meet face-to-face online and communicate using communication technology.

~~[G.]~~ **E. “Tamper evident”** means any change to the record provides evidence of the change.

~~[H.]~~ **G. “Tangible copy”** means a physical paper copy of an electronic record or tangible record.

~~[I.]~~ **H. “Tangible record”** means a physical paper record with an original written signature.

[12.9.3.7 NMAC - N, 1/1/2022; A. & Rn., 6/16/2023]

12.9.3.8 APPLYING FOR OR RENEWING A NOTARY PUBLIC COMMISSION:

A. A person applying for or renewing a notary public commission shall apply electronically or by paper application using the prescribed application form issued by the secretary of state. An applicant shall use the applicant’s name as it appears on the applicant’s state issued identification. In addition to meeting the requirements pursuant to Subsection B of Section 14-14A-20 NMSA 1978, the applicant shall provide:

(1) proof of having successfully completed an approved training course and passing the required examination. If the secretary of state has a record that a notary public applying for renewal has previously passed the required examination, a notary public applying for renewal is not required to re-take the training and examination unless:

(a) the applicant’s commission has expired for more than one year; or
(b) there have been substantial changes to the statutes or rules pertaining to notarial procedures, as determined by the secretary of state, since the applicant’s last application date; and

(2) a true and complete copy of a surety bond pursuant to Subsection D of Section 14-14A-20 NMSA 1978. The surety bond shall contain the applicant’s notarized signature listed as the principal or sole applicant;

(3) executed oath of office using the prescribed form issued by the secretary of state pursuant to Subsection C of Section 14-14A-20 NMSA 1978 notarized by a notarial officer; and

(4) a non-refundable application fee of \$30.

B. The secretary of state shall issue a notary public certificate of commission containing the notary public’s commission number and term expiration date to the applicant once the secretary of state determines:

(1) that the applicant has met the qualifications to be commissioned as a notary public;

(2) that the name on the bond, on the application, and the signatures on those documents are the same; and

(3) the applicant has not previously had a notary public commission denied or revoked.

C. Within 45 days of receiving the notary public commission and prior to the notary public performing his or her first notarial act, the notary public shall provide a copy of the applicant's official stamp to the secretary of state. A notary public will be deemed non-compliant with the act upon failure to provide this information. Failure to [provide this information] comply with this rule shall result in a referral to the state ethics commission.

D. A notarial officer may apply and must receive approval before conducting remote online notarizations pursuant to 12.9.4.8 NMAC.

E. The notary public is required to maintain the notary public's current name, contact information, and signature and official stamp on file with the secretary of state by submitting the form prescribed by the secretary of state within 30 days of the change of information. An amended certificate of commission will be issued upon notification of a name change and the notary public shall be required to obtain a new official stamp showing the updated information. [12.9.3.8 NMAC - N, 1/1/2022; A. 6/16/2023]

12.9.3.10 EDUCATION AND EXAMINATION PROCEDURES:

A. The secretary of state shall provide regular training and administration of an examination pursuant to Subsection B of Section 14-14A-21 NMSA 1978. Training may be provided by the secretary of state or through any third-party training vendor approved by the secretary of state.

B. The fee for providing the training and examination is not included in the application fee collected pursuant to 12.9.3.8 NMAC.

C. ~~[An]~~ A notary public applicant and an automatic notarial officer shall provide proof of passing the required examination with a score of eighty percent or higher.

D. Examination records maintained by third-party vendors, including the applicant's score, shall be retained for five years. [12.9.3.10 NMAC - N, 1/1/2022; A. 6/16/2023]

12.9.3.14 OFFICIAL STAMP:

A. The official stamp of a commissioned notary public shall conform to the requirements pursuant to Section 14-14A-16 NMSA 1978 and shall also include the words "Notary Public" and "State of New Mexico."

B. The official stamp of a notarial officer that is not a commissioned notary public shall conform to the requirements pursuant to Section 14-14A-16 NMSA 1978 and shall also include the words "Notarial Officer" and "State of New Mexico."

C. The official stamp shall conform to the following requirements:

(1) be 10-point type;

(2) if the stamp is affixed to a tangible record, it shall be applied in permanent ink and shall be capable of being photocopied; and

~~(3) the official stamp shall not contain the New Mexico state seal.~~

(3) include the notarial officer's official notary seal, as defined in Subsection L of Section 14-14A-2 NMSA 1978.

D. If the notarial officer is authorized to perform remote online notarizations, the official stamp shall also conform to the requirements set forth in Section 12.9.4.13 NMAC. [12.9.3.14 NMAC - N, 1/1/2022; A. 6/16/2023]

12.9.3.15 JOURNAL:

A. A notary public shall maintain a journal to sequentially chronicle all notarial acts pursuant to Section 14-14A-18 NMSA 1978.

B. A current or former notary public shall store the journal in a secure location under the notary public's sole control unless a current or former notary public transmits the journal to the secretary of state or state records officer.

~~[C.] A notarial officer shall provide a copy of a requested journal entry or audiovisual recording related to a specified notarial act to a member of the public upon request pursuant to Section 14-14A-29 NMSA 1978. The request shall name the subject of the record and the date the notarial act was performed.~~

~~D.]~~ C. If a current or former notary public transmits the journal to the state records officer, the notary public shall notify the secretary of state by submitting the prescribed form within 30 days.

~~[E.]~~ D. A former employer may retain a copy of a notary public's journal, but it shall be clearly marked as a copy.

~~[F.]~~ E. Electronic journal.

(1) If the journal is maintained in an electronic format, it shall meet all the requirements of a tangible journal and shall be:

(a) securely stored;

(b) recoverable in the event of a software malfunction or computer crash; and

(c) tamper evident.

(2) Entries from the electronic journal must be available to the public or the state ethics commission in a PDF format.

(3) If an electronic journal is turned over to the secretary of state or the state records officer, it shall be transferred in PDF format.

~~[G.]~~ E. If a notary public's journal is lost or stolen, the notary public shall promptly notify the secretary of state utilizing a form

prescribed by the secretary of state.
[12.9.3.15 NMAC - N, 1/1/2022; A.
& Rn., 6/16/2023]

12.9.3.16 RULONA

~~[TRANSITION]:~~

~~A.~~ A notarial officer who is not a notary public is not required to follow the application process prescribed by this rule except that the automatic notarial officer shall provide proof of having successfully completed an approved training course and passing the required examination prior to the notarial officer's initial notarial act. If a notarial officer desires to be authorized to conduct remote online notarizations, the notarial officer shall follow the application procedures pursuant to 12.9.4.8 NMAC.

~~[B.]~~ The commission expiration date is December 31, 2021, for a notarial officer authorized to practice law in this state who was commissioned under the previous Uniform Law on Notarial Acts.

~~C.~~ Within six months of the effective date of this rule, a notary public with a commission date prior to the effective date of this rule shall upload a copy of the notary public's official stamp that conforms to Subsection A of Section 14-14A-16 NMSA 1978 and 12.9.3.14 NMAC.

~~D.]~~ **B.** A new automatic notarial officer who is not a notary public shall upload a copy of the notarial officer's official stamp to the secretary of state prior to the notarial officer's initial notarial act.

C. Within one year of the effective date of this section of this rule, an existing automatic notarial officer shall upload a copy of the notarial officer's official stamp to the secretary of state and shall provide proof of having successfully completed an approved training course and passing the required examination.

[12.9.3.16 NMAC - N, 1/1/2022; A.
6/16/2023]

End of Adopted Rules

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Other Material Related to Administrative Law

**PUBLIC EDUCATION
DEPARTMENT**
**NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The Public Education Department gives Notice of a Minor, Nonsubstantive Correction to 6.19.8 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule:

Section 7: Renumbered duplicate Subsection C to Subsection E and renumbered succeeding Subsections E to Q to Subsections F to R.

Section 9: Renumbered paragraphs (7) and (8) to paragraphs (6) and (7).

Section 12: Renumbered Subsection E to Subsection D.

A copy of this Notification will be filed with the official version of each of the above rules.

**REGULATION
AND LICENSING
DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**
**NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The Regulation and Licensing Department, Construction Industries Division, gives Notice of a Minor, Nonsubstantive Correction to 14.5.2 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, please

note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule:

Section 9: Renumbered paragraphs (5) through (12) to paragraphs (4) through (11) within Subsection A.

A copy of this Notification will be filed with the official version of each of the above rules.

**End of Other Material
Related to Administrative
Law**

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Issue 3	February 2	February 14
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Issue 5	March 2	March 14
Issue 6	March 16	March 28
Issue 7	March 30	April 11
Issue 8	April 13	April 25
Issue 9	May 4	May 16
Issue 10	May 18	May 31
Issue 11	June 1	June 13
Issue 12	June 15	June 27
Issue 13	July 7	July 18
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Issue 15	August 3	August 15
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Issue 20	October 12	October 24
Issue 21	October 26	November 7
Issue 22	November 9	November 21
Issue 23	November 22	December 5
Issue 24	December 7	December 19

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rulemaking, proposed rules, adopted rules, emergency rules, and other material related to administrative law. The Commission of Public Records, Administrative Law Division, publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978. The *New Mexico Register* is available free online at: <http://www.srca.nm.gov/new-mexico-register/>. For further information, call 505-476-7941