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New Mexico Register

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Notices of Rulemaking and Proposed Rules

EDUCATIONAL RETIREMENT BOARD

NOTICE OF RULEMAKING AND PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the New Mexico Educational Retirement Board of Trustees will hold a rulemaking hearing on February 10, 2017. The hearing will be held during the Board's regular business meeting at the ERB's Albuquerque office located at 6201 Uptown Boulevard, Suite 203, Albuquerque, NM 87110 beginning at 9:00 a.m. The purpose of the rulemaking hearing is to consider adoption of proposed revisions to the following rules: 2.82.1 NMAC and 2.82.8 NMAC. The Board will vote on the proposed rules during the meeting.

A summary of the proposed revisions and copies of the proposed rules may be accessed at the ERB's website www.nmerb.org or by contacting Amanda Olsen at AmandaSOlsen@state.nm.us, 701 Camino de los Marquez, Santa Fe, New Mexico 87505 or (505) 476-6133.

Interested persons may submit their comments on the proposed rules to the Board via email at rule.change@state.nm.us no later than 5 p.m. on January 20, 2017. In the subject line, please indicate the number of each rule(s) for which you are providing comments. Oral comments will also be accepted at the February 10, 2017 Board meeting, subject to time limitations.

Any person with a disability who is in need of auxiliary aid or service to attend or participate in the hearing should contact Debbi Lucero at 505-827-8030 one week prior to the meeting.

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION COMMISSION

Notice of Public Meeting and Public Hearing

The State of New Mexico, through its Oil Conservation Commission hereby gives notice pursuant to law and Commission rules of the following meeting and public hearing to be held at 1:00 P.M. on **December 5, 2016**, in Porter Hall at 1220 South St. Francis Drive, Santa Fe, New Mexico, before the Oil Conservation Commission. A preliminary agenda will be available to the public no later than two weeks prior to the meeting. A final agenda will be available no later than 72 hours preceding the meeting.

Case No. 15487. Application of the New Mexico oil conservation division through the supervisor of district II for adoption of special rules for drilling in certain areas, for the protection of fresh water, Chaves and Eddy counties, New Mexico.

The proposed rule amendments are intended to provide additional protection for the underground sources of drinking water in the Roswell Artesian Basin, to prevent possible contamination that might otherwise result from oil and gas operations in the basin, and to that end:

amending 19.15.39 NMAC to add a new Section 19.15.39.11 NMAC, which will require two strings of surface protection casing in any well drilled through both the artesian aquifer and the shallow aquifer in the Roswell artesian basin, and that surface protection set be set below the artesian aquifer and cemented to surface in any well drilled into or through that aquifer, subject to such exceptions as may be approved for specific wells. The proposed rule amendment will apply only to

wells drilled in the Roswell artesian basin, as defined in the proposed rule amendment.

The proposed rule amendment and the meeting agenda are available from the Commission Clerk, Florene Davidson at (505) 476-3458 or can be viewed on the Hearings Page at the Oil Conservation Division's web site at <http://www.emnrd.state.nm.us/ocd>. Persons **recommending modifications** to the proposed rule amendment must file a notice of recommended modifications with the Commission Clerk no later than 5:00 P.M. on **November 17, 2016**. The notice must include the text of the recommended modifications of the proposed rule amendment, an explanation of the impact of the recommended modifications and reasons for adopting the modifications. Persons intending to provide **written comments** on the proposed rule change must submit their written comments no later than 5:00 P.M. on **November 28, 2016**, to the Commission Clerk. Persons intending to offer technical testimony at the hearing must file six copies of a **Pre-hearing Statement** conforming to the requirements of 19.15.3.11 NMAC, and six copies of all exhibits the person will offer as evidence at the hearing, no later than 5:00 P.M. on **November 21, 2016**. Proposed modifications and written comments may be hand-delivered or mailed to Ms. Davidson at 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505, or may be faxed to Ms. Davidson at (505) 476-3462. Pre-hearing Statements must be hand-delivered or mailed to Ms. Davidson at the above address.

If you are an individual with 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, please contact Ms. Davidson at (505) 476-3458 or the New Mexico Relay Network at 1-800-659-1779. Public documents can be provided in various accessible forms. Please

contact Ms. Davidson if a summary or other type of accessible form is needed. A party who plans on using projection equipment at a hearing must contact Florene Davidson seven (7) business days prior to the hearing requesting the use of the projection equipment. Wireless internet is available; however, the party must provide its own laptop computer.

Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this ____ day of _____, 2016.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

David Catanach
Director, Oil Conservation
Division
S E A L

FINANCE AND ADMINISTRATION, DEPARTMENT OF

NOTICE OF PUBLIC HEARING

The State of New Mexico, Department of Finance and Administration hereby give notice pursuant to law and rules of the following meeting and public hearing to be held at 10:00 a.m. on December 15, 2016 in the Red Room at 407 Galisteo, Santa Fe NM 87501. The Department of Finance will hear the application of the Local Government Division concerning the repeal and replacement of 2.110.4 NMAC issued pursuant to the Local Government Grants NMSA 1978, Sections 11-6A-1 through 11-6A-6. If additional time is needed, the hearing may continue at a later date announced by the Department.

Public documents can be provided in various forms. Please contact Camille Baca, if a summary or other accessible form is needed. A preliminary agenda will be available to the public no later than two weeks prior to the meeting. A final agenda will be available no later

than 24 hours preceding the meeting. Members of the public may obtain copies of the agenda by contacting Camille Baca at the phone number indicated above. Also the agenda will be posted on the Local Government Division website at www.dfa.state.nm.us.

If you are an individual with a disability who is in need of reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, then please contact the Division Director at (505) 827-8051.

PUBLIC EDUCATION DEPARTMENT

NOTICE OF PROPOSED RULEMAKING

The Public Education Department ("Department") hereby gives notice that the Department will conduct a public hearing at Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786, on December 16, 2016 from 9:00 a.m. to 11:00 a.m. The purpose of the public hearing will be to obtain input on the proposed amendment to 6.31.2.13 NMAC (ADDITIONAL RIGHTS OF PARENTS, STUDENTS AND PUBLIC AGENCIES).

Interested individuals may provide comments at the public hearing and/or submit written comments to Jamie Gonzales, Policy Division, via email at rule.feedback@state.nm.us, fax (505) 827-6681, or directed to Jamie Gonzales, Policy Division, Jerry Apodaca Public Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501. Written comments must be received no later than 5:00 p.m. on the date of the hearing. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rule may be accessed on the Department's website

(<http://ped.state.nm.us/>) under the "Public Notices" link, or obtained from Jamie Gonzales (505) 827-7889.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Jamie Gonzales at (505) 827-7889 as soon as possible. The NMPED requires at least ten (10) days advance notice to provide requested special accommodations.

REGULATION AND LICENSING DEPARTMENT SIGNED LANGUAGE INTERPRETING PRACTICES BOARD

PUBLIC RULE HEARING AND REGULAR BOARD MEETING

LEGAL NOTICE

The New Mexico Signed Language Interpreting Practices Board will hold a Rule Hearing on Monday, December 19, 2016. Following the Rule Hearing the New Mexico Signed Language Interpreting Practices Board will convene for a regular meeting to adopt the rules and take care of regular business. The New Mexico Signed Language Interpreting Practices Board Rule Hearing will begin at 10:00 a.m. and the Regular Meeting will convene following the rule hearing. The meetings will be held at the Department of Transportation D3 Building, 7500 Pan American Freeway, NE, Albuquerque, NM 87109.

The purpose of the rule hearing is to consider adoption of proposed amendments and additions to the following Board Rules and Regulations in 16.28 NMAC: Part 1 General Provisions, Part 2 Education and Continuing Education Requirements, Part 3 Application and Licensure Requirements, and Part 7 Licensure for Military Service Members, Spouses and Veterans.

Persons desiring to present their views on the proposed rules may write to request draft copies from the Board office at the Toney Anaya Building located at, 2550 Cerrillos Road in Santa Fe, New Mexico 87505, or call (505) 476-4890. In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comment regarding the proposed rules must present them to the Board office in writing ***no later than December 5, 2016***. Persons wishing to present their comments at the hearing will need (7) copies of any comments or proposed changes for distribution to the Board and staff.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the Board office at (505) 476-4890 at least two weeks prior to the meeting or as soon as possible.

Amanda Lewis
PO Box 25101- Santa Fe, New
Mexico 87504

**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.

FINANCE AND ADMINISTRATION, DEPARTMENT OF

The Department of Finance and Administration approved, at its 10/19/2016 hearing, to repeal its rule 2.110.2 NMAC, Small Cities Community Development Block Grant (filed 6/15/2015) and replace it with 2.110.2 NMAC, Small Cities Community Development Block Grant, effective 11/15/2016.

FINANCE AND ADMINISTRATION, DEPARTMENT OF

TITLE 2 PUBLIC FINANCE CHAPTER 110 LOCAL GOVERNMENT GRANTS PART 2 SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT

2.110.2.1 ISSUING

AGENCY: Department of Finance and Administration Local Government Division, Suite 202 Bataan Memorial Building Santa Fe, New Mexico 87501.

[2.110.2.1 NMAC - Rp, 2 110.2.1 NMAC, 11/15/2016]

2.110.2.2 SCOPE:

All counties and incorporated municipalities, except the cities of Albuquerque, Farmington, Las Cruces, Santa Fe and Rio Rancho. [2.110.2.2 NMAC - Rp, 2 110.2.2 NMAC, 11/15/2016]

2.110.2.3 STATUTORY

AUTHORITY: Title 1 of the Housing and Community Development Act of 1974, as amended.

[2.110.2.3 NMAC - Rp, 2 110.2.3 NMAC, 11/15/2016]

2.110.2.4 DURATION:

Permanent.

[2.110.2.4 NMAC - Rp, 2 110.2.4 NMAC, 11/15/2016]

2.110.2.5 EFFECTIVE

DATE: November 15, 2016, unless a later date is cited at the end of a section.

[2.110.2.5 NMAC - Rp, 2 110.2.5 NMAC, 11/15/2016]

2.110.2.6 OBJECTIVE:

The objective of Part 2 of Chapter 110 is to establish procedures to be used by counties and incorporated municipalities when applying for a small cities community development block grant.

[2.110.2.6 NMAC - Rp, 2 110.2.6 NMAC, 11/15/2016]

2.110.2.7 DEFINITIONS:

A. "Asset management" means a systematic process of maintaining, upgrading, and operating physical assets cost-effectively. It combines engineering principles with sound business practices and economic theory, and it provides tools to facilitate a more organized, logical approach to decision making. It is a planning process that ensures the most value from each asset with a plan to rehabilitate and replace them when necessary. An accurate and up-to-date asset management plan will help communities comply with the government accounting standards board's statement #34 (GASB 34), an accounting standard for publicly owned systems.

B. "Blighted area" means, pursuant to the Metropolitan Redevelopment Act, Section 3-60A-4 NMSA 1978 (as amended), "an area

within the area of operation other than a slum area that, because of the presence of a substantial number of deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or lack of adequate housing facilities in the area or obsolete or impractical planning and platting or an area where a significant number of commercial or mercantile businesses have closed or significantly reduced their operations due to the economic losses or loss of profit due to operating in the area, low levels of commercial or industrial activity or redevelopment or any combination of such factors, substantially impairs or arrests the sound growth and economic health and well-being of a municipality or locale within a municipality or an area that retards the provisions of housing accommodations or constitutes an economic or social burden and is a menace to the public health, safety, morals or welfare in its present condition and use."

C. "CDBG" means the small cities community development block grant program.

D. "Council" means the New Mexico community development council.

E. "Council of governments" means a regional association of municipalities, counties and special districts formed to provide planning and other services to its member organization.

F. "Department" means the department of finance and

administration.

G. “Division” means the local government division.

H. “Economic development” means an activity that improves a community’s economic base by using private and public investments that provide expanded business activity, jobs, personal income and increased local revenues in a defined geographic area.

I. “Federal rules” means code of federal regulations, housing and urban development 24 CFR Part 570 which governs the CDBG program.

J. “ICIP” means an infrastructure capital improvement plan. An ICIP is a planning document developed by a unit of local government, water association, or land grant/merced that includes capital improvement priorities over a five year period and is developed and updated annually. An ICIP includes policy direction, funding time frames, estimated costs, justifications, and details of each specific infrastructure capital improvement project proposed, by year, over the five year period.

K. “Land grant/merced” means a political subdivision of the state organized under Section 49-1-1 through 49-1-23 NMSA 1978, Land Grants General Provisions.

L. “Low and moderate income person” means a member of a household whose income would qualify as “very low income” under the Section 8 housing assistance payments program. Section 8 limits are based on fifty percent of the county median income. Similarly, CDBG moderate income is based on Section 8 “lower income” limits, which are generally tied to eighty percent of the county median low and moderate income.

M. “Non-rural” means a county or an incorporated municipality that does not meet the definition of rural.

N. “Program income” means amounts earned by a unit of general local government or its sub recipient that were generated from the use of CDBG funds.

O. “Rural” means a county with a population of less than 25,000 and an incorporated municipality with a population of less than 3,000. For purposes of determining population a unit of local government, water association, or land grant/merced must use Attachment I at the end of 2.110.2 NMAC.

P. “SBA” means the United States small business administration.

Q. “Set-aside” means a portion of all CDBG funding received by the CDBG program that is annually allocated by the council to be used only for certain set-aside categories that are chosen by the council.

R. “Slum area” means, pursuant to the Metropolitan Redevelopment Act, Section 3-60A-4 NMSA 1978 (as amended), “an area within the area of operation in which numerous buildings, improvements and structures, whether residential or non-residential, which, by reason of its dilapidation, deterioration, age, obsolescence or inadequate provision for ventilation, light, air, sanitation or open spaces, high density of population, overcrowding or the existence of conditions that endanger life or property by fire or other causes, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime and is detrimental to the public health, safety, morals or welfare.”

S. “Units of local government” means an incorporated municipality or county.

T. “Water association” means political subdivisions of the state organized under Section 3-29-1 through Section 3-29-20 NMSA 1978, the “Sanitary Projects Act” or Section 73-21-1 through Section 73-21-55 NMSA 1978, the “Water and Sanitation District Act”.
[2.110.2.7 NMAC - Rp, 2 110.2.7 NMAC, 11/15/2016]

2.110.2.8 INTRODUCTION:

A. The council is responsible for allocating grants under

the CDBG program to assist local communities with basic infrastructure and community development needs.

B. These application regulations will govern the CDBG appropriation allocated to the state from the United States department of housing and urban development.

C. As part of their administrative responsibility, the council and the division will continue to provide technical assistance to prospective applicants and grantees. The nature of these programs requires a thorough outreach effort to ensure that units of local government are aware of program requirements.

D. The council and the division assure local entities and citizens of the state of New Mexico that public comment will be solicited should the council choose to make any substantial changes to these application regulations.
[2.110.2.8 NMAC - Rp, 2 110.2.8 NMAC, 11/15/2016]

2.110.2.9 PROGRAM OBJECTIVES:

A. The CDBG program was established under Title I of the Housing and Community Development Act of 1974, as amended, to assist communities in providing essential community facilities, providing decent housing for residents, promoting economic development, and maintaining a suitable living environment.

B. State and national objectives of the CDBG program require that assistance be made available for activities that address at least one of the following, which are described in greater detail in 2.110.2.16 NMAC:

(1) benefit principally low and moderate income families;

(2) aid in the prevention or elimination of slums or blight;

(3) meet other community development needs of recent origin having a particular urgency because existing conditions pose a serious and immediate threat to the health and welfare of the

community where other financial resources are not available to meet such needs.

C. The state encourages successful applicants to award a fair share of contracts and subcontracts to small, minority, and women's businesses and to commit itself to hire locally for any employment opportunities that will be created as a result of project funding. [2.110.2.9 NMAC - Rp, 2 110.2.9 NMAC, 11/15/2016]

2.110.2.10 ELIGIBLE APPLICANTS:

A. All counties, incorporated municipalities, and New Mexico mortgage finance authority (MFA) are eligible to apply except: the city of Albuquerque, the city of Farmington, the city of Las Cruces, the city of Santa Fe and the city of Rio Rancho which cannot apply since they receive funding directly from the department of housing and urban development (Title I, Section 106) as entitlement cities.

B. Other entities such as water associations, sanitation districts, land grants, public nonprofit groups, council of governments, mutual domestic water consumer associations, etc., cannot apply directly for assistance, other than planning grants.

C. However, these entities may be involved in the execution of an approved CDBG project if the eligible applicant chooses to operate the program through such an entity under a contractual agreement.

D. Indian pueblos and tribes receive funding directly from the department of housing and urban development (Title I, Section 107). Native American tribes are encouraged to submit applications to the Albuquerque HUD Office of Native American Programs, 201 3rd St., N.W., Suite 1830, Albuquerque, New Mexico 87102-3368, (505) 346-6923.

[2.110.2.10 NMAC - Rp 2 110.2.10 NMAC, 11/15/2016]

2.110.2.11 ELIGIBLE ACTIVITIES/CATEGORIES:

Applicants may apply for funding assistance under the following categories:

A. Community

infrastructure: Eligible activities may include, but are not limited to:

- (1) real property acquisition;
- (2) construction or rehabilitation of the following:
 - (a) water systems;
 - (b) sewer systems;
 - (c) municipal utilities;
 - (d) roads;
 - (e) streets;
 - (f) highways;
 - (g) curbs;
 - (h) gutters;
 - (i) sidewalks;
 - (j) storm sewers;
 - (k) street lighting;
 - (l) traffic control devices;
 - (m) parking facilities;
 - (n) solid waste disposal facilities.

B. Housing: Eligible activities may include, but are not limited to:

- (1) real property acquisition;
- (2) rehabilitation;
- (3) clearance;
- (4) demolition and removal of privately-owned or acquired property for use or resale in the provision of assisted housing;
- (5) provision of public facilities to increase housing opportunities;
- (6) financing the repair, rehabilitation and in some cases reconstruction of privately-owned residential or other properties

through either loan or grant programs;

- (7) certain types of housing modernization;
- (8) temporary relocation assistance;
- (9) code enforcement; and
- (10) historic preservation activities;
- (11) not to exceed sixty-five thousand dollars (\$65,000) in CDBG funds per home can be used on home rehabilitation/repair activities.

C. Public facility

capital outlay: Eligible activities may include, but are not limited to:

- (1) real property acquisition;
- (2) construction or improvement of community centers;
- (3) senior citizen centers;
- (4) non-residential centers for the handicapped such as sheltered workshops;
- (5) other community facilities designed to provide health, social, recreational or similar community services for residents.

D. Economic

development: The economic development category is established to assist communities in the promotion of economic development and is described in 2.110.2.26 NMAC.

E. Emergency: The emergency fund provides funding for emergency projects that address life threatening situations resulting from disasters or imminent threats to health and safety.

- (1) Applications under this category will be accepted throughout the year.

(2) Application shall include verification of emergency from an authoritative state agency documenting the need for the emergency project, and shall be submitted no later than 18 months from the date of the authoritative state agency's written verification of emergency.

- (3) An applicant for emergency funding

must verify that it does not have sufficient local resources to address the life threatening condition; and that other federal or state resources have been explored and are unavailable to alleviate the emergency.

F. Planning:

Municipalities, counties, water associations, water and sanitation districts, and land grants are eligible to apply directly for planning grants. Municipalities or counties who have a comprehensive plan dated five years or greater from the date of application submission are required to use CDBG planning grant funds solely for the development of a comprehensive plan. A comprehensive plan must be focused on a community's physical development over the next 15-20 years related to the goals and policies of the community, developed with input from all segments of the community, adopted by resolution or ordinance, and include as a minimum the following required elements and may include the following optional elements:

- (1) required elements:
 - (a) land use including:
 - (i) an analysis and mapping of existing land patterns and an inventory of the amount, type and intensity of uses by land category;
 - (ii) a projection of the distribution, location and extent of future land uses by land use category over a 20-year period;
 - (iii) goals, objectives and policies that address maintaining a broad variety of land uses, including the range of uses existing when the plan is adopted or amended; and
 - (iv) specific actions and incentives that the entity may use to promote planned development, reduction in greenhouse gas emissions, or otherwise encourage certain identified development patterns and the locations where such development patterns should be encouraged;

housing including:

- (i) an analysis of existing housing supply and demand, and forecasted housing needs;
 - (ii) goals, objectives and policies for the improvement of housing quality, variety and affordability, for reduction of greenhouse gas emissions, and for provision of adequate sites for housing and housing opportunities for all segments of the community;
 - (iii) a description of the actions that may be taken to implement housing goals, objectives and policies; and
 - (iv) must comply with the affordable housing act.
- (c) transportation including:
- (i) description and assessment of the location, type, capacity and condition of existing transportation facilities, such as freeways, arterial and collector streets, mass transit or other modes of transportation as may be appropriate;
 - (ii) goals, objectives and policies for encouraging safe, convenient, efficient and economical transportation, including mass transit and facilities for bicyclists and pedestrians, for reduction of greenhouse gas emissions, and potential funding mechanisms; and
 - (iii) a description and assessment of proposed location, type and capacity of proposed transportation facilities designed to implement transportation goals, objectives and policies and a description of funding mechanisms that will be used to fund proposed transportation improvements;
 - (d) infrastructure including:
 - (i) a description and assessment of the location, type, capacity and condition of existing infrastructure, including emergency services, sewage, drainage, local utilities and other types of facilities;
 - (ii)

goals, objectives and policies for promoting the efficient provision of infrastructure; and

(iii)

a description and assessment of proposed facility expansion and improvements designed to support planned uses and implement infrastructure goals, objectives and policies;

(e)

economic development including:

(i)

a description of existing job composition and trends by industry and location characteristics, such as access to transportation or proximity to natural or human resources, that influence the economic development potential of the entity;

(ii)

goals, objectives and policies for promoting economic development; and

(iii)

a description of the actions that the entity will take to implement economic development goals, objectives and policies;

(f)

water including:

(i)

description and assessment of the sources of water supply;

(ii)

the existing demand for water by residential, commercial, institutional, industrial and recreational sectors;

(iii)

assessment of the unaccounted for water losses due to leaks, theft or other reasons;

(iv)

goals, objectives and policies for promoting the efficient use of water and for managing periods of drought; and

(v)

an analysis of the demand for water that will result from future growth projected in the plan, when added to existing uses, and how the demand for water that will result from future projected growth will be served by current water supplies, water conservation, water reuse or a plan to obtain additional water supplies or increase water use efficiencies;

<p>hazard including:</p> <p>(i) an analysis of the risks of hazards such as wildfire, floods, extreme weather conditions, accidents, and terrorism;</p> <p>(ii) goals, objectives and policies for hazard mitigation; and</p> <p>(iii) a description of the actions that will be taken to mitigate hazards; and</p> <p>(h) implementation; a compilation of the plan's goals, objectives, policies, standards or guidelines, along with specific actions to be completed in a stated sequence, which start with adoption of the comprehensive plan by ordinance;</p> <p>(2) optional elements:</p> <p>(a) drainage;</p> <p>(b) parks, recreation and open space;</p> <p>(c) tourism;</p> <p>(d) growth management;</p> <p>(e) fiscal impact analysis;</p> <p>(f) intergovernmental cooperation;</p> <p>(g) social services;</p> <p>(h) historic preservation;</p> <p>(i) asset management plan.</p> <p>(3) if the entity has a comprehensive plan that is not more than five years old at the date of application, it may apply for funding assistance for any of the following planning activities:</p> <p>(a) data gathering analysis and special studies;</p> <p>(b) base mapping, aerial photography, geographic information systems, or global positioning satellite studies;</p> <p>(c) improvement of infrastructure capital improvement plans and individual project plans;</p>	<p>(d) development of codes and ordinances, that further refine the implementation of the comprehensive plan;</p> <p>(e) climate change mitigation and adaptation plan;</p> <p>(f) preliminary engineering report (according to United States department of agriculture/rural utilities service (USDA/RUS) guidelines);</p> <p>(g) related citizen participation or strategic planning process;</p> <p>(h) other functional or comprehensive planning activities;</p> <p>(i) asset management plan; or</p> <p>(j) regionalization of infrastructure and service delivery.</p> <p>(4) applicants may apply for planning assistance throughout the year.</p> <p>G. Colonias:</p> <p>(1) The Colonias category is established in the amount of ten percent of the annual CDBG allocation for specific activities including water, sewer and housing improvements, which are the three conditions that qualify communities for designation to be carried out in areas along the U.S. - Mexican border.</p> <p>(2) Eligible applicants for the Colonias set aside are municipalities and counties located within 150 miles of the U.S. - Mexico border.</p> <p>(3) Colonias must be designated by the municipality or county in which it is located. The designation must be on the basis of objective criteria, including:</p> <p>(a) lack of potable water supply; or</p> <p>(b) lack of adequate sewage systems; or</p> <p>(c) lack of decent, safe and sanitary housing.</p> <p>(4) Appropriate documentation to</p>	<p>substantiate these conditions must be provided along with the application for funding. [2.110.2.11 NMAC - Rp, 2 110.2.11 NMAC, 11/15/2016]</p> <p>2.110.2.12 OTHER ELIGIBLE ACTIVITIES:</p> <p>A. Administrative costs associated with implementing a program such as preparing environmental reviews, and other costs for services are eligible activities.</p> <p>B. Although the costs of conducting program audits are considered an eligible activity, it is recommended that they be paid by the applicant to expedite grant closeout.</p> <p>C. Applicants may use fifteen percent of a CDBG grant for public facility program activities including:</p> <p>(1) employment;</p> <p>(2) crime prevention;</p> <p>(3) child care;</p> <p>(4) drug abuse prevention;</p> <p>(5) education;</p> <p>(6) energy conservation;</p> <p>(7) welfare and recreation.</p> <p>D. The council may pledge future CDBG allocations to guarantee repayment of loans to non-entitlement municipalities and counties for CDBG eligible projects in accordance with Section 108 of the Housing and Community Development Act of 1974, as amended. [2.110.2.12 NMAC - Rp, 2 110.2.12 NMAC, 11/15/2016]</p> <p>2.110.2.13 INELIGIBLE ACTIVITIES: The following are among the activities that are not eligible for CDBG funding assistance:</p> <p>A. construction or rehabilitation of buildings used for the general conduct of government, such as city halls or county courthouses; compliance with the Americans with Disabilities Act is an eligible activity;</p> <p>B. general operation</p>
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and maintenance expenses associated with public facilities or services;

C. income maintenance;

D. housing allowance payments and mortgage subsidies;

E. expenditures for the use of equipment or premises for political purposes, sponsoring or conducting candidates' meetings, engaging in voter registration, voter transportation or other political activities;

F. costs involved in the preparation of applications and securing of funding.

[2.110.2.13 NMAC - Rp, 2 110.2.13 NMAC, 11/15/2016]

2.110.2.14 RURAL ALLOCATION:

A. A minimum of fifteen percent of the CDBG allocation will be awarded to rural counties and municipalities.

B. Rural applicants will compete for funding from the community infrastructure, housing, Colonias, and public facility capital outlay categories.

C. Rural and non-rural applicants will compete for funding from the economic development, emergency and planning categories. [2.110.2.14 NMAC - Rp, 2 110.2.14 NMAC, 11/15/2016]

2.110.2.15 PROGRAM PUBLIC PARTICIPATION REQUIREMENTS:

Applicants must provide opportunities for public participation in the development of community development goals, objectives, and applications for funding assistance by undertaking the following activities:

A. provide for and encourage citizen participation within their areas of jurisdiction with particular emphasis on participation by persons of low and moderate income;

B. provide citizens with reasonable and timely access to local meetings, information, and records relating to proposed and actual use of funds;

C. provide for

technical assistance as determined by the applicant, groups and representatives of low and moderate income persons that request assistance in developing proposals; the level and type of assistance is to be determined by the applicant.

D. provide for public hearings to obtain citizen participation and respond to proposals and questions at all stages;

E. prior to selecting a project and submitting an application for CDBG funding assistance, conduct at least one public hearing for the following purposes:

(1) to advise citizens of the amount of CDBG funds expected to be made available for the current fiscal year;

(2) to advise citizens of the range of activities that may be undertaken with the CDBG funds;

(3) to advise citizens of the estimated amount of CDBG funds proposed to be used for activities that will meet the national objective to benefit to low and moderate income persons;

(4) to advise citizens of the proposed CDBG activities likely to result in displacement, and the unit of general local government's anti-displacement and relocation plans;

(5) to obtain recommendations from citizens regarding the community development and housing needs of the community:

F. After considering all recommendations and input provided at the public hearing(s), the governing body must select one project for which to submit an application for funding assistance at an official public meeting.

G. The applicant must conduct a second public hearing prior to the submission of the application. Public hearing notices must be published in the non-legal section of newspapers, or posted in a minimum of three prominent public places within the project area, with public access. Notice of any public hearing must be published or posted

at least 10 days in advance of the hearing date. Emergency hearings may be called upon 72 hour's notice unless threat of personal injury or property damage requires less notice. Emergency hearings may be called only under unforeseen circumstances, which demand immediate action to protect the health, safety and property of citizens or to protect the applicant from substantial financial loss. All applicants must be in compliance with all provisions of the Open Meetings Act Section 10-15-1 NMSA 1978 et., seq.

H. Evidence of compliance with these public participation requirements must be provided with each application, i.e., hearing notice, minutes of public meetings, list of needs and activities to be undertaken, etc.

I. Amendments to goals, objectives, and applications are also subject to public participation.

J. Applicants must provide for timely written answers to written complaints and grievances within 15 working days where practicable.

K. Applicants must identify how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate.

[2.110.2.15 NMAC - Rp, 2 110.2.15 NMAC, 11/15/2016]

2.110.2.16 PROGRAM REQUIREMENTS FOR MEETING NATIONAL PROGRAM OBJECTIVES:

Each CDBG application must meet at least one of the following three national objectives.

A. Low and moderate income benefit - an activity identified as principally benefiting fifty one percent persons of low and moderate income will be considered eligible only if it meets one of the following criteria:

(1) the activity must be carried out in a neighborhood or area consisting predominantly of persons of low and moderate income

and provide services to such persons;
or

(2) the activity must involve facilities designed for use by a specific group of people or clientele predominantly of low and moderate income; or

(3) the activity must add or improve permanent residential structures that will be occupied by low and moderate income households upon completion; or

(4) the activity must involve creating or retaining jobs, the majority of which must be for persons of low and moderate income.

B. Prevention or elimination of slums or blight - an activity identified as aiding in the prevention or elimination of a slum or blighted area must meet all of the following five criteria.

(1) The area must be designated by the applicant and must meet a definition of a slum, blighted area.

(2) The area must exhibit at least one of the following physical signs of blight or decay.

(a) At least one quarter of all the buildings in the area must be in a state of deterioration.

(b) Public improvements throughout the area must be in a general state of deterioration. For example, it would be insufficient for only one type of public improvement, such as the sewer system, to be in a state of deterioration; rather, the public improvements taken as a whole must clearly exhibit signs of deterioration.

(3) Documentation must be maintained by the applicant on the boundaries of the area and the condition that qualified the area at the time of its designation.

(4) The activity must address one or more of the conditions that contributed to the deterioration of the area.

(5) To comply with this objective on a spot basis

outside of a slum or blighted area the proposed activity must be designated to eliminate specific conditions of blight or physical decay including:

(a) acquisition and clearance of blighted properties;

(b) renovation and reuse of abandoned, historic properties;

(c) commercial revitalization through façade improvements; or

(d) removal of environmental contamination on property to enable it to be redeveloped.

C. Urgent need - planning grants are not allowed under urgent need. Verification of the urgency of the need must be provided with written documentation by the appropriate authoritative state agency. An activity identified as having urgent community development needs will be considered only if the applicant verifies the following:

(1) that the activity is designed to alleviate existing conditions that pose a serious and immediate threat to the health and welfare of the community;

(2) that the condition(s) to be alleviated is of recent origin, i.e., it developed or became critical within 18 months preceding the certification by the applicant; and

(3) that the applicant is unable to finance the activity on its own and other sources of funding are not available.

[2.110.2.16 NMAC - Rp, 2 110.2.16 NMAC, 11/15/2016]

2.110.2.17 APPLICATION REQUIREMENTS:

A. Number of applications - all eligible applicants may submit one application for CDBG funding assistance in the community infrastructure, public facility capital outlay, or Colonias categories.

B. Planning applicants may submit at any time an additional planning application that shall not exceed fifty thousand dollars

(\$50,000).

C. Applications for the economic development and emergency categories may be submitted at any time and shall be limited to a maximum of five hundred thousand dollars (\$500,000.00) for applications without certified cost estimates; and a maximum of seven hundred fifty thousand dollars (\$750,000.00) for applications accompanied by a certified cost estimate from an engineer, architect, or landscape architect licensed to do business in the State of New Mexico, which must be certified no more than 120 days prior to application submission.

D. Counties may submit multiple applications for planning grants on behalf of eligible applicants.

E. Planning, economic development, and emergency applications may be submitted even if the applicant has not completed previously awarded CDBG projects.

F. Single purpose application -an application must be limited to a project specific activity or set of activities that address a particular need in a designated target area of a unit of local government.

G. Joint applications - Joint applications are allowed when two or more eligible applicants within reasonable proximity of each other wish to address a common problem.

(1) Joint applications must satisfy certain criteria found in federal rules and must receive division approval prior to submitting an application for funding assistance.

(2) One community will be designated to serve as the lead applicant and will be subject to administrative requirements and to the application limit requirements.

(3) Other parties to the joint application may submit another application.

H. The following minimum requirements apply to all applications for CDBG funding:

(1) Applications must involve a project

that will be fully functional on a stand-alone basis once awarded CDBG and other committed funds have been expended.

(2) Projects shall be completed within 24 months of an executed grant agreement signed by both parties.

(3) Applications shall be limited to a maximum of five hundred thousand dollars (\$500,000.00) for applications without cost estimates; and a maximum of seven hundred fifty thousand dollars (\$750,000.00) for applications accompanied by a certified cost estimate from an engineer, architect, or landscape architect licensed to do business in the State of New Mexico, which must be certified no more than 120 days prior to application submission.

(4) Application must be complete, with all documentation provided as listed on the submission and attachment checklist included in the application, otherwise application will be deemed ineligible and the application will be returned to the applicant and will not be considered for funding.

(5) Applications must include a determination of rural or non-rural status.

(6) Applications must include estimates of both full and phased project costs.

I. Threshold requirements - a project must be completed by the deadline for threshold compliance.

(1) Any open CDBG project must be completed at the time of application (certificate of occupancy or certification of operation must be in place).

(2) Any previous CDBG project's monitoring findings and concerns must be resolved.

(3) The current applicant's fiscal operating budget must be certified by the division.

(4) The applicant's quarterly/monthly financial reports to the division must be current.

(5) An applicant must have submitted to the New Mexico state auditor its most current audit(s) that were required to be conducted and submitted for review per the New Mexico state auditor's required report due dates for the previous fiscal year(s) and an applicant must be in compliance with the budget certification rule, 2.2.3 NMAC.

(6) The set aside categories; planning, economic development and emergency, are exempt from threshold requirements set forth in Subsections I of 2.110.2.17 NMAC.

J. Matching requirements - to extend available resources and to ensure applicants are invested in projects, the following matches will be required.

(1) Rural applicants must provide, at a minimum, a five percent cash match during the project period from local, state or other public resources, excluding local work force or local equipment.

(2) Non-rural applicants must provide, at a minimum, a ten percent cash match during the project period from local, state or other public resources, excluding local work force or local equipment.

(3) An application in the economic development category must provide at least one private dollar in match for each dollar of CDBG funds requested.

(4) Local funds expended by an eligible applicant for engineering, architectural design or environmental review prior to project approval can be applied towards the required match.

(5) Applicant may request a waiver of the matching requirement if documentation can be provided to demonstrate the absence of local resources to meet the required match. Criteria used by the division to recommend council approval/disapproval will be as follows:

(a) the required match must exceed five

percent of the applicant's general fund budget;

(b) the required match must equal or exceed the available balance of funds in the applicant's overall budget.

K. Other funding commitments - if other funding is necessary to make a proposed project feasible, funding commitments must be in place and letters of commitment or grant agreement from the funding agency must be submitted with the application.

L. Asset management - communities that implement an asset management program and use that approach as the basis for their rate analysis will be credited in the application process for their achievement. To support the long term operation, maintenance, repair and replacement of system facilities, infrastructure, public facilities, or other eligible activities the following will be required to be submitted at the time of application. The model for the asset management program is the international infrastructure asset management model. This approach includes five core components:

(1) current state of the assets: an asset inventory that includes at a minimum: asset name, asset location, asset condition, useful life, and an estimate of replacement value;

(2) level of service: a description of type and level of service provided;

(3) criticality: an evaluation of which assets are critical to sustaining the operation;

(4) life cycle costing: at a minimum, a capital improvement plan that describes the replacement of assets and some consideration of operation and maintenance of the assets;

(5) financing plan: a description of the funding sources that will be used to pay for capital and operational needs.

[2.110.2.17 NMAC - Rp, 2 110.2.17 NMAC, 11/15/2016]

2.110.2.18 APPLICATION SUBMISSION PROCEDURES AND CONTENT: The application

packet provided by the division must be used. It is only necessary to answer the questions on the application that pertain to the relevant single project category.

A. An applicant must submit an original (hard copy) and two separate electronic copies of each application to the division, and one electronic copy to the appropriate council of governments.

B. Applications for community infrastructure, housing and public facility capital outlay must be date stamped by the division on or before 5:00 p.m. on the designated application deadline. Applications received after that time will not be processed.

[2.110.2.18 NMAC - Rp, 2 110.2.18 NMAC, 11/15/2016]

2.110.2.19 APPLICATION REVIEW AND EVALUATION PROCESS:

A. Upon receipt of an application, division staff will review for eligibility, completeness, feasibility, and compliance and ensure that all other funding necessary to make the project functional is in place. Applications not meeting the criteria will be returned to the applicant and will not be considered for funding.

B. Applications will be forwarded to appropriate state agencies for technical review and comment. Review agencies may include, but are not limited to, the environment department, department of transportation, department of health, state engineer's office, agency on aging and long term services, economic development department, state fire marshal and governor's commission on disability.

C. An eligible applicant will be allowed to make a presentation to the council and division staff at the official hearing. Testimony related to the application will be presented by an official or designee of the applicant who may be assisted by technical staff.

D. Community infrastructure, housing, public facility capital outlay, emergency,

and Colonias rating criteria: The following rating criteria will be used to evaluate and score CDBG applications for the community infrastructure, housing, public facility, capital outlay, emergency, and Colonias categories.

(1)

Description and need - (10 points) the more severe the need as documented in the application, the higher the score.

(2) Benefit

to low and moderate income beneficiaries and appropriateness - (20 points) extent to which the CDBG application:

(a)

documents the number and percentage of low and moderate income beneficiaries, also include race and gender; or

(b)

addresses the prevention or removal of slum or blighting conditions; or

(c)

addresses conditions that pose a serious and immediate threat to the health and welfare of the community (for emergency applications only).

(3)

Leveraging - (10 points) extent to which state, local and other public resources, in addition to the required match, will be used by the applicant for the proposed project.

(4) Citizen

participation - (10 points) extent to which the applicant evidences opportunity for citizen activities related to the proposed project:

(a)

(10 points) has provided four or more citizen activities;

(b)

(7 points) has provided three citizen activities;

(c)

(5 points) has provided two citizen activities.

(5) Planning

- (10 points) extent to which:

(a)

(3 points) applicant has adopted a local ICIP, which has qualified for publication in the most recent state published prior to the CDBG application deadline. Evidence of the

adopted ICIP for the current year must be provided as part of the application;

(b)

(3 points) project has qualified for publication in the most recent state ICIP prior to the CDBG application deadline and applicant has selected CDBG as one of its possible funding sources. Evidence of such publication identifying the project and selecting CDBG funds as a possible funding source must be provided with application;

(c) (1

point) project shows consistency with applicant's comprehensive plan;

(d) (1

point) applicant has adopted a drought contingency plan, setting in place various drought management stages and accompanying restrictions on water use;

(e) (1

point) applicant has adopted a water conservation ordinance, setting in place various methods for conserving potable water;

(f)

(1 point) applicant has implemented a water conservation ordinance, accompanied by evidence of exercising at least two various methods for conserving potable water.

(6)

Feasibility/readiness - (20 points) extent to which the project is technically and economically feasible and ready to be implemented;

(a)

(5 points) necessary real property or easements acquired;

(b) (5

points) professional services contract executed;

(c)

(5 points) completed plans, specifications, bid documents, or preliminary engineering reports; and

(d)

(5 points) completed environmental review process.

(7) Cost

benefit - (10 points) the amount of funds requested divided by the number of direct low and moderate income beneficiaries of the project; the lower the ratio, the higher score.

(8) Asset

management plan - (maximum of 10 points).

(a) (1 point) attendance within the last three years at an asset management training that includes the five core components as described in the international infrastructure asset management model;

(b) (2 points) development of an asset management plan that includes some, but not all, of the five core components;

(c) (10 points) development of a complete asset management plan with all five core components.

(9) **Council application scoring** - (10 points) Each member of the council shall be allowed to award up to 10 points per application in the application rating process, with one point for a low priority, five points for a medium priority and 10 points for a high priority project based on the criteria used for rating. The points will be averaged by totaling the individual member scores and dividing by the number of members who scored the project.

(10) **Additional Colonias criteria** - When submitting a Colonias applicant shall prove documentation of the Colonias designation and documentation that the project shall address one of the following conditions:

(a) lack of potable water; or

(b) lack of an adequate sewage system; or

(c) lack of safe, sanitary housing.

E. Planning grant criteria: The following rating criteria will be used to evaluate and score CDBG applications for the planning category.

(1) **Description and need** - (20 points) extent to which the application:

(a) provides detail for and documents community need for the project; and

(b) describes the impact that the project

will have on the community; and
(c) is determined to be feasible.

(2) **Benefit to low and moderate income beneficiaries and appropriateness** - (20 points) extent to which the CDBG application:

(a) documents the number and percentage of low and moderate income beneficiaries, including race and gender; and

(b) is in alignment with existing planning documents, or proposes the development of a new comprehensive plan.

(3) **Leveraging** - (15 points) extent to which federal, state, and local resources in addition to the required match, will be used by the applicant for the proposed project.

(4) **Citizen participation** - (10 points) extent to which the applicant evidences opportunity for citizen activities related to the proposed project:

(a) (10 points) has provided 4 or more citizen activities;

(b) (7 points) has provided 3 citizen activities;

(c) (3 points) pledges opportunities for actives;

(d) (2 points) has provided 1 citizen activity;

(5) **Planning** - (20 points) extent to which:

(a) (5 points): applicant has adopted a local ICIP, which has qualified for publication in the most recent state ICIP published prior to the CDBG application;

(b) (5 points): the proposed project has qualified for publication in the most recent state ICIP prior to the CDBG application and applicant has selected CDBG as one of its possible funding sources;

(c) (2.5 points): applicant's proposed project shows consistency with

applicant's comprehensive plan;
(d)

(2.5 points): applicant adopts a drought contingency plan, setting in place various drought management stages and accompanying restrictions on water use;

(e) (2.5 points): applicant adopts a water conservation ordinance, setting in place various methods for conserving potable water;

(f) (2.5 points): applicant implements a water conservation ordinance, accompanied by evidence of exercising at least two various methods for conserving potable water.

(6) **Cost benefit** - (10 points) the amount of funds requested divided by the number of low and moderate direct beneficiaries of the project. The lower the ratio the higher the score.

(7) **Comprehensive plan** - (5 points) whether the community has an updated comprehensive plan that is not more than five years old.

F. Economic development rating criteria is included in 2.110.2.26 NMAC.

G. Site visits will be conducted as needed to verify or review information presented.

H. Emergency, economic development and planning applications that are in compliance with all applicable rules and regulations are received and evaluated throughout the year.

I. The council delegates to the division director the authority to award, in the division director's discretion, funding for applications for emergency, economic development, and planning projects in compliance with applicable rules and regulations. The division will provide the council with an update on all such awards at each council meeting. [2.110.2.19 NMAC - Rp, 2 110.2.19 NMAC, 11/15/2016]

2.110.2.20 SELECTION OF CDBG GRANTEES BY COUNCIL:

A. Division staff will

present its recommendation to the council at least seven days prior to each allocation meeting.

(1) Staff recommendation will present projects in high, medium and low groupings.

(2) Staff recommendation will include specific funding allocation amount to each project, within total available funds.

B. The council will review staff recommendation and funding allocation and make funding decisions in an open public meeting.

C. The council, in making its final decisions, will consider the past performance of the applicant in administering CDBG projects.

D. The council may adjust the scope and dollar amount to stay within available funding or for purposes of consistency.

E. The council may deviate from staff recommendation and funding allocation, if the council by majority vote determines and substantiates that any of the following conditions apply:

(1) To not fund a project recommended by the division staff other funding sources for the project are available or other applications were deemed to be a priority or circumstances have changed since the application was submitted.

(2) To fund a project not recommended by division staff.

(a) the health and safety of area residents is at stake;

(b) funding committed to the project from other sources may be jeopardized;

(c) significant economic benefits will be realized if the project is implemented; or

(d) the need for the project is critical.

F. The council will make funding determinations by a majority vote.

G. The council may waive or adjust any division imposed CDBG application requirement as

long as the waiver will not result in violation of state or federal statutes, regulations, rules, or penalize other applicants.

H. If the council sets aside funding for emergency, economic development or planning; the council may at any time during the calendar year, transfer funds between categories if there is limited demand in the funded categories.

The transferred funds may be used to fund projects that were previously submitted for funding.

[2.110.2.20 NMAC - Rp, 2 110.2.20 NMAC, 11/15/2016]

2.110.2.21 REVERSIONS, SUPPLEMENTAL FUNDING AND UNDERRUNS:

A. Decision of the division to impose special conditions or fiscal agent requirements - if a CDBG award is provided to a grantee that has deficiencies identified in the audit(s) approved by the state auditor's office, the division reserves the right to impose special conditions or fiscal agent requirements dependent upon the specific findings or opinions as described in the audit(s).

B. Decision by the council to revert funds - if, within 12 months of a CDBG award for a project by the council, the CDBG award has not resulted in a signed grant agreement between the division and the applicant or the applicant has not made adequate progress on the project or the council determines there was fraud or misrepresentation regarding the project by the applicant, the division may recommend to the council to revert all or part of the award and the council may vote to revert all or part of the award. The applicant shall receive written notice from the division of the council's decision to revert all or part of award by certified mail. The applicant may appeal, in writing, the council's decision to revert all or part of the award within 30 days of receipt of the written notice of the council's decision. The appeal of the council's decision by the applicant shall be held at a council meeting no later than 90 days from the council's receipt of the

written appeal. The council's decision on the appeal of the reversion shall be final. The council may grant the applicant a reasonable period of time to cure the particular default that was the basis of the reversion. At the end of the cure period, the council shall vote again on the issue of the reversion and this decision shall be final.

C. Reversions and supplemental funding - When funds are reverted from a previously approved project grant or additional funds are made available for any other reason, the council may decide that the funds will:

(1) be added to the emergency fund;

(2) be returned to the category of the program from which it was awarded;

(3) go into any other category; or

(4) take other action as deemed appropriate.

D. Underruns - if upon completion of the approved activities a balance of funds remains after all payments have been made, this balance shall be handled as follows: if the grantee has not accomplished all work called for in the original application submitted for funding consideration, the grantee may request division staff to approve the expenditure of underrun funds for a portion or all of the remaining work.

(1) if appropriate justification and sufficient funding exist, division staff may approve the request for use of underrun funds and amend the grant agreement accordingly;

(2) a negative decision may be appealed to the council.

E. If the grantee proposes to undertake activities not included in the approved application, the grantee may request council approval to expend underrun funds for other eligible activities. The council may approve the request if appropriate justification and sufficient funding exist.

F. If the council disapproves a request for use of an

underrun, associated funds shall revert to the council for disposition.

G. The processes described above for handling underruns are intended to encourage the grantee to use the most cost efficient means possible to construct projects funded by the council. Grantees shall not take advantage of this process by inflating initial funding requests.

[2.110.2.21 NMAC - Rp; 2 110.2.21 NMAC, 11/15/2016]

2.110.2.22 PROGRAM INCOME:

A. Grantees must pay CDBG program income to the state, except that grantees will be permitted to retain program income only if they always use the income for CDBG eligible activities upon council approval of a program income utilization plan.

B. Program income received by the state will be placed in the economic development category.

C. Program income retained by grantees shall be used to fund CDBG eligible activities and must meet CDBG requirements. [2.110.2.22 NMAC - Rp, 2 110.2.22 NMAC, 11/15/2016]

2.110.2.23 CITIZEN ACCESS TO RECORDS: Citizens and units of general local government will be provided with reasonable access to records regarding the past use of CDBG funds. [2.110.2.23 NMAC - Rp, 2 110.2.23 NMAC, 11/15/2016]

2.110.2.24 NM COMMUNITY ASSISTANCE FUNDS: The council will allocate and administer New Mexico community assistance underrun funds in accordance with the provisions of the Community Assistance Act. [2.110.2.24 NMAC - Rp, 2 110.2.24 NMAC, 11/15/2016]

2.110.2.25 MEETING PROCEDURES:

A. Special meetings. Special meetings of the council may be called by a majority of the council

members or the chairperson of the council, and will be held at the time and place fixed by the division.

B. Notice. Written notice stating the time, place and, if a special meeting, the purpose, will be delivered either personally, by mail, or email by the division, to each council member at least 72 hours before the scheduled date of the meeting. The meeting notice and agenda will be available to the public and posted on the department of finance and administration web site. The council may establish dates and times for regularly scheduled meetings.

C. Quorum. A majority of the current members of the council in attendance either in person or by telephone will constitute a quorum at council meetings.

D. Record of meetings. The meeting shall be recorded and the division shall have the minutes made into a written record. The original of this record shall be retained by the division and a copy shall be forwarded to the council members. Copies shall be available upon request.

E. Participation methods. A member of council may participate in a meeting of the council by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, provided that each member participating by conference telephone can be identified when speaking, all participants are able to hear each other at the same time and members of the public attending the meeting are able to hear any member of the council who speaks during the meeting. [2.110.2.25 NMAC - Rp, 2 110.2.25 NMAC, 11/15/2016]

2.110.2.26 ECONOMIC DEVELOPMENT PROGRAM GUIDELINES:

A. Goals and objectives: The state's CDBG economic development goals and objectives include:

(1) creating or

retaining jobs for low - and moderate-income persons;

(2) preventing or eliminating slum areas and blighted areas;

(3) meeting urgent needs;

(4) creating or retaining businesses owned by community residents;

(5) assisting businesses that provide goods or services needed by, and affordable to low - and moderate-income residents;

(6) providing technical assistance to promote any of the activities under Paragraph (1) through (5) of Subsection A of 2.110.2.26 NMAC.

B. Eligible activities: CDBG eligible activities authorized under Sections 570.200, 570.201, 570.202, 570.203, 570.204, 570.482 and 570.483 of the federal rules and directly affecting the creation or retention of employment opportunities, the majority of which are made available to low and moderate income persons, may include activities carried out by public, private nonprofit, or private for-profit entities when such activities are appropriate.

(1) To meet the needs and objectives of the community economic development plan, a project may include: acquisition of real property, construction, reconstruction rehabilitation, or installation of public facilities, site improvements, and utilities, and commercial or industrial buildings or structures and other commercial or industrial real property improvements and planning.

(2) Grantees and nonprofit sub recipients may carry out for the purpose of economic development, a wide range of activities such as those listed in Section 570.203 of the federal rules.

(3) The for-profit businesses, however, may carry out only the activities listed in that section and rehabilitation activities listed in Section 570.202 of the federal rules.

C. Financing policies

and techniques: The CDBG program, as a development tool, can provide flexibility and take greater risks than conventional lending sources in its lending policies and financing techniques. For example, the program may:

- (1) offer a negotiated period for repayment of principal and interest;
- (2) take greater risk than banks are traditionally prepared to take, provided substantial economic development benefits will result if the loan is granted;
- (3) leverage capital by reducing risk for commercial lenders and by taking a subordinate security/collateral position; or
- (4) provide more favorable rates and terms than are generally available through conventional sources.

D. Project

requirements: Project requirements for eligible CDBG economic development assistance include, but are not limited to:

- (1) specific employment commitments for low and moderate income residents, generally with no more than fifty thousand dollars (\$50,000.00) in CDBG funds being used for each job created or retained;
- (2) at least fifty-one percent of the jobs created/retained must be held or made available to persons of low to moderate income persons;
- (3) within six months of completion of the project, the grantee is required to report to LGD, documentation to reflect the total number of jobs created or retained;
- (4) a firm commitment for private financial participation in carrying out the proposed project, contingent on award of CDBG funding only, must be included with the application;
- (5) a minimum leveraging ratio of one new private investment dollar to one CDBG dollar is required additional; greater

leveraging will enhance a project's competitiveness;

- (6) a determination by the applicant and its governing body that there is a well-documented need for CDBG assistance to make the project financing feasible and that the level of assistance requested is commensurate with the public benefits expected to be derived from the economic development project;
- (7) evidence of project feasibility including a business plan that contains financial statements, project pro forma (cash flow projections) and specific source and intended use of all funds or assets used in the project;
- (8) generally, projects that directly assist in the relocation of a business or industry from one community to another, intrastate or interstate, will be disqualified;

- (9) prior to submission of an application, applicants should thoroughly review the credit worthiness of the proposed borrower and should obtain appropriate credit reports, audited financial statements, tax returns and verify collateral.

E. Program income:

In addition to program income the requirements of 2.110.2.22 NMAC the Housing and Urban Rural Recovery Act that amended the Housing and Urban Rural Recovery Act 1983, provides, relative to economic development, the following:

- (1) states may require program income to be returned to the state but local governments must be allowed to keep program income when used for the same activity which generated the income;
- (2) if the applicant intends to retain program income, a program income utilization plan must be submitted with the application for approval.

F. Application

cycle: Applications for economic development can be submitted at any time, and the division staff has 30 days to review them.

G. Pre-application

conference: It is recommended that a pre-application conference be held prior to the submission of the final application to ensure that all elements are adequately addressed and to review any new federal guidelines that may be issued that relate to economic development activities. Contact the division, economic development representative for information. More detailed and extensive financial and project data may be required depending on the specific project. In addition, meeting the national objective to benefit low and moderate income requires documentation certifying that the majority of the jobs are created for or retained by low and moderate income persons or the majority of jobs are considered available to them. Please contact the division for a copy of the HUD guidelines.

H. APPLICATION

REQUIREMENTS: The following must be included along with the regular CDBG application, and should be submitted in lieu of question #2 in the regular application.

(1) Economic

development plan: The applicant must submit as an attachment to the application a short (five page maximum) description of its plan for encouraging local economic development. The plan, incorporating references to the proposed project, should include a discussion of the following elements.

(a)

Need - List the community's underlying economic problems. Need might include recent major industry shutdowns or extended layoffs, substantial increases in population without a corresponding increase in job opportunities, substantial population decreases due to lack of available or appropriate job opportunities, a lack of industrial diversification, the existence of large numbers of workers in the area with obsolete skills or skills for which there is no current demand, or other problems unique to the applicant's community.

(b)

Goals - Describe what the community attempting to accomplish through its overall economic development program (not just that activity for which CDBG funding is sought). Goals might include preserving existing businesses or industries, encouraging community growth, fostering industrial diversification, revitalizing the central business district, or creating complementary industries to provide jobs in the off-season for workers now only seasonally employed.

(c)

Resources - List the public and private resources, both financial and technical, available to help the community carry out its economic development program. Resources may include for example, a local development corporation or similar body has any agency organization assigned staff member(s) to work on economic development activities for a major portion of their time has the financial community's demonstrated willingness to participate in development activities, whether there is adequate available labor force to meet the demands of new or expanding businesses and industries, or whether the community has unique development advantages, e.g., location, transportation facilities, industrial park or other plant sites, available raw materials, abundant power supplies, employee training capabilities, a locally-administered revolving loan fund to assist growing businesses or industries, technical assistance programs to help business people deal with marketing, management, or financial planning problems.

(d)

Strategy - Describe the strategy the community is using to pursue its economic development goals. Strategy might include the specific prioritized activities that have been identified as components of the community's strategy for encouraging local economic development costs of each strategy, funding sources available, and how the local government will support the strategies. Strategies might include

offering property tax reductions to new or expanding industries, forming a local economic development corporation, or preparing industrial or tourism promotion packages.

(e)

Results - Describe actions the community has already undertaken to implement its economic development plan, the funding sources used and results achieved. Results may include how many new jobs have been created or existing jobs retained, how many new firms have begun operations in the community. Or how many existing firms have undertaken expansion activities.

(2) Hiring

and training plan:

(a)

Applicants must establish procedures for the project to ensure preferential recruitment, hiring, and training of local workers, particularly those of low and moderate income.

(b)

In the event of a grant award, the applicant's commitment to the hiring plan will be considered binding and will be incorporated by reference in the grant agreement between the local governing body and the division.

(3) Private

sector commitments:

(a)

Applicants must provide evidence of firm commitments of financial resources from the private sector.

(b)

Such commitments should be binding, contingent only upon receipt of CDBG funds.

(c)

Investments made or costs incurred prior to the grant application are not eligible for use as matching funds or leverage but should be referenced as related to the total project, if applicable.

(4) Public

sector commitments:

(a)

If public sector resources are to be involved in the proposed economic development project, applicants must demonstrate evidence of a firm commitment of public funds or other resources.

(b)

Such commitments should be binding, contingent only upon receipt of CDBG funds to the project.

(c)

Evidence may include resolutions or ordinances passed by the local governing body and other appropriate local groups.

(5) Use

of CDBG funds for economic development loans (if applicable):

(a)

Any project that includes a loan should provide an explanation of the proposed interest rate, terms and rationale for the proposed financing structure.

(b)

Any loan made by a local governing body with CDBG funds as a part of an approved CDBG economic development project must be adequately secured.

(c)

Subordinated loans may be made when justifiable and appropriate in the sole discretion of council.

(d)

The applicant must include a detailed description of the proposed use of program income. (principal and interest). Applicants are encouraged to designate program income to be returned to the state for future economic development set-aside eligible activities.

(6) Viability

of assisted enterprises: Any for-profit entity to be assisted with CDBG funds must document that without participation of CDBG funds the proposed activity would not be feasible and that after receipt of CDBG assistance the enterprise will be viable and self-sustaining. All applicants proposing an economic development activity shall submit the following for any entity to be assisted with CDBG funds.

(a)

a business plan consisting of at least a description of the history of the firm, background, and experience of the principals, organizational structure, a description of its major products or services, market area and market share, goals, and planned expansions

or changes in operations; the plan should also describe the impact the CDBG project, if funded, would have on the firm's activities;

(b) a three year to five year operating plan forecast (profit and loss projection); applicants may use SBA forms or equivalent;

(c) a monthly cash flow analysis, SBA forms or equivalent;

(d) for any existing business, the two most recent year-end financial statements, including an income statement and balance sheet.

I. RATING

CRITERIA: The economic development rating criteria will give priority to projects that firmly demonstrate the following: need, appropriateness, impact, and benefit to low and moderate income persons. Since each application will be unique, there are no "right" or "wrong" activities or solutions. The ranking of "appropriateness" and "impact" will necessarily be in part subjective, with the division taking into account not only how well each applicant addresses the problems it has defined, but also how its problems and responses compare with those of other applicants.

(1) NEED

- (200 points) - In analyzing an applicant's need for a project, the division will use statistical information provided by the New Mexico department of workforce solutions and the U.S. bureau of the census which is uniformly available for all 33 counties. Since similar data is not accumulated at the municipal level, cities and towns will be scored with the figures for the county in which they are located. The three factors that will be considered are: the average number of unemployed persons in the county during the last calendar year; average percent of unemployment in the county during the last calendar year; the average unemployment rate in the county in the last five calendar years.

(a)

The data will be calculated and each

applicant assigned a relative score.

(b)

The division will consider assigning a different score in exceptional cases, where an applicant can conclusively demonstrate that the first two factors used to measure economic need are not reflective of local economic conditions (such as major recent plant closings) and the situation is substantiated by the New Mexico department of workforce solutions. A request for consideration of local economic data must be submitted with the application. The applicant should identify sources of data and define methodologies.

(2)

APPROPRIATENESS - (200 points) - Scores will be based on the soundness of the applicant's economic development plan and the related project for which CDBG funding is sought, and the strength of the applicant's hiring and training plan for ensuring that local residents, particularly those of low and moderate income, will be hired to fill the stated number of jobs created or retained as a result of CDBG-funded activities. Points are available as follows:

(a)

Plan and program - (140 points) - Scoring will reflect whether:

(i)

the applicant has developed a complete, well-reasoned, appropriate, and achievable plan for dealing with its total economic development needs, taking into consideration all available public and private resources and local capacity;

(ii)

the local governing body has officially adopted the economic development plan as a matter of public policy;

(iii)

the proposed project is an integral part of that plan; (it need not be the first priority item identified in the overall plan if other, more appropriate, resources are available and already being used to meet higher priority items);

(iv)

the applicant has made substantial local efforts to deal with its economic

development problems;

(v)

the proposed CDBG project is realistic and workable, and the job savings or creation expected to result from its implementation will occur within a reasonable time following the date of grant award;

(vi)

if income is to be generated by CDBG-funded activities, and retained locally, a plan for the use of that program income has been developed and submitted with the application; this plan must include mechanisms established for administration of the funds, (if a revolving loan fund is to be established with program income, procedures must be outlined covering local application processing, time frames, approval, negotiation, pricing, packaging, servicing, etc.);

(vii)

there has been active citizen participation in the development of the economic development plan and in the selection of the project.

(b)

Hiring and training plan - (60 points) - Each applicant must include in its application an employment and training plan to be used in filling jobs created or retained as a result of CDBG activities. Scoring will reflect whether:

(i)

the applicant's employment and training plan provides clear, complete procedures for outreach, recruitment, screening, selection, training, and placement of workers which will ensure maximum access of local residents, particularly persons of low and moderate income, to jobs created or saved by the project;

(ii)

attention has been given to necessary supportive services for trainees needing them;

(iii)

a complete training curriculum has been developed and all training resources identified;

(iv)

responsibility has been assigned for all phases of the training program.

(v)

a written agreement to follow the plan

has been obtained from each firm expected to benefit directly from the project.

(3) IMPACT

- (200 points) - In weighing the anticipated impact of the applicant's proposed CDBG activities on the community's identified problems, the following four factors will be scored:

(a)

Leverage - (50 points) - Applicants will be scored based on the ratio of private non-CDBG dollars for each dollar of CDBG funds requested.

(b)

CDBG dollars per job - (50 points) - The total CDBG funds to be used (exclusive of administrative funds) will be divided by the total number of full-time jobs expected to result. In evaluating an applicant's job creation projections, the division will consider the historical relationships of sales, space, and machines to jobs. It will also look at typical ratios for the industry of which the firm to be assisted is a part. Applicants should be prepared to justify job creation claims that substantially exceed industry norms or fifty thousand (\$50,000) per job created or retained.

(c)

Type of jobs - (50 points) - Applicants must indicate the percentage of jobs to be created or retained that are full-time or part-time, skilled, semi-skilled, or unskilled. Scores will be higher to the extent and application will create or retain full-time skilled, and semi-skilled jobs.

(d)

Overall economic impact - (50 points) - The applicant must discuss both the direct and indirect effects the CDBG program is expected to have on the community's economy. Some of the factors that will be scored are:

(i)

the additional payroll expected to be generated for the jobs created or retained by the program;

(ii)

the total number of jobs to be created or retained;

(iii)

whether the firm to be assisted is an economic base industry (producing goods or services mainly to be sold

outside the area or state, thereby importing dollars into the community and state economy); and

(iv)

whether local property tax revenues will be significantly increased as a result of the proposed business start-up, expansion, retention, etc.

(4) BENEFIT

TO LOW AND MODERATE INCOME PERSONS - (200 points)

(a)

This ranking criterion assesses the extent to which persons of low and moderate income will directly benefit from the expenditure of CDBG funds. To determine this score, the number of jobs to be created or retained and made available to low and moderate income persons will be divided by the total number of jobs to be created or retained as a result of the CDBG program.

(b)

The highest score will receive up to a maximum of 200 points to be eligible for consideration a project must demonstrate that it will benefit principally persons of low and moderate income.

[2.110.2.26 NMAC - Rp, 2 110.2.26, 11/15/2016]

Continued On Following Page

Attachment I
(Referenced by: 2.110.2.7 NMAC)
CDBG projects are designed to meet one of three national objectives: low and moderate income, slum and blight, or emergency. For those projects that are designed to meet the low and moderate income national objective, applicants may choose between two different processes to determine low and moderate income eligibility: (1) conduct a special survey using the HUD approved methodology in accordance with Section A "Survey Methodology" and Section C "HUD Section 8 Income Limits" below; or (2) use the most recent low and moderate income data from section B "American Community Survey" and Section C "HUD Section 8 Income Limits" below.
A. Survey Methodology
The division recommends using the following HUD approved methodology:
This survey methodology was designed by HUD to assist States and entitlement cities in determining whether most of the individuals in a proposed target area are of low and moderate income.
Upon requesting permission from the division to conduct a sample survey, an applicant should indicate the justification for the sample survey. Applicants must provide to the division a map of the project service area, a brief description of the proposed project, and a description of how the six steps described in the suggested methodology will be implemented.
If the applicant conducts a sample survey, such applicant must be prepared to document all efforts. There must be a master list (with telephone numbers, where possible) to match the surveys. The master list must be coded to the individual surveys.
Such documentation must include a separate survey for each household, for unreachables that could not be replaced from the universe, and for "non-households" in the survey area, such as empty lots, business and government property. The sixth step of the methodology provides a complete listing of the information that an applicant must maintain in its files and submit to the division.
The six steps of the survey methodology are located on the department of finance and administration website, local government division, community development bureau, CDBG information page.
B. American community survey (ACS)
The U.S. census bureau provides a fact finder source for population, housing, economic, and geographic information. This source may be used by applicants to determine eligibility for low to moderate income persons. This source is located at the American FactFinder website, community facts.
C. HUD Section 8 Income Limits
HUD Section 8 income limits must be used in conjunction with either the survey methodology or ACS data to determine low and moderate income eligibility. Applicants should contact the division for the most current data sets.

HISTORY OF 2.110.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

DFA Rule 85-3, State of New Mexico Regulations Governing the 1986 Small Cities Community Development Block Grant Program and 1985 New Mexico Community Assistance Program, 10-4-85.

DFA Rule 87-3, State of New Mexico 1988 Small Cities Community Development Block Grant Program New Mexico Community Assistance Program Application Regulations, 12-4-87.

DFA Rule 89-3, 1989 Small Cities Community Development Block Grant Program New Mexico Community Assistance Program Applications Regulations, 3-22-89.
 DFA Rule 90-1, 1990 Small Cities Community Development Block Grant Program New Mexico Community Assistance Application Regulations, 12-28-89.
 DFA #91-1, 1991-1992 Small Cities Community Development Block Grant Program New Mexico Community Assistance Application Regulations, 1-14-92.
 DFA #93-1, 1993 Small Cities Community Development Block Grant Program New Mexico Community Assistance Application Regulations, 7-9-93.
 DFA-LGD No. 93-1, 1994 Small Cities Community Development Block Grant Program New Mexico Community Assistance Application Regulations, 6-13-94.
 DFA-LGD Rule No. 95-1, 1995 Small Cities Community Development Block Grant Program New Mexico Community Assistance Application Regulations, 5-31-95.
 DFA-LGD Rule No. 95-2, 1996 Small Cities Community Development Block Grant Application Regulations.

History of Repealed Material:

2.110.2 NMAC, Small Cities Community Development Block Grant - Repealed, 08-30-01.
 2.110.2 NMAC, Small Cities Community Development Block Grant - Repealed, 06-05-15.
 2.110.2 NMAC, Small Cities Community Development Block Grant - Repealed, 11-15-2016.

HIGHER EDUCATION DEPARTMENT

TITLE 5 POST- SECONDARY EDUCATION CHAPTER 7 TUITION AND FINANCIAL AID PART 17 MILITARY WAR VETERAN SCHOLARSHIP

5.7.17.1 ISSUING
AGENCY: New Mexico Higher

Education Department (NMHED).
 [5.7.17.1 NMAC - N, 11/15/2016]

5.7.17.2 STATUTORY
AUTHORITY: Section 21-21E-3 NMSA 1978, authorizes the NMHED to adopt rules and procedures necessary for the administration of the military war veteran scholarship fund.
 [5.7.17.2 NMAC - N, 11/15/2016]

5.7.17.3 SCOPE: The provisions of 5.7.17 NMAC apply to military war veterans as certified by the New Mexico department of veterans' services (NMDVS) that are attending a New Mexico public post-secondary educational institution.
 [5.7.17.3 NMAC - N, 11/15/2016]

5.7.17.4 DURATION:
 Permanent.
 [5.7.17.4 NMAC - N, 11/15/2016]

5.7.17.5 EFFECTIVE
DATE: November 15, 2016, unless a later date is cited at the end of a section.
 [5.7.17.5 NMAC - N, 11/15/2016]

5.7.17.6 OBJECTIVE:
 The objective of 5.5.17 NMAC is to adopt procedures to implement 21-21E-3 NMSA 1978 known as the military war veteran scholarship fund; purpose; administration; disbursements.
 [5.7.17.6 NMAC - N, 11/15/2016]

5.7.17.7 DEFINITIONS:
A. "Department"
 means the New Mexico higher education department.
B. "Educational institution" means any New Mexico public post-secondary institution.
C. "Military war veteran" means a person who has been honorably discharged from the armed forces of the United States; who was a resident of New Mexico at the original time of entry into the armed forces or who has lived in New Mexico for 10 years or more; and who has been awarded a southwest Asia service medal, global war on terror service medal, Iraq campaign medal, Afghanistan campaign medal

or any other medal issued for service in the armed forces of the United States in support of any United States military campaign or armed conflict as defined by congress or presidential executive order or any other campaign medal issued for service after August 1, 1990 in the armed forces of the United States during periods of armed conflict as defined by congress or by executive order.

D. "Recipient" means a student awarded the military war veteran scholarship.

E. "Satisfactory academic progress" means maintaining the required academic progress toward degree completion as determined by the institution.

F. "Scholarship fund" means the military war veteran scholarship fund created in the state treasury to receive any appropriated money, grants, gifts or bequests and income from investment in the fund.
 [5.7.17.7 NMAC - N, 11/15/2016]

5.7.17.8 STUDENT ELIGIBILITY, AWARD AND DURATION:

A. A military war veteran must submit a scholarship application to the New Mexico department of veterans' services (NMDVS).

(1) Applicant must provide a certified copy of their DD Form 214, Certificate of Release or Discharge from Active Duty, showing a combat campaign or service medal and an honorable discharge.

(2) Applications will be approved on a first come, first served basis.

B. Scholarship applies to tuition costs, required student fees and books directly associated with undergraduate, master's or doctoral degree work.

C. The amount of tuition to be covered by the scholarship shall not exceed the highest full time undergraduate tuition charged at an educational institution.

D. Scholarship is renewable.
 [5.7.17.8 NMAC - N, 11/15/2016]

5.7.17.9**ADMINISTRATION OF
MILITARY WAR VETERAN
SCHOLARSHIP:**

A. NMDVS shall determine the eligibility of the applicant and certify approved applicants.

B. The department shall make disbursements from the fund to reimburse post-secondary institutions for tuition, fees, and book costs incurred by the certified scholarship recipient.

(1)

Disbursements will be made following the receipt of an invoice from the educational institution.

(2)

The invoice must be accompanied by a certification issued by NMDVS. To request payment the educational institution shall invoice the department on a semester basis.

C. Disbursements will be made in the order that invoices and accompanying certifications are received and approved.

D. Awards are subject to the availability of the scholarship fund.

[5.7.17.9 NMAC - N, 11/15/2016]

**5.7.17.10 TERMINATION
OF SCHOLARSHIP:** A scholarship is terminated upon the occurrence of one or more of the following:

A. Failure to achieve satisfactory academic progress by the recipient as determined by the educational institution.

B. Substantial noncompliance by the scholarship recipient with the rules, regulations or procedures promulgated by the department for the military war veteran scholarship.

[5.7.17.10 NMAC - N, 11/15/2016]

**HISTORY OF 5.7.17 NMAC:
[RESERVED]**

**HIGHER EDUCATION
DEPARTMENT**

This is an amendment to 5.7.18 NMAC, Section 9, effective 11/15/2016.

**5.7.18.9 REQUIREMENTS
TO ESTABLISH NEW MEXICO**

RESIDENCY: To become a legal resident of New Mexico for tuition purposes each of the following requirements must be satisfied.

A. Twelve (12) month durational requirement. A person must physically reside in New Mexico for the twelve (12) consecutive months immediately preceding the term for which the resident classification is requested. Exceptions may be granted for student's participating in an internship or student exchange program (excluding those described in 5.7.18.11 NMAC) and not exceeding one (1) semester in duration.

B. Financial independence requirement. Only persons who are financially independent may establish residency apart from parents or guardians. A student cannot be approved for residency who is financially dependent upon his or her parents or legal guardians who are nonresidents of New Mexico. Dependency will be determined according to the 1954 Internal Revenue Service Code, Section 152 and is always based on the previous tax year for residency purposes. If under the age of 23 at the time the student applies for residency, a copy of his/her parents' or guardians' 1040 or 1040A U.S. income tax form for the previous tax year is required. If the student is shown to be a dependent on this tax form, he/she will not be considered financially independent or eligible for residency during the current year.

C. Written declaration of intent requirement. The student or person must sign a written declaration of intent to relinquish residency in any other state and to establish it in New Mexico.

D. Overt acts requirement.

(1) Overt

acts are required to evidence support of the written declaration of intent to establish permanent residency in New Mexico. Any act considered inconsistent with being a New Mexico resident will cause the request for resident classification to be denied. The required overt acts are evidence of any two (2) of the following:

(a) if the applicant is financially dependent, a copy of the parent or guardians' previous year income tax showing the applicant as a dependent and the parent address as New Mexico; or

(b) a New Mexico high school transcript issued in the past year confirming attendance at a New Mexico public or private high school within the past twelve (12) months; or

(c) a transcript from an online high school showing a New Mexico address confirming attendance within the past twelve (12) months; or

(d) a New Mexico driver's license or ID card with an original date of issue or a renewal date issued prior to the first day of the term or semester; or

(e) proof of payment of New Mexico state income tax for the previous year; or

(f) evidence of employment within the state of New Mexico; or

(g) New Mexico vehicle registration; or

(h) voter registration in New Mexico; or

(i) proof of residential property ownership in New Mexico; or

(j) a rental agreement within New Mexico; or

(k) utility bills showing the applicant name and a New Mexico address; or

(l) other evidence which would reasonably support the individual's intent to establish and maintain New Mexico residency.

(2) The

department recognizes that there may be circumstances in which a student would not be able to fulfill the requirements of an overt act as listed in this section, such as: 1) individual is physically disabled and does not have a driver's license, or 2) individual is a convicted felon and therefore cannot vote, etc. In instances such as these, the institution will afford the student an opportunity to provide other documentary evidence or reasonable explanation which demonstrates that permanent residency in New Mexico has been established by the student.

E. Exceptions to the twelve (12) month requirement. If a student has met the requirements of one (1) of the following exceptions, and is granted residency status, the student shall continue to be classified and reported as a resident for subsequent, continuing enrollment.

(1) An individual married to a legal resident of New Mexico and providing appropriate evidence shall not be required to complete the twelve 12-month durational requirement but must satisfy all other requirements listed in Subsections B, C, and D of 5.7.18.9 NMAC.

(2) Any person, their spouse and dependents who move to New Mexico or who now live in New Mexico and who provide appropriate evidence that they work in a permanent full-time position or practice a profession or conduct a business full-time in New Mexico, shall not be required to complete the twelve 12-month durational requirement but must satisfy all other requirements listed in Subsections B, C, and D of 5.7.18.9 NMAC.

(3) Any person entering the active service of the United States while a resident of New Mexico and who enters a state institution of postsecondary education in New Mexico after separation from such service may be classified as having been a legal resident in New Mexico during the time spent in the service provided they:

(a)

have not while in the service done anything (such as voting in another state) to show abandonment of their New Mexico residency;

(b)

have not established residence in some other state subsequent to being separated from service;

(c)

return to New Mexico within three (3) years after separation from service with the intention of maintaining this state as their legal residence;

(d)

are not a dependent minor with parent(s) or guardian(s) whose place of residence classifies him or her as a nonresident of New Mexico.

(4) Any

person, their spouse and dependents, who move to New Mexico for retirement purposes, and who provide appropriate evidence of retirement shall not be required to complete the twelve 12-month durational requirement. They must, however, satisfy the other requirements listed in Subsections B, C, and D of 5.7.18.9 NMAC.

F. Inconsistent

acts. A person that demonstrates an inconsistent act, such as residing primarily out of state or maintaining a valid out of state driver's license, may be denied residency irrespective of other overt acts that would establish their residency. An officer of the public postsecondary institution shall exercise professional judgement to determine if an inconsistent act should cause the residency petition to be denied.

[5.7.18.9 NMAC - Rp, 5.7.18.11 & 12 NMAC, 8/30/2007; A, 5/30/2008; A, 10/15/2015; A, 11/15/2016]

HIGHER EDUCATION DEPARTMENT

This is an amendment to 5.7.20 NMAC, Sections 6 thru 11, effective 11/15/2016.

5.7.20.6 OBJECTIVE:

A. The objective of 5.7.20 NMAC is to provide a level of financial support to qualified New Mexico students who are enrolled

full-time at an eligible New Mexico public college or university. This level of financial support is intended to help defray the cost of tuition at the public post-secondary educational institution where the student is enrolled.

B. A further purpose of 5.7.20 NMAC is to encourage New Mexico high school students who pursue a post-secondary education in New Mexico to complete a first four-year degree within a maximum of eight semesters or two-year degree within a maximum of four semesters (the number of semesters is so determined as the initial award is not made until the second semester of college enrollment).

C. As it applies to students with disabilities who may require special accommodations, the department, in consultation with the student and the office at the public post-secondary educational institution that serves students with disabilities, shall review both the definition of "full-time" and the maximum number of consecutive semesters of eligibility and adjust either or both as deemed reasonable and appropriate, based on the student's disability needs. In no case shall "full-time" mean fewer than six credit hours per program semester and in no case shall eligibility extend beyond 14 consecutive program semesters at a four-year institution and seven consecutive program semesters at a two-year institution. [5.7.20.6 NMAC - Rp, 5.7.20.6 NMAC, 08/15/2014; A/E, 8/15/14; A, 11/15/16]

5.7.20.7 DEFINITIONS:

A. "Academic year" means any consecutive period of two semesters (or three semesters for accelerated programs), three quarters or other comparable units commencing with the fall term each year.

B. "Accelerated program" means one in which a summer semester is a program requirement and not a student choice; a cohort that requires sequence of courses taken in summer semester.

C. "Community college" means a branch community

college of a four-year state educational institution, a two-year state educational institution or a community college or technical and vocational institute established pursuant to Chapter 21, Article 13 or 16 NMSA 1978, respectively.

D. “Comprehensive institution” means eastern New Mexico university, New Mexico highlands university, northern New Mexico college or western New Mexico university.

[E] E. “Consortium” means a written agreement between a home institution and one or more host institutions for consideration of combined enrollment for eligibility:

(1) home institution is the institution where the student is enrolled in a degree or certificate seeking program and is receiving lottery scholarship funds;

(2) host institution is the secondary institution where the student is taking part of their program requirements.

[F] F. “Department” means the New Mexico higher education department (NMHED).

[G] G. “Full-time” means 15 or more credit hours each program semester of the regular academic year at a research institution or comprehensive institution; or 12 or more credit hours for each program semester at community colleges; or through a consortium agreement between the home and host institutions, or for legacy students in any program semester. For students enrolled through a consortium agreement the minimum credit hour eligibility requirement shall be based on the student’s home institution.

[H] H. “GPA” means grade point average.

[I] I. “Immediately upon graduation” means enrollment anytime within the first academic semester following high school completion.

[J] J. “Legacy student” means a full time resident student who has received three or more program awards by the end of fiscal year 2014.

[K] K. “Legislative lottery

scholarship” means a scholarship awarded from proceeds of the New Mexico lottery tuition fund, to defray all or part of the cost of tuition.

[L] L. “Non-enrollment” means a student is not enrolled in a public post-secondary educational institution.

[M] M. “Probation” means a period of time that a student fails to meet continuing eligibility for exceptional mitigating circumstances as determined by the lead financial aid officer at the institution; as described in Subsection C of 5.7.20.8 NMAC.

N. “Program semesters” means those semesters for which a legacy or qualified student may receive a tuition scholarship and excludes the first semester of attendance at a public post-secondary educational institution.

[O] O. “Public post-secondary educational institution” means a research or comprehensive institution, as defined in Article XII, Section 11 of the New Mexico constitution, and branch community colleges or community college or technical and vocational institute as defined by Section 21-13, 14, and 16 NMSA 1978.

P. “Research institution” means New Mexico institute of mining and technology, New Mexico state university and the university of New Mexico.

[Q] Q. “Qualified student” means a full-time student who completed high school, graduated from a public or accredited private New Mexico high school or who received a high school equivalency credential while maintaining residency in New Mexico and who either:

(1) immediately upon completion of high school, graduation or receipt of a credential was accepted for entrance to and attended a public post-secondary educational institution; or

(2) within 120 days of completion of a high school curriculum or receipt of a high school equivalency credential began service in the United States armed forces and within one year of completion

of honorable service or medical discharge from the service, attended a public post-secondary educational institution; and

(3) successfully completed the first semester at a public post-secondary educational institution with a grade point average of 2.5 or higher on a 4.0 scale during the first semester of full time enrollment.

[R] R. “Summer semester” means a semester equal to fall and spring semester in duration and intensity that is required as part of an accelerated program.

[S] S. “Tuition scholarship” means the scholarship that provides tuition assistance per semester for qualified students. [5.7.20.7 NMAC - Rp, 5.7.20.7 NMAC, 08/15/2014; A/E, 8/15/14; A, 11/15/16]

5.7.20.8 STUDENT ELIGIBILITY:

A. A scholarship may be awarded to a student in their second semester who has met first semester eligibility requirements as follows:

(1) has established New Mexico residency as defined in 5.7.18.9 NMAC or is eligible for a nondiscrimination waiver as defined in Subsection K of 5.7.18.10 NMAC;

(2) has been determined to be a qualified student pursuant to ~~[Section M]~~ Subsection Q of 5.7.20.7 NMAC;

(3) has met the requirements in ~~[Section E]~~ Subsection G of 5.7.20.7 NMAC;

(4) has met requirements in Paragraphs (1) through (3) of Subsection A of 5.7.20.8 NMAC or students with exceptional mitigating circumstances as determined by the institution’s lead financial aid officer; students who are incapable of meeting the requirements specified in Paragraphs (1) through (3) of Subsection A of 5.7.20.8 NMAC due to a documented exceptional mitigating circumstance do not forfeit eligibility for the legislative lottery scholarship;

however, the following requirements shall apply:

(a) the student shall provide documents certifying the nature of the students exceptional mitigating circumstance to the institution's lead financial aid officer at the post-secondary educational institution at which the student is enrolling or will enroll; the institution's lead financial aid officer shall exercise professional judgment to determine whether the exceptional mitigating circumstance is beyond the student's control and precludes the student from meeting the requirements specified in Paragraphs (1) through (3) of Subsection A of 5.7.20.8 NMAC;

(b) if, in the professional judgment of the institution's lead financial aid officer, the student's exceptional mitigating circumstance is recognized as a valid reason for the student's inability to meet the requirements specified in Paragraphs (1) through (3) of Subsection A of 5.7.20.8 NMAC the student's initial eligibility for the legislative lottery scholarship shall be suspended or deferred unless and until such time that the student is capable of meeting the requirements of Paragraph (4) of Subsection A of 5.7.20.8 NMAC;

(5) has not been awarded a New Mexico scholars' ~~[scholarships]~~ scholarship or other state scholarships which are designated for ~~[100%]~~ one hundred percent tuition; and

(6) students with disabilities shall obtain a referral from the student services division of the post-secondary educational institution where the student is enrolled that oversees students with special needs' requests to reduce the credit hours to be considered full-time ~~[semester]~~ for scholarship eligibility; referrals and any sufficient documentation shall be received within 30 days of the start of the student's first semester;

(7) students are encouraged, but are not required, to complete a free application for student aid (FAFSA) for lottery

scholarship eligibility.

B. Continuing eligibility. Upon satisfaction of the qualifying semester eligibility requirements, the scholarship will be awarded to the student beginning with their second semester of enrollment. A student's continuing eligibility shall be determined on a semester basis.

(1) A legislative lottery scholarship award may be re-awarded to a student who:

(a) maintains a minimum of a 2.5 cumulative GPA; a student has the right to request use of the student's cumulative GPA earned at all New Mexico institutions; and

(b) maintains full time enrollment as provided in Subsection [E] G of 5.7.20.7 NMAC; when a qualified student transfers after completion of the first semester from a two year institution to a four year institution for enrollment during the second or subsequent program semester, a student will have met eligibility requirements, but said student must enroll in 15 credit hours upon transfer to maintain eligibility;

(i) receipt of a transfer transcript for sufficient documentation for eligibility;

(ii) student transfers shall defer to the receiving institution to determine eligibility.

(2) Students with disabilities may be re-awarded the legislative scholarship under the following conditions:

(a) a referral is obtained for each semester in which a reduction in credit hours is requested;

(b) maintains a minimum of a 2.5 cumulative GPA; and

(c) in no case shall eligibility extend beyond 14 consecutive semesters at a four year institution and seven consecutive semesters at a two year institution.

(3) An eligible student that transfers shall continue to be eligible at the receiving institution

after receipt of the student's transfer transcript containing eligibility confirmation.

C. Probation. Students who have been determined eligible and subsequently have exceptional mitigating circumstances as determined by the institution's lead financial aid officer may be placed on a probationary status under the following conditions:

(1) the student shall provide documents certifying the nature of their exceptional mitigating circumstance to the lead financial aid officer at the post-secondary institution at which the student is enrolling or will enroll;

(2) the lead financial aid officer shall exercise professional judgment to determine whether the exceptional mitigating circumstance is beyond the student's control and precludes the student from meeting the requirements specified in Paragraph (4) of Subsection A of 5.7.20.8 NMAC;

(3) the student shall maintain enrollment at the public post-secondary educational institution where eligibility was lost, if applicable;

(4) under no circumstances shall the student receive program awards in excess of those prescribed in Subsections A and B of 5.7.20.9 NMAC less the regular semester(s) of probation.

[5.7.20.8 NMAC -Rp, 5.7.20.8 NMAC, 08/15/2014; A/E, 8/15/2014; A, 9/30/2014; A, 11/15/16]

5.7.20.9 DURATION OF SCHOLARSHIP:

A. Upon qualification, the student's initial scholarship shall begin with the second semester of enrollment at a post-secondary educational institution. Thereafter, each scholarship is for a period of one semester subject to revocation for failure to maintain eligibility. The scholarship may be renewed on a semester basis until the award recipient has received three program semesters of awards at a community college or seven semesters at a research and comprehensive

institution of scholarship awards, or until the student graduates with a bachelor's degree from an eligible institution, whichever is sooner.

B. An award recipient may use the award at an eligible two-year post-secondary educational institution until the student receives three program semesters of scholarship awards or an associate's degree and can continue to use the award at an eligible New Mexico four-year post-secondary educational institution if the student transfers to a four-year post-secondary educational institution without a break in attendance or the semester following receipt of the associate's degree. In no case shall a student receive more than seven program semesters of the award with the exception of legacy students or students with disabilities.

C. A student may transfer from a four-year post-secondary educational institution to a two-year post-secondary educational institution, but in no case shall a student receive more than three program semesters of awards at the two-year institution (including those awarded at the prior post-secondary educational institution) or until the student graduates with an associate's degree, whichever is sooner.

D. A student who has been previously eligible may request a leave of absence for cooperative education, military obligations, participation in a study abroad program through the home institution, or other exceptional mitigating circumstances.

E. The student's institutional lead financial aid officer may approve a leave of absence for a period of up to one year if in the lead financial aid officer's professional judgment the student has provided sufficient documentation to justify the leave of absence. Subsequent requests for an additional leave of absence by a student may be considered by the institution's lead financial aid officer in increments not to exceed one year.

F. The lead financial aid officer shall, in turn, ensure that the student does not receive program awards in excess of those

prescribed in Subsections A and B of 5.7.20.9 NMAC and shall exclude the semesters of "non-enrollment" from the determination of eligible award semesters.

G. A student completing a department approved public service program may reduce their course load for the semester of their service or training and maintain eligibility for the scholarship. These students will not be eligible for scholarship benefits for the semester in which they are enrolled part time and will need to maintain all other eligibility criteria in subsequent semesters. The part-time semester will not count against their total number of semesters in which the student may receive the scholarship.

H. If a student becomes ineligible for a different state scholarship that is designated for [100%] one hundred percent tuition, but satisfies the first semester eligibility requirements and thereafter is eligible for the legislative lottery scholarship, the student may begin receiving the legislative lottery scholarship for the remaining number of semesters of enrollment, not to exceed those prescribed in Subsections A and B of 5.7.20.9 NMAC.

[5.7.20.9 NMAC - Rp, 5.7.20.9 NMAC, 08/15/2014; A/E, 8/15/14; A, 11/15/16]

5.7.20.10 AMOUNT OF SCHOLARSHIP:

A. To the extent that funds are made available from the fund, the board of regents or governing bodies of public postsecondary educational institutions shall award tuition scholarship in department approved amounts to qualified students and legacy students.

B. The method the department will use for calculating the tuition scholarship is as follows:

(1) estimate the total amount available in the lottery tuition fund, based on past lottery fund transfers, current year balances, and additional funds made available through legislation;

(2) estimate

the number of lottery scholarship recipients for each institution, based on department endorsed institutional projections;

(3) calculate the un-weighted average tuition for each sector (research, comprehensive, and community college) in accordance with [2014 Bill Text NM S.B. 347] 2016 Bill Text NM S.B. 280;

(4) calculate the total amount needed to pay full average tuition to all estimated recipients;

(5) compute the uniform percentage of the sector average tuition rates that can be paid that keeps the fund solvent and ensures that the fund will not be overspent;

(6) determine the maximum award per recipient for each institution (uniform percentage times average sector tuition for the sector of each institution);

(7) notify institutions.

C. In no case shall a student receive scholarship awards exceeding the total amount of tuition charged.

[5.7.20.10 NMAC - Rp, 5.7.20.10 NMAC, 08/15/2014; A, 11/15/16]

5.7.20.11 ADMINISTRATION OF THE LEGISLATIVE LOTTERY SCHOLARSHIP:

A. Eligible post-secondary educational institutions shall:

(1) notify students of their possible eligibility, during their first regular semester of enrollment including transfer students who had the legislative lottery scholarship at previous institutions;

(2) designate their institution's lead financial aid officer to be responsible for determining initial and continuing student eligibility for the legislative lottery scholarship under the terms of these rules and regulations;

(3) maintain a listing of each participating student to include, but not be limited to:

(a) social security number as appropriate;

(b) cumulative GPA and completed enrollment hours in prior semesters;

(c) proof of initial and continuing enrollment;

(d) award semester; and

(e) other data fields deemed important by the department;

(4) draw-down files should be submitted to the department for eligible students as defined in [Section] 5.7.20.10 NMAC per semester; all fiscal year draw-downs shall be for eligible students enrolled during the same fiscal year;

(5) for students that satisfied the first semester eligibility requirements and seek continuing eligibility consideration, use professional judgment to determine that exceptional mitigating circumstances beyond the students control, for which documentation exists in the student's file; the institutions shall defer to their institutional satisfactory academic progress policy when considering circumstances which include, but are not limited to, consideration for falling below the cumulative GPA requirement or successfully maintain full time enrollment as defined in [Section] Subsection E of 5.7.20.7 NMAC;

(6) provide to the department by April 15 each year the projected enrollment and tuition rates for the following academic year for their appropriate institution as follows: comprehensive, research institution in their second through eighth program semester including qualified students in their fifth through eighth program semesters who transferred from a community college; projected enrollment at each community college at each community college in their second through fourth program semesters;

(7) publish the probation policy as defined in Subsection C of 5.7.20.8 NMAC;

(8) encourage

consortium agreements, as defined in the code of federal regulations, 34 CFR 6685, in order to facilitate the enrollment of students and to facilitate the student's participation in this program;

(9) ensure that all available state scholarships including merit based [3%] three percent scholarship and New Mexico scholars are awarded before granting legislative lottery scholarships; the intent of this provision is that tuition costs shall be paid first for those students eligible for merit-based aid packages funded by [3%] three percent scholarships; in those instances when tuition is not fully covered by the merit-based aid package, said student is eligible for the tuition cost differential to be funded by the legislative lottery scholarship program; nothing in this section requires a public postsecondary educational institution to award a scholarship inconsistent with the criteria established or such scholarship; refer to Subsection G of 5.7.20.9 NMAC for additional provisions;

B. The department shall:

(1) determine a uniform percentage of the average of in-state tuition costs by sector by which to calculate tuition scholarships; all eligible institutions will be notified prior to June 1 annually;

(2) conduct audits to ascertain compliance with rules and regulations, if, during the audit process, evidence indicates that a student should not have received a legislative lottery scholarship, the department will provide guidance to the institutions for appropriate action;

(3) make available to the legislative finance committee and department of finance and administration, by November 1, the following information:

(a) the status of the fund;

(b) tuition scholarship program participation data aggregated for each public postsecondary education

institution to show:

(i) the number of qualified students and legacy students who received tuition scholarships and in the prior [twelve] 12 month period;

(ii) the total number of students, including qualified students and legacy students, enrolled in the prior [twelve] 12-month period;

(iii) the amount of tuition scholarships funded by semester and the amount of tuition costs that were not offset by the tuition scholarship by semester; and

(iv) the number of qualified students and legacy students who graduated with a degree and, for each qualified student, the number of consecutive semesters and nonconsecutive semesters attended prior to graduation.

[5.7.20.11 NMAC - Rp, 5.7.20.11 NMAC, 08/15/2014; A/E, 8/15/14; A, 11/15/16]

**PUBLIC SAFETY,
DEPARTMENT OF
LAW ENFORCEMENT ACADEMY**

On September 6, 2016, the New Mexico Law Enforcement Academy Board, repealed 10.29.1 NMAC, Law Enforcement Academy - General Provisions and replaced it with 10.29.1 NMAC, Law Enforcement Academy - General Provisions, effective November 15, 2016.

On September 6, 2016, the New Mexico Law Enforcement Academy Board, repealed 10.29.6 NMAC, Law Enforcement Academy - Certification by Waiver and replaced it with 10.29.6 NMAC, Law Enforcement Academy - Certification by Waiver, effective November 15, 2016.

On September 6, 2016, the New Mexico Law Enforcement Academy Board, repealed 10.29.7 NMAC, Law Enforcement Academy - In-Service Training Requirements and replaced it with 10.29.7 NMAC, Law Enforcement Academy - In-Service

Training Requirements, effective November 15, 2016.

On September 6, 2016, the New Mexico Law Enforcement Academy Board, repealed 10.29.9 NMAC, Law Enforcement Academy - Police Officer and replaced it with 10.29.9 NMAC, Law Enforcement Academy - Police Officer, effective November 15, 2016.

**PUBLIC SAFETY,
DEPARTMENT OF
LAW ENFORCEMENT ACADEMY**

**TITLE 10 PUBLIC SAFETY
AND LAW ENFORCEMENT
CHAPTER 29 LAW
ENFORCEMENT ACADEMY
PART 1 GENERAL
PROVISIONS**

10.29.1.1 ISSUING AGENCY: - Department of Public Safety, New Mexico Law Enforcement Academy, 4491 Cerrillos Road, Santa Fe, New Mexico 87505 [10.29.1.1 NMAC - Rp, 10.29.1.1 NMAC, 11/15/16]

10.29.1.2 SCOPE: All police officers, telecommunicators, and law enforcement agencies in the state of New Mexico. [10.29.1.2 NMAC - Rp, 10.29.1.2 NMAC, 11/15/16]

10.29.1.3 STATUTORY AUTHORITY: Section 29-7-3 NMSA 1978, (Repl. Pamp. 1994), Section 29-7-4 NMSA 1978, (Repl. Pamp. 1994), Section 29-7-5 NMSA 1978, (Repl. Pamp. 1994), Section 10-15-1 NMSA 1978, (Repl. Pamp. 1995), Section 29-7-6 NMSA 1978, (Repl. Pamp. 1994), Section 29-7-13 NMSA 1978, (Repl. Pamp. 1994), Section 40-5A-1 to 40-5A-13 NMSA 1978, (Cum. Supp. 1996). [10.29.1.3 NMAC - Rp, 10.29.1.3 NMAC, 11/15/16]

10.29.1.4 DURATION: Permanent. [10.29.1.4 NMAC - Rp, 10.29.1.4 NMAC, 11/15/16]

10.29.1.5 EFFECTIVE DATE: November 15, 2016, unless a later date is cited at the end of a section. [10.29.1.5 NMAC - Rp, 10.29.1.5 NMAC, 11/15/16]

10.29.1.6 OBJECTIVE: The objective of Part 1 is to establish procedures and policies for conducting meetings of the law enforcement academy board, establish criteria for admission to the law enforcement academy consistent with statutory requirements for certification, identify grounds for the suspension, revocation or denial of certification consistent with statutory requirements, establish administrative procedures for the denial, suspension or revocation of a police officer's or telecommunicator's certification, require Parental Responsibility Act compliance and identify the appropriate procedures in the event of non-compliance. [10.29.1.6 NMAC - Rp, 10.29.1.6 NMAC, 11/15/16]

10.29.1.7 DEFINITIONS:

A. "HSD" means the New Mexico human services department.

B. "Statement of compliance" means a certified statement from HSD stating that an individual is in compliance with a judgment and order for support.

C. "Statement of non-compliance" means a certified statement from HSD stating that an individual is not in compliance with a judgment and an order for support.

D. "Moral turpitude" means any criminal act done contrary to justice, honesty, or with disregard to one's responsibilities to society in general. [10.29.1.7 NMAC - Rp, 10.29.1.7 NMAC, 11/15/16]

10.29.1.8 REGULATIONS, POLICIES AND PROCEDURES FOR CONDUCTING THE BUSINESS OF THE LAW ENFORCEMENT ACADEMY BOARD:

A. Duties of board

officers:

(1) The attorney general shall serve as the chairman of the board and shall preside at all meetings and shall be charged with the responsibility of preserving order and decorum and enforcing these regulations. The chairman shall execute all of those duties commonly performed by a presiding officer.

(2) The vice-chairman shall act in the capacity of chairman in the absence or unavailability of the chairman.

B. Election of vice-chairman: The board shall elect a vice-chairman at the first board meeting of each calendar year.

C. Academy director: The director of the law enforcement academy shall be appointed by the board pursuant to Section 29-7-4 NMSA 1978, (Repl. Pamp. 1994).

(1) The director shall be the chief executive officer of the academy, and as such, employ necessary personnel; act as executive secretary to the board; issue appropriate certificates to graduates of the academy; and perform all other acts necessary and appropriate to carry out his duties. He shall supervise the operation of the academy as its chief executive officer and shall administer the agency subject to the direction of the board through its official proceedings. He shall perform all duties delegated to the director by law and those customarily exercised by the chief executive officer of a state agency.

(2) The board may direct the director to implement, carry out, or finalize a particular policy or agreement. When the board has so directed; the director is authorized to sign for the board those contracts and other documents customarily signed by the chairman and secretary of the board.

(3) As secretary of the board, the director is responsible for the review and certification of the minutes of the board.

D. Meetings: Regular meetings of the board will be held

at least four times a year at a time and place to be designated by the chairman.

(1) A majority of the board members present shall constitute a quorum for the transaction of business at any regular or emergency meeting. The transaction of the board's business shall be by the vote of the majority of its members present at the meeting. The chairman may vote on any item of business before the board.

(2) If a number of board members less than a quorum shall assemble for any meeting, they may postpone or adjourn that meeting until such time as a quorum can be obtained and notice again given in accordance with the rules herein set forth.

(3) If prior to the commencement of a regular or emergency meeting, the director has received notices that the majority of the members of the board will not be able to attend the meeting, the director may cancel the meeting and is instructed to attempt to give notice of cancellation of the meeting to all board members and the news media.

(4) All meetings of the board shall be open to the public except that the board may exclude the public for the portion of the meeting in which the subject matter being discussed in an adjudicatory matter, a personnel matter or the issuance, suspension, renewal or revocation of a certification, or as otherwise authorized by the New Mexico Open Meetings Act.

(5) The board may request that persons having business before the board, in addition to providing written information for the board to review, appear personally before the board to discuss their item of business.

(6) The order of business of the board at regular meetings shall be as follows:

- (a) roll call;
- (b) approval of agenda;
- (c)

approval of minutes;

(d) old business;

(e) new business;

(f) designation of place of next meeting; and

(g) adjournment.

(7) The director shall prepare an agenda for each meeting and shall be guided in his preparation of his agenda by consultation with the chairman of the board and the director's staff.

(8) The agenda for an emergency meeting shall specify the items of business to be considered by the board at that meeting. No business other than that specifically stated on the agenda for that emergency meeting shall be considered. The subject matter to be considered at any emergency meeting shall be included in that notice given by the director to the members of the board as required in these regulations and the New Mexico Open Meetings Act.

(9) All meetings shall be called to order and business of the meeting conducted by the chairman of the board, or in his absence, the vice-chairman. Should both the officers of the board be absent from the meeting, if a quorum is present, the board shall designate one of its members to assume the responsibilities of the chairman for that meeting.

(10) The board shall conduct its meetings in a manner consistent with Roberts Rules of Order or other accepted parliamentary procedure as instituted by the chair or otherwise determined by the board. In the event a question as to the proper method of procedure arises in any meeting, the chairman is vested with authority to resolve such question and his decision shall be final.

(11) The director shall send to all board members at least one week prior to the regular meeting date, a copy of the agenda for the regularly scheduled

meeting, any documents or other items of information that may assist the board members in preparing for the upcoming meeting, and a copy of all petitions received by the director.

(12) The minutes of each board meeting shall comply with requirements of the Open Meetings Act. The director or his staff are directed to compile the minutes of the meeting from stenographic notes of the meeting, a tape recording of the meeting, or both. After the board approves the minutes of the meeting, the stenographic notes or tape recording of the meeting may be destroyed. The approved minutes of a meeting shall constitute the official record of business transacted at the meeting. The approved minutes of the board meeting shall be preserved in a book of minutes and shall be available for public inspection during normal working hours.

E. Petitions:

(1) All persons, other than members of the board or its director, desiring to place before the board any item for discussion or item of business for the board's consideration may do so by submitting to the director as early as possible, and no later than 10 days in advance of the regular meeting, a written petition containing:

- (a) a request that the item of business be placed on the agenda of the next regularly scheduled meeting;
- (b) a description of the general subject matter of the item of business;
- (c) the action that the petitioner desires the board to take on the item of business; and
- (d) the reason why the petitioner feels the action proposed by the petitioner is appropriate.

(2) The director may, in his own discretion or at the direction of the chairman, place any agenda item requested by a timely petition on the agenda of the next regular meeting and notify the petitioner in writing of the time,

date, and place of the meeting. The decision as to whether or not to place a petition item on the agenda, and the amount of time allowed to present on the item, may be decided by the director or the chairman, and that decision shall be final.

(3) All petitions received by the director shall remain on file in the office of the board and subject to public inspection.

F. Regulations:

(1) The board may alter and amend these regulations from time to time as it deems necessary. Alteration or amendment of these regulations may be accomplished by a majority vote of the board after a public hearing for which notice of not less than 30 days has been posted to the board's website and at least one newspaper of general circulation, and provided to any interested parties who have submitted a written request for such notice. Changes to the regulations shall comply with requirements under the State Rules Act.

(2) The board may direct the director to develop proposals for regulations and other guidelines as it feels are necessary for the fair and orderly conduct of the board's responsibilities.

G. Miscellaneous:

In computing any period of time prescribed or allowed by these regulations, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday or Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. For purposes of this rule, a legal holiday shall include any day during which state offices are closed for any consecutive period of three hours or more between 8:00 a.m. and 5:00 p.m.

[10.29.1.8 NMAC - Rp, 10.29.1.8 NMAC, 11/15/16]

10.29.1.9 OPEN MEETINGS ACT REQUIREMENTS:

A. Authority: Any meetings subject to the Open Meetings Act at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs shall be held only after reasonable notice to the public; and Subsection D of Section 10-15-1 of the Open Meeting Act requires the board to determine annually what constitutes reasonable notice of its public meetings, which shall be done in the form of a resolution adopted annually pursuant to the Open Meetings Act and these rules. A member of the board may participate in a meeting of the board by conference telephone or other means of communication when it is otherwise difficult or impossible for the member to attend the meeting.

B. Notice:

(1) Regular meetings of the board shall ordinarily be held quarterly at a time and place designated in the notice or as otherwise determined by the board. The agenda will be available from the law enforcement academy director whose office is located at 4491 Cerrillos Road, Santa Fe, New Mexico. Notice of regular meetings will be given 10 days in advance of the meeting date.

(2) Special meetings of the board may be called by the chairman or a majority of the members upon 72 hours' notice.

(3) Emergency meetings of the board are meetings called under circumstances which demand immediate action by the board. Although the board would avoid emergency meetings whenever possible, such circumstances may occasionally arise. Emergency meetings of the board may be called by the chairman or a majority of the members upon 24 hours' notice, unless shorter notice is necessary as authorized by the Open Meetings Act.

C. Closed meetings:

The board may close a meeting to the public if the subject matter of such discussion or action is subject to a listed exemption of the Open Meetings Act. If any board meeting is closed, such closure shall comply

with the specific requirements described in the Open Meetings Act. [10.29.1.9 NMAC - Rp, 10.29.1.9 NMAC, 11/15/16]

10.29.1.10 QUALIFICATIONS FOR ADMISSION TO THE ACADEMY:

A. Qualifications

for police officer admission: In accordance with those qualifications enumerated under Section 29-7-6 NMSA 1978, (Repl. Pamp. 1994), the director shall reject applicants for admission to the academy if, after investigation, it is determined that the applicant does not meet the following criteria:

(1) citizenship and age requirements as set forth in Section 29-7-6 NMSA 1978, (Repl. Pamp. 1994);

(2) holds a United States high school diploma or its equivalent;

(3) holds a valid driver's license;

(4) has not been convicted of or pled guilty to or entered a plea of nolo contendere to any felony charge, or within the three year period immediately preceding his/her application, to any violation of any federal law or state law or local ordinance relating to aggravated assault, theft, driving while intoxicated, controlled substances or other crime involving moral turpitude and has not been released or discharged under dishonorable conditions from any of the armed forces of the United States;

(5) is found, after examination by a licensed physician, to be free from any physical condition which might adversely affect their performance as police officers or prohibit them from successfully completing prescribed basic law enforcement training required by the Law Enforcement Training Act;

(6) is found, after examination by a certified psychologist, to be free of any emotional or mental condition which might adversely affect their performance as police officers or

prohibit them from successfully completing prescribed basic law enforcement training required by the Law Enforcement Training Act;

(7) is found to be of good moral character and has not committed any acts constituting dishonesty or fraud; or

(8) is found not to have committed any other acts which would be grounds for denial, revocation, or suspension of certification under the provision of 10.29.1.11 NMAC.

B. Qualifications for telecommunicator admission: In accordance with those qualifications enumerated under Section 29-7C-3 NMSA 1978, the director shall reject applicants for admission to the academy if, after investigation, it is determined that the applicant does not meet the following criteria:

(1) United States citizenship or legal resident and age requirements as set forth in Section 29-7C-3 NMSA 1978;

(2) holds a United States high school diploma or its equivalent from an accredited institution;

(3) has not been convicted of or pled guilty to or entered a plea of nolo contendere to any felony charge, or within the three year period immediately preceding his/her application, to any violation of any federal law or state law or local ordinance relating to aggravated assault, theft, driving while intoxicated, controlled substances or other crime involving moral turpitude and has not been released or discharged under dishonorable conditions from any of the armed forces of the United States;

(4) is found to be of good moral character and has not committed any acts constituting dishonesty or fraud;

(5) is found not to have committed any other acts which would be grounds for denial, revocation, or suspension of certification under the provision of 10.29.1.11 NMAC; or

(6) has been examined by a certified technician

and have no uncorrected hearing loss in either ear of greater than 25db at 500, 1000, 2000 Hz, and no more than a 20db loss in the better ear by audiometry, using American National Standards Institute (ANSI 1969) standards.

C. Status: Applicants shall be appraised by the director of the status of their application and any deficiencies therein, in writing, as soon as possible. If an applicant is denied admission, the written order shall include an explanation of the specific facts and circumstances upon which the decision is based and any right to appeal the decision. Decisions of the director may be appealed to the board through the procedures provided for in 10.29.1.13 NMAC through 10.29.1.15 NMAC. [10.29.1.10 NMAC - Rp, 10.29.1.10 NMAC, 11/15/16]

10.29.1.11 GROUND FOR DENIAL, REVOCATION OR SUSPENSION OF POLICE OFFICER OR TELECOMMUNICATOR CERTIFICATION; REPORTING REQUIREMENTS:

A. Authority: In accordance with the provisions of the Law Enforcement Training Act, Section 29-7-13 NMSA 1978, (Repl. Pamp. 1994), the director may seek to deny, suspend or revoke a police officer's or telecommunicator's certification, if after investigation and consultation with the employing agency, it is determined that the individual has failed to comply with the provisions of the Law Enforcement Training Act or board regulations concerning qualifications for certification in the state of New Mexico.

B. Arrest or indictment on felony charges; summary suspension:

(1) The director upon being notified that a certified police officer or telecommunicator has been arrested or indicted on any felony charge(s) shall immediately notify the individual of the intent to suspend the certification. The procedures set

forth in 10.29.1.12 NMAC shall not apply to the immediate suspension. Notice of the immediate suspension shall be served on the officer or telecommunicator. Upon service of the notice, the individual shall have 15 days to request to be heard at the next meeting of the board. At the meeting, the individual may present evidence, witnesses and argument as to why their certification should not be suspended. The board may deliberate and shall issue a decision on the suspension at the meeting.

(2) The director upon being notified that a police officer or telecommunicator has been convicted on any felony charge(s) shall initiate the disciplinary process pursuant to 10.29.1.12 NMAC.

C. Grounds for discipline of a police officer: The following conduct may constitute grounds for denial, suspension or revocation of certification of a police officer under this rule:

(1) subsequent conviction, entry of plea of guilty or entry of plea of nolo contendere to any felony charge;

(2) subsequent conviction, entry of plea of guilty or entry of plea of nolo contendere to any violation of any federal or state law or local ordinance relating to aggravated assault, theft, driving while intoxicated, controlled substances, or other crime involving moral turpitude;

(3) making false statements or giving any false information to the academy in connection with an application for admission/certification;

(4) committing acts which indicate a lack of good moral character, or which constitute dishonesty or fraud, and which adversely affects an officers' ability to exercise the duties of a police officer;

(5) committing acts of violence or brutality which indicate that the officer has abused the authority granted to him or her as a commissioned police officer in the state of New Mexico; or

(6) having

committed acts which would be grounds for denial of application for admission under 10.29.1.10 NMAC.

D. Grounds for discipline of a telecommunicator: The following conduct may constitute grounds for denial, suspension or revocation of certification of a certified telecommunicator under this rule:

(1) subsequent conviction, entry of plea of guilty or entry of plea of nolo contendere to any felony charge;

(2) subsequent conviction, entry of plea of guilty or entry of plea of nolo contendere to any violation of any federal or state law or local ordinance relating to aggravated assault, theft, driving while intoxicated, controlled substances or other crime involving moral turpitude;

(3) making false statements or giving any false information to the academy in connection with an application for admission/certification;

(4) committing acts which indicate a lack of good moral character, or which constitute dishonesty or fraud, and which adversely affects an telecommunicator's ability to exercise the duties of a certified telecommunicator;

(5) committing acts which indicate that the telecommunicator has abused the authority granted to a certified telecommunicator in the state of New Mexico; or

(6) having committed acts which would be grounds for denial of application for admission under 10.29.1.10 NMAC.

E. Agency reports of alleged misconduct: Any law enforcement agency employing a police officer or telecommunicator who has committed, or reasonably appears to have committed, any act in violation of these rules shall report such conduct to the director within 90 days after the agency initiates an internal affairs review or is otherwise made aware of the alleged misconduct. A law enforcement

agency shall immediately inform the director if an officer or telecommunicator employed by the agency is arrested or indicted on felony charges. Resignation or termination from employment does not relieve the agency from its duty to file a misconduct report with the academy director. Agencies should undertake a timely and thorough investigation to determine whether an allegation of misconduct is sustained. For the purposes of this subpart, "misconduct" is defined as any act listed or otherwise contemplated under 10.29.1.11 NMAC. Violations of agency policy that do not relate to grounds for discipline under board rules are not required to be reported to the director. The director will establish a reporting form to be used in reporting alleged misconduct. An agency's delay or failure to report alleged misconduct does not prevent the director from filing a separate report or divest the board of jurisdiction to take disciplinary action authorized under the Law Enforcement Training Act. [10.29.1.11 NMAC - Rp, 10.29.1.11 NMAC, 11/15/16]

10.29.1.12 PROCEDURES FOR DENIAL, SUSPENSION OR REVOCATION OF POLICE OFFICER OR TELECOMMUNICATOR CERTIFICATION:

A. Notice of investigation: In those instances where the director opens an investigation after receiving a report of alleged misconduct, a notice of investigation shall be served on the individual respondent. Such notice shall contain:

(1) a concise statement of the purpose and scope of the investigation;

(2) a description of the acts for which the investigation is sought;

(3) a statement that the respondent has seven calendar days from receipt of the notice of the option to provide a written response or to request an opportunity for an oral response before the director; and

(4) notice describing the disciplinary procedures of the board.

B. Response to notice of investigation; written or oral: A respondent may provide a written response to the director regarding the circumstances surrounding the investigation or may request to meet with the director and provide an oral response.

(1) If a request for an oral response to the notice of investigation is made, the director shall meet with the respondent within 14 calendar days of receipt of such request unless the parties agree in writing to an extension.

(2) A respondent served with a notice of investigation pursuant to this rule may choose a representative to respond orally or in writing on his or her behalf.

C. Recommended decision: After considering the allegations raised in the report of alleged misconduct, response received, and any additional information gathered during the investigation, the director shall make a recommended decision within 30 days from the date a written or oral response is received. The director shall provide one of the following recommendations to the board:

(1) Formal discipline - The director shall provide the type and length of recommended discipline as well as a statement or summary of facts which the director believes justifies the recommended action. Upon deciding to recommend formal discipline, the director shall immediately forward the matter to the board's administrative prosecutor with a request to issue a notice of contemplated action. The opportunity to have a formal evidentiary hearing must take place prior to any discipline being imposed by the board.

(2) Pre- notice of contemplated action settlement agreement - The director may, if believed to be in the best interest of the board, choose to propose a pre-notice of contemplated action settlement agreement that includes

stipulated discipline. Any proposed settlement agreement must be signed by the respondent before being presented to the board for review and action to accept or reject the proposal. Failure to comply with the terms of a settlement agreement shall result in the immediate issuance of a notice of contemplated action based on the originally reported alleged misconduct.

(3) Dismiss complaint - The director may recommend to the board that the complaint be dismissed based on the totality of the circumstances and evidence available. If the board rejects the recommendation a notice of contemplated action shall be issued.

D. Notice of contemplated action: A notice of contemplated action (NCA) may be issued upon request of the director or by vote of the board. The NCA shall be drafted by the board's administrative prosecutor and signed by the director, and must be postmarked, certified mail return receipt requested, no later than 90 days after the request for issuance of the NCA is made by the director or the board, unless the director agrees in writing to an extension. The NCA shall include the following:

(1) a summary of the director's recommended decision and notice that the recommended formal discipline is only a recommendation and is subject to the approval or modification by the board;

(2) notice that the board has sufficient evidence that, if not rebutted or explained, will justify the board taking the contemplated action, up to and including the revocation of certification;

(3) a statement of alleged violations of the Law Enforcement Training Act or board rules;

(4) a general explanation and summary of the evidence that justify the contemplated action; and

(5) that unless

the respondent, within 30 days after the service of the notice, provides a written request for a formal hearing, the board may take the contemplated action.

[10.29.1.12 NMAC - Rp, 10.29.1.12 NMAC, 11/15/16]

10.29.1.13 PROCEEDINGS FOR DENIAL, REVOCATION, OR SUSPENSION BEFORE THE LAW ENFORCEMENT ACADEMY BOARD; PROCEDURES:

A. All contemplated actions to deny, suspend or revoke a police officer's or telecommunicator's certification shall be brought before the board before taking effect.

B. An evidentiary hearing will be held if the board receives, within 30 calendar days from the receipt of the notice of contemplated action, a request for hearing. Such request shall be made in writing and shall be addressed to the board. The request may be either personally served upon the director or sent by registered mail to the New Mexico law enforcement academy. If a request for hearing is not received within the time and in the manner required, the board may take the action contemplated in the notice and such action shall be considered final.

C. Within 20 days of receiving a request for hearing the director, or designated hearing clerk, shall issue a scheduling order that includes:

(1) date, time, and location of the hearing;

(2) identifying the hearing officer or board member(s) to preside over the hearing;

(3) notice that the respondent must appear in person but may be represented by counsel; and

(4) filing information and deadlines for completion of discovery and hearing proceedings.

D. A hearing shall be held within 90 days of the date the request for hearing is received unless additional time is agreed upon by the

respondent and prosecutor. A written waiver shall be required by the respondent if the time limitations are exceeded.

E. The respondent may, within 10 calendar days after receiving the scheduling order, file with the board as concise statement of the issues on which he or she wishes to be heard regarding the alleged misconduct and a concise statement setting forth the factual grounds and authorities relied upon.

F. The parties shall file with the board a list of witnesses and brief description of their testimony and all anticipated exhibits to be introduced at the hearing at least 10 calendar days in advance of the hearing date.

G. The board may appoint a hearing officer to receive testimony and make recommendations to the board.

H. Neither an appointed hearing officer nor any member of the board shall participate in any adjudicatory proceeding if, for any reason, the hearing officer or board member cannot afford a fair and impartial hearing to the parties.

I. Either party may peremptorily excuse one hearing officer by filing a notice of peremptory excusal within 10 calendar days of receipt of the scheduling order.

J. Either party may petition to excuse a hearing officer or board member for good cause from hearing or deciding the case by filing a motion of excusal at least 20 calendar days prior to the date of the hearing or board meeting and states with particularity the specific reasons for excusal. The board or designated hearing officer shall rule on motions of excusal and no interlocutory appeal of the decision shall be permitted.

K. Parties are not to discuss the merits of any pending adjudicatory proceeding with members of the board or a designated hearing officer unless both parties, or their respective representatives, are present or included in the communication.

L. The parties

may engage in discovery limited to interrogatories, requests for production, and requests for admission.

M. In connection with any hearing under these rules, the board or hearing officer shall have power to have counsel to develop the case; to subpoena, for purposes of discover and of the hearing, witnesses and relevant books, papers, documents, and other evidence; to administer oaths or affirmations to witnesses called to testify; to take testimony; to examine witnesses; and to direct a continuance of any case. Hearing officers may also hold conferences before or during the hearing for the settlement or simplification of the issues with the consent of the respondent.

N. Proposed settlements may be proposed by the administrative prosecutor, and shall be accompanied by a waiver by the respondent of time limits imposed by these rules. Any proposed settlement is subject to final approval by the board.

O. Extensions of time requirements set forth in these rules shall be granted in the discretion of the hearing officer or the board. The hearing officer shall ensure that necessary waivers are provided as needed when granting extensions.

P. The hearing officer may allow the record to remain open for no more than 30 days to permit the parties to submit proposed findings. The decision to leave the record open shall be in the absolute discretion of the hearing officer as well as the decision to incorporate or exclude any submitted finding in the final report to the board.

[10.29.1.13 NMAC - Rp, 10.29.1.13 NMAC, 11/15/16]

10.29.1.14 HEARINGS BEFORE THE LAW ENFORCEMENT ACADEMY BOARD; PROCEDURES:

A. Hearings conducting pursuant to this rule shall be open to the public unless the parties agree that it shall be closed. Hearings shall be conducted at the

law enforcement academy or other location selected by the board or designated hearing officer.

B. A respondent may appear through a New Mexico licensed attorney or assisted by a representative, provided that such individual has made a written entry of appearance at least seven calendar days prior to the hearing date.

C. The board or designated hearing officer shall conduct the hearing in an orderly manner without strict adherence to the rules of evidence required in judicial proceedings.

D. Oral evidence shall be taken only under oath or affirmation.

E. The board or designated hearing officer may admit all evidence, including affidavits, if it is the sort of evidence upon which responsible persons are accustomed to rely on in the conduct of serious affairs. Immaterial, irrelevant, or unduly cumulative evidence may be excluded.

F. Rules of privilege shall be effective to the extent that they are required to be recognized in civil actions in the district courts of the state of New Mexico.

G. The board or designated hearing officer may utilize their experience, technical competence, and specialized knowledge in the evaluation of evidence presented to them. Notice may be taken of judicially cognizable facts in addition to technical or scientific facts within the board's specialized knowledge.

H. The hearing shall be recorded either by stenographic means or by a sound recording device. All evidence received during the course of the hearing shall be made part of the formal record. The record of proceedings shall be maintained by the law enforcement academy staff in Santa Fe and copies shall be made available to the parties upon request. [10.29.1.14 NMAC - Rp, 10.29.1.14 NMAC, 11/15/16]

10.29.1.15 DECISIONS OF THE BOARD; PROCEDURES:

A. In the event the hearing is conducted by a quorum of the board a decision shall be made during a public meeting and a written order shall be issued within 60 calendar days after the hearing.

B. In the event a hearing officer has been appointed, the hearing officer shall prepare a hearing officer report with proposed findings of fact and a recommended decision of whether a violation occurred within 60 calendar days of the completion of the hearing or closing of the record. A copy of the report shall be served on the parties by certified mail, return receipt requested. Upon receipt, the parties may within 10 calendar days, file a statement of objections to the hearing officer report with the board. The board shall proceed to consider the case and as soon as practicable review the hearing officer report and any objections filed by parties, as well as the director's recommendation, and issue a determination. No additional oral arguments by the parties shall be allowed. If the board rejects the hearing officer's recommended findings or decision, particularly when the credibility of a witness is at issue, it shall review at least as much of the record as is necessary to support its decision. The board shall consider the matter at its next board meeting after filing of the hearing officer report. The board's written decision and order shall be signed within 30 days after the board's vote on the matter.

C. After a decision of the board is rendered, the board shall serve upon the parties a written copy of the decision and final order by certified mail, return receipt requested. Final orders of the board shall at a minimum contain findings of fact, conclusions of law, and an order based on the determination. [10.29.1.15 NMAC - Rp, 10.29.1.15 NMAC, 11/15/16]

10.29.1.16 METHOD OF SERVICE NOTICE; PROCEDURE:

A. Any notice required by rules may be served upon a respondent at his or her last known

address, either by hand delivery by an officer authorized by law to serve process or by certified mail with return receipt requested.

B. Service of notice is complete when the notice is:

- (1) hand delivered; or
- (2) deposited with the United States postal service by certified mail, return receipt requested.

[10.29.1.16 NMAC - Rp, 10.29.1.16 NMAC, 11/15/16]

10.29.1.17 COMPUTATION

OF TIME: In computing any period of time prescribed or allowed by these rules, the day of the act from which this period of time begins to run shall not be included. The last calendar day of the time period shall be included in the computation.

[10.29.1.17 NMAC - Rp, 10.29.1.17 NMAC, 11/15/16]

10.29.1.18 PARENTAL RESPONSIBILITY ACT

COMPLIANCE:

A. This rule is adopted pursuant to the Parental Responsibility Act, Sections 40-5A-1 through 40-5A-13 NMSA 1978. All terms defined in the Parental Responsibility Act shall have the same meanings in this subpart.

B. Disciplinary action: If an applicant, certified police officer or certified telecommunicator is not in compliance with a judgment and order for child support the law enforcement academy board:

- (1) shall deny an application for certification; and
- (2) has grounds for suspension or revocation of a police officer's or telecommunicator's certification.

C. Certified list: Upon receipt of human services division's certified list of obligors not in compliance with a judgment and order for support, the law enforcement academy board shall match the certified list against the current list of certified police officers, and certified telecommunicators and

applicants for certification. Upon the later receipt of an application for certification, the board shall match the applicant against the current certified list. By the end of the month in which the certified list is received, the board shall report to human services division the names of board applicants, certified police officers and certified telecommunicators who are on the certified list and the action the board has taken in connections with such individuals.

D. Initial action:

Upon determination that an applicant, certified police officer or telecommunicator appears on the certified list, the director shall:

- (1) issue a notice of contemplated action pursuant to these rules to take the appropriate action to deny or revoke the certification; or

(2) for current certified police officers or certified telecommunicators only, informally notify the individual that his or her name is on the certified list, and that the individual must provide the director with a subsequent statement of compliance from HSD within 30 days of receipt of the notice from the director; if the certified police officer or certified telecommunicator fails to provide this statement, the director shall issue a notice of contemplated action.

E. Notice of final

decision: Prior to taking any contemplated action, the director shall serve upon the applicant, certified police officer or certified telecommunicator a written notice stating that:

- (1) the director has grounds to bring such an action before the law enforcement academy board, and that such action will be taken unless the applicant, certified police officer or certified telecommunicator:

- (a) mails a letter (certified mail return receipt requested) within 30 days after service of the notice of contemplated action requesting a hearing; or
- (b) provides the director, within 30

days of receipt of the notice of contemplated action, with a statement of compliance from HSD; and

(2) if the applicant, certified police officer or certified telecommunicator disagrees with the determination of non-compliance, or wishes to come into compliance the individual should contact the HSD child support enforcement division.

F. Evidence and proof: In any hearing under this section, relevant evidence is limited to the following:

(1) a statement of non-compliance is conclusive evidence that requires the board to take the contemplated action, unless;

(2) the applicant, certified police officer or certified telecommunicator provides the board with a subsequent statement of compliance which shall preclude the board from taking any action under this section.

G. Order: When a disciplinary action is taken under this subpart solely because the applicant, certified police officer or certified telecommunicator is not in compliance with a judgment and order for support, the order shall state that the application or certification shall be reinstated upon presentation of a subsequent state of compliance. Reinstatement following board action under the subpart shall require the certificate holder to meet all other board requirements for reinstatement.

H. Procedures:

Proceedings under this subpart shall be governed by the applicable provisions of Section 29-7-13B NMSA 1978, (Repl. Pamp. 1994) and the board's rules regarding disciplinary proceedings.

[10.29.1.18 NMAC - Rp, 10.29.1.18 NMAC, 11/15/16]

HISTORY OF 10.29.1 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under: NMLEA Rule #1, Regulations, Policies, And Procedures For Conducting The Business Of The

Law Enforcement Academy Board, filed 2-14-80; Rule #1, Regulations, Policies, And Procedures For Conducting The Business Of The Law Enforcement Academy Board, filed 12-6-83; NMLEA Rule #A1, Regulations, Policies, And Procedures For Conducting The Business Of The Law Enforcement Academy Board, filed 3-10-89; NMLEA Rule #A1, Regulations, Policies, And Procedures For Conducting The Business Of The Law Enforcement Academy Board, filed 12-31-92; NMLEA Rule #7, Open Meeting Guidelines, filed 2-14-80; NMLEA Rule #A2, Open Meeting Guidelines, filed 3-10-89; NMLEA Rule #A2, Open Meeting Guidelines, filed 6-20-90; NMLEA Rule #12, Decertification, filed 2-14-80; NMLEA #A3, Decertification, filed 3-10-89; NMLEA Rule #A3, Qualifications For Admission To The Academy; filed 3-11-93; NMLEA Rule #A3, Qualifications For Admission To The Academy; filed 3-15-93; NMLEA Rule #A3, Qualifications For Admission To The Academy; filed 6-29-93; NMLEA Rule #A4, Grounds For Revocation Or Suspension Of Police Officer Certification; Reporting Requirements, filed 3-11-93; NMLEA Rule #A4, Grounds For Revocation Or Suspension Of Police Officer Certification; Reporting Requirements, filed 6-29-93; NMLEA Rule #A5, Procedures For Suspension Or Revocation Of Police Officer Certification, filed 3-11-93; NMLEA Rule #A5, Procedures For Denial, Suspension Or Revocation Of Police Officer Certification, filed 6-29-93; NMLEA Rule #A6, Disposition Of Appeals Before The Law Enforcement Academy Board, filed 3-11-93; NMLEA Rule #A6, Proceedings For Denial, Revocation Or Suspension Before The Law Enforcement Academy Board, filed 6-29-93; NMLEA Rule #A7, Hearing Before The Law Enforcement Academy Board, filed 3-11-93; NMLEA Rule #A7, Hearings Before The Law Enforcement Academy Board, filed 6-29-93; NMLEA Rule #A8, Decisions Of The Board, filed 3-11-93; NMLEA Rule #A9, Method

Of Serving Notice, filed 3-11-93; NMLEA Rule #A10, Computation Of Time, filed 3-11-93; NMLEA Rule #A11, Parental Responsibility Act Compliance, filed 11-7-95.

History of Repealed Material:

10.29.1 NMAC, Law Enforcement Academy - General Provisions, filed 7-1-2001 - Repealed effective 11/15/2016.

PUBLIC SAFETY, DEPARTMENT OF LAW ENFORCEMENT ACADEMY

TITLE 10 PUBLIC SAFETY AND LAW ENFORCEMENT CHAPTER 29 LAW ENFORCEMENT ACADEMY PART 6 CERTIFICATION BY WAIVER

10.29.6.1 ISSUING

AGENCY: - Department of Public Safety, New Mexico Law Enforcement Academy, 4491 Cerrillos Road, Santa Fe, New Mexico 87505. [10.29.6.1 NMAC - Rp, 10.29.6.1 NMAC, 11/15/16]

10.29.6.2 SCOPE: All applicants for police officer certification by waiver of basic training and all law enforcement agencies in the state of New Mexico. [10.29.6.2 NMAC - Rp, 10.29.6.2 NMAC, 11/15/16]

10.29.6.3 STATUTORY AUTHORITY: Section 29-7-10 NMSA 1978 (Repl. Pam. 1994), Section 29-7-4 NMSA 1978 (Repl. Pam. 1994), and Section 29-7-5 NMSA 1978 (Repl. Pam. 1994). [10.29.6.3 NMAC - Rp, 10.29.6.3 NMAC, 11/15/16]

10.29.6.4 DURATION: Permanent. [10.29.6.4 NMAC - Rp, 10.29.6.4 NMAC, 11/15/16]

10.29.6.5 EFFECTIVE DATE: November 15, 2016, unless a later date is cited at the end of a section.

[10.29.6.5 NMAC - Rp, 10.29.6.5 NMAC, 11/15/16]

10.29.6.6 OBJECTIVE:

The purpose of Part 6 is to establish training requirements and eligibility standards for police officers and telecommunicators who seek certification by waiver of basic training under Section 29-7-10 NMSA 1978 (Repl. Pam. 1994), Section 29-7C-6 NMSA 1978. Certification by waiver of previous training for officer minimum standards of training will include:

- A.** ethics and sexual harassment - eight hours;
- B.** search and seizure - 16 hours;
- C.** New Mexico legal block - 16 hours
- D.** dealing with the mentally ill (HB 93) - eight hours;
- E.** use of force, response to resistance, and training simulator - 16 hours;
- F.** domestic violence and human trafficking - eight hours;
- G.** reality based training scenarios - four hours;
- H.** administrative time - one hour;
- I.** law enforcement officers certification exam - three hours; and
- J.** 80 hours of academy accredited training is required for successful completion of the certification by waiver of previous training course.

[10.29.6.6 NMAC - Rp, 10.29.6.6 NMAC, 11/15/16]

10.29.6.7 DEFINITIONS: [RESERVED]

10.29.6.8 REQUIREMENTS FOR POLICE OFFICERS:

- A.** To be eligible for certification by waiver of basic training, such applicants shall be required to successfully meet all qualifications for police officer admission as set forth in Section 29-7-6 NMSA 1978 (Repl. Pam. 1997).
- B.** All applicants must submit a required two-part application packet.

(1) Part I of the packet contains materials documenting employment history, training and certification status, and previous training to be used by the academy board to make a determination of whether the applicant has completed a basic law enforcement training program that is comparable to, or exceeds, the standards of the programs of the academy.

(2) Part II of the packet contains the application for admission and certification; employment verification; completion of a medical and psychological evaluation; criminal history; fingerprint affidavit; waiver of liability; release of information; notarized copy of high school diploma, general education development (GED) certificate, or college diploma; applicant affidavit of United States (U.S.) citizenship or proof of U.S. citizenship; applicant affidavit of proof of current valid driver's license; and a notarized copy of DD214, only applicable if an applicant has military service. Applicants must meet these requirements to be eligible for the certification by waiver program.

C. Once an applicant has successfully met the aforementioned requirements, the applicant shall complete one of the following paths to successfully meet the certification requirements:

(1) The applicant's agency will provide documentation attesting to the applicant's successful completion of 80 hours of accredited training. Upon review and approval of submitted documentation of aforementioned training, the applicant will then be eligible to challenge, and must successfully pass with a minimum score of seventy percent, the law enforcement officer's certification examination (LEOCE).

(2) If the applicant is unable to complete any of 80 hours of accredited training, or did not successfully pass the LEOCE, the applicant will be required to attend 80 hour certification by waiver training

program and successfully pass with a minimum score of seventy percent the LEOCE.

D. Applicants will have two opportunities to successfully pass the LEOCE. If an applicant is unable to pass the LEOCE after two attempts he or she will be required to attend and pass the basic police officer training program.

E. For the purposes of certification by waiver of previous training, pursuant to Section 29-7-10 NMSA 1978 (Repl. Pamp. 1997), the academy board has adopted the following formula to be applied to individuals who have not completed a comparable basic training program: applicants will be given credit for previous certified law enforcement experience at the rate of 40 hours per year for each year of service, up to but not to exceed 10 years, for a total of 400 hours, and the applicant will receive credit for advanced training, up to but not to exceed 400 hours. Applicant experience and training must be equivalent to the current minimum standards of training curriculum in effect at the time of application, unless such deficiencies are covered in the certification by waiver program.

[10.29.6.8 NMAC - Rp, 10.29.6.8 NMAC, 11/15/16]

10.29.6.9 ELIGIBILITY OF OUT-OF-STATE POLICE OFFICER APPLICANTS:

A. In the event a certified officer from another state or duly commissioned officer from a federal agency makes application for certification in the state of New Mexico, they must meet all qualifications and requirements as determined by the director.

B. Any applicant who has not been employed as a full-time law enforcement officer for a period in excess of eight years must attend the basic police officer training program to become certified.

C. Any applicant who has successfully completed an accredited law enforcement academy from another state, but has never been certified, must secure

a law enforcement position with a recognized New Mexico law enforcement agency within three years of academy completion and must meet all other qualifications and requirements as determined by the director to be eligible for certification by waiver.

[10.29.6.9 NMAC - Rp, 10.29.6.9 NMAC, 11/15/16]

10.29.6.10 ELIGIBILITY OF RETIREES: In the event a retired certified officer who has appropriately separated from law enforcement service makes application to obtain or regain New Mexico certification by waiver of basic training, such applicants shall satisfy the following requirements.

A. Applicant must have graduated from a certified law enforcement academy that was comparable to or exceeded the standards of the programs of the New Mexico academy.

B. Separation must be under honorable conditions.

C. Complete all other conditions required under the current certification by waiver of basic training, except for the physical fitness and agility requirements.

D. Complete any other requirements imposed on applicant by sponsoring agency.

[10.29.6.10 NMAC - Rp, 10.29.6.10 NMAC, 11/15/16]

10.29.6.11 REQUIREMENTS FOR ACTIVE DUTY MILITARY POLICE APPLICANTS:

A. Qualifying military police must have successfully completed a basic military police course and completed a four-year enlistment as a military police officer in the U.S. army, U.S. marine corps, U.S. air force, or U.S. navy. Persons serving in the U.S. coast guard and department of defense police do not meet occupational requirements.

B. Individuals meeting the aforementioned qualifications must have successfully completed basic military training from one of the following military police courses for the military branch they served:

(1) U.S. army
after 9/1/2003;
(2) U.S.
marine corps after 9/1/2003;
(3) U.S. air
force after 9/1/2005; or
(4) U.S. navy
after 9/1/2005.

C. Military
occupational specialties or air force
career classifications considered are:

(1) U.S. army
95B, or 31B;
(2) U.S.
marine corps 5811;
(3) U.S. air
force 3PO51, or 3PO91; or
(4) U.S. navy
master at arms, or *navy* enlisted
classification (NEC) 9545 (completed
NAVEDTRA 14137).

D. Individuals serving
in the armed forces who have
completed a basic military police
course prior to the above dates, but
had continuous military service in
an approved military occupation
specialty or air force career (MOS/
AFC) since completion of the
military basic course, along with
continuing educational courses may
be considered. Applicants meeting
this criterion will be required to
complete part I and part 2 packets as
listed in Section 29-7-6 NMSA 1978,
qualifications for certification, listing
all schools and training to the New
Mexico law enforcement academy
(NMLEA) director for consideration.

E. All of the
aforementioned military police
applicants must attend the 80 hour
certification by waiver training course
and successfully pass the LEOCE
with a score of seventy percent or
better.

F. Applicants currently
on active duty status must also submit
a notarized letter from their current
command attesting to their current
status, records of any disciplinary
actions, and a statement attesting the
applicant is eligible for a general/
honorable discharge.

G. members who have
only served in the national guard
or reserves are not eligible for the
certification by waiver program.

[10.29.6.11 NMAC - Rp, 10.29.6.11
NMAC, 11/15/16]

10.29.6.12 REQUIREMENTS FOR PUBLIC SAFETY TELECOMMUNICATOR:

A. In order to be
eligible for certification by waiver
of basic training, such applicants
shall be required to successfully
complete a certification by waiver of
previous training program in order
to demonstrate proficiency. The
training will include the following
topics: human relations; civil law;
criminal law; domestic violence;
national crime information center;
New Mexico law enforcement
telecommunications system (NCIC
– NMLETS) and critical incident
management training. The public
safety telecommunicator certification
examination will be administered at
the end of the training program. The
applicant will have two opportunities
to successfully pass the exam. Two
failures of the exam will require the
applicant to attend the basic public
safety telecommunicator training
program.

B. For the purposes
of certification by waiver of previous
training, pursuant to Section 29-7C-
6 NMSA 1978, the academy board
has adopted the following formula to
be applied to individuals who have
not completed a comparable basic
training program. Applicants will
be given credit for previous public
safety telecommunicator experience
at the rate of 24 hours per year for
each year of service, up to but not to
exceed five years, for a total of 120
hours, and the applicant will receive
credit for advanced training, up to but
not to exceed 120 hours. Applicant
experience and training must be
equivalent to the current minimum
standards of training curriculum
in effect at the time of application,
unless such deficiencies are covered
in the certification by waiver program.
[10.29.6.12 NMAC - Rp, 10.29.6.12
NMAC, 11/15/16]

10.29.6.13 ELIGIBILITY OF OUT-OF-STATE PUBLIC SAFETY TELECOMMUNICATOR APPLICANTS:

A. In the event a
certified telecommunicator from
another state or a telecommunicator
from a federal agency makes
application for certification in the
state of New Mexico they must meet
all qualifications and requirements as
determined by the director.

B. Any applicant who
has not been employed as a certified
telecommunicator for a period in
excess of eight years must attend the
basic public safety telecommunicator
training program to become certified.

C. Any applicant
who has successfully completed
an accredited law enforcement
academy from another state, but has
never been certified, must secure a
telecommunicator position with a
New Mexico public safety agency
within three years of academy
completion and must meet all other
qualifications and requirements as
determined by the director to be
eligible for certification by waiver.
[10.29.6.13 NMAC - Rp, 10.29.6.13
NMAC, 11/15/16]

HISTORY OF 10.29.6 NMAC:

Pre-NMAC History: The material
in this part was derived from that
previously filed with the State
Records Center and Archives under:
NMLEA Rule #C4, Certification
By Waiver Of Previous Training
Program, filed 10-25-1989; NMLEA
Rule #C4, Certification By Waiver Of
Previous Training Program, filed 12-
31-1992.

History of Repealed Material:

10.29.6 NMAC, Law Enforcement
Academy - Certification By Waiver,
filed 7-1-2001 - Repealed effective
11/15/2016.

PUBLIC SAFETY, DEPARTMENT OF LAW ENFORCEMENT ACADEMY

TITLE 10 PUBLIC SAFETY AND LAW ENFORCEMENT CHAPTER 29 LAW ENFORCEMENT ACADEMY PART 7 IN-SERVICE TRAINING REQUIREMENTS

10.29.7.1 ISSUING

AGENCY: - Department of Public Safety, New Mexico Law Enforcement Academy, 4491 Cerrillos Road, Santa Fe, New Mexico 87507.
[10.29.7.1 NMAC - Rp, 10.29.7.1 NMAC, 11/15/2016]

10.29.7.2 SCOPE: All

certified police officers in the state of New Mexico.
[10.29.7.2 NMAC - Rp, 10.29.7.2 NMAC, 11/15/2016]

10.29.7.3 STATUTORY

AUTHORITY: Section 29-7-7.1 NMSA 1978, (Repl. Pamp. 1994), Section 29-7-4 NMSA 1978, (Repl. Pamp. 1994), Section 29-7-5 NMSA 1978, (Repl. Pamp. 1994)
[10.29.7.3 NMAC - Rp, 10.29.7.3 NMAC, 11/15/2016]

10.29.7.4 DURATION:

Permanent.
[10.29.7.4 NMAC - Rp, 10.29.7.4 NMAC, 11/15/2016]

10.29.7.5 EFFECTIVE

DATE: November 15, 2016, unless a different date is cited at the end of a section.
[10.29.7.5 NMAC - Rp, 10.29.7.5 NMAC, 11/15/2016]

10.29.7.6 OBJECTIVE:

The purpose of Part 7 is to establish in-service law enforcement training requirements for certified police officers and certified public safety telecommunicators.
[10.29.7.6 NMAC - Rp, 10.29.7.6 NMAC, 11/15/2016]

10.29.7.7 DEFINITIONS:

A. "Academy" means the New Mexico law enforcement academy.

B. "NHTSA" means the national highway traffic safety administration.
[10.29.7.7 NMAC - Rp, 10.29.7.7 NMAC, 11/15/2016]

10.29.7.8 2016-2017 IN-SERVICE TRAINING CYCLE FOR LAW ENFORCEMENT OFFICERS:

A. All New Mexico certified law enforcement officers shall receive a minimum of 40 hours of training bi-annually.

(1) A minimum of four hours shall be in safe pursuit pursuant to Section 29-20-3 NMSA 1978.

(2) A minimum of one hour shall be in domestic violence incident training pursuant to Section 29-7-4.1 NMSA 1978.

(3) A minimum of two hours shall be in the detection, investigation and reporting of a crime motivated by hate pursuant to Section 31-18B-5 NMSA 1978.

(4) For all officers who may be involved in the arrest of driving while intoxicated (DWI) offenders as a normal part of their duties, four hours shall be in NHTSA approved standardized field sobriety testing (SFST) protocols or successful course completion of the NHTSA approved 16 hour advanced roadside impaired driving enforcement course.

(5) A minimum of one hour shall be in ensuring child safety upon arrest pursuant to Section 29-7-7.3 NMSA 1978.

(6) Four hours of academy approved day and night firearms training on agency approved weapons systems including, but not limited to, duty handgun, backup handgun, shotgun, and rifle. No more than one hour training shall be classroom lecture. A minimum of three hours training, divided equally between day and night training, and shall consist of practical exercises using live fire, Simmunitions®, Airsoft® or other firearms training systems. Qualification testing may not be used as training to meet this requirement.

(7) A minimum of two hours in child abuse incident training pursuant to Section 29-7-4.2 NMSA 1978.

(8) A minimum of one hour shall be in missing persons and Amber alert training pursuant to Section 29-7-7.4

NMSA 1978.

(9) A minimum of two hours shall be in academy accredited interaction with persons with mental impairments training pursuant to Section 29-7-7.5 NMSA 1978.

(10) A minimum of one hour shall be in academy accredited sexual assault investigation training, which will have an automatic sunset clause ending this requirement on January 1, 2018.

(11) A minimum of two hours shall be in legal update training to include changes in New Mexico state statutes and recent state and federal case law.

(12) Remaining hours shall be in maintenance or advanced areas to meet the agencies specific needs.

B. Required training may be received through the following means.

(1) The advanced training bureau will contract for course instruction at the regional training sites.

(2) Where scheduling will allow, the New Mexico law enforcement academy will assign staff to instruct the course at the regional training sites.

(3) Curriculum developed by the New Mexico law enforcement academy will be provided to individual agencies upon request for their own certified instructors to present to their officers, provided the instructor is qualified in the subject matter.

(4) Individual agencies develop curriculum for review and approval (accreditation) by the academy which meets the criteria established by the board.

C. This four-pronged approach gives all agencies the flexibility they need to address individual training needs. It also allows the board to implement a planned program of in-service training that is responsive to the changing demands placed upon law enforcement and the opportunity to have statewide consistency in certain critical areas.

D. Implementation is to begin on January 1, 2016.

E. Officers obtaining certification between, January 1, 2016 and December 31, 2016 will be required to obtain one-half of the in-service training requirements. Officers obtaining certification between, January 1, 2017, and December 31, 2017, will be required to meet the next two-year requirement which will go into effect on January 1, 2018. This policy will apply in subsequent two-year cycles. Officers transferring from one agency to another will carry with them the responsibility for in-service training. [10.29.7.8 NMAC - Rp, 10.29.7.8 NMAC, 11/15/2016]

**10.29.7.9 2016-2017
TRAINING CYCLE FOR
TELECOMMUNICATORS:**

A. All New Mexico certified telecommunicators shall receive a minimum of 20 hours of training bi-annually.

(1) A minimum of two hours in academy accredited interaction with persons with mental impairments training pursuant to Section 29-7-7.5 NMSA 1978.

(2) The remaining training may be in academy approved advanced and specialized training/education or any maintenance training area which is designed to improve upon or add to the knowledge, skills, and abilities of the telecommunicator.

B. Required training may be received through the following means.

(1) The academy may arrange for course instruction at regional training sites.

(2) Where scheduling will allow, the academy will assign staff to instruct the course at regional training sites.

(3) Curriculum may be developed by the academy and provided to individual agencies for their own certified instructors to present to their telecommunicators, provided the instructor is qualified in the subject matter.

(4) Individual agencies develop curriculum for review and approval (accreditation) by the academy which meets the criteria established by the board.

C. This four-pronged approach gives all agencies the flexibility they need to address individual training needs. It also allows the board to implement a planned program of in-service training that is responsive to the changing demands placed upon telecommunicators and the opportunity to have statewide consistency in certain critical areas.

D. Implementation is to begin on January 1, 2016.

E. Telecommunicators obtaining certification between January 1, 2016 and December 31, 2016, will be required to obtain one-half of the in-service training requirement. Telecommunicators obtaining certification between January 1, 2017, and December 31, 2017, will be required to meet the next two-year requirement which will go into effect on January 1, 2018. This policy will apply in subsequent two-year cycles. Telecommunicators transferring from one agency to another will carry with them the responsibility for in-service training. [10.29.7.9 NMAC - Rp, 10.29.7.9 NMAC, 11/15/2016]

HISTORY OF 10.29.7 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under: NMLEA Rule #C5, In-Service Training Requirements, filed 12-31-92; NMLEA Rule #C5, In-Service Training Requirements 1994 - 1995 Training Cycle, filed 11-15-93; NMLEA Rule #C5, In-Service Training Requirements 1994 - 1995 Training Cycle, filed 12-17-1993; NMLEA Rule #C5, In-Service Training Requirements - 1996-97 Training Cycle, filed 11-7-1995.

History of Repealed Material:

10.29.7 NMAC Law Enforcement Academy - In-Service Training Requirements, filed 7-1-2001 - Repealed effective 11/15/2016.

**PUBLIC SAFETY,
DEPARTMENT OF
LAW ENFORCEMENT ACADEMY**

**TITLE 10 PUBLIC SAFETY
AND LAW ENFORCEMENT
CHAPTER 29 LAW
ENFORCEMENT ACADEMY
PART 9 POLICE
OFFICER**

10.29.9.1 ISSUING

AGENCY: Department of Public Safety, New Mexico Law Enforcement Academy, 4491 Cerrillos Road, Santa Fe, New Mexico 87505. [10.29.9.1 NMAC - Rp, 10.29.9.1 NMAC, 11/15/2016]

10.29.9.2 SCOPE: All police officers and law enforcement agencies in the state of New Mexico.

[10.29.9.2 NMAC - Rp, 10.29.9.2 NMAC, 11/15/2016]

10.29.9.3 STATUTORY

AUTHORITY: Subsection (B) (C) (F) of Section 29-7-4 NMSA 1978 (Repl. Pam. 1994), Subsection (E) (F) of Section 29-7-5 NMSA 1978, (Repl. Pam. 1994), Paragraph (4) (6) of Subsection (A) of Section 29-7-6NMSA 1978, (Repl. Pam. 1994), Section 29-7-7.1 NMSA 1978, (Repl. Pam. 1994), Section 29-7-7.2 NMSA 1978, (Repl. Pam. 1994), Section 29-7-10 NMSA 1978, (Repl. Pam. 1994).

[10.29.9.3 NMAC - Rp, 10.29.9.3 NMAC, 11/15/2016]

10.29.9.4 DURATION: Permanent.

[10.29.9.4 NMAC - Rp, 10.29.9.4 NMAC, 11/15/2016]

10.29.9.5 EFFECTIVE

DATE: November 15, 2016, unless a different date is cited at the end of a section.

[10.29.9.5 NMAC - Rp, 10.29.9.5 NMAC, 11/15/2016]

10.29.9.6 OBJECTIVE: The objectives of Part 9 are to establish minimum standards of training for police officer certification, authorize the adoption of a student handbook

of student rules and regulations by the director, enumerate reporting requirements for law enforcement agencies in the state of New Mexico, establish criteria for applications to attend the New Mexico law enforcement academy, identify criteria for psychological evaluations required under law and fingerprint clearance, establish entry level and requalification firearms training requirements, establish criteria and procedures for temporary or emergency certification and renewal of certification after absence. [10.29.9.6 NMAC - Rp, 10.29.9.6 NMAC, 11/15/2016]

10.29.9.7 DEFINITIONS:
[RESERVED]

10.29.9.8 POLICE OFFICER MINIMUM STANDARDS OF TRAINING:

The core basic training academy curriculum at a minimum will include:

A. Block 1:

Introduction to the academy:

seven total block hours. This unit of instruction prepares the cadet officer for the academy experience, focusing on the responsibilities the cadet must undertake to successfully complete the basic police officer's certification academy. The subjects include:

- (1) academy mission - one hour;
- (2) overall academy objectives - two hours;
- (3) rules and regulations of the academy - one hour;
- (4) learning skills - two hours; and
- (5) role and function of the New Mexico law enforcement academy (NMLEA) - one hour.

B. Block 2:

Introduction to law enforcement in New Mexico: 20-six total block hours. This unit of instruction identifies the core background, principles and expectations of being a certified law enforcement officer in the state of New Mexico. The subjects include:

- (1) history and principles of law enforcement - one hour;
- (2) cultural diversity - four hours;
- (3) ethics and moral issues/sexual harassment - eight hours;
- (4) the New Mexico criminal justice system - two hours;
- (5) criminal and civil liability - standards of performance - three hours; and
- (6) survival Spanish for law enforcement - eight hours.

C. Block 3: Physical and emotional readiness: 64 total block hours. This unit of instruction will instruct the student in health and physical fitness concepts, flexibility, strength, body composition and cardiovascular endurance. The student will be expected to successfully complete both entrance and exit standards of fitness and exit standards of job-related agility. The subjects and standards include:

- (1) physical fitness practical training time - 60 hours;
- (2) emotional health, officer suicide and stress management - three hours;
- (3) nutrition - one hour; and
- (4) fitness standards for basic police officer training academy entrance and exit standards. Complete medical exam packets, law enforcement academy form three (LEA 3), must have been signed by a medical doctor and have been received with final clearance and approval prior to physical fitness testing being administered by academy staff. All entrance times were set by the NMLEA board on September 3, 2014, with the altitude adjustment adopted by the NMLEA board on June 8, 2016. Physical fitness testing standards:

>6000' + 40 sec adj.	Entrance Standard	Mid-Point Standard	Exit Standard
1.5 Mile run	15:54	15:04	14:15
300 Meter	71.0 sec	67.5	64
Sit-ups (1 min)	27	32	37
Push-ups (1 min)	15	20	25
<6000'	Entrance Standard	Mid-Point Standard	Exit Standard
1.5 Mile run	15:14	14:24	13:45
300 Meter	71.0 sec	67.5	64
Sit-ups (1 min)	27	32	37
Push-ups (1 min)	15	20	25

*20 minute mandatory rest period between the 1.5 mile run and the 300 meter run.

(a) Sit-ups: The student starts by lying on their back, knees bent, heels flat on the floor, fingers interlaced and placed behind the head. Partner holds the feet down firmly. In the up position, the student should touch the elbows to knees and then return until the shoulder blades touch the floor. Any resting should be done in the up position. No rocking hips. If fingers become unlaced, adjustment must be made in the up position.

(b) Push-ups: The hands are placed about shoulder width apart. The administrator or partner places a fist on the floor below the student's chest at the midpoint of the sternum (unless a male is testing a female). Starting from the up position (elbows fully extended), the student must keep the back straight at all times (no swayback or elevated hips) and lower their body to the floor until the chest touches the administrator's fist. Student then returns to the up position. Any resting should be done in the up position. Modified push-ups are no longer optional for female applicants. All applicants are required to perform standard push-ups as described in (a) and (b) above.

(c) Exit job specific agility course standard:

course #1: officer starts seated in his vehicle, hands on the steering wheel with seatbelt in use and wearing a 10 pound weight belt or vest around waist to simulate a gun belt. As the timed exercise begins, the officer will:

(i) release seatbelt and open vehicle door;

(ii) run 30 feet and open building door;

(iii) cross four foot threshold, run up two flights of stairs and pause for 60 sec. (Rise and Run of seven inches by 11 inches is standard, eight inches by 10 inches or six inches by 12 inches are acceptable. Standard floor landings are 10 feet high.) If only one floor is available it is acceptable to run up, run down, run up and pause 60 seconds. After 60 seconds, run down the stairs and out the door. There is no restriction on how the officer negotiates the stairs; however both feet must contact the top and bottom stair.

(4) Run 100 feet from door to a five foot high platform, run up steps, ladder, or ramp to the top of the platform and jump down.

(5) Run 37 and one-half feet, turn and reverse touching the ramp, run 25 feet to a six foot high wall and scale it. The wall is constructed of unpainted cinder block with a smooth top. If the applicant chooses, he or she may drag a rigid aid or object 10 feet from the side of the wall and use it to scale the wall. The rigid object will have handles, a flat top, weigh 50 pounds and be 25 inches tall.

(6) After scaling the wall, run 50 feet to a handcuff/arrest simulator, put arms down, touch ends and hold for 60 seconds. Arrest simulator is five foot high with 60 pounds resistance in the right arm and 40 pounds in left arm. End exercise. Passing score is three minutes five seconds.

(d) Course #2: Officer starts from a standing position wearing a 10 pound weight belt or vest around waist to simulate a gun belt. As the timed

exercise begins, the officer will:

(i) Run 30 feet straight ahead and jump across a four foot wide barrier. The barrier is low to the ground, e.g. a ditch, highway divider, etc.

(ii) Run 12 and one-half feet, and climb, jump, or hurdle over a three foot high barrier. The barrier is to resemble a fence or low wall, no more than four inches wide and at least eight feet long, made of metal or wood.

(iii) Run 12 and one-half feet to the back of a vehicle equivalent to a full-sized police vehicle and push it 30 feet on a flat surface in the direction of a clear area where a victim extraction will take place. The car is occupied by a dummy (victim) wearing a seatbelt and weighing 190 pounds plus or minus 10 pounds. The dummy must meet standards established by the New Mexico law enforcement academy.

(iv) Approach the victim's door; open the door; undo the seatbelt; pull the victim out of the vehicle and drag them 20 feet perpendicular to the direction of the vehicle.

(v) Both officer and dummy (victim) must completely cross the finish line to end the exercise. Passing Score 42 seconds.

D. Block 4: Law and procedures: 50 total block hours.

This unit of instruction informs the student about law and its application to the function of a law enforcement officer. The subjects include:

(1) authority and jurisdiction - three hours;

(2) constitutional law - one hour;

(3) criminal law - 10 hours;

(4) criminal procedure and laws of arrest - seven hours;

(5) search and seizure - 22 hours;

(6) civil law - one hour;

(7) liquor law - one hour;

(8) Indian

country law - one hour;

(9) juvenile

law - one hour;

(10) handling

juveniles and their problems - one

hour; and

(11) hate crimes

- two hours.

E. Block 5: Patrol procedures and operations: 70 total block hours. This unit of instruction will cover the various types of incidents that a law enforcement officer can be expected to be involved in while on patrol, and the practices and procedures necessary to perform the patrol function. The subjects include:

(1) patrol procedures and operations - eight hours;

(2) vehicle stops techniques - two hours;

(3) road blocks and barricades - one hour;

(4) gangs, terrorism and explosive recognition

overview - eight hours;

(5) critical incident management overview - eight hours;

(6) radio procedures - one hour;

(7) patrol response practicum - five hours;

(8) night-time vehicle stops practicum - five hours;

(9) officer survival - eight hours;

(10) building search practicum - eight hours;

(11) missing persons, silver alert, Brittney alert and Amber alert - seven hours;

(12) hazardous materials - eight hours; and

(13) transporting prisoners - one hour.

F. Block 6: Principles of criminal investigation: 46 total block hours.

This unit of instruction shall prepare the officer to effectively secure a crime scene, conduct an investigation, collect evidence and prepare reports so suspects may be prosecuted. The subjects include:

(1) officer as first responder - eight hours;
 (2) interview and interrogation techniques and skills - two hours;
 (3) identifying, collecting and processing evidence - eight hours;
 (4) identification of suspects - one hour;
 (5) injury and death cases - three hours;
 (6) sex crimes - three hours;
 (7) controlled substances - three hours;
 (8) informants and intelligence - two hours;
 (9) surveillance - two hours;
 (10) technology crimes and investigations - two hours;
 (11) child abuse and neglect - four hours; and
 (12) crime scene practicum - eight hours.

G. Block 7: Motor vehicle law enforcement: 40 total block hours. This unit of instruction will furnish the officer with information relating to the applicable motor vehicle laws and the criteria for conducting traffic enforcement operations. The subject includes:

(1) vehicle code enforcement - one hour;
 (2) title, registration and vehicle identification - one hour;
 (3) driver licensing - one hour;
 (4) occupant safety - one hour;
 (5) traffic enforcement strategies - one hour;
 (6) DWI enforcement/impaired operator - 32 hours;
 (7) commercial vehicle enforcement - one hour; and
 (8) off highway motor vehicle act - one hour.

H. Block 8: Motor vehicle collision investigation and related issues: 24 total block hours. This unit of instruction will provide the student with a basic level of

competency to conduct a traffic crash investigation; to have an awareness of the risk posed by hazardous materials and the officer's role in a hazardous materials incident. Hazardous materials foundational knowledge as taught in sub-block 5.12 is applied in sub-block 8.1. The subjects include:

(1) collision investigation - 23 hours; and
 (2) vehicle crash forms - one hour.

I. Block 9: Crisis intervention/management: 40 total block hours. This unit of instruction will prepare the officer to effectively manage high-risk incidents by providing resolution techniques through crisis intervention with the goal of successful conclusion. The subjects include:

(1) behavior management and crisis intervention - eight hours;
 (2) dispute intervention and conflict management - eight hours;
 (3) handling the mentally ill and other specialty populations - 16 hours; and
 (4) suicide, barricaded, hostage and suicide by police - eight hours.

J. Block 10: Domestic issues: 20 total block hours. This unit of instruction will focus on the cycle of violence, the rights of victims and the responsibilities of law enforcement and the assistance available to victims. The subjects include:

(1) domestic violence and police response - eight hours;
 (2) victims assistance law and human trafficking - two hours;
 (3) ensuring child safety upon parental arrest - two hours; and
 (4) domestic violence practicum - eight hours.

K. Block 11: Note taking and report writing: 16 total block hours. This unit of instruction will provide the student with the competencies to effectively communicate in written form the

necessary information required in a police report and other official communications. The subjects include: note taking and report writing - 16 hours.

L. Block 12: Defensive tactics and handling arrested persons: 86 total block hours. This unit of instruction will provide the student with techniques used to arrest and control subjects and also how to defend themselves from physical attack. The student will learn the relationship between the subjects actions, crimes suspected of committing and the proper application of force when reasonably necessary. The subjects include:

(1) use of force/force response to resistance - 12 hours;
 (2) medical implications - one hour;
 (3) oleo resin capsicum spray - three hours;
 (4) mechanics of arrest, restraint and control practical - 62 hours; and
 (5) electronic control devices (taser) - eight hours.

M. Block 13: Case presentation: 12 total block hours. This unit of instruction will give the student the skills for proper preparation and testimony in court and to prepare and question witnesses on the stand, make objections and arguments in petty misdemeanor and misdemeanor cases. The subjects include:

(1) court room testimony and demeanor - two hours; and
 (2) police officer as prosecutor practical - 10 hours.

N. Block 14: Operation of a patrol vehicle: 54 total block hours. This unit of instruction will prepare the officer for proficiently operating a patrol vehicle, the various factors that affect the operation of a patrol vehicle, procedures for emergency driving and legal issues related to emergency vehicle operations. The student will demonstrate their competencies on the sub-skills (lane change,

slalom, perception reaction, lolly-pop and backing) driving course with a precision closed course and a precision open course and overall course. Satellite academy courses will be equivalent to the New Mexico law enforcement academy emergency vehicle operator's course(s):

- (1) introduction to emergency vehicle operations - two hours;
- (2) safe pursuit act and legal issues - 16 hours;
- (3) emergency response - two hours;
- (4) vehicle dynamics - two hours; and
- (5) skills development driving courses - 32 hours.

O. Block 15: Basic firearms (handgun) course: 77 total block hours. This unit of instruction will familiarize the student with the operation and maintenance of a firearm, firearm safety, safety equipment and fundamentals of marksmanship. The student will successfully complete the New Mexico firearms standardized qualification courses and will display proper decision-making in shoot/don't shoot simulations. The subjects include:

- (1) basic firearms (handgun) practical training and qualifications - 68 hours;
- (2) body armor - one hour; and
- (3) deadly force decision making practicum simulator - eight hours.

P. Block 16: Academy administration: 40 total block hours. This unit is for the administration of the basic academy training program. This includes examinations and reviews, assessments, inspections, discretionary training time and graduation. The subjects include:

- (1) cadet check in - three hours;
- (2) orientation - four hours;
- (3) block exams - 11 hours;
- (4) physical

- assessments - four hours;
- (5) administrative review - four hours;
- (6) law enforcement officer certification exam (LEOCE) - four hours;
- (7) equipment return - two hours;
- (8) graduation rehearsal - two hours;
- (9) graduation - three hours; and
- (10) dorm check-out - three hours.

Q. Total basic training academy minimum hours required for certification: 672 total hours.
[10.29.9.8 NMAC - Rp, 10.29.9.8 NMAC, 11/15/2016]

10.29.9.9 STUDENT HANDBOOK, PROCEDURES AND REGULATIONS: Due to the need to insure that students attending the New Mexico law enforcement academy comply with rules and regulations, the director of the New Mexico law enforcement academy is hereby instructed to prepare a handbook covering student rules and regulations, policies and procedures. Such handbook shall be updated as necessary and when applicable, changes shall be reported to the New Mexico law enforcement academy board at their next regularly scheduled meeting.
[10.29.9.9 NMAC - Rp, 10.29.9.9 NMAC, 11/15/2016]

10.29.9.10 POLICE OFFICER REGISTRY REPORTING AND APPLICATIONS FOR ADMISSION/CERTIFICATION:

A. Reporting Requirements:

- (1) Employment, termination, or conviction of any felony charge or violation of any federal or state law or local ordinance relating to aggravated assault, theft, driving while intoxicated, controlled substances or other crime involving moral turpitude of all peace officers in the state of New Mexico must be reported to

the New Mexico law enforcement academy within 30 days of such action.

(2) Required reporting forms shall be established by the director of the New Mexico law enforcement academy.

(3) All law enforcement agencies who do not comply with the requirement of submitting to the New Mexico law enforcement academy status reports on their employees will not be eligible for training funds or attendance at basic or in-service/advanced training classes until the registry is made current. Repeated failures to maintain the registry shall result in a period of suspension of training eligibility to be set by the director of the New Mexico law enforcement academy.

(4) In order to protect the lives and safety of the officer involved, any law enforcement agency employing undercover officers may indicate, in writing, a desire to protect the officer's identity. If such indication is made, the officer's name shall not appear in the general office registry. His name and other information requested shall however be furnished to the New Mexico law enforcement academy.

B. Application Requirements:

(1) An applicant for training or for certification, or his department, must submit the initial application for admission/certification and all necessary paperwork within 30 days of the initial hire date for said applicant.

(2) Non-compliance with the 30 day application requirement will result in assignment to class after completion of all other requirements herein on a space available basis only - no special consideration will be given the applicant and the applicant must have his commission suspended if he exceeds one year from initial hire date.

(3) No applicant shall be admitted to the New Mexico law enforcement academy after one year of initial hire date

unless the applicant and his chief, sheriff, or agency head certify:

(a)

that he was suspended from duty as a law enforcement officer and his commission revoked within one year of his initial hire date; and

(b)

that the department will reinstate the officer based upon his successful completion of the basic training course and certification by the New Mexico law enforcement academy board.

(4) The New

Mexico law enforcement academy shall be notified of any change in the medical or psychological condition of an applicant prior to his admission or certification.

(5) Applicants

who falsify any information on their application for admission or certification will not be considered for admission or certification.

[10.29.9.10 NMAC - Rp, 10.29.9.10 NMAC, 11/15/2016]

10.29.9.11 [RESERVED]

10.29.9.12 PSYCHOLOGICAL EXAMINATION:

A. Procedure:

(1) Prior to

admission to training or certification as a law enforcement officer in the state of New Mexico, it shall be necessary for each applicant to be examined by a licensed/certified psychologist who shall certify to the individual's emotional and mental condition on a form prescribed by the director and entitled "mental examination certification".

(2) Private

firms who administer psychological examinations for law enforcement officers shall be acceptable if, however, a qualified representative as stated in Paragraph (1) of Subsection A of 10.29.9.12 NMAC completes the appropriate form as prescribed by the director.

(3) The

applicant shall also prepare and submit a form prescribed by the director and entitled "psychological statement of applicant".

(4) False or

incorrect statements in either form are grounds for revocation of any certificate granted.

(5)

Evaluations cannot be more than one year old for admission/certification purposes.

(6) The

psychological evaluation/written report will be required to be attached to the LEA-4 form. The written evaluation shall be returned to the department head at the time of certification and shall not be maintained in student training files.

(7) The

applicant shall not hold the privilege of obtaining the evaluation; evaluations are the property of the referring agency and shall be held in the strictest of confidence. A self-sponsored applicant may hold the privilege of obtaining the evaluation, however, the original report must still be sent directly to the academy upon completion by the psychologist.

(8) If any

information concerning psychological screening/evaluation provided to the director or the person evaluating the applicant's suitability is found to be false or not truthful, the applicant will be either refused enrollment or if certified, decertified in accordance with 10.29.1.10 NMAC through 10.29.1.17 NMAC.

(9) Applicant

failure of psychological examination must be reported to the New Mexico law enforcement academy within 30 days.

B. Screening process:

(1) Purpose:

The intent of these guidelines is to set minimally acceptable standards for pre-employment psychological testing of persons seeking certification as police officers in New Mexico.

(2)

Examiner standard: Pre-employment psychological testing shall be conducted by a licensed/certified psychologist. In the event the psychologist does not have appropriate training in this area, he/she should seek supervision as per the guidelines of the American

psychological association ethical standards and code of conduct.

(3) Overview

of process: At a minimum, the pre-employment psychological testing process shall consist of the following:

(a)

psychological testing;

(b)

face-to-face interview;

(c)

written narrative report;

(d)

completed New Mexico LEA-4 form; and

(e)

informed consent/release of information form.

(4)

Psychological testing: The pre-employment psychological testing shall include, at a minimum, testing across the following areas:

(a) a

measure of reading ability such as the wide range achievement test (WRAT), the Nelson-Denny reading test, or other comprehensive measure which yields a grade-level score;

(b) a

measure of psychopathology, such as the Minnesota multiphasic personality inventory second revised version (MMPI-2), the personality assessment inventory (PAI) or the Millon-3; and

(c)

a measure of normal personality functioning, such as the 16PF, the LEADER or the Inwald personality inventory.

(5) Interview:

The interview shall be conducted in-person by the licensed/certified psychologist in a face-to-face setting with the candidate. At a minimum, the interview will cover the following areas:

(a) a

brief mental status exam;

(b)

gather or review a social history, to include relevant information regarding early development, schooling, military service, job history and potential problems issues, such as drug and alcohol use, driving, fighting, domestic violence, and past critical life events;

(c) explore areas of judgment and reliability, such as impulse control, communication, appropriate use of force, social skills, common sense, and credit history; and

(d) any other aspects of personal development (i.e. medical history) that the examiner deems important.

(6) Written report: The report shall incorporate all information gathered in the interview and testing. Any clinically significant elevations in test scores shall be discussed and their impact upon job performance explored. The examiner should address the ability of the candidate to perform the essential job functions, some of which may be unique to the sponsoring agency. If the candidate is not recommended, the report should enumerate which essential job functions he/she is incapable of performing.

(7) All psychologists performing pre-employment testing must conform to the guidelines of the American psychological association regarding storage of records.

C. Rejection of applicant and subsequent psychological evaluation within 12 months:

(1) In the event an applicant receives a psychological rejection a subsequent or additional psychological evaluation may only be obtained as provided for in Paragraph (1) of Subsection D of this section, and this subsequent psychological evaluation must first be approved by the director through the appeal process as outlined and provided for in Paragraph (1) of Subsection D of this section. This evaluation must be requested within 30 days of the rejection.

(2) A psychological evaluation obtained without the approval of the director within 12 months of the rejection will not be accepted.

(3) Any rejected applicant who does not appeal the rejection may reapply to a New Mexico law enforcement agency

12 months from the signature date of the rejection.

D. Appeal process:

(1) In the event an applicant receives a rejection, the applicant or agency may request that the rejection be reviewed within 30 days of signature date. This request shall be submitted to the New Mexico law enforcement academy director in writing and state the reason that an appeal is warranted.

(a) Reviewing authority will be a New Mexico licensed psychologist(s) designated by the director.

(b) Results of this review will be communicated in writing to the New Mexico law enforcement academy.

(2) If the reviewer concurs with the rejection, the applicant will be eligible to reapply to a New Mexico law enforcement agency 12 months from the signature date of the original evaluation.

(3) If, in the judgment of the reviewer, a second psychological opinion is warranted:

(a) The second opinion will be rendered by a New Mexico licensed psychologist chosen by the New Mexico law enforcement academy director or his/her designee.

(b) Psychologist will review all test data and other information that was available to the initial psychologist (i.e., background investigation and polygraph results).

(c) The second evaluation, at minimum, will follow the guidelines for pre-employment evaluations as outlined by the New Mexico law enforcement academy. The psychologist may review the original test data and will use, at a minimum, one additional testing instrument for the second evaluation.

(d) Psychologist may request other information from the applicant, the agency, or the New Mexico law enforcement academy prior to conducting the evaluation.

(e) The cost of this evaluation will be borne by the agency or the applicant.

(f) If the results of the second evaluation are negative, the applicant may reapply to a New Mexico law enforcement agency 12 months from the signature date of the second opinion.

(g) If the results of the second evaluation are positive, the applicant's name will be removed from the list of failed applicants.

[10.29.9.12 NMAC - Rp, 10.29.9.12 NMAC, 11/15/2016]

10.29.9.13 FINGERPRINT CLEARANCE FOR ADMISSION/ CERTIFICATION: Due to the fact that the New Mexico law enforcement academy is not recognized by federal regulations as a duly authorized law enforcement agency and therefore cannot be issued an originating agency identification (ORI) to send or receive fingerprint clearances through the federal bureau of investigation, the previous procedures established by the law enforcement academy are repealed and are replaced by the following procedures:

A. All New Mexico police officer applicants for certification must receive a fingerprint clearance from the department of public safety technical and emergency support division and the federal bureau of investigation. No officer applying for police officer certification is allowed to receive an original appointment on a permanent basis in New Mexico if the officer has been convicted of or pled guilty to or entered a plea of nolo contendere to any felony charge or, within the three-year period immediately preceding their application, to any violation of any federal or state law or local ordinance relating to aggravated assault, theft, driving while intoxicated, controlled substances or other crime involving moral turpitude and have not been released or discharged under dishonorable conditions from any of the armed forces of the United States, Section

29-7-6 NMSA 1978, (Repl. Pamp. 1994).

B. One set (two cards) of police officer applicant fingerprint cards will be thoroughly completed by the hiring police agency and forwarded to the department of public safety technical and emergency support division. The department of public safety technical and emergency support division will use one fingerprint card for a records check with their agency and will forward the card back to the hiring agency and will forward the second completed card to the federal bureau of investigation identification section for a records check. The department of public safety technical and emergency support division will not log in the fingerprint cards received from the various law enforcement agencies and will not accept inquiries on the status of the fingerprint clearance either for department of public safety technical and emergency support division or the federal bureau of investigation. Department of public safety technical and emergency support division will forward applicant fingerprint requests to the federal bureau of investigation within three days upon receipt of the cards. Incomplete fingerprint cards or cards not properly completed will be returned by the department of public safety technical and emergency support division to the requesting agency.

C. All fingerprint clearances will be forwarded from department of public safety technical and emergency support division and the federal bureau of investigation back to the initiating agency. If the "ORI" label on the fingerprint card is different than that of the hiring agency, the hiring agency requesting the clearance must print their agency's address below the address located on the fingerprint card.

D. Upon receipt of clearance from both the department of public safety technical and emergency support division and the federal bureau of investigation, "no record", the hiring agency will be required to complete NMLEA Form #A-9, certified by the department head's

signature, and forward this form to the New Mexico law enforcement academy stating that the officer is in compliance with Section 29-7-6 NMSA 1978, (Repl. Pamp. 1994).

E. Upon receipt of information from the department of public safety technical and emergency support division and the federal bureau of investigation that the applicant for certification has a criminal conviction for a felony crime or crime involving moral turpitude it will be the agency's responsibility to terminate the officer. If there is not adequate information, i.e., no disposition, listed on the "rap sheet" it is the agency's responsibility to determine the disposition of the case prior to requesting certification of the officer and certifying that the officer has no record of arrest under the provisions of the Law Enforcement Training Act. In situations in which the agency is unable to determine the disposition of an arrest/conviction, the agency should consult the attorney general's office for assistance. For guidance in determining whether misdemeanor convictions are crimes specifically involving moral turpitude, departments should request the assistance of the attorney general's office.

F. No police officer may be certified through the New Mexico law enforcement academy who has been convicted of or pled guilty to or entered a plea of nolo contendere to any felony charge or, within the three-year period immediately preceding their application, to any violation of any federal or state law or local ordinance relating to aggravated assault, theft, driving while intoxicated, controlled substances or other crime involving moral turpitude and have not been released or discharged under dishonorable conditions from any of the armed forces of the United States, Section 29-7-6 NMSA 1978, (Repl. Pamp. 1994). Any department head certifying that an officer has "no arrest" for the above and information to the contrary is received by the New Mexico law enforcement academy or the attorney general's office,

decertification procedures will be immediately initiated and the law enforcement agency chief/sheriff or department head notified as well as the attorney general's office and the New Mexico law enforcement academy board.

[10.29.9.13 NMAC - Rp, 10.29.9.13 NMAC, 11/15/2016]

10.29.9.14 ENTRY LEVEL AND REQUALIFICATION FIREARMS TRAINING:

A. Entry level handgun standards: The entry level officer category includes any officer who is newly hired that has not previously received academy level training. This will result in the standardization of training in firearms and reduce the liability to departments by ensuring all officers are informed of the most recent legal and technical aspects of using deadly force. Prior to carrying a handgun on or off duty, all entry level non-certified officers shall receive a minimum of 16 hours of instruction in the following areas:

- (1) safety - one hour;
- (a) on/off duty;
- (b) range;
- (2) legal aspects - two hours;
- (a) state statutes;
- (b) use of force policy;
- (c) departmental policy;
- (d) civil liability considerations;
- (3) mental conditioning - one hour of awareness training;
- (4) weapons care and cleaning - one hour;
- (a) nomenclature;
- (b) weapons operation;
- (c) disassembly/cleaning;
- (5) marksmanship fundamentals - one hour;

stance;	(a)	carrying a shotgun or rifle on or off duty, all entry level non-certified
grip;	(b)	officers shall receive (in addition to the above) a minimum of eight hours
sight alignment;	(c)	of instruction in the following areas:
	(d)	(1) safety - 30 minutes;
sight picture;	(e)	on/off duty;
breath control;	(f)	range;
trigger control;	(g)	(2) legal aspects - 30 minutes;
follow through;	(a)	use of force policy;
(6) weapon manipulation - two hours (lecture);	(b)	departmental policy;
presentation;	(3)	weapons care and cleaning - one hour;
reloading techniques;	(a)	nomenclature;
aimed pairs;	(b)	weapons operation;
failure drills;	(c)	disassembly/cleaning;
malfunction clearance techniques;	(4)	weapon manipulation - two hours;
use of cover;	(a)	low/high read;
shooting positions;	(b)	sling positions;
night shooting techniques;	(c)	reloading techniques;
(7) range training and testing - eight hours;	(d)	malfunction clearance techniques;
written test;	(e)	shooting positions;
practical (non-shooting skills training);	(5)	range training and testing - four hours;
	(a)	written test;
live-fire manipulation drills (minimum 130 rounds);	(b)	practical (non-shooting skills training);
decisional shooting (minimum 20 rounds), three scenarios: good guy/bad guy; shoot/don't shoot, and multiple assailant.	(c)	live-fire manipulation drills (minimum 50 rounds);
	(d)	qualification course.
handgun qualification eighty percent or greater (minimum 75 rounds);	(e)	
	(i)	
50 rounds day qualification (see specific course);	(ii)	
25 rounds night qualification (see specific course);		

B. Entry level shotgun/rifle standards: Prior to

required qualifications.

D. Instructor

standards: All firearms training will be conducted by approved instructors or New Mexico state certified firearms instructors.

E. Requalification:

All law enforcement officers must participate in requalification firearms training in accordance with the target/scoring methodology described in Subsection G of 10.29.9.14 NMAC.

F. Reporting:

(1) Training must be conducted and reported to the New Mexico law enforcement academy within 30 days of a non-certified police officer being hired. The reporting form shall be provided by the New Mexico law enforcement academy. No uncertified police officer will be allowed to carry a weapon while on duty until the entry level training has been completed and reported to the New Mexico law enforcement academy.

(2)

Requalification scores of every law enforcement officer in the state of New Mexico shall be reported yearly to the New Mexico law enforcement academy by the employing agency for the daytime, nighttime, and other applicable courses of fire.

G. Target/scoring methodology:

(1) Silhouette dimensions will be no larger than 20 inches wide by 35 inches tall overall. Any target similar in design with the scoring boxes is acceptable for qualification. The target will represent the silhouette of a human with the following scoring zones: A "Coke bottle" shape scoring area - this area is worth two points (worth four points in low-light night qualification course). A template of the scoring area can be obtained from the academy and drawn onto the agency target.

(2) Any

rounds impacting outside the scoring area, even if they are on the silhouette, are not worth any points.

(3) When the

course calls for a "head shot" the rounds must hit within the "business

card”, which is the square shaped scoring area.

(4) A total possible score of 100 points can be achieved with this scoring system. A minimum score of eighty percent, or 80 points, is required for qualification. At least 40 rounds must impact within the scoring area and all rounds must be accounted for either as a hit or a miss. No soft scoring. For the low-light night qualification course, a total possible score of 100 points can be achieved with each round having a value of four points.

H. Ammunition:

All firearms training will be with ammunition that is substantially similar to the duty ammunition. Only factory made new ammunition should be carried on duty.

I. Equipment:

Officers will qualify with their duty equipment authorized by the department. Training officers will ensure practical and live-fire testing will be done in clothing consistent with the officer’s normal duty uniform. As a minimum, body armor should be worn.

J. Backup weapons:

It is recommended that officers be allowed to carry backup weapons, if approved by the departmental armorer/range master, and the officer should demonstrate proficiency with the weapon consistent with their departmental policies. If backup weapons are carried, the weapons should be inspected and by qualification on an appropriate course of fire.

K. Qualification

course: Day (50 round course) - A minimum score of eighty percent is required. Please access the qualification courses through department of public safety (DPS)/NMLEA staff.

L. Qualification

course: Night (25 round course) - A minimum score of eighty percent is required. Low-light conditions would include parking lights from vehicles, naturally existing light, or other light that is just enough to identify a threat. Please access the qualification courses through DPS/NMLEA staff.

[10.29.9.14 NMAC - N, 11/15/2016]

10.29.9.15 TEMPORARY OR EMERGENCY CERTIFICATION:

A. Procedure:

(1) The director may, in his discretion, grant a temporary certification in order to avoid hardships or prevent conflicts within a department arising solely from technical noncompliance with academy board rules.

(2) Said temporary certificate shall be granted only for good cause, proved to the satisfaction of the director, and shall be granted only to persons who have met the minimum standards of training prescribed by the board as well as all other state requirements.

(3) Grounds for granting such temporary certification shall include, but not be limited to, the following: a person qualifying for certification by waiver during a period between board meetings.

(4) A temporary certification must be approved and made permanent no later than the next scheduled board meeting.

(5) In the event said certification is not approved and made permanent by the board, the certification shall expire and be of no further force or effect whatsoever.

B. [RESERVED]

[10.29.9.15 NMAC - Rp, 10.29.9.15 NMAC, 11/15/2016]

10.29.9.16 RENEWAL OF CERTIFICATION AFTER ABSENCE:

A. Break in law enforcement employment:

(1) In the event a certified officer in the state of New Mexico leaves his position for any reason and is not employed as a full-time law enforcement officer for a period of more than two years, but less than eight years, such officer will be considered to be decertified, and will be required to meet all current certification requirements of the New Mexico law enforcement

academy and successfully complete the certification by waiver of previous training program conducted by the New Mexico law enforcement academy.

(2) In the event a certified officer in the state of New Mexico leaves his position for any reason and is not employed as a full-time law enforcement officer for a period in excess of eight years, such officer will be considered to be decertified and will be required to meet all current certification requirements and successfully complete the basic police officer training program.

(3) Those persons who hold a valid New Mexico police officer certification and are employed in an administrative capacity as a full-time police educator or trainer shall not be deemed to have left their position in law enforcement and shall not be required to reapply for certification as specified herein.

(4) The director of the New Mexico law enforcement academy shall have the authority to determine those positions as administrators or trainers that meet the requirements of Paragraph (3) of Subsection A of 10.29.9.16 NMAC above.

B. Minimum allowable employment - An officer must show proof of having worked a minimum of six consecutive months during a break in service of two or less years as a full-time law enforcement officer for a recognized law enforcement agency of this or another state to retain their certification.

C. Military service impact on in-service and firearms credits - If a certified law enforcement officer or dispatcher, in good standing with the law enforcement academy, is called to active military duty, all biennial in-service and firearms qualifications requirements shall be suspended during the period of active military duty. The employing agency shall notify the law enforcement academy of the active military duty call-up and the date on which the call-up

occurred. The suspension of the requirements for in-service and firearms training shall terminate 90 days after the officer/dispatcher leaves active military duty. Upon return from active military duty, the employing agency shall retrain or refresh the certified officer/dispatcher. The employing agency shall notify the law enforcement academy of the officer's/dispatcher's return and of the officer's retraining. Any necessary retraining shall occur within 90 days of return to commission. In the event that a certified law enforcement officers or dispatchers period of separation due to active military service exceeds two years, the individual must complete a certification by waiver training program with the exception of having to complete any of the entrance or testing requirements. If the officer/dispatcher believes that military training which the officer/dispatcher received during the military call-up may qualify for in-service training or firearms qualifications requirements, the agency or officer/dispatcher may petition the law enforcement academy for permission to accept such military training in lieu of in-service training or firearms qualifications requirements. Such petitioning must be submitted in form as prescribed by the director and must include proof of such military training. The law enforcement academy's decision to accept credit for such training shall be at the sole discretion of the director. [10.29.9.16 NMAC - Rp, 10.29.9.16 NMAC, 11/15/2016]

10.29.9.17 MEDICAL REVIEW PROCEDURES:

A. Authority: In accordance with the provisions of the Law Enforcement Training Act, Section 29-7-6 NMSA 1978, an applicant for certification or training must be examined by a licensed physician and be found to be free of any physical condition that might adversely affect his/her performance as a police officer or prohibit him/her from successfully completing a prescribed basic law enforcement training course.

B. Introduction:

In establishing medical selection guidelines, the New Mexico law enforcement academy board recognizes the principle that nothing the academy does should interfere with the employers hiring process. However, the academy reserves the right to determine if the candidate may pose a direct threat to his/her safety or that of others in attending and participating in all aspects of the training program.

C. Information to physician and agency: examination instructions:

Under the medical selection guidelines the role of the physician is to identify the existence of any potentially excludable conditions. The physician and employer shall review these findings and the employer will make a decision as to whether the conditional offer of employment should be withdrawn, or to initiate discussions with the candidate concerning reasonable accommodations. The employer then determines whether any particular proposed accommodation is acceptable and reasonable. Once the determination is made that the candidate with reasonable accommodation can perform the essential tasks of policing, and assuming that a position is available, the conditional offer of employment should be honored and the candidate scheduled for admission into the academy. (See LEA medical forms, 16 pages.)

D. The academy:

In those instances where a candidate comes to the academy, with or without accommodation, and the director determines that the physical/medical condition of the individual poses a direct threat to his/her safety or that of others, admission to the academy can be denied for good reason, providing no reasonable accommodation can be found. The rejected candidate may appeal to the medical review board to seek redress. In that instance, the director, who is a member of the medical review board, shall excuse him/herself from the appeal.

E. Medical review

board established: There is established a subcommittee of the New Mexico law enforcement academy board known as the medical review board. The membership of the medical review board is appointed by the chairperson and shall include:

- (1) chair: member of the New Mexico law enforcement academy board selected to serve as the chair of the medical review board;
- (2) police chief;
- (3) sheriff;
- (4) advocate of the disabled community;
- (5) two physicians (well experienced in medical employment examinations); and
- (6) director of academy

F. Appeal process:

When a candidate who considered him/herself protected under the Americans with Disabilities Act, is rejected by the employer, he/she may pursue recourse through the courts. However, if the candidate is rejected by an examining physician under the medical selection guidelines due to a medical condition of particular severity, e.g., back problems, diabetes, cardiovascular disease, etc., and he/she feels that he/she can perform the essential tasks, he/she can appeal to the medical review board. At the candidate's initiation and expense, the candidate may present evidence/testimony/demonstrations of his/her ability to perform the essential tasks without posing a direct risk to his/her health and safety and that of others. The medical review board cannot determine whether accommodations are reasonable or unreasonable since those are matters which are exclusive to the applicant and the employer. The medical review board will review the information presented by the applicant and make a recommendation to the academy board as to whether he/she can be admitted to the academy. After consideration of the medical review board recommendation, the academy board will make a final determination.

G. Medical selection guidelines (potentially excludable conditions") entry level law enforcement officer:

(1) Eyes and vision.

(a)
Visual acuity - distant vision; uncorrected distant vision should be better than, or equal to, 20/100 (Snellen) binocular, and correctable to better than, or equal to, 20/30 (Snellen) binocular; distant vision correctable to better than, or equal to, 20/30 (Snellen) binocular. Preferred means of correction are soft contact lenses or shatterproof frames and lenses with headband.

(b)
Visual acuity - near vision; near vision correctable to better than, or equal to, 20/40 (Snellen) binocular.

(c)
Visual acuity - color vision; Correct reading of at least nine or more of the first 13 plates of the Ishihara test (24 plate edition). Recourse testing is available by means of the Farnsworth - Munsell 100-hue test.

(d)
Visual acuity - depth perception; depth perception should be sufficient to demonstrate normal stereo depth perception with or without correction to the standard: 100 ARC seconds.

(e)
Visual acuity - peripheral vision; Peripheral vision should be normal and not negatively impact candidate's ability to perform essential tasks.

(f)
Glaucoma - if the candidate meets visual acuity guidelines following treatment, then the condition is non-disqualifying.

(g)
Strabismus - if the candidate meets visual acuity guidelines following surgery, then the condition is non-disqualifying.

(h)
Cataracts, current - if the candidate meets visual acuity guidelines following treatment, the condition is non-disqualifying.

(i)
Proliferative retinopathy - if the candidate meets visual acuity

guidelines following treatment, the condition is non-disqualifying.

(j)
Nystagmus or other extra-ocular movement - if the candidate meets visual acuity guidelines, then the condition is non-disqualifying.

(k)
Monocular vision.

(l)
Blindness, including night-blindness.

(m)
Retinal detachment - if the candidate meets visual acuity guidelines following treatment, then the condition is non-disqualifying.

(n)
Chronic keratitis - if the candidate meets visual acuity guidelines following treatment, then the condition is non-disqualifying.

(o)
Optic neuritis - if the candidate meets visual acuity guidelines following treatment, then the condition is non-disqualifying.

(2) Ears and hearing.

(a)
Hearing acuity - the *average* hearing level (HL) at the test frequencies, 500, 1000, and 2000 Hz will not exceed 25dB in either ear, and no single hearing level will exceed 30 dB at any of these test frequencies in either ear. Hearing loss at 3000 Hz will not exceed 40 dB HL in either ear. Recourse testing of speech discrimination ability using phonetically balanced word lists in the presence of noise is available.

(b)
Acute otitis media, otitis externa, and mastoiditis - if the candidate meets hearing acuity guidelines and the condition is under treatment, then the condition is non-disqualifying.

(c)
Any inner/middle/outer ear disorder affecting equilibrium - if the candidate has historically had episodes of vertigo, he or she may require further evaluation.

(3) Nose, throat, and mouth - the conditions which follow are not meant to be exclusive. If the examining physician feels (an) other unstated condition(s)

may adversely impact the ability of the candidate to perform the essential tasks of the job, it (they) should be noted for further evaluation.

(a)
loss of sense of smell;

(b)
aphonia, speech loss or speech defects; or

(c)
deformities interfering with the proper fitting of a gas mask.

(4) Peripheral vascular system - the conditions which follow are not meant to be exclusive. If the examining physician feels (an) other unstated condition(s) may adversely impact the ability of the candidate to perform the essential tasks of the job, it (they) should be noted for further evaluation.

(a)
Hypertension - resting blood pressure should be less than, or equal to, 140 mmHg systolic and 90mmHg diastolic on three successive readings. (If the candidate has controlled hypertension and is on medication with side effect profiles which do not interfere with performance of essential tasks then the condition may not be disqualifying.)

(b)
Varicose veins - if the condition is serious enough to affect the candidate's ability to perform essential tasks, it should be noted.

(c)
Venous insufficiency - if the condition is serious enough to affect the candidate's ability to perform essential tasks, it should be noted.

(d)
Peripheral vascular diseases - if the condition is serious enough to affect the candidate's ability to perform essential tasks, it should be noted.

(e)
Thrombophlebitis - if the condition is serious enough to affect the candidate's ability to perform essential tasks, it should be noted.

(5) Heart and cardiovascular system - the conditions which follow are not meant to be exclusive. If the examining physician feels (an) other unstated condition(s) may adversely impact the ability of

the candidate to perform the essential tasks of the job, it (they) should be noted for further evaluation.	may adversely impact the ability of the candidate to perform the essential tasks of the job, it (they) should be noted for further evaluation.	(g) Symptomatic inguinal, umbilical, ventral, femoral, or incisional hernias.
(a) Congenital heart disease - if the candidate's functional work capacity is unimpaired, then the condition is non-disqualifying.	(a) Active pulmonary tuberculosis	(h) Malignant disease of the liver, gall bladder, pancreas, esophagus, stomach, small or large bowel, rectum or anus.
(b) Valvular heart disease - if the candidate's functional work capacity is unimpaired, then the condition is non-disqualifying.	(b) Chronic bronchitis.	(i) Gastrointestinal bleeding - If condition is satisfactorily treated, then it is not disqualifying.
(c) Coronary artery disease.	(c) Active asthma - if satisfactorily treated, the condition is not disqualifying.	(j) Active or chronic hepatitis.
(d) ECG abnormalities (<i>if associated with organic heart disease</i>) including, but not limited to:	(d) Chronic obstructive pulmonary disease.	(k) Cirrhosis of the liver.
(i) Wolff-Parkinson-White (WPW) syndrome.	(e) Bronchiectasis and pneumothorax.	(8) Genitourinary system - The conditions which follow are not meant to be exclusive. If the examining physician feels (an) other unstated condition(s) may adversely impact the ability of the candidate to perform the essential tasks of the job, it (they) should be noted for further evaluation. People with communicable diseases must be evaluated relevant to their ability to train for and perform essential tasks without posing a direct threat to the health and safety of themselves and others.
(ii) ST depression.	(f) Pneumonectomy.	(a) Pregnancy - qualification of the candidate is dependent upon the stage of the pregnancy.
(iii) right or left bundle branch blocks.	(g) Acute/chronic mycotic diseases - Including, but not limited to, coccidioidomycosis and histoplasmosis.	(b) Nephrectomy - If a candidate possesses this condition with normal renal functions, then the condition is non-disqualifying.
(iv) 3 degree A-V block.	(7) Gastrointestinal system - The conditions which follow are not meant to be exclusive. If the examining physician feels (an) other unstated condition(s) may adversely impact the ability of the candidate to perform the essential tasks of the job, it (they) should be noted for further evaluation.	(c) Acute nephritis.
(v) Mobitz type ii A-V blocks.	(a) Colitis - Including, but not limited to, Crohn's disease, ulcerative colitis, irritable bowel syndrome (symptomatic or needing medication), bacterial colitis. If satisfactorily treated, the condition is not disqualifying.	(d) Nephrotic syndrome.
(vi) Sinoatrial block or sick sinus syndrome.	(b) Esophageal disorders - including, but not limited to, esophageal stricture, lower esophageal ring and esophageal spasm. If the candidate's condition is controlled, then the condition is non-disqualifying.	(e) Acute renal/urinary calculi.
(vii) Ventricular extrasystoles (<i>frequent - 20/minute with exercise, 10/minute without exercise</i>).	(c) Hemorrhoids - If the candidate's condition is controlled, then the condition is non-disqualifying.	(f) Renal transplant.
(viii) Ventricular tachycardia.	(d) Pancreatitis.	(g) Renal failure.
(ix) Atrial fibrillation or flutter.	(e) Gall bladder disorders.	(h) Hydrocele and varicocele (symptomatic).
(x) Symptomatic supraventricular tachycardia.	(f) Active peptic ulcer disease.	(i) Malignant diseases of bladder, kidney, ureter, cervix, ovaries, breasts, prostate, etc.
(e) Angina.		(j)
(f) Congestive heart failure.		
(g) Cardiomyopathy.		
(h) Active pericarditis, endocarditis, and myocarditis.		
(6) Respiratory system - The conditions which follow are not meant to be exclusive. If the examining physician feels (an) other unstated condition(s)		

Active venereal diseases. (k)	Contact allergies (of a serious or relevant nature). (11)	(c)
Urinary tract infection. (l)	Musculoskeletal system - The conditions which follow are not meant to be exclusive. If the examining physician feels (an) other unstated condition(s) may adversely impact the ability of the candidate to perform the essential tasks of the job, it (they) should be noted for further evaluation. (a)	Sickle cell trait - sickle cell trait is a non-disqualifying condition. (d)
Polycystic kidney disease. (m)		Sickle cell disease. (e)
Pelvic inflammatory disorders. (n)		Hematopoietic disorders (including malignancies). (f)
Cervicitis. (o)		Hemophilia. (13) Nervous
Endometriosis. (p)	Disorders that limit motor performance. (b)	system - The conditions which follow are not meant to be exclusive. If the examining physician feels (an) other unstated condition(s) may adversely impact the ability of the candidate to perform the essential tasks of the job, it (they) should be noted for further evaluation. (a)
Bartholin gland abscess. (q)	Cervical spine or lumbosacral fusion. (c)	Epilepsy. (b)
Vaginitis. (r)	Degenerative cervical or lumbar disc disease (if symptomatic). (d)	Cerebral palsy. (c)
Inflammatory disorders - including, but not limited to, prostatitis, orchitis, and epididymitis. (s)	Extremity amputation. (e)	Movement disorders. (d)
Presence of illicit drugs. (9) Endocrine	Osteomyelitis. (f)	Cerebral aneurysms. (e)
and metabolic systems - The conditions which follow are not meant to be exclusive. If the examining physician feels (an) other unstated condition(s) may adversely impact the ability of the candidate to perform the essential tasks of the job, it (they) should be noted for further evaluation. (a)	Loss in motor ability from tendon or nerve injury/surgery. (g)	Syncope. (f)
Untreated thyroid disease. (b)	Arthritis - if a candidate possesses this condition with no functional impairment, then the condition is non-disqualifying. (h)	Progressive neurological diseases - including, but not limited to, multiple sclerosis and Huntington's chorea. (g)
Diabetes mellitus. (c)	Joint conditions - any condition which negatively impacts the ability of the candidate to perform essential tasks should be noted for further evaluation. (i)	Peripheral nerve disorder - including, but not limited to, polyneuritis, mononeuritis and neurofibromatosis. (h)
Adrenal dysfunction - including, but not limited to, Addison's disease and Cushing's disease. (d)	Coordinated balance. (j)	Narcolepsy. (i)
Hypoglycemia. (e)	Herniated disc (symptomatic). (k)	Cerebral vascular accident. (j)
Pituitary dysfunction. (f)	Spinal deviations. (l)	Central nervous system infections. [10.29.9.17 NMAC - Rp, 10.29.9.17 NMAC, 11/15/2016]
Thyroid tumor. (10) Skin and	Fracture deformities (symptomatic). (12)	10.29.9.18 LAW
collagen diseases - The conditions which follow are not meant to be exclusive. If the examining physician feels (an) other unstated condition(s) may adversely impact the ability of the candidate to perform the essential tasks of the job, it (they) should be noted for further evaluation. (a)	Hematopoietic and lymphatic systems - The conditions which follow are not meant to be exclusive. If the examining physician feels (an) other unstated condition(s) may adversely impact the ability of the candidate to perform the essential tasks of the job, it (they) should be noted for further evaluation. (a)	ENFORCEMENT OFFICER
Serious dermatological disorders. (b)	Anemia (all). (b)	CERTIFICATION
Lupus erythematosus. (c)	Polycythemia.	EXAMINATION; TIME
		LIMITATIONS:
		A. Students who successfully complete a New Mexico law enforcement academy basic police training program will be allowed to take the law enforcement officer certification exam (LEOCE). Only those students

who have successfully completed all requirements under the minimum standards of training, as determined by the director of the New Mexico law enforcement academy, will be administered the law enforcement officer certification exam.

(1) Students will be allowed two opportunities in which to pass the law enforcement officer certification exam within one year from the date of completion of the academy program. Students who fail the exam two times must attend the academic portion of the certification by waiver of previous training program prior to taking the exam a third time. Students who fail the test three times will be required to re-enroll and successfully complete the New Mexico law enforcement academy's basic police training program. Students will not be allowed to attend a regional/satellite program.

(2) Students who achieve a passing score on the law enforcement officer certification exam will be allowed one year from the date of the test in which to be eligible for certification. Certification can be granted only when the eligible student is hired by a recognized New Mexico law enforcement agency in a law enforcement position.

(3) If a student secures a law enforcement position after one year from the date of successful completion of the law enforcement officer certification exam, the student will be required to attend the certification by waiver of previous training program (short course) conducted by the New Mexico law enforcement academy.

(4) Students will be allowed three years from the date of successful completion of the law enforcement officer certification exam to secure a law enforcement position. After three years, they will be required to attend and successfully complete another basic police officer training program certified by the New Mexico law enforcement academy board.

B. Students who have successfully completed a New

Mexico law enforcement academy basic police training program and passed the law enforcement officer certification exam will be provided a letter from the director of the New Mexico law enforcement academy attesting to the student's eligibility for certification as a police officer in New Mexico.

C. An application for certification and required supporting documentation must be submitted to the New Mexico law enforcement academy within 14 days of the student's employment as a police officer as required under New Mexico law enforcement academy board Rule 10.29.9.10 NMAC. Any officer (or department) not submitting the required documents is in violation of Section 29-7-1 et. al., NMSA 1978, (Repl. Pamp. 1994), and will be required to forfeit his position.

D. When all paperwork is completed to the satisfaction of the director of the New Mexico law enforcement academy for any student requesting certification by successful completion of a New Mexico law enforcement academy basic police training program, or any other previous comparable training, the request will be submitted to the New Mexico law enforcement academy board for final approval and award of certification under Section 29-7-1 et. al., NMSA 1978, (Repl. Pamp. 1994). [10.29.9.18 NMAC - Rp, 10.29.9.18 NMAC, 11/15/2016]

10.29.9.19 CONTINUATION OF CERTIFICATION AFTER SEPARATION:

A. **Eligibility:** In the event a New Mexico certified law enforcement officer, with five years or more of commissioned law enforcement employment, leaves his position in good standing; he will be eligible to continue his New Mexico certification status provided he complies with the procedures outlined below.

B. **Procedure:**
(1) Every eligible law enforcement officer separating from commissioned law enforcement service may continue

their New Mexico certification by successfully completing each year and approved 20 hour in-service training program offered by the academy. This program will comply with the provisions of 10.29.7 NMAC In-Service Training Requirements and 10.29.9.14 NMAC Entry Level and Requalification Firearms Training.

(2) The officer must successfully complete the first approved training program within two years of separation and then once each year during the calendar year in subsequent years.

(3) The requirements of 10.29.9.16 NMAC - Renewal of Certification After Absence, will apply to those officers not in compliance with the provisions of this section.

[10.29.9.19 NMAC - Rp, 10.29.9.19 NMAC, 11/15/2016]

HISTORY OF 10.29.9 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under NMLEA Rule #28, 1981 Police Officer Minimum Standards Of Training, filed 10-7-81; NMLEA Rule #28, Police Officer Minimum Standards Of Training, filed 12-16-81; NMLEA Rule #28, Police Officer Minimum Standards Of Training, filed 1-19-83; NMLEA Rule #28, Police Officer Minimum Standards Of Training, filed 8-25-83; NMLEA Rule #28, Police Officer Minimum Standards Of Training, filed 1-24-84; NMLEA #28, Police Officer Minimum Standards Of Training, filed 4-29-86; NMLEA #28, Police Officer Minimum Standards Of Training, filed 1-19-87; NMLEA #28, Police Officer Minimum Standards Of Training, filed 2-16-87; NMLEA Rule #D1, Police Officer Minimum Standards Of Training, filed 3-10-89; NMLEA #D1, Police Officer Minimum Standards Of Training, filed 12-31-92; NMLEA #D1, Amendment #1, filed 3-15-93; NMLEA Rule #4, Specialized Course Rules And Regulations, filed 4-29-76; NMLEA Rule #5, Approved Police Officer's Basic Training Program Rules And Regulations, filed 4-29-

76; NMLEA Rule #10, Rules And Regulations And Student Handbook, filed 9-15-77; NMLEA Rule #2, Student Handbook And Regulations: Rules, Regulations And Procedural Handbook, filed 2-14-80; NMLEA Rule #2, Student Handbook And Regulations: Rules, Regulations And Procedural Handbook, filed 4-21-81; NMLEA Rule #2, Amendment No. 1, filed 1-28-82; NMLEA Rule #2, Amendment No. 2, filed 3-8-82; NMLEA Rule #2, Amendment No. 3, filed 2-17-83; NMLEA Rule #2, Student Handbook And Regulations: Rules, Regulations And Procedural Handbook, filed 8-25-83; NMLEA Rule #2, Student Handbook And Regulations: Rules, Regulations And Procedural Handbook, filed 1-24-84; NMLEA Rule #2, Student Handbook And Regulations: Rules, Regulations And Procedural Handbook, filed 5-18-84; NMLEA Rule #2, Student Handbook, Procedures And Regulations, filed 4-30-85; NMLEA Rule #D2, Student Handbook, Procedures And Regulations, filed 3-10-89; NMLEA Rule #34, Police Officer Certification Registry, filed 1-28-82; NMLEA Rule #35, Applications For Basic Training (Certification) 14 Day Requirement, filed 5-19-83; NMLEA Rule #D3, Police Officer Registry Reporting And Applications For Admission/Certification, filed 3-10-89; NMLEA Rule #33, Letter Of Intent For Basic Training Students, filed 1-28-82; NMLEA Rule #D4, Letter Of Intent For Basic Training Students, filed 3-10-89; NMLEA Rule #36, Psychological Examination, filed 11-4-83; NMLEA Rule #36, Psychological Examination, filed 11-10-86; NMLEA Rule #D5, Psychological Examination, filed 3-10-89; NMLEA Rule #D5, Psychological Examination, filed 10-12-89; NMLEA Rule #D5, Psychological Examination, filed 11-15-93; NMLEA Rule #32, Fingerprint Clearance For Admittance, filed 8-4-81; NMLEA Rule #32, Amendment No. 1, filed 5-19-83; NMLEA Rule #32, Fingerprint Clearance For Admittance, filed 2-18-86; NMLEA Rule #D6, Fingerprint Clearance

For Admittance; filed 3-10-89; DPS/T&RD #40, Entry Level And Requalification Firearms Training, filed 12-9-87; NMLEA Rule #D7, Entry Level And Requalification Firearms Training, filed 3-10-89; NMLEA Rule #D7, Entry Level And Requalification Firearms Training, filed 2-8-95; NMLEA Rule #D7, Amendment 1, filed 2-16-95; NMLEA Rule #11, Temporary And/Or Emergency Certification, filed 2-14-80; NMLEA Rule #D8, Temporary And/Or Emergency Certification, filed 3-10-89; NMLEA Rule #14, Renewal Of Certification After Absence, filed 2-14-80; NMLEA Rule #14, Renewal Of Certification After Absence, filed 8-14-85; NMLEA Rule #14, Renewal Of Certification After Absence, filed 8-29-86; NMLEA Rule #D9, Renewal Of Certification After Absence, filed 3-10-89; NMLEA Rule #D9, Renewal Of Certification After Absence, filed 10-25-89.

History of Repealed Material:

10.29.9 NMAC Law Enforcement Academy - Police Officer, filed 4-30-2001 - Repealed effective 11/15/2016.

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

The Construction Industries Division of Regulation and Licensing Department, following its 8/4/2016 rule hearing, approved the repeal of its rule 14.5.1 NMAC, General Provisions, (filed 5-27-04) and replace it with 14.5.1 NMAC, General Provisions, effective 11/15/2016.

The Construction Industries Division of Regulation and Licensing Department, following its 8/4/2016 rule hearing, approved the repeal of its rule 14.5.2 NMAC, Permits, (filed 5-27-04) and replace it with 14.5.2 NMAC, Permits, effective 11/15/2016.

The Construction Industries Division of Regulation and Licensing Department, following its 8/4/2016

rule hearing, approved the repeal of its rule 14.5.3 NMAC, Inspections, (filed 5-27-04) and replace it with 14.5.3 NMAC, Inspections, effective 11/15/2016.

The Construction Industries Division of Regulation and Licensing Department, following its 8/4/2016 rule hearing, approved the repeal of its rule 14.7.2 NMAC, 2009 New Mexico Commercial Building Code (filed 10-28-10) and replace it with 14.7.2 NMAC, 2015 New Mexico Commercial Building Code, effective 11/15/2016.

The Construction Industries Division of Regulation and Licensing Department, following its 8/4/2016 rule hearing, approved the repeal of its rule 14.7.3 NMAC, 2009 New Mexico Residential Building Code (filed 12-28-2010) and replace it with 14.7.3 NMAC, 2015 New Mexico Residential Building Code, effective 11/15/2016.

The Construction Industries Division of Regulation and Licensing Department, following its 8/4/2016 rule hearing, approved the repeal of its rule 14.7.4 NMAC, 2009 New Mexico Earthen Building Materials Code (filed 12-28-2010) and replace it with 14.7.4 NMAC, 2015 New Mexico Earthen Building Materials Code, effective 11/15/2016.

The Construction Industries Division of Regulation and Licensing Department, following its 8/4/2016 rule hearing, approved the repeal of its rule 14.7.5 NMAC, 2009 New Mexico Non-Load Bearing Baled Straw Construction Building Standards, (filed 8/16/2007), effective 11/15/2016.

The Construction Industries Division of Regulation and Licensing Department, following its 8/4/2016 rule hearing, approved the repeal of its rule 14.7.7 NMAC, 2009 New Mexico Existing Building Code (filed 12-28-2010) and replace it with 14.7.7 NMAC, 2015 New Mexico Existing Building Code, effective 11/15/2016.

The Construction Industries Division of Regulation and Licensing Department, following its 8/4/2016 rule hearing, approved the repeal of its rule 14.7.8 NMAC, 2009 New Mexico Historic Earthen Buildings (filed 12-28-10) and replace it with 14.7.8 NMAC, 2015 New Mexico Historic Earthen Buildings, effective 11/15/2016.

**REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 5 CONSTRUCTION
INDUSTRIES GENERAL
PROVISIONS
PART 1 GENERAL
PROVISIONS**

14.5.1.1 ISSUING
AGENCY: Construction Industries Division of the Regulation and Licensing Department.
[14.5.1.1 NMAC - Rp, 14.5.1.1 NMAC, 11/15/2016]

14.5.1.2 SCOPE: This rule applies to all the administration, interpretation, and enforcement of contracting work performed in New Mexico subject to the jurisdiction of CILA and LP GAS Act.
[14.5.1.2 NMAC - Rp, 14.5.1.2 NMAC, 11/15/2016]

14.5.1.3 STATUTORY
AUTHORITY: Section 60-13-9 NMSA 1978.
[14.5.1.3 NMAC - Rp, 14.5.1.3 NMAC, 11/15/2016]

14.5.1.4 DURATION:
Permanent.
[14.5.1.4 NMAC - Rp, 14.5.1.4 NMAC, 11/15/2016]

14.5.1.5 EFFECTIVE
DATE: November 15, 2016, unless a later date is cited at the end of a section.
[14.5.1.1 NMAC - Rp, 14.5.1.1 NMAC, 11/15/2016]

[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.]

14.5.1.6 OBJECTIVE:
The purpose of this rule is to set forth general provisions governing contracting work in New Mexico.
[14.5.1.1 NMAC - Rp, 14.5.1.1 NMAC, 11/15/2016]

14.5.1.7 DEFINITIONS:
The definitions in this section are used throughout the CID rules contained in Chapters 5 through 10 of Title 14.

A. Trade bureau chief
“TBC” means the administrative head of a state of New Mexico trade bureau charged with the administration and enforcement of this that trade bureau’s state adopted codes. The trade bureau chiefs are the ultimate authority to determine interpretations of their trade code, this includes applications of the New Mexico trade codes. The trade bureau chief shall recommend to “CID and CIC” all minimum standards for code adoptions.

B. Certified building official “CBO” means an employee of any county, municipality or other political subdivision who has a broad knowledge of the construction industry, holds a current nationally recognized code organization certified building official certificate and has been either a practicing inspector or practicing contractor for at least five years or held a management position in a construction-related company or construction organization for at least five of the past 10 years. This official is charged with the administration and enforcement of the adopted administrative codes for an AHJ.

C. State of New Mexico certified building official “NMCBO” means a person who meets the qualifications for CBO, is employed by CID as a trade bureau chief, and appointed by the director as the state’s NMCBO. The NMCBO has ultimate authority over conflicts arising among AHJs other than trade

bureau chiefs.

D. Inspector means a person certified by the division and certified by one or more trade bureaus to conduct inspections of permitted work in a jurisdiction that has an inspection and permitting agency with a state approved CBO to ensure that all work performed by a contractor or the homeowner complies with the applicable codes.

E. Authority having jurisdiction “AHJ” means the entity with permitting and enforcement authority over a project within its jurisdiction.

F. CID and division
mean the construction industries division of the regulation and licensing department.

G. CID rules means the rules compiled in Title 14, Chapters 5 through 10 of the New Mexico Administrative Code.

H. CILA means the Construction Industries Licensing Act, Section 60-13-1 et seq. NMSA 1978.

I. Commission
means the construction industries commission.

J. Commissioning
means adjusting, balancing, documenting, and certifying the completion of an heating, ventilation, air conditioning (HVAC) system.

K. Contracting has the meaning given in Section 60-13-3 NMSA 1978.

L. Director has the meaning given it in Section 60-13-2 NMSA 1978.

M. IBC means the 2015 International Building Code.

N. IFC means the 2015 International Fire Code.

O. IRC means the 2015 International Residential Code.

P. LPG Standards
means 19.15.40 NMAC, Liquefied Petroleum Gas Standards, and 70-5-1 et seq. NMSA 1978, Liquefied and Compressed Gasses, collectively.

Q. New Mexico construction code(s) means any of the rules compiled in Title 14, Chapters 7 through 10 of the New Mexico Administrative Code.

R. NMCBC means 14.7.2 NMAC, 2015 New Mexico Commercial Building Code, which adopts by reference and amends the 2015 international building code.

S. NMEBC means 14.7.7 NMAC, 2015 New Mexico Existing Building Code, which adopts by reference and amends the 2015 international existing building code.

T. NMEBMC means 14.7.4 NMAC, 2015 New Mexico Earthen Building Materials Code.

U. NMEC means 14.10.4 NMAC, 2014 New Mexico Electrical Code, which adopts by reference and amends the 2014 National Electrical Code.

V. NMECC means 14.7.6 NMAC, 2009 New Mexico Energy Conservation Code, which adopts by reference and amends the 2009 International Energy Conservation Code.

W. NMESC means 14.10.5 NMAC, 2010 New Mexico Electrical Safety Code, which adopts by reference and amends the 2010 National Electrical Safety Code.

X. NMMC means 14.9.2 NMAC, 2012 New Mexico Mechanical Code, which adopts by reference and amends the 2012 Uniform Mechanical Code.

Y. NMPC means 14.8.2 NMAC, 2012 New Mexico Plumbing Code, which adopts by reference and amends the 2012 Uniform Plumbing Code.

Z. NMRBC means 14.7.3 NMAC, 2015 New Mexico Residential Building Code, which adopts by reference and amends the 2015 International Residential Code.

AA. NMSEC means 14.9.6 NMAC, 2012 New Mexico Solar Energy Code, which adopts by reference and amends the 2012 Uniform Solar Energy Code.

BB. NMSPSHTC means 14.8.3 NMAC, 2012 New Mexico Swimming Pool, Spa, and Hot Tub Code, which adopts by reference and amends the 2012 Uniform Swimming Pool, Spa, and Hot Tub Code.

CC. Published code means any code or standard published

by an entity other than the state of New Mexico and adopted by reference, or referred to as a standard in the CID rules.

DD. ULA means Section 61-1-1 et seq. NMSA 1978, the Uniform Licensing Act. [14.5.1.7 NMAC - Rp, 14.5.1.7 NMAC, 11/15/2016]

14.5.1.8 RESPONSIBILITY FOR COMPLIANCE:

A. Every person who performs work in connection with the installation or repair of any building or structure, or on any electrical, gas, mechanical or plumbing system, or other constructions as defined by NMSA 1978, § 60-13-3 and regulated by the Division's statutes and rules is responsible for complying with all statutes and rules

B. When a violation of the statutes or code is alleged, the AHJ shall investigate the allegation to obtain sufficient evidence or proof to determine whether a violation has occurred. The AHJ may require tests, at no cost to CID or AHJ, to determine compliance. Such tests shall be conducted in conformance with nationally recognized testing standards, or if no standards have been established, in conformance with such specifications as the AHJ shall approve.

[14.5.1.8 NMAC - Rp, 14.5.1.8 NMAC, 11/15/2016]

14.5.1.9 CONFLICTS:

A. Between current New Mexico construction codes. When the provisions of one New Mexico construction code specifies different materials, methods, construction, or other requirements than the provisions of other New Mexico construction codes, the general rule of interpretation to be applied is that the most restrictive provision shall apply, and the most specific provision shall govern more general provisions. If it is determined by the TBC or AHJ responsible for enforcing the codes that the conflict between the provisions should be resolved by a different interpretation, the determinations shall control.

B. With prior New Mexico construction codes. The code adopted at the time a structure is built governs. If modifications are made under a subsequent code, that code governs the areas modified. If all or any part of the structure is determined to be unsafe, 14.5.1.12 NMAC will govern.

C. Between current New Mexico construction codes and codes adopted by other state agencies. The occupancy classification of a building shall be established by the general building trade bureau chief or CBO.

D. With requirements of other agencies. Any licensee, qualifying party or journeyman must follow all regulatory agency laws when said agency has jurisdiction over certain aspects of a project. These may include, but are not limited to, compliance with fire code standards enforced by the state fire marshal, any local fire code enforcement agency; or any other applicable code or standard enforced by the state environment department; the state health department, state human services department; the public regulation commission; the governor's committee on the concerns of the handicapped; and local zoning and historical authorities.

E. With referenced and incorporated codes and standards. The provisions of any published code or standard referenced in the CID rules shall be deemed to be incorporated into and made part of the CID rules, to the extent that such reference requires, and with all such modifications and amendments as may be made to the provision. If the reference results in a conflict between the provision of the published code or standard and the CID rules, the CID rules shall govern. [14.5.1.9 NMAC - Rp, 14.5.1.9 NMAC, 11/15/2016]

14.5.1.10 CERTIFIED BUILDING OFFICIAL FOR AN AHJ:
Power and Duties: The CBO is responsible for enforcing the state and local codes in an AHJ.

The interpretations and procedures established by a CBO must be pursuant to CID statutes and rules: [14.5.1.10 NMAC - Rp, 14.5.1.10 NMAC, 11/15/2016]

14.5.1.11 TRADE BUREAU CHIEFS:

A. Powers and duties: Each trade bureau chief is authorized to render interpretations of the New Mexico construction code and to establish procedures for the interpretation and application of that code.

B. Alternative materials and methods of construction: A trade bureau chief is authorized to permit a variance or approve an alternative material or method of construction as provided in this section.

C. Variances. If the circumstances of a particular construction project make strict compliance with code impossible or impracticable, the trade bureau chief responsible for enforcing that code has the authority to approve a variance. No variance shall be valid or have force or effect unless in writing and signed by the trade bureau chief. A trade bureau chief may require supporting data be supplied by the requestor.

D. Alternatives. The trade bureau chief is responsible, for approving materials, designs and methods of construction that are not expressly specified in that the code.

E. Supporting data. The trade bureau chief may require supporting data be supplied by the requestor. [14.5.1.11 NMAC - Rp, 14.5.1.11 NMAC, 11/15/2016]

14.5.1.12 UNSAFE STRUCTURES OR OTHER LIFE SAFETY HAZARD:

A. When conducting an inspection, if an inspector discovers an unsafe condition or a life safety hazard the inspector shall take the following action:

(1) if the unsafe condition or hazard results from construction in progress, issue a

correction notice and stop work order, or correction notice, or stop work order as is necessary to abate the unsafe condition or; hazard;

(2) if the unsafe condition or hazard is in an existing building not related to construction in progress, prepare a report detailing the observed unsafe condition or hazard; the report shall be provided to the local AHJ;

(3) if the unsafe condition or hazard relates to any utility service the inspector shall proceed in accordance with Subsections A through D of Section 60-13-42 NMSA 1978; any service disconnected pursuant to this rule shall not be reconnected without the prior written approval of trade bureau chief or CBO.

B. If requested by an AHJ having condemning authority, the trade bureau chief will inspect or designate an inspector to inspect the property and report findings. [14.5.1.12 NMAC - Rp, 14.5.1.12 NMAC, 11/15/2016]

14.5.1.13 TECHNICAL ADVISORY COUNCILS, HEARINGS, APPEALS:

A. Technical advisory council.

(1) Each trade bureau chief may create a technical advisory council and appoint members to assist that the bureau in an advisory capacity on technical aspects of the particular industry.

(2) These councils will meet at the call of the trade bureau chief.

B. Appeals.

(1) A person aggrieved by the director's decision in regard to identical or similar names may appeal to the commission (60-13-13.2 NMSA 1978).

(2) All other appeals shall follow provisions of the Uniform Licensing Act "ULA".

(3) Appeals from the decision of the commission shall be made in writing to the district court of the county of the residence of the aggrieved party within 30 days after the decision of the commission

has been delivered to the complainant, as provided in Section 61-1-17 NMSA 1978.

[14.5.1.13 NMAC - Rp, 14.5.1.13 NMAC, 11/15/2016]

History of 14.5.1 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:

CIC 70-2, General Construction Classifications, filed 11-25-1970; CIC 72-4, General Construction Classifications, filed 02-16-1972; CIC 76-2, Rules and Regulations, filed 05-05-1976; CID 78-2, Rules and Regulations, filed 12-05-1978; CID 79-1, Rules and Regulations, filed 06-06-1979; CID 82-1, Construction Industries Rules and Regulations, filed 04-14-1982; CID 85-1, Construction Industries Rules and Regulations, filed 02-04-1985; CID 90-1, Construction Industries Rules and Regulations, filed 05-31-1990.

History of Repealed Material:

14 NMAC 5.1.1, Housing and Construction - Construction Industries General Provisions - Open Meetings Act (filed 92/97), repealed 12-1-2000. 14.5.1 NMAC, Construction Industries General Provisions - Open Meetings Act (filed 10-16-2000) repealed 7-1-2004. 14.5.1 NMAC, Construction Industries General Provisions - General Provisions, (filed 5-27-2004) repealed 11-15-2016.

Other History:

That portion of CID 90-1, Construction Industries Rules and Regulations, filed 05-31-1990 -- renumbered, reformatted and amended to 14 NMAC 5.1.1, Construction Industries General Provisions - Open Meetings Act, effective 09-14-1996. 14 NMAC 5.1.1, Construction Industries General Provisions - Open Meetings Act (filed 09-03-1996)

amended and replaced by 14 NMAC 5.1.1, Construction Industries General Provisions - Open Meetings Act effective 09-23-1997.

14 NMAC 5.1.1, Housing and Construction - Construction Industries General Provisions - Open Meetings Act (filed 09-02-1997) replaced by 14.5.1 NMAC, Housing and Construction - Construction Industries General Provisions - Open Meetings Act, effective 12-1-2000.

14.5.1 NMAC, Construction Industries General Provisions - Open Meetings Act (filed 10-16-2000); that portion of 14.1.1 NMAC, Housing General Provisions - General Provisions (filed 10-16-2000); that portion of 14.5.4 NMAC, Construction Industries General Provisions - Alternative Materials, Methods and Assemblies of Construction (filed 10-16-2000); that portion of 14.5.7 NMAC, Construction Industries General Provisions - Technical Advisory Councils, Hearings, Appeals, Severability (filed 10-16-2000); that portion of 14.7.2 NMAC, 1997 New Mexico Building Code (filed 10-16-2000); that portion of 14 NMAC 9.2, 1997 New Mexico Plumbing and Mechanical Code (filed 10-30-1998); that portion of 14.10.4 NMAC, State of New Mexico Electrical Code (filed 07-01-2002) has been replaced by 14.5.1 NMAC, Construction Industries General Provisions - General Provisions, effective 7-1-2004.

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

TITLE 14 HOUSING AND CONSTRUCTION CHAPTER 5 CONSTRUCTION INDUSTRIES GENERAL PROVISIONS PART 2 PERMITS

14.5.2.1 ISSUING
AGENCY: The Construction

Industries Division of the Regulation and Licensing Department.

[14.5.2.1 NMAC - Rp, 14.5.2.1 NMAC, 11/15/2016]

14.5.2.2 SCOPE: This rule applies to all permitted work performed in New Mexico on or after November 15, 2017, that is subject to the jurisdiction of CID.

[14.5.2.2 NMAC - Rp, 14.5.2.2 NMAC, 11/15/2016]

14.5.2.3 STATUTORY AUTHORITY: Sections 60-13-9 and 60-13-45 NMSA 1978.

[14.5.2.3 NMAC - Rp, 14.5.2.3 NMAC, 11/15/2016]

14.5.2.4 DURATION: Permanent.

[14.5.2.4 NMAC - Rp, 14.5.2.4 NMAC, 11/15/2016]

14.5.2.5 EFFECTIVE DATE: November 15, 2016, unless a later date is cited at the end of a section.

[14.5.2.5 NMAC - Rp, 14.5.2.5 NMAC, 11/15/2016]

[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.]

14.5.2.6 OBJECTIVE: The purpose of this rule is to set forth standards and requirements for permitting construction in New Mexico as the statewide minimum.
[14.5.2.6 NMAC - Rp, 14.5.2.6 NMAC, 11/15/2016]

14.5.2.7 DEFINITIONS:
A. CID rules means sections 14.5 through 14.10 NMAC and 14.5.12.3 NMAC.

B. Commercial means a structure that is classified as having one of the following uses identified in the New Mexico commercial building code: assembly, business, educational, institutional, mercantile, storage or utility.

C. Industrial means

a structure that is classified in the New Mexico commercial building code as having a factory or industrial use. Structures, of which a portion is classified as commercial as that term is defined in this rule, will be treated as industrial structures.

D. School means a public school, a school district, a regional educational cooperative, shared maintenance program, charter school, or private school, recognized by the New Mexico public education department that offers grade levels from kindergarten through 12th grade only.

E. Trade bureau chief "TBC" means the administrative head of a state of New Mexico trade bureau charged with the administration and enforcement of that trade bureau's state adopted codes. The Trade Bureau Chiefs are the ultimate authority to determine interpretations of their trade code. This includes applications of the New Mexico trade codes. The Trade Bureau Chief shall recommend to the "CID and CIC" all minimum standards for code adoptions.

F. Certified building official "CBO" means an employee of any county, municipality or other political subdivision who has a broad knowledge of the construction industry, holds a current nationally recognized code organization certified building official certificate and has been either a practicing inspector or practicing contractor for at least five years or held a management position in a construction-related company or construction organization for at least five of the past 10 years. This Official is charged with the administration and enforcement of the adopted administrative codes for an AHJ.

G. State of New Mexico certified building official "NMCBO" - a person who meets the qualifications for CBO, is employed by CID as a trade bureau chief, and appointed by the director as the state's NMCBO. The NMCBO has ultimate authority over conflicts arising among AHJs other than Trade Bureau Chiefs.

H. Inspector means a person certified by the division and

certified by one or more trade bureaus to conduct inspections of permitted work in a jurisdiction that has an inspection and permitting agency with a state approved CBO to ensure that all work performed by a contractor or the homeowner complies with the applicable codes.

I. Authority having jurisdiction AHJ means the entity with permitting and enforcement authority over a project within its jurisdiction.

[14.5.2.7 NMAC - Rp, 14.5.2.7 NMAC, 11/15/2016]

14.5.2.8 PERMITS REQUIRED:

A. Permits required. Subject to CILA Sections 60-13-3 and Section 60-13-45 NMSA 1978, and the provisions of the division rules, no building or structure shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished, no electrical wiring, plumbing or mechanical work and LP gas work as defined and described in the applicable New Mexico construction codes for those trades, may be installed, repaired or maintained in or on such building or structure, unless the applicable permit has first been obtained from the division, unless otherwise provided by statutes or rule. All re-roofs and applications of roof coatings require a building permit and inspections.

B. Previously permitted work; previously submitted plans.

(1) Any work for which a permit has lawfully been issued prior to the effective date of this rule, which permit has not expired, deactivated or been revoked or suspended by the division pursuant to this part, may proceed as permitted, and the rules, codes and standards in effect at the time the permit was issued shall be the rules, codes and standards governing the work and its inspection.

(2) Any work for which plans have been submitted and received by the division shall be permitted and inspected pursuant to the rules in effect at the time the plans

were received.

C. Eligibility. No person who is not appropriately, validly and currently licensed by the division is eligible to apply for or be issued a permit under this rule.

Exception: Subject to the provisions of this part, a homeowner's permit may be issued to a property owner.

D. Application for permit. In order to obtain a permit, the applicant must complete and submit a written application on the form and in the manner indicated by the division for the type of permit sought.

E. Types. Separate permits are required for general building, electrical and mechanical/plumbing, and liquefied petroleum gas work.

F. Solar PV systems.
(1) Any person bidding or contracting for the installation of a solar PV electric system must possess a valid license issued by the construction industries division (CID) in the EE-98 or ER-1 license classification, subject to the provisions of Paragraph (1) of Subsection B of 14.6.6.8 NMAC. CID license classifications can be found in 14.6.6 NMAC.

(2) Any person performing the installation of a solar PV system, or related work, must possess a valid journeyman certificate issued by CID in the EE-98J or ER-1J classification, or be an apprentice working under the direct supervision of such a certified journeyman.

(3) Nothing in this section shall be construed to prohibit a properly licensed person from performing work on solar PV system's support structures, racking and mounting of panels as long as it is within the scope of the licensee's license and upholds the manufacturers' original listing and labeling.

(4) Structural analysis must be performed by a professional engineer licensed in the state of New Mexico in order to determine if the roof structure is capable of supporting the added loads of a solar PV electric module when

any of the following occur.

(a) The total added dead load of the array is greater than five lbs. / sq. ft. on roof construction.

(b) The total added point load of the array is greater than 45 lbs. on roof construction.

(c) The total added dead load exceeds 200 lbs. on any one truss, rafter or roof joist.

(d) The mounting of the system is of a unique roof mounted design.

(e) The roof structure contains over-spanned trusses, rafters or roof joists.

(5) A general solar PV electric system construction building permit for the mounting of the system on the roof will be required only if structural reinforcement is required by a professional engineer licensed in the state of New Mexico.

(6) If structural modifications are required, engineered details shall be provided. Structural documents must be sealed by a structural engineer licensed in the state of New Mexico. Reinforcement of the structure will require corresponding building permits and inspections by a certified building inspector.

(7) If structural modifications are not required one electrical permit shall be issued to a properly licensed contractor for solar PV installation.

G. Wind turbine systems 10KW or less.

(1) Any person bidding or contracting for the installation of a building mounted wind turbine system must possess a valid license issued by the construction industries division (CID) in the EE-98 or ER-1 license classification, subject to the provisions of Paragraph (1) of Subsection B of 14.6.6.8 NMAC. CID license classifications can be found in 14.6.6 NMAC.

(2) Any person performing the installation of a wind

turbine system, or related work, must possess a valid journeyman certificate issued by CID in the EE-98J or ER-1J classification, or be an apprentice working under the direct supervision of such a certified journeyman.

(3) Structural analysis must be performed by a professional engineer licensed in the state of New Mexico in order to determine if the roof structure is capable of supporting the added loads of a wind turbine.

(4) If structural modifications are required, engineered details shall be provided. Structural documents must be sealed by a professional engineer licensed in the state of New Mexico. Reinforcement of the structure will require corresponding building permits and inspections by a certified building inspector.

(5) If structural modifications are not required one electrical permit shall be issued to a properly licensed contractor for wind turbine installation.
[14.5.2.8 NMAC - Rp, 14.5.2.8 NMAC, 11/15/2016]

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 used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11.15.m2).

(2) Oil derricks.

(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.

(5) 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.

(6) 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.

(7) Temporary motion picture, television and theater stage sets and scenery.

(8) Prefabricated swimming pools accessory to a group R-3 occupancy, as applicable in the NMRBC, and are installed entirely above ground.

(9) Shade cloth structures constructed for nursery or agricultural purposes and not including services systems.

(10) Swings and other playground equipment accessory to one-and two-family dwellings.

(11) Window awnings supported by an exterior wall of group R-3, as applicable in the NMRBC, and group U occupancies.

(12) Moveable cases, counters and partitions not over five feet nine inches (1,753mm) in height.

B. Residential: Refer to Section R105.2 of the IRC except as provided below:

(1) R105.2

(1) - One-story detached accessory structures provided that the floor area does not exceed 120 square feet (18.58 m2).

(2) R105.2 (2)
- Delete this section of the IRC.

(3) 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) R105.2 (4)
- See this section of the IRC.

(5) R105.2 (5)
- See this section of the IRC.

(6) R105.2 (6)
- Delete this section of the IRC.

(7) R105.2 (7)

- See this section of the IRC.

(8) R105.2 (8)

- See this section of the IRC.

(9) R105.2 (9)

- See this section of the IRC.

(10) R105.2

(10) - See this section of the IRC.

C. Mechanical work.

Refer to Section 111.2 of the UMC.

D. Plumbing work.

Refer to Section 103.1.1 of the UPC.

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, 11/15/2016]

14.5.2.10 SUBMITTAL DOCUMENTS:

A. Submittal documents.

(1) With each application for a permit, two sets of the following documents (collectively, submittal documents) must be submitted:

(a) type, occupancy including occupant load and kind of structure;

(b) plans;

(c) specifications;

(d) engineering calculations;

(e) diagrams;

(f) soil investigation reports;

(g) any other data or document required by the AHJ's plan review official; and

(h) exterior wall envelope; submittal documents for all buildings shall describe the exterior wall envelope in sufficient detail to enable the plan review to determine compliance with the NMCBC the NMRBC and NMECC; the submittal documents shall show the exterior wall envelope in detail as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves, or parapets, means of drainage, water-resistive membrane, and details around openings; roofing systems

and manufacturers specifications are required to be submitted;

(i)

mechanical design criteria for all buildings must be included with the submittal documents.

(2)

For construction subject to the NMCBC, see Sections 107.1.1, 107.1.2, 107.2 of the IBC for other requirements regarding submittal documents, including form, means of egress, and site plans.

(3)

For construction subject to NMRBC, see Sections 106.1.1, 106.1.2, 106.1.3 and 106.2 of the IRC for other requirements regarding submittal documents, including form, manufacturer's installation instructions, construction in flood areas, and site plans.

(4)

Upon approval, one set of the submittal documents shall be retained by the division, and one set shall be returned to the permittee, shall be available at the work site, and shall be available for inspection by the AHJ or inspector during the performance of the permitted work.

(5)

Submissions may be required of any specifications, drawings or diagrams necessary to show clearly the kind and extent of building construction work.

B. Professional

seals requirements: The AHJ or the plan review official may require submittal documents to be prepared and sealed by an architect, registered in accordance with the New Mexico Architectural Act, and the rules promulgated pursuant thereto, or by a professional structural engineer, registered in accordance with the New Mexico Engineering and Surveying Practice Act, and the rules promulgated pursuant thereto. An architect or engineer stamp is required for all uses listed in table 1004.1.1 of the IBC.

C. Exceptions:

The requirement for plans and specifications to be prepared by an architect or engineer shall not be required in any of the following

instances unless, in the discretion of the TBC or CBO, an exception is not in the best interests of public safety or health.

(1) Multiple

dwellings of not more than two stories in height and containing not more than four dwelling units constructed of materials approved for use pursuant to the NMRBC, and provided this exception is not construed to allow a person who is not an architect to design multiple clusters of four dwelling units each where the total exceeds four dwelling units on each lawfully divided lot.

(2) Garages

or other structures not more than two stories in height which are appurtenant to buildings described in Subsection A of 14.5.2.10 NMAC.

(3) Group A,

B, E divisions 1 and 2, F, M, S, U buildings or additions having a total occupant load of 10 or less and not more than two stories in height.

(4) Alteration

to buildings or structures that present no unusual conditions or hazards or change in occupancy.

(5) Single-

family dwellings, not more than three stories in height.

D. Submission may

be waived. The CBO or TBC may waive the submission of plans, calculations, construction inspection requirements and other data if it is found that the nature of the work applied for is such that plan review is not necessary to obtain compliance with the New Mexico construction codes.

E. Deferred

submittals. For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted with the application for the permit, and that are to be submitted, thereafter, within a period specified by the AHJ or the plan review official.

F. Approval.

Deferral of any submittal items must have the prior approval of the TBC or CBO. The responsible design professional shall list the deferred submittals on the submittal documents

accompanying the permit application. Submittal documents for deferred submittal items must be submitted to the responsible design professional which shall review and forward them to the AHJ with a notation indicating that the deferred submittal documents have been reviewed and that they have been found to be in general conformance with the design of the building. The items identified in the deferred submittals shall not be installed until the building official has approved their design and submittal documents.

G. Responsible

design professional. When submittal documents are required to be prepared by a registered design professional, the permit application shall indicate the registered design professional who shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building. This design professional shall be deemed to be the "responsible design professional." The permittee shall notify the division in writing within a reasonable period of time, not to exceed 10 business days, if the responsible design professional is changed or is unable to continue to perform the duties required.

H. Special

submissions. The building official plan review official is authorized to require, before and after, the commencement of a project, the submission of any specification, drawing or diagram necessary to adequately and clearly show the kind, extent, and occupancy of the general building, mechanical or plumbing, and electrical work on the project that is covered by the permit issued, or that is required to be permitted under the CID rules. See Subsection C of 14.5.2.10 NMAC.

I. Phased approval.

See Section 107.3.3 of the IBC for work subject to the NMCBC, and Section 106.3.3 of the IRC for work subject to the NMRBC.

J. Correction of

submittal documents. The issuance of a permit based on certain plans

and specifications shall not prevent the AHJ from thereafter requiring the correction of any error in such plans or specifications, or from prohibiting work pursuant to those plans or specifications when a violation of the applicable code would result.

K. Electrical projects.

(1) Any installation with a calculated service capacity over 100 kVA single-phase or over 225 kVA three-phase must be stamped by an electrical engineer, registered in accordance with the New Mexico Engineering and Surveying Practice Act. This requirement shall not apply to remote installations such as irrigation pumps. Any commercial project that requires an architect or engineer seal pursuant to this part shall be submitted to the electrical bureau for review and approval.

(2) Submittal documents shall show the electrical riser, conductor size, grounding conductor size, method of grounding (available electrodes, etc.), load calculations, available fault calculations, size and location of disconnects, panel schedules, wiring methods, site and floor plan. General expressions such as "work shall be done in accordance with the New Mexico Electrical Code" or "work shall be done to the satisfaction of the state building official" shall be considered inadequate, and incomplete.

(3) No permit for electrical work shall be issued for the addition to, or alteration of, wiring of an existing building unless the building as it will be wired conforms to the requirements of the code for new buildings, except that those portions of the existing wiring that have not been disturbed and are deemed safe by the inspector may remain in service.

L. Mechanical projects.

(1) The AHJ may require the stamp of a professional engineer, registered in accordance with the New Mexico Engineering and Surveying Practice Act on permits for mechanical or plumbing work with a total value

of \$200,000.00, or more, or for commercial buildings three stories and higher.

(2) Plans for buildings more than two stories in height, other than R-3 and U occupancies, see Section 112.3 of the UMC.

M. Permit contents and display. Pursuant to CILA Section 60-13-59, every permit or notice of permit issued by the AHJ shall:

(1) clearly indicate the name and address of the owner of the property;

(2) contain a legal description of the property being built on either by "lot and block" description in a subdivision, by street address in a municipality, or by township, range and section numbers if outside a municipality or platted subdivision;

(3) contain the name, address and license number of the contractor or the homeowner to whom the permit is to be issued, and the name of the architect or engineer as may be required by the building official; and

(4) must be prominently displayed on the site where the permitted work is to be performed.

N. Retention. The division shall retain construction documents, including submittal documents and permit applications, in accordance with New Mexico state laws governing document retention.

O. Preliminary inspection. As part of the document review process, before issuing a building permit, the AHJ is authorized to examine or cause to be examined buildings, structures and sites for which an application for a building permit has been filed.

[14.5.2.10 NMAC - Rp, 14.5.2.10 NMAC, 11/15/2016]

14.5.2.11 ISSUANCE:

A. Plan review. If the submittal documents do not comply with construction codes 14.5.7 through 14.5.10 and 14.5.12.3 NMAC, the AHJ shall reject them

and shall communicate the reasons for rejection to the applicant in writing. If the submittal documents meet the applicable codes and rules, the submittal documents shall be approved, in writing or by stamp, as "reviewed" and the AHJ shall issue a permit to the applicant after payment in full of the applicable permit fees, as set forth in 14.5.5 NMAC.

B. Authorization to change. No change or modification may be made to the approved submittal documents for which a permit has been issued without the express, written authorization of the AHJ. All work authorized by a permit must be performed in accordance with the approved submittal documents for which the permit was issued. Changes in the work, occupancy type, occupant load or kind of structure authorized by a permit must be reflected in an amended set of submittal documents, which must be resubmitted for approval by the AHJ.

[14.5.2.11 NMAC - Rp, 14.5.2.11 NMAC, 11/15/2016]

14.5.2.12 VALIDITY OF PERMIT:

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of the New Mexico construction codes or any other applicable law or rule. Permits presuming to give authority to violate or cancel the provisions of the New Mexico construction codes or any other applicable law or rule shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the AHJ from requiring the correction of errors in the construction documents and other data.

[14.5.2.12 NMAC - Rp, 14.5.2.12 NMAC, 11/15/2016]

14.5.2.13 SUSPENSION, CANCELLATION, OR REVOCATION OF PERMIT:

A. The TBC or CBO is authorized to suspend, cancel or revoke a permit issued pursuant to the code for which the official has responsibility in the following causes:

(1) whenever

the permit is issued in error, or on the basis of incorrect, inaccurate or incomplete, fraudulent information or in violation of Title 14 of the NMAC;

(2) when a job is abandoned as determined by a court of competent jurisdiction;

(3) a red tag has been issued;

(4) change in the person or entity performing the work;

(5) at the request of the permittee.

B. A suspended permit may be reactivated upon approval of the appropriate AHJ and payment of any fee assessed.

[14.5.2.13 NMAC - Rp, 14.5.2.13 NMAC, 11/15/2016]

14.5.2.14 EXPIRATION AND DEACTIVATION OF PERMIT:

A. Expiration. Every permit issued by the AHJ expire and be void if the work authorized by such permit is not commenced within 180 days from the date such permit was issued.

B. Deactivation. If the work authorized by a permit is suspended, delayed or abandoned at any time after the work is commenced and such suspension, delay or abandonment continues for 180 days, the permit shall become inactive.

(1)

Reactivation. An inactive permit may be reactivated if the work resumes within one year from the date the permit was issued, upon approval of the AHJ and payment of required fees. Such reactivated permit will authorize work only to the extent it conforms to the submission documents on which the original permit was issued.

(2)

Cancellation. If work does not resume within one year from the date the inactive permit was issued, the inactive permit will automatically cancel. 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.

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 failure to permit violation pursuant to Subsection A of 14.5.2.8 NMAC.

[14.5.2.14 NMAC - Rp, 14.5.2.14 NMAC, 11/15/2016]

14.5.2.15 DENIAL OF PERMIT:

A. The AHJ may deny the issuance of a permit and associated inspections for good cause. Good cause shall include, without limitation:

(1) failure to pay all or part of a permit fee or penalty when due;

(2) payment of any amount due to the division with a "non-sufficient funds" check; and

(3) an outstanding balance on any amounts due to the division that has accrued without approval of the director.

B. After receipt of a "non-sufficient funds" check, the division may require payment by cashier's check.

[14.5.2.15 NMAC - Rp, 14.5.2.15 NMAC, 11/15/2016]

14.5.2.16 FAILURE TO OBTAIN PERMIT:

If any work, other than site preparation, for which a permit is required is commenced prior to obtaining the necessary permit, the AHJ may either assess a fee in the amount of twice the usual permit and inspection fees, or refer the violation for disciplinary action by the AHJ.

[14.5.2.16 NMAC - Rp, 14.5.2.16 NMAC, 11/15/2016]

14.5.2.17 TEMPORARY STRUCTURES:

A. Permits. The

building official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall specify an expiration date not to exceed one year from the date of issuance. The building official is authorized to grant extensions for good cause that is supported by credible evidence.

B. Conformance. See Section 10 8.2 of the IBC.

C. Temporary power. A permit may be issued by the appropriate TBC or AHJ authorizing a connection of a temporary system for supplying electrical power, water, gas, or sewage service, after inspection and testing as applicable by the inspector. When the temporary use of such system is no longer required, the permittee shall notify the appropriate building official or inspector. The temporary work permit may be canceled at any time within one year after the permit was issued. Upon receipt of written notice of such cancellation, the appropriate utility shall discontinue service to such system, and service shall not be resumed until a new permit for the work on the system is issued.

D. Termination of approval. The AHJ is authorized to terminate a permit for a temporary structure when the CBO or TBC deems that it is in the best interests of health, safety and welfare to do so. See 14.5.1.12 NMAC.

[14.5.2.17 NMAC - Rp, 14.5.2.17 NMAC, 11/15/2016]

14.5.2.18 HOMEOWNER'S PERMIT:

A. Homeowner's permits are limited to single-family dwellings, appurtenant structures to single-family dwellings such as private garages, carports, sheds and agricultural buildings, and are issued only to the property owner. Homeowner's permits may only be used by homeowner where the homeowner personally resides. All homeowner permit applications are subject to approval.

B. Any person applying for a homeowner's permit in order to construct a personal residence

in accordance with Paragraph (10) of Subsection D of CILA Section 60-13-3 must sign a homeowner's permit responsibility sheet issued by the division, or its authorized local building department, acknowledging legal responsibilities and liabilities before obtaining such a permit.

C. The homeowner's permit covers general, residential construction only.

D. A homeowner's permit may not be used to permit a project where a GB-2 or GB-98 contractor is acting as a general contractor on the project. Any contractor acting as a general contractor on a project where there is a homeowner's permit must obtain a building permit for his work, and shall be held responsible for any work performed at this site. Further, licensed subcontractors will be held responsible for their work, which also must be permitted separately.

E. A homeowner may perform electrical or plumbing work on his home (single-family dwelling) only if he has demonstrated sufficient knowledge as determined by the appropriate TCB or CBO. The TCB or CBO shall determine minimum competency by a submittal of the plans for the proposed work and may include the completion of a written examination with a minimum passing score of seventy-five percent. Failed examinations may not be repeated sooner than 30 days after the date of the failed exam.

F. After approval of the submitted plans and satisfactorily passing the written examination(s), the homeowner then must obtain the applicable permit(s) for the electrical plumbing work and must pay the required inspection fees.

G. Homeowner's permit projects may not be placed on the market for sale while under construction. Such an action violates the requirements of Paragraph (10) of Subsection D of CILA Section 60-13-3, and will result in the automatic void of the permit by the division. Such a violation may also result in initiation of unlicensed contracting charges against the homeowner in

accordance with the requirement of CILA Section 60-13-52.

H. No more than one homeowner's permit for a single-family dwelling shall be issued to the same person within any 12 month period.

I. Where a homeowner's permit is involved, a properly licensed contractor must install HVAC and natural gas or LP gas installations. This work shall be permitted and inspected pursuant to the standard requirements of the division.

[14.5.2.18 NMAC - Rp, 14.5.2.18 NMAC, 11/15/2016]

14.5.2.19 ANNUAL PERMIT:

A. INDUSTRIAL: (1) Types and scopes.

(a)
Electrical repair maintenance industrial (ERMI). Electrical R/M - industrial permits. The scope of this permit is: repair or maintenance performed on existing electrical systems in industrial facilities. Repair and maintenance as used in the scope of this permit type means work that is necessary to maintain an established, approved electrical installation, which work is required to keep the installation operating in its approved function and configuration. Repair and maintenance includes a like-for-like exchange of a portion or portions of an approved electrical installation, but does not include work on systems that are generally considered in the industry to be related to be life safety systems, or work that entails new construction, relocation, expansion or alteration of an electrical installation or any portion thereof.

(b)
Mechanical repair maintenance industrial (MRMI). Mechanical and plumbing R/M - industrial permits. The scope of this permit is repair or maintenance performed on existing mechanical/plumbing systems in commercial facilities. Repair and maintenance as used in the scope of this permit type means work that is necessary to maintain an established,

approved mechanical/plumbing installation, which work is required to keep the installation operating in its approved function and configuration. Repair and maintenance includes a like-for-like exchange of a portion or portions of an approved mechanical/plumbing installation, but does not include work on systems that are generally considered in the industry to be related to be life safety systems, or work that entails new construction, relocation, expansion or alteration of a mechanical/plumbing installation or any portion thereof.

(c)
General construction repair and maintenance work that is required as a direct consequence of, or that is necessary to, work performed pursuant to an R/M industrial permit is authorized under these permits.

All such general construction work must be reported pursuant to Paragraph (6), below, and whether general construction work is covered by an R/M industrial permit will be determined by the division. General construction work that is not covered by an R/M industrial permit will subject the permit holder to penalties as provided in the act and the CID rules.

(2) Issuance.
R/M industrial permits may be issued to:

(a) an industrial entity duly authorized to do business in New Mexico; and

(b) a licensed contractor holding one of the following classifications of license and who has a written contract with an industrial entity to perform work covered by an R/M industrial permit:

(i)
for an ERMI permit: EE98, EL1, ES3, ES7;

(ii)
for an MRMI permit: MM1, 2, 3, 4 and MM98;

(c)
work to be performed under an R/M industrial permit may only be performed by a journeyman, pursuant to Subsection A of 14.6.4.8 NMAC; properly certified by the division in the classification of work to be

performed pursuant to the permit, who is an employee of the authorized entity, or of the licensee, to whom the permit was issued. In no case shall experience gained under an annual permit count for more than one-fourth of the experience requirement for qualifying party or journeyman certification.

(3) Duration.
(a)

R/M industrial permits are valid for 12 months from the date of issuance, are not renewable. ERMI and MRMI permits automatically expire on the first day of the thirteenth month after the month of issuance.

(b)

Suspension, cancellation, revocation. See 14.5.2.13 NMAC of this rule.

(c)

Expiration and deactivation of permit. See 14.5.2.14 NMAC of this rule.

(4) Denial.

See 14.5.2.15 NMAC.

(5) Failure

to obtain permit. See 14.5.2.16 NMAC.

(6) Report

log. All work performed pursuant to an R/M industrial permit must be recorded by the permit holder in a log that contains, at a minimum, the following information:

(a)

the location of the work with sufficient specificity that an inspector can locate the work;

(b)

the date the work was performed;

(c) a

description of the work performed; if tool replacement was performed, the identifying information for each tool replaced and for the new tool;

(d)

the name of the individual who performed the work and the individual's journeyman classification and certificate number;

(e)

in the case of tool exchange, a copy of the design or installation plan for the proposed exchange, which has been approved and stamped by a professional engineer who is properly licensed by the state of New Mexico;

(f)

the entity authorization number, or the contractor license number, to whom the permit covering the work was issued.

(7)

Inspections. All work performed under an R/M industrial permit is subject to inspection by CID and must comply with all applicable codes.

(a)

CID inspectors will inspect the work covered by an annual permit at regular intervals.

(b)

If the work inspected is not recorded fully and accurately on the log, the annual permit is subject to forfeiture and the holder may not be eligible to apply for another annual permit for one year thereafter.

(8)

Limitation. Industrial R/M permits may not be issued by a municipality, a county or any other political subdivision of the state.

B. COMMERCIAL:

(1) Types and

scopes:

(a)

Electrical repair maintenance commercial (ERMC). Electrical R/M- commercial permit. The scope of this permit is repair or maintenance performed on existing electrical systems in commercial facilities. Repair and maintenance as used in the scope of this permit type means work that is necessary to maintain an established, approved electrical installation, which work is required to keep the installation operating in its approved function and configuration. Repair and maintenance includes a like-for-like exchange of a portion or portions of an approved electrical installation, but does not include work on systems that are generally considered in the industry to be related to be life safety systems, or work that entails new construction, relocation, expansion or alteration of an electrical installation or any portion thereof.

(b)

Mechanical repair maintenance commercial (MRMC). Mechanical and plumbing R/M - commercial permits. The scope of this permit

is: repair or maintenance performed on existing mechanical/plumbing systems in commercial facilities. Repair and maintenance as used in the scope of this permit type means work that is necessary to maintain an established, approved mechanical/plumbing installation, which work is required to keep the installation operating in its approved function and configuration. Repair and maintenance includes a like-for-like exchange of a portion or portions of an approved mechanical/plumbing installation, but does not include work on systems that are generally considered in the industry to be related to be life safety systems, or work that entails new construction, relocation, expansion or alteration of a mechanical/plumbing installation or any portion thereof.

(c)

General construction repair and maintenance work that is required as a direct consequence of, or that is necessary to, work performed pursuant to an R/M commercial permit is authorized under these permits. All such general construction work must be reported pursuant to Paragraph (6), below, and whether general construction work is covered by an R/M commercial permit will be determined by the division. General construction work that is not covered by an R/M commercial permit will subject the permit holder to penalties as provided in the act and the CID rules.

(2) Issuance.

R/M commercial permits may be issued to:

(a) a

commercial entity duly authorized to do business in New Mexico and;

(b)

a licensed contractor holding one of the following classifications of license and who have a written contract with a commercial entity to perform work covered by an R/M commercial permit:

(i)

for an ERMC permit: EE98, EL1, ES3, ES7;

(ii)

for an MRMC permit: MM1, 2, 3, 4

and MM98;

(c)
work to be performed under an R/M commercial permit may only be performed by a journeyman, pursuant to Subsection A of 14.6.4.8 NMAC; properly certified by the division in the classification of work to be performed pursuant to the permit, who is an employee of the authorized entity, or of the licensee, to whom the permit was issued. In no case shall experience gained under an annual permit count for more than one-fourth of the experience requirement for qualifying party or journeyman certification.

(3) **Duration.**
(a)

R/M commercial permits are valid for 12 months from the date of issuance, are not renewable. ERMC and MRMC permits automatically expire on the first day of the 13th month after the month of issuance.

(b)

Suspension, cancellation, revocation, see 14.5.2.13 NMAC.

(c)

Expiration and deactivation of permits see 14.5.2.14 NMAC.

(4) **Denial.**

See 14.5.2.15 NMAC.

(5) **Failure**

to obtain permit. See 14.5.2.16 NMAC.

(6) **Report**

log. All work performed pursuant to an R/M commercial permit must be recorded by the permit holder in a log that contains, at a minimum, the following information:

(a)

the location of the work with sufficient specificity that an inspector can locate the work;

(b)

the date the work was performed;

(c) a

description of the work performed;

(d)

the name of the individual who performed the work;

(e)

the entity authorization number, or the contractor license number, to whom the permit covering the work was issued.

(7)

Inspections. All work performed under an R/M commercial permit is subject to inspection by CID and must comply with all applicable codes.

(a)

CID inspectors will inspect the work covered by an annual permit at regular intervals.

(b)

If the work inspected is not recorded fully and accurately on the log, the annual permit is subject to forfeiture and the holder may not be eligible to apply for another annual permit for one year thereafter.

(8)

Limitation. Commercial R/M permits may not be issued by a municipality, a county or any other political subdivision of the state.

C. SCHOOL:

(1) **Types.**

(a)

Electrical repair maintenance schools (ERMS). Electrical R/M school permit. The scope of this permit is: repair or maintenance performed on existing 120-volt (277-volt lighting circuits) or less de-energized electrical systems in a school, and is intended to allow for the exchange of like parts or components in an existing electrical system. It does not include: work on life safety systems which is intended to protect the occupants of the structure such as fire protection, energy, and egress lighting systems, except replacement of light bulbs and batteries in emergency lights and exit signs; work that entails new construction, relocation, expansion or alteration of an electrical installation or any portion thereof; work on energized electrical systems of any kind; boilers; or work product or process that is hazardous to the public, or the occupants of the school. Repair and maintenance includes a like-for-like exchange of a portion or portions of an approved electrical installation, but does not include work on systems that are generally considered in the industry to be related to be life safety systems, or work that entails new construction, relocation, expansion or alteration

of an electrical installation or any portion thereof.

(b)

Mechanical repair maintenance schools (MRMS). Mechanical and plumbing R/M school permit. The scope of this permit is: repair or maintenance performed on existing plumbing or mechanical systems in a school is intended to allow for the exchange of like parts or components in an existing mechanical or plumbing system. It does not include: work on life safety systems which are intended to protect the occupants of the structure such as fire protection and smoke evacuation systems; and, all venting; work that entails new construction, relocation, expansion or alteration of a mechanical or plumbing installation or any portion thereof; work on gas piping systems of any kind, except repair of low-pressure gas leaks downstream of the isolation valve to the appliance, limited to supply tubes or connections to gas valves or fuel train. Work does also not include repair or replacement of gas valves, regulators or fuel train; boilers; or work product or process that is hazardous to the maintenance technician, the public, or the occupants of the school. Repair and maintenance as used in the scope of this permit type means work that is necessary to maintain an established, approved mechanical/plumbing installation, which work is required to keep the installation operating in its approved function and configuration. Repair and maintenance includes a like-for-like exchange of a portion or portions of an approved mechanical/plumbing installation, but does not include work on systems that are generally considered in the industry to be related to be life safety systems, or work that entails new construction, relocation, expansion or alteration of a mechanical/plumbing installation or any portion thereof.

(c)

General repair maintenance schools (GRMS). General construction R/M school permit. The scope of this permit is: repair and maintenance of existing structures in a school and is intended to allow for the exchange

of like parts or components in an existing structure. The scope of this permit is limited to the maintenance and repair of non-structural facility components: drywall and ceiling surfaces, room partitions, wall and window replacement; patching roof surfaces not to exceed 100 square feet; asphalt, concrete, playground and athletic equipment, landscaping, and site drainage. It does not include new construction of any kind, or work that modifies egress, affects fire resistance or structural integrity of a wall, or any work product or process that is hazardous to the maintenance technician, the public, or the occupants of the school.

(2) Issuance.
(a)

Permits authorized by this section may be issued to a school that employs at least one individual who holds a valid certification or license in the classification covering the work to be permitted.

(b)

Apprentices as defined under 60-13-2 H of the CILA can work under the supervision of a licensed journeyman at a ratio of one to one. Work to be performed under an R/M school permit may only be performed by a journeyman pursuant to Subsection A of 14.6.4.8 NMAC. In no case shall experience gained under an annual permit count for more than one-fourth of the experience requirement for qualifying party or journeyman certification.

(3) Duration.
(a)

Permits authorized by this rule are valid for 12 months from the date of issuance and are not renewable. These permits automatically expire on the first day of the thirteenth month following the month of issuance.

(b)

Suspension, cancellation, revocation, see 14.5.2.13 NMAC.

(c)

Expiration and deactivation of permit see 14.5.2.14 NMAC.

(d)

Denial, see 14.5.2.15 NMAC.

(e)

Failure to obtain permit, see 14.5.2.16

NMAC.

(f)

Report log. All work performed pursuant to a permit issued according to this rule must be recorded by the permit holder in a log that contains, at a minimum, the following information:

(i)

the location of the work with sufficient specificity that an inspector can locate the work;

(ii)

the date the work was performed;

(iii)

a description of the work performed;

(iv)

the name of the individual who performed the work;

(v)

the permit number issued to the school for the work performed.

(4) All work

performed under a permit issued pursuant to this rule is subject to inspection by CID and must comply with all applicable codes and rules.

(5) School

R/M permits may not be issued by a municipality, a county or any political subdivision of the state.

[14.5.2.19 NMAC - Rp, 14.5.2.19 NMAC, 11/15/2016]

14.5.2.20 EMERGENCY

WORK: Where equipment replacement or repairs must be performed in an emergency situation, application for the appropriate permit must be made on the next working business day either by computer or in person at one of the division offices.

[14.5.2.20 NMAC - Rp, 14.5.2.20 NMAC, 11/15/2016]

14.5.2.21 CONNECTION OF SERVICE UTILITIES:

Except where work is done under an annual permit, no person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by the New Mexico construction codes for which a permit is required, until approved by the appropriate AHJ.

[14.5.2.21 NMAC - Rp, 14.5.2.21 NMAC, 11/15/2016]

HISTORY OF 14.5.2 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:

CIC 70-2, General Construction Classifications, filed 11-25-1970; CIC 72-4, General Construction Classifications, filed 02-16-1972; CIC 76-2, Rules and Regulations, filed 05-05-1976; CID 78-2, Rules and Regulations, filed 12-05-1978; CID 79-1, Rules and Regulations, filed 06-06-1979; CID 82-1, Construction Industries Rules and Regulations, filed 04-14-1982; CID 85-1, Construction Industries Rules and Regulations, filed 02-04-1985; CID 90-1, Construction Industries Rules and Regulations, filed 05-31-1990.

History of Repealed Material:

14 NMAC 5.2, Housing and Construction - Construction Industries General Provisions - Permits (filed 9-2-1997), repealed effective 12-1-2000.

14.5.2, Housing and Construction - Construction Industries General Provisions - Permits (filed 10-16-2000), repealed effective 7-1-2004.

14.5.2, Housing and Construction - Construction Industries General Provisions - Permits (filed 5-27-2004), repealed effective 11/15/2016.

Other History:

That portion of CID 90-1, Construction Industries Rules And Regulations, filed 05-31-1990

-- renumbered, reformatted and amended to 14 NMAC 5.2, Housing and Construction - Construction Industries General Provisions - Permits, effective 09-14-1996.

14 NMAC 5.2, Housing and Construction - Construction Industries General Provisions - Permits (filed 09-03-1996) replaced by 14 NMAC 5.2, Housing and Construction - Construction Industries General Provisions - Permits, effective 09-23-1997.

14 NMAC 5.2, Housing and Construction - Construction Industries General Provisions - Permits (filed 09-02-1997) replaced by 14.5.2 NMAC, Housing and Construction - Construction Industries General Provisions - Permits, effective 12-1-2000.

14.5.2 NMAC, Housing and Construction - Construction Industries General Provisions - Permits (filed 10-16-2000), and those applicable portions of 14.7.2 NMAC, Section 10 (filed 10-16-2000); 14 NMAC 9.2, Subpart I, Sections 100-105 (filed 10-30-1998); 14 NMAC 9.2, Subpart II, Section 100 (filed 10-30-1998); 14.10.4 NMAC, Section 8 (filed 7-1-2002); and 14.5.3 NMAC (filed 10-16-2000), Section 8 - replaced by 14.5.2 NMAC, Housing and Construction - Construction Industries General Provisions - Permits, effective 7-1-2004.

**REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 5 CONSTRUCTION
INDUSTRIES GENERAL
PROVISIONS
PART 3 INSPECTIONS**

14.5.3.1 ISSUING
AGENCY: Construction Industries Division of the Regulation and Licensing Department.
[14.5.3.1 NMAC - Rp, 14.5.3.1 NMAC, 11/15/2016]

14.5.3.2 SCOPE: This rule applies to all contracting work performed in New Mexico on or after November 15, 2016, that is subject to the jurisdiction of CID, unless performed pursuant to permit for which an application was received by CID before that date.
[14.5.3.2 NMAC - Rp, 14.5.3.2 NMAC, 11/15/2016]

14.5.3.3 STATUTORY
AUTHORITY: Sections 60-13-9 and

60-13-41 NMSA 1978.
[14.5.3.3 NMAC - Rp, 14.5.3.3 NMAC, 11/15/2016]

14.5.3.4 DURATION:
Permanent.
[14.5.3.4 NMAC - Rp, 14.5.3.4 NMAC, 11/15/2016]

14.5.3.5 EFFECTIVE
DATE: November 15, 2016, unless a later date is cited at the end of a section.
[14.5.3.5 NMAC - Rp, 14.5.3.5 NMAC, 11/15/2016]
[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.]

14.5.3.6 OBJECTIVE:
The purpose of this rule is to set forth requirements for inspections of all contracting work in New Mexico that is subject to the jurisdiction of CID.
[14.5.3.6 NMAC - Rp, 14.5.3.6 NMAC, 11/15/2016]

14.5.3.7 DEFINITIONS:
A. Trade bureau chief
“TBC” means the administrative head of a state of New Mexico trade bureau charged with the administration and enforcement of that trade bureau’s state adopted code s. The trade bureau chiefs are the ultimate authority to determine interpretations of their trade code. This includes applications of the New Mexico trade codes. The trade bureau chief shall recommend to the “CID and CIC” all minimum standards for code adoptions.

B. Certified building official “CBO” means an employee of any county, municipality or other political subdivision who has a broad knowledge of the construction industry, holds a current nationally recognized code organization certified building official certificate and has been either a practicing inspector or practicing contractor for at least five years or held a management position in a construction-related company or construction organization for at least

five of the past 10 years. This official is charged with the administration and enforcement of the adopted administrative codes for an AHJ.

C. State of New Mexico certified building official “NMCBO”- a person who meets the qualifications for CBO, is employed by CID as a trade bureau chief, and appointed by the director as the state’s NMCBO. The NMCBO has ultimate authority over conflicts arising among AHJs other than trade bureau chiefs..

D. Inspector-means a person certified by the division and certified by one or more trade bureaus to conduct inspections of permitted work in a jurisdiction that has an inspection and permitting agency with a state approved CBO to ensure that all work performed by a contractor or the homeowner complies with the applicable codes.

E. Authority Having Jurisdiction “AHJ”- means the entity with permitting and enforcement authority over a project within its jurisdiction.
[14.5.3.7 NMAC - Rp, 14.5.3.7 NMAC, 11/15/2016]

14.5.3.8 GENERAL PROVISIONS:

A. Application. All work for which a permit is issued must be inspected.

B. Code compliance.
The inspections necessary to ensure that the work complies with an applicable code shall be performed by the appropriate inspector under the direction of the AHJ responsible for that code.

C. Notification. It is the responsibility of the permittee, or the permittee’s duly authorized agent, to timely notify the appropriate inspector when work is ready for inspection, and to provide access to, and the means to perform inspections of, the work. Notification shall be made as specified on the permit or in other instructions made available by the AHJ building official or the division, but in no event shall such notification be given less than 24 hours before the work is to be inspected.

D. Violations. If, upon inspection, any permitted work is found not to be in full compliance with an applicable code, the inspector shall serve a written notice on the permittee citing the code violation observed and ordering that the violation be corrected. The permittee is responsible for notifying the inspector when all corrections have been made and the work is ready for re-inspection. Failure to comply with a correction notice within the time required by the AHJ building official or the inspector or, if no time is specified, within a reasonable time is a violation of the CID rules and may result in disciplinary action by the division.

E. Covered and unapproved work. Work must be visible to be inspected and shall not be covered or used before approval is given by the inspector. Work that is covered before it is inspected, tested, if applicable, and approved may be ordered uncovered by the inspector or AHJ. No work shall be performed in the course of the inspections process beyond what is required for the next inspection without approval of the inspector.
[14.5.3.8 NMAC - Rp, 14.5.3.8 NMAC, 11/15/2016]

14.5.3.9 INSPECTIONS: The following inspections are required unless otherwise indicated.

A. For work subject to the NMCBC.

- (1) Footing and foundation inspection, see Section 110 of the IBC.
- (2) Concrete slab or under floor inspection, see Section 110 of the IBC.
- (3) Lowest floor elevation, see Section 110 of the IBC.
- (4) Frame inspection, see Section 110 of the IBC.
- (5) Roof assembly inspection.
- (6) Exterior wall opening flashings.
- (7) Weather resistive barrier inspection is to

be made after installation of the appropriate weather resistive barrier and before such barrier is covered.

(8) Lath and gypsum board, see Section 110 of the IBC.

(9) Fire and smoke-resistant penetrations, see Section 110 of the IBC.

(10) Energy efficiency inspection, see Section 110 of the IBC.

(11) Other inspections required by the AHJ building official, see Section 110 of the IBC.

(12) Special inspections, see Section 110 of the IBC.

(13) Final inspection, see Section 110 of the IBC.

B. For work subject to the NMRBC.

(1) Footing and foundation inspection, see Section 109.1.1 of the IRC.

(2) Concrete slab or under floor inspection, see Section 109 of the IRC.

(3) Frame and masonry inspections, see Section 109.1.4 of the IRC.

(4) Roof assembly inspection.

(5) Exterior wall opening flashings.

(6) Weather resistive barrier inspection is to be made after installation of the appropriate weather resistive barrier and before such barrier is covered.

(7) Energy efficiency inspections and **state of New Mexico thermal bypass inspection checklist** verification.

(8) Lath and gypsum board, see Section 109.1.5 of the IRC.

(9) Other inspections required by the AHJ, see Section 109 of the IRC.

(10) Fire resistance rated construction inspection, see Section 109.1.5.1 of the IRC.

(11) Final inspection, see Section 109.1.6 of the

IRC.

C. For work subject to the NMEC.

(1) Temporary pole (if applicable).

(2) Underground or under-slab (if applicable).

(3) Rough-in: (a) on residential projects, all wiring must be installed and connections made-up;

(b) on commercial projects, perform inspections as required.

(4) Pre-final (if applicable).

(5) Final (electrical system is complete and energized).

D. For work subject to the NMMC.

(1) Rough inspection of all mechanical work covered by permit after work has been installed and before it is covered or concealed.

(2) Temporary heat (if applicable).

(3) Final inspection after all mechanical work covered by permit has been installed and covered and after fixtures and appliances have been attached.

(4) Operation of mechanical equipment installed to replace existing equipment or fixtures. See Section 116.2 of the UMC.

E. For work subject to the NMPC.

(1) Rough inspection of all plumbing work covered by permit after work has been installed and before it is covered or concealed.

(2) Top-out inspection of all vented piping above floor and all extensions through the roof and walls. The top-out testing procedures are at the option of the inspector to insure the system is free from leaks or defects.

(3) Water distribution including all water piping inside and under a building.

(4) Water service piping from a service meter to a connection outside the building.

(5) Final inspection after all plumbing work covered by permit has been installed and covered and after fixtures and appliances have been attached.

(6) Operation of plumbing equipment to replace existing equipment or fixtures, see Section 103.5.2 of the UPC.

F. Additional inspections. In addition to required inspections, the AHJ or CBO is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of the applicable New Mexico construction codes.

G. Re-inspections.

(1) A re-inspection fee shall be permitted to be assessed for each inspection or re-inspection when such portion of work for which an inspection is called and is not complete or when the required corrections have not been made. This provision shall not be interpreted as requiring a re-inspection fee the first time work is rejected for failure to comply with the applicable New Mexico construction codes, but for controlling the practice of requesting inspections before the work is ready for inspection or re-inspection. No additional inspections of the work will be performed until the required fees have been paid and re-inspection has been made.

(2) Re-inspection fees may be assessed when the approved plans are not readily available to the inspector, or for deviating from plans without the approval of the authority having jurisdiction.

(3) Re-inspection fees may be assessed for failure to provide access on the date for which the inspection is requested. [14.5.3.9 NMAC - Rp, 14.5.3.9 NMAC, 11/15/2016]

14.5.3.10 STOP WORK ORDERS: Whenever contracting is being performed contrary to the CID rules, the AHJ or inspector may order that the work be stopped and shall give written notice of such order to the person performing the

work or causing the work to be performed. Any person receiving such notice shall cease and desist from performing, or causing the performance of, the work until authorized, in writing, by the AHJ or the inspector to proceed. [14.5.3.10 NMAC - Rp, 14.5.3.10 NMAC, 11/15/2016]

14.5.3.11 INSPECTION OF WORK ON ANNUAL PERMIT:

No less often than once a calendar quarter, the inspector having jurisdiction shall visit all sites where work is authorized by an annual permit. The inspector shall inspect all work performed since the date of the last inspection. Violations of the applicable code shall be corrected pursuant to Subsection D of 14.5.3.8.4 NMAC. The inspector shall issue a certificate of approval for any work that has been performed in compliance with the applicable code and the applicable provisions of the CID rules.

[14.5.3.11 NMAC - Rp, 14.5.3.11 NMAC, 11/15/2016]

14.5.3.12 PRODUCT STANDARDS AND APPROVALS:

A. Product approval. Construction or installations shall not be approved as code compliant unless the products and materials used meet the standards set forth in the New Mexico construction codes.

B. Procedures for determining compliance. The CBO has the authority to establish the procedures necessary to determine whether products and materials meet the standards set forth in the New Mexico construction code for which the CBO is responsible.

C. Marking systems. Each CBO has the authority to require marking/labeling systems to easily identify products that comply with the standards set forth in the New Mexico construction code applicable to those products.

D. Approval of listing agencies. Each CBO has the authority to designate approved listing agencies whose testing standards and procedures, and marking/

labeling, are such that they can be relied on to identify products and materials that are compliant with the standards established by the New Mexico construction code applicable to those products. A listing agency shall not be approved for certifying, marking/labeling products for use in New Mexico that does not certify compliance with the applicable New Mexico construction code on a reliable basis, and that does not provide an easy-to-identify marking system.

E. Use of approved materials - new and used. See Sections 104.9 of the IBC and R104.9.1 of the IRC. [14.5.3.12 NMAC - Rp, 14.5.3.12 NMAC, 11/15/2016]

14.5.3.13 CERTIFICATES OF OCCUPANCY:

A. Occupancy. No building, or portion thereof, on which construction has been undertaken shall be occupied until the appropriate inspector has issued a certificate of occupancy, except that no certificate of occupancy shall be required for work not required to be permitted pursuant to any part of the CID rules or CILA.

B. Issuance. No certificate of occupancy shall be issued by the CBO or the inspector until all of the required inspections have been performed, in the proper order, and the appropriate inspectors have approved the work.

C. Homeowner's permit. Any certificate of occupancy issued for a residence constructed pursuant to a homeowner's permit shall expressly state that the residence was so constructed.

D. Temporary certificate of occupancy. The appropriate inspector may issue a temporary certificate of occupancy for a period not to exceed one year when:

(1) an analysis of the circumstances in any specific case indicates that a temporary certificate of occupancy is appropriate;

(2) life, safety or health will not be adversely

affected by doing so; and

(3) good cause is shown by the permittee in a written request for an extension of a current, valid temporary certificate of occupancy.

E. Effect. The issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of the New Mexico construction codes or of other applicable laws. Certificates presuming to give authority to violate or cancel the provisions of any applicable code or other law shall not be valid. No certificate of occupancy shall certify, or be interpreted to certify, compliance with the requirements of any other regulatory agency that may or might have jurisdiction over aspects of a project that are outside the jurisdiction of the division. Such aspects include, but are not limited to, compliance with fire code standards enforced by the state fire marshal, or any local fire code enforcement agency; the state environment department; the state health department, the state human services department, the public regulation commission, or any other state or local regulatory agency.

F. Revocation or suspension.

(1) The general construction AHJ is authorized to suspend or revoke a certificate of occupancy if:

(a) the certificate was issued in error or on the basis of incorrect information; or

(b) the work violates an applicable New Mexico construction code or applicable provisions of the CID rules or CILA.

(2) A suspended certificate of occupancy may be reinstated upon approval of the appropriate AHJ building official and payment of any fee assessed pursuant to 14.5.5 NMAC, Fees. [14.5.3.13 NMAC - Rp, 14.5.3.13 NMAC, 11/15/2016]

14.5.3.14 INSPECTION AGENCIES: An inspection agency

may be approved by the division to conduct inspections on behalf of the division, provided such agency has and maintains in its employ, certified inspectors for general construction, mechanical and electrical specialties, who are qualified under 14.6.5 NMAC, Inspectors.

[14.5.3.14 NMAC - Rp, 14.5.3.14 NMAC, 11/15/2016]

14.5.3.15 CONNECTION APPROVAL:

A. Plumbing. No person shall connect, or reconnect, any plumbing system to an energy or water source or to a sewer system until the AHJ or authorized inspector has given approval to do so.

B. Mechanical. No person shall connect, or reconnect, any mechanical system or equipment to an energy, fuel or other power source until the AHJ or authorized inspector has given approval to do so.

C. Electrical. No person shall connect, or reconnect any electrical wiring to an energy source until the AHJ building official or authorized inspector has given approval to do so.

D. Exception. A public or private utility may make a connection from a supply of water or gas to an installation if, the appropriate AHJ has failed to approve or disapprove the work or installation to which the connection will be made within seven working days after receiving notification that the work is ready to inspect.

[14.5.3.15 NMAC - Rp, 14.5.3.15 NMAC, 11/15/2016]

HISTORY OF 14.5.3 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:

CIC 70-2, General Construction Classifications, filed 11-25-1970; CIC 72-4, General Construction Classifications, filed 02-16-1972; CIC 76-2, Rules and Regulations, filed 05-05-1976; CID 78-2, Rules and Regulations, filed 12-05-1978;

CID 79-1, Rules and Regulations, filed 06-06-1979;

CID 82-1, Construction Industries Rules and Regulations, filed 04-14-1982;

CID 85-1, Construction Industries Rules and Regulations, filed 02-04-1985;

CID 90-1, Construction Industries Rules and Regulations, filed 05-31-1990.

History of Repealed Material:

14 NMAC 5.3, Housing and Construction - Construction Industries General Provisions - Inspections (filed 09-02-1997), repealed 12-1-2000.

14.5.3 NMAC, Housing and Construction - Construction Industries General Provisions - Inspections (filed 10/16/2000), repealed 7-1-2004.

14.5.3 NMAC, Inspections (filed 5-27-2004), repealed 11/15/2016.

Other History:

That portion of CID 90-1, Construction Industries Rules and Regulations, filed 05-31-1990

-- renumbered, reformatted and amended to 14 NMAC 5.3, Housing and Construction - Construction Industries General Provisions - Inspections, filed 09-03-1996.

14 NMAC 5.3, Housing and Construction - Construction Industries General Provisions - Inspections (filed 09-03-1996) replaced by 14 NMAC 5.3, Inspections, effective 9/23/1997.

14 NMAC 5.3, Inspections (filed 09-02-1997) replaced by 14 NMAC 5.3, Inspections, effective 12/01/2000.

14.5.3 NMAC, Inspections (filed 10/16/2000) and those applicable portions of 14.7.2 NMAC, 1997

Uniform Building Code (filed 10/16/2000); 14 NMAC 9.2, 1997 New Mexico Plumbing and Mechanical Codes (filed 10/20/1998); and 14.10.4 NMAC, State of New Mexico Electrical Code (filed 7/01/2002) replaced by 14.5.3 NMAC, Inspections, effective 7-1-2004.

**REGULATION AND
LICENSING DEPARTMENT**
CONSTRUCTION INDUSTRIES
DIVISION

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 7 BUILDING
CODES GENERAL
PART 2 2015 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, 11/15/2016]

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 November 15, 2016, 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, 11/15/2016]

14.7.2.3 STATUTORY AUTHORITY: Sections 60-13-9 and 60-13-44 NMSA 1978.
[14.7.2.3 NMAC - Rp, 14.7.2.3 NMAC, 11/15/2016]

14.7.2.4 DURATION: Permanent.
[14.7.2.4 NMAC - Rp, 14.7.2.4 NMAC, 11/15/2016]

14.7.2.5 EFFECTIVE DATE: November 15, 2016, unless a later date is cited at the end of a section.
[14.7.2.5 NMAC - Rp, 14.7.2.5 NMAC, 11/15/2016]
[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.]

14.7.2.6 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, 11/15/2016]

14.7.2.7 DEFINITIONS: See 14.5.1 NMAC, General Provisions and Chapter 2 of the 2015 International Building Code (IBC) as amended in 14.7.2.10 NMAC.
[14.7.2.7 NMAC - Rp, 14.7.2.7 NMAC, 11/15/2016]

14.7.2.8 ADOPTION OF THE 2015 INTERNATIONAL BUILDING CODE:

A. This rule adopts by reference the 2015 International Building Code, as amended by this rule.

B. In this rule, each provision is numbered to correspond with the numbering of the 2015 International Building Code.

C. This rule is to be applied in conjunction with 14.7.6 NMAC, the 2009 New Mexico Energy Conservation Code.
[14.7.2.8 NMAC - Rp, 14.7.2.8 NMAC, 11/15/2016]

14.7.2.9 CHAPTER 1 - ADMINISTRATION:

A. Section 101 -

General.

(1) 101.1

- Title. Delete this section of the IBC and substitute: This code shall be known as the 2015 New Mexico Commercial Building Code (NMCBC).

(2) 101.2 -

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

(3) 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; and

(f)

Appendix J - Grading.

(4) 101.3 -

Intent. Delete this section of the IBC and see the scope section above, at 14.7.2.6 NMAC, Objective.

(5) 101.4

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

(a)

101.4.1 - Electrical. Delete this section of the IBC and substitute: the 2014 New Mexico Electrical Code (NMEC) applies to all electrical wiring as defined in CILA Section 60-13-32. All references in the IBC to the ICC Electrical Code are deemed references to the NMEC.

(b)

101.4.1 - Gas. Delete this section of the IBC and substitute: the currently 2012 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.

(c)

101.4.2 - Mechanical. Delete this section of the IBC and substitute: The 2012 NMMC applies to the installation, repair and replacement of mechanical systems including 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.

(d)

101.4.3 - Plumbing. Delete this section of the IBC and substitute: the 2012 New Mexico Plumbing Code (NMPC) applies to the installation, alterations, repairs and replacement of plumbing systems, including 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.

(e)

101.4.4 - Property Maintenance. Delete this section of the IBC.

(f)

101.4.5 - Fire Prevention. Delete this section of the IBC.

(g)

101.4.6 - Energy. Delete this section of the IBC and substitute: the provisions of the 2009 New Mexico Energy Conservation Code (NMECC) shall apply to the energy conservation aspects of general commercial construction.

B. Section 102 - Applicability.

(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 permitted to continue without change, except as is specifically provided otherwise in this rule, in the 2015 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 -

Department of Building Safety.

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 except as provided in 14.5.2 NMAC, Permits.

F. Section 106 - Floor

and Roof Design Loads. See this section of the IBC.

G. Section 107 -

Submittal 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.

(1) 110.1 -

General. Delete this section of the IBC except as provided in 14.5.3 NMAC, Inspections.

(2) 110.2 -

Preliminary Inspection. Delete this section of the IBC except as provided in 14.5.2 NMAC, Permits.

(3) 110.3 -

Required Inspections. Delete this section of the IBC except as provided in 14.5.3 NMAC, Inspections.

(4) 110.4 -

Inspection Agencies. Delete this section of the IBC and see 14.5.3 NMAC, Inspections.

(5) 110.5 -

Inspection Requests. Delete this section of the IBC except as provided in 14.5.3 NMAC, Inspections.

(6) 110.6 -

Approval Required. Delete this section of the IBC except as provided in 14.5.3 NMAC, Inspections.

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 -

Board 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, 11/15/2016]

14.7.2.10 CHAPTER 2 -

DEFINITIONS: See this section of the IBC except as provided below.

A. 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 in the IBC, it 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 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.

C. Section 202 - Definitions. See this section of the IBC and add the following definitions.

(1) Unbalanced backfill height means 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.

(2) Primary entrance. The entrance through which most people enter the building or facility. A building or facility may have more than one primary entrance. [14.7.2.10 NMAC - Rp, 14.7.2.10 NMAC, 11/15/2016]

14.7.2.11 CHAPTER 3 - USE AND OCCUPANCY CLASSIFICATION: See this chapter of the IBC except: **Section 304.1** is amended to add fire and police stations to the business "B" occupancy group. [14.7.2.11 NMAC - Rp, 14.7.2.11 NMAC, 11/15/2016]

14.7.2.12 CHAPTER 4 - SPECIAL DETAILED REQUIREMENTS BASED ON USE AND OCCUPANCY: See this chapter of the IBC with the following exception: **Section 404.1.1**, 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, 11/15/2016]

14.7.2.13 CHAPTER 5 - GENERAL HEIGHTS AND BUILDING AREAS: See this chapter of the IBC. [14.7.2.13 NMAC - Rp, 14.7.2.13 NMAC, 11/15/2016]

14.7.2.14 CHAPTER 6 - TYPES OF CONSTRUCTION: See this chapter of the IBC. [14.7.2.14 NMAC - Rp, 14.7.2.14 NMAC, 11/15/2016]

14.7.2.15 CHAPTER 7 - FIRE AND SMOKE PROTECTION FEATURES: See this chapter of the IBC except as provided below.

A. Section 702 is amended to change the definition of "shaft" by deleting the reference to "stories" and substituting the words "floor levels."

B. Section 712.1.4 - Penetrations. A minimum of three, three-inch diameter sleeved penetrations shall be installed in the mechanical room, or from an accessible point or designated solar equipment location. The sleeves shall be listed and sealed with a listed fitting or box on both ends in compliance with this chapter. [14.7.2.15 NMAC - Rp, 14.7.2.15 NMAC, 11/15/2016]

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, 11/15/2016]

14.7.2.17 CHAPTER 9 - FIRE PROTECTION SYSTEMS:

A. Section 901 - General. See this section of the IBC.

B. Section 902 - Definitions. See this section of the IBC with the following exception: the definition of "standpipe system, classes of" is amended by adding the following provision: 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.

C. Section 903 -

Automatic Sprinkler Systems. See this section of the IBC except in section 903.2 delete the paragraph entitled "exception" in its entirety.

D. Section 904 - Alternative Automatic Fire-Extinguishing Systems. See this section of the IBC.

E. Sections 905 through 908. See these sections of the IBC.

F. Section 909 - Smoke Control Systems.

(1) 909.1 through 909.7. See these sections of the IBC.

(2) 909.8 - Exhaust Method. 909.8.1 - Exhaust Rate. Delete the text of this provision of the IBC and substitute: 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.

(3) 909.9 - Design Fire. Delete this section of the IBC and substitute: 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.

(4) 909.10 through 909.19. See these sections of the IBC.

(5) 909.20 - Smoke-proof Enclosures. See this

section of the IBC.

(6) **909.21 -**

Elevator Hoistway Pressurization Alternative. See this section of the IBC.

G. Sections 910 and 916. See these sections of the IBC. [14.7.2.17 NMAC - Rp, 14.7.2.17 NMAC, 11/15/2016]

14.7.2.18 CHAPTER 10 - MEANS OF EGRESS:

A. Sections 1001 through 1003. See these sections of the IBC.

B. Section 1004, Table 1004.1.2. See this section of the IBC and amend **table 1004.1.2 maximum floor area allowances per occupant** 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 person".

C. Sections 1004 through 1009. See these sections of the IBC.

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

(1) Section 1010.1.2 - Door Swing. See this section of the IBC except delete exception #9 and add the following after the last paragraph: 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;

(2) Section 1010.1.9.6 - 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.

(3) Section 1010.1.9.7 - Delayed Egress. See this section of the IBC and add the words "when approved by the building official" at the beginning of the section.

E. Sections 1011 through 1022 See these sections of the IBC.

F. Section 1019 - Exit Access Stairways and Ramps. See this section of the IBC and add the following two exceptions to Section 1019.1.

(1) 8. In other group H and I occupancies, 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 1016.1 for travel distance locations.

(2) 9. In other than group H and I occupancies, 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 1016.1 for travel distance locations.

G. Section 1023 through 1030. See these sections of the IBC. [14.7.2.18 NMAC - Rp, 14.7.2.18 NMAC, 11/15/2016]

14.7.2.19 CHAPTER 11 - ACCESSIBILITY:

A. Section 1101 - General. See this section of the IBC.
B. Section 1102 -

Definitions. See this section of the IBC and add the following definition: **primary entrance** means the entrance through which most people enter the building or facility. A building may have more than one primary entrance.

C. Section 1103 - Scoping Requirements. See this section of the IBC.

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

- (1) 1.1 Multiple tenant facilities of Group M occupancies containing five or more tenant spaces used for the sales or rental of goods and where at least one such tenant space is located on a floor level above or below the accessible levels;
- (2) 1.2 stories or mezzanines containing offices of health care providers (Group B or I);
- (3) 1.3 passenger transportation facilities and airports (group A-3 or group B); or
- (4) 1.4 government owned or leased buildings;
- (5) 2. stories or mezzanines that do not contain accessible elements or other spaces as determined by Section 1107 or 1108 are not required to be served by an accessible route from an accessible level;
- (6) 3. in air traffic control towers, an accessible route is not required to serve the cab and the floor immediately below the cab;
- (7) 4. where a two-story building or facility has

one story or mezzanine with an occupant load of five or fewer persons that does not contain public use space, that story or mezzanine shall not be required to be connected by an accessible route to the story above or below.

E. Section 1105 - Accessible Entrances. See this section of the IBC except as provided below. Delete the text of Section 1105.1, public entrances, and substitute: in addition to accessible entrances required by Sections 1105.1.1 through 1105.1.7, at least sixty percent of all public entrances, but not less than one primary entrance shall be accessible.

Exceptions:

- (1) an accessible entrance is not required to areas that are not required to be accessible;
- (2) loading and service entrances that are not the only entrance to a tenant space.

F. Section 1106 - Parking and Passenger Loading Facilities. See this section of the IBC except that table 1106.1 is deleted from the IBC and the following table is substituted:

Table 1106.1 Accessible Parking Spaces		
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

G. Section 1107 - Dwelling Units and Sleeping Units. See this section of the IBC except as provided below.

- (1) **Table 1107.6.1.1 - Accessible Dwelling and Sleeping Units.**
- (2) The following provision is inserted after table 1107.6.1.1: 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.
- (3) Delete the text of Section 1107.6.2.2 and substitute: In occupancies in 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 provide a roll-in shower including a permanently mounted folding shower seat. All 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.

H. Section 1108 - Special Occupancies. Add new section to read as follows; **1108.2.5 - Designated aisle seats.** At least five percent, but not less than one, of the total number of aisle seats provided shall be designated aisle seats and shall be the aisle seats located closest to accessible routes. **Exception:** Designated aisle seats are not required in team or player seating serving areas of sport activity. **Section 1108.2.5.1 - 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. See this section of the IBC except **1108.4.1.4 - Employee Work Stations.** See this section of the IBC except delete the last sentence of this section without substitution.

I. Section 1109 - Other Features and Facilities. See this section of the IBC except as provided below.

- (1) **1109.2 - Toilet and Bathing Facilities.** See this section of the IBC except.
 - (a) Insert the following sentence at the end of Section 1109.2: 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 provision to the exceptions to Section 1109.2: Exception 6: toilet fixtures and bathing facilities that are in excess of those required by 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 1109.7:** Add the following limited-use/limited-application elevators may be used to access spaces or areas that have five or fewer occupants.

(3) **Section 1109.8 - Lifts:** Delete Item 5 without substitution.

J. Section 1110.4.15 - Play Areas. Add this section, play areas containing play components designed and constructed for children shall be accessible and be located on an accessible route.

K. Section 1111 - Signage. See this section of the IBC except as provided below.

(1) Amend
Section 1111.1 - Items.

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

(b)
1.2 Van accessible parking spaces shall have an additional sign mounted below the international symbol of access identifying the space as "van accessible". **Exception:** Where all the accessible parking spaces comply with the standards for van accessible parking spaces.

(2) **Section 1111.1:** Add the following exception, Item #4: **Exception:** entrances to individual dwelling units and sleeping units.

(3) **Section 1110.3:** Add the following new provision at the end of Section 1110.3:

(a) 7
accessible parking spaces required by Section 1106 shall provide pavement markings in compliance with the following Sections 7.1 and 7.2;

(b)
7.1 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, except where the total number of parking spaces provided is four or less;

(c)
7.2 the access aisle shall be clearly marked by diagonal, blue pavement striping;

(d)
7.3 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, 11/15/2016]

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, 11/15/2016]

14.7.2.21 CHAPTER 13 - ENERGY EFFICIENCY:

Delete this chapter of the IBC and see the 2009 New Mexico Energy Conservation Code.
[14.7.2.21 NMAC - Rp, 14.7.2.21 NMAC, 11/15/2016]

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, 11/15/2016]

14.7.2.23 CHAPTER 15 - ROOF ASSEMBLIES AND ROOFTOP STRUCTURES:

A. Section 1501 - General. See this section of the IBC.

B. Section 1502.1 - Definitions. See this section of the IBC except that the following definitions are amended as indicated.

(1) **"Roof replacement"** is amended to read:
The process of removing the existing roof covering to the structural roof deck, repairing any substrate, and installing a new roof covering.

(2) **"Positive roof drainage"** is amended to read:
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.

C. Section 1503 - Weather Protection. See this section of the IBC and add the following new section: **1503.3.1 - 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.

D. Sections 1503 through 1505. See these sections of the IBC.

E. 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/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.

F. Sections 1507 through 1509. See these sections of the IBC.

G. Section 1510 - Rooftop Structures.

H. Section 1511 - Reroofing.

(1) **1511.1 and 1511.2.** See these sections of the IBC.

(2) **1511.3 - Recovering versus Replacing.**
Delete the first three lines of the text of this section and substitute the following: "New roof coverings shall not be installed without first removing existing roof coverings down to the structural roof deck where any of the following conditions occur:" and add a new Subsection 4 as follows: where pumice or other granular fill are present, existing roofing and granular fill must be removed prior to re-roofing.

(3) **1511.4**

through 1511.6. See these sections of the IBC.

I. Section 1512 - Photovoltaic Panels and Modules.

[14.7.2.23 NMAC - Rp, 14.7.2.23 NMAC, 11/15/2016]

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, 11/15/2016]

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:

(1) delete Subsection 2 and substitute: continuous concrete footings supporting walls of buildings three stories or less in height that are fully supported on earth or rock;

(2) delete Subsection 3 and substitute: nonstructural concrete slabs supported directly on the ground, except pre-stressed slabs-on-grade;

(3) delete Subsection 4.

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

[14.7.2.25 NMAC - Rp, 14.7.2.25 NMAC, 11/15/2016]

14.7.2.26 CHAPTER 18 - SOILS AND FOUNDATIONS: See this chapter of the IBC except as follows:

A. Section 1805.2 - Dampproofing. Amend this paragraph as follows: Where hydrostatic pressure will not occur as determined by Section 1803.5.4, Floors and Walls, for other than wood foundation systems, shall be dampproofed in accordance with this section: “when required by a geotechnical investigation, design professional, or the building official, floors shall be dampproofed in accordance with this section.”

B. Section 1805.4 - Subsoil Drainage System. Amend this paragraph as follows: delete “when required by a geotechnical investigation, design professional, or the building official” and add the following dampproofing shall be provided and a base course shall be installed under the floor and a drain installed around the foundation perimeter. A subsoil drainage system designed and constructed in accordance with Section 1805.1.3 shall be deemed adequate for lowering the ground-water table.

C. Section 1809.7 Prescriptive Footings for Light-frame Construction. Delete the text and footnotes in Table 1809.7 and replace with the following:

TABLE 1809.7 PRESCRIPTIVE FOOTINGS SUPPORTING WALLS OF LIGHT-FRAME CONSTRUCTION^{a, b, c, d, e}		
NUMBER OF FLOORS SUPPORTED BY THE FOOTING^f	WIDTH OF FOOTING (inches)	THICKNESS OF FOOTING (inches)
1	16	8
<p>For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm.</p> <p>a. Depth of footings shall be in accordance with Section 1809.4.</p> <p>b. The ground under the floor shall be permitted to be excavated to the elevation of the top of the footing.</p> <p>c. Interior stud-bearing walls shall be permitted to be supported by isolated footings. The footing width and length shall be twice the width shown in this table, and footings shall be spaced not more than six feet on center.</p> <p>d. See Section 1908 for additional requirements for concrete footings of structures assigned to seismic design category C, D, E or F.</p> <p>e. For thickness of foundation walls, see Section 1807.1.6.</p> <p>f. Footings supporting roof only shall be as required for supporting one floor.</p>		

[14.7.2.26 NMAC - Rp, 14.7.2.26 NMAC, 11/15/2016]

14.7.2.27 CHAPTER 19 - CONCRETE: See this chapter of the IBC.

[14.7.2.27 NMAC - Rp, 14.7.2.27 NMAC, 11/15/2016]

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

[14.7.2.28 NMAC -Rp, 14.7.2.28 NMAC, 11/15/2016]

14.7.2.29 CHAPTER 21 - MASONRY: See this chapter of the IBC except as provided below. **Section 2111.4.1 and 2113.4. Anchorage.** Delete these sections of the IBC and substitute: 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, 11/15/2016]

14.7.2.30 CHAPTER 22 - STEEL: See this chapter of the IBC. [14.7.2.30 NMAC - Rp, 14.7.2.30 NMAC, 11/15/2016]

14.7.2.31 CHAPTER 23 - WOOD: See this chapter of the IBC except as provided below.

A. Section 2301 through 2307. See these sections of the IBC.

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.

C. Section 2308.4.5 - Joints 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. [14.7.2.31 NMAC - Rp, 14.7.2.31 NMAC, 11/15/2016]

14.7.2.32 CHAPTER 24 - GLASS AND GLAZING: See this chapter of the IBC except that Section 2403 is amended as set forth 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, 11/15/2016]

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 2510.6 - Weather - Resistant Barrier. See also Sections 1403.2, 1405.3 and 1503.2.

B. Section 2512.1.1 - On Grade Floor Slab. Delete the text of this section 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.

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

D. Add new 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, 11/15/2016]

14.7.2.34 CHAPTER 26 - PLASTIC: See this chapter of the IBC.

[14.7.2.34 NMAC - Rp, 14.7.2.34 NMAC, 11/15/2016]

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.

(1) 2701.1 - Scope. Delete the text of 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.

(2) All references in the IBC to the international electrical code are deemed references to the NMEC.

B. Section 2702 - Emergency and Standby Power Systems. Where required.

(1) 2702.1 - Installation (delete this section of the IBC).

(2) 2702.1.1 - Stationary Generators (delete this section of the IBC).

(3) 2702.1.2 - Electrical (delete this section of the IBC).

(4) 2702.1.3 - Load Transfer (delete this section of the IBC).

(5) 2702.1.4 - Load Duration (delete this section of the IBC).

(6) 2702.1.5 - Uninterruptable Power Source (delete this section of the IBC).

(7) 2702.1.6 - Interchangeability (delete this section of the IBC).

(8) 2702.1.7

- **Group I-2 Occupancies** see this section of the IBC.

(a)

2702.2 - Where Required. See this section of the IBC.

(b)

2702.2.1 - Emergency Alarm Systems. See Section 415.5 of the IBC.

(c)

2702.2.2 - Elevators and Platform Lifts. See this section of the IBC.

(d)

2702.2.3 - Emergency Responder Radio Coverage Systems. See International Fire Code.

(e)

2702.2.4 - Emergency Voice/Alarm Communication Systems. See Section 9075.2.5 of the IBC.

(f)

2702.2.5 - Exit Signs. See Section 1013.6.6 of the IBC

(g)

2702.2.6 - Group I-2 Occupancies. See Section 407.10 of the IBC.

(h)

2702.2.7 - Group I-3 Occupancies. See Section 408.4.2 of the IBC.

(i)

2702.2.8 - Hazardous Materials. See this section of the International Fire Code.

(j)

2702.2.9 - High-Rise Buildings. See Sections 403.4.8 and 403.4.8.3 of the IBC.

(k)

2702.10 - Horizontal Sliding Doors. See Section 1010.1.4.3 of the IBC

(l)

2702.2.11 - Means of Egress Illumination. See Section 1008.3 of the IBC.

(m)

2702.2.12 - Membrane Structures. See Section 3102.8.2 of the IBC.

(n)

2702.2.1 - Pyrophoric Materials. See International Fire Code.

(o)

2702.2.14 - Semiconductor Fabrication Facilities. See Section 415.11.10 of the IBC.

(p)

2702.2.15 - Smoke Control System. See Sections 404.7, 909.11, 909.20.6, and 909.21.5 of the IBC.

(q)

2702.2.16 - Underground Buildings. See Section 405 of the IBC.

(r)

2702.3 - Critical Circuits. See this section of the IBC.

(s)

2702.4 - Maintenance. See this section of the IBC.
[14.7.2.35 NMAC - Rp, 14.7.2.35 NMAC, 11/15/2016]

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, 11/15/2016]

14.7.2.37 CHAPTER 29 - PLUMBING SYSTEMS:

A. Section 2901 - General.

(1) 2901.1

Scope. Delete the text of this section of the IBC and substitute the following provision: Plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where 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) 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.

(1) 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.

(a)

Table 2902.1 - Minimum Number of Required Plumbing Facilities. See

this table in the IBC.

(b)

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

(2)

2902.2 to 2902.6 See these sections of the IBC.
[14.7.2.37 NMAC - Rp, 14.7.2.37 NMAC, 11/15/2016]

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, 11/15/2016]

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, 11/15/2016]

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, 11/15/2016]

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, 11/15/2016]

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

[14.7.2.42 NMAC - Rp, 14.7.2.42 NMAC, 11/15/2016]

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, 11/15/2016]

14.7.2.44 APPENDIX E - SUPPLEMENTARY ACCESSIBILITY REQUIREMENTS:

A. E101 - General.

See this section of the IBC.

B. E102 - Definitions.

See this section of the IBC and add the following definition: **children's**

use means spaces and elements specifically designed for use primarily by people 12 years old and younger.

- C. E103 - Accessible Route.** See this section of the IBC.
- D. E104 - Special Occupancies.** See this section of the IBC.
- E. E105 - Other Features and Facilities.** See this section of the IBC except delete Subsection E105.1.
- F. E106 - Telephones.** See this section of the IBC.
- G. E107 - Signage.** See this section of the IBC except delete Subsection E107.1.
- H. E108 through E110.** See these sections of the IBC.
- I. 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-2015 and ANSI A117.1-2009

Element	Children's Requirements			
Children's use definition	ANSI-2009 Section 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 2015 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 - A117.1 2009.			
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 405 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 602 and modify as shown to right</i> <i>See IBC-2015 section 1109.5.2 Exception 2</i>	Spout outlet height for children's wheelchair access <i>See ANSI 602.2 Exception 2</i>	30" max. (760 mm)	30" max. (760 mm)	30" max. (760 mm)
	Spout outlet for standing person <i>See ANSI 602.4</i>	36 in. 43 in. (915 mm – 1090 mm)	Same	Same
Water closets for Toilet Rooms, Wheelchair Stalls, and Ambulatory Stalls <i>See ANSI 604.11 and 604.1</i> <i>See IBC-2015 section 1109.2 Exception 7</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
Water closets for Toilet Rooms, Wheelchair Stalls, and Ambulatory Stalls <i>See ANSI 604.11 and 604 and modify as shown to right</i>	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
		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)
Element	Details	Ages 3 and 4 Pre-K	Ages 5 through 8 K through 2nd grade	Ages 9 through 12 3rd through 6th grade

Wheelchair water closet compartments <i>See ANSI 604.11.8 and modify as shown to right</i>	Size <i>See ANSI 604.9.2</i>	60" (1525 mm) min. wide by 59" (1500 mm) deep min.	60" (1525 mm) min. wide by 59" (1500 mm) deep min.	60" (1525 mm) min. wide by 59" (1500 mm) deep min.
	Toe clearance beneath front partition and one side partition <i>See ANSI 604.9.5.2 and new Exceptions 1 & 2</i>	12" (305 mm) min high and extend 6" beyond the compartment side face of partition, exclusive of partition supports	Same	Same
	Toe clearance beneath front partition and one side partition (continued)	Exception 1. Toe clearance at front partition is not required in compartment greater than 65 inches (1650 mm) in depth	Same	Same
		2. Toe Clearance at side partition is not required in compartment greater than 66 inches (1675 mm) in width	Same	Same
Ambulatory water closet compartments <i>See ANSI 604.11.8, 609, and 604.5.1 and modify as shown to right</i>	Stall Size <i>See ANSI 604.10.2</i>	60" (1525 mm) long by 36" (915 mm) wide	Same	Same
	Horizontal parallel grab bars on both sidewalls 42" (1065 mm) long <i>See ANSI 609.4.2</i>	18"-20" (455-510 mm)	Same	Same
	Vertical grab bars on both sidewalls 18" (455 mm) long <i>See ANSI 609.4.2</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 605 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 606.2 and modify as shown to right</i>	Sink rim <i>See ANSI 606.2 Exception 2 and 3</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 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 703.4 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 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 903 903.5 Exception and modify as shown to right</i>	Top of seat	11"-17" (280-430 mm)	Same	Same
Tray slides <i>See ANSI 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 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)

J. E112. See ICC A117.1-2009 Section 608.4.2 - Standard Roll-in Showers. See this section as follows; in standard roll-in showers, the controls and hand shower shall be located on the back wall above the grab bar, 48 inches (1220 mm) maximum above the shower floor and 16 inches (405mm) minimum and 27 inches (685 mm) maximum from the end wall behind the seat. **Exception:** Additional shower controls and permanent shower heads shall not be located above the shower seat.
[14.7.2.44 NMAC - Rp, 14.7.2.44 NMAC, 11/15/2016]

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.

**REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 7 BUILDING
CODES GENERAL
PART 3 2015 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, 11/15/2016]

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 November 15, 2016, 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, 11/15/2016]

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, 11/15/2016]

14.7.3.4 DURATION:

Permanent.

[14.7.3.4 NMAC - Rp, 14.7.3.4 NMAC, 11/15/2016]

14.7.3.5 EFFECTIVE

DATE: November 15, 2016, unless a later date is cited at the end of a section.

[14.7.3.5 NMAC - Rp, 14.7.3.5 NMAC, 11/15/2016]

[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.]

14.7.3.6 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, 11/15/2016]

14.7.3.7 DEFINITIONS:

See 14.5.1 NMAC, General

Provisions and Chapter 2 of the 2015 International Residential Code (IRC) as amended in 14.7.3.10 NMAC. [14.7.3.7 NMAC - Rp, 14.7.3.7 NMAC, 11/15/2016]

**14.7.3.8 ADOPTION OF
THE 2015 INTERNATIONAL
RESIDENTIAL CODE:**

A. This rule adopts by reference the 2015 International Residential Code, as amended by this rule.

B. In this rule, each provision is numbered to correspond with the numbering of the 2015 International Residential Code. [14.7.3.8 NMAC - Rp, 14.7.3.8 NMAC, 11/15/2016]

**14.7.3.9 CHAPTER 1 -
ADMINISTRATION:**

**A. Section R101 -
Title, scope and purpose.**

(1) R101.1

Title. Delete this section of the IRC and substitute: This code shall be known as the 2015 New Mexico residential building code (NMRBC).

(2) 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 419 of the *International Building Code* shall be permitted to be built as one- and two-family *dwellings* or townhouses. Fire suppression required by Section 419.5 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) R101.3

Purpose. See 14.7.3.6 NMAC, Objective.

B. Section R102 - Applicability.**(1) R102.1**

General. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

(2) R102.2

Other laws. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

(3) R102.3

Application of references. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

(4) 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 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 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 NMECC 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 code are deemed references to the NMECC.

(5) R102.5

Appendices. This rule adopts the following appendices as amended herein.

(a)

Appendix H - Patio covers.

(b)

Appendix J - Existing buildings.

(c)

Appendix K - Sound transmission.

(d)

Appendix R – Light straw clay construction.

(e)

Appendix S – Strawbale construction.

(6) R102.6

Partial Invalidity. Delete this section of the IRC and see 14.5.1 NMAC, General Provisions.

(7) 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 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, 11/15/2016]

14.7.3.10 CHAPTER 2 - DEFINITIONS:**A. Section R101**

General.

(1) R201.1,

R201.2 and R201.4. See these sections of the IRC.

(2) R201.3

Terms defined in other codes.

Delete this section of the IRC and substitute the following provision: Defined terms not listed in this rule have the meanings given in 14.5.1.7 NMAC, General Provisions, and in the other New Mexico codes.

B. Section R202

Definitions.

(1) Board

of appeals. Delete this definition and see 14.5.1 NMAC, General Provisions.

(2) **Building official.** Delete this definition and see 14.5.1 NMAC, General Provisions.

(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, 2015 adopted 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) **Sleeping room** means a room designated as a sleeping room or bedroom on the plans.

(9) **Unbalance 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.

(10) **Decorative coating.** A single coat of plaster, cementitious or other approved material applied to a concrete or masonry surface for cosmetic purposes only.

(11) All other terms defined in this section of the IRC have the meanings given in that section.
[14.7.3.10 NMAC - Rp, 14.7.3.10 NMAC, 11/15/2016]

14.7.3.11 CHAPTER 3 - BUILDING PLANNING:

A. **Section R301 - Design criteria.** See this section of the IRC except as provided below:

(1) **Section R301.2.1 Climatic and Geographic Design Criteria.** Amend footnote "f" as follows: The 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 end the **exception**: Buildings in which earthen building materials form the bearing wall system, that are 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.** See this section of the IRC except as provided below.

(1) **Section R302.1.** See this section of the IRC except as follows: Add the following exception to 302.1 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. Add a new subsection as follows: **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. **Delete Table R302.1 (1)** without substitution. **Delete title of Table R302.1 (2)** and

replace with following: **Table R302.1 (1) Exterior walls.**

(2) **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. Delete the text "Chapters 34 through 43" from the second to the last sentence and replace with currently-adopted electrical code.

(3) **Section R302.5.1 Opening Protection.** Delete the text in this section and replace with the following: Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with self-closing, tight fitting solid wood doors not less than one and three-eighth inches (35 mm) in thickness, solid or honeycomb core steel doors not less than one and three-eighth inches (35 mm) thick or self-closing, tight fitting 20-minute fire-rated doors.

(4) **R302.6 Dwelling/Garage Fire Separation Required.** Delete the text of this section and replace with the following: The garage shall be separated from the residence and its attic area by not less than five-eighth inch (15.9 mm) type x gypsum board or equivalent applied to the garage side. Garages beneath habitable space shall be separated from all habitable rooms above by not less than five-eighth inch (15.9 mm) type x gypsum board or equivalent. Where separation is a floor-ceiling assembly, the structure supporting the separation shall also be protected by not less than five-eighth inch (15.9 mm) type x gypsum board or equivalent. Garages located less than three feet (914 mm) from a dwelling unit on the same lot shall be protected with not less than five-eighth inch (15.9 mm) type x gypsum board or equivalent applied to the interior side of exterior walls that are within this area. Openings in these walls shall be regulated by section R309.1. This provision does not apply to garage walls that are perpendicular to the adjacent dwelling

unit wall. **Table R302.6.** 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

(5) **R302.13 Fire Protection of Floors.** Delete the text of this section without substitution.

C. **Section R303 through Section R308.** See these sections of the IRC. **Delete the text in this section R303.4 Mechanical Ventilation and replace with the following:** The dwelling unit ventilation shall be in accordance with 14.9.2 NMAC.

D. **Section R309.** See this section of the IRC except as provided below: **R309.1 Floor Surface.** Delete the text of this section of the IRC and replace with the following language. Garage floor surfaces shall be of approved noncombustible material. The area of floor used for parking of automobiles or other vehicles shall be sloped 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 three-fourths inch at the vehicle doorways to prevent entry of storm water into the garage.

E. **Section R311 Means of Egress.** See these section of the IRC except as provided below. **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.

F. **Section R311.7.5.1 Risers.** The riser height shall be not more than eight inches (203mm). The riser shall be measured vertically between 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.

G. **Section R311.7.5.2 Treads.** 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).

H. **Section R311.7.7.3 Grip-size.** Delete the text of the first sentence of this section of the IRC and replace with the following: All required handrails shall be of one of the following types or the shape shall provide equivalent graspability. In item #1 Type I delete the word "of" after the "words maximum cross section" and before "dimension".

I. **Section R313 Automatic Fire Sprinkler Systems.** Delete the text of sections R313.1 and R313.2 and replace with the following: **R313.1** 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.

J. **Section R312 through Section R319.** See these sections of the IRC.

K. **Section 320 Accessibility.** Delete the text of this section and see Section 310.5 of the IBC.

L. **Section R321 through section 325** See these sections of the IRC.

M. **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, 11/15/2016]

14.7.3.12 CHAPTER 4 - FOUNDATIONS: Section R403 Footings. See this section of the IRC except as provided below.

A. **R403.1.3.2** See this section of the IECC 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. R403.1.4 Delete the text of this section and replace with the following language. 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, 11/15/2016]

14.7.3.13 CHAPTER 5 - FLOORS: See this chapter of the IRC.
[14.7.3.13 NMAC - Rp, 14.7.3.13 NMAC, 11/15/2016]

14.7.3.14 CHAPTER 6 - WALL CONSTRUCTION:

A. Section R601.

General. See this section of the IRC.

B. Section R602.

Wood Wall Framing. See this section of the IRC except as provided below.

(1) Section R602.1.3 Structural Log Members. Delete the text of this section and replace with the following; **Native timber.** Rough-sawn lumber, timbers, and vigas, used for any load bearing application shall be identified by a grade mark of an *approved* lumber grading or inspection agency. In lieu of a grade mark, on the material, a certificate of inspection as to species and grade, issued by a lumber-grading or inspection agency meeting the requirements of this section. A grading report issued by an engineer or architect will be accepted.

(2) 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.

(3) R602.3.1

See this section as follows except delete exception number two.

(4) R602.3.4

Bottom (sole) plate. Delete this section as follows 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.

(5) Figure

R602.7.2 Rim Board Header Construction Figure: Figure detail is required with the exception of "where bearing distance is less than one and one-half inches" shall be deleted.

(6) R602.12.1

Delete section and substitute as follows: Braced wall line spacing shall be required per section 602.10.1.3. When interior braced wall lines are required per **Table 602.10.1.3**, the required braced wall panels for the interior shall be per section R602.10.4.

(7) R602.12

(3) Delete "10 feet (3048 mm)" and insert 12 feet.

C. Section R603 through Section R610. See these sections of the IRC.

[14.7.3.14 NMAC - Rp, 14.7.3.14 NMAC, 11/15/2016]

14.7.3.15 CHAPTER 7 - WALL COVERING:

A. Section R701 and Section R702. See these sections of the IRC.

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 where applied over metal lath or wire lath and shall be not less than two coats where 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 as follows and replace 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, 11/15/2016]

14.7.3.16 CHAPTER 8 - ROOF-CEILING

CONSTRUCTION: See this section of the IRC. **R806.5 Unvented attic and unvented enclosed rafter assemblies. See this section as follows except delete condition number four.** And note 5.1.3.as follows where both air-impermeable and air permeable insulation are provided, the air-impermeable insulation shall be applied in direct contact with the underside of the structural roof sheathing in accordance with Item 5.1.1 and shall not be required to exceed the minimum R-values provided by low-density foam. The air-permeable insulation shall be installed directly

under the air-impermeable insulation.
[14.7.3.16 NMAC - Rp, 14.7.3.16 NMAC, 11/15/2016]

14.7.3.17 CHAPTER 9 - ROOF ASSEMBLIES:

A. Section R901 through Section R902: See these sections of the IRC.

B. Section R903: See this section of the IRC except as provided below.

(1) Section R903.2.1 Locations. 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 Plastered parapets. Delete the text of this section and replace 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.

C. Section R904: 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.

D. Section R905: See this section of the IRC except add the following new sections.

(1) Section R905.9.4 Roof deck transitions.

Add new section to the IRC as follows: 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.

(2) 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.

(3) Section R905.11.4 Modified bitumen roofing.

Add new section to the IRC as follows: 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.

(4) Section R905.12.4 Thermoset single-ply roofing. Add new section to the IRC as follows: 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.

(5) Section R905.13.4 Thermoplastic single-ply roofing. Add new section to the IRC as follows: 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.

E. Section R908.3.1.1 Re-covering versus replacement. Delete the text of section R907.3 and substitute with the following: New roof covering shall not be installed without first removing existing roof coverings where any of the following conditions occur.

(1) Where 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) Where the

existing roof covering is wood shake, slate, clay, cement or asbestos-cement tile.

(3) Where the existing roof has two or more applications of any type of roof covering.

(4) Where pumice or other granular fill are present, existing roofing and granular fill must be removed prior to re-roofing.

[14.7.3.17 NMAC - Rp, 14.7.3.17 NMAC, 11/15/2016]

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, 11/15/2016]

14.7.3.19 CHAPTER 11 - ENERGY EFFICIENCY:

Delete this chapter of the IRC and see 14.7.6 NMAC, the NMECC.

[14.7.3.19 NMAC - Rp, 14.7.3.19 NMAC, 11/15/2016]

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, 11/15/2016]

14.7.3.21 CHAPTER 24 - FUEL GAS:

Delete this chapter of the IRC and see the NMMC.

[14.7.3.21 NMAC - Rp, 14.7.3.21 NMAC, 11/15/2016]

14.7.3.22 CHAPTERS 25 THROUGH 33 - PLUMBING:

Delete these chapters of the IRC and see the NMPC.

[14.7.3.22 NMAC - Rp, 14.7.3.22 NMAC, 11/15/2016]

14.7.3.23 CHAPTERS 34 THROUGH 43 - ELECTRICAL:

Delete these chapters of the IRC and see the NMAC.

[14.7.3.23 NMAC - Rp, 14.7.3.23 NMAC, 11/15/2016]

14.7.3.24 CHAPTER 42 - SWIMMING POOLS:

Delete these of chapter of the IRC and replace with

the following.

A. Section R4201.1

General. The provisions of this appendix 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 dwelling.

R4201.2 Pools in flood hazard areas.

Pools that are located in flood hazard areas established by Table R301.2(1), 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. **Exception:** Pools located in riverine flood hazard areas which are outside of designated floodways. **R4201.2.1 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.

R4201.2.2 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.

B. Section R4202.1

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.

C. Section R4203.1

In-ground pools. In-ground pools shall be designed and constructed in conformance with ANSI/NSPI-4 as listed in section R4208. **R4203.2** 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. **R4203.3** Pools in flood hazard areas. In flood hazard areas established by Table R301.2 (1), pools in coastal high hazard areas shall be designed and constructed in conformance with ASCE 24.

D. Section R4204.1

Permanently installed spas and hot tubs. Permanently installed spas and hot tubs shall be designed and constructed in conformance with ANSI/NSPI-3. **R4204.2** Portable spas and hot tubs. Portable spas and hot tubs shall be designed and constructed in conformance with ANSI/NSPI-6.

E. Section R4205.1

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.

R4205.2 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, 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 four-inch-diameter (102 mm) sphere.

F. Section R4205.3

Indoor swimming pool. Walls surrounding an indoor swimming pool shall comply with Section R4205.2, Item 9. **R4205.4 Prohibited locations.** Barriers shall be located to prohibit permanent structures, equipment or similar objects from being used to climb them. **R4205.5 Barrier exceptions.** Spas or hot tubs with a safety cover which complies with ASTM F 1346, as listed in Section R4207, shall be exempt from the provisions of this appendix.

G. R4206 Entrapment Protection for Swimming Pool and Spa.

R4206.1 General. Suction outlets shall be designed and installed in accordance with ANSI/APSP-7.

<p>H. R4207</p> <p>Abbreviations:</p> <p>(1) R4207.1</p> <p>General.</p> <p>(2) ANSI - American national standards institute; 11 West 42nd Street; New York, NY 10036.</p> <p>(3) APSP - Association of pool and spa professionals.</p> <p>(4) NSPI - National spa and pool institute; 2111 Eisenhower Avenue; Alexandria, VA 22314.</p> <p>(5) ASCE - American society of civil engineers; 1801 Alexander Bell Drive; Reston, VA 98411-0700.</p> <p>(6) ASTM - ASTM International; 100 Barr Harbor Drive; West Conshohocken, PA 19428.</p> <p>(7) UL - Underwriters Laboratories; Inc. 333 Pfingsten Road; Northbrook, IL 60062-2096.</p> <p>I. R4208 Standards:</p> <p>(1) R4208.1</p> <p>General.</p> <p>(2) ANSI/ NSPI.</p> <p>(3) ANSI/NSPI-3-99 Standard for Permanently Installed Residential Spas R4204.1.</p> <p>(4) ANSI/ NSPI-4-99 Standard for Above-ground/On-ground Residential Swimming Pools R4203.2.</p> <p>(5) ANSI/ NSPI-5-2003 Standard for Residential In-ground Swimming Pools R4203.1.</p> <p>(6) ANSI/ NSPI-6-99 Standard for Residential Portable Spas R4204.2.</p> <p>(7) ANSI/ APSP.</p> <p>(8) ANSI/ APSP-7-06 Standard for Suction Entrapment avoidance in Swimming Pools, Wading Pools, Spas, Hot Tubs and Catch Basins R4206.1.</p> <p>(9) ASCE.</p> <p>(10) ASCE/ SEI-24-05 Flood Resistant Design</p>	<p>and Construction R4203.3.</p> <p>(11) ASTM.</p> <p>(12) ASTM</p> <p>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.</p> <p>(13) UL.</p> <p>(14) UL 2017- 2000 Standard for General-purpose Signaling Devices and Systems-with Revisions through June 2004 R4205.2. [14.7.3.24 NMAC - N, 11/15/2016]</p> <p>14.7.3.25 CHAPTER 44 - REFERENCED STANDARDS: See this section of the IRC. [14.7.3.25 NMAC - Rp, 14.7.3.24 NMAC, 11/15/2016]</p> <p>14.7.3.26 APPENDIX J - EXISTING BUILDINGS AND STRUCTURES: See this section Of the IRC except as provided below:</p> <p>A. Section AJ101 Purpose and intent. See this section of the IRC.</p> <p>B. Section AJ102 Compliance. See this section of the IRC except add the following new section: Section AJ102.4.3 Compliance. When alterations and/or repairs are made to 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. [14.7.3.26 NMAC - Rp, 14.7.3.25 NMAC, 11/15/2016]</p> <p>14.7.3.27 APPENDIX S STRAWBALE CONSTRUCTION: See this section of the IRC except as provided below:</p> <p>A. 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.</p>	<p>B. 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. [14.7.3.25 NMAC - N, 11/15/2016]</p> <p>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.</p> <p>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.</p> <p>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.</p>
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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.

**REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 7 BUILDING
CODES GENERAL
PART 4 2015 NEW
MEXICO EARTHEN BUILDING
MATERIALS CODE**

14.7.4.1 ISSUING
AGENCY: Construction Industries Division of the Regulation and Licensing Department.
[14.7.4.1 NMAC - Rp, 14.7.4.1 NMAC, 11/15/2016]

14.7.4.2 SCOPE: This rule applies to all earthen building materials contracting work performed in New Mexico on or after November 15, 2016, 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.

[14.7.4.2 NMAC - Rp, 14.7.4.2 NMAC, 11/15/2016]

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

[14.7.4.3 NMAC - Rp, 14.7.4.3 NMAC, 11/15/2016]

14.7.4.4 DURATION: Permanent.

[14.7.4.4 NMAC - Rp, 14.7.4.4 NMAC, 11/15/2016]

14.7.4.5 EFFECTIVE DATE: November 15, 2016, unless a later date is cited at the end of a section.

[14.7.4.5 NMAC - Rp, 14.7.4.5 NMAC, 11/15/2016]
[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.]

14.7.4.6 OBJECTIVE: The purpose of this rule is to establish minimum standards for earthen building materials construction in New Mexico.

[14.7.4.6 NMAC - Rp, 14.7.4.6 NMAC, 11/15/2016]

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 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 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 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 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]

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.

Table 1 ALLOWABLE WALL HEIGHTS FOR EARTHEN STRUCTURES					
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.

[14.7.4.8 NMAC - Rp, 14.7.4.8 NMAC, 11/15/2016]

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 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 without serious warping or cracking. The best way to determine the fitness of a soil is to make sample blocks and allow them to cure 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 and prepared by the state of New Mexico energy, minerals and natural resources department, are allowed.

[14.7.4.9 NMAC - Rp, 14.7.4.9 NMAC, 11/15/2016]

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 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]

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.

Table 2 ADOBE WALL WOOD LINTEL SCHEDULE

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.

Table 3 ADOBE WALL CONCRETE LINTEL SCHEDULE

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 or lime-based stuccos 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 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 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 but permeable 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]

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 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]

14.7.4.13 FOUNDATIONS:

A. General.

Foundation construction shall comply with applicable provisions of the 2009 New Mexico Residential Building Code, and the following: a minimum of three continuous #4 reinforcing rods are required in concrete footings supporting rammed earth walls. Footings shall be a minimum of 10 inches in thickness. Concrete footings and concrete stem walls supporting rammed earth walls shall be a minimum of 2500 psi. Stem walls shall be the full width of the wall supported above or wider to receive forming systems. Stem walls shall rise above exterior grade a minimum of six inches.

B. Perimeter insulation. For the purposes of placement of perimeter insulation, rammed earth walls may overhang the bearing surface up to the thickness of the perimeter insulation, but in no case greater than two inches.

C. Keyway. A key way shall be provided where the rammed earth wall meets the foundation system. The keyway shall be established at the top of the stem a minimum of two inches deep by six inches wide formed at the time of the pour, and shall run continuously around the structure to include any intersecting rammed earth wall sections. The rammed earth wall shall be fully rammed into this keyway (refer to Figure 2 of the earthen building figures

supplement). Exception: Placement of vertical reinforcing rods extending a minimum two inches into the rammed earth wall. The vertical rods shall be minimum #4, imbedded into the concrete and spaced 48 inches on center, maximum.

D. Concrete grade beam. Rubble filled foundation trench designs with a reinforced concrete grade beam above are allowed to support rammed earth wall construction. An architect or engineer registered in the state of New Mexico shall certify the grade beam/rubble-filled trench design portion.
[14.7.4.13 NMAC - Rp, 14.7.4.13 NMAC, 11/15/2016]

14.7.4.14 RAMMED EARTH SOIL SPECIFICATIONS:

A. General. The soil shall not contain rock more than one and one-half inch in diameter. The soil shall not contain clay lumps more than one-half inch in diameter. The soil shall be free of all organic matter. The soil shall not contain more than two percent soluble salts.

B. Soil compressive strength. Prior to the start of construction, fully-cured rammed earth soil samples shall be tested at an approved testing laboratory for compressive strength. The ultimate compressive strength of all rammed earth soil, stabilized or non-stabilized, shall be a minimum 300 psi. The compressive strength report shall be submitted with the permit application. This report may be waived if the builder provides certification of compliance. The certification must be dated within one year of the date on the application for the building permit. Samples tested shall be representative of soil to be used on the project for which the permit application is submitted.

C. Stabilized rammed earth soil. The following shall apply to stabilization of rammed earth soil: Asphalt emulsion may not be used for stabilization of rammed earth soil. Thorough mixing of additives to the soil may be achieved by any method that assures a complete blending to a uniform color and

texture. Stabilized soil is suitable soil that contains six percent or more Portland cement by weight or that passes ASTM D1633-00. Samples tested shall be representative of soil to be used on the project for which the permit application is submitted. The compressive strength report shall be submitted with the permit application. Laboratory testing shall indicate rammed earth samples attained a minimum of 200 psi after seven days. If a different soil is provided at any time during construction, it must meet the minimum requirements outlined above, prior to use in the structure.

D. Unstabilized rammed earth soil. Unstabilized rammed earth soil is that containing less than six percent Portland cement by weight or that fails to pass ASTM D1633-00. The exterior of such walls shall be protected with approved stucco systems or other method approved by the building official. Refer to 14.7.4.19 NMAC for weather-resistive barrier requirements.

E. Amended soil. The following guidelines shall apply when amending soils to attain a qualified soil. Soil shall not contain rock greater than one and one-half inch in diameter. Soil shall not contain clay lumps greater than one-half inch diameter. Soil shall be free of organic matter. Soil shall not contain more than two percent soluble salts. Soils to be mixed shall be sufficiently dry to blend completely to one uniform color and texture. The amended soil shall be tested prior to use as per Subsection B of 14.7.4.14 NMAC.

F. Forming systems. The forming system shall be adequate to contain the material under compaction. It shall be properly plumbed and braced to withstand the soil pressures as well as construction activity on and around it.

G. Placement of material, compaction and curing.

(1) No amount of Portland cement stabilized soil will be mixed that will not be placed in the wall system within 60 minutes of its preparation.

(2) Lifts of

prepared soil shall be placed in the forms in relatively even layers not to exceed eight inches in depth. Each lift shall then be rammed to full compaction.

(3) Optimum moisture content as determined to meet minimum compressive strength shall be maintained for stabilized and unstabilized walls.

(4) Work will progress, lift-by-lift, until the work approaches bond beam height.

(5) Forms may be stripped immediately after ramming is completed for a section of wall, providing ramming of adjacent sections does not affect the structural integrity of completed walls.

(6) Portland cement stabilized walls not in forms shall be lightly spray-cured with water at least five spaced times during daylight hours. This procedure shall continue for at least three days starting from the time that the wall is exposed to the elements. Exception: Rammed earth walls left in forms three or more days shall not require water-spray curing.

H. Placement of attachment materials.

(1) **Nailers:** Nailers incorporated into the rammed earth wall shall be installed as follows (Refer to Figure 4 of the earthen building figures supplement); the rammed earth wall shall not be reduced in thickness with back-to-back nailers. To avoid an hourglass configuration in the wall section, nailers on either side of a running wall shall not be opposite each other. Nailers on either side of a running wall shall be separated from each other vertically a distance not less than the rammed earth wall thickness. Nailers shall be placed onto the wall such that the narrow dimension of the nailer is exposed on the race of the wall prior to ramming. Nailers shall be cured and sealed against moisture penetration prior to installation in forms. The nailers shall not extend the full depth of the wall. Box wood nailers are not allowed. (Refer to Figure 11 of the earthen building figures supplement). The nailer shall

be no more than two inches by four inches by its length.

(2) Channels:

Channels may be incorporated into the rammed earth wall as follows (Refer to Figure 2 of the earthen building figures supplement); to avoid an hourglass configuration in the wall section, channels on either side of a running wall shall not be opposite each other. (Refer to Figure 4 of the earthen building figures supplement). Channels shall be no more than two inches by four inches by their length in dimension. Vertical channels shall not be placed closer than two inches to a rammed earth wall finished edge or corner.

[14.7.4.14 NMAC - Rp, 14.7.4.14 NMAC, 11/15/2016]

14.7.4.15 NICHOS OR OTHER SHAPED VOIDS:

A. General. The depth of voids shall not exceed eight inches. The width of the void shall be as defined in Subsections B and C of 14.7.4.15 NMAC below.

B. Voids in stabilized rammed earth walls. Voids shall not exceed two feet in width. Voids greater than two feet in width require a lintel or half-circle arched opening. Refer to 14.7.4.18 NMAC for lintel requirements.

C. Voids in unstabilized rammed earth walls. Voids shall not exceed one foot in width. Voids greater than one foot in width require a lintel or half-circle arched opening of stabilized rammed earth material. Refer to 14.7.4.18 NMAC for lintel requirements. [14.7.4.15 NMAC - Rp, 14.7.4.15 NMAC, 11/15/2016]

14.7.4.16 ATTACHMENTS AND CONNECTIONS:

A. General. Attachment and connection methods of alternate wall construction to rammed earth walls are described as follows. The building official may approve other attachment and connection methods. In no case shall two wall types be butted to each other without consideration for attachment or connection.

B. Attachment of a rammed earth wall to a rammed earth wall. A keyway, at least six inches wide by three inches deep shall be formed vertically at the center of the wall section from stem top to underside of bond beam. The connecting wall shall be rammed into the keyway. (Refer to Figure 3 of the earthen building figures supplement).

C. Attachment of a load-bearing adobe wall to a rammed earth wall. Where adobe is deployed as an interior wall that will be incorporated into the rammed earth wall for lateral support, the adobe shall measure a minimum of 10 inches in thickness. Steel ladder reinforcement shall be rammed into the wall at the intersection with the adobe wall. The reinforcement may be bent against the forms during the ramming process. After ramming is complete and forms removed, the reinforcement shall be incorporated into the adjoining adobe coursing, every four courses minimum. (Refer to Figure 12 of the earthen building figures supplement). As an alternative, a keyway, not to exceed the depth of the adobe wall, nor one-third the depth of the rammed earth wall, shall be formed into the rammed earth wall. The adobe shall be incorporated into the keyway. (Refer to Figure 13 of the earthen building figures supplement).

D. Attachment of a loadbearing wood or steel frame wall to a rammed earth wall. A half-inch minimum diameter anchor bolt with four inch hook, set in a linear vertical pattern, a maximum of 24 inches on-center. The anchor bolt shall be embedded at least two inches into the earth wall with the threaded end protruding sufficiently to pass through and attach the adjoining vertical wall stud. The washer and nut shall be tightened just prior to sheathing the frame wall. As an alternative, 18 gauge by two inch minimum galvanized strap tie, grouted into the concrete bond beam (or secured to the wood bond beam or wood top plate), securely nailed to the top plate of the frame wall. The remainder of the vertical stud shall

be attached to the rammed earth wall with 30D nails or screws embedded a minimum of three inches into the adjacent wall at eight inches on center vertically. (Refer to Figure 14 of the earthen building figures supplement).

E. Attachment of a door or window unit to a rammed earth wall. The unit shall be attached to nailers within the opening or nailed or screwed directly into the rammed earth wall. The nail or screw shall penetrate at least three inches into the rammed earth wall. Heavier units may utilize stronger attachments, such as anchor bolts, T-bolts, steel pins, etc., embedded into the rammed earth wall.

F. Attachment of foam or rigid insulation to a rammed earth wall. Insulating boards or foams not exceeding two inches in thickness may be adhered to the exterior of the rammed earth wall. When insulation board is used, round-cap nails, capped concrete nails or capped screws shall attach it to the rammed earth wall. Cap nails or screws shall have a maximum spacing of 16 inches from each other. Additionally, cap nails or screws shall secure the insulation boards around their perimeter edges with nails or screws spaced no less than two inches apart. All cap nails or screws shall penetrate a minimum of two inches into the rammed earth wall. All insulation fasteners shall be corrosion resistant. Insulating boards or foams shall not be used to form architectural shapes exceeding two inches in thickness.

G. Attachment of cabinetry to a rammed earth wall. Deck screws shall penetrate a minimum of three inches through cabinetry and into a nailer, eight inches on center maximum, or; deck screws with a least three inch minimum penetration through cabinetry and into the rammed earth wall. Screws shall be placed horizontally, eight inches on center maximum, on the top and bottom of cabinetry. As an alternative, all-thread rods or other attachment devices, suitable for attachment of cabinetry through the rammed earth

wall.

H. Attachment of concrete bond beam to a rammed earth wall. Number four reinforcing bar shall be driven into the uncured wall top. The reinforcing bar shall be set at a maximum 20 degree angle along both edges of the wall, staggered no more than 24 inches on-center and no closer than four inches from the exterior faces of the wall. The reinforcing bar shall extend a minimum of two inches into the rammed earth wall and four inches into the concrete bond beam. (Refer to Figure 16 of the earthen building figures supplement).

I. Attachment of wood bond beam to a rammed earth wall. One-half inch anchor bolts with four inch base hooks shall be rammed into the wall. The bolts shall be staggered a maximum of 48 inches on-center along both edges of the wall, staggered no closer than six inches from the exterior faces of the wall. The bolt shall extend a minimum of 18 inches into the rammed earth wall.
[14.7.4.16 NMAC - Rp, 14.7.4.16 NMAC, 11/15/2016]

14.7.4.17 BOND BEAMS:

A. General. The bond beam shall be secured to the rammed earth wall. Refer to Subsections H and I of 14.7.4.16 NMAC above. Bond beams may be of wood or concrete construction. Bond beams shall measure six inches nominal depth and extend the full width of the wall. Exception: The bond beam width may be reduced as follows: Two inches maximum in an 18 to less than 24 inch thick rammed earth wall, or three inches maximum in a rammed earth wall 24 inches or greater in thickness. Bond beams must be continuous, running the full perimeter of the structure. Interior rammed earth or adobe walls shall be incorporated into the bond beam. Varying height bond beams shall extend into the adjoining rammed earth wall one-half the thickness of the adjoining rammed earth wall. The concrete bond beam may secure anchoring and strapping devices.

B. Wood bond beam construction. In addition to the general requirements of Subsection A of 14.7.4.17 NMAC, wood bond beams may be constructed as approved by the building official. Light wood bond beam construction may be utilized as shown in Figure 10 of the earthen building figures supplement.

C. Concrete bond beam construction. In addition to the general requirements of Subsection A of 14.7.4.17 NMAC, concrete bond beams shall be constructed of minimum 2500 psi concrete and shall contain steel reinforcement as follows: For 18 to less than 24 inch thick rammed earth wall construction, a minimum of two continuous number four reinforcing rods shall be used. For walls equal to or greater than 24 inches in thickness, a minimum of two continuous number five reinforcing rods shall be used. Provide two inch minimum reinforcement concrete cover over all horizontal reinforcing rods. Concrete bond beams may be used to secure anchoring and strapping devices.

D. Concrete bond beam cold joints. Concrete bond beam cold joints are limited to corners of perpendicular intersections with other structural, full-height walls. Cold joints shall be tied into the adjoining bond beam with three number four reinforcing rods. The reinforcement shall extend a minimum of 24 inches into both portions of the concrete bond beam.
[14.7.4.17 NMAC - Rp, 14.7.4.17 NMAC, 11/15/2016]

14.7.4.18 LINTELS OVER OPENINGS:

A. General. All openings require a lintel or semi-circular arch over the opening. All lintels, whether of wood or concrete shall bear a minimum of two inches into the length of the wall. Exception: nichos and other shaped voids as defined in 14.7.4.15 NMAC.

B. Bearing limitations. Lintels shall bear a minimum of two inches beyond coved, splayed or rounded bearing

portions of openings that are less than the full width of the wall. (Refer to Figure 15 of the earthen building figures supplement).

C. Lintels over openings in stabilized rammed earth walls. Openings less than 2four inches in width shall not require a lintel or semi-circular arched opening. Openings greater than 2four inches in width require lintels as defined in Table 4.

Continued On Following Page

Table 4 Concrete Lintels Over Openings in Rammed Earth Walls (1)

Wall width	Lintel span	Lintel depth	Reinforcement (2)	Reinforcement Concrete Cover (3)	Uniform Load
18"	24"	6"	3- #4 @ 4"o.c.	3" minimum concrete cover on all sides	1000 PLF
	36"	6"	3- #4 @ 4"o.c.		
	48"	6"	3- #4 @ 4"o.c.		
	60"	6"	3- #4 @ 4"o.c.		
	72"	8"	3- #5 @ 4"o.c.		
	84"	8"	3- #5 @ 4"o.c.		
	96"	8"	3- #5 @ 4"o.c.		
20"	24"	6"	3- #4 @ 4"o.c.	4" minimum concrete cover on all sides	1350 PLF
	36"	6"	3- #4 @ 4"o.c.		
	48"	6"	3- #4 @ 4"o.c.		
	60"	6"	3- #4 @ 4"o.c.		
	72"	8"	3- #5 @ 4"o.c.		
	84"	8"	3- #5 @ 4"o.c.		
	96"	10"	3- #5 @ 4"o.c.		
22"	24"	6"	3- #4 @ 5"o.c.	3 1/2" minimum concrete cover on all sides	1700 PLF
	36"	6"	3- #4 @ 5"o.c.		
	48"	6"	3- #4 @ 5"o.c.		
	60"	6"	3- #4 @ 5"o.c.		
	72"	8"	3- #5 @ 5"o.c.		
	84"	10"	3- #5 @ 5"o.c.		
	96"	10"	3- #5 @ 5"o.c.		
24"	24"	6"	3- #4 @ 6"o.c.	3" minimum concrete cover on all sides	2000 PLF
	36"	6"	3- #4 @ 6"o.c.		
	48"	6"	3- #4 @ 6"o.c.		
	60"	6"	3- #4 @ 6"o.c.		
	72"	8"	3- #5 @ 6"o.c.		
	84"	10"	3- #5 @ 6"o.c.		
	96"	12"	3- #5 @ 6"o.c.		

1. 3000 psi minimum concrete at approximately 28 days.
2. Grade 40 steel reinforcement minimum.
3. Steel reinforcement at mid-depth of lintel.

[14.7.4.18 NMAC - Rp, 14.7.4.18 NMAC, 11/15/2016]

14.7.4.19 WEATHER RESISTIVE BARRIERS:

A. General. Stabilized rammed earth walls do not require a weather-resistive barrier or an approved exterior finish. Unstabilized rammed earth walls require a weather-resistive barrier and approved exterior finish. When a vapor barrier is installed over the rammed earth wall, it shall not be installed on both sides of a rammed earth wall system. Exception: On the top and sides of a parapet wall.

B. Moisture barrier locations. A moisture barrier shall protect rammed earth walls adjacent to bath and shower enclosures. A moisture barrier shall protect rammed earth walls at window sills, the top of the parapet, or other exterior wall portions exposed to the elements. A moisture barrier installed over an exposed parapet top of a rammed earth wall shall lap a minimum of six inches down both sides of the parapet top.

[14.7.4.19 NMAC - Rp, 14.7.4.19 NMAC, 11/15/2016]

14.7.4.20 LATH AND PLASTER:

A. General. When non-cementitious plasters are applied directly to the rammed earth wall surface, the surface shall be scored or sandblasted prior to the application of the plaster. Rammed earth walls must cure to a depth of four inches minimum prior to application of an approved exterior finish.

B. Lath. Where rammed earth walls have a plaster finish, metal lath shall be installed around interior and exterior wall openings and over dissimilar materials.

C. Exterior plaster. In unstabilized rammed earth walls, stucco netting shall be installed and cementitious plaster shall have a minimum seven-eighths inch finished thickness, unless an elastomeric "color coat" is used, then it shall have a minimum base coat of five-eighths inch. Applications shall follow the material manufacturers' specifications.
[14.7.4.20 NMAC - Rp, 14.7.4.20 NMAC, 11/15/2016]

14.7.4.21 PLUMBING:

A. General. Code compliant plumbing systems may be rammed into the wall system, either vertically or horizontally, provided that such plumbing material is of sufficient strength to withstand the ramming pressures without any rupture or collapse.

B. Plumbing system installation. Installations shall not reduce the width of the rammed earth wall by more than one-third. Prior to ramming, a minimum five inch earth cover is provided over any horizontal pipe.
[14.7.4.21 NMAC - Rp, 14.7.4.21 NMAC, 11/15/2016]

14.7.4.22 ELECTRICAL:

A. Electrical system installation. Electrical wiring shall pass through a channel or conduit. Approved rigid or flexible electrical conduit shall withstand ramming pressures without damage or collapse. Electrical wiring within a channel shall be covered a minimum of one and one-fourth inches. Prior to

ramming, a minimum five inch earth cover shall be provided over any horizontal pipe.

B. UF cable installation. UF cable may not be rammed within the rammed earth wall. Exception: UF cable installed within an approved conduit or channel. In a channel installation, UF cable must be covered a minimum of one and one-fourth inches with plaster, adobe or similar finish.

C. Electrical box installation. Plastic electrical boxes shall not be rammed within the rammed earth wall. Exception: plastic electrical boxes installed in a channel installation.
[14.7.4.22 NMAC - Rp, 14.7.4.22 NMAC, 11/15/2016]

14.7.4.23 COMPRESSED EARTH BLOCK CONSTRUCTION (CEB):

A. General. Compressed earth block shall not be used in any building more than two stories in height. The height of every wall of compressed earth block without lateral support shall be defined in Table 1 of Subsection B 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. Heights for exterior walls, which are laterally supported with those supports located no more than 24 feet apart, are defined in Table 1 of Subsection B of 14.7.4.8 NMAC. The bottom story of a two-story is allowed a minimum thickness of 14 inches with the upper story allowed a thickness of 10 inches, providing the structure meets the provisions of Table 1 of Subsection B of 14.7.4.8 NMAC. 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 compressed earth block structures

shall comply with 14.7.3.18 NMAC. They shall be integrated into adjacent compressed earth block 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 designated 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. Stabilized compressed earth blocks. The term "stabilized" is defined to mean a block with certain admixtures that retains minimum strength requirements as specified in Subsection J of 14.7.4.23 NMAC after saturation in water. Saturation is defined as a minimum 4 hours of submersion in water as defined in ASTM D1633-00.

F. Unstabilized compressed earth blocks. Unstabilized blocks are defined as not meeting the minimum strength requirements as defined in Subsection J of 14.7.4.23 NMAC after saturation in water. Use of unstabilized compressed earth blocks is prohibited within four inches of the finished floor grade. Stabilized compressed earth blocks, poured concrete, or waterproof masonry units and mortar may be used for the first four inches above floor grade.

G. Materials. The material must be a mineral soil with the aggregate content not exceeding one inch in diameter. The material shall not contain more than two percent soluble salts.

H. Testing. Each of the tests prescribed in this section shall be applied to sample units selected at random of five units per building project prior to construction. Test may be waived if block manufacturer provides certification of compliance. The certification must be dated within one year of the date on the application for the building permit.

I. Shrinkage cracks. Shrinkage cracks are allowed,

providing that these cracks do not jeopardize the structural integrity of the blocks.

J. Compressive strength. Cured units shall have a minimum compressive strength of 300 pounds per square inch when tested. The compressed earth 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.

K. Modulus of rupture. Units shall have a minimum compressive strength of 50 pounds per square inch 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).

[14.7.4.23 NMAC - Rp, 14.7.4.23 NMAC, 11/15/2016]

14.7.4.24 MORTAR:

A. General. The use of earth mortar is allowed if the earth mortar material is compatible with the compressed earth blocks. Conventional lime/sand/cement mortars of Types M, S, and N are also allowed. Mortar "bedding" joints shall be fully grouted. Head joint mortar is not required provided that the blocks are initially laid in contact. Partially open "head" joints are allowed if the surface is to be plastered. All joints shall be lapped at

least twenty-five percent of the visible block length.

B. Slip mortars.

Liquid mud slip mortar is allowed, providing it is made of a compatible soil that is screened to eliminate aggregate larger than one-eighth inch in diameter. Water may be substituted for slip or other mortars, providing adequate adhesion is demonstrated.

C. Stacking. "Dry stacking" of compressed earth blocks is allowed providing that adequate adhesion is demonstrated, the wall is to be stuccoed or plastered and the wall is not less than 10 inches in thickness.

D. Use. Compressed earth block may be cured prior to use or laid directly from the press into the wall in an uncured state. Compressed earth block 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.

E. Foundations.

Compressed earth blocks may not be used for foundations or basement walls.

F. Footings. All compressed earth block walls shall have a continuous footing at least 10 inches thick. The footing width must be a minimum of thirty-three percent greater than the wall width, but not less than two inches on each side. The stem wall must be centered on the footing.

G. Stem walls. All stem walls that support CEB units shall extend to an elevation not less than eight inches above the exterior finish grade. Stem walls shall be as thick as the exterior wall. Where perimeter insulation is used, a variance is allowed for the stem wall width to be two inches smaller than the width of the CEB wall it supports.

H. Concrete grade beam. Rubble-filled foundation trench designs with a reinforced concrete grade beam above are allowed to support CEB construction. An architect or engineer registered in the state of New Mexico shall certify the grade beam/rubble-filled trench design portion. Other alternative foundation systems must be approved

by the building official.

[14.7.4.24 NMAC - Rp, 14.7.4.24 NMAC, 11/15/2016]

14.7.4.25 BOND BEAMS:

A. General. 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.

B. 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 CEB 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.

C. 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 CEB 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 in minimum of the width of the wall and fully nailed. Galvanized metal straps or perforated metal straps, 18 gauge minimum and two inches long, may be used to join the ends of wood bond beam members. Full nailing of straps is required. 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.

[14.7.4.25 NMAC - Rp, 14.7.4.25 NMAC, 11/15/2016]

14.7.4.26 LINTELS:

A. General. Lintels of wood or concrete are allowed. The bearing length of any lintel shall not be reduced by an angled or splayed window or door opening. Other lintel

designs are accepted providing that engineering is submitted for review by the building official.

B. Wood lintels. When an engineer's drawing and seal is not provided for lintels, all wood lintels shall conform to Table 5 and have a fiber stress rating of at least 850 psi.

Table 5 CEB WALL WOOD LINTEL SCHEDULE				
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

C. Concrete lintels. When an engineer's drawing and seal is not provided for lintels, all concrete lintels shall conform to table 6 and have a minimum strength of 3000 psi.

Table 6 CEB WALL CONCRETE LINTEL SCHEDULE				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

[14.7.4.26 NMAC - Rp, 14.7.4.26 NMAC, 11/15/2016]

14.7.4.27 ATTACHMENTS AND CONNECTIONS: Amend the following provision as follows.

A. Insulating boards or foams. Insulating boards or foams not exceeding two inches in thickness may be adhered to the exterior of the CEB wall. When insulation board is used, round-cap nails shall attach it to the CEB 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 CEB wall. Insulating boards or foams shall not be used to form architectural shapes exceeding two inches in thickness.

B. Insulations exceeding two inches in thickness. 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 CEB wall. A sectional, scaled drawing for the proposed insulation scheme must be submitted for review by the building official.

[14.7.4.27 NMAC - Rp, 14.7.4.27 NMAC, 11/15/2016]

14.7.4.28 PLASTERING:

A. Plasters and stuccos applied to uninsulated, unstabilized walls. Unstabilized, uninsulated exterior CEB 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.

(1) Portland-based plaster must be reinforced with self-furring metal wire mesh, minimum 17 gauge by one and one-half inch openings, securely attached to the exterior CEB 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 CEB wall.

(2) Type S hydrated lime stuccos are allowed providing that CEB head joints are left partially open as provided by Subsection A of 14.7.4.24 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.

B. Plasters and stuccos applied over foam or board insulations. Portland-based plasters or lime-based stuccos used over insulation board or foam shall follow Subsection A of 14.7.4.27 NMAC.

C. Other Protective coatings or plasters. Coatings other than Portland-based plaster or lime-based stucco are allowed providing they do not constitute a vapor barrier. Interior gypsum or mud plasters may be applied directly to the wall, provided that CEB 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 plaster. Alternative plastering or coating systems shall be submitted for approval by the building official. [14.7.4.28 NMAC - Rp, 14.7.4.28 NMAC, 11/15/2016]

14.7.4.29 PARAPETS:

A. Plastered parapets, whether of CEB or frame construction, 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 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.

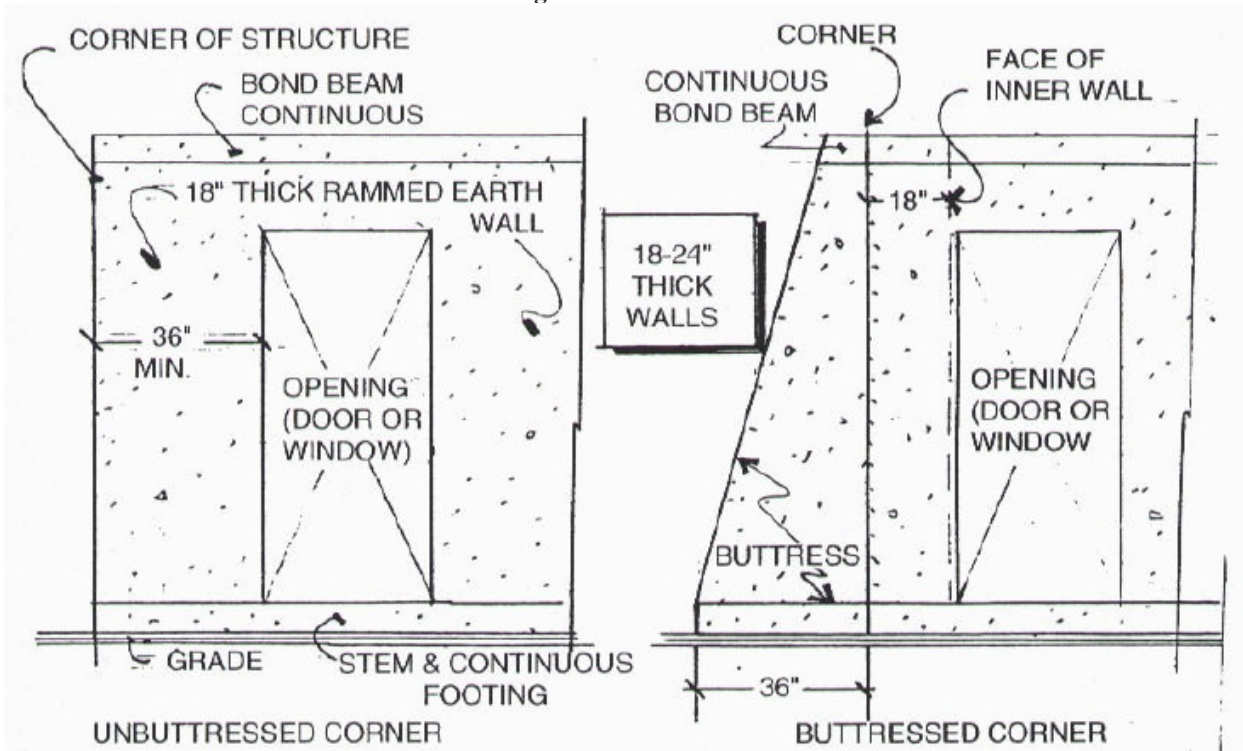
B. Exposed parapets of CEB shall be laid in level courses of fully stabilized block and mortar. Bed and head joints shall be fully grouted and tightly tooled. Bedding joints at bond beams and around vents and canales shall be fully grouted and tightly tooled. The horizontal top of exposed CEB parapets shall be covered with a minimum three-fourths inch layer of fully stabilized mortar, troweled to conform to 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.

[14.7.4.29 NMAC - Rp, 14.7.4.29 NMAC, 11/15/2016]

Continued On Following Page

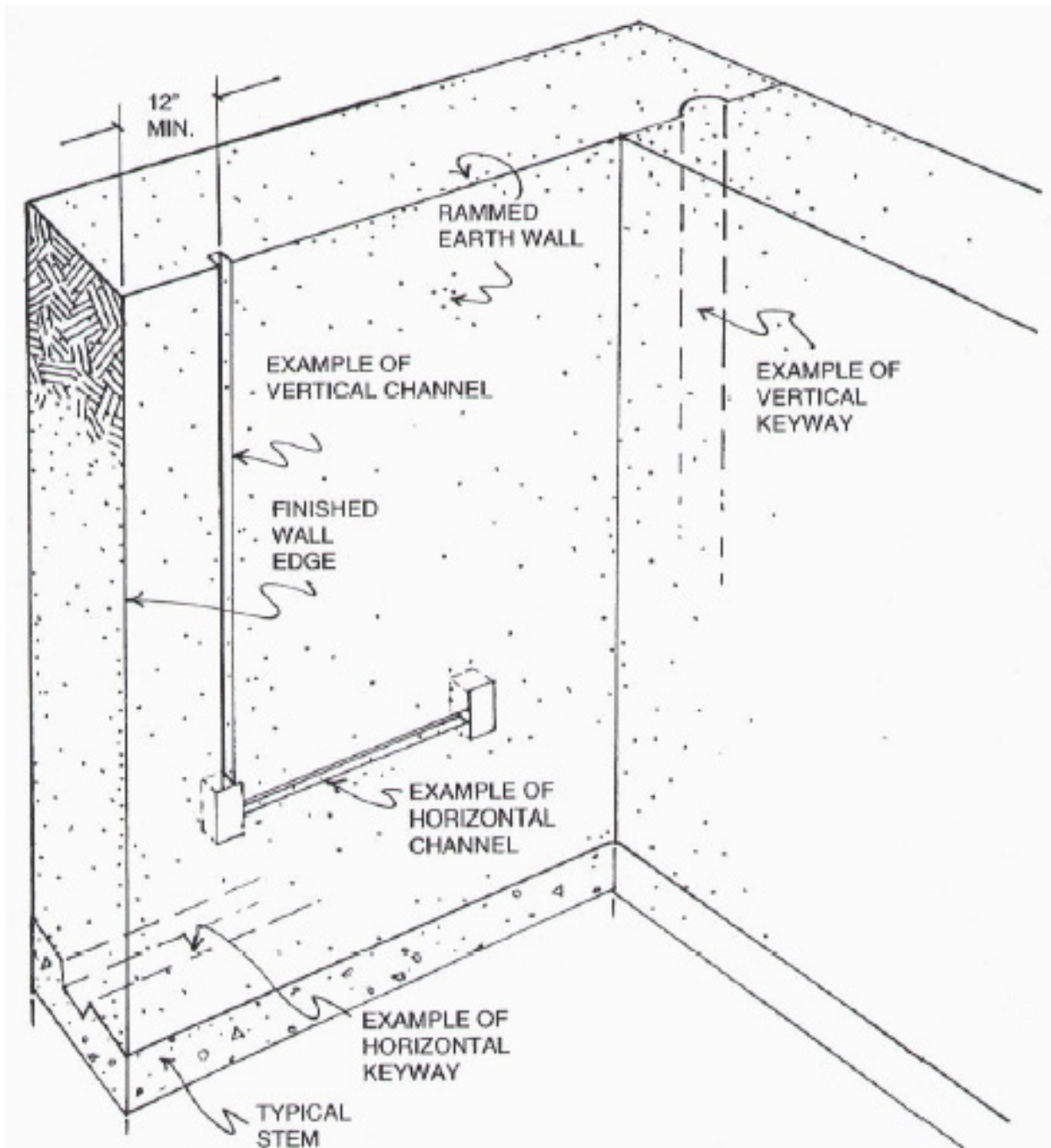
14.7.4.30 FIGURE 1 - BUTTRESS

Figure 1 – Buttress:



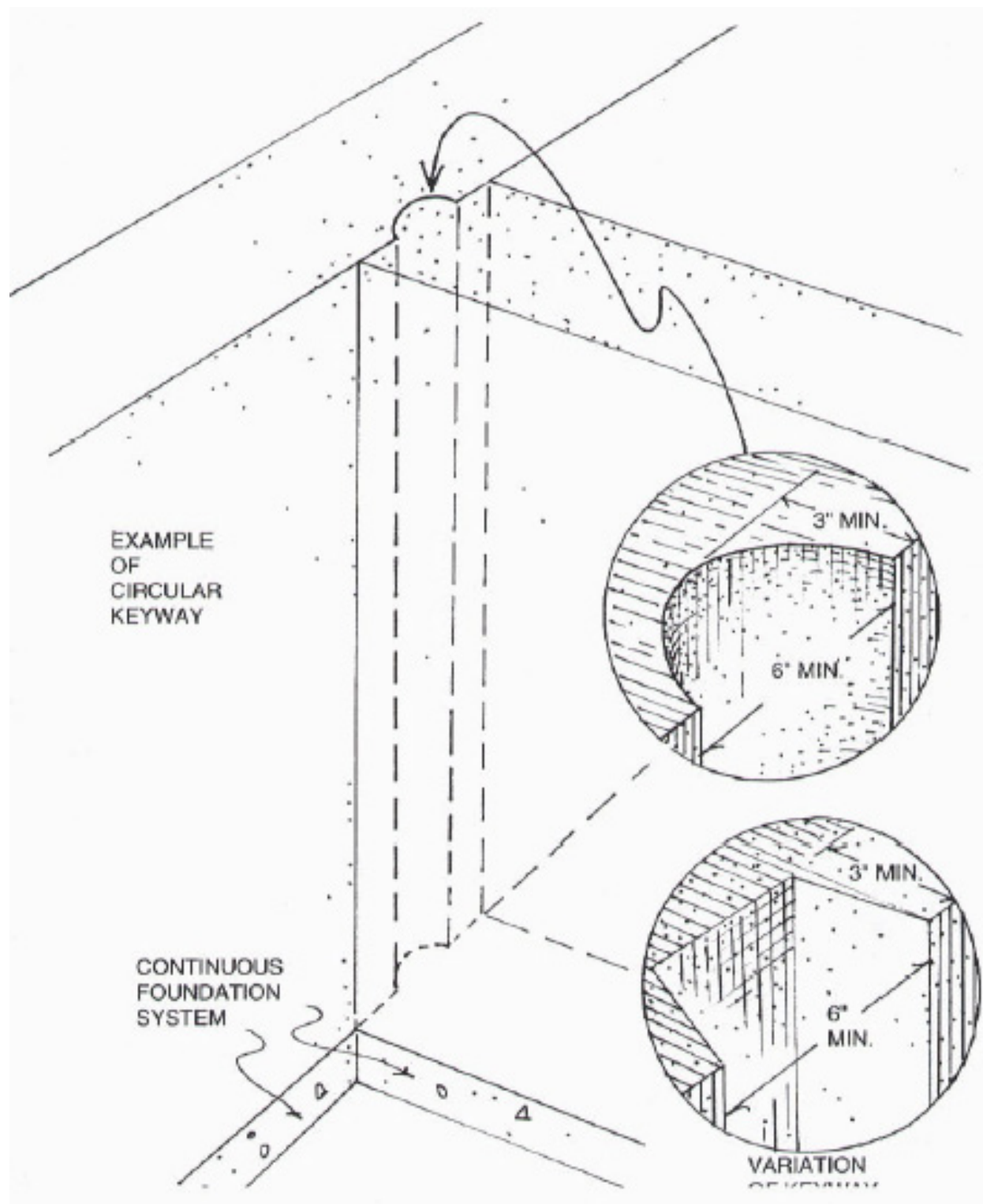
[14.7.4.30 NMAC - Rp, 14.7.4.30 NMAC, 11/15/2016]

14.7.4.31 FIGURE 2 - CHANNEL



[14.7.4.31 NMAC - Rp, 14.7.4.31 NMAC, 11/15/2016]

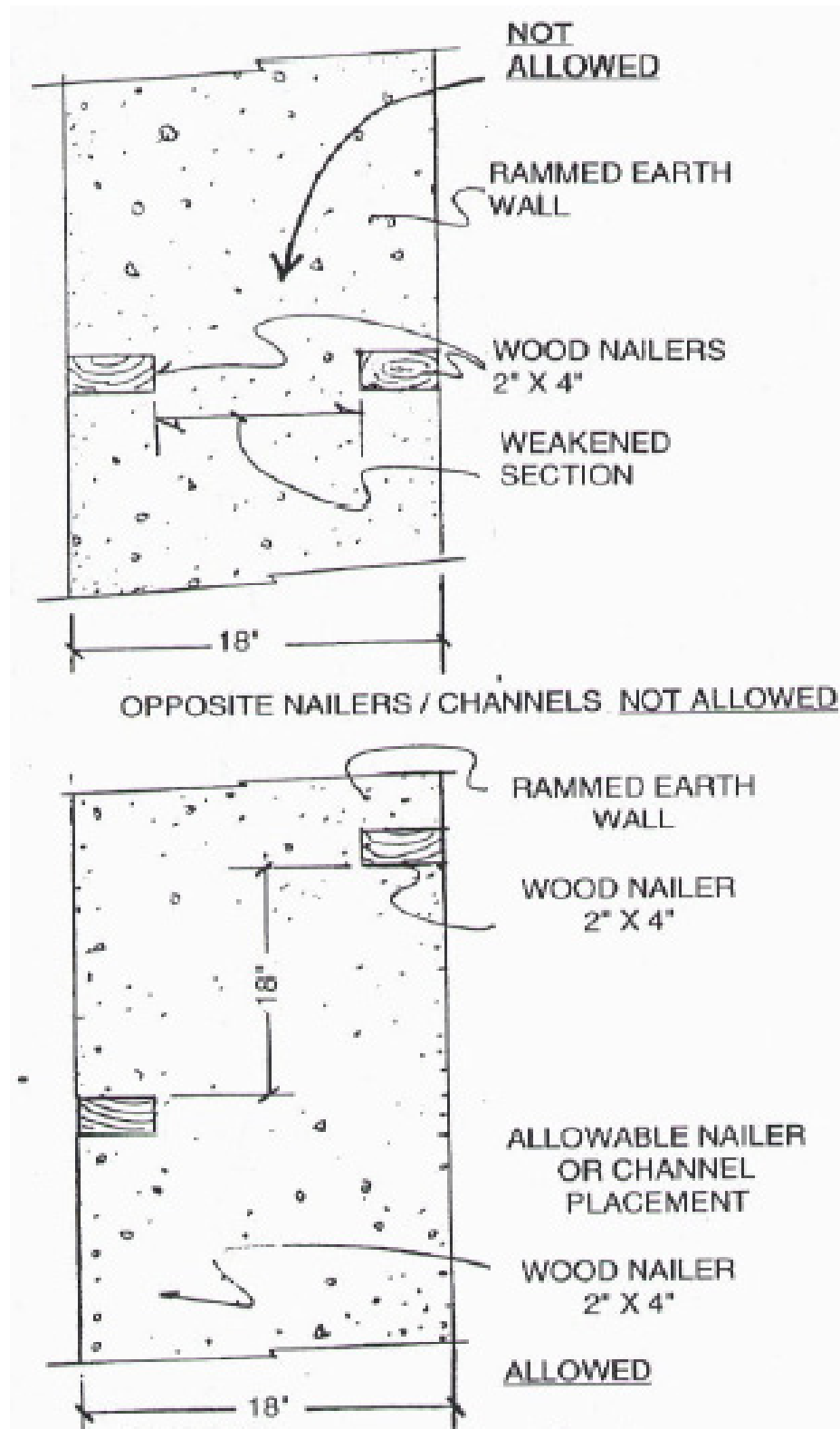
14.7.4.32 FIGURE 3 - KEYWAY



[14.7.4.32 NMAC - Rp, 14.7.4.32 NMAC, 11/15/2016]

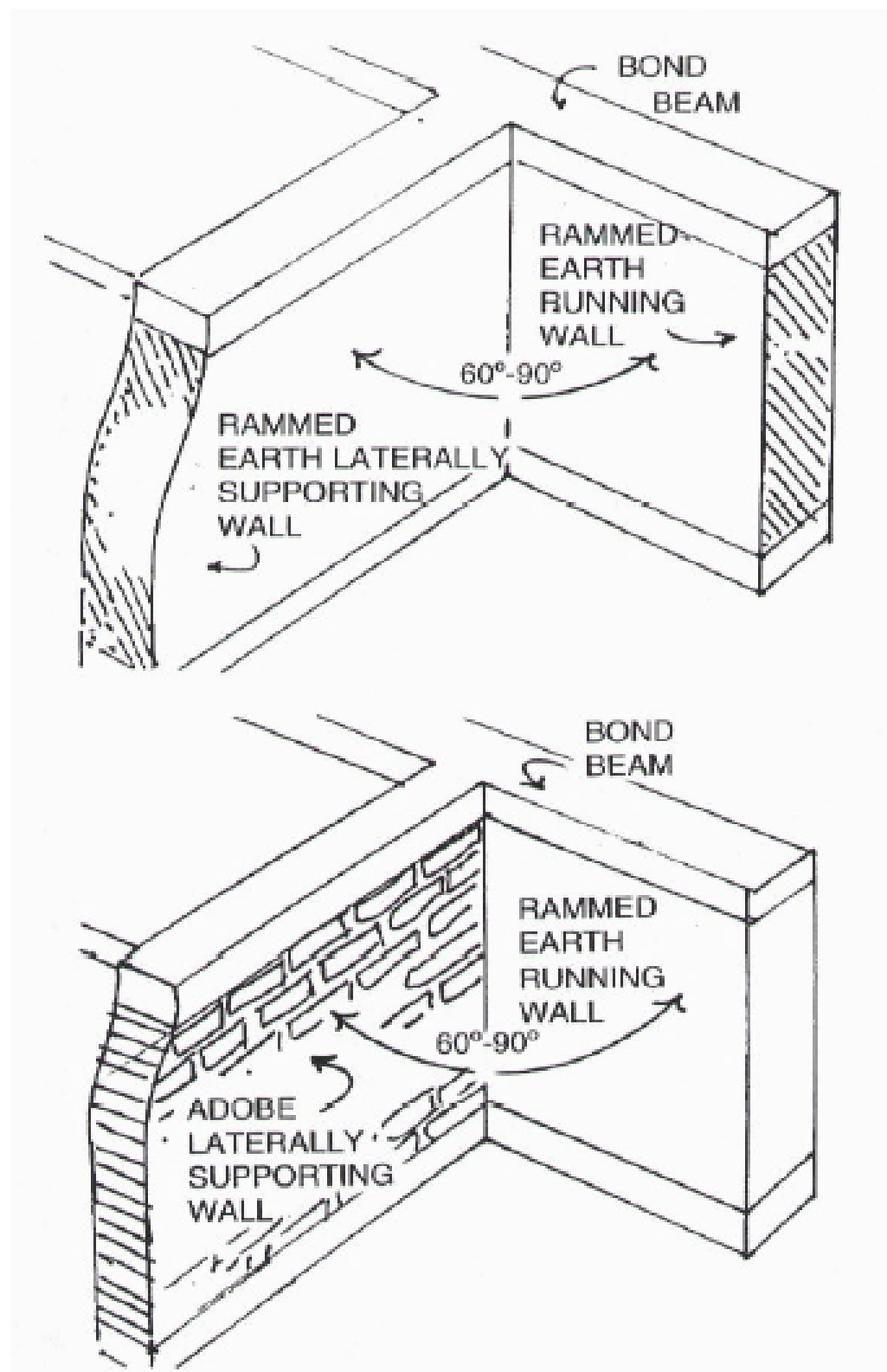
14.7.4.33

FIGURE 4 - NAILER:



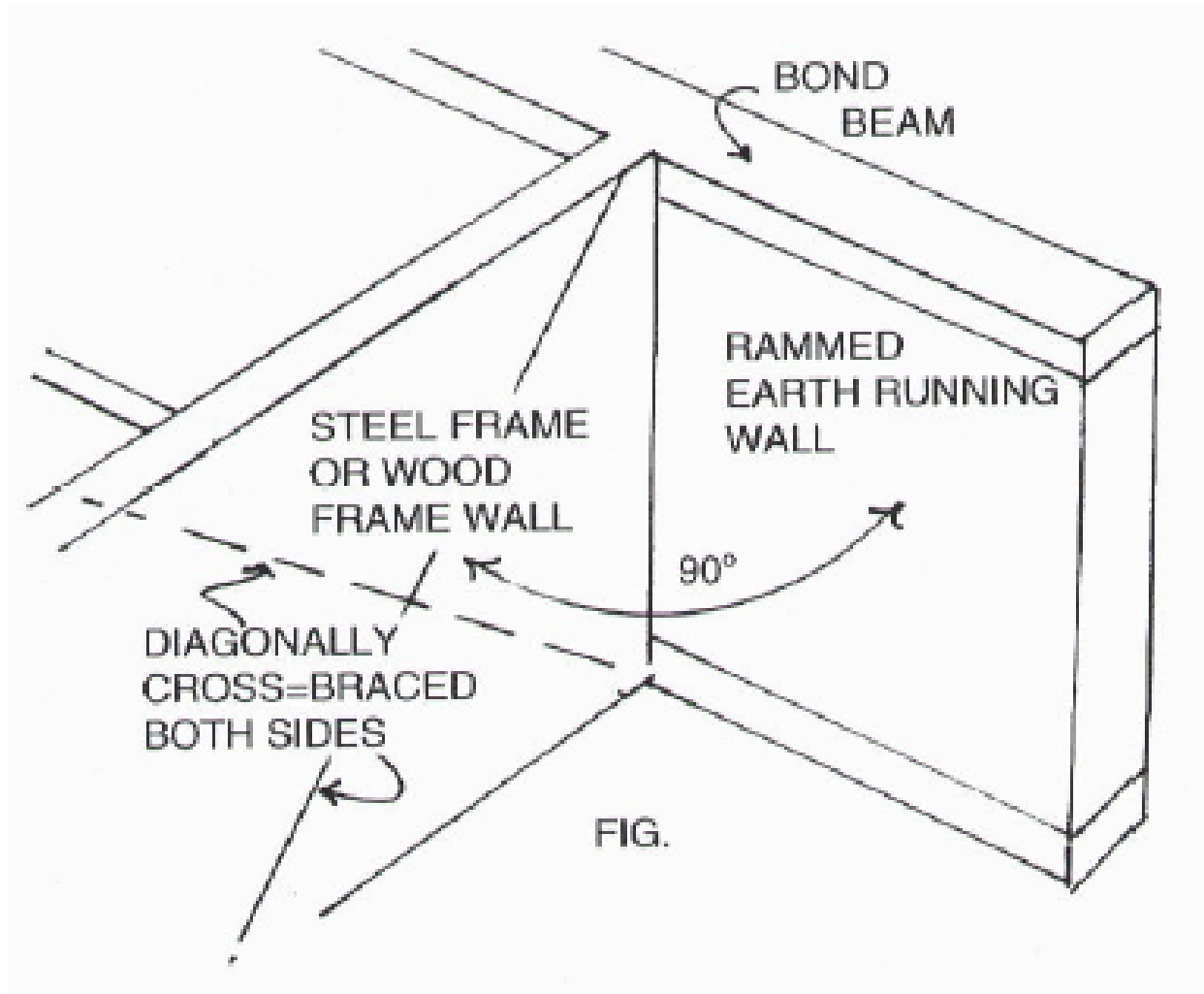
[14.7.4.33 NMAC - Rp, 14.7.4.33 NMAC, 11/15/2016]

14.7.4.34 FIGURE 5 - LATERAL SUPPORT



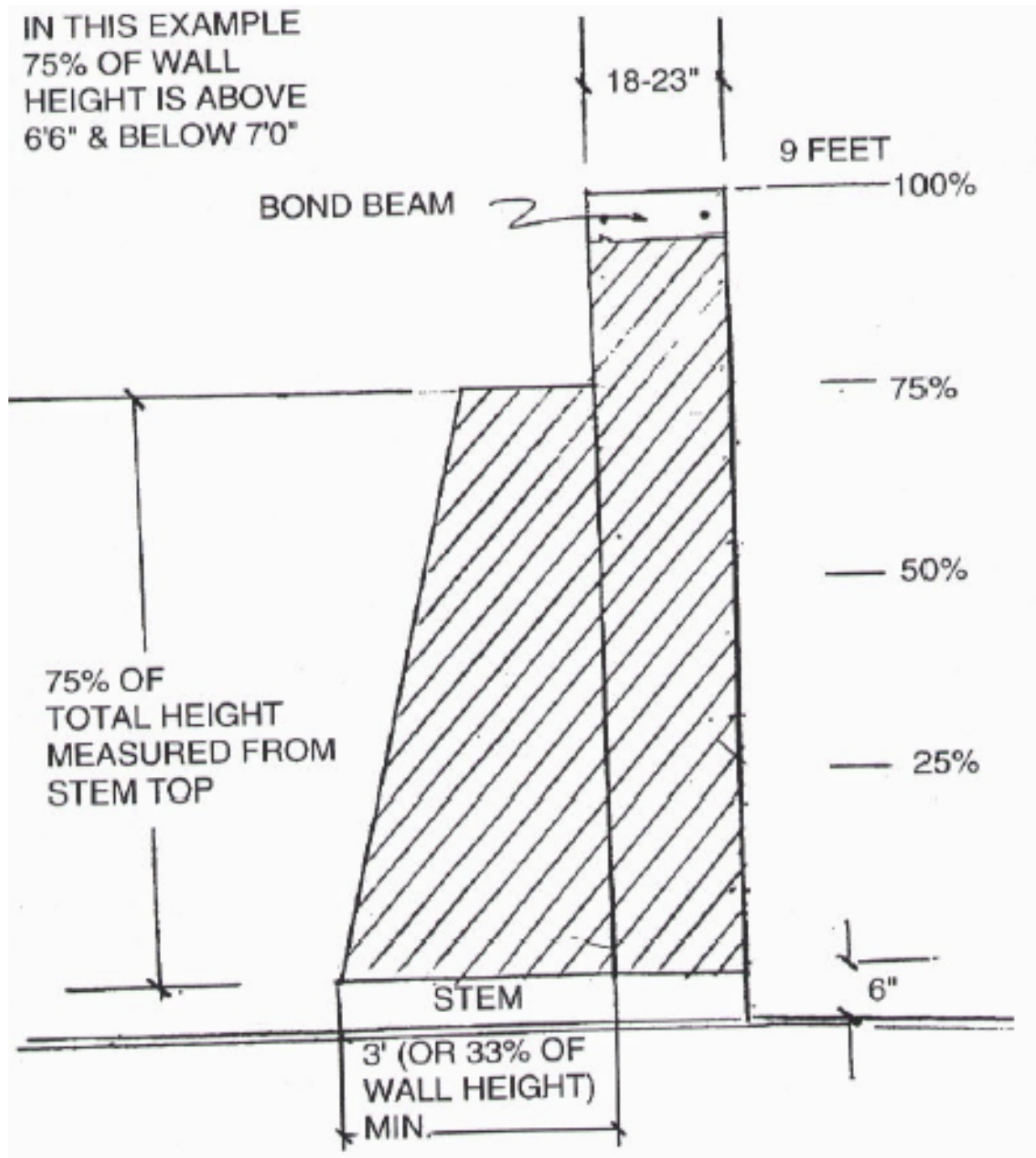
[14.7.4.34 NMAC - Rp, 14.7.4.34 NMAC, 11/15/2016]

14.7.4.35 FIGURE 6 - LATERAL SUPPORT



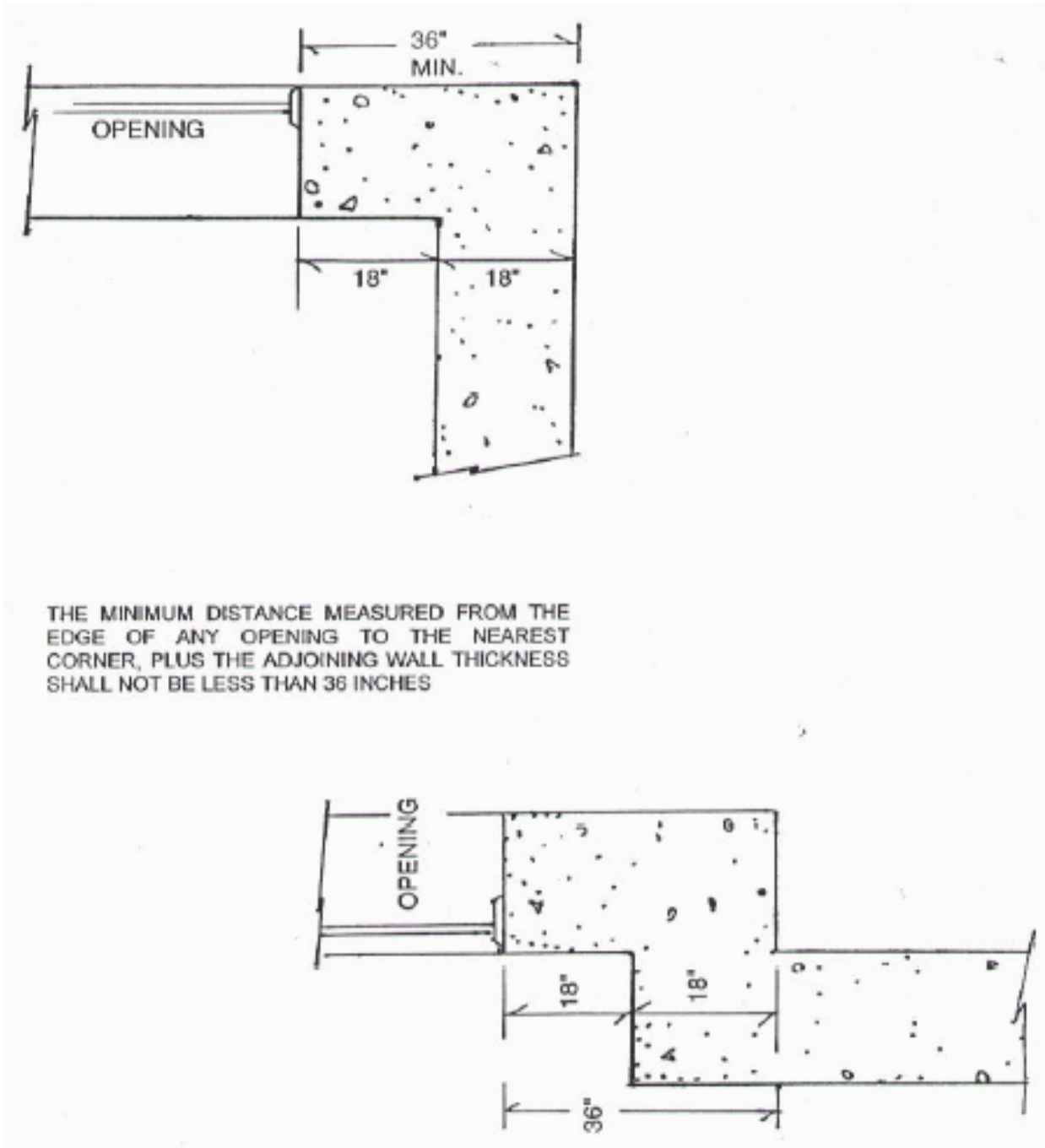
[14.7.4.35 NMAC - Rp, 14.7.4.35 NMAC, 11/15/2016]

14.7.4.36 FIGURE 7 - LATERAL SUPPORT:



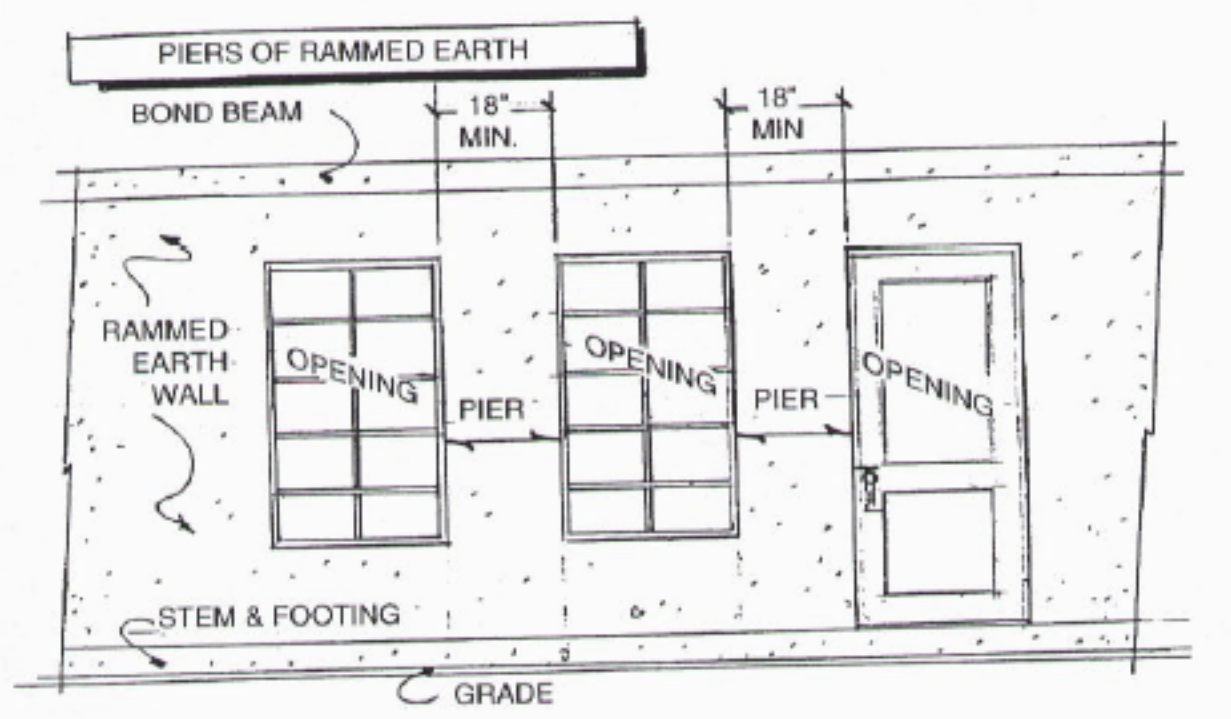
[14.7.4.36 NMAC - Rp, 14.7.4.36 NMAC, 11/15/2016]

14.7.4.37 FIGURE 8 - OPENINGS:



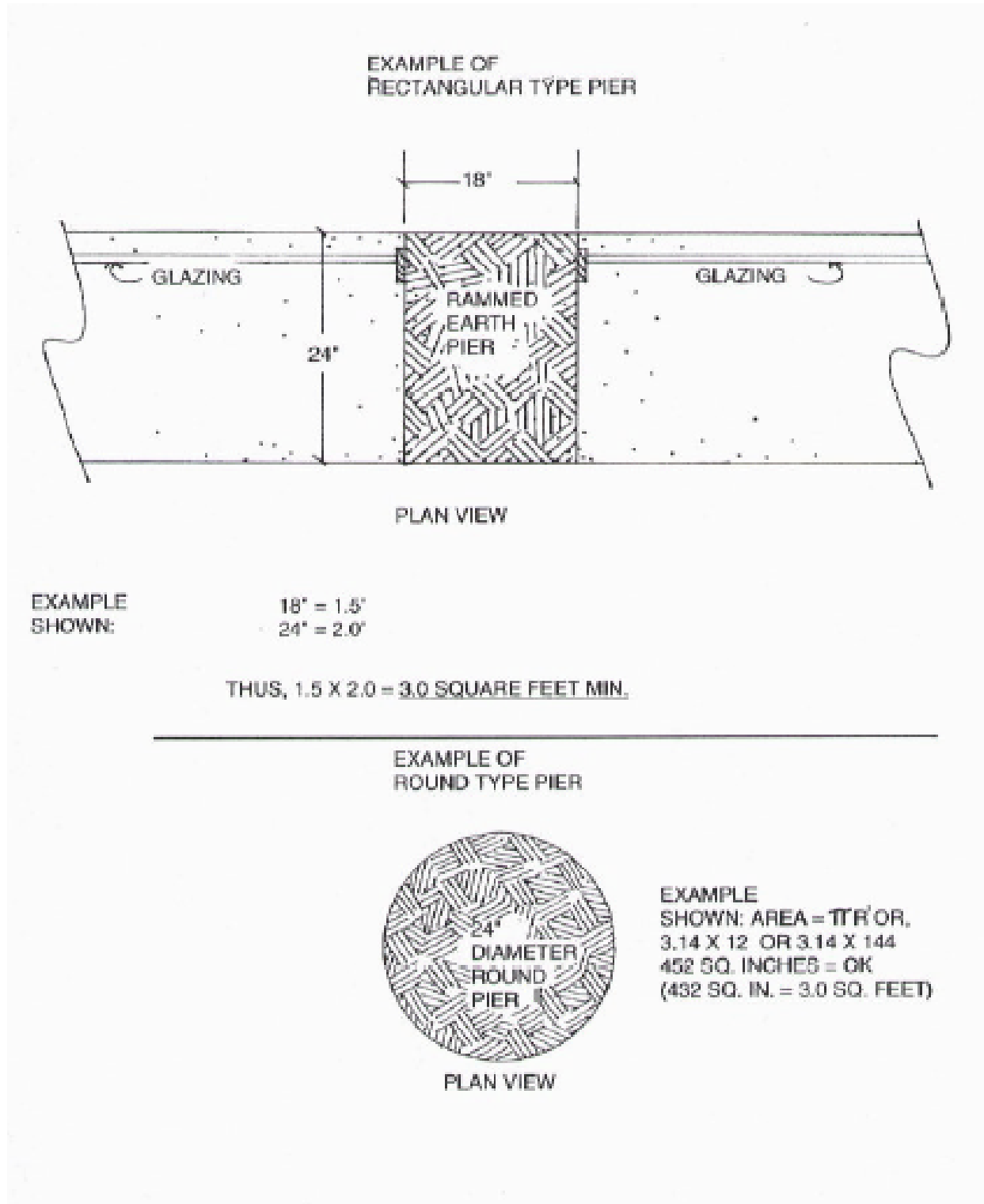
[14.7.4.37 NMAC - Rp, 14.7.4.37 NMAC, 11/15/2016]

14.7.4.38 FIGURE 9 - A PIERS:

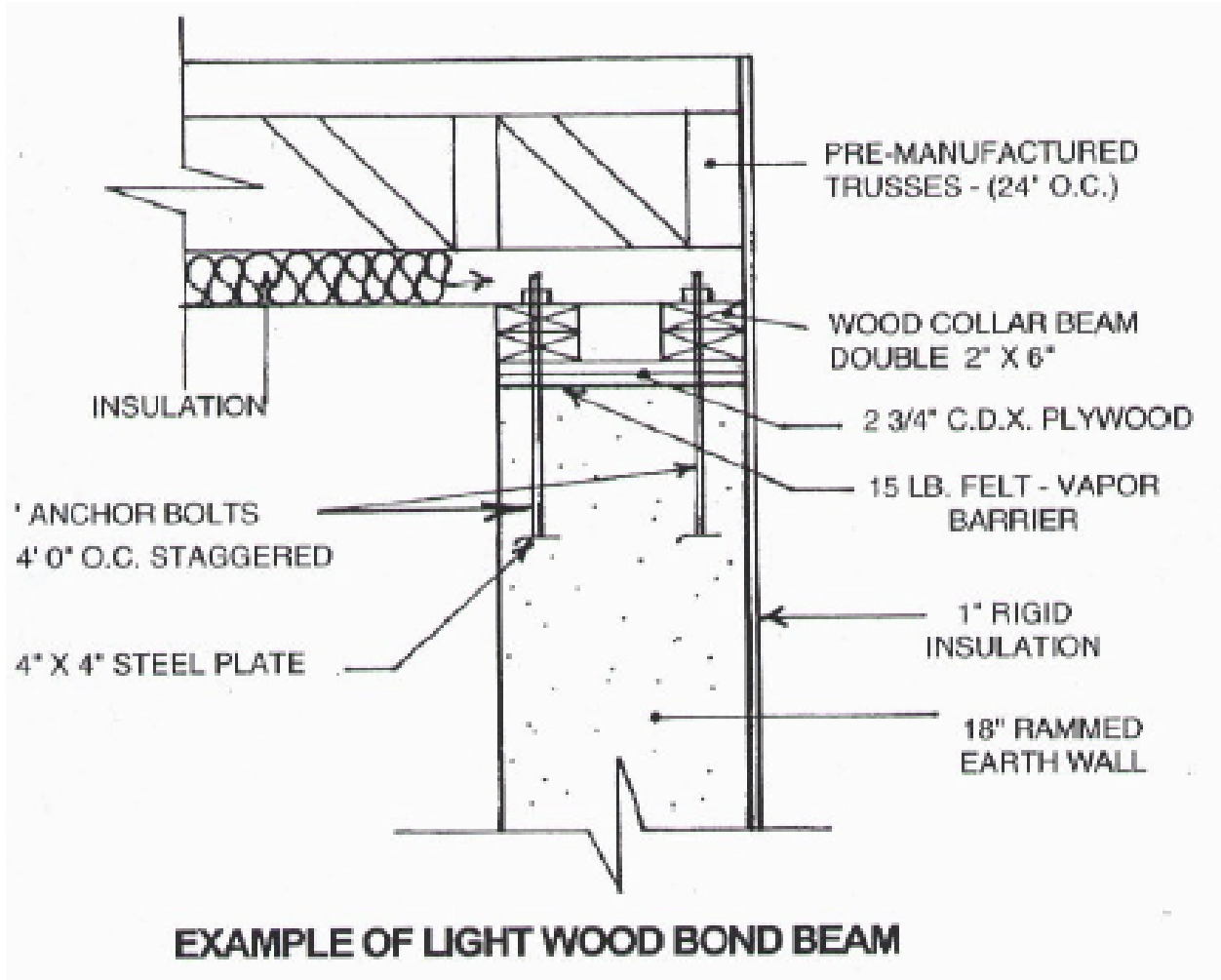


[14.7.4.38 NMAC - Rp, 14.7.4.38 NMAC, 11/15/2016]

14.7.4.39 FIGURE 9 - B PIERS:

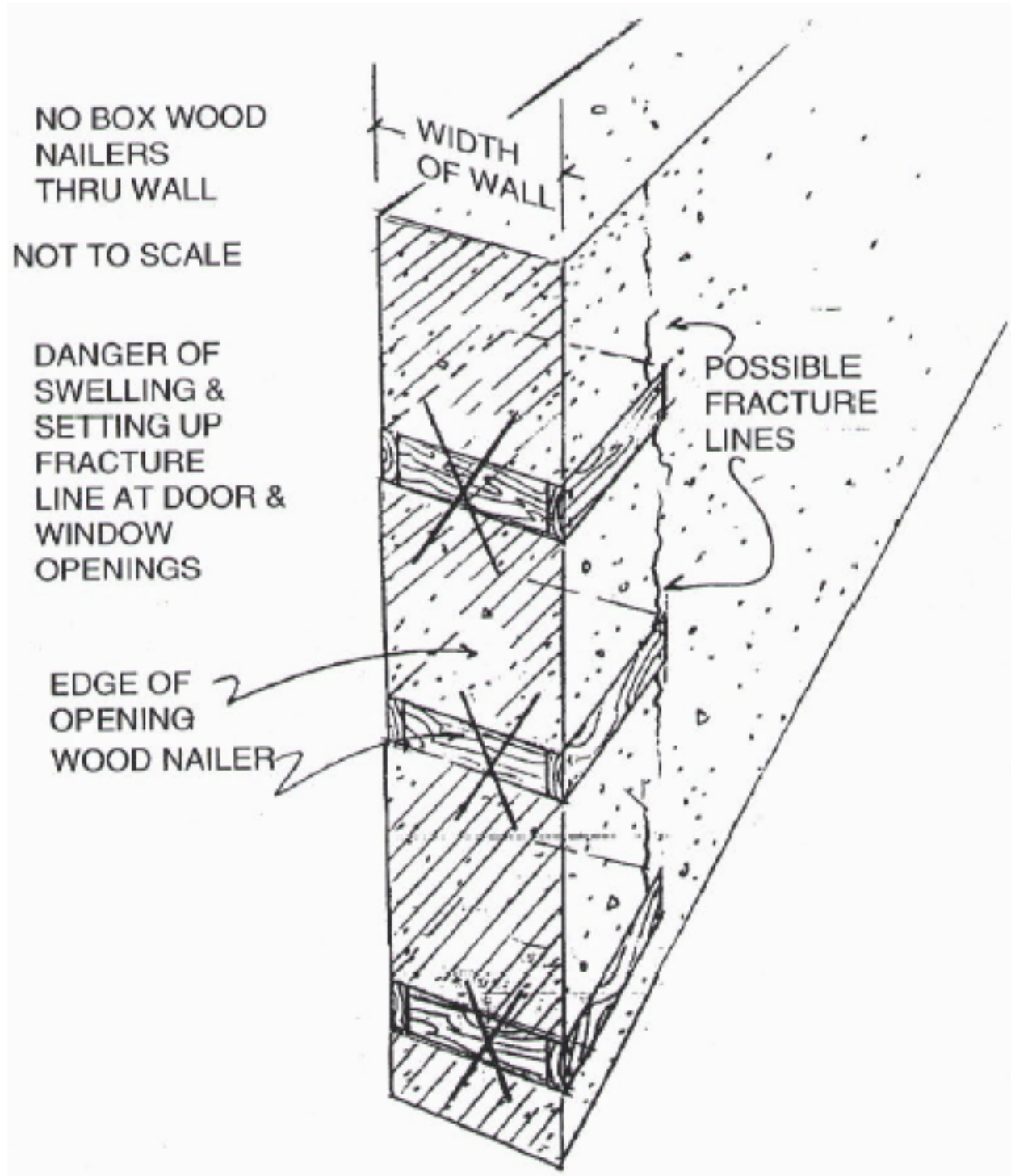


14.7.4.40 FIGURE 10 - WOOD BOND BEAM CONSTRUCTION:



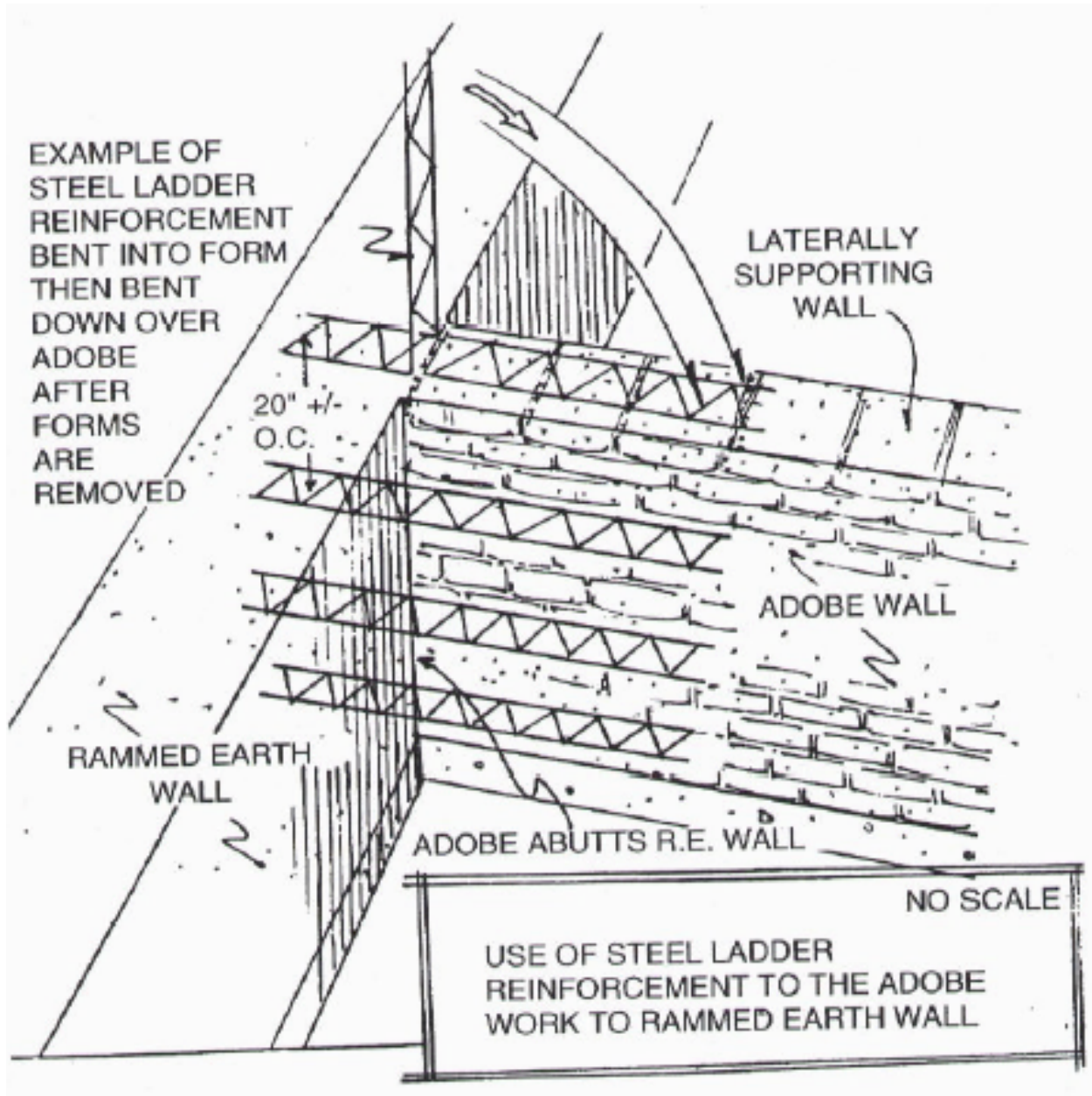
[14.7.4.40 NMAC - Rp, 14.7.4.40 NMAC, 11/15/2016]

14.7.4.41 FIGURE 11 - PLACEMENT OF ATTACHED MATERIALS:



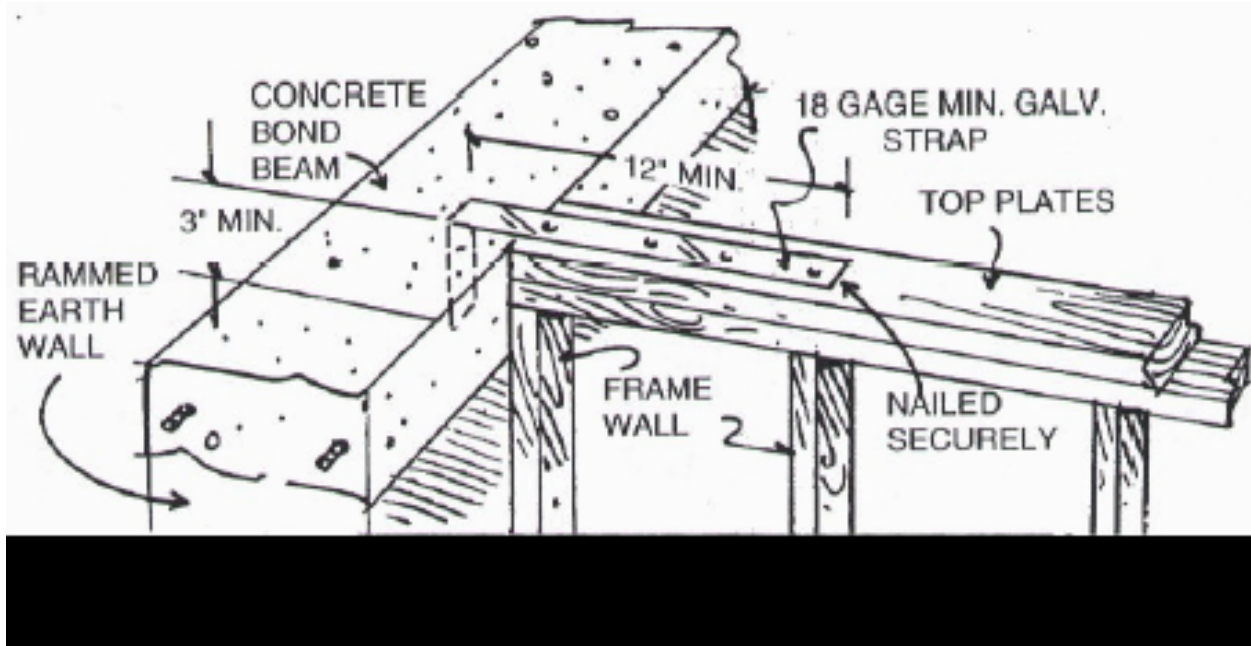
[14.7.4.41 NMAC - Rp, 14.7.4.41 NMAC, 11/15/2016]

14.7.4.42 FIGURE 12 - ATTACHMENT OF AN ADOBE WALL TO A RAMMED EARTH WALL:



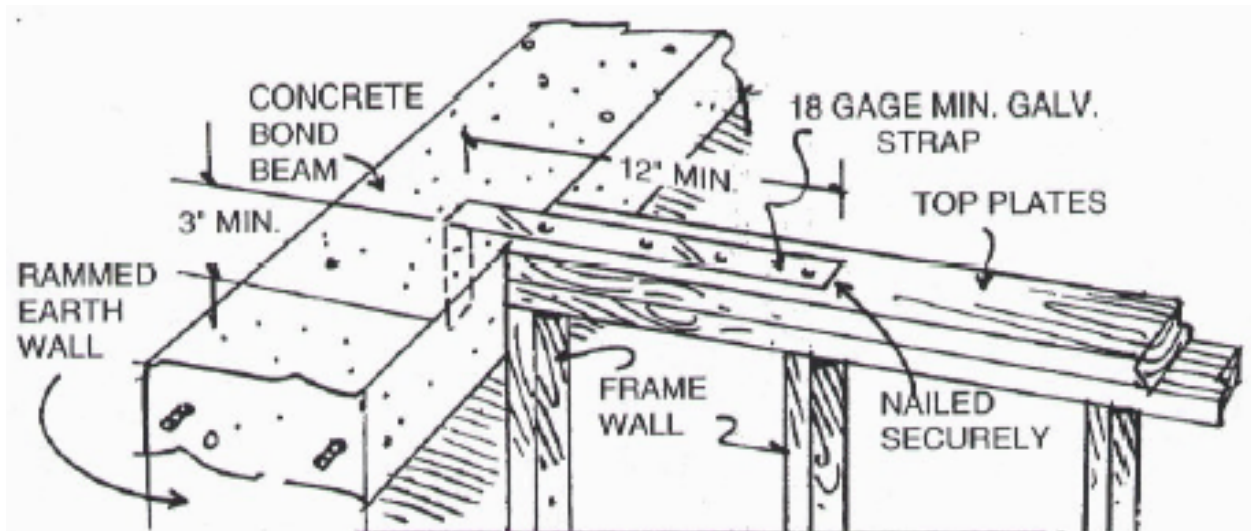
[14.7.4.42 NMAC - Rp, 14.7.4.42 NMAC, 11/15/2016]

14.7.4.43 FIGURE 13 - ATTACHMENT OF AN ADOBE WALL TO A RAMMED EARTH WALL:



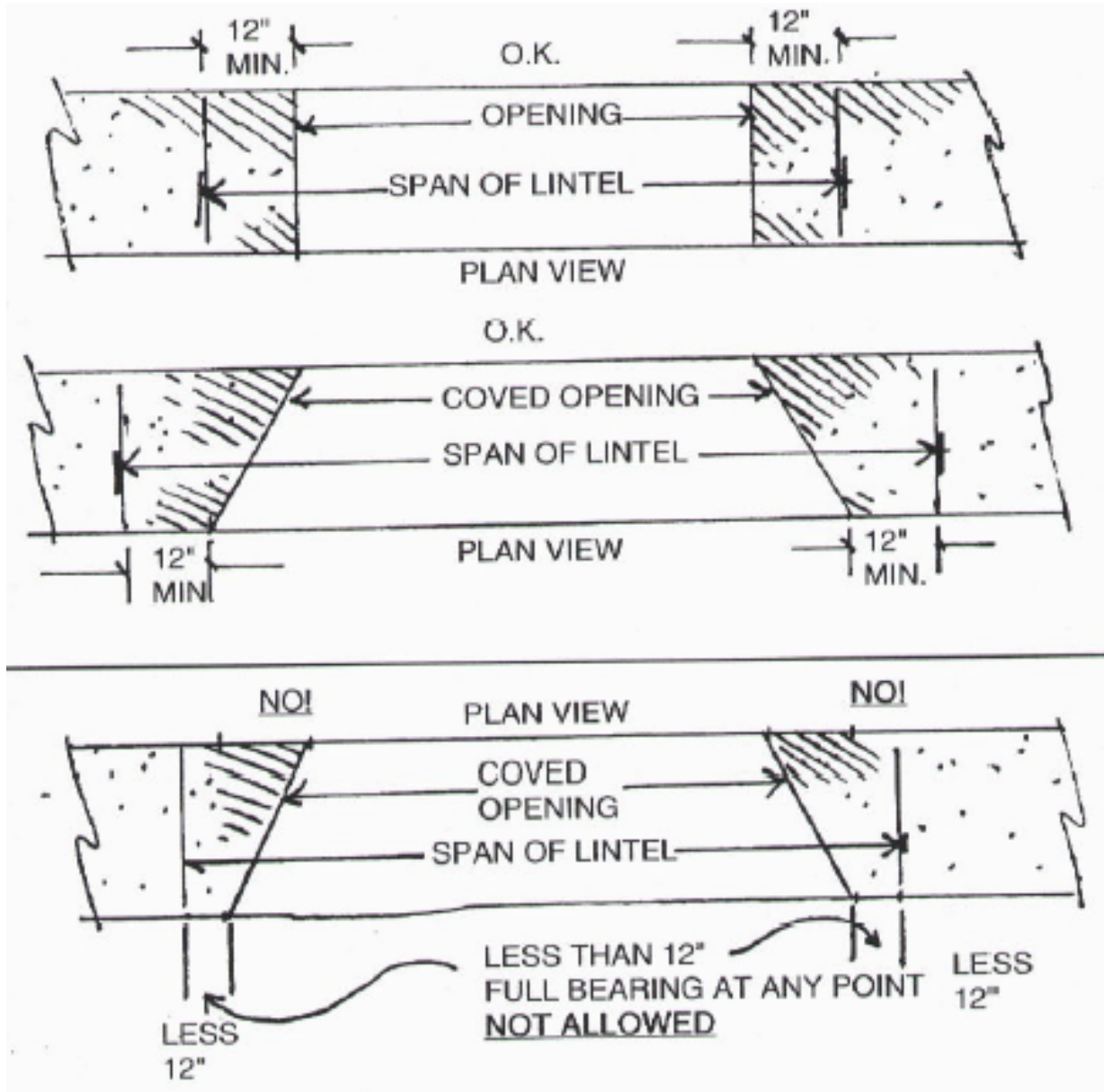
[14.7.4.43 NMAC - Rp, 14.7.4.43 NMAC, 11/15/2016]

14.7.4.44 FIGURE 14 - ATTACHMENT OF A LOAD BEARING WOOD OR STEEL FRAME WALL TO A RAMMED EARTH WALL:



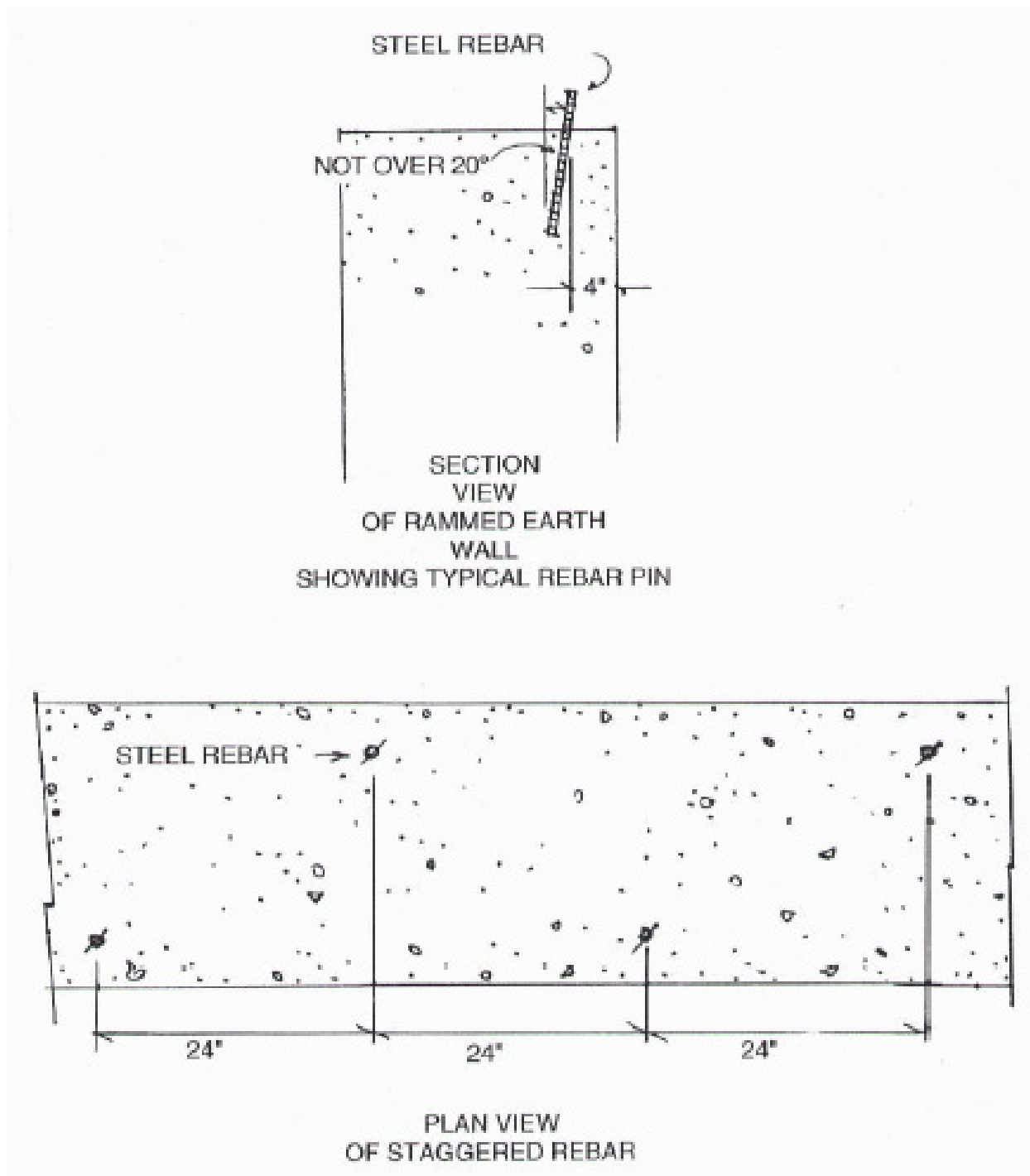
[14.7.4.44 NMAC - Rp, 14.7.4.44 NMAC, 11/15/2016]

14.7.4.45 FIGURE 15 - BEARING LIMITATIONS:



[14.7.4.45 NMAC - Rp, 14.7.4.45 NMAC, 11/15/2016]

14.7.4.46 **FIGURE 16 - ATTACHMENT OF A CONCRETE BOND BEAM TO A RAMMED EARTH WALL:**
WALL:



[14.7.4.46 NMAC - Rp, 14.7.4.46 NMAC, 11/15/2016]

HISTORY OF 14.7.4 NMAC:

Pre-NMAC History: None.

History of Repealed Material:

- 14.11.11 NMAC, Standard for Rammed Earth Construction (filed 10-31-2001) repealed 11-19-2004.
- 14.7.4 NMAC, 2003 New Mexico Earthen Building Materials Code (filed 10-18-2004) repealed 1-1-2008.
- 14.7.4 NMAC, 2006 New Mexico Earthen Building Materials Code (filed 8-16-2007) repealed 1-28-2011.
- 14.7.4 NMAC, 2009 New Mexico Earthen Building Materials Code (filed 12-28-2010) repealed 11/15/2016.

Other History:

14.11.11 NMAC, Standard for Rammed Earth Construction (filed 10-31-2001) renumbered and replaced by 14.7.4 NMAC, 2003 New Mexico Earthen Building Materials Code (*which did not include figures previously filed in 14.11.11 NMAC*), effective 11-19-2004.

14.7.4 NMAC, 2003 New Mexico Earthen Building Materials Code (filed 10-18-2004) was replaced by 14.7.4 NMAC, 2006 New Mexico Earthen Building Materials Code (*which includes figures previously filed in 14.11.11 NMAC*), effective 1-1-2008.

14.7.4 NMAC, 2006 New Mexico Earthen Building Materials Code (filed 8-16-2007) was replaced by 14.7.4 NMAC, 2009 New Mexico Earthen Building Materials Code, effective 1-28-2011.

**REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 7 BUILDING
CODES GENERAL
PART 7 2015 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, 11/15/2016]

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 November 15, 2016, 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 CILA section 60-13-32, including installation, repair, alteration, change of occupancy, addition and relocation of existing buildings shall be in accordance with 14.10.4 NMAC, the 2014 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 2012 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 2012 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 the NMMC or 19.15.40 NMAC, Liquefied petroleum gas standards, and NMSA 1978 70-5-1 et seq., Liquefied and compressed gasses (collectively the LP gas standards). [14.7.7.2 NMAC - Rp, 14.7.7.2 NMAC, 11/15/2016]

14.7.7.3 STATUTORY AUTHORITY: Section 60-13-9 NMSA 1978.

[14.7.7.3 NMAC - Rp, 14.7.7.3 NMAC, 11/15/2016]

14.7.7.4 DURATION: Permanent.

[14.7.7.4 NMAC - Rp, 14.7.7.4 NMAC, 11/15/2016]

14.7.7.5 EFFECTIVE DATE: November 15, 2016, unless a later date is cited at the end of a section.

[14.7.7.5 NMAC - Rp, 14.7.7.5 NMAC, 11/15/2016]

[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.]

14.7.7.6 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, 11/15/2016]

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, 11/15/2016]

14.7.7.8 ADOPTION OF THE 2015 NEW MEXICO EXISTING BUILDING CODE:

A. This rule adopts by reference, and amends, the 2015 international existing building code.

B. In this rule, each provision is numbered to correspond with the numbering of the 2015 international existing building code. [14.7.7.8 NMAC - Rp, 14.7.7.8, NMAC, 11/15/2016]

14.7.7.9 CHAPTER 1 - ADMINISTRATION:

A. Section 101 - General.

(1) 101.1

Title. Delete this section of the IEBC and substitute: this code shall be known as the 2015 New Mexico existing building code.

(2) 101.2

Scope. Delete this section of the IEBC and see 14.7.7.2 NMAC, Scope.

(3) 101.3

Intent. Delete this section of the IEBC and see 14.7.7.6 NMAC, Objective.

(4) 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 2015 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) 101.5

Compliance Methods. See this section of the IIBC.

(6) 101.6

Safeguards During Construction. Delete this section of the IIBC.

(7) 101.7

Appendices. Delete this section of the IIBC and substitute: this rule adopts Appendices A and B of the IIBC as they may be amended herein.

(8) 101.8

Correction of Violations of Other Codes. Delete this section of the IIBC.

B. Section 102 - Applicability.

(1) Section

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

(2) Section

102.2 Other Laws. Delete this section of the IIBC and see 14.5.1 NMAC, General Provisions.

(3) Section

102.3 Application of References. Delete this section of the IIBC and see 14.5.1 NMAC, General Provisions.

(4) Section

102.4 Referenced Codes. Delete this section of the IIBC and substitute the following. All references in the IIBC to the international building code shall be deemed references to 14.7.2 NMAC, the 2015 New Mexico commercial building code (NMCBC). All references to the international residential code shall be deemed references to 14.7.3 NMAC, the 2015 New Mexico residential building code (NMRBC). All references to the international plumbing code shall be deemed references to 14.8.2 2012 NMAC, the 2012 NMPC. All references to the international mechanical code shall be deemed references to 14.9.2, 2012 NMAC, the 2012 NMMC. All references to the

international electrical code shall be deemed references to 14.10.4 NMAC the 2014 NMEC. All references to the international energy conservation code shall be deemed references to 14.7.6 NMAC, the 2009 New Mexico energy conservation code (NMECC). All references to the international fuel gas code are deemed references to the NMMC or the LP gas standards.

(5) Section

102.5 Partial Invalidity. Delete this section of the IIBC and see 14.5.1 NMAC, General Provisions.

C. Section 103 - Department of Building Safety. Delete this section of the IIBC and see 14.5.1 NMAC.

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

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

F. Section 106 - Construction Documents. Delete this section of the IIBC and see 14.5.2 NMAC, Permits.

G. Section 107 - Temporary Structures and Uses. Delete this section of the IIBC and see 14.5.2 NMAC, Permits.

H. Section 108 - Fees. Delete this section of the IIBC and see 14.5.5 NMAC, Fees.

I. Section 109 - Inspections. Delete this section of the IIBC and see 14.5.3 NMAC, Inspections.

J. Section 110 - Certificate of Occupancy. Delete this section of the IIBC and see 14.5.3.13 NMAC, Inspections.

K. Section 111 - Service Utilities. Delete this section of the IIBC and see 14.5.2 NMAC, Permits; 14.5.1, General Provisions and NMSA 1978, section 60-13-42.

L. Section 112 - Board of Appeals. Delete this section of the IIBC and see 14.5.1 NMAC, General Provisions.

M. Section 113 - Violations. Delete this section of the IIBC and see 14.5.1 NMAC, General Provisions.

N. Section 114 - Stop Work Order. Delete this section of the IIBC and see 14.5.3 NMAC, Inspections.

O. Section 115 - Unsafe Buildings and Equipment. Delete this section of the IIBC and see 14.5.1 NMAC, General Provisions.

P. Section 116 - Emergency Measures. Delete this section of the IIBC and see 14.5.1 NMAC, General Provisions.

Q. Section 117 - Demolition. Delete this section of the IIBC and see 14.5.1 NMAC, General Provisions. [14.7.7.9 NMAC - Rp, 14.7.7.9 NMAC, 11/15/2016]

14.7.7.10 CHAPTER 2 - DEFINITIONS: See this chapter of the IIBC except as provided below.

A. Section 201.1 Scope. See this section of the IIBC and add the following: if the same term is defined in the New Mexico construction codes and in the IIBC, 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 IIBC 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 IIBC except as follows.

(1) Add the following definition: CODE OFFICIAL means the CID general construction bureau chief.

(2) Delete the definition for CHANGE OF OCCUPANCY and substitute: means a change in the use of an existing building such that the occupancy classification applicable to the new use is different from the occupancy classification of the former use. [14.7.7.10 NMAC - Rp, 14.7.7.10 NMAC, 11/15/2016]

14.7.7.11 CHAPTER 3 - PROVISIONS FOR ALL COMPLIANCE METHODS: See this chapter of the IIBC.
[14.7.7.11 NMAC - Rp, 14.7.7.11 NMAC, 11/15/2016]

14.7.7.12 CHAPTER 4 - PRESCRIPTIVE COMPLIANCE METHOD: See this chapter of the IIBC except delete the text of Section 302.2 and replace with the following: Energy. Buildings undergoing a change in occupancy that would result in an increase in demand for either fossil fuel or electrical energy shall comply with the international energy conservation code. Mixed-use buildings undergoing a change in occupancy to a portion of the building shall either comply with the international energy conservation code or undergo an energy audit for the portion of the building undergoing the change in occupancy and submit plans for physical improvements based on the audit results for the portion of the building affected by the change in occupancy.
[14.7.7.12 NMAC - Rp, 14.7.7.11, NMAC 11/15/2016]

14.7.7.13 CHAPTER 5 - CLASSIFICATION OF WORK: See this chapter of the IIBC.
[14.7.7.13 NMAC - Rp, 14.7.7.12 NMAC 11/15/2016]

14.7.7.14 CHAPTER 6 - REPAIRS: See this chapter of the IIBC.
[14.7.7.14 NMAC - Rp, 14.7.7.13 NMAC 11/15/2016]

14.7.7.15 CHAPTER 7 ALTERATIONS - LEVEL 1: See this chapter of the IIBC.

A. Section 701. General. See this section of the IIBC.

B. Section 702. Building Elements and Materials. See this section of the IIBC except make the following change to **Section 702.6 Materials and Methods.** Delete the text of this section of the IIBC 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).

C. Sections 703 and 704. See these sections of the IIBC.

D. Section 705. Accessibility. See this section of the IIBC except make the following change to **Section 705 1.5 Dining Areas.** Delete this section of the IIBC and substitute: check-out aisles. Where check-out aisles are altered, at least one of each check-out aisle serving each function shall be made accessible until the number of accessible check-out aisles complies with Subsection I of 14.7.2.19 NMAC, which refers to Section 1109.12.2 of the International Building Code (IBC).
[14.7.7.15 NMAC - Rp, 14.7.7.14 NMAC, 11/15/2016]

14.7.7.16 CHAPTER 8 - ALTERATIONS - LEVEL 2: See this chapter of the IIBC.
[14.7.7.16 NMAC - Rp, 14.7.7.15 NMAC, 11/15/2016]

14.7.7.17 CHAPTER 9 - ALTERATIONS - LEVEL 3: See this chapter of the IIBC.
[14.7.7.17 NMAC - Rp, 14.7.7.16 NMAC, 11/15/2016]

14.7.7.18 CHAPTER 10 - CHANGE OF OCCUPANCY: See this chapter of the IIBC.
[14.7.7.18 NMAC - Rp, 14.7.7.17 NMAC, 11/15/2016]

14.7.7.19 CHAPTER 11 - ADDITIONS: See this chapter of the IIBC.
[14.7.7.19 NMAC - Rp, 14.7.7.18 NMAC, 11/15/2016]

14.7.7.20 CHAPTER 12 - HISTORIC BUILDINGS: See this chapter of the IIBC.
[14.7.7.20 NMAC - Rp, 14.7.7.19 NMAC, 11/15/2016]

14.7.7.21 CHAPTER 13 - RELOCATED OR MOVED BUILDINGS: See this chapter of the IIBC except make the following change in Section 1301.2

Conformance: delete the words "as determined by the International Fire Code and the International Property Maintenance Code."
[14.7.7.21 NMAC - Rp, 14.7.7.20 NMAC, 11/15/2016]

14.7.7.22 CHAPTER 14 - PERFORMANCE COMPLIANCE METHODS: See this chapter of the IIBC except as follows:

A. Section 1401.2 Applicability. See this section of the IIBC except delete the words: "existing prior to (DATE TO BE INSERTED BY THE JURISDICTION). (Note: it is recommended that this date coincide with the effective date of building codes within the jurisdiction)".

B. Section 1401.3.2 Compliance with other codes. Delete the text of this section and substitute: 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).
[14.7.7.22 NMAC - Rp, 14.7.7.21, NMAC, 11/15/2016]

14.7.7.23 CHAPTER 15 - CONSTRUCTION SAFEGUARDS: See this chapter of the IIBC.
[14.7.7.23 NMAC - Rp, 14.7.7.22, NMAC, 11/15/2016]

14.7.7.24 CHAPTER 16 - REFERENCED STANDARDS: See this chapter of the IIBC.
[14.7.7.24 NMAC - Rp, 14.7.7.23, NMAC, 11/15/2016]

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.

**REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 7 BUILDING
CODES GENERAL
PART 8 2015 NEW
MEXICO HISTORIC EARTHEN
BUILDINGS**

14.7.8.1 ISSUING
AGENCY: Construction Industries
Division of the Regulation and
Licensing Department.
[14.7.8.1 NMAC - Rp, 14.7.8.1
NMAC, 11/15/2016]

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 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]

14.7.8.3 STATUTORY
AUTHORITY: Section 60-13-9 and
60-13-44 NMSA 1978.
[14.7.8.3 NMAC - Rp, 14.7.8.3
NMAC, 11/15/2016]

14.7.8.4 DURATION:
Permanent.
[14.7.8.4 NMAC - Rp, 14.7.8.4
NMAC, 11/15/2016]

14.7.8.5 EFFECTIVE
DATE: November 15, 2016, unless
a later date is cited at the end of a
section.

[14.7.8.5 NMAC - Rp, 14.7.8.5
NMAC, 11/15/2016]
[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.]

14.7.8.6 OBJECTIVE: The
purpose of this rule is to establish
minimum standards for historic
earthen buildings in New Mexico.
[14.7.8.6 NMAC - Rp, 14.7.8.6
NMAC, 11/15/2016]

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.

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]

**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.

[14.7.8.8 NMAC - Rp, 14.7.8.8 NMAC, 11/15/2016]

14.7.8.9 ROOF DRAINAGE AND MOISTURE CONTENT OF WALLS:

A. General. Historic earthen buildings undergoing repairs, alterations, or change of occupancy shall comply with this section.

B. Report. The roof drainage and the moisture content of the walls of a historic earthen building undergoing repair, alteration, or change of occupancy shall be investigated and evaluated in a written report that shall be filed with the code official. The report shall identify where the roof drainage system is deficient and what actions are necessary to correct those deficiencies. When deemed necessary by the code official, such report shall be prepared by a registered design professional.

[14.7.8.9 NMAC - Rp, 14.7.8.9 NMAC, 11/15/2016]

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.

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]

14.7.8.11 ALTERATIONS:

General. In addition to the provisions of this chapter, alterations to a historic earthen building shall comply with Sections 1103 and 1104 of the New Mexico Existing Building Code.

[14.7.8.11 NMAC - Rp, 14.7.8.11 NMAC, 11/15/2016]

14.7.8.12 CHANGE OF OCCUPANCY:

General. In addition to the provisions of this chapter, historic earthen buildings undergoing a change of occupancy shall comply with Sections 1101.2, 1103, and 1105 of the New Mexico Existing Building Code.

[14.7.8.12 NMAC - Rp, 14.7.8.12 NMAC, 11/15/2016]

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. 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.

(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.

(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. **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]

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 16.19.29 NMAC, Section 2, 7, 9 and 12, effective 11-27-2016.

16.19.29.2 SCOPE: All persons that dispense controlled substances pursuant to prescriptions from practitioners and practitioners who dispense controlled substances directly to a patient under their care. All persons authorized to receive disclosure of prescription monitoring program prescription information. [16.19.29.2 NMAC - N, 07-15-04; A,

03-22-15; A, 11-27-16]

16.19.29.7 DEFINITIONS:

A. "Board" means the New Mexico board of pharmacy, herein referred to as the board.

B. "Controlled substance" has the meaning given such term in 30-31-2 NMSA.

C. ["Patient" means the ultimate user of a drug for whom a prescription is issued and for whom a drug is dispensed.] "Delegate" means an individual authorized as an agent of a practitioner or pharmacist for the purpose of obtaining data from the PMP for review by the practitioner or pharmacist. The delegate must report directly to said practitioner or pharmacist and the practitioner or pharmacist shall be accountable for the delegate's actions:

(1) a pharmacist's delegate must be a certified pharmacy technician or a registered intern;

(2) a pharmacy technician or pharmacist intern may access information to the extent the information relates specifically to a current patient to whom the pharmacist is dispensing or considering dispensing any controlled substance, or for the purposes of a pharmacist providing pharmaceutical care as defined in law.

D. "Dispenser" means the person who delivers a Schedule II - V controlled substance as defined in Subsection F of this section to the ultimate user, but does not include the following:

(1) a licensed hospital pharmacy that distributes such substances for the purpose of inpatient hospital care;

(2) a practitioner, or other authorized person who administers such a substance; or

(3) a practitioner who dispenses to the patient no more than twelve (12) dosage units or seventy-two (72) hours' worth (whichever is less) of such a substance or;

(4) a wholesale distributor of a Schedule II

- V controlled substance;

(5) clinics, urgent care or emergency departments dispensing to the patient no more than twelve (12) dosage units or seventy-two (72) hours' worth (whichever is less) of such a substance or;

(6) a veterinarians or veterinary clinics dispensing to non-human patients.

E. "Patient" means the ultimate user of a drug for whom a prescription is issued and for whom a drug is dispensed.

[E:] E. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture or any legal or commercial entity.

[F:] G. "PMP director" means the individual authorized by the board to administer the prescription monitoring program (PMP).

[G:] H. "PMP report" means a compilation of data generated from the PMP concerning a patient, a dispenser, a practitioner, or a Schedules II – V controlled substance.

[H:] I. "Practitioner" means a person maintaining licensure pursuant to state law that allows him or her to prescribe controlled substance medications in accordance with that licensure.

[I:] J. "Prescription monitoring program" (PMP) means a program as described in 16.19.29.6 NMAC which includes a centralized system to collect, monitor, and analyze electronically, for Schedules II - V controlled substances, prescribing and dispensing data submitted by dispensers of which the data is to be used to support efforts in education, research, enforcement and abuse prevention.

[J:] K. "Schedule II - V controlled substance" means a substance listed in Schedules II, III, IV, and V as set forth in Sections 30-31-5 through 30-31-10 of the Controlled Substance Act, NMSA 1978 or the federal controlled substances regulation (21 U.S.C. 812).

[K:] L. "State" means the

state of New Mexico.

[16.19.29.7 NMAC - N, 07-15-04; A, 06-11-11; A, 08-31-12; A, 10-24-14; A, 03-22-15; A, 11-27-16]

16.19.29.9 DISCLOSURE OF PRESCRIPTION INFORMATION:

A. Prescription information submitted to the board shall not be subject to Sections 14-2-1 through 14-2-12 of the Inspection of Public Records Act, NMSA 1978, and shall be confidential except as provided in Subsections C through G of 16.19.29.9 NMAC.

B. The board shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons except as provided in Subsection C through G of 16.19.29.9 NMAC.

C. After receiving a complaint, the board inspectors shall review the relevant prescription information. If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, the board shall notify the appropriate law enforcement or professional licensing, certification or regulatory agency or entity, and provide prescription information required for an investigation.

D. The board shall be authorized to provide PMP information to the following persons:

(1) persons authorized to prescribe or dispense controlled substances, for the purpose of providing medical or pharmaceutical care for their patients;

(2) a delegate designated by a practitioner; [~~a practitioner;~~] or pharmacist; who must also maintain an active account, can designate ~~[only one delegate for the purpose of requesting and receiving PMP reports for that practitioner;]~~ one or more (up to four) delegates for the purpose of requesting and receiving PMP reports for the practitioner or pharmacist; the practitioner or pharmacist shall be responsible for notifying the PMP within 10 days of a delegate's authorization ending.

(3) state licensing boards, including the medical board, board of nursing, board of veterinary medicine, board of dental health care, board of examiners in optometry, osteopathic examiners board, acupuncture & oriental medicine board, and podiatry board, as the PMP information relates to their licensees;

(4) professional licensing authorities of other states if their licensees practice in this state or prescriptions provided by their licensees are dispensed in this state;

(5) local, state and federal law enforcement or prosecutorial officials engaged in an ongoing investigation of an individual in the enforcement of the laws governing licit drugs;

(6) the state human services department regarding medicaid program recipients;

(7) a state metropolitan, magistrate and district, or federal court as required by a grand jury subpoena or criminal court order;

(8) state drug court personnel as authorized by the PMP director;

(9) personnel of the board for purposes of administration and enforcement of this rule or of 16.19.20 NMAC;

(10) the prescription monitoring program of another state or group of states with whom the state has established an interoperability agreement;

(11) a living individual who request's his or her own PMP report in accordance with procedures established under Subsection D of Section 61-11-2 of the Pharmacy Act, NMSA 1978 and Subsection H of 16.19.6.23 NMAC, or an agent authorized by the living individual along with a valid HIPAA release form or court issued subpoena, or;

(12) a parent to have access to the prescription records about his or her minor child, as his or her minor child's personal representative when such access is not inconsistent with state or other laws;

(13) licensed healthcare professionals (nurses, pharmacists and practitioners) from Medicare, health insurers, workers compensation program/insurers and pharmacy benefit managers for persons enrolled in or covered by their programs, as part of patient care for those persons.

E. The board shall use de-identified data obtained from the PMP database to identify and report to state and local public health authorities the geographic areas of the state where anomalous prescribing dispensing or use of controlled substances is occurring.

F. The board shall share PMP database data with the department of health for the purpose of tracking inappropriate prescribing and misuse of controlled substances, including drug overdose.

G. The board shall provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual patients and persons who have received prescriptions from dispensers.

H. PMP information gained from other states' prescription monitoring programs shall not be subject to civil subpoena, nor shall such information be disclosed, discoverable, or compelled to be produced in any civil proceeding, nor shall such records be deemed admissible as evidence in any civil proceeding for any reason.

[16.19.29.9 NMAC - N, 07-15-04; A, 06-11-11; A, 08-31-12; A, 03-22-15; A, 11-27-16]

16.19.29.12 REGISTRATION FOR ACCESS TO PRESCRIPTION INFORMATION:

A. Persons authorized for access to PMP information as listed in Paragraphs (1) through (7) (9) and (13) of Subsection D of 16.19.29.9 NMAC must apply for access as described at the PMP website located at <http://nmpmp.org> or as otherwise indicated. Persons granted access must maintain individual accounts and shall not

share access information with other persons.

B. All persons authorized for access to PMP information and applying for such access to the PMP shall successfully complete a web based training program as determined by the PMP director.

C. Persons reporting prescription information to the PMP, but not authorized for access to PMP information must also apply for access as described at the PMP website located at <http://nmpmp.org> or as otherwise indicated.

D. The PMP director shall have the authority to set account access and registration renewal requirements necessary for accounts to be considered active and shall also have authority to cancel inactive accounts.

[16.19.29.12 NMAC - N, 07-15-04; 16.19.29.12 NMAC - N, 06-11-11; A, 08-31-12; A, 03-22-15; A, 11-27-16]

SPACEPORT AUTHORITY, NEW MEXICO

TITLE 18 TRANSPORTATION AND HIGHWAYS CHAPTER 61 SPACEPORTS PART 2 NON-AEROSPACE CUSTOMER, PARTNER AND MERCHANDISE SELECTION

18.61.2.1 ISSUING

AGENCY: New Mexico Spaceport Authority.

[18.61.2.1 NMAC - N, 11/15/2016]

18.61.2.2 SCOPE: This rule applies to potential non-aerospace customers, partners or merchandise providers and to the assessment and selection of non-aerospace customers, partners or merchandise by the New Mexico Spaceport Authority.

[18.61.2.2 NMAC - N, 11/15/2016]

18.61.2.3 STATUTORY

AUTHORITY: This rule is adopted pursuant to Subsection (B)(3) of Section 58-31-5 NMSA 1978, which authorizes the New Mexico Spaceport

Authority to adopt rules governing the manner in which its business is transacted and the manner in which the powers of the authority are exercised and its duties performed. [18.61.2.3 NMAC - N, 11/15/2016]

18.61.2.4 DURATION:

Permanent.

[18.61.2.4 NMAC - N, 11/15/2016]

18.61.2.5 EFFECTIVE

DATE: November 15, 2016, unless a later date is cited at the end of a section.

[18.61.2.5 NMAC - N, 11/15/2016]

18.61.2.6 OBJECTIVE:

The objective of this rule is to establish a procedure and criteria for assessing and selecting non-aerospace customers, partners and merchandise that are consistent with the spaceport America's business plan for attracting new non-aerospace customers and developing branding and co-branding partners while promoting educational involvement for the citizens of New Mexico and the general public. While spaceport America's primary business is aerospace with a focus on space, the spaceport America business plan also provides for growing non-aerospace business to augment revenue from the emerging commercial space industry in order to become self-sustaining and contribute to economic development in the state. In order to grow non-aerospace business, particular attention must be given to selecting customers, branding and co-branding partners and merchandise that are compatible with the SPACEPORT AMERICA® brand which emphasizes innovation, inspiration and the positive future of commercial space travel. By establishing the procedures and criteria contained in this rule, the New Mexico spaceport authority seeks to define and describe its approach for determining if potential non-aerospace customers, partners or merchandise advance an appropriate brand and business strategy to grow brand equity value, preserve the integrity of the SPACEPORT AMERICA® brand and attract appropriate business

opportunities to the state. As the SPACEPORT AMERICA® brand value/equity increases, it will be able to attract additional high value brands to engage with spaceport America and New Mexico across a number of diverse business segments, which translates into millions of dollars' worth of positive earned media value and brand equity for the state and its citizens. Not only does such a strategy result in immediate revenue, it also provides positive free advertising in markets that will attract more customers.

[18.61.2.6 NMAC - N, 11/15/2016]

18.61.2.7 DEFINITIONS:

As used in this rule, the following terms shall have the meanings set forth below:

A. "brand" means design, symbols, words or products that create an emotional bond with stakeholders (customers, employees, partners, competitors, press, constituents and third party opinion leaders) through a strategy that differentiates it from others in a similar product sector.

B. "brand value" or "brand equity" means the net present value of the estimated future cash flows attributable to the brand and is created through strategic investments in marketing communication and appreciates through economic growth in profit margins, market share, prestige value and critical associations (co-branding).

C. "business development agent" means the person responsible for responding to and seeking out revenue generating business opportunities in alignment with spaceport America business plan and brand commercialization strategy and reports to the director of business development.

D. "earned media value" means press, social and other media reporting related to a company or brand that is not directly generated by the company or its agents, but rather by other entities such as customers or journalists. The value is based on what it would cost to achieve the same results through

paid advertising. Earned media value contributes significantly to brand value or brand equity.

E. "Spaceport America chief executive officer ("CEO") or "NMSA executive director" means the person responsible for leading, directing and achieving the spaceport America vision, mission and business plan objectives, including protecting and managing the SPACEPORT AMERICA® brand; leading, directing and operating spaceport America and hiring spaceport America staff.

F. "New Mexico board of directors" means the seven individuals appointed by the governor under the authority of the Spaceport Development Act to strategically oversee spaceport America operations and selects the executive director.

G. "Spaceport America director of business development" means the person responsible for successfully commercializing the SPACEPORT AMERICA® brand in order to meet business development revenue targets and reports to the CEO.

H. "Spaceport America directors" means the five key staff positions at spaceport America reporting to the executive director which include the chief financial officer; general counsel; director of site operations; director of aerospace operations and director of business development.

[18.61.2.7 NMAC - N, 11/15/2016]

18.61.2.8 SPACEPORT AMERICA VISION, MISSION AND GOALS: The vision, mission and strategic goals of spaceport America shall be:

A. Vision: Spaceport America is your gateway to the new space age.

B. Mission: To preeminently serve space launch customers, and inspire and delight spaceport America visitors.

C. Strategic goals: Deliver effective and efficient service to all customers; drive local job creation and inject the economy with great demand for goods, services and

skilled workforce; inspire spaceport America guests, particularly the next generation; and become self-sustaining.

[18.61.2.8 NMAC - N, 11/15/2016]

18.61.2.9 SPACEPORT AMERICA® BRAND: Spaceport America is a unique launch facility for nurturing commercial aerospace innovation and achievement, and for inspiring the next generation.

[18.61.2.9 NMAC - N, 11/15/2016]

18.61.2.10 BRAND CATEGORIES AND SELECTION GUIDELINES:

A. Every new customer, sponsor, strategic partner, commercial shoot, motion picture, event, branded merchandise item, or product launch at spaceport America that is compatible with the SPACEPORT AMERICA® brand is a form of co-branding. Thus, to be compatible, the critical factors are that the partner or customer brand possesses all of the following characteristics to the extent or degree deemed appropriate by the NMSA executive director, subject to the selection process as provided in 18.61.2.11 NMAC:

- (1) have a sound business reputation;
- (2) represent values that are harmonious and not in conflict with the SPACEPORT AMERICA® brand and its vision, mission and goals; and
- (3) have visionary, futuristic, innovative purposes and goals which may include, but are not necessarily limited to, contributing to breakthroughs in science and technology and supportive of science, technology, engineering and mathematics (STEM) education purposes.

B. Each customer, sponsor, partner brand or co-branding wishing to conduct photo shoots, commercial videography at spaceport America or engage in other types of sponsorships shall be subject to the following requirements so as to avoid brand value dilution:

(1) have a minimum of twenty percent global or U.S. earned media value of the current earned media value of the SPACEPORT AMERICA® brand and otherwise be deemed compatible with the SPACEPORT AMERICA® brand pursuant to Subsection A of 18.61.2.10 NMAC; or

(2) further the development of the SPACEPORT AMERICA® brand even though the customer, partner brand or sponsor may not have achieved twenty percent global or U.S. earned media value of the current earned media value of the SPACEPORT AMERICA® brand and is innovative, forward leaning, respected and is otherwise deemed compatible with the SPACEPORT AMERICA® brand pursuant to Subsection A of 18.61.2.10 NMAC.

C. Motion pictures to be filmed at spaceport America shall require script approval by the New Mexico board of directors, a briefing from the film's director and a clear review of the network or film studio funding the production and commercial distribution. Spaceport America images that are recognizable in the motion picture shall be presented in a manner that contributes positively to spaceport America's core brand values.

D. Musicians and other artists seeking to perform at spaceport America should submit demo audiotapes or a portfolio so that brand reputation and compatibility can be reviewed in a meaningful way. The music or other art form presented at spaceport America or the presentation of an art form which contains recognizable images of spaceport America shall be presented in a manner that contributes positively to the spaceport America's core brand values.

E. All agreements or licenses authorizing any person or business entity to use spaceport America as an event venue shall require that the services and facilities provided at the event will at all times be:

(1) of the highest quality and standards;

(2) consistent with a family friendly environment, the educational mission of spaceport America and otherwise convey a positive image of spaceport America and the government of New Mexico;

(3) in conformity with the overall theme, concept, atmosphere and quality associated with the SPACEPORT AMERICA® brand.

F. All SPACEPORT AMERICA® branded merchandise shall be consistent with the family friendly image of spaceport America and the SPACEPORT AMERICA® brand and the educational mission of spaceport America, convey a positive image of spaceport America and the government of New Mexico and be produced in conformity with the overall theme, concept, atmosphere and quality associated with the SPACEPORT AMERICA® brand.

G. An unacceptable customer, partner brand, co-brander, sponsor or other person or entity wishing to use spaceport America facilities in a manner contemplated under this subsection would be one that is furthering the development of its own brand without enhancing the SPACEPORT AMERICA® brand, is incompatible with the SPACEPORT AMERICA® brand or possibly present a detriment to the SPACEPORT AMERICA® brand. For avoidance of doubt, photo shoots and videography strictly for private use and not for any commercial use are not subject to the requirements and guidelines of this Part.

[18.61.2.10 NMAC - N, 11/15/2016]

18.61.2.11 SELECTION PROCESS: The spaceport America director of business development reviews new written requests to use spaceport America facilities in any manner contemplated by this Part and applies the applicable selection guidelines set forth in 18.61.2.10 NMAC. The spaceport America director of business development shall then brief the spaceport America directors on each request and make a recommendation as to each request presented. The NMSA executive

director shall review all requests and approve or deny each request. If the NMSA executive director denies a request, the spaceport America director of business development shall notify the requester in writing of the denial and the rationale for the denial. If within 10 business days after the requester gives written notice to the spaceport America director of business development of its desire to appeal the denial, the request will be placed on the agenda for the next NMSA board of directors meeting for consideration and the requester shall have the burden of establishing that the denial was inconsistent with the selection guidelines. The decision of the NMSA board of directors shall be final and may not be appealed, except as otherwise permitted by law. [18.61.2.11 NMAC - N, 11/15/2016]

HISTORY OF 18.61.2 NMAC:
[RESERVED]

TAXATION AND REVENUE DEPARTMENT

This is an amendment to 18.19.5 NMAC, Sections 6, 9, 12, with new sections 14 through 17 added, effective 11/15/2016.

18.19.5.6 OBJECTIVE: The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Motor Vehicle Code, including compliance with regulations for the REAL ID Act of 2005, Title 6 C.F.R. Chapter 1, Section 37. [3/15/96; 18.19.5.6 NMAC - Rn, 18 NMAC 19.5.6, 9/14/00; A, 11/15/2016]

18.19.5.9 PRORATING OF DRIVER'S LICENSE FEES:

A. The fees imposed for the issuance of a driver's license or commercial driver's license may be prorated if the licensure period is shortened pursuant to Section 66-5-19 NMSA 1978. Fees shall be prorated on an annual basis. In no case shall the fee be less than the prorated fee for one full year.

B. A person whose

license or identification card expires on or after July 1, 2020 may apply for a license or identification card acceptable for federal purposes upon submission of all required documents. The person shall receive a new license or identification card that contains the same expiration date as the one previously issued. The person shall receive credit for the period remaining on the license or identification card toward the cost of the new license or identification card.

[18.19.5.9 NMAC - N, 10/31/05; A, 11/15/2016]

18.19.5.12 [PROOF OF IDENTIFICATION NUMBER, IDENTITY AND RESIDENCY:

A. Applicants for a New Mexico identification card, driving permit, provisional driver's license or driver's license, other than a commercial driver's license, must provide documentary proof of their identification number, identity and residency:

B. A person applying for a driver's license or identification card that was lost can use a New Mexico enhanced driver's license photo from the motor vehicle division (MVD) database as proof of identity and identification number, subject to MVD's ability to verify the applicant's social security number or other identification number used to obtain the driver's license or identification card, as sufficient proof to issue a replacement driver's license or identification card.

C. Any applicant eligible for a social security number must produce their social security card in order to provide evidence of the identification number. An applicant who cannot provide the social security card must provide two of the following documents:

(1) a United States, state, or local government-issued medical card through which the social security number can be verified;

(2) a statement from a federally regulated financial institution through which the social security number can be verified; or

(3) any document in Subsection F of this section, as long as the document can be used to verify the social security number and is not used for proof of both identification number and identity.

D. In order to prove identification number, a foreign national who is unable to obtain a social security number must produce documentary proof of a matricula consular card issued after February 1, 2005, by the Mexican consulate in Albuquerque or El Paso or a valid passport issued by their country of citizenship. A foreign national may produce an individual tax identification number (ITIN) so long as it is accompanied by a matricula consular card or a valid passport. The applicant's ITIN card or the applicant's letter from the IRS issuing the ITIN is sufficient proof of the ITIN.

E. Applicants must produce one of the following documents as proof of identity:

(1) original birth certificate issued by a state or territory of the United States;

(2) certified copy of birth certificate issued by a state or territory of the United States;

(3) an original or certified copy of a foreign birth certificate with a notarized English translation;

(4) original official copy of an FS545 or FS1350 form certifying birth abroad and translated into English;

(5) affidavit of Indian birth;

(6) N560 certificate of citizenship;

(7) N550 certificate of naturalization;

(8) a valid permanent resident card issued by the United States government;

(9) a valid I-551 resident alien card issued since 1997;

(10) a court order for name change, gender change, adoption or divorce, as long as it includes the legal name, date of

birth and court seal;

(11) a marriage certificate issued by a state or a territory of the United States; or

(12) any document contained in Subsection F of this section, as long as the document is not used for proof of both identification number and identity.

F. Applicants can use the following documents to provide documentary proof of their identification number or documentary proof of their identity but the document cannot be used for proof of both their identification number and identity:

(1) a state issued driver's license, a driver's license issued by a territory of the United States, or by jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;

(2) a state government-issued photo identification card, or a photo identification card issued by a territory of the United States, or by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year; however, the MVD photo identification document card issued by MVD pursuant to Subsection J of this section may not be used to satisfy this proof of identification number requirement;

(3) a state government-issued photo learner's permit, or a photo learner's permit issued by a territory of the United States, or by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;

(4) a matricula consular card issued after February 1, 2005, by the Mexican consulate in Albuquerque or El Paso;

(5) a valid passport issued by country of citizenship;

(6) an American Indian or Alaskan proof of Indian blood, certificate of degree of Indian blood, federal Indian census card or tribal membership card;

(7) a photo

identification card issued by the United States military, United States coast guard or New Mexico national guard;

_____ (8) _____ an identification document issued by the United States veterans administration, so long as it is accompanied by a United States veterans administration medical center ID card;

_____ (9) _____ a valid United States active duty/retiree/reservist military identification card (DOD ID DD-2); or

_____ (10) _____ a United States, state, or local government-issued photo ID, issued based on name, social security number and date of birth.

_____ **G.** _____ Applicants eighteen years of age or older must provide two of the following documents, showing a New Mexico address for the applicant, as proof that the applicant lives in New Mexico:

_____ (1) _____ a real property rental agreement or purchase agreement;

_____ (2) _____ a utility bill, such as water, gas, electric, waste, telephone, cable or satellite bill, but not a bill for a cell phone;

_____ (3) _____ an insurance bill;

_____ (4) _____ a bank statement;

_____ (5) _____ an employment pay stub that contains the applicant's name and address;

_____ (6) _____ a local property tax statement or mortgage documents;

_____ (7) _____ proof of a minor child enrolled in a New Mexico public, private, or tribal school;

_____ (8) _____ a current, valid motor vehicle registration;

_____ (9) _____ original documents from a New Mexico community organization attesting to the fact that the applicant is a New Mexico resident;

_____ (10) _____ original documents from a city, county, state, tribal or federal government organization attesting to the fact that the applicant is a New Mexico resident;

_____ (11) _____ a New Mexico medical assistance card; or

_____ (12) _____ a New Mexico public assistance card.

_____ **H.** _____ Applicants less than eighteen years of age applying for an identification card must provide one of the following documents, showing a New Mexico address for the applicant, as proof that the applicant lives in New Mexico:

_____ (1) _____ proof that the child is enrolled in a New Mexico public, private, or tribal school;

_____ (2) _____ a bank statement;

_____ (3) _____ an affidavit from the applicant's parent or guardian stating that the applicant lives with that person, as long as the affidavit is accompanied by the parent/guardian's New Mexico driver's license, the parent/guardian's New Mexico identification card, or two proofs of New Mexico residency of the parent/guardian;

_____ (4) _____ original documents from a New Mexico community organization attesting to the fact that the applicant is a New Mexico resident;

_____ (5) _____ original documents from a city, county, state, tribal or federal government organization attesting to the fact that the applicant is a New Mexico resident;

_____ (6) _____ documents from membership in a New Mexico religious organization; or

_____ (7) _____ documents from membership in a New Mexico sports organization.

_____ **I.** _____ MVD may require foreign nationals or first-time applicants from another state, to provide a certified copy of their driving record with an English-language translation, if applicable, from the jurisdiction where the applicant is currently or was previously licensed.

_____ **J.** _____ Applicants who are unable to meet the requirements for a New Mexico identification card, driving permit, provisional driver's license, or driver's license, may apply for an MVD photo identification

document card. The MVD photo identification document card issued by MVD does not necessarily meet federal identification requirements. This card will be clearly identified on the card as a restricted card that cannot be used for certain purposes. The identification document cannot be used to apply for a New Mexico identification card, driving permit, provisional driver's license or driver's license. An applicant for the MVD photo identification document card must provide two documentary proofs of their identity and one documentary proof of residency.

_____ (1) _____ Applicants must produce two forms of documentation with their name and date of birth or with their name and social security number. Two documents with name and date of birth or two documents with name and social security number are acceptable. Any two of the following documents containing the name and date of birth or name and social security number are acceptable to prove identity:

_____ (a) _____ a state issued driver's license, a driver's license issued by a territory of the United States, or a license issued by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;

_____ (b) _____ a state issued identification card, an identification card issued by a territory of the United States, or an identification card issued by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;

_____ (c) _____ a state issued photo learner's permit, a photo learner's permit issued by a territory of the United States, or a photo learner's permit issued by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;

_____ (d) _____ an original or certified copy of the birth certificate issued by a United States state or territory of the United States;

_____ (e) _____ an affidavit of Indian birth;

_____ (f) _____ a

current passport issued by the United States;

(g) — a valid passport issued by country of citizenship;

(h) — an I-94 form presented without a passport if it contains the applicant's photo;

(i) — American Indian or Alaskan proof of Indian blood, certificate of degree of Indian blood, federal Indian census card or tribal membership card or physical address certification letter from the pueblo's governor's office or planning department;

(j) — N550 United States certificate of naturalization;

(k) — a certificate of citizenship (N560);

(l) — a resident alien card (I-551, AR-3, AR3A, AR-103) that contains the applicant's photo;

(m) — FS545 or FS1350 United States certificate of birth abroad;

(n) — a military identification card that includes the applicant's photo;

(o) — a United States veterans administration card that includes the applicant's photo, so long as it is accompanied by a United States veterans administration medical center identification card;

(p) — a medical card that includes the applicant's photo;

(q) — a military dependent identification card that includes the applicant's photo;

(r) — a government-issued photo identification card;

(s) — a matricula consular card issued after February 1, 2005, by the Mexican consulate in Albuquerque or El Paso;

(t) — a New Mexico corrections department photo identification card with name, date of birth and documentation that the card has not expired within the past year;

(u) — an infant baptismal certificate;

(v) — a social security card;

(w) — a bank card, debit card, or credit card that contains the applicant's photo;

(x) — a high school, GED, college, trade school, or university transcript, certificate, or diploma;

(y) — an employee identification badge that contains the applicant's photo;

(z) — a medical insurance card or documentation of medical insurance coverage or eligibility that contains an identification number;

(aa) — military discharge/separation papers (DD-214);

(bb) — selective service card;

(cc) — proof of eligibility for and receipt of welfare benefits;

(dd) — medical records;

(ee) — documentation from a federal, state, or local correctional facility; or

(ff) — a social security administration benefits award letter containing the social security number.

(2) — Applicants must provide one or more of the following documents, showing a New Mexico address for the applicant, as proof that the applicant lives in New Mexico:

(a) — a real property rental agreement or purchase agreement;

(b) — a utility bill, such as a gas, electric, waste, water, cable, satellite bill, or telephone bill but not a bill for a cell phone;

(c) — an insurance bill, such as automobile, home or health;

(d) — a federally regulated financial institution document, such as a bank statement, excluding checks;

(e) — an

employment pay stub with name and address;

(f) — a local property tax statement with name and address;

(g) — proof of a minor child enrolled in a New Mexico public, private, or tribal school;

(h) — a current, valid motor vehicle registration;

(i) — original documents from a New Mexico community organization attesting to the fact that the applicant is a New Mexico resident;

(j) — original documents from a city, county, state, tribal, or federal government or social service organization attesting to the fact that the applicant is a New Mexico resident;

(k) — a matricula consular card issued after February 1, 2005, by the Mexican consulate in Albuquerque or El Paso;

(l) — documentation of eligibility and proof that the applicant is currently receiving services from a 501(c)(3) organization, as defined by the Internal Revenue Code; or

(m) — other documents as approved by the MVD director.] **PROOF OF IDENTIFICATION NUMBER, IDENTITY, AND AGE FOR UNITED STATES CITIZEN, UNITED STATES NATIONAL OR PERMANENT RESIDENT ALIEN:**

A. A United States citizen, United States national or permanent resident alien applying for a REAL ID Act of 2005 compliant New Mexico identification card, driving permit, provisional driver's license, or driver's license, other than a commercial driver's license, must provide documentary proof of their identification number, identity, age, lawful status and New Mexico residency.

B. To establish identity and age, and lawful status, the applicant must present at least one of

the following documents:

- (1) a valid, unexpired United States passport;
- (2) a valid, unexpired United States passport card;
- (3) a valid foreign passport with I-551 stamp;
- (4) a certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's place of birth;
- (5) a consular report of birth abroad issued by the U.S. department of state, form FS-240, DS-1350 or FS-545;
- (6) a valid, unexpired permanent resident card (form I-551) issued by the U.S. department of homeland security (DHS) or immigration and naturalization service;
- (7) a certificate of naturalization issued by DHS, form N-550 or form N-570;
- (8) a certificate of citizenship, form N-560 or form N-561, issued by DHS;
- (9) other documents as DHS may designate by notice published in the federal register; or
- (10) other documents as allowed by an approved DHS exception process.

C. Along with the identity document listed above, an applicant must also present his or her social security administration (SSA) account number card. If a SSA account card is not available, the person shall present one the following documents, provided that the document bears the applicant's social security number:

- (1) a W-2 form;
- (2) a SSA-1099 form;
- (3) a non-SSA-1099 form; or
- (4) a pay stub with the applicant's name and social security number on it.

[18.19.5.12 NMAC - N, 6/29/01; A, 6/14/02; A, 6/30/03; A, 10/1/07; A, 7/31/09; A, 11/15/2016]

18.19.5.14 PROOF OF IDENTIFICATION NUMBER, IDENTITY, AGE, AND LAWFUL STATUS FOR LAWFUL UNITED STATES RESIDENTS:

A. A person who is legally in the United States but not a United States citizen, United States national or permanent resident alien may apply for a REAL ID Act of 2005 compliant New Mexico identification card, driving permit, provisional driver's license, or driver's license, other than a commercial driver's license, and must provide documentary proof of their identification number, identity, age, lawful status and New Mexico residency.

B. To establish identity and age, the applicant must present one of the following documents:

- (1) an unexpired employment authorization document issued by U.S. department of homeland security (DHS), form I-766 or form I-688B, verified by the systematic alien verification for entitlements system (SAVE);
- (2) an unexpired foreign passport with a valid, unexpired U.S. visa affixed accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States, verified by SAVE. This document can be used to satisfy both the identity and age requirement, and identification number requirement for a Real ID compliant credential.
- (3) REAL ID Act of 2005 driver's license or identification card issued in compliance with the standards established by this part.

C. If the identity document submitted is from one listed in Paragraph (3) of Subsection B of 18.19.5.14 NMAC, then to establish legal or lawful presence in the United States, the applicant must present one of the following documents issued by the U.S. federal government verified through SAVE:

- (1) an unexpired immigrant or nonimmigrant visa status for admission into the United States;

(2) a pending or approved application for asylum in the United States;

(3) admission into the United States as a refugee;

(4) a pending or approved application for temporary protected status in the United States;

(5) approved deferred action status;

(6) a pending application for adjustment of status to legal permanent resident or conditional resident;

(7) conditional permanent resident alien status; or

(8) other documents as DHS may designate by notice published in the federal register.

D. An applicant must also present documentary evidence of their identification number from one of the following documents:

(1) if, eligible for social security number, his or her social security administration (SSA) account number card. If a social security administration account card is not available, the person shall present one the following documents, provided that the document bears the applicant's social security number:

- (a) a W-2 form;
- (b) a SSA-1099 form;
- (c) a non-SSA-1099 form;
- (d)

a pay stub with the applicant's name and social security number on it; or

(2) an unexpired foreign passport with a valid, unexpired U.S. visa affixed accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States, verified by SAVE. This document can be used to satisfy both the identity and age requirement, and identification number requirement for a Real ID compliant credential.

[18.19.5.14 NMAC - N, 11/15/2016]

18.19.5.15 PROOF OF IDENTIFICATION NUMBER, IDENTITY, AND AGE FOR A DRIVING AUTHORIZATION CARD OR IDENTIFICATION CARD THAT IS NOT ACCEPTABLE FOR FEDERAL PURPOSES:

A. Applicants for a New Mexico driving authorization card or identification card that is not acceptable for federal purposes must provide documentary proof of their identification number, identity, age and residency.

B. An applicant who cannot establish lawful status and who does not hold a current, valid New Mexico driver's license or identification card must also submit fingerprints for a background check, as provided in 19.18.5.17 NMAC.

C. An applicant who chooses to provide a social security number must present his or her social security administration (SSA) account number card. If a SSA account card is not available, the person shall present one the following documents, provided that the document bears the applicant's social security number:

(1) a W-2 form;

(2) a SSA-1099 form;

(3) a non-SSA-1099 form; or

(4) a pay stub with the applicant's name and social security number on it.

D. Applicants can use the following documents to provide documentary proof of their identification number or documentary proof of their identity, but one document cannot be used for proof of both their identification number and identity:

(1) a passport or passport card from the applicant's country of citizenship if verified through systematic alien verification for entitlements system (SAVE);

(2) a certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's place of birth;

(3) a consular report of birth abroad issued by the U.S. department of state, form FS-240, DS-1350 or FS-545;

(4) an unexpired employment authorization document issued by the U.S. department of homeland security, form I-766 or form I-688B, verified by SAVE;

(5) an identification card issued by the consulate of Mexico in El Paso, Texas, or Albuquerque, New Mexico, or such other foreign consulate with which the New Mexico motor vehicle division has established a reliable method of verifying the authenticity of the identification card;

(6) an individual tax identification number;

(7) a certified letter of enrollment issued by a federally recognized Indian nation, tribe or pueblo;

(8) a valid identification card issued by a federally recognized Indian nation, tribe or pueblo;

(9) certified copy of foreign birth certificate issued by the applicant's place of birth, provided that if the document is not in English, a certified copy of the foreign birth with a notarized English translation;

(10) affidavit of Indian birth;

(11) a state issued driver's license, a driver's license issued by a territory of the United States, or by jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;

(12) a state government-issued photo identification card, or a photo identification card issued by a territory of the United States, or by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;

(13) a state government-issued photo learner's permit, or a photo learner's permit issued by a territory of the United States, or by a jurisdiction of Canada,

as long as it has a photograph and has not been expired more than one year;

(14) an American Indian or Alaskan proof of Indian blood, certificate of degree of Indian blood, federal Indian census card or tribal membership card;

(15) a photo identification card issued by the United States military, United States coast guard or New Mexico national guard;

(16) an identification document issued by the United States veterans administration, so long as it is accompanied by a United States veterans administration medical center identification card;

(17) a valid United States active duty/retiree/reservist military identification card (DOD ID DD-2);

(18) a United States, state, or local government-issued photo ID, issued based on name, social security number and date of birth;

(19) N560 certificate of citizenship if verified in SAVE;

(20) N550 certificate of naturalization if verified in SAVE;

(21) a valid permanent resident card issued by the United States government if verified in SAVE;

(22) a valid I-551 resident alien card issued since 1997 if verified in SAVE; or

(23) a valid New Mexico license or identification card;

(24) a court order for name change, gender change, adoption or divorce, as long as it includes the legal name, date of birth and court seal;

(25) a New Mexico correction department photo identification card, or a photo identification card issued by the federal bureau of prisons, that includes the name, date of birth and documentation that the card has not expired within the past year;

(26) a social security card;

(27) a medical insurance card or documentation of medical insurance coverage of eligibility that contains an identification number;

(28) military discharge/separation papers (DD 214);

(29) selective service card.
[18.19.5.15 NMAC - N, 11/15/2016]

18.19.5.16 PROOF OF NEW MEXICO RESIDENCY:

A. All applicants for a REAL ID Act of 2005 compliant New Mexico identification card, driving permit, provisional driver's license, or driver's license, other than a commercial driver's license, and all applicants for a driving authorization card or identification card not acceptable for federal purposes must provide documentary evidence demonstrating New Mexico residency.

B. Applicants must provide two of the following documents, showing the applicant's name and a New Mexico residential address for the applicant, as proof that the applicant lives in New Mexico.

(1) a current real property rental agreement or purchase agreement;

(2) a utility bill dated within 60 days, such as water, gas, electric, waste, telephone, cable or satellite bill, but not a bill for a cell phone;

(3) an insurance bill, card or binder, dated within the past 6 months;

(4) a bank or credit card statement dated within 60 days;

(5) an employment pay stub that contains the applicant's name and address, dated within 60 days;

(6) a current, local property tax statement or mortgage documents;

(7) a document from an education institution, such as a transcript, report card or enrollment confirmation, provided it is dated within 60 days;

(8) original documents from a city, county, state, tribal or federal government organization attesting to the fact that the applicant is a New Mexico resident;

(9) a New Mexico medical assistance card with address on card, letter from issuing agency that came with card showing name and address, or profile printout from issuing agency;

(10) a New Mexico public assistance card with address on card, letter from issuing agency that came with card showing name and address, or profile printout from issuing agency;

(11) documents indicating membership in a New Mexico religious organization, provided that the applicant is less than 18 years of age; or

(12) documents indicating membership in a New Mexico sports organization, provided that the applicant is less than 18 years of age;

(13) if the applicant is less than 18 years of age, an affidavit from the applicant's parent or guardian stating that the applicant lives with that person, as long as the affidavit is accompanied by the parent/guardian's New Mexico driver's license, the parent/guardian's New Mexico identification card, or two proofs of New Mexico residency of the parent/guardian.

C. Applicants for an identification card not acceptable for federal purposes who are homeless or in temporary lodging and unable to provide two of the documents identified in Subsection B of 18.19.5.16 NMAC may provide an affidavit in the manner required by the department from a representative of a New Mexico governmental entity, not-for-profit organization, assisted care facility/home, adult assisted living facility/home, homeless shelter, transitional service provider, or group/half way house attesting to the address where the applicant resides or receives services in lieu of the documents required in Subsection B of 18.19.5.16 NMAC.

[18.19.5.16 NMAC - N, 11/15/2016]

18.19.5.17 FINGERPRINTS AND CRIMINAL HISTORY SCREENING:

A. Authority; use of criminal history information: The taxation and revenue department (TRD) is authorized to obtain the criminal history records of applicants for driving authorization cards and TRD is authorized to obtain criminal history records of applicants for identification cards that are not acceptable for federal agencies for federal purposes, provided that the applicant does not possess a valid New Mexico license or identification card and that the applicant does not provide proof of lawful status.

B. Procedure for applicants:

(1) If an applicant otherwise meets the application and eligibility requirements, then TRD shall take a full-face or front-view photograph and fingerprints of the applicant and shall submit the same to the New Mexico department of public safety (DPS) for the purpose of obtaining a current criminal history screening through the national crime information center as well as a criminal history screening through the records of DPS.

(2) An applicant shall provide to TRD a criminal background screening request, fingerprints, and supporting documentation including an authorization for release of information to TRD in accordance with the procedures of DPS.

(3) DPS will review state records and also transmit the fingerprints to the federal bureau of investigation for a national screening. The results of the screening will be transmitted to TRD for review.

(4) Applicants and licensees shall bear any costs associated with ordering or conducting criminal history screening. Fees are determined by and payable to TRD. TRD shall timely submit the fees to DPS. Fees cannot be waived by TRD.

(5) TRD

shall comply with applicable confidentiality requirements of the DPS and the federal bureau of investigation regarding the handling and dissemination of criminal history information.

C. TRD review of criminal history information:

(1) TRD shall

review the results and shall not issue a driving authorization card if the results show that the applicant has an outstanding criminal arrest warrant for a felony or a misdemeanor charge in any state or country or if the results show that the applicant's fingerprints are associated with any name, date of birth or social security number other than those provided when the person applied for the driving authorization card.

(2) TRD shall

notify the person if the application is denied, including the reason for the denial, and the person's right to a hearing.

(3) TRD shall

destroy the results of the screening after it has completed its review and issued the driving authorization card, or one year from the date of the denial, whichever occurs sooner.

D. Evidence of eligibility: A person whose application for a driving authorization has been denied shall become eligible upon submitting evidence that the basis for ineligibility was resolved. Such evidence may include:

(1) documents

that demonstrate that the criminal arrest warrant was quashed, withdrawn, or resolved;

(2) documents

that demonstrate that there is not a conflict with the name, date of birth or social security number; or

(3) other

documents as approved by the director of the motor vehicle division.
[18.19.5.17 NMAC - N, 11/15/2016]

~~[18.19.5.14 through 18.19.5.29]~~

~~18.19.5.18 through 18.19.5.29~~

~~[RESERVED]~~

End Of Adopted Rules

Other Material Related To Administrative Law

HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

NOTICE OF PUBLIC COMMENT

The United States Department of Health and Human Services requires the New Mexico Human Services Department meet certain Temporary Assistance for Needy Families (TANF) work participation requirements. To assist in meeting these requirements, federal regulations (45 CFR 261.40) allow New Mexico to decrease its work participation rate percentage by the number of percentage points that the FY 2016 caseload fell in comparison to the FY 2005 caseload. This is termed the TANF Caseload Reduction Credit. Total Federal and Maintenance of Effort (MOE) expenditures are subject to change due to fluctuations during year end budget close out and increases in MOE funding.

The estimated changes and corresponding methodologies are reported in the proposed TANF Caseload Reduction Credit Report which is available on the Human Services Department website at: <http://www.hsd.state.nm.us/LookingForInformation/income-support-division-plans-and-reports.aspx>. If you do not have Internet access, a copy of the proposed report may be requested by contacting the Income Support Division's Work and Family Support Bureau (WFSB) at (505) 827-7227. If you are a person with a disability and you require this information in an alternative format, please contact the American Disabilities Act Coordinator, at (505) 827-6201 or through the New Mexico Relay system, at 711 or toll free at 1-800-659-1779. The Department requests at least a 10-day advance notice to provide requested alternative formats.

The comment period will begin at 8:00 a.m. on November 15, 2016

and end at 5:00 p.m. on December 15, 2016. Individuals wishing to comment on the TANF Caseload Reduction Credit Report should contact the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, New Mexico, 87505-2348, or by calling (505) 827-7227.

Interested persons may address written or recorded comments to:

Human Services Department
P.O. Box 2348 Pollon Plaza
Santa Fe, NM 87504-2348

Interested persons may also address comments via electronic mail to:
HSD-isdrules@state.nm.us.

End Of Other Material Related To Administrative Law

2016 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXVII, Issues 1-24

Volume XXVII	Submittal Deadline	Publication Date
Issue 1	January 4	January 15
Issue 2	January 19	January 29
Issue 3	February 1	February 12
Issue 4	February 15	February 29
Issue 5	March 1	March 15
Issue 6	March 16	March 31
Issue 7	April 1	April 15
Issue 8	April 18	April 30
Issue 9	May 2	May 13
Issue 10	May 16	May 31
Issue 11	June 1	June 15
Issue 12	June 16	June 30
Issue 13	July 1	July 15
Issue 14	July 18	July 29
Issue 15	August 1	August 15
Issue 16	August 16	August 31
Issue 17	September 1	September 15
Issue 18	September 16	September 30
Issue 19	October 3	October 14
Issue 20	October 17	October 31
Issue 21	November 1	November 15
Issue 22	November 16	November 30
Issue 24	December 16	December 30

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.nmcpr.state.nm.us/nmregister>.
For further information, call 505-476-7942

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Issue 9	April 27	May 16
Issue 10	May 18	May 30
Issue 11	June 1	June 13
Issue 12	June 15	June 27
Issue 13	June 29	July 11
Issue 14	July 13	July 25
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Issue 17	August 31	September 12
Issue 18	September 14	September 26
Issue 19	September 28	October 17
Issue 20	October 19	October 31
Issue 21	November 2	November 14
Issue 22	November 16	November 28
Issue 23	November 30	December 12
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