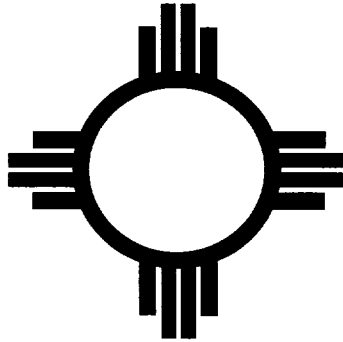


NEW MEXICO REGISTER

Volume XII, Issue No. 7

April 13, 2001



The Official Publication for All Notices
of Rule Making and Filings of Adopted,
Proposed and Emergency Rules
in New Mexico

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NEW MEXICO REGISTER

Volume XII, No. 7
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Table of Contents

NOTICES OF RULE MAKING & PROPOSED RULES

	Page
ENVIRONMENT DEPARTMENT, NM	
CONSTRUCTION PROGRAMS BUREAU	
Notice of Open Funding Cycle	289
HUMAN SERVICES DEPARTMENT, NM	
MEDICAL ASSISTANCE DIVISION	
Notice	289
Notice	289
Notice	290
MEDICAL EXAMINERS, NM BOARD OF	
Notice	290
PERSONNEL OFFICE, NM STATE	
Notice of Rule Making and Public Hearing	290
RACING COMMISSION, NM	
Notice of Rulemaking and Public Hearing	291
REGULATION AND LICENSING DEPARTMENT, NM	
REAL ESTATE APPRAISERS BOARD	
Public Rule Hearing	291
UNIVERSITY OF NEW MEXICO	
Notice of Adoption of Regulation by University of New Mexico Purchasing Department	291

ADOPTED RULES & REGULATIONS

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 by the State Rules Act. Unless a later date is otherwise provided by law, the effective date of a rule shall be the date of publication in the New Mexico register." 14-4-5 NMSA 1978.

A=Amended, N=New, R=Repealed

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT, NM

OIL CONSERVATION DIVISION

* 19.15.9.712 NMAC	A	Disposal of Certain Non-Domestic Waste at Solid Waste Facilities.....	293
* 19.15.9.712 NMAC	A	Disposal of Certain Non-Domestic Waste at Solid Waste Facilities.....	294

HEALTH, NM DEPARTMENT OF

PUBLIC HEALTH DIVISION

* 7.5.2 NMAC	A	Immunization Requirement.....	296
--------------	---	-------------------------------	-----

HUMAN SERVICES DEPARTMENT

INCOME SUPPORT DIVISION

8 NMAC 3.ISD.000	A	General Administration - NMAC Identification	297
8 NMAC 3.ISD.010	A	General Administration - General Program Descriptions	297
8 NMAC 3.ISD.020	A	General Administration - Responsibility and Administration	297
8 NMAC 3.ISD.030	A	General Administration - Confidentiality.....	297
8 NMAC 3.ISD.050	A	General Administration - Nondiscrimination.....	297
8 NMAC 3.ISD.060	A	General Administration - Training	297
8 NMAC 3.ISD.070	A	General Administration - Security	297
8 NMAC 3.ISD.100	A	General Operating Procedures.....	297
8 NMAC 3.ISD.110	A	General Operating Policies – Applications.....	297
8 NMAC 3.ISD.120	A	General Operating Policies – Case Management.....	297
8 NMAC 3.ISD.130	A	General Operating Policies – Eligibility and Verification Standards	297
8 NMAC 3.ISD.140	A	General Operating Policies – Case Files	297
8 NMAC 3.ISD.150	A	General Operating Policies – Record Retention/Management	297
8 NMAC 3.ISD.180	A	General Operating Policies – External Communications	297

8 NMAC 3.ISD.390	A	General Support – Information Systems.....	297
8 NMAC 3.ISD.970	A	Oversight – Program Participation Hearings.....	297
* 8.100.100 NMAC	A	General Operating Procedures.....	297
* 8.100.110 NMAC	A	General Operating Policies – Applications.....	297
* 8.100.120 NMAC	A	General Operating Policies – Case Management.....	297
* 8.100.130 NMAC	A	General Operating Policies – Eligibility and Verification Standards	297
* 8.100.140 NMAC	A	General Operating Policies – Case Files	297
* 8.100.150 NMAC	A	General Operating Policies – Record Retention/Management	297
* 8.100.180 NMAC	A	General Operating Policies – External Communications	297
* 8.100.390 NMAC	A	General Support – Information Systems.....	297
* 8.100.970 NMAC	A	Oversight – Program Participation Hearings.....	297
MEDICAL EXAMINERS, NM BOARD OF			
16 NMAC 10.2.9	A	Board-Approved Examinations	298
PUBLIC REGULATION COMMISSION, NM			
INSURANCE DIVISION			
* 13.10.10 NMAC	A	Comprehensive Health Insurance Pool Plan of Operation.....	298
RACING COMMISSION, NM			
15 NMAC 2.3	R	Flat Racing Officials.....	299
15 NMAC 2.6	R	Veterinary Practices, Equine Health, Medication, and Trainer Responsibility	299
* 15.2.3 NMAC	N	Flat Racing Officials.....	299
* 15.2.6 NMAC	N	Veterinary Practices, Equine Health, Medication, and Trainer Responsibility	304
LIST OF SECTIONS AFFECTED			311

Please note that the (*) entries obey the reformatting rules set forth in 1.24.10 NMAC, effective 2/29/00

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administrator shall promptly forward notice of disenrollment to the Superintendent. Reinstatement of membership can only occur if all assessments and penalties still owing are paid in full and if the Superintendent notifies the pool that the former member has a current certificate of authority to transact insurance business in New Mexico.

F. A penalty of 1% of the unpaid assessment or \$1,000.00, whichever is larger, plus interest on the assessment will be assessed against delinquent members. Interest shall be paid at a rate of prime rate plus 2% per annum. The prime rate shall be defined as the Prime Rate as published in the Money Rates section of the Wall Street Journal on the last day of publication prior to the date the unpaid assessment is paid. If an insurer wishes to contest an assessment but is willing to pay, under protest, the amount of the assessment during the pendency of the adjudication process, no penalty will be assessed. If the member is successful in its protest, then the pool shall refund the amount of the assessment to the member and pay the member interest at the rate earned by the pool in the interim. The fact that a member is paying under protest must be disclosed at the time of payment.

13.10.10.18 BROKER/AGENT POLICY

A. The board may enter into an agreement with a licensed insurance broker or agent to submit pool applications for insurance coverage.

B. The applications submitted must conform to pool rules and regulations.

C. Upon submission of an application by the broker or agent and issuance of a policy by the pool, the broker or agent shall become entitled to a referral fee established by the board.

D. In order to be entitled to the payment established by the board, the broker or agent must execute an agreement entered into between the pool and the broker or agent.

E. No broker or agent shall be authorized to accept applications for pool coverage unless he or she has an errors and omissions insurance policy in an amount not less than \$500,000. Proof of such coverage must be provided to the pool administrator.

13.10.10.24 ASSESSMENT POLICY

A. Interim and final assessments to pool members shall be mailed at least 30 days prior to the due date for payment.

B. To determine the amount of premium upon which a member's final assessment will be based for a particular year, the administrator shall mail the reporting form to each member no later than April 1 of the following year. The reporting form shall be completed, signed by an officer of the member, and returned to the pool. The amount of premium reported shall be

reviewed by the pool administrator with the assistance of the Insurance Division.

C. Any proposed adjustment to the amount of premium reported shall be reviewed for approval by the board. If any adjustment to the amount of premium is made as a result of that review, the member affected by the adjustment will be notified in writing of the adjustment.

D. Any member who wishes to appeal the amount of its interim or final assessment may do so in writing to the board. Any appeal must be submitted to the board within 30 days of notice of the assessment. The submission must include the basis for the appeal and all relevant facts and legal argument the appellant wishes the board to have before it when deciding the appeal. At the discretion of the board, oral presentations to the board may be allowed.

13.10.10.25 REFUNDS AND ADJUSTMENTS

After the final assessments for a particular year have been determined and collected, the pool administrator and the board shall determine if any member has overpaid its assessments. If any such overpayment has been made, the pool administrator, upon approval by the board, shall refund to the member the amount of the overpayment. No interest shall be paid by the pool on the overpayment.

NEW MEXICO RACING COMMISSION

Title 15 Gambling and Liquor Control
Chapter 2 Horse Racing
Part 3 Flat Racing Officials

15 NMAC 2.3 is being repealed in its entirety and being renumbered, reformatted and replaced with the new part 15.2.3 NMAC to conform to the current NMAC requirements effective 04/13/2001.

NEW MEXICO RACING COMMISSION

Title 15 Gambling and Liquor Control
Chapter 2 Horse Racing
Part 6 Veterinary Practices, Equine Health, Medication, and Trainer Responsibility

15 NMAC 2.6 is being repealed in its entirety and being renumbered, reformatted and replaced with the new part 15.2.6 NMAC to conform to the current NMAC requirements effective 04/13/2001.

NEW MEXICO RACING COMMISSION

Title 15 Gambling and Liquor Control
Chapter 2 Horse Racing
Part 3 Flat Racing Officials

15.2.3.1 ISSUING AGENCY

New Mexico Racing Commission. [15.2.3.1 NMAC – Rp, 15 NMAC 2.3.1, 04/13/2001]

15.2.3.2 SCOPE

All persons engaged in racing, or employed on a licensee's racetrack premises. Additional regulations may be cross-referenced in 15.2.1 NMAC, 15.2.2 NMAC, 15.2.4 NMAC, 15.2.5 NMAC, 15.2.6 NMAC, 15.2.7 NMAC and 16.47.1 NMAC. [15.2.3.2 NMAC – Rp, 15 NMAC 2.3.2, 04/13/2001]

15.2.3.3 STATUTORY AUTHORITY

Sections 60-1-1 thru 60-1-26 NMSA 1978 provide that the New Mexico Racing Commission has the authority to promulgate rules and regulations deemed necessary to enforce Chapter 60 NMSA 1978 pertaining to horse racing. [15.2.3.3 NMAC – Rp, 15 NMAC 2.3.3, 04/13/2001]

15.2.3.4 DURATION

Permanent. [15.2.3.4 NMAC – Rp, 15 NMAC 2.3.4, 04/13/2001]

15.2.3.5 EFFECTIVE DATE

April 13, 2001 unless a later date is cited at the end of a section.0 [15.2.3.5 NMAC – Rp, 15 NMAC 2.3.5, 04/13/2001]

15.2.3.6 OBJECTIVE

The objective of Part 3 of Chapter 2 is to establish the qualifications of persons to receive licenses for engaging in horse racing in New Mexico as deemed in the public interest. [15.2.3.6 NMAC – Rp, 15 NMAC 2.3.6, 04/13/2001]

15.2.3.7 DEFINITIONS

Refer to 15.2.1.7 NMAC. [15.2.3.7 NMAC – Rp, 15 NMAC 2.3.7, 04/13/2001]

15.2.3.8 FLAT RACING OFFICIALS GENERAL PROVISIONS:

A. Racing Officials: Officials at a race meeting include the following: assistant racing secretary; chief of security; director of racing, or similar position; clerk of scales; clocker; general manager; handicapper; horse identifier; horsemen's bookkeeper; jockey room custodian; official veterinarian; paddock judge; pari mutuel manager; patrol judge, absent video replay equipment; placing judge, if duty not performed by stewards; racing secretary; racing veterinarian; stable superintendent; starter; stewards; timer; track superintendent; any other person designated by the Commission.

(1) Eligibility: To qualify as a racing official, the applicant shall: be of good character and reputation; demonstrate experience in flat racing; be familiar with the duties of the position and with the Commission's rules of flat racing and show an ability to fulfill the requirements of the position.

(2) Approval and Licensing: The Commission, in its sole discretion, may determine the eligibility of a racing official and, in its sole discretion, may approve or disapprove any such official for licensing.

(3) Prohibited Practices: While serving in an official capacity, racing officials and their assistants shall not: participate in the sale or purchase, or ownership of any horse racing at the meeting; sell or solicit horse insurance on any horse racing at the meeting; be licensed in any other capacity without permission of the Commission, or in case of an emergency, the permission of the stewards; wager on the outcome of any race under the jurisdiction of the Commission; consume or be under the influence of alcohol or any prohibited substances while performing official duties.

(4) Report of Violations: Racing officials and their assistants shall report immediately to the stewards every observed violation of these rules and of the laws of this state governing racing.

(5) Complaints Against Officials: Complaints against any steward shall be made in writing to the Commission and signed by the complainant.

(a) Any complaint against a racing official other than a steward shall be made to the stewards in writing and signed by the complainant. All such complaints shall be reported to the Commission by the stewards, together with a report of the action taken or the recommendation of the stewards.

(b) A racing official may be held responsible by the stewards or the Commission for their actions, and the actions of their assistants and/or employees.

(6) Appointment:

(a) A person shall not be appointed to more than one racing official position at a meeting unless specifically approved by the Commission.

(b) The Commission shall appoint or approve the stewards at each race meeting.

(7) Appointment of Substitute Officials: Where an emergency vacancy exists among racing officials (except for stewards), the stewards or the association, with the stewards' approval, shall fill the vacancy immediately. Such appointment shall be reported to the Commission and shall be effective until the vacancy is filled in accordance with these rules.

(8) Appointment of Substitute Steward: Should any steward be absent at race time,

and no approved alternate steward be available, the remaining stewards shall appoint a substitute for the absent steward. If a substitute steward is appointed, the Commission and the association shall be notified by the stewards. The following are prohibited from serving as a substitute steward: director, deputy director, or racing Commissioner.

B. Stewards

(1) General Authority: The stewards for each meeting shall be responsible to the Commission for the conduct of the race meeting in accordance with the laws of this state and these rules.

(a) The stewards shall enforce these rules and the racing laws of this state.

(b) The stewards' authority includes supervision of all racing officials, track management, licensed personnel, other persons responsible for the conduct of racing, and patrons, as necessary to insure compliance with the Act and these rules.

(c) The stewards shall have authority to resolve conflicts or disputes related to racing and to discipline violators in accordance with the provisions of these rules.

(d) The stewards have the authority to interpret the rules and to decide all questions of racing not specifically covered by the rules. Whenever the stewards find any person culpable for any act or omission in violation of these regulations or any violation of the Horse Racing Act, the person shall be subject to disciplinary action, which could include a fine, suspension, or revocation/denial of license or any combination of these penalties.

(2) Period of Authority: The stewards' period of authority shall commence up to ten days prior to the beginning of each meeting and shall terminate with the completion of their business pertaining to the meeting. Following the completion of the stewards' business, the agency director shall carry out the duties of the stewards as described in this Chapter.

(3) Disciplinary Action: The stewards shall take notice of alleged misconduct or rule violations and initiate investigations into the matters.

(a) The stewards shall have authority to charge any licensee for a violation of these rules, to conduct hearings and to impose disciplinary action in accordance with these rules.

(b) The stewards may compel the attendance of witnesses and the submission of documents or potential evidence related to any investigation or hearing.

(c) The stewards may at any time inspect license documents, registration papers, and other documents related to racing.

(d) The stewards have the power to administer oaths and examine witnesses.

(e) The stewards shall consult with the official veterinarian to determine the nature and seriousness of a laboratory finding or an alleged medication violation.

(f) The stewards may impose any of the following penalties on a licensee for a violation of the Act or these rules: issue a reprimand; assess a fine; require forfeiture or redistribution of purse or award, when specified by applicable rules; place a licensee on probation; suspend a license or racing privileges; revoke a license; exclude from grounds under the jurisdiction of the Commission.

(g) The stewards may suspend a license for not more than the balance of the meet plus 45 days per violation; or they may impose a fine not to exceed \$1,500 per violation; or they may suspend and fine; or they may order that a person be ineligible for licensing; or they may deny a license to an applicant on grounds set forth in the Act or these rules.

(h) The stewards shall submit a written report to the Commission of every inquiry and hearing.

(i) A stewards' ruling shall not prevent the Commission from imposing a more severe penalty.

(j) The stewards may refer any matter to the Commission and may include recommendations for disposition. The absence of a steward's referral shall not preclude Commission action in any matter.

(k) Purses, prizes, awards, and trophies shall be redistributed if the stewards or Commission order a change in the official order of finish.

(l) All fines imposed by the stewards shall be paid to the Commission within 30 days after the ruling is issued, unless otherwise ordered.

(4) Protests, Objections, and Complaints: The stewards shall investigate promptly and render a decision in every protest, objection and complaint made to them. They shall maintain a record of all protests, objections and complaints. The stewards shall file daily with the Commission a copy of each protest, objection or complaint and any related ruling.

(5) Stewards' Presence: Three stewards shall be present in the stewards' stand during the running of each race.

(6) Order of Finish for Pari-Mutuel Wagering:

(a) The stewards shall determine the official order of finish for each race in accordance with 15.2.5 NMAC.

(b) The decision of the stewards as to the official order of finish, including the

ADOPTED RULES AND REGULATIONS

NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

**Title 19 Natural Resources and
Wildlife**
Chapter 15 Oil and Gas
**Part 9 Secondary or Other
Enhanced Recovery,
Pressure Maintenance, Salt
Water Disposal, and
Underground Storage**

EXPLANATORY PARAGRAPH: This amends 19.15.9.712 NMAC with entirely new material. This is an emergency rule of the Oil Conservation Division pursuant to NMSA 1978, Section 70-2-23 which provides for the disposal of certain non-domestic waste at solid waste facilities. The Rule is effective on March 20, 2001 and shall be in effect temporarily, no later than April 4, 2001. In the event that the Oil Conservation Commission enacts a rule with respect to the same subject matter of this rule during its regularly scheduled meeting of March 30, 2001, this rule shall terminate upon filing with the State Records Center of the replacement rule of the Oil Conservation Commission.

19.15.9.712 DISPOSAL OF CERTAIN NON-DOMESTIC WASTE AT SOLID WASTE FACILITIES.

A. General – Certain non-domestic waste arising from the exploration, development, production or storage of crude oil or natural gas, certain non-domestic waste arising from the oil field service industry, and certain non-domestic waste arising from the transportation, treatment or refinement of crude oil or natural gas, may be disposed of at a solid waste facility.

B. Definitions – The following words and phrases have particular meanings for purposes of this section:

(1) "BTEX." The acronym "BTEX" in this section refers to benzene, toluene, ethylbenzene and xylene.

(2) "Discharge Plan." A "discharge plan" is a plan submitted and approved by the Division pursuant to NMSA 1978, Section 70-2-12(B)(22) (2000 Cum.Supp.) and rules and regulations of the Water Quality Control Commission.

(3) "EPA." The acronym "EPA" refers to the United States Environmental Protection Agency.

(4) "EPA Clean." The phrase "EPA Clean" refers to cleanliness standards established

by the EPA in 40 C.F.R. Part 261, Section 261.7(b).

(5) "NESHAP." The acronym "NESHAP" refers to the National Emission Standards for Hazardous Air Pollutants of the EPA, 40 C.F.R. Part 61.

(6) "NORM." The acronym "NORM" refers to naturally occurring radioactive materials regulated by 20 NMAC 3.1, Subpart 14.

(7) "Section." "Section" or "this section" refers to Section 19.15.9.712 NMAC.

(8) "Solid Waste Facility." A "solid waste facility" is a facility permitted or authorized as a solid waste facility by the New Mexico Environment Department pursuant to the Solid Waste Act, NMSA 1978, Sections 74-9-1 *et seq.* and rules and regulations of the Environmental Improvement Board, to accept industrial solid waste or other special waste.

(9) "TCLP." The acronym "TCLP" in this section refers to the testing protocol established by the EPA in 40 C.F.R. Part 261, entitled "Toxicity Characteristic Leaching Procedure" or an alternative hazardous constituent analysis approved by the Division.

(10) "TPH." The acronym "TPH" in this section refers to the phrase "total petroleum hydrocarbons."

(11) "Waste." The word "waste" refers to non-domestic waste resulting from the exploration, development, production or storage of crude oil or natural gas pursuant to NMSA 1978, Section 70-2-12(B)(21) and non-domestic waste arising from the oil field service industry, and certain non-domestic waste arising from the transportation, treatment or refinement of crude oil or natural gas pursuant to NMSA 1978, Section 70-2-12(B)(22).

C. Procedure

(1) Waste Listed in Subsection D, Paragraph (1) of Section 19.15.9.712 NMAC. Waste listed in Subsection D, Paragraph (1) of Section 19.15.9.712 NMAC may be disposed of at a solid waste facility without prior written authorization of the Division.

(2) Waste Listed in Subsection D, Paragraph (2) of Section 19.15.9.712 NMAC. Waste listed in Subsection D, Paragraph (2) of Section 19.15.9.712 NMAC may be disposed of at a solid waste facility after testing and prior written authorization of the Division. Before authorization is granted, copies of test results must be provided to the Division and to the solid waste facility where the waste is to be disposed. Disposal may commence only after written authorization of the Division. In appropriate cases and so long as a representative sample is tested, the Division may authorize disposal of a waste stream listed in Subsection D, Paragraph (2) of

Section 19.15.9.712 NMAC without individual testing of each delivery.

(3) Waste Listed in Subsection D, Paragraph (3) of Section 19.15.9.712 NMAC. Waste listed in Subsection D, Paragraph (3) of Section 19.15.9.712 NMAC may be disposed of at a solid waste facility on a case-by-case basis after testing required at the discretion of the Division and after prior written authorization of the Division. Before authorization is granted, copies of test results must be provided to the Division and to the solid waste facility where the waste is to be disposed. Disposal may commence only after written authorization of the Division.

(4) Simplified Procedure for Holders of Discharge Plans. Holders of an approved discharge plan may amend the discharge plan to provide for disposal of waste listed in Waste Listed in Subsection D, Paragraph (2) of Section 19.15.9.712 NMAC and, as applicable, Subsection D, Paragraph (3) of Section 19.15.9.712 NMAC. If the amendment to the Discharge Plan is approved, wastes listed in Subsection D, Paragraph (2) of Section 19.15.9.712 NMAC and Subsection D, Paragraph (3) of Section 19.15.9.712 NMAC may be disposed of at a solid waste facility without the necessity of prior written authorization of the Division.

D. Waste Governed By This Section

(1) Waste That Does Not Require Testing Before Disposal:

(a) Barrels, drums, 5-gallon buckets, 1-gallon containers so long as empty and EPA-clean.

(b) Contaminated brush and vegetation arising from clearing operations.

(c) Uncontaminated concrete.

(d) Uncontaminated construction debris.

(e) Non-friable asbestos and asbestos contaminated waste material, so long as the disposal complies with all applicable federal and state regulations for friable asbestos materials and so long as asbestos is removed from steel pipes and boilers and, if applicable, the steel recycled.

(f) Detergent buckets, so long as completely empty.

(g) Fiberglass tanks so long as the tank is empty, cut up or shredded, and EPA clean.

(h) Grease buckets, so long as empty and EPA clean.

(i) Uncontaminated ferrous sulfate or elemental sulfur so long as recovery and sale as a raw material is not possible.

(j) Metal pipe and metal cable.

(k) Office trash.

(l) Paper and paper bags, so long as empty (paper bags).

(m) Plastic pit liners, so long as cleaned well.

(n) Soiled rags or gloves. If wet, must pass Paint Filter Test prior to disposal.

(o) Uncontaminated wood pallets.

(2) Waste That Must Be Tested:

(a) Activated alumina must be tested for TPH and BTEX.

(b) Activated carbon must be tested for TPH and BTEX.

(c) Amine filters must be tested for BTEX (and air-dried for at least 48 hours before testing).

(d) Friable asbestos and asbestos-contaminated waste material must be tested pursuant to NESHAP (and so long as the disposal otherwise complies with all applicable federal and state regulations for friable asbestos materials, and so long as asbestos is removed from steel pipes and boilers and, if applicable, the steel should be recycled before disposal).

(e) Cooling tower filters must be tested for TCLP/total chromium (and drained and then air-dried for at least 48 hours before testing).

(f) Dehydration filter media must be tested for TPH and BTEX (and drained and then air-dried for at least 48 hours before testing).

(g) Gas condensate filters must be tested for BTEX (and drained and then air-dried for at least 48 hours before testing).

(h) Glycol filters must be tested for BTEX (and drained and then air-dried for at least 48 hours before testing).

(i) Iron sponge must be oxidized completely and then undergo Ignitability Testing.

(j) Junked pipes, valves, and metal pipe must be tested for NORM.

(k) Molecular sieve must be tested for TPH and BTEX (and must be cooled in a non-hydrocarbon inert atmosphere and hydrated in ambient air for at least 24 hours before testing).

(l) Pipe scale and other deposits removed from pipeline and equipment must be tested for TPH, TCLP/metals and NORM.

(m) Produced water filters must be tested for Corrosivity (and drained and then air-dried for at least 48 hours before testing).

(n) Sandblasting sand must be tested for TCLP/metals or, at the discretion of the Division, TCLP/total metals.

(o) Waste oil filters must be tested for TCLP/metals (and must be drained thoroughly of oil for at least 24 hours before testing and oil and metal parts must be recycled).

(3) Waste That May Be Disposed Of On A Case-By-Case Basis:

(a) Sulfur contaminated soil.

(b) Catalysts.

(c) Contaminated soil other than petroleum contaminated soil.

(d) Petroleum contaminated soil in the event of an emergency declared by the director.

(e) Contaminated concrete.

(f) Demolition debris not otherwise specified herein.

(g) Unused dry chemicals (in addition to any testing required by the Division, a copy of the Material Safety Data Sheet shall be forwarded to the Division and the solid waste facility on each chemical proposed for disposal).

(h) Contaminated ferrous sulfate or elemental sulfur.

(i) Unused pipe dope.

(j) Support balls.

(k) Tower packing materials.

(l) Contaminated wood pallets.

(m) Partial sacks of unused drilling mud (in addition to any testing required by the Division, a copy of the Material Safety Data Sheet shall be forwarded to Division and the solid waste facility at which the partial sacks will be disposed).

(n) Other wastes as applicable.

E. Testing

(1) General – Testing required herein shall be conducted according to the Test Methods for Evaluating Solid Waste, EPA No. SW-846. Any questions concerning the standards or a particular testing facility should be directed to the Division.

(2) Methodology – Testing for the following substances must also be conducted according to the test method listed:

(a) TPH: EPA method 418.1 or 8015 (D-R-O and G-R-O only) or an alternative hydrocarbon analysis approved by the Division.

(b) TCLP: EPA Method 1311 or an alternative hazardous constituent analysis approved by the Division.

(c) Paint Filter Testing: EPA Method 9095A.

(d) Ignitability Test: EPA Method 1030.

(e) Corrosivity: EPA Method 1110.

(f) Reactivity: Test procedures and standards established on a case-by-case basis by the Division.

(g) NORM. 20 NMAC 3.1, Subpart 14.

(3) Limits – To be eligible for disposal pursuant to this section, substances found during testing shall not exceed the following limits:

(a) Benzene: Less than 10 mg/Kg.

(b) BTEX: Less than 500 mg/Kg (sum of all).

(c) TPH: Shall not exceed 1000 mg/Kg.

(d) Hazardous Air Pollutants: Shall not exceed the standards set forth in NESHAP.

(e) TCLP: Shall not exceed the following

(i) Arsenic: 5.0 mg/l

(ii) Barium: 100.0 mg/l

(iii) Cadmium: 1.0 mg/l

(iv) Chromium: 5.0 mg/l

(v) Lead: 5.0 mg/l

(vi) Mercury: 0.2 mg/l

(vii) Selenium: 1.0 mg/l

(viii) Silver: 5.0 mg/l

[12-30-95, 2-1-96; A, 6-15-99; 19.15.9.712 NMAC – Rn, 19 NMAC 15.1.712, 11-30-00; N, 3-20-01].

NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

Title 19 Natural Resources and Wildlife
Chapter 15 Oil and Gas
Part 9 Secondary or Other Enhanced Recovery, Pressure Maintenance, Salt Water Disposal, and Underground Storage

EXPLANATORY PARAGRAPH: This amends 19.15.9.712 NMAC with entirely new material. This is a rule of the Oil Conservation Division, adopted pursuant to the Oil and Gas Act and House Bill 533 of the 45th Legislature, 1st Session. The Rule permits disposal of certain non-domestic waste at solid waste facilities regulated by the New Mexico Environment Department.

19.15.9.712 DISPOSAL OF CERTAIN NON-DOMESTIC WASTE AT SOLID WASTE FACILITIES

A. General – Certain non-domestic waste arising from the exploration, development, production or storage of crude oil or natural gas, certain nondomestic waste arising from the oil field service industry, and certain non-domestic waste arising from the transportation, treatment or refinement of crude oil or natural gas, may be disposed of at a solid waste facility.

B. Definitions – The following words and phrases have particular meanings for purposes of this section:

(1) "BTEX." The acronym "BTEX" in this section refers to benzene, toluene, ethylbenzene and xylene.

(2) "Discharge Plan." A "discharge plan" is a plan submitted and approved by the Division pursuant to NMSA 1978, Section 70-2-12(B)(22) (2000 Cum.Supp.) and rules and regulations of the Water Quality Control Commission.

(3) "EPA." The acronym "EPA" refers to the United States Environmental Protection Agency.

(4) "EPA Clean." The phrase "EPA Clean" refers to cleanliness standards established by the EPA in 40 C.F.R. Part 261, Section 261.7(b).

(5) "NESHAP." The acronym "NESHAP" refers to the National Emission Standards for Hazardous Air Pollutants of the EPA, 40 C.F.R. Part 61.

(6) "NORM." The acronym "NORM" refers to naturally occurring radioactive materials regulated by 20 NMAC 3.1, Subpart 14.

(7) "Section." "Section" or "this section" refers to Section 19.15.9.712 NMAC.

(8) "Solid Waste Facility." A "solid waste facility" is a facility permitted or authorized as a solid waste facility by the New Mexico Environment Department pursuant to the Solid Waste Act, NMSA 1978, Sections 74-9-1 *et seq.* and rules and regulations of the Environmental Improvement Board, to accept industrial solid waste or other special waste.

(9) "TCLP" The acronym "TCLP" in this section refers to the testing protocol established by the EPA in 40 C.F.R. Part 261, entitled "Toxicity Characteristic Leaching Procedure" or an alternative hazardous constituent analysis approved by the Division.

(10) "TPH." The acronym "TPH" in this section refers to the phrase "total petroleum hydrocarbons."

(11) "Waste." The word "waste" refers to nondomestic waste resulting from the exploration, development, production or storage of crude oil or natural gas pursuant

to NMSA 1978, Section 70-2-12(B)(21) and nondomestic waste arising from the oil field service industry, and certain non-domestic waste arising from the transportation, treatment or refinement of crude oil or natural gas pursuant to NMSA 1978, Section 70-2-12(B)(22).

C. Procedure

(1) Waste Listed in Subsection D, Paragraph (1) of Section 19.15.9.712 NMAC. Waste listed in Subsection D, Paragraph (1) of Section 19.15.9.712 NMAC may be disposed of at a solid waste facility without prior written authorization of the Division.

(2) Waste Listed in Subsection D, Paragraph (2) of Section 19.15.9.712 NMAC. Waste listed in Subsection D, Paragraph (2) of Section 19.15.9.712 NMAC may be disposed of at a solid waste facility after testing and prior written authorization of the Division. Before authorization is granted, copies of test results must be provided to the Division and to the solid waste facility where the waste is to be disposed. Disposal may commence only after written authorization of the Division. In appropriate cases and so long as a representative sample is tested, the Division may authorize disposal of a waste stream listed in Subsection D, Paragraph (2) of Section 19.15.9.712 NMAC without individual testing of each delivery.

(3) Waste Listed in Subsection D, Paragraph (3) of Section 19.15.9.712 NMAC. Waste listed in Subsection D, Paragraph (3) of Section 19.15.9.712 NMAC may be disposed of at a solid waste facility on a case-by-case basis after testing required at the discretion of the Division and after prior written authorization of the Division. Before authorization is granted, copies of test results must be provided to the Division and to the solid waste facility where the waste is to be disposed. Disposal may commence only after written authorization of the Division.

(4) Simplified Procedure for Holders of Discharge Plans. Holders of an approved discharge plan may amend the discharge plan to provide for disposal of waste listed in Waste Listed in Subsection D, Paragraph (2) of Section 19.15.9.712 NMAC and, as applicable, Subsection D, Paragraph (3) of Section 19.15.9.712 NMAC. If the amendment to the Discharge Plan is approved, wastes listed in Subsection D, Paragraph (2) of Section 19.15.9.712 NMAC and Subsection D, Paragraph (3) of Section 19.15.9.712 NMAC may be disposed of at a solid waste facility without the necessity of prior written authorization of the Division.

D. Waste Governed By This Section

(1) Waste That Does Not Require Testing Before Disposal:

(a) Barrels, drums, 5-gallon buckets, 1-gallon containers so long as empty and EPA-clean.

(b) Uncontaminated brush and vegetation arising from clearing operations.

(c) Uncontaminated concrete.

(d) Uncontaminated construction debris.

(e) Non-friable asbestos and asbestos contaminated waste material, so long as the disposal complies with all applicable federal and state regulations for non-friable asbestos materials and so long as asbestos is removed from steel pipes and boilers and, if applicable, the steel recycled.

(f) Detergent buckets, so long as completely empty.

(g) Fiberglass tanks so long as the tank is empty, cut up or shredded, and EPA clean.

(h) Grease buckets, so long as empty and EPA clean.

(i) Uncontaminated ferrous sulfate or elemental sulfur so long as recovery and sale as a raw material is not possible.

(j) Metal plate and metal cable.

(k) Office trash.

(l) Paper and paper bags, so long as empty (paper bags).

(m) Plastic pit liners, so long as cleaned well.

(n) Soiled rags or gloves. If wet, must pass Paint Filter Test prior to disposal.

(o) Uncontaminated wood pallets.

(2) Waste That Must Be Tested:

(a) Activated alumina must be tested for TPH and BTEX.

(b) Activated carbon must be tested for TPH and BTEX.

(c) Amine filters must be tested for BTEX (and air-dried for at least 48 hours before testing).

(d) Friable asbestos and asbestos-contaminated waste material must be tested pursuant to NESHAP (and so long as the disposal otherwise complies with all applicable federal and state regulations for friable asbestos materials, and so long as asbestos is removed from steel pipes and boilers and, if applicable, the steel should be recycled before disposal).

(e) Cooling tower filters must be tested for TCLP/chromium (and drained and then air-dried for at least 48 hours before testing).

(f) Dehydration filter media must be tested for TPH and BTEX (and drained and then air-dried for at least 48 hours before testing).

(g) Gas condensate filters must be tested for BTEX (and drained and then air-dried for at least 48 hours before testing).

(h) Glycol filters must be tested for BTEX (and drained and then air-dried for at least 48 hours before testing).

(i) Iron sponge must be oxidized completely and then undergo Ignitability Testing.

(j) Junked pipes, valves, and metal pipe must be tested for NORM.

(k) Molecular sieve must be tested for TPH and BTEX (and must be cooled in a non-hydrocarbon inert atmosphere and hydrated in ambient air for at least 24 hours before testing).

(l) Pipe scale and other deposits removed from pipeline and equipment must be tested for TPH, TCLP/metals and NORM.

(m) Produced water filters must be tested for Corrosivity (and drained and then air-dried for at least 48 hours before testing).

(n) Sandblasting sand must be tested for TCLP/metals or, at the discretion of the Division, TCLP/total metals.

(o) Waste oil filters must be tested for TCLP/metals (and must be drained thoroughly of oil for at least 24 hours before testing and oil and metal parts must be recycled).

(3) Waste That May Be Disposed Of On A Case-By-Case Basis:

(a) Sulfur contaminated soil.

(b) Catalysts.

(c) Contaminated soil other than petroleum contaminated soil.

(d) Petroleum contaminated soil in the event of an emergency declared by the director.

(e) Contaminated concrete.

(f) Demolition debris not otherwise specified herein.

(g) Unused dry chemicals (in addition to any testing required by the Division, a copy of the Material Safety Data Sheet shall be forwarded to the Division and the solid waste facility on each chemical proposed for disposal).

(h) Contaminated ferrous sulfate or elemental sulfur.

(i) Unused pipe dope.

(j) Support balls.

(k) Tower packing materials.

(l) Contaminated wood pallets.

(m) Partial sacks of unused drilling mud (in addition to any testing required by the Division, a copy of the Material Safety Data Sheet shall be forwarded to Division and

the solid waste facility at which the partial sacks will be disposed).

(n) Other wastes as applicable.

E. Testing

(1) General – Testing required herein shall be conducted according to the Test Methods for Evaluating Solid Waste, EPA No. SW-846. Any questions concerning the standards or a particular testing facility should be directed to the Division.

(2) Methodology – Testing must be conducted according to the test method listed:

(a) TPH: EPA method 418.1 or 8015 (D-R-O and G-R-O only) or an alternative hydrocarbon analysis approved by the Division.

(b) TCLP: EPA Method 1311 or an alternative hazardous constituent analysis approved by the Division.

(c) Paint Filter Testing: EPA Method 9095A.

(d) Ignitability Test: EPA Method 1030.

(e) Corrosivity: EPA Method 1110.

(f) Reactivity: Test procedures and standards established on a case-by-case basis by the Division.

(g) NORM. 20 NMAC 3.1, Subpart 14.

(3) Limits – To be eligible for disposal pursuant to this section, substances found during testing shall not exceed the following limits:

(a) Benzene: Less than 10 mg/Kg.

(b) BTEX: Less than 500 mg/Kg (sum of all).

(c) TPH: Shall not exceed 1000 mg/Kg.

(d) Hazardous Air Pollutants: Shall not exceed the standards set forth in NESHAP.

(e) TCLP: Shall not exceed the following

(i) Arsenic: 5.0 mg/l

(ii) Barium: 100.0 mg/l

(iii) Cadmium: 1.0 mg/l

(iv) Chromium: 5.0 mg/l

(v) Lead: 5.0 mg/l

(vi) Mercury: 0.2 mg/l

(vii) Selenium: 1.0 mg/l

(viii) Silver: 5.0 mg/l

[12-30-95, 2-1-96; A, 6-15-99; 19.15.9.712 NMAC – Rn, 19 NMAC 15.1.712, 11-30-00; N, 3-20-01, A, 4-13-01].

NEW MEXICO DEPARTMENT OF HEALTH

PUBLIC HEALTH DIVISION

Title 7 Health Chapter 5 Vaccinations and Immunizations Part 2 Immunization Requirement

This is an amendment to 7.5.2.2 NMAC, 7.5.2.7 NMAC, 7.5.2.8 NMAC and 7.5.2.9 NMAC of 7.5.2 NMAC, "Immunization Requirement".

7.5.2.2 SCOPE

These regulations govern children presenting satisfactory evidence of being age appropriately immunized or in process of being age appropriately immunized enrolled in, or, who are seeking to be enrolled in, all public, private, home, parochial elementary and secondary schools, except for those children who have been legally exempted from these immunizations and those children attending school in areas/counties that have not been targeted for a specific immunization requirement. This regulation is incorporated by reference in 6.1.6 NMAC, "Immunization of School Children" as promulgated by the State Department of Education, and 8.16.2 NMAC, "Childcare Centers, Before/After School Programs, Family Child Care Homes, and Other Early Care and Education Programs", as promulgated by the Children, Youth and Families Department (CYFD) [2-17-70...10-31-96; 7.5.2.2 NMAC – Rn & A, 7 NMAC 5.2.2, 9-1-2000; A, 4-13-01]

7.5.2.7 DEFINITIONS

A. "age appropriately immunized" means satisfactory evidence has been provided documenting that the person has completed all required immunizations which someone his or her age is eligible to receive according to the Public Health Division Immunization Schedule.

B. "Department" means the New Mexico Department of Health.

C. "in process of being age appropriately immunized" means a child has received all required immunizations he or she is eligible to receive according to the Public Health Division Immunization Schedule, but has not completed one or more vaccine series because a sufficient time interval has not elapsed for the subsequent dose or doses of vaccine to be administered according to the recommended intervals between doses published by the Advisory Committee on Immunization Practices (ACIP).

D. "licensed physician" means physician licensed to practice medicine or osteopathic medicine in New Mexico, another state or territory.

E. "Public Health Division" means the Public Health Division of the New Mexico Department of Health.

F. "Public Health Division District Health Officer" [is] means the physician medical director assigned to a public health district in New Mexico as defined by the Public Health Division of the New Mexico Department of Health.

G. "required immunizations" means those immunizations against diseases deemed to be dangerous to the public health by the Public Health Division and set forth in its Immunization Schedule effective at date of enrollment or while enrolled.

H. "satisfactory evidence of immunization" means a statement, certificate or record signed by a duly licensed physician or other recognized licensed health facility stating that the required immunizations have been given to the person.

[10-31-96; 7.5.2.7 NMAC - Rn & A, 7 NMAC 5.2.7, 9-1-2000; A, 4-13-01]

7.5.2.8 IMMUNIZATION REQUIREMENTS

A. Immunizations required in accordance with Section 9 shall be administered in accordance with guidelines established by the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services (ACIP) and the American Academy of Pediatrics.

B. A child shall be non-compliant with these regulations if the child is eligible to receive and has not received any of the remaining required immunization doses within the recommended intervals between doses published by the ACIP.

C. Immunization records shall be kept on file at all facilities under these regulations in accordance with retention periods defined in 1 NMAC 3.2.95.70A, Item No. 70.101.2.

D. Immunization records shall be kept current and available to Public Health Division as defined in Section 24-5-4, NMSA 1978.

E. All facilities under these regulations shall file a completed Immunization Roster annually with the Public Health Division. The Immunization Roster shall be filed on forms furnished by the Public Health Division.

F. All schools required to comply with these regulations shall notify the local Public Health Division District Health Officer if a child about to be enrolled or while enrolled has been held out of school for more than five (5) consecutive school days for noncompliance with these regulations.

[7.5.2.8 NMAC - N, 9-1-2000; A, 4-13-01]

7.5.2.9 REQUIRED IMMUNIZATION LIST

A. [Required Immunizations]Diphtheria.

B. Pertussis.

C. Tetanus.

D. Poliomyelitis.

E. Measles.

F. Mumps.

G. Rubella.

H. Haemophilus influenza type b (HiB) (only for facilities regulated by CYFD as described in 8.16.2 NMAC).

I. Hepatitis B (for 7th grade entry) (effective 09-01-2000 for facilities regulated by CYFD as described in 8.16.2 NMAC (effective 09-01-2002 for school entry).

J. Varicella (effective 09-1-2000 for facilities regulated by CYFD as described in 8.16.2 NMAC) (effective 09-01-2002 for school entry).

K. Hepatitis A in areas/counties targeted by the Office of Epidemiology of the Department. Targeted areas/counties will include any area/county whose three year running average rate of hepatitis A is at or above 20 cases per 100,000 people per year or which has been determined by the Office of Epidemiology of the Department to have an elevated risk of hepatitis A (effective 09-01-2002 for school entry and for facilities regulated by CYFD as described in 8.16.2 NMAC). Targeted areas/counties will be reassessed and redefined annually by the Office of Epidemiology of the Department. For non-targeted areas/counties, routine vaccination of children two years of age and older is recommended in conformance with the recommendations of the ACIP and the American Academy of Pediatrics.

[B. Recommended Immunizations: Hepatitis A: Routine vaccination of children two years of age and older in conformance with the recommendations of the Advisory Committee on Immunization Practices (ACIP) and the American Academy of Pediatrics.]

—[7.5.2.9 NMAC - N, 9-1-2000; A, 4-13-01]

NEW MEXICO HUMAN SERVICES DEPARTMENT

INCOME SUPPORT DIVISION

PUBLIC NOTICE

The Human Services Department Income Support Division has renumbered and reformatted the following rules to comply with the New Mexico Administrative Code (NMAC) requirements:

General Provisions for Public Assistance Programs

NMAC I PART #	NEW PART # # RULE NAME
8 NMAC 3.ISD.010	8.100.100 NMAC General Operating Procedures
8 NMAC 3.ISD.020	8.100.100

	NMAC General Operating Procedures
8 NMAC 3.ISD.030	8.100.100 NMAC General Operating Procedures
8 NMAC 3.ISD.050	8.100.100 NMAC General Operating Procedures
8 NMAC 3.ISD.060	8.100.100 NMAC General Operating Procedures
8 NMAC 3.ISD.070	8.100.100 NMAC General Operating Procedures
8 NMAC 3.ISD.100	8.100.100 NMAC General Operating Procedures
8 NMAC 3.ISD.110	8.100.110 NMAC General Operating Policies — Applications
8 NMAC 3.ISD.120	8.100.120 NMAC General Operating Policies — Case Management
8 NMAC 3.ISD.130	8.100.130 NMAC General Operating Policies — Eligibility and Verification Standards
8 NMAC 3.ISD.140	8.100.140 NMAC General Operating Policies — Case Files
8 NMAC 3.ISD.150	8.100.150 NMAC General Operating Policies — Record Retention/ Management
8 NMAC 3.ISD.180	8.100.180 NMAC General Operating Policies — External Communications
8 NMAC 3.ISD.390	8.100.390 NMAC General Support — Information Systems
8 NMAC 3.ISD.970	8.100.970 NMAC Oversight — Program Participation Hearings

8 NMAC 3 ISD.000 has been incorporated into each individual part of the General Provisions for Public Assistance Programs and no longer exists on its own.

NEW MEXICO BOARD OF MEDICAL EXAMINERS

Title 16 Occupational and Professional Licensing
Chapter 10 Medicine and Surgery Practitioners
Part 2 Licensure as a Medical Practitioner

This is an amendment to 16 NMAC 10.2.9.2.4, Successful Completion of Examinations.

9.2.4 Except as set forth in 9.2.5 below, an applicant may attempt six times to successfully complete any part of a board-approved examination, as long as the entire examination is successfully completed within seven years from the date the first step of the examination is [attempted] passed; and,

[04-27-2000, A, 4-30-2001]

NEW MEXICO PUBLIC REGULATION COMMISSION

INSURANCE DIVISION

Title 13 Insurance
Chapter 10 Health Insurance
Part 10 Comprehensive Health Insurance Pool Plan of Operation

This is an amendment to 13.10.10 NMAC. This action amends five sections, Sections 13.10.10.1 NMAC, 13.10.10.5 NMAC, 13.10.10.11 NMAC, 13.10.10.14 NMAC, and 13.10.10.18 NMAC. This action also adds two new sections, 13.10.10.24 NMAC, and 13.10.10.25 NMAC, and renumbers and reformats 13 NMAC 10.10 in accordance with the current New Mexico Administrative Code (NMAC) requirements.

13.10.10.1 ISSUING AGENCY

New Mexico Public Regulation Commission, Insurance Division.

13.10.10.5 EFFECTIVE DATE

November 30, 1998, unless a later date is cited at the end of a section.

13.10.10.11 MEETING PROCEDURES

A. Special meetings. Special meetings of the board may be called by a majority of the directors or the chairman of the board, and will be held at the time and place fixed by the person calling the special meeting.

B. Notice. Written notice stating the time, place and, if a special meeting, the purpose, will be delivered either personally, by mail, or by telegram at the direction of the person calling the meeting, to each director at least 24 hours before the scheduled date of the meeting. If mailed or telegraphed, a notice is deemed delivered when deposited, postage or charges prepaid, with the transmitting agency, addressed to the director. The board may establish dates and times for regularly scheduled meetings.

C. Quorum. Six directors present either in person or by telephone will constitute a quorum at board meetings. The act of a majority of directors voting in person or by written proxy at a meeting at which a quorum is present will be the act of the board, except a two-thirds majority of the entire board is required for actions dealing with the levy of assessments, approval and discharge of the pool administrator, removal of officers, or for the pool to borrow money or to encumber assets of the pool. The directors may act only as a board with each director having one vote.

D. Proxy. A written proxy may be given only to other board members and shall be given to the chair at the time the vote is taken. No director shall be allowed to cast more than one proxy vote. Pool members selected may have alternates serve in their place but only if the alternate member was designated on the same basis as the original director. Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if a consent in writing setting forth the action so taken is signed by all of the directors.

E. Waiver of notice. Whenever any notice is required to be given to any director, a waiver thereof in writing signed by the person entitled to the notice is equivalent to the giving of timely notice. The attendance of a director at a meeting constitutes a waiver of notice of the meeting except when attendance is for the sole purpose of objecting because the meeting is not lawfully called or convened.

F. Record of meetings. A written record of the proceedings of each board meeting shall be made. The original of this record shall be retained by the secretary of the board and a copy shall be forwarded to the Superintendent. Copies shall be available upon request.

G. Participation methods. Members of the board, or any committee designated by the board, may participate in a meeting of the board, or of any committee, by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

H. Consent required for action without meeting. Any action required by the Act or this plan to be taken at a meeting of the board, or any action which may be taken at a meeting of the board or of a committee of the board, may be taken without a meeting if a consent in writing, setting forth the actions so taken, shall be signed by all of the directors, or all of the members of the committee, as the case may be. The consent to action without a meeting shall have the same effect as a unanimous vote of the board or of the committee taking the action.

13.10.10.14 OPERATIONS

In addition to the powers granted in NMSA 1978 Section 59A-54-7:

A. The board may employ such persons, firms, or corporations to perform such administrative functions as are necessary for the board's performance of the duties imposed on the pool. The board may use the mailing address of the pool administrator. Such persons, firms, or corporations shall keep such records of its activities as may be required by the board. The pool administrator may maintain the financial records of the pool.

B. The board may hire such persons or organizations as attorneys at law, actuaries, accountants, claims personnel, and such other specialists or persons or organizations with expertise in such areas and whose advice or assistance is deemed by the board to be necessary to the discharge of its duties imposed by law. The board may agree to compensate such persons or organizations so as to best serve the interest of the pool and the public.

C. The board may open one or more bank accounts for use in pool business. The Board may make reasonable delegations of deposit and withdrawal authority to such accounts consistent with prudent fiscal policy. The board may borrow money from any person or organization, including a member or from a contracting firm or entity as the board may deem advantageous for the pool and the public. The pool administrator is responsible for handling, safeguarding, and disbursing the funds of the pool subject and responsible to the board.

D. The board may review the Act and other appropriate insurance laws and regulations in order to make recommendations to the Superintendent for the improved operation of the pool.

E. The board shall promptly inform the Superintendent of the failure of any member to pay an assessment after 30 days' written notice to the member that payment is due. [If a member fails to pay its assessment and penalty within 30 days' written notice of the penalty, the board may disenroll the member from the pool. The penalty and notice and any notice of disenrollment shall be mailed by registered mail return receipt requested. If a member loses its membership status, the pool